

**LAWS
of
UTAH 2014**

2013 Second Special Session

2014 General Session

Chapters 1 - 437

Resolutions

Veto Letters

Indexes

**Published by Authority
Utah Legislative Printing Office**

STATE EXECUTIVES

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

SEAN REYES
Attorney General

JOHN DOUGALL
State Auditor

RICHARD K. ELLIS
State Treasurer

SUPREME COURT

MATTHEW B. DURRANT
Chief Justice

CHRISTINE M. DURHAM
Associate Chief Justice

THOMAS R. LEE
Justice

RONALD E. NEHRING
Justice

JILL N. PARISH
Justice

MEMBERS OF THE SIXTIETH UTAH STATE LEGISLATURE

UTAH STATE SENATE

Officers

President -

WAYNE L. NIEDERHAUSER (R)

Sergeant-at-Arms -

THOMAS SHEPHERD

Secretary of the Senate -

LESLIE MCLEAN

Members

1st District -

LUZ ROBLES (D) Salt Lake

17th District -

PETER KNUDSON (R) Box Elder, Cache, Tooele

2nd District -

JIM DABAKIS (D) Salt Lake

18th District -

STUART C REID (R) Davis, Morgan, Weber

3rd District -

GENE DAVIS (D) Salt Lake

19th District -

ALLEN M. CHRISTENSEN (R) Morgan, Summit, Weber

4th District -

PATRICIA W. JONES (D) Salt Lake

20th District -

SCOTT K. JENKINS (R) Davis, Weber

5th District -

KAREN MAYNE (D) Salt Lake

21st District -

JERRY STEVENSON (R) Davis

6th District -

WAYNE A HARPER (R) Salt Lake

22nd District -

J. STUART ADAMS (R) Davis

7th District -

DEIDRE HENDERSON (R) Utah

23rd District -

TODD WEILER (R) Davis, Salt Lake

8th District -

BRIAN SHIOZAWA (R) Salt Lake

24th District -

RALPH OKERLUND (R) Beaver, Garfield, Juab,
Kane, Millard, Piute,
Sanpete, Sevier, Utah. Wayne

9th District -

WAYNE L. NIEDERHAUSER (R) Salt Lake

25th District -

LYLE W. HILLYARD (R) Cache, Rich

10th District -

AARON OSMOND (R) Salt Lake

26th District -

KEVIN T. VAN TASSELL (R) Daggett, Duchesne,
Summit, Uintah, Wasatch

11th District -

HOWARD A. STEPHENSON (R) Salt Lake, Utah

12th District -

DANIEL THATCHER (R) Salt Lake, Tooele

27th District -

DAVID HINKINS (R) Carbon, Emery, Grand,
San Juan, Utah, Wasatch

13th District -

MARK B. MADSEN (R) Salt Lake, Utah

28th District -

EVAN VICKERS (R) Beaver, Iron,
Washington

14th District -

JOHN L. VALENTINE (R) Utah

29th District -

STEPHEN H. URQUHART (R) Washington

15th District -

MARGARET DAYTON (R) Utah

16th District -

CURTIS S. BRAMBLE (R) Utah, Wasatch

HOUSE OF REPRESENTATIVES

Officers

Speaker -
REBECCA D. LOCKHART (R)

Sergeant-at-Arms -
MIKE MITCHELL

Chief Clerk -
SANDY D. TENNEY

Members

1st District
RONDA RUDD MENLOVE (R) Box Elder, Cache

20th District
REBECCA P. EDWARDS (R) Davis

2nd District
DAVID LIFFERTH (R) Utah

21st District
DOUGLAS SAGERS (R) Tooele

3rd District
JACK R. DRAXLER (R) Cache

22nd District
SUSAN DUCKWORTH (D) Salt Lake

4th District
EDWARD H REDD (R) Cache

23rd District
JENNIFER M SEELIG (D) Salt Lake

5th District
R CURT WEBB (R) Cache

24th District
REBECCA CHAVEZ-HOUCK (D) Salt Lake

6th District
JACOB ANDEREGG (R) Utah

25th District
JOEL D. BRISCOE (D) Salt Lake

7th District
RYAN O. WILCOX (R) Weber

26th District
ANGELA ROMERO (D) Salt Lake

8th District
GAGE FROERER (R) Weber

27th District
MIKE KENNEDY (R) Utah

9th District
JEREMY PETERSON (R) Weber

28th District
BRIAN S. KING (D) Salt Lake, Summit

10th District
DIXON M. PITCHER (R) Weber

29th District
LEE PERRY (R) Box Elder, Weber

11th District
BRAD L. DEE (R) Davis, Weber

30th District
JANICE M. FISHER (D) Salt Lake

12th District
RICHARD A. GREENWOOD (R) Davis, Weber

31st District
LARRY B. WILEY (D) Salt Lake

13th District
PAUL RAY (R) Davis

32nd District
LAVAR CHRISTENSEN (R) Salt Lake

14th District
CURTIS ODA (R) Davis

33rd District
CRAIG HALL JR (R) Salt Lake

15th District
BRAD R. WILSON (R) Davis

34th District
JOHNNY ANDERSON (R) Salt Lake

16th District
STEPHEN G. HANDY (R) Davis

35th District
MARK W. WHEATLEY (D) Salt Lake

17th District
STUART E. BARLOW (R) Davis

36th District
PATRICE ARENT (D) Salt Lake

18th District
ROGER E. BARRUS (R) Davis

37th District
CAROL SPACKMAN MOSS (D) Salt Lake

19th District
JIM NIELSON (R) Davis

38th District
ERIC K. HUTCHINGS (R) Salt Lake

39th District
JAMES A. DUNNIGAN (R) Salt Lake

40th District
LYNN N. HEMINGWAY (D) Salt Lake

41st District
DANIEL MCCAY (R) Salt Lake

42nd District
JIM BIRD (R) Salt Lake

43rd District
EARL D TANNER JR (R) Salt Lake

44th District
TIM M. COSGROVE (D) Salt Lake

45th District
STEVEN ELIASON (R) Salt Lake

46th District
MARIE H. POULSON (D) Salt Lake

47th District
KEN IVORY (R) Salt Lake

48th District
KEVEN STRATTON (R) Salt Lake

49th District
ROBERT M. SPENDLOVE* (R) Salt Lake

50th District
RICH CUNNINGHAM (R) Salt Lake

51st District
GREGORY H. HUGHES (R) Salt Lake

52nd District
JOHN KNOTWELL (R) Salt Lake

53rd District
MELVIN R. BROWN (R) Daggett, Duchesne,
Morgan, Rich, Summit

54th District
KRAIG POWELL (R) Summit, Wasatch

55th District
JOHN G. MATHIS (R) Duchesne, Uintah

56th District
KAY CHRISTOFFERSON (R) Utah

57th District
BRIAN GREENE (R) Utah

58th District
JON COX* (R) Juab, Sanpete

59th District
VAL PETERSON (R) Utah

60th District
DANA LAYTON (R) Utah

61st District
KEITH GROVER (R) Utah

62nd District
JON STANARD (R) Washington

63rd District
DEAN SANPEI (R) Utah

64th District
REBECCA D. LOCKHART (R) Utah

65th District
FRANCIS D. GIBSON (R) Utah

66th District
MICHAEL K MCKELL (R) Utah

67th District
MARK ROBERTS (R) Utah

68th District
MERRILL F. NELSON (R) Beaver, Juab, Millard,
Tooele, Utah

69th District
JERRY B. ANDERSON (R) Carbon, Duchesne,
Emery, Grand

70th District
KAY L. MCIFF (R) Emery, Grand,
Sanpete, Sevier

71st District
BRADLEY G. LAST (R) Iron, Washington

72nd District
JOHN R. WESTWOOD (R) Iron

73rd District
MICHAEL E. NOEL (R) Beaver, Garfield, Kane, Piute,
San Juan, Sevier, Wayne

74th District
V. LOWRY SNOW (R) Washington

75th District
DON L. IPSON (R) Washington

**Robert M. Spendlove replaced Derek Brown on Jan. 16, 2014*

**Jon Cox replaced Spencer J. Cox on November 14, 2013*

TABLE of CONTENTS

STATE EXECUTIVES AND SUPREME COURT JUSTICES	iii
MEMBERS OF THE 60 TH LEGISLATURE	v

2014 GENERAL SESSION 60TH LEGISLATURE

CHAPTER

1	401K APPROPRIATION AMENDMENTS	9
2	EXECUTIVE OFFICES AND CRIMINAL JUSTICE BASE BUDGET	22
3	CANDIDATE CERTIFICATION AMENDMENTS	28
4	PUBLIC EDUCATION BASE BUDGET AMENDMENTS	29
5	NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY BASE BUDGET	33
6	RETIREMENT AND INDEPENDENT ENTITIES BASE BUDGET	39
7	DRIVER LICENSE SUSPENSION AMENDMENTS	41
8	INTERLOCAL COOPERATION ACT AMENDMENTS	47
9	HIGHER EDUCATION BASE BUDGET	48
10	BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR BASE BUDGET	54
11	INFRASTRUCTURE AND GENERAL GOVERNMENT BASE BUDGET	59
12	NATIONAL GUARD, VETERANS' AFFAIRS, AND LEGISLATURE BASE BUDGET	63
13	SOCIAL SERVICES BASE BUDGET	65
14	EXECUTIVE OFFICES AND CRIMINAL JUSTICE BASE BUDGET CORRECTIONS	81
15	UTAH RETIREMENT AMENDMENTS	87
16	COUNTY OFFICER ELECTION REVISIONS	120
17	ELECTIONS AMENDMENTS	121
18	CAMPAIGN FINANCE REVISIONS	144
19	OVERDOSE REPORTING AMENDMENTS	154
20	ELECTRIC VEHICLE BATTERY CHARGING SERVICE AMENDMENTS	159
21	WILDLIFE LICENSE EXPIRATION AMENDMENTS	164
22	COUNTY RECORDER INDEX AMENDMENTS	165
23	CONTROLLED SUBSTANCES AMENDMENTS	167
24	POLLUTION CONTROL AMENDMENTS	169
25	PLANT EXTRACT AMENDMENTS	188
26	FLEET MANAGEMENT AMENDMENTS	192
27	EXTENSION OF SALES AND USE TAX EXEMPTION	193
28	SERVICE ANIMALS	205
29	DOMESTIC HORSE DISPOSAL	206
30	DISABLED PARKING FINE AMENDMENTS	207
31	AMENDMENTS TO ELECTION LAWS	208
32	ARBITRATION FOR DOG BITES AMENDMENTS	217
33	TRIAL HUNTING AUTHORIZATION	220
34	ENERGY AMENDMENTS	222
35	CHILD PROTECTION AMENDMENTS	223

36	AMENDMENTS TO EMERGENCY TELEPHONE SERVICE LAW	235
37	SPECIAL GROUP LICENSE PLATE AMENDMENTS	237
38	MUNICIPAL ELECTION AMENDMENTS - OFFICE HOURS	242
39	TRAFFIC-CONTROL SIGNAL AMENDMENTS	245
40	CRIMINAL CODE - GENERAL PROVISIONS	247
41	STATE VETERINARIAN AMENDMENTS	248
42	REPEAL OF AGRICULTURE CONSERVATION EASEMENT ACCOUNT	249
43	AIR CONSERVATION ACT REAUTHORIZATION	250
44	STATE HIGHWAY SYSTEM AMENDMENTS	251
45	ADMINISTRATIVE RULES REAUTHORIZATION	252
46	STATE TREE CHANGE	253
47	ADMINISTRATIVE SUBPOENA MODIFICATIONS	254
48	COURT TRANSCRIPT FEES	256
49	RETIRED VOLUNTEER HEALTH CARE PRACTITIONER AMENDMENTS	257
50	LOCAL FUNDING FOR RURAL HEALTH CARE AMENDMENTS	258
51	CONTROLLED SUBSTANCE PENALTY AMENDMENT	263
52	TAX, FEE, OR CHARGE OFFENSE AND PENALTY AMENDMENTS	267
53	PUBLIC UTILITY MODIFICATIONS	274
54	MULTISTATE TAX COMPACT AMENDMENTS	277
55	PUBLIC UTILITIES AMENDMENTS	278
56	VICTIM REPARATIONS FUND AMENDMENTS	282
57	ADMINISTRATIVE RULEMAKING AMENDMENTS	283
58	DRIVER LICENSE AMENDMENTS	285
59	EMINENT DOMAIN AMENDMENTS	287
60	ELECTION LAW - INDEPENDENT EXPENDITURES AMENDMENTS	295
61	RECREATIONAL VEHICLE TITLE AMENDMENTS	297
62	SPEED LIMIT AMENDMENTS	303
63	UTAH EDUCATION AND TELEHEALTH NETWORK AMENDMENTS	304
64	SCHOOL BUILDING COSTS REPORTING	316
65	PROPERTY TAX RESIDENTIAL EXEMPTION AMENDMENTS	318
66	COUNTY BUDGET AMENDMENTS	329
67	FOSTER CHILDREN AMENDMENTS	331
68	CONTROLLED SUBSTANCE DATABASE AMENDMENTS	333
69	SNOW COLLEGE CONCURRENT EDUCATION PROGRAM	337
70	FINANCIAL AND ECONOMIC LITERACY AMENDMENTS	338
71	TRANSITION FOR REPEALED NAVAJO TRUST FUND ACT	342
72	PHARMACEUTICAL DISPENSING AMENDMENTS	344
73	RISK MANAGEMENT AMENDMENTS	360
74	CARBON MONOXIDE DETECTION AMENDMENTS	361
75	STATE DATA PORTAL AMENDMENTS	365
76	FINANCIAL DISCLOSURE REPORTING AMENDMENTS	368
77	INSURANCE AMENDMENTS	369
78	CONTROLLED SUBSTANCES ACT AMENDMENTS	371
79	BACKGROUND CHECK AMENDMENTS	376
80	DROWSY DRIVING AMENDMENTS	378
81	CONSTRUCTION TRADES LICENSING ACT AMENDMENTS	379
82	WORKERS' COMPENSATION AMENDMENTS	383
83	PUBLIC MEETINGS MATERIALS REQUIREMENTS	385
84	EDUCATION LOAN AMENDMENTS	387
85	VETERAN'S SEPARATION AMENDMENTS	388

86	VIETNAM VETERANS RECOGNITION DAY	400
87	VETERANS TUITION GAP COVERAGE	401
88	VETERANS CENTERS	403
89	UNIFORM REAL PROPERTY ELECTRONIC RECORDING ACT	405
90	CHILD INTERVIEW AMENDMENTS	411
91	VETERANS' ASSISTANCE REGISTRY	422
92	WORKPLACE SAFETY WEEK DESIGNATION	425
93	RADON AWARENESS CAMPAIGN	426
94	GUARDIANSHIP FORMS FOR PARENTS OF DISABLED ADULT CHILD	427
95	ONLINE VOTER REGISTRATION REVISIONS	428
96	TOBACCO SETTLEMENT RESTRICTED ACCOUNT AMENDMENTS	430
97	FINANCIAL INSTITUTION AND SERVICES AMENDMENTS	431
98	VOTER REGISTRATION AMENDMENTS	446
99	HEALTH CARE PROFESSIONAL TRUTH IN ADVERTISING	449
100	NAIL TECHNICIAN PRACTICE AMENDMENTS	451
101	DRIVER LICENSE MODIFICATIONS	454
102	UPSTART PROGRAM AMENDMENTS	458
103	EDUCATION TASK FORCE REAUTHORIZATION	461
104	ALL-TERRAIN VEHICLE AMENDMENTS	463
105	SEX OFFENDER AMENDMENTS	469
106	LAW ENFORCEMENT TRANSPARENCY	473
107	HIGHWAY RIGHTS-OF-WAY AMENDMENTS	475
108	RESIDENCE LIEN RESTRICTION AMENDMENTS	476
109	AMENDMENTS TO AUTOMATIC EXTERNAL DEFIBRILLATOR RESTRICTED ACCOUNT	478
110	NATUROPATHIC PRACTICE ACT AMENDMENTS	479
111	PRESCRIPTION SYNCHRONIZATION	482
112	ASSET FORFEITURE AMENDMENTS	483
113	REVENUE BOND AND CAPITAL FACILITIES AMENDMENTS	489
114	WRONGFUL LIEN AMENDMENTS	496
115	INTERLOCAL ACT AMENDMENTS	503
116	ASSOCIATION LIEN AMENDMENTS	508
117	REAUTHORIZATION OF UTAH COMMISSION ON SERVICE AND VOLUNTEERISM	511
118	REAUTHORIZATION OF UTAH HEALTH DATA AUTHORITY ACT	512
119	BEER EXCISE TAX REVENUE AMENDMENTS	515
120	REPORTS ON ALTERNATIVE SENTENCING	520
121	INVOLUNTARY FEEDING AND HYDRATION OF INMATES AMENDMENTS	525
122	NATIONAL GUARD PROGRAM AMENDMENTS	526
123	UTAH HISTORY DAY	540
124	DISTRIBUTION OF INTIMATE IMAGES	543
125	ENERGY EFFICIENT VEHICLE TAX CREDITS	545
126	ELECTRONIC FILING OF TRAFFIC CITATIONS AND ACCIDENT REPORTS AMENDMENTS	550
127	WOMEN IN THE ECONOMY COMMISSION	551
128	APPLIED TECHNOLOGY COLLEGE GOVERNANCE AMENDMENTS	554
129	CONDOMINIUM AND COMMUNITY ASSOCIATION LIEN AMENDMENTS	557
130	OPIATE OVERDOSE EMERGENCY TREATMENT	559
131	CONSUMER LENDING AMENDMENTS	562
132	HIGHWAY SPONSORSHIP PROGRAM ACT	567

133	PUBLIC SAFETY RETIREMENT CONVERSION WINDOW	569
134	BAIL BOND RECOVERY LICENSURE BOARD AMENDMENTS	570
135	CRIMINAL PENALTIES FOR SEXUAL CONTACT WITH A STUDENT	571
136	LAND USE AMENDMENTS	575
137	VETERAN'S PREFERENCE AMENDMENTS	591
138	COURT PARKING FACILITIES	592
139	STATE FAIR CORPORATION BOARD AMENDMENTS	593
140	HUMAN TRAFFICKING VICTIM AMENDMENTS	594
141	AGGRAVATED SEXUAL ABUSE OF A CHILD AMENDMENTS	597
142	PROBATE CODE AMENDMENTS	600
143	DISORDERLY CONDUCT AMENDMENTS	607
144	TECHNICAL REVISIONS TO PAWNSHOP STATUTE	608
145	GOVERNMENT IMMUNITY WILDLIFE WAIVER AMENDMENTS	609
146	CONCEALED WEAPON PERMIT EXEMPTIONS AMENDMENTS	611
147	CONCEALED WEAPON PERMIT FOR SERVICE MEMBERS	612
148	LAW ENFORCEMENT VOLUNTEER AMENDMENTS	613
149	CRIMINAL PENALTY AMENDMENTS	614
150	VETERANS' AND MILITARY AFFAIRS COMMISSION	615
151	JUDGMENT LIEN AMENDMENTS	617
152	JUDICIAL PERFORMANCE EVALUATION COMMISSION AMENDMENTS	621
153	STATE CONSTRUCTION CODE REVISIONS	622
154	VETERANS' EMPLOYMENT OPPORTUNITY AMENDMENTS	623
155	BAIL BONDSMEN AMENDMENTS	625
156	LOCAL DISTRICT BOUNDARY ADJUSTMENTS	626
157	FEDERAL LAND ACQUISITION AMENDMENTS	627
158	INCORPORATION ELECTION AMENDMENTS	628
159	REPEAL OF TRANSPORTATION RELATED FUNDS	635
160	REMOVAL OF DIRECTORS OF NONPROFIT CORPORATIONS	636
161	NATURAL RESOURCES RELATED ACCOUNT REPEALS	637
162	PARENT-TIME AFTER RELOCATION OF A PARENT	638
163	ALCOHOL REVISIONS	640
164	REPEAL OF HOUSING RELIEF EXPENDABLE SPECIAL REVENUE FUND	641
165	CONCUSSION AND HEAD INJURY AMENDMENTS	642
166	REPEAL OF UTAH HISTORY ENDOWMENT FUND	643
167	UNLAWFUL ACTIVITIES AMENDMENTS	646
168	COURT SECURITY FEE AMENDMENTS	651
169	ELECTION REQUIREMENTS AMENDMENTS	652
170	VICTIM RESTITUTION AMENDMENTS	657
171	ASSET FORFEITURE REVISIONS	662
172	CAPITOL PRESERVATION BOARD DONATION AMENDMENTS	664
173	STATE LAND ACQUISITION AND GENERAL OBLIGATION BOND AUTHORIZATION AMENDMENTS	665
174	LONG-TERM CARE PARTNERSHIP	668
175	REEMPLOYMENT RESTRICTIONS AMENDMENTS	669
176	LOCAL GOVERNMENT GENERAL FUND AMENDMENTS	671
177	TRUSTEE'S SALE FOR RENTAL PROPERTY - SUNSET ACT AMENDMENTS	684
178	STATE CONSTRUCTION CODE AMENDMENTS	685
179	WORKFORCE SERVICES JOB LISTING AMENDMENTS	687

180	AMENDMENT TO PROCUREMENT CODE EXEMPTIONS	690
181	REAUTHORIZATION OF MESSAGE THERAPY LICENSURE ACT	691
182	WORKERS' COMPENSATION AND EMPLOYEE MISCONDUCT	692
183	MILITARY INSTALLATION DEVELOPMENT AUTHORITY AMENDMENTS ...	695
184	UTILITY RELOCATION ON HIGHWAY PROJECTS	700
185	INDEPENDENT ENTITIES FINANCIAL TRANSPARENCY DISCLOSURE	701
186	UTAH SCIENCE TECHNOLOGY AND RESEARCH GOVERNING AUTHORITY AMENDMENTS	706
187	INFORMED CONSENT AMENDMENTS	713
188	CONTRACTOR EMPLOYEE AMENDMENTS	716
189	REVISOR'S STATUTE	723
190	STATE VEHICLE EFFICIENCY REQUIREMENTS	808
191	SHELTER ANIMAL VACCINE AMENDMENTS	811
192	LABOR COMMISSION DECISION AMENDMENTS	814
193	ADVANCED PLACEMENT TEST FUNDING	818
194	CEMETERY AMENDMENTS	819
195	CAPITAL IMPROVEMENT AND CAPITAL DEVELOPMENT PROJECT AMENDMENTS	821
196	PROCUREMENT REVISIONS	826
197	LOCAL GOVERNMENT INSPECTION AMENDMENTS	886
198	MEDICAL WASTE INCINERATION PROHIBITION	887
199	EXPUNGEMENT MODIFICATIONS	888
200	IMMIGRATION AMENDMENTS	891
201	RETIREMENT SYSTEM OPT-OUT FOR RURAL HEALTHCARE CENTERS	892
202	PUBLIC SCHOOL COMPREHENSIVE EMERGENCY RESPONSE PLAN AMENDMENTS	896
203	REPEAL OF BUSINESS DEVELOPMENT FOR DISADVANTAGED RURAL COMMUNITIES ACCOUNT	899
204	CORY B. WRIDE MEMORIAL HIGHWAY	903
205	REPEAL OF SUBSTANCE ABUSE DONATION FUND	904
206	INTERNET VOTING PILOT PROJECT AMENDMENTS	907
207	JUDICIAL RETENTION ELECTION AMENDMENTS	908
208	REPEAL OF CERTIFIED NURSE MIDWIFE EDUCATION AND ENFORCEMENT ACCOUNT	910
209	RETENTION OF OUTSIDE COUNSEL, EXPERT WITNESSES, AND LITIGATION SUPPORT SERVICES	911
210	GOVERNMENTAL IMMUNITY ACT AMENDMENTS	912
211	PRISON RELOCATION COMMISSION	914
212	REPEAL OF VETERANS' NURSING HOME REIMBURSEMENT ACCOUNT	919
213	SYSTEM OF CARE FOR MINORS IN STATE CUSTODY	920
214	SUICIDE PREVENTION REVISIONS	926
215	COLLEGE CREDIT FOR VETERANS	929
216	IN-STATE TUITION FOR MILITARY SERVICE MEMBERS AND VETERANS	930
217	RESTITUTION AMENDMENTS	934
218	PROPERTY TAX ASSESSMENT AMENDMENTS	935
219	PHARMACY BENEFIT MANAGER AMENDMENTS	936
220	PERSONAL INJURY DAMAGES AMENDMENTS	938
221	CONTINUING EDUCATION ON FEDERALISM	939
222	PROPERTY TAX LIEN AMENDMENTS	941
223	ELECTRONIC DEVICE LOCATION AMENDMENTS	942

224	SURPLUS LINES INSURANCE AMENDMENTS	944
225	MOBILITY AND PEDESTRIAN VEHICLES	948
226	FIREARM SAFETY AMENDMENTS	955
227	UNDERGROUND PETROLEUM STORAGE TANK AMENDMENTS	961
228	PEACE OFFICER AGREEMENTS WITH FEDERAL AGENCIES	973
229	OFF-HIGHWAY VEHICLE AMENDMENTS	975
230	WOOD BURNING AMENDMENTS	984
231	ELECTION DAY VOTER REGISTRATION PILOT PROJECT	988
232	RAPE KIT PROCESSING AMENDMENTS	1001
233	JUROR AND WITNESS FEES AMENDMENTS	1003
234	JUVENILE DETENTION FACILITIES AMENDMENTS	1004
235	BREATHALYZER AMENDMENTS	1009
236	APPROPRIATIONS AND BUDGETING AMENDMENTS	1010
237	PARK MODEL RECREATIONAL VEHICLES	1012
238	UNLAWFUL REMOVAL OR VANDALISM OF CAMPAIGN SIGNS	1028
239	VISITATION AMENDMENTS	1029
240	SUBSTANCE ABUSE AMENDMENTS	1031
241	SEVERANCE TAX AMENDMENTS	1038
242	LOCAL REFERENDUM REQUIREMENTS AMENDMENTS	1041
243	STATE FIRE CODE AMENDMENTS	1043
244	CRIME VICTIMS RESTITUTION AMENDMENTS	1048
245	AGING AND ADULT SERVICES AMENDMENTS	1049
246	PEACE OFFICER CERTIFICATES	1051
247	JUDICIARY INTERIM COMMITTEE SUNSET PROVISIONS	1052
248	WEAPONS LAW EXEMPTIONS	1053
249	VEHICLE IMMOBILIZATION AND IMPOUND AMENDMENTS	1056
250	REFUGEE SERVICES COORDINATION AMENDMENTS	1062
251	PROTECTION OF ACTIVITIES IN PRIVATE VEHICLES	1063
252	IDENTIFICATION CARD AMENDMENTS	1064
253	LOCAL GOVERNMENT INTERFUND LOANS	1072
254	ELECTION OFFENSE AMENDMENTS	1079
255	THEFT AMENDMENTS	1083
256	REVISIONS TO PROPERTY TAX	1085
257	PREJUDGMENT INTEREST REVISIONS	1092
258	LOCAL SALES AND USE TAX ACT AMENDMENTS	1093
259	AMENDMENTS TO GOVERNOR'S RURAL BOARDS	1095
260	RESIDENCY AMENDMENTS	1100
261	METAL THEFT AMENDMENTS	1102
262	PUBLIC EDUCATION HUMAN RESOURCE MANAGEMENT AMENDMENTS	1105
263	JUDICIARY AMENDMENTS	1107
264	INTERLOCAL COOPERATION ACT REVISIONS	1113
265	CHILD WELFARE AMENDMENTS	1115
266	TRUST DEED FORECLOSURE AMENDMENTS	1119
267	HUMAN SERVICES AMENDMENTS	1122
268	BAIL AMENDMENTS	1131
269	EMERGENCY FISCAL PROCEDURES COUNTIES	1132
270	PROPERTY TAX MODIFICATIONS	1133
271	LOCAL OPTION SALES TAX AMENDMENTS	1146
272	LAW ENFORCEMENT EXEMPTION FOR MEDICAL INFORMATION	1151

273	CORPORATE FRANCHISE AND INCOME TAX AMENDMENTS	1152
274	INVASIVE SPECIES AMENDMENTS	1155
275	INDIGENT COUNSEL IN JUVENILE COURT	1156
276	AUTOMATIC LICENSE PLATE READER SYSTEM AMENDMENTS	1158
277	INSURANCE MODIFICATIONS	1160
278	CARSON SMITH SCHOLARSHIP AMENDMENTS	1165
279	MODIFICATIONS TO PROPERTY TAX	1167
280	LAW ENFORCEMENT SERVICES ACCOUNT	1173
281	POSTJUDGMENT INTEREST AMENDMENTS	1174
282	NEW FISCAL YEAR SUPPLEMENTAL APPROPRIATIONS ACT	1175
283	CURRENT SCHOOL YEAR SUPPLEMENTAL PUBLIC EDUCATION BUDGET AMENDMENTS	1199
284	STATE AGENCY AND HIGHER EDUCATION COMPENSATION APPROPRIATIONS	1200
285	STATE AGENCY FEES AND INTERNAL SERVICE FUND RATE AUTHORIZATION AND APPROPRIATIONS	1218
286	INJURED WORKER REEMPLOYMENT AMENDMENTS	1299
287	RURAL WASTE DISPOSAL	1306
288	EMERGENCY VEHICLE OPERATOR DUTY OF CARE REVISIONS	1307
289	WORKFORCE SERVICES AMENDMENTS	1309
290	INSURANCE RELATED AMENDMENTS	1310
291	CHARTER SCHOOL ENROLLMENT AMENDMENTS	1404
292	RESOURCE STEWARDSHIP AMENDMENTS	1405
293	CONSTRUCTION LIENS AMENDMENTS	1406
294	INTERSTATE ELECTRIC TRANSMISSION LINES	1411
295	CLEAN AIR PROGRAMS	1413
296	POLITICAL SUBDIVISION JURISDICTION AMENDMENTS	1418
297	FORCIBLE ENTRY AMENDMENTS	1420
298	HIGHER EDUCATION GRIEVANCE PROCEDURE AMENDMENTS	1422
299	RESTORATION OF CIVIL RIGHTS FOR NONVIOLENT FELONS	1423
300	INSURANCE RELATED REVISIONS	1425
301	UTAH ENERGY INFRASTRUCTURE AUTHORITY ACT AMENDMENTS	1519
302	AUTISM PROGRAM AMENDMENTS	1521
303	WORKERS' COMPENSATION AND HOME AND COMMUNITY BASED SERVICES	1526
304	UTAH SCHOOL READINESS INITIATIVE	1532
305	UTAH OPTOMETRY PRACTICE ACT AMENDMENTS	1540
306	ROADWAY AND SIDEWALK SAFETY AMENDMENTS	1542
307	STATE MONEY MANAGEMENT ACT AMENDMENTS	1544
308	MAIL-ORDER WHOLESALE DRUG AMENDMENTS	1546
309	SCHOOL CONSTRUCTION MODIFICATIONS	1552
310	PATENT INFRINGEMENT AMENDMENTS	1554
311	RETIREMENT AMENDMENTS	1557
312	TEMPORARY HOMELESS YOUTH SHELTER AMENDMENTS	1560
313	CONTINGENT MANAGEMENT FOR FEDERAL FACILITIES	1563
314	AMENDMENTS TO DRIVER LICENSE SANCTIONS FOR ALCOHOL RELATED OFFENSES	1566
315	TAX CREDIT AMENDMENTS	1570
316	PSYCHIATRIC NURSE AMENDMENTS	1574
317	AMENDMENTS TO FEDERAL LAW ENFORCEMENT LIMITATIONS	1577
318	SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS AMENDMENTS	1580

319	COMMISSION FOR THE STEWARDSHIP OF PUBLIC LANDS	1587
320	UTAH COMMUNICATION AGENCY NETWORK AND UTAH 911 COMMITTEE AMENDMENTS	1590
321	GRAZING AND TIMBER AGRICULTURAL COMMODITY ZONES IN UTAH	1624
322	REGULATION OF CHILD CARE PROGRAMS	1642
323	UTAH WILDERNESS ACT	1646
324	INTERSTATE COMPACT ON TRANSFER OF PUBLIC LANDS	1650
325	LOCAL SCHOOL BOARD BOND AMENDMENTS	1653
326	NATURAL GAS FACILITIES AMENDMENTS	1655
327	FOOD HANDLER PERMIT AMENDMENTS	1656
328	FEDERAL LAND EXCHANGE AND SALE AMENDMENTS	1657
329	INITIATIVE AND REFERENDUM PETITION AMENDMENTS	1662
330	MASSAGE THERAPY PRACTICE ACT AMENDMENTS	1667
331	DNA COLLECTION AMENDMENTS	1669
332	SCHOOL COMMUNITY COUNCIL REVISIONS	1673
333	PRIMARY LAW ENFORCEMENT DUTIES FOR SHERIFFS	1680
334	AMENDMENTS TO THE FUND OF FUNDS	1681
335	GOVERNMENT ETHICS REVISIONS	1687
336	LOCAL SCHOOL BOARD AMENDMENTS	1697
337	LOCAL SCHOOL BOARD CANDIDATE REPORTING AMENDMENTS	1698
338	LOCAL GOVERNING BODY VOTING AMENDMENTS	1708
339	COMMITTEE SUBPOENA POWERS AMENDMENT	1709
340	MUSIC THERAPIST LICENSURE AMENDMENTS	1710
341	NONPROFIT ENTITY RECEIPT OF GOVERNMENT MONEY	1712
342	CHILD SEXUAL ABUSE PREVENTION	1715
343	STATE LABORATORY DRUG TESTING ACCOUNT AMENDMENTS	1717
344	BUDGETING AMENDMENTS	1719
345	FINANCIAL INSTITUTIONS FEE AMENDMENTS	1723
346	EDUCATORS' PROFESSIONAL LEARNING	1725
347	DIVORCE ORIENTATION COURSE TIMING	1729
348	ORTHO-BIONOMY EXEMPTION AMENDMENTS	1731
349	PROGRAMS FOR YOUTH PROTECTION	1733
350	REAL ESTATE AMENDMENTS	1735
351	TEACHER SALARY SUPPLEMENT PROGRAM AMENDMENTS	1755
352	POWERS AND DUTIES OF THE STATE BOARD OF EDUCATION	1757
353	INSURANCE COVERAGE FOR INFERTILITY TREATMENT	1759
354	PHYSICAL THERAPY SCOPE OF PRACTICE AMENDMENTS	1760
355	CANAL SAFETY AMENDMENTS	1763
356	TRANSPARENCY OF BALLOT PROPOSITIONS	1766
357	LIMITED PURPOSE LOCAL GOVERNMENT ENTITIES AMENDMENTS	1769
358	DELEGATE RESPONSIBILITY AMENDMENTS	1773
359	TRUANCY AMENDMENTS	1774
360	POSTSECONDARY SCHOOL STATE AUTHORIZATION	1776
361	STATE OF UTAH TRANSPORTATION PLAN FOR THE DIXIE NATIONAL FOREST	1787
362	LOCAL AND SPECIAL SERVICE DISTRICT ELECTIONS AMENDMENTS	1789
363	CHARTER SCHOOL REVISIONS	1801
364	INITIATIVE AND REFERENDUM IMPACT DISCLOSURE	1829
365	RETIREMENT PARTICIPATION MODIFICATIONS	1833
366	PEACE OFFICER MERIT AMENDMENTS	1837

367	PUBLIC EDUCATION BUDGET AMENDMENTS	1846
368	CURRENT FISCAL YEAR SUPPLEMENTAL APPROPRIATIONS	1850
369	WATER AND IRRIGATION AMENDMENTS	1866
370	APPOINTMENT AND QUALIFICATION OF MEMBERS OF THE STATE TAX COMMISSION	1870
371	STATE AGENCY REPORTING AMENDMENTS	1872
372	STATEWIDE DATA ALLIANCE AND UTAH FUTURES	1895
373	VOTER INFORMATION AMENDMENTS	1898
374	HOME SCHOOL AMENDMENTS	1910
375	INTERGENERATIONAL POVERTY INTERVENTIONS IN PUBLIC SCHOOLS	1912
376	EMERGENCY MANAGEMENT ACT AMENDMENTS	1914
377	LOCAL GOVERNMENT ENTITIES AMENDMENTS	1929
378	AMENDMENTS TO PRIVATE INVESTIGATOR REGULATIONS	1958
379	AUTISM SERVICES AMENDMENTS	1962
380	SALES AND USE TAX EXEMPTION MODIFICATIONS	1964
381	AMENDMENTS TO PUBLIC UTILITIES TITLE	2003
382	UNINSURED MOTORIST PROVISIONS	2013
383	AGRICULTURAL ENVIRONMENTAL AMENDMENTS	2016
384	PRIMARY CARE GRANTS AMENDMENTS	2022
385	PHARMACY PRACTICE ACT AMENDMENTS	2027
386	PRESCRIPTION EYE DROP GUIDELINES	2030
387	LEGISLATIVE PER DIEM REVISION	2031
388	AMENDMENTS TO DEFINITION OF PUBLIC UTILITY	2052
389	LOCAL CONTROL OF CLASSROOM TIME REQUIREMENTS	2057
390	IMPROVEMENT OF READING INSTRUCTION	2059
391	POLL WORKER AMENDMENTS	2060
392	PARENTAL RIGHTS IN PUBLIC EDUCATION	2067
393	STUDENT LEADERSHIP GRANT	2069
394	BENEFIT CORPORATION AMENDMENTS	2071
395	TAXATION RELATED REFERENDUM AMENDMENTS	2078
396	LOCAL ELECTIONS AMENDMENTS	2080
397	RESIDENTIAL RENTAL AMENDMENTS	2084
398	APPORTIONMENT OF INCOME AMENDMENTS	2093
399	REGULATION OF DRONES	2095
400	CHARITY CARE AMENDMENTS	2097
401	CONTROLLED SUBSTANCE DATABASE MODIFICATIONS	2099
402	CONTRACTOR LICENSING AND CONTINUING EDUCATION AMENDMENTS	2103
403	SCHOOL GRADING REVISIONS	2109
404	COMPULSORY POOLING AMENDMENTS	2114
405	POLITICAL SUBDIVISIONS REVISIONS	2116
406	CHARTER SCHOOL AMENDMENTS	2125
407	RENEWABLE ENERGY TAX CREDIT AMENDMENTS	2127
408	PROFESSIONAL LICENSING AMENDMENTS	2130
409	EXPOSURE OF CHILDREN TO PORNOGRAPHY	2132
410	ADOPTION ACT AMENDMENTS	2135
411	AGRICULTURAL AMENDMENTS	2138
412	SCHOOL SAFETY TIP LINE	2151
413	URBAN FARMING AMENDMENTS	2153

414	ALTERNATIVE ENERGY AMENDMENTS	2156
415	PUBLIC DUTY DOCTRINE AMENDMENTS	2178
416	DISTRACTED DRIVER AMENDMENTS	2180
417	EDUCATOR LICENSURE AMENDMENTS	2182
418	SMALL BUSINESS INNOVATION RESEARCH	2183
419	REPEAL OF PRISON RELOCATION AND DEVELOPMENT AUTHORITY	2186
420	WATER JURISDICTION AMENDMENTS	2188
421	REDEVELOPMENT AGENCY MODIFICATIONS	2190
422	APPROPRIATIONS ADJUSTMENTS	2191
423	TOURISM MARKETING PERFORMANCE ACCOUNT AMENDMENTS	2205
424	LIMITATION ON LOCAL GOVERNMENT REGULATION OF ANIMALS	2207
425	HEALTH REFORM AMENDMENTS	2208
426	SCHOOL AND INSTITUTIONAL TRUST LANDS AND FUNDS MANAGEMENT PROVISIONS	2241
427	DAYLIGHT SAVING TIME STUDY	2254
428	DANGEROUS WEAPONS AMENDMENTS	2255
429	NEW CONVENTION FACILITY DEVELOPMENT INCENTIVE PROVISIONS	2259
430	BUDGETARY AMENDMENTS	2274
431	FIREARM TRANSFER CERTIFICATION AMENDMENTS	2279
432	UTAH MEDICAID PROGRAM	2280
433	INTERNAL AUDIT AMENDMENTS	2281
434	PUBLIC MEETINGS AMENDMENTS	2286
435	ECONOMIC DEVELOPMENT AND THE UTAH SMALL BUSINESS JOBS ACT	2289
436	COUNTY JAIL CONTRACTING AMENDMENTS	2300
437	ANNUAL LEAVE PROGRAM II FOR STATE EMPLOYEES	2302

RESOLUTIONS

	CONCURRENT RESOLUTION DESIGNATING CALL YOUR MILITARY HERO DAY	2331
	CONCURRENT RESOLUTION DESIGNATING IDENTIFY YOUR PET DAY	2332
	CONCURRENT RESOLUTION ON UNMANNED AIRCRAFT SYSTEMS	2333
	CONCURRENT RESOLUTION RECOGNIZING THE 20TH ANNIVERSARY OF THE SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION	2335
	CONCURRENT RESOLUTION TO PROTECT STATE FUNDS	2336
	CONCURRENT RESOLUTION REGARDING MOVING THE STATE PRISON	2338
	CONCURRENT RESOLUTION RECOGNIZING THE 20TH ANNIVERSARY OF THE UTAH COMMISSION ON SERVICE AND VOLUNTEERISM	2339
	CONCURRENT RESOLUTION ON SCHOOL AND INSTITUTIONAL TRUST LANDS EXCHANGE ACT	2340
	CONCURRENT RESOLUTION RECOGNIZING 100TH ANNIVERSARY OF LOGAN REGIONAL HOSPITAL	2341
	CONCURRENT RESOLUTION ON TRANSFER OF PUBLIC LANDS ACT	2342
	JOINT RESOLUTION RECOGNIZING SISTER CITY RELATIONSHIP BETWEEN MAGNA, UTAH, AND YUZAWA, NIIGATA, JAPAN	2345
	UNIFORM BUILDING CODE COMMISSION REVIEW OF PROPOSED BUILDING CODE CHANGES JOINT RESOLUTION	2346
	JOINT RESOLUTION APPROVING COMMERCIAL NONHAZARDOUS SOLID WASTE DISPOSAL FACILITY AT A NEW LOCATION	2346

JOINT RESOLUTION ON UTAH EPILEPSY PUBLIC EDUCATION, OUTREACH, AND AWARENESS	2347
JOINT RULES RESOLUTION REGARDING A LONG-TERM PLANNING CONFERENCE	2348
JOINT RULES RESOLUTION ON BUDGET PROCESS AMENDMENTS	2349
JOINT RESOLUTION ON APPOINTMENT OF LEGAL COUNSEL FOR EXECUTIVE OFFICERS	2351
JOINT RESOLUTION ON CAREGIVING	2351
JOINT RESOLUTION ON JAIL FACILITIES	2352
JOINT RESOLUTION RECOGNIZING THE SIGNIFICANCE OF THE GREAT SALT LAKE	2353
JOINT RESOLUTION ON THE SOVEREIGN CHARACTER OF PILT — PAYMENT IN LIEU OF TAXES	2354
JOINT RESOLUTION RECOGNIZING WEBER STATE UNIVERSITY'S 125TH ANNIVERSARY	2356
HOUSE RULES RESOLUTION - LEGISLATIVE PER DIEM AMENDMENTS	2357
HOUSE RULES RESOLUTION BANNING FUNDRAISING ON THE HOUSE FLOOR	2357
HOUSE RESOLUTION ON CLEAN-BURNING RENEWABLE FUELS	2358
CONCURRENT RESOLUTION RECOGNIZING THE 60TH ANNIVERSARY OF THE INCLUSION OF UNDER GOD IN THE PLEDGE OF ALLEGIANCE	2359
CONCURRENT RESOLUTION RECOGNIZING THE 50TH ANNIVERSARY OF THE RIRIE-WOODBURY DANCE COMPANY	2360
CONCURRENT RESOLUTION ON THE SCHOOL OF DENTISTRY SERVING UNDERPRIVILEGED CHILDREN	2361
CONCURRENT RESOLUTION ON WILDLIFE ENHANCEMENT	2362
CONCURRENT RESOLUTION SUPPORTING THE MASTER PLAN	2362
CONCURRENT RESOLUTION CALLING ON CONGRESS TO PROVIDE PERMANENT MULTIYEAR FUNDING FOR THE PAYMENT IN LIEU OF TAXES PROGRAM	2364
CONCURRENT RESOLUTION ON COMPREHENSIVE STATEWIDE WILDLAND FIRE PREVENTION, PREPAREDNESS, AND SUPPRESSION POLICY	2366
CONCURRENT RESOLUTION RECOGNIZING CANYONLANDS NATIONAL PARK'S 50TH ANNIVERSARY	2367
CONCURRENT RESOLUTION CONCERNING PROPOSED GREENHOUSE GAS EMISSION STANDARDS	2368
JOINT RESOLUTION ON MUSEUM RECOGNIZING ATROCITIES AGAINST AMERICAN INDIANS	2369
JOINT RESOLUTION ON WATER RIGHTS ON GRAZING LANDS	2370
JOINT RESOLUTION AUTHORIZING PAY OF IN-SESSION EMPLOYEES	2372
JOINT RESOLUTION REGARDING QUALIFICATIONS OF STATE TAX COMMISSION MEMBERS	2375
JOINT RESOLUTION ON TERM OF APPOINTED LIEUTENANT GOVERNOR	2375
JOINT RULES RESOLUTION ON BILL NUMBERING	2377
JOINT RULES RESOLUTION MODIFYING ELIGIBILITY REQUIREMENTS FOR INDEPENDENT LEGISLATIVE ETHICS COMMISSION MEMBERS	2378
JOINT RULES RESOLUTION - LEGISLATIVE COMPENSATION AND EXPENSE REVISIONS	2379
JOINT RESOLUTION SUPPORTING UKRAINIAN SOVEREIGNTY	2381
MASTER STUDY RESOLUTION	2382

SENATE RULES RESOLUTION ON COMMITTEE HEARINGS	2391
SENATE RULES RESOLUTION - LEGISLATIVE PER DIEM AMENDMENTS	2391
LEGISLATION VETOED BY THE GOVERNOR	2305
ASSESSMENT AREA AMENDMENTS	2307
PARENT REVIEW OF INSTRUCTIONAL MATERIALS AND CURRICULUM	2317
LEGISLATIVE SUBPOENA AMENDMENTS	2321

2013 SECOND SPECIAL SESSION 60TH LEGISLATURE

CHAPTER

1 STATE EMPLOYEE BENEFIT AMENDMENTS	3
2 FUNDING OF FEDERAL PROGRAMS	4
3 NATIONAL PARK FUNDING	5

UTAH CODE SECTION INDEX	2393
--------------------------------------	------

TECHNICAL ACTION INDEX	2409
-------------------------------------	------

SUBJECT INDEX	2415
----------------------------	------

BILL NUMBER INDEX	2439
--------------------------------	------

LAWS
of the
STATE OF UTAH, 2013

Passed at the
SECOND SPECIAL SESSION
of the
SIXTIETH LEGISLATURE

Convened and Adjourned Sine Die
at the State Capitol in the City of Salt Lake
October 16, 2013

STATE OF UTAH



OFFICE OF THE LIEUTENANT GOVERNOR

CERTIFICATE

THIS IS TO CERTIFY that the acts and resolutions published in this volume are, according to our best information and belief, full and correct copies of the originals passed at the 2013 Second Special Session of the Sixtieth Legislature of the State of Utah, as they appear of record in the Office of the Lieutenant Governor; and

That the 2013 Second Special Session of the Sixtieth Legislature of the State of Utah convened and adjourned at the Capitol in Salt Lake City on the 16th of October, 2013.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Utah at Salt Lake City, this 21st day of August, 2014.

A handwritten signature in black ink, appearing to read "Spencer J. Cox".

SPENCER J. COX
Lieutenant Governor

**CHAPTER 1
H. B. 2001**

Passed October 16, 2013
Approved October 17, 2013
Effective October 17, 2013

**STATE EMPLOYEE
BENEFIT AMENDMENTS**

Chief Sponsor: Brad L. Dee
Senate Sponsor: Peter C. Knudson

LONG TITLE

General Description:

This bill modifies the Budgetary Procedures Act by amending provisions relating to state employee furloughs due to reductions in federal funding.

Highlighted Provisions:

This bill:

- ▶ defines furlough;
- ▶ authorizes certain state agencies to use existing resources from funds appropriated to the agency to pay fixed cost benefits and holiday leave benefits for state employees furloughed as a result of a reduction or loss in federal funding;
- ▶ repeals the authorization on December 1, 2013; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.

Utah Code Sections Affected:

AMENDS:

63I-2-263, as last amended by Laws of Utah 2013, Chapter 173
63J-1-218, as renumbered and amended by Laws of Utah 2009, Chapter 183

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

Section 1. Section 63I-2-263 is amended to read:

63I-2-263. Repeal dates, Title 63A to Title 63M.

(1) Section 63A-1-115 is repealed on July 1, 2014.

(2) Subsection 63J-1-218(3) is repealed on December 1, 2013.

~~(2)~~ (3) Subsection 63M-1-903(1)(d) is repealed on July 1, 2015.

Section 2. Section 63J-1-218 is amended to read:

63J-1-218. Reduction in federal funds -- Agencies to reduce budgets.

(1) In any fiscal year in which federal grants to be received by state agencies, departments, divisions, or institutions are reduced below the level estimated in the appropriations acts for that year, the programs supported by those grants must be reduced commensurate with the amount of the federal reduction unless the Legislature

appropriates state funds to offset the loss in federal funding.

(2) This program modification shall be reported to the Legislature through the Executive Appropriations Committee and the Office of the Legislative Fiscal Analyst.

(3) (a) As used in this Subsection (3), "furlough" means a temporary leave of absence from duty without pay for budgetary reasons.

(b) Notwithstanding Subsection (1), the following state agencies may use existing resources from funds previously appropriated to the agency to pay fixed cost benefits and holiday leave benefits for state employees furloughed as a result of a reduction or loss in federal funding:

(i) the Utah National Guard;

(ii) the Utah State Office of Rehabilitation;

(iii) the Utah Labor Commission;

(iv) the Division of Family Health and Preparedness within the Utah Department of Health; and

(v) the Utah Department of Workforce Services.

Section 3. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

**CHAPTER 2
H. B. 2002**

Passed October 16, 2013
Approved October 17, 2013
Effective October 17, 2013

FUNDING OF FEDERAL PROGRAMS

Chief Sponsor: Brad L. Dee
Senate Sponsor: Ralph Okerlund

LONG TITLE

General Description:

This bill modifies the Budgetary Procedures Act by amending provisions relating to reductions in federal funding.

Highlighted Provisions:

This bill:

- ▶ authorizes the Utah State Board of Education to use state funds to pay for Child Nutrition Programs to offset a loss in federal funding;
- ▶ repeals the authorization on December 1, 2013; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.

Utah Code Sections Affected:

AMENDS:

63I-2-263, as last amended by Laws of Utah 2013, Chapter 173

63J-1-218, as renumbered and amended by Laws of Utah 2009, Chapter 183

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

Section 1. Section 63I-2-263 is amended to read:

63I-2-263. Repeal dates, Title 63A to Title 63M.

(1) Section 63A-1-115 is repealed on July 1, 2014.

(2) Subsection 63J-1-218(3) is repealed on December 1, 2013.

[(2)] (3) Subsection 63M-1-903(1)(d) is repealed on July 1, 2015.

Section 2. Section 63J-1-218 is amended to read:

63J-1-218. Reduction in federal funds -- Agencies to reduce budgets.

(1) In any fiscal year in which federal grants to be received by state agencies, departments, divisions, or institutions are reduced below the level estimated in the appropriations acts for that year, the programs supported by those grants must be reduced commensurate with the amount of the federal reduction unless the Legislature appropriates state funds to offset the loss in federal funding.

(2) This program modification shall be reported to the Legislature through the Executive

Appropriations Committee and the Office of the Legislative Fiscal Analyst.

(3) Notwithstanding Subsection (1), the Utah State Board of Education may use state funds previously appropriated to pay for the Child Nutrition Programs to offset federal funds lost due to the federal government shutdown.

Section 3. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

**CHAPTER 3
S. B. 2001**

Passed October 16, 2013
Approved October 17, 2013
Effective October 17, 2013

NATIONAL PARK FUNDING

Chief Sponsor: J. Stuart Adams
House Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill addresses issues relating to the operation of national parks, national monuments, and national recreation areas within the state.

Highlighted Provisions:

This bill:

- ▶ authorizes funds in the Sovereign Lands Management Account to be used to pay one or more federal government entities for the ongoing operation of national parks, national monuments, and national recreation areas within the state; and
- ▶ repeals the authorization on December 2, 2013.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2014:

- ▶ to the Department of Natural Resources - Parks and Recreation Capital Budget as a one-time appropriation, from the Sovereign Lands Management Account, \$1,665,700; and
- ▶ to the Department of Natural Resources - Parks and Recreation - National Parks Operation Contributions as a one-time appropriation, from the Sovereign Lands Management Account, \$6,996,100.

Other Special Clauses:

This bill provides an immediate effective date.

Utah Code Sections Affected:

AMENDS:

65A-5-1, as last amended by Laws of Utah 2011, Chapter 303

ENACTS:

63I-2-265, Utah Code Annotated 1953

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

Section 1. Section 63I-2-265 is enacted to read:

63I-2-265. Repeal dates -- Title 65A.

Subsection 65A-5-1(4) is repealed on December 2, 2013.

Section 2. Section 65A-5-1 is amended to read:

65A-5-1. Sovereign Lands Management Account -- Creation -- Contents -- Appropriation to fund division expenses.

(1) There is created within the General Fund a restricted account known as the Sovereign Lands Management Account.

(2) The account shall consist of the following:

(a) all revenues derived from sovereign lands; and

(b) that portion of all revenues derived from mineral leases on other lands managed by the division necessary to recover management costs.

(3) All expenditures of the division relating directly to the management of state lands shall be funded by appropriation by the Legislature from the Sovereign Lands Management Account or other sources.

(4) The Legislature may appropriate funds in the account to reimburse one or more state government entities for money contributed to the federal government for the operation of national parks, national monuments, and national recreation areas in the state.

Section 3. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2013, and ending June 30, 2014, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2014.

Item 1 - To Department of Natural Resources - Parks and Recreation Capital Budget

From General Fund Restricted - Sovereign Lands Management,

<u>One-time</u>	<u>\$1,665,700</u>
-----------------	--------------------

Schedule of Programs:

<u>Renovation and Development</u>	<u>\$1,665,700</u>
-----------------------------------	--------------------

The Legislature intends that:

(1) any amount appropriated from the Sovereign Lands Management Account not used to open and operate national parks, national monuments, and national recreation areas lapses back to the Sovereign Lands Management Account under Subsection 63J-1-601(2) at the close of fiscal year 2014; and

(2) the governor and the Division of Parks and Recreation contact Utah's United States senators and congressional representatives and urge them to introduce or amend legislation to fully reimburse the state of Utah for any amount expended under this appropriation.

Item 2 - To Department of Natural Resources - State Parks and Recreation - National Parks Operation Contributions

From General Fund Restricted - Sovereign Lands Management,

<u>One-time</u>	<u>\$6,996,100</u>
-----------------	--------------------

Schedule of Programs:

<u>National Parks Operation Contributions</u>	<u>\$6,996,100</u>
---	--------------------

The Legislature intends that:

(1) the Division of Parks and Recreation may, subject to Subsections (2), (3), and (4) contribute money authorized by this appropriation to open and operate national parks, national monuments, and national recreation areas in one week increments;

(2) before October 28, 2013, the Division of Parks and Recreation submit a written report to the Executive Appropriations Committee that:

(a) subject to the availability of appropriate federal government entities:

(i) estimates the current daily contribution amount for the operation of national parks, national monuments, and national recreation areas; and

(ii) reports on negotiations to lower the daily contribution amount, if warranted, and to reopen the Bear River Migratory Bird Refuge; or

(b) appropriate federal government entities were unavailable to provide the information under Subsection (2)(a);

(3) after October 28, 2013, the Division of Parks and Recreation, before contributing to the United States government any money appropriated in this bill, shall submit a statement to the Executive Appropriations Committee identifying the amount of money to be contributed to the United States government;

(4) after October 28, 2013, the Executive Appropriations Committee recommend to the Division of Parks and Recreation that the Division of Parks and Recreation either:

(a) expend the appropriated money to keep national parks, national monuments, and national recreation areas operating for an additional week; or

(b) not expend the appropriated money; and

(5) the governor and the Division of Parks and Recreation contact Utah's United States senators and congressional representatives and urge them to introduce or amend legislation to fully reimburse the state of Utah for any amount expended under this appropriation.

Section 4. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

LAWS
of the
STATE OF UTAH, 2014

Passed at the
GENERAL SESSION
of the
SIXTIETH LEGISLATURE

Convened at the State Capitol in the City of Salt Lake
January 27, 2014
and Adjourned Sine Die on
March 13, 2014

STATE OF UTAH



OFFICE OF THE LIEUTENANT GOVERNOR

CERTIFICATE

THIS IS TO CERTIFY that the acts and resolutions published in this volume are, according to our best information and belief, full and correct copies of the originals passed at the 2014 General Session of the Sixtieth Legislature of the state of Utah, as they appear of record in the Office of the Lieutenant Governor; and

That the 2014 General Session of Sixtieth Legislature of the state of Utah convened at the Capitol in Salt Lake City on the 27th of January, 2014, and adjourned on the 13th day of March 2014.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Utah at Salt Lake City, this 21st day of August, 2014.

A handwritten signature in black ink, appearing to read "Spencer J. Cox".

SPENCER J. COX
Lieutenant Governor

**CHAPTER 1
S.B. 10**

Passed January 27, 2014
Approved January 27, 2014
Effective January 27, 2014

401K APPROPRIATION AMENDMENTS

Chief Sponsor: Lyle W. Hillyard
House Sponsor: Melvin R. Brown

LONG TITLE

Committee Note:

The Executive Appropriations Committee recommended this bill.

General Description:

This bill supplements or reduces appropriations previously provided for the use and operation of state government for the fiscal year beginning July 1, 2013 and ending June 30, 2014.

Highlighted Provisions:

This bill:

- ▶ reallocates appropriations from the Division of Finance to other state agencies to fund the new 401K benefit established in House Bill 194, 2013 General Session;
- ▶ adds appropriations from restricted accounts, dedicated credits, and other sources to fund the new benefit; and
- ▶ authorizes the matching rate at up to \$26 per pay period depending upon employee participation.

Money Appropriated in this Bill:

This bill appropriates \$1,775,700 in operating and capital budgets for fiscal year 2014, including:

- ▶ (\$243,000) from the General Fund;
- ▶ \$139,700 from the Education Fund;
- ▶ \$1,879,000 from various sources as detailed in this bill.

This bill appropriates \$272,800 in business-like activities for fiscal year 2014.

Other Special Clauses:

This bill takes effect immediately.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2014 Appropriations. Under provisions of Section 67-19-43, Utah Code Annotated, the employer 401(k) matching contribution rate for the fiscal year beginning July 1, 2013 and ending June 30, 2014 shall be \$26 per pay period. The following sums of money are appropriated for the fiscal year beginning July 1, 2013 and ending June 30, 2014. These are additions to amounts previously appropriated for fiscal year 2014.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Utah Code Title 63J, the Legislature appropriates the following sums of money from

the funds or fund accounts indicated for the use and support of the government of the State of Utah.

**EXECUTIVE OFFICES
AND CRIMINAL JUSTICE**

GOVERNOR'S OFFICE

Item 1

To Governor's Office	
From General Fund, One-time	3,300
From Federal Funds	100
From Dedicated Credits Revenue	400
Schedule of Programs:	
Administration	2,500
Governor's Residence	300
Lt. Governor's Office	1,000

Item 2

To Governor's Office - Governor's Office of Management and Budget	
From General Fund, One-time	5,700
Schedule of Programs:	
Administration	1,700
Planning and Budget Analysis	1,700
Demographic and Economic Analysis	2,000
State and Local Planning	300

Item 3

To Governor's Office - Commission on Criminal and Juvenile Justice	
From General Fund, One-time	1,000
From Federal Funds	2,700
From Dedicated Credits Revenue	100
From General Fund Restricted - Criminal Forfeiture Restricted Account	100
From General Fund Restricted - Law Enforcement Operations	500
From Crime Victim Reparations Fund	6,600
Schedule of Programs:	
CCJJ Commission	3,400
Utah Office for Victims of Crime	6,400
Extraditions	100
State Asset Forfeiture Grant Program	100
Judicial Performance Evaluation Commission	1,000

OFFICE OF THE STATE AUDITOR

Item 4

To Office of the State Auditor - State Auditor	
From General Fund, One-time	6,000
From Dedicated Credits Revenue	2,800
Schedule of Programs:	
State Auditor	8,800

STATE TREASURER

Item 5

To State Treasurer	
From General Fund, One-time	1,600
From Dedicated Credits Revenue	800
From Unclaimed Property Trust	3,700
Schedule of Programs:	
Treasury and Investment	2,100
Unclaimed Property	3,700
Money Management Council	300

ATTORNEY GENERAL**Item 6**

To Attorney General	
From General Fund, One-time	51,000
From Federal Funds	2,800
From Dedicated Credits Revenue	34,700
From General Fund Restricted -	
Constitutional Defense	800
From Attorney General Litigation Fund	700
Schedule of Programs:	
Administration	4,300
Child Protection	16,900
Children's Justice	3,100
Criminal Prosecution	28,000
Civil	37,700

Item 7

To Attorney General - Children's Justice Centers	
From General Fund, One-time	300
Schedule of Programs:	
Children's Justice Centers	300

Item 8

To Attorney General - Prosecution Council	
From Federal Funds	200
From General Fund Restricted -	
Public Safety Support	500
Schedule of Programs:	
Prosecution Council	700

UTAH DEPARTMENT OF CORRECTIONS**Item 9**

To Utah Department of Corrections - Programs and Operations	
From General Fund, One-time	322,000
From Federal Funds	100
From Revenue Transfers	10,800
Schedule of Programs:	
Department Executive Director	11,500
Department Administrative Services	9,900
Department Training	1,300
Adult Probation and Parole	
Administration	1,000
Adult Probation and Parole Programs	94,000
Institutional Operations Administration	500
Institutional Operations Draper	
Facility	106,500
Institutional Operations Central	
Utah/Gunnison	70,500
Institutional Operations Inmate	
Placement	3,500
Institutional Operations Support	
Services	8,500
Programming Administration	1,400
Programming Treatment	11,700
Programming Skill Enhancement	12,600

Item 10

To Utah Department of Corrections - Department Medical Services	
From General Fund, One-time	31,000
Schedule of Programs:	
Medical Services	31,000

BOARD OF PARDONS AND PAROLE**Item 11**

To Board of Pardons and Parole	
From General Fund, One-time	6,100
Schedule of Programs:	
Board of Pardons and Parole	6,100

DEPARTMENT OF HUMAN SERVICES - DIVISION OF JUVENILE JUSTICE SERVICES**Item 12**

To Department of Human Services - Division of Juvenile Justice Services - Programs and Operations	
From General Fund, One-time	135,500
From Federal Funds	4,400
From Dedicated Credits Revenue	5,900
From Revenue Transfers - Commission on Criminal and Juvenile Justice	200
Schedule of Programs:	
Administration	7,700
Early Intervention Services	27,000
Community Programs	20,400
Correctional Facilities	38,900
Rural Programs	50,900
Youth Parole Authority	1,100

JUDICIAL COUNCIL/STATE COURT ADMINISTRATOR**Item 13**

To Judicial Council/State Court Administrator - Administration	
From General Fund, One-time	183,600
From Federal Funds	600
From Dedicated Credits Revenue	2,000
From General Fund Restricted -	
Children's Legal Defense	300
From General Fund Restricted -	
DNA Specimen Account	100
From General Fund Restricted - Justice	
Court Tech., Security & Training	1,800
From General Fund Restricted -	
Non-Judicial Adjustment Account	1,500
From General Fund Restricted -	
Substance Abuse Prevention	400
From Revenue Transfers	200
Schedule of Programs:	
Supreme Court	2,600
Law Library	700
Court of Appeals	4,400
District Courts	84,100
Juvenile Courts	80,000
Justice Courts	2,300
Administrative Office	5,900
Judicial Education	1,100
Data Processing	8,400
Grants Program	1,000

Item 14

To Judicial Council/State Court Administrator - Contracts and Leases	
From General Fund, One-time	300
Schedule of Programs:	
Contracts and Leases	300

Item 15

To Judicial Council/State Court Administrator - Jury and Witness Fees	
---	--

From General Fund, One-time 800
 Schedule of Programs:
 Jury, Witness, and Interpreter 800

Item 16

To Judicial Council/State Court Administrator -
 Guardian ad Litem
 From General Fund, One-time 10,200
 Schedule of Programs:
 Guardian ad Litem 10,200

DEPARTMENT OF PUBLIC SAFETY

Item 17

To Department of Public Safety -
 Programs & Operations
 From General Fund, One-time 122,100
 From Federal Funds 100
 From Dedicated Credits Revenue 21,100
 From General Fund Restricted -
 DNA Specimen Account 1,500
 From General Fund Restricted -
 Fire Academy Support 3,900
 From General Fund Restricted -
 Utah Highway Patrol Aero Bureau 100
 From Department of Public Safety
 Restricted Account 3,300
 From Revenue Transfers 100
 Schedule of Programs:
 Department Commissioner's Office 5,900
 Aero Bureau 400
 Department Intelligence Center 1,700
 Department Grants 100
 CITS Administration 1,000
 CITS Bureau of Criminal
 Identification 17,100
 CITS Communications 13,200
 CITS State Crime Labs 9,400
 CITS State Bureau of Investigation 4,600
 Highway Patrol - Administration 1,700
 Highway Patrol - Field Operations 64,000
 Highway Patrol - Commercial Vehicle 9,500
 Highway Patrol - Safety Inspections 2,300
 Highway Patrol - Protective Services 7,500
 Highway Patrol - Special Services 6,700
 Highway Patrol - Special Enforcement 900
 Highway Patrol - Technology Services 2,000
 Fire Marshall - Fire Operations 3,900
 Fire Marshall - Fire Fighter Training 300

Item 18

To Department of Public Safety -
 Emergency Management
 From General Fund, One-time 2,600
 From Federal Funds 8,800
 Schedule of Programs:
 Emergency Management 11,400

Item 19

To Department of Public Safety - Peace
 Officers' Standards and Training
 From General Fund Restricted - Public
 Safety Support 3,500
 Schedule of Programs:
 Basic Training 1,400
 Regional/Inservice Training 700
 POST Administration 1,400

Item 20

To Department of Public Safety - Driver License
 From Federal Funds 700
 From Public Safety Motorcycle
 Education Fund 300
 From Department of Public Safety
 Restricted Account 68,000
 Schedule of Programs:
 Driver License Administration 7,400
 Driver Services 40,900
 Driver Records 19,700
 Motorcycle Safety 300
 DL Federal Grants 700

Item 21

To Department of Public Safety - Highway Safety
 From Federal Funds 4,200
 Schedule of Programs:
 Highway Safety 4,200

**INFRASTRUCTURE AND
 GENERAL GOVERNMENT**

TRANSPORTATION

Item 22

To Transportation - Support Services
 From Transportation Fund, One-time 28,800
 From Federal Funds 4,800
 Schedule of Programs:
 Administrative Services 1,300
 Risk Management 500
 Procurement 2,700
 Comptroller 6,800
 Data Processing 700
 Internal Auditor 2,300
 Community Relations 1,000
 Ports of Entry 18,300

Item 23

To Transportation - Engineering Services
 From Transportation Fund, One-time 37,000
 From Federal Funds 15,900
 Schedule of Programs:
 Traffic Safety 2,900
 Program Development 10,000
 Preconstruction 5,100
 Environmental 2,000
 Structures 6,800
 Materials Lab 9,100
 Engineering Services 4,700
 Right-of-Way 4,600
 Research 1,400
 Civil Rights 700
 Engineer Development Pool 5,600

Item 24

To Transportation - Operations/
 Maintenance Management
 From Transportation Fund, One-time 194,100
 From Federal Funds 13,900
 From Dedicated Credits Revenue 300
 Schedule of Programs:
 Region 1 28,500
 Region 2 42,900
 Region 3 29,900
 Region 4 52,500
 Field Crews 28,100
 Traffic Safety/Tramway 7,700
 Traffic Operations Center 13,600

Maintenance Planning	5,100
Item 25	
To Transportation - Region Management	
From Transportation Fund, One-time	57,300
From Federal Funds	8,900
Schedule of Programs:	
Region 1	13,600
Region 2	22,300
Region 3	12,400
Region 4	16,200
Price	1,000
Cedar City	700

Item 26	
To Transportation - Equipment Management	
From Dedicated Credits Revenue	20,100
Schedule of Programs:	
Shops	20,100

Item 27	
To Transportation - Aeronautics	
From Aeronautics Restricted Account	2,800
Schedule of Programs:	
Administration	1,400
Airplane Operations	1,400

DEPARTMENT OF ADMINISTRATIVE SERVICES

Item 28	
To Department of Administrative Services - Executive Director	
From General Fund, One-time	1,000
Schedule of Programs:	
Executive Director	1,000

Item 29	
To Department of Administrative Services - Inspector General of Medicaid Services	
From General Fund, One-time	1,700
From Revenue Transfers - Medicaid	2,400
Schedule of Programs:	
Inspector General of Medicaid Services ..	4,100

Item 30	
To Department of Administrative Services - Administrative Rules	
From General Fund, One-time	1,200
Schedule of Programs:	
DAR Administration	1,200

Item 31	
To Department of Administrative Services - DFCM Administration	
From General Fund, One-time	3,500
From Dedicated Credits Revenue	1,900
From Capital Projects Fund	3,700
Schedule of Programs:	
DFCM Administration	8,400
Energy Program	700

Item 32	
To Department of Administrative Services - State Archives	
From General Fund, One-time	5,900
Schedule of Programs:	
Archives Administration	1,300
Records Analysis	300

Preservation Services	900
Patron Services	2,400
Records Services	1,000

Item 33	
To Department of Administrative Services - Finance Administration	
From General Fund, One-time	13,000
From Dedicated Credits Revenue	1,700
Schedule of Programs:	
Finance Director's Office	1,000
Payroll	1,700
Payables/Disbursing	3,900
Financial Reporting	5,400
Financial Information Systems	2,700

Item 34	
To Department of Administrative Services - Finance - Mandated	
From General Fund, One-time	(1,895,700)
Schedule of Programs:	
State Employee Benefits	(1,895,700)

Item 35	
To Department of Administrative Services - Judicial Conduct Commission	
From General Fund, One-time	300
Schedule of Programs:	
Judicial Conduct Commission	300

Item 36	
To Department of Administrative Services - Purchasing	
From General Fund, One-time	1,300
Schedule of Programs:	
Purchasing and General Services	1,300

DEPARTMENT OF TECHNOLOGY SERVICES

Item 37	
To Department of Technology Services - Chief Information Officer	
From General Fund, One-time	1,000
Schedule of Programs:	
Chief Information Officer	1,000

Item 38	
To Department of Technology Services - Integrated Technology Division	
From General Fund, One-time	3,000
From Dedicated Credits Revenue	1,100
Schedule of Programs:	
Automated Geographic Reference Center	4,100

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF HERITAGE AND ARTS

Item 39	
To Department of Heritage and Arts - Administration	
From General Fund, One-time	4,800
From Federal Funds	500
Schedule of Programs:	
Executive Director's Office	1,000
Information Technology	300
Administrative Services	2,700
Utah Multicultural Affairs Office	300

Commission on Service and
Volunteerism 1,000

Item 40

To Department of Heritage and Arts -
State History
From General Fund, One-time 3,700
From Federal Funds 1,600
From Dedicated Credits Revenue 100
Schedule of Programs:
Administration 200
Library and Collections 1,000
Public History, Communication and
Information 500
Historic Preservation and Antiquities 3,700

Item 41

To Department of Heritage and Arts -
Division of Arts and Museums
From General Fund, One-time 3,900
Schedule of Programs:
Administration 700
Community Arts Outreach 3,200

Item 42

To Department of Heritage and Arts -
State Library
From General Fund, One-time 5,900
From Federal Funds 100
From Dedicated Credits Revenue 2,700
Schedule of Programs:
Administration 700
Blind and Disabled 3,500
Library Development 2,500
Library Resources 2,000

Item 43

To Department of Heritage and Arts -
Indian Affairs
From General Fund, One-time 700
Schedule of Programs:
Indian Affairs 700

**GOVERNOR'S OFFICE
OF ECONOMIC DEVELOPMENT**

Item 44

To Governor's Office of Economic
Development - Administration
From General Fund, One-time 3,300
Schedule of Programs:
Administration 3,300

Item 45

To Governor's Office of Economic
Development - STEM Action Center
From General Fund, One-time 300
Schedule of Programs:
STEM Action Center 300

Item 46

To Governor's Office of Economic
Development - Office of Tourism
From General Fund, One-time 5,000
Schedule of Programs:
Administration 1,700
Operations and Fulfillment 2,500
Film Commission 800

Item 47

To Governor's Office of Economic
Development - Business Development
From General Fund, One-time 6,200
From Federal Funds 200
From Dedicated Credits Revenue 200
Schedule of Programs:
Outreach and International Trade 3,200
Corporate Recruitment and
Business Services 3,400

Item 48

To Governor's Office of Economic Development -
Pete Suazo Utah Athletics Commission
From General Fund, One-time 300
Schedule of Programs:
Pete Suazo Utah Athletics Commission ... 300

UTAH STATE TAX COMMISSION

Item 49

To Utah State Tax Commission -
Tax Administration
From General Fund, One-time 64,400
From Education Fund, One-time 48,100
From Dedicated Credits Revenue 16,200
From General Fund Restricted - Tax
Commission Administrative Charge 21,300
Schedule of Programs:
Administration Division 16,800
Auditing Division 31,900
Tax Processing Division 18,200
Tax Payer Services 28,200
Property Tax Division 12,500
Motor Vehicles 34,900
Motor Vehicle Enforcement Division 7,500

**UTAH SCIENCE TECHNOLOGY AND
RESEARCH GOVERNING AUTHORITY**

Item 50

To Utah Science Technology and
Research Governing Authority
From General Fund, One-time 2,000
Schedule of Programs:
Administration 1,000
Technology Outreach 1,000

**DEPARTMENT OF ALCOHOLIC
BEVERAGE CONTROL**

Item 51

To Department of Alcoholic Beverage
Control - DABC Operations
From Liquor Control Fund, One-time 43,900
Schedule of Programs:
Executive Director 5,700
Administration 3,000
Warehouse and Distribution 4,500
Stores and Agencies 30,700

LABOR COMMISSION

Item 52

To Labor Commission
From General Fund, One-time 10,900
From Federal Funds 7,200
From Dedicated Credits Revenue 100
From General Fund Restricted -
Industrial Accident Restricted Account .. 5,500

From General Fund Restricted -	
Workplace Safety Account	1,400
Schedule of Programs:	
Administration	2,700
Industrial Accidents	3,500
Adjudication	2,000
Boiler, Elevator and Coal Mine	
Safety Division	3,400
Anti-Discrimination and Labor	3,800
Utah OSHA	9,700

DEPARTMENT OF COMMERCE

Item 53

To Department of Commerce - Commerce	
General Regulation	
From Federal Funds	600
From General Fund Restricted - Commerce	
Service Account, One-time	41,100
From General Fund Restricted -	
Commerce Service Account -	
Public Utilities Regulatory Fee	9,400
From General Fund Restricted -	
Pawnbroker Operations	100
Schedule of Programs:	
Administration	3,400
Occupational and Professional	
Licensing	15,700
Securities	5,400
Consumer Protection	5,300
Corporations and Commercial Code	7,400
Real Estate	4,000
Public Utilities	8,700
Office of Consumer Services	1,300

Item 54

To Department of Commerce - Building	
Inspector Training	
From Dedicated Credits Revenue	300
Schedule of Programs:	
Building Inspector Training	300

FINANCIAL INSTITUTIONS

Item 55

To Financial Institutions - Financial	
Institutions Administration	
From General Fund Restricted -	
Financial Institutions, One-Time	13,400
Schedule of Programs:	
Administration	13,400

INSURANCE DEPARTMENT

Item 56

To Insurance Department - Insurance	
Department Administration	
From Federal Funds	200
From General Fund Restricted -	
Insurance Department Account,	
One-time	16,300
From General Fund Restricted - Insurance	
Fraud Investigation Account	2,000
From General Fund Restricted -	
Captives Insurance	2,000
Schedule of Programs:	
Administration	16,500
Insurance Fraud Program	2,000
Captives Insurers	2,000

Item 57

To Insurance Department - Title	
Insurance Program	
From General Fund Restricted - Title	
Licensee Enforcement Account	300
Schedule of Programs:	
Title Insurance Program	300

PUBLIC SERVICE COMMISSION

Item 58

To Public Service Commission	
From Federal Funds	200
From General Fund Restricted -	
Commerce Service Account -	
Public Utilities Regulatory Fee	3,800
Schedule of Programs:	
Administration	4,000

Item 59

To Public Service Commission - Speech	
and Hearing Impaired	
From Dedicated Credits Revenue	300
Schedule of Programs:	
Speech and Hearing Impaired	300

SOCIAL SERVICES

DEPARTMENT OF HEALTH

Item 60

To Department of Health - Executive	
Director's Operations	
From General Fund, One-time	7,100
From Federal Funds	5,800
From Dedicated Credits Revenue	4,200
From Revenue Transfers - Within Agency ..	300
Schedule of Programs:	
Executive Director	2,900
Center for Health Data and	
Informatics	9,200
Program Operations	3,600
Office of Internal Audit	1,700

Item 61

To Department of Health - Family	
Health and Preparedness	
From General Fund, One-time	11,500
From Federal Funds	32,200
From Dedicated Credits Revenue	9,800
From General Fund Restricted -	
Autism Treatment Account	1,700
From General Fund Restricted -	
Children's Hearing Aid Pilot	
Program Account	200
From Revenue Transfers -	
Human Services	2,300
From Revenue Transfers - Medicaid	5,500
From Revenue Transfers - Public Safety ...	200
From Revenue Transfers - Within Agency ..	100
From Revenue Transfers -	
Workforce Services	4,500
Schedule of Programs:	
Director's Office	2,100
Maternal and Child Health	6,200
Child Development	10,200
Children with Special Health	
Care Needs	22,600
Public Health Preparedness	6,500
Emergency Medical Services	6,100

Facility Licensure, Certification, and Resident Assessment	12,700
Primary Care	1,600

Item 62

To Department of Health - Disease Control and Prevention	
From General Fund, One-time	18,100
From Federal Funds	25,600
From Dedicated Credits Revenue	8,300
From General Fund Restricted - State Lab Drug Testing Account	1,100
From General Fund Restricted - Tobacco Settlement Account	3,900
From Revenue Transfers - Medicaid	1,600
From Revenue Transfers - Within Agency ..	300
From Revenue Transfers - Workforce Services	1,200
Schedule of Programs:	
Director's Office	2,600
Health Promotion	18,700
Epidemiology	19,700
Microbiology	4,800
Office of the Medical Examiner	4,000
Chemical and Environmental Services ..	4,600
Forensic Toxicology	3,100
Laboratory Operations	2,600

Item 63

To Department of Health - Medicaid and Health Financing	
From General Fund, One-time	8,000
From Federal Funds	25,700
From Dedicated Credits Revenue	8,200
From General Fund Restricted - Nursing Care Facilities Account	1,200
From Transfers - Medicaid - Department of Human Services	400
From Revenue Transfers - Within Agency	2,900
Schedule of Programs:	
Director's Office	3,700
Financial Services	5,100
Medicaid Operations	10,300
Managed Health Care	8,800
Authorization and Community Based Services	6,700
Coverage and Reimbursement	4,600
Eligibility Policy	7,200

Item 64

To Department of Health - Children's Health Insurance Program	
From General Fund, One-time	400
From Federal Funds	2,900
From Dedicated Credits Revenue	100
From General Fund Restricted - Tobacco Settlement Account	600
Schedule of Programs:	
Children's Health Insurance Program	4,000

Item 65

To Department of Health - Medicaid Mandatory Services	
From General Fund, One-time	4,700
From Federal Funds	4,700
From Dedicated Credits Revenue	2,000
From Revenue Transfers - Within Agency	3,400

Schedule of Programs:	
Medicaid Management Information System Replacement	4,700
Other Mandatory Services	10,100

Item 66

To Department of Health - Medicaid Optional Services	
From General Fund, One-time	300
From Federal Funds	300
From Dedicated Credits Revenue	800
Schedule of Programs:	
Pharmacy	1,000
Home and Community Based Waiver Services	400

**DEPARTMENT OF
WORKFORCE SERVICES**

Item 67

To Department of Workforce Services - Administration	
From General Fund, One-time	4,800
From Federal Funds	11,200
From Dedicated Credits Revenue	100
From Permanent Community Impact Loan Fund	300
From Revenue Transfers - Medicaid	1,900
Schedule of Programs:	
Executive Director's Office	2,700
Communications	1,900
Administrative Support	12,100
Internal Audit	1,600

Item 68

To Department of Workforce Services - Operations and Policy	
From General Fund, One-time	98,000
From Federal Funds	163,000
From Dedicated Credits Revenue	9,800
From Revenue Transfers	37,800
From Revenue Transfers - Medicaid	2,900
Schedule of Programs:	
Workforce Development	141,200
Workforce Research and Analysis	6,000
Eligibility Services	164,300

Item 69

To Department of Workforce Services - General Assistance	
From General Fund, One-time	2,600
Schedule of Programs:	
General Assistance	2,600

Item 70

To Department of Workforce Services - Unemployment Insurance	
From General Fund, One-time	1,800
From Federal Funds	53,400
From Dedicated Credits Revenue	1,000
From Revenue Transfers - Medicaid	700
Schedule of Programs:	
Unemployment Insurance Administration	49,600
Adjudication	7,300

Item 71

To Department of Workforce Services - Housing and Community Development	
From General Fund, One-time	1,400
From Federal Funds	7,400

From Dedicated Credits Revenue	500
From General Fund Restricted - Pamela Atkinson Homeless Account	300
From Permanent Community Impact Loan Fund	1,400
Schedule of Programs:	
Community Development	
Administration	1,200
Community Development	2,100
Housing Development	2,700
Homeless Committee	1,800
HEAT	1,100
Weatherization Assistance	1,400
Community Services	700

DEPARTMENT OF HUMAN SERVICES

Item 72

To Department of Human Services - Executive Director Operations	
From General Fund, One-time	12,800
From Federal Funds	6,400
From Revenue Transfers - Indirect Costs ...	400
From Revenue Transfers - Medicaid	1,800
From Revenue Transfers - Within Agency	2,100
Schedule of Programs:	
Executive Director's Office	1,300
Legal Affairs	2,100
Fiscal Operations	8,800
Office of Services Review	4,200
Office of Licensing	6,100
Utah Developmental Disabilities Council	1,000

Item 73

To Department of Human Services - Division of Substance Abuse and Mental Health	
From General Fund, One-time	75,500
From Federal Funds	3,200
From Dedicated Credits Revenue	3,700
From Revenue Transfers - Medicaid	20,800
Schedule of Programs:	
Administration - DSAMH	6,700
Community Mental Health Services	300
State Hospital	95,900
State Substance Abuse Services	300

Item 74

To Department of Human Services - Division of Services for People with Disabilities	
From General Fund, One-time	28,200
From Dedicated Credits Revenue	2,800
From Revenue Transfers - Medicaid	48,200
Schedule of Programs:	
Administration - DSPD	9,000
Service Delivery	13,900
Utah State Developmental Center	56,300

Item 75

To Department of Human Services - Office of Recovery Services	
From General Fund, One-time	33,800
From Federal Funds	44,100
From Dedicated Credits Revenue	13,200
From Revenue Transfers - Medicaid	5,700
From Revenue Transfers - Other Agencies	200
Schedule of Programs:	

Administration - ORS	3,300
Financial Services	8,400
Electronic Technology	3,600
Child Support Services	71,100
Children in Care Collections	1,500
Medical Collections	9,100

Item 76

To Department of Human Services - Division of Child and Family Services	
From General Fund, One-time	159,700
From Federal Funds	51,800
From Dedicated Credits Revenue	100
From General Fund Restricted - Victims of Domestic Violence Services Account ...	1,100
Schedule of Programs:	
Administration - DCFS	9,900
Service Delivery	187,400
Facility-based Services	700
Minor Grants	4,200
Domestic Violence	6,100
Adoption Assistance	300
Child Welfare Management Information System	4,100

Item 77

To Department of Human Services - Division of Aging and Adult Services	
From General Fund, One-time	7,600
From Federal Funds	1,900
From Revenue Transfers - Medicaid	600
Schedule of Programs:	
Administration - DAAS	3,000
Adult Protective Services	6,100
Aging Waiver Services	1,000

STATE BOARD OF EDUCATION

Item 78

To State Board of Education - State Office of Rehabilitation	
From General Fund, One-time	300
From Education Fund, One-time	23,700
From Federal Funds	68,300
From Dedicated Credits Revenue	1,500
Schedule of Programs:	
Executive Director	4,000
Blind and Visually Impaired	10,600
Rehabilitation Services	57,700
Disability Determination	16,100
Deaf and Hard of Hearing	5,400

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF NATURAL RESOURCES

Item 79

To Department of Natural Resources - Administration	
From General Fund, One-time	3,400
Schedule of Programs:	
Executive Director	700
Administrative Services	2,000
Public Affairs	700

Item 80

To Department of Natural Resources - Species Protection	
From General Fund Restricted - Species Protection	1,000

Schedule of Programs:
 Species Protection 1,000

Item 81

To Department of Natural Resources -
 Watershed
 From General Fund, One-time 100
 From General Fund Restricted -
 Sovereign Land Management 200
 Schedule of Programs:
 Watershed 300

Item 82

To Department of Natural Resources -
 Forestry, Fire and State Lands
 From General Fund, One-time 1,300
 From Federal Funds 5,000
 From Dedicated Credits Revenue 5,400
 From General Fund Restricted -
 Sovereign Land Management 12,700
 Schedule of Programs:
 Division Administration 2,000
 Fire Management 1,300
 Lands Management 2,100
 Forest Management 1,600
 Program Delivery 13,300
 Lone Peak Center 4,100

Item 83

To Department of Natural Resources -
 Oil, Gas and Mining
 From General Fund, One-time 4,100
 From Federal Funds 8,400
 From Dedicated Credits Revenue 700
 From General Fund Restricted -
 Oil & Gas Conservation Account 8,200
 Schedule of Programs:
 Administration 4,500
 Oil and Gas Program 6,500
 Minerals Reclamation 2,900
 Coal Program 4,400
 Abandoned Mine 3,100

Item 84

To Department of Natural Resources -
 Wildlife Resources
 From General Fund, One-time 10,700
 From Federal Funds 21,300
 From General Fund Restricted -
 Wildlife Habitat 300
 From General Fund Restricted -
 Wildlife Resources 58,600
 Schedule of Programs:
 Director's Office 4,600
 Administrative Services 10,500
 Conservation Outreach 6,800
 Law Enforcement 16,000
 Habitat Section 13,000
 Wildlife Section 14,900
 Aquatic Section 25,100

Item 85

To Department of Natural Resources -
 Cooperative Agreements
 From Federal Funds 6,700
 From Dedicated Credits Revenue 500
 From General Fund Restricted -
 Wildlife Resources 300
 From Revenue Transfers 2,800
 Schedule of Programs:

Cooperative Agreements 10,300

Item 86

To Department of Natural Resources -
 Parks and Recreation
 From General Fund, One-time 5,200
 From General Fund Restricted -
 Boating 8,800
 From General Fund Restricted -
 Off-highway Vehicle 9,500
 From General Fund Restricted -
 State Park Fees 21,100
 Schedule of Programs:
 Executive Management 1,200
 Park Operation Management 35,300
 Planning and Design 1,000
 Support Services 3,200
 Recreation Services 3,900

Item 87

To Department of Natural Resources -
 Utah Geological Survey
 From General Fund, One-time 6,200
 From Federal Funds 2,600
 From Dedicated Credits Revenue 2,600
 From General Fund Restricted -
 Mineral Lease 6,600
 From General Fund Restricted -
 Land Exchange Distribution Account 600
 Schedule of Programs:
 Administration 1,400
 Technical Services 1,500
 Geologic Hazards 2,500
 Geologic Mapping 2,700
 Energy and Minerals 4,800
 Ground Water and Paleontology 4,000
 Information and Outreach 1,700

Item 88

To Department of Natural Resources -
 Water Resources
 From General Fund, One-time 4,700
 From Water Resources Conservation
 and Development Fund 6,700
 Schedule of Programs:
 Administration 700
 Planning 5,400
 Construction 5,300

Item 89

To Department of Natural Resources -
 Water Rights
 From General Fund, One-time 19,000
 From Federal Funds 100
 From Dedicated Credits Revenue 4,600
 Schedule of Programs:
 Administration 1,700
 Applications and Records 4,500
 Dam Safety 2,400
 Field Services 3,700
 Technical Services 2,000
 Regional Offices 9,400

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 90

To Department of Environmental
 Quality - Executive Director's Office
 From General Fund, One-time 6,500

From Federal Funds 600
 From General Fund Restricted -
 Environmental Quality 1,600
 Schedule of Programs:
 Executive Director's Office 8,700

Item 91

To Department of Environmental
 Quality - Air Quality
 From General Fund, One-time 8,800
 From Federal Funds 9,500
 From Dedicated Credits Revenue 11,200
 From Clean Fuel Conversion Fund 100
 Schedule of Programs:
 Air Quality 29,600

Item 92

To Department of Environmental
 Quality - Environmental Response
 and Remediation
 From General Fund, One-time 1,800
 From Federal Funds 9,100
 From Dedicated Credits Revenue 1,500
 From General Fund Restricted -
 Voluntary Cleanup 1,500
 From Petroleum Storage Tank
 Trust Fund 3,400
 From Petroleum Storage Tank
 Loan Fund 500
 Schedule of Programs:
 Environmental Response and
 Remediation 17,800

Item 93

To Department of Environmental
 Quality - Radiation Control
 From General Fund, One-time 1,900
 From Federal Funds 100
 From Dedicated Credits Revenue 600
 From General Fund Restricted -
 Environmental Quality 5,900
 Schedule of Programs:
 Radiation Control 8,500

Item 94

To Department of Environmental Quality -
 Water Quality
 From General Fund, One-time 7,000
 From Federal Funds 7,400
 From Dedicated Credits Revenue 2,000
 From General Fund Restricted -
 Underground Wastewater System 200
 From Water Development Security Fund -
 Utah Wastewater Loan Program 2,600
 From Water Development Security
 Fund - Water Quality Origination Fee 200
 From Revenue Transfers 500
 Schedule of Programs:
 Water Quality 19,900

Item 95

To Department of Environmental
 Quality - Drinking Water
 From General Fund, One-time 1,800
 From Federal Funds 7,400
 From Dedicated Credits Revenue 200
 From Water Development Security
 Fund - Drinking Water Loan Program 300
 From Water Development Security
 Fund - Drinking Water Origination Fee .. 200

From Revenue Transfers 100
 Schedule of Programs:
 Drinking Water 10,000

Item 96

To Department of Environmental
 Quality - Solid and Hazardous Waste
 From Federal Funds 2,700
 From Dedicated Credits Revenue 3,300
 From General Fund Restricted -
 Environmental Quality 7,000
 From General Fund Restricted -
 Used Oil Collection Administration 1,200
 From Waste Tire Recycling Fund 400
 Schedule of Programs:
 Solid and Hazardous Waste 14,600

**PUBLIC LANDS POLICY
 COORDINATION OFFICE**

Item 97

To Public Lands Policy Coordination Office
 From General Fund, One-time 800
 From General Fund Restricted -
 Constitutional Defense 1,300
 Schedule of Programs:
 Public Lands Office 2,100

GOVERNOR'S OFFICE

Item 98

To Governor's Office - Office
 of Energy Development
 From General Fund, One-time 2,000
 From Federal Funds 700
 Schedule of Programs:
 Office of Energy Development 2,700

**DEPARTMENT OF
 AGRICULTURE AND FOOD**

Item 99

To Department of Agriculture and
 Food - Administration
 From General Fund, One-time 10,400
 From Federal Funds 1,600
 From Dedicated Credits Revenue 4,200
 Schedule of Programs:
 Chemistry Laboratory 2,500
 Regulatory Services 11,200
 Marketing and Development 1,000
 Grazing Improvement 1,500

Item 100

To Department of Agriculture and Food -
 Animal Health
 From General Fund, One-time 5,300
 From Federal Funds 4,400
 From Dedicated Credits Revenue 100
 From General Fund Restricted -
 Livestock Brand 1,900
 Schedule of Programs:
 Animal Health 2,300
 Brand Inspection 2,800
 Meat Inspection 6,600

Item 101

To Department of Agriculture and Food -
 Plant Industry
 From General Fund, One-time 300

From Federal Funds	1,800
From Dedicated Credits Revenue	3,200
From Revenue Transfers	100
Schedule of Programs:	
Environmental Quality	700
Insect Infestation	500
Plant Industry	4,200

Item 102

To Department of Agriculture and Food - Predatory Animal Control	
From General Fund, One-time	2,100
From General Fund Restricted - Agriculture and Wildlife Damage Prevention	1,600
Schedule of Programs:	
Predatory Animal Control	3,700

Item 103

To Department of Agriculture and Food - Rangeland Improvement	
From General Fund Restricted - Rangeland Improvement Account	300
Schedule of Programs:	
Rangeland Improvement	300

**SCHOOL AND INSTITUTIONAL
TRUST LANDS ADMINISTRATION**

Item 104

To School and Institutional Trust Lands Administration	
From Land Grant Management Fund, One-time	16,600
Schedule of Programs:	
Board	200
Director	700
Public Relations	600
Administration	800
Accounting	1,400
Auditing	700
Oil and Gas	1,600
Mining	1,400
Surface	4,000
Development - Operating	1,400
Legal/Contracts	1,100
Information Technology Group	2,000
Grazing and Forestry	700

PUBLIC EDUCATION

STATE BOARD OF EDUCATION

Item 105

To State Board of Education - State Office of Education	
From General Fund, One-time	200
From Education Fund, One-time	33,000
From Federal Funds	10,800
From Dedicated Credits Revenue	200
From General Fund Restricted - Mineral Lease	800
From General Fund Restricted - Substance Abuse Prevention	100
From Interest and Dividends Account	1,100
From Revenue Transfers	600
Schedule of Programs:	

Assessment and Accountability	3,400
Educational Equity	1,000
Board and Administration	11,400
Business Services	3,000
Career and Technical Education	7,200
District Computer Services	7,100
Educational Technology	300
Federal Elementary and Secondary Education Act	2,800
Law and Legislation	700
Public Relations	300
School Trust	1,100
Special Education	4,100
Teaching and Learning	4,100
Student Achievement	300

Item 106

To State Board of Education - Utah State Office of Education - Initiative Programs	
From General Fund, One-time	100
From Education Fund, One-time	200
Schedule of Programs:	
Contracts and Grants	300

Item 107

To State Board of Education - State Charter School Board	
From Education Fund, One-time	700
Schedule of Programs:	
State Charter School Board	700

Item 108

To State Board of Education - Educator Licensing Professional Practices	
From Professional Practices Restricted Subfund	800
Schedule of Programs:	
Educator Licensing	800

Item 109

To State Board of Education - State Office of Education - Child Nutrition	
From Education Fund, One-time	300
From Federal Funds	5,100
Schedule of Programs:	
Child Nutrition	5,400

Item 110

To State Board of Education - Utah Schools for the Deaf and the Blind	
From Education Fund, One-time	33,700
From Federal Funds	100
From Dedicated Credits Revenue	900
Schedule of Programs:	
Instructional Services	20,000
Support Services	14,700

**RETIREMENT AND
INDEPENDENT ENTITIES**

CAREER SERVICE REVIEW OFFICE

Item 111

To Career Service Review Office	
From General Fund, One-time	700
Schedule of Programs:	
Career Service Review Office	700

**DEPARTMENT OF HUMAN
RESOURCE MANAGEMENT**

Item 112

To Department of Human Resource Management -
Human Resource Management
From General Fund, One-time 4,400
Schedule of Programs:
Administration 1,400
Policy 2,300
Teacher Salary Supplement 700

EXECUTIVE APPROPRIATIONS

UTAH NATIONAL GUARD

Item 113

To Utah National Guard
From General Fund, One-time 8,100
From Federal Funds 25,200
Schedule of Programs:
Administration 1,400
Armory Maintenance 31,900

**DEPARTMENT OF VETERANS'
AND MILITARY AFFAIRS**

Item 114

To Department of Veterans' and Military
Affairs - Veterans' and Military Affairs
From General Fund, One-time 3,900
From Federal Funds 200
Schedule of Programs:
Administration 1,700
Cemetery 1,000
Nursing Home 1,400

CAPITOL PRESERVATION BOARD

Item 115

To Capitol Preservation Board
From General Fund, One-time 1,700
Schedule of Programs:
Capitol Preservation Board 1,700

LEGISLATURE

Item 116

To Legislature - Senate
From General Fund, One-time 1,700
Schedule of Programs:
Administration 1,700

Item 117

To Legislature - House of Representatives
From General Fund, One-time 1,500
Schedule of Programs:
Administration 1,500

Item 118

To Legislature - Office of the Legislative
Auditor General
From General Fund, One-time 6,100
Schedule of Programs:
Administration 6,100

Item 119

To Legislature - Office of the Legislative
Fiscal Analyst
From General Fund, One-time 3,700

Schedule of Programs:

Administration and Research 3,700

Item 120

To Legislature - Legislative Printing
From General Fund, One-time 1,000
Schedule of Programs:
Administration 1,000

Item 121

To Legislature - Office of Legislative
Research and General Counsel
From General Fund, One-time 13,200
Schedule of Programs:
Administration 13,200

Subsection 1(b). Business-like Activities.

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

**EXECUTIVE OFFICES
AND CRIMINAL JUSTICE**

UTAH DEPARTMENT OF CORRECTIONS

Item 122

To Utah Department of Corrections -
Utah Correctional Industries
From Dedicated Credits Revenue 11,000
Schedule of Programs:
Utah Correctional Industries 11,000

**INFRASTRUCTURE AND
GENERAL GOVERNMENT**

**DEPARTMENT OF ADMINISTRATIVE
SERVICES INTERNAL SERVICE FUNDS**

Item 123

To Department of Administrative
Services - Division of Finance
From Dedicated Credits -
Intragovernmental Revenue 3,700
Schedule of Programs:
ISF - Consolidated Budget and
Accounting 3,700

Item 124

To Department of Administrative Services -
Division of Purchasing and General Services
From Dedicated Credits -
Intragovernmental Revenue 10,400
Schedule of Programs:
ISF - Central Mailing 4,800
ISF - Cooperative Contracting 4,100
ISF - Print Services 500
ISF - State Surplus Property 1,000

Item 125

To Department of Administrative
Services - Division of Fleet Operations

From Dedicated Credits -
 Intragovernmental Revenue 7,400
 Schedule of Programs:
 ISF - Fleet Administration 700
 ISF - Motor Pool 3,700
 ISF - Fuel Network 2,300
 ISF - Travel Office 700

Item 126

To Department of Administrative
 Services - Risk Management
 From Premiums 7,400
 From Risk Management - Workers
 Compensation Fund 300
 Schedule of Programs:
 ISF - Risk Management
 Administration 7,400
 ISF - Workers' Compensation 300

Item 127

To Department of Administrative Services -
 Division of Facilities Construction
 and Management - Facilities Management
 From Dedicated Credits -
 Intragovernmental Revenue 24,200
 Schedule of Programs:
 ISF - Facilities Management 24,200

**DEPARTMENT OF TECHNOLOGY
 SERVICES INTERNAL SERVICE FUNDS**

Item 128

To Department of Technology
 Services - Operations
 From Dedicated Credits -
 Intragovernmental Revenue 173,100
 Schedule of Programs:
 ISF - Enterprise Technology
 Division 173,100

**NATURAL RESOURCES, AGRICULTURE,
 AND ENVIRONMENTAL QUALITY**

**DEPARTMENT OF
 AGRICULTURE AND FOOD**

Item 129

To Department of Agriculture and
 Food - Agriculture Loan Programs
 From Agriculture Resource Development
 Fund 900
 From Utah Rural Rehabilitation Loan
 State Fund 500
 Schedule of Programs:
 Agriculture Loan Program 1,400

**RETIREMENT AND
 INDEPENDENT ENTITIES**

**DEPARTMENT OF HUMAN
 RESOURCE MANAGEMENT**

Item 130

To Department of Human Resource Management -
 Human Resources Internal Service Fund
 From Dedicated Credits -
 Intragovernmental Revenue 33,900
 Schedule of Programs:
 ISF - Field Services 33,900

Section 2. Effective Date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override.

**CHAPTER 2
S.B. 5**

Passed February 7, 2014
Approved February 13, 2014
Effective February 13, 2014
(Exception clause in Section 3)

**EXECUTIVE OFFICES AND
CRIMINAL JUSTICE BASE BUDGET**

Chief Sponsor: Daniel W. Thatcher
House Sponsor: Eric K. Hutchings

LONG TITLE

Committee Note:

The Executive Offices and Criminal Justice Appropriations Subcommittee recommended this bill.

General Description:

This bill supplements or reduces appropriations previously provided for the use and operation of state government for the fiscal year beginning July 1, 2013 and ending June 30, 2014; and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2014 and ending June 30, 2015.

Highlighted Provisions:

This bill:

- ▶ provides appropriations for the use and support of certain state agencies; and
- ▶ provides appropriations for other purposes as described.

Money Appropriated in this Bill:

This bill appropriates (\$25,541,000) in operating and capital budgets for fiscal year 2014, including:

- ▶ (\$22,454,000) from the General Fund;
- ▶ (\$3,087,000) from various sources as detailed in this bill.

This bill appropriates \$490,000 in expendable funds and accounts for fiscal year 2014, all of which is from the General Fund.

This bill appropriates \$772,997,200 in operating and capital budgets for fiscal year 2015, including:

- ▶ \$563,799,800 from the General Fund;
- ▶ \$49,000 from the Education Fund;
- ▶ \$209,148,400 from various sources as detailed in this bill.

This bill appropriates \$26,694,000 in business-like activities for fiscal year 2015.

This bill appropriates \$216,000 in restricted fund and account transfers for fiscal year 2015, all of which is from the General Fund.

Other Special Clauses:

Section 1 of this bill takes effect immediately.
Section 2 of this bill takes effect on July 1, 2014.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2014 Appropriations. Under the terms and conditions of Utah Code Title 63J Chapter 1, the following sums of money are

appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or fund accounts indicated for the use and support of the government of the State of Utah for the fiscal year beginning July 1, 2013 and ending June 30, 2014. These are additions to amounts previously appropriated for fiscal year 2014.

Subsection 1(a). Operating and Capital

Budgets. Under the terms and conditions of Utah Code Title 63J, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use and support of the government of the State of Utah.

GOVERNOR’S OFFICE

Item 1

To Governor’s Office – Public Lands Litigation

It is the intent of the Legislature, that the Office of the Legislative Fiscal Analyst, the Governors Office of Management and Budget, and the Public Lands Policy Coordination Office meet during the FY 2014 interim to discuss the treatment of the Public Lands Litigation Line Item and the Constitutional Defense Council Line Item for budgeting purposes, and make a recommendation for treatment of these line items in the budgeting process to the Executive Offices and Criminal Justice Appropriations Subcommittee no later than November 1, 2014.

Item 1A

To Governor’s Office – Commission on Criminal and Juvenile Justice

From General Fund, One-time	(65,000)
From General Fund Restricted – Criminal Forfeiture Restricted Account	(387,000)
Schedule of Programs:	
Utah Office for Victims of Crime	(200,000)
Gang Reduction Grant Program	(187,000)
Sexual Exploitation of Children	(65,000)

ATTORNEY GENERAL

Item 2

To Attorney General

From General Fund, One-time	(224,000)
Schedule of Programs:	
Criminal Prosecution	(224,000)

UTAH DEPARTMENT OF CORRECTIONS

Item 3

To Utah Department of Corrections – Programs and Operations

From General Fund, One-time	(20,000,000)
Schedule of Programs:	
Institutional Operations Draper Facility	(20,000,000)

BOARD OF PARDONS AND PAROLE

Item 4

To Board of Pardons and Parole

From General Fund, One-time	(425,000)
---------------------------------------	-----------

Schedule of Programs:
Board of Pardons and Parole (425,000)

**DEPARTMENT OF HUMAN SERVICES -
DIVISION OF JUVENILE JUSTICE
SERVICES**

Item 5

To Department of Human Services -
Division of Juvenile Justice Services -
Programs and Operations
From General Fund, One-time (290,000)
Schedule of Programs:
Administration (290,000)

**JUDICIAL COUNCIL/STATE
COURT ADMINISTRATOR**

Item 6

To Judicial Council/State Court Administrator -
Contracts and Leases
From General Fund, One-time (300,000)
From General Fund Restricted -
State Court Complex Account 300,000

Item 7

To Judicial Council/State Court Administrator -
Jury and Witness Fees
The Legislature intends that the Courts submit a report to the Executive Office and Criminal Justice Appropriations Subcommittee during the 2014 interim detailing expenses from this account, trends and efforts made to minimize expenses, and maximize performance.

Item 8

To Judicial Council/State Court Administrator -
Guardian ad Litem
From General Fund, One-time (150,000)
Schedule of Programs:
Guardian ad Litem (150,000)

DEPARTMENT OF PUBLIC SAFETY

Item 9

To Department of Public Safety -
Programs & Operations
From General Fund, One-time (1,000,000)
Schedule of Programs:
Highway Patrol - Field
Operations (1,000,000)

Item 10

To Department of Public Safety - Driver License
From Department of Public Safety
Restricted Account (3,000,000)
Schedule of Programs:
Driver Services (3,000,000)

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated. Outlays and expenditures from the recipient funds or accounts may be made without further

legislative action according to a fund or account's applicable authorizing statute.

GOVERNOR'S OFFICE

Item 10A

To Governor's Office - Commission on Criminal and Juvenile Justice - Crime Victim Reparations Fund
From General Fund, One-time 490,000
Schedule of Programs:
Crime Victim Reparations Fund 490,000

Section 2. FY 2015 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2014 and ending June 30, 2015.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of Utah Code Title 63J, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use and support of the government of the State of Utah.

GOVERNOR'S OFFICE

Item 11

To Governor's Office
From General Fund 4,609,900
From Federal Funds 129,800
From Dedicated Credits Revenue 1,001,200
From General Fund Restricted -
Constitutional Defense 250,000
From Beginning Nonlapsing
Appropriation Balances 250,000
Schedule of Programs:
Administration 3,407,900
Governor's Residence 311,800
Washington Funding 158,400
Lt. Governor's Office 2,112,800
Commission on Federalism 250,000

Item 12

To Governor's Office - Public Lands Litigation
From General Fund Restricted -
Constitutional Defense 12,600
From Beginning Nonlapsing
Appropriation Balances 1,608,600
Schedule of Programs:
Public Lands Litigation 1,621,200

Item 13

To Governor's Office - Character Education
From General Fund 200,700
Schedule of Programs:
Character Education 200,700

Item 14

To Governor's Office - Emergency Fund
From Beginning Nonlapsing
Appropriation Balances 100,100
Schedule of Programs:
Governor's Emergency Fund 100,100

Item 15

To Governor's Office - Governor's Office of Management and Budget
From General Fund 4,047,500
From Revenue Transfers -
Other Agencies 68,800

From Beginning Nonlapsing
 Appropriation Balances 500,000
 Schedule of Programs:
 Administration 1,135,300
 Planning and Budget Analysis 1,512,800
 Demographic and Economic
 Analysis 1,097,200
 State and Local Planning 441,000
 Prison Relocation 430,000

Item 16

To Governor's Office - Quality Growth
 Commission - LeRay McAllister Program
 From Beginning Nonlapsing
 Appropriation Balances 48,000
 Schedule of Programs:
 LeRay McAllister Critical Land
 Conservation Program 48,000

Item 17

To Governor's Office - Commission on
 Criminal and Juvenile Justice
 From General Fund 597,900
 From Federal Funds 14,430,900
 From Dedicated Credits Revenue 94,100
 From General Fund Restricted -
 Law Enforcement Services 617,900
 From General Fund Restricted -
 Criminal Forfeiture Restricted
 Account 2,088,000
 From General Fund Restricted -
 Law Enforcement Operations 1,818,500
 From Crime Victim Reparations
 Fund 3,991,600
 Schedule of Programs:
 CCJJ Commission 11,971,200
 Utah Office for Victims of Crime 8,090,500
 Extraditions 374,200
 Substance Abuse Advisory Council 143,700
 Sentencing Commission 138,300
 Gang Reduction Grant Program 292,100
 State Asset Forfeiture Grant
 Program 2,088,000
 Sexual Exploitation of Children 171,000
 Judicial Performance Evaluation
 Commission 369,900

OFFICE OF THE STATE AUDITOR**Item 18**

To Office of the State Auditor - State Auditor
 From General Fund 3,440,100
 From Dedicated Credits Revenue 1,711,700
 From Beginning Nonlapsing
 Appropriation Balances 419,700
 Schedule of Programs:
 State Auditor 5,571,500

STATE TREASURER**Item 19**

To State Treasurer
 From General Fund 906,800
 From Dedicated Credits Revenue 485,200
 From Unclaimed Property Trust 1,464,900
 Schedule of Programs:
 Treasury and Investment 1,309,600
 Unclaimed Property 1,457,800
 Money Management Council 89,500

ATTORNEY GENERAL**Item 20**

To Attorney General
 From General Fund 27,401,700
 From Federal Funds 1,683,800
 From Dedicated Credits Revenue 17,695,000
 From General Fund Restricted -
 Constitutional Defense 359,200
 From General Fund Restricted -
 Tobacco Settlement Account 73,500
 From Attorney General Litigation
 Fund 356,000
 From Revenue Transfers - Federal 589,100
 From Revenue Transfers -
 Other Agencies 52,100
 From Beginning Nonlapsing
 Appropriation Balances 2,307,900
 From Closing Nonlapsing Appropriation
 Balances (962,800)
 Schedule of Programs:
 Administration 4,211,500
 Child Protection 7,660,600
 Children's Justice 1,270,100
 Criminal Prosecution 16,101,200
 Civil 20,312,100

Item 21

To Attorney General - Contract Attorneys
 From Dedicated Credits Revenue 300,000
 Schedule of Programs:
 Contract Attorneys 300,000

Item 22

To Attorney General - Children's Justice Centers
 From General Fund 3,094,700
 From Federal Funds 214,000
 From Dedicated Credits Revenue 259,100
 Schedule of Programs:
 Children's Justice Centers 3,567,800

Item 23

To Attorney General - Prosecution Council
 From Federal Funds 56,800
 From Dedicated Credits Revenue 59,600
 From General Fund Restricted -
 Public Safety Support 603,400
 From Revenue Transfers 263,700
 Schedule of Programs:
 Prosecution Council 983,500

Item 24

To Attorney General - Domestic Violence
 From General Fund Restricted -
 Victims of Domestic Violence
 Services Account 78,300
 Schedule of Programs:
 Domestic Violence 78,300

UTAH DEPARTMENT OF CORRECTIONS**Item 25**

To Utah Department of Corrections -
 Programs and Operations
 From General Fund 196,527,500
 From Education Fund 49,000
 From Federal Funds 342,900
 From Dedicated Credits Revenue 4,154,300
 From G.F.R. - Interstate Compact
 for Adult Offender Supervision 29,000
 From General Fund Restricted - Prison
 Telephone Surcharge Account 1,500,000

From Revenue Transfers -	
Other Agencies	215,400
Schedule of Programs:	
Department Executive Director	5,853,000
Department Administrative	
Services	10,890,500
Department Training	1,578,800
Adult Probation and Parole	
Administration	988,600
Adult Probation and Parole	
Programs	52,663,600
Institutional Operations	
Administration	2,367,400
Institutional Operations	
Draper Facility	71,697,500
Institutional Operations	
Central Utah/Gunnison	33,494,700
Institutional Operations Inmate	
Placement	2,689,500
Institutional Operations Support	
Services	4,433,200
Programming Administration	548,800
Programming Treatment	8,613,000
Programming Skill Enhancement ...	5,066,800
Programming Education	1,932,700

Item 26

To Utah Department of Corrections -	
Department Medical Services	
From General Fund	28,064,700
From Dedicated Credits Revenue	539,200
From Revenue Transfers - Medicaid ...	1,400,000
Schedule of Programs:	
Medical Services	30,003,900

Item 27

To Utah Department of Corrections -	
Jail Contracting	
From General Fund	26,232,800
From Federal Funds	50,000
Schedule of Programs:	
Jail Contracting	26,282,800

BOARD OF PARDONS AND PAROLE

Item 28

To Board of Pardons and Parole	
From General Fund	3,953,800
From Dedicated Credits Revenue	2,200
Schedule of Programs:	
Board of Pardons and Parole	3,956,000

**DEPARTMENT OF HUMAN SERVICES -
DIVISION OF JUVENILE JUSTICE
SERVICES**

Item 29

To Department of Human Services - Division of	
Juvenile Justice Services - Programs and	
Operations	
From General Fund	85,464,700
From Federal Funds	3,534,800
From Dedicated Credits Revenue	2,244,000
From Revenue Transfers -	
Child Nutrition	929,100
From Revenue Transfers - Commission	
on Criminal and Juvenile Justice	602,100
From Revenue Transfers - Health	(1,818,900)

From Revenue Transfers - Administrative	
Fees for State Medicaid Payment	(62,200)
From Revenue Transfers -	
Within Agency	(591,500)
Schedule of Programs:	
Administration	4,556,800
Early Intervention Services	14,649,400
Community Programs	22,806,800
Correctional Facilities	25,538,900
Rural Programs	22,379,500
Youth Parole Authority	370,700

**JUDICIAL COUNCIL/STATE
COURT ADMINISTRATOR**

Item 30

To Judicial Council/State Court	
Administrator - Administration	
From General Fund	91,121,800
From Federal Funds	724,500
From Dedicated Credits Revenue	3,011,600
From General Fund Restricted -	
Dispute Resolution Account	437,000
From General Fund Restricted -	
Children's Legal Defense	436,700
From General Fund Restricted -	
Court Reporting Technology	254,300
From General Fund Restricted -	
Court Security Account	7,561,600
From General Fund Restricted -	
Court Trust Interest	831,000
From General Fund Restricted -	
DNA Specimen Account	256,400
From General Fund Restricted - Justice	
Court Tech., Security & Training	1,143,200
From General Fund Restricted -	
Non-Judicial Adjustment Account	970,000
From General Fund Restricted -	
Online Court Assistance Account	230,100
From General Fund Restricted -	
State Court Complex Account	313,400
From General Fund Restricted -	
Substance Abuse Prevention	541,000
From General Fund Restricted -	
Tobacco Settlement Account	361,100
From Revenue Transfers - Commission	
on Criminal and Juvenile Justice	586,700
From Revenue Transfers -	
Other Agencies	476,400
Schedule of Programs:	
Supreme Court	2,672,300
Law Library	959,100
Court of Appeals	3,976,800
District Courts	43,342,300
Juvenile Courts	36,632,300
Justice Courts	1,304,800
Courts Security	7,561,600
Administrative Office	4,190,300
Judicial Education	648,800
Data Processing	6,460,100
Grants Program	1,508,400

Item 31

To Judicial Council/State Court Administrator -	
Grand Jury	
From General Fund	800
Schedule of Programs:	
Grand Jury	800

Item 32

To Judicial Council/State Court Administrator -
 Contracts and Leases
 From General Fund 14,886,400
 From Dedicated Credits Revenue 250,000
 From General Fund Restricted -
 State Court Complex Account 4,593,500
 Schedule of Programs:
 Contracts and Leases 19,729,900

Item 33

To Judicial Council/State Court Administrator -
 Jury and Witness Fees
 From General Fund 1,551,100
 From Dedicated Credits Revenue 10,000
 From Beginning Nonlapsing
 Appropriation Balances (1,761,700)
 From Closing Nonlapsing Appropriation
 Balances 2,661,700
 Schedule of Programs:
 Jury, Witness, and Interpreter 2,461,100

Item 34

To Judicial Council/State Court
 Administrator - Guardian ad Litem
 From General Fund 5,568,500
 From Dedicated Credits Revenue 77,000
 From General Fund Restricted -
 Children's Legal Defense 470,100
 From General Fund Restricted -
 Guardian Ad Litem Services 373,500
 Schedule of Programs:
 Guardian ad Litem 6,489,100

DEPARTMENT OF PUBLIC SAFETY**Item 35**

To Department of Public Safety -
 Programs & Operations
 From General Fund 64,679,300
 From Transportation Fund 5,495,500
 From Federal Funds 2,240,100
 From Dedicated Credits Revenue 18,214,000
 From General Fund Restricted -
 Canine Body Armor 25,000
 From General Fund Restricted -
 DNA Specimen Account 1,449,200
 From General Fund Restricted -
 Statewide Unified E-911
 Emergency Account 2,893,400
 From General Fund Restricted -
 Fire Academy Support 6,263,200
 From General Fund Restricted -
 Firefighter Support Account 132,000
 From General Fund Restricted - Public
 Safety Honoring Heroes Account 20,000
 From General Fund Restricted -
 Public Safety Support 3,300
 From General Fund Restricted -
 Reduced Cigarette Ignition
 Propensity & Firefighter Protection
 Account 76,500
 From General Fund Restricted -
 Statewide Warrant Operations 577,900
 From General Fund Restricted -
 Utah Highway Patrol Aero Bureau 205,000
 From Department of Public Safety
 Restricted Account 3,398,300
 From Revenue Transfers 1,696,400

From Revenue Transfers -
 Other Agencies 38,900
 From Pass-through 3,469,000
 From Beginning Nonlapsing
 Appropriation Balances 3,400,000
 From Closing Nonlapsing Appropriation
 Balances (2,800,000)
 Schedule of Programs:
 Department Commissioner's Office .. 4,593,800
 Aero Bureau 973,600
 Department Intelligence Center 1,001,700
 Department Grants 3,296,700
 Department Fleet Management 498,000
 Enhanced 911 Program 2,893,400
 CITS Administration 491,400
 CITS Bureau of Criminal
 Identification 14,343,900
 CITS Communications 7,391,500
 CITS State Crime Labs 5,006,100
 CITS State Bureau of
 Investigation 3,046,800
 Highway Patrol - Administration ... 1,192,500
 Highway Patrol -
 Field Operations 38,954,800
 Highway Patrol -
 Commercial Vehicle 3,666,400
 Highway Patrol -
 Safety Inspections 1,329,500
 Highway Patrol -
 Federal/State Projects 4,485,400
 Highway Patrol -
 Protective Services 4,679,300
 Highway Patrol - Special Services ... 3,497,700
 Highway Patrol -
 Special Enforcement 669,600
 Highway Patrol -
 Technology Services 1,367,200
 Information Management -
 Operations 1,321,000
 Fire Marshall - Fire Operations 2,730,600
 Fire Marshall - Fire Fighter
 Training 4,046,100

Item 36

To Department of Public Safety -
 Emergency Management
 From General Fund 1,393,900
 From Federal Funds 30,618,000
 From Dedicated Credits Revenue 408,000
 From Revenue Transfers -
 Other Agencies 140,400
 From Pass-through 21,800
 From Beginning Nonlapsing
 Appropriation Balances 408,000
 From Closing Nonlapsing Appropriation
 Balances (408,000)
 Schedule of Programs:
 Emergency Management 32,582,100

Item 37

To Department of Public Safety - Division of
 Homeland Security - Emergency and Disaster
 Management
 From Beginning Nonlapsing
 Appropriation Balances 3,002,900
 From Closing Nonlapsing Appropriation
 Balances (3,002,900)

Item 38

To Department of Public Safety - Peace Officers' Standards and Training
 From Dedicated Credits Revenue 45,400
 From General Fund Restricted -
 Public Safety Support 3,904,800
 Schedule of Programs:
 Basic Training 1,705,600
 Regional/Inservice Training 768,200
 POST Administration 1,476,400

Item 39

To Department of Public Safety - Driver License
 From Federal Funds 350,100
 From Dedicated Credits Revenue 9,100
 From Public Safety Motorcycle Education Fund 325,600
 From Department of Public Safety Restricted Account 26,300,000
 From Uninsured Motorist Identification Restricted Account 2,360,100
 From Pass-through 53,700
 From Beginning Nonlapsing Appropriation Balances 1,275,200
 From Closing Nonlapsing Appropriation Balances (1,646,600)
 Schedule of Programs:
 Driver License Administration 1,982,100
 Driver Services 16,378,900
 Driver Records 8,000,000
 Motorcycle Safety 327,500
 Uninsured Motorist 1,988,700
 DL Federal Grants 350,000

Item 40

To Department of Public Safety - Highway Safety
 From General Fund 55,200
 From Federal Funds 4,274,700
 From Dedicated Credits Revenue 10,600
 From Department of Public Safety Restricted Account 900,600
 From Pass-through 39,400
 Schedule of Programs:
 Highway Safety 5,280,500

Subsection 2(b). Business-like Activities.

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

UTAH DEPARTMENT OF CORRECTIONS

Item 41

To Utah Department of Corrections - Utah Correctional Industries
 From Dedicated Credits Revenue 26,694,000
 Schedule of Programs:
 Utah Correctional Industries 26,694,000

Subsection 2(c). Restricted Fund and Account Transfers. The Legislature

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

FUND AND ACCOUNT TRANSFERS

Item 42

To Fund and Account Transfers - General Fund Restricted - DNA Specimen Account
 From General Fund 216,000
 Schedule of Programs:
 General Fund Restricted -
 DNA Specimen Account 216,000

Section 3. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 of this bill takes effect on July 1, 2014.

CHAPTER 3**S. B. 25**

Passed February 3, 2014
 Approved February 13, 2014
 Effective February 13, 2014

**CANDIDATE
 CERTIFICATION AMENDMENTS**

Chief Sponsor: Deidre M. Henderson
 House Sponsor: Daniel McCay

LONG TITLE**General Description:**

This bill amends provisions of the Election Code relating to the deadlines to certify candidates for a primary election.

Highlighted Provisions:

This bill:

- ▶ provides that, for the 2014 calendar year only, the deadline for a registered political party to certify its candidates for a primary election is 5 p.m. on April 28, 2014;
- ▶ provides that, for the 2014 calendar year only, the deadline for the lieutenant governor to certify to the county clerks the candidates who will appear on the primary ballot is 5 p.m. on April 29, 2014; and
- ▶ provides that the provisions of this bill are repealed on January 1, 2015.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.

Utah Code Sections Affected:**AMENDS:**

63I-2-220, as last amended by Laws of Utah 2013, Chapter 129

ENACTS:

20A-9-403.1, Utah Code Annotated 1953

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

Section 5. Section 20A-9-403.1 is enacted to read:

20A-9-403.1. Certification of candidates for 2014 calendar year.

(1) Notwithstanding Subsection 20A-9-403(2)(b), for the 2014 calendar year only, as a condition for using the state's election system, each registered political party that wishes to participate in the primary election shall:

(a) certify the name and office of all of the registered political party's candidates to the lieutenant governor no later than 5 p.m. on April 28, 2014, and indicate which of the candidates will be on the primary ballot; and

(b) certify the name and office of each of its county candidates to the county clerks by 5 p.m. on April 28, 2014, and indicate which of the candidates will be on the primary ballot.

(2) Notwithstanding Subsection 20A-9-403(2)(c), for the 2014 calendar year only, by

5 p.m. on April 29, 2014, the lieutenant governor shall send the county clerks a certified list of the names of all statewide candidates, multicounty candidates, or single county candidates that shall be printed on the primary ballot and the order the candidates are to appear on the ballot in accordance with Section 20A-6-305.

Section 6. Section 63I-2-220 is amended to read:

63I-2-220. Repeal dates, Title 20A.

(1) Section 20A-3-704 is repealed January 1, 2016.

(2) Section 20A-5-410 is repealed January 1, 2016.

(3) (a) Subsection 20A-7-101(1)(a)(i), the language that states "of the first class" and "; or" is repealed January 1, 2015.

(b) Subsection 20A-7-101(1)(a)(ii), the language that states "for a county not described in Subsection (1)(a)(i), a person designated as budget officer in Section 17-19-19" is repealed January 1, 2015.

(4) Section 20A-9-403.1 is repealed on January 1, 2015.

Section 7. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 4

H. B. 1

Passed February 5, 2014
 Approved February 19, 2014
 Effective May 13, 2014
 (Exception clause in Section 4)

**PUBLIC EDUCATION BASE
 BUDGET AMENDMENTS**

Chief Sponsor: Bradley G. Last
 Senate Sponsor: Howard A. Stephenson

LONG TITLE

General Description:

This bill supplements or reduces appropriations previously provided for the use and support of public education for the fiscal year beginning July 1, 2013, and ending June 30, 2014, and appropriates funds for the support and operation of public education for the fiscal year beginning July 1, 2014, and ending June 30, 2015.

Highlighted Provisions:

This bill:

- ▶ provides appropriations for the use and support of state education agencies;
- ▶ provides appropriations for the use and support of school districts and charter schools;
- ▶ sets the value of the weighted pupil unit (WPU) initially at the same WPU value set for the 2013-14 fiscal year:
 - \$2,659 for the special education and career and technology add-on programs; and
 - \$2,899 for all other programs;
- ▶ sets the estimated minimum basic tax rate at .001477 for fiscal year 2014-15; and
- ▶ provides appropriations for other purposes as described.

Monies Appropriated in this Bill:

This bill appropriates for fiscal year 2014:

- ▶ (\$35,113,600) from the Education Fund;
- ▶ \$35,113,600 from various sources as detailed in this bill.

This bill appropriates for fiscal year 2015:

- ▶ \$4,093,800 from the General Fund;
- ▶ \$21,000,000 from the Uniform School Fund;
- ▶ \$2,620,820,900 from the Education Fund; and
- ▶ \$1,166,731,200 from various sources as detailed in this bill.

Other Special Clauses:

This bill provides an effective date.

Utah Code Sections Affected:

AMENDS:

53A-17a-135, as last amended by Laws of Utah 2013, Chapter 7

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. Section 53A-17a-135 is amended to read:

53A-17a-135. Minimum basic tax rate -- Certified revenue levy.

(1) (a) In order to qualify for receipt of the state contribution toward the basic program and as its contribution toward its costs of the basic program, each school district shall impose a minimum basic tax rate per dollar of taxable value that generates [~~\$294,092,000~~] \$296,709,700 in revenues statewide.

(b) The preliminary estimate for the [~~2013-14~~] 2014-15 minimum basic tax rate is [~~.001691~~] .001477.

(c) The State Tax Commission shall certify on or before June 22 the rate that generates [~~\$294,092,000~~] \$296,709,700 in revenues statewide.

(d) If the minimum basic tax rate exceeds the certified revenue levy as defined in Section 53A-17a-103, the state is subject to the notice requirements of Section 59-2-926.

(2) (a) The state shall contribute to each district toward the cost of the basic program in the district that portion which exceeds the proceeds of the levy authorized under Subsection (1).

(b) In accord with the state strategic plan for public education and to fulfill its responsibility for the development and implementation of that plan, the Legislature instructs the State Board of Education, the governor, and the Office of Legislative Fiscal Analyst in each of the coming five years to develop budgets that will fully fund student enrollment growth.

(3) (a) If the proceeds of the levy authorized under Subsection (1) equal or exceed the cost of the basic program in a school district, no state contribution shall be made to the basic program.

(b) The proceeds of the levy authorized under Subsection (1) which exceed the cost of the basic program shall be paid into the Uniform School Fund as provided by law.

Section 2. FY 2014 appropriations for state education agencies, school districts, and charter schools.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2013, and ending June 30, 2014, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2014.

BASIC SCHOOL PROGRAM

Item 1

To Basic School Program	
From Education Fund, One-time	(6,504,000)
From Closing Nonlapsing	
Appropriation Balances	6,504,000

RELATED TO BASIC PROGRAMS

Item 2

To Related to Basic Programs -	
Related to Basic School Programs	
From Education Fund, One-time	(4,398,600)
From Beginning Nonlapsing	
Appropriation Balances	4,120,300
From Closing Nonlapsing	
Appropriation Balances	278,300

VOTED AND BOARD LEEWAY PROGRAMS**Item 3**

To Voted and Board Leeway Programs -	
Voted and Board Local Levy Programs	
From Education Fund,	
One-time	(23,000,000)
From Beginning Nonlapsing	
Appropriation Balances	23,000,000

STATE BOARD OF EDUCATION**Item 4**

To State Board of Education -	
State Office of Education	
From Education Fund, One-time	(700,000)
From Closing Nonlapsing	
Appropriation Balances	700,000

Item 5

To State Board of Education -	
State Charter School Board	
From Education Fund, One-time	(21,000)
From Closing Nonlapsing	
Appropriation Balances	21,000

Item 6

To State Board of Education -	
Utah Schools for the Deaf and the Blind	
From Education Fund, One-time	(490,000)
From Closing Nonlapsing	
Appropriation Balances	490,000

**Section 3. Operating and capital budgets --
FY 2015 appropriations for state education
agencies, school districts, and charter
schools -- Value of the weighted pupil
unit.**

(1) (a) The following sums of money are appropriated for the fiscal year beginning July 1, 2014, and ending June 30, 2015.

(b) Under the terms and conditions of Title 63J, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of state education agencies, school districts, and charter schools.

(2) The value of the weighted pupil unit for fiscal year 2014-15 is initially set at:

(a) \$2,659 for:

(i) Special Education - Add-on; and

(ii) Career & Technical Education - Add-on;

and

(b) \$2,899 for all other programs.

BASIC SCHOOL PROGRAM**Item 7**

To Basic School Program	
From Uniform School Fund	21,000,000
From Education Fund	1,988,021,000
From Local Revenue	294,092,000
From Beginning Nonlapsing	
Appropriation Balances	25,000,000
From Closing Nonlapsing	
Appropriation Balances	(25,000,000)
Schedule of Programs:	
Kindergarten (28,018 WPU's)	81,224,200
Grades 1 - 12 (545,838 WPU's)	1,582,384,400

Necessarily Existent Small Schools (9,357 WPU's)	27,125,900
Professional Staff (52,623 WPU's)	152,554,000
Administrative Costs (1,500 WPU's)	4,348,500
Special Education - Add-on (70,704 WPU's)	188,001,900
Special Education - Preschool (9,590 WPU's)	27,801,400
Special Education - Self-contained (14,209 WPU's)	41,191,900
Special Education - Extended School Year (423 WPU's)	1,226,300
Special Education - State Programs (2,871 WPU's)	8,323,000
Career & Technical Education - Add-on (29,289 WPU's)	77,879,500
Class Size Reduction (38,307 WPU's)	111,052,000

RELATED TO BASIC PROGRAMS**Item 8**

To Related to Basic Programs -	
Related to Basic School Programs	
From Education Fund	442,540,300
From Interest and Dividends Account	28,710,000
From Beginning Nonlapsing Appropriation Balances	6,249,900
From Closing Nonlapsing Appropriation Balances	(6,249,900)
Schedule of Programs:	
To and From School - Pupil Transportation	69,048,600
Guarantee Transportation Program	500,000
Flexible Allocation - WPU Distribution	23,106,600
Enhancement for At-Risk Students	23,384,300
Youth in Custody	19,098,700
Enhancement for Accelerated Students	4,148,700
Adult Education	9,382,000
Concurrent Enrollment	8,893,300
School LAND Trust Program	28,710,000
Charter School Local	
Replacement	84,755,000
Charter School Administration	5,692,700
K-3 Reading Improvement	15,000,000
Educator Salary Adjustments	157,083,000
USFR Teacher Salary Supplement	
Restricted Account	5,000,000
Library Books and Electronic Resources	550,000
Matching Funds for School Nurses	882,000
Critical Languages and Dual Immersion	2,015,400
USTAR Centers (Year-Round Math & Science)	6,200,000
Early Intervention	7,500,000
Title I Schools Paraeducators Program	300,000

VOTED AND BOARD LEEWAY PROGRAMS**Item 9**

To Voted and Board Leeway Programs -	
Voted and Board Local Levy Programs	
From Education Fund	99,590,700
From Local Revenue	305,524,300
Schedule of Programs:	
Voted Local Levy Program	299,283,800
Board Local Levy Program	90,831,200
Board Local Levy Program -	
Reading Improvement	15,000,000

SCHOOL BUILDING PROGRAMS**Item 10**

To School Building Programs	
From Education Fund	14,499,700
Schedule of Programs:	
Capital Outlay Foundation	
Program	12,610,900
Capital Outlay Enrollment	
Growth Program	1,888,800

STATE BOARD OF EDUCATION**Item 11**

To State Board of Education -	
State Office of Education	
From General Fund	100,000
From Education Fund	28,716,800
From Federal Funds	340,263,900
From Dedicated Credits Revenue	5,868,200
From General Fund Restricted -	
Mineral Lease	3,095,800
From General Fund Restricted - Land	
Exchange Distribution Account	236,600
From General Fund Restricted -	
Substance Abuse Prevention	499,400
From Interest and Dividends Account	536,000
From Revenue Transfers	688,800
From Beginning Nonlapsing	
Appropriation Balances	17,234,400
From Closing Nonlapsing	
Appropriation Balances	(16,734,400)
Schedule of Programs:	
Assessment and Accountability	11,498,300
Educational Equity	359,000
Board and Administration	13,262,200
Business Services	1,651,300
Career and Technical	
Education	20,968,200
District Computer Services	6,901,000
Educational Technology	834,200
Federal Elementary and Secondary	
Education Act	112,643,600
Law and Legislation	274,400
Math Teacher Training	500,000
Public Relations	134,500
School Trust	599,500
Special Education	181,182,400
Teaching and Learning	29,696,900

Item 12

To State Board of Education - Utah State	
Office of Education - Initiative Programs	
From General Fund	3,993,800
From Education Fund	11,911,100
From General Fund Restricted -	
Autism Awareness Account	5,000

From Beginning Nonlapsing	
Appropriation Balances	3,701,500
From Closing Nonlapsing	
Appropriation Balances	(3,701,500)
Schedule of Programs:	
Electronic High School	995,600
Upstart Early Childhood Education	1,763,900
ProStart Culinary Arts Program	313,100
CTE Online Assessments	341,000
General Financial Literacy	73,000
Carson Smith Scholarships	3,993,900
Paraeducator to Teacher	
Scholarships	24,500
Electronic Elementary Reading	
Tool	800,000
ELL Software Licenses	3,000,000
Autism Awareness Restricted	
Account	5,000
Early Intervention	4,600,000

Item 13

To State Board of Education -	
State Charter School Board	
From Education Fund	3,089,400
From Beginning Nonlapsing	
Appropriation Balances	565,900
From Closing Nonlapsing	
Appropriation Balances	(565,900)
Schedule of Programs:	
State Charter School Board	3,089,400

Item 14

To State Board of Education -	
Utah Charter School Finance Authority	
From Education Fund Restricted -	
Charter School Reserve Account	50,000
Schedule of Programs:	
Utah Charter School Finance	
Authority	50,000

Item 15

To State Board of Education - Educator Licensing	
Professional Practices	
From Professional Practices	
Restricted Subfund	1,772,400
Schedule of Programs:	
Educator Licensing	1,772,400

Item 16

To State Board of Education -	
State Office of Education - Child Nutrition	
From Education Fund	139,600
From Federal Funds	141,394,300
From Dedicated Credit - Liquor Tax	37,251,300
From Beginning Nonlapsing	
Appropriation Balances	53,800
From Closing Nonlapsing	
Appropriation Balances	(53,800)
Schedule of Programs:	
Child Nutrition	178,785,200

Item 17

To State Board of Education - Fine Arts Outreach	
From Education Fund	3,325,000
Schedule of Programs:	
Professional Outreach Programs	3,271,000
Subsidy Program	54,000

Item 18

To State Board of Education - State Office	
of Education - Educational Contracts	
From Education Fund	3,137,800

From Beginning Nonlapsing Appropriation Balances	46,900
From Closing Nonlapsing Appropriation Balances	(46,900)
Schedule of Programs:	
Youth Center	1,153,200
Corrections Institutions	1,984,600
Item 19	
To State Board of Education - Science Outreach	
From Education Fund	2,600,000
Schedule of Programs:	
Informal Science Education Enhancement	1,907,900
Requests for Proposals	225,000
Science Enhancement	417,100
Integrated Student and New Facility Learning	50,000
Item 20	
To State Board of Education - Utah Schools for the Deaf and the Blind	
From Education Fund	23,249,500
From Federal Funds	94,500
From Dedicated Credits Revenue	1,020,000
From Revenue Transfers	4,438,700
From Revenue Transfers - Medicaid	690,000
Schedule of Programs:	
Instructional Services	17,221,700
Support Services	12,271,000

Section 4. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 13, 2014.

(2) (a) The amendments to Section 53A-17a-135 take effect on July 1, 2014.

(b) Uncodified Section 3, Operating and capital budgets -- FY 2015 appropriations for state education agencies, school districts, and charter schools -- Value of the weighted pupil unit, takes effect on July 1, 2014.

**CHAPTER 5
H.B. 5**

Passed February 5, 2014
Approved February 19, 2014
Effective July 1, 2014

**NATURAL RESOURCES, AGRICULTURE,
AND ENVIRONMENTAL
QUALITY BASE BUDGET**

Chief Sponsor: John G. Mathis
Senate Sponsor: David P. Hinkins

LONG TITLE

Committee Note:

The Executive Appropriations Committee recommended this bill.

General Description:

This bill appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2014 and ending June 30, 2015.

Highlighted Provisions:

This bill:

- ▶ provides appropriations for the use and support of certain state agencies; and
- ▶ provides appropriations for other purposes as described.

Money Appropriated in this Bill:

This bill appropriates \$287,113,800 in operating and capital budgets for fiscal year 2015, including:

- ▶ \$58,395,400 from the General Fund;
- ▶ \$228,718,400 from various sources as detailed in this bill.

This bill appropriates \$3,837,500 in expendable funds and accounts for fiscal year 2015.

This bill appropriates \$53,538,800 in business-like activities for fiscal year 2015.

This bill appropriates \$6,711,100 in restricted fund and account transfers for fiscal year 2015, including:

- ▶ \$4,171,100 from the General Fund;
- ▶ \$2,540,000 from various sources as detailed in this bill.

This bill appropriates \$207,000 in transfers to unrestricted funds for fiscal year 2015.

Other Special Clauses:

This bill takes effect on July 1, 2014.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2015 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2014 and ending June 30, 2015.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Utah Code Title 63J, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use

and support of the government of the State of Utah.

DEPARTMENT OF NATURAL RESOURCES

Item 1

To Department of Natural Resources - Administration	
From General Fund	3,258,300
From Beginning Nonlapsing Appropriation Balances	100,000
From Closing Nonlapsing Appropriation Balances	(110,000)
Schedule of Programs:	
Executive Director	1,108,900
Administrative Services	1,644,000
Public Affairs	194,300
Lake Commissions	78,700
Law Enforcement	222,400

Item 2

To Department of Natural Resources - Species Protection	
From Dedicated Credits Revenue	2,450,000
From General Fund Restricted - Species Protection	613,100
From Lapsing Balance	(75,000)
Schedule of Programs:	
Species Protection	2,988,100

Item 3

To Department of Natural Resources - Building Operations	
From General Fund	1,691,600
Schedule of Programs:	
Building Operations	1,691,600

Item 4

To Department of Natural Resources - Watershed	
From General Fund	1,453,100
From Dedicated Credits Revenue	500,000
From General Fund Restricted - Sovereign Land Management	2,000,000
From Beginning Nonlapsing Appropriation Balances	500,000
From Closing Nonlapsing Appropriation Balances	(500,000)
Schedule of Programs:	
Watershed	3,953,100

Item 5

To Department of Natural Resources - Forestry, Fire and State Lands	
From General Fund	2,352,100
From Federal Funds	6,170,000
From Federal Funds - American Recovery and Reinvestment Act	80,000
From Dedicated Credits Revenue	6,500,000
From General Fund Restricted - Sovereign Land Management	5,435,300
From Beginning Nonlapsing Appropriation Balances	1,750,000
From Closing Nonlapsing Appropriation Balances	(1,450,000)
Schedule of Programs:	
Division Administration	968,300
Fire Management	826,100
Fire Suppression Emergencies	2,200,000
Lands Management	711,100
Forest Management	5,012,900

Program Delivery	6,194,700
Lone Peak Center	3,614,300
Project Management	1,310,000

Item 6

To Department of Natural Resources - Oil, Gas and Mining	
From General Fund	1,550,700
From Federal Funds	7,530,000
From Dedicated Credits Revenue	230,500
From General Fund Restricted - Oil & Gas Conservation Account	3,899,700
From Beginning Nonlapsing Appropriation Balances	801,100
From Closing Nonlapsing Appropriation Balances	(226,100)
Schedule of Programs:	
Administration	1,868,900
Board	55,000
Oil and Gas Program	3,336,800
Minerals Reclamation	909,000
Coal Program	1,966,200
OGM Misc. Nonlapsing	575,000
Abandoned Mine	5,075,000

Item 7

To Department of Natural Resources - Wildlife Resources	
From General Fund	5,870,800
From Federal Funds	20,600,900
From Dedicated Credits Revenue	105,300
From General Fund Restricted - Wildlife Habitat	2,900,000
From General Fund Restricted - Wildlife Resources	31,445,000
From General Fund Restricted - Mule Deer Protection Account	500,000
From General Fund Restricted - Predator Control Account	600,000
From Revenue Transfers	106,900
From Beginning Nonlapsing Appropriation Balances	100,000
From Closing Nonlapsing Appropriation Balances	(100,000)
Schedule of Programs:	
Director's Office	2,804,600
Administrative Services	7,026,700
Conservation Outreach	3,993,600
Law Enforcement	7,922,700
Habitat Council	2,900,000
Habitat Section	5,682,200
Wildlife Section	16,980,900
Aquatic Section	14,818,200

Item 8

To Department of Natural Resources - Predator Control	
From General Fund	59,600
Schedule of Programs:	
Predator Control	59,600

Item 9

To Department of Natural Resources - Contributed Research	
From Dedicated Credits Revenue	1,500,000
Schedule of Programs:	
Contributed Research	1,500,000

Item 10

To Department of Natural Resources - Cooperative Agreements	
From Federal Funds	5,581,300
From Dedicated Credits Revenue	1,085,700
From Revenue Transfers	5,536,800
Schedule of Programs:	
Cooperative Agreements	12,203,800

Item 11

To Department of Natural Resources - Wildlife Resources Capital Budget	
From General Fund	649,400
From Federal Funds	1,125,000
From General Fund Restricted - State Fish Hatchery Maintenance	1,205,000
Schedule of Programs:	
Fisheries	2,979,400

Item 12

To Department of Natural Resources - Parks and Recreation	
From General Fund	4,103,500
From Federal Funds	1,070,000
From Dedicated Credits Revenue	1,434,200
From General Fund Restricted - Boating	4,309,900
From General Fund Restricted - Off-highway Vehicle	5,233,700
From General Fund Restricted - Off-highway Access and Education	17,500
From General Fund Restricted - Zion National Park Support Programs	4,000
From General Fund Restricted - State Park Fees	12,427,800
From Revenue Transfers	23,200
From Beginning Nonlapsing Appropriation Balances	200,000
From Closing Nonlapsing Appropriation Balances	(200,000)
Schedule of Programs:	
Executive Management	742,200
Park Operation Management	22,842,300
Planning and Design	818,900
Support Services	1,701,300
Recreation Services	1,633,400
Park Management Contracts	885,700

Item 13

To Department of Natural Resources - Parks and Recreation Capital Budget	
From General Fund	122,700
From Federal Funds	3,000,000
From Dedicated Credits Revenue	25,000
From General Fund Restricted - Boating	575,000
From General Fund Restricted - Off-highway Vehicle	400,000
From General Fund Restricted - State Park Fees	350,000
From Revenue Transfers	350,000
Schedule of Programs:	
Renovation and Development	334,200
Major Renovation	458,500
Trails Program	2,330,000
Donated Capital Projects	25,000
Region Renovation	100,000
Land and Water Conservation	700,000
Boat Access Grants	700,000

Off-highway Vehicle Grants 175,000

Item 14

To Department of Natural Resources -
 Utah Geological Survey
 From General Fund 2,597,400
 From Federal Funds 1,077,500
 From Dedicated Credits Revenue 1,418,800
 From General Fund Restricted -
 Mineral Lease 3,234,200
 From General Fund Restricted - Land
 Exchange Distribution Account 386,300
 From Beginning Nonlapsing
 Appropriation Balances 500,000
 From Closing Nonlapsing Appropriation
 Balances (490,000)
 From Lapsing Balance (300,000)
 Schedule of Programs:
 Administration 718,900
 Technical Services 715,000
 Geologic Hazards 1,262,300
 Board 6,600
 Geologic Mapping 1,049,600
 Energy and Minerals 2,204,500
 Ground Water and Paleontology 1,632,600
 Information and Outreach 834,700

Item 15

To Department of Natural Resources -
 Water Resources
 From General Fund 2,779,300
 From Federal Funds 300,000
 From Dedicated Credits Revenue 150,000
 From Water Resources Conservation
 and Development Fund 2,925,500
 From Beginning Nonlapsing
 Appropriation Balances 50,000
 From Closing Nonlapsing Appropriation
 Balances (50,000)
 From Lapsing Balance (51,000)
 Schedule of Programs:
 Administration 618,400
 Board 34,100
 Interstate Streams 354,700
 Planning 2,449,800
 Cloudseeding 249,000
 Construction 2,387,200
 West Desert Operations 10,600

Item 16

To Department of Natural Resources -
 Water Rights
 From General Fund 7,410,900
 From Federal Funds 100,000
 From Dedicated Credits Revenue 1,914,600
 From Beginning Nonlapsing
 Appropriation Balances 258,600
 From Closing Nonlapsing Appropriation
 Balances (150,000)
 Schedule of Programs:
 Administration 1,101,900
 Applications and Records 1,249,300
 Dam Safety 843,300
 Field Services 1,597,700
 Technical Services 1,636,400
 Regional Offices 3,105,500

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 17

To Department of Environmental
 Quality - Executive Director's Office
 From General Fund 1,430,600
 From Federal Funds 236,200
 From General Fund Restricted -
 Environmental Quality 781,700
 From Revenue Transfers 2,354,700
 From Revenue Transfers -
 Within Agency (26,200)
 Schedule of Programs:
 Executive Director's Office 4,777,000

Item 18

To Department of Environmental
 Quality - Air Quality
 From General Fund 3,818,200
 From Federal Funds 4,369,700
 From Dedicated Credits Revenue 4,708,600
 From Clean Fuel Conversion Fund 111,000
 From Revenue Transfers -
 Within Agency (890,800)
 Schedule of Programs:
 Air Quality 12,116,700

Item 19

To Department of Environmental
 Quality - Environmental
 Response and Remediation
 From General Fund 741,400
 From Federal Funds 3,748,300
 From Dedicated Credits Revenue 570,400
 From General Fund Restricted -
 Petroleum Storage Tank 50,000
 From General Fund Restricted -
 Voluntary Cleanup 631,400
 From Petroleum Storage Tank
 Trust Fund 1,518,600
 From Petroleum Storage Tank
 Loan Fund 168,000
 From Revenue Transfers -
 Within Agency (469,900)
 Schedule of Programs:
 Environmental Response and
 Remediation 6,958,200

Item 20

To Department of Environmental
 Quality - Radiation Control
 From General Fund 913,900
 From Federal Funds 5,100
 From Dedicated Credits Revenue 226,000
 From General Fund Restricted -
 Environmental Quality 2,681,900
 Schedule of Programs:
 Radiation Control 3,826,900

Item 21

To Department of Environmental
 Quality - Water Quality
 From General Fund 2,948,700
 From Federal Funds 4,857,600
 From Dedicated Credits Revenue 1,034,100
 From General Fund Restricted -
 Underground Wastewater System 77,100
 From Water Development Security
 Fund - Utah Wastewater Loan
 Program 1,328,600

From Water Development Security Fund -
 Water Quality Origination Fee 93,600
 From Revenue Transfers 441,000
 From Revenue Transfers -
 Within Agency (318,800)
 Schedule of Programs:
 Water Quality 10,461,900

Item 22

To Department of Environmental
 Quality - Drinking Water
 From General Fund 1,050,000
 From Federal Funds 3,763,200
 From Dedicated Credits Revenue 170,500
 From Water Development Security
 Fund - Drinking Water Loan
 Program 142,400
 From Water Development Security
 Fund - Drinking Water
 Origination Fee 204,100
 From Revenue Transfers 37,700
 From Revenue Transfers -
 Within Agency (367,900)
 Schedule of Programs:
 Drinking Water 5,000,000

Item 23

To Department of Environmental Quality -
 Solid and Hazardous Waste
 From Federal Funds 1,239,400
 From Dedicated Credits Revenue 1,798,500
 From General Fund Restricted -
 Environmental Quality 3,316,500
 From General Fund Restricted -
 Used Oil Collection Administration 752,300
 From Waste Tire Recycling Fund 133,800
 From Revenue Transfers -
 Within Agency (251,900)
 Schedule of Programs:
 Solid and Hazardous Waste 6,988,600

**PUBLIC LANDS POLICY
 COORDINATION OFFICE**

Item 24

To Public Lands Policy Coordination Office
 From General Fund 835,600
 From General Fund Restricted -
 Constitutional Defense 1,412,500
 Schedule of Programs:
 Public Lands Office 2,248,100

GOVERNOR'S OFFICE

Item 25

To Governor's Office - Office
 of Energy Development
 From General Fund 1,006,900
 From Federal Funds 374,100
 From Dedicated Credits Revenue 90,000
 From Utah State Energy Program
 Revolving Loan Fund (ARRA) 110,000
 From Beginning Nonlapsing
 Appropriation Balances 752,800
 Schedule of Programs:
 Office of Energy Development 2,333,800

**DEPARTMENT OF
 AGRICULTURE AND FOOD**

Item 26

To Department of Agriculture and
 Food - Administration
 From General Fund 5,833,200
 From Federal Funds 1,114,000
 From Dedicated Credits Revenue 1,552,700
 From General Fund Restricted -
 Cat and Dog Community Spay
 and Neuter Program Restricted
 Account 80,000
 From General Fund Restricted -
 Horse Racing 20,000
 From General Fund Restricted -
 Livestock Brand 900
 From General Fund Restricted - Agriculture
 and Wildlife Damage Prevention 35,000
 From Agriculture Resource
 Development Fund 181,600
 From Pass-through 54,700
 Schedule of Programs:
 General Administration 2,905,100
 Chemistry Laboratory 880,500
 Regulatory Services 3,923,400
 Sheep Promotion 35,000
 Utah Horse Commission 29,800
 Marketing and Development 325,900
 Grazing Improvement 772,400

Item 27

To Department of Agriculture and
 Food - Animal Health
 From General Fund 2,451,600
 From Federal Funds 1,467,400
 From Dedicated Credits Revenue 119,400
 From General Fund Restricted -
 Livestock Brand 998,900
 From Revenue Transfers 3,900
 Schedule of Programs:
 Animal Health 1,479,200
 Auction Market Veterinarians 72,000
 Brand Inspection 1,472,200
 Meat Inspection 2,017,800

Item 28

To Department of Agriculture and
 Food - Plant Industry
 From General Fund 554,300
 From Federal Funds 3,025,000
 From Dedicated Credits Revenue 1,850,900
 From Revenue Transfers 549,900
 From Pass-through 3,100
 Schedule of Programs:
 Environmental Quality 2,590,900
 Grain Inspection 226,000
 Insect Infestation 1,049,200
 Plant Industry 2,117,100

Item 29

To Department of Agriculture and
 Food - Building Operations
 From General Fund 305,000
 Schedule of Programs:
 Building Operations 305,000

Item 30

To Department of Agriculture and
 Food - Predatory Animal Control

From General Fund 777,700
 From General Fund Restricted -
 Agriculture and Wildlife
 Damage Prevention 616,000
 From Revenue Transfers 60,700
 Schedule of Programs:
 Predatory Animal Control 1,454,400

Item 31

To Department of Agriculture and
 Food - Resource Conservation
 From General Fund 1,153,700
 From Agriculture Resource
 Development Fund 386,100
 From Utah Rural Rehabilitation
 Loan State Fund 122,700
 Schedule of Programs:
 Resource Conservation
 Administration 369,900
 Conservation Commission 11,200
 Resource Conservation 1,281,400

Item 32

To Department of Agriculture and
 Food - Invasive Species Mitigation
 From General Fund Restricted -
 Invasive Species Mitigation
 Account 2,000,000
 Schedule of Programs:
 Invasive Species Mitigation 2,000,000

Item 33

To Department of Agriculture
 and Food - Rangeland Improvement
 From General Fund Restricted -
 Rangeland Improvement Account . . . 1,491,300
 Schedule of Programs:
 Rangeland Improvement 1,491,300

Item 34

To Department of Agriculture and
 Food - Utah State Fair Corporation
 From General Fund 675,200
 From Dedicated Credits Revenue 3,583,200
 Schedule of Programs:
 State Fair Corporation 4,258,400

**SCHOOL AND INSTITUTIONAL
 TRUST LANDS ADMINISTRATION**

Item 35

To School and Institutional
 Trust Lands Administration
 From Land Grant Management Fund . . 9,649,800
 Schedule of Programs:
 Board 89,800
 Director 474,000
 Public Relations 244,100
 Administration 1,094,300
 Accounting 401,300
 Auditing 368,900
 Oil and Gas 733,900
 Mining 680,100
 Surface 1,728,000
 Development - Operating 1,491,000
 Legal/Contracts 823,300
 Information Technology Group 1,007,300
 Grazing and Forestry 513,800

Item 36

To School and Institutional
 Trust Lands Administration -
 Land Stewardship and Restoration
 From Land Grant Management Fund . . . 500,000
 Schedule of Programs:
 Land Stewardship and Restoration . . . 500,000

Item 37

To School and Institutional
 Trust Lands Administration -
 School and Institutional
 Trust Lands Administration Capital
 From Land Grant Management Fund . . 8,300,000
 Schedule of Programs:
 Capital 8,300,000

Subsection 1(b). Expendable Funds and

Accounts. The Legislature has reviewed the following expendable funds. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated. Outlays and expenditures from the recipient funds or accounts may be made without further legislative action according to a fund or account's applicable authorizing statute.

**DEPARTMENT OF
 ENVIRONMENTAL QUALITY**

Item 38

To Department of Environmental
 Quality - Hazardous Substance
 Mitigation Fund
 From Dedicated Credits Revenue 155,000
 From Beginning Fund Balance 15,106,400
 From Ending Fund Balance (11,423,900)
 Schedule of Programs:
 Hazardous Substance Mitigation
 Fund 3,837,500

Subsection 1(c). Business-like Activities.

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

DEPARTMENT OF NATURAL RESOURCES

Item 39

To Department of Natural Resources -
 Water Resources Revolving Construction Fund
 From Water Resources Conservation
 and Development Fund 3,800,000
 Schedule of Programs:
 Construction Fund 3,800,000

Item 40

To Department of Natural Resources -
 Internal Service Fund
 From Dedicated Credits -
 Intragovernmental Revenue 571,100

Schedule of Programs:
 ISF - DNR Warehouse 571,100
 Budgeted FTE 2.0

**DEPARTMENT OF
 ENVIRONMENTAL QUALITY**

Item 41

To Department of Environmental Quality -
 Water Security Development Account -
 Water Pollution
 From Federal Funds 6,000,000
 From Designated Sales Tax 3,587,500
 From Repayments 17,578,600
 Schedule of Programs:
 Water Pollution 27,166,100

Item 42

To Department of Environmental Quality -
 Water Security Development Account -
 Drinking Water
 From Federal Funds 6,000,000
 From Designated Sales Tax 3,587,500
 From Repayments 12,011,100
 Schedule of Programs:
 Drinking Water 21,598,600

**DEPARTMENT OF
 AGRICULTURE AND FOOD**

Item 43

To Department of Agriculture and
 Food - Agriculture Loan Programs
 From Agriculture Resource
 Development Fund 262,100
 From Utah Rural Rehabilitation
 Loan State Fund 140,900
 Schedule of Programs:
 Agriculture Loan Program 403,000

**Subsection 1(d). Restricted Fund and
 Account Transfers.** The Legislature
 authorizes the State Division of Finance to
 transfer the following amounts among the
 following funds or accounts as indicated.
 Expenditures and outlays from the recipient
 funds must be authorized elsewhere in an
 appropriations act.

FUND AND ACCOUNT TRANSFERS

Item 44

To Fund and Account Transfers - GFR -
 Rangeland Improvement Account
 From General Fund 1,346,300
 Schedule of Programs:
 Rangeland Improvement Account ... 1,346,300

Item 45

To Fund and Account Transfers -
 General Fund Restricted -
 Wildlife Resources
 From General Fund 74,800
 Schedule of Programs:
 General Fund Restricted -
 Wildlife Resources 74,800

Item 46

To Fund and Account Transfers -
 General Fund Restricted -
 Constitutional Defense Restricted Account

From General Fund Restricted -
 Land Exchange Distribution
 Account 2,540,000

Schedule of Programs:
 Constitutional Defense
 Restricted Account 2,540,000

Item 47

To Fund and Account Transfers - GFR -
 Invasive Species Mitigation Account
 From General Fund 2,000,000
 Schedule of Programs:
 Invasive Species Mitigation
 Account 2,000,000

Item 48

To Fund and Account Transfers -
 General Fund Restricted - Mule
 Deer Protection Account
 From General Fund 500,000
 Schedule of Programs:
 General Fund Restricted -
 Mule Deer Protection 500,000

Item 49

To Fund and Account Transfers -
 General Fund Restricted - Agriculture
 and Wildlife Damage Prevention Account
 From General Fund 250,000
 Schedule of Programs:
 General Fund Restricted -
 Agriculture and Wildlife Damage
 Prevention Account 250,000

**Subsection 1(e). Transfers to Unrestricted
 Funds.** The Legislature authorizes the State
 Division of Finance to transfer the following
 amounts to the unrestricted General,
 Education, or Uniform School Fund as indicated
 from the restricted funds or accounts indicated.
 Expenditures and outlays from the General,
 Education, or Uniform School Fund must be
 authorized elsewhere in an appropriations act.

TRANSFERS TO UNRESTRICTED FUNDS

Item 50

To General Fund
 From General Fund Restricted -
 Species Protection 207,000
 Schedule of Programs:
 General Fund 207,000

Section 2. Effective Date.

This bill takes effect on July 1, 2014.

CHAPTER 6

H.B. 6

Passed February 5, 2014
 Approved February 19, 2014
 Effective February 19, 2014
 (Exception clause in Section 3)

RETIREMENT AND INDEPENDENT ENTITIES BASE BUDGET

Chief Sponsor: Kraig Powell
 Senate Sponsor: Todd Weiler

LONG TITLE

Committee Note:

The Executive Appropriations Committee recommended this bill.

General Description:

This bill supplements or reduces appropriations previously provided for the use and operation of state government for the fiscal year beginning July 1, 2013 and ending June 30, 2014; and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2014 and ending June 30, 2015.

Highlighted Provisions:

This bill:

- ▶ provides appropriations for the use and support of certain state agencies; and
- ▶ provides appropriations for other purposes as described.

Money Appropriated in this Bill:

This bill appropriates operating and capital budgets for fiscal year 2014, including:

- ▶ (\$500,000) from the General Fund;
- ▶ \$500,000 from various sources as detailed in this bill.

This bill appropriates \$38,922,800 in operating and capital budgets for fiscal year 2015, including:

- ▶ \$3,035,600 from the General Fund;
- ▶ \$17,666,700 from the Education Fund;
- ▶ \$18,220,500 from various sources as detailed in this bill.

This bill appropriates \$11,736,100 in business-like activities for fiscal year 2015.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Section 2 of this bill takes effect on July 1, 2014.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2014 Appropriations. Under the terms and conditions of Utah Code Title 63J Chapter 1, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or fund accounts indicated for the use and support of the government of the State of Utah for the fiscal year beginning July 1, 2013 and ending

June 30, 2014. These are additions to amounts previously appropriated for fiscal year 2014.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Utah Code Title 63J, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use and support of the government of the State of Utah.

DEPARTMENT OF HUMAN RESOURCE MANAGEMENT

Item 1

To Department of Human Resource Management - Human Resource Management
 From General Fund, One-time (500,000)
 From Beginning Nonlapsing Appropriation Balances 593,600
 From Closing Nonlapsing Appropriation Balances (93,600)

Section 2. FY 2015 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2014 and ending June 30, 2015.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of Utah Code Title 63J, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use and support of the government of the State of Utah.

CAREER SERVICE REVIEW OFFICE

Item 2

To Career Service Review Office
 From General Fund 255,000
 Schedule of Programs:
 Career Service Review Office 255,000

DEPARTMENT OF HUMAN RESOURCE MANAGEMENT

Item 3

To Department of Human Resource Management - Human Resource Management
 From General Fund 2,605,000
 From Dedicated Credits Revenue 200,000
 From Beginning Nonlapsing Appropriation Balances 93,800
 From Closing Nonlapsing Appropriation Balances (93,800)
 Schedule of Programs:
 Administration 700,000
 Policy 775,000
 Teacher Salary Supplement 130,000
 Statewide Management Liability Training 200,000
 Information Technology 1,000,000

UTAH EDUCATION NETWORK

Item 4

To Utah Education Network
 From General Fund 175,600
 From Education Fund 17,666,700
 From Federal Funds 3,454,900

From Dedicated Credits Revenue	14,123,500
From Other Financing Sources	442,100
Schedule of Programs:	
Administration	2,269,900
Operations and Maintenance	375,000
Public Information	194,200
KUEN Broadcast	735,600
Technical Services	28,113,700
Course Management Systems	653,000
Instructional Support	3,521,400

Subsection 2(b). Business-like Activities.

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

DEPARTMENT OF HUMAN RESOURCE MANAGEMENT

Item 5

To Department of Human Resource Management - Human Resources Internal Service Fund
From Dedicated Credits -

Intragovernmental Revenue	11,736,100
Schedule of Programs:	
ISF - Field Services	11,282,600
ISF - Legal Services	453,500
Budgeted FTE	142.0

Section 3. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 of this bill takes effect on July 1, 2014.

CHAPTER 7**H. B. 15**

Passed February 6, 2014
 Approved February 19, 2014
 Effective February 19, 2014

**DRIVER LICENSE
 SUSPENSION AMENDMENTS**

Chief Sponsor: Douglas V. Sagers
 Senate Sponsor: Evan J. Vickers

LONG TITLE**General Description:**

This bill modifies Title 53, Chapter 3, Uniform Driver License Act, by amending provisions relating to driver license suspensions.

Highlighted Provisions:

This bill:

- ▶ requires the Driver License Division to shorten a person's one- or two-year license suspension or denial period that is currently in effect for certain alcohol related offenses to a six-month period if:
 - the driver was under the age of 19 at the time of arrest;
 - the offense was a first offense that was committed prior to May 14, 2013; and
 - the suspension or denial was based on the same occurrence upon which certain written verifications are based;
- ▶ grants the Driver License Division rulemaking authority to make rules establishing requirements for acceptable documentation to shorten a person's driver license suspension or denial period in certain circumstances;
- ▶ requires a person to pay the license reinstatement fees if a person's license sanction is shortened; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.

Utah Code Sections Affected:**AMENDS:**

53-3-223, as last amended by Laws of Utah 2013, Chapter 333
 53-3-231, as last amended by Laws of Utah 2013, Chapter 333

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

Section 1. Section 53-3-223 is amended to read:

53-3-223. Chemical test for driving under the influence -- Temporary license -- Hearing and decision -- Suspension and fee -- Judicial review.

(1) (a) If a peace officer has reasonable grounds to believe that a person may be violating or has violated Section 41-6a-502, prohibiting the operation of a vehicle with a certain blood or breath alcohol concentration and driving under the influence of any drug, alcohol, or combination of a

drug and alcohol or while having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of Section 41-6a-517, the peace officer may, in connection with arresting the person, request that the person submit to a chemical test or tests to be administered in compliance with the standards under Section 41-6a-520.

(b) In this section, a reference to Section 41-6a-502 includes any similar local ordinance adopted in compliance with Subsection 41-6a-510(1).

(2) The peace officer shall advise a person prior to the person's submission to a chemical test that a test result indicating a violation of Section 41-6a-502 or 41-6a-517 shall, and the existence of a blood alcohol content sufficient to render the person incapable of safely driving a motor vehicle may, result in suspension or revocation of the person's license to drive a motor vehicle.

(3) If the person submits to a chemical test and the test results indicate a blood or breath alcohol content in violation of Section 41-6a-502 or 41-6a-517, or if a peace officer makes a determination, based on reasonable grounds, that the person is otherwise in violation of Section 41-6a-502, a peace officer shall, on behalf of the division and within 24 hours of arrest, give notice of the division's intention to suspend the person's license to drive a motor vehicle.

(4) (a) When a peace officer gives notice on behalf of the division, the peace officer shall:

(i) take the Utah license certificate or permit, if any, of the driver;

(ii) issue a temporary license certificate effective for only 29 days from the date of arrest; and

(iii) supply to the driver, in a manner specified by the division, basic information regarding how to obtain a prompt hearing before the division.

(b) A citation issued by a peace officer may, if provided in a manner specified by the division, also serve as the temporary license certificate.

(5) As a matter of procedure, a peace officer shall send to the division within 10 calendar days after the day on which notice is provided:

(a) the person's license certificate;

(b) a copy of the citation issued for the offense;

(c) a signed report in a manner specified by the division indicating the chemical test results, if any; and

(d) any other basis for the peace officer's determination that the person has violated Section 41-6a-502 or 41-6a-517.

(6) (a) Upon request in a manner specified by the division, the division shall grant to the person an opportunity to be heard within 29 days after the date of arrest. The request to be heard shall be made within 10 calendar days of the day on which notice is provided under Subsection (5).

(b) (i) Except as provided in Subsection (6)(b)(ii), a hearing, if held, shall be before the division in:

(A) the county in which the arrest occurred; or

(B) a county that is adjacent to the county in which the arrest occurred.

(ii) The division may hold a hearing in some other county if the division and the person both agree.

(c) The hearing shall be documented and shall cover the issues of:

(i) whether a peace officer had reasonable grounds to believe the person was driving a motor vehicle in violation of Section 41-6a-502 or 41-6a-517;

(ii) whether the person refused to submit to the test; and

(iii) the test results, if any.

(d) (i) In connection with a hearing the division or its authorized agent:

(A) may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers; or

(B) may issue subpoenas for the attendance of necessary peace officers.

(ii) The division shall pay witness fees and mileage from the Transportation Fund in accordance with the rates established in Section 78B-1-119.

(e) The division may designate one or more employees to conduct the hearing.

(f) Any decision made after a hearing before any designated employee is as valid as if made by the division.

(7) (a) If, after a hearing, the division determines that a peace officer had reasonable grounds to believe that the person was driving a motor vehicle in violation of Section 41-6a-502 or 41-6a-517, if the person failed to appear before the division as required in the notice, or if a hearing is not requested under this section, the division shall:

(i) if the person is 21 years of age or older at the time of arrest and the arrest was made on or after July 1, 2009, suspend the person's license or permit to operate a motor vehicle for a period of:

(A) 120 days beginning on the 30th day after the date of arrest for a first suspension; or

(B) two years beginning on the 30th day after the date of arrest for a second or subsequent suspension for an offense that occurred within the previous 10 years; or

(ii) if the person is under 21 years of age at the time of arrest and the arrest was made on or after May 14, 2013:

(A) suspend the person's license or permit to operate a motor vehicle:

(I) for a period of six months, beginning on the 30th day after the date of arrest for a first suspension; or

(II) until the person is 21 years of age or for a period of two years, whichever is longer, beginning on the 30th day after the date of arrest for a second or subsequent suspension for an offense that occurred within the previous 10 years; or

(B) deny the person's application for a license or learner's permit:

(I) for a period of six months for a first suspension, if the person has not been issued an operator license; or

(II) until the person is 21 years of age or for a period of two years, whichever is longer, beginning on the 30th day after the date of arrest for a second or subsequent suspension for an offense that occurred within the previous 10 years.

(b) The division shall deny or suspend a person's license for the denial and suspension periods in effect:

(i) prior to July 1, 2009, for an offense that was committed prior to July 1, 2009;

(ii) from July 1, 2009, through June 30, 2011, if:

(A) the person was 20 years 6 months of age or older but under 21 years of age at the time of arrest; and

(B) the conviction under Subsection (2) is for an offense that was committed on or after July 1, 2009, and prior to July 1, 2011; or

(iii) prior to May 14, 2013, for an offense that was committed prior to May 14, 2013.

(c) (i) Notwithstanding the provisions in Subsection (7)(a)(i)(A), the division shall reinstate a person's license prior to completion of the 120 day suspension period imposed under Subsection (7)(a)(i)(A):

(A) immediately upon receiving written verification of the person's dismissal of a charge for a violation of Section 41-6a-502 or 41-6a-517, if the written verification is received prior to completion of the suspension period; or

(B) no sooner than 60 days beginning on the 30th day after the date of arrest upon receiving written verification of the person's reduction of a charge for a violation of Section 41-6a-502 or 41-6a-517, if the written verification is received prior to completion of the suspension period.

(ii) Notwithstanding the provisions in Subsection (7)(a)(i)(A) or (7)(b), the division shall reinstate a person's license prior to completion of the 120-day suspension period imposed under Subsection (7)(a)(i)(A) immediately upon receiving written verification of the person's conviction of impaired driving under Section 41-6a-502.5 if:

(A) the written verification is received prior to completion of the suspension period; and

(B) the reporting court notifies the Driver License Division that the defendant is participating in or has successfully completed the program of a driving under the influence court as defined in Section 41-6a-501.

(iii) If a person's license is reinstated under this Subsection (7)(c), the person is required to pay the license reinstatement fees under Subsections 53-3-105(23) and (24).

(iv) The driver license reinstatements authorized under this Subsection (7)(c) only apply to a 120 day suspension period imposed under Subsection (7)(a)(i)(A).

(8) (a) Notwithstanding the provisions in Subsection (7)(b)(iii), the division shall shorten a person's two-year license suspension period that is currently in effect to a six-month suspension period if:

(i) the driver was under the age of 19 at the time of arrest;

(ii) the offense was a first offense that was committed prior to May 14, 2013; and

(iii) the suspension under Subsection (7)(b)(iii) was based on the same occurrence upon which the following written verifications are based:

(A) a court order shortening the driver license suspension for a violation of Section 41-6a-502 pursuant to Subsection 41-6a-509(8);

(B) a court order shortening the driver license suspension for a violation of Section 41-6a-517 pursuant to Subsection 41-6a-517(11);

(C) a court order shortening the driver license suspension for a violation of Section 32B-4-409;

(D) a dismissal for a violation of Section 41-6a-502, Section 41-6a-517, or Section 32B-4-409;

(E) a notice of declination to prosecute for a charge under Section 41-6a-502, Section 41-6a-517, or Section 32B-4-409;

(F) a reduction of a charge under Section 41-6a-502, Section 41-6a-517, or Section 32B-4-409; or

(G) other written documentation acceptable to the division.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules establishing requirements for acceptable written documentation to shorten a person's driver license suspension period under Subsection (8)(a)(iii)(G).

(c) If a person's license sanction is shortened under this Subsection (8), the person is required to pay the license reinstatement fees under Subsections 53-3-105(23) and (24).

[§] (9) (a) The division shall assess against a person, in addition to any fee imposed under Subsection 53-3-205(12) for driving under the influence, a fee under Section 53-3-105 to cover administrative costs, which shall be paid before the person's driving privilege is reinstated. This fee shall be cancelled if the person obtains an unappealed division hearing or court decision that the suspension was not proper.

(b) A person whose license has been suspended by the division under this section following an administrative hearing may file a petition within 30 days after the suspension for a hearing on the matter which, if held, is governed by Section 53-3-224.

Section 2. Section 53-3-231 is amended to read:

53-3-231. Person under 21 may not operate a vehicle or motorboat with detectable alcohol in body -- Chemical test procedures -- Temporary license -- Hearing and decision -- Suspension of license or operating privilege -- Fees -- Judicial review -- Referral to local substance abuse authority or program.

(1) (a) As used in this section:

(i) "Local substance abuse authority" has the same meaning as provided in Section 62A-15-102.

(ii) "Substance abuse program" means any substance abuse program licensed by the Department of Human Services or the Department of Health and approved by the local substance abuse authority.

(b) Calculations of blood, breath, or urine alcohol concentration under this section shall be made in accordance with the procedures in Subsection 41-6a-502(1).

(2) (a) A person younger than 21 years of age may not operate or be in actual physical control of a vehicle or motorboat with any measurable blood, breath, or urine alcohol concentration in the person's body as shown by a chemical test.

(b) A person who violates Subsection (2)(a), in addition to any other applicable penalties arising out of the incident, shall have the person's operator license denied or suspended as provided in Subsection (8).

(3) (a) When a peace officer has reasonable grounds to believe that a person may be violating or has violated Subsection (2), the peace officer may, in connection with arresting the person for a violation of Section 32B-4-409, request that the person submit to a chemical test or tests to be administered in compliance with the standards under Section 41-6a-520.

(b) The peace officer shall advise a person prior to the person's submission to a chemical test that a test result indicating a violation of Subsection (2)(a) will result in denial or suspension of the person's license to operate a motor vehicle or a refusal to issue a license.

(c) If the person submits to a chemical test and the test results indicate a blood, breath, or urine alcohol content in violation of Subsection (2)(a), or if a peace officer makes a determination, based on reasonable grounds, that the person is otherwise in violation of Subsection (2)(a), a peace officer shall, on behalf of the division and within 24 hours of the arrest, give notice of the division's intention to deny or suspend the person's license to operate a vehicle or refusal to issue a license under this section.

(4) When a peace officer gives notice on behalf of the division, the peace officer shall:

(a) take the Utah license certificate or permit, if any, of the operator;

(b) issue a temporary license certificate effective for only 29 days from the date of arrest if the driver had a valid operator's license; and

(c) supply to the operator, in a manner specified by the division, basic information regarding how to obtain a prompt hearing before the division.

(5) A citation issued by a peace officer may, if provided in a manner specified by the division, also serve as the temporary license certificate under Subsection (4)(b).

(6) As a matter of procedure, a peace officer shall send to the division within 10 calendar days after the day on which notice is provided:

(a) the person's driver license certificate, if any;

(b) a copy of the citation issued for the offense;

(c) a signed report in a manner specified by the Driver License Division indicating the chemical test results, if any; and

(d) any other basis for a peace officer's determination that the person has violated Subsection (2).

(7) (a) (i) Upon request in a manner specified by the division, the Driver License Division shall grant to the person an opportunity to be heard within 29 days after the date of arrest under Section 32B-4-409.

(ii) The request shall be made within 10 calendar days of the day on which notice is provided.

(b) (i) Except as provided in Subsection (7)(b)(ii), a hearing, if held, shall be before the division in:

(A) the county in which the arrest occurred; or

(B) a county that is adjacent to the county in which the arrest occurred.

(ii) The division may hold a hearing in some other county if the division and the person both agree.

(c) The hearing shall be documented and shall cover the issues of:

(i) whether a peace officer had reasonable grounds to believe the person was operating a motor vehicle or motorboat in violation of Subsection (2)(a);

(ii) whether the person refused to submit to the test; and

(iii) the test results, if any.

(d) In connection with a hearing, the division or its authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and records as defined in Section 46-4-102.

(e) One or more members of the division may conduct the hearing.

(f) Any decision made after a hearing before any number of the members of the division is as valid as if made after a hearing before the full membership of the division.

(8) If, after a hearing, the division determines that a peace officer had reasonable grounds to believe that the person was driving a motor vehicle in violation of Subsection (2)(a), if the person fails to appear before the division as required in the notice, or if the person does not request a hearing under this section, the division shall for a person under 21 years of age on the date of arrest:

(a) deny the person's license until the person complies with Subsection [(41)] (12)(b)(i) but for a period of not less than six months beginning on the 30th day after the date of arrest for a first offense under Subsection (2)(a) committed on or after May 14, 2013;

(b) suspend the person's license until the person complies with Subsection [(41)] (12)(b)(i) and until the person is 21 years of age or for a period of two years, whichever is longer, beginning on the 30th day after the date of arrest for a second or subsequent offense under Subsection (2)(a) committed on or after July 1, 2009, and within 10 years of a prior denial or suspension;

(c) deny the person's application for a license or learner's permit until the person complies with Subsection [(41)] (12)(b)(i) but for a period of not less than six months if:

(i) the person has not been issued an operator license; and

(ii) the suspension is for a first offense under Subsection (2)(a) committed on or after July 1, 2009;

(d) deny the person's application for a license or learner's permit until the person complies with Subsection [(41)] (12)(b)(i) and until the person is 21 years of age or for a period of two years, whichever is longer, if:

(i) the person has not been issued an operator license; and

(ii) the suspension is for a second or subsequent offense under Subsection (2)(a) committed on or after July 1, 2009, and within 10 years of a prior denial or suspension; or

(e) deny or suspend a person's license for the denial and suspension periods in effect:

(i) prior to July 1, 2009, for a violation under Subsection (2)(a) that was committed prior to July 1, 2009;

(ii) from July 1, 2009, through June 30, 2011, if the person was 20 years 6 months of age or older but under 21 years of age at the time of arrest and the conviction under Subsection (2) is for an offense that was committed on or after July 1, 2009, and prior to July 1, 2011; or

(iii) prior to May 14, 2013, for a violation under Subsection (2)(a) that was committed prior to May 14, 2013.

(9) (a) Notwithstanding the provisions in Subsection (8)(e)(iii), the division shall shorten a

person's one-year license suspension or denial period that is currently in effect to a six-month suspension or denial period if:

(i) the driver was under the age of 19 at the time of arrest;

(ii) the offense was a first offense that was committed prior to May 14, 2013; and

(iii) the suspension or denial under Subsection (8)(e)(iii) was based on the same occurrence upon which the following written verifications are based:

(A) a court order shortening the driver license suspension for a violation of Section 41-6a-502 pursuant to Subsection 41-6a-509(8);

(B) a court order shortening the driver license suspension for a violation of Section 41-6a-517 pursuant to Subsection 41-6a-517(11);

(C) a court order shortening the driver license suspension for a violation of Section 32B-4-409;

(D) a dismissal for a violation of Section 41-6a-502, Section 41-6a-517, or Section 32B-4-409;

(E) a notice of declination to prosecute for a charge under Section 41-6a-502, Section 41-6a-517, or Section 32B-4-409;

(F) a reduction of a charge under Section 41-6a-502, Section 41-6a-517, or Section 32B-4-409; or

(G) other written documentation acceptable to the division.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules establishing requirements for acceptable documentation to shorten a person's driver license suspension or denial period under this Subsection (9).

(c) If a person's license sanction is shortened under this Subsection (9), the person is required to pay the license reinstatement fees under Subsections 53-3-105(23) and (24).

[49] (10) (a) (i) Following denial or suspension the division shall assess against a person, in addition to any fee imposed under Subsection 53-3-205(12), a fee under Section 53-3-105, which shall be paid before the person's driving privilege is reinstated, to cover administrative costs.

(ii) This fee shall be canceled if the person obtains an unappealed division hearing or court decision that the suspension was not proper.

(b) A person whose operator license has been denied, suspended, or postponed by the division under this section following an administrative hearing may file a petition within 30 days after the suspension for a hearing on the matter which, if held, is governed by Section 53-3-224.

[40] (11) After reinstatement of an operator license for a first offense under this section, a report authorized under Section 53-3-104 may not

contain evidence of the denial or suspension of the person's operator license under this section if the person has not been convicted of any other offense for which the denial or suspension may be extended.

[41] (12) (a) In addition to the penalties in Subsection (8), a person who violates Subsection (2)(a) shall:

(i) obtain an assessment and recommendation for appropriate action from a substance abuse program, but any associated costs shall be the person's responsibility; or

(ii) be referred by the division to the local substance abuse authority for an assessment and recommendation for appropriate action.

(b) (i) Reinstatement of the person's operator license or the right to obtain an operator license within five years of the effective date of the license sanction under Subsection (8) is contingent upon successful completion of the action recommended by the local substance abuse authority or the substance abuse program.

(ii) The local substance abuse authority's or the substance abuse program's recommended action shall be determined by an assessment of the person's alcohol abuse and may include:

(A) a targeted education and prevention program;

(B) an early intervention program; or

(C) a substance abuse treatment program.

(iii) Successful completion of the recommended action shall be determined by standards established by the Division of Substance Abuse and Mental Health.

(c) At the conclusion of the penalty period imposed under Subsection (2), the local substance abuse authority or the substance abuse program shall notify the division of the person's status regarding completion of the recommended action.

(d) The local substance abuse authorities and the substance abuse programs shall cooperate with the division in:

(i) conducting the assessments;

(ii) making appropriate recommendations for action; and

(iii) notifying the division about the person's status regarding completion of the recommended action.

(e) (i) The local substance abuse authority is responsible for the cost of the assessment of the person's alcohol abuse, if the assessment is conducted by the local substance abuse authority.

(ii) The local substance abuse authority or a substance abuse program selected by a person is responsible for:

(A) conducting an assessment of the person's alcohol abuse; and

(B) for making a referral to an appropriate program on the basis of the findings of the assessment.

(iii) (A) The person who violated Subsection (2)(a) is responsible for all costs and fees associated with the recommended program to which the person selected or is referred.

(B) The costs and fees under Subsection [(11)] (12)(e)(iii)(A) shall be based on a sliding scale consistent with the local substance abuse authority's policies and practices regarding fees for services or determined by the substance abuse program.

Section 3. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 8**H. B. 27**

Passed February 13, 2014
 Approved February 19, 2014
 Effective May 13, 2014

**INTERLOCAL COOPERATION
 ACT AMENDMENTS**

Chief Sponsor: Roger E. Barrus
 Senate Sponsor: Ralph Okerlund

LONG TITLE**General Description:**

This bill allows certain parties to enter into an interlocal agreement that extends beyond a maximum term requirement.

Highlighted Provisions:

This bill:

- ▶ allows certain parties to enter into an interlocal agreement that extends beyond a maximum 50-year term requirement; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

11-13-216, as last amended by Laws of Utah 2003,
 Chapter 38

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

Section 1. Section 11-13-216 is amended to read:

11-13-216. Term of agreements.

(1) Except as provided in [Subsection] Subsections (2) and 11-13-204(3), each agreement under this chapter shall extend for a term [øf] not to exceed 50 years.

(2) Subsection (1) does not apply to an agreement to which:

- (a) a project entity is a party;
- (b) an electric interlocal entity is a party; or
- (c) an energy services interlocal entity is a party.

**CHAPTER 9
S.B. 1**

Passed February 5, 2014
Approved February 19, 2014
Effective July 1, 2014

HIGHER EDUCATION BASE BUDGET

Chief Sponsor: Stephen H. Urquhart
House Sponsor: Keith Grover

LONG TITLE

Committee Note:

The Executive Appropriations Committee recommended this bill.

General Description:

This bill appropriates funds for the support and operation of Higher Education for the fiscal year beginning July 1, 2014 and ending June 30, 2015.

Highlighted Provisions:

This bill:

- ▶ provides appropriations for the use and support of higher education agencies and institutions;
- ▶ provides appropriations for the use and support of the Utah Medical Education Council; and
- ▶ provides appropriations for other purposes as described.

Money Appropriated in this Bill:

This bill appropriates \$1,465,863,800 in operating and capital budgets for fiscal year 2015, including:

- ▶ \$442,164,600 from the General Fund;
- ▶ \$339,865,000 from the Education Fund;
- ▶ \$683,834,200 from various sources as detailed in this bill.

Other Special Clauses:

This bill takes effect on July 1, 2014.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2015 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2014 and ending June 30, 2015.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Utah Code Title 63J, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use and support of the government of the State of Utah.

UNIVERSITY OF UTAH

Item 1

To University of Utah - Education and General
From General Fund 138,353,000
From Education Fund 68,590,700
From Dedicated Credits Revenue ... 224,620,000

From Dedicated Credits -
Land Grant Management 502,100
From Transfers - Utah System of
Higher Education 3,699,800
From Beginning Nonlapsing
Appropriation Balances 14,558,800
From Closing Nonlapsing Appropriation
Balances (14,558,800)
Schedule of Programs:
Education and General 435,765,600

Item 2

To University of Utah -
Educationally Disadvantaged
From General Fund 612,100
From Education Fund 67,700
From Revenue Transfers - Commission
on Criminal and Juvenile Justice 34,500
From Beginning Nonlapsing
Appropriation Balances 252,100
From Closing Nonlapsing Appropriation
Balances (252,100)
Schedule of Programs:
Educationally Disadvantaged 714,300

Item 3

To University of Utah - School of Medicine
From General Fund 906,100
From Education Fund 29,871,700
From Dedicated Credits Revenue ... 17,308,300
From Beginning Nonlapsing
Appropriation Balances 1,897,700
From Closing Nonlapsing Appropriation
Balances (1,897,700)
Schedule of Programs:
School of Medicine 48,086,100

Item 4

To University of Utah - Health Sciences
From General Fund 1,762,100
From General Fund Restricted -
Cigarette Tax Restricted Account ... 4,800,000
From General Fund Restricted -
Tobacco Settlement Account 4,000,000
From Beginning Nonlapsing
Appropriation Balances 1,042,900
From Closing Nonlapsing Appropriation
Balances (1,042,900)
Schedule of Programs:
Health Sciences 10,562,100

Item 5

To University of Utah - University Hospital
From General Fund 3,854,400
From Education Fund 769,300
From Dedicated Credits -
Land Grant Management 455,800
From Beginning Nonlapsing
Appropriation Balances 174,700
From Closing Nonlapsing Appropriation
Balances (174,700)
Schedule of Programs:
University Hospital 4,530,500
Miners' Hospital 549,000

Item 6

To University of Utah - Regional
Dental Education Program
From General Fund 481,000
From Education Fund 48,600

From Dedicated Credits Revenue 777,000
 From Beginning Nonlapsing
 Appropriation Balances (5,900)
 From Closing Nonlapsing Appropriation
 Balances 5,900
 Schedule of Programs:
 Regional Dental Education
 Program 1,306,600

Item 7

To University of Utah - Public Service
 From General Fund 5,800
 From Education Fund 1,689,200
 From Beginning Nonlapsing
 Appropriation Balances 187,800
 From Closing Nonlapsing Appropriation
 Balances (187,800)
 Schedule of Programs:
 Seismograph Stations 692,800
 Natural History Museum of Utah 888,100
 State Arboretum 114,100

Item 8

To University of Utah -
 Statewide TV Administration
 From General Fund 2,095,300
 From Education Fund 319,600
 From Beginning Nonlapsing
 Appropriation Balances 644,600
 From Closing Nonlapsing Appropriation
 Balances (644,600)
 Schedule of Programs:
 Public Broadcasting 2,414,900

Item 9

To University of Utah - Poison Control Center
 From Dedicated Credits Revenue 1,598,700
 From Beginning Nonlapsing
 Appropriation Balances 1,060,200
 From Closing Nonlapsing Appropriation
 Balances (1,060,200)
 Schedule of Programs:
 Poison Control Center 1,598,700

Item 10

To University of Utah - Utah Tele-Health
 Network
 From General Fund 454,400
 From Beginning Nonlapsing
 Appropriation Balances 12,000
 From Closing Nonlapsing Appropriation
 Balances (12,000)
 Schedule of Programs:
 Utah Tele-Health Network 454,400

Item 11

To University of Utah - Center on Aging
 From General Fund 101,200
 Schedule of Programs:
 Center on Aging 101,200

Item 12

To University of Utah - Rocky Mountain Center for
 Occupational and Environmental Health
 From General Fund Restricted -
 Workplace Safety Account 152,500
 From Beginning Nonlapsing
 Appropriation Balances 7,100
 From Closing Nonlapsing Appropriation
 Balances (7,100)

Schedule of Programs:
 Center for Occupational and
 Environmental Health 152,500

UTAH STATE UNIVERSITY

Item 13

To Utah State University - Education and
 General
 From General Fund 97,445,400
 From Education Fund 17,630,100
 From Dedicated Credits Revenue 76,540,400
 From Dedicated Credits -
 Land Grant Management 150,600
 From Transfers - Utah System of
 Higher Education 852,100
 From Beginning Nonlapsing
 Appropriation Balances 2,139,600
 From Closing Nonlapsing Appropriation
 Balances (2,139,600)
 Schedule of Programs:
 Education and General 189,258,000
 USU - School of Veterinary
 Medicine 3,360,600

Item 14

To Utah State University - USU -
 Eastern Education and General
 From Education Fund 11,930,700
 From Dedicated Credits Revenue 2,348,000
 From Transfers - Utah System of
 Higher Education 184,400
 From Beginning Nonlapsing
 Appropriation Balances 1,377,300
 From Closing Nonlapsing Appropriation
 Balances (1,377,300)
 Schedule of Programs:
 USU - Eastern Education and
 General 14,463,100

Item 15

To Utah State University -
 Educationally Disadvantaged
 From General Fund 236,100
 From Education Fund 23,600
 From Beginning Nonlapsing
 Appropriation Balances 8,100
 From Closing Nonlapsing Appropriation
 Balances (8,100)
 Schedule of Programs:
 Educationally Disadvantaged 259,700

Item 16

To Utah State University - USU -
 Eastern Educationally Disadvantaged
 From General Fund 103,100
 From Education Fund 1,900
 From Beginning Nonlapsing
 Appropriation Balances 11,200
 From Closing Nonlapsing Appropriation
 Balances (11,200)
 Schedule of Programs:
 USU - Eastern Educationally
 Disadvantaged 105,000

Item 17

To Utah State University - USU -
 Eastern Career and Technical Education
 From General Fund 170,100
 From Education Fund 1,153,000

From Dedicated Credits Revenue 35,000
 From Beginning Nonlapsing
 Appropriation Balances 297,100
 From Closing Nonlapsing Appropriation
 Balances (297,100)
 Schedule of Programs:
 USU – Eastern Career and Technical
 Education 1,358,100

Item 18

To Utah State University – Uintah
 Basin Regional Campus
 From General Fund 2,264,900
 From Education Fund 1,604,800
 From Dedicated Credits Revenue 2,186,000
 From Beginning Nonlapsing
 Appropriation Balances 353,600
 From Closing Nonlapsing Appropriation
 Balances (353,600)
 Schedule of Programs:
 Uintah Basin Regional Campus 6,055,700

Item 19

To Utah State University –
 Southeastern Continuing Education Center
 From General Fund 577,700
 From Education Fund 103,800
 From Dedicated Credits Revenue 1,225,000
 From Beginning Nonlapsing
 Appropriation Balances 52,500
 From Closing Nonlapsing Appropriation
 Balances (52,500)
 Schedule of Programs:
 Southeastern Continuing Education
 Center 1,906,500

Item 20

To Utah State University – Brigham
 City Regional Campus
 From General Fund 987,600
 From Education Fund 1,538,900
 From Dedicated Credits Revenue 21,914,000
 From Beginning Nonlapsing
 Appropriation Balances 652,400
 From Closing Nonlapsing Appropriation
 Balances (652,400)
 Schedule of Programs:
 Brigham City Regional Campus 24,440,500

Item 21

To Utah State University –
 Tooele Regional Campus
 From General Fund 649,800
 From Education Fund 1,483,700
 From Dedicated Credits Revenue 8,723,000
 From Beginning Nonlapsing
 Appropriation Balances 498,900
 From Closing Nonlapsing Appropriation
 Balances (498,900)
 Schedule of Programs:
 Tooele Regional Campus 10,856,500

Item 22

To Utah State University –
 Water Research Laboratory
 From General Fund 1,323,900
 From Education Fund 449,000
 From General Fund Restricted –
 Mineral Lease 1,745,800

From General Fund Restricted – Land
 Exchange Distribution Account 232,400
 From Beginning Nonlapsing
 Appropriation Balances 5,368,600
 From Closing Nonlapsing Appropriation
 Balances (5,368,600)
 Schedule of Programs:
 Water Research Laboratory 3,751,100

Item 23

To Utah State University – Agriculture
 Experiment Station
 From General Fund 958,200
 From Education Fund 11,162,000
 From Federal Funds 1,813,800
 From Transfers – Utah System of
 Higher Education 173,800
 From Beginning Nonlapsing
 Appropriation Balances 3,549,400
 From Closing Nonlapsing Appropriation
 Balances (3,549,400)
 Schedule of Programs:
 Agriculture Experiment Station 14,107,800

Item 24

To Utah State University – Cooperative
 Extension
 From General Fund 1,010,000
 From Education Fund 11,188,700
 From Federal Funds 2,088,500
 From Transfers – Utah System of
 Higher Education 154,600
 From Beginning Nonlapsing
 Appropriation Balances 2,268,900
 From Closing Nonlapsing Appropriation
 Balances (2,268,900)
 Schedule of Programs:
 Cooperative Extension 14,441,800

Item 25

To Utah State University – Prehistoric Museum
 From General Fund 145,100
 From Education Fund 108,900
 From Beginning Nonlapsing
 Appropriation Balances 137,600
 From Closing Nonlapsing Appropriation
 Balances (137,600)
 Schedule of Programs:
 Prehistoric Museum 254,000

Item 26

To Utah State University – Blanding Campus
 From General Fund 1,635,700
 From Education Fund 509,800
 From Dedicated Credits Revenue 1,077,000
 From Transfers – Utah System of
 Higher Education 32,200
 From Beginning Nonlapsing
 Appropriation Balances 268,000
 From Closing Nonlapsing Appropriation
 Balances (268,000)
 Schedule of Programs:
 Blanding Campus 3,254,700

WEBER STATE UNIVERSITY**Item 27**

To Weber State University –
 Education and General
 From General Fund 62,381,900

From Education Fund 3,956,400
 From Dedicated Credits Revenue 68,645,300
 From Transfers - Utah System of
 Higher Education 367,400
 From Beginning Nonlapsing
 Appropriation Balances 5,110,500
 From Closing Nonlapsing Appropriation
 Balances (5,110,500)
 Schedule of Programs:
 Education and General 135,351,000

Item 28

To Weber State University -
 Educationally Disadvantaged
 From General Fund 296,700
 From Education Fund 52,800
 From Beginning Nonlapsing
 Appropriation Balances 60,800
 From Closing Nonlapsing Appropriation
 Balances (60,800)
 Schedule of Programs:
 Educationally Disadvantaged 349,500

SOUTHERN UTAH UNIVERSITY

Item 29

To Southern Utah University -
 Education and General
 From General Fund 11,310,300
 From Education Fund 20,138,800
 From Dedicated Credits Revenue 33,758,000
 From Transfers - Utah System of
 Higher Education 226,100
 From Beginning Nonlapsing
 Appropriation Balances 1,022,000
 From Closing Nonlapsing Appropriation
 Balances (1,022,000)
 Schedule of Programs:
 Education and General 65,433,200

Item 30

To Southern Utah University -
 Educationally Disadvantaged
 From General Fund 81,400
 From Education Fund 9,000
 From Beginning Nonlapsing
 Appropriation Balances 6,800
 From Closing Nonlapsing Appropriation
 Balances (6,800)
 Schedule of Programs:
 Educationally Disadvantaged 90,400

Item 31

To Southern Utah University -
 Shakespeare Festival
 From General Fund 9,100
 From Education Fund 12,500
 Schedule of Programs:
 Shakespeare Festival 21,600

Item 32

To Southern Utah University - Rural Development
 From General Fund 82,700
 From Education Fund 14,800
 From Beginning Nonlapsing
 Appropriation Balances 5,000
 From Closing Nonlapsing Appropriation
 Balances (5,000)
 Schedule of Programs:

Rural Development 97,500

UTAH VALLEY UNIVERSITY

Item 33

To Utah Valley University - Education and General
 From General Fund 57,662,000
 From Education Fund 12,017,300
 From Dedicated Credits Revenue 97,111,500
 From Transfers - Utah System of
 Higher Education 822,900
 From Beginning Nonlapsing
 Appropriation Balances 8,661,400
 From Closing Nonlapsing Appropriation
 Balances (8,661,400)
 Schedule of Programs:
 Education and General 167,613,700

Item 34

To Utah Valley University -
 Educationally Disadvantaged
 From General Fund 138,900
 From Education Fund 21,400
 From Beginning Nonlapsing
 Appropriation Balances 1,500
 From Closing Nonlapsing Appropriation
 Balances (1,500)
 Schedule of Programs:
 Educationally Disadvantaged 160,300

SNOW COLLEGE

Item 35

To Snow College - Education and General
 From General Fund 1,532,300
 From Education Fund 16,676,700
 From Dedicated Credits Revenue 9,009,300
 From Transfers - Utah System of
 Higher Education 143,400
 From Beginning Nonlapsing
 Appropriation Balances 1,263,300
 From Closing Nonlapsing Appropriation
 Balances (1,263,300)
 Schedule of Programs:
 Education and General 27,361,700

Item 36

To Snow College - Educationally Disadvantaged
 From General Fund 32,000
 Schedule of Programs:
 Educationally Disadvantaged 32,000

Item 37

To Snow College - Career and Technical Education
 From General Fund 1,256,200
 From Education Fund 21,700
 Schedule of Programs:
 Career and Technical Education 1,277,900

DIXIE STATE UNIVERSITY

Item 38

To Dixie State University - Education and General
 From General Fund 2,283,400
 From Education Fund 22,315,800
 From Dedicated Credits Revenue 22,600,800
 From Transfers - Utah System of
 Higher Education 451,600
 From Beginning Nonlapsing
 Appropriation Balances 2,173,300

From Closing Nonlapsing Appropriation
Balances (2,173,300)
Schedule of Programs:
Education and General 47,651,600

Item 39

To Dixie State University -
Educationally Disadvantaged
From General Fund 25,500
From Beginning Nonlapsing
Appropriation Balances 900
From Closing Nonlapsing Appropriation
Balances (900)
Schedule of Programs:
Educationally Disadvantaged 25,500

Item 40

To Dixie State University -
Zion Park Amphitheater
From General Fund 47,000
From Education Fund 5,000
From Dedicated Credits Revenue 33,500
From Beginning Nonlapsing
Appropriation Balances (14,300)
From Closing Nonlapsing Appropriation
Balances 14,300
Schedule of Programs:
Zion Park Amphitheater 85,500

SALT LAKE COMMUNITY COLLEGE**Item 41**

To Salt Lake Community College -
Education and General
From General Fund 10,000,600
From Education Fund 53,376,100
From Dedicated Credits Revenue 58,841,400
From Transfers - Utah System of
Higher Education 565,500
From Beginning Nonlapsing
Appropriation Balances 3,955,200
From Closing Nonlapsing Appropriation
Balances (3,955,200)
Schedule of Programs:
Education and General 122,783,600

Item 42

To Salt Lake Community College -
Educationally Disadvantaged
From General Fund 178,400
From Beginning Nonlapsing
Appropriation Balances 48,700
From Closing Nonlapsing Appropriation
Balances (48,700)
Schedule of Programs:
Educationally Disadvantaged 178,400

Item 43

To Salt Lake Community College -
School of Applied Technology
From General Fund 4,140,200
From Education Fund 1,794,800
From Dedicated Credits Revenue 947,000
From Beginning Nonlapsing
Appropriation Balances 179,100
From Closing Nonlapsing Appropriation
Balances (179,100)
Schedule of Programs:
School of Applied Technology 6,882,000

STATE BOARD OF REGENTS**Item 44**

To State Board of Regents - Administration
From General Fund 2,807,100
From Education Fund 322,800
From Federal Funds 303,100
From Beginning Nonlapsing
Appropriation Balances 126,400
From Closing Nonlapsing Appropriation
Balances 123,600
Schedule of Programs:
Administration 3,379,900
Federal Programs 303,100

Item 45

To State Board of Regents - Student Assistance
From General Fund 7,449,500
From Education Fund 5,712,600
From Beginning Nonlapsing
Appropriation Balances 196,700
From Closing Nonlapsing Appropriation
Balances (61,700)
Schedule of Programs:
Regents' Scholarship 4,181,500
Student Financial Aid 3,252,800
Minority Scholarships 36,200
New Century Scholarships 2,058,900
Success Stipend 1,391,200
Western Interstate Commission
for Higher Education 898,800
T.H. Bell Teaching Incentive
Loans Program 1,477,700

Item 46

To State Board of Regents - Student Support
From General Fund 766,900
From Education Fund 805,800
From Beginning Nonlapsing
Appropriation Balances 4,200
From Closing Nonlapsing Appropriation
Balances (4,200)
Schedule of Programs:
Services for Hearing Impaired
Students 796,300
Concurrent Enrollment 432,100
Articulation Support 265,600
Campus Compact 78,700

Item 47

To State Board of Regents - Technology
From General Fund 3,997,200
From Education Fund 3,186,300
From Beginning Nonlapsing
Appropriation Balances 1,100
From Closing Nonlapsing Appropriation
Balances (1,100)
Schedule of Programs:
Higher Education Technology
Initiative 4,573,500
Utah Academic Library
Consortium 2,610,000

Item 48

To State Board of Regents - Economic
Development
From General Fund 352,300
From Beginning Nonlapsing
Appropriation Balances 36,400
From Closing Nonlapsing Appropriation
Balances 23,600

Schedule of Programs:
 Engineering Loan Repayment 38,400
 Economic Development Initiatives 373,900

Item 49

To State Board of Regents - Education Excellence
 From Beginning Nonlapsing
 Appropriation Balances 2,177,500
 From Closing Nonlapsing Appropriation
 Balances 1,500
 Schedule of Programs:
 Education Excellence 2,179,000

Item 50

To State Board of Regents -
 Medical Education Council
 From General Fund 548,100
 From Dedicated Credits Revenue 474,400
 From Beginning Nonlapsing
 Appropriation Balances 673,300
 From Closing Nonlapsing Appropriation
 Balances (673,300)
 Schedule of Programs:
 Medical Education Council 1,022,500

**UTAH COLLEGE OF
 APPLIED TECHNOLOGY**

Item 51

To Utah College of Applied
 Technology - Administration
 From General Fund 2,962,100
 From Education Fund 1,836,200
 Schedule of Programs:
 Administration 1,578,000
 Equipment 561,100
 Custom Fit 2,659,200

Item 52

To Utah College of Applied Technology -
 Bridgerland Applied Technology College
 From General Fund 4,100,600
 From Education Fund 5,999,100
 From Dedicated Credits Revenue 1,481,800
 From Beginning Nonlapsing
 Appropriation Balances 15,300
 From Closing Nonlapsing Appropriation
 Balances (15,300)
 Schedule of Programs:
 Bridgerland Applied Technology
 College 11,581,500

Item 53

To Utah College of Applied Technology -
 Davis Applied Technology College
 From General Fund 4,168,400
 From Education Fund 6,794,600
 From Dedicated Credits Revenue 2,283,000
 From Beginning Nonlapsing
 Appropriation Balances 6,000
 From Closing Nonlapsing Appropriation
 Balances (6,000)
 Schedule of Programs:
 Davis Applied Technology College .. 13,246,000

Item 54

To Utah College of Applied Technology -
 Dixie Applied Technology College
 From General Fund 82,800
 From Education Fund 2,691,900

From Dedicated Credits Revenue 115,000
 Schedule of Programs:
 Dixie Applied Technology College ... 2,889,700

Item 55

To Utah College of Applied Technology -
 Mountainland Applied Technology College
 From Education Fund 6,087,400
 From Dedicated Credits Revenue 873,000
 Schedule of Programs:
 Mountainland Applied Technology
 College 6,960,400

Item 56

To Utah College of Applied Technology -
 Ogden/Weber Applied Technology College
 From General Fund 5,057,400
 From Education Fund 6,632,700
 From Dedicated Credits Revenue 1,675,500
 From Beginning Nonlapsing
 Appropriation Balances 2,700
 From Closing Nonlapsing Appropriation
 Balances (2,700)
 Schedule of Programs:
 Ogden/Weber Applied Technology
 College 13,365,600

Item 57

To Utah College of Applied Technology - Southwest
 Applied Technology College
 From General Fund 161,400
 From Education Fund 2,814,000
 From Dedicated Credits Revenue 322,400
 Schedule of Programs:
 Southwest Applied Technology
 College 3,297,800

Item 58

To Utah College of Applied Technology -
 Tooele Applied Technology College
 From General Fund 844,000
 From Education Fund 1,758,100
 From Dedicated Credits Revenue 149,000
 Schedule of Programs:
 Tooele Applied Technology College .. 2,751,100

Item 59

To Utah College of Applied Technology -
 Uintah Basin Applied Technology College
 From General Fund 1,275,200
 From Education Fund 4,564,700
 From Dedicated Credits Revenue 584,000
 Schedule of Programs:
 Uintah Basin Applied Technology
 College 6,423,900

Section 2. Effective Date.

This bill takes effect on July 1, 2014.

**CHAPTER 10
S.B. 4**

Passed February 5, 2014
Approved February 19, 2014
Effective July 1, 2014

**BUSINESS, ECONOMIC DEVELOPMENT,
AND LABOR BASE BUDGET**

Chief Sponsor: Brian E. Shiozawa
House Sponsor: Jim Bird

LONG TITLE

General Description:

This bill appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2014 and ending June 30, 2015.

Highlighted Provisions:

This bill:

- ▶ provides appropriations for the use and support of certain state agencies;
- ▶ provides appropriations for other purposes as described.

Money Appropriated in this Bill:

This bill appropriates \$251,544,000 in operating and capital budgets for fiscal year 2015, including:

- ▶ \$85,066,100 from the General Fund;
- ▶ \$19,884,400 from the Education Fund;
- ▶ \$146,593,500 from various sources as detailed in this bill.

This bill appropriates \$11,322,300 in expendable funds and accounts for fiscal year 2015.

This bill appropriates \$1,158,400 in business-like activities for fiscal year 2015.

This bill appropriates \$8,060,200 in restricted fund and account transfers for fiscal year 2015, including:

- ▶ \$555,000 from the General Fund;
- ▶ \$7,505,200 from various sources as detailed in this bill.

This bill appropriates \$21,133,100 in fiduciary funds for fiscal year 2015.

Other Special Clauses:

This bill takes effect on July 1, 2014.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2015 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2014 and ending June 30, 2015.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Utah Code Title 63J, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use

and support of the government of the State of Utah.

DEPARTMENT OF HERITAGE AND ARTS

Item 1

To Department of Heritage and Arts - Administration
From General Fund 3,620,200
From Federal Funds 4,020,600
From Dedicated Credits Revenue 186,500
Schedule of Programs:
Executive Director's Office 522,900
Information Technology 1,055,700
Administrative Services 1,635,200
Utah Multicultural Affairs Office 292,800
Commission on Service and Volunteerism 4,320,700

Item 2

To Department of Heritage and Arts - Historical Society
From Dedicated Credits Revenue 104,400
Schedule of Programs:
State Historical Society 104,400

Item 3

To Department of Heritage and Arts - State History
From General Fund 1,972,400
From Federal Funds 840,000
From Dedicated Credits Revenue 110,200
Schedule of Programs:
Administration 244,900
Library and Collections 568,200
Public History, Communication and Information 397,200
Historic Preservation and Antiquities 1,687,300
History Projects 25,000

Item 4

To Department of Heritage and Arts - Division of Arts and Museums
From General Fund 2,457,000
From Federal Funds 788,900
From Dedicated Credits Revenue 48,900
Schedule of Programs:
Administration 542,600
Grants to Non-profits 1,382,700
Community Arts Outreach 1,369,500

Item 5

To Department of Heritage and Arts - Division of Arts and Museums - Office of Museum Services
From General Fund 270,600
Schedule of Programs:
Office of Museum Services 270,600

Item 6

To Department of Heritage and Arts - State Library
From General Fund 4,209,500
From Federal Funds 1,873,500
From Dedicated Credits Revenue 1,799,000
Schedule of Programs:
Administration 1,469,800
Blind and Disabled 1,731,000
Library Development 2,327,600
Library Resources 2,353,600

Item 7

To Department of Heritage and Arts - Indian Affairs

From General Fund 218,200
 From Dedicated Credits Revenue 47,000
 Schedule of Programs:
 Indian Affairs 265,200

**GOVERNOR'S OFFICE OF
 ECONOMIC DEVELOPMENT**

Item 8

To Governor's Office of Economic
 Development - Administration
 From General Fund 5,851,100
 From Federal Funds 500,000
 From Dedicated Credits Revenue 796,800
 Schedule of Programs:
 Administration 7,147,900

Item 9

To Governor's Office of Economic
 Development - STEM Action Center
 From General Fund 1,500,000
 Schedule of Programs:
 STEM Action Center 1,500,000

Item 10

To Governor's Office of Economic
 Development - Office of Tourism
 From General Fund 3,981,400
 From Transportation Fund 118,000
 From Dedicated Credits Revenue 259,500
 Schedule of Programs:
 Administration 1,120,000
 Operations and Fulfillment 2,479,900
 Film Commission 759,000

Item 11

To Governor's Office of Economic
 Development - Business Development
 From General Fund 7,821,200
 From Federal Funds 907,900
 From Dedicated Credits Revenue 251,000
 From General Fund Restricted - Industrial
 Assistance Account 250,000
 Schedule of Programs:
 Outreach and International Trade . . . 5,787,600
 Corporate Recruitment and
 Business Services 3,442,500

Item 12

To Governor's Office of Economic Development -
 Pete Suazo Utah Athletics Commission
 From General Fund 154,200
 From Dedicated Credits Revenue 65,200
 Schedule of Programs:
 Pete Suazo Utah Athletics
 Commission 219,400

UTAH STATE TAX COMMISSION

Item 13

To Utah State Tax Commission -
 Tax Administration
 From General Fund 25,212,300
 From Education Fund 19,884,400
 From Transportation Fund 5,857,400
 From Federal Funds 537,100
 From Dedicated Credits Revenue 9,104,200
 From General Fund Restricted -
 Electronic Payment Fee Restricted
 Account 5,759,700

From General Fund Restricted -
 Tax Commission Administrative
 Charge 9,492,300
 From General Fund Restricted -
 Tobacco Settlement Account 18,500
 From Uninsured Motorist Identification
 Restricted Account 133,800
 From Revenue Transfers - Federal
 Government Pass-through 136,800
 From Beginning Nonlapsing
 Appropriation Balances 3,044,600
 From Closing Nonlapsing Appropriation
 Balances (1,950,600)
 Schedule of Programs:
 Administration Division 9,498,600
 Auditing Division 10,827,300
 Multi-State Tax Compact 247,200
 Technology Management 9,796,300
 Tax Processing Division 7,044,900
 Seasonal Employees 150,000
 Tax Payer Services 10,295,000
 Property Tax Division 4,804,800
 Motor Vehicles 20,995,700
 Motor Vehicle Enforcement
 Division 3,570,700

Item 14

To Utah State Tax Commission -
 License Plates Production
 From Dedicated Credits Revenue 1,969,300
 From Beginning Nonlapsing
 Appropriation Balances 1,217,000
 From Closing Nonlapsing Appropriation
 Balances (724,400)
 Schedule of Programs:
 License Plates Production 2,461,900

Item 15

To Utah State Tax Commission - Rural
 Health Care Facilities Distribution
 From General Fund Restricted -
 Rural Healthcare Facilities Fund 555,000
 From Lapsing Balance (336,200)
 Schedule of Programs:
 Rural Health Care Facilities
 Distribution 218,800

Item 16

To Utah State Tax Commission -
 Liquor Profit Distribution
 From General Fund Restricted-Alcoholic
 Beverage Enforcement
 & Treatment 5,463,800
 Schedule of Programs:
 Liquor Profit Distribution 5,463,800

**UTAH SCIENCE TECHNOLOGY AND
 RESEARCH GOVERNING AUTHORITY**

Item 17

To Utah Science Technology and
 Research Governing Authority
 From General Fund 3,495,100
 From Dedicated Credits Revenue 5,200
 From Beginning Nonlapsing
 Appropriation Balances 186,500
 From Closing Nonlapsing Appropriation
 Balances (130,800)
 Schedule of Programs:
 Administration 706,900

Technology Outreach 2,849,100

Item 18

To Utah Science Technology and Research
Governing Authority - Utah Science Technology
and Research Governing Authority Research
Teams

From General Fund 18,518,900

Schedule of Programs:

Utah State University 7,407,600

University of Utah 11,111,300

**DEPARTMENT OF ALCOHOLIC
BEVERAGE CONTROL**

Item 19

To Department of Alcoholic Beverage
Control - DABC Operations

From Liquor Control Fund 38,017,800

Schedule of Programs:

Executive Director 1,882,700

Administration 831,800

Operations 1,997,600

Warehouse and Distribution 4,628,700

Stores and Agencies 28,677,000

Item 20

To Department of Alcoholic Beverage
Control - Parents Empowered

From GFR - Underage Drinking Prevention
Media and Education Campaign

Restricted Account 1,931,800

Schedule of Programs:

Parents Empowered 1,931,800

LABOR COMMISSION

Item 21

To Labor Commission

From General Fund 5,779,600

From Federal Funds 3,143,700

From Dedicated Credits Revenue 26,100

From General Fund Restricted - Industrial
Accident Restricted Account 2,664,300

From General Fund Restricted -

Workplace Safety Account 1,585,700

From Employers' Reinsurance Fund 73,600

Schedule of Programs:

Administration 1,889,100

Industrial Accidents 1,602,800

Appeals Board 12,500

Adjudication 1,149,000

Boiler, Elevator and Coal Mine

Safety Division 1,445,900

Workplace Safety 1,217,700

Anti-Discrimination and Labor 2,008,500

Utah OSHA 3,787,500

Building Operations and

Maintenance 160,000

DEPARTMENT OF COMMERCE

Item 22

To Department of Commerce - Commerce
General Regulation

From Federal Funds 396,600

From Dedicated Credits Revenue 1,298,500

From General Fund Restricted -

Commerce Service Account 19,665,600

From General Fund Restricted -

Commerce Service Account -

Public Utilities Regulatory Fee 4,715,000

From General Fund Restricted -

Factory Built Housing Fees 100,000

From General Fund Restricted -

Geologist Education and Enforcement

Account 10,000

From General Fund Restricted - Nurse

Education & Enforcement Account 14,700

From General Fund Restricted -

Pawnbroker Operations 129,000

From General Fund Restricted -

Utah Housing Opportunity

Restricted Account 20,000

From Pass-through 50,000

Schedule of Programs:

Administration 3,157,200

Occupational and Professional

Licensing 9,305,400

Securities 2,104,600

Consumer Protection 1,874,200

Corporations and Commercial

Code 2,404,800

Real Estate 2,259,000

Public Utilities 3,982,800

Office of Consumer Services 1,038,800

Building Operations and

Maintenance 272,600

Item 23

To Department of Commerce -

Building Inspector Training

From Dedicated Credits Revenue 260,000

Schedule of Programs:

Building Inspector Training 260,000

Item 24

To Department of Commerce - Public

Utilities Professional and Technical Services

From General Fund Restricted -

Commerce Service Account -

Public Utilities Regulatory Fee 150,000

From Beginning Nonlapsing

Appropriation Balances 150,000

Schedule of Programs:

Professional and Technical Services . . . 300,000

Item 25

To Department of Commerce - Office of Consumer

Services Professional and Technical Services

From General Fund Restricted -

Commerce Service Account -

Public Utilities Regulatory Fee 500,100

From Beginning Nonlapsing

Appropriation Balances 500,100

Schedule of Programs:

Professional and Technical

Services 1,000,200

FINANCIAL INSTITUTIONS

Item 26

To Financial Institutions - Financial

Institutions Administration

From General Fund Restricted -

Financial Institutions 6,538,500

Schedule of Programs:

Administration 6,318,500

Building Operations and

Maintenance 220,000

INSURANCE DEPARTMENT

Item 27

To Insurance Department - Insurance
 Department Administration
 From Federal Funds 1,340,000
 From General Fund Restricted - Guaranteed
 Asset Protection Waiver 89,000
 From General Fund Restricted -
 Insurance Department Account 8,550,000
 From General Fund Restricted - Insurance
 Fraud Investigation Account 2,117,700
 From General Fund Restricted -
 Relative Value Study Account 84,000
 From General Fund Restricted -
 Technology Development 621,400
 From General Fund Restricted -
 Criminal Background Check 165,000
 From General Fund Restricted -
 Captive Insurance 963,500
 From Beginning Nonlapsing
 Appropriation Balances 1,028,500
 From Closing Nonlapsing Appropriation
 Balances (1,039,900)
 Schedule of Programs:
 Administration 9,750,000
 Relative Value Study 84,000
 Insurance Fraud Program 2,105,400
 Captive Insurers 987,700
 Electronic Commerce Fee 728,100
 GAP Waiver Program 89,000
 Criminal Background Checks 175,000

Item 28

To Insurance Department - Comprehensive
 Health Insurance Pool
 From Federal Funds 500,000
 From Dedicated Credits Revenue 40,300
 From Beginning Nonlapsing
 Appropriation Balances 16,357,500
 From Closing Nonlapsing Appropriation
 Balances (24,724,200)
 Schedule of Programs:
 Comprehensive Health Insurance
 Pool (7,826,400)

Item 29

To Insurance Department - Health
 Insurance Actuary
 From General Fund Restricted -
 Health Insurance Actuarial
 Review Account 147,000
 From Beginning Nonlapsing
 Appropriation Balances 284,800
 From Closing Nonlapsing Appropriation
 Balances (281,300)
 Schedule of Programs:
 Health Insurance Actuary 150,500

Item 30

To Insurance Department - Bail Bond Program
 From General Fund Restricted - Bail Bond Surety
 Administration 23,500
 Schedule of Programs:
 Bail Bond Program 23,500

Item 31

To Insurance Department -
 Title Insurance Program
 From General Fund 4,400

From General Fund Restricted - Title
 Licensee Enforcement Account 83,200
 From Beginning Nonlapsing
 Appropriation Balances 3,900
 Schedule of Programs:
 Title Insurance Program 91,500

PUBLIC SERVICE COMMISSION

Item 32

To Public Service Commission
 From Federal Funds 112,000
 From Federal Funds - American Recovery
 and Reinvestment Act 1,375,000
 From Dedicated Credits Revenue 2,000
 From General Fund Restricted -
 Commerce Service Account -
 Public Utilities Regulatory Fee 2,302,900
 Schedule of Programs:
 Administration 3,761,900
 Building Operations and
 Maintenance 30,000

Item 33

To Public Service Commission -
 Speech and Hearing Impaired
 From Dedicated Credits Revenue 1,200,000
 Schedule of Programs:
 Speech and Hearing Impaired 1,200,000

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated. Outlays and expenditures from the recipient funds or accounts may be made without further legislative action according to a fund or account's applicable authorizing statute.

INSURANCE DEPARTMENT

Item 34

To Insurance Department - Insurance
 Fraud Victim Restitution Fund
 From General Fund Restricted - Insurance
 Fraud Investigation Account 322,300
 Schedule of Programs:
 Insurance Fraud Victim Restitution
 Fund 322,300

PUBLIC SERVICE COMMISSION

Item 35

To Public Service Commission -
 Universal Telecommunications Support Fund
 From Licenses/Fees 11,000,000
 From Beginning Fund Balance 2,869,100
 From Ending Fund Balance (2,869,100)
 Schedule of Programs:
 Universal Telecom Service Fund ... 11,000,000

Subsection 1(c). Business-like Activities.

The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds as

indicated estimated revenue from rates, fees, and other charges. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated.

Schedule of Programs:
Uninsured Employers Fund 2,257,300

Section 2. Effective Date.
This bill takes effect on July 1, 2014.

INSURANCE DEPARTMENT

Item 36

To Insurance Department -
Federal Health Insurance Pool
From Federal Funds 1,158,400
Schedule of Programs:
Federal HIPUtah 1,158,400

Subsection 1(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts among the following funds or accounts as indicated. Expenditures and outlays from the recipient funds must be authorized elsewhere in an appropriations act.

FUND AND ACCOUNT TRANSFERS

Item 37

To Fund and Account Transfers -
Liquor Control Fund
From Markup Holding Fund 7,505,200
Schedule of Programs:
Liquor Control Fund 7,505,200

Item 38

To Fund and Account Transfers - General Fund
Restricted - Rural Health Care Facilities Fund
From General Fund 555,000
Schedule of Programs:
GFR - Rural Health Care Facilities
Fund 555,000

Subsection 1(e). Fiduciary Funds. The Legislature has reviewed proposed revenues, expenditures, fund balances and changes in fund balances for the following fiduciary funds.

LABOR COMMISSION

Item 39

To Labor Commission - Employers
Reinsurance Fund
From Interest Income 1,000,000
From Premium Tax Collections 13,250,000
From Premium Tax Payments 350,000
From Change in Claim Reserves 1,500,000
From Beginning Fund Balance (69,304,300)
From Ending Fund Balance 72,080,100
Schedule of Programs:
Employers Reinsurance Fund 18,875,800

Item 40

To Labor Commission - Uninsured
Employers Fund
From Dedicated Credits Revenue 2,161,000
From Interest Income 150,000
From Premium Tax Collections 310,000
From Premium Tax Payments 25,000
From Change in Claim Reserves (1,000,000)
From Beginning Fund Balance 5,013,700
From Ending Fund Balance (4,402,400)

CHAPTER 11

S.B. 6

Passed February 5, 2014
 Approved February 19, 2014
 Effective July 1, 2014

INFRASTRUCTURE AND GENERAL GOVERNMENT BASE BUDGET

Chief Sponsor: Wayne A. Harper
 House Sponsor: Gage Froerer

LONG TITLE

General Description:

This bill appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2014 and ending June 30, 2015.

Highlighted Provisions:

This bill:

- ▶ provides appropriations for the use and support of certain state agencies;
- ▶ provides appropriations for other purposes as described;
- ▶ approves employment levels for internal service funds;
- ▶ approves capital acquisition amounts for internal service funds.

Money Appropriated in this Bill:

This bill appropriates \$1,504,018,500 in operating and capital budgets for fiscal year 2015, including:

- ▶ \$110,576,800 from the General Fund;
- ▶ \$38,736,100 from the Education Fund;
- ▶ \$1,354,705,600 from various sources as detailed in this bill.

This bill appropriates \$281,756,100 in business-like activities for fiscal year 2015.

This bill appropriates \$555,994,500 in capital project funds for fiscal year 2015.

Other Special Clauses:

This bill takes effect on July 1, 2014.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2015 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2014 and ending June 30, 2015.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Utah Code Title 63J, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use and support of the government of the State of Utah.

TRANSPORTATION

Item 1

To Transportation - Support Services
 From Transportation Fund 27,324,800
 From Federal Funds 1,982,900
 Schedule of Programs:

Administrative Services	2,451,100
Risk Management	2,726,700
Building and Grounds	987,500
Human Resources Management	1,294,300
Procurement	1,083,100
Comptroller	2,645,600
Data Processing	9,295,800
Internal Auditor	831,200
Community Relations	528,400
Ports of Entry	7,464,000

Item 2

To Transportation - Engineering Services
 From Transportation Fund 16,134,100
 From Federal Funds 15,020,000
 From Dedicated Credits Revenue 1,150,000
 Schedule of Programs:
 Program Development and
 Research

Preconstruction Administration	11,094,000
Environmental	1,878,900
Structures	865,600
Materials Lab	2,898,700
Engineering Services	4,364,500
Right-of-Way	2,211,200
Research	2,053,800
Construction Management	2,715,600
Civil Rights	3,827,500
	394,300

Item 3

To Transportation - Operations/
 Maintenance Management
 From Transportation Fund 139,279,200
 From Transportation Investment
 Fund of 2005

From Federal Funds	2,300,000
From Dedicated Credits Revenue	8,745,900
	1,285,200
Schedule of Programs:	
Maintenance Administration	6,665,100
Region 1	21,479,600
Region 2	30,075,100
Region 3	20,324,100
Region 4	40,478,000
Seasonal Pools	996,900
Lands & Buildings	5,524,000
Field Crews	11,381,800
Traffic Safety/Tramway	3,566,000
Traffic Operations Center	9,108,000
Maintenance Planning	2,011,700

Item 4

To Transportation - Construction Management
 From General Fund 1,470,600
 From Transportation Fund 13,284,700
 From Federal Funds 152,831,400
 From Dedicated Credits Revenue 1,550,000
 From Designated Sales Tax 42,699,800
 Schedule of Programs:
 Federal Construction - New 135,204,700
 Rehabilitation/Preservation 76,631,800

Item 5

To Transportation - Region Management
 From Transportation Fund 22,910,700
 From Federal Funds 3,590,300
 From Dedicated Credits Revenue 1,232,200
 Schedule of Programs:
 Region 1

Region 2	5,611,300
Region 3	9,939,400
	4,818,700

Region 4	6,658,200
Richfield	72,500
Price	292,000
Cedar City	341,100

Item 6

To Transportation - Equipment Management	
From Transportation Fund	1,043,900
From Dedicated Credits Revenue	26,879,400
Schedule of Programs:	
Equipment Purchases	6,022,200
Shops	21,901,100

Item 7

To Transportation - Aeronautics	
From Federal Funds	20,000,000
From Dedicated Credits Revenue	383,600
From Aeronautics Restricted	
Account	6,944,200
Schedule of Programs:	
Administration	508,700
Airport Construction	23,536,100
Civil Air Patrol	80,000
Aid to Local Airports	2,240,000
Airplane Operations	963,000

Item 8

To Transportation - B and C Roads	
From Transportation Fund	127,672,000
Schedule of Programs:	
B and C Roads	127,672,000

Item 9

To Transportation - Safe Sidewalk Construction	
From Transportation Fund	500,000
Schedule of Programs:	
Sidewalk Construction	500,000

Item 10

To Transportation - Mineral Lease	
From General Fund Restricted -	
Mineral Lease	63,929,000
Schedule of Programs:	
Mineral Lease Payments	61,460,000
Payment in Lieu	2,469,000

Item 11

To Transportation - Share the Road	
From General Fund Restricted - Share	
the Road Bicycle Support	35,000
Schedule of Programs:	
Share the Road	35,000

Item 12

To Transportation - Transportation Investment	
Fund Capacity Program	
From Transportation Investment	
Fund of 2005	224,683,900
Schedule of Programs:	
Transportation Investment Fund	
Capacity Program	224,683,900

**DEPARTMENT OF
ADMINISTRATIVE SERVICES**

Item 13

To Department of Administrative	
Services - Executive Director	
From General Fund	806,900

From Beginning Nonlapsing	
Appropriation Balances	75,000
From Closing Nonlapsing Appropriation	
Balances	(65,000)
Schedule of Programs:	
Executive Director	731,500
Parental Defense	85,400

Item 14

To Department of Administrative Services -	
Inspector General of Medicaid Services	
From General Fund	1,054,600
From Revenue Transfers - Medicaid ...	2,238,300
Schedule of Programs:	
Inspector General of Medicaid	
Services	3,292,900

Item 15

To Department of Administrative	
Services - Administrative Rules	
From General Fund	397,000
Schedule of Programs:	
DAR Administration	397,000

Item 16

To Department of Administrative	
Services - DFCM Administration	
From General Fund	2,322,300
From Dedicated Credits Revenue	1,517,800
From Capital Projects Fund	2,005,800
From Capital Project Fund -	
Project Reserve	200,000
From Capital Project Fund -	
Contingency Reserve	82,300
From Beginning Nonlapsing	
Appropriation Balances	507,900
From Closing Nonlapsing Appropriation	
Balances	(507,900)
Schedule of Programs:	
DFCM Administration	5,240,900
Governor's Residence	119,200
Energy Program	768,100

Item 17

To Department of Administrative Services -	
State Archives	
From General Fund	2,243,600
From Federal Funds	100,000
From Dedicated Credits Revenue	51,000
Schedule of Programs:	
Archives Administration	1,035,800
Records Analysis	234,900
Preservation Services	262,900
Patron Services	524,500
Records Services	336,500

Item 18

To Department of Administrative	
Services - Finance Administration	
From General Fund	6,176,600
From Transportation Fund	450,000
From Dedicated Credits Revenue	1,763,700
From General Fund Restricted - Internal	
Service Fund Overhead	1,299,600
From Beginning Nonlapsing	
Appropriation Balances	460,500
Schedule of Programs:	
Finance Director's Office	560,900
Payroll	2,050,600
Payables/Disbursing	1,638,300

Technical Services 987,600
 Financial Reporting 1,631,800
 Financial Information Systems 3,281,200

Item 19

To Department of Administrative Services - Finance - Mandated
 From General Fund 16,450,800
 From General Fund Restricted - Economic Incentive Restricted Account 8,565,600
 From General Fund Restricted - Land Exchange Distribution Account 11,200,000
 Schedule of Programs:
 Land Exchange Distribution 11,200,000
 State Employee Benefits 4,500,000
 Development Zone Partial Rebates .. 8,565,600
 Jail Reimbursement 11,950,800

Item 20

To Department of Administrative Services - Finance - Elected Official Post-Retirement Benefits Contribution
 From General Fund 2,030,000
 Schedule of Programs:
 Elected Official Post-Retirement Trust Fund 2,030,000

Item 21

To Department of Administrative Services - Post Conviction Indigent Defense
 From General Fund 33,900
 Schedule of Programs:
 Post Conviction Indigent Defense Fund 33,900

Item 22

To Department of Administrative Services - Judicial Conduct Commission
 From General Fund 240,400
 From Closing Nonlapsing Appropriation Balances (3,300)
 Schedule of Programs:
 Judicial Conduct Commission 237,100

Item 23

To Department of Administrative Services - Purchasing
 From General Fund 615,900
 Schedule of Programs:
 Purchasing and General Services 615,900

DEPARTMENT OF TECHNOLOGY SERVICES

Item 24

To Department of Technology Services - Chief Information Officer
 From General Fund 557,000
 From Revenue Transfers - Other Agencies 60,000
 Schedule of Programs:
 Chief Information Officer 617,000

Item 25

To Department of Technology Services - Integrated Technology Division
 From General Fund 1,410,200

From Federal Funds 500,000
 From Dedicated Credits Revenue 785,000
 From General Fund Restricted - Statewide Unified E-911 Emergency Account 329,800
 Schedule of Programs:
 Automated Geographic Reference Center 2,375,000
 Statewide Interoperable Communications 650,000

CAPITAL BUDGET

Item 26

To Capital Budget - Capital Improvements
 From General Fund 20,167,300
 From Education Fund 21,571,800
 Schedule of Programs:
 Capital Improvements 41,739,100

STATE BOARD OF BONDING COMMISSIONERS - DEBT SERVICE

Item 27

To State Board of Bonding Commissioners - Debt Service - Debt Service
 From General Fund 54,599,700
 From Education Fund 17,164,300
 From Transportation Investment Fund of 2005 333,204,000
 From Federal Funds 16,999,900
 From Dedicated Credits Revenue 22,955,000
 From County of First Class State Hwy Fund 24,614,700
 From Beginning Nonlapsing Appropriation Balances 2,679,200
 From Closing Nonlapsing Appropriation Balances (755,500)
 Schedule of Programs:
 Debt Service 471,461,300

Subsection 1(b). Business-like Activities.

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

DEPARTMENT OF ADMINISTRATIVE SERVICES INTERNAL SERVICE FUNDS

Item 28

To Department of Administrative Services - Division of Finance
 From Dedicated Credits - Intragovernmental Revenue 1,851,600
 Schedule of Programs:
 ISF - Purchasing Card 345,000
 ISF - Consolidated Budget and Accounting 1,506,600
 Budgeted FTE 20.0

Item 29

To Department of Administrative Services -
 Division of Purchasing and General Services
 From Dedicated Credits -
 Intragovernmental Revenue 19,152,500
 Schedule of Programs:
 ISF - Central Mailing 13,266,300
 ISF - Cooperative Contracting 2,293,800
 ISF - Print Services 3,160,100
 ISF - State Surplus Property 404,800
 ISF - Federal Surplus Property 27,500
 Budgeted FTE 89.7
 Authorized Capital Outlay 3,061,100

Item 30

To Department of Administrative
 Services - Division of Fleet Operations
 From Dedicated Credits -
 Intragovernmental Revenue 70,717,700
 From Sale of Fixed Assets 627,500
 Schedule of Programs:
 ISF - Motor Pool 28,615,500
 ISF - Fuel Network 42,220,200
 ISF - Travel Office 509,500
 Budgeted FTE 27.0
 Authorized Capital Outlay 20,913,800

Item 31

To Department of Administrative Services -
 Risk Management
 From Premiums 33,063,100
 From Interest Income 311,000
 From Risk Management - Workers
 Compensation Fund 9,039,900
 Schedule of Programs:
 ISF - Risk Management
 Administration 33,374,100
 ISF - Workers' Compensation 9,039,900
 Budgeted FTE 27.0
 Authorized Capital Outlay 200,000

Item 32

To Department of Administrative Services -
 Division of Facilities Construction
 and Management - Facilities Management
 From Dedicated Credits -
 Intragovernmental Revenue 29,103,900
 Schedule of Programs:
 ISF - Facilities Management 29,103,900
 Budgeted FTE 134.0
 Authorized Capital Outlay 39,000

**DEPARTMENT OF TECHNOLOGY
 SERVICES INTERNAL SERVICE FUNDS**

Item 33

To Department of Technology
 Services - Operations
 From Dedicated Credits -
 Intragovernmental Revenue 117,888,900
 Schedule of Programs:
 ISF - Enterprise Technology
 Division 117,888,900
 Budgeted FTE 800.0
 Authorized Capital Outlay 9,102,800

Subsection 1(c). Capital Project Funds. The
 Legislature has reviewed the following capital
 project funds. Where applicable, the
 Legislature authorizes the State Division of

Finance to transfer amounts among funds and
 accounts as indicated.

TRANSPORTATION

Item 34

To Transportation - Transportation
 Investment Fund of 2005
 From Transportation Fund 76,633,600
 From Licenses/Fees 75,276,700
 From Designated Sales Tax 398,084,200
 From Revenue Transfers 6,000,000
 Schedule of Programs:
 Transportation Investment
 Fund 555,994,500

Section 2. Effective Date.

This bill takes effect on July 1, 2014.

**CHAPTER 12
S.B. 7**

Passed February 5, 2014
Approved February 19, 2014
Effective July 1, 2014

**NATIONAL GUARD, VETERANS' AFFAIRS,
AND LEGISLATURE BASE BUDGET**

Chief Sponsor: Lyle W. Hillyard
House Sponsor: Melvin R. Brown

LONG TITLE

General Description:

This bill appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2014 and ending June 30, 2015.

Highlighted Provisions:

This bill:

- ▶ provides appropriations for the use and support of certain state agencies;
- ▶ provides appropriations for other purposes as described.

Money Appropriated in this Bill:

This bill appropriates \$95,093,800 in operating and capital budgets for fiscal year 2015, including:

- ▶ \$31,399,900 from the General Fund;
- ▶ \$63,693,900 from various sources as detailed in this bill.

This bill appropriates \$16,662,600 in expendable funds and accounts for fiscal year 2015.

Other Special Clauses:

This bill takes effect on July 1, 2014.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2015 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2014 and ending June 30, 2015.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Utah Code Title 63J, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use and support of the government of the State of Utah.

UTAH NATIONAL GUARD

Item 1

To Utah National Guard
From General Fund 5,956,200
From Federal Funds 62,839,200
From Dedicated Credits Revenue 20,000
Schedule of Programs:
Administration 980,700
Armory Maintenance 66,834,700
Tuition Reimbursement 1,000,000

**DEPARTMENT OF VETERANS' AND
MILITARY AFFAIRS**

Item 2

To Department of Veterans' and Military Affairs - Veterans' and Military Affairs
From General Fund 1,442,700
From Federal Funds 464,900
From Dedicated Credits Revenue 195,000
From Beginning Nonlapsing Appropriation Balances 197,000
From Closing Nonlapsing Appropriation Balances (197,200)
Schedule of Programs:
Administration 636,000
Cemetery 517,400
State Approving Agency 131,000
Outreach Services 689,000
Military Affairs 129,000

CAPITOL PRESERVATION BOARD

Item 3

To Capitol Preservation Board
From General Fund 3,582,900
Schedule of Programs:
Capitol Preservation Board 3,582,900

LEGISLATURE

Item 4

To Legislature - Senate
From General Fund 2,014,900
From Beginning Nonlapsing Appropriation Balances 956,600
From Closing Nonlapsing Appropriation Balances (956,600)
Schedule of Programs:
Administration 2,014,900

Item 5

To Legislature - House of Representatives
From General Fund 3,708,700
From Beginning Nonlapsing Appropriation Balances 1,778,900
From Closing Nonlapsing Appropriation Balances (1,778,900)
Schedule of Programs:
Administration 3,708,700

Item 6

To Legislature - Office of the Legislative Auditor General
From General Fund 3,409,700
From Beginning Nonlapsing Appropriation Balances 744,300
From Closing Nonlapsing Appropriation Balances (744,300)
Schedule of Programs:
Administration 3,409,700

Item 7

To Legislature - Office of the Legislative Fiscal Analyst
From General Fund 2,679,300
From Beginning Nonlapsing Appropriation Balances 708,100
From Closing Nonlapsing Appropriation Balances (708,100)
Schedule of Programs:
Administration and Research 2,679,300

Item 8

To Legislature - Legislative Printing
 From General Fund 539,300
 From Dedicated Credits Revenue 175,000
 From Beginning Nonlapsing
 Appropriation Balances 137,700
 From Closing Nonlapsing Appropriation
 Balances (137,700)
 Schedule of Programs:
 Administration 714,300

Item 9

To Legislature - Office of Legislative
 Research and General Counsel
 From General Fund 7,487,700
 From Beginning Nonlapsing
 Appropriation Balances 1,206,000
 From Closing Nonlapsing Appropriation
 Balances (1,206,000)
 Schedule of Programs:
 Administration 7,487,700

Item 10

To Legislature - Legislative Services
 From General Fund 578,500
 Schedule of Programs:
 Legislative Services 578,500

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated. Outlays and expenditures from the recipient funds or accounts may be made without further legislative action according to a fund or account's applicable authorizing statute.

DEPARTMENT OF VETERANS' AND MILITARY AFFAIRS

Item 11

To Department of Veterans' and Military Affairs -
 Utah Veterans' Nursing Home Fund
 From Federal Funds 15,986,900
 From Beginning Fund Balance 3,400,000
 From Ending Fund Balance (3,400,000)
 Schedule of Programs:
 Veterans' Nursing Home Fund 15,986,900

CAPITOL PRESERVATION BOARD

Item 12

To Capitol Preservation Board - State Capitol
 Restricted Special Revenue Fund
 From Dedicated Credits Revenue 311,000
 From Beginning Fund Balance 1,430,100
 From Ending Fund Balance (1,065,400)
 Schedule of Programs:
 State Capitol Fund 675,700

Section 2. Effective Date.

This bill takes effect on July 1, 2014.

CHAPTER 13

S.B. 8

Passed February 5, 2014
 Approved February 19, 2014
 Effective February 19, 2014
 (Exception clause in Section 3)

SOCIAL SERVICES BASE BUDGET

Chief Sponsor: Allen M. Christensen
 House Sponsor: Ronda Rudd Menlove

LONG TITLE

General Description:

This bill supplements or reduces appropriations previously provided for the use and operation of state government for the fiscal year beginning July 1, 2013 and ending June 30, 2014; and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2014 and ending June 30, 2015.

Highlighted Provisions:

This bill:

- ▶ provides appropriations for the use and support of certain state agencies;
- ▶ provides appropriations for other purposes as described.

Money Appropriated in this Bill:

This bill appropriates \$23,589,200 in operating and capital budgets for fiscal year 2014, including:

- ▶ (\$640,500) from the General Fund;
- ▶ \$24,229,700 from various sources as detailed in this bill.

This bill appropriates \$36,575,000 in business-like activities for fiscal year 2014.

This bill appropriates \$4,274,434,600 in operating and capital budgets for fiscal year 2015, including:

- ▶ \$826,355,600 from the General Fund;
- ▶ \$18,698,500 from the Education Fund;
- ▶ \$3,429,380,500 from various sources as detailed in this bill.

This bill appropriates \$137,025,100 in expendable funds and accounts for fiscal year 2015, including:

- ▶ \$2,242,900 from the General Fund;
- ▶ \$134,782,200 from various sources as detailed in this bill.

This bill appropriates \$456,339,200 in business-like activities for fiscal year 2015.

This bill appropriates \$665,000 in restricted fund and account transfers for fiscal year 2015, all of which is from the General Fund.

This bill appropriates \$15,500 in transfers to unrestricted funds for fiscal year 2015.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Section 2 of this bill takes effect on July 1, 2014.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2014 Appropriations. Under the terms and conditions of Utah Code Title 63J Chapter 1, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or fund accounts indicated for the use and support of the government of the State of Utah for the fiscal year beginning July 1, 2013 and ending June 30, 2014. These are additions to amounts previously appropriated for fiscal year 2014.

Subsection 1(a). Operating and Capital Budgets.

Under the terms and conditions of Utah Code Title 63J, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use and support of the government of the State of Utah.

DEPARTMENT OF HEALTH

Item 1

To Department of Health - Executive

Director's Operations	
From Federal Funds	1,149,100
From Federal Funds - American	
Recovery and Reinvestment Act	740,700
Schedule of Programs:	
Executive Director	(1,116,600)
Center for Health Data and	
Informatics	2,386,900
Program Operations	619,500

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Department of Health's Executive Director's Office in Item 1 of Chapter 6, Laws of Utah 2013 shall not lapse at the close of Fiscal Year 2014. The use of any nonlapsing funds is limited to \$225,000 for computer equipment, information technology hosting and storage costs, software, and employee training.

Item 2

To Department of Health - Family

Health and Preparedness	
From General Fund, One-time	(93,700)
From Federal Funds	1,894,800
From Dedicated Credits Revenue	3,647,000
Schedule of Programs:	
Director's Office	4,997,100
Maternal and Child Health	829,500
Child Development	45,300
Children with Special Health Care	
Needs	(290,900)
Public Health Preparedness	(476,500)
Facility Licensure, Certification,	
and Resident Assessment	371,400
Primary Care	(27,800)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$50,000 of Item 2 of Chapter 6, Laws of Utah 2013, funds appropriated for the Department of Health's Assistance for People with Bleeding Disorders Program shall not lapse at the close of Fiscal Year 2014. The use of any

nonlapsing funds is limited to services to eligible clients.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$400,000 of Item 2 of Chapter 6, Laws of Utah 2013 for the Department of Health's Primary Care Grants program shall not lapse at the close of Fiscal Year 2014. The use of any nonlapsing funds is limited to final Fiscal Year 2014 contract payments or additional distributions to eligible primary care providers.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$245,000 of Item 2 of Chapter 6, Laws of 52 Utah 2013 for the Department of Health's Family Health and Preparedness not lapse at the close of Fiscal Year 2014. The use of any nonlapsing funds is limited to one-time health facility licensure and certification activities.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$210,000 of Item 2 of Chapter 6, Laws of Utah 2013 from fees collected for the purpose of plan reviews by the Department of Health's Bureau of Health Facility Licensure, Certification and Resident Assessment shall not lapse at the close of Fiscal Year 2014. The use of any nonlapsing funds is limited to plan review activities.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that criminal fines and forfeiture money collected for the Department of Health's Emergency Medical Services in Item 2 of Chapter 6, Laws of Utah 2013 shall not lapse at the close of Fiscal Year 2014. The use of any nonlapsing funds is limited to purposes outlined in Section 26-8a-207(2).

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$250,000 of Item 2 of Chapter 6, Laws of Utah 2013 for the Department of Health's Emergency Medical Services shall not lapse at the close of Fiscal Year 2014. The use of any nonlapsing funds is limited to testing, certifications, background screenings, replacement testing equipment and testing supplies.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that civil money penalties collected for the Department of Health's Child Care Licensing and Health Care Licensing in Item 2 of Chapter 6, Laws of Utah 2013 from childcare and health care provider violations shall not lapse at the close of Fiscal Year 2014. The use of any nonlapsing funds is limited to trainings for providers and staff, as well as upgrades to the Child Care Licensing database.

Item 3

To Department of Health - Disease Control and Prevention

From General Fund, One-time	(50,500)
From Federal Funds	(8,083,300)
From Federal Funds - American Recovery and Reinvestment Act	92,400

From General Fund Restricted - State Lab Drug Testing Account	50,500
Schedule of Programs:	
Health Promotion	(31,200,300)
Epidemiology	23,405,200
Microbiology	(143,900)
Chemical and Environmental Services	(50,400)
Certification Programs	(1,500)

All General Funds appropriated to the Department of Health - Disease Control and Prevention line item are contingent upon expenditures from Federal Funds - American Recovery and Reinvestment Act (H.R. 1, 111th United States Congress) not exceeding amounts appropriated from Federal Funds - American Recovery and Reinvestment Act in all appropriation bills passed for Fiscal Year 2014. If expenditures in the (line item name) line item from Federal Funds - American Recovery and Reinvestment Act exceed amounts appropriated to the Disease Control and Prevention line item from Federal Funds - American Recovery and Reinvestment Act in Fiscal Year 2014, the Division of Finance shall reduce the General Fund allocations to the Disease Control and Prevention line item by one dollar for every one dollar in Federal Funds - American Recovery and Reinvestment Act expenditures that exceed Federal Funds - American Recovery and Reinvestment Act appropriations.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$500,000 of Item 3 of Chapter 6, Laws of Utah 2013, for the Department of Health's Disease Control and Prevention line item for alcohol, tobacco, and other drug prevention reduction, cessation, and control programs shall not lapse at the close of Fiscal Year 2014. The use of any nonlapsing funds is limited to alcohol, tobacco, and other drug prevention, reduction, cessation, and control programs or for emergent disease control and prevention needs.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$175,000 of Item 3 of Chapter 6, Laws of Utah 2013 for the Department of Health's Disease Control and Prevention line item shall not lapse at the close of Fiscal Year 2014. The use of any nonlapsing funds is limited to maintenance or replacement of computer equipment, software, or other purchases or services that improve or expand the services provided by the Bureau of Epidemiology.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$475,000 of Item 3 of Chapter 6, Laws of Utah 2013 for the Department of Health's Disease Control and Prevention line item shall not lapse at the close of Fiscal Year 2014. The use of any nonlapsing funds is limited to laboratory equipment, computer equipment, software, and building improvements.

Item 4

To Department of Health - Medicaid and Health Financing

From General Fund, One-time	(645,300)
From Federal Funds	9,464,200
From Federal Funds - American Recovery and Reinvestment Act	110,300
From General Fund Restricted - Nursing Care Facilities Account	24,000
Schedule of Programs:	
Director's Office	118,800
Financial Services	1,027,900
Medicaid Operations	(675,900)
Managed Health Care	274,200
Authorization and Community Based Services	669,500
Contracts	(363,700)
Coverage and Reimbursement	212,300
Eligibility Policy	(288,100)
Department of Workforce Services'	
Seeded Services	8,184,500
Other Seeded Services	(206,300)

Under Section 63J-1-603 of the Utah Code, the Legislature intends up to \$475,000 provided for the Department of Health's Medicaid and Health Financing in Item 5 of Chapter 6, Laws of Utah 2013 shall not lapse at the close of Fiscal Year 2014. The use of nonlapsing funds is limited to compliance with federally mandated projects and the purchase of computer equipment and software.

Item 5

To Department of Health - Medicaid Sanctions

Under Section 63J-1-603 of the Utah Code, funds collected as a result of sanctions imposed under Section 1919 of Title XIX of the Federal Social Security Act and authorized in Section 26-18-3 of the Utah Code shall not lapse at the close of Fiscal Year 2014. The use of any nonlapsing funds is limited to the purposes outlined in Section 1919.

Item 6

To Department of Health - Children's Health Insurance Program

From Federal Funds	(20,345,100)
Schedule of Programs:	
Children's Health Insurance Program	(20,345,100)

Item 7

To Department of Health - Medicaid Mandatory Services

From General Fund, One-time	23,000
From Federal Funds	7,050,700
From General Fund Restricted - Nursing Care Facilities Account	1,476,000
From Hospital Provider Assessment Fund	1,500,000
Schedule of Programs:	
Inpatient Hospital	5,057,300
Nursing Home	4,946,400
Medicaid Management Information System Replacement	46,000

Item 8

To Department of Health - Medicaid Optional Services

From General Fund, One-time	(44,500)
From Federal Funds	(104,600)
From Federal Funds - American Recovery and Reinvestment Act	35,200,000
Schedule of Programs:	
Pharmacy	(149,100)
Other Optional Services	35,200,000

DEPARTMENT OF WORKFORCE SERVICES

Item 9

To Department of Workforce Services - Administration

From Dedicated Credits Revenue	47,800
Schedule of Programs:	
Administrative Support	47,800

Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$200,000 of the appropriations provided for the Administration line item in Item 10 of Chapter 6 Laws of Utah 2013 not lapse at the close of Fiscal Year 2014. The use of any non-lapsing funds is limited to computer equipment/software and special projects/studies.

Item 10

To Department of Workforce Services - Operations and Policy

From General Fund, One-time	185,000
From Federal Funds - American Recovery and Reinvestment Act	3,000,000
From Revenue Transfers - Medicaid	185,000
Schedule of Programs:	
Eligibility Services	200,000
Information Technology	3,170,000

Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$3,100,000 of the appropriations provided for the Operation and Policy line item in Item 11 of Chapter 6 Laws of Utah 2013 not lapse at the close of Fiscal Year 2014. The use of any non-lapsing funds is limited to computer equipment/software and one-time projects associated with addressing client services due to caseload growth or refugee services.

Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$3,900,000 of the appropriations provided for the Operation and Policy line item in Item 84 of Chapter 405 Laws of Utah 2013 for the Special Administrative Expense Account not lapse at the close of Fiscal Year 2014. The use of any non-lapsing funds is limited to employment development projects and activities or one-time projects associated with client services. The Legislature further intends the Department of Workforce Services provide a detailed status and progress report on the use of Special Administrative Expense Account funds for employment development projects and activities as well as one-time projects associated with client services to the Office of

the Legislative Fiscal Analyst by September 1, 2014.

Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$3,300,000 of the appropriations provided for the Operation and Policy line item from Reed Act funding in Item 84 of Chapter 405 Laws of Utah 2013 not lapse at the close of Fiscal Year 2014. The use of any non-lapsing funds is limited to one-time projects associated with employment services. The Legislature further intends Reed Act funds appropriated for Fiscal Year 2014 to the Department of Workforce Services be used for workforce development and labor exchange activities consistent with UCA 35A-4-501(3)(b).

Item 11

To Department of Workforce Services - General Assistance

Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$800,000 of the appropriations provided for the General Assistance line item in Item 12 of Chapter 6 Laws of Utah 2013 not lapse at the close of Fiscal Year 2014. The use of any non-lapsing funds is limited to computer equipment/software and one-time projects associated with client services.

Item 12

To Department of Workforce Services - Unemployment Insurance From Federal Funds - American

Recovery and Reinvestment Act 500,000
Schedule of Programs:

Unemployment Insurance
Administration 500,000

Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$60,000 of the appropriations provided for the Unemployment Insurance line item in Item 13 of Chapter 6 Laws of Utah 2013 not lapse at the close of Fiscal Year 2014. The use of any non-lapsing funds is limited to computer equipment/software and one-time projects associated with addressing appeals or public assistance overpayment caseload growth.

Item 13

To Department of Workforce Services - Housing and Community Development From Federal Funds - American

Recovery and Reinvestment Act 28,000
From Dedicated Credits Revenue 520,000
From General Fund Restricted - Pamela Atkinson Homeless Account 500,000
Schedule of Programs:

Community Development 520,000
Homeless Committee 500,000
Weatherization Assistance 28,000

All General Funds appropriated to the Department of Workforce Services - Housing and Community Development line item are contingent upon expenditures from Federal Funds - American Recovery and Reinvestment Act (H.R. 1, 111th United

States Congress) not exceeding amounts appropriated from Federal Funds - American Recovery and Reinvestment Act in all appropriation bills passed for Fiscal Year 2014. If expenditures in the Housing and Community Development line item from Federal Funds - American Recovery and Reinvestment Act exceed amounts appropriated to the Housing and Community Development line item from Federal Funds - American Recovery and Reinvestment Act in Fiscal Year 2014, the Division of Finance shall reduce the General Fund allocations to the Housing and Community Development line item by one dollar for every one dollar in Federal Funds - American Recovery and Reinvestment Act expenditures that exceed Federal Funds - American Recovery and Reinvestment Act appropriations.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that General Fund appropriations provided by Item 63 Chapter 416 Laws of Utah 2012 for the Department of Workforce Services' Housing and Community Development line item not lapse at the close of Fiscal Year 2014. The amount of any non-lapsing funds shall not exceed \$1,000,000. The use of any non-lapsing authority is limited to general funds appropriated by the legislature for building projects.

DEPARTMENT OF HUMAN SERVICES

Item 14

To Department of Human Services - Division of Substance Abuse and Mental Health

From General Fund, One-time (14,500)
Schedule of Programs:

State Hospital (14,500)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that any remaining funds provided by Item 19, Chapter 6, Laws of Utah 2013 for the Drug Courts program within the Division of Substance Abuse and Mental Health line item not lapse at the close of Fiscal Year 2014. The use of any non-lapsing funds is limited to "other charges/pass through" expenditures.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that any remaining funds provided by Item 19, Chapter 6, Laws of Utah 2013 for the State Substance Abuse Services and Local Substance Abuse Services within the Division of Substance Abuse and Mental Health line item not lapse at the close of Fiscal Year 2014. The use of any non-lapsing funds is limited to "other charges/pass through" expenditures.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$50,000 of appropriations provided for the Division of Substance Abuse and Mental Health line item in Item 19, Chapter 6, Laws of Utah 2013 not lapse at the close of Fiscal Year 2014. These funds are to be used for the purchase of computer equipment and software, capital

equipment or improvements, equipment, or supplies.

Item 15

To Department of Human Services -
 Office of Recovery Services
 From Federal Funds (5,506,100)
 From Dedicated Credits Revenue 5,506,100

Item 16

To Department of Human Services - Division
 of Child and Family Services

Under Section 63J-1-603 of the Utah Code, the Legislature intends that any remaining funds provided by Item 22, Chapter 6, Laws of Utah 2013 for the Division of Child and Family Services (DCFS) not lapse at the close of Fiscal Year 2014. It is further the intent of the Legislature that these non-lapsing funds are to be used for Adoption Assistance, Out of Home Care, Service Delivery, In-Home Services, Special Needs, SAFE Management Information System modernization, and purchase of 15 additional vehicles. The Legislature further intends DCFS report to the Office of the Legislative Fiscal Analyst by September 1, 2014 on the SAFE Management Information System modernization project's status, current cost estimates, and organizational efficiencies and worker productivity anticipated and realized from the modernization project.

Item 17

To Department of Human Services - Division of
 Aging and Adult Services

Under Section 63J-1-603 of the Utah Code, the Legislature intends that any remaining funds provided by Item 23, Chapter 6, Laws of Utah 2013 for the Division of Aging and Adult Services not lapse at the close of Fiscal Year 2014. It is further the intent of the Legislature that these non-lapsing funds are to be used for client services for the Aging Waiver.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$50,000 of appropriations provided for the Division of Aging and Adult Services, Adult Protective Services, in Item 23, Chapter 6, Laws of Utah 2013 not lapse at the close of Fiscal Year 2014. These funds are to be used for the purchase of computer equipment and software, capital equipment or improvements, equipment, or supplies.

STATE BOARD OF EDUCATION

Item 18

To State Board of Education - State Office
 of Rehabilitation
 From Federal Funds (14,417,800)
 Schedule of Programs:
 Rehabilitation Services (14,417,800)

Subsection 1(b). Business-like Activities.

The Legislature has reviewed the following proprietary funds. Under the terms and

conditions of Utah Code 63J-1-410, for any included Internal Service Fund the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds as indicated estimated revenue from rates, fees, and other charges. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated.

**DEPARTMENT OF
 WORKFORCE SERVICES**

Item 19

To Department of Workforce Services -
 Unemployment Compensation Fund
 From Federal Funds - American Recovery
 and Reinvestment Act 36,575,000
 Schedule of Programs:
 Unemployment Compensation
 Fund 36,575,000

All General Funds appropriated to the Department of Workforce Services - Unemployment Compensation Fund line item are contingent upon expenditures from Federal Funds - American Recovery and Reinvestment Act (H.R. 1, 111th United States Congress) not exceeding amounts appropriated from Federal Funds - American Recovery and Reinvestment Act in all appropriation bills passed for Fiscal Year 2014. If expenditures in the Unemployment Compensation Fund line item from Federal Funds - American Recovery and Reinvestment Act exceed amounts appropriated to the Unemployment Compensation Fund line item from Federal Funds - American Recovery and Reinvestment Act in Fiscal Year 2014, the Division of Finance shall reduce the General Fund allocations to the Unemployment Compensation Fund line item by one dollar for every one dollar in Federal Funds - American Recovery and Reinvestment Act expenditures that exceed Federal Funds - American Recovery and Reinvestment Act appropriations.

Section 2. FY 2015 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2014 and ending June 30, 2015.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of Utah Code Title 63J, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use and support of the government of the State of Utah.

DEPARTMENT OF HEALTH

Item 20

To Department of Health - Executive
 Director's Operations
 From General Fund 5,894,100
 From Federal Funds 8,809,200

From Dedicated Credits Revenue	2,551,400
From General Fund Restricted - Tobacco Settlement Account	200
From Revenue Transfers - Within Agency	100,000
Schedule of Programs: Executive Director	2,415,400
Center for Health Data and Informatics	8,441,700
Program Operations	5,833,600
Office of Internal Audit	664,200

The Legislature intends that the Department of Health report on the following performance measures for the Executive Director's Operations line item: (1) conduct risk assessments for each information system in operation (Target = 123 information systems), (2) 95% of births occurring in a hospital are entered accurately by hospital staff into the electronic birth registration system (Target = 10 calendar days or less), and (3) percentage of all deaths registered using the electronic death registration system (Target = 75% or more) by January 1, 2015 to the Social Services Appropriations Subcommittee.

Item 21

To Department of Health - Family Health and Preparedness From General Fund	17,123,300
From Federal Funds	90,337,100
From Dedicated Credits Revenue	18,218,900
From General Fund Restricted - Autism Treatment Account	2,050,000
From General Fund Restricted - Children's Hearing Aid Pilot Program Account	100,000
From General Fund Restricted - Kurt Oscarson Children's Organ Transplant	101,100
From Revenue Transfers - Human Services	1,011,000
From Revenue Transfers - Medicaid	3,663,800
From Transfers - Medicaid - Department of Health Internal	(93,700)
From Revenue Transfers - Public Safety	147,000
From Revenue Transfers - Within Agency	350,000
From Revenue Transfers - Workforce Services	1,653,000
Schedule of Programs: Director's Office	17,163,800
Maternal and Child Health	60,690,600
Child Development	24,899,200
Children with Special Health Care Needs	11,380,200
Public Health Preparedness	9,549,500
Emergency Medical Services	4,295,400
Facility Licensure, Certification, and Resident Assessment	4,685,900
Primary Care	1,996,900

The Legislature intends that the Department of Health report on the following performance measures for the Family Health and Preparedness line item: (1) The percent of

children who demonstrated improvement in social-emotional skills, including social relationships (Goal = 70% or more), (2) The percent of children who demonstrated improvement in their rate of growth in acquisition and use of knowledge and skills, including early language/communication and early literacy (Goal = 75% or more), (3) The percent of children who demonstrated improvement in their rate of growth in the use of appropriate behaviors to meet their needs (Goal = 75% or more) by January 1, 2015 to the Social Services Appropriations Subcommittee.

Item 22

To Department of Health - Disease Control and Prevention From General Fund	12,222,900
From Federal Funds	53,483,400
From Dedicated Credits Revenue	9,398,600
From General Fund Restricted - Cancer Research Account	20,000
From General Fund Restricted - Cigarette Tax Restricted Account	3,150,000
From General Fund Restricted - Prostate Cancer Support Account	26,600
From General Fund Restricted - State Lab Drug Testing Account	441,700
From General Fund Restricted - Tobacco Settlement Account	3,903,100
From Department of Public Safety Restricted Account	100,000
From Revenue Transfers - Human Services	10,000
From Revenue Transfers - Medicaid	1,650,000
From Revenue Transfers - State Office of Education	17,000
From Revenue Transfers - Within Agency	348,600
From Revenue Transfers - Workforce Services	2,548,200
Schedule of Programs: Laboratory General Administration	1,486,000
Laboratory Operations and Testing	8,777,300
Health Promotion	22,388,500
Epidemiology	49,517,700
Office of the Medical Examiner	3,936,500
Certification Programs	1,214,100

The Legislature intends that the Department of Health report on the following performance measures for the Disease Control and Prevention line item: (1) Gonorrhea cases per 100,000 population (Target = 18.9 people or less), (2) Percentage of Adults Who Are Current Smokers (Target = 9%), and (3) Percentage of Toxicology Cases Completed within 14 day Goal (Target = 100%) by January 1, 2015 to the Social Services Appropriations Subcommittee.

Item 23

To Department of Health - Local Health Departments From General Fund	2,137,500
Schedule of Programs:	

Local Health Department Funding .. 2,137,500

The Legislature intends that the Department of Health report on the following performance measures for the Local Health Departments line item: (1) Number of local health departments that maintain a board of health that annually adopts a budget, appoints a local health officer (LHO), conducts an annual performance review for the LHO, and reports to county commissioners on health issues (Target = 12 or 100%), (2) Number of local health departments that provide communicable disease epidemiology and control services including disease reporting, response to outbreaks, and measures to control tuberculosis (Target = 12 or 100%), and (3) Number of local health departments that maintain a program of environmental sanitation which provides oversight of restaurants food safety, swimming pools, and the indoor clean air act (Target = 12 or 100%) by January 1, 2015 to the Social Services Appropriations Subcommittee.

Item 24

To Department of Health - Medicaid and Health Financing

From General Fund	4,844,300
From Federal Funds	61,430,500
From Federal Funds - American Recovery and Reinvestment Act	833,000
From Dedicated Credits Revenue	7,984,400
From General Fund Restricted - Nursing Care Facilities Account	665,300
From Transfers - Medicaid - Department of Human Services	9,210,900
From Transfers - Medicaid - Department of Administrative Services	1,065,100
From Transfers - Medicaid - Department of Workforce Services	23,832,300
From Transfers - Medicaid - Department of Health Internal	3,247,300
From Transfers - Medicaid - Utah Department of Corrections	25,000
From Transfers - Medicaid - Utah Schools for the Deaf and Blind	28,200
From Revenue Transfers - Within Agency	1,119,200
Schedule of Programs:	
Director's Office	2,017,100
Financial Services	12,428,400
Medicaid Operations	3,642,500
Managed Health Care	3,870,500
Authorization and Community Based Services	2,990,900
Contracts	1,203,300
Coverage and Reimbursement	2,843,000
Eligibility Policy	2,580,200
Department of Workforce Services' Seeded Services	47,664,700
Other Seeded Services	35,044,900

The Legislature intends that the Department of Health report on the following performance measures for the Medicaid and Health Financing line item: (1) average decision time on pharmacy prior

authorizations (Target = 24 hours or less), (2) percent of clean claims adjudicated within 30 days of submission (Target = 98%), and (3) total count of Medicaid and CHIP clients educated on proper benefit use and plan selection (Target = 90,000 or more) by January 1, 2015 to the Social Services Appropriations Subcommittee.

All General Funds appropriated to the Department of Health - Medicaid and Health Financing line item are contingent upon expenditures from Federal Funds - American Recovery and Reinvestment Act (H.R. 1, 111th United States Congress) not exceeding amounts appropriated from Federal Funds - American Recovery and Reinvestment Act in all appropriation bills passed for Fiscal Year 2014. If expenditures in the Medicaid and Health Financing line item from Federal Funds - American Recovery and Reinvestment Act exceed amounts appropriated to the Medicaid and Health Financing line item from Federal Funds - American Recovery and Reinvestment Act in Fiscal Year 2014, the Division of Finance shall reduce the General Fund allocations to the Medicaid and Health Financing line item by one dollar for every one dollar in Federal Funds - American Recovery and Reinvestment Act expenditures that exceed Federal Funds - American Recovery and Reinvestment Act appropriations.

Item 25

To Department of Health - Medicaid Sanctions

The Legislature intends that the Department of Health report on how expenditures from the Medicaid Sanctions line item met federal requirements which constrain its use by January 1, 2015 to the Social Services Appropriations Subcommittee.

Item 26

To Department of Health - Children's Health Insurance Program

From General Fund	6,874,600
From Federal Funds	57,120,400
From Dedicated Credits Revenue	1,867,200
From General Fund Restricted - Tobacco Settlement Account	11,486,700
From Revenue Transfers - Within Agency	63,000
From Revenue Transfers - Workforce Services	306,800
From Beginning Nonlapsing Appropriation Balances	500,000
Schedule of Programs:	
Children's Health Insurance Program	78,218,700

The Legislature intends that the Department of Health report on the following performance measures for the Children's Health Insurance Program line item: (1) percentage of children (less than 15 months old) that received at least six or more well-child visits (Target = 52% or more), (2) percentage of members (12 - 21 years of age)

who had at least one comprehensive well-care visit (Target = 39% or more), and (3) percentage of children 5-11 years of age with persistent asthma who were appropriately prescribed medication (Target = 94% or more) by January 1, 2015 to the Social Services Appropriations Subcommittee.

Item 27

To Department of Health - Medicaid
Mandatory Services

From General Fund	296,067,800
From Federal Funds	905,338,600
From Dedicated Credits Revenue	15,323,200
From General Fund Restricted - Nursing Care Facilities Account	21,354,100
From Hospital Provider Assessment Fund	48,500,000
From Revenue Transfers - Administrative Services	500
From Revenue Transfers - Department of Corrections	16,800
From Revenue Transfers - Human Services	1,100
From Transfers - Medicaid - Department of Health Internal	19,100
From Transfers - Medicaid - Utah Department of Corrections	291,800
From Revenue Transfers - Public Safety	16,600
From Revenue Transfers - Within Agency	1,915,400
From Revenue Transfers - Workforce Services	695,200
From Pass-through	106,700

Schedule of Programs:

Inpatient Hospital	167,913,100
Managed Health Care	738,539,900
Nursing Home	173,124,700
Outpatient Hospital	65,764,600
Physician Services	67,529,000
Crossover Services	12,940,700
Medical Supplies	13,458,100
Other Mandatory Services	50,376,800

The Legislature intends that the Department of Health report on the following performance measures for the Medicaid Mandatory Services line item: (1) percent of adults age 45-64 with ambulatory or preventive care visits (Target = 88% or more), (2) percent of deliveries that had a post partum visit between 21 and 56 days after delivery (Target = 60% or more), and (3) percent of customers satisfied with their managed care plan (Target = 85% or more) by January 1, 2015 to the Social Services Appropriations Subcommittee.

Item 28

To Department of Health - Medicaid
Optional Services

From General Fund	114,795,400
From Federal Funds	576,471,600
From Federal Funds - American Recovery and Reinvestment Act	35,365,000
From Dedicated Credits Revenue	169,690,100
From General Fund Restricted - Nursing Care Facilities Account	2,851,300

From Revenue Transfers - Human Services	14,900
From Transfers - Medicaid - Department of Human Services	84,014,700
From Transfers - Medicaid - Department of Health Internal	2,338,600
From Transfers - Medicaid - Utah Schools for the Deaf and Blind	325,600
From Revenue Transfers - Workforce Services	239,700
From Revenue Transfers - Youth Corrections	993,800

Schedule of Programs:

Pharmacy	107,019,600
Home and Community Based Waiver Services	196,125,800
Capitated Mental Health Services	150,139,600
Intermediate Care Facilities for Intellectually Disabled	83,200,500
Non-service Expenses	100,887,400
Buy-in/Buy-out	42,007,800
Dental Services	41,908,600
Clawback Payments	31,037,200
Disproportionate Hospital Payments	29,129,600
Hospice Care Services	17,742,500
Vision Care	1,514,200
Other Optional Services	186,387,900

The Legislature intends that the Department of Health report on the following performance measures for the Medicaid Optional Services line item: (1) annual state general funds saved through preferred drug list (Target = \$8.5 million general fund or more), (2) count of new choices waiver clients coming out of nursing homes into community based care (Target = 390 or more), and (3) emergency dental program savings (Target = \$250,000 General Fund savings or more) by January 1, 2015 to the Social Services Appropriations Subcommittee.

DEPARTMENT OF WORKFORCE SERVICES

Item 29

To Department of Workforce
Services - Administration

From General Fund	3,002,200
From Federal Funds	6,894,200
From Dedicated Credits Revenue	102,500
From Permanent Community Impact Loan Fund	134,100
From Revenue Transfers - Medicaid	1,216,900

Schedule of Programs:

Executive Director's Office	1,951,900
Communications	1,111,700
Human Resources	1,193,100
Administrative Support	6,419,800
Internal Audit	673,400

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Administration line item: provide accurate and timely department-wide fiscal administration. Goal: manage, account and reconcile all funds within state finance close

out time lines and with zero audit findings by January 1, 2015 to the Social Services Appropriations Subcommittee.

Item 30

To Department of Workforce Services - Operations and Policy

From General Fund	54,059,200
From Federal Funds	583,078,800
From Federal Funds - American Recovery and Reinvestment Act	2,000,000
From Dedicated Credits Revenue	5,233,500
From Revenue Transfers - Medicaid	25,552,700
Schedule of Programs:	
Facilities and Pass-Through	9,649,200
Workforce Development	66,837,200
Temporary Assistance to Needy Families	45,000,000
Refugee Assistance	10,170,000
Workforce Research and Analysis	2,494,500
Trade Adjustment Act Assistance	2,000,000
Eligibility Services	46,876,200
Child Care Assistance	42,604,900
Nutrition Assistance	410,000,000
Workforce Investment Act Assistance	7,500,000
Information Technology	26,792,200

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Operations and Policy line item: (1) Labor Exchange - Total job placements (Target = 50,000 placements per calendar quarter), (2) Temporary Assistance for Needy Families Recipients - positive closure rate (Target = 70% per calendar month), and (3) Eligibility Services - internal review compliance accuracy (Target = 95%) by January 1, 2015 to the Social Services Appropriations Subcommittee.

All General Funds appropriated to the Department of Workforce Services - Operations and Policy line item are contingent upon expenditures from Federal Funds - American Recovery and Reinvestment Act (H.R. 1, 111th United States Congress) not exceeding amounts appropriated from Federal Funds - American Recovery and Reinvestment Act in all appropriation bills passed for Fiscal Year 2015. If expenditures in the Operations and Policy line item from Federal Funds - American Recovery and Reinvestment Act exceed amounts appropriated to the Operations and Policy line item from Federal Funds - American Recovery and Reinvestment Act in Fiscal Year 2015, the Division of Finance shall reduce the General Fund allocations to the Operations and Policy line item by one dollar for every one dollar in Federal Funds - American Recovery and Reinvestment Act expenditures that exceed Federal Funds - American Recovery and Reinvestment Act appropriations.

Item 31

To Department of Workforce Services - General Assistance

From General Fund	4,837,300
Schedule of Programs:	
General Assistance	4,837,300

The Legislature intends that the Department of Workforce Services report on the following performance measures for the General Assistance line item: (1) Positive closure rate (Supplemental Security Income achievement or closed with earnings) (Target = 45%), (2) General Assistance customers served (Target = 735), and (3) Internal review compliance accuracy (Target = 80%) by January 1, 2015 to the Social Services Appropriations Subcommittee.

Item 32

To Department of Workforce

Services - Unemployment Insurance

From General Fund	536,200
From Federal Funds	21,510,700
From Federal Funds - American Recovery and Reinvestment Act	300,000
From Dedicated Credits Revenue	409,300
From Revenue Transfers - Medicaid	218,500
Schedule of Programs:	
Unemployment Insurance Administration	19,691,800
Adjudication	3,282,900

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Unemployment Insurance (UI) line item: (1) Percentage of New Employer Status Determinations made within 90 days of the last day in the quarter in which the business became Liable (Target => 70%), (2) Percentage of UI Separation Determinations with Quality scores equal to or greater than 95 points, based on the evaluation results of quarterly samples selected from all determinations (Target => 75%), and (3) Percentage of UI Benefits Payments made within 14 days after the week ending date of the first compensable week in the benefit year (Target => 87%) by January 1, 2015 to the Social Services Appropriations Subcommittee.

All General Funds appropriated to the Department of Workforce Services - Unemployment Insurance line item are contingent upon expenditures from Federal Funds - American Recovery and Reinvestment Act (H.R. 1, 111th United States Congress) not exceeding amounts appropriated from Federal Funds - American Recovery and Reinvestment Act in all appropriation bills passed for Fiscal Year 2015. If expenditures in the Unemployment Insurance line item from Federal Funds - American Recovery and Reinvestment Act exceed amounts appropriated to the Unemployment Insurance line item from Federal Funds - American Recovery and Reinvestment Act in Fiscal Year 2015, the

Division of Finance shall reduce the General Fund allocations to the Unemployment Insurance line item by one dollar for every one dollar in Federal Funds - American Recovery and Reinvestment Act expenditures that exceed Federal Funds - American Recovery and Reinvestment Act appropriations.

Item 33

To Department of Workforce Services - Housing and Community Development

From General Fund 2,615,500
 From Federal Funds 39,114,500
 From Dedicated Credits Revenue 3,528,900
 From General Fund Restricted - Pamela Atkinson Homeless Account 732,000
 From General Fund
 Restricted - Methamphetamine Housing Reconstruction and Rehabilitation Account 8,600
 From Permanent Community Impact Loan Fund 1,213,700

Schedule of Programs:

Community Development
 Administration 569,000
 Community Development 7,352,300
 Housing Development 1,077,000
 Special Housing 145,000
 Homeless Committee 4,655,200
 HEAT 22,326,900
 Weatherization Assistance 7,476,500
 Community Services 3,315,900
 Emergency Food Network 295,400

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Housing and Community Development line item: (1) Ending Chronic Homelessness - offer housing to all chronically homeless individuals who want to be housed (Target = 9% reduction per year), (2) Utilities Assistance for Low-income Households - Number of eligible households assisted with home energy costs (Target = 35,000 households), and (3) Weatherization Assistance - Number of low income households assisted by installing permanent energy conservation measures in their homes (Target = 800 homes) by January 1, 2015 to the Social Services Appropriations Subcommittee.

Item 34

To Department of Workforce Services - Zoos

From General Fund 908,400
 Schedule of Programs:

Zoos 908,400

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Zoos line item: A review of the financial statements is completed every year (the Department of Workforce Services is required only to pass through the funds to two Utah zoos, Hogle Zoo and Willow Park Zoo - the Department of Workforce Services is also to verify that state funds are used for operations only; no state funds may be used

for administration) by January 1, 2015 to the Social Services Appropriations Subcommittee.

Item 35

To Department of Workforce Services - Special Service Districts

From General Fund Restricted -

Mineral Lease 7,350,000
 Schedule of Programs:

Special Service Districts 7,350,000

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Special Service Districts line item: the Department of Workforce Services is required to pass through the funds to qualifying special service districts in counties of the 5th, 6th and 7th class (this is completed quarterly) by January 1, 2015 to the Social Services Appropriations Subcommittee.

Item 36

To Department of Workforce Services - Community Development Capital Budget

From Permanent Community Impact

Loan Fund 116,410,000

Schedule of Programs:

Community Impact Board 116,410,000

DEPARTMENT OF HUMAN SERVICES**Item 37**

To Department of Human Services - Executive Director Operations

From General Fund 7,301,300

From Federal Funds 4,900,400

From Dedicated Credits Revenue 1,000

From Revenue Transfers - Medicaid 889,300

From Revenue Transfers -

Within Agency 410,000

Schedule of Programs:

Executive Director's Office 997,500

Legal Affairs 1,413,700

Information Technology 1,509,800

Fiscal Operations 3,743,800

Human Resources 33,900

Local Discretionary Pass-Through .. 1,140,700

Office of Services Review 1,333,700

Office of Licensing 2,533,500

Utah Developmental Disabilities

Council 795,400

The Legislature intends that the Department of Human Services report on the following performance measures for the Executive Director Operations line item: (1) Finance and Budget Office (assisted by the Bureau of Internal Review and Audit) correct department-wide reported fiscal issues per June 30 quarterly report (Target = 42%), (2) Office of Licensing issue a license within 30 days of proof of compliance by a licensee (Target = 90%), and (3) double-read (reviewed) Case Process Reviews will be accurate in the Office of Service Review (Target = 90%) by January 1, 2015 to the Social Services Appropriations Subcommittee.

Item 38

To Department of Human Services - Division of Substance Abuse and Mental Health

From General Fund	87,597,000
From Federal Funds	26,322,500
From Dedicated Credits Revenue	3,130,700
From General Fund Restricted - Intoxicated Driver Rehabilitation Account	1,500,000
From General Fund Restricted - Tobacco Settlement Account	2,325,400
From Revenue Transfers - Child Nutrition	75,000
From Revenue Transfers - Commission on Criminal and Juvenile Justice	351,300
From Revenue Transfers - Medicaid	6,594,500
From Revenue Transfers - Other Agencies	530,000
Schedule of Programs:	
Administration - DSAMH	2,765,400
Community Mental Health Services	7,902,200
Mental Health Centers	23,914,900
Residential Mental Health Services	221,900
State Hospital	53,180,900
State Substance Abuse Services	8,621,200
Local Substance Abuse Services	22,599,900
Driving Under the Influence (DUI) Fines	1,500,000
Drug Offender Reform Act (DORA) ..	2,747,100
Drug Courts	4,972,900

The Legislature intends the Utah Substance Abuse Advisory Council report to the Office of the Legislative Fiscal Analyst by September 1, 2014 its recommendations regarding the best use of current DORA funding in treating drug abusers in response to the November, 2013 final multi-year study of DORA by the Utah Criminal Justice Center at the University of Utah that found “DORA did not have a significant impact on participants when compared to similar offenders on traditional probation and parole” and also in regard to the approved “Guidelines for the Implementation of DORA-Funded Services for Probationers” which states that “Programs will . . . ensure DORA funding is utilized for evidence-based substance abuse treatment and supervision strategies.” The Legislature further intends that if the Utah Substance Abuse Advisory Council recommends continued funding for current DORA programs, it will provide specific and detailed explanations in its report to the Legislative Fiscal Analyst demonstrating how its recommendation is consistent with its guideline that funding be used for evidence-based substance abuse treatment and supervision strategies.

The Legislature intends that the Department of Human Services report on the following performance measures for the Substance Abuse and Mental Health line item: (1) Local Substance Abuse Services - Successful completion rate (Target = 40%), (2) Mental Health Services -Adult Outcomes Questionnaire - Percent of clients stable,

improved, or in recovery while in current treatment (Target = 70%), and (3) Mental Health Centers - Youth Outcomes Questionnaire - Percent of clients stable, improved, or in recovery while in current treatment (Target = 12%) by January 1, 2015 to the Social Services Appropriations Subcommittee.

Item 39

To Department of Human Services - Division of Services for People with Disabilities

From General Fund	70,207,200
From Federal Funds	1,327,100
From Dedicated Credits Revenue	2,072,800
From Revenue Transfers - Medicaid	165,343,300
From Revenue Transfers - Other Agencies	1,070,000
From Beginning Nonlapsing Appropriation Balances	600,000
Schedule of Programs:	
Administration - DSPD	4,227,100
Service Delivery	5,334,500
Utah State Developmental Center	35,340,600
Community Supports Waiver	187,844,000
Acquired Brain Injury Waiver	3,407,900
Physical Disabilities Waiver	2,680,800
Non-waiver Services	1,785,500

The Legislature intends that the Division of Services for People with Disabilities (DSPD) use Fiscal Year 2015 beginning non-lapsing funds to provide services for individuals needing emergency services, individuals needing additional waiver services, individuals who turn 18 years old and leave state custody from the Divisions of Child and Family Services and Juvenile Justice Services, and individuals court ordered into DSPD services. The Legislature further intends DSPD report to the Office of Legislative Fiscal Analyst on the use of these nonlapsing funds.

The Legislature intends that the Department of Human Services report on the following performance measures for the Services for People with Disabilities line item: (1) Community Supports, Brain Injury, Physical Disability Waivers, Non-waiver Services - % providers meeting fiscal requirements of contract (Target = 100%), (2) Community Supports, Brain Injury, Physical Disability Waivers, Non-waiver Services - % providers meeting non-fiscal requirements of contracts (Target = 100%), and (3) People receive supports in employment settings rather than day programs (National ranking) (Target = #1 nationally) by January 1, 2015 to the Social Services Appropriations Subcommittee.

Item 40

To Department of Human Services - Office of Recovery Services

From General Fund	12,700,100
From Federal Funds	17,620,200
From Dedicated Credits Revenue	8,853,700

From Revenue Transfers – Medicaid ... 2,313,900
 From Revenue Transfers –
 Other Agencies 51,500
 Schedule of Programs:
 Administration – ORS 942,000
 Financial Services 2,312,500
 Electronic Technology 7,519,100
 Child Support Services 23,539,900
 Children in Care Collections 588,000
 Attorney General Contract 3,800,000
 Medical Collections 2,837,900

The Legislature intends that the Department of Human Services report on the following performance measures for the Office of Recovery Services (ORS) line item: (1) ORS Total Collections (Target = \$250 million), (2) Child Support Services Collections (Target = \$215 million), and (3) Ratio: ORS Collections to Cost (Target = > 5.9 to 1) by January 1, 2015 to the Social Services Appropriations Subcommittee.

Item 41

To Department of Human Services –
 Division of Child and Family Services
 From General Fund 109,469,600
 From Federal Funds 55,023,800
 From Dedicated Credits Revenue 2,511,700
 From General Fund Restricted –
 Choose Life Adoption Support Account .. 25,000
 From General Fund Restricted –
 Children’s Account 400,000
 From General Fund Restricted –
 Victims of Domestic Violence
 Services Account 968,800
 From Revenue Transfers – Health (68,200)
 From Revenue Transfers –
 Medicaid (6,115,100)
 From Revenue Transfers –
 Within Agency 145,500
 Schedule of Programs:
 Administration – DCFS 4,348,000
 Service Delivery 74,838,100
 In-Home Services 2,625,800
 Out-of-Home Care 38,924,900
 Facility-based Services 3,700,900
 Minor Grants 6,269,600
 Selected Programs 4,103,200
 Special Needs 1,915,200
 Domestic Violence 5,367,500
 Children’s Account 400,000
 Adoption Assistance 14,225,900
 Child Welfare Management
 Information System 5,642,000

The Legislature intends the Division of Child and Family Services use nonlapsing state funds originally appropriated for Adoption Assistance non-IV-E monthly subsidies for any children that were not initially Title IV-E eligible in foster care, but that now qualify for Title IV-E adoption assistance monthly subsidies under eligibility exception criteria specified in P.L. 112-34 [Social Security Act Section 473(e)]. These funds shall only be used for child welfare services allowable under Title IV-B or Title IV-E of the Social Security Act.

The Legislature intends that the Department of Human Services report on the following performance measures for the Child and Family Services line item: (1) Administrative Performance: Percent satisfactory outcomes on qualitative case reviews/system performance (Target = 85%/85%), (2) Child Protective Services: Absence of maltreatment recurrence within 6 months (Target = 94.6%), and (3) Out of home services: Percent of children who reunified within 12 months (Target = 74.2%) by January 1, 2015 to the Social Services Appropriations Subcommittee.

Item 42

To Department of Human Services – Division of
 Aging and Adult Services
 From General Fund 12,891,300
 From Federal Funds 10,702,900
 From Dedicated Credits Revenue 100
 From Revenue Transfers – Medicaid ... (692,000)
 From Revenue Transfers –
 Other Agencies 19,000
 Schedule of Programs:
 Administration – DAAS 1,408,900
 Local Government Grants –
 Formula Funds 12,392,600
 Non-Formula Funds 1,288,000
 Adult Protective Services 2,853,200
 Aging Waiver Services 1,008,300
 Aging Alternatives 3,970,300

The Legislature intends that the Department of Human Services report on the following performance measures for the Aging and Adult Services line item: (1) Medicaid Aging Waiver: Average Cost of Client at 15% or less of Nursing Home Cost (Target = 15%), (2) Adult Protective Services: Protective needs resolved positively (Target = 95%), and (3) Meals on Wheels: Total meals served (Target = 10,115) by January 1, 2015 to the Social Services Appropriations Subcommittee.

STATE BOARD OF EDUCATION

Item 43

To State Board of Education – State Office of
 Rehabilitation
 From General Fund 270,400
 From Education Fund 18,698,500
 From Federal Funds 53,310,500
 From Dedicated Credits Revenue 1,091,100
 Schedule of Programs:
 Executive Director 2,537,100
 Blind and Visually Impaired 6,617,200
 Rehabilitation Services 49,287,200
 Disability Determination 12,199,200
 Deaf and Hard of Hearing 2,729,800

The Legislature intends the Utah State Office of Rehabilitation (USOR) report to the Office of the Legislative Fiscal Analyst by September 1, 2014 regarding its efforts and progress in addressing each specific recommendation contained in the Utah State Auditor’s “A Performance Audit of the Division of Rehabilitation Services Cost

Controls” (No. 13-03) released in September of 2013. If there are any recommendations USOR is not addressing, the Legislature further intends USOR explain why it is not addressing those recommendations.

The Legislature intends that the Utah State Office of Rehabilitation report on the following performance measures for its line item: (1) Vocational Rehabilitation - Increase the number of rehabilitation outcomes (Target = 3,665), (2) Vocational Rehabilitation - maintain or increase a successful rehabilitation closure rate (Target = 60%), and (3) Deaf and Hard of Hearing - Increase in the number of individuals served by Division of Services for the Deaf and Hard of Hearing programs (Target = 7,144) by January 1, 2015 to the Social Services Appropriations Subcommittee.

Subsection 2(b). Expendable Funds and

Accounts. The Legislature has reviewed the following expendable funds. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated. Outlays and expenditures to the recipient funds or accounts may be made without further legislative action according to a fund or account’s applicable authorizing statute.

DEPARTMENT OF HEALTH

Item 44

To Department of Health - Traumatic Brain Injury Fund
 From Beginning Fund Balance 170,800
 From Ending Fund Balance (70,800)
 Schedule of Programs:
 Traumatic Brain Injury Fund 100,000

Item 45

To Department of Health - Traumatic Head and Spinal Cord Injury Rehabilitation Fund
 From Dedicated Credits Revenue 188,800
 From Beginning Fund Balance 410,400
 From Ending Fund Balance (410,400)
 Schedule of Programs:
 Traumatic Head and Spinal Cord Injury Rehabilitation Fund 188,800

Item 46

To Department of Health - Organ Donation Contribution Fund
 From Dedicated Credits Revenue 68,000
 From Interest Income 100
 From Beginning Fund Balance 38,700
 From Ending Fund Balance (63,500)
 Schedule of Programs:
 Organ Donation Contribution Fund 43,300

DEPARTMENT OF WORKFORCE SERVICES

Item 47

To Department of Workforce Services - Permanent Community Impact Fund
 From Dedicated Credits Revenue 909,300
 From Interest Income 397,000

From General Fund Restricted - Mineral Lease 63,810,000
 From General Fund Restricted - Land Exchange Distribution Account 420,000
 From General Fund Restricted - Mineral Bonus 9,200,000
 From Repayments 35,799,900
 From Beginning Fund Balance 311,404,700
 From Ending Fund Balance (300,769,100)
 Schedule of Programs:
 Permanent Community Impact Fund 121,171,800

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Permanent Community Impact Fund line item: (1) 100% of new receipts will be invested in communities annually, (2) hire up to 5 rural planners to determine needs and impacts of infrastructure development in rural Utah, and (3) staff and board will meet at least three times per year with representatives of each partnering sector by January 1, 2015 to the Social Services Appropriations Subcommittee.

Item 48

To Department of Workforce Services - Permanent Community Impact Bonus Fund
 From Dedicated Credits Revenue 700
 From Interest Income 7,220,900
 From Revenue Transfers 3,442,900
 From Beginning Fund Balance 310,891,900
 From Ending Fund Balance (321,527,500)
 Schedule of Programs:
 Permanent Community Impact Bonus Fund 28,900

Item 49

To Department of Workforce Services - Intermountain Weatherization Training Fund
 From Dedicated Credits Revenue 95,000
 From Beginning Fund Balance 3,000
 From Ending Fund Balance (3,000)
 Schedule of Programs:
 Intermountain Weatherization Training Fund 95,000

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Intermountain Weatherization Training Fund line item: (1) number of private individuals trained each year (Target => 50) and (2) number of private individuals receiving training certifications (Target => 48) by January 1, 2015 to the Social Services Appropriations Subcommittee.

Item 50

To Department of Workforce Services - Navajo Revitalization Fund
 From Interest Income 75,000
 From Restricted Revenue 2,500,000
 From Beginning Fund Balance 11,443,000
 From Ending Fund Balance (12,973,100)
 Schedule of Programs:
 Navajo Revitalization Fund 1,044,900

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Navajo Revitalization Fund line item: (1) Allocate new and re-allocated funds within one year to improve the quality of life for those living on the Utah portion of the Navajo Reservation (Target = \$4.57 million allocated) and (2) Improve the housing stock on the Navajo Reservation by investing in new and improved sanitary housing (Target = \$3.0 million invested) by January 1, 2015 to the Social Services Appropriations Subcommittee.

Item 51

To Department of Workforce Services - Olene Walker Housing Loan Fund

From General Fund	2,242,900
From Federal Funds	12,000,000
From Dedicated Credits Revenue	177,000
From Interest Income	1,866,500
From Beginning Fund Balance	127,092,300
From Ending Fund Balance	(137,971,500)

Schedule of Programs:
Olene Walker Housing Loan Fund ... 5,407,200

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Olene Walker Housing Loan Fund line item: (1) Housing units preserved or created (Target = 800), (2) Construction jobs preserved or created (Target = 1,200), and (3) Leveraging of other funds in each project to Olene Walker Housing Loan Fund monies (Target = 9:1) by January 1, 2015 to the Social Services Appropriations Subcommittee.

Item 52

To Department of Workforce Services - Qualified Emergency Food Agencies Fund

From Designated Sales Tax	915,000
From Beginning Fund Balance	74,100
From Ending Fund Balance	(67,700)

Schedule of Programs:
Emergency Food Agencies Fund

The Legislature intends that the Department of Workforce Services report on the following performance measure for the Qualified Emergency Food Agencies Fund line item: distribute, on a first come, first served basis, the sales tax rebates to qualifying food pantries (Target = 100%) by January 1, 2015 to the Social Services Appropriations Subcommittee.

Item 53

To Department of Workforce Services - Uintah Basin Revitalization Fund

From Interest Income	135,000
From Restricted Revenue	7,550,000
From Beginning Fund Balance	25,525,000
From Ending Fund Balance	(25,459,700)

Schedule of Programs:
Uintah Basin Revitalization Fund ... 7,750,300

The Legislature intends that the Department of Workforce Services report on the following performance measure for the Uintah Basin Revitalization Fund line item: allocate new and re-allocated funds within one year to improve the quality of life for those living in the Uintah Basin (Target = \$8.4 million allocated) by January 1, 2015 to the Social Services Appropriations Subcommittee.

Item 54

To Department of Workforce Services - Child Care Fund

From Interest Income	200
From Beginning Fund Balance	23,600
From Ending Fund Balance	(23,800)

DEPARTMENT OF HUMAN SERVICES

Item 55

To Department of Human Services - Out and About Homebound Transportation Assistance Fund

From Dedicated Credits Revenue	6,100
From Beginning Nonlapsing Appropriation Balances	126,000
From Closing Nonlapsing Appropriation Balances	(126,000)

Schedule of Programs:
Out and About Homebound Transportation Assistance Fund

Item 56

To Department of Human Services - State Development Center Miscellaneous Donation Fund

From Dedicated Credits Revenue	72,200
From Interest Income	3,600
From Beginning Nonlapsing Appropriation Balances	571,400
From Closing Nonlapsing Appropriation Balances	(571,400)

Schedule of Programs:
State Development Center Miscellaneous Donation Fund

Item 57

To Department of Human Services - State Development Center Workshop Fund

From Dedicated Credits Revenue	126,800
From Beginning Nonlapsing Appropriation Balances	6,400
From Closing Nonlapsing Appropriation Balances	(6,400)

Schedule of Programs:
State Development Center Workshop Fund

Item 58

To Department of Human Services - State Hospital Unit Fund

From Dedicated Credits Revenue	47,500
From Beginning Nonlapsing Appropriation Balances	320,400
From Closing Nonlapsing Appropriation Balances	(320,400)

Schedule of Programs:
State Hospital Unit Fund

STATE BOARD OF EDUCATION

Item 59

To State Board of Education -
 Visually Handicapped Fund
 From Dedicated Credits Revenue 11,000
 From Interest Income 6,300
 From Beginning Nonlapsing
 Appropriation Balances 991,300
 From Closing Nonlapsing Appropriation
 Balances (991,300)
 Schedule of Programs:
 Visually Handicapped Fund 17,300

Subsection 2(c). Business-like Activities.

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

**DEPARTMENT OF
 WORKFORCE SERVICES**

Item 60

To Department of Workforce Services -
 Unemployment Compensation Fund
 From Federal Funds 3,000,000
 From Dedicated Credits Revenue 32,000,000
 From Premiums 403,975,000
 From Interest Income 14,000,000
 From Beginning Fund Balance 675,521,400
 From Ending Fund Balance (675,521,400)
 Schedule of Programs:
 Unemployment Compensation
 Fund 452,975,000

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Unemployment Compensation Fund line item: (1) Unemployment Insurance (UI) Trust Fund Balance is greater than the minimum adequate reserve amount and less than the maximum adequate reserve amount (Target = \$577 million to \$773 million), (2) The Average High Cost Multiple is the UI Trust Fund balance as a percentage of Total UI Wages divided by the Average High Cost Rate (Target => 1), and (3) Contributory Employers UI Contributions Due Paid Timely (Target => 90%) by January 1, 2015 to the Social Services Appropriations Subcommittee.

Item 61

To Department of Workforce Services - State Small
 Business Credit Initiative Program Fund
 From Federal Funds 4,000,000
 From Dedicated Credits Revenue 340,000
 From Beginning Fund Balance 3,486,900

From Ending Fund Balance (4,462,700)
 Schedule of Programs:
 State Small Business Credit
 Initiative Program Fund 3,364,200

Subsection 2(d). Restricted Fund and Account Transfers.

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

FUND AND ACCOUNT TRANSFERS

Item 62

To Fund and Account Transfers - Children's
 Hearing Aid Pilot Program Account
 From General Fund 100,000
 Schedule of Programs:
 GFR - Children's Hearing Aid
 Pilot Program Account 100,000

Item 63

To Fund and Account Transfers - GFR -
 Homeless Account
 From General Fund 565,000
 Schedule of Programs:
 General Fund Restricted - Pamela
 Atkinson Homeless Account 565,000

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Fund and Account Transfers to the Pamela Atkinson Homeless Account: (1) Hire twenty new case managers by 9/1/14 by partner agencies to provide supportive services to 900 of the chronic homeless currently housed, (2) homeless providers funded by the State (except domestic violence shelter providers) will utilize the Centralized Client Intake and Coordinated Assessment System (Target => 80%), and (3) complete by scheduled date the statewide report of homeless demographics and conditions by county (Target = November 1) by January 1, 2015 to the Social Services Appropriations Subcommittee.

Subsection 2(e). Transfers to Unrestricted Funds.

The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General, Education, or Uniform School Fund as indicated from the restricted funds or accounts indicated. Expenditures and outlays from the General, Education, or Uniform School Fund must be authorized elsewhere in an appropriations act.

TRANSFERS TO UNRESTRICTED FUNDS

Item 64

To General Fund
 From General Fund Restricted - Victims
 of Domestic Violence Services Account .. 15,500
 Schedule of Programs:
 General Fund, One-time 15,500

Section 3. Effective Date.

If approved by two-thirds of all the members

elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 of this bill takes effect on July 1, 2014.

CHAPTER 14

S.B. 195

Passed February 18, 2014
 Approved February 19, 2014
 Effective February 19, 2014
 (Exception clause in Section 3)

EXECUTIVE OFFICES AND CRIMINAL JUSTICE BASE BUDGET CORRECTIONS

Chief Sponsor: Lyle W. Hillyard
 House Sponsor: Melvin R. Brown

LONG TITLE

General Description:

This bill supplements or reduces appropriations previously provided for the use and operation of state government for the fiscal year beginning July 1, 2013 and ending June 30, 2014; and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2014 and ending June 30, 2015. This bill supersedes *Executive Offices and Criminal Justice Base Budget* (Senate Bill 5, 2014 General Session).

Highlighted Provisions:

This bill:

- ▶ provides appropriations for the use and support of certain state agencies;
- ▶ provides appropriations for other purposes as described;
- ▶ provides intent language; and
- ▶ supersedes any and all appropriations and intent included in Executive Offices and Criminal Justice Base Budget (Senate Bill 5, 2014 General Session).

Money Appropriated in this Bill:

This bill appropriates (\$25,541,000) in operating and capital budgets for fiscal year 2014, including:

- ▶ (\$22,454,000) from the General Fund;
- ▶ (\$3,087,000) from various sources as detailed in this bill.

This bill appropriates \$490,000 in expendable funds and accounts for fiscal year 2014, all of which is from the General Fund.

This bill appropriates \$772,997,200 in operating and capital budgets for fiscal year 2015, including:

- ▶ \$563,799,800 from the General Fund;
- ▶ \$49,000 from the Education Fund;
- ▶ \$209,148,400 from various sources as detailed in this bill.

This bill appropriates \$26,694,000 in business-like activities for fiscal year 2015.

This bill appropriates \$216,000 in restricted fund and account transfers for fiscal year 2015, all of which is from the General Fund.

Other Special Clauses:

Section 1 of this bill takes effect immediately.
 Section 2 of this bill takes effect on July 1, 2014.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2014 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2013 and ending June 30, 2014. These are additions to amounts previously appropriated for fiscal year 2014 except that these appropriations supersede any and all items, amounts, and intent included in Executive Offices and Criminal Justice Base Budget (Senate Bill 5, 2014 General Session).

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Utah Code Title 63J, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use and support of the government of the State of Utah.

GOVERNOR’S OFFICE

Item 1

To Governor’s Office - Public Lands Litigation

It is the intent of the Legislature, that the Office of the Legislative Fiscal Analyst, the Governors Office of Management and Budget, and the Public Lands Policy Coordination Office meet during the FY 2014 interim to discuss the treatment of the Public Lands Litigation Line Item and the Constitutional Defense Council Line Item for budgeting purposes, and make a recommendation for treatment of these line items in the budgeting process to the Executive Offices and Criminal Justice Appropriations Subcommittee no later than November 1, 2014.

Item 2

To Governor’s Office - Commission on Criminal and Juvenile Justice

From General Fund, One-time	(65,000)
From Crime Victim Reparations |	
Fund	(387,000)
Schedule of Programs:	
Utah Office for Victims of Crime	(200,000)
Gang Reduction Grant Program	(187,000)
Sexual Exploitation of Children	(65,000)

ATTORNEY GENERAL

Item 3

To Attorney General

From General Fund, One-time	(224,000)
Schedule of Programs:	
Criminal Prosecution	(224,000)

UTAH DEPARTMENT OF CORRECTIONS

Item 4

To Utah Department of Corrections - Programs and Operations

From General Fund, One-time	(20,000,000)
Schedule of Programs:	
Institutional Operations Draper Facility	(20,000,000)

BOARD OF PARDONS AND PAROLE

Item 5

To Board of Pardons and Parole

From General Fund, One-time (425,000)
Schedule of Programs:
Board of Pardons and Parole (425,000)

**DEPARTMENT OF HUMAN SERVICES -
DIVISION OF JUVENILE JUSTICE
SERVICES**

Item 6

To Department of Human Services - Division of
Juvenile Justice Services - Programs and
Operations
From General Fund, One-time (290,000)
Schedule of Programs:
Administration (290,000)

**JUDICIAL COUNCIL/STATE
COURT ADMINISTRATOR**

Item 7

To Judicial Council/State Court
Administrator - Contracts and Leases
From General Fund, One-time (300,000)
From General Fund Restricted -
State Court Complex Account 300,000

Item 8

To Judicial Council/State Court
Administrator - Jury and Witness Fees

The Legislature intends that the Courts submit a report to the Executive Office and Criminal Justice Appropriations Subcommittee during the 2014 interim detailing expenses from this account, trends and efforts made to minimize expenses, and maximize performance.

Item 9

To Judicial Council/State Court Administrator -
Guardian ad Litem
From General Fund, One-time (150,000)
Schedule of Programs:
Guardian ad Litem (150,000)

DEPARTMENT OF PUBLIC SAFETY

Item 10

To Department of Public Safety -
Programs & Operations
From General Fund, One-time (1,000,000)
Schedule of Programs:
Highway Patrol - Field
Operations (1,000,000)

Item 11

To Department of Public Safety - Driver License
From Department of Public Safety Restricted
Account (3,000,000)
Schedule of Programs:
Driver Services (3,000,000)

**Subsection 1(b). Expendable Funds and
Accounts.** The Legislature has reviewed the following expendable funds. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated. Outlays and expenditures from the recipient funds or accounts may be made without further

legislative action according to a fund or account's applicable authorizing statute.

GOVERNOR'S OFFICE

Item 12

To Governor's Office - Crime Victim
Reparations Fund
From General Fund, One-time 490,000
Schedule of Programs:
Crime Victim Reparations Fund 490,000

Section 2. FY 2015 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2014 and ending June 30, 2015. These appropriations supersede any and all items and amounts appropriated in Executive Offices and Criminal Justice Base Budget (Senate Bill 5, 2014 General Session).

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of Utah Code Title 63J, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use and support of the government of the State of Utah.

GOVERNOR'S OFFICE

Item 13

To Governor's Office
From General Fund 4,609,900
From Federal Funds 129,800
From Dedicated Credits Revenue 1,001,200
From General Fund Restricted -
Constitutional Defense 250,000
From Beginning Nonlapsing
Appropriation Balances 250,000
Schedule of Programs:
Administration 3,407,900
Governor's Residence 311,800
Washington Funding 158,400
Lt. Governor's Office 2,112,800
Commission on Federalism 250,000

Item 14

To Governor's Office - Public Lands Litigation
From General Fund Restricted -
Constitutional Defense 12,600
From Beginning Nonlapsing
Appropriation Balances 1,608,600
Schedule of Programs:
Public Lands Litigation 1,621,200

Item 15

To Governor's Office - Character Education
From General Fund 200,700
Schedule of Programs:
Character Education 200,700

Item 16

To Governor's Office - Emergency Fund
From Beginning Nonlapsing
Appropriation Balances 100,100
Schedule of Programs:
Governor's Emergency Fund 100,100

Item 17

To Governor's Office - Governor's
Office of Management and Budget

From General Fund 4,047,500
 From Revenue Transfers - Other
 Agencies 68,800
 From Beginning Nonlapsing
 Appropriation Balances 500,000
 Schedule of Programs:
 Administration 1,135,300
 Planning and Budget Analysis 1,512,800
 Demographic and Economic
 Analysis 1,097,200
 State and Local Planning 441,000
 Prison Relocation 430,000

Item 18

To Governor's Office - Quality Growth
 Commission - LeRay McAllister Program
 From Beginning Nonlapsing
 Appropriation Balances 48,000
 Schedule of Programs:
 LeRay McAllister Critical Land
 Conservation Program 48,000

Item 19

To Governor's Office - Commission on
 Criminal and Juvenile Justice
 From General Fund 597,900
 From Federal Funds 14,430,900
 From Dedicated Credits Revenue 94,100
 From General Fund Restricted - Law
 Enforcement Services 617,900
 From General Fund Restricted -
 Criminal Forfeiture Restricted
 Account 2,088,000
 From General Fund Restricted -
 Law Enforcement Operations 1,818,500
 From Crime Victim Reparations
 Fund 3,991,600
 Schedule of Programs:
 CCJJ Commission 11,971,200
 Utah Office for Victims of Crime 8,090,500
 Extraditions 374,200
 Substance Abuse Advisory Council 143,700
 Sentencing Commission 138,300
 Gang Reduction Grant Program 292,100
 State Asset Forfeiture Grant
 Program 2,088,000
 Sexual Exploitation of Children 171,000
 Judicial Performance Evaluation
 Commission 369,900

OFFICE OF THE STATE AUDITOR

Item 20

To Office of the State Auditor -
 State Auditor
 From General Fund 3,440,100
 From Dedicated Credits Revenue 1,711,700
 From Beginning Nonlapsing
 Appropriation Balances 419,700
 Schedule of Programs:
 State Auditor 5,571,500

STATE TREASURER

Item 21

To State Treasurer
 From General Fund 906,800
 From Dedicated Credits Revenue 485,200
 From Unclaimed Property Trust 1,464,900

Schedule of Programs:
 Treasury and Investment 1,309,600
 Unclaimed Property 1,457,800
 Money Management Council 89,500

ATTORNEY GENERAL

Item 22

To Attorney General
 From General Fund 27,401,700
 From Federal Funds 1,683,800
 From Dedicated Credits Revenue 17,695,000
 From General Fund Restricted -
 Constitutional Defense 359,200
 From General Fund Restricted -
 Tobacco Settlement Account 73,500
 From Attorney General Litigation
 Fund 356,000
 From Revenue Transfers - Federal 589,100
 From Revenue Transfers - Other
 Agencies 52,100
 From Beginning Nonlapsing
 Appropriation Balances 2,307,900
 From Closing Nonlapsing Appropriation
 Balances (962,800)
 Schedule of Programs:
 Administration 4,211,500
 Child Protection 7,660,600
 Children's Justice 1,270,100
 Criminal Prosecution 16,101,200
 Civil 20,312,100

Item 23

To Attorney General - Contract Attorneys
 From Dedicated Credits Revenue 300,000
 Schedule of Programs:
 Contract Attorneys 300,000

Item 24

To Attorney General - Children's Justice
 Centers
 From General Fund 3,094,700
 From Federal Funds 214,000
 From Dedicated Credits Revenue 259,100
 Schedule of Programs:
 Children's Justice Centers 3,567,800

Item 25

To Attorney General - Prosecution Council
 From Federal Funds 56,800
 From Dedicated Credits Revenue 59,600
 From General Fund Restricted -
 Public Safety Support 603,400
 From Revenue Transfers 263,700
 Schedule of Programs:
 Prosecution Council 983,500

Item 26

To Attorney General - Domestic Violence
 From General Fund Restricted -
 Victims of Domestic Violence Services
 Account 78,300
 Schedule of Programs:
 Domestic Violence 78,300

UTAH DEPARTMENT OF CORRECTIONS

Item 27

To Utah Department of Corrections -
 Programs and Operations
 From General Fund 196,527,500

From Education Fund 49,000
 From Federal Funds 342,900
 From Dedicated Credits Revenue 4,154,300
 From G.F.R. - Interstate Compact
 for Adult Offender Supervision 29,000
 From General Fund Restricted - Prison
 Telephone Surcharge Account 1,500,000
 From Revenue Transfers - Other
 Agencies 215,400
 Schedule of Programs:
 Department Executive Director 5,853,000
 Department Administrative
 Services 10,890,500
 Department Training 1,578,800
 Adult Probation and Parole
 Administration 988,600
 Adult Probation and Parole
 Programs 52,663,600
 Institutional Operations
 Administration 2,367,400
 Institutional Operations Draper
 Facility 71,697,500
 Institutional Operations Central
 Utah/Gunnison 33,494,700
 Institutional Operations Inmate
 Placement 2,689,500
 Institutional Operations Support
 Services 4,433,200
 Programming Administration 548,800
 Programming Treatment 8,613,000
 Programming Skill Enhancement 5,066,800
 Programming Education 1,932,700

Item 28

To Utah Department of Corrections -
 Department Medical Services
 From General Fund 28,064,700
 From Dedicated Credits Revenue 539,200
 From Revenue Transfers - Medicaid 1,400,000
 Schedule of Programs:
 Medical Services 30,003,900

Item 29

To Utah Department of Corrections -
 Jail Contracting
 From General Fund 26,232,800
 From Federal Funds 50,000
 Schedule of Programs:
 Jail Contracting 26,282,800

BOARD OF PARDONS AND PAROLE**Item 30**

To Board of Pardons and Parole
 From General Fund 3,953,800
 From Dedicated Credits Revenue 2,200
 Schedule of Programs:
 Board of Pardons and Parole 3,956,000

**DEPARTMENT OF HUMAN SERVICES -
 DIVISION OF JUVENILE JUSTICE
 SERVICES****Item 31**

To Department of Human Services - Division of
 Juvenile Justice Services - Programs and
 Operations
 From General Fund 85,464,700
 From Federal Funds 3,534,800

From Dedicated Credits Revenue 2,244,000
 From Revenue Transfers - Child
 Nutrition 929,100
 From Revenue Transfers - Commission
 on Criminal and Juvenile Justice 602,100
 From Revenue Transfers - Health (1,818,900)
 From Revenue Transfers - Administrative
 Fees for State Medicaid Payment (62,200)
 From Revenue Transfers - Within
 Agency (591,500)
 Schedule of Programs:
 Administration 4,556,800
 Early Intervention Services 14,649,400
 Community Programs 22,806,800
 Correctional Facilities 25,538,900
 Rural Programs 22,379,500
 Youth Parole Authority 370,700

**JUDICIAL COUNCIL/STATE
 COURT ADMINISTRATOR****Item 32**

To Judicial Council/State Court
 Administrator - Administration
 From General Fund 91,121,800
 From Federal Funds 724,500
 From Dedicated Credits Revenue 3,011,600
 From General Fund Restricted -
 Dispute Resolution Account 437,000
 From General Fund Restricted -
 Children's Legal Defense 436,700
 From General Fund Restricted -
 Court Reporting Technology 254,300
 From General Fund Restricted -
 Court Security Account 7,561,600
 From General Fund Restricted -
 Court Trust Interest 831,000
 From General Fund Restricted -
 DNA Specimen Account 256,400
 From General Fund Restricted -
 Justice Court Tech., Security
 & Training 1,143,200
 From General Fund Restricted -
 Non-Judicial Adjustment Account 970,000
 From General Fund Restricted -
 Online Court Assistance Account 230,100
 From General Fund Restricted -
 State Court Complex Account 313,400
 From General Fund Restricted -
 Substance Abuse Prevention 541,000
 From General Fund Restricted -
 Tobacco Settlement Account 361,100
 From Revenue Transfers - Commission
 on Criminal and Juvenile Justice 586,700
 From Revenue Transfers -
 Other Agencies 476,400
 Schedule of Programs:
 Supreme Court 2,672,300
 Law Library 959,100
 Court of Appeals 3,976,800
 District Courts 43,342,300
 Juvenile Courts 36,632,300
 Justice Courts 1,304,800
 Courts Security 7,561,600
 Administrative Office 4,190,300
 Judicial Education 648,800
 Data Processing 6,460,100
 Grants Program 1,508,400

Item 33

To Judicial Council/State Court	
Administrator - Grand Jury	
From General Fund	800
Schedule of Programs:	
Grand Jury	800

Item 34

To Judicial Council/State Court	
Administrator - Contracts and Leases	
From General Fund	14,886,400
From Dedicated Credits Revenue	250,000
From General Fund Restricted -	
State Court Complex Account	4,593,500
Schedule of Programs:	
Contracts and Leases	19,729,900

Item 35

To Judicial Council/State Court	
Administrator - Jury and Witness Fees	
From General Fund	1,551,100
From Dedicated Credits Revenue	10,000
From Beginning Nonlapsing	
Appropriation Balances	(1,761,700)
From Closing Nonlapsing Appropriation	
Balances	2,661,700
Schedule of Programs:	
Jury, Witness, and Interpreter	2,461,100

Item 36

To Judicial Council/State Court	
Administrator - Guardian ad Litem	
From General Fund	5,568,500
From Dedicated Credits Revenue	77,000
From General Fund Restricted -	
Children's Legal Defense	470,100
From General Fund Restricted -	
Guardian Ad Litem Services	373,500
Schedule of Programs:	
Guardian ad Litem	6,489,100

DEPARTMENT OF PUBLIC SAFETY

Item 37

To Department of Public Safety -	
Programs & Operations	
From General Fund	64,679,300
From Transportation Fund	5,495,500
From Federal Funds	2,240,100
From Dedicated Credits Revenue	18,214,000
From General Fund Restricted -	
Canine Body Armor	25,000
From General Fund Restricted -	
DNA Specimen Account	1,449,200
From General Fund Restricted -	
Statewide Unified E-911	
Emergency Account	2,893,400
From General Fund Restricted -	
Fire Academy Support	6,263,200
From General Fund Restricted -	
Firefighter Support Account	132,000
From General Fund Restricted -	
Public Safety Honoring Heroes	
Account	20,000
From General Fund Restricted -	
Public Safety Support	3,300

From General Fund Restricted -	
Reduced Cigarette Ignition	
Propensity & Firefighter Protection	
Account	76,500
From General Fund Restricted -	
Statewide Warrant Operations	577,900
From General Fund Restricted -	
Utah Highway Patrol Aero Bureau	205,000
From Department of Public Safety	
Restricted Account	3,398,300
From Revenue Transfers	1,696,400
From Revenue Transfers -	
Other Agencies	38,900
From Pass-through	3,469,000
From Beginning Nonlapsing	
Appropriation Balances	3,400,000
From Closing Nonlapsing Appropriation	
Balances	(2,800,000)
Schedule of Programs:	
Department Commissioner's	
Office	4,593,800
Aero Bureau	973,600
Department Intelligence Center	1,001,700
Department Grants	3,296,700
Department Fleet Management	498,000
Enhanced 911 Program	2,893,400
CITS Administration	491,400
CITS Bureau of Criminal	
Identification	14,343,900
CITS Communications	7,391,500
CITS State Crime Labs	5,006,100
CITS State Bureau of	
Investigation	3,046,800
Highway Patrol - Administration	1,192,500
Highway Patrol - Field	
Operations	38,954,800
Highway Patrol - Commercial	
Vehicle	3,666,400
Highway Patrol - Safety	
Inspections	1,329,500
Highway Patrol - Federal/State	
Projects	4,485,400
Highway Patrol - Protective	
Services	4,679,300
Highway Patrol - Special Services	3,497,700
Highway Patrol - Special	
Enforcement	669,600
Highway Patrol - Technology	
Services	1,367,200
Information Management -	
Operations	1,321,000
Fire Marshall - Fire Operations	2,730,600
Fire Marshall - Fire Fighter	
Training	4,046,100

Item 38

To Department of Public Safety -	
Emergency Management	
From General Fund	1,393,900
From Federal Funds	30,618,000
From Dedicated Credits Revenue	408,000
From Revenue Transfers - Other	
Agencies	140,400
From Pass-through	21,800
From Beginning Nonlapsing	
Appropriation Balances	408,000
From Closing Nonlapsing Appropriation	
Balances	(408,000)

Schedule of Programs:
 Emergency Management 32,582,100

Item 39

To Department of Public Safety - Division of
 Homeland Security - Emergency and Disaster
 Management
 From Beginning Nonlapsing
 Appropriation Balances 3,002,900
 From Closing Nonlapsing Appropriation
 Balances (3,002,900)

Item 40

To Department of Public Safety -
 Peace Officers' Standards and Training
 From Dedicated Credits Revenue 45,400
 From General Fund Restricted -
 Public Safety Support 3,904,800
 Schedule of Programs:
 Basic Training 1,705,600
 Regional/Inservice Training 768,200
 POST Administration 1,476,400

Item 41

To Department of Public Safety - Driver License
 From Federal Funds 350,100
 From Dedicated Credits Revenue 9,100
 From Public Safety Motorcycle
 Education Fund 325,600
 From Department of Public Safety
 Restricted Account 26,300,000
 From Uninsured Motorist Identification
 Restricted Account 2,360,100
 From Pass-through 53,700
 From Beginning Nonlapsing
 Appropriation Balances 1,275,200
 From Closing Nonlapsing Appropriation
 Balances (1,646,600)
 Schedule of Programs:
 Driver License Administration 1,982,100
 Driver Services 16,378,900
 Driver Records 8,000,000
 Motorcycle Safety 327,500
 Uninsured Motorist 1,988,700
 DL Federal Grants 350,000

Item 42

To Department of Public Safety - Highway Safety
 From General Fund 55,200
 From Federal Funds 4,274,700
 From Dedicated Credits Revenue 10,600
 From Department of Public Safety
 Restricted Account 900,600
 From Pass-through 39,400
 Schedule of Programs:
 Highway Safety 5,280,500

Subsection 2(b). Business-like Activities.

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

Finance to transfer amounts among funds and accounts as indicated.

UTAH DEPARTMENT OF CORRECTIONS

Item 43

To Utah Department of Corrections -
 Utah Correctional Industries
 From Dedicated Credits Revenue 26,694,000
 Schedule of Programs:
 Utah Correctional Industries 26,694,000

Subsection 2(c). Restricted Fund and Account Transfers.

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

FUND AND ACCOUNT TRANSFERS

Item 44

To Fund and Account Transfers - General
 Fund Restricted - DNA Specimen Account
 From General Fund 216,000
 Schedule of Programs:
 General Fund Restricted -
 DNA Specimen Account 216,000

Section 3. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 of this bill takes effect on July 1, 2014.

CHAPTER 15**S. B. 28**

Passed February 18, 2014

Approved March 3, 2014

Effective March 3, 2014

UTAH RETIREMENT AMENDMENTS

Chief Sponsor: Todd Weiler
House Sponsor: Kraig Powell

LONG TITLE**General Description:**

This bill modifies the Utah State Retirement and Insurance Benefit Act and the Utah State Personnel Management Act by amending retirement provisions.

Highlighted Provisions:

This bill:

- ▶ clarifies definitions;
- ▶ replaces mention of the Teachers Insurance and Annuity Association of America with a retirement plan offered by a public or private system, organization, or company designated by the State Board of Regents;
- ▶ clarifies that a governor, legislator, other full-time elected official, or employee with Tier I service credit in a system or plan administered by the Utah State Retirement Board may only participate in another Tier I system or plan if the individual enters office or employment with a participating employer on or after July 1, 2011;
- ▶ expands the annual CPI increases for postretirement earnings limitations to include reemployed earnings that are based on one-half of final average salary;
- ▶ clarifies reporting provisions for participating employers regarding the employees' accrual of service credit;
- ▶ eliminates the requirement that certain retirement application forms must be notarized when submitted to the Utah State Retirement Office;
- ▶ provides that a beneficiary who qualifies for a monthly benefit must apply in writing to the Utah State Retirement Office and that the allowance shall begin on the first day of the month following the month in which the participant died if the application is received within 90 days of the death, or the following month if the application is received by the office more than 90 days after the date of death;
- ▶ provides that for certain employer service credit purchases, an employee is not required to have at least four years of service credit or to forfeit service credit or any defined contribution balance;
- ▶ provides that a minor child beneficiary may receive a refund of a deceased member's public safety member contributions;
- ▶ clarifies that a judge with 25 or more years of service credit does not get penalized for retiring before age 65;
- ▶ provides that an eligible employee in the Tier II public employees system includes an employee who is covered by a retirement program offered by another public or private system, organization, or company designated by the State Board of Regents;

- ▶ provides that a person who is receiving long-term disability benefits may only accrue service credit until the earlier of date of death, the date the person retires, or the date the person has accumulated or would have accumulated service credit in a defined benefit system or plan under this title, sufficient to be eligible to retire with an unreduced benefit;
- ▶ clarifies that a qualifying employee must be receiving paid leave benefits to be eligible to receive the state employee matching supplemental defined contribution benefit; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect immediately.

Utah Code Sections Affected:**AMENDS:**

- 49-11-102, as last amended by Laws of Utah 2013, Chapters 215 and 316
- 49-11-201, as last amended by Laws of Utah 2004, Chapter 118
- 49-11-403, as last amended by Laws of Utah 2011, Chapters 366 and 439
- 49-11-505, as last amended by Laws of Utah 2013, Chapter 48
- 49-11-603, as last amended by Laws of Utah 2008, Chapter 252
- 49-11-610, as renumbered and amended by Laws of Utah 2002, Chapter 250
- 49-12-201, as last amended by Laws of Utah 2010, Chapter 266
- 49-12-202, as last amended by Laws of Utah 2009, Chapters 51 and 165
- 49-12-203, as last amended by Laws of Utah 2013, Chapters 310 and 316
- 49-12-204, as last amended by Laws of Utah 2013, Chapter 316
- 49-12-401, as last amended by Laws of Utah 2013, Chapter 215
- 49-12-402, as last amended by Laws of Utah 2011, Chapter 439
- 49-13-102, as last amended by Laws of Utah 2013, Chapters 109 and 127
- 49-13-201, as last amended by Laws of Utah 2010, Chapter 266
- 49-13-202, as last amended by Laws of Utah 2012, Chapter 298
- 49-13-203, as last amended by Laws of Utah 2013, Chapters 310 and 316
- 49-13-204, as last amended by Laws of Utah 2013, Chapter 316
- 49-13-401, as last amended by Laws of Utah 2013, Chapter 215
- 49-13-402, as last amended by Laws of Utah 2011, Chapter 439
- 49-14-201, as last amended by Laws of Utah 2010, Chapter 266
- 49-14-401, as last amended by Laws of Utah 2013, Chapter 215
- 49-14-501, as last amended by Laws of Utah 2011, Chapter 439
- 49-14-504, as last amended by Laws of Utah 2011, Chapter 366
- 49-15-201, as last amended by Laws of Utah 2010, Chapter 266

49-15-202, as last amended by Laws of Utah 2010, Chapter 266

49-15-401, as last amended by Laws of Utah 2013, Chapter 215

49-15-501, as last amended by Laws of Utah 2011, Chapter 439

49-15-504, as last amended by Laws of Utah 2011, Chapter 366

49-16-201, as last amended by Laws of Utah 2011, Chapter 366

49-16-401, as last amended by Laws of Utah 2013, Chapter 215

49-16-504, as last amended by Laws of Utah 2011, Chapter 366

49-17-401, as last amended by Laws of Utah 2011, Chapter 439

49-17-402, as last amended by Laws of Utah 2010, Chapter 264

49-17-502, as last amended by Laws of Utah 2009, Chapter 224

49-18-401, as last amended by Laws of Utah 2011, Chapter 439

49-18-402, as last amended by Laws of Utah 2010, Chapter 264

49-18-502, as last amended by Laws of Utah 2009, Chapter 224

49-19-201, as last amended by Laws of Utah 2010, Chapter 266

49-19-401, as last amended by Laws of Utah 2004, Chapter 118

49-21-102, as last amended by Laws of Utah 2013, Chapter 316

49-22-201, as last amended by Laws of Utah 2011, Chapter 439

49-22-203, as last amended by Laws of Utah 2013, Chapter 316

49-22-204, as enacted by Laws of Utah 2010, Chapter 266

49-22-304, as last amended by Laws of Utah 2013, Chapter 215

49-23-201, as last amended by Laws of Utah 2011, Chapter 439

49-23-303, as last amended by Laws of Utah 2013, Chapter 215

49-23-503, as last amended by Laws of Utah 2013, Chapter 40

67-19-43, as enacted by Laws of Utah 2013, Chapter 277

ENACTS:

49-21-408, Utah Code Annotated 1953

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

Section 1. Section 49-11-102 is amended to read:

49-11-102. Definitions.

As used in this title:

(1) (a) "Active member" means a member who:

(i) is employed by a participating employer and accruing service credit; or [who]

(ii) within the previous 120 days:

(A) has been employed by a participating employer [within the previous 120 days.]; and

(B) accrued service credit.

(b) "Active member" does not include ~~[retirees]~~ a retiree.

(2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of mortality tables as recommended by the actuary and adopted by the executive director, including regular interest.

(3) "Actuarial interest rate" means the interest rate as recommended by the actuary and adopted by the board upon which the funding of system costs and benefits are computed.

(4) (a) "Agency" means:

(i) a department, division, agency, office, authority, commission, board, institution, or hospital of the state;

(ii) a county, municipality, school district, local district, or special service district;

(iii) a state college or university; or

(iv) any other participating employer.

(b) "Agency" does not include an entity listed under Subsection (4)(a)(i) that is a subdivision of another entity listed under Subsection (4)(a).

(5) "Allowance" or "retirement allowance" means the pension plus the annuity, including any cost of living or other authorized adjustments to the pension and annuity.

(6) "Alternate payee" means a member's former spouse or family member eligible to receive payments under a Domestic Relations Order in compliance with Section 49-11-612.

(7) "Amortization rate" means the board certified percent of salary required to amortize the unfunded actuarial accrued liability in accordance with policies established by the board upon the advice of the actuary.

(8) "Annuity" means monthly payments derived from member contributions.

(9) "Appointive officer" means an employee appointed to a position for a definite and fixed term of office by official and duly recorded action of a participating employer whose appointed position is designated in the participating employer's charter, creation document, or similar document, and:

(a) who earns \$500 or more per month, indexed as of January 1, 1990, as provided in Section 49-12-407 for a Tier I appointive officer; and

(b) whose appointive position is full-time as certified by the participating employer for a Tier II appointive officer.

(10) (a) "At-will employee" means a person who is employed by a participating employer and:

(i) who is not entitled to merit or civil service protection and is generally considered exempt from a participating employer's merit or career service personnel systems;

(ii) whose on-going employment status is entirely at the discretion of the person's employer; or

(iii) who may be terminated without cause by a designated supervisor, manager, or director.

(b) "At-will employee" does not include a career employee who has obtained a reasonable expectation of continued employment based on inclusion in a participating employer's merit system, civil service protection system, or career service personnel systems, policies, or plans.

(11) "Beneficiary" means any person entitled to receive a payment under this title through a relationship with or designated by a member, participant, covered individual, or alternate payee of a defined contribution plan.

(12) "Board" means the Utah State Retirement Board established under Section 49-11-202.

(13) "Board member" means a person serving on the Utah State Retirement Board as established under Section 49-11-202.

(14) "Certified contribution rate" means the board certified percent of salary paid on behalf of an active member to the office to maintain the system on a financially and actuarially sound basis.

(15) "Contributions" means the total amount paid by the participating employer and the member into a system or to the Utah Governors' and Legislators' Retirement Plan under Chapter 19, Utah Governors' and Legislators' Retirement Act.

(16) "Council member" means a person serving on the Membership Council established under Section 49-11-202.

(17) "Covered individual" means any individual covered under Chapter 20, Public Employees' Benefit and Insurance Program Act.

(18) "Current service" means covered service under:

(a) Chapter 12, Public Employees' Contributory Retirement Act;

(b) Chapter 13, Public Employees' Noncontributory Retirement Act;

(c) Chapter 14, Public Safety Contributory Retirement Act;

(d) Chapter 15, Public Safety Noncontributory Retirement Act;

(e) Chapter 16, Firefighters' Retirement Act;

(f) Chapter 17, Judges' Contributory Retirement Act;

(g) Chapter 18, Judges' Noncontributory Retirement Act;

(h) Chapter 19, Utah Governors' and Legislators' Retirement Act;

(i) Chapter 22, New Public Employees' Tier II Contributory Retirement Act; or

(j) Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement Act.

(19) "Defined benefit" or "defined benefit plan" or "defined benefit system" means a system or plan offered under this title to provide a specified allowance to a retiree or a retiree's spouse after retirement that is based on a set formula involving one or more of the following factors:

(a) years of service;

(b) final average monthly salary; or

(c) a retirement multiplier.

(20) "Defined contribution" or "defined contribution plan" means any defined contribution plan or deferred compensation plan authorized under the Internal Revenue Code and administered by the board.

(21) "Educational institution" means a political subdivision or instrumentality of the state or a combination thereof primarily engaged in educational activities or the administration or servicing of educational activities, including:

(a) the State Board of Education and its instrumentalities;

(b) any institution of higher education and its branches;

(c) any school district and its instrumentalities;

(d) any vocational and technical school; and

(e) any entity arising out of a consolidation agreement between entities described under this Subsection (21).

(22) "Elected official":

(a) means a person elected to a state office, county office, municipal office, school board or school district office, local district office, or special service district office;

(b) includes a person who is appointed to serve an unexpired term of office described under Subsection (22)(a); and

(c) does not include a judge or justice who is subject to a retention election under Section 20A-12-201.

(23) (a) "Employer" means any department, educational institution, or political subdivision of the state eligible to participate in a government-sponsored retirement system under federal law.

(b) "Employer" may also include an agency financed in whole or in part by public funds.

(24) "Exempt employee" means an employee working for a participating employer:

(a) who is not eligible for service credit under Section 49-12-203, 49-13-203, 49-14-203, 49-15-203, or 49-16-203; and

(b) for whom a participating employer is not required to pay contributions or nonelective contributions.

(25) “Final average monthly salary” means the amount computed by dividing the compensation received during the final average salary period under each system by the number of months in the final average salary period.

(26) “Fund” means any fund created under this title for the purpose of paying benefits or costs of administering a system, plan, or program.

(27) (a) “Inactive member” means a member who has not been employed by a participating employer for a period of at least 120 days.

(b) “Inactive member” does not include retirees.

(28) (a) “Initially entering” means hired, appointed, or elected for the first time, in current service as a member with any participating employer.

(b) “Initially entering” does not include a person who has any prior service credit on file with the office.

(c) “Initially entering” includes an employee of a participating employer, except for an employee that is not eligible under a system or plan under this title, who:

(i) does not have any prior service credit on file with the office;

(ii) is covered by a retirement plan other than a retirement plan created under this title; and

(iii) moves to a position with a participating employer that is covered by this title.

(29) “Institution of higher education” means an institution described in Section 53B-1-102.

(30) (a) “Member” means a person, except a retiree, with contributions on deposit with a system, the Utah Governors’ and Legislators’ Retirement Plan under Chapter 19, Utah Governors’ and Legislators’ Retirement Act, or with a terminated system.

(b) “Member” also includes leased employees within the meaning of Section 414(n)(2) of the Internal Revenue Code, if the employees have contributions on deposit with the office. If leased employees constitute less than 20% of the participating employer’s work force that is not highly compensated within the meaning of Section 414(n)(5)(c)(ii), Internal Revenue Code, “member” does not include leased employees covered by a plan described in Section 414(n)(5) of the federal Internal Revenue Code.

(31) “Member contributions” means the sum of the contributions paid to a system or the Utah Governors’ and Legislators’ Retirement Plan, including refund interest if allowed by a system, and which are made by:

(a) the member; and

(b) the participating employer on the member’s behalf under Section 414(h) of the Internal Revenue Code.

(32) “Nonelective contribution” means an amount contributed by a participating employer into a participant’s defined contribution account.

(33) “Normal cost rate”:

(a) means the percent of salary that is necessary for a retirement system that is fully funded to maintain its fully funded status; and

(b) is determined by the actuary based on the assumed rate of return established by the board.

(34) “Office” means the Utah State Retirement Office.

(35) “Participant” means an individual with voluntary deferrals or nonelective contributions on deposit with the defined contribution plans administered under this title.

(36) “Participating employer” means a participating employer, as defined by Chapter 12, Public Employees’ Contributory Retirement Act, Chapter 13, Public Employees’ Noncontributory Retirement Act, Chapter 14, Public Safety Contributory Retirement Act, Chapter 15, Public Safety Noncontributory Retirement Act, Chapter 16, Firefighters’ Retirement Act, Chapter 17, Judges’ Contributory Retirement Act, and Chapter 18, Judges’ Noncontributory Retirement Act, or an agency financed in whole or in part by public funds which is participating in a system or plan as of January 1, 2002.

(37) “Part-time appointed board member” means a person:

(a) who is appointed to serve as a member of a board, commission, council, committee, or panel of a participating employer; and

(b) whose service as a part-time appointed board member does not qualify as a regular full-time employee as defined under Section 49-12-102, 49-13-102, or 49-22-102.

(38) “Pension” means monthly payments derived from participating employer contributions.

(39) “Plan” means the Utah Governors’ and Legislators’ Retirement Plan created by Chapter 19, Utah Governors’ and Legislators’ Retirement Act, the New Public Employees’ Tier II Defined Contribution Plan created by Chapter 22, Part 4, Tier II Defined Contribution Plan, the New Public Safety and Firefighter Tier II Defined Contribution Plan created by Chapter 23, Part 4, Tier II Defined Contribution Plan, or the defined contribution plans created under Section 49-11-801.

(40) (a) “Political subdivision” means any local government entity, including cities, towns, counties, and school districts, but only if the subdivision is a juristic entity that is legally separate and distinct from the state and only if its employees are not by virtue of their relationship to the entity employees of the state.

(b) “Political subdivision” includes local districts, special service districts, or authorities created by the Legislature or by local governments, including the office.

(c) “Political subdivision” does not include a project entity created under Title 11, Chapter 13, Interlocal Cooperation Act, that was formed prior to July 1, 1987.

(41) “Program” means the Public Employees’ Insurance Program created under Chapter 20, Public Employees’ Benefit and Insurance Program Act, or the Public Employees’ Long-Term Disability program created under Chapter 21, Public Employees’ Long-Term Disability Act.

(42) “Public funds” means those funds derived, either directly or indirectly, from public taxes or public revenue, dues or contributions paid or donated by the membership of the organization, used to finance an activity whose objective is to improve, on a nonprofit basis, the governmental, educational, and social programs and systems of the state or its political subdivisions.

(43) “Qualified defined contribution plan” means a defined contribution plan that meets the requirements of Section 401(k) or Section 403(b) of the Internal Revenue Code.

(44) (a) “Reemployed,” “reemploy,” or “reemployment” means work or service performed for a participating employer after retirement, in exchange for compensation.

(b) Reemployment includes work or service performed on a contract for a participating employer if the retiree is:

(i) listed as the contractor; or

(ii) an owner, partner, or ~~principle~~ principal of the contractor.

(45) “Refund interest” means the amount accrued on member contributions at a rate adopted by the board.

(46) “Retiree” means an individual who has qualified for an allowance under this title.

(47) “Retirement” means the status of an individual who has become eligible, applies for, and is entitled to receive an allowance under this title.

(48) “Retirement date” means the date selected by the member on which the member’s retirement becomes effective with the office.

(49) “Retirement related contribution”:

(a) means any employer payment to any type of retirement plan or program made on behalf of an employee; and

(b) does not include Social Security payments or Social Security substitute payments made on behalf of an employee.

(50) “Service credit” means:

(a) the period during which an employee is employed and compensated by a participating employer and meets the eligibility requirements for membership in a system or the Utah Governors’ and Legislators’ Retirement Plan, provided that any required contributions are paid to the office; and

(b) periods of time otherwise purchasable under this title.

(51) “System” means the individual retirement systems created by Chapter 12, Public Employees’ Contributory Retirement Act, Chapter 13, Public Employees’ Noncontributory Retirement Act, Chapter 14, Public Safety Contributory Retirement Act, Chapter 15, Public Safety Noncontributory Retirement Act, Chapter 16, Firefighters’ Retirement Act, Chapter 17, Judges’ Contributory Retirement Act, Chapter 18, Judges’ Noncontributory Retirement Act, and Chapter 19, Utah Governors’ and Legislators’ Retirement Act, the defined benefit portion of the Tier II Hybrid Retirement System under Chapter 22, Part 3, Tier II Hybrid Retirement System, and the defined benefit portion of the Tier II Hybrid Retirement System under Chapter 23, Part 3, Tier II Hybrid Retirement System.

(52) “Tier I” means a system or plan under this title for which:

(a) an employee is eligible to participate if the employee initially enters regular full-time employment before July 1, 2011[-]; or

(b) a governor or legislator who initially enters office before July 1, 2011.

(53) (a) “Tier II” means a system or plan under this title provided in lieu of a Tier I system or plan for ~~which an employee is eligible to participate,~~ an employee, governor, legislator, or full-time elected official who does not have Tier I service credit in a system or plan under this title:

(i) if the employee initially enters regular full-time employment on or after July 1, 2011[-]; or

(ii) if the governor, legislator, or full-time elected official initially enters office on or after July 1, 2011.

(b) “Tier II” includes:

(i) the Tier II hybrid system established under:

(A) Chapter 22, Part 3, Tier II Hybrid Retirement System; or

(B) Chapter 23, Part 3, Tier II Hybrid Retirement System; and

(ii) the Tier II Defined Contribution Plan (Tier II DC Plan) established under:

(A) Chapter 22, Part 4, Tier II Defined Contribution Plan; or

(B) Chapter 23, Part 4, Tier II Defined Contribution Plan.

(54) “Unfunded actuarial accrued liability” or “UAAL”:

(a) is determined by the system’s actuary; and

(b) means the excess, if any, of the accrued liability of a retirement system over the actuarial value of its assets.

(55) “Voluntary deferrals” means an amount contributed by a participant into that participant’s defined contribution account.

Section 2. Section 49-11-201 is amended to read:

49-11-201. Establishment of retirement office -- An independent state agency -- Office exemption.

(1) (a) There is established the Utah State Retirement Office, which may also be known and function as the Utah State Retirement Systems or the Utah Retirement Systems.

(b) The office shall administer the systems, plans, and programs and perform all other functions assigned to it under this title.

(2) (a) The office is an independent state agency.

(b) It is subject to legislative and executive department budgetary review and comment.

(3) The office may establish branch offices upon approval of the board.

(4) The board and office are exempt from those acts which are applicable to state and other governmental entities under this code.

Section 3. Section 49-11-403 is amended to read:

49-11-403. Purchase of public service credit not otherwise qualifying for benefit.

(1) A member, a participating employer, or a member and a participating employer jointly may purchase service credit equal to the period of the member's employment in the following:

(a) United States federal employment;

(b) employment in a private school based in the United States, if the member received an employer paid retirement benefit for the employment;

(c) public employment in another state or territory of the United States which qualifies the member for membership in the public plan or system covering the employment, but only if the member does not qualify for any retirement benefits based on the employment;

(d) forfeited service credit in this state if the member does not qualify for an allowance based on the service credit;

(e) full-time public service while on an approved leave of absence;

(f) the period of time for which disability benefits were paid if:

(i) the member was receiving:

(A) long-term disability benefits;

(B) short-term disability benefits; or

(C) worker's compensation disability benefits; and

(ii) the member's employer had not entered into a benefit protection contract under Section 49-11-404 during the period the member had a disability due to sickness or accident;

(g) employment covered by a [~~Teachers Insurance and Annuity Association of America~~] retirement plan offered by a public or private system, organization, or company designated by the State Board of Regents, if the member forfeits any retirement benefit from that retirement plan for the period of employment to be purchased under this Subsection (1)(g); or

(h) employment in a charter school located within the state if the member forfeits any retirement benefit under any other retirement system or plan for the period of employment to be purchased under this Subsection (1)(h).

(2) A member shall:

(a) have at least four years of service credit before a purchase can be made under this section; and

(b) forfeit service credit and any defined contribution balance based on employer contributions under any other retirement system or plan based on the period of employment for which service credit is being purchased.

(3) (a) To purchase credit under this section, the member, a participating employer, or a member and a participating employer jointly shall make payment to the system under which the member is currently covered.

(b) The amount of the payment shall be determined by the office based on a formula that is:

(i) recommended by the actuary; and

(ii) adopted by the board.

(4) The purchase may be made through payroll deductions or through a lump sum deposit based upon the present value of future payments.

(5) Total payment must be completed prior to the member's effective date of retirement or service credit will be prorated in accordance with the amount paid.

(6) (a) For a purchase made before July 1, 2010, if any of the factors used to determine the cost of a service credit purchase change at or before the member's retirement date, the cost of the purchase shall be recalculated at the time of retirement.

(b) For a purchase made before July 1, 2010, if the recalculated cost exceeds the amount paid for the purchase, the member, a participating employer, or a member and a participating employer jointly may:

(i) pay the increased cost, plus interest, to receive the full amount of service credit; or

(ii) not pay the increased cost and have the purchased service credit prorated.

(c) For a purchase made on or after July 1, 2010:

(i) the purchase shall be made in accordance with rules:

(A) adopted by the board based on recommendations by the board's actuary; and

(B) in effect at the time the purchase is completed; and

(ii) the cost of the service credit purchase shall not be recalculated at the time of retirement.

(7) If the recalculated cost under Subsection (6)(a) is less than the amount paid for the purchase, the office shall refund the excess payment to the member or participating employer who paid for the purchase.

(8) (a) The board may adopt rules under which a member may make the necessary payments to the office for purchases under this title as permitted by federal law.

(b) The office may reject any payments if the office determines the tax status of the system, plans, or programs would be jeopardized by allowing the payment.

(9) An employee who elects to participate exclusively in the defined contribution plan under Chapter 22, Part 4, Tier II Defined Contribution Plan, or Chapter 23, Part 4, Tier II Defined Contribution Plan, may not purchase service credit for that period of employment.

Section 4. Section 49-11-505 is amended to read:

49-11-505. Reemployment of a retiree -- Restrictions.

(1) (a) For purposes of this section, "retiree":

(i) means a person who:

(A) retired from a participating employer; and

(B) begins reemployment on or after July 1, 2010, with a participating employer;

(ii) does not include a person:

(A) who was reemployed by a participating employer before July 1, 2010; and

(B) whose participating employer that reemployed the person under Subsection (1)(a)(ii)(A) was dissolved, consolidated, merged, or structurally changed in accordance with Section 49-11-621 after July 1, 2010; and

(iii) does not include a person who is reemployed as an active senior judge appointed to hear cases by the Utah Supreme Court in accordance with Article VIII, Section 4, Utah Constitution.

(b) (i) This section does not apply to employment as an elected official if the elected official's position is not full time as certified by the participating employer.

(ii) The provisions of this section apply to an elected official whose elected position is full time as certified by the participating employer.

(2) A retiree may not for the same period of employment:

(a) (i) earn additional service credit; or

(ii) receive any retirement related contribution from a participating employer; and

(b) receive a retirement allowance.

(3) (a) Except as provided under Subsection (3)(b), the office shall cancel the retirement allowance of a retiree if the reemployment with a participating employer begins within one year of the retiree's retirement date.

(b) The office may not cancel the retirement allowance of a retiree who is reemployed with a participating employer within one year of the retiree's retirement date if:

(i) the retiree is not reemployed by a participating employer for a period of at least 60 days from the retiree's retirement date;

(ii) upon reemployment after the break in service under Subsection (3)(b)(i), the retiree does not receive any employer provided benefits, including:

(A) medical benefits;

(B) dental benefits;

(C) other insurance benefits except for workers' compensation as provided under Title 34A, Chapter 2, Workers' Compensation Act, and withholdings required by federal or state law for Social Security, Medicare, and unemployment insurance; or

(D) paid time off, including sick, annual, or other type of leave; and

(iii) the retiree does not earn in any calendar year of reemployment an amount in excess of the lesser of:

(A) \$15,000; or

(B) one-half of the retiree's final average salary upon which the retiree's retirement allowance is based.

(c) Beginning January 1, 2013, the board shall adjust the ~~amount~~ amounts under Subsection (3)(b)(iii)~~(A)~~ by the annual change in the Consumer Price Index during the previous calendar year as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(d) The office shall cancel the retirement allowance of a retiree for the remainder of the calendar year if the reemployment with a participating employer exceeds the limitations under Subsection (3)(b)(iii).

(e) If a retiree is reemployed under the provisions of (3)(b), the termination date of the reemployment, as confirmed in writing by the participating employer, is considered the retiree's retirement date for the purpose of calculating the separation requirement under Subsection (3)(a).

(4) If a reemployed retiree has completed the one-year separation from employment with a participating employer required under Subsection (3)(a), the retiree may elect to:

(a) earn additional service credit in accordance with this title and cancel the retiree's retirement allowance; or

(b) continue to receive the retiree's retirement allowance and forfeit any retirement related contribution from the participating employer who reemployed the retiree.

(5) A participating employer who reemploys a retiree shall contribute to the office the amortization rate, as defined in Section 49-11-102, to be applied to the system that would have covered the retiree, if the reemployed retiree:

(a) has completed the one-year separation from employment with a participating employer required under Subsection (3)(a); and

(b) makes an election under Subsection (4)(b) to continue to receive a retirement allowance while reemployed.

(6) (a) A participating employer shall immediately notify the office:

(i) if the participating employer reemploys a retiree;

(ii) whether the reemployment is subject to Subsection (3)(b) or (4) of this section; and

(iii) of any election by the retiree under Subsection (4).

(b) A participating employer shall certify to the office whether the position of an elected official is or is not full time.

(c) A participating employer is liable to the office for a payment or failure to make a payment in violation of this section.

(d) If a participating employer fails to notify the office in accordance with this section, the participating employer is immediately subject to a compliance audit by the office.

(7) (a) The office shall immediately cancel the retirement allowance of a retiree in accordance with Subsection (7)(b) if the office receives notice or learns of:

(i) the reemployment of a retiree in violation of Subsection (3); or

(ii) the election of a reemployed retiree under Subsection (4)(a).

(b) If the retiree is eligible for retirement coverage in the reemployed position, the office shall cancel the allowance of a retiree subject to Subsection (7)(a), and reinstate the retiree to active member status on the first day of the month following the date of:

(i) reemployment if the retiree is subject to Subsection (3); or

(ii) an election by an employee under Subsection (4)(a).

(c) If the retiree is not otherwise eligible for retirement coverage in the reemployed position:

(i) the office shall cancel the allowance of a retiree subject to Subsection (7)(a)(i); and

(ii) the participating employer shall pay the amortization rate to the office on behalf of the retiree.

(8) (a) A retiree subject to Subsection (7)(b) who retires within two years from the date of reemployment:

(i) is not entitled to a recalculated retirement benefit; and

(ii) will resume the allowance that was being paid at the time of cancellation.

(b) Subject to Subsection (2), a retiree who is reinstated to active membership under Subsection (7) and who retires two or more years after the date of reinstatement to active membership shall:

(i) resume receiving the allowance that was being paid at the time of cancellation; and

(ii) receive an additional allowance based on the formula in effect at the date of the subsequent retirement for all service credit accrued between the first and subsequent retirement dates.

(9) (a) A retiree subject to this section shall report to the office the status of the reemployment under Subsection (3) or (4).

(b) If the retiree fails to inform the office of an election under Subsection (4), the office shall withhold one month's benefit for each month the retiree fails to inform the office under Subsection (9)(a).

(10) The board may make rules to implement this section.

Section 5. Section 49-11-603 is amended to read:

49-11-603. Participating employer to report and certify -- Time limit -- Penalties for failure to comply.

(1) As soon as administratively possible, but in no event later than 60 days after the end of each pay period, a participating employer shall report and certify to the office:

(a) the eligibility for service credit accrual of:

(i) ~~[all current members]~~ each current employee;

(ii) each new ~~[member]~~ employee as ~~[they begin]~~ the new employee begins employment; and

(iii) any changes to eligibility for service credit accrual of each ~~[member]~~ employee;

(b) the compensation of each current ~~[member]~~ employee eligible for service credit; and

(c) other factors relating to the proper administration of this title as required by the executive director.

(2) Each participating employer shall submit the reports required under Subsection (1) in a format approved by the office.

(3) A participating employer shall be liable to the office for:

(a) any liabilities and expenses, including administrative expenses and the cost of increased benefits to ~~[members]~~ employees, resulting from the participating employer's failure to correctly report and certify records under this section;

(b) a penalty equal to \$250 or 50% of the total contributions for the [member] employees for the period of the reporting error, whichever is greater; and

(c) attorney fees.

(4) The executive director may waive all or any part of the interest, penalties, expenses, and fees if the executive director finds there were extenuating circumstances surrounding the participating employer's failure to comply with this section.

(5) The executive director may estimate the length of service, compensation, or age of any [member] employee, if that information is not contained in the records.

Section 6. Section 49-11-610 is amended to read:

49-11-610. Benefits payable in name of beneficiary -- Delivery.

(1) (a) Any benefits payable to a beneficiary shall be made in the name of and delivered to the beneficiary or the lawfully appointed guardian or conservator of the beneficiary, or delivered as otherwise ordered by a court of competent jurisdiction under Title 75, Utah Uniform Probate Code.

(b) If the benefit involves a payment not to exceed an amount authorized by the Utah Uniform Probate Code to any one beneficiary, the office may, without the appointment of a guardian or conservator or the giving of a bond, pay the amount due to the beneficiary or to the persons assuming their support.

(c) The payment shall be in either a lump sum or in monthly amounts.

(d) The total of the payments made under this section shall fully discharge and release the office from any further claims.

~~[(2) All continuing monthly benefits payable to beneficiaries upon the death of a member or participant shall be effective on the first day of the month following the date of death of the member or participant.]~~

(2) A beneficiary who qualifies for a monthly benefit under this section shall apply in writing to the office.

(3) The allowance shall begin on the first day of the month following the month in which the:

(a) member or participant died, if the application is received by the office within 90 days of the date of death of the member or participant; or

(b) application is received by the office, if the application is received by the office more than 90 days after the date of death of the member or participant.

Section 7. Section 49-12-201 is amended to read:

49-12-201. System membership -- Eligibility.

(1) A regular full-time employee of a participating employer is eligible for service credit in this system upon the later of:

(a) the date on which the participating employer began participating in this system; or

(b) the effective date of employment of the regular full-time employee with the participating employer.

(2) Beginning July 1, 1986, a person entering employment with the state and its educational institutions may not participate in this system.

(3) Notwithstanding the provisions of Subsection (1), a person initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may not participate in this system.

Section 8. Section 49-12-202 is amended to read:

49-12-202. Participation of employers -- Limitations -- Exclusions -- Admission requirements -- Exceptions -- Nondiscrimination requirements.

(1) (a) Unless excluded under Subsection (2), an employer is a participating employer and may not withdraw from participation in this system.

(b) In addition to their participation in this system, participating employers may provide or participate in public or private retirement, supplemental or defined contribution plan, either directly or indirectly, for their employees.

(2) The following employers may be excluded from participation in this system:

(a) an employer not initially admitted or included as a participating employer in this system prior to January 1, 1982 if:

(i) the employer elects not to provide or participate in any type of private or public retirement, supplemental or defined contribution plan, either directly or indirectly, for its employees, except for Social Security; or

(ii) the employer offers another collectively bargained retirement benefit and has continued to do so on an uninterrupted basis since that date;

(b) an employer that is a charter school sponsored by the State Board of Education or a school district that makes an election of nonparticipation in accordance with Section 53A-1a-512 unless the charter school makes a one-time, irrevocable retraction of the election of nonparticipation in accordance with Subsection 53A-1a-512(9); or

(c) an employer that is a hospital created as a special service district under Title 17D, Chapter 1, Special Service District Act, that makes an election

of nonparticipation in accordance with Subsection (4).

(3) An employer who did not become a participating employer in this system prior to July 1, 1986, may not participate in this system.

(4) (a) Until June 30, 2009, a employer that is a hospital created as a special service district under Title 17D, Chapter 1, Special Service District Act, may make an election of nonparticipation as an employer for retirement programs under this chapter.

(b) An election provided under Subsection (4)(a):

(i) is a one-time election made no later than the time specified under Subsection (4)(a);

(ii) shall be documented by a resolution adopted by the governing body of the special service district;

(iii) is irrevocable; and

(iv) applies to the special service district as the employer and to all employees of the special service district.

(c) The governing body of the special service district may offer employee benefit plans for its employees:

(i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act; or

(ii) under any other program.

(5) (a) If a participating employer purchases service credit on behalf of regular full-time employees for service rendered prior to the participating employer's admission to this system, the service credit shall be purchased in a nondiscriminatory manner on behalf of all current and former regular full-time employees who were eligible for service credit at the time service was rendered.

(b) For a purchase made under this Subsection (5), an employee is not required to:

(i) have at least four years of service credit before the purchase can be made; or

(ii) forfeit service credit or any defined contribution balance based on the employer contributions under any other retirement system or plan based on the period of employment for which service credit is being purchased.

Section 9. Section 49-12-203 is amended to read:

49-12-203. Exclusions from membership in system.

(1) The following employees are not eligible for service credit in this system:

(a) subject to the requirements of Subsection (2), an employee whose employment status is temporary in nature due to the nature or the type of work to be performed;

(b) except as provided under Subsection (3)(a), an employee of an institution of higher education who participates in a retirement system with [~~the Teachers' Insurance and Annuity Association of America or with any other~~] a public or private retirement system, organization, or company designated by the State Board of Regents during any period in which required contributions based on compensation have been paid on behalf of the employee by the employer;

(c) an employee serving as an exchange employee from outside the state;

(d) an executive department head of the state, a member of the State Tax Commission, the Public Service Commission, and a member of a full-time or part-time board or commission who files a formal request for exemption;

(e) an employee of the Department of Workforce Services who is covered under another retirement system allowed under Title 35A, Chapter 4, Employment Security Act; or

(f) an employee who is employed on or after July 1, 2009 with an employer that has elected, prior to July 1, 2009, to be excluded from participation in this system under Subsection 49-12-202(2)(c).

(2) If an employee whose status is temporary in nature due to the nature of type of work to be performed:

(a) is employed for a term that exceeds six months and the employee otherwise qualifies for service credit in this system, the participating employer shall report and certify to the office that the employee is a regular full-time employee effective the beginning of the seventh month of employment; or

(b) was previously terminated prior to being eligible for service credit in this system and is reemployed within three months of termination by the same participating employer, the participating employer shall report and certify that the member is a regular full-time employee when the total of the periods of employment equals six months and the employee otherwise qualifies for service credits in this system.

(3) (a) Upon cessation of the participating employer contributions, an employee under Subsection (1)(b) is eligible for service credit in this system.

(b) Notwithstanding the provisions of Subsection (1)(f), any eligibility for service credit earned by an employee under this chapter before July 1, 2009 is not affected under Subsection (1)(f).

(4) Upon filing a written request for exemption with the office, the following employees shall be exempt from coverage under this system:

(a) a full-time student or the spouse of a full-time student and individuals employed in a trainee relationship;

(b) an elected official;

(c) an executive department head of the state, a member of the State Tax Commission, a member of

the Public Service Commission, and a member of a full-time or part-time board or commission;

(d) an employee of the Governor's Office of Management and Budget;

(e) an employee of the Governor's Office of Economic Development;

(f) an employee of the Commission on Criminal and Juvenile Justice;

(g) an employee of the Governor's Office;

(h) an employee of the State Auditor's Office;

(i) an employee of the State Treasurer's Office;

(j) any other member who is permitted to make an election under Section 49-11-406;

(k) a person appointed as a city manager or chief city administrator or another person employed by a municipality, county, or other political subdivision, who is an at-will employee; and

(l) an employee of an interlocal cooperative agency created under Title 11, Chapter 13, Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through membership in a labor organization that provides retirement benefits to its members.

(5) (a) Each participating employer shall prepare a list designating those positions eligible for exemption under Subsection (4).

(b) An employee may not be exempted unless the employee is employed in a position designated by the participating employer.

(6) (a) In accordance with this section, a municipality, county, or political subdivision may not exempt more than 50 positions or a number equal to 10% of the employees of the municipality, county, or political subdivision whichever is lesser.

(b) A municipality, county, or political subdivision may exempt at least one regular full-time employee.

(7) Each participating employer shall:

(a) file employee exemptions annually with the office; and

(b) update the employee exemptions in the event of any change.

(8) The office may make rules to implement this section.

Section 10. Section 49-12-204 is amended to read:

49-12-204. Higher education employees' eligibility requirements -- Election between different retirement plans -- Classification requirements -- Transfer between systems -- One-time election window -- Rulemaking.

(1) (a) A regular full-time employee of an institution of higher education who is eligible to participate in either this system or ~~[with the Teachers' Insurance and Annuity Association of~~

~~America or with any other]~~ a public or private retirement system, organization, or company, designated by the Board of Regents, shall, not later than January 1, 1979, elect to participate exclusively in this system or in an annuity contract allowed under this Subsection (1).

(b) The election is final, and no right exists to make any further election.

(2) (a) Except as provided under Subsection (2)(c), a regular full-time employee hired by an institution of higher education after January 1, 1979, may participate only in the retirement plan which attaches to the person's employment classification.

(b) Each institution of higher education shall prepare or amend existing employment classifications, under the direction of the Board of Regents, so that each classification is assigned with either:

(i) this system; or

~~[(ii) the Teachers' Insurance and Annuity Association of America; or]~~

~~[(iii) another]~~ (ii) a public or private system, organization, or company designated by the Board of Regents.

(c) Notwithstanding a person's employment classification assignment under Subsection (2)(b), a regular full-time employee who begins employment with an institution of higher education on or after May 11, 2010, has a one-time irrevocable election to continue participation in this system, if the employee has service credit in this system before the date of employment.

(3) Notwithstanding an employment classification assignment change made under Subsection (2)(b), a regular full-time employee hired by an institution of higher education after January 1, 1979, whose employment classification requires participation in this system may elect to continue participation in this system.

(4) A regular full-time employee hired by an institution of higher education after January 1, 1979, whose employment classification requires participation in this system shall participate in this system.

(5) (a) Notwithstanding any other provision of this section, a regular full-time employee of an institution of higher education shall have a one-time irrevocable election to participate in this system if the employee:

(i) was hired after January 1, 1979;

(ii) whose employment classification assignment under Subsection (2)(b) required participation in a retirement program other than this system; and

(iii) has service credit in a system under this title.

(b) The election under Subsection (5)(a) shall be made before June 30, 2010.

(c) All forms required by the office must be completed and received by the office no later than June 30, 2010, for the election to participate in this system to be effective.

(d) Beginning July 1, 2010, a regular full-time employee of an institution of higher education who elects to be covered by this system under Subsection (5)(a) may begin to accrue service credit in this system.

(6) A regular full-time employee of an institution of higher education who elects to be covered by this system under Subsection (2)(c) or (5)(a), may purchase periods of employment while covered under another retirement program sponsored by the institution of higher education by complying with the requirements of Section 49-11-403.

(7) The board shall make rules to implement this section.

Section 11. Section 49-12-401 is amended to read:

49-12-401. Eligibility for an allowance -- Date of retirement -- Qualifications.

(1) A member is qualified to receive an allowance from this system when:

(a) except as provided under Subsection (3), the member ceases actual work for every participating employer that employs the member before the member's retirement date and provides evidence of the termination;

(b) the member has submitted to the office a [notarized] retirement application form that states the member's proposed retirement date; and

(c) one of the following conditions is met as of the member's retirement date:

(i) the member has accrued at least four years of service credit and has attained an age of 65 years;

(ii) the member has accrued at least 10 years of service credit and has attained an age of 62 years;

(iii) the member has accrued at least 20 years of service credit and has attained an age of 60 years; or

(iv) the member has accrued at least 30 years of service credit.

(2) (a) The member's retirement date:

(i) shall be the 1st or the 16th day of the month, as selected by the member;

(ii) shall be on or after the date of termination; and

(iii) may not be more than 90 days before or after the date the application is received by the office.

(b) Except as provided under Subsection (3), a member may not be employed by a participating employer in the system established by this chapter on the retirement date selected under Subsection (2)(a)(i).

(3) (a) A member who is employed by a participating employer and who is also an elected official is not required to cease service as an elected official to be qualified to receive an allowance under Subsection (1), unless the member is retiring from service as an elected official.

(b) A member who is employed by a participating employer and who is also a part-time appointed board member is not required to cease service as a part-time appointed board member to be qualified to receive an allowance under Subsection (1).

Section 12. Section 49-12-402 is amended to read:

49-12-402. Service retirement plans -- Calculation of retirement allowance -- Social Security limitations.

(1) (a) Except as provided under Section 49-12-701, retirees of this system may choose from the six retirement options described in this section.

(b) Options Two, Three, Four, Five, and Six are modifications of the Option One calculation.

(2) The Option One benefit is an annual allowance calculated as follows:

(a) If the retiree is at least 65 years of age or has accrued at least 30 years of service credit, the allowance is:

(i) an amount equal to 1.25% of the retiree's final average monthly salary multiplied by the number of years of service credit accrued prior to July 1, 1975; plus

(ii) an amount equal to 2% of the retiree's final average monthly salary multiplied by the number of years of service credit accrued on and after July 1, 1975.

(b) If the retiree is less than 65 years of age, the allowance shall be reduced 3% for each year of retirement from age 60 to age 65, unless the member has 30 or more years of accrued credit in which event no reduction is made to the allowance.

(c) (i) Years of service includes any fractions of years of service to which the retiree may be entitled.

(ii) At the time of retirement, if a retiree's combined years of actual, not purchased, service credit is within 1/10 of one year of the total years of service credit required for retirement, the retiree shall be considered to have the total years of service credit required for retirement.

(d) An Option One allowance is only payable to the member during the member's lifetime.

(3) The allowance payable under Options Two, Three, Four, Five, and Six is calculated by reducing an Option One benefit based on actuarial computations to provide the following:

(a) Option Two is a reduced allowance paid to and throughout the lifetime of the retiree, and, if the retiree receives less in annuity payments than the amount of the retiree's member contributions, the remaining balance of the retiree's member contributions shall be paid in accordance with Sections 49-11-609 and 49-11-610.

(b) Option Three is a reduced allowance paid to and throughout the lifetime of the retiree, and, upon the death of the retiree, the same reduced allowance paid to and throughout the lifetime of the retiree's lawful spouse at the time of retirement.

(c) Option Four is a reduced allowance paid to and throughout the lifetime of the retiree, and upon the death of the retiree, an amount equal to 1/2 of the retiree's allowance paid to and throughout the lifetime of the retiree's lawful spouse at the time of retirement.

(d) Option Five is a modification of Option Three so that if the lawful spouse at the time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time of initial retirement under Option One shall be paid to the retiree for the remainder of the retiree's life, beginning on the first day of the month following the month in which the:

(i) ~~following the month in which the~~ spouse died, if the application is received by the office within 90 days of the spouse's death; or

(ii) ~~following the month in which the~~ application is received by the office, if the application is received by the office more than 90 days after the spouse's death.

(e) Option Six is a modification of Option Four so that if the lawful spouse at the time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time of initial retirement under Option One shall be paid to the retiree for the remainder of the retiree's life, beginning on the first day of the month following the month in which the:

(i) ~~following the month in which the~~ spouse died, if the application is received by the office within 90 days of the spouse's death; or

(ii) ~~following the month in which the~~ application is received by the office, if the application is received by the office more than 90 days after the spouse's death.

(4) (a) (i) The final average salary is limited in the computation of that part of an allowance based on service rendered prior to July 1, 1967, during a period when the retiree received employer contributions on a portion of compensation from an educational institution toward the payment of the premium required on a retirement annuity contract with ~~[the Teachers' Insurance and Annuity Association of America or with any other]~~ a public or private system, organization, or company designated by the State Board of Regents to \$4,800.

(ii) This limitation is not applicable to retirees who elected to continue in this system by July 1, 1967.

(b) Periods of employment which are exempt from this system under Subsection 49-12-203(1)(b), may be purchased by the member for the purpose of retirement only if all benefits from ~~[the Teachers' Insurance and Annuity Association of America or any other public or private system or organization]~~ a public or private system, organization, or company designated by the State Board of Regents based on this period of employment are forfeited.

(5) (a) If a retiree under Option One dies within 90 days after the retiree's retirement date, the retirement is canceled and the death shall be considered as that of a member before retirement.

(b) Any payments made to the retiree shall be deducted from the amounts due to the beneficiary.

(6) If a retiree retires under either Option Five or Six and subsequently divorces, the retiree may elect to convert the benefit to a Option One benefit at the time of divorce, if there is no court order filed in the matter.

Section 13. Section 49-13-102 is amended to read:

49-13-102. Definitions.

As used in this chapter:

(1) "Benefits normally provided" has the same meaning as defined in Section 49-12-102.

(2) (a) Except as provided in Subsection (2)(c), "compensation" means the total amount of payments made by a participating employer to a member of this system for services rendered to the participating employer, including:

(i) bonuses;

(ii) cost-of-living adjustments;

(iii) other payments currently includable in gross income and that are subject to Social Security deductions, including any payments in excess of the maximum amount subject to deduction under Social Security law; and

(iv) amounts that the member authorizes to be deducted or reduced for salary deferral or other benefits authorized by federal law.

(b) "Compensation" for purposes of this chapter may not exceed the amount allowed under Internal Revenue Code, Section 401(a)(17).

(c) "Compensation" does not include:

(i) the monetary value of remuneration paid in kind, including a residence or use of equipment;

(ii) the cost of any employment benefits paid for by the participating employer;

(iii) compensation paid to a temporary employee, an exempt employee, or an employee otherwise ineligible for service credit;

(iv) any payments upon termination, including accumulated vacation, sick leave payments, severance payments, compensatory time payments, or any other special payments; or

(v) any allowances or payments to a member for costs or expenses paid by the participating employer, including automobile costs, uniform costs, travel costs, tuition costs, housing costs, insurance costs, equipment costs, and dependent care costs.

(d) The executive director may determine if a payment not listed under this Subsection (2) falls within the definition of compensation.

(3) "Final average salary" means the amount computed by averaging the highest three years of annual compensation preceding retirement subject to the following:

(a) Except as provided in Subsection (3)(b), the percentage increase in annual compensation in any

one of the years used may not exceed the previous year's compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(b) In cases where the participating employer provides acceptable documentation to the office, the limitation in Subsection (3)(a) may be exceeded if:

(i) the member has transferred from another agency; or

(ii) the member has been promoted to a new position.

(c) If the member retires more than six months from the date of termination of employment and for purposes of computing the member's final average salary only, the member is considered to have been in service at the member's last rate of pay from the date of the termination of employment to the effective date of retirement.

(4) "Participating employer" means an employer which meets the participation requirements of Sections 49-13-201 and 49-13-202.

(5) (a) "Regular full-time employee" means an employee whose term of employment for a participating employer contemplates continued employment during a fiscal or calendar year and whose employment normally requires an average of 20 hours or more per week, except as modified by the board, and who receives benefits normally provided by the participating employer.

(b) "Regular full-time employee" includes:

(i) a teacher whose term of employment for a participating employer contemplates continued employment during a school year and who teaches half time or more;

(ii) a classified school employee:

(A) who is hired before July 1, 2013; and

(B) whose employment normally requires an average of 20 hours per week or more for a participating employer, regardless of benefits provided;

(iii) an officer, elective or appointive, who earns \$500 or more per month, indexed as of January 1, 1990, as provided in Section 49-13-407;

(iv) a faculty member or employee of an institution of higher education who is considered full time by that institution of higher education; and

(v) an individual who otherwise meets the definition of this Subsection [(4)] (5) who performs services for a participating employer through a professional employer organization or similar arrangement.

(c) "Regular full-time employee" does not include a classified school employee:

(i) (A) who is hired on or after July 1, 2013; and

(B) who does not receive benefits normally provided by the participating employer even if the employment normally requires an average of 20 hours per week or more for a participating employer; or

(ii) (A) who is hired before July 1, 2013;

(B) who did not qualify as a regular full-time employee before July 1, 2013;

(C) who does not receive benefits normally provided by the participating employer; and

(D) whose employment hours are increased on or after July 1, 2013, to require an average of 20 hours per week or more for a participating employer.

(6) "System" means the Public Employees' Noncontributory Retirement System.

(7) "Years of service credit" means:

(a) a period consisting of 12 full months as determined by the board;

(b) a period determined by the board, whether consecutive or not, during which a regular full-time employee performed services for a participating employer, including any time the regular full-time employee was absent on a paid leave of absence granted by a participating employer or was absent in the service of the United States government on military duty as provided by this chapter; or

(c) the regular school year consisting of not less than eight months of full-time service for a regular full-time employee of an educational institution.

Section 14. Section 49-13-201 is amended to read:

49-13-201. System membership -- Eligibility.

(1) Beginning July 1, 1986, the state and its educational institutions shall participate in this system.

(a) A person entering regular full-time employment with the state or its educational institutions after July 1, 1986, but before July 1, 2011, is eligible for service credit in this system.

(b) A person entering regular full-time employment with the state or its educational institutions after July 1, 2011, who has service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, is eligible for service credit in this system.

~~(b)~~ (c) A regular full-time employee of the state or its educational institutions prior to July 1, 1986, may either become eligible for service credit in this system or remain eligible for service in the system established under Chapter 12, Public Employees' Contributory Retirement Act, by following the procedures established by the board in accordance with this chapter.

(2) An employer, other than the state and its educational institutions, may participate in this system except that once an employer elects to participate in this system, that election is irrevocable and the election must be made before July 1, 2011.

(a) Until June 30, 2011, a person initially entering regular full-time employment with a participating employer which elects to participate in this system is eligible for service credit in this system.

(b) A person in regular full-time employment with a participating employer prior to the participating employer's election to participate in this system may either become eligible for service credit in this system or remain eligible for service in the system established under Chapter 12, Public Employees' Contributory Retirement Act, by following the procedures established by the board in accordance with this chapter.

(3) Notwithstanding the provisions of Subsections (1) and (2), a person initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may not participate in this system.

Section 15. Section 49-13-202 is amended to read:

49-13-202. Participation of employers -- Limitations -- Exclusions -- Admission requirements -- Nondiscrimination requirements -- Service credit purchases.

(1) (a) Unless excluded under Subsection (2), an employer is a participating employer and may not withdraw from participation in this system.

(b) In addition to their participation in this system, participating employers may provide or participate in any additional public or private retirement, supplemental or defined contribution plan, either directly or indirectly, for their employees.

(2) The following employers may be excluded from participation in this system:

(a) an employer not initially admitted or included as a participating employer in this system before January 1, 1982, if:

(i) the employer elects not to provide or participate in any type of private or public retirement, supplemental or defined contribution plan, either directly or indirectly, for its employees, except for Social Security; or

(ii) the employer offers another collectively bargained retirement benefit and has continued to do so on an uninterrupted basis since that date;

(b) an employer that is a charter school sponsored by the State Board of Education or a school district that makes an election of nonparticipation in accordance with Section 53A-1a-512 unless the charter school makes a one-time, irrevocable retraction of the election of nonparticipation in accordance with Subsection 53A-1a-512(9);

(c) an employer that is a hospital created as a special service district under Title 17D, Chapter 1, Special Service District Act, that makes an election

of nonparticipation in accordance with Subsection (5); or

(d) an employer that is a risk management association initially created by interlocal agreement before 1986 for the purpose of implementing a self-insurance joint protection program for the benefit of member municipalities of the association.

(3) If an employer that may be excluded under Subsection (2)(a)(i) elects at any time to provide or participate in any type of public or private retirement, supplemental or defined contribution plan, either directly or indirectly, except for Social Security, the employer shall be a participating employer in this system regardless of whether the employer has applied for admission under Subsection (4).

(4) (a) An employer may, by resolution of its governing body, apply for admission to this system.

(b) Upon approval of the resolution by the board, the employer is a participating employer in this system and is subject to this title.

(5) (a) (i) Until June 30, 2009, a employer that is a hospital created as a special service district under Title 17D, Chapter 1, Special Service District Act, may make an election of nonparticipation as an employer for retirement programs under this chapter.

(ii) On or before July 1, 2010, an employer described in Subsection (2)(d) may make an election of nonparticipation as an employer for retirement programs under this chapter.

(b) An election provided under Subsection (5)(a):

(i) is a one-time election made no later than the time specified under Subsection (5)(a);

(ii) shall be documented by a resolution adopted by the governing body of the employer;

(iii) is irrevocable; and

(iv) applies to the employer described in Subsection (5)(a) and to all employees of that employer.

(c) The employer making an election under Subsection (5)(a) may offer employee benefit plans for its employees:

(i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act; or

(ii) under any other program.

(6) (a) If a participating employer purchases service credit on behalf of regular full-time employees for service rendered prior to the participating employer's admission to this system, the service credit shall be purchased in a nondiscriminatory manner on behalf of all current and former regular full-time employees who were eligible for service credit at the time service was rendered.

(b) For a purchase made under this Subsection (6), an employee is not required to:

(i) have at least four years of service credit before the purchase can be made; or

(ii) forfeit service credit or any defined contribution balance based on the employer contributions under any other retirement system or plan based on the period of employment for which service credit is being purchased.

Section 16. Section 49-13-203 is amended to read:

49-13-203. Exclusions from membership in system.

(1) The following employees are not eligible for service credit in this system:

(a) subject to the requirements of Subsection (2), an employee whose employment status is temporary in nature due to the nature or the type of work to be performed;

(b) except as provided under Subsection (3)(a), an employee of an institution of higher education who participates in a retirement system with [~~the Teachers' Insurance and Annuity Association of America or with any other~~] a public or private retirement system, organization, or company designated by the State Board of Regents during any period in which required contributions based on compensation have been paid on behalf of the employee by the employer;

(c) an employee serving as an exchange employee from outside the state;

(d) an executive department head of the state or a legislative director, senior executive employed by the governor's office, a member of the State Tax Commission, a member of the Public Service Commission, and a member of a full-time or part-time board or commission who files a formal request for exemption;

(e) an employee of the Department of Workforce Services who is covered under another retirement system allowed under Title 35A, Chapter 4, Employment Security Act; or

(f) an employee who is employed with an employer that has elected to be excluded from participation in this system under Subsection 49-13-202(5), effective on or after the date of the employer's election under Subsection 49-13-202(5).

(2) If an employee whose status is temporary in nature due to the nature of type of work to be performed:

(a) is employed for a term that exceeds six months and the employee otherwise qualifies for service credit in this system, the participating employer shall report and certify to the office that the employee is a regular full-time employee effective the beginning of the seventh month of employment; or

(b) was previously terminated prior to being eligible for service credit in this system and is reemployed within three months of termination by the same participating employer, the participating

employer shall report and certify that the member is a regular full-time employee when the total of the periods of employment equals six months and the employee otherwise qualifies for service credits in this system.

(3) (a) Upon cessation of the participating employer contributions, an employee under Subsection (1)(b) is eligible for service credit in this system.

(b) Notwithstanding the provisions of Subsection (1)(f), any eligibility for service credit earned by an employee under this chapter before the date of the election under Subsection 49-13-202(5) is not affected under Subsection (1)(f).

(4) Upon filing a written request for exemption with the office, the following employees shall be exempt from coverage under this system:

(a) a full-time student or the spouse of a full-time student and individuals employed in a trainee relationship;

(b) an elected official;

(c) an executive department head of the state, a member of the State Tax Commission, a member of the Public Service Commission, and a member of a full-time or part-time board or commission;

(d) an employee of the Governor's Office of Management and Budget;

(e) an employee of the Governor's Office of Economic Development;

(f) an employee of the Commission on Criminal and Juvenile Justice;

(g) an employee of the Governor's Office;

(h) an employee of the State Auditor's Office;

(i) an employee of the State Treasurer's Office;

(j) any other member who is permitted to make an election under Section 49-11-406;

(k) a person appointed as a city manager or chief city administrator or another person employed by a municipality, county, or other political subdivision, who is an at-will employee;

(l) an employee of an interlocal cooperative agency created under Title 11, Chapter 13, Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through membership in a labor organization that provides retirement benefits to its members; and

(m) an employee of the Utah Science Technology and Research Initiative created under Title 63M, Chapter 2, Utah Science Technology and Research Governing Authority Act.

(5) (a) Each participating employer shall prepare a list designating those positions eligible for exemption under Subsection (4).

(b) An employee may not be exempted unless the employee is employed in a position designated by the participating employer.

(6) (a) In accordance with this section, a municipality, county, or political subdivision may

not exempt more than 50 positions or a number equal to 10% of the employees of the municipality, county, or political subdivision, whichever is lesser.

(b) A municipality, county, or political subdivision may exempt at least one regular full-time employee.

(7) Each participating employer shall:

(a) file employee exemptions annually with the office; and

(b) update the employee exemptions in the event of any change.

(8) The office may make rules to implement this section.

Section 17. Section 49-13-204 is amended to read:

49-13-204. Higher education employees' eligibility requirements -- Election between different retirement plans -- Classification requirements -- Transfer between systems -- One-time election window -- Rulemaking.

(1) (a) A regular full-time employee of an institution of higher education who is eligible to participate in either this system or in a retirement system with ~~[the Teachers' Insurance and Annuity Association of America or with any other]~~ a public or private retirement system, organization, or company, designated by the Board of Regents, shall, not later than January 1, 1979, elect to participate exclusively in this system or in an annuity contract allowed under this Subsection (1)(a).

(b) The election is final, and no right exists to make any further election.

(2) (a) Except as provided under Subsection (2)(c), a regular full-time employee hired by an institution of higher education after January 1, 1979, may participate only in the retirement plan which attaches to the person's employment classification.

(b) Each institution of higher education shall prepare or amend existing employment classifications, under the direction of the Board of Regents, so that each classification is assigned with either:

(i) this system; or

~~[(ii) the Teachers' Insurance and Annuity Association of America; or]~~

~~[(iii) another]~~ (ii) a public or private system, organization, or company designated by the Board of Regents.

(c) Notwithstanding a person's employment classification assignment under Subsection (2)(b), a regular full-time employee who begins employment with an institution of higher education on or after May 11, 2010, has a one-time irrevocable election to continue participation in this system, if the employee has service credit in this system before the date of employment.

(3) Notwithstanding an employment classification assignment change made under Subsection (2)(b), a regular full-time employee hired by an institution of higher education after January 1, 1979, whose employment classification requires participation in this system may elect to continue participation in this system.

(4) A regular full-time employee hired by an institution of higher education after January 1, 1979, whose employment classification requires participation in this system shall participate in this system.

(5) (a) Notwithstanding any other provision of this section, a regular full-time employee of an institution of higher education whose employment classification assignment under Subsection (2)(b) required participation in a retirement program other than this system shall have a one-time irrevocable election to participate in this system.

(b) The election under Subsection (5)(a) shall be made before June 30, 2010.

(c) All forms required by the office must be completed and received by the office no later than June 30, 2010, for the election to participate in this system to be effective.

(d) Beginning July 1, 2010, a regular full-time employee of an institution of higher education who elects to be covered by this system under Subsection (5)(a) may begin to accrue service credit in this system.

(6) A regular full-time employee of an institution of higher education who elects to be covered by this system under Subsection (2)(c) or (5)(a) may purchase periods of employment while covered under another retirement program by complying with the requirements of Section 49-11-403.

(7) The board shall make rules to implement this section.

Section 18. Section 49-13-401 is amended to read:

49-13-401. Eligibility for an allowance -- Date of retirement -- Qualifications.

(1) A member is qualified to receive an allowance from this system when:

(a) except as provided under Subsection (3), the member ceases actual work for every participating employer that employs the member before the member's retirement date and provides evidence of the termination;

(b) the member has submitted to the office a ~~[notarized]~~ retirement application form that states the member's proposed retirement date; and

(c) one of the following conditions is met as of the member's retirement date:

(i) the member has accrued at least four years of service credit and has attained an age of 65 years;

(ii) the member has accrued at least 10 years of service credit and has attained an age of 62 years;

(iii) the member has accrued at least 20 years of service credit and has attained an age of 60 years;

(iv) the member has accrued at least 30 years of service credit; or

(v) the member has accrued at least 25 years of service credit, in which case the member shall be subject to the reduction under Subsection 49-13-402(2)(b).

(2) (a) The member's retirement date:

(i) shall be the 1st or the 16th day of the month, as selected by the member;

(ii) shall be on or after the date of termination; and

(iii) may not be more than 90 days before or after the date the application is received by the office.

(b) Except as provided under Subsection (3), a member may not be employed by a participating employer in the system established by this chapter on the retirement date selected under Subsection (2)(a)(i).

(3) (a) A member who is employed by a participating employer and who is also an elected official is not required to cease service as an elected official to be qualified to receive an allowance under Subsection (1), unless the member is retiring from service as an elected official.

(b) A member who is employed by a participating employer and who is also a part-time appointed board member is not required to cease service as a part-time appointed board member to be qualified to receive an allowance under Subsection (1).

Section 19. Section 49-13-402 is amended to read:

49-13-402. Service retirement plans -- Calculation of retirement allowance -- Social Security limitations.

(1) (a) Except as provided under Section 49-13-701, retirees of this system may choose from the six retirement options described in this section.

(b) Options Two, Three, Four, Five, and Six are modifications of the Option One calculation.

(2) The Option One benefit is an allowance calculated as follows:

(a) If the retiree is at least 65 years of age or has accrued at least 30 years of service credit, the allowance is an amount equal to 2% of the retiree's final average monthly salary multiplied by the number of years of service credit accrued.

(b) If the retiree is less than 65 years of age, the allowance shall be reduced 3% for each year of retirement from age 60 to age 65, plus a full actuarial reduction for each year of retirement prior to age 60, unless the member has 30 or more years of accrued credit, in which event no reduction is made to the allowance.

(c) (i) Years of service include any fractions of years of service to which the retiree may be entitled.

(ii) At the time of retirement, if a retiree's combined years of actual, not purchased, service credit is within 1/10 of one year of the total years of service credit required for retirement, the retiree shall be considered to have the total years of service credit required for retirement.

(d) An Option One allowance is only payable to the member during the member's lifetime.

(3) The allowance payable under Options Two, Three, Four, Five, and Six is calculated by reducing an Option One benefit based on actuarial computations to provide the following:

(a) Option Two is a reduced allowance paid to and throughout the lifetime of the retiree, and, if the retiree receives less in annuity payments than the amount of the retiree's member contributions, the remaining balance of the retiree's member contributions shall be paid in accordance with Sections 49-11-609 and 49-11-610.

(b) Option Three is a reduced allowance paid to and throughout the lifetime of the retiree, and, upon the death of the retiree, the same reduced allowance paid to and throughout the lifetime of the retiree's lawful spouse at the time of retirement.

(c) Option Four is a reduced allowance paid to and throughout the lifetime of the retiree, and upon the death of the retiree, an amount equal to one-half of the retiree's allowance paid to and throughout the lifetime of the retiree's lawful spouse at the time of retirement.

(d) Option Five is a modification of Option Three so that if the lawful spouse at the time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time of initial retirement under Option One shall be paid to the retiree for the remainder of the retiree's life, beginning on the first day of the month following the month in which the:

(i) ~~following the month in which the~~ spouse died, if the application is received by the office within 90 days of the spouse's death; or

(ii) ~~following the month in which the~~ application is received by the office, if the application is received by the office more than 90 days after the spouse's death.

(e) Option Six is a modification of Option Four so that if the lawful spouse at the time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time of initial retirement under Option One shall be paid to the retiree for the remainder of the retiree's life, beginning on the first day of the month following the month in which the:

(i) ~~following the month in which the~~ spouse died, if the application is received by the office within 90 days of the spouse's death; or

(ii) ~~following the month in which the~~ application is received by the office, if the application is received by the office more than 90 days after the spouse's death.

(4) (a) (i) The final average salary is limited in the computation of that part of an allowance based on service rendered prior to July 1, 1967, during a

period when the retiree received employer contributions on a portion of compensation from an educational institution toward the payment of the premium required on a retirement annuity contract with ~~[the Teachers' Insurance and Annuity Association of America or with any other]~~ a public or private system, organization, or company designated by the State Board of Regents to \$4,800.

(ii) This limitation is not applicable to retirees who elected to continue in the Public Employees' Contributory Retirement System by July 1, 1967.

(b) Periods of employment which are exempt from this system as permitted under Subsection 49-13-203(1)(b) may be purchased by the member for the purpose of retirement only if all benefits from ~~[the Teachers' Insurance and Annuity Association of America or any other]~~ a public or private system ~~[or organization]~~, organization, or company designated by the State Board of Regents based on this period of employment are forfeited.

(5) (a) If a retiree under Option One dies within 90 days after the retiree's retirement date, the retirement is canceled and the death shall be considered as that of a member before retirement.

(b) Any payments made to the retiree shall be deducted from the amounts due to the beneficiary.

(6) If a retiree retires under either Option Five or Six and subsequently divorces, the retiree may elect to convert the benefit to an Option One benefit at the time of divorce, if there is no court order filed in the matter.

Section 20. Section 49-14-201 is amended to read:

49-14-201. System membership -- Eligibility.

(1) Except as provided in Section 49-15-201, a public safety service employee of a participating employer participating in this system is eligible for service credit in this system at the earliest of:

(a) July 1, 1969, if the public safety service employee was employed by the participating employer on July 1, 1969, and the participating employer was participating in this system on that date;

(b) the date the participating employer begins participating in this system if the public safety service employee was employed by the participating employer on that date; or

(c) the date the public safety service employee is employed by the participating employer and is eligible to perform public safety service, except that a public safety service employee initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may not participate in this system.

(2) (a) (i) A participating employer that has public safety service and firefighter service employees that require cross-training and duty shall enroll

those dual purpose employees in the system in which the greatest amount of time is actually worked.

(ii) The employees shall either be full-time public safety service or full-time firefighter service employees of the participating employer.

(b) (i) Prior to transferring a dual purpose employee from one system to another, the participating employer shall receive written permission from the office.

(ii) The office may request documentation to verify the appropriateness of the transfer.

(3) The board may combine or segregate the actuarial experience of participating employers in this system for the purpose of setting contribution rates.

(4) (a) (i) Each participating employer participating in this system shall annually submit to the office a schedule indicating the positions to be covered under this system in accordance with this chapter.

(ii) The office may require documentation to justify the inclusion of any position under this system.

(b) If there is a dispute between the office and a participating employer or employee over any position to be covered, the disputed position shall be submitted to the Peace Officer Standards and Training Council established under Section 53-6-106 for determination.

(c) (i) The Peace Officer Standards and Training Council's authority to decide eligibility for public safety service credit is limited to claims for coverage under this system for time periods after July 1, 1989.

(ii) A decision of the Peace Officer Standards and Training Council may not be applied to service credit earned in another system prior to July 1, 1989.

(iii) Except as provided under Subsection (4)(c)(iv), a decision of the Peace Officer Standards and Training Council granting a position coverage under this system may only be applied prospectively from the date of that decision.

(iv) A decision of the Peace Officer Standards and Training Council granting a position coverage under this system may be applied retroactively only if:

(A) the participating employer covered other similarly situated positions under this system during the time period in question; and

(B) the position otherwise meets all eligibility requirements for receiving service credit in this system during the period for which service credit is to be granted.

(5) The Peace Officer Standards and Training Council may use a subcommittee to provide a recommendation to the council in determining disputes between the office and a participating employer or employee over a position to be covered under this system.

(6) The Peace Officer Standards and Training Council shall comply with Title 63G, Chapter 4, Administrative Procedures Act, in resolving coverage disputes in this system.

(7) A public safety employee who is transferred or promoted to an administration position not covered by this system shall continue to earn public safety service credit in this system as long as the employee remains employed in the same department.

(8) Any employee who is reassigned to the Department of Technology Services or to the Department of Human Resource Management, and who was a member of this system, shall be entitled to remain a member of this system.

(9) (a) To determine that a position is covered under this system, the office and, if a coverage dispute arises, the Peace Officer Standards and Training Council shall find that the position requires the employee to:

(i) place the employee's life or personal safety at risk; and

(ii) complete training as provided in Section 53-13-103, 53-13-104, or 53-13-105.

(b) If a position satisfies the requirements of Subsection (9)(a), the office and the Peace Officer Standards and Training Council shall consider whether or not the position requires the employee to:

(i) perform duties that consist primarily of actively preventing or detecting crime and enforcing criminal statutes or ordinances of this state or any of its political subdivisions;

(ii) perform duties that consist primarily of providing community protection; and

(iii) respond to situations involving threats to public safety and make emergency decisions affecting the lives and health of others.

(10) If a subcommittee is used to recommend the determination of disputes to the Peace Officer Standards and Training Council, the subcommittee shall comply with the requirements of Subsection (9) in making its recommendation.

(11) A final order of the Peace Officer Standards and Training Council regarding a dispute is a final agency action for purposes of Title 63G, Chapter 4, Administrative Procedures Act.

(12) Except as provided under Subsection (13), if a participating employer's public safety service employees are not covered by this system or under Chapter 15, Public Safety Noncontributory Retirement Act, as of January 1, 1998, those public safety service employees who may otherwise qualify for membership in this system shall, at the discretion of the participating employer, remain in their current retirement system.

(13) (a) A public safety service employee employed by an airport police department, which elects to cover its public safety service employees under the Public Safety Noncontributory Retirement System under Subsection (12), may

elect to remain in the public safety service employee's current retirement system.

(b) The public safety service employee's election to remain in the current retirement system under Subsection (13)(a):

(i) shall be made at the time the employer elects to move its public safety service employees to a public safety retirement system;

(ii) documented by written notice to the participating employer; and

(iii) is irrevocable.

(14) Notwithstanding any other provision of this section, a person initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may not participate in this system.

Section 21. Section 49-14-401 is amended to read:

49-14-401. Eligibility for service retirement -- Date of retirement -- Qualifications.

(1) A member is qualified to receive an allowance from this system when:

(a) except as provided under Subsection (3), the member ceases actual work for every participating employer that employs the member before the member's retirement date and provides evidence of the termination;

(b) the member has submitted to the office a [notarized] retirement application form that states the member's proposed retirement date; and

(c) one of the following conditions is met as of the member's retirement date:

(i) the member has accrued at least 20 years of service credit;

(ii) the member has accrued at least 10 years of service credit and has attained an age of 60 years; or

(iii) the member has accrued at least four years of service credit and has attained an age of 65 years.

(2) (a) The member's retirement date:

(i) shall be the 1st or the 16th day of the month, as selected by the member;

(ii) shall be on or after the date of termination; and

(iii) may not be more than 90 days before or after the date the application is received by the office.

(b) Except as provided under Subsection (3), a member may not be employed by a participating employer in the system established by this chapter on the retirement date selected under Subsection (2)(a)(i).

(3) (a) A member who is employed by a participating employer and who is also an elected official is not required to cease service as an elected official to be qualified to receive an allowance under

Subsection (1), unless the member is retiring from service as an elected official.

(b) A member who is employed by a participating employer and who is also a part-time appointed board member is not required to cease service as a part-time appointed board member to be qualified to receive an allowance under Subsection (1).

Section 22. Section 49-14-501 is amended to read:

49-14-501. Death of active member in Division A -- Payment of benefits.

(1) If an active member of this system enrolled in Division A under Section 49-14-301 dies, benefits are payable as follows:

(a) If the death is classified by the office as a line-of-duty death, the spouse at the time of death shall receive a lump sum of \$1,000 and an allowance equal to 30% of the deceased member's final average monthly salary.

(b) If the death is not classified by the office as a line-of-duty death, benefits are payable as follows:

(i) If the member has accrued less than 10 years of public safety service credit, the beneficiary shall receive the sum of \$1,000 or a refund of the member's member contributions, whichever is greater.

(ii) If the member has accrued 10 or more years of public safety service credit at the time of death, the spouse at the time of death shall receive the sum of \$500, plus an allowance equal to 2% of the member's final average monthly salary for each year of service credit accrued by the member up to a maximum of 30% of the member's final average monthly salary.

(2) [Benefits] Except as provided under Subsection (1)(b)(i), benefits are not payable to minor children of members covered under Division A.

(3) If a benefit is not distributed under this section, and the member has designated a beneficiary, the member's member contributions shall be paid to the beneficiary.

(4) (a) A spouse who requests a benefit under this section shall apply in writing to the office.

(b) The allowance shall begin on the first day of the month following the month in which the:

(i) ~~[following the month in which the]~~ member died, if the application is received by the office within 90 days of the member's death; or

(ii) ~~[following the month in which the]~~ application is received by the office, if the application is received by the office more than 90 days after the member's death.

Section 23. Section 49-14-504 is amended to read:

49-14-504. Benefits payable upon death of retired member -- Enhanced benefit election -- Rulemaking.

(1) If a retiree who retired under either Division A or Division B dies, the retiree's spouse at the time of death of the retiree shall receive an allowance equal to 65% of the allowance that was being paid to the retiree at the time of death.

(2) (a) Notwithstanding the amount of the allowance under Subsection (1), at the time of retirement, a retiree may elect to increase the spousal death benefit to 75% of an allowance computed in accordance with Section 49-14-402.

(b) If an election is made under Subsection (2)(a), the member's allowance shall be reduced to an amount payable monthly for life to reflect the actuarial equivalent necessary to pay for the increased spousal death benefit above 65%.

(3) (a) For a retiree whose retirement date is before July 1, 2009, the office shall provide an optional spousal death benefit to bring the total spousal death benefit up to 75% of an allowance computed in accordance with Section 49-14-402.

(b) A retiree may elect to purchase the optional spousal death benefit until July 1, 2010.

(c) If an election is made under Subsection (3)(b), the retiree's allowance shall be reduced to an amount payable monthly for life to reflect the actuarial equivalent necessary to pay for the increased spousal death benefit above 65%.

(d) The board shall make rules to administer the death benefit under this Subsection (3).

(4) If the retiree retired solely under Division B and dies leaving unmarried children under the age of 18 or dependent unmarried children with a mental or physical disability, the children shall qualify for a benefit as prescribed for children under Subsection 49-14-502(1)(c) ~~[which is payable on the first day of the month following the month in which the retiree died].~~

(5) (a) A beneficiary who qualifies for a monthly benefit under this section shall apply in writing to the office.

(b) The allowance shall begin on the first day of the month following the month in which the:

(i) member or participant died, if the application is received by the office within 90 days of the date of death of the member or participant; or

(ii) application is received by the office, if the application is received by the office more than 90 days after the date of death of the member or participant.

Section 24. Section 49-15-201 is amended to read:

49-15-201. System membership -- Eligibility.

(1) (a) A public safety service employee employed by the state after July 1, 1989, but before July 1, 2011, is eligible for service credit in this system.

(b) A public safety service employee employed by the state prior to July 1, 1989, may either elect to receive service credit in this system or continue to

receive service credit under the system established under Chapter 14, Public Safety Contributory Retirement Act, by following the procedures established by the board under this chapter.

(2) (a) Public safety service employees of a participating employer other than the state that elected on or before July 1, 1989, to remain in the Public Safety Contributory Retirement System shall be eligible only for service credit in that system.

(b) (i) A participating employer other than the state that elected on or before July 1, 1989, to participate in this system shall, have allowed, prior to July 1, 1989, a public safety service employee to elect to participate in either this system or the Public Safety Contributory Retirement System.

(ii) Except as expressly allowed by this title, the election of the public safety service employee is final and may not be changed.

(c) A public safety service employee hired by a participating employer other than the state after July 1, 1989, but before July 1, 2011, shall become a member in this system.

(d) A public safety service employee of a participating employer other than the state who began participation in this system after July 1, 1989, but before July 1, 2011, is only eligible for service credit in this system.

(e) A person initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may not participate in this system.

(3) (a) (i) A participating employer that has public safety service and firefighter service employees that require cross-training and duty shall enroll those dual purpose employees in the system in which the greatest amount of time is actually worked.

(ii) The employees shall either be full-time public safety service or full-time firefighter service employees of the participating employer.

(b) (i) Prior to transferring a dual purpose employee from one system to another, the participating employer shall receive written permission from the office.

(ii) The office may request documentation to verify the appropriateness of the transfer.

(4) The board may combine or segregate the actuarial experience of participating employers in this system for the purpose of setting contribution rates.

(5) (a) (i) Each participating employer participating in this system shall annually submit to the office a schedule indicating the positions to be covered under this system in accordance with this chapter.

(ii) The office may require documentation to justify the inclusion of any position under this system.

(b) If there is a dispute between the office and a participating employer or employee over any position to be covered, the disputed position shall be submitted to the Peace Officer Standards and Training Council established under Section 53-6-106 for determination.

(c) (i) The Peace Officer Standards and Training Council's authority to decide eligibility for public safety service credit is limited to claims for coverage under this system for time periods after July 1, 1989.

(ii) A decision of the Peace Officer Standards and Training Council may not be applied to service credit earned in another system prior to July 1, 1989.

(iii) Except as provided under Subsection (5)(c)(iv), a decision of the Peace Officer Standards and Training Council granting a position coverage under this system may only be applied prospectively from the date of that decision.

(iv) A decision of the Peace Officer Standards and Training Council granting a position coverage under this system may be applied retroactively only if:

(A) the participating employer covered other similarly situated positions under this system during the time period in question; and

(B) the position otherwise meets all eligibility requirements for receiving service credit in this system during the period for which service credit is to be granted.

(6) The Peace Officer Standards and Training Council may use a subcommittee to provide a recommendation to the council in determining disputes between the office and a participating employer or employee over a position to be covered under this system.

(7) The Peace Officer Standards and Training Council shall comply with Title 63G, Chapter 4, Administrative Procedures Act, in resolving coverage disputes in this system.

(8) A public safety service employee who is transferred or promoted to an administration position not covered by this system shall continue to earn public safety service credit in this system as long as the employee remains employed in the same department.

(9) Any employee who is reassigned to the Department of Technology Services or to the Department of Human Resource Management, and who was a member in this system, shall be entitled to remain a member in this system.

(10) (a) To determine that a position is covered under this system, the office and, if a coverage dispute arises, the Peace Officer Standards and Training Council shall find that the position requires the employee to:

(i) place the employee's life or personal safety at risk; and

(ii) complete training as provided in Section 53-13-103, 53-13-104, or 53-13-105.

(b) If a position satisfies the requirements of Subsection (10)(a), the office and Peace Officer Standards and Training Council shall consider whether the position requires the employee to:

(i) perform duties that consist primarily of actively preventing or detecting crime and enforcing criminal statutes or ordinances of this state or any of its political subdivisions;

(ii) perform duties that consist primarily of providing community protection; and

(iii) respond to situations involving threats to public safety and make emergency decisions affecting the lives and health of others.

(11) If a subcommittee is used to recommend the determination of disputes to the Peace Officer Standards and Training Council, the subcommittee shall comply with the requirements of Subsection (10) in making its recommendation.

(12) A final order of the Peace Officer Standards and Training Council regarding a dispute is a final agency action for purposes of Title 63G, Chapter 4, Administrative Procedures Act.

(13) Except as provided under Subsection (14), if a participating employer's public safety service employees are not covered by this system or under Chapter 14, Public Safety Contributory Retirement Act, as of January 1, 1998, those public safety service employees who may otherwise qualify for membership in this system shall, at the discretion of the participating employer, remain in their current retirement system.

(14) (a) A public safety service employee employed by an airport police department, which elects to cover its public safety service employees under the Public Safety Noncontributory Retirement System under Subsection (13), may elect to remain in the public safety service employee's current retirement system.

(b) The public safety service employee's election to remain in the current retirement system under Subsection (14)(a):

(i) shall be made at the time the employer elects to move its public safety service employees to a public safety retirement system;

(ii) documented by written notice to the participating employer; and

(iii) is irrevocable.

(15) Notwithstanding any other provision of this section, a person initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may not participate in this system.

Section 25. Section 49-15-202 is amended to read:

49-15-202. Participation of employers -- Requirements -- Admission -- Full

participation in system -- Supplemental programs authorized.

(1) An employer that employs public safety service employees and is required by Section 49-12-202 or 49-13-202 to be a participating employer in the Public Employees' Contributory Retirement System or the Public Employees' Noncontributory Retirement System shall cover all its public safety service employees under one of the following systems or plans:

(a) Chapter 12, Public Employees' Contributory Retirement Act;

(b) Chapter 13, Public Employees' Noncontributory Retirement Act;

(c) Chapter 14, Public Safety Contributory Retirement Act;

(d) Chapter 15, Public Safety Noncontributory Retirement Act; or

(e) Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement Act.

(2) An employer that covers its public safety employees under Subsection (1)(d) is a participating employer in this system.

(3) If a participating employer under Subsection (1) covers any of its public safety service employees under the Public Safety Contributory Retirement System or the Public Safety Noncontributory Retirement System, that participating employer shall cover all of its public safety service employees under one of those systems, except for a public safety service employee initially entering employment with a participating employer beginning on or after July 1, 2011.

(4) (a) Until June 30, 2011, an employer that is not participating in this system may by resolution of its governing body apply for coverage of its public safety service employees by this system.

(b) Upon approval of the board, the employer shall become a participating employer in this system subject to this title.

(5) (a) If a participating employer purchases service credit on behalf of employees for service rendered prior to the participating employer's admission to this system, the service credit must be purchased in a nondiscriminatory manner on behalf of all current and former employees who were eligible for service credit at the time service was rendered.

(b) For a purchase made under this Subsection (5), an employee is not required to:

(i) have at least four years of service credit before the purchase can be made; or

(ii) forfeit service credit or any defined contribution balance based on the employer contributions under any other retirement system or plan based on the period of employment for which service credit is being purchased.

(6) A participating employer may not withdraw from this system.

(7) In addition to their participation in the system, participating employers may provide or participate in any additional public or private retirement, supplemental or defined contribution plan, either directly or indirectly, for their employees.

Section 26. Section 49-15-401 is amended to read:

49-15-401. Eligibility for service retirement -- Date of retirement -- Qualifications.

(1) A member is qualified to receive an allowance from this system when:

(a) except as provided under Subsection (3), the member ceases actual work for every participating employer that employs the member before the member's retirement date and provides evidence of the termination;

(b) the member has submitted to the office a [notarized] retirement application form that states the member's proposed retirement date; and

(c) one of the following conditions is met as of the member's retirement date:

(i) the member has accrued at least 20 years of service credit;

(ii) the member has accrued at least 10 years of service credit and has attained an age of 60 years; or

(iii) the member has accrued at least four years of service and has attained an age of 65 years.

(2) (a) The member's retirement date:

(i) shall be the 1st or the 16th day of the month, as selected by the member;

(ii) shall be on or after the date of termination; and

(iii) may not be more than 90 days before or after the date the application is received by the office.

(b) Except as provided under Subsection (3), a member may not be employed by a participating employer in the system established by this chapter on the retirement date selected under Subsection (2)(a)(i).

(3) (a) A member who is employed by a participating employer and who is also an elected official is not required to cease service as an elected official to be qualified to receive an allowance under Subsection (1), unless the member is retiring from service as an elected official.

(b) A member who is employed by a participating employer and who is also a part-time appointed board member is not required to cease service as a part-time appointed board member to be qualified to receive an allowance under Subsection (1).

Section 27. Section 49-15-501 is amended to read:

49-15-501. Death of active member in Division A -- Payment of benefits.

(1) If an active member of this system enrolled in Division A under Section 49-15-301 dies, benefits are payable as follows:

(a) If the death is classified by the office as a line-of-duty death, benefits are payable as follows:

(i) If the member has accrued less than 20 years of public safety service credit, the spouse at the time of death shall receive a lump sum of \$1,000 and an allowance equal to 30% of the member's final average monthly salary.

(ii) If the member has accrued 20 or more years of public safety service credit, the member shall be considered to have retired with an allowance calculated under Section 49-15-402 and the spouse at the time of death shall receive the death benefit payable to a spouse at the time of death under Section 49-15-504.

(b) If the death is not classified as a line-of-duty death by the office, benefits are payable as follows:

(i) If the member has accrued less than 10 years of public safety service credit, the beneficiary shall receive the sum of \$1,000 or a refund of the member's member contributions, whichever is greater.

(ii) If the member has accrued 10 or more years, but less than 20 years of public safety service credit at the time of death, the spouse at the time of death shall receive the sum of \$500, plus an allowance equal to 2% of the member's final average monthly salary for each year of service credit accrued by the member up to a maximum of 30% of the member's final average monthly salary.

(iii) If the member has accrued 20 or more years of public safety service credit, the benefit shall be calculated as provided in Subsection (1)(a)(ii).

(2) [Benefits] Except as provided under Subsection (1)(b)(i), benefits are not payable to minor children under Division A.

(3) If a benefit is not distributed under this section, and the member has designated a beneficiary, the member's member contribution shall be paid to the beneficiary.

(4) (a) A spouse who requests a benefit under this section shall apply in writing to the office.

(b) The allowance shall begin on the first day of the month following the month in which the:

(i) ~~following the month in which the~~ member died, if the application is received by the office within 90 days of the member's death; or

(ii) ~~following the month in which the~~ application is received by the office, if the application is received by the office more than 90 days after the member's death.

Section 28. Section 49-15-504 is amended to read:

49-15-504. Benefits payable upon death of retired member -- Enhanced benefit election -- Rulemaking.

(1) A retiree who retired under either Division A or Division B dies, the retiree's spouse at the time of

death of the retiree shall receive an allowance equal to 65% of the allowance that was being paid to the retiree at the time of death.

(2) (a) Notwithstanding the amount of the allowance under Subsection (1), at the time of retirement, a retiree may elect to increase the spousal death benefit to 75% of an allowance computed in accordance with Section 49-15-402.

(b) If an election is made under Subsection (2)(a), the member's allowance shall be reduced to an amount payable monthly for life to reflect the actuarial equivalent necessary to pay for the increased spousal death benefit above 65%.

(3) (a) For a retiree whose retirement date is before July 1, 2009, the office shall provide an optional spousal death benefit to bring the total spousal death benefit up to 75% of an allowance computed in accordance with Section 49-15-402.

(b) A retiree may elect to purchase the optional spousal death benefit until July 1, 2010.

(c) If an election is made under Subsection (3)(b), the retiree's allowance shall be reduced to an amount payable monthly for life to reflect the actuarial equivalent necessary to pay for the increased spousal death benefit above 65%.

(d) The board shall make rules to administer the death benefit under this Subsection (3).

(4) If the retiree retired solely under Division B and dies leaving unmarried children under the age of 18 or dependent unmarried children with a mental or physical disability, the children shall qualify for a benefit as prescribed under Subsection 49-15-502(1)(d) [~~which is payable on the first day of the month following the month in which the retiree died~~].

(5) (a) A beneficiary who qualifies for a monthly benefit under this section shall apply in writing to the office.

(b) The allowance shall begin on the first day of the month following the month in which the:

(i) member or participant died, if the application is received by the office within 90 days of the date of death of the member or participant; or

(ii) application is received by the office, if the application is received by the office more than 90 days after the date of death of the member or participant.

Section 29. Section 49-16-201 is amended to read:

49-16-201. System membership -- Eligibility.

(1) A firefighter service employee who performs firefighter service for an employer participating in this system is eligible for service credit in this system upon the earliest of:

(a) July 1, 1971, if the firefighter service employee was employed by the participating employer on

July 1, 1971, and the participating employer was participating in this system on that date;

(b) the date the participating employer begins participating in this system if the firefighter service employee was employed by the participating employer on that date; or

(c) the date the firefighter service employee is hired to perform firefighter services for a participating employer, if the firefighter:

(i) initially enters employment before July 1, 2011^[c]; or

(ii) has service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board.

(2) (a) (i) A participating employer that has public safety service and firefighter service employees that require cross-training and duty shall enroll the dual purpose employees in the system in which the greatest amount of time is actually worked.

(ii) The employees shall either be full-time public safety service or full-time firefighter service employees of the participating employer.

(b) (i) Before transferring a dual purpose employee from one system to another, the participating employer shall receive written permission from the office.

(ii) The office may request documentation to verify the appropriateness of the transfer.

(3) (a) A person hired by a regularly constituted fire department on or after July 1, 1971, who does not perform firefighter service is not eligible for service credit in this system.

(b) The nonfirefighter service employee shall become a member of the system for which the nonfirefighter service employee qualifies for service credit.

(c) The service credit exclusion under this Subsection (3) may not be interpreted to prohibit the assignment of a firefighter with a disability or partial disability to a nonfirefighter service position.

(d) If Subsection (3)(c) applies, the firefighter service employee remains eligible for service credit in this system.

(4) An allowance or other benefit may not be granted under this system that is based upon the same service for benefits received under some other system.

(5) Service as a volunteer firefighter is not eligible for service credit in this system.

(6) An employer that maintains a regularly constituted fire department is eligible to participate in this system.

(7) Beginning July 1, 2011, a person who is initially entering employment with a participating employer and who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board may not participate in this system.

Section 30. Section 49-16-401 is amended to read:

49-16-401. Eligibility for service retirement -- Date of retirement -- Qualifications.

(1) A member is qualified to receive an allowance from this system when:

(a) except as provided under Subsection (3), the member ceases actual work for every participating employer that employs the member before the member's retirement date and provides evidence of the termination;

(b) the member has submitted to the office a [notarized] retirement application form that states the member's proposed retirement date; and

(c) one of the following conditions is met as of the member's retirement date:

(i) the member has accrued at least 20 years of service credit;

(ii) the member has accrued at least 10 years of service credit and has attained an age of 60 years; or

(iii) the member has accrued at least four years of service credit and has attained an age of 65 years.

(2) (a) The member's retirement date:

(i) shall be the 1st or the 16th day of the month, as selected by the firefighter service employee;

(ii) shall be on or after the date of termination; and

(iii) may not be more than 90 days before or after the date the application is received by the office.

(b) Except as provided under Subsection (3), a member may not be employed by a participating employer in the system established by this chapter on the retirement date selected under Subsection (2)(a)(i).

(3) (a) A member who is employed by a participating employer and who is also an elected official is not required to cease service as an elected official to be qualified to receive an allowance under Subsection (1), unless the member is retiring from service as an elected official.

(b) A member who is employed by a participating employer and who is also a part-time appointed board member is not required to cease service as a part-time appointed board member to be qualified to receive an allowance under Subsection (1).

Section 31. Section 49-16-504 is amended to read:

49-16-504. Benefits payable upon death of retired member.

(1) If a retiree who retired under either Division A or Division B dies, the retiree's spouse at the time of death shall receive an allowance equal to 75% of the allowance that was being paid to the retiree at the time of death.

(2) If the retiree retired solely under Division B and dies leaving unmarried children under the age of 21 or dependent unmarried children with a

mental or physical disability, the children shall qualify for a benefit as prescribed under Subsection 49-16-502(1)(c) [which is payable on the first day of the month following the month in which the retiree died].

(3) (a) A beneficiary who qualifies for a monthly benefit under this section shall apply in writing to the office.

(b) The allowance shall begin on the first day of the month following the month in which the:

(i) member or participant died, if the application is received by the office within 90 days of the date of death of the member or participant; or

(ii) application is received by the office, if the application is received by the office more than 90 days after the date of death of the member or participant.

Section 32. Section 49-17-401 is amended to read:

49-17-401. Eligibility for an allowance -- Date of retirement -- Qualifications.

(1) A member is qualified to receive an allowance when:

(a) the member ceases actual work for every participating employer that employs the member before the member's retirement date and provides evidence of the termination;

(b) the member has submitted to the office a [notarized] retirement application form that states the member's proposed retirement date; and

(c) one of the following conditions is met as of the member's retirement date:

(i) the member has accrued at least six years of service credit and has attained an age of 70 years;

(ii) the member has accrued at least 10 years of service credit and has attained an age of 62 years;

(iii) the member has accrued at least 20 years of service credit and has attained an age of 55 years; or

(iv) the member has accrued at least 25 years of service credit.

(2) (a) The member's retirement date:

(i) shall be the 1st or the 16th day of the month, as selected by the member;

(ii) shall be on or after the date of termination; and

(iii) may not be more than 90 days before or after the date the application is received by the office.

(b) A member may not be employed by a participating employer in the system established by this chapter on the retirement date selected under Subsection (2)(a)(i).

Section 33. Section 49-17-402 is amended to read:

49-17-402. Calculation of retirement allowance.

(1) A retiree under this system shall receive an allowance equal to:

(a) 5% of the final average monthly salary multiplied by the number of years of service credit, limited to 10 years; plus

(b) 2.25% of the final average monthly salary multiplied by the number of years of service credit in excess of 10 years and up to and including 20 years; plus

(c) 1% of the final average monthly salary multiplied by the number of years of service credit in excess of 20 years.

(2) (a) Except as modified by cost-of-living adjustments and except as provided under Subsection (2)(b), an allowance under this system may not exceed 75% of the member's final average monthly salary.

(b) The allowance limitation under Subsection (2)(a) does not apply to a member who initially retires on or after July 1, 2010.

(3) If the retiree has attained the age of 55 years and has 20 years or more but less than 25 years of service credit, the retiree shall receive an early retirement reduction to the allowance based on an actuarial calculation assuming a normal retirement age of 65 years.

Section 34. Section 49-17-502 is amended to read:

49-17-502. Benefits payable upon death of retired member.

(1) (a) The death benefit payable to a retiree's spouse at the time of death is an allowance equal to 65% of the allowance which was being paid to the retiree at the time of death.

(b) The effective date of the accrual of this allowance is the first day of the month following the month in which the retiree died.

(2) (a) Notwithstanding the amount of the allowance under Subsection (1), at the time of retirement, a retiree may elect to increase the spousal death benefit up to 75% of an allowance computed in accordance with Section 49-17-402.

(b) If an election is made under Subsection (2)(a), the member's allowance shall be reduced to reflect the actuarial equivalent necessary to pay for the increased spousal death benefit above 65%.

(3) (a) A spouse who qualifies for a monthly benefit under this section shall apply in writing to the office.

(b) The allowance shall begin on the first day of the month following the month in which the:

(i) member or participant died, if the application is received by the office within 90 days of the date of death of the member or participant; or

(ii) application is received by the office, if the application is received by the office more than 90 days after the date of death of the member or participant.

Section 35. Section 49-18-401 is amended to read:

49-18-401. Eligibility for an allowance -- Date of retirement -- Qualifications.

(1) A member is qualified to receive an allowance when:

(a) the member ceases actual work for every participating employer that employs the member before the member's retirement date and provides evidence of the termination;

(b) the member has submitted to the office a [notarized] retirement application form that states the member's proposed retirement date; and

(c) one of the following conditions is met as of the member's retirement date:

(i) the member has accrued at least six years of service credit and has attained an age of 70 years;

(ii) the member has accrued at least 10 years of service credit and has attained an age of 62 years;

(iii) the member has accrued at least 20 years of service credit and has attained an age of 55 years; or

(iv) the member has accrued at least 25 years of service credit.

(2) (a) The member's retirement date:

(i) shall be the 1st or the 16th day of the month, as selected by the member;

(ii) shall be on or after the date of termination; and

(iii) may not be more than 90 days before or after the date the application is received by the office.

(b) A member may not be employed by a participating employer in the system established by this chapter on the retirement date selected under Subsection (2)(a)(i).

Section 36. Section 49-18-402 is amended to read:

49-18-402. Calculation of retirement allowance.

(1) A retiree under this system shall receive an allowance equal to:

(a) 5% of the final average monthly salary multiplied by the number of years of service credit, limited to 10 years; plus

(b) 2.25% of the final average monthly salary multiplied by the number of years of service credit in excess of 10 years and up to and including 20 years; plus

(c) 1% of the final average monthly salary multiplied by the number of years of service credit in excess of 20 years.

(2) (a) Except as modified by cost-of-living adjustments and except as provided under Subsection (2)(b), an allowance under this system may not exceed 75% of the member's final average monthly salary.

(b) The allowance limitation under Subsection (2)(a) does not apply to a member who initially retires on or after July 1, 2010.

(3) If the retiree has attained the age of 55 years and has 20 years or more but less than 25 years of service credit, the retiree shall receive an early retirement reduction to the allowance based on an actuarial calculation assuming a normal retirement age of 65 years.

Section 37. Section 49-18-502 is amended to read:

49-18-502. Benefits payable upon death of retired member.

(1) ~~[(a)]~~ The death benefit payable to a retiree's spouse at the time of death is an allowance equal to 65% of the allowance which was being paid to the retiree at the time of death.

~~[(b) The effective date of the accrual of this allowance is the first day of the month following the month in which the retiree died.]~~

(2) (a) Notwithstanding the amount of the allowance under Subsection (1), at the time of retirement, a retiree may elect to increase the spousal death benefit up to 75% of an allowance computed in accordance with Section 49-18-402.

(b) If an election is made under Subsection (2)(a), the member's allowance shall be reduced to an amount payable monthly for life to reflect the actuarial equivalent necessary to pay for the increased spousal death benefit above 65%.

(3) (a) A spouse who qualifies for a monthly benefit under this section shall apply in writing to the office.

(b) The allowance shall begin on the first day of the month following the month in which the:

(i) member or participant died, if the application is received by the office within 90 days of the date of death of the member or participant; or

(ii) application is received by the office, if the application is received by the office more than 90 days after the date of death of the member or participant.

Section 38. Section 49-19-201 is amended to read:

49-19-201. Plan participation -- Eligibility.

(1) [Governors and legislators who enter office before July 1, 2011, are] A governor or legislator is eligible for service credit in this plan during their term of service in their elected position[.] if the governor or legislator:

(a) entered office before July 1, 2011; or

(b) accrued service credit in a Tier I system or plan administered by the board before July 1, 2011.

(2) A governor or legislator initially entering office on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board:

(a) may not participate in this system;

(b) is only eligible to participate in the Tier II Defined Contribution Plan established under Chapter 22, Part 4, Tier II Defined Contribution Plan; and

(c) is not eligible to participate in the Tier II hybrid retirement system established under Chapter 22, Part 3, Tier II Hybrid Retirement System.

Section 39. Section 49-19-401 is amended to read:

49-19-401. Eligibility for an allowance -- Governor -- Legislator.

(1) A governor is qualified to receive an allowance when:

(a) the governor has submitted to the office a ~~[notarized]~~ retirement application form that states the proposed retirement date; and

(b) one of the following conditions is met as of the retirement date:

(i) the governor has completed at least one full term in office and has attained an age of 65 years; or

(ii) the governor has served as governor of the state for at least 10 years and has attained an age of 62 years.

(2) A legislator is qualified to receive an allowance when:

(a) the legislator has submitted to the office a ~~[notarized]~~ retirement application form that states the proposed retirement date; and

(b) one of the following conditions is met as of the retirement date:

(i) the legislator has completed at least four years in the Legislature and has attained an age of 65 years; or

(ii) the legislator has completed at least 10 years in the Legislature and has attained an age of 62 years.

(3) (a) The retirement date shall be the 1st or the 16th day of the month as selected by the member.

(b) The retirement date may not be more than 90 days before or after the date the application is received by the office.

(4) A member who withdraws member contributions shall forfeit all allowances based on those contributions.

(5) If a retired legislator is elected to another term in the Legislature or continues to serve in the Legislature, the legislative allowance ceases at the beginning of each session under rules established by the board, but is restored at the same amount at the end of the session.

(6) A member receiving an allowance while serving as a legislator is eligible for additional service credits and allowance adjustments at the end of each term of office if the legislator continues as a contributing member during the member's service as a legislator.

Section 40. Section 49-21-102 is amended to read:

49-21-102. Definitions.

As used in this chapter:

(1) "Date of disability" means the date on which a period of continuous disability commences, and may not commence on or before the last day of actual work.

(2) (a) "Eligible employee" means the following employee whose employer provides coverage under this chapter:

(i) (A) any regular full-time employee as defined under Section 49-12-102, 49-13-102, or 49-22-102;

(B) any public safety service employee as defined under Section 49-14-102, 49-15-102, or 49-23-102;

(C) any firefighter service employee or volunteer firefighter as defined under Section 49-23-102 who began firefighter service on or after July 1, 2011;

(D) any judge as defined under Section 49-17-102 or 49-18-102; or

(E) the governor of the state;

(ii) an employee who is exempt from participating in a retirement system under Subsection 49-12-203(4), 49-13-203(4), 49-14-203(1), or 49-15-203(1); and

(iii) an employee who is covered by a retirement program offered by ~~[the Teachers' Insurance and Annuity Association of America]~~ a public or private system, organization, or company designated by the State Board of Regents.

(b) "Eligible employee" does not include:

(i) any employee that is exempt from coverage under Section 49-21-201; or

(ii) a retiree.

(3) "Elimination period" means the three months at the beginning of each continuous period of total disability for which no benefit will be paid. The elimination period begins on the nearest first day of the month from the date of disability. The elimination period may include a one-time trial return to work period of less than 15 consecutive calendar days.

(4) "Maximum benefit period" means the maximum period of time the monthly disability income benefit will be paid under Section 49-21-403 for any continuous period of total disability.

(5) "Monthly disability benefit" means the monthly payments and accrual of service credit under Section 49-21-401.

(6) "Objective medical impairment" means an impairment resulting from an injury or illness which is diagnosed by a physician and which is based on accepted objective medical tests or findings rather than subjective complaints.

(7) "Physician" means a licensed physician.

(8) "Regular monthly salary" means the amount certified by the participating employer as the monthly salary of the eligible employee, unless there is a discrepancy between the certified amount and the amount actually paid, in which case the office shall determine the regular monthly salary.

(9) "Regular occupation" means either the primary duties performed by the eligible employee for the 12 months preceding the date of disability, or a permanent assignment of duty to the eligible employee.

(10) "Rehabilitative employment" means any occupation or employment for wage or profit, for which the eligible employee is reasonably qualified to perform based on education, training, or experience.

(11) (a) "Total disability" means the complete inability, due to objective medical impairment, whether physical or mental, to engage in the eligible employee's regular occupation during the elimination period and the first 24 months of disability benefits.

(b) (i) "Total disability" means, after the elimination period and the first 24 months of disability benefits, the complete inability, as determined under Subsection (11)(b)(ii), to engage in any gainful occupation which is reasonable, considering the eligible employee's education, training, and experience.

(ii) For purposes of Subsection (11)(b)(i), inability is determined:

(A) based solely on physical objective medical impairment; and

(B) regardless of the existence or absence of any mental impairment.

Section 41. Section 49-21-408 is enacted to read:

49-21-408. Limitation of service credit accrual -- Disability benefits from a long-term disability program other than under this chapter.

Beginning on July 1, 2014, an eligible employee who receives a monthly disability benefit from a long-term disability program other than under this chapter and who is eligible for service credit under a system or plan shall accrue service credit in that system or plan until the earlier of:

(1) the date of the eligible employee's death;

(2) the date the eligible employee retires from the system or plan; or

(3) the date the eligible employee has accumulated or would have accumulated service credit in a defined benefit system or plan under this title, sufficient to be eligible to retire with an unreduced allowance, if the employee had not:

(a) chosen a defined contribution plan under Title 49, Chapter 22, Part 4, Tier II Defined Contribution Plan, or under Title 49, Chapter 23, Part 4, Tier II Defined Contribution Plan;

(b) been a volunteer firefighter; or

(c) been exempted from a retirement system or plan under this title.

Section 42. Section 49-22-201 is amended to read:

49-22-201. System membership -- Eligibility.

(1) Beginning July 1, 2011, a participating employer shall participate in this system.

(2) (a) A person initially entering regular full-time employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, is eligible:

(i) as a member for service credit and defined contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid Retirement System; or

(ii) as a participant for defined contributions under the Tier II defined contribution plan established by Part 4, Tier II Defined Contribution Plan.

(b) A person initially entering regular full-time employment with a participating employer on or after July 1, 2011, shall:

(i) make an election to participate in the system created under this chapter within 30 days from the date of eligibility for accrual of benefits:

(A) as a member for service credit and defined contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid Retirement System; or

(B) as a participant for defined contributions under the Tier II defined contribution plan established by Part 4, Tier II Defined Contribution Plan; and

(ii) electronically submit to the office notification of the member's election under Subsection (2)(b)(i) in a manner approved by the office.

(c) An election made by a person initially entering regular full-time employment with a participating employer under this Subsection (2) is irrevocable beginning one year from the date of eligibility for accrual of benefits.

(d) If no election is made under Subsection (2)(b)(i), the person shall become a member eligible for service credit and defined contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid Retirement System.

(3) Notwithstanding the provisions of this section, an elected official initially entering office on or after July 1, 2011:

(a) is only eligible to participate in the Tier II defined contribution plan established under Chapter 22, Part 4, Tier II Defined Contribution Plan; and

(b) is not eligible to participate in the Tier II hybrid retirement system established under Chapter 22, Part 3, Tier II Hybrid Retirement System.

Section 43. Section 49-22-203 is amended to read:

49-22-203. Exclusions from membership in system.

(1) The following employees are not eligible for service credit in this system:

(a) subject to the requirements of Subsection (2), an employee whose employment status is temporary in nature due to the nature or the type of work to be performed;

(b) except as provided under Subsection (3), an employee of an institution of higher education who participates in a retirement system with ~~the Teachers' Insurance and Annuity Association of America or with any other~~ a public or private retirement system, organization, or company designated by the State Board of Regents during any period in which required contributions based on compensation have been paid on behalf of the employee by the employer;

(c) an employee serving as an exchange employee from outside the state; or

(d) an employee of the Department of Workforce Services who is covered under another retirement system allowed under Title 35A, Chapter 4, Employment Security Act.

(2) If an employee whose status is temporary in nature due to the nature of type of work to be performed:

(a) is employed for a term that exceeds six months and the employee otherwise qualifies for service credit in this system, the participating employer shall report and certify to the office that the employee is a regular full-time employee effective the beginning of the seventh month of employment; or

(b) was previously terminated prior to being eligible for service credit in this system and is reemployed within three months of termination by the same participating employer, the participating employer shall report and certify that the member is a regular full-time employee when the total of the periods of employment equals six months and the employee otherwise qualifies for service credits in this system.

(3) Upon cessation of the participating employer contributions, an employee under Subsection (1)(b) is eligible for service credit in this system.

Section 44. Section 49-22-204 is amended to read:

49-22-204. Higher education employees' eligibility requirements -- Election between different retirement plans -- Classification requirements -- Transfer between systems.

(1) (a) Regular full-time employees of institutions of higher education who are eligible to

participate in either this system or in a retirement annuity contract with ~~[the Teachers' Insurance and Annuity Association of America or with any other]~~ a public or private system, organization, or company, designated by the Board of Regents, shall, not later than January 1, 1979, elect to participate exclusively in this system or in an annuity contract allowed under this Subsection (1)(a).

(b) The election is final, and no right exists to make any further election.

(2) (a) A regular full-time employee hired by an institution of higher education after January 1, 1979, may participate only in the retirement plan which attaches to the person's employment classification.

(b) Each institution of higher education shall prepare or amend existing employment classifications, under the direction of the Board of Regents, so that each classification is assigned with either:

(i) this system; or

~~[(ii) the Teachers' Insurance and Annuity Association of America; or]~~

~~[(iii) another]~~ (ii) a public or private system, organization, or company designated by the Board of Regents.

(3) A regular full-time employee hired by an institution of higher education on or after July 1, 2011, whose employment classification requires participation in this system may elect to continue participation in this system upon change to an employment classification which requires participation in ~~[(a) an annuity plan with the Teachers' Insurance and Annuity Association of America; or (b) another]~~ a public or private system, organization, or company designated by the Board of Regents.

(4) A regular full-time employee hired by an institution of higher education on or after July 1, 2011, whose employment classification requires participation in this system shall participate in this system.

Section 45. Section 49-22-304 is amended to read:

49-22-304. Defined benefit eligibility for an allowance -- Date of retirement -- Qualifications.

(1) A member is qualified to receive an allowance from this system when:

(a) except as provided under Subsection (3), the member ceases actual work for every participating employer that employs the member before the member's retirement date and provides evidence of the termination;

(b) the member has submitted to the office a ~~[notarized]~~ retirement application form that states the member's proposed retirement date; and

(c) one of the following conditions is met as of the member's retirement date:

(i) the member has accrued at least four years of service credit and has attained an age of 65 years;

(ii) the member has accrued at least 10 years of service credit and has attained an age of 62 years;

(iii) the member has accrued at least 20 years of service credit and has attained an age of 60 years; or

(iv) the member has accrued at least 35 years of service credit.

(2) (a) The member's retirement date:

(i) shall be the 1st or the 16th day of the month, as selected by the member;

(ii) shall be on or after the date of termination; and

(iii) may not be more than 90 days before or after the date the application is received by the office.

(b) Except as provided under Subsection (3), a member may not be employed by a participating employer in the system established by this chapter on the retirement date selected under Subsection (2)(a)(i).

(3) (a) A member who is employed by a participating employer and who is also an elected official is not required to cease service as an elected official to be qualified to receive an allowance under Subsection (1), unless the member is retiring from service as an elected official.

(b) A member who is employed by a participating employer and who is also a part-time appointed board member is not required to cease service as a part-time appointed board member to be qualified to receive an allowance under Subsection (1).

Section 46. Section 49-23-201 is amended to read:

49-23-201. System membership -- Eligibility.

(1) Beginning July 1, 2011, a participating employer that employs public safety service employees or firefighter service employees shall participate in this system.

(2) (a) A public safety service employee or a firefighter service employee initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, is eligible:

(i) as a member for service credit and defined contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid Retirement System; or

(ii) as a participant for defined contributions under the Tier II defined contributions plan established by Part 4, Tier II Defined Contribution Plan.

(b) A public safety service employee or a firefighter service employee initially entering employment with a participating employer on or after July 1, 2011, shall:

(i) make an election to participate in the system created under this chapter within 30 days from the date of eligibility for accrual of benefits:

(A) as a member for service credit and defined contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid Retirement System; or

(B) as a participant for defined contributions under the Tier II defined contribution plan established by Part 4, Tier II Defined Contribution Plan; and

(ii) electronically submit to the office notification of the member's election under Subsection (2)(b)(i) in a manner approved by the office.

(c) An election made by a public safety service employee or firefighter service employee initially entering employment with a participating employer under this Subsection (2) is irrevocable beginning one year from the date of eligibility for accrual of benefits.

(d) If no election is made under Subsection (2)(b)(i), the public safety service employee or firefighter service employee shall become a member eligible for service credit and defined contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid Retirement System.

Section 47. Section 49-23-303 is amended to read:

49-23-303. Defined benefit eligibility for an allowance -- Date of retirement -- Qualifications.

(1) A member is qualified to receive an allowance from this system when:

(a) except as provided under Subsection (3), the member ceases actual work for every participating employer that employs the member before the member's retirement date and provides evidence of the termination;

(b) the member has submitted to the office a [notarized] retirement application form that states the member's proposed retirement date; and

(c) one of the following conditions is met as of the member's retirement date:

(i) the member has accrued at least four years of service credit and has attained an age of 65 years;

(ii) the member has accrued at least 10 years of service credit and has attained an age of 62 years;

(iii) the member has accrued at least 20 years of service credit and has attained an age of 60 years; or

(iv) the member has accrued at least 25 years of service credit.

(2) (a) The member's retirement date:

(i) shall be the 1st or the 16th day of the month, as selected by the member;

(ii) shall be on or after the date of termination; and

(iii) may not be more than 90 days before or after the date the application is received by the office.

(b) Except as provided under Subsection (3), a member may not be employed by a participating employer in the system established by this chapter on the retirement date selected under Subsection (2)(a)(i).

(3) (a) A member who is employed by a participating employer and who is also an elected official is not required to cease service as an elected official to be qualified to receive an allowance under Subsection (1), unless the member is retiring from service as an elected official.

(b) A member who is employed by a participating employer and who is also a part-time appointed board member is not required to cease service as a part-time appointed board member to be qualified to receive an allowance under Subsection (1).

Section 48. Section 49-23-503 is amended to read:

49-23-503. Death of active member in line of duty -- Payment of benefits.

If an active member of this system dies, benefits are payable as follows:

(1) If the death is classified by the office as a line-of-duty death, benefits are payable as follows:

(a) If the member has accrued less than 20 years of public safety service or firefighter service credit, the spouse at the time of death shall receive a lump sum of \$1,000 and an allowance equal to 30% of the member's final average monthly salary.

(b) If the member has accrued 20 or more years of public safety service or firefighter service credit, the member shall be considered to have retired with an Option One allowance calculated without an actuarial reduction under Section 49-23-304 and the spouse at the time of death shall receive the allowance that would have been payable to the member.

(2) (a) A volunteer firefighter is eligible for a line-of-duty death benefit under this section if the death results from external force, violence, or disease directly resulting from firefighter service.

(b) The lowest monthly compensation of firefighters of a city of the first class in this state at the time of death shall be considered to be the final average monthly salary of a volunteer firefighter for purposes of computing these benefits.

(c) Each volunteer fire department shall maintain a current roll of all volunteer firefighters which meet the requirements of Subsection 49-23-102(12) to determine the eligibility for this benefit.

(3) (a) If the death is classified as a line-of-duty death by the office, death benefits are payable under this section and the spouse at the time of death is not eligible for benefits under Section 49-23-502.

(b) If the death is not classified as a line-of-duty death by the office, benefits are payable in accordance with Section 49-23-502.

(4) (a) A spouse who qualifies for a monthly benefit under this section shall apply in writing to the office.

(b) The allowance shall begin on the first day of the month following the month in which the:

(i) member or participant died, if the application is received by the office within 90 days of the date of death of the member or participant; or

(ii) application is received by the office, if the application is received by the office more than 90 days after the date of death of the member or participant.

Section 49. Section 67-19-43 is amended to read:

67-19-43. State employee matching supplemental defined contribution benefit.

(1) As used in this section, "qualifying employee" means an employee who is:

(a) in a position that is [receiving]:

(i) receiving retirement benefits under Title 49, Utah State Retirement and Insurance Benefit Act; and

(ii) accruing paid leave benefits that can be used in the current and future calendar years; and

(b) not an employee who is reemployed as defined in Section 49-11-102.

(2) Subject to the requirements of Subsection (3) and beginning on or after January 4, 2014, an employer shall make a biweekly matching contribution to every qualifying employee's defined contribution plan qualified under Section 401(k) of the Internal Revenue Code, subject to federal requirements and limitations, which is sponsored by the Utah State Retirement Board.

(3) (a) In accordance with the requirements of this Subsection (3), each qualifying employee shall be eligible to receive the same dollar amount for the contribution under Subsection (2).

(b) A qualifying employee:

(i) shall receive the contribution amount determined under Subsection (3)(c) if the qualifying employee makes a voluntary personal contribution to the defined contribution plan account described in Subsection (2) in an amount equal to or greater than the employer's contribution amount determined in Subsection (3)(c);

(ii) shall receive a partial contribution amount that is equal to the qualifying employee's personal contribution amount if the employee makes a voluntary personal contribution to the defined contribution plan account described in Subsection (2) in an amount less than the employer's contribution amount determined in Subsection (3)(c); or

(iii) may not receive a contribution under Subsection (2) if the qualifying employee does not make a voluntary personal contribution to the defined contribution plan account described in Subsection (2).

(c) (i) Subject to the maximum limit under Subsection (3)(c)(iii), the Legislature shall annually determine the contribution amount that an employer shall provide to each qualifying employee under Subsection (2).

(ii) The department shall make recommendations annually to the Legislature on the contribution amount required under Subsection (2), in consultation with the Governor's Office of Management and Budget and the Division of Finance.

(iii) The biweekly matching contribution amount required under Subsection (2) may not exceed \$26 for each qualifying employee.

(4) A qualifying employee is eligible to receive the biweekly contribution under this section for any pay period in which the employee is in a paid status or other status protected by federal or state law.

(5) The employer and employee contributions made under this section vest immediately upon deposit and can be withdrawn by the employee at any time, subject to Internal Revenue Code regulations on the withdrawals.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the executive director shall make rules establishing procedures to implement the provisions of this section.

Section 50. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 16**H. B. 99**

Passed February 28, 2014

Approved March 6, 2014

Effective March 6, 2014

COUNTY OFFICER ELECTION REVISIONS

Chief Sponsor: Jack R. Draxler
 Senate Sponsor: Peter C. Knudson

LONG TITLE**General Description:**

This bill amends provisions that stagger the office terms of certain county officers.

Highlighted Provisions:

This bill:

- ▶ amends provisions that stagger the office terms of certain county officers; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.

Utah Code Sections Affected:**AMENDS:**

17-16-6, as last amended by Laws of Utah 2011, Chapter 154

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

Section 1. Section 17-16-6 is amended to read:**17-16-6. County officers -- Time of holding elections -- County commissioners -- Terms of office.**

(1) Except as otherwise provided in an optional plan adopted under Chapter 52, Changing Forms of County Government:

(a) each elected county officer shall be elected at the regular general election every four years in accordance with Section 20A-1-201, except as otherwise provided in this title;

(b) county commissioners shall be elected at the times, in the manner, and for the terms provided in Section 17-52-501; and

(c) an elected officer shall hold office for the term for which the officer is elected, beginning at noon on the first Monday in January following the officer's election and until a successor is elected or appointed and qualified, except as provided in Section 17-16-1.

(2) (a) The terms of county officers shall be staggered in accordance with this Subsection (2).

(b) Except as provided in Subsection (2)(c), in the 2014 general election:

(i) the following county officers shall be elected to one six-year term and thereafter elected to a four-year term:

(A) county treasurer;

(B) county recorder;

(C) county surveyor; and

(D) county assessor; and

(ii) all other county officers shall be elected to a four-year term.

(c) If a county legislative body consolidates two or more county offices in accordance with Section 17-16-3 ~~[on or after May 10, 2011]~~, and the consolidated offices are on conflicting election schedules, the county legislative body shall pass an ordinance that sets the election schedule for the consolidated offices in a reasonable manner that staggers the terms of county officers as provided in this Subsection (2).

Section 2. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 17**S. B. 54**

Passed March 5, 2014
 Approved March 10, 2014
 Effective January 1, 2015

ELECTIONS AMENDMENTS

Chief Sponsor: Curtis S. Bramble
 House Sponsor: Daniel McCay

LONG TITLE**General Description:**

This bill amends provisions of the Election Code relating to nomination of candidates, primary and general elections, and ballots.

Highlighted Provisions:

This bill:

- ▶ defines terms and modifies defined terms;
- ▶ enacts a severability clause;
- ▶ modifies dates and other provisions relating to a notice of election;
- ▶ except as it relates to presidential candidates, prohibits a ballot or ballot sheet from indicating that a candidate is associated with a political party unless the candidate is nominated by petition or nominated by a qualified political party;
- ▶ changes dates relating to the establishment and publication of the master ballot position list;
- ▶ defines a qualified political party as a registered political party that:
 - permits voters who are unaffiliated with any political party to vote for the registered political party's candidates in a primary election;
 - permits a delegate for the registered political party to vote on a candidate nomination in the registered political party's convention remotely or permits the designation of an alternate delegate;
 - does not hold the registered political party's convention before April 1 of an even-numbered year; and
 - permits a member of the registered political party to seek the registered political party's nomination for any elective office by seeking the nomination through the registered political party's convention process, seeking the nomination by collecting signatures, or both;
- ▶ modifies provisions and dates relating to a declaration of candidacy;
- ▶ provides that candidates for elective office shall be nominated in direct primary elections, unless the candidates are listed on the ballot as unaffiliated or are nominated by a qualified political party;
- ▶ modifies provisions relating to the conduct of a primary election;
- ▶ describes petition requirements for appearing on a primary election ballot for nomination as a candidate for an identified political party;
- ▶ grants rulemaking authority;
- ▶ describes duties of the lieutenant governor and county clerks in relation to the provisions of this bill;

- ▶ describes requirements and exceptions for a qualified political party;
- ▶ describes two alternate nomination procedures for a qualified political party; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on January 1, 2015.

Utah Code Sections Affected:**AMENDS:**

- 20A-1-102, as last amended by Laws of Utah 2013, Chapter 320
- 20A-1-501, as last amended by Laws of Utah 2013, Chapter 317
- 20A-5-101, as last amended by Laws of Utah 2011, Chapters 291 and 292
- 20A-6-301, as last amended by Laws of Utah 2012, Chapter 68
- 20A-6-302, as last amended by Laws of Utah 2013, Chapter 317
- 20A-6-303, as last amended by Laws of Utah 2011, Chapter 292
- 20A-6-304, as last amended by Laws of Utah 2011, Chapter 292
- 20A-6-305, as enacted by Laws of Utah 2011, Chapter 292
- 20A-9-101, as last amended by Laws of Utah 2007, Chapter 329
- 20A-9-201, as last amended by Laws of Utah 2013, Chapters 145 and 317
- 20A-9-202, as last amended by Laws of Utah 2013, Chapter 317
- 20A-9-403, as last amended by Laws of Utah 2013, Chapter 317
- 20A-9-701, as last amended by Laws of Utah 2011, Chapter 327

ENACTS:

- 20A-1-103, Utah Code Annotated 1953
- 20A-9-405, Utah Code Annotated 1953
- 20A-9-406, Utah Code Annotated 1953
- 20A-9-407, Utah Code Annotated 1953
- 20A-9-408, Utah Code Annotated 1953
- 20A-9-409, Utah Code Annotated 1953
- 20A-9-410, Utah Code Annotated 1953

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

Section 1. Section 20A-1-102 is amended to read:**20A-1-102. Definitions.**

As used in this title:

(1) "Active voter" means a registered voter who has not been classified as an inactive voter by the county clerk.

(2) "Automatic tabulating equipment" means apparatus that automatically examines and counts votes recorded on paper ballots or ballot sheets and tabulates the results.

(3) (a) "Ballot" means the storage medium, whether paper, mechanical, or electronic, upon which a voter records the voter's votes.

(b) "Ballot" includes ballot sheets, paper ballots, electronic ballots, and secrecy envelopes.

[45] (4) "Ballot label" means the cards, papers, booklet, pages, or other materials that:

(a) contain the names of offices and candidates and statements of ballot propositions to be voted on; and

(b) are used in conjunction with ballot sheets that do not display that information.

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

(a) an opinion question specifically authorized by the Legislature;

(b) a constitutional amendment;

(c) an initiative;

(d) a referendum;

(e) a bond proposition;

(f) a judicial retention question;

(g) an incorporation of a city or town; or

(h) any other ballot question specifically authorized by the Legislature.

[44] (6) "Ballot sheet":

(a) means a ballot that:

(i) consists of paper or a card where the voter's votes are marked or recorded; and

(ii) can be counted using automatic tabulating equipment; and

(b) includes punch card ballots and other ballots that are machine-countable.

(7) "Bind," "binding," or "bound" means securing more than one piece of paper together with a staple or stitch in at least three places across the top of the paper in the blank space reserved for securing the paper.

(8) "Board of canvassers" means the entities established by Sections 20A-4-301 and 20A-4-306 to canvass election returns.

(9) "Bond election" means an election held for the purpose of approving or rejecting the proposed issuance of bonds by a government entity.

(10) "Book voter registration form" means voter registration forms contained in a bound book that are used by election officers and registration agents to register persons to vote.

(11) "Business reply mail envelope" means an envelope that may be mailed free of charge by the sender.

(12) "By-mail voter registration form" means a voter registration form designed to be completed by the voter and mailed to the election officer.

(13) "Canvass" means the review of election returns and the official declaration of election results by the board of canvassers.

(14) "Canvassing judge" means a poll worker designated to assist in counting ballots at the canvass.

(15) "Contracting election officer" means an election officer who enters into a contract or interlocal agreement with a provider election officer.

(16) "Convention" means the political party convention at which party officers and delegates are selected.

(17) "Counting center" means one or more locations selected by the election officer in charge of the election for the automatic counting of ballots.

(18) "Counting judge" means a poll worker designated to count the ballots during election day.

(19) "Counting poll watcher" means a person selected as provided in Section 20A-3-201 to witness the counting of ballots.

(20) "Counting room" means a suitable and convenient private place or room, immediately adjoining the place where the election is being held, for use by the poll workers and counting judges to count ballots during election day.

(21) "County officers" means those county officers that are required by law to be elected.

(22) "Date of the election" or "election day" or "day of the election":

(a) means the day that is specified in the calendar year as the day that the election occurs; and

(b) does not include:

(i) deadlines established for absentee voting; or

(ii) any early voting or early voting period as provided under Chapter 3, Part 6, Early Voting.

(23) "Elected official" means:

(a) a person elected to an office under Section 20A-1-303;

(b) a person who is considered to be elected to a municipal office in accordance with Subsection 20A-1-206(1)(c)(ii); or

(c) a person who is considered to be elected to a local district office in accordance with Subsection 20A-1-206(3)(c)(ii).

(24) "Election" means a regular general election, a municipal general election, a statewide special election, a local special election, a regular primary election, a municipal primary election, and a local district election.

(25) "Election Assistance Commission" means the commission established by Public Law 107-252, the Help America Vote Act of 2002.

(26) "Election cycle" means the period beginning on the first day persons are eligible to file declarations of candidacy and ending when the canvass is completed.

(27) "Election judge" means a poll worker that is assigned to:

(a) preside over other poll workers at a polling place;

(b) act as the presiding election judge; or

(c) serve as a canvassing judge, counting judge, or receiving judge.

(28) "Election officer" means:

(a) the lieutenant governor, for all statewide ballots and elections;

(b) the county clerk for:

(i) a county ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(c) the municipal clerk for:

(i) a municipal ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(d) the local district clerk or chief executive officer for:

(i) a local district ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5; or

(e) the business administrator or superintendent of a school district for:

(i) a school district ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5.

(29) "Election official" means any election officer, election judge, or poll worker.

(30) "Election results" means:

(a) for an election other than a bond election, the count of votes cast in the election and the election returns requested by the board of canvassers; or

(b) for bond elections, the count of those votes cast for and against the bond proposition plus any or all of the election returns that the board of canvassers may request.

(31) "Election returns" includes the pollbook, the military and overseas absentee voter registration and voting certificates, one of the tally sheets, any unprocessed absentee ballots, all counted ballots, all excess ballots, all unused ballots, all spoiled ballots, the ballot disposition form, and the total votes cast form.

(32) "Electronic ballot" means a ballot that is recorded using a direct electronic voting device or other voting device that records and stores ballot information by electronic means.

(33) "Electronic signature" means an electronic sound, symbol, or process attached to or logically

associated with a record and executed or adopted by a person with the intent to sign the record.

(34) (a) "Electronic voting device" means a voting device that uses electronic ballots.

(b) "Electronic voting device" includes a direct recording electronic voting device.

(35) "Inactive voter" means a registered voter who has:

(a) been sent the notice required by Section 20A-2-306; and

(b) failed to respond to that notice.

(36) "Inspecting poll watcher" means a person selected as provided in this title to witness the receipt and safe deposit of voted and counted ballots.

(37) "Judicial office" means the office filled by any judicial officer.

(38) "Judicial officer" means any justice or judge of a court of record or any county court judge.

(39) "Local district" means a local government entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and includes a special service district under Title 17D, Chapter 1, Special Service District Act.

(40) "Local district officers" means those local district officers that are required by law to be elected.

(41) "Local election" means a regular municipal election, a local special election, a local district election, and a bond election.

(42) "Local political subdivision" means a county, a municipality, a local district, or a local school district.

(43) "Local special election" means a special election called by the governing body of a local political subdivision in which all registered voters of the local political subdivision may vote.

(44) "Municipal executive" means:

(a) the mayor in the council-mayor form of government defined in Section 10-3b-102; or

(b) the mayor in the council-manager form of government defined in Subsection 10-3b-103(6).

(45) "Municipal general election" means the election held in municipalities and local districts on the first Tuesday after the first Monday in November of each odd-numbered year for the purposes established in Section 20A-1-202.

(46) "Municipal legislative body" means the council of the city or town in any form of municipal government.

(47) "Municipal office" means an elective office in a municipality.

(48) "Municipal officers" means those municipal officers that are required by law to be elected.

(49) "Municipal primary election" means an election held to nominate candidates for municipal office.

(50) “Official ballot” means the ballots distributed by the election officer to the poll workers to be given to voters to record their votes.

(51) “Official endorsement” means:

(a) the information on the ballot that identifies:

(i) the ballot as an official ballot;

(ii) the date of the election; and

(iii) the facsimile signature of the election officer; and

(b) the information on the ballot stub that identifies:

(i) the poll worker’s initials; and

(ii) the ballot number.

(52) “Official register” means the official record furnished to election officials by the election officer that contains the information required by Section 20A-5-401.

(53) “Paper ballot” means a paper that contains:

(a) the names of offices and candidates and statements of ballot propositions to be voted on; and

(b) spaces for the voter to record the voter’s vote for each office and for or against each ballot proposition.

(54) “Political party” means an organization of registered voters that has qualified to participate in an election by meeting the requirements of Chapter 8, Political Party Formation and Procedures.

(55) (a) “Poll worker” means a person assigned by an election official to assist with an election, voting, or counting votes.

(b) “Poll worker” includes election judges.

(c) “Poll worker” does not include a watcher.

(56) “Pollbook” means a record of the names of voters in the order that they appear to cast votes.

(57) “Polling place” means the building where voting is conducted.

(58) “Position” means a square, circle, rectangle, or other geometric shape on a ballot in which the voter marks the voter’s choice.

[~~(62)~~] (59) “Primary convention” means the political party conventions [at which nominees for] held during the year of the regular [primary] general election [are selected].

[~~(63)~~] (60) “Protective counter” means a separate counter, which cannot be reset, that:

(a) is built into a voting machine; and

(b) records the total number of movements of the operating lever.

[~~(59)~~] (61) “Provider election officer” means an election officer who enters into a contract or interlocal agreement with a contracting election officer to conduct an election for the contracting

election officer’s local political subdivision in accordance with Section 20A-5-400.1.

[~~(60)~~] (62) “Provisional ballot” means a ballot voted provisionally by a person:

(a) whose name is not listed on the official register at the polling place;

(b) whose legal right to vote is challenged as provided in this title; or

(c) whose identity was not sufficiently established by a poll worker.

[~~(61)~~] (63) “Provisional ballot envelope” means an envelope printed in the form required by Section 20A-6-105 that is used to identify provisional ballots and to provide information to verify a person’s legal right to vote.

(64) “Qualify” or “qualified” means to take the oath of office and begin performing the duties of the position for which the person was elected.

(65) “Receiving judge” means the poll worker that checks the voter’s name in the official register, provides the voter with a ballot, and removes the ballot stub from the ballot after the voter has voted.

(66) “Registration form” means a book voter registration form and a by-mail voter registration form.

(67) “Regular ballot” means a ballot that is not a provisional ballot.

(68) “Regular general election” means the election held throughout the state on the first Tuesday after the first Monday in November of each even-numbered year for the purposes established in Section 20A-1-201.

(69) “Regular primary election” means the election on the fourth Tuesday of June of each even-numbered year, to nominate candidates of political parties and ~~[nonpolitical groups]~~ candidates for nonpartisan local school board positions to advance to the regular general election.

(70) “Resident” means a person who resides within a specific voting precinct in Utah.

(71) “Sample ballot” means a mock ballot similar in form to the official ballot printed and distributed as provided in Section 20A-5-405.

(72) “Scratch vote” means to mark or punch the straight party ticket and then mark or punch the ballot for one or more candidates who are members of different political parties.

(73) “Secrecy envelope” means the envelope given to a voter along with the ballot into which the voter places the ballot after the voter has voted it in order to preserve the secrecy of the voter’s vote.

(74) “Special election” means an election held as authorized by Section 20A-1-203.

(75) “Spoiled ballot” means each ballot that:

(a) is spoiled by the voter;

(b) is unable to be voted because it was spoiled by the printer or a poll worker; or

- (c) lacks the official endorsement.
- (76) “Statewide special election” means a special election called by the governor or the Legislature in which all registered voters in Utah may vote.
- (77) “Stub” means the detachable part of each ballot.
- (78) “Substitute ballots” means replacement ballots provided by an election officer to the poll workers when the official ballots are lost or stolen.
- (79) “Ticket” means each list of candidates for each political party or for each group of petitioners.
- (80) “Transfer case” means the sealed box used to transport voted ballots to the counting center.
- (81) “Vacancy” means the absence of a person to serve in any position created by statute, whether that absence occurs because of death, disability, disqualification, resignation, or other cause.
- (82) “Valid voter identification” means:
- (a) a form of identification that bears the name and photograph of the voter which may include:
 - (i) a currently valid Utah driver license;
 - (ii) a currently valid identification card that is issued by:
 - (A) the state; or
 - (B) a branch, department, or agency of the United States;
 - (iii) a currently valid Utah permit to carry a concealed weapon;
 - (iv) a currently valid United States passport; or
 - (v) a currently valid United States military identification card;
 - (b) one of the following identification cards, whether or not the card includes a photograph of the voter:
 - (i) a valid tribal identification card;
 - (ii) a Bureau of Indian Affairs card; or
 - (iii) a tribal treaty card; or
 - (c) two forms of identification not listed under Subsection (82)(a) or (b) but that bear the name of the voter and provide evidence that the voter resides in the voting precinct, which may include:
 - (i) a current utility bill or a legible copy thereof, dated within the 90 days before the election;
 - (ii) a bank or other financial account statement, or a legible copy thereof;
 - (iii) a certified birth certificate;
 - (iv) a valid Social Security card;
 - (v) a check issued by the state or the federal government or a legible copy thereof;
 - (vi) a paycheck from the voter’s employer, or a legible copy thereof;
 - (vii) a currently valid Utah hunting or fishing license;
 - (viii) certified naturalization documentation;
 - (ix) a currently valid license issued by an authorized agency of the United States;
 - (x) a certified copy of court records showing the voter’s adoption or name change;
 - (xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;
 - (xii) a currently valid identification card issued by:
 - (A) a local government within the state;
 - (B) an employer for an employee; or
 - (C) a college, university, technical school, or professional school located within the state; or
 - (xiii) a current Utah vehicle registration.
- (83) “Valid write-in candidate” means a candidate who has qualified as a write-in candidate by following the procedures and requirements of this title.
- (84) “Voter” means a person who:
- (a) meets the requirements for voting in an election;
 - (b) meets the requirements of election registration;
 - (c) is registered to vote; and
 - (d) is listed in the official register book.
- (85) “Voter registration deadline” means the registration deadline provided in Section 20A-2-102.5.
- (86) “Voting area” means the area within six feet of the voting booths, voting machines, and ballot box.
- (87) “Voting booth” means:
- (a) the space or compartment within a polling place that is provided for the preparation of ballots, including the voting machine enclosure or curtain; or
 - (b) a voting device that is free standing.
- (88) “Voting device” means:
- (a) an apparatus in which ballot sheets are used in connection with a punch device for piercing the ballots by the voter;
 - (b) a device for marking the ballots with ink or another substance;
 - (c) an electronic voting device or other device used to make selections and cast a ballot electronically, or any component thereof;
 - (d) an automated voting system under Section 20A-5-302; or
 - (e) any other method for recording votes on ballots so that the ballot may be tabulated by means of automatic tabulating equipment.

(89) "Voting machine" means a machine designed for the sole purpose of recording and tabulating votes cast by voters at an election.

(90) "Voting poll watcher" means a person appointed as provided in this title to witness the distribution of ballots and the voting process.

(91) "Voting precinct" means the smallest voting unit established as provided by law within which qualified voters vote at one polling place.

(92) "Watcher" means a voting poll watcher, a counting poll watcher, an inspecting poll watcher, and a testing watcher.

(93) "Western States Presidential Primary" means the election established in Chapter 9, Part 8, Western States Presidential Primary.

(94) "Write-in ballot" means a ballot containing any write-in votes.

(95) "Write-in vote" means a vote cast for a person whose name is not printed on the ballot according to the procedures established in this title.

Section 2. Section 20A-1-103 is enacted to read:

20A-1-103. Severability clause.

If any provision of 2014 General Session S.B. 54 or the application of any provision of 2014 General Session S.B. 54 to any person or circumstance is held invalid by a final decision of a court of competent jurisdiction, the remainder of 2014 General Session S.B. 54 shall be given effect without the invalid provision or application. The provisions of 2014 General Session S.B. 54 are severable.

Section 3. Section 20A-1-501 is amended to read:

20A-1-501. Candidate vacancies -- Procedure for filling.

(1) The state central committee of a political party, for candidates for United States senator, United States representative, governor, lieutenant governor, attorney general, state treasurer, and state auditor, and for legislative candidates whose legislative districts encompass more than one county, and the county central committee of a political party, for all other party candidates seeking an office elected at a regular general election, may certify the name of another candidate to the appropriate election officer if:

(a) for a registered political party that will have a candidate on a ballot in a primary election, after the close of the period for filing a declaration of candidacy and continuing through the day before the day on which the lieutenant governor [~~makes the certification~~] provides the list described in Subsection 20A-9-403[~~(2)(e)~~](4)(a):

(i) only one or two candidates from that party have filed a declaration of candidacy for that office; and

(ii) one or both:

(A) dies;

(B) resigns because of acquiring a physical or mental disability, certified by a physician, that prevents the candidate from continuing the candidacy; or

(C) is disqualified by an election officer for improper filing or nominating procedures;

(b) for a registered political party that does not have a candidate on the ballot in a primary, but that will have a candidate on the ballot for a general election, after the close of the period for filing a declaration of candidacy and continuing through the day before the day on which the lieutenant governor makes the certification described in Section 20A-5-409, the party's candidate:

(i) dies;

(ii) resigns because of acquiring a physical or mental disability as certified by a physician;

(iii) is disqualified by an election officer for improper filing or nominating procedures; or

(iv) resigns to become a candidate for president or vice president of the United States; or

(c) for a registered political party with a candidate certified as winning a primary election, after the deadline described in Subsection (1)(a) and continuing through the day before that day on which the lieutenant governor makes the certification described in Section 20A-5-409, the party's candidate:

(i) dies;

(ii) resigns because of acquiring a physical or mental disability as certified by a physician;

(iii) is disqualified by an election officer for improper filing or nominating procedures; or

(iv) resigns to become a candidate for president or vice president of the United States.

(2) If no more than two candidates from a political party have filed a declaration of candidacy for an office elected at a regular general election and one resigns to become the party candidate for another position, the state central committee of that political party, for candidates for governor, lieutenant governor, attorney general, state treasurer, and state auditor, and for legislative candidates whose legislative districts encompass more than one county, and the county central committee of that political party, for all other party candidates, may certify the name of another candidate to the appropriate election officer.

(3) Each replacement candidate shall file a declaration of candidacy as required by Title 20A, Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy.

(4) (a) The name of a candidate who is certified under Subsection (1)(a) after the deadline described in Subsection (1)(a) may not appear on the primary election ballot.

(b) The name of a candidate who is certified under Subsection (1)(b) after the deadline described in

Subsection (1)(b) may not appear on the general election ballot.

(c) The name of a candidate who is certified under Subsection (1)(c) after the deadline described in Subsection (1)(c) may not appear on the general election ballot.

Section 4. Section 20A-5-101 is amended to read:

20A-5-101. Notice of election.

(1) On or before ~~February 1 in~~ November 15 in the year before each regular general election year, the lieutenant governor shall prepare and transmit a written notice to each county clerk that:

(a) designates the offices to be filled at the next year's regular general election;

(b) identifies the dates for filing a declaration of candidacy, and for submitting and certifying nomination petition signatures under Section 20A-9-403, for those offices;

(c) includes the master ballot position list for [the current year and] the next year and the year following as established under Section 20A-6-305; and

(d) contains a description of any ballot propositions to be decided by the voters that have qualified for the ballot as of that date.

(2) (a) No later than [February 15] November 15 in the year before the regular general election year, each county clerk shall:

(i) publish a notice:

(A) once in a newspaper published in that county; and

(B) as required in Section 45-1-101; or

(ii) (A) cause a copy of the notice to be posted in a conspicuous place most likely to give notice of the election to the voters in each voting precinct within the county; and

(B) prepare an affidavit of that posting, showing a copy of the notice and the places where the notice was posted.

(b) The notice required by Subsection (2)(a) shall:

(i) designate the offices to be voted on in that election in that county, other than local district offices; and

(ii) identify the dates for filing a declaration of candidacy for those offices.

(3) Before each election, the election officer shall give written or printed notice of:

(a) the date and place of election;

(b) the hours during which the polls will be open;

(c) the polling places for each voting precinct;

(d) an election day voting center designated under Section 20A-3-703; and

(e) the qualifications for persons to vote in the election.

(4) To provide the notice required by Subsection (3), the election officer shall publish the notice at least two days before the election:

(a) in a newspaper of general circulation common to the area or in which the election is being held; and

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

Section 5. Section 20A-6-301 is amended to read:

20A-6-301. Paper ballots -- Regular general election.

(1) Each election officer shall ensure that:

(a) all paper ballots furnished for use at the regular general election contain:

(i) no captions or other endorsements except as provided in this section;

(ii) no symbols, markings, or other descriptions of a political party or group, except for a registered political party that has chosen to nominate its candidates in accordance with Section 20A-9-403; and

(iii) no indication that a candidate for elective office has been nominated by, or has been endorsed by, or is in any way affiliated with a political party or group, unless the candidate has been nominated by a registered political party in accordance with Subsection 20A-9-202(4) or Subsection 20A-9-403(5).

(b) (i) the paper ballot contains a ballot stub at least one inch wide, placed across the top of the ballot, and divided from the rest of ballot by a perforated line;

(ii) the ballot number and the words "Poll Worker's Initial ____" are printed on the stub; and

(iii) ballot stubs are numbered consecutively;

(c) immediately below the perforated ballot stub, the following endorsements are printed in 18 point bold type:

(i) "Official Ballot for ____ County, Utah";

(ii) the date of the election; and

(iii) a facsimile of the signature of the county clerk and the words "county clerk";

(d) each ticket is placed in a separate column on the ballot in the order specified under Section 20A-6-305 with the party emblem, followed by the party name, at the head of the column;

(e) the party name or title is printed in capital letters not less than one-fourth of an inch high;

(f) a circle one-half inch in diameter is printed immediately below the party name or title, and the top of the circle is placed not less than two inches below the perforated line;

(g) unaffiliated candidates ~~and~~, candidates not affiliated with a registered political party, and all other candidates for elective office who were not

nominated by a registered political party in accordance with Subsection 20A-9-202(4) or Subsection 20A-9-403(5), are listed in one column in the order specified under Section 20A-6-305, without a party circle, with the following instructions printed at the head of the column: "All candidates not affiliated with a political party are listed below. They are to be considered with all offices and candidates listed to the left. Only one vote is allowed for each office.";

(h) the columns containing the lists of candidates, including the party name and device, are separated by heavy parallel lines;

(i) the offices to be filled are plainly printed immediately above the names of the candidates for those offices;

(j) the names of candidates are printed in capital letters, not less than one-eighth nor more than one-fourth of an inch high in heavy-faced type not smaller than 10 point, between lines or rules three-eighths of an inch apart;

(k) a square with sides measuring not less than one-fourth of an inch in length is printed immediately adjacent to the name of each candidate;

(l) for the offices of president and vice president and governor and lieutenant governor, one square with sides measuring not less than one-fourth of an inch in length is printed on the same side as but opposite a double bracket enclosing the names of the two candidates;

(m) immediately adjacent to the unaffiliated ticket on the ballot, the ballot contains a write-in column long enough to contain as many written names of candidates as there are persons to be elected with:

(i) for each office on the ballot, the office to be filled plainly printed immediately above:

(A) a blank, horizontal line to enable the entry of a valid write-in candidate and a square with sides measuring not less than one-fourth of an inch in length printed immediately adjacent to the blank horizontal line; or

(B) for the offices of president and vice president and governor and lieutenant governor, two blank horizontal lines, one placed above the other, to enable the entry of two valid write-in candidates, and one square with sides measuring not less than one-fourth of an inch in length printed on the same side as but opposite a double bracket enclosing the two blank horizontal lines; and

(ii) the words "Write-In Voting Column" printed at the head of the column without a one-half inch circle;

(n) when required, the ballot includes a nonpartisan ticket placed immediately adjacent to the write-in ticket with the word "NONPARTISAN" in reverse type in an 18 point solid rule running vertically the full length of the nonpartisan ballot copy; and

(o) constitutional amendments or other questions submitted to the vote of the people, are printed on the ballot after the list of candidates.

(2) Each election officer shall ensure that:

(a) each person nominated by any registered political party [~~or group of petitioners~~] under Subsection 20A-9-202(4) or Subsection 20A-9-403(5), and no other person, is placed on the ballot:

(i) under the [~~party~~] registered political party's name and emblem, if any; or

(ii) under the title of the registered political party [~~or group~~] as designated by them in their certificates of nomination or petition, or, if none is designated, then under some suitable title;

(b) the names of all unaffiliated candidates that qualify as required in Title 20A, Chapter 9, Part 5, Candidates not Affiliated with a Party, are placed on the ballot;

(c) the names of the candidates for president and vice president are used on the ballot instead of the names of the presidential electors; and

(d) the ballots contain no other names.

(3) When the ballot contains a nonpartisan section, the election officer shall ensure that:

(a) the designation of the office to be filled in the election and the number of candidates to be elected are printed in type not smaller than eight point;

(b) the words designating the office are printed flush with the left-hand margin;

(c) the words, "Vote for one" or "Vote for up to ____ (the number of candidates for which the voter may vote)" extend to the extreme right of the column;

(d) the nonpartisan candidates are grouped according to the office for which they are candidates;

(e) the names in each group are placed in the order specified under Section 20A-6-305 with the surnames last; and

(f) each group is preceded by the designation of the office for which the candidates seek election, and the words, "Vote for one" or "Vote for up to ____ (the number of candidates for which the voter may vote)," according to the number to be elected.

(4) Each election officer shall ensure that:

(a) proposed amendments to the Utah Constitution are listed on the ballot in accordance with Section 20A-6-107;

(b) ballot propositions submitted to the voters are listed on the ballot in accordance with Section 20A-6-107; and

(c) bond propositions that have qualified for the ballot are listed on the ballot under the title assigned to each bond proposition under Section 11-14-206.

Section 6. Section 20A-6-302 is amended to read:

20A-6-302. Paper ballots -- Placement of candidates' names.

(1) Each election officer shall ensure, for paper ballots in regular general elections, that:

(a) each candidate is listed by party, if nominated by a registered political party under Subsection 20A-9-202(4) or Subsection 20A-9-403(5);

(b) candidates' surnames are listed in alphabetical order on the ballots when two or more candidates' names are required to be listed on a ticket under the title of an office; and

(c) the names of candidates are placed on the ballot in the order specified under Section 20A-6-305.

(2) (a) When there is only one candidate for county attorney at the regular general election in counties that have three or fewer registered voters of the county who are licensed active members in good standing of the Utah State Bar, the county clerk shall cause that candidate's name and party affiliation, if any, to be placed on a separate section of the ballot with the following question: "Shall (name of candidate) be elected to the office of county attorney? Yes ___ No ___."

(b) If the number of "Yes" votes exceeds the number of "No" votes, the candidate is elected to the office of county attorney.

(c) If the number of "No" votes exceeds the number of "Yes" votes, the candidate is not elected and may not take office, nor may the candidate continue in the office past the end of the term resulting from any prior election or appointment.

(d) When the name of only one candidate for county attorney is printed on the ballot under authority of this Subsection (2), the county clerk may not count any write-in votes received for the office of county attorney.

(e) If no qualified person files for the office of county attorney or if the candidate is not elected by the voters, the county legislative body shall appoint the county attorney as provided in Section 20A-1-509.2.

(f) If the candidate whose name would, except for this Subsection (2)(f), be placed on the ballot under Subsection (2)(a) has been elected on a ballot under Subsection (2)(a) to the two consecutive terms immediately preceding the term for which the candidate is seeking election, Subsection (2)(a) does not apply and that candidate shall be considered to be an unopposed candidate the same as any other unopposed candidate for another office, unless a petition is filed with the county clerk before the date of that year's primary election that:

(i) requests the procedure set forth in Subsection (2)(a) to be followed; and

(ii) contains the signatures of registered voters in the county representing in number at least 25% of all votes cast in the county for all candidates for

governor at the last election at which a governor was elected.

(3) (a) When there is only one candidate for district attorney at the regular general election in a prosecution district that has three or fewer registered voters of the district who are licensed active members in good standing of the Utah State Bar, the county clerk shall cause that candidate's name and party affiliation, if any, to be placed on a separate section of the ballot with the following question: "Shall (name of candidate) be elected to the office of district attorney? Yes ___ No ___."

(b) If the number of "Yes" votes exceeds the number of "No" votes, the candidate is elected to the office of district attorney.

(c) If the number of "No" votes exceeds the number of "Yes" votes, the candidate is not elected and may not take office, nor may the candidate continue in the office past the end of the term resulting from any prior election or appointment.

(d) When the name of only one candidate for district attorney is printed on the ballot under authority of this Subsection (3), the county clerk may not count any write-in votes received for the office of district attorney.

(e) If no qualified person files for the office of district attorney, or if the only candidate is not elected by the voters under this subsection, the county legislative body shall appoint a new district attorney for a four-year term as provided in Section 20A-1-509.2.

(f) If the candidate whose name would, except for this Subsection (3)(f), be placed on the ballot under Subsection (3)(a) has been elected on a ballot under Subsection (3)(a) to the two consecutive terms immediately preceding the term for which the candidate is seeking election, Subsection (3)(a) does not apply and that candidate shall be considered to be an unopposed candidate the same as any other unopposed candidate for another office, unless a petition is filed with the county clerk before the date of that year's primary election that:

(i) requests the procedure set forth in Subsection (3)(a) to be followed; and

(ii) contains the signatures of registered voters in the county representing in number at least 25% of all votes cast in the county for all candidates for governor at the last election at which a governor was elected.

Section 7. Section 20A-6-303 is amended to read:

20A-6-303. Regular general election -- Ballot sheets.

(1) Each election officer shall ensure that:

(a) copy on the ballot sheets or ballot labels, as applicable, are arranged in approximately the same order as paper ballots;

(b) the titles of offices and the names of candidates are printed in vertical columns or in a series of separate pages;

(c) the ballot sheet or any pages used for the ballot label are of sufficient number to include, after the list of candidates:

(i) the names of candidates for judicial offices and any other nonpartisan offices; and

(ii) any ballot propositions submitted to the voters for their approval or rejection;

(d) (i) a voting square or position is included where the voter may record a straight party ticket vote for all the candidates of one party by one mark or punch; and

(ii) the name of each political party listed in the straight party selection area includes the word "party" at the end of the party's name;

(e) the tickets are printed in the order specified under Section 20A-6-305;

(f) the office titles are printed immediately adjacent to the names of candidates so as to indicate clearly the candidates for each office and the number to be elected;

(g) the party designation of each candidate who has been nominated by a registered political party under Subsection 20A-9-202(4) or Subsection 20A-9-403(5) is printed immediately adjacent to the candidate's name; and

(h) (i) if possible, all candidates for one office are grouped in one column or upon one page;

(ii) if all candidates for one office cannot be listed in one column or grouped on one page:

(A) the ballot sheet or ballot label shall be clearly marked to indicate that the list of candidates is continued on the following column or page; and

(B) approximately the same number of names shall be printed in each column or on each page.

(2) Each election officer shall ensure that:

(a) proposed amendments to the Utah Constitution are listed in accordance with Section 20A-6-107;

(b) ballot propositions submitted to the voters are listed in accordance with Section 20A-6-107; and

(c) bond propositions that have qualified for the ballot are listed under the title assigned to each bond proposition under Section 11-14-206.

Section 8. Section 20A-6-304 is amended to read:

20A-6-304. Regular general election -- Electronic ballots.

(1) Each election officer shall ensure that:

(a) the format and content of the electronic ballot is arranged in approximately the same order as paper ballots;

(b) the titles of offices and the names of candidates are displayed in vertical columns or in a series of separate display screens;

(c) the electronic ballot is of sufficient length to include, after the list of candidates:

(i) the names of candidates for judicial offices and any other nonpartisan offices; and

(ii) any ballot propositions submitted to the voters for their approval or rejection;

(d) (i) a voting square or position is included where the voter may record a straight party ticket vote for all the candidates of one party by making a single selection; and

(ii) the name of each political party listed in the straight party selection area includes the word "party" at the end of the party's name;

(e) the tickets are displayed in the order specified under Section 20A-6-305;

(f) the office titles are displayed above or at the side of the names of candidates so as to indicate clearly the candidates for each office and the number to be elected;

(g) the party designation of each candidate who has been nominated by a registered political party under Subsection 20A-9-202(4) or Subsection 20A-9-403(5) is displayed adjacent to the candidate's name; and

(h) if possible, all candidates for one office are grouped in one column or upon one display screen.

(2) Each election officer shall ensure that:

(a) proposed amendments to the Utah Constitution are displayed in accordance with Section 20A-6-107;

(b) ballot propositions submitted to the voters are displayed in accordance with Section 20A-6-107; and

(c) bond propositions that have qualified for the ballot are displayed under the title assigned to each bond proposition under Section 11-14-206.

Section 9. Section 20A-6-305 is amended to read:

20A-6-305. Master ballot position list -- Random selection -- Procedures -- Publication -- Surname -- Exemptions.

(1) As used in this section, "master ballot position list" means an official list of the 26 characters in the alphabet listed in random order and numbered from one to 26 as provided under Subsection (2).

(2) The lieutenant governor shall:

(a) ~~[at the beginning of each general election year]~~ by November 15 in the year before each regular general election, conduct a random selection to establish the master ballot position list for the ~~[current year and the]~~ next year and the year following in accordance with procedures established under Subsection (2)(c);

(b) publish the master ballot position lists on the lieutenant governor's election website on or before ~~[February 1 in]~~ November 15 in the year before each regular general election ~~[year]~~; and

- (c) establish written procedures for:
- (i) the election official to use the master ballot position list; and
 - (ii) the lieutenant governor in:
 - (A) conducting the random selection in a fair manner; and
 - (B) providing a record of the random selection process used.

(3) In accordance with the written procedures established under Subsection (2)(c)(i), an election officer shall use the master ballot position list for the current year to determine the order in which to list candidates on the ballot for an election held during the year.

(4) To determine the order in which to list candidates on the ballot required under Subsection (3), the election officer shall apply the randomized alphabet using:

- (a) the candidate's surname;
- (b) for candidates with a surname that has the same spelling, the candidate's given name;
- (c) the surname of the president and the surname of the governor for an election for the offices of president and vice president and governor and lieutenant governor; and
- (d) if the ballot provides for a ticket or a straight party ticket, the registered political party name.

(5) This section does not apply to:

- (a) an election for an office for which only one candidate is listed on the ballot; or
- (b) a judicial retention election under Section 20A-12-201.

Section 10. Section 20A-9-101 is amended to read:

20A-9-101. Definitions.

As used in this chapter:

(1) (a) "Candidates for elective office" means persons ~~[selected by a registered political party as party candidates]~~ who file a declaration of candidacy under Section 20A-9-202 to run in a regular general election for a federal office, constitutional office, multicounty office, or county office.

(b) "Candidates for elective office" does not mean candidates for:

- (i) justice or judge of court of record or not of record;
- (ii) presidential elector;
- (iii) any political party offices; and
- (iv) municipal or local district offices.

(2) "Constitutional office" means the state offices of governor, lieutenant governor, attorney general, state auditor, and state treasurer.

(3) "Continuing political party" is as defined in Section 20A-8-101.

~~[(3)]~~ (4) (a) "County office" means an elective office where the office holder is selected by voters entirely within one county.

(b) "County office" does not mean:

- (i) the office of justice or judge of any court of record or not of record;
- (ii) the office of presidential elector;
- (iii) any political party offices;
- (iv) any municipal or local district offices; and
- (v) the office of United States Senator and United States Representative.

~~[(4)]~~ (5) "Federal office" means an elective office for United States Senator and United States Representative.

~~[(5)]~~ (6) "Filing officer" means:

(a) the lieutenant governor, for:

~~[(i) offices whose political division contains territory in two or more counties;]~~

~~[(ii)]~~ (i) the office of United States Senator and United States Representative; and

~~[(iii)]~~ (ii) all constitutional offices;

(b) the county clerk, for county offices and local school district offices, and the county clerk in the filer's county of residence, for multicounty offices;

(c) the city or town clerk, for municipal offices; and

(d) the local district clerk, for local district offices.

~~[(6)]~~ (7) "Local district office" means an elected office in a local district.

~~[(7)]~~ (8) "Local government office" includes county offices, municipal offices, and local district offices and other elective offices selected by the voters from a political division entirely within one county.

~~[(8)]~~ (9) (a) "Multicounty office" means an elective office where the office holder is selected by the voters from more than one county.

(b) "Multicounty office" does not mean:

- (i) a county office;
- (ii) a federal office;
- (iii) the office of justice or judge of any court of record or not of record;
- (iv) the office of presidential elector;
- (v) any political party offices; and
- (vi) any municipal or local district offices.

~~[(9)]~~ (10) "Municipal office" means an elective office in a municipality.

~~[(10)]~~ (11) (a) "Political division" means a geographic unit from which an office holder is elected and that an office holder represents.

(b) "Political division" includes a county, a city, a town, a local district, a school district, a legislative district, and a county prosecution district.

(12) "Qualified political party" means a registered political party that:

(a) permits voters who are unaffiliated with any political party to vote for the registered political party's candidates in a primary election;

(b) (i) permits a delegate for the registered political party to vote on a candidate nomination in the registered political party's convention remotely; or

(ii) provides a procedure for designating an alternate delegate if a delegate is not present at the registered political party's convention;

(c) does not hold the registered political party's convention before April 1 of an even-numbered year;

(d) permits a member of the registered political party to seek the registered political party's nomination for any elective office by the member choosing to seek the nomination by either or both of the following methods:

(i) seeking the nomination through the registered political party's convention process, in accordance with the provisions of Section 20A-9-407; or

(ii) seeking the nomination by collecting signatures, in accordance with the provisions of Section 20A-9-408; and

(e) no later than 5 p.m. on September 30 of an odd-numbered year, certifies to the lieutenant governor that, for the election in the following year, the registered political party intends to nominate the registered political party's candidates in accordance with the provisions of Sections 20A-9-407 and 20A-9-408.

Section 11. Section 20A-9-201 is amended to read:

20A-9-201. Declarations of candidacy -- Candidacy for more than one office or of more than one political party prohibited with exceptions -- General filing and form requirements -- Affidavit of impecuniosity.

(1) Before filing a declaration of candidacy for election to any office, a person shall:

(a) be a United States citizen; ~~and~~

(b) meet the legal requirements of that office~~[-];~~ and

(c) if seeking a registered political party's nomination as a candidate for elective office, designate that registered political party as their preferred party affiliation on their declaration of candidacy.

(2) (a) Except as provided in Subsection (2)(b), a person may not:

(i) file a declaration of candidacy for, or be a candidate for, more than one office in Utah during any election year; or

(ii) appear on the ballot as the candidate of more than one political party.

(b) (i) A person may file a declaration of candidacy for, or be a candidate for, president or vice president of the United States and another office, if the person resigns the person's candidacy for the other office after the person is officially nominated for president or vice president of the United States.

(ii) A person may file a declaration of candidacy for, or be a candidate for, more than one justice court judge office.

(iii) A person may file a declaration of candidacy for lieutenant governor even if the person filed a declaration of candidacy for another office in the same election year if the person withdraws as a candidate for the other office in accordance with Subsection 20A-9-202(6) before filing the declaration of candidacy for lieutenant governor.

(3) (a) (i) Except for presidential candidates, before the filing officer may accept any declaration of candidacy, the filing officer shall:

(A) read to the prospective candidate the constitutional and statutory qualification requirements for the office that the candidate is seeking; and

(B) require the candidate to state whether or not the candidate meets those requirements.

(ii) Before accepting a declaration of candidacy for the office of county attorney, the county clerk shall ensure that the person filing that declaration of candidacy is:

(A) a United States citizen;

(B) an attorney licensed to practice law in Utah who is an active member in good standing of the Utah State Bar;

(C) a registered voter in the county in which the person is seeking office; and

(D) a current resident of the county in which the person is seeking office and either has been a resident of that county for at least one year or was appointed and is currently serving as county attorney and became a resident of the county within 30 days after appointment to the office.

(iii) Before accepting a declaration of candidacy for the office of district attorney, the county clerk shall ensure that, as of the date of the election, the person filing that declaration of candidacy is:

(A) a United States citizen;

(B) an attorney licensed to practice law in Utah who is an active member in good standing of the Utah State Bar;

(C) a registered voter in the prosecution district in which the person is seeking office; and

(D) a current resident of the prosecution district in which the person is seeking office and either will

have been a resident of that prosecution district for at least one year as of the date of the election or was appointed and is currently serving as district attorney and became a resident of the prosecution district within 30 days after receiving appointment to the office.

(iv) Before accepting a declaration of candidacy for the office of county sheriff, the county clerk shall ensure that the person filing the declaration of candidacy:

(A) as of the date of filing:

(I) is a United States citizen;

(II) is a registered voter in the county in which the person seeks office;

(III) (Aa) has successfully met the standards and training requirements established for law enforcement officers under Title 53, Chapter 6, Part 2, Peace Officer Training and Certification Act; or

(Bb) has met the waiver requirements in Section 53-6-206; and

(IV) is qualified to be certified as a law enforcement officer, as defined in Section 53-13-103; and

(B) as of the date of the election, shall have been a resident of the county in which the person seeks office for at least one year.

(v) Before accepting a declaration of candidacy for the office of governor, lieutenant governor, state auditor, state treasurer, attorney general, state legislator, or State Board of Education member, the filing officer shall ensure:

(A) that the person filing the declaration of candidacy also files the financial disclosure required by Section 20A-11-1603; and

(B) if the filing officer is not the lieutenant governor, that the financial disclosure is provided to the lieutenant governor according to the procedures and requirements of Section 20A-11-1603.

(b) If the prospective candidate states that the qualification requirements for the office are not met, the filing officer may not accept the prospective candidate's declaration of candidacy.

(c) If the candidate meets the requirements of Subsection (3)(a) and states that the requirements of candidacy are met, the filing officer shall:

(i) inform the candidate that:

(A) the candidate's name will appear on the ballot as it is written on the declaration of candidacy;

(B) the candidate may be required to comply with state or local campaign finance disclosure laws; and

(C) the candidate is required to file a financial statement before the candidate's political convention under:

(I) Section 20A-11-204 for a candidate for constitutional office;

(II) Section 20A-11-303 for a candidate for the Legislature; or

(III) local campaign finance disclosure laws, if applicable;

(ii) except for a presidential candidate, provide the candidate with a copy of the current campaign financial disclosure laws for the office the candidate is seeking and inform the candidate that failure to comply will result in disqualification as a candidate and removal of the candidate's name from the ballot;

(iii) provide the candidate with a copy of Section 20A-7-801 regarding the Statewide Electronic Voter Information Website Program and inform the candidate of the submission deadline under Subsection 20A-7-801(4)(a);

(iv) provide the candidate with a copy of the pledge of fair campaign practices described under Section 20A-9-206 and inform the candidate that:

(A) signing the pledge is voluntary; and

(B) signed pledges shall be filed with the filing officer;

(v) accept the candidate's declaration of candidacy; and

(vi) if the candidate has filed for a partisan office, provide a certified copy of the declaration of candidacy to the chair of the county or state political party of which the candidate is a member.

(d) If the candidate elects to sign the pledge of fair campaign practices, the filing officer shall:

(i) accept the candidate's pledge; and

(ii) if the candidate has filed for a partisan office, provide a certified copy of the candidate's pledge to the chair of the county or state political party of which the candidate is a member.

(4) (a) Except for presidential candidates, the form of the declaration of candidacy shall be substantially as follows:

"State of Utah, County of ____

I, _____, declare my ~~[intention of becoming a candidate]~~ candidacy for the office of _____ ~~[as a candidate for]~~, seeking the nomination of the _____ party, which is my preferred political party affiliation. I do solemnly swear that: I will meet the qualifications to hold the office, both legally and constitutionally, if selected; I reside at _____ in the City or Town of _____, Utah, Zip Code _____ Phone No. _____; I will not knowingly violate any law governing campaigns and elections; I will file all campaign financial disclosure reports as required by law; and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. The mailing address that I designate for receiving official election notices is _____.

Subscribed and sworn before me this _____ (month \ day \ year).

Notary Public (or other officer qualified to administer oath.)”

(b) An agent designated to file a declaration of candidacy under Section 20A-9-202 may not sign the form described in Subsection (4)(a).

(5) (a) Except for presidential candidates, the fee for filing a declaration of candidacy is:

(i) \$50 for candidates for the local school district board; and

(ii) \$50 plus 1/8 of 1% of the total salary for the full term of office legally paid to the person holding the office for all other federal, state, and county offices.

(b) Except for presidential candidates, the filing officer shall refund the filing fee to any candidate:

(i) who is disqualified; or

(ii) who the filing officer determines has filed improperly.

(c) (i) The county clerk shall immediately pay to the county treasurer all fees received from candidates.

(ii) The lieutenant governor shall:

(A) apportion to and pay to the county treasurers of the various counties all fees received for filing of nomination certificates or acceptances; and

(B) ensure that each county receives that proportion of the total amount paid to the lieutenant governor from the congressional district that the total vote of that county for all candidates for representative in Congress bears to the total vote of all counties within the congressional district for all candidates for representative in Congress.

(d) (i) A person who is unable to pay the filing fee may file a declaration of candidacy without payment of the filing fee upon a prima facie showing of impecuniosity as evidenced by an affidavit of impecuniosity filed with the filing officer and, if requested by the filing officer, a financial statement filed at the time the affidavit is submitted.

(ii) A person who is able to pay the filing fee may not claim impecuniosity.

(iii) (A) False statements made on an affidavit of impecuniosity or a financial statement filed under this section shall be subject to the criminal penalties provided under Sections 76-8-503 and 76-8-504 and any other applicable criminal provision.

(B) Conviction of a criminal offense under Subsection (5)(d)(iii)(A) shall be considered an offense under this title for the purposes of assessing the penalties provided in Subsection 20A-1-609(2).

(iv) The filing officer shall ensure that the affidavit of impecuniosity is printed in substantially the following form:

“Affidavit of Impecuniosity

Individual Name _____

Address _____

Phone Number _____

I, _____ (name), do solemnly [swear] [affirm], under penalty of law for false statements, that, owing to my poverty, I am unable to pay the filing fee required by law.

Date _____

Signature _____

Affiant

Subscribed and sworn to before me on _____ (month \ day \ year)

(signature)

Name and Title of Officer Authorized to Administer Oath _____”

(v) The filing officer shall provide to a person who requests an affidavit of impecuniosity a statement printed in substantially the following form, which may be included on the affidavit of impecuniosity:

”Filing a false statement is a criminal offense. In accordance with Section 20A-1-609, a candidate who is found guilty of filing a false statement, in addition to being subject to criminal penalties, will be removed from the ballot.”

(vi) The filing officer may request that a person who makes a claim of impecuniosity under this Subsection (5)(d) file a financial statement on a form prepared by the election official.

(6) (a) If there is no legislative appropriation for the Western States Presidential Primary election, as provided in Part 8, Western States Presidential Primary, a candidate for president of the United States who is affiliated with a registered political party and chooses to participate in the regular primary election shall:

(i) file a declaration of candidacy, in person or via a designated agent, with the lieutenant governor:

(A) on a form developed and provided by the lieutenant governor; and

(B) on or after the second Friday in March and before 5 p.m. on the third Thursday in March before the next regular primary election;

(ii) identify the registered political party whose nomination the candidate is seeking;

(iii) provide a letter from the registered political party certifying that the candidate may participate as a candidate for that party in that party’s presidential primary election; and

(iv) pay the filing fee of \$500.

(b) An agent designated to file a declaration of candidacy may not sign the form described in Subsection (6)(a)(i)(A).

(7) Any person who fails to file a declaration of candidacy or certificate of nomination within the time provided in this chapter is ineligible for nomination to office.

(8) A declaration of candidacy filed under this section may not be amended or modified after the

final date established for filing a declaration of candidacy.

Section 12. Section 20A-9-202 is amended to read:

20A-9-202. Declarations of candidacy for regular general elections.

(1) (a) Each person seeking to become a candidate for an elective office ~~[for any county office]~~ that is to be filled at the next regular general election shall:

(i) file a declaration of candidacy in person with the ~~[county clerk on or after the second Friday in March and before 5 p.m. on the third Thursday in March before the next regular general election]~~ filing officer on or after January 1 of the regular general election year, and before the candidate circulates nomination petitions under Section 20A-9-405; and

(ii) pay the filing fee.

~~[(b) Each person intending to become a candidate for any legislative office or multicounty office that is to be filled at the next regular general election shall:]~~

~~[(i) file a declaration of candidacy in person with either the lieutenant governor or the county clerk in the candidate's county of residence on or after the second Friday in March and before 5 p.m. on the third Thursday in March before the next regular general election; and]~~

~~[(ii) pay the filing fee.]~~

~~[(e)-(i) (b) Each county clerk who receives a declaration of candidacy from a candidate for multicounty office shall transmit the filing fee and a copy of the candidate's declaration of candidacy to the lieutenant governor within one working day after it is filed.~~

~~[(ii) (c) Each day during the filing period, each county clerk shall notify the lieutenant governor electronically or by telephone of [legislative] candidates who have filed in their office.~~

~~[(d) Each person seeking to become a candidate for elective office for any federal office or constitutional office that is to be filled at the next regular general election shall:]~~

~~[(i) file a declaration of candidacy in person with the lieutenant governor on or after the second Friday in March and before 5 p.m. on the third Thursday in March before the next regular general election; and]~~

~~[(ii) pay the filing fee.]~~

~~[(e) (d) Each person seeking the office of lieutenant governor, the office of district attorney, or the office of president or vice president of the United States shall comply with the specific declaration of candidacy requirements established by this section.~~

(2) (a) Each person intending to become a candidate for the office of district attorney within a multicounty prosecution district that is to be filled at the next regular general election shall:

(i) file a declaration of candidacy with the clerk designated in the interlocal agreement creating the prosecution district on or after ~~[the second Friday in March and before 5 p.m. on the third Thursday in March before the next regular general election]~~ January 1 of the regular general election year, and before the candidate circulates nomination petitions under Section 20A-9-405; and

(ii) pay the filing fee.

(b) The designated clerk shall provide to the county clerk of each county in the prosecution district a certified copy of each declaration of candidacy filed for the office of district attorney.

(3) (a) ~~[Within five working days of nomination]~~ On or before 5 p.m. on the first Monday after the third Saturday in April, each lieutenant governor candidate shall:

(i) file a declaration of candidacy with the lieutenant governor; ~~[and]~~

(ii) pay the filing fee~~[-]; and~~

(iii) submit a letter from a candidate for governor who has received certification for the primary-election ballot under Section 20A-9-403 that names the lieutenant governor candidate as a joint-ticket running mate.

(b) ~~[(i)]~~ Any candidate for lieutenant governor who fails to timely file ~~[within five working days]~~ is disqualified. ~~[(ii)]~~ If a lieutenant governor is disqualified, another candidate shall ~~[be nominated]~~ file to replace the disqualified candidate.

(4) Each registered political party shall:

(a) certify the names of its candidates for president and vice president of the United States to the lieutenant governor no later than August 31; or

(b) provide written authorization for the lieutenant governor to accept the certification of candidates for president and vice president of the United States from the national office of the registered political party.

(5) (a) A declaration of candidacy filed under this section is valid unless a written objection is filed with the clerk or lieutenant governor within five days after the last day for filing.

(b) If an objection is made, the clerk or lieutenant governor shall:

(i) mail or personally deliver notice of the objection to the affected candidate immediately; and

(ii) decide any objection within 48 hours after it is filed.

(c) If the clerk or lieutenant governor sustains the objection, the candidate may cure the problem by amending the declaration or petition within three days after the objection is sustained or by filing a new declaration within three days after the objection is sustained.

(d) (i) The clerk's or lieutenant governor's decision upon objections to form is final.

(ii) The clerk's or lieutenant governor's decision upon substantive matters is reviewable by a district court if prompt application is made to the court.

(iii) The decision of the district court is final unless the Supreme Court, in the exercise of its discretion, agrees to review the lower court decision.

(6) Any person who filed a declaration of candidacy may withdraw as a candidate by filing a written affidavit with the clerk.

(7) Except as provided in Subsection 20A-9-201(4)(b), notwithstanding a requirement in this section to file a declaration of candidacy in person, a person may designate an agent to file the form described in Subsection 20A-9-201(4) in person with the filing officer if:

(a) the person is located outside the state during the filing period because:

(i) of employment with the state or the United States; or

(ii) the person is a member of:

(A) the active or reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States who is on active duty;

(B) the Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States; or

(C) the National Guard on activated status;

(b) the person communicates with the filing officer using an electronic device that allows the person and filing officer to see and hear each other; and

(c) the person provides the filing officer with an email address to which the filing officer may send the copies described in Subsection 20A-9-201(3).

Section 13. Section 20A-9-403 is amended to read:

20A-9-403. Regular primary elections.

(1) (a) Candidates for elective office that are to be filled at the next regular general election shall be nominated in a regular primary election by direct vote of the people in the manner prescribed in this section. The fourth Tuesday of June of each even-numbered year is designated as regular primary election day. Nothing in this section shall affect a candidate's ability to qualify for a regular general election's ballot as an unaffiliated candidate under Section 20A-9-501 or to participate in a regular general election as a write-in candidate under Section 20A-9-601.

(b) Each registered political party that chooses to ~~[use the primary election process to nominate some or all]~~ have the names of its candidates for elective office featured with party affiliation on the ballot at a regular general election shall comply with the requirements of this section and shall nominate its

candidates for elective office in the manner prescribed in this section.

(c) A filing officer may not permit an official ballot at a regular general election to be produced or used if the ballot denotes affiliation between a registered political party or any other political group and a candidate for elective office who was not nominated in the manner prescribed in this section or in Subsection 20A-9-202(4).

(d) Unless noted otherwise, the dates in this section refer to those that occur in each even-numbered year in which a regular general election will be held.

(2) (a) [As a condition for using the state's election system, each] Each registered political party [that wishes to participate in the primary election], in a statement filed with the lieutenant governor, shall:

(i) either declare their intent to participate in the next regular primary election or declare that the registered political party chooses not to have the names of its candidates for elective office featured on the ballot at the next regular general election;

(ii) if the registered political party participates in the upcoming regular primary election, identify one or more registered political parties whose members may vote for the registered political party's candidates and whether or not persons identified as unaffiliated with a political party may vote for the registered political party's candidates; and

[(iii) certify that information to the lieutenant governor no later than 5 p.m. on March 1 of each even-numbered year.]

[(b) As a condition for using the state's election system, each registered political party that wishes to participate in the primary election shall:]

[(i) certify the name and office of all of the registered political party's candidates to the lieutenant governor no later than 5 p.m. on the first Monday after the third Saturday in April of each even-numbered year and indicate which of the candidates will be on the primary ballot; and]

[(ii) certify the name and office of each of its county candidates to the county clerks by 5 p.m. on the first Monday after the third Saturday in April of each even-numbered year and indicate which of the candidates will be on the primary ballot.]

[(c) By 5 p.m. on the first Wednesday after the third Saturday in April of each even-numbered year, the lieutenant governor shall send the county clerks a certified list of the names of all statewide candidates, multicounty candidates, or single county candidates that shall be printed on the primary ballot and the order the candidates are to appear on the ballot in accordance with Section 20A-6-305.]

[(d) Except for presidential candidates, if a registered political party does not wish to participate in the primary election, it shall submit the names of its county candidates to the county clerks and the names of all of its candidates to the lieutenant governor by 5 p.m. on May 30 of each even-numbered year.]

(iii) if the registered political party participates in the upcoming regular primary election, indicate whether it chooses to nominate unopposed candidates without their name appearing on the ballot, as described under Subsection (5)(c).

(b) A registered political party that is a continuing political party must file the statement described in Subsection (2)(a) with the lieutenant governor no later than 5 p.m. on November 15 of each odd-numbered year. An organization that is seeking to become a registered political party under Section 20A-8-103 must file the statement described in Subsection (2)(b) no later than 5 p.m. on February 15.

(3) (a) Except as provided in Subsection (3)(e), a person who has submitted a declaration of candidacy under Section 20A-9-202 shall appear as a candidate for elective office on the regular primary ballot of the registered political party listed on the declaration of candidacy only if the person is certified by the appropriate filing officer as having submitted a set of nomination petitions that was:

(i) circulated and completed in accordance with Section 20A-9-405; and

(ii) signed by at least two percent of the registered political party's members who reside in the political division of the office that the person seeks.

(b) A candidate for elective office shall submit nomination petitions to the appropriate filing officer for verification and certification no later than 5 p.m. on the final day in March. Candidates may supplement their submissions at any time on or before the filing deadline.

(c) The lieutenant governor shall determine for each elective office the total number of signatures that must be submitted under Subsection (3)(a)(ii) by counting the aggregate number of persons residing in each elective office's political division who have designated a particular registered political party on their voter registration forms as of November 1 of each odd-numbered year. The lieutenant governor shall publish this determination for each elective office no later than November 15 of each odd-numbered year.

(d) The filing officer shall:

(i) verify signatures on nomination petitions in a transparent and orderly manner;

(ii) for all qualifying candidates for elective office who submitted nomination petitions to the filing officer, issue certifications referenced in Subsection (3)(a) no later than 5 p.m. on the first Monday after the third Saturday in April;

(iii) consider active and inactive voters eligible to sign nomination petitions;

(iv) consider a person who signs a nomination petition a member of a registered political party for purposes of Subsection (3)(a)(ii) if the person has designated that registered political party as their preferred party affiliation on their voter

registration form prior to 5 p.m. on the final day in March; and

(v) utilize procedures described in Section 20A-7-206.3 to verify submitted nomination petition signatures, or use statistical sampling procedures to verify submitted nomination petition signatures pursuant to rules issued by the lieutenant governor under Subsection (3)(f).

(e) Notwithstanding any other provision in Subsection (3), a candidate for lieutenant governor may appear on the regular primary ballot of a registered political party without submitting nomination petitions if the candidate files a declaration of candidacy and complies with Subsection 20A-9-202(3).

(f) The lieutenant governor shall issue rules that provide for the use of statistical sampling procedures for filing officers to verify signatures under Subsection (3)(d). The statistical sampling procedures shall reflect a bona fide effort to determine the validity of a candidate's entire submission, using widely recognized statistical sampling techniques. The lieutenant governor may also issue supplemental rules and guidance that provide for the transparent, orderly, and timely submission, verification, and certification of nomination petition signatures.

(3) (g) The county clerk shall:

(a) (i) review the declarations of candidacy filed by candidates for local boards of education to determine if more than two candidates have filed for the same seat;

(b) (ii) place the names of all candidates who have filed a declaration of candidacy for a local board of education seat on the nonpartisan section of the ballot if more than two candidates have filed for the same seat; and

(c) (iii) determine the order of the local board of education candidates' names on the ballot in accordance with Section 20A-6-305.

(4) (a) By 5 p.m. on the first Wednesday after the third Saturday in April, the lieutenant governor shall provide to the county clerks:

(i) a list of the names of all candidates for federal, constitutional, multi-county, and county offices who have received certifications under Subsection (3), along with instructions on how those names shall appear on the primary-election ballot in accordance with Section 20A-6-305; and

(ii) a list of unopposed candidates for elective office who have been nominated by a registered political party under Subsection (5)(c) and instruct the county clerks to exclude such candidates from the primary-election ballot.

(b) A candidate for lieutenant governor and a candidate for governor campaigning as joint-ticket running mates shall appear jointly on the primary-election ballot.

(4) (c) After the county clerk receives the certified list from [a registered political party] the

lieutenant governor under Subsection (4)(a), the county clerk shall post or publish a primary election notice in substantially the following form:

“Notice is given that a primary election will be held Tuesday, June ____, _____(year), to nominate party candidates for the parties and ~~nonpartisan offices~~ candidates for nonpartisan local school board positions listed on the primary ballot. The polling place for voting precinct ____ is _____. The polls will open at 7 a.m. and continue open until 8 p.m. of the same day. Attest: county clerk.”

(5) (a) Candidates, other than presidential candidates, receiving the highest number of votes cast for each office at the regular primary election are nominated by their registered political party ~~or nonpartisan group~~ for that office or are nominated as a candidate for a nonpartisan local school board position.

(b) If two or more candidates, other than presidential candidates, are to be elected to the office at the regular general election, those party candidates equal in number to positions to be filled who receive the highest number of votes at the regular primary election are the nominees of their party for those positions.

(c) A candidate who is unopposed for an elective office in the regular primary election of a registered political party is nominated by the party for that office without appearing on the primary ballot, provided that the party has chosen to nominate unopposed candidates under Subsection (2)(a)(iii). A candidate is “unopposed” if no person other than the candidate has received a certification under Subsection (3) for the regular primary election ballot of the candidate’s registered political party for a particular elective office.

(6) (a) When a tie vote occurs in any primary election for any national, state, or other office that represents more than one county, the governor, lieutenant governor, and attorney general shall, at a public meeting called by the governor and in the presence of the candidates involved, select the nominee by lot cast in whatever manner the governor determines.

(b) When a tie vote occurs in any primary election for any county office, the district court judges of the district in which the county is located shall, at a public meeting called by the judges and in the presence of the candidates involved, select the nominee by lot cast in whatever manner the judges determine.

(7) The expense of providing all ballots, blanks, or other supplies to be used at any primary election provided for by this section, and all expenses necessarily incurred in the preparation for or the conduct of that primary election shall be paid out of the treasury of the county or state, in the same manner as for the regular general elections.

Section 14. Section 20A-9-405 is enacted to read:

20A-9-405. Nomination petitions for regular primary elections.

(1) This section shall apply to the form and circulation of nomination petitions for regular primary elections described in Subsection 20A-9-403(3)(a).

(2) A candidate for elective office, and the agents of the candidate, may not circulate nomination petitions until the candidate has submitted a declaration of candidacy in accordance with Subsection 20A-9-202(1).

(3) The nomination petitions shall be in substantially the following form:

(a) the petition shall be printed on paper 8-1/2 inches long and 11 inches wide;

(b) the petition shall be ruled with a horizontal line 3/4 inch from the top, with the space above that line blank for purposes of binding;

(c) the petition shall be headed by a caption stating the purpose of the petition and the name of the proposed candidate;

(d) the petition shall feature the word “Warning” followed by the following statement in no less than eight-point, single leaded type: “It is a class A misdemeanor for anyone to knowingly sign a certificate of nomination signature sheet with any name other than the person’s own name or more than once for the same candidate or if the person is not registered to vote in this state and does not intend to become registered to vote in this state before signatures are certified by a filing officer.”;

(e) the petition shall feature 10 lines spaced one-half inch apart and consecutively numbered one through 10;

(f) the signature portion of the petition shall be divided into columns headed by the following titles:

(i) Registered Voter’s Printed Name;

(ii) Signature of Registered Voter;

(iii) Party Affiliation of Registered Voter;

(iv) Birth Date or Age (Optional);

(v) Street Address, City, Zip Code; and

(vi) Date of Signature; and

(g) a photograph of the candidate may appear on the nomination petition.

(4) If one or more nomination petitions are bound together, a page shall be bound to the nomination petition(s) that features the following printed verification statement to be signed and dated by the petition circulator:

“Verification

State of Utah, County of _____

I, _____, of _____, hereby state under that:

I am a Utah resident and am at least 18 years old;

All the names that appear on the signature sheets bound to this page were, to the best of my knowledge, signed by the persons who professed to be the persons whose names appear on the signature sheets, and each of them signed the

person's name on the signature sheets in my presence;

I believe that each has printed and signed the person's name and written the person's street address correctly, and that each signer is registered to vote in Utah or will register to vote in Utah before the county clerk certifies the signatures on the signature sheet."

(5) The lieutenant governor shall prepare and make public model nomination petition forms and associated instructions.

(6) A nomination petition circulator must be at least 18 years old and a resident of the state, but may affiliate with any political party.

(7) It is unlawful for any person to:

(a) knowingly sign the nomination petition sheet described in Subsection (3):

(i) with any name other than the person's own name;

(ii) more than once for the same candidate; or

(iii) if the person is not registered to vote in this state and does not intend to become registered to vote in this state prior to 5 p.m. on the final day in March;

(b) sign the verification of a certificate of nomination signature sheet described in Subsection (4) if the person:

(i) does not meet the residency requirements of Section 20A-2-105;

(ii) has not witnessed the signing by those persons whose names appear on the certificate of nomination signature sheet; or

(iii) knows that a person whose signature appears on the certificate of nomination signature sheet is not registered to vote in this state and does not intend to become registered to vote in this state;

(c) pay compensation to any person to sign a nomination petition; or

(d) pay compensation to any person to circulate a nomination petition, if the compensation is based directly on the number of signatures submitted to a filing officer rather than on the number of signatures verified or on some other basis.

(8) Any person violating Subsection (7) is guilty of a class A misdemeanor.

(9) Withdrawal of petition signatures shall not be permitted.

Section 15. Section 20A-9-406 is enacted to read:

20A-9-406. Qualified political party -- Requirements and exemptions.

The following provisions apply to a qualified political party:

(1) the qualified political party shall certify to the lieutenant governor no later than 5 p.m. on March 1 of each even-numbered year:

(a) the identity of one or more registered political parties whose members may vote for the qualified political party's candidates; and

(b) whether the qualified political party chooses to nominate unopposed candidates without the names of the candidates appearing on the ballot, as described in Subsection 20A-9-403(5)(c);

(2) the provisions of Subsections 20A-9-403(1) through (4)(a), Subsection 20A-9-403(5)(c), and Section 20A-9-405 do not apply to a nomination for the qualified political party;

(3) an individual may only obtain a nomination for the qualified political party by using a method described in Section 20A-9-407, Section 20A-9-408, or both;

(4) the qualified political party shall comply with the provisions of Sections 20A-9-407, 20A-9-408, and 20A-9-409;

(5) notwithstanding Subsection 20A-6-301(1)(a), (1)(g), or (2)(a), each election officer shall ensure that a ballot described in Section 20A-6-301 includes each person nominated by a qualified political party under Section 20A-9-407 or 20A-9-408:

(a) under the qualified political party's name and emblem, if any; or

(b) under the title of the qualified registered political party as designated by the qualified political party in the certification described in Subsection (1), or, if none is designated, then under some suitable title;

(6) notwithstanding Subsection 20A-6-302(1)(a), each election officer shall ensure, for paper ballots in regular general elections, that each candidate who is nominated by the qualified political party is listed by party;

(7) notwithstanding Subsection 20A-6-303(1)(g), each election officer shall ensure that the party designation of each candidate who is nominated by the qualified political party is printed immediately adjacent to the candidate's name on ballot sheets or ballot labels;

(8) notwithstanding Subsection 20A-6-304(1)(g), each election officer shall ensure that the party designation of each candidate who is nominated by the qualified political party is displayed adjacent to the candidate's name on an electronic ballot;

(9) "candidates for elective office," defined in Subsection 20A-9-101(1)(a), also includes an individual who files a declaration of candidacy under Section 20A-9-407 or 20A-9-408 to run in a regular general election for a federal office, constitutional office, multicounty office, or county office;

(10) an individual who is nominated by, or seeking the nomination of, the qualified political party is not required to comply with Subsection 20A-9-201(1)(c);

(11) notwithstanding Subsection 20A-9-403(3), the qualified political party is entitled to have each of the qualified political party's candidates for elective office appear on the primary ballot of the qualified political party with an indication that each candidate is a candidate for the qualified political party;

(12) notwithstanding Subsection 20A-9-403(4)(a), the lieutenant governor shall include on the list provided by the lieutenant governor to the county clerks:

(a) the names of all candidates of the qualified political party for federal, constitutional, multicounty, and county offices; and

(b) the names of unopposed candidates for elective office who have been nominated by the qualified political party and instruct the county clerks to exclude such candidates from the primary-election ballot;

(13) notwithstanding Subsection 20A-9-403(5)(c), a candidate who is unopposed for an elective office in the regular primary election of the qualified political party is nominated by the party for that office without appearing on the primary ballot, provided that the party has chosen to nominate unopposed candidates under Subsection 20A-9-403(2)(a)(iii); and

(14) notwithstanding the provisions of Subsections 20A-9-403(1) and (2) and Section 20A-9-405, the qualified political party is entitled to have the names of its candidates for elective office featured with party affiliation on the ballot at a regular general election.

Section 16. Section 20A-9-407 is enacted to read:

20A-9-407. Convention nomination process for qualified political party.

(1) This section describes the requirements for a member of a qualified political party who is seeking the nomination of a qualified political party for an elective office through the qualified political party's convention nomination process.

(2) Notwithstanding Subsection 20A-9-201(4)(a), the form of the declaration of candidacy for a member of a qualified political party who is nominated by, or who is seeking the nomination of, the qualified political party under this section shall be substantially as follows:

"State of Utah, County of _____

I, _____, declare my intention of becoming a candidate for the office of _____ as a candidate for the _____ party. I do solemnly swear that: I will meet the qualifications to hold the office, both legally and constitutionally, if selected; I reside at _____ in the City or Town of _____, Utah, Zip Code _____, Phone No. _____; I will not knowingly violate any law governing campaigns and elections; I will file all campaign financial disclosure reports as required by law; and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name

from the ballot. The mailing address that I designate for receiving official election notices is

_____.
Subscribed and sworn before me this _____ (month \day \year). Notary Public (or other officer qualified to administer oath)."

(3) Notwithstanding Subsection 20A-9-202(1)(a), and except as provided in Subsection 20A-9-202(4), a member of a qualified political party who, under this section, is seeking the nomination of the qualified political party for an elective office that is to be filled at the next general election, shall:

(a) file a declaration of candidacy in person with the filing officer on or after the second Friday in March and before 5 p.m. on the third Thursday in March before the next regular general election; and

(b) pay the filing fee.

(4) Notwithstanding Subsection 20A-9-202(2)(a), a member of a qualified political party who, under this section, is seeking the nomination of the qualified political party for the office of district attorney within a multicounty prosecution district that is to be filled at the next general election shall:

(a) file a declaration of candidacy with the county clerk designated in the interlocal agreement creating the prosecution district on or after the second Friday in March and before 5 p.m. on the third Thursday in March before the next regular general election; and

(b) pay the filing fee.

(5) Notwithstanding Subsection 20A-9-202(3)(a)(iii), a lieutenant governor candidate who files as the joint-ticket running mate of an individual who is nominated by a qualified political party, under this section, for the office of governor shall submit a letter from the candidate for governor that names the lieutenant governor candidate as a joint-ticket running mate.

(6) The lieutenant governor shall ensure that the certification described in Subsection 20A-9-701(1) also includes the name of each candidate nominated by a qualified political party under this section.

(7) Notwithstanding Subsection 20A-9-701(2), the ballot shall, for each candidate who is nominated by a qualified political party under this section, designate the qualified political party that nominated the candidate.

Section 17. Section 20A-9-408 is enacted to read:

20A-9-408. Signature-gathering nomination process for qualified political party.

(1) This section describes the requirements for a member of a qualified political party who is seeking the nomination of the qualified political party for an elective office through the signature-gathering nomination process described in this section.

(2) Notwithstanding Subsection 20A-9-201(4)(a), the form of the declaration of candidacy for a member of a qualified political party who is nominated by, or who is seeking the nomination of, the qualified political party under this section shall be substantially as follows:

”State of Utah, County of _____

I, _____, declare my intention of becoming a candidate for the office of _____ as a candidate for the _____ party. I do solemnly swear that: I will meet the qualifications to hold the office, both legally and constitutionally, if selected; I reside at _____ in the City or Town of _____, Utah, Zip Code _____, Phone No. _____; I will not knowingly violate any law governing campaigns and elections; I will file all campaign financial disclosure reports as required by law; and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. The mailing address that I designate for receiving official election notices is _____

_____.

Subscribed and sworn before me this _____ (month \day \year). Notary Public (or other officer qualified to administer oath).”

(3) Notwithstanding Subsection 20A-9-202(1)(a), and except as provided in Subsection 20A-9-202(4), a member of a qualified political party who, under this section, is seeking the nomination of the qualified political party for an elective office that is to be filled at the next general election shall:

(a) within the period beginning on January 1 before the next regular general election and ending on the third Thursday in March of the same year, and before gathering signatures under this section, file with the filing officer on a form approved by the lieutenant governor a notice of intent to gather signatures for candidacy that includes:

(i) the name of the member who will attempt to become a candidate for a registered political party under this section;

(ii) the name of the registered political party for which the member is seeking nomination;

(iii) the office for which the member is seeking to become a candidate;

(iv) the address and telephone number of the member; and

(v) other information required by the lieutenant governor;

(b) file a declaration of candidacy, in person, with the filing officer on or after the second Friday in March and before 5 p.m. on the third Thursday in March before the next regular general election; and

(c) pay the filing fee.

(4) Notwithstanding Subsection 20A-9-202(2)(a), a member of a qualified political party who, under this section, is seeking the

nomination of the qualified political party for the office of district attorney within a multicounty prosecution district that is to be filled at the next general election shall:

(a) on or after January 1 before the next regular general election, and before gathering signatures under this section, file with the filing officer on a form approved by the lieutenant governor a notice of intent to gather signatures for candidacy that includes:

(i) the name of the member who will attempt to become a candidate for a registered political party under this section;

(ii) the name of the registered political party for which the member is seeking nomination;

(iii) the office for which the member is seeking to become a candidate;

(iv) the address and telephone number of the member; and

(v) other information required by the lieutenant governor;

(b) file a declaration of candidacy, in person, with the filing officer on or after the second Friday in March and before 5 p.m. on the third Thursday in March before the next regular general election; and

(c) pay the filing fee.

(5) Notwithstanding Subsection 20A-9-202(3)(a)(iii), a lieutenant governor candidate who files as the joint-ticket running mate of an individual who is nominated by a qualified political party, under this section, for the office of governor shall submit a letter from the candidate for governor that names the lieutenant governor candidate as a joint-ticket running mate.

(6) The lieutenant governor shall ensure that the certification described in Subsection 20A-9-701(1) also includes the name of each candidate nominated by a qualified political party under this section.

(7) Notwithstanding Subsection 20A-9-701(2), the ballot shall, for each candidate who is nominated by a qualified political party under this section, designate the qualified political party that nominated the candidate.

(8) A member of a qualified political party may seek the nomination of the qualified political party for an elective office by:

(a) complying with the requirements described in this section; and

(b) collecting signatures, on a form approved by the lieutenant governor’s office, during the period beginning on January 1 of an even-numbered year and ending 14 days before the day on which the qualified political party’s convention for the office is held, in the following amounts:

(i) for a statewide race, 28,000 signatures of registered voters in the state who are permitted by the qualified political party to vote for the qualified political party’s candidates in a primary election;

(ii) for a congressional district race, 7,000 signatures of registered voters who are residents of

the congressional district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election;

(iii) for a state Senate district race, 2,000 signatures of registered voters who are residents of the state Senate district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election;

(iv) for a state House district race, 1,000 signatures of registered voters who are residents of the state House district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election; and

(v) for a county office race, signatures of 3% of the registered voters who are residents of the area permitted to vote for the county office and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election.

(9) (a) In order for a member of the qualified political party to qualify as a candidate for the qualified political party's nomination for an elective office under this section, the member shall:

(i) collect the signatures on a form approved by the lieutenant governor's office, using the same circulation and verification requirements described in Sections 20A-7-304 and 20A-7-305; and

(ii) submit the signatures to the election officer no later than 14 days before the day on which the qualified political party holds its convention to select candidates, for the elective office, for the qualified political party's nomination.

(b) An individual may not gather signatures under this section until after the individual files a notice of intent to gather signatures for candidacy described in this section.

(c) An individual who files a notice of intent to gather signatures for candidacy, described in Subsection (3)(a) or (4)(a), is, beginning on the day on which the individual files the notice of intent to gather signatures for candidacy:

(i) required to comply with the reporting requirements that a candidate for office is required to comply with; and

(ii) subject to the same enforcement provisions, and civil and criminal penalties, that apply to a candidate for office in relation to the reporting requirements described in Subsection (9)(c)(i).

(d) Upon timely receipt of the signatures described in Subsections (8) and (9)(a), the election officer shall, no later than one day before the day on which the qualified political party holds the convention to select a nominee for the elective office to which the signature packets relate:

(i) check the name of each individual who completes the verification for a signature packet to determine whether each individual is a resident of Utah and is at least 18 years old;

(ii) submit the name of each individual described in Subsection (9)(d)(i) who is not a Utah resident or who is not at least 18 years old to the attorney general and the county attorney;

(iii) determine whether each signer is a registered voter who is qualified to sign the petition, using the same method, described in Section 20A-7-206.3, used to verify a signature on a petition;

(iv) certify whether each name is that of a registered voter who is qualified to sign the signature packet; and

(v) notify the qualified political party and the lieutenant governor of the name of each member of the qualified political party who qualifies as a nominee of the qualified political party, under this section, for the elective office to which the convention relates.

(e) Upon receipt of a notice of intent to gather signatures for candidacy described in this section, the lieutenant governor shall post the notice of intent to gather signatures for candidacy on the lieutenant governor's website in the same location that the lieutenant governor posts a declaration of candidacy.

Section 18. Section 20A-9-409 is enacted to read:

20A-9-409. Primary election provisions relating to qualified political party.

(1) The fourth Tuesday of June of each even-numbered year is designated as a regular primary election day.

(2) A qualified political party that nominates one or more candidates for an elective office under Section 20A-9-407 and does not have a candidate qualify as a candidate for that office under Section 20A-9-408, may, but is not required to, participate in the primary election for that office.

(3) A qualified political party that has only one candidate qualify as a candidate for an elective office under Section 20A-9-408 and does not nominate a candidate for that office under Section 20A-9-407, may, but is not required to, participate in the primary election for that office.

(4) A qualified political party that nominates one or more candidates for an elective office under Section 20A-9-407 and has one or more candidates qualify as a candidate for that office under Section 20A-9-408 shall participate in the primary election for that office.

(5) A qualified political party that has two or more candidates qualify as candidates for an elective office under Section 20A-9-408 and does not nominate a candidate for that office under Section 20A-9-407 shall participate in the primary election for that office.

Section 19. Section 20A-9-410 is enacted to read:

20A-9-410. Rulemaking authority.

The director of elections, within the Office of the Lieutenant Governor, shall make rules, in

accordance with the provisions of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, relating to procedures for complying with, and verifying compliance with, the candidate nominating process described in this part.

Section 20. Section 20A-9-701 is amended to read:

20A-9-701. Certification of party candidates to county clerks -- Display on ballot.

(1) No later than August 31 of each regular general election year, the lieutenant governor shall certify to each county clerk the names of each candidate[, including candidates for president and vice president, certified by each registered political party as that party's nominees] nominated under Subsection 20A-9-202(4) or Subsection 20A-9-403(5) for offices to be voted upon at the regular general election in that county clerk's county.

(2) The names shall be certified by the lieutenant governor and shall be displayed on the ballot as they are provided on the candidate's declaration of candidacy. No other names may appear on the ballot as affiliated with, endorsed by, or nominated by any other registered political party, political party, or other political group.

Section 21. Effective date.

This bill takes effect on January 1, 2015.

CHAPTER 18**H. B. 394**

Passed March 12, 2014
 Approved March 13, 2014
 Effective March 13, 2014

CAMPAIGN FINANCE REVISIONS

Chief Sponsor: James A. Dunnigan
 Senate Sponsor: John L. Valentine
 Cosponsors: Patrice M. Arent
 Rebecca Chavez-Houck
 Brad L. Dee
 Susan Duckworth
 Francis D. Gibson
 Lynn N. Hemingway
 Dana L. Layton
 Mike K. McKell
 Lee B. Perry
 Jennifer M. Seelig

LONG TITLE**General Description:**

This bill amends provisions of the Election Code relating to campaign finance, conflicts of interest, and financial disclosures.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires that a financial report include expenditures made by a reporting entity or an agent (including a political consultant) of a reporting entity on behalf of the reporting entity;
- ▶ provides that "contribution" includes a loan by a candidate to the candidate's own campaign;
- ▶ defines "in-kind" contributions;
- ▶ grants rulemaking authority to the director of elections within the Lieutenant Governor's Office;
- ▶ provides that when a person makes a detailed listing that discloses or reports the source of a contribution, discloses or reports the person or entity to whom a disbursement is made, or discloses or reports the identity of a donor, the person:
 - shall reveal the actual source of the contribution, the actual person or entity to whom the disbursement is ultimately made, or the actual identity of the donor; and
 - may not merely list, disclose, or report the transactional intermediary;
- ▶ modifies required filing dates for a financial disclosure form filed by a regulated officeholder;
- ▶ modifies and expands the information that a regulated officeholder is required to disclose in a financial disclosure form, including information for the year preceding the day on which the regulated officeholder files a financial disclosure form;
- ▶ expands disclosure provisions to include a regulated officeholder's involvement in limited liability corporations and other entities;
- ▶ clarifies that a regulated officeholder may file an amended financial disclosure form at any time;
- ▶ addresses the publication and retention of financial disclosure forms;
- ▶ establishes criminal and civil penalties for violating certain provisions of this bill relating to

the filing or content of a financial disclosure form;

- ▶ describes duties of the lieutenant governor for reviewing a financial disclosure form and enforcing the provisions of this bill;
- ▶ provides that the lieutenant governor shall deposit a fine collected under this bill into the General Fund as a dedicated credit to pay for the costs of administering the provisions of this bill; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.

Utah Code Sections Affected:**AMENDS:**

- 20A-11-101, as last amended by Laws of Utah 2013, Chapters 86, 170, 318, and 420
- 20A-11-1601, as enacted by Laws of Utah 2010, Chapter 12
- 20A-11-1602, as enacted by Laws of Utah 2010, Chapter 12
- 20A-11-1603, as last amended by Laws of Utah 2011, Chapter 297

ENACTS:

- 20A-11-101.3, Utah Code Annotated 1953
- 20A-11-101.5, Utah Code Annotated 1953
- 20A-11-1605, Utah Code Annotated 1953
- 20A-12-301.5, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

- 20A-11-1604, (Renumbered from 76-8-109, as last amended by Laws of Utah 2013, Chapter 278)

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

Section 1. Section 20A-11-101 is amended to read:**20A-11-101. Definitions.**

As used in this chapter:

(1) "Address" means the number and street where an individual resides or where a reporting entity has its principal office.

(2) "Agent of a reporting entity" means:

(a) a person acting on behalf of a reporting entity at the direction of the reporting entity;

(b) a person employed by a reporting entity in the reporting entity's capacity as a reporting entity;

(c) the personal campaign committee of a candidate or officeholder;

(d) a member of the personal campaign committee of a candidate or officeholder in the member's capacity as a member of the personal campaign committee of the candidate or officeholder; or

(e) a political consultant of a reporting entity.

[(2)] (3) "Ballot proposition" includes initiatives, referenda, proposed constitutional amendments, and any other ballot propositions submitted to the voters that are authorized by the Utah Code Annotated 1953.

~~[(3)]~~ (4) “Candidate” means any person who:

(a) files a declaration of candidacy for a public office; or

(b) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person’s nomination or election to a public office.

~~[(4)]~~ (5) “Chief election officer” means:

(a) the lieutenant governor for state office candidates, legislative office candidates, officeholders, political parties, political action committees, corporations, political issues committees, state school board candidates, judges, and labor organizations, as defined in Section 20A-11-1501; and

(b) the county clerk for local school board candidates.

~~[(5)]~~ (6) (a) “Contribution” means any of the following when done for political purposes:

(i) a gift, subscription, donation, loan, advance, or deposit of money or anything of value given to the filing entity;

(ii) an express, legally enforceable contract, promise, or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to the filing entity;

(iii) any transfer of funds from another reporting entity to the filing entity;

(iv) compensation paid by any person or reporting entity other than the filing entity for personal services provided without charge to the filing entity;

(v) remuneration from:

(A) any organization or its directly affiliated organization that has a registered lobbyist; or

(B) any agency or subdivision of the state, including school districts; ~~and~~

~~[(vi) goods or services provided to or for the benefit of the filing entity at less than fair market value.]~~

(vi) a loan made by a candidate deposited to the candidate’s own campaign; and

(vii) in-kind contributions.

(b) “Contribution” does not include:

(i) services provided ~~[without compensation]~~ by individuals volunteering a portion or all of their time on behalf of the filing entity if the services are provided without compensation by the filing entity or any other person;

(ii) money lent to the filing entity by a financial institution in the ordinary course of business; or

(iii) goods or services provided for the benefit of a candidate or political party at less than fair market

value that are not authorized by or coordinated with the candidate or political party.

~~[(6)]~~ (7) “Coordinated with” means that goods or services provided for the benefit of a candidate or political party are provided:

(a) with the candidate’s or political party’s prior knowledge, if the candidate or political party does not object;

(b) by agreement with the candidate or political party;

(c) in coordination with the candidate or political party; or

(d) using official logos, slogans, and similar elements belonging to a candidate or political party.

~~[(7)]~~ (8) (a) “Corporation” means a domestic or foreign, profit or nonprofit, business organization that is registered as a corporation or is authorized to do business in a state and makes any expenditure from corporate funds for:

(i) the purpose of expressly advocating for political purposes; or

(ii) the purpose of expressly advocating the approval or the defeat of any ballot proposition.

(b) “Corporation” does not mean:

(i) a business organization’s political action committee or political issues committee; or

(ii) a business entity organized as a partnership or a sole proprietorship.

~~[(8)]~~ (9) “County political party” means, for each registered political party, all of the persons within a single county who, under definitions established by the political party, are members of the registered political party.

~~[(9)]~~ (10) “County political party officer” means a person whose name is required to be submitted by a county political party to the lieutenant governor in accordance with Section 20A-8-402.

~~[(10)]~~ (11) “Detailed listing” means:

(a) for each contribution or public service assistance:

(i) the name and address of the individual or source making the contribution or public service assistance;

(ii) the amount or value of the contribution or public service assistance; and

(iii) the date the contribution or public service assistance was made; and

(b) for each expenditure:

(i) the amount of the expenditure;

(ii) the person or entity to whom it was disbursed;

(iii) the specific purpose, item, or service acquired by the expenditure; and

(iv) the date the expenditure was made.

[41] (12) (a) “Donor” means a person that gives money, including a fee, due, or assessment for membership in the corporation, to a corporation without receiving full and adequate consideration for the money.

(b) “Donor” does not include a person that signs a statement that the corporation may not use the money for an expenditure or political issues expenditure.

[42] (13) “Election” means each:

(a) regular general election;

(b) regular primary election; and

(c) special election at which candidates are eliminated and selected.

[43] (14) “Electioneering communication” means a communication that:

(a) has at least a value of \$10,000;

(b) clearly identifies a candidate or judge; and

(c) is disseminated through the Internet, newspaper, magazine, outdoor advertising facility, direct mailing, broadcast, cable, or satellite provider within 45 days of the clearly identified candidate’s or judge’s election date.

[44] (15) (a) “Expenditure” means any of the following made by a reporting entity or an agent of a reporting entity on behalf of the reporting entity:

(i) any disbursement from contributions, receipts, or from the separate bank account required by this chapter;

(ii) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value made for political purposes;

(iii) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value for political purposes;

(iv) compensation paid by a filing entity for personal services rendered by a person without charge to a reporting entity;

(v) a transfer of funds between the filing entity and a candidate’s personal campaign committee; or

(vi) goods or services provided by the filing entity to or for the benefit of another reporting entity for political purposes at less than fair market value.

(b) “Expenditure” does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a reporting entity;

(ii) money lent to a reporting entity by a financial institution in the ordinary course of business; or

(iii) anything listed in Subsection [44] (15)(a) that is given by a reporting entity to candidates for office or officeholders in states other than Utah.

[45] (16) “Federal office” means the office of president of the United States, United States Senator, or United States Representative.

[46] (17) “Filing entity” means the reporting entity that is required to file a financial statement required by this chapter or Chapter 12, Part 2, Judicial Retention Elections.

[47] (18) “Financial statement” includes any summary report, interim report, verified financial statement, or other statement disclosing contributions, expenditures, receipts, donations, or disbursements that is required by this chapter or Chapter 12, Part 2, Judicial Retention Elections.

[48] (19) “Governing board” means the individual or group of individuals that determine the candidates and committees that will receive expenditures from a political action committee, political party, or corporation.

[49] (20) “Incorporation” means the process established by Title 10, Chapter 2, Part 1, Incorporation, by which a geographical area becomes legally recognized as a city or town.

[20] (21) “Incorporation election” means the election authorized by Section 10-2-111.

[21] (22) “Incorporation petition” means a petition authorized by Section 10-2-109.

[22] (23) “Individual” means a natural person.

(24) “In-kind contribution” means anything of value, other than money, that is accepted by or coordinated with a filing entity.

[23] (25) “Interim report” means a report identifying the contributions received and expenditures made since the last report.

[24] (26) “Legislative office” means the office of state senator, state representative, speaker of the House of Representatives, president of the Senate, and the leader, whip, and assistant whip of any party caucus in either house of the Legislature.

[25] (27) “Legislative office candidate” means a person who:

(a) files a declaration of candidacy for the office of state senator or state representative;

(b) declares oneself to be a candidate for, or actively campaigns for, the position of speaker of the House of Representatives, president of the Senate, or the leader, whip, and assistant whip of any party caucus in either house of the Legislature; or

(c) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person’s nomination, election, or appointment to a legislative office.

[26] (28) “Major political party” means either of the two registered political parties that have the greatest number of members elected to the two houses of the Legislature.

[27] (29) “Officeholder” means a person who holds a public office.

~~[(28)]~~ (30) "Party committee" means any committee organized by or authorized by the governing board of a registered political party.

~~[(29)]~~ (31) "Person" means both natural and legal persons, including individuals, business organizations, personal campaign committees, party committees, political action committees, political issues committees, and labor organizations, as defined in Section 20A-11-1501.

~~[(30)]~~ (32) "Personal campaign committee" means the committee appointed by a candidate to act for the candidate as provided in this chapter.

~~[(31)]~~ (33) "Personal use expenditure" has the same meaning as provided under Section 20A-11-104.

~~[(32)]~~ (34) (a) "Political action committee" means an entity, or any group of individuals or entities within or outside this state, a major purpose of which is to:

(i) solicit or receive contributions from any other person, group, or entity for political purposes; or

(ii) make expenditures to expressly advocate for any person to refrain from voting or to vote for or against any candidate or person seeking election to a municipal or county office.

(b) "Political action committee" includes groups affiliated with a registered political party but not authorized or organized by the governing board of the registered political party that receive contributions or makes expenditures for political purposes.

(c) "Political action committee" does not mean:

(i) a party committee;

(ii) any entity that provides goods or services to a candidate or committee in the regular course of its business at the same price that would be provided to the general public;

(iii) an individual;

(iv) individuals who are related and who make contributions from a joint checking account;

(v) a corporation, except a corporation a major purpose of which is to act as a political action committee; or

(vi) a personal campaign committee.

(35) (a) "Political consultant" means a person who is paid by a reporting entity, or paid by another person on behalf of and with the knowledge of the reporting entity, to provide political advice to the reporting entity.

(b) "Political consultant" includes a circumstance described in Subsection (35)(a), where the person:

(i) has already been paid, with money or other consideration;

(ii) expects to be paid in the future, with money or other consideration; or

(iii) understands that the person may, in the discretion of the reporting entity or another person on behalf of and with the knowledge of the reporting entity, be paid in the future, with money or other consideration.

~~[(33)]~~ (36) "Political convention" means a county or state political convention held by a registered political party to select candidates.

~~[(34)]~~ (37) (a) "Political issues committee" means an entity, or any group of individuals or entities within or outside this state, a major purpose of which is to:

(i) solicit or receive donations from any other person, group, or entity to assist in placing a ballot proposition on the ballot, assist in keeping a ballot proposition off the ballot, or to advocate that a voter refrain from voting or vote for or vote against any ballot proposition;

(ii) make expenditures to expressly advocate for any person to sign or refuse to sign a ballot proposition or incorporation petition or refrain from voting, vote for, or vote against any proposed ballot proposition or an incorporation in an incorporation election; or

(iii) make expenditures to assist in qualifying or placing a ballot proposition on the ballot or to assist in keeping a ballot proposition off the ballot.

(b) "Political issues committee" does not mean:

(i) a registered political party or a party committee;

(ii) any entity that provides goods or services to an individual or committee in the regular course of its business at the same price that would be provided to the general public;

(iii) an individual;

(iv) individuals who are related and who make contributions from a joint checking account; or

(v) a corporation, except a corporation a major purpose of which is to act as a political issues committee.

~~[(35)]~~ (38) (a) "Political issues contribution" means any of the following:

(i) a gift, subscription, unpaid or partially unpaid loan, advance, or deposit of money or anything of value given to a political issues committee;

(ii) an express, legally enforceable contract, promise, or agreement to make a political issues donation to influence the approval or defeat of any ballot proposition;

(iii) any transfer of funds received by a political issues committee from a reporting entity;

(iv) compensation paid by another reporting entity for personal services rendered without charge to a political issues committee; and

(v) goods or services provided to or for the benefit of a political issues committee at less than fair market value.

(b) “Political issues contribution” does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political issues committee; or

(ii) money lent to a political issues committee by a financial institution in the ordinary course of business.

[(36)] (39) (a) “Political issues expenditure” means any of the following when made by a political issues committee or on behalf of a political issues committee by an agent of the reporting entity:

(i) any payment from political issues contributions made for the purpose of influencing the approval or the defeat of:

(A) a ballot proposition; or

(B) an incorporation petition or incorporation election;

(ii) a purchase, payment, distribution, loan, advance, deposit, or gift of money made for the express purpose of influencing the approval or the defeat of:

(A) a ballot proposition; or

(B) an incorporation petition or incorporation election;

(iii) an express, legally enforceable contract, promise, or agreement to make any political issues expenditure;

(iv) compensation paid by a reporting entity for personal services rendered by a person without charge to a political issues committee; or

(v) goods or services provided to or for the benefit of another reporting entity at less than fair market value.

(b) “Political issues expenditure” does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political issues committee; or

(ii) money lent to a political issues committee by a financial institution in the ordinary course of business.

[(37)] (40) “Political purposes” means an act done with the intent or in a way to influence or tend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any candidate or a person seeking a municipal or county office at any caucus, political convention, or election.

[(38)] (41) (a) “Poll” means the survey of a person regarding the person’s opinion or knowledge of an individual who has filed a declaration of candidacy for public office, or of a ballot proposition that has legally qualified for placement on the ballot, which is conducted in person or by telephone, facsimile, Internet, postal mail, or email.

(b) “Poll” does not include:

(i) a ballot; or

(ii) an interview of a focus group that is conducted, in person, by one individual, if:

(A) the focus group consists of more than three, and less than thirteen, individuals; and

(B) all individuals in the focus group are present during the interview.

[(39)] (42) “Primary election” means any regular primary election held under the election laws.

[(40)] (43) “Public office” means the office of governor, lieutenant governor, state auditor, state treasurer, attorney general, state or local school board member, state senator, state representative, speaker of the House of Representatives, president of the Senate, and the leader, whip, and assistant whip of any party caucus in either house of the Legislature.

[(41)] (44) (a) “Public service assistance” means the following when given or provided to an officeholder to defray the costs of functioning in a public office or aid the officeholder to communicate with the officeholder’s constituents:

(i) a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to an officeholder; or

(ii) goods or services provided at less than fair market value to or for the benefit of the officeholder.

(b) “Public service assistance” does not include:

(i) anything provided by the state;

(ii) services provided without compensation by individuals volunteering a portion or all of their time on behalf of an officeholder;

(iii) money lent to an officeholder by a financial institution in the ordinary course of business;

(iv) news coverage or any publication by the news media; or

(v) any article, story, or other coverage as part of any regular publication of any organization unless substantially all the publication is devoted to information about the officeholder.

[(42)] (45) “Publicly identified class of individuals” means a group of 50 or more individuals sharing a common occupation, interest, or association that contribute to a political action committee or political issues committee and whose names can be obtained by contacting the political action committee or political issues committee upon whose financial statement the individuals are listed.

[(43)] (46) “Receipts” means contributions and public service assistance.

[(44)] (47) “Registered lobbyist” means a person registered under Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act.

[(45)] (48) “Registered political action committee” means any political action committee that is required by this chapter to file a statement of

organization with the Office of the Lieutenant Governor.

[446] (49) "Registered political issues committee" means any political issues committee that is required by this chapter to file a statement of organization with the Office of the Lieutenant Governor.

[447] (50) "Registered political party" means an organization of voters that:

(a) participated in the last regular general election and polled a total vote equal to 2% or more of the total votes cast for all candidates for the United States House of Representatives for any of its candidates for any office; or

(b) has complied with the petition and organizing procedures of Chapter 8, Political Party Formation and Procedures.

[448] (51) (a) "Remuneration" means a payment:

(i) made to a legislator for the period the Legislature is in session; and

(ii) that is approximately equivalent to an amount a legislator would have earned during the period the Legislature is in session in the legislator's ordinary course of business.

(b) "Remuneration" does not mean anything of economic value given to a legislator by:

(i) the legislator's primary employer in the ordinary course of business; or

(ii) a person or entity in the ordinary course of business:

(A) because of the legislator's ownership interest in the entity; or

(B) for services rendered by the legislator on behalf of the person or entity.

[449] (52) "Reporting entity" means a candidate, a candidate's personal campaign committee, a judge, a judge's personal campaign committee, an officeholder, a party committee, a political action committee, a political issues committee, a corporation, or a labor organization, as defined in Section 20A-11-1501.

[450] (53) "School board office" means the office of state school board or local school board.

[451] (54) (a) "Source" means the person or entity that is the legal owner of the tangible or intangible asset that comprises the contribution.

(b) "Source" means, for political action committees and corporations, the political action committee and the corporation as entities, not the contributors to the political action committee or the owners or shareholders of the corporation.

[452] (55) "State office" means the offices of governor, lieutenant governor, attorney general, state auditor, and state treasurer.

[453] (56) "State office candidate" means a person who:

(a) files a declaration of candidacy for a state office; or

(b) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination, election, or appointment to a state office.

[454] (57) "Summary report" means the year end report containing the summary of a reporting entity's contributions and expenditures.

[455] (58) "Supervisory board" means the individual or group of individuals that allocate expenditures from a political issues committee.

Section 2. Section 20A-11-101.3 is enacted to read:

20A-11-101.3. Detailed listing -- Rulemaking authority.

The director of elections, within the Lieutenant Governor's Office, may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in relation to the form, type, and level of detail required in a detailed listing or a financial disclosure form.

Section 3. Section 20A-11-101.5 is enacted to read:

20A-11-101.5. Disclosure of actual source or recipient required.

(1) As used in this section, "transactional intermediary" means a person, including a credit card company, a financial institution, or a money transfer service, that pays or transfers money to a person on behalf of another person.

(2) When, under this chapter, a person makes a detailed listing, discloses or reports the source of a contribution, discloses or reports the person or entity to whom a disbursement is made, or discloses or reports the identity of a donor, the person:

(a) shall reveal the actual source of the contribution, the actual person or entity to whom the disbursement is ultimately made, or the actual identity of the donor; and

(b) may not merely list, disclose, or report the transactional intermediary.

Section 4. Section 20A-11-1601 is amended to read:

Part 16. Financial Disclosures

20A-11-1601. Title.

This part is known as [~~"Candidate"~~] "Financial Disclosures."

Section 5. Section 20A-11-1602 is amended to read:

20A-11-1602. Definitions.

[~~(1) "Filing officer" is as defined in Section 20A-9-101.]~~

As used in this part:

(1) "Conflict of interest" means an action that is taken by a regulated officeholder that the

officeholder reasonably believes may cause direct financial benefit or detriment to the officeholder, a member of the officeholder's immediate family, or an entity that the officeholder is required to disclose under the provisions of this section, if that benefit or detriment is distinguishable from the effects of that action on the public or on the officeholder's profession, occupation, or association generally.

(2) "Entity" means a corporation, a partnership, a limited liability company, a limited partnership, a sole proprietorship, an association, a cooperative, a trust, an organization, a joint venture, a governmental entity, an unincorporated organization, or any other legal entity, regardless of whether it is established primarily for the purpose of gain or economic profit.

(3) "Immediate family" means the regulated officeholder's spouse, a child living in the regulated officeholder's immediate household, or an individual claimed as a dependent for state or federal income tax purposes by the regulated officeholder.

(4) "Income" means earnings, compensation, or any other payment made to an individual for gain, regardless of source, whether denominated as wages, salary, commission, pay, bonus, severance pay, incentive pay, contract payment, interest, per diem, expenses, reimbursement, dividends, or otherwise.

(5) (a) "Owner or officer" means an individual who owns an ownership interest in an entity or holds a position where the person has authority to manage, direct, control, or make decisions for:

- (i) the entity or a portion of the entity; or
 - (ii) an employee, agent, or independent contractor of the entity.
- (b) "Owner or officer" includes:
- (i) a member of a board of directors or other governing body of an entity; or
 - (ii) a partner in any type of partnership.

(6) "Preceding year" means the year immediately preceding the day on which the regulated officeholder files a financial disclosure form.

(7) "Regulated officeholder" means an individual who is required to file a financial disclosure form under the provisions of this part.

~~[(2)]~~ (8) "State constitutional officer" means the governor, the lieutenant governor, the state auditor, the state treasurer, or the attorney general.

Section 6. Section 20A-11-1603 is amended to read:

20A-11-1603. Financial disclosure form -- Required when filing for candidacy -- Public availability.

(1) Candidates seeking the following offices shall file a financial disclosure with the filing officer at the time of filing a declaration of candidacy:

- (a) state constitutional officer;
 - (b) state legislator; or
 - (c) State Board of Education member.
- (2) A filing officer may not accept a declaration of candidacy for an office listed in Subsection (1) unless the declaration of candidacy is accompanied by the financial disclosure required by this section.

(3) The financial disclosure form shall contain the same requirements and shall be in the same format as the financial disclosure form described in Section ~~[76-8-109]~~ 20A-11-1604.

(4) The financial disclosure form shall:

- (a) be made available for public inspection at the filing officer's place of business;
- (b) if the filing officer is an individual other than the lieutenant governor, be provided to the lieutenant governor within five business days of the date of filing and be made publicly available at the Office of the Lieutenant Governor; and
- (c) be made publicly available on the Statewide Electronic Voter Information Website administered by the lieutenant governor.

Section 7. Section 20A-11-1604, which is renumbered from Section 76-8-109 is renumbered and amended to read:

~~[76-8-109].~~ 20A-11-1604. Failure to disclose conflict of interest -- Failure to comply with reporting requirements.

~~[(1) As used in this section:]~~

~~[(a) "Conflict of interest" means an action that is taken by a regulated officeholder that the officeholder reasonably believes may cause direct financial benefit or detriment to the officeholder, a member of the officeholder's immediate family, or an entity that the officeholder is required to disclose under the provisions of this section, and that benefit or detriment is distinguishable from the effects of that action on the public or on the officeholder's profession, occupation, or association generally.]~~

~~[(b) "Entity" means a corporation, a partnership, a limited liability company, a limited partnership, a sole proprietorship, an association, a cooperative, a trust, an organization, a joint venture, a governmental entity, an unincorporated organization, or any other legal entity, whether established primarily for the purpose of gain or economic profit or not.]~~

~~[(c) "Filer" means the individual filing a financial declaration under this section.]~~

~~[(d) "Immediate family" means the regulated officeholder's spouse and children living in the officeholder's immediate household.]~~

~~[(e) "Income" means earnings, compensation, or any other payment made to an individual for gain, regardless of source, whether denominated as wages, salary, commission, pay, bonus, severance pay, incentive pay, contract payment, interest, per diem, expenses, reimbursement, dividends, or otherwise.]~~

~~[(f) “Regulated officeholder” means an individual that is required to file a financial disclosure under the provisions and requirements of this section.]~~

~~[(g) “State constitutional officer” means the governor, the lieutenant governor, the state auditor, the state treasurer, or the attorney general.]~~

~~[(2)] (1) (a) Before or during the execution of any order, settlement, declaration, contract, or any other official act of office in which a state constitutional officer has actual knowledge that the state constitutional officer has a conflict of interest [which] that is not stated on the financial disclosure form [required under Subsection (4), the] described in this section, the state constitutional officer shall publicly declare that the state constitutional officer may have a conflict of interest and what that conflict of interest is.~~

~~(b) Before or during any vote on legislation or any legislative matter in which a legislator has actual knowledge that the legislator has a conflict of interest [which] that is not stated on the financial disclosure form [required under Subsection (4)] described in this section, the legislator shall orally declare to the committee or body before which the matter is pending that the legislator may have a conflict of interest and what that conflict is.~~

~~(c) Before or during any vote on any rule, resolution, order, or any other board matter in which a member of the State Board of Education has actual knowledge that the member has a conflict of interest [which] that is not stated on the financial disclosure form [required under Subsection (4)] described in this section, the member shall orally declare to the board that the member may have a conflict of interest and what that conflict of interest is.~~

~~[(3)] (2) Any public declaration of a conflict of interest that is made under Subsection [(2)] (1) shall be noted:~~

~~(a) on the official record of the action taken, for a state constitutional officer;~~

~~(b) in the minutes of the committee meeting or in the Senate or House Journal, as applicable, for a legislator; or~~

~~(c) in the minutes of the meeting or on the official record of the action taken, for a member of the State Board of Education.~~

~~[(4) (a) The following individuals shall file a financial disclosure form:]~~

~~[(i) a] (3) (a) A state constitutional officer[, to be due] shall file a financial disclosure form:~~

~~(i) on the tenth day of January of each year, or the following business day if the due date falls on a weekend or holiday; and~~

~~[(ii) a legislator, at the following times:]~~

~~(ii) each time the state constitutional officer changes employment.~~

~~[(A)] (i) on the first day of each general session of the Legislature; and~~

~~[(B)] (ii) each time the legislator changes employment[;].~~

~~[(iii) a] (c) A member of the State Board of Education[, at the following times] shall file a financial disclosure form:~~

~~[(A)] (i) on the tenth day of January of each year, or the following business day if the due date falls on a weekend or holiday; and~~

~~[(B)] (ii) each time the member changes employment.~~

~~[(B)] (4) The financial disclosure form described in Subsection (3) shall include:~~

~~[(i) the filer’s name;]~~

~~(a) the regulated officeholder’s name;~~

~~[(ii) (b) the name and address of [the filer’s primary employer] each of the regulated officeholder’s current employers and each of the regulated officeholder’s employers during the preceding year;~~

~~[(iii) (c) for each employer described in Subsection (4)(b), a brief description of the [filer’s] employment, including the [filer’s] regulated officeholder’s occupation and, as applicable, job title;~~

~~[(iv) (d) for each entity in which the [filer] regulated officeholder is an owner or [an] officer, or was an owner or officer during the preceding year:~~

~~[(A)] (i) the name of the entity;~~

~~[(B)] (ii) a brief description of the type of business or activity conducted by the entity; and~~

~~[(C)] (iii) the [filer’s] regulated officeholder’s position in the entity;~~

~~[(v) (e) in accordance with Subsection (5)(b), for each [entity that has paid] individual from whom, or entity from which, the regulated officeholder has received \$5,000 or more in income [to the filer within the one year period ending immediately before the date of the disclosure form] during the preceding year:~~

~~[(A)] (i) the name of the individual or entity; and~~

~~[(B)] (ii) a brief description of the type of business or activity conducted by the individual or entity;~~

~~[(vi) (f) for each entity in which the [filer] regulated officeholder holds any stocks or bonds having a fair market value of \$5,000 or more as of the date of the disclosure form or during the preceding year, but excluding funds that are managed by a third party, including blind trusts, managed investment accounts, and mutual funds:~~

~~[(A)] (i) the name of the entity; and~~

~~[(B)] (ii) a brief description of the type of business or activity conducted by the entity;~~

~~[(vii) (g) for each entity not listed in Subsections (4)(b)(iv) through (4)(b)(vi),] (4)(d) through (f) in which the [filer serves] regulated officeholder currently serves, or served in the preceding year, on the board of directors or in any other type of [formal advisory capacity] paid leadership capacity:~~

~~[(A) (i) the name of the entity or organization;~~

~~[(B) (ii) a brief description of the type of business or activity conducted by the entity; and~~

~~[(C) (iii) the type of advisory position held by the [filer] regulated officeholder;~~

~~[(viii) (h) at the option of the [filer] regulated officeholder, a description of any real property in which the [filer] regulated officeholder holds an ownership or other financial interest that the [filer] regulated officeholder believes may constitute a conflict of interest, including: (A) a description of the real property; and (B) a description of the type of interest held by the [filer] regulated officeholder in the property;~~

~~[(ix) (i) the name of the [filer's] regulated officeholder's spouse and any other adult residing in the [filer's] regulated officeholder's household [that] who is not related by blood or marriage, as applicable;~~

~~(j) for the regulated officeholder's spouse, the information that a regulated officeholder is required to provide under Subsection (4)(b);~~

~~[(x) (k) a brief description of the employment and occupation of [the filer's spouse and any other adult residing in the filer's household that] each adult who:~~

~~(i) resides in the regulated officeholder's household; and~~

~~(ii) is not related to the regulated officeholder by blood or marriage[, as applicable];~~

~~[(xi) (l) at the option of the [filer] regulated officeholder, a description of any other matter or interest that the [filer] regulated officeholder believes may constitute a conflict of interest;~~

~~[(xii) (m) the date the form was completed;~~

~~[(xiii) (n) a statement that the [filer] regulated officeholder believes that the form is true and accurate to the best of the [filer's] regulated officeholder's knowledge; and~~

~~[(xiv) (o) the signature of the [filer] regulated officeholder.~~

~~[(e) (i) The financial disclosure shall be filed with:]~~

~~(5) (a) The regulated officeholder shall file the financial disclosure form with:~~

~~[(A) (i) the secretary of the Senate, [for a legislator that is a senator] if the regulated officeholder is a member of the Senate;~~

~~[(B) (ii) the chief clerk of the House of Representatives, [for a legislator that is a~~

~~representative] if the regulated officeholder is a member of the House of Representatives; or~~

~~[(C) (iii) the lieutenant governor, [for all other regulated officeholders] if the regulated officeholder is a regulated officeholder other than a regulated officeholder described in Subsection (5)(a)(i) or (ii).~~

~~(b) In making the disclosure described in Subsection (4)(e), a regulated officeholder who provides goods or services to multiple customers or clients as part of a business or a licensed profession is only required to provide the information described in Subsection (4)(e) in relation to the entity or practice through which the regulated officeholder provides the goods or services and is not required to provide the information described in Subsection (4)(e) in relation to the regulated officeholder's individual customers or clients.~~

~~[(ii) (6) The lieutenant governor, the secretary of the Senate, and the chief clerk of the House of Representatives shall ensure that blank financial disclosure forms are available on the Internet and at their offices.~~

~~[(d) Financial disclosure forms that are filed under the procedures and requirements of this section shall be made available to the public.]~~

~~(7) An individual described in Subsection (6) who receives a financial disclosure form or an amendment to a financial disclosure form under this section shall make each version of the form, and each amendment to the form, available to the public for the period of time described in Subsection (8), in the following manner:~~

~~[(i) (a) on the Internet; and~~

~~[(ii) (b) at the office where the form or the amendment to the form was filed.~~

~~[(e) This section's requirement to disclose a conflict of interest does]~~

~~(8) The period of time that an individual described in Subsection (7) shall make each version of a financial disclosure form and each amendment to a financial disclosure form available to the public is:~~

~~(a) two years after the day on which the individual described in Subsection (7) receives the form, for a regulated officeholder in an office that has a normal term of two years or less; or~~

~~(b) four years after the day on which the individual described in Subsection (7) receives the form, for a regulated officeholder in an office that has a normal term of more than two years.~~

~~(9) The disclosure requirements described in this section do not prohibit a regulated officeholder from voting or acting on any matter.~~

~~(10) A regulated officeholder may amend a financial disclosure form described in this part at any time.~~

~~[(5) (11) A regulated officeholder who violates the requirements of Subsection [(2) (1)] is guilty of a class B misdemeanor.~~

(12) (a) A regulated officeholder who intentionally or knowingly violates a provision of this section, other than Subsection (1), is guilty of a class B misdemeanor.

(b) In addition to the criminal penalty described in Subsection (12)(a), the lieutenant governor shall impose a civil penalty of \$100 against a regulated officeholder who violates a provision of this section, other than Subsection (1).

Section 8. Section 20A-11-1605 is enacted to read:

20A-11-1605. Failure to file -- Penalties.

(1) Within 30 days after the day on which a regulated officeholder is required to file a financial disclosure form under Subsection 20A-11-1604(3)(a)(i), (b)(i), or (c)(i), the lieutenant governor shall review each filed financial disclosure form to ensure that:

(a) each regulated officeholder who is required to file a financial disclosure form has filed one; and

(b) each financial disclosure form contains the information required under Section 20A-11-1604.

(2) The lieutenant governor shall take the action described in Subsection (3) if:

(a) a regulated officeholder has failed to timely file a financial disclosure form;

(b) a filed financial disclosure form does not comply with the requirements of Section 20A-11-1604; or

(c) the lieutenant governor receives a written complaint alleging a violation of Section 20A-11-1604, other than Subsection 20A-11-1604(1), and after receiving the complaint and giving the regulated officeholder notice and an opportunity to be heard, the lieutenant governor determines that a violation occurred.

(3) If a circumstance described in Subsection (2) occurs, the lieutenant governor shall, within five days after the day on which the lieutenant governor determines that a violation occurred, notify the regulated officeholder of the violation and direct the regulated officeholder to file an amended report correcting the problem.

(4) (a) It is unlawful for a regulated officeholder to fail to file or amend a financial disclosure form within seven days after the day on which the regulated officeholder receives the notice described in Subsection (3).

(b) A regulated officeholder who violates Subsection (4)(a) is guilty of a class B misdemeanor.

(c) The lieutenant governor shall report all violations of Subsection (4)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (4)(b), the lieutenant governor shall impose a civil fine of \$100 against a regulated officeholder who violates Subsection (4)(a).

(5) The lieutenant governor shall deposit a fine collected under this part into the General Fund as a

dedicated credit to pay for the costs of administering the provisions of this part.

Section 9. Section 20A-12-301.5 is enacted to read:

20A-12-301.5. Disclosure of actual source or recipient required.

(1) As used in this section, "transactional intermediary" means a person, including a credit card company, a financial institution, or a money transfer service, that pays or transfers money to a person on behalf of another person.

(2) When, under this chapter, a person makes a detailed listing, discloses or reports the source of a contribution, discloses or reports the person or entity to whom a disbursement is made, or discloses or reports the identity of a donor, the person:

(a) shall reveal the actual source of the contribution, the actual person or entity to whom the disbursement is ultimately made, or the actual identity of the donor; and

(b) may not merely list, disclose, or report the transactional intermediary.

Section 10. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 19**H. B. 11**

Passed February 21, 2014

Approved March 20, 2014

Effective March 20, 2014

OVERDOSE REPORTING AMENDMENTS

Chief Sponsor: Carol Spackman Moss

Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill modifies Title 58, Chapter 37, Utah Controlled Substances Act, and Title 76, Utah Criminal Code, regarding penalties for controlled substance violations related to the reporting of an overdose incident.

Highlighted Provisions:

This bill:

- ▶ provides that a person who reports a person's overdose from a controlled substance or other substance may claim an affirmative defense to specified charges of violating the Utah Controlled Substances Act if the person remains with the person who is subject to the overdose and cooperates with responding medical providers and law enforcement officers; and
- ▶ provides that remaining with a person subject to an overdose and cooperating with medical providers and law enforcement is a mitigating factor when determining the penalty for a related violation of the Utah Controlled Substances Act.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.

Utah Code Sections Affected:**AMENDS:**

58-37-8, as last amended by Laws of Utah 2011, Chapter 12

ENACTS:

76-3-203.11, Utah Code Annotated 1953

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

Section 1. Section 58-37-8 is amended to read:**58-37-8. Prohibited acts -- Penalties.**

(1) Prohibited acts A -- Penalties:

(a) Except as authorized by this chapter, it is unlawful for any person to knowingly and intentionally:

(i) produce, manufacture, or dispense, or to possess with intent to produce, manufacture, or dispense, a controlled or counterfeit substance;

(ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or arrange to distribute a controlled or counterfeit substance;

(iii) possess a controlled or counterfeit substance with intent to distribute; or

(iv) engage in a continuing criminal enterprise where:

(A) the person participates, directs, or engages in conduct which results in any violation of any provision of Title 58, Chapters 37, 37a, 37b, 37c, or 37d that is a felony; and

(B) the violation is a part of a continuing series of two or more violations of Title 58, Chapters 37, 37a, 37b, 37c, or 37d on separate occasions that are undertaken in concert with five or more persons with respect to whom the person occupies a position of organizer, supervisor, or any other position of management.

(b) Any person convicted of violating Subsection (1)(a) with respect to:

(i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second degree felony and upon a second or subsequent conviction is guilty of a first degree felony;

(ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree felony, and upon a second or subsequent conviction is guilty of a second degree felony; or

(iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree felony.

(c) Any person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may be sentenced to imprisonment for an indeterminate term as provided by law, but if the trier of fact finds a firearm as defined in Section 76-10-501 was used, carried, or possessed on his person or in his immediate possession during the commission or in furtherance of the offense, the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently.

(d) Any person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree felony punishable by imprisonment for an indeterminate term of not less than seven years and which may be for life. Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(2) Prohibited acts B -- Penalties:

(a) It is unlawful:

(i) for any person knowingly and intentionally to possess or use a controlled substance analog or a controlled substance, unless it was obtained under a valid prescription or order, directly from a practitioner while acting in the course of the person's professional practice, or as otherwise authorized by this chapter;

(ii) for any owner, tenant, licensee, or person in control of any building, room, tenement, vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to be occupied by persons unlawfully possessing, using, or distributing controlled substances in any of those locations; or

(iii) for any person knowingly and intentionally to possess an altered or forged prescription or written order for a controlled substance.

(b) Any person convicted of violating Subsection (2)(a)(i) with respect to:

(i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony;

(ii) a substance classified in Schedule I or II, marijuana, if the amount is more than 16 ounces, but less than 100 pounds, or a controlled substance analog, is guilty of a third degree felony; or

(iii) marijuana, if the marijuana is not in the form of an extracted resin from any part of the plant, and the amount is more than one ounce but less than 16 ounces, is guilty of a class A misdemeanor.

(c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater penalty than provided in this Subsection (2).

(d) Any person who violates Subsection (2)(a)(i) with respect to all other controlled substances not included in Subsection (2)(b)(i), (ii), or (iii), including a substance listed in Section 58-37-4.2, or less than one ounce of marijuana, is guilty of a class B misdemeanor. Upon a second conviction the person is guilty of a class A misdemeanor, and upon a third or subsequent conviction the person is guilty of a third degree felony.

(e) Any person convicted of violating Subsection (2)(a)(i) while inside the exterior boundaries of property occupied by any correctional facility as defined in Section 64-13-1 or any public jail or other place of confinement shall be sentenced to a penalty one degree greater than provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as listed in:

(i) Subsection (2)(b), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and:

(A) the court shall additionally sentence the person convicted to a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) Subsection (2)(d), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted to a term of six months to run consecutively and not concurrently.

(f) Any person convicted of violating Subsection (2)(a)(ii) or (iii) is:

(i) on a first conviction, guilty of a class B misdemeanor;

(ii) on a second conviction, guilty of a class A misdemeanor; and

(iii) on a third or subsequent conviction, guilty of a third degree felony.

(g) A person is subject to the penalties under Subsection (2)(h) who, in an offense not amounting to a violation of Section 76-5-207:

(i) violates Subsection (2)(a)(i) by knowingly and intentionally having in the person's body any measurable amount of a controlled substance; and

(ii) operates a motor vehicle as defined in Section 76-5-207 in a negligent manner, causing serious bodily injury as defined in Section 76-1-601 or the death of another.

(h) A person who violates Subsection (2)(g) by having in the person's body:

(i) a controlled substance classified under Schedule I, other than those described in Subsection (2)(h)(ii), or a controlled substance classified under Schedule II is guilty of a second degree felony;

(ii) marijuana, tetrahydrocannabinols, or equivalents described in Subsection 58-37-4(2)(a)(iii)(S) or (AA), or a substance listed in Section 58-37-4.2 is guilty of a third degree felony; or

(iii) any controlled substance classified under Schedules III, IV, or V is guilty of a class A misdemeanor.

(i) A person is guilty of a separate offense for each victim suffering serious bodily injury or death as a result of the person's negligent driving in violation of Subsection 58-37-8(2)(g) whether or not the injuries arise from the same episode of driving.

(3) Prohibited acts C -- Penalties:

(a) It is unlawful for any person knowingly and intentionally:

(i) to use in the course of the manufacture or distribution of a controlled substance a license number which is fictitious, revoked, suspended, or issued to another person or, for the purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized person;

(ii) to acquire or obtain possession of, to procure or attempt to procure the administration of, to obtain a prescription for, to prescribe or dispense to any person known to be attempting to acquire or obtain possession of, or to procure the administration of any controlled substance by misrepresentation or failure by the person to disclose receiving any controlled substance from another source, fraud, forgery, deception, subterfuge, alteration of a prescription or written

order for a controlled substance, or the use of a false name or address;

(iii) to make any false or forged prescription or written order for a controlled substance, or to utter the same, or to alter any prescription or written order issued or written under the terms of this chapter; or

(iv) to make, distribute, or possess any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling so as to render any drug a counterfeit controlled substance.

(b) Any person convicted of violating Subsection (3)(a) is guilty of a third degree felony.

(4) Prohibited acts D -- Penalties:

(a) Notwithstanding other provisions of this section, a person not authorized under this chapter who commits any act declared to be unlawful under this section, Title 58, Chapter 37a, Utah Drug Paraphernalia Act, or under Title 58, Chapter 37b, Imitation Controlled Substances Act, is upon conviction subject to the penalties and classifications under this Subsection (4) if the trier of fact finds the act is committed:

(i) in a public or private elementary or secondary school or on the grounds of any of those schools;

(ii) in a public or private vocational school or postsecondary institution or on the grounds of any of those schools or institutions;

(iii) in those portions of any building, park, stadium, or other structure or grounds which are, at the time of the act, being used for an activity sponsored by or through a school or institution under Subsections (4)(a)(i) and (ii);

(iv) in or on the grounds of a preschool or child-care facility;

(v) in a public park, amusement park, arcade, or recreation center;

(vi) in or on the grounds of a house of worship as defined in Section 76-10-501;

(vii) in a shopping mall, sports facility, stadium, arena, theater, movie house, playhouse, or parking lot or structure adjacent thereto;

(viii) in or on the grounds of a library;

(ix) within any area that is within 1,000 feet of any structure, facility, or grounds included in Subsections (4)(a)(i), (ii), (iv), (vi), and (vii);

(x) in the presence of a person younger than 18 years of age, regardless of where the act occurs; or

(xi) for the purpose of facilitating, arranging, or causing the transport, delivery, or distribution of a substance in violation of this section to an inmate or on the grounds of any correctional facility as defined in Section 76-8-311.3.

(b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony and shall be imprisoned for a term of not less than five years if the penalty that would otherwise have been established but for this Subsection (4) would have been a first degree felony.

(ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(c) If the classification that would otherwise have been established would have been less than a first degree felony but for this Subsection (4), a person convicted under this Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that offense. This Subsection (4)(c) does not apply to a violation of Subsection (2)(g).

(d) (i) If the violation is of Subsection (4)(a)(xi):

(A) the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) the penalties under this Subsection (4)(d) apply also to any person who, acting with the mental state required for the commission of an offense, directly or indirectly solicits, requests, commands, coerces, encourages, or intentionally aids another person to commit a violation of Subsection (4)(a)(xi).

(e) It is not a defense to a prosecution under this Subsection (4) that the actor mistakenly believed the individual to be 18 years of age or older at the time of the offense or was unaware of the individual's true age; nor that the actor mistakenly believed that the location where the act occurred was not as described in Subsection (4)(a) or was unaware that the location where the act occurred was as described in Subsection (4)(a).

(5) Any violation of this chapter for which no penalty is specified is a class B misdemeanor.

(6) For purposes of penalty enhancement under Subsections (1)(b) and (2)(c), a plea of guilty or no contest to a violation of this section which is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(7) A person may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this chapter.

(8) (a) Any penalty imposed for violation of this section is in addition to, and not in lieu of, any civil or administrative penalty or sanction authorized by law.

(b) Where violation of this chapter violates a federal law or the law of another state, conviction or

acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state.

(9) In any prosecution for a violation of this chapter, evidence or proof which shows a person or persons produced, manufactured, possessed, distributed, or dispensed a controlled substance or substances, is prima facie evidence that the person or persons did so with knowledge of the character of the substance or substances.

(10) This section does not prohibit a veterinarian, in good faith and in the course of the veterinarian's professional practice only and not for humans, from prescribing, dispensing, or administering controlled substances or from causing the substances to be administered by an assistant or orderly under the veterinarian's direction and supervision.

(11) Civil or criminal liability may not be imposed under this section on:

(a) any person registered under this chapter who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or investigational new drug by a registered practitioner in the ordinary course of professional practice or research; or

(b) any law enforcement officer acting in the course and legitimate scope of the officer's employment.

(12) (a) Civil or criminal liability may not be imposed under this section on any Indian, as defined in Subsection 58-37-2(1)(v), who uses, possesses, or transports peyote for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion as defined in Subsection 58-37-2(1)(w).

(b) In a prosecution alleging violation of this section regarding peyote as defined in Subsection 58-37-4(2)(a)(iii)(V), it is an affirmative defense that the peyote was used, possessed, or transported by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion.

(c) (i) The defendant shall provide written notice of intent to claim an affirmative defense under this Subsection (12) as soon as practicable, but not later than 10 days prior to trial.

(ii) The notice shall include the specific claims of the affirmative defense.

(iii) The court may waive the notice requirement in the interest of justice for good cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

(d) The defendant shall establish the affirmative defense under this Subsection (12) by a preponderance of the evidence. If the defense is established, it is a complete defense to the charges.

(13) (a) It is an affirmative defense that the person produced, possessed, or administered a

controlled substance listed in Section 58-37-4.2 if the person:

(i) was engaged in medical research; and

(ii) was a holder of a valid license to possess controlled substances under Section 58-37-6.

(b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed a controlled substance listed in Section 58-37-4.2.

(14) It is an affirmative defense that the person possessed, in the person's body, a controlled substance listed in Section 58-37-4.2 if:

(a) the person was the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-6; and

(b) the substance was administered to the person by the medical researcher.

(15) (a) It is an affirmative defense to an allegation of the commission of an offense listed in Subsection (15)(b) that the person:

(i) reasonably believes that the person or another person is experiencing an overdose event due to the ingestion, injection, inhalation, or other introduction into the human body of a controlled substance or other substance;

(ii) reports in good faith the overdose event to a medical provider, an emergency medical service provider as defined in Section 26-8a-102, a law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the person is the subject of a report made under this Subsection (15);

(iii) provides in the report under Subsection (15)(a)(ii) a functional description of the actual location of the overdose event that facilitates responding to the person experiencing the overdose event;

(iv) remains at the location of the person experiencing the overdose event until a responding law enforcement officer or emergency medical service provider arrives, or remains at the medical care facility where the person experiencing an overdose event is located until a responding law enforcement officer arrives;

(v) cooperates with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the person experiencing the overdose event and any substances the person may have injected, inhaled, or otherwise introduced into the person's body; and

(vi) is alleged to have committed the offense in the same course of events from which the reported overdose arose.

(b) The offenses referred to in Subsection (15)(a) are:

(i) the possession or use of less than 16 ounces of marijuana;

(ii) the possession or use of a scheduled or listed controlled substance other than marijuana; and

(iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b, Imitation Controlled Substances Act.

(c) As used in this Subsection (15) and in Section 76-3-203.11, "good faith" does not include seeking medical assistance under this section during the course of a law enforcement agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

[45] (16) If any provision of this chapter, or the application of any provision to any person or circumstances, is held invalid, the remainder of this chapter shall be given effect without the invalid provision or application.

[46] (17) A legislative body of a political subdivision may not enact an ordinance that is less restrictive than any provision of this chapter.

Section 2. Section 76-3-203.11 is enacted to read:

76-3-203.11. Reporting an overdose -- Mitigating factor.

It is a mitigating factor in sentencing for an offense under Title 58, Chapter 37, Utah Controlled Substances Act, that the person:

(1) reasonably believes that the person or another person is experiencing an overdose event due to the ingestion, injection, inhalation, or other introduction into the human body of a controlled substance or other substance;

(2) reports in good faith the overdose event to a medical provider, an emergency medical service provider as defined in Section 26-8a-102, a law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the person is the subject of a report made under this section;

(3) provides in the report under Subsection (2) a functional description of the location of the actual overdose event that facilitates responding to the person experiencing the overdose event;

(4) remains at the location of the person experiencing the overdose event until a responding law enforcement officer or emergency medical service provider arrives, or remains at the medical care facility where the person experiencing an overdose event is located until a responding law enforcement officer arrives;

(5) cooperates with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the person experiencing the overdose event and any substances the person may have injected, inhaled, or otherwise introduced into the person's body; and

(6) committed the offense in the same course of events from which the reported overdose arose.

Section 3. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the

constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 20**H. B. 19**

Passed March 11, 2014
 Approved March 20, 2014
 Effective May 13, 2014

**ELECTRIC VEHICLE BATTERY
 CHARGING SERVICE AMENDMENTS**

Chief Sponsor: Patrice M. Arent
 Senate Sponsor: Ralph Okerlund
 Cosponsors: Jennifer M. Seelig
 Tim M. Cosgrove
 Rebecca Chavez-Houck
 Joel K. Briscoe
 Stewart Barlow
 Roger E. Barrus
 Kay J. Christofferson
 Jack R. Draxler
 Rebecca P. Edwards
 Steve Eliason
 Janice M. Fisher
 Brian M. Greene
 Craig Hall
 Stephen G. Handy
 Lynn N. Hemingway
 Brian S. King
 John Knotwell
 Bradley G. Last
 Carol Spackman Moss
 Merrill F. Nelson
 Jim Nielson
 Curtis Oda
 Lee B. Perry
 Marie H. Poulson
 Kraig Powell
 Edward H. Redd
 Angela Romero
 V. Lowry Snow
 Robert M. Spendlove
 John R. Westwood
 Mark A. Wheatley
 Ryan D. Wilcox
 Larry B. Wiley

LONG TITLE**General Description:**

This bill amends Title 54, Public Utilities.

Highlighted Provisions:

This bill:

- ▶ provides that the definitions of "electrical corporation" and "public utility" do not include certain entities that sell electric vehicle battery charging services.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

54-2-1, as last amended by Laws of Utah 2010, Chapters 302 and 390

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

Section 1. Section 54-2-1 is amended to read:

54-2-1. Definitions.

As used in this title:

(1) "Avoided costs" means the incremental costs to an electrical corporation of electric energy or capacity or both that, due to the purchase of electric energy or capacity or both from small power production or cogeneration facilities, the electrical corporation would not have to generate itself or purchase from another electrical corporation.

(2) "Cogeneration facility":

(a) means a facility that produces:

(i) electric energy; and

(ii) steam or forms of useful energy, including heat, that are used for industrial, commercial, heating, or cooling purposes; and

(b) is a qualifying cogeneration facility under federal law.

(3) "Commission" means the Public Service Commission of Utah.

(4) "Commissioner" means a member of the commission.

(5) (a) "Corporation" includes an association and a joint stock company having any powers or privileges not possessed by individuals or partnerships.

(b) "Corporation" does not include towns, cities, counties, conservancy districts, improvement districts, or other governmental units created or organized under any general or special law of this state.

(6) "Distribution electrical cooperative" includes an electrical corporation that:

(a) is a cooperative;

(b) conducts a business that includes the retail distribution of electricity the cooperative purchases or generates for the cooperative's members; and

(c) is required to allocate or distribute savings in excess of additions to reserves and surplus on the basis of patronage to the cooperative's:

(i) members; or

(ii) patrons.

(7) (a) "Electrical corporation" includes every corporation, cooperative association, and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any electric plant, or in any way furnishing electric power for public service or to its consumers or members for domestic, commercial, or industrial use, within this state, except independent energy producers, and except where electricity is generated on or distributed by the producer solely for the producer's own use, or the use of the producer's tenants, or for the use of members of an association of unit owners formed under Title 57, Chapter 8, Condominium

Ownership Act, and not for sale to the public generally, and except where the electricity generated is consumed by an owner, lessor, or interest holder, or by an affiliate of an owner, lessor, or interest holder, who has provided at least \$25,000,000 in value, including credit support, relating to the electric plant furnishing the electricity and whose consumption does not exceed its long-term entitlement in the plant under a long-term arrangement other than a power purchase agreement, except a power purchase agreement with an electrical corporation.

(b) "Electrical corporation" does not include an entity that sells electric vehicle battery charging services, unless the entity conducts another activity in the state that subjects the entity to the jurisdiction and regulation of the commission as an electrical corporation.

(8) "Electric plant" includes all real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate the production, generation, transmission, delivery, or furnishing of electricity for light, heat, or power, and all conduits, ducts, or other devices, materials, apparatus, or property for containing, holding, or carrying conductors used or to be used for the transmission of electricity for light, heat, or power.

(9) "Gas corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any gas plant for public service within this state or for the selling or furnishing of natural gas to any consumer or consumers within the state for domestic, commercial, or industrial use, except in the situation that:

(a) gas is made or produced on, and distributed by the maker or producer through, private property:

(i) solely for the maker's or producer's own use or the use of the maker's or producer's tenants; and

(ii) not for sale to others;

(b) gas is compressed on private property solely for the owner's own use or the use of the owner's employees as a motor vehicle fuel; or

(c) gas is compressed by a retailer of motor vehicle fuel on the retailer's property solely for sale as a motor vehicle fuel.

(10) "Gas plant" includes all real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate the production, generation, transmission, delivery, or furnishing of gas, natural or manufactured, for light, heat, or power.

(11) "Heat corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any heating plant for public service within this state.

(12) (a) "Heating plant" includes all real estate, fixtures, machinery, appliances, and personal property controlled, operated, or managed in

connection with or to facilitate the production, generation, transmission, delivery, or furnishing of artificial heat.

(b) "Heating plant" does not include either small power production facilities or cogeneration facilities.

(13) "Independent energy producer" means every electrical corporation, person, corporation, or government entity, their lessees, trustees, or receivers, that own, operate, control, or manage an independent power production or cogeneration facility.

(14) "Independent power production facility" means a facility that:

(a) produces electric energy solely by the use, as a primary energy source, of biomass, waste, a renewable resource, a geothermal resource, or any combination of the preceding sources; or

(b) is a qualifying power production facility.

(15) "Private telecommunications system" includes all facilities for the transmission of signs, signals, writing, images, sounds, messages, data, or other information of any nature by wire, radio, lightwaves, or other electromagnetic means, excluding mobile radio facilities, that are owned, controlled, operated, or managed by a corporation or person, including their lessees, trustees, receivers, or trustees appointed by any court, for the use of that corporation or person and not for the shared use with or resale to any other corporation or person on a regular basis.

(16) (a) "Public utility" includes every railroad corporation, gas corporation, electrical corporation, distribution electrical cooperative, wholesale electrical cooperative, telephone corporation, telegraph corporation, water corporation, sewerage corporation, heat corporation, and independent energy producer not described in Subsection (16)(d), where the service is performed for, or the commodity delivered to, the public generally, or in the case of a gas corporation or electrical corporation where the gas or electricity is sold or furnished to any member or consumers within the state for domestic, commercial, or industrial use.

(b) (i) If any railroad corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewerage corporation, heat corporation, or independent energy producer not described in Subsection (16)(d), performs a service for or delivers a commodity to the public, it is considered to be a public utility, subject to the jurisdiction and regulation of the commission and this title.

(ii) If a gas corporation, independent energy producer not described in Subsection (16)(d), or electrical corporation sells or furnishes gas or electricity to any member or consumers within the state, for domestic, commercial, or industrial use, for which any compensation or payment is received, it is considered to be a public utility, subject to the jurisdiction and regulation of the commission and this title.

(c) Any corporation or person not engaged in business exclusively as a public utility as defined in

this section is governed by this title in respect only to the public utility owned, controlled, operated, or managed by the corporation or person, and not in respect to any other business or pursuit.

(d) An independent energy producer is exempt from the jurisdiction and regulations of the commission with respect to an independent power production facility if it meets the requirements of Subsection (16)(d)(i), (ii), (iii), or (iv), or any combination of these:

(i) the commodity or service is produced or delivered, or both, by an independent energy producer solely for the uses exempted in Subsection (7) or for the use of state-owned facilities;

(ii) the commodity or service is sold by an independent energy producer solely to an electrical corporation or other wholesale purchaser;

(iii) (A) the commodity or service produced or delivered by the independent energy producer is delivered to an entity that controls, is controlled by, or affiliated with the independent energy producer or to a user located on real property managed or controlled by the independent energy producer; and

(B) the real property on which the service or commodity is used is contiguous to real property which is owned or controlled by the independent energy producer. Parcels of real property separated solely by public roads or easements for public roads shall be considered as contiguous for purposes of this Subsection (16); or

(iv) the independent energy producer:

(A) supplies energy for direct consumption by a customer that is:

(I) a county, municipality, city, town, other political subdivision, local district, special service district, state institution of higher education, school district, charter school, or any entity within the state system of public education; or

(II) an entity qualifying as a charitable organization under 26 U.S.C. Sec. 501(c)(3) operated for religious, charitable, or educational purposes that is exempt from federal income tax and able to demonstrate its tax-exempt status;

(B) supplies energy to the customer through use of a customer generation system, as defined in Section 54-15-102, for use on the real property where the customer generation system is located;

(C) supplies energy using a customer generation system designed to supply the lesser of:

(I) no more than 90% of the average annual consumption of electricity by the customer at that site, based on an annualized billing period; or

(II) the maximum size allowable under net metering provisions, defined in Section 54-15-102;

(D) notifies the customer before installing the customer generation system of:

(I) all costs the customer is required to pay for the customer generation system, including any interconnection costs; and

(II) the potential for future changes in amounts paid by the customer for energy received from the public utility and the possibility of changes to the customer fees or charges to the customer associated with net metering and generation;

(E) enters into and performs in accordance with an interconnection agreement with a public utility providing retail electric service where the real property on which the customer generation system is located, with the rates, terms, and conditions of the retail service and interconnection agreement subject to approval by the governing authority of the public utility, as defined in Subsection 54-15-102(8); and

(F) installs the relevant customer generation system by December 31, 2015.

(e) Any person or corporation defined as an electrical corporation or public utility under this section may continue to serve its existing customers subject to any order or future determination of the commission in reference to the right to serve those customers.

(f) (i) "Public utility" does not include any person that is otherwise considered a public utility under this Subsection (16) solely because of that person's ownership of an interest in an electric plant, cogeneration facility, or small power production facility in this state if all of the following conditions are met:

(A) the ownership interest in the electric plant, cogeneration facility, or small power production facility is leased to:

(I) a public utility, and that lease has been approved by the commission;

(II) a person or government entity that is exempt from commission regulation as a public utility; or

(III) a combination of Subsections (16)(f)(i)(A)(I) and (II);

(B) the lessor of the ownership interest identified in Subsection (16)(f)(i)(A) is:

(I) primarily engaged in a business other than the business of a public utility; or

(II) a person whose total equity or beneficial ownership is held directly or indirectly by another person engaged in a business other than the business of a public utility; and

(C) the rent reserved under the lease does not include any amount based on or determined by revenues or income of the lessee.

(ii) Any person that is exempt from classification as a public utility under Subsection (16)(f)(i) shall continue to be so exempt from classification following termination of the lessee's right to possession or use of the electric plant for so long as the former lessor does not operate the electric plant or sell electricity from the electric plant. If the former lessor operates the electric plant or sells

electricity, the former lessor shall continue to be so exempt for a period of 90 days following termination, or for a longer period that is ordered by the commission. This period may not exceed one year. A change in rates that would otherwise require commission approval may not be effective during the 90-day or extended period without commission approval.

(g) "Public utility" does not include any person that provides financing for, but has no ownership interest in an electric plant, small power production facility, or cogeneration facility. In the event of a foreclosure in which an ownership interest in an electric plant, small power production facility, or cogeneration facility is transferred to a third-party financier of an electric plant, small power production facility, or cogeneration facility, then that third-party financier is exempt from classification as a public utility for 90 days following the foreclosure, or for a longer period that is ordered by the commission. This period may not exceed one year.

(h) (i) The distribution or transportation of natural gas for use as a motor vehicle fuel does not cause the distributor or transporter to be a "public utility," unless the commission, after notice and a public hearing, determines by rule that it is in the public interest to regulate the distributors or transporters, but the retail sale alone of compressed natural gas as a motor vehicle fuel may not cause the seller to be a "public utility."

(ii) In determining whether it is in the public interest to regulate the distributors or transporters, the commission shall consider, among other things, the impact of the regulation on the availability and price of natural gas for use as a motor fuel.

(i) "Public utility" does not include any corporation, cooperative association, or person, their affiliates, lessees, trustees, or receivers, owning, controlling, operating, or managing an electric plant or in any way furnishing electricity if the electricity is consumed by an owner, lessor, or interest holder or by an affiliate of an owner, lessor, or interest holder, who has provided at least \$25,000,000 in value, including credit support, relating to the electric plant furnishing the electricity and whose consumption does not exceed its long-term entitlement in the plant under a long-term arrangement other than a power purchase agreement, except a power purchase agreement with an electrical corporation.

(j) "Public utility" does not include an entity that sells electric vehicle battery charging services, unless the entity conducts another activity in the state that subjects the entity to the jurisdiction and regulation of the commission as a public utility.

(17) "Purchasing utility" means any electrical corporation that is required to purchase electricity from small power production or cogeneration facilities pursuant to the Public Utility Regulatory Policies Act, 16 U.S.C. Section 824a-3.

(18) "Qualifying power producer" means a corporation, cooperative association, or person, or the lessee, trustee, and receiver of the corporation, cooperative association, or person, who owns, controls, operates, or manages any qualifying power production facility or cogeneration facility.

(19) "Qualifying power production facility" means a facility that:

(a) produces electrical energy solely by the use, as a primary energy source, of biomass, waste, a renewable resource, a geothermal resource, or any combination of the preceding sources;

(b) has a power production capacity that, together with any other facilities located at the same site, is no greater than 80 megawatts; and

(c) is a qualifying small power production facility under federal law.

(20) "Railroad" includes every commercial, interurban, and other railway, other than a street railway, and each branch or extension of a railway, by any power operated, together with all tracks, bridges, trestles, rights-of-way, subways, tunnels, stations, depots, union depots, yards, grounds, terminals, terminal facilities, structures, and equipment, and all other real estate, fixtures, and personal property of every kind used in connection with a railway owned, controlled, operated, or managed for public service in the transportation of persons or property.

(21) "Railroad corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any railroad for public service within this state.

(22) (a) "Sewerage corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any sewerage system for public service within this state.

(b) "Sewerage corporation" does not include private sewerage companies engaged in disposing of sewage only for their stockholders, or towns, cities, counties, conservancy districts, improvement districts, or other governmental units created or organized under any general or special law of this state.

(23) "Telegraph corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any telegraph line for public service within this state.

(24) "Telegraph line" includes all conduits, ducts, poles, wires, cables, instruments, and appliances, and all other real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate communication by telegraph, whether that communication be had with or without the use of transmission wires.

(25) (a) "Telephone corporation" means any corporation or person, and their lessees, trustee, receivers, or trustees appointed by any court, who owns, controls, operates, manages, or resells a

public telecommunications service as defined in Section 54-8b-2.

(b) "Telephone corporation" does not mean a corporation, partnership, or firm providing:

(i) intrastate telephone service offered by a provider of cellular, personal communication systems (PCS), or other commercial mobile radio service as defined in 47 U.S.C. Sec. 332 that has been issued a covering license by the Federal Communications Commission;

(ii) Internet service; or

(iii) resold intrastate toll service.

(26) "Telephone line" includes all conduits, ducts, poles, wires, cables, instruments, and appliances, and all other real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate communication by telephone whether that communication is had with or without the use of transmission wires.

(27) "Transportation of persons" includes every service in connection with or incidental to the safety, comfort, or convenience of the person transported, and the receipt, carriage, and delivery of that person and that person's baggage.

(28) "Transportation of property" includes every service in connection with or incidental to the transportation of property, including in particular its receipt, delivery, elevation, transfer, switching, carriage, ventilation, refrigeration, icing, dunnage, storage, and hauling, and the transmission of credit by express companies.

(29) "Water corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any water system for public service within this state. It does not include private irrigation companies engaged in distributing water only to their stockholders, or towns, cities, counties, water conservancy districts, improvement districts, or other governmental units created or organized under any general or special law of this state.

(30) (a) "Water system" includes all reservoirs, tunnels, shafts, dams, dikes, headgates, pipes, flumes, canals, structures, and appliances, and all other real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate the diversion, development, storage, supply, distribution, sale, furnishing, carriage, appointment, apportionment, or measurement of water for power, fire protection, irrigation, reclamation, or manufacturing, or for municipal, domestic, or other beneficial use.

(b) "Water system" does not include private irrigation companies engaged in distributing water only to their stockholders.

(31) "Wholesale electrical cooperative" includes every electrical corporation that is:

(a) in the business of the wholesale distribution of electricity it has purchased or generated to its members and the public; and

(b) required to distribute or allocate savings in excess of additions to reserves and surplus to members or patrons on the basis of patronage.

CHAPTER 21**H. B. 28**

Passed February 13, 2014

Approved March 20, 2014

Effective May 13, 2014

**WILDLIFE LICENSE
EXPIRATION AMENDMENTS**Chief Sponsor: Michael E. Noel
Senate Sponsor: Allen M. Christensen**LONG TITLE****General Description:**

This bill amends Title 23, Chapter 19, Licenses, Permits, and Tags, by modifying hunting and fishing license expiration date provisions.

Highlighted Provisions:

This bill:

- ▶ amends hunting and fishing license expiration date provisions.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

23-19-7, as last amended by Laws of Utah 2004,
Chapter 346

23-19-21, as last amended by Laws of Utah 2007,
Chapter 187

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

Section 1. Section 23-19-7 is amended to read:**23-19-7. Expiration date of licenses, permits, and certificates of registration.**

(1) The [~~licenses~~] Wildlife Board shall establish the term and expiration date for a license, permit, and certificate of registration issued under this [~~chapter, except lifetime licenses, will expire 365 days from the date of issue~~] title.

(2) The division shall indicate the term and expiration date established under Subsection (1) on each license, permit, and certificate of registration.

Section 2. Section 23-19-21 is amended to read:**23-19-21. Fishing license.**

(1) A person 12 years of age or older shall purchase a fishing license before engaging in [~~any~~] a regulated fishing activity.

(2) [~~A person 12 years of age or older, upon~~] Upon paying the fee prescribed by the Wildlife Board, a person may obtain a license to fish[~~;~~] and engage in a regulated fishing activity in accordance with the rules, proclamations, and orders of the Wildlife Board.

~~[(a) for one day;]~~

~~[(b) for seven consecutive days; or]~~

~~[(c) for 365 consecutive days from the date of sale.]~~

(3) A person under 12 years of age may fish without a license [~~according to~~] in accordance with the rules, proclamations, and orders [~~set forth by~~] of the Wildlife Board.

~~[(4) The effective date shall be indicated on the license.]~~

CHAPTER 22**H. B. 29**

Passed February 24, 2014

Approved March 20, 2014

Effective May 13, 2014

**COUNTY RECORDER
INDEX AMENDMENTS**Chief Sponsor: R. Curt Webb
Senate Sponsor: Ralph Okerlund**LONG TITLE****General Description:**

This bill amends Title 17, Chapter 21, Recorder.

Highlighted Provisions:

This bill:

- ▶ requires county recorders to keep an index of certain water right numbers.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**17-21-6, as last amended by Laws of Utah 2011,
Chapter 88*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 17-21-6 is amended to read:****17-21-6. General duties of recorder --
Records and indexes.**

(1) Each recorder shall:

(a) keep an entry record, in which the recorder shall, upon acceptance and recording of any instrument, enter the instrument in the order of its recording, the names of the parties to the instrument, its date, the hour, the day of the month and the year of recording, and a brief description, and endorse upon each instrument a number corresponding with the number of the entry;

(b) keep a grantors' index, in which the recorder shall index deeds and final judgments or decrees partitioning or affecting the title to or possession of real property, which shall show the entry number of the instrument, the name of each grantor in alphabetical order, the name of the grantee, the date of the instrument, the time of recording, the kind of instrument, the book and page, and a brief description;

(c) keep a grantees' index, in which the recorder shall index deeds and final judgments or decrees partitioning or affecting the title to or possession of real property, which shall show the entry number of the instrument, the name of each grantee in alphabetical order, the name of the grantor, the date of the instrument, the time of recording, the kind of instrument, the book and page, and a brief description;

(d) keep a mortgagors' index, in which the recorder shall enter all mortgages, deeds of trust, liens, and other instruments in the nature of an encumbrance upon real estate, which shall show the entry number of the instrument, the name of each mortgagor, debtor, or person charged with the encumbrance in alphabetical order, the name of the mortgagee, lien holder, creditor, or claimant, the date of the instrument, the time of recording, the instrument, consideration, the book and page, and a brief description;

(e) keep a mortgagees' index, in which the recorder shall enter all mortgages, deeds of trust, liens, and other instruments in the nature of an encumbrance upon real estate, which shall show the entry number of the instrument, the name of each mortgagee, lien holder, creditor, or claimant, in alphabetical order, the name of the mortgagor or person charged with the encumbrance, the date of the instrument, the time of recording, the kind of instrument, the consideration, the book and page, and a brief description;

(f) subject to Subsection (3), keep a tract index, which shall show by description every instrument recorded, the date and the kind of instrument, the time of recording, and the book and page and entry number;

(g) keep an index of recorded maps, plats, and subdivisions;

(h) keep an index of powers of attorney showing the date and time of recording, the book, the page, and the entry number;

(i) keep a miscellaneous index, in which the recorder shall enter all instruments of a miscellaneous character not otherwise provided for in this section, showing the date of recording, the book, the page, the entry number, the kind of instrument, from, to, and the parties;

(j) keep an index of judgments showing the judgment debtors, the judgment creditors, the amount of judgment, the date and time of recording, the satisfaction, and the book, the page, and the entry number; ~~and~~

(k) keep a general recording index in which the recorder shall index all executions and writs of attachment, and any other instruments not required by law to be spread upon the records, and in separate columns the recorder shall enter the names of the plaintiffs in the execution and the names of the defendants in the execution[-]; and

(l) keep an index of water right numbers that are included on an instrument recorded on or after May 13, 2014, showing the date and time of recording, the book and the page or the entry number, and the kind of instrument.

(2) The recorder shall alphabetically arrange the indexes required by this section and keep a reverse index.

(3) (a) The tract index required by Subsection (1)(f) shall be kept so that it shows a true chain of title to each tract or parcel, together with each encumbrance on the tract or parcel, according to the records of the office.

(b) A recorder shall abstract an instrument in the tract index unless:

(i) the instrument is required to contain a legal description under Section 17-21-20 or Section 57-3-105 and does not contain that legal description; or

(ii) the instrument contains errors, omissions, or defects to the extent that the tract or parcel to which the instrument relates cannot be determined.

(c) If a recorder abstracts an instrument in the tract index or another index required by this section, the recorder may:

(i) use a tax parcel number;

(ii) use a site address;

(iii) reference to other instruments of record recited on the instrument; or

(iv) reference another instrument that is recorded concurrently with the instrument.

(d) A recorder is not required to go beyond the face of an instrument to determine the tract or parcel to which an instrument may relate.

(e) A person may not bring an action against a recorder for injuries or damages suffered as a result of information contained in an instrument recorded in a tract index or other index that is required by this section despite errors, omissions, or defects in the instrument.

(f) The fact that a recorded instrument described in Subsection (3)(e) is included in the tract index does not cure a failure to give public notice caused by an error, omission, or defect.

(g) A document that is indexed in all or part of the indexes required by this section shall give constructive notice.

(4) Nothing in this section prevents the recorder from using a single name index if that index includes all of the indexes required by this section.

CHAPTER 23**H. B. 30**

Passed February 20, 2014

Approved March 20, 2014

Effective March 20, 2014

**CONTROLLED
SUBSTANCES AMENDMENTS**

Chief Sponsor: Paul Ray

Senate Sponsor: Allen M. Christensen

LONG TITLE**General Description:**

This bill modifies Title 58, Chapter 37, Utah Controlled Substances Act, by adding controlled substances.

Highlighted Provisions:

This bill:

- ▶ adds new "spice" and emerging drug analogs to the listed controlled substances.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.

Utah Code Sections Affected:**AMENDS:**

58-37-4.2, as last amended by Laws of Utah 2013, Chapters 83 and 88

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

Section 1. Section 58-37-4.2 is amended to read:**58-37-4.2. Listed controlled substances.**

The following substances, their analogs, homologs, and synthetic equivalents are listed controlled substances:

(1) AB-001;

(2) AB-PINACA; N-[1-(aminocarbonyl)-2-methylpropyl]-1-pentyl-1H-indazole-3-carboxamide;

(3) AB-FUBINACA; N-[1-(aminocarbonyl)-2-methylpropyl]-1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamide;

(4) AKB48;

(5) alpha-Pyrrolidinovalerophenone (alpha-PVP);

(6) AM-694; 1-[(5-fluoropentyl)-1H-indol-3-yl]-(2-iodophenyl)methanone;

(7) AM-1248;

(8) AM-2201; 1-(5-fluoropentyl)-3-(1-naphthoyl)indole;

(9) AM-2233;

(10) AM-679;

(11) A796,260;

(12) Butylone;

(13) CP 47,497 and its C6, C8, and C9 homologs; 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol;

(14) Diisopropyltryptamine (DiPT);

(15) Ethylone;

(16) Ethylphenidate;

(17) Fluoroisocathinone;

(18) Fluoromethamphetamine;

(19) Fluoromethcathinone;

(20) HU-210; (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol;

(21) HU-211; Dexanabinol, (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol;

(22) JWH-015; (2-methyl-1-propyl-1H-indol-3-yl)-1-naphthalenyl-methanone;

(23) JWH-018; Naphthalen-1-yl-(pentylindol-3-yl)methanone (also known as 1-Pentyl-3-(1-naphthoyl)indole);

(24) JWH-019; 1-hexyl-3-(1-naphthoyl)indole;

(25) JWH-073; Naphthalen-1-yl(1-butylindol-3-yl)methanone (also known as 1-Butyl-3-(1-naphthoyl)indole);

(26) JWH-081; 4-methoxynaphthalen-1-yl-(1-pentylindol-3-yl)methanone;

(27) JWH-122; CAS#619294-47-2; (1-Pentyl-3-(4-methyl-1-naphthoyl)indole);

(28) JWH-200; 1-(2-(4-(morpholinyl)ethyl))-3-(1-naphthoyl)indole;

(29) JWH-203; 1-pentyl-3-(2-chlorophenylacetyl)indole;

(30) JWH-210; 4-ethyl-1-naphthalenyl(1-pentyl-1H-indol-3-yl)-methanone;

(31) JWH-250; 1-pentyl-3-(2-methoxyphenylacetyl)indole;

(32) JWH-251; 2-(2-methylphenyl)-1-(1-pentyl-1H-indol-3-yl)ethanone;

(33) JWH-398; 1-pentyl-3-(4-chloro-1-naphthoyl)indole;

(34) MAM-2201;

(35) MAM-2201; 1-(5-fluoropentyl)-1H-indol-3-yl(4-ethyl-1-naphthalenyl)-methanone;

(36) Methoxetamine;

(37) Naphyrone;

(38) PB-22; 1-pentyl-1H-indole-3-carboxylic acid 8-quinolinyl ester;

[~~(35)~~] (39) Pentedrone;

[~~(36)~~] (40) Pentylone;

[~~(37)~~] (41) RCS-4; 1-pentyl-3-(4-methoxybenzoyl)indole;

[~~(38)~~] (42) RCS-8; 1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole {also known as BTW-8 and SR-18};

[~~(39)~~] (43) STS-135;

[~~(40)~~] (44) UR-144;

[~~(41)~~] (45) UR-144 N-(5-chloropentyl) analog;

[~~(42)~~] (46) XLR11;

[~~(43)~~] (47) 2C-C;

[~~(44)~~] (48) 2C-D;

[~~(45)~~] (49) 2C-E;

[~~(46)~~] (50) 2C-H;

[~~(47)~~] (51) 2C-I;

[~~(48)~~] (52) 2C-N;

[~~(49)~~] (53) 2C-P;

[~~(50)~~] (54) 2C-T-2;

[~~(51)~~] (55) 2C-T-4;

[~~(52)~~] (56) 2NE1;

[~~(53)~~] (57) 25I-NBOMe;

[~~(54)~~] (58) 2,5-Dimethoxy-4-chloroamphetamine (DOC);

[~~(55)~~] (59) 4-methylmethcathinone {also known as mephedrone};

[~~(56)~~] (60) 3,4-methylenedioxypyrovalerone {also known as MDPV};

[~~(57)~~] (61) 3,4-Methylenedioxymethcathinone {also known as methylone};

[~~(58)~~] (62) 4-methoxymethcathinone;

[~~(59)~~] (63) 4-Methyl-alpha-pyrrolidinopropiophenone;

[~~(60)~~] (64) 4-Methylethcathinone;

[~~(61)~~] (65) 5F-AKB48; 1-(5-fluoropentyl)-N-tricyclo[3.3.1.1.3,7]dec-1-yl-1H-indazole-3-carboxamide;

(66) 5-fluoro-PB-22; 1-(5-fluoropentyl)-1H-indole-3-carboxylic acid 8-quinolinyl ester;

[~~(62)~~] (67) 5-Iodo-2-aminoindane (5-IAI);

[~~(63)~~] (68) 5-MeO-DALT;

[~~(64)~~] (69) 25B-NBOMe; 2-(*r*-bromo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine; ~~and~~

[~~(65)~~] (70) 25C-NBOMe; 2-(4Chloro-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine[-]; and

(71) 25H-NBOMe; 2-(2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine.

Section 2. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 24**H. B. 31**

Passed March 6, 2014
 Approved March 20, 2014
 Effective May 13, 2014

POLLUTION CONTROL AMENDMENTS

Chief Sponsor: Ryan D. Wilcox
 Senate Sponsor: Deidre M. Henderson

LONG TITLE**General Description:**

This bill addresses provisions related to pollution control.

Highlighted Provisions:

This bill:

- ▶ addresses definitions;
- ▶ repeals provisions related to pollution control;
- ▶ enacts the Pollution Control Act chapter, including:
 - defining terms;
 - addressing a sales and use tax exemption related to pollution control;
 - addressing the process for claiming a refund of sales and use taxes paid;
 - addressing the certification process for purposes of the sales and use tax exemption;
 - addressing the revocation of certification; and
 - addressing rulemaking authority by the Air Quality Board or Water Quality Board; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

19-2-102, as last amended by Laws of Utah 2012, Chapter 360
 59-1-1410, as last amended by Laws of Utah 2012, Chapter 424
 59-12-104, as last amended by Laws of Utah 2013, Chapters 82, 223, 229, 234, and 441

ENACTS:

19-12-101, Utah Code Annotated 1953
 19-12-102, Utah Code Annotated 1953
 19-12-201, Utah Code Annotated 1953
 19-12-202, Utah Code Annotated 1953
 19-12-203, Utah Code Annotated 1953
 19-12-301, Utah Code Annotated 1953
 19-12-302, Utah Code Annotated 1953
 19-12-303, Utah Code Annotated 1953
 19-12-304, Utah Code Annotated 1953
 19-12-305, Utah Code Annotated 1953

REPEALS:

19-2-123, as renumbered and amended by Laws of Utah 1991, Chapter 112
 19-2-124, as last amended by Laws of Utah 2011, Chapter 142
 19-2-125, as last amended by Laws of Utah 2008, Chapter 30
 19-2-126, as last amended by Laws of Utah 1994, Chapter 135
 19-2-127, as renumbered and amended by Laws of Utah 1991, Chapter 112

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

Section 1. Section 19-2-102 is amended to read:**19-2-102. Definitions.**

As used in this chapter:

- (1) "Air contaminant" means any particulate matter or any gas, vapor, suspended solid, or any combination of them, excluding steam and water vapors.
- (2) "Air contaminant source" means all sources of emission of air contaminants whether privately or publicly owned or operated.
- (3) "Air pollution" means the presence in the ambient air of one or more air contaminants in the quantities and duration and under conditions and circumstances as is or tends to be injurious to human health or welfare, animal or plant life, or property, or would unreasonably interfere with the enjoyment of life or use of property, as determined by the rules adopted by the board.
- (4) "Ambient air" means the surrounding or outside air.
- (5) "Asbestos" means the asbestiform varieties of serpentine (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite, anthophyllite, and actinolite-tremolite.
- (6) "Asbestos-containing material" means any material containing more than 1% asbestos, as determined using the method adopted in 40 CFR Part 61, Subpart M, National Emission Standard for Asbestos.
- (7) "Asbestos inspection" means an activity undertaken to determine the presence or location, or to assess the condition of, asbestos-containing material or suspected asbestos-containing material, whether by visual or physical examination, or by taking samples of the material.
- (8) [(a)] "Board" means the Air Quality Board.
- [(b)] "Board" means, as used in Sections 19-2-123 through 19-2-126, the Air Quality Board or the Water Quality Board.]
- (9) "Clean school bus" has the same meaning as defined in 42 U.S.C. Sec. 16091.
- (10) "Director" means the director of the Division of Air Quality.
- (11) "Division" means the Division of Air Quality[,] created in [Subsection 19-1-105(1)(a)] Section 19-1-105.

~~[(12) (a) “Facility” means machinery, equipment, structures, or any part or accessories of them, installed or acquired for the primary purpose of controlling or disposing of air pollution.]~~

~~[(b) “Facility” does not include an air conditioner, fan, or other similar facility for the comfort of personnel.]~~

~~[(13) (12) “Friable asbestos-containing material” means any material containing more than 1% asbestos, as determined using the method adopted in 40 CFR Part 61, Subpart M, National Emission Standard for Asbestos, that hand pressure can crumble, pulverize, or reduce to powder when dry.~~

~~[(14) (13) “Indirect source” means a facility, building, structure, or installation which attracts or may attract mobile source activity that results in emissions of a pollutant for which there is a national standard.~~

~~[(15) (a) “Pollution control facility” or “facility” means, as used in Sections 19-2-123 through 19-2-126, any land, structure, building, installation, excavation, machinery, equipment, or device, or any addition to, reconstruction, replacement or improvement of, land or an existing structure, building, installation, excavation, machinery, equipment, or device reasonably used, erected, constructed, acquired, or installed by any person if the primary purpose of the use, erection, construction, acquisition, or installation is the prevention, control, or reduction of air or water pollution by:]~~

~~[(i) the disposal or elimination of or redesign to eliminate waste and the use of treatment works for industrial waste as defined in Title 19, Chapter 5, Water Quality Act; or]~~

~~[(ii) the disposal, elimination, or reduction of or redesign to eliminate or reduce air contaminants or air pollution or air contamination sources and the use of air cleaning devices.]~~

~~[(b) “Pollution control facility” or “facility” does not include air conditioners, septic tanks, or other facilities for human waste, nor any property installed, constructed, or used for the moving of sewage to the collection facilities of a public or quasi-public sewerage system.]~~

Section 2. Section 19-12-101 is enacted to read:

CHAPTER 12. POLLUTION CONTROL ACT

Part 1. General Provisions 19-12-101. Title.

This chapter is known as the “Pollution Control Act.”

Section 3. Section 19-12-102 is enacted to read:

19-12-102. Definitions.

As used in this chapter:

(1) “Air contaminant” is as defined in Section 19-2-102.

(2) “Air contaminant source” is as defined in Section 19-2-102.

(3) “Air pollution” is as defined in Section 19-2-102.

(4) “Director” means:

(a) for purposes of an application or certification under this chapter related to air pollution, the director of the Division of Air Quality; or

(b) for purposes of an application or certification under this chapter related to water pollution, the director of the Division of Water Quality.

(5) (a) “Freestanding pollution control property” means tangible personal property located in the state, regardless of whether a purchaser purchases the tangible personal property voluntarily or to comply with a requirement of a governmental entity, if:

(i) the primary purpose of the tangible personal property is the prevention, control, or reduction of air or water pollution by:

(A) the disposal or elimination of, or redesign to eliminate, waste, and the use of treatment works for industrial waste; or

(B) the disposal, elimination, or reduction of, or redesign to eliminate or reduce, air contaminants, air pollution, or air contamination sources, and the use of one or more air cleaning devices; and

(ii) the tangible personal property is not used at, in the construction of, or incorporated into a pollution control facility.

(b) “Freestanding pollution control property” does not include:

(i) a consumable:

(A) chemical that is not reusable;

(B) cleaning material that is not reusable; or

(C) supply that is not reusable;

(ii) the following used for human waste:

(A) a septic tank; or

(B) other property;

(iii) property installed, constructed, or used for the moving of sewage to a collection facility of a public or quasi-public sewerage system;

(iv) the following used for the comfort of personnel:

(A) an air conditioner;

(B) a fan; or

(C) an item similar to Subsection (5)(b)(iv)(A) or (B); or

(v) office equipment or an office supply if the primary purpose of the office equipment or office supply is not the prevention, control, or reduction of air or water pollution by:

(A) the disposal or elimination of, or redesign to eliminate, waste, and the use of treatment works for industrial waste; or

(B) the disposal, elimination, or reduction of, or redesign to eliminate or reduce, air contaminants, air pollution, or air contamination sources, and the use of one or more air cleaning devices.

(6) (a) "Pollution control facility" means real property in the state, regardless of whether a purchaser purchases the real property voluntarily or to comply with a requirement of a governmental entity, if the primary purpose of the real property is the prevention, control, or reduction of air pollution or water pollution by:

(i) the disposal or elimination of, or redesign to eliminate:

(A) waste; and

(B) the use of treatment works for industrial waste; or

(ii) (A) the disposal, elimination, or reduction of, or redesign to eliminate or reduce, air contaminants, air pollution, or air contamination sources; and

(B) the use of one or more air cleaning devices.

(b) "Pollution control facility" includes:

(i) an addition to real property described in Subsection (6)(a);

(ii) the reconstruction of real property described in Subsection (6)(a); or

(iii) an improvement to real property described in Subsection (6)(a).

(c) "Pollution control facility" does not include:

(i) a consumable:

(A) chemical that is not reusable;

(B) cleaning material that is not reusable; or

(C) supply that is not reusable;

(ii) the following used for human waste:

(A) a septic tank; or

(B) another facility;

(iii) property installed, constructed, or used for the moving of sewage to a collection facility of a public or quasi-public sewerage system;

(iv) the following used for the comfort of personnel:

(A) an air conditioner;

(B) a fan; or

(C) an item similar to Subsection (6)(c)(iv)(A) or (B); or

(v) office equipment or an office supply if the primary purpose of the office equipment or office supply is not the prevention, control, or reduction of air or water pollution by:

(A) the disposal or elimination of, or redesign to eliminate, waste, and the use of treatment works for industrial waste; or

(B) the disposal, elimination, or reduction of, or redesign to eliminate, or reduce, air contaminants, air pollution, or air contamination sources, and the use of one or more air cleaning devices.

(7) "Treatment works" is as defined in Section 19-5-102.

(8) "Waste" is as defined in Section 19-5-102.

(9) "Water pollution" has the same meaning as "pollution" under Section 19-5-102.

Section 4. Section 19-12-201 is enacted to read:

Part 2. Sales and Use Tax Provisions

19-12-201. Sales and use tax exemption for certain purchases or leases related to pollution control.

(1) Except as provided in Subsection (2), a purchase or lease of the following is exempt from a tax imposed under Title 59, Chapter 12, Sales and Use Tax Act:

(a) freestanding pollution control property;

(b) tangible personal property if the tangible personal property is:

(i) incorporated into freestanding pollution control property; or

(ii) used at, used in the construction of, or incorporated into a pollution control facility;

(c) a part, if the part is used in the repair or replacement of property described in Subsection (1)(a) or (b);

(d) a product transferred electronically, if the property transferred electronically is:

(i) incorporated into freestanding pollution control property; or

(ii) used at, used in the construction of, or incorporated into a pollution control facility; or

(e) a service, if the service is performed on:

(i) freestanding pollution control property;

(ii) a pollution control facility; or

(iii) property described in Subsection (1)(b), a part described in Subsection (1)(c), or a product described in Subsection (1)(d).

(2) A purchase or lease of the following is not exempt under this section:

(a) a consumable chemical that is not reusable;

(b) a consumable cleaning material that is not reusable; or

(c) a consumable supply that is not reusable.

(3) A purchase or lease of office equipment or an office supply is not exempt under this section if the primary purpose of the office equipment or office supply is not the prevention, control, or reduction of air or water pollution by:

(a) the disposal or elimination of, or redesign to eliminate, waste, and the use of treatment works for industrial waste; or

(b) the disposal, elimination, or reduction of, or redesign to eliminate or reduce, air contaminants, air pollution, or air contamination sources, and the use of one or more air cleaning devices.

Section 5. Section 19-12-202 is enacted to read:

19-12-202. Certification required before claiming a sales and use tax exemption.

(1) Before a person may claim a sales and use tax exemption under Section 19-12-201, the person shall obtain certification issued in accordance with Section 19-12-303.

(2) For purposes of Subsection (1), if a certification relates to air pollution:

(a) a person shall submit an application under Section 19-12-301 or 19-12-302 to the director of the Division of Air Quality; and

(b) the director of the Division of Air Quality shall perform the duties described in:

(i) Section 19-12-303 related to certification; and

(ii) Section 19-12-304 related to revocation of certification.

(3) For purposes of Subsection (1), if a certification relates to water pollution:

(a) a person shall submit an application under Section 19-12-301 or 19-12-302 to the director of the Division of Water Quality; and

(b) the director of the Division of Water Quality shall perform the duties described in:

(i) Section 19-12-303 related to certification; and

(ii) Section 19-12-304 related to revocation of certification.

Section 6. Section 19-12-203 is enacted to read:

19-12-203. Refunds -- Interest.

(1) A person who pays a tax under Title 59, Chapter 12, Sales and Use Tax Act, on a purchase or lease that would otherwise be exempt under Section 19-12-201, except that the director has not issued a certification under Section 19-12-303, may obtain a refund of the tax if:

(a) the director subsequently issues a certification under Section 19-12-303; and

(b) the person files a claim for the refund with the State Tax Commission on or before the earlier of:

(i) three years after the date the director issues the certification under Section 19-12-303; or

(ii) six years after the date the person pays the tax under Title 59, Chapter 12, Sales and Use Tax Act.

(2) A person who pays a tax under Title 59, Chapter 12, Sales and Use Tax Act, on a purchase or lease that is exempt under Section 19-12-201, may obtain a refund of the tax if the person files a claim for the refund with the State Tax Commission within three years after the date the person pays

the tax under Title 59, Chapter 12, Sales and Use Tax Act.

(3) (a) If a person files a claim for a refund of taxes under Subsection (1) within 180 days after the date the director issues a certification under Section 19-12-303, interest shall be added to the amount of the refund the State Tax Commission grants:

(i) at the interest rate prescribed in Section 59-1-402; and

(ii) beginning on the date the person pays the tax under Title 59, Chapter 12, Sales and Use Tax Act, for which the person is claiming the refund.

(b) If a person files a claim for a refund of taxes under Subsection (1) more than 180 days after the date the director issues a certification under Section 19-12-303, interest shall be added to the amount of the refund the State Tax Commission grants:

(i) at the interest rate prescribed in Section 59-1-402; and

(ii) beginning 30 days after the date the person files the claim for a refund.

(4) If a person files a claim for a refund of taxes under Subsection (2), interest shall be added to the amount of the refund the State Tax Commission grants:

(a) at the interest rate prescribed in Section 59-1-402; and

(b) beginning 30 days after the date the person files the claim for the refund.

Section 7. Section 19-12-301 is enacted to read:

Part 3. Procedures for Certification and Revocation of Certification 1 19-12-301. Application for certification of a pollution control facility.

(1) The following may apply to the director for certification of a pollution control facility erected, constructed, installed, or acquired, or to be erected, constructed, installed, or acquired:

(a) an owner, including a contract purchaser, of a trade or business that includes a pollution control facility;

(b) a person who, as a lessee or in accordance with an agreement, conducts a trade or business that includes a pollution control facility; or

(c) a person who operates a pollution control facility in accordance with an agreement with a person described in Subsection (1)(a) or (b).

(2) A person may file an application under this section after:

(a) the person enters into a firm construction contract with another person; or

(b) construction has commenced.

(3) An application for certification under this section shall:

(a) be in a form the director prescribes; and

(b) contain:

(i) a description of the pollution control facility;

(ii) for a purchase or lease of property, a part, a product, or a service for which a person seeks to claim a sales and use tax exemption under Section 19-12-201, a description of the property, part, product, or service;

(iii) the existing or proposed operation procedure for the pollution control facility; and

(iv) a statement of the purpose served or to be served by the pollution control facility.

(4) The director may require an application to contain additional information the director finds necessary to determine whether to grant certification under Section 19-12-303.

(5) This section does not apply to the certification of freestanding pollution control property.

Section 8. Section 19-12-302 is enacted to read:

19-12-302. Application for certification of freestanding pollution control property.

(1) The following may apply to the director for certification of freestanding pollution control property:

(a) an owner, including a contract purchaser, of the freestanding pollution control property;

(b) a person who leases the freestanding pollution control property; or

(c) a person who operates the freestanding pollution control property under an agreement with a person described in Subsection (1)(a) or (b).

(2) An application for certification under this section shall:

(a) be in a form the director prescribes; and

(b) contain:

(i) a description of the freestanding pollution control property;

(ii) for a purchase or lease of property, a part, a product, or a service for which a person seeks to claim a sales and use tax exemption under Section 19-12-201, a description of the property, part, product, or service;

(iii) the existing or proposed operational procedure for the freestanding pollution control property; and

(iv) a statement of the purpose served or to be served by the freestanding pollution control property.

(3) The director may require an application to contain additional information the director finds necessary to determine whether to grant certification under Section 19-12-303.

(4) This section does not apply to the certification of a pollution control facility.

Section 9. Section 19-12-303 is enacted to read:

19-12-303. Certification of pollution control facility or freestanding pollution control property.

(1) The director shall issue a written certification to a person no later than 120 days after the date the person files an application under Section 19-12-301 or 19-12-302 if the director determines that:

(a) for a pollution control facility:

(i) the application meets the requirements of Subsection 19-12-301(3);

(ii) the facility that is the subject of the application is a pollution control facility;

(iii) the person who files the application is a person described in Subsection 19-12-301(1); and

(iv) the purchases or leases for which the person seeks to claim a sales and use tax exemption are exempt under Section 19-12-201; or

(b) for freestanding pollution control property:

(i) the application meets the requirements of Subsection 19-12-302(2);

(ii) the property that is the subject of the application is freestanding pollution control property;

(iii) the person who files the application is a person described in Subsection 19-12-302(1); and

(iv) the purchases or leases for which the person seeks to claim a sales and use tax exemption are exempt under Section 19-12-201.

(2) If the director denies certification under this section to a person who files an application, the director shall provide a written statement of the reason for the denial to the person no later than 120 days after the date the person files the application.

(3) The director may not require the certification of:

(a) a replacement of freestanding pollution control property; or

(b) property, a part, a product, or a service described in Subsections 19-12-201(1)(b) through (e) used or performed in a repair or replacement related to:

(i) a pollution control facility; or

(ii) freestanding pollution control property.

(4) The director may issue one certification under this section of two or more:

(a) pollution control facilities that constitute an operational unit; or

(b) freestanding pollution control properties that constitute an operational unit.

(5) If the director does not issue or deny a certification under this section within 120 days after the date a person files an application, the

director shall issue a certification to the person at the person's request.

Section 10. Section 19-12-304 is enacted to read:

19-12-304. Revocation of certification.

(1) The director may revoke a certification issued under Section 19-12-303 if the director determines that:

(a) the certification was obtained by fraud or gross misrepresentation; or

(b) (i) for a pollution control facility, a requirement of Subsection 19-12-303(1)(a) is not met; or

(ii) for freestanding pollution control property, a requirement of Subsection 19-12-303(1)(b) is not met.

(2) A shutdown of a pollution control facility or freestanding pollution control property due to force majeure, including obsolescence, is not cause to revoke the certification of the pollution control facility or freestanding pollution control property.

(3) The director shall provide notice of the director's determination to revoke a certification by issuing a notice of agency action.

(4) The holder of a certification may obtain judicial review of the decision of the director to revoke the certification.

(5) A revocation under this section is final and conclusive unless the holder of the certification obtains judicial review in accordance with Subsection (4).

(6) If a revocation is affirmed on appeal, the revocation is final on the date the holder receives the notice described in Subsection (3).

(7) If a revocation becomes final under this section, the director shall notify the State Tax Commission of the revocation.

(8) If the director revokes a certification under this section:

(a) the prior sales and use tax exemptions the holder of the certification claimed under Section 19-12-201 are forfeited; and

(b) the State Tax Commission shall collect taxes not paid by the holder of the certification:

(i) as a result of claiming the sales and use tax exemptions under Subsection (8)(a); and

(ii) to the extent permitted by Title 59, Chapter 1, Part 14, Assessment, Collections, and Refunds Act.

Section 11. Section 19-12-305 is enacted to read:

19-12-305. Rulemaking authority.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of a certification related to air pollution, the Air Quality Board may make rules establishing procedures for:

(a) processing and evaluating an application for certification; and

(b) the issuance and revocation of a certification.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of a certification related to water pollution, the Water Quality Board may make rules establishing procedures for:

(a) processing and evaluating an application for certification; and

(b) the issuance or revocation of a certification.

Section 12. Section 59-1-1410 is amended to read:

59-1-1410. Action for collection of tax, fee, or charge -- Action for refund or credit of tax, fee, or charge -- Denial of refund claim under appeal -- Appeal of denied refund claim.

(1) (a) Except as provided in Subsections (3) through (7) and Sections 59-5-114, 59-7-519, 59-10-536, and 59-11-113, the commission shall assess a tax, fee, or charge within three years after the day on which a person files a return.

(b) Except as provided in Subsections (3) through (7), if the commission does not assess a tax, fee, or charge within the three-year period provided in Subsection (1)(a), the commission may not commence a proceeding to collect the tax, fee, or charge.

(2) (a) Except as provided in Subsection (2)(b), for purposes of this part, a return filed before the last day prescribed by statute or rule for filing the return is considered to be filed on the last day for filing the return.

(b) A return of withholding tax under Chapter 10, Part 4, Withholding of Tax, is considered to be filed on April 15 of the succeeding calendar year if the return:

(i) is for a period ending with or within a calendar year; and

(ii) is filed before April 15 of the succeeding calendar year.

(3) The commission may assess a tax, fee, or charge or commence a proceeding for the collection of a tax, fee, or charge at any time if:

(a) a person:

(i) files a:

(A) false return with intent to evade; or

(B) fraudulent return with intent to evade; or

(ii) fails to file a return; or

(b) the commission estimates the amount of tax, fee, or charge due in accordance with Subsection 59-1-1406(2).

(4) The commission may extend the period to make an assessment or to commence a proceeding to collect a tax, fee, or charge if:

(a) the three-year period under Subsection (1) has not expired; and

(b) the commission and the person sign a written agreement:

- (i) authorizing the extension; and
- (ii) providing for the length of the extension.

(5) The commission may make an assessment as provided in Subsection (6) if:

(a) the commission delays an audit at the request of a person;

(b) the person subsequently refuses to agree to an extension request by the commission; and

(c) the three-year period under Subsection (1) expires before the commission completes the audit.

(6) An assessment under Subsection (5) shall be:

(a) for the time period for which the commission could not make the assessment because of the expiration of the three-year period; and

(b) in an amount equal to the difference between:

(i) the commission's estimate of the amount of tax, fee, or charge the person would have been assessed for the time period described in Subsection (6)(a); and

(ii) the amount of tax, fee, or charge the person actually paid for the time period described in Subsection (6)(a).

(7) If a person erroneously pays a liability, overpays a liability, pays a liability more than once, or the commission erroneously receives, collects, or computes a liability, the commission shall:

(a) credit the liability against any amount of liability the person owes; and

(b) refund any balance to:

- (i) the person; or
- (ii) (A) the person's assign;
- (B) the person's personal representative;
- (C) the person's successor; or

(D) a person similar to Subsections (7)(b)(ii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(8) (a) Except as provided in Subsection (8)(b) or Section ~~[19-2-124]~~ 19-12-203, 59-7-522, 59-10-529, or 59-12-110, the commission may not make a credit or refund unless a person files a claim with the commission within the later of:

(i) three years from the due date of the return, including the period of any extension of time provided in statute for filing the return; or

(ii) two years from the date the tax was paid.

(b) The commission shall extend the time period for a person to file a claim under Subsection (8)(a) if:

(i) the time period described in Subsection (8)(a) has not expired; and

(ii) the commission and the person sign a written agreement:

- (A) authorizing the extension; and
- (B) providing for the length of the extension.

(9) If the commission denies a claim for a credit or refund, a person may request a redetermination of the denial by filing a petition or request for agency action with the commission:

(a) (i) within a 30-day period after the day on which the commission mails a notice of denial for the claim for credit or refund; or

(ii) within a 90-day period after the day on which the commission mails a notice of denial for the claim for credit or refund, if the notice is addressed to a person outside the United States or the District of Columbia; and

(b) in accordance with:

- (i) Section 59-1-501; and
- (ii) Title 63G, Chapter 4, Administrative Procedures Act.

(10) The action of the commission on a person's petition for redetermination of a denial of a claim for credit or refund is final 30 days after the day on which the commission sends the commission's decision or order, unless the person seeks judicial review.

Section 13. Section 59-12-104 is amended to read:

59-12-104. Exemptions.

The following sales and uses are exempt from the taxes imposed by this chapter:

(1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax under Chapter 13, Motor and Special Fuel Tax Act;

(2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political subdivisions; however, this exemption does not apply to sales of:

(a) construction materials except:

(i) construction materials purchased by or on behalf of institutions of the public education system as defined in Utah Constitution Article X, Section 2, provided the construction materials are clearly identified and segregated and installed or converted to real property which is owned by institutions of the public education system; and

(ii) construction materials purchased by the state, its institutions, or its political subdivisions which are installed or converted to real property by employees of the state, its institutions, or its political subdivisions; or

(b) tangible personal property in connection with the construction, operation, maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities providing additional project capacity, as defined in Section 11-13-103;

(3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

- (i) the proceeds of each sale do not exceed \$1; and
- (ii) the seller or operator of the vending machine reports an amount equal to 150% of the cost of the item described in Subsection (3)(b) as goods consumed; and

(b) Subsection (3)(a) applies to:

- (i) food and food ingredients; or
- (ii) prepared food;

(4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

- (i) alcoholic beverages;
- (ii) food and food ingredients; or
- (iii) prepared food;

(b) sales of tangible personal property or a product transferred electronically:

- (i) to a passenger;
- (ii) by a commercial airline carrier; and

(iii) during a flight for in-flight consumption or in-flight use by the passenger; or

(c) services related to Subsection (4)(a) or (b);

(5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts and equipment:

(A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(II) for:

(Aa) installation in an aircraft, including services relating to the installation of parts or equipment in the aircraft;

(Bb) renovation of an aircraft; or

(Cc) repair of an aircraft; or

(B) for installation in an aircraft operated by a common carrier in interstate or foreign commerce; or

(ii) beginning on October 1, 2008, sales of parts and equipment for installation in an aircraft operated by a common carrier in interstate or foreign commerce; and

(b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a refund:

(i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;

(ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;

(iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for the sale prior to filing for the refund;

(iv) for sales and use taxes paid under this chapter on the sale;

(v) in accordance with Section 59-1-1410; and

(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before September 30, 2011;

(6) sales of commercials, motion picture films, prerecorded audio program tapes or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture exhibitor, distributor, or commercial television or radio broadcaster;

(7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal property if the cleaning or washing of the tangible personal property is not assisted cleaning or washing of tangible personal property;

(b) if a seller that sells at the same business location assisted cleaning or washing of tangible personal property and cleaning or washing of tangible personal property that is not assisted cleaning or washing of tangible personal property, the exemption described in Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning or washing of the tangible personal property; and

(c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for sales of assisted cleaning or washing of tangible personal property;

(8) sales made to or by religious or charitable institutions in the conduct of their regular religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are fulfilled;

(9) sales of a vehicle of a type required to be registered under the motor vehicle laws of this state if the vehicle is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the vehicle is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the vehicle to the borders of this state; or

(B) if the vehicle is used to conduct business, for the time period necessary to transport the vehicle to the borders of this state;

(10) (a) amounts paid for an item described in Subsection (10)(b) if:

- (i) the item is intended for human use; and
- (ii) (A) a prescription was issued for the item; or
- (B) the item was purchased by a hospital or other medical facility; and

(b) (i) Subsection (10)(a) applies to:

- (A) a drug;
- (B) a syringe; or
- (C) a stoma supply; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the terms:

- (A) "syringe"; or
- (B) "stoma supply";

~~[(11) sales or use of property, materials, or services used in the construction of or incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;]~~

(11) purchases or leases exempt under Section 19-12-201;

(12) (a) sales of an item described in Subsection (12)(c) served by:

(i) the following if the item described in Subsection (12)(c) is not available to the general public:

- (A) a church; or
- (B) a charitable institution;
- (ii) an institution of higher education if:

(A) the item described in Subsection (12)(c) is not available to the general public; or

(B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan offered by the institution of higher education; or

(b) sales of an item described in Subsection (12)(c) provided for a patient by:

- (i) a medical facility; or
- (ii) a nursing facility; and
- (c) Subsections (12)(a) and (b) apply to:
 - (i) food and food ingredients;
 - (ii) prepared food; or
 - (iii) alcoholic beverages;

(13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property or a product transferred electronically by a person:

(i) regardless of the number of transactions involving the sale of that tangible personal property or product transferred electronically by that person; and

(ii) not regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(b) this Subsection (13) does not apply if:

(i) the sale is one of a series of sales of a character to indicate that the person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(ii) the person holds that person out as regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(iii) the person sells an item of tangible personal property or product transferred electronically that the person purchased as a sale that is exempt under Subsection (25); or

(iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of this state in which case the tax is based upon:

(A) the bill of sale or other written evidence of value of the vehicle or vessel being sold; or

(B) in the absence of a bill of sale or other written evidence of value, the fair market value of the vehicle or vessel being sold at the time of the sale as determined by the commission; and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing the circumstances under which:

(i) a person is regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(ii) a sale of tangible personal property or a product transferred electronically is one of a series of sales of a character to indicate that a person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically; or

(iii) a person holds that person out as regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(14) (a) except as provided in Subsection (14)(b), amounts paid or charged on or after July 1, 2006, for a purchase or lease by a manufacturing facility except for a cogeneration facility, of the following:

(i) machinery and equipment that:

(A) are used:

(I) for a manufacturing facility except for a manufacturing facility that is a scrap recycler described in Subsection 59-12-102(64)(b):

(Aa) in the manufacturing process;

(Bb) to manufacture an item sold as tangible personal property; and

(Cc) beginning on July 1, 2009, in a manufacturing facility described in this Subsection (14)(a)(i)(A)(I) in the state; or

(II) for a manufacturing facility that is a scrap recycler described in Subsection 59-12-102(64)(b):

(Aa) to process an item sold as tangible personal property; and

(Bb) beginning on July 1, 2009, in a manufacturing facility described in this Subsection (14)(a)(i)(A)(II) in the state; and

(B) have an economic life of three or more years; and

(ii) normal operating repair or replacement parts that:

(A) have an economic life of three or more years; and

(B) are used:

(I) for a manufacturing facility except for a manufacturing facility that is a scrap recycler described in Subsection 59-12-102(64)(b):

(Aa) in the manufacturing process; and

(Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(I) in the state; or

(II) for a manufacturing facility that is a scrap recycler described in Subsection 59-12-102(64)(b):

(Aa) to process an item sold as tangible personal property; and

(Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(II) in the state;

(b) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006, of the following:

(i) machinery and equipment that:

(A) are used:

(I) in the manufacturing process;

(II) to manufacture an item sold as tangible personal property; and

(III) beginning on July 1, 2009, in a manufacturing facility described in this Subsection (14)(b) in the state; and

(B) have an economic life of three or more years; and

(ii) normal operating repair or replacement parts that:

(A) are used:

(I) in the manufacturing process; and

(II) in a manufacturing facility described in this Subsection (14)(b) in the state; and

(B) have an economic life of three or more years;

(c) amounts paid or charged for a purchase or lease made on or after January 1, 2008, by an establishment described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North American Industry Classification System of the federal

Executive Office of the President, Office of Management and Budget, of the following:

(i) machinery and equipment that:

(A) are used:

(I) (Aa) in the production process, other than the production of real property; or

(Bb) in research and development; and

(II) beginning on July 1, 2009, in an establishment described in this Subsection (14)(c) in the state; and

(B) have an economic life of three or more years; and

(ii) normal operating repair or replacement parts that:

(A) have an economic life of three or more years; and

(B) are used in:

(I) (Aa) the production process, except for the production of real property; and

(Bb) an establishment described in this Subsection (14)(c) in the state; or

(II) (Aa) research and development; and

(Bb) in an establishment described in this Subsection (14)(c) in the state;

(d) (i) amounts paid or charged for a purchase or lease made on or after July 1, 2010, but on or before June 30, 2014, by an establishment described in NAICS Code 518112, Web Search Portals, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, of the following:

(A) machinery and equipment that:

(I) are used in the operation of the web search portal;

(II) have an economic life of three or more years; and

(III) are used in a new or expanding establishment described in this Subsection (14)(d) in the state; and

(B) normal operating repair or replacement parts that:

(I) are used in the operation of the web search portal;

(II) have an economic life of three or more years; and

(III) are used in a new or expanding establishment described in this Subsection (14)(d) in the state; or

(ii) amounts paid or charged for a purchase or lease made on or after July 1, 2014, by an establishment described in NAICS Code 518112, Web Search Portals, of the 2002 North American Industry Classification System of the federal

Executive Office of the President, Office of Management and Budget, of the following:

(A) machinery and equipment that:

(I) are used in the operation of the web search portal; and

(II) have an economic life of three or more years; and

(B) normal operating repair or replacement parts that:

(I) are used in the operation of the web search portal; and

(II) have an economic life of three or more years;

(e) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission:

(i) shall by rule define the term "establishment"; and

(ii) may by rule define what constitutes:

(A) processing an item sold as tangible personal property;

(B) the production process, except for the production of real property;

(C) research and development; or

(D) a new or expanding establishment described in Subsection (14)(d) in the state; and

(f) on or before October 1, 2011, and every five years after October 1, 2011, the commission shall:

(i) review the exemptions described in this Subsection (14) and make recommendations to the Revenue and Taxation Interim Committee concerning whether the exemptions should be continued, modified, or repealed; and

(ii) include in its report:

(A) an estimate of the cost of the exemptions;

(B) the purpose and effectiveness of the exemptions; and

(C) the benefits of the exemptions to the state;

(15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

(i) tooling;

(ii) special tooling;

(iii) support equipment;

(iv) special test equipment; or

(v) parts used in the repairs or renovations of tooling or equipment described in Subsections (15)(a)(i) through (iv); and

(b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

(i) the tooling, equipment, or parts are used or consumed exclusively in the performance of any

aerospace or electronics industry contract with the United States government or any subcontract under that contract; and

(ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as evidenced by:

(A) a government identification tag placed on the tooling, equipment, or parts; or

(B) listing on a government-approved property record if placing a government identification tag on the tooling, equipment, or parts is impractical;

(16) sales of newspapers or newspaper subscriptions;

(17) (a) except as provided in Subsection (17)(b), tangible personal property or a product transferred electronically traded in as full or part payment of the purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

(i) the bill of sale or other written evidence of value of the vehicle being sold and the vehicle being traded in; or

(ii) in the absence of a bill of sale or other written evidence of value, the then existing fair market value of the vehicle being sold and the vehicle being traded in, as determined by the commission; and

(b) Subsection (17)(a) does not apply to the following items of tangible personal property or products transferred electronically traded in as full or part payment of the purchase price:

(i) money;

(ii) electricity;

(iii) water;

(iv) gas; or

(v) steam;

(18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property or a product transferred electronically used or consumed primarily and directly in farming operations, regardless of whether the tangible personal property or product transferred electronically:

(A) becomes part of real estate; or

(B) is installed by a:

(I) farmer;

(II) contractor; or

(III) subcontractor; or

(ii) sales of parts used in the repairs or renovations of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is exempt under Subsection (18)(a)(i); and

(b) amounts paid or charged for the following are subject to the taxes imposed by this chapter:

(i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is incidental to farming:

- (I) machinery;
- (II) equipment;
- (III) materials; or
- (IV) supplies; and

(B) tangible personal property that is considered to be used in a manner that is incidental to farming includes:

- (I) hand tools; or
- (II) maintenance and janitorial equipment and supplies;

(ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is used in an activity other than farming; and

(B) tangible personal property or a product transferred electronically that is considered to be used in an activity other than farming includes:

- (I) office equipment and supplies; or
- (II) equipment and supplies used in:
 - (Aa) the sale or distribution of farm products;
 - (Bb) research; or
 - (Cc) transportation; or

(iii) a vehicle required to be registered by the laws of this state during the period ending two years after the date of the vehicle's purchase;

- (19) sales of hay;

(20) exclusive sale during the harvest season of seasonal crops, seedling plants, or garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or garden, farm, or other agricultural produce is sold by:

(a) the producer of the seasonal crops, seedling plants, or garden, farm, or other agricultural produce;

(b) an employee of the producer described in Subsection (20)(a); or

(c) a member of the immediate family of the producer described in Subsection (20)(a);

(21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

(22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags, nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler, or retailer for use in packaging tangible personal

property to be sold by that manufacturer, processor, wholesaler, or retailer;

(23) a product stored in the state for resale;

(24) (a) purchases of a product if:

(i) the product is:

- (A) purchased outside of this state;
- (B) brought into this state:

(I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

(II) by a nonresident person who is not living or working in this state at the time of the purchase;

(C) used for the personal use or enjoyment of the nonresident person described in Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

(D) not used in conducting business in this state; and

(ii) for:

(A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of the product for a purpose for which the product is designed occurs outside of this state;

(B) a boat, the boat is registered outside of this state; or

(C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;

(b) the exemption provided for in Subsection (24)(a) does not apply to:

(i) a lease or rental of a product; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (24)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(ii) the first use of a product if that phrase has the same meaning in this Subsection (24) as in Subsection (63); or

(iii) a purpose for which a product is designed if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(25) a product purchased for resale in this state, in the regular course of business, either in its original form or as an ingredient or component part of a manufactured or compounded product;

(26) a product upon which a sales or use tax was paid to some other state, or one of its subdivisions, except that the state shall be paid any difference between the tax paid and the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no

adjustment is allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;

(27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person for use in compounding a service taxable under the subsections;

(28) purchases made in accordance with the special supplemental nutrition program for women, infants, and children established in 42 U.S.C. Sec. 1786;

(29) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state; or

(B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state;

(31) sales of aircraft manufactured in Utah;

(32) amounts paid for the purchase of telecommunications service for purposes of providing telecommunications service;

(33) sales, leases, or uses of the following:

(a) a vehicle by an authorized carrier; or

(b) tangible personal property that is installed on a vehicle:

(i) sold or leased to or used by an authorized carrier; and

(ii) before the vehicle is placed in service for the first time;

(34) (a) 45% of the sales price of any new manufactured home; and

(b) 100% of the sales price of any used manufactured home;

(35) sales relating to schools and fundraising sales;

(36) sales or rentals of durable medical equipment if:

(a) a person presents a prescription for the durable medical equipment; and

(b) the durable medical equipment is used for home use only;

(37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in Section 72-11-102; and

(b) the commission shall by rule determine the method for calculating sales exempt under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

(38) sales to a ski resort of:

(a) snowmaking equipment;

(b) ski slope grooming equipment;

(c) passenger ropeways as defined in Section 72-11-102; or

(d) parts used in the repairs or renovations of equipment or passenger ropeways described in Subsections (38)(a) through (c);

(39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

(40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for amusement, entertainment, or recreation an unassisted amusement device as defined in Section 59-12-102;

(b) if a seller that sells or rents at the same business location the right to use or operate for amusement, entertainment, or recreation one or more unassisted amusement devices and one or more assisted amusement devices, the exemption described in Subsection (40)(a) applies if the seller separately accounts for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for the assisted amusement devices; and

(c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for assisted amusement devices;

(41) (a) sales of photocopies by:

(i) a governmental entity; or

(ii) an entity within the state system of public education, including:

(A) a school; or

(B) the State Board of Education; or

(b) sales of publications by a governmental entity;

(42) amounts paid for admission to an athletic event at an institution of higher education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(43) (a) sales made to or by:

(i) an area agency on aging; or
 (ii) a senior citizen center owned by a county, city, or town; or

(b) sales made by a senior citizen center that contracts with an area agency on aging;

(44) sales or leases of semiconductor fabricating, processing, research, or development materials regardless of whether the semiconductor fabricating, processing, research, or development materials:

(a) actually come into contact with a semiconductor; or

(b) ultimately become incorporated into real property;

(45) an amount paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section 59-12-104.2;

(46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary sports event registration certificate in accordance with Section 41-3-306 for the event period specified on the temporary sports event registration certificate;

(47) (a) sales or uses of electricity, if the sales or uses are made under a tariff adopted by the Public Service Commission of Utah only for purchase of electricity produced from a new alternative energy source, as designated in the tariff by the Public Service Commission of Utah; and

(b) the exemption under Subsection (47)(a) applies to the portion of the tariff rate a customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

(48) sales or rentals of mobility enhancing equipment if a person presents a prescription for the mobility enhancing equipment;

(49) sales of water in a:

- (a) pipe;
- (b) conduit;
- (c) ditch; or
- (d) reservoir;

(50) sales of currency or coins that constitute legal tender of a state, the United States, or a foreign nation;

(51) (a) sales of an item described in Subsection (51)(b) if the item:

(i) does not constitute legal tender of a state, the United States, or a foreign nation; and

(ii) has a gold, silver, or platinum content of 50% or more; and

(b) Subsection (51)(a) applies to a gold, silver, or platinum:

- (i) ingot;
- (ii) bar;
- (iii) medallion; or
- (iv) decorative coin;

(52) amounts paid on a sale-leaseback transaction;

(53) sales of a prosthetic device:

- (a) for use on or in a human; and
- (b) (i) for which a prescription is required; or
 (ii) if the prosthetic device is purchased by a hospital or other medical facility;

(54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) if the machinery or equipment is primarily used in the production or postproduction of the following media for commercial distribution:

- (i) a motion picture;
- (ii) a television program;
- (iii) a movie made for television;
- (iv) a music video;
- (v) a commercial;
- (vi) a documentary; or
- (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the commission by administrative rule made in accordance with Subsection (54)(d); or

(b) purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) that is used for the production or postproduction of the following are subject to the taxes imposed by this chapter:

- (i) a live musical performance;
- (ii) a live news program; or
- (iii) a live sporting event;

(c) the following establishments listed in the 1997 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, apply to Subsections (54)(a) and (b):

- (i) NAICS Code 512110; or
- (ii) NAICS Code 51219; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule:

- (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi); or
- (ii) define:

<p>(A) “commercial distribution”;</p> <p>(B) “live musical performance”;</p> <p>(C) “live news program”; or</p> <p>(D) “live sporting event”;</p> <p>(55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:</p> <p>(i) is leased or purchased for or by a facility that:</p> <p>(A) is an alternative energy electricity production facility;</p> <p>(B) is located in the state; and</p> <p>(C) (I) becomes operational on or after July 1, 2004; or</p> <p>(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;</p> <p>(ii) has an economic life of five or more years; and</p> <p>(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (55)(a)(i) operational up to the point of interconnection with an existing transmission grid including:</p> <p>(A) a wind turbine;</p> <p>(B) generating equipment;</p> <p>(C) a control and monitoring system;</p> <p>(D) a power line;</p> <p>(E) substation equipment;</p> <p>(F) lighting;</p> <p>(G) fencing;</p> <p>(H) pipes; or</p> <p>(I) other equipment used for locating a power line or pole; and</p> <p>(b) this Subsection (55) does not apply to:</p> <p>(i) tangible personal property used in construction of:</p> <p>(A) a new alternative energy electricity production facility; or</p> <p>(B) the increase in the capacity of an alternative energy electricity production facility;</p> <p>(ii) contracted services required for construction and routine maintenance activities; and</p> <p>(iii) unless the tangible personal property is used or acquired for an increase in capacity of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or acquired after:</p> <p>(A) the alternative energy electricity production facility described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or</p>	<p>(B) the increased capacity described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii);</p> <p>(56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:</p> <p>(i) is leased or purchased for or by a facility that:</p> <p>(A) is a waste energy production facility;</p> <p>(B) is located in the state; and</p> <p>(C) (I) becomes operational on or after July 1, 2004; or</p> <p>(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;</p> <p>(ii) has an economic life of five or more years; and</p> <p>(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (56)(a)(i) operational up to the point of interconnection with an existing transmission grid including:</p> <p>(A) generating equipment;</p> <p>(B) a control and monitoring system;</p> <p>(C) a power line;</p> <p>(D) substation equipment;</p> <p>(E) lighting;</p> <p>(F) fencing;</p> <p>(G) pipes; or</p> <p>(H) other equipment used for locating a power line or pole; and</p> <p>(b) this Subsection (56) does not apply to:</p> <p>(i) tangible personal property used in construction of:</p> <p>(A) a new waste energy facility; or</p> <p>(B) the increase in the capacity of a waste energy facility;</p> <p>(ii) contracted services required for construction and routine maintenance activities; and</p> <p>(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:</p> <p>(A) the waste energy facility described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii); or</p> <p>(B) the increased capacity described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii);</p> <p>(57) (a) leases of five or more years or purchases made on or after July 1, 2004 but on or before June 30, 2027, of tangible personal property that:</p> <p>(i) is leased or purchased for or by a facility that:</p> <p>(A) is located in the state;</p>
--	---

(B) produces fuel from alternative energy, including:

- (I) methanol; or
- (II) ethanol; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as a result of the installation of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is installed on the facility described in Subsection (57)(a)(i);

(b) this Subsection (57) does not apply to:

(i) tangible personal property used in construction of:

(A) a new facility described in Subsection (57)(a)(i); or

(B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the facility described in Subsection (57)(a)(i) is operational; or

(B) the increased capacity described in Subsection (57)(a)(i) is operational;

(58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a product transferred electronically to a person within this state if that tangible personal property or product transferred electronically is subsequently shipped outside the state and incorporated pursuant to contract into and becomes a part of real property located outside of this state;

(b) the exemption under Subsection (58)(a) is not allowed to the extent that the other state or political entity to which the tangible personal property is shipped imposes a sales, use, gross receipts, or other similar transaction excise tax on the transaction against which the other state or political entity allows a credit for sales and use taxes imposed by this chapter; and

(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a refund:

(i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

(ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on which the sale is made;

(iii) if the person did not claim the exemption allowed by this Subsection (58) for the sale prior to filing for the refund;

(iv) for sales and use taxes paid under this chapter on the sale;

(v) in accordance with Section 59-1-1410; and

(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before June 30, 2011;

(59) purchases:

(a) of one or more of the following items in printed or electronic format:

(i) a list containing information that includes one or more:

(A) names; or

(B) addresses; or

(ii) a database containing information that includes one or more:

(A) names; or

(B) addresses; and

(b) used to send direct mail;

(60) redemptions or repurchases of a product by a person if that product was:

(a) delivered to a pawnbroker as part of a pawn transaction; and

(b) redeemed or repurchased within the time period established in a written agreement between the person and the pawnbroker for redeeming or repurchasing the product;

(61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

(i) is purchased or leased by, or on behalf of, a telecommunications service provider; and

(ii) has a useful economic life of one or more years; and

(b) the following apply to Subsection (61)(a):

(i) telecommunications enabling or facilitating equipment, machinery, or software;

(ii) telecommunications equipment, machinery, or software required for 911 service;

(iii) telecommunications maintenance or repair equipment, machinery, or software;

(iv) telecommunications switching or routing equipment, machinery, or software; or

(v) telecommunications transmission equipment, machinery, or software;

(62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission

may, for purposes of Subsection (62)(a), make rules defining what constitutes purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology;

(63) (a) purchases of tangible personal property or a product transferred electronically if:

(i) the tangible personal property or product transferred electronically is:

(A) purchased outside of this state;

(B) brought into this state at any time after the purchase described in Subsection (63)(a)(i)(A); and

(C) used in conducting business in this state; and

(ii) for:

(A) tangible personal property or a product transferred electronically other than the tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property for a purpose for which the property is designed occurs outside of this state; or

(B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;

(b) the exemption provided for in Subsection (63)(a) does not apply to:

(i) a lease or rental of tangible personal property or a product transferred electronically; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (63)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(ii) the first use of tangible personal property or a product transferred electronically if that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

(iii) a purpose for which tangible personal property or a product transferred electronically is designed if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(64) sales of disposable home medical equipment or supplies if:

(a) a person presents a prescription for the disposable home medical equipment or supplies;

(b) the disposable home medical equipment or supplies are used exclusively by the person to whom the prescription described in Subsection (64)(a) is issued; and

(c) the disposable home medical equipment and supplies are listed as eligible for payment under:

(i) Title XVIII, federal Social Security Act; or

(ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

(65) sales:

(a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act; or

(b) of tangible personal property to a subcontractor of a public transit district, if the tangible personal property is:

(i) clearly identified; and

(ii) installed or converted to real property owned by the public transit district;

(66) sales of construction materials:

(a) purchased on or after July 1, 2010;

(b) purchased by, on behalf of, or for the benefit of an international airport:

(i) located within a county of the first class; and

(ii) that has a United States customs office on its premises; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the international airport described in Subsection (66)(b); and

(B) located at the international airport described in Subsection (66)(b);

(67) sales of construction materials:

(a) purchased on or after July 1, 2008;

(b) purchased by, on behalf of, or for the benefit of a new airport:

(i) located within a county of the second class; and

(ii) that is owned or operated by a city in which an airline as defined in Section 59-2-102 is headquartered; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the new airport described in Subsection (67)(b);

(B) located at the new airport described in Subsection (67)(b); and

(C) as part of the construction of the new airport described in Subsection (67)(b);

(68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;

(69) purchases and sales described in Section 63H-4-111;

(70) (a) sales of tangible personal property to an aircraft maintenance, repair, and overhaul

provider for use in the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft; or

(b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft;

(71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

(a) to a person admitted to an institution of higher education; and

(b) by a seller, other than a bookstore owned by an institution of higher education, if 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a textbook for a higher education course;

(72) a license fee or tax a municipality imposes in accordance with Subsection 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced level of municipal services;

(73) amounts paid or charged for construction materials used in the construction of a new or expanding life science research and development facility in the state, if the construction materials are:

- (a) clearly identified;
- (b) segregated; and
- (c) installed or converted to real property;

(74) amounts paid or charged for:

(a) a purchase or lease of machinery and equipment that:

(i) are used in performing qualified research:

(A) as defined in Section 59-7-612;

(B) in the state; and

(C) with respect to which the purchaser pays or incurs a qualified research expense as defined in Section 59-7-612; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts:

(i) for the machinery and equipment described in Subsection (74)(a); and

(ii) that have an economic life of three or more years;

(75) a sale or lease of tangible personal property used in the preparation of prepared food if:

(a) for a sale:

(i) the ownership of the seller and the ownership of the purchaser are identical; and

(ii) the seller or the purchaser paid a tax under this chapter on the purchase of that tangible personal property prior to making the sale; or

(b) for a lease:

(i) the ownership of the lessor and the ownership of the lessee are identical; and

(ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible personal property prior to making the lease;

(76) (a) purchases of machinery or equipment if:

(i) the purchaser is an establishment described in NAICS Subsector 713, Amusement, Gambling, and Recreation Industries, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) the machinery or equipment:

(A) has an economic life of three or more years; and

(B) is used by one or more persons who pay admission or user fees described in Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and

(iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:

(A) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(B) subject to taxation under this chapter;

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for verifying that 51% of a purchaser's sales revenue for the previous calendar quarter is:

(i) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(ii) subject to taxation under this chapter; and

(c) on or before the November 2018 interim meeting, and every five years after the November 2018 interim meeting, the commission shall review the exemption provided in this Subsection (76) and report to the Revenue and Taxation Interim Committee on:

(i) the revenue lost to the state and local taxing jurisdictions as a result of the exemption;

(ii) the purpose and effectiveness of the exemption; and

(iii) whether the exemption benefits the state;

(77) purchases of a short-term lodging consumable by a business that provides accommodations and services described in Subsection 59-12-103(1)(i);

(78) amounts paid or charged to access a database:

(a) if the primary purpose for accessing the database is to view or retrieve information from the database; and

(b) not including amounts paid or charged for a:

(i) digital audiowork;

(ii) digital audio-visual work; or

(iii) digital book;

(79) amounts paid or charged for a purchase or lease made by an electronic financial payment service, of:

(a) machinery and equipment that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years; and

(80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102.

Section 14. Repealer.

This bill repeals:

Section 19-2-123, Tax relief to encourage investment in facilities -- Sales and use tax exemption.

Section 19-2-124, Application for certification of pollution control facility -- Refunds -- Interest.

Section 19-2-125, Action on application for certification.

Section 19-2-126, Revocation of certification -- Grounds -- Procedure.

Section 19-2-127, Rules for administering certification for tax relief.

CHAPTER 25**H. B. 105**

Passed March 13, 2014
 Approved March 20, 2014
 Effective July 1, 2014

PLANT EXTRACT AMENDMENTS

Chief Sponsor: Gage Froerer
 Senate Sponsor: Stephen H. Urquhart
 Cosponsors: Rebecca Chavez-Houck
 Jerry B. Anderson
 Susan Duckworth
 Brian M. Greene
 Richard A. Greenwood
 Keith Grover
 Lynn N. Hemingway
 John Knotwell
 Ronda Rudd Menlove
 Jim Nielson
 Curtis Oda
 Lee B. Perry
 Jeremy A. Peterson
 Dixon M. Pitcher
 Marie H. Poulson
 Marc K. Roberts
 Ryan D. Wilcox
 Larry B. Wiley

LONG TITLE**General Description:**

This bill makes amendments to the Utah Code related to hemp.

Highlighted Provisions:

This bill:

- ▶ permits the Department of Agriculture and a department-certified higher education institution to grow industrial hemp for the purpose of agricultural or academic research;
- ▶ exempts an individual with intractable epilepsy who uses or possesses hemp extract, and complies with other requirements, from the penalties related to possession or use of the hemp extract under the Controlled Substances Act;
- ▶ exempts an individual who possesses hemp extract and administers the hemp extract to a minor with intractable epilepsy from the penalties related to administering the hemp extract to a minor under the Controlled Substances Act;
- ▶ requires the Department of Health to issue a hemp extract registration card to an individual who meets certain requirements;
- ▶ requires a neurologist signing a statement that an individual or minor could benefit from treatment with hemp extract to keep a record of the neurologist's evaluation and transmit the record to the Department of Health;
- ▶ requires the Department of Health to maintain a database of neurologist evaluations;
- ▶ repeals certain provisions on July 1, 2016; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2014.

Utah Code Sections Affected:**AMENDS:**

63I-1-226, as last amended by Laws of Utah 2013, Chapters 32, 60, and 195
 63I-1-258, as last amended by Laws of Utah 2013, Chapters 55, 87, 222, 278, and 351

ENACTS:

4-41-101, Utah Code Annotated 1953
 4-41-102, Utah Code Annotated 1953
 4-41-103, Utah Code Annotated 1953
 26-55-101, Utah Code Annotated 1953
 26-55-102, Utah Code Annotated 1953
 26-55-103, Utah Code Annotated 1953
 58-37-4.3, Utah Code Annotated 1953

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

Section 1. Section 4-41-101 is enacted to read:

**CHAPTER 41. INDUSTRIAL HEMP
 RESEARCH ACT**

4-41-101. Title.

This chapter is known as the "Industrial Hemp Research Act."

Section 2. Section 4-41-102 is enacted to read:

4-41-102. Definitions.

For purposes of this chapter:

(1) "Industrial hemp" means any part of a cannabis plant, whether growing or not, with a concentration of less than 0.3% tetrahydrocannabinol by weight.

(2) "Industrial hemp certificate" means a certificate issued by the department to a higher education institution to grow or cultivate industrial hemp under Subsection 4-41-103(1).

Section 3. Section 4-41-103 is enacted to read:

4-41-103. Industrial hemp -- Agricultural and academic research.

(1) The department may grow or cultivate industrial hemp for the purpose of agricultural or academic research.

(2) The department shall certify a higher education institution to grow or cultivate industrial hemp for the purpose of agricultural or academic research if the higher education institution submits to the department:

(a) the location where the higher education institution intends to grow or cultivate industrial hemp;

(b) the higher education institution's research plan; and

(c) the name of an employee of the higher education institution who will supervise the industrial hemp growth, cultivation, and research.

(3) The department shall maintain a list of each industrial hemp certificate holder.

(4) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure any industrial hemp project meets the standards of an agricultural pilot project, as defined by Section 7606 of the U.S. Agricultural Act of 2014.

Section 4. Section 26-55-101 is enacted to read:

CHAPTER 55. HEMP EXTRACT REGISTRATION ACT

26-55-101. (Codified as 26-56-101) Title.

This chapter is known as the "Hemp Extract Registration Act."

Section 5. Section 26-55-102 is enacted to read:

26-55-102. (Codified as 26-56-102)

Definitions.

As used in this chapter:

(1) "Hemp extract" is as defined in Section 58-37-4.3.

(2) "Hemp extract registration card" means a card issued by the department under Subsection 26-55-103(1) or (2).

(3) "Intractable epilepsy" means epilepsy that, as determined by a neurologist, does not respond to three or more treatment options overseen by the neurologist.

(4) "Neurologist" means an individual who is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, that is board certified in neurology.

(5) "Parent" means a parent or legal guardian of a minor who is responsible for the minor's medical care.

(6) "Registrant" means an individual to whom the department issues a hemp extract registration card under Subsection 26-55-103(1) or (2).

Section 6. Section 26-55-103 is enacted to read:

26-55-103. (Codified as 26-56-103) Hemp extract registration card -- Application -- Fees -- Database.

(1) The department shall issue a hemp extract registration card to an individual who:

(a) is at least 18 years of age;

(b) is a Utah resident;

(c) provides the department with a statement signed by a neurologist that:

(i) indicates that the individual:

(A) suffers from intractable epilepsy; and

(B) may benefit from treatment with hemp extract; and

(ii) is consistent with a record from the neurologist, concerning the individual, contained in the database described in Subsection (8);

(d) pays the department a fee in an amount established by the department under Subsection (5); and

(e) submits an application to the department, on a form created by the department, that contains:

(i) the individual's name and address;

(ii) a copy of the individual's valid photo identification; and

(iii) any other information the department considers necessary to implement this chapter.

(2) The department shall issue a hemp extract registration card to a parent who:

(a) is at least 18 years of age;

(b) is a Utah resident;

(c) provides the department with a statement signed by a neurologist that:

(i) indicates that a minor in the parent's care:

(A) suffers from intractable epilepsy; and

(B) may benefit from treatment with hemp extract; and

(ii) is consistent with a record from the neurologist, concerning the minor, contained in the database described in Subsection (8);

(d) pays the department a fee in an amount established by the department under Subsection (5); and

(e) submits an application to the department, on a form created by the department, that contains:

(i) the parent's name and address;

(ii) the minor's name;

(iii) a copy of the parent's valid photo identification; and

(iv) any other information the department considers necessary to implement this chapter.

(3) The department shall maintain a record of:

(a) the name of each registrant; and

(b) the name of each minor receiving care from a registrant.

(4) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) establish the information an applicant is required to provide to the department under Subsections (1)(e)(iii) and (2)(e)(iv); and

(b) establish, in accordance with recommendations from the Department of Public Safety, the form and content of the hemp extract registration card.

(5) The department shall establish fees in accordance with Section 63J-1-504 that are no

greater than the amount necessary to cover the cost the department incurs to implement this chapter.

(6) The registration cards issued under Subsections (1) and (2) are:

(a) valid for one year; and

(b) renewable, if, at the time of renewal, the registrant meets the requirements of either Subsection (1) or (2).

(7) The neurologist who signs the statement described in Subsection (1)(c) or (2)(c) shall:

(a) keep a record of the neurologist's evaluation and observation of a patient who is a registrant or minor under a registrant's care, including the patient's response to hemp extract; and

(b) transmit the record described in Subsection (7)(a) to the department.

(8) The department shall:

(a) maintain a database of the records described in Subsection (7); and

(b) treat the records as identifiable health data, as defined in Section 26-3-1.

(9) The department may share the records described in Subsection (8) with a higher education institution for the purpose of studying hemp extract.

Section 7. Section 58-37-4.3 is enacted to read:

58-37-4.3. Exemption for use or possession of hemp extract.

(1) As used in this section, "hemp extract" means an extract from a cannabis plant, or a mixture or preparation containing cannabis plant material, that:

(a) is composed of less than 0.3% tetrahydrocannabinol by weight;

(b) is composed of at least 15% cannabidiol by weight; and

(c) contains no other psychoactive substance.

(2) Notwithstanding any other provision of this chapter, an individual who possesses or uses hemp extract is not subject to the penalties described in this chapter for possession or use of the hemp extract if the individual:

(a) possesses or uses the hemp extract only to treat intractable epilepsy, as defined in Section 26-55-102;

(b) originally obtained the hemp extract from a sealed container with a label indicating the hemp extract's place of origin, and a number that corresponds with a certificate of analysis;

(c) possesses, in close proximity to the hemp extract, a certificate of analysis that:

(i) has a number that corresponds with the number on the label described in Subsection (2)(b);

(ii) indicates the hemp extract's ingredients, including its percentages of tetrahydrocannabinol and cannabidiol by weight;

(iii) is created by a laboratory that is:

(A) not affiliated with the producer of the hemp extract; and

(B) licensed in the state where the hemp extract was produced; and

(iv) is transmitted by the laboratory to the Department of Health; and

(d) has a current hemp extract registration card issued by the Department of Health under Section 26-55-103.

(3) Notwithstanding any other provision of this chapter, an individual who possesses hemp extract lawfully under Subsection (2) and administers hemp extract to a minor is not subject to the penalties described in this chapter for administering the hemp extract to the minor if:

(a) the individual is the minor's parent or legal guardian; and

(b) the individual is registered with the Department of Health as the minor's parent under Section 26-55-103.

Section 8. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates, Title 26.

(1) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2015.

(2) Section 26-10-11 is repealed July 1, 2015.

(3) Section 26-18-12, Expansion of 340B drug pricing programs, is repealed July 1, 2013.

(4) Section 26-21-23, Licensing of non-Medicaid nursing care facility beds, is repealed July 1, 2018.

(5) Section 26-21-211 is repealed July 1, 2013.

(6) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2014.

(7) Title 26, Chapter 36a, Hospital Provider Assessment Act, is repealed July 1, 2016.

(8) Section 26-38-2.5 is repealed July 1, 2017.

(9) Section 26-38-2.6 is repealed July 1, 2017.

(10) Title 26, Chapter 55, Hemp Extract Registration Act, is repealed July 1, 2016.

Section 9. Section 63I-1-258 is amended to read:

63I-1-258. Repeal dates, Title 58.

(1) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is repealed July 1, 2016.

(2) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2015.

(3) Section 58-17b-309.5 is repealed July 1, 2015.

(4) Title 58, Chapter 20a, Environmental Health Scientist Act, is repealed July 1, 2018.

(5) Section 58-37-4.3 is repealed July 1, 2016.

[(5)] (6) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2023.

[(6)] (7) Title 58, Chapter 41, Speech-language Pathology and Audiology Licensing Act, is repealed July 1, 2019.

[(7)] (8) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1, 2015.

[(8)] (9) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July 1, 2023.

[(9)] (10) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2014.

[(10)] (11) Section 58-69-302.5 is repealed on July 1, 2015.

[(11)] (12) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2017.

Section 10. Effective date.

This bill takes effect on July 1, 2014.

CHAPTER 26**H. B. 196**

Passed March 6, 2014

Approved March 20, 2014

Effective May 13, 2014

FLEET MANAGEMENT AMENDMENTS

Chief Sponsor: Eric K. Hutchings
Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill amends provisions authorizing law enforcement officers to use a state issued vehicle.

Highlighted Provisions:

This bill:

- ▶ amends provisions authorizing law enforcement officers to use a state issued vehicle.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

67-5-23, as enacted by Laws of Utah 2007,
Chapter 67

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

Section 1. Section 67-5-23 is amended to read:**67-5-23. Use of state vehicles for law enforcement officers.**

(1) The attorney general may authorize ~~up to 28~~ law enforcement officers, as defined under Section 53-13-103, who are employees in the Office of the Attorney General to use a state issued vehicle for official and ~~personal~~ commuter use.

(2) An employee shall use, and the attorney general shall authorize the use of, a vehicle under Subsection (1) subject to the rules adopted by the Division of Fleet Operations in accordance with Section 63A-9-401.

CHAPTER 27**H. B. 209**

Passed March 12, 2014
 Approved March 20, 2014
 Effective May 13, 2014

**EXTENSION OF SALES
 AND USE TAX EXEMPTION**

Chief Sponsor: Ryan D. Wilcox
 Senate Sponsor: Peter C. Knudson
 Cosponsors: Jacob L. Anderegg
 Jack R. Draxler
 James A. Dunnigan
 Gage Froerer
 Richard A. Greenwood
 Eric K. Hutchings
 John Knotwell
 Ronda Rudd Menlove
 Jim Nielson
 Curtis Oda
 Lee B. Perry
 Jeremy A. Peterson
 Dixon M. Pitcher
 Edward H. Redd
 Jon E. Stanard
 R. Curt Webb

LONG TITLE**General Description:**

This bill amends a sales and use tax exemption.

Highlighted Provisions:

This bill:

- ▶ extends a sales and use tax exemption related to a steel mill.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

59-12-104, as last amended by Laws of Utah 2013, Chapters 82, 223, 229, 234, and 441

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

Section 1. Section 59-12-104 is amended to read:

59-12-104. Exemptions.

The following sales and uses are exempt from the taxes imposed by this chapter:

(1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax under Chapter 13, Motor and Special Fuel Tax Act;

(2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political subdivisions; however, this exemption does not apply to sales of:

(a) construction materials except:

(i) construction materials purchased by or on behalf of institutions of the public education system as defined in Utah Constitution Article X, Section 2, provided the construction materials are clearly

identified and segregated and installed or converted to real property which is owned by institutions of the public education system; and

(ii) construction materials purchased by the state, its institutions, or its political subdivisions which are installed or converted to real property by employees of the state, its institutions, or its political subdivisions; or

(b) tangible personal property in connection with the construction, operation, maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities providing additional project capacity, as defined in Section 11-13-103;

(3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

(i) the proceeds of each sale do not exceed \$1; and

(ii) the seller or operator of the vending machine reports an amount equal to 150% of the cost of the item described in Subsection (3)(b) as goods consumed; and

(b) Subsection (3)(a) applies to:

(i) food and food ingredients; or

(ii) prepared food;

(4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

(i) alcoholic beverages;

(ii) food and food ingredients; or

(iii) prepared food;

(b) sales of tangible personal property or a product transferred electronically:

(i) to a passenger;

(ii) by a commercial airline carrier; and

(iii) during a flight for in-flight consumption or in-flight use by the passenger; or

(c) services related to Subsection (4)(a) or (b);

(5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts and equipment:

(A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(II) for:

(Aa) installation in an aircraft, including services relating to the installation of parts or equipment in the aircraft;

(Bb) renovation of an aircraft; or

(Cc) repair of an aircraft; or

(B) for installation in an aircraft operated by a common carrier in interstate or foreign commerce; or

(ii) beginning on October 1, 2008, sales of parts and equipment for installation in an aircraft

operated by a common carrier in interstate or foreign commerce; and

(b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a refund:

(i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;

(ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;

(iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for the sale prior to filing for the refund;

(iv) for sales and use taxes paid under this chapter on the sale;

(v) in accordance with Section 59-1-1410; and

(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before September 30, 2011;

(6) sales of commercials, motion picture films, prerecorded audio program tapes or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture exhibitor, distributor, or commercial television or radio broadcaster;

(7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal property if the cleaning or washing of the tangible personal property is not assisted cleaning or washing of tangible personal property;

(b) if a seller that sells at the same business location assisted cleaning or washing of tangible personal property and cleaning or washing of tangible personal property that is not assisted cleaning or washing of tangible personal property, the exemption described in Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning or washing of the tangible personal property; and

(c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for sales of assisted cleaning or washing of tangible personal property;

(8) sales made to or by religious or charitable institutions in the conduct of their regular religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are fulfilled;

(9) sales of a vehicle of a type required to be registered under the motor vehicle laws of this state if the vehicle is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the vehicle is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the vehicle to the borders of this state; or

(B) if the vehicle is used to conduct business, for the time period necessary to transport the vehicle to the borders of this state;

(10) (a) amounts paid for an item described in Subsection (10)(b) if:

(i) the item is intended for human use; and

(ii) (A) a prescription was issued for the item; or

(B) the item was purchased by a hospital or other medical facility; and

(b) (i) Subsection (10)(a) applies to:

(A) a drug;

(B) a syringe; or

(C) a stoma supply; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the terms:

(A) "syringe"; or

(B) "stoma supply";

(11) sales or use of property, materials, or services used in the construction of or incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;

(12) (a) sales of an item described in Subsection (12)(c) served by:

(i) the following if the item described in Subsection (12)(c) is not available to the general public:

(A) a church; or

(B) a charitable institution;

(ii) an institution of higher education if:

(A) the item described in Subsection (12)(c) is not available to the general public; or

(B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan offered by the institution of higher education; or

(b) sales of an item described in Subsection (12)(c) provided for a patient by:

(i) a medical facility; or

(ii) a nursing facility; and

(c) Subsections (12)(a) and (b) apply to:

(i) food and food ingredients;

(ii) prepared food; or

(iii) alcoholic beverages;

(13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property or a product transferred electronically by a person:

(i) regardless of the number of transactions involving the sale of that tangible personal property or product transferred electronically by that person; and

(ii) not regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(b) this Subsection (13) does not apply if:

(i) the sale is one of a series of sales of a character to indicate that the person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(ii) the person holds that person out as regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(iii) the person sells an item of tangible personal property or product transferred electronically that the person purchased as a sale that is exempt under Subsection (25); or

(iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of this state in which case the tax is based upon:

(A) the bill of sale or other written evidence of value of the vehicle or vessel being sold; or

(B) in the absence of a bill of sale or other written evidence of value, the fair market value of the vehicle or vessel being sold at the time of the sale as determined by the commission; and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing the circumstances under which:

(i) a person is regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(ii) a sale of tangible personal property or a product transferred electronically is one of a series of sales of a character to indicate that a person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically; or

(iii) a person holds that person out as regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(14) (a) except as provided in Subsection (14)(b), amounts paid or charged on or after July 1, 2006, for a purchase or lease by a manufacturing facility except for a cogeneration facility, of the following:

(i) machinery and equipment that:

(A) are used:

(I) for a manufacturing facility except for a manufacturing facility that is a scrap recycler described in Subsection 59-12-102(64)(b):

(Aa) in the manufacturing process;

(Bb) to manufacture an item sold as tangible personal property; and

(Cc) beginning on July 1, 2009, in a manufacturing facility described in this Subsection (14)(a)(i)(A)(I) in the state; or

(II) for a manufacturing facility that is a scrap recycler described in Subsection 59-12-102(64)(b):

(Aa) to process an item sold as tangible personal property; and

(Bb) beginning on July 1, 2009, in a manufacturing facility described in this Subsection (14)(a)(i)(A)(II) in the state; and

(B) have an economic life of three or more years; and

(ii) normal operating repair or replacement parts that:

(A) have an economic life of three or more years; and

(B) are used:

(I) for a manufacturing facility except for a manufacturing facility that is a scrap recycler described in Subsection 59-12-102(64)(b):

(Aa) in the manufacturing process; and

(Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(I) in the state; or

(II) for a manufacturing facility that is a scrap recycler described in Subsection 59-12-102(64)(b):

(Aa) to process an item sold as tangible personal property; and

(Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(II) in the state;

(b) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006, of the following:

(i) machinery and equipment that:

(A) are used:

(I) in the manufacturing process;

(II) to manufacture an item sold as tangible personal property; and

(III) beginning on July 1, 2009, in a manufacturing facility described in this Subsection (14)(b) in the state; and

(B) have an economic life of three or more years; and

(ii) normal operating repair or replacement parts that:

(A) are used:

(I) in the manufacturing process; and

(II) in a manufacturing facility described in this Subsection (14)(b) in the state; and

(B) have an economic life of three or more years;

(c) amounts paid or charged for a purchase or lease made on or after January 1, 2008, by an establishment described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, of the following:

(i) machinery and equipment that:

(A) are used:

(I) (Aa) in the production process, other than the production of real property; or

(Bb) in research and development; and

(II) beginning on July 1, 2009, in an establishment described in this Subsection (14)(c) in the state; and

(B) have an economic life of three or more years; and

(ii) normal operating repair or replacement parts that:

(A) have an economic life of three or more years; and

(B) are used in:

(I) (Aa) the production process, except for the production of real property; and

(Bb) an establishment described in this Subsection (14)(c) in the state; or

(II) (Aa) research and development; and

(Bb) in an establishment described in this Subsection (14)(c) in the state;

(d) (i) amounts paid or charged for a purchase or lease made on or after July 1, 2010, but on or before June 30, 2014, by an establishment described in NAICS Code 518112, Web Search Portals, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, of the following:

(A) machinery and equipment that:

(I) are used in the operation of the web search portal;

(II) have an economic life of three or more years; and

(III) are used in a new or expanding establishment described in this Subsection (14)(d) in the state; and

(B) normal operating repair or replacement parts that:

(I) are used in the operation of the web search portal;

(II) have an economic life of three or more years; and

(III) are used in a new or expanding establishment described in this Subsection (14)(d) in the state; or

(ii) amounts paid or charged for a purchase or lease made on or after July 1, 2014, by an establishment described in NAICS Code 518112, Web Search Portals, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, of the following:

(A) machinery and equipment that:

(I) are used in the operation of the web search portal; and

(II) have an economic life of three or more years; and

(B) normal operating repair or replacement parts that:

(I) are used in the operation of the web search portal; and

(II) have an economic life of three or more years;

(e) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission:

(i) shall by rule define the term "establishment"; and

(ii) may by rule define what constitutes:

(A) processing an item sold as tangible personal property;

(B) the production process, except for the production of real property; (C) research and development; or

(D) a new or expanding establishment described in Subsection (14)(d) in the state; and

(f) on or before October 1, 2011, and every five years after October 1, 2011, the commission shall:

(i) review the exemptions described in this Subsection (14) and make recommendations to the Revenue and Taxation Interim Committee concerning whether the exemptions should be continued, modified, or repealed; and

(ii) include in its report:

(A) an estimate of the cost of the exemptions;

(B) the purpose and effectiveness of the exemptions; and

(C) the benefits of the exemptions to the state;

(15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

(i) tooling;

(ii) special tooling;

(iii) support equipment;

(iv) special test equipment; or

(v) parts used in the repairs or renovations of tooling or equipment described in Subsections (15)(a)(i) through (iv); and

(b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

(i) the tooling, equipment, or parts are used or consumed exclusively in the performance of any aerospace or electronics industry contract with the United States government or any subcontract under that contract; and

(ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as evidenced by:

(A) a government identification tag placed on the tooling, equipment, or parts; or

(B) listing on a government-approved property record if placing a government identification tag on the tooling, equipment, or parts is impractical;

(16) sales of newspapers or newspaper subscriptions;

(17) (a) except as provided in Subsection (17)(b), tangible personal property or a product transferred electronically traded in as full or part payment of the purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

(i) the bill of sale or other written evidence of value of the vehicle being sold and the vehicle being traded in; or

(ii) in the absence of a bill of sale or other written evidence of value, the then existing fair market value of the vehicle being sold and the vehicle being traded in, as determined by the commission; and

(b) Subsection (17)(a) does not apply to the following items of tangible personal property or products transferred electronically traded in as full or part payment of the purchase price:

(i) money;

(ii) electricity;

(iii) water;

(iv) gas; or

(v) steam;

(18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property or a product transferred electronically used or consumed primarily and directly in farming operations, regardless of whether the tangible personal property or product transferred electronically:

(A) becomes part of real estate; or

(B) is installed by a:

(I) farmer;

(II) contractor; or

(III) subcontractor; or

(ii) sales of parts used in the repairs or renovations of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is exempt under Subsection (18)(a)(i); and

(b) amounts paid or charged for the following are subject to the taxes imposed by this chapter:

(i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is incidental to farming:

(I) machinery;

(II) equipment;

(III) materials; or

(IV) supplies; and

(B) tangible personal property that is considered to be used in a manner that is incidental to farming includes:

(I) hand tools; or

(II) maintenance and janitorial equipment and supplies;

(ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is used in an activity other than farming; and

(B) tangible personal property or a product transferred electronically that is considered to be used in an activity other than farming includes:

(I) office equipment and supplies; or

(II) equipment and supplies used in:

(Aa) the sale or distribution of farm products;

(Bb) research; or

(Cc) transportation; or

(iii) a vehicle required to be registered by the laws of this state during the period ending two years after the date of the vehicle's purchase;

(19) sales of hay;

(20) exclusive sale during the harvest season of seasonal crops, seedling plants, or garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or garden, farm, or other agricultural produce is sold by:

(a) the producer of the seasonal crops, seedling plants, or garden, farm, or other agricultural produce;

(b) an employee of the producer described in Subsection (20)(a); or

(c) a member of the immediate family of the producer described in Subsection (20)(a);

(21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

(22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags, nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler, or retailer for use in packaging tangible personal property to be sold by that manufacturer, processor, wholesaler, or retailer;

(23) a product stored in the state for resale;

(24) (a) purchases of a product if:

(i) the product is:

(A) purchased outside of this state;

(B) brought into this state:

(I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

(II) by a nonresident person who is not living or working in this state at the time of the purchase;

(C) used for the personal use or enjoyment of the nonresident person described in Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

(D) not used in conducting business in this state; and

(ii) for:

(A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of the product for a purpose for which the product is designed occurs outside of this state;

(B) a boat, the boat is registered outside of this state; or

(C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;

(b) the exemption provided for in Subsection (24)(a) does not apply to:

(i) a lease or rental of a product; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (24)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(ii) the first use of a product if that phrase has the same meaning in this Subsection (24) as in Subsection (63); or

(iii) a purpose for which a product is designed if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(25) a product purchased for resale in this state, in the regular course of business, either in its original form or as an ingredient or component part of a manufactured or compounded product;

(26) a product upon which a sales or use tax was paid to some other state, or one of its subdivisions, except that the state shall be paid any difference between the tax paid and the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;

(27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person for use in compounding a service taxable under the subsections;

(28) purchases made in accordance with the special supplemental nutrition program for women, infants, and children established in 42 U.S.C. Sec. 1786;

(29) [~~beginning on July 1, 1999, through June 30, 2014,~~] sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state; or

(B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state;

(31) sales of aircraft manufactured in Utah;

(32) amounts paid for the purchase of telecommunications service for purposes of providing telecommunications service;

(33) sales, leases, or uses of the following:

(a) a vehicle by an authorized carrier; or

(b) tangible personal property that is installed on a vehicle:

(i) sold or leased to or used by an authorized carrier; and

(ii) before the vehicle is placed in service for the first time;

(34) (a) 45% of the sales price of any new manufactured home; and

(b) 100% of the sales price of any used manufactured home;

(35) sales relating to schools and fundraising sales;

(36) sales or rentals of durable medical equipment if:

(a) a person presents a prescription for the durable medical equipment; and

(b) the durable medical equipment is used for home use only;

(37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in Section 72-11-102; and

(b) the commission shall by rule determine the method for calculating sales exempt under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

(38) sales to a ski resort of:

(a) snowmaking equipment;

(b) ski slope grooming equipment;

(c) passenger ropeways as defined in Section 72-11-102; or

(d) parts used in the repairs or renovations of equipment or passenger ropeways described in Subsections (38)(a) through (c);

(39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

(40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for amusement, entertainment, or recreation an unassisted amusement device as defined in Section 59-12-102;

(b) if a seller that sells or rents at the same business location the right to use or operate for amusement, entertainment, or recreation one or more unassisted amusement devices and one or more assisted amusement devices, the exemption described in Subsection (40)(a) applies if the seller separately accounts for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for the assisted amusement devices; and

(c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for assisted amusement devices;

(41) (a) sales of photocopies by:

(i) a governmental entity; or

(ii) an entity within the state system of public education, including:

(A) a school; or

(B) the State Board of Education; or

(b) sales of publications by a governmental entity;

(42) amounts paid for admission to an athletic event at an institution of higher education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(43) (a) sales made to or by:

(i) an area agency on aging; or

(ii) a senior citizen center owned by a county, city, or town; or

(b) sales made by a senior citizen center that contracts with an area agency on aging;

(44) sales or leases of semiconductor fabricating, processing, research, or development materials regardless of whether the semiconductor fabricating, processing, research, or development materials:

(a) actually come into contact with a semiconductor; or

(b) ultimately become incorporated into real property;

(45) an amount paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section 59-12-104.2;

(46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary sports event registration certificate in accordance with Section 41-3-306 for the event period specified on the temporary sports event registration certificate;

(47) (a) sales or uses of electricity, if the sales or uses are made under a tariff adopted by the Public Service Commission of Utah only for purchase of electricity produced from a new alternative energy source, as designated in the tariff by the Public Service Commission of Utah; and

(b) the exemption under Subsection (47)(a) applies to the portion of the tariff rate a customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

(48) sales or rentals of mobility enhancing equipment if a person presents a prescription for the mobility enhancing equipment;

(49) sales of water in a:

(a) pipe;

(b) conduit;

(c) ditch; or

(d) reservoir;

(50) sales of currency or coins that constitute legal tender of a state, the United States, or a foreign nation;

(51) (a) sales of an item described in Subsection (51)(b) if the item:

(i) does not constitute legal tender of a state, the United States, or a foreign nation; and

(ii) has a gold, silver, or platinum content of 50% or more; and

(b) Subsection (51)(a) applies to a gold, silver, or platinum:

(i) ingot;

(ii) bar;

(iii) medallion; or

(iv) decorative coin;

(52) amounts paid on a sale-leaseback transaction;

(53) sales of a prosthetic device:

(a) for use on or in a human; and

(b) (i) for which a prescription is required; or

(ii) if the prosthetic device is purchased by a hospital or other medical facility;

(54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) if the machinery or equipment is primarily used in the production or postproduction of the following media for commercial distribution:

(i) a motion picture;

(ii) a television program;

(iii) a movie made for television;

(iv) a music video;

(v) a commercial;

(vi) a documentary; or

(vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the commission by administrative rule made in accordance with Subsection (54)(d); or

(b) purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) that is used for the production or postproduction of the following are subject to the taxes imposed by this chapter:

(i) a live musical performance;

(ii) a live news program; or

(iii) a live sporting event;

(c) the following establishments listed in the 1997 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, apply to Subsections (54)(a) and (b):

(i) NAICS Code 512110; or

(ii) NAICS Code 51219; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule:

(i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi); or

(ii) define:

(A) “commercial distribution”;

(B) “live musical performance”;

(C) “live news program”; or

(D) “live sporting event”;

(55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is an alternative energy electricity production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (55)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) a wind turbine;

(B) generating equipment;

(C) a control and monitoring system;

(D) a power line;

(E) substation equipment;

(F) lighting;

(G) fencing;

(H) pipes; or

(I) other equipment used for locating a power line or pole; and

(b) this Subsection (55) does not apply to:

(i) tangible personal property used in construction of:

(A) a new alternative energy electricity production facility; or

(B) the increase in the capacity of an alternative energy electricity production facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the alternative energy electricity production facility described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

(B) the increased capacity described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii);

(56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is a waste energy production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (56)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) generating equipment;

(B) a control and monitoring system;

(C) a power line;

(D) substation equipment;

(E) lighting;

(F) fencing;

(G) pipes; or

(H) other equipment used for locating a power line or pole; and

(b) this Subsection (56) does not apply to:

(i) tangible personal property used in construction of:

(A) a new waste energy facility; or

(B) the increase in the capacity of a waste energy facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the waste energy facility described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii); or

(B) the increased capacity described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii);

(57) (a) leases of five or more years or purchases made on or after July 1, 2004 but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is located in the state;

(B) produces fuel from alternative energy, including:

(I) methanol; or

(II) ethanol; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as a result of the installation of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is installed on the facility described in Subsection (57)(a)(i);

(b) this Subsection (57) does not apply to:

(i) tangible personal property used in construction of:

(A) a new facility described in Subsection (57)(a)(i); or

(B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the facility described in Subsection (57)(a)(i) is operational; or

(B) the increased capacity described in Subsection (57)(a)(i) is operational;

(58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a product transferred electronically to a person within this state if that tangible personal property or product transferred electronically is subsequently shipped outside the state and incorporated pursuant to contract into and becomes a part of real property located outside of this state;

(b) the exemption under Subsection (58)(a) is not allowed to the extent that the other state or political entity to which the tangible personal property is shipped imposes a sales, use, gross receipts, or other similar transaction excise tax on the transaction against which the other state or political entity allows a credit for sales and use taxes imposed by this chapter; and

(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a refund:

(i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

(ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on which the sale is made;

(iii) if the person did not claim the exemption allowed by this Subsection (58) for the sale prior to filing for the refund;

(iv) for sales and use taxes paid under this chapter on the sale;

(v) in accordance with Section 59-1-1410; and

(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before June 30, 2011;

(59) purchases:

(a) of one or more of the following items in printed or electronic format:

(i) a list containing information that includes one or more:

(A) names; or

(B) addresses; or

(ii) a database containing information that includes one or more:

(A) names; or

(B) addresses; and

(b) used to send direct mail;

(60) redemptions or repurchases of a product by a person if that product was:

(a) delivered to a pawnbroker as part of a pawn transaction; and

(b) redeemed or repurchased within the time period established in a written agreement between the person and the pawnbroker for redeeming or repurchasing the product;

(61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

(i) is purchased or leased by, or on behalf of, a telecommunications service provider; and

(ii) has a useful economic life of one or more years; and

(b) the following apply to Subsection (61)(a):

(i) telecommunications enabling or facilitating equipment, machinery, or software;

(ii) telecommunications equipment, machinery, or software required for 911 service;

(iii) telecommunications maintenance or repair equipment, machinery, or software;

(iv) telecommunications switching or routing equipment, machinery, or software; or

(v) telecommunications transmission equipment, machinery, or software;

(62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, for purposes of Subsection (62)(a), make rules defining what constitutes purchases of tangible

personal property or a product transferred electronically that are used in the research and development of alternative energy technology;

(63) (a) purchases of tangible personal property or a product transferred electronically if:

(i) the tangible personal property or product transferred electronically is:

(A) purchased outside of this state;

(B) brought into this state at any time after the purchase described in Subsection (63)(a)(i)(A); and

(C) used in conducting business in this state; and

(ii) for:

(A) tangible personal property or a product transferred electronically other than the tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property for a purpose for which the property is designed occurs outside of this state; or

(B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;

(b) the exemption provided for in Subsection (63)(a) does not apply to:

(i) a lease or rental of tangible personal property or a product transferred electronically; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (63)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(ii) the first use of tangible personal property or a product transferred electronically if that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

(iii) a purpose for which tangible personal property or a product transferred electronically is designed if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(64) sales of disposable home medical equipment or supplies if:

(a) a person presents a prescription for the disposable home medical equipment or supplies;

(b) the disposable home medical equipment or supplies are used exclusively by the person to whom the prescription described in Subsection (64)(a) is issued; and

(c) the disposable home medical equipment and supplies are listed as eligible for payment under:

(i) Title XVIII, federal Social Security Act; or

(ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

(65) sales:

(a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act; or

(b) of tangible personal property to a subcontractor of a public transit district, if the tangible personal property is:

(i) clearly identified; and

(ii) installed or converted to real property owned by the public transit district;

(66) sales of construction materials:

(a) purchased on or after July 1, 2010;

(b) purchased by, on behalf of, or for the benefit of an international airport:

(i) located within a county of the first class; and

(ii) that has a United States customs office on its premises; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the international airport described in Subsection (66)(b); and

(B) located at the international airport described in Subsection (66)(b);

(67) sales of construction materials:

(a) purchased on or after July 1, 2008;

(b) purchased by, on behalf of, or for the benefit of a new airport:

(i) located within a county of the second class; and

(ii) that is owned or operated by a city in which an airline as defined in Section 59-2-102 is headquartered; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the new airport described in Subsection (67)(b);

(B) located at the new airport described in Subsection (67)(b); and

(C) as part of the construction of the new airport described in Subsection (67)(b);

(68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;

(69) purchases and sales described in Section 63H-4-111;

(70) (a) sales of tangible personal property to an aircraft maintenance, repair, and overhaul provider for use in the maintenance, repair,

overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft; or

(b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft;

(71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

(a) to a person admitted to an institution of higher education; and

(b) by a seller, other than a bookstore owned by an institution of higher education, if 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a textbook for a higher education course;

(72) a license fee or tax a municipality imposes in accordance with Subsection 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced level of municipal services;

(73) amounts paid or charged for construction materials used in the construction of a new or expanding life science research and development facility in the state, if the construction materials are:

(a) clearly identified;

(b) segregated; and

(c) installed or converted to real property;

(74) amounts paid or charged for:

(a) a purchase or lease of machinery and equipment that:

(i) are used in performing qualified research:

(A) as defined in Section 59-7-612;

(B) in the state; and

(C) with respect to which the purchaser pays or incurs a qualified research expense as defined in Section 59-7-612; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts:

(i) for the machinery and equipment described in Subsection (74)(a); and

(ii) that have an economic life of three or more years;

(75) a sale or lease of tangible personal property used in the preparation of prepared food if:

- (a) for a sale:
- (i) the ownership of the seller and the ownership of the purchaser are identical; and
 - (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that tangible personal property prior to making the sale; or
- (b) for a lease:
- (i) the ownership of the lessor and the ownership of the lessee are identical; and
 - (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible personal property prior to making the lease;
- (76) (a) purchases of machinery or equipment if:
- (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement, Gambling, and Recreation Industries, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;
 - (ii) the machinery or equipment:
 - (A) has an economic life of three or more years; and
 - (B) is used by one or more persons who pay admission or user fees described in Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
 - (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
 - (A) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and
 - (B) subject to taxation under this chapter;
 - (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for verifying that 51% of a purchaser's sales revenue for the previous calendar quarter is:
 - (i) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and
 - (ii) subject to taxation under this chapter; and
 - (c) on or before the November 2018 interim meeting, and every five years after the November 2018 interim meeting, the commission shall review the exemption provided in this Subsection (76) and report to the Revenue and Taxation Interim Committee on:
 - (i) the revenue lost to the state and local taxing jurisdictions as a result of the exemption;
 - (ii) the purpose and effectiveness of the exemption; and
 - (iii) whether the exemption benefits the state;

(77) purchases of a short-term lodging consumable by a business that provides accommodations and services described in Subsection 59-12-103(1)(i);

(78) amounts paid or charged to access a database:

 - (a) if the primary purpose for accessing the database is to view or retrieve information from the database; and
 - (b) not including amounts paid or charged for a:
 - (i) digital audiowork;
 - (ii) digital audio-visual work; or
 - (iii) digital book;

(79) amounts paid or charged for a purchase or lease made by an electronic financial payment service, of:

 - (a) machinery and equipment that:
 - (i) are used in the operation of the electronic financial payment service; and
 - (ii) have an economic life of three or more years; and
 - (b) normal operating repair or replacement parts that:
 - (i) are used in the operation of the electronic financial payment service; and
 - (ii) have an economic life of three or more years; and

(80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102.

CHAPTER 28**H. B. 217**

Passed February 27, 2014

Approved March 20, 2014

Effective May 13, 2014

SERVICE ANIMALS

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Allen M. Christensen

LONG TITLE**General Description:**

This bill enacts language related to a municipal or county ordinance regulating the keeping of a service animal.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ allows a person to keep a service animal, a retired service animal, or both in addition to a limit on the number of dogs a person may keep set by a municipality or county; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

10-8-65, as last amended by Laws of Utah 1967, Chapter 23

ENACTS:

17-50-336, Utah Code Annotated 1953

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

Section 1. Section 10-8-65 is amended to read:**10-8-65. Regulation of dogs -- Service animals permitted.**

(1) A municipality may:

(a) license, tax, regulate, or prohibit the keeping of dogs^[,]; and

(b) authorize the destruction, sale, or other disposal of ~~[the same when]~~ a dog if the dog is at large contrary to ordinance.

(2) (a) As used in this Subsection (2):

(i) "Retired service animal" means a dog that:

(A) at one time was a service animal for the current owner; and

(B) no longer provides service animal services for the owner because of the dog's age or other factors limiting the dog's service capability.

(ii) "Service animal" means a police service canine, as defined in Section 53-16-102.

(b) If a municipality adopts a limit as to the number of dogs a person may keep, the municipality shall allow a person to keep a service animal, a

retired service animal, or both in addition to that limit.

Section 2. Section 17-50-336 is enacted to read:**17-50-336. Service animals permitted.**

(1) As used in this section:

(a) "Retired service animal" means a dog that:

(i) at one time was a service animal for the current owner; and

(ii) no longer provides service animal services to the owner because of the dog's age or other factors limiting the dog's service capability.

(b) "Service animal" means a police service canine, as defined in Section 53-16-102.

(2) If a county adopts a limit as to the number of dogs a person may keep, the county shall allow a person to keep a service animal, a retired service animal, or both in addition to that limit.

CHAPTER 29**H. B. 261**

Passed February 25, 2014

Approved March 20, 2014

Effective May 13, 2014

DOMESTIC HORSE DISPOSAL

Chief Sponsor: Jacob L. Anderegg

Senate Sponsor: David P. Hinkins

Cosponsors: Gage Froerer

Keith Grover

David E. Lifferth

John G. Mathis

Michael E. Noel

Angela Romero

V. Lowry Snow

Robert M. Spendlove

Ryan D. Wilcox

LONG TITLE**General Description:**

This bill amends Title 4, Chapter 31, Control of Animal Disease.

Highlighted Provisions:

This bill:

- ▶ allows the owner of certain dead animals to bury the dead animals on the owner's property.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

4-31-102, as renumbered and amended by Laws of Utah 2012, Chapter 331

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

Section 1. Section 4-31-102 is amended to read:**4-31-102. Dead domestic animals -- Duty of owner to bury or otherwise dispose of them -- Liability for costs.**

(1) An owner or other person responsible for a domestic animal that dies shall bury or dispose of the animal within ~~[two business days after the day on which]~~ a reasonable period of time after the owner or other person responsible for the animal becomes aware that the animal is dead.

(2) The owner of a dead bovine, horse, mule, goat, sheep, or swine may bury the dead animal on the owner's property.

~~[(2)]~~ (3) If the owner or other person responsible for the dead animal cannot be found, the county, city, or town within which the dead animal is found, shall, at the political subdivision's expense, bury the dead animal.

~~[(3)]~~ (4) A county, city, or town that incurs expense under this section is entitled to reimbursement from the owner of the dead animal.

CHAPTER 30**H. B. 264**

Passed February 27, 2014

Approved March 20, 2014

Effective May 13, 2014

DISABLED PARKING FINE AMENDMENTS

Chief Sponsor: Jennifer M. Seelig

Senate Sponsor: Karen Mayne

LONG TITLE**General Description:**

This bill modifies the Motor Vehicles Code by amending provisions relating to the fine for a disabled parking violation.

Highlighted Provisions:

This bill:

- ▶ authorizes a court to waive a portion of the fine for a disabled parking violation if the operator of the vehicle presents evidence to the court that the individual had been issued a disability special group license plate, temporary removable windshield placard, or removable windshield placard at the time of the violation; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-1a-1306, as last amended by Laws of Utah 2003, Chapter 41

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

Section 1. Section 41-1a-1306 is amended to read:

41-1a-1306. Abuse of persons with disabilities parking privileges -- Revocation of special plate or transferable ID card -- Fine.

(1) A person with a disability who abuses the rights and privileges conferred under Section 41-1a-414 or allows an individual who is not a person with a disability to use those parking privileges may have [his person with a] the person's disability special group license plate, temporary removable windshield placard, or removable windshield placard revoked by the division.

(2) [A] (a) Except as provided in Subsection (2)(b), a person who violates Section 41-1a-414 shall pay a minimum fine of \$125.

(b) A court may waive up to \$100 of the fine charged to a person for a violation of Section 41-1a-414 under Subsection (2)(a) if the operator of the vehicle presents evidence to the court that the individual had been issued a disability special group license plate, temporary removable windshield placard, or removable windshield placard at the time of the violation.

CHAPTER 31**H. B. 282**

Passed March 3, 2014

Approved March 20, 2014

Effective May 13, 2014

AMENDMENTS TO ELECTION LAWS

Chief Sponsor: Kraig Powell
Senate Sponsor: Kevin T. Van Tassell

LONG TITLE**General Description:**

This bill allows an individual who is 16 or 17 years of age to serve as a poll worker in an election and prohibits a candidate's family member from serving as a poll worker.

Highlighted Provisions:

This bill:

- ▶ amends the definition of "local election";
- ▶ allows an individual who is 16 or 17 years of age to serve as a receiving judge in a regular primary and a regular general election;
- ▶ prohibits a county legislative body from appointing a candidate's family member as a poll worker in a precinct where the candidate appears on the ballot;
- ▶ allows an individual who is 16 or 17 years of age to work as a poll worker in a local election;
- ▶ prohibits a municipal legislative body or local district board from appointing a candidate's family member as a poll worker in a precinct where the candidate appears on the ballot; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill coordinates with S.B. 116, Poll Worker Amendments, by providing substantive and technical amendments.

Utah Code Sections Affected:**AMENDS:**

20A-1-102, as last amended by Laws of Utah 2013, Chapter 320

20A-5-601, as last amended by Laws of Utah 2007, Chapter 75

20A-5-602, as last amended by Laws of Utah 2007, Chapters 75, 256, and 329

Utah Code Sections Affected by Coordination Clause:

20A-5-602, as last amended by Laws of Utah 2007, Chapters 75, 256, and 329

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

Section 1. Section 20A-1-102 is amended to read:**20A-1-102. Definitions.**

As used in this title:

(1) "Active voter" means a registered voter who has not been classified as an inactive voter by the county clerk.

(2) "Automatic tabulating equipment" means apparatus that automatically examines and counts

votes recorded on paper ballots or ballot sheets and tabulates the results.

(3) (a) "Ballot" means the storage medium, whether paper, mechanical, or electronic, upon which a voter records the voter's votes.

(b) "Ballot" includes ballot sheets, paper ballots, electronic ballots, and secrecy envelopes.

[~~(5)~~] (4) "Ballot label" means the cards, papers, booklet, pages, or other materials that:

(a) contain the names of offices and candidates and statements of ballot propositions to be voted on; and

(b) are used in conjunction with ballot sheets that do not display that information.

[~~(6)~~] (5) "Ballot proposition" means a question, issue, or proposal that is submitted to voters on the ballot for their approval or rejection including:

(a) an opinion question specifically authorized by the Legislature;

(b) a constitutional amendment;

(c) an initiative;

(d) a referendum;

(e) a bond proposition;

(f) a judicial retention question;

(g) an incorporation of a city or town; or

(h) any other ballot question specifically authorized by the Legislature.

[~~(4)~~] (6) "Ballot sheet":

(a) means a ballot that:

(i) consists of paper or a card where the voter's votes are marked or recorded; and

(ii) can be counted using automatic tabulating equipment; and

(b) includes punch card ballots and other ballots that are machine-countable.

(7) "Bind," "binding," or "bound" means securing more than one piece of paper together with a staple or stitch in at least three places across the top of the paper in the blank space reserved for securing the paper.

(8) "Board of canvassers" means the entities established by Sections 20A-4-301 and 20A-4-306 to canvass election returns.

(9) "Bond election" means an election held for the purpose of approving or rejecting the proposed issuance of bonds by a government entity.

(10) "Book voter registration form" means voter registration forms contained in a bound book that are used by election officers and registration agents to register persons to vote.

(11) "Business reply mail envelope" means an envelope that may be mailed free of charge by the sender.

(12) "By-mail voter registration form" means a voter registration form designed to be completed by the voter and mailed to the election officer.

(13) “Canvass” means the review of election returns and the official declaration of election results by the board of canvassers.

(14) “Canvassing judge” means a poll worker designated to assist in counting ballots at the canvass.

(15) “Contracting election officer” means an election officer who enters into a contract or interlocal agreement with a provider election officer.

(16) “Convention” means the political party convention at which party officers and delegates are selected.

(17) “Counting center” means one or more locations selected by the election officer in charge of the election for the automatic counting of ballots.

(18) “Counting judge” means a poll worker designated to count the ballots during election day.

(19) “Counting poll watcher” means a person selected as provided in Section 20A-3-201 to witness the counting of ballots.

(20) “Counting room” means a suitable and convenient private place or room, immediately adjoining the place where the election is being held, for use by the poll workers and counting judges to count ballots during election day.

(21) “County officers” means those county officers that are required by law to be elected.

(22) “Date of the election” or “election day” or “day of the election”:

(a) means the day that is specified in the calendar year as the day that the election occurs; and

(b) does not include:

- (i) deadlines established for absentee voting; or
- (ii) any early voting or early voting period as provided under Chapter 3, Part 6, Early Voting.

(23) “Elected official” means:

(a) a person elected to an office under Section 20A-1-303;

(b) a person who is considered to be elected to a municipal office in accordance with Subsection 20A-1-206(1)(c)(ii); or

(c) a person who is considered to be elected to a local district office in accordance with Subsection 20A-1-206(3)(c)(ii).

(24) “Election” means a regular general election, a municipal general election, a statewide special election, a local special election, a regular primary election, a municipal primary election, and a local district election.

(25) “Election Assistance Commission” means the commission established by Public Law 107-252, the Help America Vote Act of 2002.

(26) “Election cycle” means the period beginning on the first day persons are eligible to file

declarations of candidacy and ending when the canvass is completed.

(27) “Election judge” means a poll worker that is assigned to:

(a) preside over other poll workers at a polling place;

(b) act as the presiding election judge; or

(c) serve as a canvassing judge, counting judge, or receiving judge.

(28) “Election officer” means:

(a) the lieutenant governor, for all statewide ballots and elections;

(b) the county clerk for:

(i) a county ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(c) the municipal clerk for:

(i) a municipal ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(d) the local district clerk or chief executive officer for:

(i) a local district ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5; or

(e) the business administrator or superintendent of a school district for:

(i) a school district ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5.

(29) “Election official” means any election officer, election judge, or poll worker.

(30) “Election results” means:

(a) for an election other than a bond election, the count of votes cast in the election and the election returns requested by the board of canvassers; or

(b) for bond elections, the count of those votes cast for and against the bond proposition plus any or all of the election returns that the board of canvassers may request.

(31) “Election returns” includes the pollbook, the military and overseas absentee voter registration and voting certificates, one of the tally sheets, any unprocessed absentee ballots, all counted ballots, all excess ballots, all unused ballots, all spoiled ballots, the ballot disposition form, and the total votes cast form.

(32) “Electronic ballot” means a ballot that is recorded using a direct electronic voting device or other voting device that records and stores ballot information by electronic means.

(33) “Electronic signature” means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(34) (a) “Electronic voting device” means a voting device that uses electronic ballots.

(b) “Electronic voting device” includes a direct recording electronic voting device.

(35) “Inactive voter” means a registered voter who has:

(a) been sent the notice required by Section 20A-2-306; and

(b) failed to respond to that notice.

(36) “Inspecting poll watcher” means a person selected as provided in this title to witness the receipt and safe deposit of voted and counted ballots.

(37) “Judicial office” means the office filled by any judicial officer.

(38) “Judicial officer” means any justice or judge of a court of record or any county court judge.

(39) “Local district” means a local government entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and includes a special service district under Title 17D, Chapter 1, Special Service District Act.

(40) “Local district officers” means those local district officers that are required by law to be elected.

(41) “Local election” means a regular municipal election, a municipal primary election, a local special election, a local district election, and a bond election.

(42) “Local political subdivision” means a county, a municipality, a local district, or a local school district.

(43) “Local special election” means a special election called by the governing body of a local political subdivision in which all registered voters of the local political subdivision may vote.

(44) “Municipal executive” means:

(a) the mayor in the council-mayor form of government defined in Section 10-3b-102; or

(b) the mayor in the council-manager form of government defined in Subsection 10-3b-103(6).

(45) “Municipal general election” means the election held in municipalities and local districts on the first Tuesday after the first Monday in November of each odd-numbered year for the purposes established in Section 20A-1-202.

(46) “Municipal legislative body” means the council of the city or town in any form of municipal government.

(47) “Municipal office” means an elective office in a municipality.

(48) “Municipal officers” means those municipal officers that are required by law to be elected.

(49) “Municipal primary election” means an election held to nominate candidates for municipal office.

(50) “Official ballot” means the ballots distributed by the election officer to the poll workers to be given to voters to record their votes.

(51) “Official endorsement” means:

(a) the information on the ballot that identifies:

(i) the ballot as an official ballot;

(ii) the date of the election; and

(iii) the facsimile signature of the election officer; and

(b) the information on the ballot stub that identifies:

(i) the poll worker’s initials; and

(ii) the ballot number.

(52) “Official register” means the official record furnished to election officials by the election officer that contains the information required by Section 20A-5-401.

(53) “Paper ballot” means a paper that contains:

(a) the names of offices and candidates and statements of ballot propositions to be voted on; and

(b) spaces for the voter to record the voter’s vote for each office and for or against each ballot proposition.

(54) “Political party” means an organization of registered voters that has qualified to participate in an election by meeting the requirements of Chapter 8, Political Party Formation and Procedures.

[~~56~~] (55) “Pollbook” means a record of the names of voters in the order that they appear to cast votes.

[~~57~~] (56) “Polling place” means the building where voting is conducted.

[~~55~~] (57) (a) “Poll worker” means a person assigned by an election official to assist with an election, voting, or counting votes.

(b) “Poll worker” includes election judges.

(c) “Poll worker” does not include a watcher.

(58) “Position” means a square, circle, rectangle, or other geometric shape on a ballot in which the voter marks the voter’s choice.

(59) “Provider election officer” means an election officer who enters into a contract or interlocal agreement with a contracting election officer to conduct an election for the contracting election officer’s local political subdivision in accordance with Section 20A-5-400.1.

(60) “Provisional ballot” means a ballot voted provisionally by a person:

(a) whose name is not listed on the official register at the polling place;

(b) whose legal right to vote is challenged as provided in this title; or

(c) whose identity was not sufficiently established by a poll worker.

(61) "Provisional ballot envelope" means an envelope printed in the form required by Section 20A-6-105 that is used to identify provisional ballots and to provide information to verify a person's legal right to vote.

(62) "Primary convention" means the political party conventions at which nominees for the regular primary election are selected.

(63) "Protective counter" means a separate counter, which cannot be reset, that:

(a) is built into a voting machine; and

(b) records the total number of movements of the operating lever.

(64) "Qualify" or "qualified" means to take the oath of office and begin performing the duties of the position for which the person was elected.

(65) "Receiving judge" means the poll worker that checks the voter's name in the official register, provides the voter with a ballot, and removes the ballot stub from the ballot after the voter has voted.

(66) "Registration form" means a book voter registration form and a by-mail voter registration form.

(67) "Regular ballot" means a ballot that is not a provisional ballot.

(68) "Regular general election" means the election held throughout the state on the first Tuesday after the first Monday in November of each even-numbered year for the purposes established in Section 20A-1-201.

(69) "Regular primary election" means the election on the fourth Tuesday of June of each even-numbered year, to nominate candidates of political parties and nonpolitical groups to advance to the regular general election.

(70) "Resident" means a person who resides within a specific voting precinct in Utah.

(71) "Sample ballot" means a mock ballot similar in form to the official ballot printed and distributed as provided in Section 20A-5-405.

(72) "Scratch vote" means to mark or punch the straight party ticket and then mark or punch the ballot for one or more candidates who are members of different political parties.

(73) "Secrecy envelope" means the envelope given to a voter along with the ballot into which the voter places the ballot after the voter has voted it in order to preserve the secrecy of the voter's vote.

(74) "Special election" means an election held as authorized by Section 20A-1-203.

(75) "Spoiled ballot" means each ballot that:

(a) is spoiled by the voter;

(b) is unable to be voted because it was spoiled by the printer or a poll worker; or

(c) lacks the official endorsement.

(76) "Statewide special election" means a special election called by the governor or the Legislature in which all registered voters in Utah may vote.

(77) "Stub" means the detachable part of each ballot.

(78) "Substitute ballots" means replacement ballots provided by an election officer to the poll workers when the official ballots are lost or stolen.

(79) "Ticket" means each list of candidates for each political party or for each group of petitioners.

(80) "Transfer case" means the sealed box used to transport voted ballots to the counting center.

(81) "Vacancy" means the absence of a person to serve in any position created by statute, whether that absence occurs because of death, disability, disqualification, resignation, or other cause.

(82) "Valid voter identification" means:

(a) a form of identification that bears the name and photograph of the voter which may include:

(i) a currently valid Utah driver license;

(ii) a currently valid identification card that is issued by:

(A) the state; or

(B) a branch, department, or agency of the United States;

(iii) a currently valid Utah permit to carry a concealed weapon;

(iv) a currently valid United States passport; or

(v) a currently valid United States military identification card;

(b) one of the following identification cards, whether or not the card includes a photograph of the voter:

(i) a valid tribal identification card;

(ii) a Bureau of Indian Affairs card; or

(iii) a tribal treaty card; or

(c) two forms of identification not listed under Subsection (82)(a) or (b) but that bear the name of the voter and provide evidence that the voter resides in the voting precinct, which may include:

(i) a current utility bill or a legible copy thereof, dated within the 90 days before the election;

(ii) a bank or other financial account statement, or a legible copy thereof;

(iii) a certified birth certificate;

(iv) a valid Social Security card;

(v) a check issued by the state or the federal government or a legible copy thereof;

(vi) a paycheck from the voter's employer, or a legible copy thereof;

(vii) a currently valid Utah hunting or fishing license;

(viii) certified naturalization documentation;

(ix) a currently valid license issued by an authorized agency of the United States;

(x) a certified copy of court records showing the voter's adoption or name change;

(xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;

(xii) a currently valid identification card issued by:

(A) a local government within the state;

(B) an employer for an employee; or

(C) a college, university, technical school, or professional school located within the state; or

(xiii) a current Utah vehicle registration.

(83) "Valid write-in candidate" means a candidate who has qualified as a write-in candidate by following the procedures and requirements of this title.

(84) "Voter" means a person who:

(a) meets the requirements for voting in an election;

(b) meets the requirements of election registration;

(c) is registered to vote; and

(d) is listed in the official register book.

(85) "Voter registration deadline" means the registration deadline provided in Section 20A-2-102.5.

(86) "Voting area" means the area within six feet of the voting booths, voting machines, and ballot box.

(87) "Voting booth" means:

(a) the space or compartment within a polling place that is provided for the preparation of ballots, including the voting machine enclosure or curtain; or

(b) a voting device that is free standing.

(88) "Voting device" means:

(a) an apparatus in which ballot sheets are used in connection with a punch device for piercing the ballots by the voter;

(b) a device for marking the ballots with ink or another substance;

(c) an electronic voting device or other device used to make selections and cast a ballot electronically, or any component thereof;

(d) an automated voting system under Section 20A-5-302; or

(e) any other method for recording votes on ballots so that the ballot may be tabulated by means of automatic tabulating equipment.

(89) "Voting machine" means a machine designed for the sole purpose of recording and tabulating votes cast by voters at an election.

(90) "Voting poll watcher" means a person appointed as provided in this title to witness the distribution of ballots and the voting process.

(91) "Voting precinct" means the smallest voting unit established as provided by law within which qualified voters vote at one polling place.

(92) "Watcher" means a voting poll watcher, a counting poll watcher, an inspecting poll watcher, and a testing watcher.

(93) "Western States Presidential Primary" means the election established in Chapter 9, Part 8, Western States Presidential Primary.

(94) "Write-in ballot" means a ballot containing any write-in votes.

(95) "Write-in vote" means a vote cast for a person whose name is not printed on the ballot according to the procedures established in this title.

Section 2. Section 20A-5-601 is amended to read:

20A-5-601. Poll workers -- Appointment for regular general elections and primary elections.

(1) (a) By March 1 of each even-numbered year, each county clerk shall provide to the county chair of each registered political party a list of the number of poll workers that the party must nominate for each voting precinct.

(b) (i) By April 1 of each even-numbered year, the county chair and secretary of each registered political party shall file a list with the county clerk containing, for each voting precinct, the names of ~~registered voters~~ individuals in the county who are willing to ~~be~~ serve as poll workers, who are qualified to serve as poll workers in accordance with this section, and who are competent and trustworthy.

(ii) The county chair and secretary shall submit, for each voting precinct, names equal in number to the number required by the county clerk plus one.

(2) Each county legislative body shall provide for the appointment of ~~persons~~ individuals to serve as poll workers at the regular primary election, the regular general election, and the Western States Presidential Primary.

(3) For regular general elections, each county legislative body shall provide for the appointment of:

(a) (i) three registered voters, or one individual who is 16 or 17 years of age and two registered voters, one of whom is at least 21 years of age, from the list to serve as receiving judges for each voting precinct when ballots will be counted after the polls close; or

(ii) three registered voters, or one individual who is 16 or 17 years of age and two registered voters, one of whom is at least 21 years of age, from the list to serve as receiving judges in each voting precinct and three registered voters from the list to serve as counting judges in each voting precinct when ballots will be counted throughout election day; and

(b) three registered voters from the list for each 100 absentee ballots to be counted to serve as canvassing judges.

~~[(4) For regular primary elections and for the Western States Presidential Primary election, each county legislative body shall provide for the appointment of:]~~

~~[(a) (i) two or three registered voters, or one or two registered voters and one person 17 years old who will be 18 years old by the date of the next regular general election, from the list to serve as receiving judges for each voting precinct when ballots will be counted after the polls close; or]~~

~~[(ii) two or three registered voters, or one or two registered voters and one person 17 years old who will be 18 years old by the date of the next regular general election, from the list to serve as receiving judges in each voting precinct and two or three registered voters, or one or two registered voters and one person 17 years old who will be 18 years old by the date of the next regular general election, from the list to serve as counting judges in each voting precinct when ballots will be counted throughout election day; and]~~

(4) For each precinct in which ballots are counted after the polls close, in a regular primary election and for the Western States Presidential Primary election, each county legislative body shall provide for the appointment of two or three individuals from the list to serve as receiving judges:

(a) each of whom is a registered voter; or

(b) (i) the first of whom is a registered voter and is at least 21 years of age;

(ii) the second of whom is 16 or 17 years of age; and

(iii) if three individuals are appointed, the third of whom is a registered voter.

(5) For each precinct in which ballots are counted throughout election day, in a regular primary election and for the Western States Presidential Primary election, each county legislative body shall provide for the appointment of:

(a) two or three individuals from the list to serve as receiving judges:

(i) each of whom is a registered voter; or

(ii) (A) the first of whom is a registered voter and is at least 21 years of age;

(B) the second of whom is 16 or 17 years of age; and

(C) if three individuals are appointed, the third of whom is a registered voter; and

(b) two or three individuals from the list to serve as counting judges:

(i) each of whom is a registered voter; or

(ii) (A) one of whom is 17 years of age and will be 18 years of age by the date of the next regular general election; and

(B) each of the rest of whom is a registered voter; and

~~[(b)] (c) two or three registered voters, or one or two registered voters and one [person] individual 17 years [old] of age who will be 18 years [old] of age by the date of the next regular general election, from the list for each 100 absentee ballots to be counted to serve as canvassing judges.~~

~~[(5)] (6) Each county legislative body may provide for the appointment of:~~

(a) three registered voters from the list to serve as inspecting judges at the regular general election to observe the clerk's receipt and deposit of the ballots for safekeeping; and

(b) two or three registered voters, or one or two registered voters and one [person] individual 17 years [old] of age who will be 18 years [old] of age by the date of the next regular general election, from the list to serve as inspecting judges at the regular primary election to observe the clerk's receipt and deposit of the ballots for safekeeping.

~~[(6)] (7) (a) For each set of three counting or receiving judges to be appointed for each voting precinct for the regular primary election, the regular general election, and the Western States Presidential Primary election, the county legislative body shall ensure that:~~

(i) two judges are appointed from the political party that cast the highest number of votes for governor, lieutenant governor, attorney general, state auditor, and state treasurer, excluding votes for unopposed candidates, in the voting precinct at the last regular general election before the appointment of the election judges; and

(ii) one judge is appointed from the political party that cast the second highest number of votes for governor, lieutenant governor, attorney general, state auditor, and state treasurer, excluding votes for unopposed candidates, in the voting precinct at the last regular general election before the appointment of the election judges.

(b) For each set of two counting or receiving judges to be appointed for each voting precinct for the regular primary election and Western States Presidential Primary election, the county legislative body shall ensure that:

(i) one judge is appointed from the political party that cast the highest number of votes for governor, lieutenant governor, attorney general, state auditor, and state treasurer, excluding votes for unopposed candidates, in the voting precinct at the last regular general election before the appointment of the election judges; and

(ii) one judge is appointed from the political party that cast the second highest number of votes for

governor, lieutenant governor, attorney general, state auditor, and state treasurer, excluding votes for unopposed candidates, in the voting precinct at the last regular general election before the appointment of the election judges.

~~[(7)]~~ (8) When the voting precinct boundaries have been changed since the last regular general election, the county legislative body shall ensure that:

(a) for the regular primary election and the Western States Presidential Primary election, when the county legislative body is using three receiving, counting, and canvassing judges, and regular general election, not more than two of the judges are selected from the political party that cast the highest number of votes for the offices of governor, lieutenant governor, attorney general, state auditor, and state treasurer in the territory that formed the voting precinct at the time of appointment; and

(b) for the regular primary election and the Western States Presidential Primary election, when the county legislative body is using two receiving, counting, and canvassing judges, not more than one of the judges is selected from the political party that cast the highest number of votes for the offices of governor, lieutenant governor, attorney general, state auditor, and state treasurer in the territory that formed the voting precinct at the time of appointment.

~~[(8)]~~ (9) The county legislative body shall provide for the appointment of any qualified county voter as an election judge when:

(a) a political party fails to file the poll worker list by the filing deadline; or

(b) the list is incomplete.

~~[(9)]~~ (10) A registered voter of the county may serve as a poll worker in any voting precinct of the county.

(11) A county legislative body may not appoint a candidate's parent, sibling, spouse, child, mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law, or son-in-law to serve as a poll worker in a precinct where the candidate appears on the ballot.

~~[(10)]~~ (12) If ~~[a person]~~ an individual serves as a poll worker outside the voting precinct where the ~~[person]~~ individual is registered, that ~~[person]~~ individual may vote an absentee voter ballot.

~~[(11)]~~ (13) The county clerk shall fill all poll worker vacancies.

~~[(12)]~~ (14) If a conflict arises over the right to certify the poll worker lists for any political party, the county legislative body may decide between conflicting lists, but may only select names from a properly submitted list.

~~[(13)]~~ (15) The county legislative body shall establish compensation for poll workers.

~~[(14)]~~ (16) The county clerk may appoint additional poll workers to serve in the polling place as needed.

Section 3. Section 20A-5-602 is amended to read:

20A-5-602. Poll workers -- Appointment for local elections.

~~[(1) At least 15 days before the date scheduled for any local election, the municipal legislative body or local district board shall appoint or provide for the appointment of:]~~

~~[(a) in jurisdictions using paper ballots:]~~

~~[(i) three registered voters, or two registered voters and one person 17 years old who will be 18 years old by the date of the regular municipal election, who reside within the county to serve as poll workers for each voting precinct when the ballots will be counted after the polls close; or]~~

~~[(ii) three registered voters, or two registered voters and one person 17 years old who will be 18 years old by the date of the regular municipal election, who reside within the county to serve as receiving judges in each voting precinct and three registered voters, or two registered voters and one person 17 years old who will be 18 years old by the date of the regular municipal election, who reside within the county to serve as counting judges in each voting precinct when ballots will be counted throughout election day;]~~

~~[(b) in jurisdictions using automated tabulating equipment, three registered voters, or two registered voters and one person 17 years old who will be 18 years old by the date of the regular municipal election, who reside within the county to serve as poll workers for each voting precinct;]~~

~~[(c) in jurisdictions using voting machines, four registered voters, or three registered voters and one person 17 years old who will be 18 years old by the date of the regular municipal election, who reside within the county to serve as poll workers for each voting precinct; and]~~

~~[(d) in all jurisdictions:]~~

(1) A municipal legislative body or local district board appointing, or providing for the appointment of, a poll worker for a local election under this section shall appoint the poll worker at least 15 days before the date of the local election.

(2) For each precinct that uses a paper ballot, and where the ballots are counted after the polls close, the municipal legislative body or the local district board shall appoint, or provide for the appointment of, three individuals who reside within the county to serve as poll workers:

(a) each of whom is a registered voter; or

(b) (i) the first of whom is a registered voter;

(ii) the second of whom is a registered voter and is at least 21 years of age; and

(iii) the third of whom is 16 or 17 years of age.

(3) For each precinct that uses a paper ballot, and where the ballots are counted throughout the day,

the municipal legislative body or local district board shall appoint, or provide for the appointment of:

(a) three individuals who reside within the county to serve as receiving judges:

(i) each of whom is a registered voter; or

(ii) (A) the first of whom is a registered voter;

(B) the second of whom is a registered voter and is at least 21 years of age; and

(C) the third of whom is 16 or 17 years of age; and

(b) three individuals who reside within the county to serve as counting judges:

(i) each of whom is a registered voter; or

(ii) (A) one of whom is 17 years of age and will be 18 years of age by the date of the next regular municipal election; and

(B) each of the rest of whom is a registered voter.

(4) For each precinct using automated tabulating equipment, the municipal legislative body or the local district board shall appoint, or provide for the appointment of, three individuals who reside within the county to serve as poll workers:

(a) each of whom is a registered voter; or

(b) (i) the first of whom is a registered voter;

(ii) the second of whom is a registered voter and is at least 21 years of age; and

(iii) the third of whom is 16 or 17 years of age.

(5) For each precinct using voting machines, the municipal legislative body or the local district board shall appoint, or provide for the appointment of, four individuals who reside within the county to serve as poll workers:

(a) each of whom is a registered voter; or

(b) (i) the first of whom is a registered voter and is at least 21 years of age;

(ii) the second of whom is 16 or 17 years of age; and

(iii) each of the rest of whom is a registered voter.

(6) In all jurisdictions, the municipal legislative body or the local district board shall appoint, or provide for the appointment of:

(4) (a) at least one registered voter who resides within the county to serve as canvassing judge, if necessary; and

(4) (b) as many alternate poll workers as needed to replace appointed poll workers who are unable to serve.

(2) (7) The municipal legislative body and local district board may not appoint any candidate's parent, sibling, spouse, child, or [in-law] mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law, or son-in-law to serve as a poll worker [in the voting precinct where the candidate resides] in a precinct where the candidate appears on the ballot.

~~(3) (8) The clerk shall:~~

~~(a) prepare and file a list containing the name, address, voting precinct, and telephone number of each [person] individual appointed; and~~

~~(b) make the list available in the clerk's office for inspection, examination, and copying during business hours.~~

~~(4) (9) (a) The municipal legislative body and local district board shall compensate poll workers for their services.~~

~~(b) The municipal legislative body and local district board may not compensate their poll workers at a rate higher than that paid by the county to its poll workers.~~

Section 4. Coordinating H.B. 282 with S.B. 116 -- Substantive and technical amendments.

If this H.B. 282 and S.B. 116, Poll Worker Amendments, both pass and become law, it is the intent of the Legislature that Section 20A-5-602 be amended to read:

"20A-5-602. Poll workers -- Appointment for local elections.

~~(1) At least 15 days before the date scheduled for any local election, the municipal legislative body or local district board shall appoint or provide for the appointment of:]~~

~~(a) in jurisdictions using paper ballots:]~~

~~(i) three registered voters, or two registered voters and one person 17 years old who will be 18 years old by the date of the regular municipal election, who reside within the county to serve as poll workers for each voting precinct when the ballots will be counted after the polls close; or]~~

~~(ii) three registered voters, or two registered voters and one person 17 years old who will be 18 years old by the date of the regular municipal election, who reside within the county to serve as receiving judges in each voting precinct and three registered voters, or two registered voters and one person 17 years old who will be 18 years old by the date of the regular municipal election, who reside within the county to serve as counting judges in each voting precinct when ballots will be counted throughout election day;]~~

~~(b) in jurisdictions using automated tabulating equipment, three registered voters, or two registered voters and one person 17 years old who will be 18 years old by the date of the regular municipal election, who reside within the county to serve as poll workers for each voting precinct;]~~

~~(c) in jurisdictions using voting machines, four registered voters, or three registered voters and one person 17 years old who will be 18 years old by the date of the regular municipal election, who reside within the county to serve as poll workers for each voting precinct; and]~~

~~(d) in all jurisdictions:]~~

(1) A county legislative body, a municipal legislative body, or a local district board appointing,

or providing for the appointment of, a poll worker for a local election under this section shall appoint the poll worker at least 15 days before the date of the local election.

(2) For each precinct that uses a paper ballot, and where the ballots are counted after the polls close, the county legislative body, the municipal legislative body, or the local district board shall appoint, or provide for the appointment of, three individuals who reside within the county to serve as poll workers:

(a) each of whom is a registered voter; or

(b) (i) the first of whom is a registered voter;

(ii) the second of whom is a registered voter and is at least 21 years of age; and

(iii) the third of whom is 16 or 17 years of age.

(3) For each precinct that uses a paper ballot, and where the ballots are counted throughout the day, the county legislative body, the municipal legislative body, or the local district board shall appoint, or provide for the appointment of:

(a) three individuals who reside within the county to serve as receiving judges:

(i) each of whom is a registered voter; or

(ii) (A) the first of whom is a registered voter;

(B) the second of whom is a registered voter and is at least 21 years of age; and

(C) the third of whom is 16 or 17 years of age; and

(b) three individuals who reside within the county to serve as counting judges:

(i) each of whom is a registered voter; or

(ii) (A) one of whom is 17 years of age and will be 18 years of age by the date of the next local election; and

(B) each of the rest of whom is a registered voter.

(4) For each precinct using automated tabulating equipment, the county legislative body, the municipal legislative body, or the local district board shall appoint, or provide for the appointment of, three individuals who reside within the county to serve as poll workers:

(a) each of whom is a registered voter; or

(b) (i) the first of whom is a registered voter;

(ii) the second of whom is a registered voter and is at least 21 years of age; and

(iii) the third of whom is 16 or 17 years of age.

(5) For each precinct using voting machines, the county legislative body, the municipal legislative body, or the local district board shall appoint, or provide for the appointment of, four individuals who reside within the county to serve as poll workers:

(a) each of whom is a registered voter; or

(b) (i) the first of whom is a registered voter and is at least 21 years of age;

(ii) the second of whom is 16 or 17 years of age; and

(iii) each of the rest of whom is a registered voter.

(6) In all jurisdictions, the county legislative body, the municipal legislative body, or the local district board shall appoint, or provide for the appointment of:

(4) (a) at least one registered voter who resides within the county to serve as canvassing judge, if necessary; and

(ii) (b) as many alternate poll workers as needed to replace appointed poll workers who are unable to serve.

(2) (7) The county legislative body, the municipal legislative body, and the local district board may not appoint any candidate's parent, sibling, spouse, child, ~~or in-law~~ mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law, or son-in-law to serve as a poll worker ~~[in the voting precinct where the candidate resides]~~ in a precinct where the candidate appears on the ballot.

(3) (8) The clerk shall:

(a) prepare and file a list containing the name, address, voting precinct, and telephone number of each ~~person~~ individual appointed; and

(b) make the list available in the clerk's office for inspection, examination, and copying during business hours.

(4) (9) (a) The county legislative body, the municipal legislative body, and the local district board shall compensate poll workers for their services.

(b) The municipal legislative body and local district board may not compensate their poll workers at a rate higher than that paid by the county to its poll workers."

CHAPTER 32**H. B. 287**

Passed March 4, 2014
 Approved March 20, 2014
 Effective May 13, 2014

**ARBITRATION FOR
 DOG BITES AMENDMENTS**

Chief Sponsor: LaVar Christensen
 Senate Sponsor: John L. Valentine

LONG TITLE**General Description:**

This bill modifies Title 18, Chapter 1, Injuries by Dogs, by creating a provision for using arbitration in personal injury from a dog attack.

Highlighted Provisions:

This bill:

- ▶ authorizes a person injured from a dog attack to use arbitration to resolve a third party claim under certain requirements;
- ▶ provides procedures for resolving the third party claim through arbitration;
- ▶ limits an arbitration award to \$50,000;
- ▶ prohibits a claim for punitive damages or any subsequent proceeding;
- ▶ provides that a court may award reasonable attorney fees if the court finds that a party's use of the de novo process was filed in bad faith;
- ▶ provides that if a defendant demands a trial de novo after an arbitration award, the verdict at the trial may not exceed \$65,000;
- ▶ provides that if a plaintiff demands a trial de novo after an arbitration award, the verdict at the trial may not exceed \$15,000 above any insurance policy limit; and
- ▶ provides that arbitration awards shall bear postjudgment interest.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

18-1-4, Utah Code Annotated 1953

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

Section 1. Section 18-1-4 is enacted to read:**18-1-4. Use of arbitration in personal injury from dog attack cases.**

(1) A person injured as a result of a dog attack may elect to submit all third party bodily injury claims to arbitration by filing a notice of the submission of the claim to binding arbitration in a district court if:

(a) the claimant or the claimant's representative has:

(i) previously and timely filed a complaint in a district court that includes a third party bodily injury claim; and

(ii) filed a notice to submit the claim to arbitration within 14 days after the complaint has been answered; and

(b) the notice required under Subsection (1)(a)(ii) is filed while the action under Subsection (1)(a)(i) is still pending.

(2) (a) If a party submits a bodily injury claim to arbitration under Subsection (1), the party submitting the claim or the party's representative is limited to an arbitration award that may not exceed \$50,000 in addition to any medical premise benefits and any claim for property damage.

(b) A party who elects to proceed against a defendant under this section:

(i) waives the right to obtain a judgment against the personal assets of the defendant; and

(ii) is limited to recovery only against available limits of insurance coverage.

(3) A claim for punitive damages may not be made in an arbitration proceeding under Subsection (1) or any subsequent proceeding, even if the claim is later resolved through a trial de novo under Subsection (11).

(4) (a) A party who has elected arbitration under this section may rescind the party's election if the rescission is made within:

(i) 90 days after the election to arbitrate; and

(ii) no less than 30 days before any scheduled arbitration hearing.

(b) A party seeking to rescind an election to arbitrate under this Subsection (4) shall:

(i) file a notice of the rescission of the election to arbitrate with the district court in which the matter was filed; and

(ii) send copies of the notice of the rescission of the election to arbitrate to all counsel of record to the action.

(c) All discovery completed in anticipation of the arbitration hearing shall be available for use by the parties as allowed by the Utah Rules of Civil Procedure and the Utah Rules of Evidence.

(d) A party who has elected to arbitrate under this section and then rescinded the election to arbitrate under this Subsection (4) may not elect to arbitrate the claim under this section again.

(5) (a) Unless otherwise agreed to by the parties or by order of the court, an arbitration process elected under this section is subject to Rule 26, Utah Rules of Civil Procedure.

(b) Unless otherwise agreed to by the parties or ordered by the court, discovery shall be completed within 150 days after the date arbitration is elected under this section or the date the answer is filed, whichever is longer.

(6) (a) Unless otherwise agreed to in writing by the parties, a claim that is submitted to arbitration under this section shall be resolved by a single arbitrator.

(b) Unless otherwise agreed to by the parties or ordered by the court, all parties shall agree on the single arbitrator selected under Subsection (6)(a) within 90 days of the answer of the defendant.

(c) If the parties are unable to agree on a single arbitrator as required under Subsection (6)(b), the parties shall select a panel of three arbitrators.

(d) If the parties select a panel of three arbitrators under Subsection (6)(c):

(i) each side shall select one arbitrator; and

(ii) the arbitrators selected under Subsection (6)(d)(i) shall select one additional arbitrator to be included in the panel.

(7) Unless otherwise agreed to in writing:

(a) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (6)(a); and

(b) if an arbitration panel is selected under Subsection (6)(d):

(i) each party shall pay the fees and costs of the arbitrator selected by that party's side; and

(ii) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (6)(d)(ii).

(8) Except as otherwise provided in this section and unless otherwise agreed to in writing by the parties, an arbitration proceeding conducted under this section shall be governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(9) (a) Subject to the provisions of this section, the Utah Rules of Civil Procedure and the Utah Rules of Evidence apply to the arbitration proceeding.

(b) The Utah Rules of Civil Procedure and the Utah Rules of Evidence shall be applied liberally with the intent of concluding the claim in a timely and cost-efficient manner.

(c) Discovery shall be conducted in accordance with the Utah Rules of Civil Procedure and shall be subject to the jurisdiction of the district court in which the matter is filed.

(d) Dispositive motions shall be filed, heard, and decided by the district court prior to the arbitration proceeding in accordance with the court's scheduling order.

(10) A written decision by a single arbitrator or by a majority of the arbitration panel shall constitute a final decision.

(11) An arbitration award issued under this section shall be the final resolution of all bodily injury claims between the parties and may be reduced to judgment by the court upon motion and notice unless:

(a) either party, within 20 days after service of the arbitration award:

(i) files a notice requesting a trial de novo in the district court; and

(ii) serves the nonmoving party with a copy of the notice requesting a trial de novo under Subsection (11)(a)(i); or

(b) the arbitration award has been satisfied.

(12) (a) Upon filing a notice requesting a trial de novo under Subsection (11):

(i) unless otherwise stipulated to by the parties or ordered by the court, an additional 90 days shall be allowed for further discovery;

(ii) the additional discovery time under Subsection (12)(a)(i) shall run from the notice of appeal; and

(iii) the claim shall proceed through litigation pursuant to the Utah Rules of Civil Procedure and the Utah Rules of Evidence in the district court.

(b) In accordance with the Utah Rules of Civil Procedure, either party may request a jury trial with a request for trial de novo filed under Subsection (11).

(13) (a) If the plaintiff, as the moving party in a trial de novo requested under Subsection (11), does not obtain a verdict that is at least \$5,000 and is at least 30% greater than the arbitration award, the plaintiff is responsible for all of the nonmoving party's costs.

(b) Except as provided in Subsection (13)(c), the costs under Subsection (13)(a) shall include:

(i) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

(ii) the costs of expert witnesses and depositions.

(c) An award of costs under this Subsection (13) may not exceed \$6,000.

(14) (a) If a defendant, as the moving party in a trial de novo requested under Subsection (11), does not obtain a verdict that is at least 30% less than the arbitration award, the defendant is responsible for all of the nonmoving party's costs.

(b) Except as provided in Subsection (14)(c), the costs under Subsection (14)(a) shall include:

(i) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

(ii) the costs of expert witnesses and depositions.

(c) An award of costs under this Subsection (14) may not exceed \$6,000.

(15) For purposes of determining whether a party's verdict is greater or less than the arbitration award under Subsections (13) and (14), a court may not consider any recovery or other relief granted on a claim for damages if the claim for damages was not disclosed in:

(a) writing prior to the arbitration proceeding; or

(b) response to discovery contrary to the Utah Rules of Civil Procedure.

(16) If a district court determines, upon a motion of the nonmoving party, that the moving party's use of the trial de novo process was filed in bad faith, as

described in Section 78B-5-825, the district court may award reasonable attorney fees to the nonmoving party.

(17) Nothing in this section is intended to affect or prevent any first party claim from later being brought under any first party insurance policy under which the injured person is a covered person.

(18) (a) If a defendant requests a trial de novo under Subsection (11), the total verdict at trial may not exceed \$15,000 above any available limits of insurance coverage and the total verdict may not exceed \$65,000.

(b) If a plaintiff requests a trial de novo under Subsection (11), the verdict at trial may not exceed \$50,000.

(19) All arbitration awards issued under this section shall bear postjudgment interest pursuant to Section 15-1-4.

CHAPTER 33**S. B. 165**

Passed February 26, 2014

Approved March 20, 2014

Effective May 13, 2014

TRIAL HUNTING AUTHORIZATION

Chief Sponsor: Ralph Okerlund
House Sponsor: Stephen G. Handy

LONG TITLE**General Description:**

This bill amends the Wildlife Resources Code.

Highlighted Provisions:

This bill:

- ▶ allows a person to obtain certain hunting licenses or permits without complying with hunter education requirements under certain circumstances;
- ▶ provides rulemaking authority; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

23-19-11, as last amended by Laws of Utah 2001, Chapter 75

ENACTS:

23-19-14.6, Utah Code Annotated 1953

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

Section 1. Section 23-19-11 is amended to read:**23-19-11. Age restriction -- Proof of hunter education required.**

(1) [A] Except as provided in Section 23-19-14.6, a person born after December 31, 1965, may not purchase a hunting license or permit unless the individual presents proof [is presented] to the division or one of its authorized wildlife license agents that the person has passed a division-approved hunter education course offered by a state, province, or country.

(2) For purposes of this section, "proof" means:

- (a) a certificate of completion of a hunter education course;
- (b) a preceding year's hunting license or permit issued by a state, province, or country with the applicant's hunter education number noted on the hunting license or permit; or
- (c) verification of completion of a hunter education course pursuant to Subsections (3) and (4).

(3) If an applicant for a nonresident hunting license or permit is not able to present a hunting license, permit, or a certificate of completion as provided in Subsections (1) and (2), the division may contact another state, province, or country to verify

the completion of a hunter education course so that a nonresident hunting license or permit may be issued.

(4) If an applicant for a resident or nonresident hunting license or permit has completed a hunter education course in Utah but is not able to present a hunting license, permit, or a certificate of completion as provided in Subsections (1) and (2), the division may research the division's hunter education records to verify that the applicant has completed the hunter education course.

(5) (a) If an applicant for a resident or nonresident hunting license has completed a hunter education course and is applying for a hunting permit or license through the division's drawings, Internet site, or other electronic means authorized by the division, the applicant's hunter education number and the name of the state, province, or country that issued the number may constitute proof of completion of a hunter education course under this section.

(b) The division may research the hunter education number to verify that the applicant has completed a division-approved hunter education course.

(6) Upon issuance of the hunting license or permit, the division shall indicate the applicant's hunter education number on the face of the hunting license or permit.

(7) The division may charge a fee for [any] a service provided in Subsection (3) or (4).

Section 2. Section 23-19-14.6 is enacted to read:**23-19-14.6. Trial hunting authorization.**

(1) Upon application, the division may issue a trial hunting authorization to an individual who:

- (a) is 11 years of age or older at the time of application;
- (b) is eligible under state and federal law to possess a firearm and archery equipment; and
- (c) (i) was born after 1965; and
(ii) has not completed a division approved hunter education course.

(2) Notwithstanding the requirements of Section 23-19-11, an individual who has obtained a trial hunting authorization under Subsection (1) may obtain:

- (a) a hunting license under Sections 23-19-17, 23-19-24, and 23-19-26; or
- (b) a hunting permit authorized by the Wildlife Board under Subsection (4).

(3) An individual who has obtained a hunting license or permit with a trial hunting authorization under Subsection (2) may use the license or permit if the individual is:

- (a) 12 years of age or older, except as required in Subsection 23-19-22(3); and
- (b) accompanied, as defined in Subsection 23-20-20(1), in the field while hunting by an individual who:

- (i) is 21 years of age or older;
 - (ii) is eligible under state and federal law to possess a firearm and archery equipment;
 - (iii) possesses a current Utah hunting or combination license;
 - (iv) has satisfied applicable hunter education requirements under this chapter; and
 - (v) possesses the written consent of the holder's parent or legal guardian, if accompanying a holder of a trial hunting authorization who is under 18 years of age.
- (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Wildlife Board may make rules to:
- (a) designate the types of hunting permits under Subsection (2) that may be obtained with a trial hunting authorization;
 - (b) establish the term of a trial hunting authorization;
 - (c) establish the number of years a person may obtain a trial hunting authorization;
 - (d) prescribe the number of individuals using a trial hunting authorization that an individual may accompany in the field under Subsection (3) at a single time;
 - (e) establish the application process for an individual to obtain a trial hunting authorization; and
 - (f) administer and enforce the provisions of this section.

CHAPTER 34**S. B. 166**

Passed February 26, 2014

Approved March 20, 2014

Effective May 13, 2014

ENERGY AMENDMENTS

Chief Sponsor: Mark B. Madsen

House Sponsor: Stephen G. Handy

LONG TITLE**General Description:**

This bill amends the Renewable Energy Contracts part.

Highlighted Provisions:

This bill:

- ▶ amends the definition of “renewable energy facility” for purposes of the Renewable Energy Contracts part to include a provision requiring a renewable energy source to be located in the state; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

54-17-801, as last amended by Laws of Utah 2013, Chapter 278

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

Section 1. Section 54-17-801 is amended to read:**54-17-801. Definitions.**

As used in this part:

(1) “Contract customer” means a person who executes or will execute a renewable energy contract with a qualified utility.

(2) “Qualified utility” means an electric corporation that serves more than 200,000 retail customers in the state.

(3) “Renewable energy contract” means a contract under this part for the delivery of electricity from one or more renewable energy facilities to a contract customer requiring the use of a qualified utility’s transmission or distribution system to deliver the electricity from a renewable energy facility to the contract customer.

(4) “Renewable energy facility”:

(a) except as provided in Subsection (4)(b), [~~has the same meaning as~~] means a renewable energy source defined in Section 54-17-601 that is located in the state; and

(b) does not include an electric generating facility whose costs have been included in a qualified utility’s rates as a facility providing electric service to the qualified utility’s system.

CHAPTER 35**S. B. 173**

Passed March 5, 2014

Approved March 20, 2014

Effective May 13, 2014

CHILD PROTECTION AMENDMENTS

Chief Sponsor: Todd Weiler

House Sponsor: Craig Hall

LONG TITLE**General Description:**

This bill modifies provisions of the Juvenile Court Act.

Highlighted Provisions:

This bill:

- ▶ expands the definition of abuse to include a child's natural parent intentionally, knowingly, or recklessly causing the death of another parent of the child; being identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or being prosecuted for or convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child;
- ▶ adds similar provisions for a court to order a child's removal from the child's home; continued protective custody of the Division of Child and Family Services (the division) at a shelter hearing; denial of reunification services; and continued protective custody of the division at a permanency hearing; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78A-6-105, as last amended by Laws of Utah 2012, Chapters 49, 303, and 316

78A-6-302, as last amended by Laws of Utah 2012, Chapter 293

78A-6-306, as last amended by Laws of Utah 2012, Chapter 293

78A-6-312, as last amended by Laws of Utah 2013, Chapters 171 and 416

78A-6-314, as last amended by Laws of Utah 2010, Chapter 322

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

Section 1. Section 78A-6-105 is amended to read:**78A-6-105. Definitions.**

As used in this chapter:

- (1) (a) "Abuse" means:
 - (i) nonaccidental harm of a child;
 - (ii) threatened harm of a child;
 - (iii) sexual exploitation; or
 - (iv) sexual abuse.

(v) that a child's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

(b) "Abuse" does not include:

(i) reasonable discipline or management of a child, including withholding privileges;

(ii) conduct described in Section 76-2-401; or

(iii) the use of reasonable and necessary physical restraint or force on a child:

(A) in self-defense;

(B) in defense of others;

(C) to protect the child; or

(D) to remove a weapon in the possession of a child for any of the reasons described in Subsections (1)(b)(iii)(A) through (C).

(2) "Abused child" means a child who has been subjected to abuse.

(3) "Adjudication" means a finding by the court, incorporated in a decree, that the facts alleged in the petition have been proved. A finding of not competent to proceed pursuant to Section 78A-6-1302 is not an adjudication.

(4) "Adult" means a person 18 years of age or over, except that a person 18 years or over under the continuing jurisdiction of the juvenile court pursuant to Section 78A-6-120 shall be referred to as a minor.

(5) "Board" means the Board of Juvenile Court Judges.

(6) "Child" means a person under 18 years of age.

(7) "Child placement agency" means:

(a) a private agency licensed to receive a child for placement or adoption under this code; or

(b) a private agency that receives a child for placement or adoption in another state, which agency is licensed or approved where such license or approval is required by law.

(8) "Clandestine laboratory operation" is as defined in Section 58-37d-3.

(9) "Commit" means, unless specified otherwise:

(a) with respect to a child, to transfer legal custody; and

(b) with respect to a minor who is at least 18 years of age, to transfer custody.

(10) "Court" means the juvenile court.

(11) "Dependent child" includes a child who is homeless or without proper care through no fault of the child's parent, guardian, or custodian.

(12) “Deprivation of custody” means transfer of legal custody by the court from a parent or the parents or a previous legal custodian to another person, agency, or institution.

(13) “Detention” means home detention and secure detention as defined in Section 62A-7-101 for the temporary care of a minor who requires secure custody in a physically restricting facility:

(a) pending court disposition or transfer to another jurisdiction; or

(b) while under the continuing jurisdiction of the court.

(14) “Division” means the Division of Child and Family Services.

(15) “Formal referral” means a written report from a peace officer or other person informing the court that a minor is or appears to be within the court’s jurisdiction and that a petition may be filed.

(16) “Group rehabilitation therapy” means psychological and social counseling of one or more persons in the group, depending upon the recommendation of the therapist.

(17) “Guardianship of the person” includes the authority to consent to:

(a) marriage;

(b) enlistment in the armed forces;

(c) major medical, surgical, or psychiatric treatment; or

(d) legal custody, if legal custody is not vested in another person, agency, or institution.

(18) “Habitual truant” is as defined in Section 53A-11-101.

(19) “Harm” means:

(a) physical, emotional, or developmental injury or damage;

(b) sexual abuse; or

(c) sexual exploitation.

(20) (a) “Incest” means engaging in sexual intercourse with a person whom the perpetrator knows to be the perpetrator’s ancestor, descendant, brother, sister, uncle, aunt, nephew, niece, or first cousin.

(b) The relationships described in Subsection (20)(a) include:

(i) blood relationships of the whole or half blood, without regard to legitimacy;

(ii) relationships of parent and child by adoption; and

(iii) relationships of stepparent and stepchild while the marriage creating the relationship of a stepparent and stepchild exists.

(21) “Intellectual disability” means:

(a) significantly subaverage intellectual functioning, an IQ of approximately 70 or below on

an individually administered IQ test, for infants, a clinical judgment of significantly subaverage intellectual functioning;

(b) concurrent deficits or impairments in present adaptive functioning, the person’s effectiveness in meeting the standards expected for his or her age by the person’s cultural group, in at least two of the following areas: communication, self-care, home living, social/interpersonal skills, use of community resources, self-direction, functional academic skills, work, leisure, health, and safety; and

(c) the onset is before the person reaches the age of 18 years.

(22) “Legal custody” means a relationship embodying the following rights and duties:

(a) the right to physical custody of the minor;

(b) the right and duty to protect, train, and discipline the minor;

(c) the duty to provide the minor with food, clothing, shelter, education, and ordinary medical care;

(d) the right to determine where and with whom the minor shall live; and

(e) the right, in an emergency, to authorize surgery or other extraordinary care.

(23) “Mental disorder” means a serious emotional and mental disturbance that severely limits a minor’s development and welfare over a significant period of time.

(24) “Minor” means:

(a) a child; or

(b) a person who is:

(i) at least 18 years of age and younger than 21 years of age; and

(ii) under the jurisdiction of the juvenile court.

(25) “Molestation” means that a person, with the intent to arouse or gratify the sexual desire of any person:

(a) touches the anus or any part of the genitals of a child;

(b) takes indecent liberties with a child; or

(c) causes a child to take indecent liberties with the perpetrator or another.

(26) “Natural parent” means a minor’s biological or adoptive parent, and includes the minor’s noncustodial parent.

(27) (a) “Neglect” means action or inaction causing:

(i) abandonment of a child, except as provided in Title 62A, Chapter 4a, Part 8, Safe Relinquishment of a Newborn Child;

(ii) lack of proper parental care of a child by reason of the fault or habits of the parent, guardian, or custodian;

(iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary

subsistence, education, or medical care, or any other care necessary for the child's health, safety, morals, or well-being; or

(iv) a child to be at risk of being neglected or abused because another child in the same home is neglected or abused.

(b) The aspect of neglect relating to education, described in Subsection (27)(a)(iii), means that, after receiving a notice of compulsory education violation under Section 53A-11-101.5, or notice that a parent or guardian has failed to cooperate with school authorities in a reasonable manner as required under Subsection 53A-11-101.7(5)(a), the parent or guardian fails to make a good faith effort to ensure that the child receives an appropriate education.

(c) A parent or guardian legitimately practicing religious beliefs and who, for that reason, does not provide specified medical treatment for a child, is not guilty of neglect.

(d) (i) Notwithstanding Subsection (27)(a), a health care decision made for a child by the child's parent or guardian does not constitute neglect unless the state or other party to the proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed.

(ii) Nothing in Subsection (27)(d)(i) may prohibit a parent or guardian from exercising the right to obtain a second health care opinion.

(28) "Neglected child" means a child who has been subjected to neglect.

(29) "Nonjudicial adjustment" means closure of the case by the assigned probation officer without judicial determination upon the consent in writing of:

(a) the assigned probation officer; and

(b) (i) the minor; or

(ii) the minor and the minor's parent, legal guardian, or custodian.

(30) "Not competent to proceed" means that a minor, due to a mental disorder, intellectual disability, or related condition as defined, lacks the ability to:

(a) understand the nature of the proceedings against them or of the potential disposition for the offense charged; or

(b) consult with counsel and participate in the proceedings against them with a reasonable degree of rational understanding.

(31) "Physical abuse" means abuse that results in physical injury or damage to a child.

(32) "Probation" means a legal status created by court order following an adjudication on the ground of a violation of law or under Section 78A-6-103, whereby the minor is permitted to remain in the minor's home under prescribed conditions and under supervision by the probation department or other agency designated by the court, subject to

return to the court for violation of any of the conditions prescribed.

(33) "Protective supervision" means a legal status created by court order following an adjudication on the ground of abuse, neglect, or dependency, whereby the minor is permitted to remain in the minor's home, and supervision and assistance to correct the abuse, neglect, or dependency is provided by the probation department or other agency designated by the court.

(34) "Related condition" means a condition closely related to intellectual disability in accordance with 42 C.F.R. Part 435.1010 and further defined in Rule R539-1-3, Utah Administrative Code.

(35) (a) "Residual parental rights and duties" means those rights and duties remaining with the parent after legal custody or guardianship, or both, have been vested in another person or agency, including:

(i) the responsibility for support;

(ii) the right to consent to adoption;

(iii) the right to determine the child's religious affiliation; and

(iv) the right to reasonable parent-time unless restricted by the court.

(b) If no guardian has been appointed, "residual parental rights and duties" also include the right to consent to:

(i) marriage;

(ii) enlistment; and

(iii) major medical, surgical, or psychiatric treatment.

(36) "Secure facility" means any facility operated by or under contract with the Division of Juvenile Justice Services, that provides 24-hour supervision and confinement for youth offenders committed to the division for custody and rehabilitation.

(37) "Severe abuse" means abuse that causes or threatens to cause serious harm to a child.

(38) "Severe neglect" means neglect that causes or threatens to cause serious harm to a child.

(39) "Sexual abuse" means:

(a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation directed towards a child; or

(b) engaging in any conduct with a child that would constitute an offense under any of the following, regardless of whether the person who engages in the conduct is actually charged with, or convicted of, the offense:

(i) Title 76, Chapter 5, Part 4, Sexual Offenses;

(ii) child bigamy, Section 76-7-101.5;

(iii) incest, Section 76-7-102;

(iv) lewdness, Section 76-9-702;

- (v) sexual battery, Section 76-9-702.1;
- (vi) lewdness involving a child, Section 76-9-702.5; or
- (vii) voyeurism, Section 76-9-702.7.
- (40) "Sexual exploitation" means knowingly:
- (a) employing, using, persuading, inducing, enticing, or coercing any child to:
- (i) pose in the nude for the purpose of sexual arousal of any person; or
- (ii) engage in any sexual or simulated sexual conduct for the purpose of photographing, filming, recording, or displaying in any way the sexual or simulated sexual conduct;
- (b) displaying, distributing, possessing for the purpose of distribution, or selling material depicting a child:
- (i) in the nude, for the purpose of sexual arousal of any person; or
- (ii) engaging in sexual or simulated sexual conduct; or
- (c) engaging in any conduct that would constitute an offense under Section 76-5b-201, Sexual Exploitation of a Minor, regardless of whether the person who engages in the conduct is actually charged with, or convicted of, the offense.
- (41) "Shelter" means the temporary care of a child in a physically unrestricted facility pending court disposition or transfer to another jurisdiction.
- (42) "State supervision" means a disposition that provides a more intensive level of intervention than standard probation but is less intensive or restrictive than a community placement with the Division of Juvenile Justice Services.
- (43) "Substance abuse" means the misuse or excessive use of alcohol or other drugs or substances.
- (44) "Substantiated" is as defined in Section 62A-4a-101.
- (45) "Supported" is as defined in Section 62A-4a-101.
- (46) "Termination of parental rights" means the permanent elimination of all parental rights and duties, including residual parental rights and duties, by court order.
- (47) "Therapist" means:
- (a) a person employed by a state division or agency for the purpose of conducting psychological treatment and counseling of a minor in its custody; or
- (b) any other person licensed or approved by the state for the purpose of conducting psychological treatment and counseling.
- (48) "Unsubstantiated" is as defined in Section 62A-4a-101.

(49) "Without merit" is as defined in Section 62A-4a-101.

Section 2. Section 78A-6-302 is amended to read:

78A-6-302. Court-ordered protective custody of a child following petition filing -- Grounds.

(1) After a petition has been filed under Section 78A-6-304, if the child who is the subject of the petition is not in the protective custody of the division, a court may order that the child be removed from the child's home or otherwise taken into protective custody if the court finds, by a preponderance of the evidence, that any one or more of the following circumstances exist:

(a) (i) there is an imminent danger to the physical health or safety of the child; and

(ii) the child's physical health or safety may not be protected without removing the child from the custody of the child's parent or guardian;

(b) (i) a parent or guardian engages in or threatens the child with unreasonable conduct that causes the child to suffer emotional damage; and

(ii) there are no reasonable means available by which the child's emotional health may be protected without removing the child from the custody of the child's parent or guardian;

(c) the child or another child residing in the same household has been, or is considered to be at substantial risk of being, physically abused, sexually abused, or sexually exploited, by a parent or guardian, a member of the parent's or guardian's household, or other person known to the parent or guardian;

(d) the parent or guardian is unwilling to have physical custody of the child;

(e) the child is abandoned or left without any provision for the child's support;

(f) a parent or guardian who has been incarcerated or institutionalized has not arranged or cannot arrange for safe and appropriate care for the child;

(g) (i) a relative or other adult custodian with whom the child is left by the parent or guardian is unwilling or unable to provide care or support for the child;

(ii) the whereabouts of the parent or guardian are unknown; and

(iii) reasonable efforts to locate the parent or guardian are unsuccessful;

(h) the child is in immediate need of medical care;

(i) (i) a parent's or guardian's actions, omissions, or habitual action create an environment that poses a threat to the child's health or safety; or

(ii) a parent's or guardian's action in leaving a child unattended would reasonably pose a threat to the child's health or safety;

(j) the child or another child residing in the same household has been neglected;

(k) the child's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child;

~~(4)~~ (l) an infant has been abandoned, as defined in Section 78A-6-316;

~~(4)~~ (m) (i) the parent or guardian, or an adult residing in the same household as the parent or guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab Act; and

(ii) any clandestine laboratory operation was located in the residence or on the property where the child resided; or

~~(4)~~ (n) the child's welfare is otherwise endangered.

(2) (a) For purposes of Subsection (1)(a), if a child has previously been adjudicated as abused, neglected, or dependent, and a subsequent incident of abuse, neglect, or dependency occurs involving the same substantiated abuser or under similar circumstance as the previous abuse, that fact constitutes prima facie evidence that the child cannot safely remain in the custody of the child's parent.

(b) For purposes of Subsection (1)(c):

(i) another child residing in the same household may not be removed from the home unless that child is considered to be at substantial risk of being physically abused, sexually abused, or sexually exploited as described in Subsection (1)(c) or Subsection (2)(b)(ii); and

(ii) if a parent or guardian has received actual notice that physical abuse, sexual abuse, or sexual exploitation by a person known to the parent has occurred, and there is evidence that the parent or guardian failed to protect the child, after having received the notice, by allowing the child to be in the physical presence of the alleged abuser, that fact constitutes prima facie evidence that the child is at substantial risk of being physically abused, sexually abused, or sexually exploited.

(3) In the absence of one of the factors described in Subsection (1), a court may not remove a child from the parent's or guardian's custody on the basis of:

(a) educational neglect, truancy, or failure to comply with a court order to attend school;

(b) mental illness or poverty of the parent or guardian; or

(c) disability of the parent or guardian, as defined in Section 57-21-2.

(4) A child removed from the custody of the child's parent or guardian under this section may not be placed or kept in a secure detention facility pending further court proceedings unless the child is detainable based on guidelines promulgated by the Division of Juvenile Justice Services.

(5) This section does not preclude removal of a child from the child's home without a warrant or court order under Section 62A-4a-202.1.

(6) (a) Except as provided in Subsection (6)(b), a court or the Division of Child and Family Services may not remove a child from the custody of the child's parent or guardian on the sole or primary basis that the parent or guardian refuses to consent to:

(i) the administration of a psychotropic medication to a child;

(ii) a psychiatric, psychological, or behavioral treatment for a child; or

(iii) a psychiatric or behavioral health evaluation of a child.

(b) Notwithstanding Subsection (6)(a), a court or the Division of Child and Family Services may remove a child under conditions that would otherwise be prohibited under Subsection (6)(a) if failure to take an action described under Subsection (6)(a) would present a serious, imminent risk to the child's physical safety or the physical safety of others.

Section 3. Section 78A-6-306 is amended to read:

78A-6-306. Shelter hearing.

(1) A shelter hearing shall be held within 72 hours excluding weekends and holidays after any one or all of the following occur:

(a) removal of the child from the child's home by the division;

(b) placement of the child in the protective custody of the division;

(c) emergency placement under Subsection 62A-4a-202.1(4);

(d) as an alternative to removal of the child, a parent enters a domestic violence shelter at the request of the division; or

(e) a "Motion for Expedited Placement in Temporary Custody" is filed under Subsection 78A-6-106(4).

(2) Upon the occurrence of any of the circumstances described in Subsections (1)(a) through (e), the division shall issue a notice that contains all of the following:

(a) the name and address of the person to whom the notice is directed;

(b) the date, time, and place of the shelter hearing;

(c) the name of the child on whose behalf a petition is being brought;

(d) a concise statement regarding:

(i) the reasons for removal or other action of the division under Subsection (1); and

(ii) the allegations and code sections under which the proceeding has been instituted;

(e) a statement that the parent or guardian to whom notice is given, and the child, are entitled to have an attorney present at the shelter hearing, and that if the parent or guardian is indigent and cannot afford an attorney, and desires to be represented by an attorney, one will be provided in accordance with the provisions of Section 78A-6-1111; and

(f) a statement that the parent or guardian is liable for the cost of support of the child in the protective custody, temporary custody, and custody of the division, and the cost for legal counsel appointed for the parent or guardian under Subsection (2)(e), according to the financial ability of the parent or guardian.

(3) The notice described in Subsection (2) shall be personally served as soon as possible, but no later than one business day after removal of the child from the child's home, or the filing of a "Motion for Expedited Placement in Temporary Custody" under Subsection 78A-6-106(4), on:

(a) the appropriate guardian ad litem; and

(b) both parents and any guardian of the child, unless the parents or guardians cannot be located.

(4) The following persons shall be present at the shelter hearing:

(a) the child, unless it would be detrimental for the child;

(b) the child's parents or guardian, unless the parents or guardian cannot be located, or fail to appear in response to the notice;

(c) counsel for the parents, if one is requested;

(d) the child's guardian ad litem;

(e) the caseworker from the division who is assigned to the case; and

(f) the attorney from the attorney general's office who is representing the division.

(5) (a) At the shelter hearing, the court shall:

(i) provide an opportunity to provide relevant testimony to:

(A) the child's parent or guardian, if present; and

(B) any other person having relevant knowledge; and

(ii) subject to Section 78A-6-305, provide an opportunity for the child to testify.

(b) The court:

(i) may consider all relevant evidence, in accordance with the Utah Rules of Juvenile Procedure;

(ii) shall hear relevant evidence presented by the child, the child's parent or guardian, the requesting party, or their counsel; and

(iii) may in its discretion limit testimony and evidence to only that which goes to the issues of removal and the child's need for continued protection.

(6) If the child is in the protective custody of the division, the division shall report to the court:

(a) the reason why the child was removed from the parent's or guardian's custody;

(b) any services provided to the child and the child's family in an effort to prevent removal;

(c) the need, if any, for continued shelter;

(d) the available services that could facilitate the return of the child to the custody of the child's parent or guardian; and

(e) subject to Subsections 78A-6-307(18)(c) through (e), whether any relatives of the child or friends of the child's parents may be able and willing to accept temporary placement of the child.

(7) The court shall consider all relevant evidence provided by persons or entities authorized to present relevant evidence pursuant to this section.

(8) (a) If necessary to protect the child, preserve the rights of a party, or for other good cause shown, the court may grant no more than one continuance, not to exceed five judicial days.

(b) A court shall honor, as nearly as practicable, the request by a parent or guardian for a continuance under Subsection (8)(a).

(9) (a) If the child is in the protective custody of the division, the court shall order that the child be released from the protective custody of the division unless it finds, by a preponderance of the evidence, that any one of the following exist:

(i) subject to Subsection (9)(b)(i), there is a substantial danger to the physical health or safety of the child and the child's physical health or safety may not be protected without removing the child from the custody of the child's parent;

(ii) (A) the child is suffering emotional damage; and

(B) there are no reasonable means available by which the child's emotional health may be protected without removing the child from the custody of the child's parent;

(iii) there is a substantial risk that the child will suffer abuse or neglect if the child is not removed from the custody of the child's parents;

(iv) subject to Subsection (9)(b)(ii), the child or a minor residing in the same household has been, or is considered to be at substantial risk of being, physically abused, sexually abused, or sexually exploited by a:

- (A) parent;
 - (B) member of the parent's household; or
 - (C) person known to the parent;
- (v) the parent is unwilling to have physical custody of the child;
- (vi) the child is without any provision for the child's support;
- (vii) a parent who is incarcerated or institutionalized has not or cannot arrange for safe and appropriate care for the child;
- (viii) (A) a relative or other adult custodian with whom the child is left by the parent is unwilling or unable to provide care or support for the child;
- (B) the whereabouts of the parent are unknown; and
- (C) reasonable efforts to locate the parent are unsuccessful;
- (ix) the child is in urgent need of medical care;
- (x) the physical environment or the fact that the child is left unattended beyond a reasonable period of time poses a threat to the child's health or safety;
- (xi) the child or a minor residing in the same household has been neglected;
- (xii) the parent, or an adult residing in the same household as the parent, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab Act, and any clandestine laboratory operation was located in the residence or on the property where the child resided; [øø]
- (xiii) the child's welfare is substantially endangered[-]; or
- (xiv) the child's natural parent:
- (A) intentionally, knowingly, or recklessly causes the death of another parent of the child;
- (B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or
- (C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.
- (b) (i) Prima facie evidence of the finding described in Subsection (9)(a)(i) is established if:
- (A) a court previously adjudicated that the child suffered abuse, neglect, or dependency involving the parent; and
- (B) a subsequent incident of abuse, neglect, or dependency involving the parent occurs.
- (ii) For purposes of Subsection (9)(a)(iv), if the court finds that the parent knowingly allowed the child to be in the physical care of a person after the parent received actual notice that the person physically abused, sexually abused, or sexually exploited the child, that fact constitutes prima facie evidence that there is a substantial risk that the

child will be physically abused, sexually abused, or sexually exploited.

(10) (a) (i) The court shall also make a determination on the record as to whether reasonable efforts were made to prevent or eliminate the need for removal of the child from the child's home and whether there are available services that would prevent the need for continued removal.

(ii) If the court finds that the child can be safely returned to the custody of the child's parent or guardian through the provision of those services, the court shall place the child with the child's parent or guardian and order that those services be provided by the division.

(b) In making the determination described in Subsection (10)(a), and in ordering and providing services, the child's health, safety, and welfare shall be the paramount concern, in accordance with federal law.

(11) Where the division's first contact with the family occurred during an emergency situation in which the child could not safely remain at home, the court shall make a finding that any lack of preplacement preventive efforts was appropriate.

(12) In cases where actual sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved, neither the division nor the court has any duty to make "reasonable efforts" or to, in any other way, attempt to maintain a child in the child's home, return a child to the child's home, provide reunification services, or attempt to rehabilitate the offending parent or parents.

(13) The court may not order continued removal of a child solely on the basis of educational neglect as described in Subsection 78A-6-105(25)(b) truancy, or failure to comply with a court order to attend school.

(14) (a) Whenever a court orders continued removal of a child under this section, the court shall state the facts on which that decision is based.

(b) If no continued removal is ordered and the child is returned home, the court shall state the facts on which that decision is based.

(15) If the court finds that continued removal and temporary custody are necessary for the protection of a child because harm may result to the child if the child were returned home, the court shall order continued removal regardless of:

- (a) any error in the initial removal of the child;
- (b) the failure of a party to comply with notice provisions; or
- (c) any other procedural requirement of this chapter or Title 62A, Chapter 4a, Child and Family Services.

Section 4. Section 78A-6-312 is amended to read:

78A-6-312. Dispositional hearing -- Reunification services -- Exceptions.

- (1) The court may:

(a) make any of the dispositions described in Section 78A-6-117;

(b) place the minor in the custody or guardianship of any:

(i) individual; or

(ii) public or private entity or agency; or

(c) order:

(i) protective supervision;

(ii) family preservation;

(iii) subject to Subsections (12)(b) and 78A-6-117(2)(n)(iii), medical or mental health treatment; or

(iv) other services.

(2) Whenever the court orders continued removal at the dispositional hearing, and that the minor remain in the custody of the division, the court shall first:

(a) establish a primary permanency goal for the minor; and

(b) determine whether, in view of the primary permanency goal, reunification services are appropriate for the minor and the minor's family, pursuant to Subsections (20) through (22).

(3) Subject to Subsections (6) and (7), if the court determines that reunification services are appropriate for the minor and the minor's family, the court shall provide for reasonable parent-time with the parent or parents from whose custody the minor was removed, unless parent-time is not in the best interest of the minor.

(4) In cases where obvious sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved, neither the division nor the court has any duty to make "reasonable efforts" or to, in any other way, attempt to provide reunification services, or to attempt to rehabilitate the offending parent or parents.

(5) In all cases, the minor's health, safety, and welfare shall be the court's paramount concern in determining whether reasonable efforts to reunify should be made.

(6) For purposes of Subsection (3), parent-time is in the best interests of a minor unless the court makes a finding that it is necessary to deny parent-time in order to:

(a) protect the physical safety of the minor;

(b) protect the life of the minor; or

(c) prevent the minor from being traumatized by contact with the parent due to the minor's fear of the parent in light of the nature of the alleged abuse or neglect.

(7) Notwithstanding Subsection (3), a court may not deny parent-time based solely on a parent's failure to:

(a) prove that the parent has not used legal or illegal substances; or

(b) comply with an aspect of the child and family plan that is ordered by the court.

(8) (a) In addition to the primary permanency goal, the court shall establish a concurrent permanency goal that shall include:

(i) a representative list of the conditions under which the primary permanency goal will be abandoned in favor of the concurrent permanency goal; and

(ii) an explanation of the effect of abandoning or modifying the primary permanency goal.

(b) In determining the primary permanency goal and concurrent permanency goal, the court shall consider:

(i) the preference for kinship placement over nonkinship placement;

(ii) the potential for a guardianship placement if the parent-child relationship is legally terminated and no appropriate adoption placement is available; and

(iii) the use of an individualized permanency goal, only as a last resort.

(9) A permanency hearing shall be conducted in accordance with Subsection 78A-6-314(1)(b) within 30 days after the day on which the dispositional hearing ends if something other than reunification is initially established as a minor's primary permanency goal.

(10) (a) The court may amend a minor's primary permanency goal before the establishment of a final permanency plan under Section 78A-6-314.

(b) The court is not limited to the terms of the concurrent permanency goal in the event that the primary permanency goal is abandoned.

(c) If, at any time, the court determines that reunification is no longer a minor's primary permanency goal, the court shall conduct a permanency hearing in accordance with Section 78A-6-314 on or before the earlier of:

(i) 30 days after the day on which the court makes the determination described in this Subsection (10)(c); or

(ii) the day on which the provision of reunification services, described in Section 78A-6-314, ends.

(11) (a) If the court determines that reunification services are appropriate, it shall order that the division make reasonable efforts to provide services to the minor and the minor's parent for the purpose of facilitating reunification of the family, for a specified period of time.

(b) In providing the services described in Subsection (11)(a), the minor's health, safety, and welfare shall be the division's paramount concern, and the court shall so order.

(12) (a) The court shall:

(i) determine whether the services offered or provided by the division under the child and family

plan constitute “reasonable efforts” on the part of the division;

(ii) determine and define the responsibilities of the parent under the child and family plan in accordance with Subsection 62A-4a-205(6)(e); and

(iii) identify verbally on the record, or in a written document provided to the parties, the responsibilities described in Subsection (12)(a)(ii), for the purpose of assisting in any future determination regarding the provision of reasonable efforts, in accordance with state and federal law.

(b) If the parent is in a substance abuse treatment program, other than a certified drug court program:

(i) the court may order the parent to submit to supplementary drug or alcohol testing in addition to the testing recommended by the parent’s substance abuse program based on a finding of reasonable suspicion that the parent is abusing drugs or alcohol; and

(ii) the court may order the parent to provide the results of drug or alcohol testing recommended by the substance abuse program to the court or division.

(13) (a) The time period for reunification services may not exceed 12 months from the date that the minor was initially removed from the minor’s home, unless the time period is extended under Subsection 78A-6-314(8).

(b) Nothing in this section may be construed to entitle any parent to an entire 12 months of reunification services.

(14) (a) If reunification services are ordered, the court may terminate those services at any time.

(b) If, at any time, continuation of reasonable efforts to reunify a minor is determined to be inconsistent with the final permanency plan for the minor established pursuant to Section 78A-6-314, then measures shall be taken, in a timely manner, to:

(i) place the minor in accordance with the permanency plan; and

(ii) complete whatever steps are necessary to finalize the permanent placement of the minor.

(15) Any physical custody of the minor by the parent or a relative during the period described in Subsections (11) through (14) does not interrupt the running of the period.

(16) (a) If reunification services are ordered, a permanency hearing shall be conducted by the court in accordance with Section 78A-6-314 at the expiration of the time period for reunification services.

(b) The permanency hearing shall be held no later than 12 months after the original removal of the minor.

(c) If reunification services are not ordered, a permanency hearing shall be conducted within 30 days, in accordance with Section 78A-6-314.

(17) With regard to a minor in the custody of the division whose parent or parents are ordered to receive reunification services but who have abandoned that minor for a period of six months from the date that reunification services were ordered:

(a) the court shall terminate reunification services; and

(b) the division shall petition the court for termination of parental rights.

(18) When a court conducts a permanency hearing for a minor under Section 78A-6-314, the court shall attempt to keep the minor’s sibling group together if keeping the sibling group together is:

(a) practicable; and

(b) in accordance with the best interest of the minor.

(19) (a) Because of the state’s interest in and responsibility to protect and provide permanency for minors who are abused, neglected, or dependent, the Legislature finds that a parent’s interest in receiving reunification services is limited.

(b) The court may determine that:

(i) efforts to reunify a minor with the minor’s family are not reasonable or appropriate, based on the individual circumstances; and

(ii) reunification services should not be provided.

(c) In determining “reasonable efforts” to be made with respect to a minor, and in making “reasonable efforts,” the minor’s health, safety, and welfare shall be the paramount concern.

(20) There is a presumption that reunification services should not be provided to a parent if the court finds, by clear and convincing evidence, that any of the following circumstances exist:

(a) the whereabouts of the parents are unknown, based upon a verified affidavit indicating that a reasonably diligent search has failed to locate the parent;

(b) subject to Subsection (21)(a), the parent is suffering from a mental illness of such magnitude that it renders the parent incapable of utilizing reunification services;

(c) the minor was previously adjudicated as an abused child due to physical abuse, sexual abuse, or sexual exploitation, and following the adjudication the minor:

(i) was removed from the custody of the minor’s parent;

(ii) was subsequently returned to the custody of the parent; and

(iii) is being removed due to additional physical abuse, sexual abuse, or sexual exploitation;

- (d) the parent:
- (i) caused the death of another minor through abuse or neglect;
- (ii) committed, aided, abetted, attempted, conspired, or solicited to commit:
- (A) murder or manslaughter of a child; or
- (B) child abuse homicide;
- (iii) committed sexual abuse against the child; [e]
- (iv) is a registered sex offender or required to register as a sex offender; or
- (v) (A) intentionally, knowingly, or recklessly causes the death of another parent of the child;
- (B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or
- (C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child;
- (e) the minor suffered severe abuse by the parent or by any person known by the parent, if the parent knew or reasonably should have known that the person was abusing the minor;
- (f) the minor is adjudicated an abused child as a result of severe abuse by the parent, and the court finds that it would not benefit the minor to pursue reunification services with the offending parent;
- (g) the parent's rights are terminated with regard to any other minor;
- (h) the minor was removed from the minor's home on at least two previous occasions and reunification services were offered or provided to the family at those times;
- (i) the parent has abandoned the minor for a period of six months or longer;
- (j) the parent permitted the child to reside, on a permanent or temporary basis, at a location where the parent knew or should have known that a clandestine laboratory operation was located;
- (k) except as provided in Subsection (21)(b), with respect to a parent who is the child's birth mother, the child has fetal alcohol syndrome, fetal alcohol spectrum disorder, or was exposed to an illegal or prescription drug that was abused by the child's mother while the child was in utero, if the child was taken into division custody for that reason, unless the mother agrees to enroll in, is currently enrolled in, or has recently and successfully completed a substance abuse treatment program approved by the department; or
- (l) any other circumstance that the court determines should preclude reunification efforts or services.

(21) (a) The finding under Subsection (20)(b) shall be based on competent evidence from at least two

medical or mental health professionals, who are not associates, establishing that, even with the provision of services, the parent is not likely to be capable of adequately caring for the minor within 12 months after the day on which the court finding is made.

(b) A judge may disregard the provisions of Subsection (20)(k) if the court finds, under the circumstances of the case, that the substance abuse treatment described in Subsection (20)(k) is not warranted.

(22) In determining whether reunification services are appropriate, the court shall take into consideration:

(a) failure of the parent to respond to previous services or comply with a previous child and family plan;

(b) the fact that the minor was abused while the parent was under the influence of drugs or alcohol;

(c) any history of violent behavior directed at the child or an immediate family member;

(d) whether a parent continues to live with an individual who abused the minor;

(e) any patterns of the parent's behavior that have exposed the minor to repeated abuse;

(f) testimony by a competent professional that the parent's behavior is unlikely to be successful; and

(g) whether the parent has expressed an interest in reunification with the minor.

(23) (a) If reunification services are not ordered pursuant to Subsections (19) through (21), and the whereabouts of a parent become known within six months after the day on which the out-of-home placement of the minor is made, the court may order the division to provide reunification services.

(b) The time limits described in Subsections (2) through (18) are not tolled by the parent's absence.

(24) (a) If a parent is incarcerated or institutionalized, the court shall order reasonable services unless it determines that those services would be detrimental to the minor.

(b) In making the determination described in Subsection (24)(a), the court shall consider:

(i) the age of the minor;

(ii) the degree of parent-child bonding;

(iii) the length of the sentence;

(iv) the nature of the treatment;

(v) the nature of the crime or illness;

(vi) the degree of detriment to the minor if services are not offered;

(vii) for a minor 10 years of age or older, the minor's attitude toward the implementation of family reunification services; and

(viii) any other appropriate factors.

(c) Reunification services for an incarcerated parent are subject to the time limitations imposed in Subsections (2) through (18).

(d) Reunification services for an institutionalized parent are subject to the time limitations imposed in Subsections (2) through (18), unless the court determines that continued reunification services would be in the minor's best interest.

(25) If, pursuant to Subsections (20)(b) through (1), the court does not order reunification services, a permanency hearing shall be conducted within 30 days, in accordance with Section 78A-6-314.

Section 5. Section 78A-6-314 is amended to read:

78A-6-314. Permanency hearing -- Final plan -- Petition for termination of parental rights filed -- Hearing on termination of parental rights.

(1) (a) When reunification services have been ordered in accordance with Section 78A-6-312, with regard to a minor who is in the custody of the Division of Child and Family Services, a permanency hearing shall be held by the court no later than 12 months after the day on which the minor was initially removed from the minor's home.

(b) If reunification services were not ordered at the dispositional hearing, a permanency hearing shall be held within 30 days after the day on which the dispositional hearing ends.

(2) (a) If reunification services were ordered by the court in accordance with Section 78A-6-312, the court shall, at the permanency hearing, determine, consistent with Subsection (3), whether the minor may safely be returned to the custody of the minor's parent.

(b) If the court finds, by a preponderance of the evidence, that return of the minor to the minor's parent would create a substantial risk of detriment to the minor's physical or emotional well-being, the minor may not be returned to the custody of the minor's parent.

(c) Prima facie evidence that return of the minor to a parent or guardian would create a substantial risk of detriment to the minor is established if:

(i) the parent or guardian fails to:

(i) (A) participate in a court approved child and family plan;

(i) (B) comply with a court approved child and family plan in whole or in part; or

(i) (C) meet the goals of a court approved child and family plan; or

(ii) the child's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

(3) In making a determination under Subsection (2)(a), the court shall review and consider:

(a) the report prepared by the Division of Child and Family Services;

(b) any admissible evidence offered by the minor's guardian ad litem;

(c) any report submitted by the division under Subsection 78A-6-315(3)(a)(i);

(d) any evidence regarding the efforts or progress demonstrated by the parent; and

(e) the extent to which the parent cooperated and utilized the services provided.

(4) With regard to a case where reunification services were ordered by the court, if a minor is not returned to the minor's parent or guardian at the permanency hearing, the court shall, unless the time for the provision of reunification services is extended under Subsection (8):

(a) order termination of reunification services to the parent;

(b) make a final determination regarding whether termination of parental rights, adoption, or permanent custody and guardianship is the most appropriate final plan for the minor, taking into account the minor's primary permanency goal established by the court pursuant to Section 78A-6-312; and

(c) establish a concurrent plan that identifies the second most appropriate final plan for the minor.

(5) If the Division of Child and Family Services documents to the court that there is a compelling reason that adoption, reunification, guardianship, and a placement described in Subsection 78A-6-306(6)(e) are not in the minor's best interest, the court may order another planned permanent living arrangement, in accordance with federal law.

(6) If the minor clearly desires contact with the parent, the court shall take the minor's desire into consideration in determining the final plan.

(7) Except as provided in Subsection (8), the court may not extend reunification services beyond 12 months after the day on which the minor was initially removed from the minor's home, in accordance with the provisions of Section 78A-6-312.

(8) (a) Subject to Subsection (8)(b), the court may extend reunification services for no more than 90 days if the court finds, beyond a preponderance of the evidence, that:

(i) there has been substantial compliance with the child and family plan;

(ii) reunification is probable within that 90-day period; and

(iii) the extension is in the best interest of the minor.

(b) (i) Except as provided in Subsection (8)(c), the court may not extend any reunification services beyond 15 months after the day on which the minor was initially removed from the minor's home.

(ii) Delay or failure of a parent to establish paternity or seek custody does not provide a basis for the court to extend services for that parent beyond the 12-month period described in Subsection (7).

(c) In accordance with Subsection (8)(d), the court may extend reunification services for one additional 90-day period, beyond the 90-day period described in Subsection (8)(a), if:

(i) the court finds, by clear and convincing evidence, that:

(A) the parent has substantially complied with the child and family plan;

(B) it is likely that reunification will occur within the additional 90-day period; and

(C) the extension is in the best interest of the child;

(ii) the court specifies the facts upon which the findings described in Subsection (8)(c)(i) are based; and

(iii) the court specifies the time period in which it is likely that reunification will occur.

(d) A court may not extend the time period for reunification services without complying with the requirements of this Subsection (8) before the extension.

(e) In determining whether to extend reunification services for a minor, a court shall take into consideration the status of the minor siblings of the minor.

(9) The court may, in its discretion:

(a) enter any additional order that it determines to be in the best interest of the minor, so long as that order does not conflict with the requirements and provisions of Subsections (4) through (8); or

(b) order the division to provide protective supervision or other services to a minor and the minor's family after the division's custody of a minor has been terminated.

(10) If the final plan for the minor is to proceed toward termination of parental rights, the petition for termination of parental rights shall be filed, and a pretrial held, within 45 calendar days after the permanency hearing.

(11) (a) Any party to an action may, at any time, petition the court for an expedited permanency hearing on the basis that continuation of reunification efforts are inconsistent with the permanency needs of the minor.

(b) If the court so determines, it shall order, in accordance with federal law, that:

(i) the minor be placed in accordance with the permanency plan; and

(ii) whatever steps are necessary to finalize the permanent placement of the minor be completed as quickly as possible.

(12) Nothing in this section may be construed to:

(a) entitle any parent to reunification services for any specified period of time;

(b) limit a court's ability to terminate reunification services at any time prior to a permanency hearing; or

(c) limit or prohibit the filing of a petition for termination of parental rights by any party, or a hearing on termination of parental rights, at any time prior to a permanency hearing.

(13) (a) Subject to Subsection (13)(b), if a petition for termination of parental rights is filed prior to the date scheduled for a permanency hearing, the court may consolidate the hearing on termination of parental rights with the permanency hearing.

(b) For purposes of Subsection (13)(a), if the court consolidates the hearing on termination of parental rights with the permanency hearing:

(i) the court shall first make a finding regarding whether reasonable efforts have been made by the Division of Child and Family Services to finalize the permanency goal for the minor; and

(ii) any reunification services shall be terminated in accordance with the time lines described in Section 78A-6-312.

(c) A decision on a petition for termination of parental rights shall be made within 18 months from the day on which the minor is removed from the minor's home.

(14) If a court determines that a child will not be returned to a parent of the child, the court shall consider appropriate placement options inside and outside of the state.

CHAPTER 36**S. B. 199**

Passed March 6, 2014
 Approved March 20, 2014
 Effective May 13, 2014

**AMENDMENTS TO EMERGENCY
 TELEPHONE SERVICE LAW**

Chief Sponsor: Curtis S. Bramble
 House Sponsor: Ryan D. Wilcox

LONG TITLE**General Description:**

This bill amends the emergency telephone service law.

Highlighted Provisions:

This bill:

- ▶ defines a term;
- ▶ addresses duties and liabilities of a voice over Internet protocol service provider; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 69-2-2, as last amended by Laws of Utah 2012, Chapter 369
 69-2-7, as last amended by Laws of Utah 1996, Chapter 86
 69-2-8, as last amended by Laws of Utah 1996, Chapter 86

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

Section 1. Section 69-2-2 is amended to read:

69-2-2. Definitions.

As used in this chapter:

(1) "911 emergency telephone service" means a communication system which provides citizens with rapid direct access to public emergency operation centers by dialing the telephone number "911" with the objective of reducing the response time to situations requiring law enforcement, fire, medical, rescue, and other emergency services.

(2) "Local exchange service" means the provision of public telecommunications services by a wireline common carrier to customers within a geographic area encompassing one or more local communities as described in the carrier's service territory maps, tariffs, price lists, or rate schedules filed with and approved by the Public Service Commission.

(3) "Local exchange service switched access line" means the transmission facility and local switching equipment used by a wireline common carrier to connect a customer location to a carrier's local exchange switching network for providing two-way interactive voice, or voice capable, services.

(4) "Mobile telecommunications service" is as defined in Section 54-8b-2.

(5) "Public agency" means any county, city, town, special service district, or public authority located within the state which provides or has authority to provide fire fighting, law enforcement, ambulance, medical, or other emergency services.

(6) "Public safety agency" means a functional division of a public agency which provides fire fighting, law enforcement, medical, or other emergency services.

(7) "Public safety answering point" means a facility that:

(a) is equipped and staffed under the authority of a political subdivision; and

(b) receives 911 calls, other calls for emergency services, and asynchronous event notifications for a defined geographic area.

(8) "Radio communications access line" means the radio equipment and assigned customer identification number used to connect a mobile or fixed radio customer in Utah to a radio communication service provider's network for two-way interactive voice, or voice capable, services.

(9) "Radio communications service" means a public telecommunications service providing the capability of two-way interactive telecommunications between mobile and fixed radio customers, and between mobile or fixed radio customers and the local exchange service network customers of a wireline common carrier. Radio communications service providers include corporations, persons or entities offering cellular telephone service, enhanced specialized mobile radio service, rural radio service, radio common carrier services, personal communications services, and any equivalent wireless public telecommunications service, as defined in 47 CFR, parts 20, 22, 24, and 90.

(10) "Voice over Internet protocol service" is as defined in Section 54-19-102.

~~(10)~~ (11) "Wireline common carrier" means a public telecommunications service provider that primarily uses metallic or nonmetallic cables and wires for connecting customers to its local exchange service networks.

Section 2. Section 69-2-7 is amended to read:

69-2-7. Limitation of duties and liabilities.

Except as provided in Section 69-2-8, nothing contained in this chapter imposes any duties or liabilities beyond those otherwise specified by law upon any provider of local exchange service, radio communications service, voice over Internet protocol service, or terminal equipment needed to implement 911 emergency telephone service.

Section 3. Section 69-2-8 is amended to read:

69-2-8. Liabilities of providers.

(1) A provider of local exchange service [~~or~~], radio communications service, or voice over Internet protocol service may by tariff or agreement with a customer provide for the customer's release of any claim, suit, or demand against the provider based upon a disclosure or a nondisclosure of an unlisted or nonpublished telephone number and address, and the related address, if a call for any 911 emergency telephone service is made from the customer's telephone.

(2) A provider of local exchange service, radio communications service, voice over Internet protocol service, or telephone terminal equipment needed to implement or enhance 911 emergency telephone service, and their employees and agents, are not liable for any damages in a civil action for injuries, death, or loss to person or property incurred as a result of any act or omission of the provider, employee, or agent, in connection with developing, adopting, implementing, maintaining, enhancing, or operating a 911 emergency telephone service, except for damages or injury intentionally caused by or resulting from gross negligence of the provider or person.

CHAPTER 37**H. B. 214**

Passed February 20, 2014

Approved March 24, 2014

Effective May 13, 2014

**SPECIAL GROUP LICENSE
PLATE AMENDMENTS**Chief Sponsor: Paul Ray
Senate Sponsor: Evan J. Vickers**LONG TITLE****General Description:**

This bill authorizes a National Professional Men's Basketball Team Support of Women and Children Issues support special group license plate.

Highlighted Provisions:

This bill:

- ▶ creates a National Professional Men's Basketball Team Support of Women and Children Issues support special group license plate for certain organizations that create or support programs that affect women and children through an organization affiliated with a national professional men's basketball organization;
- ▶ requires applicants for a new plate to make a \$25 annual donation to the National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account;
- ▶ creates the National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account;
- ▶ requires the Department of Human Services to distribute funds in the National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account to certain organizations that create or support programs that affect women and children through an organization affiliated with a professional men's basketball organization; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-1a-418, as last amended by Laws of Utah 2013, Chapters 149, 176, and 214

41-1a-422, as last amended by Laws of Utah 2013, Chapter 214

63J-1-602.4, as last amended by Laws of Utah 2013, Chapter 28

ENACTS:

62A-1-201, Utah Code Annotated 1953

62A-1-202, Utah Code Annotated 1953

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

Section 1. Section 41-1a-418 is amended to read:

41-1a-418. Authorized special group license plates.

(1) The division shall only issue special group license plates in accordance with this section through Section 41-1a-422 to a person who is specified under this section within the categories listed as follows:

(a) disability special group license plates issued in accordance with Section 41-1a-420;

(b) honor special group license plates, as in a war hero, which plates are issued for a:

(i) survivor of the Japanese attack on Pearl Harbor;

(ii) former prisoner of war;

(iii) recipient of a Purple Heart;

(iv) disabled veteran; or

(v) recipient of a gold star award issued by the United States Secretary of Defense;

(c) unique vehicle type special group license plates, as for historical, collectors value, or other unique vehicle type, which plates are issued for:

(i) a special interest vehicle;

(ii) a vintage vehicle;

(iii) a farm truck; or

(iv) (A) until Subsection (1)(c)(iv)(B) or (4) applies, a vehicle powered by clean fuel as defined in Section 59-13-102; or

(B) beginning on the effective date of rules made by the Department of Transportation authorized under Subsection 41-6a-702(5)(b) and until Subsection (4) applies, a vehicle powered by clean fuel that meets the standards established by the Department of Transportation in rules authorized under Subsection 41-6a-702(5)(b);

(d) recognition special group license plates, which plates are issued for:

(i) a current member of the Legislature;

(ii) a current member of the United States Congress;

(iii) a current member of the National Guard;

(iv) a licensed amateur radio operator;

(v) a currently employed, volunteer, or retired firefighter until June 30, 2009;

(vi) an emergency medical technician;

(vii) a current member of a search and rescue team;

(viii) a current honorary consulate designated by the United States Department of State; or

(ix) an individual that wants to recognize and honor American freedoms and values through an In God We Trust license plate;

(e) support special group license plates, as for a contributor to an institution or cause, which plates are issued for a contributor to:

(i) an institution's scholastic scholarship fund;

- (ii) the Division of Wildlife Resources;
- (iii) the Department of Veterans' and Military Affairs;
- (iv) the Division of Parks and Recreation;
- (v) the Department of Agriculture and Food;
- (vi) the Guardian Ad Litem Services Account and the Children's Museum of Utah;
- (vii) the Boy Scouts of America;
- (viii) spay and neuter programs through No More Homeless Pets in Utah;
- (ix) the Boys and Girls Clubs of America;
- (x) Utah public education;
- (xi) programs that provide support to organizations that create affordable housing for those in severe need through the Division of Real Estate;
- (xii) the Department of Public Safety;
- (xiii) programs that support Zion National Park;
- (xiv) beginning on July 1, 2009, programs that provide support to firefighter organizations;
- (xv) programs that promote bicycle operation and safety awareness;
- (xvi) programs that conduct or support cancer research;
- (xvii) programs that create or support autism awareness;
- (xviii) programs that create or support humanitarian service and educational and cultural exchanges;
- (xix) programs that conduct or support prostate cancer awareness, screening, detection, or prevention;
- (xx) programs that support and promote adoptions; [øø]
- (xxi) programs that create or support civil rights education and awareness[.]; or
- (xxii) programs that support issues affecting women and children through an organization affiliated with a national professional men's basketball organization.

(2) (a) The division may not issue a new type of special group license plate unless the division receives:

(i) (A) a private donation for the start-up fee established under Section 63J-1-504 for the production and administrative costs of providing the new special group license plates; or

(B) a legislative appropriation for the start-up fee provided under Subsection (2)(a)(i)(A); and

(ii) beginning on January 1, 2012, and for the issuance of a support special group license plate authorized in Section 41-1a-422, at least 500 completed applications for the new type of support

special group license plate to be issued with all fees required under this part for the support special group license plate issuance paid by each applicant.

(b) (i) Beginning on January 1, 2012, each participating organization shall collect and hold applications for support special group license plates authorized in Section 41-1a-422 on or after January 1, 2012, until it has received at least 500 applications.

(ii) Once a participating organization has received at least 500 applications, it shall submit the applications, along with the necessary fees, to the division for the division to begin working on the design and issuance of the new type of support special group license plate to be issued.

(iii) Beginning on January 1, 2012, the division may not work on the issuance or design of a new support special group license plate authorized in Section 41-1a-422 until the applications and fees required under this Subsection (2) have been received by the division.

(iv) The division shall begin issuance of a new support special group license plate authorized in Section 41-1a-422 on or after January 1, 2012, no later than six months after receiving the applications and fees required under this Subsection (2).

(c) (i) Beginning on July 1, 2009, the division may not renew a motor vehicle registration of a motor vehicle that has been issued a firefighter recognition special group license plate unless the applicant is a contributor as defined in Subsection 41-1a-422(1)(a)(ii)(D) to the Firefighter Support Restricted Account.

(ii) A registered owner of a vehicle that has been issued a firefighter recognition special group license plate prior to July 1, 2009, upon renewal of the owner's motor vehicle registration shall:

(A) be a contributor to the Firefighter Support Restricted Account as required under Subsection (2)(c)(i); or

(B) replace the firefighter recognition special group license plate with a new license plate.

(3) (a) Beginning on July 1, 2011, if a support special group license plate type authorized in Section 41-1a-422 and issued on or after January 1, 2012, has fewer than 500 license plates issued each year for a three consecutive year time period that begins on July 1, the division may not issue that type of support special group license plate to a new applicant beginning on January 1 of the following calendar year after the three consecutive year time period for which that type of support special group license plate has fewer than 500 license plates issued each year.

(b) If the division is required to stop the issuance of a type of support special group license plate authorized in Section 41-1a-422 under this Subsection (3), the division shall report to the Transportation Interim Committee that the division will stop the issuance on or before the November interim meeting of the year in which the

commission determines to stop the issuance of that type of support special group license plate.

(4) Beginning on July 1, 2011, the division may not issue to an applicant a unique vehicle type license plate for a vehicle powered by clean fuel under Subsection (1)(c)(iv).

Section 2. Section 41-1a-422 is amended to read:

41-1a-422. Support special group license plates -- Contributor -- Voluntary contribution collection procedures.

(1) As used in this section:

(a) (i) Except as provided in Subsection (1)(a)(ii), "contributor" means a person who has donated or in whose name at least \$25 has been donated to:

(A) a scholastic scholarship fund of a single named institution;

(B) the Department of Veterans' and Military Affairs for veterans' programs;

(C) the Division of Wildlife Resources for the Wildlife Resources Account created in Section 23-14-13, for conservation of wildlife and the enhancement, preservation, protection, access, and management of wildlife habitat;

(D) the Department of Agriculture and Food for the benefit of conservation districts;

(E) the Division of Parks and Recreation for the benefit of snowmobile programs;

(F) the Guardian Ad Litem Services Account and the Children's Museum of Utah, with the donation evenly divided between the two;

(G) the Boy Scouts of America for the benefit of a Utah Boy Scouts of America council as specified by the contributor;

(H) No More Homeless Pets in Utah for distribution to organizations or individuals that provide spay and neuter programs that subsidize the sterilization of domestic animals;

(I) the Utah Alliance of Boys and Girls Clubs, Inc. to provide and enhance youth development programs;

(J) the Utah Association of Public School Foundations to support public education;

(K) the Utah Housing Opportunity Restricted Account created in Section 61-2-204 to assist people who have severe housing needs;

(L) the Public Safety Honoring Heroes Restricted Account created in Section 53-1-118 to support the families of fallen Utah Highway Patrol troopers and other Department of Public Safety employees;

(M) the Division of Parks and Recreation for distribution to organizations that provide support for Zion National Park;

(N) the Firefighter Support Restricted Account created in Section 53-7-109 to support firefighter organizations;

(O) the Share the Road Bicycle Support Restricted Account created in Section 72-2-127 to support bicycle operation and safety awareness programs;

(P) the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(Q) Autism Awareness Restricted Account created in Section 53A-1-304 to support autism awareness programs;

(R) Humanitarian Service and Educational and Cultural Exchange Restricted Account created in Section 9-17-102 to support humanitarian service and educational and cultural programs;

(S) Prostate Cancer Support Restricted Account created in Section 26-21a-303 for programs that conduct or support prostate cancer awareness, screening, detection, or prevention;

(T) the Choose Life Adoption Support Restricted Account created in Section 62A-4a-608 to support programs that promote adoption; [æ]

(U) the Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102[-]; or

(V) the National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202.

(ii) (A) For a veterans' special group license plate, "contributor" means a person who has donated or in whose name at least a \$25 donation at the time of application and \$10 annual donation thereafter has been made.

(B) For a Utah Housing Opportunity special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least \$30 has been donated at the time of application and annually after the time of application; and

(II) is a member of a trade organization for real estate licensees that has more than 15,000 Utah members.

(C) For an Honoring Heroes special group license plate, "contributor" means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually thereafter.

(D) For a firefighter support special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least \$15 has been donated at the time of application and annually after the time of application; and

(II) is a currently employed, volunteer, or retired firefighter.

(E) For a cancer research special group license plate, "contributor" means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually after the time of application.

(F) For a Martin Luther King, Jr. Civil Rights Support special group license plate, “contributor” means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually thereafter.

(b) “Institution” means a state institution of higher education as defined under Section 53B-3-102 or a private institution of higher education in the state accredited by a regional or national accrediting agency recognized by the United States Department of Education.

(2) (a) An applicant for original or renewal collegiate special group license plates under Subsection (1)(a)(i) must be a contributor to the institution named in the application and present the original contribution verification form under Subsection (2)(b) or make a contribution to the division at the time of application under Subsection (3).

(b) An institution with a support special group license plate shall issue to a contributor a verification form designed by the commission containing:

- (i) the name of the contributor;
- (ii) the institution to which a donation was made;
- (iii) the date of the donation; and
- (iv) an attestation that the donation was for a scholastic scholarship.

(c) The state auditor may audit each institution to verify that the money collected by the institutions from contributors is used for scholastic scholarships.

(d) After an applicant has been issued collegiate license plates or renewal decals, the commission shall charge the institution whose plate was issued, a fee determined in accordance with Section 63J-1-504 for management and administrative expenses incurred in issuing and renewing the collegiate license plates.

(e) If the contribution is made at the time of application, the contribution shall be collected, treated, and deposited as provided under Subsection (3).

(3) (a) An applicant for original or renewal support special group license plates under this section must be a contributor to the sponsoring organization associated with the license plate.

(b) This contribution shall be:

(i) unless collected by the named institution under Subsection (2), collected by the division;

(ii) considered a voluntary contribution for the funding of the activities specified under this section and not a motor vehicle registration fee;

(iii) deposited into the appropriate account less actual administrative costs associated with issuing the license plates; and

(iv) for a firefighter special group license plate, deposited into the appropriate account less:

(A) the costs of reordering firefighter special group license plate decals; and

(B) the costs of replacing recognition special group license plates with new license plates under Subsection 41-1a-1211(13).

(c) The donation described in Subsection (1)(a) must be made in the 12 months prior to registration or renewal of registration.

(d) The donation described in Subsection (1)(a) shall be a one-time donation made to the division when issuing original:

- (i) snowmobile license plates; or
- (ii) conservation license plates.

(4) Veterans’ license plates shall display one of the symbols representing the Army, Navy, Air Force, Marines, Coast Guard, or American Legion.

Section 3. Section 62A-1-201 is enacted to read:

Part 2. National Professional Men’s Basketball Team Support of Women and Children Issues Restricted Account Act

62A-1-201. Title.

This part is known as the “National Professional Men’s Basketball Team Support of Women and Children Issues Restricted Account Act.”

Section 4. Section 62A-1-202 is enacted to read:

62A-1-202. National Professional Men’s Basketball Team Support of Women and Children Issues Restricted Account.

(1) There is created in the General Fund a restricted account known as the “National Professional Men’s Basketball Team Support of Women and Children Issues Restricted Account.”

(2) The account shall be funded by:

(a) contributions deposited into the account in accordance with Section 41-1a-422;

(b) private contributions; and

(c) donations or grants from public or private entities.

(3) Upon appropriation by the Legislature, the department shall distribute funds in the account to one or more charitable organizations that:

(a) qualify as being tax exempt under Section 501(c)(3) of the Internal Revenue Code;

(b) have a board that is appointed by the owners that, either on an individual or joint basis, own a controlling interest in a legal entity that is a franchised member of the internationally recognized national governing body for professional men’s basketball in the United States;

(c) are headquartered within the state;

(d) create or support programs that focus on issues affecting women and children within the state, with an emphasis on health and education; and

(e) have a board of directors that disperses all funds of the organization.

(4) (a) An organization described in Subsection (3) may apply to the department to receive a distribution in accordance with Subsection (3).

(b) An organization that receives a distribution from the department in accordance with Subsection (3) shall expend the distribution only to:

(i) create or support programs that focus on issues affecting women and children, with an emphasis on health and education;

(ii) create or sponsor programs that will benefit residents within the state; and

(iii) pay the costs of issuing or reordering National Professional Men's Basketball Team Support of Women and Children Issues support special group license plate decals.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules providing procedures for an organization to apply to the department to receive a distribution under this Subsection (4).

(5) In accordance with Section 63J-1-602.4, appropriations from the account are nonlapsing.

Section 5. Section 63J-1-602.4 is amended to read:

63J-1-602.4. List of nonlapsing funds and accounts -- Title 61 through Title 63M.

(1) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

(2) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

(3) Certain funds donated to the Department of Human Services, as provided in Section 62A-1-111.

(4) Appropriations from the National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202.

~~[(4)]~~ (5) Certain funds donated to the Division of Child and Family Services, as provided in Section 62A-4a-110.

~~[(5)]~~ (6) Appropriations from the Choose Life Adoption Support Restricted Account created in Section 62A-4a-608.

~~[(6)]~~ (7) Appropriations to the Division of Services for People with Disabilities, as provided in Section 62A-5-102.

~~[(7)]~~ (8) A portion of the funds appropriated to the Utah Seismic Safety Commission, as provided in Section 63C-6-104.

~~[(8)]~~ (9) Funding for the Medical Education Program administered by the Medical Education Council, as provided in Section 53B-24-202.

~~[(9)]~~ (10) Certain money payable for commission expenses of the Pete Suazo Utah Athletic Commission, as provided under Section 63C-11-301.

~~[(10)]~~ (11) Funds appropriated or collected for publishing the Division of Administrative Rules' publications, as provided in Section 63G-3-402.

~~[(11)]~~ (12) The Immigration Act Restricted Account created in Section 63G-12-103.

~~[(12)]~~ (13) Money received by the military installation development authority, as provided in Section 63H-1-504.

~~[(13)]~~ (14) The appropriation to fund the Governor's Office of Economic Development's Enterprise Zone Act, as provided in Section 63M-1-416.

~~[(14)]~~ (15) The Motion Picture Incentive Account created in Section 63M-1-1803.

~~[(15)]~~ (16) Appropriations to the Utah Science Technology and Research Governing Authority, created under Section 63M-2-301, as provided under Section 63M-2-302.

CHAPTER 38**H. B. 272**

Passed February 24, 2014

Approved March 25, 2014

Effective May 13, 2014

**MUNICIPAL ELECTION
AMENDMENTS - OFFICE HOURS**

Chief Sponsor: John Knotwell

Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill requires a city recorder or town clerk to maintain certain office hours during the municipal candidacy declaration and nomination period.

Highlighted Provisions:

This bill:

- ▶ requires a city recorder or town clerk to maintain certain office hours during the municipal candidacy declaration and nomination period; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

10-3-301, as last amended by Laws of Utah 2012, Chapter 251

20A-9-203, as last amended by Laws of Utah 2013, Chapters 317 and 402

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

Section 1. Section 10-3-301 is amended to read:**10-3-301. Notice -- Eligibility and residency requirements for elected municipal office -- Mayor and recorder limitations.**

(1) (a) On or before February 1 in a year in which there is a municipal general election, the municipal clerk shall publish a notice that identifies:

(i) the municipal offices to be voted on in the municipal general election; and

(ii) the dates for filing a declaration of candidacy for the offices identified under Subsection (1)(a)(i).

(b) The municipal clerk shall publish the notice described in Subsection (1)(a):

(i) on the Utah Public Notice Website established by Section 63F-1-701; and

(ii) in at least one of the following ways:

(A) at the principal office of the municipality;

(B) in a newspaper of general circulation within the municipality at least once a week for two successive weeks in accordance with Section 45-1-101;

(C) in a newsletter produced by the municipality;

(D) on a website operated by the municipality; or

(E) with a utility enterprise fund customer's bill.

(2) (a) A person filing a declaration of candidacy for a municipal office shall meet the requirements of Section 20A-9-203.

(b) (i) Except as provided in Subsection (2)(b)(ii), the city recorder or town clerk of each municipality shall maintain office hours 8 a.m. to 5 p.m. on the dates described in Subsections 20A-9-203(2)(a)(i) and (b)(i) unless the date occurs on a:

(A) Saturday or Sunday; or

(B) state holiday as listed in Section 63G-1-301.

(ii) If on a regular basis a city recorder or town clerk maintains an office schedule that is less than 40 hours per week, the city recorder or town clerk may comply with Subsection (2)(b)(i) without maintaining office hours by:

(A) posting the recorder's or clerk's contact information, including a phone number and email address, on the recorder's or clerk's office door, the main door to the municipal offices, and, if available, on the municipal website; and

(B) being available at that contact information from 8 a.m. to 5 p.m. on the dates described in Subsection (2)(b)(i).

(3) Any person elected to municipal office shall be a registered voter in the municipality in which the person was elected.

(4) (a) Each elected officer of a municipality shall maintain residency within the boundaries of the municipality during the officer's term of office.

(b) If an elected officer of a municipality establishes a principal place of residence as provided in Section 20A-2-105 outside the municipality during the officer's term of office, the office is automatically vacant.

(5) If an elected municipal officer is absent from the municipality any time during the officer's term of office for a continuous period of more than 60 days without the consent of the municipal legislative body, the municipal office is automatically vacant.

(6) (a) A mayor of a municipality may not also serve as the municipal recorder or treasurer.

(b) The recorder of a municipality may not also serve as the municipal treasurer.

Section 2. Section 20A-9-203 is amended to read:**20A-9-203. Declarations of candidacy -- Municipal general elections.**

(1) (a) (i) A person may become a candidate for any municipal office if:

(A) the person is a registered voter; and

(B) (I) the person has resided within the municipality in which that person seeks to hold elective office for the 12 consecutive months immediately before the date of the election; or

(II) if the territory in which the person resides was annexed into the municipality, the person has resided within the annexed territory or the municipality the 12 consecutive months immediately before the date of the election.

(ii) For purposes of determining whether a person meets the residency requirement of Subsection (1)(a)(i)(B)(I) in a municipality that was incorporated less than 12 months before the election, the municipality shall be considered to have been incorporated 12 months before the date of the election.

(b) In addition to the requirements of Subsection (1)(a), each candidate for a municipal council position shall, if elected from a district, be a resident of the council district from which elected.

(c) In accordance with Utah Constitution Article IV, Section 6, any mentally incompetent person, any person convicted of a felony, or any person convicted of treason or a crime against the elective franchise may not hold office in this state until the right to hold elective office is restored under Section 20A-2-101.3 or 20A-2-101.5.

(2) (a) A person seeking to become a candidate for a municipal office shall:

(i) file a declaration of candidacy, in person with the city recorder or town clerk, during the office hours described in Section 10-3-301 and not later than the close of ~~normal~~ those office hours, between June 1 and June 7 of any odd-numbered year; and

(ii) pay the filing fee, if one is required by municipal ordinance.

(b) Any resident of a municipality may nominate a candidate for a municipal office by:

(i) filing a nomination petition with the city recorder or town clerk during the office hours~~, but~~ described in Section 10-3-301 and not later than the close of ~~normal~~ those office hours, between June 1 and June 7 of any odd-numbered year; and

(ii) paying the filing fee, if one is required by municipal ordinance.

(3) (a) Before the filing officer may accept any declaration of candidacy or nomination petition, the filing officer shall:

(i) read to the prospective candidate or person filing the petition the constitutional and statutory qualification requirements for the office that the candidate is seeking; and

(ii) require the candidate or person filing the petition to state whether the candidate meets those requirements.

(b) If the prospective candidate does not meet the qualification requirements for the office, the filing officer may not accept the declaration of candidacy or nomination petition.

(c) If it appears that the prospective candidate meets the requirements of candidacy, the filing officer shall:

(i) inform the candidate that the candidate's name will appear on the ballot as it is written on the declaration of candidacy;

(ii) provide the candidate with a copy of the current campaign financial disclosure laws for the office the candidate is seeking and inform the candidate that failure to comply will result in disqualification as a candidate and removal of the candidate's name from the ballot;

(iii) provide the candidate with a copy of Section 20A-7-801 regarding the Statewide Electronic Voter Information Website Program and inform the candidate of the submission deadline under Subsection 20A-7-801(4)(a);

(iv) provide the candidate with a copy of the pledge of fair campaign practices described under Section 20A-9-206 and inform the candidate that:

(A) signing the pledge is voluntary; and

(B) signed pledges shall be filed with the filing officer; and

(v) accept the declaration of candidacy or nomination petition.

(d) If the candidate elects to sign the pledge of fair campaign practices, the filing officer shall:

(i) accept the candidate's pledge; and

(ii) if the candidate has filed for a partisan office, provide a certified copy of the candidate's pledge to the chair of the county or state political party of which the candidate is a member.

(4) Notwithstanding the requirement in Subsection (2)(a)(i) to file a declaration of candidacy in person, a person may designate an agent to file the form described in Subsection (5) in person with the city recorder or town clerk if:

(a) the person is located outside the state during the filing period because:

(i) of employment with the state or the United States; or

(ii) the person is a member of:

(A) the active or reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States who is on active duty;

(B) the Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States; or

(C) the National Guard on activated status;

(b) the person makes the declaration of candidacy described in Subsection (5) to a person qualified to administer an oath;

(c) the person communicates with the city recorder or town clerk using an electronic device

that allows the person and the city recorder or town clerk to see and hear each other; and

(d) the person provides the city recorder or town clerk with an email address to which the filing officer may send the copies described in Subsection (3).

(5) (a) The declaration of candidacy shall substantially comply with the following form:

“I, (print name) ____, being first sworn, say that I reside at ____ Street, City of ____, County of ____, state of Utah, Zip Code ____, Telephone Number (if any) ____; that I am a registered voter; and that I am a candidate for the office of ____ (stating the term). I will meet the legal qualifications required of candidates for this office. I will file all campaign financial disclosure reports as required by law and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. I request that my name be printed upon the applicable official ballots. (Signed) _____

Subscribed and sworn to (or affirmed) before me by ____ on this _____ (month \ day \ year).

(Signed) _____
(Clerk or other officer qualified to administer oath)”

(b) An agent designated to file a declaration of candidacy under Subsection (4) may not sign the form described in Subsection (5)(a).

(6) (a) A registered voter may be nominated for municipal office by submitting a petition signed, with a holographic signature, by:

(i) 25 residents of the municipality who are at least 18 years old; or

(ii) 20% of the residents of the municipality who are at least 18 years old.

(b) (i) The petition shall substantially conform to the following form:

“NOMINATION PETITION

The undersigned residents of (name of municipality) being 18 years old or older nominate (name of nominee) to the office of ____ for the (two or four-year term, whichever is applicable).”

(ii) The remainder of the petition shall contain lines and columns for the signatures of persons signing the petition and their addresses and telephone numbers.

(7) If the declaration of candidacy or nomination petition fails to state whether the nomination is for the two or four-year term, the clerk shall consider the nomination to be for the four-year term.

(8) (a) The clerk shall verify with the county clerk that all candidates are registered voters.

(b) Any candidate who is not registered to vote is disqualified and the clerk may not print the candidate’s name on the ballot.

(9) Immediately after expiration of the period for filing a declaration of candidacy, the clerk shall:

(a) cause the names of the candidates as they will appear on the ballot to be published:

(i) in at least two successive publications of a newspaper with general circulation in the municipality; and

(ii) as required in Section 45-1-101; and

(b) notify the lieutenant governor of the names of the candidates as they will appear on the ballot.

(10) A declaration of candidacy or nomination petition filed under this section may not be amended after the expiration of the period for filing a declaration of candidacy.

(11) (a) A declaration of candidacy or nomination petition filed under this section is valid unless a written objection is filed with the clerk within five days after the last day for filing.

(b) If an objection is made, the clerk shall:

(i) mail or personally deliver notice of the objection to the affected candidate immediately; and

(ii) decide any objection within 48 hours after it is filed.

(c) If the clerk sustains the objection, the candidate may correct the problem by amending the declaration or petition within three days after the objection is sustained or by filing a new declaration within three days after the objection is sustained.

(d) (i) The clerk’s decision upon objections to form is final.

(ii) The clerk’s decision upon substantive matters is reviewable by a district court if prompt application is made to the district court.

(iii) The decision of the district court is final unless the Supreme Court, in the exercise of its discretion, agrees to review the lower court decision.

(12) Any person who filed a declaration of candidacy and was nominated, and any person who was nominated by a nomination petition, may, any time up to 23 days before the election, withdraw the nomination by filing a written affidavit with the clerk.

CHAPTER 39**H. B. 289**

Passed February 27, 2014

Approved March 25, 2014

Effective May 13, 2014

**TRAFFIC-CONTROL
SIGNAL AMENDMENTS**

Chief Sponsor: Johnny Anderson
Senate Sponsor: Stephen H. Urquhart

LONG TITLE**General Description:**

This bill modifies the Traffic Code by amending provisions relating to traffic-control signals.

Highlighted Provisions:

This bill:

- ▶ repeals the sunset date on the affirmative defense for an operator of a motorcycle, moped, or bicycle who is 16 years of age or older, to a red light or red arrow violation in certain circumstances.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-6a-305, as last amended by Laws of Utah 2013, Chapters 131 and 360

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

Section 1. Section 41-6a-305 is amended to read:**41-6a-305. Traffic-control signal -- At intersections -- At place other than intersection -- Color of light signal -- Inoperative traffic-control signals -- Affirmative defense.**

(1) (a) Green, red, and yellow are the only colors that may be used in a traffic-control signal, except for a:

(i) pedestrian traffic-control signal that may use white and orange; and

(ii) rail vehicle that may use white.

(b) Traffic-control signals apply to the operator of a vehicle and to a pedestrian as provided in this section.

(2) (a) (i) Except as provided in Subsection (2)(a)(ii), the operator of a vehicle facing a circular green signal may:

(A) proceed straight through the intersection;

(B) turn right; or

(C) turn left.

(ii) The operator of a vehicle facing a circular green signal, including an operator turning right or left:

(A) shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time the signal is exhibited; and

(B) may not turn right or left if a sign at the intersection prohibits the turn.

(b) The operator of a vehicle facing a green arrow signal shown alone or in combination with another indication:

(i) may cautiously enter the intersection only to make the movement indicated by the arrow or other indication shown at the same time; and

(ii) shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

(c) Unless otherwise directed by a pedestrian traffic-control signal under Section 41-6a-306, a pedestrian facing any green signal other than a green turn arrow may proceed across the roadway within any marked or unmarked crosswalk.

(3) (a) The operator of a vehicle facing a steady circular yellow or yellow arrow signal is warned that the allowable movement related to a green signal is being terminated.

(b) Unless otherwise directed by a pedestrian traffic-control signal under Section 41-6a-306, a pedestrian facing a steady circular yellow or yellow arrow signal is advised that there is insufficient time to cross the roadway before a red indication is shown, and a pedestrian may not start to cross the roadway.

(4) (a) Except as provided in Subsection (4)(c), the operator of a vehicle facing a steady circular red or red arrow signal:

(i) may not enter the intersection unless entering the intersection to make a movement is permitted by another indication; and

(ii) shall stop at a clearly marked stop line, but if none, before entering the marked or unmarked crosswalk on the near side of the intersection and shall remain stopped until an indication to proceed is shown.

(b) Unless otherwise directed by a pedestrian traffic-control signal under Section 41-6a-306, a pedestrian facing a steady red signal alone may not enter the roadway.

(c) (i) (A) The operator of a vehicle facing a steady circular red signal may cautiously enter the intersection to turn right, or may turn left from a one-way street into a one-way street, after stopping as required by Subsection (4)(a).

(B) If permitted by a traffic control device on the state highway system, the operator of a vehicle facing a steady red arrow signal may cautiously enter the intersection to turn left from a one-way street into a one-way street after stopping as required by Subsection (4)(a).

(ii) The operator of a vehicle under Subsection (4)(c)(i) shall yield the right-of-way to:

(A) another vehicle moving through the intersection in accordance with an official traffic-control signal; and

(B) a pedestrian lawfully within an adjacent crosswalk.

(5) (a) This section applies to a highway or rail line where a traffic-control signal is erected and maintained.

(b) Any stop required shall be made at a sign or marking on the highway pavement indicating where the stop shall be made, but, in the absence of any sign or marking, the stop shall be made at the signal.

(6) The operator of a vehicle approaching an intersection that has an inoperative traffic-control signal shall:

(a) stop before entering the intersection; and

(b) yield the right-of-way to any vehicle as required under Section 41-6a-901.

(7) (a) [~~Until July 1, 2014, and for~~] For an operator of a motorcycle, moped, or bicycle who is 16 years of age or older, it is an affirmative defense to a violation of Subsection (4)(a) if the operator of a motorcycle, moped, or bicycle facing a steady circular red signal or red arrow:

(i) brings the motorcycle, moped, or bicycle to a complete stop at the intersection or stop line;

(ii) determines that:

(A) the traffic-control signal has not detected the operator's presence by waiting a reasonable period of time of not less than 90 seconds at the intersection or stop line before entering the intersection;

(B) no other vehicle that is entitled to have the right-of-way under applicable law is sitting at, traveling through, or approaching the intersection; and

(C) no pedestrians are attempting to cross at or near the intersection in the direction of travel of the operator; and

(iii) cautiously enters the intersection and proceeds across the roadway.

(b) The affirmative defense under this section does not apply at an active railroad grade crossing as defined in Section 41-6a-1005.

CHAPTER 40**H. B. 290**

Passed February 25, 2014

Approved March 25, 2014

Effective March 25, 2014

CRIMINAL CODE - GENERAL PROVISIONS

Chief Sponsor: Carol Spackman Moss

Senate Sponsor: Patricia W. Jones

LONG TITLE**General Description:**

This bill modifies the general provisions of the Criminal Code regarding the elements of an offense.

Highlighted Provisions:

This bill:

- ▶ adds the conjunctive word "and" regarding the two listed elements of a criminal offense.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.

Utah Code Sections Affected:**AMENDS:**

76-1-501, as last amended by Laws of Utah 2013, Chapter 278

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

Section 1. Section 76-1-501 is amended to read:**76-1-501. Presumption of innocence -- "Element of the offense" defined.**

(1) A defendant in a criminal proceeding is presumed to be innocent until each element of the offense charged against him is proved beyond a reasonable doubt. In the absence of this proof, the defendant shall be acquitted.

(2) As used in this part the words "element of the offense" mean:

(a) the conduct, attendant circumstances, or results of conduct proscribed, prohibited, or forbidden in the definition of the offense; and

(b) the culpable mental state required.

(3) The existence of jurisdiction and venue are not elements of the offense but shall be established by a preponderance of the evidence.

Section 2. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 41**H. B. 309**

Passed February 27, 2014

Approved March 25, 2014

Effective May 13, 2014

STATE VETERINARIAN AMENDMENTS

Chief Sponsor: Ronda Rudd Menlove

Senate Sponsor: David P. Hinkins

Cosponsors: John G. Mathis

LONG TITLE**General Description:**

This bill amends the Utah Agricultural Code.

Highlighted Provisions:

This bill:

- ▶ provides for the appointment of the state veterinarian by the Commissioner of the Department of Agriculture and Food; and
- ▶ establishes the state veterinarian's responsibilities.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

4-2-401, Utah Code Annotated 1953

4-2-402, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 4-2-401 is enacted to read:****Part 4. State Veterinarian****4-2-401. Appointment.**

The state veterinarian shall be appointed by the commissioner.

Section 2. Section 4-2-402 is enacted to read:**4-2-402. State veterinarian responsibilities.**

- (1) The state veterinarian shall:
- (a) direct the department's responsibilities for:
 - (i) the promotion of animal health;
 - (ii) the diagnosis, surveillance, and prevention of animal disease;
 - (iii) the inspection of meat and poultry; and
 - (iv) livestock brand registration and inspection;
 - and
 - (b) perform other official duties assigned by the commissioner.
- (2) The state veterinarian may not receive compensation for services provided while engaging in the private practice of veterinary medicine.
- (3) The state veterinarian shall be a veterinarian licensed under Title 58, Chapter 28, Veterinary Practice Act.

CHAPTER 42**H. B. 353**

Passed March 7, 2014

Approved March 25, 2014

Effective May 13, 2014

**REPEAL OF AGRICULTURE
CONSERVATION EASEMENT ACCOUNT**

Chief Sponsor: Melvin R. Brown

Senate Sponsor: Lyle W. Hillyard

LONG TITLE**General Description:**

This bill repeals Section 4-2-8.3.

Highlighted Provisions:

This bill:

- ▶ repeals the Agriculture Conservation Easement Account.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**REPEALS:**4-2-8.3, as enacted by Laws of Utah 2006, Chapter
35

*Be it enacted by the Legislature of the state of Utah:***Section 1. Repealer.**

This bill repeals:

**Section 4-2-8.3, Agriculture Conservation
Easement Account.**

CHAPTER 43**S. B. 26**

Passed February 19, 2014

Approved March 25, 2014

Effective May 13, 2014

**AIR CONSERVATION
ACT REAUTHORIZATION**

Chief Sponsor: Scott K. Jenkins

House Sponsor: Michael E. Noel

LONG TITLE**General Description:**

This bill modifies Title 63I, Oversight, Chapter 1, Legislative Oversight and Sunset Act, by reauthorizing the Air Conservation Act until July 1, 2019.

Highlighted Provisions:

This bill:

- ▶ reauthorizes the Air Conservation Act until July 1, 2019; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-1-219, as last amended by Laws of Utah 2012, Chapters 198 and 371

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

Section 1. Section 63I-1-219 is amended to read:**63I-1-219. Repeal dates, Title 19.**

(1) Title 19, Chapter 2, Air Conservation Act, is repealed July 1, [2014] 2019.

(2) Title 19, Chapter 4, Safe Drinking Water Act, is repealed July 1, 2019.

(3) Title 19, Chapter 5, Water Quality Act, is repealed July 1, 2019.

(4) Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, is repealed July 1, 2019.

(5) Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act, is repealed July 1, 2020.

(6) Title 19, Chapter 6, Part 4, Underground Storage Tank Act, is repealed July 1, 2018.

(7) Title 19, Chapter 6, Part 6, Lead Acid Battery Disposal, is repealed July 1, 2016.

(8) Title 19, Chapter 6, Part 7, Used Oil Management Act, is repealed July 1, 2019.

(9) Title 19, Chapter 6, Part 8, Waste Tire Recycling Act, is repealed July 1, 2020.

(10) Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, is repealed July 1, 2017.

CHAPTER 44**S. B. 32**

Passed February 12, 2014

Approved March 25, 2014

Effective May 13, 2014

STATE HIGHWAY SYSTEM AMENDMENTS

Chief Sponsor: Kevin T. Van Tassell

House Sponsor: Johnny Anderson

LONG TITLE**General Description:**

This bill modifies the Designation of State Highways Act by amending state highway descriptions.

Highlighted Provisions:

This bill:

- ▶ amends the description of SR-157 in the Helper area;
- ▶ removes SR-244 in the Helper area from the state highway system; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

72-4-121, as last amended by Laws of Utah 2006, Chapter 79

72-4-130, as renumbered and amended by Laws of Utah 1998, Chapter 270

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

Section 1. Section 72-4-121 is amended to read:**72-4-121. State highways -- SR-152 to SR-160.**

State highways include:

(1) SR-152. From Route 71 at 4800 South Street southeasterly on Van Winkle Expressway to the Route 215 Interchange near 6400 South Street.

(2) SR-153. From Route 160 in Beaver easterly by Puffer Lake to Route 89 in Junction City.

(3) SR-154. From Route 15 westerly near 13400 South on Bangarter Highway to near 3200 West; then northerly to the westbound off ramp of Route 80 near the Salt Lake International Airport.

(4) SR-155. From Route 10 in Huntington northeasterly to Cleveland; then northerly to Route 10 at Washboard Junction.

(5) SR-156. From Route 198 in Spanish Fork north on Main Street to Route 15.

(6) SR-157. From Route ~~244 at Poplar and Main Streets in Helper~~ 6 in Helper easterly on Poplar Street to Main Street; then southerly and northeasterly to Kenilworth.

(7) SR-158. From Eden Junction on Route 39 northerly to the parking lot of Powder Mountain Ski Resort.

(8) SR-159. From Route 21 near Garrison north to Route 6 near the Utah-Nevada state line.

(9) SR-160. From Route 15 south of Beaver northerly through Beaver to Route 15 north of Beaver.

Section 2. Section 72-4-130 is amended to read:**72-4-130. State highways -- SR-241, SR-243, SR-248.**

State highways include:

(1) SR-241. From SR-114 east on 1600 North in Orem to the on- and off-ramps on the east side of interstate Route 15.

(2) SR-243. From Route 89 in Logan Canyon to Beaver Mountain Ski Resort.

~~[(3) SR-244. From Route 6 in Helper easterly on Poplar Street to Main Street; then northerly on Main Street to Route 6.]~~

[(4)] (3) SR-248. From Route 224 at Park City Junction to Route 40 at the Park City Interchange; then southeasterly and easterly to Route 32 in Kamas.

CHAPTER 45**S. B. 35**

Passed March 13, 2014
Approved March 25, 2014
Effective May 1, 2014

**ADMINISTRATIVE RULES
REAUTHORIZATION**

Chief Sponsor: Howard A. Stephenson
House Sponsor: Curtis Oda

LONG TITLE**General Description:**

This bill provides legislative action regarding administrative rules.

Highlighted Provisions:

This bill:

- ▶ reauthorizes all state agency administrative rules.

Monies Appropriated in this Bill:

None

Other Special Clauses:

If approved by two-thirds of all the members elected to each house, this bill takes effect on May 1, 2014.

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. Rules reauthorized.

All rules of Utah state agencies are reauthorized.

Section 2. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect on May 1, 2014.

CHAPTER 46**S. B. 41**

Passed February 19, 2014

Approved March 25, 2014

Effective May 13, 2014

STATE TREE CHANGE

Chief Sponsor: Ralph Okerlund

House Sponsor: Brad R. Wilson

LONG TITLE**General Description:**

This bill enacts provisions designating the state tree as the quaking aspen.

Highlighted Provisions:

This bill:

- ▶ enacts provisions designating the state tree as the quaking aspen.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63G-1-601, as last amended by Laws of Utah 2012, Chapter 44

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

Section 1. Section 63G-1-601 is amended to read:**63G-1-601. State symbols.**

- (1) Utah's state animal is the elk.
- (2) Utah's state bird is the sea gull.
- (3) Utah's state centennial astronomical symbol is the Beehive Cluster located in the constellation of Cancer the Crab.
- (4) Utah's state centennial star is Dubhe, one of the seven bright stars composing the Big Dipper in the constellation Ursa Major.
- (5) Utah's state centennial tartan, which honors the first Scots known to have been in Utah and those Utahns of Scottish heritage, shall have a pattern or repeating-half-sett of white-2, blue-6, red-6, blue-4, red-6, green-18, red-6, and white-4 to represent the tartan worn anciently by the Logan and Skene clans, with the addition of a white stripe.
- (6) Utah's state cooking pot is the dutch oven.
- (7) Utah's state emblem is the beehive.
- (8) Utah's state emblem of service and sacrifice of lives lost by members of the military in defense of our freedom is the "Honor and Remember" flag, which consists of:
 - (a) a red field covering the top two-thirds of the flag;
 - (b) a white field covering the bottom one-third of the flag, which contains the words "honor" and "remember";

(c) a blue star overlaid by a gold star with a thin white border in the center of the flag spanning the red field and the white field; and

(d) a representation of a folded United States flag beneath the blue and gold stars with three tongues of flame emanating from its top point into the center of the gold star.

(9) Utah's state firearm is the John M. Browning designed M1911 automatic pistol.

(10) Utah's state fish is the Bonneville cutthroat trout.

(11) Utah's state flower is the sego lily.

(12) Utah's state folk dance is the square dance, the folk dance that is called, cued, or prompted to the dancers and includes squares, rounds, clogging, contra, line, and heritage dances.

(13) Utah's state fossil is the Allosaurus.

(14) Utah's state fruit is the cherry.

(15) Utah's state vegetable is the Spanish sweet onion.

(16) Utah's historic state vegetable is the sugar beet.

(17) Utah's state gem is topaz, as is prominently found in the Thomas Mountain Range in Juab County, Utah.

(18) Utah's state grass is Indian rice grass.

(19) Utah's state hymn is "Utah We Love Thee" by Evan Stephens.

(20) Utah's state insect is the honeybee.

(21) Utah's state mineral is copper.

(22) Utah's state motto is "Industry."

(23) Utah's state railroad museum is Ogden Union Station.

(24) Utah's state rock is coal.

(25) Utah's state song is "Utah This is the Place" by Sam and Gary Francis.

(26) Utah's state tree is the ~~blue spruce~~ quaking aspen.

(27) Utah's state winter sports are skiing and snowboarding.

CHAPTER 47**S. B. 46**

Passed March 11, 2014
 Approved March 25, 2014
 Effective March 25, 2014

**ADMINISTRATIVE SUBPOENA
 MODIFICATIONS**

Chief Sponsor: Mark B. Madsen
 House Sponsor: Kay L. McIff

LONG TITLE**General Description:**

This bill amends provisions related to administrative subpoenas.

Highlighted Provisions:

This bill:

- ▶ includes enticement or attempted enticement of a minor under the definition of a sexual offense against a minor;
- ▶ requires a law enforcement agency to receive a court order to collect electronic communication records involving specified crimes;
- ▶ amends the reporting requirements for a court order issued for criminal investigations of specified crimes; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.

Utah Code Sections Affected:**AMENDS:**

77-22-2.5, as last amended by Laws of Utah 2011, Chapter 320

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

Section 1. Section 77-22-2.5 is amended to read:

77-22-2.5. Court orders for criminal investigations for records concerning an electronic communications system or service or remote computing service -- Content -- Fee for providing information.

(1) As used in this section:

(a) (i) "Electronic communication" means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photooptical system.

(ii) "Electronic communication" does not include:

- (A) any wire or oral communication;
- (B) any communication made through a tone-only paging device;
- (C) any communication from a tracking device; or
- (D) electronic funds transfer information stored by a financial institution in a communications system used for the electronic storage and transfer of funds.

(b) "Electronic communications service" means any service which provides for users the ability to send or receive wire or electronic communications.

(c) "Electronic communications system" means any wire, radio, electromagnetic, photooptical, or photoelectronic facilities for the transmission of wire or electronic communications, and any computer facilities or related electronic equipment for the electronic storage of the communication.

(d) "Internet service provider" has the same definition as in Section 76-10-1230.

(e) "Prosecutor" has the same definition as in Section 77-22-2.

(f) "Sexual offense against a minor" means:

(i) sexual exploitation of a minor as defined in Section 76-5b-201 or attempted sexual exploitation of a minor;

(ii) a sexual offense or attempted sexual offense committed against a minor in violation of Title 76, Chapter 5, Part 4, Sexual Offenses; ~~or~~

(iii) dealing in or attempting to deal in material harmful to a minor in violation of Section 76-10-1206[.]; or

(iv) enticement of a minor or attempted enticement of a minor in violation of Section 76-4-401.

(g) "Remote computing service" means the provision to the public of computer storage or processing services by means of an electronic communications system.

(2) When a law enforcement agency is investigating a sexual offense against a minor, an offense of stalking under Section 76-5-106.5, or an offense of child kidnapping under Section 76-5-301.1, and has reasonable suspicion that an electronic communications system or service or remote computing service has been used in the commission of a criminal offense, ~~[the prosecutor may issue an administrative subpoena,]~~ a law enforcement agent shall:

(a) articulate specific facts showing reasonable grounds to believe that the records or other information sought, as designated in Subsection (c)(i) through (v), are relevant and material to an ongoing investigation;

(b) present the request to a prosecutor for review and authorization to proceed; and

(c) submit the request to a district court judge for a court order, consistent with 18 U.S.C. 2703 and 18 U.S.C. 2702, to the electronic communications system or service or remote computing service provider that owns or controls the Internet protocol address, websites, email address, or service to a specific telephone number, requiring the production of the following information, if available, upon providing in the ~~[subpoena]~~ court order the Internet protocol address, email address, telephone number, or other identifier, and the dates and times the address, telephone number, or other identifier was suspected of being used in the commission of the offense:

~~[(a)]~~ (i) names of subscribers, service customers, and users;

~~[(b)]~~ (ii) addresses of subscribers, service customers, and users;

~~[(c)]~~ local and long distance telephone connections;

~~[(d)]~~ (iii) records of session times and durations;

~~[(e)]~~ (iv) length of service, including the start date and types of service utilized; and

~~[(f)]~~ (v) telephone or other instrument subscriber numbers or other subscriber identifiers, including any temporarily assigned network address; ~~and~~

~~[(g)]~~ means and sources of payment for the service, including any credit card or bank account numbers.

(3) A [subpoena] court order issued under this section shall state that the electronic communications system or service or remote computing service provider shall produce any records under Subsections (2)~~[(a)]~~(c)(i) through ~~[(g)]~~ (v) that are reasonably relevant to the investigation of the suspected criminal activity or offense as described in the [subpoena] court order.

(4) (a) An electronic communications system or service or remote computing service provider that provides information in response to a [subpoena] court order issued under this section may charge a fee, not to exceed the actual cost, for providing the information.

(b) The law enforcement agency conducting the investigation shall pay the fee.

(5) The electronic communications system or service or remote computing service provider served with or responding to the [subpoena] court order may not disclose the [subpoena] court order to the account holder identified pursuant to the [subpoena] court order for a period of 90 days.

(6) If the electronic communications system or service or remote computing service provider served with the [subpoena] court order does not own or control the Internet protocol address, websites, or email address, or provide service for the telephone number that is the subject of the [subpoena] court order, the provider shall ~~[(a)]~~ notify the investigating law enforcement agency that it does not have the information ~~;~~ ~~and~~.

~~[(b)]~~ provide to the investigating law enforcement agency any information the provider knows, through reasonable effort, that it has regarding how to locate the Internet service provider that does own or control the Internet protocol address, websites, or email address, or provide service for the telephone number.

(7) There is no cause of action against any provider or wire or electronic communication service, or its officers, employees, agents, or other specified persons, for providing information, facilities, or assistance in accordance with the terms of the [administrative subpoena] court order

issued under this section or statutory authorization.

(8) (a) ~~[An administrative subpoena]~~ A court order issued under this section is subject to the provisions of Title 77, Chapter 23b, Access to Electronic Communications.

(b) Rights and remedies for providers and subscribers under Title 77, Chapter 23b, Access to Electronic Communications, apply to providers and subscribers subject to ~~[an administrative subpoena]~~ a court order issued under this section.

(9) Every prosecutorial agency shall annually on or before ~~[June 30]~~ February 15 report to the Commission on Criminal and Juvenile Justice ~~[the number of administrative subpoenas issued by the agency during the previous calendar year.]~~

~~[(10)]~~ State and local prosecutorial and law enforcement agencies shall annually on or before June 30 report to the Commission on Criminal and Juvenile Justice the number of administrative subpoenas the agency requested that any federal law enforcement agency issue during the prior calendar year.

(a) the number of requests for court orders authorized by the prosecutorial agency;

(b) the number of orders issued by the court and the criminal offense, pursuant to Subsection (2), each order was used to investigate; and

(c) if the court order led to criminal charges being filed, the type and number of offenses charged.

Section 2. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 48**S. B. 115**

Passed February 28, 2014

Approved March 25, 2014

Effective July 1, 2014

COURT TRANSCRIPT FEES

Chief Sponsor: Patricia W. Jones

House Sponsor: V. Lowry Snow

LONG TITLE**General Description:**

This bill increases the fee for a court transcription.

Highlighted Provisions:

This bill:

- ▶ increases the fee for a court transcription.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2014.

Utah Code Sections Affected:**AMENDS:**

78A-2-408, as last amended by Laws of Utah 2011,
Chapter 143

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

Section 1. Section 78A-2-408 is amended to read:**78A-2-408. Transcripts and copies -- Fees.**

(1) The Judicial Council shall by rule provide for a standard page format for transcripts of court hearings.

(2) (a) The fee for a transcript of a court session, or any part of a court session, shall be ~~[\$3.50]~~ \$4.50 per page, which includes the initial preparation of the transcript and one certified copy. The preparer shall deposit the original text file and printed transcript with the clerk of the court and provide the person requesting the transcript with the certified copy. The cost of additional copies shall be as provided in Subsection 78A-2-301(1). The transcript for an appeal shall be prepared within the time period permitted by the rules of Appellate Procedure. The fee for a transcript prepared within three business days of the request shall be 1-1/2 times the base rate. The fee for a transcript prepared within one business day of the request shall be double the base rate.

(b) When a transcript is ordered by the court, the fees shall be paid by the parties to the action in equal proportion or as ordered by the court. The fee for a transcript in a criminal case in which the defendant is found to be impecunious shall be paid pursuant to Section 77-32-305.

~~[(c) There is established within the General Fund a restricted account known as the Court Reporting Technology Account. The clerk of the court shall transfer to the state treasurer for deposit into this account all fees received under this section. The state court administrator may draw upon this account for the purchase, development, and~~

~~maintenance of court reporting technologies, information technology, and other expenses necessary for maintaining a verbatim record of court sessions.]~~

(3) The fee for the preparation of a transcript of a court hearing by an official court transcriber and the fee for the preparation of the transcript by a certified court reporter of a hearing before any court, referee, master, board, or commission of this state shall be as provided in Subsection (2)(a), and shall be payable to the person preparing the transcript. Payment for a transcript under this section is the responsibility of the party requesting the transcript.

Section 2. Effective date.

This bill takes effect on July 1, 2014.

CHAPTER 49**S. B. 125**

Passed February 27, 2014

Approved March 25, 2014

Effective May 13, 2014

**RETIRED VOLUNTEER HEALTH CARE
PRACTITIONER AMENDMENTS**

Chief Sponsor: Deidre M. Henderson

House Sponsor: Mike K. McKell

LONG TITLE**General Description:**

This bill amends the Retired Volunteer Health Care Practitioner Act.

Highlighted Provisions:

This bill:

- ▶ amends the eligibility requirements for an individual to apply for a retired volunteer health care practitioner license; and
- ▶ makes technical amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-81-103, as enacted by Laws of Utah 2009, Chapter 263

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

Section 1. Section 58-81-103 is amended to read:**58-81-103. Eligibility for volunteer health care practitioner license -- Delegation of service agreement.**

(1) A health care practitioner is eligible to apply to the division and board for a volunteer health care practitioner license if the health care practitioner:

(a) certifies to the division and board that the applicant will be engaged exclusively in volunteer health care services; and

(b) completes an application for a volunteer health care practitioner license, which includes documentation:

(i) of professional education, exams passed, and graduation;

(ii) of practice history;

(iii) of a qualified location for which the health care practitioner will be practicing;

(iv) identifying the supervising health care practitioner and the supervising health care practitioner's delegation of service agreement with the volunteer practitioner; and

(v) that the applicant has:

(A) previously been issued an unrestricted license to practice in Utah [or], another state of the

United States, or a district or territory of the United States;

(B) never been the subject of any significant disciplinary action in any jurisdiction; and

(C) is in good health and does not have a condition which would impair the health care practitioner's ability to practice with reasonable skill and safety to patients.

(2) A health care provider who has agreed to be a supervising professional for a volunteer at a qualified location shall:

(a) enter into a delegation of service agreement with the volunteer health care practitioner;

(b) agree to provide the level of supervision required in Subsection 58-81-102[~~(5)~~](6);

(c) determine with the volunteer whether the volunteer's scope of practice or ability to prescribe controlled substances will be limited by the delegation of service agreement;

(d) include in the delegation of service agreement that the volunteer may not prescribe a controlled substance to himself, the volunteer's family, or a staff member of the qualified location; and

(e) forward the delegation of service agreement to the division.

CHAPTER 50**S. B. 176**

Passed March 7, 2014
 Approved March 25, 2014
 Effective May 13, 2014

LOCAL FUNDING FOR RURAL HEALTH CARE AMENDMENTS

Chief Sponsor: Ralph Okerlund
 House Sponsor: John R. Westwood

LONG TITLE**General Description:**

This bill addresses local funding for rural health care.

Highlighted Provisions:

This bill:

- ▶ addresses General Fund distributions to fund rural health care;
- ▶ amends definitions;
- ▶ addresses the distribution and expenditure of revenue collected from local option sales and use taxes to fund rural health care; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-9-4, as last amended by Laws of Utah 2010, Chapter 278
 59-12-801, as last amended by Laws of Utah 2006, Chapter 302
 59-12-802, as last amended by Laws of Utah 2011, Chapter 309
 59-12-804, as last amended by Laws of Utah 2011, Chapter 309
 59-12-805, as enacted by Laws of Utah 2000, Chapter 253

REPEALS:

59-12-803, as last amended by Laws of Utah 2000, Chapter 253

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

Section 1. Section 26-9-4 is amended to read:**26-9-4. Rural Health Care Facilities**

Account -- Source of revenues -- Interest -- Distribution of revenues -- Expenditure of revenues -- Unexpended revenues lapse into the General Fund.

(1) As used in this section:

(a) "Emergency medical services" is as defined in Section 26-8a-102.

(b) "Federally qualified health center" is as defined in 42 U.S.C. Sec. 1395x.

(c) "Fiscal year" means a one-year period beginning on July 1 of each year.

(d) "Freestanding urgent care center" is as defined in Section 59-12-801.

(e) "Nursing care facility" is as defined in Section 26-21-2.

(f) "Rural city hospital" is as defined in Section 59-12-801.

(g) "Rural county health care facility" is as defined in Section 59-12-801.

(h) "Rural county hospital" is as defined in Section 59-12-801.

(i) "Rural county nursing care facility" is as defined in Section 59-12-801.

(j) "Rural emergency medical services" is as defined in Section 59-12-801.

(k) "Rural health clinic" is as defined in 42 U.S.C. Sec. 1395x.

(2) There is created a restricted account within the General Fund known as the "Rural Health Care Facilities Account."

(3) (a) The restricted account shall be funded by amounts appropriated by the Legislature.

(b) Any interest earned on the restricted account shall be deposited into the General Fund.

(4) Subject to Subsections (5) and (6), the State Tax Commission shall for a fiscal year distribute money deposited into the restricted account to each:

(a) county legislative body of a county that, on January 1, 2007, imposes a tax in accordance with Section 59-12-802; or

(b) city legislative body of a city that, on January 1, 2007, imposes a tax in accordance with Section 59-12-804.

(5) (a) Subject to Subsection (6), for purposes of the distribution required by Subsection (4), the State Tax Commission shall:

(i) estimate for each county and city described in Subsection (4) the amount by which the revenues collected from the taxes imposed under Sections 59-12-802 and 59-12-804 for fiscal year 2005-06 would have been reduced had:

(A) the amendments made by Laws of Utah 2007, Chapter 288, Sections 25 and 26, to Sections 59-12-802 and 59-12-804 been in effect for fiscal year 2005-06; and

(B) each county and city described in Subsection (4) imposed the tax under Sections 59-12-802 and 59-12-804 for the entire fiscal year 2005-06;

(ii) calculate a percentage for each county and city described in Subsection (4) by dividing the amount estimated for each county and city in accordance with Subsection (5)(a)(i) by \$555,000; and

(iii) distribute to each county and city described in Subsection (4) an amount equal to the product of:

(A) the percentage calculated in accordance with Subsection (5)(a)(ii); and

(B) the amount appropriated by the Legislature to the restricted account for the fiscal year.

(b) The State Tax Commission shall make the estimations, calculations, and distributions required by Subsection (5)(a) on the basis of data collected by the State Tax Commission.

(6) If a county legislative body repeals a tax imposed under Section 59-12-802 or a city legislative body repeals a tax imposed under Section 59-12-804:

(a) the commission shall determine in accordance with Subsection (5) the distribution that, but for this Subsection (6), the county legislative body or city legislative body would receive; and

(b) after making the determination required by Subsection (6)(a), the commission shall:

(i) if the effective date of the repeal of a tax imposed under Section 59-12-802 or 59-12-804 is October 1:

(A) (I) distribute to the county legislative body or city legislative body 25% of the distribution determined in accordance with Subsection (6)(a); and

(II) deposit 75% of the distribution determined in accordance with Subsection (6)(a) into the General Fund; and

(B) beginning with the first fiscal year after the effective date of the repeal and for each subsequent fiscal year, deposit the entire amount of the distribution determined in accordance with Subsection (6)(a) into the General Fund;

(ii) if the effective date of the repeal of a tax imposed under Section 59-12-802 or 59-12-804 is January 1:

(A) (I) distribute to the county legislative body or city legislative body 50% of the distribution determined in accordance with Subsection (6)(a); and

(II) deposit 50% of the distribution determined in accordance with Subsection (6)(a) into the General Fund; and

(B) beginning with the first fiscal year after the effective date of the repeal and for each subsequent fiscal year, deposit the entire amount of the distribution determined in accordance with Subsection (6)(a) into the General Fund;

(iii) if the effective date of the repeal of a tax imposed under Section 59-12-802 or 59-12-804 is April 1:

(A) (I) distribute to the county legislative body or city legislative body 75% of the distribution determined in accordance with Subsection (6)(a); and

(II) deposit 25% of the distribution determined in accordance with Subsection (6)(a) into the General Fund; and

(B) beginning with the first fiscal year after the effective date of the repeal and for each subsequent

fiscal year, deposit the entire amount of the distribution determined in accordance with Subsection (6)(a) into the General Fund; or

(iv) if the effective date of the repeal of a tax imposed under Section 59-12-802 or 59-12-804 is July 1, beginning on that effective date and for each subsequent fiscal year, deposit the entire amount of the distribution determined in accordance with Subsection (6)(a) into the General Fund.

(7) (a) Subject to Subsection (7)(b) and Section 59-12-802, a county legislative body shall distribute the money the county legislative body receives in accordance with Subsection (5) or (6):

(i) for a county of the third[, or fourth[, or fifth] class, to fund rural county health care facilities in that county; and

(ii) for a county of the fifth or sixth class, to fund:

(A) rural emergency medical services in that county;

(B) federally qualified health centers in that county;

(C) freestanding urgent care centers in that county;

(D) rural county health care facilities in that county;

(E) rural health clinics in that county; or

(F) a combination of Subsections (7)(a)(ii)(A) through (E).

(b) A county legislative body shall distribute [~~a percentage of~~] the money the county legislative body receives in accordance with Subsection (5) or (6) to [~~each~~] a center, clinic, facility, or service described in Subsection (7)(a) [~~equal to the same percentage that the county legislative body distributes to that center, clinic, facility, or service in accordance with Section 59-12-803 for the calendar year ending on the December 31 immediately preceding the first day of the fiscal year for which the county legislative body receives the distribution in accordance with Subsection (5) or (6)] as determined by the county legislative body.~~

(c) A center, clinic, facility, or service that receives a distribution in accordance with this Subsection (7) shall expend that distribution for the same purposes for which money [~~generated by~~] collected from a tax under Section 59-12-802 may be expended.

(8) (a) Subject to Subsection (8)(b), a city legislative body shall distribute the money the city legislative body receives in accordance with Subsection (5) or (6) to fund rural city hospitals in that city.

(b) A city legislative body shall distribute a percentage of the money the city legislative body receives in accordance with Subsection (5) or (6) to each rural city hospital described in Subsection (8)(a) equal to the same percentage that the city legislative body distributes to that rural city hospital in accordance with Section 59-12-805 for the calendar year ending on the December 31

immediately preceding the first day of the fiscal year for which the city legislative body receives the distribution in accordance with Subsection (5) or (6).

(c) A rural city hospital that receives a distribution in accordance with this Subsection (8) shall expend that distribution for the same purposes for which money ~~generated by~~ collected from a tax under Section 59-12-804 may be expended.

(9) Any money remaining in the Rural Health Care Facilities Account at the end of a fiscal year after the State Tax Commission makes the distributions required by this section shall lapse into the General Fund.

Section 2. Section 59-12-801 is amended to read:

59-12-801. Definitions.

As used in this part:

(1) "Emergency medical services" is as defined in Section 26-8a-102.

(2) "Federally qualified health center" is as defined in 42 U.S.C. Sec. 1395x.

(3) "Freestanding urgent care center" means a facility that provides outpatient health care service:

(a) on an as-needed basis, without an appointment;

(b) to the public;

(c) for the diagnosis and treatment of a medical condition if that medical condition does not require hospitalization or emergency intervention for a life threatening or potentially permanently disabling condition; and

(d) including one or more of the following services:

(i) a medical history physical examination;

(ii) an assessment of health status; or

(iii) treatment:

(A) for a variety of medical conditions; and

(B) that is commonly offered in a physician's office.

(4) "Nursing care facility" is as defined in Section 26-21-2.

(5) "Rural city hospital" means a hospital owned by a city that is located within a third, fourth, fifth, or sixth class county.

(6) "Rural county health care facility" means a:

(a) rural county hospital; or

(b) rural county nursing care facility.

(7) "Rural county hospital" means a hospital owned by a county that is:

(a) a third, fourth, fifth, or sixth class county, as defined in Section 17-50-501; and

(b) located outside of a standard metropolitan statistical area, as designated by the United States Bureau of the Census.

(8) "Rural county nursing care facility" means a nursing care facility owned by:

(a) a county that is:

~~[(a)]~~ (i) a third, fourth, fifth, or sixth class county, as defined in Section 17-50-501; and

~~[(b)]~~ (ii) located outside of a standard metropolitan statistical area, as designated by the United States Census Bureau~~[-]; or~~

(b) a special service district if the special service district is:

(i) created for the purpose of operating the nursing care facility; and

(ii) within a county that is:

(A) a third, fourth, fifth, or sixth class county, as defined in Section 17-50-501; and

(B) located outside of a standard metropolitan statistical area, as designated by the United States Census Bureau.

(9) "Rural emergency medical services" means emergency medical services that are provided by a county that is:

(a) a ~~third, fourth,~~ fifth~~[-];~~ or sixth class county, as defined in Section 17-50-501; and

(b) located outside of a standard metropolitan statistical area, as designated by the United States Census Bureau.

(10) "Rural health clinic" is as defined in 42 U.S.C. Sec. 1395x.

Section 3. Section 59-12-802 is amended to read:

59-12-802. Imposition of rural county health care facilities tax -- Expenditure of tax revenues -- Base -- Rate -- Administration, collection, and enforcement of tax -- Administrative charge.

(1) (a) A county legislative body of a county of the third, fourth, fifth, or sixth class may impose a sales and use tax of up to 1%~~[-(4)]~~ on the transactions described in Subsection 59-12-103(1) located within the county~~[-and]~~.

~~[(ii) subject]~~ (b) Subject to Subsection (3), the money collected from a tax under this section may be used to fund:

~~[(A)]~~ (i) for a county of the third~~[-];~~ or fourth~~[-; or fifth]~~ class, rural county health care facilities in that county; or

~~[(B)]~~ (ii) for a county of the fifth or sixth class:

~~[(4)]~~ (A) rural emergency medical services in that county;

~~[(4)]~~ (B) federally qualified health centers in that county;

~~[(4)]~~ (C) freestanding urgent care centers in that county;

~~[(4V)]~~ (D) rural county health care facilities in that county;

~~[(4V)]~~ (E) rural health clinics in that county; or

~~[(4L)]~~ (F) a combination of Subsections ~~[(1)(a)(ii)(B)(I) through (V)]~~ (1)(b)(ii)(A) through (E).

~~[(4b)]~~ (c) Notwithstanding Subsection (1)(a)~~[(4)]~~, a county legislative body may not impose a tax under this section on:

(i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104;

(ii) a transaction to the extent a rural city hospital tax is imposed on that transaction in a city that imposes a tax under Section 59-12-804; and

(iii) except as provided in Subsection (1)~~[(4)]~~(e), amounts paid or charged for food and food ingredients.

~~[(4e)]~~ (d) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

~~[(4d)]~~ (e) A county legislative body imposing a tax under this section shall impose the tax on amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(2) (a) Before imposing a tax under Subsection (1)~~[(4e)]~~, a county legislative body shall obtain approval to impose the tax from a majority of the:

(i) members of the county's legislative body; and

(ii) county's registered voters voting on the imposition of the tax.

(b) The county legislative body shall conduct the election according to the procedures and requirements of Title 11, Chapter 14, Local Government Bonding Act.

(3) (a) The money ~~[generated by]~~ collected from a tax imposed under Subsection (1) by a county legislative body of a county of the third~~[,]~~ or fourth~~[,]~~ ~~or fifth~~ class may only be used for the financing of:

(i) ongoing operating expenses of a rural county health care facility within that county;

(ii) the acquisition of land for a rural county health care facility within that county; or

(iii) the design, construction, equipping, or furnishing of a rural county health care facility within that county.

(b) The money ~~[generated by]~~ collected from a tax imposed under Subsection (1) by a county of the fifth or sixth class may only be used ~~[for the financing of]~~ to fund:

(i) ongoing operating expenses of a center, clinic, or facility described in Subsection (1)~~[(a)(ii)(B)]~~(b)(ii) within that county;

(ii) the acquisition of land for a center, clinic, or facility described in Subsection (1)~~[(a)(ii)(B)]~~(b)(ii) within that county;

(iii) the design, construction, equipping, or furnishing of a center, clinic, or facility described in Subsection (1)~~[(a)(ii)(B)]~~(b)(ii) within that county; or

(iv) ~~[the provision of]~~ rural emergency medical services within that county.

(4) (a) A tax under this section shall be:

(i) except as provided in Subsection (4)(b), administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies; and

(ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year period by the county legislative body as provided in Subsection (1).

(b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to Subsections 59-12-205(2) through (6).

(c) A county legislative body shall distribute money collected from a tax under this section quarterly.

(5) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the commission collects from a tax under this section.

Section 4. Section 59-12-804 is amended to read:

59-12-804. Imposition of rural city hospital tax -- Base -- Rate -- Administration, collection, and enforcement of tax -- Administrative charge.

(1) (a) A city legislative body may impose a sales and use tax of up to 1%:

(i) on the transactions described in Subsection 59-12-103(1) located within the city; and

(ii) to fund rural city hospitals in that city.

(b) Notwithstanding Subsection (1)(a)(i), a city legislative body may not impose a tax under this section on:

(i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(ii) except as provided in Subsection (1)(d), amounts paid or charged for food and food ingredients.

(c) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(d) A city legislative body imposing a tax under this section shall impose the tax on amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(2) (a) Before imposing a tax under Subsection (1)(a), a city legislative body shall obtain approval to impose the tax from a majority of the:

- (i) members of the city legislative body; and
- (ii) city's registered voters voting on the imposition of the tax.

(b) The city legislative body shall conduct the election according to the procedures and requirements of Title 11, Chapter 14, Local Government Bonding Act.

(3) The money ~~[generated by]~~ collected from a tax imposed under Subsection (1) may only be used ~~[for the financing of]~~ to fund:

- (a) ongoing operating expenses of a rural city hospital;
- (b) the acquisition of land for a rural city hospital; or
- (c) the design, construction, equipping, or furnishing of a rural city hospital.

(4) (a) A tax under this section shall be:

(i) except as provided in Subsection (4)(b), administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

- (I) Part 1, Tax Collection; or
- (II) Part 2, Local Sales and Use Tax Act; and
- (B) Chapter 1, General Taxation Policies; and

(ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year period by the city legislative body as provided in Subsection (1).

(b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to Subsections 59-12-205(2) through (6).

(5) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the commission collects from a tax under this section.

Section 5. Section 59-12-805 is amended to read:

59-12-805. Distribution of money collected from rural city hospital tax.

(1) Except as provided in Subsection 59-12-804(5) and Subsection (2), all ~~[revenues]~~ money collected ~~[by a city]~~ from a tax under Section 59-12-804 shall be distributed quarterly by the city legislative body to rural city hospitals.

(2) ~~[Notwithstanding Subsection (1), if]~~ If there is more than one rural city hospital in a city, the ~~[revenues]~~ money collected ~~[by the city]~~ from a tax under Section 59-12-804 shall be distributed as determined by the city legislative body.

Section 6. Repealer.

This bill repeals:

Section 59-12-803, Distribution of revenues generated by rural county health care facilities tax.

CHAPTER 51
S. B. 205

Passed March 11, 2014
Approved March 25, 2014
Effective May 13, 2014

CONTROLLED SUBSTANCE
PENALTY AMENDMENT

Chief Sponsor: Lyle W. Hillyard
House Sponsor: V. Lowry Snow

LONG TITLE

General Description:

This bill modifies the Utah Controlled Substances Act regarding the increased penalty for the offense of possession in specified circumstances.

Highlighted Provisions:

This bill:

- ▶ provides that increased penalties for the possession of a controlled substance in certain circumstances may not result in an offense greater than a second degree felony.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-37-8, as last amended by Laws of Utah 2011, Chapter 12

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

Section 1. Section 58-37-8 is amended to read:

58-37-8. Prohibited acts -- Penalties.

(1) Prohibited acts A -- Penalties:

(a) Except as authorized by this chapter, it is unlawful for any person to knowingly and intentionally:

(i) produce, manufacture, or dispense, or to possess with intent to produce, manufacture, or dispense, a controlled or counterfeit substance;

(ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or arrange to distribute a controlled or counterfeit substance;

(iii) possess a controlled or counterfeit substance with intent to distribute; or

(iv) engage in a continuing criminal enterprise where:

(A) the person participates, directs, or engages in conduct which results in any violation of any provision of Title 58, Chapters 37, 37a, 37b, 37c, or 37d that is a felony; and

(B) the violation is a part of a continuing series of two or more violations of Title 58, Chapters 37, 37a, 37b, 37c, or 37d on separate occasions that are undertaken in concert with five or more persons with respect to whom the person occupies a position

of organizer, supervisor, or any other position of management.

(b) Any person convicted of violating Subsection (1)(a) with respect to:

(i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second degree felony and upon a second or subsequent conviction is guilty of a first degree felony;

(ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree felony, and upon a second or subsequent conviction is guilty of a second degree felony; or

(iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree felony.

(c) Any person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may be sentenced to imprisonment for an indeterminate term as provided by law, but if the trier of fact finds a firearm as defined in Section 76-10-501 was used, carried, or possessed on his person or in his immediate possession during the commission or in furtherance of the offense, the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently.

(d) Any person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree felony punishable by imprisonment for an indeterminate term of not less than seven years and which may be for life. Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(2) Prohibited acts B -- Penalties:

(a) It is unlawful:

(i) for any person knowingly and intentionally to possess or use a controlled substance analog or a controlled substance, unless it was obtained under a valid prescription or order, directly from a practitioner while acting in the course of the person's professional practice, or as otherwise authorized by this chapter;

(ii) for any owner, tenant, licensee, or person in control of any building, room, tenement, vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to be occupied by persons unlawfully possessing, using, or distributing controlled substances in any of those locations; or

(iii) for any person knowingly and intentionally to possess an altered or forged prescription or written order for a controlled substance.

(b) Any person convicted of violating Subsection (2)(a)(i) with respect to:

(i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony;

(ii) a substance classified in Schedule I or II, marijuana, if the amount is more than 16 ounces, but less than 100 pounds, or a controlled substance analog, is guilty of a third degree felony; or

(iii) marijuana, if the marijuana is not in the form of an extracted resin from any part of the plant, and the amount is more than one ounce but less than 16 ounces, is guilty of a class A misdemeanor.

(c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater penalty than provided in this Subsection (2).

(d) Any person who violates Subsection (2)(a)(i) with respect to all other controlled substances not included in Subsection (2)(b)(i), (ii), or (iii), including a substance listed in Section 58-37-4.2, or less than one ounce of marijuana, is guilty of a class B misdemeanor. Upon a second conviction the person is guilty of a class A misdemeanor, and upon a third or subsequent conviction the person is guilty of a third degree felony.

(e) Any person convicted of violating Subsection (2)(a)(i) while inside the exterior boundaries of property occupied by any correctional facility as defined in Section 64-13-1 or any public jail or other place of confinement shall be sentenced to a penalty one degree greater than provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as listed in:

(i) Subsection (2)(b), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and:

(A) the court shall additionally sentence the person convicted to a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) Subsection (2)(d), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted to a term of six months to run consecutively and not concurrently.

(f) Any person convicted of violating Subsection (2)(a)(ii) or (iii) is:

(i) on a first conviction, guilty of a class B misdemeanor;

(ii) on a second conviction, guilty of a class A misdemeanor; and

(iii) on a third or subsequent conviction, guilty of a third degree felony.

(g) A person is subject to the penalties under Subsection (2)(h) who, in an offense not amounting to a violation of Section 76-5-207:

(i) violates Subsection (2)(a)(i) by knowingly and intentionally having in the person's body any measurable amount of a controlled substance; and

(ii) operates a motor vehicle as defined in Section 76-5-207 in a negligent manner, causing serious bodily injury as defined in Section 76-1-601 or the death of another.

(h) A person who violates Subsection (2)(g) by having in the person's body:

(i) a controlled substance classified under Schedule I, other than those described in Subsection (2)(h)(ii), or a controlled substance classified under Schedule II is guilty of a second degree felony;

(ii) marijuana, tetrahydrocannabinols, or equivalents described in Subsection 58-37-4(2)(a)(iii)(S) or (AA), or a substance listed in Section 58-37-4.2 is guilty of a third degree felony; or

(iii) any controlled substance classified under Schedules III, IV, or V is guilty of a class A misdemeanor.

(i) A person is guilty of a separate offense for each victim suffering serious bodily injury or death as a result of the person's negligent driving in violation of Subsection 58-37-8(2)(g) whether or not the injuries arise from the same episode of driving.

(3) Prohibited acts C -- Penalties:

(a) It is unlawful for any person knowingly and intentionally:

(i) to use in the course of the manufacture or distribution of a controlled substance a license number which is fictitious, revoked, suspended, or issued to another person or, for the purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized person;

(ii) to acquire or obtain possession of, to procure or attempt to procure the administration of, to obtain a prescription for, to prescribe or dispense to any person known to be attempting to acquire or obtain possession of, or to procure the administration of any controlled substance by misrepresentation or failure by the person to disclose receiving any controlled substance from another source, fraud, forgery, deception, subterfuge, alteration of a prescription or written order for a controlled substance, or the use of a false name or address;

(iii) to make any false or forged prescription or written order for a controlled substance, or to utter the same, or to alter any prescription or written order issued or written under the terms of this chapter; or

(iv) to make, distribute, or possess any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling so as to render any drug a counterfeit controlled substance.

(b) Any person convicted of violating Subsection (3)(a) is guilty of a third degree felony.

(4) Prohibited acts D -- Penalties:

(a) Notwithstanding other provisions of this section, a person not authorized under this chapter who commits any act declared to be unlawful under this section, Title 58, Chapter 37a, Utah Drug Paraphernalia Act, or under Title 58, Chapter 37b, Imitation Controlled Substances Act, is upon conviction subject to the penalties and classifications under this Subsection (4) if the trier of fact finds the act is committed:

(i) in a public or private elementary or secondary school or on the grounds of any of those schools;

(ii) in a public or private vocational school or postsecondary institution or on the grounds of any of those schools or institutions;

(iii) in those portions of any building, park, stadium, or other structure or grounds which are, at the time of the act, being used for an activity sponsored by or through a school or institution under Subsections (4)(a)(i) and (ii);

(iv) in or on the grounds of a preschool or child-care facility;

(v) in a public park, amusement park, arcade, or recreation center;

(vi) in or on the grounds of a house of worship as defined in Section 76-10-501;

(vii) in a shopping mall, sports facility, stadium, arena, theater, movie house, playhouse, or parking lot or structure adjacent thereto;

(viii) in or on the grounds of a library;

(ix) within any area that is within 1,000 feet of any structure, facility, or grounds included in Subsections (4)(a)(i), (ii), (iv), (vi), and (vii);

(x) in the presence of a person younger than 18 years of age, regardless of where the act occurs; or

(xi) for the purpose of facilitating, arranging, or causing the transport, delivery, or distribution of a substance in violation of this section to an inmate or on the grounds of any correctional facility as defined in Section 76-8-311.3.

(b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony and shall be imprisoned for a term of not less than five years if the penalty that would otherwise have been established but for this Subsection (4) would have been a first degree felony.

(ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(c) If the classification that would otherwise have been established would have been less than a first degree felony but for this Subsection (4), a person convicted under this Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that offense. This Subsection (4)(c) does not apply to a violation of Subsection (2)(g).

(d) (i) If the violation is of Subsection (4)(a)(xi):

(A) the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) the penalties under this Subsection (4)(d) apply also to any person who, acting with the mental state required for the commission of an offense, directly or indirectly solicits, requests, commands, coerces, encourages, or intentionally aids another person to commit a violation of Subsection (4)(a)(xi).

(e) It is not a defense to a prosecution under this Subsection (4) that the actor mistakenly believed the individual to be 18 years of age or older at the time of the offense or was unaware of the individual's true age; nor that the actor mistakenly believed that the location where the act occurred was not as described in Subsection (4)(a) or was unaware that the location where the act occurred was as described in Subsection (4)(a).

(5) Any violation of this chapter for which no penalty is specified is a class B misdemeanor.

(6) For purposes of penalty enhancement under Subsections (1)(b) and (2)(c), a plea of guilty or no contest to a violation of this section which is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(7) A person may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this chapter.

(8) (a) Any penalty imposed for violation of this section is in addition to, and not in lieu of, any civil or administrative penalty or sanction authorized by law.

(b) Where violation of this chapter violates a federal law or the law of another state, conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state.

(9) In any prosecution for a violation of this chapter, evidence or proof which shows a person or persons produced, manufactured, possessed, distributed, or dispensed a controlled substance or substances, is prima facie evidence that the person or persons did so with knowledge of the character of the substance or substances.

(10) This section does not prohibit a veterinarian, in good faith and in the course of the veterinarian's professional practice only and not for humans, from prescribing, dispensing, or administering controlled substances or from causing the substances to be administered by an assistant or

orderly under the veterinarian's direction and supervision.

(11) Civil or criminal liability may not be imposed under this section on:

(a) any person registered under this chapter who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or investigational new drug by a registered practitioner in the ordinary course of professional practice or research; or

(b) any law enforcement officer acting in the course and legitimate scope of the officer's employment.

(12) (a) Civil or criminal liability may not be imposed under this section on any Indian, as defined in Subsection 58-37-2(1)(v), who uses, possesses, or transports peyote for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion as defined in Subsection 58-37-2(1)(w).

(b) In a prosecution alleging violation of this section regarding peyote as defined in Subsection 58-37-4(2)(a)(iii)(V), it is an affirmative defense that the peyote was used, possessed, or transported by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion.

(c) (i) The defendant shall provide written notice of intent to claim an affirmative defense under this Subsection (12) as soon as practicable, but not later than 10 days prior to trial.

(ii) The notice shall include the specific claims of the affirmative defense.

(iii) The court may waive the notice requirement in the interest of justice for good cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

(d) The defendant shall establish the affirmative defense under this Subsection (12) by a preponderance of the evidence. If the defense is established, it is a complete defense to the charges.

(13) (a) It is an affirmative defense that the person produced, possessed, or administered a controlled substance listed in Section 58-37-4.2 if the person:

(i) was engaged in medical research; and

(ii) was a holder of a valid license to possess controlled substances under Section 58-37-6.

(b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed a controlled substance listed in Section 58-37-4.2.

(14) It is an affirmative defense that the person possessed, in the person's body, a controlled substance listed in Section 58-37-4.2 if:

(a) the person was the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-6; and

(b) the substance was administered to the person by the medical researcher.

(15) The application of any increase in penalty under this section to a violation of Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This Subsection (15) takes precedence over any conflicting provision of this section.

~~[(45)]~~ (16) If any provision of this chapter, or the application of any provision to any person or circumstances, is held invalid, the remainder of this chapter shall be given effect without the invalid provision or application.

~~[(46)]~~ (17) A legislative body of a political subdivision may not enact an ordinance that is less restrictive than any provision of this chapter.

CHAPTER 52**S. B. 206**

Passed March 10, 2014
Approved March 25, 2014
Effective May 13, 2014

**TAX, FEE, OR CHARGE OFFENSE
AND PENALTY AMENDMENTS**

Chief Sponsor: Curtis S. Bramble
House Sponsor: Ryan D. Wilcox

LONG TITLE**General Description:**

This bill amends provisions related to offenses and penalties.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to offenses and penalties for purposes of a tax, fee, or charge administered by the State Tax Commission; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

59-1-401, as last amended by Laws of Utah 2012, Chapters 312 and 357
76-8-1101, as last amended by Laws of Utah 2009, Chapter 336

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

Section 1. Section 59-1-401 is amended to read:**59-1-401. Definitions -- Offenses and penalties -- Rulemaking authority -- Statute of limitations -- Commission authority to waive, reduce, or compromise penalty or interest.**

(1) As used in this section:

(a) "Activated tax, fee, or charge" means a tax, fee, or charge with respect to which the commission:

(i) has implemented the commission's GenTax system; and

(ii) at least 30 days before implementing the commission's GenTax system as described in Subsection (1)(a)(i), has provided notice in a conspicuous place on the commission's website stating:

(A) the date the commission will implement the GenTax system with respect to the tax, fee, or charge; and

(B) that, at the time the commission implements the GenTax system with respect to the tax, fee, or charge:

(I) a person that files a return after the due date as described in Subsection (2)(a) is subject to the penalty described in Subsection (2)(c)(ii); and

(II) a person that fails to pay the tax, fee, or charge as described in Subsection (3)(a) is subject to the penalty described in Subsection (3)(b)(ii).

(b) "Activation date for a tax, fee, or charge" means with respect to a tax, fee, or charge, the later of:

(i) the date on which the commission implements the commission's GenTax system with respect to the tax, fee, or charge; or

(ii) 30 days after the date the commission provides the notice described in Subsection (1)(a)(ii) with respect to the tax, fee, or charge.

(c) (i) Except as provided in Subsection (1)(c)(ii), "tax, fee, or charge" means:

(A) a tax, fee, or charge the commission administers under:

(I) this title;

(II) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(III) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(IV) Section 19-6-410.5;

(V) Section 19-6-714;

(VI) Section 19-6-805;

(VII) Section 32B-2-304;

(VIII) Section 34A-2-202;

(IX) Section 40-6-14;

(X) Section 69-2-5;

(XI) Section 69-2-5.5; or

(XII) Section 69-2-5.6; or

(B) another amount that by statute is subject to a penalty imposed under this section.

(ii) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:

(A) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;

(B) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;

(C) Chapter 2, Property Tax Act, except for Section 59-2-1309;

(D) Chapter 3, Tax Equivalent Property Act; or

(E) Chapter 4, Privilege Tax.

(d) "Unactivated tax, fee, or charge" means a tax, fee, or charge except for an activated tax, fee, or charge.

(2) (a) The due date for filing a return is:

(i) if the person filing the return is not allowed by law an extension of time for filing the return, the day on which the return is due as provided by law; or

(ii) if the person filing the return is allowed by law an extension of time for filing the return, the earlier of:

(A) the date the person files the return; or

(B) the last day of that extension of time as allowed by law.

(b) A penalty in the amount described in Subsection (2)(c) is imposed if a person files a return after the due date described in Subsection (2)(a).

(c) For purposes of Subsection (2)(b), the penalty is an amount equal to the greater of:

(i) if the return described in Subsection (2)(b) is filed with respect to an unactivated tax, fee, or charge:

(A) \$20; or

(B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or

(ii) if the return described in Subsection (2)(b) is filed with respect to an activated tax, fee, or charge, beginning on the activation date for the tax, fee, or charge:

(A) \$20; or

(B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the return is filed no later than five days after the due date described in Subsection (2)(a);

(II) 5% of the unpaid activated tax, fee, or charge due on the return if the return is filed more than five days after the due date but no later than 15 days after the due date described in Subsection (2)(a); or

(III) 10% of the unpaid activated tax, fee, or charge due on the return if the return is filed more than 15 days after the due date described in Subsection (2)(a).

(d) This Subsection (2) does not apply to:

(i) an amended return; or

(ii) a return with no tax due.

(3) (a) A person is subject to a penalty for failure to pay a tax, fee, or charge if:

(i) the person files a return on or before the due date for filing a return described in Subsection (2)(a), but fails to pay the tax, fee, or charge due on the return on or before that due date;

(ii) the person:

(A) is subject to a penalty under Subsection (2)(b); and

(B) fails to pay the tax, fee, or charge due on a return within a 90-day period after the due date for filing a return described in Subsection (2)(a);

(iii) (A) the person is subject to a penalty under Subsection (2)(b); and

(B) the commission estimates an amount of tax due for that person in accordance with Subsection 59-1-1406(2);

(iv) the person:

(A) is mailed a notice of deficiency; and

(B) within a 30-day period after the day on which the notice of deficiency described in Subsection (3)(a)(iv)(A) is mailed:

(I) does not file a petition for redetermination or a request for agency action; and

(II) fails to pay the tax, fee, or charge due on a return;

(v) (A) the commission:

(I) issues an order constituting final agency action resulting from a timely filed petition for redetermination or a timely filed request for agency action; or

(II) is considered to have denied a request for reconsideration under Subsection 63G-4-302(3)(b) resulting from a timely filed petition for redetermination or a timely filed request for agency action; and

(B) the person fails to pay the tax, fee, or charge due on a return within a 30-day period after the date the commission:

(I) issues the order constituting final agency action described in Subsection (3)(a)(v)(A)(I); or

(II) is considered to have denied the request for reconsideration described in Subsection (3)(a)(v)(A)(II); or

(vi) the person fails to pay the tax, fee, or charge within a 30-day period after the date of a final judicial decision resulting from a timely filed petition for judicial review.

(b) For purposes of Subsection (3)(a), the penalty is an amount equal to the greater of:

(i) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with respect to an unactivated tax, fee, or charge:

(A) \$20; or

(B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or

(ii) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with respect to an activated tax, fee, or charge, beginning on the activation date:

(A) \$20; or

(B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the activated tax, fee, or charge due on the return is paid no later than five days after the due date for filing a return described in Subsection (2)(a);

(II) 5% of the unpaid activated tax, fee, or charge due on the return if the activated tax, fee, or charge due on the return is paid more than five days after the due date for filing a return described in Subsection (2)(a) but no later than 15 days after that due date; or

(III) 10% of the unpaid activated tax, fee, or charge due on the return if the activated tax, fee, or

charge due on the return is paid more than 15 days after the due date for filing a return described in Subsection (2)(a).

(4) (a) Beginning January 1, 1995, in the case of any underpayment of estimated tax or quarterly installments required by Sections 59-5-107, 59-5-207, 59-7-504, and 59-9-104, there shall be added a penalty in an amount determined by applying the interest rate provided under Section 59-1-402 plus four percentage points to the amount of the underpayment for the period of the underpayment.

(b) (i) For purposes of Subsection (4)(a), the amount of the underpayment shall be the excess of the required installment over the amount, if any, of the installment paid on or before the due date for the installment.

(ii) The period of the underpayment shall run from the due date for the installment to whichever of the following dates is the earlier:

(A) the original due date of the tax return, without extensions, for the taxable year; or

(B) with respect to any portion of the underpayment, the date on which that portion is paid.

(iii) For purposes of this Subsection (4), a payment of estimated tax shall be credited against unpaid required installments in the order in which the installments are required to be paid.

(5) (a) Notwithstanding Subsection (2) and except as provided in Subsection (6), a person allowed by law an extension of time for filing a corporate franchise or income tax return under Chapter 7, Corporate Franchise and Income Taxes, or an individual income tax return under Chapter 10, Individual Income Tax Act, is subject to a penalty in the amount described in Subsection (5)(b) if, on or before the day on which the return is due as provided by law, not including the extension of time, the person fails to pay:

(i) for a person filing a corporate franchise or income tax return under Chapter 7, Corporate Franchise and Income Taxes, the payment required by Subsection 59-7-507(1)(b); or

(ii) for a person filing an individual income tax return under Chapter 10, Individual Income Tax Act, the payment required by Subsection 59-10-516(2).

(b) For purposes of Subsection (5)(a), the penalty per month during the period of the extension of time for filing the return is an amount equal to 2% of the tax due on the return, unpaid as of the day on which the return is due as provided by law.

(6) If a person does not file a return within an extension of time allowed by Section 59-7-505 or 59-10-516, the person:

(a) is not subject to a penalty in the amount described in Subsection (5)(b); and

(b) is subject to a penalty in an amount equal to the sum of:

(i) a late file penalty in an amount equal to the greater of:

(A) \$20; or

(B) 10% of the tax due on the return, unpaid as of the day on which the return is due as provided by law, not including the extension of time; and

(ii) a late pay penalty in an amount equal to the greater of:

(A) \$20; or

(B) 10% of the unpaid tax due on the return, unpaid as of the day on which the return is due as provided by law, not including the extension of time.

(7) (a) Additional penalties for an underpayment of a tax, fee, or charge are as provided in this Subsection (7)(a).

(i) Except as provided in Subsection (7)(c), if any portion of an underpayment of a tax, fee, or charge is due to negligence, the penalty is 10% of the portion of the underpayment that is due to negligence.

(ii) Except as provided in Subsection (7)(d), if any portion of an underpayment of a tax, fee, or charge is due to intentional disregard of law or rule, the penalty is 15% of the entire underpayment.

(iii) If any portion of an underpayment is due to an intent to evade a tax, fee, or charge, the penalty is the greater of \$500 per period or 50% of the entire underpayment.

(iv) If any portion of an underpayment is due to fraud with intent to evade a tax, fee, or charge, the penalty is the greater of \$500 per period or 100% of the entire underpayment.

(b) If the commission determines that a person is liable for a penalty imposed under Subsection (7)(a)(ii), (iii), or (iv), the commission shall notify the person of the proposed penalty.

(i) The notice of proposed penalty shall:

(A) set forth the basis of the assessment; and

(B) be mailed by certified mail, postage prepaid, to the person's last-known address.

(ii) Upon receipt of the notice of proposed penalty, the person against whom the penalty is proposed may:

(A) pay the amount of the proposed penalty at the place and time stated in the notice; or

(B) proceed in accordance with the review procedures of Subsection (7)(b)(iii).

(iii) A person against whom a penalty is proposed in accordance with this Subsection (7) may contest the proposed penalty by filing a petition for an adjudicative proceeding with the commission.

(iv) (A) If the commission determines that a person is liable for a penalty under this Subsection (7), the commission shall assess the penalty and give notice and demand for payment.

(B) The commission shall mail the notice and demand for payment described in Subsection (7)(b)(iv)(A):

(I) to the person's last-known address; and

(II) in accordance with Section 59-1-1404.

(c) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not subject to the penalty under Subsection (7)(a)(i) if on or after July 1, 2001:

(i) a court of competent jurisdiction issues a final unappealable judgment or order determining that:

(A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b); and

(B) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (d); or

(ii) the commission issues a final unappealable administrative order determining that:

(A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b); and

(B) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (d).

(d) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not subject to the penalty under Subsection (7)(a)(ii) if:

(i) (A) a court of competent jurisdiction issues a final unappealable judgment or order determining that:

(I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b); and

(II) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (d); or

(B) the commission issues a final unappealable administrative order determining that:

(I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b); and

(II) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (d); and

(ii) the seller's intentional disregard of law or rule is warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law.

(8) The penalty for failure to file an information return, information report, or a complete supporting schedule is \$50 for each information return, information report, or supporting schedule up to a maximum of \$1,000.

(9) If a person, in furtherance of a frivolous position, has a prima facie intent to delay or impede administration of a law relating to a tax, fee, or charge and files a purported return that fails to contain information from which the correctness of reported tax, fee, or charge liability can be determined or that clearly indicates that the tax, fee, or charge liability shown is substantially incorrect, the penalty is \$500.

(10) (a) A seller that fails to remit a tax, fee, or charge monthly as required by Subsection 59-12-108(1)(a):

(i) is subject to a penalty described in Subsection (2); and

(ii) may not retain the percentage of sales and use taxes that would otherwise be allowable under Subsection 59-12-108(2).

(b) A seller that fails to remit a tax, fee, or charge by electronic funds transfer as required by Subsection 59-12-108(1)(a)(ii)(B):

(i) is subject to a penalty described in Subsection (2); and

(ii) may not retain the percentage of sales and use taxes that would otherwise be allowable under Subsection 59-12-108(2).

(11) (a) A person is subject to the penalty provided in Subsection (11)(c) if that person:

(i) commits an act described in Subsection (11)(b) with respect to one or more of the following documents:

(A) a return;

(B) an affidavit;

(C) a claim; or

(D) a document similar to Subsections (11)(a)(i)(A) through (C);

(ii) knows or has reason to believe that the document described in Subsection (11)(a)(i) will be used in connection with any material matter administered by the commission; and

(iii) knows that the document described in Subsection (11)(a)(i), if used in connection with any material matter administered by the commission, would result in an understatement of another person's liability for a tax, fee, or charge.

(b) The following acts apply to Subsection (11)(a)(i):

(i) preparing any portion of a document described in Subsection (11)(a)(i);

(ii) presenting any portion of a document described in Subsection (11)(a)(i);

(iii) procuring any portion of a document described in Subsection (11)(a)(i);

(iv) advising in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i);

(v) aiding in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i);

(vi) assisting in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i); or

(vii) counseling in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i).

(c) For purposes of Subsection (11)(a), the penalty:

(i) shall be imposed by the commission;

(ii) is \$500 for each document described in Subsection (11)(a)(i) with respect to which the person described in Subsection (11)(a) meets the requirements of Subsection (11)(a); and

(iii) is in addition to any other penalty provided by law.

(d) The commission may seek a court order to enjoin a person from engaging in conduct that is subject to a penalty under this Subsection (11).

(e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing the documents that are similar to Subsections (11)(a)(i)(A) through (C).

(12) (a) As provided in Section 76-8-1101, criminal offenses and penalties are as provided in Subsections (12)(b) through (e).

(b) (i) A person who is required by this title or any laws the commission administers or regulates to register with or obtain a license or permit from the commission, who operates without having registered or secured a license or permit, or who operates when the registration, license, or permit is expired or not current, is guilty of a class B misdemeanor.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(b)(i), the penalty may not:

(A) be less than \$500; or

(B) exceed \$1,000.

(c) (i) ~~[A person who, with intent to evade a tax, fee, or charge or requirement of this title or any lawful requirement of the commission,] With respect to a tax, fee, or charge, a person who knowingly and intentionally, and without a reasonable good faith basis, fails to make, render, sign, or verify a return within the time required by law or to supply information within the time required by law, or who makes, renders, signs, or verifies a false or fraudulent return or statement, or who supplies false or fraudulent information, is guilty of a third degree felony.~~

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(c)(i), the penalty may not:

(A) be less than \$1,000; or

(B) exceed \$5,000.

(d) (i) A person who intentionally or willfully attempts to evade or defeat a tax, fee, or charge or the payment of a tax, fee, or charge is, in addition to other penalties provided by law, guilty of a second degree felony.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(d)(i), the penalty may not:

(A) be less than \$1,500; or

(B) exceed \$25,000.

(e) (i) A person is guilty of a second degree felony if that person commits an act:

(A) described in Subsection (12)(e)(ii) with respect to one or more of the following documents:

(I) a return;

(II) an affidavit;

(III) a claim; or

(IV) a document similar to Subsections (12)(e)(i)(A)(I) through (III); and

(B) subject to Subsection (12)(e)(iii), with knowledge that the document described in Subsection (12)(e)(i)(A):

(I) is false or fraudulent as to any material matter; and

(II) could be used in connection with any material matter administered by the commission.

(ii) The following acts apply to Subsection (12)(e)(i):

(A) preparing any portion of a document described in Subsection (12)(e)(i)(A);

(B) presenting any portion of a document described in Subsection (12)(e)(i)(A);

(C) procuring any portion of a document described in Subsection (12)(e)(i)(A);

(D) advising in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A);

(E) aiding in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A);

(F) assisting in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A); or

(G) counseling in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A).

(iii) This Subsection (12)(e) applies:

(A) regardless of whether the person for which the document described in Subsection (12)(e)(i)(A) is prepared or presented:

(I) knew of the falsity of the document described in Subsection (12)(e)(i)(A); or

(II) consented to the falsity of the document described in Subsection (12)(e)(i)(A); and

(B) in addition to any other penalty provided by law.

(iv) Notwithstanding Section 76-3-301, for purposes of this Subsection (12)(e), the penalty may not:

- (A) be less than \$1,500; or
- (B) exceed \$25,000.

(v) The commission may seek a court order to enjoin a person from engaging in conduct that is subject to a penalty under this Subsection (12)(e).

(vi) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing the documents that are similar to Subsections (12)(e)(i)(A)(I) through (III).

(f) The statute of limitations for prosecution for a violation of this Subsection (12) is the later of six years:

- (i) from the date the tax should have been remitted; or
- (ii) after the day on which the person commits the criminal offense.

(13) Upon making a record of its actions, and upon reasonable cause shown, the commission may waive, reduce, or compromise any of the penalties or interest imposed under this part.

Section 2. Section 76-8-1101 is amended to read:

76-8-1101. Criminal offenses and penalties relating to revenue and taxation -- Rulemaking authority -- Statute of limitations.

(1) (a) As provided in Section 59-1-401, criminal offenses and penalties are as provided in Subsections (1)(b) through (e).

(b) (i) Any person who is required by Title 59, Revenue and Taxation, or any laws the State Tax Commission administers or regulates to register with or obtain a license or permit from the State Tax Commission, who operates without having registered or secured a license or permit, or who operates when the registration, license, or permit is expired or not current, is guilty of a class B misdemeanor.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (1)(b)(i), the penalty may not:

- (A) be less than \$500; or
- (B) exceed \$1,000.

(c) (i) ~~Any person who, with intent to evade any tax, fee, or charge as defined in Section 59-1-401 or requirement of Title 59, Revenue and Taxation, or any lawful requirement of the State Tax Commission,~~ With respect to a tax, fee, or charge as defined in Section 59-1-401, any person who knowingly and intentionally, and without a reasonable good faith basis, fails to make, render,

sign, or verify any return within the time required by law or to supply any information within the time required by law, or who makes, renders, signs, or verifies any false or fraudulent return or statement, or who supplies any false or fraudulent information, is guilty of a third degree felony.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (1)(c)(i), the penalty may not:

- (A) be less than \$1,000; or
- (B) exceed \$5,000.

(d) (i) Any person who intentionally or willfully attempts to evade or defeat any tax, fee, or charge as defined in Section 59-1-401 or the payment of a tax, fee, or charge as defined in Section 59-1-401 is, in addition to other penalties provided by law, guilty of a second degree felony.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (1)(d)(i), the penalty may not:

- (A) be less than \$1,500; or
- (B) exceed \$25,000.

(e) (i) A person is guilty of a second degree felony if that person commits an act:

(A) described in Subsection (1)(e)(ii) with respect to one or more of the following documents:

- (I) a return;
- (II) an affidavit;
- (III) a claim; or

(IV) a document similar to Subsections (1)(e)(i)(A)(I) through (III); and

(B) subject to Subsection (1)(e)(iii), with knowledge that the document described in Subsection (1)(e)(i)(A):

- (I) is false or fraudulent as to any material matter; and
- (II) could be used in connection with any material matter administered by the State Tax Commission.

(ii) The following acts apply to Subsection (1)(e)(i):

- (A) preparing any portion of a document described in Subsection (1)(e)(i)(A);
- (B) presenting any portion of a document described in Subsection (1)(e)(i)(A);
- (C) procuring any portion of a document described in Subsection (1)(e)(i)(A);

(D) advising in the preparation or presentation of any portion of a document described in Subsection (1)(e)(i)(A);

(E) aiding in the preparation or presentation of any portion of a document described in Subsection (1)(e)(i)(A);

(F) assisting in the preparation or presentation of any portion of a document described in Subsection (1)(e)(i)(A); or

(G) counseling in the preparation or presentation of any portion of a document described in Subsection (1)(e)(i)(A).

(iii) This Subsection (1)(e) applies:

(A) regardless of whether the person for which the document described in Subsection (1)(e)(i)(A) is prepared or presented:

(I) knew of the falsity of the document described in Subsection (1)(e)(i)(A); or

(II) consented to the falsity of the document described in Subsection (1)(e)(i)(A); and

(B) in addition to any other penalty provided by law.

(iv) Notwithstanding Section 76-3-301, for purposes of this Subsection (1)(e), the penalty may not:

(A) be less than \$1,500; or

(B) exceed \$25,000.

(v) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Tax Commission may make rules prescribing the documents that are similar to Subsections (1)(e)(i)(A)(I) through (III).

(2) The statute of limitations for prosecution for a violation of this section is the later of six years:

(a) from the date the tax should have been remitted; or

(b) after the day on which the person commits the criminal offense.

CHAPTER 53**S. B. 208**

Passed March 11, 2014

Approved March 25, 2014

Effective May 13, 2014

PUBLIC UTILITY MODIFICATIONS

Chief Sponsor: Curtis S. Bramble
House Sponsor: James A. Dunnigan

LONG TITLE**General Description:**

This bill amends provisions related to net metering of electricity.

Highlighted Provisions:

This bill:

- ▶ modifies definitions;
- ▶ provides that the Public Service Commission shall grant certain unused credits to low-income assistance programs or for another use as determined by the Public Service Commission;
- ▶ addresses customer charges, credits, and ratemaking;
- ▶ addresses a requirement for a customer to provide equipment; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

54-15-102, as last amended by Laws of Utah 2013, Chapter 136

54-15-104, as last amended by Laws of Utah 2008, Chapter 244

54-15-106, as last amended by Laws of Utah 2008, Chapter 244

ENACTS:

54-15-105.1, Utah Code Annotated 1953

REPEALS:

54-15-105, as last amended by Laws of Utah 2008, Chapter 244

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

Section 1. Section 54-15-102 is amended to read:**54-15-102. Definitions.**

As used in this chapter:

(1) "Annualized billing period" means:

(a) a 12-month billing cycle beginning on April 1 of one year and ending on March 31 of the following year; or

(b) an additional 12-month billing cycle as defined by an electrical corporation's net metering tariff or rate schedule.

(2) "Customer-generated electricity" means electricity that:

(a) is generated by a customer generation system for a customer participating in a net metering program;

(b) exceeds the electricity the customer needs for the customer's own use; and

(c) is supplied to the electrical corporation administering the net metering program.

(3) "Customer generation system":

(a) means an eligible facility that is used to supply energy to or for a specific customer that:

(i) has a generating capacity of:

(A) not more than 25 kilowatts for a residential facility; or

(B) not more than two megawatts for a non-residential facility, unless the governing authority approves a greater generation capacity;

(ii) is located on, or adjacent to, the premises of the electrical corporation's customer, subject to the electrical corporation's service requirements;

(iii) operates in parallel and is interconnected with the electrical corporation's distribution facilities;

(iv) is intended primarily to offset part or all of the customer's requirements for electricity; and

(v) is controlled by an inverter [~~or switchgear~~]; and

(b) includes an electric generator and its accompanying equipment package.

(4) "Eligible facility" means a facility that uses energy derived from one of the following to generate electricity:

(a) solar photovoltaic and solar thermal energy;

(b) wind energy;

(c) hydrogen;

(d) organic waste;

(e) hydroelectric energy;

(f) waste gas and waste heat capture or recovery;

(g) biomass and biomass byproducts, except for the combustion of:

(i) wood that has been treated with chemical preservatives such as creosote, pentachlorophenol, or chromated copper arsenate; or

(ii) municipal waste in a solid form;

(h) forest or rangeland woody debris from harvesting or thinning conducted to improve forest or rangeland ecological health and to reduce wildfire risk;

(i) agricultural residues;

(j) dedicated energy crops;

(k) landfill gas or biogas produced from organic matter, wastewater, anaerobic digesters, or municipal solid waste; or

(l) geothermal energy.

(5) "Equipment package" means a group of components connecting an electric generator to an electric distribution system, including all interface equipment and the interface equipment's controls, switchgear, inverter, and other interface devices.

(6) "Excess customer-generated electricity" means the amount of customer-generated electricity in excess of the customer's consumption from the customer generation system during a monthly billing period, as measured at the electrical corporation's meter.

(7) "Fuel cell" means a device in which the energy of a reaction between a fuel and an oxidant is converted directly and continuously into electrical energy.

(8) "Governing authority" means:

(a) for a distribution electrical cooperative, its board of directors; and

(b) for each other electrical corporation, the Public Service Commission.

(9) "Inverter" means a device that:

(a) converts direct current power into alternating current power that is compatible with power generated by an electrical corporation; and

(b) has been designed, tested, and ~~[UL]~~ certified to UL1741 and installed and operated in accordance with the latest revision of IEEE1547 ~~[standards]~~, as amended.

(10) "Net electricity" means the difference, as measured at the meter owned by the electrical corporation between:

(a) the amount of electricity that an electrical corporation supplies to a customer participating in a net metering program; and

(b) the amount of customer-generated electricity delivered to the electrical corporation.

(11) "Net metering" means measuring the amount of net electricity for the applicable billing period.

(12) "Net metering program" means a program administered by an electrical corporation whereby a customer with a customer generation system may:

(a) generate electricity primarily for the customer's own use;

(b) supply customer-generated electricity to the electrical corporation; and

(c) if net metering results in excess customer-generated electricity during a billing period, receive a credit ~~[under]~~ as provided in Section 54-15-104.

(13) "Switchgear" means the combination of electrical disconnects, fuses, or circuit breakers:

(a) used to:

(i) isolate electrical equipment; and

(ii) de-energize equipment to allow work to be performed or faults downstream to be cleared; and

(b) that is:

(i) designed, tested, and ~~[UL]~~ certified to UL1741; and

(ii) installed and operated in accordance with the latest revision of IEEE1547 ~~[standards]~~, as amended.

Section 2. Section 54-15-104 is amended to read:

54-15-104. Charges or credits for net electricity.

(1) Each electrical corporation with a customer participating in a net metering program shall measure net electricity during each monthly billing period, in accordance with normal metering practices.

(2) If net metering does not result in excess customer-generated electricity during the monthly billing period, the electrical corporation shall bill the customer for the net electricity, in accordance with normal billing practices.

(3) ~~[If]~~ Subject to Subsection (4), if net metering results in excess customer-generated electricity during the monthly billing period:

(a) (i) the electrical corporation shall credit the customer for the excess customer-generated electricity based on the meter reading for the billing period at a value that is at least avoided cost, or as determined by the governing authority; and

(ii) all credits that the customer does not use during the annualized billing period expire at the end of the annualized billing period; and

(b) as authorized by the governing authority, the electrical corporation may bill the customer for customer charges that otherwise would have accrued during that billing period in the absence of excess customer-generated electricity.

(4) At the end of an annualized billing period, an electrical corporation's avoided cost value of remaining unused credits described in Subsection (3)(a) shall be granted:

(a) to the electrical corporation's low-income assistance programs as determined by the commission; or

(b) for another use as determined by the commission.

Section 3. Section 54-15-105.1 is enacted to read:

54-15-105.1. Determination of costs and benefits -- Determination of just and reasonable charge, credit, or ratemaking structure.

The governing authority shall:

(1) determine, after appropriate notice and opportunity for public comment, whether costs that the electrical corporation or other customers will incur from a net metering program will exceed the

benefits of the net metering program, or whether the benefits of the net metering program will exceed the costs; and

(2) determine a just and reasonable charge, credit, or ratemaking structure, including new or existing tariffs, in light of the costs and benefits.

Section 4. Section 54-15-106 is amended to read:

54-15-106. Customer to provide equipment necessary to meet certain requirements -- Governing authority may adopt additional reasonable requirements -- Testing and inspection of interconnection.

(1) Each customer participating in a net metering program shall provide at the customer's expense all equipment necessary to meet:

(a) applicable local and national standards regarding electrical and fire safety, power quality, and interconnection requirements established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories[-]; and

(b) any other utility interconnection requirements as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) After appropriate notice and opportunity for public comment, the governing authority may by rule adopt additional reasonable safety, power quality, and interconnection requirements for customer generation systems that the governing authority considers to be necessary to protect public safety and system reliability.

(3) (a) If a customer participating in a net metering program complies with requirements referred to under Subsection (1) and additional requirements established under Subsection (2), an electrical corporation may not require that customer to:

(i) perform or pay for additional tests; or

(ii) purchase additional liability insurance.

(b) An electrical corporation may not be held directly or indirectly liable for permitting or continuing to permit an interconnection of a customer generation system to the electrical corporation's system or for an act or omission of a customer participating in a net metering program for loss, injury, or death to a third party.

(4) An electrical corporation may test and inspect an interconnection at times that the electrical corporation considers necessary to ensure the safety of electrical workers and to preserve the integrity of the electric power grid.

(5) The electrical function, operation, or capacity of a customer generation system, at the point of connection to the electrical corporation's distribution system, may not compromise the quality of service to the electrical corporation's other customers.

Section 5. Repealer.

This bill repeals:

Section 54-15-105, No additional fee or charge without governing authority approval -- Exception.

CHAPTER 54**S. B. 214**

Passed March 7, 2014
 Approved March 25, 2014
 Effective May 13, 2014
 (Exception clause in Section 3)

**MULTISTATE TAX
 COMPACT AMENDMENTS**

Chief Sponsor: Curtis S. Bramble
 House Sponsor: Ryan D. Wilcox

LONG TITLE**General Description:**

This bill addresses provisions related to the Multistate Tax Compact.

Highlighted Provisions:

This bill:

- ▶ addresses audits, tax enforcement, and tax administration related to the Multistate Tax Compact; and
- ▶ repeals certain repeal dates related to the Multistate Tax Compact.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides effective dates.

Utah Code Sections Affected:**AMENDS:**

59-1-809 (Effective 07/01/14), as last amended by
 Laws of Utah 2013, Chapter 462
 63I-1-259, as last amended by Laws of Utah 2013,
 Chapter 462

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

**Section 1. Section 59-1-809 (Effective
 07/01/14) is amended to read:**

**59-1-809 (Effective 07/01/14). Commission
 authority related to the Multistate Tax
 Commission and governmental entities.**

~~[(1) The commission may participate in an audit, tax enforcement, or tax administration with the Multistate Tax Commission, a taxing official of another state, the District of Columbia, or the United States or its territories.]~~

[(2)] The commission may furnish to the Multistate Tax Commission, a taxing official of another state, the District of Columbia, or the United States or its territories, any information contained in:

[(a)] (1) a tax return or report, a related schedule, or a document filed pursuant to the tax laws of this state; or

[(b)] (2) the report of an audit or investigation made with respect to a tax return or report, a related schedule, or a document described in Subsection [(2)(a)] (1).

**Section 2. Section 63I-1-259 is amended to
 read:**

63I-1-259. Repeal dates, Title 59.

~~[(1) Sections 59-1-801.5 and 59-1-808 are repealed on June 30, 2014.]~~

[(2)] (1) Subsection 59-2-924(3)(g) is repealed on December 31, 2016.

[(3)] (2) Section 59-2-924.3 is repealed on December 31, 2016.

[(4)] (3) Section 59-9-102.5 is repealed December 31, 2020.

Section 3. Effective dates.

(1) Except as provided in Subsection (2), this bill takes effect on May 13, 2014.

(2) The actions affecting Section 59-1-809 (Effective 07/01/14) take effect on July 1, 2014.

CHAPTER 55**S. B. 217**

Passed March 11, 2014

Approved March 25, 2014

Effective May 13, 2014

PUBLIC UTILITIES AMENDMENTS

Chief Sponsor: Kevin T. Van Tassell

House Sponsor: John G. Mathis

LONG TITLE**General Description:**

This bill amends provisions related to electrical service.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to an electrical corporation or a municipality providing electrical service; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

10-8-14, as last amended by Laws of Utah 2013, Chapter 242

54-3-30, as enacted by Laws of Utah 2013, Chapter 242

54-3-31, as enacted by Laws of Utah 2013, Chapter 242

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

Section 1. Section 10-8-14 is amended to read:**10-8-14. Water, sewer, gas, electricity, and public transportation -- Service beyond municipal limits -- Retainage -- Notice of service and agreement -- Cable television and public telecommunications services.**

(1) A municipality may:

(a) construct, maintain, and operate waterworks, sewer collection, sewer treatment systems, gas works, electric light works, telecommunications lines, cable television lines, or public transportation systems;

(b) authorize the construction, maintenance and operation of the works or systems listed in Subsection (1)(a) by others;

(c) purchase or lease the works or systems listed in Subsection (1)(a) from any person or corporation; and

(d) sell and deliver the surplus product or service capacity of any works or system listed in Subsection (1)(a), not required by the municipality or the municipality's inhabitants, to others beyond the limits of the municipality, except the sale and delivery of:

(i) retail electricity beyond the municipal boundary is governed by Subsections (3) through (8); and

(ii) cable television services or public telecommunications services is governed by Subsection (11).

(2) If any payment on a contract with a private person, firm, or corporation to construct waterworks, sewer collection, sewer treatment systems, gas works, electric works, telecommunications lines, cable television lines, or public transportation systems is retained or withheld, it shall be retained or withheld and released as provided in Section 13-8-5.

(3) (a) Except as provided in Subsection (3)(b), (5), or (9), a municipality may not sell or deliver the electricity produced or distributed by its electric works constructed, maintained, or operated in accordance with Subsection (1) to a retail customer located beyond its municipal boundary.

(b) A municipality that provides retail electric service to a customer beyond its municipal boundary on or before June 15, 2013, may continue to serve that customer if:

(i) on or before December 15, 2013, the municipality provides the electrical corporation, as defined in Section 54-2-1, that is obligated by its certificate of public convenience and necessity to serve the customer with an accurate and complete verified written notice described in Subsection (3)(c) that identifies each customer served by the municipality beyond its municipal boundary;

(ii) no later than June 15, 2014, the municipality enters into a written filing agreement for the provision of electric service with the electrical corporation; and

(iii) the Public Service Commission approves the written filing agreement in accordance with Section 54-4-40.

(c) The municipality shall include in the written notice required in Subsection (3)(b)(i) for each customer:

(i) the customer's meter number;

(ii) the location of the customer's meter by street address, global positioning system coordinates, metes and bounds description, or other similar method of meter location;

(iii) the customer's class of service; and

(iv) a representation that the customer was receiving service from the municipality on or before June 15, 2013.

(4) The written filing agreement entered into in accordance with Subsection (3)(b)(ii) shall require the following:

(a) The municipality shall provide electric service to a customer identified in accordance with Subsection (3)(b)(i) unless the municipality and the electrical corporation subsequently agree in writing that the electrical corporation will provide electric service to the customer.

(b) If a customer who is located outside the municipal boundary and who is not identified in accordance with Subsection (3)(b)(i) requests service from the municipality after June 15, 2013, the municipality may not provide that customer electric service unless the municipality submits a request to and enters into a written agreement with the electric corporation in accordance with Subsection (5).

(5) (a) A municipality may submit to the electrical corporation a request to provide electric service to an electric customer described in Subsection (4)(b).

(b) If a municipality submits a request, the electrical corporation shall respond to the request within 60 days.

(c) If the electrical corporation agrees to allow the municipality to provide electric service to the customer:

(i) the electrical corporation and the municipality shall enter into a written agreement;

(ii) the municipality shall agree in the written agreement to subsequently transfer service to the customer described in Subsection (4)(b) if the electrical corporation notifies, in writing, the municipality that the electrical corporation has installed a facility capable of providing electric service to the customer; and

(iii) the municipality may provide the service if:

(A) except as provided in Subsection (5)(c)(iii)(B), the Public Service Commission approves the agreement in accordance with Section 54-4-40[-]; or

(B) for an electrical cooperative that meets the requirements of Subsection 54-7-12(7), the governing board of the electrical cooperative approves the agreement.

(d) The municipality or the electrical corporation may terminate the agreement for the provision of electric service if the Public Service Commission imposes a condition authorized in Section 54-4-40 that is a material change to the agreement.

(6) If the municipality and electrical corporation make a transfer described in Subsection (5)(c)(ii):

(a) (i) the municipality shall transfer the electric service customer to the electrical corporation; and

(ii) the electrical corporation shall provide electric service to the customer; and

(b) the municipality shall transfer a facility in accordance with and for the value as provided in Section 10-2-421.

(7) (a) In accordance with Subsection (7)(b), the municipality shall establish a reasonable mechanism for resolving potential future complaints by an electric customer located outside its municipal boundary.

(b) The mechanism shall require:

(i) that the rates and conditions of service for a customer outside the municipality's boundary are at least as favorable as the rates and conditions of service for a similarly situated customer within the municipality's boundary; and

(ii) if the municipality provides a general rebate, refund, or other payment to a customer located within the municipality's boundary, that the municipality also provide the same general rebate, refund, or other payment to a similarly situated customer located outside the municipality's boundary.

(8) The municipality is relieved of any obligation to transfer a customer described in Subsection (4)(b) or facility used to serve the customer in accordance with Subsection (5)(c)(ii) if the municipality annexes the property on which the customer is being served.

(9) (a) A municipality may provide electric service outside of its municipal boundary to a facility that is solely owned and operated by the municipality for municipal service.

(b) A municipality's provision of electric service to a facility that is solely owned and operated by the municipality does not expand the municipality's electric service area.

(10) Nothing in this section expands or diminishes the ability of a municipality to enter into a wholesale electrical sales contract with another municipality that serves electric customers to sell and deliver wholesale electricity to the other municipality.

(11) A municipality's actions under this section related to works or systems involving public telecommunications services or cable television services are subject to the requirements of Chapter 18, Municipal Cable Television and Public Telecommunications Services Act.

Section 2. Section 54-3-30 is amended to read:

54-3-30. Electric utility service within a provider municipality -- Electrical corporation prohibited as provider -- Exceptions -- Notice and agreement -- Transfer of customer.

(1) This section applies to an electrical corporation that intends to provide electric service to a customer:

(a) who is located within the municipal boundary of a municipality that provides electric service; and

(b) who is not described in Subsection 54-3-31(2).

(2) (a) If an electrical corporation is authorized by the commission to provide electric service to a customer in an area adjacent to a municipality, and the municipality provides electric service to a customer located within its municipal boundary, the electrical corporation may not provide electric service to a customer within the municipal boundary unless:

(i) the electrical corporation has entered into a written agreement with the municipality

authorizing the electrical corporation to provide electric service:

(A) to a specified customer or to customers located within a specified area within the municipal boundary; and

(B) in accordance with the terms and conditions of the electrical corporation's tariffs and regulations approved by the commission, or approved by the governing board for an electrical cooperative that meets the requirements of Subsection 54-7-12(7); and

(ii) (A) except as provided in Subsection (2)(a)(ii)(B), the commission approves the agreement in accordance with Section 54-4-40[-]; or

(B) for an electrical cooperative that meets the requirements of Subsection 54-7-12(7), the governing board of the electrical cooperative approves the agreement.

(b) The municipality or the electrical corporation may terminate the agreement for the provision of electric service if the commission imposes a condition authorized in Section 54-4-40 that is a material change to the agreement.

(3) An electrical corporation that enters into an agreement described in Subsection (2)(a) shall transfer service to a customer described in Subsection (2):

(a) at the conclusion of a term specified in the agreement; or

(b) upon termination of the agreement by the electrical corporation in accordance with Subsection (4).

(4) Unless otherwise agreed in writing by the electrical corporation and the municipality, the electrical corporation may terminate an agreement entered into in accordance with Subsection (2)(a) by giving written notice of termination to the municipality:

(a) no earlier than two years before the day of termination; or

(b) within a period of time shorter than two years if otherwise agreed to with the municipality.

(5) Upon termination of an agreement in accordance with Subsection (3)(a), (3)(b), or (4):

(a) (i) the electrical corporation shall transfer the electric service customer to the municipality; and

(ii) the municipality shall provide electric service to the customer; and

(b) the electrical corporation shall transfer a facility in accordance with and for the value as provided in Section 10-2-421.

(6) This section may not be construed to modify or terminate any written franchise agreement or other agreement that expressly provides for electric service by an electrical corporation to a customer within a municipality that was entered into

between an electrical corporation and a municipality on or before June 15, 2013.

Section 3. Section 54-3-31 is amended to read:

54-3-31. Electric utility service within a provider municipality -- Electrical corporation authorized as continuing provider for service provided on or before June 15, 2013 -- Notice of service and agreement -- Transfer of customer.

(1) This section applies to an electrical corporation that:

(a) (i) provides electric service to a customer on or before June 15, 2013, within the municipal boundary of a municipality that provides electric service; ~~and~~ or

(ii) provides electric service to a customer within an area:

(A) established by an agreement dated on or before June 15, 2013, with a municipality; and

(B) within the municipal boundary of a municipality that provides electric service; and

(b) intends to continue providing service to that customer.

(2) Notwithstanding Section 54-3-30, if an electrical corporation provides electric service to a customer ~~[within the municipal boundary of a municipality on or before June 15, 2013]~~ as described in Subsection (1), and the municipality provides electric service to another customer within its municipal boundary, the electrical corporation may continue to provide electric service to the customer within the municipality's boundary after the termination of, or in the absence of, a written agreement, if:

(a) the electrical corporation provides, on or before December 15, 2013, the municipality with an accurate and complete verified written notice, in accordance with Subsection (3), identifying each customer within the municipality served by the electrical corporation on or before June 15, 2013;

(b) the electrical corporation enters into a written agreement with the municipality:

(i) (A) prior to the termination of any prior written agreement; or

(B) in the absence of a written agreement; and

(ii) no later than June 15, 2014; and

(c) (i) except as provided in Subsection (2)(c)(ii), the commission approves the agreement in accordance with Section 54-4-40[-]; or

(ii) for an electrical cooperative that meets the requirements of Subsection 54-7-12(7), the governing board of the electrical cooperative approves the agreement.

(3) The written notice provided in accordance with Subsection (2)(a) shall include for each customer:

(a) the customer's meter number;

(b) the location of the customer's meter by street address, global positioning system coordinates, metes and bounds description, or other similar method of meter location;

(c) the customer's class of service; and

(d) a representation that the customer was receiving service from the electrical corporation on or before June 15, 2013.

(4) The agreement entered into in accordance with Subsection (2) shall require the following:

(a) The electrical corporation is the exclusive electric service provider to a customer identified in the notice described in Subsection (2)(a) unless the municipality and electrical corporation subsequently agree, in writing, that the municipality may provide electric service to the identified customer.

(b) If a customer who is located within the municipal boundary and who is not identified in Subsection (2)(a) requests service after June 15, 2013, from the electrical corporation, the electrical corporation may not provide that customer electric service unless the electrical corporation subsequently submits a request to and enters into a written agreement with the municipality in accordance with Section 54-4-30.

(5) (a) Unless otherwise agreed in writing by the electrical corporation and the municipality, the electrical corporation may terminate an agreement entered into in accordance with Subsection (2)(b) by giving written notice of termination to the municipality:

(i) no earlier than two years before the day of termination; or

(ii) within a period of time shorter than two years if otherwise agreed to with the municipality.

(b) Upon termination of an agreement in accordance with Subsection (5)(a):

(i) (A) the electrical corporation shall transfer an electric service customer located within the municipality to the municipality; and

(B) the municipality shall provide electric service to the customer; and

(ii) the electrical corporation shall transfer a facility in accordance with and for the value as provided in Section 10-2-421.

(6) This section may not be construed to modify or terminate any written franchise agreement or other agreement that expressly provides for electric service by an electrical corporation to a customer within a municipality that was entered into between an electrical corporation and a municipality on or before June 15, 2013.

CHAPTER 56**S. B. 259**

Passed March 13, 2014
 Approved March 25, 2014
 Effective July 1, 2014

**VICTIM REPARATIONS
 FUND AMENDMENTS**

Chief Sponsor: Mark B. Madsen
 House Sponsor: Brian S. King

LONG TITLE**General Description:**

This bill amends provisions related to the Crime Victim Reparations Fund.

Highlighted Provisions:

This bill:

- ▶ allocates appropriated funds under the Crime Victim Reparations Fund to the Office for Victims of Crime.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect July 1, 2014.

Utah Code Sections Affected:**AMENDS:**

51-9-404, as last amended by Laws of Utah 2013, Chapter 400

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

Section 1. Section 51-9-404 is amended to read:

51-9-404. Crime Victims Reparations Fund -- Public Safety Support Account -- Distribution of surcharge amounts.

- (1) In this section:
- (a) "Reparation fund" means the Crime Victim Reparations Fund.
- (b) "Safety account" means the Public Safety Support Account.

(2) (a) There is created an expendable special revenue fund known as the "Crime Victim Reparations Fund" to be administered and distributed as provided in this part by the Utah Office for Victims of Crime under Title 63M, Chapter 7, Part 5, Utah Office for Victims of Crime, in cooperation with the Division of Finance.

(b) Money deposited in this fund is for victim reparations, ~~criminal justice and substance abuse,~~ other victim services, and, as appropriated, for administrative costs of the ~~[Commission on Criminal and Juvenile Justice under Title 63M, Chapter 7, Criminal Justice and Substance Abuse]~~ Office for Victims of Crime in Title 63M, Chapter 7, Part 5.

(3) (a) There is created a restricted account in the General Fund known as the "Public Safety Support Account" to be administered and distributed by the Department of Public Safety in cooperation with the Division of Finance as provided in this part.

(b) Money deposited in this account shall be appropriated to:

(i) the Division of Peace Officer Standards and Training (POST) as described in Title 53, Chapter 6, Peace Officer Standards and Training Act; and

(ii) the Office of the Attorney General for the support of the Utah Prosecution Council established in Title 67, Chapter 5a, and the fulfillment of the council's duties.

(4) The Division of Finance shall allocate from the collected surcharge established in Section 51-9-401:

- (a) 35% to the Crime Victim Reparations Fund;
- (b) 18.5% to the safety account for POST, but not to exceed the amount appropriated by the Legislature; and
- (c) 3% to the safety account for support of the Utah Prosecution Council, but not to exceed the amount appropriated by the Legislature.

(5) (a) In addition to the funding provided by other sections of this part, a percentage of the income earned by inmates working for correctional industries in a federally certified private sector/prison industries enhancement program shall be deposited in the Crime Victim Reparations Fund.

(b) The percentage of income deducted from inmate pay under Subsection (5)(a) shall be determined by the executive director of the Department of Corrections in accordance with the requirements of the private sector/prison industries enhancement program.

(6) (a) In addition to other money collected from the surcharge, judges are encouraged to, and may in their discretion, impose additional reparations to be paid into the Crime Victim Reparations Fund by convicted criminals.

(b) The additional discretionary reparations may not exceed the statutory maximum fine permitted by Title 76, Utah Criminal Code, for that offense.

Section 2. Effective date.

This bill takes effect July 1, 2014.

CHAPTER 57**H. B. 14**

Passed February 24, 2014

Approved March 27, 2014

Effective July 1, 2014

**ADMINISTRATIVE
RULEMAKING AMENDMENTS**

Chief Sponsor: Curtis Oda

Senate Sponsor: Howard A. Stephenson

LONG TITLE**General Description:**

This bill modifies Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Highlighted Provisions:

This bill:

- ▶ modifies the five-year review filing requirements;
- ▶ provides that the division's failure to give an agency notice of a five-year review deadline does not exempt the agency's compliance with the provisions in this bill;
- ▶ clarifies the penalty for an agency's failure to timely comply with the five-year review requirements; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2014.

Utah Code Sections Affected:**AMENDS:**

63G-3-305, as last amended by Laws of Utah 2012, Chapter 384

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

Section 1. Section 63G-3-305 is amended to read:**63G-3-305. Agency review of rules --
Schedule of filings -- Limited exemption
for certain rules.**

(1) Each agency shall review each of its rules within five years [of] after the rule's original effective date or within five years [of] after the filing of the last five-year review, whichever is later. [Rules effective prior to 1992 need not be reviewed until 1997.]

(2) An agency may consider any substantial review of a rule to be a five-year review. [If the agency chooses to consider a review a five-year review, it shall follow the procedures outlined in Subsection (3)] if the agency also meets the requirements described in Subsection (3).

(3) At the conclusion of its review, and no later than the deadline described in Subsection (1), the agency shall [file a notice of review on or before the anniversary date indicating its intent to continue, amend, or repeal the rule] decide whether to continue, repeal, or amend and continue the rule

and comply with Subsections (3)(a) through (c), as applicable.

(a) If the agency continues the rule, [it shall file a statement which includes] the agency shall file with the division a five-year notice of review and statement of continuation that includes:

(i) a concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require the rule;

(ii) a summary of written comments received during and since the last five-year review of the rule from interested persons supporting or opposing the rule; and

(iii) a reasoned justification for continuation of the rule, including reasons why the agency disagrees with comments in opposition to the rule, if any.

(b) If the agency repeals the rule, [it] the agency shall:

(i) comply with Section 63G-3-301[-]; and

(ii) in the rule analysis described in Section 63G-3-301, state that the repeal is the result of the agency's five-year review under this section.

(c) If the agency amends and continues the rule, [it] the agency shall comply with the requirements [of] described in Section 63G-3-301 and file [the statement] with the division the five-year notice of review and statement of continuation required in Subsection (3)(a).

(4) [(a)] The division shall publish [the] a five-year notice of review and statement of continuation in the bulletin no later than one year after the deadline described in Subsection (1).

[(b) The division may schedule the publication of agency notices and statements, provided that no notice and statement shall be published more than one year after the review deadline established under Subsection (1).]

(5) (a) The division shall make a reasonable effort to notify an agency [of rules] that a rule is due for review at least 180 days [prior to the anniversary date] before the deadline described in Subsection (1).

(b) The division's failure to comply with the requirement described in Subsection (5)(a) does not exempt an agency from complying with any provision of this section.

(6) If an agency finds that it will not meet the deadline established in Subsection (1):

(a) before the deadline described in Subsection (1), the agency may file [an] one extension [prior to the anniversary date] with the division indicating the reason for the extension; and

(b) the division shall publish notice of the extension in [the next issue of] the bulletin in accordance with the division's publication schedule established by division rule under Section 63G-3-402.

(7) An extension permits the agency to ~~file a notice no more than~~ comply with the requirements described in Subsections (1) and (3) up to 120 days after the ~~anniversary date~~ deadline described in Subsection (1).

(8) (a) If an agency ~~fails to file a notice of review or~~ does not comply with the requirements described in Subsection (3), and does not file an extension ~~on or before the date specified in the notice mandated in Subsection (5), the division shall~~ under Subsection (6), the rule expires automatically on the day immediately after the date of the missed deadline.

(b) If an agency files an extension under Subsection (6) and does not comply with the requirements described in Subsection (3) within 120 days after the day on which the deadline described in Subsection (1) expires, the rule expires automatically on the day immediately after the date of the missed deadline.

(9) After a rule expires under Subsection (8), the division shall:

(a) publish a notice in the next issue of the bulletin that the rule has expired and is no longer enforceable;

(b) remove the rule from the code; and

(c) notify the agency that the rule has expired.

~~[(9)]~~ (10) After a rule expires, an agency must comply with the requirements of Section 63G-3-301 to reenact the rule.

Section 2. Effective date.

This bill takes effect on July 1, 2014.

CHAPTER 58**H. B. 18**

Passed February 18, 2014

Approved March 27, 2014

Effective May 13, 2014

DRIVER LICENSE AMENDMENTS

Chief Sponsor: Stephen G. Handy
Senate Sponsor: Jerry W. Stevenson

LONG TITLE**General Description:**

This bill modifies Title 53, Chapter 3, Uniform Driver License Act, by amending provisions relating to driver licenses.

Highlighted Provisions:

This bill:

- ▶ provides that a person who is 17 years of age or younger is eligible for a driver license certificate if the person has held an equivalent learner permit issued by another state or branch of the United States Armed Forces for six months; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53-3-204, as last amended by Laws of Utah 2012, Chapters 176 and 335

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

Section 1. Section 53-3-204 is amended to read:**53-3-204. Persons who may not be licensed.**

(1) (a) The division may not license a person who:

- (i) is younger than 16 years of age;
- (ii) if the person is 18 years of age or younger, has not completed a course in driver training approved by the commissioner;
- (iii) if the person is 19 years of age or older has not completed:

(A) a course in driver training approved by the commissioner; or

(B) the requirements under Subsection 53-3-210.5(6)(c);

(iv) if the person is a minor as defined in Section 53-3-211, has not completed the driving requirement under Section 53-3-211;

(v) is not a resident of the state, unless the person is issued a temporary CDL under Subsection 53-3-407(2)(b); or

(vi) if the person is 17 years of age or younger, has not held a learner permit issued under Section 53-3-210.5 or an equivalent by another state or

branch of the United States Armed Forces for six months.

(b) Subsections (1)(a)(i), (ii), (iii), [and] (iv), and (vi) do not apply to a person:

- (i) who has been licensed before July 1, 1967; or
- (ii) who is 16 years of age or older making application for a license who has been licensed in another state or country.

(2) The division may not issue a license certificate to a person:

(a) whose license has been suspended, denied, cancelled, or disqualified during the period of suspension, denial, cancellation, or disqualification;

(b) whose privilege has been revoked, except as provided in Section 53-3-225;

(c) who has previously been adjudged mentally incompetent and who has not at the time of application been restored to competency as provided by law;

(d) who is required by this chapter to take an examination unless the person successfully passes the examination;

(e) whose driving privileges have been denied or suspended under:

(i) Section 78A-6-606 by an order of the juvenile court; or

(ii) Section 53-3-231; or

(f) beginning on or after July 1, 2012, who holds an unexpired Utah identification card issued under Part 8, Identification [Cards] Card Act, unless:

(i) the Utah identification card is canceled; and

(ii) if the Utah identification card is in the person's possession, the Utah identification card is surrendered to the division.

(3) (a) Except as provided in Subsection (3)(c), the division may not grant a motorcycle endorsement to a person who:

(i) has not been granted an original or provisional class D license, a CDL, or an out-of-state equivalent to an original or provisional class D license or a CDL; and

(ii) if the person is under 19 years of age, has not held a motorcycle learner permit for two months unless Subsection (3)(b) applies.

(b) The division may waive the two month motorcycle learner permit holding period requirement under Subsection (3)(a)(ii) if the person proves to the satisfaction of the division that the person has completed a motorcycle rider education program that meets the requirements under Section 53-3-903.

(c) The division may grant a motorcycle endorsement to a person under 19 years of age who has not held a motorcycle learner permit for two months if the person was issued a motorcycle endorsement prior to July 1, 2008.

(4) The division may grant a class D license to a person whose commercial license is disqualified under Part 4, Uniform Commercial Driver License Act, if the person is not otherwise sanctioned under this chapter.

CHAPTER 59**H. B. 25**

Passed February 20, 2014

Approved March 27, 2014

Effective May 13, 2014

EMINENT DOMAIN AMENDMENTS

Chief Sponsor: Lee B. Perry
Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill amends provisions of the eminent domain code.

Highlighted Provisions:

This bill:

- ▶ amends condemnation notice requirements for a municipality and project entity;
- ▶ amends provisions relating to an arbitration or mediation facilitated by the Office of the Property Rights Ombudsman;
- ▶ authorizes a private property owner to request a written advisory opinion to determine if a condemning entity has occupied the owner's property;
- ▶ amends the public uses for which the right of eminent domain may be exercised;
- ▶ requires a political subdivision or other person exercising the right of eminent domain to provide a written statement of certain disclosures to a private property owner; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 10-8-2, as last amended by Laws of Utah 2013, Chapter 445
11-13-314, as last amended by Laws of Utah 2008, Chapter 3
13-43-204, as last amended by Laws of Utah 2011, Chapter 385
13-43-205, as last amended by Laws of Utah 2013, Chapter 200
13-43-206, as last amended by Laws of Utah 2011, Chapter 47
78B-6-501, as last amended by Laws of Utah 2013, Chapter 327
78B-6-505, as last amended by Laws of Utah 2013, Chapter 327
78B-6-522, as last amended by Laws of Utah 2011, Chapter 385

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

Section 1. Section 10-8-2 is amended to read:

10-8-2. Appropriations -- Acquisition and disposal of property -- Municipal authority -- Corporate purpose -- Procedure -- Notice of intent to acquire real property.

(1) (a) A municipal legislative body may:

- (i) appropriate money for corporate purposes only;
- (ii) provide for payment of debts and expenses of the corporation;

(iii) subject to Subsections (4) and (5), purchase, receive, hold, sell, lease, convey, and dispose of real and personal property for the benefit of the municipality, whether the property is within or without the municipality's corporate boundaries, if the action is in the public interest and complies with other law;

(iv) improve, protect, and do any other thing in relation to this property that an individual could do; and

(v) subject to Subsection (2) and after first holding a public hearing, authorize municipal services or other nonmonetary assistance to be provided to or waive fees required to be paid by a nonprofit entity, whether or not the municipality receives consideration in return.

(b) A municipality may:

(i) furnish all necessary local public services within the municipality;

(ii) purchase, hire, construct, own, maintain and operate, or lease public utilities located and operating within and operated by the municipality; and

(iii) subject to Subsection (1)(c), acquire by eminent domain, or otherwise, property located inside or outside the corporate limits of the municipality and necessary for any of the purposes stated in Subsections (1)(b)(i) and (ii), subject to restrictions imposed by Title 78B, Chapter 6, Part 5, Eminent Domain, and general law for the protection of other communities.

(c) Each municipality that intends to acquire property by eminent domain under Subsection (1)(b) shall, ~~upon the first contact with the owner of the property sought to be acquired, deliver to the owner a copy of a booklet or other materials provided by the Office of the Property Rights Ombudsman, created under Section 13-43-201, dealing with the property owner's rights in an eminent domain proceeding~~ comply with the requirements of Section 78B-6-505.

(d) Subsection (1)(b) may not be construed to diminish any other authority a municipality may claim to have under the law to acquire by eminent domain property located inside or outside the municipality.

(2) (a) Services or assistance provided pursuant to Subsection (1)(a)(v) is not subject to the provisions of Subsection (3).

(b) The total amount of services or other nonmonetary assistance provided or fees waived under Subsection (1)(a)(v) in any given fiscal year may not exceed 1% of the municipality's budget for that fiscal year.

(3) It is considered a corporate purpose to appropriate money for any purpose that, in the

judgment of the municipal legislative body, provides for the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of the inhabitants of the municipality subject to the following:

(a) The net value received for any money appropriated shall be measured on a project-by-project basis over the life of the project.

(b) The criteria for a determination under this Subsection (3) shall be established by the municipality's legislative body. A determination of value received, made by the municipality's legislative body, shall be presumed valid unless it can be shown that the determination was arbitrary, capricious, or illegal.

(c) The municipality may consider intangible benefits received by the municipality in determining net value received.

(d) (i) Prior to the municipal legislative body making any decision to appropriate any funds for a corporate purpose under this section, a public hearing shall be held.

(ii) Notice of the hearing described in Subsection (3)(d)(i) shall be published:

(A) (I) in a newspaper of general circulation at least 14 days before the date of the hearing; or

(II) if there is no newspaper of general circulation, by posting notice in at least three conspicuous places within the municipality for the same time period; and

(B) on the Utah Public Notice Website created in Section 63F-1-701, at least 14 days before the date of the hearing.

(e) A study shall be performed before notice of the public hearing is given and shall be made available at the municipality for review by interested parties at least 14 days immediately prior to the public hearing, setting forth an analysis and demonstrating the purpose for the appropriation. In making the study, the following factors shall be considered:

(i) what identified benefit the municipality will receive in return for any money or resources appropriated;

(ii) the municipality's purpose for the appropriation, including an analysis of the way the appropriation will be used to enhance the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of the inhabitants of the municipality; and

(iii) whether the appropriation is necessary and appropriate to accomplish the reasonable goals and objectives of the municipality in the area of economic development, job creation, affordable housing, blight elimination, job preservation, the preservation of historic structures and property, and any other public purpose.

(f) (i) An appeal may be taken from a final decision of the municipal legislative body, to make an appropriation.

(ii) The appeal shall be filed within 30 days after the date of that decision, to the district court.

(iii) Any appeal shall be based on the record of the proceedings before the legislative body.

(iv) A decision of the municipal legislative body shall be presumed to be valid unless the appealing party shows that the decision was arbitrary, capricious, or illegal.

(g) The provisions of this Subsection (3) apply only to those appropriations made after May 6, 2002.

(h) This section applies only to appropriations not otherwise approved pursuant to Title 10, Chapter 5, Uniform Fiscal Procedures Act for Utah Towns, or Title 10, Chapter 6, Uniform Fiscal Procedures Act for Utah Cities.

(4) (a) Before a municipality may dispose of a significant parcel of real property, the municipality shall:

(i) provide reasonable notice of the proposed disposition at least 14 days before the opportunity for public comment under Subsection (4)(a)(ii); and

(ii) allow an opportunity for public comment on the proposed disposition.

(b) Each municipality shall, by ordinance, define what constitutes:

(i) a significant parcel of real property for purposes of Subsection (4)(a); and

(ii) reasonable notice for purposes of Subsection (4)(a)(i).

(5) (a) Except as provided in Subsection (5)(d), each municipality intending to acquire real property for the purpose of expanding the municipality's infrastructure or other facilities used for providing services that the municipality offers or intends to offer shall provide written notice, as provided in this Subsection (5), of its intent to acquire the property if:

(i) the property is located:

(A) outside the boundaries of the municipality; and

(B) in a county of the first or second class; and

(ii) the intended use of the property is contrary to:

(A) the anticipated use of the property under the general plan of the county in whose unincorporated area or the municipality in whose boundaries the property is located; or

(B) the property's current zoning designation.

(b) Each notice under Subsection (5)(a) shall:

(i) indicate that the municipality intends to acquire real property;

(ii) identify the real property; and

(iii) be sent to:

(A) each county in whose unincorporated area and each municipality in whose boundaries the property is located; and

(B) each affected entity.

(c) A notice under this Subsection (5) is a protected record as provided in Subsection 63G-2-305(8).

(d) (i) The notice requirement of Subsection (5)(a) does not apply if the municipality previously provided notice under Section 10-9a-203 identifying the general location within the municipality or unincorporated part of the county where the property to be acquired is located.

(ii) If a municipality is not required to comply with the notice requirement of Subsection (5)(a) because of application of Subsection (5)(d)(i), the municipality shall provide the notice specified in Subsection (5)(a) as soon as practicable after its acquisition of the real property.

Section 2. Section 11-13-314 is amended to read:

11-13-314. Eminent domain authority of certain commercial project entities.

(1) (a) Subject to Subsection (2), a commercial project entity that existed as a project entity before January 1, 1980 may, with respect to a project or facilities providing additional project capacity in which the commercial project entity has an interest, acquire property within the state through eminent domain, subject to restrictions imposed by Title 78B, Chapter 6, Part 5, Eminent Domain, and general law for the protection of other communities.

(b) Subsection (1)(a) may not be construed to:

(i) give a project entity the authority to acquire water rights by eminent domain; or

(ii) diminish any other authority a project entity may claim to have under the law to acquire property by eminent domain.

(2) Each project entity that intends to acquire property by eminent domain under Subsection (1)(a) shall, ~~upon the first contact with the owner of the property sought to be acquired, deliver to the owner a copy of a booklet or other materials provided by the property rights ombudsman, created under Section 13-43-201, dealing with the property owner's rights in an eminent domain proceeding~~ comply with the requirements of Section 78B-6-505.

Section 3. Section 13-43-204 is amended to read:

13-43-204. Office of the Property Rights Ombudsman -- Arbitration or mediation of disputes.

(1) If requested by the private property owner and if otherwise appropriate, the Office of the Property Rights Ombudsman shall mediate, or conduct or arrange arbitration for, a dispute

between the owner and a government entity or other type of condemning entity:

(a) involving taking or eminent domain issues;

(b) involved in an action for eminent domain under Title 78B, Chapter 6, Part 5, Eminent Domain; or

(c) involving relocation assistance under Title 57, Chapter 12, Utah Relocation Assistance Act.

(2) If arbitration or mediation is requested by a private property owner under this section, Section 57-12-14 or 78B-6-522, and arranged by the Office of the Property Rights Ombudsman, the government entity or condemning entity shall participate in the mediation or arbitration as if the matter were ordered to mediation or arbitration by a court.

(3) (a) (i) In conducting or arranging for arbitration under Subsection (1), the Office of the Property Rights Ombudsman shall follow the procedures and requirements of Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(ii) In applying Title 78B, Chapter 11, Utah Uniform Arbitration Act, the arbitrator and parties shall treat the matter as if:

(A) it were ordered to arbitration by a court; and

(B) the Office of the Property Rights Ombudsman or other arbitrator chosen as provided for in this section was appointed as arbitrator by the court.

(iii) For the purpose of an arbitration conducted under this section, if the dispute to be arbitrated is not already the subject of legal action, the district court having jurisdiction over the county where the private property involved in the dispute is located is the court referred to in Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(iv) An arbitration award under this chapter may not be vacated under the provisions of Subsection 78B-11-124(1)(e) because of the lack of an arbitration agreement between the parties.

(b) The Office of the Property Rights Ombudsman shall issue a written statement declining to mediate, arbitrate, or to appoint an arbitrator when, in the opinion of the Office of the Property Rights Ombudsman:

(i) the issues are not ripe for review;

(ii) assuming the alleged facts are true, no cause of action exists under United States or Utah law;

(iii) all issues raised are beyond the scope of the Office of the Property Rights Ombudsman's statutory duty to review; or

(iv) the mediation or arbitration is otherwise not appropriate.

(c) (i) The Office of the Property Rights Ombudsman shall appoint another person to arbitrate a dispute when:

(A) either party objects to the Office of the Property Rights Ombudsman serving as the

arbitrator and agrees to pay for the services of another arbitrator;

(B) the Office of the Property Rights Ombudsman declines to arbitrate the dispute for a reason other than those stated in Subsection (3)(b) and one or both parties are willing to pay for the services of another arbitrator; or

(C) the Office of the Property Rights Ombudsman determines that it is appropriate to appoint another person to arbitrate the dispute with no charge to the parties for the services of the appointed arbitrator.

(ii) In appointing another person to arbitrate a dispute, the Office of the Property Rights Ombudsman shall appoint an arbitrator who is agreeable to:

(A) both parties; or

(B) the Office of the Property Rights Ombudsman and the party paying for the arbitrator.

(iii) The Office of the Property Rights Ombudsman may, on its own initiative or upon agreement of both parties, appoint a panel of arbitrators to conduct the arbitration.

(iv) The Department of Commerce may pay an arbitrator per diem and reimburse expenses incurred in the performance of the arbitrator's duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(d) In arbitrating a dispute, the arbitrator shall apply the relevant statutes, case law, regulations, and rules of Utah and the United States in conducting the arbitration and in determining the award.

(e) The property owner and government entity, or other condemning entity, may agree in advance of arbitration that the arbitration is binding and that no de novo review may occur.

(f) Arbitration by or through the Office of the Property Rights Ombudsman is not necessary before bringing legal action to adjudicate any claim.

(g) The lack of arbitration by or through the Office of the Property Rights Ombudsman does not constitute, and may not be interpreted as constituting, a failure to exhaust available administrative remedies or as a bar to bringing legal action.

(h) Arbitration under this section is not subject to Title 63G, Chapter 4, Administrative Procedures Act, or Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act.

(i) Within 30 days after an arbitrator issues a final award, and except as provided in Subsection (3)(e), any party to the arbitration may submit the dispute, the award, or any issue upon which the award is based, to the district court for review by trial de novo.

(4) The filing with the Office of the Property Rights Ombudsman of a request for mediation or

arbitration of a constitutional taking issue does not stay ~~any~~:

~~(a) a county or municipal land use decision, including the decision of a board of adjustment;~~

(b) a land use appeal authority decision; or

(c) the occupancy of the property.

(5) ~~[Members]~~ A member of the Office of the Property Rights Ombudsman, or an arbitrator appointed by the office, may not be compelled to testify in a civil action filed concerning the subject matter of any review, mediation, or arbitration by the Office of the Property Rights Ombudsman.

Section 4. Section 13-43-205 is amended to read:

13-43-205. Advisory opinion.

(1) A local government, private entity, or a potentially aggrieved person may, in accordance with Section 13-43-206, request a written advisory opinion:

~~[(1)]~~ (a) from a neutral third party to determine compliance with:

~~[(a)]~~ (i) Section 10-9a-505.5 and Sections 10-9a-507 through 10-9a-511;

~~[(b)]~~ (ii) Section 17-27a-505.5 and Sections 17-27a-506 through 17-27a-510; and

~~[(e)]~~ (iii) Title 11, Chapter 36a, Impact Fees Act; and

~~[(2)-(a)]~~ (b) at any time before:

(i) a final decision on a land use application by a local appeal authority under Title 11, Chapter 36a, Impact Fees Act, or Section 10-9a-708 or 17-27a-708;

~~[(b) at any time before]~~ (ii) the deadline for filing an appeal with the district court under Title 11, Chapter 36a, Impact Fees Act, or Section 10-9a-801 or 17-27a-801, if no local appeal authority is designated to hear the issue that is the subject of the request for an advisory opinion; or

~~[(e) at any time prior to]~~ (iii) the enactment of an impact fee, if the request for an advisory opinion is a request to review and comment on a proposed impact fee facilities plan or a proposed impact fee analysis as defined in Section 11-36a-102.

(2) A private property owner may, in accordance with Section 13-43-206, request a written advisory opinion from a neutral third party to determine if a condemning entity:

(a) is in occupancy of the owner's property;

(b) is occupying the property:

(i) for a public use authorized by law; and

(ii) without colorable legal or equitable authority; and

(c) continues to occupy the property without the owner's consent, the occupancy would constitute a taking of private property for a public use without just compensation.

(3) An advisory opinion issued under Subsection (2) may justify an award of attorney fees against a condemning entity in accordance with Section 13-43-206 only if the court finds that the condemning entity:

(a) does not have a colorable claim or defense for the entity's actions; and

(b) continued occupancy without payment of just compensation and in disregard of the advisory opinion.

Section 5. Section 13-43-206 is amended to read:

13-43-206. Advisory opinion -- Process.

(1) A request for an advisory opinion under Section 13-43-205 shall be:

(a) filed with the Office of the Property Rights Ombudsman; and

(b) accompanied by a filing fee of \$150.

(2) The Office of the Property Rights Ombudsman may establish policies providing for partial fee waivers for a person who is financially unable to pay the entire fee.

(3) A person requesting an advisory opinion need not exhaust administrative remedies, including remedies described under Section 10-9a-801 or 17-27a-801, before requesting an advisory opinion.

(4) The Office of the Property Rights Ombudsman shall:

(a) deliver notice of the request to opposing parties indicated in the request;

(b) inquire of all parties if there are other necessary parties to the dispute; and

(c) deliver notice to all necessary parties.

(5) If a governmental entity is an opposing party, the Office of the Property Rights Ombudsman shall deliver the request in the manner provided for in Section 63G-7-401.

(6) (a) The Office of the Property Rights Ombudsman shall promptly determine if the parties can agree to a neutral third party to issue an advisory opinion.

(b) If no agreement can be reached within four business days after notice is delivered pursuant to Subsections (4) and (5), the Office of the Property Rights Ombudsman shall appoint a neutral third party to issue an advisory opinion.

(7) All parties that are the subject of the request for advisory opinion shall:

(a) share equally in the cost of the advisory opinion; and

(b) provide financial assurance for payment that the neutral third party requires.

(8) The neutral third party shall comply with the provisions of Section 78B-11-109, and shall promptly:

(a) seek a response from all necessary parties to the issues raised in the request for advisory opinion;

(b) investigate and consider all responses; and

(c) issue a written advisory opinion within 15 business days after the appointment of the neutral third party under Subsection (6)(b), unless:

(i) the parties agree to extend the deadline; or

(ii) the neutral third party determines that the matter is complex and requires additional time to render an opinion, which may not exceed 30 calendar days.

(9) An advisory opinion shall include a statement of the facts and law supporting the opinion's conclusions.

(10) (a) Copies of any advisory opinion issued by the Office of the Property Rights Ombudsman shall be delivered as soon as practicable to all necessary parties.

(b) A copy of the advisory opinion shall be delivered to the government entity in the manner provided for in Section 63G-7-401.

(11) An advisory opinion issued by the Office of the Property Rights Ombudsman is not binding on any party to, nor admissible as evidence in, a dispute involving land use law except as provided in Subsection (12).

(12) (a) Subject to Subsection (12)(d), if the same issue that is the subject of an advisory opinion is listed as a cause of action in litigation, and that cause of action is litigated on the same facts and circumstances and is resolved consistent with the advisory opinion:

(i) the substantially prevailing party on that cause of action:

(A) may collect reasonable attorney fees and court costs pertaining to the development of that cause of action from the date of the delivery of the advisory opinion to the date of the court's resolution; and

(B) shall be refunded an impact fee held to be in violation of Title 11, Chapter 36a, Impact Fees Act, based on the difference between the impact fee paid and what the impact fee should have been if the government entity had correctly calculated the impact fee; and

(ii) in accordance with Subsection (12)(b), a government entity shall refund an impact fee held to be in violation of Title 11, Chapter 36a, Impact Fees Act, to the person who was in record title of the property on the day on which the impact fee for the property was paid if:

(A) the impact fee was paid on or after the day on which the advisory opinion on the impact fee was issued but before the day on which the final court ruling on the impact fee is issued; and

(B) the person described in Subsection (12)(a)(ii) requests the impact fee refund from the government entity within 30 days after the day on which the court issued the final ruling on the impact fee.

(b) A government entity subject to Subsection (12)(a)(ii) shall refund the impact fee based on the difference between the impact fee paid and what the impact fee should have been if the government entity had correctly calculated the impact fee.

(c) Nothing in this Subsection (12) is intended to create any new cause of action under land use law.

(d) Subsection (12)(a) does not apply unless the resolution described in Subsection (12)(a) is final.

(13) Unless filed by the local government, a request for an advisory opinion under Section 13-43-205 does not stay the progress of a land use application, ~~the~~ the effect of a land use decision~~[-]~~, or the condemning entity's occupancy of a property.

Section 6. Section 78B-6-501 is amended to read:

78B-6-501. Eminent domain -- Uses for which right may be exercised.

Subject to the provisions of this part, the right of eminent domain may be exercised on behalf of the following public uses:

(1) all public uses authorized by the federal government;

(2) public buildings and grounds for the use of the state, and all other public uses authorized by the Legislature;

(3) (a) public buildings and grounds for the use of any county, city, town, or board of education;

(b) reservoirs, canals, aqueducts, flumes, ditches, or pipes for conducting water or sewage, including to or from a development, for the use of the inhabitants of any county, city, or town, or for the draining of any county, city, or town;

(c) the raising of the banks of streams, removing obstructions from streams, and widening, deepening, or straightening their channels;

(d) bicycle paths and sidewalks adjacent to paved roads;

(e) roads, byroads, streets, and alleys for public vehicular use, including for access to a development, excluding trails, paths, or other ways for walking, hiking, bicycling, equestrian use, or other recreational uses, or whose primary purpose is as a foot path, equestrian trail, bicycle path, or walkway; and

(f) all other public uses for the benefit of any county, city, or town, or its inhabitants;

(4) wharves, docks, piers, chutes, booms, ferries, bridges, toll roads, byroads, plank and turnpike roads, roads for transportation by traction engines or road locomotives, roads for logging or lumbering purposes, and railroads and street railways for public transportation;

(5) reservoirs, dams, watergates, canals, ditches, flumes, tunnels, aqueducts and pipes for the supplying of persons, mines, mills, smelters or other works for the reduction of ores, with water for domestic or other uses, or for irrigation purposes, or

for the draining and reclaiming of lands, ~~or for the floating of logs and lumber on streams not navigable,~~ or for solar evaporation ponds and other facilities for the recovery of minerals in solution;

(6) (a) roads, railroads, tramways, tunnels, ditches, flumes, pipes, and dumping places to access or facilitate the milling, smelting, or other reduction of ores, or the working of mines, quarries, coal mines, or mineral deposits including oil, gas, and minerals in solution;

(b) outlets, natural or otherwise, for the deposit or conduct of tailings, refuse or water from mills, smelters or other works for the reduction of ores, or from mines, quarries, coal mines or mineral deposits including minerals in solution;

(c) mill dams;

(d) gas, oil or coal pipelines, tanks or reservoirs, including any subsurface stratum or formation in any land for the underground storage of natural gas, and in connection with that, any other interests in property which may be required to adequately examine, prepare, maintain, and operate underground natural gas storage facilities;

(e) solar evaporation ponds and other facilities for the recovery of minerals in solution; and

(f) any occupancy in common by the owners or possessors of different mines, quarries, coal mines, mineral deposits, mills, smelters, or other places for the reduction of ores, or any place for the flow, deposit or conduct of tailings or refuse matter;

(7) byroads leading from a highway to:

(a) a residence; or

(b) a farm;

(8) ~~telegraph, telephone~~ telecommunications, electric light and electric power lines, ~~and~~ sites for electric light and power plants, or sites for the transmission of broadcast signals from a station licensed by the Federal Communications Commission in accordance with 47 C.F.R. Part 73 and that provides emergency broadcast services;

(9) sewage service for:

(a) a city, a town, or any settlement of not fewer than 10 families;

(b) a public building belonging to the state; or

(c) a college or university;

(10) canals, reservoirs, dams, ditches, flumes, aqueducts, and pipes for supplying and storing water for the operation of machinery for the purpose of generating and transmitting electricity for power, light or heat;

(11) cemeteries and public parks, except for a park whose primary use is:

(a) as a trail, path, or other way for walking, hiking, bicycling, or equestrian use; or

(b) to connect other trails, paths, or other ways for walking, hiking, bicycling, or equestrian use;

~~[(12) pipelines for the purpose of conducting any and all liquids connected with the manufacture of beet sugar; and]~~

[43] (12) sites for mills, smelters or other works for the reduction of ores and necessary to their successful operation, including the right to take lands for the discharge and natural distribution of smoke, fumes, and dust, produced by the operation of works, provided that the powers granted by this section may not be exercised in any county where the population exceeds 20,000, or within one mile of the limits of any city or incorporated town nor unless the proposed condemner has the right to operate by purchase, option to purchase or easement, at least 75% in value of land acreage owned by persons or corporations situated within a radius of four miles from the mill, smelter or other works for the reduction of ores; nor beyond the limits of the four-mile radius; nor as to lands covered by contracts, easements, or agreements existing between the condemner and the owner of land within the limit and providing for the operation of such mill, smelter, or other works for the reduction of ores; nor until an action shall have been commenced to restrain the operation of such mill, smelter, or other works for the reduction of ores.

Section 7. Section 78B-6-505 is amended to read:

78B-6-505. Negotiation and disclosure required before filing an eminent domain action.

(1) A political subdivision of the state that seeks to acquire property by eminent domain or that intends to use eminent domain to acquire property if the property cannot be acquired in a voluntary transaction shall:

(a) before the governing body, as defined in Subsection 78B-6-504(2)(a), of the political subdivision takes a final vote to approve the filing of an eminent domain action, make a reasonable effort to negotiate with the property owner for the purchase of the property; and

(b) except as provided in Subsection [43] (4), as early in the negotiation process described in Subsection (1)(a) as practicable, but no later than 14 days before the day on which a final vote is taken to approve the filing of an eminent domain action:

~~(i) advise the property owner of the owner's rights to mediation and arbitration under Section 78B-6-522, including the name and current telephone number of the property rights ombudsman, established in Title 13, Chapter 43, Property Rights Ombudsman Act;~~

~~(ii) provide the property owner a complete printed copy of the materials provided on the Office of the Property Rights Ombudsman website in accordance with Section 13-43-203 regarding the acquisition of property for a public purpose and a property owner's right to just compensation; and~~

~~(iii) provide the property owner a written statement [explaining that oral representations or promises made during the negotiation process are not binding upon the person seeking to acquire the property by eminent domain.] in substantially the following form:~~

"Although this letter is provided as part of an attempt to negotiate with you for the sale of your property or an interest in your property without using the power of eminent domain, [name of political subdivision] may use that power if it is not able to acquire the property by negotiation. Because of that potential, the person negotiating on behalf of the entity is required to provide the following disclosures to you.

1. You are entitled to receive just compensation for your property.

2. You are entitled to an opportunity to negotiate with [name of political subdivision] over the amount of just compensation before any legal action will be filed.

a. You are entitled to an explanation of how the compensation offered for your property was calculated.

b. If an appraiser is asked to value your property, you are entitled to accompany the appraiser during an inspection of the property.

3. You are entitled to discuss this case with the attorneys at the Office of the Property Rights Ombudsman. The office may be reached at [provide the current contact information for the Office of the Property Rights Ombudsman].

4. The Office of the Property Rights Ombudsman is a neutral state office staffed by attorneys experienced in eminent domain. Their purpose is to assist citizens in understanding and protecting their property rights. You are entitled to ask questions and request an explanation of your legal options.

5. If you have a dispute with [name of political subdivision] over the amount of just compensation due to you, you are entitled to request free mediation or arbitration of the dispute from the Office of the Property Rights Ombudsman. As part of mediation or arbitration, you are entitled to request a free independent valuation of the property.

6. Oral representations or promises made during the negotiation process are not binding upon the entity seeking to acquire the property by eminent domain."

(2) Except as provided in Subsection (4), the entity involved in the acquisition of property may not bring a legal action to acquire the property under this chapter until 30 days after the day on which the disclosure and materials required in Subsection (1)(b)(ii) are provided to the property owner.

~~(2) (3) A person, other than a political subdivision of the state, that seeks to acquire property by eminent domain or that intends to use eminent domain to acquire property if the property cannot be acquired in a voluntary transaction shall:~~

~~(a) before filing an eminent domain action, make a reasonable effort to negotiate with the property owner for the purchase of the property; and~~

~~(b) except as provided in Subsection [43] (4), as early in the negotiation process described in~~

Subsection ~~[(2)]~~ (3)(a) as practicable, but no later than ~~[14]~~ 30 days before the day on which the person files an eminent domain action:

~~[(i)]~~ advise the property owner of the owner's rights to mediation and arbitration under Section 78B-6-522, including the name and current telephone number of the property rights ombudsman, established in Title 13, Chapter 43, Property Rights Ombudsman Act;

~~[(ii)]~~ (i) provide the property owner a complete printed copy of the materials provided on the Office of the Property Rights Ombudsman website in accordance with Section 13-43-203 regarding the acquisition of property for a public purpose and a property owner's right to just compensation; and

~~[(iii)]~~ (ii) provide the property owner a written statement ~~[explaining that oral representations or promises made during the negotiation process are not binding upon the person seeking to acquire the property by eminent domain.]~~ in substantially the following form:

"Although this letter is provided as part of an attempt to negotiate with you for the sale of your property or an interest in your property without using the power of eminent domain, [name of entity] may use that power if it is not able to acquire the property by negotiation. Because of that potential, the person negotiating on behalf of the entity is required to provide the following disclosures to you.

1. You are entitled to receive just compensation for your property.

2. You are entitled to an opportunity to negotiate with [name of entity] over the amount of just compensation before any legal action will be filed.

a. You are entitled to an explanation of how the compensation offered for your property was calculated.

b. If an appraiser is asked to value your property, you are entitled to accompany the appraiser during an inspection of the property.

3. You are entitled to discuss this case with the attorneys at the Office of the Property Rights Ombudsman. The office may be reached at [provide the current contact information for the Office of the Property Rights Ombudsman].

4. The Office of the Property Rights Ombudsman is a neutral state office staffed by attorneys experienced in eminent domain. Their purpose is to assist citizens in understanding and protecting their property rights. You are entitled to ask questions and request an explanation of your legal options.

5. If you have a dispute with [name of entity] over the amount of just compensation due to you, you are entitled to request free mediation or arbitration of the dispute from the Office of the Property Rights Ombudsman. As part of mediation or arbitration, you are entitled to request a free independent valuation of the property.

6. Oral representations or promises made during the negotiation process are not binding upon the entity seeking to acquire the property by eminent domain."

~~[(3)]~~ (4) The court may, upon a showing of exigent circumstances and for good cause, shorten the 14-day period described in Subsection (1)(b) ~~[or (2)(b)]~~ or the 30-day period described in Subsection (2) or (3)(b).

Section 8. Section 78B-6-522 is amended to read:

78B-6-522. Dispute resolution.

(1) In any dispute between a condemner and a private property owner arising out of this chapter, or a dispute over the taking of private property for a public use without the prior use of eminent domain, the private property owner may submit the dispute for mediation or arbitration to the Office of the Property Rights Ombudsman under Section 13-43-204.

(2) An action submitted to the Office of the Property Rights Ombudsman under authority of this section does not bar or stay any action for occupancy of premises authorized by Section 78B-6-510.

(3) (a) (i) A mediator or arbitrator, acting at the request of the property owner under Section 13-43-204, has standing in an action brought in district court under this chapter to file with the court a motion to stay the action during the pendency of the mediation or arbitration.

(ii) A mediator or arbitrator may not file a motion to stay under Subsection (3)(a)(i) unless the mediator or arbitrator certifies at the time of filing the motion that a stay is reasonably necessary to reach a resolution of the case through mediation or arbitration.

(b) If a stay is granted pursuant to a motion under Subsection (3)(a) and the order granting the stay does not specify when the stay terminates, the mediator or arbitrator shall file with the district court a motion to terminate the stay within 30 days after:

(i) the resolution of the dispute through mediation;

(ii) the issuance of a final arbitration award; or

(iii) a determination by the mediator or arbitrator that mediation or arbitration is not appropriate.

(4) (a) The private property owner or displaced person may request that the mediator or arbitrator authorize an additional appraisal.

(b) If the mediator or arbitrator determines that an additional appraisal is reasonably necessary to reach a resolution of the case, the mediator or arbitrator may:

(i) have an additional appraisal of the property prepared by an independent appraiser; and

(ii) require the condemner to pay the costs of the first additional appraisal.

CHAPTER 60**H. B. 39**

Passed March 13, 2014
Approved March 27, 2014
Effective May 13, 2014

ELECTION LAW - INDEPENDENT EXPENDITURES AMENDMENTS

Chief Sponsor: Douglas V. Sagers
Senate Sponsor: Evan J. Vickers

LONG TITLE**General Description:**

This bill amends the Election Code by adding provisions relating to independent expenditures.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires that, when a person makes total independent expenditures (i.e., an expenditure expressly advocating the success or defeat of a candidate or ballot proposition that is not made in coordination with the candidate or certain other persons) of \$1,000 or more, the person is required to file a report relating to the independent expenditures;
- ▶ describes the content of an independent expenditure report;
- ▶ provides that an independent expenditure report is a public record;
- ▶ requires a person who files an independent expenditure report to preserve records relating to the report for at least two years; and
- ▶ establishes penalties for failing to timely file an independent expenditure report.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

20A-11-1701, Utah Code Annotated 1953
20A-11-1702, Utah Code Annotated 1953
20A-11-1703, Utah Code Annotated 1953
20A-11-1704, Utah Code Annotated 1953
20A-11-1705, Utah Code Annotated 1953
20A-11-1706, Utah Code Annotated 1953

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

Section 1. Section 20A-11-1701 is enacted to read:**Part 17. Independent Expenditures****20A-11-1701. Title.**

This part is known as "Independent Expenditures."

Section 2. Section 20A-11-1702 is enacted to read:**20A-11-1702. Definitions.**

As used in this part:

- (1) "Clearly identified" means:

(a) the name of the candidate appears;

(b) a photograph or drawing of the candidate appears; or

(c) the identity of the candidate or ballot proposition is apparent by unambiguous reference.

(2) (a) "Independent expenditure" means an expenditure by a person expressly advocating the success or defeat of a clearly identified candidate or ballot proposition if the expenditure is not made in coordination with, or at the request or suggestion of:

(i) a candidate;

(ii) a candidate's personal campaign committee;

(iii) a member of a candidate's personal campaign committee;

(iv) a political action committee for which the candidate is an officer with primary decision making authority;

(v) an agent of a candidate; or

(vi) a political issues committee.

(b) "Independent expenditure" includes:

(i) the cost of creating and disseminating material for a public communication, including design and production costs; and

(ii) a contract or other promise to make an expenditure described in Subsection (2)(a) or (2)(b)(i).

(3) (a) "Public communication" means a communication by:

(i) broadcast, cable, satellite communication, newspaper, magazine, outdoor advertising facility, mass mailing, or telephone bank; or

(ii) another medium used for political advertising to the general public.

(b) "Public communication" does not include:

(i) a news story, a commentary, or an editorial disseminated by a broadcasting station, including a cable television operator, programmer, or producer, satellite television or radio provider, website, newspaper, magazine, or other periodical publication, that is not controlled by a candidate or political party; or

(ii) a candidate debate or forum.

(4) "Telephone bank" means 500 or more identical or substantially similar telephone calls within any 30-day period.

Section 3. Section 20A-11-1703 is enacted to read:**20A-11-1703. Exception.**

A registered political party is not required to comply with the requirements of this part.

Section 4. Section 20A-11-1704 is enacted to read:**20A-11-1704. Independent expenditure report.**

(1) Except as provided in Section 20A-11-1703, within 30 days after the day on which a person has made a total of at least \$1,000 in independent expenditures during an election cycle, the person shall file an independent expenditure report with the chief election officer.

(2) Except as provided in Section 20A-11-1703, within 30 days after the day on which a person has made a total of at least \$1,000 in independent expenditures during an election cycle that were not reported in an independent expenditure report already filed with the chief election officer during the same election cycle, the person shall file another independent expenditure report with the chief election officer.

(3) An independent expenditure report shall include the following information:

(a) if the person who made the independent expenditures is an individual, the person's name, address, and phone number;

(b) if the person who made the independent expenditures is not an individual:

(i) the person's name, address, and phone number; and

(ii) the name, address, and phone number of an individual who may be contacted by the chief election officer in relation to the independent expenditure report; and

(c) for each independent expenditure made by the person during the current election cycle that was not reported in a previous independent expenditure report:

(i) the date of the independent expenditure;

(ii) the amount of the independent expenditure;

(iii) the candidate or ballot proposition for which the independent expenditure expressly advocates the success or defeat and a description of whether the independent expenditure supports or opposes the candidate or ballot proposition;

(iv) the identity, address, and phone number of the person to whom the independent expenditure was made;

(v) a description of the goods or services obtained by the independent expenditure; and

(vi) for each person who, for political purposes, made cumulative donations of \$1,000 or more during the current election cycle to the filer of the independent expenditure report:

(A) the identity, address, and phone number of the person;

(B) the date of the donation; and

(C) the amount of the donation.

(4) (a) If the person filing an independent expenditure report is an individual, the person shall sign the independent expenditure report and certify that the information contained in the report is complete and accurate.

(b) If the person filing an independent expenditure report is not an individual:

(i) the person filing the independent expenditure report shall designate an authorized individual to sign the independent expenditure report on behalf of the person; and

(ii) the individual designated under Subsection (4)(b)(i) shall sign the independent expenditure report and certify that the information contained in the report is complete and accurate.

(5) If a person who files an independent expenditure report previously filed an independent expenditure report during, or in relation to, the same election cycle that includes information, described in Subsection (3)(a) or (b), that has changed since the person filed the previous independent expenditure report, the person shall include in the most recent independent expenditure report a description of the information that has changed that includes both the old information and the new information.

(6) An independent expenditure report is a public record under Title 63G, Chapter 2, Government Records Access and Management Act.

Section 5. Section 20A-11-1705 is enacted to read:

20A-11-1705. Detailed records.

A person who files an independent expenditure report shall keep records of all independent expenditures made by the person, including receipts, and all donations described in Subsection 20A-11-1704(3)(c)(vi), for at least two years after the day on which the independent expenditure report to which the records relate is filed.

Section 6. Section 20A-11-1706 is enacted to read:

20A-11-1706. Penalties.

(1) The chief election officer shall impose a \$100 fine against an individual who fails to file an independent expenditure report within the time period required by this part.

(2) The chief election officer shall impose a \$1000 fine against a person who is not an individual who fails to file an independent expenditure report within the time period required by this part.

(3) The chief election officer shall deposit fines collected under this chapter in the General Fund.

CHAPTER 61**H. B. 62**

Passed February 19, 2014

Approved March 27, 2014

Effective January 1, 2015

**RECREATIONAL VEHICLE
TITLE AMENDMENTS**Chief Sponsor: Don L. Ipson
Senate Sponsor: Kevin T. Van Tassell**LONG TITLE****General Description:**

This bill amends the Motor Vehicle Act and the Property Tax Act to require a certificate of title for a camper that is identified by the manufacturer as a 2015 model year or newer.

Highlighted Provisions:

This bill:

- ▶ amends the definition of vehicle to include a camper;
- ▶ amends camper registration and decal requirements;
- ▶ requires a certificate of title for a camper identified by the manufacturer as a 2015 model year or newer; and
- ▶ exempts a camper identified by the manufacturer as a 2014 model year or older from the requirement to obtain a certificate of title.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on January 1, 2015.

Utah Code Sections Affected:**AMENDS:**

- 41-1a-102, as last amended by Laws of Utah 2013, Chapter 266
- 41-1a-401, as renumbered and amended by Laws of Utah 1992, Chapter 1
- 41-1a-1206, as last amended by Laws of Utah 2012, Chapters 356, 356, 397 and last amended by Coordination Clause, Laws of Utah 2012, Chapter 397
- 41-1a-1212, as last amended by Laws of Utah 2009, Chapter 183

ENACTS:

41-1a-507.1, Utah Code Annotated 1953

REPEALS:

- 41-1a-227, as renumbered and amended by Laws of Utah 1992, Chapter 1
- 59-2-330, as renumbered and amended by Laws of Utah 1992, Chapter 1

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

Section 1. Section 41-1a-102 is amended to read:**41-1a-102. Definitions.**

As used in this chapter:

(1) "Actual miles" means the actual distance a vehicle has traveled while in operation.

(2) "Actual weight" means the actual unladen weight of a vehicle or combination of vehicles as operated and certified to by a weighmaster.

(3) "All-terrain type I vehicle" has the same meaning provided in Section 41-22-2.

(4) "All-terrain type II vehicle" has the same meaning provided in Section 41-22-2.

(5) "Amateur radio operator" means any person licensed by the Federal Communications Commission to engage in private and experimental two-way radio operation on the amateur band radio frequencies.

(6) "Branded title" means a title certificate that is labeled:

- (a) rebuilt and restored to operation;
- (b) flooded and restored to operation; or
- (c) not restored to operation.

(7) "Camper" means any structure designed, used, and maintained primarily to be mounted on or affixed to a motor vehicle that contains a floor and is designed to provide a mobile dwelling, sleeping place, commercial space, or facilities for human habitation or for camping.

(8) "Certificate of title" means a document issued by a jurisdiction to establish a record of ownership between an identified owner and the described vehicle, vessel, or outboard motor.

(9) "Certified scale weigh ticket" means a weigh ticket that has been issued by a weighmaster.

(10) "Commercial vehicle" means a motor vehicle, trailer, or semitrailer used or maintained for the transportation of persons or property that operates:

- (a) as a carrier for hire, compensation, or profit; or
- (b) as a carrier to transport the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.

(11) "Commission" means the State Tax Commission.

(12) "Dealer" means a person engaged or licensed to engage in the business of buying, selling, or exchanging new or used vehicles, vessels, or outboard motors either outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise or who has an established place of business for the sale, lease, trade, or display of vehicles, vessels, or outboard motors.

(13) "Division" means the Motor Vehicle Division of the commission, created in Section 41-1a-106.

(14) "Essential parts" means all integral and body parts of a vehicle of a type required to be registered in this state, the removal, alteration, or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type, or mode of operation.

(15) "Farm tractor" means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

(16) (a) "Farm truck" means a truck used by the owner or operator of a farm solely for his own use in the transportation of:

(i) farm products, including livestock and its products, poultry and its products, floricultural and horticultural products;

(ii) farm supplies, including tile, fence, and every other thing or commodity used in agricultural, floricultural, horticultural, livestock, and poultry production; and

(iii) livestock, poultry, and other animals and things used for breeding, feeding, or other purposes connected with the operation of a farm.

(b) "Farm truck" does not include the operation of trucks by commercial processors of agricultural products.

(17) "Fleet" means one or more commercial vehicles.

(18) "Foreign vehicle" means a vehicle of a type required to be registered, brought into this state from another state, territory, or country other than in the ordinary course of business by or through a manufacturer or dealer, and not registered in this state.

(19) "Gross laden weight" means the actual weight of a vehicle or combination of vehicles, equipped for operation, to which shall be added the maximum load to be carried.

(20) "Highway" or "street" means the entire width between property lines of every way or place of whatever nature when any part of it is open to the public, as a matter of right, for purposes of vehicular traffic.

(21) (a) "Identification number" means the identifying number assigned by the manufacturer or by the division for the purpose of identifying the vehicle, vessel, or outboard motor.

(b) "Identification number" includes a vehicle identification number, state assigned identification number, hull identification number, and motor serial number.

(22) "Implement of husbandry" means every vehicle designed or adapted and used exclusively for an agricultural operation and only incidentally operated or moved upon the highways.

(23) (a) "In-state miles" means the total number of miles operated in this state during the preceding year by fleet power units.

(b) If fleets are composed entirely of trailers or semitrailers, "in-state miles" means the total number of miles that those vehicles were towed on Utah highways during the preceding year.

(24) "Interstate vehicle" means any commercial vehicle operated in more than one state, province, territory, or possession of the United States or foreign country.

(25) "Jurisdiction" means a state, district, province, political subdivision, territory, or

possession of the United States or any foreign country.

(26) "Lienholder" means a person with a security interest in particular property.

(27) "Manufactured home" means a transportable factory built housing unit constructed on or after June 15, 1976, according to the Federal Home Construction and Safety Standards Act of 1974 (HUD Code), in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or when erected on site, is 400 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems.

(28) "Manufacturer" means a person engaged in the business of constructing, manufacturing, assembling, producing, or importing new or unused vehicles, vessels, or outboard motors for the purpose of sale or trade.

(29) "Mobile home" means a transportable factory built housing unit built prior to June 15, 1976, in accordance with a state mobile home code which existed prior to the Federal Manufactured Housing and Safety Standards Act (HUD Code).

(30) "Motorboat" has the same meaning as provided in Section 73-18-2.

(31) "Motorcycle" means a motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground.

(32) (a) "Motor vehicle" means a self-propelled vehicle intended primarily for use and operation on the highways.

(b) "Motor vehicle" does not include an off-highway vehicle.

(33) (a) "Nonresident" means a person who is not a resident of this state as defined by Section 41-1a-202, and who does not engage in intrastate business within this state and does not operate in that business any motor vehicle, trailer, or semitrailer within this state.

(b) A person who engages in intrastate business within this state and operates in that business any motor vehicle, trailer, or semitrailer in this state or who, even though engaging in interstate commerce, maintains any vehicle in this state as the home station of that vehicle is considered a resident of this state, insofar as that vehicle is concerned in administering this chapter.

(34) "Odometer" means a device for measuring and recording the actual distance a vehicle travels while in operation, but does not include any auxiliary odometer designed to be periodically reset.

(35) "Off-highway implement of husbandry" has the same meaning as provided in Section 41-22-2.

(36) "Off-highway vehicle" has the same meaning as provided in Section 41-22-2.

(37) "Operate" means to drive or be in actual physical control of a vehicle or to navigate a vessel.

(38) "Outboard motor" means a detachable self-contained propulsion unit, excluding fuel supply, used to propel a vessel.

(39) (a) "Owner" means a person, other than a lienholder, holding title to a vehicle, vessel, or outboard motor whether or not the vehicle, vessel, or outboard motor is subject to a security interest.

(b) If a vehicle is the subject of an agreement for the conditional sale or installment sale or mortgage of the vehicle with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or mortgagor, or if the vehicle is the subject of a security agreement, then the conditional vendee, mortgagor, or debtor is considered the owner for the purposes of this chapter.

(c) If a vehicle is the subject of an agreement to lease, the lessor is considered the owner until the lessee exercises his option to purchase the vehicle.

(40) "Personalized license plate" means a license plate that has displayed on it a combination of letters, numbers, or both as requested by the owner of the vehicle and assigned to the vehicle by the division.

(41) (a) "Pickup truck" means a two-axle motor vehicle with motive power manufactured, remanufactured, or materially altered to provide an open cargo area.

(b) "Pickup truck" includes motor vehicles with the open cargo area covered with a camper, camper shell, tarp, removable top, or similar structure.

(42) "Pneumatic tire" means every tire in which compressed air is designed to support the load.

(43) "Preceding year" means a period of 12 consecutive months fixed by the division that is within 16 months immediately preceding the commencement of the registration or license year in which proportional registration is sought. The division in fixing the period shall conform it to the terms, conditions, and requirements of any applicable agreement or arrangement for the proportional registration of vehicles.

(44) "Public garage" means every building or other place where vehicles or vessels are kept and stored and where a charge is made for the storage and keeping of vehicles and vessels.

(45) "Receipt of surrender of ownership documents" means the receipt of surrender of ownership documents described in Section 41-1a-503.

(46) "Reconstructed vehicle" means every vehicle of a type required to be registered in this state that is materially altered from its original construction by the removal, addition, or substitution of essential parts, new or used.

(47) "Recreational vehicle" has the same meaning as provided in Section 13-14-102.

(48) "Registration" means a document issued by a jurisdiction that allows operation of a vehicle or vessel on the highways or waters of this state for the time period for which the registration is valid and that is evidence of compliance with the registration requirements of the jurisdiction.

(49) (a) "Registration year" means a 12 consecutive month period commencing with the completion of all applicable registration criteria.

(b) For administration of a multistate agreement for proportional registration the division may prescribe a different 12-month period.

(50) "Repair or replacement" means the restoration of vehicles, vessels, or outboard motors to a sound working condition by substituting any inoperative part of the vehicle, vessel, or outboard motor, or by correcting the inoperative part.

(51) "Replica vehicle" means:

(a) a street rod that meets the requirements under Subsection 41-21-1(1)(a)(i)(B); or

(b) a custom vehicle that meets the requirements under Subsection 41-6a-1507(1)(a)(i)(B).

(52) "Road tractor" means every motor vehicle designed and used for drawing other vehicles and constructed so it does not carry any load either independently or any part of the weight of a vehicle or load that is drawn.

(53) "Sailboat" has the same meaning as provided in Section 73-18-2.

(54) "Security interest" means an interest that is reserved or created by a security agreement to secure the payment or performance of an obligation and that is valid against third parties.

(55) "Semitrailer" means every vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that some part of its weight and its load rests or is carried by another vehicle.

(56) "Special group license plate" means a type of license plate designed for a particular group of people or a license plate authorized and issued by the division in accordance with Section 41-1a-418.

(57) (a) "Special interest vehicle" means a vehicle used for general transportation purposes and that is:

(i) 20 years or older from the current year; or

(ii) a make or model of motor vehicle recognized by the division director as having unique interest or historic value.

(b) In making his determination under Subsection (57)(a), the division director shall give special consideration to:

(i) a make of motor vehicle that is no longer manufactured;

(ii) a make or model of motor vehicle produced in limited or token quantities;

(iii) a make or model of motor vehicle produced as an experimental vehicle or one designed exclusively for educational purposes or museum display; or

(iv) a motor vehicle of any age or make that has not been substantially altered or modified from original specifications of the manufacturer and because of its significance is being collected, preserved, restored, maintained, or operated by a collector or hobbyist as a leisure pursuit.

(58) (a) "Special mobile equipment" means every vehicle:

(i) not designed or used primarily for the transportation of persons or property;

(ii) not designed to operate in traffic; and

(iii) only incidentally operated or moved over the highways.

(b) "Special mobile equipment" includes:

(i) farm tractors;

(ii) off-road motorized construction or maintenance equipment including backhoes, bulldozers, compactors, graders, loaders, road rollers, tractors, and trenchers; and

(iii) ditch-digging apparatus.

(c) "Special mobile equipment" does not include a commercial vehicle as defined under Section 72-9-102.

(59) "Specially constructed vehicle" means every vehicle of a type required to be registered in this state, not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles, and not materially altered from its original construction.

(60) "Title" means the right to or ownership of a vehicle, vessel, or outboard motor.

(61) (a) "Total fleet miles" means the total number of miles operated in all jurisdictions during the preceding year by power units.

(b) If fleets are composed entirely of trailers or semitrailers, "total fleet miles" means the number of miles that those vehicles were towed on the highways of all jurisdictions during the preceding year.

(62) "Trailer" means a vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

(63) "Transferee" means a person to whom the ownership of property is conveyed by sale, gift, or any other means except by the creation of a security interest.

(64) "Transferor" means a person who transfers his ownership in property by sale, gift, or any other means except by creation of a security interest.

(65) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable vehicle without motive power, designed as a temporary dwelling for travel, recreational, or vacation use that does not

require a special highway movement permit when drawn by a self-propelled motor vehicle.

(66) "Truck tractor" means a motor vehicle designed and used primarily for drawing other vehicles and not constructed to carry a load other than a part of the weight of the vehicle and load that is drawn.

(67) "Vehicle" includes a motor vehicle, trailer, semitrailer, off-highway vehicle, camper, manufactured home, and mobile home.

(68) "Vessel" has the same meaning as provided in Section 73-18-2.

(69) "Vintage vehicle" has the same meaning as provided in Section 41-21-1.

(70) "Waters of this state" has the same meaning as provided in Section 73-18-2.

(71) "Weighmaster" means a person, association of persons, or corporation permitted to weigh vehicles under this chapter.

Section 2. Section 41-1a-401 is amended to read:

41-1a-401. License plates -- Number of plates -- Reflectorization -- Indicia of registration in lieu of or used with plates.

(1) (a) The division upon registering a vehicle shall issue to the owner:

(i) one license plate for a motorcycle, trailer, or semitrailer ~~and~~;

(ii) one decal for a camper, in lieu of a license plate, which shall be attached in plain site to the rear of the camper; and

(iii) two identical license plates for every other vehicle.

(b) The license plate ~~shall be~~ or decal issued under Subsection (1)(a) is for the particular vehicle registered and may not be removed during the term for which the license plate or decal is issued or used upon any other vehicle than the registered vehicle.

(2) The division may receive applications for registration renewal, renew registration, and issue new license plates or decals at any time prior to the expiration of registration.

(3) (a) All license plates to be manufactured and issued by the division shall be treated with a fully reflective material on the plate face that provides effective and dependable reflective brightness during the service period of the license plate.

(b) The division shall prescribe all license plate material specifications and establish and implement procedures for conforming to the specifications.

(c) The specifications for the materials used such as the aluminum plate substrate, the reflective sheeting, and glue shall be drawn in a manner so that at least two manufacturers may qualify as suppliers.

(d) The granting of contracts for the materials shall be by public bid.

(4) (a) The commission may issue, adopt, and require the use of indicia of registration it considers advisable in lieu of or in conjunction with license plates as provided in this part.

(b) All provisions of this part relative to license plates apply to these indicia of registration, so far as the provisions are applicable.

Section 3. Section 41-1a-507.1 is enacted to read:

41-1a-507.1. Exceptions to title requirements for campers.

(1) Each camper in this state and identified by the manufacturer as a 2015 year model or newer is subject to the titling provisions of this part.

(2) The division may provide title to a camper identified by the manufacturer as a 2014 year model or older if requested by the owner of the camper.

Section 4. Section 41-1a-1206 is amended to read:

41-1a-1206. Registration fees -- Fees by gross laden weight.

(1) Except as provided in Subsections (2) and (3), at the time application is made for registration or renewal of registration of a vehicle or combination of vehicles under this chapter, a registration fee shall be paid to the division as follows:

(a) \$44.50 for each motorcycle;

(b) \$43 for each motor vehicle of 12,000 pounds or less gross laden weight, excluding motorcycles;

(c) unless the semitrailer or trailer is exempt from registration under Section 41-1a-202 or is registered under Section 41-1a-301:

(i) \$31 for each trailer or semitrailer over 750 pounds gross unladen weight; or

(ii) \$28.50 for each commercial trailer or commercial semitrailer of 750 pounds or less gross unladen weight;

(d) (i) \$53 for each farm truck over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus

(ii) \$9 for each 2,000 pounds over 14,000 pounds gross laden weight;

(e) (i) \$69.50 for each motor vehicle or combination of motor vehicles, excluding farm trucks, over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus

(ii) \$19 for each 2,000 pounds over 14,000 pounds gross laden weight; and

(f) \$45 for each vintage vehicle that is less than 40 years old.

(2) At the time application is made for registration or renewal of registration of a vehicle under this chapter for a six-month registration period under Section 41-1a-215.5, a registration fee shall be paid to the division as follows:

(a) \$33.50 for each motorcycle; and

(b) \$32.50 for each motor vehicle of 12,000 pounds or less gross laden weight, excluding motorcycles.

(3) (a) The initial registration fee for a vintage vehicle that is 40 years old or older is \$40.

(b) A vintage vehicle that is 40 years old or older is exempt from the renewal of registration fees under Subsection (1).

(c) A vehicle with a Purple Heart special group license plate issued in accordance with Section 41-1a-421 is exempt from the registration fees under Subsection (1).

(d) A camper is exempt from the registration fees under Subsection (1).

(4) If a motor vehicle is operated in combination with a semitrailer or trailer, each motor vehicle shall register for the total gross laden weight of all units of the combination if the total gross laden weight of the combination exceeds 12,000 pounds.

(5) (a) Registration fee categories under this section are based on the gross laden weight declared in the licensee's application for registration.

(b) Gross laden weight shall be computed in units of 2,000 pounds. A fractional part of 2,000 pounds is a full unit.

(6) The owner of a commercial trailer or commercial semitrailer may, as an alternative to registering under Subsection (1)(c), apply for and obtain a special registration and license plate for a fee of \$130.

(7) Except as provided in Section 41-6a-1642, a truck may not be registered as a farm truck unless:

(a) the truck meets the definition of a farm truck under Section 41-1a-102; and

(b) (i) the truck has a gross vehicle weight rating of more than 12,000 pounds; or

(ii) the truck has a gross vehicle weight rating of 12,000 pounds or less and the owner submits to the division a certificate of emissions inspection or a waiver in compliance with Section 41-6a-1642.

(8) A violation of Subsection (7) is a class B misdemeanor that shall be punished by a fine of not less than \$200.

(9) Trucks used exclusively to pump cement, bore wells, or perform crane services with a crane lift capacity of five or more tons, are exempt from 50% of the amount of the fees required for those vehicles under this section.

Section 5. Section 41-1a-1212 is amended to read:

41-1a-1212. Fee for replacement of license plate decals.

A fee established in accordance with Section 63J-1-504 shall be paid to the division for the replacement of a license plate decal required by Section 41-1a-402 or a decal required by Section 41-1a-401.

Section 6. Effective date.

This bill takes effect on January 1, 2015.

Section 7. Repealer.

This bill repeals:

Section 41-1a-227, Campers -- Registration and display of decal -- Nonresident exceptions.

Section 59-2-330, Campers -- Registration certificates and decals obtained from county assessor -- Contents of certificates.

CHAPTER 62**H. B. 80**

Passed February 21, 2014

Approved March 27, 2014

Effective May 13, 2014

SPEED LIMIT AMENDMENTS

Chief Sponsor: James A. Dunnigan

Senate Sponsor: Scott K. Jenkins

LONG TITLE**General Description:**

This bill modifies the Traffic Code by amending provisions relating to establishing speed limits on certain highways.

Highlighted Provisions:

This bill:

- ▶ provides that the Department of Transportation may establish a posted speed limit on a freeway or other limited access highway that exceeds the maximum speed limit if the speed limit is based on a highway traffic engineering and safety study; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-6a-602, as last amended by Laws of Utah 2013, Chapter 268

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

Section 1. Section 41-6a-602 is amended to read:**41-6a-602. Speed limits established on state highways.**

(1) (a) The Department of Transportation shall determine the reasonable and safe speed limit for each highway or section of highway under its jurisdiction.

(b) For each highway or section of highway, each speed limit shall be based on a traffic engineering and safety study consistent with the requirements and recommendations in the most current version of the "Manual on Uniform Traffic Control Devices."

(c) The traffic engineering and safety studies shall include:

- (i) the design speed;
- (ii) prevailing vehicle speeds;
- (iii) accident history;
- (iv) highway, traffic, and roadside conditions; and
- (v) other highway safety factors.

(2) In addition to the provisions of Subsection (1), the Department of Transportation may establish

different speed limits on a highway or section of highway based on:

- (a) time of day;
- (b) highway construction;
- (c) type of vehicle;
- (d) weather conditions; and
- (e) other highway safety factors.

(3) (a) Except as provided in Subsection (3)(b) and (c), a posted speed limit may not exceed 65 miles per hour.

(b) Except as provided in Subsection (3)(c), a posted speed limit on a freeway or other limited access highway may not exceed 75 miles per hour.

(c) (i) The Department of Transportation may establish a posted speed limit on a freeway or other limited access highway that exceeds the maximum speed limit in Subsection (3)(b) if the speed limit is based on a highway traffic engineering and safety study [~~and located on:~~].

~~[(A) a portion of Interstate 15 that is between milepost 244 and milepost 24 or between milepost 366 and the Utah-Idaho state line;]~~

~~[(B) a portion of Interstate 80 that is between milepost 99 and the Utah-Nevada state line; or]~~

~~[(C) a portion of Interstate 84 that is between the Tremonton Interchange and the Utah-Idaho state line.]~~

(ii) If the Department of Transportation establishes a posted speed limit that exceeds the limit under Subsection (3)(b), the Department of Transportation shall evaluate the results and impacts of increasing a speed limit under this Subsection (3)(c).

(iii) The Department of Transportation shall report the findings of an evaluation conducted under Subsection (3)(c)(ii) to the Transportation Interim Committee no later than one year after a speed limit has been imposed under this Subsection (3)(c).

(d) This Subsection (3) is an exception to the provisions of Subsections (1) and (2).

(4) When establishing or changing a speed limit, the Department of Transportation shall consult with the following entities prior to erecting or changing a speed limit sign:

- (a) the county for state highways in an unincorporated area of the county;
- (b) the municipality for state highways within the municipality's incorporated area;
- (c) the Department of Public Safety; and
- (d) the Transportation Commission.

(5) The speed limit is effective when appropriate signs giving notice are erected along the highway or section of the highway.

CHAPTER 63**H. B. 92**

Passed February 28, 2014

Approved March 27, 2014

Effective May 13, 2014

**UTAH EDUCATION AND TELEHEALTH
NETWORK AMENDMENTS**

Chief Sponsor: Ronda Rudd Menlove

Senate Sponsor: Allen M. Christensen

LONG TITLE**General Description:**

This bill amends provisions related to the Utah Education Network and the Telehealth Network.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the Utah Education and Telehealth Network (UETN) within the state system of higher education;
- ▶ establishes the duties of UETN;
- ▶ creates a governing board for UETN;
- ▶ establishes membership of the UETN Board;
- ▶ creates the Utah Education Advisory Council to assist the UETN Board;
- ▶ creates the Utah Telehealth Advisory Council to assist the UETN Board;
- ▶ authorizes the board, at its discretion, to merge the advisory councils after July 1, 2015; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 46-4-503, as last amended by Laws of Utah 2013, Chapter 412
- 53A-3-429, as enacted by Laws of Utah 2011, Chapter 397
- 53A-15-101.5, as last amended by Laws of Utah 2008, Chapter 382
- 53A-15-104, as last amended by Laws of Utah 2008, Chapters 235 and 382
- 53B-17-101, as last amended by Laws of Utah 2006, Chapter 150
- 53B-17-104, as last amended by Laws of Utah 2012, Chapter 16
- 53B-18-901, as enacted by Laws of Utah 2001, Chapter 329
- 63G-6a-104, as repealed and reenacted by Laws of Utah 2013, Chapter 445
- 63J-3-103, as last amended by Laws of Utah 2013, Chapters 295, 310, and 400
- 63M-1-3204, as enacted by Laws of Utah 2013, Chapter 336
- 72-7-109, as last amended by Laws of Utah 2002, Chapter 176

ENACTS:

53B-17-101.5, Utah Code Annotated 1953

53B-17-105, Utah Code Annotated 1953

53B-17-106, Utah Code Annotated 1953

53B-17-107, Utah Code Annotated 1953

REPEALS:

53B-17-102, as last amended by Laws of Utah 2012, Chapter 16

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

Section 1. Section 46-4-503 is amended to read:**46-4-503. Government products and services provided electronically.**

(1) Notwithstanding Section 46-4-501, a state governmental agency that administers one or more of the following transactions shall allow those transactions to be conducted electronically:

(a) an application for or renewal of a professional or occupational license issued under Title 58, Occupations and Professions;

(b) the renewal of a drivers license;

(c) an application for a hunting or fishing license;

(d) the filing of:

(i) a return under Title 59, Chapter 10, Individual Income Tax Act or Title 59, Chapter 12, Sales and Use Tax Act;

(ii) a court document, as defined by the Judicial Council; or

(iii) a document under Title 70A, Uniform Commercial Code;

(e) a registration for:

(i) a product; or

(ii) a brand;

(f) a renewal of a registration of a motor vehicle;

(g) a registration under:

(i) Title 16, Corporations;

(ii) Title 42, Names; or

(iii) ~~on or before December 31, 2013, Title 48, Partnership, and on and after January 1, 2014,~~ Title 48, Partnership - Unincorporated Business Entity Act; or

(h) submission of an application for benefits:

(i) under Title 35A, Chapter 3, Employment Support Act;

(ii) under Title 35A, Chapter 4, Employment Security Act; or

(iii) related to accident and health insurance.

(2) The state system of public education, in coordination with the Utah Education and Telehealth Network, shall make reasonable progress toward making the following services available electronically:

(a) secure access by parents and students to student grades and progress reports;

- (b) email communications with:
 - (i) teachers;
 - (ii) parent-teacher associations; and
 - (iii) school administrators;
- (c) access to school calendars and schedules; and
- (d) teaching resources that may include:
 - (i) teaching plans;
 - (ii) curriculum guides; and
 - (iii) media resources.
- (3) A state governmental agency shall:

(a) in carrying out the requirements of this section, take reasonable steps to ensure the security and privacy of records that are private or controlled as defined by Title 63G, Chapter 2, Government Records Access and Management Act;

(b) in addition to those transactions listed in Subsections (1) and (2), determine any additional services that may be made available to the public through electronic means; and

(c) as part of the agency's information technology plan required by Section 63F-1-204, report on the progress of compliance with Subsections (1) through (3).

(4) Notwithstanding the other provisions of this part, a state governmental agency is not required by this part to conduct a transaction electronically if:

- (a) conducting the transaction electronically is not required by federal law; and
- (b) conducting the transaction electronically is:
 - (i) impractical;
 - (ii) unreasonable; or
 - (iii) not permitted by laws pertaining to privacy or security.

(5) (a) For purposes of this Subsection (5), "one-stop shop" means the consolidation of access to diverse services and agencies at one location including virtual colocation.

(b) State agencies that provide services or offer direct assistance to the business community shall participate in the establishment, maintenance, and enhancement of an integrated Utah business web portal known as Business.utah.gov. The purpose of the business web portal is to provide "one-stop shop" assistance to businesses.

(c) State agencies shall partner with other governmental and nonprofit agencies whose primary mission is to provide services or offer direct assistance to the business community in Utah in fulfilling the requirements of this section.

(d) The following state entities shall comply with the provisions of this Subsection (5):

(i) Governor's Office of Economic Development, which shall serve as the managing partner for the website;

- (ii) Department of Workforce Services;
 - (iii) Department of Commerce;
 - (iv) Tax Commission;
 - (v) Department of Administrative Services - Division of Purchasing and General Services, including other state agencies operating under a grant of authority from the division to procure goods and services in excess of \$5,000;
 - (vi) Department of Agriculture;
 - (vii) Department of Natural Resources; and
 - (viii) other state agencies that provide services or offer direct assistance to the business sector.
- (e) The business services available on the business web portal may include:
- (i) business life cycle information;
 - (ii) business searches;
 - (iii) employment needs and opportunities;
 - (iv) motor vehicle registration;
 - (v) permit applications and renewal;
 - (vi) tax information;
 - (vii) government procurement bid notifications;
 - (viii) general business information;
 - (ix) business directories; and
 - (x) business news.

Section 2. Section 53A-3-429 is amended to read:

53A-3-429. Regional service centers.

(1) For purposes of this section, "eligible regional service center" means a regional service center formed by two or more school districts as an interlocal entity, in accordance with Title 11, Chapter 13, Interlocal Cooperation Act.

(2) The Legislature strongly encourages school districts to collaborate and cooperate to provide educational services in a manner that will best utilize resources for the overall operation of the public education system.

(3) An eligible regional service center formed by an interlocal agreement, in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, may receive a distribution described in Subsection (5) if the Legislature appropriates money for eligible regional service centers.

(4) (a) If local school boards enter into an interlocal agreement to confirm or formalize a regional service center in operation before July 1, 2011, the interlocal agreement may not eliminate any rights or obligations of the regional service center in effect before entering into the interlocal agreement.

(b) An interlocal agreement entered into to confirm or formalize an existing regional service center shall have the effect of confirming and ratifying in the regional service center, the title to

any property held in the name, or for the benefit of the regional service center as of the effective date of the interlocal agreement.

(5) (a) The State Board of Education shall distribute any funding appropriated to eligible regional service centers as provided by the Legislature.

(b) The State Board of Education may provide funding to an eligible regional service center in addition to legislative appropriations.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules regarding eligible regional service centers including:

(a) the distribution of legislative appropriations to eligible regional service centers;

(b) the designation of eligible regional service centers as agents to distribute Utah Education and Telehealth Network services; and

(c) the designation of eligible regional service centers as agents for regional coordination of public education and higher education services.

(7) A public school that is a charter school may enter into a contract with an eligible regional service center to receive education related services from the eligible regional service center.

Section 3. Section 53A-15-101.5 is amended to read:

53A-15-101.5. Concurrent enrollment instruction in Mandarin Chinese.

(1) (a) As used in this section, “category IV languages” means those languages designated the most difficult to learn by the Defense Language Institute as provided in training to members of the United States Military.

(b) The Legislature recognizes:

(i) the importance of students acquiring skills in foreign languages in order for them to successfully compete in a global society; and

(ii) that the acquisition of category IV languages, such as Mandarin Chinese, Arabic, Korean, and Japanese, by students in the state’s public schools requires extended sequences of study to acquire useful proficiency in listening, speaking, reading, and writing.

(2) (a) As a component of the concurrent enrollment program authorized under Section 53A-15-101, the State Board of Education and the State Board of Regents, in consultation with the Utah Education and Telehealth Network, may develop and implement a concurrent enrollment course of study in the category IV language of Mandarin Chinese.

(b) The course shall be taught over ~~[EDNET]~~ the state’s two-way interactive video conferencing system for video and audio, to high school juniors and seniors in the state’s public education system.

(3) (a) The concurrent enrollment course in Mandarin Chinese authorized in Subsection (2) may use paraprofessionals in the classroom who:

(i) are fluent in Mandarin Chinese; and

(ii) can provide reinforcement and tutoring to students on days and at times when they are not receiving instruction ~~[over—EDNET]~~ under Subsection (2)(b).

(b) The State Board of Education, through the State Superintendent of Public Instruction, and professors who teach Chinese in the state system of higher education shall jointly ensure that the paraprofessionals are fluent in Mandarin Chinese.

(4) The State Board of Education and the State Board of Regents shall make joint rules on the concurrent enrollment course authorized under this section in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to include:

(a) notification to school districts on the times and places of the course offerings; and

(b) instructional materials for the course.

(5) Students who successfully complete the concurrent enrollment course offered under this section shall receive tuition reimbursement for a sequential Mandarin Chinese course they successfully complete at an institution within the state system of higher education under rules made by the State Board of Regents in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) The State Board of Education and the State Board of Regents shall jointly track and monitor the Mandarin Chinese language program and may expand the program to include other category IV languages, subject to student demand for the courses and available resources.

Section 4. Section 53A-15-104 is amended to read:

53A-15-104. Critical Languages Program -- Pilot.

(1) (a) As used in this section, “critical languages” means those languages described in the federal National Security Language Initiative, including Chinese, Arabic, Russian, Farsi, Hindi, and Korean.

(b) The Legislature recognizes:

(i) the importance of students acquiring skills in foreign languages in order for them to successfully compete in a global society; and

(ii) the academic, societal, and economic development benefits of the acquisition of critical languages.

(2) (a) The State Board of Education, in consultation with the Utah Education and Telehealth Network, shall develop and implement courses of study in the critical languages.

(b) A course may be taught:

(i) over ~~[EDNET]~~ the state’s two-way interactive video conferencing system for video and audio, to students in the state’s public education system;

- (ii) through the Electronic High School;
- (iii) through traditional instruction; or
- (iv) by visiting guest teachers.

(3) (a) The courses authorized in Subsection (2) may use paraprofessionals in the classroom who:

(i) are fluent in the critical language being taught; and

(ii) can provide reinforcement and tutoring to students on days and at times when they are not receiving instruction [~~over EDNET~~] under Subsection (2)(b).

(b) The State Board of Education, through the state superintendent of public instruction, shall ensure that the paraprofessionals are fluent in the critical languages.

(4) The State Board of Education shall make rules on the critical languages courses authorized under this section in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to include:

(a) notification to school districts on the times and places of the course offerings; and

(b) instructional materials for the courses.

(5) The State Board of Education shall track and monitor the Critical Languages Program and may expand the program to include more course offerings and other critical languages, subject to student demand for the courses and available resources.

(6) (a) Subject to funding for the program, the State Board of Education shall establish a pilot program for school districts and schools to initially participate in the Critical Languages Program that provides:

(i) up to \$6,000 per language per school, for up to 60 schools, for courses offered in critical languages;

(ii) up to \$100 per student who completes a critical languages course; and

(iii) up to an additional \$400 per foreign exchange student who completes a critical languages course.

(b) If the available funding is insufficient to provide the amounts described under Subsection (6)(a), the amounts provided shall be reduced pro rata so that the total provided does not exceed the available funding.

Section 5. Section 53B-17-101 is amended to read:

53B-17-101. Legislative findings on public broadcasting and telecommunications for education.

The Legislature finds and determines the following:

(1) The University of Utah's Dolores Dore' Eccles Broadcast Center is the statewide public broadcasting and telecommunications facility for education in Utah.

(2) The center shall provide services to citizens of the state in cooperation with higher and public education, state and local government, and private industry.

(3) Distribution services provided through the center shall include KUED - TV, KUER - FM, and KUEN - TV.

(4) KUED - TV and KUER - FM are licensed to the University of Utah.

(5) The Utah Education and Telehealth Network's broadcast entity, KUEN - TV, is licensed to the Utah State Board of Regents and, together with [~~UEN~~] UETN, is operated on behalf of the state's systems of public and higher education.

(6) All the entities referred to in Subsection (3) are under the administrative supervision of the University of Utah, subject to the authority and governance of the State Board of Regents.

(7) This section neither regulates nor restricts a privately owned company in the distribution or dissemination of educational programs.

Section 6. Section 53B-17-101.5 is enacted to read:

53B-17-101.5. Definitions.

As used in this part:

(1) "Board" means the Utah Education and Telehealth Network Board.

(2) "Education Advisory Council" means the Utah Education Network Advisory Council created in Section 53B-17-107.

(3) "Telehealth" means the electronic transfer, exchange, or management of related data for diagnosis, treatment, and consultation, and educational, public health, or other related purposes.

(4) "Telehealth Advisory Council" means the Utah Telehealth Advisory Council created in Section 53B-17-106.

(5) "Utah Education and Telehealth Network," or "UETN," means a consortium and partnership between public and higher education, the Utah Department of Health, and health care providers, that is created in Section 53B-17-105.

Section 7. Section 53B-17-104 is amended to read:

53B-17-104. Responsibilities of the State Board of Regents, the State Board of Education, the University of Utah, KUED - TV, KUER - FM, and UETN related to public broadcasting and telecommunication for education and government.

(1) Subject to applicable rules of the Federal Communications Commission and Section [~~53B-17-102~~] 53B-17-105, the State Board of Regents, the State Board of Education, [~~and~~] the University of Utah, KUED - TV, KUER - FM, and [~~UEN~~] UETN shall:

(a) coordinate statewide services of public radio and television;

(b) develop, maintain, and operate statewide distribution systems for KUED - TV, KUER - FM, and KUEN, the statewide distance learning service, the educational data network, connections to the Internet, and other telecommunications services appropriate for providing video, audio, and data telecommunication services in support of public and higher education, state government, and public libraries;

(c) support the delivery of these services to as many communities as may be economically and technically feasible and lawfully permissible under the various operating licenses;

(d) cooperate with state and local governmental and educational agencies and provide leadership and consulting service for telecommunication for education;

(e) represent the state with privately owned telecommunications systems to gain access to their networks for the delivery of programs and services sponsored or produced by public and higher education;

(f) acquire, produce, coordinate, and distribute a variety of programs and services of an educational, cultural, informative, and entertaining nature designed to promote the public interest and welfare of the state;

(g) coordinate with the state system of higher education to acquire, produce, and distribute broadcast and nonbroadcast college credit telecourses, teleconferences, and other instructional and training services;

(h) coordinate with school districts and public schools to acquire, produce, and distribute broadcast and nonbroadcast telecourses, teleconferences, and other instructional and training services to the public schools;

(i) coordinate the development of a clearing house for the materials, courses, publications, media, software, and other applicable information related to the items addressed in Subsections (1)(g) and (h);

(j) coordinate the provision of the following services to public schools:

(i) broadcast, during school hours, of educational and administrative programs recommended by the State Board of Education;

(ii) digitization of programs for broadcast purposes; and

(iii) program previewing;

(k) share responsibility for Instructional Television (ITV) awareness and utilization; and

(l) provide teleconference and training services for state and local governmental agencies.

(2) This section neither regulates nor restricts a privately owned company in the distribution or dissemination of education programs.

Section 8. Section 53B-17-105 is enacted to read:

53B-17-105. Utah Education and Telehealth Network.

(1) There is created the Utah Education and Telehealth Network, or UETN.

(2) UETN shall:

(a) coordinate and support the telecommunications needs of public and higher education, public libraries, and entities affiliated with the state systems of public and higher education as approved by the Utah Education and Telehealth Network Board, including the statewide development and implementation of a network for education, which utilizes satellite, microwave, fiber-optic, broadcast, and other transmission media;

(b) coordinate the various telecommunications technology initiatives of public and higher education;

(c) provide high-quality, cost-effective Internet access and appropriate interface equipment for schools and school systems;

(d) procure, install, and maintain telecommunication services and equipment on behalf of public and higher education;

(e) develop or implement other programs or services for the delivery of distance learning and telehealth services as directed by law;

(f) apply for state and federal funding on behalf of:

(i) public and higher education; and

(ii) telehealth services;

(g) in consultation with health care providers from a variety of health care systems, explore and encourage the development of telehealth services as a means of reducing health care costs and increasing health care quality and access, with emphasis on assisting rural health care providers and special populations; and

(h) in consultation with the Utah Department of Health, advise the governor and the Legislature on:

(i) the role of telehealth in the state;

(ii) the policy issues related to telehealth;

(iii) the changing telehealth needs and resources in the state; and

(iv) state budgetary matters related to telehealth.

(3) In performing the duties under Subsection (2), UETN shall:

(a) provide services to schools, school districts, and the public and higher education systems through an open and competitive bidding process;

(b) work with the private sector to deliver high-quality, cost-effective services;

(c) avoid duplicating facilities, equipment, or services of private providers or public

telecommunications service, as defined under Section 54-8b-2;

(d) utilize statewide economic development criteria in the design and implementation of the educational telecommunications infrastructure; and

(e) assure that public service entities, such as educators, public service providers, and public broadcasters, are provided access to the telecommunications infrastructure developed in the state.

(4) The University of Utah shall provide administrative support for UETN.

(5) (a) The Utah Education and Telehealth Network Board, which is the governing board for UETN, is created.

(b) The Utah Education and Telehealth Network Board shall have 13 members as follows:

(i) four members representing the state system of higher education appointed by the commissioner of higher education;

(ii) four members representing the state system of public education including:

(A) three members appointed by the State Board of Education; and

(B) one member representing the Utah State Office of Education appointed by the state superintendent;

(iii) one member representing applied technology centers appointed by the president of the Utah College of Applied Technology;

(iv) one member representing the state library appointed by the state librarian;

(v) two members representing hospitals as follows:

(A) the members may not be employed by the same hospital system;

(B) one member shall represent a rural hospital;

(C) one member shall represent an urban hospital; and

(D) the chief administrator or the administrator's designee for each hospital licensed in this state shall select the two hospital representatives; and

(vi) one member representing the office of the governor, appointed by the governor.

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

(d) (i) The board shall elect a chair.

(ii) The chair shall set the agenda for the board meetings.

(6) A member of the board may not receive compensation or benefits for the member's service,

but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

(7) The board:

(a) shall hire an executive director for UETN who may hire staff for UETN as permitted by the budget;

(b) may terminate the executive director's employment or assignment;

(c) shall determine the executive director's salary;

(d) shall annually conduct a performance evaluation of the executive director;

(e) shall establish policies the board determines are necessary for the operation of UETN and the administration of UETN's duties; and

(f) shall advise UETN in:

(i) the development and operation of a coordinated, statewide, multi-option telecommunications system to assist in the delivery of educational services and telehealth services throughout the state; and

(ii) acquiring, producing, and distributing instructional content.

(8) The executive director of UETN shall be an at-will employee.

(9) UETN shall locate and maintain educational and telehealth telecommunication infrastructure throughout the state.

(10) Educational institutions shall manage site operations under policy established by UETN.

(11) Subject to future budget constraints, the Legislature shall provide an annual appropriation to operate UETN.

(12) If the network operated by the Department of Technology Services is not available, UETN may provide network connections to the central administration of counties and municipalities for the sole purpose of transferring data to a secure facility for backup and disaster recovery.

Section 9. Section 53B-17-106 is enacted to read:

53B-17-106. Utah Telehealth Advisory Council.

(1) There is created the Utah Telehealth Advisory Council, which may, at the discretion of the board, and after July 1, 2015, be combined with the Utah Education Advisory Council created in Section 53B-17-107.

(2) The Utah Telehealth Advisory Council members shall be appointed by the board.

(3) (a) The Telehealth Advisory Council shall annually elect a chairperson from its membership.

The chair shall set the agendas for the meetings of the advisory council and shall report to the board.

(b) The Telehealth Advisory Council shall hold meetings at least once every three months. Meetings may be held from time to time on the call of the chair or a majority of the board members.

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

(a) Section 63A-3-106;

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

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

(5) The board shall provide staff support to the council.

(6) The council shall:

(a) advise and make recommendations on telehealth service issues to the board and other state entities;

(b) advise and make recommendations on telehealth-related patient privacy to the board;

(c) promote collaborative efforts to establish technical compatibility, uniform policies, and privacy features to meet legal, financial, commercial, and other societal requirements;

(d) identify, address, and seek to resolve the legal, ethical, regulatory, financial, medical, and technological issues that may serve as barriers to telehealth service;

(e) explore and encourage the development of telehealth as a means of reducing health care costs and increasing health care quality and access, with emphasis on assisting rural health care providers and special populations with access to or development of electronic medical records; and

(f) seek public input on telehealth issues.

Section 10. Section 53B-17-107 is enacted to read:

53B-17-107. Utah Education Advisory Council.

(1) (a) There is created the Utah Education Advisory Council which may, at the discretion of the board, and after July 1, 2015, be combined with the Utah Telehealth Advisory Council created in Section 53B-17-106.

(b) The Utah Education Advisory Council members shall be appointed by the board.

(c) The Utah Education Advisory Council shall annually elect a chairperson from its membership. The chair shall set the agenda for Utah Education Advisory Council meetings and report to the board.

(d) The Utah Education Advisory Council shall hold meetings at least once every three months. Meetings may be held from time to time on the call of the chair or a majority of the board members.

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

(a) Section 63A-3-106;

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

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

(3) The Utah Education Advisory Council shall:

(a) advise the board and other public entities regarding:

(i) the coordination of the various telecommunications technology initiatives of public and higher education;

(ii) how to provide high-quality, cost-effective Internet access and appropriate interface equipment for schools and school systems;

(iii) recommendations for the procurement, installation, and maintenance of telecommunication services and equipment on behalf of public and higher education; and

(iv) the development or implementation of other programs or services for the delivery of distance learning and digital health services as directed by law; and

(b) seek public input on the development and operation of a coordinated, statewide, multi-option telecommunications system to assist in the delivery of educational services and digital health services throughout the state.

(4) The board shall provide staff to the council.

Section 11. Section 53B-18-901 is amended to read:

53B-18-901. Distance Education Doctorate Program.

(1) The Legislature finds that:

(a) many Utah public education administrators are nearing the end of their careers and will retire early in the 21st Century;

(b) Utah public schools have many mid-career faculty that could become the next wave of administrators if they were prepared with a doctorate in education degree that emphasized curriculum and instruction;

(c) each of Utah's community colleges have several faculty that need a terminal degree and further knowledge in curriculum development and state-of-the-art instructional methodology, and these individuals, being mid-career, find it difficult to relocate to a college campus for a traditional program; and

(d) the state and its students will be better served if faculty and administrators are more knowledgeable about the development of curriculum and the latest instructional methodology based on documented research.

(2) Therefore, Utah State University shall establish a Distance Education Doctorate Program to accommodate public education administrators and community college faculty and administration.

(3) The program shall include the following components:

(a) the offering of courses for a doctorate degree in education over the [~~UEN-EDNET~~] system established under Title 53B, Chapter 17, Part 1, Educational Telecommunications;

(b) structuring of the program to make it identical to a regular campus program in rigor and course work; and

(c) providing a support system from at least the following five departments at the university:

(i) Elementary Education;

(ii) Secondary Education;

(iii) Business Information Systems and Education;

(iv) Industrial Technology; and

(v) Agricultural Systems Technology and Education.

(4) The university shall augment the program with off-campus summer courses, with those courses eventually being offered over the [~~UEN-EDNET~~] system established under Title 53B, Chapter 17, Part 1, Educational Telecommunications.

(5) The Legislature shall provide an annual appropriation to fund the program established under this part.

Section 12. Section 63G-6a-104 is amended to read:

63G-6a-104. Definitions of government entities.

As used in this chapter:

(1) "Applicable rulemaking authority" means:

(a) as it relates to a legislative procurement unit, the Legislative Management Committee, which shall adopt a policy establishing requirements applicable to a legislative procurement unit;

(b) as it relates to a judicial procurement unit, the Judicial Council;

(c) as it relates to an executive branch procurement unit, except to the extent provided in Subsections (1)(d) through (g), the board;

(d) as it relates to the State Building Board, created in Section 63A-5-101, the State Building Board, but only to the extent that the rules relate to procurement authority expressly granted to the State Building Board by statute;

(e) as it relates to the Division of Facilities Construction and Management, created in Section 63A-5-201, the director of the Division of Facilities Construction and Management, but only to the

extent that the rules relate to procurement authority expressly granted to the Division of Facilities Construction and Management by statute;

(f) as it relates to the Office of the Attorney General, the attorney general, but only to the extent that the rules relate to procurement authority expressly granted to the attorney general by statute;

(g) as it relates to the Department of Transportation, created in Section 72-1-201, the executive director of the Department of Transportation, but only to the extent that the rules relate to procurement authority expressly granted to the Department of Transportation by statute;

(h) as it relates to a local government procurement unit, the legislative body of the local government procurement unit, not as a delegation of authority from the Legislature, but under the local government procurement unit's own legislative authority;

(i) as it relates to a school district or a public school, the Utah State Procurement Policy Board, except to the extent that a school district makes its own nonadministrative rules, with respect to a particular subject, that do not conflict with the provisions of this chapter;

(j) as it relates to a state institution of higher education, the State Board of Regents;

(k) as it relates to a public transit district, the chief executive of the public transit district;

(l) as it relates to a local district or a special service district:

(i) before May 13, 2014, the board of trustees of the local district or the governing body of the special service district; or

(ii) on or after May 13, 2014, the board, except to the extent that the board of trustees of the local district or the governing body of the special service district makes its own rules:

(A) with respect to a subject addressed by board rules; or

(B) that are in addition to board rules; or

(m) as it relates to a procurement unit, other than a procurement unit described in Subsections (1)(a) through (l), the board.

(2) "Board" means the Utah State Procurement Policy Board, created in Section 63G-6a-202.

(3) "Building board" means the State Building Board created in Section 63A-5-101.

(4) "Conservation district" is as defined in Section 17D-3-102.

(5) "Division" means the Division of Purchasing and General Services.

(6) "Educational procurement unit" means:

(a) a school district;

(b) a public school, including a local school board or a charter school;

(c) Utah Schools for the Deaf and Blind;

(d) the Utah Education and Telehealth Network; or

(e) an institution of higher education of the state.

(7) “Executive branch procurement unit” means each department, division, office, bureau, agency, or other organization within the state executive branch, including the division and the attorney general’s office.

(8) “External procurement unit” means:

(a) a buying organization not located in this state which, if located in this state, would qualify as a procurement unit; or

(b) an agency of the United States.

(9) “Judicial procurement unit” means:

(a) the Utah Supreme Court;

(b) the Utah Court of Appeals;

(c) the Judicial Council;

(d) a state judicial district; or

(e) each office, committee, subcommittee, or other organization within the state judicial branch.

(10) “Legislative procurement unit” means:

(a) the Legislature;

(b) the Senate;

(c) the House of Representatives;

(d) a staff office of an entity described in Subsection (10)(a), (b), or (c); or

(e) each office, committee, subcommittee, or other organization within the state legislative branch.

(11) “Local building authority” is as defined in Section 17D-2-102.

(12) “Local district” is as defined in Section 17B-1-102.

(13) “Local government procurement unit” means:

(a) a county or municipality, and each office or agency of the county or municipality, unless the county or municipality adopts its own procurement code by ordinance;

(b) a county or municipality, and each office or agency of the county or municipality, that has adopted this entire chapter by ordinance; or

(c) a county or municipality, and each office or agency of the county or municipality, that has adopted a portion of this chapter by ordinance, to the extent that the term is used in the adopted portion of this chapter.

(14) (a) “Procurement unit” means:

(i) a legislative procurement unit;

(ii) an executive branch procurement unit;

(iii) a judicial procurement unit;

(iv) an educational procurement unit;

(v) a local government procurement unit;

(vi) a local district;

(vii) a special service district;

(viii) a local building authority;

(ix) a conservation district;

(x) a public corporation; or

(xi) a public transit district.

(b) “Procurement unit” does not include a political subdivision created under Title 11, Chapter 13, Interlocal Cooperation Act.

(15) “Public corporation” is as defined in Section 63E-1-102.

(16) “Public entity” means any state government entity or a political subdivision of the state, including:

(a) a procurement unit;

(b) a municipality or county, regardless of whether the municipality or county has adopted this chapter or any part of this chapter; and

(c) any other government entity located in Utah that expends public funds.

(17) “Public transit district” means a public transit district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act.

(18) “Special service district” is as defined in Section 17D-1-102.

Section 13. Section 63J-3-103 is amended to read:

63J-3-103. Definitions.

As used in this chapter:

(1) (a) “Appropriations” means actual unrestricted capital and operating appropriations from unrestricted General Fund and Education Fund sources.

(b) “Appropriations” includes appropriations that are contingent upon available surpluses in the General Fund and Education Fund.

(c) “Appropriations” does not mean:

(i) public education expenditures;

(ii) Utah Education and Telehealth Network expenditures in support of public education;

(iii) Utah College of Applied Technology expenditures in support of public education;

(iv) Tax Commission expenditures related to collection of income taxes in support of public education;

(v) debt service expenditures;

(vi) emergency expenditures;

(vii) expenditures from all other fund or subfund sources;

(viii) transfers or appropriations from the Education Fund to the Uniform School Fund;

(ix) transfers into, or appropriations made to, the General Fund Budget Reserve Account established in Section 63J-1-312;

(x) transfers into, or appropriations made to, the Education Budget Reserve Account established in Section 63J-1-313;

(xi) transfers in accordance with Section 63J-1-314 into, or appropriations made to the State Disaster Recovery Restricted Account created in Section 53-2a-603;

(xii) money appropriated to fund the total one-time project costs for the construction of capital developments as defined in Section 63A-5-104;

(xiii) transfers or deposits into or appropriations made to the Centennial Highway Fund created by Section 72-2-118;

(xiv) transfers or deposits into or appropriations made to the Transportation Investment Fund of 2005 created by Section 72-2-124;

(xv) transfers or deposits into or appropriations made to:

(A) the Department of Transportation from any source; or

(B) any transportation-related account or fund from any source; or

(xvi) supplemental appropriations from the General Fund to the Division of Forestry, Fire, and State Lands to provide money for wildland fire control expenses incurred during the current or previous fire years.

(2) "Base year real per capita appropriations" means the result obtained for the state by dividing the fiscal year 1985 actual appropriations of the state less debt money by:

(a) the state's July 1, 1983 population; and

(b) the fiscal year 1983 inflation index divided by 100.

(3) "Calendar year" means the time period beginning on January 1 of any given year and ending on December 31 of the same year.

(4) "Fiscal emergency" means an extraordinary occurrence requiring immediate expenditures and includes the settlement under Laws of Utah 1988, Fourth Special Session, Chapter 4.

(5) "Fiscal year" means the time period beginning on July 1 of any given year and ending on June 30 of the subsequent year.

(6) "Fiscal year 1985 actual base year appropriations" means fiscal year 1985 actual capital and operations appropriations from General Fund and non-Uniform School Fund income tax revenue sources, less debt money.

(7) "Inflation index" means the change in the general price level of goods and services as measured by the Gross National Product Implicit Price Deflator of the Bureau of Economic Analysis, U.S. Department of Commerce calculated as provided in Section 63J-3-202.

(8) (a) "Maximum allowable appropriations limit" means the appropriations that could be, or could have been, spent in any given year under the limitations of this chapter.

(b) "Maximum allowable appropriations limit" does not mean actual appropriations spent or actual expenditures.

(9) "Most recent fiscal year's inflation index" means the fiscal year inflation index two fiscal years previous to the fiscal year for which the maximum allowable inflation and population appropriations limit is being computed under this chapter.

(10) "Most recent fiscal year's population" means the fiscal year population two fiscal years previous to the fiscal year for which the maximum allowable inflation and population appropriations limit is being computed under this chapter.

(11) "Population" means the number of residents of the state as of July 1 of each year as calculated by the Governor's Office of Management and Budget according to the procedures and requirements of Section 63J-3-202.

(12) "Revenues" means the revenues of the state from every tax, penalty, receipt, and other monetary exaction and interest connected with it that are recorded as unrestricted revenue of the General Fund and from non-Uniform School Fund income tax revenues, except as specifically exempted by this chapter.

(13) "Security" means any bond, note, warrant, or other evidence of indebtedness, whether or not the bond, note, warrant, or other evidence of indebtedness is or constitutes an "indebtedness" within the meaning of any provision of the constitution or laws of this state.

Section 14. Section 63M-1-3204 is amended to read:

63M-1-3204. STEM Action Center.

(1) As funding allows, the board shall:

(a) establish a STEM Action Center;

(b) ensure that the STEM Action Center:

(i) is accessible by the public; and

(ii) includes the components described in Subsection (2);

(c) work cooperatively with the State Board of Education to acquire technology and select schools as described in Sections 63M-1-3205 and 63M-1-3206; and

(d) engage private entities to provide financial support or employee time for STEM activities in schools in addition to what is currently provided by private entities.

(2) As funding allows, the executive director of the STEM Action Center shall:

(a) support professional development for educators regarding education related instructional technology that supports STEM education;

(b) ensure that the STEM Action Center acts as a research and development center for education related instructional technology acquired through a request for proposals process described in Section 63M-1-3205;

(c) review and acquire STEM education related technology for:

(i) educator professional development;

(ii) assessment, data collection, analysis, and reporting; and

(iii) public school instruction;

(d) facilitate participation in interscholastic STEM related competitions, fairs, and camps;

(e) engage private industry in the development and maintenance of the STEM Action Center;

(f) use resources to bring the latest STEM education learning tools into public education classrooms;

(g) identify at least 10 best practice innovations used in Utah schools that have resulted in at least 80% of students performing at grade level in STEM areas;

(h) identify best practices being used outside the state and implement selected practices through a pilot program;

(i) identify:

(i) three learning tools for kindergarten through grade 6 identified as best practices; and

(ii) three learning tools per STEM subject for grades 7 through 12 identified as best practices;

(j) provide a Utah best practices database, including best practices from public education, higher education, the Utah Education and Telehealth Network, and other STEM related entities;

(k) keep track of the following items related to the best practices database described in Subsection (2)(j):

(i) how the best practices database is being used; and

(ii) how many individuals are using the database, including the demographics of the users, if available;

(l) join and participate in a national STEM network;

(m) identify performance changes linked to use of the best practices database described in Subsection (2)(j);

(n) work cooperatively with the State Board of Education to designate schools as STEM schools, where the schools have agreed to adopt a plan of STEM implementation in alignment with criteria set by the State Board of Education and the board;

(o) support best methods of professional development, including methods of professional development that reduce cost and increase effectiveness, to help educators learn how to most effectively implement best practice learning tools in classrooms;

(p) recognize a high school's achievement in the STEM competitions, fairs, and camps described in Subsection (2)(d);

(q) send student results from STEM competitions, fairs, and camps described in Subsection (2)(d) to media and ask the media to report on them;

(r) develop and distribute STEM toolkits to parents of students being served by the STEM Action Center;

(s) support targeted professional development for improved instruction in STEM in grades 6, 7, and 8, including:

(i) improved instructional materials that are dynamic and engaging for students;

(ii) targeted instruction for students who traditionally avoid enrolling in STEM courses;

(iii) introduction of engaging engineering courses; and

(iv) introduction of other research-based methods that support student achievement in STEM areas; and

(t) ensure that an online college readiness assessment tool be accessible by:

(i) public education students; and

(ii) higher education students.

(3) The board may prescribe other duties for the STEM Action Center in addition to the responsibilities described in this section.

(4) (a) The executive director shall track and compare the student performance of students participating in a STEM Action Center program to all other similarly situated students in the state, in the following STEM related activities, at the beginning and end of each year:

(i) public education high school graduation rates;

(ii) the number of students taking a remedial mathematics course at an institution of higher education described in Section 53B-2-101;

(iii) the number of students who graduate from a Utah public school and begin a postsecondary education program; and

(iv) the number of students, as compared to all similarly situated students, who are performing at grade level in STEM classes.

(b) The State Board of Education and the State Board of Regents shall provide information to the board to assist the board in complying with the requirements of Subsection (4)(a) if allowed under federal law.

Section 15. Section 72-7-109 is amended to read:

72-7-109. Telecommunications Advisory Council -- Membership -- Duties.

(1) As used in this section:

(a) "Council" means the Telecommunications Advisory Council created in this section.

(b) "Statewide telecommunications purposes" has the same meaning provided in Section 72-7-108.

(2) (a) There is created within the department the Telecommunication Advisory Council consisting of six members who represent:

(i) the governor's chief advisor on telecommunications;

(ii) the Public Service Commission;

(iii) the department;

(iv) the Utah Education and Telehealth Network;

(v) the Division of Purchasing and General Services within the Department of Administrative Services; and

(vi) the Division of Public Utilities within the Department of Commerce.

(b) The members shall be appointed by the governor with the consent of the Senate.

(3) (a) The members shall annually elect a chair from its members.

(b) The council shall meet as it determines necessary to accomplish its duties.

(c) A majority of the council constitutes a quorum for the transaction of business.

(d) Members shall receive no compensation or benefits for their services.

(4) (a) The department shall provide staff support for the council.

(b) The council may request assistance from other technical advisors as it determines necessary to accomplish its duties.

(5) The council shall:

(a) provide information, suggestions, strategic plans, priorities, and recommendations to assist the department in administering telecommunications access to interstate highway rights-of-way for statewide telecommunications purposes;

(b) assist the department in valuing in-kind compensation in accordance with Subsection 72-7-108(3)(c);

(c) seek input from telecommunications providers and the public;

(d) coordinate and exchange information with other technology and telecommunications entities of the state and its political subdivisions; and

(e) provide other assistance as requested by the department.

Section 16. Repealer.

This bill repeals:

Section 53B-17-102, Utah Education Network.

CHAPTER 64**H. B. 111**

Passed March 13, 2014
 Approved March 27, 2014
 Effective May 13, 2014

SCHOOL BUILDING COSTS REPORTING

Chief Sponsor: John Knotwell
 Senate Sponsor: Deidre M. Henderson
 Cosponsors: Jim Bird
 Rich Cunningham
 Ken Ivory
 Daniel McCay
 Earl D. Tanner

LONG TITLE**General Description:**

This bill enacts language to require a local education agency to submit a capital outlay report for publication on the Utah Public Finance Website.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires a local education agency to submit a capital outlay report for publication on the Utah Public Finance Website;
- ▶ requires a local education agency to include certain information in the capital outlay report and in a format set forth by the Division of Finance;
- ▶ requires a local education agency to submit a capital outlay report for each new school building project and significant school remodel since July 1, 2004; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-20-103, as last amended by Laws of Utah 2002, Chapter 301
 63A-3-402, as last amended by Laws of Utah 2011, Chapters 46 and 417

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

Section 1. Section 53A-20-103 is amended to read:**53A-20-103. School plant capital outlay report.**

(1) The State Board of Education shall prepare an annual school plant capital outlay report of all school districts, which includes information on the number and size of building projects completed and under construction.

(2) A school district or charter school shall prepare and submit an annual school plant capital outlay report in accordance with Section 63A-3-402.

Section 2. Section 63A-3-402 is amended to read:**63A-3-402. Utah Public Finance Website -- Establishment and administration -- Records disclosure.**

(1) There is created the Utah Public Finance Website to be administered by the Division of Finance with the technical assistance of the Department of Technology Services.

(2) The Utah Public Finance Website shall:

(a) permit Utah taxpayers to:

(i) view, understand, and track the use of taxpayer dollars by making public financial information available on the Internet for participating state entities' and participating local entities, using the Utah Public Finance Website; and

(ii) link to websites administered by participating local entities that do not use the Utah Public Finance Website for the purpose of providing participating local entities' public financial information as required by this part and by rule under Section 63A-3-404;

(b) allow a person who has Internet access to use the website without paying a fee;

(c) allow the public to search public financial information on the Utah Public Finance Website using those criteria established by the board;

(d) provide access to financial reports, financial audits, budgets, or other financial documents that are used to allocate, appropriate, spend, and account for the government funds, as may be established by rule under Section 63A-3-404;

(e) have a unique and simplified website address;

(f) be directly accessible via a link from the main page of the official state website;

(g) include other links, features, or functionality that will assist the public in obtaining and reviewing public financial information, as may be established by rule under Section 63A-3-404; and

(h) include a link to school report cards published on the State Board of Education's website pursuant to Section 53A-1-1112.

(3) The division shall:

(a) establish and maintain the website, including the provision of equipment, resources, and personnel as is necessary;

(b) maintain an archive of all information posted to the website;

(c) coordinate and process the receipt and posting of public financial information from participating state entities;

(d) coordinate and regulate the posting of public financial information by participating local entities; and

(e) provide staff support for the advisory committee.

(4) (a) A participating state entity shall permit the public to view the participating entity's public financial information via the website, beginning with information that is generated not later than the fiscal year that begins July 1, 2008, except that public financial information for an institution of higher education shall be provided beginning with information generated for the fiscal year beginning July 1, 2009.

(b) Not later than May 15, 2009, the website shall:

(i) be operational; and

(ii) permit public access to participating state entities' public financial information, except as provided in Subsection (4)(c).

(c) An institution of higher education that is a participating state entity shall submit the entity's public financial information at a time allowing for inclusion on the website no later than May 15, 2010.

(5) (a) The Utah Educational Savings Plan, created in Section 53B-8a-103, shall provide the following financial information to the division for posting on the Utah Public Finance Website:

(i) administrative fund expense transactions from its general ledger accounting system; and

(ii) employee compensation information.

(b) The plan is not required to submit other financial information to the division, including:

(i) revenue transactions;

(ii) account owner transactions; and

(iii) fiduciary or commercial information, as defined in Section 53B-12-102.

(6) (a) As used in this Subsection (6):

(i) "Local education agency" means a school district or a charter school.

(ii) "New school building project" means the construction of a school that did not previously exist in a local education agency.

(iii) "Significant school remodel" means the upgrading, changing, alteration, refurbishment, modification, or complete substitution of an existing school in a local education agency with a project cost equal to or in excess of \$2,000,000.

(b) For each new school building project or significant school remodel, the local education agency shall:

(i) prepare an annual school plant capital outlay report; and

(ii) submit the report:

(A) to the division for publication on the Utah Public Finance Website; and

(B) in a format, including any raw data or electronic formatting, prescribed by applicable division policy.

(c) The local education agency shall include in the capital outlay report described in Subsection

(6)(b)(i) the following information as applicable to each new school building project or significant school remodel:

(i) the name and location of the project or remodel;

(ii) construction and design costs, including:

(A) the purchase price or lease terms of any real property acquired or leased for the project or remodel;

(B) facility construction;

(C) facility and landscape design;

(D) applicable impact fees; and

(E) furnishings and equipment;

(iii) the gross square footage of the project or remodel;

(iv) the year construction was completed; and

(v) the final student capacity of the new school building project or, for a significant school remodel, the increase or decrease in student capacity created by the remodel.

(d) (i) For a cost, fee, or other expense required to be reported under Subsection (6)(c), the local education agency shall report the actual cost, fee, or other expense.

(ii) The division may require that a local education agency provide further itemized data on information listed in Subsection (6)(c).

(e) (i) No later than May 15, 2015, a local education agency shall provide the division a school plant capital outlay report for each new school building project and significant school remodel completed on or after July 1, 2004, and before May 13, 2014.

(ii) For a new school building project or significant school remodel completed after May 13, 2014, the local education agency shall provide the school plant capital outlay report described in this Subsection (6) to the division annually by a date designated by the division.

(6) (7) A person who negligently discloses a record that is classified as private, protected, or controlled by Title 63G, Chapter 2, Government Records Access and Management Act, is not criminally or civilly liable for an improper disclosure of the record if the record is disclosed solely as a result of the preparation or publication of the Utah Public Finance Website.

CHAPTER 65**H. B. 273**

Passed March 6, 2014
 Approved March 27, 2014
 Effective January 1, 2015

**PROPERTY TAX RESIDENTIAL
EXEMPTION AMENDMENTS**

Chief Sponsor: V. Lowry Snow
 Senate Sponsor: Stephen H. Urquhart

LONG TITLE**General Description:**

This bill modifies provisions related to the property tax residential exemption.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ addresses qualification and application requirements for the property tax residential exemption; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on January 1, 2015.

Utah Code Sections Affected:**AMENDS:**

- 17-41-101, as last amended by Laws of Utah 2009, Chapter 376
 59-2-102, as last amended by Laws of Utah 2013, Chapters 19 and 322
 59-2-103, as last amended by Laws of Utah 2004, Chapters 90 and 281
 59-2-103.5, as last amended by Laws of Utah 2013, Chapter 19
 59-2-804, as enacted by Laws of Utah 2008, Chapter 283
 59-7-302, as last amended by Laws of Utah 2010, Chapter 155

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

Section 1. Section 17-41-101 is amended to read:**17-41-101. Definitions.**

As used in this chapter:

- (1) "Advisory board" means:
- (a) for an agriculture protection area, the agriculture protection area advisory board created as provided in Section 17-41-201; and
 - (b) for an industrial protection area, the industrial protection area advisory board created as provided in Section 17-41-201.
- (2) (a) "Agriculture production" means production for commercial purposes of crops, livestock, and livestock products.
- (b) "Agriculture production" includes the processing or retail marketing of any crops, livestock, and livestock products when more than

50% of the processed or merchandised products are produced by the farm operator.

(3) "Agriculture protection area" means a geographic area created under the authority of this chapter that is granted the specific legal protections contained in this chapter.

(4) "Applicable legislative body" means:

(a) with respect to a proposed agriculture protection area or industrial protection area:

(i) the legislative body of the county in which the land proposed to be included in an agriculture protection area or industrial protection area is located, if the land is within the unincorporated part of the county; or

(ii) the legislative body of the city or town in which the land proposed to be included in an agriculture protection area or industrial protection area is located; and

(b) with respect to an existing agriculture protection area or industrial protection area:

(i) the legislative body of the county in which the agriculture protection area or industrial protection area is located, if the agriculture protection area or industrial protection area is within the unincorporated part of the county; or

(ii) the legislative body of the city or town in which the agriculture protection area or industrial protection area is located.

(5) "Board" means the Board of Oil, Gas, and Mining created in Section 40-6-4.

(6) "Crops, livestock, and livestock products" includes:

(a) land devoted to the raising of useful plants and animals with a reasonable expectation of profit, including:

- (i) forages and sod crops;
- (ii) grains and feed crops;

(iii) livestock as defined in [Subsection] Section 59-2-102[(27)(d)];

(iv) trees and fruits; or

(v) vegetables, nursery, floral, and ornamental stock; or

(b) land devoted to and meeting the requirements and qualifications for payments or other compensation under a crop-land retirement program with an agency of the state or federal government.

(7) "Division" means the Division of Oil, Gas, and Mining created in Section 40-6-15.

(8) "Industrial protection area" means a geographic area created under the authority of this chapter that is granted the specific legal protections contained in this chapter.

(9) "Mine operator" means a natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian,

fiduciary, agent, or other organization or representative, either public or private, including a successor, assign, affiliate, subsidiary, and related parent company, that, as of January 1, 2009:

(a) owns, controls, or manages a mining use under a large mine permit issued by the division or the board; and

(b) has produced commercial quantities of a mineral deposit from the mining use.

(10) "Mineral deposit" has the same meaning as defined in Section 40-8-4, but excludes:

(a) building stone, decorative rock, and landscaping rock; and

(b) consolidated rock that:

(i) is not associated with another deposit of minerals;

(ii) is or may be extracted from land; and

(iii) is put to uses similar to the uses of sand, gravel, and other aggregates.

(11) "Mining protection area" means land where a vested mining use occurs, including each surface or subsurface land or mineral estate that a mine operator with a vested mining use owns or controls.

(12) "Mining use":

(a) means:

(i) the full range of activities, from prospecting and exploration to reclamation and closure, associated with the exploitation of a mineral deposit; and

(ii) the use of the surface and subsurface and groundwater and surface water of an area in connection with the activities described in Subsection (12)(a)(i) that have been, are being, or will be conducted; and

(b) includes, whether conducted on-site or off-site:

(i) any sampling, staking, surveying, exploration, or development activity;

(ii) any drilling, blasting, excavating, or tunneling;

(iii) the removal, transport, treatment, deposition, and reclamation of overburden, development rock, tailings, and other waste material;

(iv) any removal, transportation, extraction, beneficiation, or processing of ore;

(v) any smelting, refining, autoclaving, or other primary or secondary processing operation;

(vi) the recovery of any mineral left in residue from a previous extraction or processing operation;

(vii) a mining activity that is identified in a work plan or permitting document;

(viii) the use, operation, maintenance, repair, replacement, or alteration of a building, structure,

facility, equipment, machine, tool, or other material or property that results from or is used in a surface or subsurface mining operation or activity;

(ix) any accessory, incidental, or ancillary activity or use, both active and passive, including a utility, private way or road, pipeline, land excavation, working, embankment, pond, gravel excavation, mining waste, conveyor, power line, trackage, storage, reserve, passive use area, buffer zone, and power production facility;

(x) the construction of a storage, factory, processing, or maintenance facility; and

(xi) any activity described in Subsection 40-8-4(14)(a).

(13) (a) "Municipal" means of or relating to a city or town.

(b) "Municipality" means a city or town.

(14) "New land" means surface or subsurface land or mineral estate that a mine operator gains ownership or control of, whether or not that land or mineral estate is included in the mine operator's large mine permit.

(15) "Off-site" has the same meaning as provided in Section 40-8-4.

(16) "On-site" has the same meaning as provided in Section 40-8-4.

(17) "Planning commission" means:

(a) a countywide planning commission if the land proposed to be included in the agriculture protection area or industrial protection area is within the unincorporated part of the county and not within a township;

(b) a township planning commission if the land proposed to be included in the agriculture protection area or industrial protection area is within a township; or

(c) a planning commission of a city or town if the land proposed to be included in the agriculture protection area or industrial protection area is within a city or town.

(18) "Political subdivision" means a county, city, town, school district, local district, or special service district.

(19) "Proposal sponsors" means the owners of land in agricultural production or industrial use who are sponsoring the proposal for creating an agriculture protection area or industrial protection area, respectively.

(20) "State agency" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

(21) "Unincorporated" means not within a city or town.

(22) "Vested mining use" means a mining use:

(a) by a mine operator; and

(b) that existed or was conducted or otherwise engaged in before a political subdivision prohibits, restricts, or otherwise limits a mining use.

Section 2. Section 59-2-102 is amended to read:

59-2-102. Definitions.

As used in this chapter and title:

(1) "Aerial applicator" means aircraft or rotorcraft used exclusively for the purpose of engaging in dispensing activities directly affecting agriculture or horticulture with an airworthiness certificate from the Federal Aviation Administration certifying the aircraft or rotorcraft's use for agricultural and pest control purposes.

(2) "Air charter service" means an air carrier operation which requires the customer to hire an entire aircraft rather than book passage in whatever capacity is available on a scheduled trip.

(3) "Air contract service" means an air carrier operation available only to customers who engage the services of the carrier through a contractual agreement and excess capacity on any trip and is not available to the public at large.

(4) "Aircraft" is as defined in Section 72-10-102.

(5) (a) Except as provided in Subsection (5)(b), "airline" means an air carrier that:

(i) operates:

(A) on an interstate route; and

(B) on a scheduled basis; and

(ii) offers to fly one or more passengers or cargo on the basis of available capacity on a regularly scheduled route.

(b) "Airline" does not include an:

(i) air charter service; or

(ii) air contract service.

(6) "Assessment roll" means a permanent record of the assessment of property as assessed by the county assessor and the commission and may be maintained manually or as a computerized file as a consolidated record or as multiple records by type, classification, or categories.

(7) (a) "Certified revenue levy" means a property tax levy that provides an amount of ad valorem property tax revenue equal to the sum of:

(i) the amount of ad valorem property tax revenue to be generated statewide in the previous year from imposing a school minimum basic tax rate, as specified in Subsection 53A-17a-135(1)(a), or multicounty assessing and collecting levy, as specified in Section 59-2-1602; and

(ii) the product of:

(A) new growth, as defined in:

(I) Section 59-2-924; and

(II) rules of the commission; and

(B) the school minimum basic tax rate or multicounty assessing and collecting levy certified by the commission for the previous year.

(b) For purposes of this Subsection (7), "ad valorem property tax revenue" does not include property tax revenue received by a taxing entity from personal property that is:

(i) assessed by a county assessor in accordance with Part 3, County Assessment; and

(ii) semiconductor manufacturing equipment.

(c) For purposes of calculating the certified revenue levy described in this Subsection (7), the commission shall use:

(i) the taxable value of real property assessed by a county assessor contained on the assessment roll;

(ii) the taxable value of real and personal property assessed by the commission; and

(iii) the taxable year end value of personal property assessed by a county assessor contained on the prior year's assessment roll.

(8) "County-assessed commercial vehicle" means:

(a) any commercial vehicle, trailer, or semitrailer which is not apportioned under Section 41-1a-301 and is not operated interstate to transport the vehicle owner's goods or property in furtherance of the owner's commercial enterprise;

(b) any passenger vehicle owned by a business and used by its employees for transportation as a company car or vanpool vehicle; and

(c) vehicles that are:

(i) especially constructed for towing or wrecking, and that are not otherwise used to transport goods, merchandise, or people for compensation;

(ii) used or licensed as taxicabs or limousines;

(iii) used as rental passenger cars, travel trailers, or motor homes;

(iv) used or licensed in this state for use as ambulances or hearses;

(v) especially designed and used for garbage and rubbish collection; or

(vi) used exclusively to transport students or their instructors to or from any private, public, or religious school or school activities.

(9) (a) Except as provided in Subsection (9)(b), for purposes of Section 59-2-801, "designated tax area" means a tax area created by the overlapping boundaries of only the following taxing entities:

(i) a county; and

(ii) a school district.

(b) Notwithstanding Subsection (9)(a), "designated tax area" includes a tax area created by the overlapping boundaries of:

(i) the taxing entities described in Subsection (9)(a); and

(ii) (A) a city or town if the boundaries of the school district under Subsection (9)(a) and the boundaries of the city or town are identical; or

(B) a special service district if the boundaries of the school district under Subsection (9)(a) are located entirely within the special service district.

(10) "Eligible judgment" means a final and unappealable judgment or order under Section 59-2-1330:

(a) that became a final and unappealable judgment or order no more than 14 months prior to the day on which the notice required by Section 59-2-919.1 is required to be mailed; and

(b) for which a taxing entity's share of the final and unappealable judgment or order is greater than or equal to the lesser of:

(i) \$5,000; or

(ii) 2.5% of the total ad valorem property taxes collected by the taxing entity in the previous fiscal year.

(11) (a) "Escaped property" means any property, whether personal, land, or any improvements to the property, subject to taxation and is:

(i) inadvertently omitted from the tax rolls, assigned to the incorrect parcel, or assessed to the wrong taxpayer by the assessing authority;

(ii) undervalued or omitted from the tax rolls because of the failure of the taxpayer to comply with the reporting requirements of this chapter; or

(iii) undervalued because of errors made by the assessing authority based upon incomplete or erroneous information furnished by the taxpayer.

(b) Property that is undervalued because of the use of a different valuation methodology or because of a different application of the same valuation methodology is not "escaped property."

(12) "Fair market value" means the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts. For purposes of taxation, "fair market value" shall be determined using the current zoning laws applicable to the property in question, except in cases where there is a reasonable probability of a change in the zoning laws affecting that property in the tax year in question and the change would have an appreciable influence upon the value.

(13) "Farm machinery and equipment," for purposes of the exemption provided under Section 59-2-1101, means tractors, milking equipment and storage and cooling facilities, feed handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters, tillage tools, scales, combines, spreaders, sprayers, haying equipment, and any other machinery or equipment used primarily for agricultural purposes; but does not include vehicles required to be registered with the Motor Vehicle Division or vehicles or other

equipment used for business purposes other than farming.

(14) "Geothermal fluid" means water in any form at temperatures greater than 120 degrees centigrade naturally present in a geothermal system.

(15) "Geothermal resource" means:

(a) the natural heat of the earth at temperatures greater than 120 degrees centigrade; and

(b) the energy, in whatever form, including pressure, present in, resulting from, created by, or which may be extracted from that natural heat, directly or through a material medium.

(16) (a) "Goodwill" means:

(i) acquired goodwill that is reported as goodwill on the books and records:

(A) of a taxpayer; and

(B) that are maintained for financial reporting purposes; or

(ii) the ability of a business to:

(A) generate income:

(I) that exceeds a normal rate of return on assets; and

(II) resulting from a factor described in Subsection (16)(b); or

(B) obtain an economic or competitive advantage resulting from a factor described in Subsection (16)(b).

(b) The following factors apply to Subsection (16)(a)(ii):

(i) superior management skills;

(ii) reputation;

(iii) customer relationships;

(iv) patronage; or

(v) a factor similar to Subsections (16)(b)(i) through (iv).

(c) "Goodwill" does not include:

(i) the intangible property described in Subsection (20)(a) or (b);

(ii) locational attributes of real property, including:

(A) zoning;

(B) location;

(C) view;

(D) a geographic feature;

(E) an easement;

(F) a covenant;

(G) proximity to raw materials;

(H) the condition of surrounding property; or

(I) proximity to markets;

(iii) value attributable to the identification of an improvement to real property, including:

(A) reputation of the designer, builder, or architect of the improvement;

(B) a name given to, or associated with, the improvement; or

(C) the historic significance of an improvement; or

(iv) the enhancement or assemblage value specifically attributable to the interrelation of the existing tangible property in place working together as a unit.

(17) "Governing body" means:

(a) for a county, city, or town, the legislative body of the county, city, or town;

(b) for a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, the local district's board of trustees;

(c) for a school district, the local board of education; or

(d) for a special service district under Title 17D, Chapter 1, Special Service District Act:

(i) the legislative body of the county or municipality that created the special service district, to the extent that the county or municipal legislative body has not delegated authority to an administrative control board established under Section 17D-1-301; or

(ii) the administrative control board, to the extent that the county or municipal legislative body has delegated authority to an administrative control board established under Section 17D-1-301.

(18) (a) For purposes of Section 59-2-103:

(i) "household" means the association of persons who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses; and

(ii) "household" includes married individuals, who are not legally separated, that have established domiciles at separate locations within the state.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "domicile."

(19) (a) Except as provided in Subsection (19)(c), "improvement" means a building, structure, fixture, fence, or other item that is permanently attached to land, regardless of whether the title has been acquired to the land, if:

(i) (A) attachment to land is essential to the operation or use of the item; and

(B) the manner of attachment to land suggests that the item will remain attached to the land in the same place over the useful life of the item; or

(ii) removal of the item would:

(A) cause substantial damage to the item; or

(B) require substantial alteration or repair of a structure to which the item is attached.

(b) "Improvement" includes:

(i) an accessory to an item described in Subsection (19)(a) if the accessory is:

(A) essential to the operation of the item described in Subsection (19)(a); and

(B) installed solely to serve the operation of the item described in Subsection (19)(a); and

(ii) an item described in Subsection (19)(a) that:

(A) is temporarily detached from the land for repairs; and

(B) remains located on the land.

(c) Notwithstanding Subsections (19)(a) and (b), "improvement" does not include:

(i) an item considered to be personal property pursuant to rules made in accordance with Section 59-2-107;

(ii) a moveable item that is attached to land:

(A) for stability only; or

(B) for an obvious temporary purpose;

(iii) (A) manufacturing equipment and machinery; or

(B) essential accessories to manufacturing equipment and machinery;

(iv) an item attached to the land in a manner that facilitates removal without substantial damage to:

(A) the land; or

(B) the item; or

(v) a transportable factory-built housing unit as defined in Section 59-2-1502 if that transportable factory-built housing unit is considered to be personal property under Section 59-2-1503.

(20) "Intangible property" means:

(a) property that is capable of private ownership separate from tangible property, including:

(i) money;

(ii) credits;

(iii) bonds;

(iv) stocks;

(v) representative property;

(vi) franchises;

(vii) licenses;

(viii) trade names;

(ix) copyrights; and

(x) patents;

(b) a low-income housing tax credit;

(c) goodwill; or

(d) a renewable energy tax credit or incentive, including:

(i) a federal renewable energy production tax credit under Section 45, Internal Revenue Code;

(ii) a federal energy credit for qualified renewable electricity production facilities under Section 48, Internal Revenue Code;

(iii) a federal grant for a renewable energy property under American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, Section 1603; and

(iv) a tax credit under Subsection 59-7-614(2)(c).

(21) "Livestock" means:

(a) a domestic animal;

(b) a fur-bearing animal;

(c) a honeybee; or

(d) poultry.

[(21)] (22) "Low-income housing tax credit" means:

(a) a federal low-income housing tax credit under Section 42, Internal Revenue Code; or

(b) a low-income housing tax credit under:

(i) Section 59-7-607; or

(ii) Section 59-10-1010.

[(22)] (23) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.

[(23)] (24) "Mine" means a natural deposit of either metalliferous or nonmetalliferous valuable mineral.

[(24)] (25) "Mining" means the process of producing, extracting, leaching, evaporating, or otherwise removing a mineral from a mine.

[(25)] (26) (a) "Mobile flight equipment" means tangible personal property that is:

(i) owned or operated by an:

(A) air charter service;

(B) air contract service; or

(C) airline; and

(ii) (A) capable of flight;

(B) attached to an aircraft that is capable of flight; or

(C) contained in an aircraft that is capable of flight if the tangible personal property is intended to be used:

(I) during multiple flights;

(II) during a takeoff, flight, or landing; and

(III) as a service provided by an air charter service, air contract service, or airline.

(b) (i) "Mobile flight equipment" does not include a spare part other than a spare engine that is rotated:

(A) at regular intervals; and

(B) with an engine that is attached to the aircraft.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "regular intervals."

[(26)] (27) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts, sand, rock, gravel, and all carboniferous materials.

(28) "Part-year residential property" means property that is not residential property on January 1 of a calendar year but becomes residential property after January 1 of the calendar year.

[(27)] (29) "Personal property" includes:

(a) every class of property as defined in Subsection [(28)] (30) that is the subject of ownership and not included within the meaning of the terms "real estate" and "improvements";

(b) gas and water mains and pipes laid in roads, streets, or alleys;

(c) bridges and ferries;

(d) livestock[, which, for the purposes of the exemption provided under Section 59-2-1112, means all domestic animals, honeybees, poultry, fur-bearing animals, and fish]; and

(e) outdoor advertising structures as defined in Section 72-7-502.

[(28)] (30) (a) "Property" means property that is subject to assessment and taxation according to its value.

(b) "Property" does not include intangible property as defined in this section.

[(29)] (31) "Public utility," for purposes of this chapter, means the operating property of a railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline company, electrical corporation, telephone corporation, sewerage corporation, or heat corporation where the company performs the service for, or delivers the commodity to, the public generally or companies serving the public generally, or in the case of a gas corporation or an electrical corporation, where the gas or electricity is sold or furnished to any member or consumers within the state for domestic, commercial, or industrial use. Public utility also means the operating property of any entity or person defined under Section 54-2-1 except water corporations.

[(30)] (32) (a) Subject to Subsection [(30)] (32)(b), "qualifying exempt primary residential rental personal property" means household furnishings, furniture, and equipment that:

(i) are used exclusively within a dwelling unit that is the primary residence of a tenant;

(ii) are owned by the owner of the dwelling unit that is the primary residence of a tenant; and

(iii) after applying the residential exemption described in Section 59-2-103, are exempt from taxation under this chapter in accordance with Subsection 59-2-1115(2).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term “dwelling unit” for purposes of this Subsection [(30)] (32) and Subsection [(33)] (35).

[(31)] (33) “Real estate” or “real property” includes:

(a) the possession of, claim to, ownership of, or right to the possession of land;

(b) all mines, minerals, and quarries in and under the land, all timber belonging to individuals or corporations growing or being on the lands of this state or the United States, and all rights and privileges appertaining to these; and

(c) improvements.

[(32)] (34) “Relationship with an owner of the property’s land surface rights” means a relationship described in Subsection 267(b), Internal Revenue Code:

(a) except that notwithstanding Subsection 267(b), Internal Revenue Code, the term 25% shall be substituted for the term 50% in Subsection 267(b), Internal Revenue Code; and

(b) using the ownership rules of Subsection 267(c), Internal Revenue Code, for determining the ownership of stock.

[(33)] (35) (a) Subject to Subsection [(33)] (35)(b), “residential property,” for the purposes of the reductions and adjustments under this chapter, means any property used for residential purposes as a primary residence.

(b) Subject to Subsection [(33)] (35)(c), “residential property”:

(i) except as provided in Subsection [(33)] (35)(b)(ii), includes household furnishings, furniture, and equipment if the household furnishings, furniture, and equipment are:

(A) used exclusively within a dwelling unit that is the primary residence of a tenant; and

(B) owned by the owner of the dwelling unit that is the primary residence of a tenant; and

(ii) does not include property used for transient residential use.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term “dwelling unit” for purposes of Subsection [(30)] (32) and this Subsection [(33)] (35).

[(34)] (36) “Split estate mineral rights owner” means a person who:

(a) has a legal right to extract a mineral from property;

(b) does not hold more than a 25% interest in:

(i) the land surface rights of the property where the wellhead is located; or

(ii) an entity with an ownership interest in the land surface rights of the property where the wellhead is located;

(c) is not an entity in which the owner of the land surface rights of the property where the wellhead is located holds more than a 25% interest; and

(d) does not have a relationship with an owner of the land surface rights of the property where the wellhead is located.

[(35)] (37) (a) “State-assessed commercial vehicle” means:

(i) any commercial vehicle, trailer, or semitrailer which operates interstate or intrastate to transport passengers, freight, merchandise, or other property for hire; or

(ii) any commercial vehicle, trailer, or semitrailer which operates interstate and transports the vehicle owner’s goods or property in furtherance of the owner’s commercial enterprise.

(b) “State-assessed commercial vehicle” does not include vehicles used for hire which are specified in Subsection (8)(c) as county-assessed commercial vehicles.

[(36)] (38) “Taxable value” means fair market value less any applicable reduction allowed for residential property under Section 59-2-103.

[(37)] (39) “Tax area” means a geographic area created by the overlapping boundaries of one or more taxing entities.

[(38)] (40) “Taxing entity” means any county, city, town, school district, special taxing district, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or other political subdivision of the state with the authority to levy a tax on property.

[(39)] (41) “Tax roll” means a permanent record of the taxes charged on property, as extended on the assessment roll and may be maintained on the same record or records as the assessment roll or may be maintained on a separate record properly indexed to the assessment roll. It includes tax books, tax lists, and other similar materials.

Section 3. Section 59-2-103 is amended to read:

59-2-103. Rate of assessment of property -- Residential property.

(1) All tangible taxable property located within the state shall be assessed and taxed at a uniform and equal rate on the basis of its fair market value, as valued on January 1, unless otherwise provided by law.

(2) Subject to Subsections [(43) and (4), beginning on January 1, 1995] (3) through (5) and Section 59-2-103.5, for a calendar year, the fair market value of residential property located within the state [shall be reduced by 45%, representing a residential exemption allowed under Utah

~~Constitution Article XIII, Section 2, is allowed a residential exemption equal to a 45% reduction in the value of the property.~~

~~(3) Part-year residential property located within the state is allowed the residential exemption described in Subsection (2) if the part-year residential property is used as residential property for 183 or more consecutive calendar days during the calendar year for which the owner seeks to obtain the residential exemption.~~

~~[(3)] (4) No more than one acre of land per residential unit may qualify for the residential exemption described in Subsection (2).~~

~~[(4)] (5) (a) Except as provided in Subsection [(4)] (5)(b)(ii), [beginning on January 1, 2005, the] a residential exemption described in Subsection (2) is limited to one primary residence per household.~~

~~(b) An owner of multiple [residential properties] primary residences located within the state is allowed a residential exemption under Subsection (2) for:~~

~~(i) subject to Subsection [(4)] (5)(a), the primary residence of the owner; and~~

~~(ii) each residential property that is the primary residence of a tenant.~~

Section 4. Section 59-2-103.5 is amended to read:

59-2-103.5. Procedures to obtain an exemption for residential property -- Procedure if property owner or property no longer qualifies to receive a residential exemption.

~~[(1) Subject to the other provisions of this section, a county legislative body may by ordinance require that in order for residential property to be allowed a residential exemption in accordance with Section 59-2-103, an owner of the residential property shall file with the county board of equalization a statement:]~~

~~(1) For residential property other than part-year residential property, a county legislative body may adopt an ordinance that requires an owner to file an application with the county board of equalization before a residential exemption under Section 59-2-103 may be applied to the value of the residential property if:~~

~~(a) the residential property was ineligible for the residential exemption during the calendar year immediately preceding the calendar year for which the owner is seeking to have the residential exemption applied to the value of the residential property;~~

~~(b) an ownership interest in the residential property changes; or~~

~~(c) the county board of equalization determines that there is reason to believe that the residential property no longer qualifies for the residential exemption.~~

~~(2) (a) The application described in Subsection (1) shall:~~

~~[(a)] (i) be on a form [prescribed by] the commission prescribes by rule and makes available to the counties;~~

~~[(b)] (ii) be signed by all of the owners of the residential property;~~

~~[(c) certifying] (iii) certify that the residential property is residential property; and~~

~~[(d) containing] (iv) contain other information as [required by] the commission requires by rule.~~

~~[(2) (a) Subject to Section 59-2-103 and except as provided in Subsection (3), a county board of equalization shall allow an owner described in Subsection (1) a residential exemption for the residential property described in Subsection (1) if:]~~

~~[(i) the county legislative body enacts the ordinance described in Subsection (1); and]~~

~~[(ii) the county board of equalization determines that the requirements of Subsection (1) are met.]~~

~~[(b) A county board of equalization may require an owner of the residential property described in Subsection (1) to file the statement described in Subsection (1) only if:]~~

~~[(i) that residential property was ineligible for the residential exemption authorized under Section 59-2-103 during the calendar year immediately preceding the calendar year for which the owner is seeking to claim the residential exemption for that residential property;]~~

~~[(ii) an ownership interest in that residential property changes; or]~~

~~[(iii) the county board of equalization determines that there is reason to believe that that residential property no longer qualifies for the residential exemption in accordance with Section 59-2-103.]~~

~~[(3) Notwithstanding Subsection (2)(a), if a county legislative body does not enact an ordinance requiring an owner to file a statement in accordance with this section, the county board of equalization:]~~

~~[(a) may not require an owner to file a statement for residential property to be eligible for a residential exemption in accordance with Section 59-2-103; and]~~

~~[(b) shall allow a residential exemption for residential property in accordance with Section 59-2-103.]~~

~~[(4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules providing:]~~

~~[(i) the form for the statement described in Subsection (1); and]~~

~~[(ii) the contents of the form for the statement described in Subsection (1).]~~

~~[(b) The commission shall make the form described in Subsection (4)(a) available to counties.]~~

~~(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission~~

may make rules prescribing the contents of the form described in Subsection (2)(a).

(3) (a) Regardless of whether a county legislative body adopts an ordinance described in Subsection (1), before a residential exemption may be applied to the value of part-year residential property, an owner of the property shall:

(i) file the application described in Subsection (2)(a) with the county board of equalization; and

(ii) include as part of the application described in Subsection (2)(a) a statement that certifies:

(A) the date the part-year residential property became residential property;

(B) that the part-year residential property will be used as residential property for 183 or more consecutive calendar days during the calendar year for which the owner seeks to obtain the residential exemption; and

(C) that the owner, or a member of the owner's household, may not claim a residential exemption for any property for the calendar year for which the owner seeks to obtain the residential exemption, other than the part-year residential property, or as allowed under Section 59-2-103 with respect to the primary residence or household furnishings, furniture, and equipment of the owner's tenant.

(b) An owner may not obtain a residential exemption for part-year residential property unless the owner files an application under this Subsection (3) on or before November 30 of the calendar year for which the owner seeks to obtain the residential exemption.

(c) If an owner files an application under this Subsection (3) on or after May 1 of the calendar year for which the owner seeks to obtain the residential exemption, the county board of equalization may require the owner to pay an application fee of not to exceed \$50.

~~[(5)] (4)~~ Except as provided in Subsection ~~[(6)] (5)~~, if a property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for ~~[that]~~ the property owner's primary residence, the property owner shall:

(a) file a written statement with the county board of equalization of the county in which the property is located:

(i) on a form provided by the county board of equalization; and

(ii) notifying the county board of equalization that the property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for ~~[that]~~ the property owner's primary residence; and

(b) declare on the property owner's individual income tax return under Chapter 10, Individual Income Tax Act, for the taxable year for which the property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for ~~[that]~~ the property owner's primary

residence, that the property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for ~~[that]~~ the property owner's primary residence.

~~[(6)] (5)~~ A property owner is not required to file a written statement or make the declaration described in Subsection ~~[(5)] (4)~~ if the property owner:

(a) changes primary residences;

(b) qualified to receive a residential exemption authorized under Section 59-2-103 for the residence that was the property owner's former primary residence; and

(c) qualifies to receive a residential exemption authorized under Section 59-2-103 for the residence that is the property owner's current primary residence.

~~[(7)-(a)] (6)~~ Subsections (2) through ~~[(6)] (5)~~ do not apply to qualifying exempt primary residential rental personal property.

~~[(b)-(4)] (7) (a)~~ For the first calendar year in which a ~~[taxpayer qualifies for an exemption described in Subsection (2)]~~ property owner qualifies to receive a residential exemption under Section 59-2-103, a county assessor may require the ~~[taxpayer]~~ property owner to file a signed statement described in Section 59-2-306.

~~[(ii)] (b)~~ Notwithstanding Section 59-2-306, for a calendar year after the calendar year described in Subsection (7)~~[(b)-(4)](a)~~ in which a ~~[taxpayer]~~ property owner qualifies for an exemption described in Subsection 59-2-1115(2) for qualifying exempt primary residential rental personal property, a signed statement described in Section 59-2-306 with respect to the qualifying exempt primary residential rental personal property may only require the ~~[taxpayer]~~ property owner to certify, under penalty of perjury, that the ~~[taxpayer]~~ property owner qualifies for the exemption under Subsection 59-2-1115(2).

Section 5. Section 59-2-804 is amended to read:

59-2-804. Interstate allocation of mobile flight equipment.

(1) As used in this section:

(a) "Aircraft type" means a particular model of aircraft as designated by the manufacturer of the aircraft.

(b) "Airline ground hours calculation" means an amount equal to the product of:

(i) the total number of hours aircraft owned or operated by an airline are on the ground, calculated by aircraft type; and

(ii) the cost percentage.

(c) "Airline revenue ton miles" means, for an airline, the total revenue ton miles during the calendar year that immediately precedes the January 1 described in Section 59-2-103.

(d) "Cost percentage" means a fraction, calculated by aircraft type, the numerator of which is the airline's average cost of the aircraft type and the denominator of which is the airline's average cost of the aircraft type:

- (i) owned or operated by the airline; and
 - (ii) that has the lowest average cost.
- (e) "Ground hours factor" means the product of:

(i) a fraction, the numerator of which is the Utah ground hours calculation and the denominator of which is the airline ground hours calculation; and

- (ii) .50.

(f) (i) Except as provided in Subsection (1)(f)(ii), "mobile flight equipment" is as defined in Section 59-2-102.

(ii) "Mobile flight equipment" does not include tangible personal property described in Subsection 59-2-102~~(25)~~(26) owned by an:

- (A) air charter service; or
- (B) air contract service.

(g) "Mobile flight equipment allocation factor" means the sum of:

- (i) the ground hours factor; and
- (ii) the revenue ton miles factor.

(h) "Revenue ton miles" is determined in accordance with 14 C.F.R. Part 241.

(i) "Revenue ton miles factor" means the product of:

(i) a fraction, the numerator of which is the Utah revenue ton miles and the denominator of which is the airline revenue ton miles; and

- (ii) .50.

(j) "Utah ground hours calculation" means an amount equal to the product of:

(i) the total number of hours aircraft owned or operated by an airline are on the ground in this state, calculated by aircraft type; and

- (ii) the cost percentage.

(k) "Utah revenue ton miles" means, for an airline, the total revenue ton miles within the borders of this state:

(i) during the calendar year that immediately precedes the January 1 described in Section 59-2-103; and

(ii) from flight stages that originate or terminate in this state.

(2) For purposes of the assessment of an airline's mobile flight equipment by the commission, a portion of the value of the airline's mobile flight equipment shall be allocated to the state by calculating the product of:

(a) the total value of the mobile flight equipment; and

(b) the mobile flight equipment allocation factor.

Section 6. Section 59-7-302 is amended to read:

59-7-302. Definitions -- Determination of when a taxpayer is considered to be a sales factor weighted taxpayer.

(1) As used in this part, unless the context otherwise requires:

(a) "Aircraft type" means a particular model of aircraft as designated by the manufacturer of the aircraft.

(b) "Airline" is as defined in Section 59-2-102.

(c) "Airline revenue ton miles" means, for an airline, the total revenue ton miles during the airline's tax period.

(d) "Business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitutes integral parts of the taxpayer's regular trade or business operations.

(e) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(f) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees for personal services.

(g) (i) Except as provided in Subsection (1)(g)(ii), "mobile flight equipment" is as defined in Section 59-2-102.

(ii) "Mobile flight equipment" does not include:

(A) a spare engine; or

(B) tangible personal property described in Subsection 59-2-102~~(25)~~(26) owned by an:

(I) air charter service; or

(II) air contract service.

(h) "Nonbusiness income" means all income other than business income.

(i) "Revenue ton miles" is determined in accordance with 14 C.F.R. Part 241.

(j) "Sales" means all gross receipts of the taxpayer not allocated under Sections 59-7-306 through 59-7-310.

(k) Subject to Subsection (2), "sales factor weighted taxpayer" means:

(i) for a taxpayer that is not a unitary group, regardless of the number of economic activities the taxpayer performs, a taxpayer having greater than 50% of the taxpayer's total sales everywhere generated by economic activities:

(A) performed by the taxpayer; and

(B) classified in a NAICS code of the 2002 or 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, except for:

(I) a NAICS code within NAICS Sector 21, Mining;

(II) a NAICS code within NAICS Sector 31-33, Manufacturing;

(III) a NAICS code within NAICS Sector 48-49, Transportation and Warehousing;

(IV) a NAICS code within NAICS Sector 51, Information, except for NAICS Subsector 519, Other Information Services; or

(V) a NAICS code within NAICS Sector 52, Finance and Insurance; or

(ii) for a taxpayer that is a unitary group, a taxpayer having greater than 50% of the taxpayer's total sales everywhere generated by economic activities:

(A) performed by the unitary group; and

(B) classified in a NAICS code of the 2002 or 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, except for:

(I) a NAICS code within NAICS Sector 21, Mining;

(II) a NAICS code within NAICS Sector 31-33, Manufacturing;

(III) a NAICS code within NAICS Sector 48-49, Transportation and Warehousing;

(IV) a NAICS code within NAICS Sector 51, Information, except for NAICS Subsector 519, Other Information Services; or

(V) a NAICS code within NAICS Sector 52, Finance and Insurance.

(l) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

(m) "Transportation revenue" means revenue an airline earns from:

(i) transporting a passenger or cargo; or

(ii) from miscellaneous sales of merchandise as part of providing transportation services.

(n) "Utah revenue ton miles" means, for an airline, the total revenue ton miles within the borders of this state:

(i) during the airline's tax period; and

(ii) from flight stages that originate or terminate in this state.

(2) The following apply to Subsection (1)(k):

(a) (i) Subject to the other provisions of this Subsection (2), a taxpayer shall for each taxable year determine whether the taxpayer is a sales factor weighted taxpayer.

(ii) A taxpayer shall make the determination required by Subsection (2)(a)(i) before the due date

for filing the taxpayer's return under this chapter for the taxable year, including extensions.

(iii) For purposes of making the determination required by Subsection (2)(a)(i), total sales everywhere include only the total sales everywhere:

(A) as determined in accordance with this part; and

(B) made during the taxable year for which a taxpayer makes the determination required by Subsection (2)(a)(i).

(b) A taxpayer that files a return as a unitary group for a taxable year is considered to be a unitary group for that taxable year.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may define the term "economic activity" consistent with the use of the term "activity" in the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget.

Section 7. Effective date.

This bill takes effect on January 1, 2015.

CHAPTER 66**H. B. 339**

Passed March 6, 2014

Approved March 27, 2014

Effective May 13, 2014

COUNTY BUDGET AMENDMENTS

Chief Sponsor: Jennifer M. Seelig
Senate Sponsor: Deidre M. Henderson

LONG TITLE**General Description:**

This bill enacts language related to a county providing monetary assistance to a nonprofit entity or private enterprise.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ authorizes a county to appropriate money to or provide nonmonetary assistance to a nonprofit entity in certain circumstances;
- ▶ authorizes a county to appropriate money in aid of a private enterprise project in certain circumstances;
- ▶ requires a county to adopt by ordinance criteria to determine whether value is received for money appropriated to a private enterprise project;
- ▶ requires a county to hold a public hearing on the appropriation of county money to a private enterprise project; and
- ▶ allows a person to appeal a county's decision to appropriate money to a private enterprise project in district court.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17-50-303, as last amended by Laws of Utah 2007, Chapter 377

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

Section 1. Section 17-50-303 is amended to read:

17-50-303. County may not give or lend credit -- County may borrow in anticipation of revenues -- Assistance to nonprofit and private entities.

(1) A county may not give or lend its credit to or in aid of any person or corporation, or, except as provided in Subsection (3), appropriate money in aid of any private enterprise.

(2) (a) A county may borrow money in anticipation of the collection of taxes and other county revenues in the manner and subject to the conditions of Title 11, Chapter 14, Local Government Bonding Act.

(b) A county may incur indebtedness under Subsection (2)(a) for any purpose for which funds of the county may be expended.

~~[(3) (a) If the county receives fair and adequate consideration in return, a county may:]~~

~~[(i) provide services or nonmonetary assistance to or waive fees required to be paid by a nonprofit entity; and]~~

~~[(ii) provide monetary assistance to a nonprofit entity, whether from the county's own funds or from funds the county receives from the state or any other source.]~~

~~[(b) Consideration paid to a county under Subsection (3)(a) may:]~~

~~[(i) be nonmonetary; and]~~

~~[(ii) include anything that in the judgment of the county legislative body contributes to the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of county inhabitants.]~~

(3) (a) A county may appropriate money to or provide nonmonetary assistance to a nonprofit entity, or waive fees required to be paid by a nonprofit entity, if, in the judgment of the county legislative body, the assistance contributes to the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of county residents.

(b) A county may appropriate money to a nonprofit entity from the county's own funds or from funds the county receives from the state or any other source.

(4) (a) As used in this Subsection (4):

(i) "Private enterprise" means a person that engages in an activity for profit.

(ii) "Project" means an activity engaged in by a private enterprise.

(b) A county may appropriate money in aid of a private enterprise project if:

(i) subject to Subsection (4)(c), the county receives value in return for the money appropriated; and

(ii) in the judgment of the county legislative body, the private enterprise project provides for the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of the county residents.

(c) The county shall measure the net value received by the county for money appropriated by the county to a private entity on a project-by-project basis over the life of the project.

(d) (i) Before a county legislative body may appropriate funds in aid of a private enterprise project under this Subsection (4), the county legislative body shall:

(A) adopt by ordinance criteria to determine what value, if any, the county will receive in return for money appropriated under this Subsection (4);

(B) conduct a study as described in Subsection (4)(e) on the proposed appropriation and private enterprise project; and

(C) post notice, subject to Subsection (4)(f), and hold a public hearing on the proposed appropriation and the private enterprise project.

(ii) The county legislative body may consider an intangible benefit as a value received by the county.

(e) (i) Before publishing or posting notice in accordance with Subsection (4)(f), the county shall study:

(A) any value the county will receive in return for money or resources appropriated to a private entity;

(B) the county's purpose for the appropriation, including an analysis of the way the appropriation will be used to enhance the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of the county residents; and

(C) whether the appropriation is necessary and appropriate to accomplish the reasonable goals and objectives of the county in the area of economic development, job creation, affordable housing, blight elimination, job preservation, the preservation of historic structures, analyzing and improving county government structure or property, or any other public purpose.

(ii) The county shall:

(A) prepare a written report of the results of the study; and

(B) make the report available to the public at least 14 days immediately prior to the scheduled day of the public hearing described in Subsection (4)(d)(i)(C).

(f) The county shall publish notice of the public hearing required in Subsection (4)(d)(i)(C):

(i) in a newspaper of general circulation at least 14 days before the date of the hearing or, if there is no newspaper of general circulation, by posting notice in at least three conspicuous places within the county for the same time period; and

(ii) on the Utah Public Notice Website created in Section 63F-1-701, at least 14 days before the date of the hearing.

(g) (i) A person may appeal the decision of the county legislative body to appropriate funds under this Subsection (4).

(ii) A person shall file an appeal with the district court within 30 days after the day on which the legislative body adopts an ordinance or approves a budget to appropriate the funds.

(iii) A court shall:

(A) presume that an ordinance adopted or appropriation made under this Subsection (4) is valid; and

(B) determine only whether the ordinance or appropriation is arbitrary, capricious, or illegal.

(iv) A determination of illegality requires a determination that the decision or ordinance violates a law, statute, or ordinance in effect at the time the decision was made or the ordinance was adopted.

(v) The district court's review is limited to:

(A) a review of the criteria adopted by the county legislative body under Subsection (4)(d)(i)(A);

(B) the record created by the county legislative body at the public hearing described in Subsection (4)(d)(i)(C); and

(C) the record created by the county in preparation of the study and the study itself as described in Subsection (4)(e).

(vi) If there is no record, the court may call witnesses and take evidence.

(h) This section applies only to an appropriation not otherwise approved in accordance with Title 17, Chapter 36, Uniform Fiscal Procedures Act for Counties.

CHAPTER 67**H. B. 346**

Passed March 11, 2014
 Approved March 27, 2014
 Effective March 27, 2014

FOSTER CHILDREN AMENDMENTS

Chief Sponsor: Johnny Anderson
 Senate Sponsor: Allen M. Christensen

LONG TITLE**General Description:**

This bill enacts provisions related to normalizing the life of a child in state custody.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the Division of Child and Family Services (the division) to make efforts to normalize the life of a child in the division's custody and to empower a caregiver to approve or disapprove a child's participation in activities based on the caregiver's own assessment using a reasonable and prudent parent standard, without prior approval of the division;
- ▶ requires the division to verify that private agencies providing out-of-home placement under contract with the division promote and protect the ability of a child to participate in age-appropriate activities; and
- ▶ provides that a caregiver is not liable for harm caused to a child in an out-of-home placement, if the child participates in an activity approved by the caregiver, provided that the caregiver has acted in accordance with a reasonable and prudent parent standard.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.

Utah Code Sections Affected:**ENACTS:**

62A-4a-210, Utah Code Annotated 1953
 62A-4a-211, Utah Code Annotated 1953
 62A-4a-212, Utah Code Annotated 1953

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

Section 1. Section 62A-4a-210 is enacted to read:**62A-4a-210. Definitions.**

As used in this part:

- (1) "Activity" means an extracurricular, enrichment, or social activity.
- (2) "Age-appropriate" means a type of activity that is generally accepted as suitable for a child of the same age or level of maturity, based on the development of cognitive, emotional, physical, and behavioral capacity that is typical for the child's age or age group.
- (3) "Caregiver" means a person with whom a child is placed in an out-of-home placement.

(4) "Division" means the Division of Child and Family Services.

(5) "Out-of-home placement" means the placement of a child in the division's custody outside of the child's home, including placement in a foster home, a residential treatment program, proctor care, or with kin.

(6) "Reasonable and prudent parent standard" means the standard characterized by careful and sensible parental decisions to maintain a child's health, safety, and best interest while at the same time encouraging the child's emotional and developmental growth.

Section 2. Section 62A-4a-211 is enacted to read:**62A-4a-211. Division responsibilities -- Normalizing lives of children.**

(1) A child who comes into care under this chapter is entitled to participate in age-appropriate activities for the child's emotional well-being and development of valuable life-coping skills.

(2) The division shall make efforts to normalize the lives of children in the division's custody and to empower a caregiver to approve or disapprove a child's participation in activities based on the caregiver's own assessment using a reasonable and prudent parent standard, without prior approval of the division.

(3) The division shall allow a caregiver to make important decisions, similar to the decisions that a parent is entitled to make, regarding the child's participation in activities.

Section 3. Section 62A-4a-212 is enacted to read:**62A-4a-212. Requirements for decision making -- Rulemaking authority.**

(1) (a) A caregiver shall use a reasonable and prudent parent standard in determining whether to permit a child to participate in an activity.

(b) A caregiver shall consider:

(i) the child's age, maturity, and developmental level to maintain the overall health and safety of the child;

(ii) potential risk factors and the appropriateness of the activity;

(iii) the best interest of the child based on the caregiver's knowledge of the child;

(iv) the importance of encouraging the child's emotional and developmental growth;

(v) the importance of providing the child with the most family-like living experience possible; and

(vi) the behavioral history of the child and the child's ability to safely participate in the proposed activity.

(c) The division shall verify that private agencies providing out-of-home placement under contract with the division:

(i) promote and protect the ability of a child to participate in age-appropriate activities; and

(ii) implement policies consistent with this section.

(d) (i) A caregiver is not liable for harm caused to a child in an out-of-home placement if the child participates in an activity approved by the caregiver, when the caregiver has acted in accordance with a reasonable and prudent parent standard.

(ii) This section does not remove or limit any existing liability protection afforded by statute.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall adopt rules establishing the procedures for verifying that private agencies providing out-of-home placement under contract with the division comply with and promote this part.

Section 4. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 68**S. B. 29**

Passed February 12, 2014

Approved March 27, 2014

Effective May 13, 2014

**CONTROLLED SUBSTANCE
DATABASE AMENDMENTS**

Chief Sponsor: Allen M. Christensen

House Sponsor: Edward H. Redd

LONG TITLE**General Description:**

This bill amends Title 58, Chapter 37f, Controlled Substance Database Act.

Highlighted Provisions:

This bill:

- ▶ provides access to the Controlled Substance Database to authorized employees of a Medicaid managed care organization if the Medicaid managed care organization suspects the Medicaid recipient is improperly obtaining a controlled substance;
- ▶ requires the Department of Health and the Department of Commerce to have a written agreement regarding the Medicaid managed care organization authorized employee access to the Controlled Substance Database; and
- ▶ makes technical amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-37f-301, as last amended by Laws of Utah 2013, Chapters 12, 130, and 262

58-37f-601, as last amended by Laws of Utah 2013, Chapter 130

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

Section 1. Section 58-37f-301 is amended to read:**58-37f-301. Access to database.**

(1) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) effectively enforce the limitations on access to the database as described in this part; and

(b) establish standards and procedures to ensure accurate identification of individuals requesting information or receiving information without request from the database.

(2) The division shall make information in the database and information obtained from other state or federal prescription monitoring programs by means of the database available only to the following individuals, in accordance with the requirements of this chapter and division rules:

(a) personnel of the division specifically assigned to conduct investigations related to controlled substance laws under the jurisdiction of the division;

(b) authorized division personnel engaged in analysis of controlled substance prescription information as a part of the assigned duties and responsibilities of their employment;

(c) in accordance with a written agreement entered into with the department, employees of the Department of Health:

(i) whom the director of the Department of Health assigns to conduct scientific studies regarding the use or abuse of controlled substances, if the identity of the individuals and pharmacies in the database are confidential and are not disclosed in any manner to any individual who is not directly involved in the scientific studies; or

(ii) when the information is requested by the Department of Health in relation to a person or provider whom the Department of Health suspects may be improperly obtaining or providing a controlled substance;

(d) in accordance with a written agreement entered into with the department, a designee of the director of the Department of Health, who is not an employee of the Department of Health, whom the director of the Department of Health assigns to conduct scientific studies regarding the use or abuse of controlled substances pursuant to an application process established in rule by the Department of Health, if:

(i) the designee provides explicit information to the Department of Health regarding the purpose of the scientific studies;

(ii) the scientific studies to be conducted by the designee:

(A) fit within the responsibilities of the Department of Health for health and welfare;

(B) are reviewed and approved by an Institutional Review Board that is approved for human subject research by the United States Department of Health and Human Services; and

(C) are not conducted for profit or commercial gain; and

(D) are conducted in a research facility, as defined by division rule, that is associated with a university or college in the state accredited by the Northwest Commission on Colleges and Universities;

(iii) the designee protects the information as a business associate of the Department of Health; and

(iv) the identity of the prescribers, patients, and pharmacies in the database are de-identified, confidential, not disclosed in any manner to the designee or to any individual who is not directly involved in the scientific studies;

(e) in accordance with the written agreement entered into with the department and the

Department of Health, authorized employees of a managed care organization, as defined in 42 C.F.R. Sec. 438, if:

(i) the managed care organization contracts with the Department of Health under the provisions of Section 26-18-405 and the contract includes provisions that:

(A) require a managed care organization employee who will have access to information from the database to submit to a criminal background check; and

(B) limit the authorized employee of the managed care organization to requesting either the division or the Department of Health to conduct a search of the database regarding a specific Medicaid enrollee and to report the results of the search to the authorized employee; and

(ii) the information is requested by an authorized employee of the managed care organization in relation to a person who is enrolled in the Medicaid program with the managed care organization, and the managed care organization suspects the person may be improperly obtaining or providing a controlled substance;

(~~e~~) (f) a licensed practitioner having authority to prescribe controlled substances, to the extent the information:

(i) (A) relates specifically to a current or prospective patient of the practitioner; and

(B) is provided to or sought by the practitioner for the purpose of:

(I) prescribing or considering prescribing any controlled substance to the current or prospective patient;

(II) diagnosing the current or prospective patient;

(III) providing medical treatment or medical advice to the current or prospective patient; or

(IV) determining whether the current or prospective patient:

(Aa) is attempting to fraudulently obtain a controlled substance from the practitioner; or

(Bb) has fraudulently obtained, or attempted to fraudulently obtain, a controlled substance from the practitioner;

(ii) (A) relates specifically to a former patient of the practitioner; and

(B) is provided to or sought by the practitioner for the purpose of determining whether the former patient has fraudulently obtained, or has attempted to fraudulently obtain, a controlled substance from the practitioner;

(iii) relates specifically to an individual who has access to the practitioner's Drug Enforcement Administration identification number, and the practitioner suspects that the individual may have used the practitioner's Drug Enforcement

Administration identification number to fraudulently acquire or prescribe a controlled substance;

(iv) relates to the practitioner's own prescribing practices, except when specifically prohibited by the division by administrative rule;

(v) relates to the use of the controlled substance database by an employee of the practitioner, described in Subsection (2)(~~f~~)(g); or

(vi) relates to any use of the practitioner's Drug Enforcement Administration identification number to obtain, attempt to obtain, prescribe, or attempt to prescribe, a controlled substance;

(~~f~~) (g) in accordance with Subsection (3)(a), an employee of a practitioner described in Subsection (2)(~~e~~)(f), for a purpose described in Subsection (2)(~~e~~)(f)(i) or (ii), if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

(ii) the practitioner provides written notice to the division of the identity of the employee; and

(iii) the division:

(A) grants the employee access to the database; and

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(3)(b) with respect to the employee;

(~~g~~) (h) an employee of the same business that employs a licensed practitioner under Subsection (2)(~~e~~)(f) if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

(ii) the practitioner and the employing business provide written notice to the division of the identity of the designated employee; and

(iii) the division:

(A) grants the employee access to the database; and

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(3)(b) with respect to the employee;

(~~h~~) (i) a licensed pharmacist having authority to dispense a controlled substance to the extent the information is provided or sought for the purpose of:

(i) dispensing or considering dispensing any controlled substance; or

(ii) determining whether a person:

(A) is attempting to fraudulently obtain a controlled substance from the pharmacist; or

(B) has fraudulently obtained, or attempted to fraudulently obtain, a controlled substance from the pharmacist;

~~(4)~~ (j) federal, state, and local law enforcement authorities, and state and local prosecutors, engaged as a specified duty of their employment in enforcing laws:

(i) regulating controlled substances;

(ii) investigating insurance fraud, Medicaid fraud, or Medicare fraud; or

(iii) providing information about a criminal defendant to defense counsel, upon request during the discovery process, for the purpose of establishing a defense in a criminal case;

~~(4)~~ (k) employees of the Office of Internal Audit and Program Integrity within the Department of Health who are engaged in their specified duty of ensuring Medicaid program integrity under Section 26-18-2.3;

~~(4)~~ (l) a mental health therapist, if:

(i) the information relates to a patient who is:

(A) enrolled in a licensed substance abuse treatment program; and

(B) receiving treatment from, or under the direction of, the mental health therapist as part of the patient's participation in the licensed substance abuse treatment program described in Subsection ~~(2)~~(~~4~~)(l)(i)(A);

(ii) the information is sought for the purpose of determining whether the patient is using a controlled substance while the patient is enrolled in the licensed substance abuse treatment program described in Subsection ~~(2)~~(~~4~~)(l)(i)(A); and

(iii) the licensed substance abuse treatment program described in Subsection ~~(2)~~(~~4~~)(l)(i)(A) is associated with a practitioner who:

(A) is a physician, a physician assistant, an advance practice registered nurse, or a pharmacist; and

(B) is available to consult with the mental health therapist regarding the information obtained by the mental health therapist, under this Subsection ~~(2)~~(~~4~~)(l), from the database;

~~(4)~~ (m) an individual who is the recipient of a controlled substance prescription entered into the database, upon providing evidence satisfactory to the division that the individual requesting the information is in fact the individual about whom the data entry was made;

~~(4)~~ (n) the inspector general, or a designee of the inspector general, of the Office of Inspector General of Medicaid Services, for the purpose of fulfilling the duties described in Title 63A, Chapter 13, Part 2, Office and Powers; and

~~(4)~~ (o) the following licensed physicians for the purpose of reviewing and offering an opinion on an individual's request for workers' compensation benefits under Title 34A, Chapter 2, Workers'

Compensation Act, or Title 34A, Chapter 3, Utah Occupational Disease Act:

(i) a member of the medical panel described in Section 34A-2-601; or

(ii) a physician offering a second opinion regarding treatment.

(3) (a) A practitioner described in Subsection ~~(2)~~(~~4~~)(f) may designate up to three employees to access information from the database under Subsection ~~(2)~~(~~4~~)(g), ~~(2)~~(~~4~~)(h), or (4)(c).

(b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) establish background check procedures to determine whether an employee designated under Subsection ~~(2)~~(~~4~~)(g), ~~(2)~~(~~4~~)(h), or (4)(c) should be granted access to the database; and

(ii) establish the information to be provided by an emergency room employee under Subsection (4).

(c) The division shall grant an employee designated under Subsection ~~(2)~~(~~4~~)(g), ~~(2)~~(~~4~~)(h), or (4)(c) access to the database, unless the division determines, based on a background check, that the employee poses a security risk to the information contained in the database.

(4) (a) An individual who is employed in the emergency room of a hospital may exercise access to the database under this Subsection (4) on behalf of a licensed practitioner if the individual is designated under Subsection (4)(c) and the licensed practitioner:

(i) is employed in the emergency room;

(ii) is treating an emergency room patient for an emergency medical condition; and

(iii) requests that an individual employed in the emergency room and designated under Subsection (4)(c) obtain information regarding the patient from the database as needed in the course of treatment.

(b) The emergency room employee obtaining information from the database shall, when gaining access to the database, provide to the database the name and any additional identifiers regarding the requesting practitioner as required by division administrative rule established under Subsection (3)(b).

(c) An individual employed in the emergency room under this Subsection (4) may obtain information from the database as provided in Subsection (4)(a) if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

(ii) the practitioner and the hospital operating the emergency room provide written notice to the division of the identity of the designated employee; and

(iii) the division:

(A) grants the employee access to the database; and

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(3)(b) with respect to the employee.

(d) The division may impose a fee, in accordance with Section 63J-1-504, on a practitioner who designates an employee under Subsection (2)(~~(f)~~)(g), (2)(~~(g)~~)(h), or (4)(c) to pay for the costs incurred by the division to conduct the background check and make the determination described in Subsection (3)(b).

(5) (a) An individual who is granted access to the database based on the fact that the individual is a licensed practitioner or a mental health therapist shall be denied access to the database when the individual is no longer licensed.

(b) An individual who is granted access to the database based on the fact that the individual is a designated employee of a licensed practitioner shall be denied access to the database when the practitioner is no longer licensed.

Section 2. Section 58-37f-601 is amended to read:

58-37f-601. Unlawful release or use of database information -- Criminal and civil penalties.

(1) Any person who knowingly and intentionally releases any information in the database or knowingly and intentionally releases any information obtained from other state or federal prescription monitoring programs by means of the database in violation of the limitations under Part 3, Access, is guilty of a third degree felony.

(2) (a) Any person who obtains or attempts to obtain information from the database or from any other state or federal prescription monitoring programs by means of the database by misrepresentation or fraud is guilty of a third degree felony.

(b) Any person who obtains or attempts to obtain information from the database for a purpose other than a purpose authorized by this chapter or by rule is guilty of a third degree felony.

(3) (a) Except as provided in Subsection (3)(e), a person may not knowingly and intentionally use, release, publish, or otherwise make available to any other person any information obtained from the database or from any other state or federal prescription monitoring programs by means of the database for any purpose other than those specified in Part 3, Access.

(b) Each separate violation of this Subsection (3) is a third degree felony and is also subject to a civil penalty not to exceed \$5,000.

(c) The procedure for determining a civil violation of this Subsection (3) is in accordance with Section 58-1-108, regarding adjudicative proceedings within the division.

(d) Civil penalties assessed under this Subsection (3) shall be deposited in the General Fund as a

dedicated credit to be used by the division under Subsection 58-37f-502(1).

(e) This Subsection (3) does not prohibit a person who obtains information from the database under Subsection 58-37f-301(2)(~~(e)~~)(f), (g), (i), or (4)(c) from:

(i) including the information in the person's medical chart or file for access by a person authorized to review the medical chart or file; or

(ii) providing the information to a person in accordance with the requirements of the Health Insurance Portability and Accountability Act of 1996.

CHAPTER 69**S. B. 38**

Passed March 12, 2014

Approved March 27, 2014

Effective May 13, 2014

**SNOW COLLEGE CONCURRENT
EDUCATION PROGRAM**

Chief Sponsor: Ralph Okerlund

House Sponsor: Kay L. McIff

LONG TITLE**General Description:**

This bill establishes the Snow College Concurrent Education Program.

Highlighted Provisions:

This bill:

- ▶ requires Snow College to establish and administer the Snow College Concurrent Education Program to provide:
 - concurrent enrollment courses delivered through interactive video conferencing; and
 - advisory support to secondary school students.

Monies Appropriated in this Bill:

This bill appropriates:

- ▶ to Snow College - Education and General, as an ongoing appropriation:
 - from the Education Fund, \$1,300,000.

Other Special Clauses:

This bill provides an effective date.

Utah Code Sections Affected:**ENACTS:**

53B-16-205.5, Utah Code Annotated 1953

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

Section 1. Section 53B-16-205.5 is enacted to read:**53B-16-205.5. Snow College Concurrent Education Program.**

(1) As used in this section:

(a) "Interactive video conferencing" means two-way, real-time transmission of audio and video signals between devices or computers at two or more locations.

(b) "Program" means the Snow College Concurrent Education Program.

(2) Consistent with policies established by the State Board of Regents, Snow College shall establish and administer, subject to legislative appropriations, the Snow College Concurrent Education Program to provide:

(a) a consistent two-year schedule of concurrent enrollment courses delivered through interactive video conferencing to secondary school students;

(b) a pathway for a secondary school student to earn college credits that:

(i) apply toward earning an Associate of Science or Associate of Arts degree; or

(ii) satisfy scholarship requirements or other objectives that best meet the needs of an individual student; and

(c) advisory support to secondary school students who participate in the program and the secondary school students' school counselors to ensure that students' concurrent enrollment courses align with the students' academic and career goals.

Section 2. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2014, and ending June 30, 2015, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2015.

<u>To Snow College - Education and General</u>	
From Education Fund	\$1,300,000
<u>Schedule of Programs:</u>	
<u>Education and General</u>	<u>\$1,300,000</u>

Under Section 63J-1-603, the Legislature intends that appropriations provided in this section are:

(1) to be used to carry out the requirements of Section 53B-16-205.5;

(2) ongoing, subject to availability of funds; and

(3) nonlapsing.

Section 3. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 13, 2014.

(2) Uncodified Section 2, Appropriation, takes effect on July 1, 2014.

CHAPTER 70**S. B. 40**

Passed March 13, 2014
Approved March 27, 2014
Effective July 1, 2014

**FINANCIAL AND ECONOMIC
LITERACY AMENDMENTS**

Chief Sponsor: Patricia W. Jones
House Sponsor: Rich Cunningham

LONG TITLE**General Description:**

This bill modifies provisions relating to financial and economic literacy education.

Highlighted Provisions:

This bill:

- ▶ requires the State Board of Education to:
 - contract with a provider to develop an online, end-of-course assessment for the general financial literacy course;
 - require a school district or charter school to administer an online, end-of-course assessment to a student who takes the general financial literacy course;
 - identify, and make available to teachers, online resources for financial and economic literacy education;
 - in cooperation with school districts, charter schools, and interested private or nonprofit entities, provide professional development opportunities in financial and economic literacy to teachers;
 - adopt course standards or objectives for the general financial literacy course that address certain topics;
 - implement a teacher endorsement in general financial literacy; and
 - administer the general financial literacy course in the same manner as other core curriculum courses for grades 9 through 12 are administered;
- ▶ modifies duties of a financial and economic literacy task force established by the State Board of Education; and
- ▶ makes technical amendments.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2015:

- ▶ to the State Board of Education - Utah State Office of Education - Initiative Programs as a one-time appropriation:
 - from the Education Fund, \$75,000;
- ▶ to the State Board of Education - Utah State Office of Education - Initiative Programs as an ongoing appropriation:
 - from the Education Fund, \$100,000;
- ▶ to the State Board of Education - State Office of Education as a one-time appropriation:
 - from the Education Fund, \$75,000; and
- ▶ to the State Board of Education - State Office of Education as an ongoing appropriation:
 - from the Education Fund, \$200,000.

Other Special Clauses:

This bill takes effect on July 1, 2014.

Utah Code Sections Affected:**AMENDS:**

53A-13-108, as last amended by Laws of Utah 2012, Chapter 398
53A-13-110, as last amended by Laws of Utah 2013, Chapter 226

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

Section 1. Section 53A-13-108 is amended to read:

53A-13-108. Curriculum and graduation requirements.

(1) The State Board of Education shall establish rigorous curriculum and graduation requirements under Section 53A-1-402~~[, and consistent with state and federal regulations,]~~ for grades 9 through 12 that~~[,]~~:

(a) are consistent with state law and federal regulations; and

(b) beginning no later than with the graduating class of 2008 [shall]:

~~[(a)]~~ (i) use competency-based standards and assessments;

~~[(b)]~~ (ii) include instruction that stresses general financial literacy from basic budgeting to financial investments, including bankruptcy education and a general financial literacy test-out option; and

~~[(e)]~~ (iii) increase graduation requirements in language arts, mathematics, and science to exceed the existing credit requirements of 3.0 units in language arts, 2.0 units in mathematics, and 2.0 units in science.

(2) The State Board of Education shall also establish competency-based standards and assessments for elective courses.

(3) On or before July 1, 2014, the State Board of Education shall adopt revised course standards and objectives for the course of instruction in general financial literacy described in Subsection (1)(b) that address:

(a) the costs of going to college, student loans, scholarships, and the Free Application for Federal Student Aid (FAFSA); and

(b) technology that relates to banking, savings, and financial products.

(4) The State Board of Education shall administer the course of instruction in general financial literacy described in Subsection (1)(b) in the same manner as other core curriculum courses for grades 9 through 12 are administered.

Section 2. Section 53A-13-110 is amended to read:

53A-13-110. Financial and economic literacy education.

(1) As used in this section:

(a) "Financial and economic activities" include activities related to the topics listed in Subsection (1)(b).

(b) "Financial and economic literacy concepts" include concepts related to the following topics:

- (i) basic budgeting;
- (ii) saving and financial investments;
- (iii) banking and financial services, including balancing a checkbook or a bank account and online banking services;
- (iv) career management, including earning an income;
- (v) rights and responsibilities of renting or buying a home;
- (vi) retirement planning;
- (vii) loans and borrowing money, including interest, credit card debt, predatory lending, and payday loans;
- (viii) insurance;
- (ix) federal, state, and local taxes;
- (x) charitable giving;
- (xi) online commerce;
- (xii) identity fraud and theft;
- (xiii) negative financial consequences of gambling;
- (xiv) bankruptcy;
- (xv) free markets and prices;
- (xvi) supply and demand;
- (xvii) monetary and fiscal policy;
- (xviii) effective business plan creation, including using economic analysis in creating a plan;
- (xix) scarcity and choices;
- (xx) opportunity cost and tradeoffs;
- (xxi) productivity;
- (xxii) entrepreneurship; and
- (xxiii) economic reasoning.

(c) "Financial and economic literacy passport" means a document that tracks mastery of financial and economic literacy concepts and completion of financial and economic activities in kindergarten through grade 12.

(d) "General financial literacy course" means the course of instruction described in Section 53A-13-108.

(2) The State Board of Education shall:

(a) in cooperation with interested private and nonprofit entities:

(i) develop a financial and economic literacy passport that students may elect to complete;

(ii) develop methods of encouraging parent and educator involvement in completion of the financial and economic literacy passport; and

(iii) develop and implement appropriate recognition and incentives for students who complete the financial and economic literacy passport, including:

(A) a financial and economic literacy endorsement on the student's diploma of graduation;

(B) a specific designation on the student's official transcript; and

(C) any incentives offered by community partners;

(b) more fully integrate existing and new financial and economic literacy education into instruction in kindergarten through grade 12 by:

(i) coordinating financial and economic literacy instruction with existing instruction in other core curriculum areas such as mathematics and social studies;

(ii) using curriculum mapping;

(iii) creating training materials and staff development programs that:

(A) highlight areas of potential coordination between financial and economic literacy education and other core curriculum concepts; and

(B) demonstrate specific examples of financial and economic literacy concepts as a way of teaching other core curriculum concepts; and

(iv) using appropriate financial and economic literacy assessments to improve financial and economic literacy education and, if necessary, developing assessments;

(c) work with interested public, private, and nonprofit entities to:

(i) identify, and make available to teachers, online resources for financial and economic literacy education, including modules with interactive activities and turnkey instructor resources;

~~(i)~~ (ii) coordinate school use of existing financial and economic literacy education resources;

~~(ii)~~ (iii) develop simple, clear, and consistent messaging to reinforce and link existing financial literacy resources;

~~(iii)~~ (iv) coordinate the efforts of school, work, private, nonprofit, and other financial education providers in implementing methods of appropriately communicating to teachers, students, and parents key financial and economic literacy messages; and

~~(iv)~~ (v) encourage parents and students to establish higher education savings, including a Utah Educational Savings Plan account; ~~and~~

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to develop guidelines and methods for school districts

and charter schools to more fully integrate financial and economic literacy education into other core curriculum courses[-];

(e) (i) contract with a provider, through a request for proposals process, to develop an online, end-of-course assessment for the general financial literacy course;

(ii) require a school district or charter school to administer an online, end-of-course assessment to a student who takes the general financial literacy course; and

(iii) develop a plan, through the state superintendent of public instruction, to analyze the results of an online, end-of-course assessment in general financial literacy that includes:

(A) an analysis of assessment results by standard; and

(B) average scores statewide and by school district and school;

(f) in cooperation with school districts, charter schools, and interested private and nonprofit entities, provide opportunities for professional development in financial and economic literacy to teachers, including:

(i) a statewide learning community for financial and economic literacy;

(ii) summer workshops; and

(iii) online videos of experts in the field of financial and economic literacy education; and

(g) implement a teacher endorsement in general financial literacy that includes course work in financial planning, credit and investing, consumer economics, personal budgeting, and family economics.

(3) A public school shall provide the following to the parents or guardian of a kindergarten student during kindergarten enrollment:

(a) a financial and economic literacy passport; and

(b) information about higher education savings options, including information about opening a Utah Educational Savings Plan account.

(4) (a) The State Board of Education shall establish a task force to study and make recommendations to the board on how to improve financial and economic literacy education in the public school system.

(b) The task force membership shall include representatives of:

(i) the State Board of Education;

(ii) school districts and charter schools; and

(iii) private or public entities that teach financial education and share a commitment to empower individuals and families to achieve economic stability, opportunity, and upward mobility.

(c) In 2013, the task force shall:

(i) review and recommend modifications to the course standards and objectives of the general financial literacy course described in Section 53A-13-108 to ensure the course standards and objectives reflect current and relevant content consistent with the financial and economic literacy concepts listed in Subsection (1)(b);

(ii) study the development of an online assessment of students' competency in financial and economic literacy that may be used to:

(A) measure student learning growth and proficiency in financial and economic literacy; and

(B) assess the effectiveness of instruction in financial and economic literacy;

(iii) consider the development of a rigorous, online only, course to fulfill the general financial literacy curriculum and graduation requirements specified in Section 53A-13-108;

(iv) identify opportunities for teaching financial and economic literacy through an integrated school curriculum and in the regular course of school work;

(v) study and make recommendations for educator license endorsements for teachers of financial and economic literacy;

(vi) identify efficient and cost-effective methods of delivering professional development in financial and economic literacy content and instructional methods; and

(vii) study how financial and economic literacy education may be enhanced through community partnerships.

(d) The task force shall reconvene every [two] three years to review and recommend adjustments to the course standards and objectives of the general financial literacy course.

(e) The State Board of Education shall make a report to the Education Interim Committee no later than the committee's November 2013 meeting summarizing the findings and recommendations of the task force and actions taken by the board in response to the task force's findings and recommendations.

Section 3. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2014, and ending June 30, 2015, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2015.

To State Board of Education - Utah State Office of Education - Initiative Programs

From Education Fund, One-time \$75,000

From Education Fund \$100,000

Schedule of Programs:

Financial and Economic Literacy \$175,000

The Legislature intends that the Utah State Office of Education use the appropriation for Financial and Economic Literacy for the development and delivery of an online test for the general financial literacy course.

To State Board of Education - State Office of Education

From Education Fund, One-time \$75,000

From Education Fund \$200,000

Schedule of Programs:

Teaching and Learning \$275,000

The Legislature intends that the State Office of Education use the appropriation for Teaching and Learning for the improvement of financial and economic literacy education, including professional development for educators, the endorsement of teachers who teach the general financial literacy course, and the development of curriculum resources.

Section 4. Effective date.

This bill takes effect on July 1, 2014.

CHAPTER 71**S. B. 50**

Passed February 26, 2014

Approved March 27, 2014

Effective May 13, 2014

(Retrospective operation to January 1, 2014)

**TRANSITION FOR REPEALED
NAVAJO TRUST FUND ACT**

Chief Sponsor: David P. Hinkins

House Sponsor: Michael E. Noel

LONG TITLE**General Description:**

This bill modifies the Transition for Repealed Navajo Trust Fund Act to extend certain dates.

Highlighted Provisions:

This bill:

- ▶ extends certain dates related to when money may be expended.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides for retrospective operation.

Utah Code Sections Affected:**AMENDS:**

51-9-504, as last amended by Laws of Utah 2013, Chapter 11

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

Section 1. Section 51-9-504 is amended to read:**51-9-504. Utah Navajo royalties and related issues.**

(1) (a) Notwithstanding Title 63, Chapter 88, Navajo Trust Fund, repealed July 1, 2008, and except as provided in Subsection (7), the following are subject to this Subsection (1):

- (i) the repealed board of trustees;
 - (ii) the repealed trust administrator;
 - (iii) an employee or agent of the repealed Navajo Trust Fund; or
 - (iv) the repealed Dineh Committee.
- (b) The repealed board of trustees may not:

(i) beginning on March 17, 2008, take an action that imposes or may impose a liability or obligation described in Subsection (1)(d) that is:

(A) anticipated to be completed on or after January 1, 2010; or

(B) equal to or greater than \$100,000; or

(ii) on or after May 5, 2008, take an action that imposes or may impose a liability or obligation described in Subsection (1)(d).

(c) On or after March 17, 2008, a person described in Subsections (1)(a)(ii) through (iv) may not take

an action that imposes or may impose a liability or obligation described in Subsection (1)(d).

(d) Subsection (1)(b) applies to a liability or obligation on:

(i) the repealed Navajo Trust Fund;

(ii) the Navajo Revitalization Fund created under Title 35A, Chapter 8, Part 17, Navajo Revitalization Fund Act;

(iii) the state; or

(iv) any of the following related to an entity described in this Subsection (1)(d):

(A) a department;

(B) a division;

(C) an office;

(D) a committee;

(E) a board;

(F) an officer;

(G) an employee; or

(H) a similar agency or individual.

(2) The Division of Finance shall:

(a) establish a fund by no later than July 1, 2008:

(i) to hold:

(A) the money in the repealed Navajo Trust Fund as of June 30, 2008;

(B) Utah Navajo royalties received by the state on or after July 1, 2008;

(C) revenues from investments made by the state treasurer of the money in the fund established under this Subsection (2)(a);

(D) money owed to the repealed Navajo Trust Fund, including money received by the repealed trust administrator or repealed Dineh Committee from an agreement executed by:

(I) the repealed board of trustees;

(II) the repealed trust administrator; or

(III) the repealed Dineh Committee; and

(E) money related to litigation, including settlement of litigation related to Utah Navajo royalties; and

(ii) from which money may not be transferred or expended, except:

(A) as provided in Subsection (7); or

(B) as authorized by congressional action to designate a new recipient of the Utah Navajo royalties; and

(b) by no later than July 1, 2008, transfer to the fund created under Subsection (2)(a) in a manner consistent with this section the related assets and liabilities of the repealed Navajo Trust Fund, including the transfer of money in the repealed Navajo Trust Fund.

(3) The state treasurer shall invest money in the fund created in Subsection (2)(a) in accordance with Title 51, Chapter 7, State Money Management Act.

(4) (a) By no later than May 5, 2008, the repealed board of trustees shall:

(i) adopt a list of all related assets and liabilities of the repealed trust fund that are not satisfied by May 5, 2008, which may include assets and liabilities that are contingent in nature or amount;

(ii) adopt a list of all individuals who at the time of adoption meet the requirements of Subsection (7)(b); and

(iii) provide a copy of the lists described in Subsections (4)(a)(i) and (ii) to:

(A) the state auditor; and

(B) the Department of Administrative Services.

(b) The state auditor, in addition to completing its Fiscal Year 2007-2008 audit of the repealed Navajo Trust Fund, shall:

(i) verify the list of the related assets and liabilities of the repealed Navajo Trust Fund adopted by the repealed board of trustees under Subsection (4)(a) by no later than June 30, 2008; and

(ii) provide a written copy of the verification to the governor and the Legislature by no later than July 30, 2008.

(5) The governor shall ensure that the reporting requirements under P.L. 90-306, 82 Stat. 121, are met.

(6) The Department of Administrative Services, in cooperation with the Department of Human Resources, may assist employees of the repealed Navajo Trust Fund as of June 30, 2008, in accordance with Title 67, Chapter 19, Utah State Personnel Management Act.

(7) With the fund created under Subsection (2) and the fixed assets of the repealed Navajo Trust Fund, the Department of Administrative Services shall:

(a) subject to Subsection (8), fulfill the liabilities and obligations of the repealed Navajo Trust Fund as of June 30, 2008;

(b) provide financial assistance to an individual enrolled member of the Navajo Nation who:

(i) resides in San Juan County;

(ii) as of June 30, [2014] 2018, has received financial assistance under this Subsection (7)(b) for postsecondary education;

(iii) beginning the later of June 30 or the day on which the individual first receives financial assistance under this Subsection (7)(b), is enrolled in postsecondary education in any state for the equivalent of at least two semesters each year; and

(iv) meets the eligibility requirements adopted by the repealed board of trustees as of March 17, 2008,

except that the Department of Administrative Services may increase the amount of financial assistance received by an individual under this Subsection (7)(b) when there are increases in tuition or fees charged at postsecondary institutions operating in the state;

(c) through the Division of Facilities Construction and Management, reasonably maintain the fixed assets of the repealed Navajo Trust Fund, to the extent that a lessee of a fixed asset is not required by a lease to maintain a fixed asset;

(d) through the Division of Facilities Construction and Management, take those steps necessary to secure the purchase:

(i) of the following that is owned by the repealed Navajo Trust Fund as of May 5, 2008:

(A) the government service building; or

(B) another fixed asset of the repealed Navajo Trust Fund, if the sale of the fixed asset is consistent with the obligations of the state with regard to the Utah Navajo royalties; and

(ii) (A) in an arms length manner; and

(B) so that fair market compensation is paid to the repealed Navajo Trust Fund; and

(e) charge the fund established under Subsection (2)(a) for the expenses that are necessary and reasonable to comply with the requirements of this Subsection (7).

(8) To fulfill the liabilities and obligations of the repealed Navajo Trust Fund as of June 30, 2008, the Division of Finance may expend money from the fund:

(a) for a liability or obligation incurred before March 17, 2008, to the extent that the expenditure was expressly a liability or obligation of the repealed Navajo Trust Fund as of March 17, 2008; and

(b) on and after March 11, 2010, for a project approved under Subsection (1)(b)(i) by the repealed board of trustees, except that the Division of Finance may not expend money from the fund for a project approved under Subsection (1)(b)(i):

(i) in excess of \$100,000 in the aggregate for the project; or

(ii) to fulfill a liability or obligation related to the project if the expenditure would be on or after the earlier of:

(A) the day on which money from the fund is transferred as authorized by congressional action to designate a new recipient of the Utah Navajo royalties; or

(B) January 1, [2014] 2018.

(9) Unless expressly prohibited by this part, the state may take any action with regard to the assets held by the state under this part that is consistent with the obligations of the state related to the Utah Navajo royalties.

Section 2. Retrospective operation.

This bill has retrospective operation to January 1, 2014.

CHAPTER 72**S. B. 55**

Passed March 10, 2014
 Approved March 27, 2014
 Effective July 1, 2014

**PHARMACEUTICAL
DISPENSING AMENDMENTS**

Chief Sponsor: Evan J. Vickers
 House Sponsor: Stewart Barlow
 Cosponsors: Curtis S. Bramble
 Brian E. Shiozawa

LONG TITLE**General Description:**

This bill amends the Pharmacy Practice Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies the definition of pharmaceutical wholesaler or distributor in the Pharmacy Practice Act to exclude a facility for which the facility's total distribution-related sales of prescription drugs does not exceed 5% of the facility's total prescription drug sales;
- ▶ allows a hospital pharmacy that dispenses a prescription drug in a multidose container to a hospital patient and follows labeling requirements to provide the patient the drug when the patient is discharged;
- ▶ establishes the license classification "dispensing medical practitioner" under the Pharmacy Practice Act for medical practitioners who prescribe and dispense a drug;
- ▶ establishes the pharmacy facility license classification "dispensing medical practitioner clinic pharmacy" under the Pharmacy Practice Act;
- ▶ creates Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy;
- ▶ removes the exemption from the Pharmacy Practice Act for medical practitioners who prescribe and dispense a cosmetic drug, injectable weight loss drug, or a cancer drug treatment regimen;
- ▶ requires a license as a dispensing medical practitioner for a health care practitioner to dispense:
 - a cosmetic drug;
 - a cancer drug treatment regimen; or
 - a prepackaged drug at an employer sponsored clinic;
- ▶ requires the Board of Pharmacy to work in conjunction with the affected practitioner governing boards:
 - for discipline or hearings related to a dispensing medical practitioner; and
 - to develop the administrative rules in the Pharmacy Practice Act related to a dispensing medical practitioner and a dispensing medical practitioner clinic pharmacy;
- ▶ establishes that practice as a dispensing medical practitioner does not include:

- the use of a vending-type dispensing device; or
 - the prescription of controlled substances, except as permitted for cancer drug treatment regimens;
- ▶ amends the reporting requirements for the controlled substance database;
 - ▶ amends unlawful and unprofessional conduct provisions; and
 - ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2014.

Utah Code Sections Affected:**AMENDS:**

- 58-17b-102, as last amended by Laws of Utah 2013, Chapters 52, 166, and 423
- 58-17b-301, as last amended by Laws of Utah 2013, Chapter 52
- 58-17b-302, as last amended by Laws of Utah 2013, Chapter 52
- 58-17b-309, as last amended by Laws of Utah 2013, Chapter 278
- 58-17b-309.6, as enacted by Laws of Utah 2013, Chapter 52
- 58-17b-502, as last amended by Laws of Utah 2007, Chapter 279
- 58-17b-602, as last amended by Laws of Utah 2013, Chapter 79
- 58-17b-612, as last amended by Laws of Utah 2013, Chapters 52 and 166
- 58-17b-613, as enacted by Laws of Utah 2004, Chapter 280
- 58-31b-502, as last amended by Laws of Utah 2012, Chapter 234
- 58-37f-203, as enacted by Laws of Utah 2010, Chapter 287
- 58-67-502, as last amended by Laws of Utah 2012, Chapter 234
- 58-68-502, as last amended by Laws of Utah 2012, Chapter 234
- 58-70a-502, as last amended by Laws of Utah 2012, Chapter 234
- 58-70a-503, as last amended by Laws of Utah 2010, Chapter 37
- 58-83-502, as last amended by Laws of Utah 2012, Chapter 344
- 63I-1-258, as last amended by Laws of Utah 2013, Chapters 55, 87, 222, 278, and 351

ENACTS:

- 58-17b-801, Utah Code Annotated 1953
- 58-17b-802, Utah Code Annotated 1953
- 58-17b-803, Utah Code Annotated 1953
- 58-17b-804, Utah Code Annotated 1953
- 58-17b-805, Utah Code Annotated 1953
- 58-17b-806, Utah Code Annotated 1953

REPEALS:

- 58-17b-309.5, as enacted by Laws of Utah 2012, Chapter 234

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

Section 1. Section 58-17b-102 is amended to read:

58-17b-102. Definitions.

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

(1) "Administering" means:

(a) the direct application of a prescription drug or device, whether by injection, inhalation, ingestion, or by any other means, to the body of a human patient or research subject by another person; or

(b) the placement by a veterinarian with the owner or caretaker of an animal or group of animals of a prescription drug for the purpose of injection, inhalation, ingestion, or any other means directed to the body of the animal by the owner or caretaker in accordance with written or verbal directions of the veterinarian.

(2) "Adulterated drug or device" means a drug or device considered adulterated under 21 U.S.C.S. Sec. 351 (2003).

(3) (a) "Analytical laboratory" means a facility in possession of prescription drugs for the purpose of analysis.

(b) "Analytical laboratory" does not include a laboratory possessing prescription drugs used as standards and controls in performing drug monitoring or drug screening analysis if the prescription drugs are prediluted in a human or animal body fluid, human or animal body fluid components, organic solvents, or inorganic buffers at a concentration not exceeding one milligram per milliliter when labeled or otherwise designated as being for in vitro diagnostic use.

(4) "Animal euthanasia agency" means an agency performing euthanasia on animals by the use of prescription drugs.

(5) "Automated pharmacy systems" includes mechanical systems which perform operations or activities, other than compounding or administration, relative to the storage, packaging, dispensing, or distribution of medications, and which collect, control, and maintain all transaction information.

(6) "Beyond use date" means the date determined by a pharmacist and placed on a prescription label at the time of dispensing that indicates to the patient or caregiver a time beyond which the contents of the prescription are not recommended to be used.

(7) "Board of pharmacy" or "board" means the Utah State Board of Pharmacy created in Section 58-17b-201.

(8) "Branch pharmacy" means a pharmacy or other facility in a rural or medically underserved area, used for the storage and dispensing of prescription drugs, which is dependent upon, stocked by, and supervised by a pharmacist in another licensed pharmacy designated and approved by the division as the parent pharmacy.

(9) "Centralized prescription processing" means the processing by a pharmacy of a request from another pharmacy to fill or refill a prescription drug order or to perform processing functions such as

dispensing, drug utilization review, claims adjudication, refill authorizations, and therapeutic interventions.

(10) "Class A pharmacy" means a pharmacy located in Utah that is authorized as a retail pharmacy to compound or dispense a drug or dispense a device to the public under a prescription order.

(11) "Class B pharmacy":

(a) means a pharmacy located in Utah:

(i) that is authorized to provide pharmaceutical care for patients in an institutional setting; and

(ii) whose primary purpose is to provide a physical environment for patients to obtain health care services; and

(b) (i) includes closed-door, hospital, clinic, nuclear, and branch pharmacies; and

(ii) pharmaceutical administration and sterile product preparation facilities.

(12) "Class C pharmacy" means a pharmacy located in Utah that is authorized to engage in the manufacture, production, wholesale, or distribution of drugs or devices.

(13) "Class D pharmacy" means a nonresident pharmacy.

(14) "Class E pharmacy" means all other pharmacies.

(15) "Closed-door pharmacy" means a pharmacy that provides pharmaceutical care to a defined and exclusive group of patients who have access to the services of the pharmacy because they are treated by or have an affiliation with a specific entity, including a health maintenance organization or an infusion company, but not including a hospital pharmacy, a retailer of goods to the general public, or the office of a practitioner.

(16) "Collaborative pharmacy practice" means a practice of pharmacy whereby one or more pharmacists have jointly agreed, on a voluntary basis, to work in conjunction with one or more practitioners under protocol whereby the pharmacist may perform certain pharmaceutical care functions authorized by the practitioner or practitioners under certain specified conditions or limitations.

(17) "Collaborative pharmacy practice agreement" means a written and signed agreement between one or more pharmacists and one or more practitioners that provides for collaborative pharmacy practice for the purpose of drug therapy management of patients and prevention of disease of human subjects.

(18) (a) "Compounding" means the preparation, mixing, assembling, packaging, or labeling of a limited quantity drug, sterile product, or device:

(i) as the result of a practitioner's prescription order or initiative based on the practitioner, patient, or pharmacist relationship in the course of professional practice;

(ii) for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale or dispensing; or

(iii) in anticipation of prescription drug orders based on routine, regularly observed prescribing patterns.

(b) "Compounding" does not include:

(i) the preparation of prescription drugs by a pharmacist or pharmacy intern for sale to another pharmacist or pharmaceutical facility;

(ii) the preparation by a pharmacist or pharmacy intern of any prescription drug in a dosage form which is regularly and commonly available from a manufacturer in quantities and strengths prescribed by a practitioner; or

(iii) the preparation of a prescription drug, sterile product, or device which has been withdrawn from the market for safety reasons.

(19) "Confidential information" has the same meaning as "protected health information" under the Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. Parts 160 and 164.

(20) "Controlled substance" has the same definition as in Section 58-37-2.

(21) "Dietary supplement" has the same meaning as Public Law Title 103, Chapter 417, Sec. 3a(ff) which is incorporated by reference.

(22) "Dispense" means the interpretation, evaluation, and implementation of a prescription drug order or device or nonprescription drug or device under a lawful order of a practitioner in a suitable container appropriately labeled for subsequent administration to or use by a patient, research subject, or an animal.

(23) "Dispensing medical practitioner" means an individual who is:

(a) currently licensed as:

(i) a physician and surgeon under Chapter 67, Utah Medical Practice Act;

(ii) an osteopathic physician and surgeon under Chapter 68, Utah Osteopathic Medical Practice Act;

(iii) a physician assistant under Chapter 70a, Physician Assistant Act;

(iv) a nurse practitioner under Chapter 31b, Nurse Practice Act; or

(v) an optometrist under Chapter 16a, Utah Optometry Practice Act, if the optometrist is acting within the scope of practice for an optometrist; and

(b) licensed by the division under the Pharmacy Practice Act to engage in the practice of a dispensing medical practitioner.

(24) "Dispensing medical practitioner clinic pharmacy" means a closed-door pharmacy located within a licensed dispensing medical practitioner's place of practice.

~~[(23)]~~ (25) "Distribute" means to deliver a drug or device other than by administering or dispensing.

~~[(24)]~~ (26) (a) "Drug" means:

(i) a substance recognized in the official United States Pharmacopoeia, Official Homeopathic Pharmacopoeia of the United States, or Official National Formulary, or any supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;

(ii) a substance that is required by any applicable federal or state law or rule to be dispensed by prescription only or is restricted to administration by practitioners only;

(iii) a substance other than food intended to affect the structure or any function of the body of humans or other animals; and

(iv) substances intended for use as a component of any substance specified in Subsections ~~[(24)]~~ (26)(a)(i), (ii), (iii), and (iv).

(b) "Drug" does not include dietary supplements.

~~[(25)]~~ (27) "Drug regimen review" includes the following activities:

(a) evaluation of the prescription drug order and patient record for:

(i) known allergies;

(ii) rational therapy-contraindications;

(iii) reasonable dose and route of administration; and

(iv) reasonable directions for use;

(b) evaluation of the prescription drug order and patient record for duplication of therapy;

(c) evaluation of the prescription drug order and patient record for the following interactions:

(i) drug-drug;

(ii) drug-food;

(iii) drug-disease; and

(iv) adverse drug reactions; and

(d) evaluation of the prescription drug order and patient record for proper utilization, including over- or under-utilization, and optimum therapeutic outcomes.

~~[(26)]~~ (28) "Drug sample" means a prescription drug packaged in small quantities consistent with limited dosage therapy of the particular drug, which is marked "sample", is not intended to be sold, and is intended to be provided to practitioners for the immediate needs of patients for trial purposes or to provide the drug to the patient until a prescription can be filled by the patient.

~~[(27)]~~ (29) "Electronic signature" means a trusted, verifiable, and secure electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

~~[(28)]~~ (30) “Electronic transmission” means transmission of information in electronic form or the transmission of the exact visual image of a document by way of electronic equipment.

~~[(29)]~~ (31) “Hospital pharmacy” means a pharmacy providing pharmaceutical care to inpatients of a general acute hospital or specialty hospital licensed by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

~~[(30)]~~ (32) “Legend drug” has the same meaning as prescription drug.

~~[(31)]~~ (33) “Licensed pharmacy technician” means an individual licensed with the division, that may, under the supervision of a pharmacist, perform the activities involved in the technician practice of pharmacy.

~~[(32)]~~ (34) “Manufacturer” means a person or business physically located in Utah licensed to be engaged in the manufacturing of drugs or devices.

~~[(33)]~~ (35) (a) “Manufacturing” means:

(i) the production, preparation, propagation, conversion, or processing of a drug or device, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical or biological synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container; and

(ii) the promotion and marketing of such drugs or devices.

(b) “Manufacturing” includes the preparation and promotion of commercially available products from bulk compounds for resale by pharmacies, practitioners, or other persons.

(c) “Manufacturing” does not include the preparation or compounding of a drug by a pharmacist, pharmacy intern, or practitioner for that individual’s own use or the preparation, compounding, packaging, labeling of a drug, or incident to research, teaching, or chemical analysis.

~~[(34)]~~ (36) “Medical order” means a lawful order of a practitioner which may include a prescription drug order.

~~[(35)]~~ (37) “Medication profile” or “profile” means a record system maintained as to drugs or devices prescribed for a pharmacy patient to enable a pharmacist or pharmacy intern to analyze the profile to provide pharmaceutical care.

~~[(36)]~~ (38) “Misbranded drug or device” means a drug or device considered misbranded under 21 U.S.C.S. Sec. 352 (2003).

~~[(37)]~~ (39) (a) “Nonprescription drug” means a drug which:

(i) may be sold without a prescription; and

(ii) is labeled for use by the consumer in accordance with federal law.

(b) “Nonprescription drug” includes homeopathic remedies.

~~[(38)]~~ (40) “Nonresident pharmacy” means a pharmacy located outside of Utah that sells to a person in Utah.

~~[(39)]~~ (41) “Nuclear pharmacy” means a pharmacy providing radio-pharmaceutical service.

~~[(40)]~~ (42) “Out-of-state mail service pharmacy” means a pharmaceutical facility located outside the state that is licensed and in good standing in another state, that:

(a) ships, mails, or delivers by any lawful means a dispensed legend drug to a patient in this state pursuant to a lawfully issued prescription;

(b) provides information to a patient in this state on drugs or devices which may include, but is not limited to, advice relating to therapeutic values, potential hazards, and uses; or

(c) counsels pharmacy patients residing in this state concerning adverse and therapeutic effects of drugs.

~~[(41)]~~ (43) “Patient counseling” means the written and oral communication by the pharmacist or pharmacy intern of information, to the patient or caregiver, in order to ensure proper use of drugs, devices, and dietary supplements.

~~[(42)]~~ (44) “Pharmaceutical administration facility” means a facility, agency, or institution in which:

(a) prescription drugs or devices are held, stored, or are otherwise under the control of the facility or agency for administration to patients of that facility or agency;

(b) prescription drugs are dispensed to the facility or agency by a licensed pharmacist or pharmacy intern with whom the facility has established a prescription drug supervising relationship under which the pharmacist or pharmacy intern provides counseling to the facility or agency staff as required, and oversees drug control, accounting, and destruction; and

(c) prescription drugs are professionally administered in accordance with the order of a practitioner by an employee or agent of the facility or agency.

~~[(43)]~~ (45) (a) “Pharmaceutical care” means carrying out the following in collaboration with a prescribing practitioner, and in accordance with division rule:

(i) designing, implementing, and monitoring a therapeutic drug plan intended to achieve favorable outcomes related to a specific patient for the purpose of curing or preventing the patient’s disease;

(ii) eliminating or reducing a patient’s symptoms; or

(iii) arresting or slowing a disease process.

(b) “Pharmaceutical care” does not include prescribing of drugs without consent of a prescribing practitioner.

[44] (46) "Pharmaceutical facility" means a business engaged in the dispensing, delivering, distributing, manufacturing, or wholesaling of prescription drugs or devices within or into this state.

[45] (47) (a) "Pharmaceutical wholesaler or distributor" means a pharmaceutical facility engaged in the business of wholesale vending or selling of a prescription drug or device to other than a consumer or user of the prescription drug or device that the pharmaceutical facility has not produced, manufactured, compounded, or dispensed.

(b) "Pharmaceutical wholesaler or distributor" does not include a pharmaceutical facility carrying out the following business activities:

(i) intracompany sales;

(ii) the sale, purchase, or trade of a prescription drug or device, or an offer to sell, purchase, or trade a prescription drug or device, if the activity is carried out between one or more of the following entities under common ownership or common administrative control, as defined by division rule:

(A) hospitals;

(B) pharmacies;

(C) chain pharmacy warehouses, as defined by division rule; or

(D) other health care entities, as defined by division rule;

(iii) the sale, purchase, or trade of a prescription drug or device, or an offer to sell, purchase, or trade a prescription drug or device, for emergency medical reasons, including supplying another pharmaceutical facility with a limited quantity of a drug, if:

(A) the facility is unable to obtain the drug through a normal distribution channel in sufficient time to eliminate the risk of harm to a patient that would result from a delay in obtaining the drug; and

(B) the quantity of the drug does not exceed an amount reasonably required for immediate dispensing to eliminate the risk of harm;

(iv) the distribution of a prescription drug or device as a sample by representatives of a manufacturer; and

(v) the distribution of prescription drugs, if:

~~[(A) the dosage units distributed during a calendar year do not exceed five percent of the sum of the dosage units distributed by the facility during the calendar year and the dosage units dispensed by the facility during the calendar year; and]~~

(A) the facility's total distribution-related sales of prescription drugs does not exceed 5% of the facility's total prescription drug sales; and

(B) the distribution otherwise complies with 21 C.F.R. Sec. 1307.11.

[46] (48) "Pharmacist" means an individual licensed by this state to engage in the practice of pharmacy.

[47] (49) "Pharmacist-in-charge" means a pharmacist currently licensed in good standing who accepts responsibility for the operation of a pharmacy in conformance with all laws and rules pertinent to the practice of pharmacy and the distribution of drugs, and who is personally in full and actual charge of the pharmacy and all personnel.

[48] (50) "Pharmacist preceptor" means a licensed pharmacist in good standing with one or more years of licensed experience. The preceptor serves as a teacher, example of professional conduct, and supervisor of interns in the professional practice of pharmacy.

[49] (51) "Pharmacy" means any place where:

(a) drugs are dispensed;

(b) pharmaceutical care is provided;

(c) drugs are processed or handled for eventual use by a patient; or

(d) drugs are used for the purpose of analysis or research.

[50] (52) "Pharmacy benefits manager or coordinator" means a person or entity that provides pharmacy benefit management services as defined in Section 49-20-502 on behalf of a self-insured employer, insurance company, health maintenance organization, or other plan sponsor, as defined by rule.

[51] (53) "Pharmacy intern" means an individual licensed by this state to engage in practice as a pharmacy intern.

[52] (54) "Pharmacy technician training program" means an approved technician training program providing education for pharmacy technicians.

(55) (a) "Practice as a dispensing medical practitioner" means the practice of pharmacy, specifically relating to the dispensing of a prescription drug in accordance with Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, and division rule adopted after consultation with the Board of Pharmacy and the governing boards of the practitioners described in Subsection (23)(a).

(b) "Practice as a dispensing medical practitioner" does not include:

(i) using a vending type of dispenser as defined by the division by administrative rule; or

(ii) except as permitted by Section 58-17b-805, dispensing of a controlled substance as defined in Section 58-37-2.

[53] (56) (a) "Practice as a licensed pharmacy technician" means engaging in practice as a pharmacy technician under the general supervision of a licensed pharmacist and in accordance with a scope of practice defined by division rule made in collaboration with the board.

(b) "Practice as a licensed pharmacy technician" does not include:

(i) performing a drug utilization review, prescription drug order clarification from a prescriber, final review of the prescription, dispensing of the drug, or counseling a patient with respect to a prescription drug;

(ii) except as permitted by rules made by the division in consultation with the board, final review of a prescribed drug prepared for dispensing;

(iii) counseling regarding nonprescription drugs and dietary supplements unless delegated by the supervising pharmacist; or

(iv) receiving new prescription drug orders when communicating telephonically or electronically unless the original information is recorded so the pharmacist may review the prescription drug order as transmitted.

[~~54~~] (57) "Practice of pharmacy" includes the following:

(a) providing pharmaceutical care;

(b) collaborative pharmacy practice in accordance with a collaborative pharmacy practice agreement;

(c) compounding, packaging, labeling, dispensing, administering, and the coincident distribution of prescription drugs or devices, provided that the administration of a prescription drug or device is:

(i) pursuant to a lawful order of a practitioner when one is required by law; and

(ii) in accordance with written guidelines or protocols:

(A) established by the licensed facility in which the prescription drug or device is to be administered on an inpatient basis; or

(B) approved by the division, in collaboration with the board and the Physicians Licensing Board, created in Section 58-67-201, if the prescription drug or device is to be administered on an outpatient basis solely by a licensed pharmacist;

(d) participating in drug utilization review;

(e) ensuring proper and safe storage of drugs and devices;

(f) maintaining records of drugs and devices in accordance with state and federal law and the standards and ethics of the profession;

(g) providing information on drugs or devices, which may include advice relating to therapeutic values, potential hazards, and uses;

(h) providing drug product equivalents;

(i) supervising pharmacist's supportive personnel, pharmacy interns, and pharmacy technicians;

(j) providing patient counseling, including adverse and therapeutic effects of drugs;

(k) providing emergency refills as defined by rule;

(l) telepharmacy; and

(m) formulary management intervention.

[~~55~~] (58) "Practice of telepharmacy" means the practice of pharmacy through the use of telecommunications and information technologies.

[~~56~~] (59) "Practice of telepharmacy across state lines" means the practice of pharmacy through the use of telecommunications and information technologies that occurs when the patient is physically located within one jurisdiction and the pharmacist is located in another jurisdiction.

[~~57~~] (60) "Practitioner" means an individual currently licensed, registered, or otherwise authorized by the appropriate jurisdiction to prescribe and administer drugs in the course of professional practice.

[~~58~~] (61) "Prescribe" means to issue a prescription:

(a) orally or in writing; or

(b) by telephone, facsimile transmission, computer, or other electronic means of communication as defined by division rule.

[~~59~~] (62) "Prescription" means an order issued:

(a) by a licensed practitioner in the course of that practitioner's professional practice or by collaborative pharmacy practice agreement; and

(b) for a controlled substance or other prescription drug or device for use by a patient or an animal.

[~~60~~] (63) "Prescription device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, and any component part or accessory, which is required under federal or state law to be prescribed by a practitioner and dispensed by or through a person or entity licensed under this chapter or exempt from licensure under this chapter.

[~~61~~] (64) "Prescription drug" means a drug that is required by federal or state law or rule to be dispensed only by prescription or is restricted to administration only by practitioners.

[~~62~~] (65) "Research using pharmaceuticals" means research:

(a) conducted in a research facility, as defined by division rule, that is associated with a university or college in the state accredited by the Northwest Commission on Colleges and Universities;

(b) requiring the use of a controlled substance, prescription drug, or prescription device;

(c) that uses the controlled substance, prescription drug, or prescription device in accordance with standard research protocols and techniques, including, if required, those approved by an institutional review committee; and

(d) that includes any documentation required for the conduct of the research and the handling of the

controlled substance, prescription drug, or prescription device.

~~[(63)]~~ (66) “Retail pharmacy” means a pharmaceutical facility dispensing prescription drugs and devices to the general public.

~~[(64)]~~ (67) “Self-audit” means an internal evaluation of a pharmacy to determine compliance with this chapter.

~~[(65)]~~ (68) “Supervising pharmacist” means a pharmacist who is overseeing the operation of the pharmacy during a given day or shift.

~~[(66)]~~ (69) “Supportive personnel” means unlicensed individuals who:

(a) may assist a pharmacist, pharmacist preceptor, pharmacy intern, or licensed pharmacy technician in nonjudgmental duties not included in the definition of the practice of pharmacy, practice of a pharmacy intern, or practice of a licensed pharmacy technician, and as those duties may be further defined by division rule adopted in collaboration with the board; and

(b) are supervised by a pharmacist in accordance with rules adopted by the division in collaboration with the board.

~~[(67)]~~ (70) “Unlawful conduct” is as defined in Sections 58-1-501 and 58-17b-501.

~~[(68)]~~ (71) “Unprofessional conduct” is as defined in Sections 58-1-501 and 58-17b-502 and may be further defined by rule.

~~[(69)]~~ (72) “Veterinary pharmaceutical facility” means a pharmaceutical facility that dispenses drugs intended for use by animals or for sale to veterinarians for the administration for animals.

Section 2. Section 58-17b-301 is amended to read:

58-17b-301. License required -- License classifications for individuals.

(1) A license is required to engage in the practice of pharmacy, telepharmacy, ~~[or the practice of a]~~ pharmacy technician, or dispensing medical practitioner except as specifically provided in Section 58-1-307[,], or 58-17b-309[,], or 58-17-309.6].

(2) The division shall issue to an individual who qualifies under this chapter a license in the classification of:

- (a) pharmacist;
- (b) pharmacy intern; ~~[or]~~
- (c) pharmacy technician[-]; or
- (d) dispensing medical practitioner.

Section 3. Section 58-17b-302 is amended to read:

58-17b-302. License required -- License classifications for pharmacy facilities.

(1) A license is required to act as a pharmacy, except as specifically exempted from licensure under Section 58-1-307 ~~[or 58-17-309.6].~~

(2) The division shall issue a pharmacy license to a facility that qualifies under this chapter in the classification of a:

- (a) class A pharmacy;
- (b) class B pharmacy;
- (c) class C pharmacy;
- (d) class D pharmacy; ~~[or]~~
- (e) class E pharmacy[-]; or
- (f) dispensing medical practitioner clinic pharmacy.

(3) Each place of business shall require a separate license. If multiple pharmacies exist at the same address, a separate license shall be required for each pharmacy.

(4) The division may further define or supplement the classifications of pharmacies. The division may impose restrictions upon classifications to protect the public health, safety, and welfare.

(5) Each pharmacy shall have a pharmacist-in-charge, except as otherwise provided by rule.

(6) Whenever an applicable statute or rule requires or prohibits action by a pharmacy, the pharmacist-in-charge and the owner of the pharmacy shall be responsible for all activities of the pharmacy, regardless of the form of the business organization.

Section 4. Section 58-17b-309 is amended to read:

58-17b-309. Exemptions from licensure.

- ~~[(1) For purposes of this section:]~~
- ~~[(a) “Cosmetic drug”:]~~
- ~~[(i) means a prescription drug that is:]~~
- ~~[(A) for the purpose of promoting attractiveness or altering the appearance of an individual; and]~~
- ~~[(B) listed as a cosmetic drug subject to the exemption under this section by the division by administrative rule or has been expressly approved for online dispensing, whether or not it is dispensed online or through a physician’s office; and]~~
- ~~[(ii) does not include a prescription drug that is:]~~
- ~~[(A) a controlled substance;]~~
- ~~[(B) compounded by the physician; or]~~
- ~~[(C) prescribed or used for the patient for the purpose of diagnosing, curing, or preventing a disease.]~~
- ~~[(b) “Injectable weight loss drug”:]~~
- ~~[(i) means an injectable prescription drug:]~~
- ~~[(A) prescribed to promote weight loss; and]~~

~~[(B) listed as an injectable prescription drug subject to exemption under this section by the division by administrative rule; and]~~

~~[(ii) does not include a prescription drug that is a controlled substance.]~~

~~[(c) — “Prescribing practitioner” means an individual licensed under:]~~

~~[(i) Chapter 31b, Nurse Practice Act, as an advanced practice registered nurse with prescriptive practice;]~~

~~[(ii) Chapter 67, Utah Medical Practice Act;]~~

~~[(iii) Chapter 68, Utah Osteopathic Medical Practice Act; or]~~

~~[(iv) Chapter 70a, Physician Assistant Act.]~~

~~[(2) (1) In addition to the exemptions from licensure in [Sections] Section 58-1-307 [and 58-17b-309.5], the following individuals may engage in the acts or practices described in this section without being licensed under this chapter:~~

~~[(a) if the individual is described in Subsections (2)(b), (d), or (e), the individual notifies the division in writing of the individual's intent to dispense a drug under this subsection;]~~

~~[(b) (a) a person selling or providing contact lenses in accordance with Section 58-16a-801; or~~

~~[(e) (b) an individual engaging in the practice of pharmacy technician under the direct personal supervision of a pharmacist while making satisfactory progress in an approved program as defined in division rule[s].]~~

~~[(d) a prescribing practitioner who prescribes and dispenses a cosmetic drug or an injectable weight loss drug to the prescribing practitioner's patient in accordance with Subsection (4); or]~~

~~[(e) — an optometrist, as defined in Section 58-16a-102, acting within the optometrist's scope of practice as defined in Section 58-16a-601, who prescribes and dispenses a cosmetic drug to the optometrist's patient in accordance with Subsection (4).]~~

~~[(3) (2) In accordance with Subsection 58-1-303(1)(a), an individual exempt under Subsection [(2)(e)] (1)(b) must take all examinations as required by division rule following completion of an approved curriculum of education, within the required time frame. This exemption expires immediately upon notification of a failing score of an examination, and the individual may not continue working as a pharmacy technician even under direct supervision.~~

~~[(4) A prescribing practitioner or optometrist is exempt from licensing under the provisions of this part if the prescribing practitioner or optometrist:]~~

~~[(a) (i) writes a prescription for a drug the prescribing practitioner or optometrist has the authority to dispense under Subsection (4)(b); and]~~

~~[(ii) informs the patient:]~~

~~[(A) that the prescription may be filled at a pharmacy or dispensed in the prescribing practitioner's or optometrist's office;]~~

~~[(B) of the directions for appropriate use of the drug;]~~

~~[(C) of potential side effects to the use of the drug; and]~~

~~[(D) how to contact the prescribing practitioner or optometrist if the patient has questions or concerns regarding the drug;]~~

~~[(b) — dispenses a cosmetic drug or injectable weight loss drug only to the prescribing practitioner's patients or for an optometrist, dispenses a cosmetic drug only to the optometrist's patients;]~~

~~[(c) follows labeling, record keeping, patient counseling, storage, purchasing and distribution, operating, treatment, and quality of care requirements established by administrative rule adopted by the division in consultation with the boards listed in Subsection (5)(a); and]~~

~~[(d) follows USP-NF 797 standards for sterile compounding if the drug dispensed to patients is reconstituted or compounded.]~~

~~[(5) (a) The division, in consultation with the board under this chapter and the relevant professional board, including the Physician Licensing Board, the Osteopathic Physician Licensing Board, the Physician Assistant Licensing Board, the Board of Nursing, the Optometrist Licensing Board, or the Online Prescribing, Dispensing, and Facilitation Board, shall adopt administrative rules pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act to designate:]~~

~~[(i) the prescription drugs that may be dispensed as a cosmetic drug or weight loss drug under this section; and]~~

~~[(ii) the requirements under Subsection (4)(c).]~~

~~[(b) — When making a determination under Subsection (1)(a), the division and boards listed in Subsection (5)(a) may consider any federal Food and Drug Administration indications or approval associated with a drug when adopting a rule to designate a prescription drug that may be dispensed under this section.]~~

~~[(c) — The division may inspect the office of a prescribing practitioner or optometrist who is dispensing under the provisions of this section, in order to determine whether the prescribing practitioner or optometrist is in compliance with the provisions of this section. If a prescribing practitioner or optometrist chooses to dispense under the provisions of this section, the prescribing practitioner or optometrist consents to the jurisdiction of the division to inspect the prescribing practitioner's or optometrist's office and determine if the provisions of this section are being met by the prescribing practitioner or optometrist.]~~

~~[(d) If a prescribing practitioner or optometrist violates a provision of this section, the prescribing~~

practitioner or optometrist may be subject to discipline under:]

~~[(i) this chapter; and]~~

~~[(ii) (A) Chapter 16a, Utah Optometry Practice Act;]~~

~~[(B) Chapter 31b, Nurse Practice Act;]~~

~~[(C) Chapter 67, Utah Medical Practice Act;]~~

~~[(D) Chapter 68, Utah Osteopathic Medical Practice Act;]~~

~~[(E) Chapter 70a, Physician Assistant Act; or]~~

~~[(F) Chapter 83, Online Prescribing, Dispensing, and Facilitation Act.]~~

~~[(6) Except as provided in Subsection (2)(e), this section does not restrict or limit the scope of practice of an optometrist or optometric physician licensed under Chapter 16a, Utah Optometry Practice Act.]~~

Section 5. Section 58-17b-309.6 is amended to read:

58-17b-309.6. Exemptions from licensure for research using pharmaceuticals.

Research using pharmaceuticals, as defined in Subsection 58-17b-102~~[(64)]~~(65), is exempt from licensure under Sections 58-17b-301 and 58-17b-302.

Section 6. Section 58-17b-502 is amended to read:

58-17b-502. Unprofessional conduct.

“Unprofessional conduct” includes:

(1) willfully deceiving or attempting to deceive the division, the board, or their agents as to any relevant matter regarding compliance under this chapter;

(2) (a) except as provided in Subsection (2)(b):

(i) paying or offering rebates to practitioners or any other health care providers, or receiving or soliciting rebates from practitioners or any other health care provider; or

(ii) paying, offering, receiving, or soliciting compensation in the form of a commission, bonus, rebate, kickback, or split fee arrangement with practitioners or any other health care provider, for the purpose of obtaining referrals.

(b) Subsection (2)(a) does not apply to:

(i) giving or receiving price discounts based on purchase volume;

(ii) passing along pharmaceutical manufacturer’s rebates; or

(iii) providing compensation for services to a veterinarian.

(3) misbranding or adulteration of any drug or device or the sale, distribution, or dispensing of any outdated, misbranded, or adulterated drug or device;

(4) engaging in the sale or purchase of drugs or devices that are samples or packages bearing the inscription “sample” or “not for resale” or similar words or phrases;

(5) except as provided in Section 58-17b-503, accepting back and redistributing of any unused drug, or a part of it, after it has left the premises of any pharmacy, unless the drug is in a unit pack, as defined in Section 58-17b-503, or the manufacturer’s sealed container, as defined in rule;

(6) an act in violation of this chapter committed by a person for any form of compensation if the act is incidental to the person’s professional activities, including the activities of a pharmacist, pharmacy intern, or pharmacy technician;

(7) violating Federal Title II, P.L. 91, Controlled Substances Act, Title 58, Chapter 37, Utah Controlled Substances Act, or rules or regulations adopted under either act;

(8) requiring or permitting pharmacy interns or technicians to engage in activities outside the scope of practice for their respective license classifications, as defined in this chapter and division rules made in collaboration with the board, or beyond their scope of training and ability;

(9) administering:

(a) without appropriate training, as defined by rule;

(b) without a physician’s order, when one is required by law; and

(c) in conflict with a practitioner’s written guidelines or written protocol for administering;

(10) disclosing confidential patient information in violation of the provisions of the Health Insurance Portability and Accountability Act of 1996 or other applicable law;

(11) engaging in the practice of pharmacy without a licensed pharmacist designated as the pharmacist-in-charge;

(12) failing to report to the division any adverse action taken by another licensing jurisdiction, government agency, law enforcement agency, or court for conduct that in substance would be considered unprofessional conduct under this section; and

~~[(13) as a pharmacist or pharmacy intern, preparing a prescription drug for sale to another pharmacist or pharmaceutical facility; and]~~

~~[(14)]~~ (13) as a pharmacist or pharmacy intern, preparing a prescription drug in a dosage form which is regularly and commonly available from a manufacturer in quantities and strengths prescribed by a practitioner.

Section 7. Section 58-17b-602 is amended to read:

58-17b-602. Prescription orders -- Information required -- Alteration -- Labels -- Signatures -- Dispensing in pharmacies.

(1) Except as provided in Section 58-1-501.3, the minimum information that shall be included in a prescription order, and that may be defined by rule, is:

(a) the prescriber's name, address, and telephone number, and, if the order is for a controlled substance, the patient's age and the prescriber's DEA number;

(b) the patient's name and address or, in the case of an animal, the name of the owner and species of the animal;

(c) the date of issuance;

(d) the name of the medication or device prescribed and dispensing instructions, if necessary;

(e) the directions, if appropriate, for the use of the prescription by the patient or animal and any refill, special labeling, or other instructions;

(f) the prescriber's signature if the prescription order is written;

(g) if the order is an electronically transmitted prescription order, the prescribing practitioner's electronic signature; and

(h) if the order is a hard copy prescription order generated from electronic media, the prescribing practitioner's electronic or manual signature.

(2) The requirement of Subsection (1)(a) does not apply to prescription orders dispensed for inpatients by hospital pharmacies if the prescriber is a current member of the hospital staff and the prescription order is on file in the patient's medical record.

(3) Unless it is for a Schedule II controlled substance, a prescription order may be dispensed by a pharmacist or pharmacy intern upon an oral prescription of a practitioner only if the oral prescription is promptly reduced to writing.

(4) (a) Except as provided under Subsection (4)(b), a pharmacist or pharmacy intern may not dispense or compound any prescription of a practitioner if the prescription shows evidence of alteration, erasure, or addition by any person other than the person writing the prescription.

(b) A pharmacist or pharmacy intern dispensing or compounding a prescription may alter or make additions to the prescription after receiving permission of the prescriber and may make entries or additions on the prescription required by law or necessitated in the compounding and dispensing procedures.

(5) Each drug dispensed shall have a label securely affixed to the container indicating the following minimum information:

(a) the name, address, and telephone number of the pharmacy;

(b) the serial number of the prescription as assigned by the dispensing pharmacy;

(c) the filling date of the prescription or its last dispensing date;

(d) the name of the patient, or in the case of an animal, the name of the owner and species of the animal;

(e) the name of the prescriber;

(f) the directions for use and cautionary statements, if any, which are contained in the prescription order or are needed;

(g) except as provided in Subsection ~~[(6)]~~ (7), the trade, generic, or chemical name, amount dispensed and the strength of dosage form, but if multiple ingredient products with established proprietary or nonproprietary names are prescribed, those products' names may be used; and

(h) the beyond use date.

(6) A hospital pharmacy that dispenses a prescription drug that is packaged in a multidose container to a hospital patient may provide the drug in the multidose container to the patient when the patient is discharged from the hospital if:

(a) the pharmacy receives a discharge order for the patient; and

(b) the pharmacy labels the drug with the:

(i) patient's name;

(ii) drug's name and strength;

(iii) directions for use of the drug, if applicable; and

(iv) pharmacy's name and phone number.

~~[(6)]~~ (7) If the prescriber specifically indicates the name of the prescription product should not appear on the label, then any of the trade, generic, chemical, established proprietary, and established nonproprietary names and the strength of dosage form may not be included.

~~[(7)]~~ (8) Prescribers are encouraged to include on prescription labels the information described in Section 58-17b-602.5 in accordance with the provisions of that section.

~~[(8) Except when it is delivered to the ultimate user via the United States Postal Service, licensed common carrier, or supportive personnel, a prescription drug may be dispensed to the ultimate user or his agent only at a licensed pharmacy.]~~

(9) A pharmacy may only deliver a prescription drug to a patient or a patient's agent:

(a) in person at the pharmacy; or

(b) via the United States Postal Service, a licensed common carrier, or supportive personnel, if the pharmacy takes reasonable precautions to ensure the prescription drug is:

(i) delivered to the patient or patient's agent; or

(ii) returned to the pharmacy.

Section 8. Section 58-17b-612 is amended to read:

58-17b-612. Supervision -- Pharmacist-in-charge.

(1) (a) Any pharmacy, except a wholesaler, distributor, out-of-state mail service pharmacy, or class E pharmacy, shall be under the general supervision of at least one pharmacist licensed to practice in Utah. One pharmacist licensed in Utah shall be designated as the pharmacist-in-charge, whose responsibility it is to oversee the operation of the pharmacy.

(b) Notwithstanding Subsection 58-17b-102[(65)](68), a supervising pharmacist does not have to be in the pharmacy or care facility but shall be available via a telepharmacy system for immediate contact with the supervised pharmacy technician or pharmacy intern if:

(i) the pharmacy is located in:

(A) a remote rural hospital, as defined in Section 26-21-13.6; or

(B) a clinic located in a remote rural county with less than 20 people per square mile;

(ii) the supervising pharmacist described in Subsection (1)(a) is not available; and

(iii) the telepharmacy system maintains records and files quarterly reports as required by division rule to assure that patient safety is not compromised.

(2) Each out-of-state mail service pharmacy shall designate and identify to the division a pharmacist holding a current license in good standing issued by the state in which the pharmacy is located and who serves as the pharmacist-in-charge for all purposes under this chapter.

Section 9. Section 58-17b-613 is amended to read:

58-17b-613. Patient counseling.

(1) ~~[Every] A retail pharmacy [facility shall orally] shall verbally offer to counsel a patient or a patient's agent in a personal face-to-face discussion [with respect to] regarding each prescription drug dispensed, if the patient or patient's agent:~~

(a) delivers the prescription in person to the pharmacist or pharmacy intern; or

(b) receives the drug in person at the time it is dispensed at the pharmacy facility.

~~[(2) A pharmacist or pharmacy intern shall provide counseling to each patient, and shall provide the patient with a toll-free telephone number by which the patient may contact a pharmacist at the dispensing pharmacy during normal business hours and receive oral counseling, with respect to each prescription drug dispensed if the patient provides or the prescription is otherwise provided to the pharmacy facility by a means other than personal delivery, and the dispensed prescription drug is mailed or otherwise delivered to the patient outside of the pharmacy facility.]~~

~~[(3) (a) The provisions of Subsections (1) and (2) do not apply to incarcerated patients or persons~~

~~otherwise under the jurisdiction of the Utah Department of Corrections or a county detention facility.]~~

~~[(b) A written communication with a person described in Subsection (3)(a) shall be used by a pharmacist or pharmacy intern in lieu of a face-to-face or telephonic communication for the purpose of counseling the patient.]~~

(2) A pharmacist or pharmacy intern at a pharmacy that receives a prescription from a patient by means other than personal delivery, and that dispenses prescription drugs to the patient by means other than personal delivery, shall:

(a) provide patient counseling to a patient regarding each prescription drug the pharmacy dispenses; and

(b) provide each patient with a toll-free telephone number by which the patient can contact a pharmacist or pharmacy intern at the pharmacy for counseling.

(3) Notwithstanding the provisions of Subsections (1) and (2), a pharmacist or a pharmacy intern may provide patient counseling to an individual under the jurisdiction of the Utah Department of Corrections or a county detention facility via a written, telephone, or electronic communication.

Section 10. Section 58-17b-801 is enacted to read:

Part 8. Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy

58-17b-801. Title.

This part is known as "Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy."

Section 11. Section 58-17b-802 is enacted to read:

58-17b-802. Definitions.

As used in this part:

(1) (a) "Cosmetic drug" means a prescription drug that:

(i) is for the purpose of promoting attractiveness or altering the appearance of an individual; and

(ii) (A) is listed as a cosmetic drug subject to the exemption under this section by the division by administrative rule; or

(B) has been expressly approved for online dispensing, whether or not it is dispensed online or through a physician's office.

(b) "Cosmetic drug" does not include a prescription drug that is:

(i) a controlled substance;

(ii) compounded by the physician; or

(iii) prescribed for or used by the patient for the purpose of diagnosing, curing, or preventing a disease.

(2) “Employer sponsored clinic” means an entity that has a medical director who is licensed as a physician as defined in Section 58-67-102 and offers health care only to the employees of an exclusive group of employers and the employees’ dependents.

(3) “Health care” is as defined in Section 31A-1-301.

(4) (a) “Injectable weight loss drug” means an injectable prescription drug:

(i) prescribed to promote weight loss; and

(ii) listed as an injectable prescription drug subject to exemption under this section by the division by administrative rule.

(b) “Injectable weight loss drug” does not include a prescription drug that is a controlled substance.

(5) “Prepackaged drug” means a prescription drug that:

(a) is not listed under federal or state law as a Schedule I, II, III, IV, or V drug; and

(b) is packaged in a fixed quantity per package by:

(i) the drug manufacturer;

(ii) a pharmaceutical wholesaler or distributor; or

(iii) a pharmacy licensed under this title.

Section 12. Section 58-17b-803 is enacted to read:

58-17b-803. Qualifications for licensure as a dispensing medical practitioner -- Scope of practice.

(1) An applicant for a license as a dispensing medical practitioner shall:

(a) be licensed in good standing under at least one of the chapters listed in Subsection 58-17b-102(23)(a); and

(b) submit an application for a license as a dispensing medical practitioner in a form prescribed by the division and pay a fee established by the division.

(2) The division shall accept the licensing in good standing under Subsection (1) in lieu of requiring an applicant for a license under this part to comply with Sections 58-17b-303 and 58-17b-307.

(3) A dispensing medical practitioner may dispense, in accordance with this part:

(a) a cosmetic drug and an injectable weight loss drug if:

(i) the drug was prescribed by the dispensing medical practitioner to the dispensing medical practitioner’s patient; and

(ii) the dispensing medical practitioner complies with administrative rules adopted by the division under Subsection 58-17-802(1);

(b) a cancer drug treatment regimen if the dispensing medical practitioner complies with Section 58-17b-805; and

(c) a pre-packaged drug to an employee or a dependent of an employee at an employer sponsored clinic if the dispensing medical practitioner:

(i) treats an employee, or the dependent of an employee, of one of an exclusive group of employers at an employer sponsored clinic;

(ii) prescribes a prepackaged drug to the employee or the employee’s dependent;

(iii) dispenses the prepackaged drug at the employer sponsored clinic; and

(iv) complies with administrative rules adopted by the division in consultation with the Board of Pharmacy that establish labeling, record keeping, patient counseling, purchasing and distribution, operating, treatment, quality of care, and storage requirements.

(4) A dispensing medical practitioner:

(a) shall inform the patient:

(i) that the drug dispensed by the practitioner may be obtained from a pharmacy unaffiliated with the practitioner;

(ii) of the directions for appropriate use of the dispensed drug;

(iii) of potential side effects to the use of the dispensed drug; and

(iv) how to contact the dispensing medical practitioner if the patient has questions or concerns regarding the drug;

(b) shall report to the controlled substance database in the same manner as required in Section 58-37f-203; and

(c) may delegate the dispensing of the drug if the individual to whom the dispensing was delegated is:

(i) employed by the dispensing medical practitioner or the outpatient clinic setting in which the dispensing medical practitioner works; and

(ii) acting under the direction of a dispensing medical practitioner who is immediately available on site for any necessary consultation.

(5) If the chapter that governs the license of a dispensing medical practitioner, as listed in Subsection 58-17b-102(23), requires physician supervision in its scope of practice requirements, the dispensing medical practitioner shall only dispense a drug under the supervision of an individual licensed under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act.

Section 13. Section 58-17b-804 is enacted to read:

58-17b-804. Qualifications for licensure as a dispensing medical practitioner clinic pharmacy.

(1) An applicant for a license as a dispensing medical practitioner clinic pharmacy shall comply with Section 58-17b-306.

(2) (a) Notwithstanding Section 58-17b-302, a pharmacy licensed under this part is not required to have a pharmacist-in-charge if:

(i) the pharmacy has designated a dispensing medical practitioner as responsible for all activities of the pharmacy; and

(ii) the pharmacy complies with administrative rules adopted by the division in consultation with the Board of Pharmacy and the governing bodies of the practitioners described in Subsection 58-17b-102(23)(a).

(b) Notwithstanding Subsection 58-17b-306(1)(e), the division, in consultation with the Board of Pharmacy and the governing boards of the practitioners described in Subsection 58-17b-102(23)(a), may modify the operating standards for a dispensing medical practitioner clinic pharmacy.

Section 14. Section 58-17b-805 is enacted to read:

58-17b-805. Dispensing medical practitioner -- Cancer drug treatment regimen.

(1) For purposes of this section:

(a) “Cancer drug treatment regimen” means a prescription drug used to treat cancer, manage its symptoms, or provide continuity of care for a cancer patient.

(b) “Cancer drug treatment regimen” includes:

(i) a chemotherapy drug administered intravenously, orally, rectally, or by dermal methods; and

(ii) a drug used to support cancer treatment, including a drug used to treat, alleviate, or minimize physical and psychological symptoms or pain, to improve patient tolerance of cancer treatments, or to prepare a patient for a subsequent course of therapy.

(c) “Cancer drug treatment regimen” does not mean a drug listed under federal law as a Schedule I, II, or III drug.

(2) An individual may be licensed as a dispensing medical practitioner with a scope of practice that permits the dispensing medical practitioner to prescribe and dispense a cancer drug treatment regimen if the individual:

(a) is licensed as described in Subsections 58-17b-102(23)(a)(i) and (ii); and

(b) is certified or eligible to be certified by the American Board of Internal Medicine in medical oncology.

(3) A dispensing medical practitioner authorized to prescribe and dispense a cancer drug treatment regimen under this section may prescribe and dispense a cancer drug treatment regimen:

(a) to the practitioner’s patient who is currently undergoing chemotherapy in an outpatient clinic setting; and

(b) if the practitioner determines that providing the cancer drug treatment regimen to the patient in the outpatient clinic setting is in the best interest of the patient or provides better access to care for the patient.

Section 15. Section 58-17b-806 is enacted to read:

58-17b-806. Enforcement of dispensing medical practitioner and dispensing medical practitioner clinic pharmacy compliance with Pharmacy Practice Act.

(1) (a) The division shall consult with the dispensing medical practitioner’s appropriate licensing board as designated in Subsection 58-17b-102(23)(a) regarding a violation of this chapter; and

(b) the Pharmacy Board shall, if requested by the licensing board of the dispensing medical practitioner, assist the licensing board for the dispensing medical practitioner with reviewing the violations of the provisions of this chapter.

(2) The division may take appropriate action against a dispensing medical practitioner, in accordance with this chapter, if the licensing board designated in Subsection 58-17b-102(23)(a) recommends to the division that action be taken under this chapter.

(3) The division, in consultation with the board is the primary enforcer under this chapter for a dispensing medical practitioner clinic pharmacy licensed under Section 58-17b-804.

Section 16. Section 58-31b-502 is amended to read:

58-31b-502. Unprofessional conduct.

“Unprofessional conduct” includes:

(1) failure to safeguard a patient’s right to privacy as to the patient’s person, condition, diagnosis, personal effects, or any other matter about which the licensee is privileged to know because of the licensee’s or person with a certification’s position or practice as a nurse or practice as a medication aide certified;

(2) failure to provide nursing service or service as a medication aide certified in a manner that demonstrates respect for the patient’s human dignity and unique personal character and needs without regard to the patient’s race, religion, ethnic background, socioeconomic status, age, sex, or the nature of the patient’s health problem;

(3) engaging in sexual relations with a patient during any:

(a) period when a generally recognized professional relationship exists between the person licensed or certified under this chapter and patient; or

(b) extended period when a patient has reasonable cause to believe a professional

relationship exists between the person licensed or certified under the provisions of this chapter and the patient;

(4) (a) as a result of any circumstance under Subsection (3), exploiting or using information about a patient or exploiting the licensee's or the person with a certification's professional relationship between the licensee or holder of a certification under this chapter and the patient; or

(b) exploiting the patient by use of the licensee's or person with a certification's knowledge of the patient obtained while acting as a nurse or a medication aide certified;

(5) unlawfully obtaining, possessing, or using any prescription drug or illicit drug;

(6) unauthorized taking or personal use of nursing supplies from an employer;

(7) unauthorized taking or personal use of a patient's personal property;

(8) knowingly entering into any medical record any false or misleading information or altering a medical record in any way for the purpose of concealing an act, omission, or record of events, medical condition, or any other circumstance related to the patient and the medical or nursing care provided;

(9) unlawful or inappropriate delegation of nursing care;

(10) failure to exercise appropriate supervision of persons providing patient care services under supervision of the licensed nurse;

(11) employing or aiding and abetting the employment of an unqualified or unlicensed person to practice as a nurse;

(12) failure to file or record any medical report as required by law, impeding or obstructing the filing or recording of such a report, or inducing another to fail to file or record such a report;

(13) breach of a statutory, common law, regulatory, or ethical requirement of confidentiality with respect to a person who is a patient, unless ordered by a court;

(14) failure to pay a penalty imposed by the division;

(15) prescribing a schedule II-III controlled substance without a consulting physician or outside of a consultation and referral plan;

(16) violating Section 58-31b-801; and

(17) violating the dispensing requirements of Section 58-17b-309 or ~~[58-17b-309.5]~~ Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable.

Section 17. Section 58-37f-203 is amended to read:

58-37f-203. Submission, collection, and maintenance of data.

(1) (a) The pharmacist in charge of the drug outlet where a controlled substance is dispensed shall submit the data described in this section to the division:

~~(a)~~ (i) in accordance with the requirements of this section;

~~(b)~~ (ii) in accordance with the procedures established by the division; and

~~(c)~~ (iii) in the format established by the division.

(b) A dispensing medical practitioner licensed under Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, shall comply with the provisions of this section and the dispensing medical practitioner shall assume the duties of the pharmacist under this chapter.

(2) The pharmacist described in Subsection (1) shall, for each controlled substance dispensed by a pharmacist under the pharmacist's supervision other than those dispensed for an inpatient at a health care facility, submit to the division the following information:

(a) the name of the prescribing practitioner;

(b) the date of the prescription;

(c) the date the prescription was filled;

(d) the name of the individual for whom the prescription was written;

(e) positive identification of the individual receiving the prescription, including the type of identification and any identifying numbers on the identification;

(f) the name of the controlled substance;

(g) the quantity of the controlled substance prescribed;

(h) the strength of the controlled substance;

(i) the quantity of the controlled substance dispensed;

(j) the dosage quantity and frequency as prescribed;

(k) the name of the drug outlet dispensing the controlled substance;

(l) the name of the pharmacist dispensing the controlled substance; and

(m) other relevant information as required by division rule.

(3) (a) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish the electronic format in which the information required under this section shall be submitted to the division.

(b) The division shall ensure that the database system records and maintains for reference:

(i) the identification of each individual who requests or receives information from the database;

(ii) the information provided to each individual; and

(iii) the date and time that the information is requested or provided.

Section 18. Section 58-67-502 is amended to read:

58-67-502. Unprofessional conduct.

“Unprofessional conduct” includes, in addition to the definition in Section 58-1-501:

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

(2) making a material misrepresentation regarding the qualifications for licensure under Section 58-67-302.7; or

(3) violating the dispensing requirements of Section 58-17b-309 or ~~[58-17b-309.5]~~ Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable.

Section 19. Section 58-68-502 is amended to read:

58-68-502. Unprofessional conduct.

“Unprofessional conduct” includes, in addition to the definition in Section 58-1-501:

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

(2) violating the dispensing requirements of Section 58-17b-309 or ~~[58-17b-309.5]~~ Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable.

Section 20. Section 58-70a-502 is amended to read:

58-70a-502. Unlawful conduct.

“Unlawful conduct” includes~~[-(1)]~~ engaging in practice as a licensed physician assistant while not under the supervision of a supervising physician or substitute supervising physician~~[-øø]~~.

~~[(2) violating the drug dispensing requirements of Section 58-17b-309 or 58-17b-309.5, if applicable.]~~

Section 21. Section 58-70a-503 is amended to read:

58-70a-503. Unprofessional conduct.

“Unprofessional conduct” includes:

(1) violation of a patient confidence to any person who does not have a legal right and a professional need to know the information concerning the patient;

(2) knowingly prescribing, selling, giving away, or directly or indirectly administering, or offering to prescribe, sell, furnish, give away, or administer

any prescription drug except for a legitimate medical purpose upon a proper diagnosis indicating use of that drug in the amounts prescribed or provided;

(3) prescribing prescription drugs for himself or administering prescription drugs to himself, except those that have been legally prescribed for him by a licensed practitioner and that are used in accordance with the prescription order for the condition diagnosed;

(4) failure to maintain at the practice site a delegation of services agreement that accurately reflects current practices;

(5) failure to make the delegation of services agreement available to the division for review upon request; ~~and~~

(6) in a practice that has physician assistant ownership interests, failure to allow the supervising physician the independent final decision making authority on patient treatment decisions, as set forth in the delegation of services agreement or as defined by rule~~[-]~~; and

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

Section 22. Section 58-83-502 is amended to read:

58-83-502. Unprofessional conduct.

“Unprofessional conduct” includes, in addition to the definition in Section 58-1-501 and as may be further defined by administrative rule:

(1) online prescribing, dispensing, or facilitation with respect to a person under the age of 18 years;

(2) using the name or official seal of the state, the Utah Department of Commerce, or the Utah Division of Occupational and Professional Licensing, or their boards, in an unauthorized manner;

(3) failing to respond promptly to a request by the division for information including:

(a) an audit of the website; or

(b) records of the online prescriber, the Internet facilitator, or the online contract pharmacy;

(4) using an online prescriber, online contract pharmacy, or Internet facilitator without approval of the division;

(5) failing to inform a patient of the patient's freedom of choice in selecting who will dispense a prescription in accordance with Subsection 58-83-305(1)(n);

(6) failing to keep the division informed of the name and contact information of the Internet facilitator or online contract pharmacy; and

(7) violating the dispensing and labeling requirements of ~~[Section 58-17b-309]~~ Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy.

Section 23. Section 63I-1-258 is amended to read:

63I-1-258. Repeal dates, Title 58.

(1) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is repealed July 1, 2016.

(2) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2015.

(3) ~~[Section 58-17b-309.5 is repealed July 1, 2015. (4)]~~ Title 58, Chapter 20a, Environmental Health Scientist Act, is repealed July 1, 2018.

~~[(5)]~~ (4) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2023.

~~[(6)]~~ (5) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act, is repealed July 1, 2019.

~~[(7)]~~ (6) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1, 2015.

~~[(8)]~~ (7) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July 1, 2023.

~~[(9)]~~ (8) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2014.

~~[(10)]~~ (9) Section 58-69-302.5 is repealed on July 1, 2015.

~~[(11)]~~ (10) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2017.

Section 24. Repealer.

This bill repeals:

Section 58-17b-309.5, Exemption for prescribing practitioner of cancer drug regimen -- Division study of dispensing practitioners.

Section 25. Effective date.

This bill takes effect on July 1, 2014.

CHAPTER 73**S. B. 56**

Passed March 13, 2014

Approved March 27, 2014

Effective May 13, 2014

RISK MANAGEMENT AMENDMENTS

Chief Sponsor: Curtis S. Bramble

House Sponsor: Daniel McCay

LONG TITLE**General Description:**

This bill modifies provisions relating to the applicability of governmental immunity provisions to the use of school property.

Highlighted Provisions:

This bill:

- ▶ provides that the use of school property for civic center purposes is considered a permit for governmental immunity purposes for a governmental entity; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-3-413, as last amended by Laws of Utah 2008, Chapter 199

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

Section 1. Section 53A-3-413 is amended to read:**53A-3-413. Use of public school buildings and grounds as civic centers.**

(1) As used in this section, "civic center" means a public school building or ground that is established and maintained as a limited public forum to district residents for supervised recreational activities and meetings.

(2) Except as provided in Subsection (3), all public school buildings and grounds shall be civic centers.

(3) [Use] The use of school property for a civic center [purposes] purpose:

(a) may not interfere with a school function or purpose[-]; and

(b) is considered a permit for governmental immunity purposes for a governmental entity under Subsection 63G-7-301(5)(c).

CHAPTER 74**S. B. 58**

Passed March 5, 2014
 Approved March 27, 2014
 Effective May 13, 2014

**CARBON MONOXIDE
 DETECTION AMENDMENTS**

Chief Sponsor: Jim Dabakis
 House Sponsor: Larry B. Wiley

LONG TITLE**General Description:**

This bill amends provisions of Title 15A, Chapter 5, State Fire Code Act, relating to carbon monoxide detection.

Highlighted Provisions:

This bill:

- ▶ requires that certain buildings or structures used for educational purposes for students through grade 12 be equipped with carbon monoxide detection in accordance with the provisions of this bill; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

15A-5-204, as last amended by Laws of Utah 2013, Chapter 199
 15A-5-205.5, as enacted by Laws of Utah 2013, Chapter 199

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

Section 1. Section 15A-5-204 is amended to read:

15A-5-204. Amendments and additions to IFC related to fire protection systems.

For IFC, Fire Protection Systems:

(1) IFC, Chapter 9, Section 901.2, Construction Documents, is amended to add the following at the end of the section: "The code official has the authority to request record drawings ("as built") to verify any modifications to the previously approved construction documents."

(2) IFC, Chapter 9, Section 901.4.6, Pump and Riser Room Size, is deleted and replaced with the following: "Pump and Riser Room Size. Fire pump and automatic sprinkler system riser rooms shall be designed with adequate space for all installed equipment necessary for the installation and to provide sufficient working space around the stationary equipment. Clearances around equipment shall be in accordance with manufacturer requirements and not less than the following minimum elements: >language<901.4.6.1A minimum clear and unobstructed distance of 12 inches shall be provided from the installed equipment to the elements of permanent construction.

901.4.6.2 A minimum clear and unobstructed distance of 12 inches shall be provided between all other installed equipment and appliances.

901.4.6.3 A clear and unobstructed width of 36 inches shall be provided in front of all installed equipment and appliances, to allow for inspection, service, repair or replacement without removing such elements of permanent construction or disabling the function of a required fire-resistance-rated assembly.

901.4.6.4 Automatic sprinkler system riser rooms shall be provided with a clear and unobstructed passageway to the riser room of not less than 36 inches, and openings into the room shall be clear and unobstructed, with doors swinging in the outward direction from the room and the opening providing a clear width of not less than 34 inches and a clear height of the door opening shall not be less than 80 inches.

901.4.6.5 Fire pump rooms shall be provided with a clear and unobstructed passageway to the fire pump room of not less than 72 inches, and openings into the room shall be clear, unobstructed and large enough to allow for the removal of the largest piece of equipment, with doors swinging in the outward direction from the room and the opening providing a clear width of not less than 68 inches and a clear height of the door opening shall not be less than 80 inches."

(3) IFC, Chapter 9, Section 903.2.1.2, Group A-2, is amended to add the following subsection: "4. An automatic fire sprinkler system shall be provided throughout Group A-2 occupancies where indoor pyrotechnics are used."

(4) IFC, Chapter 9, Section 903.2.2, Ambulatory Health Care Facilities, is amended as follows: On line two delete the words "all fire areas floor" and replace with the word "buildings" and delete the last paragraph.

(5) IFC, Chapter 9, Section 903.2.4, Group F-1, Subsection 2, is deleted and rewritten as follows: "A Group F-1 fire area is located more than three stories above the lowest level of fire department vehicle access."

(6) IFC, Chapter 9, Section 903.2.7, Group M, Subsection 2, is deleted and rewritten as follows: "A Group M fire area is located more than three stories above the lowest level of fire department vehicle access."

(7) IFC, Chapter 9, Section 903.2.8 Group R, is amended to add the following: "Exception: Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) constructed in accordance with the International Residential Code for one- and two-family dwellings."

(8) IFC, Chapter 9, Section 903.2.8, Group R, is amended to add a second exception as follows: "Exception: Group R-4 fire areas not more than 4,500 gross square feet and not containing more than 16 residents, provided the building is equipped throughout with an approved fire alarm system that is interconnected and receives its primary

power from the building wiring and a commercial power system.”

(9) IFC, Chapter 9, Section 903.2.9, Group S-1, Subsection 2, is deleted and rewritten as follows: “A Group S-1 fire area is located more than three stories above the lowest level of fire department vehicle access.”

(10) IFC, Chapter 9, Section 903.3.1.1 is amended by adding the following subsection: “903.3.1.1.2 Antifreeze Limitations. Antifreeze used in a new automatic sprinkler system installed in accordance with NFPA 13 may not exceed a maximum concentration of 38% premixed propylene glycol or 48% premixed glycerin, and the capacity of the system may not exceed 150 gallons.”

(11) IFC, Chapter 9, Section 903.3.1.2 is amended by adding the following subsection: “903.3.1.2.2 Antifreeze Limitations. Antifreeze used in a new automatic sprinkler system installed in accordance with NFPA 13R may not exceed a maximum concentration of 38% premixed propylene glycol or 48% premixed glycerin, and the capacity of the system may not exceed 150 gallons.”

(12) IFC, Chapter 9, Section 903.3.1.3 is amended by adding the following subsection: “903.3.1.3.1 Antifreeze Limitations. Antifreeze used in a new automatic sprinkler system installed in accordance with NFPA 13D may not exceed a maximum concentration of 38% premixed propylene glycol or 48% premixed glycerin, and the capacity of the system may not exceed 150 gallons.”

(13) IFC, Chapter 9, Section 903.3.5, Water supplies, is amended as follows: On line six, after the word “Code”, add “and as amended in Utah’s State Construction Code”.

(14) IFC, Chapter 9, Section 903.5 is amended to add the following subsection: “903.5.1 Tag and Information. A tag shall be attached to the riser indicating the date the antifreeze solution was tested. The tag shall also indicate the type and concentration of antifreeze solution by volume with which the system is filled, the name of the contractor that tested the antifreeze solution, the contractor’s license number, and a warning to test the concentration of the antifreeze solutions at yearly intervals.”

(15) IFC, Chapter 9, Section 904.11, Commercial cooking systems, is deleted and rewritten as follows: “The automatic fire extinguishing system for commercial cooking systems shall be of a type recognized for protection of commercial cooking equipment and exhaust systems. Pre-engineered automatic extinguishing systems shall be tested in accordance with UL300 and listed and labeled for the intended application. The system shall be installed in accordance with this code, its listing and the manufacturer’s installation instructions. The exception in Section 904.11 is not deleted and shall remain as currently written in the IFC.”

(16) IFC, Chapter 9, Section 904.11.3, Carbon dioxide systems, and Section 904.11.3.1,

Ventilation system, are deleted and rewritten as follows:

(a) “Existing automatic fire extinguishing systems used for commercial cooking that use dry chemical are prohibited and shall be removed from service.”

(b) “Existing wet chemical fire extinguishing systems used for commercial cooking that are not UL300 listed and labeled are prohibited and shall be either removed or upgraded to a UL300 listed and labeled system.”

(17) IFC, Chapter 9, Section 904.11.4, Special provisions for automatic sprinkler systems, is amended to add the following subsection: “904.11.4.2 Existing automatic fire sprinkler systems protecting commercial cooking equipment, hood, and exhaust systems that generate appreciable depth of cooking oils shall be replaced with a UL300 system that is listed and labeled for the intended application.”

(18) IFC, Chapter 9, Section 904.11.6.2, Extinguishing system service, is amended to add the following: “Exception: Automatic fire extinguishing systems located in occupancies where usage is limited and less than six consecutive months may be serviced annually if the annual service is conducted immediately before the period of usage, and approval is received from the AHJ.”

(19) IFC, Chapter 9, Section 905.3.9 is a new subsection as follows: “Open Parking Garages. Open parking garages shall be equipped with an approved Class I manual standpipe system when fire department access is not provided for firefighting operations to within 150 feet of all portions of the open parking garage as measured from the approved fire department vehicle access. Class I manual standpipe shall be accessible throughout the parking garage such that all portions of the parking structure are protected within 150 feet of a hose connection.

Exception: Open parking garages equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1.”

(20) IFC, Chapter 9, Section 905.8, Dry Standpipes, Exception is deleted and rewritten as follows: “Where subject to freezing conditions and approved by the fire code official.”

(21) IFC, Chapter 9, Section 905.11, Existing buildings, and IFC, Chapter 11, Section 1103.6, Standpipes, are deleted.

(22) In IFC, Chapter 9, Section 906.1, Where Required, the exception under paragraph 1 is deleted and rewritten to read: “Exception: In new and existing Group A, B, and E occupancies equipped with quick response sprinklers, portable fire extinguishers shall be required only in locations specified in items 2 through 6.

(23) IFC, Chapter 9, Section 907.2.3 Group E:

(a) The first sentence is deleted and rewritten as follows: “A manual fire alarm system that initiates the occupant notification system in accordance with

Section 907.5 and installed in accordance with Section 907.6 shall be installed in Group E occupancies.”

(b) Exception number 3, on line five, delete the words, “emergency voice/alarm communication system” and replace with “occupant notification system.”

(24) IFC, Chapter 9, 907.8, Inspection, testing, and maintenance, is amended to add the following sentences at the end of the section: “Increases in nuisance alarms shall require the fire alarm system to be tested for sensitivity. Fire alarm systems that continue after sensitivity testing with unwarranted nuisance alarms shall be replaced as directed by the AHJ.”

(25) IFC, Chapter 9, Section 908.7, Carbon Monoxide Alarms, is deleted and rewritten as follows:

“908.7 Carbon Monoxide Detection.

908.7.1 Groups R-1, R-2, R-3, R-4, I-1, and I-4. Carbon monoxide [alarms] detection shall be installed on each habitable level of a dwelling unit or a sleeping unit in Groups R-1, R-2, R-3, R-4, I-1, and I-4 occupancies that are equipped with [fuel-burning appliances] a fuel-burning appliance.

[908.7.1] 908.7.1.1 If more than one carbon monoxide detector is required, [they] the carbon monoxide detectors shall be interconnected as required in IFC, Chapter 9, Section 907.2.11.3.

[908.7.2] 908.7.1.2 In new construction, a carbon monoxide detector shall receive its primary power as required under IFC, Chapter 9, Section 907.2.11.4.

[908.7.3] 908.7.1.3 Upon completion of the installation, [the] a carbon monoxide detector system [will] shall meet the requirements listed in NFPA 720, Installation of Carbon Monoxide Detection and Warning Equipment and UL 2034, Standard for Single and Multiple Carbon Monoxide Alarms.

908.7.2 Group E. A carbon monoxide detection system shall be installed in new buildings that contain Group E occupancies in accordance with IFC, Chapter 9, Sections 908.7.2.1 through 908.7.2.6. A carbon monoxide detection system shall be installed in existing buildings that contain Group E occupancies in accordance with IFC, Chapter 11, Section 1103.9.

908.7.2.1 Where required. In Group E occupancies, a carbon monoxide detection system shall be provided where a fuel-burning appliance, a fuel-burning fireplace, or a fuel-burning forced air furnace is present.

908.7.2.2 Detection equipment. Each carbon monoxide detection system shall be installed in accordance with NFPA 720 and the manufacturer’s instructions, and be listed as complying with UL 2034 and UL 2075.

908.7.2.3 Locations. Each carbon monoxide detection system shall be installed in the locations specified in NFPA 720.

908.7.2.4 Combination detectors. A combination carbon monoxide/smoke detector is an acceptable alternative to a carbon monoxide detection system if the combination carbon monoxide/smoke detector is listed in accordance with UL 2075 and UL 268.

908.7.2.5 Power source. Each carbon monoxide detection system shall receive primary power from the building wiring if the wiring is served from a commercial source. If primary power is interrupted, each carbon monoxide detection system shall receive power from a battery. Wiring shall be permanent and without a disconnecting switch other than that required for over-current protection.

908.7.2.6 Maintenance. Each carbon monoxide detection system shall be maintained in accordance with NFPA 720. A carbon monoxide detection system that becomes inoperable or begins to produce end-of-life signals shall be replaced.”

(26) IFC Section 908.7.1 is renumbered to [908.7.4] 908.7.3.

Section 2. Section 15A-5-205.5 is amended to read:

15A-5-205.5. Amendments to Chapter 11 of IFC.

(1) In IFC, Chapter 11, Section 1103.2 Emergency Responder Radio Coverage in Existing Buildings, is amended as follows: On line two after the title, the following is added: “When required by the fire code official”.

(2) IFC, Chapter 11, Section 1103.5, Sprinkler Systems, is amended to add the following new subsection: “1103.5.3 Group A-2. An automatic fire sprinkler system shall be provided throughout existing Group A-2 occupancies where indoor pyrotechnics are used.”

(3) IFC, Chapter 11, Section 1103.6, Standpipes, is deleted.

(4) In IFC, Chapter 11, 1103.7, Fire Alarm Systems, is deleted and rewritten as follows: “1103.7, Fire Alarm Systems. The following shall have an approved fire alarm system installed in accordance with Utah Administrative Code Section R710-4:

1. a building with an occupant load of 300 or more persons that is owned or operated by the state;
2. a building with an occupant load of 300 or more persons that is owned or operated by an institution of higher education; and
3. a building with an occupant load of 50 or more persons that is owned or operated by a school district, private school, or charter school.

Exception: the requirements of this section do not apply to a building designated as an Institutional Group I (as defined in IFC 202) occupancy.”

(5) IFC, Chapter 11, 1103.7.1 Group E, 1103.7.2 Group I-1, 1103.7.3 Group I-2, 1103.7.4 Group I-3,

1103.7.5 Group R-1, 1103.7.5.1 Group R-1 Hotel and Motel Manual Fire Alarm System, 1103.7.5.1.1 Group R-1 Hotel and Motel Automatic Smoke Detection System, 1103.7.5.2 Group R-1 Boarding and Rooming Houses Manual Fire Alarm System, 1103.7.5.2.1 Group R-1 Boarding and Rooming Houses Automatic Smoke Detection System, 1103.7.6 Group R-2 and 1103.7.7 Group R-4, are deleted.

(6) IFC, Chapter 11, Section 1103.9, Carbon Monoxide Alarms, is deleted and rewritten as follows:

“1103.9 Carbon Monoxide Detection.

1103.9.1 Groups R-2, R-3, R-4, I-1, and I-4. Carbon monoxide [~~alarms~~] detection shall be installed on each habitable level of a dwelling unit or a sleeping unit in existing Groups R-2, R-3, R-4, I-1, and I-4 occupancies that are equipped with [~~fuel burning appliances~~] a fuel-burning appliance.

[~~908.7.1~~] 1103.9.1.1 If more than one carbon monoxide ~~detector~~ is required, they shall be interconnected as required in IFC, Chapter 9, Section 907.2.11.3.

[~~908.7.2~~] 1103.9.1.2 In new construction, a carbon monoxide detector shall receive its primary power as required under IFC, Chapter 9, Section 907.2.11.4.

[~~908.7.3~~] 1103.9.1.3 Upon completion of the installation, the carbon monoxide detector system [~~will~~] shall meet the requirements listed in NFPA 720, Installation of Carbon Monoxide Detection and Warning Equipment and UL 2034, Standard for Single and Multiple Carbon Monoxide Alarms.

1103.9.2 Group E. Carbon monoxide detection shall be installed in existing buildings that contain Group E occupancies in accordance with IFC, Chapter 9, Sections 908.7.2.1 through 908.7.2.6.”

CHAPTER 75**S. B. 70**

Passed March 13, 2014
 Approved March 27, 2014
 Effective May 13, 2014

STATE DATA PORTAL AMENDMENTS

Chief Sponsor: Deidre M. Henderson
 House Sponsor: Steve Eliason

LONG TITLE**General Description:**

This bill modifies provisions related to the availability of public information and the duties of the Utah Transparency Advisory Board.

Highlighted Provisions:

This bill:

- ▶ modifies the composition of the Utah Transparency Advisory board;
- ▶ directs the Utah Transparency Advisory Board to analyze ways to make the information on the Utah Public Finance Website more relevant to citizens;
- ▶ directs the Utah Transparency Advisory Board to identify and prioritize public information in the possession of a state agency or political subdivision that may be appropriate for publication on the public information website;
- ▶ directs the Department of Administrative Services to:
 - by certain dates, modify the public information website to include a single point of access for all Government Records Access and Management requests for executive agencies, school districts, charter schools, public transit districts, counties, municipalities, local districts, and special service districts; and
 - modify the public information website to include links to already existing public information, provide multiple download options, provide additional public information when identified, and include technical elements that the Utah Transparency Advisory Board identifies as useful to a citizen using the website; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63A-3-403, as last amended by Laws of Utah 2013, Chapters 84 and 310
 63A-3-404, as last amended by Laws of Utah 2009, Chapter 310

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

Section 1. Section 63A-3-403 is amended to read:

63A-3-403. Utah Transparency Advisory Board -- Creation -- Membership -- Duties.

(1) There is created within the department the Utah Transparency Advisory Board comprised of members knowledgeable about public finance or providing public access to public information.

(2) The board consists of:

(a) an individual appointed by the director of the Division of Finance;

(b) an individual appointed by the executive director of the Governor's Office of Management and Budget;

(c) an individual appointed by the governor on advice from the Legislative Fiscal Analyst;

(d) one member of the Senate, appointed by the governor on advice from the president of the Senate;

(e) one member of the House of Representatives, appointed by the governor on advice from the speaker of the House of Representatives;

(f) an individual appointed by the director of the Department of Technology Services;

(g) the director of the Division of Archives created in Section 63A-12-101 or the director's designee;

(h) an individual who is a member of the State Records Committee created in Section 63G-2-501, appointed by the governor;

(i) an individual representing counties, appointed by the governor;

(j) an individual representing municipalities, appointed by the governor; ~~and~~

(k) an individual representing special districts, appointed by the governor; and

~~[(4)]~~ (1) two individuals who are members of the public and who have knowledge, expertise, or experience in matters relating to the board's duties under Subsection (10), appointed by the board members identified in Subsections (2)(a) through ~~[(4)]~~ (k).

(3) The board shall:

(a) advise the division on matters related to the implementation and administration of this part;

(b) develop plans, make recommendations, and assist in implementing the provisions of this part;

(c) determine what public financial information shall be provided by participating state and local entities, if the public financial information:

(i) only includes records that:

(A) are classified as public under Title 63G, Chapter 2, Government Records Access and Management Act;

(B) are an accounting of money, funds, accounts, bonds, loans, expenditures, or revenues, regardless of the source; and

(C) are owned, held, or administered by the participating state or local entity that is required to provide the record; and

(ii) is of the type or nature that should be accessible to the public via a website based on considerations of:

(A) the cost effectiveness of providing the information;

(B) the value of providing the information to the public; and

(C) privacy and security considerations;

(d) evaluate the cost effectiveness of implementing specific information resources and features on the website;

(e) establish size or budget thresholds to identify those local entities that qualify as participating local entities as defined in this part, giving special consideration to the budget and resource limitations of an entity with a current annual budget of less than \$10,000,000;

(f) require participating local entities to provide public financial information in accordance with the requirements of this part, with a specified content, reporting frequency, and form;

(g) require a participating local entity's website to be accessible by link or other direct route from the Utah Public Finance Website if the participating local entity does not use the Utah Public Finance Website; ~~and~~

(h) determine the search methods and the search criteria that shall be made available to the public as part of a website used by a participating local entity under the requirements of this part, which criteria may include:

(i) fiscal year;

(ii) expenditure type;

(iii) name of the agency;

(iv) payee;

(v) date; and

(vi) amount[-]; and

(i) analyze ways to improve the information on the Utah Public Finance Website so the information is more relevant to citizens, including through the use of:

(i) infographics that provide more context to the data; and

(ii) geolocation services, if possible.

(4) The board shall annually elect a chair and a vice chair from its members.

(5) (a) Each member shall serve a two-year term.

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

(6) To accomplish its duties, the board ~~[-(a) may meet as many as eight times during 2013; and (b) shall, after 2013,] shall meet as it determines necessary.~~

(7) Reasonable notice shall be given to each member of the board before any meeting.

(8) A majority of the board constitutes a quorum for the transaction of business.

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

(a) Section 63A-3-106;

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

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

(10) (a) As used in ~~[this Subsection]~~ Subsections (10) and (11):

(i) "Information website" means a single Internet website containing public information or links to public information.

(ii) "Public information" means records of state or local government that are classified as public under Title 63G, Chapter 2, Government Records Access and Management Act.

(b) The board shall:

(i) study the establishment of an information website and develop recommendations for its establishment;

(ii) develop recommendations about how to make public information more readily available to the public through the information website;

(iii) develop standards to make uniform the format and accessibility of public information posted to the information website; and

~~[(iv) no later than November 30, 2013, report the board's recommendations and standards developed under Subsections (10)(b)(i) through (iii) to the executive director and the Legislative Management Committee.]~~

(iv) identify and prioritize public information in the possession of a state agency or political subdivision that may be appropriate for publication on the information website.

(c) In fulfilling its duties under Subsection (10)(b), the board shall be guided by principles that encourage:

(i) (A) the establishment of a standardized format of public information that makes the information more easily accessible by the public;

(B) the removal of restrictions on the reuse of public information;

(C) minimizing limitations on the disclosure of public information while appropriately safeguarding sensitive information; and

(D) balancing factors in favor of excluding public information from an information website against the public interest in having the information accessible on an information website;

(ii) (A) permanent, lasting, open access to public information; and

(B) the publication of bulk public information;

(iii) the implementation of well-designed public information systems that ensure data quality,

create a public, comprehensive list or index of public information, and define a process for continuous publication of and updates to public information;

(iv) the identification of public information not currently made available online and the implementation of a process, including a timeline and benchmarks, for making that public information available online; and

(v) accountability on the part of those who create, maintain, manage, or store public information or post it to an information website.

(d) The department shall implement the board's recommendations, including the establishment of an information website, to the extent that implementation:

(i) is approved by the Legislative Management Committee;

(ii) does not require further legislative appropriation; and

(iii) is within the department's existing statutory authority.

(11) The department shall, in consultation with the board and as funding allows, modify the information website described in Subsection (10) to:

(a) by January 1, 2015, serve as a point of access for Government Records Access and Management requests for executive agencies;

(b) by January 1, 2016, serve as a point of access for Government Records Access and Management requests for:

(i) school districts;

(ii) charter schools;

(iii) public transit districts created under Title 17B, Chapter 2a, Part 8, Public Transit District Act;

(iv) counties; and

(v) municipalities;

(c) by January 1, 2017, serve as a point of access for Government Records Access and Management requests for:

(i) local districts under Title 17B, Limited Purpose Local Government Entities - Local Districts; and

(ii) special service districts under Title 17D, Chapter 1, Special Service District Act;

(d) except as provided in Subsection (12)(a), provide link capabilities to other existing repositories of public information, including maps, photograph collections, legislatively required reports, election data, statute, rules, regulations, and local ordinances that exist on other agency and political subdivision websites;

(e) provide multiple download options in different formats, including nonproprietary, open formats where possible;

(f) provide any other public information that the board, under Subsection (10), identifies as appropriate for publication on the information website; and

(g) incorporate technical elements the board identifies as useful to a citizen using the information website.

(12) (a) The department, in consultation with the board, shall establish by rule any restrictions on the inclusion of maps and photographs, as described in Subsection (11)(d), on the website described in Subsection (10) if the inclusion would pose a potential security concern.

(b) The website described in Subsection (10) may not publish any record that is classified as private, protected, or controlled under Title 63G, Chapter 2, Government Records Access and Management Act.

Section 2. Section 63A-3-404 is amended to read:

63A-3-404. Rulemaking authority.

(1) After consultation with the board, and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Division of Finance shall make rules to:

(a) require participating state entities to provide public financial information for inclusion on the Utah Public Finance Website;

(b) define, either uniformly for all participating state entities, or on an entity by entity basis, the term "public financial information" using the standards provided in Subsection 63A-3-403~~(2)~~(3)(c); and

(c) establish procedures for obtaining, submitting, reporting, storing, and providing public financial information on the Utah Public Finance Website, which may include a specified reporting frequency and form.

(2) After consultation with the board, and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Division of Finance may make rules to:

(a) require a participating state or local entity to list certain expenditures made by a person under a contract with the entity; and

(b) if a list is required under Subsection (2)(a), require the following information to be included:

(i) the name of the participating state or local entity making the expenditure;

(ii) the name of the person receiving the expenditure;

(iii) the date of the expenditure;

(iv) the amount of the expenditure;

(v) the purpose of the expenditure;

(vi) the name of each party to the contract;

(vii) an electronic copy of the contract; or

(viii) any other criteria designated by rule.

CHAPTER 76**S. B. 105**

Passed February 18, 2014

Approved March 27, 2014

Effective May 13, 2014

**FINANCIAL DISCLOSURE
REPORTING AMENDMENTS**

Chief Sponsor: Margaret Dayton

House Sponsor: Jack R. Draxler

LONG TITLE**General Description:**

This bill amends Title 20A, Chapter 11, Campaign and Financial Reporting Requirements.

Highlighted Provisions:

This bill:

- ▶ grants the chief election officer discretion to send by email or postal mail the notice described in Section 20A-11-103, relating to an interim or summary financial statement report being due.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

20A-11-103, as last amended by Laws of Utah 2012, Chapter 369

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

Section 1. Section 20A-11-103 is amended to read:**20A-11-103. Notice of pending interim and summary reports -- Form of submission -- Public availability.**

(1) (a) Except as provided under Subsection (1)(b), 10 days before an interim report or summary report is due under this chapter or Chapter 12, Part 2, Judicial Retention Elections, the chief election officer shall inform the filing entity by ~~postal mail or, if requested by the filing entity, by~~ electronic mail unless postal mail is requested:

- (i) that the financial statement is due;
 - (ii) of the date that the financial statement is due; and
 - (iii) of the penalty for failing to file the financial statement.
- (b) The chief election officer is not required to provide notice:
- (i) to a candidate or political party of the financial statement that is due before the candidate's or political party's political convention;
 - (ii) of a financial statement due in connection with a public hearing for an initiative under the requirements of Section 20A-7-204.1; or
 - (iii) to a corporation or labor organization, as defined in Section 20A-11-1501.

(2) A filing entity shall electronically file a financial statement via electronic mail or the Internet according to specifications established by the chief election officer.

(3) (a) A financial statement is considered timely filed if it is received by the chief election officer's office before the close of regular office hours on the date that it is due.

(b) A chief election officer may extend the time in which a filing entity is required to file a financial statement if a filing entity notifies the chief election officer of the existence of an extenuating circumstance that is outside the control of the filing entity.

(4) Notwithstanding any provision of Title 63G, Chapter 2, Government Records Access and Management Act, the lieutenant governor shall:

(a) make each campaign finance statement filed by a candidate available for public inspection and copying no later than one business day after the statement is filed; and

(b) post an electronic copy or the contents of each financial statement in a searchable format on a website established by the lieutenant governor:

(i) for campaign finance statements submitted to the lieutenant governor under the requirements of Section 10-3-208 or Section 17-16-6.5, no later than seven business days after the date of receipt of the campaign finance statement; or

(ii) for a summary report or interim report filed under the requirements of this chapter or Chapter 12, Part 2, Judicial Retention Elections, no later than three business days after the date the summary report or interim report is electronically filed.

(5) If a municipality, under Section 10-3-208, or a county, under Section 17-16-6.5, elects to provide campaign finance disclosure on its own website, rather than through the lieutenant governor, the website established by the lieutenant governor shall contain a link or other access point to the municipality or county website.

CHAPTER 77**S. B. 129**

Passed March 11, 2014
Approved March 27, 2014
Effective July 1, 2014

INSURANCE AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: James A. Dunnigan

LONG TITLE**General Description:**

This bill modifies the Insurance Code to address electronic delivery of certain insurance documents.

Highlighted Provisions:

This bill:

- ▶ provides for electronic delivery of notices and other documents.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2014.

Utah Code Sections Affected:**ENACTS:**

31A-21-316, Utah Code Annotated 1953

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

Section 1. Section 31A-21-316 is enacted to read:**31A-21-316. Electronic notices and documents.**

(1) As used in this section:

(a) “Delivered by electronic means” includes:

(i) delivery to an electronic mail address at which a party has consented to receive a notice or document; or

(ii) posting on an electronic network or site accessible by way of the Internet, a mobile application, a computer, a mobile device, a tablet, or any other electronic device, together with separate notice of the posting that is provided by:

(A) electronic mail to the address at which the party has consented to receive notice; or

(B) any other delivery method that has been consented to by the party.

(b) (i) “Party” means a recipient of a notice or document required as part of an insurance transaction.

(ii) “Party” includes an applicant, an insured, or a policyholder.

(2) Subject to Subsection (4), a notice to a party or another document required under applicable law in an insurance transaction or that serves as evidence of insurance coverage may be delivered, stored, and presented by electronic means if it meets the requirements of Title 46, Chapter 4, Uniform Electronic Transactions Act.

(3) Delivery of a notice or document in accordance with this section is considered equivalent to any delivery method required under applicable law.

(4) Subject to Subsection (5), a notice or document may be delivered by electronic means by an insurer to a party under this section if:

(a) the party has affirmatively consented to that method of delivery and has not withdrawn the consent;

(b) the party, before giving consent, is provided with a clear and conspicuous statement informing the party of:

(i) any right or option of the party to have the notice or document provided or made available in paper or another nonelectronic form;

(ii) the right of the party to withdraw consent to have a notice or document delivered by electronic means, including:

(A) a condition or consequence imposed if consent is withdrawn;

(B) when the insurer will make the party's withdrawal effective, during or at the conclusion of the policy term; and

(C) the procedure a party is to follow to withdraw consent to have a notice or document delivered by electronic means;

(iii) whether the party's consent applies:

(A) only to the particular transaction as to which the notice or document must be given; or

(B) to identified categories of notices or documents that may be delivered by electronic means during the course of the party's relationship with the insured; and

(iv) the means, after consent is given, by which a party may obtain a paper copy of a notice or document delivered by electronic means; and

(c) the party:

(i) before giving consent, is provided with a statement of the electronic delivery and retrieval method requirements for access to and retention of a notice or document delivered by electronic means;

(ii) consents electronically, or confirms consent electronically, in a manner that reasonably demonstrates that the party can access information in the electronic form that will be used for a notice or document delivered by electronic means as to which the party has given consent; and

(iii) is provided a process to update information needed to contact the party electronically.

(5) (a) After consent of the party is given and if a change in the electronic delivery or retrieval methods creates a substantial risk that the party will not be able to access or retain a subsequent notice or document to which the consent applies, the insurer shall:

(i) provide the party with a statement of:

(A) the revised electronic delivery or retrieval methods; and

(B) the right of the party to withdraw consent without the imposition of any condition or consequence that was not disclosed under Subsection (4)(b)(ii); and

(ii) comply with Subsection (4)(b).

(b) Failure by an insurer to comply with this Subsection (5) is treated, at the election of the party, as a withdrawal of consent for purposes of this section.

(c) When an electronic mail address provided by the party to facilitate delivery by electronic means is returned with a message as undeliverable each time electronic delivery is attempted over a period not to exceed two business days, the party is presumed to have withdrawn consent for the purposes of this section.

(d) (i) An insurer shall file with the department the consent statement described under Subsection (4)(b), which includes conditions or consequences for a party to revoke the party's consent to conduct an insurance transaction, electronically.

(ii) An insurer shall file the consent statement described in Subsection (5)(d)(i) before the insurer uses the consent statement.

(iii) The insurer shall communicate to the party in accordance with Subsection (4)(b) the conditions or consequences for a party to revoke the party's consent.

(6) A withdrawal of consent by a party does not affect the legal effectiveness, validity, or enforceability of a notice or document delivered by electronic means to the party before the withdrawal of consent is effective.

(7) This section does not affect requirements related to content or timing of any notice or document required under applicable law.

(8) If a provision of this title or applicable law requiring a notice or document to be provided to a party expressly requires verification or acknowledgment of receipt of the notice or document, the notice or document may be delivered by electronic means only if the method used provides for verification or acknowledgment of receipt.

(9) The legal effectiveness, validity, or enforceability of a contract or policy of insurance executed by a party may not be denied solely because of the failure to obtain electronic consent or confirmation of consent of the party in accordance with Subsection (4)(c)(ii).

(10) This section does not apply to or affect a notice or document delivered by an insurer in an electronic form before July 1, 2014, to a party who, before July 1, 2014, has consented to receive the notice or document in an electronic form otherwise allowed by law.

(11) If the consent of a party to receive certain notices or documents in an electronic form is on file

with an insurer before July 1, 2014, and pursuant to this section, an insurer intends to deliver an additional notice or document to the party in an electronic form, then before delivering the additional notices or documents electronically, the insurer shall notify the party of:

(a) the notices or documents that may be delivered by electronic means under this section that were not previously delivered electronically; and

(b) the party's right to withdraw consent to have notices or documents delivered by electronic means.

(12) (a) Except as otherwise provided by Section 31A-21-102, if an oral communication or a recording of an oral communication from a party can be reliably stored and reproduced by an insurer, the oral communication or recording may qualify as a notice or document delivered by electronic means for purposes of this section.

(b) If a provision of this title or applicable law requires a signature, notice, or document to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied if the electronic signature of the party authorized to perform those acts, together with all other information required to be included by the provision, is attached to or logically associated with the signature, notice, or document.

(13) This section may not be construed to modify, limit, or supersede the federal Electronic Signatures in Global and National Commerce Act, P. Law 106-229, as amended.

Section 2. Effective date.

This bill takes effect on July 1, 2014.

CHAPTER 78**S. B. 138**

Passed February 24, 2014

Approved March 27, 2014

Effective May 13, 2014

**CONTROLLED SUBSTANCES
ACT AMENDMENTS**Chief Sponsor: Evan J. Vickers
House Sponsor: Stewart Barlow**LONG TITLE****General Description:**

This bill modifies the Utah Controlled Substances Act regarding prescriptions for controlled substances.

Highlighted Provisions:

This bill:

- ▶ provides that more than one controlled substance may be included in a prescription.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-37-6, as last amended by Laws of Utah 2012, Chapter 272

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

Section 1. Section 58-37-6 is amended to read:**58-37-6. License to manufacture, produce, distribute, dispense, administer, or conduct research -- Issuance by division -- Denial, suspension, or revocation -- Records required -- Prescriptions.**

(1) (a) The division may adopt rules relating to the licensing and control of the manufacture, distribution, production, prescription, administration, dispensing, conducting of research with, and performing of laboratory analysis upon controlled substances within this state.

(b) The division may assess reasonable fees to defray the cost of issuing original and renewal licenses under this chapter pursuant to Section 63J-1-504.

(2) (a) (i) Every person who manufactures, produces, distributes, prescribes, dispenses, administers, conducts research with, or performs laboratory analysis upon any controlled substance in Schedules I through V within this state, or who proposes to engage in manufacturing, producing, distributing, prescribing, dispensing, administering, conducting research with, or performing laboratory analysis upon controlled substances included in Schedules I through V within this state shall obtain a license issued by the division.

(ii) The division shall issue each license under this chapter in accordance with a two-year renewal

cycle established by rule. The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal cycles it administers.

(b) Persons licensed to manufacture, produce, distribute, prescribe, dispense, administer, conduct research with, or perform laboratory analysis upon controlled substances in Schedules I through V within this state may possess, manufacture, produce, distribute, prescribe, dispense, administer, conduct research with, or perform laboratory analysis upon those substances to the extent authorized by their license and in conformity with this chapter.

(c) The following persons are not required to obtain a license and may lawfully possess controlled substances included in Schedules II through V under this section:

(i) an agent or employee, except a sales representative, of any registered manufacturer, distributor, or dispenser of any controlled substance, if the agent or employee is acting in the usual course of the person's business or employment; however, nothing in this subsection shall be interpreted to permit an agent, employee, sales representative, or detail man to maintain an inventory of controlled substances separate from the location of the person's employer's registered and licensed place of business;

(ii) a motor carrier or warehouseman, or an employee of a motor carrier or warehouseman, who possesses any controlled substance in the usual course of the person's business or employment; and

(iii) an ultimate user, or any person who possesses any controlled substance pursuant to a lawful order of a practitioner.

(d) The division may enact rules waiving the license requirement for certain manufacturers, producers, distributors, prescribers, dispensers, administrators, research practitioners, or laboratories performing analysis if consistent with the public health and safety.

(e) A separate license is required at each principal place of business or professional practice where the applicant manufactures, produces, distributes, dispenses, conducts research with, or performs laboratory analysis upon controlled substances.

(f) The division may enact rules providing for the inspection of a licensee or applicant's establishment, and may inspect the establishment according to those rules.

(3) (a) (i) Upon proper application, the division shall license a qualified applicant to manufacture, produce, distribute, conduct research with, or perform laboratory analysis upon controlled substances included in Schedules I through V, unless it determines that issuance of a license is inconsistent with the public interest.

(ii) The division may not issue a license to any person to prescribe, dispense, or administer a Schedule I controlled substance except under Subsection (3)(a)(i).

(iii) In determining public interest under this Subsection (3)(a), the division shall consider whether or not the applicant has:

(A) maintained effective controls against diversion of controlled substances and any Schedule I or II substance compounded from any controlled substance into other than legitimate medical, scientific, or industrial channels;

(B) complied with applicable state and local law;

(C) been convicted under federal or state laws relating to the manufacture, distribution, or dispensing of substances;

(D) past experience in the manufacture of controlled dangerous substances;

(E) established effective controls against diversion; and

(F) complied with any other factors that the division establishes that promote the public health and safety.

(b) Licenses granted under Subsection (3)(a) do not entitle a licensee to manufacture, produce, distribute, conduct research with, or perform laboratory analysis upon controlled substances in Schedule I other than those specified in the license.

(c) (i) Practitioners shall be licensed to administer, dispense, or conduct research with substances in Schedules II through V if they are authorized to administer, dispense, or conduct research under the laws of this state.

(ii) The division need not require a separate license for practitioners engaging in research with nonnarcotic controlled substances in Schedules II through V where the licensee is already licensed under this chapter in another capacity.

(iii) With respect to research involving narcotic substances in Schedules II through V, or where the division by rule requires a separate license for research of nonnarcotic substances in Schedules II through V, a practitioner shall apply to the division prior to conducting research.

(iv) Licensing for purposes of bona fide research with controlled substances by a practitioner considered qualified may be denied only on a ground specified in Subsection (4), or upon evidence that the applicant will abuse or unlawfully transfer or fail to safeguard adequately the practitioner's supply of substances against diversion from medical or scientific use.

(v) Practitioners registered under federal law to conduct research in Schedule I substances may conduct research in Schedule I substances within this state upon furnishing the division evidence of federal registration.

(d) Compliance by manufacturers, producers, and distributors with the provisions of federal law respecting registration, excluding fees, entitles them to be licensed under this chapter.

(e) The division shall initially license those persons who own or operate an establishment

engaged in the manufacture, production, distribution, dispensation, or administration of controlled substances prior to April 3, 1980, and who are licensed by the state.

(4) (a) Any license pursuant to Subsection (2) or (3) may be denied, suspended, placed on probation, or revoked by the division upon finding that the applicant or licensee has:

(i) materially falsified any application filed or required pursuant to this chapter;

(ii) been convicted of an offense under this chapter or any law of the United States, or any state, relating to any substance defined as a controlled substance;

(iii) been convicted of a felony under any other law of the United States or any state within five years of the date of the issuance of the license;

(iv) had a federal registration or license denied, suspended, or revoked by competent federal authority and is no longer authorized to manufacture, distribute, prescribe, or dispense controlled substances;

(v) had the licensee's license suspended or revoked by competent authority of another state for violation of laws or regulations comparable to those of this state relating to the manufacture, distribution, or dispensing of controlled substances;

(vi) violated any division rule that reflects adversely on the licensee's reliability and integrity with respect to controlled substances;

(vii) refused inspection of records required to be maintained under this chapter by a person authorized to inspect them; or

(viii) prescribed, dispensed, administered, or injected an anabolic steroid for the purpose of manipulating human hormonal structure so as to:

(A) increase muscle mass, strength, or weight without medical necessity and without a written prescription by any practitioner in the course of the practitioner's professional practice; or

(B) improve performance in any form of human exercise, sport, or game.

(b) The division may limit revocation or suspension of a license to a particular controlled substance with respect to which grounds for revocation or suspension exist.

(c) (i) Proceedings to deny, revoke, or suspend a license shall be conducted pursuant to this section and in accordance with the procedures set forth in Title 58, Chapter 1, Division of Occupational and Professional Licensing Act, and conducted in conjunction with the appropriate representative committee designated by the director of the department.

(ii) Nothing in this Subsection (4)(c) gives the Division of Occupational and Professional Licensing exclusive authority in proceedings to deny, revoke, or suspend licenses, except where the division is designated by law to perform those functions, or, when not designated by law, is

designated by the executive director of the Department of Commerce to conduct the proceedings.

(d) (i) The division may suspend any license simultaneously with the institution of proceedings under this section if it finds there is an imminent danger to the public health or safety.

(ii) Suspension shall continue in effect until the conclusion of proceedings, including judicial review, unless withdrawn by the division or dissolved by a court of competent jurisdiction.

(e) (i) If a license is suspended or revoked under this Subsection (4), all controlled substances owned or possessed by the licensee may be placed under seal in the discretion of the division.

(ii) Disposition may not be made of substances under seal until the time for taking an appeal has lapsed, or until all appeals have been concluded, unless a court, upon application, orders the sale of perishable substances and the proceeds deposited with the court.

(iii) If a revocation order becomes final, all controlled substances shall be forfeited.

(f) The division shall notify promptly the Drug Enforcement Administration of all orders suspending or revoking a license and all forfeitures of controlled substances.

(g) If an individual's Drug Enforcement Administration registration is denied, revoked, surrendered, or suspended, the division shall immediately suspend the individual's controlled substance license, which shall only be reinstated by the division upon reinstatement of the federal registration, unless the division has taken further administrative action under Subsection (4)(a)(iv), which would be grounds for the continued denial of the controlled substance license.

(5) (a) Persons licensed under Subsection (2) or (3) shall maintain records and inventories in conformance with the record keeping and inventory requirements of federal and state law and any additional rules issued by the division.

(b) (i) Every physician, dentist, naturopathic physician, veterinarian, practitioner, or other person who is authorized to administer or professionally use a controlled substance shall keep a record of the drugs received by him and a record of all drugs administered, dispensed, or professionally used by him otherwise than by a prescription.

(ii) A person using small quantities or solutions or other preparations of those drugs for local application has complied with this Subsection (5)(b) if the person keeps a record of the quantity, character, and potency of those solutions or preparations purchased or prepared by him, and of the dates when purchased or prepared.

(6) Controlled substances in Schedules I through V may be distributed only by a licensee and pursuant to an order form prepared in compliance with division rules or a lawful order under the rules and regulations of the United States.

(7) (a) A person may not write or authorize a prescription for a controlled substance unless the person is:

(i) a practitioner authorized to prescribe drugs and medicine under the laws of this state or under the laws of another state having similar standards; and

(ii) licensed under this chapter or under the laws of another state having similar standards.

(b) A person other than a pharmacist licensed under the laws of this state, or the pharmacist's licensed intern, as required by Sections 58-17b-303 and 58-17b-304, may not dispense a controlled substance.

(c) (i) A controlled substance may not be dispensed without the written prescription of a practitioner, if the written prescription is required by the federal Controlled Substances Act.

(ii) That written prescription shall be made in accordance with Subsection (7)(a) and in conformity with Subsection (7)(d).

(iii) In emergency situations, as defined by division rule, controlled substances may be dispensed upon oral prescription of a practitioner, if reduced promptly to writing on forms designated by the division and filed by the pharmacy.

(iv) Prescriptions reduced to writing by a pharmacist shall be in conformity with Subsection (7)(d).

(d) Except for emergency situations designated by the division, a person may not issue, fill, compound, or dispense a prescription for a controlled substance unless the prescription is signed by the prescriber in ink or indelible pencil or is signed with an electronic signature of the prescriber as authorized by division rule, and contains the following information:

(i) the name, address, and registry number of the prescriber;

(ii) the name, address, and age of the person to whom or for whom the prescription is issued;

(iii) the date of issuance of the prescription; and

(iv) the name, quantity, and specific directions for use by the ultimate user of the controlled substance.

(e) A prescription may not be written, issued, filled, or dispensed for a Schedule I controlled substance unless:

(i) the person who writes the prescription is licensed under Subsection (2); and

(ii) the prescribed controlled substance is to be used in research.

(f) Except when administered directly to an ultimate user by a licensed practitioner, controlled substances are subject to the following restrictions:

(i) (A) A prescription for a Schedule II substance may not be refilled.

(B) A Schedule II controlled substance may not be filled in a quantity to exceed a one-month's supply,

as directed on the daily dosage rate of the prescriptions.

(ii) A Schedule III or IV controlled substance may be filled only within six months of issuance, and may not be refilled more than six months after the date of its original issuance or be refilled more than five times after the date of the prescription unless renewed by the practitioner.

(iii) All other controlled substances in Schedule V may be refilled as the prescriber's prescription directs, but they may not be refilled one year after the date the prescription was issued unless renewed by the practitioner.

(iv) Any prescription for a Schedule II substance may not be dispensed if it is not presented to a pharmacist for dispensing by a pharmacist or a pharmacy intern within 30 days after the date the prescription was issued, or 30 days after the dispensing date, if that date is specified separately from the date of issue.

(v) A practitioner may issue more than one prescription at the same time for the same Schedule II controlled substance, but only under the following conditions:

(A) no more than three prescriptions for the same Schedule II controlled substance may be issued at the same time;

(B) no one prescription may exceed a 30-day supply;

(C) a second or third prescription shall include the date of issuance and the date for dispensing; and

(D) unless the practitioner determines there is a valid medical reason to the contrary, the date for dispensing a second or third prescription may not be fewer than 30 days from the dispensing date of the previous prescription.

~~[(vi) Each prescription for a controlled substance may contain only one controlled substance per prescription form and may not contain any other legend drug or prescription item.]~~

(g) An order for a controlled substance in Schedules II through V for use by an inpatient or an outpatient of a licensed hospital is exempt from all requirements of this Subsection (7) if the order is:

(i) issued or made by a prescribing practitioner who holds an unrestricted registration with the federal Drug Enforcement Administration, and an active Utah controlled substance license in good standing issued by the division under this section, or a medical resident who is exempted from licensure under Subsection 58-1-307(1)(c);

(ii) authorized by the prescribing practitioner treating the patient and the prescribing practitioner designates the quantity ordered;

(iii) entered upon the record of the patient, the record is signed by the prescriber affirming the prescriber's authorization of the order within 48 hours after filling or administering the order, and

the patient's record reflects the quantity actually administered; and

(iv) filled and dispensed by a pharmacist practicing the pharmacist's profession within the physical structure of the hospital, or the order is taken from a supply lawfully maintained by the hospital and the amount taken from the supply is administered directly to the patient authorized to receive it.

(h) A practitioner licensed under this chapter may not prescribe, administer, or dispense a controlled substance to a child, without first obtaining the consent required in Section 78B-3-406 of a parent, guardian, or person standing in loco parentis of the child except in cases of an emergency. For purposes of this Subsection (7)(h), "child" has the same meaning as defined in Section 78A-6-105, and "emergency" means any physical condition requiring the administration of a controlled substance for immediate relief of pain or suffering.

(i) A practitioner licensed under this chapter may not prescribe or administer dosages of a controlled substance in excess of medically recognized quantities necessary to treat the ailment, malady, or condition of the ultimate user.

(j) A practitioner licensed under this chapter may not prescribe, administer, or dispense any controlled substance to another person knowing that the other person is using a false name, address, or other personal information for the purpose of securing the controlled substance.

(k) A person who is licensed under this chapter to manufacture, distribute, or dispense a controlled substance may not manufacture, distribute, or dispense a controlled substance to another licensee or any other authorized person not authorized by this license.

(l) A person licensed under this chapter may not omit, remove, alter, or obliterate a symbol required by this chapter or by a rule issued under this chapter.

(m) A person licensed under this chapter may not refuse or fail to make, keep, or furnish any record notification, order form, statement, invoice, or information required under this chapter.

(n) A person licensed under this chapter may not refuse entry into any premises for inspection as authorized by this chapter.

(o) A person licensed under this chapter may not furnish false or fraudulent material information in any application, report, or other document required to be kept by this chapter or willfully make any false statement in any prescription, order, report, or record required by this chapter.

(8) (a) (i) Any person licensed under this chapter who is found by the division to have violated any of the provisions of Subsections (7)(k) through (o) or Subsection (10) is subject to a penalty not to exceed \$5,000. The division shall determine the procedure for adjudication of any violations in accordance with Sections 58-1-106 and 58-1-108.

(ii) The division shall deposit all penalties collected under Subsection (8)(a)(i) in the General Fund as a dedicated credit to be used by the division under Subsection 58-37f-502(1).

(b) Any person who knowingly and intentionally violates Subsections (7)(h) through (j) or Subsection (10) is:

(i) upon first conviction, guilty of a class B misdemeanor;

(ii) upon second conviction, guilty of a class A misdemeanor; and

(iii) on third or subsequent conviction, guilty of a third degree felony.

(c) Any person who knowingly and intentionally violates Subsections (7)(k) through (o) shall upon conviction be guilty of a third degree felony.

(9) Any information communicated to any licensed practitioner in an attempt to unlawfully procure, or to procure the administration of, a controlled substance is not considered to be a privileged communication.

(10) A person holding a valid license under this chapter who is engaged in medical research may produce, possess, administer, prescribe, or dispense a controlled substance for research purposes as licensed under Subsection (2) but may not otherwise prescribe or dispense a controlled substance listed in Section 58-37-4.2.

CHAPTER 79**S. B. 145**

Passed February 18, 2014

Approved March 27, 2014

Effective May 13, 2014

BACKGROUND CHECK AMENDMENTS

Chief Sponsor: Curtis S. Bramble

House Sponsor: Mike K. McKell

LONG TITLE**General Description:**

This bill modifies the Public Safety Code regarding criminal background check information.

Highlighted Provisions:

This bill:

- ▶ clarifies that criminal history record information that does not relate to a conviction may not be released to an entity requesting an employment background check.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53-10-108, as last amended by Laws of Utah 2012, Chapter 239

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

Section 1. Section 53-10-108 is amended to read:

53-10-108. Restrictions on access, use, and contents of division records -- Limited use of records for employment purposes -- Challenging accuracy of records -- Usage fees -- Missing children records -- Penalty for misuse of records.

(1) Dissemination of information from a criminal history record or warrant of arrest information from division files is limited to:

(a) criminal justice agencies for purposes of administration of criminal justice and for employment screening by criminal justice agencies;

(b) noncriminal justice agencies or individuals for any purpose authorized by statute, executive order, court rule, court order, or local ordinance;

(c) agencies or individuals for the purpose of obtaining required clearances connected with foreign travel or obtaining citizenship;

(d) (i) agencies or individuals pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice; and

(ii) the agreement shall specifically authorize access to data, limit the use of the data to purposes for which given, and ensure the security and confidentiality of the data;

(e) agencies or individuals for the purpose of a preplacement adoptive study, in accordance with the requirements of Sections 78B-6-128 and 78B-6-130;

(f) (i) agencies and individuals as the commissioner authorizes for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency; and

(ii) private security agencies through guidelines established by the commissioner for employment background checks for their own employees and prospective employees;

(g) a qualifying entity for employment background checks for their own employees and persons who have applied for employment with the qualifying entity; and

(h) other agencies and individuals as the commissioner authorizes and finds necessary for protection of life and property and for offender identification, apprehension, and prosecution pursuant to an agreement.

(2) An agreement under Subsection (1)(f) or (1)(h) shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, preserve the anonymity of individuals to whom the information relates, and ensure the confidentiality and security of the data.

(3) (a) Before requesting information under Subsection (1)(g), a qualifying entity must obtain a signed waiver from the person whose information is requested.

(b) The waiver must notify the signee:

(i) that a criminal history background check will be conducted;

(ii) who will see the information; and

(iii) how the information will be used.

(c) Information received by a qualifying entity under Subsection (1)(g) may only be:

(i) available to persons involved in the hiring or background investigation of the employee; and

(ii) used for the purpose of assisting in making an employment or promotion decision.

(d) A person who disseminates or uses information obtained from the division under Subsection (1)(g) for purposes other than those specified under Subsection (3)(c), in addition to any penalties provided under this section, is subject to civil liability.

(e) A qualifying entity that obtains information under Subsection (1)(g) shall provide the employee or employment applicant an opportunity to:

(i) review the information received as provided under Subsection (8); and

(ii) respond to any information received.

(f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules to implement this Subsection (3).

(g) (i) The applicant fingerprint card fee under Subsection (1)(g) is \$20.

(ii) The name check fee under Subsection (1)(g) is \$15.

(iii) These fees remain in effect until changed by the division through the process under Section 63J-1-504.

(iv) Funds generated under Subsections (3)(g)(i), (3)(g)(ii), and (8)(b) shall be deposited in the General Fund as a dedicated credit by the department to cover the costs incurred in providing the information.

(h) The division or its employees are not liable for defamation, invasion of privacy, negligence, or any other claim in connection with the contents of information disseminated under Subsection (1)(g).

(4) (a) Any criminal history record information obtained from division files may be used only for the purposes for which it was provided and may not be further disseminated, except under Subsections (4)(b) and (c).

(b) A criminal history provided to an agency pursuant to Subsection (1)(e) may be provided by the agency to the person who is the subject of the history, another licensed child-placing agency, or the attorney for the adoptive parents for the purpose of facilitating an adoption.

(c) A criminal history of a defendant provided to a criminal justice agency under Subsection (1)(a) may also be provided by the prosecutor to a defendant's defense counsel, upon request during the discovery process, for the purpose of establishing a defense in a criminal case.

~~[(5) If an individual has no prior criminal convictions, criminal history record information contained in the division's computerized criminal history files may not include arrest or disposition data concerning an individual who has been acquitted, the person's charges dismissed, or when no complaint against the person has been filed.]~~

(5) The division may not disseminate criminal history record information to qualifying entities under Subsection (1)(g) regarding employment background checks if the information is related to charges:

- (a) that have been declined for prosecution;
- (b) that have been dismissed; or
- (c) regarding which a person has been acquitted.

(6) (a) This section does not preclude the use of the division's central computing facilities for the storage and retrieval of criminal history record information.

(b) This information shall be stored so it cannot be modified, destroyed, or accessed by unauthorized agencies or individuals.

(7) Direct access through remote computer terminals to criminal history record information in the division's files is limited to those agencies authorized by the commissioner under procedures

designed to prevent unauthorized access to this information.

(8) (a) The commissioner shall establish procedures to allow an individual right of access to review and receive a copy of the individual's criminal history report.

(b) A processing fee for the right of access service, including obtaining a copy of the individual's criminal history report under Subsection (8)(a) is \$15. This fee remains in effect until changed by the commissioner through the process under Section 63J-1-504.

(c) (i) The commissioner shall establish procedures for an individual to challenge the completeness and accuracy of criminal history record information contained in the division's computerized criminal history files regarding that individual.

(ii) These procedures shall include provisions for amending any information found to be inaccurate or incomplete.

(9) The private security agencies as provided in Subsection (1)(f)(ii):

(a) shall be charged for access; and

(b) shall be registered with the division according to rules made by the division under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(10) Before providing information requested under this section, the division shall give priority to criminal justice agencies needs.

(11) (a) It is a class B misdemeanor for a person to knowingly or intentionally access, use, disclose, or disseminate a record created, maintained, or to which access is granted by the division or any information contained in a record created, maintained, or to which access is granted by the division for a purpose prohibited or not permitted by statute, rule, regulation, or policy of a governmental entity.

(b) A person who discovers or becomes aware of any unauthorized use of records created or maintained, or to which access is granted by the division shall inform the commissioner and the director of the Utah Bureau of Criminal Identification of the unauthorized use.

CHAPTER 80**S. B. 149**

Passed March 6, 2014

Approved March 27, 2014

Effective May 13, 2014

DROWSY DRIVING AMENDMENTS

Chief Sponsor: Aaron Osmond
House Sponsor: Keven J. Stratton

LONG TITLE**General Description:**

This bill establishes a Drowsy Driving Awareness Week.

Highlighted Provisions:

This bill:

- ▶ provides that the third full week in August shall be commemorated annually as Drowsy Driving Awareness Week; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63G-1-401, as last amended by Laws of Utah 2013, Chapter 214

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

Section 1. Section 63G-1-401 is amended to read:**63G-1-401. Commemorative periods.**

(1) The following days shall be commemorated yearly:

- (a) Bill of Rights Day, on December 15;
- (b) Constitution Day, on September 17;
- (c) Yellow Ribbon Day, on the third Monday in May, in honor of men and women who are serving or have served in the U.S. armed forces around the world in defense of freedom;
- (d) POW/MIA Recognition Day, on the third Friday in September;
- (e) Indigenous People Day, the Monday immediately preceding Thanksgiving; and
- (f) Utah State Flag Day, on March 9.

(2) The Department of Veterans' and Military Affairs shall coordinate activities, special programs, and promotional information to heighten public awareness and involvement relating to Subsections (1)(c) and (d).

(3) The month of October shall be commemorated yearly as Italian-American Heritage Month.

(4) The month of November shall be commemorated yearly as American Indian Heritage Month.

(5) The month of April shall be commemorated yearly as Clean Out the Medicine Cabinet Month to recognize the urgent need to make Utah homes and neighborhoods safe from prescription medication abuse and poisonings by the proper home storage and disposal of prescription and over-the-counter medications, and to educate citizens about the permanent medication disposal sites in Utah listed on useonlyasdirected.org that allow disposal throughout the year.

(6) The first full week of May shall be commemorated yearly as State Water Week to recognize the importance of water conservation, quality, and supply in the state.

(7) The second Friday and Saturday in August shall be commemorated yearly as Utah Fallen Heroes Days to:

(a) honor fallen heroes who, during service in the military or public safety, have sacrificed their lives to protect the country and the citizens of the state; and

(b) encourage political subdivisions to acknowledge and honor fallen heroes.

(8) The third full week in August shall be commemorated annually as Drowsy Driving Awareness Week to:

(a) educate the public about the relationship between fatigue and driving performance; and

(b) encourage the Department of Public Safety and the Department of Transportation to recognize and promote educational efforts on the dangers of drowsy driving.

CHAPTER 81**S. B. 156**

Passed February 20, 2014

Approved March 27, 2014

Effective May 13, 2014

**CONSTRUCTION TRADES
LICENSING ACT AMENDMENTS**

Chief Sponsor: Curtis S. Bramble

House Sponsor: Keven J. Stratton

LONG TITLE**General Description:**

This bill amends provisions of Title 58, Chapter 55, Utah Construction Trades Licensing Act, relating to an alarm business or company.

Highlighted Provisions:

This bill:

- ▶ provides that an alarm business or company does not include a person engaged in the manufacture or sale of alarm systems unless:
 - that person is also engaged in the installation, maintenance, alteration, repair, replacement, servicing, or monitoring of alarm systems;
 - the manufacture or sale occurs at a location other than a place of business established by the person engaged in the manufacture or sale; or
 - the manufacture or sale involves site visits at the place or intended place of installation of an alarm system; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-55-102, as last amended by Laws of Utah 2013, Chapter 36

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

Section 1. Section 58-55-102 is amended to read:**58-55-102. Definitions.**

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

(1) (a) "Alarm business or company" means a person engaged in the sale, installation, maintenance, alteration, repair, replacement, servicing, or monitoring of an alarm system, except as provided in Subsection (1)(b).

(b) "Alarm business or company" does not include:

(i) a person engaged in the manufacture ~~[and]~~ or sale of alarm systems ~~[when]~~ unless:

(A) that person is ~~[not]~~ also engaged in the installation, maintenance, alteration, repair,

replacement, servicing, or monitoring of alarm systems~~[, and]~~;

(B) the manufacture or sale occurs ~~[only]~~ at a location other than a place of business established by the person engaged in the manufacture or sale ~~[and does not involve]~~; or

(C) the manufacture or sale involves site visits at the place or intended place of installation of an alarm system; or

(ii) an owner of an alarm system, or an employee of the owner of an alarm system who is engaged in installation, maintenance, alteration, repair, replacement, servicing, or monitoring of the alarm system owned by that owner.

(2) "Alarm company agent":

(a) except as provided in Subsection (2)(b), means any individual employed within this state by an alarm business; and

(b) does not include an individual who:

(i) is not engaged in the sale, installation, maintenance, alteration, repair, replacement, servicing, or monitoring of an alarm system; and

(ii) does not, during the normal course of the individual's employment with an alarm business, use or have access to sensitive alarm system information.

(3) "Alarm system" means equipment and devices assembled for the purpose of:

(a) detecting and signaling unauthorized intrusion or entry into or onto certain premises; or

(b) signaling a robbery or attempted robbery on protected premises.

(4) "Apprentice electrician" means a person licensed under this chapter as an apprentice electrician who is learning the electrical trade under the immediate supervision of a master electrician, residential master electrician, a journeyman electrician, or a residential journeyman electrician.

(5) "Apprentice plumber" means a person licensed under this chapter as an apprentice plumber who is learning the plumbing trade under the immediate supervision of a master plumber, residential master plumber, journeyman plumber, or a residential journeyman plumber.

(6) "Approved continuing education" means instruction provided through courses under a program established under Subsection 58-55-302.5(2).

(7) "Board" means the Electrician Licensing Board, Alarm System Security and Licensing Board, or Plumbers Licensing Board created in Section 58-55-201.

(8) "Combustion system" means an assembly consisting of:

(a) piping and components with a means for conveying, either continuously or intermittently, natural gas from the outlet of the natural gas provider's meter to the burner of the appliance;

(b) the electric control and combustion air supply and venting systems, including air ducts; and

(c) components intended to achieve control of quantity, flow, and pressure.

(9) "Commission" means the Construction Services Commission created under Section 58-55-103.

(10) "Construction trade" means any trade or occupation involving:

(a) (i) construction, alteration, remodeling, repairing, wrecking or demolition, addition to, or improvement of any building, highway, road, railroad, dam, bridge, structure, excavation or other project, development, or improvement to other than personal property; and

(ii) constructing, remodeling, or repairing a manufactured home or mobile home as defined in Section 15A-1-302; or

(b) installation or repair of a residential or commercial natural gas appliance or combustion system.

(11) "Construction trades instructor" means a person licensed under this chapter to teach one or more construction trades in both a classroom and project environment, where a project is intended for sale to or use by the public and is completed under the direction of the instructor, who has no economic interest in the project.

(12) (a) "Contractor" means any person who for compensation other than wages as an employee undertakes any work in the construction, plumbing, or electrical trade for which licensure is required under this chapter and includes:

(i) a person who builds any structure on the person's own property for the purpose of sale or who builds any structure intended for public use on the person's own property;

(ii) any person who represents that the person is a contractor by advertising or any other means;

(iii) any person engaged as a maintenance person, other than an employee, who regularly engages in activities set forth under the definition of "construction trade";

(iv) any person engaged in any construction trade for which licensure is required under this chapter; or

(v) a construction manager who performs management and counseling services on a construction project for a fee.

(b) "Contractor" does not include an alarm company or alarm company agent.

(13) (a) "Electrical trade" means the performance of any electrical work involved in the installation, construction, alteration, change, repair, removal, or maintenance of facilities, buildings, or appendages or appurtenances.

(b) "Electrical trade" does not include:

(i) transporting or handling electrical materials;

(ii) preparing clearance for raceways for wiring; or

(iii) work commonly done by unskilled labor on any installations under the exclusive control of electrical utilities.

(c) For purposes of Subsection (13)(b):

(i) no more than one unlicensed person may be so employed unless more than five licensed electricians are employed by the shop; and

(ii) a shop may not employ unlicensed persons in excess of the five-to-one ratio permitted by this Subsection (13)(c).

(14) "Elevator" has the same meaning as defined in Section 34A-7-202, except that for purposes of this chapter it does not mean a stair chair, a vertical platform lift, or an incline platform lift.

(15) "Elevator contractor" means a sole proprietor, firm, or corporation licensed under this chapter that is engaged in the business of erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator.

(16) "Elevator mechanic" means an individual who is licensed under this chapter as an elevator mechanic and who is engaged in erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator under the immediate supervision of an elevator contractor.

(17) "Employee" means an individual as defined by the division by rule giving consideration to the definition adopted by the Internal Revenue Service and the Department of Workforce Services.

(18) "Engage in a construction trade" means to:

(a) engage in, represent oneself to be engaged in, or advertise oneself as being engaged in a construction trade; or

(b) use the name "contractor" or "builder" or in any other way lead a reasonable person to believe one is or will act as a contractor.

(19) (a) "Financial responsibility" means a demonstration of a current and expected future condition of financial solvency evidencing a reasonable expectation to the division and the board that an applicant or licensee can successfully engage in business as a contractor without jeopardy to the public health, safety, and welfare.

(b) Financial responsibility may be determined by an evaluation of the total history concerning the licensee or applicant including past, present, and expected condition and record of financial solvency and business conduct.

(20) "Gas appliance" means any device that uses natural gas to produce light, heat, power, steam, hot water, refrigeration, or air conditioning.

(21) (a) "General building contractor" means a person licensed under this chapter as a general building contractor qualified by education, training, experience, and knowledge to perform or superintend construction of structures for the

support, shelter, and enclosure of persons, animals, chattels, or movable property of any kind or any of the components of that construction except plumbing, electrical work, mechanical work, work related to the operating integrity of an elevator, and manufactured housing installation, for which the general building contractor shall employ the services of a contractor licensed in the particular specialty, except that a general building contractor engaged in the construction of single-family and multifamily residences up to four units may perform the mechanical work and hire a licensed plumber or electrician as an employee.

(b) The division may by rule exclude general building contractors from engaging in the performance of other construction specialties in which there is represented a substantial risk to the public health, safety, and welfare, and for which a license is required unless that general building contractor holds a valid license in that specialty classification.

(22) (a) "General engineering contractor" means a person licensed under this chapter as a general engineering contractor qualified by education, training, experience, and knowledge to perform construction of fixed works in any of the following: irrigation, drainage, water, power, water supply, flood control, inland waterways, harbors, railroads, highways, tunnels, airports and runways, sewers and bridges, refineries, pipelines, chemical and industrial plants requiring specialized engineering knowledge and skill, piers, and foundations, or any of the components of those works.

(b) A general engineering contractor may not perform construction of structures built primarily for the support, shelter, and enclosure of persons, animals, and chattels.

(23) "Immediate supervision" means reasonable direction, oversight, inspection, and evaluation of the work of a person:

- (a) as the division specifies in rule;
- (b) by, as applicable, a qualified electrician or plumber;
- (c) as part of a planned program of training; and
- (d) to ensure that the end result complies with applicable standards.

(24) "Individual" means a natural person.

(25) "Journeyman electrician" means a person licensed under this chapter as a journeyman electrician having the qualifications, training, experience, and knowledge to wire, install, and repair electrical apparatus and equipment for light, heat, power, and other purposes.

(26) "Journeyman plumber" means a person licensed under this chapter as a journeyman plumber having the qualifications, training, experience, and technical knowledge to engage in the plumbing trade.

(27) "Master electrician" means a person licensed under this chapter as a master electrician having

the qualifications, training, experience, and knowledge to properly plan, layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment for light, heat, power, and other purposes.

(28) "Master plumber" means a person licensed under this chapter as a master plumber having the qualifications, training, experience, and knowledge to properly plan and layout projects and supervise persons in the plumbing trade.

(29) "Person" means a natural person, sole proprietorship, joint venture, corporation, limited liability company, association, or organization of any type.

(30) (a) "Plumbing trade" means the performance of any mechanical work pertaining to the installation, alteration, change, repair, removal, maintenance, or use in buildings, or within three feet beyond the outside walls of buildings of pipes, fixtures, and fittings for:

- (i) delivery of the water supply;
- (ii) discharge of liquid and water carried waste; or
- (iii) the building drainage system within the walls of the building.

(b) "Plumbing trade" includes work pertaining to the water supply, distribution pipes, fixtures and fixture traps, soil, waste and vent pipes, and the building drain and roof drains together with their devices, appurtenances, and connections where installed within the outside walls of the building.

(31) (a) "Ratio of apprentices" means, for the purpose of determining compliance with the requirements for planned programs of training and electrician apprentice licensing applications, the shop ratio of apprentice electricians to journeyman or master electricians shall be one journeyman or master electrician to one apprentice on industrial and commercial work, and one journeyman or master electrician to three apprentices on residential work.

(b) On-the-job training shall be under circumstances in which the ratio of apprentices to supervisors is in accordance with a ratio of one-to-one on nonresidential work and up to three apprentices to one supervisor on residential projects.

(32) "Residential and small commercial contractor" means a person licensed under this chapter as a residential and small commercial contractor qualified by education, training, experience, and knowledge to perform or superintend the construction of single-family residences, multifamily residences up to four units, and commercial construction of not more than three stories above ground and not more than 20,000 square feet, or any of the components of that construction except plumbing, electrical work, mechanical work, and manufactured housing installation, for which the residential and small commercial contractor shall employ the services of a contractor licensed in the particular specialty, except that a residential and small commercial

contractor engaged in the construction of single-family and multifamily residences up to four units may perform the mechanical work and hire a licensed plumber or electrician as an employee.

(33) “Residential building,” as it relates to the license classification of residential journeyman plumber and residential master plumber, means a single or multiple family dwelling of up to four units.

(34) “Residential journeyman electrician” means a person licensed under this chapter as a residential journeyman electrician having the qualifications, training, experience, and knowledge to wire, install, and repair electrical apparatus and equipment for light, heat, power, and other purposes on buildings using primarily nonmetallic sheath cable.

(35) “Residential journeyman plumber” means a person licensed under this chapter as a residential journeyman plumber having the qualifications, training, experience, and knowledge to engage in the plumbing trade as limited to the plumbing of residential buildings.

(36) “Residential master electrician” means a person licensed under this chapter as a residential master electrician having the qualifications, training, experience, and knowledge to properly plan, layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment for light, heat, power, and other purposes on residential projects.

(37) “Residential master plumber” means a person licensed under this chapter as a residential master plumber having the qualifications, training, experience, and knowledge to properly plan and layout projects and supervise persons in the plumbing trade as limited to the plumbing of residential buildings.

(38) “Residential project,” as it relates to an electrician or electrical contractor, means buildings primarily wired with nonmetallic sheathed cable, in accordance with standard rules and regulations governing this work, including the National Electrical Code, and in which the voltage does not exceed 250 volts line to line and 125 volts to ground.

(39) “Sensitive alarm system information” means:

(a) a pass code or other code used in the operation of an alarm system;

(b) information on the location of alarm system components at the premises of a customer of the alarm business providing the alarm system;

(c) information that would allow the circumvention, bypass, deactivation, or other compromise of an alarm system of a customer of the alarm business providing the alarm system; and

(d) any other similar information that the division by rule determines to be information that an individual employed by an alarm business should use or have access to only if the individual is licensed as provided in this chapter.

(40) (a) “Specialty contractor” means a person licensed under this chapter under a specialty contractor classification established by rule, who is qualified by education, training, experience, and knowledge to perform those construction trades and crafts requiring specialized skill, the regulation of which are determined by the division to be in the best interest of the public health, safety, and welfare.

(b) A specialty contractor may perform work in crafts or trades other than those in which the specialty contractor is licensed if they are incidental to the performance of the specialty contractor’s licensed craft or trade.

(41) “Unincorporated entity” means an entity that is not:

(a) an individual;

(b) a corporation; or

(c) publicly traded.

(42) “Unlawful conduct” is as defined in Sections 58-1-501 and 58-55-501.

(43) “Unprofessional conduct” is as defined in Sections 58-1-501 and 58-55-502 and as may be further defined by rule.

(44) “Wages” means amounts due to an employee for labor or services whether the amount is fixed or ascertained on a time, task, piece, commission, or other basis for calculating the amount.

CHAPTER 82**S. B. 160**

Passed February 20, 2014

Approved March 27, 2014

Effective May 13, 2014

**WORKERS' COMPENSATION
AMENDMENTS**

Chief Sponsor: John L. Valentine

House Sponsor: Brian M. Greene

LONG TITLE**General Description:**

This bill modifies the Workers' Compensation Act to address settlements.

Highlighted Provisions:

This bill:

- ▶ permits settlements after the 12 year statute of limitations;
- ▶ permits settlements for claims under the Employers' Reinsurance Fund or the Uninsured Employers' Fund;
- ▶ clarifies that a full and final settlement extinguishes the employer's obligations unless issues are preserved;
- ▶ addresses method of payments under the full and final settlement; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

34A-2-420, as renumbered and amended by Laws of Utah 1997, Chapter 375

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

Section 1. Section 34A-2-420 is amended to read:**34A-2-420. Continuing jurisdiction of commission -- No authority to change statutes of limitation -- Authority to destroy records -- Interest on award -- Authority to approve final settlement claims.**

(1) (a) The powers and jurisdiction of the commission over each case ~~shall be~~ is continuing.

(b) After notice and hearing, the Division of Adjudication, commissioner, or Appeals Board in accordance with Part 8, Adjudication, may from time to time modify or change a former finding or order of the commission.

(c) This section may not be interpreted as modifying ~~in any respect~~ the statutes of limitations contained in Section 34A-2-417 or other sections of this chapter or Chapter 3, Utah Occupational Disease Act, or authorizing the commission to change these statutes of limitations.

~~(d) The commission may not in any respect change the statutes of limitation referred to in Subsection (1)(e).]~~

(d) In addition to other settlements permissible under this chapter or Chapter 3, Utah Occupational Disease Act, and notwithstanding Subsection (1)(c), the commission may approve a full and final settlement of an employee's claim for compensation under this chapter or Chapter 3, Utah Occupational Disease Act, including the payment of medical and disability benefits, if:

(i) (A) the employee's claim for medical benefits is allowed under Subsection 34A-2-417(1), but the payment of disability benefits associated with the medical benefits and resulting treatment is barred pursuant to Subsection 34A-2-417(2); and

(B) the full and final settlement is presented to the commission for approval; or

(ii) an employee's claim for compensation under this chapter or Chapter 3, Utah Occupational Disease Act, is the liability of the Employers' Reinsurance Fund created in Section 34A-2-702 or the Uninsured Employers' Fund created in Section 34A-2-704.

(2) ~~[Records]~~ A record pertaining to ~~[cases that have]~~ a case that has been closed and inactive for 10 years, other than ~~[eases]~~ a case of total permanent disability or ~~[eases]~~ a case in which a claim has been filed as in Section 34A-2-417, may be destroyed at the discretion of the commission.

(3) ~~[Awards]~~ An award made by a final order of the commission shall include interest at the rate of 8% per annum from the date when each benefit payment would have otherwise become due and payable.

(4) Notwithstanding Subsection (1) and Section 34A-2-108, an administrative law judge shall review and may approve the agreement of the parties to enter into a full and final settlement by means of a:

(a) compromise settlement of disputed medical, disability, or death benefit entitlements under this chapter or Chapter 3, Utah Occupational Disease Act; or

(b) commutation and settlement of reasonable future medical, disability, or death benefit entitlements under this chapter or Chapter 3 by means of a lump sum payment, structured settlement, or other appropriate payout.

(5) A full and final settlement approved under this section shall extinguish the employer's liability to the employee under this chapter and Chapter 3, Utah Occupational and Disease Act, except for an issue that is expressly preserved.

(6) A full and final settlement effectuating a compromise or commutation may provide for payment of benefits:

(a) in cash or cash equivalents; or

(b) through an insurance contract or by a third party if the commission determines that the payment provisions:

(i) are secure and assign, transfer, or reinsure the financial obligation to make benefit payments to a qualified third party in compliance with commission rules; or

(ii) do not relieve the parties of their underlying liability for payments required by the full and final settlement agreement.

CHAPTER 83**S. B. 169**

Passed March 5, 2014
 Approved March 27, 2014
 Effective May 13, 2014

**PUBLIC MEETINGS
 MATERIALS REQUIREMENTS**

Chief Sponsor: Deidre M. Henderson
 House Sponsor: Steve Eliason

LONG TITLE**General Description:**

This bill modifies a provision of the Open and Public Meetings Act.

Highlighted Provisions:

This bill:

- ▶ defines "electronic information";
- ▶ requires certain public bodies to require an individual who publicly presents or provides electronic information at an open meeting of the public body to provide an electronic or hard copy of the electronic information.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

52-4-203, as last amended by Laws of Utah 2013, Chapter 63

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

Section 1. Section 52-4-203 is amended to read:

52-4-203. Written minutes of open meetings -- Public records -- Recording of meetings.

(1) Except as provided under Subsection (7), written minutes and a recording shall be kept of all open meetings.

(2) Written minutes of an open meeting shall include:

- (a) the date, time, and place of the meeting;
- (b) the names of members present and absent;
- (c) the substance of all matters proposed, discussed, or decided by the public body which may include a summary of comments made by members of the public body;
- (d) a record, by individual member, of each vote taken by the public body;
- (e) the name of each person who:
 - (i) is not a member of the public body; and
 - (ii) after being recognized by the presiding member of the public body, provided testimony or comments to the public body;

(f) the substance, in brief, of the testimony or comments provided by the public under Subsection (2)(e); and

(g) any other information that is a record of the proceedings of the meeting that any member requests be entered in the minutes or recording.

(3) A recording of an open meeting shall:

(a) be a complete and unedited record of all open portions of the meeting from the commencement of the meeting through adjournment of the meeting; and

(b) be properly labeled or identified with the date, time, and place of the meeting.

(4) (a) As used in this Subsection (4):

(i) "Approved minutes" means written minutes:

(A) of an open meeting; and

(B) that have been approved by the public body that held the open meeting.

(ii) "Electronic information" means information presented or provided in an electronic format.

~~(iii)~~ (iii) "Pending minutes" means written minutes:

(A) of an open meeting; and

(B) that have been prepared in draft form and are subject to change before being approved by the public body that held the open meeting.

~~(iii)~~ (iv) "Specified local public body" means a legislative body of a county, city, or town.

~~(iv)~~ (v) "State public body" means a public body that is an administrative, advisory, executive, or legislative body of the state.

~~(v)~~ (vi) "Website" means the Utah Public Notice Website created under Section 63F-1-701.

(b) Pending minutes, approved minutes, and a recording of a public meeting are public records under Title 63G, Chapter 2, Government Records Access and Management Act.

(c) Pending minutes shall contain a clear indication that the public body has not yet approved the minutes or that the minutes are subject to change until the public body approves them.

(d) A state public body and a specified local public body shall require an individual who, at an open meeting of the public body, publicly presents or provides electronic information, relating to an item on the public body's meeting agenda, to provide the public body, at the time of the meeting, an electronic or hard copy of the electronic information for inclusion in the public record.

~~(d)~~ (e) A state public body shall:

(i) make pending minutes available to the public within 30 days after holding the open meeting that is the subject of the pending minutes;

(ii) within three business days after approving written minutes of an open meeting, post to the website and make available to the public at the

public body's primary office a copy of the approved minutes and any public materials distributed at the meeting; and

(iii) within three business days after holding an open meeting, post on the website an audio recording of the open meeting, or a link to the recording.

~~(e)~~ (f) (i) A specified local public body shall:

(A) make pending minutes available to the public within 30 days after holding the open meeting that is the subject of the pending minutes;

(B) subject to Subsection (4)~~(e)~~(f)(ii), within three business days after approving written minutes of an open meeting, post to the website and make available to the public at the public body's primary office a copy of the approved minutes and any public materials distributed at the meeting; and

(C) within three business days after holding an open meeting, make an audio recording of the open meeting available to the public for listening.

(ii) A specified local public body of a city of the fifth class or town is encouraged to comply with Subsection (4)~~(e)~~(f)(i)(B) but is not required to comply until January 1, 2015.

~~(f)~~ (g) A public body that is not a state public body or a specified local public body shall:

(i) make pending minutes available to the public within a reasonable time after holding the open meeting that is the subject of the pending minutes;

(ii) within three business days after approving written minutes, make the approved minutes available to the public; and

(iii) within three business days after holding an open meeting, make an audio recording of the open meeting available to the public for listening.

~~(g)~~ (h) A public body shall establish and implement procedures for the public body's approval of the written minutes of each meeting.

~~(h)~~ (i) Approved minutes of an open meeting are the official record of the meeting.

(5) All or any part of an open meeting may be independently recorded by any person in attendance if the recording does not interfere with the conduct of the meeting.

(6) The written minutes or recording of an open meeting that are required to be retained permanently shall be maintained in or converted to a format that meets long-term records storage requirements.

(7) Notwithstanding Subsection (1), a recording is not required to be kept of:

(a) an open meeting that is a site visit or a traveling tour, if no vote or action is taken by the public body; or

(b) an open meeting of a local district under Title 17B, Limited Purpose Local Government Entities -

Local Districts, or special service district under Title 17D, Chapter 1, Special Service District Act, if the district's annual budgeted expenditures for all funds, excluding capital expenditures and debt service, are \$50,000 or less.

CHAPTER 84**S. B. 170**

Passed March 12, 2014
 Approved March 27, 2014
 Effective March 27, 2014

EDUCATION LOAN AMENDMENTS

Chief Sponsor: Peter C. Knudson
 House Sponsor: Lee B. Perry

LONG TITLE**General Description:**

This bill modifies the Utah Consumer Credit Code to address education loans.

Highlighted Provisions:

This bill:

- ▶ modifies definition provisions;
- ▶ addresses limitation on garnishments; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.

Utah Code Sections Affected:**AMENDS:**

70C-7-103, as enacted by Laws of Utah 1985,
 Chapter 159

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

Section 1. Section 70C-7-103 is amended to read:**70C-7-103. Definitions -- Limitation on garnishment.**

(1) As used in this part:

(a) "Disposable earnings" means that part of the earnings of an individual remaining after the deduction from those earnings of amounts required by law to be withheld.

(b) "Education loan" means a loan subject to this title, or notwithstanding Subsection 70C-1-202(2)(h)(ii)(B)(II), made by a depository institution that:

(i) is closed end;

(ii) is a qualified education loan as defined in 26 U.S.C. Sec. 221(d);

(iii) expressly states in the original loan documents that it is a qualified education loan or the proceeds will be used solely for qualified higher education expenses as defined in 26 U.S.C. Sec 221(d); and

(iv) in a bankruptcy filing, the loan or any indebtedness relating to the loan is subject to the provisions of 11 U.S.C. Sec. 523(a)(8).

~~(4b)~~ (c) "Garnishment" means ~~any~~ a legal or equitable procedure through which the earnings of an individual are required to be withheld for payment of a debt.

(2) The maximum part of the aggregate disposable earnings of an individual for any pay period ~~which~~ that is subjected to garnishment to enforce payment of a judgment arising from a consumer credit agreement may not exceed the lesser of:

(a) 25% of ~~his~~ the individual's disposable earnings for that pay period; ~~or~~

(b) the amount by which ~~his~~ the individual's disposable earnings for that pay period exceed 30 hours per week multiplied by the federal minimum hourly wage prescribed by Section 6 (a) (1) of the Fair Labor Standards Act of 1938, 29 U.S.C. ~~Section~~ Sec. 206(a)(1), in effect at the time the earnings are payable~~[-];~~ or

(c) 15% of the individual's disposable earnings for that pay period if the judgment relates to an education loan.

(3) ~~No~~ A court may not make, execute, or enforce an order or process in violation of this section.

Section 2. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 85**H. B. 219**

Passed February 25, 2014

Approved March 28, 2014

Effective May 13, 2014

VETERAN'S SEPARATION AMENDMENTS

Chief Sponsor: Val L. Peterson

Senate Sponsor: Peter C. Knudson

LONG TITLE**General Description:**

This bill provides uniform military discharge language for the purpose of qualifying for certain benefits.

Highlighted Provisions:

This bill:

- ▶ amends the Utah Code to provide uniformity in the types of separations that govern discharges from the military and in qualifying for certain benefits.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53-3-104, as last amended by Laws of Utah 2013, Chapter 411

53-3-205, as last amended by Laws of Utah 2013, Chapters 214 and 259

53-3-207, as last amended by Laws of Utah 2013, Chapter 278

53-3-407, as last amended by Laws of Utah 2013, Chapter 411

53-3-804, as last amended by Laws of Utah 2013, Chapter 214

53-3-805, as last amended by Laws of Utah 2013, Chapters 214 and 300

59-2-1104, as last amended by Laws of Utah 2013, Chapter 214

71-8-1, as last amended by Laws of Utah 2013, Chapters 214 and 308

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

Section 1. Section 53-3-104 is amended to read:**53-3-104. Division duties.**

The division shall:

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

(a) for examining applicants for a license, as necessary for the safety and welfare of the traveling public;

(b) for acceptable documentation of an applicant's identity, Social Security number, Utah resident status, Utah residence address, proof of legal presence, proof of citizenship in the United States, honorable or general discharge from the United

States military, and other proof or documentation required under this chapter;

(c) regarding the restrictions to be imposed on a person driving a motor vehicle with a temporary learner permit or learner permit;

(d) for exemptions from licensing requirements as authorized in this chapter; and

(e) establishing procedures for the storage and maintenance of applicant information provided in accordance with Section 53-3-205, 53-3-410, or 53-3-804;

(2) examine each applicant according to the class of license applied for;

(3) license motor vehicle drivers;

(4) file every application for a license received by it and shall maintain indices containing:

(a) all applications denied and the reason each was denied;

(b) all applications granted; and

(c) the name of every licensee whose license has been suspended, disqualified, or revoked by the division and the reasons for the action;

(5) suspend, revoke, disqualify, cancel, or deny any license issued in accordance with this chapter;

(6) file all accident reports and abstracts of court records of convictions received by it under state law;

(7) maintain a record of each licensee showing the licensee's convictions and the traffic accidents in which the licensee has been involved where a conviction has resulted;

(8) consider the record of a licensee upon an application for renewal of a license and at other appropriate times;

(9) search the license files, compile, and furnish a report on the driving record of any person licensed in the state in accordance with Section 53-3-109;

(10) develop and implement a record system as required by Section 41-6a-604;

(11) in accordance with Section 53A-13-208, establish:

(a) procedures and standards to certify teachers of driver education classes to administer knowledge and skills tests;

(b) minimal standards for the tests; and

(c) procedures to enable school districts to administer or process any tests for students to receive a class D operator's license;

(12) in accordance with Section 53-3-510, establish:

(a) procedures and standards to certify licensed instructors of commercial driver training school courses to administer the skills test;

(b) minimal standards for the test; and

(c) procedures to enable licensed commercial driver training schools to administer or process

skills tests for students to receive a class D operator's license;

(13) provide administrative support to the Driver License Medical Advisory Board created in Section 53-3-303;

(14) upon request by the lieutenant governor, provide the lieutenant governor with a digital copy of the driver license or identification card signature of a person who is an applicant for voter registration under Section 20A-2-206; and

(15) in accordance with Section 53-3-407.1, establish:

(a) procedures and standards to license a commercial driver license third party tester or commercial driver license third party examiner to administer the commercial driver license skills tests;

(b) minimum standards for the commercial driver license skills test; and

(c) procedures to enable a licensed commercial driver license third party tester or commercial driver license third party examiner to administer a commercial driver license skills test for an applicant to receive a commercial driver license.

Section 2. Section 53-3-205 is amended to read:

53-3-205. Application for license or endorsement -- Fee required -- Tests -- Expiration dates of licenses and endorsements -- Information required -- Previous licenses surrendered -- Driving record transferred from other states -- Reinstatement -- Fee required -- License agreement.

(1) An application for any original license, provisional license, or endorsement shall be:

(a) made upon a form furnished by the division; and

(b) accompanied by a nonrefundable fee set under Section 53-3-105.

(2) An application and fee for an original provisional class D license or an original class D license entitle the applicant to:

(a) not more than three attempts to pass both the knowledge and the skills tests for a class D license within six months of the date of the application;

(b) a learner permit if needed pending completion of the application and testing process; and

(c) an original class D license and license certificate after all tests are passed and requirements are completed.

(3) An application and fee for a motorcycle or taxicab endorsement entitle the applicant to:

(a) not more than three attempts to pass both the knowledge and skills tests within six months of the date of the application;

(b) a motorcycle learner permit after the motorcycle knowledge test is passed; and

(c) a motorcycle or taxicab endorsement when all tests are passed.

(4) An application and fees for a commercial class A, B, or C license entitle the applicant to:

(a) not more than two attempts to pass a knowledge test and not more than two attempts to pass a skills test within six months of the date of the application;

(b) a commercial driver instruction permit if needed after the knowledge test is passed; and

(c) an original commercial class A, B, or C license and license certificate when all applicable tests are passed.

(5) An application and fee for a CDL endorsement entitle the applicant to:

(a) not more than two attempts to pass a knowledge test and not more than two attempts to pass a skills test within six months of the date of the application; and

(b) a CDL endorsement when all tests are passed.

(6) If a CDL applicant does not pass a knowledge test, skills test, or an endorsement test within the number of attempts provided in Subsection (4) or (5), each test may be taken two additional times within the six months for the fee provided in Section 53-3-105.

(7) (a) Except as provided under Subsections (7)(f), (g), and (h), an original license expires on the birth date of the applicant in the fifth year following the year the license certificate was issued.

(b) Except as provided under Subsections (7)(f), (g), and (h), a renewal or an extension to a license expires on the birth date of the licensee in the fifth year following the expiration date of the license certificate renewed or extended.

(c) Except as provided under Subsections (7)(f) and (g), a duplicate license expires on the same date as the last license certificate issued.

(d) An endorsement to a license expires on the same date as the license certificate regardless of the date the endorsement was granted.

(e) (i) A regular license certificate and any endorsement to the regular license certificate held by a person described in Subsection (7)(e)(ii), which expires during the time period the person is stationed outside of the state, is valid until 90 days after the person's orders have been terminated, the person has been discharged, or the person's assignment has been changed or terminated, unless:

(A) the license is suspended, disqualified, denied, or has been cancelled or revoked by the division; or

(B) the licensee updates the information or photograph on the license certificate.

(ii) The provisions in Subsection (7)(e)(i) apply to a person:

(A) ordered to active duty and stationed outside of Utah in any of the armed forces of the United States;

(B) who is an immediate family member or dependent of a person described in Subsection (7)(e)(ii)(A) and is residing outside of Utah;

(C) who is a civilian employee of the United States State Department or United States Department of Defense and is stationed outside of the United States; or

(D) who is an immediate family member or dependent of a person described in Subsection (7)(e)(ii)(C) and is residing outside of the United States.

(f) (i) Except as provided in Subsection (7)(f)(ii), a limited-term license certificate or a renewal to a limited-term license certificate expires:

(A) on the expiration date of the period of time of the individual's authorized stay in the United States or on the date provided under this Subsection (7), whichever is sooner; or

(B) on the date of issuance in the first year following the year that the limited-term license certificate was issued if there is no definite end to the individual's period of authorized stay.

(ii) A limited-term license certificate or a renewal to a limited-term license certificate issued to an approved asylee or a refugee expires on the birth date of the applicant in the fourth year following the year that the limited-term license certificate was issued.

(g) A driving privilege card issued or renewed under Section 53-3-207 expires on the birth date of the applicant in the first year following the year that the driving privilege card was issued or renewed.

(h) An original license or a renewal to an original license expires on the birth date of the applicant in the first year following the year that the license was issued if the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

(8) (a) In addition to the information required by Title 63G, Chapter 4, Administrative Procedures Act, for requests for agency action, each applicant shall:

(i) provide:

(A) the applicant's full legal name;

(B) the applicant's birth date;

(C) the applicant's gender;

(D) (I) documentary evidence of the applicant's valid Social Security number;

(II) written proof that the applicant is ineligible to receive a Social Security number;

(III) the applicant's temporary identification number (ITIN) issued by the Internal Revenue Service for a person who:

(Aa) does not qualify for a Social Security number; and

(Bb) is applying for a driving privilege card; or

(IV) other documentary evidence approved by the division;

(E) the applicant's Utah residence address as documented by a form or forms acceptable under rules made by the division under Section 53-3-104, unless the application is for a temporary CDL issued under Subsection 53-3-407(2)(b); and

(F) fingerprints and a photograph in accordance with Section 53-3-205.5 if the person is applying for a driving privilege card;

(ii) provide evidence of the applicant's lawful presence in the United States by providing documentary evidence:

(A) that a person is:

(I) a United States citizen;

(II) a United States national; or

(III) a legal permanent resident alien; or

(B) of the applicant's:

(I) unexpired immigrant or nonimmigrant visa status for admission into the United States;

(II) pending or approved application for asylum in the United States;

(III) admission into the United States as a refugee;

(IV) pending or approved application for temporary protected status in the United States;

(V) approved deferred action status;

(VI) pending application for adjustment of status to legal permanent resident or conditional resident; or

(VII) conditional permanent resident alien status;

(iii) provide a description of the applicant;

(iv) state whether the applicant has previously been licensed to drive a motor vehicle and, if so, when and by what state or country;

(v) state whether the applicant has ever had any license suspended, cancelled, revoked, disqualified, or denied in the last 10 years, or whether the applicant has ever had any license application refused, and if so, the date of and reason for the suspension, cancellation, revocation, disqualification, denial, or refusal;

(vi) state whether the applicant intends to make an anatomical gift under Title 26, Chapter 28, Revised Uniform Anatomical Gift Act, in compliance with Subsection (15);

(vii) state whether the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry;

(viii) state whether the applicant is a veteran of the United States military, provide verification that the applicant was ~~[honorably discharged]~~ granted an honorable or general discharge from the United States ~~[military]~~ Armed Forces, and state whether the applicant does or does not authorize sharing the information with the state Department of Veterans' and Military Affairs;

(ix) provide all other information the division requires; and

(x) sign the application which signature may include an electronic signature as defined in Section 46-4-102.

(b) Each applicant shall have a Utah residence address, unless the application is for a temporary CDL issued under Subsection 53-3-407(2)(b).

(c) Each applicant shall provide evidence of lawful presence in the United States in accordance with Subsection (8)(a)(ii), unless the application is for a driving privilege card.

(d) The division shall maintain on its computerized records an applicant's:

(i) (A) Social Security number;

(B) temporary identification number (TTIN); or

(C) other number assigned by the division if Subsection (8)(a)(i)(D)(IV) applies; and

(ii) indication whether the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

(9) The division shall require proof of every applicant's name, birthdate, and birthplace by at least one of the following means:

(a) current license certificate;

(b) birth certificate;

(c) Selective Service registration; or

(d) other proof, including church records, family Bible notations, school records, or other evidence considered acceptable by the division.

(10) (a) Except as provided in Subsection (10)(c), if an applicant receives a license in a higher class than what the applicant originally was issued:

(i) the license application shall be treated as an original application; and

(ii) license and endorsement fees shall be assessed under Section 53-3-105.

(b) An applicant that receives a downgraded license in a lower license class during an existing license cycle that has not expired:

(i) may be issued a duplicate license with a lower license classification for the remainder of the existing license cycle; and

(ii) shall be assessed a duplicate license fee under Subsection 53-3-105(22) if a duplicate license is issued under Subsection (10)(b)(i).

(c) An applicant who has received a downgraded license in a lower license class under Subsection (10)(b):

(i) may, when eligible, receive a duplicate license in the highest class previously issued during a license cycle that has not expired for the remainder of the existing license cycle; and

(ii) shall be assessed a duplicate license fee under Subsection 53-3-105(22) if a duplicate license is issued under Subsection (10)(c)(i).

(11) (a) When an application is received from a person previously licensed in another state to drive a motor vehicle, the division shall request a copy of the driver's record from the other state.

(b) When received, the driver's record becomes part of the driver's record in this state with the same effect as though entered originally on the driver's record in this state.

(12) An application for reinstatement of a license after the suspension, cancellation, disqualification, denial, or revocation of a previous license shall be accompanied by the additional fee or fees specified in Section 53-3-105.

(13) A person who has an appointment with the division for testing and fails to keep the appointment or to cancel at least 48 hours in advance of the appointment shall pay the fee under Section 53-3-105.

(14) A person who applies for an original license or renewal of a license agrees that the person's license is subject to any suspension or revocation authorized under this title or Title 41, Motor Vehicles.

(15) (a) The indication of intent under Subsection (8)(a)(vi) shall be authenticated by the licensee in accordance with division rule.

(b) (i) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may, upon request, release to an organ procurement organization, as defined in Section 26-28-102, the names and addresses of all persons who under Subsection (8)(a)(vi) indicate that they intend to make an anatomical gift.

(ii) An organ procurement organization may use released information only to:

(A) obtain additional information for an anatomical gift registry; and

(B) inform licensees of anatomical gift options, procedures, and benefits.

(16) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may release to the Department of Veterans' and Military Affairs the names and addresses of all persons who indicate their status as a veteran under Subsection (8)(a)(viii).

(17) The division and its employees are not liable, as a result of false or inaccurate information provided under Subsection (8)(a)(vi) or (viii), for direct or indirect:

- (a) loss;
- (b) detriment; or
- (c) injury.

(18) A person who knowingly fails to provide the information required under Subsection (8)(a)(vii) is guilty of a class A misdemeanor.

(19) (a) Until December 1, 2014, a person born on or after December 1, 1964, may hold both an unexpired Utah license certificate and an unexpired Utah identification card.

(b) On or after December 1, 2014, a person born on or after December 1, 1964:

(i) may not hold both an unexpired Utah license certificate and an unexpired identification card; and

(ii) if the person has both an unexpired Utah license certificate and an unexpired Utah identification card in the person's possession, shall be required to surrender either the unexpired Utah license certificate or the unexpired Utah identification card.

(c) If a person has not surrendered either the Utah license certificate or the Utah identification card as required under this Subsection (19), the division shall cancel the Utah identification card on December 1, 2014.

(20) (a) Until December 1, 2017, a person born prior to December 1, 1964, may hold both an unexpired Utah license certificate and an unexpired Utah identification card.

(b) On or after December 1, 2017, a person born prior to December 1, 1964:

(i) may not hold both an unexpired Utah license certificate and an unexpired identification card; and

(ii) if the person has both an unexpired Utah license certificate and an unexpired Utah identification card in the person's possession, shall be required to surrender either the unexpired Utah license certificate or the unexpired Utah identification card.

(c) If a person has not surrendered either the Utah license certificate or the Utah identification card as required under this Subsection (20), the division shall cancel the Utah identification card on December 1, 2017.

(21) (a) A person who applies for an original motorcycle endorsement to a regular license certificate is exempt from the requirement to pass the knowledge and skills test to be eligible for the motorcycle endorsement if the person:

- (i) is a resident of the state of Utah;
- (ii) (A) is ordered to active duty and stationed outside of Utah in any of the armed forces of the United States; or

(B) is an immediate family member or dependent of a person described in Subsection (21)(a)(ii)(A) and is residing outside of Utah;

(iii) has a digitized driver license photo on file with the division;

(iv) provides proof to the division of the successful completion of a certified Motorcycle Safety Foundation rider training course; and

(v) provides the necessary information and documentary evidence required under Subsection (8).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules:

(i) establishing the procedures for a person to obtain a motorcycle endorsement under this Subsection (21); and

(ii) identifying the applicable restrictions for a motorcycle endorsement issued under this Subsection (21).

Section 3. Section 53-3-207 is amended to read:

53-3-207. License certificates or driving privilege cards issued to drivers by class of motor vehicle -- Contents -- Release of anatomical gift information -- Temporary licenses or driving privilege cards -- Minors' licenses, cards, and permits -- Violation.

(1) As used in this section:

(a) "driving privilege" means the privilege granted under this chapter to drive a motor vehicle;

(b) "governmental entity" means the state and its political subdivisions as defined in this Subsection (1);

(c) "political subdivision" means any county, city, town, school district, public transit district, community development and renewal agency, special improvement or taxing district, local district, special service district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, or other governmental subdivision or public corporation; and

(d) "state" means this state, and includes any office, department, agency, authority, commission, board, institution, hospital, college, university, children's justice center, or other instrumentality of the state.

(2) (a) The division shall issue to every person privileged to drive a motor vehicle, a regular license certificate, a limited-term license certificate, or a driving privilege card indicating the type or class of motor vehicle the person may drive.

(b) A person may not drive a class of motor vehicle unless granted the privilege in that class.

(3) (a) Every regular license certificate, limited-term license certificate, or driving privilege card shall bear:

(i) the distinguishing number assigned to the person by the division;

(ii) the name, birth date, and Utah residence address of the person;

(iii) a brief description of the person for the purpose of identification;

(iv) any restrictions imposed on the license under Section 53-3-208;

(v) a photograph of the person;

(vi) a photograph or other facsimile of the person's signature;

(vii) an indication whether the person intends to make an anatomical gift under Title 26, Chapter 28, Revised Uniform Anatomical Gift Act, unless the driving privilege is extended under Subsection 53-3-214(3); and

(viii) except as provided in Subsection (3)(b), if the person states that the person is a veteran of the United States military on the application for a driver license in accordance with Section 53-3-205 and provides verification that the person was ~~honorably discharged~~ granted an honorable or general discharge from the United States ~~military~~ Armed Forces, an indication that the person is a United States military veteran for a regular license certificate or limited-term license certificate issued on or after July 1, 2011.

(b) A regular license certificate or limited-term license certificate issued to any person younger than 21 years on a portrait-style format as required in Subsection (5)(b)(i) is not required to include an indication that the person is a United States military veteran under Subsection (3)(a)(viii).

(c) A new license certificate issued by the division may not bear the person's Social Security number.

(d) (i) The regular license certificate, limited-term license certificate, or driving privilege card shall be of an impervious material, resistant to wear, damage, and alteration.

(ii) Except as provided under Subsection (4)(b), the size, form, and color of the regular license certificate, limited-term license certificate, or driving privilege card shall be as prescribed by the commissioner.

(iii) The commissioner may also prescribe the issuance of a special type of limited regular license certificate, limited-term license certificate, or driving privilege card under Subsection 53-3-220(4).

(4) (a) (i) The division, upon determining after an examination that an applicant is mentally and physically qualified to be granted a driving privilege, may issue to an applicant a receipt for the fee if the applicant is eligible for a regular license certificate or limited-term license certificate.

(ii) (A) The division shall issue a temporary regular license certificate or temporary limited-term license certificate allowing the person to drive a motor vehicle while the division is

completing its investigation to determine whether the person is entitled to be granted a driving privilege.

(B) A temporary regular license certificate or a temporary limited-term license certificate issued under this Subsection (4) shall be recognized and have the same rights and privileges as a regular license certificate or a limited-term license certificate.

(b) The temporary regular license certificate or temporary limited-term license certificate shall be in the person's immediate possession while driving a motor vehicle, and it is invalid when the person's regular license certificate or limited-term license certificate has been issued or when, for good cause, the privilege has been refused.

(c) The division shall indicate on the temporary regular license certificate or temporary limited-term license certificate a date after which it is not valid as a temporary license.

(d) (i) Except as provided in Subsection (4)(d)(ii), the division may not issue a temporary driving privilege card or other temporary permit to an applicant for a driving privilege card.

(ii) The division may issue a learner permit issued in accordance with Section 53-3-210.5 to an applicant for a driving privilege card.

(5) (a) The division shall distinguish learner permits, temporary permits, regular license certificates, limited-term license certificates, and driving privilege cards issued to any person younger than 21 years of age by use of plainly printed information or the use of a color or other means not used for other regular license certificates, limited-term license certificates, or driving privilege cards.

(b) The division shall distinguish a regular license certificate, limited-term license certificate, or driving privilege card issued to any person:

(i) younger than 21 years of age by use of a portrait-style format not used for other regular license certificates, limited-term license certificates, or driving privilege cards and by plainly printing the date the regular license certificate, limited-term license certificate, or driving privilege card holder is 21 years of age, which is the legal age for purchasing an alcoholic beverage or alcoholic product under Section 32B-4-403; and

(ii) younger than 19 years of age, by plainly printing the date the regular license certificate, limited-term license certificate, or driving privilege card holder is 19 years of age, which is the legal age for purchasing tobacco products under Section 76-10-104.

(6) The division shall distinguish a limited-term license certificate by clearly indicating on the document:

- (a) that it is temporary; and
- (b) its expiration date.

(7) (a) The division shall only issue a driving privilege card to a person whose privilege was

obtained without providing evidence of lawful presence in the United States as required under Subsection 53-3-205(8).

(b) The division shall distinguish a driving privilege card from a license certificate by:

(i) use of a format, color, font, or other means; and

(ii) clearly displaying on the front of the driving privilege card a phrase substantially similar to "FOR DRIVING PRIVILEGES ONLY -- NOT VALID FOR IDENTIFICATION".

(8) The provisions of Subsection (5)(b) do not apply to a learner permit, temporary permit, temporary regular license certificate, temporary limited-term license certificate, or any other temporary permit.

(9) The division shall issue temporary license certificates of the same nature, except as to duration, as the license certificates that they temporarily replace, as are necessary to implement applicable provisions of this section and Section 53-3-223.

(10) (a) A governmental entity may not accept a driving privilege card as proof of personal identification.

(b) A driving privilege card may not be used as a document providing proof of a person's age for any government required purpose.

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

(12) Unless otherwise provided, the provisions, requirements, classes, endorsements, fees, restrictions, and sanctions under this code apply to a:

(a) driving privilege in the same way as a license or limited-term license issued under this chapter; and

(b) limited-term license certificate or driving privilege card in the same way as a regular license certificate issued under this chapter.

Section 4. Section 53-3-407 is amended to read:

53-3-407. Qualifications for commercial driver license -- Fee -- Third parties may administer skills test.

(1) (a) As used in this section, "CDL driver training school" means a business enterprise conducted by an individual, association, partnership, or corporation that:

(i) educates and trains persons, either practically or theoretically, or both, to drive commercial motor vehicles; and

(ii) prepares an applicant for an examination under Subsection (2)(a)(ii) or (2)(b)(i)(B).

(b) A CDL driver training school may charge a consideration or tuition for the services provided under Subsection (1)(a).

(2) (a) Except as provided in Subsection (2)(b) and (c), a CDL may be issued only to a person who:

(i) is a resident of this state;

(ii) has passed a test of knowledge and skills for driving a commercial motor vehicle, that complies with minimum standards established by federal regulation in 49 C.F.R. Part 383, Subparts G and H; and

(iii) has complied with all requirements of 49 C.F.R. Part 383 and other applicable state laws and federal regulations.

(b) (i) A temporary CDL may be issued to a person who:

(A) is enrolled in a CDL driver training school located in Utah;

(B) has passed a test of knowledge and skills for driving a commercial motor vehicle, that complies with minimum standards established by federal regulation in 49 C.F.R. Part 383, Subparts G and H; and

(C) has complied with all requirements of 49 C.F.R. Part 383, Subparts G and H.

(ii) A temporary CDL issued under this Subsection (2)(b):

(A) is valid for 60 days; and

(B) may not be renewed or extended.

(iii) Except as provided in this section and Subsections 53-3-204(1)(a)(v), 53-3-205(8)(a)(i)(E) and (8)(b), and 53-3-410(1)(c), the provisions, requirements, classes, endorsements, fees, restrictions, and sanctions under this code apply to a temporary CDL issued under this Subsection (2)(b) in the same way as a commercial driver license issued under this part.

(c) The department shall waive the skills test specified in this section for a commercial driver license applicant who, subject to the limitations and requirements of 49 C.F.R. Sec. 383.77, meets all certifications required for a waiver under 49 C.F.R. Sec. 383.77 and certifies that the applicant:

(i) is a member of the active or reserve components of any branch or unit of the armed forces or a veteran who received an honorable or general discharge from any branch or unit of the active or reserve components of the United States Armed Forces;

(ii) is or was regularly employed in a position in the armed forces requiring operation of a commercial motor vehicle; and

(iii) has legally operated, while on active duty for at least two years immediately preceding application for a commercial driver license, a vehicle representative of the commercial motor vehicle the driver applicant operates or expects to operate.

(d) An applicant who requests a waiver under Subsection (2)(c) shall present a completed application for a military skills test waiver at the time of the request.

(3) Tests required under this section shall be prescribed and administered by the division.

(4) The division shall authorize a person, an agency of this state, an employer, a private driver training facility or other private institution, or a department, agency, or entity of local government to administer the skills test required under this section if:

(a) the test is the same test as prescribed by the division, and is administered in the same manner; and

(b) the party authorized under this section to administer the test has entered into an agreement with the state that complies with the requirements of 49 C.F.R. Sec. 383.75.

(5) A person who has an appointment with the division for testing and fails to keep the appointment or to cancel at least 48 hours in advance of the appointment shall pay the fee under Section 53-3-105.

(6) A person authorized under this section to administer the skills test is not criminally or civilly liable for the administration of the test unless he administers the test in a grossly negligent manner.

(7) The division may waive the skills test required under this section if it determines that the applicant meets the requirements of 49 C.F.R. Sec. 383.77.

Section 5. Section 53-3-804 is amended to read:

53-3-804. Application for identification card -- Required information -- Release of anatomical gift information -- Cancellation of identification card.

(1) To apply for an identification card or limited-term identification card, the applicant shall:

- (a) be a Utah resident;
- (b) have a Utah residence address; and
- (c) appear in person at any license examining station.

(2) The applicant shall provide the following information to the division:

(a) true and full legal name and Utah residence address;

(b) date of birth as set forth in a certified copy of the applicant's birth certificate, or other satisfactory evidence of birth, which shall be attached to the application;

- (c) (i) Social Security number; or
- (ii) written proof that the applicant is ineligible to receive a Social Security number;
- (d) place of birth;
- (e) height and weight;

(f) color of eyes and hair;

(g) signature;

(h) photograph;

(i) evidence of the applicant's lawful presence in the United States by providing documentary evidence:

(i) that a person is:

(A) a United States citizen;

(B) a United States national; or

(C) a legal permanent resident alien; or

(ii) of the applicant's:

(A) unexpired immigrant or nonimmigrant visa status for admission into the United States;

(B) pending or approved application for asylum in the United States;

(C) admission into the United States as a refugee;

(D) pending or approved application for temporary protected status in the United States;

(E) approved deferred action status;

(F) pending application for adjustment of status to legal permanent resident or conditional resident; or

(G) conditional permanent resident alien status;

(j) an indication whether the applicant intends to make an anatomical gift under Title 26, Chapter 28, Revised Uniform Anatomical Gift Act;

(k) an indication whether the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry; and

(l) an indication whether the applicant is a veteran of the United States [~~military~~] Armed Forces, verification that the applicant has [~~been honorably discharged~~] received an honorable or general discharge from the United States [~~military~~] Armed Forces, and an indication whether the applicant does or does not authorize sharing the information with the state Department of Veterans' and Military Affairs.

(3) The requirements of Section 53-3-234 apply to this section for each person, age 16 and older, applying for an identification card. Refusal to consent to the release of information shall result in the denial of the identification card.

(4) A person who knowingly fails to provide the information required under Subsection (2)(k) is guilty of a class A misdemeanor.

(5) (a) Until December 1, 2014, a person born on or after December 1, 1964, may hold both an unexpired Utah license certificate and an unexpired Utah identification card.

(b) On or after December 1, 2014, a person born on or after December 1, 1964:

(i) may not hold both an unexpired Utah license certificate and an unexpired identification card; and

(ii) if the person has both an unexpired Utah license certificate and an unexpired Utah identification card in the person's possession, shall be required to surrender either the unexpired Utah license certificate or the unexpired Utah identification card.

(c) If a person has not surrendered either the Utah license certificate or the Utah identification card as required under this Subsection (5), the division shall cancel the Utah identification card on December 1, 2014.

(6) (a) Until December 1, 2017, a person born prior to December 1, 1964, may hold both an unexpired Utah license certificate and an unexpired Utah identification card.

(b) On or after December 1, 2017, a person born prior to December 1, 1964:

(i) may not hold both an unexpired Utah license certificate and an unexpired identification card; and

(ii) if the person has both an unexpired Utah license certificate and an unexpired Utah identification card in the person's possession, shall be required to surrender either the unexpired Utah license certificate or the unexpired Utah identification card.

(c) If a person has not surrendered either the Utah license certificate or the Utah identification card as required under this Subsection (6), the division shall cancel the Utah identification card on December 1, 2017.

Section 6. Section 53-3-805 is amended to read:

53-3-805. Identification card -- Contents -- Specifications.

(1) (a) The division shall issue an identification card that bears:

(i) the distinguishing number assigned to the person by the division;

(ii) the name, birth date, and Utah residence address of the person;

(iii) a brief description of the person for the purpose of identification;

(iv) a photograph of the person;

(v) a photograph or other facsimile of the person's signature;

(vi) an indication whether the person intends to make an anatomical gift under Title 26, Chapter 28, Revised Uniform Anatomical Gift Act; and

(vii) if the person states that the person is a veteran of the United States military on the application for an identification card in accordance with Section 53-3-804 and provides verification that the person ~~[was honorably discharged]~~

received an honorable or general discharge from the United States ~~[military]~~ Armed Forces, an indication that the person is a United States military veteran for a regular identification card or a limited-term identification card issued on or after July 1, 2011.

(b) An identification card issued by the division may not bear the person's Social Security number or place of birth.

(2) (a) The card shall be of an impervious material, resistant to wear, damage, and alteration.

(b) Except as provided under Section 53-3-806, the size, form, and color of the card is prescribed by the commissioner.

(3) At the applicant's request, the card may include a statement that the applicant has a special medical problem or allergies to certain drugs, for the purpose of medical treatment.

(4) (a) The indication of intent under Subsection 53-3-804(2)(j) shall be authenticated by the applicant in accordance with division rule.

(b) (i) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may, upon request, release to an organ procurement organization, as defined in Section 26-28-102, the names and addresses of all persons who under Subsection 53-3-804(2)(j) indicate that they intend to make an anatomical gift.

(ii) An organ procurement organization may use released information only to:

(A) obtain additional information for an anatomical gift registry; and

(B) inform applicants of anatomical gift options, procedures, and benefits.

(5) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may release to the Department of Veterans' and Military Affairs the names and addresses of all persons who indicate their status as a veteran under Subsection 53-3-804(2)(1).

(6) The division and its employees are not liable, as a result of false or inaccurate information provided under Subsection 53-3-804(2)(j) or (l), for direct or indirect:

(a) loss;

(b) detriment; or

(c) injury.

(7) (a) The division may issue a temporary regular identification card to a person while the person obtains the required documentation to establish verification of the information described in Subsections 53-3-804(2)(a), (b), (c), (d), and (i)(i).

(b) A temporary regular identification card issued under this Subsection (7) shall be recognized and grant the person the same privileges as a regular identification card.

(c) A temporary regular identification card issued under this Subsection (7) is invalid:

(i) when the person's regular identification card has been issued;

(ii) when, for good cause, an applicant's application for an identification card has been refused; or

(iii) upon expiration of the temporary regular identification card.

Section 7. Section 59-2-1104 is amended to read:

59-2-1104. Definitions -- Armed Forces exemption -- Amount of Armed Forces exemption.

(1) As used in this section and Section 59-2-1105:

(a) "Active component of the United States Armed Forces" is as defined in Section 59-10-1027.

(b) "Adjusted taxable value limit" means:

(i) for the year 2005, \$200,000; and

(ii) for each year after 2005, the amount of the adjusted taxable value limit for the previous year, plus an amount calculated by multiplying the amount of the adjusted taxable value limit for the previous year by the actual percent change in the Consumer Price Index during the previous calendar year.

(c) "Claimant" means:

(i) a veteran with a disability who files an application under Section 59-2-1105 for a veteran's exemption;

(ii) the unmarried surviving spouse:

(A) of a:

(I) deceased veteran with a disability; or

(II) veteran who was killed in action or died in the line of duty; and

(B) who files an application under Section 59-2-1105 for a veteran's exemption;

(iii) a minor orphan:

(A) of a:

(I) deceased veteran with a disability; or

(II) veteran who was killed in action or died in the line of duty; and

(B) who files an application under Section 59-2-1105 for a veteran's exemption; or

(iv) a member of an active component of the United States Armed Forces or a reserve component of the United States Armed Forces who performed qualifying active duty military service.

(d) "Consumer price index" is as described in Section 1(f)(4), Internal Revenue Code, and defined in Section 1(f)(5), Internal Revenue Code.

(e) "Deceased veteran with a disability" means a deceased person who was a veteran with a disability at the time the person died.

(f) "Military entity" means:

(i) the federal Department of Veterans Affairs;

(ii) an active component of the United States Armed Forces; or

(iii) a reserve component of the United States Armed Forces.

(g) "Qualifying active duty military service" means:

(i) at least 200 days in a calendar year, regardless of whether consecutive, of active duty military service outside the state in an active component of the United States Armed Forces or a reserve component of the United States Armed Forces; or

(ii) the completion of at least 200 consecutive days of active duty military service outside the state:

(A) in an active component of the United States Armed Forces or a reserve component of the United States Armed Forces; and

(B) that began in the prior year, if those days of active duty military service outside the state in the prior year were not counted as qualifying active duty military service for purposes of this section or Section 59-2-1105 in the prior year.

(h) "Reserve component of the United States Armed Forces" is as defined in Section 59-10-1027.

(i) "Residence" is as defined in Section 59-2-1202, except that a rented dwelling is not considered to be a residence.

(j) "Veteran who was killed in action or died in the line of duty" means a person who was killed in action or died in the line of duty in an active component of the United States Armed Forces or a reserve component of the United States Armed Forces, regardless of whether that person had a disability at the time that person was killed in action or died in the line of duty.

(k) "Veteran with a disability" means a person with a disability who, during military training or a military conflict, acquired a disability in the line of duty in an active component of the United States Armed Forces or a reserve component of the United States Armed Forces.

(l) "Veteran's exemption" means a property tax exemption provided for in Subsection (2).

(2) (a) The amount of taxable value of the property described in Subsection (2)(b) is exempt from taxation as calculated under Subsections (2)(c) through (e) if the property described in Subsection (2)(b) is owned by:

(i) a veteran with a disability;

(ii) the unmarried surviving spouse or a minor orphan of a:

(A) deceased veteran with a disability; or

(B) veteran who was killed in action or died in the line of duty; or

(iii) a member of an active component of the United States Armed Forces or a reserve component of the United States Armed Forces who performed qualifying active duty military service.

(b) Subsection (2)(a) applies to the following property:

(i) the claimant's primary residence;

(ii) for a claimant described in Subsection (2)(a)(i) or (ii), tangible personal property that:

(A) is held exclusively for personal use; and

(B) is not used in a trade or business; or

(iii) for a claimant described in Subsection (2)(a)(i) or (ii), a combination of Subsections (2)(b)(i) and (ii).

(c) Except as provided in Subsection (2)(d) or (e), the amount of taxable value of property described in Subsection (2)(b) that is exempt under Subsection (2)(a) is:

(i) as described in Subsection (2)(f), if the property is owned by:

(A) a veteran with a disability;

(B) the unmarried surviving spouse of a deceased veteran with a disability; or

(C) a minor orphan of a deceased veteran with a disability; or

(ii) equal to the total taxable value of the claimant's property described in Subsection (2)(b) if the property is owned by:

(A) the unmarried surviving spouse of a veteran who was killed in action or died in the line of duty;

(B) a minor orphan of a veteran who was killed in action or died in the line of duty; or

(C) a member of an active component of the United States Armed Forces or a reserve component of the United States Armed Forces who performed qualifying active duty military service.

(d) (i) Notwithstanding Subsection (2)(c)(i) and subject to Subsection (2)(d)(ii), a veteran's exemption except for a claimant described in Subsection (2)(a)(iii) may not be allowed under this Subsection (2) if the percentage of disability listed on the certificate described in Subsection 59-2-1105(3)(a) is less than 10%.

(ii) A veteran with a disability is considered to have a 100% disability, regardless of the percentage of disability listed on a certificate described in Subsection 59-2-1105(3)(a), if the United States Department of Veterans Affairs certifies the veteran in the classification of individual unemployability.

(e) Notwithstanding Subsection (2)(c)(i), a claimant who is the unmarried surviving spouse or minor orphan of a deceased veteran with a disability may claim an exemption for the total value of the property described in Subsection (2)(b) if:

(i) the deceased veteran with a disability served in the military service of the United States or the state prior to January 1, 1921; and

(ii) the percentage of disability listed on the certificate described in Subsection 59-2-1105(3)(a) for the deceased veteran with a disability is 10% or more.

(f) Except as provided in Subsection (2)(g), the amount of the taxable value of the property described in Subsection (2)(b) that is exempt under Subsection (2)(c)(i) is equal to the percentage of disability listed on the certificate described in Subsection 59-2-1105(3)(a) multiplied by the adjusted taxable value limit.

(g) Notwithstanding Subsection (2)(f), the amount of the taxable value of the property described in Subsection (2)(b) that is exempt under Subsection (2)(c)(i) may not be greater than the taxable value of the property described in Subsection (2)(b).

(h) For purposes of this section and Section 59-2-1105, a person who ~~is honorably discharged~~ received an honorable or general discharge from military service of an active component of the United States Armed Forces or a reserve component of the United States Armed Forces:

(i) is presumed to be a citizen of the United States; and

(ii) may not be required to provide additional proof of citizenship to establish that the person is a citizen of the United States.

(3) The Department of Veterans' and Military Affairs created in Section 71-8-2 shall, through an informal hearing held in accordance with Title 63G, Chapter 4, Administrative Procedures Act, resolve each dispute arising under this section concerning a veteran's status as a veteran with a disability.

Section 8. Section 71-8-1 is amended to read:

71-8-1. Definitions.

As used in this chapter:

(1) "Contractor" means a person who is or may be awarded a government entity contract.

(2) "Council" means the Veterans' Advisory Council.

(3) "Department" means the Department of Veterans' and Military Affairs.

(4) "Executive director" means the executive director of the Department of Veterans' Affairs.

(5) "Government entity" means the state and any county, municipality, local district, special service district, and any other political subdivision or administrative unit of the state, including state institutions of education.

(6) "Specialist" means a full-time employee of a government entity who is tasked with responding to, and assisting, veterans who are employed by the entity or come to the entity for assistance.

(7) "Veteran" means:

(a) an individual who has served on active duty in the armed forces for at least 180 consecutive days or

was a member of a reserve component, and who has been separated or retired under honorable or general conditions; or

(b) any individual incurring an actual service-related injury or disability in the line of duty whether or not that person completed 180 days of active duty.

CHAPTER 86**H. B. 275**

Passed February 24, 2014

Approved March 28, 2014

Effective March 28, 2014

VIETNAM VETERANS RECOGNITION DAY

Chief Sponsor: Curtis Oda

Senate Sponsor: Peter C. Knudson

Cosponsors: Brad L. Dee

Don L. Ipson

Jacob L. Anderegg

Johnny Anderson

Patrice M. Arent

Roger E. Barrer

Jim Bird

LaVar Christensen

Rebecca P. Edwards

Janice M. Fisher

Brian M. Greene

Richard A. Greenwood

Keith Grover

Stephen G. Handy

Michael S. Kennedy

John Knotwell

Dana L. Layton

John G. Mathis

Mike K. McKell

Ronda Rudd Menlove

Jim Nielson

Michael E. Noel

Lee B. Perry

Jeremy A. Peterson

Marie H. Poulson

Paul Ray

Marc K. Roberts

Douglas V. Sagers

V. Lowry Snow

Jon E. Stanard

Keven J. Stratton

LONG TITLE**General Description:**

This bill declares a day to be remembered as the Vietnam Veterans Recognition Day.

Highlighted Provisions:

This bill:

- ▶ designates March 29 as Vietnam Veterans Recognition Day.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.

Utah Code Sections Affected:**AMENDS:**

63G-1-401, as last amended by Laws of Utah 2013, Chapter 214

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

Section 1. Section 63G-1-401 is amended to read:**63G-1-401. Commemorative periods.**

(1) The following days shall be commemorated yearly:

(a) Bill of Rights Day, on December 15;

(b) Constitution Day, on September 17;

(c) Yellow Ribbon Day, on the third Monday in May, in honor of men and women who are serving or have served in the U.S. armed forces around the world in defense of freedom;

(d) POW/MIA Recognition Day, on the third Friday in September;

(e) Indigenous People Day, the Monday immediately preceding Thanksgiving; ~~and~~

(f) Utah State Flag Day, on March 9[-]; and

(g) Vietnam Veterans Recognition Day, on March 29.

(2) The Department of Veterans' and Military Affairs shall coordinate activities, special programs, and promotional information to heighten public awareness and involvement relating to Subsections (1)(c) and (d).

(3) The month of October shall be commemorated yearly as Italian-American Heritage Month.

(4) The month of November shall be commemorated yearly as American Indian Heritage Month.

(5) The month of April shall be commemorated yearly as Clean Out the Medicine Cabinet Month to recognize the urgent need to make Utah homes and neighborhoods safe from prescription medication abuse and poisonings by the proper home storage and disposal of prescription and over-the-counter medications, and to educate citizens about the permanent medication disposal sites in Utah listed on useonlyasdirected.org that allow disposal throughout the year.

(6) The first full week of May shall be commemorated yearly as State Water Week to recognize the importance of water conservation, quality, and supply in the state.

(7) The second Friday and Saturday in August shall be commemorated yearly as Utah Fallen Heroes Days to:

(a) honor fallen heroes who, during service in the military or public safety, have sacrificed their lives to protect the country and the citizens of the state; and

(b) encourage political subdivisions to acknowledge and honor fallen heroes.

Section 2. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 87**S. B. 16**

Passed March 13, 2014
 Approved March 28, 2014
 Effective July 1, 2014

VETERANS TUITION GAP COVERAGE

Chief Sponsor: Luz Robles
 House Sponsor: Curtis Oda

LONG TITLE**General Description:**

This bill provides grants to qualifying military veterans who have maximized certain federal benefits.

Highlighted Provisions:

This bill:

- ▶ creates the Veterans Tuition Gap Program, which provides recipients of federal Post-9/11 Veterans Educational Assistance Act benefits with additional grants to complete a bachelor's degree at certain institutions of higher education when federal benefits have been maximized;
- ▶ directs the State Board of Regents to:
 - develop policies to implement and administer the program, within statutory guidelines; and
 - distribute the program money to institutions of higher education; and
- ▶ establishes time limits that qualified military veterans may receive program grants.

Monies Appropriated in this Bill:

This bill appropriates:

- ▶ to the State Board of Regents - Student Assistance, as an ongoing appropriation:
 - from the General Fund, \$125,000, which is nonlapsing for fiscal year 2014-15; and
- ▶ to the State Board of Regents - Student Assistance, as a one-time appropriation:
 - from the General Fund, \$75,000, which is nonlapsing for fiscal year 2014-15.

Other Special Clauses:

This bill takes effect on July 1, 2014.

Utah Code Sections Affected:**ENACTS:**

53B-13b-101, Utah Code Annotated 1953
 53B-13b-102, Utah Code Annotated 1953
 53B-13b-103, Utah Code Annotated 1953
 53B-13b-104, Utah Code Annotated 1953

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

Section 1. Section 53B-13b-101 is enacted to read:**CHAPTER 13b. VETERANS TUITION GAP PROGRAM ACT****53B-13b-101. Title.**

This chapter is known as the "Veterans Tuition Gap Program Act."

Section 2. Section 53B-13b-102 is enacted to read:**53B-13b-102. Definitions.**

As used in this chapter:

(1) "Federal program" means the Post-9/11 Veterans Educational Assistance Act of 2008, Pub. L. No. 110-252.

(2) "Institution of higher education" or "institution" means a:

(a) credit-granting higher education institution within the state system of higher education; or

(b) an institution of higher learning, as defined in the federal program, that is located in the state.

(3) "Program" means the Veterans Tuition Gap Program created in this chapter.

(4) (a) "Qualifying military veteran" means an individual who:

(i) is a resident student under Section 53B-8-102 and rules of the board;

(ii) is accepted into an institution and enrolled in a program leading to a bachelor's degree;

(iii) has qualified for the federal program;

(iv) has maximized the federal benefit under the federal program; and

(v) has not completed a bachelor's degree.

(b) "Qualifying military veteran" does not include a family member.

Section 3. Section 53B-13b-103 is enacted to read:**53B-13b-103. Establishment of the Veterans Tuition Gap Program.**

There is established a Veterans Tuition Gap Program to serve qualifying military veterans with tuition assistance at institutions of higher education when federal benefits under the federal program are no longer available and a qualifying military veteran has not finished a bachelor's degree.

Section 4. Section 53B-13b-104 is enacted to read:**53B-13b-104. Guidelines for administration of the program.**

(1) The board shall use the guidelines in this section to develop policies to implement and administer the program.

(2) (a) The board shall allocate money appropriated for the program to institutions to provide grants for qualifying military veterans.

(b) The board may not use program money for administrative costs or overhead.

(c) An institution may not use more than 3% of its program money for administrative costs or overhead.

(d) Money returned to the board under Subsection (3)(b) shall be used for future allocations to institutions.

(3) (a) An institution shall award a program grant to a qualifying military veteran on an annual basis but distribute the money one quarter or semester at a time, with continuing awards contingent upon the qualifying military veteran maintaining satisfactory academic progress as defined by the institution in published policies or rules.

(b) At the conclusion of the academic year, money distributed to an institution that was not awarded to a qualifying military veteran or used for allowed administrative purposes shall be returned to the board.

(4) A qualifying military veteran may receive a program grant until the earlier of the following occurs:

(a) the qualifying military veteran completes the requirements for a bachelor's degree; or

(b) 12 months from the time that the qualifying military veteran receives an initial program grant.

(5) A qualifying military veteran who receives a program grant may only use the grant toward tuition at an institution of higher education in the state.

(6) The board may accept grants, gifts, bequests, and devises of real and personal property from any source for the purpose of awarding grants to qualifying military veterans in addition to those funded by the state.

Section 5. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2014, and ending June 30, 2015, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2015.

<u>To State Board of Regents - Student Assistance</u>	
<u>From General Fund</u>	<u>\$125,000</u>

<u>From General Fund, one-time</u>	<u>\$75,000</u>
------------------------------------	-----------------

Schedule of Programs

<u>Veterans Tuition Gap Program</u>	<u>\$200,000</u>
-------------------------------------	------------------

The Legislature intends that:

(1) under Section 63J-1-603 of the Utah Code, appropriations under this section not lapse at the close of fiscal year 2015; and

(2) the use of any nonlapsing funds is limited to the Veterans Tuition Gap Program.

Section 6. Effective date.

This bill takes effect on July 1, 2014.

CHAPTER 88**S. B. 68**

Passed March 11, 2014
 Approved March 28, 2014
 Effective May 13, 2014

VETERANS CENTERS

Chief Sponsor: Peter C. Knudson
 House Sponsor: Paul Ray

LONG TITLE**General Description:**

This bill directs the State Board of Regents to conduct a study and develop a plan for providing veterans centers or veterans services at each state institution of higher education.

Highlighted Provisions:

This bill:

- ▶ requires the State Board of Regents to:
 - study the feasibility of providing a veterans center or veterans services at each state institution of higher education;
 - develop a plan for implementing the study of centers or services;
 - prepare a report of the study and plan with recommendations for implementation that include funding requirements; and
 - present the report to the Legislature.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53B-1-103, as last amended by Laws of Utah 2013, Chapter 465

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

Section 1. Section 53B-1-103 is amended to read:**53B-1-103. Establishment of State Board of Regents -- Powers and authority.**

(1) There is established a State Board of Regents.

(2) (a) Except as provided in Subsection (2)(b), the board is vested with the control, management, and supervision of the institutions of higher education designated in Section 53B-1-102 in a manner consistent with the policy and purpose of this title and the specific powers and responsibilities granted to it.

(b) The board may only exercise powers relating to the Utah College of Applied Technology and its college campuses that are specifically provided in this title.

(c) The board shall coordinate and support articulation agreements between the Utah College of Applied Technology and other institutions of higher education.

(d) The board shall prepare and submit an annual report detailing its progress and recommendations on career and technical education issues to the governor and to the Legislature's Education Interim Committee by October 31 of each year, which shall include information detailing:

(i) how the career and technical education needs of secondary students are being met by institutions of higher education other than the Utah College of Applied Technology, including what access secondary students have to programs offered by Salt Lake Community College's School of Applied Technology, Snow College, and Utah State University Eastern;

(ii) how the emphasis on high demand, high wage, and high skill jobs in business and industry is being provided;

(iii) performance outcomes, including:

(A) entered employment;

(B) job retention; and

(C) earnings; and

(iv) student tuition and fees.

(e) Except for the Utah College of Applied Technology, the board may modify the name of an institution under its control and management, as designated in Section 53B-1-102, to reflect the role and general course of study of the institution.

(f) The board may not conduct a feasibility study or perform another act relating to merging any of the following institutions with another institution of higher education:

(i) the Bridgerland Applied Technology College Campus;

(ii) the Ogden-Weber Applied Technology College Campus;

(iii) the Davis Applied Technology College Campus;

(iv) the Tooele Applied Technology College Campus;

(v) the Mountainland Applied Technology College Campus;

(vi) the Uintah Basin Applied Technology College Campus;

(vii) the Southwest Applied Technology College Campus; and

(viii) the Dixie Applied Technology College Campus.

(3) This section does not affect the power and authority vested in the State Board of Education to apply for, accept, and manage federal appropriations for the establishment and maintenance of career and technical education.

(4) The board shall conduct a study regarding the feasibility of providing a veterans' walk-in center or services at each state institution of higher education. The study shall include:

(a) an implementation plan for providing a walk-in center or services at each institution of higher education;

(b) criteria, based upon the size of the institution, to determine whether the institution should be required to provide a walk-in center or services;

(c) responsibilities of the walk-in center or services;

(d) a notification process about the walk-in center or services to veterans upon their application for admission;

(e) the possibility of staffing a veterans walk-in center or services with veterans, including through work-study positions to be filled by veterans;

(f) annual reports from each walk-in center and services to the board which includes summary information of veterans served; and

(g) funding requirements for a veterans walk-in center and services.

(5) Presentation of the study, including the implementation plan with funding and other recommendations, shall be made to a legislative committee, commission, or task force upon request no later than the October 2014 interim meeting.

CHAPTER 89**S. B. 79**

Passed March 12, 2014

Approved March 28, 2014

Effective July 1, 2015

(Exception clause in Section 15)

**UNIFORM REAL PROPERTY
ELECTRONIC RECORDING ACT**

Chief Sponsor: Lyle W. Hillyard

House Sponsor: V. Lowry Snow

LONG TITLE**General Description:**

This bill enacts provisions related to the Uniform Real Property Electronic Recording Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides for the validity of and recording of electronic documents;
- ▶ creates the Utah Electronic Recording Commission to establish electronic recording standards;
- ▶ requires a phased-in implementation by class of county; and
- ▶ authorizes a county recorder to collect an electronic recording surcharge to recover implementation costs.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an effective date.

Utah Code Sections Affected:**AMENDS:**

17-21-1, as last amended by Laws of Utah 2008, Chapter 97

17-21-18.5, as last amended by Laws of Utah 2011, Chapter 345

17-21-20, as last amended by Laws of Utah 2011, Chapter 88

57-3-106, as last amended by Laws of Utah 2011, Chapter 88

ENACTS:

17-21a-101, Utah Code Annotated 1953

17-21a-102, Utah Code Annotated 1953

17-21a-201, Utah Code Annotated 1953

17-21a-202, Utah Code Annotated 1953

17-21a-203, Utah Code Annotated 1953

17-21a-301, Utah Code Annotated 1953

17-21a-302, Utah Code Annotated 1953

17-21a-401, Utah Code Annotated 1953

17-21a-402, Utah Code Annotated 1953

17-21a-403, Utah Code Annotated 1953

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

Section 1. Section 17-21-1 is amended to read:**17-21-1. Recorder -- Document custody responsibility -- Electronic submission procedures and guidelines.**

The county recorder:

(1) is custodian of all recorded documents and records required by law to be recorded;

(2) shall establish policies and procedures that the recorder considers necessary to protect recorded documents and records in the recorder's custody, including determining the appropriate method for the public to obtain copies of the public record under Section 17-21-19 and supervision of those who search and make copies of the public record; ~~and~~

(3) may establish procedures and guidelines to govern the electronic submission of plats, records, and other documents to the county recorder's office consistent with Title 46, Chapter 4, Uniform Electronic Transactions Act~~[-]~~, and Chapter 21a, Uniform Real Property Electronic Recording Act; and

(4) shall establish procedures to govern the electronic submission of plats, records, and other documents to the county recorder's office consistent with standards established under Chapter 21a, Uniform Real Property Electronic Recording Act, by:

(a) if in a county of the first or second class, July 1, 2016;

(b) if in a county of the third or fourth class, July 1, 2017; or

(c) if in a county of the fifth or sixth class, July 1, 2018.

Section 2. Section 17-21-18.5 is amended to read:**17-21-18.5. Fees of county recorder.**

(1) The county recorder shall receive the following fees:

(a) for recording any instrument, not otherwise provided for, other than bonds of public officers, \$10;

(b) for recording any instrument, including those provided for under Title 70A, Uniform Commercial Code, other than bonds of public officers, and not otherwise provided for, \$10 for the first page and \$2 for each additional page, and if an instrument contains more than one description, \$1 for each additional description;

(c) for recording a right-of-way connected with or appurtenant to any tract of land described in the instrument, \$1, but if the instrument contains a description of more than one right-of-way, \$1 for each additional right-of-way, and if an instrument contains more than two names for either the first or second party, or the plaintiffs or defendants, \$1 for each additional name;

(d) for recording mining location notices and affidavits of labor affecting mining claims, \$10 for the first page and \$2 for each additional page; and

(e) for a location notice, affidavit, or proof of labor which contains names of more than two signers, \$1 for each additional name, and for an affidavit or proof of labor which contains more than one mining claim, \$1 for each additional mining claim.

(2) (a) Each county recorder shall record the mining rules of the several mining districts in each county without fee.

(b) Certified copies of these records shall be received in all tribunals and before all officers of this state as prima facie evidence of the rules.

(3) The county recorder shall receive the following fees:

(a) for copies of any record or document, a reasonable fee as determined by the county legislative body;

(b) for each certificate under seal, \$5;

(c) for recording any plat, \$30 for each sheet and \$1 for each lot or unit designation;

(d) for taking and certifying acknowledgments, including seal, \$5 for one name and \$2 for each additional name;

(e) for recording any license issued by the Division of Occupational and Professional Licensing, \$10; and

(f) for recording a federal tax lien, \$10, and for the discharge of the lien, \$10.

(4) (a) For recording a document that is subject to and complies with the Real Estate Settlement and Procedure Act, 12 U.S.C. Sec. 2601 et seq. for a residential property constructed for at least one family but no more than four families, the county recorder shall receive:

(i) \$14 for each deed of conveyance;

(ii) \$40 for each deed of trust; and

(iii) \$14 for each assignment of a deed of trust when recorded concurrently with the assigned deed of trust.

(b) If a person submits for recording a document described in Subsection (4)(a), the person shall notify the county recorder by including the word "RESPA" in at least 16 point font on the front page of each document.

(c) A county recorder is not required to:

(i) refund a fee described in Subsection (4)(a); or

(ii) change a fee amount shown on a recorded document if the fee described in Subsection (4)(a) is not collected at the time of recording.

(d) A county recorder may examine a document recorded under this Subsection (4) for compliance with the Real Estate Settlement and Procedure Act, 12 U.S.C. Sec. 2601 et seq.

(5) In addition to any other fee that the county recorder is authorized to charge and collect, if a county recorder is required to comply with the standards established under Chapter 21a, Uniform Real Property Electronic Recording Act, the county recorder may charge and collect from a person who submits an electronic document, as defined in Section 17-21a-102, for recording, a surcharge that:

(a) is calculated to recover the additional costs of complying with Chapter 21a, Uniform Real Property Electronic Recording Act; and

(b) may not exceed 10% of the cost before the surcharge.

~~(5)~~ (6) The county may determine and collect a fee for all services not enumerated in this section.

~~(6)~~ (7) A county recorder may not be required to collect a fee for services that are unrelated to the county recorder's office.

Section 3. Section 17-21-20 is amended to read:

17-21-20. Recording required -- Recorder may impose requirements on documents to be recorded -- Prerequisites -- Additional fee for noncomplying documents -- Recorder may require tax serial number -- Exceptions -- Requirements for recording final local entity plat.

(1) Subject to Subsections (2), (3), and (4), each paper, notice, and instrument required by law to be recorded in the office of the county recorder shall be recorded unless otherwise provided.

(2) ~~[Each document executed on or after July 1, 2007;]~~ Subject to Chapter 21a, Uniform Real Property Electronic Recording Act, each document that is submitted for recording to a county recorder's office shall:

(a) unless otherwise provided by law, be an original or certified copy of the document;

(b) be in English or be accompanied by an accurate English translation of the document;

(c) contain a brief title, heading, or caption on the first page stating the nature of the document;

(d) except as otherwise provided by statute, contain the legal description of the property that is the subject of the document;

(e) comply with the requirements of Section 17-21-25 and Subsections 57-3-105(1) and (2);

(f) except as otherwise provided by statute, be notarized with the notary stamp with the seal legible; and

(g) have original signatures.

(3) (a) ~~[Beginning September 1, 2007]~~ Subject to Chapter 21a, Uniform Real Property Electronic Recording Act, a county recorder may require that each paper, notice, and instrument submitted for recording in the county recorder's office:

(i) be on white paper that is 8-1/2 inches by 11 inches in size;

(ii) have a margin of one inch on the left and right sides and at the bottom of each page;

(iii) have a space of 2-1/2 inches down and 4-1/2 inches across the upper right corner of the first page and a margin of one inch at the top of each succeeding page;

(iv) not be on sheets of paper that are continuously bound together at the side, top, or bottom;

(v) not contain printed material on more than one side of each page;

(vi) be printed in black ink and not have text smaller than seven lines of text per vertical inch; and

(vii) be sufficiently legible to make certified copies.

(b) A county recorder who intends to establish requirements under Subsection (3)(a) shall first:

(i) provide formal notice of the requirements; and

(ii) establish and publish an effective date for the requirements that is at least three months after the formal notice under Subsection (3)(b)(i).

(c) If a county recorder establishes requirements under this Subsection (3), the county recorder may charge and collect from persons who submit a document for recording that does not comply with the requirements, in addition to any other fee that the county recorder is authorized to charge and collect, a fee that:

(i) is calculated to recover the additional cost of handling and recording noncomplying documents; and

(ii) may not exceed \$2 per page.

(4) (a) To facilitate the abstracting of an instrument, a county recorder may require that the applicable tax serial number of each parcel described in the instrument be noted on the instrument before it may be accepted for recording.

(b) If a county recorder requires the applicable tax serial number to be on an instrument before it may be recorded:

(i) the county recorder shall post a notice of that requirement in a conspicuous place at the recorder's office;

(ii) the tax serial number may not be considered to be part of the legal description and may be indicated on the margin of the instrument; and

(iii) an error in the tax serial number does not affect the validity of the instrument or effectiveness of the recording.

(5) Subsections (2), (3), and (4) do not apply to:

(a) a map;

(b) a certificate or affidavit of death;

(c) a military discharge;

(d) a document regarding taxes that is issued by the Internal Revenue Service of the United States Department of the Treasury;

(e) a document submitted for recording that has been filed with a court and conforms to the formatting requirements established by the court; or

(f) a document submitted for recording that is in a form required by law.

(6) (a) As used in this Subsection (6):

(i) "Boundary action" has the same meaning as defined in Section 17-23-20.

(ii) "Local entity" has the same meaning as defined in Section 67-1a-6.5.

(b) A person may not submit to a county recorder for recording a plat depicting the boundary of a local entity as the boundary exists as a result of a boundary action, unless:

(i) the plat has been approved under Section 17-23-20 by the county surveyor as a final local entity plat, as defined in Section 17-23-20; and

(ii) the person also submits for recording:

(A) the original notice of an impending boundary action, as defined in Section 67-1a-6.5, for the boundary action for which the plat is submitted for recording;

(B) the original applicable certificate, as defined in Section 67-1a-6.5, issued by the lieutenant governor under Section 67-1a-6.5 for the boundary action for which the plat is submitted for recording; and

(C) each other document required by statute to be submitted for recording with the notice of an impending boundary action and applicable certificate.

(c) Promptly after recording the documents described in Subsection (6)(b) relating to a boundary action, but no later than 10 days after recording, the county recorder shall send a copy of all those documents to the State Tax Commission.

Section 4. Section 17-21a-101 is enacted to read:

CHAPTER 21a. UNIFORM REAL PROPERTY ELECTRONIC RECORDING ACT

Part 1. General Provisions

17-21a-101. Title.

(1) This chapter is known as the "Uniform Real Property Electronic Recording Act."

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

Section 5. Section 17-21a-102 is enacted to read:

17-21a-102. Definitions.

As used in this chapter:

(1) "Commission" means the Utah Electronic Recording Commission established in Section 17-21a-302.

(2) "Document" means information that is:

(a) inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form; and

(b) eligible to be recorded in the land records maintained by the county recorder.

(3) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(4) “Electronic document” means a document that is received by the county recorder in an electronic form.

(5) “Electronic signature” means an electronic sound, symbol, or process attached to or logically associated with a document and executed or adopted by a person with the intent to sign the document.

(6) “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(7) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

Section 6. Section 17-21a-201 is enacted to read:

Part 2. Electronic Documents

17-21a-201. Title.

This part is known as “Electronic Documents.”

Section 7. Section 17-21a-202 is enacted to read:

17-21a-202. Validity of electronic documents.

(1) If a law requires, as a condition for recording, that a document be an original, be on paper or another tangible medium, or be in writing, the requirement is satisfied by an electronic document satisfying this chapter.

(2) If a law requires, as a condition for recording, that a document be signed, the requirement is satisfied by an electronic signature.

(3) (a) A requirement that a document or a signature associated with a document be notarized, acknowledged, verified, witnessed, or made under oath is satisfied if the electronic signature of the person authorized to perform that act, and all other information required to be included, is attached to or logically associated with the document or signature.

(b) A physical or electronic image of a stamp, impression, or seal need not accompany an electronic signature.

Section 8. Section 17-21a-203 is enacted to read:

17-21a-203. Recording of documents.

(1) As used in this section, “paper document” means a document that is received by the county recorder in a form that is not electronic.

(2) A county recorder:

(a) who implements any of the functions listed in this section shall do so in compliance with standards established by the Utah Electronic Recording Commission created in Section 17-21a-301;

(b) may receive, index, store, archive, and transmit electronic documents;

(c) may provide for access to, and for search and retrieval of, documents and information by electronic means;

(d) who accepts electronic documents for recording shall continue to accept paper documents as authorized by state law and shall place entries for both types of documents in the same index;

(e) may convert paper documents accepted for recording into electronic form;

(f) may convert into electronic form information recorded before the county recorder began to record electronic documents;

(g) may accept electronically any fee that the county recorder is authorized to collect; and

(h) may agree with other officials of a state or a political subdivision thereof, or of the United States, on procedures or processes to facilitate the electronic satisfaction of prior approvals and conditions precedent to recording and the electronic payment of fees.

Section 9. Section 17-21a-301 is enacted to read:

Part 3. Administration and Standards

17-21a-301. Title.

This part is known as “Administration and Standards.”

Section 10. Section 17-21a-302 is enacted to read:

17-21a-302. Administration and standards.

(1) (a) (i) There is established the Utah Electronic Recording Commission consisting of six members.

(ii) The commission shall adopt standards to implement this chapter.

(b) (i) The governor shall appoint:

(A) four elected county recorders with no two appointees representing the same class of county; and

(B) one person practicing in the land title industry nominated by the Utah Land Title Association.

(ii) The term for each appointee is four years, except that the term for:

(A) the first two appointed county recorders is for two years; and

(B) the first appointed person practicing in the land title industry is for two years.

(c) The five members appointed by the governor shall select one elected county commissioner to serve as the sixth member of the commission for a four year term.

(d) (i) The members of the commission shall annually elect from its members a commission chair, vice chair, and secretary.

(ii) The members of the commission shall serve as its own staff to the commission.

(e) A member of the commission may designate another person to represent the member in voting and attendance of meetings.

(f) An action of the commission requires four affirmative votes.

(2) To keep the standards and practices of county recorders in this state in harmony with the standards and practices of recording offices in other jurisdictions that enact substantially this chapter, and to keep the technology used by county recorders in this state compatible with technology used by recording offices in other jurisdictions that enact substantially this chapter, the commission, so far as is consistent with the purposes, policies, and provisions of this chapter, in adopting, amending, and repealing standards, shall consider:

(a) standards and practices of other jurisdictions;

(b) the most recent standards promulgated by national standard-setting bodies, such as the Property Records Industry Association;

(c) the views of interested persons and governmental officials and entities;

(d) the needs of counties of varying size, population, and resources; and

(e) standards requiring adequate information security protection to ensure that electronic documents are accurate, authentic, adequately preserved, and resistant to tampering.

Section 11. Section 17-21a-401 is enacted to read:

Part 4. Relationship to Other Laws

17-21a-401. Title.

This part is known as "Relationship to Other Laws."

Section 12. Section 17-21a-402 is enacted to read:

17-21a-402. Uniformity of application and construction.

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Section 13. Section 17-21a-403 is enacted to read:

17-21a-403. Relation to Electronic Signatures in Global and National Commerce Act.

This chapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act (15 U.S.C. Sec. 7001, et

seq.) but does not modify, limit, or supersede Section 101(c) of that act (15 U.S.C. Sec. 7001(c)) or authorize electronic delivery of any of the notices described in Section 103(b) of that act (15 U.S.C. Sec. 7003(b)).

Section 14. Section 57-3-106 is amended to read:

57-3-106. Original documents required -- Captions -- Legibility.

(1) A person may not present and a county recorder may refuse to accept a document for recording if the document does not comply with this section.

(2) (a) Unless otherwise provided, a document presented for recording in the office of the county recorder shall:

(i) (A) be an original; or

(B) be an electronic document that satisfies the requirements under Title 17, Chapter 21a, Uniform Real Property Electronic Recording Act;

(ii) contain a brief caption on the first page of the document stating the nature of the document; and

(iii) contain a legal description of the property as required under Section 57-3-105.

(b) If a document is a master form, as defined in Section 57-3-201, the caption required by Subsection (2)(a)(ii) shall state that the document is a master form.

(3) A court judgment or an abstract of a court judgment presented for recording in the office of the county recorder in compliance with Section 78B-5-202 shall:

(a) be an original [øf], a certified copy, or an electronic document that satisfies the requirements under Title 17, Chapter 21a, Uniform Real Property Electronic Recording Act; and

(b) include the information identifying the judgment debtor as referred to in Subsection 78B-5-201(4) either:

(i) in the judgment or abstract of judgment; or

(ii) as a separate information statement of the judgment creditor as referred to in Subsection 78B-5-201(5).

(4) A judgment, abstract of judgment, or separate information statement of the judgment creditor does not require an acknowledgment, a legal description, or notarization to be recorded.

(5) A foreign judgment or an abstract of a foreign judgment recorded in the office of a county recorder shall include the affidavit as required in Section 78B-5-303.

(6) Any document recorded in the office of the county recorder to release, assign, renew, or extend a judgment lien shall include:

(a) the name of any judgment creditor, debtor, assignor, or assignee;

(b) the date on which the instrument creating the lien was recorded in the office of the county recorder;

(c) the entry number and book and page of the recorded instrument creating the judgment lien; and

(d) the date on which the document is recorded.

(7) A document presented for recording shall be sufficiently legible for the recorder to make certified copies of the document.

(8) (a) (i) A document that is of record in the office of the appropriate county recorder in compliance with this chapter may not be recorded again in that same county recorder's office unless the original document has been reexecuted by all parties who executed the document.

(ii) Unless exempt by statute, an original document that is reexecuted shall contain the appropriate acknowledgment, proof of execution, jurat, or other notarial certification for all parties who are reexecuting the document as required by Title 46, Chapter 1, Notaries Public Reform Act, and Title 57, Chapter 2, Acknowledgments.

(iii) A document submitted for rerecording shall contain a brief statement explaining the reason for rerecording.

(b) A person may not present and a county recorder may refuse to accept a document for rerecording if that document does not conform to this section.

(c) This Subsection (8) applies only to documents executed after July 1, 1998.

(9) Minor typographical or clerical errors in a document of record may be corrected by the recording of an affidavit or other appropriate instrument.

(10) (a) Except as required by federal law, or by agreement between a borrower under the trust deed and a grantee under the trustee's deed, and subject to Subsection (10)(b), neither the recordation of an affidavit under Subsection (9) nor the reexecution and rerecording of a document under Subsection (8):

(i) divests a grantee of any real property interest;

(ii) alters an interest in real property; or

(iii) returns to the grantor an interest in real property conveyed by statute.

(b) A person who reexecutes and rerecords a document under Subsection (8), or records an affidavit under Subsection (9), shall include with the document or affidavit a notice containing the name and address to which real property valuation and tax notices shall be mailed.

Section 15. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on July 1, 2015.

(2) Section 17-21a-302 takes effect on May 13, 2014.

CHAPTER 90**S. B. 88**

Passed March 12, 2014
 Approved March 28, 2014
 Effective March 28, 2014

CHILD INTERVIEW AMENDMENTS

Chief Sponsor: Ralph Okerlund
 House Sponsor: Keven J. Stratton

LONG TITLE**General Description:**

This bill amends provisions relating to an interview conducted at a Children's Justice Center.

Highlighted Provisions:

This bill:

- ▶ provides that a video or audio recording of an interview, or a transcript of the video or audio recording, that is conducted at a Children's Justice Center is not a record under the Government Records Access and Management Act;
- ▶ clarifies the right of child victims to keep confidential their interviews that are conducted at a Children's Justice Center, including video and audio recordings, and transcripts of those recordings;
- ▶ clarifies that a parent or guardian of the child victim may petition a juvenile or district court for an order allowing the parent or guardian to view a recording or transcript upon a finding of good cause;
- ▶ clarifies who can distribute, display, receive, and view a recording or transcript without a court order; and
- ▶ provides that it is a class B misdemeanor for any individual to distribute, release, or display any recording or transcript, except as otherwise provided in this bill.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.

Utah Code Sections Affected:**AMENDS:**

63G-2-103, as last amended by Laws of Utah 2012, Chapters 369 and 377
 63G-2-305, as last amended by Laws of Utah 2013, Chapters 12, 445, and 447
 77-37-4, as last amended by Laws of Utah 2010, Chapter 247
 78A-6-317, as last amended by Laws of Utah 2010, Chapter 247

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

Section 1. Section 63G-2-103 is amended to read:**63G-2-103. Definitions.**

As used in this chapter:

(1) "Audit" means:

(a) a systematic examination of financial, management, program, and related records for the purpose of determining the fair presentation of

financial statements, adequacy of internal controls, or compliance with laws and regulations; or

(b) a systematic examination of program procedures and operations for the purpose of determining their effectiveness, economy, efficiency, and compliance with statutes and regulations.

(2) "Chronological logs" mean the regular and customary summary records of law enforcement agencies and other public safety agencies that show:

(a) the time and general nature of police, fire, and paramedic calls made to the agency; and

(b) any arrests or jail bookings made by the agency.

(3) "Classification," "classify," and their derivative forms mean determining whether a record series, record, or information within a record is public, private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(4) (a) "Computer program" means:

(i) a series of instructions or statements that permit the functioning of a computer system in a manner designed to provide storage, retrieval, and manipulation of data from the computer system; and

(ii) any associated documentation and source material that explain how to operate the computer program.

(b) "Computer program" does not mean:

(i) the original data, including numbers, text, voice, graphics, and images;

(ii) analysis, compilation, and other manipulated forms of the original data produced by use of the program; or

(iii) the mathematical or statistical formulas, excluding the underlying mathematical algorithms contained in the program, that would be used if the manipulated forms of the original data were to be produced manually.

(5) (a) "Contractor" means:

(i) any person who contracts with a governmental entity to provide goods or services directly to a governmental entity; or

(ii) any private, nonprofit organization that receives funds from a governmental entity.

(b) "Contractor" does not mean a private provider.

(6) "Controlled record" means a record containing data on individuals that is controlled as provided by Section 63G-2-304.

(7) "Designation," "designate," and their derivative forms mean indicating, based on a governmental entity's familiarity with a record series or based on a governmental entity's review of a reasonable sample of a record series, the primary classification that a majority of records in a record

series would be given if classified and the classification that other records typically present in the record series would be given if classified.

(8) "Elected official" means each person elected to a state office, county office, municipal office, school board or school district office, local district office, or special service district office, but does not include judges.

(9) "Explosive" means a chemical compound, device, or mixture:

(a) commonly used or intended for the purpose of producing an explosion; and

(b) that contains oxidizing or combustive units or other ingredients in proportions, quantities, or packing so that:

(i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases; and

(ii) the resultant gaseous pressures are capable of:

(A) producing destructive effects on contiguous objects; or

(B) causing death or serious bodily injury.

(10) "Government audit agency" means any governmental entity that conducts an audit.

(11) (a) "Governmental entity" means:

(i) executive department agencies of the state, the offices of the governor, lieutenant governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole, the Board of Examiners, the National Guard, the Career Service Review Office, the State Board of Education, the State Board of Regents, and the State Archives;

(ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative committees, except any political party, group, caucus, or rules or sifting committee of the Legislature;

(iii) courts, the Judicial Council, the Office of the Court Administrator, and similar administrative units in the judicial branch;

(iv) any state-funded institution of higher education or public education; or

(v) any political subdivision of the state, but, if a political subdivision has adopted an ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or as specified in any other section of this chapter that specifically refers to political subdivisions.

(b) "Governmental entity" also means every office, agency, board, bureau, committee, department, advisory board, or commission of an entity listed in Subsection (11)(a) that is funded or

established by the government to carry out the public's business.

(c) "Governmental entity" does not include the Utah Educational Savings Plan created in Section 53B-8a-103.

(12) "Gross compensation" means every form of remuneration payable for a given period to an individual for services provided including salaries, commissions, vacation pay, severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any similar benefit received from the individual's employer.

(13) "Individual" means a human being.

(14) (a) "Initial contact report" means an initial written or recorded report, however titled, prepared by peace officers engaged in public patrol or response duties describing official actions initially taken in response to either a public complaint about or the discovery of an apparent violation of law, which report may describe:

(i) the date, time, location, and nature of the complaint, the incident, or offense;

(ii) names of victims;

(iii) the nature or general scope of the agency's initial actions taken in response to the incident;

(iv) the general nature of any injuries or estimate of damages sustained in the incident;

(v) the name, address, and other identifying information about any person arrested or charged in connection with the incident; or

(vi) the identity of the public safety personnel, except undercover personnel, or prosecuting attorney involved in responding to the initial incident.

(b) Initial contact reports do not include follow-up or investigative reports prepared after the initial contact report. However, if the information specified in Subsection (14)(a) appears in follow-up or investigative reports, it may only be treated confidentially if it is private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(15) "Legislative body" means the Legislature.

(16) "Notice of compliance" means a statement confirming that a governmental entity has complied with a records committee order.

(17) "Person" means:

(a) an individual;

(b) a nonprofit or profit corporation;

(c) a partnership;

(d) a sole proprietorship;

(e) other type of business organization; or

(f) any combination acting in concert with one another.

(18) "Private provider" means any person who contracts with a governmental entity to provide services directly to the public.

(19) "Private record" means a record containing data on individuals that is private as provided by Section 63G-2-302.

(20) "Protected record" means a record that is classified protected as provided by Section 63G-2-305.

(21) "Public record" means a record that is not private, controlled, or protected and that is not exempt from disclosure as provided in Subsection 63G-2-201(3)(b).

(22) (a) "Record" means a book, letter, document, paper, map, plan, photograph, film, card, tape, recording, electronic data, or other documentary material regardless of physical form or characteristics:

(i) that is prepared, owned, received, or retained by a governmental entity or political subdivision; and

(ii) where all of the information in the original is reproducible by photocopy or other mechanical or electronic means.

(b) "Record" does not mean:

(i) a personal note or personal communication prepared or received by an employee or officer of a governmental entity;

(A) in a capacity other than the employee's or officer's governmental capacity; or

(B) that is unrelated to the conduct of the public's business;

(ii) a temporary draft or similar material prepared for the originator's personal use or prepared by the originator for the personal use of an individual for whom the originator is working;

(iii) material that is legally owned by an individual in the individual's private capacity;

(iv) material to which access is limited by the laws of copyright or patent unless the copyright or patent is owned by a governmental entity or political subdivision;

(v) proprietary software;

(vi) junk mail or a commercial publication received by a governmental entity or an official or employee of a governmental entity;

(vii) a book that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public;

(viii) material that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public, regardless of physical form or characteristics of the material;

(ix) a daily calendar or other personal note prepared by the originator for the originator's personal use or for the personal use of an individual for whom the originator is working;

(x) a computer program that is developed or purchased by or for any governmental entity for its own use;

(xi) a note or internal memorandum prepared as part of the deliberative process by:

(A) a member of the judiciary;

(B) an administrative law judge;

(C) a member of the Board of Pardons and Parole; or

(D) a member of any other body charged by law with performing a quasi-judicial function;

(xii) a telephone number or similar code used to access a mobile communication device that is used by an employee or officer of a governmental entity, provided that the employee or officer of the governmental entity has designated at least one business telephone number that is a public record as provided in Section 63G-2-301;

(xiii) information provided by the Public Employees' Benefit and Insurance Program, created in Section 49-20-103, to a county to enable the county to calculate the amount to be paid to a health care provider under Subsection 17-50-319(2)(e)(ii); [øø]

(xiv) information that an owner of unimproved property provides to a local entity as provided in Section 11-42-205[-]; or

(xv) a video or audio recording of an interview, or a transcript of the video or audio recording, that is conducted at a Children's Justice Center established under Section 67-5b-102.

(23) "Record series" means a group of records that may be treated as a unit for purposes of designation, description, management, or disposition.

(24) "Records committee" means the State Records Committee created in Section 63G-2-501.

(25) "Records officer" means the individual appointed by the chief administrative officer of each governmental entity, or the political subdivision to work with state archives in the care, maintenance, scheduling, designation, classification, disposal, and preservation of records.

(26) "Schedule," "scheduling," and their derivative forms mean the process of specifying the length of time each record series should be retained by a governmental entity for administrative, legal, fiscal, or historical purposes and when each record series should be transferred to the state archives or destroyed.

(27) "Sponsored research" means research, training, and other sponsored activities as defined by the federal Executive Office of the President, Office of Management and Budget:

(a) conducted:

(i) by an institution within the state system of higher education defined in Section 53B-1-102; and

(ii) through an office responsible for sponsored projects or programs; and

(b) funded or otherwise supported by an external:

(i) person that is not created or controlled by the institution within the state system of higher education; or

(ii) federal, state, or local governmental entity.

(28) "State archives" means the Division of Archives and Records Service created in Section 63A-12-101.

(29) "State archivist" means the director of the state archives.

(30) "Summary data" means statistical records and compilations that contain data derived from private, controlled, or protected information but that do not disclose private, controlled, or protected information.

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

63G-2-305. Protected records.

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

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

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

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

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

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

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

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

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

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2),

that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties, a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

(a) an invitation for bids;

(b) a request for proposals;

(c) a request for quotes;

(d) a grant; or

(e) other similar document;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(15) records and audit workpapers that identify audit, collection, and operational procedures and

methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

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

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

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

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

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

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

(A) members of a legislative body;

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

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

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

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

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

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

(22) drafts, unless otherwise classified as public;

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

(a) collective bargaining; or

(b) imminent or pending litigation;

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

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

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

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

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

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

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

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

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

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

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and

Parole, or a member of any other body charged by law with performing a quasi-judicial function;

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

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

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

(a) the donor requests anonymity in writing;

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

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

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

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

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

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

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

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

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

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

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

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

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

(a) a production facility; or

(b) a magazine;

(43) information:

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

(b) received or maintained in relation to the Identity Theft Reporting Information System (IRIS) established under Section 67-5-22;

(44) information contained in the Management Information System and Licensing Information System described in Title 62A, Chapter 4a, Child and Family Services;

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

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

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

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

(a) the safety of the general public; or

(b) the security of:

(i) governmental property;

(ii) governmental programs; or

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

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

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

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

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

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

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

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

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

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

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

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

(b) conducted using animals;

(53) an initial proposal under Title 63M, Chapter 1, Part 26, Government Procurement Private Proposal Program, to the extent not made public by rules made under that chapter;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote on whether or not to recommend that the voters retain a judge;

(55) information collected and a report prepared by the Judicial Performance Evaluation

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

(56) records contained in the Management Information System created in Section 62A-4a-1003;

(57) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63J-4-603;

(58) information requested by and provided to the Utah State 911 Committee under Section 53-10-602;

~~[(59) recorded Children's Justice Center investigative interviews, both video and audio, the release of which are governed by Section 77-37-4;]~~

~~[(60) (59) in accordance with Section 73-10-33:~~

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

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

~~[(61) (60) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:~~

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

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

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

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

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

~~[(62) (61) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or abuse;~~

~~[(63) (62) information provided to the Department of Health or the Division of Occupational and Professional Licensing under Subsection 58-68-304(3) or (4);~~

~~[(64) (63) a record described in Section 63G-12-210; and~~

~~[(65) (64) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003.~~

Section 3. Section 77-37-4 is amended to read:

77-37-4. Additional rights -- Children.

In addition to all rights afforded to victims and witnesses under this chapter, child victims and witnesses shall be afforded these rights:

(1) Children have the right to protection from physical and emotional abuse during their involvement with the criminal justice process.

(2) Children are not responsible for inappropriate behavior adults commit against them and have the right not to be questioned, in any manner, nor to have allegations made, implying this responsibility. Those who interview children have the responsibility to consider the interests of the child in this regard.

(3) Child victims and witnesses have the right to have interviews relating to a criminal prosecution kept to a minimum. All agencies shall coordinate interviews and ensure that they are conducted by persons sensitive to the needs of children.

(4) Child victims have the right to be informed of available community resources that might assist them and how to gain access to those resources. Law enforcement and prosecutors have the duty to ensure that child victims are informed of community resources, including counseling prior to the court proceeding, and have those services available throughout the criminal justice process.

(5) (a) Child victims have the right, once an investigation has been initiated by law enforcement or the Division of Child and Family Services, to ~~[have] keep confidential their [investigative] interviews that are conducted at a Children's Justice Center, including [both] video and audio recordings, [protected] and transcripts of those recordings. Except as provided in Subsection [(5)(b) and (e),]~~ (6), recordings and transcripts of interviews may not be distributed, released, or displayed to anyone without a court order.

~~[(a) The] (b) A court order described in Subsection (5)(a):~~

(i) shall describe with particularity to whom the recording or transcript of the interview may be released and prohibit further distribution or viewing by anyone not named in the order; and

(ii) may impose restrictions on access to the materials considered reasonable to protect the privacy of the child victim.

(c) A parent or guardian of the child victim may petition a juvenile or district court for an order allowing the parent or guardian to view a recording or transcript upon a finding of good cause. The order shall designate the agency that is required to display the recording or transcript to the parent or guardian and shall prohibit viewing by anyone not named in the order.

~~[(b)]~~ (d) Following the conclusion of any legal proceedings in which the recordings or transcripts are used, the court shall order the recordings and transcripts in the court's file sealed and preserved.

~~[(e) (i) The Division of Child and Family Services or law enforcement may distribute a copy of the interview;]~~

~~[(A) to the prosecutor's office;]~~

~~[(B) the Attorney General's child protection division;]~~

~~[(C) to another law enforcement agency; and]~~

~~[(D) to the attorney for the child who is the subject of the interview.]~~

~~[(ii) Any further distribution, release, or display is subject to this Subsection (5).]~~

~~[(d) In a criminal case, the prosecutor may distribute a copy of the interview to the attorney for the defendant or a pro se defendant pursuant to a valid request for discovery. The attorney for the defendant in a criminal case may permit the defendant to view the interview, but may not distribute or release the interview to their client. Any further distribution, release, or display is subject to this Subsection (5).]~~

~~[(e) Pro se defendants shall be advised by the court that an interview received as part of discovery is confidential and may not be distributed, released, or displayed without prior authorization from the court. A court's failure to give this notice may not be used as a defense to prosecution for a violation of the disclosure rule.]~~

~~[(f) Multidisciplinary teams or other state agencies that provide services to children and families may view interviews of children, and families for whom they are providing services, but may not receive copies.]~~

~~[(g) Violation of this section is:]~~

~~[(i) punishable by contempt if distribution, release, or display occurs before the resolution of the case and the court still has jurisdiction over the defendant; or]~~

~~[(ii) a class B misdemeanor if the case has been resolved and the court no longer has jurisdiction over the defendant.]~~

(6) (a) The following offices and their designated employees may distribute and receive a recording

or transcript to and from one another without a court order:

(i) the Division of Child and Family Services;

(ii) administrative law judges employed by the Department of Human Services;

(iii) Department of Human Services investigators investigating the Division of Child and Family Services or investigators authorized to investigate under Section 62A-4a-202.6;

(iv) an office of the city attorney, county attorney, district attorney, or attorney general;

(v) a law enforcement agency;

(vi) a Children's Justice Center established under Section 67-5b-102; or

(vii) the attorney for the child who is the subject of the interview.

(b) In a criminal case or in a juvenile court in which the state is a party:

(i) the parties may display and enter into evidence a recording or transcript in the course of a prosecution;

(ii) the state's attorney may distribute a recording or transcript to the attorney for the defendant, pro se defendant, respondent, or pro se respondent pursuant to a valid request for discovery;

(iii) the attorney for the defendant or respondent may do one or both of the following:

(A) release the recording or transcript to an expert retained by the attorney for the defendant or respondent if the expert agrees in writing that the expert will not distribute, release, or display the recording or transcript to anyone without prior authorization from the court; or

(B) permit the defendant or respondent to view the recording or transcript, but may not distribute or release the recording or transcript to the defendant or respondent; and

(iv) the court shall advise a pro se defendant or respondent that a recording or transcript received as part of discovery is confidential and may not be distributed, released, or displayed without prior authorization from the court.

(c) A court's failure to advise a pro se defendant or respondent that a recording or transcript received as part of discovery is confidential and may not be used as a defense to prosecution for a violation of the disclosure rule.

(d) In an administrative case, pursuant to a written request, the Division of Child and Family Services may display, but may not distribute or release, a recording or transcript to the respondent or to the respondent's designated representative.

(e) (i) Within two business days of a request from a parent or guardian of a child victim, an investigative agency shall allow the parent or guardian to view a recording after the conclusion of an interview, unless:

(A) the suspect is a parent or guardian of the child victim;

(B) the suspect resides in the home with the child victim; or

(C) the investigative agency determines that allowing the parent or guardian to view the recording would likely compromise or impede the investigation.

(ii) If the investigative agency determines that allowing the parent or guardian to view the recording would likely compromise or impede the investigation, the parent or guardian may petition a juvenile or district court for an expedited hearing on whether there is good cause for the court to enter an order allowing the parent or guardian to view the recording in accordance with Subsection (5)(c).

(iii) A Children's Justice Center shall coordinate the viewing of the recording described in this Subsection (6)(e).

(f) A multidisciplinary team assembled by a Children's Justice Center or an interdisciplinary team assembled by the Division of Child and Family Services may view a recording or transcript, but may not receive a recording or transcript.

(g) A Children's Justice Center:

(i) may distribute or display a recording or transcript to an authorized trainer or evaluator for purposes of training or evaluation; and

(ii) may display, but may not distribute, a recording or transcript to an authorized trainee.

(h) An authorized trainer or instructor may display a recording or transcript according to the terms of the authorized trainer's or instructor's contract with the Children's Justice Center or according to the authorized trainer's or instructor's scope of employment.

(i) (i) In an investigation under Section 53A-6-306, in which a child victim who is the subject of the recording or transcript has alleged criminal conduct against an educator, a law enforcement agency may distribute or release the recording or transcript to an investigator operating under UPPAC authorization, upon the investigator's written request.

(ii) If the respondent in a case investigated under Section 53A-6-306 requests a hearing authorized under that section, the investigator operating under UPPAC authorization may display, release, or distribute the recording or transcript to the prosecutor operating under UPPAC authorization or to an expert retained by an investigator.

(iii) Upon request for a hearing under Section 53A-6-306, a prosecutor operating under UPPAC authorization may display the recording or transcript to a pro se respondent, to an attorney retained by the respondent, or to an expert retained by the respondent.

(iv) The parties to a hearing authorized under Section 53A-6-306 may display and enter into

evidence a recording or transcript in the course of a prosecution.

(7) Except as otherwise provided in this section, it is a class B misdemeanor for any individual to distribute, release, or display any recording or transcript of an interview of a child victim conducted at a Children's Justice Center.

Section 4. Section 78A-6-317 is amended to read:

78A-6-317. All proceedings -- Persons entitled to be present.

(1) A child who is the subject of a juvenile court hearing, any person entitled to notice pursuant to Section 78A-6-306 or 78A-6-310, preadoptive parents, foster parents, and any relative providing care for the child, are:

(a) entitled to notice of, and to be present at, each hearing and proceeding held under this part, including administrative reviews; and

(b) have a right to be heard at each hearing and proceeding described in Subsection (1)(a).

(2) A child shall be represented at each hearing by the guardian ad litem appointed to the child's case by the court. The child has a right to be present at each hearing, subject to the discretion of the guardian ad litem or the court regarding any possible detriment to the child.

(3) (a) The parent or guardian of a child who is the subject of a petition under this part has the right to be represented by counsel, and to present evidence, at each hearing.

(b) When it appears to the court that a parent or guardian of the child desires counsel but is financially unable to afford and cannot for that reason employ counsel, and the child has been placed in out-of-home care, or the petitioner is recommending that the child be placed in out-of-home care, the court shall appoint counsel.

(4) In every abuse, neglect, or dependency proceeding under this chapter, the court shall order that the child be represented by a guardian ad litem, in accordance with Section 78A-6-902. The guardian ad litem shall represent the best interest of the child, in accordance with the requirements of that section, at the shelter hearing and at all subsequent court and administrative proceedings, including any proceeding for termination of parental rights in accordance with Part 5, Termination of Parental Rights Act.

(5) (a) Except as provided in Subsection (5)(b), and notwithstanding any other provision of law:

(i) counsel for all parties to the action shall be given access to all records, maintained by the division or any other state or local public agency, that are relevant to the abuse, neglect, or dependency proceeding under this chapter; and

(ii) if the natural parent of a child is not represented by counsel, the natural parent shall have access to the records described in Subsection (5)(a)(i).

(b) The disclosures described in Subsection (5)(a) are not required in the following circumstances:

(i) subject to Subsection (5)(c), the division or other state or local public agency did not originally create the record being requested;

(ii) disclosure of the record would jeopardize the life or physical safety of a child who has been a victim of abuse or neglect, or any person who provided substitute care for the child;

(iii) disclosure of the record would jeopardize the anonymity of the person or persons making the initial report of abuse or neglect or any others involved in the subsequent investigation;

(iv) disclosure of the record would jeopardize the life or physical safety of a person who has been a victim of domestic violence;

(v) the record is a report maintained in the Management Information System, for which a finding of unsubstantiated, unsupported, or without merit has been made, unless the person requesting the information is the alleged perpetrator in the report or counsel for the alleged perpetrator in the report; or

(vi) the record is a Children's Justice Center [~~investigative~~] interview, including a video or audio recording, and a transcript of the recording, the release of which is governed by Section 77-37-4.

(c) If a disclosure is denied under Subsection (5)(b)(i), the division shall inform the person making the request of the following:

(i) the existence of all records in the possession of the division or any other state or local public agency;

(ii) the name and address of the person or agency that originally created the record; and

(iii) that the person must seek access to the record from the person or agency that originally created the record.

Section 5. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 91**S. B. 96**

Passed March 5, 2014

Approved March 28, 2014

Effective May 13, 2014

VETERANS' ASSISTANCE REGISTRY

Chief Sponsor: Karen Mayne
House Sponsor: Tim M. Cosgrove

LONG TITLE**General Description:**

This bill creates a registry process at the Utah Department of Veterans' and Military Affairs that provides contact information to donors of materials and labor for veterans and their dependents.

Highlighted Provisions:

This bill:

- ▶ directs the department to develop a donor and recipient registry;
- ▶ involves the Veterans' Advisory Council in determining qualifications for participation in the registry and for providing information to donors and recipients;
- ▶ limits who may see donors' and recipients' information;
- ▶ requires the registry to be listed on the department's website;
- ▶ provides immunity for use of the registry;
- ▶ requires data tracking of registry donors and recipients, and summary data to be included in the department's annual report; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

71-8-3, as last amended by Laws of Utah 2013, Chapters 214 and 308

71-8-4, as last amended by Laws of Utah 2013, Chapter 214

ENACTS:

71-12-101, Utah Code Annotated 1953

71-12-102, Utah Code Annotated 1953

71-12-103, Utah Code Annotated 1953

71-12-104, Utah Code Annotated 1953

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

Section 1. Section 71-8-3 is amended to read:**71-8-3. Duties of executive director -- Services to veterans.**

The executive director shall:

(1) be responsible for the administration and the operation or support of the following veteran-related operations:

(a) Utah State Veterans' Nursing Homes and Programs;

(b) Utah State Veterans' Cemetery and Memorial Park;

(c) Title 71, Chapter 10, Veteran's Preference;

(d) any locally or federally funded programs for homeless veterans within the state; and

(e) any federally funded education services for veterans within the state;

(2) maintain liaison with local, state, and federal veterans' agencies and with Utah veterans' organizations;

(3) provide current information so that veterans, their surviving spouses and family members, and Utah veterans' organizations will be aware of benefits to which they are, or may become, entitled;

(4) reach out and assist veterans and their families in applying for benefits and services;

(5) develop and maintain a system for determining how many veterans are employed by the various government entities within the state and keeping track of them;

(6) cooperate with other state entities in the receipt of information to create and maintain a record of veterans in Utah;

(7) create and administer a veterans' assistance registry, with recommendations from the council, that will provide contact information to the qualified donors of materials and labor for certain qualified recipients;

~~(7)~~ (8) prepare an annual report for presentation not later than November 30 of each year to the Government Operations Interim Committee ~~on~~, which includes:

(a) all services provided to veterans; ~~and~~

(b) all services provided by third parties through the Veterans' Assistance Registry; and

~~(b)~~ (c) the coordination of veterans' services by government entities with the department;

~~(8)~~ (9) advise the governor on matters pertaining to military affairs throughout Utah, including active duty servicemembers, reserve duty servicemembers, and veterans;

~~(9)~~ (10) identify military-related issues, challenges, and opportunities, and develop plans for addressing them;

~~(10)~~ (11) develop, coordinate, and maintain relationships with military leaders of Utah military installations, including the Utah National Guard;

~~(11)~~ (12) develop, coordinate, and maintain relationships with Utah's congressional delegation and military staffers;

~~(12)~~ (13) develop and maintain relationships with military-related organizations in Utah;

~~(13)~~ (14) conduct forums and meetings with stakeholders to identify military issues and challenges and to develop solutions to them; and

~~(14)~~ (15) perform other related duties as requested by the governor.

Section 2. Section 71-8-4 is amended to read:

71-8-4. Veterans' Advisory Council -- Membership -- Duties and responsibilities -- Per diem and travel expenses.

(1) There is created a Veterans' Advisory Council whose purpose is to advise the executive director of the Department of Veterans' and Military Affairs on issues relating to veterans.

(2) The council shall consist of the following 14 members:

(a) 11 voting members to serve four-year terms:

(i) seven veterans at large appointed by the governor;

(ii) the commander or the commander's designee, whose terms shall last for as long as they hold that office, from each of the following organizations:

(A) Veterans of Foreign Wars;

(B) American Legion; and

(C) Disabled American Veterans; and

(iii) a representative from the Office of the Governor; and

(b) three nonvoting members:

(i) the executive director of the Department of Veterans' and Military Affairs;

(ii) the director of the VA Health Care System or his designee; and

(iii) the director of the VA Benefits Administration Regional Office in Salt Lake City, or his designee.

(3) (a) Except as required by Subsection (3)(b), as terms of current council members expire, the governor shall appoint each new or reappointed member to a four-year term commencing on July 1.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of council members are staggered so that approximately half of the members appointed by the governor are appointed every two years.

(4) When a vacancy occurs in the membership for any reason, the governor shall appoint a replacement for the unexpired term within 60 days of receiving notice.

(5) Members appointed by the governor may not serve more than three consecutive terms.

(6) (a) Any veterans' group or veteran may provide the executive director with a list of recommendations for members on the council.

(b) The executive director shall provide the governor with the list of recommendations for members to be appointed to the council.

(c) The governor shall make final appointments to the council by June 30 of any year in which appointments are to be made under this chapter.

(7) The council shall elect a chair and vice chair from among the council members every two years. The chair and vice chair shall be veterans.

(8) (a) The council shall meet at least once every quarter.

(b) The executive director of the Department of Veterans' and Military Affairs may convene additional meetings, as necessary.

(9) The department shall provide staff to the council.

(10) Six voting members are a quorum for the transaction of business.

(11) The council shall:

(a) solicit input concerning veterans issues from veterans' groups throughout the state;

(b) report issues received to the executive director of the Department of Veterans' and Military Affairs and make recommendations concerning them;

(c) keep abreast of federal developments that affect veterans locally and advise the executive director of them; ~~and~~

(d) approve, by a majority vote, the use of money generated from veterans' license plates under Section 41-1a-422 for veterans' programs~~[-]; and~~

(e) assist the director in developing guidelines and qualifications for:

(i) participation by donors and recipients in the Veterans' Assistance Registry created in Section 71-12-101; and

(ii) developing a process for providing contact information between qualified donors and recipients.

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

(a) Section 63A-3-106;

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

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

Section 3. Section 71-12-101 is enacted to read:

CHAPTER 12. VETERANS' ASSISTANCE REGISTRY

71-12-101. Title.

This chapter is known as the "Veterans' Assistance Registry."

Section 4. Section 71-12-102 is enacted to read:

71-12-102. Definitions.

As used in this chapter:

(1) “Council” means the Veterans’ Advisory Council as created in Section 71-8-4.

(2) “Department” means the Department of Veterans’ and Military Affairs as created in Section 71-8-2.

(3) “Donor” means an individual or entity that provides material goods, services, or labor without charge to veterans in accordance with this chapter.

(4) “Recipient” means a veteran as defined in Section 71-8-1, or a veteran’s dependent spouse and children.

Section 5. Section 71-12-103 is enacted to read:

71-12-103. Veterans’ Assistance Registry.

(1) There is created within the department a Veterans’ Assistance Registry.

(2) The intent of the registry is to provide contact information to qualified donors of material goods, services, and labor for qualified recipients in need of specific goods, services, or labor.

(3) The department shall, in consultation with the council:

(a) create a database of donors and recipients;

(b) develop an electronic link on the department’s website to the database of donors and recipients;

(c) insure that information provided by donors and recipients is only used for the intended purpose as specified in Subsection (2) and not made public;

(d) provide instructions online for donors and recipients to use in registering for the registry;

(e) publicize through both local and nationwide veterans’ service organizations and the United States Veterans’ Administration the availability of the registry; and

(f) track usage of and report annually on the registry program in accordance with Section 71-8-3.

Section 6. Section 71-12-104 is enacted to read:

71-12-104. Immunity for use of registry.

A donor who provides material goods, services, or labor for registry recipients is considered to be acting on behalf of the department in accordance with the provisions of Title 63G, Chapter 8, Part 2, Immunity for Voluntary Services.

CHAPTER 92**S. B. 106**

Passed February 24, 2014

Approved March 28, 2014

Effective May 13, 2014

**WORKPLACE SAFETY
WEEK DESIGNATION**

Chief Sponsor: Karen Mayne

House Sponsor: Don L. Ipson

LONG TITLE**General Description:**

This bill modifies Title 63G, Chapter 1, State Symbols and Designations, by designating a Workplace Safety Week.

Highlighted Provisions:

This bill:

- ▶ designates the third full week in June as Workplace Safety Week; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63G-1-401, as last amended by Laws of Utah 2013, Chapter 214

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

Section 1. Section 63G-1-401 is amended to read:**63G-1-401. Commemorative periods.**

(1) The following days shall be commemorated [~~yearly~~] annually:

- (a) Bill of Rights Day, on December 15;
- (b) Constitution Day, on September 17;
- (c) Yellow Ribbon Day, on the third Monday in May, in honor of men and women who are serving or have served in the U.S. armed forces around the world in defense of freedom;
- (d) POW/MIA Recognition Day, on the third Friday in September;
- (e) Indigenous People Day, the Monday immediately preceding Thanksgiving; and
- (f) Utah State Flag Day, on March 9.

(2) The Department of Veterans' and Military Affairs shall coordinate activities, special programs, and promotional information to heighten public awareness and involvement relating to Subsections (1)(c) and (d).

(3) The month of October shall be commemorated [~~yearly~~] annually as Italian-American Heritage Month.

(4) The month of November shall be commemorated [~~yearly~~] annually as American Indian Heritage Month.

(5) The month of April shall be commemorated yearly as Clean Out the Medicine Cabinet Month to:

(a) recognize the urgent need to make Utah homes and neighborhoods safe from prescription medication abuse and poisonings by the proper home storage and disposal of prescription and over-the-counter medications^[7]; and

(b) to educate citizens about the permanent medication disposal sites in Utah listed on useonlyasdirected.org that allow disposal throughout the year.

(6) The first full week of May shall be commemorated [~~yearly~~] annually as State Water Week to recognize the importance of water conservation, quality, and supply in the state.

(7) The second Friday and Saturday in August shall be commemorated [~~yearly~~] annually as Utah Fallen Heroes Days to:

(a) honor fallen heroes who, during service in the military or public safety, have sacrificed their lives to protect the country and the citizens of the state; and

(b) encourage political subdivisions to acknowledge and honor fallen heroes.

(8) The third full week of June shall be commemorated annually as Workplace Safety Week to heighten public awareness regarding the importance of safety in the workplace.

CHAPTER 93**S. B. 109**

Passed March 13, 2014
 Approved March 28, 2014
 Effective May 13, 2014

RADON AWARENESS CAMPAIGN

Chief Sponsor: Aaron Osmond
 House Sponsor: Keven J. Stratton

LONG TITLE**General Description:**

This bill establishes an educational campaign regarding radon gas.

Highlighted Provisions:

This bill:

- ▶ requires the Department of Health, in consultation with the Division of Radiation Control, to develop a statewide electronic awareness campaign to educate the public regarding radon gas, including health risks, testing options, and remediation.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2015:

- ▶ to the Department of Health - Radon Awareness Campaign as a one-time appropriation from the General Fund, \$25,000.

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

26-7-7, Utah Code Annotated 1953

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

Section 1. Section 26-7-7 is enacted to read:**26-7-7. Radon Awareness Campaign.**

The department shall, in consultation with the Division of Radiation Control, develop a statewide electronic awareness campaign to educate the public regarding:

- (1) the existence and prevalence of radon gas in buildings and structures;
- (2) the health risks associated with radon gas;
- (3) options for radon gas testing; and
- (4) options for radon gas remediation.

Section 2. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2014, and ending June 30, 2015, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2015.

To the Department of Health

From General Fund, one-time \$25,000

Schedule of Programs

Radon Awareness Campaign

\$25,000

The Legislature intends that the appropriation under this Section 2 be used only for an educational campaign under Section 26-7-7.

CHAPTER 94**S. B. 110**

Passed March 13, 2014
 Approved March 28, 2014
 Effective May 13, 2014

**GUARDIANSHIP FORMS FOR
 PARENTS OF DISABLED ADULT CHILD**

Chief Sponsor: Aaron Osmond
 House Sponsor: Daniel McCay

LONG TITLE**General Description:**

This bill requires the Administrative Office of the Courts to provide a listing of forms and proceedings available to pro se litigants on the Online Court Assistance Program website.

Highlighted Provisions:

This bill:

- ▶ requires the Administrative Office of the Courts to provide a listing of forms and proceedings available to pro se litigants on the Online Court Assistance Program website.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78A-2-501, as renumbered and amended by Laws of Utah 2008, Chapter 3

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

Section 1. Section 78A-2-501 is amended to read:

78A-2-501. Online court assistance program -- Purpose of program -- User's fee.

(1) There is established an online court assistance program administered by the Administrative Office of the Courts to provide the public with information about civil procedures and to assist the public in preparing and filing civil pleadings and other papers in:

- (a) uncontested divorces;
- (b) enforcement of orders in the divorce decree;
- (c) landlord and tenant actions; ~~and~~
- (d) guardianship actions; and

~~[(d)]~~ (e) other types of proceedings approved by the Online Court Assistance Program Policy Board.

(2) The purpose of the online court assistance program shall be to:

- (a) minimize the costs of civil litigation;
- (b) improve access to the courts; and
- (c) provide for informed use of the courts and the law by pro se litigants.

(3) (a) An additional \$20 shall be added to the filing fee established by Section 78A-2-301 if a person files a complaint, petition, answer, or response prepared through the program. There shall be no fee for using the program or for papers filed subsequent to the initial pleading.

(b) There is created within the General Fund a restricted account known as the Online Court Assistance Account. The fee collected under this Subsection (3) shall be deposited in the restricted account and appropriated by the Legislature to the Administrative Office of the Courts to develop, operate, and maintain the program and to support the use of the program through education of the public.

(4) The Administrative Office of the Courts shall provide on the front page of the Online Court Assistance Program website a listing of all forms and proceedings available to all pro se litigants within the program.

CHAPTER 95**S. B. 117**

Passed February 18, 2014

Approved March 28, 2014

Effective May 13, 2014

**ONLINE VOTER
REGISTRATION REVISIONS**

Chief Sponsor: Margaret Dayton

House Sponsor: Jack R. Draxler

LONG TITLE**General Description:**

This bill amends provisions of the Election Code relating to online voter registration.

Highlighted Provisions:

This bill:

- ▶ allows an individual to change the individual's voter registration information online if the driver license division does not have the individual's signature but the lieutenant governor's office does.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

20A-2-206, as last amended by Laws of Utah 2011, Chapter 17

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

Section 1. Section 20A-2-206 is amended to read:**20A-2-206. Electronic registration --
Requests for absentee ballot application.**

(1) The lieutenant governor may create and maintain an electronic system for voter registration and requesting an absentee ballot that is publicly available on the Internet.

(2) An electronic system for voter registration shall require:

(a) that an applicant have a valid driver license or identification card, issued under Title 53, Chapter 3, Uniform Driver License Act, that reflects the person's current principal place of residence;

(b) that the applicant provide the information required by Section 20A-2-104, except that the applicant's signature may be obtained in the manner described in Subsections (2)(d) and (4);

(c) that the applicant attest to the truth of the information provided; and

(d) that the applicant authorize the lieutenant governor's and county clerk's use of the applicant's:

(i) driver license or identification card signature, obtained under Title 53, Chapter 3, Uniform Driver License Act, for voter registration purposes[-]; or

(ii) signature on file in the lieutenant governor's statewide voter registration database developed under Section 20A-2-109.

(3) Notwithstanding Section 20A-2-104, an applicant using the electronic system for voter registration created under this section is not required to complete a printed registration form.

(4) A system created and maintained under this section shall provide the notices concerning a voter's presentation of identification contained in Subsection 20A-2-104(1).

(5) The lieutenant governor shall:

(a) obtain a digital copy of the applicant's driver license or identification card signature from the Driver License Division[-]; or

(b) ensure that the applicant's signature is already on file in the lieutenant governor's statewide voter registration database developed under Section 20A-2-109.

(6) [~~Upon receiving all information from an applicant and the Driver License Division, the~~] The lieutenant governor shall send the information to the county clerk for the county in which the applicant's principal place of residence is found for further action as required by Section 20A-2-304[-] after:

(a) receiving all information from an applicant; and

(b) (i) receiving all information from the Driver License Division; or

(ii) ensuring that the applicant's signature is already on file in the lieutenant governor's statewide voter registration database developed under Section 20A-2-109.

(7) The lieutenant governor may use additional security measures to ensure the accuracy and integrity of an electronically submitted voter registration.

(8) (a) If an individual applies to register under this section during the period beginning on the date after the voter registration deadline and ending on the date that is 15 calendar days before the date of an election, the county clerk shall:

(i) accept the application for registration if the individual, on the date of the election, will be legally qualified and entitled to vote in a voting precinct in the state; and

(ii) inform the individual that:

(A) the individual is registered to vote in the pending election; and

(B) for the pending election, the individual must vote on the day of the election and is not eligible to vote using early voting under Chapter 3, Part 6, Early Voting, because the individual registered too late.

(b) If an individual applies to register under this section during the 14 calendar days before an election, the county clerk shall:

(i) accept the application for registration if the individual, on the date of the election, will be legally qualified and entitled to vote in a voting precinct in the state; and

(ii) inform the individual that the individual is registered to vote but may not vote in the pending election because the individual registered too late.

(9) (a) A registered voter may file an application for an absentee ballot in accordance with Section 20A-3-304 on the electronic system for voter registration established under this section.

(b) The lieutenant governor shall provide a means by which a registered voter shall sign the application form as provided in Section 20A-3-304.

CHAPTER 96**S. B. 121**

Passed February 20, 2014

Approved March 28, 2014

Effective May 13, 2014

**TOBACCO SETTLEMENT
RESTRICTED ACCOUNT AMENDMENTS**

Chief Sponsor: Allen M. Christensen

House Sponsor: Paul Ray

LONG TITLE**General Description:**

This bill amends the Tobacco Settlement Restricted Account.

Highlighted Provisions:

This bill:

- ▶ amends the purposes of the \$10,452,900 appropriation from the fund to the Department of Health to include children in the Children's Health Insurance Program and the state Medicaid program.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

51-9-201, as last amended by Laws of Utah 2013, Chapter 167

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

Section 1. Section 51-9-201 is amended to read:**51-9-201. Creation of Tobacco Settlement Restricted Account.**

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

(2) The account shall earn interest.

(3) The account shall consist of:

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

(b) interest earned on the account.

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

(a) \$66,600 to the Office of the Attorney General for ongoing enforcement and defense of the Tobacco Settlement Agreement;

(b) \$18,500 to the State Tax Commission for ongoing enforcement of business compliance with the Tobacco Tax Settlement Agreement;

(c) \$10,452,900 to the Department of Health for:

(i) children in the Medicaid program created in Title 26, Chapter 18, Medical Assistance Act, and the Children's Health Insurance Program created in Section 26-40-103; and

(ii) for restoration of dental benefits in the Children's Health Insurance Program;

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

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

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

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

CHAPTER 97**S. B. 124**

Passed February 21, 2014

Approved March 28, 2014

Effective May 13, 2014

**FINANCIAL INSTITUTION
AND SERVICES AMENDMENTS**Chief Sponsor: Curtis S. Bramble
House Sponsor: James A. Dunnigan**LONG TITLE****General Description:**

This bill modifies provisions related to financial institutions and financial services.

Highlighted Provisions:

This bill:

- ▶ modifies references to the Utah League of Credit Unions or Utah Bankers Association;
- ▶ clarifies dividend requirements;
- ▶ repeals provisions related to loans to or investment in affiliates;
- ▶ addresses stock ownership by banks;
- ▶ deletes references to the Office of Thrift Supervision;
- ▶ addresses voting requirements for voluntary mergers;
- ▶ modifies grandfathering of certain credit unions;
- ▶ modifies exempted transactions under the Utah Consumer Credit Code;
- ▶ addresses fees under the Utah Consumer Credit Code;
- ▶ modifies exemptions under the Financial Institution Mortgage Financing Regulation Act;
- ▶ removes a probable cause requirement for the commissioner of financial institutions requiring a lender, broker, or servicer to make records available to the commissioner;
- ▶ addresses fee restrictions;
- ▶ repeals anti-tying provisions;
- ▶ repeals surplus account provisions;
- ▶ repeals provisions related to charging off losses and replenishment of surplus accounts; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 7-1-701, as last amended by Laws of Utah 2013, Chapter 73
- 7-3-15, as last amended by Laws of Utah 1996, Chapter 182
- 7-3-20, as last amended by Laws of Utah 2000, Chapter 260
- 7-3-21, as enacted by Laws of Utah 1981, Chapter 16
- 7-5-7, as last amended by Laws of Utah 2010, Chapter 378
- 7-8-11, as last amended by Laws of Utah 2004, Chapter 92
- 7-9-20, as last amended by Laws of Utah 2008, Chapter 126

- 7-9-36, as last amended by Laws of Utah 1994, Chapter 200
- 7-9-39, as last amended by Laws of Utah 2003, Chapter 327
- 7-9-43, as last amended by Laws of Utah 2010, Chapters 286 and 324
- 7-9-44, as last amended by Laws of Utah 1989, Chapter 267
- 7-9-51, as last amended by Laws of Utah 2003, Chapter 327
- 7-9-53, as last amended by Laws of Utah 2010, Chapter 324
- 70C-1-202, as last amended by Laws of Utah 2006, Chapter 161
- 70C-8-203, as last amended by Laws of Utah 2009, Chapter 72
- 70D-2-201, as last amended by Laws of Utah 2009, Chapter 372 and renumbered and amended by Laws of Utah 2009, Chapter 72
- 70D-2-203, as renumbered and amended by Laws of Utah 2009, Chapter 72
- 70D-2-305, as renumbered and amended by Laws of Utah 2009, Chapter 72
- 70D-3-102, as last amended by Laws of Utah 2010, Chapter 379

REPEALS:

- 7-3-3.3, as enacted by Laws of Utah 1989, Chapter 267
- 7-3-16, as last amended by Laws of Utah 1983, Chapter 8
- 7-8-12, as last amended by Laws of Utah 2004, Chapter 92

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

Section 1. Section 7-1-701 is amended to read:**7-1-701. Representing and transacting business as financial institution restricted -- Restricted names -- Penalty.**

(1) As used in this section, "transact business" includes:

- (a) advertising;
- (b) representing oneself in any manner as being engaged in transacting business;
- (c) registering an assumed name under which to transact business; or
- (d) using an assumed business name, sign, letterhead, business card, promotion, or other indication that one is transacting business.

(2) Unless authorized by the department or an agency of the federal government to do so, it is unlawful for a person to:

- (a) transact business as a:
 - (i) bank;
 - (ii) savings and loan association;
 - (iii) savings bank;
 - (iv) industrial bank;
 - (v) credit union;

- (vi) trust company; or
 - (vii) other financial or depository institution; or
- (b) engage in any other activity subject to the jurisdiction of the department.

(3) (a) Except as provided in Subsections (3)(b) through (d), only the following may transact business in this state under a name that includes “bank,” “banker,” “banking,” “banque,” “banc,” “banco,” “bancorp,” “bancorporation,” a derivative of these words, or another word or combination of words reasonably identifying the business of a bank:

- (i) a national bank;
- (ii) a bank authorized to do business under Chapter 3, Banks;
- (iii) a bank holding company; or
- (iv) an industrial bank.

(b) A person authorized to operate in this state as a credit card bank, as described in Section 7-3-3:

(i) may transact business under the name “credit card bank”; and

(ii) may not transact business under the name of “bank” unless it is immediately preceded by “credit card.”

(c) A nonbank subsidiary of a bank holding company may transact business under a name restricted in Subsection (3)(a) if the name:

- (i) is also part of the name of its parent holding company; or
- (ii) is used for a group of subsidiaries of the parent holding company.

(d) [~~The Utah Bankers Association or other~~] A bona fide trade association of authorized banks recognized by the commissioner may transact its affairs in this state under a name restricted under Subsection (3)(a) if it does not operate and does not hold itself out to the public as operating a depository or financial institution.

(4) (a) Except as provided in Subsection (4)(b), only the following may transact business in this state under a name that includes “savings association,” “savings and loan association,” “building and loan association,” “building association,” a derivative of these words, or another word or combination of words reasonably identifying the business of a savings and loan association:

- (i) a federal savings and loan association; or
- (ii) a federal savings bank.

(b) A national bank may transact business under a name restricted in Subsection (4)(a) if the restricted words are part of the bank’s corporate name.

(5) Only the following may transact business under the name “savings bank”:

(a) a depository institution listed in Subsection (3)(a);

(b) a depository institution listed in Subsection (4)(a); or

(c) a depository institution authorized under the law of another state to operate in this state as a savings bank.

(6) (a) Only an industrial loan company authorized to do business under Chapter 8, Industrial Banks, to the extent permitted by Section 7-8-21, may transact business in this state under a name that includes “industrial loan company,” “ILC,” or another word, combination of words, or abbreviation reasonably identifying the business of an industrial loan company.

(b) Only an industrial bank authorized to do business under Chapter 8, Industrial Banks, may transact business in this state under a name that includes “industrial bank,” “thrift,” or another word, combination of words, or abbreviation reasonably identifying the business of an industrial bank.

(7) (a) Except as provided in Subsection (7)(b), only a credit union authorized to do business under the laws of the United States or Chapter 9, Utah Credit Union Act, may transact business in this state under a name that includes “credit union” or another word or combination of words reasonably identifying the business of a credit union.

(b) The restriction in Subsection (7)(a) does not apply to [~~the Utah League of Credit Unions~~] a bona fide trade association of authorized credit unions recognized by the commissioner, a credit union chapter, or another association affiliated with [~~the Utah League of Credit Unions~~] a bona fide trade association of authorized credit unions recognized by the commissioner that restricts its services primarily to credit unions.

(8) (a) Except as provided in Subsection (8)(b), only a person granted trust powers under Chapter 5, Trust Business, may transact business in this state under a name that includes “trust,” “trustee,” “trust company,” or another word or combination of words reasonably identifying the business of a trust company.

(b) A business entity organized as a business trust, as defined in Section 7-5-1, may use “business trust” in its name if it does not hold itself out as being a trust company.

(9) The restrictions of Subsections (3) through (8) do not apply to:

(a) the name under which an out-of-state depository institution operates a loan production office in this state, if the commissioner approves the name as not being reasonably likely to mislead the public;

(b) the name under which a service organization of a financial institution transacts business, if the commissioner approves the name as not being reasonably likely to mislead the public;

(c) the name under which a subsidiary of a depository or financial institution transacts

business, if the commissioner approves the name as not being reasonably likely to mislead the public; or

(d) a trade association or other nonprofit organization composed of members of a particular class of financial institutions using words applicable to that class.

(10) (a) Upon written request, the commissioner may grant an exemption to this section if the commissioner finds that the use of an otherwise restricted name or word is not reasonably likely to cause confusion or lead the public to believe that the person requesting the exemption is a depository or financial institution or is conducting a business subject to the jurisdiction of the department.

(b) In granting an exemption under Subsection (10)(a), the commissioner may restrict or condition the use of the name or word or the activities of the person or business as the commissioner considers necessary to protect the public.

(11) (a) A person and a principal and officer of a business entity violating this section is guilty of a class A misdemeanor. Each day of violation constitutes a separate offense.

(b) In addition to a criminal penalty imposed under Subsection (11)(a), the commissioner may issue a cease and desist order against a person violating this section. The commissioner may impose a civil penalty of up to \$500 for each day the person fails to comply with the cease and desist order.

Section 2. Section 7-3-15 is amended to read:

7-3-15. Dividends allowed -- Surplus requirements.

(1) The board of directors of a bank may declare a cash or stock dividend out of the net profits of the bank after providing for all expenses, losses, interest, and taxes accrued or due from the bank, as it shall judge expedient.

(2) Before any dividend is declared pursuant to Subsection (1), not less than 10% of the net profits of the bank for the period covered by the dividend shall be carried to a surplus fund until the surplus shall amount to 100% of its capital stock.

(3) Under this section, any amounts paid into a fund for the retirement of any debenture capital or preferred stock of the bank from its net earnings for the period covered by the dividend shall be considered an addition to its surplus fund if, upon the retirement of the debenture capital or preferred stock, the amount paid into the retirement fund for the period may be properly carried to the surplus fund of the bank. In this case the bank shall be obligated to transfer to the surplus fund the amount paid into the retirement fund.

Section 3. Section 7-3-20 is amended to read:

7-3-20. Bank acquiring, holding, or accepting as collateral its own stock.

(1) ~~[(a)]~~ A bank may not accept as collateral or acquire its own stock except when the taking of the collateral or acquisition of the stock is necessary to prevent loss upon a debt previously contracted in good faith.

~~[(b)]~~ (2) If a bank acquires stock as permitted under Subsection (1)~~[(a)]~~, the bank shall sell the stock within 12 months from the date of the bank's acquisition.

~~[(e)]~~ (3) The value of all the stock held after acceptance or acquisition may not exceed 10% of the total capital of the bank.

~~[(2) (a) A bank may not:]~~

~~[(i) make any loan or any extension of credit to any of its affiliates;]~~

~~[(ii) invest any of its funds in the capital stock, bonds, debentures, or other obligations of any affiliate; or]~~

~~[(iii) accept the capital stock, bonds, debentures, or other obligations of any affiliate as collateral security for advances made to any person unless authorized by the commissioner by order.]~~

~~[(b) The exception of Subsection (2)(a)(iii) may not be inconsistent with similar exceptions applicable to national banks under federal law.]~~

Section 4. Section 7-3-21 is amended to read:

7-3-21. Stock ownership by banks.

~~Any~~ (1) A bank may purchase, own and hold, and sell or otherwise dispose of, ~~any of the shares of the capital stock of the Federal Deposit Insurance Corporation, the~~:

(a) shares of the Federal Reserve Bank of the Twelfth Federal Reserve District~~;~~;

(b) the stock of ~~any~~ a corporation ~~[or corporations]~~ organized under the laws of the United States for purposes similar to those of the federal reserve banks or the Federal Deposit Insurance Corporation~~;~~;

(c) shares of the Federal National Mortgage Association~~;~~;

(d) the stock of ~~any~~ a safe deposit company~~;~~;

(e) the stock of ~~any~~ a corporation owning the banking house in which any place of business of ~~such~~ the bank is located~~;~~;

(f) the stock of ~~any~~ a bank service corporation performing services for ~~such~~ the bank~~;~~ and;

(g) the stock of ~~such other~~ a corporation acquired by ~~such~~ the bank in satisfaction of or on account of debts previously contracted in the course of ~~its~~ the bank's business~~;~~ and;

(h) the stock of a foreign banking corporation;

(i) the stock of a corporation authorized under Title IX of the Housing and Urban Development Act of 1968;

(j) the stock of the Government National Mortgage Association authorized under 12 U.S.C. Sec. 1716 et seq.;

- (k) the stock of a charitable foundation;
- (l) the stock of a community development corporation;
- (m) the stock of bankers' banks; and
- (n) the stock of an agricultural credit corporation.
- (2) A bank may invest in a small business investment ~~companies~~ company to the same extent allowed federally chartered banks.

(3) Unless expressly authorized by this chapter, a bank may not purchase or own the stock of any other corporation except in a fiduciary capacity.

Section 5. Section 7-5-7 is amended to read:
7-5-7. Management and investment of trust money.

(1) ~~[Funds]~~ Money received or held by ~~[any]~~ a trust company as agent or fiduciary, whether for investment or distribution, shall be invested or distributed as soon as practicable as authorized under the instrument creating the account and may not be held uninvested any longer than is reasonably necessary.

(2) If the instrument creating an agency or fiduciary account contains provisions authorizing the trust company, its officers, or its directors to exercise their discretion in the matter of investments, ~~[funds]~~ money held in the trust account under that instrument may be invested only in those classes of securities which are approved by the directors of the trust company or a committee of directors appointed for that purpose. If a trust company acts in any agency or fiduciary capacity under appointment by a court of competent jurisdiction, it shall make and account for ~~[all]~~ the investments according to ~~[the provisions of]~~ Title 75, Utah Uniform Probate Code, unless the underlying instrument provides otherwise.

(3) (a) ~~[Funds]~~ Money received or held as agent or fiduciary by any trust company which is also a depository institution, whether for investment or distribution, may be deposited in the commercial department or savings department of that trust company to the credit of its trust department. Whenever the ~~[funds]~~ money so deposited in a fiduciary or managing agency account exceed the amount of federal deposit insurance applicable to that account, the trust company shall deliver to the trust department or put under its control collateral security as outlined in Regulation 9.10 of the Comptroller of the Currency ~~[or in Regulation 550.8 of the Office of Thrift Supervision, as amended]~~. However, if the instrument creating such a fiduciary or managing agency account expressly provides that ~~[funds]~~ money may be deposited to the commercial or savings department of the trust company, then the ~~[funds]~~ money may be so deposited without setting aside collateral securities as required under this section and the deposits in the event of insolvency of any such trust company shall be treated as other general deposits are treated. A trust company ~~[which]~~ that deposits trust funds in its commercial or savings department shall be liable for interest on the deposits only at the

rates, if any, paid by the trust company on deposits of like kind not made to the credit of its trust department.

(b) ~~[Funds]~~ Money received or held as agent or fiduciary by a trust company, whether for investment or distribution, may be deposited in an affiliated depository institution. Whenever the ~~[funds]~~ money so deposited in a fiduciary or managing agency account exceed the amount of federal deposit insurance applicable to that account, the depository institution shall deliver to the trust company or put under its control collateral security as outlined in Regulation 9.10 of the Comptroller of the Currency ~~[or in Regulation 550.8 of the Office of Thrift Supervision, as amended]~~. However, if the instrument creating the fiduciary or managing agency account expressly permits ~~[funds]~~ money to be deposited in the affiliated depository institution, the ~~[funds]~~ money may be so deposited without setting aside collateral securities as required under this section and deposits in the event of insolvency of the depository institution shall be treated as other general deposits are treated. A trust company ~~[which]~~ that deposits trust ~~[funds]~~ money in an affiliated depository institution is liable for interest on the deposits only at the rates, if any, paid by the depository institution on deposits of like kind.

(4) In carrying out all aspects of its trust business, a trust company shall have all the powers, privileges, and duties as set forth in Sections 75-7-813 and 75-7-814 with respect to trustees, whether or not the trust company is acting as a trustee as defined in Title 75, Utah Uniform Probate Code.

(5) Nothing in this section may alter, amend, or limit the powers of a trust company acting in a fiduciary capacity as specified in the particular instrument or order creating the fiduciary relationship.

Section 6. Section 7-8-11 is amended to read:

7-8-11. Dividends.

(1) The board of directors of an industrial bank may declare a dividend out of the net profits of the industrial bank after providing for all expenses, losses, interest, and taxes accrued or due from the industrial bank in accordance with this section ~~[and subject to Section 7-8-12]~~.

(2) The industrial bank shall transfer to a surplus fund at least 10% of its net profits before dividends for the period covered by the dividend, until the surplus reaches 100% of its capital stock.

(3) Any amount paid from the industrial bank's net earnings into a fund for the retirement of any debenture capital or preferred stock for the period covered by the dividend is considered an addition to its surplus fund if, upon the retirement of the debenture capital or preferred stock, the amount paid into the retirement fund for the period may be properly carried to the surplus fund of the industrial bank. In this case the industrial bank shall transfer to the surplus fund the amount paid into the retirement fund.

Section 7. Section 7-9-20 is amended to read:

7-9-20. Board of directors -- Powers and duties -- Loan limitations.

(1) At annual meetings the members shall elect from their number a board of directors consisting of an odd number of not less than five members.

(2) The bylaws may provide balloting by:

- (a) mail;
- (b) ballot box; or
- (c) both mail and ballot box.

(3) Voting may not be by proxy.

(4) A member of the board of directors shall hold office for the term prescribed in the bylaws.

(5) The board of directors shall meet at least monthly.

(6) The board of directors shall have the general management of the affairs, funds, and records of the credit union. In particular, the board of directors shall:

- (a) act upon an application for membership;
- (b) act upon expulsion of a member;
- (c) fix the amount of surety bond required of each officer or employee having custody of funds;
- (d) determine the rate of interest or dividend allowed on shares and deposits;
- (e) determine the terms and conditions of credit granted to members;
- (f) lend money, borrow money, and pledge security for any borrowing;
- (g) fill a vacancy in the board of directors or in the credit committee, if applicable, or in the supervisory committee until the election and qualification of a person to fill the vacancy;
- (h) appoint up to two alternate directors as provided in the bylaws;
- (i) fix the amount of the entrance fee;
- (j) declare dividends and their amount;
- (k) make recommendations to meetings of the members relative to amendments to the articles of incorporation, and transact any other business of the credit union; and

(l) fix the maximum amount of credit, secured and unsecured, that may be extended to any one member, up to the limitations described in Subsections (7) and (8).

(7) (a) The credit that may be outstanding or available by a credit union at any one time is subject to the limitations described in this Subsection (7):

- (i) except as provided in Subsection (8); and
- (ii) except that the board of directors may:

(A) set a lower limit than the limit in Subsection (7)(b)(i) or (7)(b)(ii)(A)(II); or

(B) require that a person described in Subsection (7)(b)(ii)(A)(I) be a member of the credit union for more than six months before the date a member-business loan is extended.

(b) (i) A credit union may not extend credit that is not a member-business loan to a member if as a result of that extension of credit the total credit that is not a member-business loan that the credit union has issued to that member exceeds at any one time:

(A) for a credit union with less than \$2,000,000 in capital and surplus, the greater of:

(I) \$1,000; or

(II) 15% of capital and surplus up to a total of \$25,000; or

(B) for a credit union with \$2,000,000 or more in capital and surplus, the greater of:

(I) \$25,000;

(II) 4% of capital and surplus; or

(III) 25% of the regular reserve.

(ii) (A) Beginning March 24, 1999, a credit union may not extend a member-business loan to a person:

(I) if the credit union is a successor to or was a credit union described in Subsection 7-9-53(2)[~~(d)~~](c) as of May 3, 1999:

(Aa) if the person is a business entity, unless at least one individual having a controlling interest in that business entity has been a member of the credit union for at least six months prior to the date of the extension of the member-business loan; or

(Bb) if the person is an individual, unless the individual is a member of the credit union for at least six months prior to the date of the extension of the member-business loan; or

(II) if as a result of the extension of the member-business loan, the total amount outstanding for all member-business loans that the credit union has extended to that person at any one time exceeds the lesser of:

(Aa) 10% of the credit union's capital and surplus; or

(Bb) \$250,000 adjusted as provided in Subsection (7)(b)(ii)(B).

(B) The adjustment described in Subsection (7)(b)(ii)(A)(II)(Bb) shall be calculated by the commissioner as follows:

(I) beginning May 5, 2008 with the adjustment for calendar year 2008 and for a calendar year beginning on or after January 1, 2009, the commissioner shall increase the dollar amount in Subsection (7)(b)(ii)(A)(II)(Bb) by a percentage equal to the percentage difference between the consumer price index for the preceding calendar year and the consumer price index for calendar year 2006;

(II) after the commissioner increases the dollar amount listed in Subsection (7)(b)(ii)(B)(I), the commissioner shall round the dollar amount to the nearest whole dollar;

(III) if the percentage difference under Subsection (7)(b)(ii)(B)(I) is zero or a negative percentage, the consumer price index increase for the year is zero; and

(IV) for purposes of this Subsection (7)(b)(ii)(B), the commissioner shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

(c) (i) Beginning March 24, 1999, a credit union may not extend a member-business loan if as a result of that member-business loan the credit union's aggregate member-business loan amount calculated under Subsection (7)(c)(ii) at any one time exceeds 1.25 times the sum of:

(A) the actual undivided earnings; and

(B) the actual reserves other than the regular reserves.

(ii) For purposes of Subsection (7)(c)(i), the aggregate member-business loan amount of a credit union equals:

(A) the sum of the total amount financed under all member-business loans outstanding at the credit union; minus

(B) the amount of the member-business loans described in Subsection (7)(c)(ii)(A):

(I) that is secured by share or deposit savings in the credit union; or

(II) for which the repayment is insured or guaranteed by, or there is an advance commitment to purchase by an agency of the federal government, a state, or a political subdivision of the state.

(d) (i) A credit union service organization may extend credit to a member of a credit union holding an ownership interest in the credit union service organization only if the credit union in which the person is a member is not prohibited from extending that credit to that member under:

(A) this Subsection (7) and Subsection (8); or

(B) Section 7-9-58.

(ii) For purposes of determining whether under this Subsection (7) and Subsection (8) a credit union may extend credit, the total amount outstanding of credit extended by a credit union service organization to a person shall be treated as if the credit was extended by the credit union in which the person is a member.

(iii) If a person seeking an extension of credit from a credit union service organization is a member of more than one credit union holding an ownership interest in the credit union service organization, the person shall specify the credit union to which the extension of credit is attributed under Subsection (7)(d)(ii).

(iv) This Subsection (7)(d) effects only an extension of credit:

(A) that is extended on or after May 5, 2003; and

(B) by:

(I) a credit union service organization; or

(II) a credit union organized under this chapter.

(e) Notwithstanding the other provisions of this section, a nonexempt credit union may not extend credit that the nonexempt credit union is prohibited from extending under Section 7-9-58.

(8) (a) A credit union may extend credit that is not a member-business loan in an amount that exceeds the limits described in Subsection (7)(b)(i) only if the excess portion is fully secured by share or deposit savings in the credit union.

(b) (i) Except as provided in Subsection (8)(b)(ii), a credit union may extend a member-business loan in an amount that exceeds the limits described in Subsection (7)(b)(ii)(A)(II) only if:

(A) that portion that is in excess of the limits described in Subsection (7)(b)(ii)(A)(II) is secured by share or deposit savings in the credit union; or

(B) the repayment of that portion that is in excess of the limits described in Subsection (7)(b)(ii)(A)(II) is insured or guaranteed by, or there is an advance commitment to purchase that excess portion by, an agency of:

(I) the federal government;

(II) a state; or

(III) a political subdivision of the state.

(ii) Notwithstanding Subsection (8)(b)(i), a credit union may not extend a member-business loan if the total amount financed by the credit union exceeds \$1,000,000.

(c) For a member-business loan that is extended through a loan participation arrangement in accordance with Subsection 7-9-5(12):

(i) in applying the limitation of Subsection (8)(b), each credit union participating in the member-business loan may extend up to \$1,000,000 of the amount financed; and

(ii) the requirement of Subsection (7)(b)(ii)(A)(I) applies to membership in a credit union that:

(A) participates in the loan participation arrangement for the member-business loan;

(B) is organized under this chapter; and

(C) is a successor to or was a credit union described in Subsection 7-9-53(2)(~~d~~)(c) as of May 3, 1999.

(9) As provided in this chapter or in the credit union bylaws, the board of directors:

(a) within 30 days following the annual meeting of the members, shall appoint a supervisory committee consisting of not less than three members;

(b) within 30 days after the annual meeting of the members, shall appoint:

(i) a credit committee consisting of not less than three members; or

(ii) a credit manager in lieu of a credit committee;

(c) shall appoint a president to serve as general manager;

(d) shall have an executive committee;

(e) may appoint an investment officer;

(f) shall elect a secretary;

(g) may appoint other officers and committees that it considers necessary;

(h) shall establish written credit policies, loan security requirements, loan investment, personnel, and collection policies; and

(i) on or before January 31 of each year, shall provide for:

(i) share insurance for the shares and deposits of the credit union from the National Credit Union Administration or successor federal agency; or

(ii) security expressly pledged for the payment of the shares and deposits in accordance with Section 7-9-45.

(10) A person may not be a member of more than one committee except as otherwise provided in this chapter or in the credit union bylaws.

(11) The president and secretary may not be the same person.

Section 8. Section 7-9-36 is amended to read:

7-9-36. Dissolution.

(1) A credit union may be dissolved upon a majority vote of the entire membership.

(2) A copy of a notice of a special meeting to consider the matter shall be mailed to the members of the credit union at least 10 days before the date of the meeting.

(3) Any member not present at the meeting may within the following 20 days vote for or against dissolution by signing a statement approved by the commissioner. A vote cast in this manner has the same force and effect as if cast at the meeting. A member not voting within the 20-day period is considered to be in favor of the dissolution.

(4) The officers of the credit union may appoint a liquidating agent, subject to the approval of the commissioner, who has the right to exercise all the powers of the dissolved credit union to wind up its affairs. If the liquidating agent is other than ~~the Utah League of Credit Unions~~ a bona fide trade association of authorized credit unions recognized by the commissioner, or the National Credit Union Administration, the liquidator shall provide a bond or other security, as required by the commissioner, for the faithful discharge of duties in connection

with the liquidation, including accounting for all money collected.

(5) Upon the vote required under this section, a certificate of dissolution, signed by the chair of the board and the secretary, shall be filed with the commissioner and shall state the vote cast in favor of dissolution, the proposed date upon which the credit union will cease to do business, the names and addresses of the directors and officers of the credit union and the name and address of the liquidating agent appointed by the officers of the credit union. The commissioner shall approve the dissolution unless he finds that the procedures set forth in this section have not been properly followed.

(6) Upon approval, the credit union shall cease to do business except for the purpose of discharging its debts, collecting and distributing assets, and doing all acts required to adjust, wind up, and dissolve its business and affairs. It may sue and be sued for the purpose of enforcing debts or obligations until its affairs are fully adjusted.

(7) If the board or the liquidating agent determines that all assets from which a reasonable return could be expected have been liquidated and distributed, it shall execute a certificate of dissolution in a form approved by the commissioner and file it with the department and the Division of Corporations and Commercial Code. After the certificate has been filed, the credit union is dissolved.

Section 9. Section 7-9-39 is amended to read:

7-9-39. Voluntary merger.

(1) ~~Any~~ A credit union may merge with another credit union under the existing charter of the other credit union when all of the following have occurred:

(a) the majority of the directors of each merging credit union votes in favor of the merger plan;

(b) the commissioner approves the merger plan;

(c) subject to Subsection (7):

~~[(e)] (i) the majority of the members of each merging credit union present at a meeting called for the purpose of considering the merger plan votes to approve the merger plan, but a vote of the membership of the surviving credit union is not required if its board of directors determines that the merger will not have any significant effect on the organization, membership, or financial condition of the credit union; and]; or~~

(ii) the majority of the members of each merging credit union votes to approve the merger plan by means of United States Postal Service mail; and

(d) (i) the National Credit Union Administration or its successor federal deposit insurance agency approves the merger plan and commits to insure deposits of the surviving credit union; or

(ii) the commissioner approves the surviving credit union to operate without federal deposit insurance in accordance with Section 7-9-45.

(2) Upon merger, the chair of the board and secretary of each credit union shall execute, and file with the department, a certificate of merger setting forth:

(a) the time and place of the meeting of the board of directors at which the plan was approved;

(b) the vote by which the directors approved the plan;

(c) a copy of the resolution or other action by which the plan was approved;

(d) the time and place of the meeting of the members at which the plan was approved;

(e) the vote by which the members approved the plan; and

(f) the effective date of the merger, which shall be:

(i) the date on which the last approval or vote required under Subsection (1) was obtained; or

(ii) a later date specified in the merger plan.

(3) On the effective date of ~~any~~ a merger:

(a) ~~all~~ the property, property rights, and interests of the merged credit union shall vest in the surviving credit union without deed, endorsement, or other instrument of transfer; and

(b) ~~all~~ the debts, obligations, and liabilities of the merged credit union are considered to have been assumed by the surviving credit union.

(4) Except as provided in Subsection (5)(b), if the surviving credit union is chartered under this chapter, the residents of a county in the field of membership of the merging credit union may not be added to the field of membership of the surviving credit union, except that the surviving credit union:

(a) may admit as a member any member of the merging credit union that is not in the field of membership of the surviving credit union if the member of the merging credit union was a member of that credit union at the time of merger; and

(b) may service any member-business loan of the merging credit union until the member-business loan is paid in full.

(5) (a) This section shall be interpreted, whenever possible, to permit a credit union chartered under this chapter to merge with a credit union chartered under any other law if the preservation of membership interest is concerned.

(b) The commissioner may under Subsection (1)(b) approve a merger plan that includes the addition of the residents of a county in the field of membership of the merging credit union to the field of membership of the surviving credit union if the commissioner finds that:

(i) the expansion of the field of membership of the surviving credit union is necessary for that credit union's safety and soundness; and

(ii) the expanded field of membership of the surviving credit union meets the criteria stated in Subsection 7-9-52(3)(c).

(6) If the commissioner approves a merger plan under Subsection (5)(b) under which the surviving credit union's field of membership after the merger will include residents of more than one county, Subsections (6)(a) through (e) apply to the surviving credit union.

(a) The domicile-county of the surviving credit union is:

(i) if the credit union does not have a field of membership under Subsection 7-9-53(2)(c) ~~or~~ (2)(d), the county in which the credit union has located the greatest number of branches as of the date the merger is effective; or

(ii) if the credit union has a field of membership under Subsection 7-9-53(2)(c) ~~or~~ (2)(d), the county that is the domicile-county of the surviving credit union under Section 7-9-53;

(b) Within the surviving credit union's domicile-county, the surviving credit union may establish, relocate, or otherwise change the physical location of the credit union's:

(i) main office; or

(ii) branch.

(c) Within a county other than the domicile-county that is in the field of membership of the surviving credit union after the merger, the surviving credit union may not:

(i) establish a main office or branch if the main office or branch was not located in the county as of the date that the merger is effective;

(ii) participate in a service center in which it does not participate as of the date that the merger is effective; or

(iii) relocate the surviving credit union's main office or a branch located in the county as of the date that the merger is effective unless the commissioner finds that the main office or branch is being relocated within a three-mile radius of the original location of the main office or branch.

(d) After the merger, the surviving credit union may admit as a member:

(i) a person in the surviving credit union's field of membership after the date that the merger is effective; or

(ii) a person belonging to an association that:

(A) is added to the field of membership of the credit union; and

(B) resides in the domicile-county of the surviving credit union, as defined in Section 7-9-53.

(e) In addition to any requirement under this Subsection (6), a surviving credit union shall comply with any requirement under this title for the establishment, relocation, or change in the

physical location of a main office or branch of a credit union.

(7) A vote of the membership of the surviving credit union is not required under Subsection (1)(c) if its board of directors determines that the merger will not have a significant effect on the organization, membership, or financial condition of the credit union.

Section 10. Section 7-9-43 is amended to read:

7-9-43. Board of Credit Union Advisors.

(1) (a) There is created a Board of Credit Union Advisors of five members to be appointed by the governor.

[(4)] (b) Members of the advisory board shall be individuals who are familiar with and associated in the field of credit unions.

[(2)] (c) At least three of the members of the advisory board shall be persons who have had three or more years of experience as a credit union officer and shall be selected from a list submitted to the governor by [the Utah League of Credit Unions] a bona fide trade association of authorized credit unions recognized by the commissioner.

[(3)] (2) The advisory board shall meet quarterly.

[(4)] (3) A chair of the advisory board shall be chosen each year from the membership of the advisory board by a majority of the members present at the advisory board's first meeting each year.

[(5)] (4) (a) Except as required by Subsection [(5)] (4)(b), as terms of current board members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding [the requirements of] Subsection [(5)] (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the advisory board is appointed every two years.

[(6)] (5) When a vacancy occurs in the membership for any reason, the [replacement shall be appointed] governor shall appoint a replacement for the unexpired term.

[(7) All members] (6) A member shall serve until [their successors are] the member's successor is appointed and qualified.

[(8)] (7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

[(9)] (8) Meetings of the advisory board shall be held on the call of the chair. A majority of the

members of the advisory board shall constitute a quorum.

[(10)] (9) The [Board of Credit Union Advisors] advisory board has the duty to advise the governor and commissioner on problems relating to credit unions and to foster the interest and cooperation of credit unions in the improvement of their services to the people of the state.

Section 11. Section 7-9-44 is amended to read:

7-9-44. Corporate central credit union.

(1) A credit union in which all credit unions, [the Utah League of Credit Unions] a bona fide trade association of authorized credit unions recognized by the commissioner, and its affiliates are eligible for membership may be established in this state and shall be known as a corporate central credit union.

(2) The corporate central credit union has all the powers and rights granted credit unions established under this chapter. The maximum loan by a corporate central credit union shall be established in the corporate central credit union bylaws.

(3) Beginning January 1, 1984, and at the end of each dividend period, the corporate central credit union, in lieu of a regular reserve as provided in Section 7-9-30, shall transfer 2% of its gross earnings to its central reserve until the reserve equals 1-1/2% of total assets. If the central reserve falls below 1-1/2% of total assets, it shall be replenished by regular transfers of 2% of gross earnings or by contributions, whichever is less, in such amounts as are needed to maintain the central reserve at 1-1/2% of total assets.

(4) Charges may be made against the central reserve to the extent permitted against a regular reserve. No other charges may be made against the central reserve, except as authorized in writing by the commissioner.

(5) The purposes of the corporate central credit union are:

(a) to accumulate and prudently manage the liquidity of its member credit unions through interlending and investment services;

(b) to act as an intermediary for credit union funds between members, other corporate credit unions, other financial institutions, and government agencies;

(c) to obtain liquid funds from other credit union organizations, financial intermediaries, and other sources;

(d) to foster and promote, in cooperation with other state, regional, and national corporate credit unions and credit union organizations or associations, the economic security, growth, and development of member credit unions; and

(e) to perform other financial services of benefit to its members authorized by the commissioner.

(6) The corporate central credit union is exempt from supervision fees but is subject to examination fees.

Section 12. Section 7-9-51 is amended to read:**7-9-51. Field of membership.**

(1) Except as provided in Subsection (3) or (5), the field of membership of a credit union may include only the following:

(a) the immediate family of a member of the credit union;

(b) the employees of the credit union;

(c) residents of a single county;

(d) one or more associations; and

(e) residents of a city of the third, fourth, or fifth class or a town as classified in Section 10-2-301 if:

(i) the city or town is located in a county of the fourth through sixth class as classified in Section 17-50-501;

(ii) at the time the residents of the city or town are included in the field of membership of a credit union, the credit union has not become a nonexempt credit union under Section 7-9-55; and

(iii) approved by the commissioner in accordance with Subsection 7-9-52(6).

(2) A credit union may have a field of membership that is more restrictive than the field of membership described in Subsection (1).

(3) A credit union may have a field of membership that is less restrictive than the field of membership described in Subsection (1) if the field of membership of the credit union:

(a) is determined under Subsection 7-9-53(2)(c) ~~or (2)(d)~~;

(b) is approved by the commissioner after a merger under Subsection 7-9-39(5); or

(c) is permitted by the commissioner after a merger in accordance with Section 7-9-39.5.

(4) If a credit union includes the residents of one county in its field of membership, the credit union may not change its field of membership to include a different county than the county that is first included in the field of membership of the credit union.

(5) Notwithstanding the other provisions of this section or any restrictions of Section 7-9-53, a credit union may have a field of membership that is less restrictive than the field of membership described in Subsection (1), under the following conditions:

(a) the field of membership of the credit union may include no more than all the residents of two counties in addition to any association included in the field of membership of the credit union; and

(b) both counties described in Subsection (5)(a) must be a county of the third through sixth class, as classified in Section 17-50-501.

Section 13. Section 7-9-53 is amended to read:**7-9-53. Grandfathering.**

(1) As used in this section:

(a) "Association that resides in a domicile-county" means an association that:

(i) operates a place of business or other physical location in the domicile-county; or

(ii) has at least 100 members that are residents of the domicile-county.

(b) "Domicile-county" means the county:

(i) in the field of membership of the credit union as of January 1, 1999; and

(ii) in which the credit union has located the greatest number of branches as of January 1, 1999.

(c) "Grandfathered field of membership" means the field of membership as of May 3, 1999, of a credit union described in Subsection (2)(~~d~~)(c).

(2) For each credit union formed before January 1, 1999, its field of membership as of May 3, 1999, is determined as follows:

(a) if the field of membership stated in the bylaws of the credit union as of January 1, 1999, complies with Section 7-9-51, the credit union's field of membership is the field of membership indicated in its bylaws;

(b) (i) the field of membership of a credit union as of May 3, 1999, is as provided in Subsection (2)(b)(ii) if:

(A) the field of membership stated in the bylaws of the credit union as of January 1, 1999, includes the residents of more than one county; and

(B) as of January 1, 1999, the credit union's main office and any of its branches are located in only one county in its field of membership;

(ii) as of May 3, 1999, the field of membership of a credit union described in Subsection (2)(b)(i) is:

(A) the immediate family of a member of the credit union;

(B) the employees of the credit union;

(C) residents of the one county in which the credit union has its main office or branches as of January 1, 1999; and

(D) any association that as of January 1, 1999, is in the field of membership of the credit union; and

~~[(e) (i) the field of membership of a credit union as of May 3, 1999, is as provided in Subsection (2)(c)(ii) if:]~~

~~[(A) the field of membership of a credit union stated in the bylaws of the credit union as of January 1, 1999, includes residents of more than one county;]~~

~~[(B) as of January 1, 1999, the credit union has a main office or branch in more than one county; and]~~

~~[(C) as a result of a merger pursuant to a supervisory action under Chapter 2, Possession of~~

~~Depository Institution by Commissioner, or Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies, that is effective on or after January 1, 1983, but before January 1, 1994, the credit union acquired a branch in a county in the field of membership of the credit union and the credit union did not have a branch in the county before the merger;]~~

~~[(ii) as of May 3, 1999, the field of membership of a credit union described in Subsection (2)(c)(i) is the same field of membership that the credit union would have had under Subsection (2)(d) except that the credit union;]~~

~~[(A) is not subject to Subsection (3); and]~~

~~[(B) is subject to Subsection (4)(b); and]~~

~~[(d)] (c) (i) the field of membership of a credit union as of May 3, 1999, is as provided in Subsection (2)(d)(c)(ii) if:~~

(A) the field of membership stated in the bylaws of the credit union as of January 1, 1999, includes the residents of more than one county; and

(B) as of January 1, 1999, the credit union has a main office or branch in more than one county;

(ii) as of May 3, 1999, the field of membership of a credit union described in Subsection (2)(d)(c)(i) is:

(A) the immediate family of a member of the credit union;

(B) the employees of the credit union;

(C) residents of the credit union's domicile-county;

(D) the residents of any county other than the domicile-county:

(I) if, as of January 1, 1999, the county is in the field of membership of the credit union; and

(II) in which, as of January 1, 1994, the credit union had located its main office or a branch; and

(E) any association that as of January 1, 1999, is in the field of membership of the credit union.

(3) If a credit union's field of membership is as described in Subsection (2)(d)(c), beginning May 3, 1999, the credit union:

(a) within the credit union's domicile-county, may establish, relocate, or otherwise change the physical location of the credit union's:

(i) main office; or

(ii) branch;

(b) within a county other than a domicile-county that is in the credit union's grandfathered field of membership, may not:

(i) establish a main office or branch that:

(A) was not located in the county as of January 1, 1999; or

(B) for which the credit union has not received by January 1, 1999, approval or conditional approval

of a site plan for the main office or branch from the planning commission of the municipality where the main office or branch will be located;

(ii) participate in a service center in which it does not participate as of January 1, 1999;

(iii) relocate the credit union's main office or a branch located in the county as of January 1, 1999, unless the commissioner finds that the main office or branch is relocated within a three-mile radius of where it was originally located; or

(iv) after a voluntary merger under Section 7-9-39, operate a branch in the county if:

(A) the effective date of the merger is on or after May 5, 2003;

(B) the credit union with the field of membership described in Subsection (2)(d)(c) is the surviving credit union after the merger; and

(C) the credit union did not own and operate the branch before the effective date of the merger; and

(c) may only admit as a member:

(i) a person in the credit union's grandfathered field of membership; or

(ii) a person belonging to an association that:

(A) is added to the field of membership of the credit union; and

(B) resides in the domicile-county of the credit union.

(4) ~~[(a)]~~ If a credit union's field of membership is as described in Subsection (2)(b), as of May 3, 1999, the credit union may operate as a credit union having a field of membership under Section 7-9-51.

~~[(b) If a credit union's field of membership is as described in Subsection (2)(c), as of May 3, 1999, the credit union:]~~

~~[(i) within the credit union's domicile-county, may establish, relocate, or otherwise change the physical location of the credit union's:]~~

~~[(A) main office; or]~~

~~[(B) branch;]~~

~~[(ii) within a county other than its domicile-county that is in the credit union's field of membership under Subsection (2)(c), may not:]~~

~~[(A) establish a main office or branch that was not located in the county as of January 1, 1999;]~~

~~[(B) participate in a service center in which it does not participate as of January 1, 1999; or]~~

~~[(C) relocate the credit union's main office or a branch located in the county as of January 1, 1999, unless the commissioner finds that the main office or branch is relocated within a three-mile radius of where it was originally located; and]~~

~~[(iii) may only admit as a member:]~~

~~[(A) a person in the credit union's field of membership under Subsection (2)(c); or]~~

~~[(B) a person belonging to an association that is added to the field of membership of the credit union,~~

regardless of whether the association resides in the domicile-county of the credit union.]

(5) (a) Notwithstanding Subsections (1) through (4), after May 3, 1999, a credit union described in Subsection (2)(c) ~~or (d)~~ may:

(i) operate an office or branch that is operated by the credit union on May 3, 1999, but that is not located in a county that is in the credit union's field of membership as of May 3, 1999; and

(ii) serve a member who is not in a credit union's field of membership as of May 3, 1999, if the member is a member of the credit union as of March 15, 1999.

(b) Subsection (5)(a) does not authorize a credit union to:

(i) establish a branch in a county that is not in the credit union's field of membership as of May 3, 1999, unless the branch meets the requirements under this title for establishing a branch; or

(ii) for a credit union described in Subsection (2)(~~d~~)(c), include in its field of membership an association that:

(A) as of January 1, 1999, is not included in the credit union's field of membership; and

(B) does not reside within the credit union's domicile-county.

(6) A credit union shall amend its bylaws in accordance with Section 7-9-11 by no later than August 3, 1999, to comply with this section.

(7) In addition to any requirement under this section, a credit union shall comply with any requirement under this title for the establishment, relocation, or change in the physical location of a main office or branch of a credit union.

Section 14. Section 70C-1-202 is amended to read:

70C-1-202. Exempted transactions.

(1) Notwithstanding the exceptions in Subsection (2), parties to a credit transaction that is otherwise exempt from this title may explicitly agree in writing that the transaction is subject to this title. The agreement shall specifically reference Title 70C, Utah Consumer Credit Code.

(2) This title does not apply to any of the following:

(a) ~~any~~ an extension of credit:

(i) primarily for business, commercial, or agricultural purposes; or

(ii) to other than a natural person including government agencies or instrumentalities;

(b) ~~any~~ a closed-end extension of credit secured by a first lien or equivalent security interest on a dwelling or building lot;

(c) ~~any~~ a transaction in securities or commodities accounts in which credit is extended by a broker-dealer registered with the:

(i) Securities and Exchange Commission; or

(ii) Commodity Futures Trading Commission;

(d) ~~any~~ an extension of credit:

(i) not secured by:

(A) real property; or

(B) personal property used or expected to be used as the principal dwelling of the consumer; and

(ii) (A) in which the amount financed exceeds ~~[\$25,000]~~ \$50,000 adjusted annually for inflation by the commissioner by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers; or

(B) in which there is an express written commitment to extend credit in excess of ~~[\$25,000]~~ the amount determined under Subsection (2)(d)(ii)(A);

(e) ~~any~~ a transaction under public utility or common carrier tariffs if a subdivision of this state or the United States regulates:

(i) the charges for the services involved;

(ii) the charges for delayed payment; and

(iii) ~~any~~ a discount allowed for early payment;

(f) ~~any~~ the sale of insurance by an insurer except as otherwise provided in Chapter 6, Insurance;

(g) ~~any~~ a transaction with a party acting as a pawnbroker and licensed by any governmental authority in this state;

(h) (i) a loan made, insured, or guaranteed pursuant to a program authorized by Title IV of the Higher Education Act of 1965, 20 U.S.C. ~~[Sections]~~ Sec. 1070, et seq.; or

(ii) a loan:

(A) that finances tuition and other expenses:

(I) charged in connection with enrollment:

(Aa) at a public or proprietary preprimary, secondary, vocational, or postsecondary school; or

(Bb) in any tutorial, continuing education, test preparation, distance-learning, or similar program; and

(II) including:

(Aa) tuition;

(Bb) fees;

(Cc) books;

(Dd) housing; and

(Ee) other expenses;

(B) that is:

(I) made, insured, or guaranteed under a state program; or

(II) made by a federally insured depository institution; and

(C) including a loan that consolidates or refinances a loan described in this Subsection (2)(h)(ii); and

(i) a rental purchase agreement as defined in Section 15-8-3.

Section 15. Section 70C-8-203 is amended to read:

70C-8-203. Fees -- Examinations.

(1) A party required to file notification under Section 70C-8-202 shall, on or before January 31 of each year, pay to the department an annual fee [equal to the sum of:] of \$100.

~~[(a) \$25; and]~~

~~[(b) \$7 for each \$100,000 or part thereof in excess of \$100,000, of the original principal balance of all consumer credit the party extended during the preceding calendar year.]~~

(2) In addition to filing notification, a party subject to this part, and a depository institution subject to this title:

(a) may be required to make a book or record relating to a consumer credit transaction available to the department or its authorized representative for examination; and

(b) shall pay to the department a fee to be set by the department based on an hourly rate per each examiner.

(3) No portion of a fee paid or owed to the department under this part is refundable because a party voluntarily or involuntarily ceases to extend credit to consumers:

(a) during the period covered by the fee; or

(b) before the time of an examination by the department of a book or record pertaining to a preceding consumer credit transaction.

Section 16. Section 70D-2-201 is amended to read:

70D-2-201. Notification of department -- Exemptions.

(1) Except as provided in Subsection (2), a person may not engage in business as a lender, broker, or servicer in this state before the day on which the person:

(a) files written notification with the commissioner in accordance with Section 70D-2-202; and

(b) pays a fee required by Section 70D-2-203.

(2) The following persons are exempt from this part, except for a reimbursement or fee described in Subsection 70D-2-203(2):

(a) a federally insured depository institution [in this state];

(b) a wholly owned subsidiary of a depository institution described in Subsection (2)(a); and

(c) a person who:

(i) is required to be licensed with the Division of Real Estate pursuant to Title 61, Chapter 2c, Utah

Residential Mortgage Practices and Licensing Act; and

(ii) is not a servicer.

Section 17. Section 70D-2-203 is amended to read:

70D-2-203. Fees -- Examination.

(1) (a) A person required to file notification under this part shall pay to the commissioner:

(i) a fee of \$200 with the person's initial notification; and

(ii) an annual fee, on or before January 31 of each year, in an amount to be set by rule of the commissioner subject to Subsection (1)(b).

(b) The commissioner:

(i) subject to Subsection (1)(b)(ii), shall set the annual renewal fee at an amount that generates sufficient revenue to cover the department's costs of administering this chapter; and

(ii) may not set an annual renewal fee that exceeds \$100 per renewal.

(2) (a) ~~[If the commissioner has probable cause to believe that a lender, broker, or servicer has violated this chapter, the]~~ The commissioner may require ~~the~~ a lender, broker, or servicer to make a record of the lender, broker, or servicer relating to its activities as a lender, broker, or servicer available to the commissioner or the commissioner's authorized representative for examination.

(b) A lender, broker, or servicer described in Subsection (2)(a) shall:

(i) reimburse the department for travel and other reasonable and necessary costs incurred in the examination described in Subsection (2)(a); and

(ii) pay to the commissioner a fee set by the commissioner based on an hourly rate per each examiner, not to exceed \$55 per hour for each examiner.

(3) No portion of a fee paid or owed to the commissioner under this section is refundable because a person voluntarily or involuntarily ceases to do business as a lender, broker, or servicer:

(a) during the period covered by the fee; or

(b) before the time of an examination by the commissioner of a record pertaining to a transaction preceding the day on which the person ceases to do business as a lender, broker, or servicer.

Section 18. Section 70D-2-305 is amended to read:

70D-2-305. Fee restrictions.

(1) A lender or broker may not accept a fee or deposit from an applicant for a mortgage loan unless at the time the lender or broker accepts the fee or deposit there is a written statement:

~~[(4)]~~ (a) signed by the applicant;

~~[(2)]~~ (b) stating whether or not the fee or deposit is refundable; and

~~[(3)]~~ (c) describing the conditions, if any, under which all or a portion of the fee or deposit will be refunded to the applicant.

(2) Notwithstanding Subsection (1), a lender or broker may accept a fee or deposit from an applicant for a mortgage loan if the lender or broker receives an email from the applicant acknowledging that the applicant was provided the information required by Subsections (1)(b) and (c).

Section 19. Section 70D-3-102 is amended to read:

70D-3-102. Definitions.

As used in this chapter:

(1) "Administrative or clerical tasks" means:

(a) the receipt, collection, and distribution of information common for the process or underwriting of a loan in the mortgage industry; and

(b) a communication with a consumer to obtain information necessary for the processing or underwriting of a residential mortgage loan.

(2) "Affiliate" shall be defined by the commissioner by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) "Applicant" means an individual applying for a license under this chapter.

(4) "Approved examination provider" means a person approved by the nationwide database as an approved test provider.

(5) "Business as a loan originator" means for compensation or in the expectation of compensation to engage in an act that makes an individual a loan originator.

(6) "Clerical or support duties" includes after the receipt of an application for a residential mortgage loan:

(a) the receipt, collection, distribution, and analysis of information common for the processing or underwriting of a residential mortgage loan; and

(b) communicating with a consumer to obtain the information necessary for the processing or underwriting of the residential mortgage loan, to the extent that the communication does not include:

(i) offering or negotiating a residential mortgage loan rate or term; or

(ii) counseling a consumer about a residential mortgage loan rate or term.

(7) "Compensation" means anything of economic value that is paid, loaned, granted, given, donated, or transferred to an individual or entity for or in consideration of:

(a) services;

(b) personal or real property; or

(c) another thing of value.

(8) "Continuing education" means education taken by an individual licensed under this chapter in order to meet the education requirements imposed by Section 70D-3-303 to renew a license under this chapter.

(9) "Covered subsidiary" means a subsidiary that is:

(a) owned and controlled by a depository institution; and

(b) regulated by a federal banking agency.

(10) "Federal banking agency" means:

(a) the Board of Governors of the Federal Reserve System;

(b) the Comptroller of the Currency;

~~[(e)] the Director of the Office of Thrift Supervision;~~

~~[(d)]~~ (c) the National Credit Union Administration; or

~~[(e)]~~ (d) the Federal Deposit Insurance Corporation.

(11) "Licensee" means an individual licensed under this chapter.

(12) (a) Except as provided in Subsection (12)(b), "loan originator" means an individual who for compensation or in the expectation of compensation:

(i) takes a residential mortgage loan application; or

(ii) offers or negotiates a term of a residential mortgage loan.

(b) "Loan originator" does not include:

(i) an individual who is engaged solely as a loan processor or underwriter;

(ii) unless compensated by a lender, broker, other loan originator, or an agent of a lender, broker, or other loan originator, a person who:

(A) only performs real estate brokerage activities; and

(B) is licensed under Title 61, Chapter 2f, Real Estate Licensing and Practices Act;

(iii) a person who is solely involved in extension of credit relating to a timeshare plan, as defined in 11 U.S.C. Sec. 101(53D); or

(iv) an attorney licensed to practice law in this state who, in the course of the attorney's practice as an attorney, assists a person in obtaining a residential mortgage loan.

(13) "Loan processor or underwriter" means an individual who as an employee performs clerical or support duties:

(a) at the direction of and subject to the supervision and instruction of:

(i) a licensee; or

- (ii) a registered loan originator; and
- (b) as an employee of:
 - (i) the licensee; or
 - (ii) a registered loan originator.

(14) "Nationwide database" means the Nationwide Mortgage Licensing System and Registry, authorized under Secure and Fair Enforcement for Mortgage Licensing, 12 U.S.C. Sec. 5101 et seq.

(15) "Nontraditional mortgage product" means a mortgage product other than a 30-year fixed rate mortgage.

(16) "Owned and controlled by a depository institution" may be defined by rule made by the commissioner in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(17) "Prelicensing education" means education taken by an individual seeking to be licensed under this chapter in order to meet the education requirements imposed by Section 70D-3-301 for an individual to obtain a license under this chapter.

(18) "Registered loan originator" means an individual who:

(a) engages in an act as a loan originator only as an employee of:

- (i) a depository institution;
- (ii) a covered subsidiary; or
- (iii) an institution regulated by the Farm Credit Administration; and

(b) is registered with, and maintains a unique identifier through, the nationwide database.

(19) (a) Subject to Subsection (19)(b), "residential mortgage loan" means:

- (i) a mortgage loan; or
- (ii) a loan that is:
 - (A) secured by a mortgage; and

(B) subject to Title 70C, Utah Consumer Credit Code.

(b) A loan described in Subsection (19)(a) is a "residential mortgage loan" only if the mortgage securing the loan is on:

- (i) a dwelling located in the state; or
- (ii) real property located in the state, upon which is constructed or intended to be constructed a dwelling.

(20) "Unique identifier" is as defined in 12 U.S.C. Sec. 5102.

Section 20. Repealer.

This bill repeals:

Section 7-3-3.3, Tying of other bank services prohibited.

Section 7-3-16, Losses charged to surplus -- Replenishment of fund -- Dividend restrictions.

Section 7-8-12, Charge off of losses sustained on receivables and operating losses -- Replenishment of surplus account.

CHAPTER 98
S. B. 135

Passed March 6, 2014
Approved March 28, 2014
Effective May 13, 2014

VOTER REGISTRATION AMENDMENTS

Chief Sponsor: Scott K. Jenkins
House Sponsor: Paul Ray

LONG TITLE

General Description:

This bill amends provisions of the Election Code relating to voter registration.

Highlighted Provisions:

This bill:

- ▶ provides that an individual who registers to vote in person or online 15 or more days before an election may participate in early voting or may vote on election day;
- ▶ provides that a person who registers to vote in person or online less than 15 days before an election, but more than six days before an election, may vote on election day;
- ▶ requires a county clerk to accept a voter registration form as late as the day before an election if the registrant timely filled out and submitted the voter registration form to another person who turns the voter registration form in late; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-2-102.5, as last amended by Laws of Utah 2011, Chapters 17, 297, and 327
20A-2-201, as last amended by Laws of Utah 2008, Chapters 225 and 276
20A-2-206, as last amended by Laws of Utah 2011, Chapter 17
20A-4-107, as last amended by Laws of Utah 2013, Chapter 390

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

Section 1. Section 20A-2-102.5 is amended to read:

20A-2-102.5. Voter registration deadline.

(1) Except as provided in [Sections] Section 20A-2-201 [and], 20A-2-206 [and], or 20A-4-107, or Chapter 16, Uniform Military and Overseas Voters Act, a person who fails to submit a correctly completed voter registration form on or before the voter registration deadline may not [be permitted to] vote in the election.

(2) The voter registration deadline [shall be the date that] is 30 calendar days before the date of the election.

Section 2. Section 20A-2-201 is amended to read:

20A-2-201. Registering to vote at office of county clerk.

(1) Except as provided in Subsection (3), the county clerk shall register to vote [all persons who present themselves for registration] each individual who registers in person at the county clerk's office during designated office hours if [those persons] the individual will, on the date of the election, [will] be legally eligible to vote in a voting precinct in the county in accordance with Section 20A-2-101.

(2) [If a registration form is submitted] If an individual submits a registration form in person at the office of the county clerk during the period beginning on the date after the voter registration deadline and ending on the date that is 15 calendar days before the date of the election, the county clerk shall:

(a) accept a registration [forms from all persons who present themselves for registration] form from each individual who submits a registration form in person at the clerk's office during designated office hours if [those persons] the individual, on the date of the election, will be legally qualified and entitled to vote in a voting precinct in the county; and

(b) inform [them] the individual that [:] the individual will be registered to vote in the pending election.

[i] they will be registered to vote in the pending election; and]

[ii] for the pending election, they must vote on the day of the election and will not be eligible to vote using early voting under Chapter 3, Part 6, Early Voting, because they registered too late.]

[3] If a registration form is submitted to the county clerk on the date of the election or during the 14 calendar days before an election, the county clerk shall:]

[a] accept registration forms from all persons who present themselves for registration at the clerk's office during designated office hours if those persons, on the date of the election, will be legally qualified and entitled to vote in a voting precinct in the county; and]

[b] inform them that they will be registered to vote but may not vote in the pending election because they registered too late.]

(3) If an individual who will be legally qualified and entitled to vote in a voting precinct in the county on the date of an election appears in person, during designated office hours, and submits a registration form on the date of the election or during the 14 calendar days before an election, the county clerk shall:

(a) accept the registration form; and

(b) (i) if it is more than seven calendar days before the date of an election:

(A) inform the individual that the individual is registered to vote in the pending election; and

(B) for the pending election, the individual must vote on the day of the election and is not eligible to vote using early voting under Chapter 3, Part 6, Early Voting, because the individual registered too late; or

(ii) if it is on the date of an election or during the seven calendar days before an election, inform the individual that the individual will be registered to vote but may not vote in the pending election because the individual registered too late.

Section 3. Section 20A-2-206 is amended to read:

20A-2-206. Electronic registration -- Requests for absentee ballot application.

(1) The lieutenant governor may create and maintain an electronic system for voter registration and requesting an absentee ballot that is publicly available on the Internet.

(2) An electronic system for voter registration shall require:

(a) that an applicant have a valid driver license or identification card, issued under Title 53, Chapter 3, Uniform Driver License Act, that reflects the person's current principal place of residence;

(b) that the applicant provide the information required by Section 20A-2-104, except that the applicant's signature may be obtained in the manner described in Subsections (2)(d) and (4);

(c) that the applicant attest to the truth of the information provided; and

(d) that the applicant authorize the lieutenant governor's and county clerk's use of the applicant's driver license or identification card signature, obtained under Title 53, Chapter 3, Uniform Driver License Act, for voter registration purposes.

(3) Notwithstanding Section 20A-2-104, an applicant using the electronic system for voter registration created under this section is not required to complete a printed registration form.

(4) A system created and maintained under this section shall provide the notices concerning a voter's presentation of identification contained in Subsection 20A-2-104(1).

(5) The lieutenant governor shall obtain a digital copy of the applicant's driver license or identification card signature from the Driver License Division.

(6) Upon receiving all information from an applicant and the Driver License Division, the lieutenant governor shall send the information to the county clerk for the county in which the applicant's principal place of residence is found for further action as required by Section 20A-2-304.

(7) The lieutenant governor may use additional security measures to ensure the accuracy and integrity of an electronically submitted voter registration.

(8) (a) If an individual applies to register under this section during the period beginning on the date after the voter registration deadline and ending on the date that is 15 calendar days before the date of an election, the county clerk shall:

(i) accept the application for registration if the individual, on the date of the election, will be legally qualified and entitled to vote in a voting precinct in the state; and

(ii) inform the individual that ~~[-(A)]~~ the individual is registered to vote in the pending election ~~[- and]~~.

(b) If an individual applies to register under this section during the period beginning on the date that is 14 calendar days before the election and ending on the date that is seven calendar days before the election, the county clerk shall:

(i) accept the application for registration if the individual, on the date of the election, will be legally qualified and entitled to vote in a voting precinct in the state; and

(ii) inform the individual that:

(A) the individual is registered to vote in the pending election; and

(B) for the pending election, the individual must vote on the day of the election and is not eligible to vote using early voting under Chapter 3, Part 6, Early Voting, because the individual registered too late.

~~[(b)]~~ (c) If an individual applies to register under this section during the ~~[14]~~ six calendar days before an election, the county clerk shall:

(i) accept the application for registration if the individual, on the date of the election, will be legally qualified and entitled to vote in a voting precinct in the state; and

(ii) inform the individual that the individual is registered to vote but may not vote in the pending election because the individual registered too late.

(9) (a) A registered voter may file an application for an absentee ballot in accordance with Section 20A-3-304 on the electronic system for voter registration established under this section.

(b) The lieutenant governor shall provide a means by which a registered voter shall sign the application form as provided in Section 20A-3-304.

Section 4. Section 20A-4-107 is amended to read:

20A-4-107. Review and disposition of provisional ballot envelopes.

(1) As used in this section, a person is "legally entitled to vote" if:

(a) the person:

(i) is registered to vote in the state;

(ii) votes the ballot for the voting precinct in which the person resides; and

(iii) provided valid voter identification to the poll worker;

(b) the person:

(i) is registered to vote in the state;

(ii) (A) provided valid voter identification to the poll worker; or

(B) either failed to provide valid voter identification or the documents provided as valid voter identification were inadequate and the poll worker recorded that fact in the official register but the county clerk verifies the person's identity and residence through some other means; and

(iii) did not vote in the person's precinct of residence, but the ballot that the person voted was from the person's county of residence and includes one or more candidates or ballot propositions on the ballot voted in the person's precinct of residence; or

(c) the person:

(i) is registered to vote in the state;

(ii) either failed to provide valid voter identification or the documents provided as valid voter identification were inadequate and the poll worker recorded that fact in the official register; and

(iii) (A) the county clerk verifies the person's identity and residence through some other means as reliable as photo identification; or

(B) the person provides valid voter identification to the county clerk or an election officer who is administering the election by the close of normal office hours on Monday after the date of the election.

(2) (a) Upon receipt of provisional ballot envelopes, the election officer shall review the affirmation on the face of each provisional ballot envelope and determine if the person signing the affirmation is:

(i) registered to vote in this state; and

(ii) legally entitled to vote:

(A) the ballot that the person voted; or

(B) if the ballot is from the person's county of residence, for at least one ballot proposition or candidate on the ballot that the person voted.

(b) If the election officer determines that the person is not registered to vote in this state or is not legally entitled to vote in the county or for any of the ballot propositions or candidates on the ballot that the person voted, the election officer shall retain the ballot envelope, unopened, for the period specified in Section 20A-4-202 unless ordered by a court to produce or count it.

(c) If the election officer determines that the person is registered to vote in this state and is legally entitled to vote in the county and for at least one of the ballot propositions or candidates on the ballot that the person voted, the election officer shall remove the ballot from the provisional ballot envelope and place the ballot with the absentee ballots to be counted with those ballots at the canvass.

(d) The election officer may not count, or allow to be counted a provisional ballot unless the person's identity and residence is established by a preponderance of the evidence.

(3) If the election officer determines that the person is registered to vote in this state, the election officer shall ensure that the voter registration records are updated to reflect the information provided on the provisional ballot envelope.

(4) If the election officer determines that the person is not registered to vote in this state and the information on the provisional ballot envelope is complete, the election officer shall:

(a) consider the provisional ballot envelope a voter registration form for the person's county of residence; and

(b) (i) register the person if the voter's county of residence is within the county; or

(ii) forward the voter registration form to the election officer of the person's county of residence, which election officer shall register the person.

(5) Notwithstanding any provision of this section, the election officer shall remove the ballot from a provisional ballot envelope and place the ballot with the absentee ballots to be counted with those ballots at the canvass, if:

(a) the election officer determines, in accordance with the provisions of this section, that the sole reason a provisional ballot may not otherwise be counted is because the voter registration was filed less than eight days before the election;

(b) eight or more days before the election, the individual who cast the provisional ballot:

(i) completed and signed the voter registration; and

(ii) provided the voter registration to another person to file;

(c) the late filing was made due to the person described in Subsection (5)(b)(ii) filing the voter registration less than eight days before the election; and

(d) the election officer receives the voter registration no later than one day before the day of the election.

CHAPTER 99**S. B. 137**

Passed March 7, 2014
 Approved March 28, 2014
 Effective May 13, 2014

**HEALTH CARE PROFESSIONAL
 TRUTH IN ADVERTISING**

Chief Sponsor: Todd Weiler
 House Sponsor: Ryan D. Wilcox

LONG TITLE**General Description:**

This bill amends the unprofessional and unlawful conduct provisions of the Division of Occupational and Professional Licensing Act to require all licensed health care providers to disclose to a patient the health care provider's type of license and name.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ beginning January 1, 2015, requires a health care provider, in a patient encounter, to wear a badge or clothing that identifies the health care provider's name and license type;
- ▶ establishes certain exemptions for the requirement for health care provider identification;
- ▶ requires an individual in training to obtain a health care license to wear identification in patient encounters;
- ▶ prohibits deceptive or misleading representations by a healthcare provider;
- ▶ makes it unprofessional conduct for a health care provider to fail to wear identification in a patient encounter;
- ▶ makes it unlawful conduct for an individual to wear identification in a patient encounter that suggests the individual is licensed to perform health care services for which the individual is not licensed to perform; and
- ▶ makes it unlawful conduct to engage in deceptive or misleading representations.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

58-1-501.8, Utah Code Annotated 1953

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

Section 1. Section 58-1-501.8 is enacted to read:

58-1-501.8. Occupational and professional identification of health care providers -- Unlawful and unprofessional conduct -- Penalties.

(1) For purposes of this section:

- (a) "Badge" means a tag or badge in plain view:
 - (i) attached to a health care provider's clothing; or

(ii) hanging from a lanyard around a health care provider's neck.

(b) "Clothing" means a health care provider's outermost article of clothing that is visible to others.

(c) "Deceptive or misleading conduct" means any affirmative communication or representation that falsely states, describes, holds out, or details an individual's licensure, training, education, or profession.

(d) "Health care provider" means a natural person who is:

(i) defined as a health care provider in Section 78B-3-403; and

(ii) licensed under this title.

(e) "Identification" means a badge or stitching, or permanent writing in plain view on clothing that:

(i) includes the health care provider's name;

(ii) includes the license type held by the health care provider;

(iii) is worn in a manner that is visible and apparent to others; and

(iv) contains the information required by Subsections (1)(e)(i) and (ii):

(A) in a manner and of sufficient size that can be easily read; and

(B) on both sides of the badge, unless the badge or tag is attached to clothing in a way that prevents the badge from rotating.

(f) "License type" means a designation of the license type that satisfies the requirements of Section 58-1-501.6.

(g) "Patient encounter" means an interaction in a health care facility, health care clinic, or office in which a patient can see a health care provider delivering services directly to a patient.

(2) Beginning January 1, 2015, except as provided in Subsections (3) and (4), a health care provider shall wear identification during any patient encounter.

(3) A health care provider's identification may be covered if required under sterilization or isolation protocols.

(4) A health care provider is not required to wear identification:

(a) if wearing identification would jeopardize the health care provider's safety; or

(b) (i) in an office in which:

(A) the license type and names of all health care providers working in the office are displayed on the office door; or

(B) each health care provider working in the office has the health care provider's license posted prominently in the office and readily visible to a patient; and

(ii) if the office is an office:

(A) of a solo health care provider; or

(B) of a single type of health care provider.

(5) An individual who is a student or is in training to obtain a license as a health care provider shall:

(a) wear identification during patient encounters that identifies the person as in training, or a student, for the particular license type; and

(b) otherwise comply with the provisions of this section.

(6) It is unprofessional conduct if a health care provider violates this section.

(7) It is unlawful conduct if an individual:

(a) wears identification in a patient encounter that suggests that the individual is practicing or engaging in an occupation or profession that the individual may not lawfully practice or engage in under this title; or

(b) engages in deceptive or misleading conduct.

(8) An individual who violates this section is subject to Section 58-1-502.

CHAPTER 100**S. B. 143**

Passed March 6, 2014
Approved March 28, 2014
Effective July 1, 2014

**NAIL TECHNICIAN
PRACTICE AMENDMENTS**

Chief Sponsor: Todd Weiler
House Sponsor: James A. Dunnigan

LONG TITLE**General Description:**

This bill modifies statewide amendments to the International Mechanical Code and modifies the Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Licensing Act.

Highlighted Provisions:

This bill:

- ▶ requires that each nail station where a nail technician shaves, sands, drills, or otherwise manipulates an acrylic nail be equipped with a source capture system; and
- ▶ provides that it is unlawful conduct for a salon or school where nail technology is practiced or taught to fail to maintain a source capture system.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2014.

Utah Code Sections Affected:**AMENDS:**

- 15A-3-401, as last amended by Laws of Utah 2013, Chapter 297
58-11a-502, as last amended by Laws of Utah 2013, Chapter 13
58-11a-503, as last amended by Laws of Utah 2013, Chapter 13

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

Section 1. Section 15A-3-401 is amended to read:**15A-3-401. General provisions.**

The following are adopted as amendments to the IMC to be applicable statewide:

(1) In IMC, Section 202, the definition for "CONDITIONED SPACE" is deleted and replaced with the following: "CONDITIONED SPACE. An area, room, or space enclosed within the building thermal envelope that is directly heated or cooled, or indirectly heated or cooled by any of the following means: 1. Openings directly into an adjacent conditioned space. 2. An un-insulated floor, ceiling or wall adjacent to a conditioned space. 3. Un-insulated duct, piping or other heat or cooling source within the space."

(2) In IMC, Section 403.2.1, Item 3, is deleted and replaced with the following: "Except as provided in Table 403.3, Note h, where mechanical exhaust is required by Note b in Table 403.3, recirculation of air from such spaces is prohibited. All air supplied

to such spaces shall be exhausted, including any air in excess of that required by Table 403.3."

(3) In IMC, Table 403.3, Note b, is deleted and replaced with the following: "Except as provided in Note h, mechanical exhaust required and the recirculation of air from such spaces is prohibited (see Section 403.2.1, Item 3)."

(4) In IMC, Table 403.3, Note h is deleted and replaced with the following:

"1. For a nail salon where a nail technician files or shapes an acrylic nail, as defined by rule by the Division of Occupational and Professional Licensing, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, each nail station where a nail technician files or shapes an acrylic nail shall be provided with:

a. a source capture system capable of filtering and recirculating air to inside space not less than 50 cfm per station; or

b. a source capture system capable of exhausting not less than 50 cfm per station."

2. Except as provided in paragraph 3, the requirements described in paragraph 1 apply beginning on July 1, 2020.

3. The requirements described in paragraph 1 apply beginning on July 1, 2014 if the nail salon is under or begins new construction or remodeling on or after July 1, 2014.

{2} (5) In IMC, Section 403, a new Section 403.8 is added as follows: "Retrospective effect. Removal, alteration, or abandonment shall not be required, and continued use and maintenance shall be allowed, for a ventilation system within an existing installation that complies with the requirements of this Section 403 regardless of whether the ventilation system satisfied the minimum ventilation rate requirements of prior law."

{3} (6) In IMC, Table 603.4, in the section "Round ducts and enclosed rectangular ducts", the word "enclosed" is deleted; the words "14 inches or less" are deleted and replaced with "over 8 inches but less than 15 inches"; the wording "8 inches or less" under duct size, "0.013" under minimum thickness (in.), "30" under equivalent gage no., and "0.0159" under aluminum minimum thickness (in.), are added; and the section "Exposed rectangular ducts" is deleted.

{4} (7) In IMC, Section 1004.2, the first sentence is deleted and replaced with the following: "Boilers and pressure vessels in Utah are regulated by the Utah Labor Commission, Division of Boiler, Elevator and Coal Mine Safety, except those located in private residences or in apartment houses of less than five family units. Boilers shall be installed in accordance with their listing and labeling, with minimum clearances as prescribed by the manufacturer's installation instructions."

{5} (8) In IMC, Section 1004.3.1, the word "unlisted" is inserted before the word "boilers".

{6} (9) IMC, Section 1101.10, is deleted.

Section 2. Section 58-11a-502 is amended to read:**58-11a-502. Unlawful conduct.**

Unlawful conduct includes:

(1) practicing or engaging in, or attempting to practice or engage in activity for which a license is required under this chapter unless:

(a) the person holds the appropriate license under this chapter; or

(b) an exemption in Section 58-1-307 or 58-11a-304 applies;

(2) knowingly employing any other person to engage in or practice or attempt to engage in or practice any occupation or profession licensed under this chapter if the employee is not licensed to do so under this chapter or exempt from licensure;

(3) touching, or applying an instrument or device to the following areas of a client's body:

(a) the genitals or the anus, except in cases where the patron states to a licensee that the patron requests a hair removal procedure and signs a written consent form, which must also include the witnessed signature of a legal guardian if the patron is a minor, authorizing the licensee to perform a hair removal procedure; or

(b) the breast of a female patron, except in cases in which the female patron states to a licensee that the patron requests breast skin procedures and signs a written consent form, which must also include the witnessed signature of a parent or legal guardian if the patron is a minor, authorizing the licensee to perform breast skin procedures;

(4) using or possessing [~~as a nail technician~~] a solution composed of at least 10% methyl methacrylate on a client;

(5) performing an ablative procedure as defined in Section 58-67-102; ~~or~~

(6) when acting as an instructor regarding a service requiring licensure under this chapter, for a class or education program where attendees are not licensed under this chapter, failing to inform each attendee in writing that:

(a) taking the class or program without completing the requirements for licensure under this chapter is insufficient to certify or qualify the attendee to perform a service for compensation that requires licensure under this chapter; and

(b) the attendee is required to obtain licensure under this chapter before performing the service for compensation[-]; or

(7) failing as a salon or school where nail technology is practiced or taught to maintain a source capture system required under Section 15A-3-401, including failing to maintain and clean a source capture system's air filter according to the manufacturer's instructions.

Section 3. Section 58-11a-503 is amended to read:

58-11a-503. Penalties.

(1) Unless Subsection (2) applies, an individual who commits an act of unlawful conduct under

Section 58-11a-502 or who fails to comply with a citation issued under this section after it is final is guilty of a class A misdemeanor.

(2) Sexual conduct that violates Section 58-11a-502 and Title 76, Utah Criminal Code, shall be subject to the applicable penalties in Title 76.

(3) Grounds for immediate suspension of a licensee's license by the division include the issuance of a citation for violation of Subsection 58-11a-502(1), (2), (4), (5), ~~or~~ (6), or (7).

(4) (a) If upon inspection or investigation, the division concludes that a person has violated the provisions of Subsection 58-11a-502(1), (2), (4), (5), ~~or~~ (6), or (7), or a rule or order issued with respect to Subsection 58-11a-502(1), (2), (4), (5), ~~or~~ (6), or (7), and that disciplinary action is appropriate, the director or the director's designee from within the division shall promptly issue a citation to the person according to this chapter and any pertinent rules, attempt to negotiate a stipulated settlement, or notify the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(i) A person who is in violation of Subsection 58-11a-502(1), (2), (4), (5), ~~or~~ (6), or (7), as evidenced by an uncontested citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may be assessed a fine pursuant to this Subsection (4) and may, in addition to or in lieu of, be ordered to cease and desist from violating Subsection 58-11a-502(1), (2), (4), (5), ~~or~~ (6), or (7).

(ii) Except for a cease and desist order, the licensure sanctions cited in Section 58-11a-401 may not be assessed through a citation.

(b) (i) Each citation shall be in writing and describe with particularity the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated.

(ii) The citation shall clearly state that the recipient must notify the division in writing within 20 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(iii) The citation shall clearly explain the consequences of failure to timely contest the citation or to make payment of a fine assessed by the citation within the time specified in the citation.

(c) Each citation issued under this section, or a copy of each citation, may be served upon a person upon whom a summons may be served in accordance with the Utah Rules of Civil Procedure and may be made personally or upon the person's agent by a division investigator or by a person specially designated by the director or by mail.

(d) (i) If within 20 calendar days from the service of a citation, the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review.

(ii) The period to contest a citation may be extended by the division for cause.

(e) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with a citation after it becomes final.

(f) The failure of an applicant for licensure to comply with a citation after it becomes final is a ground for denial of license.

(g) No citation may be issued under this section after the expiration of six months following the occurrence of a violation.

(h) Fines shall be assessed by the director or the director's designee according to the following:

(i) for a first offense under Subsection (4)(a), a fine of up to \$1,000;

(ii) for a second offense under Subsection (4)(a), a fine of up to \$2,000; and

(iii) for any subsequent offense under Subsection (4)(a), a fine of up to \$2,000 for each day of continued offense.

(i) (i) For purposes of issuing a final order under this section and assessing a fine under Subsection (4)(h), an offense constitutes a second or subsequent offense if:

(A) the division previously issued a final order determining that a person committed a first or second offense in violation of Subsection 58-11a-502(1), (2), (4), (5), ~~(6)~~, or (7); or

(B) (I) the division initiated an action for a first or second offense;

(II) no final order has been issued by the division in the action initiated under Subsection (4)(i)(i)(B)(I);

(III) the division determines during an investigation that occurred after the initiation of the action under Subsection (4)(i)(i)(B)(I) that the person committed a second or subsequent violation of Subsection 58-11a-502(1), (2), (4), (5), ~~(6)~~, or (7); and

(IV) after determining that the person committed a second or subsequent offense under Subsection (4)(i)(i)(B)(III), the division issues a final order on the action initiated under Subsection (4)(i)(i)(B)(I).

(ii) In issuing a final order for a second or subsequent offense under Subsection (4)(i)(i), the division shall comply with the requirements of this section.

(5) (a) A penalty imposed by the director under Subsection (4)(h) shall be deposited into the Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Education and Enforcement Fund.

(b) A penalty which is not paid may be collected by the director by either referring the matter to a collection agency or bringing an action in the district court of the county in which the person

against whom the penalty is imposed resides or in the county where the office of the director is located.

(c) A county attorney or the attorney general of the state is to provide legal assistance and advice to the director in an action to collect the penalty.

(d) A court shall award reasonable attorney fees and costs in an action brought to enforce the provisions of this section.

Section 4. Effective date.

This bill takes effect on July 1, 2014.

CHAPTER 101**S. B. 144**

Passed February 19, 2014

Approved March 28, 2014

Effective May 13, 2014

DRIVER LICENSE MODIFICATIONS

Chief Sponsor: John L. Valentine
House Sponsor: Richard A. Greenwood

LONG TITLE**General Description:**

This bill modifies the Uniform Driver License Act by amending provisions relating to driver license hearings.

Highlighted Provisions:

This bill:

- ▶ repeals provisions that authorize the Driver License Division to follow the emergency procedures of the Administrative Procedures Act to, immediately and without a hearing, deny, suspend, disqualify, or revoke the license of any person without receiving a record of the person's conviction of crime when the Driver License Division has been notified or has reason to believe the person has committed certain offenses;
- ▶ provides that if the Driver License Division finds that the license of a person should be denied, suspended, disqualified, or revoked, the Driver License Division shall immediately notify the licensee in a manner specified by the Driver License Division and afford the person an opportunity for a hearing in the county where the licensee resides; and
- ▶ makes conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53-3-221, as last amended by Laws of Utah 2013, Chapter 411

53-3-1007, as last amended by Laws of Utah 2013, Chapter 217

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

Section 1. Section 53-3-221 is amended to read:

53-3-221. Offenses that may result in denial, suspension, disqualification, or revocation of license -- Additional grounds for suspension -- Point system for traffic violations -- Notice and hearing -- Reporting of traffic violation procedures.

(1) By following the [~~emergency~~] procedures in Title 63G, Chapter 4, Administrative Procedures Act, the division may [~~immediately~~] deny, suspend, disqualify, or revoke the license of any person [~~without hearing and~~] without receiving a record of the person's conviction of crime when the division has been notified or has reason to believe the person:

(a) has committed any offenses for which mandatory suspension or revocation of a license is required upon conviction under Section 53-3-220;

(b) has, by reckless or unlawful driving of a motor vehicle, caused or contributed to an accident resulting in death or injury to any other person, or serious property damage;

(c) is incompetent to drive a motor vehicle or is afflicted with mental or physical infirmities or disabilities rendering it unsafe for the person to drive a motor vehicle upon the highways;

(d) has committed a serious violation of the motor vehicle laws of this state;

(e) has knowingly committed a violation of Section 53-3-229; or

(f) has been convicted of serious offenses against traffic laws governing the movement of motor vehicles with a frequency that indicates a disrespect for traffic laws and a disregard for the safety of other persons on the highways.

(2) (a) The division may suspend the license of a person under Subsection (1) when the person has failed to comply with the terms stated on a traffic citation issued in this state, except this Subsection (2) does not apply to highway weight limit violations or violations of law governing the transportation of hazardous materials.

(b) This Subsection (2) applies to parking and standing violations only if a court has issued a warrant for the arrest of a person for failure to post bail, appear, or otherwise satisfy the terms of the citation.

(c) (i) This Subsection (2) may not be exercised unless notice of the pending suspension of the driving privilege has been sent at least 10 days previously to the person at the address provided to the division.

(ii) After clearance by the division, a report authorized by Section 53-3-104 may not contain any evidence of a suspension that occurred as a result of failure to comply with the terms stated on a traffic citation.

(3) (a) The division may suspend the license of a person under Subsection (1) when the division has been notified by a court that the person has an outstanding unpaid fine, an outstanding incomplete restitution requirement, or an outstanding warrant levied by order of a court.

(b) The suspension remains in effect until the division is notified by the court that the order has been satisfied.

(c) After clearance by the division, a report authorized by Section 53-3-104 may not contain any evidence of the suspension.

(4) (a) The division shall make rules establishing a point system as provided for in this Subsection (4).

(b) (i) The division shall assign a number of points to each type of moving traffic violation as a measure of its seriousness.

(ii) The points shall be based upon actual relationships between types of traffic violations and motor vehicle traffic accidents.

(iii) Except as provided in Subsection (4)(b)(iv), the division may not assess points against a person's driving record for a conviction of a traffic violation:

- (A) that occurred in another state; and
- (B) that was committed on or after July 1, 2011.

(iv) The provisions of Subsection (4)(b)(iii) do not apply to:

(A) a reckless or impaired driving violation or a speeding violation for exceeding the posted speed limit by 21 or more miles per hour; or

(B) an offense committed in another state which, if committed within Utah, would result in the mandatory suspension or revocation of a license upon conviction under Section 53-3-220.

(c) Every person convicted of a traffic violation shall have assessed against the person's driving record the number of points that the division has assigned to the type of violation of which the person has been convicted, except that the number of points assessed shall be decreased by 10% if on the abstract of the court record of the conviction the court has graded the severity of violation as minimum, and shall be increased by 10% if on the abstract the court has graded the severity of violation as maximum.

(d) (i) A separate procedure for assessing points for speeding offenses shall be established by the division based upon the severity of the offense.

(ii) The severity of a speeding violation shall be graded as:

(A) "minimum" for exceeding the posted speed limit by up to 10 miles per hour;

(B) "intermediate" for exceeding the posted speed limit by from 11 to 20 miles per hour; and

(C) "maximum" for exceeding the posted speed limit by 21 or more miles per hour.

(iii) Consideration shall be made for assessment of no points on minimum speeding violations, except for speeding violations in school zones.

(e) (i) Points assessed against a person's driving record shall be deleted for violations occurring before a time limit set by the division.

(ii) The time limit may not exceed three years.

(iii) The division may also delete points to reward violation-free driving for periods of time set by the division.

(f) (i) By publication in two newspapers having general circulation throughout the state, the division shall give notice of the number of points it has assigned to each type of traffic violation, the time limit set by the division for the deletion of points, and the point level at which the division will generally take action to deny or suspend under this section.

(ii) The division may not change any of the information provided above regarding points without first giving new notice in the same manner.

(5) (a) (i) ~~Upon denying or suspending~~ If the division finds that the license of a person should be denied, suspended, disqualified, or revoked under this section, the division shall immediately notify the licensee in a manner specified by the division and afford ~~him~~ the person an opportunity for a hearing in the county where the licensee resides.

(ii) The hearing shall be documented, and the division or its authorized agent may administer oaths, may issue subpoenas for the attendance of witnesses and the production of relevant books and papers, and may require a reexamination of the licensee.

(iii) One or more members of the division may conduct the hearing, and any decision made after a hearing before any number of the members of the division is as valid as if made after a hearing before the full membership of the division.

(iv) After the hearing the division shall either rescind ~~its order of denial or suspension, extend the denial or suspension of the license,~~ or affirm its decision to deny, suspend, disqualify, or revoke the license.

(b) The denial ~~or~~, suspension, disqualification, or revocation of the license remains in effect pending qualifications determined by the division regarding a person:

(i) whose license has been denied or suspended following reexamination;

(ii) who is incompetent to drive a motor vehicle;

(iii) who is afflicted with mental or physical infirmities that might make him dangerous on the highways; or

(iv) who may not have the necessary knowledge or skill to drive a motor vehicle safely.

(6) (a) Subject to Subsection (6)(d), the division shall suspend a person's license when the division receives notice from the Office of Recovery Services that the Office of Recovery Services has ordered the suspension of the person's license.

(b) A suspension under Subsection (6)(a) shall remain in effect until the division receives notice from the Office of Recovery Services that the Office of Recovery Services has rescinded the order of suspension.

(c) After an order of suspension is rescinded under Subsection (6)(b), a report authorized by Section 53-3-104 may not contain any evidence of the suspension.

(d) (i) If the division suspends a person's license under this Subsection (6), the division shall, upon application, issue a temporary limited driver license to the person if that person needs a driver license for employment, education, or child visitation.

(ii) The temporary limited driver license described in this section:

(A) shall provide that the person may operate a motor vehicle only for the purpose of driving to or from the person's place of employment, education, or child visitation;

(B) shall prohibit the person from driving a motor vehicle for any purpose other than a purpose described in Subsection (6)(d)(ii)(A); and

(C) shall expire 90 days after the day on which the temporary limited driver license is issued.

(iii) (A) During the period beginning on the day on which a temporary limited driver license is issued under this Subsection (6), and ending on the day that the temporary limited driver license expires, the suspension described in this Subsection (6) only applies if the person who is suspended operates a motor vehicle for a purpose other than employment, education, or child visitation.

(B) Upon expiration of a temporary limited driver license described in this Subsection (6)(d):

(I) a suspension described in Subsection (6)(a) shall be in full effect until the division receives notice, under Subsection (6)(b), that the order of suspension is rescinded; and

(II) a person suspended under Subsection (6)(a) may not drive a motor vehicle for any reason.

(iv) The division is not required to issue a limited driver license to a person under this Subsection (6)(d) if there are other legal grounds for the suspension of the person's driver license.

(v) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this part.

(7) (a) The division may suspend or revoke the license of any resident of this state upon receiving notice of the conviction of that person in another state of an offense committed there that, if committed in this state, would be grounds for the suspension or revocation of a license.

(b) The division may, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle or motorboat of any offense under the motor vehicle laws of this state, forward a certified copy of the record to the motor vehicle administrator in the state where the person convicted is a resident.

(8) (a) The division may suspend or revoke the license of any nonresident to drive a motor vehicle in this state for any cause for which the license of a resident driver may be suspended or revoked.

(b) Any nonresident who drives a motor vehicle upon a highway when the person's license has been suspended or revoked by the division is guilty of a class C misdemeanor.

(9) (a) The division may not deny or suspend the license of any person for a period of more than one year except:

(i) for failure to comply with the terms of a traffic citation under Subsection (2);

(ii) upon receipt of a second or subsequent order suspending juvenile driving privileges under Section 53-3-219;

(iii) when extending a denial or suspension upon receiving certain records or reports under Subsection 53-3-220(2);

(iv) for failure to give and maintain owner's or operator's security under Section 41-12a-411;

(v) when the division suspends the license under Subsection (6); or

(vi) when the division denies the license under Subsection (14).

(b) The division may suspend the license of a person under Subsection (2) until the person shows satisfactory evidence of compliance with the terms of the traffic citation.

(10) (a) By following the ~~emergency~~ procedures in Title 63G, Chapter 4, Administrative Procedures Act, the division may ~~immediately~~ suspend the license of any person ~~[without hearing and]~~ without receiving a record of the person's conviction for a crime when the division has reason to believe that the person's license was granted by the division through error or fraud or that the necessary consent for the license has been withdrawn or is terminated.

(b) The procedure upon suspension is the same as under Subsection (5), except that after the hearing the division shall either rescind its order of suspension or cancel the license.

(11) (a) The division, having good cause to believe that a licensed driver is incompetent or otherwise not qualified to be licensed, may upon notice in a manner specified by the division of at least five days to the licensee require him to submit to an examination.

(b) Upon the conclusion of the examination the division may suspend or revoke the person's license, permit him to retain the license, or grant a license subject to a restriction imposed in accordance with Section 53-3-208.

(c) Refusal or neglect of the licensee to submit to an examination is grounds for suspension or revocation of the licensee's license.

(12) (a) Except as provided in Subsection (12)(b), a report authorized by Section 53-3-104 may not contain any evidence of a conviction for speeding on an interstate system in this state if the conviction was for a speed of 10 miles per hour or less, above the posted speed limit and did not result in an accident, unless authorized in a manner specified by the division by the individual whose report is being requested.

(b) The provisions of Subsection (12)(a) do not apply for:

(i) a CDL license holder; or

(ii) a violation that occurred in a commercial motor vehicle.

(13) (a) By following the [emergency] procedures in Title 63G, Chapter 4, Administrative Procedures Act, the division may [immediately] suspend the license of a person if it has reason to believe that the person is the owner of a motor vehicle for which security is required under Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act, and has driven the motor vehicle or permitted it to be driven within this state without the security being in effect.

(b) The division may [immediately] suspend a driving privilege card holder's driving privilege card if the division receives notification from the Motor Vehicle Division that:

(i) the driving privilege card holder is the registered owner of a vehicle; and

(ii) the driving privilege card holder's vehicle registration has been revoked under Subsection 41-1a-110(2)(a)(ii)(A).

(c) Section 41-12a-411 regarding the requirement of proof of owner's or operator's security applies to persons whose driving privileges are suspended under this Subsection (13).

~~[(d) If the division exercises the right of immediate suspension granted under this Subsection (13), the notice and hearing provisions of Subsection (5) apply.]~~

~~[(e) A person whose license suspension has been sustained or whose license has been revoked by the division under this Subsection (13) may file a request for agency action requesting a hearing.]~~

(14) The division may deny an individual's license if the person fails to comply with the requirement to downgrade the person's CDL to a class D license under Section 53-3-410.1.

(15) The division may deny a person's class A, B, C, or D license if the person fails to comply with the requirement to have a K restriction removed from the person's license.

(16) Any suspension or revocation of a person's license under this section also disqualifies any license issued to that person under Part 4, Uniform Commercial Driver License Act.

Section 2. Section 53-3-1007 is amended to read:

53-3-1007. Ignition interlock system provider -- Notification to the division upon installation or removal of an ignition interlock system -- License suspension or revocation for failure to install or remove.

(1) An ignition interlock system provider who installs an ignition interlock system on a person's vehicle shall:

(a) provide proof of installation to the person; and

(b) electronically notify the division of installation of an ignition interlock system on the person's vehicle.

(2) An ignition interlock system provider shall electronically notify the division if a person has

removed an ignition interlock system from the person's vehicle.

(3) If an individual is an interlock restricted driver, the division shall:

(a) suspend the person's driving privilege for the duration of the restriction period as defined in Section 41-6a-518.2;

(b) notify the person of the suspension period in place and the requirements for reinstatement of the driving privilege with respect to the ignition interlock restriction suspension; and

(c) clear the suspension upon:

(i) receipt of payment of the fee or fees specified in Section 53-3-105; and

(ii) (A) receipt of electronic notification from an ignition interlock system provider showing proof of the installation of an ignition interlock system on the person's vehicle; or

(B) electronically verifying that the person does not have a vehicle registered in the person's name in the state of Utah.

(4) By following the [emergency] procedures in Title 63G, Chapter 4, Administrative Procedures Act, the division shall suspend the license of any person [without hearing and] without receiving a record of the person's conviction of crime seven days after receiving electronic notification from an ignition interlock system provider that a person has removed an ignition interlock system from the person's vehicle if the person is an interlock restricted driver until:

(a) the division:

(i) receives payment of the fee or fees specified in Section 53-3-105; and

(ii) (A) receives electronic notification from an ignition interlock system provider showing new proof of the installation of an ignition interlock system; or

(B) electronically verifies that the person does not have a vehicle registered in the person's name in the state of Utah; or

(b) the person's interlock restricted period has expired.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing:

(a) procedures for certification and regulation of ignition interlock system providers;

(b) acceptable documentation for proof of the installation of an ignition interlock device;

(c) procedures for an ignition interlock system provider to electronically notify the division; and

(d) policies and procedures for the administration of the ignition interlock system program created under this section.

CHAPTER 102**S. B. 148**

Passed March 3, 2014

Approved March 28, 2014

Effective May 13, 2014

UPSTART PROGRAM AMENDMENTS

Chief Sponsor: J. Stuart Adams

House Sponsor: Bradley G. Last

LONG TITLE**General Description:**

This bill amends provisions related to the UPSTART pilot project.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of low income;
- ▶ requires the contractor to give priority to preschool children from low income families and preschool children who are English language learners, if the number of families who would like to participate in the program exceed the number of participants funded by the legislative appropriation;
- ▶ requires the State Board of Education to issue a request for proposals for a home-based educational technology program for preschool children that takes effect upon the expiration of the pilot project, provided that the Legislature reauthorizes and funds the program;
- ▶ extends the repeal date for the UPSTART pilot project; and
- ▶ makes technical amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-1a-1001, as enacted by Laws of Utah 2008, Chapter 397

53A-1a-1002, as enacted by Laws of Utah 2008, Chapter 397

53A-1a-1004, as enacted by Laws of Utah 2008, Chapter 397

63I-2-253, as last amended by Laws of Utah 2013, Chapters 173 and 434

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

Section 1. Section 53A-1a-1001 is amended to read:**53A-1a-1001. Definitions.**

As used in this part:

(1) "Contractor" means the educational technology provider selected by the State Board of Education under Section 53A-1a-1002.

(2) "Low income" means an income below [200%] 185% of the federal poverty guideline.

(3) "Preschool children" means children who are:

- (a) age four or five; and

(b) have not entered kindergarten.

(4) "UPSTART" means the pilot project established by Section 53A-1a-1002 that uses a home-based educational technology program to develop school readiness skills of preschool children.

Section 2. Section 53A-1a-1002 is amended to read:**53A-1a-1002. UPSTART program to develop school readiness skills of preschool children.**

(1) UPSTART, a pilot project that uses a home-based educational technology program to develop school readiness skills of preschool children, is established within the public education system.

(2) UPSTART is created to:

(a) evaluate the effectiveness of giving preschool children access, at home, to interactive individualized instruction delivered by computers and the Internet to prepare them academically for success in school; and

(b) test the feasibility of scaling a home-based curriculum in reading, math, and science delivered by computers and the Internet to all preschool children in Utah.

(3) The State Board of Education shall contract with an educational technology provider, selected through a request for proposals process, for the delivery of a home-based educational technology program for preschool children that meets the requirements of Subsection (4).

(4) A home-based educational technology program for preschool children shall meet the following standards:

(a) the contractor shall provide computer-assisted instruction for preschool children on a home computer connected by the Internet to a centralized file storage facility;

(b) the contractor shall:

(i) provide technical support to families for the installation and operation of the instructional software; and

(ii) provide for the installation of computer and Internet access in homes of low income families that cannot afford the equipment and service;

(c) the contractor shall have the capability of doing the following through the Internet:

(i) communicating with parents;

(ii) updating the instructional software;

(iii) validating user access;

(iv) collecting usage data;

(v) storing research data; and

(vi) producing reports for parents, schools, and the Legislature;

(d) the program shall include the following components:

(i) computer-assisted, individualized instruction in reading, mathematics, and science;

(ii) a multisensory reading tutoring program; and

(iii) a validated computer adaptive reading test that does not require the presence of trained adults to administer and is an accurate indicator of reading readiness of children who cannot read;

(e) the contractor shall have the capability to quickly and efficiently modify, improve, and support the product;

(f) the contractor shall work in cooperation with school district personnel who will provide administrative and technical support of the program as provided in Section 53A-1a-1003;

(g) the contractor shall solicit families to participate in the program as provided in Section 53A-1a-1004; and

(h) in implementing the home-based educational technology program, the contractor shall seek the advise and expertise of early childhood education professionals within the Utah System of Higher Education on issues such as:

(i) soliciting families to participate in the program;

(ii) providing training to families; and

(iii) motivating families to regularly use the instructional software.

(5) The contract shall provide funding for a home-based educational technology program for preschool children for one year with an option to extend the contract for additional years or to expand the program to a greater number of preschool children, subject to the appropriation of money by the Legislature for UPSTART.

(6) (a) The State Board of Education shall issue a request for proposals for a home-based educational technology program for preschool children that takes effect upon the expiration of the pilot project on July 1, 2019, provided that the Legislature reauthorizes and funds the program.

(b) The State Board of Education shall evaluate a proposal based on:

(i) whether the home-based educational technology program meets the standards specified in Subsection (4);

(ii) the results of an independent evaluation of the home-based educational technology program;

(iii) the experience of the home-based educational technology program provider; and

(iv) the per pupil cost of the home-based educational technology program.

Section 3. Section 53A-1a-1004 is amended to read:

53A-1a-1004. Family participation in UPSTART.

(1) The contractor shall solicit families to participate in UPSTART through a public information campaign and referrals from participating school districts.

(2) (a) Preschool children who participate in UPSTART shall:

(i) be from families with diverse socioeconomic and ethnic backgrounds; and

(ii) reside in different regions of the state in both urban and rural areas.

(b) (i) If the number of families who would like to participate in UPSTART exceeds the number of participants funded by the legislative appropriation, the contractor shall give priority to preschool children from low income families and preschool children who are English language learners.

(ii) At least 30% of the preschool children who participate in UPSTART shall be from low income families.

(3) A low income family that cannot afford a computer and Internet service to operate the instructional software may obtain a computer and peripheral equipment on loan and receive free Internet service for the duration of the family's participation in the pilot project.

(4) (a) The contractor shall make the home-based educational technology program available to families at [an agreed-upon] a cost agreed upon by the State Board of Education and the contractor if the number of families who would like to participate in UPSTART exceeds the number of participants funded by the legislative appropriation.

(b) The State Board of Education and the contractor shall annually post on their websites information on purchasing a home-based educational technology program as provided in Subsection (4)(a).

Section 4. Section 63I-2-253 is amended to read:

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

(1) Section 53A-1-402.7 is repealed July 1, 2014.

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

(3) Section 53A-1-411 is repealed July 1, 2016.

~~[(4) Section 53A-1-412 is repealed July 1, 2013.]~~

~~[(5)] (4) Section 53A-1a-513.5 is repealed July 1, 2017.~~

~~[(6)] (5) Title 53A, Chapter 1a, Part 10, UPSTART, is repealed July 1, [2014] 2019.~~

~~[(7)] (6) Title 53A, Chapter 8a, Part 8, Peer Assistance and Review Pilot Program, is repealed July 1, 2017.~~

~~[(8) Subsection 53A-13-110(4) is repealed July 1, 2013.]~~

~~[(9) (7) Section 53A-17a-169 is repealed July 1, 2016.]~~

CHAPTER 103
S. B. 150

Passed March 13, 2014
Approved March 28, 2014
Effective May 13, 2014
(Exception clause in Section 4)

EDUCATION TASK FORCE
REAUTHORIZATION

Chief Sponsor: Stuart C. Reid
House Sponsor: Francis D. Gibson

LONG TITLE**General Description:**

This bill creates the Education Task Force.

Highlighted Provisions:

This bill:

- ▶ creates the Education Task Force;
- ▶ provides for membership of the task force and compensation for members; and
- ▶ specifies duties and responsibilities of the task force.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2015:

- ▶ to the Legislature - Senate, as a one-time appropriation:
 - from the General Fund, \$32,000; and
- ▶ to the Legislature - House of Representatives, as a one-time appropriation:
 - from the General Fund, \$32,000.

Other Special Clauses:

This bill is repealed on December 31, 2014.

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

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

**Section 1. Education Task Force --
Creation -- Membership -- Interim rules
followed -- Compensation -- Staff.**

(1) There is created the Education Task Force consisting of the following 14 members:

- (a) the president of the Senate;
- (b) the Senate chair of each of the following committees:
 - (i) the Higher Education Appropriations Subcommittee;
 - (ii) the Public Education Appropriations Subcommittee; and
 - (iii) the Senate Education Committee;
- (c) the Senate minority leader;
- (d) one member of the Senate appointed by the president of the Senate;
- (e) one member of the Senate appointed by the Senate minority leader;
- (f) the speaker of the House of Representatives;

(g) the House chair of each of the following committees:

- (i) the Higher Education Appropriations Subcommittee;
- (ii) the Public Education Appropriations Subcommittee; and
- (iii) the House Education Committee;
- (h) the House minority leader;

(i) one member of the House of Representatives appointed by the speaker of the House of Representatives; and

(j) one member of the House of Representatives appointed by the House minority leader.

(2) The president of the Senate and the speaker of the House of Representatives shall serve as cochairs of the task force.

(3) In conducting its business, the task force shall comply with the legislative interim rules.

(4) Salaries of the members of the task force shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Expense and Mileage Reimbursement for Authorized Legislative Meetings, Special Sessions, and Veto Override Sessions.

(5) The Office of Legislative Research and General Counsel shall provide staff support to the task force.

Section 2. Duties -- Interim report.

(1) The task force shall review and make recommendations on public education and higher education issues, including:

- (a) roles and responsibilities of the Legislature and other governing entities in public, higher, and career and technical education;
- (b) a long-term plan for education in the context of enrollment projections;
- (c) education funding at all levels, including ways to focus on outcomes and provide flexibility;
- (d) improvements for college completion rates;
- (e) appropriate measures of outcomes and expected levels of performance;
- (f) elimination of statutes or rules that create distractions from or constraints on delivering world class education;
- (g) strategies and policies to break down silos in Utah's education system; and
- (h) funding and implementation of a statewide one-to-one mobile device technology initiative in the state's public education system.

(2) A final report, including any proposed legislation, shall be presented to both the Education Interim Committee and the Executive Appropriations Committee before December 31, 2014.

Section 3. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2014, and ending June 30, 2015, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2015

To Legislature - Senate

From General Fund \$32,000

Schedule of Programs:

Administration - Task Force \$32,000

To Legislature - House of Representatives

From General Fund \$32,000

Schedule of Programs:

Administration - Task Force \$32,000

Section 4. Repeal date.

This bill is repealed on December 31, 2014.

CHAPTER 104**S. B. 154**

Passed February 19, 2014

Approved March 28, 2014

Effective May 13, 2014

ALL-TERRAIN VEHICLE AMENDMENTS

Chief Sponsor: Scott K. Jenkins

House Sponsor: Michael E. Noel

LONG TITLE**General Description:**

This bill modifies the Traffic Code by amending provisions relating to street-legal all-terrain vehicles.

Highlighted Provisions:

This bill:

- ▶ amends the definition of a utility type vehicle;
- ▶ repeals the prohibition on a person operating a street-legal ATV on a street or highway if the highway is under the jurisdiction of a municipality with a population of 7,500 or more people unless the street or highway is designated as open for street-legal ATV use by the controlling highway authority;
- ▶ increases the maximum tire height for a street-legal all-terrain vehicle; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-6a-102, as last amended by Laws of Utah 2013, Chapter 140

41-6a-1509, as last amended by Laws of Utah 2010, Chapter 308

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

Section 1. Section 41-6a-102 is amended to read:**41-6a-102. Definitions.**

As used in this chapter:

(1) "Alley" means a street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for through vehicular traffic.

(2) "All-terrain type I vehicle" has the same meaning as defined in Section 41-22-2.

(3) "Authorized emergency vehicle" includes:

- (a) fire department vehicles;
- (b) police vehicles;
- (c) ambulances; and

(d) other publicly or privately owned vehicles as designated by the commissioner of the Department of Public Safety.

(4) (a) "Bicycle" means a wheeled vehicle:

(i) propelled by human power by feet or hands acting upon pedals or cranks;

(ii) with a seat or saddle designed for the use of the operator;

(iii) designed to be operated on the ground; and

(iv) whose wheels are not less than 14 inches in diameter.

(b) "Bicycle" includes an electric assisted bicycle.

(c) "Bicycle" does not include scooters and similar devices.

(5) (a) "Bus" means a motor vehicle:

(i) designed for carrying more than 15 passengers and used for the transportation of persons; or

(ii) designed and used for the transportation of persons for compensation.

(b) "Bus" does not include a taxicab.

(6) (a) "Circular intersection" means an intersection that has an island, generally circular in design, located in the center of the intersection where traffic passes to the right of the island.

(b) "Circular intersection" includes:

(i) roundabouts;

(ii) rotaries; and

(iii) traffic circles.

(7) "Commissioner" means the commissioner of the Department of Public Safety.

(8) "Controlled-access highway" means a highway, street, or roadway:

(a) designed primarily for through traffic; and

(b) to or from which owners or occupants of abutting lands and other persons have no legal right of access, except at points as determined by the highway authority having jurisdiction over the highway, street, or roadway.

(9) "Crosswalk" means:

(a) that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from:

(i) (A) the curbs; or

(B) in the absence of curbs, from the edges of the traversable roadway; and

(ii) in the absence of a sidewalk on one side of the roadway, that part of a roadway included within the extension of the lateral lines of the existing sidewalk at right angles to the centerline; or

(b) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

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

(11) "Direct supervision" means oversight at a distance within which:

- (a) visual contact is maintained; and
- (b) advice and assistance can be given and received.

(12) "Divided highway" means a highway divided into two or more roadways by:

- (a) an unpaved intervening space;
- (b) a physical barrier; or
- (c) a clearly indicated dividing section constructed to impede vehicular traffic.

(13) "Electric assisted bicycle" means a moped:

(a) with an electric motor with a power output of not more than 1,000 watts; and

(b) which is not capable of:

(i) propelling the device at a speed of more than 20 miles per hour on level ground when:

(A) powered solely by the electric motor; and

(B) operated by a person who weighs 170 pounds; and

(ii) increasing the speed of the device when human power is used to propel the device at more than 20 miles per hour;

(c) has fully operable pedals on permanently affixed cranks; and

(d) weighs less than 75 pounds.

(14) (a) "Electric personal assistive mobility device" means a self-balancing device with:

(i) two nontandem wheels in contact with the ground;

(ii) a system capable of steering and stopping the unit under typical operating conditions;

(iii) an electric propulsion system with average power of one horsepower or 750 watts;

(iv) a maximum speed capacity on a paved, level surface of 12.5 miles per hour; and

(v) a deck design for a person to stand while operating the device.

(b) "Electric personal assistive mobility device" does not include a wheelchair.

(15) "Explosives" means any chemical compound or mechanical mixture commonly used or intended for the purpose of producing an explosion and that contains any oxidizing and combustible units or other ingredients in proportions, quantities, or packing so that an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases, and the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of causing death or serious bodily injury.

(16) "Farm tractor" means a motor vehicle designed and used primarily as a farm implement, for drawing plows, mowing machines, and other implements of husbandry.

(17) "Flammable liquid" means a liquid that has a flashpoint of 100 degrees F. or less, as determined by a tagliabue or equivalent closed-cup test device.

(18) "Freeway" means a controlled-access highway that is part of the interstate system as defined in Section 72-1-102.

(19) "Gore area" means the area delineated by two solid white lines that is between a continuing lane of a through roadway and a lane used to enter or exit the continuing lane including similar areas between merging or splitting highways.

(20) "Gross weight" means the weight of a vehicle without a load plus the weight of any load on the vehicle.

(21) "Highway" means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public as a matter of right for vehicular travel.

(22) "Highway authority" has the same meaning as defined in Section 72-1-102.

(23) (a) "Intersection" means the area embraced within the prolongation or connection of the lateral curblines, or, if none, then the lateral boundary lines of the roadways of two or more highways which join one another.

(b) Where a highway includes two roadways 30 feet or more apart:

(i) every crossing of each roadway of the divided highway by an intersecting highway is a separate intersection; and

(ii) if the intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of the highways is a separate intersection.

(c) "Intersection" does not include the junction of an alley with a street or highway.

(24) "Island" means an area between traffic lanes or at an intersection for control of vehicle movements or for pedestrian refuge designated by:

(a) pavement markings, which may include an area designated by two solid yellow lines surrounding the perimeter of the area;

(b) channelizing devices;

(c) curbs;

(d) pavement edges; or

(e) other devices.

(25) "Law enforcement agency" has the same meaning as defined in Section 53-1-102.

(26) "Limited access highway" means a highway:

(a) that is designated specifically for through traffic; and

(b) over, from, or to which neither owners nor occupants of abutting lands nor other persons have any right or easement, or have only a limited right or easement of access, light, air, or view.

(27) “Local highway authority” means the legislative, executive, or governing body of a county, municipal, or other local board or body having authority to enact laws relating to traffic under the constitution and laws of the state.

(28) (a) “Low-speed vehicle” means a four wheeled electric motor vehicle that:

(i) is designed to be operated at speeds of not more than 25 miles per hour; and

(ii) has a capacity of not more than four passengers, including the driver.

(b) “Low-speed vehicle” does not include a golfcart or an off-highway vehicle.

(29) “Metal tire” means a tire, the surface of which in contact with the highway is wholly or partly of metal or other hard nonresilient material.

(30) (a) “Mini-motorcycle” means a motorcycle or motor-driven cycle that has a seat or saddle that is less than 24 inches from the ground as measured on a level surface with properly inflated tires.

(b) “Mini-motorcycle” does not include a moped or a motor assisted scooter.

(c) “Mini-motorcycle” does not include a motorcycle that is:

(i) designed for off-highway use; and

(ii) registered as an off-highway vehicle under Section 41-22-3.

(31) “Mobile home” means:

(a) a trailer or semitrailer that is:

(i) designed, constructed, and equipped as a dwelling place, living abode, or sleeping place either permanently or temporarily; and

(ii) equipped for use as a conveyance on streets and highways; or

(b) a trailer or a semitrailer whose chassis and exterior shell is designed and constructed for use as a mobile home, as defined in Subsection (31)(a), but that is instead used permanently or temporarily for:

(i) the advertising, sale, display, or promotion of merchandise or services; or

(ii) any other commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier.

(32) (a) “Moped” means a motor-driven cycle having:

(i) pedals to permit propulsion by human power; and

(ii) a motor that:

(A) produces not more than two brake horsepower; and

(B) is not capable of propelling the cycle at a speed in excess of 30 miles per hour on level ground.

(b) If an internal combustion engine is used, the displacement may not exceed 50 cubic centimeters and the moped shall have a power drive system that functions directly or automatically without clutching or shifting by the operator after the drive system is engaged.

(c) “Moped” includes an electric assisted bicycle and a motor assisted scooter.

(33) “Motor assisted scooter” means a self-propelled device with:

(a) at least two wheels in contact with the ground;

(b) a braking system capable of stopping the unit under typical operating conditions;

(c) a gas or electric motor not exceeding 40 cubic centimeters;

(d) either:

(i) a deck design for a person to stand while operating the device; or

(ii) a deck and seat designed for a person to sit, straddle, or stand while operating the device; and

(e) a design for the ability to be propelled by human power alone.

(34) (a) “Motor vehicle” means a vehicle that is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(b) “Motor vehicle” does not include vehicles moved solely by human power, motorized wheelchairs, or an electric personal assistive mobility device.

(35) “Motorcycle” means a motor vehicle, other than a tractor, having a seat or saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground.

(36) (a) “Motor-driven cycle” means every motorcycle, motor scooter, moped, electric assisted bicycle, motor assisted scooter, and every motorized bicycle having:

(i) an engine with less than 150 cubic centimeters displacement; or

(ii) a motor that produces not more than five horsepower.

(b) “Motor-driven cycle” does not include an electric personal assistive mobility device.

(37) “Off-highway implement of husbandry” has the same meaning as defined under Section 41-22-2.

(38) “Off-highway vehicle” has the same meaning as defined under Section 41-22-2.

(39) “Operator” means a person who is in actual physical control of a vehicle.

(40) (a) “Park” or “parking” means the standing of a vehicle, whether the vehicle is occupied or not.

(b) “Park” or “parking” does not include the standing of a vehicle temporarily for the purpose of and while actually engaged in loading or unloading property or passengers.

(41) “Peace officer” means a peace officer authorized under Title 53, Chapter 13, Peace Officer Classifications, to direct or regulate traffic or to make arrests for violations of traffic laws.

(42) “Pedestrian” means a person traveling:

(a) on foot; or

(b) in a wheelchair.

(43) “Pedestrian traffic-control signal” means a traffic-control signal used to regulate pedestrians.

(44) “Person” means every natural person, firm, copartnership, association, or corporation.

(45) “Pole trailer” means every vehicle without motive power:

(a) designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle; and

(b) that is ordinarily used for transporting long or irregular shaped loads including poles, pipes, or structural members generally capable of sustaining themselves as beams between the supporting connections.

(46) “Private road or driveway” means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

(47) “Railroad” means a carrier of persons or property upon cars operated on stationary rails.

(48) “Railroad sign or signal” means a sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

(49) “Railroad train” means a locomotive propelled by any form of energy, coupled with or operated without cars, and operated upon rails.

(50) “Right-of-way” means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under circumstances of direction, speed, and proximity that give rise to danger of collision unless one grants precedence to the other.

(51) (a) “Roadway” means that portion of highway improved, designed, or ordinarily used for vehicular travel.

(b) “Roadway” does not include the sidewalk, berm, or shoulder, even though any of them are used by persons riding bicycles or other human-powered vehicles.

(c) “Roadway” refers to any roadway separately but not to all roadways collectively, if a highway includes two or more separate roadways.

(52) “Safety zone” means the area or space officially set apart within a roadway for the exclusive use of pedestrians and that is protected, marked, or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

(53) (a) “School bus” means a motor vehicle that:

(i) complies with the color and identification requirements of the most recent edition of “Minimum Standards for School Buses”; and

(ii) is used to transport school children to or from school or school activities.

(b) “School bus” does not include a vehicle operated by a common carrier in transportation of school children to or from school or school activities.

(54) (a) “Semitrailer” means a vehicle with or without motive power:

(i) designed for carrying persons or property and for being drawn by a motor vehicle; and

(ii) constructed so that some part of its weight and that of its load rests on or is carried by another vehicle.

(b) “Semitrailer” does not include a pole trailer.

(55) “Shoulder area” means:

(a) that area of the hard-surfaced highway separated from the roadway by a pavement edge line as established in the current approved “Manual on Uniform Traffic Control Devices”; or

(b) that portion of the road contiguous to the roadway for accommodation of stopped vehicles, for emergency use, and for lateral support.

(56) “Sidewalk” means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

(57) “Solid rubber tire” means a tire of rubber or other resilient material that does not depend on compressed air for the support of the load.

(58) “Stand” or “standing” means the temporary halting of a vehicle, whether occupied or not, for the purpose of and while actually engaged in receiving or discharging passengers.

(59) “Stop” when required means complete cessation from movement.

(60) “Stop” or “stopping” when prohibited means any halting even momentarily of a vehicle, whether occupied or not, except when:

(a) necessary to avoid conflict with other traffic; or

(b) in compliance with the directions of a peace officer or traffic-control device.

(61) “Street-legal all-terrain vehicle” or “street-legal ATV” means an all-terrain type I

vehicle or utility type vehicle that is modified to meet the requirements of Section 41-6a-1509 to operate on highways in the state in accordance with Section 41-6a-1509.

(62) "Traffic" means pedestrians, ridden or herded animals, vehicles, and other conveyances either singly or together while using any highway for the purpose of travel.

(63) "Traffic-control device" means a sign, signal, marking, or device not inconsistent with this chapter placed or erected by a highway authority for the purpose of regulating, warning, or guiding traffic.

(64) "Traffic-control signal" means a device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

(65) "Traffic signal preemption device" means an instrument or mechanism designed, intended, or used to interfere with the operation or cycle of a traffic-control signal.

(66) (a) "Trailer" means a vehicle with or without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

(b) "Trailer" does not include a pole trailer.

(67) "Truck" means a motor vehicle designed, used, or maintained primarily for the transportation of property.

(68) "Truck tractor" means a motor vehicle:

(a) designed and used primarily for drawing other vehicles; and

(b) constructed to carry a part of the weight of the vehicle and load drawn by the truck tractor.

(69) "Two-way left turn lane" means a lane:

(a) provided for vehicle operators making left turns in either direction;

(b) that is not used for passing, overtaking, or through travel; and

(c) that has been indicated by a lane traffic-control device that may include lane markings.

(70) "Urban district" means the territory contiguous to and including any street, in which structures devoted to business, industry, or dwelling houses are situated at intervals of less than 100 feet, for a distance of a quarter of a mile or more.

(71) (a) "Utility type vehicle" means any recreational vehicle designed for and capable of travel over unimproved terrain:

(i) traveling on four or more tires;

(ii) having a width of 30 to 70 inches;

(iii) having an unladen dry weight of 2,200 pounds or less;

(iv) having a seat height of 25 to 40 inches when measured at the forward edge of the seat bottom; and

(v) having side-by-side seating with a steering wheel for control.

(b) "Utility type vehicle" does not include:

(i) an all-terrain type I vehicle;

~~(ii) an all-terrain type II vehicle;~~

~~(iii) (ii) a motorcycle; or~~

~~(iv) (iii) a snowmobile as defined in Section 41-22-2.~~

(72) "Vehicle" means a device in, on, or by which a person or property is or may be transported or drawn on a highway, except devices used exclusively on stationary rails or tracks.

Section 2. Section 41-6a-1509 is amended to read:

41-6a-1509. Street-legal all-terrain vehicle -- Operation on highways -- Registration and licensing requirements -- Equipment requirements.

(1) (a) Except as provided in Subsection (1)(b), an all-terrain type I or utility type vehicle that meets the requirements of this section may be operated as a street-legal ATV on a street or highway unless the highway is an interstate freeway or a limited access highway as defined in Section 41-6a-102.

(b) Unless a street or highway is designated as open for street-legal ATV use by the controlling highway authority in accordance with Section 41-22-10.5, a person may not operate a street-legal ATV on a street or highway in accordance with Subsection (1)(a) if the highway is under the jurisdiction of:

(i) a county of the first class; or

(ii) a municipality that is within a county of the first class~~[-or]~~.

~~(iii) a municipality with a population of 7,500 or more people.~~

(2) A street-legal ATV shall comply with the same requirements as:

(a) a motorcycle for:

(i) traffic rules under Title 41, Chapter 6a, Traffic Code;

(ii) registration, titling, odometer statement, vehicle identification, license plates, and registration fees under Title 41, Chapter 1a, Motor Vehicle Act;

(iii) fees in lieu of property taxes or in lieu fees under Section 59-2-405.2; and

(iv) the county motor vehicle emissions inspection and maintenance programs under Section 41-6a-1642;

(b) a motor vehicle for:

(i) driver licensing under Title 53, Chapter 3, Uniform Driver License Act;

(ii) motor vehicle insurance under Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act; and

(iii) safety inspection requirements under Title 53, Chapter 8, Part 2, Motor Vehicle Safety Inspection Act, except that a street-legal ATV shall be subject to a safety inspection when registered for the first time; and

(c) an all-terrain type I or type II vehicle for off-highway vehicle provisions under Title 41, Chapter 22, Off-Highway Vehicles, and Title 41, Chapter 3, Motor Vehicle Business Regulation Act, unless otherwise specified in this section.

(3) A street-legal ATV shall be equipped with:

(a) one or more headlamps that meet the requirements of Section 41-6a-1603;

(b) one or more tail lamps;

(c) a tail lamp or other lamp constructed and placed to illuminate the registration plate with a white light;

(d) one or more red reflectors on the rear;

(e) one or more stop lamps on the rear;

(f) amber or red electric turn signals, one on each side of the front and rear;

(g) a braking system, other than a parking brake, that meets the requirements of Section 41-6a-1623;

(h) a horn or other warning device that meets the requirements of Section 41-6a-1625;

(i) a muffler and emission control system that meets the requirements of Section 41-6a-1626;

(j) rearview mirrors on the right and left side of the driver in accordance with Section 41-6a-1627;

(k) a windshield, unless the operator wears eye protection while operating the vehicle;

(l) a speedometer, illuminated for nighttime operation;

(m) for vehicles designed by the manufacturer for carrying one or more passengers, a seat designed for passengers, including a footrest and handhold for each passenger;

(n) for vehicles with side-by-side seating, seatbelts for each vehicle occupant; and

(o) tires that:

(i) do not exceed ~~26~~ 29 inches in height;

(ii) are not larger than the tires that the all-terrain vehicle manufacturer made available for the all-terrain vehicle model; and

(iii) have at least 2/32 inches or greater tire tread.

(4) (a) Subject to the requirement in Subsection (4)(b), an operator of a street-legal all-terrain vehicle, when operating a street-legal all-terrain vehicle on a highway in accordance with this section, may not exceed the lesser of:

(i) the posted speed limit; or

(ii) 45 miles per hour.

(b) An operator of a street-legal all-terrain vehicle, when operating a street-legal all-terrain vehicle on a highway with a posted speed limit higher than 45 miles per hour, shall:

(i) operate the street-legal all-terrain vehicle on the extreme right hand side of the roadway; and

(ii) shall equip the street-legal all-terrain vehicle with a reflector or reflective tape.

(5) (a) A nonresident operator of an off-highway vehicle that is authorized to be operated on the highways of another state has the same rights and privileges as a street-legal ATV that is granted operating privileges on the highways of this state, subject to the restrictions under this section and rules made by the Board of Parks and Recreation, if the other state offers reciprocal operating privileges to Utah residents.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Board of Parks and Recreation shall establish eligibility requirements for reciprocal operating privileges for nonresident users granted under Subsection (5)(a).

(6) Nothing in this chapter shall restrict the operation of an off-highway vehicle in accordance with Section 41-22-10.5.

CHAPTER 105**S. B. 177**

Passed February 20, 2014

Approved March 28, 2014

Effective May 13, 2014

SEX OFFENDER AMENDMENTS

Chief Sponsor: Jerry W. Stevenson

House Sponsor: Curtis Oda

LONG TITLE**General Description:**

This bill modifies the Utah Criminal Code and the Utah Code of Criminal Procedure regarding sex offender registration violations.

Highlighted Provisions:

This bill:

- ▶ provides that a violation of the sex offender registration requirements is considered to be committed:
 - at the most recent registered primary residence of the offender, if the location of the offender is not known; or
 - at the actual location of the offender at the time the offender is apprehended.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-1-201, as last amended by Laws of Utah 2004, Chapters 151 and 227

76-1-202, as last amended by Laws of Utah 2004, Chapter 227

77-41-105, as enacted by Laws of Utah 2012, Chapter 145 and last amended by Coordination Clause, Laws of Utah 2012, Chapter 382

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

Section 1. Section 76-1-201 is amended to read:**76-1-201. Jurisdiction of offenses.**

(1) A person is subject to prosecution in this state for an offense which he commits, while either within or outside the state, by his own conduct or that of another for which he is legally accountable, if:

- (a) the offense is committed either wholly or partly within the state;
- (b) the conduct outside the state constitutes an attempt to commit an offense within the state;
- (c) the conduct outside the state constitutes a conspiracy to commit an offense within the state and an act in furtherance of the conspiracy occurs in the state; or
- (d) the conduct within the state constitutes an attempt, solicitation, or conspiracy to commit in another jurisdiction an offense under the laws of both this state and the other jurisdiction.

(2) An offense is committed partly within this state if either the conduct which is any element of the offense, or the result which is an element, occurs within this state.

(3) In homicide offenses, the "result" is either the physical contact which causes death or the death itself.

(a) If the body of a homicide victim is found within the state, the death shall be presumed to have occurred within the state.

(b) If jurisdiction is based on this presumption, this state retains jurisdiction unless the defendant proves by clear and convincing evidence that:

- (i) the result of the homicide did not occur in this state; and
- (ii) the defendant did not engage in any conduct in this state which is any element of the offense.

(4) (a) An offense which is based on an omission to perform a duty imposed by the law of this state is committed within the state regardless of the location of the offender at the time of the omission.

(b) For the purpose of establishing venue for a violation of Subsection 77-41-105(3) concerning sex offender registration, the offense is considered to be committed:

- (i) at the most recent registered primary residence of the offender, if the actual location of the offender at the time of the violation is not known; or
- (ii) at the location of the offender at the time the offender is apprehended.

(5) (a) If no jurisdictional issue is raised, the pleadings are sufficient to establish jurisdiction.

(b) The defendant may challenge jurisdiction by filing a motion before trial stating which facts exist that deprive the state of jurisdiction.

(c) The burden is upon the state to initially establish jurisdiction over the offense by a preponderance of the evidence by showing under the provisions of Subsections (1) through (4) that the offense was committed either wholly or partly within the borders of the state.

(d) If after the prosecution has met its burden of proof under Subsection (5)(c) the defendant claims that the state is deprived of jurisdiction or may not exercise jurisdiction, the burden is upon the defendant to prove by a preponderance of the evidence:

- (i) any facts claimed; and
- (ii) why those facts deprive the state of jurisdiction.

(6) Facts that deprive the state of jurisdiction or prohibit the state from exercising jurisdiction include the fact that the:

- (a) defendant is serving in a position that is entitled to diplomatic immunity from prosecution and that the defendant's country has not waived that diplomatic immunity;
- (b) defendant is a member of the armed forces of another country and that the crime that he is

alleged to have committed is one that due to an international agreement, such as a status of forces agreement between his country and the United States, cedes the exercise of jurisdiction over him for that offense to his country;

(c) defendant is an enrolled member of an Indian tribe, as defined in Section 9-9-101, and that the Indian tribe has a legal status with the United States or the state that vests jurisdiction in either tribal or federal courts for certain offenses committed within the exterior boundaries of a tribal reservation, and that the facts establish that the crime is one that vests jurisdiction in tribal or federal court; or

(d) offense occurred on land that is exclusively within federal jurisdiction.

(7) (a) The Legislature finds that identity fraud under Chapter 6, Part 11, Identity Fraud Act, involves the use of personal identifying information which is uniquely personal to the consumer or business victim of that identity fraud and which information is considered to be in lawful possession of the consumer or business victim wherever the consumer or business victim currently resides or is found.

(b) For purposes of Subsection (1)(a), an offense which is based on a violation of Chapter 6, Part 11, Identity Fraud Act, is committed partly within this state, regardless of the location of the offender at the time of the offense, if the victim of the identity fraud resides or is found in this state.

(8) The judge shall determine jurisdiction.

Section 2. Section 76-1-202 is amended to read:

76-1-202. Venue of actions.

(1) Criminal actions shall be tried in the county, district, or precinct where the offense is alleged to have been committed. In determining the proper place of trial, the following provisions shall apply:

(a) If the commission of an offense commenced outside the state is consummated within this state, the offender shall be tried in the county where the offense is consummated.

(b) When conduct constituting elements of an offense or results that constitute elements, whether the conduct or result constituting elements is in itself unlawful, shall occur in two or more counties, trial of the offense may be held in any of the counties concerned.

(c) If a person committing an offense upon the person of another is located in one county and his victim is located in another county at the time of the commission of the offense, trial may be held in either county.

(d) If a cause of death is inflicted in one county and death ensues in another county, the offender may be tried in either county.

(e) A person who commits an inchoate offense may be tried in any county in which any act that is

an element of the offense, including the agreement in conspiracy, is committed.

(f) Where a person in one county solicits, aids, abets, agrees, or attempts to aid another in the planning or commission of an offense in another county, he may be tried for the offense in either county.

(g) When an offense is committed within this state and it cannot be readily determined in which county or district the offense occurred, the following provisions shall be applicable:

(i) When an offense is committed upon any railroad car, vehicle, watercraft, or aircraft passing within this state, the offender may be tried in any county through which such railroad car, vehicle, watercraft, or aircraft has passed.

(ii) When an offense is committed on any body of water bordering on or within this state, the offender may be tried in any county adjacent to such body of water. The words "body of water" shall include but not be limited to any stream, river, lake, or reservoir, whether natural or man-made.

(iii) A person who commits theft may be tried in any county in which he exerts control over the property affected.

(iv) If an offense is committed on or near the boundary of two or more counties, trial of the offense may be held in any of such counties.

(v) For any other offense, trial may be held in the county in which the defendant resides, or, if he has no fixed residence, in the county in which he is apprehended or to which he is extradited.

(h) A person who commits an offense based on Chapter 6, Part 11, Identity Fraud Act, may be tried in the county:

(i) where the victim's personal identifying information was obtained;

(ii) where the defendant used or attempted to use the personally identifying information;

(iii) where the victim of the identity fraud resides or is found; or

(iv) if multiple offenses of identity fraud occur in multiple jurisdictions, in any county where the victim's identity was used or obtained, or where the victim resides or is found.

(i) For the purpose of establishing venue for a violation of Subsection 77-41-105(3) concerning sex offender registration, the offense is considered to be committed:

(i) at the most recent registered primary residence of the offender, if the actual location of the offender at the time of the violation is not known; or

(ii) at the location of the offender at the time the offender is apprehended.

(2) All objections of improper place of trial are waived by a defendant unless made before trial.

Section 3. Section 77-41-105 is amended to read:

77-41-105. Registration of offenders -- Offender responsibilities.

(1) An offender convicted by any other jurisdiction is required to register under Subsection (3) and Subsection 77-41-102(9) or (16). The offender shall register with the department within 10 days of entering the state, regardless of the offender's length of stay.

(2) (a) An offender required to register under Subsection 77-41-102(9) or (16) who is under supervision by the department shall register with Division of Adult Probation and Parole.

(b) An offender required to register under Subsection 77-41-102(9) or (16) who is no longer under supervision by the department shall register with the police department or sheriff's office that has jurisdiction over the area where the offender resides.

(3) (a) Except as provided in Subsections (3)(b), (c), and (4), and Section 77-41-106, an offender shall, for the duration of the sentence and for 10 years after termination of sentence or custody of the division, register every year during the month of the offender's date of birth, during the month that is the sixth month after the offender's birth month, and also within three business days of every change of the offender's primary residence, any secondary residences, place of employment, vehicle information, or educational information required to be submitted under Subsection (8).

(b) Except as provided in Subsections (4)[,] and (5), and Section 77-41-106, an offender who is convicted in another jurisdiction of an offense listed in Subsection 77-41-102(9)(a) or (16)(a), a substantially similar offense, or any other offense that requires registration in the jurisdiction of conviction, shall:

(i) register for the time period, and in the frequency, required by the jurisdiction where the offender was convicted if that jurisdiction's registration period or registration frequency requirement for the offense that the offender was convicted of is greater than the 10 years from completion of the sentence registration period that is required under Subsection (3)(a), or is more frequent than every six months; or

(ii) register in accordance with the requirements of Subsection (3)(a), if the jurisdiction's registration period or frequency requirement for the offense that the offender was convicted of is less than the registration period required under Subsection (3)(a), or is less frequent than every six months.

(c) (i) An offender convicted as an adult of any of the offenses listed in Section 77-41-106 shall, for the offender's lifetime, register every year during the month of the offender's birth, during the month that is the sixth month after the offender's birth month, and also within three business days of every change of the offender's primary residence, any secondary residences, place of employment, vehicle information, or educational information required to be submitted under Subsection (8).

(ii) This registration requirement is not subject to exemptions and may not be terminated or altered during the offender's lifetime.

(d) For the purpose of establishing venue for a violation of this Subsection (3), the violation is considered to be committed:

(i) at the most recent registered primary residence of the offender or at the location of the offender, if the actual location of the offender at the time of the violation is not known; or

(ii) at the location of the offender at the time the offender is apprehended.

(4) Notwithstanding Subsection (3) and Section 77-41-106, an offender who is confined in a secure facility or in a state mental hospital is not required to register during the period of confinement.

(5) In the case of an offender adjudicated in another jurisdiction as a juvenile and required to register under this chapter, the offender shall register in the time period and in the frequency consistent with the requirements of this Subsection (5). However, if the jurisdiction of the offender's adjudication does not publish the offender's information on a public website, the department shall maintain, but not publish the offender's information on the Sex Offender and Kidnap Offender Registration website.

(6) An offender who is required to register under Subsection (3) shall surrender the offender's license, certificate, or identification card as required under Subsection 53-3-216(3) or 53-3-807(4) and may apply for a license certificate or identification card as provided under Section 53-3-205 or 53-3-804.

(7) A sex offender who violates Section 77-27-21.8 regarding being in the presence of a child while required to register under this chapter shall register for an additional five years subsequent to the registration period otherwise required under this chapter.

(8) An offender shall provide the department or the registering entity with the following information:

(a) all names and aliases by which the offender is or has been known;

(b) the addresses of the offender's primary and secondary residences;

(c) a physical description, including the offender's date of birth, height, weight, eye and hair color;

(d) the make, model, color, year, plate number, and vehicle identification number of any vehicle or vehicles the offender owns or regularly drives;

(e) a current photograph of the offender;

(f) a set of fingerprints, if one has not already been provided;

(g) a DNA specimen, taken in accordance with Section 53-10-404, if one has not already been provided;

(h) telephone numbers and any other designations used by the offender for routing or self-identification in telephonic communications from fixed locations or cellular telephones;

(i) Internet identifiers and the addresses the offender uses for routing or self-identification in Internet communications or postings;

(j) the name and Internet address of all websites on which the offender is registered using an online identifier, including all online identifiers used to access those websites;

(k) a copy of the offender's passport, if a passport has been issued to the offender;

(l) if the offender is an alien, all documents establishing the offender's immigration status;

(m) all professional licenses that authorize the offender to engage in an occupation or carry out a trade or business, including any identifiers, such as numbers;

(n) each educational institution in Utah at which the offender is employed, carries on a vocation, or is a student, and any change of enrollment or employment status of the offender at any educational institution;

(o) the name and the address of any place where the offender is employed or will be employed;

(p) the name and the address of any place where the offender works as a volunteer or will work as a volunteer; and

(q) the offender's Social Security number.

(9) Notwithstanding Section 42-1-1, an offender:

(a) may not change the offender's name:

(i) while under the jurisdiction of the department; and

(ii) until the registration requirements of this statute have expired; and

(b) may not change the offender's name at any time, if registration is for life under Subsection 77-41-105(3)(c).

(10) Notwithstanding Subsections (8)(i) and (j) and 77-41-103(1)(c), an offender is not required to provide the department with:

(a) the offender's online identifier and password used exclusively for the offender's employment on equipment provided by an employer and used to access the employer's private network; or

(b) online identifiers for the offender's financial accounts, including any bank, retirement, or investment accounts.

CHAPTER 106**S. B. 185**

Passed March 12, 2014
 Approved March 28, 2014
 Effective May 13, 2014

LAW ENFORCEMENT TRANSPARENCY

Chief Sponsor: Deidre M. Henderson
 House Sponsor: Eric K. Hutchings

LONG TITLE**General Description:**

This bill modifies the Code of Criminal Procedure regarding the reporting of specified information by law enforcement agencies.

Highlighted Provisions:

This bill:

- ▶ requires all state or municipal law enforcement agencies to annually report specific information to the Commission on Criminal and Juvenile Justice;
- ▶ provides that the Commission on Criminal and Juvenile Justice develop a standardized format to receive the reports from law enforcement entities; and
- ▶ requires the Commission on Criminal and Juvenile Justice to provide a summary report before August 15 of each year to the attorney general, the speaker of the House of Representatives, the president of the Senate, and each law enforcement agency.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

77-7-8.5, Utah Code Annotated 1953

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

Section 1. Section 77-7-8.5 is enacted to read:**77-7-8.5. Use of tactical groups -- Reporting requirements.**

(1) As used in this section:

(a) (i) "Reportable incident" means:

(A) the deployment of a tactical group; or

(B) law enforcement officers who serve a search warrant after using forcible entry.

(ii) "Reportable incident" does not mean a forced cell entry at a corrections facility.

(b) "Tactical group" means a special unit, within a law enforcement agency, specifically trained and equipped to respond to critical, high-risk situations.

(2) On and after January 1, 2015, every state, county, municipal, or other law enforcement agency shall annually on or before April 30 report to the Commission on Criminal and Juvenile Justice the

following information for the previous calendar year:

(a) whether the law enforcement agency conducted one or more reportable incidents;

(b) the following information regarding each reportable incident:

(i) the organizational title of the agency, task force, or tactical group deployed;

(ii) the city, county, and zip code of the location where the reportable incident occurred;

(iii) the reason for the deployment;

(iv) the type of warrant obtained, if any;

(v) if a threat assessment was completed;

(vi) if a warrant was obtained, the name of the judge or magistrate who authorized the warrant;

(vii) the number of arrests made, if any;

(viii) if any evidence was seized;

(ix) if any property was seized, other than property that was seized as evidence;

(x) if a forcible entry was made;

(xi) if a firearm was discharged by a law enforcement officer, and, if so, approximately how many shots were fired by each officer;

(xii) if a weapon was brandished by a person other than the law enforcement officers;

(xiii) if a weapon was used by a person against the law enforcement officers and, if a firearm was used, the number or approximate number of shots fired by the person;

(xiv) the identity of any law enforcement agencies that participated or provided resources for the deployment;

(xv) if a person or domestic animal was injured or killed by a law enforcement officer; and

(xvi) if a law enforcement officer was injured or killed; and

(c) the number of arrest warrants served that required a forced entry as provided by Section 77-7-8 and were not served in conjunction with a search warrant that resulted in a reportable incident.

(3) If a warrant is served by a multijurisdictional team of law enforcement officers, the reporting requirement in this section shall be the responsibility of the commanding agency or governing authority of the multijurisdictional team.

(4) The Commission on Criminal and Juvenile Justice shall develop a standardized format that each law enforcement agency shall use in reporting the data required in Subsection (2).

(5) A law enforcement agency shall:

(a) compile the data described in Subsection (2) for each year as a report in the format required under Subsection (4); and

(b) submit the report to:

(i) the Commission on Criminal and Juvenile Justice; and

(ii) the local governing body of the jurisdiction served by the law enforcement agency.

(6) (a) The Commission on Criminal and Juvenile Justice shall summarize the yearly reports of law enforcement agencies submitted under Subsection (2).

(b) Before August 1 of each year, the Commission on Criminal and Juvenile Justice shall submit a report of the summaries described in Subsection (6)(a) to:

(i) the attorney general;

(ii) the speaker of the House of Representatives, for referral to any house standing or interim committees with oversight of law enforcement and criminal justice;

(iii) the president of the Senate, for referral to any senate standing or interim committees with oversight of law enforcement and criminal justice; and

(iv) each law enforcement agency.

(c) The report described in Subsection (6)(b) shall be published on the Utah Open Government website, open.utah.gov, before August 15 of each year.

(7) (a) If a law enforcement agency fails to comply with the reporting requirements listed in Subsection (2), the Commission on Criminal and Juvenile Justice shall contact the law enforcement agency and request that the agency comply with the required reporting provisions.

(b) If a law enforcement agency fails to comply with the reporting requirements listed in Subsection (2) within 30 days after being contacted by the Commission on Criminal and Juvenile Justice with a request to comply, the Commission on Criminal and Juvenile Justice shall report the noncompliance to the attorney general, the speaker of the House of Representatives, and the president of the Senate.

CHAPTER 107**S. B. 187**

Passed March 12, 2014
 Approved March 28, 2014
 Effective May 13, 2014

HIGHWAY RIGHTS-OF-WAY AMENDMENTS

Chief Sponsor: J. Stuart Adams
 House Sponsor: Daniel McCay

LONG TITLE**General Description:**

This bill modifies the Rights-Of-Way Act by amending provisions relating to public uses constituting an abandonment and dedication of a highway to the public.

Highlighted Provisions:

This bill:

- ▶ provides that a highway, street, or road, for purposes of determining whether a highway is abandoned and dedicated to the use of the public, does not include an area principally used as a parking lot;
- ▶ repeals the requirement that a barricade be manned for it to be considered an interruption of the continuous use as a public thoroughfare; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

72-5-104, as last amended by Laws of Utah 2011, Chapter 341

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

Section 1. Section 72-5-104 is amended to read:**72-5-104. Public use constituting dedication -- Scope.**

(1) As used in this section, "highway," "street," or "road" does not include an area principally used as a parking lot.

(2) (a) A highway is dedicated and abandoned to the use of the public when it has been continuously used as a public thoroughfare for a period of 10 years.

(b) Dedication to the use of the public under Subsection (2) does not require an act of dedication or implied dedication by the property owner.

(3) The requirement of continuous use under Subsection (2) is satisfied if the use is as frequent as the public finds convenient or necessary and may be seasonal or follow some other pattern.

(4) Continuous use as a public thoroughfare under Subsection (2) is interrupted only when:

(a) the regularly established pattern and frequency of public use for the given road has

actually been interrupted for a period of no less than 24 hours to a degree that reasonably puts the traveling public on notice; or

(b) for interruptions by use of a [manned] barricade on or after May 10, 2011:

(i) if the person or entity interrupting the continuous use gives not less than 72 hours advance written notice of the interruption to the highway authority having jurisdiction of the highway, street, or road; and

(ii) the [manned] barricade is [maintained] in place for at least 24 consecutive hours, then an interruption will be deemed to have occurred.

(5) Installation of gates and posting of no trespassing signs are relevant forms of evidence but are not solely determinative of whether an interruption has occurred.

(6) If the highway authority having jurisdiction of the highway, street, or road demands that an interruption cease or that a barrier or barricade blocking public access be removed and the property owner accedes to the demand, the attempted interruption does not constitute an interruption under Subsection (4).

(7) (a) The burden of proving dedication under Subsection (2) is on the party asserting the dedication.

(b) The burden of proving interruption under Subsection (4) is on the party asserting the interruption.

(8) The dedication and abandonment creates a right-of-way held by the state in accordance with Sections 72-3-102, 72-3-104, 72-3-105, and 72-5-103.

(9) The scope of the right-of-way is that which is reasonable and necessary to ensure safe travel according to the facts and circumstances.

(10) (a) The provisions of this section apply to any claim under this section for which a court of competent jurisdiction has not issued a final unappealable judgment or order.

(b) The Legislature finds that the application of this section:

(i) does not enlarge, eliminate, or destroy vested rights; and

(ii) clarifies legislative intent in light of Utah Supreme Court rulings in *Wasatch County v. Okelberry*, 179 P.3d 768 (Utah 2008), *Town of Leeds v. Prisbrey*, 179 P.3d 757 (Utah 2008), and *Utah County v. Butler*, 179 P.3d 775 (Utah 2008).

CHAPTER 108**S. B. 189**

Passed March 11, 2014
 Approved March 28, 2014
 Effective May 13, 2014

**RESIDENCE LIEN
 RESTRICTION AMENDMENTS**

Chief Sponsor: Todd Weiler
 House Sponsor: Jon Cox

LONG TITLE**General Description:**

This bill modifies provisions relating to eligibility for claims against the Residence Lien Recovery Fund.

Highlighted Provisions:

This bill:

- ▶ amends the definition of owner for purposes of the Residence Lien Restriction and Lien Recovery Fund Act and related provisions; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

38-11-102, as last amended by Laws of Utah 2011, Chapters 14 and 342

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

Section 1. Section 38-11-102 is amended to read:

38-11-102. Definitions.

(1) "Board" means the Residence Lien Recovery Fund Advisory Board established under Section 38-11-104.

(2) "Certificate of compliance" means an order issued by the director to the owner finding that the owner is in compliance with the requirements of Subsections 38-11-204(4)(a) and (4)(b) and is entitled to protection under Section 38-11-107.

(3) "Construction on an owner-occupied residence" means designing, engineering, constructing, altering, remodeling, improving, repairing, or maintaining a new or existing residence.

(4) "Department" means the Department of Commerce.

(5) "Director" means the director of the Division of Occupational and Professional Licensing.

(6) "Division" means the Division of Occupational and Professional Licensing.

(7) "Duplex" means a single building having two separate living units.

(8) "Encumbered fund balance" means the aggregate amount of outstanding claims against

the fund. The remainder of the money in the fund is unencumbered funds.

(9) "Executive director" means the executive director of the Department of Commerce.

(10) "Factory built housing" is as defined in Section 15A-1-302.

(11) "Factory built housing retailer" means a person that sells factory built housing to consumers.

(12) "Fund" means the Residence Lien Recovery Fund established under Section 38-11-201.

(13) "Laborer" means a person who provides services at the site of the construction on an owner-occupied residence as an employee of an original contractor or other qualified beneficiary performing qualified services on the residence.

(14) "Licensee" means any holder of a license issued under Title 58, [Chapters] Chapter 3a, Architects Licensing Act[;]; Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act[;]; Chapter 53, Landscape Architects Licensing Act[;]; and Chapter 55, Utah Construction Trades Licensing Act.

(15) "Nonpaying party" means the original contractor, subcontractor, or real estate developer who has failed to pay the qualified beneficiary making a claim against the fund.

(16) "Original contractor" means a person who contracts with the owner of real property or the owner's agent to provide services, labor, or material for the construction of an owner-occupied residence.

(17) "Owner" means a person who:

(a) contracts with a person who is licensed as a contractor or is exempt from licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act, for the construction on an owner-occupied residence upon real property [owned by that person;] that the person:

(i) owns; or

(ii) purchases after the person enters into a contract described in this Subsection (17)(a) and before completion of the owner-occupied residence;

(b) contracts with a real estate developer to buy a residence upon completion of the construction on the owner-occupied residence; or

(c) [buys] purchases a residence from a real estate developer after completion of the construction on the owner-occupied residence.

(18) "Owner-occupied residence" means a residence that is, or after completion of the construction on the residence will be, occupied by the owner or the owner's tenant or lessee as a primary or secondary residence within 180 days [from the date of the completion of] after the day on which the construction on the residence is complete.

(19) "Qualified beneficiary" means a person who:

(a) provides qualified services;

(b) pays necessary fees or assessments required under this chapter; and

(c) registers with the division:

(i) as a licensed contractor under Subsection 38-11-301(1) or (2), if that person seeks recovery from the fund as a licensed contractor; or

(ii) as a person providing qualified services other than as a licensed contractor under Subsection 38-11-301(3) if the person seeks recovery from the fund in a capacity other than as a licensed contractor.

(20) (a) "Qualified services" means the following performed in construction on an owner-occupied residence:

(i) contractor services provided by a contractor licensed or exempt from licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act;

(ii) architectural services provided by an architect licensed under Title 58, Chapter 3a, Architects Licensing Act;

(iii) engineering and land surveying services provided by a professional engineer or land surveyor licensed or exempt from licensure under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(iv) landscape architectural services by a landscape architect licensed or exempt from licensure under Title 58, Chapter 53, Landscape Architects Licensing Act;

(v) design and specification services of mechanical or other systems;

(vi) other services related to the design, drawing, surveying, specification, cost estimation, or other like professional services;

(vii) providing materials, supplies, components, or similar products;

(viii) renting equipment or materials;

(ix) labor at the site of the construction on the owner-occupied residence; and

(x) site preparation, set up, and installation of factory built housing.

(b) "Qualified services" ~~do~~ does not include the construction of factory built housing in the factory.

(21) "Real estate developer" means a person having an ownership interest in real property who:

(a) contracts with a person who is licensed as a contractor or is exempt from licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act, for the construction of a residence that is offered for sale to the public; or

(b) is a licensed contractor under Title 58, Chapter 55, Utah Construction Trades Licensing Act, who engages in the construction of a residence that is offered for sale to the public.

(22) (a) "Residence" means an improvement to real property used or occupied, to be used or occupied as, or in conjunction with:

(i) a primary or secondary detached single-family dwelling; or

(ii) a multifamily dwelling up to and including duplexes.

(b) "Residence" includes factory built housing.

(23) "Subsequent owner" means a person who purchases a residence from an owner within 180 days ~~from the date~~ after the day on which the construction on the residence is completed.

CHAPTER 109**S. B. 192**

Passed March 13, 2014

Approved March 28, 2014

Effective May 13, 2014

**AMENDMENTS TO AUTOMATIC
EXTERNAL DEFIBRILLATOR
RESTRICTED ACCOUNT**

Chief Sponsor: Scott K. Jenkins

House Sponsor: Stewart Barlow

LONG TITLE**General Description:**

This bill allows the director of the Bureau of Emergency Medical Services to distribute Automatic External Defibrillator Restricted Account funds to a school that offers instruction to grades kindergarten through 6.

Highlighted Provisions:

This bill:

- ▶ allows the director of the Bureau of Emergency Medical Services to distribute Automatic External Defibrillator Restricted Account funds to a school that offers instruction to grades kindergarten through 6; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-8b-602, as enacted by Laws of Utah 2013, Chapter 99

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

Section 1. Section 26-8b-602 is amended to read:**26-8b-602. Automatic External
Defibrillator Restricted Account.**

(1) (a) There is created a restricted account within the General Fund known as the Automatic External Defibrillator Restricted Account to provide AEDs to entities under Subsection (4).

(b) The director of the bureau shall administer the account in accordance with rules made by the bureau in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) The restricted account shall consist of money appropriated to the account by the Legislature.

(3) The director of the bureau shall distribute funds deposited in the account to eligible entities, under Subsection (4), for the purpose of purchasing:

- (a) an AED;
- (b) an AED carrying case;
- (c) a wall-mounted AED cabinet; or
- (d) an AED sign.

(4) Upon appropriation, the director of the bureau shall distribute funds deposited in the account, for the purpose of purchasing items under Subsection (3), to:

(a) a municipal department of safety that routinely responds to incidents, or potential incidents, of sudden cardiac arrest;

(b) a municipal or county law enforcement agency that routinely responds to incidents, or potential incidents, of sudden cardiac arrest;

(c) a state law enforcement agency that routinely responds to incidents, or potential incidents, of sudden cardiac arrest;

(d) a school that offers instruction to grades kindergarten through 6;

~~[(d)]~~ (e) a school that offers instruction to grades 7 through 12; or

~~[(e)]~~ (f) a state institution of higher education.

(5) The director of the bureau shall distribute funds under this section to a municipality only if the municipality provides a match in funding for the total cost of items under Subsection (3):

(a) of 50% for the municipality, if the municipality is a city of first, second, or third class under Section 10-2-301; or

(b) of 75% for the municipality, other than a municipality described in Subsection (5)(a).

(6) The director of the bureau shall distribute funds under this section to a county only if the county provides a match in funding for the total cost of items under Subsection (3):

(a) of 50% for the county, if the county is a county of first, second, or third class under Section 17-50-501; or

(b) of 75% for the county, other than a county described in Subsection (6)(a).

(7) In accordance with rules made by the bureau, an entity described in Subsection (4) may apply to the director of the bureau to receive a distribution of funds from the account by filing an application with the bureau on or before October 1 of each year.

CHAPTER 110**S. B. 193**

Passed March 13, 2014

Approved March 28, 2014

Effective May 13, 2014

**NATUROPATHIC PRACTICE
ACT AMENDMENTS**Chief Sponsor: J. Stuart Adams
House Sponsor: Michael S. Kennedy**LONG TITLE****General Description:**

This bill modifies the Naturopathic Physician Practice Act by amending definitions and membership of a naturopathic formulary advisory peer committee.

Highlighted Provisions:

This bill:

- ▶ permits a naturopath to administer certain percutaneous injections;
- ▶ adds a licensed physician to the naturopathic formulary advisory peer committee; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-71-102, as last amended by Laws of Utah 2012, Chapter 117

58-71-202, as last amended by Laws of Utah 2005, Chapter 73

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

Section 1. Section 58-71-102 is amended to read:**58-71-102. Definitions.**

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

[2] (1) "Acupuncture" has the same definition as in Section 58-72-102.

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

(3) "Board" means the Naturopathic Physicians Licensing Board created in Section 58-71-201.

(4) "Diagnose" means:

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

(b) to attempt to conduct an examination or determination described under Subsection (4)(a);

(c) to hold oneself out as making or to represent that one is making an examination or determination as described in Subsection (4)(a); or

(d) to make an examination or determination as described in Subsection (4)(a) upon or from information supplied directly or indirectly by another person, whether or not in the presence of the person making or attempting the diagnosis or examination.

(5) "Local anesthesia" means an agent, whether a natural medicine or nonscheduled prescription drug, which:

(a) is applied topically or by injection [~~in superficial tissues~~] associated with the performance of minor office procedures;

(b) has the ability to produce loss of sensation at the site of minor office procedures; and

(c) does not cause loss of consciousness or produce general sedation.

(6) "Medical naturopathic assistant" means an unlicensed individual working under the direct and immediate supervision of a licensed naturopathic physician and engaged in specific tasks assigned by the licensed naturopathic physician in accordance with the standards and ethics of the profession.

(7) (a) "Minor office procedures" means:

(i) the use of operative, electrical, or other methods for repair and care of superficial lacerations, abrasions, and benign lesions;

(ii) removal of foreign bodies located in the superficial tissues, excluding the eye or ear; ~~and~~

(iii) the use of antiseptics and local anesthetics in connection with minor office surgical procedures~~[-];~~ and

(iv) if approved by the United States Food and Drug Administration, percutaneous injection into skin, tendons, ligaments, muscles, and joints with:

(A) local anesthetics and nonscheduled prescription medications; and

(B) natural substances.

(b) "Minor office procedures" does not include:

(i) general or spinal anesthesia;

(ii) office procedures more complicated or extensive than those set forth in Subsection (7)(a);

(iii) procedures involving the eye; ~~or~~ and

(iv) any office procedure involving tendons, nerves, veins, or arteries.

(8) "Natural medicine" means:

(a) food, food extracts, dietary supplements as defined by the federal Food, Drug, and Cosmetics Act, all homeopathic remedies, and plant substances that are not designated as prescription drugs or controlled substances;

- (b) over-the-counter medications;
- (c) other nonprescription substances, the prescription or administration of which is not otherwise prohibited or restricted under federal or state law;
- (d) prescription drugs:
 - (i) that, except as provided in Subsection (8)(e), are not controlled substances as defined in Section 58-37-2;
 - (ii) the prescription of which is consistent with the competent practice of naturopathic medicine; and
 - (iii) the prescription of which is approved by the division in collaboration with the naturopathic formulary advisory peer committee; and
- (e) testosterone, if the testosterone is:
 - (i) bio-identical;
 - (ii) designed to be:
 - (A) administered topically, for transdermal absorption; or
 - (B) absorbed across the mucosal membranes of the mouth; and
 - (iii) prescribed or administered, in accordance with the requirements of federal and state law, solely for the purpose of treating a patient with a low testosterone level in order to restore the patient to a normal testosterone level.
- (9) (a) "Naturopathic childbirth" means uncomplicated natural childbirth assisted by a naturopathic physician, and includes the use of:
 - (i) natural medicines; and
 - (ii) uncomplicated episiotomy.
- (b) "Naturopathic childbirth" does not include the use of:
 - (i) forceps delivery;
 - (ii) general or spinal anesthesia;
 - (iii) caesarean section delivery; or
 - (iv) induced labor or abortion.
- (10) "Naturopathic mobilization therapy":
 - (a) means manually administering mechanical treatment of body structures or tissues for the purpose of restoring normal physiological function to the body by normalizing and balancing the musculoskeletal system of the body;
 - (b) does not mean manipulation or adjustment of the joints of the human body beyond the elastic barrier; and
 - (c) does not include manipulation as [defined] used in Title 58, Chapter 73, Chiropractic Physician Practice Act.
- (11) (a) "Naturopathic physical medicine" means the use of the physical agents of air, water, heat,

cold, sound, light, and electromagnetic nonionizing radiation, and the physical modalities of electrotherapy, acupuncture, diathermy, ultraviolet light, ultrasound, hydrotherapy, naturopathic mobilization therapy, and exercise.

(b) "Naturopathic physical medicine" does not include the practice of physical therapy or physical rehabilitation.

(12) "Practice of naturopathic medicine" means:

(a) a system of primary health care for the prevention, diagnosis, and treatment of human health conditions, injuries, and diseases that uses education, natural medicines, and natural therapies, to support and stimulate the patient's intrinsic self-healing processes:

(i) using naturopathic childbirth, but only if:

(A) the licensee meets standards of the American College of Naturopathic Obstetricians (ACNO) or its successor as determined by the division in collaboration with the board; and

(B) the licensee follows a written plan for naturopathic physicians practicing naturopathic childbirth approved by the division in collaboration with the board, which includes entering into an agreement with a consulting physician and surgeon or osteopathic physician, in cases where the scope of practice of naturopathic childbirth may be exceeded and specialty care and delivery is indicated, detailing the guidelines by which the naturopathic physician will:

(I) refer patients to the consulting physician; and

(II) consult with the consulting physician;

(ii) using naturopathic mobilization therapy;

(iii) using naturopathic physical medicine;

(iv) using minor office procedures;

(v) prescribing or administering natural medicine;

(vi) prescribing medical equipment and devices, diagnosing by the use of medical equipment and devices, and administering therapy or treatment by the use of medical devices necessary and consistent with the competent practice of naturopathic medicine;

(vii) prescribing barrier devices for contraception;

(viii) using dietary therapy;

(ix) taking and using diagnostic x-rays, electrocardiograms, ultrasound, and physiological function tests;

(x) taking of body fluids for clinical laboratory tests and using the results of the tests in diagnosis;

(xi) taking of a history from and conducting of a physical examination upon a human patient; and

(xii) prescribing and administering natural medicines and medical devices, except a naturopathic physician may only administer:

(A) a prescription drug, as defined in Section 58-17b-102, in accordance with Subsection (8)(d); and

(B) local anesthesia that is not a controlled substance, and only in the performance of minor office procedures;

(b) to maintain an office or place of business for the purpose of doing any of the acts described in Subsection (12)(a), whether or not for compensation; or

(c) to use, in the conduct of any occupation or profession pertaining to the diagnosis or treatment of human diseases or conditions, in any printed material, stationery, letterhead, envelopes, signs, or advertisements, the designation "naturopathic physician," "naturopathic doctor," "naturopath," "doctor of naturopathic medicine," "doctor of naturopathy," "naturopathic medical doctor," "naturopathic medicine," "naturopathic health care," "naturopathy," "N.D.," "N.M.D.," or any combination of these designations in any manner that might cause a reasonable person to believe the individual using the designation is a licensed naturopathic physician.

(13) "Prescribe" means to issue a prescription:

(a) orally or in writing; or

(b) by telephone, facsimile transmission, computer, or other electronic means of communication as defined by division rule.

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

(15) "Prescription drug" means a drug that is required by federal or state law or rule to be dispensed only by prescription or is restricted to administration only by practitioners.

(16) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-71-501.

(17) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-71-502, and as may be further defined by division rule.

Section 2. Section 58-71-202 is amended to read:

58-71-202. Naturopathic formulary peer committee.

(1) The division shall establish a naturopathic formulary advisory peer committee under Subsection 58-1-203(1)(f) to make recommendations to the board for the naturopathic formulary which shall:

(a) consist of noncontrolled legend medications deemed appropriate for the scope of practice of naturopathic physicians; and

(b) include all homeopathic remedies.

(2) The committee shall consist of five members:

(a) one naturopathic physician who is a member of the board;

(b) ~~three~~ two naturopathic physicians who are not members of the board; ~~and~~

(c) one licensed pharmacist who is also a pharmacognosist[-]; and

(d) one physician licensed under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act.

(3) The committee members shall:

(a) be appointed by the director of the division;

(b) be appointed and serve in accordance with Section 58-1-201, except as those provisions are modified by this section; and

(c) serve without compensation, travel costs, or per diem for their services.

(4) The committee and the division may seek input from other licensing boards.

CHAPTER 111**S. B. 210**

Passed March 11, 2014
 Approved March 28, 2014
 Effective May 13, 2014

PRESCRIPTION SYNCHRONIZATION

Chief Sponsor: Curtis S. Bramble
 House Sponsor: Mike K. McKell

LONG TITLE**General Description:**

This bill addresses payments by health insurance plans for the synchronization of prescription drug dispensing.

Highlighted Provisions:

This bill:

- ▶ provides definitions;
- ▶ prohibits a health insurance plan that provides prescription drug coverage from excluding certain prescription drugs dispensed in quantities less than the prescribed amount;
- ▶ prohibits a health insurance plan from basing the dispensing fee for an individual prescription on the quantity of the prescription drug dispensed to fill or refill the prescription; and
- ▶ requires administrative rulemaking.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

31A-22-642, Utah Code Annotated 1953

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

Section 1. Section 31A-22-642 is enacted to read:**31A-22-642. (Codified as 31A-22-643)****Prescription synchronization -- Copay and dispensing fee restrictions.**

(1) For purposes of this section:

(a) "Copay" means the copay normally charged for a prescription drug.

(b) "Health insurer" means an insurer, as defined in Subsection 31A-22-634(1).

(c) "Network pharmacy" means a pharmacy included in a health insurance plan's network of pharmacy providers.

(d) "Prescription drug" means a prescription drug, as defined in Section 58-17b-102, that is prescribed for a chronic condition.

(2) A health insurance plan may not charge an amount in excess of the copay for the dispensing of a prescription drug in a quantity less than the prescribed amount if:

(a) the pharmacy dispenses the prescription drug in accordance with the health insurer's synchronization policy; and

(b) the prescription drug is dispensed by a network pharmacy.

(3) A health insurance plan that includes a prescription drug benefit:

(a) shall implement a synchronization policy for the dispensing of prescription drugs to the plan's enrollees; and

(b) may not base the dispensing fee for an individual prescription on the quantity of the prescription drug dispensed to fill or refill the prescription unless otherwise agreed to by the plan and the contracted pharmacy at the time the individual requests synchronization.

(4) This section applies to health benefit plans renewed or entered into on or after January 1, 2015.

CHAPTER 112**S. B. 256**

Passed March 12, 2014
 Approved March 28, 2014
 Effective May 13, 2014

ASSET FORFEITURE AMENDMENTS

Chief Sponsor: Howard A. Stephenson
 House Sponsor: John Knotwell

LONG TITLE**General Description:**

This bill modifies the Forfeiture and Disposition of Property Act regarding forfeiture procedures.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of a claimant of property seized for forfeiture;
- ▶ reduces, and makes mandatory, the number of days within which a prosecutor must file a complaint for civil forfeiture;
- ▶ provides that the prosecutor is not required to serve notice on a claimant who has disclaimed ownership of the seized property;
- ▶ requires that service by publication must include a newspaper of general circulation;
- ▶ provides that if the prosecuting attorney does not take a specified action regarding forfeiture of the property within 75 days after the seizure, the property shall be promptly returned and no further prosecutorial action may be taken;
- ▶ requires that a prevailing property owner shall be awarded reasonable legal and attorney costs;
- ▶ establishes limitations and procedural requirements regarding the transfer of seized property to the federal government; and
- ▶ limits the amount of forfeited property that may be applied to prosecutorial attorney fees to 20% of the value of the property.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

24-1-102, as enacted by Laws of Utah 2013, Chapter 394
 24-4-104, as enacted by Laws of Utah 2013, Chapter 394
 24-4-105, as enacted by Laws of Utah 2013, Chapter 394
 24-4-110, as enacted by Laws of Utah 2013, Chapter 394
 24-4-114, as enacted by Laws of Utah 2013, Chapter 394
 24-4-115, as enacted by Laws of Utah 2013, Chapter 394

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

Section 1. Section 24-1-102 is amended to read:**24-1-102. Definitions.**

As used in this title:

(1) "Account" means the Criminal Forfeiture Restricted Account created in Section 24-4-116.

(2) (a) "Acquittal" means a finding by a jury or a judge at trial that a claimant is not guilty.

(b) An acquittal does not include:

- (i) a verdict of guilty on a lesser or reduced charge;
- (ii) a plea of guilty to a lesser or reduced charge; or
- (iii) dismissal of a charge as a result of a negotiated plea agreement.

(3) "Agency" means any agency of municipal, county, or state government, including law enforcement agencies, law enforcement personnel, and multijurisdictional task forces.

(4) ~~(a)~~ "Claimant" means any:

~~(i)~~ (a) owner of property as defined in this section;

~~(ii)~~ (b) interest holder as defined in this section; or

~~(iii) person from whom property is seized for forfeiture.]~~

~~(b) A claimant does not include a person or entity who disclaims in writing ownership of or interest in property.]~~

(c) person or entity who asserts a claim to any property seized for forfeiture under this title.

(5) "Commission" means the Utah Commission on Criminal and Juvenile Justice.

(6) "Complaint" means a civil in rem complaint seeking the forfeiture of any real or personal property under this title.

(7) "Constructive seizure" means a seizure of property where the property is left in the control of the owner and the seizing agency posts the property with a notice of intent to seek forfeiture.

(8) (a) "Contraband" means any property, item, or substance that is unlawful to produce or to possess under state or federal law.

(b) All controlled substances that are possessed, transferred, distributed, or offered for distribution in violation of Title 58, Chapter 37, Utah Controlled Substances Act, are contraband.

(9) "Innocent owner" means a claimant who:

(a) held an ownership interest in property at the time the conduct subjecting the property to forfeiture occurred, and:

(i) did not have actual knowledge of the conduct subjecting the property to forfeiture; or

(ii) upon learning of the conduct subjecting the property to forfeiture, took reasonable steps to prohibit the illegal use of the property; or

(b) acquired an ownership interest in the property and who had no knowledge that the illegal conduct subjecting the property to forfeiture had occurred or that the property had been seized for forfeiture, and:

(i) acquired the property in a bona fide transaction for value;

(ii) was a person, including a minor child, who acquired an interest in the property through probate or inheritance; or

(iii) was a spouse who acquired an interest in property through dissolution of marriage or by operation of law.

(10) (a) "Interest holder" means a secured party as defined in Section 70A-9a-102, a mortgagee, lien creditor, or the beneficiary of a security interest or encumbrance pertaining to an interest in property, whose interest would be perfected against a good faith purchaser for value.

(b) "Interest holder" does not mean a person who holds property for the benefit of or as an agent or nominee for another person, or who is not in substantial compliance with any statute requiring an interest in property to be recorded or reflected in public records in order to perfect the interest against a good faith purchaser for value.

(11) "Known address" means any address provided by a claimant to the agency at the time the property was seized, or the claimant's most recent address on record with a governmental entity if no address was provided at the time of the seizure.

(12) "Legal costs" means the costs and expenses incurred by a party in a forfeiture action.

(13) "Legislative body" means:

(a) (i) the Legislature, county commission, county council, city commission, city council, or town council that has fiscal oversight and budgetary approval authority over an agency; or

(ii) the agency's governing political subdivision; or

(b) the lead governmental entity of a multijurisdictional task force, as designated in a memorandum of understanding executed by the agencies participating in the task force.

(14) "Multijurisdictional task force" means a law enforcement task force or other agency comprised of persons who are employed by or acting under the authority of different governmental entities, including federal, state, county or municipal governments, or any combination of these agencies.

(15) "Owner" means any person or entity, other than an interest holder, that possesses a bona fide legal or equitable interest in real or personal property.

(16) (a) "Proceeds" means:

(i) property of any kind that is obtained directly or indirectly as a result of the commission of an offense that gives rise to forfeiture; or

(ii) any property acquired directly or indirectly from, produced through, realized through, or caused by an act or omission regarding property under Subsection (16)(a)(i).

(b) "Proceeds" includes any property of any kind without reduction for expenses incurred in the acquisition, maintenance, or production of that property, or any other purpose regarding property under Subsection (16)(a)(i).

(c) "Proceeds" is not limited to the net gain or profit realized from the offense that gives rise to forfeiture.

(17) "Program" means the State Asset Forfeiture Grant Program established in Section 24-4-117.

(18) "Property" means all property, whether real or personal, tangible or intangible, but does not include contraband.

(19) "Prosecuting attorney" means:

(a) the attorney general and any assistant attorney general;

(b) any district attorney or deputy district attorney;

(c) any county attorney or assistant county attorney; and

(d) any other attorney authorized to commence an action on behalf of the state under this title.

(20) "Public interest use" means a:

(a) use by a government agency as determined by the legislative body of the agency's jurisdiction; or

(b) donation of the property to a nonprofit charity registered with the state.

(21) "Real property" means land and includes any building, fixture, improvement, appurtenance, structure, or other development that is affixed permanently to land.

Section 2. Section 24-4-104 is amended to read:

24-4-104. Civil forfeiture procedure.

~~[(1) (a) Within 90 days from the date the property is seized, the prosecuting attorney may elect to file a complaint for civil forfeiture in the appropriate district court.]~~

(1) (a) The law enforcement agency shall promptly return seized property, and the prosecuting attorney may take no further action to effect the forfeiture of the property, unless within 75 days after the property is seized the prosecuting attorney:

(i) files a criminal forfeiture indictment or information under Subsection 24-4-105(2);

(ii) obtains a restraining order under Subsection 24-4-105(3);

(iii) files a petition under Subsection 24-4-114(1);
or

(iv) files a civil forfeiture complaint.

(b) [The] A complaint for civil forfeiture shall describe with reasonable particularity the:

(i) property that is the subject of the forfeiture proceeding;

- (ii) date and place of seizure; and
- (iii) factual allegations that constitute a basis for forfeiture.

(2) (a) After ~~the~~ a complaint is filed, the prosecuting attorney shall serve a copy of the complaint and summons upon each claimant known to the prosecuting attorney within 30 days.

(b) The prosecuting attorney is not required to serve a copy of the complaint or the summons upon any claimant who has disclaimed, in writing, an ownership interest in the seized property.

~~(b)~~ (c) Service of the complaint and summons shall be by:

- (i) personal service;
- (ii) certified mail, return receipt requested, to the claimant's known address; or
- (iii) service by publication, if the prosecuting attorney demonstrates to the court that service cannot reasonably be made by personal service or certified mail~~[, the court may then allow service by electronic publication].~~

(d) Service by publication shall be by publication of two notices, in two successive weeks, of the forfeiture proceeding:

- (i) in a newspaper of general circulation in the county in which the seizure occurred; and
- (ii) on Utah's Public Legal Notice Website established in Subsection 45-1-101(2)(b).

~~(e)~~ (e) Service is effective upon the earlier of:

- (i) personal service;
- (ii) mailing of a written notice; or
- (iii) ~~electronic~~ publication.

~~(d)~~ (f) Upon motion of the prosecuting attorney and a showing of good cause, the court may extend the period to complete service under this section for an additional 60 days.

(3) (a) In any case where the prosecuting attorney files a complaint for forfeiture, a claimant may file an answer to the complaint.

(b) The answer shall be filed within 30 days after the complaint is served upon the claimant as provided in Subsection (2)(b).

(4) Except as otherwise provided in this chapter, forfeiture proceedings are governed by the Utah Rules of Civil Procedure.

(5) The court shall take all reasonable steps to expedite civil forfeiture proceedings and shall give these proceedings the same priority as is given to criminal cases.

(6) In all suits or actions brought under this section for the civil forfeiture of any property, the burden of proof is on the prosecuting attorney to establish by clear and convincing evidence the extent to which, if any, the property is subject to forfeiture.

(7) A claimant may file an answer to a complaint for civil forfeiture without posting bond with respect to the property subject to forfeiture.

Section 3. Section 24-4-105 is amended to read:

24-4-105. Criminal forfeiture procedure.

(1) If a claimant is criminally prosecuted for conduct giving rise to the forfeiture, the prosecuting attorney may elect to seek forfeiture of the claimant's interest in the property through the criminal case.

(2) If the prosecuting attorney elects to seek forfeiture of the claimant's interest in the property through the criminal case, the information or indictment shall state that the claimant's interest in the property is subject to forfeiture and the basis for the forfeiture.

(3) (a) Upon application of the prosecuting attorney, the court may enter restraining orders or injunctions, or take other reasonable actions to preserve for forfeiture under this section, any property subject to forfeiture if, after notice to known claimants and claimants who can be identified after due diligence and who are known to have an interest in the property, and after affording those persons an opportunity for a hearing, the court determines that:

(i) there is a substantial probability that the state will prevail on the issue of forfeiture and that failure to enter the order will result in the property being sold, transferred, destroyed, or removed from the jurisdiction of the court or otherwise made unavailable for forfeiture; and

(ii) the need to preserve the availability of the property or prevent its sale, transfer, destruction, or removal through the entry of the requested order outweighs the hardship against any party against whom the order is to be entered.

(b) A temporary restraining order may be entered ex parte upon application of the prosecuting attorney before or after an information or indictment has been filed with respect to the property, if the prosecuting attorney demonstrates that:

(i) there is probable cause to believe that the property with respect to which the order is sought would, in the event of a conviction, be subject to forfeiture under this section; and

(ii) provision of notice would jeopardize the availability of the property for forfeiture or would jeopardize an ongoing criminal investigation.

(c) The temporary order expires not more than 10 days after entry unless extended for good cause shown or unless the party against whom it is entered consents to an extension.

(d) After service of the temporary order upon any claimants known to the prosecuting attorney, a hearing concerning the order entered under this section shall be held as soon as practicable and prior to the expiration of the temporary order.

(e) The court is not bound by the Utah Rules of Evidence regarding evidence it may receive and consider at any hearing under this section.

(4) (a) Upon conviction of a claimant for conduct giving rise to criminal forfeiture, the prosecutor shall ask the finder of fact to make a specific finding as to whether the property or any part of it is subject to forfeiture.

(b) A determination of whether property is subject to forfeiture under this section shall be proven beyond a reasonable doubt.

(5) (a) Upon conviction of a claimant for violating any provision of state law subjecting a claimant's property to forfeiture and a finding by the trier of fact that the property is subject to forfeiture, the court shall enter a judgment and order the property forfeited to the state upon the terms stated by the court in its order.

(b) Following the entry of an order declaring property forfeited, the court may, upon application of the prosecuting attorney, enter appropriate restraining orders or injunctions, require the execution of satisfactory performance bonds, appoint receivers, conservators, appraisers, accountants, or trustees, or take any other action to protect the interest of the state in property ordered forfeited.

(6) (a) (i) After property is ordered forfeited under this section, the seizing agency shall direct the disposition of the property under Section 24-4-115.

(ii) Any property right or interest under this Subsection (6)(a) not exercisable by or transferable for value to the state expires and does not revert to the defendant.

(iii) The defendant or any person acting in concert with or on behalf of the defendant is not eligible to purchase forfeited property at any sale held by the seizing agency unless approved by the judge.

(b) The court may stay the sale or disposition of the property pending the conclusion of any appeal of the criminal case giving rise to the forfeiture if the defendant demonstrates that proceeding with the sale or disposition of the property may result in irreparable injury, harm, or loss.

(7) Except as provided under Subsection (3) or (10), a party claiming an interest in property subject to forfeiture under this section:

(a) may not intervene in a trial or appeal of a criminal case involving the forfeiture of property under this section; and

(b) may not commence an action at law or equity concerning the validity of the party's alleged interests in the property subsequent to the filing of an indictment or an information alleging that the property is subject to forfeiture under this section.

(8) The district court that has jurisdiction of a case under this part may enter orders under this section without regard to the location of any property that may be subject to forfeiture under this section or that has been ordered forfeited under this section.

(9) To facilitate the identification or location of property declared forfeited and to facilitate the disposition of petitions for remission or mitigation of forfeiture after the entry of an order declaring property forfeited to the state, the court may, upon application of the prosecuting attorney, order that the testimony of any witness relating to the forfeited property be taken by deposition, and that any book, paper, document, record, recording, or other material shall be produced as provided for depositions and discovery under the Utah Rules of Civil Procedure.

(10) (a) (i) Following the entry of an order of forfeiture under this section, the prosecuting attorney shall publish notice of the order's intent to dispose of the property by [electronic] publication. Service by publication shall be by publication of two notices, in two successive weeks, of the forfeiture proceeding:

(A) in a newspaper of general circulation in the county in which the seizure occurred; and

(B) on Utah's Public Legal Notice Website established in Subsection 45-1-101(2)(b).

(ii) The prosecuting attorney shall also send written notice to any claimants, other than the defendant, known to the prosecuting attorney to have an interest in the property, at the claimant's known address.

(b) (i) Any claimant, other than the defendant, asserting a legal interest in property that has been ordered forfeited to the state under this section may, within 30 days after the notice has been published or the claimant receives the written notice under Subsection (10)(a), whichever is earlier, petition the court for a hearing to adjudicate the validity of the claimant's alleged interest in the property.

(ii) Any genuine issue of material fact, including issues of standing, may be tried to a jury upon demand of any party.

(c) The petition shall:

(i) be in writing and signed by the claimant under penalty of perjury;

(ii) set forth the nature and extent of the claimant's right, title, or interest in the property, the time and circumstances of the claimant's acquisition of the right, title, or interest in the property; and

(iii) set forth any additional facts supporting the claimant's claim and the relief sought.

(d) The trial or hearing on the petition shall be expedited to the extent practicable. The court may consolidate a trial or hearing on the petition and any petition filed by any claimant other than the defendant under this section. The court shall permit the parties to conduct pretrial discovery pursuant to the Utah Rules of Civil Procedure.

(e) (i) At the trial or hearing, the claimant may testify and present evidence and witnesses on the claimant's own behalf and cross-examine witnesses

who appear at the hearing. The prosecuting attorney may present evidence and witnesses in rebuttal and in defense of the claim to the property and cross-examine witnesses who appear.

(ii) In addition to testimony and evidence presented at the trial or hearing, the court may consider the relevant portion of the record of the criminal case that resulted in the order of forfeiture.

(iii) Any trial or hearing shall be conducted pursuant to the Utah Rules of Evidence.

(f) The court shall amend the order of forfeiture in accordance with its determination, if after the trial or hearing, the court or jury determines that the petitioner has established by a preponderance of the evidence that:

(i) the claimant has a legal right, title, or interest in the property, and the right, title, or interest renders the order of forfeiture invalid in whole or in part because the right, title, or interest was vested in the claimant rather than the defendant or was superior to any right, title, or interest of the defendant at the time of the commission of the acts or conduct that gave rise to the forfeiture of the property under this section; or

(ii) the claimant acquired the right, title, or interest in the property in a bona fide transaction for value, and, at the time of acquisition, the claimant did not know that the property was subject to forfeiture.

(g) Following the court's disposition of all petitions filed under this Subsection (10), or if no petitions are filed following the expiration of the period provided in Subsection (10)(b) for the filing of petitions, the state has clear title to property subject to the order of forfeiture and may warrant good title to any subsequent purchaser or transferee.

Section 4. Section 24-4-110 is amended to read:

24-4-110. Attorney fees and costs.

(1) In any forfeiture proceeding under this chapter, the court ~~may~~ shall award a prevailing ~~party~~ property owner reasonable:

- (a) legal costs; and
- (b) attorney fees.

(2) The legal costs and attorney fees awarded by the court to the prevailing party may not exceed 20% of the value of the property.

(3) A ~~party~~ property owner that prevails only in part is entitled to recover reasonable legal costs and attorney fees only on those issues on which the party prevailed.

Section 5. Section 24-4-114 is amended to read:

24-4-114. Transfer and sharing procedures.

(1) (a) Seizing agencies or prosecuting attorneys authorized to bring forfeiture proceedings under

this chapter may not directly or indirectly transfer property held for forfeiture and not already named in a criminal indictment to any federal agency or any governmental entity not created under and subject to state law unless ~~the court enters an order, upon petition of the prosecuting attorney, authorizing the property to be transferred.~~

(b) The court may not enter an order authorizing a transfer under Subsection (1)(a) unless:

(i) the conduct giving rise to the investigation or seizure is interstate in nature and sufficiently complex to justify the transfer;

(ii) the property may only be forfeited under federal law; or

(iii) pursuing forfeiture under state law would unreasonably burden prosecuting attorneys or state law enforcement agencies.

~~[(b) In making a determination under this section, a court may conduct an in camera inspection of evidence provided by the prosecuting attorney or seizing agency.]~~

(c) A petition to transfer property to a federal agency under this section shall include:

- (i) a detailed description of the property seized;
- (ii) the location where the property was seized;
- (iii) the date the property was seized;
- (iv) the case number assigned by the seizing law enforcement agency; and
- (v) a declaration that:

(A) states the basis for relinquishing jurisdiction to a federal agency;

(B) contains the names and addresses of any claimants then known; and

(C) is signed by the prosecutor.

(d) The court may not authorize the transfer of property to the federal government if the transfer would circumvent the protections of the Utah Constitution or of this chapter that would otherwise be available to the property owner.

(e) (i) Prior to granting any order to transfer pursuant to this section, the court shall give any claimant the right to be heard with regard to the transfer by the mailing of a notice to each address contained in the declaration.

(ii) If no claimant objects to the petition to transfer property within 10 days of the mailing of the notice, the court shall issue its order under this section.

(iii) If the declaration does not include an address for a claimant, the court shall delay its order under this section for 20 days to allow time for the claimant to appear and make an objection.

(f) (i) If a claimant contests a petition to transfer property to a federal agency, the court shall promptly set the matter for hearing.

(ii) (A) The court shall determine whether the state may relinquish jurisdiction by a standard of preponderance of the evidence.

(B) In making the determination, the court shall consider evidence regarding hardship, complexity, judicial and law enforcement resources, and any other matter the court determines to be relevant.

(2) All property, money, or other things of value received by an agency pursuant to federal law, which authorizes the sharing or transfer of all or a portion of forfeited property or the proceeds of the sale of forfeited property to an agency:

(a) shall be used in compliance with federal laws and regulations relating to equitable sharing;

(b) may be used for those law enforcement purposes specified in Subsection 24-4-117(9); and

(c) may not be used for those law enforcement purposes prohibited in Subsection 24-4-117(10).

(3) A state or local law enforcement agency awarded any equitable share of property forfeited by the federal government may only use the award money after approval of the use by the agency's legislative body.

(4) Each year, every agency awarded any equitable share of property forfeited by the federal government shall file with the commission:

(a) a copy of that agency's federal equitable sharing certification; and

(b) information, on a form provided by the commission, that details all awards received from the federal government during the preceding reporting period, including:

(i) the agency's case number or other identification;

(ii) the amount of the award;

(iii) the date of the award;

(iv) the identity of any federal agency involved in the forfeiture;

(v) how the awarded property has been used; and

(vi) a statement signed by both the agency's executive officer or designee and by the agency's legal counsel confirming that the agency has only used the awarded property for crime reduction or law enforcement purposes authorized under Section 24-4-117, and only upon approval by the agency's legislative body.

Section 6. Section 24-4-115 is amended to read:

24-4-115. Disposition and allocation of forfeiture property.

(1) Upon finding that property is subject to forfeiture under this chapter, the court shall order the property forfeited to the state.

(2) (a) If the property is not currency, the seizing agency shall authorize a public or otherwise commercially reasonable sale of that property that is not required by law to be destroyed and that is not harmful to the public.

(b) If the property forfeited is an alcoholic product as defined in Section 32B-1-102, it shall be disposed of as follows:

(i) an alcoholic product shall be sold if the alcoholic product is:

(A) unadulterated, pure, and free from any crude, unrectified, or impure form of ethylic alcohol, or any other deleterious substance or liquid; and

(B) otherwise in saleable condition; or

(ii) an alcoholic product and its package shall be destroyed if the alcoholic product is impure, adulterated, or otherwise unfit for sale.

(c) If the property forfeited is a cigarette or other tobacco product as defined in Section 59-14-102, it shall be destroyed, except that prior to the destruction of any cigarette or other tobacco product seized pursuant to this part, the lawful holder of the trademark rights in the cigarette or tobacco product brand shall be permitted to inspect the cigarette.

(d) The proceeds of the sale of forfeited property shall remain segregated from other property, equipment, or assets of the seizing agency until transferred to the state in accordance with this chapter.

(3) From the forfeited property, both currency and the proceeds or revenue from the sale of the property, the seizing agency shall:

(a) deduct the seizing agency's direct costs and expenses of obtaining and maintaining the property pending forfeiture; and

(b) pay the office of the prosecuting attorney the legal costs [and attorney fees] associated with the litigation of the forfeiture proceeding, and up to 20% of the value of the forfeited property in attorney fees.

(4) If the forfeiture arises from any violation relating to wildlife resources, the remaining currency and the proceeds or revenue from the sale of the property shall be deposited in the Wildlife Resources Account created in Section 23-14-13.

(5) The remaining currency and the proceeds or revenue from the sale of the property shall then be transferred to the commission and deposited into the account.

CHAPTER 113**H. B. 9**

Passed March 13, 2014
 Approved March 29, 2014
 Effective May 13, 2014

REVENUE BOND AND CAPITAL FACILITIES AMENDMENTS

Chief Sponsor: Gage Froerer
 Senate Sponsor: Wayne A. Harper

LONG TITLE**General Description:**

This bill repeals an existing revenue bond authorization, authorizes certain state agencies and institutions to issue revenue bonds, and authorizes or amends the authorization for the lease-purchase, construction, or renovation of capital facilities using agency, institutional, or donated funds.

Highlighted Provisions:

This bill:

- ▶ repeals a revenue bond authorization for the State Building Ownership Authority to issue or execute obligations or enter into or arrange for a lease-purchase agreement to provide up to \$10,500,000 for the construction of a multipurpose building for the state fair park that has not been issued;
- ▶ increases the planning, design, and construction or renovation authorizations and maximum square footage of the following, provided that only agency, institutional, or donated funds are used:
 - for a Center for the Arts at Southern Utah University, increases the authorization by \$5,000,000;
 - for a Science and Technology Building at Utah State University Tooele, increases the authorization by \$1,800,000; and
 - for a Drivers License Building in Price, increases the authorization by \$228,000;
- ▶ authorizes the State Board of Regents to issue revenue bonds for the following:
 - \$45,238,000 for constructing the Lassonde Living Center at the University of Utah; and
 - \$32,000,000 for the replacement of utility distribution infrastructure at the University of Utah;
- ▶ provides a prohibition on using state funding for operations and maintenance and capital improvement costs for the Lassonde Living Center at the University of Utah;
- ▶ provides that until July 1, 2024, the Utah State Building Board shall annually allocate up to \$1,500,000 of the capital improvement funding allocation given to the University of Utah to be used to pay the debt service on the bond authorized for the replacement of utility distribution infrastructure at the University of Utah;
- ▶ authorizes the planning, design, and construction or renovation of the following, provided that only agency, institutional, or donated funds are used:

- for an expansion and renovation of the Alumni House at the University of Utah at a cost of \$10,000,000, and prohibits the use of state funds for operation and maintenance and capital improvement costs of the building; and
- for a Communications and Driver License Building at the Department of Public Safety in Vernal at a cost of up to \$875,000, and authorizes the use of state funds for operation and maintenance and capital improvement costs of the building; and
- ▶ authorizes the Mountainland Applied Technology Campus of the Utah College of Applied Technology to use up to \$10,683,000 of existing and institutional funds to enter into a lease-purchase agreement for a Technology Trades Building for the Mountainland Applied Technology College at the Lehi Campus and prohibits the college from requesting state funds for operation and maintenance costs or capital improvements during the term of the lease-purchase agreement.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 63A-5-104, as last amended by Laws of Utah 2013, Chapters 250 and 409
 63B-22-201, as enacted by Laws of Utah 2013, Chapter 409
 63I-1-263, as last amended by Laws of Utah 2013, Chapters 28, 62, 101, 167, 250, and 413

ENACTS:

- 63B-23-101, Utah Code Annotated 1953
 63B-23-201, Utah Code Annotated 1953
 63B-23-301, Utah Code Annotated 1953

REPEALS:

- 63B-9-102, as last amended by Laws of Utah 2008, Chapter 382

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

Section 1. Section 63A-5-104 is amended to read:

63A-5-104. Definitions -- Capital development and capital improvement process -- Approval requirements -- Limitations on new projects -- Emergencies.

(1) As used in this section:

- (a) "Capital developments" means a:
- (i) remodeling, site, or utility project with a total cost of \$2,500,000 or more;
 - (ii) new facility with a construction cost of \$500,000 or more; or
 - (iii) purchase of real property where an appropriation is requested to fund the purchase.
- (b) "Capital improvements" means a:
- (i) remodeling, alteration, replacement, or repair project with a total cost of less than \$2,500,000;

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

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

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

(ii) "New facility" includes:

(A) an addition to an existing building; and

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

(iii) "New facility" does not mean:

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

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

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

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

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

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

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

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

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

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

(ii) the use of the state property is:

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

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

(c) (i) The Division of Facilities Construction and Management shall maintain a record of facilities

constructed under the exemption provided in Subsection (3)(b).

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

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

(B) state capital improvement funding.

(d) Legislative approval is not required for:

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

(ii) a facility to be built with nonstate funds and owned by nonstate entities within research park areas at the University of Utah and Utah State University;

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

(iv) a capital project that:

(A) is funded by:

(I) the Uintah Basin Revitalization Fund; or

(II) the Navajo Revitalization Fund; and

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

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

(e) (i) Legislative approval is not required for capital development projects to be built for the Department of Transportation:

(A) as a result of an exchange of real property under Section 72-5-111; or

(B) as a result of a sale or exchange of real property from a maintenance facility if the real property is exchanged for, or the proceeds from the sale of the real property are used for, another maintenance facility, including improvements for a maintenance facility and real property.

(ii) When the Department of Transportation approves a sale or exchange under Subsection (3)(e), it shall notify the president of the Senate, the speaker of the House, and the cochair of the Infrastructure and General Government Appropriations Subcommittee of the Legislature's Joint Appropriation Committee about any new facilities to be built or improved under this exemption.

(4) (a) (i) The State Building Board, on behalf of all state agencies, commissions, departments, and institutions shall by January 15 of each year, submit a list of anticipated capital improvement

requirements to the Legislature for review and approval.

(ii) The list shall identify:

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

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

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

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

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

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

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

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

(d) Beginning on July 1, 2013, in prioritizing capital improvements, the State Building Board shall allocate at least 80% of the funds that the Legislature appropriates for capital improvements to:

(i) projects that address:

(A) a structural issue;

(B) fire safety;

(C) a code violation; or

(D) any issue that impacts health and safety;

(ii) projects that upgrade:

(A) an HVAC system;

(B) an electrical system;

(C) essential equipment;

(D) an essential building component; or

(E) infrastructure, including a utility tunnel, water line, gas line, sewer line, roof, parking lot, or road; or

(iii) projects that demolish and replace an existing building that is in extensive disrepair and cannot be fixed by repair or maintenance.

(e) Beginning on July 1, 2013, in prioritizing capital improvements, the State Building Board shall allocate no more than 20% of the funds that the Legislature appropriates for capital improvements to:

(i) remodeling and aesthetic upgrades to meet state programmatic needs; or

(ii) construct an addition to an existing building or facility.

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

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

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

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

(h) In prioritizing and allocating capital improvement funding, the State Building Board shall comply with the requirement in Subsection 63B-23-101(2)(f).

(5) The Legislature may authorize:

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

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

(6) If construction of a new building or facility will be paid for by nonstate funds, but will require an immediate or future increase in state funding for operations and maintenance or for capital improvements, the Legislature may not authorize the new building or facility until the Legislature appropriates funds for:

(a) the portion of operations and maintenance, if any, that will require an immediate or future increase in state funding; and

(b) the portion of capital improvements, if any, that will require an immediate or future increase in state funding.

(7) (a) Except as provided in Subsection (7)(b) or (c), the Legislature may not fund the design or construction of any new capital development projects, except to complete the funding of projects for which partial funding has been previously provided, until the Legislature has appropriated 1.1% of the replacement cost of existing state facilities to capital improvements.

(b) (i) As used in this Subsection (7)(b):

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

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

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

(c) (i) The requirements under Subsections (6)(a) and (b) do not apply to the 2008-09, 2009-10, 2010-11, 2011-12, and 2012-13 fiscal years.

(ii) For the 2013-14 fiscal year, the amount appropriated to capital improvements shall be reduced to 0.9% of the replacement cost of state facilities.

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

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

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

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

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

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

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

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

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

(11) (a) Subject to Subsection (11)(b), at least 80% of the state funds appropriated for capital improvements shall be used for maintenance or repair of the existing building or facility.

(b) The State Building Board may modify the requirement described in Subsection (11)(a) if the State Building Board determines that a different

allocation of capital improvements funds is in the best interest of the state.

Section 2. Section 63B-22-201 is amended to read:

63B-22-201. Authorizations to design and construct capital facilities using institutional or agency funds.

(1) The Legislature intends that:

(a) Southern Utah University may, subject to requirements in Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management, use up to [~~\$30,000,000~~] \$35,000,000 in donations and institutional funds to plan, design, and construct a Center for the Arts with up to [~~80,490~~] 110,000 square feet;

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

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

(2) The Legislature intends that:

(a) the University of Utah may, subject to requirements in Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management, use up to \$11,040,000 in donations and institutional funds to plan, design, and construct a Renovation and Addition of Phase II of the Kennecott Building with up to 40,700 new square feet;

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

(c) the university may use state funds for operation and maintenance costs or capital improvements.

(3) The Legislature intends that:

(a) Utah State University may, subject to requirements in Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management, use up to [~~\$8,000,000~~] \$9,800,000 in donations and institutional funds to plan, design, and construct a Science and Technology Building at Utah State University Tooele with up to [~~26,000~~] 33,000 square feet;

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

(c) the university may use state funds for operation and maintenance costs or capital improvements.

(4) The Legislature intends that:

(a) the Department of Public Safety may, subject to requirements in Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management, use up to [~~\$1,277,000~~] \$1,505,000 in nonlapsing balances to plan, design, and construct a Drivers License Building in Price with up to [~~7,000~~] 7,500 square feet;

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

(c) the department may use state funds for operation and maintenance costs or capital improvements.

Section 3. Section 63B-23-101 is enacted to read:

CHAPTER 23. 2014 BONDING AND FINANCING AUTHORIZATIONS

Part 1. 2014 Revenue Bond Authorizations

63B-23-101. Revenue bond authorizations -- Board of Regents.

(1) The Legislature intends that:

(a) the Board of Regents, on behalf of the University of Utah, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing the Lassonde Living Center;

(b) the University of Utah use student fees and rents as the primary revenue sources for repayment of any obligation created under authority of this Subsection (1);

(c) the maximum amount of revenue bonds or evidences of indebtedness authorized by this Subsection (1) is \$45,238,000, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university shall plan, design, and construct the Lassonde Living Center subject to the requirements of Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management; and

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

(2) The Legislature intends that:

(a) the Board of Regents, on behalf of the University of Utah, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow money on the credit, revenues, and reserves of the university, except as provided in Subsection (2)(f), other than appropriations of the Legislature, to finance the cost of replacing the University of Utah's utility distribution infrastructure;

(b) the University of Utah impose a power bill surcharge as the primary revenue source for the repayment of any obligation created under authority of this Subsection (2);

(c) the maximum amount of revenue bonds or evidences of indebtedness authorized by this Subsection (2) is \$32,000,000 together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the revenue bonds or evidences of indebtedness authorized by this Subsection (2) may

not mature later than 10 years after the date of issuance;

(e) the university shall plan, design, and construct the University of Utah's replacement utility distribution infrastructure subject to the requirements of Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management; and

(f) until July 1, 2024, the Utah State Building Board annually allocate up to \$1,500,000 of the capital improvement funding allocation given to the University of Utah under Section 63A-5-104 to be used to pay the debt service on the bonds authorized under this Subsection (2).

Section 4. Section 63B-23-201 is enacted to read:

Part 2. 2014 Capital Facility Design and Construction Authorizations

63B-23-201. Authorizations to design and construct capital facilities using institutional or agency funds.

(1) The Legislature intends that:

(a) the University of Utah may, subject to requirements in Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management, use up to \$10,000,000 in donations and institutional funds to plan, design, and construct an expansion and renovation of the Alumni House at the University of Utah with up to an additional 17,000 new square feet;

(b) the university may not use state funds for any portion of this project; and

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

(2) The Legislature intends that:

(a) the Department of Public Safety may, subject to requirements in Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management, use up to \$875,000 in nonlapsing balances to plan, design, and construct a Communications and Drivers License Building in Vernal with up to 3,500 square feet;

(b) the department may not use state funds for any portion of this project; and

(c) the department may use state funds for operation and maintenance costs or capital improvements.

Section 5. Section 63B-23-301 is enacted to read:

Part 3. 2014 Lease-Purchase Authorizations 63B-23-301. Lease-purchase authorizations.

The Legislature intends that:

(1) the Mountainland Applied Technology Campus of the Utah College of Applied Technology, subject to requirements in Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management, use up to \$10,683,000 of existing and institutional funds to

enter into a lease-purchase agreement to plan, design, and construct a Technology Trades Building for the Mountainland Applied Technology College at the Lehi Campus with up to 40,500 square feet; and

(2) the college may not request state funds for operation and maintenance costs or capital improvements during the term of the lease-purchase agreement.

Section 6. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63M.

(1) Section 63A-4-204, authorizing the Risk Management Fund to provide coverage to any public school district which chooses to participate, is repealed July 1, 2016.

(2) Subsections 63A-5-104(4)(d) and (e) are repealed on July 1, 2014.

(3) Subsection 63A-4-104(4)(h) is repealed on July 1, 2024.

(4) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2016.

(5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2018.

(6) Section 53B-24-402, rural residency training program, is repealed July 1, 2015.

(7) Title 63C, Chapter 13, Prison Relocation and Development Authority Act, is repealed July 1, 2014.

(8) Title 63C, Chapter 14, Federal Funds Commission, is repealed July 1, 2018.

(9) Subsection 63G-6a-1402(7) authorizing certain transportation agencies to award a contract for a design-build transportation project in certain circumstances, is repealed July 1, 2015.

(10) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.

(11) The Resource Development Coordinating Committee, created in Section 63J-4-501, is repealed July 1, 2015.

(12) Title 63M, Chapter 1, Part 4, Enterprise Zone Act, is repealed July 1, 2018.

(13) (a) Title 63M, Chapter 1, Part 11, Recycling Market Development Zone Act, is repealed January 1, 2021.

(b) Subject to Subsection (13)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or

59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections (13)(b) and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.

(14) (a) Section 63M-1-2507, Health Care Compact is repealed on July 1, 2014.

(b) (i) The Legislature shall, before reauthorizing the Health Care Compact:

(A) direct the Health System Reform Task Force to evaluate the issues listed in Subsection (14)(b)(ii), and by January 1, 2013, develop and recommend criteria for the Legislature to use to negotiate the terms of the Health Care Compact; and

(B) prior to July 1, 2014, seek amendments to the Health Care Compact among the member states that the Legislature determines are appropriate after considering the recommendations of the Health System Reform Task Force.

(ii) The Health System Reform Task Force shall evaluate and develop criteria for the Legislature regarding:

(A) the impact of the Supreme Court ruling on the Affordable Care Act;

(B) whether Utah is likely to be required to implement any part of the Affordable Care Act prior to negotiating the compact with the federal government, such as Medicaid expansion in 2014;

(C) whether the compact's current funding formula, based on adjusted 2010 state expenditures, is the best formula for Utah and other state compact members to use for establishing the block grants from the federal government;

(D) whether the compact's calculation of current year inflation adjustment factor, without consideration of the regional medical inflation rate in the current year, is adequate to protect the state from increased costs associated with administering a state based Medicaid and a state based Medicare program;

(E) whether the state has the flexibility it needs under the compact to implement and fund state based initiatives, or whether the compact requires uniformity across member states that does not benefit Utah;

(F) whether the state has the option under the compact to refuse to take over the federal Medicare program;

(G) whether a state based Medicare program would provide better benefits to the elderly and disabled citizens of the state than a federally run Medicare program;

(H) whether the state has the infrastructure necessary to implement and administer a better state based Medicare program;

(I) whether the compact appropriately delegates policy decisions between the legislative and executive branches of government regarding the development and implementation of the compact with other states and the federal government; and

(J) the impact on public health activities, including communicable disease surveillance and epidemiology.

[~~(14)~~] (15) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2017.

[~~(15)~~] (16) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2017.

Section 7. Repealer.

This bill repeals:

**Section 63B-9-102, State Building
Ownership Authority revenue bond
authorizations.**

CHAPTER 114**H. B. 16**

Passed February 27, 2014

Approved March 29, 2014

Effective May 13, 2014

WRONGFUL LIEN AMENDMENTS

Chief Sponsor: R. Curt Webb
 Senate Sponsor: Stephen H. Urquhart

LONG TITLE**General Description:**

This bill recodifies and amends Title 38, Chapter 9, Wrongful Liens and Wrongful Judgment Liens.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires a document sponsor who submits a nonconsensual common law document to the county recorder for recording to:
 - cause the sheriff to serve notice of the recording on each affected person; and
 - initiate a judicial proceeding to determine whether the nonconsensual common law document is enforceable;
- ▶ provides that a document sponsor who submits an unenforceable nonconsensual common law document to the county recorder for recording is liable to each affected person for any actual damages;
- ▶ provides that a recorded nonconsensual common law document is void if the document sponsor does not comply with the requirements described in this bill; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 38-9a-102, as enacted by Laws of Utah 2005, Chapter 93
 76-6-503.5, as enacted by Laws of Utah 2005, Chapter 93
 78B-5-201, as last amended by Laws of Utah 2011, Chapter 88
 78B-5-408, as last amended by Laws of Utah 2011, Chapter 88

ENACTS:

- 38-9-101, Utah Code Annotated 1953
 38-9-201, Utah Code Annotated 1953
 38-9-301, Utah Code Annotated 1953
 38-9-302, Utah Code Annotated 1953
 38-9-303, Utah Code Annotated 1953
 38-9-304, Utah Code Annotated 1953
 38-9-305, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

- 38-9-102, (Renumbered from 38-9-1, as last amended by Laws of Utah 2010, Chapter 381)

38-9-103, (Renumbered from 38-9-2, as last amended by Laws of Utah 2012, Chapter 278)

38-9-202, (Renumbered from 38-9-3, as last amended by Laws of Utah 2010, Chapter 381)

38-9-203, (Renumbered from 38-9-4, as last amended by Laws of Utah 2010, Chapter 381)

38-9-204, (Renumbered from 38-9-6, as enacted by Laws of Utah 1997, Chapter 125)

38-9-205, (Renumbered from 38-9-7, as enacted by Laws of Utah 1997, Chapter 125)

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

Section 1. Section 38-9-101 is enacted to read:

CHAPTER 9. WRONGFUL LIEN ACT**Part 1. General Provisions****38-9-101. Title.**

(1) This chapter is known as the “Wrongful Lien Act.”

(2) This part is known as “General Provisions.”

Section 2. Section 38-9-102, which is renumbered from Section 38-9-1 is renumbered and amended to read:

[38-9-1]. 38-9-102. Definitions.

As used in this chapter:

(1) “Affected person” means:

(a) a person who is a record interest holder of the real property that is the subject of a recorded nonconsensual common law document; or

(b) the person against whom a recorded nonconsensual common law document purports to reflect or establish a claim or obligation.

(2) “Document sponsor” means a person who, personally or through a designee, signs or submits for recording a document that is, or is alleged to be, a nonconsensual common law document.

(3) “Interest holder” means a person who holds or possesses a present, lawful property interest in certain real property, including an owner, title holder, mortgagee, trustee, or beneficial owner.

(4) “Lien claimant” means a person claiming an interest in real property who offers a document for recording or filing with any county recorder in the state asserting a lien, or notice of interest, or other claim of interest in certain real property.

(5) “Nonconsensual common law document” means a document that is submitted to a county recorder’s office for recording against public official property that:

(a) purports to create a lien or encumbrance on or a notice of interest in the real property;

(b) at the time the document is recorded, is not:

(i) expressly authorized by this chapter or a state or federal statute;

(ii) authorized by or contained in an order or judgment of a court of competent jurisdiction; or

(iii) signed by or expressly authorized by a document signed by the owner of the real property; and

(c) is submitted in relation to the public official's status or capacity as a public official.

[43] (6) "Owner" means a person who has a vested ownership interest in [certain] real property.

(7) "Political subdivision" means a county, city, town, school district, special improvement or taxing district, local district, special service district, or other governmental subdivision or public corporation.

(8) "Public official" means:

(a) a current or former:

(i) member of the Legislature;

(ii) member of Congress;

(iii) judge;

(iv) member of law enforcement;

(v) corrections officer;

(vi) active member of the Utah State Bar; or

(vii) member of the Board of Pardons and Parole;

(b) an individual currently or previously appointed or elected to an elected position in:

(i) the executive branch of state or federal government; or

(ii) a political subdivision;

(c) an individual currently or previously appointed to or employed in a position in a political subdivision, or state or federal government that:

(i) is a policymaking position; or

(ii) involves:

(A) purchasing or contracting decisions;

(B) drafting legislation or making rules;

(C) determining rates or fees; or

(D) making adjudicative decisions; or

(d) an immediate family member of a person described in Subsections (8)(a) through (c).

(9) "Public official property" means real property that has at least one record interest holder who is a public official.

[44] (10) (a) "Record interest holder" means a person who holds or possesses a present, lawful property interest in [certain] real property, including an owner, titleholder, mortgagee, trustee, or beneficial owner, and whose name and interest in that real property appears in the county recorder's

records for the county in which the property is located.

(b) "Record interest holder" includes any grantor in the chain of the title in [certain] real property.

[45] (11) "Record owner" means an owner whose name and ownership interest in certain real property is recorded or filed in the county recorder's records for the county in which the property is located.

[46] (12) "Wrongful lien" means any document that purports to create a lien, notice of interest, or encumbrance on an owner's interest in certain real property and at the time it is recorded is not:

(a) expressly authorized by this chapter or another state or federal statute;

(b) authorized by or contained in an order or judgment of a court of competent jurisdiction in the state; or

(c) signed by or authorized pursuant to a document signed by the owner of the real property.

Section 3. Section 38-9-103, which is renumbered from Section 38-9-2 is renumbered and amended to read:

[38-9-2]. 38-9-103. Scope.

[(1) (a) The provisions of Sections 38-9-1, 38-9-3, 38-9-4, and 38-9-6 apply to any recording or filing or any rejected recording or filing of a lien pursuant to this chapter on or after May 5, 1997.]

[(b) The provisions of Sections 38-9-1 and 38-9-7 apply to all liens of record regardless of the date the lien was recorded or filed.]

[(e) (1) [Notwithstanding Subsections (1)(a) and (b), the provisions of this] This chapter [applicable to the filing of a notice of interest do] does not apply to a notice of interest filed before May 5, 2008.

(2) [The provisions of this chapter shall] This chapter does not [prevent a person from filing] apply to a lis pendens recorded in accordance with Section 78B-6-1303 [or] and does not prevent a person from seeking any other relief permitted by law.

(3) This chapter does not apply to a person entitled to a preconstruction or construction lien under Section 38-1a-301 who files a lien pursuant to Title 38, Chapter 1a, Preconstruction and Construction Liens.

Section 4. Section 38-9-201 is enacted to read:

**Part 2. Recording a Wrongful Lien
38-9-201. Title.**

This part is known as "Recording a Wrongful Lien."

Section 5. Section 38-9-202, which is renumbered from Section 38-9-3 is renumbered and amended to read:

[38-9-3]. 38-9-202. County recorder may reject wrongful lien within scope of employment -- Good faith requirement.

(1) (a) A county recorder may ~~[reject recording of]~~ refuse to record a lien if the county recorder determines that the lien is a wrongful lien ~~[as defined in Section 38-9-1].~~

(b) If the county recorder ~~[rejects a document]~~ refuses to record a lien in accordance with Subsection (1)(a), the county recorder shall immediately return the original document together with a notice that the document was rejected pursuant to this section to the person attempting to record the document or to the address provided on the document.

(2) A county recorder who, within the scope of the county recorder's employment, rejects or accepts a document for recording in good faith under this section is not liable for damages.

(3) If a ~~[rejected]~~ document that a county recorder refuses to record under this section is later found ~~not to be [recordable]~~ a wrongful lien pursuant to a court order, it shall have no retroactive recording priority.

(4) Nothing in this chapter ~~[shall preclude any]~~ precludes a person from pursuing any remedy pursuant to Utah Rules of Civil Procedure, Rule 65A, Injunctions.

Section 6. Section 38-9-203, which is renumbered from Section 38-9-4 is renumbered and amended to read:

[38-9-4]. 38-9-203. Civil liability for recording wrongful lien -- Damages.

(1) A lien claimant who records or causes a wrongful lien ~~[as defined in Section 38-9-1]~~ to be recorded in the office of the county recorder against real property is liable to a record interest holder for any actual damages proximately caused by the wrongful lien.

(2) If the person in violation of Subsection (1) refuses to release or correct the wrongful lien within 10 days from the date of written request from a record interest holder of the real property delivered personally or mailed to the last-known address of the lien claimant, the person is liable to that record interest holder for \$3,000 or for treble actual damages, whichever is greater, and for reasonable attorney fees and costs.

(3) A person is liable to the record owner of real property for \$10,000 or for treble actual damages, whichever is greater, and for reasonable attorney fees and costs, who records or causes to be recorded a wrongful lien ~~[as defined in Section 38-9-1]~~ in the office of the county recorder against the real property, knowing or having reason to know that the document:

- (a) is a wrongful lien;
- (b) is groundless; or
- (c) contains a material misstatement or false claim.

Section 7. Section 38-9-204, which is renumbered from Section 38-9-6 is renumbered and amended to read:

[38-9-6]. 38-9-204. Petition to file lien -- Notice to record interest holders -- Summary relief -- Contested petition.

(1) A lien claimant whose document is rejected pursuant to Section ~~[38-9-3]~~ 38-9-202 may petition the district court ~~[in the county in which the document was rejected]~~ for an expedited determination that the lien may be recorded ~~[or filed].~~

(2) ~~[(a) The]~~ A petition ~~[shall be filed with the district court within 10 days of the date notice is received of the rejection and shall state with specificity the grounds why the document should lawfully be recorded or filed.]~~ under Subsection (1) shall:

(a) be filed:

(i) with the district court in the county of the county recorder who refused to record the document; and

(ii) within 10 days after the day on which the person who files the petition receives the notice under Subsection 38-9-202(1)(b) of the county recorder's refusal to record the document;

(b) state with specificity the grounds why the document should lawfully be recorded; and

~~[(b) The petition shall]~~ (c) be supported by a sworn affidavit of the lien claimant.

~~[(e)]~~ (3) If the court finds the petition is insufficient, it may dismiss the petition without a hearing.

~~[(d)]~~ (4) (a) If the court grants a hearing, the petitioner shall, by certified or registered mail, serve a copy of the petition, notice of hearing, and a copy of the court's order granting an expedited hearing on all record interest holders of the property sufficiently in advance of the hearing to enable any record interest holder to attend the hearing ~~[and service shall be accomplished by certified or registered mail].~~

~~[(e)]~~ (b) Any record interest holder of the property has the ~~right~~ right to attend and contest the petition.

~~[(3)]~~ (5) (a) ~~[Following a hearing on the matter, if]~~ If, following a hearing, the court finds that the document may lawfully be recorded, ~~[it]~~ the court shall issue an order directing the county recorder to accept the document for recording. ~~[If the petition is contested, the court may award costs and reasonable attorney's fees to the prevailing party.]~~

(b) If the petition is contested, the court may award costs and reasonable attorney fees to the prevailing party.

~~[(4)]~~ (6) (a) A summary proceeding under this section ~~[is only to determine whether or not a contested document, on its face, shall be recorded by the county recorder. The proceeding may not determine the truth of the content of the document nor the property or legal rights of the parties beyond]~~

the necessary determination of whether or not the document shall be recorded. The court's grant or denial of the petition under this section may not restrict any other legal remedies of any party, including any right to injunctive relief pursuant to Rules of Civil Procedure, Rule 65A, Injunctions.]:

(i) may only determine whether a contested document, on its face, shall be recorded by the county recorder; and

(ii) may not determine the truth of the content of the document or the property or legal rights of the parties beyond the necessary determination of whether the document shall be recorded.

(b) A court's grant or denial of a petition under this section may not restrict any other legal remedies of any party, including any right to injunctive relief pursuant to Rules of Civil Procedure, Rule 65A, Injunctions.

[~~(5)~~] (7) If [the] a petition under this section contains a claim for damages, the [damage] proceedings related to the claim for damages may not be expedited under this section.

Section 8. Section 38-9-205, which is renumbered from Section 38-9-7 is renumbered and amended to read:

[38-9-7]. 38-9-205. Petition to nullify lien -- Notice to lien claimant -- Summary relief -- Finding of wrongful lien -- Wrongful lien is void.

(1) [Any] A record interest holder of real property against which a wrongful lien [as defined in Section 38-9-1 has been] is recorded may petition the district court in the county in which the document [was] is recorded for summary relief to nullify the wrongful lien.

(2) The petition described in Subsection (1) shall state with specificity the claim that the lien is a wrongful lien and shall be supported by a sworn affidavit of the record interest holder.

(3) (a) If the court finds the petition insufficient, [it] the court may dismiss the petition without a hearing.

(b) If the court finds the petition is sufficient, the court shall schedule a hearing within 10 days to determine whether the document is a wrongful lien.

(c) The record interest holder shall serve a copy of the petition on the lien claimant and a copy of a notice of the hearing pursuant to Rules of Civil Procedure, Rule 4, Process.

(d) The lien claimant is entitled to attend and contest the petition.

(4) A summary proceeding under this section [is only to determine whether or not a document is a wrongful lien. The proceeding shall not determine any other property or legal rights of the parties nor restrict other legal remedies of any party.]:

(a) may only determine whether a document is a wrongful lien; and

(b) may not determine any other property or legal rights of the parties or restrict other legal remedies of any party.

(5) (a) [~~Following a hearing on the matter, if~~] If, following a hearing, the court determines that the recorded document is a wrongful lien, the court shall issue an order declaring the wrongful lien void ab initio, releasing the property from the lien, and awarding costs and reasonable [attorney's] attorney fees to the petitioner.

(b) (i) The record interest holder may [record] submit a certified copy of the order [with] to the county recorder for recording.

(ii) The order shall contain a legal description of the real property.

(c) If the court determines that the claim of lien is valid, the court shall dismiss the petition and may award costs and reasonable attorney's fees to the lien claimant. The dismissal order shall contain a legal description of the real property. The prevailing lien claimant may record a certified copy of the dismissal order.

(6) If the [district] court determines that the [lien] recorded document is a wrongful lien [as defined in Section 38-9-1], the wrongful lien is void ab initio and provides no notice of claim or interest.

(7) If [the] a petition under this section contains a claim for damages, the [damage] proceedings related to the claim for damages may not be expedited under this section.

Section 9. Section 38-9-301 is enacted to read:

Part 3. Recording a Nonconsensual Common Law Document

38-9-301. Title.

This part is known as "Recording a Nonconsensual Common Law Document."

Section 10. Section 38-9-302 is enacted to read:

38-9-302. Recording a nonconsensual common law document -- Procedure.

(1) For a nonconsensual common law document recorded on or after May 13, 2014, within five business days after the day on which an individual submits a nonconsensual common law document to a county recorder for recording, the individual shall cause the sheriff to serve written notice of the recording of the nonconsensual common law document upon each affected person.

(2) A written notice described in Subsection (1) shall include:

(a) the name, address, and telephone number of the document sponsor;

(b) the date the nonconsensual common law document was recorded; and

(c) a copy of the nonconsensual common law document.

(3) (a) No later than three business days after the day on which the sheriff serves the written notice

described in Subsection (1), the sheriff shall submit proof of service to the county recorder for recording.

(b) The county recorder may not charge a fee for recording a proof of service under Subsection (3)(a).

Section 11. Section 38-9-303 is enacted to read:

38-9-303. Enforcement proceeding required.

(1) For a nonconsensual common law document recorded on or after May 13, 2014, within 10 business days after the day on which a document sponsor submits a nonconsensual common law document to the county recorder for recording, the document sponsor shall file a complaint in district court in the county of the county recorder where the nonconsensual common law document was recorded for a proceeding to obtain an order that the nonconsensual common law document is valid and enforceable.

(2) A complaint to initiate a judicial proceeding described in Subsection (1) shall:

(a) state with specificity the grounds that make the nonconsensual common law document valid and enforceable;

(b) be supported by the document sponsor's sworn affidavit; and

(c) name each affected person as an opposing party.

(3) If the court finds that a complaint filed under Subsection (1) does not meet the requirements described in Subsection (2), the court may dismiss the complaint without a hearing.

(4) If a complaint filed under Subsection (1) meets the requirements described in Subsection (2), the court:

(a) shall hold a hearing;

(b) following the hearing, shall issue an order that:

(i) states whether the nonconsensual common law document is valid and enforceable; and

(ii) includes a legal description of the real property that is the subject of the complaint; and

(c) may award costs and reasonable attorney fees to the prevailing party.

(5) Within three business days after the day on which the court issues a final order in a proceeding under this section, the prevailing party shall submit a copy of the court's final order to the county recorder for recording.

(6) A nonconsensual common law document is presumed invalid and unenforceable.

(7) A person's lack of belief in the jurisdiction or authority of the state or of the government of the United States is not a defense to liability under this section.

(8) A court's order in a proceeding under this section does not restrict any other legal remedies available to any party, including any right to injunctive relief under Rules of Civil Procedure, Rule 65A, Injunctions.

Section 12. Section 38-9-304 is enacted to read:

38-9-304. Civil liability -- Damages.

(1) If, under Section 38-9-303, a court finds that a recorded nonconsensual common law document is unenforceable, the document sponsor of the nonconsensual common law document is liable to each affected person for any actual damages proximately caused by recording the nonconsensual common law document, costs, and reasonable attorney fees.

(2) A person who is liable under Subsection (1) for a nonconsensual common law document is jointly and severally liable with each other person who is liable for the nonconsensual common law document.

Section 13. Section 38-9-305 is enacted to read:

38-9-305. Failure to comply -- Nonconsensual common law document void.

A recorded nonconsensual common law document that is recorded on or after May 13, 2014, is void and has no legal effect if the document sponsor does not:

(1) comply with the notice requirements described in Section 38-9-302;

(2) comply with the judicial enforcement requirements described in Section 38-9-303; and

(3) prevail in a judicial enforcement proceeding under Section 38-9-303.

Section 14. Section 38-9a-102 is amended to read:

38-9a-102. Definitions.

As used in this chapter, "wrongful lien" refers to a lien made in violation of Section 76-6-503.5, and includes ~~an instrument or document as defined in Section 38-9-1.~~

(1) a wrongful lien as defined in Section 38-9-102; and

(2) a nonconsensual common law document as defined in Section 38-9-102.

Section 15. Section 76-6-503.5 is amended to read:

76-6-503.5. Wrongful liens and fraudulent handling of recordable writings -- Penalties.

(1) "Lien" means:

(a) an instrument or document filed pursuant to Section 70A-9a-516;

(b) a nonconsensual common law document as defined in Section 38-9-102;

~~[(b)] (c) [an instrument or document described in Subsection 38-9-1(6); and] a wrongful lien as defined in Section 38-9-102; or~~

~~[(e)] (d) any instrument or document that creates or purports to create a lien or encumbrance on an owner's interest in real or personal property or a claim on another's assets.~~

(2) A person is guilty of the crime of wrongful lien if that person knowingly makes, utters, records, or files a lien:

(a) having no objectively reasonable basis to believe he has a present and lawful property interest in the property or a claim on the assets; or

(b) if the person files the lien in violation of a civil wrongful lien injunction pursuant to Title 38, Chapter 9a, Wrongful Lien Injunctions.

(3) A violation of this section is a third degree felony unless the person has been previously convicted of an offense under this section, in which case the violation is a second degree felony.

(4) (a) Any person who with intent to deceive or injure anyone falsifies, destroys, removes, records, or conceals any will, deed, mortgage, security instrument, lien, or other writing for which the law provides public recording is guilty of fraudulent handling of recordable writings.

(b) A violation of Subsection (4)(a) is a third degree felony unless the person has been previously convicted of an offense under this section, in which case the violation is a second degree felony.

(5) This section does not prohibit prosecution for any act in violation of Section 76-8-414 or for any offense greater than an offense under this section.

Section 16. Section 78B-5-201 is amended to read:

78B-5-201. Definitions -- Judgment recorded in Registry of Judgments.

(1) For purposes of this part, "Registry of Judgments" means the index where a judgment is filed and searchable by the name of the judgment debtor through electronic means or by tangible document.

(2) On or after July 1, 1997, a judgment entered in a district court does not create a lien upon or affect the title to real property unless the judgment is filed in the Registry of Judgments of the office of the clerk of the district court of the county in which the property is located.

(3) (a) On or after July 1, 2002, except as provided in Subsection (3)(b), a judgment entered in a district court does not create a lien upon or affect the title to real property unless the judgment or an abstract of judgment is recorded in the office of the county recorder in which the real property of the judgment debtor is located.

(b) State agencies are exempt from the recording requirement of Subsection (3)(a).

(4) In addition to the requirements of Subsections (2) and (3)(a), any judgment that is filed in the Registry of Judgments on or after September 1, 1998, or any judgment or abstract of judgment that is recorded in the office of a county recorder after July 1, 2002, shall include:

(a) the information identifying the judgment debtor on the judgment or abstract of judgment; or

(b) a copy of the separate information statement of the judgment creditor that contains:

(i) the correct name and last-known address of each judgment debtor and the address at which each judgment debtor received service of process;

(ii) the name and address of the judgment creditor;

(iii) the amount of the judgment as filed in the Registry of Judgments;

(iv) if known, the judgment debtor's Social Security number, date of birth, and driver's license number if a natural person; and

(v) whether or not a stay of enforcement has been ordered by the court and the date the stay expires.

(5) For the information required in Subsection (4), the judgment creditor shall:

(a) provide the information on the separate information statement if known or available to the judgment creditor from its records, its attorney's records, or the court records in the action in which the judgement was entered; or

(b) state on the separate information statement that the information is unknown or unavailable.

(6) (a) Any judgment that requires payment of money and is entered in a district court on or after September 1, 1998, or any judgment or abstract of judgment recorded in the office of a county recorder after July 1, 2002, that does not include the debtor identifying information as required in Subsection (4) is not a lien until a separate information statement of the judgment creditor is recorded in the office of a county recorder in compliance with Subsections (4) and (5).

(b) The separate information statement of the judgment creditor referred to in Subsection (6)(a) shall include:

(i) the name of any judgment creditor, debtor, assignor, or assignee;

(ii) the date on which the judgment was recorded in the office of the county recorder as described in Subsection (4); and

(iii) the county recorder's entry number and book and page of the recorded judgment.

(7) A judgment that requires payment of money recorded on or after September 1, 1998, but prior to July 1, 2002, has as its priority the date of entry, except as to parties with actual or constructive knowledge of the judgment.

(8) A judgment or notice of judgment wrongfully filed against real property is subject to Title 38,

Chapter 9, Wrongful [Liens and Wrongful Judgment Liens] Lien Act.

(9) (a) To release, assign, renew, or extend a lien created by a judgment recorded in the office of a county recorder, a person shall, in the office of the county recorder of each county in which an instrument creating the lien is recorded, record a document releasing, assigning, renewing, or extending the lien.

(b) The document described in Subsection (9)(a) shall include:

(i) the date of the release, assignment, renewal, or extension;

(ii) the name of any judgment creditor, debtor, assignor, or assignee; and

(iii) for the county in which the document is recorded in accordance with Subsection (9)(a):

(A) the date on which the instrument creating the lien was recorded in that county's office of the county recorder; and

(B) in accordance with Section 57-3-106, that county recorder's entry number and book and page of the recorded instrument creating the judgment lien.

Section 17. Section 78B-5-408 is amended to read:

78B-5-408. Judgments and awards on foreign-money claims -- Time of money conversion -- Form of judgment.

(1) Except as provided in Subsection (3), a judgment or arbitration award on a foreign-money claim must be stated in an amount of the money of the claim.

(2) The judgment or award is payable in that foreign money or at the option of the debtor in the amount of United States dollars which will purchase that foreign money on the conversion date at a bank-offered spot rate.

(3) Assessed costs must be entered in United States dollars.

(4) Each payment in United States dollars must be accepted and credited on the judgment or award in the amount of the foreign money that could be purchased by the dollars at a bank-offered spot rate of exchange at or near the close of business on the conversion date for that payment.

(5) Judgments or awards made in an action on both:

(a) a defense, set-off, recoupment, or counterclaim; and

(b) the adverse party's claim, must be netted by converting the money of the smaller into the money of the larger, and by subtracting the smaller from the larger, and must specify the rates of exchange used.

(6) A judgment substantially in the following form complies with Subsection (1):

IT IS ADJUDGED AND ORDERED that Defendant (insert name) pay to Plaintiff (insert name) the sum of (insert amount in the foreign money) plus interest on that sum at the rate of (insert rate - see Section 78B-5-410) percent a year or, at the option of the judgment debtor, the number of United States dollars as will purchase the (insert name of foreign money) with interest due, at a bank-offered spot rate at or near the close of business on the banking day next before the day of payment, together with assessed costs of (insert amount) United States dollars.

(7) If a contract claim is of the type covered by Subsection 78B-5-406(1) or (2), the judgment or award shall be entered for the amount of the money stated to measure the obligation to be paid in the money specified for payment or, at the option of the debtor, the number of United States dollars as will purchase the computed amount of the money of payment on the conversion date at a bank-offered spot rate.

(8) A judgment shall be filed in the judgment docket and indexed in foreign money in the same manner, and shall have the same effect as a lien as other judgments. It may be discharged by payment.

(9) A person shall record a judgment lien, or assignment, release, renewal, or extension of a judgment lien, in the county recorder's office in accordance with [Sections 17-21-10, 38-9-1, 78B-5-201, and 78B-5-202.] the following provisions, as applicable:

(a) Sections 17-21-10, 78B-5-201, and 78B-5-202; and

(b) Title 38, Chapter 9, Wrongful Lien Act.

CHAPTER 115**H. B. 17**

Passed March 3, 2014

Approved March 29, 2014

Effective May 12, 2015

INTERLOCAL ACT AMENDMENTS

Chief Sponsor: Johnny Anderson
Senate Sponsor: Wayne A. Harper

LONG TITLE**General Description:**

This bill enacts language related to the governance of an interlocal entity.

Highlighted Provisions:

This bill:

- ▶ requires members of an interlocal entity to comply with law that is applicable to each public agency that is a member;
- ▶ amends provisions governing an interlocal entity's compliance with public meeting requirements;
- ▶ amends the definition of taxed interlocal entity;
- ▶ exempts a taxed interlocal entity from certain provisions; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on May 12, 2015.

Utah Code Sections Affected:**AMENDS:**

11-13-204, as last amended by Laws of Utah 2010, Chapter 173

11-13-223, as last amended by Laws of Utah 2007, Chapter 249

11-13-315, as enacted by Laws of Utah 2013, Chapter 230

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

Section 1. Section 11-13-204 is amended to read:

11-13-204. Powers and duties of interlocal entities -- Additional powers of energy services interlocal entities -- Length of term of agreement and interlocal entity -- Notice to lieutenant governor -- Recording requirements -- Public Service Commission.

(1) (a) An interlocal entity:

~~[(i) may:]~~

~~[(A)] (i) shall adopt[, amend, and repeal rules,] bylaws, policies, and procedures for the regulation of its affairs and the conduct of its business;~~

(ii) may:

(A) amend or repeal a bylaw, policy, or procedure;

(B) sue and be sued;

(C) have an official seal and alter that seal at will;

(D) make and execute contracts and other instruments necessary or convenient for the performance of its duties and the exercise of its powers and functions;

(E) acquire real or personal property, or an undivided, fractional, or other interest in real or personal property, necessary or convenient for the purposes contemplated in the agreement creating the interlocal entity and sell, lease, or otherwise dispose of that property;

(F) directly or by contract with another:

(I) own and acquire facilities and improvements or an undivided, fractional, or other interest in facilities and improvements;

(II) construct, operate, maintain, and repair facilities and improvements; and

(III) provide the services contemplated in the agreement creating the interlocal entity;

(G) borrow money, incur indebtedness, and issue revenue bonds, notes, or other obligations and secure their payment by an assignment, pledge, or other conveyance of all or any part of the revenues and receipts from the facilities, improvements, or services that the interlocal entity provides;

(H) offer, issue, and sell warrants, options, or other rights related to the bonds, notes, or other obligations issued by the interlocal entity; and

(I) sell or contract for the sale of the services, output, product, or other benefits provided by the interlocal entity to:

(I) public agencies inside or outside the state; and

(II) with respect to any excess services, output, product, or benefits, any person on terms that the interlocal entity considers to be in the best interest of the public agencies that are parties to the agreement creating the interlocal entity; and

~~[(ii)] (iii)~~ may not levy, assess, or collect ad valorem property taxes.

(b) An assignment, pledge, or other conveyance under Subsection (1)(a)~~[(i)]~~(i)(G) may, to the extent provided by the documents under which the assignment, pledge, or other conveyance is made, rank prior in right to any other obligation except taxes or payments in lieu of taxes payable to the state or its political subdivisions.

(c) (i) (A) Except as provided in Subsection (1)(c)(i)(B), an interlocal entity is subject to each state law that governs each public agency that is a member of the entity to the extent that the law governs an activity or action of the public agency in which the interlocal entity is also engaged.

(B) Subsection (1)(c)(i)(A) does not apply if an interlocal entity is expressly exempt from the law.

(C) A law described in Subsection (1)(c)(i)(A) does not include a local ordinance or other local law.

(ii) If a state law that governs a public agency that is a member of the interlocal entity conflicts with a state law that governs another member entity, the interlocal entity shall choose and comply with one of the conflicting state laws.

(iii) (A) If a public agency that is a member of the interlocal entity is an institution of higher education, the interlocal entity shall adopt the policies of the Board of Regents.

(B) If a policy of the Board of Regents adopted by an interlocal entity in accordance with Subsection (1)(c)(iii)(A) conflicts with a state law that governs a public agency that is a member entity, the state law governs.

(2) An energy services interlocal entity:

(a) except with respect to any ownership interest it has in facilities providing additional project capacity, is not subject to:

(i) Part 3, Project Entity Provisions; or

(ii) Title 59, Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act; and

(b) may:

(i) own, acquire, and, by itself or by contract with another, construct, operate, and maintain a facility or improvement for the generation, transmission, and transportation of electric energy or related fuel supplies;

(ii) enter into a contract to obtain a supply of electric power and energy and ancillary services, transmission, and transportation services, and supplies of natural gas and fuels necessary for the operation of generation facilities;

(iii) enter into a contract with public agencies, investor-owned or cooperative utilities, and others, whether located in or out of the state, for the sale of wholesale services provided by the energy services interlocal entity; and

(iv) adopt and implement risk management policies and strategies and enter into transactions and agreements to manage the risks associated with the purchase and sale of energy, including forward purchase and sale contracts, hedging, tolling and swap agreements, and other instruments.

(3) Notwithstanding Section 11-13-216, an agreement creating an interlocal entity or an amendment to that agreement may provide that the agreement may continue and the interlocal entity may remain in existence until the latest to occur of:

(a) 50 years after the date of the agreement or amendment;

(b) five years after the interlocal entity has fully paid or otherwise discharged all of its indebtedness;

(c) five years after the interlocal entity has abandoned, decommissioned, or conveyed or transferred all of its interest in its facilities and improvements; or

(d) five years after the facilities and improvements of the interlocal entity are no longer useful in providing the service, output, product, or other benefit of the facilities and improvements, as

determined under the agreement governing the sale of the service, output, product, or other benefit.

(4) (a) The governing body of each party to the agreement to approve the creation of an interlocal entity, including an electric interlocal entity and an energy services interlocal entity, under Section 11-13-203 shall:

(i) within 30 days after the date of the agreement, jointly file with the lieutenant governor:

(A) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(B) if less than all of the territory of any Utah public agency that is a party to the agreement is included within the interlocal entity, a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and

(ii) upon the lieutenant governor's issuance of a certificate of creation under Section 67-1a-6.5:

(A) if the interlocal entity is located within the boundary of a single county, submit to the recorder of that county:

(I) the original:

(Aa) notice of an impending boundary action;

(Ab) certificate of creation; and

(Cc) approved final local entity plat, if an approved final local entity plat was required to be filed with the lieutenant governor under Subsection (4)(a)(i)(B); and

(II) a certified copy of the agreement approving the creation of the interlocal entity; or

(B) if the interlocal entity is located within the boundaries of more than a single county:

(I) submit to the recorder of one of those counties:

(Aa) the original of the documents listed in Subsections (4)(a)(ii)(A)(I)(Aa), (Bb), and (Cc); and

(Bb) a certified copy of the agreement approving the creation of the interlocal entity; and

(II) submit to the recorder of each other county:

(Aa) a certified copy of the documents listed in Subsections (4)(a)(ii)(A)(I)(Aa), (Bb), and (Cc); and

(Bb) a certified copy of the agreement approving the creation of the interlocal entity.

(b) Upon the lieutenant governor's issuance of a certificate of creation under Section 67-1a-6.5, the interlocal entity is created.

(c) Until the documents listed in Subsection (4)(a)(ii) are recorded in the office of the recorder of each county in which the property is located, a newly created interlocal entity may not charge or collect a fee for service provided to property within the interlocal entity.

(5) Nothing in this section may be construed as expanding the rights of any municipality or interlocal entity to sell or provide retail service.

(6) Except as provided in Subsection (7):

(a) nothing in this section may be construed to expand or limit the rights of a municipality to sell or provide retail electric service; and

(b) an energy services interlocal entity may not provide retail electric service to customers located outside the municipal boundaries of its members.

(7) (a) An energy services interlocal entity created before July 1, 2003, that is comprised solely of Utah municipalities and that, for a minimum of 50 years before July 1, 2010, provided retail electric service to customers outside the municipal boundaries of its members, may provide retail electric service outside the municipal boundaries of its members if:

(i) the energy services interlocal entity:

(A) enters into a written agreement with each public utility holding a certificate of public convenience and necessity issued by the Public Service Commission to provide service within an agreed upon geographic area for the energy services interlocal entity to be responsible to provide electric service in the agreed upon geographic area outside the municipal boundaries of the members of the energy services interlocal entity; and

(B) obtains a franchise agreement, with the legislative body of the county or other governmental entity for the geographic area in which the energy services interlocal entity provides service outside the municipal boundaries of its members; and

(ii) each public utility described in Subsection (7)(a)(i)(A) applies for and obtains from the Public Service Commission approval of the agreement specified in Subsection (7)(a)(i)(A).

(b) (i) The Public Service Commission shall, after a public hearing held in accordance with Title 52, Chapter 4, Open and Public Meetings Act, approve an agreement described in Subsection (7)(a)(ii) if it determines that the agreement is in the public interest in that it incorporates the customer protections described in Subsection (7)(c) and the franchise agreement described in Subsection (7)(a)(i)(B) provides a reasonable mechanism using a neutral arbiter or ombudsman for resolving potential future complaints by customers of the energy services interlocal entity.

(ii) In approving an agreement, the Public Service Commission shall also amend the certificate of public convenience and necessity of any public utility described in Subsection (7)(a)(i) to delete from the geographic area specified in the certificate or certificates of the public utility the geographic area that the energy services interlocal entity has agreed to serve.

(c) In providing retail electric service to customers outside of the municipal boundaries of its members, but not within the municipal boundaries of another municipality that grants a franchise agreement in accordance with Subsection (7)(a)(i)(B), an energy services interlocal entity shall comply with the following:

(i) the rates and conditions of service for customers outside the municipal boundaries of the members shall be at least as favorable as the rates and conditions of service for similarly situated customers within the municipal boundaries of the members;

(ii) the energy services interlocal entity shall operate as a single entity providing service both inside and outside of the municipal boundaries of its members;

(iii) a general rebate, refund, or other payment made to customers located within the municipal boundaries of the members shall also be provided to similarly situated customers located outside the municipal boundaries of the members;

(iv) a schedule of rates and conditions of service, or any change to the rates and conditions of service, shall be approved by the governing body of the energy services interlocal entity;

(v) before implementation of any rate increase, the governing body of the energy services interlocal entity shall first hold a public meeting to take public comment on the proposed increase, after providing at least 20 days and not more than 60 days' advance written notice to its customers on the ordinary billing and on the Utah Public Notice Website, created by Section 63F-1-701; and

(vi) the energy services interlocal entity shall file with the Public Service Commission its current schedule of rates and conditions of service.

(d) The Public Service Commission shall make the schedule of rates and conditions of service of the energy services interlocal entity available for public inspection.

(e) Nothing in this section:

(i) gives the Public Service Commission jurisdiction over the provision of retail electric service by an energy services interlocal entity within the municipal boundaries of its members; or

(ii) makes an energy services interlocal entity a public utility under Title 54, Public Utilities.

(f) Nothing in this section expands or diminishes the jurisdiction of the Public Service Commission over a municipality or an association of municipalities organized under Title 11, Chapter 13, Interlocal Cooperation Act, except as specifically authorized by this section's language.

(g) (i) An energy services interlocal entity described in Subsection (7)(a) retains its authority to provide electric service to the extent authorized by Sections 11-13-202 and 11-13-203 and Subsections 11-13-204 (1) through (5).

(ii) Notwithstanding Subsection (7)(g)(i), if the Public Service Commission approves the agreement described in Subsection (7)(a)(i), the energy services interlocal entity may not provide retail electric service to customers located outside the municipal boundaries of its members, except for customers located within the geographic area described in the agreement.

Section 2. Section 11-13-223 is amended to read:

11-13-223. Open and public meetings.

(1) To the extent that an interlocal entity is subject to ~~[or elects, by formal resolution of its governing body to comply with]~~ the provisions of Title 52, Chapter 4, Open and Public Meetings Act, it may for purposes of complying with those provisions:

(a) convene and conduct any public meeting by means of a telephonic or telecommunications conference; and

(b) give public notice of its meeting pursuant to Section 52-4-202.

(2) In order to convene and conduct a public meeting by means of a telephonic or telecommunications conference, each interlocal entity shall if it is subject to ~~[or elects by formal resolution of its governing body to comply with]~~ Title 52, Chapter 4, Open and Public Meetings Act:

(a) in addition to giving public notice required by Subsection (1) provide:

(i) notice of the telephonic or telecommunications conference to the members of the governing body at least 24 hours before the meeting so that they may participate in and be counted as present for all purposes, including the determination that a quorum is present; and

(ii) a description of how the members will be connected to the telephonic or telecommunications conference;

(b) establish written procedures governing the conduct of any meeting at which one or more members of the governing body are participating by means of a telephonic or telecommunications conference;

(c) provide for an anchor location for the public meeting at the principal office of the governing body; and

(d) provide space and facilities for the physical attendance and participation of interested persons and the public at the anchor location, including providing for interested persons and the public to hear by speaker or other equipment all discussions and deliberations of those members of the governing body participating in the meeting by means of telephonic or telecommunications conference.

(3) Compliance with the provisions of this section by a governing body constitutes full and complete compliance by the governing body with the corresponding provisions of Sections 52-4-201 and 52-4-202, to the extent that those sections are applicable to the governing body.

Section 3. Section 11-13-315 is amended to read:

11-13-315. Taxed interlocal entity.

(1) As used in this section:

(a) "Asset" means funds, money, an account, real or personal property, or personnel.

(b) "Public asset" means:

(i) an asset used by a public entity;

(ii) tax revenue;

(iii) state funds; or

(iv) public funds.

(c) (i) "Taxed interlocal entity" means a project entity that:

(A) is not exempt from a tax or fee in lieu of taxes imposed in accordance with Part 3, Project Entity Provisions;

(B) does not receive a payment of funds from a federal agency or office, state agency or office, political subdivision, or other public agency or office other than a payment that does not materially exceed the greater of the fair market value and the cost of a service provided or property conveyed by the project entity; and

(C) does not receive, expend, or have the authority to compel payment from tax revenue.

(ii) ~~[Before and on May 1, 2014, "taxed]~~ "Taxed interlocal entity" includes an interlocal entity that:

(A) ~~[(A)]~~ was created before 1981 for the purpose of providing power supply at wholesale to its members; ~~[or]~~

~~[(B)] is described in Subsection 11-13-204(7);]~~

(B) does not receive a payment of funds from a federal agency or office, state agency or office, political subdivision, or other public agency or office other than a payment that does not materially exceed the greater of the fair market value and the cost of a service provided or property conveyed by the interlocal entity; and

(C) does not receive, expend, or have the authority to compel payment from tax revenue.

(d) (i) "Use" means to use, own, manage, hold, keep safe, maintain, invest, deposit, administer, receive, expend, appropriate, disburse, or have custody.

(ii) "Use" includes, when constituting a noun, the corresponding nominal form of each term in Subsection (1)(d)(i), individually.

(2) Notwithstanding any other provision of law, the use of an asset by a taxed interlocal entity does not constitute the use of a public asset.

(3) Notwithstanding any other provision of law, a taxed interlocal entity's use of an asset that was a public asset prior to the taxed interlocal entity's use of the asset does not constitute a taxed interlocal entity's use of a public asset.

(4) Notwithstanding any other provision of law, an official of a project entity is not a public treasurer.

(5) Notwithstanding any other provision of law, a taxed interlocal entity's governing body, as described in Section 11-13-206, shall determine and direct the use of an asset by the taxed interlocal entity.

(6) (a) A taxed interlocal entity is not subject to the provisions of Title 63G, Chapter 6a, Utah Procurement Code.

(b) An agent of a taxed interlocal entity is not an external procurement unit as defined in Section 63G-6a-104.

(7) (a) A taxed interlocal entity is not a participating local entity as defined in Section 63A-3-401.

(b) For each fiscal year of a taxed interlocal entity, the taxed interlocal entity shall provide:

(i) the taxed interlocal entity's financial statements for and as of the end of the fiscal year and the prior fiscal year, including the taxed interlocal entity's balance sheet as of the end of the fiscal year and the prior fiscal year, and the related statements of revenues and expenses and of cash flows for the fiscal year; and

(ii) the accompanying auditor's report and management's discussion and analysis with respect to the taxed interlocal entity's financial statements for and as of the end of the fiscal year.

(c) The taxed interlocal entity shall provide the information described in Subsections (7)(b)(i) and (b)(ii):

(i) in a manner described in Subsection 63A-3-405(3); and

(ii) within a reasonable time after the taxed interlocal entity's independent auditor delivers to the taxed interlocal entity's governing body the auditor's report with respect to the financial statements for and as of the end of the fiscal year.

(d) Notwithstanding Subsections (7)(b) and (c) or a taxed interlocal entity's compliance with one or more of the requirements of Title 63A, Chapter 3, Division of Finance:

(i) the taxed interlocal entity is not subject to Title 63A, Chapter 3, Division of Finance; and

(ii) the information described in Subsection (7)(b)(i) or (ii) does not constitute public financial information as defined in Section 63A-3-401.

(8) (a) A taxed interlocal entity's governing body is not a governing board as defined in Section 51-2a-102.

(b) A taxed interlocal entity is not subject to the provisions of Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

(9) (a) A taxed interlocal entity is not subject to the provisions of Subsection 11-13-204(1)(a)(i) or (c).

(b) In addition to the powers provided in Subsection 11-13-204(1)(a)(ii), a taxed interlocal entity may, for the regulation of the entity's affairs and conduct of its business, adopt, amend, or repeal bylaws, policies, or procedures.

Section 4. Effective date.

This bill takes effect on May 12, 2015.

CHAPTER 116**H. B. 26**

Passed February 20, 2014

Approved March 29, 2014

Effective May 13, 2014

ASSOCIATION LIEN AMENDMENTS

Chief Sponsor: Jon E. Stanard
Senate Sponsor: Deidre M. Henderson

LONG TITLE**General Description:**

This bill amends provisions in Title 57, Chapter 8, Condominium Ownership Act, and Title 57, Chapter 8a, Community Association Act, which relate to liens against a unit or a lot.

Highlighted Provisions:

This bill:

- ▶ clarifies the circumstances under which an association of unit owners or an association has a lien against a unit or a lot for an unpaid fine;
- ▶ provides that if a board assesses a fine against a lot owner, the lot owner may:
 - request an informal hearing to dispute the fine within 30 days after the day on which the fine is assessed; and
 - initiate a civil action to appeal a decision from an informal hearing; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

57-8-37, as enacted by Laws of Utah 2001, Chapter 317

57-8-44, as last amended by Laws of Utah 2013, Chapter 95

57-8a-208, as enacted by Laws of Utah 2006, Chapter 243

57-8a-301, as last amended by Laws of Utah 2013, Chapter 95

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

Section 1. Section 57-8-37 is amended to read:**57-8-37. Fines.**

(1) (a) If authorized in the declaration, bylaws, or association rules, the management committee of a residential condominium project may assess a fine against a unit owner after the requirements of Subsection (2) have been met for a violation of the rules and regulations of the association of unit owners which have been promulgated in accordance with this chapter and the declaration and bylaws.

(b) The management committee of a nonresidential condominium project may not assess a fine against a unit owner.

(2) Before assessing a fine under Subsection (1), the management committee shall give notice to the unit owner of the violation and inform the owner that a fine will be imposed if the violation is not cured within the time provided in the declaration, bylaws, or association rules, which shall be at least 48 hours.

(3) (a) A fine assessed under Subsection (1) shall:

(i) be made only for a violation of a rule or regulation which is specifically listed in the declaration, bylaws, or association rules as an offense which is subject to a fine;

(ii) be in the amount specifically provided for in the declaration, bylaws, or association rules for that specific type of violation, not to exceed \$500; and

(iii) accrue interest and late fees as provided in the declaration, bylaws, or association rules.

(b) Cumulative fines for a continuing violation may not exceed \$500 per month.

(4) A unit owner who is assessed a fine under Subsection (1) may request an informal hearing to protest or dispute the fine within 30 days from the date the fine is assessed. The hearing shall be conducted in accordance with the standards provided in the declaration, bylaws, or association rules. No interest or late fees may accrue until after the hearing has been conducted and a final decision has been rendered.

(5) A unit owner may appeal a fine issued under Subsection (1) by initiating a civil action within 180 days after:

(a) a hearing has been held and a final decision has been rendered by the management committee under Subsection (4); or

(b) the time to request an informal hearing under Subsection (4) has expired without the unit owner making such a request.

~~[(6) A fine assessed under Subsection (1) which remains unpaid after the time for appeal under Subsection (5) has expired becomes a lien against the unit owner's interest in the property in accordance with the same standards as a lien for the nonpayment of common expenses under Section 57-8-20.]~~

Section 2. Section 57-8-44 is amended to read:**57-8-44. Lien in favor of association of unit owners for assessments and costs of collection.**

(1) (a) Except as provided in Section 57-8-13.1, an association of unit owners has a lien on a unit for:

(i) an assessment;

(ii) except as provided in the declaration, fees, charges, and costs associated with collecting an unpaid assessment, including:

(A) court costs and reasonable attorney fees;

(B) late charges;

(C) interest; and

(D) any other amount that the association of unit owners is entitled to recover under the declaration, this chapter, or an administrative or judicial decision; and

(iii) a fine that the association of unit owners imposes against ~~[the owner of the unit.]~~ a unit owner in accordance with Section 57-8-37, if:

(A) the time for appeal described in Subsection 57-8-37(5) has expired and the unit owner did not file an appeal; or

(B) the unit owner timely filed an appeal under Subsection 57-8-37(5) and the district court issued a final order upholding a fine imposed under Subsection 57-8-37(1).

(b) The recording of a declaration constitutes record notice and perfection of a lien described in Subsection (1)(a).

(2) If an assessment is payable in installments, a lien described in Subsection (1)(a)(i) is for the full amount of the assessment from the time the first installment is due, unless the association of unit owners otherwise provides in a notice of assessment.

(3) An unpaid assessment or fine accrues interest at the rate provided:

(a) in Subsection 15-1-1(2); or

(b) in the governing documents, if the governing documents provide for a different interest rate.

(4) A lien under this section has priority over each other lien and encumbrance on a unit except:

(a) a lien or encumbrance recorded before the declaration is recorded;

(b) a first or second security interest on the unit secured by a mortgage or deed of trust that is recorded before a recorded notice of lien by or on behalf of the association of unit owners; or

(c) a lien for real estate taxes or other governmental assessments or charges against the unit.

(5) A lien under this section is not subject to Title 78B, Chapter 5, Part 5, Utah Exemptions Act.

(6) Unless the declaration provides otherwise, if two or more associations of unit owners have liens for assessments on the same unit, the liens have equal priority, regardless of when the liens are created.

Section 3. Section 57-8a-208 is amended to read:

57-8a-208. Fines.

(1) Unless otherwise provided in the association's governing documents, the board of ~~[a homeowner]~~ an association may assess a fine against a lot owner for a violation of the association's governing documents after the requirements ~~[of]~~ described in Subsection (2) are met.

(2) Before assessing a fine under Subsection (1), the board shall:

(a) notify the lot owner of the violation; and

(b) inform the owner that a fine will be imposed if the violation is not remedied within the time provided in the association's governing documents, which shall be at least 48 hours.

(3) (a) A fine assessed under Subsection (1) shall:

(i) be made only for a violation of a rule, covenant, condition, or restriction that is specifically listed in the association's governing documents;

(ii) be in the amount specifically provided for in the association's governing documents for that specific type of violation or in an amount commensurate with the nature of the violation; and

(iii) accrue interest and late fees as provided in the association's governing documents.

(b) Unpaid fines may be collected as an unpaid assessment as set forth in the association's governing documents or in this chapter.

(4) (a) A lot owner who is assessed a fine under Subsection (1) may request an informal hearing to protest or dispute the fine within ~~[14]~~ 30 days ~~[from the date]~~ after the day on which the fine is assessed.

(b) A hearing requested under Subsection (4)(a) shall be conducted in accordance with standards provided in the association's governing documents.

(c) No interest or late fees may accrue until after the hearing has been conducted and a final decision has been rendered.

(5) A lot owner may appeal a fine issued under Subsection (1) by initiating a civil action:

(a) if the lot owner timely requests an informal hearing under Subsection (4), within 180 days after the day on which a final decision from the informal hearing is issued; or

(b) if the lot owner does not timely request an informal hearing under Subsection (4), within 180 days after the day on which the time to request an informal hearing expires.

Section 4. Section 57-8a-301 is amended to read:

57-8a-301. Lien in favor of association for assessments and costs of collection.

(1) (a) Except as provided in Section 57-8a-105, an association has a lien on a lot for:

(i) an assessment;

(ii) except as provided in the declaration, fees, charges, and costs associated with collecting an unpaid assessment, including:

(A) court costs and reasonable attorney fees;

(B) late charges;

(C) interest; and

(D) any other amount that the association is entitled to recover under the declaration, this

chapter, or an administrative or judicial decision;
and

(iii) a fine that the association imposes against ~~the owner of the lot,~~ a lot owner in accordance with Section 57-8a-208, if:

(A) the time for appeal described in Subsection 57-8a-208(5) has expired and the lot owner did not file an appeal; or

(B) the lot owner timely filed an appeal under Subsection 57-8a-208(5) and the district court issued a final order upholding a fine imposed under Subsection 57-8a-208(1).

(b) The recording of a declaration constitutes record notice and perfection of a lien described in Subsection (1)(a).

(2) If an assessment is payable in installments, a lien described in Subsection (1)(a)(i) is for the full amount of the assessment from the time the first installment is due, unless the association otherwise provides in a notice of assessment.

(3) An unpaid assessment or fine accrues interest at the rate provided:

(a) in Subsection 15-1-1(2); or

(b) in the declaration, if the declaration provides for a different interest rate.

(4) A lien under this section has priority over each other lien and encumbrance on a lot except:

(a) a lien or encumbrance recorded before the declaration is recorded;

(b) a first or second security interest on the lot secured by a mortgage or trust deed that is recorded before a recorded notice of lien by or on behalf of the association; or

(c) a lien for real estate taxes or other governmental assessments or charges against the lot.

(5) A lien under this section is not subject to Title 78B, Chapter 5, Part 5, Utah Exemptions Act.

(6) Unless the declaration provides otherwise, if two or more associations have liens for assessments on the same lot, the liens have equal priority, regardless of when the liens are created.

CHAPTER 117**H. B. 33**

Passed February 13, 2014

Approved March 29, 2014

Effective May 13, 2014

**REAUTHORIZATION OF UTAH
COMMISSION ON SERVICE
AND VOLUNTEERISM**

Chief Sponsor: Rebecca P. Edwards

Senate Sponsor: Aaron Osmond

LONG TITLE**General Description:**

This bill amends Title 63I, Chapter 1, Legislative Oversight and Sunset Act, by repealing the sunset date of the Commission on National and Community Service Act.

Highlighted Provisions:

This bill:

- ▶ repeals the sunset date of the Commission on National and Community Service Act, which has the effect of authorizing the continuation of the Utah Commission on Service and Volunteerism.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-1-209, as last amended by Laws of Utah 2013, Chapter 278

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

Section 1. Section 63I-1-209 is amended to read:**63I-1-209. Repeal dates, Title 9.**

[Title 9, Chapter 1, Part 8, Commission on National and Community Service Act, is repealed July 1, 2014.]

CHAPTER 118**H. B. 35**

Passed February 13, 2014

Approved March 29, 2014

Effective May 13, 2014

**REAUTHORIZATION OF UTAH
HEALTH DATA AUTHORITY ACT**Chief Sponsor: James A. Dunnigan
Senate Sponsor: Allen M. Christensen**LONG TITLE****General Description:**

This bill amends provisions of Title 26, Chapter 33a, Utah Health Data Authority Act, and Title 63I, Chapter 1, Legislative Oversight and Sunset Act, related to the Utah Health Data Authority Act.

Highlighted Provisions:

This bill:

- ▶ amends the membership of the Health Data Committee;
- ▶ amends the data sharing authority of the Health Data Committee;
- ▶ makes technical and conforming amendments; and
- ▶ reauthorizes the Utah Health Data Authority Act until July 1, 2024.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-33a-103, as last amended by Laws of Utah 2011, Chapter 400

26-33a-106.1, as last amended by Laws of Utah 2012, Chapter 279

63I-1-226, as last amended by Laws of Utah 2013, Chapters 32, 60, and 195

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

Section 1. Section 26-33a-103 is amended to read:**26-33a-103. Committee membership --
Terms -- Chair -- Compensation.**

(1) The Health Data Committee created by Section 26-1-7 shall be composed of [14] 15 members [~~appointed by the governor with the consent of the Senate~~].

(2) (a) One member shall be:

(i) the commissioner of the Utah Insurance Department; or

(ii) the commissioner's designee who shall have knowledge regarding the health care system and characteristics and use of health data.

[2] (b) Fourteen members shall be appointed by the governor with the consent of the Senate in accordance with Subsection (3). No more than seven members of the committee appointed by the

governor may be members of the same political party.

(3) The [appointed] members of the committee appointed under Subsection (2)(b) shall [be]:

(a) be knowledgeable regarding the health care system and the characteristics and use of health data [and shall be];

(b) be selected so that the committee at all times includes individuals who provide care[-];

[4] ~~The membership of the committee shall be:~~

[a] (c) include one person employed by or otherwise associated with a general acute hospital as defined by Section 26-21-2, who is knowledgeable about the collection, analysis, and use of health care data;

[4b] (d) include two physicians, as defined in Section 58-67-102:

(i) who are licensed to practice in this state;

(ii) who actively practice medicine in this state;

(iii) who are trained in or have experience with the collection, analysis, and use of health care data; and

(iv) one of whom is selected by the Utah Medical Association;

[e] (e) include three persons:

(i) who are:

(A) employed by or otherwise associated with a business that supplies health care insurance to its employees; and

(B) knowledgeable about the collection and use of health care data; and

(ii) at least one of whom represents an employer employing 50 or fewer employees;

[4d] (f) include three persons representing health insurers:

(i) at least one of whom is employed by or associated with a third-party payor that is not licensed under Title 31A, Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(ii) at least one of whom is employed by or associated with a third party payer that is licensed under Title 31A, Chapter 8, Health Maintenance Organizations and Limited Health Plans; and

(iii) who are trained in, or experienced with the collection, analysis, and use of health care data;

[e] (g) include two consumer representatives:

(i) from organized consumer or employee associations; and

(ii) knowledgeable about the collection and use of health care data;

[4f] (h) include one person:

(i) representative of a neutral, non-biased entity that can demonstrate that it has the broad support of health care payers and health care providers; and

(ii) who is knowledgeable about the collection, analysis, and use of health care data; and

~~[(4)]~~ (i) include two persons representing public health who are trained in, or experienced with the collection, use, and analysis of health care data.

~~[(4)]~~ (4) (a) Except as required by Subsection ~~[(4)]~~ (4)(b), as terms of current committee members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection ~~[(4)]~~ (4)(a), the governor shall ~~[(4)]~~, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years ~~[(4)]~~.

~~[(ii)]~~ prior to July 1, 2011, re-appoint the members described in Subsections (4)(b), (d), and (f) as necessary to comply with changes in eligibility for membership that were enacted during the 2011 General Session.]

(c) Members may serve after their terms expire until replaced.

~~[(4)]~~ (5) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

~~[(7)]~~ (6) Committee members shall annually elect a chair of the committee from among their membership. The chair shall report to the executive director.

~~[(8)]~~ (7) The committee shall meet at least once during each calendar quarter. Meeting dates shall be set by the chair upon 10 working days notice to the other members, or upon written request by at least four committee members with at least 10 working days notice to other committee members.

~~[(9)]~~ ~~Seven~~ (8) Eight committee members constitute a quorum for the transaction of business. Action may not be taken except upon the affirmative vote of a majority of a quorum of the committee.

~~[(40)]~~ (9) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

~~[(11)]~~ (10) All meetings of the committee shall be open to the public, except that the committee may hold a closed meeting if the requirements of Sections 52-4-204, 52-4-205, and 52-4-206 are met.

Section 2. Section 26-33a-106.1 is amended to read:

26-33a-106.1. Health care cost and reimbursement data.

(1) (a) The committee shall, as funding is available, establish an advisory panel to advise the committee on the development of a plan for the collection and use of health care data pursuant to Subsection 26-33a-104(6) and this section.

(b) The advisory panel shall include:

(i) the chairman of the Utah Hospital Association;

(ii) a representative of a rural hospital as designated by the Utah Hospital Association;

(iii) a representative of the Utah Medical Association;

(iv) a physician from a small group practice as designated by the Utah Medical Association;

(v) two representatives who are health insurers, appointed by the committee;

(vi) a representative from the Department of Health as designated by the executive director of the department;

(vii) a representative from the committee;

(viii) a consumer advocate appointed by the committee;

(ix) a member of the House of Representatives appointed by the speaker of the House; and

(x) a member of the Senate appointed by the president of the Senate.

(c) The advisory panel shall elect a chair from among its members, and shall be staffed by the committee.

(2) (a) The committee shall, as funding is available:

(i) establish a plan for collecting data from data suppliers, as defined in Section 26-33a-102, to determine measurements of cost and reimbursements for risk adjusted episodes of health care;

(ii) share data with the Utah Insurance Department and health insurers regulated under Title 31A, Insurance Code, regarding insurance claims [and], an individual's and small employer group's health risk factor [with insurers participating in the defined contribution market created in Title 31A, Chapter 30, Part 2, Defined Contribution Arrangements], and characteristics of insurance arrangements that affect claims and usage, only to the extent necessary for:

(A) establishing rates and [prospective] risk adjusting in the defined contribution arrangement market created in Title 31A, Chapter 30, Part 2, Defined Contribution Arrangements; [and]

(B) [risk adjusting in the defined contribution arrangement market; and] facilitating a state based risk adjustment program for the health insurance

market in accordance with Title 31A, Insurance Code;

(C) promotion of health insurance rate transparency; and

(D) review and analysis of health insurer's premiums and rate filings; and

(iii) assist the Legislature and the public with awareness of, and the promotion of, transparency in the health care market by reporting on:

(A) geographic variances in medical care and costs as demonstrated by data available to the committee; and

(B) rate and price increases by health care providers:

(I) that exceed the Consumer Price Index - Medical as provided by the United States Bureau of Labor statistics;

(II) as calculated yearly from June to June; and

(III) as demonstrated by data available to the committee.

(b) The plan adopted under this Subsection (2) shall include:

(i) the type of data that will be collected;

(ii) how the data will be evaluated;

(iii) how the data will be used;

(iv) the extent to which, and how the data will be protected; and

(v) who will have access to the data.

Section 3. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates, Title 26.

(1) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2015.

(2) Section 26-10-11 is repealed July 1, 2015.

(3) Section 26-18-12, Expansion of 340B drug pricing programs, is repealed July 1, 2013.

(4) Section 26-21-23, Licensing of non-Medicaid nursing care facility beds, is repealed July 1, 2018.

(5) Section 26-21-211 is repealed July 1, 2013.

(6) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, ~~2014~~ 2024.

(7) Title 26, Chapter 36a, Hospital Provider Assessment Act, is repealed July 1, 2016.

(8) Section 26-38-2.5 is repealed July 1, 2017.

(9) Section 26-38-2.6 is repealed July 1, 2017.

CHAPTER 119**H. B. 40**

Passed February 25, 2014

Approved March 29, 2014

Effective July 1, 2014

**BEER EXCISE TAX
REVENUE AMENDMENTS**Chief Sponsor: Jack R. Draxler
Senate Sponsor: Allen M. Christensen**LONG TITLE****General Description:**

This bill modifies the Alcoholic Beverage Control Act and the Substance Abuse and Mental Health Act to address the use of beer excise tax revenues to prevent abuse of alcohol and other substances.

Highlighted Provisions:

This bill:

- ▶ expands the scope of the Alcoholic Beverage Enforcement and Treatment Restricted Account to become the Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account;
- ▶ modifies definition provisions;
- ▶ encourages the most effective formula allocation in relationship to prevention;
- ▶ addresses preparation of forms;
- ▶ grants rulemaking authority; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2014.

Utah Code Sections Affected:**AMENDS:**

32B-2-401, as enacted by Laws of Utah 2010, Chapter 276

32B-2-402, as last amended by Laws of Utah 2011, Chapter 307

32B-2-403, as enacted by Laws of Utah 2010, Chapter 276

32B-2-404, as last amended by Laws of Utah 2011, Chapter 307

62A-15-103, as last amended by Laws of Utah 2013, Chapters 17, 167, and 400

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 32B-2-401 is amended to read:****Part 4. Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act****32B-2-401. Title.**

This part is known as the "Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act."

Section 2. Section 32B-2-402 is amended to read:**32B-2-402. Definitions -- Calculations.**

- (1) As used in this part:

(a) "Account" means the Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account created in Section 32B-2-403.

(b) "Advisory council" means the Utah Substance Abuse Advisory Council created in Section 63M-7-301.

(c) "Alcohol-related offense" means:

(i) a violation of:

(A) Section 41-6a-502; or

(B) an ordinance that complies with the requirements of:

(I) Subsection 41-6a-510(1); or

(II) Section 76-5-207; or

(ii) an offense involving the illegal:

(A) sale of an alcoholic product;

(B) consumption of an alcoholic product;

(C) distribution of an alcoholic product;

(D) transportation of an alcoholic product; or

(E) possession of an alcoholic product.

(d) "Annual conviction time period" means the time period that:

(i) begins on July 1 and ends on June 30; and

(ii) immediately precedes the fiscal year for which an appropriation under this part is made.

(e) "Municipality" means:

(i) a city; or

(ii) a town.

(f) (i) "Prevention" is as defined by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, by the Division of Substance Abuse and Mental Health within the Department of Human Services.

(ii) In defining the term "prevention," the Division of Substance Abuse and Mental Health shall:

(A) include only evidence-based or evidence-informed programs; and

(B) provide for coordination with local substance abuse authorities designated to provide substance abuse services in accordance with Section 17-43-201.

(2) For purposes of Subsection 32B-2-404(1)(b)(iii), the number of premises located within the limits of a municipality or county:

(a) is the number determined by the department to be so located;

(b) includes the aggregate number of premises of the following:

(i) a state store;

(ii) a package agency; and

(iii) a retail licensee; and

(c) for a county, consists only of the number located within an unincorporated area of the county.

(3) The department shall determine:

(a) a population figure according to the most current population estimate prepared by the Utah Population Estimates Committee;

(b) a county's population for the 25% distribution to municipalities and counties under Subsection 32B-2-404(1)(b)(i) only with reference to the population in the unincorporated areas of the county; and

(c) a county's population for the 25% distribution to counties under Subsection 32B-2-404(1)(b)(iv) only with reference to the total population in the county, including that of a municipality.

(4) (a) A conviction occurs in the municipality or county that actually prosecutes the offense to judgment.

(b) If a conviction is based upon a guilty plea, the conviction is considered to occur in the municipality or county that, except for the guilty plea, would have prosecuted the offense.

Section 3. Section 32B-2-403 is amended to read:

32B-2-403. Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account created.

(1) (a) There is created in the General Fund a restricted account known as the "Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account."

(b) The account is funded from:

(i) money deposited by the state treasurer in accordance with Section 59-15-109;

(ii) appropriations made to the account by the Legislature; and

(iii) interest described in Subsection (1)(c).

(c) Interest earned on the account shall be deposited into the account.

(2) (a) Consistent with the policies provided in Subsection 32B-1-103(4)(b), money in the account shall be used for statewide public purposes, including promoting the reduction of the harmful effects of substance abuse, over consumption of alcoholic products by an adult, and alcohol consumption by minors, by exclusively funding programs or projects related to prevention, treatment, detection, prosecution, and control of violations of this title and other offenses in which alcohol or substance abuse is a contributing factor except as provided in Subsection (2)(b).

(b) The portion distributed under this part to a county may also be used for the confinement or treatment of persons arrested for or convicted of

offenses in which alcohol or substance abuse is a contributing factor.

(c) A municipality or county entitled to receive money shall use the money exclusively as required by this Subsection (2).

(3) The appropriations provided for under Section 32B-2-404 are:

(a) intended to supplement the budget of the appropriate agencies of each municipality and county within the state to enable the municipalities and counties to more effectively fund the programs and projects described in Subsection (2); and

(b) not intended to replace money that would otherwise be allocated for the programs and projects in Subsection (2).

(4) It is the intent of the Legislature that the appropriations distributed under this part be used to fund a balanced approach to reducing the harmful effects of substance abuse, over consumption of alcoholic products by adults, and alcohol consumption by minors. To this end, the Legislature encourages municipalities and counties receiving money under this part to use the most effective formula allocation to fund evidence-based and evidence-informed prevention programs.

Section 4. Section 32B-2-404 is amended to read:

32B-2-404. Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account distribution.

(1) (a) The money deposited into the account under Section 32B-2-403 shall be distributed to municipalities and counties:

(i) to the extent appropriated by the Legislature, except that the Legislature shall appropriate each fiscal year an amount equal to at least the amount deposited in the account in accordance with Section 59-15-109; and

(ii) as provided in this Subsection (1).

(b) The amount appropriated from the account shall be distributed as follows:

(i) 25% to municipalities and counties on the basis of the percentage of the state population residing in each municipality and county;

(ii) 30% to municipalities and counties on the basis of each municipality's and county's percentage of the statewide convictions for all alcohol-related offenses;

(iii) 20% to municipalities and counties on the basis of the percentage of the following in the state that are located in each municipality and county:

(A) state stores;

(B) package agencies;

(C) retail licensees; and

(D) off-premise beer retailers; and

(iv) 25% to the counties for confinement and treatment purposes authorized by this part on the

basis of the percentage of the state population located in each county.

(c) (i) Except as provided in Subsection (1)(c)(ii), if a municipality does not have a law enforcement agency:

(A) the municipality may not receive money under this part; and

(B) the State Tax Commission:

(I) may not distribute the money the municipality would receive but for the municipality not having a law enforcement agency to that municipality; and

(II) shall distribute the money that the municipality would have received but for it not having a law enforcement agency to the county in which the municipality is located for use by the county in accordance with this part.

(ii) If the advisory council finds that a municipality described in Subsection (1)(c)(i) demonstrates that the municipality can use the money that the municipality is otherwise eligible to receive in accordance with this part, the advisory council may direct the State Tax Commission to distribute the money to the municipality.

(2) To determine the distribution required by Subsection (1)(b)(ii), the State Tax Commission shall annually:

(a) for an annual conviction time period:

(i) multiply by two the total number of convictions in the state obtained during the annual conviction time period for violation of:

(A) Section 41-6a-502; or

(B) an ordinance that complies with the requirements of Subsection 41-6a-510(1) or Section 76-5-207; and

(ii) add to the number calculated under Subsection (2)(a)(i) the number of convictions obtained during the annual conviction time period for the alcohol-related offenses other than the alcohol-related offenses described in Subsection (2)(a)(i);

(b) divide an amount equal to 30% of the appropriation for that fiscal year by the sum obtained in Subsection (2)(a); and

(c) multiply the amount calculated under Subsection (2)(b), by the number of convictions obtained in each municipality and county during the annual conviction time period for alcohol-related offenses.

(3) By not later than September 1 each year:

(a) the state court administrator shall certify to the State Tax Commission the number of convictions obtained for alcohol-related offenses in each municipality or county in the state during the annual conviction time period; and

(b) the advisory council shall notify the State Tax Commission of any municipality that does not have a law enforcement agency.

(4) By not later than December 1 of each year, the advisory council shall notify the State Tax Commission for the fiscal year of appropriation of:

(a) a municipality that may receive a distribution under Subsection (1)(c)(ii);

(b) a county that may receive a distribution allocated to a municipality described in Subsection (1)(c)(i);

(c) a municipality or county that may not receive a distribution because the advisory council has suspended the payment under Subsection 32B-2-405(2)(a); and

(d) a municipality or county that receives a distribution because the suspension of payment has been cancelled under Subsection 32B-2-405(2).

(5) (a) By not later than January 1 of the fiscal year of appropriation, the State Tax Commission shall annually distribute to each municipality and county the portion of the appropriation that the municipality or county is eligible to receive under this part, except for any municipality or county that the advisory council notifies the State Tax Commission in accordance with Subsection (4) may not receive a distribution in that fiscal year.

(b) (i) The ~~[State Tax Commission]~~ advisory council shall prepare forms for use by a municipality or county in applying for a distribution under this part.

(ii) A form described in this Subsection (5) may require the submission of information the ~~[State Tax Commission]~~ advisory council considers necessary to enable the State Tax Commission to comply with this part.

Section 5. Section 62A-15-103 is amended to read:

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

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

(2) The division shall:

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

(ii) render support and assistance to public schools through approved school-based substance abuse education programs aimed at prevention of substance abuse;

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

(iv) cooperate and assist other organizations and private treatment centers for substance abusers, by providing them with essential materials for

furthering programs of prevention and rehabilitation of actual and potential substance abusers;

(v) promote integrated programs that address an individual's substance abuse, mental health, and physical healthcare needs;

(vi) evaluate the effectiveness of programs described in Subsection (2);

(vii) consider the impact of the programs described in Subsection (2) on:

- (A) emergency department utilization;
- (B) jail and prison populations;
- (C) the homeless population; and
- (D) the child welfare system; and

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

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

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

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

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

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

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

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

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

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

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

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

(viii) monitor the expenditure of public funds by:

- (A) local substance abuse authorities;
- (B) local mental health authorities; and

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

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

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

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

- (A) a statewide comprehensive continuum of substance abuse services;
- (B) a statewide comprehensive continuum of mental health services;
- (C) services result in improved overall health and functioning; and
- (D) appropriate expenditure of public funds;

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

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

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

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

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

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

(i) a review and determination regarding whether:

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

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

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

(g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4, Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act.

(3) (a) The division may refuse to contract with and may pursue its legal remedies against any local substance abuse authority or local mental health authority that fails, or has failed, to expend public funds in accordance with state law, division policy, contract provisions, or directives issued in accordance with state law.

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

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

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

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

(b) Those donations, gifts, devises, or bequests shall be used by the division in performing its

powers and duties. Any money so obtained shall be considered private funds and shall be deposited into an interest-bearing expendable special revenue fund to be used by the division for substance abuse or mental health services. The state treasurer may invest the fund and all interest shall remain with the fund.

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

(a) the use of public funds;

(b) oversight responsibilities regarding public funds; and

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

(8) The Legislature may refuse to appropriate funds to the division upon the division's failure to comply with the provisions of this part.

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

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

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

Section 6. Effective date.

This bill takes effect on July 1, 2014.

CHAPTER 120**H. B. 48**

Passed February 20, 2014

Approved March 29, 2014

Effective May 13, 2014

**REPORTS ON
ALTERNATIVE SENTENCING**

Chief Sponsor: Susan Duckworth

Senate Sponsor: Mark B. Madsen

LONG TITLE**General Description:**

This bill modifies the Utah Code regarding the use of alternative incarceration by county sheriffs.

Highlighted Provisions:

This bill:

- ▶ requires a county sheriff to keep records on any prisoner released to an alternative incarceration program regarding:
 - the release status of the prisoner; and
 - the type of release program or alternative incarceration program; and
- ▶ requires the sheriff to make these records available to the Department of Corrections, the Judiciary, and the Commission on Criminal and Juvenile Justice.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17-22-5.5, as last amended by Laws of Utah 2004, Chapter 301

63M-7-303, as last amended by Laws of Utah 2012, Chapter 388

77-18-1, as last amended by Laws of Utah 2011, Chapter 366

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

Section 1. Section 17-22-5.5 is amended to read:**17-22-5.5. Sheriff's classification of jail facilities -- Maximum operating capacity of jail facilities -- Transfer or release of prisoners -- Limitation -- Records regarding release.**

(1) (a) Except as provided in Subsection [(3)] (4), a county sheriff shall determine:

(i) subject to Subsection (1)(b), the classification of each jail facility or section of a jail facility under the sheriff's control;

(ii) the nature of each program conducted at a jail facility under the sheriff's control; and

(iii) the internal operation of a jail facility under the sheriff's control.

(b) A classification under Subsection (1)(a)(i) of a jail facility may not violate any applicable zoning

ordinance or conditional use permit of the county or municipality.

(2) Except as provided in Subsection [(3)] (4), each county sheriff shall:

(a) with the approval of the county legislative body, establish a maximum operating capacity for each jail facility under the sheriff's control, based on facility design and staffing; and

(b) upon a jail facility reaching its maximum operating capacity:

(i) transfer prisoners to another appropriate facility:

(A) under the sheriff's control; or

(B) available to the sheriff by contract;

(ii) release prisoners:

(A) to a supervised release program, according to release criteria established by the sheriff; or

(B) to another alternative incarceration program developed by the sheriff; or

(iii) admit prisoners in accordance with law and a uniform admissions policy imposed equally upon all entities using the county jail.

(3) (a) The sheriff shall keep records of the release status and the type of release program or alternative incarceration program for any prisoner released under Subsection (2)(b)(ii).

(b) The sheriff shall make these records available upon request to the Department of Corrections, the Judiciary, and the Commission on Criminal and Juvenile Justice.

[(3)] (4) This section may not be construed to authorize a sheriff to modify provisions of a contract with the Department of Corrections to house in a county jail persons sentenced to the Department of Corrections.

Section 2. Section 63M-7-303 is amended to read:**63M-7-303. Duties of council.**

(1) The Utah Substance Abuse Advisory Council shall:

(a) provide leadership and generate unity for Utah's ongoing efforts to combat substance abuse;

(b) recommend and coordinate the creation, dissemination, and implementation of a statewide substance abuse policy;

(c) facilitate planning for a balanced continuum of substance abuse prevention, treatment, and justice services;

(d) promote collaboration and mutually beneficial public and private partnerships;

(e) coordinate recommendations made by any committee created under Section 63M-7-302;

(f) analyze and provide an objective assessment of all proposed legislation concerning alcohol and other drug issues;

(g) coordinate the implementation of Section 77-18-1.1 and related provisions in Subsections 77-18-1(5)(~~(d)~~ and ~~(e)~~)(b)(iii) and (iv), as provided in Section 63M-7-305; and

(h) comply with Section 32B-2-306.

(2) The council shall meet quarterly or more frequently as determined necessary by the chair.

(3) The council shall report its recommendations annually to the commission, governor, the Legislature, and the Judicial Council.

Section 3. Section 77-18-1 is amended to read:

77-18-1. Suspension of sentence -- Pleas held in abeyance -- Probation -- Supervision -- Presentence investigation -- Standards -- Confidentiality -- Terms and conditions -- Termination, revocation, modification, or extension -- Hearings -- Electronic monitoring.

(1) On a plea of guilty or no contest entered by a defendant in conjunction with a plea in abeyance agreement, the court may hold the plea in abeyance as provided in Title 77, Chapter 2a, Pleas in Abeyance, and under the terms of the plea in abeyance agreement.

(2) (a) On a plea of guilty, guilty with a mental illness, no contest, or conviction of any crime or offense, the court may, after imposing sentence, suspend the execution of the sentence and place the defendant on probation. The court may place the defendant:

(i) on probation under the supervision of the Department of Corrections except in cases of class C misdemeanors or infractions;

(ii) on probation with an agency of local government or with a private organization; or

(iii) on bench probation under the jurisdiction of the sentencing court.

(b) (i) The legal custody of all probationers under the supervision of the department is with the department.

(ii) The legal custody of all probationers under the jurisdiction of the sentencing court is vested as ordered by the court.

(iii) The court has continuing jurisdiction over all probationers.

(3) (a) The department shall establish supervision and presentence investigation standards for all individuals referred to the department. These standards shall be based on:

(i) the type of offense;

(ii) the demand for services;

(iii) the availability of agency resources;

(iv) the public safety; and

(v) other criteria established by the department to determine what level of services shall be provided.

(b) Proposed supervision and investigation standards shall be submitted to the Judicial Council and the Board of Pardons and Parole on an annual basis for review and comment prior to adoption by the department.

(c) The Judicial Council and the department shall establish procedures to implement the supervision and investigation standards.

(d) The Judicial Council and the department shall annually consider modifications to the standards based upon criteria in Subsection (3)(a) and other criteria as they consider appropriate.

(e) The Judicial Council and the department shall annually prepare an impact report and submit it to the appropriate legislative appropriations subcommittee.

(4) Notwithstanding other provisions of law, the department is not required to supervise the probation of persons convicted of class B or C misdemeanors or infractions or to conduct presentence investigation reports on class C misdemeanors or infractions. However, the department may supervise the probation of class B misdemeanants in accordance with department standards.

(5) (a) Before the imposition of any sentence, the court may, with the concurrence of the defendant, continue the date for the imposition of sentence for a reasonable period of time for the purpose of obtaining a presentence investigation report from the department or information from other sources about the defendant.

(b) The presentence investigation report shall include:

(i) a victim impact statement according to guidelines set in Section 77-38a-203 describing the effect of the crime on the victim and the victim's family[-];

~~[(c) The presentence investigation report shall include]~~

(ii) a specific statement of pecuniary damages, accompanied by a recommendation from the department regarding the payment of restitution with interest by the defendant in accordance with Title 77, Chapter 38a, Crime Victims Restitution Act[-];

~~[(d) The presentence investigation report shall include:]~~

~~[(4)]~~ (iii) findings from any screening and any assessment of the offender conducted under Section 77-18-1.1; ~~[and]~~

~~[(iii)]~~ (iv) recommendations for treatment of the offender[-]; and

(v) the number of days since the commission of the offense that the offender has spent in the custody of the jail and the number of days, if any, the

offender was released to a supervised release or alternative incarceration program under Section 17-22-5.5.

(c) The contents of the presentence investigation report are protected and are not available except by court order for purposes of sentencing as provided by rule of the Judicial Council or for use by the department.

(a) The department shall provide the presentence investigation report to the defendant's attorney, or the defendant if not represented by counsel, the prosecutor, and the court for review, three working days prior to sentencing. Any alleged inaccuracies in the presentence investigation report, which have not been resolved by the parties and the department prior to sentencing, shall be brought to the attention of the sentencing judge, and the judge may grant an additional 10 working days to resolve the alleged inaccuracies of the report with the department. If after 10 working days the inaccuracies cannot be resolved, the court shall make a determination of relevance and accuracy on the record.

(b) If a party fails to challenge the accuracy of the presentence investigation report at the time of sentencing, that matter shall be considered to be waived.

(7) At the time of sentence, the court shall receive any testimony, evidence, or information the defendant or the prosecuting attorney desires to present concerning the appropriate sentence. This testimony, evidence, or information shall be presented in open court on record and in the presence of the defendant.

(8) While on probation, and as a condition of probation, the court may require that the defendant:

(a) perform any or all of the following:

(i) pay, in one or several sums, any fine imposed at the time of being placed on probation;

(ii) pay amounts required under Title 77, Chapter 32a, Defense Costs;

(iii) provide for the support of others for whose support the defendant is legally liable;

(iv) participate in available treatment programs, including any treatment program in which the defendant is currently participating, if the program is acceptable to the court;

(v) serve a period of time, not to exceed one year, in a county jail designated by the department, after considering any recommendation by the court as to which jail the court finds most appropriate;

(vi) serve a term of home confinement, which may include the use of electronic monitoring;

(vii) participate in compensatory service restitution programs, including the compensatory service program provided in Section 76-6-107.1;

(viii) pay for the costs of investigation, probation, and treatment services;

(ix) make restitution or reparation to the victim or victims with interest in accordance with Title 77, Chapter 38a, Crime Victims Restitution Act; and

(x) comply with other terms and conditions the court considers appropriate; and

(b) if convicted on or after May 5, 1997:

(i) complete high school classwork and obtain a high school graduation diploma, a GED certificate, or a vocational certificate at the defendant's own expense if the defendant has not received the diploma, GED certificate, or vocational certificate prior to being placed on probation; or

(ii) provide documentation of the inability to obtain one of the items listed in Subsection (8)(b)(i) because of:

(A) a diagnosed learning disability; or

(B) other justified cause.

(9) The department shall collect and disburse the account receivable as defined by Section 76-3-201.1, with interest and any other costs assessed under Section 64-13-21 during:

(a) the parole period and any extension of that period in accordance with Subsection 77-27-6(4); and

(b) the probation period in cases for which the court orders supervised probation and any extension of that period by the department in accordance with Subsection (10).

(10) (a) (i) Probation may be terminated at any time at the discretion of the court or upon completion without violation of 36 months probation in felony or class A misdemeanor cases, or 12 months in cases of class B or C misdemeanors or infractions.

(ii) (A) If, upon expiration or termination of the probation period under Subsection (10)(a)(i), there remains an unpaid balance upon the account receivable as defined in Section 76-3-201.1, the court may retain jurisdiction of the case and continue the defendant on bench probation for the limited purpose of enforcing the payment of the account receivable.

(B) In accordance with Section 77-18-6, the court shall record in the registry of civil judgments any unpaid balance not already recorded and immediately transfer responsibility to collect the account to the Office of State Debt Collection.

(iii) Upon motion of the Office of State Debt Collection, prosecutor, victim, or upon its own motion, the court may require the defendant to show cause why the defendant's failure to pay should not be treated as contempt of court.

(b) (i) The department shall notify the sentencing court, the Office of State Debt Collection, and the prosecuting attorney in writing in advance in all cases when termination of supervised probation will occur by law.

(i) The notification shall include a probation progress report and complete report of details on outstanding accounts receivable.

(11) (a) (i) Any time served by a probationer outside of confinement after having been charged with a probation violation and prior to a hearing to revoke probation does not constitute service of time toward the total probation term unless the probationer is exonerated at a hearing to revoke the probation.

(ii) Any time served in confinement awaiting a hearing or decision concerning revocation of probation does not constitute service of time toward the total probation term unless the probationer is exonerated at the hearing.

(b) The running of the probation period is tolled upon the filing of a violation report with the court alleging a violation of the terms and conditions of probation or upon the issuance of an order to show cause or warrant by the court.

(12) (a) (i) Probation may not be modified or extended except upon waiver of a hearing by the probationer or upon a hearing and a finding in court that the probationer has violated the conditions of probation.

(ii) Probation may not be revoked except upon a hearing in court and a finding that the conditions of probation have been violated.

(b) (i) Upon the filing of an affidavit alleging with particularity facts asserted to constitute violation of the conditions of probation, the court that authorized probation shall determine if the affidavit establishes probable cause to believe that revocation, modification, or extension of probation is justified.

(ii) If the court determines there is probable cause, it shall cause to be served on the defendant a warrant for the defendant's arrest or a copy of the affidavit and an order to show cause why the defendant's probation should not be revoked, modified, or extended.

(c) (i) The order to show cause shall specify a time and place for the hearing and shall be served upon the defendant at least five days prior to the hearing.

(ii) The defendant shall show good cause for a continuance.

(iii) The order to show cause shall inform the defendant of a right to be represented by counsel at the hearing and to have counsel appointed if the defendant is indigent.

(iv) The order shall also inform the defendant of a right to present evidence.

(d) (i) At the hearing, the defendant shall admit or deny the allegations of the affidavit.

(ii) If the defendant denies the allegations of the affidavit, the prosecuting attorney shall present evidence on the allegations.

(iii) The persons who have given adverse information on which the allegations are based shall be presented as witnesses subject to questioning by the defendant unless the court for good cause otherwise orders.

(iv) The defendant may call witnesses, appear and speak in the defendant's own behalf, and present evidence.

(e) (i) After the hearing the court shall make findings of fact.

(ii) Upon a finding that the defendant violated the conditions of probation, the court may order the probation revoked, modified, continued, or that the entire probation term commence anew.

(iii) If probation is revoked, the defendant shall be sentenced or the sentence previously imposed shall be executed.

(13) The court may order the defendant to commit himself or herself to the custody of the Division of Substance Abuse and Mental Health for treatment at the Utah State Hospital as a condition of probation or stay of sentence, only after the superintendent of the Utah State Hospital or the superintendent's designee has certified to the court that:

(a) the defendant is appropriate for and can benefit from treatment at the state hospital;

(b) treatment space at the hospital is available for the defendant; and

(c) persons described in Subsection 62A-15-610(2)(g) are receiving priority for treatment over the defendants described in this Subsection (13).

(14) Presentence investigation reports are classified protected in accordance with Title 63G, Chapter 2, Government Records Access and Management Act. Notwithstanding Sections 63G-2-403 and 63G-2-404, the State Records Committee may not order the disclosure of a presentence investigation report. Except for disclosure at the time of sentencing pursuant to this section, the department may disclose the presentence investigation only when:

(a) ordered by the court pursuant to Subsection 63G-2-202(7);

(b) requested by a law enforcement agency or other agency approved by the department for purposes of supervision, confinement, and treatment of the offender;

(c) requested by the Board of Pardons and Parole;

(d) requested by the subject of the presentence investigation report or the subject's authorized representative; or

(e) requested by the victim of the crime discussed in the presentence investigation report or the victim's authorized representative, provided that the disclosure to the victim shall include only information relating to statements or materials provided by the victim, to the circumstances of the

crime including statements by the defendant, or to the impact of the crime on the victim or the victim's household.

(15) (a) The court shall consider home confinement as a condition of probation under the supervision of the department, except as provided in Sections 76-3-406 and 76-5-406.5.

(b) The department shall establish procedures and standards for home confinement, including electronic monitoring, for all individuals referred to the department in accordance with Subsection (16).

(16) (a) If the court places the defendant on probation under this section, it may order the defendant to participate in home confinement through the use of electronic monitoring as described in this section until further order of the court.

(b) The electronic monitoring shall alert the department and the appropriate law enforcement unit of the defendant's whereabouts.

(c) The electronic monitoring device shall be used under conditions which require:

(i) the defendant to wear an electronic monitoring device at all times; and

(ii) that a device be placed in the home of the defendant, so that the defendant's compliance with the court's order may be monitored.

(d) If a court orders a defendant to participate in home confinement through electronic monitoring as a condition of probation under this section, it shall:

(i) place the defendant on probation under the supervision of the Department of Corrections;

(ii) order the department to place an electronic monitoring device on the defendant and install electronic monitoring equipment in the residence of the defendant; and

(iii) order the defendant to pay the costs associated with home confinement to the department or the program provider.

(e) The department shall pay the costs of home confinement through electronic monitoring only for those persons who have been determined to be indigent by the court.

(f) The department may provide the electronic monitoring described in this section either directly or by contract with a private provider.

CHAPTER 121**H. B. 50**

Passed February 24, 2014

Approved March 29, 2014

Effective May 13, 2014

**INVOLUNTARY FEEDING AND
HYDRATION OF INMATES AMENDMENTS**

Chief Sponsor: Richard A. Greenwood

Senate Sponsor: Mark B. Madsen

LONG TITLE**General Description:**

This bill modifies the Code of Criminal Procedure regarding the authority of the Division of Juvenile Justice Services.

Highlighted Provisions:

This bill:

- ▶ amends definitions so that the Division of Juvenile Justice Services may petition the court for an order to administer food or fluids to a prisoner by involuntary means, consistent with the process and requirements already established for adult inmates in state and county correctional facilities.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

77-16b-102, as enacted by Laws of Utah 2012, Chapter 355

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

Section 1. Section 77-16b-102 is amended to read:**77-16b-102. Definitions.**

As used in this chapter:

- (1) "Correctional facility" means:
 - (a) a county jail [ø];
 - (b) a secure correctional facility as defined by Section 64-13-1[-]; or
 - (c) a secure facility as defined by Section 62A-7-101.
- (2) "Correctional facility administrator" means:
 - (a) a county sheriff in charge of a county jail [ø];
 - (b) a designee of the executive director of the Utah Department of Corrections[-]; or
 - (c) a designee of the director of the Division of Juvenile Justice Services.
- (3) "Medical supervision" means under the direction of a licensed physician, physician assistant, or nurse practitioner.
- (4) "Mental health therapist" has the same definition as in Section 58-60-102.
- (5) "Prisoner" means:

(a) any person who is a pretrial detainee or who has been committed to the custody of a sheriff or the Utah Department of Corrections, and who is physically in a correctional facility[-]; and

(b) any person older than 18 years of age and younger than 21 years of age who has been committed to the custody of the Division of Juvenile Justice Services.

CHAPTER 122**H. B. 59**

Passed March 3, 2014
Approved March 29, 2014
Effective July 1, 2014

**NATIONAL GUARD
PROGRAM AMENDMENTS**

Chief Sponsor: Val L. Peterson
Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill establishes the Utah National Guard Morale, Welfare, and Recreation Program.

Highlighted Provisions:

This bill:

- ▶ authorizes the establishment of a state Morale, Welfare, and Recreation Program for the Utah National Guard;
- ▶ defines terms;
- ▶ specifies who is entitled to use the program;
- ▶ requires the adjutant general to set requirements and parameters for the program;
- ▶ allows the use of State Armory Board properties for the program; and
- ▶ creates an expendable special revenue fund for money generated by the program.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2014.

Utah Code Sections Affected:**AMENDS:**

59-12-104, as last amended by Laws of Utah 2013, Chapters 82, 223, 229, 234, and 441

ENACTS:

39-9-101, Utah Code Annotated 1953
39-9-102, Utah Code Annotated 1953
39-9-103, Utah Code Annotated 1953
39-9-104, Utah Code Annotated 1953
39-9-105, Utah Code Annotated 1953
39-9-106, Utah Code Annotated 1953
39-9-107, Utah Code Annotated 1953

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

Section 1. Section 39-9-101 is enacted to read:**CHAPTER 9. STATE MORALE, WELFARE,
AND RECREATION PROGRAM****39-9-101. Title -- Program established.**

(1) This chapter is known as the "State Morale, Welfare, and Recreation Program."

(2) The adjutant general is authorized to establish a Utah National Guard Morale, Welfare, and Recreation Program to serve members of the military, eligible dependents, and others as set out in Section 39-9-103.

Section 2. Section 39-9-102 is enacted to read:**39-9-102. Definitions.**

For purposes of this chapter:

(1) "Dependent" means the spouse or children of a person eligible to use the program and facilities in accordance with Section 39-9-103.

(2) "MWR" means morale, welfare, and recreation.

(3) "MWR facility" means any Utah National Guard facility located on a Department of Defense or Utah National Guard installation or on property controlled by the Department of Defense or the Utah National Guard, the purpose of which is to enhance MWR for authorized patrons.

Section 3. Section 39-9-103 is enacted to read:**39-9-103. Eligibility and facilities.**

(1) Use of the MWR program and facilities is limited to:

(a) active and reserve component members of the Utah National Guard and armed forces of the United States;

(b) persons retired from the armed forces of the United States;

(c) civilian employees of the Utah National Guard;

(d) dependents of authorized persons in Subsections (1)(a) through (c);

(e) contracted employees of the Utah National Guard while working on-site or conducting business on National Guard property; and

(f) sponsored persons when personally accompanied by a sponsor who is an eligible patron as described in this section.

(2) MWR facilities include any of the following, even if the shop, building, or parcel is only partially used for MWR purposes:

(a) post or base exchange;

(b) canteen or service club;

(c) barber shop;

(d) fitness center;

(e) snack bar;

(f) restaurant;

(g) billeting operation;

(h) laundry facility;

(i) range;

(j) swimming pool; or

(k) any other shop, building, or parcel that meets the definition of MWR facility in Section 39-9-102.

(3) The adjutant general shall, by regulation, determine specific use priorities when MWR facilities cannot accommodate all authorized patrons.

Section 4. Section 39-9-104 is enacted to read:

39-9-104. Administration of MWR Program.

(1) The adjutant general may authorize the program to:

- (a) contract for goods and services;
- (b) hire employees; and
- (c) receive funds from patrons in exchange for goods or services provided within the program.

(2) The adjutant general is authorized to establish MWR facilities throughout the state that, in the adjutant general's judgment, are necessary for military purposes.

(3) The adjutant general shall promulgate regulations to govern the operation of the program.

(4) The adjutant general may appoint a director for the program.

(5) The adjutant general shall establish a system of bookkeeping, accounting, and auditing procedures for the proper handling of funds derived from the program's operations.

(6) The program may use State Armory Board-controlled properties, provided:

- (a) the use incurs no more than nominal cost to the state; or
- (b) any costs to the state above nominal associated with the use are reimbursed to the state by the program.

Section 5. Section 39-9-105 is enacted to read:

39-9-105. National Guard MWR Fund -- Proceeds.

(1) There is created an expendable special revenue fund known as the National Guard MWR Fund.

- (2) The fund shall consist of:
 - (a) all proceeds collected under this chapter;
 - (b) donations made to the National Guard MWR Program; and
 - (c) any appropriations to the program by the Legislature.

(3) Money from the fund shall be used for the enhancement of morale, welfare, and recreation, and the administration of the program under this chapter, including paying the costs of:

- (a) salaries of program employees;
- (b) public liability insurance, when needed;
- (c) the adjutant general's Outreach Program;
- (d) the State Partnership Program; and

(e) any other expenses considered necessary in furtherance of the program by the adjutant general or the adjutant general's designee.

Section 6. Section 39-9-106 is enacted to read:

39-9-106. Risk management.

(1) The program shall be eligible to participate in the state risk management pool.

(2) The program shall procure separate insurance policies to cover liability associated with activities and operations not otherwise covered in the state risk management pool or by the Division of Risk Management.

Section 7. Section 39-9-107 is enacted to read:

39-9-107. Equipment rentals and sales of food and beverage.

Equipment rental and food and beverage sales shall be made in accordance with applicable state and federal law.

Section 8. Section 59-12-104 is amended to read:

59-12-104. Exemptions.

The following sales and uses are exempt from the taxes imposed by this chapter:

(1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax under Chapter 13, Motor and Special Fuel Tax Act;

(2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political subdivisions; however, this exemption does not apply to sales of:

- (a) construction materials except:
 - (i) construction materials purchased by or on behalf of institutions of the public education system as defined in Utah Constitution Article X, Section 2, provided the construction materials are clearly identified and segregated and installed or converted to real property which is owned by institutions of the public education system; and
 - (ii) construction materials purchased by the state, its institutions, or its political subdivisions which are installed or converted to real property by employees of the state, its institutions, or its political subdivisions; or
- (b) tangible personal property in connection with the construction, operation, maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities providing additional project capacity, as defined in Section 11-13-103;

(3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

- (i) the proceeds of each sale do not exceed \$1; and
- (ii) the seller or operator of the vending machine reports an amount equal to 150% of the cost of the item described in Subsection (3)(b) as goods consumed; and

(b) Subsection (3)(a) applies to:

- (i) food and food ingredients; or
- (ii) prepared food;

(4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

- (i) alcoholic beverages;
- (ii) food and food ingredients; or
- (iii) prepared food;

(b) sales of tangible personal property or a product transferred electronically:

- (i) to a passenger;
 - (ii) by a commercial airline carrier; and
 - (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
- (c) services related to Subsection (4)(a) or (b);

(5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts and equipment:

(A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(II) for:

(Aa) installation in an aircraft, including services relating to the installation of parts or equipment in the aircraft;

(Bb) renovation of an aircraft; or

(Cc) repair of an aircraft; or

(B) for installation in an aircraft operated by a common carrier in interstate or foreign commerce; or

(ii) beginning on October 1, 2008, sales of parts and equipment for installation in an aircraft operated by a common carrier in interstate or foreign commerce; and

(b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a refund:

(i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;

(ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;

(iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for the sale prior to filing for the refund;

(iv) for sales and use taxes paid under this chapter on the sale;

(v) in accordance with Section 59-1-1410; and

(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before September 30, 2011;

(6) sales of commercials, motion picture films, prerecorded audio program tapes or records, and prerecorded video tapes by a producer, distributor,

or studio to a motion picture exhibitor, distributor, or commercial television or radio broadcaster;

(7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal property if the cleaning or washing of the tangible personal property is not assisted cleaning or washing of tangible personal property;

(b) if a seller that sells at the same business location assisted cleaning or washing of tangible personal property and cleaning or washing of tangible personal property that is not assisted cleaning or washing of tangible personal property, the exemption described in Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning or washing of the tangible personal property; and

(c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for sales of assisted cleaning or washing of tangible personal property;

(8) sales made to or by religious or charitable institutions in the conduct of their regular religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are fulfilled;

(9) sales of a vehicle of a type required to be registered under the motor vehicle laws of this state if the vehicle is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the vehicle is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the vehicle to the borders of this state; or

(B) if the vehicle is used to conduct business, for the time period necessary to transport the vehicle to the borders of this state;

(10) (a) amounts paid for an item described in Subsection (10)(b) if:

(i) the item is intended for human use; and

(ii) (A) a prescription was issued for the item; or

(B) the item was purchased by a hospital or other medical facility; and

(b) (i) Subsection (10)(a) applies to:

(A) a drug;

(B) a syringe; or

(C) a stoma supply; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the terms:

- (A) "syringe"; or
- (B) "stoma supply";

(11) sales or use of property, materials, or services used in the construction of or incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;

(12) (a) sales of an item described in Subsection (12)(c) served by:

(i) the following if the item described in Subsection (12)(c) is not available to the general public:

- (A) a church; or
- (B) a charitable institution;
- (ii) an institution of higher education if:

(A) the item described in Subsection (12)(c) is not available to the general public; or

(B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan offered by the institution of higher education; or

(b) sales of an item described in Subsection (12)(c) provided for a patient by:

- (i) a medical facility; or
- (ii) a nursing facility; and
- (c) Subsections (12)(a) and (b) apply to:

- (i) food and food ingredients;
- (ii) prepared food; or
- (iii) alcoholic beverages;

(13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property or a product transferred electronically by a person:

(i) regardless of the number of transactions involving the sale of that tangible personal property or product transferred electronically by that person; and

(ii) not regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(b) this Subsection (13) does not apply if:

(i) the sale is one of a series of sales of a character to indicate that the person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(ii) the person holds that person out as regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(iii) the person sells an item of tangible personal property or product transferred electronically that the person purchased as a sale that is exempt under Subsection (25); or

(iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of this state in which case the tax is based upon:

(A) the bill of sale or other written evidence of value of the vehicle or vessel being sold; or

(B) in the absence of a bill of sale or other written evidence of value, the fair market value of the vehicle or vessel being sold at the time of the sale as determined by the commission; and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing the circumstances under which:

(i) a person is regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(ii) a sale of tangible personal property or a product transferred electronically is one of a series of sales of a character to indicate that a person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically; or

(iii) a person holds that person out as regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(14) (a) except as provided in Subsection (14)(b), amounts paid or charged on or after July 1, 2006, for a purchase or lease by a manufacturing facility except for a cogeneration facility, of the following:

(i) machinery and equipment that:

(A) are used:

(I) for a manufacturing facility except for a manufacturing facility that is a scrap recycler described in Subsection 59-12-102(64)(b):

(Aa) in the manufacturing process;

(Bb) to manufacture an item sold as tangible personal property; and

(Cc) beginning on July 1, 2009, in a manufacturing facility described in this Subsection (14)(a)(i)(A)(I) in the state; or

(II) for a manufacturing facility that is a scrap recycler described in Subsection 59-12-102(64)(b):

(Aa) to process an item sold as tangible personal property; and

(Bb) beginning on July 1, 2009, in a manufacturing facility described in this Subsection (14)(a)(i)(A)(II) in the state; and

(B) have an economic life of three or more years; and

(ii) normal operating repair or replacement parts that:

(A) have an economic life of three or more years; and

(B) are used:

(I) for a manufacturing facility except for a manufacturing facility that is a scrap recycler described in Subsection 59-12-102(64)(b):

- (Aa) in the manufacturing process; and
- (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(I) in the state; or
- (II) for a manufacturing facility that is a scrap recycler described in Subsection 59-12-102(64)(b):
- (Aa) to process an item sold as tangible personal property; and
- (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(II) in the state;
- (b) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006, of the following:
- (i) machinery and equipment that:
- (A) are used:
- (I) in the manufacturing process;
- (II) to manufacture an item sold as tangible personal property; and
- (III) beginning on July 1, 2009, in a manufacturing facility described in this Subsection (14)(b) in the state; and
- (B) have an economic life of three or more years; and
- (ii) normal operating repair or replacement parts that:
- (A) are used:
- (I) in the manufacturing process; and
- (II) in a manufacturing facility described in this Subsection (14)(b) in the state; and
- (B) have an economic life of three or more years;
- (c) amounts paid or charged for a purchase or lease made on or after January 1, 2008, by an establishment described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, of the following:
- (i) machinery and equipment that:
- (A) are used:
- (I) (Aa) in the production process, other than the production of real property; or
- (Bb) in research and development; and
- (II) beginning on July 1, 2009, in an establishment described in this Subsection (14)(c) in the state; and
- (B) have an economic life of three or more years; and
- (ii) normal operating repair or replacement parts that:
- (A) have an economic life of three or more years; and
- (B) are used in:
- (I) (Aa) the production process, except for the production of real property; and
- (Bb) an establishment described in this Subsection (14)(c) in the state; or
- (II) (Aa) research and development; and
- (Bb) in an establishment described in this Subsection (14)(c) in the state;
- (d) (i) amounts paid or charged for a purchase or lease made on or after July 1, 2010, but on or before June 30, 2014, by an establishment described in NAICS Code 518112, Web Search Portals, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, of the following:
- (A) machinery and equipment that:
- (I) are used in the operation of the web search portal;
- (II) have an economic life of three or more years; and
- (III) are used in a new or expanding establishment described in this Subsection (14)(d) in the state; and
- (B) normal operating repair or replacement parts that:
- (I) are used in the operation of the web search portal;
- (II) have an economic life of three or more years; and
- (III) are used in a new or expanding establishment described in this Subsection (14)(d) in the state; or
- (ii) amounts paid or charged for a purchase or lease made on or after July 1, 2014, by an establishment described in NAICS Code 518112, Web Search Portals, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, of the following:
- (A) machinery and equipment that:
- (I) are used in the operation of the web search portal; and
- (II) have an economic life of three or more years; and
- (B) normal operating repair or replacement parts that:
- (I) are used in the operation of the web search portal; and
- (II) have an economic life of three or more years;

(e) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission:

(i) shall by rule define the term “establishment”; and

(ii) may by rule define what constitutes:

(A) processing an item sold as tangible personal property;

(B) the production process, except for the production of real property; (C) research and development; or

(D) a new or expanding establishment described in Subsection (14)(d) in the state; and

(f) on or before October 1, 2011, and every five years after October 1, 2011, the commission shall:

(i) review the exemptions described in this Subsection (14) and make recommendations to the Revenue and Taxation Interim Committee concerning whether the exemptions should be continued, modified, or repealed; and

(ii) include in its report:

(A) an estimate of the cost of the exemptions;

(B) the purpose and effectiveness of the exemptions; and

(C) the benefits of the exemptions to the state;

(15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

(i) tooling;

(ii) special tooling;

(iii) support equipment;

(iv) special test equipment; or

(v) parts used in the repairs or renovations of tooling or equipment described in Subsections (15)(a)(i) through (iv); and

(b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

(i) the tooling, equipment, or parts are used or consumed exclusively in the performance of any aerospace or electronics industry contract with the United States government or any subcontract under that contract; and

(ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as evidenced by:

(A) a government identification tag placed on the tooling, equipment, or parts; or

(B) listing on a government-approved property record if placing a government identification tag on the tooling, equipment, or parts is impractical;

(16) sales of newspapers or newspaper subscriptions;

(17) (a) except as provided in Subsection (17)(b), tangible personal property or a product transferred electronically traded in as full or part payment of the purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

(i) the bill of sale or other written evidence of value of the vehicle being sold and the vehicle being traded in; or

(ii) in the absence of a bill of sale or other written evidence of value, the then existing fair market value of the vehicle being sold and the vehicle being traded in, as determined by the commission; and

(b) Subsection (17)(a) does not apply to the following items of tangible personal property or products transferred electronically traded in as full or part payment of the purchase price:

(i) money;

(ii) electricity;

(iii) water;

(iv) gas; or

(v) steam;

(18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property or a product transferred electronically used or consumed primarily and directly in farming operations, regardless of whether the tangible personal property or product transferred electronically:

(A) becomes part of real estate; or

(B) is installed by a:

(I) farmer;

(II) contractor; or

(III) subcontractor; or

(ii) sales of parts used in the repairs or renovations of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is exempt under Subsection (18)(a)(i); and

(b) amounts paid or charged for the following are subject to the taxes imposed by this chapter:

(i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is incidental to farming:

(I) machinery;

(II) equipment;

(III) materials; or

(IV) supplies; and

(B) tangible personal property that is considered to be used in a manner that is incidental to farming includes:

(I) hand tools; or

(II) maintenance and janitorial equipment and supplies;

(ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is used in an activity other than farming; and

(B) tangible personal property or a product transferred electronically that is considered to be used in an activity other than farming includes:

(I) office equipment and supplies; or

(II) equipment and supplies used in:

(Aa) the sale or distribution of farm products;

(Bb) research; or

(Cc) transportation; or

(iii) a vehicle required to be registered by the laws of this state during the period ending two years after the date of the vehicle's purchase;

(19) sales of hay;

(20) exclusive sale during the harvest season of seasonal crops, seedling plants, or garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or garden, farm, or other agricultural produce is sold by:

(a) the producer of the seasonal crops, seedling plants, or garden, farm, or other agricultural produce;

(b) an employee of the producer described in Subsection (20)(a); or

(c) a member of the immediate family of the producer described in Subsection (20)(a);

(21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

(22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags, nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler, or retailer for use in packaging tangible personal property to be sold by that manufacturer, processor, wholesaler, or retailer;

(23) a product stored in the state for resale;

(24) (a) purchases of a product if:

(i) the product is:

(A) purchased outside of this state;

(B) brought into this state:

(I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

(II) by a nonresident person who is not living or working in this state at the time of the purchase;

(C) used for the personal use or enjoyment of the nonresident person described in Subsection

(24)(a)(i)(B)(II) while that nonresident person is within the state; and

(D) not used in conducting business in this state; and

(ii) for:

(A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of the product for a purpose for which the product is designed occurs outside of this state;

(B) a boat, the boat is registered outside of this state; or

(C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;

(b) the exemption provided for in Subsection (24)(a) does not apply to:

(i) a lease or rental of a product; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (24)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(ii) the first use of a product if that phrase has the same meaning in this Subsection (24) as in Subsection (63); or

(iii) a purpose for which a product is designed if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(25) a product purchased for resale in this state, in the regular course of business, either in its original form or as an ingredient or component part of a manufactured or compounded product;

(26) a product upon which a sales or use tax was paid to some other state, or one of its subdivisions, except that the state shall be paid any difference between the tax paid and the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;

(27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person for use in compounding a service taxable under the subsections;

(28) purchases made in accordance with the special supplemental nutrition program for women, infants, and children established in 42 U.S.C. Sec. 1786;

(29) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard

Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

- (a) not registered in this state; and
- (b) (i) not used in this state; or
- (ii) used in this state:

(A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a time period that does not exceed the longer of:

- (I) 30 days in any calendar year; or

(II) the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state; or

(B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state;

- (31) sales of aircraft manufactured in Utah;

(32) amounts paid for the purchase of telecommunications service for purposes of providing telecommunications service;

- (33) sales, leases, or uses of the following:

(a) a vehicle by an authorized carrier; or

(b) tangible personal property that is installed on a vehicle:

(i) sold or leased to or used by an authorized carrier; and

(ii) before the vehicle is placed in service for the first time;

(34) (a) 45% of the sales price of any new manufactured home; and

(b) 100% of the sales price of any used manufactured home;

(35) sales relating to schools and fundraising sales;

(36) sales or rentals of durable medical equipment if:

(a) a person presents a prescription for the durable medical equipment; and

(b) the durable medical equipment is used for home use only;

(37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in Section 72-11-102; and

(b) the commission shall by rule determine the method for calculating sales exempt under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

- (38) sales to a ski resort of:

(a) snowmaking equipment;

(b) ski slope grooming equipment;

(c) passenger ropeways as defined in Section 72-11-102; or

(d) parts used in the repairs or renovations of equipment or passenger ropeways described in Subsections (38)(a) through (c);

(39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

(40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for amusement, entertainment, or recreation an unassisted amusement device as defined in Section 59-12-102;

(b) if a seller that sells or rents at the same business location the right to use or operate for amusement, entertainment, or recreation one or more unassisted amusement devices and one or more assisted amusement devices, the exemption described in Subsection (40)(a) applies if the seller separately accounts for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for the assisted amusement devices; and

(c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for assisted amusement devices;

(41) (a) sales of photocopies by:

(i) a governmental entity; or

(ii) an entity within the state system of public education, including:

(A) a school; or

(B) the State Board of Education; or

(b) sales of publications by a governmental entity;

(42) amounts paid for admission to an athletic event at an institution of higher education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(43) (a) sales made to or by:

(i) an area agency on aging; or

(ii) a senior citizen center owned by a county, city, or town; or

(b) sales made by a senior citizen center that contracts with an area agency on aging;

(44) sales or leases of semiconductor fabricating, processing, research, or development materials regardless of whether the semiconductor fabricating, processing, research, or development materials:

(a) actually come into contact with a semiconductor; or

(b) ultimately become incorporated into real property;

(45) an amount paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section 59-12-104.2;

(46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary sports event registration certificate in accordance with Section 41-3-306 for the event period specified on the temporary sports event registration certificate;

(47) (a) sales or uses of electricity, if the sales or uses are made under a tariff adopted by the Public Service Commission of Utah only for purchase of electricity produced from a new alternative energy source, as designated in the tariff by the Public Service Commission of Utah; and

(b) the exemption under Subsection (47)(a) applies to the portion of the tariff rate a customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

(48) sales or rentals of mobility enhancing equipment if a person presents a prescription for the mobility enhancing equipment;

(49) sales of water in a:

(a) pipe;

(b) conduit;

(c) ditch; or

(d) reservoir;

(50) sales of currency or coins that constitute legal tender of a state, the United States, or a foreign nation;

(51) (a) sales of an item described in Subsection (51)(b) if the item:

(i) does not constitute legal tender of a state, the United States, or a foreign nation; and

(ii) has a gold, silver, or platinum content of 50% or more; and

(b) Subsection (51)(a) applies to a gold, silver, or platinum:

(i) ingot;

(ii) bar;

(iii) medallion; or

(iv) decorative coin;

(52) amounts paid on a sale-leaseback transaction;

(53) sales of a prosthetic device:

(a) for use on or in a human; and

(b) (i) for which a prescription is required; or

(ii) if the prosthetic device is purchased by a hospital or other medical facility;

(54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) if the machinery or equipment is primarily used in the production or postproduction of the following media for commercial distribution:

(i) a motion picture;

(ii) a television program;

(iii) a movie made for television;

(iv) a music video;

(v) a commercial;

(vi) a documentary; or

(vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the commission by administrative rule made in accordance with Subsection (54)(d); or

(b) purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) that is used for the production or postproduction of the following are subject to the taxes imposed by this chapter:

(i) a live musical performance;

(ii) a live news program; or

(iii) a live sporting event;

(c) the following establishments listed in the 1997 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, apply to Subsections (54)(a) and (b):

(i) NAICS Code 512110; or

(ii) NAICS Code 51219; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule:

(i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi); or

(ii) define:

(A) "commercial distribution";

(B) "live musical performance";

(C) "live news program"; or

(D) "live sporting event";

(55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is an alternative energy electricity production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (55)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) a wind turbine;

(B) generating equipment;

(C) a control and monitoring system;

(D) a power line;

(E) substation equipment;

(F) lighting;

(G) fencing;

(H) pipes; or

(I) other equipment used for locating a power line or pole; and

(b) this Subsection (55) does not apply to:

(i) tangible personal property used in construction of:

(A) a new alternative energy electricity production facility; or

(B) the increase in the capacity of an alternative energy electricity production facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the alternative energy electricity production facility described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

(B) the increased capacity described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii);

(56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is a waste energy production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (56)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) generating equipment;

(B) a control and monitoring system;

(C) a power line;

(D) substation equipment;

(E) lighting;

(F) fencing;

(G) pipes; or

(H) other equipment used for locating a power line or pole; and

(b) this Subsection (56) does not apply to:

(i) tangible personal property used in construction of:

(A) a new waste energy facility; or

(B) the increase in the capacity of a waste energy facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the waste energy facility described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii); or

(B) the increased capacity described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii);

(57) (a) leases of five or more years or purchases made on or after July 1, 2004 but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is located in the state;

(B) produces fuel from alternative energy, including:

(I) methanol; or

(II) ethanol; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as a result of the installation of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is installed on the facility described in Subsection (57)(a)(i);

(b) this Subsection (57) does not apply to:

(i) tangible personal property used in construction of:

(A) a new facility described in Subsection (57)(a)(i); or

(B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the facility described in Subsection (57)(a)(i) is operational; or

(B) the increased capacity described in Subsection (57)(a)(i) is operational;

(58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a product transferred electronically to a person within this state if that tangible personal property or product transferred electronically is subsequently shipped outside the state and incorporated pursuant to contract into and becomes a part of real property located outside of this state;

(b) the exemption under Subsection (58)(a) is not allowed to the extent that the other state or political entity to which the tangible personal property is shipped imposes a sales, use, gross receipts, or other similar transaction excise tax on the transaction against which the other state or political entity allows a credit for sales and use taxes imposed by this chapter; and

(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a refund:

(i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

(ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on which the sale is made;

(iii) if the person did not claim the exemption allowed by this Subsection (58) for the sale prior to filing for the refund;

(iv) for sales and use taxes paid under this chapter on the sale;

(v) in accordance with Section 59-1-1410; and

(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before June 30, 2011;

(59) purchases:

(a) of one or more of the following items in printed or electronic format:

(i) a list containing information that includes one or more:

(A) names; or

(B) addresses; or

(ii) a database containing information that includes one or more:

(A) names; or

(B) addresses; and

(b) used to send direct mail;

(60) redemptions or repurchases of a product by a person if that product was:

(a) delivered to a pawnbroker as part of a pawn transaction; and

(b) redeemed or repurchased within the time period established in a written agreement between the person and the pawnbroker for redeeming or repurchasing the product;

(61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

(i) is purchased or leased by, or on behalf of, a telecommunications service provider; and

(ii) has a useful economic life of one or more years; and

(b) the following apply to Subsection (61)(a):

(i) telecommunications enabling or facilitating equipment, machinery, or software;

(ii) telecommunications equipment, machinery, or software required for 911 service;

(iii) telecommunications maintenance or repair equipment, machinery, or software;

(iv) telecommunications switching or routing equipment, machinery, or software; or

(v) telecommunications transmission equipment, machinery, or software;

(62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, for purposes of Subsection (62)(a), make rules defining what constitutes purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology;

(63) (a) purchases of tangible personal property or a product transferred electronically if:

(i) the tangible personal property or product transferred electronically is:

(A) purchased outside of this state;

(B) brought into this state at any time after the purchase described in Subsection (63)(a)(i)(A); and

(C) used in conducting business in this state; and

(ii) for:

(A) tangible personal property or a product transferred electronically other than the tangible

personal property described in Subsection (63)(a)(ii)(B), the first use of the property for a purpose for which the property is designed occurs outside of this state; or

(B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;

(b) the exemption provided for in Subsection (63)(a) does not apply to:

(i) a lease or rental of tangible personal property or a product transferred electronically; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (63)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(ii) the first use of tangible personal property or a product transferred electronically if that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

(iii) a purpose for which tangible personal property or a product transferred electronically is designed if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(64) sales of disposable home medical equipment or supplies if:

(a) a person presents a prescription for the disposable home medical equipment or supplies;

(b) the disposable home medical equipment or supplies are used exclusively by the person to whom the prescription described in Subsection (64)(a) is issued; and

(c) the disposable home medical equipment and supplies are listed as eligible for payment under:

(i) Title XVIII, federal Social Security Act; or

(ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

(65) sales:

(a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act; or

(b) of tangible personal property to a subcontractor of a public transit district, if the tangible personal property is:

(i) clearly identified; and

(ii) installed or converted to real property owned by the public transit district;

(66) sales of construction materials:

(a) purchased on or after July 1, 2010;

(b) purchased by, on behalf of, or for the benefit of an international airport:

(i) located within a county of the first class; and

(ii) that has a United States customs office on its premises; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the international airport described in Subsection (66)(b); and

(B) located at the international airport described in Subsection (66)(b);

(67) sales of construction materials:

(a) purchased on or after July 1, 2008;

(b) purchased by, on behalf of, or for the benefit of a new airport:

(i) located within a county of the second class; and

(ii) that is owned or operated by a city in which an airline as defined in Section 59-2-102 is headquartered; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the new airport described in Subsection (67)(b);

(B) located at the new airport described in Subsection (67)(b); and

(C) as part of the construction of the new airport described in Subsection (67)(b);

(68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;

(69) purchases and sales described in Section 63H-4-111;

(70) (a) sales of tangible personal property to an aircraft maintenance, repair, and overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft; or

(b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft;

(71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

(a) to a person admitted to an institution of higher education; and

(b) by a seller, other than a bookstore owned by an institution of higher education, if 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a textbook for a higher education course;

(72) a license fee or tax a municipality imposes in accordance with Subsection 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced level of municipal services;

(73) amounts paid or charged for construction materials used in the construction of a new or expanding life science research and development facility in the state, if the construction materials are:

- (a) clearly identified;
- (b) segregated; and
- (c) installed or converted to real property;

(74) amounts paid or charged for:

(a) a purchase or lease of machinery and equipment that:

- (i) are used in performing qualified research:
- (A) as defined in Section 59-7-612;
- (B) in the state; and

(C) with respect to which the purchaser pays or incurs a qualified research expense as defined in Section 59-7-612; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts:

(i) for the machinery and equipment described in Subsection (74)(a); and

(ii) that have an economic life of three or more years;

(75) a sale or lease of tangible personal property used in the preparation of prepared food if:

(a) for a sale:

(i) the ownership of the seller and the ownership of the purchaser are identical; and

(ii) the seller or the purchaser paid a tax under this chapter on the purchase of that tangible personal property prior to making the sale; or

(b) for a lease:

(i) the ownership of the lessor and the ownership of the lessee are identical; and

(ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible personal property prior to making the lease;

(76) (a) purchases of machinery or equipment if:

(i) the purchaser is an establishment described in NAICS Subsector 713, Amusement, Gambling, and Recreation Industries, of the 2012 North American

Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) the machinery or equipment:

(A) has an economic life of three or more years; and

(B) is used by one or more persons who pay admission or user fees described in Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and

(iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:

(A) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(B) subject to taxation under this chapter;

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for verifying that 51% of a purchaser's sales revenue for the previous calendar quarter is:

(i) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(ii) subject to taxation under this chapter; and

(c) on or before the November 2018 interim meeting, and every five years after the November 2018 interim meeting, the commission shall review the exemption provided in this Subsection (76) and report to the Revenue and Taxation Interim Committee on:

(i) the revenue lost to the state and local taxing jurisdictions as a result of the exemption;

(ii) the purpose and effectiveness of the exemption; and

(iii) whether the exemption benefits the state;

(77) purchases of a short-term lodging consumable by a business that provides accommodations and services described in Subsection 59-12-103(1)(i);

(78) amounts paid or charged to access a database:

(a) if the primary purpose for accessing the database is to view or retrieve information from the database; and

(b) not including amounts paid or charged for a:

- (i) digital audiowork;
- (ii) digital audio-visual work; or
- (iii) digital book;

(79) amounts paid or charged for a purchase or lease made by an electronic financial payment service, of:

(a) machinery and equipment that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years;
and

(b) normal operating repair or replacement parts
that:

(i) are used in the operation of the electronic
financial payment service; and

(ii) have an economic life of three or more years;
[and]

(80) beginning on April 1, 2013, sales of a fuel cell
as defined in Section 54-15-102[-]; and

(81) sales of goods and services at a morale,
welfare, and recreation facility, as defined in
Section 39-9-102, made pursuant to Title 39,
Chapter 9, State Morale, Welfare, and Recreation
Program.

Section 9. Effective date.

This bill takes effect on July 1, 2014.

CHAPTER 123**H. B. 64**

Passed March 12, 2014
 Approved March 29, 2014
 Effective May 13, 2014

UTAH HISTORY DAY

Chief Sponsor: Jack R. Draxler
 Senate Sponsor: Lyle W. Hillyard

LONG TITLE**General Description:**

This bill modifies Title 63G, Chapter 1, State Symbols and Designations, by designating Utah History Day at the Capitol and modifies Title 9, Chapter 8, Part 2, Division of State History, by requiring the Division of State History to administer the Utah History Day program.

Highlighted Provisions:

This bill:

- ▶ requires the Division of State History to promote, coordinate, and administer the Utah History Day program and Utah History Day at the Capitol;
- ▶ designates the first Friday after the fourth Monday in January as Utah History Day at the Capitol; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates for fiscal year 2015:

- ▶ to the Department of Heritage and Arts - State History - History Projects, as an ongoing appropriation:
 - from the General Fund, \$74,000.

Other Special Clauses:

This bill provides an effective date.

Utah Code Sections Affected:**AMENDS:**

9-8-203, as last amended by Laws of Utah 2010, Chapter 111
 63G-1-401, as last amended by Laws of Utah 2013, Chapter 214

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

Section 1. Section 9-8-203 is amended to read:**9-8-203. Division duties.**

- (1) The division shall:
- (a) stimulate research, study, and activity in the field of Utah history and related history;
 - (b) maintain a specialized history library;
 - (c) mark and preserve historic sites, areas, and remains;
 - (d) collect, preserve, and administer historical records relating to the history of Utah;
 - (e) administer, collect, preserve, document, interpret, develop, and exhibit historical artifacts, documentary materials, and other objects relating to the history of Utah for educational and cultural purposes;

(f) edit and publish historical records;

(g) cooperate with local, state, and federal agencies and schools and museums to provide coordinated and organized activities for the collection, documentation, preservation, interpretation, and exhibition of historical artifacts related to the state;

(h) promote, coordinate, and administer:

(i) Utah History Day at the Capitol designated under Section 63G-1-401; and

(ii) the Utah History Day program affiliated with National History Day, which includes a series of regional, state, and national activities and competitions for students from grades 4 through 12;

~~(4)~~ (i) provide grants and technical assistance as necessary and appropriate; and

~~(4)~~ (j) comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in its adjudicative proceedings.

(2) The division may acquire or produce reproductions of historical artifacts and documentary materials for educational and cultural use.

(3) To promote an appreciation of Utah history and to increase heritage tourism in the state, the division shall:

(a) (i) create and maintain an inventory of all historic markers and monuments that are accessible to the public throughout the state;

(ii) enter into cooperative agreements with other groups and organizations to collect and maintain the information needed for the inventory;

(iii) encourage the use of volunteers to help collect the information and to maintain the inventory;

(iv) publicize the information in the inventory in a variety of forms and media, especially to encourage Utah citizens and tourists to visit the markers and monuments;

(v) work with public and private landowners, heritage organizations, and volunteer groups to help maintain, repair, and landscape around the markers and monuments; and

(vi) make the inventory available upon request to all other public and private history and heritage organizations, tourism organizations and businesses, and others;

(b) (i) create and maintain an inventory of all active and inactive cemeteries throughout the state;

(ii) enter into cooperative agreements with local governments and other groups and organizations to collect and maintain the information needed for the inventory;

(iii) encourage the use of volunteers to help collect the information and to maintain the inventory;

(iv) encourage cemetery owners to create and maintain geographic information systems to record

burial sites and encourage volunteers to do so for inactive and small historic cemeteries;

(v) publicize the information in the inventory in a variety of forms and media, especially to encourage Utah citizens to participate in the care and upkeep of historic cemeteries;

(vi) work with public and private cemeteries, heritage organizations, genealogical groups, and volunteer groups to help maintain, repair, and landscape cemeteries, grave sites, and tombstones; and

(vii) make the inventory available upon request to all other public and private history and heritage organizations, tourism organizations and businesses, and others; and

(c) (i) create and maintain a computerized record of cemeteries and burial locations in a state-coordinated and publicly accessible information system;

(ii) gather information for the information system created and maintained under Subsection (3)(c)(i) by providing matching grants, upon approval by the board, to:

(A) municipal cemeteries;

(B) cemetery maintenance districts;

(C) endowment care cemeteries;

(D) private nonprofit cemeteries;

(E) genealogical associations; and

(F) other nonprofit groups with an interest in cemeteries; and

(iii) adopt rules, ~~pursuant to~~ in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for granting matching funds under Subsection (3)(c)(ii) to ~~assure~~ ensure that:

(A) professional standards are met; and

(B) projects are cost effective.

(4) (a) For a pass-through funding grant of at least \$25,000, the division shall make quarterly disbursements to the pass-through funding grant recipient, contingent upon the division receiving a quarterly progress report from the pass-through grant recipient.

(b) The division shall:

(i) provide the pass-through grant recipient with a progress report form for the reporting purposes of Subsection (4)(a); and

(ii) include reporting requirement instructions with the form.

(5) This chapter may not be construed to authorize the division to acquire by purchase any historical artifacts, documentary materials, or specimens that are restricted from sale by federal law or the laws of any state, territory, or foreign nation.

Section 2. Section 63G-1-401 is amended to read:

63G-1-401. Commemorative periods.

(1) The following days shall be commemorated ~~yearly~~ annually:

(a) Bill of Rights Day, on December 15;

(b) Constitution Day, on September 17;

(c) Yellow Ribbon Day, on the third Monday in May, in honor of men and women who are serving or have served in the ~~[U.S. armed forces]~~ United States Armed Forces around the world in defense of freedom;

(d) POW/MIA Recognition Day, on the third Friday in September;

(e) Indigenous People Day, on the Monday immediately preceding Thanksgiving; ~~and~~

(f) Utah State Flag Day, on March 9~~[-]~~; and

(g) Utah History Day at the Capitol, on the Friday immediately following the fourth Monday in January, to encourage citizens of the state, including students, to participate in activities that recognize Utah's history.

(2) The Department of Veterans' and Military Affairs shall coordinate activities, special programs, and promotional information to heighten public awareness and involvement relating to Subsections (1)(c) and (d).

(3) The month of October shall be commemorated ~~yearly~~ annually as Italian-American Heritage Month.

(4) The month of November shall be commemorated ~~yearly~~ annually as American Indian Heritage Month.

(5) The month of April shall be commemorated ~~yearly~~ annually as Clean Out the Medicine Cabinet Month to:

(a) recognize the urgent need to make Utah homes and neighborhoods safe from prescription medication abuse and poisonings by the proper home storage and disposal of prescription and over-the-counter medications~~;~~; and ~~to~~

(b) educate citizens about the permanent medication disposal sites in Utah listed on useonlyasdirected.org that allow disposal throughout the year.

(6) The first full week of May shall be commemorated ~~yearly~~ annually as State Water Week to recognize the importance of water conservation, quality, and supply in the state.

(7) The second Friday and Saturday in August shall be commemorated ~~yearly~~ annually as Utah Fallen Heroes Days to:

(a) honor fallen heroes who, during service in the military or public safety, have sacrificed their lives to protect the country and the citizens of the state; and

(b) encourage political subdivisions to acknowledge and honor fallen heroes.

Section 3. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2014, and ending June 30, 2015, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2015.

To Department of Heritage and Arts - State History

<u>From General Fund</u>	<u>\$74,000</u>
--------------------------	-----------------

Schedule of Programs:

<u>History Projects</u>	<u>\$74,000</u>
-------------------------	-----------------

Section 4. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 13, 2014. (2) Uncodified Section 3, Appropriation, takes effect on July 1, 2014.

CHAPTER 124**H. B. 71**

Passed March 13, 2014
 Approved March 29, 2014
 Effective May 13, 2014

DISTRIBUTION OF INTIMATE IMAGES

Chief Sponsor: Marie H. Poulson
 Senate Sponsor: Todd Weiler
 Cosponsor: Craig Hall

LONG TITLE**General Description:**

This bill modifies Title 76, Utah Criminal Code, regarding distributing intimate images of a person without that person's permission.

Highlighted Provisions:

This bill:

- ▶ provides a definition of "intimate image";
- ▶ provides exceptions for lawful use of images;
- ▶ provides an exception for lawful practices and functions, including law enforcement functions and medical procedures;
- ▶ provides an exemption for defined services, including Internet service providers and interactive computer services; and
- ▶ provides that distribution of an intimate image of an individual, as defined and without that individual's permission, is a class A misdemeanor and any subsequent convictions are a third degree felony.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

76-5b-203, Utah Code Annotated 1953

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

Section 1. Section 76-5b-203 is enacted to read:**76-5b-203. Distribution of an intimate image -- Penalty.**

(1) As used in this section:

(a) "Distribute" means selling, exhibiting, displaying, wholesaling, retailing, providing, giving, granting admission to, providing access to, or otherwise transferring or presenting an image to another individual, with or without consideration.

(b) "Intimate image" means any visual depiction, photograph, film, video, recording, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, that depicts:

(i) exposed human male or female genitals or pubic area, with less than an opaque covering;

(ii) a female breast with less than an opaque covering, or any portion of the female breast below the top of the areola; or

(iii) the individual engaged in any sexually explicit conduct.

(c) "Sexually explicit conduct" means actual or simulated:

(i) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

(ii) masturbation;

(iii) bestiality;

(iv) sadistic or masochistic activities;

(v) exhibition of the genitals, pubic region, buttocks, or female breast of any individual;

(vi) visual depiction of nudity or partial nudity;

(vii) fondling or touching of the genitals, pubic region, buttocks, or female breast; or

(viii) explicit representation of the defecation or urination functions.

(d) "Simulated sexually explicit conduct" means a feigned or pretended act of sexually explicit conduct that duplicates, within the perception of an average person, the appearance of an actual act of sexually explicit conduct.

(2) An actor commits the offense of distribution of intimate images if the actor, with the intent to cause emotional distress or harm, knowingly or intentionally distributes to any third party any intimate image of an individual who is 18 years of age or older, if:

(a) the actor knows that the depicted individual has not given consent to the actor to distribute the intimate image;

(b) the intimate image was created by or provided to the actor under circumstances in which the individual has a reasonable expectation of privacy; and

(c) actual emotional distress or harm is caused to the person as a result of the distribution under this section.

(3) This section does not apply to:

(a) (i) lawful practices of law enforcement agencies;

(ii) prosecutorial agency functions;

(iii) the reporting of a criminal offense;

(iv) court proceedings or any other judicial proceeding; or

(v) lawful and generally accepted medical practices and procedures;

(b) an intimate image if the individual portrayed in the image voluntarily allows public exposure of the image; or

(c) an intimate image that is portrayed in a lawful commercial setting.

(4) (a) This section does not apply to an Internet service provider or interactive computer service, as

defined in 47 U.S.C. Sec. 230(f)(2), a provider of an electronic communications service as defined in 18 U.S.C. Sec. 2510, a telecommunications service, information service, or mobile service as defined in 47 U.S.C. Sec. 153, including a commercial mobile service as defined in 47 U.S.C. Sec. 332(d), or a cable operator as defined in 47 U.S.C. Sec. 522, if:

(i) the distribution of an intimate image by the Internet service provider occurs only incidentally through the provider's function of:

(A) transmitting or routing data from one person to another person; or

(B) providing a connection between one person and another person;

(ii) the provider does not intentionally aid or abet in the distribution of the intimate image; and

(iii) the provider does not knowingly receive from or through a person who distributes the intimate image a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute the intimate image.

(b) This section does not apply to a hosting company, as defined in Section 76-10-1230, if:

(i) the distribution of an intimate image by the hosting company occurs only incidentally through the hosting company's function of providing data storage space or data caching to a person;

(ii) the hosting company does not intentionally engage, aid, or abet in the distribution of the intimate image; and

(iii) the hosting company does not knowingly receive from or through a person who distributes the intimate image a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute, store, or cache the intimate image.

(c) A service provider, as defined in Section 76-10-1230, is not negligent under this section if it complies with Section 76-10-1231.

(5) (a) Distribution of an intimate image is a class A misdemeanor except under Subsection (5)(b).

(b) Distribution of an intimate image is a third degree felony on a second or subsequent conviction for an offense under this section that arises from a separate criminal episode as defined in Section 76-1-401.

CHAPTER 125**H. B. 74**

Passed March 13, 2014
Approved March 29, 2014
Effective January 1, 2015

**ENERGY EFFICIENT
VEHICLE TAX CREDITS**

Chief Sponsor: V. Lowry Snow
Senate Sponsor: J. Stuart Adams

LONG TITLE**General Description:**

This bill addresses tax credits related to energy efficient vehicles.

Highlighted Provisions:

This bill:

- ▶ addresses the amount of tax credit that may be claimed for the purchase of certain energy efficient vehicles; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect for a taxable year beginning on or after January 1, 2015.

Utah Code Sections Affected:**AMENDS:**

59-7-605, as last amended by Laws of Utah 2013, Chapter 184
59-10-1009, as last amended by Laws of Utah 2013, Chapter 184

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

Section 1. Section 59-7-605 is amended to read:**59-7-605. Definitions -- Tax credits related to energy efficient vehicles.**

(1) As used in this section:

(a) "Air quality standards" means that a vehicle's emissions are equal to or cleaner than the standards established in ~~in [:(i) bin 2 in Table S04-1, of 40 C.F.R. 86.1811-04(c)(6); or (ii) for a new qualified plug-in electric drive motor vehicle, as defined in Section 30D, Internal Revenue Code,] bin 4 in Table S04-1, of 40 C.F.R. 86.1811-04(c)(6).~~

(b) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air Conservation Act.

(c) "Certified by the board" means that:

(i) a motor vehicle on which conversion equipment has been installed meets the following criteria:

(A) before the installation of conversion equipment, the vehicle does not exceed the emission cut points for a transient test driving cycle, as specified in 40 C.F.R. Part 51, Appendix E to Subpart S, or an equivalent test for the make, model, and year of the vehicle; and

(B) as a result of the installation of conversion equipment on the motor vehicle, the motor vehicle has reduced emissions; or

(ii) special mobile equipment on which conversion equipment has been installed has reduced emissions.

(d) "Clean fuel grant" means a grant awarded under Title 19, Chapter 1, Part 4, Clean Fuels and Vehicle Technology Program Act, for reimbursement of a portion of the incremental cost of an OEM vehicle or the cost of conversion equipment.

(e) "Conversion equipment" means equipment referred to in Subsection (2)(c) or (d).

(f) "OEM vehicle" has the same meaning as in Section 19-1-402.

(g) "Original purchase" means the purchase of a vehicle that has never been titled or registered and has been driven less than 7,500 miles.

(h) "Qualifying electric ~~or hybrid~~ vehicle" means a vehicle that:

(i) meets air quality standards;

(ii) is not fueled by natural gas;

(iii) is fueled by ~~[(A)]~~ electricity only; ~~[(or)]~~ and

~~[(B) a combination of electricity and diesel fuel, gasoline, a mixture of gasoline and ethanol, or propane; and]~~

(iv) is an OEM vehicle except that the vehicle is fueled by a fuel described in Subsection (1)(h)(iii).

(i) "Qualifying plug-in hybrid vehicle" means a vehicle that:

(i) meets air quality standards;

(ii) is not fueled by natural gas or propane;

(iii) has a battery capacity that meets or exceeds the battery capacity described in Section 30D(b)(3), Internal Revenue Code; and

(iv) is fueled by a combination of electricity and:

(A) diesel fuel;

(B) gasoline; or

(C) a mixture of gasoline and ethanol.

~~[(4)]~~ (j) "Reduced emissions" means:

(i) for purposes of a motor vehicle on which conversion equipment has been installed, that the motor vehicle's emissions of regulated pollutants, when operating on a fuel listed in Subsection (2)(d)(i) or (ii), is less than the emissions were before the installation of the conversion equipment, as demonstrated by:

(A) certification of the conversion equipment by the federal Environmental Protection Agency or by a state that has certification standards recognized by the board;

(B) testing the motor vehicle, before and after installation of the conversion equipment, in

accordance with 40 C.F.R. Part 86, Control of Emissions from New and In-use Highway Vehicles and Engines, using all fuel the motor vehicle is capable of using;

(C) for a retrofit natural gas vehicle that is retrofit in accordance with Section 19-1-406, testing that as a result of the retrofit, the retrofit natural gas vehicle satisfies the emission standards applicable under Section 19-1-406; or

(D) any other test or standard recognized by board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(ii) for purposes of special mobile equipment on which conversion equipment has been installed, that the special mobile equipment's emissions of regulated pollutants, when operating on fuels listed in Subsection (2)(d)(i) or (ii), is less than the emissions were before the installation of conversion equipment, as demonstrated by:

(A) certification of the conversion equipment by the federal Environmental Protection Agency or by a state that has certification standards recognized by the board; or

(B) any other test or standard recognized by board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

~~(j)~~ (k) "Special mobile equipment":

(i) means any mobile equipment or vehicle that is not designed or used primarily for the transportation of persons or property; and

(ii) includes construction or maintenance equipment.

(2) For the taxable year beginning on or after January 1, ~~2014~~ 2015, but beginning on or before December 31, ~~2014~~ 2015, a taxpayer may claim a tax credit against tax otherwise due under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in an amount equal to:

(a) (i) ~~[\$605]~~ for the original purchase of a new qualifying electric ~~or hybrid~~ vehicle that is registered in this state~~;~~, the lesser of:

(A) ~~\$1,500~~; or

(B) 35% of the purchase price of the vehicle; or

(ii) for the original purchase of a new qualifying plug-in hybrid vehicle that is registered in this state, \$1,000;

(b) for the original purchase of a new vehicle fueled by natural gas or propane that is registered in this state, the lesser of:

(i) ~~[\$2,500]~~ \$1,500; or

(ii) 35% of the purchase price of the vehicle;

(c) 50% of the cost of equipment for conversion, if certified by the board, of a motor vehicle registered

in this state minus the amount of any clean fuel grant received, up to a maximum tax credit of ~~[\$2,500]~~ \$1,500 per motor vehicle, if the motor vehicle is to:

(i) be fueled by propane, natural gas, or electricity;

(ii) be fueled by other fuel the board determines annually on or before July 1 to be at least as effective in reducing air pollution as fuels under Subsection (2)(c)(i); or

(iii) meet the federal clean-fuel vehicle standards in the federal Clean Air Act Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.; ~~and~~

(d) 50% of the cost of equipment for conversion, if certified by the board, of a special mobile equipment engine minus the amount of any clean fuel grant received, up to a maximum tax credit of \$1,000 per special mobile equipment engine, if the special mobile equipment is to be fueled by:

(i) propane, natural gas, or electricity; or

(ii) other fuel the board determines annually on or before July 1 to be:

(A) at least as effective in reducing air pollution as the fuels under Subsection (2)(d)(i); or

(B) substantially more effective in reducing air pollution than the fuel for which the engine was originally designed~~[-];~~ and

(e) for a lease of a vehicle described in Subsection (2)(a) or (b), an amount equal to the product of:

(i) the amount of tax credit the taxpayer would otherwise qualify to claim under Subsection (2)(a) or (b) had the taxpayer purchased the vehicle, except that the purchase price described in Subsection (2)(a)(i)(B) or (2)(b)(ii) is considered to be the value of the vehicle at the beginning of the lease; and

(ii) a percentage calculated by:

(A) determining the difference between the value of the vehicle at the beginning of the lease, as stated in the lease agreement, and the value of the vehicle at the end of the lease, as stated in the lease agreement; and

(B) dividing the difference determined under Subsection (2)(e)(ii)(A) by the value of the vehicle at the beginning of the lease, as stated in the lease agreement.

(3) (a) The board shall:

(i) determine the amount of tax credit a taxpayer is allowed under this section; and

(ii) provide the taxpayer with a written certification of the amount of tax credit the taxpayer is allowed under this section.

~~(3)~~ (b) A taxpayer shall provide proof of the purchase or lease of an item for which a tax credit is allowed under this section by:

~~(4)~~ (i) providing proof to the board in the form the board requires by rule;

~~[(b)]~~ (ii) receiving a written statement from the board acknowledging receipt of the proof; and

~~[(e)]~~ (iii) retaining the written statement described in Subsection (3)(b)(ii).

(c) A taxpayer shall retain the written certification described in Subsection (3)(a)(ii).

(4) Except as provided by Subsection (5), the tax credit under this section is allowed only:

(a) against a tax owed under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in the taxable year by the taxpayer;

(b) for the taxable year in which ~~[an item]~~ a vehicle described in Subsection (2)(a) or (b) is purchased, a vehicle described in Subsection (2)(e) is leased, or conversion equipment described in Subsection (2)(c) or (d) is installed; and

(c) once per vehicle.

(5) A taxpayer may not assign a tax credit under this section to another person.

~~[(5)]~~ (6) If the amount of a tax credit claimed by a taxpayer under this section exceeds the taxpayer's tax liability under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, for a taxable year, the amount of the tax credit exceeding the tax liability may be carried forward for a period that does not exceed the next five taxable years.

~~[(6)]~~ (7) In accordance with any rules prescribed by the commission under Subsection ~~[(7)]~~ (8), the commission shall transfer at least annually from the General Fund into the Education Fund the amount by which the amount of tax credit claimed under this section for a taxable year exceeds \$500,000.

~~[(7)]~~ (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for making a transfer from the General Fund into the Education Fund as required by Subsection ~~[(6)]~~ (7).

Section 2. Section 59-10-1009 is amended to read:

59-10-1009. Definitions -- Tax credits related to energy efficient vehicles.

(1) As used in this section:

(a) "Air quality standards" means that a vehicle's emissions are equal to or cleaner than the standards established in ~~[-(i) bin 2 in Table S04-1, of 40 C.F.R. 86.1811-04(e)(6); or (ii) for a new qualified plug-in electric drive motor vehicle, as defined in Section 30D, Internal Revenue Code,] bin 4 in Table S04-1, of 40 C.F.R. 86.1811-04(c)(6).~~

(b) "Board" means the Air Quality Board created in Title 19, Chapter 2, Air Conservation Act.

(c) "Certified by the board" means that:

(i) a motor vehicle on which conversion equipment has been installed meets the following criteria:

(A) before the installation of conversion equipment, the vehicle does not exceed the emission cut points for a transient test driving cycle, as specified in 40 C.F.R. Part 51, Appendix E to Subpart S, or an equivalent test for the make, model, and year of the vehicle; and

(B) as a result of the installation of conversion equipment on the motor vehicle, the motor vehicle has reduced emissions; or

(ii) special mobile equipment on which conversion equipment has been installed has reduced emissions.

(d) "Clean fuel grant" means a grant a claimant, estate, or trust receives under Title 19, Chapter 1, Part 4, Clean Fuels and Vehicle Technology Program Act, for reimbursement of a portion of the incremental cost of the OEM vehicle or the cost of conversion equipment.

(e) "Conversion equipment" means equipment referred to in Subsection (2)(c) or (d).

(f) "OEM vehicle" has the same meaning as in Section 19-1-402.

(g) "Original purchase" means the purchase of a vehicle that has never been titled or registered and has been driven less than 7,500 miles.

(h) "Qualifying electric ~~[or hybrid]~~ vehicle" means a vehicle that:

(i) meets air quality standards;

(ii) is not fueled by natural gas;

(iii) is fueled by ~~[-(A)]~~ electricity only; ~~[or]~~ and

~~[(B) a combination of electricity and diesel fuel, gasoline, a mixture of gasoline and ethanol, or propane; and]~~

(iv) is an OEM vehicle except that the vehicle is fueled by a fuel described in Subsection (1)(h)(iii).

(i) "Qualifying plug-in hybrid vehicle" means a vehicle that:

(i) meets air quality standards;

(ii) is not fueled by natural gas or propane;

(iii) has a battery capacity that meets or exceeds the battery capacity described in Section 30D(b)(3), Internal Revenue Code; and

(iv) is fueled by a combination of electricity and:

(A) diesel fuel;

(B) gasoline; or

(C) a mixture of gasoline and ethanol.

~~[(i)]~~ (j) "Reduced emissions" means:

(i) for purposes of a motor vehicle on which conversion equipment has been installed, that the motor vehicle's emissions of regulated pollutants, when operating on a fuel listed in Subsection

(2)(d)(i) or (ii), is less than the emissions were before the installation of the conversion equipment, as demonstrated by:

(A) certification of the conversion equipment by the federal Environmental Protection Agency or by a state that has certification standards recognized by the board;

(B) testing the motor vehicle, before and after installation of the conversion equipment, in accordance with 40 C.F.R. Part 86, Control of Emissions from New and In-use Highway Vehicles and Engines, using all fuel the motor vehicle is capable of using;

(C) for a retrofit natural gas vehicle that is retrofit in accordance with Section 19-1-406, testing that as a result of the retrofit, the retrofit natural gas vehicle satisfies the emission standards applicable under Section 19-1-406; or

(D) any other test or standard recognized by board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(ii) for purposes of special mobile equipment on which conversion equipment has been installed, that the special mobile equipment's emissions of regulated pollutants, when operating on fuels listed in Subsection (2)(d)(i) or (ii), is less than the emissions were before the installation of conversion equipment, as demonstrated by:

(A) certification of the conversion equipment by the federal Environmental Protection Agency or by a state that has certification standards recognized by the board; or

(B) any other test or standard recognized by board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(j)~~] (k) "Special mobile equipment":

(i) means any mobile equipment or vehicle not designed or used primarily for the transportation of persons or property; and

(ii) includes construction or maintenance equipment.

(2) For the taxable year beginning on or after January 1, [2014] 2015, but beginning on or before December 31, [2014] 2015, a claimant, estate, or trust may claim a nonrefundable tax credit against tax otherwise due under this chapter in an amount equal to:

(a) (i) [~~\$605~~] for the original purchase of a new qualifying electric [~~or hybrid~~] vehicle that is registered in this state[;], the lesser of:

(A) \$1,500; or

(B) 35% of the purchase price of the vehicle; or

(ii) for the original purchase of a new qualifying plug-in hybrid vehicle that is registered in this state, \$1,000;

(b) for the original purchase of a new vehicle fueled by natural gas or propane that is registered in this state, the lesser of:

(i) [~~\$2,500~~] \$1,500; or

(ii) 35% of the purchase price of the vehicle;

(c) 50% of the cost of equipment for conversion, if certified by the board, of a motor vehicle registered in this state minus the amount of any clean fuel conversion grant received, up to a maximum tax credit of [~~\$2,500~~] \$1,500 per vehicle, if the motor vehicle:

(i) is to be fueled by propane, natural gas, or electricity;

(ii) is to be fueled by other fuel the board determines annually on or before July 1 to be at least as effective in reducing air pollution as fuels under Subsection (2)(c)(i); or

(iii) will meet the federal clean fuel vehicle standards in the federal Clean Air Act Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.; [~~and~~]

(d) 50% of the cost of equipment for conversion, if certified by the board, of a special mobile equipment engine minus the amount of any clean fuel conversion grant received, up to a maximum tax credit of \$1,000 per special mobile equipment engine, if the special mobile equipment is to be fueled by:

(i) propane, natural gas, or electricity; or

(ii) other fuel the board determines annually on or before July 1 to be:

(A) at least as effective in reducing air pollution as the fuels under Subsection (2)(d)(i); or

(B) substantially more effective in reducing air pollution than the fuel for which the engine was originally designed[;]; and

(e) for a lease of a vehicle described in Subsection (2)(a) or (b), an amount equal to the product of:

(i) the amount of tax credit the claimant, estate, or trust would otherwise qualify to claim under Subsection (2)(a) or (b) had the claimant, estate, or trust purchased the vehicle, except that the purchase price described in Subsection (2)(a)(i)(B) or (2)(b)(ii) is considered to be the value of the vehicle at the beginning of the lease; and

(ii) a percentage calculated by:

(A) determining the difference between the value of the vehicle at the beginning of the lease, as stated in the lease agreement, and the value of the vehicle at the end of the lease, as stated in the lease agreement; and

(B) dividing the difference determined under Subsection (2)(e)(ii)(A) by the value of the vehicle at the beginning of the lease, as stated in the lease agreement.

(3) (a) The board shall:

(i) determine the amount of tax credit a claimant, estate, or trust is allowed under this section; and

(ii) provide the claimant, estate, or trust with a written certification of the amount of tax credit the claimant, estate, or trust is allowed under this section.

~~[(3)]~~ (b) A claimant, estate, or trust shall provide proof of the purchase or lease of an item for which a tax credit is allowed under this section by:

~~[(a)]~~ (i) providing proof to the board in the form the board requires by rule;

~~[(b)]~~ (ii) receiving a written statement from the board acknowledging receipt of the proof; and

~~[(e)]~~ (iii) retaining the written statement described in Subsection (3)(b)(ii).

(c) A claimant, estate, or trust shall retain the written certification described in Subsection (3)(a)(ii).

(4) Except as provided by Subsection (5), the tax credit under this section is allowed only:

(a) against a tax owed under this chapter in the taxable year by the claimant, estate, or trust;

(b) for the taxable year in which ~~[an item]~~ a vehicle described in Subsection (2)(a) or (b) is purchased, a vehicle described in Subsection (2)(e) is leased, or conversion equipment described in Subsection (2)(c) or (d) is installed; and

(c) once per vehicle.

(5) A claimant, estate, or trust may not assign a tax credit under this section to another person.

~~[(5)]~~ (6) If the amount of a tax credit claimed by a claimant, estate, or trust under this section exceeds the claimant's, estate's, or trust's tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the tax liability may be carried forward for a period that does not exceed the next five taxable years.

~~[(6)]~~ (7) In accordance with any rules prescribed by the commission under Subsection ~~[(7)]~~ (8), the commission shall transfer at least annually from the General Fund into the Education Fund the amount by which the amount of tax credit claimed under this section for a taxable year exceeds \$500,000.

~~[(7)]~~ (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for making a transfer from the General Fund into the Education Fund as required by Subsection ~~[(6)]~~ (7).

Section 3. Effective date.

This bill takes effect for a taxable year beginning on or after January 1, 2015.

CHAPTER 126**H. B. 85**

Passed March 7, 2014

Approved March 29, 2014

Effective May 13, 2014

**ELECTRONIC FILING OF TRAFFIC
CITATIONS AND ACCIDENT
REPORTS AMENDMENTS**

Chief Sponsor: Jon Cox

Senate Sponsor: Daniel W. Thatcher

LONG TITLE**General Description:**

This bill amends provisions related to the electronic filing of a misdemeanor or infraction citation.

Highlighted Provisions:

This bill:

- ▶ exempts an officer who is not reasonably able to file a citation electronically from the e-filing requirements in a justice court.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

77-7-20, as last amended by Laws of Utah 2013, Chapter 65

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

Section 1. Section 77-7-20 is amended to read:**77-7-20. Service of citation on defendant --
Filing in court -- Electronic filing --
Contents of citations.**

(1) A peace officer or public official who issues a citation pursuant to Section 77-7-18 shall give the citation to the person cited and shall within five business days electronically file the data from Subsections (2)(a) through (2)(g) with the court specified in the citation. The data transmission shall use the court's electronic filing interface. A nonconforming filing is not effective.

(2) The citation issued under authority of this chapter shall contain the following data:

- (a) the name of the court before which the person is to appear;
- (b) the name of the person cited;
- (c) a brief description of the offense charged;
- (d) the date, time, and place at which the offense is alleged to have occurred;
- (e) the date on which the citation was issued;
- (f) the name of the peace officer or public official who issued the citation, and the name of the arresting person if an arrest was made by a private party and the citation was issued in lieu of taking the arrested person before a magistrate;

(g) the time and date on or before and after which the person is to appear or a statement that the court will notify the person of the time to appear;

(h) the address of the court in which the person is to appear; and

(i) a notice containing substantially the following language:

READ CAREFULLY

This citation is not an information and will not be used as an information without your consent. If an information is filed you will be provided a copy by the court. You **MUST** appear in court on or before the time set in this citation or as directed by the court. **IF YOU FAIL TO APPEAR, THE COURT MAY ISSUE A WARRANT FOR YOUR ARREST.**

(3) By electronically filing the data with the court, the peace officer or public official certifies to the court that:

(a) the citation or information, including the summons and complaint, was served upon the defendant in accordance with the law;

(b) the defendant committed the offense set forth in the served documents; and

(c) the court to which the defendant was directed to appear is the proper court pursuant to Section 77-7-21.

(4) Notwithstanding Subsection (1), if a citing law enforcement officer is not reasonably able to access the e-filing system, the citation need not be filed electronically if being filed with a justice court.

CHAPTER 127**H. B. 90**

Passed March 12, 2014
 Approved March 29, 2014
 Effective May 13, 2014

WOMEN IN THE ECONOMY COMMISSION

Chief Sponsor: Jennifer M. Seelig
 Senate Sponsor: Curtis S. Bramble

Cosponsors: Tim M. Cosgrove
 Rebecca Chavez-Houck

Joel K. Briscoe
 Rebecca D. Lockhart
 Jacob L. Anderegg
 Patrice M. Arent

Jim Bird
 Rich Cunningham
 Jack R. Draxler
 Susan Duckworth

Rebecca P. Edwards
 Janice M. Fisher
 Francis D. Gibson
 Richard A. Greenwood

Stephen G. Handy
 Lynn N. Hemingway
 Eric K. Hutchings
 Brian S. King

Bradley G. Last
 Dana L. Layton

Carol Spackman Moss
 Michael E. Noel
 Curtis Oda

Marie H. Poulson
 Paul Ray

Edward H. Redd
 Angela Romero
 V. Lowry Snow

Mark A. Wheatley
 Ryan D. Wilcox
 Larry B. Wiley
 Brad R. Wilson

LONG TITLE**General Description:**

This bill modifies the Utah Workforce Services Code to enact the Women in the Economy Commission Act.

Highlighted Provisions:

This bill:

- ▶ enacts the Women in the Economy Commission Act, including:
 - defining terms;
 - creating the commission;
 - establishing the purposes, powers, and duties of the commission; and
 - requiring reporting; and
- ▶ provides a sunset date.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-1-235, as last amended by Laws of Utah 2013, Chapter 278

ENACTS:

35A-11-101, Utah Code Annotated 1953
 35A-11-102, Utah Code Annotated 1953
 35A-11-201, Utah Code Annotated 1953
 35A-11-202, Utah Code Annotated 1953
 35A-11-203, Utah Code Annotated 1953

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

Section 1. Section 35A-11-101 is enacted to read:

CHAPTER 11. WOMEN IN THE ECONOMY COMMISSION ACT

Part 1. General Provisions

35A-11-101. Title.

This chapter is known as the "Women in the Economy Commission Act."

Section 2. Section 35A-11-102 is enacted to read:

35A-11-102. Definitions.

As used in this chapter:

(1) "Commission" means the Women in the Economy Commission created in Section 35A-11-201.

(2) "State institution of higher education" is as defined in Section 53B-3-102.

Section 3. Section 35A-11-201 is enacted to read:

Part 2. Commission

35A-11-201. Women in the Economy Commission created.

(1) There is created within the department a commission known as the "Women in the Economy Commission."

(2) The commission shall consist of 11 members as follows:

(a) one senator appointed by the president of the Senate;

(b) one senator appointed by the minority leader of the Senate;

(c) one representative appointed by the speaker of the House of Representatives;

(d) one representative appointed by the minority leader of the House of Representatives;

(e) the executive director of the department, or the executive director's designee; and

(f) six members appointed by the governor as follows:

(i) a representative of a business with fewer than 50 employees that has been awarded for work flexibility or work-life balance;

(ii) a representative of a business with 50 or more employees, but fewer than 500 employees, that has been awarded for work flexibility or work-life balance;

(iii) a representative of a business with 500 or more employees that has been awarded for work flexibility or work-life balance;

(iv) an individual who has experience in demographic work and is employed by a state institution of higher education;

(v) one individual from a nonprofit organization that addresses issues related to domestic violence; and

(vi) one individual with managerial experience with organized labor.

(3) (a) When a vacancy occurs in a position appointed by the governor under Subsection (2)(f), the governor shall appoint a person to fill the vacancy.

(b) Members appointed under Subsection (2)(f) may be removed by the governor for cause.

(c) A member appointed under Subsection (2)(f) shall be removed from the commission and replaced by the governor if the member is absent for three consecutive meetings of the commission without being excused by the chair of the commission.

(d) A member serves until the member's successor is appointed and qualified.

(4) In appointing the members under Subsection (2)(f), the governor shall:

(a) take into account the geographical makeup of the commission; and

(b) strive to appoint members who are knowledgeable or have an interest in issues related to women in the economy.

(5) (a) The commission shall select two members to serve as cochairs, one of which shall be a legislator.

(b) Subject to the other provisions of this Subsection (5), the cochairs are responsible for the call and conduct of meetings.

(c) The cochairs shall call and hold meetings of the commission at least every two months.

(d) One of the bimonthly meetings described in Subsection (5)(c) shall be held while the Legislature is convened in its annual general session.

(e) One or more additional meetings may be called upon request by a majority of the commission's members.

(6) (a) A majority of the members of the commission constitutes a quorum.

(b) The action of a majority of a quorum constitutes the action of the commission.

(7) (a) A member of the commission described in Subsection (2)(e) or (f) may not receive compensation or benefits for the member's service,

but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

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

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

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

(8) The department shall provide staff support to the commission.

Section 4. Section 35A-11-202 is enacted to read:

35A-11-202. Purpose -- Powers and duties of the commission.

(1) The commission's purpose is to:

(a) increase public and government understanding of the current and future impact and needs of the state's women in the economy and how those needs may be most effectively and efficiently met;

(b) identify and recommend implementation of specific policies, procedures, and programs to respond to the rights, needs, and impact of women in the economy; and

(c) facilitate coordination of the functions of public and private entities concerned with women in the economy.

(2) The commission shall:

(a) facilitate the communication and coordination of public and private entities that provide services to women or protect the rights of women;

(b) study, evaluate, and report on the status and effectiveness of policies, procedures, and programs that provide services to women or protect the rights of women;

(c) study and evaluate the policies, procedures, and programs implemented by other states that address the needs of women in the economy or protect the rights of women;

(d) facilitate and conduct the research and study of issues related to women in the economy;

(e) provide a forum for public comment on issues related to women in the economy;

(f) provide public information on women in the economy and the services available to women; and

(g) encourage state and local governments to analyze, plan, and prepare for the impact of women in the economy on services and operations.

(3) To accomplish its duties, the commission may:

(a) request and receive from a state or local government agency or institution summary information relating to women in the economy, including:

(i) reports;

- (ii) audits;
- (iii) projections; and
- (iv) statistics;
- (b) apply for and accept grants or donations for uses consistent with the duties of the commission from public or private sources; and
- (c) appoint one or more special committees to advise and assist the commission.
- (4) Money received under Subsection (3)(b) shall be:
 - (a) accounted for and expended in compliance with the requirements of federal and state law; and
 - (b) continuously available to the commission to carry out the commission's duties.
- (5) (a) A member of a special committee described in Subsection (3)(c):
 - (i) shall be appointed by the commission;
 - (ii) may be:
 - (A) a member of the commission; or
 - (B) an individual from the private or public sector; and
 - (iii) notwithstanding Section 35A-11-201, may not receive reimbursement or pay for any work done in relation to the special committee.
- (b) A special committee described in Subsection (3)(c) shall report to the commission on the progress of the special committee.

Section 5. Section 35A-11-203 is enacted to read:

35A-11-203. Annual report.

- (1) The commission shall annually prepare and publish a report directed to the:
 - (a) governor;
 - (b) Education Interim Committee;
 - (c) Economic Development and Workforce Services Interim Committee;
 - (d) Executive Appropriations Committee;
 - (e) Legislative Management Committee;
 - (f) Business, Economic Development, and Labor Appropriations Subcommittee; and
 - (g) State Council on Workforce Services.
- (2) The report described in Subsection (1) shall:
 - (a) describe how the commission fulfilled its statutory purposes and duties during the year; and
 - (b) contain recommendations on how the state should act to address issues relating to women in the economy.

Section 6. Section 63I-1-235 is amended to read:

63I-1-235. Repeal dates, Title 35A.

- (1) Title 35A, Utah Workforce Services Code, is repealed July 1, 2015.
- (2) Title 35A, Chapter 8, Part 7, Utah Housing Corporation Act, is repealed July 1, 2016.
- (3) Title 35A, Chapter 8, Part 18, Transitional Housing and Community Development Advisory Council, is repealed July 1, 2014.
- (4) Title 35A, Chapter 11, Women in the Economy Commission Act, is repealed July 1, 2016.

CHAPTER 128**H. B. 95**

Passed February 24, 2014

Approved March 29, 2014

Effective May 13, 2014

**APPLIED TECHNOLOGY COLLEGE
GOVERNANCE AMENDMENTS**Chief Sponsor: Don L. Ipson
Senate Sponsor: Stephen H. Urquhart**LONG TITLE****General Description:**

This bill modifies the membership of applied technology college governing boards.

Highlighted Provisions:

This bill:

- ▶ modifies the membership of:
 - the Utah College of Applied Technology Board of Trustees; and
 - the campus board of directors of certain college campuses of the Utah College of Applied Technology; and
 - make technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53B-2a-103, as last amended by Laws of Utah 2013, Chapters 374 and 465

53B-2a-108, as last amended by Laws of Utah 2013, Chapter 10

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

Section 1. Section 53B-2a-103 is amended to read:**53B-2a-103. Utah College of Applied Technology Board of Trustees -- Membership -- Terms -- Vacancies -- Oath -- Officers -- Quorum -- Committees -- Compensation.**

(1) There is created the Utah College of Applied Technology Board of Trustees, composed of the following members:

(a) one member of the State Board of Education appointed by the chair of the State Board of Education, to serve as a nonvoting member;

(b) one member of the State Board of Regents appointed by the chair of the State Board of Regents, to serve as a nonvoting member;

(c) one member representing business and industry employers from the campus board of directors of each applied technology college campus appointed by a majority vote of the business and industry employer members of the campus board;

(d) one member representing business and industry employers from the Snow College Economic Development and Workforce Preparation

Advisory Committee appointed by a majority of the business and industry employer members of the advisory committee;

(e) one member representing business and industry employers from the Utah State University Eastern career and technical education advisory committee appointed by a majority of the business and industry employer members of the advisory committee;

(f) one member representing business and industry employers from the Salt Lake Community College School of Applied Technology Board of Directors appointed by a majority of the business and industry employer members of the board of directors;

(g) one business or industry employer representative appointed by the governor with the consent of the Senate from nominations submitted by the speaker of the House of Representatives and president of the Senate;

(h) one representative of union craft, trade, or apprenticeship programs that prepare workers for employment in career and technical education fields, appointed by the governor with the consent of the Senate;

(i) one representative of non-union craft, trade, or apprenticeship programs that prepare workers for employment in career and technical education fields, appointed by the governor with the consent of the Senate; and

~~(j) the commissioner of higher education; and~~

~~(k)~~ (j) the executive director of the Governor's Office of Economic Development or the executive director's designee.

(2) (a) In making appointments to the board of trustees, the governor shall consider:

(i) individuals from the state at large with due consideration for geographical representation;

(ii) individuals recognized for their knowledge and expertise; and

(iii) individuals who represent current and emerging business and industry sectors of the state.

(b) Appointments to the board shall be made on a nonpartisan basis.

(3) (a) Except as provided under Subsection (3)(b), members of the board of trustees shall be appointed commencing on July 1 of each odd-numbered year to a four-year term.

(b) Initial terms of the board members beginning on July 1, 2009 shall be staggered with two-year and four-year terms so that approximately one-half of the members' terms will expire in any odd-numbered year.

(c) An appointed member holds office until a successor is appointed and qualified.

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

(5) (a) Each member shall take the official oath of office prior to assuming the office.

(b) The oath shall be filed with the Division of Archives and Records Services.

(6) The board of trustees shall elect a chair and vice chair, who serve for two years and until their successors are elected and qualified.

(7) (a) The board of trustees may enact bylaws for its own government, including provision for regular meetings.

(b) (i) The board of trustees may provide for an executive committee in its bylaws.

(ii) If established, the committee shall have full authority of the board of trustees to act upon routine matters during the interim between board of trustees meetings.

(iii) The committee may act on nonroutine matters only under extraordinary and emergency circumstances.

(iv) The committee shall report its activities to the board of trustees at its next regular meeting following the action.

(8) A quorum shall be required to conduct business which shall consist of a majority of voting board of trustee members.

(9) The board of trustees may establish advisory committees.

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

(a) Section 63A-3-106;

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

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

Section 2. Section 53B-2a-108 is amended to read:

53B-2a-108. Campus boards of directors -- Membership -- Appointments.

A campus shall have a campus board of directors appointed as follows:

(1) the Bridgerland Applied Technology College Campus Board of Directors shall be composed of the following 12 members:

(a) one elected local school board member appointed by the board of education for the Box Elder School District;

(b) one elected local school board member appointed by the board of education for the Cache School District;

(c) one elected local school board member appointed by the board of education for the Logan School District;

(d) one elected local school board member appointed by the board of education for the Rich School District;

(e) one member of the Utah State University board of trustees; and

(f) seven representatives of business or industry employers within the region appointed jointly by the members appointed under Subsections (1)(a) through (e);

(2) the Ogden-Weber Applied Technology College Campus Board of Directors shall be composed of the following 10 members:

(a) one elected local school board member appointed by the board of education for the Ogden City School District;

(b) one elected local school board member appointed by the board of education for the Weber School District;

~~[(e) one elected local school board member jointly appointed by the boards of education for the Ogden City School District and the Weber School District;]~~

~~[(d)]~~ (c) one member of the Weber State University board of trustees; and

~~[(e) six]~~ (d) seven representatives of business or industry employers within the region appointed jointly by the members appointed under Subsections (2)(a) through ~~[(d)]~~ (c);

(3) the Davis Applied Technology College Campus Board of Directors shall be composed of the following 10 members:

(a) one elected local school board member appointed by the board of education for the Davis School District;

(b) one elected local school board member appointed by the board of education for the Morgan School District;

~~[(c) one elected local school board member jointly appointed by the boards of education for the Davis School District and the Morgan School District;]~~

~~[(d)]~~ (c) one member of the Weber State University board of trustees; and

~~[(e) six]~~ (d) seven representatives of business or industry employers within the region appointed jointly by the members appointed under Subsections (3)(a) through ~~[(d)]~~ (c);

(4) the Tooele Applied Technology College Campus Board of Directors shall be composed of the following 12 members:

(a) ~~[three]~~ one elected local school board ~~[members]~~ member appointed by the board of education for the Tooele County School District;

~~[(b) one member of the Salt Lake Community College board of trustees;]~~

~~[(e)]~~ (b) one member of the Utah State University board of trustees; and

~~[(d) seven]~~ (c) 10 representatives of business or industry employers within the region appointed jointly by the members appointed under Subsections (4)(a) ~~[through (e)]~~ and (b);

(5) the Mountainland Applied Technology College Campus Board of Directors shall be composed of the following 18 members:

(a) one elected local school board member appointed by the board of education for the Alpine School District;

(b) one elected local school board member appointed by the board of education for the Nebo School District;

(c) one elected local school board member appointed by the board of education for the Provo School District;

(d) one elected local school board member appointed by the board of education for the South Summit School District;

(e) one elected local school board member appointed by the board of education for the North Summit School District;

(f) one elected local school board member appointed by the board of education for the Wasatch School District;

(g) one elected local school board member appointed by the board of education for the Park City School District;

(h) one member of the Utah Valley University board of trustees; and

(i) 10 representatives of business or industry employers within the region appointed jointly by the members appointed under Subsections (5)(a) through (h);

(6) the Uintah Basin Applied Technology College Campus Board of Directors shall be composed of the following 10 members:

(a) one elected local school board member appointed by the board of education for the Daggett School District;

(b) one elected local school board member appointed by the board of education for the Duchesne School District;

(c) one elected local school board member appointed by the board of education for the Uintah School District;

(d) one member of the Utah State University board of trustees; and

(e) six representatives of business or industry employers within the region appointed jointly by the members appointed under Subsections (6)(a) through (d);

(7) the Southwest Applied Technology College Campus Board of Directors shall be composed of the following 12 members:

(a) one elected local school board member appointed by the board of education for the Beaver School District;

(b) one elected local school board member appointed by the board of education for the Garfield School District;

(c) one elected local school board member appointed by the board of education for the Iron School District;

(d) one elected local school board member appointed by the board of education for the Kane School District;

(e) one member of the Southern Utah University board of trustees; and

(f) seven representatives of business or industry employers within the region appointed jointly by the members appointed under Subsections (7)(a) through (e);

(8) the Dixie Applied Technology College Campus Board of Directors shall be composed of the following 10 members:

(a) [~~three~~] one elected local school board [~~members~~] member appointed by the board of education for the Washington School District;

(b) one member of the Dixie State University board of trustees; and

(c) [~~six~~] eight representatives of business or industry employers within the region appointed jointly by the members appointed under Subsections (8)(a) [~~through~~] and (b); and

(9) the representatives of business or industry employers shall be:

(a) appointed jointly by the designated members from a list of names provided by local organizations or associations whose members employ workers with career and technical education;

(b) individuals recognized for their knowledge and expertise;

(c) individuals who represent current and emerging business and industry sectors of the state; and

(d) appointed on a nonpartisan basis.

CHAPTER 129**H. B. 115**

Passed March 6, 2014
Approved March 29, 2014
Effective May 13, 2014

CONDOMINIUM AND COMMUNITY ASSOCIATION LIEN AMENDMENTS

Chief Sponsor: Carol Spackman Moss
Senate Sponsor: J. Stuart Adams

LONG TITLE**General Description:**

This bill modifies provisions relating to the required contents of a notice of lien.

Highlighted Provisions:

This bill:

- ▶ requires that a notice of lien, for a lien based on an unpaid assessment or an unpaid fine under Title 57, Chapter 8, Condominium Ownership Act, or Title 57, Chapter 8a, Community Association Act, include the amount of the unpaid assessment or the unpaid fine;
- ▶ requires that a notice of lien include:
 - the lien claimant's name, address, and phone number; or
 - if the lien claimant has a representative for purposes of the lien, the lien claimant's name and the representative's name, address, and phone number;
- ▶ clarifies that a copy of a notice of lien that the lien claimant mails to the person against whom the notice of lien is filed shall include:
 - the date the notice of lien was submitted for recording; and
 - the article number on the certified mail receipt; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

38-12-102, as last amended by Laws of Utah 2012, Chapter 278

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

Section 1. Section 38-12-102 is amended to read:**38-12-102. Notice requirements for lien filings -- Exceptions.**

(1) A lien claimant or the lien claimant's agent shall send by certified mail a written copy of ~~the~~ a notice of lien to the last-known address of the person against whom the notice of lien is filed no later than 30 days after the day on which ~~a lien claimant or the lien claimant's authorized agent files a notice of lien meeting the requirements of Subsection (2):~~ ~~(a)]~~ the notice of lien is submitted for ~~recording]~~ recording with:

~~(4)]~~ (a) a county recorder;

~~(4)]~~ (b) a county clerk; ~~(4)]~~

~~(4)]~~ (c) a clerk of the court; or

~~(4)]~~ (d) in the case of a lien on an aircraft under Section 38-13-201, ~~with~~ the Federal Aviation Administration.

(2) (a) ~~The notice of lien described in Subsection (1)]~~ A notice of lien submitted for recording shall contain the following information:

~~(4)]~~ (i) the name and address of the person against whom the lien is filed;

~~(4)]~~ (ii) a statement that ~~certain~~ the property owned by the person against whom the lien is filed is subject to a lien;

~~(4)]~~ (iii) (A) the amount of the judgment, settlement, or compromise, if the lien is based on a charge against or interest in a judgment, settlement, or compromise; ~~(4)]~~

~~(4)]~~ (B) the amount of state taxes owed, if the lien is based on unpaid state taxes;

~~(4)]~~ ~~the article number contained on the certified mail receipt;~~

~~(4)]~~ ~~the date the notice of lien was filed; and]~~

(C) the total amount of the unpaid assessment that is subject to the lien, including any fees, charges, or costs, if the lien is based on an unpaid assessment under Title 57, Chapter 8, Condominium Ownership Act, or Title 57, Chapter 8a, Community Association Act; or

(D) the amount of the unpaid fine, if the lien is based on an unpaid fine under Title 57, Chapter 8, Condominium Ownership Act, or Title 57, Chapter 8a, Community Association Act; and

~~(4)]~~ (iv) (A) the name ~~and~~, address, and phone number of the lien claimant~~[-];~~ or

(B) if the lien claimant has a representative for purposes of the lien, the name of the lien claimant and the name, address, and phone number of the lien claimant's representative.

(b) When a lien claimant mails a copy of a notice of lien to the person against whom the notice of lien is filed, in accordance with Subsection (1), the notice of lien shall contain:

(i) the requirements described in Subsection (2)(a);

(ii) the date the notice of lien was submitted for recording; and

(iii) the article number on the certified mail receipt.

(3) The notice requirements of Subsections (1) and (2) do not apply to:

(a) a preconstruction or construction lien as provided in Title 38, Chapter 1a, Preconstruction and Construction Liens;

(b) a lessors' lien as provided in Title 38, Chapter 3, Lessors' Liens;

(c) a federal tax lien as provided in Title 38, Chapter 6, Federal Tax Liens;

(d) a hospital lien as provided in Title 38, Chapter 7, Hospital Lien Law;

(e) a self-service storage facilities lien as provided in Title 38, Chapter 8, Self-Service Storage Facilities;

(f) an oil, gas, or mining lien as provided in Title 38, Chapter 10, Oil, Gas, and Mining Liens;

(g) a claim against the Residence Lien Recovery Fund as provided in Title 38, Chapter 11, Residence Lien Restriction and Lien Recovery Fund Act;

(h) a trust deed;

(i) a mortgage;

(j) any interests subject to a security agreement as defined in Section 70A-9a-102;

(k) any other liens subject to the same or stricter notice requirements than those imposed by Subsections (1) and (2); or

(l) a court judgment or abstract of a court judgment presented for recording in the office of a county recorder.

CHAPTER 130**H. B. 119**

Passed March 7, 2014
Approved March 29, 2014
Effective May 13, 2014

**OPIATE OVERDOSE
EMERGENCY TREATMENT**

Chief Sponsor: Carol Spackman Moss
Senate Sponsor: Brian E. Shiozawa

LONG TITLE**General Description:**

This bill creates the Emergency Administration of Opiate Antagonist Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ permits the dispensing and administration of an opiate antagonist to a person who is reasonably believed to be experiencing an opiate-related drug overdose event;
- ▶ establishes immunity for the good faith administration of an opiate antagonist;
- ▶ clarifies that the administration of an opiate antagonist is voluntary and that the act does not establish a duty to administer an opiate antagonist;
- ▶ clarifies that it is not unlawful or unprofessional conduct for certain health professionals to prescribe an opiate antagonist to:
 - a person at increased risk of experiencing an opiate-related drug overdose event; or
 - a family member, friend, or other person in a position to assist a person who is at increased risk of experiencing an opiate-related drug overdose; and
- ▶ requires a person who prescribes or dispenses an opiate antagonist to advise a person to seek a medical evaluation after experiencing a drug overdose and taking an opiate antagonist.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

26-55-101, Utah Code Annotated 1953
26-55-102, Utah Code Annotated 1953
26-55-103, Utah Code Annotated 1953
26-55-104, Utah Code Annotated 1953
58-17b-507, Utah Code Annotated 1953
58-31b-703, Utah Code Annotated 1953
58-67-702, Utah Code Annotated 1953
58-68-702, Utah Code Annotated 1953
58-70a-505, Utah Code Annotated 1953

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

Section 1. Section 26-55-101 is enacted to read:

**CHAPTER 55. EMERGENCY
ADMINISTRATION OF OPIATE
ANTAGONIST ACT**

26-55-101. Title.

This chapter is known as the “Emergency Administration of Opiate Antagonist Act.”

Section 2. Section 26-55-102 is enacted to read:

26-55-102. Definitions.

As used in this chapter:

(1) “Health care facility” means a hospital, a hospice inpatient residence, a nursing facility, a dialysis treatment facility, an assisted living residence, an entity that provides home- and community-based services, a hospice or home health care agency, or another facility that provides or contracts to provide health care services, which facility is licensed under Chapter 21, Health Care Facility Licensing and Inspection Act.

(2) “Health care provider” means:

(a) a physician as defined in Section 58-67-102;
(b) an advanced practice registered nurse as defined in Subsection 58-31b-102(13); or

(c) a physician assistant as defined in Section 58-70a-102.

(3) “Opiate” is as defined in Section 58-37-2.

(4) “Opiate antagonist” means naloxone hydrochloride or any similarly acting drug that is not a controlled substance and that is approved by the federal Food and Drug Administration for the treatment of a drug overdose.

(5) “Opiate-related drug overdose event” means an acute condition, including a decreased level of consciousness or respiratory depression resulting from the consumption or use of a controlled substance, or another substance with which a controlled substance was combined, and that a person would reasonably believe to require medical assistance.

Section 3. Section 26-55-103 is enacted to read:

26-55-103. Voluntary participation.

This chapter does not create a duty or standard of care for a person to prescribe or administer an opiate antagonist.

Section 4. Section 26-55-104 is enacted to read:

26-55-104. Authority to obtain and use an emergency opiate antagonist -- Immunity from liability.

(1) (a) Except as provided in Subsection (1)(b), a person other than a health care facility or health care provider who acts in good faith to administer

an opiate antagonist to another person whom the person believes to be suffering an opiate-related drug overdose event is not liable for any civil damages or acts or omissions made as a result of administering the opiate antagonist.

(b) A health care provider:

(i) does not have immunity from liability under Subsection (1)(a) when the health care provider is acting within the scope of the health care provider's responsibilities or duty of care; and

(ii) does have immunity from liability under Subsection (1)(a) if the health care provider is under no legal duty to respond and otherwise complies with Subsection (1)(a).

(2) Notwithstanding Sections 58-1-501, 58-17b-501, and 58-17b-502, a health care provider who is licensed to prescribe or dispense an opiate antagonist may, without a prescriber-patient relationship, prescribe or dispense an opiate antagonist without liability for any civil damages or acts or omissions made as a result of prescribing or dispensing an opiate antagonist in good faith, to:

(a) an individual who is at increased risk of experiencing or who is likely to experience an opiate-related drug overdose event; or

(b) a family member of, friend of, or other person who may be in a position to assist an individual who may be at increased risk of experiencing or who is likely to experience an opiate-related drug overdose event.

(3) A person who prescribes or dispenses an opiate antagonist shall provide education to the individual described in Subsection (2)(a) or (b) that includes instructions to take the person who received the opiate antagonist to an emergency care facility for a medical evaluation.

Section 5. Section 58-17b-507 is enacted to read:

58-17b-507. Opiate antagonist -- Immunity from liability.

(1) A person licensed under this chapter who dispenses an opiate antagonist as defined in Section 26-55-102 to an individual with a prescription for an opiate antagonist is not liable for any civil damages resulting from the outcomes that result from the eventual administration of the opiate antagonist to a person who another person believes is suffering an opiate-related drug overdose as defined in Section 26-55-102.

(2) The provisions of this section do not establish a duty or standard of care in the prescribing, dispensing, or administration of an opiate antagonist.

(3) It is not unprofessional conduct or unlawful conduct for a licensee under this chapter to dispense an opiate antagonist to a person on behalf of another person if the person obtaining the opiate antagonist has a prescription for the opiate antagonist from a licensed prescriber.

Section 6. Section 58-31b-703 is enacted to read:

58-31b-703. Opiate antagonist -- Exclusion from unprofessional or unlawful conduct.

(1) Title 26, Chapter 55, Emergency Administration of Opiate Antagonist Act, applies to a licensee under this chapter.

(2) The prescribing or dispensing of an opiate antagonist as defined in Section 26-55-102 by a licensee under this chapter is not unprofessional or unlawful conduct if the licensee prescribed or dispensed the opiate antagonist in a good faith effort to assist:

(a) a person who is at increased risk of experiencing or who is likely to experience an opiate-related drug overdose event as defined in Section 26-55-102; or

(b) a family member of, friend of, or other person who is in a position to assist a person who may be at increased risk of experiencing or who is likely to experience an opiate-related drug overdose event.

(3) The provisions of this section and Title 26, Chapter 55, Emergency Administration of Opiate Antagonist Act, do not establish a duty or standard of care in the prescribing, dispensing, or administration of an opiate antagonist.

Section 7. Section 58-67-702 is enacted to read:

58-67-702. Opiate antagonist -- Exclusion from unlawful or unprofessional conduct.

(1) Title 26, Chapter 55, Emergency Administration of Opiate Antagonist Act, applies to a licensee under this chapter.

(2) The prescribing or dispensing of an opiate antagonist as defined in Section 26-55-102 by a licensee under this chapter is not unprofessional or unlawful conduct if the licensee prescribed or dispensed the opiate antagonist in a good faith effort to assist:

(a) a person who is at increased risk of experiencing or who is likely to experience an opiate-related drug overdose event as defined in Section 26-55-102; or

(b) a family member of, friend of, or other person who is in a position to assist a person who may be at increased risk of experiencing or who is likely to experience an opiate-related drug overdose event.

(3) The provisions of this section and Title 26, Chapter 55, Emergency Administration of Opiate Antagonist Act, do not establish a duty or standard of care in the prescribing, dispensing, or administration of an opiate antagonist.

Section 8. Section 58-68-702 is enacted to read:

58-68-702. Opiate antagonist -- Exclusion from unlawful or unprofessional conduct.

(1) Title 26, Chapter 55, Emergency Administration of Opiate Antagonist Act, applies to a licensee under this chapter.

(2) The prescribing or dispensing of an opiate antagonist as defined in Section 26-55-102 by a licensee under this chapter is not unprofessional or unlawful conduct if the licensee prescribed or dispensed the opiate antagonist in a good faith effort to assist:

(a) a person who is at increased risk of experiencing or who is likely to experience an opiate-related drug overdose event as defined in Section 26-55-102; or

(b) a family member of, friend of, or other person who is in a position to assist a person who may be at increased risk of experiencing or who is likely to experience an opiate-related drug overdose event.

(3) The provisions of this section and Title 26, Chapter 55, Emergency Administration of Opiate Antagonist Act, do not establish a duty or standard of care in the prescribing, dispensing, or administration of an opiate antagonist.

Section 9. Section 58-70a-505 is enacted to read:

58-70a-505. Opiate antagonist -- Exclusion from unlawful or unprofessional conduct.

(1) Title 26, Chapter 55, Emergency Administration of Opiate Antagonist Act, applies to a licensee under this chapter.

(2) The prescribing or dispensing of an opiate antagonist as defined in Section 26-55-102 by a licensee under this chapter is not unprofessional or unlawful conduct if the licensee prescribed or dispensed the opiate antagonist in a good faith effort to assist:

(a) a person who is at increased risk of experiencing or who is likely to experience an opiate-related drug overdose event as defined in Section 26-55-102; or

(b) a family member of, friend of, or other person who is in a position to assist a person who may be at increased risk of experiencing or who is likely to experience an opiate-related drug overdose event.

(3) The provisions of this section and Title 26, Chapter 55, Emergency Administration of Opiate Antagonist Act, do not establish a duty or standard of care in the prescribing, dispensing, or administration of an opiate antagonist.

CHAPTER 131**H. B. 127**

Passed March 6, 2014

Approved March 29, 2014

Effective May 13, 2014

CONSUMER LENDING AMENDMENTS

Chief Sponsor: James A. Dunnigan

Senate Sponsor: Curtis S. Bramble

Cosponsors: Jennifer M. Seelig

Jim Bird

Jon Cox

Susan Duckworth

Gage Froerer

Lynn N. Hemingway

Dana L. Layton

Mike K. McKell

Lee B. Perry

Jeremy A. Peterson

Jon E. Stanard

Larry B. Wiley

Brad R. Wilson

LONG TITLE**General Description:**

This bill modifies provisions related to deferred deposit loans.

Highlighted Provisions:

This bill:

- ▶ modifies the reporting requirements for deferred deposit lenders;
- ▶ imposes additional requirements before the extension of a deferred deposit loan;
- ▶ prohibits a deferred deposit contract from modifying statutory venue provisions;
- ▶ requires notice before initiating a civil action;
- ▶ modifies provisions related to extended payment plans; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

7-23-201, as last amended by Laws of Utah 2013, Chapter 73

7-23-401, as last amended by Laws of Utah 2010, Chapter 102

7-23-403, as enacted by Laws of Utah 2010, Chapter 102

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

Section 1. Section 7-23-201 is amended to read:**7-23-201. Registration -- Rulemaking.**

(1) (a) It is unlawful for a person to engage in the business of cashing checks or the business of deferred deposit lending in Utah or with a Utah resident unless the person:

(i) registers with the department in accordance with this chapter; and

(ii) maintains a valid registration.

(b) It is unlawful for a person to operate a mobile facility in this state to engage in the business of:

(i) cashing checks; or

(ii) deferred deposit lending.

(2) (a) A registration and a renewal of a registration expires on December 31 of each year unless on or before that date the person renews the registration.

(b) To register under this section, a person shall:

(i) pay an original registration fee established under Subsection 7-1-401(8);

(ii) submit a registration statement containing the information described in Subsection (2)(d);

(iii) submit evidence satisfactory to the commissioner that the person is authorized to conduct business in this state as a domestic or foreign entity pursuant to filings with the Division of Corporations and Commercial Code under Title 16, Corporations, or Title 48, Partnership; and

(iv) if the person engages in the business of deferred deposit lending, submit evidence satisfactory to the commissioner that the person is registered with the nationwide database.

(c) To renew a registration under this section, a person shall:

(i) pay the annual fee established under Subsection 7-1-401(5);

(ii) submit a renewal statement containing the information described in Subsection (2)(d);

(iii) submit evidence satisfactory to the commissioner that the person is authorized to conduct business in this state as a domestic or foreign entity pursuant to filings with the Division of Corporations and Commercial Code under Title 16, Corporations, or Title 48, Partnership;

(iv) if the person engages in the business of deferred deposit lending, submit evidence satisfactory to the commissioner that the person is registered with the nationwide database; and

(v) if the person engages in the business of deferred deposit lending, submit an operations statement containing the information described in Subsection (2)(e).

(d) A registration or renewal statement shall state:

(i) the name of the person;

(ii) the name in which the business will be transacted if different from that required in Subsection (2)(d)(i);

(iii) the address of the person's principal business office, which may be outside this state;

(iv) the addresses of all offices in this state at which the person conducts the business of:

(A) cashing checks; or

(B) deferred deposit lending;

(v) if the person conducts the business of cashing checks or the business of deferred deposit lending in this state but does not maintain an office in this state, a brief description of the manner in which the business is conducted;

(vi) the name and address in this state of a designated agent upon whom service of process may be made;

(vii) disclosure of an injunction, judgment, administrative order, or conviction of a crime involving moral turpitude with respect to that person or an officer, director, manager, operator, or principal of that person; and

(viii) any other information required by the rules of the department.

(e) An operations statement required for a deferred deposit lender to renew a registration shall state for the immediately preceding calendar year:

(i) the average principal amount of the deferred deposit loans extended by the deferred deposit lender;

(ii) for deferred deposit loans paid in full, the average number of days a deferred deposit loan is outstanding for the duration of time that interest is charged;

(iii) the minimum and maximum dollar amount of interest and fees charged by the deferred deposit lender for a deferred deposit loan of \$100 with a loan term of seven days;

(iv) the total number of deferred deposit loans rescinded by the deferred deposit lender at the request of the customer pursuant to Subsection 7-23-401(3)(b);

(v) of the persons to whom the deferred deposit lender extended a deferred deposit loan, the percentage that entered into an extended payment plan under Section 7-23-403;

(vi) the total dollar amount of deferred deposit loans rescinded by the deferred deposit lender at the request of the customer pursuant to Subsection 7-23-401(3)(b);

(vii) the average annual percentage rate charged on deferred deposit loans; ~~and~~

(viii) the average dollar amount of extended payment plans entered into under Section 7-23-403 by the deferred deposit lender~~[-]~~;

(ix) the number of deferred deposit loans carried to the maximum 10 weeks;

(x) the total dollar amount of deferred deposit loans carried to the maximum 10 weeks;

(xi) the number of deferred deposit loans not paid in full at the end of 10 weeks; and

(xii) the total dollar amount of deferred deposit loans not paid in full at the end of 10 weeks.

(f) The commissioner may by rule, made in accordance with Title 63G, Chapter 3, Utah

Administrative Rulemaking Act, provide for the transition of persons registering with the nationwide database.

(3) Information provided by a deferred deposit lender under Subsection (2)(e) is:

(a) confidential in accordance with Section 7-1-802; and

(b) not subject to Title 63G, Chapter 2, Government Records Access and Management Act.

(4) (a) The commissioner may impose an administrative fine determined under Subsection (4)(b) on a person if:

(i) the person is required to be registered under this chapter;

(ii) the person fails to register or renew a registration in accordance with this chapter;

(iii) the department notifies the person that the person is in violation of this chapter for failure to be registered; and

(iv) the person fails to register within 30 days after the day on which the person receives the notice described in Subsection (4)(a)(iii).

(b) Subject to Subsection (4)(c), the administrative fine imposed under this section is:

(i) \$500 if the person:

(A) has no office in this state at which the person conducts the business of:

(I) cashing checks; or

(II) deferred deposit lending; or

(B) has one office in this state at which the person conducts the business of:

(I) cashing checks; or

(II) deferred deposit lending; or

(ii) if the person has two or more offices in this state at which the person conducts the business of cashing checks or the business of deferred deposit lending, \$500 for each office at which the person conducts the business of:

(A) cashing checks; or

(B) deferred deposit lending.

(c) The commissioner may reduce or waive a fine imposed under this Subsection (4) if the person shows good cause.

(5) If the information in a registration, renewal, or operations statement required under Subsection (2) becomes inaccurate after filing, a person is not required to notify the department until:

(a) that person is required to renew the registration; or

(b) the department specifically requests earlier notification.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules consistent with this section providing for:

(a) the form, content, and filing of a registration and renewal statement described in Subsection (2)(d); and

(b) the form and filing of an operations statement described in Subsection (2)(e).

(7) A deferred deposit loan that is made by a person who is required to be registered under this chapter but who is not registered is void, and the person may not collect, receive, or retain any principal or other interest or fees in connection with the deferred deposit loan.

Section 2. Section 7-23-401 is amended to read:

7-23-401. Operational requirements for deferred deposit loans.

(1) If a deferred deposit lender extends a deferred deposit loan, the deferred deposit lender shall:

(a) post in a conspicuous location on its premises that can be viewed by a person seeking a deferred deposit loan:

(i) a complete schedule of any interest or fees charged for a deferred deposit loan that states the interest and fees using dollar amounts;

(ii) a number the person can call to make a complaint to the department regarding the deferred deposit loan; and

(iii) a list of states where the deferred deposit lender is registered or authorized to offer deferred deposit loans through the Internet or other electronic means;

(b) enter into a written contract for the deferred deposit loan;

(c) conspicuously disclose in the written contract:

(i) that under Subsection (3)(a), a person receiving a deferred deposit loan may make a partial payment in increments of at least \$5 on the principal owed on the deferred deposit loan without incurring additional charges above the charges provided in the written contract;

(ii) that under Subsection (3)(b), a person receiving a deferred deposit loan may rescind the deferred deposit loan on or before 5 p.m. of the next business day without incurring any charges;

(iii) that under Subsection (4)(b), the deferred deposit loan may not be rolled over without the person receiving the deferred deposit loan requesting the rollover of the deferred deposit loan;

(iv) that under Subsection (4)(c), the deferred deposit loan may not be rolled over if the rollover requires the person to pay the amount owed by the person under the deferred deposit loan in whole or in part more than 10 weeks after the day on which the deferred deposit loan is executed; and

(v) (A) the name and address of a designated agent required to be provided the department under Subsection 7-23-201(2)(d)(vi); and

(B) a statement that service of process may be made to the designated agent;

(d) provide the person seeking the deferred deposit loan:

(i) a copy of the written contract described in Subsection (1)(c); and

(ii) written notice that [if] the person seeking the deferred deposit loan is eligible to enter into an extended payment plan~~], the deferred deposit lender provides an extended payment plan~~ described in Section 7-23-403;

(e) orally review with the person seeking the deferred deposit loan the terms of the deferred deposit loan including:

(i) the amount of any interest rate or fee;

(ii) the date on which the full amount of the deferred deposit loan is due;

(iii) that under Subsection (3)(a), a person receiving a deferred deposit loan may make a partial payment in increments of at least \$5 on the principal owed on the deferred deposit loan without incurring additional charges above the charges provided in the written contract;

(iv) that under Subsection (3)(b), a person receiving a deferred deposit loan may rescind the deferred deposit loan on or before 5 p.m. of the next business day without incurring any charges;

(v) that under Subsection (4)(b), the deferred deposit loan may not be rolled over without the person receiving the deferred deposit loan requesting the rollover of the deferred deposit loan; and

(vi) that under Subsection (4)(c), the deferred deposit loan may not be rolled over if the rollover requires the person to pay the amount owed by the person under the deferred deposit loan in whole or in part more than 10 weeks after the day on which the deferred deposit loan is executed; ~~and~~

(f) comply with the following as in effect on the date the deferred deposit loan is extended:

(i) Truth in Lending Act, 15 U.S.C. Sec. 1601 et seq., and its implementing federal regulations;

(ii) Equal Credit Opportunity Act, 15 U.S.C. Sec. 1691, and its implementing federal regulations;

(iii) Bank Secrecy Act, 12 U.S.C. Sec. 1829b, 12 U.S.C. Sec. 1951 through 1959, and 31 U.S.C. Sec. 5311 through 5332, and its implementing regulations; and

(iv) Title 70C, Utah Consumer Credit Code[-];

(g) in accordance with Subsection (6), make an inquiry to determine whether a person attempting to receive a deferred deposit loan has the ability to repay the deferred deposit loan in the ordinary course, which may include rollovers or extended payment plans as allowed under this chapter; and

(h) in accordance with Subsection (7), receive a signed acknowledgment from a person attempting to receive a deferred deposit loan that the person

has the ability to repay the deferred deposit loan, which may include rollovers or extended payment plans as allowed by this chapter.

(2) If a deferred deposit lender extends a deferred deposit loan through the Internet or other electronic means, the deferred deposit lender shall provide the information described in Subsection (1)(a) to the person receiving the deferred deposit loan:

(a) in a conspicuous manner; and

(b) prior to the person entering into the deferred deposit loan.

(3) A deferred deposit lender that engages in a deferred deposit loan shall permit a person receiving a deferred deposit loan to:

(a) make partial payments in increments of at least \$5 on the principal owed on the deferred deposit loan at any time prior to maturity without incurring additional charges above the charges provided in the written contract; and

(b) rescind the deferred deposit loan without incurring any charges by returning the deferred deposit loan amount to the deferred deposit lender on or before 5 p.m. the next business day following the deferred deposit loan transaction.

(4) A deferred deposit lender that engages in a deferred deposit loan may not:

(a) collect additional interest on a deferred deposit loan with an outstanding principal balance 10 weeks after the day on which the deferred deposit loan is executed;

(b) roll over a deferred deposit loan without the person receiving the deferred deposit loan requesting the rollover of the deferred deposit loan;

(c) roll over a deferred deposit loan if the rollover requires a person to pay the amount owed by the person under a deferred deposit loan in whole or in part more than 10 weeks from the day on which the deferred deposit loan is first executed;

(d) extend a new deferred deposit loan to a person on the same business day that the person makes a payment on another deferred deposit loan if the payment:

(i) is made at least 10 weeks after the day on which that deferred deposit loan is extended; and

(ii) results in the principal of that deferred deposit loan being paid in full;

(e) threaten to use or use the criminal process in any state to collect on the deferred deposit loan; or

(f) in connection with the collection of money owed on a deferred deposit loan, communicate with a person who owes money on a deferred deposit loan at the person's place of employment if the person or the person's employer communicates, orally or in writing, to the deferred deposit lender that the person's employer prohibits the person from receiving these communications[-]; or

(g) modify by contract the venue provisions in Title 78B, Chapter 3, Actions and Venue.

(5) Notwithstanding Subsections (4)(a) and (e), a deferred deposit lender that is the holder of a check used to obtain a deferred deposit loan that is dishonored may use the remedies and notice procedures provided in Chapter 15, Dishonored Instruments, except that the issuer, as defined in Section 7-15-1, of the check may not be:

(a) asked by the holder to pay the amount described in Subsection 7-15-1(6)(a)(iii) as a condition of the holder not filing a civil action; or

(b) held liable for the damages described in Subsection 7-15-1(7)(b)(vi).

(6) (a) The inquiry required by Subsection (1)(g) applies solely to the initial period of a deferred deposit loan transaction with a person and does not apply to any rollover or extended payment plan of a deferred deposit loan.

(b) A deferred deposit lender is in compliance with Subsection (1)(g) if the deferred deposit lender, at the time of the initial period of the deferred deposit loan transaction, obtains one of the following regarding the person seeking the deferred deposit loan:

(i) a consumer report, as defined in 15 U.S.C. Sec. 1681a, from a consumer reporting agency, as defined in 15 U.S.C. Sec. 1681a;

(ii) written proof or verification of income from the person seeking the deferred deposit loan; or

(iii) prior repayment history with the deferred deposit loan from the records of the deferred deposit lender.

(7) A deferred deposit lender is in compliance with Subsection (1)(h) if the deferred deposit lender obtains from the person seeking the deferred deposit loan a signed acknowledgment that is in 14-point bold font, that the person seeking the deferred deposit loan has:

(a) reviewed the payment terms of the deferred deposit loan agreement;

(b) received a disclosure that a deferred deposit loan may not be rolled over if the rollover requires the person to pay the amount owed by the person under the deferred deposit loan in whole or in part more than 10 weeks after the day on which the deferred deposit loan is first executed;

(c) received a disclosure explaining the extended payment plan options; and

(d) acknowledged the ability to repay the deferred deposit loan in the ordinary course, which may include rollovers, or extended payment plans as allowed under this chapter.

(8) (a) Before initiating a civil action against a person who owes money on a deferred deposit loan, a deferred deposit lender shall provide the person at least 10 days notice of default, describing that the person must remedy the default and that the deferred deposit lender intends to initiate a civil

action against the person if the person fails to cure the default within the 10-day period.

(b) A deferred deposit lender may provide the notice required under this Subsection (8):

(i) by sending written notice to the address provided by the person to the deferred deposit lender;

(ii) by sending an electronic transmission to a person if electronic contact information is provided to the deferred deposit lender; or

(iii) pursuant to the Utah Rules of Civil Procedure.

Section 3. Section 7-23-403 is amended to read:

7-23-403. Extended payment plan.

(1) (a) If a person who owes money on a deferred deposit loan requests to enter into an extended payment plan, the deferred deposit lender who extended the deferred deposit loan shall allow the person to enter into an extended payment plan that meets the requirements of this section at least once during a 12-month period to pay the money owed.

(b) A deferred deposit lender is not required to enter into an extended payment plan with a person who owes money on a deferred deposit loan more than one time during a 12-month period.

(c) Notwithstanding the other provisions of this Subsection (1), if a person is charged 10 continuous weeks of interest or fees on a deferred deposit loan, including rollovers, at the end of the 10-week period:

(i) the person may request to repay the deferred deposit loan and rollovers under an extended payment plan that meets the requirements of this section; and

(ii) the deferred deposit lender shall execute the extended payment plan in accordance with this section.

(2) An extended payment plan shall include the following:

(a) A deferred deposit lender shall require a person who receives a deferred deposit loan and wants to enter an extended payment plan to enter into a written agreement:

(i) with the deferred deposit lender;

(ii) that is executed:

(A) no sooner than the day before the last day of the initial term of the deferred deposit loan; and

(B) no later than the end of the deferred deposit lender's business day before the day on which the deferred deposit loan is due; and

(iii) that states:

(A) a payment schedule; and

(B) the money owed under the extended payment plan.

(b) A payment schedule for an extended payment plan shall provide that the money owed may be paid:

(i) in at least four equal payments; and

(ii) over a time period that is at least 60 days.

(c) The money owed under an extended payment plan shall equal the money owed under the deferred deposit loan, including interest and fees, that would be due if the deferred deposit loan is paid in full on the last day of the most current term of the deferred deposit loan.

(3) (a) A deferred deposit lender may not charge interest or fees as part of an extended payment plan ~~except that if~~.

(b) A deferred deposit loan may not be considered in default during the extended payment plan period if the person who receives the deferred deposit loan complies with the terms of the extended payment plan.

(c) If a person who receives a deferred deposit loan defaults ~~under~~ during the extended payment plan period, the deferred deposit lender may:

~~(a)~~ (i) accelerate the requirement to pay the money owed under the extended payment plan;

~~(b)~~ (ii) charge a fee not to exceed \$20;

~~(e)~~ (iii) terminate the extended payment plan; and

~~(d)~~ (iv) subject to the other requirements of this chapter, reinstate the original deferred deposit loan terms.

(4) A deferred deposit loan may not penalize a person who enters into an extended payment plan for paying to the deferred deposit lender money owed under the extended payment plan before the money is due.

(5) A deferred deposit lender may not initiate collection activities for a deferred deposit loan that is subject to an extended payment plan during the period that the person owing money under the extended payment plan is in compliance with the extended payment plan.

(6) A deferred deposit lender may not collect additional interest or fees on a deferred deposit loan, except for the fee imposed under Subsection (3)(c)(ii), from a person who has been charged 10 weeks interest and defaults under the extended payment plan described in Subsection (1)(c).

CHAPTER 132**H. B. 152**

Passed March 13, 2014
 Approved March 29, 2014
 Effective May 13, 2014

HIGHWAY SPONSORSHIP PROGRAM ACT

Chief Sponsor: John Knotwell
 Senate Sponsor: J. Stuart Adams

LONG TITLE**General Description:**

This bill modifies the Transportation Code by authorizing the Department of Transportation to establish a sponsorship program.

Highlighted Provisions:

This bill:

- ▶ provides definitions;
- ▶ authorizes the Department of Transportation to establish a sponsorship program to allow for private sponsorship of certain department operational activities or other highway-related services or programs;
- ▶ requires revenues generated from a sponsorship to be deposited into the Transportation Fund to be used for certain transportation purposes;
- ▶ requires the Department of Transportation to adopt a policy on sponsorship agreements that is applicable to certain department operational activities or other highway-related services or programs;
- ▶ grants the Department of Transportation rulemaking authority to make and enforce rules regarding size, placement, and content restrictions for sponsorship advertisements; and
- ▶ establishes restrictions for certain sponsorship advertisements.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

72-6-401, Utah Code Annotated 1953
 72-6-402, Utah Code Annotated 1953
 72-6-403, Utah Code Annotated 1953

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

Section 1. Section 72-6-401 is enacted to read:**Part 4. Highway Sponsorship Program Act****72-6-401. Title.**

This part is known as the "Highway Sponsorship Program Act."

Section 2. Section 72-6-402 is enacted to read:**72-6-402. Definitions.**

As used in this section:

- (1) "Acknowledgment sign" means a sign that:
 - (a) is intended to inform the traveling public that a highway-related service, product, or monetary

contribution has been sponsored by a person, firm, or entity; and

(b) meets all design and placement guidelines for acknowledgment signs as set forth in the most recent edition of the Manual on Uniform Traffic Control Devices for Streets and Highways adopted by the department in accordance with Section 41-6a-301.

(2) "Sponsorship agreement" means an agreement or contract between the department or its contractors and a person, firm, or entity that includes a provision authorizing an acknowledgment of the person, firm, or entity that is providing:

- (a) the highway-related service or product; or
- (b) a monetary contribution to pay for a portion of the highway-related service or product.

Section 3. Section 72-6-403 is enacted to read:**72-6-403. Highway sponsorship program -- Sponsorship advertisement restrictions -- Rulemaking.**

(1) The department may establish a sponsorship program to allow for private sponsorship of the following department operational activities or other highway-related services or programs:

- (a) traveler information; and
- (b) rest areas.

(2) All revenue generated from a sponsorship authorized by this section shall be deposited into the Transportation Fund created by Section 72-2-102 to be used to:

- (a) offset costs associated with providing the service being sponsored; and
- (b) support costs associated with operation and maintenance of the state highway system.

(3) (a) The department shall adopt a policy on sponsorship agreements that is applicable to all department operational activities or other highway-related services within the state described in Subsection (1).

(b) The policy described in Subsection (3)(a) shall:

- (i) include language requiring the department to terminate a sponsorship agreement if it determines the sponsorship agreement or acknowledgment sign:

- (A) presents a safety concern;
- (B) interferes with the free and safe flow of traffic; or
- (C) is not in the public interest; and

(ii) describe the sponsors and sponsorship agreements that are acceptable and consistent with applicable state and federal laws.

(4) A sponsorship authorized by this section:

- (a) may not contain:
 - (i) promotion of any substance or activity that is illegal for minors, such as alcohol, tobacco, drugs, or gambling;

(ii) promotion of any political party, candidate, or issue; or

(iii) sexual material;

(b) may not resemble a traffic-control device as defined in Section 41-6a-102; and

(c) shall comply with federal outdoor advertising regulations in accordance with 23 U.S.C. Sec. 131.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make and enforce rules governing:

(a) the placement and size restrictions for acknowledgment signs at rest areas; and

(b) other size, placement, and content restrictions that the department determines are necessary.

(6) A commercial advertiser that enters a sponsorship agreement with the department for the use of space for a sponsorship shall pay:

(a) the cost of placing the sponsorship advertisement on a sign; and

(b) for the removal of the sponsorship advertisement after the term of the sponsorship agreement has expired.

CHAPTER 133**H. B. 194**

Passed March 11, 2014
 Approved March 29, 2014
 Effective May 13, 2014

**PUBLIC SAFETY RETIREMENT
 CONVERSION WINDOW**

Chief Sponsor: Lee B. Perry
 Senate Sponsor: Peter C. Knudson

LONG TITLE**General Description:**

This bill modifies the Utah State Retirement and Insurance Benefit Act by providing a conversion window between the Public Safety Contributory Retirement System and the Public Safety Noncontributory Retirement System.

Highlighted Provisions:

This bill:

- ▶ provides a conversion window between the Public Safety Contributory Retirement System and the Public Safety Noncontributory Retirement System.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

49-15-204, as last amended by Laws of Utah 2007, Chapter 36

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

Section 1. Section 49-15-204 is amended to read:

49-15-204. Conversion to system -- Time schedule.

The following laws govern conversion to the Public Safety Noncontributory Retirement System:

(1) For an employee governed by Subsection 49-15-201(1)(a), the election to participate in this system shall be made within six months of July 1, 1989.

(2) (a) (i) For an employer governed by Subsection 49-15-201(2)(a), the election to participate in this system shall be made within six months of July 1, 1989.

(ii) The employer shall indicate whether or not it elects to participate by enacting a resolution or ordinance to that effect.

(iii) Prior to the enactment of the resolution or ordinance, a hearing shall be held by the employer, at which all public safety service employees of the employer shall be given an opportunity to be heard on the question of participating in this system.

(iv) Notice of the hearing shall be mailed to all public safety service employees within 30 days of the hearing and shall contain the time, place, and purpose of the hearing.

(b) A public safety service employee of an employer, prior to its election to participate, has six months from the date the employer elects to participate in which to elect to become eligible for service credit in this system.

(3) (a) Subsections (1) and (2) shall be used to provide a time period of conversion to the Public Safety Noncontributory Retirement System beginning July 1, 1998, and ending December 31, 1998.

(b) A person converting to the system during this time period is subject to all the rights, limitations, terms, and conditions of Chapter 15, Public Safety Noncontributory Retirement Act.

(4) Subsections (1) and (2) shall be used to provide a time period for an appointed chief of police to convert to the Public Safety Noncontributory Retirement System beginning July 1, 2002, and ending December 31, 2002. A chief of police converting to the system during this time period shall be subject to all the rights, limitations, terms, and conditions of Chapter 15, Public Safety Noncontributory Retirement Act, including an employer's election under Subsection (2).

(5) (a) Subsections (1) and (2) shall be used to provide a time period of conversion to the Public Safety Noncontributory Retirement System beginning July 1, 2007, and ending December 31, 2007.

(b) A person converting to the system during this time period is subject to all the rights, limitations, terms, and conditions of Chapter 15, Public Safety Noncontributory Retirement Act.

(6) (a) Subsections (1) and (2) shall be used to provide a time period of conversion to the Public Safety Noncontributory Retirement System beginning July 1, 2014, and ending December 31, 2014.

(b) A person converting to the system during this time period is subject to all the rights, limitations, terms, and conditions of Chapter 15, Public Safety Noncontributory Retirement Act.

CHAPTER 134**H. B. 203**

Passed February 27, 2014

Approved March 29, 2014

Effective May 13, 2014

**BAIL BOND RECOVERY
LICENSURE BOARD AMENDMENTS**

Chief Sponsor: Edward H. Redd

Senate Sponsor: Lyle W. Hillyard

LONG TITLE**General Description:**

This bill modifies the Bail Bond Recovery Act regarding board membership qualifications.

Highlighted Provisions:

This bill:

- ▶ modifies the membership of the Bail Bond Recovery Licensure Board regarding the member who is required to be an owner of a bail bond surety company, so that the member may also be a bail enforcement agent or a bail recovery agent.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53-11-104, as last amended by Laws of Utah 2010, Chapter 286

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

Section 1. Section 53-11-104 is amended to read:**53-11-104. Board.**

(1) (a) There is established under the Department of Public Safety a Bail Bond Recovery Licensure Board consisting of five members appointed by the commissioner.

(b) The commissioner may appoint, in accordance with this section, persons who are also serving in the same capacity on the Private Investigator Hearing and Licensure Board under Section 53-9-104.

(2) Each member of the board shall be a citizen of the United States and a resident of this state at the time of appointment:

(a) one member shall be a person who is qualified for and is licensed under this chapter;

(b) one member shall be a an attorney licensed to practice in the state;

(c) one member shall be a chief of police or sheriff;

(d) one member shall be an owner of a bail bond surety company [~~who is not a bail enforcement agent or a bail recovery agent~~]; and

(e) one member shall be a public member who [~~does not have~~]:

(i) ~~does not have a financial interest in a bail bond surety or bail bond recovery business; and~~

(ii) ~~does not have an immediate family member or a household member, or a personal or professional acquaintance who is licensed or registered under this chapter.~~

(3) (a) As terms of current board members expire, the commissioner shall appoint each new member or reappointed member to a four-year term, except as required by Subsection (3)(b).

(b) The commissioner shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

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

(5) At its first meeting every year, the board shall elect a chair and vice chair from its membership.

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

(a) Section 63A-3-106;

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

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

(7) A member may not serve more than one term, except that a member appointed to fill a vacancy or appointed for an initial term of less than four years under Subsection (3) may be reappointed for one additional full term.

(8) The commissioner, after a board hearing and recommendation, may remove any member of the board for misconduct, incompetency, or neglect of duty.

(9) Members of the board are immune from suit with respect to all acts done and actions taken in good faith in carrying out the purposes of this chapter.

CHAPTER 135**H. B. 213**

Passed March 13, 2014
 Approved March 29, 2014
 Effective May 13, 2014

**CRIMINAL PENALTIES FOR
 SEXUAL CONTACT WITH A STUDENT**

Chief Sponsor: LaVar Christensen
 Senate Sponsor: Howard A. Stephenson

LONG TITLE**General Description:**

This bill modifies the Criminal Code regarding the concept of a position of special trust regarding persons working at schools.

Highlighted Provisions:

This bill:

- ▶ modifies the offense of aggravated sexual abuse of a child by providing a definition of the term "position of special trust" and clarifying that the definition of a teacher includes adult employees and volunteers at public and private schools;
- ▶ provides that specified sexual conduct against victims between 14 and 18 years of age are third degree felonies if committed by a school employee or volunteer; and
- ▶ states in the Criminal Code that a sexual offense against a minor is a ground for the revocation of a teacher's license.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 76-5-309, as last amended by Laws of Utah 2013, Chapter 196
 76-5-401.1, as enacted by Laws of Utah 1998, Chapter 82
 76-5-401.2, as last amended by Laws of Utah 2013, Chapter 34
 76-5-404.1, as last amended by Laws of Utah 2013, Chapters 81 and 196
 76-5-406, as last amended by Laws of Utah 2013, Chapter 196

ENACTS:

76-5-415, Utah Code Annotated 1953

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

Section 1. Section 76-5-309 is amended to read:

76-5-309. Human trafficking and human smuggling -- Penalties.

(1) Human trafficking for forced labor and human trafficking for forced sexual exploitation are each a second degree felony, except under Section 76-5-310.

(2) Human smuggling, under Section 76-5-308 of one or more persons is a third degree felony, except under Section 76-5-310.

(3) Human trafficking for forced labor or for forced sexual exploitation and human smuggling are each a separate offense from any other crime committed in relationship to the commission of either of these offenses.

(4) Under circumstances not amounting to aggravated sexual abuse of a child, a violation of Subsection 76-5-404.1(4)(h)(~~+~~), a person who benefits, receives, or exchanges anything of value from knowing participation in:

(a) human trafficking for forced labor or for forced sexual exploitation in violation of Section 76-5-308 is guilty of a second degree felony; and

(b) human smuggling is guilty of a third degree felony.

(5) A person commits a separate offense of human trafficking or human smuggling for each person who is smuggled or trafficked under Section 76-5-308 or 76-5-310.

Section 2. Section 76-5-401.1 is amended to read:

76-5-401.1. Sexual abuse of a minor.

(1) For purposes of this section "minor" is a person who is 14 years of age or older, but younger than 16 years of age, at the time the sexual activity described in this section occurred.

(2) A person commits sexual abuse of a minor if the person is seven years or more older than the minor or holds a relationship of special trust as an adult teacher, employee, or volunteer, as described in Subsection 76-5-404.1(1)(c)(xix) and, under circumstances not amounting to rape, in violation of Section 76-5-402, object rape, in violation of Section 76-5-402.2, forcible sodomy, in violation of Section 76-5-403, aggravated sexual assault, in violation of Section 76-5-405, unlawful sexual activity with a minor, in violation of Section 76-5-401, or an attempt to commit any of those offenses, the person touches the anus, buttocks, or any part of the genitals of the minor, or touches the breast of a female minor, or otherwise takes indecent liberties with the minor, or causes a minor to take indecent liberties with the actor or another person, with the intent to cause substantial emotional or bodily pain to any person or with the intent to arouse or gratify the sexual desire of any person regardless of the sex of any participant.

(3) (a) A violation of this section is a class A misdemeanor[-], except under Subsection (3)(b).

(b) A violation of this section is a third degree felony if the actor at the time of the commission of the offense:

(i) is 18 years of age or older;

(ii) held a position of special trust as a teacher or a volunteer at a school, as that position is defined in Subsection 76-5-404.1(1)(c)(xix); and

(iii) committed the offense against an individual who at the time of the offense was enrolled as a student at the school where the actor was employed or was acting as a volunteer.

Section 3. Section 76-5-401.2 is amended to read:

76-5-401.2. Unlawful sexual conduct with a 16- or 17-year-old.

(1) As used in this section, “minor” means a person who is 16 years of age or older, but younger than 18 years of age, at the time the sexual conduct described in Subsection (2) occurred.

(2) (a) A person commits unlawful sexual conduct with a minor if, under circumstances not amounting to an offense listed under Subsection (3), a person who is:

(i) seven or more years older but less than 10 years older than the minor at the time of the sexual conduct engages in any conduct listed in Subsection (2)(b), and the person knew or reasonably should have known the age of the minor; [øø]

(ii) 10 or more years older than the minor at the time of the sexual conduct and engages in any conduct listed in Subsection (2)(b)[.]; or

(iii) holds a relationship of special trust as an adult teacher, employee, or volunteer, as described in Subsection 76-5-404.1(1)(c)(xix).

(b) As used in Subsection (2)(a), “sexual conduct” refers to when the person:

(i) has sexual intercourse with the minor;

(ii) engages in any sexual act with the minor involving the genitals of one person and the mouth or anus of another person, regardless of the sex of either participant;

(iii) causes the penetration, however slight, of the genital or anal opening of the minor by any foreign object, substance, instrument, or device, including a part of the human body, with the intent to cause substantial emotional or bodily pain to any person or with the intent to arouse or gratify the sexual desire of any person, regardless of the sex of any participant; or

(iv) touches the anus, buttocks, or any part of the genitals of the minor, or touches the breast of a female minor, or otherwise takes indecent liberties with the minor, or causes a minor to take indecent liberties with the actor or another person, with the intent to cause substantial emotional or bodily pain to any person or with the intent to arouse or gratify the sexual desire of any person regardless of the sex of any participant.

(3) The offenses referred to in Subsection (2) are:

(a) (i) rape, in violation of Section 76-5-402;

(ii) object rape, in violation of Section 76-5-402.2;

(iii) forcible sodomy, in violation of Section 76-5-403;

(iv) forcible sexual abuse, in violation of Section 76-5-404; or

(v) aggravated sexual assault, in violation of Section 76-5-405; or

(b) an attempt to commit any offense under Subsection (3)(a).

(4) A violation of Subsection (2)(b)(i), (ii), or (iii) is a third degree felony.

(5) (a) A violation of Subsection (2)(b)(iv) is a class A misdemeanor[.], except under Subsection (5)(b).

(b) A violation of Subsection (2)(b)(iv) is a third degree felony if the actor at the time of the commission of the offense:

(i) is 18 years of age or older;

(ii) held a position of special trust as a teacher or a volunteer at a school, as that position is defined in Subsection 76-5-404.1(1)(c)(xix); and

(iii) committed the offense against an individual who at the time of the offense was enrolled as a student at the school where the actor was employed or was acting as a volunteer.

Section 4. Section 76-5-404.1 is amended to read:

76-5-404.1. Sexual abuse of a child -- Aggravated sexual abuse of a child.

(1) As used in this section[.], “child” means a person under the age of 14[.]:

(a) “Adult” means an individual 18 years of age or older.

(b) “Child” means an individual under the age of 14.

(c) “Position of special trust” means:

(i) an adoptive parent;

(ii) an athletic manager who is an adult;

(iii) an aunt;

(iv) a babysitter;

(v) a coach;

(vi) a cohabitant of a parent if the cohabitant is an adult;

(vii) a counselor;

(viii) a doctor or physician;

(ix) an employer;

(x) a foster parent;

(xi) a grandparent;

(xii) a legal guardian;

(xiii) a natural parent;

(xiv) a recreational leader who is an adult;

(xv) a religious leader;

(xvi) a sibling or a stepsibling who is an adult;

(xvii) a scout leader who is an adult;

(xviii) a stepparent;

(xix) a teacher or any other person employed by or volunteering at a public or private elementary

school or secondary school, and who is 18 years of age or older;

(xx) an uncle;

(xxi) a youth leader who is an adult; or

(xxii) any person in a position of authority, other than those persons listed in Subsections (1)(c)(i) through (xxi), which enables the person to exercise undue influence over the child.

(2) A person commits sexual abuse of a child if, under circumstances not amounting to rape of a child, object rape of a child, sodomy on a child, or an attempt to commit any of these offenses, the actor touches the anus, buttocks, or genitalia of any child, the breast of a female child, or otherwise takes indecent liberties with a child, or causes a child to take indecent liberties with the actor or another with intent to cause substantial emotional or bodily pain to any person or with the intent to arouse or gratify the sexual desire of any person regardless of the sex of any participant.

(3) Sexual abuse of a child is [~~punishable as~~] a second degree felony.

(4) A person commits aggravated sexual abuse of a child when in conjunction with the offense described in Subsection (2) any of the following circumstances have been charged and admitted or found true in the action for the offense:

(a) the offense was committed by the use of a dangerous weapon as defined in Section 76-1-601, or by force, duress, violence, intimidation, coercion, menace, or threat of harm, or was committed during the course of a kidnapping;

(b) the accused caused bodily injury or severe psychological injury to the victim during or as a result of the offense;

(c) the accused was a stranger to the victim or made friends with the victim for the purpose of committing the offense;

(d) the accused used, showed, or displayed pornography or caused the victim to be photographed in a lewd condition during the course of the offense;

(e) the accused, prior to sentencing for this offense, was previously convicted of any felony, or of a misdemeanor involving a sexual offense;

(f) the accused committed the same or similar sexual act upon two or more victims at the same time or during the same course of conduct;

(g) the accused committed, in Utah or elsewhere, more than five separate acts, which if committed in Utah would constitute an offense described in this chapter, and were committed at the same time, or during the same course of conduct, or before or after the instant offense;

(h) the offense was committed by a person who occupied a position of special trust in relation to the victim; [~~“position of special trust” means that position occupied by a person in a position of authority, who, by reason of that position is able to~~

~~exercise undue influence over the victim, and includes, but is not limited to, a youth leader or recreational leader who is an adult, adult athletic manager, adult coach, teacher, counselor, religious leader, doctor, employer, foster parent, babysitter, adult scout leader, natural parent, stepparent, adoptive parent, legal guardian, grandparent, aunt, uncle, or adult cohabitant of a parent;]~~

(i) the accused encouraged, aided, allowed, or benefitted from acts of prostitution or sexual acts by the victim with any other person, or sexual performance by the victim before any other person, human trafficking, or human smuggling; or

(j) the accused caused the penetration, however slight, of the genital or anal opening of the child by any part or parts of the human body other than the genitals or mouth.

(5) Aggravated sexual abuse of a child is a first degree felony punishable by a term of imprisonment of:

(a) except as provided in Subsection (5)(b), (5)(c), or (6), not less than 15 years and which may be for life;

(b) except as provided in Subsection (5)(c) or (6), life without parole, if the trier of fact finds that during the course of the commission of the aggravated sexual abuse of a child the defendant caused serious bodily injury to another; or

(c) life without parole, if the trier of fact finds that at the time of the commission of the aggravated sexual abuse of a child, the defendant was previously convicted of a grievous sexual offense.

(6) If, when imposing a sentence under Subsection (5)(a) or (b), a court finds that a lesser term than the term described in Subsection (5)(a) or (b) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

(a) for purposes of Subsection (5)(b), 15 years and which may be for life; or

(b) for purposes of Subsection (5)(a) or (b):

(i) 10 years and which may be for life; or

(ii) six years and which may be for life.

(7) The provisions of Subsection (6) do not apply when a person is sentenced under Subsection (5)(c).

(8) Subsections (5)(b) and (5)(c) do not apply if the defendant was younger than 18 years of age at the time of the offense.

(9) Imprisonment under this section is mandatory in accordance with Section 76-3-406.

Section 5. Section 76-5-406 is amended to read:

76-5-406. Sexual offenses against the victim without consent of victim -- Circumstances.

An act of sexual intercourse, rape, attempted rape, rape of a child, attempted rape of a child, object rape, attempted object rape, object rape of a

child, attempted object rape of a child, sodomy, attempted sodomy, forcible sodomy, attempted forcible sodomy, sodomy on a child, attempted sodomy on a child, forcible sexual abuse, attempted forcible sexual abuse, sexual abuse of a child, attempted sexual abuse of a child, aggravated sexual abuse of a child, attempted aggravated sexual abuse of a child, or simple sexual abuse is without consent of the victim under any of the following circumstances:

(1) the victim expresses lack of consent through words or conduct;

(2) the actor overcomes the victim through the actual application of physical force or violence;

(3) the actor is able to overcome the victim through concealment or by the element of surprise;

(4) (a) (i) the actor coerces the victim to submit by threatening to retaliate in the immediate future against the victim or any other person, and the victim perceives at the time that the actor has the ability to execute this threat; or

(ii) the actor coerces the victim to submit by threatening to retaliate in the future against the victim or any other person, and the victim believes at the time that the actor has the ability to execute this threat;

(b) as used in this Subsection (4), “to retaliate” includes threats of physical force, kidnapping, or extortion;

(5) the victim has not consented and the actor knows the victim is unconscious, unaware that the act is occurring, or physically unable to resist;

(6) the actor knows that as a result of mental disease or defect, the victim is at the time of the act incapable either of appraising the nature of the act or of resisting it;

(7) the actor knows that the victim submits or participates because the victim erroneously believes that the actor is the victim’s spouse;

(8) the actor intentionally impaired the power of the victim to appraise or control his or her conduct by administering any substance without the victim’s knowledge;

(9) the victim is younger than 14 years of age;

(10) the victim is younger than 18 years of age and at the time of the offense the actor was the victim’s parent, stepparent, adoptive parent, or legal guardian or occupied a position of special trust in relation to the victim as defined in [Subsection] Section 76-5-404.1(4)(h);

(11) the victim is 14 years of age or older, but younger than 18 years of age, and the actor is more than three years older than the victim and entices or coerces the victim to submit or participate, under circumstances not amounting to the force or threat required under Subsection (2) or (4); or

(12) the actor is a health professional or religious counselor, as those terms are defined in this Subsection (12), the act is committed under the

guise of providing professional diagnosis, counseling, or treatment, and at the time of the act the victim reasonably believed that the act was for medically or professionally appropriate diagnosis, counseling, or treatment to the extent that resistance by the victim could not reasonably be expected to have been manifested; for purposes of this Subsection (12):

(a) “health professional” means an individual who is licensed or who holds himself or herself out to be licensed, or who otherwise provides professional physical or mental health services, diagnosis, treatment, or counseling including, but not limited to, a physician, osteopathic physician, nurse, dentist, physical therapist, chiropractor, mental health therapist, social service worker, clinical social worker, certified social worker, marriage and family therapist, professional counselor, psychiatrist, psychologist, psychiatric mental health nurse specialist, or substance abuse counselor; and

(b) “religious counselor” means a minister, priest, rabbi, bishop, or other recognized member of the clergy.

Section 6. Section 76-5-415 is enacted to read:

76-5-415. Educator’s license subject to action for violation of this part.

Commission of any offense under this Title 76, Chapter 5, Part 4, Sexual Offenses, by an educator as defined in Section 53A-6-103, is grounds under Section 53A-6-501 for disciplinary action against the educator, including revocation of the educator’s license.

CHAPTER 136**H. B. 220**

Passed March 7, 2014
 Approved March 29, 2014
 Effective May 13, 2014

LAND USE AMENDMENTS

Chief Sponsor: Gage Froerer
 Senate Sponsor: J. Stuart Adams

LONG TITLE**General Description:**

This bill amends provisions related to land use.

Highlighted Provisions:

This bill:

- ▶ clarifies the definition of land use authority;
- ▶ allows a land use applicant a substantive review of the application in certain circumstances;
- ▶ requires the land use authority to provide notice of a petition to vacate or amend a plat to each entity that provides a service to an owner of record of the portion of the plat that is being vacated or amended at least 10 calendar days before the land use authority may approve the vacation or amendment of the plat;
- ▶ provides that a recorded, amended plat vacates a previously recorded plat;
- ▶ provides that a recorded vacating ordinance replaces a previously recorded plat described in the vacating ordinance;
- ▶ requires that an amended plat be signed by the land use authority; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 10-9a-103, as last amended by Laws of Utah 2013, Chapters 309 and 334
 10-9a-509, as last amended by Laws of Utah 2012, Chapter 216
 10-9a-608, as last amended by Laws of Utah 2010, Chapters 269 and 381
 10-9a-609, as last amended by Laws of Utah 2010, Chapter 381
 17-27a-103, as last amended by Laws of Utah 2013, Chapters 309, 334, and 476
 17-27a-508, as last amended by Laws of Utah 2012, Chapter 216
 17-27a-608, as last amended by Laws of Utah 2010, Chapters 269 and 381
 17-27a-609, as last amended by Laws of Utah 2010, Chapter 381

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

Section 1. Section 10-9a-103 is amended to read:**10-9a-103. Definitions.**

As used in this chapter:

(1) "Affected entity" means a county, municipality, local district, special service district

under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified public utility, property owner, property owners association, or the Utah Department of Transportation, if:

(a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;

(b) the entity has filed with the municipality a copy of the entity's general or long-range plan; or

(c) the entity has filed with the municipality a request for notice during the same calendar year and before the municipality provides notice to an affected entity in compliance with a requirement imposed under this chapter.

(2) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

(3) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(4) (a) "Charter school" means:

(i) an operating charter school;

(ii) a charter school applicant that has its application approved by a chartering entity in accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; or

(iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) "Charter school" does not include a therapeutic school.

(5) "Conditional use" means a land use that, because of its unique characteristics or potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

(6) "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(b) Utah Constitution Article I, Section 22.

(7) "Culinary water authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

(8) "Development activity" means:

(a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;

(b) any change in use of a building or structure that creates additional demand and need for public facilities; or

(c) any change in the use of land that creates additional demand and need for public facilities.

(9) (a) “Disability” means a physical or mental impairment that substantially limits one or more of a person’s major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

(b) “Disability” does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.

(10) “Educational facility”:

(a) means:

(i) a school district’s building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;

(ii) a structure or facility:

(A) located on the same property as a building described in Subsection (10)(a)(i); and

(B) used in support of the use of that building; and

(iii) a building to provide office and related space to a school district’s administrative personnel; and

(b) does not include:

(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

(A) not located on the same property as a building described in Subsection (10)(a)(i); and

(B) used in support of the purposes of a building described in Subsection (10)(a)(i); or

(ii) a therapeutic school.

(11) “Fire authority” means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

(12) “Flood plain” means land that:

(a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or

(b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

(13) “General plan” means a document that a municipality adopts that sets forth general guidelines for proposed future development of the land within the municipality.

(14) “Geologic hazard” means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

(f) unstable soil;

(g) a rock fall; or

(h) any other geologic condition that presents a risk:

(i) to life;

(ii) of substantial loss of real property; or

(iii) of substantial damage to real property.

(15) “Hookup fee” means a fee for the installation and inspection of any pipe, line, meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other utility system.

(16) “Identical plans” means building plans submitted to a municipality that:

(a) are clearly marked as “identical plans”;

(b) are substantially identical to building plans that were previously submitted to and reviewed and approved by the municipality; and

(c) describe a building that:

(i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;

(ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;

(iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the municipality; and

(iv) does not require any additional engineering or analysis.

(17) “Impact fee” means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

(18) “Improvement completion assurance” means a surety bond, letter of credit, cash, or other security required by a municipality to guaranty the proper completion of landscaping or infrastructure that the land use authority has required as a condition precedent to:

(a) recording a subdivision plat; or

(b) beginning development activity.

(19) “Improvement warranty” means an applicant’s unconditional warranty that the accepted landscaping or infrastructure:

(a) complies with the municipality’s written standards for design, materials, and workmanship; and

(b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

(20) "Improvement warranty period" means a period:

(a) no later than one year after a municipality's acceptance of required landscaping; or

(b) no later than one year after a municipality's acceptance of required infrastructure, unless the municipality:

(i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and

(ii) has substantial evidence, on record:

(A) of prior poor performance by the applicant; or

(B) that the area upon which the infrastructure will be constructed contains suspect soil and the municipality has not otherwise required the applicant to mitigate the suspect soil.

(21) "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:

(a) runs with the land; and

(b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or

(ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

(22) "Land use application" means an application required by a municipality's land use ordinance.

(23) "Land use authority" means:

(a) a person, board, commission, agency, or ~~other~~ body, including the local legislative body, designated by the local legislative body to act upon a land use application[-]; or

(b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.

(24) "Land use ordinance" means a planning, zoning, development, or subdivision ordinance of the municipality, but does not include the general plan.

(25) "Land use permit" means a permit issued by a land use authority.

(26) "Legislative body" means the municipal council.

(27) "Local district" means an entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

(28) "Lot line adjustment" means the relocation of the property boundary line in a subdivision between two adjoining lots with the consent of the owners of record.

(29) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the city is located.

(30) "Nominal fee" means a fee that reasonably reimburses a municipality only for time spent and expenses incurred in:

(a) verifying that building plans are identical plans; and

(b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

(31) "Noncomplying structure" means a structure that:

(a) legally existed before its current land use designation; and

(b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations, which govern the use of land.

(32) "Nonconforming use" means a use of land that:

(a) legally existed before its current land use designation;

(b) has been maintained continuously since the time the land use ordinance governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

(33) "Official map" means a map drawn by municipal authorities and recorded in a county recorder's office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the municipality's general plan.

(34) "Parcel boundary adjustment" means a recorded agreement between owners of adjoining properties adjusting their mutual boundary if:

(a) no additional parcel is created; and

(b) each property identified in the agreement is unsubdivided land, including a remainder of subdivided land.

(35) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

(36) "Plan for moderate income housing" means a written document adopted by a city legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the city;

(b) an estimate of the need for moderate income housing in the city for the next five years as revised biennially;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the city's program to encourage an adequate supply of moderate income housing.

(37) "Plat" means a map or other graphical representation of lands being laid out and prepared in accordance with Section 10-9a-603, 17-23-17, or 57-8-13.

(38) "Potential geologic hazard area" means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

(39) "Public agency" means:

(a) the federal government;

(b) the state;

(c) a county, municipality, school district, local district, special service district, or other political subdivision of the state; or

(d) a charter school.

(40) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

(41) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

(42) "Receiving zone" means an area of a municipality that the municipality designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

(43) "Record of survey map" means a map of a survey of land prepared in accordance with Section 17-23-17.

(44) "Residential facility for persons with a disability" means a residence:

(a) in which more than one person with a disability resides; and

(b) (i) which is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or

(ii) which is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(45) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

(46) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

(47) "Sending zone" means an area of a municipality that the municipality designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

(48) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

(49) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(50) "State" includes any department, division, or agency of the state.

(51) "Street" means a public right-of-way, including a highway, avenue, boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other way.

(52) (a) "Subdivision" means any land that is divided, resubdivided or proposed to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

(i) the division or development of land whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument; and

(ii) except as provided in Subsection (52)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) "Subdivision" does not include:

(i) a bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable land use ordinance;

(ii) a recorded agreement between owners of adjoining unsubdivided properties adjusting their mutual boundary if:

- (A) no new lot is created; and
- (B) the adjustment does not violate applicable land use ordinances;
- (iii) a recorded document, executed by the owner of record:
 - (A) revising the legal description of more than one contiguous unsubdivided parcel of property into one legal description encompassing all such parcels of property; or
 - (B) joining a subdivided parcel of property to another parcel of property that has not been subdivided, if the joinder does not violate applicable land use ordinances;
 - (iv) a recorded agreement between owners of adjoining subdivided properties adjusting their mutual boundary if:
 - (A) no new dwelling lot or housing unit will result from the adjustment; and
 - (B) the adjustment will not violate any applicable land use ordinance;
 - (v) a bona fide division or partition of land by deed or other instrument where the land use authority expressly approves in writing the division in anticipation of further land use approvals on the parcel or parcels; or
 - (vi) a parcel boundary adjustment.
 - (d) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision under this Subsection (52) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's subdivision ordinance.
 - (53) "Suspect soil" means soil that has:
 - (a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;
 - (b) bedrock units with high shrink or swell susceptibility; or
 - (c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.
 - (54) "Therapeutic school" means a residential group living facility:
 - (a) for four or more individuals who are not related to:
 - (i) the owner of the facility; or
 - (ii) the primary service provider of the facility;
 - (b) that serves students who have a history of failing to function:
 - (i) at home;
 - (ii) in a public school; or
 - (iii) in a nonresidential private school; and
 - (c) that offers:

- (i) room and board; and
- (ii) an academic education integrated with:
 - (A) specialized structure and supervision; or
 - (B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.
- (55) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.
- (56) "Unincorporated" means the area outside of the incorporated area of a city or town.
- (57) "Water interest" means any right to the beneficial use of water, including:
 - (a) each of the rights listed in Section 73-1-11; and
 - (b) an ownership interest in the right to the beneficial use of water represented by:
 - (i) a contract; or
 - (ii) a share in a water company, as defined in Section 73-3-3.5.
- (58) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 2. Section 10-9a-509 is amended to read:

10-9a-509. Applicant's entitlement to land use application approval -- Exceptions -- Application relating to land in a high priority transportation corridor -- Municipality's requirements and limitations -- Vesting upon submission of development plan and schedule.

- (1) (a) (i) An applicant who has filed a complete land use application, including the payment of all application fees, is entitled to substantive land use review of the land use application under the land use laws in effect on the date that the application is complete and as further provided in this section.
 - (ii) Except as provided in Subsection (1)(b), an applicant is entitled to approval of a land use application if the application conforms to the requirements of the municipality's land use maps, zoning map, a municipal specification for public improvements applicable to a subdivision or development, and an applicable land use ordinance in effect when a complete application is submitted and all application fees have been paid, unless:
 - (4) (A) the land use authority, on the record, finds that a compelling, countervailing public interest would be jeopardized by approving the application; or
 - (4) (B) in the manner provided by local ordinance and before the application is submitted, the municipality has formally initiated proceedings

to amend its ordinances in a manner that would prohibit approval of the application as submitted.

(b) (i) Except as provided in Subsection (1)(c), an applicant is not entitled to approval of a land use application until the requirements of this Subsection (1)(b) have been met if the land use application relates to land located within the boundaries of a high priority transportation corridor designated in accordance with Section 72-5-403.

(ii) (A) A municipality shall notify the executive director of the Department of Transportation of any land use applications that relate to land located within the boundaries of a high priority transportation corridor.

(B) The notification under Subsection (1)(b)(ii)(A) shall be in writing and mailed by certified or registered mail to the executive director of the Department of Transportation.

(iii) Except as provided in Subsection (1)(c), a municipality may not approve a land use application that relates to land located within the boundaries of a high priority transportation corridor until:

(A) 30 days after the notification under Subsection (1)(b)(ii)(A) is received by the Department of Transportation if the land use application is for a building permit; or

(B) 45 days after the notification under Subsection (1)(b)(ii)(A) is received by the Department of Transportation if the land use application is for any land use other than a building permit.

(iv) (A) If an application is an application for a subdivision approval, including any land, subject to Subsection (1)(b)(iv)(C), located within 100 feet of the center line of a canal, the land use authority shall:

(I) within 30 days after the day on which the application is filed, notify the canal company or canal operator responsible for the canal, if the canal company or canal operator has provided information under Section 10-9a-211; and

(II) wait at least 10 days after the day on which the land use authority notifies a canal company or canal operator under Subsection (1)(b)(iv)(A)(I) to approve or reject the subdivision application described in Subsection (1)(b)(iv)(A).

(B) The notification under Subsection (1)(b)(iv)(A) shall be in writing and mailed by certified or registered mail to the canal company or canal operator contact described in Section 10-9a-211.

(C) The location of land described in Subsection (1)(b)(iv)(A) shall be:

(I) provided by a canal company or canal operator to the land use authority; and

(II) (Aa) determined by use of mapping-grade global positioning satellite units; or

(Bb) digitized from the most recent aerial photo available to the canal company or canal operator.

(c) (i) A land use application is exempt from the requirements of Subsections (1)(b)(i) and (ii) if:

(A) the land use application relates to land that was the subject of a previous land use application; and

(B) the previous land use application described under Subsection (1)(c)(i)(A) complied with the requirements of Subsections (1)(b)(i) and (ii).

(ii) A municipality may approve a land use application without making the required notifications under Subsection (1)(b)(ii)(A) if:

(A) the land use application relates to land that was the subject of a previous land use application; and

(B) the previous land use application described under Subsection (1)(c)(ii)(A) complied with the requirements of Subsections (1)(b)(i) and (ii).

(d) After a municipality has complied with the requirements of Subsection (1)(b) for a land use application, the municipality may not withhold approval of the land use application for which the applicant is otherwise entitled under Subsection (1)(a).

(e) The municipality shall process an application without regard to proceedings initiated to amend the municipality's ordinances as provided in Subsection (1)(a)(ii)(B) if:

(i) 180 days have passed since the proceedings were initiated; and

(ii) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted.

(f) An application for a land use approval is considered submitted and complete when the application is provided in a form that complies with the requirements of applicable ordinances and all applicable fees have been paid.

(g) The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.

(h) A municipality may not impose on an applicant who has submitted a complete application for preliminary subdivision approval a requirement that is not expressed in:

(i) this chapter;

(ii) a municipal ordinance; or

(iii) a municipal specification for public improvements applicable to a subdivision or development that is in effect on the date that the applicant submits an application.

(i) A municipality may not impose on a holder of an issued land use permit or a final, unexpired subdivision plat a requirement that is not expressed:

(i) in a land use permit;

- (ii) on the subdivision plat;
 - (iii) in a document on which the land use permit or subdivision plat is based;
 - (iv) in the written record evidencing approval of the land use permit or subdivision plat;
 - (v) in this chapter; or
 - (vi) in a municipal ordinance.
- (j) A municipality may not withhold issuance of a certificate of occupancy or acceptance of subdivision improvements because of an applicant's failure to comply with a requirement that is not expressed:

(i) in the building permit or subdivision plat, documents on which the building permit or subdivision plat is based, or the written record evidencing approval of the land use permit or subdivision plat; or

(ii) in this chapter or the municipality's ordinances.

(2) A municipality is bound by the terms and standards of applicable land use ordinances and shall comply with mandatory provisions of those ordinances.

(3) A municipality may not, as a condition of land use application approval, require a person filing a land use application to obtain documentation regarding a school district's willingness, capacity, or ability to serve the development proposed in the land use application.

(4) Upon a specified public agency's submission of a development plan and schedule as required in Subsection 10-9a-305(8) that complies with the requirements of that subsection, the specified public agency vests in the municipality's applicable land use maps, zoning map, hookup fees, impact fees, other applicable development fees, and land use ordinances in effect on the date of submission.

Section 3. Section 10-9a-608 is amended to read:

10-9a-608. Vacating, altering, or amending a subdivision plat.

(1) (a) A fee owner of land, as shown on the last county assessment roll, in a subdivision that has been laid out and platted as provided in this part may file a written petition with the land use authority to have some or all of the plat vacated or amended.

(b) If a petition is filed under Subsection (1)(a), the land use authority shall provide notice of the petition by mail, email, or other effective means to each affected entity that provides a service to an owner of record of the portion of the plat that is being vacated or amended at least 10 calendar days before the land use authority may approve the vacation or amendment of the plat.

~~[(b)]~~ (c) If a petition is filed under Subsection (1)(a), the land use authority shall hold a public hearing within 45 days after the day on which the petition is filed if:

(i) any owner within the plat notifies the municipality of the owner's objection in writing within 10 days of mailed notification; or

(ii) a public hearing is required because all of the owners in the subdivision have not signed the revised plat.

(2) Unless a local ordinance provides otherwise, the public hearing requirement of Subsection (1)~~[(b)]~~(c) does not apply and a land use authority may consider at a public meeting an owner's petition to vacate or amend a subdivision plat if:

(a) the petition seeks to:

(i) join two or more of the petitioner fee owner's contiguous lots;

(ii) subdivide one or more of the petitioning fee owner's lots, if the subdivision will not result in a violation of a land use ordinance or a development condition;

(iii) adjust the lot lines of adjoining lots or parcels if the fee owners of each of the adjoining lots or parcels join in the petition, regardless of whether the lots or parcels are located in the same subdivision;

(iv) on a lot owned by the petitioning fee owner, adjust an internal lot restriction imposed by the local political subdivision; or

(v) alter the plat in a manner that does not change existing boundaries or other attributes of lots within the subdivision that are not:

(A) owned by the petitioner; or

(B) designated as a common area; and

(b) notice has been given to adjacent property owners in accordance with any applicable local ordinance.

(3) Each request to vacate or amend a plat that contains a request to vacate or amend a public street, right-of-way, or easement is also subject to Section 10-9a-609.5.

(4) Each petition to vacate or amend an entire plat or a portion of a plat shall include:

(a) the name and address of each owner of record of the land contained in the entire plat or on that portion of the plat described in the petition; and

(b) the signature of each owner described in Subsection (4)(a) who consents to the petition.

(5) (a) The owners of record of adjacent parcels that are described by either a metes and bounds description or by a recorded plat may exchange title to portions of those parcels if the exchange of title is approved by the land use authority in accordance with Subsection (5)(b).

(b) The land use authority shall approve an exchange of title under Subsection (5)(a) if the exchange of title will not result in a violation of any land use ordinance.

(c) If an exchange of title is approved under Subsection (5)(b):

(i) a notice of approval shall be recorded in the office of the county recorder which:

(A) is executed by each owner included in the exchange and by the land use authority;

(B) contains an acknowledgment for each party executing the notice in accordance with the provisions of Title 57, Chapter 2a, Recognition of Acknowledgments Act; and

(C) recites the descriptions of both the original parcels and the parcels created by the exchange of title; and

(ii) a document of conveyance shall be recorded in the office of the county recorder.

(d) A notice of approval recorded under this Subsection (5) does not act as a conveyance of title to real property and is not required in order to record a document conveying title to real property.

(6) (a) The name of a recorded subdivision may be changed by recording an amended plat making that change, as provided in this section and subject to Subsection (6)(c).

(b) The surveyor preparing the amended plat shall certify that the surveyor:

(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(ii) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; and

(iii) has placed monuments as represented on the plat.

(c) An owner of land may not submit for recording an amended plat that gives the subdivision described in the amended plat the same name as a subdivision in a plat already recorded in the county recorder's office.

(d) Except as provided in Subsection (6)(a), the recording of a declaration or other document that purports to change the name of a recorded plat is void.

Section 4. Section 10-9a-609 is amended to read:

10-9a-609. Land use authority approval of vacation or amendment of plat -- Recording the amended plat.

(1) The land use authority may approve the vacation or amendment of a plat by signing an amended plat showing the vacation or amendment if the land use authority finds that:

(a) there is good cause for the vacation or amendment; and

(b) no public street, right-of-way, or easement has been vacated or amended.

(2) (a) The land use authority shall ensure that the amended plat showing the vacation or amendment is recorded in the office of the county recorder in which the land is located.

(b) If the amended plat is approved and recorded in accordance with this section, the recorded plat shall vacate, supersede, and replace any contrary provision in a previously recorded plat of the same land.

(3) (a) A legislative body may vacate a subdivision or a portion of a subdivision by recording in the county recorder's office an ordinance describing the subdivision or the portion being vacated.

(b) The recorded vacating ordinance shall replace a previously recorded plat described in the vacating ordinance.

(4) An amended plat may not be submitted to the county recorder for recording unless it is ~~signed, acknowledged, and dedicated by each owner of record of the portion of the plat that is amended.~~:

(a) signed by the land use authority; and

(b) signed, acknowledged, and dedicated by each owner of record of the portion of the plat that is amended.

(5) A management committee may sign and dedicate an amended plat as provided in Title 57, Chapter 8, Condominium Ownership Act.

(6) A plat may be corrected as provided in Section 57-3-106.

Section 5. Section 17-27a-103 is amended to read:

17-27a-103. Definitions.

As used in this chapter:

(1) "Affected entity" means a county, municipality, local district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified property owner, property owners association, public utility, or the Utah Department of Transportation, if:

(a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;

(b) the entity has filed with the county a copy of the entity's general or long-range plan; or

(c) the entity has filed with the county a request for notice during the same calendar year and before the county provides notice to an affected entity in compliance with a requirement imposed under this chapter.

(2) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

(3) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(4) (a) "Charter school" means:

- (i) an operating charter school;
- (ii) a charter school applicant that has its application approved by a chartering entity in accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; or
- (iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.
- (b) “Charter school” does not include a therapeutic school.
- (5) “Chief executive officer” means the person or body that exercises the executive powers of the county.
- (6) “Conditional use” means a land use that, because of its unique characteristics or potential impact on the county, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.
- (7) “Constitutional taking” means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:
 - (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or
 - (b) Utah Constitution Article I, Section 22.
- (8) “Culinary water authority” means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.
- (9) “Development activity” means:
 - (a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;
 - (b) any change in use of a building or structure that creates additional demand and need for public facilities; or
 - (c) any change in the use of land that creates additional demand and need for public facilities.
- (10) (a) “Disability” means a physical or mental impairment that substantially limits one or more of a person’s major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.
 - (b) “Disability” does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.
- (11) “Educational facility”:
 - (a) means:
 - (i) a school district’s building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;

- (ii) a structure or facility:
 - (A) located on the same property as a building described in Subsection (11)(a)(i); and
 - (B) used in support of the use of that building; and
- (iii) a building to provide office and related space to a school district’s administrative personnel; and
- (b) does not include:
 - (i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:
 - (A) not located on the same property as a building described in Subsection (11)(a)(i); and
 - (B) used in support of the purposes of a building described in Subsection (11)(a)(i); or
 - (ii) a therapeutic school.
- (12) “Fire authority” means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.
- (13) “Flood plain” means land that:
 - (a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or
 - (b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.
- (14) “Gas corporation” has the same meaning as defined in Section 54-2-1.
- (15) “General plan” means a document that a county adopts that sets forth general guidelines for proposed future development of the unincorporated land within the county.
- (16) “Geologic hazard” means:
 - (a) a surface fault rupture;
 - (b) shallow groundwater;
 - (c) liquefaction;
 - (d) a landslide;
 - (e) a debris flow;
 - (f) unstable soil;
 - (g) a rock fall; or
 - (h) any other geologic condition that presents a risk:
 - (i) to life;
 - (ii) of substantial loss of real property; or
 - (iii) of substantial damage to real property.
- [48] (17) “Hookup fee” means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility system.

~~[(49)]~~ (18) “Identical plans” means building plans submitted to a county that:

- (a) are clearly marked as “identical plans”;
- (b) are substantially identical building plans that were previously submitted to and reviewed and approved by the county; and
- (c) describe a building that:
 - (i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;
 - (ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;
 - (iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the county; and
 - (iv) does not require any additional engineering or analysis.

~~[(20)]~~ (19) “Impact fee” means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

~~[(21)]~~ (20) “Improvement completion assurance” means a surety bond, letter of credit, cash, or other security required by a county to guaranty the proper completion of landscaping or infrastructure that the land use authority has required as a condition precedent to:

- (a) recording a subdivision plat; or
 - (b) beginning development activity.
- ~~[(22)]~~ (21) “Improvement warranty” means an applicant’s unconditional warranty that the accepted landscaping or infrastructure:
- (a) complies with the county’s written standards for design, materials, and workmanship; and
 - (b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

~~[(23)]~~ (22) “Improvement warranty period” means a period:

- (a) no later than one year after a county’s acceptance of required landscaping; or
- (b) no later than one year after a county’s acceptance of required infrastructure, unless the county:
 - (i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and
 - (ii) has substantial evidence, on record:
 - (A) of prior poor performance by the applicant; or
 - (B) that the area upon which the infrastructure will be constructed contains suspect soil and the county has not otherwise required the applicant to mitigate the suspect soil.

~~[(47)]~~ (23) “Internal lot restriction” means a platted note, platted demarcation, or platted designation that:

- (a) runs with the land; and
- (b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or
- (ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

(24) “Interstate pipeline company” means a person or entity engaged in natural gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

(25) “Intrastate pipeline company” means a person or entity engaged in natural gas transportation that is not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

(26) “Land use application” means an application required by a county’s land use ordinance.

(27) “Land use authority” means:

(a) a person, board, commission, agency, or ~~[either]~~ body, including the local legislative body, designated by the local legislative body to act upon a land use application[-]; or

(b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.

(28) “Land use ordinance” means a planning, zoning, development, or subdivision ordinance of the county, but does not include the general plan.

(29) “Land use permit” means a permit issued by a land use authority.

(30) “Legislative body” means the county legislative body, or for a county that has adopted an alternative form of government, the body exercising legislative powers.

(31) “Local district” means any entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

(32) “Lot line adjustment” means the relocation of the property boundary line in a subdivision between two adjoining lots with the consent of the owners of record.

(33) “Moderate income housing” means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the housing is located.

(34) “Nominal fee” means a fee that reasonably reimburses a county only for time spent and expenses incurred in:

- (a) verifying that building plans are identical plans; and

(b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

(35) “Noncomplying structure” means a structure that:

(a) legally existed before its current land use designation; and

(b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations that govern the use of land.

(36) “Nonconforming use” means a use of land that:

(a) legally existed before its current land use designation;

(b) has been maintained continuously since the time the land use ordinance regulation governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

(37) “Official map” means a map drawn by county authorities and recorded in the county recorder’s office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the county’s general plan.

(38) “Parcel boundary adjustment” means a recorded agreement between owners of adjoining properties adjusting their mutual boundary if:

(a) no additional parcel is created; and

(b) each property identified in the agreement is unsubdivided land, including a remainder of subdivided land.

(39) “Person” means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

(40) “Plan for moderate income housing” means a written document adopted by a county legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the county;

(b) an estimate of the need for moderate income housing in the county for the next five years as revised biennially;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the county’s program to encourage an adequate supply of moderate income housing.

(41) “Plat” means a map or other graphical representation of lands being laid out and prepared in accordance with Section 17-27a-603, 17-23-17, or 57-8-13.

(42) “Potential geologic hazard area” means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area’s potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

(43) “Public agency” means:

(a) the federal government;

(b) the state;

(c) a county, municipality, school district, local district, special service district, or other political subdivision of the state; or

(d) a charter school.

(44) “Public hearing” means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

(45) “Public meeting” means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

(46) “Receiving zone” means an unincorporated area of a county that the county designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

(47) “Record of survey map” means a map of a survey of land prepared in accordance with Section 17-23-17.

(48) “Residential facility for persons with a disability” means a residence:

(a) in which more than one person with a disability resides; and

(b) (i) which is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or

(ii) which is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(49) “Rules of order and procedure” means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

(50) “Sanitary sewer authority” means the department, agency, or public entity with

responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

(51) "Sending zone" means an unincorporated area of a county that the county designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

(52) "Site plan" means a document or map that may be required by a county during a preliminary review preceding the issuance of a building permit to demonstrate that an owner's or developer's proposed development activity meets a land use requirement.

(53) "Specified public agency" means:

- (a) the state;
- (b) a school district; or
- (c) a charter school.

(54) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(55) "State" includes any department, division, or agency of the state.

(56) "Street" means a public right-of-way, including a highway, avenue, boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other way.

(57) (a) "Subdivision" means any land that is divided, resubdivided or proposed to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

(i) the division or development of land whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument; and

(ii) except as provided in Subsection (57)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) "Subdivision" does not include:

(i) a bona fide division or partition of agricultural land for agricultural purposes;

(ii) a recorded agreement between owners of adjoining properties adjusting their mutual boundary if:

(A) no new lot is created; and

(B) the adjustment does not violate applicable land use ordinances;

(iii) a recorded document, executed by the owner of record:

(A) revising the legal description of more than one contiguous unsubdivided parcel of property into one legal description encompassing all such parcels of property; or

(B) joining a subdivided parcel of property to another parcel of property that has not been subdivided, if the joinder does not violate applicable land use ordinances;

(iv) a bona fide division or partition of land in a county other than a first class county for the purpose of siting, on one or more of the resulting separate parcels:

(A) an electrical transmission line or a substation;

(B) a natural gas pipeline or a regulation station; or

(C) an unmanned telecommunications, microwave, fiber optic, electrical, or other utility service regeneration, transformation, retransmission, or amplification facility;

(v) a recorded agreement between owners of adjoining subdivided properties adjusting their mutual boundary if:

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance;

(vi) a bona fide division or partition of land by deed or other instrument where the land use authority expressly approves in writing the division in anticipation of further land use approvals on the parcel or parcels; or

(vii) a parcel boundary adjustment.

(d) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision under this Subsection (57) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision ordinance.

(58) "Suspect soil" means soil that has:

(a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;

(b) bedrock units with high shrink or swell susceptibility; or

(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

(59) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals who are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

- (i) at home;
- (ii) in a public school; or
- (iii) in a nonresidential private school; and
- (c) that offers:
 - (i) room and board; and
 - (ii) an academic education integrated with:
 - (A) specialized structure and supervision; or
 - (B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

(60) "Township" means a contiguous, geographically defined portion of the unincorporated area of a county, established under this part or reconstituted or reinstated under Section 17-27a-306, with planning and zoning functions as exercised through the township planning commission, as provided in this chapter, but with no legal or political identity separate from the county and no taxing authority, except that "township" means a former township under Laws of Utah 1996, Chapter 308, where the context so indicates.

(61) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

(62) "Unincorporated" means the area outside of the incorporated area of a municipality.

(63) "Water interest" means any right to the beneficial use of water, including:

- (a) each of the rights listed in Section 73-1-11; and
- (b) an ownership interest in the right to the beneficial use of water represented by:
 - (i) a contract; or
 - (ii) a share in a water company, as defined in Section 73-3-3.5.

(64) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 6. Section 17-27a-508 is amended to read:

17-27a-508. Applicant's entitlement to land use application approval -- Exceptions -- Application relating to land in a high priority transportation corridor -- County's requirements and limitations -- Vesting upon submission of development plan and schedule.

(1) (a) (i) An applicant who has filed a complete land use application, including the payment of all application fees, is entitled to substantive land use review of the land use application under the land

use laws in effect on the date that the application is complete and as further provided in this section.

(ii) Except as provided in Subsection (1)(b), an applicant is entitled to approval of a land use application if the application conforms to the requirements of the county's land use maps, zoning map, and applicable land use ordinance in effect when a complete application is submitted and all application fees have been paid, unless:

(iv) (A) the land use authority, on the record, finds that a compelling, countervailing public interest would be jeopardized by approving the application; or

(iv) (B) in the manner provided by local ordinance and before the application is submitted, the county has formally initiated proceedings to amend its ordinances in a manner that would prohibit approval of the application as submitted.

(b) (i) Except as provided in Subsection (1)(c), an applicant is not entitled to approval of a land use application until the requirements of this Subsection (1)(b)(i) and Subsection (1)(b)(ii) have been met if the land use application relates to land located within the boundaries of a high priority transportation corridor designated in accordance with Section 72-5-403.

(ii) (A) A county shall notify the executive director of the Department of Transportation of any land use applications that relate to land located within the boundaries of a high priority transportation corridor.

(B) The notification under Subsection (1)(b)(ii)(A) shall be in writing and mailed by certified or registered mail to the executive director of the Department of Transportation.

(iii) Except as provided in Subsection (1)(c), a county may not approve a land use application that relates to land located within the boundaries of a high priority transportation corridor until:

(A) 30 days after the notification under Subsection (1)(b)(ii)(A) is received by the Department of Transportation if the land use application is for a building permit; or

(B) 45 days after the notification under Subsection (1)(b)(ii)(A) is received by the Department of Transportation if the land use application is for any land use other than a building permit.

(iv) (A) If an application is an application for a subdivision approval, including any land, subject to Subsection (1)(b)(iv)(C), located within 100 feet of the center line of a canal, the land use authority shall:

(I) within 30 days after the day on which the application is filed, notify the canal company or canal operator responsible for the canal, if the canal company or canal owner has provided information under Section 17-27a-211; and

(II) wait at least 10 days after the day on which the land use authority notifies a canal company or canal operator under Subsection (1)(b)(iv)(A)(I) to

approve or reject the subdivision application described in Subsection (1)(b)(iv)(A).

(B) The notification under Subsection (1)(b)(iv)(A) shall be in writing and mailed by certified or registered mail to the canal company or canal operator contact described in Section 17-27a-211.

(C) The location of land described in Subsection (1)(b)(iv)(A) shall be:

(I) provided by a canal company or canal operator to the land use authority; and

(II) (Aa) determined by use of mapping-grade global positioning satellite units; or

(Bb) digitized from the most recent aerial photo available to the canal company or canal operator.

(c) (i) A land use application is exempt from the requirements of Subsection (1)(b)(i) if:

(A) the land use application relates to land that was the subject of a previous land use application; and

(B) the previous land use application described under Subsection (1)(c)(i)(A) complied with the requirements of Subsections (1)(b)(i) and (ii).

(ii) A county may approve a land use application without making the required notifications under Subsections (1)(b)(i) and (ii) if:

(A) the land use application relates to land that was the subject of a previous land use application; and

(B) the previous land use application described under Subsection (1)(c)(ii)(A) complied with the requirements of Subsections (1)(b)(i) and (ii).

(d) After a county has complied with the requirements of Subsection (1)(b) for a land use application, the county may not withhold approval of the land use application for which the applicant is otherwise entitled under Subsection (1)(a).

(e) The county shall process an application without regard to proceedings initiated to amend the county's ordinances as provided in Subsection (1)(a)(ii)(B) if:

(i) 180 days have passed since the proceedings were initiated; and

(ii) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted.

(f) An application for a land use approval is considered submitted and complete when the application is provided in a form that complies with the requirements of applicable ordinances and all applicable fees have been paid.

(g) The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.

(h) A county may not impose on an applicant who has submitted a complete application for preliminary subdivision approval a requirement that is not expressed:

(i) in this chapter;

(ii) in a county ordinance; or

(iii) in a county specification for public improvements applicable to a subdivision or development that is in effect on the date that the applicant submits an application.

(i) A county may not impose on a holder of an issued land use permit or a final, unexpired subdivision plat a requirement that is not expressed:

(i) in a land use permit;

(ii) on the subdivision plat;

(iii) in a document on which the land use permit or subdivision plat is based;

(iv) in the written record evidencing approval of the land use permit or subdivision plat;

(v) in this chapter; or

(vi) in a county ordinance.

(j) A county may not withhold issuance of a certificate of occupancy or acceptance of subdivision improvements because of an applicant's failure to comply with a requirement that is not expressed:

(i) in the building permit or subdivision plat, documents on which the building permit or subdivision plat is based, or the written record evidencing approval of the building permit or subdivision plat; or

(ii) in this chapter or the county's ordinances.

(2) A county is bound by the terms and standards of applicable land use ordinances and shall comply with mandatory provisions of those ordinances.

(3) A county may not, as a condition of land use application approval, require a person filing a land use application to obtain documentation regarding a school district's willingness, capacity, or ability to serve the development proposed in the land use application.

(4) Upon a specified public agency's submission of a development plan and schedule as required in Subsection 17-27a-305(8) that complies with the requirements of that subsection, the specified public agency vests in the county's applicable land use maps, zoning map, hookup fees, impact fees, other applicable development fees, and land use ordinances in effect on the date of submission.

Section 7. Section 17-27a-608 is amended to read:

17-27a-608. Vacating or amending a subdivision plat.

(1) (a) A fee owner of land, as shown on the last county assessment roll, in a subdivision that has been laid out and platted as provided in this part

may file a written petition with the land use authority to have some or all of the plat vacated or amended.

(b) If a petition is filed under Subsection (1)(a), the land use authority shall provide notice of the petition by mail, email, or other effective means to each affected entity that provides a service to an owner of record of the portion of the plat that is being vacated or amended at least 10 calendar days before the land use authority may approve the vacation or amendment of the plat.

~~(b)~~ (c) If a petition is filed under Subsection (1)(a), the land use authority shall hold a public hearing within 45 days after the day on which the petition is filed if:

(i) any owner within the plat notifies the county of the owner's objection in writing within 10 days of mailed notification; or

(ii) a public hearing is required because all of the owners in the subdivision have not signed the revised plat.

(2) Unless a local ordinance provides otherwise, the public hearing requirement of Subsection (1)~~(b)~~(c) does not apply and a land use authority may consider at a public meeting an owner's petition to vacate or amend a subdivision plat if:

(a) the petition seeks to:

(i) join two or more of the petitioning fee owner's contiguous lots;

(ii) subdivide one or more of the petitioning fee owner's lots, if the subdivision will not result in a violation of a land use ordinance or a development condition;

(iii) adjust the lot lines of adjoining lots or parcels if the fee owners of each of the adjoining lots or parcels join the petition, regardless of whether the lots or parcels are located in the same subdivision;

(iv) on a lot owned by the petitioning fee owner, adjust an internal lot restriction imposed by the local political subdivision; or

(v) alter the plat in a manner that does not change existing boundaries or other attributes of lots within the subdivision that are not:

(A) owned by the petitioner; or

(B) designated as a common area; and

(b) notice has been given to adjacent property owners in accordance with any applicable local ordinance.

(3) Each request to vacate or amend a plat that contains a request to vacate or amend a public street, right-of-way, or easement is also subject to Section 17-27a-609.5.

(4) Each petition to vacate or amend an entire plat or a portion of a plat shall include:

(a) the name and address of each owner of record of the land contained in:

(i) the entire plat; or

(ii) that portion of the plan described in the petition; and

(b) the signature of each owner who consents to the petition.

(5) (a) The owners of record of adjacent parcels that are described by either a metes and bounds description or by a recorded plat may exchange title to portions of those parcels if the exchange of title is approved by the land use authority in accordance with Subsection (5)(b).

(b) The land use authority shall approve an exchange of title under Subsection (5)(a) if the exchange of title will not result in a violation of any land use ordinance.

(c) If an exchange of title is approved under Subsection (5)(b):

(i) a notice of approval shall be recorded in the office of the county recorder which:

(A) is executed by each owner included in the exchange and by the land use authority;

(B) contains an acknowledgment for each party executing the notice in accordance with the provisions of Title 57, Chapter 2a, Recognition of Acknowledgments Act; and

(C) recites the descriptions of both the original parcels and the parcels created by the exchange of title; and

(ii) a document of conveyance of title reflecting the approved change shall be recorded in the office of the county recorder.

(d) A notice of approval recorded under this Subsection (5) does not act as a conveyance of title to real property and is not required to record a document conveying title to real property.

(6) (a) The name of a recorded subdivision may be changed by recording an amended plat making that change, as provided in this section and subject to Subsection (6)(c).

(b) The surveyor preparing the amended plat shall certify that the surveyor:

(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(ii) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; and

(iii) has placed monuments as represented on the plat.

(c) An owner of land may not submit for recording an amended plat that gives the subdivision described in the amended plat the same name as a subdivision recorded in the county recorder's office.

(d) Except as provided in Subsection (6)(a), the recording of a declaration or other document that purports to change the name of a recorded plat is void.

Section 8. Section 17-27a-609 is amended to read:

17-27a-609. Land use authority approval of vacation or amendment of plat -- Recording the amended plat.

(1) The land use authority may approve the vacation or amendment of a plat by signing an amended plat showing the vacation or amendment if the land use authority finds that:

(a) there is good cause for the vacation or amendment; and

(b) no public street, right-of-way, or easement has been vacated or amended.

(2) (a) The land use authority shall ensure that the amended plat showing the vacation or amendment is recorded in the office of the county recorder in which the land is located.

(b) If the amended plat is approved and recorded in accordance with this section, the recorded plat shall vacate, supersede, and replace any contrary provision in a previously recorded plat of the same land.

(3) (a) A legislative body may vacate a subdivision or a portion of a subdivision by recording in the county recorder's office an ordinance describing the subdivision or the portion being vacated.

(b) The recorded vacating ordinance shall replace a previously recorded plat described in the vacating ordinance.

(4) An amended plat may not be submitted to the county recorder for recording unless it is ~~signed, acknowledged, and dedicated by each owner of record of the portion of the plat that is amended.~~;

(a) signed by the land use authority; and

(b) signed, acknowledged, and dedicated by each owner of record of the portion of the plat that is amended.

(5) A management committee may sign and dedicate an amended plat as provided in Title 57, Chapter 8, Condominium Ownership Act.

(6) A plat may be corrected as provided in Section 57-3-106.

CHAPTER 137**H. B. 222**

Passed February 28, 2014

Approved March 29, 2014

Effective May 13, 2014

VETERAN'S PREFERENCE AMENDMENTS

Chief Sponsor: Val L. Peterson
 Senate Sponsor: Peter C. Knudson

LONG TITLE**General Description:**

This bill makes all ranks of military officers eligible for veteran's preference points.

Highlighted Provisions:

This bill:

- ▶ modifies a definition of "preference eligible" to include all ranks of officers.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

71-10-1, as last amended by Laws of Utah 2011, Chapter 366

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

Section 1. Section 71-10-1 is amended to read:**71-10-1. Definitions.**

As used in this chapter:

(1) "Active duty" means active military duty and does not include active duty for training, initial active duty for training, or inactive duty for training.

(2) "Government entity" means the state, any county, municipality, local district, special service district, or any other political subdivision or administrative unit of the state, including state institutions of education.

(3) "Preference eligible" means:

(a) any individual who has served on active duty in the armed forces for more than 180 consecutive days, or was a member of a reserve component who served in a campaign or expedition for which a campaign medal has been authorized and who has been separated under honorable conditions;

(b) a veteran with a disability, regardless of the percentage of disability;

(c) the spouse or unmarried widow or widower of a veteran;

(d) a purple heart recipient; or

(e) a retired member of the armed forces [~~who retired below the rank of major or its equivalent~~].

(4) "Veteran" means:

(a) an individual who has served on active duty in the armed forces for more than 180 consecutive days, or was a member of a reserve component who served in a campaign or expedition for which a campaign medal has been authorized and who has been separated or retired under honorable conditions; or

(b) any individual incurring an actual service-related injury or disability in the line of duty whether or not that person completed 180 consecutive days of active duty.

(5) "Veteran with a disability" means an individual who has:

(a) been separated or retired from the armed forces under honorable conditions; and

(b) established the existence of a service-connected disability or is receiving compensation, disability retirement benefits, or pension because of a public statute administered by the federal Department of Veterans Affairs or a military department.

CHAPTER 138**H. B. 247**

Passed February 27, 2014

Approved March 29, 2014

Effective May 13, 2014

COURT PARKING FACILITIES

Chief Sponsor: Larry B. Wiley

Senate Sponsor: Jim Dabakis

LONG TITLE**General Description:**

This bill amends the Jury and Witness Act.

Highlighted Provisions:

This bill:

- ▶ provides for the reimbursement of parking expenses for individuals subpoenaed as witnesses in a civil action.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78B-1-119, as renumbered and amended by Laws of Utah 2008, Chapter 3

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 78B-1-119 is amended to read:****78B-1-119. Jurors and witnesses -- Fees and mileage.**

(1) Every juror and witness legally required or in good faith requested to attend a trial court of record or not of record or a grand jury is entitled to:

(a) \$18.50 for the first day of attendance and \$49 per day for each subsequent day of attendance; and

(b) if traveling more than 50 miles, \$1 for each four miles in excess of 50 miles actually and necessarily traveled in going only, regardless of county lines.

(2) Persons in the custody of a penal institution upon conviction of a criminal offense are not entitled to a witness fee.

(3) A witness attending from outside the state in a civil case is allowed mileage at the rate of 25 cents per mile and is taxed for the distance actually and necessarily traveled inside the state in going only.

(4) If the witness is attending from outside the state in a criminal case, the state shall reimburse the witness under Section 77-21-3.

(5) A prosecution witness or a witness subpoenaed by an indigent defendant attending from outside the county but within the state may receive reimbursement for necessary lodging and meal expenses under rule of the Judicial Council.

(6) A witness subpoenaed to testify in court proceedings in a civil action shall receive reimbursement for necessary and reasonable

parking expenses from the attorney issuing the subpoena under rule of the Judicial Council or Supreme Court.

~~(6)~~ (7) There is created within the General Fund, a restricted account known as the CASA Volunteer Account. A juror may donate the juror's fee to the CASA Volunteer Account in \$18.50 or \$49 increments. The Legislature shall annually appropriate money from the CASA Volunteer Account to the Administrative Office of the Courts for the purpose of recruiting, training, and supervising volunteers for the Court Appointed Special Advocate program established pursuant to Section 78A-6-902.

CHAPTER 139**H. B. 253**

Passed February 27, 2014

Approved March 29, 2014

Effective May 13, 2014

**STATE FAIR CORPORATION
BOARD AMENDMENTS**Chief Sponsor: Mike K. McKell
Senate Sponsor: John L. Valentine**LONG TITLE****General Description:**

This bill modifies Title 63H, Chapter 6, Utah State Fair Corporation Act, by amending provisions regarding the Utah State Fair Corporation board of directors.

Highlighted Provisions:

This bill:

- ▶ provides that certain Utah State Fair Corporation board members must be residents of different counties;
- ▶ adds the director of the Division of Facilities Construction and Management and the commissioner of agriculture and food to the board; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63H-6-104, as renumbered and amended by Laws of Utah 2011, Chapter 370

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

Section 1. Section 63H-6-104 is amended to read:**63H-6-104. Board of Directors --
Membership -- Term -- Quorum --
Vacancies.**

(1) The corporation is governed by a board of directors.

(2) The board is composed of 13 members as follows:

(a) the director of the Division of Facilities Construction and Management or the director's designee;

(b) the commissioner of agriculture and food or the commissioner's designee; and

(c) 11 members appointed by the governor with the consent of the Senate[.] as follows:

~~[(3) The governor shall ensure that:]~~

~~[(a)]~~ (i) two members of the board who are residents of Salt Lake County in which the state fair is held;

~~[(b) there is at least one member of the board from each judicial district;]~~

~~[(c) two members of the board are residents of the First Congressional District;]~~

~~[(d) two members of the board are residents of the Second Congressional District;]~~

~~[(e) two members of the board are residents of the Third Congressional District; and]~~

~~(ii) seven members of the board who are not residents of Salt Lake County and are each a resident of a different county than any other member under this Subsection (2)(c)(ii); and~~

~~[(4)]~~ (iii) two members of the board who represent agricultural interests.

~~[(4)]~~ (3) (a) (i) Except as provided in Subsection ~~[(4)]~~ (3)(a)(ii), the governor shall appoint board members to serve terms that expire on the December 1 four years after the year that the board member was appointed.

(ii) In making appointments to the board, the governor shall ensure that the terms of approximately 1/4 of the board expire each year.

(b) Except as provided in Subsection ~~[(4)]~~ (3)(c), appointed board members serve until their successors are appointed and qualified.

(c) (i) If ~~[a]~~ an appointed board member is absent from three consecutive board meetings without excuse, that member's appointment is terminated, the position is vacant, and the governor shall appoint a replacement.

(ii) The governor may remove ~~[any]~~ an appointed member of the board at will.

(d) The governor shall fill any vacancy that occurs on the board for any reason by appointing a person according to the procedures of this section for the unexpired term of the vacated member.

~~[(5)]~~ (4) The governor shall select the board's chair.

~~[(6)]~~ (5) ~~[Six]~~ Seven members of the board are a quorum for the transaction of business.

~~[(7)]~~ (6) The board may elect a vice chair and any other board offices.

CHAPTER 140**H. B. 254**

Passed March 6, 2014
 Approved March 29, 2014
 Effective May 13, 2014

**HUMAN TRAFFICKING
 VICTIM AMENDMENTS**

Chief Sponsor: Jennifer M. Seelig
 Senate Sponsor: Lyle W. Hillyard
 Cosponsors: Tim M. Cosgrove
 Rebecca Chavez-Houck
 Joel K. Briscoe
 Don L. Ipson
 Patrice M. Arent
 Susan Duckworth
 Richard A. Greenwood
 Keith Grover
 Lynn N. Hemingway
 Eric K. Hutchings
 Dana L. Layton
 Carol Spackman Moss
 Curtis Oda
 Marie H. Poulson
 Paul Ray
 Edward H. Redd
 Angela Romero
 Robert M. Spendlove
 Keven J. Stratton
 Mark A. Wheatley
 Larry B. Wiley

LONG TITLE**General Description:**

This bill amends and enacts provisions related to human trafficking and prostitution.

Highlighted Provisions:

This bill:

- ▶ provides that a child is not subject to a delinquency proceeding for engaging in prostitution unless a law enforcement officer has referred the child to the Division of Child and Family Services on at least one prior occasion for an alleged act of prostitution or sexual solicitation; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

62A-4a-105, as last amended by Laws of Utah 2013, Chapter 416
 76-10-1302, as last amended by Laws of Utah 1993, Chapter 179

ENACTS:

77-38-15, Utah Code Annotated 1953

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

Section 1. Section 62A-4a-105 is amended to read:**62A-4a-105. Division responsibilities.**

(1) The division shall:

(a) administer services to minors and families, including:

(i) child welfare services;

(ii) domestic violence services; and

(iii) all other responsibilities that the Legislature or the executive director may assign to the division;

(b) provide the following services:

(i) financial and other assistance to an individual adopting a child with special needs under Part 9, Adoption Assistance, not to exceed the amount the division would provide for the child as a legal ward of the state;

(ii) non-custodial and in-home preventative services, including:

(A) services designed to prevent family break-up; and

(B) family preservation services;

(iii) reunification services to families whose children are in substitute care in accordance with the requirements of this chapter and Title 78A, Chapter 6, Juvenile Court Act of 1996;

(iv) protective supervision of a family, upon court order, in an effort to eliminate abuse or neglect of a child in that family;

(v) shelter care in accordance with the requirements of this chapter and Title 78A, Chapter 6, Juvenile Court Act of 1996;

(vi) domestic violence services, in accordance with the requirements of federal law;

(vii) protective services to victims of domestic violence, as defined in Section 77-36-1, and their children, in accordance with the provisions of this chapter and Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings;

(viii) substitute care for dependent, abused, neglected, and delinquent children;

(ix) programs and services for minors who have been placed in the custody of the division for reasons other than abuse or neglect, under Section 62A-4a-250; ~~and~~

(x) services for minors who are victims of human trafficking or human smuggling as described in Sections 76-5-308 through 76-5-310 or who have engaged in prostitution or sexual solicitation as defined in Section 76-10-1302; and

~~(xi)~~ (xi) training for staff and providers involved in the administration and delivery of services offered by the division in accordance with this chapter;

(c) establish standards for all:

(i) contract providers of out-of-home care for minors and families;

(ii) facilities that provide substitute care for dependent, abused, neglected, and delinquent children placed in the custody of the division; and

(iii) direct or contract providers of domestic violence services described in Subsection (1)(b)(vi);

(d) have authority to:

(i) contract with a private, nonprofit organization to recruit and train foster care families and child welfare volunteers in accordance with Section 62A-4a-107.5; and

(ii) approve facilities that meet the standards established under Subsection (1)(c) to provide substitute care for dependent, abused, neglected, and delinquent children placed in the custody of the division;

(e) cooperate with the federal government in the administration of child welfare and domestic violence programs and other human service activities assigned by the department;

(f) in accordance with Subsection (2)(a), promote and enforce state and federal laws enacted for the protection of abused, neglected, dependent, delinquent, ungovernable, and runaway children, and status offenders, in accordance with the requirements of this chapter, unless administration is expressly vested in another division or department of the state;

(g) cooperate with the Employment Development Division in the Department of Workforce Services in meeting the social and economic needs of an individual who is eligible for public assistance;

(h) compile relevant information, statistics, and reports on child and family service matters in the state;

(i) prepare and submit to the department, the governor, and the Legislature reports of the operation and administration of the division in accordance with the requirements of Sections 62A-4a-117 and 62A-4a-118;

(j) provide social studies and reports for the juvenile court in accordance with Section 78A-6-605;

(k) within appropriations from the Legislature, provide or contract for a variety of domestic violence services and treatment methods;

(l) ensure regular, periodic publication, including electronic publication, regarding the number of children in the custody of the division who:

(i) have a permanency goal of adoption; or

(ii) have a final plan of termination of parental rights, pursuant to Section 78A-6-314, and promote adoption of those children;

(m) subject to Subsection (2)(b), refer an individual receiving services from the division to the local substance abuse authority or other private

or public resource for a court-ordered drug screening test; and

(n) perform other duties and functions required by law.

(2) (a) In carrying out the requirements of Subsection (1)(f), the division shall:

(i) cooperate with the juvenile courts, the Division of Juvenile Justice Services, and with all public and private licensed child welfare agencies and institutions, to develop and administer a broad range of services and support;

(ii) take the initiative in all matters involving the protection of abused or neglected children, if adequate provisions have not been made or are not likely to be made; and

(iii) make expenditures necessary for the care and protection of the children described in this Subsection (2)(a), within the division's budget.

(b) When an individual is referred to a local substance abuse authority or other private or public resource for court-ordered drug screening under Subsection (1)(n), the court shall order the individual to pay all costs of the tests unless:

(i) the cost of the drug screening is specifically funded or provided for by other federal or state programs;

(ii) the individual is a participant in a drug court; or

(iii) the court finds that the individual is impecunious.

(3) Except to the extent provided by rule, the division is not responsible for investigating domestic violence in the presence of a child, as described in Section 76-5-109.1.

(4) The division may not require a parent who has a child in the custody of the division to pay for some or all of the cost of any drug testing the parent is required to undergo.

Section 2. Section 76-10-1302 is amended to read:

76-10-1302. Prostitution.

(1) ~~[A person]~~ An individual is guilty of prostitution when the individual:

(a) ~~[he]~~ engages in any sexual activity with another ~~[person]~~ individual for a fee;

(b) is an inmate of a house of prostitution; or

(c) loiters in or within view of any public place for the purpose of being hired to engage in sexual activity.

(2) ~~[Prostitution]~~ (a) Except as provided in Subsection (2)(b) or Section 76-10-1309, prostitution is a class B misdemeanor. ~~[However, any person]~~

(b) Except as provided in Section 76-10-1309, an individual who is convicted a second time, and on all subsequent convictions, of a subsequent offense of prostitution under this section or under a local

ordinance adopted in compliance with Section 76-10-1307, is guilty of a class A misdemeanor[, except as provided in Section 76-10-1309].

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

(i) “Child” is as defined in Section 76-10-1301.

(ii) “Child engaged in prostitution” means a child who engages in conduct described in Subsection (1).

(iii) “Child engaged in sexual solicitation” means a child who offers or agrees to commit or engage in any sexual activity with another person for a fee under Subsection 76-10-1313(1)(a) or (c).

(iv) “Division” means the Division of Child and Family Services created in Section 62A-4a-103.

(v) “Receiving center” is as defined in Section 62A-7-101.

(b) Upon encountering a child engaged in prostitution or sexual solicitation, a law enforcement officer shall:

(i) conduct an investigation;

(ii) refer the child to the division;

(iii) if an arrest is made, bring the child to a receiving center, if available; and

(iv) contact the child’s parent or guardian, if practicable.

(c) If a law enforcement officer refers a child to the division under Subsection (3)(b)(ii), the division shall:

(i) check the division’s records to verify whether law enforcement referred the child to the division under Subsection (3)(b)(ii) on a prior occasion; and

(ii) provide the information described in Subsection (3)(c)(i) to the law enforcement officer.

(d) If law enforcement has not referred the child to the division under Subsection (3)(b)(ii) on at least one prior occasion, the division shall provide services to the child under Title 62A, Chapter 4a, Child and Family Services.

(e) If law enforcement has referred the child to the division under Subsection (3)(b)(ii) on at least one prior occasion the child may be subject to delinquency proceedings under Title 62A, Chapter 7, Juvenile Justice Services, and Section 78A-6-601 through Section 78A-6-704.

Section 3. Section 77-38-15 is enacted to read:

77-38-15. Civil action against human traffickers and human smugglers.

(1) A victim of a person that commits the offense of human trafficking or human smuggling under Section 76-5-308, or aggravated human trafficking or aggravated human smuggling under Section 76-5-310, may bring a civil action against that person.

(2) (a) The court may award actual damages, compensatory damages, punitive damages, injunctive relief, or any other appropriate relief.

(b) The court may award treble damages on proof of actual damages if the court finds that the person’s acts were willful and malicious.

(3) In an action under this section, the court shall award a prevailing victim reasonable attorney fees and costs.

(4) An action under this section shall be commenced no later than 10 years after the later of:

(a) the day on which the victim was freed from the human trafficking or human smuggling situation;

(b) the day on which the victim attains 18 years of age; or

(c) if the victim was unable to bring an action due to a disability, the day on which the victim’s disability ends.

(5) The time period described in Subsection (4) is tolled during a period of time when the victim fails to bring an action due to the person:

(a) inducing the victim to delay filing the action;

(b) preventing the victim from filing the action; or

(c) threatening and causing duress upon the victim in order to prevent the victim from filing the action.

(6) The court shall offset damages awarded to the victim under this section by any restitution paid to the victim under Title 77, Chapter 38a, Crime Victims Restitution Act.

(7) A victim may bring an action described in this section in any court of competent jurisdiction where:

(a) a violation described in Subsection (1) occurred;

(b) the victim resides; or

(c) the person that commits the offense resides or has a place of business.

(8) If the victim is deceased or otherwise unable to represent the victim’s own interests in court, a legal guardian, family member, representative of the victim, or court appointee may bring an action under this section on behalf of the victim.

(9) This section does not preclude any other remedy available to the victim under the laws of this state or under federal law.

CHAPTER 141**H. B. 257**

Passed March 6, 2014
 Approved March 29, 2014
 Effective May 13, 2014

**AGGRAVATED SEXUAL
 ABUSE OF A CHILD AMENDMENTS**

Chief Sponsor: Brad R. Wilson
 Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill modifies the Criminal Code regarding the offense of aggravated sexual abuse of a child.

Highlighted Provisions:

This bill:

- ▶ modifies the offense of aggravated sexual abuse of a child by providing a definition of the term "position of special trust".

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-5-309, as last amended by Laws of Utah 2013, Chapter 196
 76-5-404.1, as last amended by Laws of Utah 2013, Chapters 81 and 196
 76-5-406, as last amended by Laws of Utah 2013, Chapter 196

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

Section 1. Section 76-5-309 is amended to read:

76-5-309. Human trafficking and human smuggling -- Penalties.

(1) Human trafficking for forced labor and human trafficking for forced sexual exploitation are each a second degree felony, except under Section 76-5-310.

(2) Human smuggling, under Section 76-5-308 of one or more persons is a third degree felony, except under Section 76-5-310.

(3) Human trafficking for forced labor or for forced sexual exploitation and human smuggling are each a separate offense from any other crime committed in relationship to the commission of either of these offenses.

(4) Under circumstances not amounting to aggravated sexual abuse of a child, a violation of Subsection 76-5-404.1(4)(h)(4), a person who benefits, receives, or exchanges anything of value from knowing participation in:

(a) human trafficking for forced labor or for forced sexual exploitation in violation of Section 76-5-308 is guilty of a second degree felony; and

(b) human smuggling is guilty of a third degree felony.

(5) A person commits a separate offense of human trafficking or human smuggling for each person who is smuggled or trafficked under Section 76-5-308 or 76-5-310.

Section 2. Section 76-5-404.1 is amended to read:

76-5-404.1. Sexual abuse of a child -- Aggravated sexual abuse of a child.

(1) As used in this section, "child" means a person under the age of 14.:

(a) "Adult" means an individual 18 years of age or older.

(b) "Child" means an individual under the age of 14.

(c) "Position of special trust" means:

(i) an adoptive parent;

(ii) an athletic manager who is an adult;

(iii) an aunt;

(iv) a babysitter;

(v) a coach;

(vi) a cohabitant of a parent if the cohabitant is an adult;

(vii) a counselor;

(viii) a doctor or physician;

(ix) an employer;

(x) a foster parent;

(xi) a grandparent;

(xii) a legal guardian;

(xiii) a natural parent;

(xiv) a recreational leader who is an adult;

(xv) a religious leader;

(xvi) a sibling or a step sibling who is an adult;

(xvii) a scout leader who is an adult;

(xviii) a stepparent;

(xix) a teacher;

(xx) an uncle;

(xxi) a youth leader who is an adult; or

(xxii) any person in a position of authority, other than those persons listed in Subsections (1)(c)(i) through (xxi), which enables the person to exercise undue influence over the child.

(2) A person commits sexual abuse of a child if, under circumstances not amounting to rape of a child, object rape of a child, sodomy on a child, or an attempt to commit any of these offenses, the actor touches the anus, buttocks, or genitalia of any child, the breast of a female child, or otherwise takes indecent liberties with a child, or causes a child to take indecent liberties with the actor or another with intent to cause substantial emotional or bodily pain to any person or with the intent to arouse or

gratify the sexual desire of any person regardless of the sex of any participant.

(3) Sexual abuse of a child is [~~punishable as~~] a second degree felony.

(4) A person commits aggravated sexual abuse of a child when in conjunction with the offense described in Subsection (2) any of the following circumstances have been charged and admitted or found true in the action for the offense:

(a) the offense was committed by the use of a dangerous weapon as defined in Section 76-1-601, or by force, duress, violence, intimidation, coercion, menace, or threat of harm, or was committed during the course of a kidnapping;

(b) the accused caused bodily injury or severe psychological injury to the victim during or as a result of the offense;

(c) the accused was a stranger to the victim or made friends with the victim for the purpose of committing the offense;

(d) the accused used, showed, or displayed pornography or caused the victim to be photographed in a lewd condition during the course of the offense;

(e) the accused, prior to sentencing for this offense, was previously convicted of any [~~felony, or of a misdemeanor involving a~~] sexual offense;

(f) the accused committed the same or similar sexual act upon two or more victims at the same time or during the same course of conduct;

(g) the accused committed, in Utah or elsewhere, more than five separate acts, which if committed in Utah would constitute an offense described in this chapter, and were committed at the same time, or during the same course of conduct, or before or after the instant offense;

(h) the offense was committed by a person who occupied a position of special trust in relation to the victim; [~~“position of special trust” means that position occupied by a person in a position of authority, who, by reason of that position is able to exercise undue influence over the victim, and includes, but is not limited to, a youth leader or recreational leader who is an adult, adult athletic manager, adult coach, teacher, counselor, religious leader, doctor, employer, foster parent, babysitter, adult scout leader, natural parent, stepparent, adoptive parent, legal guardian, grandparent, aunt, uncle, or adult cohabitant of a parent;~~]

(i) the accused encouraged, aided, allowed, or benefitted from acts of prostitution or sexual acts by the victim with any other person, or sexual performance by the victim before any other person, human trafficking, or human smuggling; or

(j) the accused caused the penetration, however slight, of the genital or anal opening of the child by any part or parts of the human body other than the genitals or mouth.

(5) Aggravated sexual abuse of a child is a first degree felony punishable by a term of imprisonment of:

(a) except as provided in Subsection (5)(b), (5)(c), or (6), not less than 15 years and which may be for life;

(b) except as provided in Subsection (5)(c) or (6), life without parole, if the trier of fact finds that during the course of the commission of the aggravated sexual abuse of a child the defendant caused serious bodily injury to another; or

(c) life without parole, if the trier of fact finds that at the time of the commission of the aggravated sexual abuse of a child, the defendant was previously convicted of a grievous sexual offense.

(6) If, when imposing a sentence under Subsection (5)(a) or (b), a court finds that a lesser term than the term described in Subsection (5)(a) or (b) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

(a) for purposes of Subsection (5)(b), 15 years and which may be for life; or

(b) for purposes of Subsection (5)(a) or (b):

(i) 10 years and which may be for life; or

(ii) six years and which may be for life.

(7) The provisions of Subsection (6) do not apply when a person is sentenced under Subsection (5)(c).

(8) Subsections (5)(b) and (5)(c) do not apply if the defendant was younger than 18 years of age at the time of the offense.

(9) Imprisonment under this section is mandatory in accordance with Section 76-3-406.

Section 3. Section 76-5-406 is amended to read:

76-5-406. Sexual offenses against the victim without consent of victim -- Circumstances.

An act of sexual intercourse, rape, attempted rape, rape of a child, attempted rape of a child, object rape, attempted object rape, object rape of a child, attempted object rape of a child, sodomy, attempted sodomy, forcible sodomy, attempted forcible sodomy, sodomy on a child, attempted sodomy on a child, forcible sexual abuse, attempted forcible sexual abuse, sexual abuse of a child, attempted sexual abuse of a child, aggravated sexual abuse of a child, attempted aggravated sexual abuse of a child, or simple sexual abuse is without consent of the victim under any of the following circumstances:

(1) the victim expresses lack of consent through words or conduct;

(2) the actor overcomes the victim through the actual application of physical force or violence;

(3) the actor is able to overcome the victim through concealment or by the element of surprise;

(4) (a) (i) the actor coerces the victim to submit by threatening to retaliate in the immediate future

against the victim or any other person, and the victim perceives at the time that the actor has the ability to execute this threat; or

(ii) the actor coerces the victim to submit by threatening to retaliate in the future against the victim or any other person, and the victim believes at the time that the actor has the ability to execute this threat;

(b) as used in this Subsection (4), “to retaliate” includes threats of physical force, kidnapping, or extortion;

(5) the victim has not consented and the actor knows the victim is unconscious, unaware that the act is occurring, or physically unable to resist;

(6) the actor knows that as a result of mental disease or defect, the victim is at the time of the act incapable either of appraising the nature of the act or of resisting it;

(7) the actor knows that the victim submits or participates because the victim erroneously believes that the actor is the victim’s spouse;

(8) the actor intentionally impaired the power of the victim to appraise or control his or her conduct by administering any substance without the victim’s knowledge;

(9) the victim is younger than 14 years of age;

(10) the victim is younger than 18 years of age and at the time of the offense the actor was the victim’s parent, stepparent, adoptive parent, or legal guardian or occupied a position of special trust in relation to the victim as defined in [Subsection] Section 76-5-404.1[(4)(b)];

(11) the victim is 14 years of age or older, but younger than 18 years of age, and the actor is more than three years older than the victim and entices or coerces the victim to submit or participate, under circumstances not amounting to the force or threat required under Subsection (2) or (4); or

(12) the actor is a health professional or religious counselor, as those terms are defined in this Subsection (12), the act is committed under the guise of providing professional diagnosis, counseling, or treatment, and at the time of the act the victim reasonably believed that the act was for medically or professionally appropriate diagnosis, counseling, or treatment to the extent that resistance by the victim could not reasonably be expected to have been manifested; for purposes of this Subsection (12):

(a) “health professional” means an individual who is licensed or who holds himself or herself out to be licensed, or who otherwise provides professional physical or mental health services, diagnosis, treatment, or counseling including, but not limited to, a physician, osteopathic physician, nurse, dentist, physical therapist, chiropractor, mental health therapist, social service worker, clinical social worker, certified social worker, marriage and family therapist, professional counselor, psychiatrist, psychologist, psychiatric mental

health nurse specialist, or substance abuse counselor; and

(b) “religious counselor” means a minister, priest, rabbi, bishop, or other recognized member of the clergy.

CHAPTER 142**H. B. 265**

Passed March 11, 2014
 Approved March 29, 2014
 Effective May 13, 2014

PROBATE CODE AMENDMENTS

Chief Sponsor: V. Lowry Snow
 Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill amends the Utah Uniform Probate Code.

Highlighted Provisions:

This bill:

- ▶ clarifies the parent and child relationship related to adoption;
- ▶ amends language related to the electronic filings of wills in court;
- ▶ provides for an emergency guardian or court appointed temporary guardian until further order of the court;
- ▶ allows a guardian to compel production of a ward's estate documents and advance health care directives;
- ▶ allows for a temporary conservator until further order of the court;
- ▶ provides for a conservator to compel production of a protected person's estate documents and advanced health care directives; and
- ▶ makes technical and clarifying changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 75-2-114, as last amended by Laws of Utah 2008, Chapter 3
 75-3-107, as last amended by Laws of Utah 2013, Chapter 364
 75-3-301, as last amended by Laws of Utah 2013, Chapter 364
 75-5-310, as last amended by Laws of Utah 1979, Chapter 244
 75-5-312, as last amended by Laws of Utah 2013, Chapter 364
 75-5-408, as last amended by Laws of Utah 2012, Chapter 274
 75-5-415, as last amended by Laws of Utah 2012, Chapter 274
 75-5-416, as enacted by Laws of Utah 1975, Chapter 150
 75-5-424, as last amended by Laws of Utah 2012, Chapter 274
 75-7-508, as last amended by Laws of Utah 2009, Chapter 388

ENACTS:

75-5-310.5, Utah Code Annotated 1953

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

Section 1. Section 75-2-114 is amended to read:**75-2-114. Parent and child relationship.**

(1) Except as provided in Subsections (2) and (3), for purposes of intestate succession by, through, or from a person, an individual is the child of the individual's natural parents, regardless of their marital status. The parent and child relationship may be established as provided in Title 78B, Chapter 15, Utah Uniform Parentage Act.

(2) An adopted individual is the child of the adopting parent or parents and not of the natural parents, but adoption of a child by the spouse of either natural parent has no effect on^[.] the relationship between the child and that natural parent.

~~[(a) the relationship between the child and that natural parent; or]~~

~~[(b) the right of the child or a descendant of the child to inherit from or through the other natural parent.]~~

(3) Inheritance from or through a child by either natural parent or ~~[his]~~ the child's kindred is precluded unless that natural parent has openly treated the child as ~~[his]~~ the natural parent's, and has not refused to support the child.

Section 2. Section 75-3-107 is amended to read:**75-3-107. Probate and testacy proceedings -- Ultimate time limit -- Presumption and order of intestacy.**

(1) No informal probate proceeding or formal testacy proceeding, other than a proceeding to probate a will previously probated at the testator's domicile ~~[and appointment proceedings relating to an estate in which there has been a prior appointment]~~, may be commenced more than three years after the decedent's death, except:

(a) If a previous proceeding was dismissed because of doubt about the fact of the decedent's death, appropriate probate~~[, appointment,]~~ or testacy proceedings may be maintained at any time thereafter upon a finding that the decedent's death occurred prior to the initiation of the previous proceeding and the applicant or petitioner has not delayed unduly in initiating the subsequent proceeding.

(b) Appropriate probate~~[, appointment,]~~ or testacy proceedings may be maintained in relation to the estate of an absent, disappeared, or missing person for whose estate a conservator has been appointed, at any time within three years after the conservator becomes able to establish the death of the protected person.

(c) A proceeding to contest an informally probated will and to secure appointment of the person with legal priority for appointment in the event the contest is successful, may be commenced within the later of 12 months from the informal probate or three years from the decedent's death.

(2) The limitations provided in Subsection (1) do not apply to proceedings to construe probated wills or determine heirs of an intestate. In cases under Subsection (1)(a) or (b), the date on which a testacy ~~[or appointment]~~ proceeding is properly commenced shall be deemed to be the date of the decedent's death for purposes of other limitations provisions of this title which relate to the date of death.

(3) If no will is probated within three years from death, the presumption of intestacy is final and the court shall upon filing a proper petition enter an order to that effect. ~~[The court also has continuing jurisdiction to:]~~

(4) Notwithstanding the time restriction in Subsection (1), the court has continuing jurisdiction to:

(a) determine what property was owned by the decedent at the time of death; and

(b) appoint, formally or informally, a personal representative or special administrator to administer the decedent's estate.

Section 3. Section 75-3-301 is amended to read:

75-3-301. Informal probate or appointment proceedings -- Application -- Contents.

(1) Applications for informal probate or informal appointment shall be directed to the registrar, and verified by the applicant to be accurate and complete to the best of [his] the applicant's knowledge and belief as to the appropriate information required under this section.

(2) Every application for informal probate of a will or for informal appointment of a personal representative, other than a special or successor representative, shall contain the following:

(a) a statement of the interest of the applicant;

(b) the name and date of death of the decedent, [his] the decedent's age, the county and state of [his] the decedent's domicile at the time of death, and the names and addresses of the spouse, children, heirs, and devisees and the ages of any who are minors so far as known or ascertainable with reasonable diligence by the applicant;

(c) if the decedent was not domiciled in the state at the time of [his] the decedent's death, a statement showing venue;

(d) a statement identifying and indicating the address of any personal representative of the decedent appointed in this state or elsewhere whose appointment has not been terminated; and

(e) a statement indicating whether the applicant has received a demand for notice or is aware of any demand for notice of any probate or appointment proceeding concerning the decedent that may have been filed in this state or elsewhere~~[-; and].~~

~~[(f) that the time limit for informal probate or appointment as provided in this chapter has not expired either because three years or less have~~

~~passed since the decedent's death, or if more than three years from death have passed, that circumstances as described by Section 75-3-107 authorizing tardy probate or appointment have occurred.]~~

(3) An application for informal probate of a will shall state the following in addition to the statements required by Subsection (2):

(a) that the original of the decedent's last will [is]:

(i) is in the possession of the court;

(ii) was [presented to] filed with the [court for electronic storage and] court's electronic filing system and is now in the possession of the applicant or the applicant's attorney; or

(iii) [accompanies the application, or that] is an authenticated copy of a will probated in another jurisdiction accompanies the application[;] or was filed with the court's electronic filing system and the authenticated copy is now in the possession of the applicant or the applicant's attorney;

(b) that the applicant, to the best of [his] the applicant's knowledge, believes the will to have been validly executed; [and]

(c) that after the exercise of reasonable diligence, the applicant is unaware of any instrument revoking the will, and that the applicant believes that the instrument which is the subject of the application is the decedent's last will~~[-]; and~~

(d) that the time limit for informal probate as provided in this chapter has not expired either because three years or less have passed since the decedent's death, or if more than three years have passed since the decedent's death, circumstances as described by Section 75-3-107 authorizing tardy probate have occurred.

(4) An application for informal appointment of a personal representative to administer an estate under a will shall describe the will by date of execution and state the time and place of probate or the pending application or petition for probate. The application for appointment shall adopt the statements in the application or petition for probate, state the name, address and priority for appointment of the person whose appointment is sought, state whether or not bond is required, and, if required, unless specified by the will, state the estimated value of the personal and real estate of the decedent and of the income expected from the personal and real estate during the next year.

(5) An application for informal appointment of an administrator in intestacy shall state in addition to the statements required by Subsection (2):

(a) That after the exercise of reasonable diligence, the applicant is unaware of any unrevoked testamentary instrument relating to property having a situs in this state under Section 75-1-301, or, a statement why any such instrument of which he may be aware is not being probated;

(b) The priority of the person whose appointment is sought and the names of any other persons having a prior or equal right to the appointment under Section 75-3-203;

(c) If bond is required, the estimated value of the personal and real estate of the decedent and of the income expected from the personal and real estate during the next year.

(6) An application for appointment of a personal representative to succeed a personal representative appointed under a different testacy status shall refer to the order in the most recent testacy proceeding, state the name and address of the person whose appointment is sought and of the person whose appointment will be terminated if the application is granted, and describe the priority of the applicant.

(7) An application for appointment of a personal representative to succeed a personal representative who has tendered a resignation as provided in Subsection 75-3-610(3), or whose appointment has been terminated by death or removal, shall adopt the statements in the application or petition which led to the appointment of the person being succeeded, except as specifically changed or corrected, state the name and address of the person who seeks appointment as successor, and describe the priority of the applicant.

Section 4. Section 75-5-310 is amended to read:

75-5-310. Emergency guardians.

(1) If an incapacitated person has no guardian and an emergency exists or if an appointed guardian is not effectively performing ~~[his]~~ the guardian's duties and the court further finds that the welfare of the incapacitated person requires immediate action, it may, without notice, appoint an ~~[appropriate official as temporary]~~ emergency guardian for the person for a specified period not to exceed 30 days pending notice and hearing.

(2) The court shall, in all cases in which ~~[a temporary]~~ an emergency guardian is appointed, hold a hearing within ~~[five]~~ 14 days pursuant to Section 75-5-303. ~~[Unless the allegedly incapacitated person has already obtained counsel, the court may appoint an appropriate official or attorney to represent that person in the proceeding. Until the full hearing and order of the court, the temporary guardian shall be charged with the care and custody of the ward and shall not permit the ward to be removed from this state. The authority of any permanent guardian previously appointed by the court is suspended so long as a temporary guardian has authority. A temporary guardian may be removed at any time, and shall obey such orders and make such reports as the court requires.]~~

Section 5. Section 75-5-310.5 is enacted to read:

75-5-310.5. Temporary guardians.

(1) If, after notice and hearing as required by Section 75-5-303, the court finds good cause, the court may:

(a) appoint a temporary guardian;

(b) convert an emergency guardian to a temporary guardian if an emergency guardian has been appointed under Section 75-5-310; or

(c) appoint a different person as temporary guardian to replace an emergency guardian appointed under Section 75-5-310.

(2) Unless the allegedly incapacitated person has already obtained counsel in this proceeding or an attorney has been already appointed for the person, the court shall appoint an attorney to represent the person in the proceeding.

(3) Until a full hearing and further order of the court, the temporary guardian shall be charged with the care and custody of the ward and may not permit the ward to be removed from the state. The authority of any permanent guardian previously appointed by the court is suspended so long as a temporary guardian has authority.

(4) A temporary guardian may be removed at any time, and shall obey all orders and make any reports required by the court.

(5) A temporary guardian has all of the powers and duties of a permanent guardian as set forth in Section 75-5-312.

Section 6. Section 75-5-312 is amended to read:

75-5-312. General powers and duties of guardian -- Penalties.

(1) A guardian of an incapacitated person has only the powers, rights, and duties respecting the ward granted in the order of appointment under Section 75-5-304.

(2) Absent a specific limitation on the guardian's power in the order of appointment, the guardian has the same powers, rights, and duties respecting the ward that a parent has respecting the parent's unemancipated minor child except that a guardian is not liable to third persons for acts of the ward solely by reason of the parental relationship. In particular, and without qualifying the foregoing, a guardian has the following powers and duties, except as modified by order of the court:

(a) To the extent that it is consistent with the terms of any order by a court of competent jurisdiction relating to detention or commitment of the ward, the guardian is entitled to custody of the person of the ward and may establish the ward's place of abode within or without this state.

(b) If entitled to custody of the ward the guardian shall provide for the care, comfort, and maintenance of the ward and, whenever appropriate, arrange for the ward's training and education. Without regard to custodial rights of the ward's person, the guardian shall take reasonable care of the ward's clothing, furniture, vehicles, and other personal effects and commence protective proceedings if other property of the ward is in need of protection.

(c) A guardian may give any consents or approvals that may be necessary to enable the ward to receive medical or other professional care, counsel, treatment, or service.

(d) If no conservator for the estate of the ward has been appointed, the guardian may:

(i) institute proceedings to compel any person under a duty to support the ward or to pay sums for the welfare of the ward to perform that duty; ~~or~~

(ii) compel the production of the ward's estate documents, including the ward's will, trust, power of attorney, and any advance health care directive; and

~~(iii)~~ (iii) receive money and tangible property deliverable to the ward and apply the money and property for support, care, and education of the ward; but the guardian may not use funds from the ward's estate for room and board which the guardian, the guardian's spouse, parent, or child have furnished the ward unless a charge for the service is approved by order of the court made upon notice to at least one adult relative in the nearest degree of kinship to the ward in which there is an adult. The guardian ~~must~~ shall exercise care to conserve any excess for the ward's needs.

(e) (i) A guardian is required to report the condition of the ward and of the estate which has been subject to the guardian's possession or control, as required by the court or court rule.

(ii) A guardian is required to immediately notify all interested persons if the guardian reasonably believes that the ward's death is likely to occur within the next 30 days, based on:

(A) the guardian's own observations; or

(B) information from the ward's physician or other medical care providers.

(iii) A guardian is required to immediately notify all interested persons of the ward's death.

(iv) Unless emergency conditions exist, a guardian is required to file with the court a notice of the guardian's intent to move the ward and to serve the notice on all interested persons at least 10 days before the move. The guardian shall take reasonable steps to notify all interested persons and to file the notice with the court as soon as practicable following the earlier of the move or the date when the guardian's intention to move the ward is made known to the ward, the ward's care giver, or any other third party.

(v) The guardian shall, for all estates in excess of \$50,000, excluding the residence owned by the ward, send a report with a full accounting to the court on an annual basis. For estates less than \$50,000, excluding the residence owned by the ward, the guardian shall fill out an informal annual report and mail the report to the court. The report shall include the following: a statement of assets at the beginning and end of the reporting year, income received during the year, disbursements for the support of the ward, and other expenses incurred by the estate. The guardian shall also report the physical conditions of the ward, the place of residence, and a list of others living in the same household. The court may require additional

information. The forms for both the informal report for estates under \$50,000, excluding the residence owned by the ward, and the full accounting report for larger estates shall be approved by the Judicial Council. This annual report shall be examined and approved by the court. If the ward's income is limited to a federal or state program requiring an annual accounting report, a copy of that report may be submitted to the court in lieu of the required annual report.

(vi) Corporate fiduciaries are not required to petition the court, but shall submit their internal report annually to the court. The report shall be examined and approved by the court.

(vii) The guardian shall also render an annual accounting of the status of the person to the court which shall be included in the petition or the informal annual report as required under Subsection (2)(e). If a fee is paid for an accounting of an estate, no fee shall be charged for an accounting of the status of a person.

(viii) If a guardian:

(A) makes a substantial misstatement on filings of annual reports;

(B) is guilty of gross impropriety in handling the property of the ward; or

(C) willfully fails to file the report required by this subsection, after receiving written notice from the court of the failure to file and after a grace period of two months has elapsed, the court may impose a penalty in an amount not to exceed \$5,000. The court may also order restitution of funds misappropriated from the estate of a ward. The penalty shall be paid by the guardian and may not be paid by the estate.

(ix) These provisions and penalties governing annual reports do not apply if the guardian is the parent of the ward.

(x) For the purposes of Subsections (2)(e)(i), (ii), (iii), and (iv), "interested persons" means those persons required to receive notice in guardianship proceedings as set forth in Section 75-5-309.

(f) If a conservator has been appointed, all of the ward's estate received by the guardian in excess of those funds expended to meet current expenses for support, care, and education of the ward shall be paid to the conservator for management as provided in this code; and the guardian shall account to the conservator for funds expended.

(3) Any guardian of one for whom a conservator also has been appointed shall control the custody and care of the ward and is entitled to receive reasonable sums for services and for room and board furnished to the ward as agreed upon between the guardian and the conservator, if the amounts agreed upon are reasonable under the circumstances. The guardian may request the conservator to expend the ward's estate by payment to third persons or institutions for the ward's care and maintenance.

Section 7. Section 75-5-408 is amended to read:

75-5-408. Permissible court orders.

(1) The court has the following powers which may be exercised directly or through a conservator in respect to the estate and affairs of protected persons:

(a) While a petition for appointment of a conservator or other protective order is pending and after preliminary hearing and without notice to others, the court has power to preserve and apply the property of the person to be protected as may be required for the person's benefit or the benefit of the person's dependents.

(b) After hearing and upon determining that a basis for an appointment or other protective order exists with respect to a minor without other disability, the court has all those powers over the estate and affairs of the minor which are or might be necessary for the best interests of the minor, the minor's family, and the members of the minor's household.

(c) After hearing and upon determining that a basis for an appointment or other protective order exists with respect to a person for reasons other than minority, the court has, for the benefit of the person and members of the person's household, all the powers over the person's estate and affairs that the person could exercise if present and not under disability, except the power to make a will. These powers include the power to:

(i) make gifts;

(ii) convey or release the person's contingent and expectant interests in property including marital property rights and any right of survivorship incident to joint tenancy or tenancy by the entirety;

(iii) exercise or release the person's powers as personal representative, custodian for minors, conservator, or donee of a power of appointment;

(iv) enter into contracts;

(v) create revocable or irrevocable trusts of property of the estate that may extend beyond the person's disability or life;

(vi) exercise options of the person with a disability to purchase securities or other property;

(vii) exercise the person's rights to elect options and change beneficiaries under insurance and annuity policies and to surrender the policies for their cash value;

(viii) exercise the person's right to an elective share in the estate of the person's deceased spouse; and

(ix) renounce any interest by testate or intestate succession or by inter vivos transfer.

(d) The court may exercise, or direct the exercise of, its authority to exercise or release powers of appointment of which the protected person is donee, to renounce interests, to make gifts in trust

or otherwise exceeding 20% of any year's income of the estate, or to change beneficiaries under insurance and annuity policies, only if satisfied, after notice and hearing, that it is in the best interests of the protected person, and that the person either is incapable of consenting or has consented to the proposed exercise of power.

(2) An order made pursuant to this section determining that a basis for appointment of a conservator or other protective order exists has no effect on the capacity of the protected person.

(3) If the court elects to appoint a conservator under Subsection (1), the court may appoint a temporary conservator to serve until further order of the court. A temporary conservator, if appointed, has all of the powers and duties of a conservator as set forth in Sections 75-5-417, 75-5-418, 75-5-419, and 75-5-424.

Section 8. Section 75-5-415 is amended to read:

75-5-415. Death, resignation, or removal of conservator.

(1) The court may remove a conservator for good cause, upon notice and hearing, or accept the resignation of a conservator. After the death, resignation, or removal of a conservator, the court may appoint another conservator. A conservator so appointed succeeds to the title and powers of the preceding conservator.

(2) Before removing a conservator, accepting the resignation of a conservator, or ordering that a protected person's incapacity has terminated, the court shall follow the same procedures to safeguard the rights of the protected person as apply to a petition for appointment of a conservator as provided in Section 75-5-407. The court is not required to appoint an attorney to represent the ward if the case is uncontested and the protected person's capacity is not at issue.

Section 9. Section 75-5-416 is amended to read:

75-5-416. Petitions for orders subsequent to appointment.

(1) Any person interested in the welfare of a person for whom a conservator has been appointed may file a petition in the appointing court for an order:

(a) requiring bond or security or additional bond or security, or reducing bond;

(b) requiring an accounting for the administration of the [trust] conservatorship estate;

(c) directing distribution;

(d) removing the conservator and appointing a temporary or successor conservator; or

(e) granting other appropriate relief, including any relief available under Title 75, Chapter 7, Utah Uniform Trust Code, if the protected person is a grantor, settlor, trustor, or beneficiary of a trust.

(2) A conservator may petition the appointing court for instructions concerning his the conservator's fiduciary responsibility.

(3) Upon notice and hearing the court may give appropriate instructions or make any appropriate order.

Section 10. Section 75-5-424 is amended to read:

75-5-424. Powers of conservator in administration.

(1) A conservator has all of the powers conferred in this chapter and any additional powers conferred by law on trustees in this state. In addition, a conservator of the estate of an unmarried minor as to whom no one has parental rights, has the duties and powers of a guardian of a minor described in Section 75-5-209 until the minor attains majority or marries, but the parental rights so conferred on a conservator do not preclude appointment of a guardian as provided by Part 2 of this chapter.

(2) A conservator has the power to compel the production of the protected person's estate documents, including the protected person's will, trust, power of attorney, and any advance health care directives.

~~(2)~~ (3) A conservator has power without court authorization or confirmation to invest and reinvest funds of the estate as would a trustee.

~~(3)~~ (4) A conservator, acting reasonably in efforts to accomplish the purpose for which the conservator was appointed, may act without court authorization or confirmation, to:

(a) collect, hold, and retain assets of the estate, including land in another state, until, in his judgment, disposition of the assets should be made, and the assets may be retained even though they include an asset in which he is personally interested;

(b) receive additions to the estate;

(c) continue or participate in the operation of any business or other enterprise;

(d) acquire an undivided interest in an estate asset in which the conservator, in any fiduciary capacity, holds an undivided interest;

(e) invest and reinvest estate assets in accordance with Subsection (2);

(f) deposit estate funds in a bank including a bank operated by the conservator;

(g) acquire or dispose of an estate asset, including land in another state, for cash or on credit, at public or private sale; and to manage, develop, improve, exchange, partition, change the character of, or abandon an estate asset;

(h) make ordinary or extraordinary repairs or alterations in buildings or other structures, demolish any improvements, and raze existing or erect new party walls or buildings;

(i) subdivide, develop, or dedicate land to public use; make or obtain the vacation of plats and adjust boundaries; adjust differences in valuation on exchange or partition by giving or receiving considerations; and dedicate easements to public use without consideration;

(j) enter for any purpose into a lease as lessor or lessee with or without option to purchase or renew for a term within or extending beyond the term of the conservatorship;

(k) enter into a lease or arrangement for exploration and removal of minerals or other natural resources or enter into a pooling or unitization agreement;

(l) grant an option involving disposition of an estate asset or take an option for the acquisition of any asset;

(m) vote a security, in person or by general or limited proxy;

(n) pay calls, assessments, and any other sums chargeable or accruing against or on account of securities;

(o) sell or exercise stock subscription or conversion rights; consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise;

(p) hold a security in the name of a nominee or in other form without disclosure of the conservatorship so that title to the security may pass by delivery, but the conservator is liable for any act of the nominee in connection with the stock so held;

(q) insure the assets of the estate against damage or loss and the conservator against liability with respect to third persons;

(r) borrow money to be repaid from estate assets or otherwise; and advance money for the protection of the estate or the protected person, and for all expenses, losses, and liabilities sustained in the administration of the estate or because of the holding or ownership of any estate assets, and the conservator has a lien on the estate as against the protected person for advances so made;

(s) pay or contest any claim; settle a claim by or against the estate or the protected person by compromise, arbitration, or otherwise; and release, in whole or in part, any claim belonging to the estate to the extent that the claim is uncollectible;

(t) pay taxes, assessments, compensation of the conservator, and other expenses incurred in the collection, care, administration, and protection of the estate;

(u) allocate items of income or expense to either estate income or principal, as provided by law, including creation of reserves out of income for depreciation, obsolescence, or amortization, or for depletion in mineral or timber properties;

(v) pay any sum distributable to a protected person or dependent without liability to the

conservator, by paying the sum to the distributee or by paying the sum for the use of the distributee either to the distributee's guardian, or if none, to a relative or other person with custody of the person;

(w) employ persons, including attorneys, auditors, investment advisors, or agents, even though they are associated with the conservator, to advise or assist in the performance of administrative duties; act upon their recommendation without independent investigation; and instead of acting personally, employ one or more agents to perform any act of administration, whether or not discretionary;

(x) prosecute or defend actions, claims, or proceedings in any jurisdiction for the protection of estate assets and of the conservator in the performance of the conservator's duties;

(y) act as a qualified beneficiary of any trust in which the protected person is a qualified beneficiary; and

(z) execute and deliver all instruments which will accomplish or facilitate the exercise of the powers vested in the conservator.

Section 11. Section 75-7-508 is amended to read:

75-7-508. Notice to creditors.

(1) (a) A trustee for an inter vivos revocable trust, upon the death of the settlor, may publish a notice to creditors:

(i) once a week for three successive weeks in a newspaper of general circulation in the county where the settlor resided at the time of death; and

(ii) in accordance with Section 45-1-101 for three weeks.

(b) The notice required by Subsection (1)(a) ~~must~~ shall:

(i) provide the trustee's name and address; and

(ii) notify creditors:

(A) of the deceased settlor; and

(B) to present their claims within three months after the date of the first publication of the notice or be forever barred from presenting the claim.

(2) A trustee shall give written notice by mail or other delivery to any known creditor of the deceased settlor, notifying the creditor to present his claim within 90 days from the published notice if given as provided in Subsection (1) or within 60 days from the mailing or other delivery of the notice, whichever is later, or be forever barred. Written notice shall be the notice described in Subsection (1) or a similar notice.

(3) (a) If the deceased settlor received medical assistance, as defined in Section 26-19-2, at any time after the age of 55, the trustee for an inter vivos revocable trust, upon the death of the settlor, shall mail or deliver written notice to the Director of the Office of Recovery Services, on behalf of the Department of Health, to present any claim under

Section 26-19-13.5 within 60 days from the mailing or other delivery of notice, whichever is later, or be forever barred.

(b) If the trustee does not mail notice to the director of the Office of Recovery Services on behalf of the department in accordance with Subsection (3)(a), the department shall have one year from the death of the settlor to present its claim.

(4) The trustee ~~shall~~ is not ~~be~~ liable to any creditor or to any successor of the deceased settlor for giving or failing to give notice under this section.

(5) The notice to creditors shall be valid against any creditor of the trust and also against any creditor of the estate of the deceased settlor.

CHAPTER 143**H. B. 276**

Passed March 13, 2014
 Approved March 29, 2014
 Effective May 13, 2014

DISORDERLY CONDUCT AMENDMENTS

Chief Sponsor: Curtis Oda
 Senate Sponsor: Scott K. Jenkins

LONG TITLE**General Description:**

This bill includes displaying a dangerous weapon under certain circumstances in the definition of disorderly conduct.

Highlighted Provisions:

This bill:

- ▶ provides that displaying a dangerous weapon in public under certain circumstances may be disorderly conduct; and
- ▶ confirms that merely displaying a dangerous weapon in public without other behavior is not disorderly conduct.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-9-102, as last amended by Laws of Utah 1999, Chapter 20

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

Section 1. Section 76-9-102 is amended to read:**76-9-102. Disorderly conduct.**

(1) A person is guilty of disorderly conduct if:

(a) ~~he~~ the person refuses to comply with the lawful order of ~~the police~~ a law enforcement officer to move from a public place, or knowingly creates a hazardous or physically offensive condition, by any act which serves no legitimate purpose; or

(b) intending to cause public inconvenience, annoyance, or alarm, or recklessly creating a risk thereof, ~~he~~ the person:

(i) engages in fighting or in violent, tumultuous, or threatening behavior;

(ii) makes unreasonable noises in a public place;

(iii) makes unreasonable noises in a private place which can be heard in a public place; or

(iv) obstructs vehicular or pedestrian traffic.

(2) "Public place," for the purpose of this section, means any place to which the public or a substantial group of the public has access and includes but is not limited to streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

(3) The mere carrying or possession of a holstered or encased firearm, whether visible or concealed,

without additional behavior or circumstances that would cause a reasonable person to believe the holstered or encased firearm was carried or possessed with criminal intent, does not constitute a violation of this section. Nothing in this Subsection (3) may limit or prohibit a law enforcement officer from approaching or engaging any person in a voluntary conversation.

~~(3)~~ (4) Disorderly conduct is a class C misdemeanor if the offense continues after a request by a person to desist. Otherwise it is an infraction.

CHAPTER 144**H. B. 280**

Passed March 4, 2014
 Approved March 29, 2014
 Effective March 29, 2014

**TECHNICAL REVISIONS
 TO PAWNSHOP STATUTE**

Chief Sponsor: Angela Romero
 Senate Sponsor: Karen Mayne

LONG TITLE**General Description:**

This bill modifies the Pawnshop and Secondhand Merchandise Transaction Information Act regarding disposition of property.

Highlighted Provisions:

This bill:

- ▶ corrects a cross-reference regarding disposition of property after it has been removed from a law enforcement hold and is not needed as evidence.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.

Utah Code Sections Affected:**AMENDS:**

13-32a-115, as enacted by Laws of Utah 2012,
 Chapter 284

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

Section 1. Section 13-32a-115 is amended to read:**13-32a-115. Investigation phase -- Victim's responsibilities -- Property disposition.**

(1) If the property pawned or sold to a pawn or secondhand business is the subject of a criminal investigation and a hold has been placed on the property under Section 13-32a-109, the original victim shall do the following to establish a claim:

(a) positively identify to law enforcement the item stolen or lost;

(b) if a police report has not already been filed for the original theft or loss of property, file a police report, and provide for the law enforcement agency information surrounding the original theft or loss of property; and

(c) give a sworn statement under penalty of law that:

- (i) claims ownership of the property;
- (ii) references the original theft or loss; and
- (iii) identifies the perpetrator if known.

(2) The pawn or secondhand business shall retain possession of any property subject to a hold until a criminal prosecution is commenced relating to the property for which the hold was placed unless:

(a) during the course of a criminal investigation the actual physical possession by law enforcement

of an article purchased or pawned is essential for the purpose of fingerprinting the property, chemical testing of the property, or if the property contains unique or sensitive personal identifying information; or

(b) an agreement between the original victim and the pawn or secondhand business to return the property is reached.

(3) (a) Upon the commencement of a criminal prosecution, any article subject to a hold for investigation under this chapter may be seized by the law enforcement agency which requested the hold.

(b) Subsequent disposition of the property shall be consistent with Section ~~[77-24-2]~~ 24-3-103 regarding property not needed as evidence and this chapter.

(c) If a conflict exists between the provisions of Section ~~[77-24-2]~~ 24-3-103 regarding property not needed as evidence and this chapter, this chapter takes precedence regarding property held by pawn or secondhand businesses.

(4) At all times during the course of a criminal investigation and subsequent prosecution, the article subject to a law enforcement hold shall be kept secure by the pawn or secondhand business subject to the hold unless a pawned or sold article has been seized by the law enforcement agency pursuant to Section 13-32a-109.5.

Section 2. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 145**H. B. 293**

Passed March 12, 2014
 Approved March 29, 2014
 Effective May 13, 2014

**GOVERNMENT IMMUNITY
 WILDLIFE WAIVER AMENDMENTS**

Chief Sponsor: Mike K. McKell
 Senate Sponsor: John L. Valentine

LONG TITLE**General Description:**

This bill modifies Title 63G, Chapter 7, Governmental Immunity Act of Utah.

Highlighted Provisions:

This bill:

- ▶ provides that governmental immunity is not waived for injury related to the activity of wildlife that arises during the use of a public or private road; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63G-7-301, as renumbered and amended by Laws of Utah 2008, Chapter 382

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

Section 1. Section 63G-7-301 is amended to read:

63G-7-301. Waivers of immunity -- Exceptions.

(1) (a) Immunity from suit of each governmental entity is waived as to any contractual obligation.

(b) Actions arising out of contractual rights or obligations are not subject to the requirements of Sections 63G-7-401, 63G-7-402, 63G-7-403, or 63G-7-601.

(c) The Division of Water Resources is not liable for failure to deliver water from a reservoir or associated facility authorized by Title 73, Chapter 26, Bear River Development Act, if the failure to deliver the contractual amount of water is due to drought, other natural condition, or safety condition that causes a deficiency in the amount of available water.

(2) Immunity from suit of each governmental entity is waived:

(a) as to any action brought to recover, obtain possession of, or quiet title to real or personal property;

(b) as to any action brought to foreclose mortgages or other liens on real or personal property, to determine any adverse claim on real or personal property, or to obtain an adjudication about any mortgage or other lien that the

governmental entity may have or claim on real or personal property;

(c) as to any action based on the negligent destruction, damage, or loss of goods, merchandise, or other property while it is in the possession of any governmental entity or employee, if the property was seized for the purpose of forfeiture under any provision of state law;

(d) subject to Subsection 63G-7-302(1), as to any action brought under the authority of Article I, Section 22, of the Utah Constitution, for the recovery of compensation from the governmental entity when the governmental entity has taken or damaged private property for public uses without just compensation;

(e) subject to Subsection 63G-7-302(2), as to any action brought to recover attorney fees under Sections 63G-2-405 and 63G-2-802;

(f) for actual damages under Title 67, Chapter 21, Utah Protection of Public Employees Act; or

(g) as to any action brought to obtain relief from a land use regulation that imposes a substantial burden on the free exercise of religion under Title 63L, Chapter 5, Utah Religious Land Use Act.

(3) (a) Except as provided in Subsection (3)(b), immunity from suit of each governmental entity is waived as to any injury caused by:

(i) a defective, unsafe, or dangerous condition of any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on them; or

(ii) any defective or dangerous condition of a public building, structure, dam, reservoir, or other public improvement.

(b) Immunity from suit of each governmental entity is not waived if the injury arises out of, in connection with, or results from:

(i) a latent dangerous or latent defective condition of any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on them; or

(ii) a latent dangerous or latent defective condition of any public building, structure, dam, reservoir, or other public improvement.

(4) Immunity from suit of each governmental entity is waived as to any injury proximately caused by a negligent act or omission of an employee committed within the scope of employment.

(5) Immunity from suit of each governmental entity is not waived under Subsections (3) and (4) if the injury arises out of, in connection with, or results from:

(a) the exercise or performance, or the failure to exercise or perform, a discretionary function, whether or not the discretion is abused;

(b) assault, battery, false imprisonment, false arrest, malicious prosecution, intentional trespass, abuse of process, libel, slander, deceit, interference with contract rights, infliction of mental anguish, or violation of civil rights;

(c) the issuance, denial, suspension, or revocation of, or by the failure or refusal to issue, deny, suspend, or revoke, any permit, license, certificate, approval, order, or similar authorization;

(d) a failure to make an inspection or by making an inadequate or negligent inspection;

(e) the institution or prosecution of any judicial or administrative proceeding, even if malicious or without probable cause;

(f) a misrepresentation by an employee whether or not it is negligent or intentional;

(g) riots, unlawful assemblies, public demonstrations, mob violence, and civil disturbances;

(h) the collection of and assessment of taxes;

(i) the activities of the Utah National Guard;

(j) the incarceration of any person in any state prison, county or city jail, or other place of legal confinement;

(k) any natural condition on publicly owned or controlled lands;

(l) any condition existing in connection with an abandoned mine or mining operation;

(m) any activity authorized by the School and Institutional Trust Lands Administration or the Division of Forestry, Fire, and State Lands;

(n) the operation or existence of a pedestrian or equestrian trail that is along a ditch, canal, stream, or river, regardless of ownership or operation of the ditch, canal, stream, or river, if:

(i) the trail is designated under a general plan adopted by a municipality under Section 10-9a-401 or by a county under Section 17-27a-401;

(ii) the trail right-of-way or the right-of-way where the trail is located is open to public use as evidenced by a written agreement between the owner or operator of the trail right-of-way, or of the right-of-way where the trail is located, and the municipality or county where the trail is located; and

(iii) the written agreement:

(A) contains a plan for operation and maintenance of the trail; and

(B) provides that an owner or operator of the trail right-of-way or of the right-of-way where the trail is located has, at minimum, the same level of immunity from suit as the governmental entity in connection with or resulting from the use of the trail.

(o) research or implementation of cloud management or seeding for the clearing of fog;

(p) the management of flood waters, earthquakes, or natural disasters;

(q) the construction, repair, or operation of flood or storm systems;

(r) the operation of an emergency vehicle, while being driven in accordance with the requirements of Section 41-6a-212;

(s) the activities of:

(i) providing emergency medical assistance;

(ii) fighting fire;

(iii) regulating, mitigating, or handling hazardous materials or hazardous wastes;

(iv) emergency evacuations;

(v) transporting or removing injured persons to a place where emergency medical assistance can be rendered or where the person can be transported by a licensed ambulance service; or

(vi) intervening during dam emergencies;

(t) the exercise or performance, or the failure to exercise or perform, any function pursuant to Title 73, Chapter 10, Board of Water Resources - Division of Water Resources; ~~or~~

(u) unauthorized access to government records, data, or electronic information systems by any person or entity~~[-];~~ or

(v) injury related to the activity of wildlife, as defined in Section 23-13-2, that arises during the use of a public or private road.

CHAPTER 146**H. B. 296**

Passed February 27, 2014

Approved March 29, 2014

Effective May 13, 2014

**CONCEALED WEAPON PERMIT
EXEMPTIONS AMENDMENTS**

Chief Sponsor: Richard A. Greenwood

Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill changes the annual requalification and revocation requirements for a law enforcement official or judge to retain a concealed weapon permit.

Highlighted Provisions:

This bill:

- ▶ provides for the commissioner of public safety to establish annual requalification requirements; and
- ▶ amends the requirements to revoke a law enforcement official's or judge's certificate of qualification to possess a concealed weapon permit.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53-5-711, as last amended by Laws of Utah 2010, Chapter 62

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

Section 1. Section 53-5-711 is amended to read:**53-5-711. Law enforcement officials and judges -- Training requirements -- Qualification -- Revocation.**

(1) For purposes of this section and Section 76-10-523:

(a) "Judge" means a judge or justice of a court of record or court not of record, but does not include a judge pro tem or senior judge.

(b) "Law enforcement official of this state" means:

- (i) a member of the Board of Pardons and Parole;
- (ii) a district attorney, deputy district attorney, county attorney or deputy county attorney of a county not in a prosecution district;
- (iii) the attorney general;
- (iv) an assistant attorney general designated as a criminal prosecutor; or
- (v) a city attorney or a deputy city attorney designated as a criminal prosecutor.

(2) To qualify for an exemption in Section 76-10-523, a law enforcement official or judge shall complete the following training requirements:

(a) meet the requirements of Sections 53-5-704, 53-5-706, and 53-5-707; and

(b) successfully complete an additional course of training as established by the commissioner of public safety designed to assist them while carrying out their official law enforcement and judicial duties as agents for the state or its political subdivisions.

(3) Annual requalification requirements for law enforcement officials and judges shall be established by the commissioner of public safety. Additional requalification requirements may be established by the:

(a) Board of Pardons and Parole by rule for its members;

(b) Judicial Council by rule for judges; and

(c) the district attorney, county attorney in a county not in a prosecution district, the attorney general, or city attorney by policy for prosecutors under their jurisdiction.

(4) The bureau may:

(a) issue a certificate of qualification to a judge or law enforcement official who has completed the requirements of Subsection ~~[(4)]~~ (2), which certificate of qualification is valid until revoked;

(b) revoke the certificate of qualification of a judge or law enforcement official who:

(i) fails to meet the annual requalification criteria established pursuant to Subsection (3); ~~and~~

(ii) would be subject to revocation of a concealed firearm permit under Subsection 53-5-704(2)(a); or

(iii) is no longer employed as a judge or law enforcement official as defined in Subsection (1); and

(c) certify instructors for the training requirements of this section.

CHAPTER 147**H. B. 301**

Passed March 7, 2014

Approved March 29, 2014

Effective May 13, 2014

**CONCEALED WEAPON
PERMIT FOR SERVICE MEMBERS**

Chief Sponsor: Val L. Peterson

Senate Sponsor: John L. Valentine

LONG TITLE**General Description:**

This bill provides an exemption for an active duty servicemember when renewing a concealed firearm permit.

Highlighted Provisions:

This bill:

- ▶ exempts an active duty servicemember from the Utah concealed firearm permit reciprocity requirement if stationed out of state.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

53-5-712, Utah Code Annotated 1953

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

Section 1. Section 53-5-712 is enacted to read:**53-5-712. Armed Forces -- Permit requirements -- Exemptions.**

An active duty servicemember of the United States Armed Forces who possesses a Utah concealed firearm permit is exempt from the requirement in Subsection 53-5-704(4)(a) when renewing a Utah concealed firearm permit.

CHAPTER 148**H. B. 304**

Passed February 27, 2014

Approved March 29, 2014

Effective May 13, 2014

**LAW ENFORCEMENT
VOLUNTEER AMENDMENTS**

Chief Sponsor: Richard A. Greenwood

Senate Sponsor: Scott K. Jenkins

LONG TITLE**General Description:**

This bill modifies the Volunteer Government Workers Act regarding volunteer services for emergency law enforcement events.

Highlighted Provisions:

This bill:

- ▶ authorizes the county sheriff to approve a volunteer to serve in an emergency law enforcement event.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

67-20-4, as enacted by Laws of Utah 1983, Chapter 174

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

Section 1. Section 67-20-4 is amended to read:**67-20-4. Approval of volunteer.**

[A] (1) Except as approval is provided under Subsection (2), a volunteer may not donate any service to an agency unless the volunteer's services are approved by:

(a) the chief executive of that agency or ~~[his]~~ the authorized representative~~;~~; and ~~[by]~~

(b) the office of personnel having jurisdiction over that agency.

(2) When the county sheriff determines that a search and rescue emergency situation exists that requires law enforcement action, the county sheriff may approve a volunteer who offers to donate a service for any law enforcement related activity conducted in response to the emergency situation.

CHAPTER 149**H. B. 308**

Passed February 28, 2014

Approved March 29, 2014

Effective May 13, 2014

CRIMINAL PENALTY AMENDMENTSChief Sponsor: Craig Hall
Senate Sponsor: Mark B. Madsen**LONG TITLE****General Description:**

This bill modifies the Utah Municipal Code regarding ordinance penalties.

Highlighted Provisions:

This bill:

- ▶ removes a requirement that a municipality impose a minimum penalty for a municipal ordinance, but does not modify the maximum penalty limitation.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

10-3-703, as last amended by Laws of Utah 2003, Chapter 156

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

Section 1. Section 10-3-703 is amended to read:**10-3-703. Criminal penalties for violation of ordinance -- Civil penalties prohibited -- Exceptions.**

(1) The governing body of each municipality may impose a ~~minimum~~ criminal penalty for the violation of any municipal ordinance by a fine not to exceed the maximum class B misdemeanor fine under Section 76-3-301 or by a term of imprisonment up to six months, or by both the fine and term of imprisonment.

(2) (a) Except as provided in Subsection (2)(b), the governing body may prescribe a ~~minimum~~ civil penalty for the violation of any municipal ordinance by a fine not to exceed the maximum class B misdemeanor fine under Section 76-3-301.

(b) A municipality may not impose a civil penalty and adjudication for the violation of a municipal moving traffic ordinance.

**CHAPTER 150
H. B. 313**

Passed March 13, 2014
Approved March 29, 2014
Effective May 13, 2014

**VETERANS' AND MILITARY
AFFAIRS COMMISSION**

Chief Sponsor: Tim M. Cosgrove
Senate Sponsor: Todd Weiler

LONG TITLE

General Description:

This bill creates a legislative commission to address veterans' and military affairs issues.

Highlighted Provisions:

This bill:

- ▶ creates a legislative commission and limits its composition to not more than 23 members;
- ▶ requires the commission to study policy issues related to servicemembers, veterans, and their dependents;
- ▶ further requires the commission to study the impact of military facilities on Utah and how to maximize the benefits of those facilities for veterans and the state;
- ▶ requires the commission to report to the Government Operations Interim Committee; and
- ▶ provides a sunset date.

Monies Appropriated in this Bill:

This bill appropriates in the fiscal year 2014-15:

- ▶ To the Senate, as an ongoing appropriation:
 - from the General Fund, \$7,000, to pay for the Veterans' and Military Affairs Commission.
- ▶ To the House of Representatives, as an ongoing appropriation:
 - from the General Fund, \$10,000, to pay for the Veterans' and Military Affairs Commission.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-2-236, as last amended by Laws of Utah 2013, Chapter 283

ENACTS:

36-28-101, Utah Code Annotated 1953
36-28-102, Utah Code Annotated 1953
36-28-103, Utah Code Annotated 1953
36-28-104, Utah Code Annotated 1953

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

Section 1. Section 36-28-101 is enacted to read:

**CHAPTER 28. VETERANS' AND MILITARY
AFFAIRS COMMISSION**

36-28-101. Title.

This chapter is known as the "Veterans' and Military Affairs Commission."

Section 2. Section 36-28-102 is enacted to read:

36-28-102. Veterans' and Military Affairs Commission -- Creation -- Membership -- Chairs -- Terms -- Per diem and expenses.

(1) There is created the Veterans' and Military Affairs Commission.

(2) The commission membership is composed of 19 permanent members, but may not exceed 23 members, and is as follows:

(a) five legislative members to be appointed as follows:

(i) three members from the House of Representatives, appointed by the speaker of the House of Representatives, no more than two of whom may be from the same political party; and

(ii) two members from the Senate, appointed by the president of the Senate, no more than one of whom may be from the same political party;

(b) the executive director of the Department of Veterans' and Military Affairs or the director's designee;

(c) the chair of the Utah Veterans' Advisory Council;

(d) the executive director of the Department of Workforce Services or the director's designee;

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

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

(g) a representative from the Administrative Office of the Courts who is knowledgeable in court services appointed by the Judicial Council;

(h) a representative from the Utah National Guard appointed by the adjutant general;

(i) Guard and Reserve Transition Assistance Advisor; and

(j) a representative from the Board of Regents;

(k) three representatives of veteran service organizations as recommended by the Veterans Advisory Council;

(l) one representative from the Utah Defense Alliance; and

(m) one military affairs representative from a chamber of commerce recommended by the Utah State Chamber of Commerce.

(3) The commission may appoint by majority vote of the entire commission up to four representatives of state and local government agencies or interest groups the commission feels necessary to complete its duties.

(4) (a) The president of the Senate shall designate a member of the Senate appointed under Subsection (2)(a) as a cochair of the commission.

(b) The speaker of the House of Representatives shall designate a member of the House of

Representatives appointed under Subsection (2)(a) as a cochair of the commission.

(5) A majority of the members of the commission shall constitute a quorum. The action of a majority of a quorum constitutes the action of the commission.

(6) The term for each commission member appointed in accordance with Subsection (3) shall be two years from the date of appointment. A member may not serve more than three terms.

(7) If a member leaves office or is unable to serve, the vacancy shall be filled as it was originally appointed. A person appointed to fill a vacancy under this section does not serve the remaining unexpired term of the member being replaced but begins serving a new term.

(8) A member may not receive compensation or benefits for the member's service but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

Section 3. Section 36-28-103 is enacted to read:

36-28-103. Duties.

The commission shall:

(1) comply with the rules of legislative interim committees;

(2) study and make recommendations to the Legislature on the following issues as they impact active duty servicemembers, veterans, and their dependents:

(a) reintegration from military to civilian status;

(b) employment;

(c) finances;

(d) education;

(e) health and mental health, including suicide prevention;

(f) military affairs, including the impact of military bases; and

(g) coordination of state and local government resources to assist active duty servicemembers, veterans, and their dependents; and

(3) consider the unique role of the Utah National Guard and its servicemembers in regard to the issues in Subsection (2).

Section 4. Section 36-28-104 is enacted to read:

36-28-104. Staff support.

The Office of Legislative Research and General Counsel shall staff the commission.

Section 5. Section 63I-2-236 is amended to read:

63I-2-236. Repeal dates -- Title 36.

(1) Section 36-12-15.1 is repealed July 1, 2015.

(2) Sections 36-16a-101 through 36-16a-108 are repealed January 1, 2013.

(3) Sections 36-28-101 through 36-28-104 are repealed July 1, 2019.

Section 6. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2014, and ending June 30, 2015, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2015

To Legislature - Senate

From General Fund, Ongoing \$7,000

Schedule of Programs:

Administration \$7,000

To Legislature - House of Representatives

From General Fund, Ongoing \$10,000

Schedule of Programs:

Administration \$10,000

CHAPTER 151**H. B. 315**

Passed March 6, 2014

Approved March 29, 2014

Effective May 13, 2014

JUDGMENT LIEN AMENDMENTS

Chief Sponsor: R. Curt Webb

Senate Sponsor: Kevin T. Van Tassell

LONG TITLE**General Description:**

This bill requires that a separate information sheet be filed when filing a judgment lien.

Highlighted Provisions:

This bill:

- ▶ requires the filing of a separate information sheet with a judgment lien.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

57-3-106, as last amended by Laws of Utah 2011, Chapter 88

78A-7-105, as last amended by Laws of Utah 2012, Chapter 205

78B-5-201, as last amended by Laws of Utah 2011, Chapter 88

78B-5-202, as last amended by Laws of Utah 2011, Chapter 88

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

Section 1. Section 57-3-106 is amended to read:**57-3-106. Original documents required -- Captions -- Legibility.**

(1) A person may not present and a county recorder may refuse to accept a document for recording if the document does not comply with this section.

(2) (a) Unless otherwise provided, a document presented for recording in the office of the county recorder shall:

- (i) be an original;
- (ii) contain a brief caption on the first page of the document stating the nature of the document; and
- (iii) contain a legal description of the property as required under Section 57-3-105.

(b) If a document is a master form, as defined in Section 57-3-201, the caption required by Subsection (2)(a)(ii) shall state that the document is a master form.

(3) A court judgment or an abstract of a court judgment presented for recording in the office of the county recorder in compliance with Section 78B-5-202 shall:

- (a) be an original or certified copy; and

(b) include the information identifying the judgment debtor as referred to in Subsection 78B-5-201(4)(b) either:

- (i) in the judgment or abstract of judgment; or
- (ii) as a separate information statement of the judgment creditor as referred to in Subsection 78B-5-201(5).

(4) A judgment, abstract of judgment, or separate information statement of the judgment creditor does not require an acknowledgment, a legal description, or notarization to be recorded.

(5) A foreign judgment or an abstract of a foreign judgment recorded in the office of a county recorder shall include the affidavit as required in Section 78B-5-303.

(6) Any document recorded in the office of the county recorder to release, assign, renew, or extend a judgment lien shall include:

- (a) the name of any judgment creditor, debtor, assignor, or assignee;
- (b) the date on which the instrument creating the lien was recorded in the office of the county recorder;
- (c) the entry number and book and page of the recorded instrument creating the judgment lien; and
- (d) the date on which the document is recorded.

(7) A document presented for recording shall be sufficiently legible for the recorder to make certified copies of the document.

(8) (a) (i) A document that is of record in the office of the appropriate county recorder in compliance with this chapter may not be recorded again in that same county recorder's office unless the original document has been reexecuted by all parties who executed the document.

(ii) Unless exempt by statute, an original document that is reexecuted shall contain the appropriate acknowledgment, proof of execution, jurat, or other notarial certification for all parties who are reexecuting the document as required by Title 46, Chapter 1, Notaries Public Reform Act, and Title 57, Chapter 2, Acknowledgments.

(iii) A document submitted for rerecording shall contain a brief statement explaining the reason for rerecording.

(b) A person may not present and a county recorder may refuse to accept a document for rerecording if that document does not conform to this section.

(c) This Subsection (8) applies only to documents executed after July 1, 1998.

(9) Minor typographical or clerical errors in a document of record may be corrected by the recording of an affidavit or other appropriate instrument.

(10) (a) Except as required by federal law, or by agreement between a borrower under the trust

deed and a grantee under the trustee's deed, and subject to Subsection (10)(b), neither the recordation of an affidavit under Subsection (9) nor the reexecution and rerecording of a document under Subsection (8):

- (i) divests a grantee of any real property interest;
- (ii) alters an interest in real property; or
- (iii) returns to the grantor an interest in real property conveyed by statute.

(b) A person who reexecutes and rerecords a document under Subsection (8), or records an affidavit under Subsection (9), shall include with the document or affidavit a notice containing the name and address to which real property valuation and tax notices shall be mailed.

Section 2. Section 78A-7-105 is amended to read:

78A-7-105. Territorial jurisdiction -- Voting.

(1) The territorial jurisdiction of county justice courts extends to the limits of the precinct for which the justice court is created and includes all cities or towns within the precinct, except cities where a municipal justice court exists.

(2) The territorial jurisdiction of municipal justice courts extends to the corporate limits of the municipality in which the justice court is created.

(3) Justice court judges have the same authority regarding matters within their jurisdiction as judges of courts of record.

(4) A justice court may issue all extraordinary writs and other writs as necessary to carry into effect its orders, judgments, and decrees.

(5) (a) Except as provided in this Subsection (5), a judgment rendered in a justice court does not create a lien upon any real property of the judgment debtor unless the judgment or abstract of the judgment:

(i) is recorded in the office of the county recorder of the county in which the real property of the judgment debtor is located; and

(ii) contains the information identifying the judgment debtor in the judgment or abstract of judgment as required in Subsection 78B-5-201(4)(b) or as a separate information statement of the judgment creditor as required in Subsection 78B-5-201(5).

(b) The lien runs for eight years from the date the judgment was entered in the district court under Section 78B-5-202 unless the judgment is earlier satisfied.

(c) State agencies are exempt from the recording requirement of Subsection (5)(a).

Section 3. Section 78B-5-201 is amended to read:

78B-5-201. Definitions -- Judgment recorded in Registry of Judgments.

(1) For purposes of this part, "Registry of Judgments" means the index where a judgment is filed and searchable by the name of the judgment debtor through electronic means or by tangible document.

(2) On or after July 1, 1997, a judgment entered in a district court does not create a lien upon or affect the title to real property unless the judgment is filed in the Registry of Judgments of the office of the clerk of the district court of the county in which the property is located.

(3) (a) On or after July 1, 2002, except as provided in Subsection (3)(b), a judgment entered in a district court does not create a lien upon or affect the title to real property unless the judgment or an abstract of judgment is recorded in the office of the county recorder in which the real property of the judgment debtor is located.

(b) State agencies are exempt from the recording requirement of Subsection (3)(a).

(4) In addition to the requirements of Subsections (2) and (3)(a), any judgment that is filed in the Registry of Judgments on or after September 1, 1998, or any judgment or abstract of judgment that is recorded in the office of a county recorder after July 1, 2002, shall include:

(a) the information identifying the judgment debtor as required under Subsection (4)(b) on the judgment or abstract of judgment; or

(b) a copy of the separate information statement of the judgment creditor that contains:

(i) the correct name and last-known address of each judgment debtor and the address at which each judgment debtor received service of process;

(ii) the name and address of the judgment creditor;

(iii) the amount of the judgment as filed in the Registry of Judgments;

(iv) if known, the judgment debtor's Social Security number, date of birth, and driver's license number if a natural person; and

(v) whether or not a stay of enforcement has been ordered by the court and the date the stay expires.

(5) For the information required in Subsection (4), the judgment creditor shall:

(a) provide the information on the separate information statement if known or available to the judgment creditor from its records, its attorney's records, or the court records in the action in which the [judgement] judgment was entered; or

(b) state on the separate information statement that the information is unknown or unavailable.

(6) (a) Any judgment that requires payment of money and is entered in a district court on or after September 1, 1998, or any judgment or abstract of judgment recorded in the office of a county recorder after July 1, 2002, that does not include the debtor identifying information as required in Subsection (4) is not a lien until a separate information

statement of the judgment creditor is recorded in the office of a county recorder in compliance with Subsections (4) and (5).

(b) The separate information statement of the judgment creditor referred to in Subsection (6)(a) shall include:

(i) the name of any judgment creditor, debtor, assignor, or assignee;

(ii) the date on which the judgment was recorded in the office of the county recorder as described in Subsection (4); and

(iii) the county recorder's entry number and book and page of the recorded judgment.

(7) A judgment that requires payment of money recorded on or after September 1, 1998, but prior to July 1, 2002, has as its priority the date of entry, except as to parties with actual or constructive knowledge of the judgment.

(8) A judgment or notice of judgment wrongfully filed against real property is subject to Title 38, Chapter 9, Wrongful Liens and Wrongful Judgment Liens.

(9) (a) To release, assign, renew, or extend a lien created by a judgment recorded in the office of a county recorder, a person shall, in the office of the county recorder of each county in which an instrument creating the lien is recorded, record a document releasing, assigning, renewing, or extending the lien.

(b) The document described in Subsection (9)(a) shall include:

(i) the date of the release, assignment, renewal, or extension;

(ii) the name of any judgment creditor, debtor, assignor, or assignee; and

(iii) for the county in which the document is recorded in accordance with Subsection (9)(a):

(A) the date on which the instrument creating the lien was recorded in that county's office of the county recorder; and

(B) in accordance with Section 57-3-106, that county recorder's entry number and book and page of the recorded instrument creating the judgment lien.

Section 4. Section 78B-5-202 is amended to read:

**78B-5-202. Duration of judgment --
Judgment as a lien upon real property --
Abstract of judgment -- Small claims
judgment not a lien -- Appeal of judgment
-- Child support orders.**

(1) Judgments shall continue for eight years from the date of entry in a court unless previously satisfied or unless enforcement of the judgment is stayed in accordance with law.

(2) Prior to July 1, 1997, except as limited by Subsections (4) and (5), the entry of judgment by a

district court creates a lien upon the real property of the judgment debtor, not exempt from execution, owned or acquired during the existence of the judgment, located in the county in which the judgment is entered.

(3) An abstract of judgment issued by the court in which the judgment is entered may be filed in any court of this state and shall have the same force and effect as a judgment entered in that court.

(4) Prior to July 1, 1997, and after May 15, 1998, a judgment entered in the small claims division of any court may not qualify as a lien upon real property unless abstracted to the civil division of the district court and recorded in accordance with Subsection (3).

(5) (a) If any judgment is appealed, upon deposit with the court where the notice of appeal is filed of cash or other security in a form and amount considered sufficient by the court that rendered the judgment to secure the full amount of the judgment, together with ongoing interest and any other anticipated damages or costs, including attorney fees and costs on appeal, the lien created by the judgment shall be terminated as provided in Subsection (5)(b).

(b) Upon the deposit of sufficient security as provided in Subsection (5)(a), the court shall enter an order terminating the lien created by the judgment and granting the judgment creditor a perfected lien in the deposited security as of the date of the original judgment.

(6) (a) A child support order or a sum certain judgment for past due support may be enforced:

(i) within four years after the date the youngest child reaches majority; or

(ii) eight years from the date of entry of the sum certain judgment entered by a tribunal.

(b) The longer period of duration shall apply in every order.

(c) A sum certain judgment may be renewed to extend the duration.

(7) (a) After July 1, 2002, a judgment entered by a district court or a justice court in the state becomes a lien upon real property if:

(i) the judgment or an abstract of the judgment containing the information identifying the judgment debtor as described in Subsection 78B-5-201(4)(b) is recorded in the office of the county recorder; or

(ii) the judgment or an abstract of the judgment and a separate information statement of the judgment creditor as described in Subsection 78B-5-201(5) is recorded in the office of the county recorder.

(b) The judgment shall run from the date of entry by the district court or justice court.

(c) The real property subject to the lien includes all the real property of the judgment debtor:

(i) in the county in which the recording under Subsection (7)(a)(i) or (ii) occurs; and

(ii) owned or acquired at any time by the judgment debtor during the time the judgment is effective.

(d) State agencies are exempt from the recording requirement of Subsection (7)(a).

(8) (a) A judgment referred to in Subsection (7) shall be entered under the name of the judgment debtor in the judgment index in the office of the county recorder as required in Section 17-21-6.

(b) A judgment containing a legal description shall also be abstracted in the appropriate tract index in the office of the county recorder.

(9) (a) To release, assign, renew, or extend a lien created by a judgment recorded in the office of a county recorder, a person shall, in the office of the county recorder of each county in which an instrument creating the lien is recorded, record a document releasing, assigning, renewing, or extending the lien.

(b) The document described in Subsection (9)(a) shall include:

(i) the date of the release, assignment, renewal, or extension;

(ii) the name of any judgment creditor, debtor, assignor, or assignee; and

(iii) for the county in which the document is recorded in accordance with Subsection (9)(a):

(A) the date on which the instrument creating the lien was recorded in that county's office of the county recorder; and

(B) in accordance with Section 57-3-106, that county recorder's entry number and book and page of the recorded instrument creating the judgment lien.

CHAPTER 152**H. B. 325**

Passed March 12, 2014
 Approved March 29, 2014
 Effective May 13, 2014

**JUDICIAL PERFORMANCE EVALUATION
 COMMISSION AMENDMENTS**

Chief Sponsor: Eric K. Hutchings
 Senate Sponsor: John L. Valentine

LONG TITLE**General Description:**

This bill amends provisions related to the Judicial Performance Evaluation Commission Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ includes justice court judges as subject to an evaluation process performed by the Judicial Performance Evaluation Commission; and
- ▶ creates the criteria for the evaluation of justice court judges under the direction of the Judicial Performance Evaluation Commission.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78A-12-102, as enacted by Laws of Utah 2008, Chapter 248

ENACTS:

78A-12-207, Utah Code Annotated 1953

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

Section 1. Section 78A-12-102 is amended to read:

78A-12-102. Definitions.

As used in this chapter:

(1) "Commission" means the Judicial Performance Evaluation Commission established by this chapter.

(2) [~~"Judge"~~] Except as provided in Section 78A-12-207, "judge" means a state court judge or a state court justice who is subject to a retention election.

(3) "Justice" means a judge who is a member of the Supreme Court.

(4) "Justice court judge" means a judge appointed pursuant to Title 78A, Chapter 7, Justice Court.

Section 2. Section 78A-12-207 is enacted to read:

78A-12-207. Evaluation of justice court judges.

(1) The Judicial Performance Evaluation Commission shall:

(a) conduct a performance evaluation for each justice court judge in the third and fifth year of the justice court judge's term;

(b) classify each justice court judge into one of the following three categories:

(i) full evaluation;

(ii) midlevel evaluation; or

(iii) basic evaluation; and

(c) establish evaluation criteria for each of the three categories.

(2) A full evaluation justice court judge shall be subject to the requirements of the Judicial Performance Evaluation Commission Act.

(3) A midlevel evaluation justice court judge shall be governed by the Judicial Performance Evaluation Commission Act, except as provided below:

(a) an electronic intercept survey shall be administered by the commission periodically outside the courtroom of the evaluated justice court judge in lieu of the survey specified in Section 78A-12-204; and

(b) courtroom observation may not be conducted for midlevel evaluation justice court judges.

(4) A basic evaluation justice court judge shall be governed by the Judicial Performance Evaluation Commission Act, except as provided below:

(a) basic evaluation justice court judges shall comply with minimum performance standards for judicial education, judicial conduct, cases under advisement, and any other standards the commission may promulgate by administrative rule; and

(b) courtroom observation and surveys may not be conducted for basic evaluation justice court judges.

CHAPTER 153**H. B. 326**

Passed March 13, 2014
 Approved March 29, 2014
 Effective March 29, 2014

STATE CONSTRUCTION CODE REVISIONS

Chief Sponsor: Robert M. Spendlove
 Senate Sponsor: Stephen H. Urquhart

LONG TITLE**General Description:**

This bill modifies the State Construction Code.

Highlighted Provisions:

This bill:

- ▶ modifies certain provisions governing the fire rating of photovoltaic systems; and
- ▶ delays certain provisions relating to the fire classification labeling of photovoltaic systems.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.

Utah Code Sections Affected:**AMENDS:**

15A-3-106, as enacted by Laws of Utah 2011,
 Chapter 14

ENACTS:

15A-3-106.5, Utah Code Annotated 1953

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

Section 1. Section 15A-3-106 is amended to read:**15A-3-106. Amendments to Chapters 13 and 14 of IBC.**

IBC, Chapters 13 [~~through 15~~] and 14 are not amended.

Section 2. Section 15A-3-106.5 is enacted to read:**15A-3-106.5. Amendments to Chapter 15 of IBC.**

(1) IBC, Section 1505.8 is deleted.

(2) IBC, Section 1509.7.2 is deleted.

(3) IBC, Section 1509.7.4 is deleted and rewritten as follows:

“Photovoltaic panels and modules that are mounted on top of a roof shall:

1. Regardless of the roof assembly classification, be listed and labeled with at least a class C fire classification;

2. Be listed and labeled in accordance with UL 1703; and

3. Be installed in accordance with the manufacturer’s installation instructions.”

(4) Subsections (1) through (3) do not apply if the Legislature adopts, with or without amendment, an

edition of the IBC that is more recent than the 2012 edition.

Section 3. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor’s signature, or in the case of a veto, the date of veto override.

CHAPTER 154**H. B. 327**

Passed February 27, 2014

Approved March 29, 2014

Effective May 13, 2014

**VETERANS' EMPLOYMENT
OPPORTUNITY AMENDMENTS**

Chief Sponsor: Paul Ray

Senate Sponsor: Peter C. Knudson

LONG TITLE**General Description:**

This bill modifies state career service employment provisions to include veterans for positions filled through on-the-job examinations.

Highlighted Provisions:

This bill:

- ▶ amends civil service Schedule B to include veterans when filling positions with on-the-job examinations.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

67-19-15, as last amended by Laws of Utah 2013, Chapter 109

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

Section 1. Section 67-19-15 is amended to read:**67-19-15. Career service -- Exempt positions -- Schedules for civil service positions -- Coverage of career service provisions.**

(1) Except as otherwise provided by law or by rules and regulations established for federally aided programs, the following positions are exempt from the career service provisions of this chapter and are designated under the following schedules:

(a) schedule AA includes the governor, members of the Legislature, and all other elected state officers;

(b) schedule AB includes appointed executives and board or commission executives enumerated in Section 67-22-2;

(c) schedule AC includes all employees and officers in:

- (i) the office and at the residence of the governor;
- (ii) the Utah Science Technology and Research Initiative (USTAR);
- (iii) the Public Lands Policy Coordinating Council;
- (iv) the Office of the State Auditor; and
- (v) the Office of the State Treasurer;

(d) schedule AD includes employees who:

(i) are in a confidential relationship to an agency head or commissioner; and

(ii) report directly to, and are supervised by, a department head, commissioner, or deputy director of an agency or its equivalent;

(e) schedule AG includes employees in the Office of the Attorney General who are under their own career service pay plan under Sections 67-5-7 through 67-5-13;

(f) schedule AH includes:

(i) teaching staff of all state institutions; and

(ii) employees of the Utah Schools for the Deaf and the Blind who are:

(A) educational interpreters as classified by the department; or

(B) educators as defined by Section 53A-25b-102;

(g) schedule AN includes employees of the Legislature;

(h) schedule AO includes employees of the judiciary;

(i) schedule AP includes all judges in the judiciary;

(j) schedule AQ includes:

(i) members of state and local boards and councils appointed by the governor and governing bodies of agencies;

(ii) other local officials serving in an ex officio capacity; and

(iii) officers, faculty, and other employees of state universities and other state institutions of higher education;

(k) schedule AR includes employees in positions that involve responsibility:

(i) for determining policy;

(ii) for determining the way in which a policy is carried out; or

(iii) of a type not appropriate for career service, as determined by the agency head with the concurrence of the executive director;

(l) schedule AS includes any other employee:

(i) whose appointment is required by statute to be career service exempt;

(ii) whose agency is not subject to this chapter; or

(iii) whose agency has authority to make rules regarding the performance, compensation, and bonuses for its employees;

(m) schedule AT includes employees of the Department of Technology Services, designated as executive/professional positions by the executive director of the Department of Technology Services with the concurrence of the executive director;

(n) schedule AU includes patients and inmates employed in state institutions;

(o) employees of the Department of Workforce Services, designated as schedule AW:

(i) who are temporary employees that are federally funded and are required to work under federally qualified merit principles as certified by the director; or

(ii) for whom substantially all of their work is repetitive, measurable, or transaction based, and who voluntarily apply for and are accepted by the Department of Workforce Services to work in a pay for performance program designed by the Department of Workforce Services with the concurrence of the executive director; and

(p) for employees in positions that are temporary, seasonal, time limited, funding limited, or variable hour in nature, under schedule codes and parameters established by the department by administrative rule.

(2) The civil service shall consist of two schedules as follows:

(a) (i) Schedule A is the schedule consisting of positions under Subsection (1).

(ii) Removal from any appointive position under schedule A, unless otherwise regulated by statute, is at the pleasure of the appointing officers without regard to tenure.

(b) Schedule B is the competitive career service schedule, consisting of:

(i) all positions filled through competitive selection procedures as defined by the executive director; or

(ii) positions filled through a department approved on-the-job examination intended to appoint a qualified person with a disability or a veteran as defined in Section 71-10-1.

(3) (a) The executive director, after consultation with the heads of concerned executive branch departments and agencies and with the approval of the governor, shall allocate positions to the appropriate schedules under this section.

(b) Agency heads shall make requests and obtain approval from the executive director before changing the schedule assignment and tenure rights of any position.

(c) Unless the executive director's decision is reversed by the governor, when the executive director denies an agency's request, the executive director's decision is final.

(4) (a) Compensation for employees of the Legislature shall be established by the directors of the legislative offices in accordance with Section 36-12-7.

(b) Compensation for employees of the judiciary shall be established by the state court administrator in accordance with Section 78A-2-107.

(c) Compensation for officers, faculty, and other employees of state universities and institutions of

higher education shall be established as provided in Title 53B, ~~[Chapters]~~ Chapter 1, Governance, Powers, Rights, and Responsibilities, and Title 53B, Chapter 2, Institutions of Higher Education.

(d) Unless otherwise provided by law, compensation for all other schedule A employees shall be established by their appointing authorities, within ranges approved by, and after consultation with the executive director of the Department of Human Resource Management.

(5) An employee who is in a position designated schedule AC and who holds career service status on June 30, 2010, shall retain the career service status if the employee:

(a) remains in the position that the employee is in on June 30, 2010; and

(b) does not elect to convert to career service exempt status in accordance with a rule made by the department.

CHAPTER 155**H. B. 334**

Passed March 7, 2014
 Approved March 29, 2014
 Effective May 13, 2014

BAIL BONDSMEN AMENDMENTS

Chief Sponsor: Edward H. Redd
 Senate Sponsor: Lyle W. Hillyard

LONG TITLE**General Description:**

This bill modifies the Bail Bond Recovery Act regarding bail bond apprentices.

Highlighted Provisions:

This bill:

- ▶ authorizes a bail bond apprentice to wear clothing identifying the apprentice as a bail bond agent.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53-11-112, as enacted by Laws of Utah 1998,
 Chapter 257

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

Section 1. Section 53-11-112 is amended to read:**53-11-112. Licensure -- Bail recovery apprentices -- Requirements and limitations.**

(1) In addition to the requirements in Sections 53-11-108 and 53-11-113, an applicant for licensure as a bail recovery apprentice shall meet all of the requirements under Section 53-11-109, except the applicant is not subject to the experience requirement under Subsection 53-11-109(1)(a).

(2) A bail recovery apprentice may work as a licensee only:

(a) as an employee or contract employee of a bail bond agency; and

(b) under the direct supervision of a bail enforcement agent or bail recovery agent employed also by the bail enforcement agent, unless the bail recovery apprentice is conducting activities at the direction of the employing bail enforcement agent that under this chapter do not require direct supervision.

(3) A bail recovery apprentice may not:

(a) advertise [his] the apprentice's bail recovery services;

(b) provide services as a licensee under this chapter directly for members of the public; or

(c) employ or hire as independent contractors bail enforcement agents, bail recovery agents, or bail recovery apprentices.

(4) A bail recovery apprentice may wear an article of clothing that conspicuously displays on the chest and the back of the article of clothing lettering that clearly identifies the licensee as a bail enforcement or recovery agent.

CHAPTER 156**H. B. 340**

Passed March 11, 2014
 Approved March 29, 2014
 Effective May 13, 2014

**LOCAL DISTRICT
 BOUNDARY ADJUSTMENTS**

Chief Sponsor: Jeremy A. Peterson
 Senate Sponsor: Scott K. Jenkins

LONG TITLE**General Description:**

This bill amends provisions regarding the adjustment of a local district boundary.

Highlighted Provisions:

This bill:

- ▶ authorizes a municipality and a local district to adjust the boundary of the local district within the expansion area identified in the municipality's annexation policy plan; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17B-1-503, as renumbered and amended by Laws of Utah 2007, Chapter 329

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

Section 1. Section 17B-1-503 is amended to read:

17B-1-503. Withdrawal or boundary adjustment with municipal approval.

(1) A municipality and a local district whose boundaries adjoin or overlap may adjust the boundary of the local district to include more or less of the municipality, including the expansion area identified in the annexation policy plan adopted by the municipality under Section 10-2-401.5, in the local district by following the same procedural requirements as set forth in Section 17B-1-417 for boundary adjustments between adjoining local districts.

(2) After a boundary adjustment under Subsection (1) is complete_[r]:

(a) the local district shall, without interruption, provide the same service to any area added to the local district as provided to other areas within the local district; and

(b) the municipality shall, without interruption, provide the same service that the local district previously provided to any area withdrawn from the local district.

(3) No area within a municipality may be added to the area of a local district under this section if the area is part of a local district that provides the same wholesale or retail service as the first local district.

CHAPTER 157**H. B. 341**

Passed March 6, 2014
 Approved March 29, 2014
 Effective May 13, 2014

**FEDERAL LAND
 ACQUISITION AMENDMENTS**

Chief Sponsor: Michael E. Noel
 Senate Sponsor: Stephen H. Urquhart

LONG TITLE**General Description:**

This bill amends Title 63L, Lands.

Highlighted Provisions:

This bill:

- ▶ amends provisions relating to the Legislature's approval of conveyances of school trust lands.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63L-2-201, as last amended by Laws of Utah 2011,
 Chapter 247

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

Section 1. Section 63L-2-201 is amended to read:

63L-2-201. Federal government acquisition of real property in the state.

- (1) As used in this section:
- (a) "Agency" is defined in Section 63G-10-102.
- (b) "Agency" includes:
- (i) the School and Institutional Trust Lands Administration created in Section 53C-1-201; and
- (ii) the School and Institutional Trust Lands Board of Trustees created in Section 53C-1-202.
- (2) (a) Before legally binding the state by executing an agreement to sell or transfer to the United States government 10,000 or more acres of any state lands or school and institutional trust lands, an agency shall submit the agreement or proposal:
- (i) to the Legislature for its approval or rejection; or
- (ii) in the interim, to the Legislative Management Committee for review of the agreement or proposal.
- (b) The Legislative Management Committee may:
- (i) recommend that the agency execute the agreement or proposal;
- (ii) recommend that the agency reject the agreement or proposal; or

(iii) recommend to the governor that the governor call a special session of the Legislature to review and approve or reject the agreement or proposal.

(3) Before legally binding the state by executing an agreement to sell or transfer to the United States government less than 10,000 acres of any state lands or school and institutional trust lands, an agency shall notify the Natural Resources, Agriculture, and Environment Interim Committee.

(4) Notwithstanding Subsections (2) and (3), the Legislature approves all conveyances of school trust lands to the United States government made for the purpose of completing the Red Cliffs [Desert Reserve] National Conservation Area in Washington County.

CHAPTER 158**H. B. 344**

Passed March 13, 2014
 Approved March 29, 2014
 Effective May 13, 2014

**INCORPORATION
 ELECTION AMENDMENTS**

Chief Sponsor: Jon Cox
 Senate Sponsor: Kevin T. Van Tassell

LONG TITLE**General Description:**

This bill amends provisions related to an election held to determine the incorporation of a city or town.

Highlighted Provisions:

This bill:

- ▶ authorizes a county to hold a local special election on the proposed incorporation of a city or town;
- ▶ amends the definitions of "incorporation election" and "incorporation petition"; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 10-2-111, as last amended by Laws of Utah 2012, Chapter 359
 10-2-127, as enacted by Laws of Utah 2012, Chapter 359
 20A-1-203, as last amended by Laws of Utah 2013, Chapters 320 and 415
 20A-11-101, as last amended by Laws of Utah 2013, Chapters 86, 170, 318, and 420
 20A-11-1203, as last amended by Laws of Utah 2008, Chapter 225

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

Section 1. Section 10-2-111 is amended to read:

10-2-111. Incorporation election.

~~[(1) (a) At the next regular general election date under Section 20A-1-201 more than 60 days after the county legislative body's receipt of the certified petition or certified modified petition under Subsection 10-2-110(1)(b)(i), the county legislative body shall hold an election on the proposed incorporation.]~~

(1) (a) Upon receipt of a certified petition under Subsection 10-2-110(1)(b)(i) or a certified modified petition under Subsection 10-2-110(3), the county legislative body shall determine and set an election date for the incorporation election that is:

(i) (A) on a general election date under Section 20A-1-201; or

(B) on a local special election date under Section 20A-1-203; and

(ii) at least 65 days after the day that the legislative body receives the certified petition.

(b) Unless a person is a registered voter who resides, as defined in Section 20A-1-102, within the boundaries of the proposed city, the person may not vote on the proposed incorporation.

(2) (a) The county clerk shall publish notice of the election:

(i) in a newspaper of general circulation within the area proposed to be incorporated at least once a week for three successive weeks; and

(ii) in accordance with Section 45-1-101 for three weeks.

(b) The notice required by Subsection (2)(a) shall contain:

(i) a statement of the contents of the petition;

(ii) a description of the area proposed to be incorporated as a city;

(iii) a statement of the date and time of the election and the location of polling places; and

(iv) the feasibility study summary under Subsection 10-2-106(3)(b) and a statement that a full copy of the study is available for inspection and copying at the office of the county clerk.

(c) The last publication of notice required under Subsection (2)(a) shall occur at least one day but no more than seven days before the election.

(d) (i) In accordance with Subsection (2)(a)(i), if there is no newspaper of general circulation within the proposed city, the county clerk shall post at least one notice of the election per 1,000 population in conspicuous places within the proposed city that are most likely to give notice of the election to the voters of the proposed city.

(ii) The clerk shall post the notices under Subsection (2)(d)(i) at least seven days before the election under Subsection (1).

(3) If a majority of those casting votes within the area boundaries of the proposed city vote to incorporate as a city, the area shall incorporate.

Section 2. Section 10-2-127 is amended to read:

10-2-127. Incorporation of town -- Election to incorporate -- Ballot form.

~~[(1) (a) At the next regular general election, as defined in Section 20A-1-102, more than 60 days after the public hearing described in Section 10-2-126, the county legislative body shall hold an election on the proposed incorporation unless prohibited under the provisions of Section 10-2-126.]~~

(1) (a) Upon receipt of a certified petition under Subsection 10-2-110(1)(b)(i) or a certified modified petition under Subsection 10-2-110(3), the county legislative body shall determine and set an election date for the incorporation election that is:

(i) (A) on a general election date under Section 20A-1-201; or

(B) on a local special election date under Section 20A-1-203; and

(ii) at least 65 days after the day that the legislative body receives the certified petition.

(b) Unless a person is a registered voter who resides, as defined in Section 20A-1-102, within the boundaries of the proposed town, the person may not vote on the proposed incorporation.

(2) (a) The county clerk shall publish notice of the election:

(i) in a newspaper of general circulation, within the area proposed to be incorporated, at least once a week for three successive weeks; and

(ii) in accordance with Section 45-1-101 for three weeks.

(b) The notice required by Subsection (2)(a) shall contain:

(i) a statement of the contents of the petition;

(ii) a description of the area proposed to be incorporated as a town;

(iii) a statement of the date and time of the election and the location of polling places; and

(iv) the county Internet website address, if applicable, and the address of the county office where the feasibility study is available for review.

(c) The last publication of notice required under Subsection (2)(a) shall occur at least one day but no more than seven days before the election.

(d) (i) In accordance with Subsection (2)(a)(i), if there is no newspaper of general circulation within the proposed town, the county clerk shall post at least one notice of the election per 100 population in conspicuous places within the proposed town that are most likely to give notice of the election to the voters of the proposed town.

(ii) The clerk shall post the notices under Subsection (2)(d)(i) at least seven days before the election under Subsection (1)(a).

(3) The ballot at the incorporation election shall pose the incorporation question substantially as follows:

Shall the area described as (insert a description of the proposed town) be incorporated as the town of (insert the proposed name of the proposed town)?

(4) The ballot shall provide a space for the voter to answer yes or no to the question in Subsection (3).

(5) If a majority of those casting votes within the area boundaries of the proposed town vote to incorporate as a town, the area shall incorporate.

Section 3. Section 20A-1-203 is amended to read:

20A-1-203. Calling and purpose of special elections -- Two-thirds vote limitations.

(1) Statewide and local special elections may be held for any purpose authorized by law.

(2) (a) Statewide special elections shall be conducted using the procedure for regular general elections.

(b) Except as otherwise provided in this title, local special elections shall be conducted using the procedures for regular municipal elections.

(3) The governor may call a statewide special election by issuing an executive order that designates:

(a) the date for the statewide special election; and

(b) the purpose for the statewide special election.

(4) The Legislature may call a statewide special election by passing a joint or concurrent resolution that designates:

(a) the date for the statewide special election; and

(b) the purpose for the statewide special election.

(5) (a) The legislative body of a local political subdivision may call a local special election only for:

(i) a vote on a bond or debt issue;

(ii) a vote on a voted local levy authorized by Section 53A-16-110 or 53A-17a-133;

(iii) an initiative authorized by Chapter 7, Part 5, Local Initiatives - Procedures;

(iv) a referendum authorized by Chapter 7, Part 6, Local Referenda - Procedures;

(v) if required or authorized by federal law, a vote to determine whether or not Utah's legal boundaries should be changed;

(vi) a vote authorized or required by Title 59, Chapter 12, Sales and Use Tax Act;

(vii) a vote to elect members to school district boards for a new school district and a remaining school district, as defined in Section 53A-2-117, following the creation of a new school district under Section 53A-2-118.1;

(viii) an election of town officers of a newly incorporated town under Section 10-2-128;

(ix) an election of officers for a new city under Section 10-2-116;

(x) a vote on a municipality providing cable television services or public telecommunications services under Section 10-18-204;

(xi) a vote to create a new county under Section 17-3-1;

(xii) a vote on the creation of a study committee under Sections 17-52-202 and 17-52-203.5; [ø]

(xiii) a vote on a special property tax under Section 53A-16-110[.];

(xiv) a vote on the incorporation of a city in accordance with Section 10-2-111; or

(xv) a vote on the incorporation of a town in accordance with Section 10-2-127.

(b) The legislative body of a local political subdivision may call a local special election by

adopting an ordinance or resolution that designates:

(i) the date for the local special election as authorized by Section 20A-1-204; and

(ii) the purpose for the local special election.

(c) A local political subdivision may not call a local special election unless the ordinance or resolution calling a local special election under Subsection (5)(b) is adopted by a two-thirds majority of all members of the legislative body, if the local special election is for:

(i) a vote on a bond or debt issue as described in Subsection (5)(a)(i);

(ii) a vote on a voted leeway or levy program as described in Subsection (5)(a)(ii); or

(iii) a vote authorized or required for a sales tax issue as described in Subsection (5)(a)(vi).

Section 4. Section 20A-11-101 is amended to read:

20A-11-101. Definitions.

As used in this chapter:

(1) "Address" means the number and street where an individual resides or where a reporting entity has its principal office.

(2) "Ballot proposition" includes initiatives, referenda, proposed constitutional amendments, and any other ballot propositions submitted to the voters that are authorized by the Utah Code Annotated 1953.

(3) "Candidate" means any person who:

(a) files a declaration of candidacy for a public office; or

(b) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination or election to a public office.

(4) "Chief election officer" means:

(a) the lieutenant governor for state office candidates, legislative office candidates, officeholders, political parties, political action committees, corporations, political issues committees, state school board candidates, judges, and labor organizations, as defined in Section 20A-11-1501; and

(b) the county clerk for local school board candidates.

(5) (a) "Contribution" means any of the following when done for political purposes:

(i) a gift, subscription, donation, loan, advance, or deposit of money or anything of value given to the filing entity;

(ii) an express, legally enforceable contract, promise, or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance,

or deposit of money or anything of value to the filing entity;

(iii) any transfer of funds from another reporting entity to the filing entity;

(iv) compensation paid by any person or reporting entity other than the filing entity for personal services provided without charge to the filing entity;

(v) remuneration from:

(A) any organization or its directly affiliated organization that has a registered lobbyist; or

(B) any agency or subdivision of the state, including school districts; and

(vi) goods or services provided to or for the benefit of the filing entity at less than fair market value.

(b) "Contribution" does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of the filing entity;

(ii) money lent to the filing entity by a financial institution in the ordinary course of business; or

(iii) goods or services provided for the benefit of a candidate or political party at less than fair market value that are not authorized by or coordinated with the candidate or political party.

(6) "Coordinated with" means that goods or services provided for the benefit of a candidate or political party are provided:

(a) with the candidate's or political party's prior knowledge, if the candidate or political party does not object;

(b) by agreement with the candidate or political party;

(c) in coordination with the candidate or political party; or

(d) using official logos, slogans, and similar elements belonging to a candidate or political party.

(7) (a) "Corporation" means a domestic or foreign, profit or nonprofit, business organization that is registered as a corporation or is authorized to do business in a state and makes any expenditure from corporate funds for:

(i) the purpose of expressly advocating for political purposes; or

(ii) the purpose of expressly advocating the approval or the defeat of any ballot proposition.

(b) "Corporation" does not mean:

(i) a business organization's political action committee or political issues committee; or

(ii) a business entity organized as a partnership or a sole proprietorship.

(8) "County political party" means, for each registered political party, all of the persons within a single county who, under definitions established by

the political party, are members of the registered political party.

(9) "County political party officer" means a person whose name is required to be submitted by a county political party to the lieutenant governor in accordance with Section 20A-8-402.

(10) "Detailed listing" means:

(a) for each contribution or public service assistance:

(i) the name and address of the individual or source making the contribution or public service assistance;

(ii) the amount or value of the contribution or public service assistance; and

(iii) the date the contribution or public service assistance was made; and

(b) for each expenditure:

(i) the amount of the expenditure;

(ii) the person or entity to whom it was disbursed;

(iii) the specific purpose, item, or service acquired by the expenditure; and

(iv) the date the expenditure was made.

(11) (a) "Donor" means a person that gives money, including a fee, due, or assessment for membership in the corporation, to a corporation without receiving full and adequate consideration for the money.

(b) "Donor" does not include a person that signs a statement that the corporation may not use the money for an expenditure or political issues expenditure.

(12) "Election" means each:

(a) regular general election;

(b) regular primary election; and

(c) special election at which candidates are eliminated and selected.

(13) "Electioneering communication" means a communication that:

(a) has at least a value of \$10,000;

(b) clearly identifies a candidate or judge; and

(c) is disseminated through the Internet, newspaper, magazine, outdoor advertising facility, direct mailing, broadcast, cable, or satellite provider within 45 days of the clearly identified candidate's or judge's election date.

(14) (a) "Expenditure" means:

(i) any disbursement from contributions, receipts, or from the separate bank account required by this chapter;

(ii) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value made for political purposes;

(iii) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value for political purposes;

(iv) compensation paid by a filing entity for personal services rendered by a person without charge to a reporting entity;

(v) a transfer of funds between the filing entity and a candidate's personal campaign committee; or

(vi) goods or services provided by the filing entity to or for the benefit of another reporting entity for political purposes at less than fair market value.

(b) "Expenditure" does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a reporting entity;

(ii) money lent to a reporting entity by a financial institution in the ordinary course of business; or

(iii) anything listed in Subsection (14)(a) that is given by a reporting entity to candidates for office or officeholders in states other than Utah.

(15) "Federal office" means the office of President of the United States, United States Senator, or United States Representative.

(16) "Filing entity" means the reporting entity that is required to file a financial statement required by this chapter or Chapter 12, Part 2, Judicial Retention Elections.

(17) "Financial statement" includes any summary report, interim report, verified financial statement, or other statement disclosing contributions, expenditures, receipts, donations, or disbursements that is required by this chapter or Chapter 12, Part 2, Judicial Retention Elections.

(18) "Governing board" means the individual or group of individuals that determine the candidates and committees that will receive expenditures from a political action committee, political party, or corporation.

(19) "Incorporation" means the process established by Title 10, Chapter 2, Part 1, Incorporation, by which a geographical area becomes legally recognized as a city or town.

(20) "Incorporation election" means the election authorized by Section 10-2-111 or 10-2-127.

(21) "Incorporation petition" means a petition authorized by Section 10-2-109 or 10-2-125.

(22) "Individual" means a natural person.

(23) "Interim report" means a report identifying the contributions received and expenditures made since the last report.

(24) "Legislative office" means the office of state senator, state representative, speaker of the House of Representatives, president of the Senate, and the leader, whip, and assistant whip of any party caucus in either house of the Legislature.

(25) "Legislative office candidate" means a person who:

(a) files a declaration of candidacy for the office of state senator or state representative;

(b) declares oneself to be a candidate for, or actively campaigns for, the position of speaker of the House of Representatives, president of the Senate, or the leader, whip, and assistant whip of any party caucus in either house of the Legislature; or

(c) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination, election, or appointment to a legislative office.

(26) "Major political party" means either of the two registered political parties that have the greatest number of members elected to the two houses of the Legislature.

(27) "Officeholder" means a person who holds a public office.

(28) "Party committee" means any committee organized by or authorized by the governing board of a registered political party.

(29) "Person" means both natural and legal persons, including individuals, business organizations, personal campaign committees, party committees, political action committees, political issues committees, and labor organizations, as defined in Section 20A-11-1501.

(30) "Personal campaign committee" means the committee appointed by a candidate to act for the candidate as provided in this chapter.

(31) "Personal use expenditure" has the same meaning as provided under Section 20A-11-104.

(32) (a) "Political action committee" means an entity, or any group of individuals or entities within or outside this state, a major purpose of which is to:

(i) solicit or receive contributions from any other person, group, or entity for political purposes; or

(ii) make expenditures to expressly advocate for any person to refrain from voting or to vote for or against any candidate or person seeking election to a municipal or county office.

(b) "Political action committee" includes groups affiliated with a registered political party but not authorized or organized by the governing board of the registered political party that receive contributions or makes expenditures for political purposes.

(c) "Political action committee" does not mean:

(i) a party committee;

(ii) any entity that provides goods or services to a candidate or committee in the regular course of its business at the same price that would be provided to the general public;

(iii) an individual;

(iv) individuals who are related and who make contributions from a joint checking account;

(v) a corporation, except a corporation a major purpose of which is to act as a political action committee; or

(vi) a personal campaign committee.

(33) "Political convention" means a county or state political convention held by a registered political party to select candidates.

(34) (a) "Political issues committee" means an entity, or any group of individuals or entities within or outside this state, a major purpose of which is to:

(i) solicit or receive donations from any other person, group, or entity to assist in placing a ballot proposition on the ballot, assist in keeping a ballot proposition off the ballot, or to advocate that a voter refrain from voting or vote for or vote against any ballot proposition;

(ii) make expenditures to expressly advocate for any person to sign or refuse to sign a ballot proposition or incorporation petition or refrain from voting, vote for, or vote against any proposed ballot proposition or an incorporation in an incorporation election; or

(iii) make expenditures to assist in qualifying or placing a ballot proposition on the ballot or to assist in keeping a ballot proposition off the ballot.

(b) "Political issues committee" does not mean:

(i) a registered political party or a party committee;

(ii) any entity that provides goods or services to an individual or committee in the regular course of its business at the same price that would be provided to the general public;

(iii) an individual;

(iv) individuals who are related and who make contributions from a joint checking account; or

(v) a corporation, except a corporation a major purpose of which is to act as a political issues committee.

(35) (a) "Political issues contribution" means any of the following:

(i) a gift, subscription, unpaid or partially unpaid loan, advance, or deposit of money or anything of value given to a political issues committee;

(ii) an express, legally enforceable contract, promise, or agreement to make a political issues donation to influence the approval or defeat of any ballot proposition;

(iii) any transfer of funds received by a political issues committee from a reporting entity;

(iv) compensation paid by another reporting entity for personal services rendered without charge to a political issues committee; and

(v) goods or services provided to or for the benefit of a political issues committee at less than fair market value.

(b) "Political issues contribution" does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political issues committee; or

(ii) money lent to a political issues committee by a financial institution in the ordinary course of business.

(36) (a) "Political issues expenditure" means any of the following:

(i) any payment from political issues contributions made for the purpose of influencing the approval or the defeat of:

(A) a ballot proposition; or

(B) an incorporation petition or incorporation election;

(ii) a purchase, payment, distribution, loan, advance, deposit, or gift of money made for the express purpose of influencing the approval or the defeat of:

(A) a ballot proposition; or

(B) an incorporation petition or incorporation election;

(iii) an express, legally enforceable contract, promise, or agreement to make any political issues expenditure;

(iv) compensation paid by a reporting entity for personal services rendered by a person without charge to a political issues committee; or

(v) goods or services provided to or for the benefit of another reporting entity at less than fair market value.

(b) "Political issues expenditure" does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political issues committee; or

(ii) money lent to a political issues committee by a financial institution in the ordinary course of business.

(37) "Political purposes" means an act done with the intent or in a way to influence or tend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any candidate or a person seeking a municipal or county office at any caucus, political convention, or election.

(38) (a) "Poll" means the survey of a person regarding the person's opinion or knowledge of an individual who has filed a declaration of candidacy for public office, or of a ballot proposition that has legally qualified for placement on the ballot, which is conducted in person or by telephone, facsimile, Internet, postal mail, or email.

(b) "Poll" does not include:

(i) a ballot; or

(ii) an interview of a focus group that is conducted, in person, by one individual, if:

(A) the focus group consists of more than three, and less than thirteen, individuals; and

(B) all individuals in the focus group are present during the interview.

(39) "Primary election" means any regular primary election held under the election laws.

(40) "Public office" means the office of governor, lieutenant governor, state auditor, state treasurer, attorney general, state or local school board member, state senator, state representative, speaker of the House of Representatives, president of the Senate, and the leader, whip, and assistant whip of any party caucus in either house of the Legislature.

(41) (a) "Public service assistance" means the following when given or provided to an officeholder to defray the costs of functioning in a public office or aid the officeholder to communicate with the officeholder's constituents:

(i) a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to an officeholder; or

(ii) goods or services provided at less than fair market value to or for the benefit of the officeholder.

(b) "Public service assistance" does not include:

(i) anything provided by the state;

(ii) services provided without compensation by individuals volunteering a portion or all of their time on behalf of an officeholder;

(iii) money lent to an officeholder by a financial institution in the ordinary course of business;

(iv) news coverage or any publication by the news media; or

(v) any article, story, or other coverage as part of any regular publication of any organization unless substantially all the publication is devoted to information about the officeholder.

(42) "Publicly identified class of individuals" means a group of 50 or more individuals sharing a common occupation, interest, or association that contribute to a political action committee or political issues committee and whose names can be obtained by contacting the political action committee or political issues committee upon whose financial statement the individuals are listed.

(43) "Receipts" means contributions and public service assistance.

(44) "Registered lobbyist" means a person registered under Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act.

(45) "Registered political action committee" means any political action committee that is required by this chapter to file a statement of organization with the Office of the Lieutenant Governor.

(46) "Registered political issues committee" means any political issues committee that is

required by this chapter to file a statement of organization with the Office of the Lieutenant Governor.

(47) “Registered political party” means an organization of voters that:

(a) participated in the last regular general election and polled a total vote equal to 2% or more of the total votes cast for all candidates for the United States House of Representatives for any of its candidates for any office; or

(b) has complied with the petition and organizing procedures of Chapter 8, Political Party Formation and Procedures.

(48) (a) “Remuneration” means a payment:

(i) made to a legislator for the period the Legislature is in session; and

(ii) that is approximately equivalent to an amount a legislator would have earned during the period the Legislature is in session in the legislator’s ordinary course of business.

(b) “Remuneration” does not mean anything of economic value given to a legislator by:

(i) the legislator’s primary employer in the ordinary course of business; or

(ii) a person or entity in the ordinary course of business:

(A) because of the legislator’s ownership interest in the entity; or

(B) for services rendered by the legislator on behalf of the person or entity.

(49) “Reporting entity” means a candidate, a candidate’s personal campaign committee, a judge, a judge’s personal campaign committee, an officeholder, a party committee, a political action committee, a political issues committee, a corporation, or a labor organization, as defined in Section 20A-11-1501.

(50) “School board office” means the office of state school board or local school board.

(51) (a) “Source” means the person or entity that is the legal owner of the tangible or intangible asset that comprises the contribution.

(b) “Source” means, for political action committees and corporations, the political action committee and the corporation as entities, not the contributors to the political action committee or the owners or shareholders of the corporation.

(52) “State office” means the offices of governor, lieutenant governor, attorney general, state auditor, and state treasurer.

(53) “State office candidate” means a person who:

(a) files a declaration of candidacy for a state office; or

(b) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about

the person’s nomination, election, or appointment to a state office.

(54) “Summary report” means the year end report containing the summary of a reporting entity’s contributions and expenditures.

(55) “Supervisory board” means the individual or group of individuals that allocate expenditures from a political issues committee.

Section 5. Section 20A-11-1203 is amended to read:

20A-11-1203. Public entity prohibited from expending public funds on certain electoral matters.

(1) Unless specifically required by law, a public entity may not make an expenditure from public funds for political purposes or to influence a ballot proposition.

(2) Nothing in this chapter prohibits a public official from speaking, campaigning, contributing personal money, or otherwise exercising the public official’s individual First Amendment rights for political purposes.

(3) Nothing in this chapter prohibits a public entity from providing factual information about a ballot proposition to the public, so long as the information grants equal access to both the opponents and proponents of the ballot proposition.

(4) Nothing in this chapter prohibits a public entity from the neutral encouragement of voters to vote.

~~[(5) Nothing in this chapter prohibits a public entity from preparing information analyzing the pros and cons of a ballot proposition when requested to do so by the public entity’s governing body.]~~

~~[(6)]~~ (5) Nothing in this chapter prohibits an elected official from campaigning or advocating for or against a ballot proposition.

~~[(7)]~~ (6) A violation of this section does not invalidate an otherwise valid election.

CHAPTER 159**H. B. 349**

Passed March 11, 2014
Approved March 29, 2014
Effective May 13, 2014

**REPEAL OF TRANSPORTATION
RELATED FUNDS**

Chief Sponsor: Melvin R. Brown
Senate Sponsor: Lyle W. Hillyard

LONG TITLE**General Description:**

This bill repeals certain transportation related funds.

Highlighted Provisions:

This bill:

- ▶ repeals the Litigation Account for Highway Projects; and
- ▶ repeals the Aeronautics Construction Revolving Loan Fund.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**REPEALS:**

67-5-25, as last amended by Laws of Utah 2010,
Chapter 278

72-2-122, as last amended by Laws of Utah 2011,
Chapters 303 and 342

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

Section 1. Repealer.

This bill repeals:

**Section 67-5-25, Litigation Account for
Highway Projects.****Section 72-2-122, Aeronautics Construction
Revolving Loan Fund -- Distribution --
Repayment -- Rulemaking.**

CHAPTER 160**H. B. 350**

Passed March 6, 2014
 Approved March 29, 2014
 Effective May 13, 2014

**REMOVAL OF DIRECTORS OF
NONPROFIT CORPORATIONS**

Chief Sponsor: Dixon M. Pitcher
 Senate Sponsor: Jerry W. Stevenson

LONG TITLE**General Description:**

This bill modifies the Utah Revised Nonprofit Corporation Act.

Highlighted Provisions:

This bill:

- ▶ modifies provisions related to the removal of a director of a nonprofit corporation; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

16-6a-808, as last amended by Laws of Utah 2010, Chapter 378

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

Section 1. Section 16-6a-808 is amended to read:**16-6a-808. Removal of directors.**

(1) Directors elected by voting members or directors may be removed as provided in Subsections (1)(a) through (g).

(a) The voting members may remove one or more directors elected by them with or without cause unless the bylaws provide that directors may be removed only for cause.

(b) If a director is elected by a voting group, only that voting group may participate in the vote to remove that director.

(c) ~~[A] Unless otherwise provided in the bylaws, a director may be removed [only if the number of votes cast to remove the director would be sufficient to elect the director at a meeting to elect directors.]:~~

(i) when the director is elected by the voting members, only if a majority of the voting members votes to remove the director; or

(ii) when the director is elected by a voting group, only if a majority of the voting group votes to remove the director.

(d) A director elected by voting members may be removed by the voting members only:

(i) at a meeting called for the purpose of removing that director; and

(ii) if the meeting notice states that the purpose, or one of the purposes, of the meeting is removal of the director.

(e) An entire board of directors may be removed under Subsections (1)(a) through (d).

(f) (i) Except as provided in Subsection (1)(f)(ii), a director elected by the board of directors may be removed with or without cause by the vote of a majority of the directors then in office or such greater number as is set forth in the bylaws.

(ii) A director elected by the board of directors to fill the vacancy of a director elected by the voting members may be removed without cause by the voting members but not the board of directors.

(g) Notwithstanding Subsections (1)(a) through (f), if provided in the bylaws, any director no longer qualified to serve, under standards set forth in the bylaws, may be removed by a vote of a majority of the directors then in office or such greater number as set forth in the bylaws.

(h) A director who is removed pursuant to this section may deliver to the division for filing a statement to that effect pursuant to Section 16-6a-1608.

(2) Unless otherwise provided in the bylaws:

(a) an appointed director may be removed without cause by the person appointing the director;

(b) the person described in Subsection (2)(a) shall remove the director by giving written notice of the removal to:

(i) the director; and

(ii) the nonprofit corporation; and

(c) unless the written notice described in Subsection (2)(b) specifies a future effective date, a removal is effective when the notice is received by both:

(i) the director to be removed; and

(ii) the nonprofit corporation.

(3) A designated director, as provided in Subsection 16-6a-804(5), may be removed by an amendment to the bylaws deleting or changing the designation.

(4) Removal of a director under this section is not affected by Subsection 16-6a-805(5).

CHAPTER 161**H. B. 365**

Passed March 7, 2014

Approved March 29, 2014

Effective May 13, 2014

**NATURAL RESOURCES
RELATED ACCOUNT REPEALS**

Chief Sponsor: Melvin R. Brown

Senate Sponsor: Lyle W. Hillyard

LONG TITLE**General Description:**

This bill modifies the Department of Natural Resources provisions by repealing certain natural resources related accounts.

Highlighted Provisions:

This bill:

- ▶ repeals the Recreational Trails and Streams Enhancement and Protection Account;
- ▶ repeals the Natural Resources Conservation Easement Account;
- ▶ repeals the Wetlands Protection Account; and
- ▶ makes conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**REPEALS:**

- 79-2-202 (Contingently Effective), as renumbered and amended by Laws of Utah 2009, Chapter 344
- 79-2-304, as renumbered and amended by Laws of Utah 2009, Chapter 344
- 79-2-305 (Contingently Effective), as renumbered and amended by Laws of Utah 2009, Chapter 344
- 79-2-306 (Contingently Effective), as renumbered and amended by Laws of Utah 2009, Chapter 344

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

Section 1. Repealer.

This bill repeals:

**Section 79-2-202 (Contingently Effective),
Executive director -- Appointment --
Removal -- Compensation --
Responsibilities.**

**Section 79-2-304, Natural Resources
Conservation Easement Account.**

**Section 79-2-305 (Contingently Effective),
Wetlands Protection Account.**

**Section 79-2-306 (Contingently Effective),
Recreational Trails and Streams
Enhancement and Protection Account.**

CHAPTER 162**H. B. 375**

Passed March 13, 2014

Approved March 29, 2014

Effective May 13, 2014

**PARENT-TIME AFTER
RELOCATION OF A PARENT**

Chief Sponsor: Gage Froerer

Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill amends provisions governing the relocation of a custodial parent with a minor child or children.

Highlighted Provisions:

This bill:

- ▶ clarifies that parent-time associated with a minor child and the relocation of the custodial parent of the minor child is limited to children age 5 to 18.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

30-3-37, as last amended by Laws of Utah 2012, Chapter 227

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

Section 1. Section 30-3-37 is amended to read:**30-3-37. Relocation.**

(1) For purposes of this section, "relocation" means moving 150 miles or more from the residence of the other parent.

(2) The relocating parent shall provide 60 days advance written notice of the intended relocation to the other parent. The written notice of relocation shall contain statements affirming the following:

(a) the parent-time provisions in Subsection (5) or a schedule approved by both parties will be followed; and

(b) neither parent will interfere with the other's parental rights pursuant to court ordered parent-time arrangements, or the schedule approved by both parties.

(3) The court shall, upon motion of any party or upon the court's own motion, schedule a hearing with notice to review the notice of relocation and parent-time schedule as provided in Section 30-3-35 and make appropriate orders regarding the parent-time and costs for parent-time transportation.

(4) In a hearing to review the notice of relocation, the court shall, in determining if the relocation of a custodial parent is in the best interest of the child, consider any other factors that the court considers

relevant to the determination. If the court determines that relocation is not in the best interest of the child, and the custodial parent relocates, the court may order a change of custody.

(5) If the court finds that the relocation is in the best interest of the child, the court shall determine the parent-time schedule and allocate the transportation costs that will be incurred for the child to visit the noncustodial parent. In making its determination, court shall consider:

- (a) the reason for the parent's relocation;
- (b) the additional costs or difficulty to both parents in exercising parent-time;
- (c) the economic resources of both parents; and
- (d) other factors the court considers necessary and relevant.

(6) Unless otherwise ordered by the court, upon the relocation, as defined in Subsection (1), of one of the parties the following schedule shall be the minimum requirements for parent-time [with a school-age child] for children 5 to 18 years of age:

(a) in years ending in an odd number, the child shall spend the following holidays with the noncustodial parent:

(i) Thanksgiving holiday beginning Wednesday until Sunday; and

(ii) Spring break, if applicable, beginning the last day of school before the holiday until the day before school resumes;

(b) in years ending in an even number, the child shall spend the following holidays with the noncustodial parent:

(i) the entire winter school break period; and

(ii) the Fall school break beginning the last day of school before the holiday until the day before school resumes;

(c) extended parent-time equal to 1/2 of the summer or off-track time for consecutive weeks. The children should be returned to the custodial home no later than seven days before school begins; however, this week shall be counted when determining the amount of parent-time to be divided between the parents for the summer or off-track period; and

(d) one weekend per month, at the option and expense of the noncustodial parent.

(7) The court may also set a parent-time schedule for children under the age of five. The schedule shall take into consideration the following:

(a) the age of the child;

(b) the developmental needs of the child;

(c) the distance between the parents' homes;

(d) the travel arrangements and cost;

(e) the level of attachment between the child and the noncustodial parent; and

(f) any other factors relevant to the best interest of the child.

[47] (8) The noncustodial parent's monthly weekend entitlement is subject to the following restrictions.

(a) If the noncustodial parent has not designated a specific weekend for parent-time, the noncustodial parent shall receive the last weekend of each month unless a holiday assigned to the custodial parent falls on that particular weekend. If a holiday assigned to the custodial parent falls on the last weekend of the month, the noncustodial parent shall be entitled to the next to the last weekend of the month.

(b) If a noncustodial parent's extended parent-time or parent-time over a holiday extends into or through the first weekend of the next month, that weekend shall be considered the noncustodial parent's monthly weekend entitlement for that month.

(c) If a child is out of school for teacher development days or snow days after the children begin the school year, or other days not included in the list of holidays in Subsection (6) and those days are contiguous with the noncustodial parent's monthly weekend parent-time, those days shall be included in the weekend parent-time.

[48] (9) The custodial parent is entitled to all parent-time not specifically allocated to the noncustodial parent.

[49] (10) In the event finances and distance preclude the exercise of minimum parent-time for the noncustodial parent during the school year, the court should consider awarding more time for the noncustodial parent during the summer time if it is in the best interests of the children.

[40] (11) Upon the motion of any party, the court may order uninterrupted parent-time with the noncustodial parent for a minimum of 30 days during extended parent-time, unless the court finds it is not in the best interests of the child. If the court orders uninterrupted parent-time during a period not covered by this section, it shall specify in its order which parent is responsible for the child's travel expenses.

[41] (12) Unless otherwise ordered by the court the relocating party shall be responsible for all the child's travel expenses relating to Subsections (6)(a) and (b) and 1/2 of the child's travel expenses relating to Subsection (6)(c), provided the noncustodial parent is current on all support obligations. If the noncustodial parent has been found in contempt for not being current on all support obligations, the noncustodial parent shall be responsible for all of the child's travel expenses under Subsection (6), unless the court rules otherwise. Reimbursement by either responsible party to the other for the child's travel expenses shall be made within 30 days of receipt of documents detailing those expenses.

[42] (13) The court may apply this provision to any preexisting decree of divorce.

[43] (14) Any action under this section may be set for an expedited hearing.

[14] (15) A parent who fails to comply with the notice of relocation in Subsection (2) shall be in contempt of the court's order.

CHAPTER 163**H. B. 376**

Passed March 10, 2014
 Approved March 29, 2014
 Effective May 13, 2014

ALCOHOL REVISIONS

Chief Sponsor: Ryan D. Wilcox
 Senate Sponsor: John L. Valentine

LONG TITLE**General Description:**

This bill modifies provisions related to the Alcohol Abuse Tracking Committee.

Highlighted Provisions:

This bill:

- ▶ modifies provisions related to the Alcohol Abuse Tracking Committee; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53-1-119, as last amended by Laws of Utah 2013, Chapter 43

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

Section 1. Section 53-1-119 is amended to read:**53-1-119. Tracking effects of abuse of alcoholic products.**

(1) There is created a committee within the department known as the "Alcohol Abuse Tracking Committee" that consists of:

- (a) the commissioner, or the commissioner's designee;
- (b) the executive director of the Department of Health, or the executive director's designee;
- (c) the executive director of the Department of Human Services, or the executive director's designee;
- (d) the director of the Department of Alcoholic Beverage Control, or the director's designee;
- (e) the executive director of the Department of Workforce Services, or the executive director's designee;
- (f) the chair of the Utah Substance Abuse Advisory Council, or the chair's designee;
- (g) the state court administrator or the state court administrator's designee; and
- (h) the executive director of the Department of Technology Services, or the executive director's designee.

(2) The commissioner, or the commissioner's designee, shall chair the committee.

(3) (a) Four members of the committee constitute a quorum.

(b) A vote of the majority of the committee members present when a quorum is present is an action of the committee.

(4) The committee shall meet at the call of the chair, except that the chair shall call a meeting at least ~~[quarterly]~~ twice a year:

(a) with one meeting held before April 1 of each year to develop the report required under Subsection (7); and

(b) with one meeting to review and finalize the report before it is issued July 1.

(5) The committee may adopt additional procedures or requirements for:

- (a) voting, when there is a tie of the committee members;
- (b) how meetings are to be called; and
- (c) the frequency of meetings.

(6) The committee shall establish a process to collect for each ~~[fiscal]~~ calendar year the following information:

(a) the number of individuals statewide who are convicted of, plead guilty to, plead no contest to, plead guilty in a similar manner to, or resolve by diversion or its equivalent to a violation related to underage drinking of alcohol;

(b) the number of individuals statewide who are convicted of, plead guilty to, plead no contest to, plead guilty in a similar manner to, or resolve by diversion or its equivalent to a violation related to driving under the influence of alcohol;

(c) the number of violations statewide of Title 32B, Alcoholic Beverage Control Act, related to over-serving or over-consumption of an alcoholic product;

(d) the cost of social services provided by the state related to abuse of alcohol, including services provided by the Division of Child and Family Services within the Department of Human Services;

(e) where the alcoholic products are obtained that results in the violations or costs described in Subsections (6)(a) through (d); and

(f) any information the committee determines can be collected and relates to the abuse of alcoholic products.

~~[(7) (a) The committee shall begin to collect the information described in Subsection (6) by January 1, 2013. For fiscal year 2012-13, the committee is required only to report the information collected between January 1, 2013 and June 30, 2013.]~~

~~[(b)]~~ (7) Beginning ~~[December 31, 2013]~~ July 1, 2014, the committee shall report the information collected under Subsection (6) annually to the governor and the Legislature by no later than the ~~[December 31]~~ July 1 immediately following the ~~[fiscal]~~ calendar year for which the information is collected.

CHAPTER 164**H. B. 380**

Passed March 11, 2014
 Approved March 29, 2014
 Effective May 13, 2014

**REPEAL OF HOUSING RELIEF
 EXPENDABLE SPECIAL REVENUE FUND**

Chief Sponsor: Melvin R. Brown
 Senate Sponsor: Lyle W. Hillyard

LONG TITLE**General Description:**

This bill modifies provisions relating to the Housing Relief Expendable Special Revenue Fund.

Highlighted Provisions:

This bill:

- ▶ repeals the provision that authorizes the Utah Housing Corporation to approve grants to certain persons who purchase a newly constructed, never-occupied residence in Utah using a 30-year fixed interest rate note and mortgage from funds received as a result of the federal American Recovery and Reinvestment Act of 2009; and
- ▶ repeals the Housing Relief Expendable Special Revenue Fund.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**REPEALS:**

35A-8-727, as last amended by Laws of Utah 2013, Chapter 400
 67-4-18, as last amended by Laws of Utah 2013, Chapter 400

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

Section 1. Repealer.

This bill repeals:

**Section 35A-8-727, New housing grants --
 Reimbursement from Housing Relief
 Expendable Special Revenue Fund.**

**Section 67-4-18, Housing Relief Expendable
 Special Revenue Fund -- Payments to
 Utah Housing Corporation.**

CHAPTER 165**H. B. 384**

Passed March 11, 2014

Approved March 29, 2014

Effective May 13, 2014

**CONCUSSION AND HEAD
INJURY AMENDMENTS**

Chief Sponsor: Paul Ray

Senate Sponsor: Allen M. Christensen

LONG TITLE**General Description:**

This bill makes technical corrections to the Protection of Athletes with Head Injuries Act.

Highlighted Provisions:

This bill:

- ▶ makes technical corrections to the Protection of Athletes with Head Injuries Act.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-53-401, as enacted by Laws of Utah 2013, Chapter 289

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

Section 1. Section 26-53-401 is amended to read:**26-53-401. School nurses evaluating student injuries.**

(1) A school nurse may assess a child who is suspected of sustaining a concussion or a traumatic head injury during school hours on school property regardless of whether the nurse has received specialized training in the evaluation and management of a concussion.

(2) A school nurse who does not meet the requirements of Subsections 26-53-301(1)(b)(i) and (1)(b)(ii)(A), but who assesses a child who is suspected of sustaining a concussion or traumatic head injury under Subsection (1):

(a) shall refer the child to a qualified health care provider who is trained in the evaluation and management of a concussion; and

(b) may not provide a written statement permitting the child to resume participation in free play or physical education class under Subsection 26-53-301(1)(b)(ii).

(3) A school nurse shall undergo training[, described in Section 53A-6-112,] in the evaluation and management of a concussion, as funding allows.

CHAPTER 166**H. B. 386**

Passed March 11, 2014
Approved March 29, 2014
Effective May 13, 2014

**REPEAL OF UTAH HISTORY
ENDOWMENT FUND**

Chief Sponsor: Melvin R. Brown
Senate Sponsor: Lyle W. Hillyard

LONG TITLE**General Description:**

This bill modifies provisions related to the creation of endowment funds by nonprofit history organizations.

Highlighted Provisions:

This bill:

- ▶ repeals the Utah History Endowment Fund; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 9-8-701, as enacted by Laws of Utah 1991, Chapter 121
9-8-703, as enacted by Laws of Utah 1991, Chapter 121
9-8-704, as last amended by Laws of Utah 2008, Chapter 382
9-8-705, as last amended by Laws of Utah 2010, Chapter 324
9-8-707, as last amended by Laws of Utah 2011, Chapter 342
9-8-708, as enacted by Laws of Utah 1991, Chapter 121

REPEALS:

- 9-8-702, as last amended by Laws of Utah 2013, Chapter 400
9-8-706, as last amended by Laws of Utah 2011, Chapter 342

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

Section 1. Section 9-8-701 is amended to read:**Part 7. Endowment Funds for History Organizations****9-8-701. Definitions.**

As used in this part:

- (1) "Board" means the Board of State History.
- (2) "Division" means the Division of State History.
- (3) "Endowment fund" means any history endowment fund created under this part by a qualifying organization.
- (4) "Qualifying organization" means any Utah nonprofit history organization or local government that qualifies under this chapter to create an

endowment fund, receive state money into the endowment fund, match state money deposited into the endowment fund, and expend interest earned on the endowment fund.

[~~(5) "State fund" means the Utah History Endowment Fund created under Section 9-8-702.~~]

Section 2. Section 9-8-703 is amended to read:**9-8-703. History organization endowment funds.**

(1) [~~Any~~] (a) A qualifying organization may create an endowment fund into which there may be deposited money from [~~the state fund~~] funds made available for that purpose.

(b) The principal of each endowment fund may not be expended by the qualifying organization and shall be held in perpetuity solely by the qualifying organization or by the Division of Finance on behalf of the qualifying organization.

(c) Only interest income earned on the amount in each endowment fund may be expended by the qualifying organization.

(d) The principal of each endowment fund shall be invested in accordance with Title 51, Chapter 7, State Money Management Act [~~of 1974~~].

(2) [~~Each~~] (a) An endowment fund shall be administered in accordance with generally accepted accounting principles by professional endowment management personnel.

(b) If no professional endowment management personnel is available to the qualifying organization, [~~it~~] the qualifying organization shall place [~~its~~] the endowment fund in a state trust and agency fund administered by the Division of Finance [~~, which shall allocate interest income to the qualifying organization annually~~].

(3) If an endowment fund is administered by the Division of Finance:

(a) the Division of Finance shall allocate interest income to the qualifying organization annually; and

(b) the costs for [~~this~~] the administration shall be deducted from the interest income before allocations of interest income may be made to the qualifying organization by the Division of Finance.

Section 3. Section 9-8-704 is amended to read:**9-8-704. Division duties.**

The division shall, according to policy established by the board:

(1) allocate money from [~~the state fund~~] funds made available for that purpose to the endowment fund created by a qualifying organization under Section 9-8-703;

(2) determine the eligibility of each qualifying organization to receive money from [~~the state fund~~] funds made available for that purpose into the endowment fund of the qualifying organization;

(3) determine the matching amount each qualifying organization must raise in order to

qualify to receive money from ~~[the state fund]~~ funds made available for that purpose;

(4) establish a date by which each qualifying organization must provide ~~[its]~~ the qualifying organization's matching funds;

(5) verify that matching funds have been provided by each qualifying organization by the date determined in Subsection (4); and

(6) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, ~~[establish criteria by rule not otherwise prescribed in this chapter]~~ make rules establishing criteria for determining the eligibility of qualifying organizations to receive money from ~~[the state fund]~~ funds made available for that purpose.

Section 4. Section 9-8-705 is amended to read:

9-8-705. Eligibility requirements of qualifying history organizations -- Allocation limitations -- Matching requirements.

(1) ~~[Any]~~ A qualifying organization may apply to receive money from ~~[the state fund]~~ funds made available for that purpose to be deposited ~~[in]~~ into an endowment fund ~~[it has]~~ created under Section 9-8-703 if the qualifying organization has:

(a) ~~[if it has]~~ received a grant from the division during one of the three years immediately before making application for ~~[state fund]~~ money under this Subsection (1); or

(b) ~~[if it has]~~ not received a grant from the division within the past three years, ~~[it]~~ the qualifying organization may receive a grant upon approval by the division according to policy of the board.

(2) (a) The maximum amount that may be allocated to each qualifying organization from ~~[the state fund]~~ funds made available for that purpose shall be determined by the division in a format to be developed in consultation with the board.

(b) The minimum amount that may be allocated to each qualifying organization from ~~[the state fund]~~ funds made available for that purpose is \$2,500.

(3) (a) After the division determines that a qualifying organization is eligible to receive money from ~~[the state fund]~~ funds made available for that purpose and before any money is allocated to the qualifying organization from ~~[the state fund]~~ available funds, the qualifying organization shall match the amount qualified for by money raised and designated exclusively for that purpose.

(b) State money and in-kind contributions may not be used to match money from ~~[the state fund]~~ funds made available for that purpose.

(4) Endowment match money shall be based on a sliding scale as follows:

(a) amounts requested up to \$20,000 shall be matched one-to-one;

(b) any additional amount requested that makes the aggregate amount requested exceed \$20,000 but not exceed \$50,000 shall be matched two-to-one; and

(c) any additional amount requested that makes the aggregate amount requested exceed \$50,000 shall be matched three-to-one.

(5) (a) Qualifying organizations shall raise the matching amount by a date determined by the board.

(b) (i) Money from ~~[the state fund]~~ funds made available for that purpose shall be released to the qualifying organization ~~[only]~~ upon verification by the division that the matching money has been received on or before the date determined under Subsection (5)(a).

(ii) Verification of matching funds shall be made by a certified public accountant.

(c) Money from ~~[the state fund]~~ funds made available for that purpose shall be released to qualifying organizations with professional endowment management in increments ~~[not less than]~~ of at least \$2,500 as audited confirmation of matching funds is received by the board.

(d) Money from ~~[the state fund]~~ funds made available for that purpose shall be granted to each qualifying organization on the basis of the matching funds ~~[it]~~ the qualifying organization has raised by the date determined under Subsection (5)(a).

Section 5. Section 9-8-707 is amended to read:

9-8-707. Spending restrictions -- Return of endowment.

(1) A qualifying organization~~[, once it]~~ that has received ~~[its]~~ endowment money from ~~[the state fund,]~~ funds made available for that purpose:

(a) may not expend ~~[any of]~~ the money or the required matching money in ~~[its]~~ the endowment fund~~[, but];~~ and

(b) may expend ~~[only]~~ the interest income earned on the money in ~~[its]~~ the endowment fund.

(2) If a qualifying organization expends ~~[any amount of the endowment money received from the state fund or any amount of the required matching money]~~ money in violation of Subsection (1), the qualifying organization shall return the amount ~~[it received from the state fund. The division shall reallocate any such returned money to qualifying organizations in the manner as provided in Section 9-8-706]~~ of money allocated by the division under this part to the Division of Finance.

Section 6. Section 9-8-708 is amended to read:

9-8-708. Federal match.

~~[The creation of the state fund and the use of its money]~~ Funds allocated by the division under this part to enable qualifying organizations to create their own endowment funds may be construed as a state match for any history funding from the federal government that may be provided.

Section 7. Repealer.

This bill repeals:

Section 9-8-702, Utah History Endowment Fund.

Section 9-8-706, Unallocated money.

CHAPTER 167**H. B. 390**

Passed March 11, 2014
 Approved March 29, 2014
 Effective May 13, 2014

UNLAWFUL ACTIVITIES AMENDMENTS

Chief Sponsor: Rebecca Chavez-Houck
 Senate Sponsor: Todd Weiler
 Cosponsors: Jennifer M. Seelig
 Brad L. Dee
 Patrice M. Arent
 Jack R. Draxler
 Susan Duckworth
 James A. Dunnigan
 Janice M. Fisher
 Francis D. Gibson
 Keith Grover
 Lynn N. Hemingway
 John G. Mathis
 Mike K. McKell
 Michael E. Noel
 Lee B. Perry
 Kraig Powell

LONG TITLE**General Description:**

This bill amends provisions of the Utah Criminal Code and the Election Code in relation to unlawful activity.

Highlighted Provisions:

This bill:

- ▶ enacts the class A misdemeanor offense of obstructing a legislative proceeding;
- ▶ defines “official proceeding” for Title 76, Chapter 8, Part 5, Offenses Against the Administration of Government;
- ▶ amends the offense of a pattern of unlawful activity to include, as unlawful activities, tampering with evidence or the falsification or alteration of certain government records; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-8-501, as last amended by Laws of Utah 1997, Chapter 324
 76-8-503, as last amended by Laws of Utah 1997, Chapter 324
 76-8-510.5, as last amended by Laws of Utah 2007, Chapter 110
 76-10-1602, as last amended by Laws of Utah 2012, Chapters 112 and 347

ENACTS:

36-12-9.5, Utah Code Annotated 1953

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

Section 1. Section 36-12-9.5 is enacted to read:**36-12-9.5. Obstructing a legislative proceeding.**

(1) As used in this section, “legislative proceeding” means an investigation or audit conducted by:

(a) the Legislature, or a house, committee, subcommittee, or task force of the Legislature; or

(b) an employee or independent contractor of an entity described in Subsection (1)(a), at or under the direction of an entity described in Subsection (1)(a).

(2) Except as described in Subsection (3), a person is guilty of a class A misdemeanor if the person, with intent to hinder, delay, or prevent a legislative proceeding:

(a) provides a person with a weapon;

(b) prevents a person, by force, intimidation, or deception, from performing any act that might aid the legislative proceeding;

(c) alters, destroys, conceals, or removes any item or other thing;

(d) makes, presents, or uses an item, document, or thing known by the person to be false;

(e) makes a false material statement, not under oath, to:

(i) the Legislature, or a house, committee, subcommittee, or task force of the Legislature; or

(ii) an employee or independent contractor of an entity described in Subsection (2)(e)(i);

(f) harbors or conceals a person;

(g) provides a person with transportation, disguise, or other means of avoiding discovery or service of process;

(h) warns any person of impending discovery or service of process;

(i) conceals an item, information, document, or thing that is not privileged after a legislative subpoena is issued for the item, information, document, or thing; or

(j) provides false information regarding a witness or a material aspect of the legislative proceeding.

(3) Subsection (2) does not include:

(a) false or inconsistent material statements, as described in Section 76-8-502;

(b) tampering with a witness or soliciting or receiving a bribe, as described in Section 76-8-508;

(c) retaliation against a witness, victim, or informant, as described in Section 76-8-508.3; or

(d) extortion or bribery to dismiss a criminal proceeding, as described in Section 76-8-509.

Section 2. Section 76-8-501 is amended to read:**76-8-501. Definitions.**

[For the purposes of] As used in this part:

~~[(2)]~~ (1) “Material” means capable of affecting the course or outcome of ~~[the proceeding. A statement is not material if it is retracted in the course of the official proceeding in which it was made before it became manifest that the falsification was or would be exposed and before it substantially affected the proceeding.]~~ an official proceeding, unless the person who made the statement or provided the information retracts the statement or information before the earlier of:

(a) the end of the official proceeding in which the statement was made or the information was provided;

(b) when it becomes manifest that the false or misleading nature of the statement or information has been or will be exposed; or

(c) when the statement or information substantially affects the proceeding.

~~[(4)]~~ (2) “Official proceeding” means:

(a) any proceeding before:

(i) a legislative, judicial, administrative, or other governmental body or official authorized by law to take evidence under oath or affirmation[; including];

(ii) a notary; or [other]

(iii) a person [taking] that takes evidence in connection with [any of these proceedings.] a proceeding described in Subsection (2)(a)(i);

(b) any civil or administrative action, trial, examination under oath, administrative proceeding, or other civil or administrative adjudicative process; or

(c) an investigation or audit conducted by:

(i) the Legislature, or a house, committee, subcommittee, or task force of the Legislature; or

(ii) an employee or independent contractor of an entity described in Subsection (1)(c)(i), at or under the direction of an entity described in Subsection (2)(c)(i).

Section 3. Section 76-8-503 is amended to read:

76-8-503. False or inconsistent statements.

[A] (1) Except as provided in Subsection (2), a person is guilty of a class B misdemeanor if:

~~[(1)]~~ (a) [he] the person makes a false statement under oath or affirmation or swears or affirms the truth of the statement previously made and [he] the person does not believe the statement to be true if:

(i) the falsification occurs in an official proceeding, or is made with a purpose to mislead a public servant in performing [his] the public servant's official functions; or

(ii) the statement is one [which] that is authorized by law to be sworn or affirmed before a

notary or other person authorized to administer oaths; or

(b) [he] the person makes inconsistent statements under oath or affirmation, both within the period of limitations, one of which is false and not believed by [him] the person to be true.

(2) Subsection (1) does not include obstructing a legislative proceeding, as described in Section 36-12-9.5.

~~[(2)]~~ (3) A person is not guilty under this section if the person retracts the falsification ~~[is retracted]~~ before it becomes manifest that the falsification ~~[was or would]~~ has been or will be exposed.

Section 4. Section 76-8-510.5 is amended to read:

76-8-510.5. Tampering with evidence -- Definitions -- Elements -- Penalties.

(1) As used in this section[: (a) “Official proceeding” includes any civil or administrative action, trial, examination under oath, administrative proceeding, or other civil or administrative adjudicative process. (b) “Thing”, “thing or item” includes any document, record book, paper, file, electronic compilation, or other evidence.

(2) A person is guilty of tampering with evidence if, believing that an official proceeding or investigation is pending or about to be instituted, or with the intent to prevent an official proceeding or investigation or to prevent the production of any thing or item which reasonably would be anticipated to be evidence in the official proceeding or investigation, the person knowingly or intentionally:

(a) alters, destroys, conceals, or removes any thing or item with the purpose of impairing the veracity or availability of the thing or item in the proceeding or investigation; or

(b) makes, presents, or uses any thing or item which the person knows to be false with the purpose of deceiving a public servant or any other party who is or may be engaged in the proceeding or investigation.

(3) Subsection (2) does not apply to any offense that amounts to a violation of Section 76-8-306.

(4) (a) Tampering with evidence is a third degree felony if the offense is committed in conjunction with an official proceeding.

(b) Any violation of this section except under Subsection (4)(a) is a class A misdemeanor.

Section 5. Section 76-10-1602 is amended to read:

76-10-1602. Definitions.

As used in this part:

(1) “Enterprise” means any individual, sole proprietorship, partnership, corporation, business trust, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity, and includes illicit as well as licit entities.

(2) "Pattern of unlawful activity" means engaging in conduct which constitutes the commission of at least three episodes of unlawful activity, which episodes are not isolated, but have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing unlawful conduct and be related either to each other or to the enterprise. At least one of the episodes comprising a pattern of unlawful activity shall have occurred after July 31, 1981. The most recent act constituting part of a pattern of unlawful activity as defined by this part shall have occurred within five years of the commission of the next preceding act alleged as part of the pattern.

(3) "Person" includes any individual or entity capable of holding a legal or beneficial interest in property, including state, county, and local governmental entities.

(4) "Unlawful activity" means to directly engage in conduct or to solicit, request, command, encourage, or intentionally aid another person to engage in conduct which would constitute any offense described by the following crimes or categories of crimes, or to attempt or conspire to engage in an act which would constitute any of those offenses, regardless of whether the act is in fact charged or indicted by any authority or is classified as a misdemeanor or a felony:

(a) any act prohibited by the criminal provisions of Title 13, Chapter 10, Unauthorized Recording Practices Act;

(b) any act prohibited by the criminal provisions of Title 19, Environmental Quality Code, Sections 19-1-101 through 19-7-109;

(c) taking, destroying, or possessing wildlife or parts of wildlife for the primary purpose of sale, trade, or other pecuniary gain, in violation of Title 23, Wildlife Resources Code of Utah, or Section 23-20-4;

(d) false claims for medical benefits, kickbacks, and any other act prohibited by Title 26, Chapter 20, Utah False Claims Act, Sections 26-20-1 through 26-20-12;

(e) any act prohibited by the criminal provisions of Title 32B, Chapter 4, Criminal Offenses and Procedure Act;

(f) any act prohibited by the criminal provisions of Title 57, Chapter 11, Utah Uniform Land Sales Practices Act;

(g) any act prohibited by the criminal provisions of Title 58, Chapter 37, Utah Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act, Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58, Chapter 37d, Clandestine Drug Lab Act;

(h) any act prohibited by the criminal provisions of Title 61, Chapter 1, Utah Uniform Securities Act;

(i) any act prohibited by the criminal provisions of Title 63G, Chapter 6a, Utah Procurement Code;

(j) assault or aggravated assault, Sections 76-5-102 and 76-5-103;

(k) a threat of terrorism, Section 76-5-107.3;

(l) criminal homicide, Sections 76-5-201, 76-5-202, and 76-5-203;

(m) kidnapping or aggravated kidnapping, Sections 76-5-301 and 76-5-302;

(n) human trafficking, human smuggling, or aggravated human trafficking, Sections 76-5-308, 76-5-309, and 76-5-310;

(o) sexual exploitation of a minor, Section 76-5b-201;

(p) arson or aggravated arson, Sections 76-6-102 and 76-6-103;

(q) causing a catastrophe, Section 76-6-105;

(r) burglary or aggravated burglary, Sections 76-6-202 and 76-6-203;

(s) burglary of a vehicle, Section 76-6-204;

(t) manufacture or possession of an instrument for burglary or theft, Section 76-6-205;

(u) robbery or aggravated robbery, Sections 76-6-301 and 76-6-302;

(v) theft, Section 76-6-404;

(w) theft by deception, Section 76-6-405;

(x) theft by extortion, Section 76-6-406;

(y) receiving stolen property, Section 76-6-408;

(z) theft of services, Section 76-6-409;

(aa) forgery, Section 76-6-501;

(bb) fraudulent use of a credit card, Sections 76-6-506.2, 76-6-506.3, 76-6-506.5, and 76-6-506.6;

(cc) deceptive business practices, Section 76-6-507;

(dd) bribery or receiving bribe by person in the business of selection, appraisal, or criticism of goods, Section 76-6-508;

(ee) bribery of a labor official, Section 76-6-509;

(ff) defrauding creditors, Section 76-6-511;

(gg) acceptance of deposit by insolvent financial institution, Section 76-6-512;

(hh) unlawful dealing with property by fiduciary, Section 76-6-513;

(ii) bribery or threat to influence contest, Section 76-6-514;

(jj) making a false credit report, Section 76-6-517;

(kk) criminal simulation, Section 76-6-518;

(ll) criminal usury, Section 76-6-520;

(mm) fraudulent insurance act, Section 76-6-521;

(nn) retail theft, Section 76-6-602;

(oo) computer crimes, Section 76-6-703;

(pp) identity fraud, Section 76-6-1102;

(qq) mortgage fraud, Section 76-6-1203;

(rr) sale of a child, Section 76-7-203;

(ss) bribery to influence official or political actions, Section 76-8-103;

(tt) threats to influence official or political action, Section 76-8-104;

(uu) receiving bribe or bribery by public servant, Section 76-8-105;

(vv) receiving bribe or bribery for endorsement of person as public servant, Section 76-8-106;

(ww) official misconduct, Sections 76-8-201 and 76-8-202;

(xx) obstruction of justice, Section 76-8-306;

(yy) acceptance of bribe or bribery to prevent criminal prosecution, Section 76-8-308;

(zz) false or inconsistent material statements, Section 76-8-502;

(aaa) false or inconsistent statements, Section 76-8-503;

(bbb) written false statements, Section 76-8-504;

(ccc) tampering with a witness or soliciting or receiving a bribe, Section 76-8-508;

(ddd) retaliation against a witness, victim, or informant, Section 76-8-508.3;

(eee) extortion or bribery to dismiss criminal proceeding, Section 76-8-509;

(fff) tampering with evidence, Section 76-8-510.5;

(ggg) falsification or alteration of government record, Section 76-8-511, if the record is a record described in Title 20A, Election Code, or Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act;

(hhh) (hhh) public assistance fraud in violation of Section 76-8-1203, 76-8-1204, or 76-8-1205;

(iii) (iii) unemployment insurance fraud, Section 76-8-1301;

(jjj) (jjj) intentionally or knowingly causing one animal to fight with another, Subsection 76-9-301(2)(d) or (e), or Section 76-9-301.1;

(kkk) (kkk) possession, use, or removal of explosives, chemical, or incendiary devices or parts, Section 76-10-306;

(lll) (lll) delivery to common carrier, mailing, or placement on premises of an incendiary device, Section 76-10-307;

(kkk) (mmm) possession of a deadly weapon with intent to assault, Section 76-10-507;

(lll) (nnn) unlawful marking of pistol or revolver, Section 76-10-521;

(mmm) (ooo) alteration of number or mark on pistol or revolver, Section 76-10-522;

(nnn) (ppp) forging or counterfeiting trademarks, trade name, or trade device, Section 76-10-1002;

(ooo) (qqq) selling goods under counterfeited trademark, trade name, or trade devices, Section 76-10-1003;

(ppp) (rrr) sales in containers bearing registered trademark of substituted articles, Section 76-10-1004;

(qqq) (sss) selling or dealing with article bearing registered trademark or service mark with intent to defraud, Section 76-10-1006;

(rrr) (ttt) gambling, Section 76-10-1102;

(sss) (uuu) gambling fraud, Section 76-10-1103;

(ttt) (vvv) gambling promotion, Section 76-10-1104;

(uuu) (www) possessing a gambling device or record, Section 76-10-1105;

(vvv) (xxx) confidence game, Section 76-10-1109;

(www) (yyy) distributing pornographic material, Section 76-10-1204;

(xxx) (zzz) inducing acceptance of pornographic material, Section 76-10-1205;

(yyy) (aaaa) dealing in harmful material to a minor, Section 76-10-1206;

(zzz) (bbbb) distribution of pornographic films, Section 76-10-1222;

(aaaa) (cccc) indecent public displays, Section 76-10-1228;

(bbbb) (dddd) prostitution, Section 76-10-1302;

(cccc) (eeee) aiding prostitution, Section 76-10-1304;

(dddd) (ffff) exploiting prostitution, Section 76-10-1305;

(eeee) (gggg) aggravated exploitation of prostitution, Section 76-10-1306;

(ffff) (hhhh) communications fraud, Section 76-10-1801;

(gggg) (iiii) any act prohibited by the criminal provisions of Part 19, Money Laundering and Currency Transaction Reporting Act;

(hhhh) (jjjj) vehicle compartment for contraband, Section 76-10-2801;

(iiii) (kkkk) any act prohibited by the criminal provisions of the laws governing taxation in this state; and

~~(iii)~~ (iii) any act illegal under the laws of the United States and enumerated in 18 U.S.C. Sec. 1961 (1)(B), (C), and (D).

CHAPTER 168**H. B. 404**

Passed March 13, 2014
 Approved March 29, 2014
 Effective May 13, 2014

COURT SECURITY FEE AMENDMENTS

Chief Sponsor: Paul Ray
 Senate Sponsor: Jerry W. Stevenson

LONG TITLE**General Description:**

This bill increases the amount of the court security surcharge remitted to the state treasurer and distributed to the Court Security Account.

Highlighted Provisions:

This bill:

- ▶ increases the amount of court security surcharge deposited into the state treasurer's Court Security Account.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78A-7-122, as last amended by Laws of Utah 2009, Chapter 200

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

Section 1. Section 78A-7-122 is amended to read:**78A-7-122. Security surcharge -- Application -- Deposit in restricted accounts.**

(1) In addition to any fine, penalty, forfeiture, or other surcharge, a security surcharge of [~~\$40~~] \$50 shall be assessed on all convictions for offenses listed in the uniform bail schedule adopted by the Judicial Council and moving traffic violations.

(2) The security surcharge shall be collected and distributed pro rata with any fine collected. A fine that would otherwise have been charged may not be reduced due to the imposition of the security surcharge.

(3) [~~Eight~~] Eighteen dollars of the security surcharge shall be remitted to the state treasurer and distributed to the Court Security Account created in Section 78A-2-602.

(4) Thirty-two dollars of the security surcharge shall be allocated as follows:

(a) the assessing court shall retain 20% of the amount collected for deposit into the general fund of the governmental entity; and

(b) 80% shall be remitted to the state treasurer to be distributed as follows:

(i) 62.5% to the treasurer of the county in which the justice court which remitted the amount is located;

(ii) 25% to the Court Security Account created in Section 78A-2-602; and

(iii) 12.5% to the Justice Court Technology, Security, and Training Account created in Section 78A-7-301.

(5) The court shall remit money collected in accordance with Title 51, Chapter 7, State Money Management Act.

CHAPTER 169**H. B. 408**

Passed March 13, 2014
 Approved March 29, 2014
 Effective May 13, 2014

**ELECTION REQUIREMENTS
 AMENDMENTS**

Chief Sponsor: Kay J. Christofferson
 Senate Sponsor: Wayne A. Harper

LONG TITLE**General Description:**

This bill amends portions of the Election Code that relate to a write-in candidate.

Highlighted Provisions:

This bill:

- ▶ amends certain portions of the Election Code to require a ballot to contain a space for a write-in candidate only if a write-in candidate is qualified for the election;
- ▶ changes the deadline for a write-in candidate to file a declaration of candidacy for a regular general election; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

20A-6-101, as last amended by Laws of Utah 2009, Chapter 202
 20A-6-102, as last amended by Laws of Utah 2006, Chapter 326
 20A-6-301, as last amended by Laws of Utah 2012, Chapter 68
 20A-6-402, as last amended by Laws of Utah 2012, Chapter 68
 20A-9-601, as last amended by Laws of Utah 2013, Chapters 317 and 402

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

Section 1. Section 20A-6-101 is amended to read:**20A-6-101. General requirements for paper ballots.**

- (1) Each election officer shall ensure that paper ballots:
- (a) are printed on only one side of the paper;
 - (b) are printed using precisely the same quality and tint of plain white paper through which the printing or writing cannot be seen;
 - (c) are printed using precisely the same quality and kind of type;
 - (d) are printed using precisely the same quality and tint of plain black ink;
 - (e) are uniform in size for all the voting precincts within the election officer's jurisdiction; and

(f) include, in ~~[elections where write-in voting is authorized]~~ an election in which a voter is authorized to cast a write-in vote and where a write-in candidate is qualified under Section 20A-9-601, a write-in column immediately adjacent to the last column on the ballot that is long enough to contain as many written names of candidates as there are persons to be elected with:

- (i) the offices to be filled printed above the blank spaces on the ticket; and
- (ii) the words "Write-In Voting Column" printed at the head of the column without a 1/2 inch circle.

(2) Whenever the vote for candidates is to be limited to the voters of a particular political division, the election officer shall ensure that the names of those candidates are printed only upon those ballots provided to that political division.

Section 2. Section 20A-6-102 is amended to read:**20A-6-102. General requirements for machine counted ballots.**

- (1) Each election officer shall ensure that ballots and ballot labels are printed:
- (a) to a size and arrangement that fits the construction of the voting device; and
 - (b) in plain, clear type in black ink on clear white stock; or
 - (c) in plain, clear type in black ink on stock of different colors if it is necessary to:
 - (i) identify different ballots or parts of the ballot; or
 - (ii) differentiate between political parties.
- (2) Each election officer shall ensure that:
- (a) ballot sheets are of a size, design, and stock suitable for processing by automatic data processing machines;
 - (b) each ballot sheet has an attached perforated stub, on which is printed the words "Official Ballot, (initial) Poll Worker"; and
 - (c) ballot stubs are numbered consecutively.

(3) In ~~[elections]~~ an election in which [voters are] a voter is authorized to cast a write-in [votes] vote and where a write-in candidate is qualified under Section 20A-9-601, the election officer shall provide a separate write-in ballot, which may be in the form of a paper ballot, a card, or a secrecy envelope in which the voter places his ballot sheet after voting, to permit voters to write in the title of the office and the name of the person or persons for whom the voter wishes to cast a write-in vote.

(4) Notwithstanding any other provisions of this section, the election officer may authorize any ballots that are to be counted by means of electronic or electromechanical devices to be printed to a size, layout, texture, and in any type of ink or combination of inks that will be suitable for use in the counting devices in which they are intended to be placed.

Section 3. Section 20A-6-301 is amended to read:

20A-6-301. Paper ballots -- Regular general election.

(1) Each election officer shall ensure that:

(a) all paper ballots furnished for use at the regular general election contain no captions or other endorsements except as provided in this section;

(b) (i) the paper ballot contains a ballot stub at least one inch wide, placed across the top of the ballot, and divided from the rest of ballot by a perforated line;

(ii) the ballot number and the words "Poll Worker's Initial ____" are printed on the stub; and

(iii) ballot stubs are numbered consecutively;

(c) immediately below the perforated ballot stub, the following endorsements are printed in 18 point bold type:

(i) "Official Ballot for ____ County, Utah";

(ii) the date of the election; and

(iii) a facsimile of the signature of the county clerk and the words "county clerk";

(d) each ticket is placed in a separate column on the ballot in the order specified under Section 20A-6-305 with the party emblem, followed by the party name, at the head of the column;

(e) the party name or title is printed in capital letters not less than one-fourth of an inch high;

(f) a circle one-half inch in diameter is printed immediately below the party name or title, and the top of the circle is placed not less than two inches below the perforated line;

(g) unaffiliated candidates and candidates not affiliated with a registered political party are listed in one column in the order specified under Section 20A-6-305, without a party circle, with the following instructions printed at the head of the column: "All candidates not affiliated with a political party are listed below. They are to be considered with all offices and candidates listed to the left. Only one vote is allowed for each office.";

(h) the columns containing the lists of candidates, including the party name and device, are separated by heavy parallel lines;

(i) the offices to be filled are plainly printed immediately above the names of the candidates for those offices;

(j) the names of candidates are printed in capital letters, not less than one-eighth nor more than one-fourth of an inch high in heavy-faced type not smaller than 10 point, between lines or rules three-eighths of an inch apart;

(k) a square with sides measuring not less than one-fourth of an inch in length is printed

immediately adjacent to the name of each candidate;

(l) for the offices of president and vice president and governor and lieutenant governor, one square with sides measuring not less than one-fourth of an inch in length is printed on the same side as but opposite a double bracket enclosing the names of the two candidates;

(m) in an election in which a voter is authorized to cast a write-in vote and where a write-in candidate is qualified under Section 20A-9-601, immediately adjacent to the unaffiliated ticket on the ballot, the ballot contains a write-in column long enough to contain as many written names of candidates as there are persons to be elected with:

(i) for each office on the ballot, the office to be filled plainly printed immediately above:

(A) a blank, horizontal line to enable the entry of a valid write-in candidate and a square with sides measuring not less than one-fourth of an inch in length printed immediately adjacent to the blank horizontal line; or

(B) for the offices of president and vice president and governor and lieutenant governor, two blank horizontal lines, one placed above the other, to enable the entry of two valid write-in candidates, and one square with sides measuring not less than one-fourth of an inch in length printed on the same side as but opposite a double bracket enclosing the two blank horizontal lines; and

(ii) the words "Write-In Voting Column" printed at the head of the column without a one-half inch circle;

(n) when required, the ballot includes a nonpartisan ticket placed immediately adjacent to the write-in ticket, or, if there is no write-in ticket, immediately adjacent to the unaffiliated ticket, with the word "NONPARTISAN" in reverse type in an 18 point solid rule running vertically the full length of the nonpartisan ballot copy; and

(o) constitutional amendments or other questions submitted to the vote of the people, are printed on the ballot after the list of candidates.

(2) Each election officer shall ensure that:

(a) each person nominated by any political party or group of petitioners is placed on the ballot:

(i) under the party name and emblem, if any; or

(ii) under the title of the party or group as designated by them in their certificates of nomination or petition, or, if none is designated, then under some suitable title;

(b) the names of all unaffiliated candidates that qualify as required in Title 20A, Chapter 9, Part 5, Candidates not Affiliated with a Party, are placed on the ballot;

(c) the names of the candidates for president and vice president are used on the ballot instead of the names of the presidential electors; and

(d) the ballots contain no other names.

(3) When the ballot contains a nonpartisan section, the election officer shall ensure that:

(a) the designation of the office to be filled in the election and the number of candidates to be elected are printed in type not smaller than eight point;

(b) the words designating the office are printed flush with the left-hand margin;

(c) the words, "Vote for one" or "Vote for up to ____ (the number of candidates for which the voter may vote)" extend to the extreme right of the column;

(d) the nonpartisan candidates are grouped according to the office for which they are candidates;

(e) the names in each group are placed in the order specified under Section 20A-6-305 with the surnames last; and

(f) each group is preceded by the designation of the office for which the candidates seek election, and the words, "Vote for one" or "Vote for up to ____ (the number of candidates for which the voter may vote)," according to the number to be elected.

(4) Each election officer shall ensure that:

(a) proposed amendments to the Utah Constitution are listed on the ballot in accordance with Section 20A-6-107;

(b) ballot propositions submitted to the voters are listed on the ballot in accordance with Section 20A-6-107; and

(c) bond propositions that have qualified for the ballot are listed on the ballot under the title assigned to each bond proposition under Section 11-14-206.

Section 4. Section 20A-6-402 is amended to read:

20A-6-402. Ballots for municipal general elections.

(1) When using a paper ballot at municipal general elections, each election officer shall ensure that:

(a) the names of the two candidates who received the highest number of votes for mayor in the municipal primary are placed upon the ballot;

(b) if no municipal primary election was held, the names of the candidates who filed declarations of candidacy for municipal offices are placed upon the ballot;

(c) for other offices:

(i) twice the number of candidates as there are positions to be filled are certified as eligible for election in the municipal general election from those candidates who received the greater number of votes in the primary election; and

(ii) the names of those candidates are placed upon the municipal general election ballot;

(d) the names of the candidates are placed on the ballot in the order specified under Section 20A-6-305;

(e) in an election in which a voter is authorized to cast a write-in vote and where a write-in candidate is qualified under Section 20A-9-601, a write-in area is placed upon the ballot that contains, for each office in which there is a qualified write-in candidate:

(i) a blank, horizontal line to enable ~~the entry of~~ a voter to submit a valid write-in candidate; and

(ii) a square or other conforming area that is adjacent to or opposite the blank horizontal line to enable the voter to indicate the voter's vote;

(f) ballot propositions that have qualified for the ballot, including propositions submitted to the voters by the municipality, municipal initiatives, and municipal referenda, are listed on the ballot in accordance with Section 20A-6-107; and

(g) bond propositions that have qualified for the ballot are listed on the ballot under the title assigned to each bond proposition under Section 11-14-206.

(2) When using a punch card ballot at municipal general elections, each election officer shall ensure that:

(a) (i) the ballot contains a perforated ballot stub at least one inch wide, placed across the top of the ballot;

(ii) the ballot number and the words "Poll Worker's Initial ____" are printed on the stub; and

(iii) ballot stubs are numbered consecutively;

(b) immediately below the perforated ballot stub, the following endorsements are printed in 18 point bold type:

(i) "Official Ballot for ____ (City or Town), Utah";

(ii) the date of the election; and

(iii) a facsimile of the signature of the election officer and the election officer's title in eight-point type;

(c) immediately below the election officer's title, two one-point parallel horizontal rules separate endorsements from the rest of the ballot;

(d) immediately below the horizontal rules, an "Instructions to Voters" section is printed in 10-point bold type that states: "To vote for a candidate, place a cross (X) in the square following the name(s) of the person(s) you favor as the candidate(s) for each respective office." followed by two one-point parallel rules;

(e) after the rules, the designation of the office for which the candidates seek election is printed flush with the left-hand margin and the words, "Vote for one" or "Vote for up to ____ (the number of candidates for which the voter may vote)" are printed to extend to the extreme right of the column in 10-point bold type, followed by a hair-line rule;

(f) after the hair-line rule, the names of the candidates are printed in heavy face type between

lines or rules three-eighths inch apart, in the order specified under Section 20A-6-305 with surnames last and grouped according to the office that they seek;

(g) a square with sides not less than one-fourth inch long is printed immediately adjacent to the names of the candidates;

(h) following the name of the last candidate for each office in which a write-in candidate is qualified under Section 20A-9-601, the ballot contains:

(i) a write-in space for each elective office in which a write-in candidate is qualified where the voter may enter the name of a valid write-in candidate; and

(ii) a square printed immediately adjacent to the write-in space or line where the voter may vote for [the] a valid write-in candidate; and

(i) the candidate groups are separated from each other by one light and one heavy line or rule.

(3) When using a ballot sheet other than a punch card ballot at municipal general elections, each election officer shall ensure that:

(a) (i) the ballot contains a perforated ballot stub placed across the top of the ballot;

(ii) the ballot number and the words "Poll Worker's Initial ____" are printed on the stub; and

(iii) ballot stubs are numbered consecutively;

(b) immediately below the perforated ballot stub, the following endorsements are printed:

(i) "Official Ballot for ____ (City or Town), Utah";

(ii) the date of the election; and

(iii) a facsimile of the signature of the election officer and the election officer's title;

(c) immediately below the election officer's title, a distinct border or line separates endorsements from the rest of the ballot;

(d) immediately below the border or line, an "Instructions to Voters" section is printed that states: "To vote for a candidate, select the name(s) of the person(s) you favor as the candidate(s) for each respective office." followed by another border or line;

(e) after the border or line, the designation of the office for which the candidates seek election is printed and the words, "Vote for one" or "Vote for up to ____ (the number of candidates for which the voter may vote)" are printed, followed by a line or border;

(f) after the line or border, the names of the candidates are printed in the order specified under Section 20A-6-305 with surnames last and grouped according to the office that they seek;

(g) an oval is printed adjacent to the names of the candidates;

(h) following the name of the last candidate for each office in which a write-in candidate is qualified under Section 20A-9-601, the ballot contains:

(i) a write-in space or blank line for each elective office in which a write-in candidate is qualified where the voter may enter the name of a valid write-in candidate; and

(ii) an oval [is] printed adjacent to the write-in space or line where the voter may vote for [the] a valid write-in candidate; and

(i) the candidate groups are separated from each other by a line or border.

(4) When using an electronic ballot at municipal general elections, each election officer shall ensure that:

(a) the following endorsements are displayed on the first screen of the ballot:

(i) "Official Ballot for ____ (City or Town), Utah";

(ii) the date of the election; and

(iii) a facsimile of the signature of the election officer and the election officer's title;

(b) immediately below the election officer's title, a distinct border or line separates the endorsements from the rest of the ballot;

(c) immediately below the border or line, an "Instructions to Voters" section is displayed that states: "To vote for a candidate, select the name(s) of the person(s) you favor as the candidate(s) for each respective office." followed by another border or line;

(d) after the border or line, the designation of the office for which the candidates seek election is displayed, and the words, "Vote for one" or "Vote for up to ____ (the number of candidates for which the voter may vote)" are displayed, followed by a line or border;

(e) after the line or border, the names of the candidates are displayed in the order specified under Section 20A-6-305 with surnames last and grouped according to the office that they seek;

(f) a voting square or position is located adjacent to the name of each candidate;

(g) following the name of the last candidate for each office in which a write-in candidate is qualified under Section 20A-9-601, the ballot contains a write-in space where the voter may enter the name of and vote for a valid write-in candidate for the office; and

(h) the candidate groups are separated from each other by a line or border.

(5) When a municipality has chosen to nominate candidates by convention or committee, the election officer shall ensure that the party name is included with the candidate's name on the ballot.

Section 5. Section 20A-9-601 is amended to read:

20A-9-601. Qualifying as a write-in candidate.

(1) (a) Each person wishing to become a valid write-in candidate shall file a declaration of candidacy in person, or through a designated agent for a candidate for president or vice president of the United States, with the appropriate filing officer not later than [30] 60 days before the regular general election or [~~60 days before~~] a municipal general election in which the person intends to be a write-in candidate.

(b) (i) The form of the declaration of candidacy for all offices, except president of the United States, is substantially as follows:

“State of Utah, County of _____

I, _____, declare my intention of becoming a candidate for the office of _____ for the _____ district (if applicable). I do solemnly swear that: I will meet the qualifications to hold the office, both legally and constitutionally, if selected; I reside at _____ in the City or Town of _____, Utah, Zip Code _____, Phone No. _____; I will not knowingly violate any law governing campaigns and elections; I will file all campaign financial disclosure reports as required by law; and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. The mailing address that I designate for receiving official election notices is _____.

Subscribed and sworn before me this _____(month\day\year).

Notary Public (or other officer qualified to administer oath.)”

(ii) The form of the declaration of candidacy for president of the United States is substantially as follows:

“State of Utah, County of _____

I, _____, declare my intention of becoming a candidate for the office of the president of the United States. I do solemnly swear that: I will meet the qualifications to hold the office, both legally and constitutionally, if selected; I reside at _____ in the City or Town of _____, State _____, Zip Code _____, Phone No. _____; I will not knowingly violate any law governing campaigns and elections. The mailing address that I designate for receiving official election notices is _____.

I designate _____ as my vice presidential candidate.

Subscribed and sworn before me this _____(month\day\year).

Notary Public (or other officer qualified to administer oath.)”

(iii) An agent designated to file a declaration of candidacy under Subsection (2) may not sign the form described in Subsection (1)(b)(i) or (ii).

(c) (i) The filing officer shall:

(A) read to the candidate the constitutional and statutory requirements for the office; and

(B) ask the candidate whether or not the candidate meets the requirements.

(ii) If the candidate cannot meet the requirements of office, the filing officer may not accept the write-in candidate’s declaration of candidacy.

(2) Notwithstanding the requirement in Subsection (1) to file a declaration of candidacy in person, a person may designate an agent to file the declaration of candidacy in person with the filing officer if:

(a) the person is located outside the state during the filing period because:

(i) of employment with the state or the United States; or

(ii) the person is a member of:

(A) the active or reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States who is on active duty;

(B) the Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States; or

(C) the National Guard on activated status; and

(b) the person communicates with the filing officer using an electronic device that allows the person and filing officer to see and hear each other.

(3) By November 1 of each regular general election year, the lieutenant governor shall certify to each county clerk the names of all write-in candidates who filed their declaration of candidacy with the lieutenant governor.

CHAPTER 170**H. B. 411**

Passed March 13, 2014
 Approved March 29, 2014
 Effective May 13, 2014

VICTIM RESTITUTION AMENDMENTS

Chief Sponsor: Brad R. Wilson
 Senate Sponsor: Lyle W. Hillyard

LONG TITLE**General Description:**

This bill amends provisions related to the payment of restitution by a defendant.

Highlighted Provisions:

This bill:

- ▶ requires the court to maintain jurisdiction of a case and continue probation for a defendant who has unpaid accounts receivable related to fines, fees, or restitution;
- ▶ requires the Office of State Debt Collection to notify the court clerk when a civil judgment ordered for the payment of accounts receivable has been satisfied; and
- ▶ provides that, before refunding bail that is posted in cash, by credit card, or by debit card, the court shall, after applying the amount posted toward any fine ordered by the court, apply the remaining amount toward restitution.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 77-18-1, as last amended by Laws of Utah 2011, Chapter 366
 77-18-6, as last amended by Laws of Utah 2008, Chapter 3
 77-20-4, as last amended by Laws of Utah 2013, Chapter 74

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

Section 1. Section 77-18-1 is amended to read:

77-18-1. Suspension of sentence -- Pleas held in abeyance -- Probation -- Supervision -- Presentence investigation -- Standards -- Confidentiality -- Terms and conditions -- Termination, revocation, modification, or extension -- Hearings -- Electronic monitoring.

(1) On a plea of guilty or no contest entered by a defendant in conjunction with a plea in abeyance agreement, the court may hold the plea in abeyance as provided in Title 77, Chapter 2a, Pleas in Abeyance, and under the terms of the plea in abeyance agreement.

(2) (a) On a plea of guilty, guilty with a mental illness, no contest, or conviction of any crime or offense, the court may, after imposing sentence, suspend the execution of the sentence and place the

defendant on probation. The court may place the defendant:

(i) on probation under the supervision of the Department of Corrections except in cases of class C misdemeanors or infractions;

(ii) on probation with an agency of local government or with a private organization; or

(iii) on bench probation under the jurisdiction of the sentencing court.

(b) (i) The legal custody of all probationers under the supervision of the department is with the department.

(ii) The legal custody of all probationers under the jurisdiction of the sentencing court is vested as ordered by the court.

(iii) The court has continuing jurisdiction over all probationers.

(3) (a) The department shall establish supervision and presentence investigation standards for all individuals referred to the department. These standards shall be based on:

(i) the type of offense;

(ii) the demand for services;

(iii) the availability of agency resources;

(iv) the public safety; and

(v) other criteria established by the department to determine what level of services shall be provided.

(b) Proposed supervision and investigation standards shall be submitted to the Judicial Council and the Board of Pardons and Parole on an annual basis for review and comment prior to adoption by the department.

(c) The Judicial Council and the department shall establish procedures to implement the supervision and investigation standards.

(d) The Judicial Council and the department shall annually consider modifications to the standards based upon criteria in Subsection (3)(a) and other criteria as they consider appropriate.

(e) The Judicial Council and the department shall annually prepare an impact report and submit it to the appropriate legislative appropriations subcommittee.

(4) Notwithstanding other provisions of law, the department is not required to supervise the probation of persons convicted of class B or C misdemeanors or infractions or to conduct presentence investigation reports on class C misdemeanors or infractions. However, the department may supervise the probation of class B misdemeanants in accordance with department standards.

(5) (a) Before the imposition of any sentence, the court may, with the concurrence of the defendant, continue the date for the imposition of sentence for a reasonable period of time for the purpose of

obtaining a presentence investigation report from the department or information from other sources about the defendant.

(b) The presentence investigation report shall include a victim impact statement according to guidelines set in Section 77-38a-203 describing the effect of the crime on the victim and the victim's family.

(c) The presentence investigation report shall include a specific statement of pecuniary damages, accompanied by a recommendation from the department regarding the payment of restitution with interest by the defendant in accordance with Title 77, Chapter 38a, Crime Victims Restitution Act.

(d) The presentence investigation report shall include:

(i) findings from any screening and any assessment of the offender conducted under Section 77-18-1.1; and

(ii) recommendations for treatment of the offender.

(e) The contents of the presentence investigation report are protected and are not available except by court order for purposes of sentencing as provided by rule of the Judicial Council or for use by the department.

(6) (a) The department shall provide the presentence investigation report to the defendant's attorney, or the defendant if not represented by counsel, the prosecutor, and the court for review, three working days prior to sentencing. Any alleged inaccuracies in the presentence investigation report, which have not been resolved by the parties and the department prior to sentencing, shall be brought to the attention of the sentencing judge, and the judge may grant an additional 10 working days to resolve the alleged inaccuracies of the report with the department. If after 10 working days the inaccuracies cannot be resolved, the court shall make a determination of relevance and accuracy on the record.

(b) If a party fails to challenge the accuracy of the presentence investigation report at the time of sentencing, that matter shall be considered to be waived.

(7) At the time of sentence, the court shall receive any testimony, evidence, or information the defendant or the prosecuting attorney desires to present concerning the appropriate sentence. This testimony, evidence, or information shall be presented in open court on record and in the presence of the defendant.

(8) While on probation, and as a condition of probation, the court may require that the defendant:

(a) perform any or all of the following:

(i) pay, in one or several sums, any fine imposed at the time of being placed on probation;

(ii) pay amounts required under Title 77, Chapter 32a, Defense Costs;

(iii) provide for the support of others for whose support the defendant is legally liable;

(iv) participate in available treatment programs, including any treatment program in which the defendant is currently participating, if the program is acceptable to the court;

(v) serve a period of time, not to exceed one year, in a county jail designated by the department, after considering any recommendation by the court as to which jail the court finds most appropriate;

(vi) serve a term of home confinement, which may include the use of electronic monitoring;

(vii) participate in compensatory service restitution programs, including the compensatory service program provided in Section 76-6-107.1;

(viii) pay for the costs of investigation, probation, and treatment services;

(ix) make restitution or reparation to the victim or victims with interest in accordance with Title 77, Chapter 38a, Crime Victims Restitution Act; and

(x) comply with other terms and conditions the court considers appropriate; and

(b) if convicted on or after May 5, 1997:

(i) complete high school classwork and obtain a high school graduation diploma, a GED certificate, or a vocational certificate at the defendant's own expense if the defendant has not received the diploma, GED certificate, or vocational certificate prior to being placed on probation; or

(ii) provide documentation of the inability to obtain one of the items listed in Subsection (8)(b)(i) because of:

(A) a diagnosed learning disability; or

(B) other justified cause.

(9) The department shall collect and disburse the account receivable as defined by Section 76-3-201.1, with interest and any other costs assessed under Section 64-13-21 during:

(a) the parole period and any extension of that period in accordance with Subsection 77-27-6(4); and

(b) the probation period in cases for which the court orders supervised probation and any extension of that period by the department in accordance with Subsection (10).

(10) (a) (i) Probation may be terminated at any time at the discretion of the court or upon completion without violation of 36 months probation in felony or class A misdemeanor cases, or 12 months in cases of class B or C misdemeanors or infractions.

(ii) (A) If, upon expiration or termination of the probation period under Subsection (10)(a)(i), there remains an unpaid balance upon the account receivable as defined in Section 76-3-201.1, the

court may retain jurisdiction of the case and continue the defendant on bench probation for the limited purpose of enforcing the payment of the account receivable. If the court retains jurisdiction for this limited purpose, the court may order the defendant to pay to the court the costs associated with continued probation under this Subsection (10).

(B) In accordance with Section 77-18-6, the court shall record in the registry of civil judgments any unpaid balance not already recorded and immediately transfer responsibility to collect the account to the Office of State Debt Collection.

(iii) Upon motion of the Office of State Debt Collection, prosecutor, victim, or upon its own motion, the court may require the defendant to show cause why the defendant's failure to pay should not be treated as contempt of court.

(b) (i) The department shall notify the sentencing court, the Office of State Debt Collection, and the prosecuting attorney in writing in advance in all cases when termination of supervised probation will occur by law.

(ii) The notification shall include a probation progress report and complete report of details on outstanding accounts receivable.

(11) (a) (i) Any time served by a probationer outside of confinement after having been charged with a probation violation and prior to a hearing to revoke probation does not constitute service of time toward the total probation term unless the probationer is exonerated at a hearing to revoke the probation.

(ii) Any time served in confinement awaiting a hearing or decision concerning revocation of probation does not constitute service of time toward the total probation term unless the probationer is exonerated at the hearing.

(b) The running of the probation period is tolled upon the filing of a violation report with the court alleging a violation of the terms and conditions of probation or upon the issuance of an order to show cause or warrant by the court.

(12) (a) (i) Probation may not be modified or extended except upon waiver of a hearing by the probationer or upon a hearing and a finding in court that the probationer has violated the conditions of probation.

(ii) Probation may not be revoked except upon a hearing in court and a finding that the conditions of probation have been violated.

(b) (i) Upon the filing of an affidavit alleging with particularity facts asserted to constitute violation of the conditions of probation, the court that authorized probation shall determine if the affidavit establishes probable cause to believe that revocation, modification, or extension of probation is justified.

(ii) If the court determines there is probable cause, it shall cause to be served on the defendant a warrant for the defendant's arrest or a copy of the

affidavit and an order to show cause why the defendant's probation should not be revoked, modified, or extended.

(c) (i) The order to show cause shall specify a time and place for the hearing and shall be served upon the defendant at least five days prior to the hearing.

(ii) The defendant shall show good cause for a continuance.

(iii) The order to show cause shall inform the defendant of a right to be represented by counsel at the hearing and to have counsel appointed if the defendant is indigent.

(iv) The order shall also inform the defendant of a right to present evidence.

(d) (i) At the hearing, the defendant shall admit or deny the allegations of the affidavit.

(ii) If the defendant denies the allegations of the affidavit, the prosecuting attorney shall present evidence on the allegations.

(iii) The persons who have given adverse information on which the allegations are based shall be presented as witnesses subject to questioning by the defendant unless the court for good cause otherwise orders.

(iv) The defendant may call witnesses, appear and speak in the defendant's own behalf, and present evidence.

(e) (i) After the hearing the court shall make findings of fact.

(ii) Upon a finding that the defendant violated the conditions of probation, the court may order the probation revoked, modified, continued, or that the entire probation term commence anew.

(iii) If probation is revoked, the defendant shall be sentenced or the sentence previously imposed shall be executed.

(13) The court may order the defendant to commit himself or herself to the custody of the Division of Substance Abuse and Mental Health for treatment at the Utah State Hospital as a condition of probation or stay of sentence, only after the superintendent of the Utah State Hospital or the superintendent's designee has certified to the court that:

(a) the defendant is appropriate for and can benefit from treatment at the state hospital;

(b) treatment space at the hospital is available for the defendant; and

(c) persons described in Subsection 62A-15-610(2)(g) are receiving priority for treatment over the defendants described in this Subsection (13).

(14) Presentence investigation reports are classified protected in accordance with Title 63G, Chapter 2, Government Records Access and Management Act. Notwithstanding Sections 63G-2-403 and 63G-2-404, the State Records Committee may not order the disclosure of a presentence investigation report. Except for

disclosure at the time of sentencing pursuant to this section, the department may disclose the presentence investigation only when:

(a) ordered by the court pursuant to Subsection 63G-2-202(7);

(b) requested by a law enforcement agency or other agency approved by the department for purposes of supervision, confinement, and treatment of the offender;

(c) requested by the Board of Pardons and Parole;

(d) requested by the subject of the presentence investigation report or the subject's authorized representative; or

(e) requested by the victim of the crime discussed in the presentence investigation report or the victim's authorized representative, provided that the disclosure to the victim shall include only information relating to statements or materials provided by the victim, to the circumstances of the crime including statements by the defendant, or to the impact of the crime on the victim or the victim's household.

(15) (a) The court shall consider home confinement as a condition of probation under the supervision of the department, except as provided in Sections 76-3-406 and 76-5-406.5.

(b) The department shall establish procedures and standards for home confinement, including electronic monitoring, for all individuals referred to the department in accordance with Subsection (16).

(16) (a) If the court places the defendant on probation under this section, it may order the defendant to participate in home confinement through the use of electronic monitoring as described in this section until further order of the court.

(b) The electronic monitoring shall alert the department and the appropriate law enforcement unit of the defendant's whereabouts.

(c) The electronic monitoring device shall be used under conditions which require:

(i) the defendant to wear an electronic monitoring device at all times; and

(ii) that a device be placed in the home of the defendant, so that the defendant's compliance with the court's order may be monitored.

(d) If a court orders a defendant to participate in home confinement through electronic monitoring as a condition of probation under this section, it shall:

(i) place the defendant on probation under the supervision of the Department of Corrections;

(ii) order the department to place an electronic monitoring device on the defendant and install electronic monitoring equipment in the residence of the defendant; and

(iii) order the defendant to pay the costs associated with home confinement to the department or the program provider.

(e) The department shall pay the costs of home confinement through electronic monitoring only for those persons who have been determined to be indigent by the court.

(f) The department may provide the electronic monitoring described in this section either directly or by contract with a private provider.

Section 2. Section 77-18-6 is amended to read:

77-18-6. Judgment to pay fine or restitution constitutes a lien.

(1) (a) In cases not supervised by the Department of Corrections, the clerk of the district court shall:

(i) transfer the responsibility to collect past due accounts receivable to the Office of State Debt Collection when the accounts receivable are 90 days or more past due; ~~and~~

(ii) before transferring the responsibility to collect the past due account receivable to the Office of State Debt Collection, record each judgment of conviction of a crime that orders the payment of a fine, forfeiture, surcharge, cost permitted by statute, or fee in the registry of civil judgments, listing the Office of State Debt Collection as the judgment creditor[-]; and

(iii) receive notification from the Office of State Debt Collection when a civil judgment ordered for payment of accounts receivable, as defined in Section 76-3-201.1, has been satisfied.

(b) (i) The clerk of court shall record each judgment of conviction that orders the payment of restitution to a victim in the registry of civil judgments, listing the victim, or the estate of the victim, as the judgment creditor.

(ii) The Department of Corrections shall collect the judgment on behalf of the victim as provided in Subsection 77-18-1(9).

(iii) The court shall collect the judgment on behalf of the victim as provided in Subsection 78A-2-214(2).

(iv) The victim may collect the judgment.

(v) The victim is responsible for timely renewal of the judgment under Section 78B-5-202.

(2) When a fine, forfeiture, surcharge, cost, fee, or restitution is recorded in the registry of civil judgments, the judgment:

(a) constitutes a lien;

(b) has the same effect and is subject to the same rules as a judgment for money in a civil action; and

(c) may be collected by any means authorized by law for the collection of a civil judgment.

Section 3. Section 77-20-4 is amended to read:

77-20-4. Bail to be posted in cash, by credit or debit card, or written undertaking.

-
- (1) Bail may be posted:
- (a) in cash;
 - (b) by written undertaking with or without sureties at the discretion of the magistrate; or
 - (c) by credit or debit card, at the discretion of the judge or bail commissioner.
- (2) Bail may not be accepted without receiving in writing at the time the bail is posted the current mailing address and telephone number of the surety.
- (3) Bail posted by debit or credit card, less the fee charged by the financial institution, shall be tendered to the courts.
- (4) Bail refunded by the court may be refunded by credit to the debit or credit card, or cash. The amount refunded shall be the full amount received by the court under Subsection (3), which may be less than the full amount of the bail set by the court.
- (5) Before refunding bail that is posted by the defendant in cash, by credit card, or by debit card, the court may apply the amount posted toward accounts receivable, as defined in Section 76-3-201.1, that are owed by the defendant in the priority set forth in Section 77-38a-404.
-

CHAPTER 171**H. B. 427**

Passed March 13, 2014

Approved March 29, 2014

Effective March 29, 2014

ASSET FORFEITURE REVISIONS

Chief Sponsor: Eric K. Hutchings

Senate Sponsor: Lyle W. Hillyard

LONG TITLE**General Description:**

This bill modifies the purposes of the State Asset Forfeiture Grant Program to include victim reparations.

Highlighted Provisions:

This bill:

- ▶ modifies the Forfeiture and Disposition of Property Act to provide that the funds in the State Asset Forfeiture Grant Program may be used for crime victim reparations.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.

Utah Code Sections Affected:**AMENDS:**

24-4-117, as enacted by Laws of Utah 2013, Chapter 394

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

Section 1. Section 24-4-117 is amended to read:**24-4-117. State Asset Forfeiture Grant Program.**

(1) There is created the State Asset Forfeiture Grant Program.

(2) The program shall fund crime prevention, crime victim reparations, and law enforcement activities that have the purpose of:

(a) deterring crime by depriving criminals of the profits and proceeds of their illegal activities;

(b) weakening criminal enterprises by removing the instrumentalities of crime;

(c) reducing crimes involving substance abuse by supporting the creation, administration, or operation of drug court programs throughout the state;

(d) encouraging cooperation between local, state, and multijurisdictional law enforcement agencies;

(e) allowing the costs and expenses of law enforcement to be defrayed by the forfeited proceeds of crime; ~~and~~

(f) increasing the equitability and accountability of the use of forfeited property used to assist law enforcement in reducing and preventing crime[-]; and

(g) providing aid to victims of criminally injurious conduct, as defined in Section 63M-7-502, who may be eligible for assistance under Title 63M, Chapter 7, Part 5, Utah Office for Victims of Crime.

(3) (a) When property is forfeited under this chapter and transferred to the account, upon appropriation the commission shall allocate and administer grants to state agencies, local law enforcement agencies, ~~or~~ multijurisdictional law enforcement agencies, or political subdivisions of the state in compliance with this section and to further the program purposes under Subsection (2).

(b) The commission may retain up to 3% of the annual appropriation from the account to pay for administrative costs incurred by the commission, including salary and benefits, equipment, supplies, or travel costs that are directly related to the administration of the program.

(4) Agencies or political subdivisions shall apply for an award from the program by completing and submitting forms specified by the commission.

(5) In granting the awards, the commission shall ensure that the amount of each award takes into consideration the:

(a) demonstrated needs of the agency;

(b) demonstrated ability of the agency to appropriately use the award;

(c) degree to which the agency's need is offset through the agency's participation in federal equitable sharing or through other federal and state grant programs; and

(d) agency's cooperation with other state and local agencies and task forces.

(6) Applying agencies or political subdivisions shall demonstrate compliance with all reporting and policy requirements applicable under this chapter and under Title 63M, Chapter 7, Criminal Justice and Substance Abuse, in order to qualify as a potential award recipient.

(7) (a) Recipient law enforcement agencies may only use award money after approval by the agency's legislative body.

(b) The award money is nonlapsing.

(8) A recipient state agency, local law enforcement agency, multijurisdictional law enforcement agency, or political subdivision shall use awards only for law enforcement purposes as described in this section or for victim reparations as described in Subsection (2)(g), and only as these purposes are specified by the agency or political subdivision in its application for the award.

(9) Permissible law enforcement purposes for which award money may be used include:

(a) controlled substance interdiction and enforcement activities;

(b) drug court programs;

(c) activities calculated to enhance future law enforcement investigations;

- (d) law enforcement training that includes:
- (i) implementation of the Fourth Amendment to the United States Constitution and Utah Constitution, Article I, Section 7, and that addresses the protection of the individual's right of due process;
 - (ii) protection of the rights of innocent property holders; and
 - (iii) the Tenth Amendment to the United States Constitution regarding states' sovereignty and the states' reserved rights;
- (e) law enforcement or detention facilities;
 - (f) law enforcement operations or equipment that are not routine costs or operational expenses;
 - (g) drug, gang, or crime prevention education programs that are sponsored in whole or in part by the law enforcement agency or its legislative body;
 - (h) matching funds for other state or federal law enforcement grants; and
 - (i) the payment of legal costs, attorney fees, and postjudgment interest in forfeiture actions.
- (10) Law enforcement purposes for which award money may not be granted or used include:
- (a) payment of salaries, retirement benefits, or bonuses to any person;
 - (b) payment of expenses not related to law enforcement;
 - (c) uses not specified in the agency's award application;
 - (d) uses not approved by the agency's legislative body;
 - (e) payments, transfers, or pass-through funding to entities other than law enforcement agencies; or
 - (f) uses, payments, or expenses that are not within the scope of the agency's functions.
- (11) (a) For each fiscal year, any state, local, or multijurisdictional agency or political subdivision that received an award shall prepare, and file with the commission, a report in a form specified by the commission.
- (b) The report shall include the following regarding each award:
- (i) the agency's name;
 - (ii) the amount of the award;
 - (iii) the date of the award;
 - (iv) how the award has been used; and
 - (v) a statement signed by both the agency's or political subdivision's executive officer or designee and by the agency's legal counsel, that:
- (A) the agency or political subdivision has complied with all inventory, policy, and reporting requirements of this chapter; and
 - (B) all awards were used for crime reduction, crime victim reparations, or law enforcement

purposes as specified in the application and only upon approval by the agency's or political subdivision's legislative body.

(12) (a) The commission shall report in writing to the legislative Law Enforcement and Criminal Justice Interim Committee annually regarding the forfeited property transferred to the account, awards made by the program, uses of program awards, and any equitable share of property forfeited by the federal government as reported by agencies pursuant to Subsection 24-4-114(4).

(b) The report shall be submitted annually on or before November 1.

Section 2. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 172**H. B. 437**

Passed March 13, 2014
 Approved March 29, 2014
 Effective March 29, 2014

**CAPITOL PRESERVATION
 BOARD DONATION AMENDMENTS**

Chief Sponsor: Eric K. Hutchings
 Senate Sponsor: Mark B. Madsen

LONG TITLE**General Description:**

This bill modifies provisions relating to Capitol Preservation Board donations and funds.

Highlighted Provisions:

This bill:

- ▶ provides that the Capitol Preservation Board may return funds or donations to the donor under certain circumstances;
- ▶ permits the Capitol Preservation Board to elect to transfer funds originally donated for an Olympic memorial on capitol hill to another entity, with certain restrictions; and
- ▶ repeals the provision relating to transfer of the Olympic memorial funds after one year.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.

Utah Code Sections Affected:**AMENDS:**

63C-9-501, as last amended by Laws of Utah 1999, Chapter 21
 63I-2-263, as last amended by Laws of Utah 2013, Second Special Session, Chapters 1 and 2

ENACTS:

63C-9-501.1, Utah Code Annotated 1953

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

Section 1. Section 63C-9-501 is amended to read:

63C-9-501. Soliciting donations.

(1) The executive director, under the direction of the board, shall:

(a) develop plans and programs to solicit gifts, money, and items of value from private persons, foundations, or organizations; and

(b) actively solicit donations from those persons and entities.

(2) (a) Property provided by those entities is the property of the state and is under the control of the board.

(b) Subsection (2)(a) does not apply to temporary exhibits or to the personal property of persons having an office in a building on capitol hill.

(3) The board [~~shall~~]:

(a) shall deposit money donated to the board into the State Capitol Fund established by this part; [~~and~~]

(b) shall use gifts of money made to the board for the purpose specified by the grantor, if any[.]; and

(c) may return to the donor any gift or money donated to the board if a majority of the board determines that use of the gift or money is unfeasible, or will otherwise not be placed or used on capitol hill.

Section 2. Section 63C-9-501.1 is enacted to read:

63C-9-501.1. Donations from 2002 Olympic Funds.

Upon a majority vote of the board, the funds donated to the board from the 2002 Salt Lake Olympics Organizing Committee for the purpose of constructing an Olympic monument on capitol hill may be transferred to the Utah Olympic Legacy Foundation, provided that the funds are to be used for the purpose of supporting the 2002 Salt Lake Olympics legacy projects at a location within the state.

Section 3. Section 63I-2-263 is amended to read:

63I-2-263. Repeal dates, Title 63A to Title 63M.

(1) Section 63A-1-115 is repealed on July 1, 2014.

(2) Section 63C-9-501.1 is repealed on July 1, 2015.

[~~(2)~~] (3) Subsection 63J-1-218(3) is repealed on December 1, 2013.

[~~(3)~~] (4) Subsection 63J-1-218(4) is repealed on December 1, 2013.

[~~(4)~~] (5) Subsection 63M-1-903(1)(d) is repealed on July 1, 2015.

Section 4. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 173**S. B. 9**

Passed March 13, 2014
 Approved March 29, 2014
 Effective May 13, 2014

**STATE LAND ACQUISITION AND
 GENERAL OBLIGATION BOND
 AUTHORIZATION AMENDMENTS**

Chief Sponsor: Wayne A. Harper
 House Sponsor: Gage Froerer

LONG TITLE**General Description:**

This bill repeals the authorization for the Board of Business and Economic Development and the state treasurer to purchase contracts for the sale of land and repeals a general obligation bond authorization to fund certain contract purchases.

Highlighted Provisions:

This bill:

- ▶ repeals provisions authorizing the Board of Business and Economic Development and the state treasurer to purchase contracts for the sale of land;
- ▶ repeals provisions governing requirements for the purchase of contracts for the sales of land;
- ▶ repeals a \$42,500,000 general obligation bond authorization that:
 - was to be used by the Governor's Office of Economic Development to provide funds to pay all or part of the cost of purchasing contracts for the sale of land if the purchase promotes a statewide public purpose such as promoting ease of interstate or intrastate travel or advancing economic development; and
 - has not been issued;
- ▶ repeals a Master Bond Act provision allowing issuance of general obligation bonds for the purchase of land sale contracts or interests in land sale contracts; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63B-1a-101, as last amended by Laws of Utah 2008, Chapter 378
 63M-1-303, as last amended by Laws of Utah 2013, Chapter 392

REPEALS:

63B-17-102, as enacted by Laws of Utah 2008, Chapter 378

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

Section 1. Section 63B-1a-101 is amended to read:

63B-1a-101. Definitions -- Bonds authorized -- Prohibitions -- Purposes -- Maturity -- Use of bonds proceeds.

(1) As used in this section:

(a) "Cost" includes:

(i) all costs related to the authorized capital project, including the cost of equipment and furnishings for, interests in, or improvements necessary, incidental, or convenient to, those capital projects;

(ii) all costs incident to the authorization and issuance of bonds;

(iii) interest estimated to accrue on bonds during the period to be covered by the acquisition and construction of the capital project and for up to 12 months after that period; and

(iv) other amounts that the commission finds necessary to establish reserve funds and to provide working capital related to the capital project.

(b) "Taxable property of the state" includes all real and personal property subject to ad valorem taxation within the state, including all property subject to a fee-in lieu of tax.

(2) When authorized by the Legislature, the commission may, in the manner specified in this chapter, issue bonds to provide funds to the state for the purpose of paying all or part of the cost of ~~of~~ ~~(a)~~ designing, acquiring, constructing, improving, or extending:

~~(4)~~ (a) any one or more capital projects; or

~~(4)~~ (b) any interest in one or more or any combination of capital projects ~~or~~.

~~(b) purchasing a land sale contract, or an interest in a land sale contract, under Section 63M-1-303.~~

(3) Before issuing any bonds, the commission shall determine that the Legislature has:

(a) affirmatively authorized the issuance of the bonds; and

(b) has specified:

(i) for capital projects, the capital projects to be funded; and

(ii) the maximum amount of the bonds.

(4) The commission shall either:

(a) comply with any maturity requirements established by the Legislature; or

(b) in the absence of any maturity requirements, establish, by resolution, a bond maturity date or dates that are not later than 15 years after the date of delivery of the bonds.

(5) (a) The commission may not issue bonds under this chapter in an amount that violates the limitation described in the Utah Constitution, Article XIV, Section 1 or payable beyond the period described in the Utah Constitution, Article XIII, Section 5(3).

(b) For purposes of applying the debt limitation contained in the Utah Constitution Article XIV, Section 1, the value of the taxable property in Utah is considered to be 100% of the fair market value of

the taxable property of the state as computed from the last assessment for state purposes made before the issuance of the bonds.

Section 2. Section 63M-1-303 is amended to read:

63M-1-303. Board duties and powers.

(1) The board shall:

(a) promote and encourage the economic, commercial, financial, industrial, agricultural, and civic welfare of the state;

(b) do all lawful acts for the development, attraction, and retention of businesses, industries, and commerce within the state;

(c) promote and encourage the expansion and retention of businesses, industries, and commerce located in the state;

(d) support the efforts of local government and regional nonprofit economic development organizations to encourage expansion or retention of businesses, industries, and commerce located in the state;

(e) do other acts not specifically enumerated in this chapter, if the acts are for the betterment of the economy of the state;

(f) work in conjunction with companies and individuals located or doing business within the state to secure favorable rates, fares, tolls, charges, and classification for transportation of persons or property by:

(i) railroad;

(ii) motor carrier; or

(iii) other common carriers;

(g) recommend policies, priorities, and objectives to the office regarding the assistance, retention, or recruitment of business, industries, and commerce in the state;

(h) recommend how any money or program administered by the office or its divisions for the assistance, retention, or recruitment of businesses, industries, and commerce in the state shall be administered, so that the money or program is equitably available to all areas of the state unless federal or state law requires or authorizes the geographic location of a recipient of the money or program to be considered in the distribution of the money or administration of the program; and

(i) maintain ethical and conflict of interest standards consistent with those imposed on a public officer under Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(2) The board may:

(a) in furtherance of the authority granted under Subsection (1)(f), appear as a party litigant on behalf of individuals or companies located or doing business within the state in proceedings before regulatory commissions of the state, other states, or

the federal government having jurisdiction over such matters; and

(b) make, amend, or repeal rules for the conduct of its business consistent with this part and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

~~[(3) (a) Subject to Subsection (3)(b), when money is appropriated or otherwise made available to the office by the Legislature for the purchase of a contract for the sale of land, the board, with the approval of the state treasurer, may purchase the contract if the board makes a finding that the purchase of the contract promotes a statewide public interest such as promoting ease of interstate or intrastate travel or advancing economic development.]~~

~~[(b) (i) As used in this Subsection (3)(b), "net projected debt service cost" means the money projected to be necessary to pay bond issuance costs for a general obligation bond and to make any interest payments for that general obligation bond less the projected investment earnings from the state's investment of that bond's proceeds, if any.]~~

~~[(ii) When some or all of the money made available by the Legislature to purchase a contract for the sale of land is provided from the proceeds from the issuance of one or more general obligation bonds, if the board and state treasurer decide to purchase the contract, the board and state treasurer shall purchase the contract at a price discounted by an amount equal to the total net projected debt service cost for those bonds.]~~

~~[(iii) The State Bonding Commission shall certify the total net projected debt service cost to the board and the state treasurer.]~~

~~[(iv) In purchasing a contract, the board and state treasurer may:]~~

~~[(A) purchase the contract with a single payment; or]~~

~~[(B) arrange to have the contract placed in escrow pending the final payment on the contract and make multiple payments on the contract according to a schedule that is negotiated with the holder of the contract and included as part of the contract.]~~

~~[(e) Before purchasing a contract, the board and the state treasurer shall:]~~

~~[(i) contract with a qualified person or entity to prepare a report evaluating the purchaser of the land;]~~

~~[(ii) ensure that the report evaluates:]~~

~~[(A) the purchaser's financial ability to pay the money to complete the purchase on the date that the final payment is due under the contract;]~~

~~[(B) whether or not the security underlying the contract is adequate to protect the state if the purchaser defaults;]~~

~~[(C) the purchaser's balance sheet and general credit-worthiness;]~~

~~[(D) environmental issues affecting the property under federal or state law; and]~~

~~[(E) any other items that will assist the board and the state treasurer in determining whether or not to purchase the contract;]~~

~~[(iii) ensure that the state has or will have a properly perfected security interest in, title to, or a deed in escrow for, the property that is the subject of the purchase; and]~~

~~[(iv) after reviewing the report, evaluating the state's security in case of a default on the contract, and considering the terms of the proposed contract, determine whether or not to purchase the contract.]~~

~~[(d) The board and the state treasurer may not purchase a contract under this Subsection (3) if the date of the last payment owed by the land purchaser under the contract is more than seven years from the date that the board purchases the contract.]~~

Section 3. Repealer.

This bill repeals:

Section 63B-17-102, Bonds to purchase land sale contract -- Maximum amount -- Purchases authorized.

CHAPTER 174**S. B. 14**

Passed February 26, 2014

Approved March 29, 2014

Effective May 13, 2014

LONG-TERM CARE PARTNERSHIP

Chief Sponsor: Todd Weiler

House Sponsor: Paul Ray

LONG TITLE**General Description:**

This bill requires the Utah Department of Health to amend the state Medicaid plan to create a qualified long-term care insurance partnership.

Highlighted Provisions:

This bill:

- ▶ requires the Utah Department of Health to amend the state Medicaid plan to create a qualified long-term care insurance partnership as defined in federal law; and
- ▶ gives the Utah Department of Health authority to make rules in order to comply with federal laws and regulations relating to qualified long-term care insurance partnerships and qualified long-term care insurance contracts.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

26-18-409, Utah Code Annotated 1953

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

Section 1. Section 26-18-409 is enacted to read:**26-18-409. Long-term care insurance partnership.**

(1) As used in this section:

(a) “Qualified long-term care insurance contract” is as defined in 26 U.S.C. Sec. 7702B(b).

(b) “Qualified long-term care insurance partnership” is as defined in 42 U.S.C. Sec. 1396p(b)(iii).

(c) “State plan amendment” means an amendment to the state Medicaid plan drafted by the department in compliance with this section.

(2) No later than July 1, 2014, the department shall seek federal approval of a state plan amendment that creates a qualified long-term care insurance partnership.

(3) The department may make rules to comply with federal laws and regulations relating to qualified long-term care insurance partnerships and qualified long-term care insurance contracts.

CHAPTER 175**S. B. 15**

Passed March 13, 2014
 Approved March 29, 2014
 Effective May 13, 2014

**REEMPLOYMENT
 RESTRICTIONS AMENDMENTS**

Chief Sponsor: Todd Weiler
 House Sponsor: Merrill F. Nelson

LONG TITLE**General Description:**

This bill modifies the Utah State Retirement and Insurance Benefit Act by amending postretirement employment restrictions.

Highlighted Provisions:

This bill:

- ▶ exempts an active senior justice court judge appointed to hear cases by the Utah Supreme Court and a part-time appointed board member from postretirement employment restrictions;
- ▶ exempts a reemployed retiree who serves as a judge from reemployment earnings limitations; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

49-11-505, as last amended by Laws of Utah 2013, Chapter 48

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

Section 1. Section 49-11-505 is amended to read:**49-11-505. Reemployment of a retiree -- Restrictions.**

- (1) (a) For purposes of this section, "retiree":
- (i) means a person who:
 - (A) retired from a participating employer; and
 - (B) begins reemployment on or after July 1, 2010, with a participating employer;
 - (ii) does not include a person:
 - (A) who was reemployed by a participating employer before July 1, 2010; and
 - (B) whose participating employer that reemployed the person under Subsection (1)(a)(ii)(A) was dissolved, consolidated, merged, or structurally changed in accordance with Section 49-11-621 after July 1, 2010; and
 - (iii) does not include a person who is reemployed as an active senior judge or an active senior justice court judge as described by Utah State Court Rules, appointed to hear cases by the Utah Supreme Court

in accordance with Article VIII, Section 4, Utah Constitution.

(b) (i) This section does not apply to employment as an elected official if the elected official's position is not full time as certified by the participating employer.

(ii) The provisions of this section apply to an elected official whose elected position is full time as certified by the participating employer.

(c) (i) This section does not apply to employment as a part-time appointed board member who does not receive any remuneration, stipend, or other benefit for the part-time appointed board member's service.

(ii) For purposes of this Subsection (1)(c), remuneration, stipend, or other benefit does not include receipt of per diem and travel expenses up to the amounts established by the Division of Finance in:

(A) Section 63A-3-106;

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

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

(2) A retiree may not for the same period of reemployment:

(a) (i) earn additional service credit; or

(ii) receive any retirement related contribution from a participating employer; and

(b) receive a retirement allowance.

(3) (a) Except as provided under Subsection (3)(b), the office shall cancel the retirement allowance of a retiree if the reemployment with a participating employer begins within one year of the retiree's retirement date.

(b) The office may not cancel the retirement allowance of a retiree who is reemployed with a participating employer within one year of the retiree's retirement date if:

(i) the retiree is not reemployed by a participating employer for a period of at least 60 days from the retiree's retirement date;

(ii) upon reemployment after the break in service under Subsection (3)(b)(i), the retiree does not receive any employer provided benefits, including:

(A) medical benefits;

(B) dental benefits;

(C) other insurance benefits except for workers' compensation as provided under Title 34A, Chapter 2, Workers' Compensation Act, and withholdings required by federal or state law for Social Security, Medicare, and unemployment insurance; or

(D) paid time off, including sick, annual, or other type of leave; and

(iii) (A) the retiree does not earn in any calendar year of reemployment an amount in excess of the

lesser of ~~[(A)]~~ \$15,000~~]~~ or ~~[(B)]~~ one-half of the retiree's final average salary upon which the retiree's retirement allowance is based~~[-];~~ or

(B) the retiree is reemployed as a judge as defined under Section 78A-11-102.

(c) Beginning January 1, 2013, the board shall adjust the amount under Subsection (3)(b)(iii)(A) by the annual change in the Consumer Price Index during the previous calendar year as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(d) The office shall cancel the retirement allowance of a retiree for the remainder of the calendar year if the reemployment with a participating employer exceeds the ~~[limitations]~~ limitation under Subsection (3)(b)(iii)(A).

(e) If a retiree is reemployed under the provisions of (3)(b), the termination date of the reemployment, as confirmed in writing by the participating employer, is considered the retiree's retirement date for the purpose of calculating the separation requirement under Subsection (3)(a).

(4) If a reemployed retiree has completed the one-year separation from employment with a participating employer required under Subsection (3)(a), the retiree may elect to:

(a) earn additional service credit in accordance with this title and cancel the retiree's retirement allowance; or

(b) continue to receive the retiree's retirement allowance and forfeit any retirement related contribution from the participating employer who reemployed the retiree.

(5) A participating employer who reemploys a retiree shall contribute to the office the amortization rate, as defined in Section 49-11-102, to be applied to the system that would have covered the retiree, if the reemployed retiree:

(a) has completed the one-year separation from employment with a participating employer required under Subsection (3)(a); and

(b) makes an election under Subsection (4)(b) to continue to receive a retirement allowance while reemployed.

(6) (a) A participating employer shall immediately notify the office:

(i) if the participating employer reemploys a retiree;

(ii) whether the reemployment is subject to Subsection (3)(b) or (4) of this section; and

(iii) of any election by the retiree under Subsection (4).

(b) A participating employer shall certify to the office whether the position of an elected official is or is not full time.

(c) A participating employer is liable to the office for a payment or failure to make a payment in violation of this section.

(d) If a participating employer fails to notify the office in accordance with this section, the participating employer is immediately subject to a compliance audit by the office.

(7) (a) The office shall immediately cancel the retirement allowance of a retiree in accordance with Subsection (7)(b) if the office receives notice or learns of:

(i) the reemployment of a retiree in violation of Subsection (3); or

(ii) the election of a reemployed retiree under Subsection (4)(a).

(b) If the retiree is eligible for retirement coverage in the reemployed position, the office shall cancel the allowance of a retiree subject to Subsection (7)(a), and reinstate the retiree to active member status on the first day of the month following the date of:

(i) reemployment if the retiree is subject to Subsection (3); or

(ii) an election by an employee under Subsection (4)(a).

(c) If the retiree is not otherwise eligible for retirement coverage in the reemployed position:

(i) the office shall cancel the allowance of a retiree subject to Subsection (7)(a)(i); and

(ii) the participating employer shall pay the amortization rate to the office on behalf of the retiree.

(8) (a) A retiree subject to Subsection (7)(b) who retires within two years from the date of reemployment:

(i) is not entitled to a recalculated retirement benefit; and

(ii) will resume the allowance that was being paid at the time of cancellation.

(b) Subject to Subsection (2), a retiree who is reinstated to active membership under Subsection (7) and who retires two or more years after the date of reinstatement to active membership shall:

(i) resume receiving the allowance that was being paid at the time of cancellation; and

(ii) receive an additional allowance based on the formula in effect at the date of the subsequent retirement for all service credit accrued between the first and subsequent retirement dates.

(9) (a) A retiree subject to this section shall report to the office the status of the reemployment under Subsection (3) or (4).

(b) If the retiree fails to inform the office of an election under Subsection (4), the office shall withhold one month's benefit for each month the retiree fails to inform the office under Subsection (9)(a).

(10) The board may make rules to implement this section.

CHAPTER 176**S. B. 18**

Passed February 21, 2014

Approved March 29, 2014

Effective May 13, 2014

**LOCAL GOVERNMENT
GENERAL FUND AMENDMENTS**

Chief Sponsor: Daniel W. Thatcher

House Sponsor: R. Curt Webb

LONG TITLE**General Description:**

This bill amends provisions related to a town, city, or county general fund.

Highlighted Provisions:

This bill:

- ▶ amends references to a “general fund” in the municipal and county code to clarify that the term means a town general fund, city general fund, or county general fund, and not the state general fund;
- ▶ defines “town general fund,” “city general fund,” and “county general fund”;
- ▶ amends obscure language; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 10-1-302, as enacted by Laws of Utah 1996, Chapter 280
- 10-5-106, as enacted by Laws of Utah 1983, Chapter 34
- 10-5-113, as last amended by Laws of Utah 1986, Chapter 181
- 10-5-118, as last amended by Laws of Utah 2007, Chapter 328
- 10-5-119, as last amended by Laws of Utah 2007, Chapter 329
- 10-6-106, as last amended by Laws of Utah 2003, Chapter 292
- 10-6-109, as last amended by Laws of Utah 1999, Chapter 300
- 10-6-116, as last amended by Laws of Utah 2013, Chapter 241
- 10-6-117, as last amended by Laws of Utah 1999, Chapter 300
- 10-6-129, as last amended by Laws of Utah 2007, Chapter 328
- 10-6-131, as last amended by Laws of Utah 2007, Chapter 329
- 10-6-133, as last amended by Laws of Utah 1989, Chapter 118
- 10-18-302, as last amended by Laws of Utah 2010, Chapter 90
- 17-16-18, as last amended by Laws of Utah 2009, Chapter 186
- 17-27a-403, as last amended by Laws of Utah 2012, Chapter 212
- 17-31-3, as last amended by Laws of Utah 2011, Chapter 297
- 17-36-3, as last amended by Laws of Utah 2012,

Chapter 17

- 17-36-6, as last amended by Laws of Utah 1996, Chapter 212
- 17-36-8, as last amended by Laws of Utah 1999, Chapter 300
- 17-36-9, as last amended by Laws of Utah 2012, Chapter 17
- 17-36-16, as last amended by Laws of Utah 2003, Chapter 167
- 17-36-26, as last amended by Laws of Utah 2010, Chapters 90 and 116
- 17-36-27, as last amended by Laws of Utah 2007, Chapter 328
- 17-36-29, as last amended by Laws of Utah 2007, Chapter 329
- 17-36-31, as last amended by Laws of Utah 1993, Chapter 227
- 17-36-36, as last amended by Laws of Utah 1983, Chapter 73
- 17-36-37, as last amended by Laws of Utah 2009, Chapter 323
- 17-36-51, as renumbered and amended by Laws of Utah 2000, Chapter 133
- 17-36-52, as renumbered and amended by Laws of Utah 2000, Chapter 133
- 17-36-53, as renumbered and amended by Laws of Utah 2000, Chapter 133
- 17-36-54, as last amended by Laws of Utah 2005, Chapter 105

ENACTS:

10-5-102.5, Utah Code Annotated 1953

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

Section 1. Section 10-1-302 is amended to read:**10-1-302. Purpose and intent.**

The Legislature finds that:

- (1) the energy industry has previously been highly regulated and monopolistic;
- (2) municipalities have historically raised town or city, respectively, general fund revenues by collecting franchise and business license revenues from the energy industry;
- (3) substantial restructuring of the energy industry has created an opportunity for increased competition within the energy industry;
- (4) the restructuring of the energy industry has diminished the effectiveness and fairness of the revenues collected by municipalities;
- (5) to provide for a stable revenue source for municipalities and to create a more competitive environment for the energy industry, it is necessary to enact taxing authority for municipalities that accomplishes those goals; and
- (6) this part does not alter or affect the municipalities' authority to grant or regulate franchises, or to control municipal streets, highways, or other property.

Section 2. Section 10-5-102.5 is enacted to read:**10-5-102.5. Definitions.**

As used in this chapter, "town general fund" means the fund used by a town to account for all receipts, disbursements, assets, liabilities, reserves, fund balances, revenues, and expenditures not required to be accounted for in other funds.

Section 3. Section 10-5-106 is amended to read:

10-5-106. Funds for which budget prepared.

The mayor shall prepare for each budget year a budget for:

- (1) the town general fund, including state allocated road funds;
- (2) special revenue funds;
- (3) debt service funds;
- (4) capital improvement funds; and
- (5) enterprise funds.

Section 4. Section 10-5-113 is amended to read:

10-5-113. Accumulation of retained earnings or fund balance -- Limit as to general fund -- Reserve for capital improvements.

(1) ~~[Towns]~~ A town may accumulate retained earnings or fund balances, as appropriate, in any fund.

(2) The accumulation of a fund balance in the ~~[General Fund]~~ town general fund may not exceed 75% of the total ~~[estimated]~~ revenue of the ~~[General Fund]~~ town general fund for the current fiscal period.

(3) (a) The town council may, in ~~[any]~~ a budget year, appropriate from estimated revenue or excess fund balance in the ~~[General Fund]~~ town general fund to a reserve for capital improvements~~[,]~~:

(i) for the purpose of financing future specified capital improvements~~[, pursuant to]~~; and

(ii) in accordance with a formal long-range capital plan adopted by the governing body.

(b) The reserves described in Subsection (3)(a) may accumulate from year to year in a capital improvements fund until the accumulated total is sufficient to permit economical expenditure for the specified purposes.

Section 5. Section 10-5-118 is amended to read:

10-5-118. Emergency expenditures.

(1) ~~[The]~~ If the town council~~[, on determining]~~ determines that an emergency exists, such as widespread damage from fire, flood, or earthquake, and that the emergency necessitates the expenditure of money in excess of the budget of the town general fund, the council may amend the budget and authorize ~~[such]~~ expenditures ~~[as may~~

~~be]~~ that are reasonably necessary to meet the emergency.

(2) Except to the extent provided for in Title 53, Chapter ~~[2]~~ 2a, Part ~~[4]~~ 6, Disaster Recovery Funding Act, a town council ~~[of a town]~~ may not expend money in the town's local fund for an emergency, if the town creates a local fund under Title 53, Chapter ~~[2]~~ 2a, Part ~~[4]~~ 6, Disaster Recovery Funding Act.

Section 6. Section 10-5-119 is amended to read:

10-5-119. Special fund balance --

Disposition when fund no longer required.

~~[Whenever the necessity for maintaining any special fund of a town has ceased to exist]~~ If the purpose for which a special fund was created no longer exists, and a balance remains in the fund, the ~~[governing body]~~ town council shall authorize the transfer of the balance to the fund balance account in the town general fund ~~[of the town]~~, subject to all of the following:

(1) Any balance remaining in a special assessment fund and any unrequired balance in ~~[its]~~ the town's special improvements guaranty fund shall be treated in the manner provided in Sections 11-42-413 and 11-42-701~~[,]~~.

(2) Any balance remaining in a capital improvements or capital projects fund shall be transferred to:

(a) the appropriate debt service fund or other fund as required by the bond ordinance ~~[may require and otherwise]~~; or

(b) to the fund balance account in the town general fund~~[,]~~.

(3) ~~[Whenever any]~~ (a) If the town council proposes to transfer a balance held in a trust fund for a specific purpose, other than a cemetery perpetual care trust fund, ~~[is to be transferred]~~ because ~~[its]~~ the trust fund's original purpose or restriction has ceased to exist, the town council shall hold a public hearing ~~[shall be held in the manner provided]~~ in accordance with Sections 10-5-108 and 10-5-109. ~~[The]~~

(b) In addition to the notice requirements of Section 10-5-108, the published notice shall invite ~~[those persons]~~ original contributors who contributed to the fund to appear at the hearing.

(c) (i) If the town council determines that the fund balance amounts are refundable to the original fund contributors, ~~[a 30-day period following the hearing shall be allowed for persons having an interest in the fund]~~ the original contributors shall have 30 days after the day on which the hearing in Subsection (3)(a) is held to file with the council a verified claim only for the amount of each ~~[claimant's contributions]~~ original contributor's contribution.

(ii) Any claim not filed in accordance with this section ~~[shall be]~~ is invalid and barred.

(d) Any balance remaining, after refunds to eligible original contributors, shall be transferred

to the fund balance account in the town general fund ~~[of the town, and]~~.

(4) ~~[Whenever]~~ (a) If the town council decides, in [conformity] accordance with applicable laws and ordinances, that the need for continued maintenance of its cemetery perpetual care trust fund no longer exists, [it] the council may, subject to Subsection (4)(b), transfer the balance in [such] the cemetery perpetual care trust fund to the capital improvements fund [for expenditure for].

(b) The balance transferred from the cemetery perpetual care trust fund to the capital improvements fund shall be used for cemetery purposes only, including land, buildings, [and] or major improvements [to be used exclusively for cemetery purposes].

Section 7. Section 10-6-106 is amended to read:

10-6-106. Definitions.

As used in this chapter:

(1) "Account group" is defined by generally accepted accounting principles as reflected in the Uniform Accounting Manual for Utah Cities.

(2) "Appropriation" means an allocation of money by the governing body for a specific purpose.

(3) (a) "Budget" means a plan of financial operations for a fiscal period which embodies estimates of proposed expenditures for given purposes and the proposed means of financing them.

(b) "Budget" may refer to the budget of a particular fund for which a budget is required by law or it may refer collectively to the budgets for all such funds.

(4) "Budgetary fund" means a fund for which a budget is required.

(5) "Budget officer" means the city auditor in a city of the first and second class, the mayor or some person appointed by the mayor with the approval of the city council in a city of the third, fourth, or fifth class, the mayor in the council-mayor optional form of government, or the person designated by the charter in a charter city.

(6) "Budget period" means the fiscal period for which a budget is prepared.

(7) "Check" means an order in a specific amount drawn upon a depository by an authorized officer of a city.

(8) "City general fund" means the fund used by a city to account for all receipts, disbursements, assets, liabilities, reserves, fund balances, revenues, and expenditures not required to be accounted for in other funds.

(8) (9) "Current period" means the fiscal period in which a budget is prepared and adopted, i.e., the fiscal period next preceding the budget period.

(9) (10) "Department" means any functional unit within a fund that carries on a specific activity,

such as a fire or police department within a ~~[General Fund]~~ city general fund.

~~(10)~~ (11) "Encumbrance system" means a method of budgetary control in which part of an appropriation is reserved to cover a specific expenditure by charging obligations, such as purchase orders, contracts, or salary commitments to an appropriation account at their time of origin. Such obligations cease to be encumbrances when paid or when the actual liability is entered on the city's books of account.

~~(11)~~ (12) "Estimated revenue" means the amount of revenue estimated to be received from all sources during the budget period in each fund for which a budget is being prepared.

~~(12)~~ (13) "Financial officer" means the mayor in the council-mayor optional form of government or the city official as authorized by Section 10-6-158.

~~(13)~~ (14) "Fiscal period" means the annual or biennial period for accounting for fiscal operations in each city.

~~(14)~~ (15) "Fund" is as defined by generally accepted accounting principles as reflected in the Uniform Accounting Manual for Utah Cities.

~~(15)~~ (16) "Fund balance," "retained earnings," and "deficit" have the meanings commonly accorded such terms under generally accepted accounting principles as reflected in the Uniform Accounting Manual for Utah Cities.

~~(16)~~ (17) "Governing body" means a city council, or city commission, as the case may be, but the authority to make any appointment to any position created by this chapter is vested in the mayor in the council-mayor optional form of government.

~~(17)~~ (18) "Interfund loan" means a loan of cash from one fund to another, subject to future repayment and does not constitute an expenditure or a use of retained earnings or fund balance of the lending fund or revenue to the borrowing fund.

~~(18)~~ (19) "Last completed fiscal period" means the fiscal period next preceding the current period.

~~(19)~~ (20) (a) "Public funds" means any money or payment collected or received by an officer or employee of the city acting in an official capacity and includes money or payment to the officer or employee for services or goods provided by the city, or the officer or employee while acting within the scope of employment or duty.

(b) "Public funds" do not include money or payments collected or received by an officer or employee of a city for charitable purposes if the mayor or city council has consented to the officer's or employee's participation in soliciting contributions for a charity.

~~(20)~~ (21) "Special fund" means any fund other than the ~~[General Fund]~~ city general fund.

~~(21)~~ (22) "Warrant" means an order drawn upon the city treasurer, in the absence of sufficient money in the city's depository, by an authorized officer of a city for the purpose of paying a specified

amount out of the city treasury to the person named or to the bearer as money becomes available.

Section 8. Section 10-6-109 is amended to read:

10-6-109. Budget required for certain funds -- Capital projects fund budget.

(1) The budget officer shall prepare for each budget period a budget for each of the following funds:

- (a) the city general fund, including the class "C" and collector road funds;
- (b) special revenue funds;
- (c) debt service funds; and
- (d) capital improvement funds.

(2) (a) Major capital improvements financed by general obligation bonds, capital grants, or interfund transfers, shall use a capital projects fund budget.

(b) The term of the budget shall coincide with the term of the individual project or projects.

(c) To the extent appropriate, the requirements for preparation, adoption, and execution of the budgets of the funds enumerated in Subsection (1) [above], as set forth in this chapter, shall apply to budgets of capital projects funds.

Section 9. Section 10-6-116 is amended to read:

10-6-116. Accumulated fund balances -- Limitations -- Excess balances -- Unanticipated excess of revenues -- Reserves for capital improvements.

(1) [~~Cities are permitted to~~] (a) A city may accumulate retained earnings or fund balances, as appropriate, in any fund. With respect to the city general fund only, any accumulated fund balance is restricted to the following purposes:

~~[(a)] (i) to provide working capital to finance expenditures from the beginning of the budget period until general property taxes, sales taxes, or other applicable revenues are collected, thereby reducing the amount the city must borrow during the period, but this Subsection (1)(a) does not permit the appropriation of any fund balance for budgeting purposes except as provided in Subsection (4);~~

~~[(b)] (ii) to provide a resource to meet emergency expenditures under Section 10-6-129; and~~

~~[(c)] (iii) to cover a pending year-end excess of expenditures over revenues from an unavoidable shortfall in revenues. [This provision does not permit the appropriation of any]~~

(b) Notwithstanding Subsection (1)(a)(i), a city may not appropriate a fund balance for budgeting purposes except as provided in Subsection (4).

(c) Notwithstanding Subsection (1)(a)(iii), a city may not appropriate a fund balance to avoid an

operating deficit during any budget period except as provided under Subsection (4), or for emergency purposes under Section 10-6-129.

(2) The accumulation of a fund balance in the city general fund may not exceed 25% of the total [estimated] revenue of the city general fund for the current fiscal period.

(3) If the fund balance at the close of any fiscal period exceeds the amount permitted under Subsection (2), the excess shall be appropriated in the manner provided in Section 10-6-117.

(4) Any fund balance in excess of 5% of the total revenues of the city general fund may be utilized for budget purposes.

(5) (a) Within a capital improvements fund, the governing body may, in any budget period, appropriate from estimated revenue or fund balance to a reserve for capital improvements for the purpose of financing future specific capital improvements, under a formal long-range capital plan adopted by the governing body.

(b) The reserves described in Subsection (5)(a) may accumulate from fiscal period to fiscal period until the accumulated total is sufficient to permit economical expenditure for the specified purposes.

(c) Disbursements from [these] reserves described in Subsection (5)(a) shall be made only by transfer to a revenue or transfer account within the capital improvements fund, under a budget appropriation in a budget for the fund adopted in the manner provided by this chapter.

(d) Expenditures from the above appropriation budget accounts shall conform to all requirements of this chapter relating to execution and control of budgets.

Section 10. Section 10-6-117 is amended to read:

10-6-117. Appropriations not to exceed estimated expendable revenue -- Determination of revenue -- Appropriations for existing deficits.

(1) The governing body of any city may not make any appropriation in the final budget of any fund in excess of the estimated expendable revenue for the budget period of the fund.

(2) In determining the estimated expendable revenue of the city general fund for the budget period, there shall be included therein as an appropriation from the fund balance that portion of the fund balance at the close of the last completed fiscal period, not previously included in the budget of the current period, that exceeds the amount permitted in Section 10-6-116.

(3) (a) There shall be included as an item of appropriation in each fund for any budget period any existing deficit as of the close of the last completed fiscal period, not previously included in the budget of the current period, to the extent of at least 5% of the total revenue of the fund in its last completed fiscal period.

(b) If the total amount of the deficit is less than 5% of the total revenue in the last completed fiscal period, the entire amount of the deficit shall be included.

Section 11. Section 10-6-129 is amended to read:

10-6-129. Emergency expenditures.

(1) If the governing body of a city determines that an emergency exists, such as widespread damage from fire, flood, or earthquake, and that the emergency necessitates the expenditure of money in excess of the budget of the city general fund, the governing body may by resolution amend the budget and authorize such expenditures and incur such deficits in the fund balance of the city general fund as may be reasonably necessary to meet the emergency.

(2) Except to the extent provided for in Title 53, Chapter [2] 2a, Part [4] 6, Disaster Recovery Funding Act, the governing body of a city may not expend money in the city's local fund for an emergency, if the city creates a local fund under Title 53, Chapter [2] 2a, Part [4] 6, Disaster Recovery Funding Act.

Section 12. Section 10-6-131 is amended to read:

10-6-131. Transfer of balances in special funds.

[Whenever] If the necessity for maintaining any special fund of a city has ceased to exist and a balance remains in the fund, the governing body shall authorize the transfer of the balance to the fund balance account in the city general fund of the city, [except that] subject to all of the following:

(1) Any balance remaining in a special assessment fund and any unrequired balance in [its] the city's special improvements guaranty fund shall be treated in the manner provided in Sections 11-42-413 and 11-42-701[;].

(2) Any balance remaining in a capital improvements or capital projects fund shall be transferred to:

(a) the appropriate debt service fund or other fund as required by the bond ordinance [~~may require and otherwise~~]; or

(b) to the fund balance account in the city general fund[;].

(3) [~~Whenever any~~] (a) If the governing body proposes to transfer a balance held in a trust fund for a specific purpose, other than a cemetery perpetual care trust fund, [~~is to be transferred~~] because [its] the trust fund's original purpose or restriction has ceased to exist, the governing body shall hold a public hearing [~~shall be held in the manner provided~~] in accordance with Sections 10-6-113 and 10-6-114. [~~The~~]

(b) In addition to the notice requirements of Section 10-6-113, the published notice shall invite those [persons] original contributors who contributed to the fund to appear at the hearing.

(c) (i) If the governing body determines that the fund balance amounts are refundable to the original fund contributors, [~~a 30-day period following the hearing shall be allowed for persons having an interest in the fund~~] the original contributors shall have 30 days after the day on which the hearing in Subsection (3)(a) is held to file with the governing body a verified claim only for the amount of each [~~claimant's contributions~~] original contributor's contribution.

(ii) Any claim not [~~so filed shall be forever barred~~] filed in accordance with this section is invalid and barred.

(d) Any balance remaining, after refunds to eligible original contributors, shall be transferred to the fund balance account in the city general fund [~~of the city; and~~].

(4) [~~Whenever~~] (a) If the governing body decides, in [~~conformity~~] accordance with applicable laws and ordinances, that the need for continued maintenance of its cemetery perpetual care trust fund no longer exists, [it] the governing body may, subject to Subsection (4)(b), transfer the balance in [~~such~~] the cemetery perpetual care trust fund to the capital improvements fund [~~for expenditure for~~].

(b) The balance transferred from the cemetery perpetual care trust fund to the capital improvements fund shall be used for cemetery purposes only, including land, buildings [~~and~~], or major improvements [~~to be used exclusively for cemetery purposes~~].

Section 13. Section 10-6-133 is amended to read:

10-6-133. Property tax levy -- Time for setting -- Computation of total levy -- Apportionment of proceeds -- Maximum levy.

(1) (a) Before June 22 of each year, or August 17 in the case of a property tax rate increase under Sections 59-2-919 through 59-2-923, the governing body of each city, including charter cities, at a regular meeting or special meeting called for that purpose, shall by ordinance or resolution set the real and personal property tax levy for various municipal purposes[~~, but~~].

(b) Notwithstanding Subsection (1)(a), the governing body may set the levy [~~may be set~~] at an appropriate later date with the approval of the State Tax Commission.

(2) In its computation of the total levy, the governing body shall determine the requirements of each fund for which property taxes are to be levied and shall specify in its ordinance or resolution adopting the levy the amount apportioned to each fund.

(3) The proceeds of the levy apportioned for [~~General Fund~~] city general fund purposes shall be credited as revenue in the [~~General Fund~~] city general fund.

(4) The proceeds of the levy apportioned for special fund purposes shall be credited to the appropriate accounts in the applicable special funds.

(5) The combined levies for each city, including charter cities, for all purposes in any year, excluding the retirement of general obligation bonds and the payment of any interest, and taxes expressly authorized by law to be levied in addition, may not exceed .007 per dollar of taxable value of taxable property.

Section 14. Section 10-18-302 is amended to read:

10-18-302. Bonding authority.

(1) In accordance with Title 11, Chapter 14, Local Government Bonding Act, the legislative body of a municipality may by resolution determine to issue one or more revenue bonds or general obligation bonds to finance the capital costs for facilities necessary to provide to subscribers:

- (a) a cable television service; or
- (b) a public telecommunications service.

(2) The resolution described in Subsection (1) shall:

(a) describe the purpose for which the indebtedness is to be created; and

(b) specify the dollar amount of the one or more bonds proposed to be issued.

(3) (a) A revenue bond issued under this section shall be secured and paid for:

(i) from the revenues generated by the municipality from providing:

(A) cable television services with respect to revenue bonds issued to finance facilities for the municipality's cable television services; and

(B) public telecommunications services with respect to revenue bonds issued to finance facilities for the municipality's public telecommunications services; and

(ii) notwithstanding Subsection (3)(b) and Subsection 10-18-303(3)(a), from revenues generated under Title 59, Chapter 12, Sales and Use Tax Act, if:

(A) notwithstanding Subsection 11-14-201(3) and except as provided in Subsections (4) and (5), the revenue bond is approved by the registered voters in an election held:

(I) except as provided in Subsection (3)(a)(ii)(A)(II), pursuant to the provisions of Title 11, Chapter 14, Local Government Bonding Act, that govern bond elections; and

(II) notwithstanding Subsection 11-14-203(2), at a regular general election;

(B) the revenues described in this Subsection (3)(a)(ii) are pledged as security for the revenue bond; and

(C) the municipality or municipalities annually appropriate the revenues described in this Subsection (3)(a)(ii) to secure and pay the revenue bond issued under this section.

(b) Except as provided in Subsection (3)(a)(ii), a municipality may not pay the origination, financing, or other carrying costs associated with the one or more revenue bonds issued under this section from the town or city, respectively, general funds or other enterprise funds of the municipality.

(4) (a) As used in this Subsection (4), "municipal entity" means an entity created pursuant to an agreement:

(i) under Title 11, Chapter 13, Interlocal Cooperation Act; and

(ii) to which a municipality is a party.

(b) The requirements of Subsection (3)(a)(ii)(A) do not apply to a municipality or municipal entity that issues revenue bonds, or to a municipality that is a member of a municipal entity that issues revenue bonds, if:

(i) on or before March 2, 2004, the municipality that is issuing revenue bonds or that is a member of a municipal entity that is issuing revenue bonds has published the first notice described in Subsection (4)(b)(iii);

(ii) on or before April 15, 2004, the municipality that is issuing revenue bonds or that is a member of a municipal entity that is issuing revenue bonds makes the decision to pledge the revenues described in Subsection (3)(a)(ii) as security for the revenue bonds described in this Subsection (4)(b)(ii);

(iii) the municipality that is issuing the revenue bonds or the municipality that is a member of the municipal entity that is issuing the revenue bonds has:

(A) held a public hearing for which public notice was given by publication of the notice:

(I) in a newspaper published in the municipality or in a newspaper of general circulation within the municipality for two consecutive weeks, with the first publication being not less than 14 days before the public hearing; and

(II) on the Utah Public Notice Website created in Section 63F-1-701, for two weeks before the public hearing; and

(B) the notice identifies:

(I) that the notice is given pursuant to Title 11, Chapter 14, Local Government Bonding Act;

(II) the purpose for the bonds to be issued;

(III) the maximum amount of the revenues described in Subsection (3)(a)(ii) that will be pledged in any fiscal year;

(IV) the maximum number of years that the pledge will be in effect; and

(V) the time, place, and location for the public hearing;

(iv) the municipal entity that issues revenue bonds:

(A) adopts a final financing plan; and

(B) in accordance with Title 63G, Chapter 2, Government Records Access and Management Act, makes available to the public at the time the municipal entity adopts the final financing plan:

(I) the final financing plan; and

(II) all contracts entered into by the municipal entity, except as protected by Title 63G, Chapter 2, Government Records Access and Management Act;

(v) any municipality that is a member of a municipal entity described in Subsection (4)(b)(iv):

(A) not less than 30 calendar days after the municipal entity complies with Subsection (4)(b)(iv)(B), holds a final public hearing;

(B) provides notice, at the time the municipality schedules the final public hearing, to any person who has provided to the municipality a written request for notice; and

(C) makes all reasonable efforts to provide fair opportunity for oral testimony by all interested parties; and

(vi) except with respect to a municipality that issued bonds prior to March 1, 2004, not more than 50% of the average annual debt service of all revenue bonds described in this section to provide service throughout the municipality or municipal entity may be paid from the revenues described in Subsection (3)(a)(ii).

(5) On or after July 1, 2007, the requirements of Subsection (3)(a)(ii)(A) do not apply to a municipality that issues revenue bonds if:

(a) the municipality that is issuing the revenue bonds has:

(i) held a public hearing for which public notice was given by publication of the notice:

(A) in a newspaper published in the municipality or in a newspaper of general circulation within the municipality for two consecutive weeks, with the first publication being not less than 14 days before the public hearing; and

(B) on the Utah Public Notice Website created in Section 63F-1-701, for 14 days before the public hearing; and

(ii) the notice identifies:

(A) that the notice is given pursuant to Title 11, Chapter 14, Local Government Bonding Act;

(B) the purpose for the bonds to be issued;

(C) the maximum amount of the revenues described in Subsection (3)(a)(ii) that will be pledged in any fiscal year;

(D) the maximum number of years that the pledge will be in effect; and

(E) the time, place, and location for the public hearing; and

(b) except with respect to a municipality that issued bonds prior to March 1, 2004, not more than

50% of the average annual debt service of all revenue bonds described in this section to provide service throughout the municipality or municipal entity may be paid from the revenues described in Subsection (3)(a)(ii).

(6) A municipality that issues bonds pursuant to this section may not make or grant any undue or unreasonable preference or advantage to itself or to any private provider of:

(a) cable television services; or

(b) public telecommunications services.

Section 15. Section 17-16-18 is amended to read:

17-16-18. Salaries paid out of general fund.

The salaries of county officers shall be paid monthly, semi-monthly, or bi-weekly, as determined by the county legislative body, out of the county general fund or the county salary fund~~], as the case may be, of the county]~~ upon the order of the county legislative body.

Section 16. Section 17-27a-403 is amended to read:

17-27a-403. Plan preparation.

(1) (a) The planning commission shall provide notice, as provided in Section 17-27a-203, of its intent to make a recommendation to the county legislative body for a general plan or a comprehensive general plan amendment when the planning commission initiates the process of preparing its recommendation.

(b) The planning commission shall make and recommend to the legislative body a proposed general plan for the unincorporated area within the county.

(c) (i) The plan may include planning for incorporated areas if, in the planning commission's judgment, they are related to the planning of the unincorporated territory or of the county as a whole.

(ii) Elements of the county plan that address incorporated areas are not an official plan or part of a municipal plan for any municipality, unless it is recommended by the municipal planning commission and adopted by the governing body of the municipality.

(2) (a) At a minimum, the proposed general plan, with the accompanying maps, charts, and descriptive and explanatory matter, shall include the planning commission's recommendations for the following plan elements:

(i) a land use element that:

(A) designates the long-term goals and the proposed extent, general distribution, and location of land for housing, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate; and

(B) may include a statement of the projections for and standards of population density and building

intensity recommended for the various land use categories covered by the plan;

(ii) a transportation and traffic circulation element consisting of the general location and extent of existing and proposed freeways, arterial and collector streets, mass transit, and any other modes of transportation that the planning commission considers appropriate, all correlated with the population projections and the proposed land use element of the general plan; and

(iii) an estimate of the need for the development of additional moderate income housing within the unincorporated area of the county, and a plan to provide a realistic opportunity to meet estimated needs for additional moderate income housing if long-term projections for land use and development occur.

(b) In drafting the moderate income housing element, the planning commission:

(i) shall consider the Legislature's determination that counties should facilitate a reasonable opportunity for a variety of housing, including moderate income housing:

(A) to meet the needs of people desiring to live there; and

(B) to allow persons with moderate incomes to benefit from and fully participate in all aspects of neighborhood and community life; and

(ii) may include an analysis of why the recommended means, techniques, or combination of means and techniques provide a realistic opportunity for the development of moderate income housing within the planning horizon, which means or techniques may include a recommendation to:

(A) rezone for densities necessary to assure the production of moderate income housing;

(B) facilitate the rehabilitation or expansion of infrastructure that will encourage the construction of moderate income housing;

(C) encourage the rehabilitation of existing uninhabitable housing stock into moderate income housing;

(D) consider county general fund subsidies to waive construction related fees that are otherwise generally imposed by the county;

(E) consider utilization of state or federal funds or tax incentives to promote the construction of moderate income housing;

(F) consider utilization of programs offered by the Utah Housing Corporation within that agency's funding capacity; and

(G) consider utilization of affordable housing programs administered by the Department of Workforce Services.

(c) In drafting the land use element, the planning commission shall:

(i) identify and consider each agriculture protection area within the unincorporated area of the county; and

(ii) avoid proposing a use of land within an agriculture protection area that is inconsistent with or detrimental to the use of the land for agriculture.

(3) The proposed general plan may include:

(a) an environmental element that addresses:

(i) the protection, conservation, development, and use of natural resources, including the quality of air, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources; and

(ii) the reclamation of land, flood control, prevention and control of the pollution of streams and other waters, regulation of the use of land on hillsides, stream channels and other environmentally sensitive areas, the prevention, control, and correction of the erosion of soils, protection of watersheds and wetlands, and the mapping of known geologic hazards;

(b) a public services and facilities element showing general plans for sewage, water, waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them, police and fire protection, and other public services;

(c) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for:

(i) historic preservation;

(ii) the diminution or elimination of blight; and

(iii) redevelopment of land, including housing sites, business and industrial sites, and public building sites;

(d) an economic element composed of appropriate studies and forecasts, as well as an economic development plan, which may include review of existing and projected county revenue and expenditures, revenue sources, identification of basic and secondary industry, primary and secondary market areas, employment, and retail sales activity;

(e) recommendations for implementing all or any portion of the general plan, including the use of land use ordinances, capital improvement plans, community development and promotion, and any other appropriate action;

(f) provisions addressing any of the matters listed in Subsection 17-27a-401(2); and

(g) any other element the county considers appropriate.

Section 17. Section 17-31-3 is amended to read:

17-31-3. Reserve fund authorized -- Use of collected funds.

The county legislative body may create a reserve fund and any funds collected but not expended during any fiscal year ~~do not revert to the general~~

fund of the governing bodies but] shall be retained in a special fund to be used in accordance with Sections 17-31-2 through 17-31-5.

Section 18. Section 17-36-3 is amended to read:

17-36-3. Definitions.

As used in this chapter:

(1) "Accrual basis of accounting" means a method where revenues are recorded when earned and expenditures recorded when they become liabilities notwithstanding that the receipt of the revenue or payment of the expenditure may take place in another accounting period.

(2) "Appropriation" means an allocation of money for a specific purpose.

(3) (a) "Budget" means a plan for financial operations for a fiscal period, embodying estimates for proposed expenditures for given purposes and the means of financing the expenditures.

(b) "Budget" may refer to the budget of a fund for which a budget is required by law, or collectively to the budgets for all those funds.

(4) "Budgetary fund" means a fund for which a budget is required, such as those described in Section 17-36-8.

(5) "Budget officer" means:

(a) for a county of the second, third, fourth, fifth, or sixth class, the county auditor, county clerk, or county executive as provided in Subsection 17-19-19(1); or

(b) for a county of the first class, a person described in Section 17-19a-203.

(6) "Budget period" means the fiscal period for which a budget is prepared.

(7) "Check" means an order in a specific amount drawn upon the depository by any authorized officer in accordance with Section 17-19-3, 17-19a-301, 17-24-1, or 17-24-1.1, as applicable.

(8) "County general fund" means the fund used by a county to account for all receipts, disbursements, assets, liabilities, reserves, fund balances, revenues, and expenditures not required to be accounted for in other funds.

~~[(8)]~~ (9) "Countywide service" means a service provided in both incorporated and unincorporated areas of a county.

~~[(9)]~~ (10) "Current period" means the fiscal period in which a budget is prepared and adopted.

~~[(10)]~~ (11) "Department" means any functional unit within a fund which carries on a specific activity.

~~[(11)]~~ (12) "Encumbrance system" means a method of budgetary control where part of an appropriation is reserved to cover a specific expenditure by charging obligations, such as purchase orders, contracts, or salary commitments

to an appropriation account. An expenditure ceases to be an encumbrance when paid or when the actual liability is entered in the books of account.

~~[(12)]~~ (13) "Estimated revenue" means any revenue estimated to be received during the budget period in any fund for which a budget is prepared.

~~[(13)]~~ (14) "Fiscal period" means the annual or biennial period for recording county fiscal operations.

~~[(14)]~~ (15) "Fund" means an independent fiscal and accounting entity comprised of a sum of money or other resources segregated for a specific purpose or objective.

~~[(15)]~~ (16) "Fund balance" means the excess of the assets over liabilities, reserves, and contributions, as reflected by its books of account.

~~[(16)]~~ (17) "Fund deficit" means the excess of liabilities, reserves, and contributions over its assets, as reflected by its books of account.

~~[(17) "General Fund" means the fund used to account for all receipts, disbursements, assets, liabilities, reserves, fund balances, revenues, and expenditures not required to be accounted for in other funds.]~~

(18) "Interfund loan" means a loan of cash from one fund to another, subject to future repayment; but it does not constitute an expenditure or a use of retained earnings, fund balance, or unappropriated surplus of the lending fund.

(19) "Last completed fiscal period" means the fiscal period next preceding the current period.

(20) "Modified accrual basis of accounting" means a method under which expenditures other than accrued interest on general long-term debt are recorded at the time liabilities are incurred and revenues are recorded when they become measurable and available to finance expenditures of the current period.

(21) "Municipal capital project" means the acquisition, construction, or improvement of capital assets that facilitate providing municipal service.

(22) "Municipal service" means a service not provided on a countywide basis and not accounted for in an enterprise fund, and includes police patrol, fire protection, culinary or irrigation water retail service, water conservation, local parks, sewers, sewage treatment and disposal, cemeteries, garbage and refuse collection, street lighting, airports, planning and zoning, local streets and roads, curb, gutter, and sidewalk maintenance, and ambulance service.

(23) "Retained earnings" means that part of the net earnings retained by an enterprise or internal service fund which is not segregated or reserved for any specific purpose.

(24) "Special fund" means any fund other than the ~~[General Fund]~~ county general fund, such as those described in Section 17-36-6.

(25) "Unappropriated surplus" means that part of a fund which is not appropriated for an ensuing budget period.

(26) "Warrant" means an order in a specific amount drawn upon the treasurer by the auditor.

Section 19. Section 17-36-6 is amended to read:

17-36-6. Required funds and accounts.

(1) In its system of accounts, each county shall maintain the following funds or account groups that are appropriate to its needs:

- (a) a county general fund;
- (b) special revenue funds;
- (c) debt service funds to account for the retirement of general obligation bonds or other long-term indebtedness including the payment of interest;
- (d) capital project funds, as required to account for the application of proceeds from the sale of general obligation bonds or other general long-term debt, or funds derived from other sources, to the specific purposes for which they are authorized;
- (e) a separate fund for each utility or enterprise such as an airport fund, a sewer fund, a water fund, or other similar funds;
- (f) intragovernmental service funds;
- (g) trust and agency funds such as a cemetery perpetual-care fund or a retirement fund;
- (h) a separate fund for each special improvement district, which shall be known as a special assessment fund;
- (i) a ledger or group of accounts to record the details relating to the general fixed assets of the county;
- (j) a ledger or group of accounts to record the details relating to the general obligation bonds or other long-term indebtedness of the county;
- (k) municipal services fund as required in Section 17-36-9; and
- (l) any other funds for special purposes required or established under the uniform system of budgeting, accounting, and reporting.

(2) The county shall classify the funds and account groups established under the authority of this section according to the uniform procedures established by this chapter.

Section 20. Section 17-36-8 is amended to read:

17-36-8. Preparation of budgets.

The budget officer of each county shall prepare each budget period, on forms provided pursuant to Section 17-36-4, a budget for each of the following funds which are included in its system of accounts:

- (1) county general fund;
- (2) special revenue funds;
- (3) debt service funds;

(4) capital project funds; and

(5) any other fund or funds for which a budget is required by the uniform system of budgeting, accounting, and reporting.

Section 21. Section 17-36-9 is amended to read:

17-36-9. Budget -- Financial plan -- Contents -- Municipal services and capital projects funds.

(1) (a) The budget for each fund shall provide a complete financial plan for the budget period and shall contain in tabular form classified by the account titles as required by the uniform system of budgeting, accounting, and reporting:

- (i) estimates of all anticipated revenues;
- (ii) all appropriations for expenditures; and
- (iii) any additional data required by Section 17-36-10 or 17-36-10.1, as applicable, or by the uniform system of budgeting, accounting, and reporting.

(b) The total of appropriated expenditures shall be equal to the total of anticipated revenues.

(2) (a) Each first-, second-, and third-class county that provides municipal-type services under Section 17-34-1 shall:

(i) establish a special revenue fund, "Municipal Services Fund," and a capital projects fund, "Municipal Capital Projects Fund," or establish a local district or special service district to provide municipal services; and

(ii) budget appropriations for municipal services and municipal capital projects from these funds.

(b) The Municipal Services Fund is subject to the same budgetary requirements as the ~~county's~~ county general fund.

(c) (i) Except as provided in Subsection (2)(c)(ii), the county may deposit revenue derived from any taxes otherwise authorized by law, income derived from the investment of money contained within the municipal services fund and the municipal capital projects fund, the appropriate portion of federal money, and fees collected into a municipal services fund and a municipal capital projects fund.

(ii) The county may not deposit revenue derived from a fee, tax, or other source based upon a countywide assessment or from a countywide service or function into a municipal services fund or a municipal capital projects fund.

(d) The maximum accumulated unappropriated surplus in the municipal services fund, as determined prior to adoption of the tentative budget, may not exceed an amount equal to the total estimated revenues of the current fiscal period.

Section 22. Section 17-36-16 is amended to read:

17-36-16. Retained earnings -- Accumulation -- Restrictions -- Disbursements.

(1) (a) A county may accumulate retained earnings in any enterprise or internal service fund or a fund balance in any other fund; ~~but with respect to the General Fund, its].~~

(b) Notwithstanding Subsection (1)(a), use of the county general fund shall be restricted to the following purposes:

~~[(a)]~~ (i) to provide cash to finance expenditures from the beginning of the budget period until general property taxes, sales taxes, or other revenues are collected;

~~[(b)]~~ (ii) to provide a fund or reserve to meet emergency expenditures; and

~~[(c)]~~ (iii) to cover unanticipated deficits for future years.

(2) (a) The maximum accumulated unappropriated surplus in the ~~[General Fund]~~ county general fund, as determined prior to adoption of the tentative budget, may not exceed an amount equal to the greater of:

(i) (A) for a county with a taxable value of \$750,000,000 or more and a population of 100,000 or more, 20% of the total revenues of the ~~[General Fund]~~ county general fund for the current fiscal period; or

(B) for any other county, 50% of the total revenues of the ~~[General Fund]~~ county general fund for the current fiscal period; and

(ii) the estimated total revenues from property taxes for the current fiscal period.

(b) Any surplus balance in excess of the above computed maximum shall be included in the estimated revenues of the ~~[General Fund]~~ county general fund budget for the next fiscal period.

(3) Any fund balance exceeding 5% of the total ~~[General Fund]~~ county general fund revenues may be used for budgetary purposes.

(4) (a) A county may appropriate funds from estimated revenue in any budget period to a reserve for capital improvements within any capital improvements fund which has been duly established by ordinance or resolution.

(b) Money in the reserves shall be allowed to accumulate from fiscal period to fiscal period until the accumulated total is sufficient to permit economical expenditure for the specified purposes.

(c) Disbursements from the reserves shall be made only by transfer to a revenue account within a capital improvements fund pursuant to an appropriation for the fund.

(d) Expenditures from the capital improvement budget accounts shall conform to all requirements of this act as it relates to the execution and control of budgets.

Section 23. Section 17-36-26 is amended to read:

17-36-26. Increase in budgetary fund or county general fund -- Public hearing.

(1) Before the governing body may, by resolution, increase a budget appropriation of any budgetary fund, increase the budget of the county general fund, or make an amendment to a budgetary fund or the county general fund, the governing body shall hold a public hearing giving all interested parties an opportunity to be heard.

(2) Notice of the public hearing described in Subsection (1) shall be published at least five days before the day of the hearing:

(a) (i) in at least one issue of a newspaper generally circulated in the county; or

(ii) if there is not a newspaper generally circulated in the county, the hearing may be published by posting notice in three conspicuous places within the county; and

(b) on the Utah Public Notice Website created under Section 63F-1-701.

Section 24. Section 17-36-27 is amended to read:

17-36-27. Emergency expenditures -- Deficit.

(1) If the governing body determines that an emergency exists, such as widespread damage from fire, flood, or earthquake, and that the expenditure of money in excess of the county general fund budget is necessary, ~~[it]~~ the governing body may make ~~[such]~~ expenditures and incur ~~[such]~~ deficits ~~[as] that are~~ reasonably necessary to meet the emergency.

(2) Except to the extent provided for in Title 53, Chapter 2a, Part 6, Disaster Recovery Funding Act, the governing body of the county may not expend money in the county's local fund for an emergency, if the county creates a local fund under Title 53, Chapter 2a, Part 6, Disaster Recovery Funding Act.

Section 25. Section 17-36-29 is amended to read:

17-36-29. Special fund ceases -- Transfer.

~~[If the necessity to maintain any special fund ceases and there is a balance in such fund]~~

(1) If the purpose for which a special fund was created no longer exists and a balance remains in the fund, the governing body shall authorize the transfer of the balance to the fund balance account in the ~~[General Fund]~~ county general fund.

(2) Any balance which remains in a special assessment fund and any unrequired balance in a special improvement guaranty fund shall be treated as provided in Subsection 11-42-701(5).

(3) Any balance which remains in a capital projects fund shall be transferred to the appropriate debt service fund or such other fund as the bond ordinance requires or to the county general fund balance account.

Section 26. Section 17-36-31 is amended to read:

17-36-31. Tax levy -- Amount.

(1) (a) Before June 22 of each year, the county legislative body shall levy a tax on the taxable real and personal property within the county.

(b) In ~~its~~ the legislative body's computation of the total levy subject to Sections 59-2-908 and 59-2-911, it shall determine the requirements for each fund and specify the amount of the levy apportioned to each fund.

(2) The proceeds of the tax apportioned for purposes of the ~~[General Fund]~~ county general fund shall be credited in the ~~[General Fund]~~ county general fund.

(3) The proceeds of the tax apportioned for utility and other special fund purposes shall be credited to the appropriate accounts in the utility or other special funds.

Section 27. Section 17-36-36 is amended to read:

17-36-36. Financial statements.

(1) The budget officer shall present to the governing body the following financial statements prepared in the manner prescribed by the uniform system of budgeting, accounting, and reporting:

~~(1)~~ (a) A summary of cash receipts and disbursements for each fund or group of funds and for each department within each fund reportable at the end of each month showing the cash and invested balance at the beginning of the period, the total receipts collected during the period, the total disbursements made during the period and the cash and invested balance at the end of the period.

~~(2)~~ (b) Not less than once each quarter or more often if requested by the governing body, a condensed statement of revenues and expenditures and comparison with the budget of the county general fund and the allotments thereof, as reflected by the books of account.

~~(3)~~ (c) A comparative quarterly income and expense statement for each enterprise fund showing a comparative analysis between the operations of such fund for the current fiscal reporting period and the same period in the previous year.

(4) (d) A condensed statement of the operating and capital budget of each enterprise fund showing revenues and expenses and balances compared with the budget for any period requested by the governing body or required by the uniform system of budgeting, accounting and reporting.

~~(5)~~ (e) Any other statements of operations or reports on financial condition as the governing body or the uniform system of budgeting, accounting, and reporting may require.

(2) All financial statements made pursuant to this section shall be open for public inspection during regular business hours.

Section 28. Section 17-36-37 is amended to read:

17-36-37. Budget officer -- Annual financial statement -- Contents.

(1) The budget officer of each county, within 180 days after the close of each fiscal period, or, for a

county that has adopted a fiscal period that is a biennial period, within 180 days after both the midpoint and the close of the fiscal period, except as provided by Section 17-36-38, shall prepare and make available to the governing body an annual financial report which shall contain:

(a) a statement of revenues and expenditures and a comparison with the budget of the county general fund, similar statements of all other funds for which budgets are required, and statements of revenues and expenditures or of income and expense, as the case may be, of all other operating funds of the county;

(b) a balance sheet of each fund and a combined balance sheet of all funds as of:

(i) for a county that has adopted a fiscal period that is a biennial period, the midpoint and the close of the fiscal period; and

(ii) for each other county, the close of the fiscal period; or

(c) any other reports the governing body may require, including work performance data, tax levies, taxable values, details of bonded indebtedness, and historical facts of interest to the governing body and the public.

(2) Copies of the annual report shall be furnished to the state auditor and made a matter of public record in the office of the budget officer.

Section 29. Section 17-36-51 is amended to read:

17-36-51. Establishment of tax stability and trust fund -- Increase in tax levy.

(1) (a) Notwithstanding anything to the contrary contained in statute, the legislative body of any county may by ordinance establish and maintain a tax stability and trust fund, for the purpose of preserving funds during years with favorable tax revenues for use during years with less favorable tax revenues.

(b) Each fund under Subsection (1)(a) shall be subject to all of the limitations and restrictions imposed by this section and Sections 17-36-52 and 17-36-53.

(c) The principal of the fund shall consist of all sums transferred to it in accordance with Subsection (2) and interest or other income retained in the fund under Subsection 17-36-52(2)(a).

(2) (a) After establishing a tax stability and trust fund as provided in Subsection (1), the legislative body, in establishing the levy for the property tax levied by the county under Section 59-2-908, may establish the levy at a level not to exceed .0001 per dollar of taxable value of taxable property increase per year that will permit the county to receive during that fiscal year sums in excess of what may be required to provide for the purposes of the county.

(b) Any excess sums so received are to be transferred from the ~~[General Fund of the county]~~ county general fund into the tax stability and trust fund.

Section 30. Section 17-36-52 is amended to read:

17-36-52. Tax stability and trust fund -- Deposit or investment of funds -- Use of interest or other income.

(1) (a) All amounts in the tax stability and trust fund established by a county under Section 17-36-51 may be deposited or invested as provided in Section 51-7-11. [~~These~~]

(b) The amounts described in Subsection (1)(a) may also be transferred by the county treasurer to the state treasurer under Section 51-7-5 for the treasurer's management and control under Title 51, Chapter 7, State Money Management Act.

(2) (a) The interest or other income realized from amounts in the tax stability and trust fund shall be returned to the county general fund [~~of the county~~] during the fiscal year in which the income or interest is paid to the extent the interest or income is required by the county to provide for its purposes during that fiscal year. [~~Any amounts so returned~~]

(b) An amount returned in accordance with Subsection (2)(a) may be used for all purposes as other amounts in [~~sueh~~] the county general fund.

(c) Any interest or income [~~not so~~] that is not returned to the [~~county's~~] county general fund in accordance with Subsection (2)(a) shall be added to the principal of that county's tax stability and trust fund.

Section 31. Section 17-36-53 is amended to read:

17-36-53. Tax stability and trust fund -- Amount in fund limited -- Disposition of excess.

(1) The total amount in a county's tax stability and trust fund established under Section 17-36-51 shall be limited to the percentage of the total taxable value of property in that county not to exceed the limits provided in the following schedule:

Total Taxable Value Fund Limits Percentage of Taxable Value but not to exceed:

Less than \$500,000,000 1.6%

\$5,000,000

From 500,000,000 to 1,500,000,000

1.0%

7,500,000

Over 1,500,000,000 0.5%

15,000,000

(2) If any excess occurs in the tax stability and trust fund over the percentage or maximum dollar amounts specified in Subsection (1), this excess shall be transferred to the county general fund [~~of the county~~] and may be used for all purposes as other amounts in the county general fund are used.

(3) [~~If~~] (a) Subject to Subsection (3)(b), if any excess in the fund exists because of a decrease in

total taxable value, that excess may remain in the fund [~~, but if~~].

(b) If the excess amount in the fund is decreased below the limitations of the fund for any reason, the fund limitations established under Subsection (1) apply.

Section 32. Section 17-36-54 is amended to read:

17-36-54. Tax stability and trust fund -- Use of principal -- Determination of necessity -- Election.

(1) If the legislative body of a county that has established a tax stability and trust fund under Section 17-36-51 determines that it is necessary for purposes of that county to use any portion of the principal of the fund, the county legislative body shall submit this proposition to the electorate of that county in a special election called and held in the manner provided for in Title 11, Chapter 14, Local Government Bonding Act, for the holding of bond elections.

(2) If the proposition is approved at [~~this~~] the special election by a majority of the qualified electors of the county voting at the election, then that portion of the principal of the fund covered by the proposition may be transferred to the [~~county's~~] county general fund for use for purposes of that county.

CHAPTER 177**S. B. 20**

Passed February 13, 2014

Approved March 29, 2014

Effective May 13, 2014

**TRUSTEE'S SALE FOR RENTAL
PROPERTY - SUNSET ACT AMENDMENTS**

Chief Sponsor: Wayne A. Harper

House Sponsor: Jim Bird

LONG TITLE**General Description:**

This bill reauthorizes certain provisions in Title 57, Chapter 1, Conveyances.

Highlighted Provisions:

This bill:

- ▶ reauthorizes, for an additional two years, certain provisions in Title 57, Chapter 1, Conveyances, related to a notice of trustee's sale for a residential rental property.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-1-257, as last amended by Laws of Utah 2012, Chapter 301

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

Section 1. Section 63I-1-257 is amended to read:**63I-1-257. Repeal dates, Title 57.**

Subsections 57-1-25(1)(c), (3)(b), and (4) are repealed December 31, [2014] 2016.

CHAPTER 178**S. B. 21**

Passed February 21, 2014

Approved March 29, 2014

Effective July 1, 2014

**STATE CONSTRUCTION
CODE AMENDMENTS**

Chief Sponsor: Margaret Dayton

House Sponsor: Keith Grover

LONG TITLE**General Description:**

This bill amends the State Construction Code.

Highlighted Provisions:

This bill:

- ▶ exempts from the permit requirements of the State Construction Code a structure that is solely used to sell certain seasonal crops.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2014.

Utah Code Sections Affected:**AMENDS:**

15A-1-204, as enacted by Laws of Utah 2011, Chapter 14

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 15A-1-204 is amended to read:****15A-1-204. Adoption of State Construction Code -- Amendments by commission-- Approved codes -- Exemptions.**

(1) (a) The State Construction Code is the construction codes adopted with any modifications in accordance with this section that the state and each political subdivision of the state shall follow.

(b) A person shall comply with the applicable provisions of the State Construction Code when:

- (i) new construction is involved; and
- (ii) the owner of an existing building, or the owner's agent, is voluntarily engaged in:
 - (A) the repair, renovation, remodeling, alteration, enlargement, rehabilitation, conservation, or reconstruction of the building; or

(B) changing the character or use of the building in a manner that increases the occupancy loads, other demands, or safety risks of the building.

(c) On and after July 1, 2010, the State Construction Code is the State Construction Code in effect on July 1, 2010, until in accordance with this section:

- (i) a new State Construction Code is adopted; or
- (ii) one or more provisions of the State Construction Code are amended or repealed in accordance with this section.

(d) A provision of the State Construction Code may be applicable:

- (i) to the entire state; or
- (ii) within a county, city, or town.

(2) (a) The Legislature shall adopt a State Construction Code by enacting legislation that adopts a construction code with any modifications.

(b) Legislation enacted under this Subsection (2) shall state that it takes effect on the July 1 after the day on which the legislation is enacted, unless otherwise stated in the legislation.

(c) Subject to Subsection (5), a State Construction Code adopted by the Legislature is the State Construction Code until, in accordance with this section, the Legislature adopts a new State Construction Code by:

- (i) adopting a new State Construction Code in its entirety; or
- (ii) amending or repealing one or more provisions of the State Construction Code.

(3) (a) The commission shall by no later than November 30 of each year recommend to the Business and Labor Interim Committee whether the Legislature should:

- (i) amend or repeal one or more provisions of a State Construction Code; or
- (ii) in a year of a regularly scheduled update of a nationally recognized code, adopt a construction code with any modifications.

(b) The commission may recommend legislative action related to the State Construction Code:

- (i) on its own initiative;
- (ii) upon the recommendation of the division; or
- (iii) upon the receipt of a request by one of the following that the commission recommend legislative action related to the State Construction Code:

- (A) a local regulator;
- (B) a state regulator;
- (C) a state agency involved with the construction and design of a building;
- (D) the Construction Services Commission;
- (E) the Electrician Licensing Board;
- (F) the Plumbers Licensing Board; or
- (G) a recognized construction-related association.

(4) If the Business and Labor Interim Committee decides to recommend legislative action to the Legislature, the Business and Labor Interim Committee shall prepare legislation for consideration by the Legislature in the next general session that, if passed by the Legislature, would:

- (a) adopt a new State Construction Code in its entirety; or

(b) amend or repeal one or more provisions of the State Construction Code.

(5) (a) Notwithstanding Subsection (3), the commission may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, amend the State Construction Code if the commission determines that waiting for legislative action in the next general legislative session would:

(i) cause an imminent peril to the public health, safety, or welfare; or

(ii) place a person in violation of federal or other state law.

(b) If the commission amends the State Construction Code in accordance with this Subsection (5), the commission shall file with the division:

(i) the text of the amendment to the State Construction Code; and

(ii) an analysis that includes the specific reasons and justifications for the commission's findings.

(c) If the State Construction Code is amended under this Subsection (5), the division shall:

(i) publish the amendment to the State Construction Code in accordance with Section 15A-1-205; and

(ii) notify the Business and Labor Interim Committee of the amendment to the State Construction Code, including a copy of the commission's analysis described in Subsection (5)(b).

(d) If not formally adopted by the Legislature at its next annual general session, an amendment to the State Construction Code under this Subsection (5) is repealed on the July 1 immediately following the next annual general session that follows the adoption of the amendment.

(6) (a) The division, in consultation with the commission, may approve, without adopting, one or more approved codes, including a specific edition of a construction code, for use by a compliance agency.

(b) If the code adopted by a compliance agency is an approved code described in Subsection (6)(a), the compliance agency may:

(i) adopt an ordinance requiring removal, demolition, or repair of a building;

(ii) adopt, by ordinance or rule, a dangerous building code; or

(iii) adopt, by ordinance or rule, a building rehabilitation code.

(7) (a) Except as provided in Subsection (7)(b), a structure used solely in conjunction with agriculture use, and not for human occupancy, is exempt from the permit requirements of the State Construction Code.

(b) (i) Unless exempted by a provision other than Subsection (7)(a), a plumbing, electrical, and mechanical permit may be required when that work

is included in a structure described in Subsection (7)(a).

(ii) Unless located in whole or in part in an agricultural protection area created under Title 17, Chapter 41, Agriculture and Industrial Protection [Area] Areas, a structure described in Subsection (7)(a) is not exempt from a permit requirement if the structure is located on land that is:

(A) within the boundaries of a city or town, and less than five contiguous acres; or

(B) within a subdivision for which the county has approved a subdivision plat under Title 17, Chapter 27a, Part 6, Subdivisions, and less than two contiguous acres.

(8) A structure that is no more than 1,000 square feet and is used solely for the type of sales described in Subsection 59-12-104(20) is exempt from the permit requirements described in:

(a) Chapter 2, Adoption of State Construction Code;

(b) Chapter 3, Statewide Amendments Incorporated as Part of State Construction Code; and

(c) Chapter 4, Local Amendments Incorporated as Part of State Construction Code.

Section 2. Effective date.

This bill takes effect on July 1, 2014.

CHAPTER 179**S. B. 22**

Passed March 13, 2014
 Approved March 29, 2014
 Effective May 13, 2014

**WORKFORCE SERVICES
 JOB LISTING AMENDMENTS**

Chief Sponsor: Peter C. Knudson
 House Sponsor: Paul Ray

LONG TITLE**General Description:**

This bill requires that all government entities advertise job openings on the state website and that the Division of Purchasing provide contact information for companies that contract with the state.

Highlighted Provisions:

This bill:

- ▶ requires all government entities to advertise job openings on the state's website; and
- ▶ adds a provision to the procurement code requiring that language be added into contracts and requests for proposals that require the Division of Purchasing to provide employment contact information to the Department of Workforce Services for private contractors that contract with state entities.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

35A-1-102, as last amended by Laws of Utah 2012, Chapter 41
 35A-2-203, as last amended by Laws of Utah 2011, Chapter 188
 63G-6a-402, as last amended by Laws of Utah 2013, Chapter 445

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

Section 1. Section 35A-1-102 is amended to read:**35A-1-102. Definitions.**

Unless otherwise specified, as used in this title:

(1) "Client" means an individual who the department has determined to be eligible for services or benefits under:

- (a) Chapter 3, Employment Support Act; and
- (b) Chapter 5, Training and Workforce Improvement Act.

(2) "Department" means the Department of Workforce Services created in Section 35A-1-103.

(3) "Economic service area" means an economic service area established in accordance with Chapter 2, Economic Service Areas.

(4) "Employment assistance" means services or benefits provided by the department under:

- (a) Chapter 3, Employment Support Act; and
- (b) Chapter 5, Training and Workforce Improvement Act.

(5) "Employment center" is a location in an economic service area where the services provided by an economic service area under Section 35A-2-201 may be accessed by a client.

(6) "Employment counselor" means an individual responsible for developing an employment plan and coordinating the services and benefits under this title in accordance with Chapter 2, Economic Service Areas.

(7) "Employment plan" means a written agreement between the department and a client that describes:

- (a) the relationship between the department and the client;
- (b) the obligations of the department and the client; and
- (c) the result if an obligation is not fulfilled by the department or the client.

(8) "Executive director" means the executive director of the department appointed under Section 35A-1-201.

(9) "Government entity" means the state or any county, municipality, local district, special service district, or other political subdivision or administrative unit of the state, including state institutions of higher education as defined in Section 53B-2-101.

~~(9)~~ (10) "Public assistance" means:

- (a) services or benefits provided under Chapter 3, Employment Support Act;
- (b) medical assistance provided under Title 26, Chapter 18, Medical Assistance Act;
- (c) foster care maintenance payments provided from the General Fund or under Title IV-E of the Social Security Act;
- (d) SNAP benefits; and
- (e) any other public funds expended for the benefit of a person in need of financial, medical, food, housing, or related assistance.

~~(10)~~ (11) "SNAP" means the federal "Supplemental Nutrition Assistance Program" under Title 7, U.S.C. Chapter 51, Supplemental Nutrition Assistance Program, formerly known as the federal Food Stamp Program.

~~(11)~~ (12) "SNAP benefit" or "SNAP benefits" means a financial benefit, coupon, or privilege available under SNAP.

~~(12)~~ (13) "Stabilization" means addressing the basic living, family care, and social or psychological needs of the client so that the client may take advantage of training or employment opportunities provided under this title or through other agencies or institutions.

Section 2. Section 35A-2-203 is amended to read:**35A-2-203. Employment centers.**

(1) In each county within an economic service area, the executive director shall:

(a) designate the location of one or more employment centers, as defined in Section 35A-1-102, in which the services are provided by the department; or

(b) coordinate with the department to establish access to the services provided by the department by means other than an employment center.

(2) An employment center shall provide a comprehensive program of employment services including job placement, job development, stabilization, assessment, and job training through its employment counselors as part of a system of unified case management.

(3) The department may make services that are provided through employment centers under this section accessible through electronic linkage.

(4) The department shall develop and maintain a website dedicated to providing information regarding employment opportunities available throughout the state.

(5) (a) Except when filling a job vacancy with a current employee, a government entity shall list each public job posting on the department's website.

(b) Information regarding job vacancies with private contractors that have contracted with an executive branch procurement unit shall be made available to the department for posting on the department's website by the department. Posted information shall include the name and contact information for job inquiries. This information shall be available for the duration of the contract.

(c) Faculty related job vacancies and job vacancies for part-time wage related jobs typically filled by students at state institutions of higher education are exempt from the requirements of Subsection (5)(a).

(d) Subsection (5)(a) does not apply to school districts.

Section 3. Section 63G-6a-402 is amended to read:

63G-6a-402. Procurement unit required to comply with Utah Procurement Code and applicable rules -- Rulemaking authority -- Reporting.

(1) Except as otherwise provided in Section 63G-6a-107, Section 63G-6a-403, Part 8, Exceptions to Procurement Requirements, or elsewhere in this chapter, a procurement unit may not obtain a procurement item, unless:

(a) if the procurement unit is the division or a procurement unit with independent procurement authority, the procurement unit:

(i) uses a standard procurement process or an exception to a standard procurement process, described in Part 8, Exceptions to Procurement Requirements; and

(ii) complies with:

(A) the requirements of this chapter; and

(B) the rules made pursuant to this chapter by the applicable rulemaking authority;

(b) if the procurement unit is a county, a municipality, or the Utah Housing Corporation, the procurement unit complies with:

(i) the requirements of this chapter that are adopted by the procurement unit; and

(ii) all other procurement requirements that the procurement unit is required to comply with; or

(c) if the procurement unit is not a procurement unit described in Subsections (1)(a) or (b), the procurement unit:

(i) obtains the procurement item under the direction and approval of the division, unless otherwise provided by a rule made by the board;

(ii) uses a standard procurement process; and

(iii) complies with:

(A) the requirements of this chapter; and

(B) the rules made pursuant to this chapter by the applicable rulemaking authority.

(2) Subject to Subsection (3), the applicable rulemaking authority shall make rules relating to the management and control of procurements and procurement procedures by a procurement unit.

(3) (a) Rules made under Subsection (2) shall ensure compliance with the federal contract prohibition provisions of the Sudan Accountability and Divestment Act of 2007 (Pub. L. No. 110-174) that prohibit contracting with a person doing business in Sudan.

(b) The State Building Board rules governing procurement of construction, architect-engineer services, and leases apply to the procurement of construction, architect-engineer services, and leases of real property by the Division of Facilities Construction and Management.

(4) An applicable rulemaking authority that is subject to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall make the rules described in this chapter in accordance with the provisions of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) The State Building Board shall make a report on or before July 1 of each year to a legislative interim committee, designated by the Legislative Management Committee created under Section 36-12-6, on the establishment, implementation, and enforcement of the rules made by the State Building Board under this chapter.

(6) The rules of the applicable rulemaking authority for the executive branch procurement unit shall require, for each contract and request for proposals, the inclusion of a clause that requires the issuing procurement unit, for the duration of the contract, to make available contact information of the winning contractor to the Department of Workforce Services in accordance with Section 35A-2-203. This requirement does not preclude a

contractor from advertising job openings in other forums throughout the state.

CHAPTER 180**S. B. 24**

Passed February 13, 2014

Approved March 29, 2014

Effective May 13, 2014

**AMENDMENT TO PROCUREMENT
CODE EXEMPTIONS**

Chief Sponsor: Margaret Dayton

House Sponsor: Keith Grover

LONG TITLE**General Description:**

This bill enacts language establishing an exemption from the Utah Procurement Code.

Highlighted Provisions:

This bill:

- ▶ exempts from the Utah Procurement Code purchases of certain firefighting supplies and equipment made by the Division of Forestry, Fire, and State Lands.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63G-6a-107, as last amended by Laws of Utah 2013, Chapter 445

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

Section 1. Section 63G-6a-107 is amended to read:**63G-6a-107. Exemptions from chapter --
Compliance with federal law.**

(1) Except for Part 23, Unlawful Conduct and Penalties, the provisions of this chapter are not applicable to:

(a) funds administered under the Percent-for-Art Program of the Utah Percent-for-Art Act;

(b) grants awarded by the state or contracts between the state and any of the following:

- (i) an educational procurement unit;
- (ii) a conservation district;
- (iii) a local building authority;
- (iv) a local district;
- (v) a public corporation;
- (vi) a special service district;
- (vii) a public transit district; or

(viii) two or more of the entities described in Subsections (1)(b)(i) through (vii), acting under legislation that authorizes intergovernmental cooperation;

(c) medical supplies or medical equipment, including service agreements for medical equipment, obtained through a purchasing

consortium by the Utah State Hospital, the Utah State Developmental Center, the University of Utah Hospital, or any other hospital owned by the state or a political subdivision of the state, if:

(i) the consortium uses a competitive procurement process; and

(ii) the chief administrative officer of the hospital makes a written finding that the prices for purchasing medical supplies and medical equipment through the consortium are competitive with market prices;

(d) the purchase of firefighting supplies or equipment by the Division of Forestry, Fire, and State Lands, created in Section 65A-1-4, through the federal General Services Administration or the National Fire Cache system;

~~(d)~~ (e) goods purchased for resale; or

~~(e)~~ (f) any action taken by a majority of both houses of the Legislature.

(2) (a) Notwithstanding Subsection (1), the provisions of Part 23, Unlawful Conduct and Penalties, are not applicable to an entity described in Subsection (1)(b)(ii), (iii), (iv), (vi), (vii), or (viii).

(b) This chapter does not prevent a procurement unit from complying with the terms and conditions of any grant, gift, or bequest that is otherwise consistent with law.

(3) Notwithstanding any conflicting provision of this chapter, when a procurement involves the expenditure of federal assistance, federal contract funds, local matching funds, or federal financial participation funds, the procurement unit shall comply with mandatory applicable federal law and regulations not reflected in this chapter.

(4) This chapter does not supersede the requirements for retention or withholding of construction proceeds and release of construction proceeds as provided in Section 13-8-5.

CHAPTER 181**S. B. 27**

Passed February 26, 2014

Approved March 29, 2014

Effective May 13, 2014

**REAUTHORIZATION OF MASSAGE
THERAPY LICENSURE ACT**

Chief Sponsor: John L. Valentine

House Sponsor: Melvin R. Brown

LONG TITLE**General Description:**

This bill modifies the Legislative Oversight and Sunset Act.

Highlighted Provisions:

This bill:

- ▶ extends the repeal date of Title 58, Chapter 47b, Massage Therapy Practice Act, from July 1, 2014, to July 1, 2024.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-1-258, as last amended by Laws of Utah 2013, Chapters 55, 87, 222, 278, and 351

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

Section 1. Section 63I-1-258 is amended to read:**63I-1-258. Repeal dates, Title 58.**

(1) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is repealed July 1, 2016.

(2) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2015.

(3) Section 58-17b-309.5 is repealed July 1, 2015.

(4) Title 58, Chapter 20a, Environmental Health Scientist Act, is repealed July 1, 2018.

(5) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2023.

(6) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act, is repealed July 1, 2019.

(7) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1, 2015.

(8) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July 1, 2023.

(9) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, [2014] 2024.

(10) Section 58-69-302.5 is repealed on July 1, 2015.

(11) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2017.

CHAPTER 182**S. B. 44**

Passed March 3, 2014
 Approved March 29, 2014
 Effective May 13, 2014

**WORKERS' COMPENSATION
AND EMPLOYEE MISCONDUCT**

Chief Sponsor: Karen Mayne
 House Sponsor: Mike K. McKell

LONG TITLE**General Description:**

This bill modifies the Workers' Compensation Act to address use of controlled substances or alcohol.

Highlighted Provisions:

This bill:

- ▶ addresses reductions or prohibitions on receipt of disability compensation related to the use of controlled substances or alcohol on the basis of the degree to which the conduct is a contributing cause of an injury;
- ▶ addresses knowing use of a controlled substance not obtained under a prescription;
- ▶ clarifies burden of proof to rebut presumption;
- ▶ addresses what an employee can prove to rebut presumption;
- ▶ requires split testing; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

34A-2-302, as last amended by Laws of Utah 2000, Chapter 295

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

Section 1. Section 34A-2-302 is amended to read:**34A-2-302. Employee's willful misconduct -- Penalty.**

(1) For purposes of this section:

(a) "Controlled substance" is as defined in Section 58-37-2[;].

(b) "Local government employee" is as defined in Section 34-41-101[;].

(c) "Local governmental entity" is as defined in Section 34-41-101[;].

(d) "State institution of higher education" is as defined in Section 34-41-101[;and].

(e) "Valid prescription" is a prescription, as defined in Section 58-37-2, that:

(i) is prescribed for a controlled substance for use by the employee for whom it was prescribed; and

(ii) has not been altered or forged.

(2) An employee may not:

(a) remove, displace, damage, destroy, or carry away any safety device or safeguard provided for use in any employment or place of employment;

(b) interfere in any way with the use of a safety device or safeguard described in Subsection (2)(a) by any other person;

(c) interfere with the use of any method or process adopted for the protection of any employee in the employer's employment or place of employment; or

(d) fail or neglect to follow and obey orders and to do every other thing reasonably necessary to protect the life, health, and safety of employees.

(3) Except in case of injury resulting in death:

(a) compensation provided for by this chapter shall be reduced 15% when injury is caused by the willful failure of the employee:

(i) to use safety devices when provided by the employer; or

(ii) to obey any order or reasonable rule adopted by the employer for the safety of the employee; and

(b) except when the employer permitted, encouraged, or had actual knowledge of the conduct described in Subsection [(3)(b)(i) through (iii)], (4):

(i) disability compensation may not be awarded under this chapter or [Title 34A,] Chapter 3, Utah Occupational Disease Act, to an employee when the major contributing cause of the employee's injury is the employee's conduct described in Subsection (4); or

(ii) disability compensation to an employee under this chapter or Chapter 3, Utah Occupational Disease Act, shall be reduced by 15% when the employee's conduct is a contributing cause of the employee's injury but not the major contributing cause.

(4) The conduct described in Subsection (3)(b) is the employee's:

[(4)] (a) knowing use of a controlled substance that the employee did not obtain under a valid prescription;

[(4)] (b) intentional abuse of a controlled substance that the employee obtained under a valid prescription if the employee uses the controlled substance intentionally;

[(4)] (i) in excess of prescribed therapeutic amounts; or

[(4)] (ii) in an otherwise abusive manner; or

[(4)] (c) intoxication from alcohol with a blood or breath alcohol concentration of .08 grams or greater as shown by a chemical test.

[(4)] (5) (a) For purposes of [Subsection] Subsections (3) and (4), as shown by a chemical test that conforms to scientifically accepted analytical methods and procedures and includes verification or confirmation of any positive test result by gas chromatography, gas chromatography-mass spectroscopy, or other comparably reliable analytical method, before the result of the test may

be used as a basis for the presumption, it is presumed that the major contributing cause of the employee's injury is the employee's conduct described in ~~[Subsections (3)(b)(i) through (iii)]~~ Subsection (4) if at the time of the injury:

(i) the employee has in the employee's system:

(A) any amount of a controlled substance or its metabolites if the employee did not obtain the controlled substance under a valid prescription; or

(B) a controlled substance the employee obtained under a valid prescription or the metabolites of the controlled substance if the amount in the employee's system is consistent with the employee using the controlled substance intentionally:

(I) in excess of prescribed therapeutic amounts; or

(II) in an otherwise abusive manner; or

(ii) the employee has a blood or breath alcohol concentration of .08 grams or greater.

(b) The presumption created under Subsection ~~[(4)]~~ (5)(a) may be rebutted by a preponderance of the evidence showing that:

(i) the chemical test creating the presumption is inaccurate because the employer failed to comply with:

(A) Sections 34-38-4 through 34-38-6; or

(B) if the employer is a local governmental entity or state institution of higher education, Section 34-41-104 and Subsection 34-41-103(5);

(ii) the employee did not engage in the conduct described in ~~[Subsections (3)(b)(i) through (iii)]~~ Subsection (4);

(iii) the test results do not exclude the possibility of passive inhalation of marijuana because the concentration of total urinary cannabinoids is less than 50 nanograms/ml as determined by a test conducted in accordance with:

(A) Sections 34-38-4 through 34-38-6; or

(B) if the employer is a local governmental entity or state institution of higher education, Section 34-41-104 and Subsection 34-41-103(5);

(iv) a competent medical opinion from a physician verifies that the amount of controlled substances, metabolites, or alcohol in the employee's system ~~[of the following]~~ does not support a finding that the conduct described in ~~[Subsections (3)(b)(i) through (iii)]~~ Subsection (4) was the major contributing cause of the employee's injury~~[:]~~ or a contributing cause of the employee's injury; or

~~[(A) any amount of a controlled substance or its metabolites if the employee did not obtain the controlled substance under a valid prescription; or]~~

~~[(B) a controlled substance the employee obtained under a valid prescription or the metabolites of the controlled substance if the amount in the~~

~~employee's system is consistent with the employee using the controlled substance intentionally;]~~

~~[(I) in excess of prescribed therapeutic amounts; or]~~

~~[(II) in an otherwise abusive manner;]~~

~~[(C) alcohol; or]~~

~~[(D) a combination of Subsections (4)(b)(iii)(A) through (C); or]~~

(v) (A) the conduct described in ~~[Subsections (3)(b)(i) through (iii)]~~ Subsection (4) was not ~~[the major]~~ a contributing cause of the employee's injury~~[:]~~; or

(B) the employee's mental and physical condition were not impaired at the time of the injury.

(c) (i) Except as provided in Subsections ~~[(4)]~~ (5)(c)(ii) and (iii), if a chemical test that creates the presumption under Subsection ~~[(4)]~~ (5)(a) is taken at the request of the employer, the employer shall comply with:

(A) Title 34, Chapter 38, Drug and Alcohol Testing; or

(B) if the employee is a local governmental employee or an employee of a state institution of higher education, Title 34, Chapter 41, Local Governmental Entity Drug-Free Workplace Policies.

(ii) Notwithstanding Section 34-38-13, the results of a test taken under Title 34, Chapter 38, Drug and Alcohol Testing, may be disclosed to the extent necessary to establish or rebut the presumption created under Subsection ~~[(4)]~~ (5)(a).

(iii) Notwithstanding Section 34-41-103, the results of a test taken under Title 34, Chapter 41, Local Governmental Entity Drug-Free Workplace Policies, may be disclosed to the extent necessary to establish or rebut the presumption created under Subsection ~~[(4)]~~ (5)(a).

(6) (a) A test sample taken pursuant to this section shall be taken as a split sample.

(b) One part of the sample is to be used by the employer for testing pursuant to Subsection (5)(a):

(i) at a testing facility selected by the employer; and

(ii) at the employer's or the employer's workers' compensation carrier's expense.

(c) The testing facility selected under Subsection (6)(b) shall hold the part of the sample not used under Subsection (6)(b) until the sooner of:

(i) six months from the date of the original test; or

(ii) when the employee requests that the sample be tested.

(d) The employee has only six months from the date of the original test to have the remaining sample tested:

(i) at the employee's expense; and

(ii) at the testing facility selected by the employee, except that the test shall meet the requirements of Subsection (5)(a).

[~~(5)~~] (7) If any provision of this section, or the application of any provision of this section to any person or circumstance, is held invalid, the remainder of this section shall be given effect without the invalid provision or application.

CHAPTER 183**S. B. 45**

Passed March 5, 2014

Approved March 29, 2014

Effective May 13, 2014

**MILITARY INSTALLATION DEVELOPMENT
AUTHORITY AMENDMENTS**

Chief Sponsor: Jerry W. Stevenson

House Sponsor: Brad L. Dee

LONG TITLE**General Description:**

This bill modifies Title 19, Chapter 6, Part 5, Solid Waste Management Act, and Title 63H, Chapter 1, Military Installation Development Authority Act.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of “solid waste management facility” to include an auxiliary energy facility that is connected to an existing resource recovery facility;
- ▶ repeals Section 19-6-504, which discusses certain requirements for a public entity that issues bonds to finance a solid waste management facility;
- ▶ defines the term “development” to include certain activities within a project area;
- ▶ modifies the definition of “property tax” to not include a privilege tax on a portion of a facility on military land leased back to the military under certain circumstances;
- ▶ describes certain exemptions from the Condominium Ownership Act;
- ▶ modifies the definition of “publicly owned infrastructure and improvements”; and
- ▶ provides that the issuance of a certificate of occupancy by the authority, or an entity designated by the authority, determines when improvements on a parcel within a project area become subject to property tax.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

19-6-502, as last amended by Laws of Utah 2008, Chapters 89 and 360

63H-1-102, as last amended by Laws of Utah 2013, Chapter 362

63H-1-202, as last amended by Laws of Utah 2010, Chapter 9

63H-1-501, as last amended by Laws of Utah 2013, Chapter 362

REPEALS:

19-6-504, as renumbered and amended by Laws of Utah 1991, Chapter 112

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

Section 1. Section 19-6-502 is amended to read:**19-6-502. Definitions.**

As used in this part:

(1) “Governing body” means the governing board, commission, or council of a public entity.

(2) “Jurisdiction” means the area within the incorporated limits of:

- (a) a municipality;
- (b) a special service district;
- (c) a municipal-type service district;
- (d) a service area; or

(e) the territorial area of a county not lying within a municipality.

(3) “Long-term agreement” means an agreement or contract having a term of more than five years but less than 50 years.

(4) “Municipal residential waste” means solid waste that is:

(a) discarded or rejected at a residence within the public entity’s jurisdiction; and

(b) collected at or near the residence by:

(i) a public entity; or

(ii) a person with whom the public entity has an agreement to provide solid waste management.

(5) “Public entity” means:

(a) a county;

(b) a municipality;

(c) a special service district under Title 17D, Chapter 1, Special Service District Act;

(d) a service area under Title 17B, Chapter 2a, Part 9, Service Area Act; or

(e) a municipal-type service district created under Title 17, Chapter 34, Municipal-Type Services to Unincorporated Areas.

(6) “Requirement” means an ordinance, policy, rule, mandate, or other directive that imposes a legal duty on a person.

(7) “Residence” means an improvement to real property used or occupied as a primary or secondary detached single-family dwelling.

(8) “Resource recovery” means the separation, extraction, recycling, or recovery of usable material, energy, fuel, or heat from solid waste and the disposition of it.

(9) “Short-term agreement” means a contract or agreement having a term of five years or less.

(10) (a) “Solid waste” means a putrescible or nonputrescible material or substance discarded or rejected as being spent, useless, worthless, or in excess of the owner’s needs at the time of discard or rejection, including:

(i) garbage;

(ii) refuse;

(iii) industrial and commercial waste;

- (iv) sludge from an air or water control facility;
- (v) rubbish;
- (vi) ash;
- (vii) contained gaseous material;
- (viii) incinerator residue;
- (ix) demolition and construction debris;
- (x) a discarded automobile; and
- (xi) offal.

(b) "Solid waste" does not include sewage or another highly diluted water carried material or substance and those in gaseous form.

(11) "Solid waste management" means the purposeful and systematic collection, transportation, storage, processing, recovery, or disposal of solid waste.

(12) "Solid waste management facility" means a facility employed for solid waste management, including:

- (a) a transfer station;
- (b) a transport system;
- (c) a baling facility;
- (d) a landfill; and
- (e) a processing system, including:
 - (i) a resource recovery facility;
 - (ii) a facility for reducing solid waste volume;
 - (iii) a plant or facility for compacting, composting, or pyrolyzation of solid waste;
 - (iv) an incinerator;
 - (v) a solid waste disposal, reduction, or conversion facility; ~~and~~
 - (vi) a facility for resource recovery of energy consisting of:
 - (A) a facility for the production, transmission, distribution, and sale of heat and steam;
 - (B) a facility for the generation and sale of electric energy to a public utility, municipality, or other public entity that owns and operates an electric power system on March 15, 1982; and
 - (C) a facility for the generation, sale, and transmission of electric energy on an emergency basis only to a military installation of the United States[-]; and
 - (vii) an auxiliary energy facility that is connected to a facility for resource recovery of energy as described in Subsection (12)(e)(vi), that:
 - (A) is fueled by natural gas, landfill gas, or both;
 - (B) consists of a facility for the production, transmission, distribution, and sale of supplemental heat and steam to meet all or a

portion of the heat and steam requirements of a military installation of the United States; and

(C) consists of a facility for the generation, transmission, distribution, and sale of electric energy to a public utility, a municipality described in Subsection (12)(e)(vi)(B), or a political subdivision created under Title 11, Chapter 13, Interlocal Cooperation Act.

Section 2. Section 63H-1-102 is amended to read:

63H-1-102. Definitions.

As used in this chapter:

(1) "Authority" means the Military Installation Development Authority, created under Section 63H-1-201.

(2) "Base taxable value" means:

(a) for military land or other land that was exempt from a property tax at the time that a project area was created that included the military land or other land, a taxable value of zero; or

(b) for private property that is included in a project area, the taxable value of the property within any portion of the project area, as designated by board resolution, from which tax increment will be collected, as shown upon the assessment roll last equalized before the year in which the authority issues a building permit for a building within that portion of the project area.

(3) "Board" means the governing body of the authority created under Section 63H-1-301.

(4) (a) "Dedicated tax collections" means the property tax that remains after the authority is paid the tax increment it is entitled to receive under Subsection 63H-1-501(1), for a property tax levied by:

(i) a county, including a district the county has established under Subsection 17-34-3(2) to levy a property tax under Title 17, Chapter 34, Municipal-Type Services to Unincorporated Areas; or

(ii) an included municipality.

(b) "Dedicated tax collections" does not include a property tax levied by a county to assess and collect property taxes under Subsections 59-2-1602(1) and (4).

(5) (a) "Development" means an activity occurring on land within a project area that is owned or operated by the military, the authority, another public entity, or a private entity.

(b) "Development" includes the demolition, construction, reconstruction, modification, expansion, or improvement of a building, facility, utility, landscape, parking lot, park, trail, or recreational amenity.

~~(5)~~ (6) "Development project" means a project to develop land within a project area.

~~(6)~~ (7) "Elected member" means a member of the authority board who:

(a) is a mayor or member of a legislative body appointed under Subsection 63H-1-302(2)(b); or

(b) (i) is appointed to the authority board under Subsection 63H-1-302(2)(a) or (3); and

(ii) concurrently serves in an elected state, county, or municipal office.

[47] (8) "Included municipality" means a municipality, some or all of which is included within a project area.

[48] (9) "Military Installation Development Authority energy tax" or "MIDA energy tax" means the tax levied under Section 63H-1-204.

[49] (10) "Military land" means land or a facility, including leased land or a leased facility, that is part of or affiliated with a base, camp, post, station, yard, center, or installation under the jurisdiction of the U.S. Department of Defense or the Utah National Guard.

[40] (11) "Municipal energy tax" means a municipal energy sales and use tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act.

[41] (12) "Municipal services revenue" means revenue that the authority:

- (a) collects from the authority's:
 - (i) levy of a municipal energy tax;
 - (ii) levy of a MIDA energy tax;
 - (iii) levy of a telecommunications tax;
 - (iv) imposition of a transient room tax; and
 - (v) imposition of a resort communities tax;

(b) receives under Subsection 59-12-205(2)(b)(ii); and

- (c) receives as dedicated tax collections.

[42] (13) "Municipal tax" means a municipal energy tax, MIDA energy tax, telecommunications tax, transient room tax, or resort communities tax.

[43] (14) "Project area" means the land, including military land, whether consisting of a single contiguous area or multiple noncontiguous areas, described in a project area plan or draft project area plan, where the development project set forth in the project area plan or draft project area plan takes place or is proposed to take place.

[44] (15) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to a project area that includes:

(a) the base taxable value of property in the project area;

(b) the projected tax increment expected to be generated within the project area;

(c) the amount of the tax increment expected to be shared with other taxing entities;

(d) the amount of the tax increment expected to be used to implement the project area plan, including the estimated amount of the tax increment to be used for land acquisition, public improvements, infrastructure improvements, and loans, grants, or other incentives to private and public entities;

(e) the tax increment expected to be used to cover the cost of administering the project area plan;

(f) if the tax increment is to be collected at different times or from different portions of the project area, or both:

(i) (A) the tax identification numbers of the parcels from which the tax increment will be collected; or

(B) a legal description of the portion of the project area from which the tax increment will be collected; and

(ii) an estimate of when other portions of the project area will become subject to collection of the tax increment; and

(g) for property that the authority owns or leases and expects to sell or sublease, the expected total cost of the property to the authority and the expected selling price or lease payments.

[45] (16) "Project area plan" means a written plan that, after its effective date, guides and controls the development within a project area.

[46] (17) (a) "Property tax" includes a privilege tax, except as described in Subsection (17)(b), and each levy on an ad valorem basis on tangible or intangible personal or real property.

(b) "Property tax" does not include a privilege tax on the taxable value attributable to a portion of a facility leased to the military for a calendar year when:

(i) a lessee of military land has constructed a facility on the military land that is part of a project area;

(ii) the lessee leases space in the facility to the military for the entire calendar year; and

(iii) the lease rate paid by the military for the space is \$1 or less for the entire calendar year, not including any common charges that are reimbursements for actual expenses.

[47] (18) "Public entity" means:

(a) the state, including each department or agency of the state; or

(b) a political subdivision of the state, including a county, city, town, school district, local district, special service district, or interlocal cooperation entity.

~~[(18) "Publicly owned infrastructure and improvements" means water, sewer, storm drainage, electrical, telecommunications, and other similar systems and lines, streets, roads, curb, gutter, sidewalk, walkways, parking facilities, public transportation facilities, and other buildings, facilities, infrastructure, and improvements that.]~~

~~[(a) benefit the public; and]~~

~~[(b) are;]~~

~~[(i) publicly owned or owned by a utility; or]~~

~~[(ii) publicly maintained or operated by the authority or another public entity.]~~

(19) (a) “Publicly owned infrastructure and improvements” means infrastructure, improvements, facilities, or buildings that benefit the public and are:

(i) publicly owned by the military, the authority, or another public entity;

(ii) owned by a utility; or

(iii) publicly maintained or operated by the military, the authority, or another public entity.

(b) “Publicly owned infrastructure and improvements” includes:

(i) facilities, lines, or systems that provide water, chilled water, steam, sewer, storm drainage, natural gas, electricity, or telecommunications; and

(ii) streets, roads, curb, gutter, sidewalk, walkways, solid waste facilities, parking facilities, and public transportation facilities.

~~[(49)]~~ (20) “Remaining municipal services revenue” means municipal services revenue that the authority has not spent during its fiscal year for municipal services as provided in Subsection 63H-1-503(1).

~~[(20)]~~ (21) “Resort communities tax” means a sales and use tax imposed under Section 59-12-401.

~~[(21)]~~ (22) “Taxable value” means the value of property as shown on the last equalized assessment roll as certified by the county assessor.

~~[(22)]~~ (23) “Tax increment” means the difference between:

(a) the amount of property tax revenues generated each tax year by all taxing entities from the area within a project area designated in the project area plan as the area from which the tax increment is to be collected, using the current assessed value of the property; and

(b) the amount of property tax revenues that would be generated from that same area using the base taxable value of the property.

~~[(23)]~~ (24) “Taxing entity” means a public entity that levies a tax on property within a project area.

~~[(24)]~~ (25) “Telecommunications tax” means a telecommunications license tax under Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act.

~~[(25)]~~ (26) “Transient room tax” means a tax under Section 59-12-352.

Section 3. Section 63H-1-202 is amended to read:

63H-1-202. Applicability of other law.

(1) The authority or land within a project area is not subject to:

(a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act;

(b) Title 17, Chapter 27a, County Land Use, Development, and Management Act;

(c) ~~[any]~~ ordinances or regulations of a county or municipality, including those relating to land use, health, business license, or franchise; or

(d) the jurisdiction of ~~[any]~~ a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act.

(2) The authority is subject to and governed by Sections 63E-2-106, 63E-2-107, 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed by Title 63E, Independent Entities Code.

(3) (a) The definitions in Section 57-8-3 apply to this Subsection (3).

(b) Notwithstanding the provisions of Title 57, Chapter 8, Condominium Ownership Act:

(i) if the military is the owner of land on which a condominium project is constructed, it is not required to sign, execute, or record a declaration of a condominium project; and

(ii) if a condominium unit is owned by the authority and leased to the military for \$1 or less per calendar year, not including any common charges that are reimbursements for actual expenses:

(A) the condominium unit is not subject to any liens under Title 57, Chapter 8, Condominium Ownership Act; and

(B) condominium unit owners within the same building or commercial condominium project may agree on any method of allocation and payment of common area expenses, regardless of the size or par value of each unit.

Section 4. Section 63H-1-501 is amended to read:

63H-1-501. Authority receipt and use of tax increment -- Distribution of tax increment.

(1) (a) The authority may:

(i) subject to Subsection (1)(b), receive up to 75% of the tax increment for up to 25 years, as provided in this part; and

(ii) use the tax increment during and after the period described in Subsection (1)(a)(i).

(b) With respect to a parcel located within a project area, the 25-year period described in Subsection (1)(a)(i) shall begin on the day on which the authority receives the first tax increment from that parcel.

(2) Improvements on a parcel within a project area become subject to property tax on January 1

immediately following the day on which the authority or an entity designated by the authority issues a certificate of occupancy with respect to those improvements.

(3) Each county that collects property tax on property within a project area shall pay and distribute to the authority the tax increment and dedicated tax collections that the authority is entitled to collect under this title, in the manner and at the time provided in Section 59-2-1365.

(4) (a) The board shall determine by resolution when the entire project area or an individual parcel within a project area is subject to tax increment.

(b) The board shall amend the project area budget to reflect whether a parcel within a project area is subject to tax increment.

Section 5. Repealer.

This bill repeals:

Section 19-6-504, Assurance of sufficient revenue to pay bonds.

CHAPTER 184**S. B. 52**

Passed March 7, 2014
Approved March 29, 2014
Effective May 13, 2014

**UTILITY RELOCATION
ON HIGHWAY PROJECTS**

Chief Sponsor: Kevin T. Van Tassell
House Sponsor: Johnny Anderson

LONG TITLE**General Description:**

This bill modifies the Transportation Code by amending provisions relating to the relocation of utilities for a state highway project.

Highlighted Provisions:

This bill:

- ▶ amends the definition of utility;
- ▶ provides that the requirement that the Department of Transportation pay certain percentages of the cost of relocation of a utility to accommodate construction of a state highway project includes the construction of a proposed state highway and the improvement, widening, or modification of an existing state highway;
- ▶ requires the Department of Transportation to pay 100% of the cost of relocation of a utility to accommodate construction of a state highway project if the utility is located in a public utility easement;
- ▶ provides that a utility company that has been notified of a utility relocation shall cooperate with the Department of Transportation; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

72-6-116, as last amended by Laws of Utah 2010, Chapter 272

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

Section 1. Section 72-6-116 is amended to read:

**72-6-116. Regulation of utilities --
Relocation of utilities.**

(1) As used in this section:

(a) "Cost of relocation" includes the entire amount paid by the utility company properly attributable to the relocation of the utility after deducting any increase in the value of the new utility and any salvage value derived from the old utility.

(b) "Utility" includes telecommunication, gas, electricity, cable television, water, sewer, data, and video transmission lines, drainage and irrigation [systems] facilities, and other similar utilities [located in, on, along, across, over, through, or under

any state highway] whether public, private, or cooperatively owned.

(c) "Utility company" means a privately, cooperatively, or publicly owned utility, including utilities owned by political subdivisions.

(2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules for the installation, construction, maintenance, repair, renewal, system upgrade, and relocation of all utilities.

(b) If the department determines under the rules established in this section that it is necessary that any utilities should be relocated, the utility company owning or operating the utilities shall relocate the utilities in accordance with this section and the order of the department.

(3) (a) The department shall pay 100% of the cost of relocation of a utility [øæ] to accommodate construction of a state highway project, including the construction of a proposed state highway and the improvement, widening, or modification of an existing state highway if the:

(i) utility is owned or operated by a political subdivision of the state; [øæ]

(ii) utility company owns the easement or fee title to the right-of-way in which the utility is located[-]; or

(iii) utility is located in a public utility easement as defined in Section 54-3-27.

(b) Except as provided in Subsection (3)(a) or (c), the department shall pay 50% of the cost of relocation of a utility [øæ] to accommodate construction of a state highway project, including the construction of a proposed state highway and the improvement, widening, or modification of an existing state highway, and the utility company shall pay the remainder of the cost of relocation.

(c) This Subsection (3) does not affect the provisions of Subsection 72-7-108(5).

(4) If a utility is relocated, the utility company owning or operating the utility, its successors or assigns, may maintain and operate the utility, with the necessary appurtenances, in the new location.

(5) In accordance with this section, the cost of relocating a utility in connection with any project on a highway is a cost of highway construction.

(6) (a) The department shall notify affected utility companies, in accordance with Section 54-3-29, whenever the relocation of utilities is likely to be necessary because of a reconstruction project.

(b) The notification shall be made during the preliminary design of the project or as soon as practical in order to minimize the number, costs, and delays of utility relocations.

(c) A utility company notified under this Subsection (6) shall coordinate and cooperate with the department and the department's contractor on the utility relocations, including the scheduling of the utility relocations.

CHAPTER 185**S. B. 59**

Passed March 12, 2014
 Approved March 29, 2014
 Effective May 13, 2014

**INDEPENDENT ENTITIES FINANCIAL
 TRANSPARENCY DISCLOSURE**

Chief Sponsor: Deidre M. Henderson
 House Sponsor: Steve Eliason

LONG TITLE**General Description:**

This bill modifies provisions related to making certain independent entities' financial information available to the public on the Internet.

Highlighted Provisions:

This bill:

- ▶ requires the Utah State Retirement Office to publicly report certain financial information on its website;
- ▶ defines "independent entity";
- ▶ requires an independent entity, except the Workers' Compensation Fund and the Utah State Retirement Office, to report certain financial information on the Utah Public Finance Website or via a link to its own website through the Utah Public Finance Website;
- ▶ provides specific reporting exclusions for certain independent entities; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63A-3-401, as last amended by Laws of Utah 2012, Chapter 94
 63A-3-402, as last amended by Laws of Utah 2011, Chapters 46 and 417
 63A-3-403, as last amended by Laws of Utah 2013, Chapters 84 and 310
 63A-3-404, as last amended by Laws of Utah 2009, Chapter 310

ENACTS:

49-11-1101, Utah Code Annotated 1953

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

Section 1. Section 49-11-1101 is enacted to read:

Part 11. Public Financial Disclosure

49-11-1101. Public financial information disclosure on website -- Exclusions.

(1) The office shall provide the following financial information for the public on its website:

(a) administrative expense transactions from its general ledger accounting system; and

(b) aggregated employee compensation information by department.

(2) For purposes of this part, the office is not required to provide other information for public access on its website, if the disclosure of the information would conflict with the fiduciary obligations of the board, including:

(a) revenue transactions; and

(b) member and participant information.

Section 2. Section 63A-3-401 is amended to read:

Part 4. Utah Public Finance Website

63A-3-401. Definitions.

As used in this part:

(1) "Board" means the Utah Transparency Advisory Board created under Section 63A-3-403.

(2) "Division" means the Division of Finance of the Department of Administrative Services.

(3) (a) "Independent entity," except as provided in Subsection (3)(b), is as defined in Section 63E-1-102.

(b) "Independent entity" does not include:

(i) the Workers' Compensation Fund created in Section 31A-33-102; or

(ii) the Utah State Retirement Office created in Section 49-11-201.

~~(3)~~ (4) "Participating local entity" means each of the following local entities, if the entity meets the size or budget thresholds established by the ~~rules authorized~~ board under Subsection ~~63A-3-404(2)(a)~~ 63A-3-403(3)(e):

(a) a county;

(b) a municipality;

(c) a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts;

(d) a special service district under Title 17D, Chapter 1, Special Service District Act;

(e) a school district;

(f) a charter school; and

(g) an interlocal entity as defined in Section 11-13-103.

~~(4)~~ (5) "Participating state entity" means the state of Utah, including its executive, legislative, and judicial branches, its departments, divisions, agencies, boards, commissions, councils, committees, and institutions.

~~(5)~~ (6) "Public financial information" means records that are required to be made available on the Utah Public Finance Website ~~or~~, a participating local entity's website, or an independent entity's website as required by this part, and as the term "public financial information" is defined by rule under Section 63A-3-404.

Section 3. Section 63A-3-402 is amended to read:

63A-3-402. Utah Public Finance Website -- Establishment and administration -- Records disclosure -- Exceptions.

(1) There is created the Utah Public Finance Website to be administered by the Division of Finance with the technical assistance of the Department of Technology Services.

(2) The Utah Public Finance Website shall:

(a) permit Utah taxpayers to:

(i) view, understand, and track the use of taxpayer dollars by making public financial information available on the Internet for participating state ~~[entities'—and]~~ entities, independent entities, and participating local entities, using the Utah Public Finance Website; and

(ii) link to websites administered by participating local entities or independent entities that do not use the Utah Public Finance Website for the purpose of providing participating local entities' or independent entities' public financial information as required by this part and by rule under Section 63A-3-404;

(b) allow a person who has Internet access to use the website without paying a fee;

(c) allow the public to search public financial information on the Utah Public Finance Website using ~~[these]~~ criteria established by the board;

(d) provide access to financial reports, financial audits, budgets, or other financial documents that are used to allocate, appropriate, spend, and account for ~~[the]~~ government funds, as may be established by rule under Section 63A-3-404;

(e) have a unique and simplified website address;

(f) be directly accessible via a link from the main page of the official state website;

(g) include other links, features, or functionality that will assist the public in obtaining and reviewing public financial information, as may be established by rule under Section 63A-3-404; and

(h) include a link to school report cards published on the State Board of Education's website pursuant to Section 53A-1-1112.

(3) The division shall:

(a) establish and maintain the website, including the provision of equipment, resources, and personnel as ~~[is]~~ necessary;

(b) maintain an archive of all information posted to the website;

(c) coordinate and process the receipt and posting of public financial information from participating state entities;

(d) coordinate and regulate the posting of public financial information by participating local entities and independent entities; and

(e) provide staff support for the advisory committee.

(4) (a) A participating state entity and each independent entity shall permit the public to view the ~~[participating]~~ entity's public financial

information via the website, beginning with information that is generated not later than the fiscal year that begins July 1, 2008, except that public financial information for an:

(i) institution of higher education shall be provided beginning with information generated for the fiscal year beginning July 1, 2009~~[-];~~ and

(ii) independent entity shall be provided beginning with information generated for the entity's fiscal year beginning in 2014.

(b) ~~[Not]~~ No later than May 15, 2009, the website shall:

(i) be operational; and

(ii) permit public access to participating state entities' public financial information, except as provided in ~~[Subsection]~~ Subsections (4)(c) and (d).

(c) An institution of higher education that is a participating state entity shall submit the entity's public financial information at a time allowing for inclusion on the website no later than May 15, 2010.

(d) No later than the first full quarter after July 1, 2014, an independent entity shall submit the entity's public financial information for inclusion on the Utah Public Finance Website or via a link to its own website on the Utah Public Finance Website.

(5) (a) The Utah Educational Savings Plan, created in Section 53B-8a-103, shall provide the following financial information to the division for posting on the Utah Public Finance Website:

(i) administrative fund expense transactions from its general ledger accounting system; and

(ii) employee compensation information.

(b) The plan is not required to submit other financial information to the division, including:

(i) revenue transactions;

(ii) account owner transactions; and

(iii) fiduciary or commercial information, as defined in Section 53B-12-102.

(6) (a) The following independent entities shall each provide administrative expense transactions from its general ledger accounting system and employee compensation information to the division for posting on the Utah Public Finance Website or via a link to a website administered by the independent entity:

(i) the Utah Capital Investment Corporation, created in Section 63M-1-1207;

(ii) the Utah Housing Corporation, created in Section 35A-8-704; and

(iii) the School and Institutional Trust Lands Administration, created in Section 53C-1-201.

(b) For purposes of this part, an independent entity described in Subsection (6)(a) is not required to submit to the division, or provide a link to, other financial information, including:

(i) revenue transactions of a fund or account created in its enabling statute;

(ii) fiduciary or commercial information related to any subject if the disclosure of the information:

- (A) would conflict with fiduciary obligations; or
- (B) is prohibited by insider trading provisions;

(iii) information of a commercial nature, including information related to:

- (A) account owners, borrowers, and dependents;
- (B) demographic data;
- (C) contracts and related payments;
- (D) negotiations;
- (E) proposals or bids;
- (F) investments;
- (G) the investment and management of funds;
- (H) fees and charges;
- (I) plan and program design;
- (J) investment options and underlying investments offered to account owners;
- (K) marketing and outreach efforts;
- (L) lending criteria;
- (M) the structure and terms of bonding; and
- (N) financial plans or strategies; and

(iv) information protected from public disclosure by federal law.

[46] (7) A person who negligently discloses a record that is classified as private, protected, or controlled by Title 63G, Chapter 2, Government Records Access and Management Act, is not criminally or civilly liable for an improper disclosure of the record if the record is disclosed solely as a result of the preparation or publication of the Utah Public Finance Website.

Section 4. Section 63A-3-403 is amended to read:

63A-3-403. Utah Transparency Advisory Board -- Creation -- Membership -- Duties -- Determining which records are public.

(1) There is created within the department the Utah Transparency Advisory Board comprised of members knowledgeable about public finance or providing public access to public information.

(2) The board consists of:

(a) an individual appointed by the director of the Division of Finance;

(b) an individual appointed by the executive director of the Governor's Office of Management and Budget;

(c) an individual appointed by the governor on advice from the Legislative Fiscal Analyst;

(d) one member of the Senate, appointed by the governor on advice from the president of the Senate;

(e) one member of the House of Representatives, appointed by the governor on advice from the speaker of the House of Representatives;

(f) an individual appointed by the director of the Department of Technology Services;

(g) the director of the Division of Archives created in Section 63A-12-101 or the director's designee;

(h) an individual who is a member of the State Records Committee created in Section 63G-2-501, appointed by the governor;

(i) an individual representing counties, appointed by the governor;

(j) an individual representing municipalities, appointed by the governor; and

(k) two individuals who are members of the public and who have knowledge, expertise, or experience in matters relating to the board's duties under Subsection (10), appointed by the board members identified in Subsections (2)(a) through (j).

(3) The board shall:

(a) advise the division on matters related to the implementation and administration of this part;

(b) develop plans, make recommendations, and assist in implementing the provisions of this part;

(c) determine what public financial information shall be provided by a participating state ~~and local entities~~ entity, independent entity, and participating local entity, if the public financial information:

(i) only includes records that:

(A) are classified as public under Title 63G, Chapter 2, Government Records Access and Management Act, or, subject to any specific limitations and requirements regarding the provision of financial information from the entity described in Section 63A-3-402, if an entity is exempt from Title 63G, Chapter 2, Government Records Access and Management Act, records that would normally be classified as public if the entity were not exempt from Title 63G, Chapter 2, Government Records Access and Management Act;

(B) are an accounting of money, funds, accounts, bonds, loans, expenditures, or revenues, regardless of the source; and

(C) are owned, held, or administered by the participating state ~~or~~ entity, independent entity, or participating local entity that is required to provide the record; and

(ii) is of the type or nature that should be accessible to the public via a website based on considerations of:

(A) the cost effectiveness of providing the information;

(B) the value of providing the information to the public; and

(C) privacy and security considerations;

(d) evaluate the cost effectiveness of implementing specific information resources and features on the website;

(e) establish size or budget thresholds to identify those local entities that qualify as participating local entities as defined in this part, giving special consideration to the budget and resource limitations of an entity with a current annual budget of less than \$10,000,000;

(f) require participating local entities to provide public financial information in accordance with the requirements of this part, with a specified content, reporting frequency, and form;

(g) require an independent entity's website or a participating local entity's website to be accessible by link or other direct route from the Utah Public Finance Website if the independent entity or participating local entity does not use the Utah Public Finance Website; and

(h) determine the search methods and the search criteria that shall be made available to the public as part of a website used by an independent entity or a participating local entity under the requirements of this part, which criteria may include:

- (i) fiscal year;
- (ii) expenditure type;
- (iii) name of the agency;
- (iv) payee;
- (v) date; and
- (vi) amount.

(4) The board shall annually elect a chair and a vice chair from its members.

(5) (a) Each member shall serve a two-year term.

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

(6) To accomplish its duties, the board ~~shall meet as many as eight times during 2013; and (b) shall, after 2013,~~ shall meet as it determines necessary.

(7) Reasonable notice shall be given to each member of the board before any meeting.

(8) A majority of the board constitutes a quorum for the transaction of business.

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

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and

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

- (10) (a) As used in this Subsection (10):

(i) "Information website" means a single Internet website containing public information or links to public information.

(ii) "Public information" means records of state ~~or~~ government, local government, or an independent entity that are classified as public under Title 63G, Chapter 2, Government Records Access and Management Act, or, subject to any specific limitations and requirements regarding the provision of financial information from the entity described in Section 63A-3-402, if an entity is exempt from Title 63G, Chapter 2, Government Records Access and Management Act, records that would normally be classified as public if the entity were not exempt from Title 63G, Chapter 2, Government Records Access and Management Act.

(b) The board shall:

(i) study the establishment of an information website and develop recommendations for its establishment;

(ii) develop recommendations about how to make public information more readily available to the public through the information website; and

(iii) develop standards to make uniform the format and accessibility of public information posted to the information website ~~and~~.

~~(iv) no later than November 30, 2013, report the board's recommendations and standards developed under Subsections (10)(b)(i) through (iii) to the executive director and the Legislative Management Committee.]~~

(c) In fulfilling its duties under Subsection (10)(b), the board shall be guided by principles that encourage:

(i) (A) the establishment of a standardized format of public information that makes the information more easily accessible by the public;

(B) the removal of restrictions on the reuse of public information;

(C) minimizing limitations on the disclosure of public information while appropriately safeguarding sensitive information; and

(D) balancing factors in favor of excluding public information from an information website against the public interest in having the information accessible on an information website;

(ii) (A) permanent, lasting, open access to public information; and

(B) the publication of bulk public information;

(iii) the implementation of well-designed public information systems that ensure data quality, create a public, comprehensive list or index of public information, and define a process for continuous publication of and updates to public information;

(iv) the identification of public information not currently made available online and the implementation of a process, including a timeline and benchmarks, for making that public information available online; and

(v) accountability on the part of those who create, maintain, manage, or store public information or post it to an information website.

(d) The department shall implement the board's recommendations, including the establishment of an information website, to the extent that implementation:

(i) is approved by the Legislative Management Committee;

(ii) does not require further legislative appropriation; and

(iii) is within the department's existing statutory authority.

Section 5. Section 63A-3-404 is amended to read:

63A-3-404. Rulemaking authority.

(1) After consultation with the board, and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Division of Finance shall make rules to:

(a) require participating state entities to provide public financial information for inclusion on the Utah Public Finance Website;

(b) define, either uniformly for all participating state entities, or on an entity by entity basis, the term "public financial information" using the standards provided in Subsection 63A-3-403~~(2)~~(3)(c); and

(c) establish procedures for obtaining, submitting, reporting, storing, and providing public financial information on the Utah Public Finance Website, which may include a specified reporting frequency and form.

(2) After consultation with the board, and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Division of Finance may make rules to:

(a) require a participating state or local entity to list certain expenditures made by a person under a contract with the entity; and

(b) if a list is required under Subsection (2)(a), require the following information to be included:

(i) the name of the participating state or local entity making the expenditure;

(ii) the name of the person receiving the expenditure;

(iii) the date of the expenditure;

(iv) the amount of the expenditure;

(v) the purpose of the expenditure;

(vi) the name of each party to the contract;

(vii) an electronic copy of the contract; or

(viii) any other criteria designated by rule.

CHAPTER 186**S. B. 62**

Passed March 12, 2014
 Approved March 29, 2014
 Effective May 13, 2014

**UTAH SCIENCE TECHNOLOGY
 AND RESEARCH GOVERNING
 AUTHORITY AMENDMENTS**

Chief Sponsor: Brian E. Shiozawa
 House Sponsor: Jim Bird
 Cosponsor: John L. Valentine

LONG TITLE**General Description:**

This bill modifies Title 63M, Chapter 2, Utah Science Technology and Research Governing Authority Act, and other related provisions.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the Utah Science Technology and Research (USTAR) governing authority to:
 - lease certain science and technology buildings to state universities;
 - establish written performance standards and expectations for each technology outreach program location;
 - establish written performance standards and expectations for each research team funded by the USTAR initiative;
 - provide a detailed annual report; and
 - provide an annual audit;
- ▶ modifies the allocation of commercialization revenues;
- ▶ repeals the nonlapsing status of appropriations to the USTAR governing authority; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63J-1-602.4, as last amended by Laws of Utah 2013, Chapter 28
 63M-2-102, as renumbered and amended by Laws of Utah 2008, Chapter 382
 63M-2-201, as renumbered and amended by Laws of Utah 2008, Chapter 382
 63M-2-202, as renumbered and amended by Laws of Utah 2008, Chapter 382
 63M-2-203, as renumbered and amended by Laws of Utah 2008, Chapter 382
 63M-2-204, as last amended by Laws of Utah 2011, Chapter 392
 63M-2-301, as last amended by Laws of Utah 2010, Chapter 286
 63M-2-302, as last amended by Laws of Utah 2012, Chapter 242
 63M-2-303, as last amended by Laws of Utah 2010, Chapter 286

ENACTS:

63M-2-302.5, Utah Code Annotated 1953
 63M-2-401, Utah Code Annotated 1953
 63M-2-402, Utah Code Annotated 1953

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

Section 1. Section 63J-1-602.4 is amended to read:

63J-1-602.4. List of nonlapsing funds and accounts -- Title 61 through Title 63M.

(1) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

(2) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

(3) Certain funds donated to the Department of Human Services, as provided in Section 62A-1-111.

(4) Certain funds donated to the Division of Child and Family Services, as provided in Section 62A-4a-110.

(5) Appropriations from the Choose Life Adoption Support Restricted Account created in Section 62A-4a-608.

(6) Appropriations to the Division of Services for People with Disabilities, as provided in Section 62A-5-102.

(7) A portion of the funds appropriated to the Utah Seismic Safety Commission, as provided in Section 63C-6-104.

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

(9) Certain money payable for commission expenses of the Pete Suazo Utah Athletic Commission, as provided under Section 63C-11-301.

(10) Funds appropriated or collected for publishing the Division of Administrative Rules' publications, as provided in Section 63G-3-402.

(11) The Immigration Act Restricted Account created in Section 63G-12-103.

(12) Money received by the military installation development authority, as provided in Section 63H-1-504.

(13) The appropriation to fund the Governor's Office of Economic Development's Enterprise Zone Act, as provided in Section 63M-1-416.

(14) The Motion Picture Incentive Account created in Section 63M-1-1803.

~~[(15) Appropriations to the Utah Science Technology and Research Governing Authority, created under Section 63M-2-301, as provided under Section 63M-2-302.]~~

Section 2. Section 63M-2-102 is amended to read:

63M-2-102. Definitions.

As used in this chapter:

(1) "Commercialization revenues" means dividends, realized capital gains, license fees, royalty fees, and other revenues received by a university as a result of commercial applications developed from the ~~[project]~~ USTAR initiative, less:

(a) the portion of those revenues allocated to the inventor; and

(b) expenditures incurred by the university to legally protect the intellectual property.

(2) "Executive director" means the person appointed by the governing authority under Section 63M-2-301.

~~[(5)]~~ (3) "Research buildings" means any of the buildings listed in Section 63M-2-201.

~~[(6)]~~ (4) "Research universities" means the University of Utah and Utah State University.

~~[(7)]~~ (5) "Technology outreach program" means the program ~~[required by]~~ described in Section 63M-2-202.

~~[(3) "Governing authority"]~~ (6) "USTAR governing authority" means the Utah Science Technology and Research Governing Authority created in Section 63M-2-301.

~~[(4) "Project"]~~ (7) (a) "USTAR initiative" means the Utah Science Technology and Research ~~[Project]~~ Initiative created in Section 63M-2-301.

~~[(8) "Utah Science Technology and Research Project"]~~ means the buildings and activities]

(b) "USTAR initiative" includes the projects, operations, activities, programs, and services described in ~~[Part 2, Utah Science Technology and Research Project]~~ this chapter.

Section 3. Section 63M-2-201 is amended to read:

Part 2. Utah Science Technology and Research Initiative

63M-2-201. Science technology research buildings.

(1) As funding becomes available from the Legislature or other sources, the ~~[Utah Science Technology and Research Governing Authority created in Part 3]~~ USTAR governing authority shall:

(a) construct at Utah State University:

(i) a Bio Innovations Research Institute;

(ii) an Infectious Disease Research Center; and

(iii) an Informatics/Computing Research Center; and

(b) construct at the University of Utah:

(i) a Neuroscience and Biomedical Technology Research Building; and

(ii) an Information Technology and Bioinformatics Research Center.

(2) The USTAR governing authority shall, subject to any restrictions or directions established by the Legislature, plan, design, and construct the buildings.

(3) (a) Utah State University shall provide the land for the construction of science technology and research buildings on its campus.

(b) The University of Utah shall provide the land for the construction of science technology and research buildings on its campus.

(4) The USTAR governing authority shall hold title to the research buildings.

(5) The governing authority ~~[may]~~ shall:

~~[(a) lease the buildings to Utah State University and the University of Utah;]~~

(a) before approving occupancy of a building, lease each building constructed on Utah State University's campus to Utah State University and each building constructed on the University of Utah's campus to the University of Utah by entering into a written lease agreement with each university that clearly establishes the terms for the university's use, maintenance, and ongoing rental payments for the building;

(b) require research teams to generate a certain amount of revenue from grants or other sources to contribute to the ~~[project]~~ USTAR initiative; and

(c) unless prohibited by law, deposit lease payments and other money received from the universities and research teams with the state treasurer for deposit into the sinking funds created under Section 63B-1a-301 for debt service on the bonds issued to fund planning, design, and construction of the research buildings.

Section 4. Section 63M-2-202 is amended to read:

63M-2-202. Technology outreach program.

(1) As funding becomes available from the Legislature or other sources, the ~~[Utah Science Technology and Research Governing Authority created in Part 3]~~ USTAR governing authority shall establish a technology outreach program at up to five locations distributed strategically throughout Utah.

(2) (a) The USTAR governing authority shall ensure that the technology outreach program acts as a resource to:

(i) broker ideas, new technologies, and services to entrepreneurs and businesses throughout a defined service area;

(ii) engage local entrepreneurs and professors at applied technology centers, colleges, and universities by connecting them to Utah's research universities;

(iii) screen business ideas and new technologies to ensure that the ones with the highest growth potential receive the most targeted services and attention;

(iv) connect market ideas and technologies in new or existing businesses or industries or in regional colleges and universities with the expertise of Utah's research universities;

(v) assist businesses, applied technology centers, colleges, and universities in developing commercial applications for their research; and

(vi) disseminate and share discoveries and technologies emanating from Utah's research universities to local entrepreneurs, businesses, applied technology centers, colleges, and universities.

(b) In designing and operating the technology outreach program, the USTAR governing authority shall:

(i) for each technology outreach program location:

(A) establish written performance standards and expectations for each location; and

(B) require reporting from each location related to those performance standards and expectations on at least an annual basis; and

(ii) work cooperatively with the Technology Commercialization Offices at Utah State University and the University of Utah.

Section 5. Section 63M-2-203 is amended to read:

63M-2-203. Research teams.

(1) As funding becomes available from the Legislature or other sources, and subject to any restrictions or directions established by the Legislature, the USTAR governing authority shall allocate money to Utah State University and the University of Utah to provide funding for research teams to conduct science and technology research.

(2) The USTAR governing authority shall:

(a) establish written performance standards and expectations for each research team receiving USTAR initiative funding;

(b) require each research team to report on the team's performance related to those standards and expectations on at least an annual basis; and

(c) require each research team to report on the amount of funding received from sources other than USTAR initiative funding on at least an annual basis.

(3) The USTAR governing authority shall discontinue allocating money to a research team that does not provide the reporting required by Subsection (2).

(4) The USTAR governing authority may discontinue allocating money to a research team for any reason, including:

(a) when the research team is failing to meet expectations established through performance standards and expectations; and

(b) when the research team is receiving sufficient funding from other sources to no longer reasonably need USTAR initiative funding.

Section 6. Section 63M-2-204 is amended to read:

63M-2-204. Financial participation agreement.

(1) In consideration of the money and services provided or agreed to be provided, the state of Utah, Utah State University, and the University of Utah [~~covenant and~~] agree that they will allocate commercialization revenues as follows:

(a) for the first \$15,000,000 received:

(i) \$10,000,000 to Utah State University and the University of Utah, with the money distributed proportionately based upon which university conducted the research that generated the commercialization revenues; and

(ii) \$5,000,000 to the [~~Governor's Office of Economic Development for the Technology Commercialization and Innovation Program created by Chapter 1, Part 7, Technology Commercialization and Innovation Act~~] USTAR governing authority for the ongoing operations of the USTAR initiative; and

(b) for all subsequent money received:

(i) 50% to Utah State University and the University of Utah, with the money distributed proportionately based upon which university conducted the research that generated the commercialization revenues; and

(ii) 50% to the USTAR governing authority or other entity designated by the state to be used for:

[~~(A) the Technology Commercialization and Innovation Program created by Chapter 1, Part 7, Technology Commercialization and Innovation Act;~~]

(A) unless prohibited by law, deposit with the state treasurer for deposit into the sinking fund created under Section 63B-1a-301 for debt service on the bonds issued to fund planning, design, and construction of the research buildings;

(B) ongoing operations of the USTAR initiative;

[~~(B)~~] (C) replacement of equipment in the research buildings;

[~~(C)~~] (D) [~~recruiting and paying~~] recruitment and funding of additional research teams; and

[~~(D)~~] (E) construction of additional research buildings.

[~~(2) The Governor's Office of Economic Development shall:~~]

[~~(a) distribute that portion of the \$5,000,000 allocated to the Technology Commercialization and Innovation Program by Subsection (1)(a)(ii) to Utah State University and the University of Utah based upon which institution performed the research that generated the commercialization revenues; and~~]

[~~(b) credit those amounts to the universities as matching funds under Subsection 63M-1-702(2).]~~

Section 7. Section 63M-2-301 is amended to read:

63M-2-301. The Utah Science Technology and Research Initiative and the Utah Science Technology and Research Governing Authority -- Creation -- Membership -- Meetings -- Staff.

(1) There is created the Utah Science Technology and Research Initiative.

~~[(1) There]~~ (2) To oversee the Utah Science Technology and Research Initiative, there is created the Utah Science Technology and Research Governing Authority consisting of the state treasurer, the executive director of the Governor's Office of Economic Development, and the following eight members appointed as follows ~~[with the consent of the Senate]~~:

- (a) three appointed by the governor;
- (b) two appointed by the president of the Senate;
- (c) two appointed by the speaker of the House of Representatives; and
- (d) one appointed by the commissioner of higher education.

~~[(2)]~~ (3) (a) (i) The eight appointed members shall serve four-year staggered terms.

(ii) The appointed members may not serve more than two full consecutive terms.

(b) Notwithstanding Subsection ~~[(2)]~~ (3)(a)(i), the terms of the first members of the governing authority shall be staggered by lot so that half of the initial members serve two-year terms and half serve four-year terms.

~~[(3)]~~ (4) Vacancies in the appointed positions on the governing authority shall be filled by the appointing authority with consent of the Senate for the unexpired term.

~~[(4)]~~ (5) (a) The governor, with the consent of the Senate, shall select the chair of the governing authority to serve a one-year term.

(b) The executive director of the Governor's Office of Economic Development shall serve as the vice chair of the governing authority.

~~[(5)]~~ (6) The governing authority shall meet at least monthly and may meet more frequently at the request of a majority of the members of the governing authority.

~~[(6) Five]~~ (7) Five members of the governing authority are a quorum.

~~[(7)]~~ (8) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses ~~[in accordance with]~~ as allowed in:

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and

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

~~[(8) (a) (i) The governing authority shall hire]~~

(9) (a) After consultation with the USTAR governing authority, the governor, with the consent of the Senate, shall appoint a full-time executive director to provide staff support for the USTAR governing authority.

~~[(ii)]~~ (b) The executive director is an at-will employee who may be terminated without cause by the governor or by majority vote of the USTAR governing authority.

~~[(b) The Governor's Office of Economic Development shall provide office space and administrative support for the executive director.]~~

Section 8. Section 63M-2-302 is amended to read:

63M-2-302. USTAR governing authority powers.

(1) The USTAR governing authority shall:

(a) ensure that funds appropriated and received for research and development at the research universities and for the technology outreach program are used appropriately, effectively, and efficiently in accordance with the intent of the Legislature;

(b) in cooperation with the universities' administrations, expand key research at the two research universities;

(c) enhance technology transfer and commercialization of research and technologies developed at the research universities to create high-quality jobs and new industries in the private sector in Utah;

(d) review state and local economic development plans and appropriations to ensure that the ~~[project]~~ USTAR initiative and its appropriations do not duplicate existing or planned programs;

(e) establish written economic development objectives for the ~~[project]~~ USTAR initiative that are measurable and verifiable, including how to maximize revenue to the USTAR initiative so that it becomes financially self-supporting;

(f) by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules for allocating ~~[money appropriated to it]~~ appropriated money for research teams and for the commercialization of new technology between Utah State University and the University of Utah;

(g) verify that the ~~[project]~~ USTAR initiative is being enhanced by research grants and that it is meeting the governing authority's economic development objectives;

(h) monitor all research plans that are part of the ~~[project]~~ USTAR initiative at the research universities to determine that appropriations are being spent in accordance with legislative intent

and to maximize the benefit and return to the state; and

(i) develop methods and incentives to encourage investment in and contributions to the ~~[project]~~ USTAR initiative from the private sector~~;~~ and.

~~[(j) annually report and make recommendations to:]~~

~~[(i) the governor; and]~~

~~[(ii) the Business, Economic Development, and Labor Appropriations Subcommittee.]~~

(2) The USTAR governing authority may:

(a) in addition to money received ~~[by it]~~ from the Legislature, receive contributions for the USTAR initiative from any source in the form of money, property, labor, or other things of value ~~[for the project];~~

(b) subject to any restrictions imposed by the donation, appropriations, or bond authorizations, allocate money received by it among the research universities, technology outreach program, and technology transfer offices to support commercialization and technology transfer to the private sector; or

(c) enter into agreements necessary to obtain private equity investment in the ~~[project]~~ USTAR initiative.

~~[(3) All money appropriated to the governing authority is nonlapsing.]~~

~~[(4) The governing authority shall report to the Business, Economic Development, and Labor Appropriations Subcommittee and to the Legislative Executive Appropriations Committee by November 1 of each year on its activities, including:]~~

~~[(a) the achievement of the objectives and duties provided under this part;]~~

~~[(b) its annual expenditure of funds; and]~~

~~[(c) nonlapsing balances retained by the governing authority.]~~

Section 9. Section 63M-2-302.5 is enacted to read:

63M-2-302.5. USTAR governing authority requirements.

The USTAR governing authority is subject to the requirements of an executive branch agency and is:

(1) an agency for purposes of Title 63J, Chapter 1, Budgetary Procedures Act;

(2) an executive branch procurement unit for purposes of Title 63G, Chapter 6a, Utah Procurement Code;

(3) a governmental entity for purposes of Title 63G, Chapter 2, Government Records Access and Management Act; and

(4) a public body for purposes of Title 52, Chapter 4, Open and Public Meetings Act.

Section 10. Section 63M-2-303 is amended to read:

63M-2-303. USTAR Governing Authority Advisory Council -- Chair -- Meetings.

(1) There is created the ~~[Utah Science Technology and Research]~~ USTAR Governing Authority Advisory Council consisting of 12 members appointed as follows:

(a) one member appointed by the director of the Governor's Office of Economic Development;

(b) one member appointed by the ~~[Utah Information Technology Association]~~ Utah Technology Council;

(c) one member appointed by the Utah Nanotechnology Initiative;

(d) one member appointed by the Economic Development Corporation of Utah;

(e) one member appointed by ~~[the Utah Life Science Association]~~ BioUtah;

(f) one member appointed by the Salt Lake Area Chamber of Commerce;

(g) one member appointed by the Provo-Orem Chamber of Commerce;

(h) one member appointed by the Davis Area Chamber of Commerce;

(i) one member appointed by the Ogden-Weber Chamber of Commerce;

(j) one member appointed by the Cache Chamber of Commerce;

(k) one member appointed by the St. George Area Chamber of Commerce; and

(l) one member appointed by the Vernal Chamber of Commerce.

(2) The USTAR governing authority shall consult with the advisory council about the ~~[project]~~ USTAR initiative.

(3) The advisory council shall select a chair from among its members to serve a two-year term.

(4) The advisory council shall convene whenever the USTAR governing authority requests a meeting for consultation.

(5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses ~~[in accordance with]~~ as allowed in:

(a) Section 63A-3-106;

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

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

Section 11. Section 63M-2-401 is enacted to read:

Part 4. USTAR Reporting and Audit Requirements

63M-2-401. Reporting requirements.

(1) By October 1 of each year, the USTAR governing authority shall submit to the governor; the Legislature; the Business, Economic Development, and Labor Appropriations Subcommittee; and the Economic Development and Workforce Services Interim Committee an annual written report of the operations, activities, programs, and services of the governing authority and the USTAR initiative for the preceding fiscal year.

(2) For each project, operation, activity, program, or service related to the USTAR initiative or overseen or funded through the USTAR governing authority, the annual report shall include:

(a) a description of the project, operation, activity, program, or service;

(b) data selected and used by the governing authority to measure progress, performance, and scope of the project, operation, activity, program, or service, including summary data;

(c) a clear description of the methodology for any data in the report that includes an estimation;

(d) the amount and source of all USTAR initiative funding, including:

(i) funding from legislative appropriations;

(ii) funding procured outside of legislative appropriations, including a separate accounting of grants or investments contributing to research teams and other activities of the USTAR initiative from the federal government, private entities, or other sources, and an explanation of the extent to which:

(A) outside funding was contingent on or leveraged by legislative appropriations; and

(B) outside funding would continue if legislative appropriations were discontinued;

(iii) commercialization revenue, including a separate accounting of:

(A) realized commercialization revenue;

(B) unrealized and expected commercialization revenue; and

(C) commercialization revenue going to other parties attributable to USTAR initiative funding;

(iv) lease revenue from each building in which the USTAR governing authority holds title; and

(v) the amount of money deposited with the state treasurer for deposit into the sinking fund created under Section 63B-1a-301 for debt service on the bonds issued to fund planning, design, and construction of the research buildings;

(e) all expenses of the USTAR initiative, including:

(i) operational expenses;

(ii) for each employee receiving compensation from USTAR initiative funding, compensation information, including:

(A) salary expenses, benefit expenses, and travel expenses;

(B) information for each research team employee and each employee of the technology outreach program that receives compensation directly or indirectly through USTAR initiative funding; and

(C) information regarding compensation for each employee from sources other than USTAR initiative funding, including grants and compensation from a university or private entity;

(iii) for each research team, salary expenses, benefit expenses, travel expenses, and operations and maintenance expenses;

(iv) operational and maintenance expenses for each building in which the USTAR governing authority holds title;

(v) operational and maintenance expenses paid for by USTAR initiative funding for each location that has an established technology outreach program; and

(vi) each grant or other incentive given as a result of the USTAR initiative, including grants or incentives awarded through the technology outreach program;

(f) the number of jobs and the corresponding salary ranges created by the USTAR initiative, including the number of jobs where the employee is expected to be employed for at least one year and earns at least 125% of the prevailing wage of the county where the employee works;

(g) the name of each business entity receiving a grant or other incentive as a result of the USTAR initiative, including the outreach program;

(h) a list of business entities that have hired employees as a result of the USTAR initiative;

(i) the tax revenue generated as a result of the USTAR initiative, with actual revenue generated clearly separated from potential revenue;

(j) a list of intellectual property assets, including patents, generated by research teams as a result of the USTAR initiative, including a reasonable estimate of the USTAR initiative's percentage share of potential commercialization revenue that may be realized from those assets;

(k) a description of any agreements entered into regarding private equity investment in the USTAR initiative;

(l) beginning with data from the fiscal year beginning July 1, 2013, historical data from previous years for comparison with the annual data reported under this Subsection (2);

(m) goals, challenges, and achievements related to the project, operation, activity, program, or service;

(n) relevant federal and state statutory references and requirements;

(o) contact information of officials knowledgeable and responsible for each project, operation, activity, program, or service;

(p) other information determined by the USTAR governing authority that:

(i) may be needed, useful, or of historical significance; or

(ii) promotes accountability and transparency for each project, operation, activity, program, or service with the public and with elected officials;

(q) the written economic development objectives required under Subsection 63M-2-302(1)(e) and a description of any progress or challenges in meeting the objectives; and

(r) the audit report described in Section 63M-2-402.

(3) The annual report shall be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature.

(4) The governing authority shall:

(a) submit the annual report in accordance with Section 68-3-14; and

(b) make the annual report and previous annual reports accessible to the public by placing a link to the reports on the USTAR initiative's website.

(5) In addition to the annual written report described in this section:

(a) upon the request of a committee, the USTAR governing authority shall provide information and progress reports to the Economic Development and Workforce Services Interim Committee; the Business and Labor Interim Committee; and the Business, Economic Development, and Labor Appropriations Subcommittee; and

(b) on or before October 1, 2019, and every five years after October 1, 2019, the USTAR governing authority shall include with the annual report described in this section a written analysis and recommendations concerning the usefulness of the information required in the annual report and the ongoing effectiveness of the USTAR initiative, including whether:

(i) the reporting requirements are effective at measuring the performance of the USTAR initiative;

(ii) the reporting requirements should be modified; and

(iii) the USTAR initiative is beneficial to the state and should continue.

Section 12. Section 63M-2-402 is enacted to read:

63M-2-402. Audit requirements.

(1) Each fiscal year, an audit of the activities of the USTAR initiative shall be made as described in this section.

(2) (a) As approved by the Legislative Audit Subcommittee, the audit shall be conducted by:

(i) the legislative auditor; or

(ii) an independent auditor engaged by the legislative auditor.

(b) An independent auditor used under Subsection (2)(a)(ii) may not have a business or contractual connection, or other connection, with the USTAR initiative or the USTAR governing authority.

(3) The USTAR governing authority shall pay the costs associated with the annual audit.

(4) The annual audit shall:

(a) include a verification of the accuracy of the information required to be included in the annual report described in Section 63M-2-401; and

(b) be completed by September 1 of each year.

CHAPTER 187**S. B. 71**

Passed March 12, 2014
 Approved March 29, 2014
 Effective May 13, 2014

INFORMED CONSENT AMENDMENTS

Chief Sponsor: Wayne A. Harper
 House Sponsor: Paul Ray

LONG TITLE**General Description:**

This bill amends informed consent provisions for certain abortions.

Highlighted Provisions:

This bill:

- ▶ removes the requirement for informed consent if the abortion is performed when:
 - the treating physician and one other physician concur, in writing, that an abortion is necessary to avert the woman's death or a serious risk of substantial and irreversible impairment of a major bodily function of the woman; or
 - two physicians who practice maternal fetal medicine concur, in writing, in the patient's medical record that the fetus has a defect that is uniformly diagnosable and uniformly lethal.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-7-305, as last amended by Laws of Utah 2012, Chapter 228

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

Section 1. Section 76-7-305 is amended to read:**76-7-305. Informed consent requirements for abortion -- 72-hour wait mandatory -- Exceptions.**

(1) A person may not perform an abortion, unless, before performing the abortion, the physician who will perform the abortion obtains a voluntary and informed written consent from the woman on whom the abortion is performed, that is consistent with:

(a) Section 8.08 of the American Medical Association's Code of Medical Ethics, Current Opinions; and

(b) the provisions of this section.

(2) Except as provided in Subsection [(8)] (9), consent to an abortion is voluntary and informed only if:

(a) at least 72 hours before the abortion, the physician who is to perform the abortion, the referring physician, a physician, a registered nurse, nurse practitioner, advanced practice registered nurse, certified nurse midwife, genetic counselor, or

physician's assistant, in a face-to-face consultation in any location in the state, orally informs the woman:

(i) consistent with Subsection (3)(a), of:

(A) the nature of the proposed abortion procedure;

(B) specifically how the procedure described in Subsection (2)(a)(i)(A) will affect the fetus; and

(C) the risks and alternatives to an abortion procedure or treatment;

(ii) of the probable gestational age and a description of the development of the unborn child at the time the abortion would be performed;

(iii) of the medical risks associated with carrying her child to term; and

(iv) except as provided in Subsection (3)(b), if the abortion is to be performed on an unborn child who is at least 20 weeks gestational age:

(A) that, upon the woman's request, an anesthetic or analgesic will be administered to the unborn child, through the woman, to eliminate or alleviate organic pain to the unborn child that may be caused by the particular method of abortion to be employed; and

(B) of any medical risks to the woman that are associated with administering the anesthetic or analgesic described in Subsection (2)(a)(iv)(A);

(b) at least 72 hours prior to the abortion the physician who is to perform the abortion, the referring physician, or, as specifically delegated by either of those physicians, a physician, a registered nurse, licensed practical nurse, certified nurse-midwife, advanced practice registered nurse, clinical laboratory technologist, psychologist, marriage and family therapist, clinical social worker, genetic counselor, or certified social worker orally, in a face-to-face consultation in any location in the state, informs the pregnant woman that:

(i) the Department of Health, in accordance with Section 76-7-305.5, publishes printed material and an informational video that:

(A) provides medically accurate information regarding all abortion procedures that may be used;

(B) describes the gestational stages of an unborn child; and

(C) includes information regarding public and private services and agencies available to assist her through pregnancy, at childbirth, and while the child is dependent, including private and agency adoption alternatives;

(ii) the printed material and a viewing of or a copy of the informational video shall be made available to her, free of charge, on the Department of Health's website;

(iii) medical assistance benefits may be available for prenatal care, childbirth, and neonatal care, and that more detailed information on the availability of that assistance is contained in the printed

materials and the informational video published by the Department of Health;

(iv) except as provided in Subsection (3)~~(e)~~(b):

(A) the father of the unborn child is legally required to assist in the support of her child, even if he has offered to pay for the abortion; and

(B) the Office of Recovery Services within the Department of Human Services will assist her in collecting child support; and

(v) she has the right to view an ultrasound of the unborn child, at no expense to her, upon her request;

(c) the information required to be provided to the pregnant woman under Subsection (2)(a) is also provided by the physician who is to perform the abortion, in a face-to-face consultation, prior to performance of the abortion, unless the attending or referring physician is the individual who provides the information required under Subsection (2)(a);

(d) a copy of the printed materials published by the Department of Health has been provided to the pregnant woman;

(e) the informational video, published by the Department of Health, has been provided to the pregnant woman in accordance with Subsection (4); and

(f) the pregnant woman has certified in writing, prior to the abortion, that the information required to be provided under Subsections (2)(a) through (e) was provided, in accordance with the requirements of those subsections.

(3) (a) The alternatives required to be provided under Subsection (2)(a)(i) include:

(i) a description of adoption services, including private and agency adoption methods; and

(ii) a statement that it is legal for adoptive parents to financially assist in pregnancy and birth expenses.

~~[(b) The information described in Subsection (2)(a)(iv) may be omitted from the information required to be provided to a pregnant woman under this section if the abortion is performed for a reason described in Subsection 76-7-302(3)(b)(i).]~~

~~[(e) (b) The information described in Subsection (2)(b)(iv) may be omitted from the information required to be provided to a pregnant woman under this section if the woman is pregnant as the result of rape.~~

~~[(d) (c) Nothing in this section shall be construed to prohibit a person described in Subsection (2)(a) from, when providing the information described in Subsection (2)(a)(iv), informing a woman of the person's own opinion regarding:~~

~~(i) the capacity of an unborn child to experience pain;~~

(ii) the advisability of administering an anesthetic or analgesic to an unborn child; or

(iii) any other matter related to fetal pain.

(4) When the informational video described in Section 76-7-305.5 is provided to a pregnant woman, the person providing the information shall:

(a) request that the woman view the video at that time or at another specifically designated time and location; or

(b) if the woman chooses not to view the video at a time described in Subsection (4)(a), inform the woman that she can access the video on the Department of Health's website.

(5) When a serious medical emergency compels the performance of an abortion, the physician shall inform the woman prior to the abortion, if possible, of the medical indications supporting the physician's judgment that an abortion is necessary.

(6) If an ultrasound is performed on a woman before an abortion is performed, the person who performs the ultrasound, or another qualified person, shall:

(a) inform the woman that the ultrasound images will be simultaneously displayed in a manner to permit her to:

(i) view the images, if she chooses to view the images; or

(ii) not view the images, if she chooses not to view the images;

(b) simultaneously display the ultrasound images in order to permit the woman to:

(i) view the images, if she chooses to view the images; or

(ii) not view the images, if she chooses not to view the images;

(c) inform the woman that, if she desires, the person performing the ultrasound, or another qualified person shall provide a detailed description of the ultrasound images, including:

(i) the dimensions of the unborn child;

(ii) the presence of cardiac activity in the unborn child, if present and viewable; and

(iii) the presence of external body parts or internal organs, if present and viewable; and

(d) provide the detailed description described in Subsection (6)(c), if the woman requests it.

(7) The information described in Subsections (2), (3), (4), and (6) is not required to be provided to a pregnant woman under this section if the abortion is performed for a reason described in:

(a) Subsection 76-7-302(3)(b)(i), if the treating physician and one other physician concur, in writing, that the abortion is necessary to avert:

(i) the death of the woman on whom the abortion is performed; or

(ii) a serious risk of substantial and irreversible impairment of a major bodily function of the woman on whom the abortion is performed; or

(b) Subsection 76-7-302(3)(b)(ii).

~~[(7)]~~ (8) In addition to the criminal penalties described in this part, a physician who violates the provisions of this section:

(a) is guilty of unprofessional conduct as defined in Section 58-67-102 or 58-68-102; and

(b) shall be subject to:

(i) suspension or revocation of the physician's license for the practice of medicine and surgery in accordance with Section 58-67-401 or 58-68-401; and

(ii) administrative penalties in accordance with Section 58-67-402 or 58-68-402.

~~[(8)]~~ (9) A physician is not guilty of violating this section for failure to furnish any of the information described in Subsection (2), or for failing to comply with Subsection (6), if:

(a) the physician can demonstrate by a preponderance of the evidence that the physician reasonably believed that furnishing the information would have resulted in a severely adverse effect on the physical or mental health of the pregnant woman;

(b) in the physician's professional judgment, the abortion was necessary to avert:

(i) the death of the woman on whom the abortion is performed; or

(ii) a serious risk of substantial and irreversible impairment of a major bodily function of the woman on whom the abortion is performed;

(c) the pregnancy was the result of rape or rape of a child, as defined in Sections 76-5-402 and 76-5-402.1;

(d) the pregnancy was the result of incest, as defined in Subsection 76-5-406(10) and Section 76-7-102; or

(e) at the time of the abortion, the pregnant woman was 14 years of age or younger.

~~[(9)]~~ (10) A physician who complies with the provisions of this section and Section 76-7-304.5 may not be held civilly liable to the physician's patient for failure to obtain informed consent under Section 78B-3-406.

~~[(10)]~~ (11) (a) The Department of Health shall provide an ultrasound, in accordance with the provisions of Subsection (2)(b), at no expense to the pregnant woman.

(b) A local health department shall refer a person who requests an ultrasound described in Subsection ~~[(10)]~~ (11)(a) to the Department of Health.

~~[(11)]~~ (12) A physician is not guilty of violating this section if:

(a) the physician provides the information described in Subsection (2) less than 72 hours before performing the abortion; and

(b) in the physician's professional judgment, the abortion was necessary in a case where:

(i) a ruptured membrane, documented by the attending or referring physician, will cause a serious infection; or

(ii) a serious infection, documented by the attending or referring physician, will cause a ruptured membrane.

CHAPTER 188**S. B. 87**

Passed March 11, 2014
 Approved March 29, 2014
 Effective May 13, 2014

CONTRACTOR EMPLOYEE AMENDMENTS

Chief Sponsor: Karen Mayne
 House Sponsor: Don L. Ipson

LONG TITLE**General Description:**

This bill amends provisions that relate to hiring and compensation requirements for a person licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act.

Highlighted Provisions:

This bill:

- ▶ clarifies that unlawful conduct includes hiring or otherwise compensating an unlicensed person to perform work on a project, unless the person:
 - is an employee of a licensee for wages; and
 - is not required to be licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act;
- ▶ requires a licensee to provide a pay statement to an individual each time the licensee pays the individual for work performed;
- ▶ provides enforcement and penalty mechanisms for the provisions of this bill; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 34-28-3, as last amended by Laws of Utah 2008, Chapter 254
 34-28-9, as last amended by Laws of Utah 1997, Chapter 375
 34-28-10, as last amended by Laws of Utah 1997, Chapter 375
 34-28-19, as last amended by Laws of Utah 2008, Chapter 382
 58-55-501, as last amended by Laws of Utah 2013, Chapter 57
 58-55-503, as last amended by Laws of Utah 2013, Chapter 57

ENACTS:

58-55-605, Utah Code Annotated 1953

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

Section 1. Section 34-28-3 is amended to read:

34-28-3. Regular paydays -- Currency or negotiable checks required -- Deposit in financial institution -- Statement of total deductions -- Unlawful withholding or diversion of wages.

(1) (a) An employer shall pay the wages earned by an employee at regular intervals, but in periods no

longer than semimonthly on days to be designated in advance by the employer as the regular payday.

(b) An employer shall pay for services rendered during a pay period within 10 days after the close of that pay period.

(c) If a payday falls on a Saturday, Sunday, or legal holiday, an employer shall pay wages earned during the pay period on the day preceding the Saturday, Sunday, or legal holiday.

(d) If an employer hires an employee on a yearly salary basis, the employer may pay the employee on a monthly basis by paying on or before the seventh of the month following the month for which services are rendered.

(e) Wages shall be paid in full to an employee:

- (i) in lawful money of the United States;
- (ii) by a check or draft on a depository institution, as defined in Section 7-1-103, that is convertible into cash on demand at full face value; or
- (iii) by electronic transfer to the depository institution designated by the employee.

(2) An employer may not issue in payment of wages due or as an advance on wages to be earned for services performed or to be performed within this state an order, check, or draft unless:

(a) it is negotiable and payable in cash, on demand, without discount, at a depository institution; and

(b) the name and address of the depository institution appears on the instrument.

(3) (a) Except as provided in Subsection (3)(b), an employee may refuse to have the employee's wages deposited by electronic transfer under Subsection (1)(e)(iii) by filing a written request with the employer.

(b) An employee may not refuse to have the employee's wages deposited by electronic transfer under Subsection (3)(a) if:

(i) for the calendar year preceding the pay period for which the employee is being paid, the employer's federal employment tax deposits are equal to or in excess of \$250,000; and

(ii) at least two-thirds of the employees of the employer have their wages deposited by electronic transfer.

(c) An employer may not designate a particular depository institution for the exclusive payment or deposit of a check or draft for wages.

(4) If a deduction is made from the wages paid, the employer shall, on each regular payday, furnish the employee with a statement showing the total amount of each deduction.

(5) An employer licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act, shall:

(a) on the day on which the employer pays an employee, give the employee a written or electronic pay statement that states:

- (i) the employee's name;
- (ii) the employee's base rate of pay;
- (iii) the dates of the pay period for which the individual is being paid;
- (iv) if paid hourly, the number of hours the employee worked during the pay period;
- (v) the amount of and reason for any money withheld in accordance with state or federal law, including:
 - (A) state and federal income tax;
 - (B) Social Security tax;
 - (C) Medicare tax; and
 - (D) court-ordered withholdings; and
- (vi) the total amount paid to the employee for that pay period; and

(b) comply with the requirements described in Subsection (5)(a) regardless of whether the employer pays the employee by check, cash, or other means.

[(5)] (6) An employer may not withhold or divert part of an employee's wages unless:

(a) the employer is required to withhold or divert the wages by:

- (i) court order; or
- (ii) state or federal law;

(b) the employee expressly authorizes the deduction in writing;

(c) the employer presents evidence that in the opinion of a hearing officer or an administrative law judge would warrant an offset; or

(d) subject to Subsection [(7)] (8), the employer withholds or diverts the wages:

(i) as a contribution of the employee under a contract or plan that is:

(A) described in Section 401(k), 403(b), 408, 408A, or 457, Internal Revenue Code; and

(B) established by the employer; and

(ii) the contract or plan described in Subsection [(5)] (6)(d)(i) provides that an employee's compensation is reduced by a specified contribution:

(A) under the contract or plan; and

(B) that is made for the employee unless the employee affirmatively elects:

(I) to not have a reduction made as a contribution by the employee under the contract or plan; or

(II) to have a different amount be contributed by the employee under the contract or plan.

[(6)] (7) An employer may not require an employee to rebate, refund, offset, or return a part of the wage, salary, or compensation to be paid to

the employee except as provided in Subsection [(5)] (6).

[(7)] (8) (a) An employer shall notify an employee in writing of the right to make an election under Subsection [(5)] (6)(d).

(b) An employee may make an election described in Subsection [(5)] (6)(d) at any time by providing the employer written notice of the election.

(c) An employer shall modify or terminate the withholding or diversion described in Subsection [(5)] (6)(d) beginning with a pay period that begins no later than 30 days following the day on which the employee provides the employer the written notice described in Subsection [(7)] (8)(b).

[(8)] (9) An employer is not prohibited from pursuing legitimate claims of damages, offsets, or recoupments in a civil action against an employee.

Section 2. Section 34-28-9 is amended to read:

34-28-9. Enforcement of chapter -- Rulemaking authority.

(1) (a) The division shall:

(i) ensure compliance with this chapter;

(ii) investigate any alleged violations of this chapter; and

(iii) determine the validity of [any] a claim for any violation of this chapter that is filed with [it] the division by an employee.

(b) The commission may make rules consistent with this chapter governing wage claims and payment of wages.

(c) The minimum wage claim that the division may accept is \$50.

(d) The maximum wage claim that the division may accept is \$10,000.

(e) [The] A wage claim shall be filed within one year [of the date] after the day on which the wages were earned.

(2) (a) The division may assess against an employer who fails to pay an employee in accordance with this chapter, a penalty of 5% of the unpaid wages owing to the employee which shall be assessed daily until paid for a period not to exceed 20 days.

(b) The division shall:

(i) retain 50% of the money received from [the] a penalty [payments] payment under Subsection (2)(a) for the costs of administering this chapter;

(ii) pay all the sums retained under Subsection (2)(b)(i) to the state treasurer; and

(iii) pay the 50% not retained under Subsection (2)(b)(i) to the employee.

(c) Subsections (2)(a) and (b) do not apply to a violation of Subsection 34-28-3(5).

(3) (a) A person who violates Subsection 34-28-3(5) is subject to a civil fine of:

(i) \$50 for the first violation within a one-year period;

(ii) \$100 for the second violation within a one-year period;

(iii) \$100 for the third violation within a one-year period; and

(iv) \$500 for the fourth violation and each subsequent violation within a one-year period.

(b) The division shall deposit the money that the division receives under Subsection (3)(a) into the General Fund as a dedicated credit to the division to pay for the costs of administering this chapter.

[(3)] (4) (a) An abstract of any final award under this section may be filed in the office of the clerk of the district court of any county in the state. If so filed, [it] the abstract shall be docketed in the judgment docket of that district court.

(b) The time of the receipt of the abstract shall be noted by the clerk and entered in the judgment docket.

(c) [(If] Unless the award was previously satisfied, if an abstract is filed and docketed, the award constitutes a lien [from the time of the docketing] upon the employer's real property [of the employer] that is situated in the county in which the abstract is filed for a period of eight years [from the date of the award unless previously satisfied] after the day on which the award is granted.

(d) Execution may be issued on the award within the same time and in the same manner and with the same effect as if the award were a judgment of the district court.

[(4)] (5) (a) The commission may employ counsel, appoint a representative, or request the attorney general, or the county attorney for the county in which [the plaintiff or the defendant resides, depending on the district in which] the final award is filed and docketed, to represent the commission on all appeals and to enforce judgments.

(b) The counsel employed by the commission, the attorney general, or the county representing the commission, shall be awarded:

(i) reasonable [attorneys'] attorney fees, as specified by the commission; and

(ii) costs for:

(A) appeals when the plaintiff prevails; and

(B) judgment enforcement proceedings.

[(5)] (6) (a) The commission may enter into reciprocal agreements with the labor department or a corresponding agency of any other state or with the person, board, officer, or commission authorized to act on behalf of that department or agency, for the collection in any other state of claims or judgments for wages and other demands based upon claims previously assigned to the commission.

(b) The commission may, to the extent provided by any reciprocal agreement entered into under Subsection [(5)] (6)(a), or by the laws of any other state, maintain actions in the courts of the other states for the collection of any claims for wages, judgments, and other demands and may assign the claims, judgments, and demands to the labor department or an agency of any other state for collection to the extent that may be permitted or provided by the laws of that state or by reciprocal agreement.

(c) The commission may maintain actions in the courts of this state upon assigned claims for wages, judgments, and demands arising in any other state in the same manner and to the same extent that the actions by the commission are authorized when arising in this state if:

(i) the labor department or [other] a corresponding agency of any other state or of any person, board, officer, or commission of that state authorized to act on behalf of the labor department or corresponding agency requests in writing that the commission commence and maintain the action; and

(ii) the other state by legislation or reciprocal agreement extends the same comity to this state.

Section 3. Section 34-28-10 is amended to read:

34-28-10. Employers' records -- Inspection by division.

(1) (a) Every employer shall keep a true and accurate record of time worked and wages paid each pay period to each employee who is employed on an hourly or a daily basis in the form required by the commission rules.

(b) The employer shall keep the records on file for at least one year after the entry of the record.

(2) An employer licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act, shall retain a copy of each pay statement described in Subsection 34-28-3(5) for at least three years after the day on which the employer gives a copy of the pay statement to the employee.

[(2)] (3) The director of the division or the director's designee may enter any place of employment during business hours to inspect the records described in this section and to ensure compliance with this section.

[(3)] (4) Any effort of any employer to obstruct the commission in the performance of its duties is considered to be a violation of this chapter and may be punished as any other violation of this chapter.

Section 4. Section 34-28-19 is amended to read:

34-28-19. Retaliation prohibited -- Administrative process -- Enforcement -- Rulemaking.

(1) (a) An employer violates this chapter if the employer takes an action described in Subsection (1)(b) against an employee because:

(i) the employee files a complaint or testifies in a proceeding relative to the enforcement of this chapter;

(ii) the employee is going to file a complaint or testify in a proceeding relative to the enforcement of this chapter; or

(iii) the employer believes that the employee may file a complaint or testify in any proceeding relative to the enforcement of this chapter.

(b) Subsection (1)(a) applies to the following actions of an employer:

(i) the discharge of an employee;

(ii) the demotion of an employee; or

(iii) any other form of retaliation against an employee in the terms, privileges, or conditions of employment.

(2) (a) An employee claiming to be aggrieved by an action of the employer in violation of Subsection (1) may file with the division a request for agency action.

(b) On receipt of a request for agency action under Subsection (2)(a), the division:

(i) shall conduct an adjudicative proceeding pursuant to Title 63G, Chapter 4, Administrative Procedures Act; and

(ii) may attempt to reach a settlement between the parties through a settlement conference.

(3) If the division determines that a violation has occurred, the division may require the employer to:

(a) cease and desist any retaliatory action;

(b) compensate the employee, which compensation may not exceed reimbursement for, and payment of, lost wages and benefits to the employee; or

(c) do both (3)(a) and (b).

(4) The division may enforce this section in accordance with Subsections 34-28-9~~(3)~~ (4) and ~~(4)~~ (5).

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall adopt rules, as required, to implement this section.

Section 5. Section 58-55-501 is amended to read:

58-55-501. Unlawful conduct.

Unlawful conduct includes:

(1) engaging in a construction trade, acting as a contractor, an alarm business or company, or an alarm company agent, or representing oneself to be engaged in a construction trade or to be acting as a contractor in a construction trade requiring licensure, unless the person doing any of these is appropriately licensed or exempted from licensure under this chapter;

(2) acting in a construction trade, as an alarm business or company, or as an alarm company agent beyond the scope of the license held;

~~[(3) hiring or employing in any manner an unlicensed person, other than an employee for wages who is not required to be licensed under this chapter, to engage in a construction trade for which licensure is required or to act as a contractor or subcontractor in a construction trade requiring licensure;]~~

(3) hiring or employing a person who is not licensed under this chapter to perform work on a project, unless the person:

(a) is an employee of a person licensed under this chapter for wages; and

(b) is not required to be licensed under this chapter;

(4) applying for or obtaining a building permit either for oneself or another when not licensed or exempted from licensure as a contractor under this chapter;

(5) issuing a building permit to any person for whom there is no evidence of a current license or exemption from licensure as a contractor under this chapter;

(6) applying for or obtaining a building permit for the benefit of or on behalf of any other person who is required to be licensed under this chapter but who is not licensed or is otherwise not entitled to obtain or receive the benefit of the building permit;

(7) failing to obtain a building permit when required by law or rule;

(8) submitting a bid for any work for which a license is required under this chapter by a person not licensed or exempted from licensure as a contractor under this chapter;

(9) willfully or deliberately misrepresenting or omitting a material fact in connection with an application to obtain or renew a license under this chapter;

(10) allowing one's license to be used by another except as provided by statute or rule;

(11) doing business under a name other than the name appearing on the license, except as permitted by statute or rule;

(12) if licensed as a specialty contractor in the electrical trade or plumbing trade, journeyman plumber, residential journeyman plumber, journeyman electrician, master electrician, or residential electrician, failing to directly supervise an apprentice under one's supervision or exceeding the number of apprentices one is allowed to have under the specialty contractor's supervision;

(13) if licensed as a contractor or representing oneself to be a contractor, receiving any funds in payment for a specific project from an owner or any other person, which funds are to pay for work performed or materials and services furnished for that specific project, and after receiving the funds to exercise unauthorized control over the funds by

failing to pay the full amounts due and payable to persons who performed work or furnished materials or services within a reasonable period of time;

(14) employing an unlicensed alarm business or company or an unlicensed individual as an alarm company agent, except as permitted under the exemption from licensure provisions under Section 58-1-307;

(15) if licensed as an alarm company or alarm company agent, filing with the division fingerprint cards for an applicant which are not those of the applicant, or are in any other way false or fraudulent and intended to mislead the division in its consideration of the applicant for licensure;

(16) if licensed under this chapter, willfully or deliberately disregarding or violating:

(a) the building or construction laws of this state or any political subdivision;

(b) the safety and labor laws applicable to a project;

(c) any provision of the health laws applicable to a project;

(d) the workers' compensation insurance laws of the state applicable to a project;

(e) the laws governing withholdings for employee state and federal income taxes, unemployment taxes, Social Security payroll taxes, or other required withholdings; or

(f) reporting, notification, and filing laws of this state or the federal government;

(17) aiding or abetting any person in evading the provisions of this chapter or rules established under the authority of the division to govern this chapter;

(18) engaging in the construction trade or as a contractor for the construction of residences of up to two units when not currently registered or exempt from registration as a qualified beneficiary under Title 38, Chapter 11, Residence Lien Restriction and Lien Recovery Fund Act;

(19) failing, as an original contractor, as defined in Section 38-11-102, to include in a written contract the notification required in Section 38-11-108;

(20) wrongfully filing a preconstruction or construction lien in violation of Section 38-1a-308;

(21) if licensed as a contractor, not completing the approved continuing education required under Section 58-55-302.5;

(22) an alarm company allowing an employee with a temporary license under Section 58-55-312 to engage in conduct on behalf of the company outside the scope of the temporary license, as provided in Subsection 58-55-312(3)(a)(ii);

(23) an alarm company agent under a temporary license under Section 58-55-312 engaging in conduct outside the scope of the temporary license, as provided in Subsection 58-55-312(3)(a)(ii);

(24) (a) an unincorporated entity licensed under this chapter having an individual who owns an interest in the unincorporated entity engage in a construction trade in Utah while not lawfully present in the United States; or

(b) an unincorporated entity providing labor to an entity licensed under this chapter by providing an individual who owns an interest in the unincorporated entity to engage in a construction trade in Utah while not lawfully present in the United States;

(25) an unincorporated entity failing to provide the following for an individual who engages, or will engage, in a construction trade in Utah for the unincorporated entity, or for an individual who engages, or will engage, in a construction trade in Utah for a separate entity for which the unincorporated entity provides the individual as labor:

(a) workers' compensation coverage:

(i) to the extent required by Title 34A, Chapter 2, Workers' Compensation Act, and Title 34A, Chapter 3, Utah Occupational Disease Act; or

(ii) that would be required under the chapters listed in Subsection (25)(a)(i) if the unincorporated entity were licensed under this chapter; and

(b) unemployment compensation in accordance with Title 35A, Chapter 4, Employment Security Act, for an individual who owns, directly or indirectly, less than an 8% interest in the unincorporated entity, as defined by rule made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(26) the failure of a sign installation contractor or nonelectrical outdoor advertising sign contractor, as classified and defined in division rules, to:

(a) display the contractor's license number prominently on a vehicle that:

(i) the contractor uses; and

(ii) displays the contractor's business name; or

(b) carry a copy of the contractor's license in any other vehicle that the contractor uses at a job site, whether or not the vehicle is owned by the contractor;

(27) (a) an unincorporated entity licensed under this chapter having an individual who owns an interest in the unincorporated entity engage in a construction trade in the state while the individual is using a Social Security number that does not belong to that individual; or

(b) an unincorporated entity providing labor to an entity licensed under this chapter by providing an individual, who owns an interest in the unincorporated entity, to engage in a construction trade in the state while the individual is using a Social Security number that does not belong to that individual; [øø]

(28) a contractor failing to comply with a requirement imposed by a political subdivision, state agency, or board of education under Section 58-55-310[.]; or

(29) failing to timely comply with the requirements described in Section 58-55-605.

Section 6. Section 58-55-503 is amended to read:

58-55-503. Penalty for unlawful conduct -- Citations.

(1) (a) (i) A person who violates Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (4), (5), (6), (7), (9), (10), (12), (14), (15), (22), (23), (24), (25), (26), (27), ~~[(28)]~~ (28), or (29), or Subsection 58-55-504(2), or who fails to comply with a citation issued under this section after it is final, is guilty of a class A misdemeanor.

(ii) As used in this section in reference to Subsection 58-55-504(2), "person" means an individual and does not include a sole proprietorship, joint venture, corporation, limited liability company, association, or organization of any type.

(b) A person who violates the provisions of Subsection 58-55-501(8) may not be awarded and may not accept a contract for the performance of the work.

(2) A person who violates the provisions of Subsection 58-55-501(13) is guilty of an infraction unless the violator did so with the intent to deprive the person to whom money is to be paid of the money received, in which case the violator is guilty of theft, as classified in Section 76-6-412.

(3) Grounds for immediate suspension of ~~[the]~~ a licensee's license by the division and the commission include:

(a) the issuance of a citation for violation of Subsection 58-55-308(2), Section 58-55-501, or Subsection 58-55-504(2)~~],~~ ~~and~~

(b) the failure by a licensee to make application to, report to, or notify the division with respect to any matter for which application, notification, or reporting is required under this chapter or rules adopted under this chapter, including:

(i) applying to the division for a new license to engage in a new specialty classification or to do business under a new form of organization or business structure~~];~~

(ii) filing ~~[with the division]~~ a current financial ~~[statements,]~~ statement with the division; and

(iii) notifying the division concerning loss of insurance coverage~~],~~ or change in qualifier.

(4) (a) If upon inspection or investigation, the division concludes that a person has violated the provisions of Subsection 58-55-308(2) ~~[(or Subsections)],~~ Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (19), (21), (22), (23), (24), (25), (26), (27), ~~[(28)]~~ (28), or (29), Subsection 58-55-504(2), or any rule or order issued with respect to these subsections, and that disciplinary action is appropriate, the director or the director's designee from within the division shall promptly issue a citation to the person according to this chapter and

any pertinent rules, attempt to negotiate a stipulated settlement, or notify the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(i) A person who is in violation of the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (19), (21), (22), (23), (24), (25), (26), (27), ~~[(28)]~~ (28), or (29), or Subsection 58-55-504(2), as evidenced by an uncontested citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may be assessed a fine pursuant to this Subsection (4) and may, in addition to or in lieu of, be ordered to cease and desist from violating Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (19), (21), (24), (25), (26), (27), ~~[(28)]~~ (28), or (29), or Subsection 58-55-504(2).

(ii) Except for a cease and desist order, the licensure sanctions cited in Section 58-55-401 may not be assessed through a citation.

(b) (i) A citation shall be in writing and describe with particularity the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated.

(ii) A citation shall clearly state that the recipient must notify the division in writing within 20 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(iii) A citation shall clearly explain the consequences of failure to timely contest the citation or to make payment of any fines assessed by the citation within the time specified in the citation.

(c) A citation issued under this section, or a copy of a citation, may be served upon a person upon whom a summons may be served:

(i) in accordance with the Utah Rules of Civil Procedure;

(ii) personally or upon the person's agent by a division investigator or by a person specially designated by the director; or

(iii) by mail.

(d) (i) If within 20 calendar days ~~[from the service of]~~ after the day on which a citation is served, the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review.

(ii) The period to contest a citation may be extended by the division for cause.

(e) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with a citation after it becomes final.

(f) The failure of an applicant for licensure to comply with a citation after it becomes final is a ground for denial of license.

(g) A citation may not be issued under this section after the expiration of six months following the occurrence of a violation.

(h) The director or the director's designee shall assess a fine in accordance with the following:

(i) for a first offense handled pursuant to Subsection (4)(a), a fine of up to \$1,000;

(ii) for a second offense handled pursuant to Subsection (4)(a), a fine of up to \$2,000; and

(iii) for any subsequent offense handled pursuant to Subsection (4)(a), a fine of up to \$2,000 for each day of continued offense.

(i) (i) For purposes of issuing a final order under this section and assessing a fine under Subsection (4)(h), an offense constitutes a second or subsequent offense if:

(A) the division previously issued a final order determining that a person committed a first or second offense in violation of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (19), (24), (25), (26), (27), ~~(28)~~, or (29), or Subsection 58-55-504(2); or

(B) (I) the division initiated an action for a first or second offense;

(II) a final order has not been issued by the division in the action initiated under Subsection (4)(i)(i)(B)(I);

(III) the division determines during an investigation that occurred after the initiation of the action under Subsection (4)(i)(i)(B)(I) that the person committed a second or subsequent violation of the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (19), (24), (25), (26), (27), ~~(28)~~, or (29), or Subsection 58-55-504(2); and

(IV) after determining that the person committed a second or subsequent offense under Subsection (4)(i)(i)(B)(III), the division issues a final order on the action initiated under Subsection (4)(i)(i)(B)(I).

(ii) In issuing a final order for a second or subsequent offense under Subsection (4)(i)(i), the division shall comply with the requirements of this section.

(j) In addition to any other licensure sanction or fine imposed under this section, the division shall revoke the license of a licensee that violates Subsection 58-55-501(24) or (25) two or more times within a 12-month period, unless, with respect to a violation of Subsection 58-55-501(24), the licensee can demonstrate that the licensee successfully verified the federal legal working status of the individual who was the subject of the violation using a status verification system, as defined in Section 13-47-102.

(k) For purposes of this Subsection (4), a violation of Subsection 58-55-501(24) or (25) for each individual is considered a separate violation.

(5) (a) A penalty imposed by the director under Subsection (4)(h) shall be deposited into the Commerce Service Account created by Section 13-1-2.

(b) A penalty that is not paid may be collected by the director by either referring the matter to a collection agency or bringing an action in the district court of the county in which the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(c) A county attorney or the attorney general of the state is to provide legal assistance and advice to the director in any action to collect the penalty.

(d) In an action brought to enforce the provisions of this section, the court shall award reasonable attorney fees and costs ~~[shall be awarded]~~ to the prevailing party.

Section 7. Section 58-55-605 is enacted to read:

58-55-605. Pay statement required.

(1) On the day on which a person licensed under this chapter pays an individual for work that the individual performed, the person shall give the individual a written or electronic pay statement that states:

(a) the individual's name;

(b) the individual's base rate of pay;

(c) the dates of the pay period for which the individual is being paid;

(d) if paid hourly, the number of hours the individual worked during the pay period;

(e) the amount of and reason for any money withheld in accordance with state or federal law, including:

(i) state and federal income tax;

(ii) Social Security tax;

(iii) Medicare tax; and

(iv) court-ordered withholdings; and

(f) the total amount paid to the individual for that pay period.

(2) A person licensed under this chapter shall:

(a) comply with the requirements described in Subsection (1) regardless of whether the licensee pays the individual by check, cash, or other means;

(b) retain a copy of each pay statement described in Subsection (1) for at least three years after the day on which the person gives a copy of the pay statement to the individual; and

(c) upon request, make the pay statement records described in this section available to the division for inspection.

CHAPTER 189**S. B. 95**

Passed February 19, 2014

Approved March 29, 2014

Effective May 13, 2014

(Exception clause in Section 138)

REVISOR'S STATUTE

Chief Sponsor: Ralph Okerlund

House Sponsor: Brad L. Dee

LONG TITLE**General Description:**

This bill modifies parts of the Utah Code to make technical corrections, including eliminating references to repealed provisions, making minor wording changes, updating cross-references, and correcting numbering.

Highlighted Provisions:

This bill:

- ▶ modifies parts of the Utah Code to make technical corrections, including eliminating references to repealed provisions, making minor wording changes, updating cross-references, correcting numbering, and fixing errors that were created from the previous year's session.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides effective dates.

Utah Code Sections Affected:**AMENDS:**

4-20-3, as last amended by Laws of Utah 2012, Chapter 331
 4-32-11, as last amended by Laws of Utah 2010, Chapter 242
 4-37-202, as last amended by Laws of Utah 2010, Chapter 378
 4-37-302, as last amended by Laws of Utah 2010, Chapter 378
 4-39-401, as enacted by Laws of Utah 1997, Chapter 302
 7-1-103, as last amended by Laws of Utah 2013, Chapter 73
 7-1-403, as last amended by Laws of Utah 1986, Fourth Special Session, Chapter 1
 7-1-616, as last amended by Laws of Utah 1996, Chapter 182
 7-1-703, as last amended by Laws of Utah 1995, Chapter 49
 7-1-710, as enacted by Laws of Utah 1983, Chapter 8
 7-1-802, as last amended by Laws of Utah 2000, Chapter 260
 7-2-1, as last amended by Laws of Utah 1994, Chapter 200
 7-2-2, as last amended by Laws of Utah 1994, Chapter 200
 7-2-12, as last amended by Laws of Utah 2010, Chapter 378
 7-3-1, as enacted by Laws of Utah 1981, Chapter 16
 7-5-2, as last amended by Laws of Utah 2010, Chapter 378
 7-5-6, as last amended by Laws of Utah 1982, Chapter 6

7-5-7, as last amended by Laws of Utah 2010, Chapter 378
 7-5-8, as last amended by Laws of Utah 2010, Chapter 378
 7-5-11, as last amended by Laws of Utah 2010, Chapter 378
 7-5-15, as last amended by Laws of Utah 1994, Chapter 200
 7-9-25, as last amended by Laws of Utah 1983, Chapter 8
 7-9-39.5, as last amended by Laws of Utah 2003, Chapter 327
 7-9-42, as enacted by Laws of Utah 1981, Chapter 16
 7-9-45, as last amended by Laws of Utah 1999, Chapter 329
 7-9-55, as enacted by Laws of Utah 2003, Chapter 327
 7-9-58, as last amended by Laws of Utah 2008, Chapter 126
 7-14-1, as last amended by Laws of Utah 1995, Chapter 20
 7-19-1, as last amended by Laws of Utah 1995, Chapter 49
 9-1-801, as enacted by Laws of Utah 1994, Chapter 119
 9-6-205, as last amended by Laws of Utah 2012, Chapter 212
 9-7-501, as last amended by Laws of Utah 1993, Chapter 227
 9-8-301, as last amended by Laws of Utah 2005, Chapter 145
 9-8-307, as last amended by Laws of Utah 1995, Chapter 170
 9-8-405, as last amended by Laws of Utah 2008, Chapter 382
 10-1-114, as last amended by Laws of Utah 1999, Chapter 21
 10-1-119, as last amended by Laws of Utah 2013, Chapter 325
 10-1-203, as last amended by Laws of Utah 2012, Chapter 289
 10-2-125, as last amended by Laws of Utah 2012, Chapter 359
 10-2-126, as enacted by Laws of Utah 2012, Chapter 359
 10-8-62, as last amended by Laws of Utah 2001, Chapter 9
 10-8-63, as last amended by Laws of Utah 2001, Chapter 9
 10-18-104, as enacted by Laws of Utah 2001, Chapter 83
 11-13-303, as last amended by Laws of Utah 2008, Chapter 382
 11-13-315, as enacted by Laws of Utah 2013, Chapter 230
 11-14-301, as last amended by Laws of Utah 2012, Chapter 204
 11-17-14, as enacted by Laws of Utah 1967, Chapter 29
 11-32-4, as last amended by Laws of Utah 1995, Chapter 181
 11-42-604, as last amended by Laws of Utah 2009, Chapter 388
 13-1a-5, as last amended by Laws of Utah 2008, Chapter 382

13-22-8, as last amended by Laws of Utah 2009, Chapter 183	17-27a-512, as last amended by Laws of Utah 2009, Chapters 170 and 233
13-23-5, as last amended by Laws of Utah 2013, Chapter 124	17-36-3, as last amended by Laws of Utah 2012, Chapter 17
13-26-4, as last amended by Laws of Utah 1996, Chapter 170	17-36-39, as last amended by Laws of Utah 2004, Chapter 206
13-32a-104, as last amended by Laws of Utah 2012, Chapter 284	17-53-301, as last amended by Laws of Utah 2001, Chapter 241
13-32a-115, as enacted by Laws of Utah 2012, Chapter 284	17B-1-121, as enacted by Laws of Utah 2011, Chapter 205
13-32a-117, as last amended by Laws of Utah 2013, Chapter 124	17B-1-512, as last amended by Laws of Utah 2011, Chapter 297
13-47-102 (Contingently Repealed), as enacted by Laws of Utah 2010, Chapter 403	17B-2a-902, as last amended by Laws of Utah 2012, Chapter 97
13-47-201 (Contingently Repealed), as enacted by Laws of Utah 2010, Chapter 403	17B-2a-905, as last amended by Laws of Utah 2013, Chapter 70
15-8-4, as last amended by Laws of Utah 2007, Chapter 272	17C-4-202, as last amended by Laws of Utah 2010, Chapters 90 and 279
15-9-103, as last amended by Laws of Utah 2010, Chapter 74	17D-3-105, as enacted by Laws of Utah 2012, Chapter 103
15-10-201, as last amended by Laws of Utah 2011, Chapter 262	20A-1-306, as enacted by Laws of Utah 2011, Chapter 17
15A-1-204, as enacted by Laws of Utah 2011, Chapter 14	26-28-112, as enacted by Laws of Utah 2007, Chapter 60
15A-2-102, as enacted by Laws of Utah 2011, Chapter 14	36-23-109, as enacted by Laws of Utah 2013, Chapter 323
15A-2-104, as last amended by Laws of Utah 2013, Chapter 297	38-8-3.5, as enacted by Laws of Utah 2013, Chapter 163
15A-3-201, as enacted by Laws of Utah 2011, Chapter 14	39-6-36, as enacted by Laws of Utah 1988, Chapter 210
15A-3-306, as last amended by Laws of Utah 2013, Chapter 297	48-1d-1305, as enacted by Laws of Utah 2013, Chapter 412
15A-4-201, as enacted by Laws of Utah 2011, Chapter 14	53-5-707, as last amended by Laws of Utah 2013, Chapter 280
15A-5-103, as last amended by Laws of Utah 2013, Chapter 199	53-13-110, as renumbered and amended by Laws of Utah 1998, Chapter 282
16-6a-1011, as enacted by Laws of Utah 2000, Chapter 300	53A-1a-521, as last amended by Laws of Utah 2013, Chapter 239
16-6a-1202, as enacted by Laws of Utah 2000, Chapter 300	53A-3-701, as last amended by Laws of Utah 2003, Chapter 221
16-6a-1701, as enacted by Laws of Utah 2000, Chapter 300	53A-16-107, as last amended by Laws of Utah 2011, Chapters 153, 369, and 371
16-6a-1702, as last amended by Laws of Utah 2008, Chapter 250	53A-16-114, as last amended by Laws of Utah 2011, Chapter 342 and renumbered and amended by Laws of Utah 2011, Chapter 371
16-10a-402, as enacted by Laws of Utah 1992, Chapter 277	53A-17a-133, as last amended by Laws of Utah 2013, Chapters 178 and 313
16-10a-901, as enacted by Laws of Utah 1992, Chapter 277	53A-25a-102, as enacted by Laws of Utah 1994, Chapter 280
16-10a-1106, as enacted by Laws of Utah 1992, Chapter 277	54-3-31, as enacted by Laws of Utah 2013, Chapter 242
16-10a-1301, as enacted by Laws of Utah 1992, Chapter 277	57-8-7.5 (Effective 07/01/14), as last amended by Laws of Utah 2013, Chapters 152, 419 and last amended by Coordination Clause, Laws of Utah 2013, Chapter 152
16-10a-1405, as enacted by Laws of Utah 1992, Chapter 277	57-8-43, as last amended by Laws of Utah 2013, Chapter 152
16-16-113, as last amended by Laws of Utah 2010, Chapter 378	57-8a-211 (Superseded 07/01/14), as last amended by Laws of Utah 2013, Chapter 419
17-18a-405, as enacted by Laws of Utah 2013, Chapter 237	58-40-302, as enacted by Laws of Utah 2012, Chapter 82
17-23-17.5, as last amended by Laws of Utah 2001, Chapter 241	58-60-506, as last amended by Laws of Utah 2013, Chapter 123
17-23-19, as last amended by Laws of Utah 1993, Chapter 227	58-77-601, as last amended by Laws of Utah 2008, Chapter 365
17-27a-205, as last amended by Laws of Utah 2013, Chapter 324	
17-27a-301, as last amended by Laws of Utah 2011, Chapters 107 and 305	

59-14-302, as last amended by Laws of Utah 2013, Chapter 148
 63C-13-107, as enacted by Laws of Utah 2013, Chapter 228
 63G-12-306, as enacted by Laws of Utah 2011, Chapter 18
 63I-1-253, as last amended by Laws of Utah 2012, Chapter 369
 63I-1-263, as last amended by Laws of Utah 2013, Chapters 28, 62, 101, 167, 250, and 413
 63I-2-217, as last amended by Laws of Utah 2012, Chapter 17
 63I-2-236, as last amended by Laws of Utah 2013, Chapter 283
 63I-2-253, as last amended by Laws of Utah 2013, Chapters 173 and 434
 63I-2-277, as last amended by Laws of Utah 2012, Chapter 17
 63I-4a-202, as renumbered and amended by Laws of Utah 2013, Chapter 325
 63J-1-206, as last amended by Laws of Utah 2013, Chapter 310
 63J-1-505, as renumbered and amended by Laws of Utah 2009, Chapter 183
 63J-1-602.3, as last amended by Laws of Utah 2013, Chapters 117, 295 and last amended by Coordination Clause, Laws of Utah 2013, Chapter 117
 63J-1-602.4, as last amended by Laws of Utah 2013, Chapter 28
 63M-1-3203, as enacted by Laws of Utah 2013, Chapter 336
 70A-2a-533, as enacted by Laws of Utah 1990, Chapter 197
 76-1-501, as last amended by Laws of Utah 2013, Chapter 278
 76-5-102.4, as last amended by Laws of Utah 2013, Chapter 156
 78A-2-301, as last amended by Laws of Utah 2012, Chapter 247
 78A-7-301, as last amended by Laws of Utah 2011, Chapter 143
 78B-3-421, as renumbered and amended by Laws of Utah 2008, Chapter 3

RENUMBERS AND AMENDS:

4-18-108, (Renumbered from 4-18-6.5, as last amended by Laws of Utah 2008, Chapter 382)

REPEALS:

63G-13-203, as enacted by Laws of Utah 2011, Chapter 19

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

Section 1. Section 4-18-108, which is renumbered from Section 4-18-6.5 is renumbered and amended to read:

[4-18-6.5]. 4-18-108. Grants to improve manure management or control runoff at animal feeding operations.

(1) (a) The commission may make grants to owners or operators of animal feeding operations to pay for costs of plans or projects to improve manure management or control surface water runoff, including costs of preparing or implementing comprehensive nutrient management plans.

(b) The commission shall make the grants described in Subsection (1)(a) from funds appropriated by the Legislature for that purpose.

(2) (a) In awarding grants, the commission shall consider the following criteria:

(i) the ability of the grantee to pay for costs of plans or projects to improve manure management or control surface water runoff;

(ii) the availability of:

(A) matching funds provided by the grantee or another source; or

(B) material, labor, or other items of value provided in lieu of money by the grantee or another source; and

(iii) the benefits that accrue to the general public by the awarding of a grant.

(b) The commission may establish by rule additional criteria for the awarding of grants.

(3) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this section.

Section 2. Section 4-20-3 is amended to read:

4-20-3. Rangeland Improvement Account distribution.

(1) The department shall distribute restricted account money as provided in this section.

(a) The department shall:

(i) distribute pro rata to each school district the money received by the state under Subsection 4-20-2(1)(b)(i) from the sale or lease of public lands based upon the amount of revenue generated from the sale or lease of public lands within the district; and

(ii) ensure that all money generated from the sale or lease of public lands within a school district is credited and deposited to the general school fund of that school district.

(b) (i) After the commissioner approves a request from a regional board, the department shall distribute pro rata to each regional board money received by the state under Subsection 4-20-2(1)(b)(i) from fees based upon the amount of revenue generated from the imposition of fees within that grazing district.

(ii) The regional board shall expend money received in accordance with Subsection (2).

(c) (i) The department shall distribute or expend money received by the state under Subsections 4-20-2(1)(b)(ii) ~~[through (iv)]~~ and (iii) for the purposes outlined in Subsection (2).

(ii) The department may require entities seeking funding from sources outlined in Subsections 4-20-2(1)(b)(ii) ~~[through (iv)]~~ and (iii) to provide matching funds.

(2) The department shall ensure that restricted account distributions or expenditures under Subsections (1)(b) and (c) are used for:

- (a) range improvement and maintenance;
- (b) the control of predatory and depreddating animals;
- (c) the control, management, or extermination of invading species, range damaging organisms, and poisonous or noxious weeds;
- (d) the purchase or lease of lands or a conservation easement for the benefit of a grazing district;
- (e) watershed protection, development, distribution, and improvement;
- (f) the general welfare of livestock grazing within a grazing district; and
- (g) subject to Subsection (3), costs to monitor rangeland improvement projects.

(3) Annual account distributions or expenditures for the monitoring costs described in Subsection (2)(g) may not exceed 10% of the annual receipts of the fund.

Section 3. Section 4-32-11 is amended to read:

4-32-11. Preparation and slaughter of livestock, poultry, or livestock and poultry products -- Adulterated or misbranded products -- Violation of rule or order.

- (1) An animal or meat or poultry product that may be used for human consumption shall not be:
 - (a) slaughtered or prepared unless it is done in compliance with this chapter's requirements;
 - (b) sold, transported, offered for sale or transportation, or received for transportation, if it is adulterated or misbranded, unless it has been inspected and approved; or
 - (c) subjected to any act while being transported or held for sale after transportation resulting in one of the products becoming adulterated or being misbranded.

(2) A person may not violate any rule or order of the commissioner under Subsection 4-32-7(3) or (6), or Subsection 4-32-8(3), (5), or (7)~~, or (14)~~.

Section 4. Section 4-37-202 is amended to read:

4-37-202. Acquisition of aquatic animals for use in aquaculture facilities.

- (1) Live aquatic animals intended for use in aquaculture facilities may be purchased or acquired only from:
 - (a) aquaculture facilities within the state that have a certificate of registration and health approval number;
 - (b) public aquaculture facilities within the state that have a health approval number; or
 - (c) sources outside the state that are health approved as provided in Part 5, Health Approval.

(2) A person holding a certificate of registration for an aquaculture facility shall submit annually to the department a record of each purchase of live aquatic animals and transfer of live aquatic animals into the facility. This record shall include the following information:

- (a) name, address, and health approval number of the source;
- (b) date of transaction; and
- (c) number and weight by species.

(3) The records required by Subsection (2) shall be submitted to the department before a certificate of registration is renewed or a subsequent certificate of registration is issued.

Section 5. Section 4-37-302 is amended to read:

4-37-302. Acquisition of aquatic animals for use in fee fishing facilities.

(1) Live aquatic animals intended for use in fee fishing facilities may be purchased or acquired only from:

- (a) aquaculture facilities within the state that have a certificate of registration and health approval number;
- (b) public aquaculture facilities within the state that have a health approval number; or
- (c) sources outside the state that are health approved pursuant to Part 5, Health Approval.

(2) (a) A person holding a certificate of registration for a fee fishing facility shall submit to the department an annual report of all live fish purchased or acquired.

- (b) The report shall contain the following information:
 - (i) name, address, and certificate of registration number of the seller or supplier;
 - (ii) number and weight by species;
 - (iii) date of purchase or transfer; and
 - (iv) name, address, and certificate of registration number of the receiver.

(c) The report shall be submitted to the department before a certificate of registration is renewed or subsequent certificate of registration is issued.

Section 6. Section 4-39-401 is amended to read:

4-39-401. Escape of domesticated elk -- Liability.

- (1) It is the owner's responsibility to try to capture any domesticated elk that may have escaped.
- (2) The escape of a domesticated elk shall be reported immediately to the state veterinarian or a brand inspector of the Department of Agriculture who shall notify the Division of Wildlife Resources.
- (3) If the domesticated elk is not recovered within 72 hours of the escape, the Department of

Agriculture, in conjunction with the Division of Wildlife Resources, shall take whatever action is necessary to resolve the problem.

(4) The owner shall reimburse the state or a state agency for any reasonable recapture costs that may be incurred in the recapture or destruction of the animal.

(5) Any escaped domesticated elk taken by a licensed hunter in a manner which complies with the provisions of Title 23, Wildlife Resources Code of Utah, and the rules of the Wildlife Board shall be considered to be a legal taking and neither the licensed hunter, the state, nor a state agency shall be liable to the owner for the killing.

(6) The owner shall be responsible to contain the domesticated elk to ensure that there is no spread of disease from domesticated elk to wild elk and that the genetic purity of wild elk is protected.

Section 7. Section 7-1-103 is amended to read:

7-1-103. Definitions.

As used in this title:

(1) (a) "Bank" means a person authorized under the laws of this state, another state, or the United States to accept deposits from the public.

(b) "Bank" does not include:

(i) a federal savings and loan association or federal savings bank;

(ii) an industrial bank subject to Chapter 8, Industrial Banks;

(iii) a federally chartered credit union; or

(iv) a credit union subject to Chapter 9, Utah Credit Union Act.

(2) "Banking business" means the offering of deposit accounts to the public and the conduct of such other business activities as may be authorized by this title.

(3) (a) "Branch" means a place of business of a financial institution, other than its main office, at which deposits are received and paid.

(b) "Branch" does not include:

(i) an automated teller machine, as defined in Section 7-16a-102;

(ii) a point-of-sale terminal, as defined in Section 7-16a-102; or

(iii) a loan production office under Section 7-1-715.

(4) "Commissioner" means the Commissioner of Financial Institutions.

(5) "Control" means the power, directly or indirectly, to:

(a) direct or exercise a controlling influence over:

(i) the management or policies of a financial institution; or

(ii) the election of a majority of the directors or trustees of an institution;

(b) vote 20% or more of any class of voting securities of a financial institution by an individual; or

(c) vote more than 10% of any class of voting securities of a financial institution by a person other than an individual.

(6) "Credit union" means a cooperative, nonprofit association incorporated under:

(a) Chapter 9, Utah Credit Union Act; or

(b) 12 U.S.C. Sec. 1751 et seq., Federal Credit Union Act, as amended.

(7) "Department" means the Department of Financial Institutions.

(8) "Depository institution" means a bank, savings and loan association, savings bank, industrial bank, credit union, or other institution that:

(a) holds or receives deposits, savings, or share accounts;

(b) issues certificates of deposit; or

(c) provides to its customers other depository accounts that are subject to withdrawal by checks, drafts, or other instruments or by electronic means to effect third party payments.

(9) (a) "Depository institution holding company" means:

(i) a person other than an individual that:

(A) has control over any depository institution; or

(B) becomes a holding company of a depository institution under Section 7-1-703; or

(ii) a person other than an individual that the commissioner finds, after considering the specific circumstances, is exercising or is capable of exercising a controlling influence over a depository institution by means other than those specifically described in this section.

(b) Except as provided in Section 7-1-703, a person is not a depository institution holding company solely because it owns or controls shares acquired in securing or collecting a debt previously contracted in good faith.

(10) "Financial institution" means any institution subject to the jurisdiction of the department because of this title.

(11) (a) "Financial institution holding company" means a person, other than an individual that has control over any financial institution or any person that becomes a financial institution holding company under this chapter, including an out-of-state or foreign depository institution holding company.

(b) Ownership of a service corporation or service organization by a depository institution does not make that institution a financial institution holding company.

(c) A person holding 10% or less of the voting securities of a financial institution is rebuttably presumed not to have control of the institution.

(d) A trust company is not a holding company solely because it owns or holds 20% or more of the voting securities of a financial institution in a fiduciary capacity, unless the trust company exercises a controlling influence over the management or policies of the financial institution.

(12) "Foreign depository institution" means a depository institution chartered or authorized to transact business by a foreign government.

(13) "Foreign depository institution holding company" means the holding company of a foreign depository institution.

(14) "Home state" means:

(a) for a state chartered depository institution, the state that charters the institution;

(b) for a federally chartered depository institution, the state where the institution's main office is located; and

(c) for a depository institution holding company, the state in which the total deposits of all depository institution subsidiaries are the largest.

(15) "Host state" means:

(a) for a depository institution, a state, other than the institution's home state, where the institution maintains or seeks to establish a branch; and

(b) for a depository institution holding company, a state, other than the depository institution holding company's home state, where the depository institution holding company controls or seeks to control a depository institution subsidiary.

(16) "Industrial bank" means a corporation or limited liability company conducting the business of an industrial bank under Chapter 8, Industrial Banks.

(17) "Industrial loan company" is as defined in Section 7-8-21.

(18) "Insolvent" means the status of a financial institution that is unable to meet its obligations as they mature.

(19) "Institution" means:

(a) a corporation;

(b) a limited liability company;

(c) a partnership;

(d) a trust;

(e) an association;

(f) a joint venture;

(g) a pool;

(h) a syndicate;

(i) an unincorporated organization; or

(j) any form of business entity.

(20) "Institution subject to the jurisdiction of the department" means an institution or other person described in Section 7-1-501.

(21) "Liquidation" means the act or process of winding up the affairs of an institution subject to the jurisdiction of the department by realizing upon assets, paying liabilities, and appropriating profit or loss, as provided in [~~Chapters 2 and 19~~] Chapter 2, Possession of Depository Institution by Commissioner, and Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies.

(22) "Liquidator" means a person, agency, or instrumentality of this state or the United States appointed to conduct a liquidation.

(23) (a) "Money services business" includes:

(i) a check casher;

(ii) a deferred deposit lender;

(iii) an issuer or seller of traveler's checks or money orders; and

(iv) a money transmitter.

(b) "Money services business" does not include:

(i) a bank;

(ii) a person registered with, and functionally regulated or examined by the Securities Exchange Commission or the Commodity Futures Trading Commission, or a foreign financial agency that engages in financial activities that, if conducted in the United States, would require the foreign financial agency to be registered with the Securities Exchange Commission or the Commodity Futures Trading Commission; or

(iii) an individual who engages in an activity described in Subsection (23)(a) on an infrequent basis and not for gain or profit.

(24) "Negotiable order of withdrawal" means a draft drawn on a NOW account.

(25) (a) "NOW account" means a savings account from which the owner may make withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties.

(b) A "NOW account" is not a demand deposit.

(c) Neither the owner of a NOW account nor any third party holder of an instrument requesting withdrawal from the account has a legal right to make withdrawal on demand.

(26) "Out-of-state" means, in reference to a depository institution or depository institution holding company, an institution or company whose home state is not Utah.

(27) "Person" means:

(a) an individual;

(b) a corporation;

(c) a limited liability company;

- (d) a partnership;
- (e) a trust;
- (f) an association;
- (g) a joint venture;
- (h) a pool;
- (i) a syndicate;
- (j) a sole proprietorship;
- (k) an unincorporated organization; or
- (l) any form of business entity.

(28) "Receiver" means a person, agency, or instrumentality of this state or the United States appointed to administer and manage an institution subject to the jurisdiction of the department in receivership, as provided in [Chapters 2 and 19] Chapter 2, Possession of Depository Institution by Commissioner, and Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies.

(29) "Receivership" means the administration and management of the affairs of an institution subject to the jurisdiction of the department to conserve, preserve, and properly dispose of the assets, liabilities, and revenues of an institution in possession, as provided in [Chapters 2 and 19] Chapter 2, Possession of Depository Institution by Commissioner, and Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies.

(30) "Savings account" means any deposit or other account at a depository institution that is not a transaction account.

- (31) "Savings and loan association" means:
- (a) a federal savings and loan association; and
 - (b) an out-of-state savings and loan association.

(32) "Service corporation" or "service organization" means a corporation or other business entity owned or controlled by one or more financial institutions that is engaged or proposes to engage in business activities related to the business of financial institutions.

(33) "State" means, unless the context demands otherwise:

- (a) a state;
- (b) the District of Columbia; or
- (c) the territories of the United States.

(34) "Subsidiary" means a business entity under the control of an institution.

(35) (a) "Transaction account" means a deposit, account, or other contractual arrangement in which a depositor, account holder, or other customer is permitted, directly or indirectly, to make withdrawals by:

- (i) check or other negotiable or transferable instrument;
 - (ii) payment order of withdrawal;
 - (iii) telephone transfer;
 - (iv) other electronic means; or
 - (v) any other means or device for the purpose of making payments or transfers to third persons.
- (b) "Transaction account" includes:
- (i) demand deposits;
 - (ii) NOW accounts;
 - (iii) savings deposits subject to automatic transfers; and
 - (iv) share draft accounts.

(36) "Trust company" means a person authorized to conduct a trust business, as provided in Chapter 5, Trust Business.

(37) "Utah depository institution" means a depository institution whose home state is Utah.

(38) "Utah depository institution holding company" means a depository institution holding company whose home state is Utah.

Section 8. Section 7-1-403 is amended to read:

7-1-403. Funds and balances paid to treasurer -- Separate account -- Use of funds.

Unexpended balances and all funds accruing to the department shall be deposited by the commissioner with the state treasurer monthly and constitute a separate account within the General Fund. No part of the account may revert to the General Fund except an amount as required by law to be transferred for general government and administrative costs. With the approval of the director of the Division of Finance, the commissioner may withdraw sums from the account to pay costs and expenses of administration incurred in proceedings under Title 7, [Chapters 1, 2, and 19] Chapter 1, General Provisions, Chapter 2, Possession of Depository Institution by Commissioner, and Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies, or to use in connection with the rehabilitation, reorganization, or liquidation of an institution under the jurisdiction of the department.

Section 9. Section 7-1-616 is amended to read:

7-1-616. Authority to accept transaction accounts -- Payment of instruments.

(1) A financial institution may accept or advertise that it accepts transaction accounts only if authorized to do so under federal or state law. An institution may submit a written request for this authority to the commissioner, except that an institution authorized to accept transaction accounts as of June 1, 1994, does not, in the first

instance, need to request or be granted any additional authority. The commissioner shall grant the authority if the commissioner finds that:

(a) the institution has adequate capital and reserves in relation to the character and condition of its assets and its deposit and other liabilities;

(b) the deposits and other accounts held by the institution are insured or guaranteed by an agency of the federal government; and

(c) the management of the institution is qualified to handle transaction accounts.

(2) The commissioner may revoke, limit, or condition an institution's authority to accept and handle transaction accounts upon a finding that:

(a) the institution no longer meets the criteria set forth in Subsection (1); or

(b) it would be contrary to the public interest and the soundness of the financial system of this state to allow the institution to continue to accept or handle transaction accounts without limitation or condition.

(3) One or more depository institutions may, by written agreement, vary the terms of Title 70A, [~~Chapters 3 and 4~~] Chapter 3, Uniform Commercial Code - Negotiable Instruments, and Chapter 4, Uniform Commercial Code - Bank Deposits and Collections, for the purposes of facilitating the transfer, exchange, and prompt payment of instruments drawn on transaction accounts.

Section 10. Section 7-1-703 is amended to read:

7-1-703. Restrictions on acquisition of institutions and holding companies -- Enforcement.

(1) Unless the commissioner gives prior written approval under Section 7-1-705, no person may:

(a) acquire, directly or indirectly, control of a depository institution or depository institution holding company subject to the jurisdiction of the department;

(b) vote the stock of any depository institution or depository institution holding company subject to the jurisdiction of the department acquired in violation of Section 7-1-705;

(c) acquire all or any portion of the assets of a depository institution or a depository institution holding company subject to the jurisdiction of the department;

(d) assume all or any portion of the deposit liabilities of a depository institution subject to the jurisdiction of the department;

(e) take any action that causes a depository institution to become a subsidiary of a depository institution holding company subject to the jurisdiction of the department;

(f) take any action that causes a person other than an individual to become a depository institution holding company subject to the jurisdiction of the department;

(g) acquire, directly or indirectly, the voting or nonvoting securities of a depository institution or a depository institution holding company subject to the jurisdiction of the department if the acquisition would result in the person obtaining more than 20% of the authorized voting securities of the institution if the nonvoting securities were converted into voting securities; or

(h) merge or consolidate with a depository institution or depository institution holding company subject to the jurisdiction of the department.

(2) Any person who willfully violates any provision of this section or any rule or order issued by the department under this section is subject to a civil penalty of not more than \$1,000 per day during which the violation continues. The commissioner may assess the civil penalty after giving notice and opportunity for hearing. The commissioner shall collect the civil penalty by bringing an action in the district court of the county in which the office of the commissioner is located. Any applicant for approval of an acquisition is considered to have consented to the jurisdiction and venue of the court by filing an application for approval.

(3) The commissioner may secure injunctive relief to prevent any change in control or impending violation of this section.

(4) The commissioner may lengthen or shorten any time period specified in Section 7-1-705 if the commissioner finds it necessary to protect the public interest.

(5) The commissioner may exempt any class of financial institutions from this section by rule if the commissioner finds the exception to be in the public interest.

(6) The prior approval of the commissioner under Section 7-1-705 is not required for the acquisition by a person other than an individual of voting securities or assets of a depository institution or a depository institution holding company that are acquired by foreclosure or otherwise in the ordinary course of collecting a debt previously contracted in good faith if these voting securities or assets are divested within two years of acquisition. The commissioner may, upon application, extend the two-year period of divestiture for up to three additional one-year periods if, in the commissioner's judgment, the extension would not be detrimental to the public interest. The commissioner may adopt rules to implement the intent of this Subsection (6).

(7) (a) An out-of-state depository institution without a branch in Utah, or an out-of-state depository institution holding company without a depository institution in Utah, may acquire:

(i) a Utah depository institution only if it has been in existence for at least five years; or

(ii) a Utah branch of a depository institution only if the branch has been in existence for at least five years.

(b) For purposes of Subsection (7)(a), a depository institution chartered solely for the purpose of acquiring another depository institution is considered to have been in existence for the same period as the depository institution to be acquired, so long as it does not open for business at any time before the acquisition.

(c) The commissioner may waive the restriction in Subsection (7)(a) in the case of a depository institution that is subject to, or is in danger of becoming subject to, supervisory action under Chapter 2, Possession of Depository Institution by Commissioner, or Chapter 19, Acquisitions of Failing Repository Institutions or Holding Companies, or, if applicable, the equivalent provisions of federal law or the law of the institution's home state.

(d) The restriction in Subsection (7)(a) does not apply to an acquisition of, or merger transaction between, affiliate depository institutions.

Section 11. Section 7-1-710 is amended to read:

7-1-710. "Agency" defined -- Purposes and establishment of agency.

(1) As used in this section, "agency" means a place, person, or facility, stationary or mobile, other than the home office or a branch office[;]:

(a) where functions of the financial institution not involving the receiving or paying of deposits, making of loans or the handling of cash may be performed[;];

(b) established for individual transactions and for special temporary purposes[;];

(c) established for the purposes set forth in Sections 7-1-608 and 7-1-609[;]; or

(d) established to perform the functions of a financial institution service corporation.

(2) A financial institution may establish one or more agencies without the prior written approval of the commissioner. Within 30 days of the establishment of an agency, the financial institution shall inform the commissioner in writing of the address of the agency and the specific functions for which it was established.

(3) No agency may be converted to a branch without compliance with Section 7-1-708.

Section 12. Section 7-1-802 is amended to read:

7-1-802. Confidentiality of information received by department -- Availability of information.

(1) The commissioner shall receive and place on file in the department's office all reports required by law and shall certify all reports required to be published.

(2) Except as provided in this section, the following are confidential, not public records, and not open to public inspection:

(a) all reports received or prepared by the department;

(b) all information obtained from an institution or person under the jurisdiction of the department; and

(c) all orders and related records of the department.

(3) The following records and information are public and are open to public inspection:

(a) reports of condition required by Section 7-1-318;

(b) information that is otherwise generally available to the public; and

(c) information contained in, and final decisions on, an application filed under Sections 7-1-702, 7-1-703, 7-1-704, 7-1-705, 7-1-706, 7-1-708, 7-1-709, 7-1-712, 7-1-713, or Chapter 19, Acquisitions of Failing Repository Institutions or Holding Companies, excluding:

(i) proprietary information, business plans, and personal financial information; and

(ii) information for which:

(A) the applicant requests confidentiality; and

(B) the commissioner grants the request for confidentiality.

(4) The department may disclose records and information that are not public to the following:

(a) to an agency or authority:

(i) that regulates:

(A) the subject of the record; or

(B) an affiliate of the subject of the record, as defined by the commissioner by rule; and

(ii) is of:

(A) the federal government;

(B) the state; or

(C) another state;

(b) to a federal deposit insurance agency;

(c) to an official legally authorized to investigate criminal charges in connection with the affairs of the subject of the record, and to any tribunal conducting legal proceedings resulting from such an investigation;

(d) to a person preparing a proposal for merging or acquiring an institution under [~~Chapter 2 or 19~~] Chapter 2, Possession of Depository Institution by Commissioner, or Chapter 19, Acquisition of Failing Repository Institutions or Holding Companies, but only after the department provides notice of the disclosure to the institution;

(e) to any other person, if the commissioner determines, after notice to the institution or person

that is the subject of the record and opportunity for hearing, that the interests favoring disclosure of the information outweigh the interests favoring confidentiality of the information; and

(f) to any court in a proceeding under:

(i) Sections 7-1-304, 7-1-320, 7-1-322; or

(ii) a supervisory action under ~~Chapter 2 or 19~~ Chapter 2, Possession of Depository Institution by Commissioner, or Chapter 19, Acquisition of Failing Repository Institutions or Holding Companies.

(5) The commissioner may limit the use and further disclosure of any information disclosed under Subsection (4):

(a) to protect the business confidentiality interest of the subject of the record; and

(b) to protect the public interest, such as to avoid:

(i) a liquidity crisis in a depository institution; or

(ii) undue speculation in securities or currency markets.

(6) The department shall disclose information in the manner and to the extent directed by a court order signed by a judge from a court of competent jurisdiction if:

(a) the disclosure does not violate applicable federal or state law;

(b) the information to be disclosed deals with a matter in controversy over which the court has jurisdiction;

(c) the person requesting the order has provided reasonable prior written notice to the commissioner;

(d) the court has considered the merits of the request for disclosure and has determined that the interests favoring disclosure of the information outweigh the interests favoring confidentiality of the information; and

(e) the court has appropriately limited the use and further disclosure of the information:

(i) to protect the business confidentiality interest of the subject of the record; and

(ii) to protect the public interest, such as to avoid:

(A) a liquidity crisis in a depository institution; or

(B) undue speculation in securities or currency markets.

Section 13. Section 7-2-1 is amended to read:

7-2-1. Supervisory actions by commissioner -- Grounds -- Mergers or acquisitions authorized by commissioner -- Possession of business and property taken by commissioner.

(1) An institution under the jurisdiction of the department is subject to supervisory actions by the commissioner under this chapter or Chapter 19, Acquisition of Failing Repository Institutions or

Holding Companies, if the commissioner, with or without an administrative hearing, finds that:

(a) the institution is not in a safe and sound condition to transact its business;

(b) an officer of the institution or other person has refused to be examined or has made false statements under oath regarding its affairs;

(c) the institution or other person has violated its articles of incorporation or any law, rule, or regulation governing the institution or other person;

(d) the institution or other person is conducting its business in an unauthorized or unsafe manner, or is practicing deception upon its depositors, members, or the public, or is engaging in conduct injurious to its depositors, members, or the public;

(e) the institution or other person has been notified by its primary account insurer of the insurer's intention to initiate proceedings to terminate insurance;

(f) the institution or other person has failed to maintain a minimum amount of capital as required by the department, any state, or the relevant federal regulatory agency;

(g) the institution or other person is a depository institution that has failed or refused to pay its depositors in accordance with the terms under which the deposits were received, or has or is about to become insolvent;

(h) the institution or other person or its officers or directors have failed or refused to comply with the terms of a legally authorized order issued by the commissioner or by any federal authority or authority of another state having jurisdiction over the institution or other person;

(i) the institution or other person or its officers or directors have failed or refused, upon proper demand, to submit its records, books, papers, and affairs for inspection to the commissioner or to a supervisor or an examiner of the department;

(j) the institution or other person or its officers or directors, after 30 days written notice, have failed to comply with or have continued to violate this title or any rule or regulation of the department issued under it;

(k) any person who controls the institution or other person subject to the jurisdiction of the department has used the control to cause the institution or other person to be or about to be in an unsafe or unsound condition, to conduct its business in an unauthorized or unsafe manner, or to violate this title or any rule or regulation of the department issued under it; or

(l) the remedies provided in Section 7-1-307, 7-1-308, or 7-1-313 are ineffective or impracticable to protect the interest of depositors, creditors, or members of the institution or other person, or to protect the interests of the public.

(2) The commissioner may take any action described in Subsection (3) if:

(a) he finds that:

(i) any of the conditions set forth in Subsection (1) exist with respect to an institution under the jurisdiction of the department; and

(ii) an order issued pursuant to Section 7-1-307, 7-1-308, or 7-1-313 would not adequately protect the interests of the institution's depositors, creditors, members, or other interested persons from all dangers presented by the conditions found to exist; or

(b) two-thirds of the voting shares of an institution under the jurisdiction of the department that are eligible to be voted at any regular or special meeting of the shareholders of the institution are voted at the meeting in favor of a resolution consenting to the commissioner taking or causing to be taken any of the actions described below.

(3) After making the requisite findings or receiving the consenting vote of shareholders under Subsection (2), the commissioner may:

(a) without taking possession of the institution, authorize, or by order require or give effect to the acquisition of control of, the merger with, the acquisition of all or a portion of the assets of, or the assumption of all or a portion of the liabilities of the institution or other person by any other institution or entity approved or designated by the commissioner in accordance with Chapter 19, Acquisition of Failing Repository Institutions or Holding Companies; or

(b) take possession of the institution or other person subject to the jurisdiction of the department with or without a court order if an acquisition of control of, a merger with, an acquisition of all or a portion of the assets of, or an assumption of all or a portion of the liabilities of the institution or other person without taking possession does not appear to the commissioner to be practicable.

(4) Upon taking possession of an institution or the person, the commissioner is vested by operation of law with the title to and the right to possession of all assets, the business, and property of the institution or other person subject to court order made under Section 7-2-3. While in possession of an institution or other person, the commissioner or any receiver or liquidator appointed by him may exercise any or all of the rights, powers, and authorities granted to the commissioner under this chapter, or may give effect to the acquisition of control of, the merger with, the acquisition of all or a portion of the assets of, or the assumption of all or a portion of the liabilities of an institution or other person subject to the jurisdiction of the department, under the provisions of Chapter 19, Acquisition of Failing Repository Institutions or Holding Companies.

(5) An action of the commissioner under this section may only be enjoined or set aside upon a finding, after notice and hearing, that the action is arbitrary, capricious, an abuse of discretion, or otherwise contrary to law.

Section 14. Section 7-2-2 is amended to read:

7-2-2. Jurisdiction of district court -- Supervision of actions of commissioner in possession -- Authority of commissioner and court.

(1) The district court for the county in which the principal office of the institution or other person is situated has jurisdiction in the liquidation or reorganization of the institution or other person of which the commissioner has taken possession under this chapter or Chapter 19, Acquisition of Failing Repository Institutions or Holding Companies. As used in this chapter, "court" means the court given jurisdiction by this provision.

(2) Before taking possession of an institution or other person under his jurisdiction, or within a reasonable time after taking possession of an institution or other person without court order, as provided in this chapter, the commissioner shall cause to be commenced in the appropriate district court, an action to provide the court supervisory jurisdiction to review the actions of the commissioner.

(3) The actions of the commissioner are subject to review of the court. The court has jurisdiction to hear all objections to the actions of the commissioner and may rule upon all motions and actions coming before it. Standing to seek review of any action of the commissioner or any receiver or liquidator appointed by him is limited to persons whose rights, claims, or interests in the institution would be adversely affected by the action.

(4) The authority of the commissioner under this chapter is of an administrative and not judicial receivership. The court may not overrule a determination or decision of the commissioner if it is not arbitrary, capricious, fraudulent, or contrary to law. If the court overrules an action of the commissioner, the matter shall be remanded to the commissioner for a new determination by him, and the new determination shall be subject to court review.

Section 15. Section 7-2-12 is amended to read:

7-2-12. Powers of commissioner in possession -- Sale of assets -- Postpossession financing -- New deposit instruments -- Executory contracts -- Transfer of property -- Avoidance of transfers -- Avoidable preferences -- Setoff.

(1) Upon taking possession of the institution, the commissioner may do all things necessary to preserve its assets and business, and shall rehabilitate, reorganize, or liquidate the affairs of the institution in a manner he determines to be in the best interests of the institution's depositors and creditors. Any such determination by the commissioner may not be overruled by a reviewing court unless it is found to be arbitrary, capricious, fraudulent, or contrary to law. In the event of a liquidation, he shall collect all debts due and claims belonging to it, and may compromise all bad or

doubtful debts. He may sell, upon terms he may determine, any or all of the property of the institution for cash or other consideration. The commissioner shall give such notice as the court may direct to the institution of the time and place of hearing upon an application to the court for approval of the sale. The commissioner shall execute and deliver to the purchaser of any property of the institution sold by him those deeds or instruments necessary to evidence the passing of title.

(2) With approval of the court and upon terms and with priority determined by the court, the commissioner may borrow money and issue evidence of indebtedness. To secure repayment of the indebtedness, he may mortgage, pledge, transfer in trust, or hypothecate any or all of the property of the institution superior to any charge on the property for expenses of the proceeding as provided in Section 7-2-14. These loans may be obtained for the purpose of facilitating liquidation, protecting or preserving the assets in the charge of the commissioner, expediting the making of distributions to depositors and other claimants, aiding in the reopening or reorganization of the institution or its merger or consolidation with another institution, or the sale of all of its assets. Neither the commissioner nor any special deputy or other person lawfully in charge of the affairs of the institution is under any personal obligation to repay those loans. The commissioner may take any action necessary or proper to consummate the loan and to provide for its repayment and to give bond when required for the faithful performance of all undertakings in connection with it. The commissioner or special deputy shall make application to the court for approval of any loan proposed under this section. Notice of hearing upon the application shall be given as the court directs. At the hearing upon the application any stockholder or shareholder of the institution or any depositor or other creditor of the institution may appear and be heard on the application. Prior to the obtaining of a court order, the commissioner or special deputy in charge of the affairs of the institution may make application or negotiate for the loan or loans subject to the obtaining of the court order.

(3) With the approval of the court pursuant to a plan of reorganization or liquidation under Section 7-2-18, the commissioner may provide for depositors to receive new deposit instruments from a depository institution that purchases or receives some or all of the assets of the institution in the possession of the commissioner. All new deposit instruments issued by the acquiring depository institution may, in accordance with the terms of the plan of reorganization or liquidation, be subject to different amounts, terms, and interest rates than the original deposit instruments of the institution in the possession of the commissioner. All deposit instruments issued by the acquiring institution shall be considered new deposit obligations of the acquiring institution. The original deposit instruments issued by the institution in the possession of the commissioner are not liabilities of

the acquiring institution, unless assumed by the acquiring institution. Unpaid claims of depositors against the institution in the possession of the commissioner continue, and may be provided for in the plan of reorganization or liquidation.

(4) The commissioner, after taking possession of any institution or other person subject to the jurisdiction of the department, may terminate any executory contract, including standby letters of credit, unexpired leases and unexpired employment contracts, to which the institution or other person is a party. If the termination of an executory contract or unexpired lease constitutes a breach of the contract or lease, the date of the breach is the date on which the commissioner took possession of the institution. Claims for damages for breach of an executory contract shall be filed within 30 days of receipt of notice of the termination, and if allowed, shall be paid in the same manner as all other allowable claims of the same priority out of the assets of the institution available to pay claims.

(5) With approval of the court and upon a showing by the commissioner that it is in the best interests of the depositors and creditors, the commissioner may transfer property on account of an indebtedness incurred by the institution prior to the date of the taking.

(6) (a) The commissioner may avoid any transfer of any interest of the institution in property or any obligation incurred by the institution that is void or voidable by a creditor under Title 25, Chapter 6, Uniform Fraudulent Transfer Act.

(b) The commissioner may avoid any transfer of any interest in real property of the institution that is void as against or voidable by a subsequent purchaser in good faith and for a valuable consideration of the same real property or any portion thereof who has duly recorded his conveyance at the time possession of the institution is taken, whether or not such a purchaser exists.

(c) The commissioner may avoid any transfer of any interest in property of the institution or any obligation incurred by the institution that is invalid or void as against, or is voidable by a creditor that extends credit to the institution at the time possession of the institution is taken by the commissioner, and that obtains, at such time and with respect to such credit, a judgment lien or a lien by attachment, levy, execution, garnishment, or other judicial lien on the property involved, whether or not such a creditor exists.

(d) The right of the commissioner under Subsections (6)(b) and (c) to avoid any transfer of any interest in property of the institution shall be unaffected by and without regard to any knowledge of the commissioner or of any creditor of the institution.

(e) "Transfer" means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, or disposing of or parting with property or with an interest in property, including retention of title as a security interest.

(f) The commissioner may avoid and recover any payment or other transfer of any interest in

property of the institution to or for the benefit of a creditor, for or on account of an antecedent debt owed by the institution before the transfer was made if the creditor at the time of such transfer had reasonable cause to believe that the institution was insolvent, and if the payment or other transfer will allow the creditor to obtain a greater percentage of his debt than he would be entitled to under the provisions of Section 7-2-15. For the purposes of this subsection:

(i) antecedent debt does not include earned wages and salaries and other operating expenses incurred and paid in the normal course of business;

(ii) a transfer of any interest in real property is deemed to have been made or suffered when it became so far perfected that a subsequent good faith purchaser of the property from the institution for a valuable consideration could not acquire an interest superior to the transferee; and

(iii) a transfer of property other than real property is deemed to have been made or suffered when it became so far perfected that a creditor on a simple contract could not acquire a lien by attachment, levy, execution, garnishment, or other judicial lien superior to the interest of the transferee.

(g) For purposes of this section, "date of possession" means the earlier of the date the commissioner takes possession of a financial institution under Title 7, Chapter 2, Possession of Depository Institution by Commissioner, or the date when the commissioner enters an order suspending payments to depositors and other creditors under Section 7-2-19.

(7) (a) With or without the prior approval of the court, the commissioner or any federal deposit insurance agency appointed by him as receiver or liquidator of a depository institution closed by the commissioner under the provisions of this chapter may setoff against the deposits or other liabilities of the institution any debts or other obligations of the depositor or claimant due and owing to the institution. The amount of any setoff against the liabilities of the institution shall be no greater than the amount the depositor or claimant would receive pursuant to Section 7-2-15 after final liquidation of the institution. When the liquidation value of a depositor's or claimant's claim against the institution will or may be less than the full amount of the claim, setoff may be made prior to final liquidation if the commissioner or any receiver or liquidator appointed by him can reasonably estimate the liquidation value of the claim, and the court, after notice and opportunity for hearing, approves the estimate for purposes of making the setoff. If the right of setoff is exercised, the commissioner or any receiver or liquidator appointed by him shall give written notice to the depositor or claimant of the amount setoff.

(b) The existence and amount of a debtor or creditor relationship or both, between the institution and its depositor or claimant and the right to the proceeds in a deposit account shall be

determined solely by the books and records of the institution.

(c) Any contract purporting to affect the right of setoff shall be in writing and signed by the depositor-debtor and an authorized officer of the institution and be maintained as a part of the records of the institution.

(d) Any claim that a deposit account is a special account not subject to setoff because it was maintained for a specific purpose or to satisfy a particular obligation other than satisfaction of or as security for an indebtedness to the institution or that the right to the deposit actually belongs to a third party does not affect the right to setoff of the commissioner or any receiver or liquidator appointed by him unless the special nature of the account is clearly shown in the books and records of the institution.

(e) In the absence of any other instrument in writing, the terms and provisions of the signature card applicable to a particular account in effect at the time the commissioner takes possession of the institution shall be determinative of the right of setoff by the commissioner or any receiver or liquidator appointed by him.

(f) Knowledge of the institution or of any director, officer, or employee of the institution that the nature of the account is other than as shown in the books and records of the institution does not affect the right of setoff by the commissioner or any receiver or liquidator appointed by him.

(g) The liability of the commissioner or any receiver or liquidator appointed by him for exercising a right of setoff other than as authorized by this section shall be only to a person who establishes by the procedure set forth in Section 7-2-6 that his interest in the account is superior to that of the person whose debt to the institution was setoff against the account. The amount of any such liability shall be no greater than the amount of the setoff and neither the commissioner or any receiver or liquidator appointed by him shall be liable for any action taken under this section unless the action taken is determined by the court to be arbitrary or capricious.

Section 16. Section 7-3-1 is amended to read:

7-3-1. Application of chapter.

This chapter applies to all banks organized under the laws of this state, to all other banks doing business in this state as permitted by the laws and Constitution of the United States, and to all persons conducting banking business in this state except as provided in Chapter 1, General Provisions.

Section 17. Section 7-5-2 is amended to read:

7-5-2. Permit required to engage in trust business -- Exceptions.

(1) No trust company shall accept any appointment to act in any agency or fiduciary capacity, including that of personal representative, executor, administrator, conservator, guardian,

assignee, receiver, depository, or trustee under order or judgment of any court or by authority of any law of this state or as trustee for any purpose permitted by law or otherwise engage in the trust business in this state, unless and until it has obtained from the commissioner a permit to act under this chapter. This provision does not apply to any bank or other corporation authorized to engage and lawfully engaged in the trust business in this state before July 1, 1981.

(2) Nothing in this chapter prohibits:

(a) any corporation organized under Title 16, Chapter 6a [~~or 10a~~], Utah Revised Nonprofit Corporation Act, or Chapter 10a, Utah Revised Business Corporation Act, from acting as trustee of any employee benefit trust established for the employees of the corporation or the employees of one or more other corporations affiliated with the corporation;

(b) any corporation organized under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, and owned or controlled by a charitable, benevolent, eleemosynary, or religious organization from acting as a trustee for that organization or members of that organization but not offering trust services to the general public;

(c) any corporation organized under Title 16, Chapter 6a [~~or 10a~~], Utah Revised Nonprofit Corporation Act, or Chapter 10a, Utah Revised Business Corporation Act, from holding in a fiduciary capacity the controlling shares of another corporation but not offering trust services to the general public; or

(d) any depository institution from holding in an agency or fiduciary capacity individual retirement accounts or Keogh plan accounts established under Section 401(a) or 408(a) of Title 26 of the United States Code.

Section 18. Section 7-5-6 is amended to read:

7-5-6. Confidentiality of communications and writings concerning trust -- Actions to protect property or authorized under probate laws not precluded.

Any trust company exercising the powers and performing the duties described in this chapter shall keep inviolate all communications and writings made to or by that trust company relating to the existence, condition, management or administration of any agency or fiduciary account confided to it and no creditor or stockholder of any such trust company shall be entitled to disclosure or knowledge of any such communication or writing, except that the directors, president, vice president, manager, treasurer, and trust officers, and any employees assigned to work on the trust business, and the attorney or auditor employed by it shall be entitled to knowledge of any such communication or writing and except that in any suit or proceeding relating to the existence, condition, management or administration of the account, the court in which the suit is pending may require disclosure of any such communication or writing. A trust company is

not, however, precluded from filing an action in court to protect trust account property or as authorized under Title 75, Utah Uniform Probate Code.

Section 19. Section 7-5-7 is amended to read:

7-5-7. Management and investment of trust funds.

(1) Funds received or held by any trust company as agent or fiduciary, whether for investment or distribution, shall be invested or distributed as soon as practicable as authorized under the instrument creating the account and may not be held uninvested any longer than is reasonably necessary.

(2) If the instrument creating an agency or fiduciary account contains provisions authorizing the trust company, its officers, or its directors to exercise their discretion in the matter of investments, funds held in the trust account under that instrument may be invested only in those classes of securities which are approved by the directors of the trust company or a committee of directors appointed for that purpose. If a trust company acts in any agency or fiduciary capacity under appointment by a court of competent jurisdiction, it shall make and account for all investments according to the provisions of Title 75, Utah Uniform Probate Code, unless the underlying instrument provides otherwise.

(3) (a) Funds received or held as agent or fiduciary by any trust company which is also a depository institution, whether for investment or distribution, may be deposited in the commercial department or savings department of that trust company to the credit of its trust department. Whenever the funds so deposited in a fiduciary or managing agency account exceed the amount of federal deposit insurance applicable to that account, the trust company shall deliver to the trust department or put under its control collateral security as outlined in Regulation 9.10 of the Comptroller of the Currency or in Regulation 550.8 of the Office of Thrift Supervision, as amended. However, if the instrument creating such a fiduciary or managing agency account expressly provides that funds may be deposited to the commercial or savings department of the trust company, then the funds may be so deposited without setting aside collateral securities as required under this section and the deposits in the event of insolvency of any such trust company shall be treated as other general deposits are treated. A trust company which deposits trust funds in its commercial or savings department shall be liable for interest on the deposits only at the rates, if any, paid by the trust company on deposits of like kind not made to the credit of its trust department.

(b) Funds received or held as agent or fiduciary by a trust company, whether for investment or distribution, may be deposited in an affiliated depository institution. Whenever the funds so deposited in a fiduciary or managing agency account exceed the amount of federal deposit insurance applicable to that account, the depository

institution shall deliver to the trust company or put under its control collateral security as outlined in Regulation 9.10 of the Comptroller of the Currency or in Regulation 550.8 of the Office of Thrift Supervision as amended. However, if the instrument creating the fiduciary or managing agency account expressly permits funds to be deposited in the affiliated depository institution, the funds may be so deposited without setting aside collateral securities as required under this section and deposits in the event of insolvency of the depository institution shall be treated as other general deposits are treated. A trust company which deposits trust funds in an affiliated depository institution is liable for interest on the deposits only at the rates, if any, paid by the depository institution on deposits of like kind.

(4) In carrying out all aspects of its trust business, a trust company shall have all the powers, privileges, and duties as set forth in Sections 75-7-813 and 75-7-814 with respect to trustees, whether or not the trust company is acting as a trustee as defined in Title 75, Utah Uniform Probate Code.

(5) Nothing in this section may alter, amend, or limit the powers of a trust company acting in a fiduciary capacity as specified in the particular instrument or order creating the fiduciary relationship.

Section 20. Section 7-5-8 is amended to read:

7-5-8. Segregation of trust assets -- Books and records required -- Examination -- Trust property not subject to claims or debts against trust company.

A trust company exercising the powers to act as an agent or fiduciary under this chapter shall segregate all assets held in any agency or fiduciary capacity from the general assets of the company and shall keep a separate set of books and records showing in proper detail all transactions engaged in under authority of this chapter. These books and records shall be open to inspection by the commissioner and shall be examined by him or by examiners appointed by him as provided in Chapter 1, General Provisions, or examined by other appropriate regulating agencies or both. Property held in an agency or fiduciary capacity by a trust company is not subject to claims or debts against the trust company.

Section 21. Section 7-5-11 is amended to read:

7-5-11. Self-dealing with trust property -- Own stock as trust property -- Policies for dealing with trust securities.

(1) Except as provided in Section 7-5-7, in Title 75, Utah Uniform Probate Code, or as authorized under the instrument creating the relationship, a trust company may not invest funds held as an agent or fiduciary in stock or obligations of, or with such funds acquire property from, the trust company or any of its directors, officers or employees, nor shall a trust company sell property

held as an agent or fiduciary to the company or to any of its directors, officers, or employees.

(2) A trust company may retain and vote stock of the trust company or of any of its affiliates received by it as assets of any trust account or in any other fiduciary relationship of which it is appointed agent or fiduciary, unless the instrument creating the relationship otherwise provides.

(3) Every trust company shall adopt written policies and procedures regarding decisions or recommendations to purchase or sell any security to facilitate compliance with federal and state securities laws. These policies and procedures, in particular, shall prohibit the trust company from using material inside information in connection with any decision or recommendation to purchase or sell any security.

Section 22. Section 7-5-15 is amended to read:

7-5-15. Assets of trust company in possession of the commissioner.

With respect to a trust company in the possession of the commissioner under Chapter 2, Possession of Depository Institution by Commissioner, notwithstanding any law to the contrary, the assets held by the trust company in a fiduciary capacity as a part of its trust business, as defined in Section 7-5-1, are not subject to the claims of any secured or unsecured creditor of the trust company.

Section 23. Section 7-9-25 is amended to read:

7-9-25. Shares -- Number unlimited -- Subscription and payment -- Par value -- Ownership required for membership -- Dormant accounts.

(1) The capital of the credit union shall be unlimited in amount.

(2) Shares of the credit union may be subscribed and paid for in cash or its equivalent in a manner prescribed in the bylaws.

(3) The par value of each share of a credit union shall be determined by the board of directors in multiples of \$5 as prescribed in the bylaws.

(4) Each member of the credit union shall subscribe to at least one share and pay the initial installment thereon. The par value of the share shall be paid for within six months.

(5) The board of directors may close a member's account when the share par value is not paid within the required period or the par value is not maintained. Notice in writing shall be mailed to the member at the last known address and shall contain a statement that the member may increase payment or voluntarily close the account within 60 days of receipt of the notice.

(6) When a member's account becomes dormant or is reasonably presumed to be dormant and abandoned, as provided in Chapter 1, General Provisions, the credit union by resolution of the board of directors may close the account and transfer the credits of the account to an account for

unclaimed shares. Thereafter the credit union may not pay dividends or interest on the account, as provided in the bylaws, until the funds in the account escheat to the state of Utah. Prior to transferring the member's dormant and abandoned account to the credit union unclaimed shares account, the credit union shall mail a written notice to the member at the member's last known address stating that this action will be taken within 30 days of the date of the notice.

Section 24. Section 7-9-39.5 is amended to read:

7-9-39.5. Supervisory merger.

If a credit union is merged with another credit union as a result of a supervisory action under [~~Chapter 2 or 19~~] Chapter 2, Possession of Depository Institution by Commissioner, or Chapter 19, Acquisition of Failing Repository Institutions or Holding Companies, the commissioner may permit the surviving credit union to have a field of membership that is larger than a field of membership permitted under Section 7-9-51.

Section 25. Section 7-9-42 is amended to read:

7-9-42. Record requirements.

(1) A credit union shall maintain all books, records, accounting systems, and procedures in accordance with rules the commissioner may prescribe or in accordance with Chapter 1, General Provisions.

(2) In prescribing these rules, the commissioner shall consider the size of a credit union and its ability to comply.

(3) A credit union is not liable for destroying records after the expiration of the record retention time prescribed by the rules.

(4) A photostatic or photographic reproduction of any credit union records shall be admissible as evidence of transactions with the credit union.

Section 26. Section 7-9-45 is amended to read:

7-9-45. Insurance of shares and deposits -- Security on shares and deposits.

(1) Except as provided in Subsection (2), a credit union subject to the jurisdiction of the department shall obtain and maintain insurance on shares and deposits from the National Credit Union Administration or successor federal deposit insurance agency.

(2) Notwithstanding Subsection 7-1-704(7)(a)(v) and Subsection (1), a credit union may not be required to obtain federal insurance on shares and deposits if:

(a) the commissioner approves the credit union's election not to obtain federal insurance on shares and deposits;

(b) as security for the shares and deposits, the credit union maintains securities:

(i) that are issued by or directly and unconditionally guaranteed by:

(A) the United States; or

(B) an agency of the United States;

(ii) that are held in an account with a primary reporting dealer that is:

(A) recognized by the Federal Reserve Bank of New York; and

(B) independent of the credit union;

(iii) that are held in accordance with Title 70A, Chapter 8, Uniform Commercial Code - Investment Securities; and

(iv) in which the department has an express and exclusive security interest; and

(c) the aggregate value of the securities described in Subsection (2)(b) is at all times equal to or greater than 1.15 times the aggregate amount of the shares and deposits of the credit union.

(3) The commissioner may appoint the administrator of the National Credit Union Administration as liquidating agent of an insured credit union.

(4) Failure to comply with this section constitutes grounds for supervisory action under [~~Chapter 2 or 19~~] Chapter 2, Possession of Depository Institution by Commissioner, or Chapter 19, Acquisition of Failing Repository Institutions or Holding Companies.

Section 27. Section 7-9-55 is amended to read:

7-9-55. Nonexempt credit unions.

(1) (a) A credit union organized under this chapter is a nonexempt credit union under this section on the day on which:

(i) on or after May 5, 2003 the credit union has a field of membership as evidenced by the bylaws of the credit union that includes all residents of two or more counties; and

(ii) at least two of the counties described in Subsection (1)(a)(i) are counties of the first or second class as classified by Section 17-50-501.

(b) For purposes of Subsection (1)(a) only:

(i) residents of a county that are added to the field of membership of a credit union as a result of a supervisory action under [~~Chapter 2 or 19~~] Chapter 2, Possession of Depository Institution by Commissioner, or Chapter 19, Acquisition of Failing Repository Institutions or Holding Companies, are not considered to be within the field of membership of that credit union; and

(ii) residents of a city of the third, fourth, or fifth class or a town that are added to the field of membership of a credit union in accordance with Section 7-9-52 are not considered to be within the field of membership of that credit union unless all residents of the county in which that city or town are located are included in the field of membership of the credit union.

(2) If a credit union becomes a nonexempt credit union under this section, the nonexempt credit union is a nonexempt credit union:

(a) for as long as the nonexempt credit union is organized under this chapter; and

(b) notwithstanding whether after the day on which the nonexempt credit union becomes a nonexempt credit union the nonexempt credit union meets the requirements of Subsection (1)(a).

(3) Regardless of whether or not a credit union has located branches in two or more counties in this state, a credit union organized under this chapter does not become a nonexempt credit union if the field of membership of the credit union as evidenced by the bylaws of the credit union does not meet the requirements of Subsection (1).

Section 28. Section 7-9-58 is amended to read:

7-9-58. Limitations on credit extended by nonexempt credit unions.

(1) (a) Notwithstanding the other provisions of this chapter, beginning on May 5, 2003, a nonexempt credit union may not:

(i) (A) extend a member-business loan;

(B) renew a member-business loan that is extended before May 5, 2003; or

(C) extend the maturity date or increase the amount of a member-business loan that is extended before May 5, 2003;

(ii) originate, participate in, or obtain any interest in a co-lending arrangement, including a loan participation arrangement; or

(iii) subject to Subsection (2), extend credit that is not a member-business loan if as a result of the extension of credit the total credit that is not a member-business loan that the nonexempt credit union has issued to that member exceeds at any one time \$250,000 adjusted as provided in Subsection (1)(b).

(b) The adjustment described in Subsection (1)(a)(iii) shall be calculated by the commissioner as follows:

(i) beginning July 1, 2008 and for a calendar year beginning on or after January 1, 2009, the commissioner shall increase or decrease the dollar amount in Subsection (1)(a)(iii) by a percentage equal to the percentage difference between the consumer price index for the preceding calendar year and the consumer price index for calendar year 2007;

(ii) after the commissioner increases the dollar amount listed in Subsection ~~[(4)(e)]~~ (1)(a)(iii), the commissioner shall round the dollar amount to the nearest whole dollar;

(iii) if the percentage difference under Subsection (1)(b)(i) is zero or a negative percentage, the consumer price index increase for the year is zero; and

(iv) for purposes of this Subsection (1)(b), the commissioner shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

(2) Notwithstanding Subsection (1)(a)(iii), a nonexempt credit union may extend credit in an amount that exceeds the limits provided in Subsection (1)(a)(iii) to a member if:

(a) the excess portion of the credit described in Subsection (1)(a)(iii) is fully secured by the member's share or deposit savings in the nonexempt credit union; or

(b) the credit is extended to a member of the nonexempt credit union:

(i) for the purpose of:

(A) paying amounts owed by the member to purchase a one- to four-family dwelling that is the primary residence of that member; or

(B) refinancing the balance of amounts owed by the member for the purchase of a one- to four-family dwelling that is the primary residence of that member; and

(ii) the credit extended under this Subsection (2)(b) is less than or equals \$1,000,000.

(3) In accordance with Subsection 7-9-20(7)(d), a credit union service organization may not extend credit to a member of a nonexempt credit union holding an ownership interest in the credit union service organization if it would be a violation of this section for the nonexempt credit union to extend the credit to the member.

(4) This section may not prevent a nonexempt credit union from servicing a loan extended before May 5, 2003.

Section 29. Section 7-14-1 is amended to read:

7-14-1. Definitions.

As used in this chapter:

~~[(2)]~~ (1) "Credit reporting agency" includes any co-operative credit reporting agency maintained by an association of financial institutions or one or more associations of merchants.

~~[(4)]~~ (2) "Depository institution" means any institution authorized by state or federal law to accept and hold demand deposits or other accounts which may be used to effect third party payment transactions. The definition of "depository institution" in Chapter 1, General Provisions, does not apply to Chapter 14, Credit Information Exchange.

Section 30. Section 7-19-1 is amended to read:

7-19-1. Definitions.

As used in this chapter:

(1) "Failing or failed depository institution" means a depository institution under the jurisdiction of the department:

(a) regarding which the commissioner makes a finding that any of the conditions set forth in Subsections 7-2-1(1)(a) through (k) exist;

(b) that meets the requirements of Subsection 7-2-1(1)(l);

(c) whose shareholders have consented to a supervisory action by the commissioner pursuant to Subsection 7-2-1(2); or

(d) which is in the possession of the commissioner, or any receiver or liquidator appointed by the commissioner, pursuant to Chapter 2, Possession of Depository Institution by Commissioner.

(2) "Failing or failed depository institution holding company" means a depository institution holding company under the jurisdiction of the department:

(a) regarding which the commissioner makes a finding that any of the conditions set forth in Subsections 7-2-1(1)(a) through (k) exist;

(b) that meets the requirements of Subsection 7-2-1(1)(l);

(c) whose shareholders have consented to a supervisory action by the commissioner pursuant to Subsection 7-2-1(2);

(d) which is in the possession of the commissioner, or any receiver or liquidator appointed by the commissioner, pursuant to Chapter 2, Possession of Depository Institution by Commissioner; or

(e) whose subsidiary depository institution is a failing or failed depository institution.

(3) "Supervisory acquisition" means the acquisition of control, the acquisition of all or a portion of the assets, or the assumption of all or a portion of the liabilities, pursuant to Section 7-2-1, 7-2-12, or 7-2-18, of a failing or failed depository institution or a failing or failed depository institution holding company, whether or not in the possession of the commissioner, by:

(a) a Utah depository institution;

(b) an out-of-state depository institution;

(c) a Utah depository institution holding company; or

(d) an out-of-state depository institution holding company.

(4) "Supervisory merger" means the merger or consolidation, pursuant to Section 7-2-1, 7-2-12, or 7-2-18 of a failing or failed depository institution or a failing or failed depository institution holding company, whether or not in the possession of the commissioner, with:

(a) a Utah depository institution;

(b) an out-of-state depository institution;

(c) a Utah depository institution holding company; or

(d) an out-of-state depository institution holding company.

Section 31. Section 9-1-801 is amended to read:

Part 8. Utah Commission on Service and Volunteerism Act

9-1-801. Title.

This part is known as the "[~~Commission on National and Community Service Act~~] Utah Commission on Service and Volunteerism Act."

Section 32. Section 9-6-205 is amended to read:

9-6-205. Board powers and duties.

(1) The board may:

(a) make, amend, or repeal rules for the conduct of its business in governing the council in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) receive gifts, bequests, and property; and

(c) issue certificates and offer and confer prizes, certificates, and awards for works of art and achievement in the arts.

(2) The board shall make policy for the council.

(3) (a) By September 30 of each year, the board shall prepare and submit a request to the governor and the Legislature for prioritized capital facilities grants to be awarded to eligible individuals and organizations under this part [~~and Parts 3 through 5~~], Part 3, Utah Arts Council, Part 4, Utah Percentage-for-Art Act, and Part 5, State Arts Endowment.

(b) The board shall prepare a list of the requested capital facilities grants in a prioritized order and include a written explanation of:

(i) the total grant amount requested in the list; and

(ii) the basis of its prioritization of requested grants on the list.

(c) The board shall accept applications for capital facilities grants through June 1 of each year, prior to compiling and submitting its yearly request to the governor and the Legislature under Subsection (3)(a).

Section 33. Section 9-7-501 is amended to read:

9-7-501. Tax for establishment and maintenance of public library -- Library fund.

(1) A county legislative body may establish and maintain a public library.

(2) For this purpose, counties may levy annually a tax not to exceed .001 of taxable value of taxable property in the county, outside of cities which maintain their own city libraries as authorized by Part 4, City Libraries. The tax is in addition to all taxes levied by counties and is not limited by the levy limitation imposed on counties by law.

However, if bonds are issued for purchasing a site, or constructing or furnishing a building, then taxes sufficient for the payment of the bonds and any interest may be levied.

(3) The taxes shall be levied and collected in the same manner as other general taxes of the county and shall constitute a fund to be known as the county library fund.

Section 34. Section 9-8-301 is amended to read:

9-8-301. Purpose.

(1) The Legislature declares that the general public and the beneficiaries of the school and institutional land grants have an interest in the preservation and protection of the state's archaeological and anthropological resources and a right to the knowledge derived and gained from scientific study of those resources.

(2) (a) The Legislature finds that policies and procedures for the survey and excavation of archaeological resources from school and institutional trust lands are consistent with the school and institutional land grants, if these policies and procedures insure that primary consideration is given, on a site or project specific basis, to the purpose of support for the beneficiaries of the school and institutional land grants.

(b) The Legislature finds that the preservation, placement in a repository, curation, and exhibition of specimens found on school or institutional trust lands for scientific and educational purposes is consistent with the school and institutional land grants.

(c) The Legislature finds that the preservation and development of sites found on school or institutional trust lands for scientific or educational purposes, or the disposition of sites found on school or institutional trust lands, after consultation between the division and the School and Institutional Trust Lands Administration to determine the appropriate level of data recovery or implementation of other appropriate preservation measures, for preservation, development, or economic purposes, is consistent with the school and institutional land grants.

(d) The Legislature declares that specimens found on lands owned or controlled by the state or its subdivisions may not be sold.

(3) The Legislature declares that the historical preservation purposes of this chapter must be kept in balance with the other uses of land and natural resources which benefit the health and welfare of the state's citizens.

(4) It is the purpose of this part and Part 4, Historic Sites, to provide that the survey, excavation, curation, study, and exhibition of the state's archaeological and anthropological resources be undertaken in a coordinated, professional, and organized manner for the general welfare of the public and beneficiaries alike.

Section 35. Section 9-8-307 is amended to read:

9-8-307. Report of discovery on state or private lands.

(1) Any person who discovers any archaeological resources on lands owned or controlled by the state or its subdivisions shall promptly report the discovery to the division.

(2) Any person who discovers any archaeological resources on privately owned lands shall promptly report the discovery to the division.

(3) Field investigations shall be discouraged except in accordance with this part and Part 4, Historic Sites.

(4) Nothing in this section may be construed to authorize any person to survey or excavate for archaeological resources.

Section 36. Section 9-8-405 is amended to read:

9-8-405. Federal funds -- Agreements on standards and procedures.

By following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, the division may accept and administer federal funds provided under the provisions of the National Historic Preservation Act of 1966, the Land and Water Conservation Act as amended, and subsequent legislation directed toward the encouragement of historic preservation, and to enter into those agreements on professional standards and procedures required by participation in the National Historic Preservation Act of 1966 and the National Register Office.

Section 37. Section 10-1-114 is amended to read:

10-1-114. Repealer.

Title 10, [~~Chapters 1, 2, 3, 5, and 6~~] Chapter 1, General Provisions; Chapter 2, Incorporation, Classification, Boundaries, Consolidation, and Dissolution of Municipalities; Chapter 3, Municipal Government; Chapter 5, Uniform Fiscal Procedures Act for Utah Towns; and Chapter 6, Uniform Fiscal Procedures Act for Utah Cities, are repealed, except as provided in Section 10-1-115.

Section 38. Section 10-1-119 is amended to read:

10-1-119. Inventory of competitive activities.

(1) As used in this section:

(a) "Applicable city" means:

(i) on and after July 1, 2009, a city of the first class; and

(ii) on and after July 1, 2010, a city of the first or second class.

(b) "Competitive activity" means an activity engaged in by a city or an entity created by the city by which the city or an entity created by the city provides a good or service that is substantially

similar to a good or service that is provided by a person:

(i) who is not an entity of the federal government, state government, or a political subdivision of the state; and

(ii) within the boundary of the county in which the city is located.

(c) (i) Subject to Subsection (1)(c)(ii), "entity created by the city" includes:

(A) an entity created by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, in which the city participates; and

(B) a special service district created under Title 17D, Chapter 1, Special Service District Act.

(ii) "Entity created by the city" does not include a local district created by a city under Title 17B, Limited Purpose Local Government Entities - Local Districts.

(2) (a) The governing body of an applicable city shall create an inventory of activities of the city or an entity created by the city to:

(i) classify whether an activity is a competitive activity; and

(ii) identify efforts that have been made to privatize aspects of the activity.

(b) An applicable city shall comply with this section by no later than:

(i) June 30, 2010, if the applicable city is a city of the first class; and

(ii) June 30, 2011, if the applicable city is a city of the second class.

(3) The governing body of an applicable city shall update the inventory created under this section at least every two years.

(4) An applicable city shall:

(a) provide a copy of the inventory and an update to the inventory to the Free Market Protection and Privatization Board created in Title 63L, Chapter 4a[, ~~Free Market Protection and Privatization Board Act~~]; and

(b) make the inventory available to the public through electronic means.

Section 39. Section 10-1-203 is amended to read:

10-1-203. License fees and taxes -- Application information to be transmitted to the county assessor.

(1) As used in this section:

(a) "Business" means any enterprise carried on for the purpose of gain or economic profit, except that the acts of employees rendering services to employers are not included in this definition.

(b) "Telecommunications provider" is as defined in Section 10-1-402.

(c) "Telecommunications tax or fee" is as defined in Section 10-1-402.

(2) Except as provided in Subsections (3) through (5), the legislative body of a municipality may license for the purpose of regulation and revenue any business within the limits of the municipality and may regulate that business by ordinance.

(3) (a) The legislative body of a municipality may raise revenue by levying and collecting a municipal energy sales or use tax as provided in Part 3, Municipal Energy Sales and Use Tax Act, except a municipality may not levy or collect a franchise tax or fee on an energy supplier other than the municipal energy sales and use tax provided in Part 3, Municipal Energy Sales and Use Tax Act.

(b) (i) Subsection (3)(a) does not affect the validity of a franchise agreement as defined in Subsection 10-1-303(6), that is in effect on July 1, 1997, or a future franchise.

(ii) A franchise agreement as defined in Subsection 10-1-303(6) in effect on January 1, 1997, or a future franchise shall remain in full force and effect.

(c) A municipality that collects a contractual franchise fee pursuant to a franchise agreement as defined in Subsection 10-1-303(6) with an energy supplier that is in effect on July 1, 1997, may continue to collect that fee as provided in Subsection 10-1-310(2).

(d) (i) Subject to the requirements of Subsection (3)(d)(ii), a franchise agreement as defined in Subsection 10-1-303(6) between a municipality and an energy supplier may contain a provision that:

(A) requires the energy supplier by agreement to pay a contractual franchise fee that is otherwise prohibited under Part 3, Municipal Energy Sales and Use Tax Act; and

(B) imposes the contractual franchise fee on or after the day on which Part 3, Municipal Energy Sales and Use Tax Act is:

(I) repealed, invalidated, or the maximum allowable rate provided in Section 10-1-305 is reduced; and

(II) is not superseded by a law imposing a substantially equivalent tax.

(ii) A municipality may not charge a contractual franchise fee under the provisions permitted by Subsection (3)(b)(i) unless the municipality charges an equal contractual franchise fee or a tax on all energy suppliers.

(4) (a) Subject to Subsection (4)(b), beginning July 1, 2004, the legislative body of a municipality may raise revenue by levying and providing for the collection of a municipal telecommunications license tax as provided in Part 4, Municipal Telecommunications License Tax Act.

(b) A municipality may not levy or collect a telecommunications tax or fee on a telecommunications provider except as provided in

Part 4, Municipal Telecommunications License Tax Act.

(5) (a) (i) The legislative body of a municipality may by ordinance raise revenue by levying and collecting a license fee or tax on:

(A) a parking service business in an amount that is less than or equal to:

(I) \$1 per vehicle that parks at the parking service business; or

(II) 2% of the gross receipts of the parking service business;

(B) a public assembly or other related facility in an amount that is less than or equal to \$5 per ticket purchased from the public assembly or other related facility; and

(C) subject to the limitations of Subsections (5)(c) and (d):

(I) a business that causes disproportionate costs of municipal services; or

(II) a purchaser from a business for which the municipality provides an enhanced level of municipal services.

(ii) Nothing in this Subsection (5)(a) may be construed to authorize a municipality to levy or collect a license fee or tax on a public assembly or other related facility owned and operated by another political subdivision other than a community development and renewal agency without the written consent of the other political subdivision.

(b) As used in this Subsection (5):

(i) "Municipal services" includes:

(A) public utilities; and

(B) services for:

(I) police;

(II) fire;

(III) storm water runoff;

(IV) traffic control;

(V) parking;

(VI) transportation;

(VII) beautification; or

(VIII) snow removal.

(ii) "Parking service business" means a business:

(A) that primarily provides off-street parking services for a public facility that is wholly or partially funded by public money;

(B) that provides parking for one or more vehicles; and

(C) that charges a fee for parking.

(iii) "Public assembly or other related facility" means an assembly facility that:

(A) is wholly or partially funded by public money;

(B) is operated by a business; and

(C) requires a person attending an event at the assembly facility to purchase a ticket.

(c) (i) Before the legislative body of a municipality imposes a license fee on a business that causes disproportionate costs of municipal services under Subsection (5)(a)(i)(C)(I), the legislative body of the municipality shall adopt an ordinance defining for purposes of the tax under Subsection (5)(a)(i)(C)(I):

(A) the costs that constitute disproportionate costs; and

(B) the amounts that are reasonably related to the costs of the municipal services provided by the municipality.

(ii) The amount of a fee under Subsection (5)(a)(i)(C)(I) shall be reasonably related to the costs of the municipal services provided by the municipality.

(d) (i) Before the legislative body of a municipality imposes a license fee on a purchaser from a business for which it provides an enhanced level of municipal services under Subsection (5)(a)(i)(C)(II), the legislative body of the municipality shall adopt an ordinance defining for purposes of the fee under Subsection (5)(a)(i)(C)(II):

(A) the level of municipal services that constitutes the basic level of municipal services in the municipality; and

(B) the amounts that are reasonably related to the costs of providing an enhanced level of municipal services in the municipality.

(ii) The amount of a fee under Subsection (5)(a)(i)(C)(II) shall be reasonably related to the costs of providing an enhanced level of the municipal services.

(6) All license fees and taxes shall be uniform in respect to the class upon which they are imposed.

(7) The municipality shall transmit the information from each approved business license application to the county assessor within 60 days following the approval of the application.

(8) If challenged in court, an ordinance enacted by a municipality before January 1, 1994, imposing a business license fee on rental dwellings under this section shall be upheld unless the business license fee is found to impose an unreasonable burden on the fee payer.

Section 40. Section 10-2-125 is amended to read:

10-2-125. Incorporation of a town -- Petition.

(1) As used in this section:

(a) "Assessed value," with respect to agricultural land, means the value at which the land would be assessed without regard to a valuation for agricultural use under Section 59-2-503.

(b) "Financial feasibility study" means a study described in Subsection ~~[(8)]~~ (7).

(c) "Feasibility consultant" means a person or firm:

(i) with expertise in the processes and economics of local government; and

(ii) who is independent of and not affiliated with a county or sponsor of a petition to incorporate.

(d) "Municipal service" means a publicly provided service that is not provided on a countywide basis.

(e) "Nonurban" means having a residential density of less than one unit per acre.

(2) (a) (i) A contiguous area of a county not within a municipality, with a population of at least 100 but less than 1,000, may incorporate as a town as provided in this section.

(ii) An area within a county of the first class is not contiguous for purposes of Subsection (2)(a)(i) if:

(A) the area includes a strip of land that connects geographically separate areas; and

(B) the distance between the geographically separate areas is greater than the average width of the strip of land connecting the geographically separate areas.

(b) The population figure under Subsection (2)(a) shall be determined:

(i) as of the date the incorporation petition is filed; and

(ii) by the Utah Population Estimates Committee within 20 days after the county clerk's certification under Subsection (6) of a petition filed under Subsection (4).

(3) (a) The process to incorporate an area as a town is initiated by filing a petition to incorporate the area as a town with the clerk of the county in which the area is located.

(b) A petition under Subsection (3)(a) shall:

(i) be signed by:

(A) the owners of private real property that:

(I) is located within the area proposed to be incorporated; and

(II) is equal in assessed value to more than 1/5 of the assessed value of all private real property within the area; and

(B) 1/5 of all registered voters within the area proposed to be incorporated as a town, according to the official voter registration list maintained by the county on the date the petition is filed;

(ii) designate as sponsors at least five of the property owners who have signed the petition, one of whom shall be designated as the contact sponsor, with the mailing address of each owner signing as a sponsor;

(iii) be accompanied by and circulated with an accurate map or plat, prepared by a licensed surveyor, showing a legal description of the boundary of the proposed town; and

(iv) substantially comply with and be circulated in the following form:

PETITION FOR INCORPORATION OF (insert the proposed name of the proposed town)

To the Honorable County Legislative Body of (insert the name of the county in which the proposed town is located) County, Utah:

We, the undersigned owners of real property and registered voters within the area described in this petition, respectfully petition the county legislative body to submit to the registered voters residing within the area described in this petition, at the next regular general election, the question of whether the area should incorporate as a town. Each of the undersigned affirms that each has personally signed this petition and is an owner of real property or a registered voter residing within the described area, and that the current residence address of each is correctly written after the signer's name. The area proposed to be incorporated as a town is described as follows: (insert an accurate description of the area proposed to be incorporated).

(c) A petition under this Subsection (3) may not describe an area that includes some or all of an area proposed for annexation in an annexation petition under Section 10-2-403 that:

(i) was filed before the filing of the petition; and

(ii) is still pending on the date the petition is filed.

(d) A petition may not be filed under this section if the private real property owned by the petition sponsors, designated under Subsection (3)(b)(ii), cumulatively exceeds 40% of the total private land area within the area proposed to be incorporated as a town.

(e) A signer of a petition under this Subsection (3) may withdraw or, after withdrawn, reinstate the signer's signature on the petition:

(i) at any time until the county clerk certifies the petition under Subsection (5); and

(ii) by filing a signed, written withdrawal or reinstatement with the county clerk.

(4) (a) If a petition is filed under Subsection (3)(a) proposing to incorporate as a town an area located within a county of the first class, the county clerk shall deliver written notice of the proposed incorporation:

(i) to each owner of private real property owning more than 1% of the assessed value of all private real property within the area proposed to be incorporated as a town; and

(ii) within seven calendar days after the date on which the petition is filed.

(b) A private real property owner described in Subsection (4)(a)(i) may exclude all or part of the owner's property from the area proposed to be incorporated as a town by filing a notice of exclusion:

(i) with the county clerk; and

(ii) within 10 calendar days after receiving the clerk's notice under Subsection (4)(a).

(c) The county legislative body shall exclude from the area proposed to be incorporated as a town the property identified in the notice of exclusion under Subsection (4)(b) if:

(i) the property:

(A) is nonurban; and

(B) does not and will not require a municipal service; and

(ii) exclusion will not leave an unincorporated island within the proposed town.

(d) If the county legislative body excludes property from the area proposed to be incorporated as a town, the county legislative body shall send written notice of the exclusion to the contact sponsor within five days after the exclusion.

(5) No later than 20 days after the filing of a petition under Subsection (3), the county clerk shall:

(a) with the assistance of other county officers from whom the clerk requests assistance, determine whether the petition complies with the requirements of Subsection (3); and

(b) (i) if the clerk determines that the petition complies with those requirements:

(A) certify the petition and deliver the certified petition to the county legislative body; and

(B) mail or deliver written notification of the certification to:

(I) the contact sponsor;

(II) if applicable, the chair of the planning commission of each township in which any part of the area proposed for incorporation is located; and

(III) the Utah Population Estimates Committee; or

(ii) if the clerk determines that the petition fails to comply with any of those requirements, reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.

(6) (a) (i) A petition that is rejected under Subsection (5)(b)(ii) may be amended to correct a deficiency for which it was rejected and then refiled with the county clerk.

(ii) A valid signature on a petition filed under Subsection (3)(a) may be used toward fulfilling the signature requirement of Subsection (3)(b) for the same petition that is amended under Subsection (6)(a)(i) and then refiled with the county clerk.

(b) If a petition is amended and refiled under Subsection (6)(a)(i) after having been rejected by the county clerk under Subsection (5)(b)(ii):

(i) the amended petition shall be considered as a newly filed petition; and

(ii) the amended petition's processing priority is determined by the date on which it is refiled.

(7) (a) (i) The legislative body of a county with which a petition is filed under Subsection (4) and certified under Subsection (6) shall commission and pay for a financial feasibility study.

(ii) The feasibility consultant shall be chosen:

(A) (I) by the contact sponsor of the incorporation petition, as described in Subsection (3)(b)(ii), with the consent of the county; or

(II) by the county if the contact sponsor states, in writing, that the sponsor defers selection of the feasibility consultant to the county; and

(B) in accordance with applicable county procurement procedure.

(iii) The county legislative body shall require the feasibility consultant to complete the financial feasibility study and submit written results of the study to the county legislative body no later than 30 days after the feasibility consultant is engaged to conduct the financial feasibility study.

(b) The financial feasibility study shall consider the:

(i) population and population density within the area proposed for incorporation and the surrounding area;

(ii) current and five-year projections of demographics and economic base in the proposed town and surrounding area, including household size and income, commercial and industrial development, and public facilities;

(iii) projected growth in the proposed town and in adjacent areas during the next five years;

(iv) subject to Subsection (7)(c), the present and five-year projections of the cost, including overhead, of governmental services in the proposed town, including:

(A) culinary water;

(B) secondary water;

(C) sewer;

(D) law enforcement;

(E) fire protection;

(F) roads and public works;

(G) garbage;

(H) weeds; and

(I) government offices;

(v) assuming the same tax categories and tax rates as currently imposed by the county and all other current service providers, the present and five-year projected revenue for the proposed town; and

(vi) a projection of any new taxes per household that may be levied within the incorporated area within five years of incorporation.

(c) (i) For purposes of Subsection (7)(b)(iv), the feasibility consultant shall assume a level and

quality of governmental services to be provided to the proposed town in the future that fairly and reasonably approximate the level and quality of governmental services being provided to the proposed town at the time of the feasibility study.

(ii) In determining the present cost of a governmental service, the feasibility consultant shall consider:

(A) the amount it would cost the proposed town to provide governmental service for the first five years after incorporation; and

(B) the county's present and five-year projected cost of providing governmental service.

(iii) The costs calculated under Subsection (7)(b)(iv), shall take into account inflation and anticipated growth.

(d) If the five year projected revenues under Subsection (7)(b)(v) exceed the five-year projected costs under Subsection (7)(b)(iv) by more than 10%, the feasibility consultant shall project and report the expected annual revenue surplus to the contact sponsor and the lieutenant governor.

(e) The county legislative body shall approve a certified petition proposing the incorporation of a town and hold a public hearing as provided in Section 10-2-126.

Section 41. Section 10-2-126 is amended to read:

10-2-126. Incorporation of town -- Public hearing on feasibility.

(1) If, in accordance with Section 10-2-125, the county clerk certifies a petition for incorporation or an amended petition for incorporation, the county legislative body shall, at its next regular meeting after completion of the feasibility study, schedule a public hearing to:

(a) be held no later than 60 days after the day on which the feasibility study is completed; and

(b) consider, in accordance with Subsection (3)(b), the feasibility of incorporation on the proposed town.

(2) The county legislative body shall give notice of the public hearing on the proposed incorporation by:

(a) posting notice of the public hearing on the county's Internet website, if the county has an Internet website;

(b) (i) publishing notice of the public hearing at least once a week for two consecutive weeks in a newspaper of general circulation within the proposed town; or

(ii) if there is no newspaper of general circulation within the proposed town, posting notice of the public hearing in at least five conspicuous public places within the proposed town; and

(c) publishing notice of the public hearing on the Utah Public Notice Website created in Section 63F-1-701.

(3) At the public hearing scheduled in accordance with Subsection (1), the county legislative body shall:

(a) (i) provide a copy of the feasibility study; and

(ii) present the results of the feasibility study to the public; and

(b) allow the public to:

(i) review the map or plat of the boundary of the proposed town;

(ii) ask questions and become informed about the proposed incorporation; and

(iii) express its views about the proposed incorporation, including their views about the boundary of the area proposed to be incorporated.

(4) A county may not hold an election on the incorporation of a town in accordance with Section 10-2-127 if the results of the feasibility study show that the five-year projected revenues under Subsection 10-2-125(7)(b)(v) exceed the five-year projected costs under Subsection 10-2-125(7)(b)(iv) by more than 10%.

Section 42. Section 10-8-62 is amended to read:

10-8-62. Cemeteries -- Purchase and operation.

The city legislative body may:

(1) purchase, hold, and pay for lands within or without the corporate limits for the burial of the dead, and all necessary grounds for hospitals;

(2) have and exercise police jurisdiction over those lands, and over any cemetery used by the inhabitants of the city;

(3) survey, plat, map, fence, ornament, and otherwise improve, manage, and operate public burial and cemetery grounds;

(4) convey cemetery lots owned by the city, and pass ordinances for the protection and governing of these grounds consistent with Title 8, Chapter 5, ~~[Municipal Cemeteries]~~ Rights and Title to Cemetery Lots;

(5) contract for the care and improvement of cemeteries and cemetery lots, and for any compensation for the care and improvement;

(6) receive deposits for the care of lots and invest the deposits by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act; and

(7) pay the cost of the care from any proceeds from the investment.

Section 43. Section 10-8-63 is amended to read:

10-8-63. Burial of dead -- Vital statistics.

They may regulate the burial of the dead, consistent with Title 8, Chapter 5, ~~[Municipal Cemeteries]~~ Rights and Title to Cemetery Lots, the registration of births and deaths, direct the returning and keeping of bills of mortality, and

impose penalties on physicians, sextons, and others for any default therein.

Section 44. Section 10-18-104 is amended to read:

10-18-104. Application to existing contracts.

(1) (a) If before the sooner of March 1 or the effective date of the chapter, the legislative body of a municipality authorized the municipality to offer or provide cable television services or public telecommunications services, each authorized service:

(i) is exempt from Part 2, Conditions for Providing Services; and

(ii) is subject to Part 3, Operational Requirements and Limitations.

(b) The exemption described in Subsection (1)(a)(i) may not apply to any cable television service or public telecommunications service authorized by the legislative body of a municipality on or after the sooner of March 1 or the effective date of this chapter.

(2) This chapter does not:

(a) invalidate any contract entered into by a municipality before the sooner of March 1 or the effective date of this chapter:

(i) for the design, construction, equipping, operation, or maintenance of facilities used or to be used by the municipality, or by a private provider under a contract with the municipality for the purpose of providing:

(A) cable television services; or

(B) public telecommunications services;

(ii) with a private provider for the use of the facilities described in Subsection (2)(a)(i) in connection with the private provider offering:

(A) cable television services; or

(B) public telecommunications services;

(iii) with a subscriber for providing:

(A) a cable television service; or

(B) a public telecommunications service; or

(iv) to obtain or secure financing for the acquisition or operation of the municipality's facilities or equipment used in connection with providing:

(A) a cable television service; or

(B) a public telecommunications service; or

(b) impair any security interest granted by a municipality as collateral for the municipality's obligations under a contract described in Subsection (2)(a).

(3) (a) A municipality meeting the one or more of the following conditions is exempt from this chapter as provided in Subsection (3)(b):

(i) a municipality that adopts or enacts a bond resolution on or before January 1, 2001, to fund facilities or equipment that the municipality uses to provide:

(A) cable television services; or

(B) public telecommunications services; or

(ii) a municipality that has operated for at least three years consecutively before the sooner of March 1 or the effective date of this chapter:

(A) a cable television service; or

(B) a public telecommunications service.

(b) A municipality described in Subsection (3)(a) is exempt from this chapter except for:

(i) Subsection 10-18-303(4);

(ii) Subsection 10-18-303(7);

(iii) Subsection 10-18-303(9);

(iv) Section 10-18-304; and

(v) Section 10-18-305.

(4) For the time period beginning on the effective date of this chapter and ending on December 31, 2001, a municipality that operated a cable television service as of January 1, 2001, is exempt from Subsection 10-18-301(1)(d).

Section 45. Section 11-13-303 is amended to read:

11-13-303. Source of project entity's payment of sales and use tax -- Gross receipts taxes for facilities providing additional project capacity.

(1) A project entity is not exempt from sales and use taxes under Title 59, Chapter 12, Sales and Use Tax Act, to the extent provided in Subsection 59-12-104(2).

(2) A project entity may make payments or prepayments of sales and use taxes, as provided in Title 63M, Chapter 5, Resource Development Act, from the proceeds of revenue bonds issued under Section 11-13-218 or other revenues of the project entity.

(3) (a) This Subsection (3) applies with respect to facilities providing additional project capacity.

(b) (i) The in lieu excise tax imposed under Title 59, Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, shall be imposed collectively on all gross receipts derived with respect to the ownership interests of all project entities and other public agencies in facilities providing additional project capacity as though all such ownership interests were held by a single project entity.

(ii) The in lieu excise tax shall be calculated as though the gross receipts derived with respect to all such ownership interests were received by a single taxpayer that has no other gross receipts.

(iii) The gross receipts attributable to such ownership interests shall consist solely of gross

receipts that are expended by each project entity and other public agency holding an ownership interest in the facilities for the operation or maintenance of or ordinary repairs or replacements to the facilities.

(iv) For purposes of calculating the in lieu excise tax, the determination of whether there is a tax rate and, if so, what the tax rate is shall be governed by Section 59-8-104, except that the \$10,000,000 figures in Section 59-8-104 indicating the amount of gross receipts that determine the applicable tax rate shall be replaced with \$5,000,000.

(c) Each project entity and public agency owning an interest in the facilities providing additional project capacity shall be liable only for the portion of the gross receipts tax referred to in Subsection (3)(b) that is proportionate to its percentage ownership interest in the facilities and may not be liable for any other gross receipts taxes with respect to its percentage ownership interest in the facilities.

(d) No project entity or other public agency that holds an ownership interest in the facilities may be subject to the taxes imposed under Title 59, Chapter 7, Corporate Franchise and Income Taxes, with respect to those facilities.

(4) For purposes of calculating the gross receipts tax imposed on a project entity or other public agency under Title 59, Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, or Subsection (3), gross receipts include only gross receipts from the first sale of capacity, services, or other benefits and do not include gross receipts from any subsequent sale, resale, or layoff of the capacity, services, or other benefits.

Section 46. Section 11-13-315 is amended to read:

11-13-315. Taxed interlocal entity.

(1) As used in this section:

(a) "Asset" means funds, money, an account, real or personal property, or personnel.

(b) "Public asset" means:

(i) an asset used by a public entity;

(ii) tax revenue;

(iii) state funds; or

(iv) public funds.

(c) (i) "Taxed interlocal entity" means a project entity that:

(A) is not exempt from a tax or fee in lieu of taxes imposed in accordance with Part 3, Project Entity Provisions;

(B) does not receive a payment of funds from a federal agency or office, state agency or office, political subdivision, or other public agency or office other than a payment that does not materially exceed the greater of the fair market value and the

cost of a service provided or property conveyed by the project entity; and

(C) does not receive, expend, or have the authority to compel payment from tax revenue.

(ii) Before and on May 1, 2014, "taxed interlocal entity" includes an interlocal entity that:

(A) (I) was created before 1981 for the purpose of providing power supply at wholesale to its members; or

(II) is described in Subsection 11-13-204(7);

(B) does not receive a payment of funds from a federal agency or office, state agency or office, political subdivision, or other public agency or office other than a payment that does not materially exceed the greater of the fair market value and the cost of a service provided or property conveyed by the interlocal entity; and

(C) does not receive, expend, or have the authority to compel payment from tax revenue.

(d) (i) "Use" means to use, own, manage, hold, keep safe, maintain, invest, deposit, administer, receive, expend, appropriate, disburse, or have custody.

(ii) "Use" includes, when constituting a noun, the corresponding nominal form of each term in Subsection (1)(d)(i), individually.

(2) Notwithstanding any other provision of law, the use of an asset by a taxed interlocal entity does not constitute the use of a public asset.

(3) Notwithstanding any other provision of law, a taxed interlocal entity's use of an asset that was a public asset prior to the taxed interlocal entity's use of the asset does not constitute a taxed interlocal entity's use of a public asset.

(4) Notwithstanding any other provision of law, an official of a project entity is not a public treasurer.

(5) Notwithstanding any other provision of law, a taxed interlocal entity's governing body, as described in Section 11-13-206, shall determine and direct the use of an asset by the taxed interlocal entity.

(6) (a) A taxed interlocal entity is not subject to the provisions of Title 63G, Chapter 6a, Utah Procurement Code.

(b) An agent of a taxed interlocal entity is not an external procurement unit as defined in Section 63G-6a-104.

(7) (a) A taxed interlocal entity is not a participating local entity as defined in Section 63A-3-401.

(b) For each fiscal year of a taxed interlocal entity, the taxed interlocal entity shall provide:

(i) the taxed interlocal entity's financial statements for and as of the end of the fiscal year and the prior fiscal year, including the taxed interlocal entity's balance sheet as of the end of the fiscal year and the prior fiscal year, and the related

statements of revenues and expenses and of cash flows for the fiscal year; and

(ii) the accompanying auditor's report and management's discussion and analysis with respect to the taxed interlocal entity's financial statements for and as of the end of the fiscal year.

(c) The taxed interlocal entity shall provide the information described in Subsections (7)(b)(i) and [(b)] (ii):

(i) in a manner described in Subsection 63A-3-405(3); and

(ii) within a reasonable time after the taxed interlocal entity's independent auditor delivers to the taxed interlocal entity's governing body the auditor's report with respect to the financial statements for and as of the end of the fiscal year.

(d) Notwithstanding Subsections (7)(b) and (c) or a taxed interlocal entity's compliance with one or more of the requirements of Title 63A, Chapter 3, Division of Finance:

(i) the taxed interlocal entity is not subject to Title 63A, Chapter 3, Division of Finance; and

(ii) the information described in Subsection (7)(b)(i) or (ii) does not constitute public financial information as defined in Section 63A-3-401.

(8) (a) A taxed interlocal entity's governing body is not a governing board as defined in Section 51-2a-102.

(b) A taxed interlocal entity is not subject to the provisions of Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

Section 47. Section 11-14-301 is amended to read:

11-14-301. Issuance of bonds by governing body -- Computation of indebtedness under constitutional and statutory limitations.

(1) If the governing body has declared the bond proposition to have carried and no contest has been filed, or if a contest has been filed and favorably terminated, the governing body may proceed to issue the bonds voted at the election.

(2) (a) It is not necessary that all of the bonds be issued at one time, but, except as otherwise provided in this Subsection (2), bonds approved by the voters may not be issued more than 10 years after the day on which the election is held.

(b) The 10-year period described in Subsection (2)(a) is tolled if, at any time during the 10-year period:

(i) an application for a referendum petition is filed with a local clerk, in accordance with Section 20A-7-602 and Subsection 20A-7-601[(4)](3)(a), with respect to the local obligation law relating to the bonds; or

(ii) the bonds are challenged in a court of law or an administrative proceeding in relation to:

(A) the legality or validity of the bonds, or the election or proceedings authorizing the bonds;

(B) the authority of the local political subdivision to issue the bonds;

(C) the provisions made for the security or payment of the bonds; or

(D) any other issue that materially and adversely affects the marketability of the bonds, as determined by the individual or body that holds the executive powers of the local political subdivision.

(c) A tolling period described in Subsection (2)(b)(i) ends on the later of the day on which:

(i) the local clerk determines that the petition is insufficient, in accordance with Subsection 20A-7-607(2)(c), unless an application, described in Subsection 20A-7-607(4)(a), is made to the Supreme Court;

(ii) the Supreme Court determines, under Subsection 20A-7-607(4)(c), that the petition for the referendum is not legally sufficient; or

(iii) for a referendum petition that is sufficient, the governing body declares, as provided by law, the results of the referendum election on the local obligation law.

(d) A tolling period described in Subsection (2)(b)(ii) ends after:

(i) there is a final settlement, a final adjudication, or another type of final resolution of all challenges described in Subsection (2)(b)(ii); and

(ii) the individual or body that holds the executive powers of the local political subdivision issues a document indicating that all challenges described in Subsection (2)(b)(ii) are resolved and final.

(e) If the 10-year period described in Subsection (2)(a) is tolled under this Subsection (2) and, when the tolling ends and after giving effect to the tolling, the period of time remaining to issue the bonds is less than one year, the period of time remaining to issue the bonds shall be extended to one year.

(f) The tolling provisions described in this Subsection (2) apply to all bonds described in this section that were approved by voters on or after May 8, 2002.

(3) (a) Bonds approved by the voters may not be issued to an amount that will cause the indebtedness of the local political subdivision to exceed that permitted by the Utah Constitution or statutes.

(b) In computing the amount of indebtedness that may be incurred pursuant to constitutional and statutory limitations, the constitutionally or statutorily permitted percentage, as the case may be, shall be applied to the fair market value, as defined under Section 59-2-102, of the taxable property in the local political subdivision, as computed from the last applicable equalized assessment roll before the incurring of the additional indebtedness.

(c) In determining the fair market value of the taxable property in the local political subdivision as

provided in this section, the value of all tax equivalent property, as defined in Section 59-3-102, shall be included as a part of the total fair market value of taxable property in the local political subdivision, as provided in Title 59, Chapter 3, Tax Equivalent Property Act.

(4) Bonds of improvement districts issued in a manner that they are payable solely from the revenues to be derived from the operation of the facilities of the district may not be included as bonded indebtedness for the purposes of the computation.

(5) Where bonds are issued by a city, town, or county payable solely from revenues derived from the operation of revenue-producing facilities of the city, town, or county, or payable solely from a special fund into which are deposited excise taxes levied and collected by the city, town, or county, or excise taxes levied by the state and rebated pursuant to law to the city, town, or county, or any combination of those excise taxes, the bonds shall be included as bonded indebtedness of the city, town, or county only to the extent required by the Utah Constitution, and any bonds not so required to be included as bonded indebtedness of the city, town, or county need not be authorized at an election, except as otherwise provided by the Utah Constitution, the bonds being hereby expressly excluded from the election requirement of Section 11-14-201.

(6) A bond election is not void when the amount of bonds authorized at the election exceeded the limitation applicable to the local political subdivision at the time of holding the election, but the bonds may be issued from time to time in an amount within the applicable limitation at the time the bonds are issued.

Section 48. Section 11-17-14 is amended to read:

11-17-14. Uniform Commercial Code not applicable.

Bonds issued under this act are exempt from the provisions of [the] Title 70A, Uniform Commercial Code[, Title 70A].

Section 49. Section 11-32-4 is amended to read:

11-32-4. Assignment of rights to receive delinquent tax receivables to financing authority -- Documentation -- Agreement.

(1) At any time following the date of delinquency for property in Title 59, Chapter 2, Part 13, Collection of Taxes, the governing body of any county desiring to implement the provisions of this chapter by assigning the delinquent tax receivables of the participant members to its authority shall ascertain the amount of delinquent taxes owed to the participant members within the county. After ascertaining the amount of delinquent tax receivables owed, the governing body of the county may, as agent for the other participant members, assign the rights of the participant members to receive the delinquent tax receivables, in whole or

in part, as designated by the governing body of the county, to the financing authority. The assignment of rights described above shall take the form of an assignment of an account receivables. The purchase price paid by the authority may be equal to, greater than, or less than the amount of the delinquent tax receivables sold to the authority. The documentation by which the transfer of the delinquent tax receivables are made shall contain the following:

(a) the tax year or years for which the delinquent taxes owing were levied;

(b) the amount of taxes, interest, and penalties due to the participant members with respect to the tax years as of the date the accounts are assigned;

(c) the tax identification numbers or other descriptions of the specific properties with respect to which the delinquent tax receivables are being assigned;

(d) the interest rate at which the delinquent taxes subject to the assignment bear interest pursuant to Section 59-2-1331;

(e) the discount or premium, if any, at which the account is assigned;

(f) a certificate representing the transfer of the rights of the county and the other participant members to receive the amounts due and owing the county and the other participant members with respect to the delinquent tax receivables transferred; and

(g) certification by the governing body of the county that all amounts received by the county with respect to the delinquent taxes, interest, and penalties assigned to the authority and owed to the county and the other participant members, for the tax years specified, upon the specified property, and the additional interest and penalties to accrue on the delinquent amounts, shall be deposited upon receipt into a special fund of the county created for this purpose and shall be used solely to pay the amounts falling due to the financing authority as specified in the assignment agreement.

(2) The assignment agreement shall contain a statement to the effect that any amounts falling due under it are payable solely from a special fund into which the county shall pay the amounts collected with respect to the delinquent tax receivables pledged and shall state that under no circumstances may the county or any of the other participant members be required to use any other funds, property, or money of the county or the other participant members or to levy any tax to satisfy amounts due under the agreement.

Section 50. Section 11-42-604 is amended to read:

11-42-604. Notice regarding resolution or ordinance authorizing interim warrants or bond anticipation notes -- Complaint contesting warrants or notes -- Prohibition against contesting warrants and notes.

(1) A local entity may publish notice, as provided in Subsection (2), of a resolution or ordinance that the governing body has adopted authorizing the issuance of interim warrants or bond anticipation notes.

(2) (a) If a local entity chooses to publish notice under Subsection (1)(~~a~~), the notice shall:

(i) be published:

(A) in a newspaper of general circulation within the local entity; and

(B) as required in Section 45-1-101; and

(ii) contain:

(A) the name of the issuer of the interim warrants or bond anticipation notes;

(B) the purpose of the issue;

(C) the maximum principal amount that may be issued;

(D) the maximum length of time over which the interim warrants or bond anticipation notes may mature;

(E) the maximum interest rate, if there is a maximum rate; and

(F) the times and place where a copy of the resolution or ordinance may be examined, as required under Subsection (2)(b).

(b) The local entity shall allow examination of the resolution or ordinance authorizing the issuance of the interim warrants or bond anticipation notes at its office during regular business hours.

(3) Any person may, within 30 days after publication of a notice under Subsection (1), file a verified, written complaint in the district court of the county in which the person resides, contesting the regularity, formality, or legality of the interim warrants or bond anticipation notes issued by the local entity or the proceedings relating to the issuance of the interim warrants or bond anticipation notes.

(4) After the 30-day period under Subsection (3), no person may contest the regularity, formality, or legality of the interim warrants or bond anticipation notes issued by a local entity under the resolution or ordinance that was the subject of the notice under Subsection (1), or the proceedings relating to the issuance of the interim warrants or bond anticipation notes.

Section 51. Section 13-1a-5 is amended to read:

13-1a-5. Authority of director.

The director has authority:

(1) to make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the responsibilities of the division;

(2) to investigate, upon complaint, the corporation and commercial code filings and

compliance governed by the laws administered and enforced by the division; and

(3) under the provisions of Title 63G, Chapter 4, [Utah] Administrative Procedures Act, to take administrative action against persons in violation of the division rules and the laws administered by it, including the issuance of cease and desist orders.

Section 52. Section 13-22-8 is amended to read:

13-22-8. Exemptions.

(1) Section 13-22-5 does not apply to:

(a) a solicitation that an organization conducts among its own established and bona fide membership exclusively through the voluntarily donated efforts of other members or officers of the organization;

(b) a bona fide religious, ecclesiastical, or denominational organization if:

(i) the solicitation is made for a church, missionary, religious, or humanitarian purpose; and

(ii) the organization is either:

(A) a lawfully organized corporation, institution, society, church, or established physical place of worship, at which nonprofit religious services and activities are regularly conducted and carried on;

(B) a bona fide religious group:

(I) that does not maintain specific places of worship;

(II) that is not subject to federal income tax; and

(III) not required to file an IRS Form 990 under any circumstance; or

(C) a separate group or corporation that is an integral part of an institution that is an income tax exempt organization under 26 U.S.C. Sec. 501(c)(3) and is not primarily supported by funds solicited outside its own membership or congregation;

(c) a solicitation by a broadcast media owned or operated by an educational institution or governmental entity, or any entity organized solely for the support of that broadcast media;

(d) except as provided in Subsection 13-22-21(1), a solicitation for the relief of any person sustaining a life-threatening illness or injury specified by name at the time of solicitation if the entire amount collected without any deduction is turned over to the named person;

(e) a political party authorized to transact its affairs within this state and any candidate and campaign worker of the party if the content and manner of any solicitation make clear that the solicitation is for the benefit of the political party or candidate;

(f) a political action committee or group soliciting funds relating to issues or candidates on the ballot if the committee or group is required to file financial information with a federal or state election commission;

(g) any school accredited by the state, any accredited institution of higher learning, or club or parent, teacher, or student organization within and authorized by the school in support of the operations or extracurricular activities of the school;

(h) a public or higher education foundation established under Title 53A [~~or 53B~~], State System of Public Education, or Title 53B, State System Of Higher Education;

(i) a television station, radio station, or newspaper of general circulation that donates air time or print space for no consideration as part of a cooperative solicitation effort on behalf of a charitable organization, whether or not that organization is required to register under this chapter;

(j) a volunteer fire department, rescue squad, or local civil defense organization whose financial oversight is under the control of a local governmental entity;

(k) any governmental unit of any state or the United States; and

(l) any corporation:

(i) established by an act of the United States Congress; and

(ii) that is required by federal law to submit an annual report:

(A) on the activities of the corporation, including an itemized report of all receipts and expenditures of the corporation; and

(B) to the United States Secretary of Defense to be:

(I) audited; and

(II) submitted to the United States Congress.

(2) Any organization claiming an exemption under this section bears the burden of proving its eligibility for, or the applicability of, the exemption claimed.

(3) Each organization exempt from registration pursuant to this section that makes a material change in its legal status, officers, address, or similar changes shall file a report informing the division of its current legal status, business address, business phone, officers, and primary contact person within 30 days of the change.

(4) The division may by rule:

(a) require organizations exempt from registration pursuant to this section to file a notice of claim of exemption;

(b) prescribe the contents of the notice of claim; and

(c) require a filing fee for the notice, as determined under Section 63J-1-504.

Section 53. Section 13-23-5 is amended to read:

13-23-5. Registration -- Bond, letter of credit, or certificate of deposit required -- Penalties.

(1) (a) (i) It is unlawful for any health spa facility to operate in this state unless the facility is registered with the division.

(ii) Registration is effective for one year. If the health spa facility renews its registration, the registration shall be renewed at least 30 days prior to its expiration.

(iii) The division shall provide by rule for the form, content, application process, and renewal process of the registration.

(b) Each health spa registering in this state shall designate a registered agent for receiving service of process. The registered agent shall be reasonably available from 8 a.m. until 5 p.m. during normal working days.

(c) The division shall charge and collect a fee for registration under guidelines provided in Section 63J-1-504.

(d) If an applicant fails to file a registration application or renewal by the due date, or files an incomplete registration application or renewal, the applicant shall pay a fee of \$25 for each month or part of a month after the date on which the registration application or renewal were due to be filed, in addition to the registration fee described in Subsection (1)(c).

(e) A health spa registering or renewing a registration shall provide the division a copy of the liability insurance policy that:

(i) covers the health spa; and

(ii) is in effect at the time of the registration or renewal.

(2) (a) Each health spa shall obtain and maintain:

(i) a performance bond issued by a surety authorized to transact surety business in this state;

(ii) an irrevocable letter of credit issued by a financial institution authorized to do business in this state; or

(iii) a certificate of deposit.

(b) The bond, letter of credit, or certificate of deposit shall be payable to the division for the benefit of any consumer who incurs damages as the result of:

(i) the health spa's violation of this chapter; or

(ii) the health spa's going out of business or relocating and failing to offer an alternate location within five miles.

(c) (i) The division may recover from the bond, letter of credit, or certificate of deposit the costs of collecting and distributing funds under this section, up to 10% of the face value of the bond, letter of credit, or certificate of deposit but only if the consumers have fully recovered their damages first.

(ii) The total liability of the issuer of the bond, letter of credit, or certificate of deposit may not exceed the amount of the bond, letter of credit, or certificate of deposit.

(iii) The health spa shall maintain a bond, letter of credit, or certificate of deposit in force for one year after it notifies the division in writing that it has ceased all activities regulated by this chapter.

(d) A health spa providing services at more than one location shall comply with the requirements of Subsection (2)(a) for each separate location.

(e) The division may impose a fine against a health spa that fails to comply with the requirements of Subsection (2)(a) of up to \$100 per day that the health spa remains out of compliance. All penalties received shall be deposited into the Consumer Protection Education and Training Fund created in Section 13-2-8.

(3) (a) The minimum principal amount of the bond, letter of credit, or certificate of credit required under Subsection (2) shall be based on the number of unexpired contracts for health spa services to which the health spa is a party, in accordance with the following schedule:

Principal Amount of Bond, Letter of Credit, or Certificate of Deposit	Number of Contracts
\$15,000	500 or fewer
35,000	501 to 1,500
50,000	[1,500] 1,501 to 3,000
75,000	3,001 or more

(b) A health spa that is not exempt under Section 13-23-6 shall comply with Subsection (3)(a) with respect to all of the health spa's unexpired contracts for health spa services, regardless of whether a portion of those contracts satisfies the criteria in Section 13-23-6.

(4) Each health spa shall obtain the bond, letter of credit, or certificate of deposit and furnish a certified copy of the bond, letter of credit, or certificate of deposit to the division prior to selling, offering or attempting to sell, soliciting the sale of, or becoming a party to any contract to provide health spa services. A health spa is considered to be in compliance with this section only if the proof provided to the division shows that the bond, letter of credit, or certificate of credit is current.

(5) Each health spa shall:

(a) maintain accurate records of the bond, letter of credit, or certificate of credit and of any payments made, due, or to become due to the issuer; and

(b) open the records to inspection by the division at any time during normal business hours.

(6) If a health spa changes ownership, ceases operation, discontinues facilities, or relocates and fails to offer an alternate location within five miles within 30 days after its closing, the health spa is subject to the requirements of this section as if it were a new health spa coming into being at the time

the health spa changed ownership. The former owner may not release, cancel, or terminate the owner's liability under any bond, letter of credit, or certificate of deposit previously filed with the division, unless:

(a) the new owner has filed a new bond, letter of credit, or certificate of deposit for the benefit of consumers covered under the previous owner's bond, letter of credit, or certificate of deposit; or

(b) the former owner has refunded all unearned payments to consumers.

(7) If a health spa ceases operation or relocates and fails to offer an alternative location within five miles, the health spa shall provide the division with 45 days prior notice.

Section 54. Section 13-26-4 is amended to read:

13-26-4. Exemptions from registration.

(1) In any enforcement action initiated by the division, the person claiming an exemption has the burden of proving that the person is entitled to the exemption.

(2) The following are exempt from the requirements of this chapter except for the requirements of Sections 13-26-8 and 13-26-11:

(a) a broker, agent, dealer, or sales professional licensed under the licensure laws of this state, when soliciting sales within the scope of his license;

(b) the solicitation of sales by:

(i) a public utility that is regulated under Title 54, Public Utilities, or by an affiliate of the utility;

(ii) a newspaper of general circulation;

(iii) a solicitation of sales made by a broadcaster licensed by any state or federal authority;

(iv) a nonprofit organization if no part of the net earnings from the sale inures to the benefit of any member, officer, trustee, or serving board member of the organization, or individual, or family member of an individual, holding a position of authority or trust in the organization; and

(v) a person who periodically publishes and delivers a catalog of the solicitor's merchandise to prospective purchasers, if the catalog:

(A) contains the price and a written description or illustration of each item offered for sale;

(B) includes the business address of the solicitor;

(C) includes at least 24 pages of written material and illustrations;

(D) is distributed in more than one state; and

(E) has an annual circulation by mailing of not less than 250,000;

(c) any publicly-traded corporation registered with the Securities and Exchange Commission, or any subsidiary of the corporation;

(d) the solicitation of any depository institution as defined in Section 7-1-103, a subsidiary of a

depository institution, personal property broker, securities broker, investment adviser, consumer finance lender, or insurer subject to regulation by an official agency of this state or the United States;

(e) the solicitation by a person soliciting only the sale of telephone services to be provided by the person or the person's employer;

(f) the solicitation of a person relating to a transaction regulated by the Commodities Futures Trading Commission, if:

(i) the person is registered with or temporarily licensed by the commission to conduct that activity under the Commodity Exchange Act; and

(ii) the registration or license has not expired or been suspended or revoked;

(g) the solicitation of a contract for the maintenance or repair of goods previously purchased from the person:

(i) who is making the solicitation; or

(ii) on whose behalf the solicitation is made;

(h) the solicitation of previous customers of the business on whose behalf the call is made if the person making the call:

(i) does not offer any premium in conjunction with a sale or offer;

(ii) is not selling an investment or an opportunity for an investment that is not registered with any state or federal authority; and

(iii) is not regularly engaged in telephone sales;

(i) the solicitation of a sale that is an isolated transaction and not done in the course of a pattern of repeated transactions of a like nature;

(j) the solicitation of a person by a retail business establishment that has been in operation for at least five years in Utah under the same name as that used in connection with telemarketing if both of the following occur on a continuing basis:

(i) products are displayed and offered for sale at the place of business, or services are offered for sale and provided at the place of business; and

(ii) a majority of the seller's business involves the buyer obtaining the products or services at the seller's place of business;

(k) a person primarily soliciting the sale of a magazine or periodical sold by the publisher or the publisher's agent through a written agreement, or printed or recorded material through a contractual plan, such as a book or record club, continuity plan, subscription, standing order arrangement, or supplement or series arrangement if:

(i) the seller provides the consumer with a form that the consumer may use to instruct the seller not to ship the offered merchandise, and the arrangement is regulated by the Federal Trade Commission trade regulation concerning use of negative option plans by sellers in commerce; or

(ii) (A) the seller periodically ships merchandise to a consumer who has consented in advance to receive the merchandise on a periodic basis; and

(B) the consumer retains the right to cancel at any time and receive a full refund for the unused portion; or

(l) a telephone marketing service company that provides telemarketing sales services under contract to sellers if:

(i) it has been doing business regularly with customers in Utah for at least five years under the same business name and with its principal office in the same location;

(ii) at least 75% of its contracts are performed on behalf of persons exempted from registration under this chapter; and

(iii) neither the company nor its principals have been enjoined from doing business or subjected to criminal actions for their business activities in this or any other state.

Section 55. Section 13-32a-104 is amended to read:

13-32a-104. Register required to be maintained -- Contents -- Identification of items -- Prohibition against pawning or selling certain property.

(1) Every pawnbroker or secondhand merchandise dealer shall keep a register of each article of property a person pawns or sells to the pawnbroker or secondhand merchandise dealer, except as provided in Subsection 13-32a-102(23)(b). Every pawn and secondhand business owner or operator, or his employee, shall enter the following information regarding every article pawned or sold to the owner or employee:

(a) the date and time of the transaction;

(b) the pawn transaction ticket number, if the article is pawned;

(c) the date by which the article must be redeemed;

(d) the following information regarding the person who pawns or sells the article:

(i) the person's name, residence address, and date of birth;

(ii) the number of the driver license or other form of positive identification presented by the person, and notations of discrepancies if the person's physical description, including gender, height, weight, race, age, hair color, and eye color, does not correspond with identification provided by the person;

(iii) the person's signature; and

(iv) a legible fingerprint of the person's right index finger, or if the right index finger cannot be fingerprinted, a legible fingerprint of the person with a written notation identifying the fingerprint and the reason why the index finger's print was unavailable;

(e) the amount loaned on or paid for the article, or the article for which it was traded;

(f) the identification of the pawn or secondhand business owner or the employee, whoever is making the register entry; and

(g) an accurate description of the article of property, including available identifying marks such as:

(i) names, brand names, numbers, serial numbers, model numbers, color, manufacturers' names, and size;

(ii) metallic composition, and any jewels, stones, or glass;

(iii) any other marks of identification or indicia of ownership on the article;

(iv) the weight of the article, if the payment is based on weight;

(v) any other unique identifying feature;

(vi) gold content, if indicated; and

(vii) if multiple articles of a similar nature are delivered together in one transaction and the articles do not bear serial or model numbers and do not include precious metals or gemstones, such as musical or video recordings, books, or hand tools, the description of the articles is adequate if it includes the quantity of the articles and a description of the type of articles delivered.

(2) A pawn or secondhand business may not accept any personal property if, upon inspection, it is apparent that serial numbers, model names, or identifying characteristics have been intentionally defaced on that article of property.

(3) (a) A person may not pawn or sell any property to a business regulated under this chapter if the property is subject to being turned over to a law enforcement agency in accordance with Title 77, Chapter ~~[24, Unclaimed]~~ 24a, Lost or Mislaid Personal Property.

(b) If an individual attempts to sell or pawn property to a business regulated under this chapter and the employee or owner of the business knows or has reason to know that the property is subject to Title 77, Chapter ~~[24, Unclaimed]~~ 24a, Lost or Mislaid Personal Property, the employee or owner shall advise the individual of the requirements of Title 77, Chapter ~~[24, Unclaimed]~~ 24a, Lost or Mislaid Personal Property, and may not receive the property in pawn or sale.

(4) A violation of this section is a class B misdemeanor and is also subject to civil penalties under Section 13-32a-110.

Section 56. Section 13-32a-115 is amended to read:

13-32a-115. Investigation phase and victim's responsibilities.

(1) If the property pawned or sold to a pawn or secondhand business is the subject of a criminal investigation and a hold has been placed on the property under Section 13-32a-109, the original victim shall do the following to establish a claim:

(a) positively identify to law enforcement the item stolen or lost;

(b) if a police report has not already been filed for the original theft or loss of property, file a police report, and provide for the law enforcement agency information surrounding the original theft or loss of property; and

(c) give a sworn statement under penalty of law that:

(i) claims ownership of the property;

(ii) references the original theft or loss; and

(iii) identifies the perpetrator if known.

(2) The pawn or secondhand business shall retain possession of any property subject to a hold until a criminal prosecution is commenced relating to the property for which the hold was placed unless:

(a) during the course of a criminal investigation the actual physical possession by law enforcement of an article purchased or pawned is essential for the purpose of fingerprinting the property, chemical testing of the property, or if the property contains unique or sensitive personal identifying information; or

(b) an agreement between the original victim and the pawn or secondhand business to return the property is reached.

(3) (a) Upon the commencement of a criminal prosecution, any article subject to a hold for investigation under this chapter may be seized by the law enforcement agency which requested the hold.

(b) Subsequent disposition of the property shall be consistent with Section ~~[77-24-2]~~ 24-3-103 regarding property not needed as evidence and this chapter.

(c) If a conflict exists between the provisions of Section ~~[77-24-2]~~ 24-3-103 regarding property not needed as evidence and this chapter, this chapter takes precedence regarding property held by pawn or secondhand businesses.

(4) At all times during the course of a criminal investigation and subsequent prosecution, the article subject to a law enforcement hold shall be kept secure by the pawn or secondhand business subject to the hold unless a pawned or sold article has been seized by the law enforcement agency pursuant to Section 13-32a-109.5.

Section 57. Section 13-32a-117 is amended to read:

13-32a-117. Property disposition if no criminal charges filed -- Administrative hearing.

(1) The original victim or the pawn or secondhand business may request an administrative property disposition hearing with the Division of Consumer Protection if:

(a) more than 30 days have passed since:

(i) the law enforcement agency placed a hold on the property; or

(ii) the property was seized by the law enforcement agency; and

(b) an agreement pursuant to Subsection 13-32a-115(2)(b) has not been reached.

(2) The original victim or the pawn or secondhand business shall provide to the Division of Consumer Protection at the time of the request for a property disposition hearing:

(a) a copy of the sworn statement of the original victim taken pursuant to Section 13-32a-115 and the case number assigned by the law enforcement agency; and

(b) a written notice from the prosecuting agency with jurisdiction over the case involving the property that the prosecuting agency has made an initial determination under Section ~~[77-24-2]~~ 13-32a-109 or 13-32a-109.5 and this chapter that the property is no longer needed as evidence.

(3) (a) Within 30 days after receiving the request for a property disposition hearing from the original victim or the pawn or secondhand business, the Division of Consumer Protection shall schedule an adjudicative hearing in accordance with Title 63G, Chapter 4, Administrative Procedures Act, to determine ownership of the claimed property. The division shall provide written notice of the hearing to the pawn or secondhand business and the original victim.

(b) The division shall conduct the hearing to determine disposition of the claimed seized property, taking into consideration:

(i) the proof of ownership of the property and compliance with Subsection 13-32a-115(1) by the original victim;

(ii) the claim of ownership by the pawn or secondhand business and the potential financial loss to the business; and

(iii) compliance by the pawn or secondhand business with the requirements of this chapter.

(c) If the division determines that the property should be released to the pawn or secondhand business, the original victim retains a right of first refusal over the property for 15 days and may purchase the property at the amount financed or paid by the pawn or secondhand business.

(d) The party to whom the division determines the property is to be released shall maintain possession of the property for the duration of any time period regarding any applicable right of appeal.

Section 58. Section 13-47-102 (Contingently Repealed) is amended to read:

**13-47-102 (Contingently Repealed).
Definitions.**

As used in this chapter:

(1) "Department" means the Department of Commerce.

(2) "Employee" means an individual:

(a) who is hired to perform services in Utah; and

(b) to whom a private employer provides a federal form required for federal taxation purposes to report income paid to the individual for the services performed.

(3) (a) Except as provided in Subsection (3)(b), "private employer" means a person who for federal taxation purposes is required to provide a federal form:

(i) to an individual who performs services for the person in Utah; and

(ii) to report income paid to the individual who performs the services.

(b) "Private employer" does not mean a public employer as defined in Section ~~[63G-11-103]~~ 63G-12-102.

(4) (a) "Status verification system" means an electronic system operated by the federal government, through which an employer may inquire to verify the federal legal working status of an individual who is a newly hired employee.

(b) "Status verification system" includes:

(i) the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. Sec. 1324a;

(ii) a federal program equivalent to the program described in Subsection (4)(b)(i) that is designated by the United States Department of Homeland Security or other federal agency authorized to verify the employment eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986;

(iii) the Social Security Number Verification Service or similar online verification process implemented by the United States Social Security Administration; or

(iv) an independent third-party system with an equal or higher degree of reliability as the programs, systems, or processes described in Subsection (4)(b)(i), (ii), or (iii).

Section 59. Section 13-47-201 (Contingently Repealed) is amended to read:

**13-47-201 (Contingently Repealed).
Verification required for new hires.**

(1) A private employer who employs 15 or more employees ~~[as of]~~ on or after July 1, 2010, may not hire a new employee on or after July 1, 2010, unless the private employer:

(a) is registered with a status verification system to verify the federal legal working status of any new employee; and

(b) uses the status verification system to verify the federal legal working status of the new employee in accordance with the requirements of the status verification system.

(2) This section does not apply to a private employer of a foreign national if the foreign national holds a visa issued in response to a petition by the private employer that is classified as H-2A or H-2B.

Section 60. Section 15-8-4 is amended to read:

15-8-4. Inapplicability of other laws -- Exempted transactions.

(1) Rental purchase agreements that comply with this chapter are not governed by the laws relating to:

(a) a security interest as defined in Subsection 70A-1a-201(2)(ii); or

(b) Title 70C, Utah Consumer Credit Code, except that Sections 70C-7-102 through 70C-7-104 and 70C-2-205 shall apply to lessors as defined in this chapter to the same extent as they apply to creditors under Title 70C, Utah Consumer Credit Code.

(2) The chapter does not apply to the following:

(a) rental purchase agreements primarily for business, commercial, or agricultural purposes, or those made with governmental agencies or instrumentalities or with organizations;

(b) a lease of a safe deposit box;

(c) a lease or bailment of personal property which is incidental to the lease of real property and which provides that the consumer has no option to purchase the leased property; or

(d) a lease of a motor vehicle, as defined in Section 41-1a-102.

Section 61. Section 15-9-103 is amended to read:

15-9-103. Administration -- Rulemaking -- Service of process.

(1) (a) This chapter shall be administered by the division and is subject to the requirements of Title 58, Chapter 1, Division of Occupational and Professional Licensing Act, so long as the requirements of Title 58, Chapter 1, Division of Occupational and Professional Licensing Act, are not inconsistent with the requirements of this chapter.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules necessary to implement this chapter.

(2) By acting as an athlete agent in this state, a nonresident individual appoints the director of the division as the individual's agent for service of process in any civil action in this state related to the individual's acting as an athlete agent in this state.

Section 62. Section 15-10-201 is amended to read:

15-10-201. Notice requirement.

(1) Except as provided in Subsection [(1)] (2)(b), a service contract may not contain an automatic renewal provision unless the seller provides the

consumer written notice complying with Subsection (2) that informs the consumer of the automatic renewal provision.

(2) (a) For a service contract executed on or after July 1, 2011, that exceeds 12 months for a renewal period, a seller shall provide written notice of an automatic renewal provision prominently displayed on the first page of the service contract.

(b) In addition to complying with Subsection (2)(a), a seller shall provide written notice required under Subsection (1) to the consumer:

(i) personally;

(ii) by certified mail; or

(iii) prominently displayed on the first page of a monthly statement.

(c) (i) A seller shall provide written notice under Subsection (2)(b):

(A) no later than 30 calendar days before the last day on which the consumer may give notice of the consumer's intention to terminate the service contract; and

(B) no sooner than 90 calendar days before the last day on which the consumer may give notice of the consumer's intention to terminate the service contract.

(ii) A seller may not provide written notice required under Subsection (1) except:

(A) as provided in Subsection (2)(a); or

(B) during the time period described in Subsection (2)(c)(i).

(d) Written notice required under Subsection (1) shall be:

(i) written in clear and understandable language; and

(ii) printed in an easy-to-read type size and style.

Section 63. Section 15A-1-204 is amended to read:

15A-1-204. Adoption of State Construction Code -- Amendments by commission -- Approved codes -- Exemptions.

(1) (a) The State Construction Code is the construction codes adopted with any modifications in accordance with this section that the state and each political subdivision of the state shall follow.

(b) A person shall comply with the applicable provisions of the State Construction Code when:

(i) new construction is involved; and

(ii) the owner of an existing building, or the owner's agent, is voluntarily engaged in:

(A) the repair, renovation, remodeling, alteration, enlargement, rehabilitation, conservation, or reconstruction of the building; or

(B) changing the character or use of the building in a manner that increases the occupancy loads, other demands, or safety risks of the building.

(c) On and after July 1, 2010, the State Construction Code is the State Construction Code in effect on July 1, 2010, until in accordance with this section:

(i) a new State Construction Code is adopted; or

(ii) one or more provisions of the State Construction Code are amended or repealed in accordance with this section.

(d) A provision of the State Construction Code may be applicable:

(i) to the entire state; or

(ii) within a county, city, or town.

(2) (a) The Legislature shall adopt a State Construction Code by enacting legislation that adopts a construction code with any modifications.

(b) Legislation enacted under this Subsection (2) shall state that it takes effect on the July 1 after the day on which the legislation is enacted, unless otherwise stated in the legislation.

(c) Subject to Subsection (5), a State Construction Code adopted by the Legislature is the State Construction Code until, in accordance with this section, the Legislature adopts a new State Construction Code by:

(i) adopting a new State Construction Code in its entirety; or

(ii) amending or repealing one or more provisions of the State Construction Code.

(3) (a) The commission shall by no later than November 30 of each year recommend to the Business and Labor Interim Committee whether the Legislature should:

(i) amend or repeal one or more provisions of a State Construction Code; or

(ii) in a year of a regularly scheduled update of a nationally recognized code, adopt a construction code with any modifications.

(b) The commission may recommend legislative action related to the State Construction Code:

(i) on its own initiative;

(ii) upon the recommendation of the division; or

(iii) upon the receipt of a request by one of the following that the commission recommend legislative action related to the State Construction Code:

(A) a local regulator;

(B) a state regulator;

(C) a state agency involved with the construction and design of a building;

(D) the Construction Services Commission;

(E) the Electrician Licensing Board;

(F) the Plumbers Licensing Board; or

(G) a recognized construction-related association.

(4) If the Business and Labor Interim Committee decides to recommend legislative action to the Legislature, the Business and Labor Interim Committee shall prepare legislation for consideration by the Legislature in the next general session that, if passed by the Legislature, would:

(a) adopt a new State Construction Code in its entirety; or

(b) amend or repeal one or more provisions of the State Construction Code.

(5) (a) Notwithstanding Subsection (3), the commission may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, amend the State Construction Code if the commission determines that waiting for legislative action in the next general legislative session would:

(i) cause an imminent peril to the public health, safety, or welfare; or

(ii) place a person in violation of federal or other state law.

(b) If the commission amends the State Construction Code in accordance with this Subsection (5), the commission shall file with the division:

(i) the text of the amendment to the State Construction Code; and

(ii) an analysis that includes the specific reasons and justifications for the commission's findings.

(c) If the State Construction Code is amended under this Subsection (5), the division shall:

(i) publish the amendment to the State Construction Code in accordance with Section 15A-1-205; and

(ii) notify the Business and Labor Interim Committee of the amendment to the State Construction Code, including a copy of the commission's analysis described in Subsection (5)(b).

(d) If not formally adopted by the Legislature at its next annual general session, an amendment to the State Construction Code under this Subsection (5) is repealed on the July 1 immediately following the next annual general session that follows the adoption of the amendment.

(6) (a) The division, in consultation with the commission, may approve, without adopting, one or more approved codes, including a specific edition of a construction code, for use by a compliance agency.

(b) If the code adopted by a compliance agency is an approved code described in Subsection (6)(a), the compliance agency may:

(i) adopt an ordinance requiring removal, demolition, or repair of a building;

(ii) adopt, by ordinance or rule, a dangerous building code; or

(iii) adopt, by ordinance or rule, a building rehabilitation code.

(7) (a) Except as provided in Subsection (7)(b), a structure used solely in conjunction with agriculture use, and not for human occupancy, is exempt from the permit requirements of the State Construction Code.

(b) (i) Unless exempted by a provision other than Subsection (7)(a), a plumbing, electrical, and mechanical permit may be required when that work is included in a structure described in Subsection (7)(a).

(ii) Unless located in whole or in part in an agricultural protection area created under Title 17, Chapter 41, Agriculture and Industrial Protection ~~[Area]~~ Areas, a structure described in Subsection (7)(a) is not exempt from a permit requirement if the structure is located on land that is:

(A) within the boundaries of a city or town, and less than five contiguous acres; or

(B) within a subdivision for which the county has approved a subdivision plat under Title 17, Chapter 27a, Part 6, Subdivisions, and less than two contiguous acres.

Section 64. Section 15A-2-102 is amended to read:

15A-2-102. Definitions.

As used in this chapter and ~~[Chapters 3 and 4]~~ Chapter 3, Statewide Amendments Incorporated as Part of State Construction Code, and Chapter 4, Local Amendments Incorporated as Part of State Construction Code:

(1) "HUD Code" means the Federal Manufactured Housing Construction and Safety Standards Act, as issued by the Department of Housing and Urban Development and published in 24 C.F.R. Parts 3280 and 3282 (as revised April 1, 1990).

(2) "IBC" means the edition of the International Building Code adopted under Section 15A-2-103.

(3) "IECC" means the edition of the International Energy Conservation Code adopted under Section 15A-2-103.

(4) "IFGC" means the edition of the International Fuel Gas Code adopted under Section 15A-2-103.

(5) "IMC" means the edition of the International Mechanical Code adopted under Section 15A-2-103.

(6) "IPC" means the edition of the International Plumbing Code adopted under Section 15A-2-103.

(7) "IRC" means the edition of the International Residential Code adopted under Section 15A-2-103.

(8) "NEC" means the edition of the National Electrical Code adopted under Section 15A-2-103.

(9) "UWUI" means the edition of the Utah Wildland Urban Interface Code adopted under Section 15A-2-103.

Section 65. Section 15A-2-104 is amended to read:

15A-2-104. Installation standards for manufactured housing.

(1) The following are the installation standards for manufactured housing for new installations or for existing manufactured or mobile homes that are subject to relocation, building alteration, remodeling, or rehabilitation in the state:

(a) The manufacturer's installation instruction for the model being installed is the primary standard.

(b) If the manufacturer's installation instruction for the model being installed is not available or is incomplete, the following standards apply:

(i) Appendix E of the 2012 edition of the IRC, as issued by the International Code Council for installations defined in Section AE101 of Appendix E; or

(ii) if an installation is beyond the scope of the 2012 edition of the IRC as defined in Section AE101 of Appendix E, the 2005 edition of the NFPA 225 Model Manufactured Home Installation Standard, issued by the National Fire Protection Association.

(c) A manufacturer, dealer, or homeowner is permitted to design for unusual installation of a manufactured home not provided for in the manufacturer's standard installation instruction, Appendix E of the 2012 edition of the IRC, or the 2005 edition of the NFPA 225, if the design is approved in writing by a professional engineer or architect licensed in Utah.

(d) For a mobile home built before June 15, 1976, the mobile home shall also comply with the additional installation and safety requirements specified in Chapter 3, Part 8, Installation and Safety Requirements for Mobile Homes Built Before June 15, 1976.

(2) Pursuant to the HUD Code Section 604(d), a manufactured home may be installed in the state that does not meet the local snow load requirements as specified in Chapter 3, Part 2, Statewide Amendments to ~~[IRC]~~ International Residential Code, except that the manufactured home shall have a protective structure built over the home that meets the IRC and the snow load requirements under Chapter 3, Part 2, Statewide Amendments to ~~[IRC]~~ International Residential Code.

Section 66. Section 15A-3-201 is amended to read:

15A-3-201. General provision.

(1) The amendments in this part are adopted as amendments to the IRC to be applicable statewide.

(2) The statewide amendments to the following which may be applied to detached one- and two-family dwellings and multiple single-family dwellings shall be applicable to the corresponding provisions of the IRC:

(a) IBC under Part 1, Statewide Amendments to ~~[IBC]~~ International Building Code;

(b) IPC under Part 3, Statewide Amendments to ~~[IPC]~~ International Plumbing Code;

(c) IMC under Part 4, Statewide Amendments to ~~[IMC]~~ International Mechanical Code;

(d) IFGC under Part 5, Statewide Amendments to ~~[IFGC]~~ International Fuel Gas Code;

(e) NEC under Part 6, Statewide Amendments to ~~[NEC]~~ National Electrical Code; and

(f) IECC under Part 7, Statewide Amendments to ~~[IECC]~~ International Energy Conservation Code.

Section 67. Section 15A-3-306 is amended to read:

15A-3-306. Amendments to Chapter 6 of IPC.

(1) IPC, Section 602.3, is deleted and replaced with the following: "602.3 Individual water supply. Where a potable public water supply is not available, individual sources of potable water supply shall be utilized provided that the source has been developed in accordance with Utah Code, Sections 73-3-1, 73-3-3, and 73-3-25, as administered by the Department of Natural Resources, Division of Water Rights. In addition, the quality of the water shall be approved by the

local health department having jurisdiction. The source shall supply sufficient quantity of water to comply with the requirements of this chapter."

(2) IPC, Sections 602.3.1, 602.3.2, 602.3.3, 602.3.4, 602.3.5, and 602.3.5.1, are deleted.

(3) A new IPC, Section 604.4.1, is added as follows: "604.4.1 Manually operated metering faucets. Self closing or manually operated metering faucets shall provide a flow of water for at least 15 seconds without the need to reactivate the faucet."

(4) IPC, Section 606.5, is deleted and replaced with the following: "606.5 Water pressure booster systems. Water pressure booster systems shall be provided as required by Section 606.5.1 through 606.5.11."

(5) A new IPC, Section 606.5.11, is added as follows: "606.5.11 Prohibited installation. In no case shall a booster pump be allowed that will lower the pressure in the public main to less than the minimum water pressure specified in Utah Administrative Code R309-105-9."

(6) In IPC, Section 608.1, the words "and pollution" are added after the word "contamination."

(7) IPC, Table 608.1, is deleted and replaced with the following:

“TABLE 608.1
Application of Back Flow Preventers

DEVICE	DEGREE OF HAZARD ^a	APPLICATION ^b	APPLICABLE STANDARDS
BACKFLOW PREVENTION ASSEMBLIES:			
Double check backflow prevention assembly and double check fire protection backflow prevention assembly	Low hazard	Backpressure or backsiphonage Sizes 3/8" - 16"	ASSE 1015, AWWA C510, CSA B64.5, CSA B64.5.1
Double check detector fire protection backflow prevention assemblies	Low hazard	Backpressure or backsiphonage Sizes 3/8" - 16"	ASSE 1048
Pressure vacuum breaker assembly	High or low hazard	Backsiphonage only Sizes 1/2" - 2"	ASSE 1020, CSA B64.1.2
Reduced pressure principle backflow prevention assembly and reduced pressure principle fire protection backflow assembly	High or low hazard	Backpressure or backsiphonage Sizes 3/8" - 16"	ASSE 1013, AWWA C511, CSA B64.4, CSA B64.4.1
Reduced pressure detector fire protection backflow prevention assemblies	High or low hazard	Backpressure or backsiphonage (Fire Sprinkler Systems)	ASSE 1047
Spill-resistant vacuum breaker assembly	High or low hazard	Backsiphonage only Sizes 1/2" - 2"	ASSE 1056
BACKFLOW PREVENTER PLUMBING DEVICES:			
Antisiphon-type fill valves for gravity water closet flush tanks	High hazard	Backsiphonage only	ASSE 1002, CSA B125.3
Backflow preventer for carbonated beverage machines	Low hazard	Backpressure or backsiphonage Sizes 1/4" - 3/8"	ASSE 1022
Backflow preventer with intermediate atmospheric vents	Low hazard	Backpressure or backsiphonage Sizes 1/4" - 3/8"	ASSE 1012, CSA B64.3
Dual check valve type backflow preventers	Low hazard	Backpressure or backsiphonage Sizes 1/4" - 1"	ASSE 1024, CSA B64.6
Hose connection backflow preventer	High or low hazard	Backsiphonage only Sizes 1/2" - 1"	ASSE 1052, CSA B64.2, B64.2.1
Hose connection vacuum breaker	High or low hazard	Backsiphonage only Sizes 1/2", 3/4", 1"	ASSE 1011, CAN/CSA B64.1.1
Atmospheric type vacuum breaker	High or low hazard	Backsiphonage only Sizes 1/2" - 4"	ASSE 1001, CSA B64.1.1
Vacuum breaker wall hydrants, frost resistant, automatic draining type	High or low hazard	Backsiphonage only Sizes 3/4", 1"	ASSE 1019, CSA B64.2.2

OTHER MEANS or METHODS:

Air gap	High or low hazard	Backsiphonage only	ASME A112.1.2
Air gap fittings for use with plumbing fixtures, appliances and appurtenances	High or low hazard	Backpressure or backsiphonage	ASME A112.1.3

For SI: 1 inch = 25.4 mm

- a. Low Hazard - See Pollution (Section 202), High Hazard - See Contamination (Section 202)
- b. See Backpressure (Section 202), See Backpressure, low head (Section 202), See Backsiphonage (Section 202)

Installation Guidelines: The above specialty devices shall be installed in accordance with their listing and the manufacturer's instructions and the specific provisions of this chapter."

(8) In IPC, Section 608.3, the word “and” after the word “contamination” is deleted and replaced with a comma and the words “and pollution” are added after the word “contamination” in the first sentence.

(9) In IPC, Section 608.5, the words “with the potential to create a condition of either contamination or pollution or” are added after the word “substances”.

(10) In IPC, Section 608.6, the following sentence is added at the end of the paragraph: “Any connection between potable water piping and sewer-connected waste shall be protected by an air gap in accordance with Section 608.13.1.”

(11) IPC, Section 608.7, is deleted and replaced with the following: “608.7 Stop and Waste Valves installed below grade. Combination stop-and-waste valves shall be permitted to be installed underground or below grade. Freeze proof yard hydrants that drain the riser into the ground are considered to be stop-and-waste valves and shall be permitted.”

(12) In IPC, Section 608.11, the following sentence is added at the end of the paragraph: “The coating and installation shall conform to NSF Standard 61 and application of the coating shall comply with the manufacturer’s instructions.”

(13) IPC, Section 608.13.3, is deleted and replaced with the following: “608.13.3 Backflow preventer with intermediate atmospheric vent. Backflow preventers with intermediate atmospheric vents shall conform to ASSE 1012 or CSA CAN/CSA-B64.3. These devices shall be permitted to be installed on residential boilers only, without chemical treatment, where subject to continuous pressure conditions. The relief opening shall discharge by air gap and shall be prevented from being submerged.”

(14) IPC, Section 608.13.4, is deleted.

(15) IPC, Section 608.13.9, is deleted and replaced with the following: “608.13.9 Chemical dispenser backflow devices. Backflow devices for chemical dispensers shall comply with Section 608.16.7.”

(16) IPC, Section 608.15.3, is deleted and replaced with the following: “608.15.3 Protection by a backflow preventer with intermediate atmospheric vent. Connections to residential boilers only, without chemical treatment, shall be protected by a backflow preventer with an intermediate atmospheric vent.”

(17) IPC, Section 608.15.4, is deleted and replaced with the following: “608.15.4 Protection by a vacuum breaker. Openings and outlets shall be protected by atmospheric-type or pressure-type vacuum breakers. Vacuum breakers shall not be installed under exhaust hoods or similar locations that will contain toxic fumes or vapors. Fill valves shall be set in accordance with Section 425.3.1. Atmospheric Vacuum Breakers - The critical level of the atmospheric vacuum breaker shall be set a minimum of 6 inches (152 mm) above the flood level

rim of the fixture or device. Pipe-applied vacuum breakers shall be installed not less than 6 inches (152 mm) above the flood level rim of the fixture, receptor, or device served. No valves shall be installed downstream of the atmospheric vacuum breaker. Pressure Vacuum Breaker - The critical level of the pressure vacuum breaker shall be set a minimum of 12 inches (304 mm) above the flood level of the fixture or device.”

(18) In IPC, Section 608.15.4.2, the following is added after the first sentence: “Add-on-backflow prevention devices shall be non-removable. In climates where freezing temperatures occur, a listed self-draining frost proof hose bibb with an integral backflow preventer shall be used.”

(19) [In] IPC, Section 608.16.2, is deleted and replaced as follows: “608.16.2 Connections to boilers. The potable supply to a boiler shall be protected by an air gap or a reduced pressure principle backflow preventer, complying with ASSE 1013, CSA B64.4 or AWWA C511. Exception: The potable supply to a residential boiler without chemical treatment may be equipped with a backflow preventer with an intermediate atmospheric vent complying with ASSE 1012 or CSA CAN/CSA-B64.3.”

(20) IPC, Section 608.16.3, is deleted and replaced with the following: “608.16.3 Heat exchangers. Heat exchangers shall be separated from potable water by double-wall construction. An air gap open to the atmosphere shall be provided between the two walls. Exceptions: 1. Single wall heat exchangers shall be permitted when all of the following conditions are met: a. It utilizes a heat transfer medium of potable water or contains only substances which are recognized as safe by the United States Food and Drug Administration (FDA); b. The pressure of the heat transfer medium is maintained less than the normal minimum operating pressure of the potable water system; and c. The equipment is permanently labeled to indicate only additives recognized as safe by the FDA shall be used. 2. Steam systems that comply with paragraph 1 above. 3. Approved listed electrical drinking water coolers.”

(21) In IPC, Section 608.16.4.1, a new exception is added as follows: “Exception: All class 1 and 2 systems containing chemical additives consisting of strictly glycerine (C.P. or U.S.P. 96.5 percent grade) or propylene glycol shall be protected against backflow with a double check valve assembly. Such systems shall include written certification of the chemical additives at the time of original installation and service or maintenance.”

(22) IPC, Section 608.16.7, is deleted and replaced with the following: “608.16.7 Chemical dispensers. Where chemical dispensers connect to the water distribution system, the water supply system shall be protected against backflow in accordance with Section 608.13.1, Section 608.13.2, Section 608.13.5, Section 608.13.6 or Section 608.13.8. Chemical dispensers shall connect to a separate dedicated water supply separate from any sink faucet.”

(23) IPC, Section 608.16.8, is deleted and replaced with the following: “608.16.8 Portable cleaning equipment. Where the portable cleaning equipment connects to the water distribution system, the water supply system shall be protected against backflow in accordance with Section 608.13.1, Section 608.13.2 or Section 608.13.8.”

(24) A new IPC, Section 608.16.11, is added as follows: “608.16.11 Automatic and coin operated car washes. The water supply to an automatic or coin operated car wash shall be protected in accordance with Section 608.13.1 or Section 608.13.2.”

(25) IPC, Section 608.17, is deleted and replaced with the following: “608.17 Protection of individual water supplies. See Section 602.3 for requirements.”

Section 68. Section 15A-4-201 is amended to read:

15A-4-201. General provision.

(1) The amendments in this part are adopted as amendments to the IRC to be applicable to specified jurisdiction.

(2) A local amendment to the following which may be applied to detached one and two family dwellings and multiple single family dwellings shall be applicable to the corresponding provisions of the IRC for the local jurisdiction to which the local amendment has been made:

(a) IBC under Part 1, Local Amendments to ~~[IBC]~~ International Building Code;

(b) IPC under Part 3, Local Amendments to ~~[IPC]~~ International Plumbing Code;

(c) IMC under Part 4, Local Amendments to ~~[IMC]~~ International Mechanical Code;

(d) IFGC under Part 5, Local Amendments to ~~[IFGC]~~ International Fuel Gas Code;

(e) NEC under Part 6, Local Amendments to ~~[NEC]~~ National Electrical Code; and

(f) IECC under Part 7, Local Amendments to ~~[IECC]~~ International Energy Conservation Code.

Section 69. Section 15A-5-103 is amended to read:

15A-5-103. Nationally recognized codes incorporated by reference.

The following codes are incorporated by reference into the State Fire Code:

(1) the International Fire Code, 2012 edition, excluding appendices, as issued by the International Code Council, Inc., except as amended by Part 2, Statewide Amendments and Additions to ~~[IFC]~~ International Fire Code Incorporated as Part of State Fire Code;

(2) National Fire Protection Association, NFPA 96, Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations, 2011 edition, except as amended by Part 3, Statewide Amendments and Additions to ~~[NFPA]~~

National Fire Protection Association Incorporated as Part of State Fire Code; and

(3) National Fire Protection Association, NFPA 1403, Standard on Live Fire Training Evolutions, 2012 edition, except as amended by Part 3, Statewide Amendments and Additions to ~~[NFPA]~~ National Fire Protection Association Incorporated as Part of State Fire Code.

Section 70. Section 16-6a-1011 is amended to read:

16-6a-1011. Bylaw changing quorum or voting requirement for members.

(1) (a) If authorized by the articles of incorporation, the members may adopt, amend, or repeal bylaws that fix a greater quorum or voting requirement for members, or voting groups of members, than is required by this chapter.

(b) An action by the members under Subsection (1)(a) is subject to ~~[Parts 6 and 7]~~ Part 6, Members, and Part 7, Member Meetings and Voting.

(2) Bylaws that fix a greater quorum requirement or a greater voting requirement for members pursuant to Section 16-6a-716 may not be amended by the board of directors.

Section 71. Section 16-6a-1202 is amended to read:

16-6a-1202. Sale of property other than in regular course of activities.

(1) (a) A nonprofit corporation may sell, lease, exchange, or otherwise dispose of all, or substantially all, of its property, with or without its good will, other than in the usual and regular course of business on the terms and conditions and for the consideration determined by the board of directors, if:

(i) the board of directors proposes the transaction; and

(ii) the members entitled to vote on the transaction approve the transaction.

(b) A sale, lease, exchange, or other disposition of all, or substantially all, of the property of a nonprofit corporation, with or without its good will, in connection with its dissolution, other than in the usual and regular course of business, and other than pursuant to a court order, shall be subject to this section.

(c) A sale, lease, exchange, or other disposition of all, or substantially all, of the property of a nonprofit corporation, with or without its good will, pursuant to a court order is not subject to this section.

(2) (a) A nonprofit corporation shall comply with Subsection (2)(b) to vote or otherwise consent with respect to the sale, lease, exchange, or other disposition of all, or substantially all, of the property with or without the good will of another entity that the nonprofit corporation controls if:

(i) the nonprofit corporation is entitled to vote or otherwise consent; and

(ii) the property interests held by the nonprofit corporation in the other entity constitute all, or substantially all, of the property of the nonprofit corporation.

(b) A nonprofit corporation may vote or otherwise consent to a transaction described in Subsection (2)(a) only if:

(i) the board of the directors of the nonprofit corporation proposes the vote or consent; and

(ii) the members, if any are entitled to vote on the vote or consent, approve giving the vote or consent.

(3) For a transaction described in Subsection (1) or a consent described in Subsection (2) to be approved by the members:

(a) (i) the board of directors shall recommend the transaction or the consent to the members; or

(ii) the board of directors shall:

(A) determine that because of a conflict of interest or other special circumstance it should make no recommendation; and

(B) communicate the basis for its determination to the members at a membership meeting with the submission of the transaction or consent; and

(b) the members entitled to vote on the transaction or the consent shall approve the transaction or the consent as provided in Subsection (6).

(4) The board of directors may condition the effectiveness of the transaction or the consent on any basis.

(5) (a) The nonprofit corporation shall give notice, in accordance with Section 16-6a-704 to each member entitled to vote on the transaction described in Subsection (1) or the consent described in Subsection (2), of the members' meeting at which the transaction or the consent will be voted upon.

(b) The notice required by Subsection (1) shall:

(i) state that the purpose, or one of the purposes, of the meeting is to consider:

(A) in the case of action pursuant to Subsection (1), the sale, lease, exchange, or other disposition of all, or substantially all, of the property of the nonprofit corporation; or

(B) in the case of action pursuant to Subsection (2), the nonprofit corporation's consent to the sale, lease, exchange, or other disposition of all, or substantially all, of the property of another entity, the property interests of which:

(I) are held by the nonprofit corporation; and

(II) constitute all, or substantially all, of the property of the nonprofit corporation;

(ii) contain or be accompanied by a description of:

(A) the transaction, in the case of action pursuant to Subsection (1); or

(B) the transaction underlying the consent, in the case of action pursuant to Subsection (2); and

(iii) in the case of action pursuant to Subsection (2), identify the entity whose property is the subject of the transaction.

(6) The transaction described in Subsection (1) or the consent described in Subsection (2) shall be approved by the votes required by Sections 16-6a-714 and 16-6a-715 by every voting group entitled to vote on the transaction or the consent unless a greater vote is required by:

(a) this chapter;

(b) the articles of incorporation;

(c) bylaws adopted by the members; or

(d) the board of directors acting pursuant to Subsection (4).

(7) After a transaction described in Subsection (1) or a consent described in Subsection (2) is authorized, the transaction may be abandoned or the consent withheld or revoked, subject to any contractual rights or other limitations on such abandonment, withholding, or revocation, without further action by the members.

(8) A transaction that constitutes a distribution is governed by Part 13, Distributions, and not by this section.

Section 72. Section 16-6a-1701 is amended to read:

16-6a-1701. Application to existing domestic nonprofit corporations -- Reports of domestic and foreign nonprofit corporation.

(1) Except as otherwise provided in Section 16-6a-1704, this chapter applies to domestic nonprofit corporations as follows:

(a) domestic nonprofit corporations in existence on April 30, 2001, that were incorporated under any general statute of this state providing for incorporation of nonprofit corporations, including all nonprofit corporations organized under any former provisions of [~~Title 16, Chapter 6, Utah Nonprofit Corporation and Co-operative Association Act~~] this chapter;

(b) mutual irrigation, canal, ditch, reservoir, and water companies and water users' associations organized and existing under the laws of this state on April 30, 2001;

(c) corporations organized under the provisions of Title 16, Chapter 7, Corporations Sole, for purposes of applying all provisions relating to merger or consolidation; and

(d) to actions taken by the directors, officers, and members of the entities described in Subsections (1)(a), (b), and (c) after April 30, 2001.

(2) Domestic nonprofit corporations to which this chapter applies, that are organized and existing under the laws of this state on April 30, 2001:

(a) shall continue in existence with all the rights and privileges applicable to nonprofit corporations organized under this chapter; and

(b) from April 30, 2001 shall have all the rights and privileges and shall be subject to all the remedies, restrictions, liabilities, and duties prescribed in this chapter except as otherwise specifically provided in this chapter.

(3) Every existing domestic nonprofit corporation and foreign nonprofit corporation qualified to conduct affairs in this state on April 30, 2001 shall file an annual report with the division setting forth the information prescribed by Section 16-6a-1607. The annual report shall be filed at such time as would have been required had this chapter not taken effect and shall be filed annually thereafter as required in Section 16-6a-1607.

Section 73. Section 16-6a-1702 is amended to read:

16-6a-1702. Application to foreign nonprofit corporations.

(1) A foreign nonprofit corporation authorized to conduct affairs in this state on April 30, 2001, is subject to this chapter, but is not required to obtain a new certificate of authority to conduct affairs under this chapter.

(2) A foreign nonprofit corporation that is qualified to do business in this state under the provisions of [Title 16,] Chapter 8, which provisions were repealed by Laws of Utah 1961, Chapter 28, shall be authorized to transact business in this state subject to all of the limitations, restrictions, liabilities, and duties prescribed in this chapter.

(3) This chapter shall apply to all foreign nonprofit corporations sole qualified to do business in this state with respect to mergers and consolidations.

Section 74. Section 16-10a-402 is amended to read:

16-10a-402. Reserved name.

(1) Any person may apply for the reservation of a name by delivering to the division for filing an application setting forth the name and address of the applicant and the name proposed to be reserved. If the division finds that the name applied for would be available for use as a corporate name under Section 16-10a-401, the division shall reserve the name for the applicant for a 120-day period. Any person which has in effect a reservation of a name permitted by this Subsection may renew the reservation by delivering to the division for filing prior to expiration of the reservation a renewal application for reservation, which complies with the requirements of this Subsection (1). When filed, the renewal application for reservation renews the reservation for a period of 120 days from the date of filing.

(2) The applicant for a reserved name may transfer the reservation to another person by delivering to the division a notice of the transfer signed by the applicant for which the name was reserved and specifying the reserved name, the name of the holder of the name, and the name and address of the transferee.

(3) A name reservation does not authorize the applicant to use the name until:

(a) the name is registered as a trade name under Section 42-2-5;

(b) articles of incorporation which bear the name are filed with the division; or

(c) an application for authority to transact business in this state under the name has been filed with the division pursuant to Part 15 [of this chapter], Authority of Foreign Corporation to Transact Business.

Section 75. Section 16-10a-901 is amended to read:

16-10a-901. Definitions.

As used in Part 9, Indemnification:

(1) "Corporation" includes any domestic or foreign entity that is a predecessor of a corporation by reason of a merger or other transaction in which the predecessor's existence ceased upon consummation of the transaction.

(2) "Director" means an individual who is or was a director of a corporation or an individual who, while a director of a corporation, is or was serving at the corporation's request as a director, officer, partner, trustee, employee, fiduciary, or agent of another domestic or foreign corporation or other person or of an employee benefit plan. A director is considered to be serving an employee benefit plan at the corporation's request if his duties to the corporation also impose duties on, or otherwise involve services by, him to the plan or to participants in or beneficiaries of the plan. "Director" includes, unless the context requires otherwise, the estate or personal representative of a director.

(3) "Expenses" include counsel fees.

(4) "Liability" means the obligation incurred with respect to a proceeding to pay a judgment, settlement, penalty, fine (including an excise tax assessed with respect to an employee benefit plan), or reasonable expenses.

(5) "Officer," "employee," "fiduciary," and "agent" include any person who, while serving the indicated relationship to the corporation, is or was serving at the corporation's request as a director, officer, partner, trustee, employee, fiduciary, or agent of another domestic or foreign corporation or other person or of an employee benefit plan. An officer, employee, fiduciary, or agent is considered to be serving an employee benefit plan at the corporation's request if that person's duties to the corporation also impose duties on, or otherwise involve services by, that person to the plan or participants in, or beneficiaries of the plan. Unless the context requires otherwise, such terms include the estates or personal representatives of such persons.

(6) (a) "Official capacity" means:

(i) when used with respect to a director, the office of director in a corporation; and

(ii) when used with respect to a person other than a director, as contemplated in Section 16-10a-907,

the office in a corporation held by the officer or the employment, fiduciary, or agency relationship undertaken by him on behalf of the corporation.

(b) "Official capacity" does not include service for any other foreign or domestic corporation, other person, or employee benefit plan.

(7) "Party" includes an individual who was, is, or is threatened to be made a named defendant or respondent in a proceeding.

(8) "Proceeding" means any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative and whether formal or informal.

Section 76. Section 16-10a-1106 is amended to read:

16-10a-1106. Effect of merger or share exchange.

(1) When a merger takes effect:

(a) Every other corporation party to the merger merges into the surviving corporation and the separate existence of every corporation except the surviving corporation ceases.

(b) The title to all real estate and other property owned by each corporation party to the merger is transferred to and vested in the surviving corporation without reversion or impairment. The transfer to and vesting in the surviving corporation occurs by operation of law. No consent or approval of any other person is required in connection with the transfer or vesting unless consent or approval is specifically required in the event of merger by law or by express provision in any contract, agreement, decree, order, or other instrument to which any of the corporations so merged is a party or by which it is bound.

(c) The surviving corporation has all liabilities of each corporation party to the merger.

(d) A proceeding pending against any corporation party to the merger may be continued as if the merger did not occur, or the surviving corporation may be substituted in the proceeding for the corporation whose existence ceased.

(e) The articles of incorporation of the surviving corporation are amended to the extent provided in the plan of merger.

(f) The shares of each corporation party to the merger, which are to be converted into shares, obligations, or other securities of the surviving or any other corporation or into money or other property, are converted, and the former holders of the shares are entitled only to the rights provided in the articles of merger or to their rights under Part 13, Dissenters' Rights.

(2) When a share exchange takes effect, the shares of each acquired corporation are exchanged as provided in the plan, and the former holders of the shares are entitled only to the exchange rights provided in the articles of share exchange or to their rights under Part 13, Dissenters' Rights.

Section 77. Section 16-10a-1301 is amended to read:

16-10a-1301. Definitions.

For purposes of Part 13, Dissenters' Rights:

(1) "Beneficial shareholder" means the person who is a beneficial owner of shares held in a voting trust or by a nominee as the record shareholder.

(2) "Corporation" means the issuer of the shares held by a dissenter before the corporate action, or the surviving or acquiring corporation by merger or share exchange of that issuer.

(3) "Dissenter" means a shareholder who is entitled to dissent from corporate action under Section 16-10a-1302 and who exercises that right when and in the manner required by Sections 16-10a-1320 through 16-10a-1328.

(4) "Fair value" with respect to a dissenter's shares, means the value of the shares immediately before the effectuation of the corporate action to which the dissenter objects, excluding any appreciation or depreciation in anticipation of the corporate action.

(5) "Interest" means interest from the effective date of the corporate action until the date of payment, at the statutory rate set forth in Section 15-1-1, compounded annually.

(6) "Record shareholder" means the person in whose name shares are registered in the records of a corporation or the beneficial owner of shares that are registered in the name of a nominee to the extent the beneficial owner is recognized by the corporation as the shareholder as provided in Section 16-10a-723.

(7) "Shareholder" means the record shareholder or the beneficial shareholder.

Section 78. Section 16-10a-1405 is amended to read:

16-10a-1405. Effect of dissolution.

(1) A dissolved corporation continues its corporate existence but may not carry on any business except that appropriate to wind up and liquidate its business and affairs, including:

(a) collecting its assets;

(b) disposing of its properties that will not be distributed in kind to its shareholders;

(c) discharging or making provision for discharging its liabilities;

(d) distributing its remaining property among its shareholders according to their interests; and

(e) doing every other act necessary to wind up and liquidate its business and affairs.

(2) Dissolution of a corporation does not:

(a) transfer title to the corporation's property;

(b) prevent transfer of its shares or securities, although the authorization to dissolve may provide for closing the corporation's share transfer records;

(c) subject its directors or officers to standards of conduct different from those prescribed in Part 8, Directors and Officers;

(d) change:

(i) quorum or voting requirements for its board of directors or shareholders;

(ii) provisions for selection, resignation, or removal of its directors or officers or both; or

(iii) provisions for amending its bylaws or its articles of incorporation;

(e) prevent commencement of a proceeding by or against the corporation in its corporate name;

(f) abate or suspend a proceeding pending by or against the corporation on the effective date of dissolution; or

(g) terminate the authority of the registered agent of the corporation.

Section 79. Section 16-16-113 is amended to read:

16-16-113. Effect of organic rules.

(1) The relations between a limited cooperative association and its members are consensual. Unless required, limited, or prohibited by this chapter, the organic rules may provide for any matter concerning the relations among the members of the association and between the members and the association, the activities of the association, and the conduct of its activities.

(2) The matters referred to in Subsections (2)(a) through (i) may be varied only in the articles of organization. The articles may:

(a) state a term of existence for the association under Subsection 16-16-105(3);

(b) limit or eliminate the acceptance of new or additional members by the initial board of directors under Subsection 16-16-303(2);

(c) vary the limitations on the obligations and liability of members for association obligations under Section 16-16-504;

(d) require a notice of an annual members meeting to state a purpose of the meeting under Subsection 16-16-508(2);

(e) vary the board of directors meeting quorum under Subsection 16-16-815(1);

(f) vary the matters the board of directors may consider in making a decision under Section 16-16-820;

(g) specify causes of dissolution under Subsection 16-16-1202(1);

(h) delegate amendment of the bylaws to the board of directors pursuant to Subsection 16-16-405(6);

(i) provide for member approval of asset dispositions under ~~[Subsection]~~ Section 16-16-1501; and

(j) provide for any matters that may be contained in the organic rules, including those under Subsection (3).

(3) The matters referred to in Subsections (3)(a) through (y) may be varied only in the organic rules. The organic rules may:

(a) require more information to be maintained under Section 16-16-114 or provided to members under Subsection 16-16-505(11);

(b) provide restrictions on transactions between a member and an association under Section 16-16-115;

(c) provide for the percentage and manner of voting on amendments to the organic rules by district, class, or voting group under Subsection 16-16-404(1);

(d) provide for the percentage vote required to amend the bylaws concerning the admission of new members under Subsection 16-16-405(5)(e);

(e) provide for terms and conditions to become a member under Section 16-16-502;

(f) restrict the manner of conducting members meetings under Subsections 16-16-506(3) and 16-16-507(5);

(g) designate the presiding officer of members meetings under Subsections 16-16-506(5) and 16-16-507(7);

(h) require a statement of purposes in the annual meeting notice under Subsection 16-16-508(2);

(i) increase quorum requirements for members meetings under Section 16-16-510 and board of directors meetings under Section 16-16-815;

(j) allocate voting power among members, including patron members and investor members, and provide for the manner of member voting and action as permitted by Sections 16-16-511 through 16-16-517;

(k) authorize investor members and expand or restrict the transferability of members' interests to the extent provided in Sections 16-16-602 through 16-16-604;

(l) provide for enforcement of a marketing contract under Subsection 16-16-704(1);

(m) provide for qualification, election, terms, removal, filling vacancies, and member approval for compensation of directors in accordance with Sections 16-16-803 through 16-16-805, 16-16-807, 16-16-809, and 16-16-810;

(n) restrict the manner of conducting board meetings and taking action without a meeting under Sections 16-16-811 and 16-16-812;

(o) provide for frequency, location, notice and waivers of notice for board meetings under Sections 16-16-813 and 16-16-814;

(p) increase the percentage of votes necessary for board action under Subsection 16-16-816(2);

(q) provide for the creation of committees of the board of directors and matters related to the committees in accordance with Section 16-16-817;

(r) provide for officers and their appointment, designation, and authority under Section 16-16-822;

(s) provide for forms and values of contributions under Section 16-16-1002;

(t) provide for remedies for failure to make a contribution under Subsection 16-16-1003(2);

(u) provide for the allocation of profits and losses of the association, distributions, and the redemption or repurchase of distributed property other than money in accordance with Sections 16-16-1004 through 16-16-1007;

(v) specify when a member's dissociation is wrongful and the liability incurred by the dissociating member for damage to the association under Subsections 16-16-1101(2) and (3);

(w) provide the personal representative, or other legal representative of, a deceased member or a member adjudged incompetent with additional rights under Section 16-16-1103;

(x) increase the percentage of votes required for board of director approval of:

(i) a resolution to dissolve under Subsection 16-16-1205(1)(a);

(ii) a proposed amendment to the organic rules under Subsection 16-16-402(1)(a);

(iii) a plan of conversion under Subsection 16-16-1603(1);

(iv) a plan of merger under Subsection 16-16-1607(1); and

(v) a proposed disposition of assets under Subsection 16-16-1503(1); and

(y) vary the percentage of votes required for members' approval of:

(i) a resolution to dissolve under Section 16-16-1205;

(ii) an amendment to the organic rules under Section 16-16-405;

(iii) a plan of conversion under Section 16-16-1603;

(iv) a plan of merger under Section 16-16-1608; and

(v) a disposition of assets under Section 16-16-1504.

(4) The organic rules shall address members' contributions pursuant to Section 16-16-1001.

Section 80. Section 17-18a-405 is amended to read:

17-18a-405. Civil responsibilities of public prosecutors.

A public prosecutor may act as legal counsel to the state, county, government agency, or government entity regarding the following matters of civil law:

(1) bail bond forfeiture actions;

(2) actions for the forfeiture of property or contraband, as provided in Title 24, [~~Chapter 1, Utah Uniform Forfeiture Procedures Act~~] Forfeiture and Disposition of Property Act;

(3) civil actions incidental to or appropriate to supplement a public prosecutor's duties, including an injunction, a habeas corpus, a declaratory action, or an extraordinary writ action, in which the interests of the state may be affected; and

(4) any other civil duties related to criminal prosecution that are otherwise provided by statute.

Section 81. Section 17-23-17.5 is amended to read:

17-23-17.5. Corner perpetuation and filing

-- Definitions -- Establishment of corner

file -- Preservation of map records --

Filing fees -- Exemptions.

(1) As used in this section:

(a) "Accessory to a corner" means any exclusively identifiable physical object whose spatial relationship to the corner is recorded. Accessories may be bearing trees, bearing objects, monuments, reference monuments, line trees, pits, mounds, charcoal-filled bottles, steel or wooden stakes, or other objects.

(b) "Corner," unless otherwise qualified, means a property corner, a property controlling corner, a public land survey corner, or any combination of these.

(c) "Geographic coordinates" means mathematical values that designate a position on the earth relative to a given reference system. Coordinates shall be established pursuant to Title 57, Chapter 10, Utah Coordinate System.

(d) "Land surveyor" means a surveyor who is licensed to practice land surveying in this state in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act.

(e) "Monument" means an accessory that is presumed to occupy the exact position of a corner.

(f) "Property controlling corner" means a public land survey corner or any property corner which does not lie on a property line of the property in question, but which controls the location of one or more of the property corners of the property in question.

(g) "Property corner" means a geographic point of known geographic coordinates on the surface of the earth, and is on, a part of, and controls a property line.

(h) "Public land survey corner" means any corner actually established and monumented in an original survey or resurvey used as a basis of legal descriptions for issuing a patent for the land to a private person from the United States government.

(i) "Reference monument" means a special monument that does not occupy the same geographical position as the corner itself, but whose spatial relationship to the corner is recorded and which serves to witness the corner.

(2) (a) Any land surveyor making a boundary survey of lands within this state and utilizing a corner shall, within 90 days, complete, sign, and file with the county surveyor of the county where the corner is situated, a written record to be known as a corner file for every public land survey corner and accessory to the corner which is used as control in any survey by the surveyor, unless the corner and its accessories are already a matter of record in the county.

(b) Where reasonably possible, the corner file shall include the geographic coordinates of the corner.

(c) A surveyor may file a corner record as to any property corner, reference monument, or accessory to a corner.

(d) Corner records may be filed concerning corners used before the effective date of this section.

(3) The county surveyor of the county containing the corners shall have on record as part of the official files maps of each township within the county, the bearings and lengths of the connecting lines to government corners, and government corners looked for and not found.

(4) The county surveyor shall make these records available for public inspection at the county facilities during normal business hours.

(5) Filing fees for corner records shall be established by the county legislative body consistent with existing fees for similar services. All corners, monuments, and their accessories used prior to the effective date of this section shall be accepted and filed with the county surveyor without requiring the payment of the fees.

(6) When a corner record of a public land survey corner is required to be filed under the provisions of this section and the monument needs to be reconstructed or rehabilitated, the land surveyor shall contact the county surveyor in accordance with Section 17-23-14.

(7) A corner record may not be filed unless it is signed by a land surveyor.

(8) All filings relative to official cadastral surveys of the Bureau of Land Management of the United States of America performed by authorized personnel shall be exempt from filing fees.

Section 82. Section 17-23-19 is amended to read:

17-23-19. County permitted to establish Public Land Corner Preservation Fund -- Use of fund -- Fee schedule for filing maps.

(1) The county legislative body may establish by ordinance a fund to be known as the Public Land Corner Preservation Fund. Money generated for the fund shall be used only to pay expenses incurred and authorized by the county surveyor in the establishment, reestablishment, and maintenance of corners of government surveys pursuant to the powers and duties provided under Title 17, Chapter

23, County Surveyor, and Title 57, Chapter 10, Utah Coordinate System.

(2) The county legislative body may by ordinance establish a fee schedule for filing maps in the county surveyor's office of surveys filed under Section 17-23-17, subdivisions, road dedication plats, and other property plats. All money collected under this subsection shall be deposited with the county treasurer to be credited to the Public Land Corner Preservation Fund.

Section 83. Section 17-27a-205 is amended to read:

17-27a-205. Notice of public hearings and public meetings on adoption or modification of land use ordinance.

(1) Each county shall give:

(a) notice of the date, time, and place of the first public hearing to consider the adoption or modification of a land use ordinance; and

(b) notice of each public meeting on the subject.

(2) Each notice of a public hearing under Subsection (1)(a) shall be:

(a) mailed to each affected entity at least 10 calendar days before the public hearing;

(b) posted:

(i) in at least three public locations within the county; or

(ii) on the county's official website; and

(c) (i) published:

(A) in a newspaper of general circulation in the area at least 10 calendar days before the public hearing; and

(B) on the Utah Public Notice Website created in Section 63F-1-701, at least 10 calendar days before the public hearing; or

(ii) mailed at least 10 days before the public hearing to:

(A) each property owner whose land is directly affected by the land use ordinance change; and

(B) each adjacent property owner within the parameters specified by county ordinance.

(3) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours before the hearing and shall be posted:

(a) in at least three public locations within the county; or

(b) on the county's official website.

(4) (a) If a county plans to hold a public hearing in accordance with Section 17-27a-502 to adopt a zoning map or map amendment, the ~~[municipality]~~ county shall send a courtesy notice to each owner of private real property whose property is located entirely or partially within the proposed map at least 10 days prior to the scheduled day of the public hearing.

(b) The notice shall:

(i) identify with specificity each owner of record of real property that will be affected by the proposed zoning map or map amendments;

(ii) state the current zone in which the real property is located;

(iii) state the proposed new zone for the real property;

(iv) provide information regarding or a reference to the proposed regulations, prohibitions, and permitted uses that the property will be subject to if the zoning map or map amendment is adopted;

(v) state that the owner of real property may no later than 10 days after the day of the first public hearing file a written objection to the inclusion of the owner's property in the proposed zoning map or map amendment;

(vi) state the address where the property owner should file the protest;

(vii) notify the property owner that each written objection filed with the county will be provided to the [municipal] county legislative body; and

(viii) state the location, date, and time of the public hearing described in Section 17-27a-502.

(c) If a county mails notice to a property owner in accordance with Subsection (2)(c)(ii) for a public hearing on a zoning map or map amendment, the notice required in this Subsection (4) may be included in or part of the notice described in Subsection (2)(c)(ii) rather than sent separately.

Section 84. Section 17-27a-301 is amended to read:

17-27a-301. Ordinance establishing planning commission required -- Exception -- Ordinance requirements -- Township planning commission -- Compensation.

(1) (a) Except as provided in Subsection (1)(b), each county shall enact an ordinance establishing a countywide planning commission for the unincorporated areas of the county not within a township.

(b) Subsection (1)(a) does not apply if all of the county is included within any combination of:

(i) municipalities; and

(ii) townships with their own planning commissions.

(2) (a) The ordinance shall define:

(i) the number and terms of the members and, if the county chooses, alternate members;

(ii) the mode of appointment;

(iii) the procedures for filling vacancies and removal from office;

(iv) the authority of the planning commission;

(v) subject to Subsection (2)(b), the rules of order and procedure for use by the planning commission in a public meeting; and

(vi) other details relating to the organization and procedures of the planning commission.

(b) Subsection (2)(a)(v) does not affect the planning commission's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.

(3) (a) (i) If the county establishes a township planning commission, the county legislative body shall enact an ordinance that defines:

(A) appointment procedures;

(B) procedures for filling vacancies and removing members from office;

(C) subject to Subsection (3)(a)(ii), the rules of order and procedure for use by the township planning commission in a public meeting; and

(D) details relating to the organization and procedures of each township planning commission.

(ii) Subsection (3)(a)(i)(C) does not affect the township planning commission's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.

(b) The planning commission for each township shall consist of seven members who, except as provided in Subsection (4), shall be appointed by:

(i) in a county operating under a form of government in which the executive and legislative functions of the governing body are separated, the county executive with the advice and consent of the county legislative body; or

(ii) in a county operating under a form of government in which the executive and legislative functions of the governing body are not separated, the county legislative body.

(c) (i) Members shall serve four-year terms and until their successors are appointed or, as provided in Subsection (4), elected and qualified.

(ii) Notwithstanding the provisions of Subsection (3)(c)(i) and except as provided in Subsection (4), members of the first planning commissions shall be appointed so that, for each commission, the terms of at least one member and no more than two members expire each year.

(d) (i) Except as provided in Subsection (3)(d)(ii), each member of a township planning commission shall be a registered voter residing within the township.

(ii) (A) Notwithstanding Subsection (3)(d)(i), one member of a planning commission of a township reconstituted under Laws of Utah 1997, Chapter 389, or reinstated or established under Subsection 17-27a-306(1)(k)(i) may be an appointed member who is a registered voter residing outside the township if that member:

(I) is an owner of real property located within the township; and

(II) resides within the county in which the township is located.

(B) (I) Each appointee under Subsection (3)(d)(ii)(A) shall be chosen by the township planning commission from a list of three persons submitted by the county legislative body.

(II) If the township planning commission has not notified the county legislative body of its choice under Subsection (3)(d)(ii)(B)(I) within 60 days of the township planning commission's receipt of the list, the county legislative body may appoint one of the three persons on the list or a registered voter residing within the township as a member of the township planning commission.

(4) (a) The legislative body of each county in which a township reconstituted under Laws of Utah 1997, Chapter 389, or reinstated or established under Subsection 17-27a-306(1)(~~e~~)(k)(i) is located shall on or before January 1, 2012, enact an ordinance that provides for the election of at least three members of the planning commission of that township.

(b) (i) Beginning with the 2012 general election, the election of planning commission members under Subsection (4)(a) shall coincide with the election of other county officers during even-numbered years.

(ii) Approximately half the elected planning commission members shall be elected every four years during elections held on even-numbered years, and the remaining elected members shall be elected every four years on alternating even-numbered years.

(c) If no person files a declaration of candidacy in accordance with Section 20A-9-202 for an open township planning commission member position:

(i) the position may be appointed in accordance with Subsection (3)(b); and

(ii) a person appointed under Subsection (4)(c)(i) may not serve for a period of time that exceeds the elected term for which there was no candidate.

(5) (a) A legislative body described in Subsection (4)(a) shall on or before January 1, 2012, enact an ordinance that:

(i) designates the seats to be elected; and

(ii) subject to Subsection (6)(b), appoints a member of the planning and zoning board of the former township, established under Laws of Utah 1996, Chapter 308, as a member of the planning commission of the reconstituted or reinstated township.

(b) A member appointed under Subsection (5)(a) is considered an elected member.

(6) (a) Except as provided in Subsection (6)(b), the term of each member appointed under Subsection (5)(a) shall continue until the time that the member's term as an elected member of the former township planning and zoning board would have expired.

(b) (i) Notwithstanding Subsection (6)(a), the county legislative body may adjust the terms of the members appointed under Subsection (5)(a) so that

the terms of those members coincide with the schedule under Subsection (4)(b) for elected members.

(ii) Subject to Subsection (6)(b)(iii), the legislative body of a county in which a township reconstituted under Laws of Utah 1997, Chapter 389, or reinstated or established under Subsection 17-27a-306(1)(~~e~~)(k)(i) is located may enact an ordinance allowing each appointed member of the planning and zoning board of the former township, established under Laws of Utah 1996, Chapter 308, to continue to hold office as a member of the planning commission of the reconstituted or reinstated township until the time that the member's term as a member of the former township's planning and zoning board would have expired.

(iii) If a planning commission of a township reconstituted under Laws of Utah 1997, Chapter 389, or reinstated or established under Subsection 17-27a-306(1)(~~e~~)(k)(i) has more than one appointed member who resides outside the township, the legislative body of the county in which that township is located shall, within 15 days of the effective date of this Subsection (6)(b)(iii), dismiss all but one of the appointed members who reside outside the township, and a new member shall be appointed under Subsection (3)(b) to fill the position of each dismissed member.

(7) (a) Except as provided in Subsection (7)(b), upon the appointment or election of all members of a township planning commission, each township planning commission under this section shall begin to exercise the powers and perform the duties provided in Section 17-27a-302 with respect to all matters then pending that previously had been under the jurisdiction of the countywide planning commission or township planning and zoning board.

(b) Notwithstanding Subsection (7)(a), if the members of a former township planning and zoning board continue to hold office as members of the planning commission of the township planning district under an ordinance enacted under Subsection (5)(a), the township planning commission shall immediately begin to exercise the powers and perform the duties provided in Section 17-27a-302 with respect to all matters then pending that had previously been under the jurisdiction of the township planning and zoning board.

(8) The legislative body may fix per diem compensation for the members of the planning commission, based on necessary and reasonable expenses and on meetings actually attended.

Section 85. Section 17-27a-512 is amended to read:

17-27a-512. County's acquisition of billboard by eminent domain -- Removal without providing compensation -- Limit on allowing nonconforming billboard to be rebuilt or replaced -- Validity of county permit after issuance of state permit.

(1) As used in this section:

(a) "Clearly visible" means capable of being read without obstruction by an occupant of a vehicle traveling on a street or highway within the visibility area.

(b) "Highest allowable height" means:

(i) if the height allowed by the county, by ordinance or consent, is higher than the height under Subsection (1)(b)(ii), the height allowed by the county; or

(ii) (A) for a noninterstate billboard:

(I) if the height of the previous use or structure is 45 feet or higher, the height of the previous use or structure; or

(II) if the height of the previous use or structure is less than 45 feet, the height of the previous use or structure or the height to make the entire advertising content of the billboard clearly visible, whichever is higher, but no higher than 45 feet; and

(B) for an interstate billboard:

(I) if the height of the previous use or structure is at or above the interstate height, the height of the previous use or structure; or

(II) if the height of the previous use or structure is less than the interstate height, the height of the previous use or structure or the height to make the entire advertising content of the billboard clearly visible, whichever is higher, but no higher than the interstate height.

(c) "Interstate billboard" means a billboard that is intended to be viewed from a highway that is an interstate.

(d) "Interstate height" means a height that is the higher of:

(i) 65 feet above the ground; and

(ii) 25 feet above the grade of the interstate.

(e) "Noninterstate billboard" means a billboard that is intended to be viewed from a street or highway that is not an interstate.

(f) "Visibility area" means the area on a street or highway that is:

(i) defined at one end by a line extending from the base of the billboard across all lanes of traffic of the street or highway in a plane that is perpendicular to the street or highway; and

(ii) defined on the other end by a line extending across all lanes of traffic of the street or highway in a plane that is:

(A) perpendicular to the street or highway; and

(B) (I) for an interstate billboard, 500 feet from the base of the billboard; or

(II) for a noninterstate billboard, 300 feet from the base of the billboard.

(2) (a) A county is considered to have initiated the acquisition of a billboard structure by eminent

domain if the county prevents a billboard owner from:

(i) rebuilding, maintaining, repairing, or restoring a billboard structure that is damaged by casualty, an act of God, or vandalism;

(ii) except as provided in Subsection (2)(c), relocating or rebuilding a billboard structure, or taking other measures, to correct a mistake in the placement or erection of a billboard for which the county has issued a permit, if the proposed relocation, rebuilding, or other measure is consistent with the intent of that permit;

(iii) structurally modifying or upgrading a billboard;

(iv) relocating a billboard into any commercial, industrial, or manufacturing zone within the unincorporated area of the county, if:

(A) the relocated billboard is:

(I) within 5,280 feet of its previous location; and

(II) no closer than:

(Aa) 300 feet from an off-premise sign existing on the same side of the street or highway; or

(Bb) if the street or highway is an interstate or limited access highway that is subject to Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, the distance allowed under that act between the relocated billboard and an off-premise sign existing on the same side of the interstate or limited access highway; and

(B) (I) the billboard owner has submitted a written request under Subsection 17-27a-510(3)(c); and

(II) the county and billboard owner are unable to agree, within the time provided in Subsection 17-27a-510(3)(c), to a mutually acceptable location; or

(v) making the following modifications, as the billboard owner determines, to a billboard that is structurally modified or upgraded under Subsection (2)(a)(iii) or relocated under Subsection (2)(a)(iv):

(A) erecting the billboard:

(I) to the highest allowable height; and

(II) as the owner determines, to an angle that makes the entire advertising content of the billboard clearly visible; and

(B) installing a sign face on the billboard that is at least the same size as, but no larger than, the sign face on the billboard before its relocation.

(b) A modification under Subsection ~~[(1)]~~ (2)(a)(v) shall comply with Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, to the extent applicable.

(c) A county's denial of a billboard owner's request to relocate or rebuild a billboard structure, or to take other measures, in order to correct a mistake in the placement or erection of a billboard does not constitute the initiation of acquisition by eminent

domain under Subsection (2)(a) if the mistake in placement or erection of the billboard is determined by clear and convincing evidence to have resulted from an intentionally false or misleading statement:

(i) by the billboard applicant in the application; and

(ii) regarding the placement or erection of the billboard.

(d) If a county is considered to have initiated the acquisition of a billboard structure by eminent domain under Subsection (1)(a) or any other provision of applicable law, the county shall pay just compensation to the billboard owner in an amount that is:

(i) the value of the existing billboard at a fair market capitalization rate, based on actual annual revenue, less any annual rent expense;

(ii) the value of any other right associated with the billboard structure that is acquired;

(iii) the cost of the sign structure; and

(iv) damage to the economic unit described in Subsection 72-7-510(3)(b), of which the billboard owner's interest is a part.

(3) Notwithstanding Subsection (2) and Section 17-27a-511, a county may remove a billboard without providing compensation if:

(a) the county determines:

(i) by clear and convincing evidence that the applicant for a permit intentionally made a false or misleading statement in the applicant's application regarding the placement or erection of the billboard; or

(ii) by substantial evidence that the billboard:

(A) is structurally unsafe;

(B) is in an unreasonable state of repair; or

(C) has been abandoned for at least 12 months;

(b) the county notifies the owner in writing that the owner's billboard meets one or more of the conditions listed in Subsections (3)(a)(i) and (ii);

(c) the owner fails to remedy the condition or conditions within:

(i) except as provided in Subsection (3)(c)(ii), 90 days following the billboard owner's receipt of written notice under Subsection (3)(b); or

(ii) if the condition forming the basis of the county's intention to remove the billboard is that it is structurally unsafe, 10 business days, or a longer period if necessary because of a natural disaster, following the billboard owner's receipt of written notice under Subsection (3)(b); and

(d) following the expiration of the applicable period under Subsection (3)(c) and after providing the owner with reasonable notice of proceedings and an opportunity for a hearing, the county finds:

(i) by clear and convincing evidence, that the applicant for a permit intentionally made a false or misleading statement in the application regarding the placement or erection of the billboard; or

(ii) by substantial evidence that the billboard is structurally unsafe, is in an unreasonable state of repair, or has been abandoned for at least 12 months.

(4) A county may not allow a nonconforming billboard to be rebuilt or replaced by anyone other than its owner or the owner acting through its contractors.

(5) A permit issued, extended, or renewed by a county for a billboard remains valid from the time the county issues, extends, or renews the permit until 180 days after a required state permit is issued for the billboard if:

(a) the billboard requires a state permit; and

(b) an application for the state permit is filed within 30 days after the county issues, extends, or renews a permit for the billboard.

Section 86. Section 17-36-3 is amended to read:

17-36-3. Definitions.

As used in this chapter:

(1) "Accrual basis of accounting" means a method where revenues are recorded when earned and expenditures recorded when they become liabilities notwithstanding that the receipt of the revenue or payment of the expenditure may take place in another accounting period.

(2) "Appropriation" means an allocation of money for a specific purpose.

(3) (a) "Budget" means a plan for financial operations for a fiscal period, embodying estimates for proposed expenditures for given purposes and the means of financing the expenditures.

(b) "Budget" may refer to the budget of a fund for which a budget is required by law, or collectively to the budgets for all those funds.

(4) "Budgetary fund" means a fund for which a budget is required, such as those described in Section 17-36-8.

(5) "Budget officer" means:

(a) for a county of the second, third, fourth, fifth, or sixth class, the county auditor, county clerk, or county executive as provided in Subsection 17-19-19(1); or

(b) for a county of the first class, a person described in Section 17-19a-203.

(6) "Budget period" means the fiscal period for which a budget is prepared.

(7) "Check" means an order in a specific amount drawn upon the depository by any authorized officer in accordance with Section 17-19-3, 17-19a-301, 17-24-1, or [17-24-1.1] 17-24-4, as applicable.

(8) "Countywide service" means a service provided in both incorporated and unincorporated areas of a county.

(9) "Current period" means the fiscal period in which a budget is prepared and adopted.

(10) "Department" means any functional unit within a fund which carries on a specific activity.

(11) "Encumbrance system" means a method of budgetary control where part of an appropriation is reserved to cover a specific expenditure by charging obligations, such as purchase orders, contracts, or salary commitments to an appropriation account. An expenditure ceases to be an encumbrance when paid or when the actual liability is entered in the books of account.

(12) "Estimated revenue" means any revenue estimated to be received during the budget period in any fund for which a budget is prepared.

(13) "Fiscal period" means the annual or biennial period for recording county fiscal operations.

(14) "Fund" means an independent fiscal and accounting entity comprised of a sum of money or other resources segregated for a specific purpose or objective.

(15) "Fund balance" means the excess of the assets over liabilities, reserves, and contributions, as reflected by its books of account.

(16) "Fund deficit" means the excess of liabilities, reserves, and contributions over its assets, as reflected by its books of account.

(17) "General Fund" means the fund used to account for all receipts, disbursements, assets, liabilities, reserves, fund balances, revenues, and expenditures not required to be accounted for in other funds.

(18) "Interfund loan" means a loan of cash from one fund to another, subject to future repayment; but it does not constitute an expenditure or a use of retained earnings, fund balance, or unappropriated surplus of the lending fund.

(19) "Last completed fiscal period" means the fiscal period next preceding the current period.

(20) "Modified accrual basis of accounting" means a method under which expenditures other than accrued interest on general long-term debt are recorded at the time liabilities are incurred and revenues are recorded when they become measurable and available to finance expenditures of the current period.

(21) "Municipal capital project" means the acquisition, construction, or improvement of capital assets that facilitate providing municipal service.

(22) "Municipal service" means a service not provided on a countywide basis and not accounted for in an enterprise fund, and includes police patrol, fire protection, culinary or irrigation water retail service, water conservation, local parks, sewers, sewage treatment and disposal, cemeteries, garbage and refuse collection, street lighting,

airports, planning and zoning, local streets and roads, curb, gutter, and sidewalk maintenance, and ambulance service.

(23) "Retained earnings" means that part of the net earnings retained by an enterprise or internal service fund which is not segregated or reserved for any specific purpose.

(24) "Special fund" means any fund other than the General Fund, such as those described in Section 17-36-6.

(25) "Unappropriated surplus" means that part of a fund which is not appropriated for an ensuing budget period.

(26) "Warrant" means an order in a specific amount drawn upon the treasurer by the auditor.

Section 87. Section 17-36-39 is amended to read:

17-36-39. Independent audits.

Independent audits are required for all counties as provided in Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

Section 88. Section 17-53-301 is amended to read:

17-53-301. General powers, duties, and functions of county executive.

(1) The elected county executive is the chief executive officer of the county.

(2) Except as expressly provided otherwise in statute and except as contrary to the powers, duties, and functions of other county officers expressly provided for in [Chapters 16, 17, 18, 19, 20, 21, 22, 23, and 24] Chapter 16, County Officers; Chapter 17, County Assessor; Chapter 18a, Powers and Duties of County and District Attorney; Chapter 19, County Auditor; Chapter 19a, County Auditor; Chapter 20, County Clerk; Chapter 21, Recorder; Chapter 22, Sheriff; Chapter 23, County Surveyor; and Chapter 24, County Treasurer, each county executive shall exercise all executive powers, have all executive duties, and perform all executive functions of the county, including those enumerated in this part.

(3) A county executive may take any action required by law and necessary to the full discharge of the executive's duties, even though the action is not expressly authorized in statute.

Section 89. Section 17B-1-121 is amended to read:

17B-1-121. Limit on fees -- Requirement to itemize and account for fees -- Appeals.

(1) A local district may not impose or collect:

(a) an application fee that exceeds the reasonable cost of processing the application; or

(b) an inspection or review fee that exceeds the reasonable cost of performing an inspection or review.

(2) (a) Upon request by a service applicant who is charged a fee or an owner of residential property

upon which a fee is imposed, a local district shall provide a statement of each itemized fee and calculation method for each fee.

(b) If an applicant who is charged a fee or an owner of residential property upon which a fee is imposed submits a request for a statement of each itemized fee no later than 30 days after the day on which the applicant or owner pays the fee, the local district shall, no later than 10 days after the day on which the request is received, provide or commit to provide within a specific time:

(i) for each fee, any studies, reports, or methods relied upon by the local district to create the calculation method described in Subsection (2)(a);

(ii) an accounting of each fee paid;

(iii) how each fee will be distributed by the local district; and

(iv) information on filing a fee appeal through the process described in Subsection (2)(c).

(c) (i) A local district shall establish an impartial fee appeal process to determine whether a fee reflects only the reasonable estimated cost of delivering the service for which the fee was paid.

(ii) A party to a fee appeal described in Subsection (2)(c)(i) may petition for judicial review of the local district's final decision.

(3) A local district may not impose on or collect from a public agency a fee associated with the public agency's development of the public agency's land other than:

(a) subject to Subsection (1), a hookup fee; or

(b) an impact fee, as defined in Section ~~[11-36-102]~~ 11-36a-102 and subject to Section ~~[11-36-202]~~ ~~11-36a-402~~, for a public facility listed in Subsection ~~[11-36-102(13)]~~ 11-36a-102(16)(a), (b), (c), (d), (e), or (g).

Section 90. Section 17B-1-512 is amended to read:

17B-1-512. Filing of notice and plat -- Recording requirements -- Contest period -- Judicial review.

(1) (a) Within the time specified in Subsection (1)(b), the board of trustees shall file with the lieutenant governor:

(i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5.

(b) The board of trustees shall file the documents listed in Subsection (1)(a):

(i) within 10 days after adopting a resolution approving a withdrawal under Section 17B-1-510; and

(ii) as soon as practicable after receiving a notice under Subsection 10-2-425(2) of an automatic

withdrawal under Subsection 17B-1-502(2), after receiving a copy of the municipal legislative body's resolution approving an automatic withdrawal under Subsection 17B-1-502(3)(a), or after receiving notice of a withdrawal of a municipality from a local district under Section ~~[17B-2-505]~~ 17B-1-502.

(c) Upon the lieutenant governor's issuance of a certificate of withdrawal under Section 67-1a-6.5, the board shall:

(i) if the withdrawn area is located within the boundary of a single county, submit to the recorder of that county:

(A) the original;

(I) notice of an impending boundary action;

(II) certificate of withdrawal; and

(III) approved final local entity plat; and

(B) if applicable, a certified copy of the resolution or notice referred to in Subsection (1)(b); or

(ii) if the withdrawn area is located within the boundaries of more than a single county, submit:

(A) the original of the documents listed in Subsections (1)(c)(i)(A)(I), (II), and (III) and, if applicable, a certified copy of the resolution or notice referred to in Subsection (1)(b) to one of those counties; and

(B) a certified copy of the documents listed in Subsections (1)(c)(i)(A)(I), (II), and (III) and a certified copy of the resolution or notice referred to in Subsection (1)(b) to each other county.

(2) (a) Upon the lieutenant governor's issuance of the certificate of withdrawal under Section 67-1a-6.5 for a withdrawal under Section 17B-1-510, for an automatic withdrawal under Subsection 17B-1-502(3), or for the withdrawal of a municipality from a local district under Section 17B-1-505, the withdrawal shall be effective, subject to the conditions of the withdrawal resolution, if applicable.

(b) An automatic withdrawal under Subsection 17B-1-502(3) shall be effective upon the lieutenant governor's issuance of a certificate of withdrawal under Section 67-1a-6.5.

(3) (a) The local district may provide for the publication of any resolution approving or denying the withdrawal of an area:

(i) in a newspaper of general circulation in the area proposed for withdrawal; and

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

(b) In lieu of publishing the entire resolution, the local district may publish a notice of withdrawal or denial of withdrawal, containing:

(i) the name of the local district;

(ii) a description of the area proposed for withdrawal;

(iii) a brief explanation of the grounds on which the board of trustees determined to approve or deny the withdrawal; and

(iv) the times and place where a copy of the resolution may be examined, which shall be at the place of business of the local district, identified in the notice, during regular business hours of the local district as described in the notice and for a period of at least 30 days after the publication of the notice.

(4) Any sponsor of the petition or receiving entity may contest the board's decision to deny a withdrawal of an area from the local district by submitting a request, within 60 days after the resolution is adopted under Section 17B-1-510, to the board of trustees, suggesting terms or conditions to mitigate or eliminate the conditions upon which the board of trustees based its decision to deny the withdrawal.

(5) Within 60 days after the request under Subsection (4) is submitted to the board of trustees, the board may consider the suggestions for mitigation and adopt a resolution approving or denying the request in the same manner as provided in Section 17B-1-510 with respect to the original resolution denying the withdrawal and file a notice of the action as provided in Subsection (1).

(6) (a) Any person in interest may seek judicial review of:

(i) the board of trustees' decision to withdraw an area from the local district;

(ii) the terms and conditions of a withdrawal; or

(iii) the board's decision to deny a withdrawal.

(b) Judicial review under this Subsection (6) shall be initiated by filing an action in the district court in the county in which a majority of the area proposed to be withdrawn is located:

(i) if the resolution approving or denying the withdrawal is published under Subsection (3), within 60 days after the publication or after the board of trustees' denial of the request under Subsection (5);

(ii) if the resolution is not published pursuant to Subsection (3), within 60 days after the resolution approving or denying the withdrawal is adopted; or

(iii) if a request is submitted to the board of trustees of a local district under Subsection (4), and the board adopts a resolution under Subsection (5), within 60 days after the board adopts a resolution under Subsection (5) unless the resolution is published under Subsection (3), in which event the action shall be filed within 60 days after the publication.

(c) A court in which an action is filed under this Subsection (6) may not overturn, in whole or in part, the board of trustees' decision to approve or reject the withdrawal unless:

(i) the court finds the board of trustees' decision to be arbitrary or capricious; or

(ii) the court finds that the board materially failed to follow the procedures set forth in this part.

(d) A court may award costs and expenses of an action under this section, including reasonable attorney fees, to the prevailing party.

(7) After the applicable contest period under Subsection (4) or (6), no person may contest the board of trustees' approval or denial of withdrawal for any cause.

Section 91. Section 17B-2a-902 is amended to read:

17B-2a-902. Provisions applicable to service areas.

(1) Each service area is governed by and has the powers stated in:

(a) this part; and

(b) except as provided in Subsection (5), Chapter 1, Provisions Applicable to All Local Districts.

(2) This part applies only to service areas.

(3) A service area is not subject to the provisions of any other part of this chapter.

(4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Local Districts, and a provision in this part, the provision in this part governs.

(5) (a) Except as provided in Subsection (5)(b), on or after December 31, 2012, a service area may not charge or collect a fee under Section 17B-1-643 for:

(i) law enforcement services;

(ii) fire protection services;

(iii) 911 ambulance or paramedic services as defined in Section 26-8a-102 that are provided under a contract in accordance with Section 26-8a-405.2; or

(iv) emergency services.

(b) Subsection (5)(a) does not apply to:

(i) a fee charged or collected on an individual basis rather than a general basis;

(ii) a non-911 service as defined in Section 26-8a-102 that is provided under a contract in accordance with Section 26-8a-405.2;

(iii) an impact fee charged or collected for a public safety facility as defined in Section [11-36-102] 11-36a-102; or

(iv) a service area that includes within the boundary of the service area a county of the fifth or sixth class.

Section 92. Section 17B-2a-905 is amended to read:

17B-2a-905. Service area board of trustees.

(1) (a) Except as provided in Subsection (2) or (3):

(i) the initial board of trustees of a service area located entirely within the unincorporated area of a single county may, as stated in the petition or resolution that initiated the process of creating the service area:

(A) consist of the county legislative body;

(B) be appointed, as provided in Section 17B-1-304; or

(C) be elected, as provided in Section 17B-1-306;

(ii) if the board of trustees of a service area consists of the county legislative body, the board may adopt a resolution providing for future board members to be appointed, as provided in Section 17B-1-304, or elected, as provided in Section 17B-1-306; and

(iii) members of the board of trustees of a service area shall be elected, as provided in Section 17B-1-306, if:

(A) the service area is not entirely within the unincorporated area of a single county;

(B) a petition is filed with the board of trustees requesting that board members be elected, and the petition is signed by registered voters within the service area equal in number to at least 10% of the number of registered voters within the service area who voted at the last gubernatorial election; or

(C) an election is held to authorize the service area's issuance of bonds.

(b) If members of the board of trustees of a service area are required to be elected under Subsection (1)(a)(iii)(C) because of a bond election:

(i) board members shall be elected in conjunction with the bond election;

(ii) the board of trustees shall:

(A) establish a process to enable potential candidates to file a declaration of candidacy sufficiently in advance of the election; and

(B) provide a ballot for the election of board members separate from the bond ballot; and

(iii) except as provided in this Subsection (1)(b), the election shall be held as provided in Section 17B-1-306.

(2) (a) This Subsection (2) applies to a service area created on or after May 5, 2003, if:

(i) the service area was created to provide:

(A) fire protection, paramedic, and emergency services; or

(B) law enforcement service;

(ii) in the creation of the service area, an election was not required under Subsection 17B-1-214(3)(d); and

(iii) the service area is not a service area described in Subsection (3).

(b) (i) Each county whose unincorporated area is included within a service area described in Subsection (2)(a), whether in conjunction with the creation of the service area or by later annexation, shall appoint three members to the board of trustees.

(ii) Each municipality whose area is included within a service area described in Subsection (2)(a), whether in conjunction with the creation of the service area or by later annexation, shall appoint one member to the board of trustees.

(iii) Each member appointed by a county or municipality under Subsection (2)(b)(i) or (ii) shall be an elected official of the appointing county or municipality, respectively.

(c) Notwithstanding Subsection 17B-1-302(2), the number of members of a board of trustees of a service area described in Subsection (2)(a) shall be the number resulting from application of Subsection (2)(b).

(3) (a) This Subsection (3) applies to a service area created on or after May 14, 2013, if:

(i) the service area was created to provide fire protection, paramedic, and emergency services;

(ii) in the creation of the service area, an election was not required under Subsection [17B-1-213] 17B-1-214(3)(d); and

(iii) each municipality whose area is included within the service area or county whose unincorporated area, whether in whole or in part, is included within a service area is a party to an agreement:

(A) entered into in accordance with Title 11, Chapter 13, Interlocal Cooperation Act with all the other municipalities or counties whose area is included in the service area;

(B) to provide the services described in Subsection (3)(a)(i); and

(C) at the time a resolution proposing the creation of the service area is adopted by each applicable municipal or county legislative body in accordance with Subsection 17B-1-203(1)(d).

(b) (i) Each county whose unincorporated area, whether in whole or in part, is included within a service area described in Subsection (3)(a), whether in conjunction with the creation of the service area or by later annexation, shall appoint one member to the board of trustees.

(ii) Each municipality whose area is included within a service area described in Subsection (3)(a), whether in conjunction with the creation of the service area or by later annexation, shall appoint one member to the board of trustees.

(iii) Each member appointed by a county or municipality under Subsection (3)(b)(i) or (ii) shall be an elected official of the appointing county or municipality, respectively.

(iv) A vote by a member of the board of trustees may be weighted or proportional.

(c) Notwithstanding Subsection 17B-1-302(2), the number of members of a board of trustees of a service area described in Subsection (3)(a) shall be the number resulting from the application of Subsection (3)(b).

Section 93. Section 17C-4-202 is amended to read:

17C-4-202. Resolution or interlocal agreement to provide funds for the

community development project area plan -- Notice -- Effective date of resolution or interlocal agreement -- Time to contest resolution or interlocal agreement -- Availability of resolution or interlocal agreement.

(1) The approval and adoption of each resolution or interlocal agreement under Subsection 17C-4-201(2) shall be in an open and public meeting.

(2) (a) Upon the adoption of a resolution or interlocal agreement under Section 17C-4-201, the agency shall provide notice as provided in Subsection (2)(b) by:

(i) (A) publishing or causing to be published a notice in a newspaper of general circulation within the agency's boundaries; or

(B) if there is no newspaper of general circulation within the agency's boundaries, causing a notice to be posted in at least three public places within the agency's boundaries; and

(ii) publishing or causing to be published a notice on the Utah Public Notice Website created in Section 63F-1-701.

(b) Each notice under Subsection (2)(a) shall:

(i) set forth a summary of the resolution or interlocal agreement; and

(ii) include a statement that the resolution or interlocal agreement is available for general public inspection and the hours of inspection.

(3) The resolution or interlocal agreement shall become effective on the date of:

(a) if notice was published under Subsection (2)(a)(i)(A) or (2)(a)(ii), publication of the notice; or

(b) if notice was posted under Subsection (2)(a)(i)(B), posting of the notice.

(4) (a) For a period of 30 days after the effective date of the resolution or interlocal agreement under Subsection (3), any person in interest may contest the resolution or interlocal agreement or the procedure used to adopt the resolution or interlocal agreement if the resolution or interlocal agreement or procedure fails to comply with applicable statutory requirements.

(b) After the 30-day period under Subsection (4)(a) expires, a person may not, for any cause, contest:

(i) the resolution or interlocal agreement;

(ii) a payment to the agency under the resolution or interlocal agreement; or

(iii) the agency's use of tax increment under the resolution or interlocal agreement.

(5) Each agency that is to receive funds under a resolution or interlocal agreement under Section 17C-4-201 and each taxing entity or public entity that approves a resolution or enters into an interlocal agreement under Section 17C-4-201

shall make the resolution or interlocal agreement, as the case may be, available at its offices to the general public for inspection and copying during normal business hours.

Section 94. Section 17D-3-105 is amended to read:

17D-3-105. Conservation districts subject to other provisions.

(1) A conservation district is, to the same extent as if it were a local district, subject to and governed by:

(a) Sections 17B-1-105, 17B-1-107, 17B-1-108, [~~17B-1-109,~~] 17B-1-110, 17B-1-112, 17B-1-113, 17B-1-116, 17B-1-121, 17B-1-307, 17B-1-311, 17B-1-313, and 17B-1-314;

(b) Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts;

(c) Title 17B, Chapter 1, Part 7, Local District Budgets and Audit Reports;

(d) Title 17B, Chapter 1, Part 8, Local District Personnel Management; and

(e) Title 17B, Chapter 1, Part 9, Collection of Service Fees and Charges.

(2) For purposes of applying the provisions listed in Subsection (1) to a conservation district, each reference in those provisions to the local district board of trustees means the board of supervisors described in Section 17D-3-301.

Section 95. Section 20A-1-306 is amended to read:

20A-1-306. Electronic signatures prohibited.

Notwithstanding Title 46, Chapter 4, Uniform Electronic Transactions Act, and Subsections 68-3-12(1)(e) and 68-3-12.5[(24)](26) and [(33)](35), an electronic signature may not be used to sign a petition to:

(1) qualify a ballot proposition for the ballot under Chapter 7, Issues Submitted to the Voters;

(2) organize and register a political party under Chapter 8, Political Party Formation and Procedures; or

(3) qualify a candidate for the ballot under Chapter 9, Candidate Qualifications and Nominating Procedures.

Section 96. Section 26-28-112 is amended to read:

26-28-112. Search and notification.

(1) The following persons shall make a reasonable search of an individual who the person reasonably believes is dead or near death for a document of gift or other information identifying the individual as a donor or as an individual who made a refusal:

(a) a law enforcement officer, firefighter, paramedic, or other emergency rescuer finding the individual;

(b) if no other source of the information is immediately available, a hospital, as soon as practical after the individual's arrival at the hospital; and

(c) a law enforcement officer, firefighter, emergency medical services provider, or other emergency rescuer who finds an individual who is deceased at the scene of a motor vehicle accident, when the deceased individual is transported from the scene of the accident to a funeral establishment licensed under Title 58, Chapter 9, Funeral Services Licensing Act:

(i) the law enforcement officer, firefighter, emergency medical services provider, or other emergency rescuer shall as soon as reasonably possible, notify the appropriate organ procurement organization, tissue bank, or eye bank of:

(A) the identity of the deceased individual, if known;

(B) information, if known, pertaining to the deceased individual's legal next-of-kin in accordance with Section 26-28-109; and

(C) the name and location of the funeral establishment which received custody of and transported the deceased individual; and

(ii) the funeral establishment receiving custody of the deceased individual under this Subsection (1)(c) may not embalm the body of the deceased individual until:

(A) the funeral establishment receives notice from the organ procurement organization, tissue bank, or eye bank that the readily available persons listed as having priority in Section 26-28-109 have been informed by the organ procurement organization of the option to make or refuse to make an anatomical gift in accordance with Section ~~[26-28-4]~~ 26-28-104, with reasonable discretion and sensitivity appropriate to the circumstances of the family;

(B) in accordance with federal law, prior approval for embalming has been obtained from a family member or other authorized person; and

(C) the period of time in which embalming is prohibited under Subsection (1)(c)(ii) may not exceed 24 hours after death.

(2) If a document of gift or a refusal to make an anatomical gift is located by the search required by Subsection (1)(a) and the individual or deceased individual to whom it relates is taken to a hospital, the person responsible for conducting the search shall send the document of gift or refusal to the hospital.

(3) A person is not subject to criminal or civil liability for failing to discharge the duties imposed by this section but may be subject to administrative sanctions.

Section 97. Section 36-23-109 is amended to read:

36-23-109. Review of state regulation of occupations and professions.

Before the annual written report described in Section ~~[36-23-107]~~ 36-23-106 is submitted for 2013, the committee shall study potentially less restrictive alternatives to licensing for the regulation of occupations and professions, including registration and certification if appropriate, that would better avoid unnecessary regulation and intrusion upon individual liberties by the state, while still protecting the health and safety of the public.

Section 98. Section 38-8-3.5 is amended to read:

38-8-3.5. Right to tow certain vehicles subject to lien.

(1) If the property subject to a lien described in Section 38-3-2 is a vehicle, the occupant is in default for a continuous 60-day period, and the owner chose not to sell the vehicle under Section 38-8-3, the owner may have the vehicle towed from the ~~[self-storage]~~ self-service storage facility by an independent towing carrier that is certified by the Department of Transportation as described in Section 72-9-602.

(2) Within one day after the day on which a vehicle is towed under Subsection (1), the owner shall send written notice by certified mail, postage prepaid, to the occupant's last known address that states:

(a) the date the vehicle was towed; and

(b) the address and telephone number of the person that towed the vehicle.

(3) An owner that has a vehicle towed under Subsection (1) is not liable for any damage that occurs to the vehicle after the independent towing carrier takes possession of the vehicle.

Section 99. Section 39-6-36 is amended to read:

39-6-36. Desertion or absence without leave and other offenses -- Time limit on trial -- Tolling of time limits.

(1) A person charged with desertion or absence without leave may be tried and punished at any time, within four years after the preferral of charges.

(2) Except under Subsection (1), a person charged with any offense is not liable to be tried by a military court or punished under Section ~~[39-6-13]~~ 39-6-14 if the offense was committed more than two years before the receipt of sworn charges and specifications by an officer exercising jurisdiction as a military court convening authority.

(3) Periods when the accused was outside the state's jurisdiction to apprehend him, or when he is in the custody of civilian authorities, are excluded in computing limitations of time under this section.

Section 100. Section 48-1d-1305 is amended to read:

48-1d-1305. Limit of one profession.

(1) A professional services partnership organized to provide a professional service under this part may provide only:

- (a) one specific type of professional service; and
- (b) services ancillary to the professional service described in Subsection (1)(a).

(2) A professional services partnership organized to provide a professional service under this part may not engage in a business other than to provide:

(a) the professional service that it was organized to provide; and

(b) services ancillary to the professional service described in Subsection (2)(a).

(3) Notwithstanding Subsections (1) and (2), a professional services partnership may:

(a) own real and personal property necessary or appropriate for providing the type of professional service it was organized to provide; and

(b) invest the professional services partnership's money in one or more of the following:

(i) real estate;

(ii) mortgages;

(iii) stocks;

(iv) bonds; or

(v) another type of investment.

Section 101. Section 53-5-707 is amended to read:

53-5-707. Concealed firearm permit -- Fees -- Disposition.

(1) (a) Each applicant for a concealed firearm permit shall pay a fee of \$29.75 at the time of filing an application, except that a nonresident applicant shall pay an additional \$5 for the additional cost of processing a nonresident application.

(b) The bureau shall waive the initial fee for an applicant who is a law enforcement officer under Section 53-13-103.

(c) Concealed firearm permit renewal fees for active duty servicemembers and ~~[spouses]~~ the spouse of an active duty servicemember shall be waived.

(2) The renewal fee for the permit is \$15.

(3) The replacement fee for the permit is \$10.

(4) (a) The late fee for the renewal permit is \$7.50.

(b) As used in this section, "late fee" means the fee charged by the bureau for a renewal submitted on a permit that has been expired for more than 30 days but less than one year.

(5) The bureau shall use the fees collected under Subsections (1), (2), (3), and (4) as a dedicated credit to cover the costs of issuing concealed firearm permits under this part.

(6) (a) The bureau may collect any fees charged by an outside agency for additional services required by statute as a prerequisite for issuance of a permit.

(b) The bureau may modify the fee under Subsection (1)(a) by adjusting that fee so that the total of the fee under Subsection (1)(a) and the fee under Subsection (6)(a) is the nearest even dollar amount to that total.

(c) The bureau shall promptly forward any fees collected under Subsection (6)(a) to the appropriate agency.

(7) The bureau shall make an annual report in writing to the Legislature's Law Enforcement and Criminal Justice Interim Committee on the amount and use of the fees collected under this section.

Section 102. Section 53-13-110 is amended to read:

53-13-110. Duties to investigate specified instances of abuse or neglect.

In accordance with the requirements of Section ~~[62A-4a-202.5]~~ 62A-4a-202.6, law enforcement officers shall investigate alleged instances of abuse or neglect of a child that occur while the child is in the custody of the Division of Child and Family Services, within the Department of Human Services.

Section 103. Section 53A-1a-521 is amended to read:

53A-1a-521. Authorization of a charter school by a board of trustees of a higher education institution.

(1) Subject to the approval of the State Board of Education and except as provided in Subsection (8), an individual or entity identified in Section 53A-1a-504 may enter into an agreement with a board of trustees of a higher education institution authorizing the individual or entity to establish and operate a charter school.

(2) (a) An individual or entity identified in Section 53A-1a-504 applying for authorization from a board of trustees of a higher education institution to establish and operate a charter school shall provide a copy of the application to the State Charter School Board and the local school board of the school district in which the proposed charter school shall be located either before or at the same time it files its application with the board of trustees.

(b) The State Charter School Board and the local school board may review the application and may offer suggestions or recommendations to the applicant or the board of trustees of a higher education institution prior to its acting on the application.

(c) The board of trustees of a higher education institution shall give due consideration to suggestions or recommendations made by the State Charter School Board or the local school board under Subsection (2)(b).

(3) (a) If a board of trustees of a higher education institution approves an application to establish and operate a charter school, the board of trustees shall submit the application to the State Board of Education.

(b) The State Board of Education shall, by majority vote, within 60 days of receipt of the

application approve or deny an application approved by a board of trustees of a higher education institution.

(c) The State Board of Education's action under Subsection (3)(b) is final action subject to judicial review.

(4) The State Board of Education shall make a rule providing a timeline for the opening of a charter school following the approval of a charter school application by a board of trustees of a higher education institution.

(5) (a) After approval of a charter school application, the applicant and the board of trustees of a higher education institution shall set forth the terms and conditions for the operation of the charter school in a written contractual agreement.

(b) The agreement is the school's charter.

(6) (a) The school's charter may include a provision that the charter school pay an annual fee for the board of trustees' costs in providing oversight of, and technical support to, the charter school in accordance with Subsection (7).

(b) In the first two years that a charter school is in operation, an annual fee described in Subsection (6)(a) may not exceed the product of 3% of the revenue the charter school receives from the state in the current fiscal year.

(c) Beginning with the third year that a charter school is in operation, an annual fee described in Subsection (6)(a) may not exceed the product of 1% of the revenue a charter school receives from the state in the current fiscal year.

(d) An annual fee described in Subsection (6)(a) shall be:

(i) paid to the board of trustees' higher education institution; and

(ii) expended as directed by the board of trustees.

(7) A board of trustees of a higher education institution shall:

(a) annually review and evaluate the performance of charter schools authorized by the board of trustees and hold the schools accountable for their performance;

(b) monitor charter schools authorized by the board of trustees for compliance with federal and state laws, rules, and regulations; and

(c) provide technical support to charter schools authorized by the board of trustees to assist them in understanding and performing their charter obligations.

(8) (a) In addition to complying with the requirements of this section, a campus board of directors of a college campus within the Utah College of Applied Technology shall obtain the approval of the Utah College of Applied Technology Board of Trustees before entering into an agreement to establish and operate a charter school.

(b) If a campus board of directors of a college campus with the Utah College of Applied Technology approves an application to establish and operate a charter school, the campus board of directors of the college campus shall submit the application to the Utah College of Applied Technology Board of Trustees.

(c) The Utah College of Applied Technology Board of Trustees shall, by majority vote, within 60 days [of] of receipt of the application, approve or deny the application approved by the campus board of directors.

(d) The Utah College of Applied Technology Board of Trustees may deny an application approved by a campus board of directors if the proposed charter school does not accomplish a purpose of charter schools as provided in Section 53A-1a-503.

(e) A charter school application may not be denied on the basis that the establishment of the charter school will have any or all of the following impacts on a public school, including another charter school:

(i) an enrollment decline;

(ii) a decrease in funding; or

(iii) a modification of programs or services.

(9) (a) Subject to the requirements of this part, a campus board of directors of a college campus within the Utah College of Applied Technology may establish:

(i) procedures for submitting applications to establish and operate a charter school to a campus board of directors of a college campus within the Utah College of Applied Technology; and

(ii) criteria for a campus board of directors' approval of an application to establish and operate a charter school.

(b) The Utah College of Applied Technology Board of Trustees may not establish policy governing the procedures or criteria described in Subsection (9)(a).

Section 104. Section 53A-3-701 is amended to read:

53A-3-701. School and school district professional development plans.

(1) (a) Each public school and school district shall develop and implement a systematic, comprehensive, and long-term plan for staff professional development.

(b) Each school shall use its school community council, school directors, or a subcommittee or task force created by the school community council as provided in Section 53A-1a-108 to help develop and implement the plan.

(2) Each plan shall include the following components:

(a) an alignment of professional development activities at the school and school district level with:

(i) the school improvement plan under Section 53A-1a-108.5;

(ii) the School LAND Trust Program authorized under Section 53A-16-101.5;

(iii) the Utah Performance Assessment System for Students under Title 53A, Chapter 1, Part 6, Achievement Tests;

(iv) Sections 53A-6-101 through 53A-6-104 of the Educator Licensing and Professional Practices Act; and

(v) ~~[Title 53A, Chapter 9, Teacher Career Ladders; and (vi) Title 53A, Chapter 10, Educator Evaluation] 8a, Public Education Human Resource Management Act;~~

(b) provision for the development of internal instructional leadership and support;

(c) the periodic presence of all stakeholders at the same time in the professional development process, to include administrators, educators, support staff, parents, and students;

(d) provisions for the use of consultants to enhance and evaluators to assess the effectiveness of the plan as implemented; and

(e) the time required for and the anticipated costs of implementing and maintaining the plan.

(3) (a) Each local school board shall review and either approve or recommend modifications for each school plan within its district so that each school's plan is compatible with the district plan.

(b) The board shall:

(i) provide positive and meaningful assistance to a school, if requested by its community council or school directors, in drafting and implementing its plan; and

(ii) monitor the progress of each school plan and hold each school accountable for meeting the objectives of its plan.

(4) The State Board of Education, through the superintendent of public instruction, shall work with school districts to identify the resources required to implement and maintain each school's and school district's professional development plan required under this section.

Section 105. Section 53A-16-107 is amended to read:

53A-16-107. Capital outlay levy -- Authority to use proceeds of .0002 tax rate for maintenance of school facilities -- Restrictions and procedure -- Limited authority to use proceeds for general fund purposes -- Notification required when using proceeds for general fund purposes -- Authority for small school districts to use levy proceeds for operation and maintenance of plant services.

(1) Subject to Subsection (3) and except as provided in Subsections (2), (5), (6), and (7), a local school board may annually impose a capital outlay levy not to exceed .0024 per dollar of taxable value to be used for:

(a) capital outlay; or

(b) debt service.

(2) (a) A local school board with an enrollment of 2,500 students or more may utilize the proceeds of a maximum of .0002 per dollar of taxable value of the local school board's annual capital outlay levy for the maintenance of school facilities in the school district.

(b) A local school board that uses the option provided under Subsection (2)(a) shall:

(i) maintain the same level of expenditure for maintenance in the current year as it did in the preceding year, plus the annual average percentage increase applied to the maintenance and operation budget for the current year; and

(ii) identify the expenditure of capital outlay funds for maintenance by a district project number to ensure that the funds are expended in the manner intended.

(c) The State Board of Education shall establish by rule the expenditure classification for maintenance under this program using a standard classification system.

(3) Beginning January 1, 2009, and through the taxable year beginning January 1, 2011, in order to qualify for receipt of the state contribution toward the minimum school program, a local school board in a county of the first class shall impose a capital outlay levy of at least .0006 per dollar of taxable value.

(4) (a) The county treasurer of a county of the first class shall distribute revenues generated by the .0006 portion of the capital outlay levy required in Subsection (3) to school districts within the county in accordance with Section 53A-16-114.

(b) (i) Except as provided in Subsection (4)(b)(ii), if a school district in a county of the first class imposes a capital outlay levy pursuant to this section which exceeds .0006 per dollar of taxable value, the county treasurer of a county of the first class shall distribute revenues generated by the portion of the capital outlay levy which exceeds .0006 to the school district imposing the levy.

(ii) If a new district and a remaining district are required to impose property tax levies pursuant to Subsection 53A-2-118.4(2), the county treasurer shall distribute revenues of the new district or remaining district generated by the portion of a capital outlay levy that exceeds .0006 in accordance with Section 53A-2-118.4.

(5) (a) Notwithstanding Subsections (1)(a) and (b) and subject to Subsections (5)(b), (c), and (d), for fiscal years 2010-11 and 2011-12, a local school board may use the proceeds of the local school board's capital outlay levy for general fund purposes if the proceeds are not committed or dedicated to pay debt service or bond payments.

(b) If a local school board uses the proceeds described in Subsection (5)(a) for general fund purposes, the local school board shall notify the public of the local school board's use of the capital outlay levy proceeds for general fund purposes:

(i) prior to the board's budget hearing in accordance with the notification requirements described in Section 53A-19-102; and

(ii) at a budget hearing required in Section 53A-19-102.

(c) A local school board may not use the proceeds described in Subsection (5)(a) to fund the following accounting function classifications as provided in the Financial Accounting for Local and State School Systems guidelines developed by the National Center for Education Statistics:

(i) 2300 Support Services - General District Administration; or

(ii) 2500 Support Services - Central Services.

(d) A local school board may not use the proceeds from a distribution described in Section ~~53A-16-107.1~~ 53A-16-114 for general fund purposes.

(6) (a) In addition to the uses described in Subsection (1), a local school board of a school district with an enrollment of fewer than 2,500 students, may use the proceeds of the local school board's capital outlay levy, in fiscal years 2011-12, 2012-13, and 2013-14, for expenditures made within the accounting function classification 2600, Operation and Maintenance of Plant Services, of the Financial Accounting for Local and State School Systems guidelines developed by the National Center for Education Statistics, excluding expenditures for mobile phone service and vehicle operation and maintenance.

(b) If a local school board of a school district with an enrollment of fewer than 2,500 students uses the proceeds of a capital outlay levy for the operation and maintenance of plant services as described in Subsection (6)(a), the local school board shall notify the public of the local school board's use of the capital outlay levy proceeds for operation and maintenance of plant services:

(i) prior to the board's budget hearing in accordance with the notification requirements described in Section 53A-19-102; and

(ii) at a budget hearing required in Section 53A-19-102.

(7) Beginning January 1, 2012, a local school board may not levy a tax in accordance with this section.

Section 106. Section 53A-16-114 is amended to read:

53A-16-114. School capital outlay in counties of the first class -- Allocation -- Report to Education Interim Committee.

(1) For purposes of this section:

(a) "Average annual enrollment growth over the prior three years" means the quotient of:

(i) (A) enrollment in the current school year, based on October 1 enrollment counts; minus

(B) enrollment in the year three years prior, based on October 1 enrollment counts; divided by

(ii) three.

(b) "Capital outlay increment money" means the amount of revenue equal to the difference between:

(i) the amount of revenue generated by a levy of .0006 per dollar of taxable value within a receiving school district during a fiscal year; and

(ii) the amount of revenue the receiving school district received during the same fiscal year from the distribution described in Subsection (2).

(c) "Contributing school district" means a school district in a county of the first class that in a fiscal year receives less revenue from the distribution described in Subsection (2) than it would have received during the same fiscal year from a levy imposed within the school district of .0006 per dollar of taxable value.

(d) "Receiving school district" means a school district in a county of the first class that in a fiscal year receives more revenue from the distribution described in Subsection (2) than it would have received during the same fiscal year from a levy imposed within the school district of .0006 per dollar of taxable value.

(2) The county treasurer of a county of the first class shall distribute revenues generated by the .0006 portion of the capital outlay levy required in Subsection 53A-16-107(3) or the capital local levy required in Section 53A-16-113 to school districts located within the county of the first class as follows:

(a) 25% of the revenues shall be distributed in proportion to a school district's percentage of the total enrollment growth in all of the school districts within the county that have an increase in enrollment, calculated on the basis of the average annual enrollment growth over the prior three years in all of the school districts within the county that have an increase in enrollment over the prior three years, as of the October 1 enrollment counts; and

(b) 75% of the revenues shall be distributed in proportion to a school district's percentage of the total current year enrollment in all of the school districts within the county, as of the October 1 enrollment counts.

(3) If a new school district is created or school district boundaries are adjusted, the enrollment and average annual enrollment growth for each affected school district shall be calculated on the basis of enrollment in school district schools located within that school district's newly created or adjusted boundaries, as of October 1 enrollment counts.

(4) On or before December 31 of each year, the State Board of Education shall provide a county treasurer with audited enrollment information from the fall enrollment audit necessary to distribute revenues as required by this section.

(5) On or before March 31 of each year, a county treasurer in a county of the first class shall

distribute the revenue generated within the county of the first class during the prior calendar year from the capital outlay levy described in Section 53A-16-107 or the capital local levy described in Section ~~53A-17a-113~~ 53A-16-113.

(6) On or before the November meeting of the Education Interim Committee of each year, a receiving school district shall report to the committee:

(a) how the receiving school district spent the district's capital outlay increment money during the prior fiscal year; and

(b) the receiving school district's plan to increase student capacity of existing school buildings within the district.

(7) The Education Interim Committee shall consider the reports of receiving school districts described in Subsection (6) as part of a review to reauthorize this section and provisions related to this section, if the committee is directed to conduct a review pursuant to Title 63I, Chapter 1, Legislative Oversight and Sunset Act.

Section 107. Section 53A-17a-133 is amended to read:

53A-17a-133. State-supported voted local levy authorized -- Election requirements -- State guarantee -- Reconsideration of the program.

(1) As used in this section, "voted and board local levy funding balance" means the difference between:

(a) the amount appropriated for the voted and board local levy program in a fiscal year; and

(b) the amount necessary to provide the state guarantee per weighted pupil unit as determined under this section and Section 53A-17a-164 in the same fiscal year.

(2) An election to consider adoption or modification of a voted local levy is required if initiative petitions signed by 10% of the number of electors who voted at the last preceding general election are presented to the local school board or by action of the board.

(3) (a) (i) To impose a voted local levy, a majority of the electors of a district voting at an election in the manner set forth in Subsections (9) and (10) must vote in favor of a special tax.

(ii) The tax rate may not exceed .002 per dollar of taxable value.

(b) Except as provided in Subsection (3)(c), in order to receive state support the first year, a district must receive voter approval no later than December 1 of the year prior to implementation.

(c) Beginning on or after January 1, 2012, a school district may receive state support in accordance with Subsection (4) without complying with the requirements of Subsection (3)(b) if the local school board imposed a tax in accordance with this section

during the taxable year beginning on January 1, 2011 and ending on December 31, 2011.

(4) (a) In addition to the revenue a school district collects from the imposition of a levy pursuant to this section, the state shall contribute an amount sufficient to guarantee \$27.36 per weighted pupil unit for each .0001 of the first .0016 per dollar of taxable value.

(b) The same dollar amount guarantee per weighted pupil unit for the .0016 per dollar of taxable value under Subsection (4)(a) shall apply to the portion of the board local levy authorized in Section 53A-17a-164, so that the guarantee shall apply up to a total of .002 per dollar of taxable value if a school district levies a tax rate under both programs.

(c) (i) Beginning July 1, 2014, the \$27.36 guarantee under Subsections (4)(a) and (b) shall be indexed each year to the value of the weighted pupil unit for the grades 1 through 12 program by making the value of the guarantee equal to .00963 times the value of the prior year's weighted pupil unit for the grades 1 through 12 program.

(ii) The guarantee shall increase by .0005 times the value of the prior year's weighted pupil unit for the grades 1 through 12 program for each succeeding year subject to the Legislature appropriating funds for an increase in the guarantee.

(d) (i) The amount of state guarantee money to which a school district would otherwise be entitled to receive under this Subsection (4) may not be reduced for the sole reason that the district's levy is reduced as a consequence of changes in the certified tax rate under Section 59-2-924 pursuant to changes in property valuation.

(ii) Subsection (4)(d)(i) applies for a period of five years following any such change in the certified tax rate.

(e) The guarantee provided under this section does not apply to the portion of a voted local levy rate that exceeds the voted local levy rate that was in effect for the previous fiscal year, unless an increase in the voted local levy rate was authorized in an election conducted on or after July 1 of the previous fiscal year and before December 2 of the previous fiscal year.

(f) (i) If a voted and board local levy funding balance exists for the prior fiscal year, the State Board of Education shall:

(A) use the voted and board local levy funding balance to increase the value of the state guarantee per weighted pupil unit described in Subsection (4)(c) in the current fiscal year; and

(B) distribute the state contribution to the voted and board local levy programs to school districts based on the increased value of the state guarantee per weighted pupil unit described in Subsection (4)(f)(i)(A).

(ii) The State Board of Education shall report action taken under this Subsection (4)(f) to the

Office of the Legislative Fiscal Analyst and the Governor's Office of Planning and Budget.

(5) (a) An election to modify an existing voted local levy is not a reconsideration of the existing authority unless the proposition submitted to the electors expressly so states.

(b) A majority vote opposing a modification does not deprive the district of authority to continue the levy.

(c) If adoption of a voted local levy is contingent upon an offset reducing other local school board levies, the board must allow the electors, in an election, to consider modifying or discontinuing the imposition of the levy prior to a subsequent increase in other levies that would increase the total local school board levy.

(d) Nothing contained in this section terminates, without an election, the authority of a school district to continue imposing an existing voted local levy previously authorized by the voters as a voted leeway program.

(6) Notwithstanding Section 59-2-919, a school district may budget an increased amount of ad valorem property tax revenue derived from a voted local levy imposed under this section in addition to revenue from new growth as defined in Subsection 59-2-924(4), without having to comply with the notice requirements of Section 59-2-919, if:

(a) the voted local levy is approved:

(i) in accordance with Subsections (9) and (10) on or after January 1, 2003; and

(ii) within the four-year period immediately preceding the year in which the school district seeks to budget an increased amount of ad valorem property tax revenue derived from the voted local levy; and

(b) for a voted local levy approved or modified in accordance with this section on or after January 1, 2009, the school district complies with the requirements of Subsection (8).

(7) Notwithstanding Section 59-2-919, a school district may levy a tax rate under this section that exceeds the certified tax rate without having to comply with the notice requirements of Section 59-2-919 if:

(a) the levy exceeds the certified tax rate as the result of a school district budgeting an increased amount of ad valorem property tax revenue derived from a voted local levy imposed under this section;

(b) the voted local levy was approved:

(i) in accordance with Subsections (9) and (10) on or after January 1, 2003; and

(ii) within the four-year period immediately preceding the year in which the school district seeks to budget an increased amount of ad valorem property tax revenue derived from the voted local levy; and

(c) for a voted local levy approved or modified in accordance with this section on or after January 1, 2009, the school district complies with requirements of Subsection (8).

(8) For purposes of Subsection (6)(b) or (7)(c), the proposition submitted to the electors regarding the adoption or modification of a voted local levy shall contain the following statement:

"A vote in favor of this tax means that (name of the school district) may increase revenue from this property tax without advertising the increase for the next five years."

(9) (a) Before imposing a property tax levy pursuant to this section, a school district shall submit an opinion question to the school district's registered voters voting on the imposition of the tax rate so that each registered voter has the opportunity to express the registered voter's opinion on whether the tax rate should be imposed.

(b) The election required by this Subsection (9) shall be held:

(i) at a regular general election conducted in accordance with the procedures and requirements of Title 20A, Election Code, governing regular elections;

(ii) at a municipal general election conducted in accordance with the procedures and requirements of Section 20A-1-202; or

(iii) at a local special election conducted in accordance with the procedures and requirements of Section 20A-1-203.

(c) Notwithstanding the requirements of Subsections (9)(a) and (b), beginning on or after January 1, 2012, a school district may levy a tax rate in accordance with this section without complying with the requirements of Subsections (9)(a) and (b) if the school district imposed a tax in accordance with this section at any time during the taxable year beginning on January 1, 2011, and ending on December 31, 2011.

(10) If a school district determines that a majority of the school district's registered voters voting on the imposition of the tax rate have voted in favor of the imposition of the tax rate in accordance with Subsection (9), the school district may impose the tax rate.

Section 108. Section 53A-25a-102 is amended to read:

53A-25a-102. Definitions.

As used in this chapter:

(1) "Blind student" means an individual between ages three through 21 who is eligible for special education services and who:

(a) has a visual acuity of 20/200 or less in the better eye with correcting lenses or has a limited field of vision such that the widest diameter subtends an angular distance no greater than 20 degrees;

(b) has a medically indicated expectation of visual deterioration; or

(c) has functional blindness.

(2) "Braille" means the system of reading and writing through touch, commonly known as English Braille.

(3) "Functional blindness" means a visual impairment that renders a student unable to read or write print at a level commensurate with the student's cognitive abilities.

(4) "Individualized education program" or "IEP" means a written statement developed for a student eligible for special education services pursuant to [Section 602(a)(20) of part B of the Individuals with Disabilities Education Act, 20 U.S.C. Section 1401(a)] 1414(d).

Section 109. Section 54-3-31 is amended to read:

54-3-31. Electric utility service within a provider municipality -- Electrical corporation authorized as continuing provider for service provided on or before June 15, 2013 -- Notice of service and agreement -- Transfer of customer.

(1) This section applies to an electrical corporation that:

(a) provides electric service to a customer on or before June 15, 2013, within the municipal boundary of a municipality that provides electric service; and

(b) intends to continue providing service to that customer.

(2) Notwithstanding Section 54-3-30, if an electrical corporation provides electric service to a customer within the municipal boundary of a municipality on or before June 15, 2013, and the municipality provides electric service to another customer within its municipal boundary, the electrical corporation may continue to provide electric service to the customer within the municipality's boundary if:

(a) the electrical corporation provides, on or before December 15, 2013, the municipality with an accurate and complete verified written notice, in accordance with Subsection (3), identifying each customer within the municipality served by the electrical corporation on or before June 15, 2013;

(b) the electrical corporation enters into a written agreement with the municipality no later than June 15, 2014; and

(c) the commission approves the agreement in accordance with Section 54-4-40.

(3) The written notice provided in accordance with Subsection (2)(a) shall include for each customer:

(a) the customer's meter number;

(b) the location of the customer's meter by street address, global positioning system coordinates, metes and bounds description, or other similar method of meter location;

(c) the customer's class of service; and

(d) a representation that the customer was receiving service from the electrical corporation on or before June 15, 2013.

(4) The agreement entered into in accordance with Subsection (2) shall require the following:

(a) The electrical corporation is the exclusive electric service provider to a customer identified in the notice described in Subsection (2)(a) unless the municipality and electrical corporation subsequently agree, in writing, that the municipality may provide electric service to the identified customer.

(b) If a customer who is located within the municipal boundary and who is not identified in Subsection (2)(a) requests service after June 15, 2013, from the electrical corporation, the electrical corporation may not provide that customer electric service unless the electrical corporation subsequently submits a request to and enters into a written agreement with the municipality in accordance with Section [54-4-30] 54-3-30.

(5) (a) Unless otherwise agreed in writing by the electrical corporation and the municipality, the electrical corporation may terminate an agreement entered into in accordance with Subsection (2)(b) by giving written notice of termination to the municipality:

(i) no earlier than two years before the day of termination; or

(ii) within a period of time shorter than two years if otherwise agreed to with the municipality.

(b) Upon termination of an agreement in accordance with Subsection (5)(a):

(i) (A) the electrical corporation shall transfer an electric service customer located within the municipality to the municipality; and

(B) the municipality shall provide electric service to the customer; and

(ii) the electrical corporation shall transfer a facility in accordance with and for the value as provided in Section 10-2-421.

(6) This section may not be construed to modify or terminate any written franchise agreement or other agreement that expressly provides for electric service by an electrical corporation to a customer within a municipality that was entered into between an electrical corporation and a municipality on or before June 15, 2013.

Section 110. Section 57-8-7.5 (Effective 07/01/14) is amended to read:

57-8-7.5 (Effective 07/01/14). Reserve analysis -- Reserve fund.

(1) As used in this section:

(a) "Reserve analysis" means an analysis to determine:

(i) the need for a reserve fund to accumulate money to cover the cost of repairing, replacing, or

restoring common areas and facilities that have a useful life of three years or more and a remaining useful life of less than 30 years, if the cost cannot reasonably be funded from the general budget or other funds of the association of unit owners; and

(ii) the appropriate amount of any reserve fund.

(b) "Reserve fund line item" means the line item in an association of unit owners' annual budget that identifies the amount to be placed into a reserve fund.

(2) Except as otherwise provided in the declaration, a management committee shall:

(a) cause a reserve analysis to be conducted no less frequently than every six years; and

(b) review and, if necessary, update a previously conducted reserve analysis no less frequently than every three years.

(3) The management committee may conduct a reserve analysis itself or may engage a reliable person or organization, as determined by the management committee, to conduct the reserve analysis.

(4) A reserve fund analysis shall include:

(a) a list of the components identified in the reserve analysis that will reasonably require reserve funds;

(b) a statement of the probable remaining useful life, as of the date of the reserve analysis, of each component identified in the reserve analysis;

(c) an estimate of the cost to repair, replace, or restore each component identified in the reserve analysis;

(d) an estimate of the total annual contribution to a reserve fund necessary to meet the cost to repair, replace, or restore each component identified in the reserve analysis during the component's useful life and at the end of the component's useful life; and

(e) a reserve funding plan that recommends how the association of unit owners may fund the annual contribution described in Subsection (4)(d).

(5) An association of unit owners shall:

(a) annually provide unit owners a summary of the most recent reserve analysis or update; and

(b) provide a copy of the complete reserve analysis or update to a unit owner who requests a copy.

(6) In formulating its budget each year, an association of unit owners shall include a reserve fund line item in:

(a) an amount the management committee determines, based on the reserve analysis, to be prudent; or

(b) an amount required by the declaration, if the declaration requires an amount higher than the amount determined under Subsection (6)(a).

(7) (a) Within 45 days after the day on which an association of unit owners adopts its annual budget,

the unit owners may veto the reserve fund line item by a 51% vote of the allocated voting interests in the association of unit owners at a special meeting called by the unit owners for the purpose of voting whether to veto a reserve fund line item.

(b) If the unit owners veto a reserve fund line item under Subsection (7)(a) and a reserve fund line item exists in a previously approved annual budget of the association of unit owners that was not vetoed, the association of unit owners shall fund the reserve account in accordance with that prior reserve fund line item.

(8) (a) Subject to Subsection (8)(b), if an association of unit owners does not comply with the requirements of Subsection (5), (6), or (7) and fails to remedy the noncompliance within the time specified in Subsection (8)(c), a unit owner may file an action in state court for:

(i) injunctive relief requiring the association of unit owners to comply with the requirements of Subsection (5), (6), or (7);

(ii) \$500 or actual damages, whichever is greater;

(iii) any other remedy provided by law; and

(iv) reasonable costs and attorney fees.

(b) No fewer than 90 days before the day on which a unit owner files a complaint under Subsection (8)(a), the unit owner shall deliver written notice described in Subsection (8)(c) to the association of unit owners.

(c) A notice under Subsection (8)(b) shall state:

(i) the requirement in Subsection (5), (6), or (7) with which the association of unit owners has failed to comply;

(ii) a demand that the association of unit owners come into compliance with the requirements; and

(iii) a date, no fewer than 90 days after the day on which the unit owner delivers the notice, by which the association of unit owners shall remedy its noncompliance.

(d) In a case filed under Subsection (8)(a), a court may order an association of unit owners to produce the summary of the reserve analysis or the complete reserve analysis on an expedited basis and at the association of unit owners' expense.

(9) (a) A management committee may not use money in a reserve fund:

(i) for daily maintenance expenses, unless a majority of the members of the association of unit owners vote to approve the use of reserve fund money for that purpose; or

(ii) for any purpose other than the purpose for which the reserve fund was established.

(b) A management committee shall maintain a reserve fund separate from other funds of the association of unit owners.

(c) This Subsection (9) may not be construed to limit a management committee from prudently investing money in a reserve fund, subject to any investment constraints imposed by the declaration.

(10) Subsections (2) through (9) do not apply to an association of unit owners during the period of declarant control described in Subsection 57-8-16.5(1).

(11) This section applies to each association of unit owners, regardless of when the association of unit owners was created.

Section 111. Section 57-8-43 is amended to read:

57-8-43. Insurance.

(1) As used in this section, "reasonably available" means available using typical insurance carriers and markets, irrespective of the ability of the association of unit owners to pay.

(2) (a) This section applies to an insurance policy or combination of insurance policies:

- (i) issued or renewed on or after July 1, 2011; and
- (ii) issued to or renewed by:
 - (A) a unit owner; or

(B) an association of unit owners, regardless of when the association of unit owners is formed.

(b) Unless otherwise provided in the declaration, this section does not apply to a commercial condominium project insured under a policy or combination of policies issued or renewed on or after July 1, ~~2013~~ 2014.

(3) Beginning not later than the day on which the first unit is conveyed to a person other than a declarant, an association of unit owners shall maintain, to the extent reasonably available:

(a) subject to Subsection (9), blanket property insurance or guaranteed replacement cost insurance on the physical structures in the condominium project, including common areas and facilities, limited common areas and facilities, and units, insuring against all risks of direct physical loss commonly insured against, including fire and extended coverage perils; and

(b) subject to Subsection (10), liability insurance covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the common areas and facilities.

(4) If an association of unit owners becomes aware that property insurance under Subsection (3)(a) or liability insurance under Subsection (3)(b) is not reasonably available, the association of unit owners shall, within seven calendar days after becoming aware, give all unit owners notice, as provided in Section 57-8-42, that the insurance is not reasonably available.

(5) (a) The declaration or bylaws may require the association of unit owners to carry other types of insurance in addition to those described in Subsection (3).

(b) In addition to any type of insurance coverage or limit of coverage provided in the declaration or

bylaws and subject to the requirements of this section, an association of unit owners may, as the management committee considers appropriate, obtain:

- (i) an additional type of insurance than otherwise required; or
- (ii) a policy with greater coverage than otherwise required.

(6) Unless a unit owner is acting within the scope of the unit owner's authority on behalf of an association of unit owners, a unit owner's act or omission may not:

- (a) void a property insurance policy under Subsection (3)(a) or a liability insurance policy under Subsection (3)(b); or
- (b) be a condition to recovery under a policy.

(7) An insurer under a property insurance policy or liability insurance policy obtained by an association of unit owners under this section waives the insurer's right to subrogation under the policy against:

- (a) any person residing with the unit owner, if the unit owner resides in the unit; and
- (b) the unit owner.

(8) (a) An insurance policy issued to an association of unit owners may not be inconsistent with any provision of this section.

(b) A provision of a declaration, bylaw, rule, or other document governing the association of unit owners that is contrary to a provision of this section has no effect.

(c) Neither the governing documents nor a property insurance or liability insurance policy issued to an association of unit owners may prevent a unit owner from obtaining insurance for the unit owner's own benefit.

(9) (a) This Subsection (9) applies to property insurance required under Subsection (3)(a).

(b) The total amount of coverage provided by blanket property insurance or guaranteed replacement cost insurance may not be less than 100% of the full replacement cost of the insured property at the time the insurance is purchased and at each renewal date, excluding:

(i) items normally excluded from property insurance policies; and

(ii) unless otherwise provided in the declaration, any commercial condominium unit in a mixed-use condominium project, including any fixture, improvement, or betterment in a commercial condominium unit in a mixed-use condominium project.

(c) Property insurance shall include coverage for any fixture, improvement, or betterment installed at any time to a unit or to a limited common area associated with a unit, whether installed in the original construction or in any remodel or later alteration, including a floor covering, cabinet, light fixture, electrical fixture, heating or plumbing

fixture, paint, wall covering, window, and any other item permanently part of or affixed to a unit or to a limited common element associated with a unit.

(d) Notwithstanding anything in this section and unless otherwise provided in the declaration, an association of unit owners is not required to obtain property insurance for a loss to a unit that is not physically attached to:

(i) another unit; or

(ii) a structure that is part of a common area or facility.

(e) Each unit owner is an insured person under a property insurance policy.

(f) If a loss occurs that is covered by a property insurance policy in the name of an association of unit owners and another property insurance policy in the name of a unit owner:

(i) the association's policy provides primary insurance coverage; and

(ii) notwithstanding Subsection (9)(f)(i) and subject to Subsection (9)(g):

(A) the unit owner is responsible for the deductible of the association of unit owners; and

(B) building property coverage, often referred to as coverage A, of the unit owner's policy applies to that portion of the loss attributable to the policy deductible of the association of unit owners.

(g) (i) As used in this Subsection (9)(g) and Subsection (9)(j):

(A) "Covered loss" means a loss, resulting from a single event or occurrence, that is covered by a property insurance policy of an association of unit owners.

(B) "Unit damage" means damage to a unit or to a limited common area or facility appurtenant to that unit, or both.

(C) "Unit damage percentage" means the percentage of total damage resulting in a covered loss that is attributable to unit damage.

(ii) A unit owner who owns a unit that has suffered unit damage as part of a covered loss is responsible for an amount calculated by applying the unit damage percentage for that unit to the amount of the deductible under the property insurance policy of the association of unit owners.

(iii) If a unit owner does not pay the amount required under Subsection (9)(g)(ii) within 30 days after substantial completion of the repairs to the unit or limited common areas and facilities appurtenant to that unit, an association of unit owners may levy an assessment against the unit owner for that amount.

(h) An association of unit owners shall set aside an amount equal to the amount of the association's property insurance policy deductible or, if the policy deductible exceeds \$10,000, an amount not less than \$10,000.

(i) (i) An association of unit owners shall provide notice in accordance with Section 57-8-42 to each unit owner of the unit owner's obligation under Subsection (9)(g) for the association's policy deductible and of any change in the amount of the deductible.

(ii) (A) An association of unit owners that fails to provide notice as provided in Subsection (9)(i)(i) is responsible for the portion of the deductible that the association of unit owners could have assessed to a unit owner under Subsection (9)(g), but only to the extent that the unit owner does not have insurance coverage that would otherwise apply under this Subsection (9).

(B) Notwithstanding Subsection (9)(i)(ii), an association of unit owners that provides notice of the association's policy deductible, as required under Subsection (9)(i)(i), but fails to provide notice of a later increase in the amount of the deductible is responsible only for the amount of the increase for which notice was not provided.

(iii) The failure of an association of unit owners to provide notice as provided in Subsection (9)(i)(i) may not be construed to invalidate any other provision of this section.

(j) If, in the exercise of the business judgment rule, the management committee determines that a covered loss is likely not to exceed the property insurance policy deductible of the association of unit owners and until it becomes apparent the covered loss exceeds the deductible of the property insurance of the association of unit owners and a claim is submitted to the property insurance insurer of the association of unit owners:

(i) a unit owner's policy is considered the policy for primary coverage for a loss occurring to the unit owner's unit or to a limited common area or facility appurtenant to the unit;

(ii) the association of unit owners is responsible for any covered loss to any common areas and facilities;

(iii) a unit owner who does not have a policy to cover the damage to that unit owner's unit and appurtenant limited common areas and facilities is responsible for that damage, and the association of unit owners may, as provided in Subsection (9)(g)(iii), recover any payments the association of unit owners makes to remediate that unit and appurtenant limited common areas and facilities; and

(iv) the association of unit owners need not tender the claim to the association's insurer.

(k) (i) An insurer under a property insurance policy issued to an association of unit owners shall adjust with the association of unit owners a loss covered under the association's policy.

(ii) Notwithstanding Subsection (9)(k)(i), the insurance proceeds for a loss under a property insurance policy of an association of unit owners:

(A) are payable to an insurance trustee that the association of unit owners designates or, if no trustee is designated, to the association of unit owners; and

(B) may not be payable to a holder of a security interest.

(iii) An insurance trustee or an association of unit owners shall hold any insurance proceeds in trust for the association of unit owners, unit owners, and lien holders.

(iv) (A) If damaged property is to be repaired or restored, insurance proceeds shall be disbursed first for the repair or restoration of the damaged property.

(B) After the disbursements described in Subsection (9)(k)(iv)(A) are made and the damaged property has been completely repaired or restored or the project terminated, any surplus proceeds are payable to the association of unit owners, unit owners, and lien holders, as provided in the declaration.

(l) An insurer that issues a property insurance policy under this section, or the insurer's authorized agent, shall issue a certificate or memorandum of insurance to:

- (i) the association of unit owners;
- (ii) a unit owner, upon the unit owner's written request; and
- (iii) a holder of a security interest, upon the holder's written request.

(m) A cancellation or nonrenewal of a property insurance policy under this section is subject to the procedures stated in Section 31A-21-303.

(n) A management committee that acquires from an insurer the property insurance required in this section is not liable to unit owners if the insurance proceeds are not sufficient to cover 100% of the full replacement cost of the insured property at the time of the loss.

(o) (i) Unless required in the declaration, property insurance coverage is not required for fixtures, improvements, or betterments in a commercial unit or limited common areas and facilities appurtenant to a commercial unit in a mixed-use condominium project.

(ii) Notwithstanding any other provision of this section, an association of unit owners may obtain property insurance for fixtures, improvements, or betterments in a commercial unit in a mixed-use condominium project if allowed or required in the declaration.

(p) (i) This Subsection (9) does not prevent a person suffering a loss as a result of damage to property from asserting a claim, either directly or through subrogation, for the loss against a person at fault for the loss.

(ii) Subsection (9)(p)(i) does not affect Subsection (7).

(10) (a) This Subsection (10) applies to a liability insurance policy required under Subsection (3)(b).

(b) A liability insurance policy shall be in an amount determined by the management committee

but not less than an amount specified in the declaration or bylaws.

(c) Each unit owner is an insured person under a liability insurance policy that an association of unit owners obtains, but only for liability arising from:

- (i) the unit owner's ownership interest in the common areas and facilities;
- (ii) maintenance, repair, or replacement of common areas and facilities; and
- (iii) the unit owner's membership in the association of unit owners.

Section 112. Section 57-8a-211 (Superseded 07/01/14) is amended to read:

57-8a-211 (Superseded 07/01/14). Reserve analysis -- Reserve fund.

(1) As used in this section:

(a) "Reserve analysis" means an analysis to determine:

(i) the need for a reserve fund to accumulate money to cover the cost of repairing, replacing, or restoring common areas that have a useful life of no fewer than three years but less than 30 years, when the cost cannot reasonably be funded from the association's general budget or from other association funds; and

(ii) the appropriate amount of any reserve fund.

(b) "Reserve fund line item" means a line item in the annual budget of an association that identifies the amount to be placed into a reserve fund.

(2) Except as otherwise provided in the governing documents, a board shall:

(a) (i) subject to Subsection (2)(a)(ii), cause a reserve analysis to be conducted no less frequently than every six years; and

(ii) if no reserve analysis has been conducted since March 1, 2008, cause a reserve analysis to be conducted before July 1, 2012; and

(b) review and, if necessary, update a previously conducted reserve analysis no less frequently than every three years.

(3) The board may conduct a reserve analysis itself or may engage a reliable person or organization, as determined by the board, to conduct the reserve analysis.

(4) A reserve analysis shall include:

(a) a list of the components identified in the reserve analysis that will reasonably require reserve funds;

(b) a statement of the probable remaining useful life, as of the date of the reserve analysis, of each component identified in the reserve analysis;

(c) an estimate of the cost to repair, replace, or restore each component identified in the reserve analysis;

(d) an estimate of the total annual contribution to a reserve fund necessary to meet the cost to repair,

replace, or restore each component identified in the reserve analysis during the component's useful life and at the end of the component's useful life; and

(e) a reserve funding plan that recommends how the association may fund the annual contribution described in Subsection (4)(d).

(5) Each year, an association shall provide:

(a) a summary of the most recent reserve analysis, including any updates, to each lot owner; and

(b) a complete copy of the most recent reserve analysis, including any updates, to a lot owner upon request.

(6) (a) An association shall include a reserve fund line item in its annual budget.

(b) The amount of the reserve fund line item shall be determined by:

(i) the board, based on the reserve analysis and the amount that the board determines is prudent under the circumstances; or

(ii) the governing documents, if the governing documents require an amount greater than the amount determined under Subsection (6)(b)(i).

(c) Within 45 days after the day on which an association adopts its annual budget, the lot owners may veto the reserve fund line item by a 51% vote of the allocated voting interests in the association at a special meeting called by the lot owners for the purpose of voting whether to veto a reserve fund line item.

(d) If the lot owners veto a reserve fund line item under Subsection (6)(c) and a reserve fund line item exists in a previously approved annual budget of the association that was not vetoed, the association shall fund the reserve account in accordance with that prior reserve fund line item.

(7) (a) Subject to Subsection (7)(b), if an association does not comply with the requirements described in Subsection (5) or (6) and fails to remedy the noncompliance within the time specified in Subsection (7)(c), a lot owner may file an action in state court for:

(i) injunctive relief requiring the association to comply with the requirements of Subsection (5) or (6);

(ii) \$500 or the lot owner's actual damages, whichever is greater;

(iii) any other remedy provided by law; and

(iv) reasonable costs and attorney fees.

(b) No fewer than 90 days before the day on which a lot owner files a complaint under Subsection (7)(a), the lot owner shall deliver written notice described in Subsection (7)(c) to the association.

(c) A notice described in Subsection (7)(b) shall state:

(i) the requirement in Subsection (5) or (6) with which the association has failed to comply;

(ii) a demand that the association [of unit owners] come into compliance with the requirements; and

(iii) a date, no fewer than 90 days after the day on which a lot owner delivers the notice, by which the association shall remedy its noncompliance.

(d) In a case filed under Subsection (7)(a), a court may summarily order an association to produce the summary of the reserve analysis or the complete reserve analysis on an expedited basis and at the association's expense.

(8) (a) A board may not use money in a reserve fund:

(i) for daily maintenance expenses, unless a majority of association members vote to approve the use of reserve fund money for that purpose; or

(ii) for any purpose other than the purpose for which the reserve fund was established.

(b) A board shall maintain a reserve fund separate from other association funds.

(c) This Subsection (4) may not be construed to limit a board from prudently investing money in a reserve fund, subject to any investment constraints imposed by the governing documents.

(9) Subsections (2), (3), (4), and (6) do not apply to an association during the period of administrative control.

(10) This section applies to each association, regardless of when the association was created.

Section 113. Section 58-40-302 is amended to read:

58-40-302. Qualifications for licensure.

(1) An applicant for licensure under this chapter shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under [Subsection 63-38-3(2)] Section 63J-1-504; and

(c) be of good moral character.

(2) In addition to the requirements of Subsection (1), an applicant for licensure as a master therapeutic recreation specialist under this chapter shall as defined by division rule:

(a) complete an approved graduate degree;

(b) complete 4,000 qualifying hours of paid experience as:

(i) a licensed therapeutic recreation specialist if completed in the state; or

(ii) a certified therapeutic recreation specialist certified by the National Council for Therapeutic Recreation Certification if completed outside of the state; and

(c) pass an approved examination.

(3) In addition to the requirements of Subsection (1), an applicant for licensure as a therapeutic recreation specialist under this chapter shall, as defined by division rule:

- (a) complete an approved:
 - (i) bachelor's degree in therapeutic recreation or recreational therapy;
 - (ii) bachelor's degree with an approved emphasis, option, or concentration in therapeutic recreation or recreational therapy; or
 - (iii) graduate degree;
- (b) complete an approved practicum; and
- (c) pass an approved examination.

(4) In addition to the requirements of Subsection (1), an applicant for licensure as a therapeutic recreation technician under this chapter shall, as defined by division rule:

- (a) have a high school diploma or GED equivalent;
- (b) complete an approved:
 - (i) educational course in therapeutic recreation taught by a licensed master therapeutic recreation specialist; or
 - (ii) six semester hours or nine quarter hours in therapeutic recreation or recreational therapy from an accredited college or university;
- (c) complete an approved practicum under the supervision of:
 - (i) a licensed master therapeutic recreation specialist; or
 - (ii) an on-site, full-time, employed therapeutic recreation specialist; and
- (d) pass an approved examination.

Section 114. Section 58-60-506 is amended to read:

58-60-506. Qualifications for licensure on and after July 1, 2012.

(1) An applicant for licensure under this part on and after July 1, 2012, must meet the following qualifications:

- (a) submit an application in a form prescribed by the division;
- (b) pay a fee determined by the department under Section 63J-1-504;
- (c) be of good moral character;
- (d) satisfy the requirements of Subsection (2), (3), (4), (5), (6), or (7) respectively; and

(e) except for licensure as a certified substance use disorder counselor intern and a certified advanced substance use disorder counselor intern, satisfy the examination requirement established by division rule under Section 58-1-203.

(2) In accordance with division rules, an applicant for licensure as an advanced substance use disorder counselor shall produce:

(a) certified transcripts from an accredited institution of higher education that:

- (i) meet division standards;
- (ii) verify the satisfactory completion of a baccalaureate or graduate degree; and
- (iii) verify the completion of prerequisite courses established by division rules;

(b) documentation of the applicant's completion of a substance use disorder education program that includes:

(i) at least 300 hours of substance use disorder related education, of which 200 hours may have been obtained while qualifying for a substance use disorder counselor license; and

(ii) a supervised practicum of at least 350 hours, of which 200 hours may have been obtained while qualifying for a substance use disorder counselor license; and

(c) documentation of the applicant's completion of at least 4,000 hours of supervised experience in substance use disorder treatment, of which 2,000 hours may have been obtained while qualifying for a substance use disorder counselor license, that:

- (i) meets division standards; and
- (ii) is performed within a four-year period after the applicant's completion of the substance use disorder education program described in Subsection (2)(b), unless, as determined by the division after consultation with the board, the time for performance is extended due to an extenuating circumstance.

(3) An applicant for licensure as a certified advanced substance use disorder counselor shall meet the requirements in Subsections (2)(a) and (b).

(4) (a) An applicant for licensure as a certified advanced substance use disorder counselor intern shall meet the requirements in Subsections (2)(a) and (b).

(b) A certified advanced substance use disorder counselor intern license expires at the earlier of:

- (i) the licensee passing the examination required for licensure as a certified advanced substance use disorder counselor; or
- (ii) six months after the certified advanced substance use disorder counselor intern license is issued.

(5) In accordance with division rules, an applicant for licensure as a substance use disorder counselor shall produce:

(a) certified transcripts from an accredited institution that:

- (i) meet division standards;
- (ii) verify satisfactory completion of an associate's degree or equivalent as defined by the division in rule; and

(iii) verify the completion of prerequisite courses established by division rules;

(b) documentation of the applicant's completion of a substance use disorder education program that includes:

(i) completion of at least 200 hours of substance use disorder related education; and

(ii) completion of a supervised practicum of at least 200 hours; and

(c) documentation of the applicant's completion of at least 2,000 hours of supervised experience in substance use disorder treatment that:

(i) meets division standards; and

(ii) is performed within a two-year period after the applicant's completion of the substance use disorder education program described in Subsection (5)(b), unless, as determined by the division after consultation with the board, the time for performance is extended due to an extenuating circumstance.

(6) An applicant for licensure as a certified substance use disorder counselor shall meet the requirements of Subsections (5)(a) and (b).

(7) (a) An applicant for licensure as a certified substance use disorder counselor intern shall meet the requirements of Subsections (5)(a) and (b).

(b) A certified substance use disorder counselor intern license expires at the earlier of:

(i) the licensee passing the examination required for licensure as a certified substance use disorder counselor; or

(ii) six months after the certified substance use disorder counselor intern license is issued.

Section 115. Section 58-77-601 is amended to read:

58-77-601. Standards of practice.

(1) (a) Prior to providing any services, a licensed Direct-entry midwife must obtain an informed consent from a client.

(b) The consent must include:

(i) the name and license number of the Direct-entry midwife;

(ii) the client's name, address, telephone number, and primary care provider, if the client has one;

(iii) the fact, if true, that the licensed Direct-entry midwife is not a certified nurse midwife or a physician;

(iv) a description of the licensed Direct-entry midwife's education, training, continuing education, and experience in midwifery;

(v) a description of the licensed Direct-entry midwife's peer review process;

(vi) the licensed Direct-entry midwife's philosophy of practice;

(vii) a promise to provide the client, upon request, separate documents describing the rules governing licensed Direct-entry midwifery practice, including

a list of conditions indicating the need for consultation, collaboration, referral, transfer or mandatory transfer, and the licensed Direct-entry midwife's personal written practice guidelines;

(viii) a medical back-up or transfer plan;

(ix) a description of the services provided to the client by the licensed Direct-entry midwife;

(x) the licensed Direct-entry midwife's current legal status;

(xi) the availability of a grievance process;

(xii) client and licensed Direct-entry midwife signatures and the date of signing; and

(xiii) whether the licensed Direct-entry midwife is covered by a professional liability insurance policy.

(2) A licensed Direct-entry midwife shall:

(a) (i) limit the licensed Direct-entry midwife's practice to a normal pregnancy, labor, postpartum, newborn and interconceptual care, which for purposes of this section means a normal labor:

(A) that is not pharmacologically induced;

(B) that is low risk at the start of labor;

(C) that remains low risk through out the course of labor and delivery;

(D) in which the infant is born spontaneously in the vertex position between 37 and 43 completed weeks of pregnancy; and

(E) except as provided in Subsection (2)(a)(ii), in which after delivery, the mother and infant remain low risk; and

(ii) the limitation of Subsection (2)(a)(i) does not prohibit a licensed Direct-entry midwife from delivering an infant when there is:

(A) intrauterine fetal demise; or

(B) a fetal anomaly incompatible with life; and

(b) appropriately recommend and facilitate consultation with, collaboration with, referral to, or transfer or mandatory transfer of care to a licensed health care professional when the circumstances require that action in accordance with this section and standards established by division rule.

(3) If after a client has been informed that she has or may have a condition indicating the need for medical consultation, collaboration, referral, or transfer and the client chooses to decline, then the licensed Direct-entry midwife shall:

(a) terminate care in accordance with procedures established by division rule; or

(b) continue to provide care for the client if the client signs a waiver of medical consultation, collaboration, referral, or transfer.

(4) If after a client has been informed that she has or may have a condition indicating the need for mandatory transfer, the licensed Direct-entry midwife shall, in accordance with procedures established by division rule, terminate the care or initiate transfer by:

(a) calling 911 and reporting the need for immediate transfer;

(b) immediately transporting the client by private vehicle to the receiving provider; or

(c) contacting the physician to whom the client will be transferred and following that physician's orders.

(5) The standards for consultation and transfer [under Subsection 58-77-204(4)] are the minimum standards that a licensed Direct-entry midwife must follow. A licensed Direct-entry midwife shall initiate consultation, collaboration, referral, or transfer of a patient sooner than required by [Subsection 58-77-204(4) or] administrative rule if in the opinion and experience of the licensed Direct-entry midwife, the condition of the client or infant warrant a consultation, collaboration, referral, or transfer.

(6) For the period from 2006 through 2011, a licensed Direct-entry midwife must submit outcome data to the Midwives' Alliance of North America's Division of Research on the form and in the manner prescribed by rule.

(7) This chapter does not mandate health insurance coverage for midwifery services.

Section 116. Section 59-14-302 is amended to read:

59-14-302. Tax basis -- Rates.

(1) As used in this section:

(a) "Manufacturer's sales price" means the amount the manufacturer of a tobacco product charges after subtracting a discount.

(b) "Manufacturer's sales price" includes an original Utah destination freight charge, regardless of:

(i) whether the tobacco product is shipped f.o.b. origin or f.o.b. destination; or

(ii) who pays the original Utah destination freight charge.

(2) There is levied a tax upon the sale, use, or storage of tobacco products in the state.

(3) (a) Subject to Subsection (3)(b), the tax levied under Subsection (2) shall be paid by the manufacturer, jobber, distributor, wholesaler, retailer, user, or consumer.

(b) The tax levied under Subsection (2) on a cigarette produced from a cigarette rolling machine shall be paid by the cigarette rolling machine operator.

(4) For tobacco products except for moist snuff, a little cigar, or a cigarette produced from a cigarette rolling machine, the rate of the tax under this section is .86 multiplied by the manufacturer's sales price.

(5) (a) Subject to Subsection (5)(b), the tax under this section on moist snuff is imposed:

(i) at a rate of \$1.83 per ounce; and

(ii) on the basis of the net weight of the moist snuff as listed by the manufacturer.

(b) If the net weight of moist snuff is in a quantity that is a fractional part of one ounce, a proportionate amount of the tax described in Subsection (5)(a) is imposed:

(i) on that fractional part of one ounce; and

(ii) in accordance with rules made by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) (a) A little cigar is taxed at the same tax rates [manner] as a cigarette is taxed under Subsection 59-14-204(2).

(b) (i) Subject to Subsection (6)(b)(ii), a cigarette produced from a cigarette rolling machine is taxed at the same tax rates as a cigarette is taxed under Subsection 59-14-204(2).

(ii) A tax under this Subsection (6)(b) is imposed on the date the cigarette is produced from the cigarette rolling machine.

(7) (a) Moisture content of a tobacco product is determined at the time of packaging.

(b) A manufacturer who distributes a tobacco product in, or into, Utah, shall:

(i) for a period of three years after the last day on which the manufacturer distributes the tobacco product in, or into, Utah, keep valid scientific evidence of the moisture content of the tobacco product available for review by the commission, upon demand; and

(ii) provide a document, to the person described in Subsection (3) to whom the manufacturer distributes the tobacco product, that certifies the moisture content of the tobacco product, as verified by the scientific evidence described in Subsection (7)(b)(i).

(c) A manufacturer who fails to comply with the requirements of Subsection (7)(b) is liable for the nonpayment or underpayment of taxes on the tobacco product by a person who relies, in good faith, on the document described in Subsection (7)(b)(ii).

(d) A person described in Subsection (3) who is required to pay tax on a tobacco product:

(i) shall, for a period of three years after the last day on which the person pays the tax on the tobacco product, keep the document described in Subsection (7)(b)(ii) available for review by the commission, upon demand; and

(ii) is not liable for nonpayment or underpayment of taxes on the tobacco product due to the person's good faith reliance on the document described in Subsection (7)(b)(ii).

Section 117. Section 63C-13-107 is amended to read:

63C-13-107. Compensation and expenses of authority members.

(1) Salaries and expenses of authority members who are legislators shall be paid in accordance with

Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, [~~Expense and Mileage Reimbursement for Authorized Legislative Meetings, Special Sessions, and Veto Override Sessions~~] Legislator Compensation.

(2) An authority member who is not a legislator may not receive compensation or benefits for the member's service on the authority, but may receive per diem and reimbursement for travel expenses incurred as an authority member at the rates established by the Division of Finance under:

(a) Sections 63A-3-106 and 63A-3-107; and

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

Section 118. Section 63G-12-306 is amended to read:

63G-12-306. Penalties.

(1) As used in this section:

(a) "Applicable license" means a license issued under:

(i) Title 32B, Alcoholic Beverage Control Act;

(ii) Title 58, Occupations and Professions; or

(iii) Title 61, Securities Division - Real Estate Division.

(b) "First violation" means the first time the department imposes a penalty under this section, regardless of the number of individuals the private employer hired in violation of Subsection 63G-12-301(1).

(c) "Second violation" means the second time the department imposes a penalty under this section, regardless of the number of individuals the private employer hired in violation of Subsection 63G-12-301(1).

(d) "Third or subsequent violation" means a violation of Subsection 63G-12-301(1) committed after a second violation.

(2) (a) On or after the program start date, a private employer who violates Subsection 63G-12-301(1) is subject to a penalty provided in this section under an action brought by the department in accordance with Section [~~63B-12-305~~] 63G-12-305.

(b) For a first violation of Subsection 63G-12-301(1), the department shall impose a civil penalty on the private employer not to exceed \$100 for each individual employed by the private employer during the time period specified in the notice of agency action who is an unauthorized alien who does not hold a valid permit.

(c) For a second violation of Subsection 63G-12-301(1), the department shall impose a civil penalty on the private employer not to exceed \$500 for each individual employed by the private employer during the time period specified in the notice of agency action who is an unauthorized alien who does not hold a valid permit.

(d) For a third or subsequent violation of Subsection [~~63-12-301~~] 63G-12-301(1), the department shall:

(i) order the revocation of the one or more applicable licenses that are issued to an owner, officer, director, manager, or other individual in a similar position for the private employer for a period not to exceed one year; or

(ii) if no individual described in Subsection (2)(d)(i) holds an applicable license, impose a civil penalty on the private employer not to exceed \$10,000.

(3) (a) If the department finds a third or subsequent violation, the department shall notify the Department of Commerce and the Department of Alcoholic Beverage Control once the department's order:

(i) is not appealed, and the time to appeal has expired; or

(ii) is appealed, and is affirmed, in whole or in part on appeal.

(b) The notice required under Subsection (3)(a) shall state:

(i) that the department has found a third or subsequent violation;

(ii) that any applicable license held by an individual described in Subsection (2)(d)(i) is to be revoked; and

(iii) the time period for the revocation, not to exceed one year.

(c) The department shall base its determination of the length of revocation under this section on evidence or information submitted to the department during the action under which a third or subsequent violation is found, and shall consider the following factors, if relevant:

(i) the number of unauthorized aliens who do not hold a permit that are employed by the private employer;

(ii) prior misconduct by the private employer;

(iii) the degree of harm resulting from the violation;

(iv) whether the private employer made good faith efforts to comply with any applicable requirements;

(v) the duration of the violation;

(vi) the role of the individuals described in Subsection (2)(d)(i) in the violation; and

(vii) any other factor the department considers appropriate.

(4) Within 10 business days of receipt of notice under Subsection (3), the Department of Commerce and the Department of Alcoholic Beverage Control shall:

(a) (i) if the Department of Commerce or Alcoholic Beverage Control Commission has issued an applicable license to an individual described in

Subsection (2)(d)(i), notwithstanding any other law, revoke the applicable license; and

(ii) notify the department that the applicable license is revoked; or

(b) if the Department of Commerce or Alcoholic Beverage Control Commission has not issued an applicable license to an individual described in Subsection (2)(d)(i), notify the department that an applicable license has not been issued to an individual described in Subsection (2)(d)(i).

(5) If an individual described in Subsection (2)(d)(i) is licensed to practice law in the state and the department finds a third or subsequent violation of Subsection 63G-12-301(1), the department shall notify the Utah State Bar of the third and subsequent violation.

Section 119. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates, Titles 53, 53A, and 53B.

The following provisions are repealed on the following dates:

(1) Section 53-3-232, Conditional [licenses] license, is repealed July 1, 2015.

(2) Title 53A, Chapter 1a, Part 6, Public Education Job Enhancement Program, is repealed July 1, 2020.

(3) The State Instructional Materials Commission, created in Section 53A-14-101, is repealed July 1, 2016.

(4) Subsections 53A-16-113(3) and (4) are repealed December 31, 2016.

(5) Section 53A-16-114 is repealed December 31, 2016.

(6) Section 53A-17a-163, Performance-based Compensation Pilot Program, is repealed July 1, 2016.

(7) Section 53B-24-402, Rural residency training program, is repealed July 1, 2015.

[~~(7)~~] (8) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells, other hydrologic studies, and air quality monitoring in the West Desert, is repealed July 1, 2020.

Section 120. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63M.

(1) Section 63A-4-204, authorizing the Risk Management Fund to provide coverage to any public school district which chooses to participate, is repealed July 1, 2016.

(2) Subsections 63A-5-104(4)(d) and (e) are repealed on July 1, 2014.

(3) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2016.

(4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2018.

[~~(5)~~] Section 53B-24-402, rural residency training program, is repealed July 1, 2015.]

[~~(6)~~] (5) Title 63C, Chapter 13, Prison Relocation and Development Authority Act, is repealed July 1, 2014.

[~~(7)~~] (6) Title 63C, Chapter 14, Federal Funds Commission, is repealed July 1, 2018.

[~~(8)~~] (7) Subsection 63G-6a-1402(7) authorizing certain transportation agencies to award a contract for a design-build transportation project in certain circumstances, is repealed July 1, 2015.

[~~(9)~~] (8) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.

[~~(10)~~] (9) The Resource Development Coordinating Committee, created in Section 63J-4-501, is repealed July 1, 2015.

[~~(11)~~] (10) Title 63M, Chapter 1, Part 4, Enterprise Zone Act, is repealed July 1, 2018.

[~~(12)~~] (11) (a) Title 63M, Chapter 1, Part 11, Recycling Market Development Zone Act, is repealed January 1, 2021.

(b) Subject to Subsection [~~(12)~~] (11)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections [~~(12)~~] (11)(b) and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.

[~~(13)~~] (12) (a) Section 63M-1-2507, Health Care Compact, is repealed on July 1, 2014.

(b) (i) The Legislature shall, before reauthorizing the Health Care Compact:

(A) direct the Health System Reform Task Force to evaluate the issues listed in Subsection [~~(13)~~]

(12)(b)(ii), and by January 1, 2013, develop and recommend criteria for the Legislature to use to negotiate the terms of the Health Care Compact; and

(B) prior to July 1, 2014, seek amendments to the Health Care Compact among the member states that the Legislature determines are appropriate after considering the recommendations of the Health System Reform Task Force.

(ii) The Health System Reform Task Force shall evaluate and develop criteria for the Legislature regarding:

(A) the impact of the Supreme Court ruling on the Affordable Care Act;

(B) whether Utah is likely to be required to implement any part of the Affordable Care Act prior to negotiating the compact with the federal government, such as Medicaid expansion in 2014;

(C) whether the compact's current funding formula, based on adjusted 2010 state expenditures, is the best formula for Utah and other state compact members to use for establishing the block grants from the federal government;

(D) whether the compact's calculation of current year inflation adjustment factor, without consideration of the regional medical inflation rate in the current year, is adequate to protect the state from increased costs associated with administering a state based Medicaid and a state based Medicare program;

(E) whether the state has the flexibility it needs under the compact to implement and fund state based initiatives, or whether the compact requires uniformity across member states that does not benefit Utah;

(F) whether the state has the option under the compact to refuse to take over the federal Medicare program;

(G) whether a state based Medicare program would provide better benefits to the elderly and disabled citizens of the state than a federally run Medicare program;

(H) whether the state has the infrastructure necessary to implement and administer a better state based Medicare program;

(I) whether the compact appropriately delegates policy decisions between the legislative and executive branches of government regarding the development and implementation of the compact with other states and the federal government; and

(J) the impact on public health activities, including communicable disease surveillance and epidemiology.

[44] (13) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2017.

[45] (14) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2017.

Section 121. Section 63I-2-217 is amended to read:

63I-2-217. Repeal dates -- Title 17.

(1) Subsection 17-8-7(2), the language that states "Sections 17-19-1 to 17-19-28 and" and "as applicable," is repealed January 1, 2015.

(2) Title 17, Chapter 19, County Auditor, is repealed January 1, 2015.

(3) Subsection 17-24-1(4)(b), the language that states "as applicable, Sections 17-19-1, 17-19-3, and 17-19-5 or" is repealed January 1, 2015.

(4) Subsection 17-24-4(2), the language that states "as applicable, Subsection 17-19-3(3)(b) or" is repealed January 1, 2015.

~~[(5) Subsection 17-27a-305(2) is repealed July 1, 2013.]~~

~~[(6)] (5) (a) Subsection 17-36-3(5)(a), the language that states "for a county of the second, third, fourth, fifth, or sixth class, the county auditor, county clerk, or county executive as provided in Subsection 17-19-19(1); or" is repealed January 1, 2015.~~

(b) Subsection 17-36-3(5)(b), the language that states "for a county of the first class," is repealed January 1, 2015.

(c) Subsection 17-36-3(7), the language that states "17-19-3," and "or [17-24-1.1] 17-24-4, as applicable" is repealed January 1, 2015.

~~[(7)] (6) Subsection 17-36-9(1)(a)(iii), the language that states "17-36-10.1, as applicable, or" is repealed January 1, 2015.~~

~~[(8)] (7) Subsection 17-36-10(1), the language that states the following is repealed January 1, 2015:~~

~~"(1)(a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or sixth class is not subject to the provisions of this section; and~~

~~(b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class is subject to the provisions of this section."~~

~~[(9)] (8) Section 17-36-10.1 is repealed January 1, 2015.~~

~~[(10)] (9) Subsection 17-36-11(1), the language that states the following is repealed January 1, 2015:~~

~~"(1)(a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or sixth class is not subject to the provisions of this section; and~~

~~(b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class is subject to the provisions of this section."~~

~~[(11)] (10) Section 17-36-11.1 is repealed January 1, 2015.~~

~~[(12)] (11) Subsection 17-36-15(1), the language that states the following is repealed January 1, 2015:~~

~~"(1)(a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or sixth class is not subject to the provisions of this section; and~~

(b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class is subject to the provisions of this section.”

~~[(13)]~~ (12) Section 17-36-15.1 is repealed January 1, 2015.

~~[(14)]~~ (13) Subsection 17-36-20(1), the language that states the following is repealed January 1, 2015:

“(1)(a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or sixth class is not subject to the provisions of this section; and

(b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class is subject to the provisions of this section.”

~~[(15)]~~ (14) Section 17-36-20.1 is repealed January 1, 2015.

~~[(16)]~~ (15) Subsection 17-36-32(4), the language that states “or 17-36-20.1, as applicable, and” is repealed January 1, 2015.

~~[(17)]~~ (16) Subsection 17-36-43(1), the language that states the following is repealed January 1, 2015:

“(1)(a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or sixth class is not subject to the provisions of this section; and

(b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class is subject to the provisions of this section.”

~~[(18)]~~ (17) Section 17-36-43.1 is repealed January 1, 2015.

~~[(19)]~~ (18) Section 17-36-44, the language that states “or 17-36-43.1, as applicable” is repealed January 1, 2015.

~~[(20)]~~ (19) Subsection 17-50-401(1), the language that states the following is repealed January 1, 2015:

“(1)(a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or sixth class is not subject to the provisions of this section; and

(b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class is subject to the provisions of this section.”

~~[(21)]~~ (20) Section 17-50-401.1 is repealed January 1, 2015.

~~[(22)]~~ (21) Subsection 17-52-101(2), the language that states “or 17-52-401.1, as applicable” is repealed January 1, 2015.

~~[(23)]~~ (22) Subsection 17-52-401(1), the language that states the following is repealed January 1, 2015:

“(1)(a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or sixth class is not subject to the provisions of this section; and

(b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class is subject to the provisions of this section.”

~~[(24)]~~ (23) Section 17-52-401.1 is repealed January 1, 2015.

~~[(25)]~~ (24) Subsection 17-52-403(1)(a), the language that states “or 17-52-401.1(2)(c), as applicable” is repealed January 1, 2015.

~~[(26)]~~ (25) On January 1, 2015, when making the changes in this section, the Office of Legislative Research and General Counsel shall:

(a) in addition to its authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office’s perception of the Legislature’s intent; and

(b) identify the text of the affected sections and subsections based upon the section and subsection numbers used in Laws of Utah 2012, Chapter 17.

Section 122. Section 63I-2-236 is amended to read:

63I-2-236. Repeal dates -- Title 36.

~~[(1)]~~ Section 36-12-15.1 is repealed July 1, 2015.

~~[(2) Sections 36-16a-101 through 36-16a-108 are repealed January 1, 2013.]~~

Section 123. Section 63I-2-253 is amended to read:

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

(1) Section 53A-1-402.7 is repealed July 1, 2014.

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

(3) Section 53A-1-411 is repealed July 1, 2016.

~~[(4) Section 53A-1-412 is repealed July 1, 2013.]~~

~~[(5)]~~ (4) Section 53A-1a-513.5 is repealed July 1, 2017.

~~[(6)]~~ (5) Title 53A, Chapter 1a, Part 10, UPSTART, is repealed July 1, 2014.

~~[(7)]~~ (6) Title 53A, Chapter 8a, Part 8, Peer Assistance and Review Pilot Program, is repealed July 1, 2017.

~~[(8) Section 53A-13-110(4) is repealed July 1, 2013.]~~

~~[(9)]~~ (7) Section 53A-17a-169 is repealed July 1, 2016.

Section 124. Section 63I-2-277 is amended to read:

63I-2-277. Repeal dates, Title 77.

~~[(1) Section 77-2a-3.1 is repealed June 30, 2008.]~~

~~[(2)]~~ Subsection 77-32-304.5(2)(d)(i), the language that states “or 17-50-401.1, as applicable” is repealed January 1, 2015.

Section 125. Section 63I-4a-202 is amended to read:

63I-4a-202. Free Market Protection and Privatization Board -- Created -- Membership -- Operations -- Expenses.

(1) (a) There is created [a] the Free Market Protection and Privatization [~~Policy~~] Board composed of 17 members.

(b) The governor shall appoint board members as follows:

(i) two senators, one each from the majority and minority political parties, from names recommended by the president of the Senate;

(ii) two representatives, one each from the majority and minority political parties, from names recommended by the speaker of the House of Representatives;

(iii) two members representing public employees, from names recommended by the largest public employees' association;

(iv) one member from state management;

(v) seven members from the private business community;

(vi) one member representing the Utah League of Cities and Towns from names recommended by the Utah League of Cities and Towns;

(vii) one member representing the Utah Association of Counties from names recommended by the Utah Association of Counties; and

(viii) one member representing the Utah Association of Special Districts, from names recommended by the Utah Association of Special Districts.

(2) (a) Except as provided in Subsection (2)(b), a board member shall serve a two-year term.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every [~~two years~~] year.

(3) (a) A board member shall hold office until the board member's successor is appointed and qualified.

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

(c) Nine members of the board constitute a quorum.

(d) The vote of a majority of board members voting when a quorum is present is necessary for the board to act.

(4) (a) The board shall select one of the members to serve as chair of the board.

(b) A chair shall serve as chair for a term of one-year, and may be selected as chair for more than one term.

(5) The Governor's Office of Management and Budget shall staff the board. The board may contract for additional staff from the private sector under Section 63I-4a-204.

(6) The board shall meet:

(a) at least quarterly; and

(b) as necessary to conduct its business, as called by the chair.

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

(a) Section 63A-3-106;

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

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

Section 126. Section 63J-1-206 is amended to read:

63J-1-206. Appropriations governed by chapter -- Restrictions on expenditures -- Transfer of funds -- Exclusion.

(1) As used in this section, "work program" means a budget that contains revenues and expenditures for specific purposes or functions within an item of appropriation.

(2) (a) Except as provided in Subsection (2)(b), (3)(e), or where expressly exempted in the appropriating act:

(i) all money appropriated by the Legislature is appropriated upon the terms and conditions set forth in this chapter; and

(ii) any department, agency, or institution that accepts money appropriated by the Legislature does so subject to the requirements of this chapter.

(b) This section does not apply to:

(i) the Legislature and its committees; and

(ii) the Investigation Account of the Water Resources Construction Fund, which is governed by Section 73-10-8.

(3) (a) Each appropriation item is to be expended subject to any schedule of programs and any restriction attached to the appropriation item, as designated by the Legislature.

(b) Each schedule of programs or restriction attached to an appropriation item:

(i) is a restriction or limitation upon the expenditure of the respective appropriation made;

(ii) does not itself appropriate any money; and

(iii) is not itself an item of appropriation.

(c) An appropriation or any surplus of any appropriation may not be diverted from any department, agency, institution, or division to any other department, agency, institution, or division.

(d) The money appropriated subject to a schedule or programs or restriction may be used only for the purposes authorized.

(e) In order for a department, agency, or institution to transfer money appropriated to it from one program to another program within an item of appropriation, the following procedure shall be followed:

(i) The department, agency, or institution seeking to make the transfer shall prepare:

(A) a new work program for the fiscal year involved that consists of the currently approved work program and the transfer sought to be made; and

(B) a written justification for the new work program that sets forth the purpose and necessity for the transfer.

(ii) The Division of Finance shall process the new work program with written justification and make this information available to the Governor's Office of Management and Budget and the legislative fiscal analyst.

(f) (i) Except as provided in Subsection (3)(f)(ii), money may not be transferred from one item of appropriation to any other item of appropriation.

(ii) The state superintendent may transfer money appropriated for the Minimum School Program between line items of appropriation in accordance with Section 53A-17a-105.

(g) (i) The procedures for transferring money between programs within an item of appropriation as provided by Subsection (3)(e) do not apply to money appropriated to the State Board of Education for the Minimum School Program or capital outlay programs created in Title 53A, Chapter 21, Public Education Capital Outlay Act.

(ii) The state superintendent may transfer money appropriated for the programs specified in Subsection (3)(g)(i) only as provided by Section 53A-17a-105.

Section 127. Section 63J-1-505 is amended to read:

63J-1-505. Payment of fees prerequisite to service -- Exception.

(1) (a) State and county officers required by law to charge fees may not perform any official service unless the fees prescribed for that service are paid in advance.

(b) When the fee is paid, the officer shall perform the services required.

(c) An officer is liable upon the officer's official bond for every failure or refusal to perform an official duty when the fees are tendered.

(2) (a) Except as provided in Subsection (2)(b), no fees may be charged:

(i) to the officer's state, or any county or subdivision of the state;

(ii) to any public officer acting for the state, county, or subdivision;

(iii) in cases of habeas corpus;

(iv) in criminal causes before final judgment;

(v) for administering and certifying the oath of office;

(vi) for swearing pensioners and their witnesses; or

(vii) for filing and recording bonds of public officers.

(b) Fees may be charged for payment:

(i) of recording fees for assessment area recordings in compliance with Section 11-42-205;

(ii) of recording fees for judgments recorded in compliance with Sections 57-3-106 and 78A-7-117 78A-7-105; and

(iii) to the state engineer under Section 73-2-14.

Section 128. Section 63J-1-602.3 is amended to read:

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

(1) Funding for the Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1101 53-2a-1102.

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

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

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

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

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

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

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

(9) Money received by the State Office of Rehabilitation for the sale of certain products or services, as provided in Section 53A-24-105.

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

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

[(41)] (12) A certain portion of money collected for administrative costs under the School Institutional

Trust Lands Management Act, as provided under Section 53C-3-202.

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

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

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

[45] (16) Appropriations from the Relative Value Study Restricted Account created in Section 59-9-105.

[46] (17) The Cigarette Tax Restricted Account created in Section 59-14-204.

Section 129. Section 63J-1-602.4 is amended to read:

63J-1-602.4. List of nonlapsing funds and accounts -- Title 61 through Title 63M.

(1) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

(2) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

(3) Certain funds donated to the Department of Human Services, as provided in Section 62A-1-111.

(4) Certain funds donated to the Division of Child and Family Services, as provided in Section 62A-4a-110.

(5) Appropriations from the Choose Life Adoption Support Restricted Account created in Section 62A-4a-608.

(6) Appropriations to the Division of Services for People with Disabilities, as provided in Section 62A-5-102.

(7) A portion of the funds appropriated to the Utah Seismic Safety Commission, as provided in Section 63C-6-104.

[8] ~~Funding for the Medical Education Program administered by the Medical Education Council, as provided in Section 53B-24-202.]~~

[9] (8) Certain money payable for commission expenses of the Pete Suazo Utah Athletic Commission, as provided under Section 63C-11-301.

[40] (9) Funds appropriated or collected for publishing the Division of Administrative Rules' publications, as provided in Section 63G-3-402.

[44] (10) The Immigration Act Restricted Account created in Section 63G-12-103.

[42] (11) Money received by the military installation development authority, as provided in Section 63H-1-504.

[43] ~~The appropriation~~ (12) Appropriations to fund the Governor's Office of Economic Development's Enterprise Zone Act, as provided in ~~Section 63M-1-416~~ Title 63M, Chapter 1, Part 4, Enterprise Zone Act.

[44] (13) The Motion Picture Incentive Account created in Section 63M-1-1803.

[45] (14) Appropriations to the Utah Science Technology and Research Governing Authority, created under Section 63M-2-301, as provided under Section 63M-2-302.

Section 130. Section 63M-1-3203 is amended to read:

63M-1-3203. STEM Action Center Board -- Duties.

(1) The board shall:

(a) establish a STEM Action Center ~~program~~ to:

(i) coordinate STEM activities in the state among the following stakeholders:

(A) the State Board of Education;

(B) school districts and charter schools;

(C) the State Board of Regents;

(D) institutions of higher education;

(E) parents of home-schooled students; and

(F) other state agencies;

(ii) align public education STEM activities with higher education STEM activities; and

(iii) create and coordinate best practices among public education and higher education;

(b) with the consent of the Senate, appoint an executive director to oversee the administration of the STEM Action Center;

(c) select a physical location for the STEM Action Center;

(d) strategically engage industry and business entities to cooperate with the board:

(i) to support professional development and provide other assistance for educators and students; and

(ii) to provide private funding and support for the STEM Action Center;

(e) give direction to the STEM Action Center and the providers selected through a request for proposals process pursuant to this part; and

(f) work to meet the following expectations:

(i) that at least 50 educators are implementing best practice learning tools in classrooms per each product specialist or manager working with the STEM Action Center;

(ii) performance change in student achievement in each classroom working with a STEM Action Center product specialist or manager; and

(iii) that students from at least 50 high schools participate in the STEM competitions, fairs, and camps described in Subsection 63M-1-3204(2)(d).

(2) The board may:

(a) enter into contracts for the purposes of this part;

(b) apply for, receive, and disburse funds, contributions, or grants from any source for the purposes set forth in this part;

(c) employ, compensate, and prescribe the duties and powers of individuals necessary to execute the duties and powers of the board;

(d) prescribe the duties and powers of the STEM Action Center providers; and

(e) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to administer this part.

Section 131. Section 70A-2a-533 is amended to read:

70A-2a-533. Effective date.

(1) Except as provided in Subsection (2), this act takes effect on July 1, 1990 and shall apply to all lease contracts that are first made or that first become effective between the parties on or after that date, but shall not apply to lease contracts first made or that first became effective prior to that date unless the parties thereto specifically agree in writing that the lease contract as extended, amended, modified, renewed or supplemented, shall be governed by applicable law as supplemented or amended by this act. Absent such specific agreement transactions validly entered into before that date and the rights, duties, and interests flowing from them remain valid thereafter and may be terminated, completed, consummated or enforced as though this act had not taken effect.

(2) The amendments to former Sections 70A-1-201, 70A-9-113, 70A-9-306, and 70A-9-318 take effect on July 1, 1990.

Section 132. Section 76-1-501 is amended to read:

76-1-501. Presumption of innocence -- "Element of the offense" defined.

(1) A defendant in a criminal proceeding is presumed to be innocent until each element of the offense charged against him is proved beyond a reasonable doubt. In the absence of this proof, the defendant shall be acquitted.

(2) As used in this part [~~the words~~], "element of the offense" [~~mean~~] means:

(a) the conduct, attendant circumstances, or results of conduct proscribed, prohibited, or forbidden in the definition of the offense; and

(b) the culpable mental state required.

(3) The existence of jurisdiction and venue are not elements of the offense but shall be established by a preponderance of the evidence.

Section 133. Section 76-5-102.4 is amended to read:

76-5-102.4. Assault against peace officer or a military servicemember in uniform -- Penalties.

(1) As used in this section:

(a) "Military servicemember in uniform" means:

(i) a member of any branch of the United States military who is wearing a uniform as authorized by the member's branch of service; or

(ii) a member of the National Guard serving as provided in Section 39-1-5 or 39-1-9.

(b) "Peace officer" means a law enforcement officer certified under Section 53-13-103.

(2) A person is guilty of a class A misdemeanor, except as provided in Subsections (3) and (4), who:

(a) assaults a peace officer, with knowledge that the person is a peace officer, and when the peace officer is acting within the scope of authority as a peace officer; or

(b) assaults a military servicemember in uniform when that servicemember is on orders and acting within the scope of authority granted to the military servicemember in uniform.

(3) A person who violates Subsection (2) is guilty of a third degree felony if the person:

(a) has been previously convicted of a [~~violation of~~ a] class A misdemeanor or a felony violation of this section; or

(b) the person causes substantial bodily injury.

(4) A person who violates Subsection (2) is guilty of a second degree felony if the person uses:

(a) a dangerous weapon as defined in Section 76-1-601; or

(b) other means or force likely to produce death or serious bodily injury.

(5) A person who violates this section shall serve, in jail or another correctional facility, a minimum of:

(a) 90 consecutive days for a second offense; and

(b) 180 consecutive days for each subsequent offense.

(6) The court may suspend the imposition or execution of the sentence required under Subsection (5) if the court finds that the interests of justice would be best served by the suspension and the court makes specific findings concerning the disposition on the record.

(7) This section does not affect or limit any individual's constitutional right to the lawful expression of free speech, the right of assembly, or any other recognized rights secured by the Constitution or laws of Utah or by the Constitution or laws of the United States.

Section 134. Section 78A-2-301 is amended to read:

78A-2-301. Civil fees of the courts of record -- Courts complex design.

(1) (a) The fee for filing any civil complaint or petition invoking the jurisdiction of a court of record not governed by another subsection is \$360.

(b) The fee for filing a complaint or petition is:

(i) \$75 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is \$2,000 or less;

(ii) \$185 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is greater than \$2,000 and less than \$10,000;

(iii) \$360 if the claim for damages or amount in interpleader is \$10,000 or more;

(iv) \$310 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4, Separate Maintenance;

(v) \$35 for a motion for temporary separation order filed under Section 30-3-4.5; and

(vi) \$125 if the petition is for removal from the Sex Offender and Kidnap Offender Registry under [Subsection 77-27-21.5(32)] Section 77-41-112.

(c) The fee for filing a small claims affidavit is:

(i) \$60 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is \$2,000 or less;

(ii) \$100 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is greater than \$2,000, but less than \$7,500; and

(iii) \$185 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is \$7,500 or more.

(d) The fee for filing a counter claim, cross claim, complaint in intervention, third party complaint, or other claim for relief against an existing or joined party other than the original complaint or petition is:

(i) \$55 if the claim for relief exclusive of court costs, interest, and attorney fees is \$2,000 or less;

(ii) \$150 if the claim for relief exclusive of court costs, interest, and attorney fees is greater than \$2,000 and less than \$10,000;

(iii) \$155 if the original petition is filed under Subsection (1)(a), the claim for relief is \$10,000 or more, or the party seeks relief other than monetary damages; and

(iv) \$115 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4, Separate Maintenance.

(e) The fee for filing a small claims counter affidavit is:

(i) \$50 if the claim for relief exclusive of court costs, interest, and attorney fees is \$2,000 or less;

(ii) \$70 if the claim for relief exclusive of court costs, interest, and attorney fees is greater than \$2,000, but less than \$7,500; and

(iii) \$120 if the claim for relief exclusive of court costs, interest, and attorney fees is \$7,500 or more.

(f) The fee for depositing funds under Section 57-1-29 when not associated with an action already before the court is determined under Subsection (1)(b) based on the amount deposited.

(g) The fee for filing a petition is:

(i) \$225 for trial de novo of an adjudication of the justice court or of the small claims department; and

(ii) \$65 for an appeal of a municipal administrative determination in accordance with Section 10-3-703.7.

(h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or petition for writ of certiorari is \$225.

(i) The fee for filing a petition for expungement is \$135.

(j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be allocated to and between the Judges' Contributory Retirement Trust Fund and the Judges' Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 17, Judges' Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement Act.

(ii) Four dollars of the fees established by Subsections (1)(a) through (i) shall be allocated by the state treasurer to be deposited in the restricted account, Children's Legal Defense Account, as provided in Section 51-9-408.

(iii) Three dollars of the fees established under Subsections (1)(a) through (e), (1)(g), and (1)(s) shall be allocated to and deposited with the Dispute Resolution Account as provided in Section 78B-6-209.

(iv) Fifteen dollars of the fees established by Subsections (1)(a), (1)(b)(iii) and (iv), (1)(d)(iii) and (iv), (1)(g)(ii), (1)(h), and (1)(i) shall be allocated by the state treasurer to be deposited in the restricted account, Court Security Account, as provided in Section 78A-2-602.

(v) Five dollars of the fees established by Subsections (1)(b)(i) and (ii), (1)(d)(ii) and (1)(g)(i) shall be allocated by the state treasurer to be deposited in the restricted account, Court Security Account, as provided in Section 78A-2-602.

(k) The fee for filing a judgment, order, or decree of a court of another state or of the United States is \$35.

(l) The fee for filing a renewal of judgment in accordance with Section 78B-6-1801 is 50% of the fee for filing an original action seeking the same relief.

(m) The fee for filing probate or child custody documents from another state is \$35.

(n) (i) The fee for filing an abstract or transcript of judgment, order, or decree of the Utah State Tax Commission is \$30.

(ii) The fee for filing an abstract or transcript of judgment of a court of law of this state or a judgment, order, or decree of an administrative agency, commission, board, council, or hearing officer of this state or of its political subdivisions other than the Utah State Tax Commission, is \$50.

(o) The fee for filing a judgment by confession without action under Section 78B-5-205 is \$35.

(p) The fee for filing an award of arbitration for confirmation, modification, or vacation under Title 78B, Chapter 11, Utah Uniform Arbitration Act, that is not part of an action before the court is \$35.

(q) The fee for filing a petition or counter-petition to modify a decree of divorce is \$100.

(r) The fee for filing any accounting required by law is:

(i) \$15 for an estate valued at \$50,000 or less;

(ii) \$30 for an estate valued at \$75,000 or less but more than \$50,000;

(iii) \$50 for an estate valued at \$112,000 or less but more than \$75,000;

(iv) \$90 for an estate valued at \$168,000 or less but more than \$112,000; and

(v) \$175 for an estate valued at more than \$168,000.

(s) The fee for filing a demand for a civil jury is \$250.

(t) The fee for filing a notice of deposition in this state concerning an action pending in another state under Utah Rule of Civil Procedure 26 is \$35.

(u) The fee for filing documents that require judicial approval but are not part of an action before the court is \$35.

(v) The fee for a petition to open a sealed record is \$35.

(w) The fee for a writ of replevin, attachment, execution, or garnishment is \$50 in addition to any fee for a complaint or petition.

(x) (i) The fee for a petition for authorization for a minor to marry required by Section 30-1-9 is \$5.

(ii) The fee for a petition for emancipation of a minor provided in Title 78A, Chapter 6, Part 8, Emancipation, is \$50.

(y) The fee for a certificate issued under Section 26-2-25 is \$8.

(z) The fee for a certified copy of a document is \$4 per document plus 50 cents per page.

(aa) The fee for an exemplified copy of a document is \$6 per document plus 50 cents per page.

(bb) The Judicial Council shall by rule establish a schedule of fees for copies of documents and forms and for the search and retrieval of records under Title 63G, Chapter 2, Government Records Access and Management Act. Fees under this Subsection (1)(bb) shall be credited to the court as a reimbursement of expenditures.

(cc) There is no fee for services or the filing of documents not listed in this section or otherwise provided by law.

(dd) Except as provided in this section, all fees collected under this section are paid to the General Fund. Except as provided in this section, all fees shall be paid at the time the clerk accepts the pleading for filing or performs the requested service.

(ee) The filing fees under this section may not be charged to the state, its agencies, or political subdivisions filing or defending any action. In judgments awarded in favor of the state, its agencies, or political subdivisions, except the Office of Recovery Services, the court shall order the filing fees and collection costs to be paid by the judgment debtor. The sums collected under this Subsection (1)(ee) shall be applied to the fees after credit to the judgment, order, fine, tax, lien, or other penalty and costs permitted by law.

(2) (a) (i) From March 17, 1994, until June 30, 1998, the administrator of the courts shall transfer all revenues representing the difference between the fees in effect after May 2, 1994, and the fees in effect before February 1, 1994, as dedicated credits to the Division of Facilities Construction and Management Capital Projects Fund.

(ii) (A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities Construction and Management shall use up to \$3,750,000 of the revenue deposited in the Capital Projects Fund under this Subsection (2)(a) to design and take other actions necessary to initiate the development of a courts complex in Salt Lake City.

(B) If the Legislature approves funding for construction of a courts complex in Salt Lake City in the 1995 Annual General Session, the Division of Facilities Construction and Management shall use the revenue deposited in the Capital Projects Fund under this Subsection (2)(a)(ii) to construct a courts complex in Salt Lake City.

(C) After the courts complex is completed and all bills connected with its construction have been paid, the Division of Facilities Construction and Management shall use any money remaining in the Capital Projects Fund under this Subsection (2)(a)(ii) to fund the Vernal District Court building.

(iii) The Division of Facilities Construction and Management may enter into agreements and make expenditures related to this project before the

receipt of revenues provided for under this Subsection (2)(a)(iii).

(iv) The Division of Facilities Construction and Management shall:

(A) make those expenditures from unexpended and unencumbered building funds already appropriated to the Capital Projects Fund; and

(B) reimburse the Capital Projects Fund upon receipt of the revenues provided for under this Subsection (2).

(b) After June 30, 1998, the administrator of the courts shall ensure that all revenues representing the difference between the fees in effect after May 2, 1994, and the fees in effect before February 1, 1994, are transferred to the Division of Finance for deposit in the restricted account.

(c) The Division of Finance shall deposit all revenues received from the court administrator into the restricted account created by this section.

(d) (i) From May 1, 1995, until June 30, 1998, the administrator of the courts shall transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court of record to the Division of Facilities Construction and Management Capital Projects Fund. The division of money pursuant to Section 78A-5-110 shall be calculated on the balance of the fine or bail forfeiture paid.

(ii) After June 30, 1998, the administrator of the courts or a municipality shall transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court of record to the Division of Finance for deposit in the restricted account created by this section. The division of money pursuant to Section 78A-5-110 shall be calculated on the balance of the fine or bail forfeiture paid.

(3) (a) There is created within the General Fund a restricted account known as the State Courts Complex Account.

(b) The Legislature may appropriate money from the restricted account to the administrator of the courts for the following purposes only:

(i) to repay costs associated with the construction of the court complex that were funded from sources other than revenues provided for under this Subsection (3)(b)(i); and

(ii) to cover operations and maintenance costs on the court complex.

Section 135. Section 78A-7-301 is amended to read:

78A-7-301. Justice Court Technology, Security, and Training Account established -- Funding -- Uses.

There is created a restricted account in the General Fund known as the Justice Court Technology, Security, and Training Account.

(1) The state treasurer shall deposit in the account money collected from the surcharge

established in Subsection [78A-6-122(3)] 78A-7-122(4)(b)(iii).

(2) Money shall be appropriated from the account to the Administrative Office of the Courts to be used for audit, technology, security, and training needs in justice courts throughout the state.

Section 136. Section 78B-3-421 is amended to read:

78B-3-421. Arbitration agreements.

(1) After May 2, 1999, for a binding arbitration agreement between a patient and a health care provider to be validly executed or, if the requirements of this Subsection (1) have not been previously met on at least one occasion, renewed:

(a) the patient shall be given, in writing, the following information on:

(i) the requirement that the patient must arbitrate a claim instead of having the claim heard by a judge or jury;

(ii) the role of an arbitrator and the manner in which arbitrators are selected under the agreement;

(iii) the patient's responsibility, if any, for arbitration-related costs under the agreement;

(iv) the right of the patient to decline to enter into the agreement and still receive health care if Subsection (3) applies;

(v) the automatic renewal of the agreement each year unless the agreement is canceled in writing before the renewal date;

(vi) the right of the patient to have questions about the arbitration agreement answered;

(vii) the right of the patient to rescind the agreement within 10 days of signing the agreement; and

(viii) the right of the patient to require mediation of the dispute prior to the arbitration of the dispute;

(b) the agreement shall require that:

(i) except as provided in Subsection (1)(b)(ii), a panel of three arbitrators shall be selected as follows:

(A) one arbitrator collectively selected by all persons claiming damages;

(B) one arbitrator selected by the health care provider; and

(C) a third arbitrator:

(I) jointly selected by all persons claiming damages and the health care provider; or

(II) if both parties cannot agree on the selection of the third arbitrator, the other two arbitrators shall appoint the third arbitrator from a list of individuals approved as arbitrators by the state or federal courts of Utah; or

(ii) if both parties agree, a single arbitrator may be selected;

(iii) all parties waive the requirement of Section 78B-3-416 to appear before a hearing panel in a malpractice action against a health care provider;

(iv) the patient be given the right to rescind the agreement within 10 days of signing the agreement;

(v) the term of the agreement be for one year and that the agreement be automatically renewed each year unless the agreement is canceled in writing by the patient or health care provider before the renewal date;

(vi) the patient has the right to retain legal counsel;

(vii) the agreement only apply to:

(A) an error or omission that occurred after the agreement was signed, provided that the agreement may allow a person who would be a proper party in court to participate in an arbitration proceeding;

(B) the claim of:

(I) a person who signed the agreement;

(II) a person on whose behalf the agreement was signed under Subsection (6); and

(III) the unborn child of the person described in this Subsection (1)(b)(vii)(B), for 12 months from the date the agreement is signed; and

(C) the claim of a person who is not a party to the contract if the sole basis for the claim is an injury sustained by a person described in Subsection (1)(b)(vii)(B); and

(c) the patient shall be verbally encouraged to:

(i) read the written information required by Subsection (1)(a) and the arbitration agreement; and

(ii) ask any questions.

(2) When a medical malpractice action is arbitrated, the action shall:

(a) be subject to Chapter ~~[31a]~~ 11, Utah Uniform Arbitration Act; and

(b) include any one or more of the following when requested by the patient before an arbitration hearing is commenced:

(i) mandatory mediation;

(ii) retention of the jointly selected arbitrator for both the liability and damages stages of an arbitration proceeding if the arbitration is bifurcated; and

(iii) the filing of the panel's award of damages as a judgement against the provider in the appropriate district court.

(3) Notwithstanding Subsection (1), a patient may not be denied health care on the sole basis that the patient or a person described in Subsection (6) refused to enter into a binding arbitration agreement with a health care provider.

(4) A written acknowledgment of having received a written explanation of a binding arbitration agreement signed by or on behalf of the patient shall be a defense to a claim that the patient did not

receive a written explanation of the agreement as required by Subsection (1) unless the patient:

(a) proves that the person who signed the agreement lacked the capacity to do so; or

(b) shows by clear and convincing evidence that the execution of the agreement was induced by the health care provider's affirmative acts of fraudulent misrepresentation or fraudulent omission to state material facts.

(5) The requirements of Subsection (1) do not apply to a claim governed by a binding arbitration agreement that was executed or renewed before May 3, 1999.

(6) A legal guardian or a person described in Subsection 78B-3-406(6), except a person temporarily standing in loco parentis, may execute or rescind a binding arbitration agreement on behalf of a patient.

(7) This section does not apply to any arbitration agreement that is subject to the Federal Arbitration Act, 9 U.S.C. Sec. 1 et seq.

Section 137. Repealer.

This bill repeals:

Section 63G-13-203, Collaboration on integration of immigrants.

Section 138. Effective date.

This bill takes effect on May 13, 2014, except that the amendments in this bill to Section 57-8-7.5 (Effective 07/01/14) take effect on July 1, 2014.

CHAPTER 190**S. B. 99**

Passed March 3, 2014

Approved March 29, 2014

Effective May 13, 2014

**STATE VEHICLE EFFICIENCY
REQUIREMENTS**

Chief Sponsor: Scott K. Jenkins

House Sponsor: Gage Froerer

LONG TITLE**General Description:**

This bill requires the Division of Fleet Operations to ensure that 50% or more of state vehicles that are motor vehicles used for the transportation of passengers are alternative fuel or high efficiency motor vehicles.

Highlighted Provisions:

This bill:

- ▶ requires the Division of Fleet Operations to ensure that 50% or more of state vehicles that are motor vehicles used for the transportation of passengers are alternative fuel or high efficiency; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63A-9-401, as last amended by Laws of Utah 2009, Chapter 183

ENACTS:

63A-9-403, Utah Code Annotated 1953

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

Section 1. Section 63A-9-401 is amended to read:**63A-9-401. Division -- Duties.**

- (1) The division shall:
 - (a) perform all administrative duties and functions related to management of state vehicles;
 - (b) coordinate all purchases of state vehicles;
 - (c) establish one or more fleet automation and information systems for state vehicles;
 - (d) make rules establishing requirements for:
 - (i) maintenance operations for state vehicles;
 - (ii) use requirements for state vehicles;
 - (iii) fleet safety and loss prevention programs;
 - (iv) preventative maintenance programs;
 - (v) procurement of state vehicles, including:
 - (A) vehicle standards;
 - (B) alternative fuel vehicle requirements;

- (C) short-term lease programs;
 - (D) equipment installation; and
 - (E) warranty recovery programs;
 - (vi) fuel management programs;
 - (vii) cost management programs;
 - (viii) business and personal use practices, including commute standards;
 - (ix) cost recovery and billing procedures;
 - (x) disposal of state vehicles;
 - (xi) reassignment of state vehicles and reallocation of vehicles throughout the fleet;
 - (xii) standard use and rate structures for state vehicles; and
 - (xiii) insurance and risk management requirements;
 - (e) establish a parts inventory;
 - (f) create and administer a fuel dispensing services program that meets the requirements of Subsection (2);
 - (g) emphasize customer service when dealing with agencies and agency employees;
 - (h) conduct an annual audit of all state vehicles for compliance with division requirements;
 - (i) before charging a rate, fee, or other amount to an executive branch agency, or to a subscriber of services other than an executive branch agency:
 - (i) submit the proposed rates, fees, and cost analysis to the Rate Committee established in Section 63A-1-114; and
 - (ii) obtain the approval of the Legislature as required by Section 63J-1-410; and
 - (j) conduct an annual market analysis of proposed rates and fees, which analysis shall include a comparison of the division's rates and fees with the fees of other public or private sector providers where comparable services and rates are reasonably available.
- (2) The division shall operate a fuel dispensing services program in a manner that:
- (a) reduces the risk of environmental damage and subsequent liability for leaks involving state-owned underground storage tanks;
 - (b) eliminates fuel site duplication and reduces overall costs associated with fuel dispensing;
 - (c) provides efficient fuel management and efficient and accurate accounting of fuel-related expenses;
 - (d) where practicable, privatizes portions of the state's fuel dispensing system;
 - (e) provides central planning for fuel contingencies;
 - (f) establishes fuel dispensing sites that meet geographical distribution needs and that reflect usage patterns;

(g) where practicable, uses alternative sources of energy; and

(h) provides safe, accessible fuel supplies in an emergency.

(3) The division shall:

(a) ensure that the state and each of its agencies comply with state and federal law and state and federal rules and regulations governing underground storage tanks;

(b) coordinate the installation of new state-owned underground storage tanks and the upgrading or retrofitting of existing underground storage tanks; and

(c) ensure that counties, municipalities, school districts, local districts, and special service districts subscribing to services provided by the division sign a contract that:

(i) establishes the duties and responsibilities of the parties;

(ii) establishes the cost for the services; and

(iii) defines the liability of the parties.

(4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director of the Division of Fleet Operations:

(i) may make rules governing fuel dispensing; and

(ii) shall make rules establishing standards and procedures for purchasing the most economically appropriate size and type of vehicle for the purposes and driving conditions for which the vehicle will be used, including procedures for granting exceptions to the standards by the executive director of the Department of Administrative Services.

(b) Rules made under Subsection (4)(a)(ii):

(i) shall designate a standard vehicle size and type that shall be designated as the statewide standard vehicle for fleet expansion and vehicle replacement;

(ii) may designate different standard vehicle size and types based on defined categories of vehicle use;

(iii) may, when determining a standard vehicle size and type for a specific category of vehicle use, consider the following factors affecting the vehicle class:

(A) size requirements;

(B) economic savings;

(C) fuel efficiency;

(D) driving and use requirements;

(E) safety;

(F) maintenance requirements; [and]

(G) resale value; and

(H) the requirements of Section 63A-9-403; and

(iv) shall require agencies that request a vehicle size and type that is different from the standard vehicle size and type to:

(A) submit a written request for a nonstandard vehicle to the division that contains the following:

(I) the make and model of the vehicle requested, including acceptable alternate vehicle makes and models as applicable;

(II) the reasons justifying the need for a nonstandard vehicle size or type;

(III) the date of the request; and

(IV) the name and signature of the person making the request; and

(B) obtain the division's written approval for the nonstandard vehicle.

(5) (a) (i) Each state agency and each higher education institution shall subscribe to the fuel dispensing services provided by the division.

(ii) A state agency may not provide or subscribe to any other fuel dispensing services, systems, or products other than those provided by the division.

(b) Counties, municipalities, school districts, local districts, special service districts, and federal agencies may subscribe to the fuel dispensing services provided by the division if:

(i) the county or municipal legislative body, the school district, or the local district or special service district board recommends that the county, municipality, school district, local district, or special service district subscribe to the fuel dispensing services of the division; and

(ii) the division approves participation in the program by that government unit.

(6) The director, with the approval of the executive director, may delegate functions to institutions of higher education, by contract or other means authorized by law, if:

(a) the agency or institution of higher education has requested the authority;

(b) in the judgment of the director, the state agency or institution has the necessary resources and skills to perform the delegated responsibilities; and

(c) the delegation of authority is in the best interest of the state and the function delegated is accomplished according to provisions contained in law or rule.

Section 2. Section 63A-9-403 is enacted to read:

**63A-9-403. Clean emissions vehicles --
Alternative fuel vehicles.**

No later than August 30, 2018, the division shall ensure that 50% or more of new or replacement division-owned state vehicles that are motor vehicles used for the transportation of passengers are motor vehicles with emissions that are equal to or cleaner than the standards established in bin 2 in Table S04-1, of 40 C.F.R. 86.1811-04(c)(6), or any

vehicle propelled to a significant extent using one of the following alternative fuels:

- (1) electricity from an off-board source;
- (2) natural gas;
- (3) liquid petroleum gas;
- (4) hydrogen; or
- (5) biodiesel.

CHAPTER 191**S. B. 120**

Passed March 13, 2014
 Approved March 29, 2014
 Effective May 13, 2014

**SHELTER ANIMAL
 VACCINE AMENDMENTS**

Chief Sponsor: Scott K. Jenkins
 House Sponsor: Richard A. Greenwood

LONG TITLE**General Description:**

This bill amends the Veterinary Practice Act.

Highlighted Provisions:

This bill:

- ▶ exempts an employee of an animal shelter, from the requirement to be licensed as a veterinarian for the purpose of administering a rabies vaccination to a shelter animal if the employee is under the indirect supervision of a veterinarian under contract with the animal shelter;
- ▶ exempts an animal shelter operating under the indirect supervision of a veterinarian from the requirement to obtain a license as a pharmacy for purposes of handling, storing, or administering a drug used for purposes of animal euthanasia; and
- ▶ exempts an animal shelter operating under the indirect supervision of a veterinarian under contract with the animal shelter from the requirement to obtain a license as a pharmacy for the purpose of handling, storing and administering a rabies vaccination.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-17b-309, as last amended by Laws of Utah 2013, Chapter 278

58-28-307, as last amended by Laws of Utah 2013, Chapter 278

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

Section 1. Section 58-17b-309 is amended to read:**58-17b-309. Exemptions from licensure.**

- (1) For purposes of this section:
- (a) "Cosmetic drug":
- (i) means a prescription drug that is:
- (A) for the purpose of promoting attractiveness or altering the appearance of an individual; and
- (B) listed as a cosmetic drug subject to the exemption under this section by the division by administrative rule or has been expressly approved for online dispensing, whether or not it is dispensed online or through a physician's office; and
- (ii) does not include a prescription drug that is:

- (A) a controlled substance;
- (B) compounded by the physician; or
- (C) prescribed or used for the patient for the purpose of diagnosing, curing, or preventing a disease.
- (b) "Injectable weight loss drug":
- (i) means an injectable prescription drug:
- (A) prescribed to promote weight loss; and
- (B) listed as an injectable prescription drug subject to exemption under this section by the division by administrative rule; and
- (ii) does not include a prescription drug that is a controlled substance.
- (c) "Prescribing practitioner" means an individual licensed under:
- (i) Chapter 31b, Nurse Practice Act, as an advanced practice registered nurse with prescriptive practice;
- (ii) Chapter 67, Utah Medical Practice Act;
- (iii) Chapter 68, Utah Osteopathic Medical Practice Act; or
- (iv) Chapter 70a, Physician Assistant Act.
- (2) In addition to the exemptions from licensure in Sections 58-1-307 and 58-17b-309.5, the following individuals may engage in the acts or practices described in this section without being licensed under this chapter:
- (a) if the individual is described in Subsections (2)(b), (d), or (e), the individual notifies the division in writing of the individual's intent to dispense a drug under this subsection;
- (b) a person selling or providing contact lenses in accordance with Section 58-16a-801;
- (c) an individual engaging in the practice of pharmacy technician under the direct personal supervision of a pharmacist while making satisfactory progress in an approved program as defined in division rule;
- (d) a prescribing practitioner who prescribes and dispenses a cosmetic drug or an injectable weight loss drug to the prescribing practitioner's patient in accordance with Subsection (4); [øf]
- (e) an optometrist, as defined in Section 58-16a-102, acting within the optometrist's scope of practice as defined in Section 58-16a-601, who prescribes and dispenses a cosmetic drug to the optometrist's patient in accordance with Subsection (4)[-]; and
- (f) an animal shelter that:
- (i) under the indirect supervision of a veterinarian, stores, handles, or administers a drug used for euthanising an animal; and
- (ii) under the indirect supervision of a veterinarian who is under contract with the animal shelter, stores, handles, or administers a rabies vaccine.

(3) In accordance with Subsection 58-1-303(1)(a), an individual exempt under Subsection (2)(c) must take all examinations as required by division rule following completion of an approved curriculum of education, within the required time frame. This exemption expires immediately upon notification of a failing score of an examination, and the individual may not continue working as a pharmacy technician even under direct supervision.

(4) A prescribing practitioner or optometrist is exempt from licensing under the provisions of this part if the prescribing practitioner or optometrist:

(a) (i) writes a prescription for a drug the prescribing practitioner or optometrist has the authority to dispense under Subsection (4)(b); and

(ii) informs the patient:

(A) that the prescription may be filled at a pharmacy or dispensed in the prescribing practitioner's or optometrist's office;

(B) of the directions for appropriate use of the drug;

(C) of potential side-effects to the use of the drug; and

(D) how to contact the prescribing practitioner or optometrist if the patient has questions or concerns regarding the drug;

(b) dispenses a cosmetic drug or injectable weight loss drug only to the prescribing practitioner's patients or for an optometrist, dispenses a cosmetic drug only to the optometrist's patients;

(c) follows labeling, record keeping, patient counseling, storage, purchasing and distribution, operating, treatment, and quality of care requirements established by administrative rule adopted by the division in consultation with the boards listed in Subsection (5)(a); and

(d) follows USP-NF 797 standards for sterile compounding if the drug dispensed to patients is reconstituted or compounded.

(5) (a) The division, in consultation with the board under this chapter and the relevant professional board, including the Physician Licensing Board, the Osteopathic Physician Licensing Board, the Physician Assistant Licensing Board, the Board of Nursing, the Optometrist Licensing Board, or the Online Prescribing, Dispensing, and Facilitation Board, shall adopt administrative rules pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act to designate:

(i) the prescription drugs that may be dispensed as a cosmetic drug or weight loss drug under this section; and

(ii) the requirements under Subsection (4)(c).

(b) When making a determination under Subsection (1)(a), the division and boards listed in Subsection (5)(a) may consider any federal Food and Drug Administration indications or approval associated with a drug when adopting a rule to

designate a prescription drug that may be dispensed under this section.

(c) The division may inspect the office of a prescribing practitioner or optometrist who is dispensing under the provisions of this section, in order to determine whether the prescribing practitioner or optometrist is in compliance with the provisions of this section. If a prescribing practitioner or optometrist chooses to dispense under the provisions of this section, the prescribing practitioner or optometrist consents to the jurisdiction of the division to inspect the prescribing practitioner's or optometrist's office and determine if the provisions of this section are being met by the prescribing practitioner or optometrist.

(d) If a prescribing practitioner or optometrist violates a provision of this section, the prescribing practitioner or optometrist may be subject to discipline under:

(i) this chapter; and

(ii) (A) Chapter 16a, Utah Optometry Practice Act;

(B) Chapter 31b, Nurse Practice Act;

(C) Chapter 67, Utah Medical Practice Act;

(D) Chapter 68, Utah Osteopathic Medical Practice Act;

(E) Chapter 70a, Physician Assistant Act; or

(F) Chapter 83, Online Prescribing, Dispensing, and Facilitation Act.

(6) Except as provided in Subsection (2)(e), this section does not restrict or limit the scope of practice of an optometrist or optometric physician licensed under Chapter 16a, Utah Optometry Practice Act.

Section 2. Section 58-28-307 is amended to read:

58-28-307. Exemptions from chapter.

In addition to the exemptions from licensure in Section 58-1-307 this chapter does not apply to:

(1) any person who practices veterinary medicine, surgery, or dentistry upon any animal owned by him, and the employee of that person when the practice is upon an animal owned by his employer, and incidental to his employment, except:

(a) this exemption does not apply to any person, or his employee, when the ownership of an animal was acquired for the purpose of circumventing this chapter; and

(b) this exemption does not apply to the administration, dispensing, or prescribing of a prescription drug, or nonprescription drug intended for off label use, unless the administration, dispensing, or prescribing of the drug is obtained through an existing veterinarian-patient relationship;

(2) any person who as a student at a veterinary college approved by the board engages in the practice of veterinary medicine, surgery, and

dentistry as part of his academic training and under the direct supervision and control of a licensed veterinarian, if that practice is during the last two years of the college course of instruction and does not exceed an 18-month duration;

(3) a veterinarian who is an officer or employee of the government of the United States, or the state, or its political subdivisions, and technicians under his supervision, while engaged in the practice of veterinary medicine, surgery, or dentistry for that government;

(4) any person while engaged in the vaccination of poultry, pullorum testing, typhoid testing of poultry, and related poultry disease control activity;

(5) any person who is engaged in bona fide and legitimate medical, dental, pharmaceutical, or other scientific research, if that practice of veterinary medicine, surgery, or dentistry is directly related to, and a necessary part of, that research;

(6) veterinarians licensed under the laws of another state rendering professional services in association with licensed veterinarians of this state for a period not to exceed 90 days;

(7) registered pharmacists of this state engaged in the sale of veterinary supplies, instruments, and medicines, if the sale is at his regular place of business;

(8) any person in this state engaged in the sale of veterinary supplies, instruments, and medicines, except prescription drugs which must be sold in compliance with state and federal regulations, if the supplies, instruments, and medicines are sold in original packages bearing adequate identification and directions for application and administration and the sale is made in the regular course of, and at the regular place of business;

(9) any person rendering emergency first aid to animals in those areas where a licensed veterinarian is not available, and if suspicious reportable diseases are reported immediately to the state veterinarian;

(10) any person performing or teaching nonsurgical bovine artificial insemination;

(11) any person affiliated with an institution of higher education who teaches nonsurgical bovine embryo transfer or any technician trained by or approved by an institution of higher education who performs nonsurgical bovine embryo transfer, but only if any prescription drug used in the procedure is prescribed and administered under the direction of a veterinarian licensed to practice in Utah;

(12) (a) upon written referral by a licensed veterinarian, the practice of animal chiropractic by a chiropractic physician licensed under Chapter 73, Chiropractic Physician Practice Act, who has completed an animal chiropractic course approved by the American Veterinary Chiropractic Association or the division;

(b) upon written referral by a licensed veterinarian, the practice of animal physical

therapy by a physical therapist licensed under Chapter 24b, Physical Therapy Practice Act, who has completed at least 100 hours of animal physical therapy training, including quadruped anatomy and hands-on training, approved by the division;

(c) upon written referral by a licensed veterinarian, the practice of animal massage therapy by a massage therapist licensed under Chapter 47b, Massage Therapy Practice Act, who has completed at least 60 hours of animal massage therapy training, including quadruped anatomy and hands-on training, approved by the division; and

(d) upon written referral by a licensed veterinarian, the practice of acupuncture by an acupuncturist licensed under Chapter 72, Acupuncture Licensing Act, who has completed a course of study on animal acupuncture approved by the division;

(13) unlicensed assistive personnel performing duties appropriately delegated to the unlicensed assistive personnel in accordance with Section 58-28-502;

(14) an animal shelter employee who is:

(a) (i) acting under the indirect supervision of a licensed veterinarian; and

~~(b)~~ (ii) performing animal euthanasia in the course and scope of employment; and

(b) acting under the indirect supervision of a veterinarian who is under contract with the animal shelter, administering a rabies vaccine to a shelter animal in accordance with the Compendium of Animal Rabies Prevention and Control; and

(15) an individual providing appropriate training for animals; however, this exception does not include diagnosing any medical condition, or prescribing or dispensing any prescription drugs or therapeutics.

CHAPTER 192**S. B. 127**

Passed February 20, 2014

Approved March 29, 2014

Effective May 13, 2014

**LABOR COMMISSION
DECISION AMENDMENTS**

Chief Sponsor: Karen Mayne

House Sponsor: Don L. Ipson

LONG TITLE**General Description:**

This bill modifies the Utah Labor Code to address when decisions are final and can be enforced.

Highlighted Provisions:

This bill:

- ▶ clarifies when a decision of the commissioner or Appeals Board is a final decision of the commission;
- ▶ addresses enforcement by filing abstracts with a district court; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

34A-1-303, as last amended by Laws of Utah 2013, Chapter 428

34A-2-212, as renumbered and amended by Laws of Utah 1997, Chapter 375

34A-2-801, as last amended by Laws of Utah 2013, Chapter 428

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

Section 1. Section 34A-1-303 is amended to read:**34A-1-303. Review of administrative decision.**

(1) A decision entered by an administrative law judge under this title is the final order of the commission unless a further appeal is initiated:

(a) under this title; and

(b) in accordance with the rules of the commission governing the review.

(2) (a) Unless otherwise provided, a person who is entitled to appeal a decision of an administrative law judge under this title may appeal the decision by filing a motion for review with the Division of Adjudication.

(b) (i) Unless a party in interest to the appeal requests in accordance with Subsection (3) that the appeal be heard by the Appeals Board, the commissioner shall hear the review in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(ii) [A] Subject to Subsection (2)(b)(iii), the decision of the commissioner is a final order of the commission unless within 30 days after the date the decision is issued further appeal is initiated pursuant to this section or Title 63G, Chapter 4, Administrative Procedures Act.

(iii) In the case of an award of permanent total disability benefits under Section 34A-2-413, the decision of the commissioner is a final order of the commission unless set aside by the court of appeals.

(c) (i) If in accordance with Subsection (3) a party in interest to the appeal requests that the appeal be heard by the Appeals Board, the Appeals Board shall hear the review in accordance with:

(A) Section 34A-1-205; and

(B) Title 63G, Chapter 4, Administrative Procedures Act.

(ii) [A] Subject to Subsection (2)(c)(iii), the decision of the Appeals Board is a final order of the commission unless within 30 days after the date the decision is issued further appeal is initiated pursuant to this section or Title 63G, Chapter 4, Administrative Procedures Act.

(iii) In the case of an award of permanent total disability benefits under Section 34A-2-413, the decision of the Appeals Board is a final order of the commission unless set aside by the court of appeals.

(d) The commissioner may transfer a motion for review to the Appeals Board for decision if the commissioner determines that the commissioner's ability to impartially decide the motion for review might reasonably be questioned.

(3) A party in interest may request that an appeal be heard by the Appeals Board by filing the request with the Division of Adjudication:

(a) as part of the motion for review; or

(b) if requested by a party in interest who did not file a motion for review, within 20 days of the date the motion for review is filed with the Division of Adjudication.

(4) (a) On appeal, the commissioner or the Appeals Board may:

(i) affirm the decision of an administrative law judge;

(ii) modify the decision of an administrative law judge;

(iii) return the case to an administrative law judge for further action as directed; or

(iv) reverse the findings, conclusions, and decision of an administrative law judge.

(b) The commissioner or Appeals Board may not conduct a trial de novo of the case.

(c) The commissioner or Appeals Board may base its decision on:

(i) the evidence previously submitted in the case; or

(ii) on written argument or written supplemental evidence requested by the commissioner or Appeals Board.

(d) The commissioner or Appeals Board may permit the parties to:

(i) file briefs or other papers; or

(ii) conduct oral argument.

(e) The commissioner or Appeals Board shall promptly notify the parties to any proceedings before the commissioner or Appeals Board of its decision, including its findings and conclusions.

(5) (a) Each decision of a member of the Appeals Board shall represent the member's independent judgment.

(b) A member of the Appeals Board may not participate in any case in which the member is an interested party.

(c) If a member of the Appeals Board may not participate in a case because the member is an interested party, the two members of the Appeals Board that may hear the case shall assign an individual to participate as a member of the board in that case if the individual:

(i) is not an interested party in the case;

(ii) was not previously assigned to:

(A) preside over any proceeding related to the case; or

(B) take any administrative action related to the case; and

(iii) is representative of the following group that was represented by the member that may not hear the case under Subsection (5)(b):

(A) employers;

(B) employees; or

(C) the public.

(d) The two members of the Appeals Board may appoint an individual to participate as a member of the Appeals Board in a case if:

(i) there is a vacancy on the board at the time the Appeals Board hears the review of the case;

(ii) the individual appointed meets the conditions described in Subsections (5)(c)(i) and (ii); and

(iii) the individual appointed is representative of the following group that was represented by the member for which there is a vacancy:

(A) employers;

(B) employees; or

(C) the public.

(6) If an order is appealed to the court of appeals after the party appealing the order has exhausted all administrative appeals, the court of appeals has jurisdiction to:

(a) review, reverse, remand, or annul any order of the commissioner or Appeals Board; or

(b) suspend or delay the operation or execution of the order of the commissioner or Appeals Board being appealed.

Section 2. Section 34A-2-212 is amended to read:

34A-2-212. Docketing awards in district court -- Enforcing judgment.

(1) (a) ~~[An]~~ Except as provided in Subsection (3), an abstract of [any] a final order of the commission providing an award may be filed under this chapter or Chapter 3, Utah Occupational Disease Act, in the office of the clerk of the district court of any county in the state when all administrative and appellate remedies are exhausted.

(b) The abstract shall be docketed in the judgment docket of the district court where the abstract is filed. The time of the receipt of the abstract shall be noted on the abstract by the clerk of the district court and entered in the docket.

(c) When filed and docketed under Subsections (1)(a) and (b), the order shall constitute a lien from the time of the docketing upon the real property of the employer situated in the county, for a period of eight years from the date of the order unless the award provided in the final order is satisfied during the eight-year period.

(d) Execution may be issued on the lien within the same time and in the same manner and with the same effect as if ~~said~~ the award were a judgment of the district court.

(2) (a) If the employer was uninsured at the time of the injury, the county attorney for the county in which the applicant or the employer resides, depending on the district in which the final order is docketed, shall enforce the judgment when requested by the commission or division on behalf of the commission.

(b) In an action to enforce an order docketed under Subsection (1), reasonable ~~attorney's~~ attorney fees and court costs shall be allowed in addition to the award.

(3) Unless stayed pursuant to Section 63G-4-405, or set aside by the court of appeals, a preliminary or final decision of the commissioner or Appeals Board awarding permanent total disability compensation under Section 34A-2-413 is enforceable by abstract filed in the office of the clerk of the district court of any county in the state.

Section 3. Section 34A-2-801 is amended to read:

34A-2-801. Initiating adjudicative proceedings -- Procedure for review of administrative action.

(1) (a) To contest an action of the employee's employer or its insurance carrier concerning a compensable industrial accident or occupational disease alleged by the employee or a dependent any of the following shall file an application for hearing with the Division of Adjudication:

- (i) the employee;
- (ii) a representative of the employee, the qualifications of whom are defined in rule by the commission; or
- (iii) a dependent as described in Section 34A-2-403.

(b) To appeal the imposition of a penalty or other administrative act imposed by the division on the employer or its insurance carrier for failure to comply with this chapter or Chapter 3, Utah Occupational Disease Act, any of the following shall file an application for hearing with the Division of Adjudication:

- (i) the employer;
 - (ii) the insurance carrier; or
 - (iii) a representative of either the employer or the insurance carrier, the qualifications of whom are defined in rule by the commission.
- (c) A person providing goods or services described in Subsections 34A-2-407(11) and 34A-3-108(12) may file an application for hearing in accordance with Section 34A-2-407 or 34A-3-108.

(d) An attorney may file an application for hearing in accordance with Section 34A-1-309.

(2) (a) Unless all parties agree to the assignment in writing, the Division of Adjudication may not assign the same administrative law judge to hear a claim under this section by an injured employee if the administrative law judge previously heard a claim by the same injured employee for a different injury or occupational disease.

(b) Unless all parties agree to the appointment in writing, an administrative law judge may not appoint the same medical panel or individual panel member to evaluate a claim by an injured employee if the medical panel or individual panel member previously evaluated a claim by the same injured employee for a different injury or occupational disease.

(3) Unless a party in interest appeals the decision of an administrative law judge in accordance with Subsection (4), the decision of an administrative law judge on an application for hearing filed under Subsection (1) is a final order of the commission 30 days after the day on which the decision is issued. An administrative law judge shall issue a decision by no later than 60 days from the day on which the hearing is held under this part unless:

- (a) the parties agree to a longer period of time; or
- (b) a decision within the 60-day period is impracticable.

(4) (a) A party in interest may appeal the decision of an administrative law judge by filing a motion for review with the Division of Adjudication within 30 days of the date the decision is issued.

(b) Unless a party in interest to the appeal requests under Subsection (4)(c) that the appeal be

heard by the Appeals Board, the commissioner shall hear the review.

(c) A party in interest may request that an appeal be heard by the Appeals Board by filing the request with the Division of Adjudication:

- (i) as part of the motion for review; or
- (ii) if requested by a party in interest who did not file a motion for review, within 20 days of the day on which the motion for review is filed with the Division of Adjudication.

(d) A case appealed to the Appeals Board shall be decided by the majority vote of the Appeals Board.

(5) ~~[All records on appeals shall be maintained by the Division of Adjudication. Those records shall include]~~ The Division of Adjudication shall maintain a record on appeal, including an appeal docket showing the receipt and disposition of the appeals on review.

(6) Upon appeal, the commissioner or Appeals Board shall make its decision in accordance with Section 34A-1-303. The commissioner or Appeals Board shall issue a decision under this part by no later than 90 days from the day on which the motion for review is filed unless:

- (a) the parties agree to a longer period of time; or
- (b) a decision within the 90-day period is impracticable.

(7) The commissioner or Appeals Board shall promptly notify the parties to a proceeding before it of its decision, including its findings and conclusions.

(8) ~~[The]~~ (a) Subject to Subsection (8)(b), the decision of the commissioner or Appeals Board is final unless within 30 days after the date the decision is issued further appeal is initiated under the provisions of this section or Title 63G, Chapter 4, Administrative Procedures Act.

(b) In the case of an award of permanent total disability benefits under Section 34A-2-413, the decision of the commissioner or Appeals Board is a final order of the commission unless set aside by the court of appeals.

(9) (a) Within 30 days after the day on which the decision of the commissioner or Appeals Board is issued, an aggrieved party may secure judicial review by commencing an action in the court of appeals against the commissioner or Appeals Board for the review of the decision of the commissioner or Appeals Board.

- (b) In an action filed under Subsection (9)(a):
 - (i) any other party to the proceeding before the commissioner or Appeals Board shall be made a party; and
 - (ii) the commission shall be made a party.

(c) A party claiming to be aggrieved may seek judicial review only if the party exhausts the party's remedies before the commission as provided by this section.

(d) At the request of the court of appeals, the commission shall certify and file with the court all documents and papers and a transcript of all testimony taken in the matter together with the decision of the commissioner or Appeals Board.

(10) (a) The commission shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to facilitate timely completion of administrative actions under this part.

(b) The commission shall monitor the time from filing of an application for a hearing to issuance of a final order of the commission for cases brought under this part.

(c) The commission shall annually report to the Business and Labor Interim Committee:

(i) the number of cases for which an application for hearing is filed under this part in the previous calendar year;

(ii) the number of cases described in Subsection (10)(c)(i) for which the decision of the administrative law judge was not issued within the 60-day period required by Subsection (3);

(iii) the number of cases described in Subsection (10)(c)(i) that are appealed to the commissioner or Appeals Board for which the decision of the commissioner or Appeals Board was not issued within the 90-day period required by Subsection (6);

(iv) the number of cases described in Subsection (10)(c)(i) for which a final order of the commission is issued within 18 months of the day on which the application for hearing is filed;

(v) the number of cases for which a final order of the commission is not issued within 18 months of the day on which the application for a hearing is filed; and

(vi) the reasons the cases described in Subsection (10)(c)(v) were not resolved within 18 months of the day on which the application for a hearing is filed.

CHAPTER 193**S. B. 140**

Passed March 13, 2014
 Approved March 29, 2014
 Effective July 1, 2014

ADVANCED PLACEMENT TEST FUNDING

Chief Sponsor: Karen Mayne
 House Sponsor: Ronda Rudd Menlove

LONG TITLE**General Description:**

This bill provides for funding for Advanced Placement test fees of low-income students.

Highlighted Provisions:

This bill:

- ▶ allows the State Board of Education to allocate money appropriated for the Enhancement for Accelerated Students Program for advanced placement test fees of eligible low-income students;
- ▶ appropriates money for the Enhancement for Accelerated Students Program; and
- ▶ provides intent language directing that money appropriated for the Enhancement for Accelerated Students Program be used for advanced placement test fees of eligible low-income students.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2015:

- ▶ To Related to Basic Programs - Related to Basic School Programs as a one-time appropriation:
 - from the Education Fund, \$100,000.

Other Special Clauses:

This bill takes effect on July 1, 2014.

Utah Code Sections Affected:**AMENDS:**

53A-17a-165, as enacted by Laws of Utah 2011, Chapter 359

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

Section 1. Section 53A-17a-165 is amended to read:**53A-17a-165. Enhancement for Accelerated Students Program.**

(1) As used in this section, "eligible low-income student" means a student who:

- (a) takes an Advanced Placement test;
- (b) has applied for an Advanced Placement test fee reduction; and
- (c) qualifies for a free or a lunch provided at reduced cost.

~~[(1)]~~ (2) The State Board of Education shall distribute money appropriated for the Enhancement for Accelerated Students Program to school districts and charter schools according to a formula adopted by the State Board of Education, after consultation with school districts and charter schools.

~~[(2)]~~ (3) A distribution formula adopted under Subsection ~~[(1)]~~ (2) may include an allocation of money for:

(a) Advanced Placement courses;

~~[(b)]~~ (b) Advanced Placement test fees of eligible low-income students;

~~[(c)]~~ (c) gifted and talented programs, including professional development for teachers of high ability students; and

~~[(e)]~~ (d) International Baccalaureate programs.

~~[(3)]~~ (4) The greater of 1.5% or \$100,000 of the appropriation for the Enhancement for Accelerated Students Program may be allowed for International Baccalaureate programs.

~~[(4)]~~ (5) A school district or charter school shall use money distributed under this section to enhance the academic growth of students whose academic achievement is accelerated.

~~[(5)]~~ (6) (a) The State Board of Education shall develop performance criteria to measure the effectiveness of the Enhancement for Accelerated Students Program and make an annual report to the Public Education Appropriations Subcommittee on the effectiveness of the program.

(b) In the report required by Subsection (6)(a), the State Board of Education shall include data showing the use and impact of money allocated for Advanced Placement test fees of eligible low-income students.

Section 2. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2014, and ending June 30, 2015, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2015.

To Related to Basic Programs - Related to Basic School Programs

From Education Fund, One-time	\$100,000
-------------------------------	-----------

Schedule of Programs:

Enhancement for Accelerated Students Program	\$100,000
--	-----------

he Legislature intends that the appropriation for the Enhancement for Accelerated Students Program be used for Advanced Placement test fees of eligible low-income students as defined in Section 53A-17a-165.

Section 3. Effective date.

This bill takes effect on July 1, 2014.

CHAPTER 194**S. B. 158**

Passed March 6, 2014
Approved March 29, 2014
Effective May 13, 2014

CEMETERY AMENDMENTS

Chief Sponsor: Scott K. Jenkins
House Sponsor: Ryan D. Wilcox

LONG TITLE**General Description:**

This bill enacts language related to a cemetery.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to the recordation of a cemetery plat;
- ▶ requires an executive officer or an individual owner of a cemetery:
 - to provide a purchaser of a lot or burial right a certificate of a burial right; and
 - to file with the county recorder a transcript of a deed, certificate of sale, or evidence of burial rights;
- ▶ requires a person that controls a cemetery to adopt certain policies and procedures and establish a record keeping system;
- ▶ amends provisions governing a cemetery maintenance district; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

8-3-1, as last amended by Laws of Utah 2010, Chapter 378
8-3-2, Utah Code Annotated 1953
8-3-3, Utah Code Annotated 1953
17B-2a-102, as enacted by Laws of Utah 2007, Chapter 329

ENACTS:

8-6-1, Utah Code Annotated 1953
8-6-2, Utah Code Annotated 1953

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

Section 1. Section 8-3-1 is amended to read:**8-3-1. Plats of cemeteries shall be recorded.**

~~[The executive officers of organizations and all individual owners in control of cemeteries]~~

(1) An executive officer of an organization in control of a cemetery, including a municipality or a cemetery maintenance district, or an individual owner in control of a cemetery, offering burial lots for sale in any county, shall file and cause to be recorded in the office of the county recorder of the county within which ~~[such cemeteries are]~~ the respective cemetery is situated an accurate plat ~~[thereof, which]~~ of the cemetery.

(2) The plat required under Subsection (1) shall clearly show:

(a) the sections of burial lots which have been disposed of and the names of the persons owning or holding ~~[the same,]~~ each burial lot; and

(b) the sections of burial lots held for disposal; ~~and thereafter such].~~

(3) An executive ~~[officers or owners]~~ officer or owner shall file additional plats of any ~~[additions to such cemeteries]~~ addition to a cemetery before offering for sale any burial lots ~~[therein]~~ located in the cemetery.

(4) ~~[County recorders]~~ A county recorder may not collect any ~~[fees]~~ fee for filing and recording ~~[such]~~ an original ~~[plats]~~ plat required under this section.

Section 2. Section 8-3-2 is amended to read:**8-3-2. Burial rights -- Certificates.**

~~[Every purchaser of a lot or burial right therein shall be furnished by such executive officers or individual owners]~~

An executive officer of an organization in control of a cemetery, including a municipality or a cemetery maintenance district, or an individual owner in control of a cemetery, shall provide each purchaser of a lot or burial right located in the cemetery with a certificate of burial rights, properly executed, ~~and the same may be filed and recorded by the county recorder of the county within which the cemetery is situated].~~

Section 3. Section 8-3-3 is amended to read:**8-3-3. Transcripts to be filed for record.**

~~[On the first days of January and July]~~

(1) No later than January 1 and July 1 of each year ~~[such executive officers and individual owners offering]~~, the executive officer of an organization in control of a cemetery, including a municipality or cemetery maintenance district, or an individual owner in control of a cemetery with burial lots for sale, shall file with the county recorder of the county within which the ~~[cemeteries are]~~ cemetery is situated a transcript, duly certified by ~~[them]~~ the executive officer or individual owner, of ~~[any and all deeds, certificates of sale or evidences]~~ a deed, certificate of sale, or evidence of burial rights issued by ~~[them]~~ the executive officer, individual owner, or the officer's or owner's designee during the preceding six months.

(2) The county ~~[recorders]~~ recorder shall file ~~[such abstracts]~~ the transcript described in Subsection (1) without charge ~~[and make any and all necessary notations upon the plats of the cemeteries theretofore filed with them].~~

Section 4. Section 8-6-1 is enacted to read:**CHAPTER 6. POLICIES AND RECORDS****8-6-1. Title.**

This chapter is known as "Policies and Records."

Section 5. Section 8-6-2 is enacted to read:**8-6-2. Policies adopted and records kept.**

A cemetery maintenance district, municipality, individual, or other person that controls a cemetery shall:

(1) adopt policies and procedures for the regulation of its affairs and the conduct of its business, including policies and procedures for the following:

(a) setting of prices and other charges for services;

(b) sale of burial rights;

(c) regulation of headstones;

(d) care of headstones;

(e) regulation of flowers, shrubs, or other foliage placed or planted on an individual burial site; and

(f) compliance with provisions of this title and other governing provisions of law; and

(2) establish a record keeping system, including a secure backup of those records that is regularly updated.

Section 6. Section 17B-2a-102 is amended to read:

17B-2a-102. Provisions applicable to cemetery maintenance districts.

(1) Each cemetery maintenance district is governed by and has the powers stated in:

(a) this part; and

(b) Chapter 1, Provisions Applicable to All Local Districts.

(2) This part applies only to cemetery maintenance districts.

(3) A cemetery maintenance district is not subject to the provisions of any other part of this chapter.

(4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Local Districts, and a provision in this part, the provision in this part governs.

(5) A cemetery maintenance district shall comply with the applicable provisions of Title 8, Cemeteries.

CHAPTER 195**S. B. 172**

Passed March 13, 2014
 Approved March 29, 2014
 Effective May 13, 2014

CAPITAL IMPROVEMENT AND CAPITAL DEVELOPMENT PROJECT AMENDMENTS

Chief Sponsor: Wayne A. Harper
 House Sponsor: Gage Froerer

LONG TITLE**General Description:**

This bill modifies the Utah Administrative Services Code by amending provisions relating to capital improvement and capital development projects.

Highlighted Provisions:

This bill:

- ▶ adds infrastructure to the definition of replacement cost of existing state facilities;
- ▶ adds infrastructure to the prohibition that the Legislature may not fund the design or construction of any new capital development projects until the Legislature has appropriated a certain percentage of the replacement cost of existing state facilities and infrastructure to capital improvements;
- ▶ prohibits the Legislature from funding the programming, design, and construction of a new building or facility in phases over more than one year unless the Legislature has approved each phase of the funding for the construction of the new building or facility by the affirmative vote of two-thirds of all the members elected to each house;
- ▶ repeals the July 1, 2014, sunset date on the provision requiring the State Building Board, in prioritizing capital improvements, to allocate at least 80% of the funds the Legislature appropriates for certain capital improvements;
- ▶ repeals the July 1, 2014, sunset date on the provision requiring the State Building Board, in prioritizing capital improvements, to allocate no more than 20% of the funds the Legislature appropriates for capital improvements to remodeling and aesthetic upgrades or the construction of an addition to an existing building or facility; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63A-5-104, as last amended by Laws of Utah 2013, Chapters 250 and 409
 63I-1-263, as last amended by Laws of Utah 2013, Chapters 28, 62, 101, 167, 250, and 413

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

Section 1. Section 63A-5-104 is amended to read:

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

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

(1) As used in this section:

- (a) "Capital developments" means a:
- (i) remodeling, site, or utility project with a total cost of \$2,500,000 or more;
 - (ii) new facility with a construction cost of \$500,000 or more; or

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

(b) "Capital improvements" means a:

- (i) remodeling, alteration, replacement, or repair project with a total cost of less than \$2,500,000;
- (ii) site and utility improvement with a total cost of less than \$2,500,000; or
- (iii) new facility with a total construction cost of less than \$500,000.

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

(ii) "New facility" includes:

- (A) an addition to an existing building; and
 - (B) the enclosure of space that was not previously fully enclosed.
- (iii) "New facility" does not mean:

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

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

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

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

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

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

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

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

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

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

(ii) the use of the state property is:

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

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

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

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

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

(B) state capital improvement funding.

(d) Legislative approval is not required for:

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

(ii) a facility to be built with nonstate funds and owned by nonstate entities within research park areas at the University of Utah and Utah State University;

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

(iv) a capital project that:

(A) is funded by:

(I) the Uintah Basin Revitalization Fund; or

(II) the Navajo Revitalization Fund; and

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

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

(e) (i) Legislative approval is not required for capital development projects to be built for the Department of Transportation:

(A) as a result of an exchange of real property under Section 72-5-111; or

(B) as a result of a sale or exchange of real property from a maintenance facility if the real property is exchanged for, or the proceeds from the

sale of the real property are used for, another maintenance facility, including improvements for a maintenance facility and real property.

(ii) When the Department of Transportation approves a sale or exchange under Subsection (3)(e), it shall notify the president of the Senate, the speaker of the House, and the cochairs of the Infrastructure and General Government Appropriations Subcommittee of the Legislature's Joint Appropriation Committee about any new facilities to be built or improved under this exemption.

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

(ii) The list shall identify:

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

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

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

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

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

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

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

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

(d) Beginning on July 1, 2013, in prioritizing capital improvements, the State Building Board shall allocate at least 80% of the funds that the Legislature appropriates for capital improvements to:

(i) projects that address:

(A) a structural issue;

(B) fire safety;

(C) a code violation; or

- (D) any issue that impacts health and safety;
- (ii) projects that upgrade:
- (A) an HVAC system;
- (B) an electrical system;
- (C) essential equipment;
- (D) an essential building component; or
- (E) infrastructure, including a utility tunnel, water line, gas line, sewer line, roof, parking lot, or road; or
- (iii) projects that demolish and replace an existing building that is in extensive disrepair and cannot be fixed by repair or maintenance.
- (e) Beginning on July 1, 2013, in prioritizing capital improvements, the State Building Board shall allocate no more than 20% of the funds that the Legislature appropriates for capital improvements to:
- (i) remodeling and aesthetic upgrades to meet state programmatic needs; or
- (ii) construct an addition to an existing building or facility.
- (f) The State Building Board may require an entity that benefits from a capital improvement project to repay the capital improvement funds from savings that result from the project.
- (g) The State Building Board may provide capital improvement funding to a single project, or to multiple projects within a single building or facility, even if the total cost of the project or multiple projects is \$2,500,000 or more, if:
- (i) the capital improvement project or multiple projects require more than one year to complete; and
- (ii) the Legislature has affirmatively authorized the capital improvement project or multiple projects to be funded in phases.
- (5) The Legislature may authorize:
- (a) the total square feet to be occupied by each state agency; and
- (b) the total square feet and total cost of lease space for each agency.
- (6) If construction of a new building or facility will be paid for by nonstate funds, but will require an immediate or future increase in state funding for operations and maintenance or for capital improvements, the Legislature may not authorize the new building or facility until the Legislature appropriates funds for:
- (a) the portion of operations and maintenance, if any, that will require an immediate or future increase in state funding; and
- (b) the portion of capital improvements, if any, that will require an immediate or future increase in state funding.

(7) (a) Except as provided in Subsection (7)(b) or (c), the Legislature may not fund the design or construction of any new capital development projects, except to complete the funding of projects for which partial funding has been previously provided, until the Legislature has appropriated 1.1% of the replacement cost of existing state facilities and infrastructure to capital improvements.

(b) (i) As used in this Subsection (7)(b):

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

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

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

(c) (i) The requirements under Subsections (6)(a) and (b) do not apply to the 2008-09, 2009-10, 2010-11, 2011-12, and 2012-13 fiscal years.

(ii) For the 2013-14 fiscal year, the amount appropriated to capital improvements shall be reduced to 0.9% of the replacement cost of state facilities.

(8) It is the policy of the Legislature that a new building or facility be approved and funded for construction in a single budget action, therefore the Legislature may not fund the programming, design, and construction of a new building or facility in phases over more than one year unless the Legislature has approved each phase of the funding for the construction of the new building or facility by the affirmative vote of two-thirds of all the members elected to each house.

~~(8)~~ (9) (a) If, after approval of capital development and capital improvement priorities by the Legislature under this section, emergencies arise that create unforeseen critical capital improvement projects, the State Building Board may, notwithstanding the requirements of Title 63J, Chapter 1, Budgetary Procedures Act, reallocate capital improvement funds to address those projects.

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

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

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

~~(9)~~ (10) (a) The State Building Board may adopt a rule allocating to institutions and agencies their proportionate share of capital improvement funding.

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

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

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

~~[(40)]~~ (11) It is the intent of the Legislature that in funding capital improvement requirements under this section the General Fund be considered as a funding source for at least half of those costs.

~~[(41)]~~ (12) (a) Subject to Subsection ~~[(41)]~~ (12)(b), at least 80% of the state funds appropriated for capital improvements shall be used for maintenance or repair of the existing building or facility.

(b) The State Building Board may modify the requirement described in Subsection ~~[(41)]~~ (12)(a) if the State Building Board determines that a different allocation of capital improvements funds is in the best interest of the state.

Section 2. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63M.

(1) Section 63A-4-204, authorizing the Risk Management Fund to provide coverage to any public school district which chooses to participate, is repealed July 1, 2016.

~~[(2) Subsections 63A-5-104(4)(d) and (e) are repealed on July 1, 2014.]~~

~~[(3)]~~ (2) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2016.

~~[(4)]~~ (3) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2018.

~~[(5)]~~ (4) Section 53B-24-402, rural residency training program, is repealed July 1, 2015.

~~[(6)]~~ (5) Title 63C, Chapter 13, Prison Relocation and Development Authority Act, is repealed July 1, 2014.

~~[(7)]~~ (6) Title 63C, Chapter 14, Federal Funds Commission, is repealed July 1, 2018.

~~[(8)]~~ (7) Subsection 63G-6a-1402(7) authorizing certain transportation agencies to award a contract for a design-build transportation project in certain circumstances, is repealed July 1, 2015.

~~[(9)]~~ (8) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.

~~[(40)]~~ (9) The Resource Development Coordinating Committee, created in Section 63J-4-501, is repealed July 1, 2015.

~~[(41)]~~ (10) Title 63M, Chapter 1, Part 4, Enterprise Zone Act, is repealed July 1, 2018.

~~[(42)]~~ (11) (a) Title 63M, Chapter 1, Part 11, Recycling Market Development Zone Act, is repealed January 1, 2021.

(b) Subject to Subsection ~~[(42)]~~ (11)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections ~~[(42)]~~ (11)(b) and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.

~~[(43)]~~ (12) (a) Section 63M-1-2507, Health Care Compact is repealed on July 1, 2014.

(b) (i) The Legislature shall, before reauthorizing the Health Care Compact:

(A) direct the Health System Reform Task Force to evaluate the issues listed in Subsection ~~[(43)]~~ (12)(b)(ii), and by January 1, 2013, develop and recommend criteria for the Legislature to use to negotiate the terms of the Health Care Compact; and

(B) prior to July 1, 2014, seek amendments to the Health Care Compact among the member states that the Legislature determines are appropriate after considering the recommendations of the Health System Reform Task Force.

(ii) The Health System Reform Task Force shall evaluate and develop criteria for the Legislature regarding:

(A) the impact of the Supreme Court ruling on the Affordable Care Act;

(B) whether Utah is likely to be required to implement any part of the Affordable Care Act prior to negotiating the compact with the federal government, such as Medicaid expansion in 2014;

(C) whether the compact's current funding formula, based on adjusted 2010 state expenditures, is the best formula for Utah and other state compact members to use for establishing the block grants from the federal government;

(D) whether the compact's calculation of current year inflation adjustment factor, without

consideration of the regional medical inflation rate in the current year, is adequate to protect the state from increased costs associated with administering a state based Medicaid and a state based Medicare program;

(E) whether the state has the flexibility it needs under the compact to implement and fund state based initiatives, or whether the compact requires uniformity across member states that does not benefit Utah;

(F) whether the state has the option under the compact to refuse to take over the federal Medicare program;

(G) whether a state based Medicare program would provide better benefits to the elderly and disabled citizens of the state than a federally run Medicare program;

(H) whether the state has the infrastructure necessary to implement and administer a better state based Medicare program;

(I) whether the compact appropriately delegates policy decisions between the legislative and executive branches of government regarding the development and implementation of the compact with other states and the federal government; and

(J) the impact on public health activities, including communicable disease surveillance and epidemiology.

[(14)] (13) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2017.

[(15)] (14) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2017.

CHAPTER 196**S. B. 179**

Passed March 13, 2014
 Approved March 29, 2014
 Effective March 29, 2014

PROCUREMENT REVISIONS

Chief Sponsor: Scott K. Jenkins
 House Sponsor: Gage Froerer

LONG TITLE**General Description:**

This bill modifies the Utah Procurement Code and related provisions.

Highlighted Provisions:

This bill:

- ▶ modifies, repeals, enacts, repeals and reenacts, and renumbers and amends provisions of the Utah Procurement Code and related provisions;
- ▶ modifies procurement provisions applicable to local entity building improvement and public works projects;
- ▶ modifies the Open and Public Meetings Act relating to the procurement process;
- ▶ modifies a provision relating to exemptions from the Utah Procurement Code;
- ▶ modifies a provision relating to limitations on certain procurement units;
- ▶ enacts language differentiating between an issuing procurement unit and a conducting procurement unit and clarifying the role of each;
- ▶ modifies deadlines for when applicable rulemaking authorities are required to initiate rulemaking proceedings;
- ▶ modifies duties of the chief procurement officer;
- ▶ modifies provisions relating to the prequalification of potential vendors;
- ▶ modifies provisions relating to the public notice of solicitations;
- ▶ modifies requirements for the content of a request for proposals;
- ▶ authorizes an issuing procurement unit to reject a proposal under certain circumstances;
- ▶ modifies provisions relating to the evaluation of proposals;
- ▶ modifies provisions relating to the process of obtaining best and final offers;
- ▶ provides for a justification statement and modifies provisions relating to a cost-benefit analysis;
- ▶ modifies provisions relating to the awarding of a contract;
- ▶ modifies provisions relating to the award of a contract without competition;
- ▶ repeals language relating to required standard provisions in a contract and replaces it with language encouraging the establishment of standard contract clauses;
- ▶ modifies provisions relating to contracts and the auditing of books and records;
- ▶ modifies a provision relating to the selection committee for architect-engineer services;
- ▶ modifies provisions relating to protests and appeals of protests, including the amount of security deposits or bonds;

- ▶ modifies a provision relating to supplies and services that one procurement unit may provide to another;
- ▶ modifies a provision relating to cooperative purchasing;
- ▶ rewrites and modifies provisions relating to unlawful conduct and penalties for unlawful conduct in the context of procurement activities and makes those provisions applicable to all public entities; and
- ▶ makes technical, conforming, and clarifying changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.

Utah Code Sections Affected:**AMENDS:**

- 11-13-315, as enacted by Laws of Utah 2013, Chapter 230
- 11-39-103, as last amended by Laws of Utah 2011, Chapter 387
- 11-39-107, as last amended by Laws of Utah 2013, Chapter 448
- 52-4-205, as last amended by Laws of Utah 2013, Chapters 238 and 426
- 63B-2-102, as last amended by Laws of Utah 2012, Chapter 347
- 63B-3-102, as last amended by Laws of Utah 2012, Chapter 347
- 63B-4-102, as last amended by Laws of Utah 2012, Chapter 347
- 63B-5-102, as last amended by Laws of Utah 2013, Chapter 465
- 63B-6-102, as last amended by Laws of Utah 2012, Chapter 347
- 63B-6-402, as last amended by Laws of Utah 2012, Chapter 347
- 63B-7-102, as last amended by Laws of Utah 2012, Chapter 347
- 63B-7-402, as last amended by Laws of Utah 2012, Chapter 347
- 63B-8-102, as last amended by Laws of Utah 2012, Chapter 347
- 63B-8-402, as last amended by Laws of Utah 2012, Chapter 347
- 63B-9-103, as last amended by Laws of Utah 2012, Chapter 347
- 63B-11-202, as last amended by Laws of Utah 2012, Chapter 347
- 63F-1-205, as last amended by Laws of Utah 2012, Chapter 347
- 63G-6a-102, as renumbered and amended by Laws of Utah 2012, Chapter 347
- 63G-6a-103, as last amended by Laws of Utah 2013, Chapter 445
- 63G-6a-104, as repealed and reenacted by Laws of Utah 2013, Chapter 445
- 63G-6a-106, as last amended by Laws of Utah 2013, Chapter 445
- 63G-6a-107, as last amended by Laws of Utah 2013, Chapter 445
- 63G-6a-108, as last amended by Laws of Utah 2013, Chapter 445
- 63G-6a-204, as last amended by Laws of Utah 2013, Chapter 445

63G-6a-303, as last amended by Laws of Utah 2013, Chapter 445

63G-6a-402, as last amended by Laws of Utah 2013, Chapter 445

63G-6a-403, as last amended by Laws of Utah 2013, Chapter 445

63G-6a-404, as last amended by Laws of Utah 2013, Chapter 445

63G-6a-406, as last amended by Laws of Utah 2013, Chapter 445

63G-6a-408, as last amended by Laws of Utah 2013, Chapter 445

63G-6a-603, as last amended by Laws of Utah 2013, Chapter 445

63G-6a-606, as last amended by Laws of Utah 2013, Chapter 445

63G-6a-607, as last amended by Laws of Utah 2013, Chapter 445

63G-6a-609, as last amended by Laws of Utah 2013, Chapter 445

63G-6a-611, as last amended by Laws of Utah 2013, Chapter 445

63G-6a-612, as last amended by Laws of Utah 2013, Chapter 445

63G-6a-702, as last amended by Laws of Utah 2013, Chapter 445

63G-6a-703, as last amended by Laws of Utah 2013, Chapter 445

63G-6a-704, as last amended by Laws of Utah 2013, Chapter 445

63G-6a-707, as last amended by Laws of Utah 2013, Chapter 445

63G-6a-708, as last amended by Laws of Utah 2013, Chapter 445

63G-6a-709, as last amended by Laws of Utah 2013, Chapter 445

63G-6a-709.5, as enacted by Laws of Utah 2013, Chapter 445

63G-6a-802, as last amended by Laws of Utah 2013, Chapter 445

63G-6a-904, as last amended by Laws of Utah 2013, Chapter 445

63G-6a-1103, as last amended by Laws of Utah 2013, Chapter 445

63G-6a-1105, as renumbered and amended by Laws of Utah 2012, Chapter 347

63G-6a-1204, as last amended by Laws of Utah 2013, Chapter 445

63G-6a-1205, as last amended by Laws of Utah 2013, Chapter 445

63G-6a-1206, as last amended by Laws of Utah 2013, Chapter 445

63G-6a-1402, as last amended by Laws of Utah 2012, Chapter 330 and renumbered and amended by Laws of Utah 2012, Chapter 347

63G-6a-1502, as last amended by Laws of Utah 2013, Chapter 445

63G-6a-1503, as last amended by Laws of Utah 2013, Chapter 445

63G-6a-1505, as renumbered and amended by Laws of Utah 2012, Chapter 347

63G-6a-1602, as last amended by Laws of Utah 2012, Chapter 91 and renumbered and amended by Laws of Utah 2012, Chapter 347 and last amended by Coordination Clause, Laws of Utah 2012, Chapter 347

63G-6a-1603, as last amended by Laws of Utah 2013, Chapter 445

63G-6a-1702, as last amended by Laws of Utah 2013, Chapter 445

63G-6a-1703, as last amended by Laws of Utah 2013, Chapter 445

63G-6a-1706, as enacted by Laws of Utah 2012, Chapter 347 and last amended by Coordination Clause, Laws of Utah 2012, Chapter 347

63G-6a-1802, as last amended by Laws of Utah 2013, Chapter 445

63G-6a-1902, as last amended by Laws of Utah 2013, Chapter 445

63G-6a-1903, as last amended by Laws of Utah 2013, Chapter 445

63G-6a-1904, as last amended by Laws of Utah 2013, Chapter 445

63G-6a-1906, as last amended by Laws of Utah 2012, Chapter 91 and renumbered and amended by Laws of Utah 2012, Chapter 347 and last amended by Coordination Clause, Laws of Utah 2012, Chapter 347

63G-6a-1907, as last amended by Laws of Utah 2012, Chapter 91 and renumbered and amended by Laws of Utah 2012, Chapter 347 and last amended by Coordination Clause, Laws of Utah 2012, Chapter 347

63G-6a-1910, as last amended by Laws of Utah 2013, Chapter 445

63G-6a-2103, as last amended by Laws of Utah 2013, Chapter 445

63G-6a-2105, as last amended by Laws of Utah 2013, Chapter 445

67-16-4, as last amended by Laws of Utah 2013, Chapter 445

67-16-5, as last amended by Laws of Utah 2013, Chapter 445

67-16-5.3, as last amended by Laws of Utah 2013, Chapter 445

67-16-5.6, as last amended by Laws of Utah 2013, Chapter 445

67-16-6, as last amended by Laws of Utah 2013, Chapter 445

ENACTS:

63G-6a-109, Utah Code Annotated 1953

63G-6a-2401, Utah Code Annotated 1953

63G-6a-2402, Utah Code Annotated 1953

63G-6a-2403, Utah Code Annotated 1953

63G-6a-2404, Utah Code Annotated 1953

63G-6a-2405, Utah Code Annotated 1953

63G-6a-2406, Utah Code Annotated 1953

63G-6a-2407, Utah Code Annotated 1953

REPEALS AND REENACTS:

63G-6a-1202, as last amended by Laws of Utah 2013, Chapter 445

RENUMBERS AND AMENDS:

63G-6a-707.5, (Renumbered from 63G-6a-705, as last amended by Laws of Utah 2013, Chapter 445)

REPEALS:

63G-6a-1803, as last amended by Laws of Utah 2012, Chapter 91 and renumbered and amended by Laws of Utah 2012, Chapter 347 and last amended by Coordination Clause, Laws of Utah 2012, Chapter 347

63G-6a-1905, as last amended by Laws of Utah 2013, Chapter 445
 63G-6a-2301, as enacted by Laws of Utah 2012, Chapter 347
 63G-6a-2302, as last amended by Laws of Utah 2013, Chapter 445
 63G-6a-2304.5, as enacted by Laws of Utah 2013, Chapter 445
 63G-6a-2305, as last amended by Laws of Utah 2013, Chapter 445
 63G-6a-2306, as last amended by Laws of Utah 2013, Chapter 445
 63G-6a-2307, as last amended by Laws of Utah 2013, Chapter 445
 63G-6a-2308, as enacted by Laws of Utah 2013, Chapter 445

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

Section 1. Section 11-13-315 is amended to read:

11-13-315. Taxed interlocal entity.

(1) As used in this section:

(a) "Asset" means funds, money, an account, real or personal property, or personnel.

(b) "Public asset" means:

- (i) an asset used by a public entity;
- (ii) tax revenue;
- (iii) state funds; or
- (iv) public funds.

(c) (i) "Taxed interlocal entity" means a project entity that:

(A) is not exempt from a tax or fee in lieu of taxes imposed in accordance with Part 3, Project Entity Provisions;

(B) does not receive a payment of funds from a federal agency or office, state agency or office, political subdivision, or other public agency or office other than a payment that does not materially exceed the greater of the fair market value and the cost of a service provided or property conveyed by the project entity; and

(C) does not receive, expend, or have the authority to compel payment from tax revenue.

(ii) Before and on May 1, 2014, "taxed interlocal entity" includes an interlocal entity that:

(A) (I) was created before 1981 for the purpose of providing power supply at wholesale to its members; or

(II) is described in Subsection 11-13-204(7);

(B) does not receive a payment of funds from a federal agency or office, state agency or office, political subdivision, or other public agency or office other than a payment that does not materially exceed the greater of the fair market value and the cost of a service provided or property conveyed by the interlocal entity; and

(C) does not receive, expend, or have the authority to compel payment from tax revenue.

(d) (i) "Use" means to use, own, manage, hold, keep safe, maintain, invest, deposit, administer, receive, expend, appropriate, disburse, or have custody.

(ii) "Use" includes, when constituting a noun, the corresponding nominal form of each term in Subsection (1)(d)(i), individually.

(2) Notwithstanding any other provision of law, the use of an asset by a taxed interlocal entity does not constitute the use of a public asset.

(3) Notwithstanding any other provision of law, a taxed interlocal entity's use of an asset that was a public asset prior to the taxed interlocal entity's use of the asset does not constitute a taxed interlocal entity's use of a public asset.

(4) Notwithstanding any other provision of law, an official of a project entity is not a public treasurer.

(5) Notwithstanding any other provision of law, a taxed interlocal entity's governing body, as described in Section 11-13-206, shall determine and direct the use of an asset by the taxed interlocal entity.

(6) ~~(a)~~ A taxed interlocal entity is not subject to the provisions of Title 63G, Chapter 6a, Utah Procurement Code.

~~(b) An agent of a taxed interlocal entity is not an external procurement unit as defined in Section 63G-6a-104.]~~

(7) (a) A taxed interlocal entity is not a participating local entity as defined in Section 63A-3-401.

(b) For each fiscal year of a taxed interlocal entity, the taxed interlocal entity shall provide:

(i) the taxed interlocal entity's financial statements for and as of the end of the fiscal year and the prior fiscal year, including the taxed interlocal entity's balance sheet as of the end of the fiscal year and the prior fiscal year, and the related statements of revenues and expenses and of cash flows for the fiscal year; and

(ii) the accompanying auditor's report and management's discussion and analysis with respect to the taxed interlocal entity's financial statements for and as of the end of the fiscal year.

(c) The taxed interlocal entity shall provide the information described in Subsections (7)(b)(i) and (b)(ii):

(i) in a manner described in Subsection 63A-3-405(3); and

(ii) within a reasonable time after the taxed interlocal entity's independent auditor delivers to the taxed interlocal entity's governing body the auditor's report with respect to the financial statements for and as of the end of the fiscal year.

(d) Notwithstanding Subsections (7)(b) and (c) or a taxed interlocal entity's compliance with one or

more of the requirements of Title 63A, Chapter 3, Division of Finance:

(i) the taxed interlocal entity is not subject to Title 63A, Chapter 3, Division of Finance; and

(ii) the information described in Subsection (7)(b)(i) or (ii) does not constitute public financial information as defined in Section 63A-3-401.

(8) (a) A taxed interlocal entity's governing body is not a governing board as defined in Section 51-2a-102.

(b) A taxed interlocal entity is not subject to the provisions of Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

Section 2. Section 11-39-103 is amended to read:

11-39-103. Requirements for undertaking a building improvement or public works project -- Request for bids -- Authority to reject bids.

(1) If the estimated cost of the building improvement or public works project exceeds the bid limit, the local entity shall, if it determines to proceed with the building improvement or public works project:

(a) request bids for completion of the building improvement or public works project by:

(i) (A) publishing notice at least twice in a newspaper published or of general circulation in the local entity at least five days before opening the bids; or

(B) if there is no newspaper published or of general circulation in the local entity as described in Subsection (1)(a)(i)(A), posting notice at least five days before opening the bids in at least five public places in the local entity and leaving the notice posted for at least three days; and

(ii) publishing notice in accordance with Section 45-1-101, at least five days before opening the bids; and

(b) except as provided in Subsection (3), enter into a contract for the completion of the building improvement or public works project with:

(i) the lowest responsive responsible bidder; or

(ii) for a design-build project formulated by a local entity, ~~[except as provided in Section 11-39-107,]~~ a responsible bidder that:

(A) offers design-build services; and

(B) satisfies the local entity's criteria relating to financial strength, past performance, integrity, reliability, and other factors that the local entity uses to assess the ability of a bidder to perform fully and in good faith the contract requirements for a design-build project.

(2) (a) Each notice under Subsection (1)(a) shall indicate that the local entity may reject any or all bids submitted.

(b) (i) The cost of a building improvement or public works project may not be divided to avoid:

(A) exceeding the bid limit; and

(B) subjecting the local entity to the requirements of this section.

(ii) Notwithstanding Subsection (2)(b)(i), a local entity may divide the cost of a building improvement or public works project that would, without dividing, exceed the bid limit if the local entity complies with the requirements of this section with respect to each part of the building improvement or public works project that results from dividing the cost.

(3) (a) The local entity may reject any or all bids submitted.

(b) If the local entity rejects all bids submitted but still intends to undertake the building improvement or public works project, the local entity shall again request bids by following the procedure provided in Subsection (1)(a).

(c) If, after twice requesting bids by following the procedure provided in Subsection (1)(a), the local entity determines that no satisfactory bid has been submitted, the governing body may undertake the building improvement or public works project as it considers appropriate.

Section 3. Section 11-39-107 is amended to read:

11-39-107. Procurement code.

(1) This chapter may not be construed to:

(a) prohibit a county or municipal legislative body from adopting the procedures of the procurement code; or

(b) limit the application of the procurement code to a local district or special service district.

(2) A local entity may adopt procedures for the following construction contracting methods:

(a) construction manager/general contractor, as defined in Section 63G-6a-103; ~~[or]~~

(b) a method that requires that the local entity draft a plan, specifications, and an estimate for the building improvement or public works project~~[-]; or~~

(c) design-build, as defined in Section 63G-6a-103, if the local entity consults with a professional engineer licensed under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act, or an architect licensed under Title 58, Chapter 3a, Architects Licensing Act, who has design-build experience and is employed by or under contract with the local entity.

~~[(3) For a public works project only and that costs \$1,000,000 or more, in consultation with a professional engineer licensed under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act, who has design-build experience and is employed by or is under contract with the owner, the following may enter into a contract for design-build, as defined in~~

~~Section 63G-6a-103, and adopt the procedures and follow the provisions of the procurement code for the procurement of and as the procedures and provisions relate to a design-build:]~~

~~[(a) a city of the first class;]~~

~~[(b) a local district; or]~~

~~[(c) a special service district.]~~

[4] (3) (a) In seeking bids and awarding a contract for a building improvement or public works project, a county or a municipal legislative body may elect to follow the provisions of the procurement code, as the county or municipal legislative body considers appropriate under the circumstances, for specification preparation, source selection, or contract formation.

(b) A county or municipal legislative body's election to adopt the procedures of the procurement code may not excuse the county or municipality, respectively, from complying with the requirements to award a contract for work in excess of the bid limit and to publish notice of the intent to award.

(c) An election under Subsection [(4)] (3)(a) may be made on a case-by-case basis, unless the county or municipality has previously adopted the [provisions of Title 63G, Chapter 6a, Utah Procurement Code] procurement code.

(d) The county or municipal legislative body shall:

(i) make each election under Subsection [(4)] (3)(a) in an open meeting; and

(ii) specify in its action the portions of the procurement code to be followed.

[5] (4) If the estimated cost of the building improvement or public works project proposed by a local district or special service district exceeds the bid limit, the governing body of the local district or special service district may, if it determines to proceed with the building improvement or public works project, use the competitive procurement procedures of the procurement code in place of the comparable provisions of this chapter.

Section 4. Section 52-4-205 is amended to read:

52-4-205. Purposes of closed meetings -- Certain issues prohibited in closed meetings.

(1) A closed meeting described under Section 52-4-204 may only be held for:

(a) except as provided in Subsection (3), discussion of the character, professional competence, or physical or mental health of an individual;

(b) strategy sessions to discuss collective bargaining;

(c) strategy sessions to discuss pending or reasonably imminent litigation;

(d) strategy sessions to discuss the purchase, exchange, or lease of real property, including any form of a water right or water shares, if public discussion of the transaction would:

(i) disclose the appraisal or estimated value of the property under consideration; or

(ii) prevent the public body from completing the transaction on the best possible terms;

(e) strategy sessions to discuss the sale of real property, including any form of a water right or water shares, if:

(i) public discussion of the transaction would:

(A) disclose the appraisal or estimated value of the property under consideration; or

(B) prevent the public body from completing the transaction on the best possible terms;

(ii) the public body previously gave public notice that the property would be offered for sale; and

(iii) the terms of the sale are publicly disclosed before the public body approves the sale;

(f) discussion regarding deployment of security personnel, devices, or systems;

(g) investigative proceedings regarding allegations of criminal misconduct;

(h) as relates to the Independent Legislative Ethics Commission, conducting business relating to the receipt or review of ethics complaints;

(i) as relates to an ethics committee of the Legislature, a purpose permitted under Subsection 52-4-204(1)(a)(iii)(C);

(j) as relates to the Independent Executive Branch Ethics Commission created in Section 63A-14-202, conducting business relating to an ethics complaint;

(k) as relates to a county legislative body, discussing commercial information as defined in Section 59-1-404;

(l) as relates to the Utah Higher Education Assistance Authority and its appointed board of directors, discussing fiduciary or commercial information as defined in Section 53B-12-102; ~~or]~~

(m) deliberations, not including any information gathering activities, of a public body acting in the capacity of:

(i) an evaluation committee under Title 63G, Chapter 6a, Utah Procurement Code, during the process of evaluating responses to a solicitation, as defined in Section 63G-6a-103;

(ii) a protest officer, defined in Section 63G-6a-103, during the process of making a decision on a protest under Title 63G, Chapter 6a, Part 16, Controversies and Protests; or

(iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement Code, during the process of deciding an appeal under Title 63G, Chapter 6a, Part 17, Procurement Appeals Board;

(n) the purpose of considering information that is designated as a trade secret, as defined in Section 13-24-2, if the public body's consideration of the information is necessary in order to properly conduct a procurement under Title 63G, Chapter 6a, Utah Procurement Code;

(o) the purpose of discussing information provided to the public body during the procurement process under Title 63G, Chapter 6a, Utah Procurement Code, if, at the time of the meeting:

(i) the information may not, under Title 63G, Chapter 6a, Utah Procurement Code, be disclosed to a member of the public or to a participant in the procurement process; and

(ii) the public body needs to review or discuss the information in order to properly fulfill its role and responsibilities in the procurement process; or

~~(m)~~ (p) a purpose for which a meeting is required to be closed under Subsection (2).

(2) The following meetings shall be closed:

(a) a meeting of the Health and Human Services Interim Committee to review a fatality review report described in Subsection 62A-16-301(1)(a), and the responses to the report described in Subsections 62A-16-301(2) and (4);

(b) a meeting of the Child Welfare Legislative Oversight Panel to:

(i) review a fatality review report described in Subsection 62A-16-301(1)(a), and the responses to the report described in Subsections 62A-16-301(2) and (4); or

(ii) review and discuss an individual case, as described in Subsection 62A-4a-207(5); and

(c) a meeting of a conservation district as defined in Section 17D-3-102 for the purpose of advising the Natural Resource Conservation Service of the United States Department of Agriculture on a farm improvement project if the discussed information is protected information under federal law.

(3) In a closed meeting, a public body may not:

(a) interview a person applying to fill an elected position;

(b) discuss filling a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office; or

(c) discuss the character, professional competence, or physical or mental health of the person whose name was submitted for consideration to fill a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office.

Section 5. Section 63B-2-102 is amended to read:

63B-2-102. Maximum amount -- Projects authorized.

(1) The total amount of bonds issued under this part may not exceed \$80,000,000.

(2) (a) Proceeds from the issuance of bonds shall be provided to the division to provide funds to pay all or part of the cost of acquiring and constructing the projects listed in this Subsection (2).

(b) These costs may include the cost of acquiring land, interests in land, easements and rights-of-way, improving sites, and acquiring, constructing, equipping, and furnishing facilities and all structures, roads, parking facilities, utilities, and improvements necessary, incidental, or convenient to the facilities, interest estimated to accrue on these bonds during the period to be covered by construction of the projects plus a period of six months after the end of the construction period and all related engineering, architectural, and legal fees.

(c) For the division, proceeds shall be provided for the following:

CAPITAL IMPROVEMENTS

1 Alterations, Repairs, and Improvements	\$8,413,900
TOTAL IMPROVEMENTS	\$8,413,900

CAPITAL FACILITIES CONSTRUCTION

PROJECT PRIORITY	PROJECT DESCRIPTION	AMOUNT FUNDED	ESTIMATED OPERATIONS AND MAINTENANCE COSTS
1	Corrections - Northern Utah Community Corrections Center Phase II	\$2,729,700	\$158,000
2	University of Utah Marriot Library Phase II	\$10,200,000	\$881,600
3	Ogden Courts Building Phase II	\$12,096,000	\$340,000
4	Utah National Guard - Southeast Utah Armory Phase II	\$397,800	\$70,500
5	Southern Utah University Library Phase II	\$7,004,400	\$427,000
6	Utah Valley Special Events Center Phase II	\$11,845,300	\$536,900
7	Salt Lake Community College - Land	\$1,300,000	\$0
8	Tax Commission Building	\$14,224,000	\$812,000
9	Dixie College Business Building	\$2,823,300	\$187,800
10	Salt Lake Community College South City 3rd Floor and Boiler	\$4,009,500	\$257,600
11	Public Education - Deaf and Blind Classrooms	\$3,456,100	\$124,800
TOTAL CONSTRUCTION		\$70,086,100	

TOTAL IMPROVEMENTS AND CONSTRUCTION	\$78,500,000
--	---------------------

(d) For purposes of this section, operations and maintenance costs:

(i) are estimates only;

(ii) may include any operations and maintenance costs already funded in existing agency budgets; and

(iii) are not commitments by this Legislature or future Legislatures to fund those operations and maintenance costs.

(3) (a) The amounts funded as listed in Subsection (2) are estimates only and do not constitute a limitation on the amount that may be expended for any project.

(b) The board may revise these estimates and redistribute the amount estimated for a project among the projects authorized.

(c) The commission, by resolution and in consultation with the board, may delete one or more projects from this list if the inclusion of that project or those projects in the list could be construed to violate state law or federal law or regulation.

(4) (a) The division may enter into agreements related to these projects before the receipt of proceeds of bonds issued under this chapter.

(b) The division shall make those expenditures from unexpended and unencumbered building funds already appropriated to the Capital Projects Fund.

(c) The division shall reimburse the Capital Projects Fund upon receipt of the proceeds of bonds issued under this chapter.

(d) The commission may, by resolution, make any statement of intent relating to that reimbursement that is necessary or desirable to comply with federal tax law.

(5) (a) For those projects for which only partial funding is provided in Subsection (2), it is the intent of the Legislature that the balance necessary to complete the projects be addressed by future Legislatures, either through appropriations or through the issuance or sale of bonds.

(b) For those phased projects, the division may enter into contracts for amounts not to exceed the anticipated full project funding but may not allow work to be performed on those contracts in excess of the funding already authorized by the Legislature.

(c) Those contracts shall contain a provision for termination of the contract for the convenience of the state [as required by Section 63G-6a-1202].

(d) It is also the intent of the Legislature that this authorization to the division does not bind future Legislatures to fund projects initiated from this authorization.

Section 6. Section 63B-3-102 is amended to read:

63B-3-102. Maximum amount -- Projects authorized.

(1) The total amount of bonds issued under this part may not exceed \$64,600,000.

(2) (a) Proceeds from the issuance of bonds shall be provided to the division to provide funds to pay all or part of the cost of acquiring and constructing the projects listed in this Subsection (2).

(b) These costs may include the cost of acquiring land, interests in land, easements and rights-of-way, improving sites, and acquiring, constructing, equipping, and furnishing facilities and all structures, roads, parking facilities, utilities, and improvements necessary, incidental, or convenient to the facilities, interest estimated to accrue on these bonds during the period to be covered by construction of the projects plus a period of six months after the end of the construction period and all related engineering, architectural, and legal fees.

(c) For the division, proceeds shall be provided for the following:

CAPITAL IMPROVEMENTS

1 Alterations, Repairs, and Improvements	\$5,000,000
TOTAL IMPROVEMENTS	\$5,000,000

CAPITAL AND ECONOMIC DEVELOPMENT

PROJECT PRIORITY	PROJECT DESCRIPTION	AMOUNT FUNDED	ESTIMATED
			OPERATIONS AND MAINTENANCE COSTS
1	University of Utah Marriott Library Phase III (Final)	\$13,811,500	\$881,600
2	Bridgerland Applied Technology Center Utah State University Space	\$2,400,000	\$0
3	Weber State University - Heat Plant	\$2,332,100	\$9,600
4	Department of Human Services - Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services	\$4,180,000	\$400,000
5	Snow College - Administrative Services/Student Center	\$3,885,100	\$224,500
6	Ogden Weber Applied Technology Center - Metal Trades Building Design and Equipment Purchase	\$750,000	\$0
7	Department of Corrections B-Block Remodel	\$1,237,100	\$72,000
8	Utah State University - Old Main Phase III Design	\$550,000	\$0
9	Department of Corrections - 144 bed Uintah Expansion	\$6,700,000	\$168,800
10	Southern Utah University Administrative Services/Student Center	\$5,630,400	\$314,200
11	Anasazi Museum	\$760,200	\$8,500
12	Hill Air Force Base - Easements Purchase	\$9,500,000	\$0
13	Signetics Building Remodel	\$2,000,000	\$0
14	Antelope Island Visitors Center	\$750,000	\$30,000

15 State Fair Park - Master Study	\$150,000	\$0
16 Utah National Guard - Draper Land	\$380,800	\$0
17 Davis Applied Technology Center - Design	\$325,000	\$0
18 Palisade State Park - Land and Park Development	\$800,000	\$0
19 Department of Human Services - Cedar City Land	\$80,000	\$0
20 Department of Human Services - Clearfield Land	\$163,400	\$0
21 Electronic technology, equipment, and hardware	\$2,500,000	\$0
TOTAL CAPITAL AND ECONOMIC DEVELOPMENT	\$58,885,600	
TOTAL IMPROVEMENTS AND CAPITAL AND ECONOMIC DEVELOPMENT		\$63,885,600

(d) For purposes of this section, operations and maintenance costs:

- (i) are estimates only;
- (ii) may include any operations and maintenance costs already funded in existing agency budgets; and

(iii) are not commitments by this Legislature or future Legislatures to fund those operations and maintenance costs.

(3) (a) The amounts funded as listed in Subsection (2) are estimates only and do not constitute a limitation on the amount that may be expended for any project.

(b) The board may revise these estimates and redistribute the amount estimated for a project among the projects authorized.

(c) The commission, by resolution and in consultation with the board, may delete one or more projects from this list if the inclusion of that project or those projects in the list could be construed to violate state law or federal law or regulation.

(4) (a) The division may enter into agreements related to these projects before the receipt of proceeds of bonds issued under this chapter.

(b) The division shall make those expenditures from unexpended and unencumbered building funds already appropriated to the Capital Projects Fund.

(c) The division shall reimburse the Capital Projects Fund upon receipt of the proceeds of bonds issued under this chapter.

(d) The commission may, by resolution, make any statement of intent relating to that reimbursement that is necessary or desirable to comply with federal tax law.

(5) (a) For those projects for which only partial funding is provided in Subsection (2), it is the intent of the Legislature that the balance necessary to

complete the projects be addressed by future Legislatures, either through appropriations or through the issuance or sale of bonds.

(b) For those phased projects, the division may enter into contracts for amounts not to exceed the anticipated full project funding but may not allow work to be performed on those contracts in excess of the funding already authorized by the Legislature.

(c) Those contracts shall contain a provision for termination of the contract for the convenience of the state [as required by Section 63G-6a-1202].

(d) It is also the intent of the Legislature that this authorization to the division does not bind future Legislatures to fund projects initiated from this authorization.

Section 7. Section 63B-4-102 is amended to read:

63B-4-102. Maximum amount -- Projects authorized.

(1) The total amount of bonds issued under this part may not exceed \$45,300,000.

(2) (a) Proceeds from the issuance of bonds shall be provided to the division to provide funds to pay all or part of the cost of acquiring and constructing the projects listed in this Subsection (2).

(b) These costs may include the cost of acquiring land, interests in land, easements and rights-of-way, improving sites, and acquiring, constructing, equipping, and furnishing facilities and all structures, roads, parking facilities, utilities, and improvements necessary, incidental, or convenient to the facilities, interest estimated to accrue on these bonds during the period to be covered by construction of the projects plus a period of six months after the end of the construction period, and all related engineering, architectural, and legal fees.

(c) For the division, proceeds shall be provided for the following:

CAPITAL IMPROVEMENTS

Alterations, Repairs, and Improvements	\$7,200,000
TOTAL IMPROVEMENTS	\$7,200,000

CAPITAL AND ECONOMIC DEVELOPMENT

ESTIMATED
OPERATIONS AND

PROJECT DESCRIPTION	AMOUNT FUNDED	MAINTENANCE COSTS
------------------------	------------------	----------------------

Corrections - Uinta IVA	\$11,300,000	\$212,800
Utah County Youth Correctional Facility	\$6,650,000	\$245,000
Ogden Weber Applied Technology Center - Metal Trades	\$5,161,000	\$176,000
Project Reserve Fund	\$3,500,000	None
Weber State University - Browning CenterRemodel	\$3,300,000	None

Heber Wells Building Remodel	\$2,000,000	None
Higher Education Davis County - Land Purchase	\$1,600,000	None
National Guard -- Provo Armory	\$1,500,000	\$128,000
Department of Natural Resources - Pioneer Trails Visitor Center	\$900,000	\$65,000
Higher Education Design Projects	\$800,000	Varies depending upon projects selected
Salt Lake Community College - South Valley Planning	\$300,000	None
Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services - Logan Land Purchase	\$120,000	None
TOTAL CAPITAL AND ECONOMIC DEVELOPMENT	\$37,131,000	
TOTAL IMPROVEMENTS AND CAPITAL AND ECONOMIC DEVELOPMENT	\$44,331,000	

(d) For purposes of this section, operations and maintenance costs:

- (i) are estimates only;
- (ii) may include any operations and maintenance costs already funded in existing agency budgets; and
- (iii) are not commitments by this Legislature or future Legislatures to fund those operations and maintenance costs.

(3) (a) The amounts funded as listed in Subsection (2) are estimates only and do not constitute a limitation on the amount that may be expended for any project.

(b) The board may revise these estimates and redistribute the amount estimated for a project among the projects authorized.

(c) The commission, by resolution and in consultation with the board, may delete one or more projects from this list if the inclusion of that project or those projects in the list could be construed to violate state law or federal law or regulation.

(4) (a) The division may enter into agreements related to these projects before the receipt of proceeds of bonds issued under this chapter.

(b) The division shall make those expenditures from unexpended and unencumbered building funds already appropriated to the Capital Projects Fund.

(c) The division shall reimburse the Capital Projects Fund upon receipt of the proceeds of bonds issued under this chapter.

(d) The commission may, by resolution, make any statement of intent relating to that reimbursement that is necessary or desirable to comply with federal tax law.

(5) (a) For those projects for which only partial funding is provided in Subsection (2), it is the intent of the Legislature that the balance necessary to complete the projects be addressed by future Legislatures, either through appropriations or through the issuance or sale of bonds.

(b) For those phased projects, the division may enter into contracts for amounts not to exceed the anticipated full project funding but may not allow work to be performed on those contracts in excess of the funding already authorized by the Legislature.

(c) Those contracts shall contain a provision for termination of the contract for the convenience of the state [as required by Section 63G-6a-1202].

(d) It is also the intent of the Legislature that this authorization to the division does not bind future Legislatures to fund projects initiated from this authorization.

Section 8. Section 63B-5-102 is amended to read:

63B-5-102. Maximum amount -- Projects authorized.

(1) The total amount of bonds issued under this part may not exceed \$32,000,000.

(2) (a) Proceeds from the issuance of bonds shall be provided to the division to provide funds to pay all or part of the cost of acquiring and constructing the projects listed in this Subsection (2).

(b) These costs may include the cost of acquiring land, interests in land, easements and rights-of-way, improving sites, and acquiring, constructing, equipping, and furnishing facilities and all structures, roads, parking facilities, utilities, and improvements necessary, incidental, or convenient to the facilities, interest estimated to accrue on these bonds during the period to be covered by construction of the projects plus a period of six months after the end of the construction period, and all related engineering, architectural, and legal fees.

(c) For the division, proceeds shall be provided for the following:

CAPITAL IMPROVEMENTS

Alterations, Repairs, and Improvements	\$7,600,000
TOTAL IMPROVEMENTS	\$7,600,000

CAPITAL AND ECONOMIC DEVELOPMENT

PROJECT DESCRIPTION	ESTIMATED	
	AMOUNT FUNDED	OPERATIONS AND MAINTENANCE COSTS
Corrections - Gunnison (192 Beds)	\$13,970,000	\$210,000
University of Utah -- Gardner Hall	\$7,361,000	\$203,900
Weber State University Davis Campus -- Land Purchase	\$771,000	None

Department of Workforce Services Cedar City --		
Land Purchase	\$148,000	None
College of Eastern Utah Durrant School --		
Land Purchase	\$400,000	None
State Hospital -		
Forensic Design (200 beds)	\$750,000	\$575,000

TOTAL CAPITAL AND ECONOMIC DEVELOPMENT \$23,400,000

TOTAL IMPROVEMENTS AND CAPITAL AND ECONOMIC DEVELOPMENT \$31,000,000

(d) For purposes of this section, operations and maintenance costs:

- (i) are estimates only;
- (ii) may include any operations and maintenance costs already funded in existing agency budgets; and
- (iii) are not commitments by this Legislature or future Legislatures to fund those operations and maintenance costs.

(3) (a) The amounts funded as listed in Subsection (2) are estimates only and do not constitute a limitation on the amount that may be expended for any project.

(b) The board may revise these estimates and redistribute the amount estimated for a project among the projects authorized.

(c) The commission, by resolution and in consultation with the board, may delete one or more projects from this list if the inclusion of that project or those projects in the list could be construed to violate state law or federal law or regulation.

(4) (a) The division may enter into agreements related to these projects before the receipt of proceeds of bonds issued under this chapter.

(b) The division shall make those expenditures from unexpended and unencumbered building funds already appropriated to the Capital Projects Fund.

(c) The division shall reimburse the Capital Projects Fund upon receipt of the proceeds of bonds issued under this chapter.

(d) The commission may, by resolution, make any statement of intent relating to that reimbursement that is necessary or desirable to comply with federal tax law.

(5) (a) For those projects for which only partial funding is provided in Subsection (2), it is the intent of the Legislature that the balance necessary to complete the projects be addressed by future Legislatures, either through appropriations or through the issuance or sale of bonds.

(b) For those phased projects, the division may enter into contracts for amounts not to exceed the anticipated full project funding but may not allow

work to be performed on those contracts in excess of the funding already authorized by the Legislature.

(c) Those contracts shall contain a provision for termination of the contract for the convenience of the state [as required by Section 63G-6a-1202].

(d) It is also the intent of the Legislature that this authorization to the division does not bind future Legislatures to fund projects initiated from this authorization.

Section 9. Section 63B-6-102 is amended to read:

63B-6-102. Maximum amount -- Projects authorized.

(1) The total amount of bonds issued under this part may not exceed \$57,000,000.

(2) (a) Proceeds from the issuance of bonds shall be provided to the division to provide funds to pay all or part of the cost of acquiring and constructing the projects listed in this Subsection (2).

(b) These costs may include the cost of acquiring land, interests in land, easements and rights-of-way, improving sites, and acquiring, constructing, equipping, and furnishing facilities and all structures, roads, parking facilities, utilities, and improvements necessary, incidental, or convenient to the facilities, interest estimated to accrue on these bonds during the period to be covered by construction of the projects plus a period of six months after the end of the construction period, and all related engineering, architectural, and legal fees.

(c) For the division, proceeds shall be provided for the following:

CAPITAL AND ECONOMIC DEVELOPMENT

PROJECT DESCRIPTION	AMOUNT FUNDED	ESTIMATED
		OPERATIONS AND MAINTENANCE COSTS
Youth Corrections - Carbon / Emery (18 beds)	\$2,298,100	\$70,000
State Hospital - 100 bed Forensic Facility	\$13,800,700	\$320,600
Utah State University - Widtsoe Hall	\$23,986,700	\$750,200
Davis Applied Technology Center - Medical/Health Tech Addition	\$6,344,900	\$144,000
Southern Utah University -- Physical Education Building (Design)	\$1,100,000	\$456,100
Salt Lake Community College -- High Technology Building, 90th So. Campus (Design)	\$1,165,000	\$718,500
Department of Natural Resources - Antelope Island Road	\$3,600,000	None
Youth Corrections - Region 1 72 Secured Bed Facility	\$1,500,000	None

Department of Natural Resources -		
Dead Horse Point Visitors		
Center	\$1,350,000	\$5,700
TOTAL CAPITAL AND		
ECONOMIC DEVELOPMENT	\$55,145,400	

(d) For purposes of this section, operations and maintenance costs:

- (i) are estimates only;
- (ii) may include any operations and maintenance costs already funded in existing agency budgets; and
- (iii) are not commitments by this Legislature or future Legislatures to fund those operations and maintenance costs.

(3) (a) The amounts funded as listed in Subsection (2) are estimates only and do not constitute a limitation on the amount that may be expended for any project.

(b) The board may revise these estimates and redistribute the amount estimated for a project among the projects authorized.

(c) The commission, by resolution and in consultation with the board, may delete one or more projects from this list if the inclusion of that project or those projects in the list could be construed to violate state law or federal law or regulation.

(4) (a) The division may enter into agreements related to these projects before the receipt of proceeds of bonds issued under this chapter.

(b) The division shall make those expenditures from unexpended and unencumbered building funds already appropriated to the Capital Projects Fund.

(c) The division shall reimburse the Capital Projects Fund upon receipt of the proceeds of bonds issued under this chapter.

(d) The commission may, by resolution, make any statement of intent relating to that reimbursement that is necessary or desirable to comply with federal tax law.

(5) (a) For those projects for which only partial funding is provided in Subsection (2), it is the intent of the Legislature that the balance necessary to complete the projects be addressed by future Legislatures, either through appropriations or through the issuance or sale of bonds.

(b) For those phased projects, the division may enter into contracts for amounts not to exceed the anticipated full project funding but may not allow work to be performed on those contracts in excess of the funding already authorized by the Legislature.

(c) Those contracts shall contain a provision for termination of the contract for the convenience of the state [as required by Section 63G-6a-1202].

(d) It is also the intent of the Legislature that this authorization to the division does not bind future

Legislatures to fund projects initiated from this authorization.

Section 10. Section 63B-6-402 is amended to read:

63B-6-402. Maximum amount -- Projects authorized.

(1) The total amount of bonds issued under this part may not exceed \$9,000,000.

(2) (a) Proceeds from the issuance of bonds shall be provided to the State Tax Commission to provide funds to pay all or part of the cost of the project described in this Subsection (2).

(b) These costs may include:

(i) the cost of acquisition, development, and conversion of computer hardware and software for motor vehicle fee systems and tax collection and accounting systems of the state;

(ii) interest estimated to accrue on these bonds during the period to be covered by that development and conversion, plus a period of six months following the completion of the development and conversion; and

(iii) all related engineering, consulting, and legal fees.

(c) For the State Tax Commission, proceeds shall be provided for the following:

PROJECT DESCRIPTION	AMOUNT FUNDED
UTAX SYSTEMS ACQUISITION AND DEVELOPMENT	\$8,500,000

(3) The commission, by resolution may decline to issue bonds if the project could be construed to violate state law or federal law or regulation.

(4) (a) For this project, for which only partial funding is provided in Subsection (2), it is the intent of the Legislature that the balance necessary to complete the project be addressed by future Legislatures, either through appropriations or through the issuance or sale of bonds.

(b) The State Tax Commission may enter into contracts for amounts not to exceed the anticipated full project funding but may not allow work to be performed on those contracts in excess of the funding already authorized by the Legislature.

(c) Those contracts shall contain a provision for termination of the contract for the convenience of the state [as required by Section 63G-6a-1202].

(d) It is also the intent of the Legislature that this authorization to the State Tax Commission does not bind future Legislatures to fund projects initiated from this authorization.

Section 11. Section 63B-7-102 is amended to read:

63B-7-102. Maximum amount -- Projects authorized.

(1) The total amount of bonds issued under this part may not exceed \$33,600,000.

(2) (a) Proceeds from the issuance of bonds shall be provided to the division to provide funds to pay all or part of the cost of acquiring and constructing the projects listed in this Subsection (2).

(b) These costs may include the cost of acquiring land, interests in land, easements and rights-of-way, improving sites, and acquiring, constructing, equipping, and furnishing facilities and all structures, roads, parking facilities, utilities, and improvements necessary, incidental, or convenient to the facilities, interest estimated to accrue on these bonds during the period to be covered by construction of the projects plus a period of six months after the end of the construction period, and all related engineering, architectural, and legal fees.

(c) For the division, proceeds shall be provided for the following:

PROJECT DESCRIPTION	AMOUNT FUNDED	ESTIMATED MAINTENANCE COSTS
Southern Utah University		
Land Purchase	\$4,600,000	\$0
Salt Lake Community College High Tech Center - Jordan Campus		
	\$3,980,700	\$507,900
Children's Special Health Care Needs Clinic		
	\$755,400	\$247,600
Youth Corrections - 2 @ 32 beds (Vernal / Logan)		
	\$419,500	\$276,000
Corrections - Gunnison		
288 bed and Lagoon Expansion	\$8,425,600	\$0
University of Utah - Cowles Building		
	\$445,500	\$101,700
Utah Valley State College - Technical Building		
	\$1,166,300	\$391,000
Sevier Valley Applied Technology Center - Shop Expansion		
	\$3,014,300	\$443,300
Division of Parks and Recreation Statewide Restrooms		
	\$1,000,000	\$22,700
Murray Highway Patrol Office		
	\$2,300,000	\$81,000
Department of Workforce Services - Davis County Employment Center		
	\$2,780,000	\$128,100
State Hospital - Rampton II		
	\$1,600,000	\$462,000
Courts - 4th District Land - Provo		
	\$1,368,000	\$0
Dixie College - Land		
	\$1,000,000	\$0
TOTAL CAPITAL AND ECONOMIC DEVELOPMENT		\$32,855,300

(d) For purposes of this section, operations and maintenance costs:

(i) are estimates only;

(ii) may include any operations and maintenance costs already funded in existing agency budgets; and

(iii) are not commitments by this Legislature or future Legislatures to fund those operations and maintenance costs.

(3) (a) The amounts funded as listed in Subsection (2) are estimates only and do not constitute a limitation on the amount that may be expended for any project.

(b) The board may revise these estimates and redistribute the amount estimated for a project among the projects authorized.

(c) The commission, by resolution and in consultation with the board, may delete one or more projects from this list if the inclusion of that project or those projects in the list could be construed to violate state law or federal law or regulation.

(4) (a) The division may enter into agreements related to these projects before the receipt of proceeds of bonds issued under this chapter.

(b) The division shall make those expenditures from unexpended and unencumbered building funds already appropriated to the Capital Projects Fund.

(c) The division shall reimburse the Capital Projects Fund upon receipt of the proceeds of bonds issued under this chapter.

(d) The commission may, by resolution, make any statement of intent relating to that reimbursement that is necessary or desirable to comply with federal tax law.

(5) (a) For those projects for which only partial funding is provided in Subsection (2), it is the intent of the Legislature that the balance necessary to complete the projects be addressed by future Legislatures, either through appropriations or through the issuance or sale of bonds.

(b) For those phased projects, the division may enter into contracts for amounts not to exceed the anticipated full project funding but may not allow work to be performed on those contracts in excess of the funding already authorized by the Legislature.

(c) Those contracts shall contain a provision for termination of the contract for the convenience of the state [as required by Section 63G-6a-1202].

(d) It is also the intent of the Legislature that this authorization to the division does not bind future Legislatures to fund projects initiated from this authorization.

Section 12. Section 63B-7-402 is amended to read:

63B-7-402. Maximum amount -- Projects authorized.

(1) The total amount of bonds issued under this part may not exceed \$16,500,000.

(2) (a) Proceeds from the issuance of bonds shall be provided to the State Tax Commission to provide funds to pay all or part of the cost of the project described in this Subsection (2).

(b) These costs may include:

(i) the cost of acquisition, development, and conversion of computer hardware and software for motor vehicle fee systems and tax collection and accounting systems of the state;

(ii) interest estimated to accrue on these bonds during the period to be covered by that development and conversion, plus a period of six months following the completion of the development and conversion; and

(iii) all related engineering, consulting, and legal fees.

(c) For the State Tax Commission, proceeds shall be provided for the following:

PROJECT DESCRIPTION	AMOUNT FUNDED
UTAX SYSTEMS ACQUISITION AND DEVELOPMENT	\$15,650,000

(3) The commission, by resolution may decline to issue bonds if the project could be construed to violate state law or federal law or regulation.

(4) (a) For this project, for which only partial funding is provided in Subsection (2), it is the intent of the Legislature that the balance necessary to complete the project be addressed by future Legislatures, either through appropriations or through the issuance or sale of bonds.

(b) The State Tax Commission may enter into contracts for amounts not to exceed the anticipated full project funding but may not allow work to be performed on those contracts in excess of the funding already authorized by the Legislature.

(c) Those contracts shall contain a provision for termination of the contract for the convenience of the state [as required by Section 63G-6a-1202].

(d) It is also the intent of the Legislature that this authorization to the State Tax Commission does not bind future Legislatures to fund projects initiated from this authorization.

Section 13. Section 63B-8-102 is amended to read:

63B-8-102. Maximum amount -- Projects authorized.

(1) The total amount of bonds issued under this part may not exceed \$48,500,000.

(2) (a) Proceeds from the issuance of bonds shall be provided to the division to provide funds to pay all or part of the cost of acquiring and constructing the projects listed in this Subsection (2).

(b) These costs may include the cost of acquiring land, interests in land, easements and rights-of-way, improving sites, and acquiring, constructing, equipping, and furnishing facilities

and all structures, roads, parking facilities, utilities, and improvements necessary, incidental, or convenient to the facilities, interest estimated to accrue on these bonds during the period to be covered by construction of the projects plus a period of six months after the end of the construction period, and all related engineering, architectural, and legal fees.

(c) For the division, proceeds shall be provided for the following:

PROJECT DESCRIPTION	AMOUNT FUNDED	ESTIMATED OPERATIONS AND MAINTENANCE COSTS
Southern Utah University -		
Physical Education Building	\$2,493,200	\$447,744
Utah Valley State College -		
Information Sciences Building	\$29,000,000	\$721,875
University of Utah -		
Cowles Building Renovation	\$7,268,500	\$140,217
Vernal District Court	\$4,539,500	\$149,989
Salt Lake Community College -		
Applied Education Center	\$4,200,000	\$281,784
TOTAL CAPITAL AND ECONOMIC DEVELOPMENT		\$47,501,200

(d) For purposes of this section, operations and maintenance costs:

(i) are estimates only;

(ii) may include any operations and maintenance costs already funded in existing agency budgets; and

(iii) are not commitments by this Legislature or future Legislatures to fund those operations and maintenance costs.

(3) (a) The amounts funded as listed in Subsection (2) are estimates only and do not constitute a limitation on the amount that may be expended for any project.

(b) The board may revise these estimates and redistribute the amount estimated for a project among the projects authorized.

(c) The commission, by resolution and in consultation with the board, may delete one or more projects from this list if the inclusion of that project or those projects in the list could be construed to violate state law or federal law or regulation.

(4) (a) The division may enter into agreements related to these projects before the receipt of proceeds of bonds issued under this chapter.

(b) The division shall make those expenditures from unexpended and unencumbered building funds already appropriated to the Capital Projects Fund.

(c) The division shall reimburse the Capital Projects Fund upon receipt of the proceeds of bonds issued under this chapter.

(d) The commission may, by resolution, make any statement of intent relating to that reimbursement that is necessary or desirable to comply with federal tax law.

(5) (a) For those projects for which only partial funding is provided in Subsection (2), it is the intent of the Legislature that the balance necessary to complete the projects be addressed by future Legislatures, either through appropriations or through the issuance or sale of bonds.

(b) For those phased projects, the division may enter into contracts for amounts not to exceed the anticipated full project funding but may not allow work to be performed on those contracts in excess of the funding already authorized by the Legislature.

(c) Those contracts shall contain a provision for termination of the contract for the convenience of the state [as required by Section 63G-6a-1202].

(d) It is also the intent of the Legislature that this authorization to the division does not bind future Legislatures to fund projects initiated from this authorization.

Section 14. Section 63B-8-402 is amended to read:

63B-8-402. Maximum amount -- Projects authorized.

(1) The total amount of bonds issued under this part may not exceed \$7,400,000.

(2) (a) Proceeds from the issuance of bonds shall be provided to the division to provide funds to pay all or part of the cost of acquiring and constructing the project listed in this Subsection (2).

(b) These costs may include the cost of acquiring land, interests in land, easements and rights-of-way, improving sites, and acquiring, constructing, equipping, and furnishing facilities and all structures, roads, parking facilities, utilities, and improvements necessary, incidental, or convenient to the facilities, interest estimated to accrue on these bonds during the period to be covered by construction of the projects plus a period of six months after the end of the construction period, and all related engineering, architectural, and legal fees.

(c) For the division, proceeds shall be provided for the following:

PROJECT DESCRIPTION	AMOUNT FUNDED	ESTIMATED OPERATIONS AND MAINTENANCE COSTS
State Hospital - Rampton II	\$7,000,000	\$462,000

(d) For purposes of this section, operations and maintenance costs:

- (i) are estimates only;
- (ii) may include any operations and maintenance costs already funded in existing agency budgets; and

(iii) are not commitments by this Legislature or future Legislatures to fund those operations and maintenance costs.

(3) (a) The amounts funded as listed in Subsection (2) are estimates only and do not constitute a limitation on the amount that may be expended for any project.

(b) The board may revise these estimates and redistribute the amount estimated for a project among the projects authorized.

(c) The commission, by resolution and in consultation with the board, may delete one or more projects from this list if the inclusion of that project or those projects in the list could be construed to violate state law or federal law or regulation.

(4) (a) The division may enter into agreements related to these projects before the receipt of proceeds of bonds issued under this chapter.

(b) The division shall make those expenditures from unexpended and unencumbered building funds already appropriated to the Capital Projects Fund.

(c) The division shall reimburse the Capital Projects Fund upon receipt of the proceeds of bonds issued under this chapter.

(d) The commission may, by resolution, make any statement of intent relating to that reimbursement that is necessary or desirable to comply with federal tax law.

(5) (a) For those projects for which only partial funding is provided in Subsection (2), it is the intent of the Legislature that the balance necessary to complete the projects be addressed by future Legislatures, either through appropriations or through the issuance or sale of bonds.

(b) For those phased projects, the division may enter into contracts for amounts not to exceed the anticipated full project funding but may not allow work to be performed on those contracts in excess of the funding already authorized by the Legislature.

(c) Those contracts shall contain a provision for termination of the contract for the convenience of the state [as required by Section 63G-6a-1202].

(d) It is also the intent of the Legislature that this authorization to the division does not bind future Legislatures to fund projects initiated from this authorization.

Section 15. Section 63B-9-103 is amended to read:

63B-9-103. Other capital facility authorizations and intent language.

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

(a) Utah State University use institutional funds to plan, design, and construct a renovation and expansion of the Edith Bowen School under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

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

(c) the university may request state funds for operations and maintenance to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

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

(a) the University of Utah use institutional funds to plan, design, and construct a College of Science Math Center under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

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

(c) the university may request state funds for operations and maintenance to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

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

(a) the University of Utah use institutional funds to plan, design, and construct a Burbidge Athletics and Academics Building under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

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

(c) the university may not request state funds for operations and maintenance.

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

(a) the University of Utah use institutional funds to plan, design, and construct an expansion to the bookstore under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

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

(c) the university may not request state funds for operations and maintenance.

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

(a) the University of Utah use institutional funds to plan, design, and construct a Health Sciences/Basic Sciences Building under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

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

(c) the university may request state funds for operations and maintenance to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

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

(a) Weber State University use institutional funds to plan, design, and construct an expansion to the stadium under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

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

(c) the university may not request state funds for operations and maintenance.

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

(a) Utah Valley State College use institutional funds to plan, design, and construct a baseball stadium under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

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

(c) the college may not request state funds for operations and maintenance.

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

(a) Southern Utah University use institutional funds to plan, design, and construct a weight training room under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

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

(c) the university may not request state funds for operations and maintenance.

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

(a) Snow College may lease land at the Snow College Richfield campus to a private developer for the construction and operation of student housing;

(b) the oversight and inspection of the construction comply with Section 63A-5-206;

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

(d) the college may not request state funds for operations and maintenance.

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

(a) Salt Lake Community College may lease land at the Jordan campus to Jordan School District for the construction and operation of an Applied Technology Education Center;

(b) the oversight and inspection of the construction comply with Section 63A-5-206;

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

(d) the college may not request state funds for operations and maintenance.

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

(a) the Department of Transportation exchange its maintenance station at Kimball Junction for property located near Highway 40 in Summit County; and

(b) the Department of Transportation use federal funds, rent paid by the Salt Lake Organizing Committee for the use of the maintenance station, and any net proceeds resulting from the exchange of property to construct a replacement facility under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated.

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

(a) the Department of Transportation sell surplus property in Utah County;

(b) the Department of Transportation use funds from that sale to remodel existing space and add an addition to the Region 3 Complex; and

(c) the project cost not exceed the funds received through sale of property.

(13) It is the intent of the Legislature that the Department of Workforce Services use proceeds from property sales to purchase additional property adjacent to its state-owned facility in Logan.

(14) (a) It is the intent of the Legislature that, because only partial funding is provided for the Heat Plant/Infrastructure Project at Utah State University, the balance necessary to complete this project be addressed by future Legislatures, either through appropriations or through the issuance of bonds.

(b) (i) In compliance with Section 63A-5-207, the division may enter into contracts for amounts not to exceed the anticipated full project funding but may not allow work to be performed on those contracts in excess of the funding already authorized by the Legislature.

(ii) Those contracts shall contain a provision for termination of the contract for the convenience of the state [as required by Section 63G-6a-1202].

(c) It is also the intent of the Legislature that this authorization to the division does not bind future Legislatures to fund the Heat Plant/Infrastructure Project at Utah State University.

Section 16. Section 63B-11-202 is amended to read:

63B-11-202. Maximum amount -- Projects authorized.

(1) (a) The total amount of bonds issued under this part may not exceed \$21,250,000.

(b) When Utah State University certifies to the commission that the university has obtained reliable commitments, convertible to cash, of \$5,000,000 or more in nonstate funds to construct an addition to the new engineering building and demolish the existing engineering classroom building, the commission may issue and sell general obligation bonds in a total amount not to exceed \$6,100,000.

(c) When the University of Utah certifies to the commission that the university has obtained reliable commitments, convertible to cash, of \$13,000,000 or more in nonstate funds to construct a new engineering building, the commission may issue and sell general obligation bonds in a total amount not to exceed \$15,150,000.

(2) (a) Proceeds from the issuance of bonds shall be provided to the division to provide funds to pay all or part of the cost of acquiring and constructing the projects listed in this Subsection (2).

(b) These costs may include the cost of acquiring land, interests in land, easements and rights-of-way, improving sites, and acquiring, constructing, equipping, and furnishing facilities and all structures, roads, parking facilities, utilities, and improvements necessary, incidental, or convenient to the facilities, interest estimated to accrue on these bonds during the period to be covered by construction of the projects plus a period of six months after the end of the construction period, and all related engineering, architectural, and legal fees.

(c) For the division, proceeds shall be provided for the following:

PROJECT DESCRIPTION	AMOUNT FUNDED	ESTIMATED OPERATIONS AND MAINTENANCE COSTS
1. Utah State University		
Engineering Building Renovation	\$5,943,500	\$425,000
2. University of Utah New		
Engineering Building	\$15,000,000	\$489,000
COSTS OF ISSUANCE		\$306,500
TOTAL CAPITAL AND ECONOMIC DEVELOPMENT		\$21,250,000

(d) For purposes of this section, operations and maintenance costs:

(i) are estimates only;

(ii) may include any operations and maintenance costs already funded in existing agency budgets; and

(iii) are not commitments by this Legislature or future Legislatures to fund those operations and maintenance costs.

(3) (a) The amounts funded as listed in Subsection (2) are estimates only and do not constitute a limitation on the amount that may be expended for any project.

(b) The board may revise these estimates and redistribute the amount estimated for a project among the projects authorized.

(c) The commission, by resolution and in consultation with the board, may delete one or more projects from this list if the inclusion of that project or those projects in the list could be construed to violate state law or federal law or regulation.

(4) (a) The division may enter into agreements related to these projects before the receipt of proceeds of bonds issued under this chapter.

(b) The division shall make those expenditures from unexpended and unencumbered building funds already appropriated to the Capital Projects Fund.

(c) The division shall reimburse the Capital Projects Fund upon receipt of the proceeds of bonds issued under this chapter.

(d) The commission may, by resolution, make any statement of intent relating to that reimbursement that is necessary or desirable to comply with federal tax law.

(5) (a) For those projects for which only partial funding is provided in Subsection (2), it is the intent of the Legislature that the balance necessary to complete the projects be addressed by future Legislatures, either through appropriations or through the issuance or sale of bonds.

(b) For those phased projects, the division may enter into contracts for amounts not to exceed the anticipated full project funding but may not allow work to be performed on those contracts in excess of the funding already authorized by the Legislature.

(c) Those contracts shall contain a provision for termination of the contract for the convenience of the state [as required by Section 63G-6a-1202].

(d) It is also the intent of the Legislature that this authorization to the division does not bind future Legislatures to fund projects initiated from this authorization.

Section 17. Section 63F-1-205 is amended to read:

63F-1-205. Approval of acquisitions of information technology.

(1) (a) Except as provided in Title 63M, Chapter 1, Part 26, Government Procurement Private Proposal Program, in accordance with Subsection (2), the chief information officer shall approve the acquisition by an executive branch agency of:

- (i) information technology equipment;
- (ii) telecommunications equipment;
- (iii) software;
- (iv) services related to the items listed in Subsections (1)(a)(i) through (iii); and
- (v) data acquisition.

(b) The chief information officer may negotiate the purchase, lease, or rental of private or public information technology or telecommunication services or facilities in accordance with this section.

(c) Where practical, efficient, and economically beneficial, the chief information officer shall use existing private and public information technology or telecommunication resources.

(d) Notwithstanding another provision of this section, an acquisition authorized by this section shall comply with rules made by the applicable rulemaking authority under Title 63G, Chapter 6a, Utah Procurement Code.

(2) Before negotiating a purchase, lease, or rental under Subsection (1) for an amount that exceeds the value established by the chief information officer by rule in accordance with Section 63F-1-206, the chief information officer shall:

(a) conduct an analysis of the needs of executive branch agencies and subscribers of services and the ability of the proposed information technology or telecommunications services or supplies to meet those needs; and

(b) for purchases, leases, or rentals not covered by an existing statewide contract, provide in writing to the chief procurement officer in the Division of Purchasing and General Services that:

(i) the analysis required in Subsection (2)(a) was completed; and

(ii) based on the analysis, the proposed purchase, lease, rental, or master contract of services, products, or supplies is practical, efficient, and economically beneficial to the state and the executive branch agency or subscriber of services.

(3) In approving an acquisition described in Subsections (1) and (2), the chief information officer shall:

(a) establish by administrative rule, in accordance with Section 63F-1-206, standards under which an agency must obtain approval from the chief information officer before acquiring the items listed in Subsections (1) and (2);

(b) for those acquisitions requiring approval, determine whether the acquisition is in compliance with:

- (i) the executive branch strategic plan;
- (ii) the applicable agency information technology plan;
- (iii) the budget for the executive branch agency or department as adopted by the Legislature; and
- (iv) Title 63G, Chapter 6a, Utah Procurement Code; and

(c) in accordance with Section 63F-1-207, require coordination of acquisitions between two or more executive branch agencies if it is in the best interests of the state.

(4) (a) Each executive branch agency shall provide the chief information officer with complete access to all information technology records, documents, and reports:

- (i) at the request of the chief information officer; and
- (ii) related to the executive branch agency's acquisition of any item listed in Subsection (1).

(b) Beginning July 1, 2006 and in accordance with administrative rules established by the department under Section 63F-1-206, no new technology projects may be initiated by an executive branch agency or the department unless the technology project is described in a formal project plan and the business case analysis has been approved by the chief information officer and agency head. The

project plan and business case analysis required by this Subsection (4) shall be in the form required by the chief information officer, and shall include:

- (i) a statement of work to be done and existing work to be modified or displaced;
- (ii) total cost of system development and conversion effort, including system analysis and programming costs, establishment of master files, testing, documentation, special equipment cost and all other costs, including overhead;
- (iii) savings or added operating costs that will result after conversion;
- (iv) other advantages or reasons that justify the work;
- (v) source of funding of the work, including ongoing costs;
- (vi) consistency with budget submissions and planning components of budgets; and
- (vii) whether the work is within the scope of projects or initiatives envisioned when the current fiscal year budget was approved.

(5) (a) The chief information officer and the Division of Purchasing and General Services shall work cooperatively to establish procedures under which the chief information officer shall monitor and approve acquisitions as provided in this section.

(b) The procedures established under this section shall include at least the written certification required by Subsection 63G-6a-303~~(4)~~(1)(e).

Section 18. Section 63G-6a-102 is amended to read:

63G-6a-102. Purpose of chapter.

The underlying purposes and policies of this chapter are:

- (1) to simplify, clarify, and modernize the law governing procurement ~~[by this]~~ in the state;
- (2) to ensure the fair and equitable treatment of all persons who deal with the procurement system ~~[of this state]~~;
- (3) to provide increased economy in state procurement activities; and
- (4) to foster effective broad-based competition within the free enterprise system.

Section 19. Section 63G-6a-103 is amended to read:

63G-6a-103. Definitions.

As used in this chapter:

- (1) "Architect-engineer services" means:
 - (a) professional services within the scope of the practice of architecture as defined in Section 58-3a-102; ~~[or]~~
 - (b) professional engineering as defined in Section 58-22-102~~[-]~~; or

(c) master planning and programming services.

(2) "Bidder" means a person who responds to an invitation for bids.

(3) "Change directive" means a written order signed by the procurement officer that directs the contractor to suspend work or make changes, as authorized by contract, without the consent of the contractor.

(4) "Change order" means a written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of a contract, upon mutual agreement of the parties to the contract.

(5) "Chief procurement officer" means the chief procurement officer appointed under Subsection 63G-6a-302(1).

(6) "Conducting procurement unit" means a procurement unit that conducts all aspects of a procurement:

(a) except:

(i) reviewing a solicitation to verify that it is in proper form; and

(ii) causing the publication of a notice of a solicitation; and

(b) including:

(i) preparing any solicitation document;

(ii) appointing an evaluation committee;

(iii) conducting the evaluation process, except as provided in Subsection 63G-6a-707(5)(b) relating to scores calculated for costs of proposals;

(iv) selecting and recommending the person to be awarded a contract;

(v) negotiating the terms and conditions of a contract, subject to the issuing procurement unit's approval; and

(vi) administering a contract.

~~[(6)]~~ (7) (a) "Construction" means the process of building, renovating, altering, improving, or repairing a public building or public work.

(b) "Construction" does not include the routine operation, routine repair, or routine maintenance of an existing structure, building, or real property.

~~[(7)]~~ (8) (a) "Construction manager/general contractor" means a contractor who enters into a contract for the management of a construction project when the contract allows the contractor to subcontract for additional labor and materials that are not included in the contractor's cost proposal submitted at the time of the procurement of the contractor's services.

(b) "Construction manager/general contractor" does not include a contractor whose only subcontract work not included in the contractor's cost proposal submitted as part of the procurement of the contractor's services is to meet subcontracted portions of change orders approved within the scope of the project.

[48] (9) “Contract” means an agreement for the procurement or disposal of a procurement item.

[49] (10) “Contractor” means a person who is awarded a contract with a procurement unit.

[40] (11) “Cooperative procurement” means procurement conducted by, or on behalf of^[5]:

(a) more than one procurement unit^[7]; or ^[by]

(b) a procurement unit ~~[and an external procurement unit.]~~ and a cooperative purchasing organization.

[41] (12) “Cost-plus-a-percentage-of-cost contract” means a contract where the contractor is paid a percentage over and above the contractor’s actual expenses or costs.

[42] (13) “Cost-reimbursement contract” means a contract under which a contractor is reimbursed for costs which are allowed and allocated in accordance with the contract terms and the provisions of this chapter, and a fee, if any.

[43] (14) “Days” means calendar days, unless expressly provided otherwise.

[44] (15) “Definite quantity contract” means a fixed price contract that provides for the supply of a specified amount of goods over a specified period, with deliveries scheduled according to a specified schedule.

[45] (16) “Design-build” means the procurement of architect-engineer services and construction by the use of a single contract with the design-build provider.

[46] (17) “Director” means the director of the division.

[47] (18) “Established catalogue price” means the price included in a catalogue, price list, schedule, or other form that:

(a) is regularly maintained by a manufacturer or contractor;

(b) is either published or otherwise available for inspection by customers; and

(c) states prices at which sales are currently or were last made to a significant number of any category of buyers or buyers constituting the general buying public for the supplies or services involved.

[48] (19) “Fixed price contract” means a contract that provides a price, for each procurement item obtained under the contract, that is not subject to adjustment except to the extent that:

(a) the contract provides, under circumstances specified in the contract, for an adjustment in price that is not based on cost to the contractor; or

(b) an adjustment is required by law.

[49] (20) “Fixed price contract with price adjustment” means a fixed price contract that provides for an upward or downward revision of price, precisely described in the contract, that:

(a) is based on the consumer price index or another commercially acceptable index, source, or formula; and

(b) is not based on a percentage of the cost to the contractor.

[20] (21) (a) “Grant” means furnishing, by a public entity or by any other public or private source, financial or other assistance to a person to support a program authorized by law.

(b) “Grant” does not include:

(i) an award whose primary purpose is to procure an end product or procurement item; or

(ii) a contract that is awarded as a result of a procurement or a procurement process.

[21] (22) “Head of a procurement unit” means:

(a) as it relates to a legislative procurement unit, any person designated by rule made by the applicable rulemaking authority;

(b) as it relates to an executive branch procurement unit:

(i) the director of a division; or

(ii) any other person designated by the board, by rule;

(c) as it relates to a judicial procurement unit:

(i) the Judicial Council; or

(ii) any other person designated by the Judicial Council, by rule;

(d) as it relates to a local government procurement unit:

(i) the legislative body of the local government procurement unit; or

(ii) any other person designated by the local government procurement unit;

(e) as it relates to a local district, the board of trustees of the local district or a designee of the board of trustees;

(f) as it relates to a special service district, the governing body of the special service district or a designee of the governing body;

(g) as it relates to a local building authority, the board of directors of the local building authority or a designee of the board of directors;

(h) as it relates to a conservation district, the board of supervisors of the conservation district or a designee of the board of supervisors;

(i) as it relates to a public corporation, the board of directors of the public corporation or a designee of the board of directors;

(j) as it relates to a school district or any school or entity within a school district, the board of the school district, or the board’s designee;

(k) as it relates to a charter school, the individual or body with executive authority over the charter school, or the individual’s or body’s designee;

(l) as it relates to an institution of higher education of the state, the president of the institution of higher education, or the president's designee; or

(m) as it relates to a public transit district, the board of trustees or a designee of the board of trustees.

[(22)] (23) "Indefinite quantity contract" means a fixed price contract that:

(a) is for an indefinite amount of procurement items to be supplied as ordered by a procurement unit; and

(b) (i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

[(23)] (24) "Independent procurement authority" means authority granted to a procurement unit[,] under Subsection [63G-6a-108(2), to engage in a procurement without oversight or control of the division] 63G-6a-106(4)(a).

[(24)] (25) "Invitation for bids" includes all documents, including documents that are attached or incorporated by reference, used for soliciting bids to provide a procurement item to a procurement unit.

[(25)] (26) "Issuing procurement unit" means a procurement unit that:

[(a) the division, if the division issues the invitation for bids or the request for proposals; or]

[(b) the procurement unit, with independent procurement authority, that issues the invitation for bids or the request for proposals.]

(a) reviews a solicitation to verify that it is in proper form;

(b) causes the notice of a solicitation to be published; and

(c) negotiates the terms and conditions of a contract.

[(26)] (27) "Labor hour contract" is a contract where:

(a) the supplies and materials are not provided by, or through, the contractor; and

(b) the contractor is paid a fixed rate that includes the cost of labor, overhead, and profit for a specified number of labor hours or days.

[(27)] (28) "Multiple award contracts" means the award of a contract for an indefinite quantity of a procurement item to more than one bidder or offeror.

[(28)] (29) "Multiyear contract" means a contract that extends beyond a one-year period, including a contract that permits renewal of the contract, without competition, beyond the first year of the contract.

[(29)] (30) "Municipality" means a city or a town.

[(30)] (31) "Offeror" means a person who responds to a request for proposals.

[(31)] (32) "Preferred bidder" means a bidder that is entitled to receive a reciprocal preference under the requirements of this chapter.

[(32)] (33) (a) "Procure" or "procurement" means buying, purchasing, renting, leasing, leasing with an option to purchase, or otherwise acquiring a procurement item.

(b) "Procure" or "procurement" includes all functions that pertain to the obtaining of a procurement item, including:

(i) the description of requirements;

(ii) the selection process;

(iii) solicitation of sources;

(iv) the preparation for soliciting a procurement item; and

(v) the award of a contract[; and].

[(vi) all phases of contract administration.]

[(33)] (34) "Procurement item" means a supply, a service, construction, or technology.

[(34)] (35) "Procurement officer" means:

(a) as it relates to a procurement unit with independent procurement authority:

(i) the head of the procurement unit;

(ii) a designee of the head of the procurement unit; or

(iii) a person designated by rule made by the applicable rulemaking authority; or

(b) as it relates to the division or a procurement unit without independent procurement authority, the chief procurement officer.

[(35)] (36) "Professional service" means a service that requires a high degree of specialized knowledge and discretion in the performance of the service, including:

(a) legal services;

(b) consultation services;

(c) architectural services;

(d) engineering;

(e) design;

(f) underwriting;

(g) bond counsel;

(h) financial advice;

(i) construction management;

(j) medical services;

(k) psychiatric services; or

(l) counseling services.

[(36)] (37) "Protest officer" means:

(a) as it relates to the division or a procurement unit with independent procurement authority:

- (i) the head of the procurement unit;
- (ii) a designee of the head of the procurement unit; or
- (iii) a person designated by rule made by the applicable rulemaking authority; or

(b) as it relates to a procurement unit without independent procurement authority, the chief procurement officer or the chief procurement officer's designee.

~~[(37)]~~ (38) "Request for information" means a nonbinding process where a procurement unit requests information relating to a procurement item.

~~[(38)]~~ (39) "Request for proposals" includes all documents, including documents that are attached or incorporated by reference, used for soliciting proposals to provide a procurement item to a procurement unit.

(40) "Request for statement of qualifications" means all documents used to solicit information about the qualifications of the person interested in responding to a potential procurement, including documents attached or incorporated by reference.

~~[(39)]~~ (41) "Requirements contract" means a contract:

- (a) where a contractor agrees to provide a procurement unit's entire requirements for certain procurement items at prices specified in the contract during the contract period; and
- (b) that:
 - (i) does not require a minimum purchase amount; or
 - (ii) provides a maximum purchase limit.

~~[(40)]~~ (42) "Responsible" means ~~[that a bidder or offeror: (a) is] being capable, in all respects, of: [to fully perform the contract requirements solicited in an invitation for bids or a request for proposals; and]~~

~~[(b) has the integrity and reliability to ensure good faith performance.]~~

(a) meeting all the requirements of a solicitation; and

(b) fully performing all the requirements of the contract resulting from the solicitation, including being financially solvent with sufficient financial resources to perform the contract.

~~[(41)]~~ (43) "Responsive" means ~~[that a bidder or offeror submits a response to an invitation for bids or a request for proposals that conforms] conforming in all material respects to the invitation for bids or request for proposals.~~

~~[(42)]~~ (44) "Sealed" means manually or electronically sealed and submitted bids or proposals.

~~[(43)]~~ (45) (a) "Services" means the furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than a report that is incidental to the required performance.

(b) "Services" does not include an employment agreement or a collective bargaining agreement.

(46) "Sole source contract" means a contract resulting from a sole source procurement.

(47) "Sole source procurement" means a procurement without competition pursuant to a determination under Subsection 63G-6a-802(2)(a) that there is only one source for the procurement item.

(48) "Solicitation" means an invitation for bids, request for proposals, notice of a sole source procurement, request for statement of qualifications, request for information, or any document used to obtain bids, proposals, pricing, qualifications, or information for the purpose of entering into a procurement contract.

~~[(44)]~~ (49) "Specification" means any description of the physical or functional characteristics, or nature of a procurement item included in an invitation for bids or a request for proposals, or otherwise specified or agreed to by a procurement unit, including a description of:

- (a) a requirement for inspecting or testing a procurement item; or
- (b) preparing a procurement item for delivery.

~~[(45)]~~ (50) "Standard procurement process" means one of the following methods of obtaining a procurement item:

- (a) bidding, as described in Part 6, Bidding;
- (b) request for proposals, as described in Part 7, Request for Proposals; or
- (c) small purchases, in accordance with the requirements established under Section 63G-6a-408.

~~[(46)]~~ (51) "State cooperative contract" means a contract awarded by the division for and in behalf of all public entities.

(52) "Statement of qualifications" means a written statement submitted to a procurement unit in response to a request for statement of qualifications.

~~[(47)]~~ (53) (a) "Subcontractor" means a person under contract with a contractor or another subcontractor to provide services or labor for design or construction.

(b) "Subcontractor" includes a trade contractor or specialty contractor.

(c) "Subcontractor" does not include a supplier who provides only materials, equipment, or supplies to a contractor or subcontractor.

~~[(48)]~~ (54) "Supplies" means all property, including equipment, materials, and printing.

[49] (55) “Tie bid” means that the lowest responsive and responsible bids are identical in price.

[50] (56) “Time and materials contract” means a contract where the contractor is paid:

(a) the actual cost of direct labor at specified hourly rates;

(b) the actual cost of materials and equipment usage; and

(c) an additional amount, expressly described in the contract, to cover overhead and profit, that is not based on a percentage of the cost to the contractor.

Section 20. Section 63G-6a-104 is amended to read:

63G-6a-104. Definitions of government entities.

As used in this chapter:

(1) “Applicable rulemaking authority” means:

(a) as it relates to a legislative procurement unit, the Legislative Management Committee, which shall adopt a policy establishing requirements applicable to a legislative procurement unit;

(b) as it relates to a judicial procurement unit, the Judicial Council;

(c) as it relates to an executive branch procurement unit, except to the extent provided in Subsections (1)(d) through (g), the board;

(d) as it relates to the State Building Board, created in Section 63A-5-101, the State Building Board, but only to the extent that the rules relate to procurement authority expressly granted to the State Building Board by statute;

(e) as it relates to the Division of Facilities Construction and Management, created in Section 63A-5-201, the director of the Division of Facilities Construction and Management, but only to the extent that the rules relate to procurement authority expressly granted to the Division of Facilities Construction and Management by statute;

(f) as it relates to the Office of the Attorney General, the attorney general, but only to the extent that the rules relate to procurement authority expressly granted to the attorney general by statute;

(g) as it relates to the Department of Transportation, created in Section 72-1-201, the executive director of the Department of Transportation, but only to the extent that the rules relate to procurement authority expressly granted to the Department of Transportation by statute;

(h) as it relates to a local government procurement unit, the legislative body of the local government procurement unit, not as a delegation of authority from the Legislature, but under the

local government procurement unit’s own legislative authority;

(i) as it relates to a school district or a public school, the Utah State Procurement Policy Board, except to the extent that a school district makes its own nonadministrative rules, with respect to a particular subject, that do not conflict with the provisions of this chapter;

(j) as it relates to a state institution of higher education, the State Board of Regents;

(k) as it relates to a public transit district, the chief executive of the public transit district;

(l) as it relates to a local district or a special service district:

(i) before [May 13, 2014] January 1, 2015, the board of trustees of the local district or the governing body of the special service district; or

(ii) on or after [May 13, 2014] January 1, 2015, the board, except to the extent that the board of trustees of the local district or the governing body of the special service district makes its own rules:

(A) with respect to a subject addressed by board rules; or

(B) that are in addition to board rules; or

(m) as it relates to a procurement unit, other than a procurement unit described in Subsections (1)(a) through (l), the board.

(2) “Board” means the Utah State Procurement Policy Board, created in Section 63G-6a-202.

(3) “Building board” means the State Building Board created in Section 63A-5-101.

(4) “Conservation district” is as defined in Section 17D-3-102.

(5) “Cooperative purchasing organization” means an organization, association, or alliance of purchasers established to combine purchasing power in order to obtain the best value for the purchasers by engaging in procurements in accordance with Section 63G-6a-2105.

[45] (6) “Division” means the Division of Purchasing and General Services.

[46] (7) “Educational procurement unit” means:

(a) a school district;

(b) a public school, including a local school board or a charter school;

(c) Utah Schools for the Deaf and Blind;

(d) the Utah Education Network; or

(e) an institution of higher education of the state.

[47] (8) “Executive branch procurement unit” means each department, division, office, bureau, agency, or other organization within the state executive branch, including the division and the attorney general’s office.

[48] “External procurement unit” means:

~~[(a) a buying organization not located in this state which, if located in this state, would qualify as a procurement unit; or]~~

~~[(b) an agency of the United States.]~~

(9) "Judicial procurement unit" means:

- (a) the Utah Supreme Court;
- (b) the Utah Court of Appeals;
- (c) the Judicial Council;

(d) a state judicial district; or

(e) each office, committee, subcommittee, or other organization within the state judicial branch.

(10) "Legislative procurement unit" means:

- (a) the Legislature;
- (b) the Senate;
- (c) the House of Representatives;

(d) a staff office of an entity described in Subsection (10)(a), (b), or (c); or

(e) each office, committee, subcommittee, or other organization within the state legislative branch.

(11) "Local building authority" is as defined in Section 17D-2-102.

(12) "Local district" is as defined in Section 17B-1-102.

(13) "Local government procurement unit" means:

(a) a county or municipality, and each office or agency of the county or municipality, unless the county or municipality adopts its own procurement code by ordinance;

(b) a county or municipality, and each office or agency of the county or municipality, that has adopted this entire chapter by ordinance; or

(c) a county or municipality, and each office or agency of the county or municipality, that has adopted a portion of this chapter by ordinance, to the extent that the term is used in the adopted portion of this chapter.

(14) (a) "Procurement unit" means:

- (i) a legislative procurement unit;
- (ii) an executive branch procurement unit;
- (iii) a judicial procurement unit;
- (iv) an educational procurement unit;
- (v) a local government procurement unit;
- (vi) a local district;
- (vii) a special service district;
- (viii) a local building authority;
- (ix) a conservation district;
- (x) a public corporation; or
- (xi) a public transit district.

(b) "Procurement unit" does not include a political subdivision created under Title 11, Chapter 13, Interlocal Cooperation Act.

(15) "Public corporation" is as defined in Section 63E-1-102.

(16) "Public entity" means any state government entity or a political subdivision of the state, including:

(a) a procurement unit;

(b) a municipality or county, regardless of whether the municipality or county has adopted this chapter or any part of this chapter; and

(c) any other government entity located in Utah that expends public funds.

(17) "Public transit district" means a public transit district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act.

(18) "Special service district" is as defined in Section 17D-1-102.

Section 21. Section 63G-6a-106 is amended to read:

63G-6a-106. Procurement units with specific statutory procurement authority -- Independent procurement authority.

~~[(1) The procurement authority given to a procurement unit under the following provisions shall be retained, and shall be applied only to the extent described in those provisions:]~~

(1) A procurement unit with procurement authority under the following provisions has independent procurement authority to the extent of the applicable provisions and for the procurement items specified in the applicable provisions:

(a) Title 53B, State System of Higher Education;

(b) Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management;

(c) Title 67, Chapter 5, Attorney General;

(d) Title 72, Transportation Code; and

(e) Title 78A, Chapter 5, District ~~[Courts]~~ Court.

(2) Except as otherwise provided in Sections 63G-6a-105 and 63G-6a-107, a procurement unit shall conduct a procurement in accordance with this chapter.

(3) (a) The Department of Transportation may make rules governing the procurement of highway construction or improvement.

(b) The applicable rulemaking authority for a public transit district may make rules governing the procurement of a transit construction project or a transit improvement project.

(c) This Subsection (3) supersedes Subsections (1) and (2).

~~[(4) Except to the extent otherwise agreed to in a memorandum of understanding between the division and the following entities, the authority of~~

~~the chief procurement officer and of the division does not extend to a procurement unit with independent procurement authority.]~~

~~[(5) An entity described in Subsection (4) may, without supervision, interference, or involvement by the chief procurement officer or the division, but consistent with the requirements of this chapter:]~~

~~(4) (a) A procurement unit listed in Subsection (4)(b) may, without the supervision, interference, oversight, control, or involvement of the division or the chief procurement officer, but in accordance with the requirements of this chapter:~~

~~[(a)] (i) engage in a standard procurement process;~~

~~[(b)] (ii) procure an item under an exception, as provided in this chapter, to the requirement to use a standard procurement process; or~~

~~[(c)] (iii) otherwise engage in an act authorized or required by this chapter.~~

~~(b) The procurement units to which Subsection (4)(a) applies are:~~

~~(i) a legislative procurement unit;~~

~~(ii) a judicial procurement unit;~~

~~(iii) an educational procurement unit;~~

~~(iv) a local government procurement unit;~~

~~(v) a conservation district;~~

~~(vi) a local building authority;~~

~~(vii) a local district;~~

~~(viii) a public corporation;~~

~~(ix) a special service district;~~

~~(x) a public transit district; and~~

~~(xi) a procurement unit referred to in Subsection (1), to the extent authorized in Subsection (1).~~

~~(c) A procurement unit with independent procurement authority shall comply with the requirements of this chapter.~~

~~(d) Notwithstanding Subsection (4)(a), a procurement unit with independent procurement authority may agree in writing with the division to extend the authority of the division or the chief procurement officer to the procurement unit, as provided in the agreement.~~

~~[(6)] (5) (a) The attorney general may, in accordance with the provisions of this chapter, but without involvement by the division or the chief procurement officer:~~

~~[(a)] (i) retain outside counsel; or~~

~~[(b)] (ii) procure litigation support services, including retaining an expert witness.~~

~~[(7) An entity described in Subsection (4)]~~

~~(b) A procurement unit with independent procurement authority that is not represented by the attorney general's office may, in accordance~~

with the provisions of this chapter, but without involvement by the division or the chief procurement officer:

[(a)] (i) retain outside counsel; or

[(b)] (ii) procure litigation support services, including retaining an expert witness.

[(8)] (6) The state auditor's office may, in accordance with the provisions of this chapter, but without involvement by the division or the chief procurement officer, procure audit services.

[(9)] (7) The state treasurer may, in accordance with the provisions of this chapter, but without involvement by the division or the chief procurement officer, procure:

(a) deposit and investment services; and

(b) services related to issuing bonds.

Section 22. Section 63G-6a-107 is amended to read:

63G-6a-107. Exemptions from chapter -- Compliance with federal law.

(1) Except for Part ~~[23]~~ 24, Unlawful Conduct and Penalties, the provisions of this chapter ~~[are not applicable]~~ do not apply to:

(a) funds administered under the Percent-for-Art Program of the Utah Percent-for-Art Act;

(b) grants awarded by the state or contracts between the state and any of the following:

(i) an educational procurement unit;

(ii) a conservation district;

(iii) a local building authority;

(iv) a local district;

(v) a public corporation;

(vi) a special service district;

(vii) a public transit district; or

(viii) two or more of the entities described in Subsections (1)(b)(i) through (vii), acting under legislation that authorizes intergovernmental cooperation;

(c) medical supplies or medical equipment, including service agreements for medical equipment, obtained through a purchasing consortium by the Utah State Hospital, the Utah State Developmental Center, the University of Utah Hospital, or any other hospital owned by the state or a political subdivision of the state, if:

(i) the consortium uses a competitive procurement process; and

(ii) the chief administrative officer of the hospital makes a written finding that the prices for purchasing medical supplies and medical equipment through the consortium are competitive with market prices; or

(d) goods purchased for resale~~[-or]~~ to the public.

~~[(c) any action taken by a majority of both houses of the Legislature.]~~

~~[(2) (a) Notwithstanding Subsection (1), the provisions of Part 23, Unlawful Conduct and Penalties, are not applicable to an entity described in Subsection (1)(b)(ii), (iii), (iv), (vi), (vii), or (viii).]~~

~~[(b) (2) This chapter does not prevent a procurement unit from complying with the terms and conditions of any grant, gift, or bequest that is otherwise consistent with law.~~

~~[(3) This chapter does not apply to any action taken by a majority of both houses of the Legislature.]~~

~~[(3)] (4) Notwithstanding any conflicting provision of this chapter, when a procurement involves the expenditure of federal assistance, federal contract funds, local matching funds, or federal financial participation funds, the procurement unit shall comply with mandatory applicable federal law and regulations not reflected in this chapter.~~

~~[(4)] (5) This chapter does not supersede the requirements for retention or withholding of construction proceeds and release of construction proceeds as provided in Section 13-8-5.~~

Section 23. Section 63G-6a-108 is amended to read:

63G-6a-108. Limitations on and responsibility of executive branch procurement units.

(1) ~~[Except as provided in Subsection (2), a] An executive branch procurement unit may not engage in a procurement unless:~~

(a) the procurement is made under the direction and control of the division; or

~~[(b) the division, pursuant to rules made by the board, permits the procurement unit to make the procurement on its own.]~~

~~[(2) Subsection (1) does not apply to the following procurement units, all of which have independent procurement authority:]~~

~~[(a) a legislative procurement unit;]~~

~~[(b) a judicial procurement unit;]~~

~~[(c) an educational procurement unit;]~~

~~[(d) a local government procurement unit;]~~

~~[(e) a conservation district;]~~

~~[(f) a local building authority;]~~

~~[(g) a local district;]~~

~~[(h) a public corporation;]~~

~~[(i) a special service district;]~~

~~[(j) the Utah Housing Corporation; or]~~

~~[(k) a public transit district.]~~

~~[(3) A procurement unit with independent procurement authority is not exempt from complying with the requirements of this chapter.]~~

~~[(b) the procurement is made under Section 63G-6a-106.]~~

~~[(2) An executive branch procurement unit that conducts any part of a procurement under this chapter is responsible to conduct that part of the procurement in compliance with this chapter.]~~

Section 24. Section 63G-6a-109 is enacted to read:

63G-6a-109. Issuing procurement unit and conducting procurement unit.

(1) With respect to a procurement by an executive branch procurement unit:

(a) the division is the issuing procurement unit; and

(b) the executive branch procurement unit is the conducting procurement unit and is responsible to ensure that the procurement is conducted in compliance with this chapter.

(2) With respect to a procurement by any other procurement unit, the procurement unit is both the issuing procurement unit and the conducting procurement unit.

Section 25. Section 63G-6a-204 is amended to read:

63G-6a-204. Applicability of rules and regulations of Utah State Procurement Policy Board and State Building Board -- Report to interim committee.

(1) Except as provided in Subsection (2), rules made by the board under this chapter shall govern all procurement units for which the board is the applicable rulemaking authority.

(2) The building board rules governing procurement of construction, architect-engineer services, and leases apply to the procurement of construction, architect-engineer services, and leases of real property by the Division of Facilities Construction and Management.

(3) An applicable rulemaking authority may make its own rules, consistent with this chapter, governing procurement by a person over which the applicable rulemaking authority has rulemaking authority.

(4) The board shall make a report on or before July 1 of each year to a legislative interim committee, designated by the Legislative Management Committee created under Section 36-12-6, on the establishment, implementation, and enforcement of the rules made under Section 63G-6a-203.

(5) Notwithstanding Subsection 63G-3-301(13)(b), an applicable rulemaking authority is ~~is, on or before May 13, 2014,~~ required to initiate rulemaking proceedings, for rules required to be made under this chapter ~~is, on or before:~~

(a) May 13, 2014, if the applicable rulemaking authority is the board; or

(b) January 1, 2015, for each other applicable rulemaking authority.

Section 26. Section 63G-6a-303 is amended to read:

63G-6a-303. Duties and authority of chief procurement officer.

(1) Except as otherwise specifically provided in this chapter, the chief procurement officer serves as the central procurement officer of the state and shall:

(1) (a) adopt office policies governing the internal functions of the division;

(2) (b) procure or supervise each procurement over which the chief procurement officer has authority;

(3) (c) establish and maintain programs for the inspection, testing, and acceptance of each procurement item over which the chief procurement officer has authority;

(4) (d) prepare statistical data concerning each procurement and procurement usage of a state procurement unit;

(5) (e) ensure that:

(a) (i) before approving a procurement not covered by an existing statewide contract for information technology or telecommunications supplies or services, the chief information officer and the agency have stated in writing to the division that the needs analysis required in Section 63F-1-205 was completed, unless the procurement is approved in accordance with Title 63M, Chapter 1, Part 26, Government Procurement Private Proposal Program; and

(b) (ii) the oversight authority required by Subsection (5)(a) is not delegated outside the division; and

(6) (f) provide training to procurement units and to persons who do business with procurement units;

(g) if the chief procurement officer determines that a procurement over which the chief procurement officer has authority is out of compliance with this chapter or board rules:

(i) correct or amend the procurement to bring it into compliance; or

(ii) cancel the procurement, if:

(A) it is not feasible to bring the procurement into compliance; or

(B) the chief procurement officer determines that it is in the best interest of the state to cancel the procurement; and

(h) if the chief procurement officer determines that a contract over which the chief procurement officer has authority is out of compliance with this chapter or board rules, correct or amend the contract to bring it into compliance or cancel the contract:

(i) if the chief procurement officer determines that correcting, amending, or canceling the contract is in the best interest of the state; and

(ii) after consultation with the attorney general's office.

(2) The chief procurement officer may:

(a) correct, amend, or cancel a procurement as provided in Subsection (1)(g) at any stage of the procurement process; and

(b) correct, amend, or cancel a contract as provided in Subsection (1)(h) at any time during the term of the contract.

Section 27. Section 63G-6a-402 is amended to read:

63G-6a-402. Obtaining a procurement item -- Applicable requirements -- Procurement rules -- State Building Board report.

(1) Except as otherwise provided in Section 63G-6a-107, Section 63G-6a-403, Part 8, Exceptions to Procurement Requirements, or elsewhere in this chapter, a procurement unit may not obtain a procurement item, unless:

(a) if the procurement unit is the division or a procurement unit with independent procurement authority, the procurement unit:

(i) uses a standard procurement process or an exception to a standard procurement process, described in Part 8, Exceptions to Procurement Requirements; and

(ii) complies with:

(A) the requirements of this chapter; and

(B) the rules made pursuant to this chapter by the applicable rulemaking authority;

(b) if the procurement unit is a county, a municipality, or the Utah Housing Corporation, the procurement unit complies with:

(i) the requirements of this chapter that are adopted by the procurement unit; and

(ii) all other procurement requirements that the procurement unit is required to comply with; or

(c) if the procurement unit is not a procurement unit described in Subsections (1)(a) or (b), the procurement unit:

(i) obtains the procurement item under the direction and approval of the division, unless otherwise provided by a rule made by the board;

(ii) uses a standard procurement process; and

(iii) complies with:

(A) the requirements of this chapter; and

(B) the rules made pursuant to this chapter by the applicable rulemaking authority.

(2) Subject to Subsection (3), the applicable rulemaking authority shall make rules relating to the management and control of procurements and procurement procedures by a procurement unit.

(3) (a) Rules made under Subsection (2) shall ensure compliance with the federal contract prohibition provisions of the Sudan Accountability and Divestment Act of 2007 (Pub. L. No. 110-174) that prohibit contracting with a person doing business in Sudan.

(b) The State Building Board rules governing procurement of construction, architect-engineer services, and leases apply to the procurement of construction, architect-engineer services, and leases of real property by the Division of Facilities Construction and Management.

(4) An applicable rulemaking authority that is subject to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall make the rules described in this chapter in accordance with the provisions of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) The State Building Board shall make a report on or before July 1 of each year to a legislative interim committee, designated by the Legislative Management Committee created under Section 36-12-6, on the establishment, implementation, and enforcement of the rules made by the State Building Board under this chapter.

Section 28. Section 63G-6a-403 is amended to read:

63G-6a-403. Prequalification of potential vendors.

(1) ~~(a)~~ As used in this section, ~~“vendor” means~~:

(a) “Closed-ended prequalification process” means a process to prequalify potential vendors under this section that is characterized by:

(i) a short, specified period of time during which potential vendors may be prequalified; and

(ii) a specified date at which prequalifications expire.

(b) “Open-ended prequalification process” means a process to prequalify vendors and potential vendors under this section that is characterized by an indeterminate period of time during any part of which vendors or potential vendors may be prequalified and the prequalification of previously prequalified vendors or potential vendors may be periodically renewed.

(c) “Vendor” means:

(i) a bidder;

(ii) an offeror; or

(iii) a contractor, including an architect or an engineer.

~~(b)~~ (2) A procurement unit may, in accordance with this section:

~~(4)~~ (a) using a closed-ended prequalification process or an open-ended prequalification process:

(i) prequalify potential vendors to provide any procurement item or type of procurement item specified by the procurement unit; ~~and~~ or

(ii) rank architects, engineers, or other professional service providers to begin the fee negotiation process, as provided in this chapter; and

~~(4)(b)~~ (b) limit participation in ~~[an invitation for bids, a request for proposals, or an approved vendor list]~~ a standard procurement process to the prequalified potential vendors for the specified procurement item or type of procurement item.

~~(2)~~ (3) To prequalify potential vendors ~~[to provide a specified type of procurement item] or rank professional service providers, a procurement unit shall issue a request for~~ statement of qualifications.

~~(3)~~ (4) A procurement unit that issues a request for statement of qualifications:

(a) shall:

~~(a)~~ (i) publish the request for statement of qualifications in accordance with the requirements of Section ~~[63G-6a-402]~~ 63G-6a-406; and

~~(b)~~ (ii) state in the request for statement of qualifications:

~~(4)~~ (A) the procurement item or type of procurement item to which the request for statement of qualifications relates;

~~(4)(b)~~ (B) the scope of work to be performed;

~~(4)(c)~~ (C) the instructions and ~~[the]~~ deadline for ~~[providing information in response to the request for]~~ submitting a statement of qualifications;

~~(4)(d)~~ (D) the ~~[minimum]~~ criteria ~~[for prequalification]~~ by which the procurement unit will evaluate statements of qualifications;

(E) whether the prequalification process is a closed-ended prequalification process or an open-ended prequalification process;

~~(4)(e)~~ (F) if the prequalification process is a closed-ended prequalification process, the period of time during which the list of prequalified potential vendors will remain in effect, which may not be longer than 18 months after the list of prequalified potential vendors is made available to the public under Subsection ~~[(8)]~~ (11)(b); ~~and]~~

(G) if the prequalification process is an open-ended prequalification process, when a potential vendor may submit a statement of qualifications for the potential vendor to be considered for inclusion on the list of prequalified potential vendors; and

~~(4)(f)~~ (H) that a procurement unit may limit participation in an invitation for bids or a request for proposals, ~~[during the time period described in Subsection (3)(b)(v)],~~ to the potential vendors that are prequalified to provide the specified procurement item or type of procurement item; ~~and~~

(b) may request the person submitting a statement of qualifications to provide:

(i) basic information about the person;

(ii) the person’s ~~(8)~~ experience and work history;

(iii) information about the person's management and staff;

(iv) information about the person's licenses, certifications, and other qualifications;

(v) any applicable performance ratings;

(vi) financial statements reporting the person's financial condition; and

(vii) any other pertinent information.

(5) (a) In order to renew a prequalification, a vendor or potential vendor that has been previously prequalified through an open-ended prequalification process shall submit a statement of qualifications no more than 18 months after the previous prequalification of that vendor or potential vendor.

(b) A previously prequalified vendor or potential vendor submitting a statement of qualifications under Subsection (5)(a) shall comply with all requirements applicable at that time to a potential vendor seeking prequalification for the first time.

(6) A procurement unit may at any time modify prequalification requirements of an open-ended prequalification process.

[4] (7) The ~~minimum~~ criteria described in Subsection ~~(3)(b)(iv)~~ (4)(a)(ii)(D):

(a) shall include the prequalification requirements unique to the procurement;

(b) may include performance rating criteria; and

(c) may not be so restrictive that the criteria unreasonably limit competition.

[5] (8) A procurement unit may, before making a final list of prequalified vendors, request additional information to clarify responses made to the request for statement of qualifications.

[6] (9) A potential vendor shall be included on the list of prequalified potential vendors if the potential vendor:

(a) submits a timely, responsive response to the request for statement of qualifications; and

(b) meets the ~~minimum~~ criteria for qualification described in Subsection ~~(3)(b)(iv)~~ (4)(a)(ii)(D).

[7] (10) If a request for statement of qualifications will result in only one potential vendor being placed on the list of prequalified potential vendors:

(a) the procurement unit shall cancel the request for statement of qualifications; and

(b) the list may not be used by the procurement unit.

[8] (11) The procurement unit shall:

(a) before making the list of prequalified potential vendors available to the public, provide each potential vendor who provided information in response to the request, but who did not meet the minimum qualifications for placement on the list, a

written justification statement describing why the potential vendor did not meet the criteria for inclusion on the list; and

(b) ~~[within 30 days after the day of the deadline described in Subsection (3)(b)(iii),]~~ make the list of prequalified potential vendors available to the public~~[-]~~ within 30 days after:

(i) completing the evaluation process, if the prequalification process is a closed-ended prequalification process; or

(ii) updating the list of prequalified potential vendors, if the prequalification process is an open-ended prequalification process.

Section 29. Section 63G-6a-404 is amended to read:

63G-6a-404. Approved vendor list.

(1) (a) As used in this section, "vendor" [is] has the same meaning as defined in [~~Subsection~~] Section 63G-6a-403~~(1)(a)~~.

(b) The process described in this section may not be used for construction projects that cost more than an amount specified by the applicable rulemaking authority.

(c) The division or a procurement unit with independent procurement authority may compile a list of approved vendors from which procurement items may be obtained.

(2) An approved vendor list may only be compiled from timely, responsive responses received under Section 63G-6a-403 or the process described in Part 15, Architect-Engine Services.

(3) In order to ensure equal treatment of vendors on an approved vendor list, for services other than the services described in Subsection (4) or (5) the procurement unit shall use one of the following methods in an unbiased manner:

(a) a rotation system, organized alphabetically, numerically, or randomly;

(b) assigning vendors to a specified geographical area; or

(c) classifying each vendor based on each vendor's particular expertise, qualifications, or field.

(4) (a) For a construction project that costs less than the amount established by the applicable rulemaking authority, under Subsection (1)(b), a procurement unit shall select a potential construction contractor from an approved potential contractor list, using an invitation for bids or a request for proposals.

(b) For architectural or engineering services for a construction project described in Subsection (4)(a), a procurement unit shall select a potential contractor from an approved potential contractor list:

(i) using a rotation system, organized alphabetically, numerically, or randomly;

(ii) assigning a potential contractor to a specified geographical area; or

(iii) classifying each potential contractor based on the potential contractor's field or area of expertise.

(5) A procurement unit may not use an approved vendor list described in this section for a construction project with a cost that is equal to or greater than the amount established by the applicable rulemaking authority under Subsection (1)(b).

(6) (a) After selecting a potential contractor under Subsection (4)(b), a procurement unit shall enter into fee negotiations with the potential contractor.

(b) If, after good faith negotiations, the procurement unit and the potential contractor are unable to negotiate a fee that is acceptable to both parties, the procurement unit shall select another contractor under Subsection (4)(b) and enter into fee negotiations with that potential contractor.

Section 30. Section 63G-6a-406 is amended to read:

63G-6a-406. Public notice of certain solicitations.

(1) The division or a procurement unit with independent procurement authority that issues ~~[an invitation for bids, a request for proposals, or a notice of sole source procurement]~~ a solicitation required to be published in accordance with this section, shall provide public notice that includes:

(a) ~~[for an invitation for bids or a request for proposals,]~~ the name of the ~~[issuing]~~ conducting procurement unit;

(b) the name of the procurement unit acquiring the procurement item;

(c) ~~[for an invitation for bids or a request for proposals,]~~ information on how to contact the issuing procurement unit ~~[in relation to the invitation for bids or request for proposals];~~

~~[(d) for a notice of sole source procurement, contact information and other information relating to contesting, or obtaining additional information in relation to, the sole source procurement;]~~

~~[(e) for an invitation for bids or a request for proposals, the date of the opening and closing of the invitation for bids or request for proposals;]~~

~~[(f) for a notice of sole source procurement, the earliest date that the procurement unit may make the sole source procurement;]~~

(d) the date of the opening and closing of the solicitation;

~~[(g)]~~ (e) information on how to obtain a copy of the [invitation for bids, request for proposals, or further information related to the sole source procurement; and] procurement documents;

~~[(h)]~~ (f) a general description of the procurement items that will be obtained through the standard procurement process or sole source procurement[-]; and

(g) for a notice of a sole source procurement:

(i) contact information and other information relating to contesting or obtaining additional information relating to the sole source procurement; and

(ii) the earliest date that the procurement unit may make the sole source procurement.

(2) Except as provided in Subsection (4), ~~[for an invitation for bids or a request for proposals,]~~ the issuing procurement unit shall publish the notice described in Subsection (1)~~[-using at least one of the following methods]:~~

(a) ~~at least seven days before the day of the deadline for submission of a bid or other response, publish the notice;]~~ and

(b) (i) in a newspaper of general circulation in the state; [or]

(ii) in a newspaper of local circulation in the area:

(A) directly impacted by the procurement; or

(B) over which the procurement unit has jurisdiction; [or]

~~[(b) at least seven consecutive days before the day of the deadline for submission of a bid or other response, publish the notice;]~~

~~[(4)]~~ (iii) on the main website for the issuing procurement unit or the procurement unit acquiring the procurement item; or

~~[(4)]~~ (iv) on a state website that is owned, managed by, or provided under contract with, the division for posting a public procurement notice.

(3) Except as provided in Subsection (4), for a sole source procurement for which notice is required to be published in accordance with this section, the issuing procurement unit ~~[making the sole source procurement]~~ shall publish the notice described in Subsection (1)~~[-using at least one of the following methods]:~~

(a) at least seven days before the ~~[day on which the procurement unit makes the]~~ acquisition of the sole source procurement~~[-publish the notice;]~~ item; and

(b) (i) in a newspaper of general circulation in the state; [or]

(ii) in a newspaper of local circulation in the area:

(A) directly impacted by the procurement; or

(B) over which the procurement unit has jurisdiction; [or]

~~[(b) at least seven consecutive days before the day on which the procurement unit makes the sole source procurement, publish the notice;]~~

~~[(4)]~~ (iii) on the main website for the procurement unit acquiring the procurement item; or

~~[(4)]~~ (iv) on a state website that is owned by, managed by, or provided under contract with, the division for posting a procurement notice.

(4) An issuing procurement unit~~[-or the procurement unit making a sole source~~

~~procurement~~] may reduce the seven-day period described in Subsection (2) or (3), if the procurement officer or the procurement officer's designee signs a written statement that:

(a) states that a shorter time is needed; and

(b) ~~[as it relates to an invitation for bids or a request for proposals,]~~ determines that competition from multiple sources may be obtained within the shorter period of time.

(5) (a) An issuing procurement unit shall make a copy of ~~[an invitation for bids or a request for proposals]~~ the solicitation documents available for public inspection at the main office of the issuing procurement unit or on the website described in Subsection (2)(b) until the award of the contract or the cancellation of the procurement.

(b) A procurement unit ~~[making]~~ issuing a sole source procurement shall make a copy of information related to the sole source procurement available for public inspection at the main office of the procurement unit or on the website described in Subsection (3)(b) until the award of the contract or the cancellation of the procurement.

(c) A procurement unit shall maintain all records in accordance with Part 20, Records.

Section 31. Section 63G-6a-408 is amended to read:

63G-6a-408. Small purchases.

(1) As used in this section:

(a) "Annual cumulative threshold" means the maximum total annual amount, established by the applicable rulemaking authority under Subsection (2)(a)(i), that a procurement unit may expend to obtain procurement items from the same source under this section.

(b) "Individual procurement threshold" means the maximum amount, established by the applicable rulemaking authority under Subsection (2)(a)(ii), for which a procurement unit may purchase a procurement item under this section.

(c) "Single procurement aggregate threshold" means the maximum total amount, established by the applicable rulemaking authority under Subsection (2)(a)(iii), that a procurement unit may expend to obtain multiple procurement items from one source at one time under this section.

(2) The applicable rulemaking authority may make rules governing small purchases, including:

(a) establishing expenditure thresholds, including:

(i) an annual cumulative threshold;

(ii) an individual procurement threshold; and

(iii) a single procurement aggregate threshold;

(b) establishing procurement requirements relating to the thresholds described in Subsection (2)(a); and

(c) the use of electronic, telephone, or written quotes.

(3) Expenditures made under this section by a procurement unit may not exceed a threshold established by the applicable rulemaking authority, unless the chief procurement officer or the head of a procurement unit with independent procurement authority gives written authorization to exceed the threshold that includes the reasons for exceeding the threshold.

(4) Except as provided in Subsection (5), an executive branch procurement unit may not obtain a procurement item through a small purchase standard procurement process if the procurement item may be obtained through a state cooperative contract or a contract awarded by the chief procurement officer under Subsection 63G-6a-2105(1).

(5) Subsection (4) does not apply if:

(a) the procurement item is obtained for an unanticipated, urgent or unanticipated, emergency condition, including:

(i) an item needed to avoid stopping a public construction project;

(ii) an immediate repair to a facility or equipment; or

(iii) another emergency condition; or

(b) the chief procurement officer or the head of a procurement unit that is an executive branch procurement unit with independent procurement authority:

(i) determines in writing that it is in the best interest of the procurement unit to obtain an individual procurement item outside of the state contract, comparing:

(A) the contract terms and conditions applicable to the procurement item under the state contract with the contract terms and conditions applicable to the procurement item if the procurement item is obtained outside of the state contract;

(B) the maintenance and service applicable to the procurement item under the state contract with the maintenance and service applicable to the procurement item if the procurement item is obtained outside of the state contract;

(C) the warranties applicable to the procurement item under the state contract with the warranties applicable to the procurement item if the procurement item is obtained outside of the state contract;

(D) the quality of the procurement item under the state contract with the quality of the procurement item if the procurement item is obtained outside of the state contract; and

(E) the cost of the procurement item under the state contract with the cost of the procurement item if the procurement item is obtained outside of the state contract;

(ii) for a procurement item that, if defective in its manufacture, installation, or performance, may

result in serious physical injury, death, or substantial property damage, determines in writing that the terms and conditions, relating to liability for injury, death, or property damage, available from the source other than the contractor who holds the state contract, are similar to, or better than, the terms and conditions available under the state contract; and

(iii) grants an exception, in writing, to the requirement described in Subsection (4).

(6) Except as otherwise expressly provided in this section, a procurement unit:

(a) may not use the small purchase standard procurement process described in this section for ongoing, continuous, and regularly scheduled procurements that exceed the annual cumulative threshold; and

(b) shall make its ongoing, continuous, and regularly scheduled procurements that exceed the annual cumulative threshold through a contract awarded through another standard procurement process described in this chapter or an applicable exception to another standard procurement process, described in Part 8, Exceptions to Procurement Requirements.

(7) This section does not prohibit regularly scheduled payments for a procurement item obtained under another provision of this chapter.

(8) (a) It is unlawful for a person to intentionally or knowingly divide a procurement into one or more smaller procurements with the intent to make a procurement:

~~[(a)]~~ (i) qualify as a small purchase, if, before dividing the procurement, it would not have qualified as a small purchase; or

~~[(b)]~~ (ii) meet a threshold established by rule made by the applicable rulemaking authority, if, before dividing the procurement, it would not have met the threshold.

(b) A person who engages in the conduct made unlawful under Subsection (8)(a) is guilty of:

(i) a second degree felony, if the value of the procurement before being divided is \$1,000,000 or more;

(ii) a third degree felony, if the value of the procurement before being divided is \$250,000 or more but less than \$1,000,000;

(iii) a class A misdemeanor, if the value of the procurement before being divided is \$100,000 or more but less than \$250,000; or

(iv) a class B misdemeanor, if the value of the procurement before being divided is less than \$100,000.

(9) A division of a procurement that is prohibited under Subsection (8) includes doing any of the following with the intent or knowledge described in Subsection (8):

(a) making two or more separate purchases;

(b) dividing an invoice or purchase order into two or more invoices or purchase orders; or

(c) making smaller purchases over a period of time.

(10) A person who violates Subsection (8) is subject to the criminal penalties described in Section ~~[63G-6a-2305]~~ 63G-6a-2405.

(11) The Division of Finance within the Department of Administrative Services may conduct an audit of an executive branch procurement unit to verify compliance with the requirements of this section.

(12) An executive branch procurement unit may not make a small purchase after January 1, 2014, unless the chief procurement officer certifies that the person responsible for procurements in the procurement unit has satisfactorily completed training on this section and the rules made under this section.

Section 32. Section 63G-6a-603 is amended to read:

63G-6a-603. Invitation for bids -- Requirements -- Publication.

(1) The bidding standard procurement process begins when the ~~[division or a procurement unit with independent procurement authority]~~ issuing procurement unit issues an invitation for bids.

(2) An invitation for bids shall:

(a) state the period of time during which bids will be accepted;

(b) describe the manner in which a bid shall be submitted;

(c) state the place where a bid shall be submitted; and

(d) include, or incorporate by reference:

(i) a description of the procurement items sought;

(ii) the objective criteria that will be used to evaluate the bids; and

(iii) the required contractual terms and conditions.

(3) An issuing procurement unit shall publish an invitation for bids in accordance with the requirements of Section 63G-6a-406.

Section 33. Section 63G-6a-606 is amended to read:

63G-6a-606. Evaluation of bids -- Award -- Cancellation -- Disqualification.

(1) ~~[The division or a]~~ A procurement unit ~~[with independent procurement authority]~~ that conducts a procurement using a bidding standard procurement process shall evaluate each bid using the objective criteria described in the invitation for bids, which may include:

(a) experience;

(b) performance ratings;

(c) inspection;

- (d) testing;
 - (e) quality;
 - (f) workmanship;
 - (g) time and manner of delivery;
 - (h) references;
 - (i) financial stability;
 - (j) cost;
 - (k) suitability for a particular purpose; or
- (1) other objective criteria specified in the invitation for bids.
- (2) Criteria not described in the invitation for bids may not be used to evaluate a bid.
- (3) The conducting procurement unit shall:
- (a) award the contract as soon as practicable to:
 - (i) the lowest responsive and responsible bidder who meets the objective criteria described in the invitation for bids; or
 - (ii) if, in accordance with Subsection (4), the procurement officer or the head of the conducting procurement unit disqualifies the bidder described in Subsection (3)(a)(i), the next lowest responsive and responsible bidder who meets the objective criteria described in the invitation for bids; or
 - (b) cancel the invitation for bids without awarding a contract.
- (4) In accordance with Subsection (5), the procurement officer or the head of the conducting procurement unit may disqualify a bidder for:
- (a) a violation of this chapter;
 - (b) a violation of a requirement of the invitation for bids;
 - (c) unlawful or unethical conduct; or
 - (d) a change in circumstance that, had the change been known at the time the bid was submitted, would have caused the bidder to not be the lowest responsive and responsible bidder who meets the objective criteria described in the invitation for bids.
- (5) A procurement officer or head of a conducting procurement unit who disqualifies a bidder under Subsection (4) shall:
- (a) make a written finding, stating the reasons for disqualification; and
 - (b) provide a copy of the written finding to the disqualified bidder.
- (6) If a conducting procurement unit cancels an invitation for bids without awarding a contract, the conducting procurement unit shall make available for public inspection a written justification for the cancellation.

Section 34. Section 63G-6a-607 is amended to read:

63G-6a-607. Action if all bids exceed available funds -- Exemption.

(1) Except as provided in Subsection (2) or (3), if the fiscal officer for the conducting procurement unit certifies that all accepted bids exceed available funds and that the lowest responsive and responsible bidder does not exceed the available funds by more than 5%, the procurement officer may negotiate an adjustment of the bid price and bid requirements with the lowest responsive and responsible bidder in order to bring the bid within the amount of available funds.

(2) A procurement officer may not adjust the bid requirements under Subsection (1) if there is a substantial likelihood that, had the adjustment been included in the invitation for bids, a person that did not submit a bid would have submitted a responsive, responsible, and competitive bid.

(3) The Division of Facilities Construction and Management is exempt from the requirements of this section if:

(a) the building board adopts rules governing procedures when all accepted bids exceed available funds; and

(b) the Division of Facilities Construction and Management complies with the rules described in Subsection (3)(a).

Section 35. Section 63G-6a-609 is amended to read:

63G-6a-609. Multiple stage bidding process.

(1) [~~The division or a~~ A procurement unit ~~with independent procurement authority~~] that conducts a procurement using a bidding standard procurement process may [~~conduct a bid in~~] use multiple stages[;] to:

(a) narrow the number of bidders who will progress to a subsequent stage;

(b) prequalify bidders for subsequent stages, in accordance with Section 63G-6a-403;

(c) enter into a contract for a single procurement; or

(d) award multiple contracts for a series of upcoming procurements.

(2) The invitation for bids for a multiple stage bidding process shall:

(a) describe the requirements for, and purpose of, each stage of the process;

(b) indicate whether the procurement unit intends to award:

(i) a single contract; or

(ii) multiple contracts for a series of upcoming procurements; and

(c) state that:

(i) the first stage is for prequalification only;

(ii) a bidder may not submit any pricing information in the first stage of the process; and

(iii) bids in the second stage will only be accepted from a person who prequalifies in the first stage.

(3) During the first stage, the conducting procurement unit:

(a) shall prequalify bidders to participate in subsequent stages, in accordance with Section 63G-6a-403;

(b) shall prohibit the submission of pricing information until the final stage; and

(c) may, before beginning the second stage, request additional information to clarify the qualifications of the bidders who submit timely responses.

(4) Contracts may only be awarded for a procurement item described in stage one of the invitation for bids.

(5) The [~~division or a~~] conducting procurement unit [~~with independent procurement authority may conduct a bid in~~] may use as many stages as it determines to be appropriate.

(6) Except as otherwise expressly provided in this section, [~~the division or~~] a procurement unit [~~with independent procurement authority shall conduct~~] conducting a multiple stage bidding process [in accordance] under this section shall ensure compliance with this part.

(7) The applicable rulemaking authority may make rules governing the use of a multiple stage process described in this section.

Section 36. Section 63G-6a-611 is amended to read:

63G-6a-611. Invitation for bids for reverse auction -- Requirements -- Publication of invitation.

(1) The reverse auction bidding process begins when the [~~division or a~~] issuing procurement unit [~~with independent procurement authority~~] issues an invitation for bids to prequalify bidders to participate in the reverse auction.

(2) The invitation for bids shall:

(a) state the period of time during which bids will be accepted;

(b) state that the bid will be conducted by reverse auction;

(c) describe the procurement items sought;

(d) describe the minimum requirements to become prequalified;

(e) state the required contractual terms and conditions; and

(f) describe the procedure that the [~~division or the~~] conducting procurement unit [~~with independent procurement authority~~] will follow in [~~conducting~~] the reverse auction.

(3) In order to participate in a reverse auction, a bidder shall agree to:

(a) the specifications, and contractual terms and conditions, of the procurement; and

(b) be trained in, and abide by, the procedure that the division or the procurement unit with independent procurement authority will follow in conducting the reverse auction.

(4) The division or a procurement unit with independent procurement authority shall publish an invitation for bids for a reverse auction in accordance with the requirements of Section 63G-6a-406.

Section 37. Section 63G-6a-612 is amended to read:

63G-6a-612. Conduct of reverse auction.

(1) [~~When~~] A procurement unit conducting a reverse auction, [~~the division or a procurement unit with independent procurement authority~~]:

(a) may conduct the reverse auction at a physical location or by electronic means;

(b) shall permit all prequalified bidders to participate in the reverse auction;

(c) may not permit a bidder to participate in the reverse auction if the bidder did not prequalify to participate in the reverse auction;

(d) may not accept a bid after the time for submission of a bid has expired;

(e) shall update the bids on a real time basis; and

(f) shall conduct the reverse auction in a manner that permits each bidder to:

(i) bid against each other; and

(ii) lower the bidder's price below the lowest bid before the reverse auction closes.

(2) At the end of the reverse auction, the conducting procurement unit shall:

(a) award the contract as soon as practicable to the lowest responsive and responsible bidder who meets the objective criteria described in the invitation for bids; or

(b) cancel the reverse auction without awarding a contract.

(3) After the reverse auction is finished, the conducting procurement [~~office~~] unit shall make publicly available:

(a) (i) the amount of the final bid submitted by each bidder during the reverse auction; and

(ii) the identity of the bidder that submitted each final bid; and

(b) if practicable:

(i) the amount of each bid submitted during the reverse auction; and

(ii) the identity of the bidder that submitted each bid.

Section 38. Section 63G-6a-702 is amended to read:

63G-6a-702. Contracts awarded by request for proposals.

(1) A request for proposals standard procurement process may be used instead of bidding if the procurement officer determines, in writing, that the request for proposals standard procurement process will provide the best value to the procurement unit.

(2) The request for proposals standard procurement process is appropriate to use for:

- (a) the procurement of professional services;
- (b) a design-build procurement;

(c) when cost is not the most important factor to be considered in making the selection that is most advantageous to the procurement unit; or

(d) when factors, in addition to cost, are highly significant in making the selection that is most advantageous to the procurement unit.

(3) The procurement of architect-engineer services is governed by Part 15, Architect-Engineer Services.

Section 39. Section 63G-6a-703 is amended to read:

63G-6a-703. Request for proposals -- Requirements -- Publication of request.

(1) The request for proposals standard procurement process begins when the division or a procurement unit with independent procurement authority issues a request for proposals.

(2) A request for proposals shall:

(a) state the period of time during which a proposal will be accepted;

(b) describe the manner in which a proposal shall be submitted;

(c) state the place where a proposal shall be submitted;

(d) include, or incorporate by reference:

(i) a description of the procurement items sought;

(ii) a description of the subjective and objective criteria that will be used to evaluate the proposal; and

(iii) the standard contractual terms and conditions required by the authorized purchasing entity;

(e) state the relative weight that will be given to each score ~~awarded~~ for the criteria described in Subsection (2)(d)(ii), including cost;

(f) state the formula that will be used to determine the score awarded for the cost of each proposal;

(g) if the request for proposals will be conducted in multiple stages, as described in Section 63G-6a-710, include a description of the stages and

the criteria and scoring that will be used to screen offerors at each stage; and

(h) state that discussions may be conducted with offerors who submit proposals determined to be reasonably susceptible of being selected for award, followed by an opportunity to make best and final offers, but that proposals may be accepted without discussions.

(3) The division or a procurement unit with independent procurement authority shall publish a request for proposals in accordance with the requirements of Section 63G-6a-406.

Section 40. Section 63G-6a-704 is amended to read:

63G-6a-704. Opening of proposals -- Limitation on accepting a proposal -- Rejecting a proposal.

(1) An issuing procurement unit shall ensure that proposals are opened in a manner that avoids disclosing the contents to competing offerors during the evaluation process.

(2) An issuing procurement unit may not accept a proposal~~[-(a)]~~ after the time for submission of a proposal has expired~~[-or]~~.

~~[(b) that is not responsive to the request for proposals.]~~

(3) At any time during the request for proposals standard procurement process, a conducting procurement unit may reject a proposal if the conducting procurement unit determines that:

(a) the person submitting the proposal is not responsible; or

(b) the proposal is not responsive or does not meet mandatory minimum requirements stated in the request for proposals.

Section 41. Section 63G-6a-707 is amended to read:

63G-6a-707. Evaluation of proposals -- Evaluation committee.

(1) [Each proposal shall be evaluated] To determine which proposal provides the best value to the procurement unit, the evaluation committee shall evaluate each responsive and responsible proposal that has not been disqualified from consideration under the provisions of this chapter, using the criteria described in the request for proposals, which may include:

(a) experience;

(b) performance ratings;

(c) inspection;

(d) testing;

(e) quality;

(f) workmanship;

(g) time, manner, or schedule of delivery;

(h) references;

(i) financial ~~stability~~ solvency;

- (j) suitability for a particular purpose;
- (k) management plans;
- (l) cost; or
- (m) other subjective or objective criteria specified in the request for proposals.
- (2) Criteria not described in the request for proposals may not be used to evaluate a proposal.
- (3) The ~~issuing~~ conducting procurement unit shall:
- (a) appoint an evaluation committee consisting of at least three individuals; and
- (b) ensure that the evaluation committee and each member of the evaluation committee:
- (i) does not have a conflict of interest with any of the offerors;
- (ii) can fairly evaluate each proposal;
- (iii) ~~does not contact or communicate with an offeror [for any reason other than conducting the standard procurement process] concerning the procurement outside the official evaluation committee process; and~~
- (iv) conducts the evaluation in a manner that ensures a fair and competitive process and avoids the appearance of impropriety.
- (4) The evaluation committee may, with the approval of the head of the conducting procurement unit, enter into discussions or conduct interviews with, or [participate in] attend presentations by, the offerors.
- (5) ~~(a) Except as provided in [Subsection (6) or] Subsections (5)(b) and (7), each member of the evaluation committee is prohibited from knowing, or having access to, any information relating to the cost, or the scoring of the cost, of a proposal until after the evaluation committee submits its final recommended scores on all other criteria to the issuing procurement unit.~~
- (b) The issuing procurement unit shall:
- (i) if applicable, assign an individual who is not a member of the evaluation committee to calculate scores for cost based on the applicable scoring formula, weighting, and other scoring procedures contained in the request for proposals;
- (ii) review the evaluation committee's scores and correct any errors, scoring inconsistencies, and reported noncompliance with this chapter;
- (iii) add the scores calculated for cost, if applicable, to the evaluation committee's final recommended scores on criteria other than cost to derive the total combined score for each responsive and responsible proposal; and
- (iv) provide to the evaluation committee the total combined score calculated for each responsive and responsible proposal, including any applicable cost formula, weighting, and scoring procedures used to calculate the total combined scores.

- (c) The evaluation committee may not:
- (i) change its final recommended scores described in Subsection (5)(a) after the evaluation committee has submitted those scores to the issuing procurement unit; or
- (ii) change cost scores calculated by the issuing procurement unit.
- (6) (a) As used in this Subsection (6), "management fee" includes only the following fees of the construction manager/general contractor:
- (i) preconstruction phase services;
- (ii) monthly supervision fees for the construction phase; and
- (iii) overhead and profit for the construction phase.
- (b) When selecting a construction manager/general contractor for a construction project, the evaluation committee:
- (i) may score a construction manager/general contractor based upon criteria contained in the solicitation, including qualifications, performance ratings, references, management plan, certifications, and other project specific criteria described in the solicitation;
- (ii) may, as described in the solicitation, weight and score the management fee as a fixed rate or as a fixed percentage of the estimated contract value;
- ~~(iii)~~ (iii) may, at any time after the opening of the responses to the request for proposals, have access to, and consider, the management fee proposed by the offerors; and
- ~~(iv)~~ (iv) except as provided in Subsection (7), may not know or have access to any other information relating to the cost of construction submitted by the offerors, until after the evaluation committee submits its final recommended scores on all other criteria to the issuing procurement unit.
- (7) (a) The deliberations of an evaluation committee may be held in private.
- (b) If the evaluation committee is a public body, as defined in Section 52-4-103, the evaluation committee shall comply with Section 52-4-205 in closing a meeting for its deliberations.
- ~~(7)~~ (8) An issuing procurement unit is not required to comply with Subsection (5) if, [before opening the responses to the request for proposals,] the head of the issuing procurement unit or a person designated by rule made by the applicable rulemaking authority:
- (a) signs a written statement:
- (i) indicating that, due to the nature of the proposal or other circumstances, it is in the best interest of the procurement unit to waive compliance with Subsection (5); and
- (ii) describing the nature of the proposal and the other circumstances relied upon to waive compliance with Subsection (5); and
- (b) makes the written statement available to the public, upon request.

~~[(8) The evaluation committee shall award scores to each responsive and responsible proposal that has not been disqualified from consideration under the provisions of this chapter.]~~

Section 42. Section 63G-6a-707.5, which is renumbered from Section 63G-6a-705 is renumbered and amended to read:

[63G-6a-705]. 63G-6a-707.5. Best and final offers.

~~[(1) After proposals are received and opened, the issuing procurement unit may conduct discussions with the offerors and allow the offerors to make best and final offers after the discussions.]~~

~~(1) At any time during the evaluation process, the evaluation committee, with the approval of the director or head of the issuing procurement unit, may:~~

~~(a) request best and final offers from responsible and responsive offerors; and~~

~~(b) evaluate those offers.~~

~~(2) [The issuing procurement unit] In requesting and evaluating best and final offers under Subsection (1), the evaluation committee shall:~~

~~(a) ensure that each offeror receives fair and equal treatment with respect to the other offerors;~~

~~(b) establish a schedule and procedures for conducting discussions;~~

~~(c) ensure that information in each proposal and information gathered during discussions is not shared with other offerors until the contract is awarded;~~

~~(d) ensure that auction tactics are not used in the discussion process, including discussing and comparing the costs and features of other proposals; and~~

~~(e) set a common date and time for the submission of best and final offers.~~

~~(3) If an offeror chooses not to participate in a discussion or does not make a timely best and final offer, the offer submitted by the [offerors] offeror before the conduct of discussions shall be treated as the offeror's best and final offer.~~

Section 43. Section 63G-6a-708 is amended to read:

63G-6a-708. Justification statement -- Cost-benefit analysis.

~~(1) (a) In determining which proposal provides the best value to the procurement unit, the evaluation committee and the conducting procurement unit shall prepare a written justification statement that:~~

~~(i) explains the score assigned to each evaluation category;~~

~~(ii) explains how the proposal with the highest total combined score provides the best value to the procurement unit in comparison to the other proposals;~~

~~(iii) if applicable, includes the cost-benefit analysis described in Subsection (2) and how the cost-benefit analysis relates to the best value to the procurement unit; and~~

~~(iv) if applicable, includes the written determination described in Subsection (5).~~

~~(b) An explanation under Subsection (1)(a)(i) need not address each criterion within each category.~~

~~[(4) (2) If, in determining the best value to the procurement unit, the evaluation committee awards the highest score [awarded by the evaluation committee], including the score for cost, [is awarded] to a proposal other than the lowest cost proposal, and the difference between the cost of the highest scored proposal and the lowest cost proposal exceeds the greater of \$10,000 or 5% of the lowest cost proposal, the [issuing procurement unit shall make] evaluation committee and the conducting procurement unit shall prepare an informal written cost-benefit analysis that:~~

~~(a) explains, in general terms, the advantage to the procurement unit of awarding the contract to the higher cost offeror; and~~

~~(b) [includes,] except as provided in Subsection [(1)(e),] (5):~~

~~(i) includes the estimated added financial value to the procurement unit of each [criteria] criterion that justifies awarding the contract to the higher cost offeror; and~~

~~[(e) includes, to the extent that assigning a financial value to a particular criteria is not practicable, a statement describing:]~~

~~[(i) why it is not practicable to assign a financial value to the criteria; and]~~

~~[(ii) in nonfinancial terms, the advantage to the procurement unit, based on the particular criteria, of awarding the contract to the higher cost offeror;]~~

~~[(d) (ii) demonstrates that the value of the advantage to the procurement unit of awarding the contract to the higher cost offeror exceeds the value of the difference between the cost of the higher cost proposal and the cost of the lower cost proposals; and]~~

~~[(e) includes any other information required by rule made by the applicable rulemaking authority.]~~

~~[(2) (3) If the informal cost-benefit analysis described in Subsection [(1) (2)] does not justify [award of] awarding the contract to the offeror that received the highest score, the issuing procurement unit:~~

~~(a) may not award the contract to the offeror that received the highest score; and~~

~~(b) may award the contract to the offeror that received the next highest score, unless:~~

~~(i) an informal cost-benefit analysis is required, because the difference between the cost proposed by the offeror that received the next highest score and the lowest cost proposal exceeds the greater of \$10,000 or 5% of the lowest cost proposal; and~~

(i) the informal cost-benefit analysis does not justify award of the contract to the offeror that received the next highest score.

~~[(3)] (4)~~ If the informal cost-benefit analysis described in Subsection ~~[(1)] (2)~~ does not justify award of the contract to the offeror, described in Subsection ~~[(2)] (3)~~, that received the next highest score, the issuing procurement unit:

(a) may not award the contract to the offeror that received the next highest score; and

(b) shall continue with the process described in Subsection ~~[(2)] (3)~~ for each offeror that received the next highest score, until the issuing procurement unit:

(i) awards the contract in accordance with the provisions of this section; or

(ii) cancels the request for proposals.

(5) (a) The evaluation committee, with the issuing procurement unit's approval, may waive, in whole or in part, a requirement under Subsection (2)(b) if the evaluation committee determines in writing that assigning a financial value to a particular procurement item or evaluation criterion is not practicable.

(b) A written determination under Subsection (5)(a):

(i) shall explain:

(A) why it is not practicable to assign a financial value to the procurement item or evaluation criterion; and

(B) in nonfinancial terms, why awarding the contract to the higher cost offeror provides the best value to the procurement unit; and

(ii) may be included as part of the justification statement.

~~[(4)] (6) (a)~~ An issuing procurement unit is not required to make the cost-benefit analysis described in this section for a contract with a construction manager/general contractor if the contract is awarded based solely on the qualifications of the construction manager/general contractor and the management fee described in Subsection ~~[63G-6a-706] 63G-6a-707(6)~~.

(b) The applicable rulemaking authority shall make rules that establish procedures and criteria for awarding a contract described in Subsection ~~[(4)] (6)~~(a) to ensure that:

(i) a competitive process is maintained; and

(ii) the contract awarded is in the best interest of the procurement unit.

Section 44. Section 63G-6a-709 is amended to read:

63G-6a-709. Award of contract -- Cancellation -- Disqualification.

(1) After the completion of the evaluation and scoring of proposals ~~is completed, the issuing~~

~~procurement unit shall;~~ and the justification statement, including any required cost-benefit analysis, the evaluation committee shall submit the proposals, evaluation scores, and justification statement to the head of the procurement unit or designee for review and final determination of a contract award.

(2) After reviewing the proposals, evaluation scores, and justification statement, including any required cost-benefit analysis, the head of the issuing procurement unit or designee shall:

(a) [except as provided in Section 63G-6a-708,] award the contract as soon as practicable to:

(i) the responsive and responsible offeror with the highest total score; or

(ii) if, in accordance with Subsection ~~[(2)] (3)~~, the procurement officer or the head of the issuing procurement unit disqualifies the offeror described in Subsection ~~[(1)] (2)~~(a)(i), the responsive and responsible offeror with the next highest total score; or

(b) cancel the request for proposals without awarding a contract.

~~[(2)] (3)~~ In accordance with Subsection ~~[(3)] (4)~~, the procurement officer or the head of the issuing procurement unit may disqualify an offeror for:

(a) a violation of this chapter;

(b) not being responsive or responsible;

~~[(b)] (c)~~ a violation of a requirement of the request for proposals;

~~[(e)] (d)~~ unlawful or unethical conduct; or

~~[(d)] (e)~~ a change in circumstance that, had the change been known at the time the proposal was submitted, would have caused the proposal to not have the highest score.

~~[(3)] (4)~~ A procurement officer or head of an issuing procurement unit who disqualifies an offeror under Subsection ~~[(2)] (3)~~ shall:

(a) make a written finding, stating the reasons for disqualification; and

(b) provide a copy of the written finding to the disqualified offeror.

[(4)] (5) If an issuing procurement unit cancels a request for proposals without awarding a contract, the issuing procurement unit shall make available for public inspection a written justification for the cancellation.

Section 45. Section 63G-6a-709.5 is amended to read:

63G-6a-709.5. Publication of award and scores.

(1) The issuing procurement unit shall, on the next business day [on which] after the award of a contract is announced, make available to each offeror and to the public a written statement that includes:

~~(1)~~ (a) the name of the offeror to which the contract is awarded and the total score awarded by the evaluation committee to that offeror;

(b) the justification statement under Section 63G-6a-708, including any required cost-benefit analysis; and

~~(2)~~ (c) the total score awarded by the evaluation committee to each offeror to which the contract is not awarded, without identifying which offeror received which score~~[-; and]~~.

~~(3) —any cost-benefit analysis made, under Section 63G-6a-708, in relation to the request for proposals.]~~

(2) Subsection (1)(a) does not prevent the issuing procurement unit from using codes or another method in a statement under Subsection (1) to distinguish offerors to which the contract is not awarded and to indicate their scores, as long as an offeror cannot be matched with the score awarded to that offeror.

Section 46. Section 63G-6a-802 is amended to read:

63G-6a-802. Award of contract without competition -- Notice -- Extension of contract without engaging in standard procurement process.

(1) As used in this section:

(a) “Transitional costs” mean the costs of changing from an existing provider of, or type of, a procurement item to another provider of, or type of, procurement item.

(b) “Transitional costs” include:

(i) training costs;

(ii) conversion costs;

(iii) compatibility costs;

(iv) system downtime;

(v) disruption of service;

(vi) staff time necessary to put the transition into effect;

(vii) installation costs; and

(viii) ancillary software, hardware, equipment, or construction costs.

(c) “Transitional costs” do not include:

(i) the costs of preparing for or engaging in a procurement process; or

(ii) contract negotiation or contract drafting costs.

(d) “Trial use contract” means a contract between a procurement unit and a vendor for a procurement item that the procurement unit acquires for trial use or testing to determine whether the procurement item will benefit the procurement unit.

(2) The division or a procurement unit with independent procurement authority may award a contract for a procurement item without competition if the procurement officer, the head of the procurement unit, or a designee of either who is senior to the procurement officer or the head of the procurement unit, determines in writing that:

(a) there is only one source for the procurement item; ~~or~~

(b) the award to a specific supplier, service provider, or contractor is a condition of a donation that will fund the full cost of the supply, service, or construction item~~[-]; or~~

(c) the procurement item is needed for trial use or testing to determine whether the procurement item will benefit the procurement unit.

(3) Circumstances under which there is only one source for a procurement item may include:

(a) where the most important consideration in obtaining a procurement item is the compatibility of equipment, technology, software, accessories, replacement parts, or service;

~~(b) where a procurement item is needed for trial use or testing;~~

~~(e)~~ (b) where transitional costs are unreasonable or cost prohibitive; or

~~(d)~~ (c) procurement of public utility services.

(4) (a) [The] Subject to Subsection (4)(b), the applicable rulemaking authority shall make rules regarding the publication of notice for a sole source procurement that, at a minimum, require publication of notice of a sole source procurement, in accordance with Section 63G-6a-406, if the cost of the procurement exceeds \$50,000.

(b) Publication of notice under Section 63G-6a-406 is not required for:

(i) the procurement of public utility services pursuant to a sole source contract; or

(ii) other sole source procurements provided by rule.

(5) The division or a procurement unit with independent procurement authority who awards a sole source contract on behalf of another procurement unit shall negotiate with the contractor to ensure that the terms of the contract, including price and delivery, are in the best interest of the procurement unit.

(6) (a) The period of trial use or testing of a procurement item under a trial use contract may not exceed 18 months, unless the procurement officer provides a written exception documenting the reason for a longer period.

(b) A trial use contract shall:

(i) state that the purpose of the contract is strictly for the purpose of the trial use or testing of a procurement item;

(ii) state that the contract terminates upon completion of the trial use or testing period;

(iii) state that, after the trial use or testing period, the procurement unit is not obligated to purchase or enter into a contract for the procurement item, regardless of the trial use or testing result;

(iv) state that any purchase of the procurement item beyond the terms of the trial use contract will be made in accordance with this chapter; and

(v) include, as applicable:

(A) test schedules;

(B) deadlines and a termination date;

(C) measures that will be used to evaluate the performance of the procurement item;

(D) any fees and associated expenses or an explanation of the circumstances warranting a waiver of those fees and expenses;

(E) the obligations of the procurement unit and vendor;

(F) provisions regarding the ownership of the procurement item during and after the trial use or testing period;

(G) an explanation of the grounds upon which the contract may be terminated;

(H) a limitation of liability;

(I) a consequential damage waiver provision;

(J) a statement regarding the confidentiality or nondisclosure of information;

(K) a provision relating to any required bond or security deposit; and

(L) other requirements unique to the procurement item for trial use or testing.

(c) Publication of notice under Section 63G-6a-406 is not required for a procurement pursuant to a trial use contract.

[46] (7) The division or a procurement unit with independent procurement authority may extend a contract for a reasonable period of time without engaging in a standard procurement process, if:

(a) the award of a new contract for the procurement item is delayed due to a protest or appeal;

(b) the standard procurement process is delayed due to unintentional error;

(c) changes in industry standards require significant changes to specifications for the procurement item;

(d) the extension is necessary to prevent the loss of federal funds;

(e) the extension is necessary to address a circumstance where the appropriation of state or federal funds has been delayed; [or]

(f) the extension covers the period of time during which contract negotiations with a new provider are being conducted[-]; or

(g) the extension is necessary to avoid a lapse in critical governmental services that may negatively impact public health, safety, or welfare.

Section 47. Section 63G-6a-904 is amended to read:

63G-6a-904. Debarment or suspension from consideration for award of contracts -- Process -- Causes for debarment -- Appeal.

(1) (a) [~~After reasonable notice to the person involved and reasonable opportunity for that person to be heard~~] Subject to Subsection (1)(b), the chief procurement officer[~~, a procurement officer,~~] or the head of a procurement unit with independent procurement authority may[~~, after consultation with the procurement unit involved in the matter for which debarment is sought and, if the procurement unit is in the state executive branch, the attorney general~~]:

[(a)] (i) debar a person for cause from consideration for award of contracts for a period not to exceed three years; or

[(b)] (ii) suspend a person from consideration for award of contracts if there is probable cause to believe that the person has engaged in any activity that might lead to debarment.

(b) Before debarring or suspending a person under Subsection (1)(a), the chief procurement officer or head of a procurement unit with independent procurement authority shall:

(i) consult with:

(A) the procurement unit involved in the matter for which debarment or suspension is sought; and

(B) the attorney general, if the procurement unit is in the state executive branch, or the procurement unit's attorney, if the procurement unit is not in the state executive branch;

(ii) give the person at least 10 days' prior written notice of:

(A) the reasons for which debarment or suspension is being considered; and

(B) the hearing under Subsection (1)(b)(iii); and

(iii) hold a hearing in accordance with Subsection (1)(c).

(c) (i) At a hearing under Subsection (1)(b)(iii), the chief procurement officer or head of a procurement unit with independent procurement authority may:

(A) subpoena witnesses and compel their attendance at the hearing;

(B) subpoena documents for production at the hearing;

(C) obtain additional factual information; and

(D) obtain testimony from experts, the person who is the subject of the proposed debarment or suspension, representatives of the procurement unit, or others to assist the chief procurement officer or head of a procurement unit with independent procurement authority to make a decision on the proposed debarment or suspension.

(ii) The Rules of Evidence do not apply to a hearing under Subsection (1)(b)(iii).

(iii) The chief procurement officer or head of a procurement unit with independent procurement authority shall:

(A) record a hearing under Subsection (1)(b)(iii);

(B) preserve all records and other evidence relied upon in reaching a decision until the decision becomes final;

(C) for an appeal of a debarment or suspension by a procurement unit other than a legislative procurement unit, a judicial procurement unit, a local government procurement unit, or a public transit district, submit to the procurement policy board chair a copy of the written decision and all records and other evidence relied upon in reaching the decision, within seven days after receiving a notice that an appeal of a debarment or suspension has been filed under Section 63G-6a-1702 or after receiving a request from the procurement policy board chair; and

(D) for an appeal of a debarment or suspension by a legislative procurement unit, a judicial procurement unit, a local government procurement unit, or a public transit district, submit to the Utah Court of Appeals a copy of the written decision and all records and other evidence relied upon in reaching the decision, within seven days after receiving a notice that an appeal of a debarment or suspension has been filed under Section 63G-6a-1802.

(iv) The holding of a hearing under Subsection (1)(b)(iii) or the issuing of a decision under Subsection (1)(b)(v) does not affect a person's right to later question or challenge the jurisdiction of the chief procurement officer or head of a procurement unit with independent procurement authority to hold a hearing or issue a decision.

(v) The chief procurement officer or head of a procurement unit with independent procurement authority shall:

(A) promptly issue a written decision regarding a proposed debarment or suspension, unless the matter is settled by mutual agreement; and

(B) mail, email, or otherwise immediately furnish a copy of the decision to the person who is the subject of the decision.

(vi) A written decision under Subsection (1)(b)(v) shall:

(A) state the reasons for the debarment or suspension, if debarment or suspension is ordered;

(B) inform the person who is debarred or suspended of the right to judicial or administrative review as provided in this chapter; and

(C) indicate the amount of the security deposit or bond required under Section 63G-6a-1703 and how that amount was calculated.

(vii) (A) A decision of debarment or suspension issued by a procurement unit other than a

legislative procurement unit, a judicial procurement unit, a local government procurement unit, or a public transit district is final and conclusive unless the person who is debarred or suspended files an appeal of the decision under Section 63G-6a-1702.

(B) A decision of debarment or suspension issued by a legislative procurement unit, a judicial procurement unit, a local government procurement unit, or a public transit district is final and conclusive unless the person who is debarred or suspended files an appeal of the decision under Section 63G-6a-1802.

(2) A suspension [described in Subsection (1)(b)] under this section may not be for a period exceeding three months, unless an indictment has been issued for an offense which would be a cause for debarment under Subsection (3), in which case the suspension shall, at the request of the attorney general, if the procurement unit is in the state executive branch, or the procurement unit's attorney, if the procurement unit is not in the state executive branch, remain in effect until after the trial of the suspended person.

(3) The causes for debarment include the following:

(a) conviction of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract or in the performance of a public or private contract or subcontract;

(b) conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a [state] contractor for the procurement unit;

(c) conviction under state or federal antitrust statutes;

(d) failure without good cause to perform in accordance with the terms of the contract;

(e) a violation of this chapter; or

(f) any other cause that the chief procurement officer[, the procurement officer,] or the head of a procurement unit with independent procurement authority determines to be so serious and compelling as to affect responsibility as a [state] contractor for the procurement unit, including debarment by another governmental entity.

(4) A person who is debarred or suspended under this section may appeal the debarment or suspension:

(a) as provided in Section 63G-6a-1702, if the debarment or suspension is by a procurement unit other than a legislative procurement unit, a judicial procurement unit, a local government procurement unit, or a public transit district; or

(b) as provided in Section 63G-6a-1802, if the debarment or suspension is by a legislative procurement unit, a judicial procurement unit, a

local government procurement unit, or a public transit district.

(5) A procurement unit may consider a cause for debarment under Subsection (3) as the basis for determining that a person responding to a solicitation is not responsible:

(a) independent of any effort or proceeding under this section to debar or suspend the person; and

(b) even if the procurement unit does not choose to seek debarment or suspension.

Section 48. Section 63G-6a-1103 is amended to read:

63G-6a-1103. Bonds or security necessary when contract is awarded -- Waiver -- Action -- Attorney fees.

(1) When a construction contract is awarded under this chapter, the contractor to whom the contract is awarded shall deliver the following bonds or security to the [state] procurement unit, which shall become binding on the parties upon the execution of the contract:

(a) a performance bond satisfactory to the [state] procurement unit that is in an amount equal to 100% of the price specified in the contract and is executed by a surety company authorized to do business in [this] the state or any other form satisfactory to the [state] procurement unit; and

(b) a payment bond satisfactory to the [state] procurement unit that is in an amount equal to 100% of the price specified in the contract and is executed by a surety company authorized to do business in [this] the state or any other form satisfactory to the [state] procurement unit, which is for the protection of each person supplying labor, service, equipment, or material for the performance of the work provided for in the contract.

(2) (a) When a construction contract is awarded under this chapter, the procurement officer or the head of the issuing procurement unit responsible for carrying out the construction project may not require a contractor to whom a contract is awarded to obtain a bond of the types referred to in Subsection (1) from a specific insurance or surety company, producer, agent, or broker.

(b) A person who violates Subsection (2)(a) is guilty of an infraction.

(3) Rules of the applicable rulemaking authority may provide for waiver of the requirement of a bid, performance, or payment bond for circumstances in which the procurement officer considers any or all of the bonds to be unnecessary to protect the procurement unit.

(4) A person shall have a right of action on a payment bond under this section for any unpaid amount due to the person if:

(a) the person has furnished labor, service, equipment, or material for the work provided for in the contract for which the payment bond is furnished under this section; and

(b) the person has not been paid in full within 90 days after the last day on which the person performed the labor or service or supplied the equipment or material for which the claim is made.

(5) An action upon a payment bond may only be brought in a court of competent jurisdiction in a county where the construction contract was to be performed. The action is barred if not commenced within one year after the last day on which the claimant performed the labor or service or supplied the equipment or material on which the claim is based. The obligee named in the bond need not be joined as a party to the action.

(6) In any suit upon a payment bond, the court shall award reasonable attorney fees to the prevailing party, which fees shall be taxed as costs in the action.

Section 49. Section 63G-6a-1105 is amended to read:

63G-6a-1105. Form of bonds -- Effect of certified copy.

(1) The form of the bonds required by this part shall be established by rule made by the applicable rulemaking authority.

(2) Any person may obtain from the [state] procurement unit a certified copy of a bond upon payment of the cost of reproduction of the bond and postage, if any.

(3) A certified copy of a bond [shall be] is prima facie evidence of the contents, execution, and delivery of the original.

Section 50. Section 63G-6a-1202 is repealed and reenacted to read:

63G-6a-1202. Standard contract clauses encouraged.

A procurement unit is encouraged to establish standard contract clauses to assist the procurement unit and to help contractors and potential contractors to understand applicable requirements.

Section 51. Section 63G-6a-1204 is amended to read:

63G-6a-1204. Multiyear contracts.

(1) Except as provided in Subsection (7), a procurement unit may enter into a multiyear contract resulting from an invitation for bids or a request for proposals, if:

(a) the procurement officer determines, in the discretion of the procurement officer, that entering into a multiyear contract is in the best interest of the procurement unit; and

(b) the invitation for bids or request for proposals:

(i) states the term of the contract, including all possible renewals of the contract;

(ii) states the conditions for renewal of the contract; and

(iii) includes the provisions of Subsections (3) through (5) that are applicable to the contract.

(2) In making the determination described in Subsection (1)(a), the procurement officer shall

consider whether entering into a multiyear contract will:

(a) result in significant savings to the procurement unit, including:

(i) reduction of the administrative burden in procuring, negotiating, or administering contracts;

(ii) continuity in operations of the procurement unit; or

(iii) the ability to obtain a volume or term discount;

(b) encourage participation by a person who might not otherwise be willing or able to compete for a shorter term contract; or

(c) provide an incentive for a bidder or offeror to improve productivity through capital investment or better technology.

(3) (a) The determination described in Subsection (1)(a) is discretionary and is not required to be in writing or otherwise recorded.

(b) Except as provided in Subsections (4) and (5), notwithstanding any provision of an invitation for bids, a request for proposals, or a contract to the contrary, a multiyear contract, including a contract that was awarded outside of an invitation for bids or request for proposals process, may not continue or be renewed for any year after the first year of the multiyear contract if adequate funds are not appropriated or otherwise available to continue or renew the contract.

(4) A multiyear contract that is funded solely by federal funds may be continued or renewed for any year after the first year of the multiyear contract if:

(a) adequate funds to continue or renew the contract have not been, but are expected to be appropriated by, and received from, the federal government;

(b) continuation or renewal of the contract before the money is appropriated or received is permitted by the federal government; and

(c) the contract states that it may be cancelled or suspended, without penalty, if the anticipated federal funds are not appropriated or received.

(5) A multiyear contract that is funded in part by federal funds may be continued or renewed for any year after the first year of the multiyear contract if:

(a) the portion of the contract that is to be funded by funds of a public entity are appropriated;

(b) adequate federal funds to continue or renew the contract have not been, but are expected to be, appropriated by, and received from, the federal government;

(c) continuation or renewal of the contract before the federal money is appropriated or received is permitted by the federal government; and

(d) the contract states that it may be cancelled or suspended, without penalty, if the anticipated federal funds are not appropriated or received.

(6) A procurement unit may not continue or renew a multiyear contract after the end of the multiyear contract term or the renewal periods described in the contract, unless the procurement unit engages in a new standard procurement process or complies with an exception, described in this chapter, to using a standard procurement process.

(7) A multiyear contract, including any renewal periods, may not exceed a period of five years, unless:

(a) the procurement officer determines, in writing, that:

(i) a longer period is necessary in order to obtain the procurement item;

(ii) a longer period is customary for industry standards; or

(iii) a longer period is in the best interest of the procurement unit; and

(b) the written determination described in Subsection (7)(a) is included in the file relating to the procurement.

(8) This section does not apply to a contract for the design or construction of a facility, a road, a public transit project, or a contract for the financing of equipment.

Section 52. Section 63G-6a-1205 is amended to read:

63G-6a-1205. Regulation of contract types -- Permitted and prohibited contract types.

(1) Except as otherwise provided in this section, and subject to rules made under this section by the applicable rulemaking authority, a procurement unit may use any type of contract that will promote the best interests of the procurement unit.

(2) An applicable rulemaking authority:

(a) may make rules governing, placing restrictions on, or prohibiting the use of any type of contract; and

(b) may not make rules that permit the use of a contract:

(i) that is prohibited under this section; or

(ii) in a manner that is prohibited under this section.

(3) A procurement officer, the head of an issuing procurement unit, or a designee of either, may not use a type of contract, other than a firm fixed price contract, unless the procurement officer makes a written determination that:

(a) the proposed contractor's accounting system will permit timely development of all necessary cost data in the form required by the specific contract type contemplated;

(b) the proposed contractor's accounting system is adequate to allocate costs in accordance with generally accepted accounting principles; and

(c) the use of a specified type of contract, other than a firm fixed price contract, is in the best interest of the procurement unit, taking into consideration the following criteria:

(i) the type and complexity of the procurement item;

(ii) the difficulty of estimating performance costs at the time the contract is entered into, due to factors that may include:

(A) the difficulty of determining definitive specifications;

(B) the difficulty of determining the risks, to the contractor, that are inherent in the nature of the work to be performed; or

(C) the difficulty to clearly determine other factors necessary to enter into an accurate firm fixed price contract;

(iii) the administrative costs to the procurement unit and the contractor;

(iv) the degree to which the procurement unit is required to provide technical coordination during performance of the contract;

(v) the impact that the choice of contract type may have upon the level of competition for award of the contract;

(vi) the stability of material prices, commodity prices, and wage rates in the applicable market;

(vii) the impact of the contract type on the level of urgency related to obtaining the procurement item;

(viii) the impact of any applicable governmental regulation relating to the contract; and

(ix) other criteria that the procurement officer determines may relate to determining the contract type that is in the best interest of the procurement unit.

(4) Contract types that, subject to the provisions of this section and rules made under this section, may be used by a procurement unit include the following:

- (a) a fixed price contract;
- (b) a fixed price contract with price adjustment;
- (c) a time and materials contract;
- (d) a labor hour contract;
- (e) a definite quantity contract;
- (f) an indefinite quantity contract;
- (g) a requirements contract; ~~or~~
- (h) a contract based on a rate table in accordance with industry standards; or

~~(4)~~ (i) a contract that includes one of the following construction delivery methods:

- (i) design-build;
- (ii) design-bid-build; or

(iii) construction manager/general contractor.

(5) Except as it applies to a change order, a procurement unit may not enter into a cost-plus-percentage-of-cost contract, unless:

(a) use of a cost-plus-percentage-of-cost contract is approved by the procurement officer;

(b) it is standard practice in the industry to obtain the procurement item through a cost-plus-percentage-of-cost contract; and

(c) the percentage and the method of calculating costs in the contract are in accordance with industry standards.

(6) A procurement unit may not enter into a cost-reimbursement contract, unless the procurement officer makes a written determination that:

(a) (i) a cost-reimbursement contract is likely to cost less than any other type of permitted contract; or

(ii) it is impracticable to obtain the procurement item under any other type of permitted contract; and

(b) the proposed contractor's accounting system:

(i) will timely develop the cost data in the form necessary for the procurement unit to timely and accurately make payments under the contract; and

(ii) will allocate costs in accordance with generally accepted accounting principles.

Section 53. Section 63G-6a-1206 is amended to read:

63G-6a-1206. Rules and regulations to determine allowable incurred costs -- Required information -- Auditing of books.

(1) (a) The applicable rulemaking authority may, by rule, establish the cost principles to be included in a cost-reimbursement contract to determine incurred costs for the purpose of calculating a reimbursement.

(b) The cost principles established by rule under Subsection (1)(a) may be modified, by contract, if the procurement officer or head of the issuing procurement unit approves the modification.

(2) Except as provided in Subsection (5), a person who seeks to be, or is, a party in a cost-based contract with a procurement unit shall:

(a) submit cost or pricing data relating to determining the cost or pricing amount; and

(b) certify that, to the best of the contractor's knowledge and belief, the cost or pricing data submitted is accurate and complete as of the date specified by the procurement unit.

(3) The procurement officer shall ensure that the date specified under Subsection (2)(b) is before:

(a) the pricing of any contract awarded by a standard procurement process or pursuant to a sole source procurement, if the total contract price is

expected to exceed an amount established by rule made by the applicable rulemaking authority; or

(b) the pricing of any change order that is expected to exceed an amount established by rule made by the applicable rulemaking authority.

(4) A contract or change order that requires a certification described in Subsection (2) shall include a provision that the price to the procurement unit, including profit or fee, shall be adjusted to exclude any significant sums by which the procurement unit finds that the price was increased because the contractor provided cost or pricing data that was inaccurate, incomplete, or not current as of the date specified by the procurement officer.

(5) A procurement unit is not required to comply with Subsection (2) if:

(a) the contract price is based on adequate price competition;

(b) the contract price is based on established catalogue prices or market prices;

(c) the contract price is set by law or rule; or

(d) the procurement states, in writing:

(i) that, in accordance with rules made by the applicable rulemaking authority, the requirements of Subsection (2) may be waived; and

(ii) the reasons for the waiver.

(6) The procurement officer or audit entity under contract with the procurement unit may, at reasonable times and places, only to the extent that the books and records relate to the applicable cost or pricing data, audit the books and records of:

(a) a person who has submitted cost or pricing data pursuant to this section; or

(b) a contractor or subcontractor under a contract or subcontract other than a firm fixed price contract.

(7) Unless a shorter time is provided for by contract:

(a) a person described in Subsection (6)(a) shall maintain the books and records described in Subsection (6) for three years after the day on which the fiscal year in which final payment is made under the contract ends;

(b) a contractor shall maintain the books and records described in Subsection (6) for three years after the day on which the fiscal year in which final payment under the prime contract ends; and

(c) a subcontractor shall maintain the books and records described in Subsection (6) for three years after the day on which the fiscal year in which final payment is made under the subcontract ends.

Section 54. Section 63G-6a-1402 is amended to read:

63G-6a-1402. Procurement of design-build transportation project contracts.

(1) As used in this section:

(a) "Design-build transportation project contract" means the procurement of both the design and construction of a transportation project in a single contract with a company or combination of companies capable of providing the necessary engineering services and construction.

(b) "Transportation agency" means:

(i) the Department of Transportation;

(ii) a county of the first or second class, as defined in Section 17-50-501;

(iii) a municipality of the first class, as defined in Section 10-2-301;

(iv) a public transit district that has more than 200,000 people residing within its boundaries; and

(v) a public airport authority.

(2) Except as provided in Subsection (3), a transportation agency may award a design-build transportation project contract for any transportation project that has an estimated cost of at least \$50,000,000 by following the requirements of this section.

(3) (a) The Department of Transportation:

(i) may award a design-build transportation project contract for any transportation project by following the requirements of this section; and

(ii) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing requirements for the procurement of its design-build transportation project contracts in addition to those required by this section.

(b) A public transit district that has more than 200,000 people residing within its boundaries:

(i) may award a design-build transportation project contract for any transportation project by following the requirements of this section; and

(ii) shall pass ordinances or a resolution establishing requirements for the procurement of its design-build transportation project contracts in addition to those required by this section.

(c) A design-build transportation project contract authorized under this Subsection (3) is not subject to the estimated cost threshold described in Subsection (2).

(d) A design-build transportation project contract may include provision by the contractor of operations, maintenance, or financing.

(4) (a) Before entering into a design-build transportation project contract, a transportation agency may issue a request for qualifications to prequalify potential contractors.

(b) Public notice of the request for qualifications shall be given in accordance with board rules.

(c) A transportation agency shall require, as part of the qualifications specified in the request for qualifications, that potential contractors at least demonstrate their:

- (i) construction experience;
- (ii) design experience;
- (iii) financial, manpower, and equipment resources available for the project; and
- (iv) experience in other design-build transportation projects with attributes similar to the project being procured.

(d) The request for qualifications shall identify the number of eligible competing proposers that the transportation agency will select to submit a proposal, which may not be less than two.

(5) The transportation agency shall:

(a) evaluate the responses received from the request for qualifications;

(b) select from their number those qualified to submit proposals; and

(c) invite those respondents to submit proposals based upon the transportation agency's request for proposals.

(6) Except as provided in Subsection (7), if the transportation agency fails to receive at least two qualified eligible competing proposals, the transportation agency shall readvertise the project.

(7) A transportation agency may award a contract for a transportation project that has an estimated cost of \$5,000,000 or less to a qualified eligible proposer if:

(a) only a single proposal is received; and

(b) the transportation agency determines that:

- (i) the proposal is advantageous to the state; and
- (ii) the proposal price is reasonable.

(8) The transportation agency shall issue a request for proposals to those qualified respondents that:

(a) includes a scope of work statement constituting an information for proposal that may include:

- (i) preliminary design concepts;
- (ii) design criteria, needs, and objectives;
- (iii) warranty and quality control requirements;
- (iv) applicable standards;
- (v) environmental documents;
- (vi) constraints;
- (vii) time expectations or limitations;
- (viii) incentives or disincentives; and
- (ix) other special considerations;

(b) requires submitters to provide:

- (i) a sealed cost proposal;
- (ii) a critical path matrix schedule, including cash flow requirements;

(iii) proposal security; and

(iv) other items required by the department for the project; and

(c) may include award of a stipulated fee to be paid to offerors who submit unsuccessful proposals.

(9) The transportation agency shall:

(a) evaluate the submissions received in response to the request for proposals from the prequalified offerors;

(b) comply with rules relating to discussion of proposals, best and final offers, and evaluations of the proposals submitted; and

(c) after considering price and other identified factors, award the contract to the responsive and responsible offeror whose proposal is most advantageous to the transportation agency or the state.

Section 55. Section 63G-6a-1502 is amended to read:

63G-6a-1502. Policy regarding architect-engineer services.

(1) It is the policy of this state to publicly announce all requirements for architect-engineer services through a request for statement of qualifications and to negotiate contracts for architect-engineer services on the basis of demonstrated competence and qualification for the type of services required, and at fair and reasonable prices.

(2) Architect-engineer services shall be procured as provided in this part except as otherwise provided in Sections 63G-6a-403, 63G-6a-404, 63G-6a-408, 63G-6a-802, and 63G-6a-803.

(3) This part does not affect the authority of, and does not apply to procedures undertaken by, a procurement unit to obtain the services of architects or engineers in the capacity of employees of the procurement unit.

Section 56. Section 63G-6a-1503 is amended to read:

63G-6a-1503. Evaluation committee for architect-engineer services.

(1) In the procurement of architect-engineer services, the procurement officer or the head of an issuing procurement unit shall encourage firms engaged in the lawful practice of their profession to submit [~~annually~~] a statement of qualifications [~~and performance data~~].

(2) The [~~Building Board shall be the~~] director of the Division of Facilities Construction and Management shall appoint an evaluation committee for architect-engineer services contracts under its authority.

(3) An evaluation committee for architect-engineer services contracts not under the authority of the [~~Building Board~~] Division of Facilities Construction and Management shall be established in accordance with rules made by the applicable rulemaking authority.

(4) An evaluation committee shall:

(a) evaluate current statements of qualifications and performance data on file with the [state] procurement unit, together with those that may be submitted by other firms in response to the announcement of [the] a proposed contract;

(b) consider no less than three firms; and

(c) based upon criteria established and published by the issuing procurement unit, select no less than three of the firms considered to be the most highly qualified to provide the services required.

Section 57. Section 63G-6a-1505 is amended to read:

63G-6a-1505. Determination of compensation for architect-engineer services.

(1) The procurement officer shall award a contract to a qualified firm at compensation that the procurement officer determines, in writing, to be fair and reasonable to the [state] procurement unit.

(2) In making the determination described in Subsection (1), the procurement officer shall take into account the services':

(a) estimated value;

(b) scope;

(c) complexity; and

(d) professional nature.

(3) If the procurement officer is unable to agree to a satisfactory contract with the firm first selected, at a price the procurement officer determines to be fair and reasonable to the [state] procurement unit, the procurement officer shall:

(a) formally terminate discussions with that firm; and

(b) undertake discussions with a second qualified firm.

(4) If the procurement officer is unable to agree to a satisfactory contract with the second firm selected, at a price the procurement officer determines to be fair and reasonable to the [state] procurement unit, the procurement officer shall:

(a) formally terminate discussions with that firm; and

(b) undertake discussions with a third qualified firm.

(5) If the procurement officer is unable to award a contract at a fair and reasonable price to any of the selected firms, the procurement officer shall:

(a) select additional firms; and

(b) continue discussions in accordance with this part until an agreement is reached.

Section 58. Section 63G-6a-1602 is amended to read:

63G-6a-1602. Protest -- Time for filing -- Authority to resolve protest.

~~[(1) Except as provided in Subsection (2), a person who is an actual or prospective bidder, offeror, or contractor who is aggrieved in connection with a procurement or award of a contract may protest to the protest officer as follows:]~~

~~[(a) with respect]~~

(1) (a) A protest may be filed with the protest officer by:

(i) an actual or prospective bidder or offeror who is aggrieved in connection with a procurement; or

(ii) a prospective contractor who is aggrieved in connection with an award of a contract.

(b) (i) A protest under Subsection (1)(a) relating to an invitation for bids or a request for proposals shall be filed:

~~[(4)] (A) before the opening of bids or the closing date for proposals; or~~

~~[(4)] (B) if the person filing the protest did not know and should not have known of the facts giving rise to the protest before the bid opening or the closing date for proposals, within seven days after the day on which the person knows or should have known of the facts giving rise to the protest[; or].~~

(ii) A protest under Subsection (1)(a) relating to a form of procurement not described in Subsection (1)(b)(i) but involving a deadline established for the submission of a price or response shall be filed:

(A) before the deadline for the submission of a price or response; or

(B) if the person filing the protest did not know and reasonably should not have known of the facts giving rise to the protest before the deadline for the submission of a price or response, within seven days after the day on which the person knows or reasonably should have known of the facts giving rise to the protest.

~~[(b)] (iii) [if Subsection (1)(a) does not apply,] A protest under Subsection (1)(a) relating to a form of procurement not described in Subsection (1)(b)(i) or (ii) shall be filed within seven days after the day on which the person filing the protest knows or should have known of the facts giving rise to the protest.~~

~~[(2) A person who is debarred or suspended under this chapter may protest the debarment or suspension to the protest officer that ordered the debarment, as applicable, within seven days after the day on which the debarment or suspension is ordered.]~~

~~[(3)] (2) A person who files a protest under this section shall include in the filing document:~~

~~(a) the person's address of record and email address of record; and~~

~~(b) a concise statement of the grounds upon which the protest is made.~~

~~[(4)] (3) A person described in Subsection (1) ~~[(2), or (3)]~~ who fails to ~~[timely]~~ file a protest ~~[under this section]~~ within the time prescribed in Subsection (1)(b) may not ~~[bring a]~~:~~

(a) protest~~[,] to the protest officer a solicitation or award of a contract; or~~

(b) file an action~~[,] or appeal challenging a solicitation or award of a contract, or a debarment or suspension;~~ before ~~[the protest officer,] an appeals panel, a court, or any other forum.~~

~~[(5)] (4) Subject to the applicable requirements of Section 63G-10-403, a protest officer~~[,] or the [protest officer's designee,] head of a procurement unit may enter into a settlement agreement to resolve a protest.~~~~

Section 59. Section 63G-6a-1603 is amended to read:

63G-6a-1603. Protest officer responsibilities and authority -- Proceedings on protest -- Effect of decision.

(1) After a ~~[timely]~~ protest is filed ~~[in accordance with Section 63G-6a-1602], the protest officer~~:]~~ shall determine whether the protest is timely filed and complies fully with the requirements of Section 63G-6a-1602.~~

~~[(a) shall consider the protest; and]~~

~~[(b) may hold a hearing on the protest.]~~

(2) If the protest officer determines that the protest is not timely filed or that the protest does not fully comply with Section 63G-6a-1602, the protest officer shall dismiss the protest.

(3) If the protest officer determines that the protest is timely filed and complies fully with Section 63G-6a-1602, the protest officer shall:

(a) dismiss the protest if the protest officer determines that the protest alleges facts that, if true, do not provide an adequate basis for the protest;

(b) uphold the protest without holding a hearing if the protest officer determines that the undisputed facts of the protest indicate that the protest should be upheld; or

(c) hold a hearing on the protest if there is a genuine issue of material fact that needs to be resolved in order to determine whether the protest should be upheld.

~~[(2)] (4) (a) ~~[The]~~ If a hearing is held on a protest, the protest officer may:~~

(i) subpoena witnesses and compel their attendance at ~~[a] the protest hearing; ~~[or]~~~~

(ii) subpoena documents for production at ~~[a] the protest hearing~~:]~~~~

(iii) obtain additional factual information; and

(iv) obtain testimony from experts, the person filing the protest, representatives of the

procurement unit, or others to assist the protest officer to make a decision on the protest.

(b) The Rules of Evidence do not apply to a protest hearing.

(c) The applicable rulemaking authority shall make rules relating to intervention in a protest, including designating:

(i) who may intervene; and

(ii) the time and manner of intervention.

~~(d) ~~[If a hearing on a protest is held under this section, the]~~ A protest officer shall:~~

(i) record ~~[the] each~~ hearing held on a protest under this section;

~~[(ii) preserve all evidence presented at the hearing; and]~~

~~[(iii) preserve all records and other evidence relied upon in reaching the written decision described in this section.]~~

~~[(e) (ii) ~~[Regardless]~~ regardless of whether a hearing on a protest is held under this section, ~~[the protest officer shall]~~ preserve all records and other evidence relied upon in reaching the protest officer's written decision. ~~[(f) The records described in Subsections (2)(d) and (e) may not be destroyed]~~ until the decision, and any appeal of the decision, becomes final~~;-] and~~~~

(iii) submit to the procurement policy board chair a copy of the protest officer's written decision and all records and other evidence relied upon in reaching the decision, within seven days after receiving:

(A) notice that an appeal of the protest officer's decision has been filed under Section 63G-6a-1702; or

(B) a request from the chair of the procurement policy board.

~~[(g) (e) A protest ~~[officer who holds] officer's~~ holding a hearing, ~~[considers]~~ considering a protest, or ~~[issues]~~ issuing a written decision under this section does not ~~[waive the]~~ affect a person's right to ~~[, at a] later ~~[date,] question or challenge the protest officer's jurisdiction to hold the hearing, consider the protest, or ~~[render] issue the decision.~~~~~~~~

(5) (a) The deliberations of a protest officer may be held in private.

(b) If the protest officer is a public body, as defined in Section 52-4-103, the protest officer shall comply with Section 52-4-205 in closing a meeting for its deliberations.

~~[(3)] (6) (a) A protest officer, or the protest officer's designee, shall promptly issue a written decision regarding any protest, ~~[debarment, suspension, or contract controversy if it] unless the protest is ~~[not]~~ settled by mutual agreement.~~~~

(b) The decision shall:

(i) state the reasons for the action taken ~~[and];~~

(ii) inform the protestor~~[,] contractor, or prospective contractor] of the right to judicial or~~

administrative review as provided in this chapter~~[-]; and~~

(iii) indicate the amount of the security deposit or bond required under Section 63G-6a-1703.

(c) A person who issues a decision under Subsection (6)(a) shall mail, email, or otherwise immediately furnish a copy of the decision to the protestor.

~~[(4)-(a)] (7) A decision described in this section is effective until stayed or reversed on appeal, except to the extent provided in Section 63G-6a-1903. [A person who issues a decision described in Subsection (1) shall mail, email, or otherwise immediately furnish a copy of the decision to the protestor, prospective contractor, or contractor.]~~

~~[(b)] (8) (a) A decision described in Subsection [(4)] (6)(a) that is issued in relation to a procurement unit other than a legislative procurement unit [or], a judicial procurement unit [shall be], a local government procurement unit, or a public transit district is final and conclusive unless the protestor~~[-, prospective contractor, or contractor: (i) for a controversy described in Section 63G-6a-1905, commences an action in district court in accordance with Subsection 63G-6a-1802(5); (ii) for a controversy related to a solicitation or the award of a contract,]~~ files an appeal under Section 63G-6a-1702~~[-; or].~~~~

~~[(iii) for a debarment or suspension, files an appeal under Section 63G-6a-1702.]~~

~~[(e)] (b) A decision described in Subsection [(4)] (6)(a) that is issued in relation to a legislative procurement unit [or], a judicial procurement unit [shall be], a local government procurement unit, or a public transit district is final and conclusive unless the protestor~~[-, prospective contractor, or contractor:]~~ files an appeal under Section 63G-6a-1802.~~

~~[(i) for a controversy described in Section 63G-6a-1905, commences an action in district court in accordance with Subsection 63G-6a-1802(5);]~~

~~[(ii) for a controversy related to a solicitation or the award of a contract, files an appeal under Subsection 63G-6a-1802(1)(b); or]~~

~~[(iii) for a debarment or suspension, files an appeal under Subsection 63G-6a-1802(1)(b).]~~

~~[(5)] (9) If the protest officer does not issue the written decision regarding a protest or a contract controversy within 30 calendar days after the day on which a written request for a final decision is filed with the protest officer, or within a longer period as may be agreed upon by the parties, the protestor, prospective contractor, or contractor may proceed as if an adverse decision had been received.~~

~~[(6) Except for a controversy described in Section 63G-6a-1905, a]~~

~~[(10) A determination under this section by the protest officer regarding an issue of fact may not be~~

overturned on appeal unless the decision is arbitrary and capricious or clearly erroneous.

Section 60. Section 63G-6a-1702 is amended to read:

63G-6a-1702. Appeal to Utah State Procurement Policy Board -- Appointment of procurement appeals panel -- Proceedings.

(1) This part applies to all procurement units other than:

(a) a legislative procurement unit;

(b) a judicial procurement unit;

(c) a ~~[county or municipality]~~ local government procurement unit; or

(d) a public transit district.

(2) (a) [A] Subject to Section 63G-6a-1703, a party to a protest involving a procurement unit other than a procurement ~~[described]~~ unit listed in Subsection (1)(a), (b), (c), or (d) may appeal the protest decision to the board by~~[-(a)]~~ filing a written notice of appeal with the chair of the board within seven days after:

(i) the day on which the written decision described in Section 63G-6a-1603 is:

(A) personally served on the party or the party's representative; or

(B) emailed or mailed to the address or email address of record provided by the party under Subsection 63G-6a-1602(3); or

(ii) the day on which the 30-day period described in Subsection 63G-6a-1603~~[(5)](7)~~ ends, if a written decision is not issued before the end of the 30-day period~~[-].~~

~~[(b) including in the filing document the person's]~~

~~[(b) A person appealing a debarment or suspension of a procurement unit other than a procurement unit listed in Subsection (1)(a), (b), (c), or (d) shall file a written notice of appeal with the chair of the board no later than seven days after the debarment or suspension.~~

(c) A notice of appeal under Subsection (2)(a) or (b) shall:

(i) include the address of record and email address of record of the party filing the notice of appeal; and

(ii) be accompanied by a copy of any written protest decision or debarment or suspension order.

~~[(c) at the time that the notice of appeal described in Subsection (2)(a) is filed, complying with the requirements of Section 63G-6a-1703 regarding the posting of a security deposit or a bond.]~~

(3) A person may not base an appeal of a protest under this section on a ground not specified in the person's protest under Section 63G-6a-1602.

~~[(3)] (4) A person may not appeal from a protest described in Section 63G-6a-1602, unless:~~

(a) a decision on the protest has been issued; or

(b) a decision is not issued and the 30-day period described in Subsection 63G-6a-1603~~(5)~~(7), or a longer period agreed to by the parties, has passed.

[44] (5) The chair of the board or a designee of the chair who is not employed by the procurement unit responsible for the solicitation, contract award, or other action complained of:

(a) shall, within seven days after the day on which the chair receives a timely written notice of appeal under Subsection (2), and if all the requirements of Subsection (2) and Section 63G-6a-1703 have been met, appoint:

(i) a procurement appeals panel to hear and decide the appeal, consisting of at least three individuals, each of whom ~~shall be~~ is:

(A) a member of the board; or

(B) a designee of a member appointed under Subsection (4)(a)(i)(A), if the designee is approved by the chair; and

(ii) one of the members of the procurement appeals panel to be the chair of the panel;

(b) may:

(i) appoint the same procurement appeals panel to hear more than one appeal; or

(ii) appoint a separate procurement appeals panel for each appeal; ~~and~~

(c) may not appoint a person to a procurement appeals panel if the person is employed by the procurement unit responsible for the solicitation, contract award, or other action complained of; ~~and~~

(d) shall, at the time the procurement appeals panel is appointed, provide appeals panel members with a copy of the protest officer's written decision and all other records and other evidence that the protest officer relied on in reaching the decision.

[45] (6) A procurement appeals panel described in Subsection [44] (5) shall:

(a) consist of an odd number of members;

(b) ~~except as provided in Subsection (6),~~ conduct an informal proceeding on the appeal within 60 days after the day on which the procurement appeals panel is appointed~~;~~:

(i) unless all parties stipulate to a later date; and

(ii) subject to Subsection (8);

(c) at least seven days before the proceeding, mail, email, or hand-deliver a written notice of the proceeding to the parties to the appeal; and

(d) within seven days after the day on which the proceeding ends:

(i) issue a written decision on the appeal; and

(ii) mail, email, or hand-deliver the written decision on the appeal to the parties to the appeal and to the protest officer.

(7) (a) The deliberations of a procurement appeals panel may be held in private.

(b) If the procurement appeals panel is a public body, as defined in Section 52-4-103, the procurement appeals panel shall comply with Section 52-4-205 in closing a meeting for its deliberations.

[46] (8) A procurement appeals panel may continue a procurement appeals proceeding beyond the 60-day period described in Subsection [45] (6)(b) if the procurement appeals panel determines that the continuance is in the interests of justice.

[47] (9) A procurement appeals panel:

(a) shall, subject to Subsection (9)(c), consider the appeal based solely on:

(i) the protest decision;

(ii) the record considered by the person who issued the protest decision; and

(iii) if a protest hearing was held, the record of the protest hearing;

(b) may not take additional evidence; ~~and~~

(c) notwithstanding Subsection (9)(b), may, during an informal hearing, ask questions and receive responses regarding the appeal, the protest decision, or the record in order to assist the panel to understand the appeal, the protest decision, and the record; and

[48] (d) shall uphold the decision of the protest officer, unless the decision is arbitrary and capricious or clearly erroneous.

[48] (10) If a procurement appeals panel determines that the decision of the protest officer is arbitrary and capricious or clearly erroneous, the procurement appeals panel:

(a) shall remand the matter to the protest officer, to cure the problem or render a new decision;

(b) may recommend action that the protest officer should take; and

(c) may not order that:

(i) a contract be awarded to a certain person;

(ii) a contract or solicitation be cancelled; or

(iii) any other action be taken other than the action described in Subsection [48] (10)(a).

[49] (11) The board shall make rules relating to the conduct of an appeals proceeding, including rules that provide for:

(a) expedited proceedings; and

(b) electronic participation in the proceedings by panel members and participants.

[40] (12) The Rules of Evidence do not apply to an appeals proceeding.

Section 61. Section 63G-6a-1703 is amended to read:

63G-6a-1703. Requirement to pay a security deposit or post a bond -- Exceptions -- Amount -- Forfeiture of security deposit or bond.

(1) Except as provided by rule made under Subsection (2)(a), a person who files ~~[an]~~ a notice of appeal under Section 63G-6a-1702 shall, ~~[at the time that the appeal is filed]~~ before the expiration of the time provided under Subsection 63G-6a-1702(2) for filing a notice of appeal, pay a security deposit or post a bond with the office of the protest officer ~~[in an amount that is the greater of:]~~.

~~[(a) for the appeal of a debarment or suspension, \$1,000;]~~

~~[(b) for any type of procurement, \$1,000;]~~

~~[(c) for an invitation for bids, 5% of:]~~

(2) The amount of a security deposit or bond required under Subsection (1) is:

(a) for an appeal relating to an invitation for bids or request for proposals and except as provided in Subsection (2)(b)(ii):

(i) \$20,000, if the total contract value is under \$500,000;

(ii) \$25,000, if the total contract value is \$500,000 or more but less than \$1,000,000;

(iii) \$50,000, if the total contract value is \$1,000,000 or more but less than \$2,000,000;

(iv) \$95,000, if the total contract value is \$2,000,000 or more but less than \$4,000,000;

(v) \$180,000, if the total contract value is \$4,000,000 or more but less than \$8,000,000;

(vi) \$320,000, if the total contract value is \$8,000,000 or more but less than \$16,000,000;

(vii) \$600,000, if the total contract value is \$16,000,000 or more but less than \$32,000,000;

(viii) \$1,100,000, if the total contract value is \$32,000,000 or more but less than \$64,000,000;

(ix) \$1,900,000, if the total contract value is \$64,000,000 or more but less than \$128,000,000;

(x) \$3,500,000, if the total contract value is \$128,000,000 or more but less than \$256,000,000;

(xi) \$6,400,000, if the total contract value is \$256,000,000 or more but less than \$512,000,000; and

(xii) \$10,200,000, if the total contract value is \$512,000,000 or more; or

(b) \$20,000, for an appeal:

(i) relating to any type of procurement process other than an invitation for bids or request for proposals;

(ii) relating to an invitation for bids or request for proposals, if the estimated total contract value cannot be determined; or

(iii) of a debarment or suspension.

(3) (a) For an appeal relating to an invitation for bids, the estimated total contract value shall be based on:

(i) the lowest responsible and responsive bid amount for the entire term of the contract, excluding any renewal period, if the bid opening has occurred; ~~[or]~~

~~[(ii) the estimated contract cost, established in accordance with Subsection (2)(b), if the bid opening has not yet occurred;]~~

~~[(d) for a request for proposals, 5% of:]~~

(ii) the total budget for the procurement item for the entire term of the contract, excluding any renewal period, if bids are based on unit or rate pricing; or

(iii) if the contract is being rebid, the historical usage and amount spent on the contract over the life of the contract.

(b) For an appeal relating to a request for proposals, the estimated total contract value shall be based on:

(i) the lowest cost proposed in a response to a request for proposals, considering the entire term of the contract, excluding any renewal period, if the opening of proposals has occurred; ~~[or]~~

~~[(ii) the estimated contract cost, established in accordance with Subsection (2)(b), if the opening of proposals has not occurred; or]~~

~~[(c) for a type of procurement other than an invitation for bids or a request for proposals, the amount established in accordance with Subsection (2).]~~

~~[(2) The board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish:]~~

~~[(a) circumstances and procedures under which the requirement for paying a security deposit or posting a bond may be waived or reduced on grounds, including:]~~

~~[(i) that the person filing the appeal is impecunious;]~~

~~[(ii) circumstances where certain small purchases are involved; or]~~

~~[(iii) other grounds determined by the Division of Purchasing and General Services to be appropriate; and]~~

~~[(b) the method used to determine:]~~

~~[(i) the estimated contract cost described in Subsections (1)(e)(ii) and (1)(d)(ii); and]~~

~~[(ii) the amount described in Subsection (1)(e).]~~

~~[(3) The chair of the board shall dismiss a protest filed under Section 63G-6a-1702 if the actual or~~

~~prospective bidder, offeror, or contractor fails to timely pay the security deposit or post the bond required under Subsection (1).]~~

(ii) the total budget for the procurement item over the entire term of the contract, excluding any renewal period, if opened cost proposals are based on unit or rate pricing; or

(iii) if the contract is being reissued, the historical usage and amount spent on the contract over the life of the contract that is being reissued.

(4) The ~~[chair of the board]~~ protest officer shall:

(a) retain the security deposit or bond until the protest and any appeal of the protest decision is final;

(b) as it relates to a security deposit:

(i) deposit the security deposit into an interest-bearing account; and

(ii) after any appeal of the protest decision becomes final, return the security deposit and the interest it accrues to the person who paid the security deposit, unless the security deposit is forfeited to the General Fund under Subsection (5); and

(c) as it relates to a bond:

(i) retain the bond until the protest and any appeal of the protest decision becomes final; and

(ii) after the protest and any appeal of the protest decision becomes final, return the bond to the person who posted the bond, unless the bond is forfeited to the General Fund under Subsection (5).

(5) A security deposit that is paid, or a bond that is posted, under this section shall forfeit to the General Fund if:

(a) the person who paid the security deposit or posted the bond fails to ultimately prevail on appeal; and

(b) the procurement appeals panel finds that the protest or appeal is frivolous or that its primary purpose is to harass or cause a delay.

Section 62. Section 63G-6a-1706 is amended to read:

63G-6a-1706. Dismissal of an appeal not filed in compliance with requirements.

(1) The chair of the board shall dismiss an appeal filed under Section 63G-6a-1702 if the person filing the appeal fails to comply with any of the requirements of Subsection 63G-6a-1702(2) or Section 63G-6a-1703.

(2) A procurement appeals panel may dismiss an appeal that is assigned to the procurement appeals panel if the appeal is not filed in accordance with the requirements of this chapter.

Section 63. Section 63G-6a-1802 is amended to read:

63G-6a-1802. Appeal to Utah Court of Appeals.

[(1) (a) Subject to Subsection (2), a person who receives an adverse decision, or a procurement unit, may appeal a decision of a procurement appeals panel to the Utah Court of Appeals within seven days after the day on which the decision is issued.]

[(b) A person who receives an adverse decision in a protest relating to a legislative procurement unit, a judicial procurement unit, a local government procurement unit, or a public transit district may appeal the decision to the Utah Court of Appeals within seven days after the day on which the decision is issued.]

(1) (a) As provided in this part:

(i) a person may appeal a dismissal of an appeal by the board chair under Subsection 63G-6a-1706(1);

(ii) a person who receives an adverse decision by a procurement appeals panel may appeal that decision;

(iii) subject to Subsection (2), a procurement unit, other than a legislative procurement unit, a judicial procurement unit, a local government procurement unit, or a public transit district, may appeal an adverse decision by a procurement appeals panel;

(iv) a person who receives an adverse decision in a protest relating to a legislative procurement unit, a judicial procurement unit, a local government procurement unit, or a public transit district may appeal that decision; and

(v) a person who is debarred or suspended under Section 63G-6a-904 by a legislative procurement unit, a judicial procurement unit, a local government procurement unit, or a public transit district may appeal the debarment or suspension.

(b) A person seeking to appeal a dismissal, decision, or debarment or suspension under Subsection (1)(a) shall file a notice of appeal with the Utah Court of Appeals within seven days after the dismissal, decision, or debarment or suspension.

(2) A procurement unit may not appeal the decision of a procurement appeals panel, unless the appeal is:

(a) recommended by the protest officer involved; and

(b) except for a procurement unit that is not represented by the attorney general's office, approved by the attorney general.

(3) A person appealing a dismissal, decision, protest, debarment, or suspension under this section may not base the appeal on a ground not specified in the proceeding from which the appeal is taken.

[(3)] (4) The Utah Court of Appeals:

(a) shall consider the appeal as an appellate court;

(b) may not hear the matter as a trial de novo; and

(c) may not overturn a finding ~~[or]~~, dismissal, decision ~~[of the protest officer or a procurement appeals panel]~~, or debarment or suspension, unless the finding ~~[or]~~, dismissal, decision, or debarment or suspension is arbitrary and capricious or clearly erroneous.

[~~(4)~~ (5)] The Utah Court of Appeals is encouraged to:

(a) give an appeal made under ~~[Subsection (1)]~~ this section priority; and

(b) consider the appeal and render a decision in an expeditious manner.

~~[(5) The district court shall have original jurisdiction in a cause of action between a contractor and a procurement unit for any cause of action that arises under, or in relation to, an existing contract between the contractor and a procurement unit.]~~

Section 64. Section 63G-6a-1902 is amended to read:

63G-6a-1902. Limitation on challenges -- Compliance with federal law.

(1) A person may not challenge a procurement, a procurement process, the award of a contract relating to a procurement, a debarment, or a suspension, in a court, before an administrative officer or body, or in any other forum other than the forum permitted in this chapter.

(2) A person who desires to challenge a procurement, a procurement process, the award of a contract relating to a procurement, a debarment, or a suspension, shall bring the challenge, in accordance with the requirements of this chapter~~;~~ by timely filing.

~~[(a) a protest in accordance with Section 63G-6a-1602;]~~

~~[(b) any appeal of the protest decision involving a procurement unit, other than a legislative procurement unit, a judicial procurement unit, a local government procurement unit, or a public transit district, in accordance with Section 63G-6a-1702; and]~~

~~[(c) any appeal from a procurement appeals panel, or from a protest decision of a legislative procurement unit, a judicial procurement unit, a local government procurement unit, or a public transit district, in accordance with Section 63G-6a-1802.]~~

~~[(3) A person who files a protest or appeal under this chapter is limited to protesting or appealing on the grounds specified in the filing document described in Subsection 63G-6a-1602.]~~

[~~(4)~~ (3)] In hearing a protest or an appeal under this chapter relating to an expenditure of federal assistance, federal contract funds, or a federal grant, the person who hears the appeal shall ensure

compliance with federal law and regulations relating to the expenditure.

Section 65. Section 63G-6a-1903 is amended to read:

63G-6a-1903. Effect of timely protest or appeal.

~~[In the event of a timely protest under Subsection 63G-6a-1602(1), or a timely appeal of the protest under Section 63G-6a-1702 or 63G-6a-1802, a]~~

A procurement unit, other than a legislative procurement unit, a judicial procurement unit, a local government procurement unit, or a public transit district, may not proceed further with [the] a solicitation or with the award of [the] a contract [until]:

(1) during the pendency of a timely:

(a) protest under Subsection 63G-6a-1602(1);

(b) appeal of a protest under Section 63G-6a-1702; or

(c) appeal of a procurement appeals panel decision under Section 63G-6a-1802; and

(2) until:

[~~(1)~~ (a)] all administrative and judicial remedies are exhausted;

[~~(2)~~ (b)] for a protest under Section 63G-6a-1602 or an appeal under Section 63G-6a-1702:

[~~(a)~~ (i)] the chief procurement officer, after consultation with the attorney general's office and the head of the using agency, makes a written determination that award of the contract without delay is [necessary to protect substantial interests] in the best interest of the procurement unit or the state;

[~~(b)~~ (ii)] the head of ~~[the purchasing agency]~~ a procurement unit with independent procurement authority, after consultation with the procurement unit's attorney [general's office], makes a written determination that award of the contract without delay is [necessary to protect substantial interests] in the best interest of the procurement unit or the state; or

[~~(c)~~ (iii)] for a procurement unit that is not represented by the attorney general's office, the procurement unit, after consulting with the attorney for the procurement unit, makes a written determination that award of the contract without delay is [necessary to protect substantial interests] in the best interest of the procurement unit or the state; or

[~~(3)~~ (c)] for an appeal under Section 63G-6a-1802, or an appeal to a higher court than district court:

[~~(a)~~ (i)] the chief procurement officer, after consultation with the attorney general's office and the head of the using agency, makes a written determination that award of the contract without delay is in the best interest of the procurement unit or the state;

[~~(b)~~ (ii)] the head of ~~[the purchasing agency]~~ a procurement unit with independent procurement

authority, after consultation with the procurement unit's attorney [general's office], makes a written determination that award of the contract without delay is in the best interest of the procurement unit or the state; or

[(e)] (iii) for a procurement unit that is not represented by the attorney general's office, the procurement unit, after consulting with the attorney for the procurement unit, makes a written determination that award of the contract without delay is necessary to protect the best interest of the procurement unit or the state.

Section 66. Section 63G-6a-1904 is amended to read:

63G-6a-1904. Costs to or against protestor.

(1) When a protest is sustained administratively or upon administrative or judicial review and the protesting bidder or offeror should have been awarded the contract under the solicitation but is not, the protestor shall be entitled to the following relief as a claim against the [state] procurement unit:

(a) the reasonable costs incurred in connection with the solicitation, including bid preparation and appeal costs; and

(b) any equitable relief determined to be appropriate by the reviewing administrative or judicial body.

(2) When a protest is not sustained by a procurement appeals panel, the protestor shall reimburse the issuing procurement unit for expenses incurred in defending the appeal, including personnel costs, attorney fees, other legal costs, expenses incurred by the attorney general's office, the per diem and expenses paid by the issuing procurement unit to witnesses or appeals panel members, and any additional expenses incurred by the staff of the issuing procurement unit who have provided materials and administrative services to the procurement appeals panel for that case.

(3) The provisions of Title 63G, Chapter 7, Part 4, Notice of Claim Against a Governmental Entity or a Government Employee, and Section 63G-7-601 do not apply to actions brought under this chapter by an aggrieved party for equitable relief or reasonable costs incurred in preparing or appealing an unsuccessful bid or offer.

Section 67. Section 63G-6a-1906 is amended to read:

63G-6a-1906. Effect of prior determination by agents of procurement unit.

In any judicial action under Section 63G-6a-1802, determinations by employees, agents, or other persons appointed by the [state] procurement unit shall be final and conclusive only as provided in Sections 63G-6a-1911, 63G-6a-1603, and 63G-6a-1705.

Section 68. Section 63G-6a-1907 is amended to read:

63G-6a-1907. Effect of violation found after award of contract.

(1) If after award of a contract it is determined administratively or upon administrative or judicial review that a procurement or award of a contract is in violation of law:

(a) (i) if the person awarded the contract did not act fraudulently or in bad faith:

(A) the contract may be ratified and affirmed if it is in the best interests of the [state] procurement unit; or

(B) the contract may be terminated; and

(ii) the person awarded the contract shall be compensated for the actual expenses reasonably incurred under the contract before the termination, plus a reasonable profit; or

(b) if the person awarded the contract acted fraudulently or in bad faith:

(i) the contract may be declared null and void; or

(ii) the contract may be ratified and affirmed if it is in the best interests of the [state] procurement unit, without prejudice to the [state's] procurement unit's rights to any appropriate damages.

(2) Under no circumstances is a person entitled to consequential damages in relation to a solicitation or award of a contract under this chapter, including consequential damages for lost profits, loss of business opportunities, or damage to reputation.

Section 69. Section 63G-6a-1910 is amended to read:

63G-6a-1910. Interest rates.

(1) In controversies between [~~the state~~] a procurement unit and [~~contractors~~] a contractor under this chapter, interest on amounts ultimately determined to be due to a contractor or the [state] procurement unit are payable at the rate applicable to judgments from the date the claim arose through the date of decision or judgment, whichever is later.

(2) Unless otherwise specified in a lawful contract between a procurement unit and the person making a bond claim against the procurement unit, the interest rate applicable to the bond claim is the rate described in Subsection 15-1-1(2).

(3) This section does not apply to public assistance benefits programs.

Section 70. Section 63G-6a-2103 is amended to read:

63G-6a-2103. Purchases between procurement units.

(1) [~~Upon request, a~~] (a) A procurement unit may [~~make services available to~~], without using a standard procurement process, purchase from another procurement unit [~~, including,~~] a procurement item that the other procurement unit itself produces or provides.

[~~(a) standard forms;~~]

~~[(b) printed manuals;]
 [(e) qualified products lists;]
 [(d) source information;]
 [(e) common use commodities listings;]
 [(f) supplier prequalification information;]
 [(g) supplier performance ratings;]
 [(h) debarred and suspended bidders lists;]
 [(i) forms for invitation for bids, requests for proposals, instructions to bidders, general contract provisions, and contract forms; or]~~

~~[(j) contracts or published summaries of contracts, including price and time of delivery information.]~~

~~[(2) A procurement unit may provide technical services to another procurement unit, including:]~~

~~[(a) development of specifications;]~~

~~[(b) development of quality assurance test methods, including receiving, inspection, and acceptance procedures;]~~

~~[(e) use of testing and inspection facilities; or]~~

~~[(d) use of personnel training programs.]~~

~~[(3) Procurement units may enter into contractual arrangements and]~~

~~(b) (i) Subsection (1)(a) does not authorize a procurement unit to obtain a procurement item under a contract of another procurement unit.~~

~~(ii) Subsection (1)(b)(i) does not affect the authority of a procurement unit relating to a cooperative procurement under Subsection 63G-6a-2105(4)(b).~~

~~(2) A procurement unit may publish a schedule of costs or fees for [the services provided under Subsections (1) and (2)] procurement items available for purchase by another procurement unit.~~

Section 71. Section 63G-6a-2105 is amended to read:

63G-6a-2105. Cooperative procurements -- Contracts with federal government -- Regional solicitations.

(1) The chief procurement officer may, in accordance with the requirements of this chapter, enter into a cooperative procurement, and a contract that is awarded as a result of a cooperative procurement, with:

(a) another state;

~~[(b) an external procurement unit; or]~~

(b) a cooperative purchasing organization; or

(c) a public entity [in Utah] inside or outside [of Utah] the state.

(2) A public entity, nonprofit organization, or, as permitted under federal law, an agency of the

federal government, may obtain a procurement item from a state cooperative contract or a contract awarded by the chief procurement officer under Subsection (1), without signing a participating addendum if the ~~[quote, invitation for bids, or request for proposals used]~~ solicitation issued by the chief procurement officer to obtain the contract includes a statement indicating that the resulting contract will be issued ~~[on behalf of a]~~ for the benefit of public ~~[entity in Utah]~~ entities and, as applicable, nonprofit organizations and agencies of the federal government.

(3) Except as provided in Section 63G-6a-408, or as otherwise provided in this chapter, an executive branch procurement unit may not obtain a procurement item from a source other than a state cooperative contract or a contract awarded by the chief procurement officer under Subsection (1), if the procurement item is available under a state cooperative contract or a contract awarded by the chief procurement officer under Subsection (1).

(4) A Utah procurement unit may:

(a) contract with the federal government without going through a standard procurement process or an exception to a standard procurement process, described in Part 8, Exceptions to Procurement Requirements, if the procurement item obtained under the contract is provided:

(i) directly by the federal government and not by a person contracting with the federal government; or

(ii) by a person under contract with the federal government that obtained the contract in a manner that substantially complies with the provisions of this chapter;

(b) participate in, sponsor, conduct, or administer a cooperative procurement with another Utah procurement unit or another public entity in Utah, if:

(i) each party unit involved in the cooperative procurement enters into an agreement describing the rights and duties of each party;

(ii) the procurement is conducted, and the contract awarded, in accordance with the requirements of this chapter;

(iii) the ~~[request for quotes, the invitation for bids, or the request for proposals]~~ solicitation:

(A) clearly indicates that the procurement is a cooperative procurement; and

(B) identifies each party that may purchase under the resulting contract; and

(iv) each party involved in the cooperative procurement signs a participating addendum describing its rights and obligations in relation to the resulting contract; or

(c) purchase under, or otherwise participate in, an agreement or contract of ~~[an external procurement unit]~~ a cooperative purchasing organization, if:

(i) each party involved in the cooperative procurement enters into an agreement describing the rights and duties of each party;

(ii) the procurement was conducted in accordance with the requirements of this chapter;

(iii) the ~~[request for quotes, the invitation for bids, or the request for proposals]~~ solicitation:

(A) clearly indicates that the procurement is a cooperative procurement; and

(B) identifies each party that may purchase under the resulting contract; and

(iv) each party involved in the cooperative procurement signs a participating addendum describing its rights and obligations in relation to the resulting contract.

(5) A procurement unit may not obtain a procurement item under a contract that results from a cooperative procurement described in Subsection (4), if the procurement unit:

(a) is not identified under Subsection (4)(b)(iii)(B) or (4)(c)(iii)(B); or

(b) does not sign a participating addendum to the contract as required by this section.

(6) A procurement unit, other than a legislative procurement unit or a judicial procurement unit, may not obtain a procurement item under a contract held by the United States General Services Administration, unless, based upon documentation provided by the procurement unit, the Director of the State Division of Purchasing and General Services determines in writing that the United States General Services Administration procured the contract in a manner that substantially complies with the provisions of this chapter.

(7) (a) As used in this Subsection (7), “regional solicitation” means a solicitation issued by the chief procurement officer for the procurement of a procurement item within a specified geographical region of the state.

(b) In addition to any other duty or authority under this section, the chief procurement officer shall:

(i) after considering board recommendations, develop a plan for issuing regional solicitations;

(ii) present the plan to the Government Operations Interim Committee by September 1, 2014; and

(iii) after developing a plan, issue regional solicitations for procurement items in accordance with the plan and this chapter.

(c) A plan under Subsection (7)(b) shall:

(i) define the proposed regional boundaries for regional solicitations;

(ii) specify the types of procurement items for which a regional solicitation may be issued; and

(iii) identify the regional solicitations that the chief procurement officer plans to issue.

(d) A regional solicitation shall require that a person responding to the solicitation offer similar

warranties and submit to similar obligations as are standard under other state cooperative contracts.

(e) A procurement item that is available under a state cooperative contract may not be provided under a contract pursuant to a regional solicitation until after the expiration of the state cooperative contract.

Section 72. Section 63G-6a-2401 is enacted to read:

Part 24. Unlawful Conduct and Penalties 63G-6a-2401. Title.

This part is known as “Unlawful Conduct and Penalties.”

Section 73. Section 63G-6a-2402 is enacted to read:

63G-6a-2402. Definitions.

As used in this part:

(1) “Contract administration professional”:

(a) means an individual who:

(i) is:

(A) directly under contract with a procurement unit; or

(B) employed by a person under contract with a procurement unit;

(ii) has responsibility in:

(A) developing a solicitation or grant, or conducting the procurement process; or

(B) supervising or overseeing the administration or management of a contract or grant; and

(b) does not include an employee of the procurement unit.

(2) “Contribution”:

(a) means a voluntary gift or donation of money, service, or anything else of value, to a public entity for the public entity’s use and not for the primary use of an individual employed by the public entity; and

(b) includes:

(i) a philanthropic donation;

(ii) admission to a seminar, vendor fair, charitable event, fundraising event, or similar event that relates to the function of the public entity;

(iii) the purchase of a booth or other display space at an event sponsored by the public entity or a group of which the public entity is a member; and

(iv) the sponsorship of an event that is organized by the public entity.

(3) “Family member” means a father, mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.

(4) “Governing body” means an administrative, advisory, executive, or legislative body of a public entity.

- (5) “Gratuity”:
- (a) means anything of value given:
- (i) without anything provided in exchange; or
- (ii) in excess of the market value of that which is provided in exchange;
- (b) includes:
- (i) a gift or favor;
- (ii) money;
- (iii) a loan at an interest rate below the market rate or with terms that are more advantageous to the borrower than terms offered generally on the market;
- (iv) anything of value provided with an award, other than a certificate, plaque, or trophy;
- (v) employment;
- (vi) admission to an event;
- (vii) a meal, lodging, or travel;
- (viii) entertainment for which a charge is normally made; and
- (ix) a raffle, drawing for a prize, or lottery; and
- (c) does not include:
- (i) an item, including a meal in association with a training seminar, that is:
- (A) included in a contract or grant; or
- (B) provided in the proper performance of a requirement of a contract or grant;
- (ii) an item requested to evaluate properly the award of a contract or grant;
- (iii) a rebate, coupon, discount, airline travel award, dividend, or other offering included in the price of a procurement item;
- (iv) a meal provided by an organization or association, including a professional or educational association, an association of vendors, or an association composed of public agencies or public entities, that does not, as an organization or association, respond to solicitations;
- (v) a product sample submitted to a public entity to assist the public entity to evaluate a solicitation;
- (vi) a political campaign contribution;
- (vii) an item generally available to the public; or
- (viii) anything of value that one public agency provides to another public agency.
- (6) “Hospitality gift”:
- (a) means a token gift of minimal value, including a pen, pencil, stationery, toy, pin, trinket, snack, beverage, or appetizer, given for promotional or hospitality purposes; and
- (b) does not include money, a meal, admission to an event for which a charge is normally made,

entertainment for which a charge is normally made, travel, or lodging.

(7) “Kickback”:

(a) means a negotiated bribe provided in connection with a procurement or the administration of a contract or grant; and

(b) does not include anything listed in Subsection (5)(c).

(8) “Procurement” has the same meaning as defined in Section 63G-6a-103, but also includes the awarding of a grant.

(9) “Procurement professional”:

(a) means an individual who is an employee, and not an independent contractor, of a procurement unit, and who, by title or primary responsibility:

(i) has procurement decision making authority; and

(ii) is assigned to be engaged in, or is engaged in:

(A) the procurement process; or

(B) the process of administering a contract or grant, including enforcing contract or grant compliance, approving contract or grant payments, or approving contract or grant change orders or amendments; and

(b) excludes:

(i) any individual who, by title or primary responsibility, does not have procurement decision making authority;

(ii) an individual holding an elective office;

(iii) a member of a governing body;

(iv) a chief executive of a public entity or a chief assistant or deputy of the chief executive, if the chief executive, chief assistant, or deputy, respectively, has a variety of duties and responsibilities beyond the management of the procurement process or the contract or grant administration process;

(v) the superintendent, business administrator, principal, or vice principal of a school district or charter school, or the chief assistant or deputy of the superintendent, business administrator, principal, or vice principal;

(vi) a university or college president, vice president, business administrator, or dean;

(vii) a chief executive of a local district, as defined in Section 17B-1-102, a special service district, as defined in Section 17D-1-102, or a political subdivision created under Title 11, Chapter 13, Interlocal Cooperation Act;

(viii) an employee of a public entity with:

(A) an annual budget of \$1,000,000 or less; or

(B) no more than four full-time employees; and

(ix) an executive director or director of an executive branch procurement unit who:

(A) by title or primary responsibility, does not have procurement decision making authority; and

(B) is not assigned to engage in, and is not engaged in, the procurement process.

(10) "Public agency" has the same meaning as defined in Section 11-13-103, but also includes all officials, employees, and official representatives of a public agency, as defined in Section 11-13-103.

Section 74. Section 63G-6a-2403 is enacted to read:

63G-6a-2403. Applicability.

(1) This part applies to each public entity.
 (2) A procurement professional is subject to this part at all times during:

- (a) the procurement process; and
- (b) the administration of a contract or grant.

(3) A contract administration professional is subject to this part at all times during the period the contract administration professional is:

- (a) under contract with a procurement unit; and
- (b) involved in:
 - (i) the procurement process; or
 - (ii) the administration of a contract or grant.

(4) This part does not apply to:

(a) an individual described in Subsection 63G-6a-2402(9)(b); or

(b) any individual other than a procurement professional or contract administration professional.

(5) The other subsections of this section do not affect the applicability or effect of any other ethics, bribery, or other law.

Section 75. Section 63G-6a-2404 is enacted to read:

63G-6a-2404. Unlawful conduct --

Exceptions -- Classification of offenses.

(1) (a) It is unlawful for a person who has or is seeking a contract with or a grant from a public entity knowingly to give, or offer, promise, or pledge to give, a gratuity or kickback to:

- (i) the public entity;
- (ii) a procurement professional or contract administration professional; or
- (iii) an individual who the person knows is a family member of an individual described in Subsection (1)(a)(ii).

(b) It is not unlawful for a public agency to give, offer, promise, or pledge to give a contribution to another public agency.

(c) A person is not guilty of unlawful conduct under Subsection (1)(a) for:

(i) giving or offering, promising, or pledging to give a contribution to a public entity, unless done with the intent to induce the public entity, in exchange, to:

(A) award a contract or grant;

(B) make a procurement decision; or

(C) take an action relating to the administration of a contract or grant; or

(ii) giving or offering, promising, or pledging to give something of value to an organization to which a procurement professional or contract administration professional belongs, unless done with the intent to induce a public entity, in exchange, to:

(A) award a contract or grant;

(B) make a procurement decision; or

(C) take an action relating to the administration of a contract or grant.

(2) (a) It is unlawful for a procurement professional or contract administration professional, or a family member of either, knowingly to receive or accept, offer or agree to receive or accept, or ask for a promise or pledge of, a gratuity or kickback from a person who has or is seeking a contract with or a grant from a public entity.

(b) An individual is not guilty of unlawful conduct under Subsection (2)(a) for receiving or accepting, offering or agreeing to receive or accept, or asking for a promise or pledge of a contribution on behalf of a public entity, unless done with the intent that the public entity, in exchange:

(i) award a contract or grant;

(ii) make a procurement decision; or

(iii) take an action relating to the administration of a contract or grant.

(3) Notwithstanding Subsections (1) and (2), it is not unlawful for a person to give or receive, offer to give or receive, or promise or pledge to give or ask for a promise or pledge of, a hospitality gift, if:

(a) the total value of the hospitality gift is less than \$10; and

(b) the aggregate value of all hospitality gifts from the person to the recipient in a calendar year is less than \$50.

(4) A person who engages in the conduct made unlawful under Subsection (1) or (2) is guilty of:

(a) a second degree felony, if the total value of the gratuity or kickback is \$1,000 or more;

(b) a third degree felony, if the total value of the gratuity or kickback is \$250 or more but less than \$1,000;

(c) a class A misdemeanor, if the total value of the gratuity or kickback is \$100 or more but less than \$250; and

(d) a class B misdemeanor, if the total value of the gratuity or kickback is less than \$100.

(5) The criminal sanctions described in Subsection (4) do not preclude the imposition of other penalties for conduct made unlawful under

this part, in accordance with other applicable law, including:

(a) dismissal from employment or other disciplinary action;

(b) for an elected officer listed in Section 77-6-1, removal from office as provided in Title 77, Chapter 6, Removal by Judicial Proceedings;

(c) requiring the public officer or employee to return the value of the unlawful gratuity or kickback; and

(d) any other civil penalty provided by law.

Section 76. Section 63G-6a-2405 is enacted to read:

63G-6a-2405. Discretion to declare contract or grant void -- Limitations.

(1) Subject to Subsection (2), the governing body or chief executive officer of a public entity that awards a contract or grant to a person who engages in conduct made unlawful under this part may, in the sole discretion of the governing body or chief executive officer, declare the contract or grant to be void and unenforceable, unless:

(a) the contract or grant relates to the issuance of a bond or other obligation and the bond has been issued or obligation incurred; or

(b) a third party has substantially changed its position in reliance upon the contract or grant.

(2) Declaring a contract or grant void under Subsection (1) does not affect the obligation of a procurement unit to pay for a contractor's proper performance completed under the contract or grant or the value the contractor provides to the public entity under the contract or grant before the contract or grant is declared void.

(3) Subsection (1) applies only to a procurement with respect to which:

(a) public notice is provided on or after July 1, 2014, if public notice of the procurement is required; or

(b) the initial contact between the public entity and the potential contractor, for purposes of the procurement, occurs on or after July 1, 2014, if public notice of the procurement is not required.

Section 77. Section 63G-6a-2406 is enacted to read:

63G-6a-2406. Authority of conducting procurement unit with respect to evaluation committee.

Nothing in this part restricts a conducting procurement unit from:

(1) requiring an evaluation committee member to disclose a conflict of interest; or

(2) removing an evaluation committee member for having a conflict of interest.

Section 78. Section 63G-6a-2407 is enacted to read:

63G-6a-2407. Duty to report unlawful conduct.

(1) A procurement professional shall notify the attorney general or other appropriate prosecuting attorney if the procurement professional has actual knowledge that a person has engaged in:

(a) conduct made unlawful under this part; or

(b) conduct, including bid rigging, improperly steering a contract to a favored vendor, exercising undue influence on an individual involved in the procurement process, or participating in collusion or other anticompetitive practices, made unlawful under other applicable law.

(2) A procurement professional who fails to comply with the requirement of Subsection (1) is subject to any applicable disciplinary action or civil penalty identified in Subsection 63G-6a-2404(5).

Section 79. Section 67-16-4 is amended to read:

67-16-4. Improperly disclosing or using private, controlled, or protected information -- Using position to secure privileges or exemptions -- Accepting employment that would impair independence of judgment or ethical performance -- Exception.

(1) Except as provided in Subsection (3), it is an offense for a public officer, public employee, or legislator to:

(a) accept employment or engage in any business or professional activity that he might reasonably expect would require or induce him to improperly disclose controlled information that he has gained by reason of his official position;

(b) disclose or improperly use controlled, private, or protected information acquired by reason of his official position or in the course of official duties in order to further substantially the officer's or employee's personal economic interest or to secure special privileges or exemptions for himself or others;

(c) use or attempt to use his official position to:

(i) further substantially the officer's or employee's personal economic interest; or

(ii) secure special privileges or exemptions for himself or others;

(d) accept other employment that he might expect would impair his independence of judgment in the performance of his public duties; or

(e) accept other employment that he might expect would interfere with the ethical performance of his public duties.

(2) (a) Subsection (1) does not apply to the provision of education-related services to public school students by public education employees acting outside their regular employment.

(b) The conduct referred to in Subsection (2)(a) is subject to Section 53A-1-402.5.

(3) This section does not apply to a public officer, public employee, or legislator who engages in conduct that constitutes a violation of this section to the extent that the public officer, public employee, or legislator is chargeable, for the same conduct, under Section [63G-6a-2304.5] 63G-6a-2404 or Section 76-8-105.

Section 80. Section 67-16-5 is amended to read:

67-16-5. Accepting gift, compensation, or loan -- When prohibited.

(1) As used in this section, "economic benefit tantamount to a gift" includes:

(a) a loan at an interest rate that is substantially lower than the commercial rate then currently prevalent for similar loans; and

(b) compensation received for private services rendered at a rate substantially exceeding the fair market value of the services.

(2) Except as provided in Subsection (4), it is an offense for a public officer or public employee to knowingly receive, accept, take, seek, or solicit, directly or indirectly for himself or another a gift of substantial value or a substantial economic benefit tantamount to a gift:

(a) that would tend improperly to influence a reasonable person in the person's position to depart from the faithful and impartial discharge of the person's public duties;

(b) that the public officer or public employee knows or that a reasonable person in that position should know under the circumstances is primarily for the purpose of rewarding the public officer or public employee for official action taken; or

(c) if the public officer or public employee recently has been, is now, or in the near future may be involved in any governmental action directly affecting the donor or lender, unless a disclosure of the gift, compensation, or loan and other relevant information has been made in the manner provided in Section 67-16-6.

(3) Subsection (2) does not apply to:

(a) an occasional nonpecuniary gift, having a value of not in excess of \$50;

(b) an award publicly presented in recognition of public services;

(c) any bona fide loan made in the ordinary course of business; or

(d) a political campaign contribution.

(4) This section does not apply to a public officer or public employee who engages in conduct that constitutes a violation of this section to the extent that the public officer or public employee is chargeable, for the same conduct, under Section [63G-6a-2304.5] 63G-6a-2404 or Section 76-8-105.

Section 81. Section 67-16-5.3 is amended to read:

67-16-5.3. Requiring donation, payment, or service to government agency in exchange for approval -- When prohibited.

(1) Except as provided in Subsection (3), it is an offense for a public officer, public employee, or legislator to demand from any person as a condition of granting any application or request for a permit, approval, or other authorization, that the person donate personal property, money, or services to any agency.

(2) (a) Subsection (1) does not apply to any donation of property, funds, or services to an agency that is:

(i) expressly required by statute, ordinance, or agency rule;

(ii) mutually agreed to between the applicant and the entity issuing the permit, approval, or other authorization;

(iii) made voluntarily by the applicant; or

(iv) a condition of a consent decree, settlement agreement, or other binding instrument entered into to resolve, in whole or in part, an actual or threatened agency enforcement action.

(b) If a person donates property, funds, or services to an agency, the agency shall, as part of the permit or other written authorization:

(i) identify that a donation has been made;

(ii) describe the donation;

(iii) certify, in writing, that the donation was voluntary; and

(iv) place that information in its files.

(3) This section does not apply to a public officer, public employee, or legislator who engages in conduct that constitutes a violation of this section to the extent that the public officer, public employee, or legislator is chargeable, for the same conduct, under Section [63G-6a-2304.5] 63G-6a-2404 or Section 76-8-105.

Section 82. Section 67-16-5.6 is amended to read:

67-16-5.6. Offering donation, payment, or service to government agency in exchange for approval -- When prohibited.

(1) Except as provided in Subsection (3), it is an offense for any person to donate or offer to donate personal property, money, or services to any agency on the condition that the agency or any other agency approve any application or request for a permit, approval, or other authorization.

(2) (a) Subsection (1) does not apply to any donation of property, funds, or services to an agency that is:

(i) otherwise expressly required by statute, ordinance, or agency rule;

(ii) mutually agreed to between the applicant and the entity issuing the permit, approval, or other authorization;

(iii) a condition of a consent decree, settlement agreement, or other binding instrument entered into to resolve, in whole or in part, an actual or threatened agency enforcement action; or

(iv) made without condition.

(b) The person making the donation of property, funds, or services shall include with the donation a signed written statement certifying that the donation is made without condition.

(c) The agency receiving the donation shall place the signed written statement in its files.

(3) This section does not apply to a person who engages in conduct that constitutes a violation of this section to the extent that the person is chargeable, for the same conduct, under Section ~~[63G-6a-2304.5]~~ 63G-6a-2404 or Section 76-8-105.

Section 83. Section 67-16-6 is amended to read:

67-16-6. Receiving compensation for assistance in transaction involving an agency -- Filing sworn statement.

(1) Except as provided in Subsection (5), it is an offense for a public officer or public employee to receive or agree to receive compensation for assisting any person or business entity in any transaction involving an agency unless the public officer or public employee files a sworn, written statement containing the information required by Subsection (2) with:

(a) the head of the officer or employee's own agency;

(b) the agency head of the agency with which the transaction is being conducted; and

(c) the state attorney general.

(2) The statement shall contain:

(a) the name and address of the public officer or public employee involved;

(b) the name of the public officer's or public employee's agency;

(c) the name and address of the person or business entity being or to be assisted; and

(d) a brief description of:

(i) the transaction as to which service is rendered or is to be rendered; and

(ii) the nature of the service performed or to be performed.

(3) The statement required to be filed under Subsection (1) shall be filed within 10 days after the date of any agreement between the public officer or public employee and the person or business entity being assisted or the receipt of compensation, whichever is earlier.

(4) The statement is public information and shall be available for examination by the public.

(5) This section does not apply to a public officer or public employee who engages in conduct that

constitutes a violation of this section to the extent that the public officer or public employee is chargeable, for the same conduct, under Section ~~[63G-6a-2304.5]~~ 63G-6a-2404 or Section 76-8-105.

Section 84. Repealer.

This bill repeals:

Section 63G-6a-1803, Statutes of limitations.

Section 63G-6a-1905, Authority to resolve controversy between state and contractor.

Section 63G-6a-2301, Title.

Section 63G-6a-2302, Duty to report factual information to attorney general.

Section 63G-6a-2304.5, Gratuities -- Kickbacks -- Unlawful use of position or influence.

Section 63G-6a-2305, Penalties for artificially dividing a purchase.

Section 63G-6a-2306, Penalties.

Section 63G-6a-2307, Contract awarded in relation to criminal conduct void.

Section 63G-6a-2308, Exemption.

Section 85. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 197**S. B. 184**

Passed March 13, 2014
 Approved March 29, 2014
 Effective May 13, 2014

**LOCAL GOVERNMENT
 INSPECTION AMENDMENTS**

Chief Sponsor: J. Stuart Adams
 House Sponsor: Daniel McCay

LONG TITLE**General Description:**

This bill enacts language related to construction inspections by local government.

Highlighted Provisions:

This bill:

- ▶ addresses fees collected for construction inspections;
- ▶ prohibits a compliance agency from denying a permit or withdrawing a certificate of occupancy in certain circumstances; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

10-5-132, Utah Code Annotated 1953
 10-6-160, Utah Code Annotated 1953
 15A-1-104, Utah Code Annotated 1953
 17-36-55, Utah Code Annotated 1953

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

Section 1. Section 10-5-132 is enacted to read:**10-5-132. Fees collected for construction approval.**

(1) As used in this section, "construction project" is as defined in Section 38-1a-102.

(2) If a town collects a fee for the inspection of a construction project, the town shall ensure that the construction project receives a prompt inspection.

(3) If a town cannot provide a building inspection within a reasonable time, the town shall promptly engage an independent inspector with fees collected from the applicant.

Section 2. Section 10-6-160 is enacted to read:**10-6-160. Fees collected for construction approval.**

(1) As used in this section, "construction project" is as defined in Section 38-1a-102.

(2) If a city collects a fee for the inspection of a construction project, the city shall ensure that the construction project receives a prompt inspection.

(3) If a city cannot provide a building inspection within three business days, the city shall promptly

engage an independent inspector with fees collected from the applicant.

Section 3. Section 15A-1-104 is enacted to read:**15A-1-104. Permit approval required -- Certificate of occupancy valid.**

(1) As used in this section:

(a) "Compliance agency" is as defined in Section 15A-1-202.

(b) "Project" is as defined in Section 15A-1-209.

(2) A compliance agency for a political subdivision may not reject a permit, or otherwise withhold approval of a project whenever approval is required, for failure to comply with the applicable provisions of this title unless the compliance agency:

(a) cites with specificity the applicable provision with which the project has failed to comply; and

(b) describes how the project has failed to comply.

(3) If a compliance agency or a representative of a compliance agency issues a certificate of occupancy, the compliance agency may not withdraw the certificate of occupancy or exert additional jurisdiction over the elements of the project for which the certificate was issued unless additional changes or modifications requiring a building permit are made to elements of the project after the certificate was issued.

Section 4. Section 17-36-55 is enacted to read:**17-36-55. Fees collected for construction approval.**

(1) As used in this section, "construction project" is as defined in Section 38-1a-102.

(2) If a county collects a fee for the inspection of a construction project, the county shall ensure that the construction project receives a prompt inspection.

(3) If a county cannot provide a building inspection within three business days, the county shall promptly engage an independent inspector with fees collected from the applicant.

CHAPTER 198**S. B. 196**

Passed March 11, 2014
 Approved March 29, 2014
 Effective May 13, 2014

**MEDICAL WASTE
 INCINERATION PROHIBITION**

Chief Sponsor: Todd Weiler
 House Sponsor: Rebecca P. Edwards

LONG TITLE**General Description:**

This bill deals with the incineration of infectious waste and chemotherapeutic agents.

Highlighted Provisions:

This bill:

- ▶ prohibits the Division of Solid and Hazardous Waste from approving an operation plan or issuing a permit to a facility that:
 - incinerates infectious waste or chemotherapeutic agents within a two-mile radius of a residential area; and
 - is not in operation as of May 13, 2014; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

19-6-124, Utah Code Annotated 1953

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

Section 1. Section 19-6-124 is enacted to read:

19-6-124. (Codified as 19-6-125)
Incineration of medical waste.

(1) Except as provided in Subsection (2), the division may not approve an operation plan or issue a permit for construction of a new facility that:

(a) incinerates infectious waste or chemotherapeutic agents; and

(b) is located within a two-mile radius of an area zoned residential on January 1, 2014.

(2) The division may approve renewal or modification of an operation plan or a permit for a facility that is in operation as of May 13, 2014.

**CHAPTER 199
S. B. 201**

Passed March 13, 2014
Approved March 29, 2014
Effective May 13, 2014

EXPUNGEMENT MODIFICATIONS

Chief Sponsor: Scott K. Jenkins
House Sponsor: Kay L. McIff

LONG TITLE

General Description:

This bill amends provisions related to the issuance of an expungement order.

Highlighted Provisions:

This bill:

- ▶ includes the Department of Insurance, Department of Commerce, and the Commission on Criminal and Juvenile Justice in the list of agencies allowed to access expunged files;
- ▶ prohibits agencies authorized to access expunged records in certain circumstances from revealing or releasing any information related to the expunged record; and
- ▶ provides for the Board of Pardons and Parole to issue an order of expungement when granting a pardon.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 77-27-5.1, as enacted by Laws of Utah 2013, Chapter 41
77-40-102, as last amended by Laws of Utah 2013, Chapter 41
77-40-105, as last amended by Laws of Utah 2013, Chapter 41
77-40-109, as last amended by Laws of Utah 2013, Chapter 41

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

Section 1. Section 77-27-5.1 is amended to read:

77-27-5.1. Board authority to order expungement.

(1) Upon granting a pardon [~~for one or more convictions~~], the board shall issue an expungement order, directing any criminal justice agency to remove the recipient's identifying information relating to the expunged convictions from its records.

(2) An expungement order, issued by the board, has the same legal effect and authority as an order of expungement issued by a court, pursuant to Title 77, Chapter 40, Utah Expungement Act.

(3) The board shall provide clear written directions to the recipient along with a list of agencies known to be affected by the expungement order.

Section 2. Section 77-40-102 is amended to read:

77-40-102. Definitions.

As used in this chapter:

(1) "Administrative finding" means a decision upon a question of fact reached by an administrative agency following an administrative hearing or other procedure satisfying the requirements of due process.

(2) "Agency" means a state, county, or local government entity that generates or maintains records relating to an investigation, arrest, detention, or conviction for an offense for which expungement may be ordered.

(3) "Bureau" means the Bureau of Criminal Identification of the Department of Public Safety established in Section 53-10-201.

(4) "Certificate of eligibility" means a document issued by the bureau stating that the criminal record [~~which~~] and all records of arrest, investigation, and detention associated with a case that is the subject of a petition for expungement is eligible for expungement.

(5) "Conviction" means judgment by a criminal court on a verdict or finding of guilty after trial, a plea of guilty, or a plea of nolo contendere.

(6) "Department" means the Department of Public Safety established in Section 53-1-103.

(7) "Drug possession offense" means an offense under:

(a) Subsection 58-37-8(2), except any offense under Subsection 58-37-8(2)(b)(i), possession of 100 pounds or more of marijuana, any offense enhanced under Subsection 58-37-8(2)(e), violation in a correctional facility or Subsection 58-37-8(2)(g), driving with a controlled substance illegally in the person's body and negligently causing serious bodily injury or death of another;

(b) Subsection 58-37a-5(1), use or possession of drug paraphernalia;

(c) Section 58-37b-6, possession or use of an imitation controlled substance; or

(d) any local ordinance which is substantially similar to any of the offenses described in this Subsection (7).

(8) "Expunge" means to seal or otherwise restrict access to the petitioner's record [~~of arrest, investigation, detention, or conviction~~] held by an agency[-] when the record includes a criminal investigation, detention, arrest, or conviction.

(9) "Jurisdiction" means a state, district, province, political subdivision, territory, or possession of the United States or any foreign country.

(10) "Petitioner" means a person seeking expungement under this chapter.

(11) "Traffic offense" means all offenses in the following parts and all local ordinances that are substantially similar to the offenses:

(a) Title 41, Chapter 6a, Part 3, Traffic-Control Devices;

(b) Title 41, Chapter 6a, Part 6, Speed Restrictions;

(c) Title 41, Chapter 6a, Part 7, Driving on Right Side of Highway and Passing;

(d) Title 41, Chapter 6a, Part 8, Turning and Signaling for Turns;

(e) Title 41, Chapter 6a, Part 9, Right-of-Way;

(f) Title 41, Chapter 6a, Part 10, Pedestrians' Rights and Duties;

(g) Title 41, Chapter 6a, Part 11, Bicycles, Regulation of Operation;

(h) Title 41, Chapter 6a, Part 12, Railroad Trains, Railroad Grade Crossings, and Safety Zones;

(i) Title 41, Chapter 6a, Part 13, School Buses and School Bus Parking Zones;

(j) Title 41, Chapter 6a, Part 14, Stopping, Standing, and Parking;

(k) Title 41, Chapter 6a, Part 15, Special Vehicles;

(l) Title 41, Chapter 6a, Part 16, Vehicle Equipment;

(m) Title 41, Chapter 6a, Part 17, Miscellaneous Rules; and

(n) Title 41, Chapter 6a, Part 18, Motor Vehicle Safety Belt Usage Act.

Section 3. Section 77-40-105 is amended to read:

77-40-105. Eligibility for expungement of conviction -- Requirements.

(1) A person convicted of an offense may apply to the bureau for a certificate of eligibility to expunge the record of conviction as provided in this section.

(2) A petitioner is not eligible to receive a certificate of eligibility from the bureau if:

(a) the conviction for which expungement is sought is:

(i) a capital felony;

(ii) a first degree felony;

(iii) a violent felony as defined in Subsection 76-3-203.5(1)(c)(i);

(iv) felony automobile homicide;

(v) a felony violation of Subsection 41-6a-501(2); or

(vi) a registerable sex offense as defined in Subsection 77-41-102(16);

(b) a criminal proceeding is pending against the petitioner; or

(c) the petitioner intentionally or knowingly provides false or misleading information on the application for a certificate of eligibility.

(3) A petitioner seeking to obtain expungement for a record of conviction is not eligible to receive a certificate of eligibility from the bureau until all of the following have occurred:

(a) all fines and interest ordered by the court have been paid in full;

(b) all restitution ordered by the court pursuant to Section 77-38a-302, or by the Board of Pardons and Parole pursuant to Section 77-27-6, has been paid in full; and

(c) the following time periods have elapsed from the date the petitioner was convicted or released from incarceration, parole, or probation, whichever occurred last, for each conviction the petitioner seeks to expunge:

(i) 10 years in the case of a misdemeanor conviction of Subsection 41-6a-501(2) or a felony conviction of Subsection 58-37-8(2)(g);

(ii) seven years in the case of a felony;

(iii) five years in the case of any class A misdemeanor or a felony drug possession offense;

(iv) four years in the case of a class B misdemeanor; or

(v) three years in the case of any other misdemeanor or infraction.

(4) The bureau may not issue a certificate of eligibility if, at the time the petitioner seeks a certificate of eligibility, the bureau determines that the petitioner's criminal history, including previously expunged convictions, contains any of the following:

(a) two or more felony convictions other than for drug possession offenses, each of which is contained in a separate criminal episode;

(b) any combination of three or more convictions other than for drug possession offenses that include two class A misdemeanor convictions, each of which is contained in a separate criminal episode;

(c) any combination of four or more convictions other than for drug possession offenses that include three class B misdemeanor convictions, each of which is contained in a separate criminal episode; or

(d) five or more convictions other than for drug possession offenses of any degree whether misdemeanor or felony, excluding infractions and any traffic offenses, each of which is contained in a separate criminal episode.

(5) The bureau may not issue a certificate of eligibility if, at the time the petitioner seeks a certificate of eligibility, the bureau determines that the petitioner's criminal history, including previously expunged convictions, contains any of the following:

(a) three or more felony convictions for drug possession offenses, each of which is contained in a separate criminal episode; or

(b) any combination of five or more convictions for drug possession offenses, each of which is contained in a separate criminal episode.

(6) If the petitioner's criminal history contains convictions for both a drug possession offense and a non drug possession offense arising from the same criminal episode, that criminal episode shall be counted as provided in Subsection (4) if any non drug possession offense in that episode:

(a) is a felony or class A misdemeanor; or

(b) has the same or a longer waiting period under Subsection (3) than any drug possession offense in that episode.

(7) If, prior to May 14, 2013, the petitioner has received a pardon from the Utah Board of Pardons and Parole, the petitioner is entitled to ~~[a certificate of eligibility]~~ an expungement order for all pardoned crimes pursuant to Section 77-27-5.1.

Section 4. Section 77-40-109 is amended to read:

77-40-109. Retention and release of expunged records -- Agencies.

(1) The bureau shall keep, index, and maintain all expunged records of arrests and convictions.

(2) (a) Employees of the bureau may not divulge any information contained in its index to any person or agency without a court order unless specifically authorized by statute.

(b) The following organizations may receive information contained in expunged records upon specific request:

~~[(a)]~~ (i) the Board of Pardons and Parole;

~~[(b)]~~ (ii) Peace Officer Standards and Training;

~~[(c)]~~ (iii) federal authorities, unless prohibited by federal law;

~~[(d)] the Division of Occupational and Professional Licensing; and]~~

(iv) the Department of Commerce;

(v) the Department of Insurance;

~~[(e)]~~ (vi) the State Office of Education~~[-]; and~~

(vii) the Commission on Criminal and Juvenile Justice, for purposes of investigating applicants for judicial office.

(c) A person or agency authorized by this Subsection (2) to view expunged records may not reveal or release any information obtained from the expunged records to anyone outside the court order or specific request, including distribution on a public website.

(3) The bureau may also use the information in its index as provided in Section 53-5-704.

(4) If, after obtaining an expungement, the petitioner is charged with a felony, the state may petition the court to open the expunged records upon a showing of good cause.

(5) (a) For judicial sentencing, a court may order any records expunged under this chapter or Section 77-27-5.1 to be opened and admitted into evidence.

(b) The records are confidential and are available for inspection only by the court, parties, counsel for the parties, and any other person who is authorized by the court to inspect them.

(c) At the end of the action or proceeding, the court shall order the records expunged again.

(d) Any person authorized by this Subsection (5) to view expunged records may not reveal or release any information obtained from the expunged records to anyone outside the court.

(6) Records released under this chapter are classified as protected under Section 63G-2-305 and are accessible only as provided under Title 63G, Chapter 2, Part 2, Access to Records.

CHAPTER 200**S. B. 203**

Passed March 5, 2014

Approved March 29, 2014

Effective May 13, 2014

IMMIGRATION AMENDMENTS

Chief Sponsor: Curtis S. Bramble

House Sponsor: Keven J. Stratton

LONG TITLE**General Description:**

This bill modifies general government provisions to extend trigger dates related to immigration.

Highlighted Provisions:

This bill:

- ▶ extends the program start date under the Utah Immigration Accountability and Enforcement Act; and
- ▶ extends the dates for the Utah Pilot Sponsored Resident Immigrant Program Act.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63G-12-202, as last amended by Laws of Utah 2013, Chapter 456

63G-14-201, as last amended by Laws of Utah 2013, Chapter 456

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

Section 1. Section 63G-12-202 is amended to read:**63G-12-202. Federal waivers, exemptions, or authorizations -- Implementation without waiver, exemption, or authorization.**

(1) The department, under the direction of the governor, shall seek one or more federal waivers, exemptions, or authorizations to implement the program.

(2) The governor shall actively participate in the effort to obtain one or more federal waivers, exemptions, or authorizations under this section.

(3) The department shall implement the program the sooner of:

(a) 120 days after the day on which the governor finds that the state has the one or more federal waivers, exemptions, or authorizations needed to implement the program; or

(b) July 1, [2015] 2017.

Section 2. Section 63G-14-201 is amended to read:**63G-14-201. Creation of program.**

(1) (a) The governor shall create a program known as the "Utah Pilot Sponsored Resident Immigrant Program":

(i) that is consistent with this chapter; and

(ii) under which a resident immigrant may reside, work, and study in Utah, except that the program may not permit a resident immigrant to travel outside of the state except as provided in Subsection 63G-14-206(1).

(b) The governor shall:

(i) begin implementation of the program by no later than July 1, [2015] 2017; and

(ii) end operation of the program on June 30, [2020] 2022.

(c) Under the program, the governor may facilitate transport to Utah for a foreign national who has been accepted into the program.

(d) The governor may recommend legislation to the Legislature to address how a resident immigrant is to be treated under statutes that relate to an alien.

(2) The department shall administer the program, except to the extent that the governor delegates a power or duty under the program to another state agency. Subject to Subsection (3), the department may make rules in accordance with Chapter 3, Utah Administrative Rulemaking Act, to implement the program to the extent expressly provided for in this chapter.

(3) The governor may act by executive order whenever the department is authorized to make rules under this chapter. If there is a conflict between a rule made by the department and an executive order of the governor, the executive order governs.

CHAPTER 201**S. B. 204**

Passed March 12, 2014
 Approved March 29, 2014
 Effective May 13, 2014

**RETIREMENT SYSTEM OPT-OUT FOR
 RURAL HEALTHCARE CENTERS**

Chief Sponsor: David P. Hinkins
 House Sponsor: Kay L. McIff

LONG TITLE**General Description:**

This bill modifies the Utah State Retirement and Insurance Benefit Act to allow certain employers and employees to be excluded from participation in the Public Employees' Contributory Retirement System and the Public Employees' Noncontributory Retirement System.

Highlighted Provisions:

This bill:

- ▶ allows an employer that is licensed as a nursing care facility and created as a special service district to elect to be excluded from participation in the Public Employees' Contributory Retirement System and the Public Employees' Noncontributory Retirement System under certain circumstances;
- ▶ provides procedures for the exclusion;
- ▶ excludes new and existing employees of a special service district that is licensed as a nursing care facility from participation in the Public Employees' Contributory Retirement System and the Public Employees' Noncontributory Retirement System under certain circumstances; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 49-11-601, as last amended by Laws of Utah 2010, Chapter 280
 49-12-202, as last amended by Laws of Utah 2009, Chapters 51 and 165
 49-12-203, as last amended by Laws of Utah 2013, Chapters 310 and 316
 49-13-202, as last amended by Laws of Utah 2012, Chapter 298

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

Section 1. Section 49-11-601 is amended to read:

49-11-601. Payment of employer contributions -- Penalties for failure to comply -- Adjustments to be made.

(1) The employer contributions, fees, premium taxes, contribution adjustments, and other required payments shall be paid to the office by the participating employer as determined by the executive director.

(2) A participating employer that fails to withhold the amount of any member contributions, as soon as administratively possible, shall also pay the member contributions to the office out of its own funds.

(3) Except as limited by Subsections (6) and (7), if a participating employer does not make the contributions required by this title within 60 days of the end of the pay period, the participating employer is liable to the office as provided in Section 49-11-604 for:

- (a) delinquent contributions;
- (b) interest on the delinquent contributions as calculated under Section 49-11-503; and
- (c) a 12% per annum penalty on delinquent contributions.

(4) The executive director may waive all or any part of the interest, penalties, expenses, and fees if the executive director finds there were extenuating circumstances surrounding the participating employer's failure to comply with this section.

(5) Contributions made in error will be refunded to the participating employer or member that made the contributions.

(6) (a) An employer described in [Subsections] Subsection 49-12-202(2)(c) or (d), or Subsection 49-13-202(2)(c) [~~or~~], (d), or (e) that paid retirement benefits to an employee or retiree that were not required by this title may offer the retirement benefits paid to the employee as a substantial substitute to service credit and retirement benefits that may have been earned by the employee under this title.

(b) An employee who received retirement benefits under Subsection (6)(a) may sign an affidavit that:

(i) acknowledges the substantial substitute received by the employee under Subsection (6)(a); and

(ii) irrevocably relinquishes service credit and retirement benefits that may have accrued to the employee under this title effective from the employee's date of employment with the employer described in Subsection (6)(a) to the date of the employer's election under Section 49-12-202 or 49-13-202.

(c) Nothing in this section shall be construed to diminish an employer's right to recover past retirement benefits other than Social Security, paid to an employee or retiree, in error or under mistaken belief that the employer was not a participating employer.

(7) If the employer files with the office an irrevocable written relinquishment of service credit signed by the member or retiree:

(a) the office shall proportionally reduce any delinquent contributions, penalties, fees, or interest assessed against a participating employer in connection with a member or retiree described in Subsection (6)(a); and

(b) the system has no liability to the employee for benefits relinquished under Subsection (6)(b).

Section 2. Section 49-12-202 is amended to read:

49-12-202. Participation of employers -- Limitations -- Exclusions -- Admission requirements -- Exceptions -- Nondiscrimination requirements.

(1) (a) Unless excluded under Subsection (2), an employer is a participating employer and may not withdraw from participation in this system.

(b) In addition to their participation in this system, participating employers may provide or participate in public or private retirement, supplemental or defined contribution plan, either directly or indirectly, for their employees.

(2) The following employers may be excluded from participation in this system:

(a) an employer not initially admitted or included as a participating employer in this system prior to January 1, 1982 if:

(i) the employer elects not to provide or participate in any type of private or public retirement, supplemental or defined contribution plan, either directly or indirectly, for its employees, except for Social Security; or

(ii) the employer offers another collectively bargained retirement benefit and has continued to do so on an uninterrupted basis since that date;

(b) an employer that is a charter school sponsored by the State Board of Education or a school district that makes an election of nonparticipation in accordance with Section 53A-1a-512 unless the charter school makes a one-time, irrevocable retraction of the election of nonparticipation in accordance with Subsection 53A-1a-512(9); [ø]

(c) an employer that is a hospital created as a special service district under Title 17D, Chapter 1, Special Service District Act, that makes an election of nonparticipation in accordance with Subsection (4)[-]; or

(d) an employer that is licensed as a nursing care facility under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, and created as a special service district under Title 17D, Chapter 1, Special Service District Act, in a rural area of the state that makes an election of nonparticipation in accordance with Subsection (4).

(3) An employer who did not become a participating employer in this system prior to July 1, 1986, may not participate in this system.

(4) (a) (i) Until June 30, 2009, a employer that is a hospital created as a special service district under Title 17D, Chapter 1, Special Service District Act, may make an election of nonparticipation as an employer for retirement programs under this chapter.

(ii) Until June 30, 2014, an employer that is licensed as a nursing care facility under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, and created as a special service

district under Title 17D, Chapter 1, Special Service District Act, in a rural area of the state may make an election of nonparticipation as an employer for retirement programs under this chapter.

(b) An election provided under Subsection (4)(a):

(i) is a one-time election made no later than the time specified under Subsection (4)(a);

(ii) shall be documented by a resolution adopted by the governing body of the special service district;

(iii) is irrevocable; and

(iv) applies to the special service district as the employer and to all employees of the special service district.

(c) The governing body of the special service district may offer employee benefit plans for its employees:

(i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act; or

(ii) under any other program.

(5) If a participating employer purchases service credit on behalf of regular full-time employees for service rendered prior to the participating employer's admission to this system, the service credit shall be purchased in a nondiscriminatory manner on behalf of all current and former regular full-time employees who were eligible for service credit at the time service was rendered.

Section 3. Section 49-12-203 is amended to read:

49-12-203. Exclusions from membership in system.

(1) The following employees are not eligible for service credit in this system:

(a) subject to the requirements of Subsection (2), an employee whose employment status is temporary in nature due to the nature or the type of work to be performed;

(b) except as provided under Subsection (3)(a), an employee of an institution of higher education who participates in a retirement system with the Teachers' Insurance and Annuity Association of America or with any other public or private retirement system, organization, or company during any period in which required contributions based on compensation have been paid on behalf of the employee by the employer;

(c) an employee serving as an exchange employee from outside the state;

(d) an executive department head of the state, a member of the State Tax Commission, the Public Service Commission, and a member of a full-time or part-time board or commission who files a formal request for exemption;

(e) an employee of the Department of Workforce Services who is covered under another retirement system allowed under Title 35A, Chapter 4, Employment Security Act; [ø]

(f) an employee who is employed on or after July 1, 2009, with an employer that has elected, prior to July 1, 2009, to be excluded from participation in this system under Subsection 49-12-202(2)(c)[-]; or

(g) an employee who is employed on or after July 1, 2014, with an employer that has elected, prior to July 1, 2014, to be excluded from participation in this system under Subsection 49-12-202(2)(d).

(2) If an employee whose status is temporary in nature due to the nature of type of work to be performed:

(a) is employed for a term that exceeds six months and the employee otherwise qualifies for service credit in this system, the participating employer shall report and certify to the office that the employee is a regular full-time employee effective the beginning of the seventh month of employment; or

(b) was previously terminated prior to being eligible for service credit in this system and is reemployed within three months of termination by the same participating employer, the participating employer shall report and certify that the member is a regular full-time employee when the total of the periods of employment equals six months and the employee otherwise qualifies for service credits in this system.

(3) (a) Upon cessation of the participating employer contributions, an employee under Subsection (1)(b) is eligible for service credit in this system.

(b) Notwithstanding the provisions of Subsection (1)(f), any eligibility for service credit earned by an employee under this chapter before July 1, 2009 is not affected under Subsection (1)(f).

(c) Notwithstanding the provisions of Subsection (1)(g), any eligibility for service credit earned by an employee under this chapter before July 1, 2014, is not affected under Subsection (1)(g).

(4) Upon filing a written request for exemption with the office, the following employees shall be exempt from coverage under this system:

(a) a full-time student or the spouse of a full-time student and individuals employed in a trainee relationship;

(b) an elected official;

(c) an executive department head of the state, a member of the State Tax Commission, a member of the Public Service Commission, and a member of a full-time or part-time board or commission;

(d) an employee of the Governor's Office of Management and Budget;

(e) an employee of the Governor's Office of Economic Development;

(f) an employee of the Commission on Criminal and Juvenile Justice;

(g) an employee of the Governor's Office;

(h) an employee of the State Auditor's Office;

(i) an employee of the State Treasurer's Office;

(j) any other member who is permitted to make an election under Section 49-11-406;

(k) a person appointed as a city manager or chief city administrator or another person employed by a municipality, county, or other political subdivision, who is an at-will employee; and

(l) an employee of an interlocal cooperative agency created under Title 11, Chapter 13, Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through membership in a labor organization that provides retirement benefits to its members.

(5) (a) Each participating employer shall prepare a list designating those positions eligible for exemption under Subsection (4).

(b) An employee may not be exempted unless the employee is employed in [a] an exempted position designated by the participating employer.

(6) (a) In accordance with this section, a municipality, county, or political subdivision may not exempt more than 50 positions or a number equal to 10% of the employees of the municipality, county, or political subdivision whichever is lesser.

(b) A municipality, county, or political subdivision may exempt at least one regular full-time employee.

(7) Each participating employer shall:

(a) file employee exemptions annually with the office; and

(b) update the employee exemptions in the event of any change.

(8) The office may make rules to implement this section.

Section 4. Section 49-13-202 is amended to read:

49-13-202. Participation of employers -- Limitations -- Exclusions -- Admission requirements -- Nondiscrimination requirements -- Service credit purchases.

(1) (a) Unless excluded under Subsection (2), an employer is a participating employer and may not withdraw from participation in this system.

(b) In addition to their participation in this system, participating employers may provide or participate in any additional public or private retirement, supplemental or defined contribution plan, either directly or indirectly, for their employees.

(2) The following employers may be excluded from participation in this system:

(a) an employer not initially admitted or included as a participating employer in this system before January 1, 1982, if:

(i) the employer elects not to provide or participate in any type of private or public retirement, supplemental or defined contribution plan, either directly or indirectly, for its employees, except for Social Security; or

(ii) the employer offers another collectively bargained retirement benefit and has continued to do so on an uninterrupted basis since that date;

(b) an employer that is a charter school sponsored by the State Board of Education or a school district that makes an election of nonparticipation in accordance with Section 53A-1a-512 unless the charter school makes a one-time, irrevocable retraction of the election of nonparticipation in accordance with Subsection 53A-1a-512(9);

(c) an employer that is a hospital created as a special service district under Title 17D, Chapter 1, Special Service District Act, that makes an election of nonparticipation in accordance with Subsection (5); [øø]

(d) an employer that is licensed as a nursing care facility under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, and created as a special service district under Title 17D, Chapter 1, Special Service District Act, in a rural area of the state that makes an election of nonparticipation in accordance with Subsection (5); or

[{d}] (e) an employer that is a risk management association initially created by interlocal agreement before 1986 for the purpose of implementing a self-insurance joint protection program for the benefit of member municipalities of the association.

(3) If an employer that may be excluded under Subsection (2)(a)(i) elects at any time to provide or participate in any type of public or private retirement, supplemental or defined contribution plan, either directly or indirectly, except for Social Security, the employer shall be a participating employer in this system regardless of whether the employer has applied for admission under Subsection (4).

(4) (a) An employer may, by resolution of its governing body, apply for admission to this system.

(b) Upon approval of the resolution by the board, the employer is a participating employer in this system and is subject to this title.

(5) (a) (i) Until June 30, 2009, a employer that is a hospital created as a special service district under Title 17D, Chapter 1, Special Service District Act, may make an election of nonparticipation as an employer for retirement programs under this chapter.

(ii) Until June 30, 2014, an employer that is licensed as a nursing care facility under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, and created as a special service district under Title 17D, Chapter 1, Special Service District Act, in a rural area of the state may make an election of nonparticipation as an employer for retirement programs under this chapter.

[{ii}] (iii) On or before July 1, 2010, an employer described in Subsection (2)[{d}]{(e)} may make an election of nonparticipation as an employer for retirement programs under this chapter.

(b) An election provided under Subsection (5)(a):

(i) is a one-time election made no later than the time specified under Subsection (5)(a);

(ii) shall be documented by a resolution adopted by the governing body of the employer;

(iii) is irrevocable; and

(iv) applies to the employer as described in Subsection (5)(a)(i), (ii), or (iii) and to all employees of that employer.

(c) The employer making an election under Subsection (5)(a) may offer employee benefit plans for its employees:

(i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act; or

(ii) under any other program.

(6) If a participating employer purchases service credit on behalf of regular full-time employees for service rendered prior to the participating employer's admission to this system, the service credit shall be purchased in a nondiscriminatory manner on behalf of all current and former regular full-time employees who were eligible for service credit at the time service was rendered.

CHAPTER 202**S. B. 215**

Passed March 12, 2014

Approved March 29, 2014

Effective May 13, 2014

**PUBLIC SCHOOL COMPREHENSIVE
EMERGENCY RESPONSE PLAN
AMENDMENTS**Chief Sponsor: Aaron Osmond
House Sponsor: Rich Cunningham**LONG TITLE****General Description:**

This bill modifies requirements for a public school's comprehensive emergency response plan.

Highlighted Provisions:

This bill:

- ▶ requires a public school's comprehensive emergency response plan to include procedures to provide information, to the extent practicable, to certain students who are off campus at the time of a school violence emergency; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-3-402, as last amended by Laws of Utah 2013, Chapter 296

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

Section 1. Section 53A-3-402 is amended to read:**53A-3-402. Powers and duties generally.**

- (1) Each local school board shall:
 - (a) implement the core curriculum utilizing instructional materials that best correlate to the core curriculum and graduation requirements;
 - (b) administer tests, required by the State Board of Education, which measure the progress of each student, and coordinate with the state superintendent and State Board of Education to assess results and create plans to improve the student's progress which shall be submitted to the State Office of Education for approval;
 - (c) use progress-based assessments as part of a plan to identify schools, teachers, and students that need remediation and determine the type and amount of federal, state, and local resources to implement remediation;
 - (d) develop early warning systems for students or classes failing to make progress;
 - (e) work with the State Office of Education to establish a library of documented best practices, consistent with state and federal regulations, for use by the local districts; and

(f) implement training programs for school administrators, including basic management training, best practices in instructional methods, budget training, staff management, managing for learning results and continuous improvement, and how to help every child achieve optimal learning in core academics.

(2) Local school boards shall spend minimum school program funds for programs and activities for which the State Board of Education has established minimum standards or rules under Section 53A-1-402.

(3) (a) A board may purchase, sell, and make improvements on school sites, buildings, and equipment and construct, erect, and furnish school buildings.

(b) School sites or buildings may only be conveyed or sold on board resolution affirmed by at least two-thirds of the members.

(4) (a) A board may participate in the joint construction or operation of a school attended by children residing within the district and children residing in other districts either within or outside the state.

(b) Any agreement for the joint operation or construction of a school shall:

- (i) be signed by the president of the board of each participating district;
- (ii) include a mutually agreed upon pro rata cost; and
- (iii) be filed with the State Board of Education.

(5) A board may establish, locate, and maintain elementary, secondary, and applied technology schools.

(6) Except as provided in Section 53A-1-1001, a board may enroll children in school who are at least five years of age before September 2 of the year in which admission is sought.

(7) A board may establish and support school libraries.

(8) A board may collect damages for the loss, injury, or destruction of school property.

(9) A board may authorize guidance and counseling services for children and their parents or guardians prior to, during, or following enrollment of the children in schools.

(10) (a) A board shall administer and implement federal educational programs in accordance with Title 53A, Chapter 1, Part 9, Implementing Federal Programs Act.

(b) Federal funds are not considered funds within the school district budget under Title 53A, Chapter 19, School District Budgets.

(11) (a) A board may organize school safety patrols and adopt rules under which the patrols promote student safety.

(b) A student appointed to a safety patrol shall be at least 10 years old and have written parental consent for the appointment.

(c) Safety patrol members may not direct vehicular traffic or be stationed in a portion of a highway intended for vehicular traffic use.

(d) Liability may not attach to a school district, its employees, officers, or agents or to a safety patrol member, a parent of a safety patrol member, or an authorized volunteer assisting the program by virtue of the organization, maintenance, or operation of a school safety patrol.

(12) (a) A board may on its own behalf, or on behalf of an educational institution for which the board is the direct governing body, accept private grants, loans, gifts, endowments, devises, or bequests that are made for educational purposes.

(b) These contributions are not subject to appropriation by the Legislature.

(13) (a) A board may appoint and fix the compensation of a compliance officer to issue citations for violations of Subsection 76-10-105(2).

(b) A person may not be appointed to serve as a compliance officer without the person's consent.

(c) A teacher or student may not be appointed as a compliance officer.

(14) A board shall adopt bylaws and rules for its own procedures.

(15) (a) A board shall make and enforce rules necessary for the control and management of the district schools.

(b) All board rules and policies shall be in writing, filed, and referenced for public access.

(16) A board may hold school on legal holidays other than Sundays.

(17) (a) Each board shall establish for each school year a school traffic safety committee to implement this Subsection (17).

(b) The committee shall be composed of one representative of:

- (i) the schools within the district;
- (ii) the Parent Teachers' Association of the schools within the district;
- (iii) the municipality or county;
- (iv) state or local law enforcement; and
- (v) state or local traffic safety engineering.

(c) The committee shall:

(i) receive suggestions from school community councils, parents, teachers, and others and recommend school traffic safety improvements, boundary changes to enhance safety, and school traffic safety program measures;

(ii) review and submit annually to the Department of Transportation and affected municipalities and counties a child access routing plan for each elementary, middle, and junior high school within the district;

(iii) consult the Utah Safety Council and the Division of Family Health Services and provide training to all school children in kindergarten through grade six, within the district, on school crossing safety and use; and

(iv) help ensure the district's compliance with rules made by the Department of Transportation under Section 41-6a-303.

(d) The committee may establish subcommittees as needed to assist in accomplishing its duties under Subsection (17)(c).

(18) (a) Each school board shall adopt and implement a comprehensive emergency response plan to prevent and combat violence in its public schools, on school grounds, on its school vehicles, and in connection with school-related activities or events.

(b) The board shall implement its plan by July 1, 2000.

(c) The plan shall:

(i) include prevention, intervention, and response components;

(ii) be consistent with the student conduct and discipline policies required for school districts under Title 53A, Chapter 11, Part 9, School Discipline and Conduct Plans;

(iii) require inservice training for all district and school building staff on what their roles are in the emergency response plan; ~~and~~

(iv) provide for coordination with local law enforcement and other public safety representatives in preventing, intervening, and responding to violence in the areas and activities referred to in Subsection (18)(a)[-]; and

(v) include procedures to notify a student, to the extent practicable, who is off campus at the time of a school violence emergency because the student is:

(A) participating in a school-related activity; or

(B) excused from school for a period of time during the regular school day to participate in religious instruction at the request of the student's parent or guardian.

(d) The State Board of Education, through the state superintendent of public instruction, shall develop comprehensive emergency response plan models that local school boards may use, where appropriate, to comply with Subsection (18)(a).

(e) Each local school board shall, by July 1 of each year, certify to the State Board of Education that its plan has been practiced at the school level and presented to and reviewed by its teachers, administrators, students, and their parents and local law enforcement and public safety representatives.

(19) (a) Each local school board may adopt an emergency response plan for the treatment of sports-related injuries that occur during school sports practices and events.

(b) The plan may be implemented by each secondary school in the district that has a sports program for students.

(c) The plan may:

(i) include emergency personnel, emergency communication, and emergency equipment components;

(ii) require inservice training on the emergency response plan for school personnel who are involved in sports programs in the district's secondary schools; and

(iii) provide for coordination with individuals and agency representatives who:

(A) are not employees of the school district; and

(B) would be involved in providing emergency services to students injured while participating in sports events.

(d) The board, in collaboration with the schools referred to in Subsection (19)(b), may review the plan each year and make revisions when required to improve or enhance the plan.

(e) The State Board of Education, through the state superintendent of public instruction, shall provide local school boards with an emergency plan response model that local boards may use to comply with the requirements of this Subsection (19).

(20) A board shall do all other things necessary for the maintenance, prosperity, and success of the schools and the promotion of education.

(21) (a) Before closing a school or changing the boundaries of a school, a board shall:

(i) hold a public hearing, as defined in Section 10-9a-103; and

(ii) provide public notice of the public hearing, as specified in Subsection (21)(b).

(b) The notice of a public hearing required under Subsection (21)(a) shall:

(i) indicate the:

(A) school or schools under consideration for closure or boundary change; and

(B) date, time, and location of the public hearing; and

(ii) at least 10 days prior to the public hearing, be:

(A) published:

(I) in a newspaper of general circulation in the area; and

(II) on the Utah Public Notice Website created in Section 63F-1-701; and

(B) posted in at least three public locations within the municipality or on the district's official website.

(22) A board may implement a facility energy efficiency program established under Title 11, Chapter 44, Facility Energy Efficiency Act.

CHAPTER 203**S. B. 225**

Passed March 12, 2014
 Approved March 29, 2014
 Effective May 13, 2014

**REPEAL OF BUSINESS DEVELOPMENT
 FOR DISADVANTAGED RURAL
 COMMUNITIES ACCOUNT**

Chief Sponsor: Lyle W. Hillyard
 House Sponsor: Melvin R. Brown

LONG TITLE**General Description:**

This bill modifies the Business Development for Disadvantaged Rural Communities Act by repealing the Business Development for Disadvantaged Rural Communities Restricted Account.

Highlighted Provisions:

This bill:

- ▶ repeals the Business Development for Disadvantaged Rural Communities Restricted Account in the General Fund;
- ▶ provides for the transfer of any remaining account balance to the General Fund; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 63B-1b-202, as last amended by Laws of Utah 2013, Chapter 227
 63M-1-2002, as renumbered and amended by Laws of Utah 2008, Chapter 382
 63M-1-2004, as renumbered and amended by Laws of Utah 2008, Chapter 382

REPEALS:

- 63M-1-2003, as last amended by Laws of Utah 2011, Chapter 303

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. Section 63B-1b-202 is amended to read:

63B-1b-202. Custodial officer -- Powers and duties.

(1) (a) There is created within the Division of Finance an officer responsible for the care, custody, safekeeping, collection, and accounting of all bonds, notes, contracts, trust documents, and other evidences of indebtedness:

(i) owned or administered by the state or any of its agencies; and

(ii) except as provided in Subsection (1)(b), relating to revolving loan funds.

(b) Notwithstanding Subsection (1)(a), the officer described in Subsection (1)(a) is not responsible for the care, custody, safekeeping, collection, and accounting of a bond, note, contract, trust document, or other evidence of indebtedness relating to the:

(i) Agriculture Resource Development Fund, created in Section 4-18-106;

(ii) Utah Rural Rehabilitation Fund, created in Section 4-19-4;

(iii) Petroleum Storage Tank Loan Fund, created in Section 19-6-405.3;

(iv) Olene Walker Housing Loan Fund, created in Section 35A-8-502; and

~~[(v) Business Development for Disadvantaged Rural Communities Restricted Account, created in Section 63M-1-2003; and]~~

~~[(vi)] (v) Brownfields Fund, created in Section 19-8-120.~~

(2) (a) Each authorizing agency shall deliver to this officer for the officer's care, custody, safekeeping, collection, and accounting all bonds, notes, contracts, trust documents, and other evidences of indebtedness:

(i) owned or administered by the state or any of its agencies; and

(ii) except as provided in Subsection (1)(b), relating to revolving loan funds.

(b) This officer shall:

(i) establish systems, programs, and facilities for the care, custody, safekeeping, collection, and accounting for the bonds, notes, contracts, trust documents, and other evidences of indebtedness submitted to the officer under this Subsection (2); and

(ii) shall make available updated reports to each authorizing agency as to the status of loans under their authority.

(3) The officer described in Section 63B-1b-201 shall deliver to the officer described in Subsection (1)(a) for the care, custody, safekeeping, collection, and accounting by the officer described in Subsection (1)(a) of all bonds, notes, contracts, trust documents, and other evidences of indebtedness closed as provided in Subsection 63B-1b-201(2)(b).

Section 2. Section 63M-1-2002 is amended to read:

63M-1-2002. Definitions.

As used in this part:

(1) "Board" means the Board of Business and Economic Development created by Section 63M-1-301.

(2) "Business incubator expense" means an expense relating to funding a program that is:

(a) designed to provide business support services and resources to one or more business entities within a project area during the business entities' early stages of development; and

(b) determined to be a business incubator by the board.

(3) "Business rehabilitation expense" means an expense relating to the renovation or rehabilitation of an existing building within a project area as determined by the board.

(4) "Debt service" means the payment of debt service on a bond issued to pay a:

(a) business rehabilitation expense relating to a project; or

(b) public infrastructure expense relating to a project.

(5) "Eligible county" means a county of the third, fourth, fifth, or sixth class.

(6) "Eligible expense" means an expense:

(a) incurred by an eligible county;

(b) relating to a project; and

(c) that is:

(i) a business incubator expense;

(ii) debt service; or

(iii) a public infrastructure expense.

(7) "Project" means an economic development project:

(a) as determined by the board; and

(b) for which an eligible county applies to the board in accordance with this part for a loan or grant to assist the eligible county in paying an eligible expense.

(8) "Project area" means the geographic area within which a project is implemented by an eligible county.

(9) "Public infrastructure expense" means an expense relating to a publicly owned improvement located within a project area if:

(a) the expense is:

(i) incurred for:

(A) construction;

(B) demolition;

(C) design;

(D) engineering;

(E) an environmental impact study;

(F) environmental remediation; or

(G) rehabilitation; or

(ii) similar to an expense described in Subsection (9)(a)(i) as determined by the board; and

(b) the publicly owned improvement is:

(i) not a building as determined by the board; and

(ii) necessary to support a project as determined by the board.

(10) "Publicly owned improvement" means an improvement to real property if:

(a) the real property is owned by:

(i) the United States;

(ii) the state; or

(iii) a political subdivision:

(A) as defined in Section 17B-1-102; and

(B) of the state; and

(b) the improvement relates to:

(i) a sewage system including a system for collection, transport, storage, treatment, dispersal, effluent use, or discharge;

(ii) a drainage or flood control system, including a system for collection, transport, diversion, storage, detention, retention, dispersal, use, or discharge;

(iii) a water system including a system for production, collection, storage, treatment, transport, delivery, connection, or dispersal;

(iv) a highway, street, or road system for vehicular use for travel, ingress, or egress;

(v) a rail transportation system;

(vi) a system for pedestrian use for travel, ingress, or egress;

(vii) a public utility system including a system for electricity, gas, or telecommunications; or

(viii) a system or device that is similar to a system or device described in Subsections (10)(b)(i) through (vii) as determined by the board.

~~[(11) "Restricted account" means the Business Development for Disadvantaged Rural Communities Restricted Account created by Section 63M-1-2003.]~~

Section 3. Section 63M-1-2004 is amended to read:

63M-1-2004. Board authority to award a grant or loan to an eligible county -- Interest on a loan -- Eligible county proposal process -- Process for awarding a grant or loan.

(1) (a) Subject to the provisions of, and funds made available for, this section, beginning on July 1, 2005, through June 30, 2015, the board may make an award to an eligible county~~[-(i)]~~ of one or more ~~[of the following to]~~ grants or loans to assist in paying an eligible expense relating to a project~~[-]~~.

~~[(A) a grant; or]~~

~~[(B) a loan; and]~~

~~[(ii) from amounts or interest deposited into the restricted account in accordance with Section 63M-1-2003 to the extent that there is a balance in the restricted account sufficient to cover the amount of the award.]~~

(b) The total amount of grants and loans that the board may award in accordance with this section relating to one project is \$75,000.

(c) If the board awards a loan to an eligible county in accordance with this section, the loan shall be subject to interest as provided by the procedures and methods referred to in Subsection (6).

(2) (a) Before the board may award an eligible county a grant or loan in accordance with this section, the eligible county shall submit a written proposal to the board in accordance with Subsection (2)(b).

(b) The proposal described in Subsection (2)(a) shall:

(i) describe the project area;

(ii) describe the characteristics of the project including a description of how the project will be implemented;

(iii) provide an economic development plan for the project including a description of any eligible expenses that will be incurred as part of implementing the project;

(iv) describe the characteristics of the community within which the project area is located;

(v) establish that the community within which the project area is located is a disadvantaged community on the basis of one or more of the following factors:

(A) median income per capita within the community;

(B) median property tax revenues generated within the community;

(C) median sales and use tax revenues generated within the community; or

(D) unemployment rates within the community;

(vi) demonstrate that there is a need for the project in the community within which the project area is located;

(vii) describe the short-term and long-term benefits of the project to the community within which the project area is located;

(viii) demonstrate that there is a need for assistance in paying eligible expenses relating to the project;

(ix) indicate the amount of any revenues that will be pledged to match any funds the board may award as a loan or grant under this section; and

(x) indicate whether there is support for the implementation of the project from:

(A) the community within which the project area is located; and

(B) any cities or towns within which the project area is located.

(3) At the request of the board, representatives from an eligible county shall appear before the board to:

(a) present a proposal submitted to the board in accordance with Subsection (2)(b); and

(b) respond to any questions or issues raised by the board relating to eligibility to receive a grant or loan under this section.

(4) The board shall:

(a) consider a proposal submitted to the board in accordance with Subsection (2);

(b) make written findings as to whether the proposal described in Subsection (4)(a) meets the requirements of Subsection (2)(b);

(c) make written findings as to whether to award the eligible county that submitted the proposal described in Subsection (4)(a) one or more grants or loans:

(i) on the basis of the factors established in Subsection (5);

(ii) in consultation with the director; and

(iii) in accordance with the procedures established for prioritizing which projects may be awarded a grant or loan by the board under this section;

(d) if the board determines to award an eligible county a grant or loan in accordance with this section, make written findings in consultation with the director specifying the:

(i) amount of the grant or loan;

(ii) time period for distributing the grant or loan;

(iii) terms and conditions that the eligible county shall meet to receive the grant or loan;

(iv) structure of the grant or loan; and

(v) eligible expenses for which the eligible county may expend the grant or loan;

(e) if the board determines to award an eligible county a loan in accordance with this section, make written findings stating:

(i) the method of calculating interest applicable to the loan; and

(ii) procedures for:

(A) applying interest to the loan; and

(B) paying interest on the loan; and

(f) provide the written findings required by Subsections (4)(b) through (e) to the eligible county.

(5) For purposes of Subsection (4)(c), the board shall consider the following factors in determining whether to award an eligible county one or more grants or loans authorized by this part:

(a) whether the project is likely to result in economic development in the community within which the project area is located;

(b) whether the community within which the project area is located is a disadvantaged community on the basis of one or more of the following factors:

(i) median income per capita within the community;

(ii) median property tax revenues generated within the community;

(iii) median sales and use tax revenues generated within the community; or

(iv) unemployment rates within the community;

(c) whether there is a need for the project in the community within which the project area is located;

(d) whether the project is likely to produce short-term and long-term benefits to the community within which the project area is located;

(e) whether the project would be successfully implemented without the board awarding a grant or a loan to the eligible county;

(f) whether any revenues will be pledged to match any funds the board may award as a grant or loan under this section;

(g) whether there is support for the implementation of the project from:

(i) the community within which the project area is located; and

(ii) any cities or towns within which the project area is located; and

(h) any other factor as determined by the board.

(6) The office shall establish procedures:

(a) for prioritizing which projects may be awarded a grant or loan by the board under this section; and

(b) for loans awarded in accordance with this section:

(i) the methods of calculating interest applicable to the loans; and

(ii) procedures for:

(A) applying interest to the loans; and

(B) paying interest on the loans.

Section 4. Repealer.

This bill repeals:

Section 63M-1-2003, Creation of Business Development for Disadvantaged Rural Communities Restricted Account -- Interest -- Costs of administering the restricted account -- Deposit of certain money and interest into the General Fund.

Section 5. Restricted Fund and Account Transfers.

The Legislature authorizes the State Division of Finance to transfer any remaining balance in the General Fund Restricted - Business Development for Disadvantaged Rural Communities Restricted Account to the General Fund on June 30, 2014.

CHAPTER 204**S. B. 234**

Passed March 12, 2014
Approved March 29, 2014
Effective May 13, 2014

CORY B. WRIDE MEMORIAL HIGHWAY

Chief Sponsor: Mark B. Madsen
House Sponsor: David E. Lifferth

LONG TITLE**General Description:**

This bill modifies the Designation of State Highways Act by designating the Cory B. Wride Memorial Highway.

Highlighted Provisions:

This bill:

- ▶ designates Route 73 from Route 68 westerly to the Tooele County line as the Cory B. Wride Memorial Highway; and
- ▶ requires the Department of Transportation to make the designation of this highway on future state highway maps.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

72-4-214, Utah Code Annotated 1953

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

Section 1. Section 72-4-214 is enacted to read:**72-4-214. Cory B. Wride Memorial Highway.**

(1) There is established the Cory B. Wride Memorial Highway composed of the existing Route 73 from Route 68 westerly to the Tooele County line.

(2) In addition to other official designations, the Department of Transportation shall designate the portions of the highway identified in Subsection (1) as the Cory B. Wride Memorial Highway on future state highway maps.

CHAPTER 205**S. B. 238**

Passed March 11, 2014
 Approved March 29, 2014
 Effective May 13, 2014

REPEAL OF SUBSTANCE ABUSE DONATION FUND

Chief Sponsor: Lyle W. Hillyard
 House Sponsor: Melvin R. Brown

LONG TITLE**General Description:**

This bill repeals a provision providing for an interest-bearing expendable special revenue fund to be used by the Division of Substance Abuse and Mental Health.

Highlighted Provisions:

This bill:

- ▶ repeals a provision providing for an interest-bearing expendable special revenue fund to be used by the Division of Substance Abuse and Mental Health.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

62A-15-103, as last amended by Laws of Utah 2013, Chapters 17, 167, and 400

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

Section 1. Section 62A-15-103 is amended to read:**62A-15-103. Division -- Creation -- Responsibilities.**

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

(2) The division shall:

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

(ii) render support and assistance to public schools through approved school-based substance abuse education programs aimed at prevention of substance abuse;

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

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

rehabilitation of actual and potential substance abusers;

(v) promote integrated programs that address an individual's substance abuse, mental health, and physical healthcare needs;

(vi) evaluate the effectiveness of programs described in Subsection (2);

(vii) consider the impact of the programs described in Subsection (2) on:

(A) emergency department utilization;

(B) jail and prison populations;

(C) the homeless population; and

(D) the child welfare system; and

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

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

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

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

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

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

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

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

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

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

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

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

(viii) monitor the expenditure of public funds by:

(A) local substance abuse authorities;

(B) local mental health authorities; and

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

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

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

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

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

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

(C) services result in improved overall health and functioning; and

(D) appropriate expenditure of public funds;

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

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

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

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

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

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

(i) a review and determination regarding whether:

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

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

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

(3) (a) The division may refuse to contract with and may pursue its legal remedies against any local substance abuse authority or local mental health authority that fails, or has failed, to expend public funds in accordance with state law, division policy, contract provisions, or directives issued in accordance with state law.

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

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

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

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

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

(7) The division shall annually review with each local substance abuse authority and each local

mental health authority the authority's statutory and contract responsibilities regarding:

- (a) the use of public funds;
- (b) oversight responsibilities regarding public funds; and
- (c) governance of substance abuse and mental health programs and services.

(8) The Legislature may refuse to appropriate funds to the division upon the division's failure to comply with the provisions of this part.

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

- (a) refer the pregnant woman or pregnant minor to a treatment facility that has the capacity to provide the treatment services; or
- (b) otherwise ensure that treatment services are made available to the pregnant woman or pregnant minor.

CHAPTER 206**S. B. 245**

Passed March 12, 2014
 Approved March 29, 2014
 Effective May 13, 2014

**INTERNET VOTING PILOT
PROJECT AMENDMENTS**

Chief Sponsor: Curtis S. Bramble
 House Sponsor: Jon Cox

LONG TITLE**General Description:**

This bill amends provisions of the Internet voting pilot project to permit certain uniformed service voters and voters with a disability, in a participating county, to register to vote, and vote, electronically.

Highlighted Provisions:

This bill:

- ▶ amends provisions of the Internet voting pilot project to permit certain uniformed service voters and voters with a disability, in a participating county, to register to vote, and vote, electronically; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

20A-6-103, as last amended by Laws of Utah 2011,
Chapter 327

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

Section 1. Section 20A-6-103 is amended to read:**20A-6-103. Internet voting pilot project.**

Notwithstanding any ~~[other provisions]~~ provision of this title, ~~any~~ to the contrary, a county may ~~[if selected by the Department of Defense, participate in the Federal Voting Assistance Program pilot project to]~~ allow a covered voter, as defined in Section 20A-16-102, or a voter with a disability, as defined in 42 U.S.C. 12102(1), to register to vote, and ~~[cast their votes]~~ vote electronically.

CHAPTER 207**S. B. 248**

Passed March 13, 2014
 Approved March 29, 2014
 Effective May 13, 2014

**JUDICIAL RETENTION
 ELECTION AMENDMENTS**

Chief Sponsor: Curtis S. Bramble
 House Sponsor: Daniel McCay

LONG TITLE**General Description:**

This bill amends the Election Code in relation to a judicial retention election.

Highlighted Provisions:

This bill:

- ▶ provides that a justice, judge, or justice court judge who wishes to retain office shall, in the year the justice or judge is subject to a retention election, file a declaration of candidacy with the lieutenant governor or county clerk within the period beginning on April 1 and ending at 5 p.m. on April 15 in the year of a regular general election.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

20A-12-201, as last amended by Laws of Utah 2011, Chapters 29, 208, and 327

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

Section 1. Section 20A-12-201 is amended to read:

20A-12-201. Judicial appointees -- Retention elections.

(1) (a) Each judicial appointee to a court is subject to an unopposed retention election at the first general election held more than three years after the judge or justice was appointed.

(b) After the first retention election:

(i) each Supreme Court justice shall be on the regular general election ballot for an unopposed retention election every tenth year; and

(ii) each judge of other courts shall be on the regular general election ballot for an unopposed retention election every sixth year.

(2) (a) Each justice or judge of a court of record who wishes to retain office shall, in the year the justice or judge is subject to a retention election:

(i) file a declaration of candidacy ~~[as if a candidate for multi-county office in accordance with Section 20A-9-202]~~ with the lieutenant governor, or with the county clerk in the candidate's county of residence, within the period beginning on April 1

and ending at 5 p.m. on April 15 in the year of a regular general election; and

(ii) pay a filing fee of \$50.

(b) (i) Each justice court judge who wishes to retain office shall, in the year the justice court judge is subject to a retention election:

(A) file a declaration of candidacy ~~[as if a candidate for county office in accordance with Section 20A-9-202]~~ with the lieutenant governor, or with the county clerk in the candidate's county of residence, within the period beginning on April 1 and ending at 5 p.m. on April 15 in the year of a regular general election; and

(B) pay a filing fee of \$25 for each judicial office.

(ii) If a justice court judge is appointed or elected to more than one judicial office, the declaration of candidacy shall identify all of the courts included in the same general election.

(iii) If a justice court judge is appointed or elected to more than one judicial office, filing a declaration of candidacy in one county in which one of those courts is located is valid for the courts in any other county.

(3) (a) The lieutenant governor shall, no later than August 31 of each regular general election year:

(i) transmit a certified list containing the names of the justices of the Supreme Court and judges of the Court of Appeals declaring their candidacy to the county clerk of each county; and

(ii) transmit a certified list containing the names of judges of other courts declaring their candidacy to the county clerk of each county in the geographic division in which the judge filing the declaration holds office.

(b) Each county clerk shall place the names of justices and judges standing for retention election in the nonpartisan section of the ballot.

(4) (a) At the general election, the ballots shall contain, as to each justice or judge of any court to be voted on in the county, the following question:

"Shall _____ (name of justice or judge) be retained in the office of _____? (name of office, such as "Justice of the Supreme Court of Utah"; "Judge of the Court of Appeals of Utah"; "Judge of the District Court of the Third Judicial District"; "Judge of the Juvenile Court of the Fourth Juvenile Court District"; "Justice Court Judge of (name of county) County or (name of municipality)")

Yes ()

No ()."

(b) If a justice court exists by means of an interlocal agreement under Section 78A-7-102, the ballot question for the judge shall include the name of that court.

(5) (a) If the justice or judge receives more yes votes than no votes, the justice or judge is retained for the term of office provided by law.

(b) If the justice or judge does not receive more yes votes than no votes, the justice or judge is not retained, and a vacancy exists in the office on the first Monday in January after the regular general election.

(6) A justice or judge not retained is ineligible for appointment to the office for which the justice or judge was defeated until after the expiration of that term of office.

(7) If a justice court judge is standing for retention for more than one office, the county clerk shall place the judge's name on the ballot separately for each office. If the justice court judge receives more no votes than yes votes in one office, but more yes votes than no votes in the other, the justice court judge shall be retained only in the office for which the judge received more yes votes than no votes.

CHAPTER 208**S. B. 254**

Passed March 12, 2014

Approved March 29, 2014

Effective May 13, 2014

**REPEAL OF CERTIFIED NURSE
MIDWIFE EDUCATION AND
ENFORCEMENT ACCOUNT**

Chief Sponsor: Lyle W. Hillyard

House Sponsor: Melvin R. Brown

LONG TITLE**General Description:**

This bill repeals the Certified Nurse Midwife Education and Enforcement Account.

Highlighted Provisions:

This bill:

- ▶ repeals the Certified Nurse Midwife Education and Enforcement Account.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**REPEALS:**

58-44a-103, as last amended by Laws of Utah 2011,
Chapter 303

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

Section 1. Repealer.

This bill repeals:

**Section 58-44a-103, Certified Nurse Midwife
Education and Enforcement Account.**

CHAPTER 209**S. B. 264**

Passed March 12, 2014
 Approved March 29, 2014
 Effective May 13, 2014

**RETENTION OF OUTSIDE COUNSEL,
 EXPERT WITNESSES, AND LITIGATION
 SUPPORT SERVICES**

Chief Sponsor: J. Stuart Adams
 House Sponsor: Daniel McCay

LONG TITLE**General Description:**

This bill modifies a provision relating to the attorney general's procurement of litigation related services.

Highlighted Provisions:

This bill:

- ▶ modifies a provision relating to attorney general rules on the procurement of outside counsel and other litigation services;
- ▶ requires the attorney general to submit proposed rules to a legislative interim committee;
- ▶ requires review of the proposed rules by a legislative interim committee; and
- ▶ modifies the required contents of proposed rules.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

67-5-32, as enacted by Laws of Utah 2012, Fourth Special Session, Chapter 2

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

Section 1. Section 67-5-32 is amended to read:

67-5-32. Rulemaking authority regarding the procurement of outside counsel, expert witnesses, and other litigation support services.

(1) (a) The attorney [~~general's office~~] general shall, ~~on or before August 1, 2012~~ in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish public disclosure, transparency, accountability, reasonable fees and limits on fees, and reporting in relation to the procurement of outside counsel, expert witnesses, and other litigation support services.

(b) On or before May 30, 2014, the attorney general shall submit to the Business and Labor Interim Committee, for its review, comment, and recommendations, the attorney general's proposed rules under Subsection (1)(a) relating to fee limits for outside counsel, including any provisions relating to exceptions to or a waiver of the fee limits.

(c) Before September 1, 2014, the Business and Labor Interim Committee shall include the

attorney general's proposed rules described in Subsection (1)(b) on a committee agenda for the purpose of allowing the committee to review, comment, and make recommendations on the proposed rules.

(2) The rules described in Subsection (1) shall:

(a) ensure that a procurement for outside counsel is supported by a determination by the attorney general that the procurement is in the best interests of the state, in light of available resources of the attorney general's office;

(b) provide for the fair and equitable treatment of all potential providers of outside counsel, expert witnesses, and other litigation support services;

(c) ensure a competitive process, to the greatest extent possible, for the procurement of outside counsel, expert witnesses, and other litigation support services;

(d) ensure that fees for outside counsel, whether based on an hourly rate, contingency fee, or other arrangement, are reasonable and consistent with industry standards;

(e) ensure that contingency fee arrangements do not encourage high risk litigation that is not in the best interests of the citizens of the state;

~~[(d)]~~ (f) provide for oversight and control, by the attorney general's office, in relation to outside counsel ~~[hired under a contingency]~~, regardless of the type of fee arrangement under which outside counsel is hired;

(g) prohibit outside counsel from adding a party to a lawsuit or causing a new party to be served with process without the express written authorization of the attorney general's office;

~~[(e)]~~ (h) establish for transparency regarding the procurement of outside counsel, expert witnesses, and other litigation support services, subject to:

(i) Title 63G, Chapter 2, Government Records Access and Management Act; and

(ii) other applicable provisions of law and the Utah Rules of Professional Conduct;

~~[(f)]~~ (i) establish standard contractual terms for the procurement of outside counsel, expert witnesses, and other litigation support services; and

~~[(g)]~~ (j) provide for the retention of records relating to the procurement of outside counsel, expert witnesses, and other litigation support services.

CHAPTER 210**S. B. 267**

Passed March 13, 2014
 Approved March 29, 2014
 Effective May 13, 2014

**GOVERNMENTAL
 IMMUNITY ACT AMENDMENTS**

Chief Sponsor: Todd Weiler
 House Sponsor: Kay L. McIff

LONG TITLE**General Description:**

This bill modifies a provision relating to the filing of a notice of claim.

Highlighted Provisions:

This bill:

- ▶ provides that a governmental entity may not challenge the timeliness of a notice of claim filed within a specified time if the claimant had in good faith previously filed a notice of claim with another governmental entity and if other conditions are met.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63G-7-401, as last amended by Laws of Utah 2009, Chapter 350

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

Section 1. Section 63G-7-401 is amended to read:**63G-7-401. When a claim arises -- Notice of claim requirements -- Governmental entity statement -- Limits on challenging validity or timeliness of notice of claim.**

(1) (a) Except as provided in Subsection (1)(b), a claim arises when the statute of limitations that would apply if the claim were against a private person begins to run.

(b) The statute of limitations does not begin to run until a claimant knew, or with the exercise of reasonable diligence should have known:

(i) that the claimant had a claim against the governmental entity or its employee; and

(ii) the identity of the governmental entity or the name of the employee.

(c) The burden to prove the exercise of reasonable diligence is upon the claimant.

(2) Any person having a claim against a governmental entity, or against its employee for an act or omission occurring during the performance of the employee's duties, within the scope of employment, or under color of authority shall file a written notice of claim with the entity before maintaining an action, regardless of whether or not

the function giving rise to the claim is characterized as governmental.

(3) (a) The notice of claim shall set forth:

(i) a brief statement of the facts;

(ii) the nature of the claim asserted;

(iii) the damages incurred by the claimant so far as they are known; and

(iv) if the claim is being pursued against a governmental employee individually as provided in Subsection 63G-7-202(3)(c), the name of the employee.

(b) The notice of claim shall be:

(i) signed by the person making the claim or that person's agent, attorney, parent, or legal guardian; and

(ii) directed and delivered by hand or by mail according to the requirements of Section 68-3-8.5 to the office of:

(A) the city or town clerk, when the claim is against an incorporated city or town;

(B) the county clerk, when the claim is against a county;

(C) the superintendent or business administrator of the board, when the claim is against a school district or board of education;

(D) the presiding officer or secretary/clerk of the board, when the claim is against a local district or special service district;

(E) the attorney general, when the claim is against the state;

(F) a member of the governing board, the executive director, or executive secretary, when the claim is against any other public board, commission, or body; or

(G) the agent authorized by a governmental entity to receive the notice of claim by the governmental entity under Subsection (5)(e).

(4) (a) If an injury that may reasonably be expected to result in a claim against a governmental entity is sustained by a claimant who is under the age of majority or mentally incompetent, that governmental entity may file a request with the court for the appointment of a guardian ad litem for the potential claimant.

(b) If a guardian ad litem is appointed, the time for filing a claim under Section 63G-7-402 begins when the order appointing the guardian is issued.

(5) (a) Each governmental entity subject to suit under this chapter shall file a statement with the Division of Corporations and Commercial Code within the Department of Commerce containing:

(i) the name and address of the governmental entity;

(ii) the office or agent designated to receive a notice of claim; and

(iii) the address at which it is to be directed and delivered.

(b) Each governmental entity shall update its statement as necessary to ensure that the information is accurate.

(c) The Division of Corporations and Commercial Code shall develop a form for governmental entities to complete that provides the information required by Subsection (5)(a).

(d) (i) A newly incorporated municipality shall file the statement required by Subsection (5)(a) promptly after the lieutenant governor issues a certificate of incorporation under Section 67-1a-6.5.

(ii) A newly incorporated local district shall file the statement required by Subsection (5)(a) at the time that the written notice is filed with the lieutenant governor under Section 17B-1-215.

(e) A governmental entity may, in its statement, identify an agent authorized by the entity to accept notices of claim on its behalf.

(6) The Division of Corporations and Commercial Code shall:

(a) maintain an index of the statements required by this section arranged both alphabetically by entity and by county of operation; and

(b) make the indices available to the public both electronically and via hard copy.

(7) A governmental entity may not challenge the validity of a notice of claim on the grounds that it was not directed and delivered to the proper office or agent if the error is caused by the governmental entity's failure to file or update the statement required by Subsection (5).

(8) A governmental entity may not challenge the timeliness, under Section 63G-7-402, of a notice of claim if:

(a) the claimant files a notice of claim with the governmental entity:

(i) in accordance with the requirements of this section; and

(ii) within 30 days after the expiration of the time for filing a notice of claim under Section 63G-7-402;

(b) the claimant demonstrates that the claimant previously filed a notice of claim:

(i) in accordance with the requirements of this section;

(ii) with an incorrect governmental entity;

(iii) in the good faith belief that the claimant was filing the notice of claim with the correct governmental entity;

(iv) within the time for filing a notice of claim under Section 63G-7-402; and

(v) no earlier than 30 days before the expiration of the time for filing a notice of claim under Section 63G-7-402; and

(c) the claimant submits with the notice of claim:

(i) a copy of the previous notice of claim that was filed with a governmental entity other than the correct governmental entity; and

(ii) proof of the date the previous notice of claim was filed.

CHAPTER 211**S. B. 268**

Passed March 13, 2014
Approved March 29, 2014
Effective March 29, 2014

PRISON RELOCATION COMMISSION

Chief Sponsor: Jerry W. Stevenson
House Sponsor: Brad R. Wilson

LONG TITLE**General Description:**

This bill addresses the creation of a Prison Relocation Commission.

Highlighted Provisions:

This bill:

- ▶ enacts provisions creating the Prison Relocation Commission;
- ▶ provides for commission membership, duties, and responsibilities;
- ▶ requires the commission to study and make recommendations on how and where to move the state prison; and
- ▶ provides for the repeal of commission provisions.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2013-14:

- ▶ to the Senate, as a one-time appropriation:
 - from the General Fund, \$14,000, to pay salaries of senators serving on the Prison Relocation Commission;
- ▶ to the House of Representatives, as a one-time appropriation:
 - from the General Fund, \$19,000, to pay salaries of representatives serving on the Prison Relocation Commission;
- ▶ to the Office of Legislative Research and General Counsel, as a one-time appropriation:
 - from the General Fund, \$50,000, to pay for staff services for the Prison Relocation Commission; and
- ▶ to the Division of Facilities Construction and Management, as a one-time appropriation:
 - from the General Fund, \$3,417,000, to pay for new prison siting and for other services.

Other Special Clauses:

This bill provides an immediate effective date.

Utah Code Sections Affected:**AMENDS:**

63I-1-263, as last amended by Laws of Utah 2013, Chapters 28, 62, 101, 167, 250, and 413

ENACTS:

63C-15-101, Utah Code Annotated 1953
63C-15-102, Utah Code Annotated 1953
63C-15-201, Utah Code Annotated 1953
63C-15-202, Utah Code Annotated 1953
63C-15-203, Utah Code Annotated 1953
63C-15-204, Utah Code Annotated 1953

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

Section 1. Section 63C-15-101 is enacted to read:

CHAPTER 15. PRISON RELOCATION COMMISSION

Part 1. General Provisions

63C-15-101. Title.

This chapter is known as "Prison Relocation Commission."

Section 2. Section 63C-15-102 is enacted to read:

63C-15-102. Definitions.

As used in this chapter:

(1) "Commission" means the Prison Relocation Commission, created in Section 63C-15-201.

(2) "Department" means the Department of Corrections, created in Section 64-13-2.

(3) "Division" means the Division of Facilities Construction and Management, created in Section 63A-5-201.

(4) "Justice commission" means the Commission on Criminal and Juvenile Justice, created in Section 63M-7-201.

(5) "State prison" means the prison that the state operates in Salt Lake County.

Section 3. Section 63C-15-201 is enacted to read:

Part 2. Commission Provisions

63C-15-201. Commission created -- Membership -- Cochairs -- Removal -- Vacancy.

(1) There is created an advisory commission known as the Prison Relocation Commission, composed of:

(a) three members of the Senate, appointed by the president of the Senate, no more than two of whom may be from the same political party;

(b) four members of the House of Representatives, appointed by the speaker of the House of Representatives, no more than three of whom may be from the same political party;

(c) the executive director of the justice commission, appointed under Section 63M-7-203; and

(d) the executive director of the department, appointed under Section 64-13-3, or the executive director's designee.

(2) The commission members from the Senate and House of Representatives are voting members of the commission, and the members appointed under Subsections (1)(c) and (d) are nonvoting members of the commission.

(3) The president of the Senate shall appoint one of the commission members from the Senate as cochair of the commission, and the speaker of the House of Representatives shall appoint one of the

commission members from the House of Representatives as cochair of the commission.

(4) The president of the Senate may remove a member appointed under Subsection (1)(a), and the speaker of the House of Representatives may remove a member appointed under Subsection (1)(b).

(5) A vacancy of a member appointed under Subsection (1)(a) or (b) shall be filled in the same manner as an appointment of the member whose departure from the commission creates the vacancy.

(6) A commission member shall serve until a successor is duly appointed and qualified.

Section 4. Section 63C-15-202 is enacted to read:

63C-15-202. Quorum and voting requirements -- Bylaws -- Salaries and expenses -- Staff.

(1) A majority of the voting commission members constitutes a quorum, and the action of a majority of a quorum constitutes action of the commission.

(2) The commission may adopt bylaws to govern its operations and proceedings.

(3) (a) Salaries and expenses of commission members who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislative Compensation.

(b) A commission member who is not a legislator may not receive compensation, benefits, per diem, or expense reimbursement for the member's service on the commission.

(4) The Office of Legislative Research and General Counsel shall provide staff support to the commission.

Section 5. Section 63C-15-203 is enacted to read:

63C-15-203. Commission duties and responsibilities.

(1) The commission shall:

(a) carefully and deliberately consider, study, and evaluate how and where to move the state prison, and in that process:

(i) consider whether to locate new prison facilities on land already owned by the state or on land that is currently in other public or private ownership but that the state may acquire or lease, whether to locate new prison facilities at one location or multiple locations, and to what extent future corrections needs may be met by existing state and county facilities; and

(ii) take into account relevant objectives, including:

(A) coordinating the commission's efforts with the efforts of the justice commission and the department to evaluate criminal justice policies to

increase public safety, reduce recidivism, and reduce prison population growth;

(B) ensuring that new prison facilities are conducive to future inmate programming that encourages a reduction in recidivism;

(C) locating new prison facilities to help facilitate an adequate level of volunteer and staff support that will allow for a correctional program that is commensurate with the high standards that should be maintained in the state;

(D) locating new prison facilities within a reasonable distance of comprehensive medical facilities;

(E) locating new prison facilities to be compatible with surrounding land uses for the foreseeable future;

(F) locating new prison facilities with careful consideration given to the concerns of access to courts, visiting and public access, expansion capabilities, emergency response factors, and the availability of infrastructure;

(G) supporting new prison facilities by one or more appropriations from the Legislature;

(H) developing performance specifications for new prison facilities that facilitate a high quality correctional program;

(I) phasing in construction over a period of time; and

(J) making every reasonable effort to maximize efficiencies and cost savings that result from building and operating newer, more efficient prison facilities;

(b) invite the participation in commission meetings of interested parties, the public, experts in the area of prison facilities, and any others the commission considers to have information or ideas that would be useful to the commission;

(c) formulate recommendations concerning:

(i) the location or locations to which the new prison facilities should be moved;

(ii) the type of facilities that should be constructed to accommodate the prison population and to facilitate implementation of any new corrections programs; and

(iii) the extent to which future corrections needs can be met by existing state or county facilities; and

(d) before the start of the 2015 General Session of the Legislature, report the commission's recommendations in writing to the Legislature and governor.

(2) The commission may:

(a) meet as many times as the commission considers necessary or advisable in order to fulfill its responsibilities under this part;

(b) hire or direct the hiring of one or more consultants with experience or expertise in a subject under consideration by the commission, to

assist the commission in fulfilling its duties under this part; and

(c) in its discretion, elect to succeed to the position of the Prison Relocation and Development Authority under a contract that the Prison Relocation and Development Authority is a party to, subject to applicable contractual provisions.

(3) The commission may not:

(a) consider or evaluate future uses of the property on which the state prison is currently located;

(b) make recommendations concerning the future use or development of the land on which the state prison is currently located;

(c) make any commitments or enter into any contracts for the acquisition of land for new state prison facilities or regarding the construction of new state prison facilities; or

(d) initiate or pursue the procurement of a person to design or construct new prison facilities.

Section 6. Section 63C-15-204 is enacted to read:

63C-15-204. Other agencies' cooperation and actions.

(1) The department and the justice commission shall work cooperatively with the commission to help ensure that the location and nature of new prison facilities that the commission recommends are conducive to and consistent with any anticipated reforms of or changes to the state's corrections system and correction programs.

(2) As the commission works to formulate recommendations on how and where to relocate the state prison, the division may, in consultation with the commission, undertake efforts, consistent with the recommendations being formulated by the commission:

(a) to develop performance specifications for future prison facilities; and

(b) to identify and secure the rights to land that appears to be suitable for future prison facilities.

(3) All state agencies and political subdivisions of the state shall, upon the commission's request:

(a) reasonably cooperate with the commission to facilitate the fulfillment of its responsibilities; and

(b) provide information or assistance that the commission reasonably needs in order to fulfill its responsibilities.

Section 7. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63M.

(1) Section 63A-4-204, authorizing the Risk Management Fund to provide coverage to any public school district which chooses to participate, is repealed July 1, 2016.

(2) Subsections 63A-5-104(4)(d) and (e) are repealed on July 1, 2014.

(3) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2016.

(4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2018.

(5) Section 53B-24-402, rural residency training program, is repealed July 1, 2015.

(6) Title 63C, Chapter 13, Prison Relocation and Development Authority Act, is repealed July 1, 2014.

(7) Title 63C, Chapter 14, Federal Funds Commission, is repealed July 1, 2018.

(8) Title 63C, Chapter 15, Prison Relocation Commission, is repealed July 1, 2017.

[(8)] (9) Subsection 63G-6a-1402(7) authorizing certain transportation agencies to award a contract for a design-build transportation project in certain circumstances, is repealed July 1, 2015.

[(9)] (10) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.

[(10)] (11) The Resource Development Coordinating Committee, created in Section 63J-4-501, is repealed July 1, 2015.

[(11)] (12) Title 63M, Chapter 1, Part 4, Enterprise Zone Act, is repealed July 1, 2018.

[(12)] (13) (a) Title 63M, Chapter 1, Part 11, Recycling Market Development Zone Act, is repealed January 1, 2021.

(b) Subject to Subsection [(12)] (13)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections [(12)] (13)(b) and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.

[43] (14) (a) Section 63M-1-2507, Health Care Compact is repealed on July 1, 2014.

(b) (i) The Legislature shall, before reauthorizing the Health Care Compact:

(A) direct the Health System Reform Task Force to evaluate the issues listed in Subsection [43] (14)(b)(ii), and by January 1, 2013, develop and recommend criteria for the Legislature to use to negotiate the terms of the Health Care Compact; and

(B) prior to July 1, 2014, seek amendments to the Health Care Compact among the member states that the Legislature determines are appropriate after considering the recommendations of the Health System Reform Task Force.

(ii) The Health System Reform Task Force shall evaluate and develop criteria for the Legislature regarding:

(A) the impact of the Supreme Court ruling on the Affordable Care Act;

(B) whether Utah is likely to be required to implement any part of the Affordable Care Act prior to negotiating the compact with the federal government, such as Medicaid expansion in 2014;

(C) whether the compact's current funding formula, based on adjusted 2010 state expenditures, is the best formula for Utah and other state compact members to use for establishing the block grants from the federal government;

(D) whether the compact's calculation of current year inflation adjustment factor, without consideration of the regional medical inflation rate in the current year, is adequate to protect the state from increased costs associated with administering a state based Medicaid and a state based Medicare program;

(E) whether the state has the flexibility it needs under the compact to implement and fund state based initiatives, or whether the compact requires uniformity across member states that does not benefit Utah;

(F) whether the state has the option under the compact to refuse to take over the federal Medicare program;

(G) whether a state based Medicare program would provide better benefits to the elderly and disabled citizens of the state than a federally run Medicare program;

(H) whether the state has the infrastructure necessary to implement and administer a better state based Medicare program;

(I) whether the compact appropriately delegates policy decisions between the legislative and executive branches of government regarding the development and implementation of the compact with other states and the federal government; and

(J) the impact on public health activities, including communicable disease surveillance and epidemiology.

[44] (15) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2017.

[45] (16) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2017.

Section 8. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2013 and ending June 30, 2014, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These are additions to any amounts previously appropriated for fiscal year 2014.

To Legislature - Senate

From General Fund, one-time \$14,000

Schedule of Programs:

Administration \$14,000

To Legislature - House of Representatives

From General Fund, one-time \$19,000

Schedule of Programs:

Administration \$19,000

To Legislature - Office of Legislative Research and General Counsel

From General Fund, one-time \$50,000

Schedule of Programs:

Administration \$50,000

To Administrative Services - DFCM Administration

From General Fund, one-time \$3,417,000

Schedule of Programs:

DFCM Administration \$3,417,000

The Legislature intends that the appropriation of \$3,417,000 to the Division of Facilities Construction and Management be used by the division, in cooperation and consultation with the Prison Relocation Commission, in fulfilling the division's responsibilities under Subsection 63C-15-204(2), including the analysis and selection of, planning related to, and securing the rights to land suitable for one or more new prison sites. Under terms of Subsection 63J-1-603(3)(a), the Legislature intends that the \$3,417,000 appropriation provided in this bill not lapse at the close of fiscal year 2014. The use of any nonlapsing funds is limited to the analysis and selection of, planning related to, and securing the rights to land suitable for one or more new prison sites.

Section 9. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's

signature, or in the case of a veto, the date of veto
override.

CHAPTER 212**S. B. 273**

Passed March 12, 2014
 Approved March 29, 2014
 Effective May 13, 2014

REPEAL OF VETERANS' NURSING HOME REIMBURSEMENT ACCOUNT

Chief Sponsor: Lyle W. Hillyard
 House Sponsor: Melvin R. Brown
 Cosponsor: Scott K. Jenkins

LONG TITLE**General Description:**

This bill repeals the Veterans' Nursing Home Reimbursement Restricted Account and appropriates the funds that remain in the account.

Highlighted Provisions:

This bill:

- ▶ repeals the Veterans' Nursing Home Reimbursement Restricted Account; and
- ▶ appropriates \$105,000 from a General Fund restricted account to the Utah Veterans' Nursing Home Fund.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2014:

- ▶ to the Utah Veterans' Nursing Home Fund as a one-time appropriation:
 - from the General Fund Restricted, One-time - Veterans' Nursing Home Reimbursement Restricted Account, \$105,000.

Other Special Clauses:

This bill provides an effective date.

Utah Code Sections Affected:**REPEALS:**

71-11-11, as enacted by Laws of Utah 2010, Chapter 148

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

Section 1. Repealer.

This bill repeals:

Section 71-11-11, Veterans' Nursing Home Reimbursement Restricted Account.**Section 2. Appropriation.**

The Legislature has reviewed the following expendable special revenue fund. The Legislature authorizes the State Division of Finance to transfer amounts among the account and fund as indicated for the fiscal year beginning July 1, 2013 and ending June 30, 2014. Outlays and expenditures from the recipient fund may be made without further legislative action according to a fund's applicable authorizing statute.

Veterans' and Military Affairs

To Utah Veterans' Nursing Home Fund

From General Fund Restricted - Veterans' Nursing Home

Reimbursement Account \$105,000

Schedule of Programs:

Utah Veterans' Nursing Home Fund \$105,000

Section 3. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 13, 2014.

(2) If approved by two-thirds of all the members elected to each house, Uncodified Section 2, Appropriation, takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 213**H. B. 21**

Passed February 13, 2014

Approved March 31, 2014

Effective May 13, 2014

**SYSTEM OF CARE FOR
MINORS IN STATE CUSTODY**Chief Sponsor: Dean Sanpei
Senate Sponsor: Allen M. Christensen**LONG TITLE****General Description:**

This bill modifies Title 17, Chapter 43, Local Human Services Act, and Title 62A, Utah Human Services Code, by promoting a system of care for a minor with or at risk for complex emotional and behavioral needs.

Highlighted Provisions:

This bill:

- ▶ defines system of care;
- ▶ requires the executive director of the Department of Human Services to establish a system of care for minors with or at risk for complex emotional and behavioral needs; and
- ▶ requires local substance abuse and mental health authorities to cooperate with the Department of Human Services in promoting the system of care model.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17-43-201, as last amended by Laws of Utah 2013, Chapter 17

17-43-301, as last amended by Laws of Utah 2013, Chapter 17

62A-1-104, as last amended by Laws of Utah 1990, Chapter 183

62A-1-111, as last amended by Laws of Utah 2012, Chapters 212 and 316

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 17-43-201 is amended to read:****17-43-201. Local substance abuse authorities -- Responsibilities.**

(1) (a) (i) In each county operating under a county executive-council form of government under Section 17-52-504, the county legislative body is the local substance abuse authority, provided however that any contract for plan services shall be administered by the county executive.

(ii) In each county operating under a council-manager form of government under Section 17-52-505, the county manager is the local substance abuse authority.

(iii) In each county other than a county described in Subsection (1)(a)(i) or (ii), the county legislative body is the local substance abuse authority.

(b) Within legislative appropriations and county matching funds required by this section, and under the direction of the division, each local substance abuse authority shall:

(i) develop substance abuse prevention and treatment services plans;

(ii) provide substance abuse services to residents of the county; and

(iii) cooperate with efforts of the Division of Substance Abuse and Mental Health to promote integrated programs that address an individual's substance abuse, mental health, and physical healthcare needs, as described in Section 62A-15-103.

(c) Within legislative appropriations and county matching funds required by this section, each local substance abuse authority shall cooperate with the efforts of the Department of Human Services to promote a system of care, as defined in Section 62A-1-104, for minors with or at risk for complex emotional and behavioral needs, as described in Section 62A-1-111.

(2) (a) By executing an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, two or more counties may join to provide substance abuse prevention and treatment services.

(b) The legislative bodies of counties joining to provide services may establish acceptable ways of apportioning the cost of substance abuse services.

(c) Each agreement for joint substance abuse services shall:

(i) (A) designate the treasurer of one of the participating counties or another person as the treasurer for the combined substance abuse authorities and as the custodian of money available for the joint services; and

(B) provide that the designated treasurer, or other disbursing officer authorized by the treasurer, may make payments from the money for the joint services upon audit of the appropriate auditing officer or officers representing the participating counties;

(ii) provide for the appointment of an independent auditor or a county auditor of one of the participating counties as the designated auditing officer for the combined substance abuse authorities;

(iii) (A) provide for the appointment of the county or district attorney of one of the participating counties as the designated legal officer for the combined substance abuse authorities; and

(B) authorize the designated legal officer to request and receive the assistance of the county or district attorneys of the other participating counties in defending or prosecuting actions within their counties relating to the combined substance abuse authorities; and

(iv) provide for the adoption of management, clinical, financial, procurement, personnel, and administrative policies as already established by one of the participating counties or as approved by the legislative body of each participating county or interlocal board.

(d) An agreement for joint substance abuse services may provide for joint operation of services and facilities or for operation of services and facilities under contract by one participating local substance abuse authority for other participating local substance abuse authorities.

(3) (a) Each local substance abuse authority is accountable to the department, the Department of Health, and the state with regard to the use of state and federal funds received from those departments for substance abuse services, regardless of whether the services are provided by a private contract provider.

(b) Each local substance abuse authority shall comply, and require compliance by its contract provider, with all directives issued by the department and the Department of Health regarding the use and expenditure of state and federal funds received from those departments for the purpose of providing substance abuse programs and services. The department and Department of Health shall ensure that those directives are not duplicative or conflicting, and shall consult and coordinate with local substance abuse authorities with regard to programs and services.

(4) Each local substance abuse authority shall:

(a) review and evaluate substance abuse prevention and treatment needs and services, including substance abuse needs and services for individuals incarcerated in a county jail or other county correctional facility;

(b) annually prepare and submit to the division a plan approved by the county legislative body for funding and service delivery that includes:

(i) provisions for services, either directly by the substance abuse authority or by contract, for adults, youth, and children, including those incarcerated in a county jail or other county correctional facility; and

(ii) primary prevention, targeted prevention, early intervention, and treatment services;

(c) establish and maintain, either directly or by contract, programs licensed under Title 62A, Chapter 2, Licensure of Programs and Facilities;

(d) appoint directly or by contract a full or part time director for substance abuse programs, and prescribe the director's duties;

(e) provide input and comment on new and revised rules established by the division;

(f) establish and require contract providers to establish administrative, clinical, procurement, personnel, financial, and management policies regarding substance abuse services and facilities,

in accordance with the rules of the division, and state and federal law;

(g) establish mechanisms allowing for direct citizen input;

(h) annually contract with the division to provide substance abuse programs and services in accordance with the provisions of Title 62A, Chapter 15, Substance Abuse and Mental Health Act;

(i) comply with all applicable state and federal statutes, policies, audit requirements, contract requirements, and any directives resulting from those audits and contract requirements;

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

(k) provide funding equal to at least 20% of the state funds that it receives to fund services described in the plan;

(l) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal Cooperation Act, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act;

(m) for persons convicted of driving under the influence in violation of Section 41-6a-502 or 41-6a-517, conduct the following as defined in Section 41-6a-501:

(i) a screening;

(ii) an assessment;

(iii) an educational series; and

(iv) substance abuse treatment; and

(n) utilize proceeds of the accounts described in Subsection 62A-15-503(1) to supplement the cost of providing the services described in Subsection (4)(m).

(5) Before disbursing any public funds, each local substance abuse authority shall require that each entity that receives any public funds from the local substance abuse authority agrees in writing that:

(a) the entity's financial records and other records relevant to the entity's performance of the services provided to the local substance abuse authority shall be subject to examination by:

(i) the division;

(ii) the local substance abuse authority director;

(iii) (A) the county treasurer and county or district attorney; or

(B) if two or more counties jointly provide substance abuse services under an agreement under Subsection (2), the designated treasurer and the designated legal officer;

(iv) the county legislative body; and

(v) in a county with a county executive that is separate from the county legislative body, the county executive;

(b) the county auditor may examine and audit the entity's financial and other records relevant to the entity's performance of the services provided to the local substance abuse authority; and

(c) the entity will comply with the provisions of Subsection (3)(b).

(6) A local substance abuse authority may receive property, grants, gifts, supplies, materials, contributions, and any benefit derived therefrom, for substance abuse services. If those gifts are conditioned upon their use for a specified service or program, they shall be so used.

(7) (a) As used in this section, "public funds" means the same as that term is defined in Section 17-43-203.

(b) Public funds received for the provision of services pursuant to the local substance abuse plan may not be used for any other purpose except those authorized in the contract between the local substance abuse authority and the provider for the provision of plan services.

(8) Subject to the requirements of the federal Substance Abuse Prevention and Treatment Block Grant, Public Law 102-321, a local substance abuse authority shall ensure that all substance abuse treatment programs that receive public funds:

(a) accept and provide priority for admission to a pregnant woman or a pregnant minor; and

(b) if admission of a pregnant woman or a pregnant minor is not possible within 24 hours of the time that a request for admission is made, provide a comprehensive referral for interim services that:

(i) are accessible to the pregnant woman or pregnant minor;

(ii) are best suited to provide services to the pregnant woman or pregnant minor;

(iii) may include:

(A) counseling;

(B) case management; or

(C) a support group; and

(iv) shall include a referral for:

(A) prenatal care; and

(B) counseling on the effects of alcohol and drug use during pregnancy.

(9) If a substance abuse treatment program described in Subsection (8) is not able to accept and admit a pregnant woman or pregnant minor under Subsection (8) within 48 hours of the time that request for admission is made, the local substance abuse authority shall contact the Division of Substance Abuse and Mental Health for assistance in providing services to the pregnant woman or pregnant minor.

Section 2. Section 17-43-301 is amended to read:

17-43-301. Local mental health authorities -- Responsibilities.

(1) (a) (i) In each county operating under a county executive-council form of government under Section 17-52-504, the county legislative body is the local mental health authority, provided however that any contract for plan services shall be administered by the county executive.

(ii) In each county operating under a council-manager form of government under Section 17-52-505, the county manager is the local mental health authority.

(iii) In each county other than a county described in Subsection (1)(a)(i) or (ii), the county legislative body is the local mental health authority.

(b) Within legislative appropriations and county matching funds required by this section, under the direction of the division, each local mental health authority shall:

(i) provide mental health services to persons within the county; and

(ii) cooperate with efforts of the Division of Substance Abuse and Mental Health to promote integrated programs that address an individual's substance abuse, mental health, and physical healthcare needs, as described in Section 62A-15-103.

(c) Within legislative appropriations and county matching funds required by this section, each local mental health authority shall cooperate with the efforts of the Department of Human Services to promote a system of care, as defined in Section 62A-1-104, for minors with or at risk for complex emotional and behavioral needs, as described in Section 62A-1-111.

(2) (a) By executing an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, two or more counties may join to provide mental health prevention and treatment services.

(b) The legislative bodies of counties joining to provide services may establish acceptable ways of apportioning the cost of mental health services.

(c) Each agreement for joint mental health services shall:

(i) (A) designate the treasurer of one of the participating counties or another person as the treasurer for the combined mental health authorities and as the custodian of money available for the joint services; and

(B) provide that the designated treasurer, or other disbursing officer authorized by the treasurer, may make payments from the money available for the joint services upon audit of the appropriate auditing officer or officers representing the participating counties;

(ii) provide for the appointment of an independent auditor or a county auditor of one of the participating counties as the designated

auditing officer for the combined mental health authorities;

(iii) (A) provide for the appointment of the county or district attorney of one of the participating counties as the designated legal officer for the combined mental health authorities; and

(B) authorize the designated legal officer to request and receive the assistance of the county or district attorneys of the other participating counties in defending or prosecuting actions within their counties relating to the combined mental health authorities; and

(iv) provide for the adoption of management, clinical, financial, procurement, personnel, and administrative policies as already established by one of the participating counties or as approved by the legislative body of each participating county or interlocal board.

(d) An agreement for joint mental health services may provide for:

(i) joint operation of services and facilities or for operation of services and facilities under contract by one participating local mental health authority for other participating local mental health authorities; and

(ii) allocation of appointments of members of the mental health advisory council between or among participating counties.

(3) (a) Each local mental health authority is accountable to the department, the Department of Health, and the state with regard to the use of state and federal funds received from those departments for mental health services, regardless of whether the services are provided by a private contract provider.

(b) Each local mental health authority shall comply, and require compliance by its contract provider, with all directives issued by the department and the Department of Health regarding the use and expenditure of state and federal funds received from those departments for the purpose of providing mental health programs and services. The department and Department of Health shall ensure that those directives are not duplicative or conflicting, and shall consult and coordinate with local mental health authorities with regard to programs and services.

(4) (a) Each local mental health authority shall:

(i) review and evaluate mental health needs and services, including mental health needs and services for persons incarcerated in a county jail or other county correctional facility;

(ii) as provided in Subsection (4)(b), annually prepare and submit to the division a plan approved by the county legislative body for mental health funding and service delivery, either directly by the local mental health authority or by contract;

(iii) establish and maintain, either directly or by contract, programs licensed under Title 62A, Chapter 2, Licensure of Programs and Facilities;

(iv) appoint, directly or by contract, a full-time or part-time director for mental health programs and prescribe the director's duties;

(v) provide input and comment on new and revised rules established by the division;

(vi) establish and require contract providers to establish administrative, clinical, personnel, financial, procurement, and management policies regarding mental health services and facilities, in accordance with the rules of the division, and state and federal law;

(vii) establish mechanisms allowing for direct citizen input;

(viii) annually contract with the division to provide mental health programs and services in accordance with the provisions of Title 62A, Chapter 15, Substance Abuse and Mental Health Act;

(ix) comply with all applicable state and federal statutes, policies, audit requirements, contract requirements, and any directives resulting from those audits and contract requirements;

(x) provide funding equal to at least 20% of the state funds that it receives to fund services described in the plan;

(xi) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal Cooperation Act, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act; and

(xii) take and retain physical custody of minors committed to the physical custody of local mental health authorities by a judicial proceeding under Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health.

(b) Each plan under Subsection (4)(a)(ii) shall include services for adults, youth, and children, which shall include:

(i) inpatient care and services;

(ii) residential care and services;

(iii) outpatient care and services;

(iv) 24-hour crisis care and services;

(v) psychotropic medication management;

(vi) psychosocial rehabilitation, including vocational training and skills development;

(vii) case management;

(viii) community supports, including in-home services, housing, family support services, and respite services;

(ix) consultation and education services, including case consultation, collaboration with other county service agencies, public education, and public information; and

(x) services to persons incarcerated in a county jail or other county correctional facility.

(5) Before disbursing any public funds, each local mental health authority shall require that each entity that receives any public funds from a local mental health authority agrees in writing that:

(a) the entity's financial records and other records relevant to the entity's performance of the services provided to the mental health authority shall be subject to examination by:

- (i) the division;
- (ii) the local mental health authority director;
- (iii) (A) the county treasurer and county or district attorney; or

(B) if two or more counties jointly provide mental health services under an agreement under Subsection (2), the designated treasurer and the designated legal officer;

- (iv) the county legislative body; and

(v) in a county with a county executive that is separate from the county legislative body, the county executive;

(b) the county auditor may examine and audit the entity's financial and other records relevant to the entity's performance of the services provided to the local mental health authority; and

(c) the entity will comply with the provisions of Subsection (3)(b).

(6) A local mental health authority may receive property, grants, gifts, supplies, materials, contributions, and any benefit derived therefrom, for mental health services. If those gifts are conditioned upon their use for a specified service or program, they shall be so used.

(7) (a) As used in this section, "public funds" means the same as that term is defined in Section 17-43-303.

(b) Public funds received for the provision of services pursuant to the local mental health plan may not be used for any other purpose except those authorized in the contract between the local mental health authority and the provider for the provision of plan services.

Section 3. Section 62A-1-104 is amended to read:

62A-1-104. Definitions.

- (1) As used in this title:

(a) "Concurrence of the board" means agreement by a majority of the members of a board.

(b) "Department" means the Department of Human Services established in Section 62A-1-102.

(c) "Executive director" means the executive director of the department, appointed pursuant to Section 62A-1-108.

(d) "System of care" means a broad, flexible array of services and supports for minors with or at risk for complex emotional and behavioral needs that:

- (i) is community based;

(ii) integrates service planning, service coordination, and management across state and local entities;

(iii) includes individualized, person-centered planning;

(iv) builds meaningful partnerships with families and children; and

(v) provides supportive management and policy infrastructure that is organized into a coordinated network.

(2) The definitions provided in Subsection (1) are to be applied in addition to definitions contained throughout this title which are applicable to specific chapters or parts.

Section 4. Section 62A-1-111 is amended to read:

62A-1-111. Department authority.

The department may, in addition to all other authority and responsibility granted to it by law:

(1) adopt rules, not inconsistent with law, as the department may consider necessary or desirable for providing social services to the people of this state;

(2) establish and manage client trust accounts in the department's institutions and community programs, at the request of the client or the client's legal guardian or representative, or in accordance with federal law;

(3) purchase, as authorized or required by law, services that the department is responsible to provide for legally eligible persons;

(4) conduct adjudicative proceedings for clients and providers in accordance with the procedures of Title 63G, Chapter 4, Administrative Procedures Act;

(5) establish eligibility standards for its programs, not inconsistent with state or federal law or regulations;

(6) take necessary steps, including legal action, to recover money or the monetary value of services provided to a recipient who was not eligible;

(7) set and collect fees for its services;

(8) license agencies, facilities, and programs, except as otherwise allowed, prohibited, or limited by law;

(9) acquire, manage, and dispose of any real or personal property needed or owned by the department, not inconsistent with state law;

(10) receive gifts, grants, devises, and donations; gifts, grants, devises, donations, or the proceeds thereof, may be credited to the program designated by the donor, and may be used for the purposes requested by the donor, as long as the request conforms to state and federal policy; all donated funds shall be considered private, nonlapsing funds and may be invested under guidelines established by the state treasurer;

(11) accept and employ volunteer labor or services; the department is authorized to reimburse

volunteers for necessary expenses, when the department considers that reimbursement to be appropriate;

(12) carry out the responsibility assigned in the Workforce Services Plan by the State Council on Workforce Services;

(13) carry out the responsibility assigned by Section 35A-8-602 with respect to coordination of services for the homeless;

(14) carry out the responsibility assigned by Section 62A-5a-105 with respect to coordination of services for students with a disability;

(15) provide training and educational opportunities for its staff;

(16) collect child support payments and any other money due to the department;

(17) apply the provisions of Title 78B, Chapter 12, Utah Child Support Act, to parents whose child lives out of the home in a department licensed or certified setting;

(18) establish policy and procedures, within appropriations authorized by the Legislature, in cases where the department is given custody of a minor by the juvenile court pursuant to Section 78A-6-117 or ordered to prepare an attainment plan for a minor found not competent to proceed pursuant to Section 78A-6-1301; any policy and procedures shall include:

(a) designation of interagency teams for each juvenile court district in the state;

(b) delineation of assessment criteria and procedures;

(c) minimum requirements, and timeframes, for the development and implementation of a collaborative service plan for each minor placed in department custody; and

(d) provisions for submittal of the plan and periodic progress reports to the court;

(19) carry out the responsibilities assigned to it by statute;

(20) examine and audit the expenditures of any public funds provided to local substance abuse authorities, local mental health authorities, local area agencies on aging, and any person, agency, or organization that contracts with or receives funds from those authorities or agencies. Those local authorities, area agencies, and any person or entity that contracts with or receives funds from those authorities or area agencies, shall provide the department with any information the department considers necessary. The department is further authorized to issue directives resulting from any examination or audit to local authorities, area agencies, and persons or entities that contract with or receive funds from those authorities with regard to any public funds. If the department determines that it is necessary to withhold funds from a local mental health authority or local substance abuse authority based on failure to comply with state or federal law, policy, or contract provisions, it may

take steps necessary to ensure continuity of services. For purposes of this Subsection (20) "public funds" means the same as that term is defined in Section 62A-15-102; ~~and~~

(21) pursuant to Subsection 62A-2-106(1)(d), accredit one or more agencies and persons to provide intercountry adoption services~~[-];~~ and

(22) within appropriations authorized by the Legislature, promote and develop a system of care, as defined in Section 62A-1-104, within the department and with contractors that provide services to the department or any of the department's divisions.

CHAPTER 214**H. B. 23**

Passed February 21, 2014

Approved March 31, 2014

Effective May 13, 2014

SUICIDE PREVENTION REVISIONS

Chief Sponsor: Steve Eliason

Senate Sponsor: Howard A. Stephenson

LONG TITLE**General Description:**

This bill amends certain student survey and evaluation provisions related to public school suicide prevention.

Highlighted Provisions:

This bill:

- ▶ under certain circumstances, allows a school employee, agent, or school resource officer to intervene and ask a student questions regarding the student's suicidal thoughts, physically self-harming behavior, or thoughts of harming others, for the purposes of:
 - referring the student to appropriate prevention services; and
 - informing the student's parent;
- ▶ requires a school district or charter school to develop a policy related to school employee intervention measures on or before September 1, 2014;
- ▶ allows school personnel to ask a student questions related to youth suicide prevention, intervention, or postvention as part of the school's suicide prevention program; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-13-302, as last amended by Laws of Utah 2013, Chapter 335

53A-15-1301, as enacted by Laws of Utah 2013, Chapter 194

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

Section 1. Section 53A-13-302 is amended to read:**53A-13-302. Activities prohibited without prior written consent -- Validity of consent -- Qualifications -- Training on implementation.**

(1) [Policies] Except as provided in Subsection (7), Section 53A-11a-203, and Section 53A-15-1301, policies adopted by a school district or charter school under Section 53A-13-301 shall include prohibitions on the administration to a student of any psychological or psychiatric examination, test, or treatment, or any survey, analysis, or evaluation without the prior written consent of the student's parent or legal guardian, in which the purpose or evident intended effect is to cause the student to

reveal information, whether the information is personally identifiable or not, concerning the student's or any family member's:

- (a) political affiliations or, except as provided under Section 53A-13-101.1 or rules of the State Board of Education, political philosophies;
- (b) mental or psychological problems;
- (c) sexual behavior, orientation, or attitudes;
- (d) illegal, anti-social, self-incriminating, or demeaning behavior;
- (e) critical appraisals of individuals with whom the student or family member has close family relationships;
- (f) religious affiliations or beliefs;
- (g) legally recognized privileged and analogous relationships, such as those with lawyers, medical personnel, or ministers; and
- (h) income, except as required by law.

(2) Prior written consent under Subsection (1) is required in all grades, kindergarten through grade 12.

(3) Except as provided in Subsection (7), Section 53A-11a-203, and Section 53A-15-1301, the prohibitions under Subsection (1) shall also apply within the curriculum and other school activities unless prior written consent of the student's parent or legal guardian has been obtained.

(4) Written parental consent is valid only if a parent or legal guardian has been first given written notice, including notice that a copy of the educational or student survey questions to be asked of the student in obtaining the desired information is made available at the school, and a reasonable opportunity to obtain written information concerning:

- (a) records or information, including information about relationships, that may be examined or requested;
- (b) the means by which the records or information shall be examined or reviewed;
- (c) the means by which the information is to be obtained;
- (d) the purposes for which the records or information are needed;
- (e) the entities or persons, regardless of affiliation, who will have access to the personally identifiable information; and
- (f) a method by which a parent of a student can grant permission to access or examine the personally identifiable information.

(5) (a) Except in response to a situation which a school employee reasonably believes to be an emergency, or as authorized under Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect Reporting Requirements, or by order of a court, disclosure to a parent or legal guardian must be given at least two weeks before information protected under this section is sought.

(b) Following disclosure, a parent or guardian may waive the two week minimum notification period.

(c) Unless otherwise agreed to by a student's parent or legal guardian and the person requesting written consent, the authorization is valid only for the activity for which it was granted.

(d) A written withdrawal of authorization submitted to the school principal by the authorizing parent or guardian terminates the authorization.

(e) A general consent used to approve admission to school or involvement in special education, remedial education, or a school activity does not constitute written consent under this section.

(6) (a) This section does not limit the ability of a student under Section 53A-13-101.3 to spontaneously express sentiments or opinions otherwise protected against disclosure under this section.

(b) (i) If a school employee or agent believes that a situation exists which presents a serious threat to the well-being of a student, that employee or agent shall notify the student's parent or guardian without delay.

(ii) If, however, the matter has been reported to the Division of Child and Family Services within the Department of Human Services, it is the responsibility of the division to notify the student's parent or guardian of any possible investigation, prior to the student's return home from school.

(iii) The division may be exempted from the notification requirements described in this Subsection (6)(b)(ii) only if it determines that the student would be endangered by notification of his parent or guardian, or if that notification is otherwise prohibited by state or federal law.

(7) (a) If a school employee, agent, or school resource officer believes a student is at-risk of attempting suicide, physical self-harm, or harming others, the school employee, agent, or school resource officer may intervene and ask a student questions regarding the student's suicidal thoughts, physically self-harming behavior, or thoughts of harming others for the purposes of:

(i) referring the student to appropriate prevention services; and

(ii) informing the student's parent or legal guardian.

(b) On or before September 1, 2014, a school district or charter school shall develop and adopt a policy regarding intervention measures consistent with Subsection (7)(a) while requiring the minimum degree of intervention to accomplish the goals of this section.

[~~(7)~~] (8) Local school boards and charter school governing boards shall provide inservice for teachers and administrators [~~within their respective school districts~~] on the implementation of this section.

[~~(8)~~] (9) The board shall provide procedures for disciplinary action for violations of this section.

Section 2. Section 53A-15-1301 is amended to read:

53A-15-1301. Youth suicide prevention programs required in secondary schools -- State Board of Education to develop model programs -- Reporting requirements.

(1) As used in the section:

(a) "Board" means the State Board of Education.

(b) "Intervention" means an effort to prevent a student from attempting suicide.

(c) "Postvention" means mental health intervention after a suicide attempt or death to prevent or contain contagion.

(d) "Program" means a youth suicide prevention program described in Subsection (2).

(e) "Secondary grades":

(i) means grades 7 through 12; and

(ii) if a middle or junior high school includes grade 6, includes grade 6.

(f) "State Office of Education suicide prevention coordinator" means a person designated by the board as described in Subsection (3).

(g) "State suicide prevention coordinator" means the state suicide prevention coordinator described in Section 62A-15-1101.

(2) (a) In collaboration with the State Office of Education suicide prevention coordinator, a school district or charter school shall implement a youth suicide prevention program in the secondary grades of the school district or charter school.

(b) A school district or charter school's program shall include the following components:

(i) prevention of youth suicides;

(ii) youth suicide intervention; and

(iii) postvention for family, students, and faculty.

(3) The board shall:

(a) designate a State Office of Education suicide prevention coordinator; and

(b) in collaboration with the Department of Health and the state suicide prevention coordinator, develop model programs to provide to school districts and charter schools:

(i) program training; and

(ii) resources regarding the required components described in Subsection (2)(b).

(4) The State Office of Education suicide prevention coordinator shall:

(a) oversee the youth suicide prevention programs of school districts and charter schools; and

(b) coordinate prevention and postvention programs, services, and efforts with the state suicide prevention coordinator.

(5) A public school suicide prevention program may allow school personnel to ask a student questions related to youth suicide prevention, intervention, or postvention.

~~[(5)]~~ (6) Subject to legislative appropriation, the board may distribute money to a school district or charter school to be used to implement a program in the school district or charter school.

~~[(6)]~~ (7) (a) The board shall report to the Legislature's Education Interim Committee, by the November 2014 meeting, jointly with the state suicide prevention coordinator, on:

(i) the progress of school district and charter school programs; and

(ii) the board's coordination efforts with the Department of Health and the state suicide prevention coordinator.

(b) School districts and charter schools shall provide to the board information that is necessary for the board's report to the Legislature's Education Interim Committee as required in Subsection ~~[(6)]~~ (7)(a).

CHAPTER 215**H. B. 32**

Passed February 13, 2014

Approved March 31, 2014

Effective May 13, 2014

COLLEGE CREDIT FOR VETERANS

Chief Sponsor: Tim M. Cosgrove
 Senate Sponsor: Peter C. Knudson

LONG TITLE**General Description:**

This bill requires a college or university within the state system of higher education to notify veterans applying for admission that in order to receive credit for military training and experience, the veteran is required to meet with a college counselor.

Highlighted Provisions:

This bill:

- ▶ requires institutions of higher education to provide a written notification process for advising veterans of certain requirements necessary to receive college credit for military training and experience.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53B-16-107, as enacted by Laws of Utah 2013,
 Chapter 126

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

Section 1. Section 53B-16-107 is amended to read:**53B-16-107. Credit for military service and training -- Notification -- Transferability -- Reporting.**

(1) As used in this section, "credit" includes proof of equivalent noncredit course completion awarded by the Utah College of Applied Technology.

(2) An institution of higher education listed in Section 53B-2-101 shall award provide written notification to each student applying for admission that the student is required to meet with a college counselor in order to receive credit for military service and training as recommended by a postsecondary accreditation agency or association designated by the State Board of Regents or the Utah College of Applied Technology Board of Trustees if:

(a) credit for military service and training is requested by the student; and

(b) the student has met with an advisor at an institution of higher education listed in Section 53B-2-101 at which the student intends to enroll to discuss applicability of credit to program requirements, possible financial aid implications, and other factors that may impact attainment of the student's educational goals.

(3) Upon transfer within the state system of higher education, a student may present a transcript to the receiving institution for evaluation and to determine the applicability of credit to the student's program of study, and the receiving institution shall evaluate the credit to be transferred pursuant to Subsection (2).

(4) The State Board of Regents and the Utah College of Applied Technology Board of Trustees shall annually report the number of credits awarded under this section by each institution of higher education to the Education Interim Committee and the Utah Department of Veterans' Affairs.

CHAPTER 216**H. B. 45**

Passed February 21, 2014

Approved March 31, 2014

Effective May 13, 2014

IN-STATE TUITION FOR MILITARY SERVICE MEMBERS AND VETERANS

Chief Sponsor: Curtis Oda

Senate Sponsor: Howard A. Stephenson

Cosponsors: Rebecca D. Lockhart

Brad L. Dee

Don L. Ipson

Jennifer M. Seelig

Tim M. Cosgrove

Rebecca Chavez-Houck

Joel K. Briscoe

Jacob L. Anderegg

Jerry B. Anderson

Patrice M. Arent

Roger E. Barrus

Melvin R. Brown

Susan Duckworth

Rebecca P. Edwards

Janice M. Fisher

Richard A. Greenwood

Keith Grover

Stephen G. Handy

Lynn N. Hemingway

Ken Ivory

Michael S. Kennedy

John Knotwell

Bradley G. Last

Dana L. Layton

David E. Lifferth

John G. Mathis

Mike K. McKell

Ronda Rudd Menlove

Carol Spackman Moss

Merrill F. Nelson

Michael E. Noel

Lee B. Perry

Jeremy A. Peterson

Val L. Peterson

Dixon M. Pitcher

Marie H. Poulson

Paul Ray

Angela Romero

Dean Sanpei

Keven J. Stratton

R. Curt Webb

John R. Westwood

Mark A. Wheatley

Larry B. Wiley

Brad R. Wilson

LONG TITLE**General Description:**

This bill amends certain provisions related to in-state tuition for military servicemembers and veterans.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ clarifies and amends provisions related to the types of evidence that a military servicemember,

a veteran, and an immediate family member of a servicemember or veteran must provide to be considered a resident for in-state tuition purposes;

- ▶ removes the 12-month deadline within which a military veteran must provide evidence of an honorable discharge to be considered a resident for in-state tuition purposes;
- ▶ establishes a 5-year deadline within which a military veteran's immediate family member must provide evidence of an honorable discharge to be considered a resident for in-state tuition purposes;
- ▶ clarifies that an institution within the state system of higher education is required to grant resident student status to a military veteran under certain conditions regardless of whether the military veteran served in Utah; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53B-8-102, as last amended by Laws of Utah 2012, Chapter 275

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

Section 1. Section 53B-8-102 is amended to read:**53B-8-102. Definitions -- Resident student status -- Exceptions.**

(1) As used in this section[;]:

(a) "Immediate family member" means an individual's spouse or child.

(b) "Military servicemember" means:

(i) an individual who is serving on active duty in the United States Armed Forces within the state of Utah;

(ii) an individual who is a member of a reserve component of the United States Armed Forces assigned in Utah; or

(iii) an individual who is a member of the Utah National Guard.

(c) "Military veteran" means an individual who:

(i) has served on active duty:

(A) in the United States Armed Forces for at least 180 consecutive days or was a member of a reserve component and has been separated or retired with an honorable or general discharge; or

(B) in the National Guard and has been separated or retired with an honorable or general discharge; or

(ii) incurred an actual service-related injury or disability in the line of duty regardless of whether that person completed 180 days of active duty.

(d) [-"parent?"] "Parent" means a student's biological or adoptive parent.

(2) The meaning of “resident student” is determined by reference to the general law on the subject of domicile, except as provided in this section.

(3) (a) Institutions within the state system of higher education may grant resident student status to any student who has come to Utah and established residency for the purpose of attending an institution of higher education, and who, prior to registration as a resident student:

(i) has maintained continuous Utah residency status for one full year;

(ii) has signed a written declaration that the student has relinquished residency in any other state; and

(iii) has submitted objective evidence that the student has taken overt steps to establish permanent residency in Utah and that the student does not maintain a residence elsewhere.

(b) Evidence to satisfy the requirements under Subsection (3)(a)(iii) includes:

(i) a Utah high school transcript issued in the past year confirming attendance at a Utah high school in the past 12 months;

(ii) a Utah voter registration dated a reasonable period prior to application;

(iii) a Utah driver license or identification card with an original date of issue or a renewal date several months prior to application;

(iv) a Utah vehicle registration dated a reasonable period prior to application;

(v) evidence of employment in Utah for a reasonable period prior to application;

(vi) proof of payment of Utah resident income taxes for the previous year;

(vii) a rental agreement showing the student’s name and Utah address for at least 12 months prior to application; and

(viii) utility bills showing the student’s name and Utah address for at least 12 months prior to application.

(c) A student who is claimed as a dependent on the tax returns of a person who is not a resident of Utah is not eligible to apply for resident student status.

(4) Except as provided in Subsection (8), an institution within the state system of higher education may establish stricter criteria for determining resident student status.

(5) If an institution does not have a minimum credit-hour requirement, that institution shall honor the decision of another institution within the state system of higher education to grant a student resident student status, unless:

(a) the student obtained resident student status under false pretenses; or

(b) the facts existing at the time of the granting of resident student status have changed.

(6) Within the limits established in Title 53B, Chapter 8, Tuition Waiver and Scholarships, each institution within the state system of higher education may, regardless of its policy on obtaining resident student status, waive nonresident tuition either in whole or in part, but not other fees.

(7) In addition to the waivers of nonresident tuition under Subsection (6), each institution may, as athletic scholarships, grant full waiver of fees and nonresident tuition, up to the maximum number allowed by the appropriate athletic conference as recommended by the president of each institution.

(8) Notwithstanding Subsection (3), an institution within the state system of higher education shall grant resident student status for tuition purposes to:

~~[(a) Personnel of the United States Armed Forces assigned to active duty in Utah or members of a reserve component of the United States Armed Forces assigned to Utah, and the immediate members of their families residing with them in this state are entitled to resident student status for tuition purposes.]~~

(a) a military servicemember, if the military servicemember provides:

(i) the military servicemember’s current United States military identification card; and

(ii) a statement from the military servicemember’s current commander, or equivalent, stating that the military servicemember is assigned in Utah;

(b) a military servicemember’s immediate family member, if the military servicemember’s immediate family member provides:

(i) one of the following:

(A) the military servicemember’s current United States military identification card; or

(B) the immediate family member’s current United States military identification card; and

(ii) a statement from the military servicemember’s current commander, or equivalent, stating that the military servicemember is assigned in Utah;

(c) a military veteran, regardless of whether the military veteran served in Utah, if the military veteran provides:

(i) evidence of an honorable or general discharge;

(ii) a signed written declaration that the military veteran has relinquished residency in any other state and does not maintain a residence elsewhere;

(iii) objective evidence that the military veteran has taken overt steps to relinquish residency in any other state and establish residency in Utah, which may include any one of the following:

(A) a Utah voter registration card;

- (B) a Utah driver license or identification card;
- (C) a Utah vehicle registration;
- (D) evidence of employment in Utah;
- (E) a rental agreement showing the military veteran's name and Utah address; or
- (F) utility bills showing the military veteran's name and Utah address; and

(d) a military veteran's immediate family member, regardless of whether the military veteran served in Utah, if the military veteran's immediate family member provides:

(i) evidence of the military veteran's honorable or general discharge within the last five years;

(ii) a signed written declaration that the military veteran's immediate family member has relinquished residency in any other state and does not maintain a residence elsewhere; and

(iii) objective evidence that the military veteran's immediate family member has taken overt steps to relinquish residency in any other state and establish residency in Utah, which may include any one of the items described in Subsection (8)(c)(iii).

~~(b) Military personnel who had Utah residency immediately prior to their active duty status or reserve assignment and who reestablish residency in Utah upon the termination of active duty status or reserve assignment are entitled to resident student status for themselves and the immediate members of their families residing with them for tuition purposes.~~

~~(c) An institution within the state system of higher education shall grant resident student status for tuition purposes to a child of a United States military person assigned to active duty if the child produces:~~

~~(i) one of the following:~~

~~(A) the military parent's United States active duty military identification card;~~

~~(B) the child's United States active duty military identification and privilege card; or~~

~~(C) a statement from the military parent's current company commander stating that the military parent is on active duty; and~~

~~(ii) the military parent's state of legal residence certificate with Utah listed as the military parent's home of record.~~

~~(d) An institution within the state system of higher education shall grant resident student status for tuition purposes to a military veteran and the military veteran's immediate family members who reside in the state if the military veteran provides:~~

~~(i) evidence of a discharge from the United States Armed Forces, other than a dishonorable discharge, that occurred in the previous 12 months;~~

~~(ii) a signed written declaration that the military veteran has relinquished residency in any other~~

~~state and does not maintain a residence elsewhere; and]~~

~~[(iii) objective evidence that the military veteran has taken overt steps to relinquish residency in any other state and establish residency in Utah, which may include evidence of the following:]~~

~~[(A) a Utah voter registration card;]~~

~~[(B) a Utah driver license or identification card;]~~

~~[(C) a Utah vehicle registration;]~~

~~[(D) evidence of employment in Utah;]~~

~~[(E) a rental agreement showing name and Utah address; and]~~

~~[(F) utility bills showing name and Utah address.]~~

(9) (a) Aliens who are present in the United States on visitor, student, or other visas which authorize only temporary presence in this country, do not have the capacity to intend to reside in Utah for an indefinite period and therefore are classified as nonresidents.

(b) Aliens who have been granted immigrant or permanent resident status in the United States are classified for purposes of resident student status according to the same criteria applicable to citizens.

(10) Any American Indian who is enrolled on the tribal rolls of a tribe whose reservation or trust lands lie partly or wholly within Utah or whose border is at any point contiguous with the border of Utah, and any American Indian who is a member of a federally recognized or known Utah tribe and who has graduated from a high school in Utah, is entitled to resident student status.

(11) A Job Corps student is entitled to resident student status if the student:

(a) is admitted as a full-time, part-time, or summer school student in a program of study leading to a degree or certificate; and

(b) submits verification that the student is a current Job Corps student.

~~[(12) (a) A member of the Utah National Guard is entitled to resident student status if the student:]~~

~~[(i) is admitted as a full-time, part-time, or summer school student in a program of study leading to a degree or certificate; and]~~

~~[(ii) submits verification that the student is a member of the Utah National Guard.]~~

~~[(b) A member of the Utah National Guard who performs active duty service shall be considered to maintain continuous Utah residency under this section.]~~

~~[(13)] (12) A person is entitled to resident student status and may immediately apply for resident student status if the person:~~

(a) marries a Utah resident eligible to be a resident student under this section; and

(b) establishes his or her domicile in Utah as demonstrated by objective evidence as provided in Subsection (3).

[14] (13) Notwithstanding Subsection (3)(c), a dependent student who has at least one parent who has been domiciled in Utah for at least 12 months prior to the student's application is entitled to resident student status.

[15] (14) (a) A person who has established domicile in Utah for full-time permanent employment may rebut the presumption of a nonresident classification by providing substantial evidence that the reason for the individual's move to Utah was, in good faith, based on an employer requested transfer to Utah, recruitment by a Utah employer, or a comparable work-related move for full-time permanent employment in Utah.

(b) All relevant evidence concerning the motivation for the move shall be considered, including:

(i) the person's employment and educational history;

(ii) the dates when Utah employment was first considered, offered, and accepted;

(iii) when the person moved to Utah;

(iv) the dates when the person applied for admission, was admitted, and was enrolled as a postsecondary student;

(v) whether the person applied for admission to an institution of higher education sooner than four months from the date of moving to Utah;

(vi) evidence that the person is an independent person who is:

(A) at least 24 years of age; or

(B) not claimed as a dependent on someone else's tax returns; and

(vii) any other factors related to abandonment of a former domicile and establishment of a new domicile in Utah for purposes other than to attend an institution of higher education.

[16] (15) (a) A person who is in residence in Utah to participate in a United States Olympic athlete training program, at a facility in Utah, approved by the governing body for the athlete's Olympic sport, shall be entitled to resident status for tuition purposes.

(b) Upon the termination of the athlete's participation in the training program, the athlete shall be subject to the same residency standards applicable to other persons under this section.

(c) Time spent domiciled in Utah during the Olympic athlete training program in Utah counts for Utah residency for tuition purposes upon termination of the athlete's participation in a Utah Olympic athlete training program.

[17] (16) (a) A person who has established domicile in Utah for reasons related to divorce, the death of a spouse, or long-term health care responsibilities for an immediate family member, including the person's spouse, parent, sibling, or child, may rebut the presumption of a nonresident

classification by providing substantial evidence that the reason for the individual's move to Utah was, in good faith, based on the long-term health care responsibilities.

(b) All relevant evidence concerning the motivation for the move shall be considered, including:

(i) the person's employment and educational history;

(ii) the dates when the long-term health care responsibilities in Utah were first considered, offered, and accepted;

(iii) when the person moved to Utah;

(iv) the dates when the person applied for admission, was admitted, and was enrolled as a postsecondary student;

(v) whether the person applied for admission to an institution of higher education sooner than four months from the date of moving to Utah;

(vi) evidence that the person is an independent person who is:

(A) at least 24 years of age; or

(B) not claimed as a dependent on someone else's tax returns; and

(vii) any other factors related to abandonment of a former domicile and establishment of a new domicile in Utah for purposes other than to attend an institution of higher education.

[18] (17) The board, after consultation with the institutions, shall make rules not inconsistent with this section:

(a) concerning the definition of resident and nonresident students;

(b) establishing procedures for classifying and reclassifying students;

(c) establishing criteria for determining and judging claims of residency or domicile;

(d) establishing appeals procedures; and

(e) other matters related to this section.

[19] (18) A student shall be exempt from paying the nonresident portion of total tuition if the student:

(a) is a foreign national legally admitted to the United States;

(b) attended high school in this state for three or more years; and

(c) graduated from a high school in this state or received the equivalent of a high school diploma in this state.

CHAPTER 217**H. B. 53**

Passed March 5, 2014

Approved March 31, 2014

Effective May 13, 2014

RESTITUTION AMENDMENTS

Chief Sponsor: Jeremy A. Peterson

Senate Sponsor: John L. Valentine

LONG TITLE**General Description:**

This bill makes changes to orders of restitution made in juvenile courts.

Highlighted Provisions:

This bill:

- ▶ provides for a juvenile court to retain jurisdiction to make and enforce orders related to restitution.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78A-6-120, as renumbered and amended by Laws of Utah 2008, Chapter 3

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

Section 1. Section 78A-6-120 is amended to read:

78A-6-120. Continuing jurisdiction of juvenile court -- Period of and termination of jurisdiction -- Notice of discharge from custody of local mental health authority or Utah State Developmental Center -- Transfer of continuing jurisdiction to other district.

(1) Jurisdiction of a minor obtained by the court through adjudication under Section 78A-6-117 continues for purposes of this chapter until he becomes 21 years of age, unless terminated earlier. However, the court, subject to Section 78A-6-121, retains jurisdiction beyond the age of 21 of a person who has refused or failed to pay any fine or victim restitution ordered by the court, but only for the purpose of causing compliance with existing orders.

(2) (a) The continuing jurisdiction of the court terminates:

- (i) upon order of the court;
- (ii) upon commitment to a secure youth corrections facility; or
- (iii) upon commencement of proceedings in adult cases under Section 78A-6-1001.

(b) The continuing jurisdiction of the court is not terminated by marriage.

(c) Notwithstanding Subsection (2)(a)(ii), the court retains jurisdiction to make and enforce orders related to restitution.

(3) When a minor has been committed by the court to the physical custody of a local mental health authority or its designee or to the Utah State Developmental Center, the local mental health authority or its designee or the superintendent of the Utah State Developmental Center shall give the court written notice of its intention to discharge, release, or parole the minor not fewer than five days prior to the discharge, release, or parole.

(4) Jurisdiction over a minor on probation or under protective supervision, or of a minor who is otherwise under the continuing jurisdiction of the court, may be transferred by the court to the court of another district, if the receiving court consents, or upon direction of the chair of the Board of Juvenile Court Judges. The receiving court has the same powers with respect to the minor that it would have if the proceedings originated in that court.

CHAPTER 218**H. B. 93**

Passed March 13, 2014
 Approved March 31, 2014
 Effective January 1, 2015

**PROPERTY TAX
 ASSESSMENT AMENDMENTS**

Chief Sponsor: Brian M. Greene
 Senate Sponsor: Howard A. Stephenson

LONG TITLE**General Description:**

This bill addresses the assessment of property.

Highlighted Provisions:

This bill:

- ▶ defines “diminished productive value”; and
- ▶ requires a county assessor to consider diminished productive value in determining the fair market value of property.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on January 1, 2015.

Utah Code Sections Affected:**ENACTS:**

59-2-301.6, Utah Code Annotated 1953

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

Section 1. Section 59-2-301.6 is enacted to read:

59-2-301.6. Definition -- Assessment of property having a diminished productive value.

(1) As used in this section, “diminished productive value” means that property has no, or a significantly reduced, ability to generate income as a result of:

(a) a parcel size requirement established under a land use ordinance or zoning map adopted by a

(i) city or town in accordance with Title 10, Chapter 9a, Part 5, Land Use Ordinances; or

(ii) a county in accordance with Title 17, Chapter 27a, Part 5, Land Use Ordinances; or

(b) one or more easements burdening the property.

(2) In assessing the fair market value of property, a county assessor shall consider as part of the determination of fair market value whether property has diminished productive value.

(3) This section does not prohibit a county assessor from including as part of a determination of the fair market value of property any other factor affecting the fair market value of the property.

Section 2. Effective date.

This bill takes effect on January 1, 2015.

CHAPTER 219**H. B. 113**

Passed March 11, 2014
 Approved March 31, 2014
 Effective May 13, 2014

**PHARMACY BENEFIT MANAGER
 AMENDMENTS**

Sponsor: Chief Sponsor: Bradley G. LastSenate
 Sponsor: Evan J. Vickers

LONG TITLE**General Description:**

This bill regulates certain reimbursement practices of pharmacy benefit managers.

Highlighted Provisions:

This bill:

- ▶ defines maximum allowable costs;
- ▶ requires certain contract provisions between a pharmacy benefit manager and a pharmacy related to the use of maximum allowable cost and appeal rights; and
- ▶ requires a pharmacy benefit manager to register with the Division of Corporations and Commercial Code within the Department of Commerce.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

31A-22-640, as enacted by Laws of Utah 2012, Chapter 265

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

Section 3. Section 31A-22-640 is amended to read:

31A-22-640. Insurer and pharmacy benefit management services -- Registration -- Maximum allowable cost -- Audit restrictions.

(1) For purposes of this section:

(a) "Maximum allowable cost" means:

(i) a maximum reimbursement amount for a group of pharmaceutically and therapeutically equivalent drugs; or

(ii) any similar reimbursement amount that is used by a pharmacy benefit manager to reimburse pharmacies for multiple source drugs.

(b) "Obsolete" means a product that may be listed in national drug pricing compendia but is no longer available to be dispensed based on the expiration date of the last lot manufactured.

(c) "[pharmacy benefits] Pharmacy benefit manager [or coordinator]" means a person or entity that provides pharmacy benefit management services as defined in Section 49-20-502 on behalf of an insurer as defined in Subsection 31A-22-636(1).

(2) An insurer and an insurer's pharmacy [benefits] benefit manager [or coordinator] is subject to the pharmacy audit provisions of Section 58-17b-622.

(3) A pharmacy benefit manager shall not use maximum allowable cost as a basis for reimbursement to a pharmacy unless:

(a) the drug is listed as "A" or "B" rated in the most recent version of the United States Food and Drug Administration's approved drug products with therapeutic equivalent evaluations, also known as the "Orange Book," or has an "NR" or "NA" rating or similar rating by a nationally recognized reference; and

(b) the drug is:

(i) generally available for purchase in this state from a national or regional wholesaler; and

(ii) not obsolete.

(4) The maximum allowable cost may be determined using comparable and current data on drug prices obtained from multiple nationally recognized, comprehensive data sources, including wholesalers, drug file vendors, and pharmaceutical manufacturers for drugs that are available for purchase by pharmacies in the state.

(5) For every drug for which the pharmacy benefit manager uses maximum allowable cost to reimburse a contracted pharmacy, the pharmacy benefit manager shall:

(a) include in the contract with the pharmacy information identifying the national drug pricing compendia and other data sources used to obtain the drug price data;

(b) review and make necessary adjustments to the maximum allowable cost, using the most recent data sources identified in Subsection (5)(a)(i), at least once per week;

(c) provide a process for the contracted pharmacy to appeal the maximum allowable cost in accordance with Subsection (6); and

(d) include in each contract with a contracted pharmacy a process to obtain an update to the pharmacy product pricing files used to reimburse the pharmacy in a format that is readily available and accessible.

(6) (a) The right to appeal in Subsection (5)(d) shall be:

(i) limited to 21 days following the initial claim adjudication; and

(ii) investigated and resolved by the pharmacy benefit manager within 14 business days.

(b) If an appeal is denied, the pharmacy benefit manager shall provide the contracted pharmacy with the reason for the denial and the identification of the national drug code of the drug that may be purchased by the pharmacy at a price at or below the price determined by the pharmacy benefit manager.

(7) The contract with each pharmacy shall contain a dispute resolution mechanism in the

event either party breaches the terms or conditions of the contract.

(8) (a) To conduct business in the state, a pharmacy benefit manager shall register with the Division of Corporations and Commercial Code within the Department of Commerce and annually renew the registration. To register under this section, the pharmacy benefit manager shall submit an application which shall contain only the following information:

(i) the name of the pharmacy benefit manager;

(ii) the name and contact information for the registered agent for the pharmacy benefit manager; and

(iii) if applicable, the federal employer identification number for the pharmacy benefit manager.

(b) The Department of Commerce may establish a fee in accordance with Title 63J, Chapter 1, Budgetary Procedures Act, for the initial registration and the annual renewal of the registration, which may not exceed \$100 per year.

(c) The following entities do not have to register as a pharmacy benefit manager under Subsection (8)(a) when the entity is providing formulary services to its own patients, employees, members, or beneficiaries:

(i) a health care facility licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act;

(ii) a pharmacy licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(iii) a health care professional licensed under Title 58, Occupations and Professions;

(iv) a health insurer; and

(v) a labor union.

(9) This section does not apply to a pharmacy benefit manager when the pharmacy benefit manager is providing pharmacy benefit management services on behalf of the state Medicaid program.

CHAPTER 220**H. B. 118**

Passed March 13, 2014
 Approved March 31, 2014
 Effective May 13, 2014

**PERSONAL INJURY
 DAMAGES AMENDMENTS**

Chief Sponsor: Kay L. McIff
 Senate Sponsor: John L. Valentine

LONG TITLE**General Description:**

This bill amends provisions related to a cause of action for personal injury damages.

Highlighted Provisions:

This bill:

- ▶ provides for a limit of \$100,000 in general damages collected in personal injury cases related to a wrongful act or negligence;
- ▶ requires notice be mailed to or served upon a person or party believed to be at fault for personal injury; and
- ▶ exempts an uninsured motorist from general damage awards over \$100,000 under certain circumstances.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78B-3-107, as last amended by Laws of Utah 2009, Chapter 293

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

Section 1. Section 78B-3-107 is amended to read:

78B-3-107. Survival of action for injury or death to person, upon death of wrongdoer or injured person -- Exception and restriction to out-of-pocket expenses.

(1) (a) A cause of action arising out of personal injury to a person, or death caused by the wrongful act or negligence of ~~[another]~~ a wrongdoer, does not abate upon the death of the wrongdoer or the injured person. The injured person, or the personal representatives or heirs of the person who died, has a cause of action against the wrongdoer or the personal representatives of the wrongdoer for special and general damages, subject to Subsection (1)(b).

(b) If, prior to judgment or settlement, the injured person dies as a result of a cause other than the injury received as a result of the wrongful act or negligence of the wrongdoer, the personal representatives or heirs of the person have a cause of action against the wrongdoer or personal representatives of the wrongdoer for special ~~[damages,]~~ and general damages ~~[not to exceed \$100,000,]~~ which resulted from the injury caused by the wrongdoer and which occurred prior to death of

the injured party from the unrelated cause. General damages may not exceed \$100,000.

(c) If the death of the injured party from an unrelated cause occurs more than six months after the incident giving rise to the claim for damages, the claim shall be limited to special damages unless, prior to the ~~[expiration of the six months,]~~ injured party's death:

(i) written notice of intent to hold the wrongdoer responsible has been ~~[given or]~~ mailed to or served upon the wrongdoer or the wrongdoer's insurance carrier or the uninsured motorist carrier of the injured party, and proof of mailing or service can be produced upon request; or

(ii) a claim for damages against the wrongdoer or against the uninsured motorist carrier of the injured party is the subject of ongoing negotiations between the parties or persons representing the parties or their insurers.

(d) A subsequent claim against an underinsured motorist carrier for which the injured party was a covered person is not subject to the notice requirement described in Subsection (1)(c).

(e) In no event shall the general damage award exceed \$100,000 regardless of available liability, uninsured or underinsured motor vehicle coverage.

(2) Under Subsection (1) neither the injured person nor the personal representatives or heirs of the person who dies may recover judgment except upon competent satisfactory evidence other than the testimony of the injured person.

(3) This section may not be construed to be retroactive.

**CHAPTER 221
H. B. 120**

Passed March 13, 2014
Approved March 31, 2014
Effective May 13, 2014

**CONTINUING EDUCATION
ON FEDERALISM**

Chief Sponsor: Ken Ivory
Senate Sponsor: Mark B. Madsen

LONG TITLE

General Description:

This bill requires the Commission on Federalism to create a curriculum for a seminar on federalism that will then be required for a designated person from certain state and local agencies.

Highlighted Provisions:

This bill:

- ▶ requires the Commission on Federalism to create a curriculum on federalism;
- ▶ sets out parameters for the curriculum; and
- ▶ requires certain agencies, political subdivisions, and offices to designate a person to attend a seminar on federalism at least once every two years.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63C-4a-303, as renumbered and amended by Laws of Utah 2013, Chapter 101

ENACTS:

63C-4a-306, Utah Code Annotated 1953

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

Section 1. Section 63C-4a-303 is amended to read:

63C-4a-303. Duties of Commission on Federalism.

(1) In accordance with Section 63C-4a-304, the commission may evaluate a federal law:

- (a) as agreed by a majority of the commission; or
- (b) submitted to the commission by a council member.

(2) The commission may request information regarding a federal law under evaluation from a United States senator or representative elected from the state.

(3) If the commission finds that a federal law is not authorized by the United States Constitution or violates the principle of federalism as described in Subsection 63C-4a-304(2), a commission cochair may:

(a) request from a United States senator or representative elected from the state:

- (i) information about the federal law; or

(ii) assistance in communicating with a federal governmental entity regarding the federal law;

(b) (i) give written notice of an evaluation made under Subsection (1) to the federal governmental entity responsible for adopting or administering the federal law; and

(ii) request a response by a specific date to the evaluation from the federal governmental entity; and

(c) request a meeting, conducted in person or by electronic means, with the federal governmental entity, a representative from another state, or a United States Senator or Representative elected from the state to discuss the evaluation of federal law and any possible remedy.

(4) The commission may recommend to the governor that the governor call a special session of the Legislature to give the Legislature an opportunity to respond to the commission's evaluation of a federal law.

(5) A commission cochair may coordinate the evaluation of and response to federal law with another state as provided in Section 63C-4a-305.

(6) On May 20 and October 20 of each year, the commission shall submit a report by electronic mail to the Legislative Management Committee and the Government Operations Interim Committee that summarizes:

(a) action taken by the commission in accordance with this section; and

(b) action taken by, or communication received from, any of the following in response to a request or inquiry made, or other action taken, by the commission:

(i) a United States senator or representative elected from the state;

(ii) a representative of another state; or

(iii) a federal entity, official, or employee.

(7) The commission shall keep a current list on the Legislature's website of:

(a) a federal law that the commission evaluates under Subsection (1);

(b) an action taken by a cochair of the commission under Subsection (3);

(c) any coordination undertaken with another state under Section 63C-4a-305; and

(d) any response received from a federal government entity that was requested under Subsection (3).

(8) The commission shall develop curriculum for a seminar on the principles of federalism. The curriculum shall be available to the general public and include:

(a) fundamental principles of federalism;

(b) the sovereignty, supremacy, and jurisdiction of the individual states, including their police powers;

(c) the history and practical implementation of the Tenth Amendment to the United States Constitution;

(d) the authority and limits on the authority of the federal government as found in the United States Constitution;

(e) the relationship between the state and federal governments;

(f) methods of evaluating a federal law in the context of the principles of federalism;

(g) how and when challenges should be made to a federal law or regulation on the basis of federalism;

(h) the separate and independent powers of the state that serve as a check on the federal government;

(i) first amendment rights and freedoms contained therein; and

(j) any other issues relating to federalism the commission considers necessary.

(9) The commission may apply for and receive grants, and receive private donations to assist in funding the creation, enhancement, and dissemination of the curriculum.

Section 2. Section 63C-4a-306 is enacted to read:

63C-4a-306. Course on federalism required.

(1) This section shall apply to:

(a) all political subdivisions of the state;

(b) all agencies of the state;

(c) the Attorney General's office; and

(d) the Office of Legislative Research and General Counsel.

(2) Beginning January 1, 2015, an employing entity listed in Subsection (1) shall appoint at least one designee to which all questions and inquiries regarding federalism shall be directed. The designee shall be required to attend a seminar on the principles of federalism developed pursuant to Subsection 63C-4a-303(8) at least once in every two-year period.

(3) The designee may complete the requirements of this section by attending a seminar in person or online.

CHAPTER 222**H. B. 123**

Passed March 12, 2014
Approved March 31, 2014
Effective May 13, 2014

PROPERTY TAX LIEN AMENDMENTS

Chief Sponsor: Mark A. Wheatley
Senate Sponsor: Gene Davis

LONG TITLE**General Description:**

This bill prohibits a county from reassigning a lien on real property.

Highlighted Provisions:

This bill:

- ▶ prohibits a county from reassigning a lien on real property.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

17-50-336, Utah Code Annotated 1953

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

Section 3. Section 17-50-336 is enacted to read:

17-50-336. (Codified as 17-50-337)**Reassignment of lien prohibited.**

A county may not reassign a lien created under Title 59, Chapter 2, Part 13, Collection of Taxes, on real property.

CHAPTER 223**H. B. 128**

Passed March 13, 2014

Approved March 31, 2014

Effective July 1, 2014

**ELECTRONIC DEVICE
LOCATION AMENDMENTS**Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Mark B. Madsen**LONG TITLE****General Description:**

This bill requires that a governmental entity obtain a search warrant before obtaining the location information of an electronic device.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires a search warrant before requesting disclosure of the location of an electronic device;
- ▶ provides exceptions for emergencies; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2014.

This bill coordinates with S.B. 46, Administrative Subpoena Modifications, by providing technical and substantive amendments.

Utah Code Sections Affected:**ENACTS:**

77-23c-101, Utah Code Annotated 1953

77-23c-102, Utah Code Annotated 1953

77-23c-103, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

77-23c-102, Utah Code Annotated 1953

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

Section 1. Section 77-23c-101 is enacted to read:**CHAPTER 23c. LOCATION PRIVACY FOR
ELECTRONIC DEVICES****77-23c-101. Definitions.**

As used in this chapter:

(1) "Electronic communication service" means a service that provides to users of the service the ability to send or receive wire or electronic communications.

(2) "Electronic device" means a device that enables access to or use of an electronic communication service, remote computing service, or location information service.

(3) "Government entity" means the state, a county, a municipality, a higher education institution, a local district, a special service district, or any other political subdivision of the state or an

administrative subunit of any political subdivision, including a law enforcement entity or any other investigative entity, agency, department, division, bureau, board, or commission, or an individual acting or purporting to act for or on behalf of a state or local agency.

(4) "Location information" means information concerning the location of an electronic device that, in whole or in part, is generated or derived from or obtained by the operation of an electronic device.

(5) "Location information service" means the provision of a global positioning service or other mapping, location, or directional information service.

(6) "Remote computing service" means the provision of computer storage or processing services by means of an electronic communications system.

Section 2. Section 77-23c-102 is enacted to read:**77-23c-102. Location information privacy --
Warrant required for disclosure.**

(1) (a) Except as provided in Subsection (2), a government entity may not obtain the location information, stored data, or transmitted data of an electronic device without a search warrant issued by a court upon probable cause.

(b) Except as provided in Subsection (1)(c), a government entity may not use, copy, or disclose, for any purpose, the location information, stored data, or transmitted data of an electronic device that is not the subject of the warrant that is collected as part of an effort to obtain the location information, stored data, or transmitted data of the electronic device that is the subject of the warrant in Subsection (1)(a).

(c) A government entity may use, copy, or disclose the transmitted data of an electronic device used to communicate with the electronic device that is the subject of the warrant if the government entity reasonably believes that the transmitted data is necessary to achieve the objective of the warrant.

(d) The data described in Subsection (1)(b) shall be destroyed in an unrecoverable manner by the government entity as soon as reasonably possible after the data is collected.

(2) A government entity may obtain location information without a warrant for an electronic device:

(a) in accordance with Section 53-10-104.5;

(b) if the device is reported stolen by the owner;

(c) with the informed, affirmative consent of the owner or user of the electronic device;

(d) in accordance with judicially recognized exceptions to warrant requirements;

(e) if the owner has voluntarily and publicly disclosed the location information; or

(f) if the device is state-owned or is being used by a state employee to access private data on the state network while conducting state business.

(3) An electronic communication service provider, its officers, employees, agents, or other specified persons may not be held liable for providing information, facilities, or assistance in accordance with the terms of the warrant issued under this section or without a warrant pursuant to Subsection (2).

Section 3. Section 77-23c-103 is enacted to read:

77-23c-103. Notification required -- Delayed notification.

(1) Except as provided in Subsection (2), a government entity that executes a warrant pursuant to Subsection 77-23c-102(1)(a) shall, within 14 days after the day on which the operation concludes, issue a notification to the owner of the electronic device specified in the warrant that states:

- (a) that a warrant was applied for and granted;
- (b) the kind of warrant issued;
- (c) the period of time during which the collection of data from the electronic device was authorized;
- (d) the offense specified in the application for the warrant;
- (e) the identity of the government entity that filed the application; and
- (f) the identity of the judge who issued the warrant.

(2) A government entity seeking a warrant pursuant to Subsection 77-23c-102(1)(a) may submit a request, and the court may grant permission, to delay the notification required by Subsection (1) for a period not to exceed 30 days, if the court determines that there is probable cause to believe that the notification may:

- (a) endanger the life or physical safety of an individual;
- (b) cause a person to flee from prosecution;
- (c) lead to the destruction of or tampering with evidence;
- (d) intimidate a potential witness; or
- (e) otherwise seriously jeopardize an investigation or unduly delay a trial.

(3) When a delay of notification is granted under Subsection (2) and upon application by the government entity, the court may grant additional extensions of up to 30 days each.

(4) Upon expiration of the period of delayed notification granted under Subsection (2) or (3), the government entity shall serve upon or deliver by first-class mail to the owner of the electronic device a copy of the warrant together with notice that:

- (a) states with reasonable specificity the nature of the law enforcement inquiry; and
- (b) contains:

(i) the information described in Subsections (1)(a) through (f);

(ii) a statement that notification of the search was delayed;

(iii) the name of the court that authorized the delay of notification; and

(iv) a reference to the provision of this chapter that allowed the delay of notification.

(5) A government entity is not required to notify the owner of the electronic device if the owner is located outside of the United States.

Section 4. Effective date.

This bill takes effect July 1, 2014.

Section 5. Coordinating H.B. 128 with S.B. 46 -- Technical and substantive amendments.

If this H.B. 128 and S.B. 46, Administrative Subpoena Modifications, both pass and become law, it is the intent of the Legislature that Subsection 77-23c-102(2) be modified to read as follows:

“(2) (a) A government entity may obtain location information without a warrant for an electronic device:

- (i) in accordance with Section 53-10-104.5;
 - (ii) if the device is reported stolen by the owner;
 - (iii) with the informed, affirmative consent of the owner or user of the electronic device;
 - (iv) in accordance with judicially recognized exceptions to warrant requirements; or
 - (v) if the owner has voluntarily and publicly disclosed the location information.
- (b) A prosecutor may obtain a judicial order as defined in Section 77-22-2.5 for the purposes enumerated in Section 77-22-2.5.”

CHAPTER 224**H. B. 129**

Passed March 13, 2014
 Approved March 31, 2014
 Effective May 13, 2014

**SURPLUS LINES
 INSURANCE AMENDMENTS**

Chief Sponsor: Curtis Oda
 Senate Sponsor: Jerry W. Stevenson

LONG TITLE**General Description:**

This bill modifies the Insurance Code to address surplus lines of insurance.

Highlighted Provisions:

This bill:

- ▶ addresses audits conducted by a surplus lines insurer;
- ▶ enacts provisions related to earned premiums; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

31A-15-103, as last amended by Laws of Utah 2011, Chapter 62

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

Section 1. Section 31A-15-103 is amended to read:

31A-15-103. Surplus lines insurance -- Unauthorized insurers -- Audits -- Earned premium.

(1) Notwithstanding Section 31A-15-102, a foreign insurer that has not obtained a certificate of authority to do business in this state under Section 31A-14-202 may negotiate for and make an insurance contract with a person in this state and on a risk located in this state, subject to the limitations and requirements of this section.

(2) (a) For a contract made under this section, the insurer may, in this state:

- (i) inspect the risks to be insured;
 - (ii) collect premiums;
 - (iii) adjust losses; and
 - (iv) do another act reasonably incidental to the contract.
- (b) An act described in Subsection (2)(a) may be done through:
- (i) an employee; or
 - (ii) an independent contractor.

(3) (a) Subsections (1) and (2) do not permit a person to solicit business in this state on behalf of an insurer that has no certificate of authority.

(b) Insurance placed with a nonadmitted insurer shall be placed with a surplus lines producer licensed under Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries.

(c) The commissioner may by rule prescribe how a surplus lines producer may:

(i) pay or permit the payment, commission, or other remuneration on insurance placed by the surplus lines producer under authority of the surplus lines producer's license to one holding a license to act as an insurance producer; and

(ii) advertise the availability of the surplus lines producer's services in procuring, on behalf of a person seeking insurance, a contract with a nonadmitted insurer.

(4) For a contract made under this section, a nonadmitted insurer is subject to Sections 31A-23a-402, 31A-23a-402.5, and 31A-23a-403 and the rules adopted under those sections.

(5) A nonadmitted insurer may not issue workers' compensation insurance coverage to an employer located in this state, except for stop loss coverage issued to an employer securing workers' compensation under Subsection 34A-2-201(3).

(6) (a) The commissioner may by rule prohibit making a contract under Subsection (1) for a specified class of insurance if authorized insurers provide an established market for the class in this state that is adequate and reasonably competitive.

(b) The commissioner may by rule place a restriction or a limitation on and create special procedures for making a contract under Subsection (1) for a specified class of insurance if:

- (i) there have been abuses of placements in the class; or
- (ii) the policyholders in the class, because of limited financial resources, business experience, or knowledge, cannot protect their own interests adequately.

(c) The commissioner may prohibit an individual insurer from making a contract under Subsection (1) and all insurance producers from dealing with the insurer if:

- (i) the insurer willfully violates:
 - (A) this section;
 - (B) Section 31A-4-102, 31A-23a-402, 31A-23a-402.5, or 31A-26-303; or
 - (C) a rule adopted under a section listed in Subsection (6)(c)(i)(A) or (B);
- (ii) the insurer fails to pay the fees and taxes specified under Section 31A-3-301; or
- (iii) the commissioner has reason to believe that the insurer is:

(A) in an unsound condition;

(B) operated in a fraudulent, dishonest, or incompetent manner; or

(C) in violation of the law of its domicile.

(d) (i) The commissioner may issue one or more lists of unauthorized foreign insurers whose:

(A) solidity the commissioner doubts; or

(B) practices the commissioner considers objectionable.

(ii) The commissioner shall issue one or more lists of unauthorized foreign insurers the commissioner considers to be reliable and solid.

(iii) In addition to the lists described in Subsections (6)(d)(i) and (ii), the commissioner may issue other relevant evaluations of unauthorized insurers.

(iv) An action may not lie against the commissioner or an employee of the department for a written or oral communication made in, or in connection with the issuance of, a list or evaluation described in this Subsection (6)(d).

(e) A foreign unauthorized insurer shall be listed on the commissioner's "reliable" list only if the unauthorized insurer:

(i) delivers a request to the commissioner to be on the list;

(ii) establishes satisfactory evidence of good reputation and financial integrity;

(iii) (A) delivers to the commissioner a copy of the unauthorized insurer's current annual statement certified by the insurer; and

(B) continues each subsequent year to file its annual statements with the commissioner within 60 days of the day on which it is filed with the insurance regulatory authority where the insurer is domiciled;

(iv) (A) (I) is in substantial compliance with the solvency standards in Chapter 17, Part 6, Risk-Based Capital, or maintains capital and surplus of at least \$15,000,000, whichever is greater; and

(II) maintains in the United States an irrevocable trust fund in either a national bank or a member of the Federal Reserve System, or maintains a deposit meeting the statutory deposit requirements for insurers in the state where it is made, which trust fund or deposit:

(Aa) shall be in an amount not less than \$2,500,000 for the protection of all of the insurer's policyholders in the United States;

(Bb) may consist of cash, securities, or investments of substantially the same character and quality as those which are "qualified assets" under Section 31A-17-201; and

(Cc) may include as part of the trust arrangement a letter of credit that qualifies as acceptable security under Section 31A-17-404.1; or

(B) in the case of any "Lloyd's" or other similar incorporated or unincorporated group of alien individual insurers, maintains a trust fund that:

(I) shall be in an amount not less than \$50,000,000 as security to its full amount for all policyholders and creditors in the United States of each member of the group;

(II) may consist of cash, securities, or investments of substantially the same character and quality as those which are "qualified assets" under Section 31A-17-201; and

(III) may include as part of this trust arrangement a letter of credit that qualifies as acceptable security under Section 31A-17-404.1; and

(v) for an alien insurer not domiciled in the United States or a territory of the United States, is listed on the Quarterly Listing of Alien Insurers maintained by the National Association of Insurance Commissioners International Insurers Department.

(7) (a) Subject to Subsection (7)(b), a surplus lines producer may not, either knowingly or without reasonable investigation of the financial condition and general reputation of the insurer, place insurance under this section with:

(i) a financially unsound insurer;

(ii) an insurer engaging in unfair practices; or

(iii) an otherwise substandard insurer.

(b) A surplus line producer may place insurance under this section with an insurer described in Subsection (7)(a) if the surplus line producer:

(i) gives the applicant notice in writing of the known deficiencies of the insurer or the limitations on the surplus line producer's investigation; and

(ii) explains the need to place the business with that insurer.

(c) A copy of the notice described in Subsection (7)(b) shall be kept in the office of the surplus line producer for at least five years.

(d) To be financially sound, an insurer shall satisfy standards that are comparable to those applied under the laws of this state to an authorized insurer.

(e) An insurer on the "doubtful or objectionable" list under Subsection (6)(d) or an insurer not on the commissioner's "reliable" list under Subsection (6)(e) is presumed substandard.

(8) (a) A policy issued under this section shall:

(i) include a description of the subject of the insurance; and

(ii) indicate:

(A) the coverage, conditions, and term of the insurance;

(B) the premium charged the policyholder;

(C) the premium taxes to be collected from the policyholder; and

(D) the name and address of the policyholder and insurer.

(b) If the direct risk is assumed by more than one insurer, the policy shall state:

(i) the names and addresses of all insurers; and

(ii) the portion of the entire direct risk each assumes.

(c) A policy issued under this section shall have attached or affixed to the policy the following statement: "The insurer issuing this policy does not hold a certificate of authority to do business in this state and thus is not fully subject to regulation by the Utah insurance commissioner. This policy receives no protection from any of the guaranty associations created under Title 31A, Chapter 28."

(9) Upon placing a new or renewal coverage under this section, a surplus lines producer shall promptly deliver to the policyholder or the policyholder's agent evidence of the insurance consisting either of:

(a) the policy as issued by the insurer; or

(b) if the policy is not available upon placing the coverage, a certificate, cover note, or other confirmation of insurance complying with Subsection (8).

(10) If the commissioner finds it necessary to protect the interests of insureds and the public in this state, the commissioner may by rule subject a policy issued under this section to as much of the regulation provided by this title as is required for a comparable policy written by an authorized foreign insurer.

(11) (a) A surplus lines transaction in this state shall be examined to determine whether it complies with:

(i) the surplus lines tax levied under Chapter 3, Department Funding, Fees, and Taxes;

(ii) the solicitation limitations of Subsection (3);

(iii) the requirement of Subsection (3) that placement be through a surplus lines producer;

(iv) placement limitations imposed under Subsections (6)(a), (b), and (c); and

(v) the policy form requirements of Subsections (8) and (10).

(b) The examination described in Subsection (11)(a) shall take place as soon as practicable after the transaction. The surplus lines producer shall submit to the examiner information necessary to conduct the examination within a period specified by rule.

(c) (i) The examination described in Subsection (11)(a) may be conducted by the commissioner or by an advisory organization created under Section 31A-15-111 and authorized by the commissioner to conduct these examinations. The commissioner is not required to authorize an additional advisory organization to conduct an examination under this Subsection (11)(c).

(ii) The commissioner's authorization of one or more advisory organizations to act as examiners under this Subsection (11)(c) shall be:

(A) by rule; and

(B) evidenced by a contract, on a form provided by the commissioner, between the authorized advisory organization and the department.

(d) (i) (A) A person conducting the examination described in Subsection (11)(a) shall collect a stamping fee of an amount not to exceed 1% of the policy premium payable in connection with the transaction.

(B) A stamping fee collected by the commissioner shall be deposited in the General Fund.

(C) The commissioner shall establish a stamping fee by rule.

(ii) A stamping fee collected by an advisory organization is the property of the advisory organization to be used in paying the expenses of the advisory organization.

(iii) Liability for paying a stamping fee is as required under Subsection 31A-3-303(1) for taxes imposed under Section 31A-3-301.

(iv) The commissioner shall adopt a rule dealing with the payment of stamping fees. If a stamping fee is not paid when due, the commissioner or advisory organization may impose a penalty of 25% of the stamping fee due, plus 1-1/2% per month from the time of default until full payment of the stamping fee.

(v) A stamping fee relative to a policy covering a risk located partially in this state shall be allocated in the same manner as under Subsection 31A-3-303(4).

(e) The commissioner, representatives of the department, advisory organizations, representatives and members of advisory organizations, authorized insurers, and surplus lines insurers are not liable for damages on account of statements, comments, or recommendations made in good faith in connection with their duties under this Subsection (11)(e) or under Section 31A-15-111.

(f) An examination conducted under this Subsection (11) and a document or materials related to the examination are confidential.

(12) (a) For a surplus lines insurance transaction in the state entered into on or after May 13, 2014, if an audit is required by the surplus lines insurance transaction, a surplus lines insurer:

(i) shall exercise due diligence to initiate an audit of an insured, to determine whether additional premium is owed by the insured, by no later than six months after the expiration of the term for which premium is paid; and

(ii) may not audit an insured more than three years after the surplus lines insurance transaction expires.

(b) A surplus lines insurer that does not comply with this Subsection (12) may not charge or collect

additional premium in excess of the premium agreed to under the surplus lines insurance transaction.

(13) (a) For purpose of this Subsection (13), "initial premium" is the premium paid by an insured under an auditable surplus lines insurance contract on the basis of estimated exposure covered by the surplus lines insurance contract.

(b) For an auditable surplus lines insurance transaction in this state entered into on or after May 13, 2014, the following apply:

(i) A surplus lines insurer may not consider as earned premium an amount in excess of 50% of the initial premium paid by an insured until the earlier of:

(A) when an audit is completed; or

(B) the term of the surplus lines insurance contract has expired and the time to conduct an audit has lapsed.

(ii) If a surplus lines insurance contract provides for an audit, the audit shall be conducted as provided under Subsection (12), and after the audit is completed:

(A) if the actual exposure covered by the auditable portion of the surplus lines insurance contract exceeds the estimate upon which the initial premium is based, the surplus lines insurer is entitled to additional premium; and

(B) if the actual exposure covered by the auditable portion of the surplus lines insurance contract is less than the estimate upon which the initial premium is based, the insured is entitled to a refund of that portion of the initial premium that represents the reduction of exposure.

(c) An insured may request an audit under an auditable surplus lines insurance contract described in this Subsection (13), if the insured believes that the actual exposure is less than the estimated exposure used to determine the initial premium, by no later than six months after the expiration of the term for which initial premium is paid. If the surplus lines insurer does not complete an audit as provided in Subsection (12) after a request from the insured, the surplus lines insurer shall accept the insured's statement of actual exposure and refund that portion of the initial premium that represents the reduction of exposure stated by the insured.

(d) The commissioner may impose penalties for a violation of this Subsection (13) in accordance with Section 31A-2-308.

(14) Subsections (12) and (13) apply to the extent permitted by federal law.

CHAPTER 225**H. B. 130**

Passed March 12, 2014
Approved March 31, 2014
Effective July 1, 2014

MOBILITY AND PEDESTRIAN VEHICLES

Chief Sponsor: John G. Mathis
Senate Sponsor: Kevin T. Van Tassell

LONG TITLE**General Description:**

This bill modifies provisions relating to pedestrian and mobility vehicles.

Highlighted Provisions:

This bill:

- ▶ provides definitions;
- ▶ repeals the requirement that the Department of Public Safety make rules to authorize a person to operate a pedestrian vehicle on a public highway or sidewalk;
- ▶ provides that a mobility vehicle is a vehicle that:
 - is certified by the Driver License Division for use by a person with a physical disability; and
 - complies with the requirements specified by the Driver License Division in administrative rules;
- ▶ grants the Driver License Division rulemaking authority to make rules regarding the eligibility, procedures, and requirements for operating a mobility vehicle on a highway;
- ▶ specifies application procedures and fees for a mobility vehicle permit;
- ▶ prohibits a person from holding a driver license and a mobility vehicle permit;
- ▶ repeals the provisions authorizing a mobility vehicle to be operated on a sidewalk;
- ▶ provides that an applicant for a mobility vehicle permit is subject to medical review provisions;
- ▶ authorizes the Driver License Division to deny, suspend, disqualify, or revoke a mobility vehicle permit in certain circumstances; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2014.

Utah Code Sections Affected:**AMENDS:**

41-6a-1011, as last amended by Laws of Utah 2011, Chapter 366
53-3-105, as last amended by Laws of Utah 2011, Chapter 428
53-3-221, as last amended by Laws of Utah 2013, Chapter 411
53-3-304, as last amended by Laws of Utah 2008, Chapter 382

ENACTS:

41-6a-1118, Utah Code Annotated 1953

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

Section 1. Section 41-6a-1011 is amended to read:**41-6a-1011. Pedestrian vehicles.**

(1) As used in this section:

(a) (i) "Pedestrian vehicle" means a self-propelled conveyance designed, manufactured, and intended for the exclusive use of a person with a physical disability.

(ii) A "pedestrian vehicle" may not:

(A) exceed 48 inches in width;

(B) have an engine or motor with more than 300 cubic centimeters displacement or with more than 12 brake horsepower; and

(C) be capable of developing a speed in excess of 30 miles per hour.

(b) "Physical disability" means any bodily impairment which precludes a person from walking or otherwise moving about as a pedestrian.

(2) ~~[(a)]~~ A pedestrian vehicle operated by a person with a physical disability is exempt from vehicle registration, inspection, and operator license requirements.

~~[(b) Authority to operate a pedestrian vehicle on public highways or sidewalks shall be granted according to rules promulgated by the commissioner of public safety.]~~

(3) (a) A person with a physical disability may operate a pedestrian vehicle with a motor of not more than .5 brake horsepower capable of developing a speed of not more than eight miles per hour:

(i) on the sidewalk; and

(ii) in all places where pedestrians are allowed.

(b) A permit, license, registration, authority, application, or restriction may not be required or imposed on a person with a physical disability who operates a pedestrian vehicle under this Subsection (3).

(c) The provisions of this Subsection (3) supercede the provision of Subsection (2)(b).

Section 2. Section 41-6a-1118 is enacted to read:**41-6a-1118. Mobility vehicles.**

(1) As used in this section:

(a) "Division" means the Driver License Division created in Section 53-3-103.

(b) "Mobility vehicle" means a vehicle that:

(i) is certified by the division for use by a person with a physical disability; and

(ii) complies with the requirements specified by the division in rules made under Subsection (3).

(c) "Mobility vehicle certification" means evidence that a vehicle meets the requirements for certification by the division as a mobility vehicle.

(d) "Mobility vehicle permit" means a permit issued by the division granting authority and specifying the conditions for a person with a physical disability to operate a mobility vehicle on a public highway.

(e) "Physical disability" means a substantial impairment in one or more major life activities that prevents an individual from qualifying to obtain a license certificate.

(2) A person may operate a mobility vehicle on a public highway in accordance with rules made by the division under Subsection (3).

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules:

(a) establishing procedures for certification of a vehicle to be operated as a mobility vehicle;

(b) specifying the vehicle requirements for a vehicle to qualify as a mobility vehicle;

(c) for acceptable documentation of a mobility vehicle permit applicant's identity, Social Security number if applicable, Utah resident status, and Utah residence address;

(d) establishing procedures for the issuance of a mobility vehicle permit to an individual with a physical disability;

(e) for examining applicants for a mobility vehicle permit, as necessary for the safety and welfare of the applicant and the traveling public; and

(f) granting authority and specifying the conditions and restrictions for a person to operate a mobility vehicle on a public highway.

(4) An application for a mobility vehicle permit shall be:

(a) made upon a form furnished by the division;

(b) accompanied by a nonrefundable fee set under Section 53-3-105; and

(c) accompanied by a medical questionnaire form that includes information:

(i) that establishes the applicant has a physical disability as defined under Subsection (1)(e); and

(ii) to determine whether it would be a public safety hazard to permit the applicant to drive a mobility vehicle on a public highway.

(5) An application and fee for a mobility vehicle permit entitle the applicant to:

(a) not more than three attempts to pass both the knowledge and skills tests within six months of the date of application; and

(b) a mobility vehicle permit after all tests are passed and requirements are completed.

(6) A mobility vehicle permit expires on the birth date of the applicant in the fifth year following the year the mobility vehicle permit was issued.

(7) A person may not hold both a license certificate and a mobility vehicle permit.

Section 3. Section 53-3-105 is amended to read:

53-3-105. Fees for licenses, renewals, extensions, reinstatements, rescheduling, and identification cards.

The following fees apply under this chapter:

(1) An original class D license application under Section 53-3-205 is \$25.

(2) An original provisional license application for a class D license under Section 53-3-205 is \$30.

(3) An original application for a motorcycle endorsement under Section 53-3-205 is \$9.50.

(4) An original application for a taxicab endorsement under Section 53-3-205 is \$7.

(5) A learner permit application under Section 53-3-210.5 is \$15.

(6) A renewal of a class D license under Section 53-3-214 is \$25 unless Subsection (10) applies.

(7) A renewal of a provisional license application for a class D license under Section 53-3-214 is \$25.

(8) A renewal of a motorcycle endorsement under Section 53-3-214 is \$9.50.

(9) A renewal of a taxicab endorsement under Section 53-3-214 is \$7.

(10) A renewal of a class D license for a person 65 and older under Section 53-3-214 is \$13.

(11) An extension of a class D license under Section 53-3-214 is \$20 unless Subsection (15) applies.

(12) An extension of a provisional license application for a class D license under Section 53-3-214 is \$20.

(13) An extension of a motorcycle endorsement under Section 53-3-214 is \$9.50.

(14) An extension of a taxicab endorsement under Section 53-3-214 is \$7.

(15) An extension of a class D license for a person 65 and older under Section 53-3-214 is \$11.

(16) An original or renewal application for a commercial class A, B, or C license or an original or renewal of a provisional commercial class A or B license under Part 4, Uniform Commercial Driver License Act, is:

(a) \$40 for the knowledge test; and

(b) \$60 for the skills test.

(17) Each original CDL endorsement for passengers, hazardous material, double or triple trailers, or tankers is \$7.

(18) An original CDL endorsement for a school bus under Part 4, Uniform Commercial Driver License Act, is \$7.

(19) A renewal of a CDL endorsement under Part 4, Uniform Commercial Driver License Act, is \$7.

(20) (a) A retake of a CDL knowledge test provided for in Section 53-3-205 is \$20.

(b) A retake of a CDL skills test provided for in Section 53-3-205 is \$40.

(21) A retake of a CDL endorsement test provided for in Section 53-3-205 is \$7.

(22) A duplicate class A, B, C, or D license certificate under Section 53-3-215 is \$18.

(23) (a) A license reinstatement application under Section 53-3-205 is \$30.

(b) A license reinstatement application under Section 53-3-205 for an alcohol, drug, or combination of alcohol and any drug-related offense is \$35 in addition to the fee under Subsection (23)(a).

(24) (a) An administrative fee for license reinstatement after an alcohol, drug, or combination of alcohol and any drug-related offense under Section 41-6a-520, 53-3-223, or 53-3-231 or an alcohol, drug, or combination of alcohol and any drug-related offense under Part 4, Uniform Commercial Driver License Act, is \$170.

(b) This administrative fee is in addition to the fees under Subsection (23).

(25) (a) An administrative fee for providing the driving record of a driver under Section 53-3-104 or 53-3-420 is \$6.

(b) The division may not charge for a report furnished under Section 53-3-104 to a municipal, county, state, or federal agency.

(26) A rescheduling fee under Section 53-3-205 or 53-3-407 is \$25.

(27) (a) Except as provided under Subsections (27)(b) and (c), an identification card application under Section 53-3-808 is \$18.

(b) An identification card application under Section 53-3-808 for a person with a disability, as defined in 42 U.S.C. Sec. 12102, is \$13.

(c) A fee may not be charged for an identification card application if the person applying:

- (i) has not been issued a Utah driver license;
- (ii) is indigent; and
- (iii) is at least 18 years of age.

(28) In addition to any license application fees collected under this chapter, the division shall impose on individuals submitting fingerprints in accordance with Section 53-3-205.5 the fees that the Bureau of Criminal Identification is authorized to collect for the services the Bureau of Criminal Identification provides under Section 53-3-205.5.

(29) An original mobility vehicle permit application under Section 41-6a-1118 is \$25.

(30) A renewal of a mobility vehicle permit under Section 41-6a-1118 is \$25.

(31) A duplicate mobility vehicle permit under Section 41-6a-1118 is \$10.

Section 4. Section 53-3-221 is amended to read:

53-3-221. Offenses that may result in denial, suspension, disqualification, or revocation of license without hearing -- Additional grounds for suspension -- Point system for traffic violations -- Notice and hearing -- Reporting of traffic violation procedures.

(1) By following the emergency procedures in Title 63G, Chapter 4, Administrative Procedures Act, the division may immediately deny, suspend, disqualify, or revoke the license or permit of any person without hearing and without receiving a record of the person's conviction of crime when the division has been notified or has reason to believe the person:

(a) has committed any offenses for which mandatory suspension or revocation of a license is required upon conviction under Section 53-3-220;

(b) has, by reckless or unlawful driving of a motor vehicle, caused or contributed to an accident resulting in death or injury to any other person, or serious property damage;

(c) is incompetent to drive a motor vehicle or [is afflicted with] mobility vehicle or has a mental or physical [infirmities or disabilities] disability rendering it unsafe for the person to drive a motor vehicle or mobility vehicle upon the highways;

(d) has committed a serious violation of the motor vehicle laws of this state;

(e) has knowingly committed a violation of Section 53-3-229; or

(f) has been convicted of serious offenses against traffic laws governing the movement of motor vehicles with a frequency that indicates a disrespect for traffic laws and a disregard for the safety of other persons on the highways.

(2) (a) The division may suspend the license of a person under Subsection (1) when the person has failed to comply with the terms stated on a traffic citation issued in this state, except this Subsection (2) does not apply to highway weight limit violations or violations of law governing the transportation of hazardous materials.

(b) This Subsection (2) applies to parking and standing violations only if a court has issued a warrant for the arrest of a person for failure to post bail, appear, or otherwise satisfy the terms of the citation.

(c) (i) This Subsection (2) may not be exercised unless notice of the pending suspension of the driving privilege has been sent at least 10 days previously to the person at the address provided to the division.

(ii) After clearance by the division, a report authorized by Section 53-3-104 may not contain any evidence of a suspension that occurred as a

result of failure to comply with the terms stated on a traffic citation.

(3) (a) The division may suspend the license of a person under Subsection (1) when the division has been notified by a court that the person has an outstanding unpaid fine, an outstanding incomplete restitution requirement, or an outstanding warrant levied by order of a court.

(b) The suspension remains in effect until the division is notified by the court that the order has been satisfied.

(c) After clearance by the division, a report authorized by Section 53-3-104 may not contain any evidence of the suspension.

(4) (a) The division shall make rules establishing a point system as provided for in this Subsection (4).

(b) (i) The division shall assign a number of points to each type of moving traffic violation as a measure of its seriousness.

(ii) The points shall be based upon actual relationships between types of traffic violations and motor vehicle traffic accidents.

(iii) Except as provided in Subsection (4)(b)(iv), the division may not assess points against a person's driving record for a conviction of a traffic violation:

(A) that occurred in another state; and

(B) that was committed on or after July 1, 2011.

(iv) The provisions of Subsection (4)(b)(iii) do not apply to:

(A) a reckless or impaired driving violation or a speeding violation for exceeding the posted speed limit by 21 or more miles per hour; or

(B) an offense committed in another state which, if committed within Utah, would result in the mandatory suspension or revocation of a license upon conviction under Section 53-3-220.

(c) Every person convicted of a traffic violation shall have assessed against the person's driving record the number of points that the division has assigned to the type of violation of which the person has been convicted, except that the number of points assessed shall be decreased by 10% if on the abstract of the court record of the conviction the court has graded the severity of violation as minimum, and shall be increased by 10% if on the abstract the court has graded the severity of violation as maximum.

(d) (i) A separate procedure for assessing points for speeding offenses shall be established by the division based upon the severity of the offense.

(ii) The severity of a speeding violation shall be graded as:

(A) "minimum" for exceeding the posted speed limit by up to 10 miles per hour;

(B) "intermediate" for exceeding the posted speed limit by from 11 to 20 miles per hour; and

(C) "maximum" for exceeding the posted speed limit by 21 or more miles per hour.

(iii) Consideration shall be made for assessment of no points on minimum speeding violations, except for speeding violations in school zones.

(e) (i) Points assessed against a person's driving record shall be deleted for violations occurring before a time limit set by the division.

(ii) The time limit may not exceed three years.

(iii) The division may also delete points to reward violation-free driving for periods of time set by the division.

(f) (i) By publication in two newspapers having general circulation throughout the state, the division shall give notice of the number of points it has assigned to each type of traffic violation, the time limit set by the division for the deletion of points, and the point level at which the division will generally take action to deny or suspend under this section.

(ii) The division may not change any of the information provided above regarding points without first giving new notice in the same manner.

(5) (a) (i) Upon denying or suspending the license of a person under this section, the division shall immediately notify the licensee in a manner specified by the division and afford him an opportunity for a hearing in the county where the licensee resides.

(ii) The hearing shall be documented, and the division or its authorized agent may administer oaths, may issue subpoenas for the attendance of witnesses and the production of relevant books and papers, and may require a reexamination of the licensee.

(iii) One or more members of the division may conduct the hearing, and any decision made after a hearing before any number of the members of the division is as valid as if made after a hearing before the full membership of the division.

(iv) After the hearing the division shall either rescind its order of denial or suspension, extend the denial or suspension of the license, or revoke the license.

(b) The denial or suspension of the license remains in effect pending qualifications determined by the division regarding a person:

(i) whose license has been denied or suspended following reexamination;

(ii) who is incompetent to drive a motor vehicle;

(iii) who is afflicted with mental or physical infirmities that might make him dangerous on the highways; or

(iv) who may not have the necessary knowledge or skill to drive a motor vehicle safely.

(6) (a) Subject to Subsection (6)(d), the division shall suspend a person's license when the division receives notice from the Office of Recovery Services that the Office of Recovery Services has ordered the suspension of the person's license.

(b) A suspension under Subsection (6)(a) shall remain in effect until the division receives notice from the Office of Recovery Services that the Office of Recovery Services has rescinded the order of suspension.

(c) After an order of suspension is rescinded under Subsection (6)(b), a report authorized by Section 53-3-104 may not contain any evidence of the suspension.

(d) (i) If the division suspends a person's license under this Subsection (6), the division shall, upon application, issue a temporary limited driver license to the person if that person needs a driver license for employment, education, or child visitation.

(ii) The temporary limited driver license described in this section:

(A) shall provide that the person may operate a motor vehicle only for the purpose of driving to or from the person's place of employment, education, or child visitation;

(B) shall prohibit the person from driving a motor vehicle for any purpose other than a purpose described in Subsection (6)(d)(ii)(A); and

(C) shall expire 90 days after the day on which the temporary limited driver license is issued.

(iii) (A) During the period beginning on the day on which a temporary limited driver license is issued under this Subsection (6), and ending on the day that the temporary limited driver license expires, the suspension described in this Subsection (6) only applies if the person who is suspended operates a motor vehicle for a purpose other than employment, education, or child visitation.

(B) Upon expiration of a temporary limited driver license described in this Subsection (6)(d):

(I) a suspension described in Subsection (6)(a) shall be in full effect until the division receives notice, under Subsection (6)(b), that the order of suspension is rescinded; and

(II) a person suspended under Subsection (6)(a) may not drive a motor vehicle for any reason.

(iv) The division is not required to issue a limited driver license to a person under this Subsection (6)(d) if there are other legal grounds for the suspension of the person's driver license.

(v) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this part.

(7) (a) The division may suspend or revoke the license of any resident of this state upon receiving notice of the conviction of that person in another state of an offense committed there that, if committed in this state, would be grounds for the suspension or revocation of a license.

(b) The division may, upon receiving a record of the conviction in this state of a nonresident driver of

a motor vehicle or motorboat of any offense under the motor vehicle laws of this state, forward a certified copy of the record to the motor vehicle administrator in the state where the person convicted is a resident.

(8) (a) The division may suspend or revoke the license of any nonresident to drive a motor vehicle in this state for any cause for which the license of a resident driver may be suspended or revoked.

(b) Any nonresident who drives a motor vehicle upon a highway when the person's license has been suspended or revoked by the division is guilty of a class C misdemeanor.

(9) (a) The division may not deny or suspend the license of any person for a period of more than one year except:

(i) for failure to comply with the terms of a traffic citation under Subsection (2);

(ii) upon receipt of a second or subsequent order suspending juvenile driving privileges under Section 53-3-219;

(iii) when extending a denial or suspension upon receiving certain records or reports under Subsection 53-3-220(2);

(iv) for failure to give and maintain owner's or operator's security under Section 41-12a-411;

(v) when the division suspends the license under Subsection (6); or

(vi) when the division denies the license under Subsection (14).

(b) The division may suspend the license of a person under Subsection (2) until the person shows satisfactory evidence of compliance with the terms of the traffic citation.

(10) (a) By following the emergency procedures in Title 63G, Chapter 4, Administrative Procedures Act, the division may immediately suspend the license of any person without hearing and without receiving a record of the person's conviction for a crime when the division has reason to believe that the person's license was granted by the division through error or fraud or that the necessary consent for the license has been withdrawn or is terminated.

(b) The procedure upon suspension is the same as under Subsection (5), except that after the hearing the division shall either rescind its order of suspension or cancel the license.

(11) (a) The division, having good cause to believe that a licensed driver is incompetent or otherwise not qualified to be licensed, may upon notice in a manner specified by the division of at least five days to the licensee require him to submit to an examination.

(b) Upon the conclusion of the examination the division may suspend or revoke the person's license, permit him to retain the license, or grant a license subject to a restriction imposed in accordance with Section 53-3-208.

(c) Refusal or neglect of the licensee to submit to an examination is grounds for suspension or revocation of the licensee's license.

(12) (a) Except as provided in Subsection (12)(b), a report authorized by Section 53-3-104 may not contain any evidence of a conviction for speeding on an interstate system in this state if the conviction was for a speed of 10 miles per hour or less, above the posted speed limit and did not result in an accident, unless authorized in a manner specified by the division by the individual whose report is being requested.

(b) The provisions of Subsection (12)(a) do not apply for:

(i) a CDL license holder; or

(ii) a violation that occurred in a commercial motor vehicle.

(13) (a) By following the emergency procedures in Title 63G, Chapter 4, Administrative Procedures Act, the division may immediately suspend the license of a person if it has reason to believe that the person is the owner of a motor vehicle for which security is required under Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act, and has driven the motor vehicle or permitted it to be driven within this state without the security being in effect.

(b) The division may immediately suspend a driving privilege card holder's driving privilege card if the division receives notification from the Motor Vehicle Division that:

(i) the driving privilege card holder is the registered owner of a vehicle; and

(ii) the driving privilege card holder's vehicle registration has been revoked under Subsection 41-1a-110(2)(a)(ii)(A).

(c) Section 41-12a-411 regarding the requirement of proof of owner's or operator's security applies to persons whose driving privileges are suspended under this Subsection (13).

(d) If the division exercises the right of immediate suspension granted under this Subsection (13), the notice and hearing provisions of Subsection (5) apply.

(e) A person whose license suspension has been sustained or whose license has been revoked by the division under this Subsection (13) may file a request for agency action requesting a hearing.

(14) The division may deny an individual's license if the person fails to comply with the requirement to downgrade the person's CDL to a class D license under Section 53-3-410.1.

(15) The division may deny a person's class A, B, C, or D license if the person fails to comply with the requirement to have a K restriction removed from the person's license.

(16) Any suspension or revocation of a person's license under this section also disqualifies any license issued to that person under Part 4, Uniform Commercial Driver License Act.

Section 5. Section 53-3-304 is amended to read:

53-3-304. Licensing of persons with impairments -- Medical review -- Restricted license -- Procedures.

(1) (a) If the division has reason to believe that an applicant for a license ~~is an impaired person~~ or a mobility vehicle permit is a person with an impairment, the division may require one or both of the following:

(i) a physical examination of the applicant by a health care professional and the submittal by the health care professional of a signed medical report indicating the results of the physical examination;

(ii) a follow-up medical review of the applicant by a health care professional and completion of a medical report at intervals established by the division under standards recommended by the board.

(b) The format of the medical report required under Subsection (1)(a) shall be devised by the division with the advice of the board and shall elicit the necessary medical information to determine whether it would be a public safety hazard to permit the applicant to drive a motor vehicle or mobility vehicle on the highways.

(2) (a) The division may grant a restricted license to ~~an impaired~~ a person with an impairment who is otherwise qualified to obtain a license.

(b) The division may grant a restricted mobility vehicle permit to a person with an impairment who is otherwise qualified to obtain a mobility vehicle permit.

~~(b)~~ (c) The license or mobility vehicle permit continues in effect until its expiration date so long as the licensee complies with the requirements set forth by the division.

~~(c)~~ (d) The license or mobility vehicle permit renewal is subject to the conditions of this section.

~~(d)~~ (e) Any physical, mental, or emotional impairment of the applicant that in the opinion of the division does not affect the applicant's ability to exercise reasonable and ordinary control at all times in driving a motor vehicle upon the highway, does not prevent granting a license or mobility vehicle permit to the applicant.

(3) (a) If an examination is required under this section, the division is not bound by the recommendation of the examining health care professional but shall give fair consideration to the recommendation in acting upon the application. The criterion is whether upon all the evidence it is safe to permit the applicant to drive a motor vehicle or mobility vehicle.

(b) In deciding whether to grant or deny a license or mobility vehicle permit, the division may be guided by the opinion of experts in the fields of diagnosing and treating mental, physical, or emotional disabilities and may take into consideration any other factors that bear on the issue of public safety.

(4) Information provided under this section relating to physical, mental, or emotional impairment is classified under Title 63G, Chapter 2, Government Records Access and Management Act.

Section 6. Effective date.

This bill takes effect on July 1, 2014.

CHAPTER 226**H. B. 134**

Passed March 13, 2014
Approved March 31, 2014
Effective July 1, 2014

FIREARM SAFETY AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Stuart C. Reid
Cosponsors: Don L. Ipson
Tim M. Cosgrove
Rebecca Chavez-Houck
Stewart Barlow
Brian M. Greene
Stephen G. Handy
Michael S. Kennedy
Ronda Rudd Menlove
Paul Ray
Edward H. Redd
Ryan D. Wilcox

LONG TITLE**General Description:**

This bill enacts provisions relating to a voluntary firearm safety program.

Highlighted Provisions:

This bill:

- ▶ reduces the concealed firearm permit fee for a resident's initial application;
- ▶ requires the Bureau of Criminal Identification, in consultation with the state suicide prevention coordinator, to implement and manage a firearm safety program, including:
 - producing a firearm safety brochure and firearm safety packet;
 - procuring cable-style gun locks;
 - distributing firearm safety packets;
 - administering a redeemable coupon program in which a Utah resident who has filed an application for a concealed firearm permit receives a redeemable coupon toward the purchase of a gun safe and receives a firearm safety brochure;
- ▶ creates a restricted account known as the Concealed Weapons Account;
- ▶ creates a restricted account known as the Firearm Safety Account; and
- ▶ repeals certain provisions of this bill, subject to sunset review, on July 1, 2018.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2015:

- ▶ to Department of Public Safety - Programs and Operations - Bureau of Criminal Identification:
 - from General Fund Restricted - Firearm Safety Account, \$70,000
- ▶ to Department of Public Safety - Programs and Operations
 - from General Fund Restricted - Concealed Weapons Account, \$3,100,000
- ▶ to General Fund Restricted - Firearm Safety Account as a one-time appropriation:
 - from Nonlapsing Balances - Department of Public Safety - Programs and Operations, \$250,000

Other Special Clauses:

This bill takes effect on July 1, 2014.

Utah Code Sections Affected:**AMENDS:**

53-5-707, as last amended by Laws of Utah 2013, Chapter 280
53-10-202, as last amended by Laws of Utah 2013, Chapter 396
62A-15-1101, as enacted by Laws of Utah 2013, Chapter 194
63I-1-253, as last amended by Laws of Utah 2012, Chapter 369
63I-1-262, as last amended by Laws of Utah 2013, Chapter 125
76-10-526, as last amended by Laws of Utah 2013, Chapter 278

ENACTS:

53-10-202.1, Utah Code Annotated 1953
63I-1-276, Utah Code Annotated 1953

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

Section 1. Section 53-5-707 is amended to read:**53-5-707. Concealed firearm permit -- Fees -- Concealed Weapons Account.**

(1) (a) ~~[Each]~~ An applicant for a concealed firearm permit shall pay a fee of ~~[\$29.75]~~ \$24.75 at the time of filing an application~~[, except that a]~~.

(b) A nonresident applicant shall pay an additional ~~[\$5]~~ \$10 for the additional cost of processing a nonresident application.

~~[(b)]~~ (c) The bureau shall waive the initial fee for an applicant who is a law enforcement officer under Section 53-13-103.

~~[(e)]~~ (d) Concealed firearm permit renewal fees for active duty service members and spouses of an active duty service member shall be waived.

(2) The renewal fee for the permit is \$15.

(3) The replacement fee for the permit is \$10.

(4) (a) The late fee for the renewal permit is \$7.50.

(b) As used in this section, "late fee" means the fee charged by the bureau for a renewal submitted on a permit that has been expired for more than 30 days but less than one year.

~~[(5) The bureau shall use the fees collected under Subsections (1), (2), (3), and (4) as a dedicated credit to cover the costs of issuing concealed firearm permits under this part.]~~

(5) (a) There is created a restricted account within the General Fund known as the "Concealed Weapons Account."

(b) The account shall be funded from fees collected under this section.

(c) Funds in the account shall be used to cover costs relating to the issuance of concealed firearm permits under this part and may not be used for any other purpose.

(6) (a) The bureau may collect any fees charged by an outside agency for additional services required by statute as a prerequisite for issuance of a permit.

(b) The bureau may modify the fee under Subsection (1)(a) by adjusting that fee so that the total of the fee under Subsection (1)(a) and the fee under Subsection (6)(a) is the nearest even dollar amount to that total.

(c) The bureau shall promptly forward any fees collected under Subsection (6)(a) to the appropriate agency.

(7) The bureau shall make an annual report in writing to the Legislature's Law Enforcement and Criminal Justice Interim Committee on the amount and use of the fees collected under this section.

Section 2. Section 53-10-202 is amended to read:

53-10-202. Criminal identification -- Duties of bureau.

The bureau shall:

(1) procure and file information relating to identification and activities of persons who:

(a) are fugitives from justice;

(b) are wanted or missing;

(c) have been arrested for or convicted of a crime under the laws of any state or nation; and

(d) are believed to be involved in racketeering, organized crime, or a dangerous offense;

(2) establish a statewide uniform crime reporting system that shall include:

(a) statistics concerning general categories of criminal activities;

(b) statistics concerning crimes that exhibit evidence of prejudice based on race, religion, ancestry, national origin, ethnicity, or other categories that the division finds appropriate; and

(c) other statistics as required by the Federal Bureau of Investigation;

(3) make a complete and systematic record and index of the information obtained under this part;

(4) subject to the restrictions in this part, establish policy concerning the use and dissemination of data obtained under this part;

(5) publish an annual report concerning the extent, fluctuation, distribution, and nature of crime in Utah;

(6) establish a statewide central register for the identification and location of missing persons, which may include:

(a) identifying data including fingerprints of each missing person;

(b) identifying data of any missing person who is reported as missing to a law enforcement agency having jurisdiction;

(c) dates and circumstances of any persons requesting or receiving information from the register; and

(d) any other information, including blood types and photographs found necessary in furthering the purposes of this part;

(7) publish a quarterly directory of missing persons for distribution to persons or entities likely to be instrumental in the identification and location of missing persons;

(8) list the name of every missing person with the appropriate nationally maintained missing persons lists;

(9) establish and operate a 24-hour communication network for reports of missing persons and reports of sightings of missing persons;

(10) coordinate with the National Center for Missing and Exploited Children and other agencies to facilitate the identification and location of missing persons and the identification of unidentified persons and bodies;

(11) receive information regarding missing persons, as provided in Sections 26-2-27 and 53A-11-502, and stolen vehicles, vessels, and outboard motors, as provided in Section 41-1a-1401;

(12) adopt systems of identification, including the fingerprint system, to be used by the division to facilitate law enforcement;

(13) assign a distinguishing number or mark of identification to any pistol or revolver, as provided in Section 76-10-520;

(14) check certain criminal records databases for information regarding motor vehicle salesperson applicants, maintain a separate file of fingerprints for motor vehicle salespersons, and inform the Motor Vehicle Enforcement Division when new entries are made for certain criminal offenses for motor vehicle salespersons in accordance with the requirements of Section 41-3-205.5;

(15) check certain criminal records databases for information regarding driving privilege card applicants or cardholders and maintain a separate file of fingerprints for driving privilege applicants and cardholders and inform the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security or law enforcement agencies when new entries are made in accordance with the requirements of Section 53-3-205.5.

(16) review and approve or disapprove applications for license renewal that meet the requirements for renewal; ~~and~~

(17) forward to the board those applications for renewal under Subsection (16) that do not meet the requirements for renewal~~[-]; and~~

(18) within funds appropriated by the Legislature for the purpose, implement and manage the operation of a firearm safety program, in conjunction with the state suicide prevention coordinator, as described in this section and Section 62A-15-1101, including:

(a) coordinating with the Department of Health, local mental health and substance abuse

authorities, the State Office of Education suicide prevention coordinator, and a representative from a Utah-based nonprofit organization with expertise in the field of firearm use and safety that represents firearm owners, to:

(i) produce a firearm safety brochure with information about the safe handling and use of firearms that includes:

(A) rules for safe handling, storage, and use of firearms in a home environment;

(B) information about at-risk individuals and individuals who are legally prohibited from possessing firearms;

(C) information about suicide prevention and awareness; and

(D) information about the availability of firearm safety packets;

(ii) procure cable-style gun locks for distribution pursuant to this section; and

(iii) produce a firearm safety packet that includes both the firearm safety brochure described in Subsection (18)(a)(i) and the cable-style gun lock described in Subsection (18)(a)(ii);

(b) distributing, free of charge, the firearm safety packet to the following persons, who shall make the firearm safety packet available free of charge:

(i) health care providers, including emergency rooms;

(ii) mental health practitioners;

(iii) other public health suicide prevention organizations;

(iv) entities that teach firearm safety courses; and

(v) school districts for use in the seminar, described in Section 53A-15-1302, for parents of students in the school district;

(c) creating and administering a redeemable coupon program described in this section and Section 76-10-526, that may include:

(i) producing a redeemable coupon that offers between \$10 and \$200 off the purchase of a gun safe from a participating federally licensed firearms dealer, as defined in Section 76-10-501, by a Utah resident who has filed an application for a concealed firearm permit;

(ii) advertising the redeemable coupon program to all federally licensed firearms dealers and maintaining a list of dealers who wish to participate in the program;

(iii) printing or writing the name of a Utah resident who has filed an application for a concealed firearm permit on the redeemable coupon;

(iv) mailing the redeemable coupon and the firearm safety brochure to Utah residents who have filed an application for a concealed firearm permit; and

(v) collecting from the participating dealers receipts described in Section 76-10-526 and reimbursing the dealers;

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, making rules that establish procedures for:

(i) producing and distributing the firearm safety brochures and packets;

(ii) procuring the cable-style gun locks for distribution; and

(iii) administering the redeemable coupon program; and

(e) reporting to the Law Enforcement and Criminal Justice Interim Committee regarding implementation and success of the firearm safety program:

(i) during the 2016 interim, before November 1; and

(ii) during the 2018 interim, before June 1.

Section 3. Section 53-10-202.1 is enacted to read:

53-10-202.1. Firearm Safety Account.

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

(2) The account shall be funded by appropriations from the Legislature.

(3) Funds in the account may only be used for the Firearm Safety Program established in Subsection 53-10-202(18).

Section 4. Section 62A-15-1101 is amended to read:

62A-15-1101. Suicide prevention -- Reporting requirements.

(1) As used in the section:

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

~~(a)~~ (b) "Division" means the State Division of Substance Abuse and Mental Health.

~~(b)~~ (c) "Intervention" means an effort to prevent a person from attempting suicide.

~~(c)~~ (d) "Postvention" means mental health intervention after a suicide attempt or death to prevent or contain contagion.

~~(d)~~ (e) "State suicide prevention coordinator" means ~~a person~~ an individual designated by the division as described in ~~Subsection (2)~~ Subsections (2) and (3).

(2) The division shall appoint a state suicide prevention coordinator.

(3) The state suicide prevention coordinator shall coordinate the suicide prevention program, including suicide prevention, intervention, and postvention programs, services, and efforts statewide, with at least the following:

(a) local mental health and substance abuse authorities;

(b) the State Board of Education, including the State Office of Education suicide prevention coordinator described in Section 53A-15-1301;

(c) the Department of Health;

(d) health care providers, including emergency rooms; and

(e) other public health suicide prevention efforts.

(4) The state suicide prevention coordinator shall report to the Legislature's Education Interim Committee, by the November 2014 meeting, jointly with the State Board of Education, on the coordination of suicide prevention programs and efforts with the State Board of Education and the State Office of Education suicide prevention coordinator as described in Section 53A-15-1301.

(5) The state suicide prevention coordinator shall consult with the bureau to implement and manage the operation of a firearm safety program, as described in Subsection 53-10-202(18) and Section 53-10-202.1.

Section 5. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates, Titles 53, 53A, and 53B.

The following provisions are repealed on the following dates:

(1) Section 53-3-232, Conditional licenses, is repealed July 1, 2015.

(2) Subsection 53-10-202(18) is repealed July 1, 2018.

(3) Section 53-10-202.1 is repealed July 1, 2018.

~~[(2)]~~ (4) Title 53A, Chapter 1a, Part 6, Public Education Job Enhancement Program is repealed July 1, 2020.

~~[(3)]~~ (5) The State Instructional Materials Commission, created in Section 53A-14-101, is repealed July 1, 2016.

~~[(4)]~~ (6) Subsections 53A-16-113(3) and (4) are repealed December 31, 2016.

~~[(5)]~~ (7) Section 53A-16-114 is repealed December 31, 2016.

~~[(6)]~~ (8) Section 53A-17a-163, Performance-based Compensation Pilot Program is repealed July 1, 2016.

~~[(7)]~~ (9) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells, other hydrologic studies, and air quality monitoring in the West Desert, is repealed July 1, 2020.

Section 6. Section 63I-1-262 is amended to read:

63I-1-262. Repeal dates, Title 62A.

(1) Section 62A-2-120.5, Pilot program for expedited background check of a qualified human services applicant, is repealed July 1, 2017.

(2) Subsection 62A-15-1101(5) is repealed July 1, 2018.

Section 7. Section 63I-1-276 is enacted to read:

63I-1-276. Repeal dates, Title 76.

Subsection 76-10-526(15) is repealed July 1, 2018.

Section 8. Section 76-10-526 is amended to read:

76-10-526. Criminal background check prior to purchase of a firearm -- Fee -- Exemption for concealed firearm permit holders and law enforcement officers.

(1) For purposes of this section, "valid permit to carry a concealed firearm" does not include a temporary permit issued under Section 53-5-705.

(2) (a) To establish personal identification and residence in this state for purposes of this part, a dealer shall require an individual receiving a firearm to present one photo identification on a form issued by a governmental agency of the state.

(b) A dealer may not accept a driving privilege card issued under Section 53-3-207 as proof of identification for the purpose of establishing personal identification and residence in this state as required under this Subsection (2).

(3) (a) A criminal history background check is required for the sale of a firearm by a licensed firearm dealer in the state.

(b) Subsection (3)(a) does not apply to the sale of a firearm to a Federal Firearms Licensee.

(4) (a) An individual purchasing a firearm from a dealer shall consent in writing to a criminal background check, on a form provided by the bureau.

(b) The form shall contain the following information:

(i) the dealer identification number;

(ii) the name and address of the individual receiving the firearm;

(iii) the date of birth, height, weight, eye color, and hair color of the individual receiving the firearm; and

(iv) the Social Security number or any other identification number of the individual receiving the firearm.

(5) (a) The dealer shall send the information required by Subsection (4) to the bureau immediately upon its receipt by the dealer.

(b) A dealer may not sell or transfer a firearm to an individual until the dealer has provided the bureau with the information in Subsection (4) and has received approval from the bureau under Subsection (7).

(6) The dealer shall make a request for criminal history background information by telephone or other electronic means to the bureau and shall receive approval or denial of the inquiry by telephone or other electronic means.

(7) When the dealer calls for or requests a criminal history background check, the bureau shall:

(a) review the criminal history files, including juvenile court records, to determine if the individual is prohibited from purchasing, possessing, or transferring a firearm by state or federal law;

(b) inform the dealer that:

(i) the records indicate the individual is prohibited; or

(ii) the individual is approved for purchasing, possessing, or transferring a firearm;

(c) provide the dealer with a unique transaction number for that inquiry; and

(d) provide a response to the requesting dealer during the call for a criminal background check, or by return call, or other electronic means, without delay, except in case of electronic failure or other circumstances beyond the control of the bureau, the bureau shall advise the dealer of the reason for the delay and give the dealer an estimate of the length of the delay.

(8) (a) The bureau may not maintain any records of the criminal history background check longer than 20 days from the date of the dealer's request, if the bureau determines that the individual receiving the firearm is not prohibited from purchasing, possessing, or transferring the firearm under state or federal law.

(b) However, the bureau shall maintain a log of requests containing the dealer's federal firearms number, the transaction number, and the transaction date for a period of 12 months.

(9) If the criminal history background check discloses information indicating that the individual attempting to purchase the firearm is prohibited from purchasing, possessing, or transferring a firearm, the bureau shall inform the law enforcement agency in the jurisdiction where the individual resides.

(10) If an individual is denied the right to purchase a firearm under this section, the individual may review the individual's criminal history information and may challenge or amend the information as provided in Section 53-10-108.

(11) The bureau shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure the identity, confidentiality, and security of all records provided by the bureau under this part are in conformance with the requirements of the Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993).

(12) (a) (i) A dealer shall collect a criminal history background check fee of \$7.50 for the sale of a firearm under this section.

(ii) This fee remains in effect until changed by the bureau through the process under Section 63J-1-504.

(b) (i) The dealer shall forward at one time all fees collected for criminal history background checks performed during the month to the bureau by the last day of the month following the sale of a firearm.

(ii) The bureau shall deposit the fees in the General Fund as dedicated credits to cover the cost of administering and conducting the criminal history background check program.

(13) An individual with a concealed firearm permit issued under Title 53, Chapter 5, Part 7, Concealed Firearm Act, is exempt from the background check and corresponding fee required in this section for the purchase of a firearm if:

(a) the individual presents the individual's concealed firearm permit to the dealer prior to purchase of the firearm; and

(b) the dealer verifies with the bureau that the individual's concealed firearm permit is valid.

(14) A law enforcement officer, as defined in Section 53-13-103, is exempt from the background check fee required in this section for the purchase of a personal firearm to be carried while off-duty if the law enforcement officer verifies current employment by providing a letter of good standing from the officer's commanding officer and current law enforcement photo identification. This section may only be used by a law enforcement officer to purchase a personal firearm once in a 24-month period.

(15) (a) A dealer may participate in the redeemable coupon program described in this Subsection (15) and Subsection 53-10-202(18).

(b) A participating dealer shall:

(i) accept the redeemable coupon only from the individual whose name is on the coupon and apply it only toward the purchase of a gun safe;

(ii) collect the receipts from the purchase of gun safes using the redeemable coupon and send them to the Bureau of Criminal Identification for redemption; and

(iii) make the firearm safety brochure described in Subsection 53-10-202(18) available to customers free of charge.

Section 9. Appropriation.

Under the terms and conditions of Utah Code Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2014, and ending June 30, 2015, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or fund accounts indicated. These are additions to amounts previously appropriated for fiscal year 2015.

To Department of Public Safety - Programs and Operations

From General Fund Restricted - Firearm Safety Account \$70,000

Schedule of Programs:

Bureau of Criminal Identification \$70,000

To Department of Public Safety - Programs and Operations

From General Fund Restricted - Concealed Weapons Account \$3,100,000

Schedule of Programs:

CITS Bureau of Criminal Identification \$3,100,000

Under Section 63J-1-603, the Legislature intends that appropriations provided under this section not lapse at the close of fiscal year 2015. The use of any nonlapsing funds is limited to purposes described in Subsection 53-10-202(18)

Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts among the following funds or accounts as indicated.

To General Fund Restricted - Firearm Safety Account

From Nonlapsing Balances - Department of Public Safety - Programs and Operations \$250,000

Schedule of Programs

General Fund Restricted - Firearm Safety Account \$250,000

Section 10. Effective date.

This bill takes effect on July 1, 2014.

CHAPTER 227**H. B. 138**

Passed March 13, 2014
 Approved March 31, 2014
 Effective May 13, 2014
 (Exception clause in Section 16)

**UNDERGROUND PETROLEUM
 STORAGE TANK AMENDMENTS**

Chief Sponsor: Steve Eliason
 Senate Sponsor: Howard A. Stephenson

LONG TITLE**General Description:**

This bill modifies provisions relating to the Division of Environmental Response and Remediation.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ authorizes the director of the Division of Environmental Response and Remediation to file a lien against a responsible party for the costs associated with a cleanup, if necessary;
- ▶ transfers balances from the Petroleum Storage Tank Loan Fund and the Circle K settlement into the Petroleum Storage Tank Trust Fund;
- ▶ authorizes the director of the Division of Environmental Response and Remediation to use money in the Petroleum Storage Tank Cleanup Fund to investigate a suspected release;
- ▶ requires the Division of Environmental Response and Remediation to charge an additional fee for an underground storage tank with an annual throughput rate of 70,000 gallons or less;
- ▶ authorizes the State Tax Commission to raise the environmental assurance fee to 13/20 cent per gallon on the first sale or use of petroleum in the state;
- ▶ authorizes the Division of Environmental Response and Remediation to create a risk-based rebate system for environmental assurance fees;
- ▶ authorizes the director of the Division of Environmental Response and Remediation to revoke a certificate of compliance, in certain situations;
- ▶ authorizes the director of the Division of Environmental Response and Remediation to order an owner or operator to reimburse the division for the cost of managing and overseeing the cleanup of a release;
- ▶ provides a repeal date; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an effective date.

Utah Code Sections Affected:**AMENDS:**

- 19-6-402, as last amended by Laws of Utah 2012, Chapters 310 and 360
 19-6-404, as last amended by Laws of Utah 2012, Chapter 360
 19-6-405.7, as last amended by Laws of Utah 2012, Chapter 360
 19-6-408, as last amended by Laws of Utah 2012, Chapter 360
 19-6-409, as last amended by Laws of Utah 2013, Chapter 286
 19-6-410.5, as last amended by Laws of Utah 2013, Chapter 286
 19-6-411, as last amended by Laws of Utah 2012, Chapters 286, 310, 360 and last amended by Coordination Clause, Laws of Utah 2012, Chapter 310
 19-6-414, as last amended by Laws of Utah 2012, Chapter 360
 19-6-420, as last amended by Laws of Utah 2012, Chapter 360
 19-8-119, as last amended by Laws of Utah 2012, Chapter 360
 63A-3-205, as last amended by Laws of Utah 2013, Chapter 227
 63B-1b-102, as last amended by Laws of Utah 2013, Chapter 227
 63B-1b-202, as last amended by Laws of Utah 2013, Chapter 227

ENACTS:

- 19-6-405.4, Utah Code Annotated 1953
 63I-2-219, Utah Code Annotated 1953

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

Section 1. Section 19-6-402 is amended to read:**19-6-402. Definitions.**

As used in this part:

- (1) "Abatement action" means action taken to limit, reduce, mitigate, or eliminate:
 - (a) a release from an underground storage tank or petroleum storage tank; or
 - (b) the damage caused by that release.
- (2) "Board" means the Solid and Hazardous Waste Control Board created in Section 19-1-106.
- (3) "Bodily injury" means bodily harm, sickness, disease, or death sustained by a person.
- (4) "Certificate of compliance" means a certificate issued to a facility by the director:
 - (a) demonstrating that an owner or operator of a facility containing one or more petroleum storage tanks has met the requirements of this part; and
 - (b) listing all tanks at the facility, specifying:
 - (i) which tanks may receive petroleum; and
 - (ii) which tanks have not met the requirements for compliance.
- (5) "Certificate of registration" means a certificate issued to a facility by the director

demonstrating that an owner or operator of a facility containing one or more underground storage tanks has:

- (a) registered the tanks; and
- (b) paid the annual underground storage tank fee.

(6) (a) “Certified underground storage tank consultant” means a person who:

(i) for a fee, or in connection with services for which a fee is charged, provides or contracts to provide information, opinions, or advice relating to underground storage tank release:

- (A) management;
- (B) abatement;
- (C) investigation;
- (D) corrective action; or
- (E) evaluation;
- (ii) has submitted an application to the director;
- (iii) received a written statement of certification from the director; and
- (iv) meets the education and experience standards established by the board under Subsection 19-6-403(1)(a)(vii).

(b) “Certified underground storage tank consultant” does not include:

(i) (A) an employee of the owner or operator of the underground storage tank; or

(B) an employee of a business operation that has a business relationship with the owner or operator of the underground storage tank, and markets petroleum products or manages underground storage tanks; or

(ii) a person licensed to practice law in this state who offers only legal advice on underground storage tank release:

- (A) management;
- (B) abatement;
- (C) investigation;
- (D) corrective action; or
- (E) evaluation.
- (7) “Closed” means an underground storage tank no longer in use that has been:
 - (a) emptied and cleaned to remove all liquids and accumulated sludges; and
 - (b) (i) removed from the ground; or
 - (ii) filled with an inert solid material.

(8) “Corrective action plan” means a plan for correcting a release from a petroleum storage tank that includes provisions for any of the following:

- (a) cleanup or removal of the release;

- (b) containment or isolation of the release;
- (c) treatment of the release;
- (d) correction of the cause of the release;
- (e) monitoring and maintenance of the site of the release;

(f) provision of alternative water supplies to a person whose drinking water has become contaminated by the release; or

(g) temporary or permanent relocation, whichever is determined by the director to be more cost-effective, of a person whose dwelling has been determined by the director to be no longer habitable due to the release.

(9) “Costs” means money expended for:

- (a) investigation;
- (b) abatement action;
- (c) corrective action;
- (d) judgments, awards, and settlements for bodily injury or property damage to third parties;
- (e) legal and claims adjusting costs incurred by the state in connection with judgments, awards, or settlements for bodily injury or property damage to third parties; or
- (f) costs incurred by the state risk manager in determining the actuarial soundness of the fund.

(10) “Covered by the fund” means the requirements of Section 19-6-424 have been met.

(11) “Director” means the director of the Division of Environmental Response and Remediation.

(12) “Division” means the Division of Environmental Response and Remediation, created in Subsection 19-1-105(1)(c).

(13) “Dwelling” means a building that is usually occupied by a person lodging there at night.

(14) “Enforcement proceedings” means a civil action or the procedures to enforce orders established by Section 19-6-425.

(15) “Facility” means all underground storage tanks located on a single parcel of property or on any property adjacent or contiguous to that parcel.

(16) “Fund” means the Petroleum Storage Tank Trust Fund created in Section 19-6-409.

~~[(17) “Loan fund” means the Petroleum Storage Tank Loan Fund created in Section 19-6-405.3.]~~

~~[(18) (17) “Operator” means a person in control of or who is responsible on a daily basis for the maintenance of an underground storage tank that is in use for the storage, use, or dispensing of a regulated substance.~~

~~[(19) (18) “Owner” means:~~

~~(a) in the case of an underground storage tank in use on or after November 8, 1984, a person who owns an underground storage tank used for the storage, use, or dispensing of a regulated substance; and~~

(b) in the case of an underground storage tank in use before November 8, 1984, but not in use on or after November 8, 1984, a person who owned the tank immediately before the discontinuance of its use for the storage, use, or dispensing of a regulated substance.

[(20)] (19) "Petroleum" includes crude oil or a fraction of crude oil that is liquid at:

(a) 60 degrees Fahrenheit; and

(b) a pressure of 14.7 pounds per square inch absolute.

[(21)] (20) "Petroleum storage tank" means a tank that:

(a) (i) is underground;

(ii) is regulated under Subtitle I of the Resource Conservation and Recovery Act, 42 U.S.C. [Section] Sec. 6991c, et seq.; and

(iii) contains petroleum; or

(b) the owner or operator voluntarily submits for participation in the Petroleum Storage Tank Trust Fund under Section 19-6-415.

[(22)] (21) "Petroleum Storage Tank Restricted Account" means the account created in Section 19-6-405.5.

[(23)] (22) "Program" means the Environmental Assurance Program under Section 19-6-410.5.

[(24)] (23) "Property damage" means physical injury to, destruction of, or loss of use of tangible property.

[(25)] (24) (a) "Regulated substance" means petroleum and petroleum-based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading, and finishing.

(b) "Regulated substance" includes motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.

[(26)] (25) (a) "Release" means spilling, leaking, emitting, discharging, escaping, leaching, or disposing a regulated substance from an underground storage tank or petroleum storage tank.

(b) A release of a regulated substance from an underground storage tank or petroleum storage tank is considered a single release from that tank system.

[(27)] (26) (a) "Responsible party" means a person who:

(i) is the owner or operator of a facility;

(ii) owns or has legal or equitable title in a facility or an underground storage tank;

(iii) owned or had legal or equitable title in a facility at the time petroleum was received or contained at the facility;

(iv) operated or otherwise controlled activities at a facility at the time petroleum was received or contained at the facility; or

(v) is an underground storage tank installation company.

(b) "Responsible party" is as defined in Subsections [(27)] (26)(a)(i), (ii), and (iii) does not include:

(i) a person who is not an operator and, without participating in the management of a facility and otherwise not engaged in petroleum production, refining, and marketing, holds indicia of ownership:

(A) primarily to protect [his] the person's security interest in the facility; or

(B) as a fiduciary or custodian under Title 75, Utah Uniform Probate Code, or under an employee benefit plan; or

(ii) governmental ownership or control of property by involuntary transfers as provided in CERCLA Section 101(20)(D), 42 U.S.C. Sec. 9601(20)(D).

(c) The exemption created by Subsection [(27)] (26)(b)(i)(B) does not apply to actions taken by the state or its officials or agencies under this part.

(d) The terms and activities "indicia of ownership," "primarily to protect a security interest," "participation in management," and "security interest" under this part are in accordance with 40 C.F.R. Part 280, Subpart I, as amended, and 42 U.S.C. Sec. 6991b(h)(9).

(e) The terms "participate in management" and "indicia of ownership" as defined in 40 C.F.R. Part 280, Subpart I, as amended, and 42 U.S.C. Sec. 6991b(h)(9) include and apply to the fiduciaries listed in Subsection [(27)] (26)(b)(i)(B).

[(28)] (27) "Soil test" means a test, established or approved by board rule, to detect the presence of petroleum in soil.

[(29)] (28) "State cleanup appropriation" means money appropriated by the Legislature to the department to fund the investigation, abatement, and corrective action regarding releases not covered by the fund.

[(30)] (29) "Underground storage tank" means a tank regulated under Subtitle I, Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991c, et seq., including:

(a) a petroleum storage tank;

(b) underground pipes and lines connected to a storage tank;

(c) underground ancillary equipment; ~~and~~

(d) a containment system[-]; and

(e) each compartment of a multi-compartment storage tank.

[(31)] (30) "Underground storage tank installation company" means a person, firm, partnership, corporation, governmental entity,

association, or other organization who installs underground storage tanks.

~~(32)~~ (31) “Underground storage tank installation company permit” means a permit issued to an underground storage tank installation company by the director.

~~(33)~~ (32) “Underground storage tank technician” means a person employed by and acting under the direct supervision of a certified underground storage tank consultant to assist in carrying out the functions described in Subsection (6)(a).

Section 2. Section 19-6-404 is amended to read:

19-6-404. Powers and duties of director.

(1) The director shall:

(a) administer the petroleum storage tank program established in this part; and

(b) as authorized by the board and subject to the provisions of this part, act as executive secretary of the board under the direction of the chairman of the board.

(2) As necessary to meet the requirements or carry out the purposes of this part, the director may:

(a) advise, consult, and cooperate with other persons;

(b) employ persons;

(c) authorize a certified employee or a certified representative of the department to conduct facility inspections and reviews of records required to be kept by this part and by rules made under this part;

(d) encourage, participate in, or conduct studies, investigation, research, and demonstrations;

(e) collect and disseminate information;

(f) enforce rules made by the board and any requirement in this part by issuing notices and orders;

(g) review plans, specifications, or other data;

(h) under the direction of the executive director, represent the state in all matters pertaining to interstate underground storage tank management and control, including entering into interstate compacts and other similar agreements;

(i) enter into contracts or agreements with political subdivisions for the performance of any of the department’s responsibilities under this part if:

(i) the contract or agreement is not prohibited by state or federal law and will not result in a loss of federal funding; and

(ii) the director determines that:

(A) the political subdivision is willing and able to satisfactorily discharge its responsibilities under the contract or agreement; and

(B) the contract or agreement will be practical and effective;

(j) take any necessary enforcement action authorized under this part, including filing a lien against the real property, which is subject to cleanup and is owned by a responsible party, for the costs of abatement, investigative and corrective actions taken by the agency, if necessary, and depositing any funds received into the Petroleum Storage Tank Cleanup Fund created in Section 19-6-405.7;

(k) require an owner or operator of an underground storage tank to:

(i) furnish information or records relating to the tank, its equipment, and contents;

(ii) monitor, inspect, test, or sample the tank, its contents, and any surrounding soils, air, or water; or

(iii) provide access to the tank at reasonable times;

(l) take any abatement, investigative, or corrective action as authorized in this part; or

(m) enter into agreements or issue orders to apportion percentages of liability of responsible parties under Section 19-6-424.5.

Section 3. Section 19-6-405.4 is enacted to read:

19-6-405.4. Transfer of balances.

By June 30, 2014, the Department of Environmental Quality shall transfer:

(1) the balances in the Petroleum Storage Tank Loan Fund created in Section 19-6-405.3 into the Petroleum Storage Tank Trust Fund created in Section 19-6-409; and

(2) any funds remaining from the Circle K settlement in the Petroleum Damage Fund into the Petroleum Storage Tank Trust Fund created in Section 19-6-409.

Section 4. Section 19-6-405.7 is amended to read:

19-6-405.7. Petroleum Storage Tank Cleanup Fund -- Revenue and purposes.

(1) There is created a private-purpose trust fund entitled the “Petroleum Storage Tank Cleanup Fund,” which is referred to in this section as the cleanup fund.

(2) The cleanup fund sources of revenue are:

(a) any voluntary contributions received by the department for the cleanup of facilities;

(b) legislative appropriations made to the cleanup fund; and

(c) costs recovered under this part.

(3) The cleanup fund shall earn interest, which shall be deposited in the cleanup fund.

(4) The director may use the cleanup fund money for administration, investigation, abatement action, and preparing and implementing a corrective action plan regarding releases and suspected releases not covered by the Petroleum

Storage Tank Trust Fund created in Section 19-6-409.

Section 5. Section 19-6-408 is amended to read:

19-6-408. Underground storage tank registration fee -- Processing fee for tanks not in the program.

(1) The department may assess an annual underground storage tank registration fee against [owners] an owner or [operators] operator of an underground storage [tanks] tank that [have] has not been closed. These fees shall be:

- (a) billed per facility;
- (b) due on July 1 annually;
- (c) deposited with the department as dedicated credits;
- (d) used by the department for the administration of the underground storage tank program outlined in this part; and
- (e) established under Section 63J-1-504.

(2) (a) As used in this Subsection (2), "financial assurance mechanism document" may be a single document that covers more than one facility through a single financial assurance mechanism.

(b) In addition to the fee under Subsection (1), an owner or operator who elects to demonstrate financial assurance through a mechanism other than the Environmental Assurance Program shall pay a processing fee [of: (i) for fiscal year 1997-98, \$1,000 for each financial assurance mechanism document submitted to the division for review; and (ii) on and after July 1, 1998, a processing fee] established under Section 63J-1-504.

~~[(b)]~~ (c) If a combination of financial assurance mechanisms is used to demonstrate financial assurance, the fee under Subsection ~~[(2)(a)]~~ (2)(b) shall be paid for each document submitted.

~~[(c) As used in this Subsection (2), "financial assurance mechanism document" may be a single document that covers more than one facility through a single financial assurance mechanism.]~~

(3) Any funds provided for administration of the underground storage tank program under this section that are not expended at the end of the fiscal year lapse into the Petroleum Storage Tank Restricted Account created in Section 19-6-405.5.

(4) The director shall provide all owners or operators who pay the annual underground storage tank registration fee a certificate of registration.

(5) (a) The director may issue a notice of agency action assessing a civil penalty of \$1,000 per facility if an owner or operator of an underground storage tank facility fails to pay the required fee within 60 days after the July 1 due date.

(b) The registration fee and late payment penalty accrue interest at 12% per annum.

(c) If the registration fee, late payment penalty, and interest accrued under this Subsection (5) are not paid in full within 60 days after the July 1 due date any certificate of compliance issued prior to the July 1 due date lapses. The director may not reissue the certificate of compliance until full payment under this Subsection (5) is made to the department.

(d) The director may waive any penalty assessed under this Subsection (5) if no fuel has been dispensed from the tank on or after July 1, 1991.

Section 6. Section 19-6-409 is amended to read:

19-6-409. Petroleum Storage Tank Trust Fund created -- Source of revenues.

(1) (a) There is created a private-purpose trust fund entitled the "Petroleum Storage Tank Trust Fund."

(b) The sole sources of revenues for the fund are:

- (i) petroleum storage tank fees paid under Section 19-6-411;
- (ii) underground storage tank installation company permit fees paid under Section 19-6-411;
- (iii) the environmental assurance fee and penalties paid under Section 19-6-410.5; ~~[and]~~
- (iv) appropriations to the fund;
- (v) principal and interest received from the repayment of loans made by the director under Subsection (5); and

~~[(iv)]~~ (vi) interest accrued on revenues listed in this Subsection (1)(b).

(c) Interest earned on fund money is deposited into the fund.

(2) The director may expend money from the fund to pay costs:

- (a) covered by the fund under Section 19-6-419;
- (b) of administering the:
 - (i) fund; and
 - (ii) environmental assurance program and fee under Section 19-6-410.5;

(c) incurred by the state for a legal service or claim adjusting service provided in connection with a claim, judgment, award, or settlement for bodily injury or property damage to a third party;

(d) incurred by the executive director in determining the actuarial soundness of the fund;

(e) incurred by a third party claiming injury or damages from a release reported on or after May 11, 2010, for hiring a certified underground storage tank consultant:

- (i) to review an investigation or corrective action by a responsible party; and
- (ii) in accordance with Subsection (4);

(f) incurred by the department to implement the study described in Subsection 19-6-410.5(8),

including a one-time cost of up to \$200,000 for the actuarial study described in Subsection 19-6-410.5(8)(a)(ii); and

(g) allowed under this part that are not listed under this Subsection (2).

(3) Costs for the administration of the fund and the environmental assurance fee shall be appropriated by the Legislature.

(4) The director shall:

(a) in paying costs under Subsection (2)(e):

(i) determine a reasonable limit on costs paid based on the:

(A) extent of the release;

(B) impact of the release; and

(C) services provided by the certified underground storage tank consultant;

(ii) pay, per release, costs for one certified underground storage tank consultant agreed to by all third parties claiming damages or injury;

(iii) include costs paid in the coverage limits allowed under Section 19-6-419; and

(iv) not pay legal costs of third parties;

(b) review and give careful consideration to reports and recommendations provided by a certified underground storage tank consultant hired by a third party; and

(c) make reports and recommendations provided under Subsection (4)(b) available on the Division of Environmental Response and Remediation's website.

(5) The director may loan, in accordance with this section, money available in the fund to a person to be used for:

(a) upgrading an underground storage tank;

(b) replacing an underground storage tank; or

(c) permanently closing an underground storage tank.

(6) A person may apply to the director for a loan under Subsection (5) if all tanks owned or operated by that person are in substantial compliance with all state and federal requirements or will be brought into substantial compliance using money from the fund.

(7) The director shall consider loan applications under Subsection (6) to meet the following objectives:

(a) support availability of gasoline in rural parts of the state;

(b) support small businesses; and

(c) reduce the threat of a petroleum release endangering the environment.

(8) (a) A loan made under this section may not be for more than:

(i) \$150,000 for all tanks at any one facility;

(ii) \$50,000 per tank; and

(iii) 80% of the total cost of:

(A) upgrading an underground storage tank;

(B) replacing an underground storage tank; or

(C) permanently closing an underground storage tank.

(b) A loan made under this section shall:

(i) have a fixed annual interest rate of 0%;

(ii) have a term no longer than 10 years;

(iii) be made on the condition the loan applicant obtains adequate security for the loan as established by board rule under Subsection (9); and

(iv) comply with rules made by the board under Subsection (9).

(9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules establishing:

(a) form, content, and procedure for a loan application;

(b) criteria and procedures for prioritizing a loan application;

(c) requirements and procedures for securing a loan;

(d) procedures for making a loan;

(e) procedures for administering and ensuring repayment of a loan, including late payment penalties;

(f) procedures for recovering on a defaulted loan; and

(g) the maximum amount of the fund that may be used for loans.

(10) A decision by the director to loan money from the fund and otherwise administer the fund is not subject to Title 63G, Chapter 4, Administrative Procedures Act.

(11) The Legislature shall appropriate money from the fund to the department for the administration costs associated with making loans under this section.

(12) The director may enter into an agreement with a public entity or private organization to perform a task associated with administration of loans made under this section.

Section 7. Section 19-6-410.5 is amended to read:

19-6-410.5. Environmental Assurance Program -- Participant fee -- State Tax Commission administration, collection, and enforcement of tax.

(1) As used in this section:

(a) "Cash balance" means cash plus investments and current accounts receivable minus current

accounts payable, excluding the liabilities estimated by the executive director.

(b) "Commission" means the State Tax Commission, as defined in Section 59-1-101.

(2) (a) There is created an Environmental Assurance Program.

(b) The program shall provide to a participating owner or operator, upon payment of the fee imposed under Subsection (4), assistance with satisfying the financial responsibility requirements of 40 C.F.R., Part 280, Subpart H, by providing funds from the Petroleum Storage Tank Trust Fund established in Section 19-6-409, subject to the terms and conditions of Chapter 6, Part 4, Underground Storage Tank Act, and rules implemented under that part.

(3) (a) Subject to Subsection (3)(b), participation in the program is voluntary.

(b) An owner or operator seeking to satisfy financial responsibility requirements through the program shall use the program for all petroleum underground storage tanks that the owner or operator owns or operates.

(4) (a) There is assessed an environmental assurance fee of ~~[1/2]~~ 13/20 cent per gallon on the first sale or use of petroleum products in the state.

(b) The environmental assurance fee and any other revenue collected under this section shall be deposited in the Petroleum Storage Tank Trust Fund created in Section 19-6-409 and used solely for the purposes listed in Section 19-6-409.

(5) (a) The commission shall administer, collect, and enforce the fee imposed under this section according to the same procedures used in the administration, collection, and enforcement of the state sales and use tax under:

(i) Title 59, Chapter 1, General Taxation Policies; and

(ii) Title 59, Chapter 12, Part 1, Tax Collection.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules to establish:

(i) the method of payment of the environmental assurance fee;

(ii) the procedure for reimbursement or exemption of an owner or operator that does not participate in the program, including an owner or operator of an above ground storage tank; and

(iii) the procedure for confirming with the department that an owner or operator qualifies for reimbursement or exemption under Subsection (5)(b)(ii).

(c) The commission may retain an amount not to exceed 2.5% of fees collected under this section for the cost to the commission of rendering its services.

(d) By January 1, 2015, the division shall, by rule, create:

(i) a model for assessing the risk profile of each facility participating in the program, for purposes of qualifying for a rebate of a portion of the environmental assurance fee described in Subsection (4) collected from an owner or operator that participates in the program; and

(ii) a rebate schedule listing the amount of the environmental assurance fee that an owner or operator participating in the program may qualify for based on risk profiles determined by the model developed under Subsection (5)(d)(i).

(e) The rebate described in Subsection (5)(d):

(i) may not exceed 40% of the actual fee collected from an owner or operator of a low-risk underground storage tank as defined in the risk-based model developed under Subsection (5)(d);

(ii) is administered on a per facility basis;

(iii) is based on the facility's risk profile at the end of the prior calendar year;

(iv) is only applicable to an environmental assurance fee collected after December 30, 2014; and

(v) shall be claimed in the form of a refund from the commission.

(f) The refund described in Subsection (5)(e)(v) may be claimed on a monthly basis.

(6) (a) The person responsible for payment of the fee under this section shall, by the last day of the month following the month in which the sale occurs:

(i) complete and submit the form prescribed by the commission; and

(ii) pay the fee to the commission.

(b) (i) The penalties and interest for failure to file the form or to pay the environmental assurance fee are the same as the penalties and interest under Sections 59-1-401 and 59-1-402.

(ii) The commission shall deposit penalties and interest collected under this section in the Petroleum Storage Tank Trust Fund.

(c) The commission shall report to the department a person who is delinquent in payment of the fee under this section.

(7) (a) (i) If the cash balance of the Petroleum Storage Tank Trust Fund on June 30 of any year exceeds \$30,000,000, the assessment of the environmental assurance fee as provided in Subsection (4) is reduced to 1/4 cent per gallon beginning November 1.

(ii) The reduction under this Subsection (7)(a) remains in effect until modified by the Legislature in a general or special session.

(b) The commission shall determine the cash balance of the fund each year as of June 30.

(c) Before September 1 of each year, the department shall provide the commission with the accounts payable of the fund as of June 30.

(8) The department shall:

(a) (i) study the adverse selection of participants in the program and the actuarial deficit of the fund;

(ii) obtain an actuarial study and related consultation that provides the necessary calculations to minimize adverse selection in the program and the actuarial deficit of the fund;

(iii) develop a risk characterization profile for participants in the program and recommend a fee schedule based on fair market rates;

(iv) develop a strategy to reduce the negative equity balance of the fund and, based on the fee schedule described in Subsection (8)(a)(iii), a corresponding time schedule showing an actuarial reduction in the negative equity balance of the fund; and

(v) identify and study other adverse impacts to the program and the fund; and

(b) based on the information obtained and developed under Subsection (8)(a), prepare a recommendation to implement a strategy to minimize adverse selection of participants in the program and eliminate or reduce the actuarial deficit of the fund.

(9) The department shall report to the Natural Resources, Agriculture, and Environment Interim Committee before December 31, 2013, regarding:

(a) the information obtained and developed under Subsection (8)(a); and

(b) the recommendation prepared under Subsection (8)(b).

Section 8. Section 19-6-411 is amended to read:

19-6-411. Petroleum storage tank fee for program participants.

(1) In addition to the underground storage tank registration fee paid in Section 19-6-408, the owner or operator of a petroleum storage tank who elects to participate in the environmental assurance program under Section 19-6-410.5 shall also pay an annual petroleum storage tank fee to the department for each facility as follows:

(a) an annual fee of:

(i) \$450 for each tank in a facility with an annual facility throughput rate of 70,000 gallons or less;

~~[(i) \$50]~~ (ii) \$150 for each tank in a facility with an annual facility throughput rate of [400,000] greater than 70,000 gallons ~~[or less]; and~~

~~[(ii) \$150 for each tank in a facility with an annual facility throughput rate of more than 400,000 gallons; and]~~

(iii) ~~[\$150]~~ \$450 for each tank in a facility regarding which:

(A) the facility's throughput rate is not reported to the department within 30 days after the date this

throughput information is requested by the department; or

(B) the owner or operator elects to pay the fee under this Subsection (1)(a)(iii), rather than report under Subsection (1)(a)(i) or (ii); and

(b) for any new tank:

(i) that is installed to replace an existing tank at an existing facility, any annual petroleum storage tank fee paid for the current fiscal year for the existing tank is applicable to the new tank; and

(ii) installed at a new facility or at an existing facility, which is not a replacement for another existing tank, the fees are as provided in Subsection (1)(a)(ii) ~~[of this section]~~.

(2) (a) As a condition of receiving a permit and being eligible for benefits under Section 19-6-419 from the Petroleum Storage Tank Trust Fund, each underground storage tank installation company shall pay to the department the following fees to be deposited in the fund:

(i) an annual fee of:

(A) \$2,000 per underground storage tank installation company if the installation company has installed 15 or fewer underground storage tanks within the 12 months preceding the fee due date; or

(B) \$4,000 per underground storage tank installation company if the installation company has installed 16 or more underground storage tanks within the 12 months preceding the fee due date; and

(ii) \$200 for each underground storage tank installed in the state, to be paid prior to completion of installation.

(b) The board shall make rules specifying which portions of an underground storage tank installation shall be subject to the permitting fees when less than a full underground storage tank system is installed.

(3) (a) Fees under Subsection (1) are due on or before July 1 annually.

(b) If the department does not receive the fee on or before July 1, the department shall impose a late penalty of \$60 per facility.

(c) (i) The fee and the late penalty accrue interest at 12% per annum.

(ii) If the fee, the late penalty, and all accrued interest are not received by the department within 60 days after July 1, the eligibility of the owner or operator to receive payments for claims against the fund lapses on the 61st day after July 1.

(iii) In order for the owner or operator to reinstate eligibility to receive payments for claims against the fund, the owner or operator shall meet the requirements of Subsection 19-6-428(3).

(4) (a) (i) Fees under Subsection (2)(a)(i) are due on or before July 1 annually. If the department does not receive the fees on or before July 1, the

department shall impose a late penalty of \$60 per installation company. The fee and the late penalty accrue interest at 12% per annum.

(ii) If the fee, late penalty, and all accrued interest due are not received by the department within 60 days after July 1, the underground storage tank installation company's permit and eligibility to receive payments for claims against the fund lapse on the 61st day after July 1.

(b) (i) Fees under Subsection (2)(a)(ii) are due prior to completion of installation. If the department does not receive the fees prior to completion of installation, the department shall impose a late penalty of \$60 per facility. The fee and the late penalty accrue interest at 12% per annum.

(ii) If the fee, late penalty, and all accrued interest are not received by the department within 60 days after the underground storage tank installation is completed, eligibility to receive payments for claims against the fund for that tank lapse on the 61st day after the tank installation is completed.

(c) The director may not reissue the underground storage tank installation company permit until the fee, late penalty, and all accrued interest are received by the department.

(5) If the executive director determines that the fees established in Subsections (1) and (2) and the environmental assurance fee established in Section 19-6-410.5 are insufficient to maintain the fund on an actuarially sound basis, the executive director may petition the Legislature to increase the petroleum storage tank and underground storage tank installation company permit fees, and the environmental assurance fee to a level that will sustain the fund on an actuarially sound basis.

(6) The director may waive all or part of the fees required to be paid on or before May 5, 1997, for a petroleum storage tank under this section if no fuel has been dispensed from the tank on or after July 1, 1991.

(7) (a) The director shall issue a certificate of compliance to the owner or operator of a petroleum storage tank or underground storage tank, for which payment of fees has been made and other requirements have been met to qualify for a certificate of compliance under this part.

(b) The board shall make rules providing for the identification, through a tag or other readily identifiable method, of a petroleum storage tank or underground storage tank under Subsection (7)(a) that does not qualify for a certificate of compliance under this part.

Section 9. Section 19-6-414 is amended to read:

19-6-414. Grounds for revocation of certificate of compliance and ineligibility for payment of costs from fund.

(1) If the director determines that any of the requirements of Subsection 19-6-412(2) ~~and~~, Section 19-6-413, or Subsection 19-6-420(2) have

not been met, the director shall notify the owner or operator by certified mail that:

(a) ~~his~~ the owner or operator's certificate of compliance may be revoked;

(b) if ~~he~~ the owner or operator is participating in the program, ~~he~~ the owner or operator is violating the eligibility requirements for the fund; and

(c) ~~he~~ the owner or operator shall demonstrate ~~his~~ the owner or operator's compliance with this part within 60 days after receipt of the notification or ~~his~~ the certificate of compliance will be revoked and if participating in the program ~~he~~ the owner or operator will be ineligible to receive payment for claims against the fund.

(2) If the director determines the owner's or operator's compliance problems have not been resolved within 60 days after receipt of the notification in Subsection (1), the director shall send written notice to the owner or operator that the owner's or operator's certificate of compliance is revoked and he is no longer eligible for payment of costs from the fund.

(3) Revocation of certificates of compliance may be appealed to the executive director.

Section 10. Section 19-6-420 is amended to read:

19-6-420. Releases -- Abatement actions -- Corrective actions.

(1) If the director determines that a release from a petroleum storage tank has occurred, ~~he~~ the director shall:

(a) identify and name as many of the responsible parties as reasonably possible; and

(b) determine which responsible parties, if any, are covered by the fund regarding the release in question.

(2) Regardless of whether the tank generating the release is covered by the fund~~, the director may~~:

(a) ~~the director may~~ order the owner or operator to take abatement, or investigative~~;~~ or corrective action, including the submission of a corrective action plan; and

(b) if the owner or operator fails to ~~take any of the abatement, investigative, or corrective~~ comply with the action ordered by the director under Subsection (2)(a), the director may take ~~any~~ one or more of the following actions:

(i) subject to the conditions in this part, use money from the fund, if the tank involved is covered by the fund, state cleanup appropriation, or the Petroleum Storage Tank Cleanup Fund created under Section 19-6-405.7 to perform investigative, abatement, or corrective action;

(ii) commence an enforcement proceeding;

(iii) enter into agreements or issue orders as allowed by Section 19-6-424.5; ~~or~~

(iv) recover costs from responsible parties equal to their proportionate share of liability as determined by Section 19-6-424.5~~;~~ or

(v) where the owner or operator is the responsible party, revoke the responsible party's certificate of compliance, as described in Section 19-6-414.

(3) (a) Subject to the limitations established in Section 19-6-419, the director shall provide money from the fund for abatement action for a release generated by a tank covered by the fund if:

(i) the owner or operator takes the abatement action ordered by the director; and

(ii) the director approves the abatement action.

(b) If a release presents the possibility of imminent and substantial danger to the public health or the environment, the owner or operator may take immediate abatement action and petition the director for reimbursement from the fund for the costs of the abatement action. If the owner or operator can demonstrate to the satisfaction of the director that the abatement action was reasonable and timely in light of circumstances, the director shall reimburse the petitioner for costs associated with immediate abatement action, subject to the limitations established in Section 19-6-419.

(c) The owner or operator shall notify the director within 24 hours of the abatement action taken.

(4) (a) If the director determines corrective action is necessary, the director shall order the owner or operator to submit a corrective action plan to address the release.

(b) If the owner or operator submits a corrective action plan, the director shall review the corrective action plan and approve or disapprove the plan.

(c) In reviewing the corrective action plan, the director shall consider the following:

(i) the threat to public health;

(ii) the threat to the environment; and

(iii) the cost-effectiveness of alternative corrective actions.

(5) If the director approves the corrective action plan or develops [his] the director's own corrective action plan, [he] the director shall:

(a) approve the estimated cost of implementing the corrective action plan;

(b) order the owner or operator to implement the corrective action plan;

(c) (i) if the release is covered by the fund, determine the amount of fund money to be allocated to an owner or operator to implement a corrective action plan; and

(ii) subject to the limitations established in Section 19-6-419, provide money from the fund to the owner or operator to implement the corrective action plan.

(6) (a) The director may not distribute any money from the fund for corrective action until the owner

or operator obtains the director's approval of the corrective action plan.

(b) An owner or operator who begins corrective action without first obtaining approval from the director and who is covered by the fund may be reimbursed for the costs of the corrective action, subject to the limitations established in Section 19-6-419, if:

(i) the owner or operator submits the corrective action plan to the director within seven days after beginning corrective action; and

(ii) the director approves the corrective action plan.

(7) If the director disapproves the plan, [he] the director shall solicit a new corrective action plan from the owner or operator.

(8) If the director disapproves the second corrective action plan, or if the owner or operator fails to submit a second plan within a reasonable time, the director may:

(a) develop [his own] an alternative corrective action plan; and

(b) act as authorized under Subsections (2) and (5).

(9) (a) When notified that the corrective action plan has been implemented, the director shall inspect the location of the release to determine whether or not the corrective action has been properly performed and completed.

(b) If the director determines the corrective action has not been properly performed or completed, [he] the director may issue an order requiring the owner or operator to complete the corrective action within the time specified in the order.

(10) (a) For releases not covered by the fund, the director may recover from the responsible party expenses incurred by the division for managing and overseeing the abatement, and investigation or corrective action of the release. These expenses shall be:

(i) billed quarterly per release;

(ii) due within 30 days of billing;

(iii) deposited with the division as dedicated credits;

(iv) used by the division for the administration of the underground storage tank program outlined in this part; and

(v) billed per hourly rates as established under Section 63J-1-504.

(b) If the responsible party fails to pay expenses under Subsection 10(a), the director may:

(i) revoke the responsible party's certificate of compliance, as described in Section 19-6-414, if the responsible party is also the owner or operator; and

(ii) pursue an action to collect expenses in Subsection 10(a), including the costs of collection.

Section 11. Section 19-8-119 is amended to read:

19-8-119. Apportionment or contribution.

(1) Any party who incurs costs under a voluntary agreement entered into under this part in excess of his liability may seek contribution in an action in district court from any other party who is or may be liable under Subsection 19-6-302(21) or 19-6-402[(27)](26) for the excess costs after providing written notice to any other party that the party bringing the action has entered into a voluntary agreement and will incur costs.

(2) In resolving claims made under Subsection (1), the court shall allocate costs using the standards in Subsection 19-6-310(2).

Section 12. Section 63A-3-205 is amended to read:

63A-3-205. Revolving loan funds -- Standards and procedures -- Annual report.

(1) As used in this section, "revolving loan fund" means:

(a) the Water Resources Conservation and Development Fund, created in Section 73-10-24;

(b) the Water Resources Construction Fund, created in Section 73-10-8;

(c) the Water Resources Cities Water Loan Fund, created in Section 73-10-22;

(d) the Clean Fuel Conversion Funds, created in Title 19, Chapter 1, Part 4, Clean Fuels and Vehicle Technology Program Act;

(e) the Water Development Security Fund and its subaccounts, created in Section 73-10c-5;

(f) the Agriculture Resource Development Fund, created in Section 4-18-106;

(g) the Utah Rural Rehabilitation Fund, created in Section 4-19-4;

(h) the Permanent Community Impact Fund, created in Section 35A-8-603;

(i) the Petroleum Storage Tank [~~Loan~~] Trust Fund, created in Section [19-6-405.3] 19-6-409;

(j) the Uintah Basin Revitalization Fund, created in Section 35A-8-1602;

(k) the Navajo Revitalization Fund, created in Section 35A-8-1704; and

(l) the Energy Efficiency Fund, created in Section 11-45-201.

(2) The division shall for each revolving loan fund:

(a) make rules establishing standards and procedures governing:

(i) payment schedules and due dates;

(ii) interest rate effective dates;

(iii) loan documentation requirements; and

(iv) interest rate calculation requirements; and

(b) make an annual report to the Legislature containing:

(i) the total dollars loaned by that fund during the last fiscal year;

(ii) a listing of each loan currently more than 90 days delinquent, in default, or that was restructured during the last fiscal year;

(iii) a description of each project that received money from that revolving loan fund;

(iv) the amount of each loan made to that project;

(v) the specific purpose for which the proceeds of the loan were to be used, if any;

(vi) any restrictions on the use of the loan proceeds;

(vii) the present value of each loan at the end of the fiscal year calculated using the interest rate paid by the state on the bonds providing the revenue on which the loan is based or, if that is unknown, on the average interest rate paid by the state on general obligation bonds issued during the most recent fiscal year in which bonds were sold; and

(viii) the financial position of each revolving loan fund, including the fund's cash investments, cash forecasts, and equity position.

Section 13. Section 63B-1b-102 is amended to read:

63B-1b-102. Definitions.

As used in this chapter:

(1) "Agency bonds" means any bond, note, contract, or other evidence of indebtedness representing loans or grants made by an authorizing agency.

(2) "Authorized official" means the state treasurer or other person authorized by a bond document to perform the required action.

(3) "Authorizing agency" means the board, person, or unit with legal responsibility for administering and managing revolving loan funds.

(4) "Bond document" means:

(a) a resolution of the commission; or

(b) an indenture or other similar document authorized by the commission that authorizes and secures outstanding revenue bonds from time to time.

(5) "Commission" means the State Bonding Commission, created in Section 63B-1-201.

(6) "Revenue bonds" means any special fund revenue bonds issued under this chapter.

(7) "Revolving Loan Funds" means:

(a) the Water Resources Conservation and Development Fund, created in Section 73-10-24;

(b) the Water Resources Construction Fund, created in Section 73-10-8;

(c) the Water Resources Cities Water Loan Fund, created in Section 73-10-22;

(d) the Clean Fuel Conversion Funds, created in Title 19, Chapter 1, Part 4, Clean Fuels and Vehicle Technology Program Act;

(e) the Water Development Security Fund and its subaccounts, created in Section 73-10c-5;

(f) the Agriculture Resource Development Fund, created in Section 4-18-106;

(g) the Utah Rural Rehabilitation Fund, created in Section 4-19-4;

(h) the Permanent Community Impact Fund, created in Section 35A-8-303;

(i) the Petroleum Storage Tank [~~Loan~~] Trust Fund, created in Section [~~19-6-405.3~~] 19-6-409; and

(j) the Transportation Infrastructure Loan Fund, created in Section 72-2-202.

Section 14. Section 63B-1b-202 is amended to read:

63B-1b-202. Custodial officer -- Powers and duties.

(1) (a) There is created within the Division of Finance an officer responsible for the care, custody, safekeeping, collection, and accounting of all bonds, notes, contracts, trust documents, and other evidences of indebtedness:

(i) owned or administered by the state or any of its agencies; and

(ii) except as provided in Subsection (1)(b), relating to revolving loan funds.

(b) Notwithstanding Subsection (1)(a), the officer described in Subsection (1)(a) is not responsible for the care, custody, safekeeping, collection, and accounting of a bond, note, contract, trust document, or other evidence of indebtedness relating to the:

(i) Agriculture Resource Development Fund, created in Section 4-18-106;

(ii) Utah Rural Rehabilitation Fund, created in Section 4-19-4;

(iii) Petroleum Storage Tank [~~Loan~~] Trust Fund, created in Section [~~19-6-405.3~~] 19-6-409;

(iv) Olene Walker Housing Loan Fund, created in Section 35A-8-502;

(v) Business Development for Disadvantaged Rural Communities Restricted Account, created in Section 63M-1-2003; and

(vi) Brownfields Fund, created in Section 19-8-120.

(2) (a) Each authorizing agency shall deliver to this officer for the officer's care, custody, safekeeping, collection, and accounting all bonds, notes, contracts, trust documents, and other evidences of indebtedness:

(i) owned or administered by the state or any of its agencies; and

(ii) except as provided in Subsection (1)(b), relating to revolving loan funds.

(b) This officer shall:

(i) establish systems, programs, and facilities for the care, custody, safekeeping, collection, and accounting for the bonds, notes, contracts, trust documents, and other evidences of indebtedness submitted to the officer under this Subsection (2); and

(ii) shall make available updated reports to each authorizing agency as to the status of loans under their authority.

(3) The officer described in Section 63B-1b-201 shall deliver to the officer described in Subsection (1)(a) for the care, custody, safekeeping, collection, and accounting by the officer described in Subsection (1)(a) of all bonds, notes, contracts, trust documents, and other evidences of indebtedness closed as provided in Subsection 63B-1b-201(2)(b).

Section 15. Section 63I-2-219 is enacted to read:

63I-2-219. Repeal dates -- Title 19.

(1) Section 19-6-405.3 is repealed July 1, 2014.

(2) Section 19-6-405.4 is repealed July 1, 2014.

Section 16. Effective date.

(1) Except as provided in Subsections (2), (3), and (4) this bill takes effect on May 13, 2014.

(2) The amendments to Section 19-6-409 take effect on July 1, 2014.

(3) The amendments to Section 19-6-410.5 take effect on January 1, 2015.

(4) The amendments to Section 19-6-420 take effect on July 1, 2015.

CHAPTER 228**H. B. 147**

Passed March 13, 2014

Approved March 31, 2014

Effective May 13, 2014

**PEACE OFFICER AGREEMENTS
WITH FEDERAL AGENCIES**

Chief Sponsor: Richard A. Greenwood

Senate Sponsor: Evan J. Vickers

LONG TITLE**General Description:**

This bill modifies the chapter Peace Officer Classifications regarding the authority of federal officers within Utah.

Highlighted Provisions:

This bill:

- ▶ provides a definition of a federal agency and a federal employee;
- ▶ specifies the terms under which a federal agency may enter into an agreement with a county sheriff to enforce federal laws and state and local laws; and
- ▶ requires specified training for federal employees in order for them to participate in the agreement.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill coordinates with H.B. 149, Amendments to Federal Law Enforcement Limitations, by providing substantive amendments.

Utah Code Sections Affected:**AMENDS:**

53-13-106, as last amended by Laws of Utah 2013, First Special Session, Chapter 4

Utah Code Sections Affected by Coordination Clause:

53-13-106, as last amended by Laws of Utah 2013, First Special Session, Chapter 4

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

Section 1. Section 53-13-106 is amended to read:**53-13-106. Federal officers -- State law enforcement authority.**

(1) (a) "Federal agency" means:

(i) the United States Bureau of Land Management;

(ii) the United States Forest Service;

(iii) the National Park Service;

(iv) the United States Fish and Wildlife Service;

(v) the United States Bureau of Reclamation;

(vi) the United States Environmental Protection Agency; and

(vii) the United States Army Corps of Engineers.

(b) "Federal employee" means an employee of a federal agency.

(c) "Federal officer" includes:

(i) a special agent of the Federal Bureau of Investigation;

(ii) a special agent of the United States Secret Service;

(iii) a special agent of the United States Department of Homeland Security, excluding a customs inspector or detention removal officer;

(iv) a special agent of the Bureau of Alcohol, Tobacco and Firearms;

(v) a special agent of the Drug Enforcement Administration;

(vi) a United States marshal, deputy marshal, and special deputy United States marshal; and

(vii) a U.S. postal inspector of the United States Postal Inspection Service.

~~(b)~~ (d) (i) Federal officers listed in Subsection (1)(a)(c) have statewide law enforcement authority relating to felony offenses under the laws of this state. This Subsection (1)(b)(d)(i) takes precedence over Subsection (2).

(ii) Federal agencies and federal employees may exercise law enforcement authority related to misdemeanor and felony offenses under Utah law only as established by an agreement as provided in Subsection (1)(d)(iii). This Subsection (1)(b)(d)(ii) takes precedence over Subsection (2).

(iii) County sheriffs may enter into agreements with federal agencies that allow concurrent authority to enforce federal laws and state and local laws, provided that:

(A) the agreement is limited to a term of not more than two years; and

(B) the officers granted authority under the agreement have completed a 20-hour training course that is focused on Utah criminal law and procedure and that is approved by the director of the Peace Officer Standards and Training Division.

~~(e)~~ (e) The council may designate other federal peace officers, as necessary, if the officers:

(i) are persons employed full-time by the United States government as federally recognized law enforcement officers primarily responsible for the investigation and enforcement of the federal laws;

(ii) have successfully completed formal law enforcement training offered by an agency of the federal government consisting of not less than 400 hours; and

(iii) maintain in-service training in accordance with the standards set forth in Section 53-13-103.

(2) Except as otherwise provided under Title 63L, Chapter 1, Federal Jurisdiction, and Title 77, Chapter 9, Uniform Act on Fresh Pursuit, a federal officer may exercise state law enforcement authority only if:

(a) the state law enforcement agencies and county sheriffs with jurisdiction enter into an agreement with the federal agency to be given authority; and

(b) except as provided in Subsection (3), each federal officer employed by the federal agency meets the waiver requirements set forth in Section 53-6-206.

(3) A federal officer working as such in the state on or before July 1, 1995, may exercise state law enforcement authority without meeting the waiver requirement.

(4) At any time, consistent with any contract with a federal agency, a state or local law enforcement authority may withdraw state law enforcement authority from any individual federal officer by sending written notice to the federal agency and to the division.

(5) The authority of a federal officer under this section is limited to the jurisdiction of the authorizing state or local agency, and may be further limited by the state or local agency to enforcing specific statutes, codes, or ordinances.

Section 2. Coordinating H.B. 147 with H.B. 149 -- Substantive amendments.

If this H.B. 147 and H.B. 149, Amendments to Law Enforcement Limitations, both pass and become law, the Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, do the following:

(1) Amend Subsection 53-13-106(1)(d)(ii) to read:

“(ii) Federal agencies and federal employees may exercise law enforcement authority related to misdemeanor and felony offenses under Utah law only as established by an agreement as provided in Subsection (1)(d)(iii) and as provided in Section 53-13-106.9 or pursuant to Section 53-13-106.7. This Subsection (1)(~~b~~)(d)(ii) takes precedence over Subsection (2).”

(2) Amend Subsection 53-13-106(1)(d)(iii) to read:

”(iii) Consistent with Section 53-13-106.9, county sheriffs may enter into agreements with federal agencies that allow concurrent authority to enforce federal laws and state and local laws, provided that:”

CHAPTER 229**H. B. 148**

Passed March 11, 2014
 Approved March 31, 2014
 Effective May 13, 2014

OFF-HIGHWAY VEHICLE AMENDMENTS

Chief Sponsor: Michael E. Noel
 Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill modifies the Traffic Code by amending provisions relating to all-terrain vehicles.

Highlighted Provisions:

This bill:

- ▶ provides and amends definitions;
- ▶ provides that a full-sized all-terrain vehicle that meets certain requirements may be operated as a street-legal all-terrain vehicle on certain streets or highways unless the highway is an interstate freeway or a limited access highway;
- ▶ specifies equipment requirements for a full-sized all-terrain vehicle to be operated as a street-legal all-terrain vehicle; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 41-1a-205, as last amended by Laws of Utah 2012, Chapters 356, 356, and 397
 41-6a-102, as last amended by Laws of Utah 2013, Chapter 140
 41-6a-1509, as last amended by Laws of Utah 2010, Chapter 308
 41-6a-1629, as last amended by Laws of Utah 2005, Chapter 26 and renumbered and amended by Laws of Utah 2005, Chapter 2
 41-22-2, as last amended by Laws of Utah 2012, Chapter 125

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

Section 1. Section 41-1a-205 is amended to read:**41-1a-205. Safety inspection certificate required for renewal or registration of motor vehicle -- Exemptions.**

(1) If required in the current year, a safety inspection certificate, as required by Section 53-8-205, or proof of exemption from safety inspection shall be presented at the time of, and as a condition of, registration or renewal of registration of a motor vehicle.

(2) (a) Except as provided in Subsections (2)(b), (c), and (d), the safety inspection required under this section may be made no more than two months prior to the renewal of registration.

(b) (i) If the title of a used motor vehicle is being transferred, a safety inspection certificate issued for the motor vehicle during the previous 11 months may be used to satisfy the requirement under Subsection (1).

(ii) If the transferor is a licensed and bonded used motor vehicle dealer, a safety inspection certificate issued for the motor vehicle in a licensed and bonded motor vehicle dealer's name during the previous 11 months may be used to satisfy the requirement under Subsection (1).

(c) If the title of a leased vehicle is being transferred to the lessee of the vehicle, a safety inspection certificate issued during the previous 11 months may be used to satisfy the requirement under Subsection (1).

(d) If the motor vehicle is part of a fleet of 101 or more vehicles, the safety inspection required under this section may be made no more than 11 months prior to the renewal of registration.

(e) If the application for renewal of registration is for a six-month registration period under Section 41-1a-215.5, a safety inspection certificate issued during the previous eight months may be used to satisfy the requirement under Subsection (1).

(3) (a) The following motor vehicles are exempt from this section:

(i) except as provided in Subsection (3)(b), a new motor vehicle when registered the first time, if:

(A) a new car predelivery inspection has been made by a dealer;

(B) the dealer provides a written disclosure statement listing any known deficiency, existing with the new motor vehicle at the time of delivery, that would cause the motor vehicle to fail a safety inspection given in accordance with Section 53-8-205; and

(C) the buyer signs the disclosure statement to acknowledge that the buyer has read and understands the listed deficiencies;

(ii) a motor vehicle required to be registered under this chapter that bears a dealer plate or other special plate under Title 41, Chapter 3, Part 5, Special Dealer License Plates, except that if the motor vehicle is propelled by its own power and is not being moved for repair or dismantling, the motor vehicle shall comply with Section 41-6a-1601 regarding safe mechanical condition; and

(iii) a vintage vehicle as defined in Section 41-21-1.

(b) A street-legal all-terrain vehicle registered in accordance with Section 41-6a-1509 is subject to a safety inspection:

(i) the first time that a person registers an off-highway vehicle as a street-legal all-terrain vehicle[.]; and

(ii) subsequently, on the same frequency as described in Subsection 53-8-205(2) based on the age of the vehicle as determined by the model year identified by the manufacturer.

(4) (a) A safety inspection certificate shall be displayed on:

(i) all registered commercial motor vehicles with a gross vehicle weight rating of 26,000 pounds or more;

(ii) a motor vehicle with three or more axles, pulling a trailer, or pulling a trailer with multiple axles;

(iii) a combination unit; and

(iv) a bus or van for hire.

(b) A commercial vehicle under Subsection (4)(a) is exempt from the requirements of Subsection (1).

(5) A motor vehicle may be sold and the title assigned to the new owner without a valid safety inspection, but the motor vehicle may not be registered in the new owner's name until the motor vehicle complies with this section.

Section 2. Section 41-6a-102 is amended to read:

41-6a-102. Definitions.

As used in this chapter:

(1) "Alley" means a street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for through vehicular traffic.

(2) "All-terrain type I vehicle" has the same meaning as defined in Section 41-22-2.

(3) "Authorized emergency vehicle" includes:

(a) fire department vehicles;

(b) police vehicles;

(c) ambulances; and

(d) other publicly or privately owned vehicles as designated by the commissioner of the Department of Public Safety.

(4) (a) "Bicycle" means a wheeled vehicle:

(i) propelled by human power by feet or hands acting upon pedals or cranks;

(ii) with a seat or saddle designed for the use of the operator;

(iii) designed to be operated on the ground; and

(iv) whose wheels are not less than 14 inches in diameter.

(b) "Bicycle" includes an electric assisted bicycle.

(c) "Bicycle" does not include scooters and similar devices.

(5) (a) "Bus" means a motor vehicle:

(i) designed for carrying more than 15 passengers and used for the transportation of persons; or

(ii) designed and used for the transportation of persons for compensation.

(b) "Bus" does not include a taxicab.

(6) (a) "Circular intersection" means an intersection that has an island, generally circular in design, located in the center of the intersection where traffic passes to the right of the island.

(b) "Circular intersection" includes:

(i) roundabouts;

(ii) rotaries; and

(iii) traffic circles.

(7) "Commissioner" means the commissioner of the Department of Public Safety.

(8) "Controlled-access highway" means a highway, street, or roadway:

(a) designed primarily for through traffic; and

(b) to or from which owners or occupants of abutting lands and other persons have no legal right of access, except at points as determined by the highway authority having jurisdiction over the highway, street, or roadway.

(9) "Crosswalk" means:

(a) that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from:

(i) (A) the curbs; or

(B) in the absence of curbs, from the edges of the traversable roadway; and

(ii) in the absence of a sidewalk on one side of the roadway, that part of a roadway included within the extension of the lateral lines of the existing sidewalk at right angles to the centerline; or

(b) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

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

(11) "Direct supervision" means oversight at a distance within which:

(a) visual contact is maintained; and

(b) advice and assistance can be given and received.

(12) "Divided highway" means a highway divided into two or more roadways by:

(a) an unpaved intervening space;

(b) a physical barrier; or

(c) a clearly indicated dividing section constructed to impede vehicular traffic.

(13) "Electric assisted bicycle" means a moped:

(a) with an electric motor with a power output of not more than 1,000 watts; and

(b) which is not capable of:

(i) propelling the device at a speed of more than 20 miles per hour on level ground when:

(A) powered solely by the electric motor; and
 (B) operated by a person who weighs 170 pounds;
 and

(ii) increasing the speed of the device when human power is used to propel the device at more than 20 miles per hour;

(c) has fully operable pedals on permanently affixed cranks; and

(d) weighs less than 75 pounds.

(14) (a) "Electric personal assistive mobility device" means a self-balancing device with:

(i) two nontandem wheels in contact with the ground;

(ii) a system capable of steering and stopping the unit under typical operating conditions;

(iii) an electric propulsion system with average power of one horsepower or 750 watts;

(iv) a maximum speed capacity on a paved, level surface of 12.5 miles per hour; and

(v) a deck design for a person to stand while operating the device.

(b) "Electric personal assistive mobility device" does not include a wheelchair.

(15) "Explosives" means any chemical compound or mechanical mixture commonly used or intended for the purpose of producing an explosion and that contains any oxidizing and combustive units or other ingredients in proportions, quantities, or packing so that an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases, and the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of causing death or serious bodily injury.

(16) "Farm tractor" means a motor vehicle designed and used primarily as a farm implement, for drawing plows, mowing machines, and other implements of husbandry.

(17) "Flammable liquid" means a liquid that has a flashpoint of 100 degrees F. or less, as determined by a tagliabue or equivalent closed-cup test device.

(18) "Freeway" means a controlled-access highway that is part of the interstate system as defined in Section 72-1-102.

(19) (a) "Full-sized all-terrain vehicle" means any recreational vehicle designed for and capable of travel over unimproved terrain:

(i) traveling on four or more tires;

(ii) having a width that, when measured at the widest point of the vehicle:

(A) is not less than 55 inches; or

(B) does not exceed 92 inches;

(iii) having an unladen dry weight of 6,500 pounds or less;

(iv) having a maximum seat height of 50 inches when measured at the forward edge of the seat bottom; and

(v) having a steering wheel for control.

(b) "Full-sized all-terrain vehicle" does not include:

(i) all-terrain type I vehicle;

(ii) a utility type vehicle;

(iii) a motorcycle; or

(iv) a snowmobile as defined in Section 41-22-2.

[~~49~~] (20) "Gore area" means the area delineated by two solid white lines that is between a continuing lane of a through roadway and a lane used to enter or exit the continuing lane including similar areas between merging or splitting highways.

[~~20~~] (21) "Gross weight" means the weight of a vehicle without a load plus the weight of any load on the vehicle.

[~~21~~] (22) "Highway" means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public as a matter of right for vehicular travel.

[~~22~~] (23) "Highway authority" has the same meaning as defined in Section 72-1-102.

[~~23~~] (24) (a) "Intersection" means the area embraced within the prolongation or connection of the lateral curblines, or, if none, then the lateral boundary lines of the roadways of two or more highways which join one another.

(b) Where a highway includes two roadways 30 feet or more apart:

(i) every crossing of each roadway of the divided highway by an intersecting highway is a separate intersection; and

(ii) if the intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of the highways is a separate intersection.

(c) "Intersection" does not include the junction of an alley with a street or highway.

[~~24~~] (25) "Island" means an area between traffic lanes or at an intersection for control of vehicle movements or for pedestrian refuge designated by:

(a) pavement markings, which may include an area designated by two solid yellow lines surrounding the perimeter of the area;

(b) channelizing devices;

(c) curbs;

(d) pavement edges; or

(e) other devices.

[~~25~~] (26) "Law enforcement agency" has the same meaning as defined in Section 53-1-102.

~~[(26)]~~ (27) “Limited access highway” means a highway:

(a) that is designated specifically for through traffic; and

(b) over, from, or to which neither owners nor occupants of abutting lands nor other persons have any right or easement, or have only a limited right or easement of access, light, air, or view.

~~[(27)]~~ (28) “Local highway authority” means the legislative, executive, or governing body of a county, municipal, or other local board or body having authority to enact laws relating to traffic under the constitution and laws of the state.

~~[(28)]~~ (29) (a) “Low-speed vehicle” means a four wheeled electric motor vehicle that:

(i) is designed to be operated at speeds of not more than 25 miles per hour; and

(ii) has a capacity of not more than four passengers, including the driver.

(b) “Low-speed vehicle” does not include a golfcart or an off-highway vehicle.

~~[(29)]~~ (30) “Metal tire” means a tire, the surface of which in contact with the highway is wholly or partly of metal or other hard nonresilient material.

~~[(30)]~~ (31) (a) “Mini-motorcycle” means a motorcycle or motor-driven cycle that has a seat or saddle that is less than 24 inches from the ground as measured on a level surface with properly inflated tires.

(b) “Mini-motorcycle” does not include a moped or a motor assisted scooter.

(c) “Mini-motorcycle” does not include a motorcycle that is:

(i) designed for off-highway use; and

(ii) registered as an off-highway vehicle under Section 41-22-3.

~~[(31)]~~ (32) “Mobile home” means:

(a) a trailer or semitrailer that is:

(i) designed, constructed, and equipped as a dwelling place, living abode, or sleeping place either permanently or temporarily; and

(ii) equipped for use as a conveyance on streets and highways; or

(b) a trailer or a semitrailer whose chassis and exterior shell is designed and constructed for use as a mobile home, as defined in Subsection ~~[(31)]~~ (32)(a), but that is instead used permanently or temporarily for:

(i) the advertising, sale, display, or promotion of merchandise or services; or

(ii) any other commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier.

~~[(32)]~~ (33) (a) “Moped” means a motor-driven cycle having:

(i) pedals to permit propulsion by human power; and

(ii) a motor that:

(A) produces not more than two brake horsepower; and

(B) is not capable of propelling the cycle at a speed in excess of 30 miles per hour on level ground.

(b) If an internal combustion engine is used, the displacement may not exceed 50 cubic centimeters and the moped shall have a power drive system that functions directly or automatically without clutching or shifting by the operator after the drive system is engaged.

(c) “Moped” includes an electric assisted bicycle and a motor assisted scooter.

~~[(33)]~~ (34) “Motor assisted scooter” means a self-propelled device with:

(a) at least two wheels in contact with the ground;

(b) a braking system capable of stopping the unit under typical operating conditions;

(c) a gas or electric motor not exceeding 40 cubic centimeters;

(d) either:

(i) a deck design for a person to stand while operating the device; or

(ii) a deck and seat designed for a person to sit, straddle, or stand while operating the device; and

(e) a design for the ability to be propelled by human power alone.

~~[(35)]~~ (35) “Motorcycle” means a motor vehicle, other than a tractor, having a seat or saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground.

~~[(36)]~~ (36) (a) “Motor-driven cycle” means every motorcycle, motor scooter, moped, electric assisted bicycle, motor assisted scooter, and every motorized bicycle having:

(i) an engine with less than 150 cubic centimeters displacement; or

(ii) a motor that produces not more than five horsepower.

(b) “Motor-driven cycle” does not include an electric personal assistive mobility device.

~~[(34)]~~ (37) (a) “Motor vehicle” means a vehicle that is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(b) “Motor vehicle” does not include vehicles moved solely by human power, motorized wheelchairs, or an electric personal assistive mobility device.

~~[(37)]~~ (38) “Off-highway implement of husbandry” has the same meaning as defined under Section 41-22-2.

[438] (39) "Off-highway vehicle" has the same meaning as defined under Section 41-22-2.

[439] (40) "Operator" means a person who is in actual physical control of a vehicle.

[440] (41) (a) "Park" or "parking" means the standing of a vehicle, whether the vehicle is occupied or not.

(b) "Park" or "parking" does not include the standing of a vehicle temporarily for the purpose of and while actually engaged in loading or unloading property or passengers.

[441] (42) "Peace officer" means a peace officer authorized under Title 53, Chapter 13, Peace Officer Classifications, to direct or regulate traffic or to make arrests for violations of traffic laws.

[442] (43) "Pedestrian" means a person traveling:

- (a) on foot; or
- (b) in a wheelchair.

[443] (44) "Pedestrian traffic-control signal" means a traffic-control signal used to regulate pedestrians.

[444] (45) "Person" means every natural person, firm, copartnership, association, or corporation.

[445] (46) "Pole trailer" means every vehicle without motive power:

(a) designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle; and

(b) that is ordinarily used for transporting long or irregular shaped loads including poles, pipes, or structural members generally capable of sustaining themselves as beams between the supporting connections.

[446] (47) "Private road or driveway" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

[447] (48) "Railroad" means a carrier of persons or property upon cars operated on stationary rails.

[448] (49) "Railroad sign or signal" means a sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

[449] (50) "Railroad train" means a locomotive propelled by any form of energy, coupled with or operated without cars, and operated upon rails.

[450] (51) "Right-of-way" means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under circumstances of direction, speed, and proximity that give rise to danger of collision unless one grants precedence to the other.

[451] (52) (a) "Roadway" means that portion of highway improved, designed, or ordinarily used for vehicular travel.

(b) "Roadway" does not include the sidewalk, berm, or shoulder, even though any of them are used by persons riding bicycles or other human-powered vehicles.

(c) "Roadway" refers to any roadway separately but not to all roadways collectively, if a highway includes two or more separate roadways.

[452] (53) "Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and that is protected, marked, or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

[453] (54) (a) "School bus" means a motor vehicle that:

(i) complies with the color and identification requirements of the most recent edition of "Minimum Standards for School Buses"; and

(ii) is used to transport school children to or from school or school activities.

(b) "School bus" does not include a vehicle operated by a common carrier in transportation of school children to or from school or school activities.

[454] (55) (a) "Semitrailer" means a vehicle with or without motive power:

(i) designed for carrying persons or property and for being drawn by a motor vehicle; and

(ii) constructed so that some part of its weight and that of its load rests on or is carried by another vehicle.

(b) "Semitrailer" does not include a pole trailer.

[455] (56) "Shoulder area" means:

(a) that area of the hard-surfaced highway separated from the roadway by a pavement edge line as established in the current approved "Manual on Uniform Traffic Control Devices"; or

(b) that portion of the road contiguous to the roadway for accommodation of stopped vehicles, for emergency use, and for lateral support.

[456] (57) "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

[457] (58) "Solid rubber tire" means a tire of rubber or other resilient material that does not depend on compressed air for the support of the load.

[458] (59) "Stand" or "standing" means the temporary halting of a vehicle, whether occupied or not, for the purpose of and while actually engaged in receiving or discharging passengers.

[459] (60) "Stop" when required means complete cessation from movement.

~~(60)~~ (61) “Stop” or “stopping” when prohibited means any halting even momentarily of a vehicle, whether occupied or not, except when:

(a) necessary to avoid conflict with other traffic; or

(b) in compliance with the directions of a peace officer or traffic-control device.

~~(61)~~ (62) “Street-legal all-terrain vehicle” or “street-legal ATV” means an all-terrain type I vehicle ~~[or], utility type vehicle, or full-sized all-terrain vehicle~~ that is modified to meet the requirements of Section 41-6a-1509 to operate on highways in the state in accordance with Section 41-6a-1509.

~~(62)~~ (63) “Traffic” means pedestrians, ridden or herded animals, vehicles, and other conveyances either singly or together while using any highway for the purpose of travel.

~~(63)~~ (64) “Traffic-control device” means a sign, signal, marking, or device not inconsistent with this chapter placed or erected by a highway authority for the purpose of regulating, warning, or guiding traffic.

~~(64)~~ (65) “Traffic-control signal” means a device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

~~(65)~~ (66) “Traffic signal preemption device” means an instrument or mechanism designed, intended, or used to interfere with the operation or cycle of a traffic-control signal.

~~(66)~~ (67) (a) “Trailer” means a vehicle with or without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

(b) “Trailer” does not include a pole trailer.

~~(67)~~ (68) “Truck” means a motor vehicle designed, used, or maintained primarily for the transportation of property.

~~(68)~~ (69) “Truck tractor” means a motor vehicle:

(a) designed and used primarily for drawing other vehicles; and

(b) constructed to carry a part of the weight of the vehicle and load drawn by the truck tractor.

~~(69)~~ (70) “Two-way left turn lane” means a lane:

(a) provided for vehicle operators making left turns in either direction;

(b) that is not used for passing, overtaking, or through travel; and

(c) that has been indicated by a lane traffic-control device that may include lane markings.

~~(70)~~ (71) “Urban district” means the territory contiguous to and including any street, in which

structures devoted to business, industry, or dwelling houses are situated at intervals of less than 100 feet, for a distance of a quarter of a mile or more.

~~(71)~~ (72) (a) “Utility type vehicle” means any recreational vehicle designed for and capable of travel over unimproved terrain:

(i) traveling on four or more tires;

(ii) having a width ~~[of 30 to 70 inches;]~~ that, when measured at the widest point of the vehicle:

(A) is not less than 30 inches; or

(B) does not exceed 70 inches;

(iii) having an unladen dry weight of 2,200 pounds or less;

(iv) having a seat height of ~~[25]~~ 20 to 40 inches when measured at the forward edge of the seat bottom; and

(v) having side-by-side seating with a steering wheel for control.

(b) “Utility type vehicle” does not include:

(i) an all-terrain type I vehicle;

~~(ii) an all-terrain type II vehicle;]~~

~~(iii)~~ (ii) a motorcycle; or

~~(iv)~~ (iii) a snowmobile as defined in Section 41-22-2.

~~(72)~~ (73) “Vehicle” means a device in, on, or by which a person or property is or may be transported or drawn on a highway, except devices used exclusively on stationary rails or tracks.

Section 3. Section 41-6a-1509 is amended to read:

41-6a-1509. Street-legal all-terrain vehicle -- Operation on highways -- Registration and licensing requirements -- Equipment requirements.

(1) (a) Except as provided in Subsection (1)(b), an all-terrain type I ~~[or] vehicle, utility type vehicle, or full-sized all-terrain vehicle~~ that meets the requirements of this section may be operated as a street-legal ATV on a street or highway unless the highway is an interstate freeway or a limited access highway as defined in Section 41-6a-102.

(b) Unless a street or highway is designated as open for street-legal ATV use by the controlling highway authority in accordance with Section 41-22-10.5, a person may not operate a street-legal ATV on a street or highway in accordance with Subsection (1)(a) if the highway is under the jurisdiction of:

(i) a county of the first class;

(ii) a municipality that is within a county of the first class; or

(iii) a municipality with a population of 7,500 or more people.

(2) A street-legal ATV shall comply with the same requirements as:

- (a) a motorcycle for:
- (i) traffic rules under Title 41, Chapter 6a, Traffic Code;
 - (ii) registration, titling, odometer statement, vehicle identification, license plates, and registration fees under Title 41, Chapter 1a, Motor Vehicle Act;
 - (iii) fees in lieu of property taxes or in lieu of fees under Section 59-2-405.2; and
 - (iv) the county motor vehicle emissions inspection and maintenance programs under Section 41-6a-1642;
- (b) a motor vehicle for:
- (i) driver licensing under Title 53, Chapter 3, Uniform Driver License Act;
 - (ii) motor vehicle insurance under Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act; and
 - (iii) safety inspection requirements under Title 53, Chapter 8, Part 2, Motor Vehicle Safety Inspection Act, except that a street-legal ATV shall be subject to a safety inspection:
 - (A) when registered for the first time; and
 - (B) subsequently, on the same frequency as described in Subsection 53-8-205(2) based on the age of the vehicle as determined by the model year identified by the manufacturer; and
 - (c) an all-terrain type I or type II vehicle for off-highway vehicle provisions under Title 41, Chapter 22, Off-Highway Vehicles, and Title 41, Chapter 3, Motor Vehicle Business Regulation Act, unless otherwise specified in this section.
 - (3) (a) [A] An all-terrain type I vehicle and a utility type vehicle being operated as a street-legal ATV shall be equipped with:
 - ~~[(a)]~~ (i) one or more headlamps that meet the requirements of Section 41-6a-1603;
 - ~~[(b)]~~ (ii) one or more tail lamps;
 - ~~[(c)]~~ (iii) a tail lamp or other lamp constructed and placed to illuminate the registration plate with a white light;
 - ~~[(d)]~~ (iv) one or more red reflectors on the rear;
 - ~~[(e)]~~ (v) one or more stop lamps on the rear;
 - ~~[(f)]~~ (vi) amber or red electric turn signals, one on each side of the front and rear;
 - ~~[(g)]~~ (vii) a braking system, other than a parking brake, that meets the requirements of Section 41-6a-1623;
 - ~~[(h)]~~ (viii) a horn or other warning device that meets the requirements of Section 41-6a-1625;
 - ~~[(i)]~~ (ix) a muffler and emission control system that meets the requirements of Section 41-6a-1626;

- ~~[(j)]~~ (x) rearview mirrors on the right and left side of the driver in accordance with Section 41-6a-1627;
- ~~[(k)]~~ (xi) a windshield, unless the operator wears eye protection while operating the vehicle;
- ~~[(l)]~~ (xii) a speedometer, illuminated for nighttime operation;
- ~~[(m)]~~ (xiii) for vehicles designed by the manufacturer for carrying one or more passengers, a seat designed for passengers, including a footrest and handhold for each passenger;
- ~~[(n)]~~ (xiv) for vehicles with side-by-side seating, seatbelts for each vehicle occupant; and
- ~~[(o)]~~ (xv) tires that:
 - ~~[(i)]~~ (A) do not exceed 26 inches in height;
 - ~~[(ii)]~~ (B) are not larger than the tires that the all-terrain vehicle manufacturer made available for the all-terrain vehicle model; and
 - ~~[(iii)]~~ (C) have at least 2/32 inches or greater tire tread.
- (b) A full-sized all-terrain vehicle being operated as a street-legal all-terrain vehicle shall be equipped with:
 - (i) two headlamps that meet the requirements of Section 41-6a-1603;
 - (ii) two tail lamps;
 - (iii) a tail lamp or other lamp constructed and placed to illuminate the registration plate with a white light;
 - (iv) one or more red reflectors on the rear;
 - (v) two stop lamps on the rear;
 - (vi) amber or red electric turn signals, one on each side of the front and rear;
 - (vii) a braking system, other than a parking brake, that meets the requirements of Section 41-6a-1623;
 - (viii) a horn or other warning device that meets the requirements of Section 41-6a-1625;
 - (ix) a muffler and emission control system that meets the requirements of Section 41-6a-1626;
 - (x) rearview mirrors on the right and left side of the driver in accordance with Section 41-6a-1627;
 - (xi) a windshield, unless the operator wears eye protection while operating the vehicle;
 - (xii) a speedometer, illuminated for nighttime operation;
 - (xiii) for vehicles designed by the manufacturer for carrying one or more passengers, a seat designed for passengers, including a footrest and handhold for each passenger;
 - (xiv) for vehicles with side-by-side seating, seatbelts for each vehicle occupant; and
 - (xv) tires that:
 - (A) do not exceed 44 inches in height; and

(B) have at least 2/32 inches or greater tire tread.

(4) (a) Subject to the requirement in Subsection (4)(b), an operator of a street-legal all-terrain vehicle, when operating a street-legal all-terrain vehicle on a highway in accordance with this section, may not exceed the lesser of:

- (i) the posted speed limit; or
- (ii) 45 miles per hour.

(b) An operator of a street-legal all-terrain vehicle, when operating a street-legal all-terrain vehicle on a highway with a posted speed limit higher than 45 miles per hour, shall:

(i) operate the street-legal all-terrain vehicle on the extreme right hand side of the roadway; and

(ii) [shall] equip the street-legal all-terrain vehicle with a reflector or reflective tape to the front and back of both sides of the vehicle.

(5) (a) A nonresident operator of an off-highway vehicle that is authorized to be operated on the highways of another state has the same rights and privileges as a street-legal ATV that is granted operating privileges on the highways of this state, subject to the restrictions under this section and rules made by the Board of Parks and Recreation, if the other state offers reciprocal operating privileges to Utah residents.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Board of Parks and Recreation shall establish eligibility requirements for reciprocal operating privileges for nonresident users granted under Subsection (5)(a).

(6) Nothing in this chapter shall restrict the operation of an off-highway vehicle in accordance with Section 41-22-10.5.

Section 4. Section 41-6a-1629 is amended to read:

41-6a-1629. Vehicles subject to Sections 41-6a-1629 through 41-6a-1633 -- Definitions.

(1) As used in Sections 41-6a-1629 through 41-6a-1633:

(a) "Frame" means the main longitudinal structural members of the chassis of the vehicle or, for vehicles with unitized body construction, the lowest longitudinal structural member of the body of the vehicle.

(b) "Frame height" means the vertical distance between the ground and the lowest point on the frame. The distance is measured when the vehicle is unladen and on a level surface.

(c) "Gross vehicle weight rating (GVWR)" means the original manufacturer's gross vehicle weight rating, whether or not the vehicle is modified by use of parts not originally installed by the original manufacturer.

(d) "Manufacturer" means any person engaged in manufacturing or assembling new motor vehicles utilizing new parts or components, or a person

defined as a manufacturer in current applicable Federal Motor Vehicle Safety Standards and Regulations.

(e) "Mechanical alteration" or "mechanical lift" means modification or alteration of the axles, chassis, suspension, or body by any means, including tires and wheels, and excluding any load, which affects the frame height of the motor vehicle.

(f) "O.E.M." means original equipment manufacturer.

(g) "Original equipment" means an item of motor vehicle equipment, including tires, which were installed in or on a motor vehicle or available as an option for the particular vehicle from the original manufacturer at the time of its delivery to the first purchaser.

(h) "Wheel track" means the shortest distance between the center of the tire treads on the same axle. On vehicles having dissimilar axle widths, the axle with the widest distance is used for all calculations.

(2) (a) Except as provided in [Subsection] Subsections (2)(b) and (c), the provisions of Sections 41-6a-1629 through 41-6a-1633 apply to all motor vehicles operated or parked on a highway.

(b) The provisions of Sections 41-6a-1629 through 41-6a-1633 do not apply to the following vehicles:

- (i) implements of husbandry;
- (ii) farm tractors;
- (iii) road machinery;
- (iv) road rollers; and

(v) historical vehicles or horseless carriages that have been restored as near to original condition as is reasonably possible.

(c) The provisions of Subsection 41-6a-1631(2) and Sections 41-6a-1632 and 41-6a-1633 do not apply to a street-legal all-terrain vehicle operated in accordance with Section 41-6a-1509.

Section 5. Section 41-22-2 is amended to read:

41-22-2. Definitions.

As used in this chapter:

(1) "Advisory council" means the Off-highway Vehicle Advisory Council appointed by the Board of Parks and Recreation.

(2) "All-terrain type I vehicle" means any motor vehicle 52 inches or less in width, having an unladen dry weight of 1,500 pounds or less, traveling on three or more low pressure tires, having a seat designed to be straddled by the operator, and designed for or capable of travel over unimproved terrain.

(3) (a) "All-terrain type II vehicle" means any other motor vehicle, not defined in Subsection (2), (11), or (22), designed for or capable of travel over unimproved terrain.

~~[(b)] (b) "All-terrain type II vehicle" includes a class A side-by-side vehicle.~~

~~[(e)] (b) "All-terrain type II vehicle" does not include golf carts, any vehicle designed to carry a person with a disability, any vehicle not specifically designed for recreational use, or farm tractors as defined under Section 41-1a-102.~~

(4) "Board" means the Board of Parks and Recreation.

~~[(5)] "Class A side-by-side vehicle" means any motor vehicle 65 inches or less in width, having an unladen dry weight of 2,000 pounds or less, traveling on four or more non-highway tires, and designed for or capable of travel over unimproved terrain.]~~

(5) "Cross-country" means across natural terrain and off an existing highway, road, route, or trail.

(6) "Dealer" means a person engaged in the business of selling off-highway vehicles at wholesale or retail.

(7) "Division" means the Division of Parks and Recreation.

(8) "Low pressure tire" means any pneumatic tire six inches or more in width designed for use on wheels with rim diameter of 14 inches or less and utilizing an operating pressure of 10 pounds per square inch or less as recommended by the vehicle manufacturer.

(9) "Manufacturer" means a person engaged in the business of manufacturing off-highway vehicles.

(10) "Motorcycle" means every motor vehicle having a saddle for the use of the operator and designed to travel on not more than two tires.

(11) (a) "Motor vehicle" means every vehicle which is self-propelled.

(b) "Motor vehicle" includes an off-highway vehicle.

(12) "Off-highway implement of husbandry" means every all-terrain type I vehicle, motorcycle, or snowmobile that is used by the owner or the owner's agent for agricultural operations.

(13) "Off-highway vehicle" means any snowmobile, all-terrain type I vehicle, all-terrain type II vehicle, or motorcycle.

(14) "Operate" means to control the movement of or otherwise use an off-highway vehicle.

(15) "Operator" means the person who is in actual physical control of an off-highway vehicle.

(16) "Organized user group" means an off-highway vehicle organization incorporated as a nonprofit corporation in the state under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, for the purpose of promoting the interests of off-highway vehicle recreation.

(17) "Owner" means a person, other than a person with a security interest, having a property interest or title to an off-highway vehicle and entitled to the use and possession of that vehicle.

(18) "Public land" means land owned or administered by any federal or state agency or any political subdivision of the state.

(19) "Register" means the act of assigning a registration number to an off-highway vehicle.

(20) "Roadway" is used as defined in Section 41-6a-102.

(21) "Snowmobile" means any motor vehicle designed for travel on snow or ice and steered and supported in whole or in part by skis, belts, cleats, runners, or low pressure tires.

(22) "Street or highway" means the entire width between boundary lines of every way or place of whatever nature, when any part of it is open to the use of the public for vehicular travel.

(23) "Street-legal all-terrain vehicle" or "street-legal ATV" has the same meaning as defined in Section 41-6a-102.

CHAPTER 230**H. B. 154**

Passed March 13, 2014

Approved March 31, 2014

Effective May 13, 2014

WOOD BURNING AMENDMENTS

Chief Sponsor: Patrice M. Arent
 Senate Sponsor: Curtis S. Bramble
 Cosponsors: Jim Nielson
 Edward H. Redd

LONG TITLE**General Description:**

This bill deals with wood burning and air quality.

Highlighted Provisions:

This bill:

- ▶ requires the Division of Air Quality to create a:
 - public awareness campaign about the effects of wood burning on air quality; and
 - program to convert a dwelling in which the sole source of heat is a wood burning stove to a natural gas or other clean fuel heating source, as funding allows;
- ▶ authorizes the Division of Air Quality to pursue private and federal sources of funding, in addition to any funds appropriated by the Legislature, to implement the wood burning conversion program; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates:

- ▶ to the Department of Environmental Quality Division of Air Quality as a one-time appropriation:
 - from the General Fund, one-time, \$750,000.

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

19-2-104, as last amended by Laws of Utah 2012, Chapters 43 and 360

19-2-107, as last amended by Laws of Utah 2012, Chapter 360

ENACTS:

19-2-107.5, Utah Code Annotated 1953

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

Section 1. Section 19-2-104 is amended to read:**19-2-104. Powers of board.**

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

(a) regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air contaminants that may be emitted by any air contaminant source;

(b) establishing air quality standards;

(c) requiring persons engaged in operations which result in air pollution to:

(i) install, maintain, and use emission monitoring devices, as the board finds necessary;

(ii) file periodic reports containing information relating to the rate, period of emission, and composition of the air contaminant; and

(iii) provide access to records relating to emissions which cause or contribute to air pollution;

(d) (i) implementing:

(A) Toxic Substances Control Act, Subchapter II, Asbestos Hazard Emergency Response, 15 U.S.C. 2601 et seq.;

(B) 40 C.F.R. Part 763, Asbestos; and

(C) 40 C.F.R. Part 61, National Emission Standards for Hazardous Air Pollutants, Subpart M, National Emission Standard for Asbestos; and

(ii) reviewing and approving asbestos management plans submitted by local education agencies under the Toxic Substances Control Act, Subchapter II, Asbestos Hazard Emergency Response, 15 U.S.C. 2601 et seq.;

(e) establishing a requirement for a diesel emission opacity inspection and maintenance program for diesel-powered motor vehicles;

(f) implementing an operating permit program as required by and in conformity with Titles IV and V of the federal Clean Air Act Amendments of 1990;

(g) establishing requirements for county emissions inspection and maintenance programs after obtaining agreement from the counties that would be affected by the requirements;

(h) with the approval of the governor, implementing in air quality nonattainment areas employer-based trip reduction programs applicable to businesses having more than 100 employees at a single location and applicable to federal, state, and local governments to the extent necessary to attain and maintain ambient air quality standards consistent with the state implementation plan and federal requirements under the standards set forth in Subsection (2); ~~and~~

(i) implementing lead-based paint remediation training, certification, and performance requirements in accordance with 15 U.S.C.A. 2601 et seq., Toxic Substances Control Act, Subchapter IV -- Lead Exposure Reduction, Sections 402 and 406[-]; and

(j) to implement the requirements of Section 19-2-107.5.

(2) When implementing Subsection (1)(h) the board shall take into consideration:

(a) the impact of the business on overall air quality; and

(b) the need of the business to use automobiles in order to carry out its business purposes.

(3) (a) The board may:

(i) hold a hearing that is not an adjudicative proceeding relating to any aspect of, or matter in, the administration of this chapter;

(ii) order the director to:

(A) issue orders necessary to enforce the provisions of this chapter;

(B) enforce the orders by appropriate administrative and judicial proceedings; or

(C) institute judicial proceedings to secure compliance with this chapter; or

(iii) advise, consult, contract, and cooperate with other agencies of the state, local governments, industries, other states, interstate or interlocal agencies, the federal government, or interested persons or groups.

(b) The board shall:

(i) to ensure compliance with applicable statutes and regulations:

(A) review a settlement negotiated by the director in accordance with Subsection 19-2-107(2)(b)(viii) that requires a civil penalty of \$25,000 or more; and

(B) approve or disapprove the settlement;

(ii) encourage voluntary cooperation by persons and affected groups to achieve the purposes of this chapter;

(iii) require the owner and operator of each new source which directly emits or has the potential to emit 100 tons per year or more of any air contaminant or the owner or operator of each existing source which by modification will increase emissions or have the potential of increasing emissions by 100 tons per year or more of any air contaminant, to pay a fee sufficient to cover the reasonable costs of:

(A) reviewing and acting upon the notice required under Section 19-2-108; and

(B) implementing and enforcing requirements placed on the sources by any approval order issued pursuant to notice, not including any court costs associated with any enforcement action;

(iv) meet the requirements of federal air pollution laws;

(v) by rule, establish work practice, certification, and clearance air sampling requirements for persons who:

(A) contract for hire to conduct demolition, renovation, salvage, encapsulation work involving friable asbestos-containing materials, or asbestos inspections if:

(I) the contract work is done on a site other than a residential property with four or fewer units; or

(II) the contract work is done on a residential property with four or fewer units where a tested sample contained greater than 1% of asbestos;

(B) conduct work described in Subsection (3)(b)(v)(A) in areas to which the general public has

unrestrained access or in school buildings that are subject to the federal Asbestos Hazard Emergency Response Act of 1986;

(C) conduct asbestos inspections in facilities subject to 15 U.S.C.A. 2601 et seq., Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response; or

(D) conduct lead paint inspections in facilities subject to 15 U.S.C.A. 2601 et seq., Toxic Substances Control Act, Subchapter IV -- Lead Exposure Reduction;

(vi) establish certification requirements for persons required under 15 U.S.C.A. 2601 et seq., Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response, to be accredited as inspectors, management planners, abatement project designers, asbestos abatement contractors and supervisors, or asbestos abatement workers;

(vii) establish certification requirements for asbestos project monitors, which shall provide for experience-based certification of persons who, prior to establishment of the certification requirements, had received relevant asbestos training, as defined by rule, and had acquired at least 1,000 hours of experience as project monitors;

(viii) establish certification procedures and requirements for certification of the conversion of a motor vehicle to a clean-fuel vehicle, certifying the vehicle is eligible for the tax credit granted in Section 59-7-605 or 59-10-1009;

(ix) establish a program to certify private sector air quality permitting professionals (AQPP), as described in Section 19-2-109.5;

(x) establish certification requirements for persons required under 15 U.S.C.A. 2601 et seq., Toxic Control Act, Subchapter IV -- Lead Exposure Reduction, to be accredited as inspectors, risk assessors, supervisors, project designers, or abatement workers; and

(xi) assist the State Board of Education in adopting school bus idling reduction standards and implementing an idling reduction program in accordance with Section 41-6a-1308.

(4) Any rules adopted under this chapter shall be consistent with provisions of federal laws, if any, relating to control of motor vehicles or motor vehicle emissions.

(5) Nothing in this chapter authorizes the board to require installation of or payment for any monitoring equipment by the owner or operator of a source if the owner or operator has installed or is operating monitoring equipment that is equivalent to equipment which the board would require under this section.

(6) (a) The board may not require testing for asbestos or related materials on a residential property with four or fewer units, unless:

(i) the property's construction was completed before January 1, 1981; or

(ii) the testing is for:

- (A) a sprayed acoustical ceiling;
- (B) transite siding;
- (C) vinyl floor tile;
- (D) thermal-system insulation or tape on a duct or furnace; or
- (E) vermiculite type insulation materials.

(b) A residential property with four or fewer units is subject to an abatement rule made under Subsection (1) or (3)(b)(v) if:

(i) a sample from the property is tested for asbestos; and

(ii) the sample contains asbestos measuring greater than 1%.

(7) The board may not issue, amend, renew, modify, revoke, or terminate any of the following that are subject to the authority granted to the director under Section 19-2-107 or 19-2-108:

- (a) a permit;
- (b) a license;
- (c) a registration;
- (d) a certification; or
- (e) another administrative authorization made by the director.

(8) A board member may not speak or act for the board unless the board member is authorized by a majority of a quorum of the board in a vote taken at a meeting of the board.

(9) Notwithstanding Subsection (7), the board may exercise all authority granted to the board by a federally enforceable state implementation plan.

Section 2. Section 19-2-107 is amended to read:

19-2-107. Director -- Appointment -- Powers.

(1) The executive director shall appoint the director. The director shall serve under the administrative direction of the executive director.

(2) (a) The director shall:

(i) prepare and develop comprehensive plans for the prevention, abatement, and control of air pollution in Utah;

(ii) advise, consult, and cooperate with other agencies of the state, the federal government, other states and interstate agencies, and affected groups, political subdivisions, and industries in furtherance of the purposes of this chapter;

(iii) review plans, specifications, or other data relative to pollution control systems or any part of the systems provided in this chapter;

(iv) under the direction of the executive director, represent the state in all matters relating to interstate air pollution, including interstate compacts and similar agreements;

(v) secure necessary scientific, technical, administrative, and operational services, including laboratory facilities, by contract or otherwise;

(vi) encourage voluntary cooperation by persons and affected groups to achieve the purposes of this chapter;

(vii) encourage local units of government to handle air pollution within their respective jurisdictions on a cooperative basis and provide technical and consulting assistance to them;

(viii) determine by means of field studies and sampling the degree of air contamination and air pollution in all parts of the state;

(ix) monitor the effects of the emission of air contaminants from motor vehicles on the quality of the outdoor atmosphere in all parts of Utah and take appropriate responsive action;

(x) collect and disseminate information relating to air contamination and air pollution and conduct educational and training programs relating to air contamination and air pollution;

(xi) assess and collect noncompliance penalties as required in Section 120 of the federal Clean Air Act, 42 U.S.C. Section 7420;

(xii) comply with the requirements of federal air pollution laws;

(xiii) subject to the provisions of this chapter, enforce rules through the issuance of orders, including:

(A) prohibiting or abating discharges of wastes affecting ambient air;

(B) requiring the construction of new control facilities or any parts of new control facilities or the modification, extension, or alteration of existing control facilities or any parts of new control facilities; or

(C) adopting other remedial measures to prevent, control, or abate air pollution; and

(xiv) as authorized by the board and subject to the provisions of this chapter, act as executive secretary of the board under the direction of the chairman of the board.

(b) The director may:

(i) employ full-time, temporary, part-time, and contract employees necessary to carry out this chapter;

(ii) subject to the provisions of this chapter, authorize any employee or representative of the department to enter at reasonable time and upon reasonable notice in or upon public or private property for the purposes of inspecting and investigating conditions and plant records concerning possible air pollution;

(iii) encourage, participate in, or conduct studies, investigations, research, and demonstrations relating to air pollution and its causes, effects, prevention, abatement, and control, as advisable and necessary for the discharge of duties assigned under this chapter, including the establishment of inventories of pollution sources;

(iv) collect and disseminate information relating to air pollution and the prevention, control, and abatement of it;

(v) cooperate with studies and research relating to air pollution and its control, abatement, and prevention;

(vi) subject to Subsection (3), upon request, consult concerning the following with any person proposing to construct, install, or otherwise acquire an air contaminant source in Utah:

(A) the efficacy of any proposed control device or proposed control system for the source; or

(B) the air pollution problem that may be related to the source, device, or system;

(vii) accept, receive, and administer grants or other funds or gifts from public and private agencies, including the federal government, for the purpose of carrying out any of the functions of this chapter;

(viii) subject to Subsection 19-2-104(3)(b)(i), settle or compromise any civil action initiated by the division to compel compliance with this chapter or the rules made under this chapter; or

(ix) as authorized by the board and subject to the provisions of this chapter, exercise all incidental powers necessary to carry out the purposes of this chapter, including certification to any state or federal authorities for tax purposes the fact of construction, installation, or acquisition of any facility, land, building, machinery, or equipment or any part of them, in conformity with this chapter.

(3) A consultation described in Subsection (2)(b)(vi) does not relieve a person from the requirements of this chapter, the rules adopted under this chapter, or any other provision of law.

Section 3. Section 19-2-107.5 is enacted to read:

19-2-107.5. Wood burning.

(1) The division shall create a:

(a) public awareness campaign on the effects of wood burning on air quality, specifically targeting nonattainment areas; and

(b) program to assist an individual to convert a dwelling to a natural gas or other clean fuel heating source, as funding allows, if the individual:

(i) lives in a dwelling where a wood burning stove is the sole source of heat; and

(ii) is on the list of registered sole heating source homes.

(2) The division may seek private donations and federal sources of funding to supplement any funds appropriated by the Legislature to fulfill Subsection (1)(b).

Section 4. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2014, and ending June 30,

2015, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to amounts previously appropriated for fiscal year 2015.

To Department of Environmental Quality - Division of Air Quality

From General Fund, one-time \$500,000

Schedule of programs:

Converting sole-source homes \$500,000

To Department of Environmental Quality - Division of Air Quality

From General Fund, one-time \$250,000

Schedule of programs:

Education campaign on wood burning \$250,000

Under Section 63J-1-603, the Legislature intends that appropriations provided under this section not lapse at the close of fiscal year 2015. The use of any nonlapsing funds is limited to the purposes of converting sole-source homes to a natural gas heating source, as described in Section 19-2-107.5, and promoting public awareness of the effects of wood burning on air quality.

CHAPTER 231**H. B. 156**

Passed March 13, 2014

Approved March 31, 2014

Effective May 13, 2014

**ELECTION DAY VOTER
REGISTRATION PILOT PROJECT**

Chief Sponsor: Rebecca Chavez-Houck

Senate Sponsor: Deidre M. Henderson

Cosponsors: Jennifer M. Seelig

Tim M. Cosgrove

Joel K. Briscoe

Patrice M. Arent

Jack R. Draxler

Susan Duckworth

Rebecca P. Edwards

Janice M. Fisher

Keith Grover

Lynn N. Hemingway

Brian S. King

John G. Mathis

Carol Spackman Moss

Michael E. Noel

Lee B. Perry

Marie H. Poulson

Kraig Powell

Angela Romero

Mark A. Wheatley

Larry B. Wiley

LONG TITLE**General Description:**

This bill amends provisions of the Election Code by establishing a pilot project to test the advisability of implementing election day voter registration in Utah.

Highlighted Provisions:

This bill:

- ▶ establishes the Election Day Voter Registration Pilot Project;
- ▶ provides that a county or municipality may apply to participate in the pilot project to test whether it is advisable to implement election day voter registration in Utah;
- ▶ establishes requirements and an approval process for a county or municipality to participate in the pilot project;
- ▶ enacts provisions implementing election day voter registration for a county or municipality that participates in the pilot project;
- ▶ requires the lieutenant governor and each county and municipality that participate in the pilot project to report on the pilot project to the Government Operations Interim Committee and the Legislative Management Committee;
- ▶ requires the Government Operations Interim Committee to, during the 2016 interim, study and make a recommendation to the Legislature regarding whether to implement statewide election day voter registration on a statewide, permanent basis;
- ▶ repeals the provisions of this bill, subject to sunset review, on January 1, 2017; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill coordinates with S.B. 135, Voter Registration Amendments, by providing substantive amendments.

Utah Code Sections Affected:**AMENDS:**

20A-1-102, as last amended by Laws of Utah 2013, Chapter 320

20A-2-102, as last amended by Laws of Utah 2003, Chapter 34

20A-2-102.5, as last amended by Laws of Utah 2011, Chapters 17, 297, and 327

20A-2-201, as last amended by Laws of Utah 2008, Chapters 225 and 276

20A-2-202, as last amended by Laws of Utah 2009, Chapter 45

20A-2-204, as last amended by Laws of Utah 2006, Chapters 264 and 326

20A-2-205, as last amended by Laws of Utah 2012, Chapter 251

20A-2-206, as last amended by Laws of Utah 2011, Chapter 17

20A-2-307, as last amended by Laws of Utah 2003, Chapter 34

20A-4-107, as last amended by Laws of Utah 2013, Chapter 390

63I-1-220, as renumbered and amended by Laws of Utah 2008, Chapter 382

ENACTS:

20A-4-108, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

20A-2-201, as last amended by Laws of Utah 2008, Chapters 225 and 276

20A-2-206, as last amended by Laws of Utah 2011, Chapter 17

20A-4-107, as last amended by Laws of Utah 2013, Chapter 390

20A-4-108, Utah Code Annotated 1953

63I-1-220, as renumbered and amended by Laws of Utah 2008, Chapter 382

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

Section 1. Section 20A-1-102 is amended to read:**20A-1-102. Definitions.**

As used in this title:

(1) "Active voter" means a registered voter who has not been classified as an inactive voter by the county clerk.

(2) "Automatic tabulating equipment" means apparatus that automatically examines and counts votes recorded on paper ballots or ballot sheets and tabulates the results.

(3) (a) "Ballot" means the storage medium, whether paper, mechanical, or electronic, upon which a voter records the voter's votes.

(b) "Ballot" includes ballot sheets, paper ballots, electronic ballots, and secrecy envelopes.

[~~5~~] (4) "Ballot label" means the cards, papers, booklet, pages, or other materials that:

(a) contain the names of offices and candidates and statements of ballot propositions to be voted on; and

(b) are used in conjunction with ballot sheets that do not display that information.

[~~(6)~~] (5) “Ballot proposition” means a question, issue, or proposal that is submitted to voters on the ballot for their approval or rejection including:

(a) an opinion question specifically authorized by the Legislature;

(b) a constitutional amendment;

(c) an initiative;

(d) a referendum;

(e) a bond proposition;

(f) a judicial retention question;

(g) an incorporation of a city or town; or

(h) any other ballot question specifically authorized by the Legislature.

[~~(4)~~] (6) “Ballot sheet”:

(a) means a ballot that:

(i) consists of paper or a card where the voter’s votes are marked or recorded; and

(ii) can be counted using automatic tabulating equipment; and

(b) includes punch card ballots and other ballots that are machine-countable.

(7) “Bind,” “binding,” or “bound” means securing more than one piece of paper together with a staple or stitch in at least three places across the top of the paper in the blank space reserved for securing the paper.

(8) “Board of canvassers” means the entities established by Sections 20A-4-301 and 20A-4-306 to canvass election returns.

(9) “Bond election” means an election held for the purpose of approving or rejecting the proposed issuance of bonds by a government entity.

(10) “Book voter registration form” means voter registration forms contained in a bound book that are used by election officers and registration agents to register persons to vote.

(11) “Business reply mail envelope” means an envelope that may be mailed free of charge by the sender.

(12) “By-mail voter registration form” means a voter registration form designed to be completed by the voter and mailed to the election officer.

(13) “Canvass” means the review of election returns and the official declaration of election results by the board of canvassers.

(14) “Canvassing judge” means a poll worker designated to assist in counting ballots at the canvass.

(15) “Contracting election officer” means an election officer who enters into a contract or interlocal agreement with a provider election officer.

(16) “Convention” means the political party convention at which party officers and delegates are selected.

(17) “Counting center” means one or more locations selected by the election officer in charge of the election for the automatic counting of ballots.

(18) “Counting judge” means a poll worker designated to count the ballots during election day.

(19) “Counting poll watcher” means a person selected as provided in Section 20A-3-201 to witness the counting of ballots.

(20) “Counting room” means a suitable and convenient private place or room, immediately adjoining the place where the election is being held, for use by the poll workers and counting judges to count ballots during election day.

(21) “County officers” means those county officers that are required by law to be elected.

(22) “Date of the election” or “election day” or “day of the election”:

(a) means the day that is specified in the calendar year as the day that the election occurs; and

(b) does not include:

(i) deadlines established for absentee voting; or

(ii) any early voting or early voting period as provided under Chapter 3, Part 6, Early Voting.

(23) “Elected official” means:

(a) a person elected to an office under Section 20A-1-303;

(b) a person who is considered to be elected to a municipal office in accordance with Subsection 20A-1-206(1)(c)(ii); or

(c) a person who is considered to be elected to a local district office in accordance with Subsection 20A-1-206(3)(c)(ii).

(24) “Election” means a regular general election, a municipal general election, a statewide special election, a local special election, a regular primary election, a municipal primary election, and a local district election.

(25) “Election Assistance Commission” means the commission established by Public Law 107-252, the Help America Vote Act of 2002.

(26) “Election cycle” means the period beginning on the first day persons are eligible to file declarations of candidacy and ending when the canvass is completed.

(27) “Election judge” means a poll worker that is assigned to:

(a) preside over other poll workers at a polling place;

(b) act as the presiding election judge; or

(c) serve as a canvassing judge, counting judge, or receiving judge.

(28) “Election officer” means:

(a) the lieutenant governor, for all statewide ballots and elections;

(b) the county clerk for:

(i) a county ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(c) the municipal clerk for:

(i) a municipal ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(d) the local district clerk or chief executive officer for:

(i) a local district ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5; or

(e) the business administrator or superintendent of a school district for:

(i) a school district ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5.

(29) "Election official" means any election officer, election judge, or poll worker.

(30) "Election results" means:

(a) for an election other than a bond election, the count of votes cast in the election and the election returns requested by the board of canvassers; or

(b) for bond elections, the count of those votes cast for and against the bond proposition plus any or all of the election returns that the board of canvassers may request.

(31) "Election returns" includes the pollbook, the military and overseas absentee voter registration and voting certificates, one of the tally sheets, any unprocessed absentee ballots, all counted ballots, all excess ballots, all unused ballots, all spoiled ballots, the ballot disposition form, and the total votes cast form.

(32) "Electronic ballot" means a ballot that is recorded using a direct electronic voting device or other voting device that records and stores ballot information by electronic means.

(33) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(34) (a) "Electronic voting device" means a voting device that uses electronic ballots.

(b) "Electronic voting device" includes a direct recording electronic voting device.

(35) "Inactive voter" means a registered voter who has:

(a) been sent the notice required by Section 20A-2-306; and

(b) failed to respond to that notice.

(36) "Inspecting poll watcher" means a person selected as provided in this title to witness the receipt and safe deposit of voted and counted ballots.

(37) "Judicial office" means the office filled by any judicial officer.

(38) "Judicial officer" means any justice or judge of a court of record or any county court judge.

(39) "Local district" means a local government entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and includes a special service district under Title 17D, Chapter 1, Special Service District Act.

(40) "Local district officers" means those local district officers that are required by law to be elected.

(41) "Local election" means a regular municipal election, a local special election, a local district election, and a bond election.

(42) "Local political subdivision" means a county, a municipality, a local district, or a local school district.

(43) "Local special election" means a special election called by the governing body of a local political subdivision in which all registered voters of the local political subdivision may vote.

(44) "Municipal executive" means:

(a) the mayor in the council-mayor form of government defined in Section 10-3b-102; or

(b) the mayor in the council-manager form of government defined in Subsection 10-3b-103(6).

(45) "Municipal general election" means the election held in municipalities and local districts on the first Tuesday after the first Monday in November of each odd-numbered year for the purposes established in Section 20A-1-202.

(46) "Municipal legislative body" means the council of the city or town in any form of municipal government.

(47) "Municipal office" means an elective office in a municipality.

(48) "Municipal officers" means those municipal officers that are required by law to be elected.

(49) "Municipal primary election" means an election held to nominate candidates for municipal office.

(50) "Official ballot" means the ballots distributed by the election officer to the poll workers to be given to voters to record their votes.

(51) "Official endorsement" means:

(a) the information on the ballot that identifies:

- (i) the ballot as an official ballot;
- (ii) the date of the election; and
- (iii) the facsimile signature of the election officer; and

(b) the information on the ballot stub that identifies:

- (i) the poll worker's initials; and
- (ii) the ballot number.

(52) "Official register" means the official record furnished to election officials by the election officer that contains the information required by Section 20A-5-401.

(53) "Paper ballot" means a paper that contains:

- (a) the names of offices and candidates and statements of ballot propositions to be voted on; and
- (b) spaces for the voter to record the voter's vote for each office and for or against each ballot proposition.

(54) "Pilot project" means the election day voter registration pilot project created in Section 20A-4-108.

[(54)] (55) "Political party" means an organization of registered voters that has qualified to participate in an election by meeting the requirements of Chapter 8, Political Party Formation and Procedures.

(56) "Pollbook" means a record of the names of voters in the order that they appear to cast votes.

(57) "Polling place" means the building where voting is conducted.

[(55)] (58) (a) "Poll worker" means a person assigned by an election official to assist with an election, voting, or counting votes.

- (b) "Poll worker" includes election judges.
- (c) "Poll worker" does not include a watcher.

[(58)] (59) "Position" means a square, circle, rectangle, or other geometric shape on a ballot in which the voter marks the voter's choice.

[(62)] (60) "Primary convention" means the political party conventions at which nominees for the regular primary election are selected.

[(63)] (61) "Protective counter" means a separate counter, which cannot be reset, that:

- (a) is built into a voting machine; and
- (b) records the total number of movements of the operating lever.

[(59)] (62) "Provider election officer" means an election officer who enters into a contract or interlocal agreement with a contracting election officer to conduct an election for the contracting election officer's local political subdivision in accordance with Section 20A-5-400.1.

[(60)] (63) "Provisional ballot" means a ballot voted provisionally by a person:

(a) whose name is not listed on the official register at the polling place;

(b) whose legal right to vote is challenged as provided in this title; or

(c) whose identity was not sufficiently established by a poll worker.

[(61)] (64) "Provisional ballot envelope" means an envelope printed in the form required by Section 20A-6-105 that is used to identify provisional ballots and to provide information to verify a person's legal right to vote.

[(64)] (65) "Qualify" or "qualified" means to take the oath of office and begin performing the duties of the position for which the person was elected.

[(65)] (66) "Receiving judge" means the poll worker that checks the voter's name in the official register, provides the voter with a ballot, and removes the ballot stub from the ballot after the voter has voted.

[(66)] (67) "Registration form" means a book voter registration form and a by-mail voter registration form.

[(67)] (68) "Regular ballot" means a ballot that is not a provisional ballot.

[(68)] (69) "Regular general election" means the election held throughout the state on the first Tuesday after the first Monday in November of each even-numbered year for the purposes established in Section 20A-1-201.

[(69)] (70) "Regular primary election" means the election on the fourth Tuesday of June of each even-numbered year, to nominate candidates of political parties and nonpolitical groups to advance to the regular general election.

[(70)] (71) "Resident" means a person who resides within a specific voting precinct in Utah.

[(71)] (72) "Sample ballot" means a mock ballot similar in form to the official ballot printed and distributed as provided in Section 20A-5-405.

[(72)] (73) "Scratch vote" means to mark or punch the straight party ticket and then mark or punch the ballot for one or more candidates who are members of different political parties.

[(73)] (74) "Secrecy envelope" means the envelope given to a voter along with the ballot into which the voter places the ballot after the voter has voted it in order to preserve the secrecy of the voter's vote.

[(74)] (75) "Special election" means an election held as authorized by Section 20A-1-203.

[(75)] (76) "Spoiled ballot" means each ballot that:

- (a) is spoiled by the voter;
- (b) is unable to be voted because it was spoiled by the printer or a poll worker; or
- (c) lacks the official endorsement.

[(76)] (77) "Statewide special election" means a special election called by the governor or the Legislature in which all registered voters in Utah may vote.

~~[(77)]~~ (78) “Stub” means the detachable part of each ballot.

~~[(78)]~~ (79) “Substitute ballots” means replacement ballots provided by an election officer to the poll workers when the official ballots are lost or stolen.

~~[(79)]~~ (80) “Ticket” means each list of candidates for each political party or for each group of petitioners.

~~[(80)]~~ (81) “Transfer case” means the sealed box used to transport voted ballots to the counting center.

~~[(81)]~~ (82) “Vacancy” means the absence of a person to serve in any position created by statute, whether that absence occurs because of death, disability, disqualification, resignation, or other cause.

~~[(82)]~~ (83) “Valid voter identification” means:

(a) a form of identification that bears the name and photograph of the voter which may include:

- (i) a currently valid Utah driver license;
- (ii) a currently valid identification card that is issued by:

(A) the state; or

(B) a branch, department, or agency of the United States;

(iii) a currently valid Utah permit to carry a concealed weapon;

(iv) a currently valid United States passport; or

(v) a currently valid United States military identification card;

(b) one of the following identification cards, whether or not the card includes a photograph of the voter:

- (i) a valid tribal identification card;
- (ii) a Bureau of Indian Affairs card; or
- (iii) a tribal treaty card; or

(c) two forms of identification not listed under Subsection ~~[(82)]~~ (83)(a) or (b) but that bear the name of the voter and provide evidence that the voter resides in the voting precinct, which may include:

(i) a current utility bill or a legible copy thereof, dated within the 90 days before the election;

(ii) a bank or other financial account statement, or a legible copy thereof;

(iii) a certified birth certificate;

(iv) a valid Social Security card;

(v) a check issued by the state or the federal government or a legible copy thereof;

(vi) a paycheck from the voter’s employer, or a legible copy thereof;

(vii) a currently valid Utah hunting or fishing license;

(viii) certified naturalization documentation;

(ix) a currently valid license issued by an authorized agency of the United States;

(x) a certified copy of court records showing the voter’s adoption or name change;

(xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;

(xii) a currently valid identification card issued by:

(A) a local government within the state;

(B) an employer for an employee; or

(C) a college, university, technical school, or professional school located within the state; or

(xiii) a current Utah vehicle registration.

~~[(83)]~~ (84) “Valid write-in candidate” means a candidate who has qualified as a write-in candidate by following the procedures and requirements of this title.

~~[(84)]~~ (85) “Voter” means a person who:

(a) meets the requirements for voting in an election;

(b) meets the requirements of election registration;

(c) is registered to vote; and

(d) is listed in the official register book.

~~[(85)]~~ (86) “Voter registration deadline” means the registration deadline provided in Section 20A-2-102.5.

~~[(86)]~~ (87) “Voting area” means the area within six feet of the voting booths, voting machines, and ballot box.

~~[(87)]~~ (88) “Voting booth” means:

(a) the space or compartment within a polling place that is provided for the preparation of ballots, including the voting machine enclosure or curtain; or

(b) a voting device that is free standing.

~~[(88)]~~ (89) “Voting device” means:

(a) an apparatus in which ballot sheets are used in connection with a punch device for piercing the ballots by the voter;

(b) a device for marking the ballots with ink or another substance;

(c) an electronic voting device or other device used to make selections and cast a ballot electronically, or any component thereof;

(d) an automated voting system under Section 20A-5-302; or

(e) any other method for recording votes on ballots so that the ballot may be tabulated by means of automatic tabulating equipment.

~~[(89)]~~ (90) "Voting machine" means a machine designed for the sole purpose of recording and tabulating votes cast by voters at an election.

~~[(90)]~~ (91) "Voting poll watcher" means a person appointed as provided in this title to witness the distribution of ballots and the voting process.

~~[(91)]~~ (92) "Voting precinct" means the smallest voting unit established as provided by law within which qualified voters vote at one polling place.

~~[(92)]~~ (93) "Watcher" means a voting poll watcher, a counting poll watcher, an inspecting poll watcher, and a testing watcher.

~~[(93)]~~ (94) "Western States Presidential Primary" means the election established in Chapter 9, Part 8, Western States Presidential Primary.

~~[(94)]~~ (95) "Write-in ballot" means a ballot containing any write-in votes.

~~[(95)]~~ (96) "Write-in vote" means a vote cast for a person whose name is not printed on the ballot according to the procedures established in this title.

Section 2. Section 20A-2-102 is amended to read:

20A-2-102. Registration a prerequisite to voting.

(1) Except as provided in Subsection (2), a person may not vote at any election unless that person is registered to vote as required by this chapter.

(2) A person may vote a provisional ballot for an election as provided in Section 20A-2-307 ~~[for]~~.

~~[(a) a regular general election;]~~

~~[(b) a regular primary election; or]~~

~~[(c) an election for federal office.]~~

Section 3. Section 20A-2-102.5 is amended to read:

20A-2-102.5. Voter registration deadline.

(1) Except as provided in ~~[Sections]~~ Section 20A-2-201 ~~[and]~~, 20A-2-206 ~~[and]~~, or 20A-4-108, or Chapter 16, Uniform Military and Overseas Voters Act, a person who fails to submit a correctly completed voter registration form on or before the voter registration deadline may not be permitted to vote in the election.

(2) The voter registration deadline shall be the date that is 30 calendar days before the date of the election.

Section 4. Section 20A-2-201 is amended to read:

20A-2-201. Registering to vote at office of county clerk.

(1) Except as provided in Subsection (3), the county clerk shall register to vote all persons who present themselves for registration at the county

clerk's office during designated office hours if those persons, on the date of the election, will be legally eligible to vote in a voting precinct in the county in accordance with Section 20A-2-101.

(2) If a registration form is submitted in person at the office of the county clerk during the period beginning on the date after the voter registration deadline and ending on the date that is 15 calendar days before the date of the election, the county clerk shall:

(a) accept registration forms from all persons who present themselves for registration at the clerk's office during designated office hours if those persons, on the date of the election, will be legally qualified and entitled to vote in a voting precinct in the county; and

(b) inform them that:

(i) they will be registered to vote in the pending election; and

(ii) for the pending election, they must vote on the day of the election and will not be eligible to vote using early voting under Chapter 3, Part 6, Early Voting, because they registered too late.

(3) ~~[If]~~ Except as provided in Subsection 20A-4-108(5), if a registration form is submitted to the county clerk on the date of the election or during the 14 calendar days before an election, the county clerk shall:

(a) accept registration forms from all persons who present themselves for registration at the clerk's office during designated office hours if those persons, on the date of the election, will be legally qualified and entitled to vote in a voting precinct in the county; and

(b) inform them that they will be registered to vote but may not vote in the pending election because they registered too late.

Section 5. Section 20A-2-202 is amended to read:

20A-2-202. Registration by mail.

(1) (a) A citizen who will be qualified to vote at the next election may register by mail.

(b) To register by mail, a citizen shall complete and sign the by-mail registration form and mail or deliver it to the county clerk of the county in which the citizen resides.

(c) In order to register to vote in a particular election, the citizen shall:

(i) address the by-mail voter registration form to the county clerk; and

(ii) ensure that it is postmarked on or before the voter registration deadline.

(d) The citizen has effectively registered to vote under this section only when the county clerk's office has received a correctly completed by-mail voter registration form.

(2) Upon receipt of a correctly completed by-mail voter registration form, the county clerk shall:

(a) enter the applicant's name on the list of registered voters for the voting precinct in which the applicant resides; and

(b) mail confirmation of registration to the newly registered voter after entering the applicant's voting precinct number on that copy.

(3) (a) ~~[If]~~ Except as provided in Subsection 20A-4-108(6), if the county clerk receives a correctly completed by-mail voter registration form that is postmarked after the voter registration deadline, the county clerk shall:

(i) register the applicant after the next election; and

(ii) if possible, promptly phone or mail a notice to the applicant before the election, informing the applicant that his registration will not be effective until after the election.

(b) When the county clerk receives a correctly completed by-mail voter registration form at least seven days before an election that is postmarked on or before the date of the voter registration deadline, the county clerk shall:

(i) process the by-mail voter registration form; and

(ii) record the new voter in the official register.

(4) If the county clerk determines that a registration form received by mail or otherwise is incorrect because of an error or because it is incomplete, the county clerk shall mail notice to the person attempting to register, ~~[informing him that he]~~ stating that the person has not been registered because of an error or because the form is incomplete.

Section 6. Section 20A-2-204 is amended to read:

20A-2-204. Registering to vote when applying for or renewing a driver license.

(1) As used in this section, "voter registration form" means the driver license application/voter registration form and the driver license renewal/voter registration form required by Section 20A-2-108.

(2) Any citizen who is qualified to vote may register to vote by completing the voter registration form.

(3) The Driver License Division shall:

(a) assist applicants in completing the voter registration form unless the applicant refuses assistance;

(b) accept completed forms for transmittal to the appropriate election official;

(c) transmit a copy of each voter registration form to the appropriate election official within five days after it is received by the division;

(d) transmit each address change within five days after it is received by the division; and

(e) transmit electronically to the lieutenant governor's office the name, address, birth date, and driver license number of each person who answers "yes" to the question on the driver license form about registering to vote.

(4) Upon receipt of a correctly completed voter registration form, the county clerk shall:

(a) enter the applicant's name on the list of registered voters for the voting precinct in which the applicant resides; and

(b) notify the applicant of registration.

(5) (a) ~~[If]~~ Except as provided in Subsection 20A-4-108(7), if the county clerk receives a correctly completed voter registration form that is dated after the voter registration deadline, the county clerk shall:

(i) register the applicant after the next election; and

(ii) if possible, promptly phone or mail a notice to the applicant before the election, informing the applicant that his registration will not be effective until after the election.

(b) When the county clerk receives a correctly completed voter registration form at least seven days before an election that is dated on or before the voter registration deadline, the county clerk shall:

(i) process the voter registration form; and

(ii) record the new voter in the official register.

(6) If the county clerk determines that a voter registration form received from the Driver License Division is incorrect because of an error or because it is incomplete, the county clerk shall mail notice to the person attempting to register, ~~[informing him that he]~~ stating that the person has not been registered because of an error or because the form is incomplete.

Section 7. Section 20A-2-205 is amended to read:

20A-2-205. Registration at voter registration agencies.

(1) As used in this section:

(a) "Discretionary voter registration agency" means each office designated by the county clerk under Part 3, County Clerk's Voter Registration Responsibilities, to provide by-mail voter registration forms to the public.

(b) "Public assistance agency" means each office in Utah that provides:

(i) public assistance; or

(ii) state funded programs primarily engaged in providing services to people with disabilities.

(2) Any person may obtain and complete a by-mail registration form at a public assistance agency or discretionary voter registration agency.

(3) Each public assistance agency and discretionary voter registration agency shall provide, either as part of existing forms or on a

separate form, the following information in substantially the following form:

“REGISTERING TO VOTE

If you are not registered to vote where you live now, would you like to apply to register to vote here today? (Applying to register to vote or declining to register to vote will not affect the amount of assistance that you will be provided by this agency.) Yes ___ No ___ **IF YOU DO NOT CHECK EITHER BOX, YOU WILL BE CONSIDERED TO HAVE DECIDED NOT TO REGISTER TO VOTE AT THIS TIME.** If you would like help in filling out the voter registration application form, we will help you. The decision about whether or not to seek or accept help is yours. You may fill out the application form in private. If you believe that someone has interfered with your right to register or to decline to register to vote, your right to privacy in deciding whether or not to register, or in applying to register to vote, or your right to choose your own political party or other political preference, you may file a complaint with the Office of the Lieutenant Governor, State Capitol Building, Salt Lake City, Utah 84114. (The phone number of the Office of the Lieutenant Governor).”

(4) Unless a person applying for service or assistance from a public assistance agency or discretionary voter registration agency declines, in writing, to register to vote, each public assistance agency and discretionary voter registration agency shall:

(a) distribute a by-mail voter registration form with each application for service or assistance provided by the agency or office;

(b) assist applicants in completing the voter registration form unless the applicant refuses assistance;

(c) accept completed forms for transmittal to the appropriate election official; and

(d) transmit a copy of each voter registration form to the appropriate election official within five days after it is received by the division.

(5) A person in a public assistance agency or a discretionary voter registration agency that helps a person complete the voter registration form may not:

(a) seek to influence an applicant’s political preference or party registration;

(b) display any political preference or party allegiance;

(c) make any statement to an applicant or take any action that has the purpose or effect of discouraging the applicant from registering to vote; or

(d) make any statement to an applicant or take any action that has the purpose or effect of leading the applicant to believe that a decision to register or not to register has any bearing upon the availability of services or benefits.

(6) Upon receipt of a correctly completed voter registration form, the county clerk shall:

(a) enter the applicant’s name on the list of registered voters for the voting precinct in which the applicant resides; and

(b) notify the applicant of registration.

(7) (a) ~~[(f)]~~ Except as provided in Subsection 20A-4-108(8), if the county clerk receives a correctly completed voter registration form that is dated after the voter registration deadline, the county clerk shall:

(i) register the applicant after the next election; and

(ii) if possible, promptly phone or mail a notice to the applicant before the election, informing the applicant that his registration will not be effective until after the election.

(b) When the county clerk receives a correctly completed voter registration form at least seven days before an election that is dated on or before the voter registration deadline, the county clerk shall:

(i) process the voter registration form; and

(ii) record the new voter in the official register.

(8) If the county clerk determines that a voter registration form received from a public assistance agency or discretionary voter registration agency is incorrect because of an error or because it is incomplete, the county clerk shall mail notice to the person attempting to register, ~~[informing him that he]~~ stating that the person has not been registered because of an error or because the form is incomplete.

Section 8. Section 20A-2-206 is amended to read:

20A-2-206. Electronic registration -- Requests for absentee ballot application.

(1) The lieutenant governor may create and maintain an electronic system for voter registration and requesting an absentee ballot that is publicly available on the Internet.

(2) An electronic system for voter registration shall require:

(a) that an applicant have a valid driver license or identification card, issued under Title 53, Chapter 3, Uniform Driver License Act, that reflects the person’s current principal place of residence;

(b) that the applicant provide the information required by Section 20A-2-104, except that the applicant’s signature may be obtained in the manner described in Subsections (2)(d) and (4);

(c) that the applicant attest to the truth of the information provided; and

(d) that the applicant authorize the lieutenant governor’s and county clerk’s use of the applicant’s driver license or identification card signature, obtained under Title 53, Chapter 3, Uniform Driver License Act, for voter registration purposes.

(3) Notwithstanding Section 20A-2-104, an applicant using the electronic system for voter registration created under this section is not required to complete a printed registration form.

(4) A system created and maintained under this section shall provide the notices concerning a voter's presentation of identification contained in Subsection 20A-2-104(1).

(5) The lieutenant governor shall obtain a digital copy of the applicant's driver license or identification card signature from the Driver License Division.

(6) Upon receiving all information from an applicant and the Driver License Division, the lieutenant governor shall send the information to the county clerk for the county in which the applicant's principal place of residence is found for further action as required by Section 20A-2-304.

(7) The lieutenant governor may use additional security measures to ensure the accuracy and integrity of an electronically submitted voter registration.

(8) (a) If an individual applies to register under this section during the period beginning on the date after the voter registration deadline and ending on the date that is 15 calendar days before the date of an election, the county clerk shall:

(i) accept the application for registration if the individual, on the date of the election, will be legally qualified and entitled to vote in a voting precinct in the state; and

(ii) inform the individual that:

(A) the individual is registered to vote in the pending election; and

(B) for the pending election, the individual must vote on the day of the election and is not eligible to vote using early voting under Chapter 3, Part 6, Early Voting, because the individual registered too late.

(b) [If] Except as provided in Subsection 20A-4-108(9), if an individual applies to register under this section during the 14 calendar days before an election, the county clerk shall:

(i) accept the application for registration if the individual, on the date of the election, will be legally qualified and entitled to vote in a voting precinct in the state; and

(ii) inform the individual that the individual is registered to vote but may not vote in the pending election because the individual registered too late.

(9) (a) A registered voter may file an application for an absentee ballot in accordance with Section 20A-3-304 on the electronic system for voter registration established under this section.

(b) The lieutenant governor shall provide a means by which a registered voter shall sign the application form as provided in Section 20A-3-304.

Section 9. Section 20A-2-307 is amended to read:

20A-2-307. County clerks' instructions to election judges.

(1) Each county clerk shall instruct election judges to allow a voter to vote a regular ballot if:

(a) the voter has moved from one address within a voting precinct to another address within the same voting precinct; and

(b) the voter affirms the change of address orally or in writing before the election judges.

(2) Each county clerk shall instruct election judges to allow a person to vote a provisional ballot if:

(a) the person registers to vote on election day, in accordance with the pilot project described in Section 20A-4-108, by casting a provisional ballot in a municipality or county that is participating in the pilot project;

~~[(a)]~~ (b) the voter's name does not appear on the official register; or

~~[(b)]~~ (c) the voter is challenged as provided in Section 20A-3-202.

Section 10. Section 20A-4-107 is amended to read:

20A-4-107. Review and disposition of provisional ballot envelopes.

(1) As used in this section, a person is "legally entitled to vote" if:

(a) the person:

(i) is registered to vote in the state;

(ii) votes the ballot for the voting precinct in which the person resides; and

(iii) ~~provided~~ provides valid voter identification to the poll worker;

(b) the person:

(i) is registered to vote in the state;

(ii) (A) provided valid voter identification to the poll worker; or

(B) either failed to provide valid voter identification or the documents provided as valid voter identification were inadequate and the poll worker recorded that fact in the official register but the county clerk verifies the person's identity and residence through some other means; and

(iii) did not vote in the person's precinct of residence, but the ballot that the person voted was from the person's county of residence and includes one or more candidates or ballot propositions on the ballot voted in the person's precinct of residence; or

(c) the person:

(i) is registered to vote in the state;

(ii) either failed to provide valid voter identification or the documents provided as valid voter identification were inadequate and the poll

worker recorded that fact in the official register; and

(iii) (A) the county clerk verifies the person's identity and residence through some other means as reliable as photo identification; or

(B) the person provides valid voter identification to the county clerk or an election officer who is administering the election by the close of normal office hours on Monday after the date of the election.

(2) (a) Upon receipt of provisional ballot envelopes, the election officer shall review the affirmation on the face of each provisional ballot envelope and determine if the person signing the affirmation is:

- (i) registered to vote in this state; and
- (ii) legally entitled to vote:

 - (A) the ballot that the person voted; or

(B) if the ballot is from the person's county of residence, for at least one ballot proposition or candidate on the ballot that the person voted.

(b) [If] Except as provided in Subsection 20A-4-108(10), if the election officer determines that the person is not registered to vote in this state or is not legally entitled to vote in the county or for any of the ballot propositions or candidates on the ballot that the person voted, the election officer shall retain the ballot envelope, unopened, for the period specified in Section 20A-4-202 unless ordered by a court to produce or count it.

(c) If the election officer determines that the person is registered to vote in this state and is legally entitled to vote in the county and for at least one of the ballot propositions or candidates on the ballot that the person voted, the election officer shall remove the ballot from the provisional ballot envelope and place the ballot with the absentee ballots to be counted with those ballots at the canvass.

(d) The election officer may not count, or allow to be counted a provisional ballot unless the person's identity and residence is established by a preponderance of the evidence.

(3) If the election officer determines that the person is registered to vote in this state, or if the voter is, in accordance with the pilot project, registered to vote under Subsection 20A-4-108(10), the election officer shall ensure that the voter registration records are updated to reflect the information provided on the provisional ballot envelope.

(4) [If] Except as provided in Subsection 20A-4-108(12), if the election officer determines that the person is not registered to vote in this state and the information on the provisional ballot envelope is complete, the election officer shall:

(a) consider the provisional ballot envelope a voter registration form for the person's county of residence; and

(b) (i) register the person if the voter's county of residence is within the county; or

(ii) forward the voter registration form to the election officer of the person's county of residence, which election officer shall register the person.

Section 11. Section 20A-4-108 is enacted to read:

20A-4-108. Election day voter registration pilot project.

(1) There is created, beginning on June 1, 2014, and ending on January 1, 2017, an election day voter registration pilot project, as described in this section.

(2) A county may participate in the pilot project if the county clerk submits to the lieutenant governor a written application to participate in the pilot project that contains:

(a) the name of the county;

(b) a request that the county be permitted to participate in the pilot project;

(c) an estimate of the extent to which election day voter registration may increase voter participation; and

(d) any other reasons that the county desires to participate in the project.

(3) A municipality may participate in the pilot project for a municipal election if the municipal clerk submits to the lieutenant governor a written application to participate in the pilot project that contains:

(a) the name of the municipality;

(b) a request that the municipality be permitted to participate in the pilot project;

(c) an estimate of the extent to which election day voter registration may increase voter participation; and

(d) any other reasons that the municipality desires to participate in the project.

(4) Within 10 business days after the day on which the lieutenant governor receives an application described in Subsection (2) or (3), the lieutenant governor shall approve the application if:

(a) the application complies with the requirements described in Subsection (2) or (3), as applicable; and

(b) the lieutenant governor determines, based on the information contained in the application, that implementing the pilot project in the county or municipality:

(i) will yield valuable information to determine whether election day voter registration should be implemented on a permanent, statewide basis; and

(ii) will not adversely affect the rights of voters or candidates.

(5) For a county or municipality that is approved by the lieutenant governor to participate in the pilot

project, if, under Subsection 20A-2-201(3), a registration form is submitted to the county clerk on the date of the election or during the 14 calendar days before an election, the county clerk shall:

(a) if the person desires to vote in the pending election, inform the person that the person must, on election day, register to vote by casting a provisional ballot in accordance with Subsection (10); or

(b) if the person does not desire to vote in the pending election:

(i) accept a registration form from the person if, on the date of the election, the person will be legally qualified and entitled to vote in a voting precinct in the county or municipality; and

(ii) inform the person that the person will be registered to vote but may not vote in the pending election because the person registered too late and chose not to register and vote as described in Subsection (5)(a).

(6) For a county or municipality that is approved by the lieutenant governor to participate in the pilot project, if, under Subsection 20A-2-202(3)(a), the county clerk receives a correctly completed by-mail voter registration form that is postmarked after the voter registration deadline, the county clerk shall:

(a) unless the applicant registers on election day by casting a provisional ballot in accordance with Subsection (10), register the applicant for the next election; and

(b) if possible, promptly phone, mail, or email a notice to the applicant before the election, informing the applicant that:

(i) the applicant's registration will not be effective until after the election; and

(ii) the applicant may register to vote on election day by casting a provisional ballot in accordance with Subsection (10).

(7) For a county or municipality that is approved by the lieutenant governor to participate in the pilot project, if, under Subsection 20A-2-204(5)(a), the county clerk receives a correctly completed voter registration form that is dated after the voter registration deadline, the county clerk shall:

(a) unless the applicant registers to vote on election day by casting a provisional ballot in accordance with Subsection (10), register the applicant after the next election; and

(b) if possible, promptly phone, mail, or email a notice to the applicant before the election, informing the applicant that:

(i) the applicant's registration will not be effective until after the election; and

(ii) the applicant may register to vote on election day by casting a provisional ballot in accordance with Subsection (10).

(8) For a county or municipality that is approved by the lieutenant governor to participate in the pilot project, if, under Subsection 20A-2-205(7)(a), the

county clerk receives a correctly completed voter registration form that is dated after the voter registration deadline, the county clerk shall:

(a) unless the applicant registers to vote on election day by casting a provisional ballot in accordance with Subsection (10), register the applicant after the next election; and

(b) if possible, promptly phone, mail, or email a notice to the applicant before the election, informing the applicant that:

(i) the applicant's registration will not be effective until after the election; and

(ii) the applicant may register to vote on election day by casting a provisional ballot in accordance with Subsection (10).

(9) For a county or municipality that is approved by the lieutenant governor to participate in the pilot project, if, under Subsection 20A-2-206(8)(b), an individual applies to register under this section during the 14 calendar days before an election, the county clerk shall:

(a) if the individual desires to vote in the pending election, inform the individual that the individual must, on election day, register to vote by casting a provisional ballot in accordance with Subsection (10); or

(b) if the individual does not desire to vote in the pending election:

(i) accept the application for registration if the individual, on the date of the election, will be legally qualified and entitled to vote in a voting precinct in the state; and

(ii) inform the individual that the individual is registered to vote but may not vote in the pending election because the individual registered too late and chose not to register and vote as described in Subsection (9)(a).

(10) For a county or municipality that is approved by the lieutenant governor to participate in the pilot project:

(a) the election officer shall take the action described in Subsection (10)(b) in relation to a provisional ballot if the election officer determines that:

(i) the person who voted the ballot is not registered to vote, but is otherwise legally entitled to vote the ballot;

(ii) the ballot that the person voted is identical to the ballot for the precinct in which the person resides;

(iii) the information on the ballot is complete; and

(iv) the person provided valid voter identification and proof of residence to the poll worker;

(b) if a provisional ballot and the person who voted the provisional ballot comply with the requirements described in Subsection (10)(a), the election officer shall:

(i) consider the provisional ballot a voter registration form;

(ii) place the ballot with the absentee ballots, to be counted with those ballots at the canvass; and

(iii) as soon as reasonably possible, register the person to vote; and

(c) except as provided in Subsection (11), the election officer shall retain a provisional ballot envelope, unopened, for the period specified in Section 20A-4-202, if the election officer determines that the person who voted the ballot:

(i) (A) is not registered to vote in this state; and

(B) is not eligible for registration under Subsection (10); or

(ii) is not legally entitled to vote the ballot that the person voted.

(11) Subsection (10)(c) does not apply if a court orders the election officer to produce or count the provisional ballot.

(12) For a county or municipality that is approved by the lieutenant governor to participate in the pilot project, if, under Subsection 20A-4-107(4), the election officer determines that the person is not registered to vote in this state, that the information on the provisional ballot envelope is complete, and that the provisional ballot and the person who voted the provisional ballot do not comply with the requirements described in Subsection (10)(a), the election officer shall:

(a) consider the provisional ballot envelope a voter registration form for the person's county of residence; and

(b) (i) register the person if the voter's county of residence is within the county; or

(ii) forward the voter registration form to the election officer of the person's county of residence, which election officer shall register the person.

(13) (a) The county clerk of a county that is approved to participate in the pilot project, and the municipal clerk of a municipality that is approved to participate in the pilot project, shall provide training for the poll workers of the county or municipality on administering the pilot program.

(b) The lieutenant governor shall, for a county or municipality that is approved to participate in the pilot project, provide information relating to the pilot project in accordance with the provisions of Subsection 67-1a-2(2)(a)(iv).

(14) The lieutenant governor and each county and municipality that is approved by the lieutenant governor to participate in the pilot project shall:

(a) report to the Government Operations Interim Committee, on or before October 31 of each year that the pilot project is in effect, regarding:

(i) the implementation of the pilot project;

(ii) the number of ballots cast by voters who registered on election day;

(iii) any difficulties resulting from the pilot project; and

(iv) whether, in the opinion of the lieutenant governor, the county, or the municipality, the state would benefit from implementing election day voter registration permanently and on a statewide basis; and

(b) on or before December 31, 2016, report to the Legislative Management Committee regarding the matters described in Subsection (14)(a).

(15) During the 2016 interim, the Government Operations Interim Committee shall study and make a recommendation to the Legislature regarding whether to implement statewide election day voter registration on a permanent, statewide basis.

Section 12. Section 63I-1-220 is amended to read:

63I-1-220. Repeal dates, Title 20A.

On January 1, 2017:

(1) Subsection 20A-1-102(54) is repealed.

(2) Subsection 20A-2-102.5(1) the language that states "20A-4-108, or" is repealed.

(3) Subsection 20A-2-201(3) the language that states "Except as provided in Subsection 20A-4-108(5)," is repealed.

(4) Subsection 20A-2-202(3)(a) the language that states "Except as provided in Subsection 20A-4-108(6)," is repealed.

(5) Subsection 20A-2-204(5)(a) the language that states "Except as provided in Subsection 20A-4-108(7)," is repealed.

(6) Subsection 20A-2-205(7)(a) the language that states "Except as provided in Subsection 20A-4-108(8)," is repealed.

(7) Subsection 20A-2-206(8)(b) the language that states "Except as provided in Subsection 20A-4-108(9)," is repealed.

(8) Subsection 20A-2-307(2)(a) is repealed.

(9) Subsection 20A-4-107(2)(b) the language that states "Except as provided in Subsection 20A-4-108(10)," is repealed.

(10) Subsection 20A-4-107(3) the language that states "or if the voter is, in accordance with the pilot project, registered to vote under Subsection 20A-4-108(10)," is repealed.

(11) Subsection 20A-4-107(4) the language that states "Except as provided in Subsection 20A-4-108(12)," is repealed.

(12) Section 20A-4-108 is repealed.

Section 13. Coordinating H.B. 156 with S.B. 135 -- Substantive amendments.

If this H.B. 156 and S.B. 135, Voter Registration Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication as follows:

(1) modify Subsection 20A-2-201(3)(b)(ii) to read:

”(ii) except as provided in Subsection 20A-4-108(5), if it is on the date of an election or during the seven calendar days before an election, inform the individual that the individual will be registered to vote but may not vote in the pending election because the individual registered too late.”;

(2) amend the existing Subsection 20A-2-206(8)(b) to read as follows:

“(b) If (c) Except as provided in Subsection 20A-4-108(9), if an individual applies to register under this section during the [14] six calendar days before an election, the county clerk shall:

(i) accept the application for registration if the individual, on the date of the election, will be legally qualified and entitled to vote in a voting precinct in the state; and

(ii) inform the individual that the individual is registered to vote but may not vote in the pending election because the individual registered too late.”;

(3) modify Subsection 20A-4-107(5) to read:

”(5) Notwithstanding any provision of this section, the election officer shall remove the ballot from a provisional ballot envelope and place the ballot with the absentee ballots to be counted with those ballots at the canvass, if:

(a) (i) the election officer determines, in accordance with the provisions of this section, that the sole reason a provisional ballot may not otherwise be counted is because the voter registration was filed less than eight days before the election;

(ii) eight or more days before the election, the individual who cast the provisional ballot:

(A) completed and signed the voter registration; and

(B) provided the voter registration to another person to file;

(iii) the late filing was made due to the person described in Subsection (5)(a)(ii)(B) filing the voter registration less than eight days before the election; and

(iv) the election officer receives the voter registration no later than one day before the day of the election; or

(b) the provisional ballot is cast on or before election day in a county or municipality that is approved by the lieutenant governor to participate in the pilot project and the provisional ballot is not otherwise prohibited from being counted under the provisions of this chapter; and”; and

(4) replace the reference in Subsection 20A-4-108(5), to “Subsection 20A-2-201(3)” with “Subsection 20A-2-201(3)(b)(ii)”;

(5) change the language in Subsection 20A-4-108(5) from “14 calendar days” to “seven calendar days”;

(6) replace the reference in Subsection 20A-4-108(9), to “Subsection 20A-2-206(8)(b)” with “Subsection 20A-2-206(8)(c)”; and

(7) change the language in Subsection 20A-4-108(9), from “14 calendar days” to “six calendar days”.

CHAPTER 232**H. B. 157**

Passed March 11, 2014

Approved March 31, 2014

Effective May 13, 2014

RAPE KIT PROCESSING AMENDMENTS

Chief Sponsor: Jennifer M. Seelig
 Senate Sponsor: Stephen H. Urquhart
 Cosponsors: Rebecca Chavez-Houck
 Joel K. Briscoe
 Patrice M. Arent
 Susan Duckworth
 Richard A. Greenwood
 Keith Grover
 Lynn N. Hemingway
 Eric K. Hutchings
 Brian S. King
 Dana L. Layton
 Carol Spackman Moss
 Curtis Oda
 Marie H. Poulson
 Paul Ray
 Edward H. Redd
 Angela Romero
 Robert M. Spendlove
 Mark A. Wheatley
 Larry B. Wiley

LONG TITLE**General Description:**

This bill modifies the provisions of the Utah Code of Criminal Procedure regarding the victim's bill of rights.

Highlighted Provisions:

This bill:

- ▶ provides that a victim of a sexual offense has the following rights:
 - to be informed whether the DNA profile of the assailant was obtained;
 - to be informed whether the DNA profile of the assailant has been entered into the Utah Combined DNA Index System;
 - to be informed if there is a match between the DNA profile of the assailant and a DNA profile contained in the Utah Combined DNA Index System, provided the disclosure of this information would not impede or compromise an ongoing investigation; and
 - to designate a person to receive information provided by law enforcement;
- ▶ provides that a law enforcement agency that chooses not to analyze DNA evidence in a case where the identity of the perpetrator is in doubt shall inform the victim of that decision;
- ▶ provides that a law enforcement agency shall provide written notification to a victim or the victim's designee 60 days before destroying or disposing of evidence from an unsolved sexual assault case;
- ▶ provides that the law enforcement office where the sexual offense is reported shall have the responsibility to inform the victim of these rights; and

- ▶ provides that a victim may designate a person of the victim's choosing to receive any information from the law enforcement agency.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

77-37-3, as last amended by Laws of Utah 2011, Chapter 177

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

Section 1. Section 77-37-3 is amended to read:**77-37-3. Bill of rights.**

(1) The bill of rights for victims and witnesses is:

(a) Victims and witnesses have a right to be informed as to the level of protection from intimidation and harm available to them, and from what sources, as they participate in criminal justice proceedings as designated by Section 76-8-508, regarding witness tampering, and Section 76-8-509, regarding threats against a victim. Law enforcement, prosecution, and corrections personnel have the duty to timely provide this information in a form which is useful to the victim.

(b) Victims and witnesses, including children and their guardians, have a right to be informed and assisted as to their role in the criminal justice process. All criminal justice agencies have the duty to provide this information and assistance.

(c) Victims and witnesses have a right to clear explanations regarding relevant legal proceedings; these explanations shall be appropriate to the age of child victims and witnesses. All criminal justice agencies have the duty to provide these explanations.

(d) Victims and witnesses should have a secure waiting area that does not require them to be in close proximity to defendants or the family and friends of defendants. Agencies controlling facilities shall, whenever possible, provide this area.

(e) Victims may seek restitution or reparations, including medical costs, as provided in Title 63M, Chapter 7, Criminal Justice and Substance Abuse, and Sections 62A-7-109.5, 77-38A-302, and 77-27-6. State and local government agencies that serve victims have the duty to have a functional knowledge of the procedures established by the Crime Victim Reparations Board and to inform victims of these procedures.

(f) Victims and witnesses have a right to have any personal property returned as provided in Sections 77-24-1 through 77-24-5. Criminal justice agencies shall expeditiously return the property when it is no longer needed for court law enforcement or prosecution purposes.

(g) Victims and witnesses have the right to reasonable employer intercession services,

including pursuing employer cooperation in minimizing employees' loss of pay and other benefits resulting from their participation in the criminal justice process. Officers of the court shall provide these services and shall consider victims' and witnesses' schedules so that activities which conflict can be avoided. Where conflicts cannot be avoided, the victim may request that the responsible agency intercede with employers or other parties.

(h) Victims and witnesses, particularly children, should have a speedy disposition of the entire criminal justice process. All involved public agencies shall establish policies and procedures to encourage speedy disposition of criminal cases.

(i) Victims and witnesses have the right to timely notice of judicial proceedings they are to attend and timely notice of cancellation of any proceedings. Criminal justice agencies have the duty to provide these notifications. Defense counsel and others have the duty to provide timely notice to prosecution of any continuances or other changes that may be required.

(j) Victims of sexual offenses have [a] the following rights:

(i) the right to [be informed of their right to] request voluntary testing for themselves for HIV infection as provided in Section 76-5-503 and to request mandatory testing of the alleged sexual offender for HIV infection as provided in Section 76-5-502[-. The law enforcement office where the sexual offense is reported shall have the responsibility to inform victims of this right.];

(ii) the right to be informed whether a DNA profile was obtained from the testing of the rape kit evidence or from other crime scene evidence;

(iii) the right to be informed whether a DNA profile developed from the rape kit evidence or other crime scene evidence has been entered into the Utah Combined DNA Index System;

(iv) the right to be informed whether there is a match between a DNA profile developed from the rape kit evidence or other crime scene evidence and a DNA profile contained in the Utah Combined DNA Index System, provided that disclosure would not impede or compromise an ongoing investigation; and

(v) the right to designate a person of the victim's choosing to act as a recipient of the information provided under this Subsection (1)(j) and under Subsections (2) and (3).

(k) Subsections (1)(j)(ii) through (iv) do not require that the law enforcement agency communicate with the victim or the victim's designee regarding the status of DNA testing, absent a specific request received from the victim or the victim's designee.

(2) The law enforcement agency investigating a sexual offense may:

(a) release the information indicated in Subsections (1)(j)(ii) through (iv) upon the request

of a victim or the victim's designee and is the designated agency to provide that information to the victim or the victim's designee;

(b) require that the victim's request be in writing; and

(c) respond to the victim's request with verbal communication, written communication, or by email, if an email address is available.

(3) The law enforcement agency investigating a sexual offense has the following authority and responsibilities:

(a) If the law enforcement agency determines that DNA evidence will not be analyzed in a case where the identity of the perpetrator has not been confirmed, the law enforcement agency shall notify the victim or the victim's designee.

(b) (i) If the law enforcement agency intends to destroy or dispose of rape kit evidence or other crime scene evidence from an unsolved sexual assault case, the law enforcement agency shall provide written notification of that intention and information on how to appeal the decision to the victim or the victim's designee of that intention.

(ii) Written notification under this Subsection (3) shall be made not fewer than 60 days prior to the destruction or disposal of the rape kit evidence or other crime scene evidence.

(c) A law enforcement agency responsible for providing information under Subsections (1)(j)(ii) through (iv), (2), and (3) shall do so in a timely manner and, upon request of the victim or the victim's designee, shall advise the victim or the victim's designee of any significant changes in the information of which the law enforcement agency is aware.

(d) The law enforcement agency investigating the sexual offense is responsible for informing the victim or the victim's designee of the rights established under Subsections (1)(j)(ii) through (iv) and (2), and this Subsection (3).

[(2)] (4) Informational rights of the victim under this chapter are based upon the victim providing the [victim's] current [address and telephone number] name, address, telephone number, and email address, if an email address is available, of the person to whom the information should be provided to the criminal justice agencies involved in the case.

CHAPTER 233**H. B. 177**

Passed March 13, 2014
 Approved March 31, 2014
 Effective May 13, 2014

**JUROR AND WITNESS
 FEES AMENDMENTS**

Chief Sponsor: Keven J. Stratton
 Senate Sponsor: Daniel W. Thatcher

LONG TITLE**General Description:**

This bill provides limits to costs for jurors and witnesses in state courts to only those authorized by statute.

Highlighted Provisions:

This bill:

- ▶ provides that costs for jurors and witnesses are limited to what is authorized by statute; and
- ▶ requires a report on certain costs to the Executive Offices and Criminal Justice Appropriations Subcommittee each year.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78B-1-117, as renumbered and amended by Laws of Utah 2008, Chapter 3

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

Section 1. Section 78B-1-117 is amended to read:

78B-1-117. Jurors and witnesses -- State payment for jurors and subpoenaed persons -- Appropriations and costs -- Expenses in justice court.

(1) The state is responsible for payment of all fees and expenses authorized by law for prosecution witnesses, witnesses subpoenaed by indigent defendants, and interpreter costs in criminal actions in the courts of record and actions in the juvenile court. The state is responsible for payment of all fees and expenses authorized by law for jurors in the courts of record. For these payments, the Judicial Council shall receive an annual appropriation contained in a separate line item appropriation.

(2) If expenses, for the purposes of this section, exceed the line item appropriation, the administrator of the courts shall submit a claim against the state to the Board of Examiners and request the board to recommend and submit a supplemental appropriation request to the Legislature for the deficit incurred.

(3) In the justice courts, the fees, mileage, and other expenses authorized by law for jurors, prosecution witnesses, witnesses subpoenaed by indigent defendants, and interpreter costs shall be paid by the municipality if the action is prosecuted

by the city attorney, and by the county if the action is prosecuted by the county attorney or district attorney.

(4) Beginning July 1, 2014, the administrator of the courts shall provide a report during each interim to the Executive Offices and Criminal Justice Appropriations Subcommittee detailing expenses, trends, and efforts made to minimize expenses and maximize performance of the costs under this section.

(5) The funding of additional full-time equivalent employees shall be authorized by the Legislature through specific intent language.

CHAPTER 234**H. B. 185**

Passed March 13, 2014
 Approved March 31, 2014
 Effective May 13, 2014

**JUVENILE DETENTION
 FACILITIES AMENDMENTS**

Sponsor: Chief Sponsor: Eric K. Hutchings
 Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill makes changes related to the detainment of a minor in a juvenile detention facility.

Highlighted Provisions:

This bill:

- ▶ establishes considerations for a district court when determining placement of a minor;
- ▶ requires a district court to place a serious youth offender in a juvenile detention facility under certain circumstances;
- ▶ provides considerations for a juvenile court when binding a minor over to the jurisdiction of a district court until the time of the trial; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78A-6-701, as last amended by Laws of Utah 2010, Chapter 38
 78A-6-702, as last amended by Laws of Utah 2013, Chapter 186
 78A-6-703, as last amended by Laws of Utah 2010, Chapters 38 and 193

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

Section 1. Section 78A-6-701 is amended to read:

78A-6-701. Jurisdiction of district court.

(1) The district court has exclusive original jurisdiction over all persons 16 years of age or older charged with:

(a) an offense which would be murder or aggravated murder if committed by an adult; or

(b) an offense which would be a felony if committed by an adult if the minor has been previously committed to a secure facility as defined in Section 62A-7-101. This Subsection (1)(b) shall not apply if the offense is committed in a secure facility.

(2) When the district court has exclusive original jurisdiction over a minor under this section, it also has exclusive original jurisdiction over the minor regarding all offenses joined with the qualifying offense, and any other offenses, including misdemeanors, arising from the same criminal episode. The district court is not divested of

jurisdiction by virtue of the fact that the minor is allowed to enter a plea to, or is found guilty of, a lesser or joined offense.

(3) (a) Any felony, misdemeanor, or infraction committed after the offense over which the district court takes jurisdiction under Subsection (1) or (2) shall be tried against the defendant as an adult in the district court or justice court having jurisdiction.

(b) If the qualifying charge under Subsection (1) results in an acquittal, a finding of not guilty, or a dismissal of the charge in the district court, the juvenile court under Section 78A-6-103 and the Division of Juvenile Justice Services regain any jurisdiction and authority previously exercised over the minor.

(4) A minor arrested under this section shall be held in a juvenile detention facility until the district court determines where the minor shall be held until the time of trial, except for defendants who are otherwise subject to the authority of the Board of Pardons and Parole.

(5) The district court shall consider the following when determining where the minor will be held until the time of trial:

(a) the age of the minor;

(b) the nature, seriousness, and circumstances of the alleged offense;

(c) the minor's history of prior criminal acts;

(d) whether detention in a juvenile detention facility will adequately serve the need for community protection pending the outcome of any criminal proceedings;

(e) whether the minor's placement in a juvenile detention facility will negatively impact the functioning of the facility by compromising the goals of the facility to maintain a safe, positive, and secure environment for all minors within the facility;

(f) the relative ability of the facility to meet the needs of the minor and protect the public;

(g) whether the minor presents an imminent risk of harm to the minor or others within the facility;

(h) the physical maturity of the minor;

(i) the current mental state of the minor as evidenced by relevant mental health or psychological assessments or screenings that are made available to the court; and

(j) any other factors the court considers relevant.

(6) A minor ordered to a juvenile detention facility under Subsection (5) shall remain in the facility until released by a district court judge, or if convicted, until sentencing.

(7) A minor held in a juvenile detention facility under this section shall have the same right to bail as any other criminal defendant.

(8) If the minor ordered to a juvenile detention facility under Subsection (5) attains the age of 18

years, the minor shall be transferred within 30 days to an adult jail until released by the district court judge, or if convicted, until sentencing.

(9) A minor 16 years of age or older whose conduct or condition endangers the safety or welfare of others in the juvenile detention facility may, by court order that specifies the reasons, be detained in another place of confinement considered appropriate by the court, including jail or other place of pretrial confinement for adults.

Section 2. Section 78A-6-702 is amended to read:

78A-6-702. Serious youth offender -- Procedure.

(1) Any action filed by a county attorney, district attorney, or attorney general charging a minor 16 years of age or older with a felony shall be by criminal information and filed in the juvenile court if the information charges any of the following offenses:

(a) any felony violation of:

- (i) Section 76-6-103, aggravated arson;
- (ii) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;
- (iii) Section 76-5-302, aggravated kidnapping;
- (iv) Section 76-6-203, aggravated burglary;
- (v) Section 76-6-302, aggravated robbery;
- (vi) Section 76-5-405, aggravated sexual assault;
- (vii) Section 76-10-508.1, felony discharge of a firearm;
- (viii) Section 76-5-202, attempted aggravated murder; or
- (ix) Section 76-5-203, attempted murder; or

(b) an offense other than those listed in Subsection (1)(a) involving the use of a dangerous weapon, which would be a felony if committed by an adult, and the minor has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon, which also would have been a felony if committed by an adult.

(2) All proceedings before the juvenile court related to charges filed under Subsection (1) shall be conducted in conformity with the rules established by the Utah Supreme Court.

(3) (a) If the information alleges the violation of a felony listed in Subsection (1), the state shall have the burden of going forward with its case and the burden of proof to establish probable cause to believe that one of the crimes listed in Subsection (1) has been committed and that the defendant committed it. If proceeding under Subsection (1)(b), the state shall have the additional burden of proving by a preponderance of the evidence that the defendant has previously been adjudicated or convicted of an offense involving the use of a dangerous weapon.

(b) If the juvenile court judge finds the state has met its burden under this Subsection (3), the court shall order that the defendant be bound over and held to answer in the district court in the same manner as an adult unless the juvenile court judge finds that it would be contrary to the best interest of the minor and to the public to bind over the defendant to the jurisdiction of the district court.

(c) In making the bind over determination in Subsection (3)(b), the judge shall consider only the following:

(i) whether the minor has been previously adjudicated delinquent for an offense involving the use of a dangerous weapon which would be a felony if committed by an adult;

(ii) if the offense was committed with one or more other persons, whether the minor appears to have a greater or lesser degree of culpability than the codefendants;

(iii) the extent to which the minor's role in the offense was committed in a violent, aggressive, or premeditated manner;

(iv) the number and nature of the minor's prior adjudications in the juvenile court; and

(v) whether public safety is better served by adjudicating the minor in the juvenile court or in the district court.

(d) Once the state has met its burden under Subsection (3)(a) as to a showing of probable cause, the defendant shall have the burden of going forward and presenting evidence that in light of the considerations listed in Subsection (3)(c), it would be contrary to the best interest of the minor and the best interests of the public to bind the defendant over to the jurisdiction of the district court.

(e) If the juvenile court judge finds by clear and convincing evidence that it would be contrary to the best interest of the minor and the best interests of the public to bind the defendant over to the jurisdiction of the district court, the court shall so state in its findings and order the minor held for trial as a minor and shall proceed upon the information as though it were a juvenile petition.

(4) If the juvenile court judge finds that an offense has been committed, but that the state has not met its burden of proving the other criteria needed to bind the defendant over under Subsection (1), the juvenile court judge shall order the defendant held for trial as a minor and shall proceed upon the information as though it were a juvenile petition.

(5) At the time of a bind over to district court a criminal warrant of arrest shall issue. The defendant shall have the same right to bail as any other criminal defendant and shall be advised of that right by the juvenile court judge. The juvenile court shall set initial bail in accordance with Title 77, Chapter 20, Bail.

(6) At the time the minor is bound over to the district court, the juvenile court shall make the initial determination on where the minor shall be held.

(7) The juvenile court shall consider the following when determining where the minor shall be held until the time of trial:

- (a) the age of the minor;
- (b) the nature, seriousness, and circumstances of the alleged offense;
- (c) the minor's history of prior criminal acts;
- (d) whether detention in a juvenile detention facility will adequately serve the need for community protection pending the outcome of any criminal proceedings;
- (e) whether the minor's placement in a juvenile detention facility will negatively impact the functioning of the facility by compromising the goals of the facility to maintain a safe, positive, and secure environment for all minors within the facility;
- (f) the relative ability of the facility to meet the needs of the minor and protect the public;
- (g) whether the minor presents an imminent risk of harm to the minor or others within the facility;
- (h) the physical maturity of the minor;
- (i) the current mental state of the minor as evidenced by relevant mental health or psychological assessments or screenings that are made available to the court; and
- (j) any other factors the court considers relevant.

(8) If a minor is ordered to a juvenile detention facility under Subsection (7), the minor shall remain in the facility until released by a district court judge, or if convicted, until sentencing.

(9) A minor held in a juvenile detention facility under this section shall have the same right to bail as any other criminal defendant.

(10) If the minor ordered to a juvenile detention facility under Subsection (7) attains the age of 18 years, the minor shall be transferred within 30 days to an adult jail until released by the district court judge, or if convicted, until sentencing.

(11) A minor 16 years of age or older whose conduct or condition endangers the safety or welfare of others in the juvenile detention facility may, by court order that specifies the reasons, be detained in another place of pretrial confinement considered appropriate by the court, including jail or other place of confinement for adults.

(12) The district court may reconsider the decision on where the minor will be held pursuant to Subsection (6).

~~[(6)]~~ (13) If an indictment is returned by a grand jury charging a violation under this section, the preliminary examination held by the juvenile court judge need not include a finding of probable cause that the crime alleged in the indictment was committed and that the defendant committed it, but the juvenile court shall proceed in accordance with

this section regarding the additional considerations listed in Subsection (3)(b).

~~[(7)]~~ (14) When a defendant is charged with multiple criminal offenses in the same information or indictment and is bound over to answer in the district court for one or more charges under this section, other offenses arising from the same criminal episode and any subsequent misdemeanors or felonies charged against him shall be considered together with those charges, and where the court finds probable cause to believe that those crimes have been committed and that the defendant committed them, the defendant shall also be bound over to the district court to answer for those charges.

~~[(8)]~~ (15) When a minor has been bound over to the district court under this section, the jurisdiction of the Division of Juvenile Justice Services and the juvenile court over the minor is terminated regarding that offense, any other offenses arising from the same criminal episode, and any subsequent misdemeanors or felonies charged against the minor, except as provided in Subsection ~~[(12)]~~ (19).

~~[(9)]~~ (16) A minor who is bound over to answer as an adult in the district court under this section or on whom an indictment has been returned by a grand jury is not entitled to a preliminary examination in the district court.

~~[(10)]~~ (17) Allegations contained in the indictment or information that the defendant has previously been adjudicated or convicted of an offense involving the use of a dangerous weapon, or is 16 years of age or older, are not elements of the criminal offense and do not need to be proven at trial in the district court.

~~[(11)]~~ (18) If a minor enters a plea to, or is found guilty of, any of the charges filed or any other offense arising from the same criminal episode, the district court retains jurisdiction over the minor for all purposes, including sentencing.

~~[(12)]~~ (19) The juvenile court under Section 78A-6-103 and the Division of Juvenile Justice Services regain jurisdiction and any authority previously exercised over the minor when there is an acquittal, a finding of not guilty, or dismissal of all charges in the district court.

Section 3. Section 78A-6-703 is amended to read:

78A-6-703. Certification hearings -- Juvenile court to hold preliminary hearing -- Factors considered by juvenile court for waiver of jurisdiction to district court.

(1) If a criminal information filed in accordance with Subsection 78A-6-602(3) alleges the commission of an act which would constitute a felony if committed by an adult, the juvenile court shall conduct a preliminary hearing.

(2) At the preliminary hearing the state shall have the burden of going forward with its case and the burden of establishing:

(a) probable cause to believe that a crime was committed and that the defendant committed it; and

(b) by a preponderance of the evidence, that it would be contrary to the best interests of the minor or of the public for the juvenile court to retain jurisdiction.

(3) In considering whether or not it would be contrary to the best interests of the minor or of the public for the juvenile court to retain jurisdiction, the juvenile court shall consider, and may base its decision on, the finding of one or more of the following factors:

(a) the seriousness of the offense and whether the protection of the community requires isolation of the minor beyond that afforded by juvenile facilities;

(b) whether the alleged offense was committed by the minor under circumstances which would subject the minor to enhanced penalties under Section 76-3-203.1 if the minor were adult and the offense was committed:

(i) in concert with two or more persons;

(ii) for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802; or

(iii) to gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Section 76-9-802;

(c) whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner;

(d) whether the alleged offense was against persons or property, greater weight being given to offenses against persons, except as provided in Section 76-8-418;

(e) the maturity of the minor as determined by considerations of the minor's home, environment, emotional attitude, and pattern of living;

(f) the record and previous history of the minor;

(g) the likelihood of rehabilitation of the minor by use of facilities available to the juvenile court;

(h) the desirability of trial and disposition of the entire offense in one court when the minor's associates in the alleged offense are adults who will be charged with a crime in the district court;

(i) whether the minor used a firearm in the commission of an offense; and

(j) whether the minor possessed a dangerous weapon on or about school premises as provided in Section 76-10-505.5.

(4) The amount of weight to be given to each of the factors listed in Subsection (3) is discretionary with the court.

(5) (a) Written reports and other materials relating to the minor's mental, physical,

educational, and social history may be considered by the court.

(b) If requested by the minor, the minor's parent, guardian, or other interested party, the court shall require the person or agency preparing the report and other material to appear and be subject to both direct and cross-examination.

(6) At the conclusion of the state's case, the minor may testify under oath, call witnesses, cross-examine adverse witnesses, and present evidence on the factors required by Subsection (3).

(7) At the time the minor is bound over to the district court, the juvenile court shall make the initial determination on where the minor shall be held.

(8) The juvenile court shall consider the following when determining where the minor will be held until the time of trial:

(a) the age of the minor;

(b) the nature, seriousness, and circumstances of the alleged offense;

(c) the minor's history of prior criminal acts;

(d) whether detention in a juvenile detention facility will adequately serve the need for community protection pending the outcome of any criminal proceedings;

(e) whether the minor's placement in a juvenile detention facility will negatively impact the functioning of the facility by compromising the goals of the facility to maintain a safe, positive, and secure environment for all minors within the facility;

(f) the relative ability of the facility to meet the needs of the minor and protect the public;

(g) whether the minor presents an imminent risk of harm to the minor or others within the facility;

(h) the physical maturity of the minor;

(i) the current mental state of the minor as evidenced by relevant mental health or psychological assessments or screenings that are made available to the court; and

(j) any other factors the court considers relevant.

(9) If a minor is ordered to a juvenile detention facility under Subsection (8), the minor shall remain in the facility until released by a district court judge, or if convicted, until sentencing.

(10) A minor held in a juvenile detention facility under this section shall have the same right to bail as any other criminal defendant.

(11) If the minor ordered to a juvenile detention facility under Subsection (8) attains the age of 18 years, the minor shall be transferred within 30 days to an adult jail until released by the district court judge, or if convicted, until sentencing.

(12) A minor 16 years of age or older whose conduct or condition endangers the safety or welfare of others in the juvenile detention facility

may, by court order that specifies the reasons, be detained in another place of confinement considered appropriate by the court, including jail or other place of confinement for adults.

(13) The district court may reconsider the decision on where the minor shall be held pursuant to Subsection (7).

~~[(7)]~~ (14) If the court finds the state has met its burden under Subsection (2), the court may enter an order:

(a) certifying that finding; and

(b) directing that the minor be held for criminal proceedings in the district court.

~~[(8)]~~ (15) If an indictment is returned by a grand jury, the preliminary examination held by the juvenile court need not include a finding of probable cause, but the juvenile court shall proceed in accordance with this section regarding the additional consideration referred to in Subsection (2)(b).

~~[(9)]~~ (16) The provisions of Section 78A-6-115, Section 78A-6-1111, and other provisions relating to proceedings in juvenile cases are applicable to the hearing held under this section to the extent they are pertinent.

~~[(10)]~~ (17) A minor who has been directed to be held for criminal proceedings in the district court is not entitled to a preliminary examination in the district court.

~~[(11)]~~ (18) A minor who has been certified for trial in the district court shall have the same right to bail as any other criminal defendant and shall be advised of that right by the juvenile court judge. The juvenile court shall set initial bail in accordance with Title 77, Chapter 20, Bail.

~~[(12)]~~ (19) When a minor has been certified to the district court under this section, the jurisdiction of the Division of Juvenile Justice Services and the jurisdiction of the juvenile court over the minor is terminated regarding that offense, any other offenses arising from the same criminal episode, and any subsequent misdemeanors or felonies charged against the minor, except as provided in Subsection ~~[(14)]~~ (21).

~~[(13)]~~ (20) If a minor enters a plea to, or is found guilty of any of the charges filed or on any other offense arising out of the same criminal episode, the district court retains jurisdiction over the minor for all purposes, including sentencing.

~~[(14)]~~ (21) The juvenile court under Section 78A-6-103 and the Division of Juvenile Justice Services regain jurisdiction and any authority previously exercised over the minor when there is an acquittal, a finding of not guilty, or dismissal of all charges in the district court.

CHAPTER 235**H. B. 190**

Passed March 13, 2014
Approved March 31, 2014
Effective May 13, 2014

BREATHALYZER AMENDMENTS

Chief Sponsor: Gregory H. Hughes
Senate Sponsor: Deidre M. Henderson

LONG TITLE**General Description:**

This bill addresses use of breathalyzers.

Highlighted Provisions:

This bill:

- ▶ defines terms; and
- ▶ addresses installation or provision of breathalyzers.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

32B-5-311, Utah Code Annotated 1953

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

Section 1. Section 32B-5-311 is enacted to read:**32B-5-311. Use of breathalyzers.**

(1) As used in this section:

(a) "Breathalyzer" means:

(i) a device that uses electromechanical fuel cell sensor technology in the blood alcohol content testing process; or

(ii) a single-use, disposable alcohol breath tester that is cleared with the United States Food and Drug Administration as a Class 1 medical device with at least 99.8% accuracy and having a detection cut-off of 0.08 relative percent blood alcohol concentration.

(b) "Calibration" means the manual setting of specific levels on a breathalyzer by a person trained to reset the device to ensure as accurate results as possible.

(c) (i) "Financial transaction card" means a card, code, or other means of access to a person's account issued to a person that allows the person to obtain, purchase, or receive goods, services, money, or anything else of value.

(ii) "Financial transaction card" includes:

(A) a credit card;

(B) a credit plate;

(C) a bank services card;

(D) a banking card;

(E) a check guarantee card;

(F) a debit card;

(G) a telephone credit card; or

(H) a device for access as defined in Section 7-16a-102.

(2) If a retail licensee voluntarily installs, or sells or otherwise provides, a breathalyzer on its premises:

(a) the breathalyzer may not store financial transaction card data or associate breathalyzer results with financial transaction card data;

(b) for a breathalyzer described in Subsection (1)(a)(i):

(i) the breathalyzer shall collect data that can be downloaded by a third-party that performs the calibration of the breathalyzer, except that the downloaded information may not be used for any purpose other than calibration;

(ii) the retail licensee shall ensure that a breathalyzer installed inside of the licensed premises is calibrated by a third-party the sooner of every:

(A) 30 days; or

(B) 300 uses;

(iii) the owner of the breathalyzer shall annually report to the department compliance with the calibration requirements of this section for the breathalyzer; and

(iv) the breathalyzer may be able to be shut down remotely; and

(c) the retail licensee shall post in a conspicuous location by the breathalyzer:

(i) a notice to the user of the breathalyzer that the timing of when a breathalyzer test is taken may affect the results of the breathalyzer test; and

(ii) a notice that states: "The National Transportation Safety Board has found that crash risk is consistently and significantly elevated by the time an individual reaches a blood alcohol content of 0.05."

(3) Data from a breathalyzer installed in the licensed premises of, or sold or otherwise provided by, a retail licensee may not be used for enforcement purposes.

(4) If a retail licensee or owner of the breathalyzer violates this section, the department may require the retail licensee to remove the installed breathalyzer described in Subsection (1)(a)(i) or not sell or otherwise provide a breathalyzer described in Subsection (1)(a)(ii).

CHAPTER 236**H. B. 193**

Passed March 13, 2014
 Approved March 31, 2014
 Effective July 1, 2014

**APPROPRIATIONS AND
 BUDGETING AMENDMENTS**

Chief Sponsor: Jacob L. Anderegg
 Senate Sponsor: Deidre M. Henderson

LONG TITLE**General Description:**

This bill modifies the Budgetary Procedures Act by amending provisions relating to legislative review and approval requirements for internal service fund operations.

Highlighted Provisions:

This bill:

- ▶ provides that if an internal service fund agency operates more than one internal service fund within the internal service fund agency, the internal service fund agency shall comply with the legislative review and approval requirements for each internal service fund;
- ▶ requires legislative review for the number of full-time equivalent contract employees of each internal service fund as part of the annual appropriation process;
- ▶ authorizes an internal service fund agency that begins a new service or introduces a new product between annual general sessions of the Legislature to acquire contract employees, if necessary, for that service or product;
- ▶ requires an internal service fund agency to report any change in the number of contract employees to the appropriate legislative appropriations subcommittee for review;
- ▶ provides that if an internal service fund agency operates an internal service fund and does not get the required legislative approvals, the internal service fund agency shall rebate all rates, fees, and amounts collected to those who use the services for the rates, fees, and amounts collected that were not approved; and
- ▶ makes conforming and technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2014.

Utah Code Sections Affected:**AMENDS:**

63J-1-410, as renumbered and amended by Laws of Utah 2009, Chapter 183

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

Section 1. Section 63J-1-410 is amended to read:

63J-1-410. Internal service funds -- Governance and review.

- (1) For purposes of this section:

(a) "Agency" means a department, division, office, bureau, or other unit of state government, and includes any subdivision of an agency.

(b) "Do not replace vehicles" means a vehicle accounted for in the Division of Fleet Operations for which charges to an agency for its use do not include amounts to cover depreciation or to accumulate assets to replace the vehicle at the end of its useful life.

(c) "Internal service fund agency" means an agency that provides goods or services to other agencies of state government or to other governmental units on a capital maintenance and cost reimbursement basis, and which recovers costs through interagency billings.

(d) "Revolving loan fund" means each of the revolving loan funds defined in Section 63A-3-205.

(2) An internal service fund agency is not subject to this section with respect to its administration of a revolving loan fund.

(3) (a) An internal service fund agency may not bill another agency for services that it provides for each internal service fund operated by the agency, unless the Legislature has:

~~(a)~~ (i) reviewed and approved ~~the~~ each internal service ~~fund agency's~~ fund's budget request;

~~(b)~~ (ii) reviewed and approved ~~the~~ each internal service ~~fund agency's~~ fund's rates, fees, and other amounts that it charges those who use its services and included those rates, fees, and amounts in an appropriation act;

~~(c)~~ (iii) approved the number of full-time, permanent positions of ~~the~~ each internal service fund ~~agency~~ as part of the annual appropriation process; ~~and~~

~~(iv)~~ review the number of full-time equivalent contract employees of each internal service fund as part of the annual appropriation process; and

~~(d)~~ (v) appropriated to the internal service fund agency ~~the~~ each internal service fund's estimated revenue based upon the rates and fee structure that are the basis for the estimate.

(b) If an internal service fund agency operates more than one internal service fund within the internal service fund agency, the internal service fund agency shall comply with the review and approval requirements under Subsection (3)(a) for each internal service fund.

(c) If an internal service fund agency operates an internal service fund and does not get the approvals required under Subsection (3)(a) or (4)(b), the internal service fund agency shall rebate all rates, fees, and amounts collected to those who use the services for the rates, fees, and amounts collected that were not approved under Subsection (3)(a) or (4)(b).

(4) (a) Except as provided in Subsection (4)(b), an internal service fund agency may not charge rates, fees, and other amounts that exceed the rates, fees, and amounts established by the Legislature in the appropriations act.

(b) (i) An internal service fund agency that begins a new service or introduces a new product between annual general sessions of the Legislature may, for that service or product:

(A) establish and charge an interim rate or amount [~~for that service or product.~~];

(B) acquire contract employees, if necessary; or

(C) do a combination of Subsections (4)(b)(i)(A) and (B).

(ii) The internal service fund agency shall [~~submit that~~]:

(A) submit the interim rate or amount under Subsection (4)(b)(i) to the Legislature for approval at the next annual general session[-]; and

(B) report any change in the number of contract employees under Subsection (4)(b)(i) to the appropriate legislative appropriations subcommittee for review.

(5) The internal service fund agency budget request shall separately identify the capital needs and the related capital budget.

(6) In the fiscal year that the accounting change referred to in Subsection 51-5-6(2) is implemented by the Division of Finance, the Division of Finance shall transfer equity created by that accounting change to any internal service fund agency up to the amount needed to eliminate any long-term debt and deficit working capital in the fund.

(7) No new internal service fund agency may be established unless reviewed and approved by the Legislature.

(8) (a) Except as provided in Subsection (8)(f), an internal service fund agency may not acquire capital assets unless legislative approval for acquisition of the assets has been included in an appropriations act for the internal service fund agency.

(b) An internal service fund agency may not acquire capital assets after the transfer mandated by Subsection (6) has occurred unless the internal service fund agency has adequate working capital.

(c) The internal service fund agency shall provide working capital from the following sources in the following order:

(i) first, from operating revenues to the extent allowed by state rules and federal regulations;

(ii) second, from long-term debt, subject to the restrictions of this section; and

(iii) last, from an appropriation.

(d) (i) To eliminate negative working capital, an internal service fund agency may incur long-term debt from the General Fund or Special Revenue Funds to acquire capital assets.

(ii) The internal service fund agency shall repay all long-term debt borrowed from the General Fund or Special Revenue Funds by making regular payments over the useful life of the asset according to the asset's depreciation schedule.

(e) (i) The Division of Finance may not allow an internal service fund agency's borrowing to exceed 90% of the net book value of the agency's capital assets as of the end of the fiscal year.

(ii) If an internal service fund agency wishes to purchase authorized assets or enter into equipment leases that would increase its borrowing beyond 90% of the net book value of the agency's capital assets, the agency may purchase those assets only with money appropriated from another fund, such as the General Fund or a special revenue fund.

(f) (i) Except as provided in Subsection (8)(f)(ii), capital assets acquired through agency appropriation may not be transferred to any internal service fund agency without legislative approval.

(ii) Vehicles acquired by agencies from appropriated funds or money appropriated to agencies to be used for vehicle purchases may be transferred to the Division of Fleet Operations and, when transferred, become part of the Fleet Operations Internal Service Fund.

(iii) Vehicles acquired with funding from sources other than state appropriations or acquired through the federal surplus property donation program may be transferred to the Division of Fleet Operations and, when transferred, become part of the Fleet Operations Internal Service Fund.

(iv) Unless otherwise approved by the Legislature, vehicles acquired under Subsection (8)(f)(iii) shall be accounted for as "do not replace" vehicles.

(9) The Division of Finance shall adopt policies and procedures related to the accounting for assets, liabilities, equity, revenues, expenditures, and transfers of internal service funds agencies.

Section 2. Effective date.

This bill takes effect on July 1, 2014.

CHAPTER 237**H. B. 199**

Passed March 11, 2014
 Approved March 31, 2014
 Effective January 1, 2015

PARK MODEL RECREATIONAL VEHICLES

Chief Sponsor: Jim Nielson
 Senate Sponsor: Kevin T. Van Tassell

LONG TITLE**General Description:**

This bill modifies the provisions to address the treatment of park model recreational vehicles.

Highlighted Provisions:

This bill:

- ▶ modifies the definition provision to address park model recreational vehicles;
- ▶ requires park model recreational vehicles to be registered and to obtain a decal;
- ▶ provides for fees;
- ▶ addresses titling requirements;
- ▶ exempts park model recreational vehicles from certain statutory requirements;
- ▶ exempts park model recreational vehicles from the definition of motor vehicles for purposes of dealership regulation;
- ▶ addresses the uniform statewide fee; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on January 1, 2015.

Utah Code Sections Affected:**AMENDS:**

- 41-1a-102, as last amended by Laws of Utah 2013, Chapter 266
- 41-1a-201, as enacted by Laws of Utah 1992, Chapter 1 and last amended by Laws of Utah 1992, Chapter 218
- 41-1a-204, as renumbered and amended by Laws of Utah 1992, Chapter 1
- 41-1a-229, as enacted by Laws of Utah 1992, Chapter 1 and last amended by Laws of Utah 1992, Chapter 54
- 41-1a-301, as last amended by Laws of Utah 2009, Chapter 183
- 41-1a-401, as renumbered and amended by Laws of Utah 1992, Chapter 1
- 41-1a-1206, as last amended by Laws of Utah 2012, Chapters 356, 356, 397 and last amended by Coordination Clause, Laws of Utah 2012, Chapter 397
- 41-1a-1212, as last amended by Laws of Utah 2009, Chapter 183
- 41-3-102, as last amended by Laws of Utah 2010, Chapter 393
- 59-2-405.2, as last amended by Laws of Utah 2012, Chapter 397

ENACTS:

- 41-1a-506.1, Utah Code Annotated 1953

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

Section 1. Section 41-1a-102 is amended to read:**41-1a-102. Definitions.**

As used in this chapter:

- (1) "Actual miles" means the actual distance a vehicle has traveled while in operation.
- (2) "Actual weight" means the actual unladen weight of a vehicle or combination of vehicles as operated and certified to by a weighmaster.
- (3) "All-terrain type I vehicle" has the same meaning provided in Section 41-22-2.
- (4) "All-terrain type II vehicle" has the same meaning provided in Section 41-22-2.
- (5) "Amateur radio operator" means any person licensed by the Federal Communications Commission to engage in private and experimental two-way radio operation on the amateur band radio frequencies.
- (6) "Branded title" means a title certificate that is labeled:
 - (a) rebuilt and restored to operation;
 - (b) flooded and restored to operation; or
 - (c) not restored to operation.
- (7) "Camper" means any structure designed, used, and maintained primarily to be mounted on or affixed to a motor vehicle that contains a floor and is designed to provide a mobile dwelling, sleeping place, commercial space, or facilities for human habitation or for camping.
- (8) "Certificate of title" means a document issued by a jurisdiction to establish a record of ownership between an identified owner and the described vehicle, vessel, or outboard motor.
- (9) "Certified scale weigh ticket" means a weigh ticket that has been issued by a weighmaster.
- (10) "Commercial vehicle" means a motor vehicle, trailer, or semitrailer used or maintained for the transportation of persons or property that operates:
 - (a) as a carrier for hire, compensation, or profit; or
 - (b) as a carrier to transport the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.
- (11) "Commission" means the State Tax Commission.
- (12) "Dealer" means a person engaged or licensed to engage in the business of buying, selling, or exchanging new or used vehicles, vessels, or outboard motors either outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise or who has an established place of business for the sale, lease, trade, or display of vehicles, vessels, or outboard motors.
- (13) "Division" means the Motor Vehicle Division of the commission, created in Section 41-1a-106.
- (14) "Essential parts" means all integral and body parts of a vehicle of a type required to be registered

in this state, the removal, alteration, or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type, or mode of operation.

(15) "Farm tractor" means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

(16) (a) "Farm truck" means a truck used by the owner or operator of a farm solely for his own use in the transportation of:

(i) farm products, including livestock and its products, poultry and its products, floricultural and horticultural products;

(ii) farm supplies, including tile, fence, and every other thing or commodity used in agricultural, floricultural, horticultural, livestock, and poultry production; and

(iii) livestock, poultry, and other animals and things used for breeding, feeding, or other purposes connected with the operation of a farm.

(b) "Farm truck" does not include the operation of trucks by commercial processors of agricultural products.

(17) "Fleet" means one or more commercial vehicles.

(18) "Foreign vehicle" means a vehicle of a type required to be registered, brought into this state from another state, territory, or country other than in the ordinary course of business by or through a manufacturer or dealer, and not registered in this state.

(19) "Gross laden weight" means the actual weight of a vehicle or combination of vehicles, equipped for operation, to which shall be added the maximum load to be carried.

(20) "Highway" or "street" means the entire width between property lines of every way or place of whatever nature when any part of it is open to the public, as a matter of right, for purposes of vehicular traffic.

(21) (a) "Identification number" means the identifying number assigned by the manufacturer or by the division for the purpose of identifying the vehicle, vessel, or outboard motor.

(b) "Identification number" includes a vehicle identification number, state assigned identification number, hull identification number, and motor serial number.

(22) "Implement of husbandry" means every vehicle designed or adapted and used exclusively for an agricultural operation and only incidentally operated or moved upon the highways.

(23) (a) "In-state miles" means the total number of miles operated in this state during the preceding year by fleet power units.

(b) If fleets are composed entirely of trailers or semitrailers, "in-state miles" means the total

number of miles that those vehicles were towed on Utah highways during the preceding year.

(24) "Interstate vehicle" means any commercial vehicle operated in more than one state, province, territory, or possession of the United States or foreign country.

(25) "Jurisdiction" means a state, district, province, political subdivision, territory, or possession of the United States or any foreign country.

(26) "Lienholder" means a person with a security interest in particular property.

(27) "Manufactured home" means a transportable factory built housing unit constructed on or after June 15, 1976, according to the Federal Home Construction and Safety Standards Act of 1974 (HUD Code), in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or when erected on site, is 400 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems.

(28) "Manufacturer" means a person engaged in the business of constructing, manufacturing, assembling, producing, or importing new or unused vehicles, vessels, or outboard motors for the purpose of sale or trade.

(29) "Mobile home" means a transportable factory built housing unit built prior to June 15, 1976, in accordance with a state mobile home code which existed prior to the Federal Manufactured Housing and Safety Standards Act (HUD Code).

(30) "Motorboat" has the same meaning as provided in Section 73-18-2.

(31) "Motorcycle" means a motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground.

(32) (a) "Motor vehicle" means a self-propelled vehicle intended primarily for use and operation on the highways.

(b) "Motor vehicle" does not include an off-highway vehicle.

(33) (a) "Nonresident" means a person who is not a resident of this state as defined by Section 41-1a-202, and who does not engage in intrastate business within this state and does not operate in that business any motor vehicle, trailer, or semitrailer within this state.

(b) A person who engages in intrastate business within this state and operates in that business any motor vehicle, trailer, or semitrailer in this state or who, even though engaging in interstate commerce, maintains any vehicle in this state as the home station of that vehicle is considered a resident of this state, insofar as that vehicle is concerned in administering this chapter.

(34) "Odometer" means a device for measuring and recording the actual distance a vehicle travels

while in operation, but does not include any auxiliary odometer designed to be periodically reset.

(35) "Off-highway implement of husbandry" has the same meaning as provided in Section 41-22-2.

(36) "Off-highway vehicle" has the same meaning as provided in Section 41-22-2.

(37) "Operate" means to drive or be in actual physical control of a vehicle or to navigate a vessel.

(38) "Outboard motor" means a detachable self-contained propulsion unit, excluding fuel supply, used to propel a vessel.

(39) (a) "Owner" means a person, other than a lienholder, holding title to a vehicle, vessel, or outboard motor whether or not the vehicle, vessel, or outboard motor is subject to a security interest.

(b) If a vehicle is the subject of an agreement for the conditional sale or installment sale or mortgage of the vehicle with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or mortgagor, or if the vehicle is the subject of a security agreement, then the conditional vendee, mortgagor, or debtor is considered the owner for the purposes of this chapter.

(c) If a vehicle is the subject of an agreement to lease, the lessor is considered the owner until the lessee exercises his option to purchase the vehicle.

(40) "Park model recreational vehicle" means a unit that:

(a) is designed and marketed as temporary living quarters for recreational, camping, travel, or seasonal use;

(b) is not permanently affixed to real property for use as a permanent dwelling;

(c) requires a special highway movement permit for transit; and

(d) is built on a single chassis mounted on wheels with a gross trailer area not exceeding 400 square feet in the setup mode.

[40] (41) "Personalized license plate" means a license plate that has displayed on it a combination of letters, numbers, or both as requested by the owner of the vehicle and assigned to the vehicle by the division.

[41] (42) (a) "Pickup truck" means a two-axle motor vehicle with motive power manufactured, remanufactured, or materially altered to provide an open cargo area.

(b) "Pickup truck" includes motor vehicles with the open cargo area covered with a camper, camper shell, tarp, removable top, or similar structure.

[42] (43) "Pneumatic tire" means every tire in which compressed air is designed to support the load.

[43] (44) "Preceding year" means a period of 12 consecutive months fixed by the division that is within 16 months immediately preceding the commencement of the registration or license year in which proportional registration is sought. The division in fixing the period shall conform it to the terms, conditions, and requirements of any applicable agreement or arrangement for the proportional registration of vehicles.

[44] (45) "Public garage" means every building or other place where vehicles or vessels are kept and stored and where a charge is made for the storage and keeping of vehicles and vessels.

[45] (46) "Receipt of surrender of ownership documents" means the receipt of surrender of ownership documents described in Section 41-1a-503.

[46] (47) "Reconstructed vehicle" means every vehicle of a type required to be registered in this state that is materially altered from its original construction by the removal, addition, or substitution of essential parts, new or used.

[47] (48) "Recreational vehicle" has the same meaning as provided in Section 13-14-102.

[48] (49) "Registration" means a document issued by a jurisdiction that allows operation of a vehicle or vessel on the highways or waters of this state for the time period for which the registration is valid and that is evidence of compliance with the registration requirements of the jurisdiction.

[49] (50) (a) "Registration year" means a 12 consecutive month period commencing with the completion of all applicable registration criteria.

(b) For administration of a multistate agreement for proportional registration the division may prescribe a different 12-month period.

[50] (51) "Repair or replacement" means the restoration of vehicles, vessels, or outboard motors to a sound working condition by substituting any inoperative part of the vehicle, vessel, or outboard motor, or by correcting the inoperative part.

[51] (52) "Replica vehicle" means:

(a) a street rod that meets the requirements under Subsection 41-21-1(1)(a)(i)(B); or

(b) a custom vehicle that meets the requirements under Subsection 41-6a-1507(1)(a)(i)(B).

[52] (53) "Road tractor" means every motor vehicle designed and used for drawing other vehicles and constructed so it does not carry any load either independently or any part of the weight of a vehicle or load that is drawn.

[53] (54) "Sailboat" has the same meaning as provided in Section 73-18-2.

[54] (55) "Security interest" means an interest that is reserved or created by a security agreement to secure the payment or performance of an obligation and that is valid against third parties.

[55] (56) "Semitrailer" means every vehicle without motive power designed for carrying

persons or property and for being drawn by a motor vehicle and constructed so that some part of its weight and its load rests or is carried by another vehicle.

[~~56~~] (57) "Special group license plate" means a type of license plate designed for a particular group of people or a license plate authorized and issued by the division in accordance with Section 41-1a-418.

[~~57~~] (58) (a) "Special interest vehicle" means a vehicle used for general transportation purposes and that is:

(i) 20 years or older from the current year; or

(ii) a make or model of motor vehicle recognized by the division director as having unique interest or historic value.

(b) In making his determination under Subsection [~~57~~] (58)(a), the division director shall give special consideration to:

(i) a make of motor vehicle that is no longer manufactured;

(ii) a make or model of motor vehicle produced in limited or token quantities;

(iii) a make or model of motor vehicle produced as an experimental vehicle or one designed exclusively for educational purposes or museum display; or

(iv) a motor vehicle of any age or make that has not been substantially altered or modified from original specifications of the manufacturer and because of its significance is being collected, preserved, restored, maintained, or operated by a collector or hobbyist as a leisure pursuit.

[~~58~~] (59) (a) "Special mobile equipment" means every vehicle:

(i) not designed or used primarily for the transportation of persons or property;

(ii) not designed to operate in traffic; and

(iii) only incidentally operated or moved over the highways.

(b) "Special mobile equipment" includes:

(i) farm tractors;

(ii) off-road motorized construction or maintenance equipment including backhoes, bulldozers, compactors, graders, loaders, road rollers, tractors, and trenchers; and

(iii) ditch-digging apparatus.

(c) "Special mobile equipment" does not include a commercial vehicle as defined under Section 72-9-102.

[~~59~~] (60) "Specially constructed vehicle" means every vehicle of a type required to be registered in this state, not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles, and not materially altered from its original construction.

[~~60~~] (61) "Title" means the right to or ownership of a vehicle, vessel, or outboard motor.

[~~61~~] (62) (a) "Total fleet miles" means the total number of miles operated in all jurisdictions during the preceding year by power units.

(b) If fleets are composed entirely of trailers or semitrailers, "total fleet miles" means the number of miles that those vehicles were towed on the highways of all jurisdictions during the preceding year.

[~~62~~] (63) "Trailer" means a vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

[~~63~~] (64) "Transferee" means a person to whom the ownership of property is conveyed by sale, gift, or any other means except by the creation of a security interest.

[~~64~~] (65) "Transferor" means a person who transfers his ownership in property by sale, gift, or any other means except by creation of a security interest.

[~~65~~] (66) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable vehicle without motive power, designed as a temporary dwelling for travel, recreational, or vacation use that does not require a special highway movement permit when drawn by a self-propelled motor vehicle.

[~~66~~] (67) "Truck tractor" means a motor vehicle designed and used primarily for drawing other vehicles and not constructed to carry a load other than a part of the weight of the vehicle and load that is drawn.

[~~67~~] (68) "Vehicle" includes a motor vehicle, trailer, semitrailer, off-highway vehicle, park model recreational vehicle, manufactured home, and mobile home.

[~~68~~] (69) "Vessel" has the same meaning as provided in Section 73-18-2.

[~~69~~] (70) "Vintage vehicle" has the same meaning as provided in Section 41-21-1.

[~~70~~] (71) "Waters of this state" has the same meaning as provided in Section 73-18-2.

[~~71~~] (72) "Weighmaster" means a person, association of persons, or corporation permitted to weigh vehicles under this chapter.

Section 2. Section 41-1a-201 is amended to read:

**41-1a-201. Function of registration --
Registration required.**

Unless exempted, a person may not operate and an owner may not give another person permission to operate a motor vehicle, combination of vehicles, trailer, semitrailer, vintage vehicle, off-highway vehicle, [ø] vessel, or park model recreational vehicle in this state unless it has been registered in accordance with this chapter, Title 41, Chapter 22,

Off-Highway Vehicles, or Title 73, Chapter 18, State Boating Act.

Section 3. Section 41-1a-204 is amended to read:

41-1a-204. Identification number inspection.

(1) An application for first registration in this state of any vehicle may not be accepted by the division unless the identification number of that vehicle, other than new vehicles sold by dealers licensed in this state, has been inspected by a qualified identification number inspector under Part 8, Identification Numbers.

(2) A park model recreational vehicle is exempt from this section.

Section 4. Section 41-1a-229 is amended to read:

41-1a-229. Display of gross laden weight.

(1) Each vehicle registered by gross laden weight and exceeding 12,000 pounds of gross laden weight shall have the gross laden weight for which it is registered painted, stenciled, or shown by decal upon both the left and right sides of the vehicle, in a conspicuous place, in letters of a reasonable size as determined by the commission.

(2) If vehicles are registered in combination, the gross laden weight for which the combination of vehicles is registered shall be displayed upon the power unit.

(3) An owner or operator of a vehicle or combination of vehicles may not display a gross laden weight other than that shown on the certificate of registration of the vehicle.

(4) A park model recreational vehicle is exempt from this section.

Section 5. Section 41-1a-301 is amended to read:

41-1a-301. Apportioned registration and licensing of interstate vehicles.

(1) (a) An owner or operator of a fleet of commercial vehicles based in this state and operating in two or more jurisdictions may register commercial vehicles for operation under the International Registration Plan or the Uniform Vehicle Registration Proration and Reciprocity Agreement by filing an application with the division.

(b) The application shall include information that identifies the vehicle owner, the vehicle, the miles traveled in each jurisdiction, and other information pertinent to the registration of apportioned vehicles.

(c) Vehicles operated exclusively in this state may not be apportioned.

(2) (a) If no operations were conducted during the preceding year, the application shall contain a

statement of the proposed operations and an estimate of annual mileage for each jurisdiction.

(b) The division may adjust the estimate if the division is not satisfied with its correctness.

(c) At renewal, the registrant shall use the actual mileage from the preceding year in computing fees due each jurisdiction.

(3) The registration fee for apportioned vehicles shall be determined as follows:

(a) divide the in-jurisdiction miles by the total miles generated during the preceding year;

(b) total the fees for each vehicle based on the fees prescribed in Section 41-1a-1206; and

(c) multiply the sum obtained under Subsection (3)(b) by the quotient obtained under Subsection (3)(a).

(4) Trailers or semitrailers of apportioned fleets may be listed separately as "trailer fleets" with the fees paid according to the total distance those trailers were towed in all jurisdictions during the preceding year mileage reporting period.

(5) (a) (i) When the proper fees have been paid and the property tax or in lieu fee has been cleared under Section 41-1a-206 or 41-1a-207, a registration card, annual decal, and where necessary, license plate, will be issued for each unit listed on the application.

(ii) An original registration must be carried in each vehicle at all times.

(b) Original registration cards for trailers or semitrailers may be carried in the power unit.

(c) (i) In lieu of a permanent registration card or license plate, the division may issue one temporary permit authorizing operation of new or unlicensed vehicles until the permanent registration is completed.

(ii) Once a temporary permit is issued, the registration process may not be cancelled. Registration must be completed and the fees and any property tax or in lieu fee due must be paid for the vehicle for which the permit was issued.

(iii) Temporary permits may not be issued for renewals.

(d) (i) The division shall issue one distinctive license plate that displays the letters APP for apportioned vehicles.

(ii) The plate shall be displayed on the front of an apportioned truck tractor or power unit or on the rear of any apportioned vehicle.

(iii) Distinctive decals displaying the word "apportioned" and the month and year of expiration shall be issued for each apportioned vehicle.

(e) A nonrefundable administrative fee, determined by the commission pursuant to Section 63J-1-504, shall be charged for each temporary permit, registration, or both.

(6) Vehicles that are apportionally registered are fully registered for intrastate and interstate

movements, providing the proper interstate and intrastate authority has been secured.

(7) (a) Vehicles added to an apportioned fleet after the beginning of the registration year shall be registered by applying the quotient under Subsection (3)(a) for the original application to the fees due for the remainder of the registration year.

(b) (i) The owner shall maintain and submit complete annual mileage for each vehicle in each jurisdiction, showing all miles operated by the lessor and lessee.

(ii) The fiscal mileage reporting period begins July 1, and continues through June 30 of the year immediately preceding the calendar year in which the registration year begins.

(c) (i) An owner-operator, who is a lessor, may be the registrant and the vehicle may be registered in the name of the owner-operator.

(ii) The identification plates and registration card shall be the property of the lessor and may reflect both the owner-operator's name and that of the carrier as lessee.

(iii) The allocation of fees shall be according to the operational records of the owner-operator.

(d) (i) The lessee may be the registrant of a leased vehicle at the option of the lessor.

(ii) If a lessee is the registrant of a leased vehicle, both the lessor's and lessee's name shall appear on the registration.

(iii) The allocation of fees shall be according to the records of the carrier.

(8) (a) Any registrant whose application for apportioned registration has been accepted shall preserve the records on which the application is based for a period of three years after the close of the registration year.

(b) The records shall be made available to the division upon request for audit as to accuracy of computations, payments, and assessments for deficiencies, or allowances for credits.

(c) An assessment for deficiency or claim for credit may not be made for any period for which records are no longer required.

(d) Interest in the amount prescribed by Section 59-1-402 shall be assessed or paid from the date due until paid on deficiencies found due after audit.

(e) Registrants with deficiencies are subject to the penalties under Section 59-1-401.

(f) The division may enter into agreements with other International Registration Plan jurisdictions for joint audits.

(9) (a) Except as provided in Subsection (9)(b), all state fees collected under this section shall be deposited in the Transportation Fund.

(b) The following fees may be used by the commission as a dedicated credit to cover the costs

of electronic credentialing as provided in Section 41-1a-303:

(i) \$5 of each temporary registration permit fee paid under Subsection (12)(a)(i) for a single unit; and

(ii) \$10 of each temporary registration permit fee paid under Subsection (12)(a)(ii) for multiple units.

(10) If registration is for less than a full year, fees for apportioned registration shall be assessed according to Section 41-1a-1207.

(a) (i) If the registrant is replacing a vehicle for one withdrawn from the fleet and the new vehicle is of the same weight category as the replaced vehicle, the registrant must file a supplemental application.

(ii) A registration card that transfers the license plate to the new vehicle shall be issued.

(iii) When a replacement vehicle is of greater weight than the replaced vehicle, additional registration fees are due.

(b) If a vehicle is withdrawn from an apportioned fleet during the period for which it is registered, the registrant shall notify the division and surrender the registration card and license plate of the withdrawn vehicle.

(11) (a) An out-of-state carrier with an apportionally registered vehicle who has not presented a certificate of property tax or in lieu fee as required by Section 41-1a-206 or 41-1a-207, shall pay, at the time of registration, a proportional part of an equalized highway use tax computed as follows:

(i) Multiply the number of vehicles or combination vehicles registered in each weight class by the equivalent tax figure from the following tables:

Vehicle or Combination Registered Weight	Age of Vehicle	Equivalent Tax
12,000 pounds or less	12 or more years	\$10
12,000 pounds or less	9 or more years but less than 12 years	\$50
12,000 pounds or less	6 or more years but less than 9 years	\$80
12,000 pounds or less	3 or more years but less than 6 years	\$110
12,000 pounds or less	Less than 3 years	\$150

Vehicle or Combination Registered Weight	Equivalent Tax
12,001 - 18,000 pounds	\$150
18,001 - 34,000 pounds	200
34,001 - 48,000 pounds	300
48,001 - 64,000 pounds	450
64,001 pounds and over	600

(ii) Multiply the equivalent tax value for the total fleet determined under Subsection (11)(a)(i) by the fraction computed under Subsection (3) for the apportioned fleet for the registration year.

(b) Fees shall be assessed as provided in Section 41-1a-1207.

(12) (a) Commercial vehicles meeting the registration requirements of another jurisdiction may, as an alternative to full or apportioned registration, secure a temporary registration permit for a period not to exceed 96 hours or until they leave the state, whichever is less, for a fee of:

- (i) \$25 for a single unit; and
- (ii) \$50 for multiple units.

(b) A state temporary permit or registration fee is not required from nonresident owners or operators of vehicles or combination of vehicles having a gross laden weight of 26,000 pounds or less for each single unit or combination.

(13) A park model recreational vehicle may not be registered under this section.

Section 6. Section 41-1a-401 is amended to read:

41-1a-401. License plates -- Number of plates -- Reflectorization -- Indicia of registration in lieu of or used with plates.

(1) (a) The division upon registering a vehicle shall issue to the owner:

(i) one license plate for a motorcycle, trailer, or semitrailer [and];

(ii) one decal for a park model recreational vehicle, in lieu of a license plate, which shall be attached in plain sight to the rear of the park model recreational vehicle; and

(iii) two identical license plates for every other vehicle.

(b) The license plate [~~shall be~~] or decal issued under Subsection (1)(a) is for the particular vehicle registered and may not be removed during the term for which the license plate or decal is issued or used upon any other vehicle than the registered vehicle.

(2) The division may receive applications for registration renewal, renew registration, and issue new license plates or decals at any time prior to the expiration of registration.

(3) (a) All license plates to be manufactured and issued by the division shall be treated with a fully reflective material on the plate face that provides effective and dependable reflective brightness during the service period of the license plate.

(b) The division shall prescribe all license plate material specifications and establish and implement procedures for conforming to the specifications.

(c) The specifications for the materials used such as the aluminum plate substrate, the reflective sheeting, and glue shall be drawn in a manner so that at least two manufacturers may qualify as suppliers.

(d) The granting of contracts for the materials shall be by public bid.

(4) (a) The commission may issue, adopt, and require the use of indicia of registration it considers

advisable in lieu of or in conjunction with license plates as provided in this part.

(b) All provisions of this part relative to license plates apply to these indicia of registration, so far as the provisions are applicable.

Section 7. Section 41-1a-506.1 is enacted to read:

41-1a-506.1. Exceptions to title requirements for park model recreational vehicles.

(1) A park model recreational vehicle in this state and identified by the manufacturer as a 2015 year model or newer is subject to the titling provisions of this part.

(2) The division may provide title to a park model recreational vehicle identified by the manufacturer as a 2014 year model or older if requested by the owner of the park model recreational vehicle.

Section 8. Section 41-1a-1206 is amended to read:

41-1a-1206. Registration fees -- Fees by gross laden weight.

(1) Except as provided in Subsections (2) and (3), at the time application is made for registration or renewal of registration of a vehicle or combination of vehicles under this chapter, a registration fee shall be paid to the division as follows:

(a) \$44.50 for each motorcycle;

(b) \$43 for each motor vehicle of 12,000 pounds or less gross laden weight, excluding motorcycles;

(c) unless the semitrailer or trailer is exempt from registration under Section 41-1a-202 or is registered under Section 41-1a-301:

(i) \$31 for each trailer or semitrailer over 750 pounds gross unladen weight; or

(ii) \$28.50 for each commercial trailer or commercial semitrailer of 750 pounds or less gross unladen weight;

(d) (i) \$53 for each farm truck over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus

(ii) \$9 for each 2,000 pounds over 14,000 pounds gross laden weight;

(e) (i) \$69.50 for each motor vehicle or combination of motor vehicles, excluding farm trucks, over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus

(ii) \$19 for each 2,000 pounds over 14,000 pounds gross laden weight; [~~and~~]

(f) (i) \$69.50 for each park model recreational vehicle over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus

(ii) \$19 for each 2,000 pounds over 14,000 pounds gross laden weight; and

(f) (g) \$45 for each vintage vehicle that is less than 40 years old.

(2) At the time application is made for registration or renewal of registration of a vehicle under this chapter for a six-month registration period under Section 41-1a-215.5, a registration fee shall be paid to the division as follows:

- (a) \$33.50 for each motorcycle; and
 - (b) \$32.50 for each motor vehicle of 12,000 pounds or less gross laden weight, excluding motorcycles.
- (3) (a) The initial registration fee for a vintage vehicle that is 40 years old or older is \$40.

(b) A vintage vehicle that is 40 years old or older is exempt from the renewal of registration fees under Subsection (1).

(c) A vehicle with a Purple Heart special group license plate issued in accordance with Section 41-1a-421 is exempt from the registration fees under Subsection (1).

(4) If a motor vehicle is operated in combination with a semitrailer or trailer, each motor vehicle shall register for the total gross laden weight of all units of the combination if the total gross laden weight of the combination exceeds 12,000 pounds.

(5) (a) Registration fee categories under this section are based on the gross laden weight declared in the licensee's application for registration.

(b) Gross laden weight shall be computed in units of 2,000 pounds. A fractional part of 2,000 pounds is a full unit.

(6) The owner of a commercial trailer or commercial semitrailer may, as an alternative to registering under Subsection (1)(c), apply for and obtain a special registration and license plate for a fee of \$130.

(7) Except as provided in Section 41-6a-1642, a truck may not be registered as a farm truck unless:

(a) the truck meets the definition of a farm truck under Section 41-1a-102; and

(b) (i) the truck has a gross vehicle weight rating of more than 12,000 pounds; or

(ii) the truck has a gross vehicle weight rating of 12,000 pounds or less and the owner submits to the division a certificate of emissions inspection or a waiver in compliance with Section 41-6a-1642.

(8) A violation of Subsection (7) is a class B misdemeanor that shall be punished by a fine of not less than \$200.

(9) Trucks used exclusively to pump cement, bore wells, or perform crane services with a crane lift capacity of five or more tons, are exempt from 50% of the amount of the fees required for those vehicles under this section.

Section 9. Section 41-1a-1212 is amended to read:

41-1a-1212. Fee for replacement of license plate decals.

A fee established in accordance with Section 63J-1-504 shall be paid to the division for the

replacement of a license plate decal required by Section 41-1a-402 or a decal required by Section 41-1a-401.

Section 10. Section 41-3-102 is amended to read:

41-3-102. Definitions.

As used in this chapter:

(1) "Administrator" means the motor vehicle enforcement administrator.

(2) "Agent" means a person other than a holder of any dealer's or salesperson's license issued under this chapter, who for salary, commission, or compensation of any kind, negotiates in any way for the sale, purchase, order, or exchange of three or more motor vehicles for any other person in any 12-month period.

(3) "Auction" means a dealer engaged in the business of auctioning motor vehicles, either owned or consigned, to the general public.

(4) "Board" means the advisory board created in Section 41-3-106.

(5) "Body shop" means a business engaged in rebuilding, restoring, repairing, or painting primarily the body of motor vehicles damaged by collision or natural disaster.

(6) "Commission" means the State Tax Commission.

(7) "Crusher" means a person who crushes or shreds motor vehicles subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, to reduce the useable materials and metals to a more compact size for recycling.

(8) (a) "Dealer" means a person:

(i) whose business in whole or in part involves selling new, used, or new and used motor vehicles or off-highway vehicles; and

(ii) who sells, displays for sale, or offers for sale or exchange three or more new or used motor vehicles or off-highway vehicles in any 12-month period.

(b) "Dealer" includes a representative or consignee of any dealer.

(9) (a) "Dismantler" means a person engaged in the business of dismantling motor vehicles subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, for the resale of parts or for salvage.

(b) "Dismantler" includes a person who dismantles three or more motor vehicles in any 12-month period.

(10) "Distributor" means a person who has a franchise from a manufacturer of motor vehicles to distribute motor vehicles within this state and who in whole or in part sells or distributes new motor vehicles to dealers or who maintains distributor representatives.

(11) "Distributor branch" means a branch office similarly maintained by a distributor for the same purposes a factory branch is maintained.

(12) "Distributor representative" means a person and each officer and employee of the person engaged as a representative of a distributor or distributor branch of motor vehicles to make or promote the sale of the distributor or the distributor branch's motor vehicles, or for supervising or contacting dealers or prospective dealers of the distributor or the distributor branch.

(13) "Division" means the Motor Vehicle Enforcement Division created in Section 41-3-104.

(14) "Factory branch" means a branch office maintained by a person who manufactures or assembles motor vehicles for sale to distributors, motor vehicle dealers, or who directs or supervises the factory branch's representatives.

(15) "Factory representative" means a person and each officer and employee of the person engaged as a representative of a manufacturer of motor vehicles or by a factory branch to make or promote the sale of the manufacturer's or factory branch's motor vehicles, or for supervising or contacting the dealers or prospective dealers of the manufacturer or the factory branch.

(16) "Franchise" means a contract or agreement between a dealer and a manufacturer of new motor vehicles or its distributor or factory branch by which the dealer is authorized to sell any specified make or makes of new motor vehicles.

(17) "Manufacturer" means a person engaged in the business of constructing or assembling new motor vehicles, ownership of which is customarily transferred by a manufacturer's statement or certificate of origin, or a person who constructs three or more new motor vehicles in any 12-month period.

(18) "Motorcycle" has the same meaning as defined in Section 41-1a-102.

(19) (a) "Motor vehicle" means a vehicle that is:

- (i) self-propelled;
- (ii) a trailer, travel trailer, or semitrailer; or
- (iii) an off-highway vehicle or small trailer.

(b) "Motor vehicle" does not include:

- (i) mobile homes as defined in Section 41-1a-102;
- (ii) trailers of 750 pounds or less unladen weight; ~~and~~
- (iii) farm tractors and other machines and tools used in the production, harvesting, and care of farm products[.]; and

(iv) park model recreational vehicles as defined in Section 41-1a-102.

(20) "New motor vehicle" means a motor vehicle that has never been titled or registered and has been driven less than 7,500 miles, unless the motor vehicle is an off-highway vehicle, small trailer, trailer, travel trailer, or semitrailer, in which case the mileage limit does not apply.

(21) "Off-highway vehicle" has the same meaning as provided in Section 41-22-2.

(22) "Pawnbroker" means a person whose business is to lend money on security of personal property deposited with him.

(23) "Principal place of business" means a site or location in this state:

(a) devoted exclusively to the business for which the dealer, manufacturer, remanufacturer, transporter, dismantler, crusher, or body shop is licensed, and businesses incidental to them;

(b) sufficiently bounded by fence, chain, posts, or otherwise marked to definitely indicate the boundary and to admit a definite description with space adequate to permit the display of three or more new, or new and used, or used motor vehicles and sufficient parking for the public; and

(c) that includes a permanent enclosed building or structure large enough to accommodate the office of the establishment and to provide a safe place to keep the books and other records of the business, at which the principal portion of the business is conducted and the books and records kept and maintained.

(24) "Remanufacturer" means a person who reconstructs used motor vehicles subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, to change the body style and appearance of the motor vehicle or who constructs or assembles motor vehicles from used or new and used motor vehicle parts, or who reconstructs, constructs, or assembles three or more motor vehicles in any 12-month period.

(25) "Salesperson" means an individual who for a salary, commission, or compensation of any kind, is employed either directly, indirectly, regularly, or occasionally by any new motor vehicle dealer or used motor vehicle dealer to sell, purchase, or exchange or to negotiate for the sale, purchase, or exchange of motor vehicles.

(26) "Semitrailer" has the same meaning as defined in Section 41-1a-102.

(27) "Small trailer" means a trailer that has an unladen weight of more than 750 pounds, but less than 2,000 pounds.

(28) "Special equipment" includes a truck mounted crane, cherry picker, material lift, post hole digger, and a utility or service body.

(29) "Special equipment dealer" means a new or new and used motor vehicle dealer engaged in the business of buying new incomplete motor vehicles with a gross vehicle weight of 12,000 or more pounds and installing special equipment on the incomplete motor vehicle.

(30) "Trailer" has the same meaning as defined in Section 41-1a-102.

(31) "Transporter" means a person engaged in the business of transporting motor vehicles as described in Section 41-3-202.

(32) "Travel trailer" has the same meaning as provided in Section 41-1a-102.

(33) "Used motor vehicle" means a vehicle that has been titled and registered to a purchaser other than a dealer or has been driven 7,500 or more miles, unless the vehicle is a trailer, or semitrailer, in which case the mileage limit does not apply.

(34) "Wholesale motor vehicle auction" means a dealer primarily engaged in the business of auctioning consigned motor vehicles to dealers or dismantlers who are licensed by this or any other jurisdiction.

Section 11. Section 59-2-405.2 is amended to read:

59-2-405.2. Definitions -- Uniform statewide fee on certain tangible personal property -- Distribution of revenues -- Rulemaking authority -- Determining the length of a vessel.

(1) As used in this section:

(a) (i) Except as provided in Subsection (1)(a)(ii), "all-terrain vehicle" means a motor vehicle that:

(A) is an:

(I) all-terrain type I vehicle as defined in Section 41-22-2; or

(II) all-terrain type II vehicle as defined in Section 41-22-2;

(B) is required to be registered in accordance with Title 41, Chapter 22, Off-Highway Vehicles; and

(C) has:

(I) an engine with more than 150 cubic centimeters displacement;

(II) a motor that produces more than five horsepower; or

(III) an electric motor; and

(ii) notwithstanding Subsection (1)(a)(i), "all-terrain vehicle" does not include a snowmobile.

(b) "Camper" means a camper:

(i) as defined in Section 41-1a-102; and

(ii) that is required to be registered in accordance with Title 41, Chapter 1a, Part 2, Registration.

(c) (i) "Canoe" means a vessel that:

(A) is long and narrow;

(B) has curved sides; and

(C) is tapered:

(I) to two pointed ends; or

(II) to one pointed end and is blunt on the other end; and

(ii) "canoe" includes:

(A) a collapsible inflatable canoe;

(B) a kayak;

(C) a racing shell;

(D) a rowing scull; or

(E) notwithstanding the definition of vessel in Subsection (1)(~~aa~~)(bb), a canoe with an outboard motor.

(d) "Dealer" is as defined in Section 41-1a-102.

(e) "Jon boat" means a vessel that:

(i) has a square bow; and

(ii) has a flat bottom.

(f) "Motor vehicle" is as defined in Section 41-22-2.

(g) "Other motorcycle" means a motor vehicle that:

(i) is:

(A) a motorcycle as defined in Section 41-1a-102; and

(B) designed primarily for use and operation over unimproved terrain;

(ii) is required to be registered in accordance with Title 41, Chapter 1a, Part 2, Registration; and

(iii) has:

(A) an engine with more than 150 cubic centimeters displacement; or

(B) a motor that produces more than five horsepower.

(h) (i) "Other trailer" means a portable vehicle without motive power that is primarily used:

(A) to transport tangible personal property; and

(B) for a purpose other than a commercial purpose; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (1)(h)(i)(B), the commission may by rule define what constitutes a purpose other than a commercial purpose.

(i) "Outboard motor" is as defined in Section 41-1a-102.

(j) "Park model recreational vehicle" is as defined in Section 41-1a-102.

(~~j~~) (k) "Personal watercraft" means a personal watercraft:

(i) as defined in Section 73-18-2; and

(ii) that is required to be registered in accordance with Title 73, Chapter 18, State Boating Act.

(~~k~~) (l) (i) "Pontoon" means a vessel that:

(A) is:

(I) supported by one or more floats; and

(II) propelled by either inboard or outboard power; and

(B) is not:

(I) a houseboat; or

(II) a collapsible inflatable vessel; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term “houseboat.”

[4] (m) “Qualifying adjustment, exemption, or reduction” means an adjustment, exemption, or reduction:

(i) of all or a portion of a qualifying payment;

(ii) granted by a county during the refund period; and

(iii) received by a qualifying person.

[4m] (n) (i) “Qualifying payment” means the payment made:

(A) of a uniform statewide fee in accordance with this section:

(I) by a qualifying person;

(II) to a county; and

(III) during the refund period; and

(B) on an item of qualifying tangible personal property; and

(ii) if a qualifying person received a qualifying adjustment, exemption, or reduction for an item of qualifying tangible personal property, the qualifying payment for that qualifying tangible personal property is equal to the difference between:

(A) the payment described in this Subsection (1)[4m](n) for that item of qualifying tangible personal property; and

(B) the amount of the qualifying adjustment, exemption, or reduction.

[4n] (o) “Qualifying person” means a person that paid a uniform statewide fee:

(i) during the refund period;

(ii) in accordance with this section; and

(iii) on an item of qualifying tangible personal property.

[4o] (p) “Qualifying tangible personal property” means a:

(i) qualifying vehicle; or

(ii) qualifying watercraft.

[4p] (q) “Qualifying vehicle” means:

(i) an all-terrain vehicle with an engine displacement that is 100 or more cubic centimeters but 150 or less cubic centimeters;

(ii) an other motorcycle with an engine displacement that is 100 or more cubic centimeters but 150 or less cubic centimeters;

(iii) a small motor vehicle with an engine displacement that is 100 or more cubic centimeters but 150 or less cubic centimeters;

(iv) a snowmobile with an engine displacement that is 100 or more cubic centimeters but 150 or less cubic centimeters; or

(v) a street motorcycle with an engine displacement that is 100 or more cubic centimeters but 150 or less cubic centimeters.

[4q] (r) “Qualifying watercraft” means a:

(i) canoe;

(ii) collapsible inflatable vessel;

(iii) jon boat;

(iv) pontoon;

(v) sailboat; or

(vi) utility boat.

[4r] (s) “Refund period” means the time period:

(i) beginning on January 1, 2006; and

(ii) ending on December 29, 2006.

[4s] (t) “Sailboat” means a sailboat as defined in Section 73-18-2.

[4t] (u) (i) “Small motor vehicle” means a motor vehicle that:

(A) is required to be registered in accordance with Title 41, Motor Vehicles; and

(B) has:

(I) an engine with 150 or less cubic centimeters displacement; or

(II) a motor that produces five or less horsepower; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule develop a process for an owner of a motor vehicle to certify whether the motor vehicle has:

(A) an engine with 150 or less cubic centimeters displacement; or

(B) a motor that produces five or less horsepower.

[4u] (v) “Snowmobile” means a motor vehicle that:

(i) is a snowmobile as defined in Section 41-22-2;

(ii) is required to be registered in accordance with Title 41, Chapter 22, Off-Highway Vehicles; and

(iii) has:

(A) an engine with more than 150 cubic centimeters displacement; or

(B) a motor that produces more than five horsepower.

[4v] (w) “Street motorcycle” means a motor vehicle that:

(i) is:

(A) a motorcycle as defined in Section 41-1a-102; and

(B) designed primarily for use and operation on highways;

(ii) is required to be registered in accordance with Title 41, Chapter 1a, Part 2, Registration; and

(iii) has:

(A) an engine with more than 150 cubic centimeters displacement; or

(B) a motor that produces more than five horsepower.

~~[(w)]~~ (x) "Tangible personal property owner" means a person that owns an item of qualifying tangible personal property.

~~[(x)]~~ (y) "Tent trailer" means a portable vehicle without motive power that:

(i) is constructed with collapsible side walls that:

(A) fold for towing by a motor vehicle; and

(B) unfold at a campsite;

(ii) is designed as a temporary dwelling for travel, recreational, or vacation use;

(iii) is required to be registered in accordance with Title 41, Chapter 1a, Part 2, Registration; and

(iv) does not require a special highway movement permit when drawn by a self-propelled motor vehicle.

~~[(y)]~~ (z) (i) Except as provided in Subsection (1)~~[(y)]~~(z)(ii), "travel trailer" means a travel trailer:

(A) as defined in Section 41-1a-102; and

(B) that is required to be registered in accordance with Title 41, Chapter 1a, Part 2, Registration; and

(ii) notwithstanding Subsection (1)~~[(y)]~~(z)(i), "travel trailer" does not include:

(A) a camper; or

(B) a tent trailer.

~~[(z)]~~ (aa) (i) "Utility boat" means a vessel that:

(A) has:

(I) two or three bench seating;

(II) an outboard motor; and

(III) a hull made of aluminum, fiberglass, or wood; and

(B) does not have:

(I) decking;

(II) a permanent canopy; or

(III) a floor other than the hull; and

(ii) notwithstanding Subsection (1)~~[(z)]~~(aa)(i), "utility boat" does not include a collapsible inflatable vessel.

~~[(aa)]~~ (bb) "Vessel" means a vessel:

(i) as defined in Section 73-18-2, including an outboard motor of the vessel; and

(ii) that is required to be registered in accordance with Title 73, Chapter 18, State Boating Act.

(2) (a) In accordance with Utah Constitution Article XIII, Section 2, Subsection (6), beginning on January 1, 2006, the tangible personal property described in Subsection (2)(b) is:

(i) exempt from the tax imposed by Section 59-2-103; and

(ii) in lieu of the tax imposed by Section 59-2-103, subject to uniform statewide fees as provided in this section.

(b) The following tangible personal property applies to Subsection (2)(a) if that tangible personal property is required to be registered with the state:

(i) an all-terrain vehicle;

(ii) a camper;

(iii) an other motorcycle;

(iv) an other trailer;

(v) a personal watercraft;

(vi) a small motor vehicle;

(vii) a snowmobile;

(viii) a street motorcycle;

(ix) a tent trailer;

(x) a travel trailer; ~~[and]~~

(xi) a park model recreational vehicle; and

~~[(xi)]~~ (xii) a vessel if that vessel is less than 31 feet in length as determined under Subsection (6).

(3) Except as provided in Subsection (4) and for purposes of this section, the uniform statewide fees are:

(a) for an all-terrain vehicle, an other motorcycle, or a snowmobile:

Age of All-Terrain Vehicle, Other Motorcycle, or Snowmobile	Uniform Statewide Fee
---	--------------------------

12 or more years	\$10
------------------	------

9 or more years but less than 12 years	\$20
--	------

6 or more years but less than 9 years	\$30
---------------------------------------	------

3 or more years but less than 6 years	\$35
---------------------------------------	------

Less than 3 years	\$45
-------------------	------

(b) for a camper or a tent trailer:

Age of Camper or Tent Trailer	Uniform Statewide Fee
----------------------------------	-----------------------

12 or more years	\$10
------------------	------

9 or more years but less than 12 years	\$25
--	------

6 or more years but less than 9 years	\$35
---------------------------------------	------

3 or more years but less than 6 years	\$50
---------------------------------------	------

Less than 3 years	\$70
-------------------	------

(c) for an other trailer:

Age of Other Trailer	Uniform Statewide Fee
----------------------	-----------------------

12 or more years	\$10	15 feet or more in length but less than 19 feet in length	\$15
9 or more years but less than 12 years	\$15	19 feet or more in length but less than 23 feet in length	\$25
6 or more years but less than 9 years	\$20	23 feet or more in length but less than 27 feet in length	\$40
3 or more years but less than 6 years	\$25	27 feet or more in length but less than 31 feet in length	\$75
Less than 3 years	\$30		
(d) for a personal watercraft:		(j) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon, sailboat, or utility boat, that is 15 feet or more in length but less than 19 feet in length:	
Age of Personal Watercraft	Uniform Statewide Fee	Age of Vessel	Uniform Statewide Fee
12 or more years	\$10	12 or more years	\$25
9 or more years but less than 12 years	\$25	9 or more years but less than 12 years	\$65
6 or more years but less than 9 years	\$35	6 or more years but less than 9 years	\$80
3 or more years but less than 6 years	\$45	3 or more years but less than 6 years	\$110
Less than 3 years	\$55	Less than 3 years	\$150
(e) for a small motor vehicle:		(k) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon, sailboat, or utility boat, that is 19 feet or more in length but less than 23 feet in length:	
Age of Small Motor Vehicle	Uniform Statewide Fee	Age of Vessel	Uniform Statewide Fee
6 or more years	\$10	12 or more years	\$50
3 or more years but less than 6 years	\$15	9 or more years but less than 12 years	\$120
Less than 3 years	\$25	6 or more years but less than 9 years	\$175
(f) for a street motorcycle:		3 or more years but less than 6 years	\$220
Age of Street Motorcycle	Uniform Statewide Fee	Less than 3 years	\$275
12 or more years	\$10	(l) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon, sailboat, or utility boat, that is 23 feet or more in length but less than 27 feet in length:	
9 or more years but less than 12 years	\$35	Age of Vessel	Uniform Statewide Fee
6 or more years but less than 9 years	\$50	12 or more years	\$100
3 or more years but less than 6 years	\$70	9 or more years but less than 12 years	\$180
Less than 3 years	\$95	6 or more years but less than 9 years	\$240
(g) for a travel trailer or park model recreational vehicle:		3 or more years but less than 6 years	\$310
Age of Travel Trailer or Park Model Recreational Vehicle	Uniform Statewide Fee	Less than 3 years	\$400
12 or more years	\$20	(m) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon, sailboat, or utility boat, that is 27 feet or more in length but less than 31 feet in length:	
9 or more years but less than 12 years	\$65	Age of Vessel	Uniform Statewide Fee
6 or more years but less than 9 years	\$90	12 or more years	\$120
3 or more years but less than 6 years	\$135	9 or more years but less than 12 years	\$250
Less than 3 years	\$175	6 or more years but less than 9 years	\$350
(h) \$10 regardless of the age of the vessel if the vessel is:		3 or more years but less than 6 years	\$500
(i) less than 15 feet in length;		Less than 3 years	\$700
(ii) a canoe;		(4) For registrations under Section 41-1a-215.5, the uniform fee for purposes of this section is as follows:	
(iii) a jon boat; or		Length of Vessel	Uniform Statewide Fee
(iv) a utility boat;			
(i) for a collapsible inflatable vessel, pontoon, or sailboat, regardless of age:			

(a) for a street motorcycle:		
Age of Street Motorcycle	Uniform Statewide Fee	
12 or more years		\$7.75
9 or more years but less than 12 years		\$27
6 or more years but less than 9 years		\$38.50
3 or more years but less than 6 years		\$54
Less than 3 years		\$73

(b) for a small motor vehicle:		
Age of Small Motor Vehicle	Uniform Statewide Fee	
6 or more years		\$7.75
3 or more years but less than 6 years		\$11.50
Less than 3 years		\$19.25

(5) Notwithstanding Section 59-2-407, tangible personal property subject to the uniform statewide fees imposed by this section that is brought into the state shall, as a condition of registration, be subject to the uniform statewide fees unless all property taxes or uniform fees imposed by the state of origin have been paid for the current calendar year.

(6) (a) The revenues collected in each county from the uniform statewide fees imposed by this section shall be distributed by the county to each taxing entity in which each item of tangible personal property subject to the uniform statewide fees is located in the same proportion in which revenues collected from the ad valorem property tax are distributed.

(b) Each taxing entity described in Subsection (6)(a) that receives revenues from the uniform statewide fees imposed by this section shall distribute the revenues in the same proportion in which revenues collected from the ad valorem property tax are distributed.

(7) (a) For purposes of the uniform statewide fee imposed by this section, the length of a vessel shall be determined as provided in this Subsection (7).

(b) (i) Except as provided in Subsection (7)(b)(ii), the length of a vessel shall be measured as follows:

(A) the length of a vessel shall be measured in a straight line; and

(B) the length of a vessel is equal to the distance between the bow of the vessel and the stern of the vessel.

(ii) Notwithstanding Subsection (7)(b)(i), the length of a vessel may not include the length of:

- (A) a swim deck;
- (B) a ladder;
- (C) an outboard motor; or

(D) an appurtenance or attachment similar to Subsections (7)(b)(ii)(A) through (C) as determined by the commission by rule.

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

commission may by rule define what constitutes an appurtenance or attachment similar to Subsections (7)(b)(ii)(A) through (C).

(c) The length of a vessel:

(i) (A) for a new vessel, is the length:

(I) listed on the manufacturer's statement of origin if the length of the vessel measured under Subsection (7)(b) is equal to the length of the vessel listed on the manufacturer's statement of origin; or

(II) listed on a form submitted to the commission by a dealer in accordance with Subsection (7)(d) if the length of the vessel measured under Subsection (7)(b) is not equal to the length of the vessel listed on the manufacturer's statement of origin; or

(B) for a vessel other than a new vessel, is the length:

(I) corresponding to the model number if the length of the vessel measured under Subsection (7)(b) is equal to the length of the vessel determined by reference to the model number; or

(II) listed on a form submitted to the commission by an owner of the vessel in accordance with Subsection (7)(d) if the length of the vessel measured under Subsection (7)(b) is not equal to the length of the vessel determined by reference to the model number; and

(ii) (A) is determined at the time of the:

(I) first registration as defined in Section 41-1a-102 that occurs on or after January 1, 2006; or

(II) first renewal of registration that occurs on or after January 1, 2006; and

(B) may be determined after the time described in Subsection (7)(c)(ii)(A) only if the commission requests that a dealer or an owner submit a form to the commission in accordance with Subsection (7)(d).

(d) (i) A form under Subsection (7)(c) shall:

- (A) be developed by the commission;
- (B) be provided by the commission to:
 - (I) a dealer; or
 - (II) an owner of a vessel;
- (C) provide for the reporting of the length of a vessel;

(D) be submitted to the commission at the time the length of the vessel is determined in accordance with Subsection (7)(c)(ii);

- (E) be signed by:
 - (I) if the form is submitted by a dealer, that dealer; or
 - (II) if the form is submitted by an owner of the vessel, an owner of the vessel; and
- (F) include a certification that the information set forth in the form is true.

(ii) A certification made under Subsection (7)(d)(i)(F) is considered as if made under oath and

subject to the same penalties as provided by law for perjury.

(iii) (A) A dealer or an owner that submits a form to the commission under Subsection (7)(c) is considered to have given the dealer's or owner's consent to an audit or review by:

- (I) the commission;
- (II) the county assessor; or
- (III) the commission and the county assessor.

(B) The consent described in Subsection (7)(d)(iii)(A) is a condition to the acceptance of any form.

(8) (a) A county that collected a qualifying payment from a qualifying person during the refund period shall issue a refund to the qualifying person as described in Subsection (8)(b) if:

(i) the difference described in Subsection (8)(b) is \$1 or more; and

(ii) the qualifying person submitted a form in accordance with Subsections (8)(c) and (d).

(b) The refund amount shall be calculated as follows:

(i) for a qualifying vehicle, the refund amount is equal to the difference between:

(A) the qualifying payment the qualifying person paid on the qualifying vehicle during the refund period; and

(B) the amount of the statewide uniform fee:

(I) for that qualifying vehicle; and

(II) that the qualifying person would have been required to pay:

(Aa) during the refund period; and

(Bb) in accordance with this section had Laws of Utah 2006, Fifth Special Session, Chapter 3, Section 1, been in effect during the refund period; and

(ii) for a qualifying watercraft, the refund amount is equal to the difference between:

(A) the qualifying payment the qualifying person paid on the qualifying watercraft during the refund period; and

(B) the amount of the statewide uniform fee:

(I) for that qualifying watercraft;

(II) that the qualifying person would have been required to pay:

(Aa) during the refund period; and

(Bb) in accordance with this section had Laws of Utah 2006, Fifth Special Session, Chapter 3, Section 1, been in effect during the refund period.

(c) Before the county issues a refund to the qualifying person in accordance with Subsection (8)(a) the qualifying person shall submit a form to

the county to verify the qualifying person is entitled to the refund.

(d) (i) A form under Subsection (8)(c) or (9) shall:

(A) be developed by the commission;

(B) be provided by the commission to the counties;

(C) be provided by the county to the qualifying person or tangible personal property owner;

(D) provide for the reporting of the following:

(I) for a qualifying vehicle:

(Aa) the type of qualifying vehicle; and

(Bb) the amount of cubic centimeters displacement;

(II) for a qualifying watercraft:

(Aa) the length of the qualifying watercraft;

(Bb) the age of the qualifying watercraft; and

(Cc) the type of qualifying watercraft;

(E) be signed by the qualifying person or tangible personal property owner; and

(F) include a certification that the information set forth in the form is true.

(ii) A certification made under Subsection (8)(d)(i)(F) is considered as if made under oath and subject to the same penalties as provided by law for perjury.

(iii) (A) A qualifying person or tangible personal property owner that submits a form to a county under Subsection (8)(c) or (9) is considered to have given the qualifying person's consent to an audit or review by:

(I) the commission;

(II) the county assessor; or

(III) the commission and the county assessor.

(B) The consent described in Subsection (8)(d)(iii)(A) is a condition to the acceptance of any form.

(e) The county shall make changes to the commission's records with the information received by the county from the form submitted in accordance with Subsection (8)(c).

(9) A county shall change its records regarding an item of qualifying tangible personal property if the tangible personal property owner submits a form to the county in accordance with Subsection (8)(d).

(10) (a) For purposes of this Subsection (10), "owner of tangible personal property" means a person that was required to pay a uniform statewide fee:

(i) during the refund period;

(ii) in accordance with this section; and

(iii) on an item of tangible personal property subject to the uniform statewide fees imposed by this section.

(b) A county that collected revenues from uniform statewide fees imposed by this section during the refund period shall notify an owner of tangible personal property:

(i) of the tangible personal property classification changes made to this section pursuant to Laws of Utah 2006, Fifth Special Session, Chapter 3, Section 1;

(ii) that the owner of tangible personal property may obtain and file a form to modify the county's records regarding the owner's tangible personal property; and

(iii) that the owner may be entitled to a refund pursuant to Subsection (8).

Section 12. Effective date.

This bill takes effect on January 1, 2015.

CHAPTER 238**H. B. 200**

Passed March 12, 2014

Approved March 31, 2014

Effective May 13, 2014

**UNLAWFUL REMOVAL OR
VANDALISM OF CAMPAIGN SIGNS**

Chief Sponsor: Eric K. Hutchings

Senate Sponsor: Mark B. Madsen

LONG TITLE**General Description:**

This bill, subject to certain exceptions, makes it unlawful for a person to remove or vandalize a campaign sign.

Highlighted Provisions:

This bill:

- ▶ subject to certain exceptions, makes it a class B misdemeanor for a person to remove, alter, deface, or otherwise vandalize a campaign sign.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

20A-17-101, Utah Code Annotated 1953

20A-17-102, Utah Code Annotated 1953

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

Section 1. Section 20A-17-101 is enacted to read:**CHAPTER 17. POLITICAL CAMPAIGN
SIGNS****20A-17-101. Title.**

This chapter is known as "Political Campaign Signs."

Section 2. Section 20A-17-102 is enacted to read:**20A-17-102. Campaign signs.**

(1) Except as provided in Subsection (2), a person is guilty of a class B misdemeanor if the person knowingly removes, alters, defaces, or otherwise vandalizes a sign:

(a) advocating the election or defeat of a candidate for public office; or

(b) advocating the approval or defeat of a ballot proposition.

(2) A person is not guilty of a violation of Subsection (1) if the person who engages in the conduct described in Subsection (1) is:

(a) as it relates to a sign described in Subsection (1)(a), the candidate or an agent of the candidate;

(b) as it relates to a sign described in Subsection (1)(b), the person who placed the sign, the person who directed the placement of the sign, or an agent of either;

(c) a property owner of property on which the sign is placed or the property owner's agent; or

(d) a public official who removes the sign in accordance with an official duty of the public official.

CHAPTER 239**H. B. 201**

Passed March 13, 2014
 Approved March 31, 2014
 Effective May 13, 2014

VISITATION AMENDMENTS

Chief Sponsor: LaVar Christensen
 Senate Sponsor: John L. Valentine

LONG TITLE**General Description:**

This bill amends provisions related to supervised parent-time.

Highlighted Provisions:

This bill:

- ▶ defines supervised parent-time;
- ▶ describes the conditions under which a court can order supervised parent-time;
- ▶ creates a process for selecting persons to supervise parent-time; and
- ▶ allows the supervised parent to petition the court for unsupervised parent-time.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

30-3-32, as last amended by Laws of Utah 2008, Chapters 3 and 146

ENACTS:

30-3-34.5, Utah Code Annotated 1953

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

Section 1. Section 30-3-32 is amended to read:**30-3-32. Parent-time -- Intent -- Policy -- Definitions.**

(1) It is the intent of the Legislature to promote parent-time at a level consistent with all parties' interests.

(2) (a) A court shall consider as primary the safety and well-being of the child and the parent who ~~[is the victim of]~~ experiences domestic or family violence.

(b) Absent a showing by a preponderance of evidence of real harm or substantiated potential harm to the child:

(i) it is in the best interests of the child of divorcing, divorced, or adjudicated parents to have frequent, meaningful, and continuing access to each parent following separation or divorce;

(ii) each divorcing, separating, or adjudicated parent is entitled to and responsible for frequent, meaningful, and continuing access with his child consistent with the child's best interests; and

(iii) it is in the best interests of the child to have both parents actively involved in parenting the child.

(c) An order issued by a court pursuant to Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act, shall be considered evidence of real harm or substantiated potential harm to the child.

(3) For purposes of Sections 30-3-32 through 30-3-37:

(a) "Child" means the child or children of divorcing, separating, or adjudicated parents.

(b) "Christmas school vacation" means the time period beginning on the evening the child gets out of school for the Christmas or winter school break until the evening before the child returns to school.

(c) "Extended parent-time" means a period of parent-time other than a weekend, holiday as provided in Subsections 30-3-35(2)(f) and (2)(g), religious holidays as provided in Subsections 30-3-33(3) and (17), and "Christmas school vacation."

(d) "Supervised parent-time" means parent-time that requires the noncustodial parent to be accompanied during parent-time by an individual approved by the court.

~~(d)~~ (e) "Surrogate care" means care by any individual other than the parent of the child.

~~(e)~~ (f) "Uninterrupted time" means parent-time exercised by one parent without interruption at any time by the presence of the other parent.

~~(f)~~ (g) "Virtual parent-time" means parent-time facilitated by tools such as telephone, email, instant messaging, video conferencing, and other wired or wireless technologies over the Internet or other communication media to supplement in-person visits between a noncustodial parent and a child or between a child and the custodial parent when the child is staying with the noncustodial parent. Virtual parent-time is designed to supplement, not replace, in-person parent-time.

(4) If a parent relocates because of an act of domestic violence or family violence by the other parent, the court shall make specific findings and orders with regards to the application of Section 30-3-37.

Section 2. Section 30-3-34.5 is enacted to read:**30-3-34.5. Supervised parent-time.**

(1) Considering the fundamental liberty interests of parents and children, it is the policy of this state that divorcing parents have unrestricted and unsupervised access to their children. When necessary to protect a child and no less restrictive means is reasonably available however, a court may order supervised parent-time if the court finds evidence that the child would be subject to physical or emotional harm or child abuse, as described in Section 76-5-109, from the noncustodial parent if left unsupervised with the noncustodial parent.

(2) A court that orders supervised parent-time shall give preference to persons suggested by the parties to supervise, including relatives. If the court finds that the persons suggested by the parties are willing to supervise, and are capable of protecting the children from physical or emotional harm, or child abuse, the court shall authorize the persons to supervise parent-time.

(3) If the court is unable to authorize any persons to supervise parent-time pursuant to Subsection (2), the court may require that the noncustodial parent seek the services of a professional individual or agency to exercise their supervised parent-time.

(4) At the time supervised parent-time is imposed, the court shall consider:

(a) whether the cost of professional or agency services is likely to prevent the noncustodial parent from exercising parent-time; and

(b) whether the requirement for supervised parent-time should expire after a set period of time.

(5) The court shall, in its order for supervised parent-time, provide specific goals and expectations for the noncustodial parent to accomplish before unsupervised parent-time may be granted. The court shall schedule one or more follow-up hearings to revisit the issue of supervised parent-time.

(6) A noncustodial parent may, at any time, petition the court to modify the order for supervised parent-time if the noncustodial parent can demonstrate that the specific goals and expectations set by the court in Subsection (5) have been accomplished.

CHAPTER 240**H. B. 211**

Passed March 6, 2014

Approved March 31, 2014

Effective May 13, 2014

(Exception clause in Section 6)

SUBSTANCE ABUSE AMENDMENTS

Chief Sponsor: Michael S. Kennedy

Senate Sponsor: Margaret Dayton

LONG TITLE**General Description:**

This bill amends language in Title 62A, Chapter 2, Licensure of Programs and Facilities, and Title 62A, Chapter 15, Substance Abuse and Mental Health Act, and creates a committee within the Utah Substance Abuse Advisory Council.

Highlighted Provisions:

This bill:

- ▶ defines and modifies terms;
- ▶ requires the Office of Licensing (the office) to charge an annual licensing fee to recovery residences;
- ▶ requires the Division of Substance Abuse and Mental Health to cooperate with and assist treatment centers, recovery residences, and other organizations that provide services to individuals recovering from a substance abuse disorder, by identifying and disseminating information about effective practices and programs;
- ▶ creates a committee within the Utah Substance Abuse Advisory Council to study issues concerning recovery residences and substance abuse treatment; and
- ▶ makes conforming and technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a repeal date.

Utah Code Sections Affected:**AMENDS:**

62A-2-101, as last amended by Laws of Utah 2012, Chapter 384

62A-2-108.2, as last amended by Laws of Utah 2008, Chapter 382

62A-15-103, as last amended by Laws of Utah 2013, Chapters 17, 167, and 400

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 62A-2-101 is amended to read:****62A-2-101. Definitions.**

As used in this chapter:

(1) "Adult day care" means nonresidential care and supervision:

(a) for three or more adults for at least four but less than 24 hours a day; and

(b) that meets the needs of functionally impaired adults through a comprehensive program that provides a variety of health, social, recreational, and related support services in a protective setting.

(2) (a) "Boarding school" means a private school that:

(i) uses a regionally accredited education program;

(ii) provides a residence to the school's students:

(A) for the purpose of enabling the school's students to attend classes at the school; and

(B) as an ancillary service to educating the students at the school;

(iii) has the primary purpose of providing the school's students with an education, as defined in Subsection (2)(b)(i); and

(iv) (A) does not provide the treatment or services described in Subsection (26)(a); or

(B) provides the treatment or services described in Subsection (26)(a) on a limited basis, as described in Subsection (2)(b)(ii).

(b) (i) For purposes of Subsection (2)(a)(iii), "education" means a course of study for one or more of grades kindergarten through 12th grade.

(ii) For purposes of Subsection (2)(a)(iv)(B), a private school provides the treatment or services described in Subsection (26)(a) on a limited basis if:

(A) the treatment or services described in Subsection (26)(a) are provided only as an incidental service to a student; and

(B) the school does not:

(I) specifically solicit a student for the purpose of providing the treatment or services described in Subsection (26)(a); or

(II) have a primary purpose of providing the services described in Subsection (26)(a).

(c) "Boarding school" does not include a therapeutic school.

(3) "Child" means a person under 18 years of age.

(4) "Child placing" means receiving, accepting, or providing custody or care for any child, temporarily or permanently, for the purpose of:

(a) finding a person to adopt the child;

(b) placing the child in a home for adoption; or

(c) foster home placement.

(5) "Client" means an individual who receives or has received services from a licensee.

(6) "Day treatment" means specialized treatment that is provided to:

(a) a client less than 24 hours a day; and

(b) four or more persons who:

(i) are unrelated to the owner or provider; and

(ii) have emotional, psychological, developmental, physical, or behavioral

dysfunctions, impairments, or chemical dependencies.

(7) "Department" means the Department of Human Services.

(8) "Direct access" means that an individual has, or likely will have, contact with or access to a child or vulnerable adult that provides the individual with an opportunity for personal communication or touch.

(9) "Director" means the director of the Office of Licensing.

(10) "Domestic violence" is as defined in Section 77-36-1.

(11) "Domestic violence treatment program" means a nonresidential program designed to provide psychological treatment and educational services to perpetrators and victims of domestic violence.

(12) "Elder adult" means a person 65 years of age or older.

(13) "Executive director" means the executive director of the department.

(14) "Foster home" means a temporary residential living environment for the care of:

(a) fewer than four foster children in the home of a licensed or certified foster parent; or

(b) four or more children in the home of a licensed or certified foster parent if the children are siblings.

(15) (a) "Human services program" means a:

(i) foster home;

(ii) therapeutic school;

(iii) youth program;

(iv) resource family home; ~~(v)~~

(v) recovery residence; or

~~(v)~~ (vi) facility or program that provides:

(A) secure treatment;

(B) inpatient treatment;

(C) residential treatment;

(D) residential support;

(E) adult day care;

(F) day treatment;

(G) outpatient treatment;

(H) domestic violence treatment;

(I) child placing services;

(J) social detoxification; or

(K) any other human services that are required by contract with the department to be licensed with the department.

(b) "Human services program" does not include a boarding school.

(16) "Licensee" means a person or human services program licensed by the office.

(17) "Local government" means a:

(a) city; or

(b) county.

(18) "Minor" has the same meaning as "child."

(19) "Office" means the Office of Licensing within the Department of Human Services.

(20) "Outpatient treatment" means individual, family, or group therapy or counseling designed to improve and enhance social or psychological functioning for those whose physical and emotional status allows them to continue functioning in their usual living environment.

(21) (a) "Person associated with the licensee" means a person:

(i) affiliated with a licensee as an owner, director, member of the governing body, employee, agent, provider of care, or volunteer; or

(ii) applying to become affiliated with a licensee in any capacity listed under Subsection (21)(a)(i).

(b) Notwithstanding Subsection (21)(a), "person associated with the licensee" does not include an individual serving on the following bodies unless that individual has direct access to children or vulnerable adults:

(i) a local mental health authority under Section 17-43-301;

(ii) a local substance abuse authority under Section 17-43-201; or

(iii) a board of an organization operating under a contract to provide:

(A) mental health or substance abuse programs; or

(B) services for the local mental health authority or substance abuse authority.

(c) "Person associated with the licensee" does not include a guest or visitor whose access to children or vulnerable adults is directly supervised by the licensee at all times.

(22) "Recovery residence" means a home or facility, other than a residential treatment or residential support program, that meets at least two of the following requirements:

(a) provides a supervised living environment for individuals recovering from a substance abuse disorder;

(b) requires more than half of the individuals in the residence to be recovering from a substance abuse disorder;

(c) provides or arranges for residents to receive services related to their recovery from a substance abuse disorder, either on or off site;

(d) holds the home or facility out as being a recovery residence; or

(e) (i) receives public funding; or

(ii) runs the home or facility as a commercial venture for financial gain.

~~[(22)]~~ (23) “Regular business hours” means:

(a) the hours during which services of any kind are provided to a client; or

(b) the hours during which a client is present at the facility of a licensee.

~~[(23)]~~ (24) (a) “Residential support” means arranging for or providing the necessities of life as a protective service to individuals or families who have a disability or who are experiencing a dislocation or emergency that prevents them from providing these services for themselves or their families.

(b) “Residential support” includes providing a supervised living environment for persons with ~~[(i)]~~ dysfunctions or impairments that are:

~~[(A)]~~ (i) emotional;

~~[(B)]~~ (ii) psychological;

~~[(C)]~~ (iii) developmental; or

~~[(D)]~~ (iv) behavioral~~[-or]~~.

~~[(ii)]~~ chemical dependencies.

(c) Treatment is not a necessary component of residential support.

(d) “Residential support” does not include:

(i) a recovery residence; or

(ii) residential services that are performed:

~~[(i)]~~ (A) exclusively under contract with the Division of Services for People with Disabilities; ~~and~~ or

~~[(ii)]~~ (B) in a facility that serves ~~[less]~~ fewer than four individuals.

~~[(24)]~~ (25) (a) “Residential treatment” means a 24-hour group living environment for four or more individuals unrelated to the owner or provider that offers room or board and specialized treatment, behavior modification, rehabilitation, discipline, emotional growth, or habilitation services for persons with emotional, psychological, developmental, or behavioral dysfunctions, impairments, or chemical dependencies.

(b) “Residential treatment” does not include a:

(i) boarding school; ~~or~~

(ii) foster home~~[-]~~; or

(iii) recovery residence.

~~[(25)]~~ (26) “Residential treatment program” means a human services program that provides:

(a) residential treatment; or

(b) secure treatment.

~~[(26)]~~ (27) (a) “Secure treatment” means 24-hour specialized residential treatment or care for persons whose current functioning is such that they cannot live independently or in a less restrictive environment.

(b) “Secure treatment” differs from residential treatment to the extent that it requires intensive supervision, locked doors, and other security measures that are imposed on residents with neither their consent nor control.

~~[(27)]~~ (28) “Social detoxification” means short-term residential services for persons who are experiencing or have recently experienced drug or alcohol intoxication, that are provided outside of a health care facility licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, and that include:

(a) room and board for persons who are unrelated to the owner or manager of the facility;

(b) specialized rehabilitation to acquire sobriety; and

(c) aftercare services.

~~[(28)]~~ (29) “Substance abuse treatment program” means a program:

(a) designed to provide:

(i) specialized drug or alcohol treatment;

(ii) rehabilitation; or

(iii) habilitation services; and

(b) that provides the treatment or services described in Subsection ~~[(28)]~~ (29)(a) to persons with:

(i) a diagnosed substance abuse disorder; or

(ii) chemical dependency disorder.

~~[(29)]~~ (30) “Therapeutic school” means a residential group living facility:

(a) for four or more individuals that are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to:

(I) a disability;

(II) emotional development;

- (III) behavioral development;
- (IV) familial development; or
- (V) social development.

[~~30~~] (31) “Unrelated persons” means persons other than parents, legal guardians, grandparents, brothers, sisters, uncles, or aunts.

[~~31~~] (32) “Vulnerable adult” means an elder adult or an adult who has a temporary or permanent mental or physical impairment that substantially affects the person’s ability to:

- (a) provide personal protection;
- (b) provide necessities such as food, shelter, clothing, or mental or other health care;
- (c) obtain services necessary for health, safety, or welfare;
- (d) carry out the activities of daily living;
- (e) manage the adult’s own resources; or
- (f) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

[~~32~~] (33) (a) “Youth program” means a nonresidential program designed to provide behavioral, substance abuse, or mental health services to minors that:

- (i) serves adjudicated or nonadjudicated youth;
 - (ii) charges a fee for its services;
 - (iii) may or may not provide host homes or other arrangements for overnight accommodation of the youth;
 - (iv) may or may not provide all or part of its services in the outdoors;
 - (v) may or may not limit or censor access to parents or guardians; and
 - (vi) prohibits or restricts a minor’s ability to leave the program at any time of the minor’s own free will.
- (b) “Youth program” does not include recreational programs such as Boy Scouts, Girl Scouts, 4-H, and other such organizations.

Section 2. Section 62A-2-108.2 is amended to read:

62A-2-108.2. Licensing residential treatment programs and recovery residences -- Notification of local government.

(1) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules that establish categories of residential treatment and recovery residence licenses based on differences in the types of residential treatment programs and recovery residences.

(b) The categories referred to in Subsection (1)(a) may be based on differences in:

- (i) services offered;

- (ii) types of clients served;
- (iii) risks posed to the community; or
- (iv) other factors that make regulatory differences advisable.

(2) Subject to the requirements of federal and state law, and pursuant to the authority granted by Section 62A-2-106, the office shall establish and enforce rules that:

- (a) relate generally to all categories of residential treatment program and recovery residence licenses; and
- (b) relate to specific categories of residential treatment program and recovery residence licenses on the basis of the regulatory needs, as determined by the office, of residential treatment programs and recovery residences within those specific categories.

(3) (a) Beginning July 1, 2014, the office shall charge an annual licensing fee, set by the office in accordance with the procedures described in Section 63J-1-504, to a recovery residence in an amount that will pay for the cost of the licensing and inspection requirements described in this section and in Section 62A-2-106.

(b) The office shall deposit the licensing fees described in this section in the General Fund as a dedicated credit to be used solely to pay for the cost of the licensing and inspection requirements described in this section and in Section 62A-2-106.

[~~3~~] (4) Before submitting an application for a license to operate a residential treatment program, the applicant shall serve notice of its intent to operate a residential treatment program on the governing body of:

- (a) the city in which the residential treatment program will be located; or
- (b) if the residential treatment program will be located in the unincorporated area of a county, the county in which the residential treatment program will be located.

[~~4~~] (5) The notice described in Subsection [~~3~~] (4) shall include the following information relating to the residential treatment program:

- (a) an accurate description of the residential treatment program;
- (b) the location where the residential treatment program will be operated;
- (c) the services that will be provided by the residential treatment program;
- (d) the type of clients that the residential treatment program will serve;
- (e) the category of license for which the residential treatment program is applying to the office;
- (f) the name, telephone number, and address of a person that may be contacted to make inquiries about the residential treatment program; and
- (g) any other information that the office may require by rule.

[45] (6) When submitting an application for a license to operate a residential treatment program, the applicant shall include with the application:

(a) a copy of the notice described in Subsection [3] (4); and

(b) proof that the applicant served the notice described in Subsection [3] (4) on the governing body described in Subsection [3] (4).

Section 3. Section 62A-15-103 is amended to read:

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

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

(2) The division shall:

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

(ii) render support and assistance to public schools through approved school-based substance abuse education programs aimed at prevention of substance abuse;

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

(iv) cooperate with and assist ~~other organizations and private~~ treatment centers ~~for substance abusers~~, ~~recovery residences, and other organizations that provide services to individuals recovering from a substance abuse disorder, by providing them with essential materials for furthering programs of prevention and rehabilitation of actual and potential substance abusers~~ identifying and disseminating information about effective practices and programs;

(v) promote integrated programs that address an individual's substance abuse, mental health, and physical healthcare needs;

(vi) evaluate the effectiveness of programs described in Subsection (2);

(vii) consider the impact of the programs described in Subsection (2) on:

(A) emergency department utilization;

(B) jail and prison populations;

(C) the homeless population; and

(D) the child welfare system; and

(viii) promote or establish programs for education and certification of instructors to educate persons convicted of driving under the influence of alcohol or

drugs or driving with any measurable controlled substance in the body;

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

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

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

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

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

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

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

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

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

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

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

(viii) monitor the expenditure of public funds by:

(A) local substance abuse authorities;

(B) local mental health authorities; and

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

(ix) contract with local substance abuse authorities and local mental health authorities to provide a comprehensive continuum of services in

accordance with division policy, contract provisions, and the local plan;

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

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

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

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

(C) services result in improved overall health and functioning; and

(D) appropriate expenditure of public funds;

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

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

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

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

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

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

(i) a review and determination regarding whether:

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

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

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

(3) (a) The division may refuse to contract with and may pursue its legal remedies against any local substance abuse authority or local mental health authority that fails, or has failed, to expend public funds in accordance with state law, division policy, contract provisions, or directives issued in accordance with state law.

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

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

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

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

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

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

(a) the use of public funds;

(b) oversight responsibilities regarding public funds; and

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

(8) The Legislature may refuse to appropriate funds to the division upon the division's failure to comply with the provisions of this part.

(9) If a local substance abuse authority contacts the division under Subsection 17-43-201(9) for assistance in providing treatment services to a

pregnant woman or pregnant minor, the division shall:

- (a) refer the pregnant woman or pregnant minor to a treatment facility that has the capacity to provide the treatment services; or
- (b) otherwise ensure that treatment services are made available to the pregnant woman or pregnant minor.

Section 4. Recovery Residences and Substance Abuse Treatment Committee -- Creation -- Membership.

(1) In accordance with Subsection 63M-7-302(5), there is created a Recovery Residences and Substance Abuse Treatment Committee within the Utah Substance Abuse Advisory Council consisting of the following members:

- (a) one member representing the Division of Substance Abuse and Mental Health, designated by the director of the division;
- (b) one member representing the Office of Licensing within the Department of Human Services, designated by the director of the office;
- (c) one member representing the Utah Substance Abuse Advisory Council, designated by the chair; and
- (d) one member representing the Utah Support Advocates for Recovery Awareness or another foundation, association, or organization chartered to advocate for individuals recovering from a substance abuse disorder, designated by a majority of committee members.

(2) A majority of committee members may invite other individuals, including legislators, to become members of the committee.

(3) A majority of the members of the committee constitutes a quorum.

Section 5. Duties -- Interim report.

(1) The committee shall study and make recommendations regarding:

- (a) industry best practices for recovery residences;
- (b) quality assurance metrics for measuring success rates for individuals recovering from a substance abuse disorder;
- (c) the feasibility of prohibiting health benefit plans from making a direct payment to an enrollee for substance abuse treatment; and
- (d) other issues concerning recovery residences and substance abuse treatment.

(2) The committee shall present a final report, including any proposed legislation, to the Health and Human Services Interim Committee before November 30, 2014.

Section 6. Repeal date.

Uncodified Section 4, which creates the Recovery Residences and Substance Abuse Treatment

Committee, and Uncodified Section 5, Duties and Interim report, are repealed on November 30, 2014.

**CHAPTER 241
H. B. 226**

Passed March 13, 2014
Approved March 31, 2014
Effective May 13, 2014

SEVERANCE TAX AMENDMENTS

Chief Sponsor: Jim Nielson
Senate Sponsor: Lyle W. Hillyard

LONG TITLE

General Description:

This bill amends provisions related to severance taxes.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides that certain severance tax revenue be deposited into the General Fund and the permanent state trust fund; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 35A-8-1608, as renumbered and amended by Laws of Utah 2012, Chapter 212
- 51-9-305, as last amended by Laws of Utah 2011, Chapter 239
- 59-5-115, as last amended by Laws of Utah 2008, Chapter 141
- 59-5-116, as last amended by Laws of Utah 2012, Chapter 212
- 59-5-119, as last amended by Laws of Utah 2012, Chapter 212
- 59-5-215, as last amended by Laws of Utah 2008, Chapter 141

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

Section 1. Section 35A-8-1608 is amended to read:

35A-8-1608. Deposits into fund.

(1) ~~[All money received]~~ Money required to be deposited into the Uintah Basin Revitalization Fund under Section 59-5-116 shall be deposited ~~[in]~~ into the Uintah Basin Revitalization Fund ~~[provided that no]~~ if a business or activity fee or tax based on gross receipts has not been imposed by a county or the Tribe on oil and gas activities.

(2) (a) Nothing in this section prohibits a county from imposing a charge described in Subsection (1) with respect to any gathering, transmission, or local distribution pipeline in which the county owns an interest.

(b) Nothing in this section prohibits the Tribe from imposing a charge described in Subsection (1) with respect to any gathering, transmission, or local distribution pipeline in which the Tribe owns an interest.

Section 2. Section 51-9-305 is amended to read:

51-9-305. Deposit and credit of certain severance tax revenue.

(1) As used in this section, "aggregate annual revenue" means the aggregate annual revenue collected in a fiscal year from the taxes imposed under Title 59, Chapter 5, Severance Tax on Oil, Gas, and Mining, after subtracting the amounts required to be distributed under Sections 59-5-116 and 59-5-119.

~~[(1)-(a)]~~ (2) After making the ~~[distributions]~~ deposits of oil and gas severance tax ~~[revenues]~~ revenue as required under Sections 59-5-116 and 59-5-119, the Division of Finance shall make the ~~[distributions]~~ credit required under ~~[Subsections (2) through (5)]~~ Subsection (3).

~~[(b) For purposes of this section, revenue collected from severance taxes on oil and gas imposed under Title 59, Chapter 5, Severance Tax on Oil, Gas, and Mining, does not include revenue that is distributed under Section 59-5-116 or 59-5-119.]~~

~~[(2) (a) Beginning with fiscal year 2008-09 and ending with fiscal year 2010-11, if authorized by law, the Division of Finance shall credit to the permanent state trust fund all revenue collected in a fiscal year from severance taxes on oil and gas imposed under Title 59, Chapter 5, Severance Tax on Oil, Gas, and Mining, that exceed \$71,000,000.]~~

~~[(b) Beginning with fiscal year 2011-12, if authorized by law, the Division of Finance shall credit to the permanent state trust fund all revenue collected in a fiscal year from severance taxes on oil and gas imposed under Title 59, Chapter 5, Severance Tax on Oil, Gas, and Mining, that exceed \$77,000,000.]~~

~~[(3) Beginning with fiscal year 2008-09, if authorized by law, the Division of Finance shall credit to the permanent state trust fund all revenue collected in a fiscal year from severance taxes on mining imposed under Title 59, Chapter 5, Severance Tax on Oil, Gas, and Mining, that exceed \$27,600,000.]~~

(3) Beginning on July 1, 2016, the Division of Finance shall credit to the permanent state trust fund the following aggregate annual revenue:

(a) 25% of the first \$50,000,000 of aggregate annual revenue;

(b) 50% of the next \$50,000,000 of aggregate annual revenue; and

(c) 75% of the aggregate annual revenue that exceeds \$100,000,000.

(4) The state treasurer shall invest and separately account for the earnings on funds that are ~~[deposited into]~~ credited to the permanent state trust fund under this section.

(5) (a) In accordance with Utah Constitution Article XXII, Section 4, the interest and dividends earned annually on revenue from severance taxes that are ~~[deposited into]~~ credited to the permanent state trust fund shall be ~~[deposited in]~~ credited to the General Fund.

(b) Interest and dividends earned on revenue from severance taxes that are ~~deposited in~~ credited to the General Fund pursuant to Subsection (5)(a) shall be credited to the Infrastructure and Economic Diversification Investment Account created in Section 51-9-303.

Section 3. Section 59-5-115 is amended to read:

59-5-115. Disposition of taxes collected -- Credit to General Fund.

~~[All taxes]~~ Except as provided in Section 51-9-305, 59-5-116, or 59-5-119, a tax imposed and collected under Section 59-5-102 shall be paid to the commission, promptly remitted to the state treasurer, and ~~[except those taxes otherwise allocated under Section 51-9-305, 59-5-116, or 59-5-119,]~~ credited to the General Fund.

Section 4. Section 59-5-116 is amended to read:

59-5-116. Disposition of certain taxes collected on Ute Indian land.

(1) Except as provided in Subsection (2), there shall be deposited into the Uintah Basin Revitalization Fund established in Section 35A-8-1602:

(a) for taxes imposed under this part, 33% of the taxes collected on oil, gas, or other hydrocarbon substances produced from a well:

(i) for which production began on or before June 30, 1995; and

(ii) attributable to interests:

(A) held in trust by the United States for the Tribe and its members; or

(B) on lands identified in Pub. L. No. 440, 62 Stat. 72 (1948);

(b) for taxes imposed under this part, 80% of taxes collected on oil, gas, or other hydrocarbon substances produced from a well:

(i) for which production began on or after July 1, 1995; and

(ii) attributable to interests:

(A) held in trust by the United States for the Tribe and its members; or

(B) on lands identified in Pub. L. No. 440, 62 Stat. 72 (1948); and

(c) for taxes imposed under this part, 80% of taxes collected on oil, gas, or other hydrocarbon substances produced from a well:

(i) for which production began on or after January 1, 2001; and

(ii) attributable to interests on lands conveyed to the tribe under the Ute-Moab Land Restoration Act, Pub. L. No. 106-398, Sec. 3303.

(2) (a) The maximum amount deposited in the Uintah Basin Revitalization Fund may not exceed:

(i) \$3,000,000 in fiscal year 2005-06;

(ii) \$5,000,000 in fiscal year 2006-07;

(iii) \$6,000,000 in fiscal years 2007-08 and 2008-09; and

(iv) for fiscal years beginning with fiscal year 2009-10, the amount determined by the commission as described in Subsection (2)(b).

(b) (i) The commission shall increase or decrease the dollar amount described in Subsection (2)(a)(iii) by a percentage equal to the percentage difference between the consumer price index for the preceding calendar year and the consumer price index for calendar year 2008; and

(ii) after making an increase or decrease under Subsection (2)(b)(i), round the dollar amount to the nearest whole dollar.

(c) For purposes of this Subsection (2), "consumer price index" is as described in Section 1(f)(4), Internal Revenue Code, and defined in Section 1(f)(5), Internal Revenue Code.

(d) Any amounts in excess of the maximum described in Subsection (2)(a) shall be ~~deposited into the General Fund~~ credited as provided in Sections 51-9-305 and 59-5-115.

Section 5. Section 59-5-119 is amended to read:

59-5-119. Disposition of certain taxes collected on Navajo Nation land located in Utah.

(1) Except as provided in Subsection (2), there shall be deposited into the Navajo Revitalization Fund established in Section 35A-8-1704 for taxes imposed under this part beginning on July 1, 1997:

(a) 33% of the taxes collected on oil, gas, or other hydrocarbon substances produced from a well:

(i) for which production began on or before June 30, 1996; and

(ii) attributable to interests in Utah held in trust by the United States for the Navajo Nation and its members; and

(b) 80% of the taxes collected on oil, gas, or other hydrocarbon substances produced from a well:

(i) for which production began on or after July 1, 1996; and

(ii) attributable to interests in Utah held in trust by the United States for the Navajo Nation and its members.

(2) (a) The maximum amount deposited in the Navajo Revitalization Fund may not exceed:

(i) \$2,000,000 in fiscal year 2006-07; and

(ii) \$3,000,000 for fiscal years beginning with fiscal year 2007-08.

(b) Any amounts in excess of the maximum described in Subsection (2)(a) shall be ~~deposited into the General Fund~~ credited as provided in Sections 51-9-305 and 59-5-115.

Section 6. Section 59-5-215 is amended to read:

59-5-215. Disposition of taxes collected -- Credit to General Fund.

~~[All taxes]~~ Except as provided in Section 51-9-305, a tax imposed and collected under Section 59-5-202 shall be paid to the commission, promptly remitted to the state treasurer, and ~~[except those taxes otherwise allocated under Section 51-9-305,]~~ credited to the General Fund.

CHAPTER 242**H. B. 238**

Passed February 28, 2014

Approved March 31, 2014

Effective May 13, 2014

**LOCAL REFERENDUM
REQUIREMENTS AMENDMENTS**Chief Sponsor: Kraig Powell
Senate Sponsor: Kevin T. Van Tassell**LONG TITLE****General Description:**

This bill amends provisions of the Election Code relating to local referenda.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides that when a law passed by a local legislative body imposes a tax or other payment obligation on property in an area that does not include all precincts and subprecincts under the jurisdiction of the county, city, or town, the signatures required for a referendum, and the subsequent vote on the referendum, shall be by residents of the precincts and subprecincts to which the tax or other payment obligation applies;
- ▶ establishes the number of signatures required for a referendum relating to a law described in the preceding paragraph; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

20A-7-601, as last amended by Laws of Utah 2012, Chapter 72

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

Section 1. Section 20A-7-601 is amended to read:**20A-7-601. Referenda -- General signature requirements -- Signature requirements for land use laws and subjurisdictional laws -- Time requirements.**

(1) Except as provided in Subsection (2) or (3), a person seeking to have a law passed by the local legislative body submitted to a vote of the people shall obtain legal signatures equal to:

(a) 10% of all the votes cast in the county, city, or town for all candidates for president of the United States at the last election at which a president of the United States was elected if the total number of votes exceeds 25,000;

(b) 12-1/2% of all the votes cast in the county, city, or town for all candidates for president of the United States at the last election at which a president of the United States was elected if the

total number of votes does not exceed 25,000 but is more than 10,000;

(c) 15% of all the votes cast in the county, city, or town for all candidates for president of the United States at the last election at which a president of the United States was elected if the total number of votes does not exceed 10,000 but is more than 2,500;

(d) 20% of all the votes cast in the county, city, or town for all candidates for president of the United States at the last election at which a president of the United States was elected if the total number of votes does not exceed 2,500 but is more than 500;

(e) 25% of all the votes cast in the county, city, or town for all candidates for president of the United States at the last election at which a president of the United States was elected if the total number of votes does not exceed 500 but is more than 250; and

(f) 30% of all the votes cast in the county, city, or town for all candidates for president of the United States at the last election at which a president of the United States was elected if the total number of votes does not exceed 250.

(2) (a) As used in this Subsection (2), "land use law" includes a land use development code, an annexation ordinance, and comprehensive zoning ordinances.

(b) [A] Except as provided in Subsection (3), a person seeking to have a land use law or local obligation law passed by the local legislative body submitted to a vote of the people shall obtain legal signatures equal to:

(i) in a county or in a city of the first or second class, 20% of all votes cast in the county or city for all candidates for president of the United States at the last election at which a president of the United States was elected; and

(ii) in a city of the third, fourth, or fifth class or a town, 35% of all the votes cast in the city or town for all candidates for president of the United States at the last election at which a president of the United States was elected.

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

(i) "Subjurisdiction" means an area comprised of all precincts and subprecincts in the jurisdiction of a county, city, or town that are subject to a subjurisdictional law.

(ii) "Subjurisdictional law" means a law or local obligation law passed by a local legislative body that imposes a tax or other payment obligation on property in an area that does not include all precincts and subprecincts under the jurisdiction of the county, city, or town.

(b) A person seeking to have a subjurisdictional law passed by the local legislative body submitted to a vote of the people shall obtain legal signatures of the residents in the subjurisdiction equal to:

(i) 10% of the total votes cast in the subjurisdiction for all candidates for president of the United States at the last election at which a president of the United States was elected if the total number of votes exceeds 25,000;

(ii) 12-1/2% of all the votes cast in the subjurisdiction for all candidates for president of the United States at the last election at which a president of the United States was elected if the total number of votes does not exceed 25,000 but is more than 10,000;

(iii) 15% of all the votes cast in the subjurisdiction for all candidates for president of the United States at the last election at which a president of the United States was elected if the total number of votes does not exceed 10,000 but is more than 2,500;

(iv) 20% of all the votes cast in the subjurisdiction for all candidates for president of the United States at the last election at which a president of the United States was elected if the total number of votes does not exceed 2,500 but is more than 500;

(v) 25% of all the votes cast in the subjurisdiction for all candidates for president of the United States at the last election at which a president of the United States was elected if the total number of votes does not exceed 500 but is more than 250; and

(vi) 30% of all the votes cast in the subjurisdiction for all candidates for president of the United States at the last election at which a president of the United States was elected if the total number of votes does not exceed 250.

~~[(3)]~~ (4) (a) Sponsors of any referendum petition challenging, under Subsection (1) [ø], (2), or (3) any local law passed by a local legislative body shall file the application within five days after the passage of the local law.

~~(b) [When]~~ Except as provided in Subsection (4)(c), when a referendum petition has been declared sufficient, the local law that is the subject of the petition does not take effect unless and until the local law is approved by a vote of the people.

(c) When a referendum petition challenging a subjurisdictional law has been declared sufficient, the subjurisdictional law that is the subject of the petition does not take effect unless and until the subjurisdictional law is approved by a vote of the people who reside in the subjurisdiction.

~~[(4)]~~ (5) If the referendum passes, the local law that was challenged by the referendum is repealed as of the date of the election.

(6) Nothing in this section authorizes a local legislative body to impose a tax or other payment obligation on a subjurisdiction in order to benefit an area outside of the subjurisdiction.

CHAPTER 243**H. B. 245**

Passed February 26, 2014

Approved March 31, 2014

Effective July 1, 2014

STATE FIRE CODE AMENDMENTS

Chief Sponsor: James A. Dunnigan

Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill amends the State Construction and Fire Codes Act.

Highlighted Provisions:

This bill:

- ▶ adds an exception to the requirement that an automatic sprinkler system be installed in certain fire areas; and
- ▶ modifies provisions related to hazardous and environmental conditions.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2014.

Utah Code Sections Affected:**AMENDS:**

15A-3-104, as last amended by Laws of Utah 2013, Chapter 297

15A-5-202.5, as enacted by Laws of Utah 2013, Chapter 199

15A-5-204, as last amended by Laws of Utah 2013, Chapter 199

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

Section 1. Section 15A-3-104 is amended to read:**15A-3-104. Amendments to Chapters 7 through 9 of IBC.**

(1) IBC, Section (F)901.8, is deleted and replaced with the following: “(F)901.8 Pump and riser room size. Fire pump and automatic sprinkler system riser rooms shall be designed with adequate space for all installed equipment necessary for the installation and to provide sufficient working space around the stationary equipment. Clearances around equipment shall be in accordance with manufacturer requirements and not less than the following minimum elements:

901.8.1 A minimum clear and unobstructed distance of 12-inches shall be provided from the installed equipment to the elements of permanent construction.

901.8.2 A minimum clear and unobstructed distance of 12-inches shall be provided between all other installed equipment and appliances.901.8.3 A clear and unobstructed width of 36-inches shall be provided in front of all installed equipment and appliances, to allow for inspection, service, repair or replacement without removing such elements of permanent construction or disabling the function of a required fire-resistance-rated assembly.

901.8.4 Automatic sprinkler system riser rooms shall be provided with a clear and unobstructed passageway to the riser room of not less than 36-inches, and openings into the room shall be clear and unobstructed, with doors swinging in the outward direction from the room and the opening providing a clear width of not less than 34-inches and a clear height of the door opening shall not be less than 80-inches.

901.8.5 Fire pump rooms shall be provided with a clear and unobstructed passageway to the fire pump room of not less than 72-inches, and openings into the room shall be clear, unobstructed and large enough to allow for the removal of the largest piece of equipment, with doors swinging in the outward direction from the room and the opening providing a clear width of not less than 68-inches and a clear height of the door opening shall not be less than 80-inches.”

(2) In IBC, Section (F)903.2.2, the words “the entire floor” are deleted and replaced with “a building” and the last paragraph is deleted.

(3) IBC, Section (F)903.2.4, condition 2, is deleted and replaced with the following: “2. A Group F-1 fire area is located more than three stories above the lowest level of fire department vehicle access.”

(4) IBC, Section (F)903.2.7, condition 2, is deleted and replaced with the following: “2. A Group M fire area is located more than three stories above the lowest level of fire department vehicle access.”

(5) IBC, Sections (F)903.2.8, (F)903.2.8.1, and (F)903.2.8.2, are deleted and replaced with the following: “(F)903.2.8 Group R. An automatic sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R fire area.

Exceptions:

1. Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) constructed in accordance with the International Residential Code For One- and Two-Family Dwellings.

2. Single story Group R-1 occupancies with fire areas not more than 2,000 square feet that contain no installed plumbing or heating, where no cooking occurs, and constructed of Type I-A, I-B, II-A, or II-B construction.[2.]

3. Group R-4 fire areas not more than 4,500 gross square feet and not containing more than 16 residents, provided the building is equipped throughout with an approved fire alarm system that is interconnected and receives its primary power from the building wiring and a commercial power system.”

(6) IBC, Section (F)903.2.9, condition 2, is deleted and replaced with the following: “2. A Group S-1 fire area is located more than three stories above the lowest level of fire department vehicle access.”

(7) IBC, Section (F)904.11, is deleted and replaced with the following: “(F)904.11 Commercial cooking systems. The automatic fire-extinguishing system for commercial cooking systems shall be of a

type recognized for protection of commercial cooking equipment and exhaust systems. Pre-engineered automatic extinguishing systems shall be tested in accordance with UL 300 and listed and labeled for the intended application. The system shall be installed in accordance with this code, its listing and the manufacturer's installation instructions.

Exception: Factory-built commercial cooking recirculating systems that are tested in accordance with UL 710B and listed, labeled, and installed in accordance with Section 304.1 of the International Mechanical Code."

(8) IBC, Sections (F)904.11.3, (F)904.11.3.1, (F)904.11.4, and (F)904.11.4.1, are deleted.

(9) IBC, Section (F)907.2.3 Group E:

(a) The first sentence is deleted and rewritten as follows: "A manual fire alarm system that initiates the occupant notification system in accordance with Section (F)907.5 and installed in accordance with Section (F)907.6 shall be installed in Group E occupancies."

(b) In Exception number 3, starting on line five, the words "emergency voice/alarm communication system" are deleted and replaced with "occupant notification system".

(10) In IBC, Section (F)908.7, the first sentence is deleted and replaced as follows: "Groups R-1, R-2, R-3, R-4, I-1, and I-4 occupancies"; the exceptions are deleted and the following sentence is added after the first sentence: "A minimum of one carbon monoxide alarm shall be installed on each habitable level."

(11) In IBC, Section (F)908.7, the following new subsections are added:

"(F)908.7.1 Interconnection. Where more than one carbon monoxide alarm is required to be installed within Group R or I-1 occupancies, the carbon monoxide alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms. Physical interconnection of carbon monoxide alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.

(F)908.7.2 Power source. In new construction, required carbon monoxide alarms shall receive their primary power from the building wiring where such wiring is served from a commercial source and shall be equipped with a battery backup. Carbon monoxide alarms with integral strobes that are not equipped with battery backup shall be connected to an emergency electrical system. Carbon monoxide alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection.

Exception: Carbon monoxide alarms are not required to be equipped with battery backup where

they are connected to an emergency electrical system."

(12) IBC, Section (F)908.7.1, is renumbered to 908.7.3.

Section 2. Section 15A-5-202.5 is amended to read:

15A-5-202.5. Amendments and additions to Chapters 3 and 4 of IFC.

(1) For IFC, Chapter 3, General Requirements:

(a) IFC, Chapter 3, Section 304.1.2, Vegetation, is amended as follows: Delete line six and replace it with: "the Utah Administrative Code, R652-122-200, Minimum Standards for Wildland Fire Ordinance".

(b) IFC, Chapter 3, Section 308.1.2, Throwing or Placing Sources of Ignition, is deleted and rewritten as follows: "No person shall throw or place, or cause to be thrown or placed, a lighted match, cigar, cigarette, matches, lighters, or other flaming or glowing substance or object on any surface or article where it can cause an unwanted fire."

(c) IFC, Chapter 3, Section 310.8, Hazardous and Environmental Conditions, is deleted and rewritten as follows: "When the fire code official determines that hazardous environmental conditions necessitate controlled use of any ignition source, including fireworks, lighters, matches, sky lanterns, and smoking materials, any of the following may occur:

(4) 1. If the hazardous environmental conditions exist in a municipality, the legislative body of [a] the municipality [within which the hazardous environmental conditions exist] may prohibit [only] the ignition or use of [the] an ignition source in mountainous, brush-covered, or forest-covered areas or the wildland urban interface area, which means the line, area, or zone where structures or other human development meet or intermingle with undeveloped wildland or land being used for an agricultural purpose[- and].

[(ii) where] 2. Except as provided in paragraph 3, if the hazardous environmental conditions exist in an unincorporated [areas that meet the description in Subsection (1)(c)(i)] area, the state forester may prohibit the ignition or use of [the] an ignition source in all or part of [theses] the areas described in paragraph 1 that are within the unincorporated area, after consulting with the county fire code official [having] who has jurisdiction over that area.[2]

3. If the hazardous environmental conditions exist in a township created under Section 17-27a-306 that is in a county of the first class, the county legislative body may prohibit the ignition or use of an ignition source in all or part of the areas described in paragraph 1 that are within the township."

(d) IFC, Chapter 3, Section 311.1.1, Abandoned Premises, is amended as follows: On line 10 delete the words "International Property Maintenance Code and the".

(e) IFC, Chapter 3, Section 311.5, Placards, is amended as follows: On line three delete the word “shall” and replace it with the word “may”.

(f) IFC, Chapter 3, Section 315.2.1, Ceiling Clearance, is amended to add the following: “Exception: Where storage is not directly below the sprinkler heads, storage is allowed to be placed to the ceiling on wall-mounted shelves that are protected by fire sprinkler heads in occupancies meeting classification as light or ordinary hazard.”

(2) IFC, Chapter 4, Emergency Planning and Preparedness:

(a) IFC, Chapter 4, Section 404.2, Where required, Subsection 8, is amended as follows: After the word “buildings” add “to include sororities and fraternity houses”.

(b) IFC, Chapter 4, Section 405.2, Table 405.2, is amended to add the following footnotes:

(i) “e. Secondary schools in Group E occupancies shall have an emergency evacuation drill for fire conducted at least every two months, to a total of four emergency evacuation drills during the nine-month school year. The first emergency evacuation drill for fire shall be conducted within 10 school days after the beginning of classes, and the third emergency evacuation drill for fire shall be conducted 10 school days after the beginning of the next calendar year. The second and fourth emergency evacuation drills may be substituted by a security or safety drill to include shelter in place, earthquake drill, or lock down for violence.”

(ii) “f. In Group E occupancies, excluding secondary schools, if the AHJ approves, the monthly required emergency evacuation drill can be substituted by a security or safety drill to include shelter in place, earthquake drill, or lock down for violence. The routine emergency evacuation drill for fire must be conducted at least every other evacuation drill.”

(iii) “g. A-3 occupancies in academic buildings of institutions of higher learning are required to have one emergency evacuation drill per year, provided the following conditions are met:

(A) The building has a fire alarm system in accordance with Section 907.2.

(B) The rooms classified as assembly shall have fire safety floor plans as required in Section 404.3.2(4) posted.

(C) The building is not classified a high-rise building.

(D) The building does not contain hazardous materials over the allowable quantities by code.”

Section 3. Section 15A-5-204 is amended to read:

15A-5-204. Amendments and additions to IFC related to fire protection systems.

For IFC, Fire Protection Systems:

(1) IFC, Chapter 9, Section 901.2, Construction Documents, is amended to add the following at the end of the section: “The code official has the authority to request record drawings (“as built”) to verify any modifications to the previously approved construction documents.”

(2) IFC, Chapter 9, Section 901.4.6, Pump and Riser Room Size, is deleted and replaced with the following: “Pump and Riser Room Size. Fire pump and automatic sprinkler system riser rooms shall be designed with adequate space for all installed equipment necessary for the installation and to provide sufficient working space around the stationary equipment. Clearances around equipment shall be in accordance with manufacturer requirements and not less than the following minimum elements:

901.4.6.1 A minimum clear and unobstructed distance of 12 inches shall be provided from the installed equipment to the elements of permanent construction.

901.4.6.2 A minimum clear and unobstructed distance of 12 inches shall be provided between all other installed equipment and appliances.

901.4.6.3 A clear and unobstructed width of 36 inches shall be provided in front of all installed equipment and appliances, to allow for inspection, service, repair or replacement without removing such elements of permanent construction or disabling the function of a required fire-resistance-rated assembly.

901.4.6.4 Automatic sprinkler system riser rooms shall be provided with a clear and unobstructed passageway to the riser room of not less than 36 inches, and openings into the room shall be clear and unobstructed, with doors swinging in the outward direction from the room and the opening providing a clear width of not less than 34 inches and a clear height of the door opening shall not be less than 80 inches.

901.4.6.5 Fire pump rooms shall be provided with a clear and unobstructed passageway to the fire pump room of not less than 72 inches, and openings into the room shall be clear, unobstructed and large enough to allow for the removal of the largest piece of equipment, with doors swinging in the outward direction from the room and the opening providing a clear width of not less than 68 inches and a clear height of the door opening shall not be less than 80 inches.”

(3) IFC, Chapter 9, Section 903.2.1.2, Group A-2, is amended to add the following subsection: “4. An automatic fire sprinkler system shall be provided throughout Group A-2 occupancies where indoor pyrotechnics are used.”

(4) IFC, Chapter 9, Section 903.2.2, Ambulatory Health Care Facilities, is amended as follows: On line two delete the words “all fire areas floor” and replace with the word “buildings” and delete the last paragraph.

(5) IFC, Chapter 9, Section 903.2.4, Group F-1, Subsection 2, is deleted and rewritten as follows: “A

Group F-1 fire area is located more than three stories above the lowest level of fire department vehicle access.”

(6) IFC, Chapter 9, Section 903.2.7, Group M, Subsection 2, is deleted and rewritten as follows: “A Group M fire area is located more than three stories above the lowest level of fire department vehicle access.”

(7) IFC, Chapter 9, Section 903.2.8 Group R, is amended to add the following: “Exception: Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) constructed in accordance with the International Residential Code for one- and two-family dwellings.”

(8) IFC, Chapter 9, Section 903.2.8, Group R, is amended to add a second exception as follows: “Exception: Group R-4 fire areas not more than 4,500 gross square feet and not containing more than 16 residents, provided the building is equipped throughout with an approved fire alarm system that is interconnected and receives its primary power from the building wiring and a commercial power system.”

(9) IFC, Chapter 9, Section 903.2.8 Group R, is amended to add a third exception as follows: “Exception: Single story group R-1 occupancies with fire areas not more than 2,000 square feet that contain no installed plumbing or heating, where no cooking occurs, and constructed of Type I-A, I-B, II-A, or II-B construction.”

~~(9)~~ (10) IFC, Chapter 9, Section 903.2.9, Group S-1, Subsection 2, is deleted and rewritten as follows: “A Group S-1 fire area is located more than three stories above the lowest level of fire department vehicle access.”

~~(40)~~ (11) IFC, Chapter 9, Section 903.3.1.1 is amended by adding the following subsection: “903.3.1.1.2 Antifreeze Limitations. Antifreeze used in a new automatic sprinkler system installed in accordance with NFPA 13 may not exceed a maximum concentration of 38% premixed propylene glycol or 48% premixed glycerin, and the capacity of the system may not exceed 150 gallons.”

~~(41)~~ (12) IFC, Chapter 9, Section 903.3.1.2 is amended by adding the following subsection: “903.3.1.2.2 Antifreeze Limitations. Antifreeze used in a new automatic sprinkler system installed in accordance with NFPA 13R may not exceed a maximum concentration of 38% premixed propylene glycol or 48% premixed glycerin, and the capacity of the system may not exceed 150 gallons.”

~~(42)~~ (13) IFC, Chapter 9, Section 903.3.1.3 is amended by adding the following subsection: “903.3.1.3.1 Antifreeze Limitations. Antifreeze used in a new automatic sprinkler system installed in accordance with NFPA 13D may not exceed a maximum concentration of 38% premixed propylene glycol or 48% premixed glycerin, and the capacity of the system may not exceed 150 gallons.”

~~(43)~~ (14) IFC, Chapter 9, Section 903.3.5, Water supplies, is amended as follows: On line six, after

the word “Code”, add “and as amended in Utah’s State Construction Code”.

~~(44)~~ (15) IFC, Chapter 9, Section 903.5 is amended to add the following subsection: “903.5.1 Tag and Information. A tag shall be attached to the riser indicating the date the antifreeze solution was tested. The tag shall also indicate the type and concentration of antifreeze solution by volume with which the system is filled, the name of the contractor that tested the antifreeze solution, the contractor’s license number, and a warning to test the concentration of the antifreeze solutions at yearly intervals.”

~~(45)~~ (16) IFC, Chapter 9, Section 904.11, Commercial cooking systems, is deleted and rewritten as follows: “The automatic fire extinguishing system for commercial cooking systems shall be of a type recognized for protection of commercial cooking equipment and exhaust systems. Pre-engineered automatic extinguishing systems shall be tested in accordance with UL300 and listed and labeled for the intended application. The system shall be installed in accordance with this code, its listing and the manufacturer’s installation instructions. The exception in Section 904.11 is not deleted and shall remain as currently written in the IFC.”

~~(46)~~ (17) IFC, Chapter 9, Section 904.11.3, Carbon dioxide systems, and Section 904.11.3.1, Ventilation system, are deleted and rewritten as follows:

(a) “Existing automatic fire extinguishing systems used for commercial cooking that use dry chemical are prohibited and shall be removed from service.”

(b) “Existing wet chemical fire extinguishing systems used for commercial cooking that are not UL300 listed and labeled are prohibited and shall be either removed or upgraded to a UL300 listed and labeled system.”

~~(47)~~ (18) IFC, Chapter 9, Section 904.11.4, Special provisions for automatic sprinkler systems, is amended to add the following subsection: “904.11.4.2 Existing automatic fire sprinkler systems protecting commercial cooking equipment, hood, and exhaust systems that generate appreciable depth of cooking oils shall be replaced with a UL300 system that is listed and labeled for the intended application.”

~~(48)~~ (19) IFC, Chapter 9, Section 904.11.6.2, Extinguishing system service, is amended to add the following: “Exception: Automatic fire extinguishing systems located in occupancies where usage is limited and less than six consecutive months may be serviced annually if the annual service is conducted immediately before the period of usage, and approval is received from the AHJ.”

~~(49)~~ (20) IFC, Chapter 9, Section 905.3.9 is a new subsection as follows: “Open Parking Garages. Open parking garages shall be equipped with an approved Class I manual standpipe system when fire department access is not provided for firefighting operations to within 150 feet of all portions of the open parking garage as measured

from the approved fire department vehicle access. Class I manual standpipe shall be accessible throughout the parking garage such that all portions of the parking structure are protected within 150 feet of a hose connection.

Exception: Open parking garages equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1.”

[(20)] (21) IFC, Chapter 9, Section 905.8, Dry Standpipes, Exception is deleted and rewritten as follows: “Where subject to freezing conditions and approved by the fire code official.”

[(21)] (22) IFC, Chapter 9, Section 905.11, Existing buildings, and IFC, Chapter 11, Section 1103.6, Standpipes, are deleted.

[(22)] (23) In IFC, Chapter 9, Section 906.1, Where Required, the exception under paragraph 1 is deleted and rewritten to read: “Exception: In new and existing Group A, B, and E occupancies equipped with quick response sprinklers, portable fire extinguishers shall be required only in locations specified in items 2 through 6.

[(23)] (24) IFC, Chapter 9, Section 907.2.3 Group E:

(a) The first sentence is deleted and rewritten as follows: “A manual fire alarm system that initiates the occupant notification system in accordance with Section 907.5 and installed in accordance with Section 907.6 shall be installed in Group E occupancies.”

(b) Exception number 3, on line five, delete the words, “emergency voice/alarm communication system” and replace with “occupant notification system.”

[(24)] (25) IFC, Chapter 9, 907.8, Inspection, testing, and maintenance, is amended to add the following sentences at the end of the section: “Increases in nuisance alarms shall require the fire alarm system to be tested for sensitivity. Fire alarm systems that continue after sensitivity testing with unwarranted nuisance alarms shall be replaced as directed by the AHJ.”

[(25)] (26) IFC, Chapter 9, Section 908.7, Carbon Monoxide Alarms, is deleted and rewritten as follows: “Carbon monoxide alarms shall be installed on each habitable level of a dwelling unit or sleeping unit in Groups R-1, R-2, R-3, R-4, I-1, and I-4 equipped with fuel burning appliances.

908.7.1 If more than one carbon monoxide detector is required, they shall be interconnected as required in IFC, Chapter 9, Section 907.2.11.3.

908.7.2 In new construction, a carbon monoxide detector shall receive its primary power as required under IFC, Chapter 9, Section 907.2.11.4.

908.7.3 Upon completion of the installation, the carbon monoxide detector system will meet the requirements listed in NFPA 720, Installation of Carbon Monoxide Detection and Warning Equipment and UL2034, Standard for Single and Multiple Carbon Monoxide Alarms.

[(26)] (27) IFC Section 908.7.1 is renumbered to 908.7.4.

Section 4. Effective date.

This bill takes effect on July 1, 2014.

CHAPTER 244**H. B. 248**

Passed February 28, 2014

Approved March 31, 2014

Effective May 13, 2014

**CRIME VICTIMS
RESTITUTION AMENDMENTS**Chief Sponsor: Mike K. McKell
Senate Sponsor: Deidre M. Henderson**LONG TITLE****General Description:**

This bill allows a designated representative of a victim to pursue restitution claims.

Highlighted Provisions:

This bill:

- ▶ allows for a person who claims pecuniary damages as a result of a defendant's criminal activities to seek restitution individually through a representative.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

77-38-9, as last amended by Laws of Utah 1995, Chapter 352

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

Section 1. Section 77-38-9 is amended to read:**77-38-9. Representative of victim -- Court designation -- Representation in cases involving minors -- Photographs in homicide cases.**

(1) (a) A victim of a crime may designate, with the approval of the court, a representative who may exercise the same rights that the victim is entitled to exercise under this chapter, including pursuing restitution.

(b) Except as otherwise provided in this section, the victim may revoke the designation at any time.

(c) In cases where the designation is in question, the court may require that the designation of the representative be made in writing by the victim.

(2) In cases in which the victim is deceased or incapacitated, upon request from the victim's spouse, parent, child, or close friend, the court shall designate a representative or representatives of the victim to exercise the rights of a victim under this chapter on behalf of the victim. The responsible prosecuting agency may request a designation to the court.

(3) (a) If the victim is a minor, the court in its discretion may allow the minor to exercise the rights of a victim under this chapter or may allow the victim's parent or other immediate family member to act as a representative of the victim.

(b) The court may also, in its discretion, designate a person who is not a member of the immediate family to represent the interests of the minor.

(4) The representative of a victim of a crime shall not be:

(a) the accused or a person who appears to be accountable or otherwise criminally responsible for or criminally involved in the crime or conduct, a related crime or conduct, or a crime or act arising from the same conduct, criminal episode, or plan as the crime or conduct is defined under the laws of this state;

(b) a person in the custody of or under detention of federal, state, or local authorities; or

(c) a person whom the court in its discretion considers to be otherwise inappropriate.

(5) Any notices that are to be provided to a victim pursuant to this chapter shall be sent to the victim or the victim's lawful representative.

(6) On behalf of the victim, the prosecutor may assert any right to which the victim is entitled under this chapter, unless the victim requests otherwise or exercises his own rights.

(7) In any homicide prosecution, the prosecution may introduce a photograph of the victim taken before the homicide to establish that the victim was a human being, the identity of the victim, and for other relevant purposes.

CHAPTER 245**H. B. 267**

Passed February 27, 2014

Approved March 31, 2014

Effective May 13, 2014

**AGING AND ADULT
SERVICES AMENDMENTS**

Chief Sponsor: Rebecca Chavez-Houck

Senate Sponsor: Brian E. Shiozawa

LONG TITLE**General Description:**

This bill amends provisions related to the abuse, neglect, or exploitation of a vulnerable adult.

Highlighted Provisions:

This bill:

- ▶ clarifies and modifies the powers and duties of Adult Protective Services; and
- ▶ makes the vulnerable adult database and the adult protection case file available to city attorneys.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

62A-3-303, as last amended by Laws of Utah 2008, Chapter 91

62A-3-312, as last amended by Laws of Utah 2008, Chapters 91 and 382

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

Section 1. Section 62A-3-303 is amended to read:**62A-3-303. Powers and duties of Adult Protective Services.**

In addition to all other powers and duties that Adult Protective Services is given under this part, Adult Protective Services:

(1) shall maintain an intake system for receiving and screening reports;

(2) shall investigate ~~reports~~ referrals that meet the intake criteria;

(3) shall conduct assessments of vulnerability and functional capacity as it relates to an allegation of abuse, neglect, or exploitation of an adult who is the subject of a report;

~~(3)~~ (4) shall perform assessments based on protective needs ~~assessments~~ and risks for a vulnerable adult who is the subject of a report;

~~(4)~~ (5) ~~may coordinate with, or make referrals to, community resources~~ may address any protective needs by making recommendations to and coordinating with the vulnerable adult or by making referrals to community resources;

~~(5)~~ (6) may provide short-term, limited services to a vulnerable adult ~~, on a temporary basis,~~ when family or community resources are not available to provide for the protective needs of the vulnerable adult;

~~(6)~~ (7) shall have access to facilities licensed by, or ~~contracting~~ contracted with, the department or the Department of Health for the purpose of conducting investigations;

~~(7)~~ (8) shall be given access to, or provided with, written statements, documents, exhibits, and other items related to an investigation, including private, controlled, or protected medical or financial records of a vulnerable adult who is the subject of an investigation if:

(a) for a vulnerable adult who does not lack ~~the~~ capacity to consent, the vulnerable adult signs a release of information; or

(b) for a vulnerable adult who lacks ~~the~~ capacity to consent, an administrative subpoena is issued by Adult Protective Services;

~~(8)~~ (9) may ~~institute~~ initiate proceedings in a court of competent jurisdiction to seek relief necessary to carry out the provisions of this chapter;

~~(9)~~ (10) may require all persons, including family members of a vulnerable adult and any caretaker, to cooperate with Adult Protective Services in carrying out its duties under this chapter, including the provision of statements, documents, exhibits, and other items that assist Adult Protective Services in conducting investigations and providing protective services;

~~(10)~~ (11) may require all officials, agencies, departments, and political subdivisions of the state to assist and cooperate within their jurisdictional power with the court, the division, and Adult Protective Services in furthering the purposes of this chapter;

~~(11)~~ (12) may conduct studies and compile data regarding abuse, neglect, and exploitation; and

~~(12)~~ (13) may issue reports and recommendations.

Section 2. Section 62A-3-312 is amended to read:**62A-3-312. Access to information in database.**

The database and the adult protection case file:

(1) shall be made available to law enforcement agencies, the attorney general's office, city attorneys, and county or district attorney's offices;

(2) shall be released as required under Subsection 63G-2-202(4)(c); and

(3) may be made available, at the discretion of the division, to:

(a) subjects of a report as follows:

(i) a vulnerable adult named in a report as a victim of abuse, neglect, or exploitation, or that adult's attorney or legal guardian; and

(ii) a person identified in a report as having abused, neglected, or exploited a vulnerable adult, or that person's attorney; and

(b) persons involved in an evaluation or assessment of the vulnerable adult as follows:

(i) an employee or contractor of the department who is responsible for the evaluation or assessment of an adult protection case file;

(ii) a multidisciplinary team approved by the division to assist Adult Protective Services in the evaluation, assessment, and disposition of a vulnerable adult case;

(iii) an authorized person or agency providing services to, or responsible for, the care, treatment, assessment, or supervision of a vulnerable adult named in the report as a victim, when in the opinion of the division, that information will assist in the protection of, or provide other benefits to, the victim;

(iv) a licensing authority for a facility, program, or person providing care to a victim named in a report; and

(v) legally authorized protection and advocacy agencies when they represent a victim or have been requested by the division to assist on a case, including:

(A) the Office of Public Guardian, created in Section 62A-14-103; and

(B) the Long-Term Care Ombudsman Program, created in Section 62A-3-203.

CHAPTER 246**H. B. 270**

Passed February 21, 2014

Approved March 31, 2014

Effective May 13, 2014

PEACE OFFICER CERTIFICATES

Chief Sponsor: Richard A. Greenwood

Senate Sponsor: Daniel W. Thatcher

LONG TITLE**General Description:**

This bill modifies the Peace Officer Standards and Training Act regarding certification of peace officers.

Highlighted Provisions:

This bill:

- ▶ clarifies that a peace officer certification becomes inactive if a peace officer has not been actively engaged in performing the duties as a certified and sworn peace officer for 18 consecutive months;
- ▶ provides that a peace officer certification be designated as lapsed if a peace officer has not been actively engaged in performing the duties as a certified and sworn peace officer for four continuous years; and
- ▶ makes a technical correction.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53-6-208, as last amended by Laws of Utah 2011, Chapter 58

53-6-211.5, as enacted by Laws of Utah 2010, Chapter 313

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

Section 1. Section 53-6-208 is amended to read:**53-6-208. Inactive certificates -- Lapse of certificate -- Reinstatement.**

(1) (a) The certificate of a peace officer who has not been actively engaged in performing the duties [ef-a] as a certified and sworn peace officer for 18 consecutive months or more, but less than four consecutive years, is designated "inactive."

(b) A peace officer whose certificate is inactive shall pass the certification examination and a physical fitness test before the certificate may be reissued or reinstated.

(2) (a) The certificate of a peace officer who has not been actively engaged in performing the duties [ef-a] as a certified and sworn peace officer for four continuous years or more is designated as "lapsed."

(b) A peace officer whose certificate is lapsed shall pass the basic training course at a certified academy, the certification examination, and a physical fitness test before the certificate may be reissued or reinstated.

Section 2. Section 53-6-211.5 is amended to read:**53-6-211.5. Voluntary relinquishment of peace officer certification.**

(1) A peace officer may voluntarily relinquish the peace officer's certification to the division at any time when a disciplinary issue regarding the peace officer has been referred to the division.

(2) (a) A peace officer who voluntarily relinquishes certification under this section may not subsequently be certified as a peace officer in this state.

(b) This section does not apply to a peace officer whose certification has become inactive or has lapsed as provided in Section 53-6-208.

CHAPTER 247**H. B. 279**

Passed March 7, 2014

Approved March 31, 2014

Effective May 13, 2014

**JUDICIARY INTERIM
COMMITTEE SUNSET PROVISIONS**Chief Sponsor: Kay L. McIff
Senate Sponsor: Mark B. Madsen

LONG TITLE**General Description:**

This bill removes two sunset reauthorization dates.

Highlighted Provisions:

This bill:

- ▶ removes two sunset reauthorization dates related to unlawful detainer of tenants and notice to tenants on residential property to be foreclosed.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**63I-1-278, as last amended by Laws of Utah 2013,
Chapter 416

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 63I-1-278 is amended to read:****63I-1-278. Repeal dates, Title 78A and Title 78B.**

(1) The Office of the Court Administrator, created in Section 78A-2-105, is repealed July 1, 2018.

(2) Section 78A-2-227.1 is repealed July 1, 2014.

(3) Section 78B-3-421, regarding medical malpractice arbitration agreements, is repealed July 1, 2019.

(4) Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act is repealed July 1, 2016.

[~~(5) The following are repealed December 31, 2014:~~][~~(a) Subsection 78B-6-802(1)(i);~~][~~(b) the language in Subsection 78B-6-802(1)(a) that states "except as provided in Subsection (1)(i)"; and~~][~~(c) the language in Subsection 78B-6-802(1)(b) that states "and except as provided in Subsection (1)(i)".~~][~~(6) Section 78B-6-901.5, regarding notice to tenants on residential rental property to be foreclosed, is repealed December 31, 2014.~~]

CHAPTER 248**H. B. 295**

Passed February 27, 2014

Approved March 31, 2014

Effective May 13, 2014

WEAPONS LAW EXEMPTIONS

Chief Sponsor: Richard A. Greenwood

Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill makes exemptions to provisions related to the use, carry, and transportation of a weapon.

Highlighted Provisions:

This bill:

- ▶ excludes certain weapon-related requirements for a person performing an official duty; and
- ▶ exempts a nonresident traveling in or through the state from weapon provisions under certain circumstances.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-10-506, as last amended by Laws of Utah 2010, Chapter 361

76-10-508, as last amended by Laws of Utah 2008, Chapter 296

76-10-508.1, as last amended by Laws of Utah 2009, Chapter 157

76-10-523, as last amended by Laws of Utah 2009, Chapter 362

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

Section 1. Section 76-10-506 is amended to read:**76-10-506. Threatening with or using dangerous weapon in fight or quarrel.**

(1) As used in this section, ~~“threatening manner”~~;

(a) “Dangerous weapon” means an item that in the manner of its use or intended use is capable of causing death or serious bodily injury. The following factors shall be used in determining whether an item, object, or thing is a dangerous weapon:

(i) the character of the instrument, object, or thing;

(ii) the character of the wound produced, if any; and

(iii) the manner in which the instrument, object, or thing was exhibited or used.

(b) “Threatening manner” does not include:

~~(a)~~ (i) the possession of a dangerous weapon, whether visible or concealed, without additional behavior which is threatening; or

~~(b)~~ (ii) informing another of the actor’s possession of a deadly weapon in order to prevent what the actor reasonably perceives as a possible use of unlawful force by the other and the actor is not engaged in any activity described in Subsection 76-2-402(2)(a).

(2) Except as otherwise provided in Section 76-2-402 and for those persons described in Section 76-10-503, a person who, in the presence of two or more persons, and not amounting to a violation of Section 76-5-103, draws or exhibits a dangerous weapon in an angry and threatening manner or unlawfully uses a dangerous weapon in a fight or quarrel is guilty of a class A misdemeanor.

(3) This section does not apply to a person who, reasonably believing the action to be necessary in compliance with Section 76-2-402, with purpose to prevent another’s use of unlawful force:

- (a) threatens the use of a dangerous weapon; or
- (b) draws or exhibits a dangerous weapon.

(4) This section does not apply to a person listed in Subsections 76-10-523(1)(a) through (e) in performance of the person’s duties.

Section 2. Section 76-10-508 is amended to read:**76-10-508. Discharge of firearm from a vehicle, near a highway, or in direction of any person, building, or vehicle -- Penalties.**

(1) (a) A person may not discharge any kind of dangerous weapon or firearm:

- (i) from an automobile or other vehicle;
- (ii) from, upon, or across any highway;
- (iii) at any road signs placed upon any highways of the state;
- (iv) at any communications equipment or property of public utilities including facilities, lines, poles, or devices of transmission or distribution;
- (v) at railroad equipment or facilities including any sign or signal;

(vi) within Utah State Park buildings, designated camp or picnic sites, overlooks, golf courses, boat ramps, and developed beaches; or

(vii) without written permission to discharge the dangerous weapon from the owner or person in charge of the property within 600 feet of:

- (A) a house, dwelling, or any other building; or
- (B) any structure in which a domestic animal is kept or fed, including a barn, poultry yard, corral, feeding pen, or stockyard.

(b) It is a defense to any charge for violating this section that the person being accused had actual permission of the owner or person in charge of the property at the time in question.

(2) A violation of any provision of Subsection (1) is a class B misdemeanor.

(3) In addition to any other penalties, the court shall:

(a) notify the Driver License Division of the conviction for purposes of any revocation, denial, suspension, or disqualification of a driver license under Subsection 53-3-220(1)(a)(xi); and

(b) specify in court at the time of sentencing the length of the revocation under Subsection 53-3-225(1)(c).

(4) This section does not apply to a person who:

(a) discharges any kind of firearm when that person is in lawful defense of self or others;

(b) is performing official duties as provided in [Sections] Section 23-20-1.5 and Subsections 76-10-523(1)(a) through (e) and as otherwise provided by law; or

(c) discharges a dangerous weapon or firearm from an automobile or other vehicle, if:

(i) the discharge occurs at a firing range or training ground;

(ii) at no time after the discharge does the projectile that is discharged cross over or stop at a location other than within the boundaries of the firing range or training ground described in Subsection (4)(c)(i);

(iii) the discharge is made as practice or training for a lawful purpose;

(iv) the discharge and the location, time, and manner of the discharge are approved by the owner or operator of the firing range or training ground prior to the discharge; and

(v) the discharge is not made in violation of Subsection (1).

Section 3. Section 76-10-508.1 is amended to read:

76-10-508.1. Felony discharge of a firearm -- Penalties.

(1) Except as provided under Subsection (2) or (3), a person who discharges a firearm is guilty of a third degree felony punishable by imprisonment for a term of not less than three years nor more than five years if:

(a) the actor discharges a firearm in the direction of any person or persons, knowing or having reason to believe that any person may be endangered by the discharge of the firearm;

(b) the actor, with intent to intimidate or harass another or with intent to damage a habitable structure as defined in Section 76-6-101, discharges a firearm in the direction of any person or habitable structure; or

(c) the actor, with intent to intimidate or harass another, discharges a firearm in the direction of any vehicle.

(2) A violation of Subsection (1) which causes bodily injury to any person is a second degree felony punishable by imprisonment for a term of not less than three years nor more than 15 years.

(3) A violation of Subsection (1) which causes serious bodily injury to any person is a first degree felony.

(4) In addition to any other penalties for a violation of this section, the court shall:

(a) notify the Driver License Division of the conviction for purposes of any revocation, denial, suspension, or disqualification of a driver license under Subsection 53-3-220(1)(a)(xi); and

(b) specify in court at the time of sentencing the length of the revocation under Subsection 53-3-225(1)(c).

(5) This section does not apply to a person:

(a) who discharges any kind of firearm when that person is in lawful defense of self or others;

(b) who is performing official duties as provided in Section 23-20-1.5 or Subsections 76-10-523(1)(a) through (e) or as otherwise authorized by law; or

(c) who discharges a dangerous weapon or firearm from an automobile or other vehicle, if:

(i) the discharge occurs at a firing range or training ground;

(ii) at no time after the discharge does the projectile that is discharged cross over or stop at a location other than within the boundaries of the firing range or training ground described in Subsection (5)(c)(i);

(iii) the discharge is made as practice or training for a lawful purpose;

(iv) the discharge and the location, time, and manner of the discharge are approved by the owner or operator of the firing range or training ground prior to the discharge; and

(v) the discharge is not made in violation of Subsection (1).

Section 4. Section 76-10-523 is amended to read:

76-10-523. Persons exempt from weapons laws.

(1) [This] Except for Sections 76-10-506, 76-10-508, and 76-10-508.1, this part and Title 53, Chapter 5, Part 7, Concealed [Weapon] Firearm Act, do not apply to any of the following:

(a) a United States marshal;

(b) a federal official required to carry a firearm;

(c) a peace officer of this or any other jurisdiction;

(d) a law enforcement official as defined and qualified under Section 53-5-711;

(e) a judge as defined and qualified under Section 53-5-711; or

(f) a common carrier while engaged in the regular and ordinary transport of firearms as merchandise[; or].

[~~(g) a nonresident traveling in or through the state, provided that any firearm is:~~]

~~[(i) unloaded; and]~~

~~[(ii) securely encased as defined in Section 76-10-501.]~~

(2) The provisions of Subsections 76-10-504(1) and (2), and Section 76-10-505 do not apply to any person to whom a permit to carry a concealed firearm has been issued:

(a) pursuant to Section 53-5-704; or

(b) by another state or county.

(3) Except for Sections 76-10-503, 76-10-506, 76-10-508, and 76-10-508.1, this part and Title 53, Chapter 5, Part 7, Concealed Firearm Act, do not apply to a nonresident traveling in or through the state, provided that any firearm is:

(a) unloaded; and

(b) securely encased as defined in Section 76-10-501.

CHAPTER 249**H. B. 314**

Passed March 7, 2014

Approved March 31, 2014

Effective May 13, 2014

**VEHICLE IMMOBILIZATION
AND IMPOUND AMENDMENTS**Chief Sponsor: R. Curt Webb
Senate Sponsor: Wayne A. Harper**LONG TITLE****General Description:**

This bill modifies provisions relating to vehicle impounds and vehicle immobilization devices.

Highlighted Provisions:

This bill:

- ▶ prohibits a vehicle immobilizer from charging a fee for the immobilization of a vehicle for any period in which the vehicle has been towed and custody of the vehicle has been transferred to a vehicle impound yard;
- ▶ provides that an impound yard may not charge a fee for the storage of an impounded vehicle, vessel, or outboard motor if:
 - the vehicle, vessel, or outboard motor is being held as evidence; and
 - the vehicle, vessel, or outboard motor is not being released to the registered owner, lien holder, or the owner's agent even if the registered owner, lien holder, or the owner's agent satisfies the requirements to release the vehicle, vessel, or outboard motor;
- ▶ provides that certain administrative rules made by the Department of Transportation are subject to the provision prohibiting an impound yard from charging a fee for the storage of an impounded vehicle, vessel, or outboard motor in certain circumstances;
- ▶ provides that a county or municipal legislative governing body may not charge a fee for the storage of an impounded vehicle, vessel, or outboard motor if the county or municipality:
 - is holding the vehicle, vessel, or outboard motor as evidence; and
 - will not release the vehicle, vessel, or outboard motor to the registered owner, lien holder, or the owner's agent even if the registered owner, lien holder, or the owner's agent satisfies the requirements to release the vehicle, vessel, or outboard motor; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-6a-1406, as last amended by Laws of Utah 2013, Chapter 328

41-6a-1409, as last amended by Laws of Utah 2013, Chapter 328

72-9-603, as last amended by Laws of Utah 2013, Chapter 328

72-9-604, as last amended by Laws of Utah 2013, Chapter 328

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

Section 1. Section 41-6a-1406 is amended to read:**41-6a-1406. Removal and impoundment of vehicles -- Reporting and notification requirements -- Administrative impound fee -- Refunds -- Possessory lien -- Rulemaking.**

(1) If a vehicle, vessel, or outboard motor is removed or impounded as provided under Section 41-1a-1101, 41-6a-527, 41-6a-1405, 41-6a-1408, or 73-18-20.1 by an order of a peace officer or by an order of a person acting on behalf of a law enforcement agency or highway authority, the removal or impoundment of the vehicle, vessel, or outboard motor shall be at the expense of the owner.

(2) The vehicle, vessel, or outboard motor under Subsection (1) shall be removed or impounded to:

- (a) a state impound yard; or
- (b) if none, a garage, docking area, or other place of safety.

(3) The peace officer may move a vehicle, vessel, or outboard motor or cause it to be removed by a tow truck motor carrier that meets standards established:

- (a) under Title 72, Chapter 9, Motor Carrier Safety Act; and
- (b) by the department under Subsection (10).

(4) (a) Immediately after the removal of the vehicle, vessel, or outboard motor, a report of the removal shall be sent to the Motor Vehicle Division by:

- (i) the peace officer or agency by whom the peace officer is employed; and
- (ii) the tow truck operator or the tow truck motor carrier by whom the tow truck operator is employed.

(b) The report shall be in a form specified by the Motor Vehicle Division and shall include:

- (i) the operator's name, if known;
- (ii) a description of the vehicle, vessel, or outboard motor;
- (iii) the vehicle identification number or vessel or outboard motor identification number;
- (iv) the license number or other identification number issued by a state agency;
- (v) the date, time, and place of impoundment;
- (vi) the reason for removal or impoundment;
- (vii) the name of the tow truck motor carrier who removed the vehicle, vessel, or outboard motor; and
- (viii) the place where the vehicle, vessel, or outboard motor is stored.

(c) Until the tow truck operator or tow truck motor carrier reports the removal as required under this Subsection (4), a tow truck motor carrier or impound yard may not:

(i) collect any fee associated with the removal; and

(ii) begin charging storage fees.

(5) (a) Except as provided in Subsection (5)(e) and upon receipt of the report, the Motor Vehicle Division shall give notice to the registered owner of the vehicle, vessel, or outboard motor and any lien holder in the manner prescribed by Section 41-1a-114.

(b) The notice shall:

(i) state the date, time, and place of removal, the name, if applicable, of the person operating the vehicle, vessel, or outboard motor at the time of removal, the reason for removal, and the place where the vehicle, vessel, or outboard motor is stored;

(ii) state that the registered owner is responsible for payment of towing, impound, and storage fees charged against the vehicle, vessel, or outboard motor;

(iii) inform the registered owner of the vehicle, vessel, or outboard motor of the conditions that must be satisfied before the vehicle, vessel, or outboard motor is released; and

(iv) inform the registered owner and lienholder of the division's intent to sell the vehicle, vessel, or outboard motor, if within 30 days from the date of the removal or impoundment under this section, the owner, lien holder, or the owner's agent fails to make a claim for release of the vehicle, vessel, or outboard motor.

(c) Except as provided in Subsection (5)(e) and if the vehicle, vessel, or outboard motor is not registered in this state, the Motor Vehicle Division shall make a reasonable effort to notify the registered owner and any lien holder of the removal and the place where the vehicle, vessel, or outboard motor is stored.

(d) The Motor Vehicle Division shall forward a copy of the notice to the place where the vehicle, vessel, or outboard motor is stored.

(e) The Motor Vehicle Division is not required to give notice under this Subsection (5) if a report was received by a tow truck operator or tow truck motor carrier reporting a tow truck service in accordance with Subsection 72-9-603(1)(a)(i).

(6) (a) The vehicle, vessel, or outboard motor shall be released after the registered owner, lien holder, or the owner's agent:

(i) makes a claim for release of the vehicle, vessel, or outboard motor at any office of the State Tax Commission;

(ii) presents identification sufficient to prove ownership of the impounded vehicle, vessel, or outboard motor;

(iii) completes the registration, if needed, and pays the appropriate fees;

(iv) if the impoundment was made under Section 41-6a-527, pays an administrative impound fee of \$350; and

(v) pays all towing and storage fees to the place where the vehicle, vessel, or outboard motor is stored.

(b) (i) Twenty-nine dollars of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be dedicated credits to the Motor Vehicle Division;

(ii) \$97 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be deposited in the Department of Public Safety Restricted Account created in Section 53-3-106;

(iii) \$20 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be deposited in the Traumatic Spinal Cord and Brain Injury Rehabilitation Fund; and

(iv) the remainder of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be deposited in the General Fund.

(c) The administrative impound fee assessed under Subsection (6)(a)(iv) shall be waived or refunded by the State Tax Commission if the registered owner, lien holder, or owner's agent presents written evidence to the State Tax Commission that:

(i) the Driver License Division determined that the arrested person's driver license should not be suspended or revoked under Section 53-3-223 or 41-6a-521 as shown by a letter or other report from the Driver License Division presented within 30 days of the final notification from the Driver License Division; or

(ii) the vehicle was stolen at the time of the impoundment as shown by a copy of the stolen vehicle report presented within 30 days of the impoundment.

(d) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept payment by cash and debit or credit card for a removal or impoundment under Subsection (1) or any service rendered, performed, or supplied in connection with a removal or impoundment under Subsection (1).

(e) The owner of an impounded vehicle may not be charged a fee for the storage of the impounded vehicle, vessel, or outboard motor if:

(i) the vehicle, vessel, or outboard motor is being held as evidence; and

(ii) the vehicle, vessel, or outboard motor is not being released to the registered owner, lien holder, or the owner's agent even if the registered owner, lien holder, or the owner's agent satisfies the requirements to release the vehicle, vessel, or outboard motor under this Subsection (6).

(7) (a) An impounded vehicle, vessel, or outboard motor not claimed by the registered owner or the owner's agent within the time prescribed by Section

41-1a-1103 shall be sold in accordance with that section and the proceeds, if any, shall be disposed of as provided under Section 41-1a-1104.

(b) The date of impoundment is considered the date of seizure for computing the time period provided under Section 41-1a-1103.

(8) The registered owner who pays all fees and charges incurred in the impoundment of the owner's vehicle, vessel, or outboard motor, has a cause of action for all the fees and charges, together with damages, court costs, and attorney fees, against the operator of the vehicle, vessel, or outboard motor whose actions caused the removal or impoundment.

(9) Towing, impound fees, and storage fees are a possessory lien on the vehicle, vessel, or outboard motor.

(10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules setting the performance standards for towing companies to be used by the department.

(11) (a) The Motor Vehicle Division may specify that a report required under Subsection (4) be submitted in electronic form utilizing a database for submission, storage, and retrieval of the information.

(b) (i) Unless otherwise provided by statute, the Motor Vehicle Division or the administrator of the database may adopt a schedule of fees assessed for utilizing the database.

(ii) The fees under this Subsection (11)(b) shall:

(A) be reasonable and fair; and

(B) reflect the cost of administering the database.

Section 2. Section 41-6a-1409 is amended to read:

41-6a-1409. Vehicle immobilization devices -- Definitions -- Notice requirements -- Maximum removal fee.

(1) As used in this section:

(a) "Immobilize" means to affix and lock a vehicle immobilization device to the exterior of a motor vehicle.

(b) "Vehicle immobilization device" means a device that may be affixed and locked to the exterior of a motor vehicle for the purpose of prohibiting the movement or removal of the vehicle from its location.

(c) "Vehicle immobilizer" means a person who or entity that uses or causes to be used a vehicle immobilization device for the purpose of enforcing parking restrictions with prior authorization from the owner or person in lawful possession or control of the real property.

(2) (a) A vehicle immobilizer may not immobilize a vehicle without the motor vehicle owner's knowledge at either of the following locations

without signage that meets the requirements of Subsection (2)(b):

(i) a mobile home park as defined in Section 57-16-3; or

(ii) a multifamily dwelling of more than eight units.

(b) Signage under Subsection (2)(a) shall display:

(i) where parking is subject to being immobilized; and

(ii) one of the following:

(A) the name and phone number of the vehicle immobilizer that immobilizes a vehicle for the locations listed under Subsection (2)(a)(i); or

(B) the name of the mobile home park or multifamily dwelling and the phone number of the mobile home park or multifamily dwelling manager or management office that authorized the vehicle immobilizer to immobilize the motor vehicle.

(c) Signage is not required under Subsection (2)(b) for parking in a location:

(i) that is prohibited by law; or

(ii) if it is reasonably apparent that the location is not open to parking.

(d) Nothing in Subsection (2)(b) restricts the ability of a mobile home park as defined in Section 57-16-3 or a multifamily dwelling from instituting and enforcing regulations on parking.

(3) (a) Upon immobilizing a vehicle, the vehicle immobilizer shall affix a notice to the immobilized vehicle in a conspicuous place so as to be plainly visible to a person seeking to operate the vehicle.

(b) The notice under Subsection (3)(a) shall include:

(i) the name and phone number of the vehicle immobilizer;

(ii) a phone number that the owner of the vehicle may call to arrange for release of the vehicle; and

(iii) applicable fees.

(4) (a) The maximum fee that a vehicle immobilizer may charge to remove a vehicle immobilization device may not exceed:

(i) \$75 for the first 24-hour period a vehicle is immobilized; plus

(ii) \$25 for each additional 24-hour period a vehicle is immobilized.

(b) Notwithstanding Subsection (4)(a), the maximum fee that a vehicle immobilizer may charge to remove a vehicle immobilization device may not exceed \$150 for each instance.

(c) A vehicle immobilizer may not charge a fee for the removal of a vehicle immobilization device or any service rendered, performed, or supplied in connection with the removal of the immobilization device in addition to the fees specified under this Subsection (4).

(d) A vehicle immobilizer may not charge a fee under this Subsection (4) for the immobilization of a vehicle for any period in which the vehicle has been towed and custody of the vehicle has been transferred to a vehicle impound yard.

~~(4)~~ (e) A vehicle immobilizer shall accept payment by cash and debit or credit card for the removal of a vehicle immobilization device or any service rendered, performed, or supplied in connection with the removal of the immobilization device.

(5) A county or municipal legislative or governing body may not enact or enforce any ordinance, regulation, rule, or fee pertaining to a vehicle immobilization device that conflicts with this part.

Section 3. Section 72-9-603 is amended to read:

72-9-603. Towing notice requirements -- Cost responsibilities -- Abandoned vehicle title restrictions -- Rules for maximum rates and certification.

(1) Except for a tow truck service that was ordered by a peace officer, or a person acting on behalf of a law enforcement agency, or a highway authority, after performing a tow truck service that is being done without the vehicle, vessel, or outboard motor owner's knowledge, the tow truck operator or the tow truck motor carrier shall:

(a) immediately upon arriving at the place of storage or impound of the vehicle, vessel, or outboard motor:

(i) send a report of the removal to the Motor Vehicle Division that complies with the requirements of Subsection 41-6a-1406(4)(b); and

(ii) contact the law enforcement agency having jurisdiction over the area where the vehicle, vessel, or outboard motor was picked up and notify the agency of the:

(A) location of the vehicle, vessel, or outboard motor;

(B) date, time, and location from which the vehicle, vessel, or outboard motor was removed;

(C) reasons for the removal of the vehicle, vessel, or outboard motor;

(D) person who requested the removal of the vehicle, vessel, or outboard motor; and

(E) vehicle, vessel, or outboard motor's description, including its identification number and license number or other identification number issued by a state agency;

(b) within two business days of performing the tow truck service under Subsection (1)(a), send a certified letter to the last-known address of the registered owner and lien holder of the vehicle, vessel, or outboard motor obtained from the Motor Vehicle Division or if the person has actual knowledge of the owner's address to the current address, notifying the owner of the:

(i) location of the vehicle, vessel, or outboard motor;

(ii) date, time, location from which the vehicle, vessel, or outboard motor was removed;

(iii) reasons for the removal of the vehicle, vessel, or outboard motor;

(iv) person who requested the removal of the vehicle, vessel, or outboard motor;

(v) a description, including its identification number and license number or other identification number issued by a state agency; and

(vi) costs and procedures to retrieve the vehicle, vessel, or outboard motor; and

(c) upon initial contact with the owner whose vehicle, vessel, or outboard motor was removed, provide the owner with a copy of the Utah Consumer Bill of Rights Regarding Towing established by the department in Subsection (7)(e).

(2) (a) Until the tow truck operator or tow truck motor carrier reports the removal as required under Subsection (1)(a), a tow truck operator, tow truck motor carrier, or impound yard may not:

(i) collect any fee associated with the removal; or

(ii) begin charging storage fees.

(b) (i) Except as provided in Subsection (2)(c), a tow truck operator or tow truck motor carrier may not perform a tow truck service without the vehicle, vessel, or outboard motor owner's or a lien holder's knowledge at either of the following locations without signage that meets the requirements of Subsection (2)(b)(ii):

(A) a mobile home park as defined in Section 57-16-3; or

(B) a multifamily dwelling of more than eight units.

(ii) Signage under Subsection (2)(b)(i) shall display:

(A) where parking is subject to towing; and

(B) (I) the Internet website address that provides access to towing database information in accordance with Section 41-6a-1406; or

(II) one of the following:

(Aa) the name and phone number of the tow truck operator or tow truck motor carrier that performs a tow truck service for the locations listed under Subsection (2)(b)(i); or

(Bb) the name of the mobile home park or multifamily dwelling and the phone number of the mobile home park or multifamily dwelling manager or management office that authorized the vehicle, vessel, or outboard motor to be towed.

(c) Signage is not required under Subsection (2)(b) for parking in a location:

(i) that is prohibited by law; or

(ii) if it is reasonably apparent that the location is not open to parking.

(d) Nothing in Subsection (2)(b) restricts the ability of a mobile home park as defined in Section 57-16-3 or a multifamily dwelling from instituting and enforcing regulations on parking.

(3) The owner of a vehicle, vessel, or outboard motor lawfully removed is only responsible for paying:

(a) the tow truck service and storage fees set in accordance with Subsection (7); and

(b) the administrative impound fee set in Section 41-6a-1406, if applicable.

(4) The fees under Subsection (3) are a possessory lien on the vehicle, non-life essential items that are owned by the owner of the vehicle and securely stored by the tow truck operator, vessel, or outboard motor until paid.

(5) A person may not request a transfer of title to an abandoned vehicle until at least 30 days after notice has been sent under Subsection (1)(b).

(6) (a) A tow truck motor carrier or impound yard shall clearly and conspicuously post and disclose all its current fees, rates, and acceptable forms of payment for tow truck service and storage of a vehicle in accordance with rules established under Subsection (7).

(b) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept payment by cash and debit or credit card for a tow truck service under Subsection (1) or any service rendered, performed, or supplied in connection with a tow truck service under Subsection (1).

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Department of Transportation shall:

(a) subject to the restriction in Subsection (8), set maximum rates that:

(i) a tow truck motor carrier may charge for the tow truck service of a vehicle, vessel, or outboard motor that are transported in response to:

(A) a peace officer dispatch call;

(B) a motor vehicle division call; and

(C) any other call or request where the owner of the vehicle, vessel, or outboard motor has not consented to the removal; and

(ii) an impound yard may charge for the storage of a vehicle, vessel, or outboard motor stored as a result of one of the conditions listed under Subsection (7)(a)(i);

(b) establish authorized towing certification requirements, not in conflict with federal law, related to incident safety, clean-up, and hazardous material handling;

(c) specify the form and content of the posting and disclosure of fees and rates charged and acceptable forms of payment by a tow truck motor carrier or impound yard;

(d) set a maximum rate for an administrative fee that a tow truck motor carrier may charge for reporting the removal as required under Subsection (1)(a)(i) and providing notice of the removal to the registered owner and lienholder of the vehicle, vessel, or outboard motor as required in Subsection (1)(b); and

(e) establish a Utah Consumer Bill of Rights Regarding Towing form that contains specific information regarding:

(i) a vehicle owner's rights and responsibilities if the owner's vehicle is towed;

(ii) identifies the maximum rates that a tow truck motor carrier may charge for the tow truck service of a vehicle, vessel, or outboard motor that is transported in response to a call or request where the owner of the vehicle, vessel, or outboard motor has not consented to the removal; and

(iii) identifies the maximum rates that an impound yard may charge for the storage of vehicle, vessel, or outboard motor that is transported in response to a call or request where the owner of the vehicle, vessel, or outboard motor has not consented to the removal.

~~[(8) By August 31, 2013, the department shall report and make recommendations to the Transportation Interim Committee regarding:]~~

~~[(a) the methods the department uses to set maximum rates of fees established by the department under Subsection (7);]~~

~~[(b) the methods used by other entities to set maximum rates of fees equivalent to the fees established by the department under Subsection (7); and]~~

~~[(c) administering state laws and rules pertaining to towing including the procedures for tow truck motor carrier violations.]~~

(8) An impound yard may not charge a fee for the storage of an impounded vehicle, vessel, or outboard motor if:

(a) the vehicle, vessel, or outboard motor is being held as evidence; and

(b) the vehicle, vessel, or outboard motor is not being released to the registered owner, lien holder, or the owner's agent even if the registered owner, lien holder, or the owner's agent satisfies the requirements to release the vehicle, vessel, or outboard motor under Section 41-6a-1406.

Section 4. Section 72-9-604 is amended to read:

72-9-604. Regulatory powers of local authorities -- Tow trucks.

(1) [A] (a) Except as provided in Subsection (1)(b), a county or municipal legislative or governing body may enact or enforce any ordinance, regulation, or rule pertaining to a tow truck or tow truck motor carrier that does not conflict with this part.

(b) A county or municipal legislative governing body may not charge a fee for the storage of an

impounded vehicle, vessel, or outboard motor if the county or municipality:

(i) is holding the vehicle, vessel, or outboard motor as evidence; and

(ii) will not release the vehicle, vessel, or outboard motor to the registered owner, lien holder, or the owner's agent even if the registered owner, lien holder, or the owner's agent satisfies the requirements to release the vehicle, vessel, or outboard motor under Section 41-6a-1406.

(2) A tow truck motor carrier that has a county or municipal business license for a place of business located within that county or municipality may not be required to obtain another business license in order to perform a tow truck service in another county or municipality if there is not a business location in the other county or municipality.

(3) A county or municipal legislative body may require an annual tow truck safety inspection in addition to the inspections required under Sections 53-8-205 and 72-9-602 if:

(a) no fee is charged for the inspection; and

(b) the inspection complies with federal motor carrier safety regulations.

(4) A tow truck shall be subject to only one annual safety inspection under Subsection (3). A county or municipality that requires the additional annual safety inspection shall accept the same inspection performed by another county or municipality.

CHAPTER 250**H. B. 321**

Passed February 27, 2014

Approved March 31, 2014

Effective May 13, 2014

**REFUGEE SERVICES
COORDINATION AMENDMENTS**

Chief Sponsor: Ronda Rudd Menlove

Senate Sponsor: Patricia W. Jones

LONG TITLE**General Description:**

This bill modifies Title 35A, Chapter 3, Part 1, Basic Services and Support, related to the provision of refugee services.

Highlighted Provisions:

This bill:

- ▶ provides that the Department of Workforce Services may make rules to provide for the administration of refugee services beyond the time period funded by the federal government, including the provision of:
 - services to address emergency needs;
 - English language training; and
 - services for victims of domestic violence;
- ▶ provides that the director of the Employment Development Division administer and coordinate the refugee services:
 - with input from entities involved with the provision of refugee services within the Department of Workforce Services; and
 - in accordance with any state and federal requirements related to the provision of services to refugees.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

35A-3-117, Utah Code Annotated 1953

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

Section 1. Section 35A-3-117 is enacted to read:**35A-3-117. Continuation of refugee services.**

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules to provide for the administration and coordination of services to refugees beyond the time period refugee assistance is provided or funded by the federal government, including the provision of:

- (a) services to address emergency needs;
- (b) English language training; and
- (c) services for victims of domestic violence.

(2) The director shall administer and coordinate services under this section:

(a) with input from the department and any office or advisory committee involved with the provision of refugee services within the department; and

(b) in accordance with any state and federal requirements related to the provision of services to refugees.

CHAPTER 251**H. B. 322**

Passed March 12, 2014
 Approved March 31, 2014
 Effective May 13, 2014

**PROTECTION OF ACTIVITIES
 IN PRIVATE VEHICLES**

Chief Sponsor: Curtis Oda
 Senate Sponsor: Mark B. Madsen

LONG TITLE**General Description:**

This bill amends Title 34, Chapter 45, Protection of Activities in Private Vehicles.

Highlighted Provisions:

This bill:

- ▶ provides that alternative parking for an individual who desires to transport, possess, receive, transfer, or store a firearm in the individual's motor vehicle may not be located on a public right-of-way; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

34-45-103, as enacted by Laws of Utah 2009, Chapter 379

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

Section 1. Section 34-45-103 is amended to read:

34-45-103. Protection of certain activities -- Firearms -- Free exercise of religion.

(1) Except as provided in Subsection (2), a person may not establish, maintain, or enforce any policy or rule that has the effect of:

(a) prohibiting any individual from transporting or storing a firearm in a motor vehicle on any property designated for motor vehicle parking, if:

(i) the individual is legally permitted to transport, possess, purchase, receive, transfer, or store the firearm;

(ii) the firearm is locked securely in the motor vehicle or in a locked container attached to the motor vehicle while the motor vehicle is not occupied; and

(iii) the firearm is not in plain view from the outside of the motor vehicle; or

(b) prohibiting any individual from possessing any item in or on a motor vehicle on any property designated for motor vehicle parking, if the effect of the policy or rule constitutes a substantial burden on that individual's free exercise of religion.

(2) A person may establish, maintain, or enforce a policy or rule that has the effect of placing

limitations on or prohibiting an individual from transporting or storing a firearm in a motor vehicle on property the person has designated for motor vehicle parking if:

(a) the person provides, or there is otherwise available, one of the following, in a location reasonably proximate to the property the person has designated for motor vehicle parking:

(i) alternative parking for ~~[individuals who desire]~~ an individual who desires to transport, possess, receive, transfer, or store a firearm in the individual's motor vehicle [at] that:

(A) imposes no additional cost [to] on the individual; [or] and

(B) is in a location that is legal and safe for parking; or

(ii) a secured and monitored storage location where the individual may securely store a firearm before proceeding with the vehicle into the secured parking area; or

(b) the person complies with Subsection 34-45-107(5).

CHAPTER 252**H. B. 331**

Passed March 7, 2014

Approved March 31, 2014

Effective May 13, 2014

IDENTIFICATION CARD AMENDMENTS

Chief Sponsor: Daniel McCay
Senate Sponsor: John L. Valentine

LONG TITLE**General Description:**

This bill modifies the Uniform Driver License Act by amending provisions relating to identification cards.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ establishes fees for the extension of an identification card;
- ▶ provides that a regular identification card issued to a person who holds an unexpired Utah license certificate may not be extended unless:
 - the Utah license certificate is canceled; and
 - if the Utah license certificate is in the person's possession, the Utah license certificate is surrendered to the division;
- ▶ authorizes the Driver License Division to extend a valid regular identification card for five years:
 - at any time within six months before the identification card expires; and
 - if the identification card was issued after January 1, 2010;
- ▶ requires an application for an extension of a regular identification card to be accompanied by a fee;
- ▶ authorizes the Driver License Division to extend a regular identification card by mail, electronic means, or other means as determined by the Driver License Division;
- ▶ provides that a regular identification card may only be extended once; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2014:

- ▶ to the Department of Public Safety - Driver License, as a one-time appropriation:
 - from the Department of Public Safety Restricted Account, \$20,000.

This bill appropriates in fiscal year 2015:

- ▶ to the Department of Public Safety - Driver License, as an ongoing appropriation:
 - from the Department of Public Safety Restricted Account, \$22,800.

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 53-3-102, as last amended by Laws of Utah 2012, Chapter 144
- 53-3-105, as last amended by Laws of Utah 2011, Chapter 428
- 53-3-106, as last amended by Laws of Utah 2012, Chapter 356

- 53-3-803, as last amended by Laws of Utah 2012, Chapter 335
- 53-3-804, as last amended by Laws of Utah 2013, Chapter 214
- 53-3-805, as last amended by Laws of Utah 2013, Chapters 214 and 300
- 53-3-807, as last amended by Laws of Utah 2012, Chapters 145 and 335

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

Section 1. Section 53-3-102 is amended to read:**53-3-102. Definitions.**

As used in this chapter:

(1) "Cancellation" means the termination by the division of a license issued through error or fraud or for which consent under Section 53-3-211 has been withdrawn.

(2) "Class D license" means the class of license issued to drive motor vehicles not defined as commercial motor vehicles or motorcycles under this chapter.

(3) "Commercial driver license" or "CDL" means a license:

(a) issued substantially in accordance with the requirements of Title XII, Pub. L. 99-570, the Commercial Motor Vehicle Safety Act of 1986, and in accordance with Part 4, Uniform Commercial Driver License Act, which authorizes the holder to drive a class of commercial motor vehicle; and

(b) that was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-410(1)(i).

(4) (a) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles designed or used to transport passengers or property if the motor vehicle:

(i) has a gross vehicle weight rating of 26,001 or more pounds or a lesser rating as determined by federal regulation;

(ii) is designed to transport 16 or more passengers, including the driver; or

(iii) is transporting hazardous materials and is required to be placarded in accordance with 49 C.F.R. Part 172, Subpart F.

(b) The following vehicles are not considered a commercial motor vehicle for purposes of Part 4, Uniform Commercial Driver License Act:

(i) equipment owned and operated by the United States Department of Defense when driven by any active duty military personnel and members of the reserves and national guard on active duty including personnel on full-time national guard duty, personnel on part-time training, and national guard military technicians and civilians who are required to wear military uniforms and are subject to the code of military justice;

(ii) vehicles controlled and driven by a farmer to transport agricultural products, farm machinery,

or farm supplies to or from a farm within 150 miles of his farm but not in operation as a motor carrier for hire;

(iii) firefighting and emergency vehicles; and

(iv) recreational vehicles that are not used in commerce and are driven solely as family or personal conveyances for recreational purposes.

(5) "Conviction" means any of the following:

(a) an unvacated adjudication of guilt or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an administrative proceeding;

(b) an unvacated forfeiture of bail or collateral deposited to secure a person's appearance in court;

(c) a plea of guilty or nolo contendere accepted by the court;

(d) the payment of a fine or court costs; or

(e) violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended, or probated.

(6) "Denial" or "denied" means the withdrawal of a driving privilege by the division to which the provisions of Title 41, Chapter 12a, Part 4, Proof of Owner's or Operator's Security, do not apply.

(7) "Director" means the division director appointed under Section 53-3-103.

(8) "Disqualification" means either:

(a) the suspension, revocation, cancellation, denial, or any other withdrawal by a state of a person's privileges to drive a commercial motor vehicle;

(b) a determination by the Federal Highway Administration, under 49 C.F.R. Part 386, that a person is no longer qualified to drive a commercial motor vehicle under 49 C.F.R. Part 391; or

(c) the loss of qualification that automatically follows conviction of an offense listed in 49 C.F.R. Part 383.51.

(9) "Division" means the Driver License Division of the department created in Section 53-3-103.

(10) "Downgrade" means to obtain a lower license class than what was originally issued during an existing license cycle.

(11) "Drive" means:

(a) to operate or be in physical control of a motor vehicle upon a highway; and

(b) in Subsections 53-3-414(1) through (3), Subsection 53-3-414(5), and Sections 53-3-417 and 53-3-418, the operation or physical control of a motor vehicle at any place within the state.

(12) (a) "Driver" means any person who drives, or is in actual physical control of a motor vehicle in any location open to the general public for purposes of vehicular traffic.

(b) In Part 4, Uniform Commercial Driver License Act, "driver" includes any person who is required to hold a CDL under Part 4 or federal law.

(13) "Driving privilege card" means the evidence of the privilege granted and issued under this chapter to drive a motor vehicle to a person whose privilege was obtained without providing evidence of lawful presence in the United States.

(14) "Extension" means a renewal completed in a manner specified by the division.

(15) "Farm tractor" means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

(16) "Highway" means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public, as a matter of right, for traffic.

(17) "Identification card" means ~~an identification~~ a card issued under ~~[this chapter]~~ Part 8, Identification Card Act, to a person ~~[whose card was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-804(2)(i)(i)]~~ for identification purposes.

(18) "Indigent" means that a person's income falls below the federal poverty guideline issued annually by the U.S. Department of Health and Human Services in the Federal Register.

(19) "License" means the privilege to drive a motor vehicle.

(20) (a) "License certificate" means the evidence of the privilege issued under this chapter to drive a motor vehicle.

(b) "License certificate" evidence includes a:

(i) regular license certificate;

(ii) limited-term license certificate;

(iii) driving privilege card;

(iv) CDL license certificate;

(v) limited-term CDL license certificate;

(vi) temporary regular license certificate; and

(vii) temporary limited-term license certificate.

(21) "Limited-term commercial driver license" or "limited-term CDL" means a license:

(a) issued substantially in accordance with the requirements of Title XII, Pub. L. 99-570, the Commercial Motor Vehicle Safety Act of 1986, and in accordance with Part 4, Uniform Commercial Driver License Act, which authorizes the holder to drive a class of commercial motor vehicle; and

(b) that was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-410(1)(i)(ii).

(22) "Limited-term identification card" means an identification card issued under this chapter to a

person whose card was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-804(2)(i)(ii).

(23) "Limited-term license certificate" means the evidence of the privilege granted and issued under this chapter to drive a motor vehicle to a person whose privilege was obtained providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-205(8)(a)(ii)(B).

(24) "Motorboat" has the same meaning as provided under Section 73-18-2.

(25) "Motorcycle" means every motor vehicle, other than a tractor, having a seat or saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground.

(26) "Office of Recovery Services" means the Office of Recovery Services, created in Section 62A-11-102.

(27) (a) "Owner" means a person other than a lien holder having an interest in the property or title to a vehicle.

(b) "Owner" includes a person entitled to the use and possession of a vehicle subject to a security interest in another person but excludes a lessee under a lease not intended as security.

(28) "Regular identification card" means an identification card issued under this chapter to a person whose card was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-804(2)(i)(i).

[(28)] (29) "Regular license certificate" means the evidence of the privilege issued under this chapter to drive a motor vehicle whose privilege was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-205(8)(a)(ii)(A).

[(29)] (30) "Renewal" means to validate a license certificate so that it expires at a later date.

[(30)] (31) "Reportable violation" means an offense required to be reported to the division as determined by the division and includes those offenses against which points are assessed under Section 53-3-221.

[(31)] (32) (a) "Resident" means an individual who:

(i) has established a domicile in this state, as defined in Section 41-1a-202, or regardless of domicile, remains in this state for an aggregate period of six months or more during any calendar year;

(ii) engages in a trade, profession, or occupation in this state, or who accepts employment in other than seasonal work in this state, and who does not commute into the state;

(iii) declares himself to be a resident of this state by obtaining a valid Utah driver license certificate or motor vehicle registration; or

(iv) declares himself a resident of this state to obtain privileges not ordinarily extended to nonresidents, including going to school, or placing children in school without paying nonresident tuition or fees.

(b) "Resident" does not include any of the following:

(i) a member of the military, temporarily stationed in this state;

(ii) an out-of-state student, as classified by an institution of higher education, regardless of whether the student engages in any type of employment in this state;

(iii) a person domiciled in another state or country, who is temporarily assigned in this state, assigned by or representing an employer, religious or private organization, or a governmental entity; or

(iv) an immediate family member who resides with or a household member of a person listed in Subsections [(31)] (32)(b)(i) through (iii).

[(32)] (33) "Revocation" means the termination by action of the division of a licensee's privilege to drive a motor vehicle.

[(33)] (34) (a) "School bus" means a commercial motor vehicle used to transport pre-primary, primary, or secondary school students to and from home and school, or to and from school sponsored events.

(b) "School bus" does not include a bus used as a common carrier as defined in Section 59-12-102.

[(34)] (35) "Suspension" means the temporary withdrawal by action of the division of a licensee's privilege to drive a motor vehicle.

[(35)] (36) "Taxicab" means any class D motor vehicle transporting any number of passengers for hire and that is subject to state or federal regulation as a taxi.

Section 2. Section 53-3-105 is amended to read:

53-3-105. Fees for licenses, renewals, extensions, reinstatements, rescheduling, and identification cards.

The following fees apply under this chapter:

(1) An original class D license application under Section 53-3-205 is \$25.

(2) An original provisional license application for a class D license under Section 53-3-205 is \$30.

(3) An original application for a motorcycle endorsement under Section 53-3-205 is \$9.50.

(4) An original application for a taxicab endorsement under Section 53-3-205 is \$7.

(5) A learner permit application under Section 53-3-210.5 is \$15.

(6) A renewal of a class D license under Section 53-3-214 is \$25 unless Subsection (10) applies.

(7) A renewal of a provisional license application for a class D license under Section 53-3-214 is \$25.

(8) A renewal of a motorcycle endorsement under Section 53-3-214 is \$9.50.

(9) A renewal of a taxicab endorsement under Section 53-3-214 is \$7.

(10) A renewal of a class D license for a person 65 and older under Section 53-3-214 is \$13.

(11) An extension of a class D license under Section 53-3-214 is \$20 unless Subsection (15) applies.

(12) An extension of a provisional license application for a class D license under Section 53-3-214 is \$20.

(13) An extension of a motorcycle endorsement under Section 53-3-214 is \$9.50.

(14) An extension of a taxicab endorsement under Section 53-3-214 is \$7.

(15) An extension of a class D license for a person 65 and older under Section 53-3-214 is \$11.

(16) An original or renewal application for a commercial class A, B, or C license or an original or renewal of a provisional commercial class A or B license under Part 4, Uniform Commercial Driver License Act, is:

- (a) \$40 for the knowledge test; and
- (b) \$60 for the skills test.

(17) Each original CDL endorsement for passengers, hazardous material, double or triple trailers, or tankers is \$7.

(18) An original CDL endorsement for a school bus under Part 4, Uniform Commercial Driver License Act, is \$7.

(19) A renewal of a CDL endorsement under Part 4, Uniform Commercial Driver License Act, is \$7.

(20) (a) A retake of a CDL knowledge test provided for in Section 53-3-205 is \$20.

(b) A retake of a CDL skills test provided for in Section 53-3-205 is \$40.

(21) A retake of a CDL endorsement test provided for in Section 53-3-205 is \$7.

(22) A duplicate class A, B, C, or D license certificate under Section 53-3-215 is \$18.

(23) (a) A license reinstatement application under Section 53-3-205 is \$30.

(b) A license reinstatement application under Section 53-3-205 for an alcohol, drug, or combination of alcohol and any drug-related offense is \$35 in addition to the fee under Subsection (23)(a).

(24) (a) An administrative fee for license reinstatement after an alcohol, drug, or combination of alcohol and any drug-related offense under Section 41-6a-520, 53-3-223, or 53-3-231 or an alcohol, drug, or combination of alcohol and any drug-related offense under Part 4, Uniform Commercial Driver License Act, is \$170.

(b) This administrative fee is in addition to the fees under Subsection (23).

(25) (a) An administrative fee for providing the driving record of a driver under Section 53-3-104 or 53-3-420 is \$6.

(b) The division may not charge for a report furnished under Section 53-3-104 to a municipal, county, state, or federal agency.

(26) A rescheduling fee under Section 53-3-205 or 53-3-407 is \$25.

(27) (a) Except as provided under Subsections (27)(b) and (c), an identification card application under Section 53-3-808 is \$18.

(b) An identification card application under Section 53-3-808 for a person with a disability, as defined in 42 U.S.C. Sec. 12102, is \$13.

(c) A fee may not be charged for an identification card application if the person applying:

- (i) has not been issued a Utah driver license;
- (ii) is indigent; and
- (iii) is at least 18 years of age.

(28) An extension of a regular identification card under Subsection 53-3-807(5) for a person with a disability, as defined in 42 U.S.C. Sec. 12102, is \$13.

(29) An extension of a regular identification card under Subsection 53-3-807(6) is \$18.

~~[(28)]~~ (30) In addition to any license application fees collected under this chapter, the division shall impose on individuals submitting fingerprints in accordance with Section 53-3-205.5 the fees that the Bureau of Criminal Identification is authorized to collect for the services the Bureau of Criminal Identification provides under Section 53-3-205.5.

Section 3. Section 53-3-106 is amended to read:

53-3-106. Disposition of revenues under this chapter -- Restricted account created -- Uses as provided by appropriation -- Nonlapsing.

(1) There is created within the Transportation Fund a restricted account known as the "Department of Public Safety Restricted Account."

(2) The account consists of money generated from the following revenue sources:

(a) all money received under this chapter;

(b) administrative fees received according to the fee schedule authorized under this chapter and Section 63J-1-504;

(c) beginning on January 1, 2013, money received in accordance with Section 41-1a-1201; and

(d) any appropriations made to the account by the Legislature.

(3) (a) The account shall earn interest.

(b) All interest earned on account money shall be deposited in the account.

(4) The expenses of the department in carrying out this chapter shall be provided for by legislative appropriation from this account.

(5) The amount in excess of \$45 of the fees collected under Subsection 53-3-105(24) shall be appropriated by the Legislature from this account to the department to implement the provisions of Section 53-1-117, except that of the amount in excess of \$45, \$40 shall be deposited in the State Laboratory Drug Testing Account created in Section 26-1-34.

(6) All money received under Subsection 41-6a-1406(6)(b)(ii) shall be appropriated by the Legislature from this account to the department to implement the provisions of Section 53-1-117.

(7) Beginning in fiscal year 2009-10, the Legislature shall appropriate \$100,000 annually from the account to the state medical examiner appointed under Section 26-4-4 for use in carrying out duties related to highway crash deaths under Subsection 26-4-7(1).

(8) The division shall remit the fees collected under Subsection 53-3-105~~(28)~~(30) to the Bureau of Criminal Identification to cover the costs for the services the Bureau of Criminal Identification provides under Section 53-3-205.5.

(9) (a) Beginning on January 1, 2013, the Legislature shall appropriate all money received in the account under Section 41-1a-1201 to the Utah Highway Patrol Division for field operations.

(b) The Legislature may appropriate additional money from the account to the Utah Highway Patrol Division for law enforcement purposes.

(10) Appropriations to the department from the account are nonlapsing.

Section 4. Section 53-3-803 is amended to read:

53-3-803. Application for identification card -- Age requirements -- Application on behalf of others.

(1) A person at least 16 years of age or older may apply to the division for an identification card.

(2) A person younger than 16 years of age may apply to the division for an identification card with the consent of the applicant's parent or guardian.

(3) (a) If a person is unable to apply for the card due to his youth or incapacitation, the application may be made on behalf of that person by his parent or guardian.

(b) A parent or guardian applying for an identification card on behalf of a child or incapacitated person shall provide:

(i) identification, as required by the commissioner; and

(ii) the consent of the incapacitated person, as required by the commissioner.

(4) Beginning on or after July 1, 2012, a person who holds an unexpired Utah license certificate issued under Part 2, Driver Licensing Act, may not be issued a Utah identification card or an extension of a regular identification card unless:

(a) the Utah license certificate is canceled; and

(b) if the Utah license certificate is in the person's possession, the Utah license certificate is surrendered to the division.

Section 5. Section 53-3-804 is amended to read:

53-3-804. Application for identification card -- Required information -- Release of anatomical gift information -- Cancellation of identification card.

(1) To apply for ~~an~~ a regular identification card or limited-term identification card, the applicant shall:

(a) be a Utah resident;

(b) have a Utah residence address; and

(c) appear in person at any license examining station.

(2) The applicant shall provide the following information to the division:

(a) true and full legal name and Utah residence address;

(b) date of birth as set forth in a certified copy of the applicant's birth certificate, or other satisfactory evidence of birth, which shall be attached to the application;

(c) (i) Social Security number; or

(ii) written proof that the applicant is ineligible to receive a Social Security number;

(d) place of birth;

(e) height and weight;

(f) color of eyes and hair;

(g) signature;

(h) photograph;

(i) evidence of the applicant's lawful presence in the United States by providing documentary evidence:

(i) that a person is:

(A) a United States citizen;

(B) a United States national; or

(C) a legal permanent resident alien; or

(ii) of the applicant's:

(A) unexpired immigrant or nonimmigrant visa status for admission into the United States;

(B) pending or approved application for asylum in the United States;

(C) admission into the United States as a refugee;

(D) pending or approved application for temporary protected status in the United States;

(E) approved deferred action status;

(F) pending application for adjustment of status to legal permanent resident or conditional resident; or

(G) conditional permanent resident alien status;

(j) an indication whether the applicant intends to make an anatomical gift under Title 26, Chapter 28, Revised Uniform Anatomical Gift Act;

(k) an indication whether the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry; and

(l) an indication whether the applicant is a veteran of the United States military, verification that the applicant has been honorably discharged from the United States military, and an indication whether the applicant does or does not authorize sharing the information with the state Department of Veterans' and Military Affairs.

(3) The requirements of Section 53-3-234 apply to this section for each person, age 16 and older, applying for an identification card. Refusal to consent to the release of information shall result in the denial of the identification card.

(4) A person who knowingly fails to provide the information required under Subsection (2)(k) is guilty of a class A misdemeanor.

(5) (a) Until December 1, 2014, a person born on or after December 1, 1964, may hold both an unexpired Utah license certificate and an unexpired Utah identification card.

(b) On or after December 1, 2014, a person born on or after December 1, 1964:

(i) may not hold both an unexpired Utah license certificate and an unexpired identification card; and

(ii) if the person has both an unexpired Utah license certificate and an unexpired Utah identification card in the person's possession, shall be required to surrender either the unexpired Utah license certificate or the unexpired Utah identification card.

(c) If a person has not surrendered either the Utah license certificate or the Utah identification card as required under this Subsection (5), the division shall cancel the Utah identification card on December 1, 2014.

(6) (a) Until December 1, 2017, a person born prior to December 1, 1964, may hold both an unexpired Utah license certificate and an unexpired Utah identification card.

(b) On or after December 1, 2017, a person born prior to December 1, 1964:

(i) may not hold both an unexpired Utah license certificate and an unexpired identification card; and

(ii) if the person has both an unexpired Utah license certificate and an unexpired Utah identification card in the person's possession, shall be required to surrender either the unexpired Utah license certificate or the unexpired Utah identification card.

(c) If a person has not surrendered either the Utah license certificate or the Utah identification card as required under this Subsection (6), the division shall cancel the Utah identification card on December 1, 2017.

Section 6. Section 53-3-805 is amended to read:

53-3-805. Identification card -- Contents -- Specifications.

(1) (a) The division shall issue an identification card that bears:

(i) the distinguishing number assigned to the person by the division;

(ii) the name, birth date, and Utah residence address of the person;

(iii) a brief description of the person for the purpose of identification;

(iv) a photograph of the person;

(v) a photograph or other facsimile of the person's signature;

(vi) an indication whether the person intends to make an anatomical gift under Title 26, Chapter 28, Revised Uniform Anatomical Gift Act; and

(vii) if the person states that the person is a veteran of the United States military on the application for an identification card in accordance with Section 53-3-804 and provides verification that the person was honorably discharged from the United States military, an indication that the person is a United States military veteran for a regular identification card or a limited-term identification card issued on or after July 1, 2011.

(b) An identification card issued by the division may not bear the person's Social Security number or place of birth.

(2) (a) The card shall be of an impervious material, resistant to wear, damage, and alteration.

(b) Except as provided under Section 53-3-806, the size, form, and color of the card is prescribed by the commissioner.

(3) At the applicant's request, the card may include a statement that the applicant has a special medical problem or allergies to certain drugs, for the purpose of medical treatment.

(4) (a) The indication of intent under Subsection 53-3-804(2)(j) shall be authenticated by the applicant in accordance with division rule.

(b) (i) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may, upon request, release to an organ procurement organization, as defined in Section 26-28-102, the names and addresses of all persons who under Subsection 53-3-804(2)(j) indicate that they intend to make an anatomical gift.

(ii) An organ procurement organization may use released information only to:

(A) obtain additional information for an anatomical gift registry; and

(B) inform applicants of anatomical gift options, procedures, and benefits.

(5) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may release to the Department of Veterans' and Military Affairs the names and addresses of all persons who indicate their status as a veteran under Subsection 53-3-804(2)(l).

(6) The division and its employees are not liable, as a result of false or inaccurate information provided under Subsection 53-3-804(2)(j) or (l), for direct or indirect:

- (a) loss;
- (b) detriment; or
- (c) injury.

(7) (a) The division may issue a temporary regular identification card to a person while the person obtains the required documentation to establish verification of the information described in Subsections 53-3-804(2)(a), (b), (c), (d), and (i)(i).

(b) A temporary regular identification card issued under this Subsection (7) shall be recognized and grant the person the same privileges as a regular identification card.

(c) A temporary regular identification card issued under this Subsection (7) is invalid:

- (i) when the person's regular identification card has been issued;
- (ii) when, for good cause, an applicant's application for ~~an~~ a regular identification card has been refused; or
- (iii) upon expiration of the temporary regular identification card.

Section 7. Section 53-3-807 is amended to read:

53-3-807. Expiration -- Address and name change -- Extension.

(1) (a) ~~An~~ A regular identification card issued on or after July 1, 2006, expires on the birth date of the applicant in the fifth year following the issuance of the regular identification card.

(b) A limited-term identification card expires on:

(i) the expiration date of the period of time of the individual's authorized stay in the United States or on the birth date of the applicant in the fifth year

following the issuance of the limited-term identification card, whichever is sooner; or

(ii) on the date of issuance in the first year following the year that the limited-term identification card was issued if there is no definite end to the individual's period of authorized stay.

(2) If a person has applied for and received an identification card and subsequently moves from the address shown on the application or on the card, the person shall within 10 days notify the division in a manner specified by the division of the person's new address.

(3) If a person has applied for and received an identification card and subsequently changes the person's name under Title 42, Chapter 1, Change of Name, the person:

- (a) shall surrender the card to the division; and
- (b) may apply for a new card in the person's new name by:

(i) furnishing proper documentation to the division as provided in Section 53-3-804; and

(ii) paying the fee required under Section 53-3-105.

(4) (a) Except as provided in Subsection (4)(c), if a person has applied for and received an identification card and is currently required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry:

(i) the person's identification card expires annually on the next birth date of the cardholder, on and after July 1, 2006;

(ii) the person shall surrender the person's identification card to the division on or before the cardholder's next birth date beginning on July 1, 2006; and

(iii) the person may apply for an identification card with an expiration date identified in Subsection (8) by:

(A) furnishing proper documentation to the division as provided in Section 53-3-804; and

(B) paying the fee for an identification card required under Section 53-3-105.

(b) Except as provided in Subsection (4)(c), if a person has applied for and received an identification card and is subsequently convicted of any offense listed in Subsection 77-41-102(16), the person shall surrender the card to the division on the person's next birth date following the conviction and may apply for a new card with an expiration date identified in Subsection (8) by:

(i) furnishing proper documentation to the division as provided in Section 53-3-804; and

(ii) paying the fee required under Section 53-3-105.

(c) A person who is unable to comply with the provisions of Subsection (4)(a) or (4)(b) because the person is in the custody of the Department of Corrections or Division of Juvenile Justice Services,

confined in a correctional facility not operated by or under contract with the Department of Corrections, or committed to a state mental facility, shall comply with the provisions of Subsection (4)(a) or (b) within 10 days of being released from confinement.

(5) A person older than 21 years of age with a disability, as defined under the Americans with Disabilities Act of 1990, Pub. L. 101-336, may extend the expiration date on an identification card for five years if the person with a disability or an agent of the person with a disability:

(a) requests that the division send the application form to obtain the extension or requests an application form in person at the division's offices;

(b) completes the application;

(c) certifies that the extension is for a person 21 years of age or older with a disability; and

(d) returns the application to the division together with the identification card fee required under Section 53-3-105.

(6) The division may extend a valid regular identification card for five years:

(a) (i) at any time within six months before the identification card expires; and

(ii) if the identification card was issued after January 1, 2010.

(b) The application for an extension of a regular identification card shall be accompanied by a fee under Section 53-3-105.

(c) The division shall allow extensions:

(i) by mail, electronic means, or other means as determined by the division at the appropriate extension fee rate under Section 53-3-105; and

(ii) only if the applicant qualifies under this section.

~~[(6)]~~ (7) (a) (i) ~~[An]~~ Except as prohibited under Subsection (7)(b), a regular identification card may only be extended once, except as prohibited under Subsection (6)(b) under Subsections (5) and (6).

(ii) After an extension an application for an identification card must be applied for in person at the division's offices.

(b) An identification card issued to a person required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry, may not be extended.

~~[(7)]~~ (8) An identification card issued prior to July 1, 2006 to a person 65 years of age or older expires on December 1, 2017.

~~[(8)]~~ (9) Notwithstanding the provisions of this section, an identification card expires on the birth date of the applicant in the first year following the year that the identification card was issued if the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

~~[(9)]~~ (10) A person who knowingly fails to surrender an identification card under Subsection (4) is guilty of a class A misdemeanor.

Section 8. Appropriation.

(1) Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2013, and ending June 30, 2014, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2014.

To Department of Public Safety - Driver License

<u>From Department of Public Safety</u>	
<u>Restricted Account, One-time</u>	<u>\$20,000</u>

Schedule of Programs:

<u>Driver Records</u>	<u>\$20,000</u>
-----------------------	-----------------

(2) Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2014, and ending June 30, 2015, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2015.

To Department of Public Safety - Driver License

<u>From Department of Public Safety</u>	
<u>Restricted Account</u>	<u>\$22,800</u>

Schedule of Programs:

<u>Driver Records</u>	<u>\$22,800</u>
-----------------------	-----------------

CHAPTER 253**H. B. 381**

Passed March 13, 2014
Approved March 31, 2014
Effective May 13, 2014

**LOCAL GOVERNMENT
INTERFUND LOANS**

Chief Sponsor: John Knotwell
Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill amends provisions allowing local governments to authorize interfund loans.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the terms and conditions of an interfund loan to be in writing;
- ▶ requires an interfund loan to be approved by ordinance or resolution in a public meeting;
- ▶ places restrictions on the interest rate;
- ▶ places restrictions on the length of the loan;
- ▶ requires notice and a public hearing with an exception to the requirements;
- ▶ provides an exemption from the requirements under certain circumstances; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill coordinates with S.B. 18, Local Government General Fund Amendments, by providing technical amendments.

Utah Code Sections Affected:**AMENDS:**

- 10-5-120, as enacted by Laws of Utah 1983, Chapter 34
10-6-106, as last amended by Laws of Utah 2003, Chapter 292
10-6-132, as enacted by Laws of Utah 1979, Chapter 26
17-36-3, as last amended by Laws of Utah 2012, Chapter 17
17-36-30, as enacted by Laws of Utah 1975, Chapter 22
17B-1-601, as renumbered and amended by Laws of Utah 2007, Chapter 329
17B-1-626, as renumbered and amended by Laws of Utah 2007, Chapter 329

ENACTS:

10-5-102.5, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

- 10-5-102.5, Utah Code Annotated 1953
10-6-106, as last amended by Laws of Utah 2003, Chapter 292
17-36-3, as last amended by Laws of Utah 2012, Chapter 17

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

Section 1. Section 10-5-102.5 is enacted to read:**10-5-102.5. Definitions.**

As used in this chapter:

(1) "Fund" is as defined by the Governmental Accounting Standards Board as reflected in the Uniform Accounting Manual for All Local Governments prepared by the Office of the Utah State Auditor.

(2) "General fund" is as defined by the Governmental Accounting Standards Board as reflected in the Uniform Accounting Manual for All Local Governments prepared by the Office of the Utah State Auditor.

(3) "Interfund loan" means a loan of cash from one fund to another, subject to future repayment.

(4) "Town general fund" means the general fund used by a town.

Section 2. Section 10-5-120 is amended to read:**10-5-120. Loans between funds -- Bonds purchased by funds.**

(1) Subject to this section, restrictions imposed by bond ordinance, ~~[statute]~~ or other controlling regulations, the town council may ~~[(4)]~~:

(a) ~~subject to the restrictions in Section 53-2a-605, authorize an interfund [loans] loan from one fund to another [at such interest rates and upon such repayment terms and conditions as it may prescribe,]; and [(2)]~~

(b) with available cash in any fund, purchase or otherwise acquire for investment an unmaturred [bonds] bond of the town or of any fund of the town.

(2) An interfund loan under Subsection (1)(a) shall be in writing and specify the terms and conditions of the loan, including the:

(a) effective date of the loan;

(b) name of the fund loaning the money;

(c) name of the fund receiving the money;

(d) amount of the loan;

(e) subject to Subsection (3), term of and repayment schedule for the loan;

(f) subject to Subsection (4), interest rate of the loan;

(g) method of calculating interest applicable to the loan;

(h) procedures for:

(i) applying interest to the loan; and

(ii) paying interest on the loan; and

(i) other terms and conditions the town council determines applicable.

(3) The term and repayment schedule specified under Subsection (2)(e) may not exceed 10 years.

(4) (a) In determining the interest rate of the loan specified under Subsection (2)(f), the town council shall apply an interest rate that reflects the rate of potential gain had the funds been deposited or invested in a comparable investment.

(b) Notwithstanding Subsection (4)(a), the interest rate of the loan specified under Subsection (2)(f):

(i) if the term of the loan under Subsection (2)(e) is one year or less, may not be less than the rate offered by the Public Treasurers' Investment Fund that was created for public funds transferred to the state treasurer in accordance with Section 51-7-5; or

(ii) if the term of the loan under Subsection (2)(e) is more than one year, may not be less than the greater of the rate offered by:

(A) the Public Treasurers' Investment Fund that was created for public funds transferred to the state treasurer in accordance with Section 51-7-5; or

(B) a United States Treasury note of a comparable term.

(5) (a) For an interfund loan under Subsection (1)(a), the town council shall:

(i) hold a public hearing;

(ii) prepare a written notice of the date, time, place, and purpose of the hearing, and the proposed terms and conditions of the interfund loan under Subsection (2);

(iii) provide notice of the public hearing in the same manner as required under Subsection 10-5-108(2) as if the hearing were a budget hearing; and

(iv) authorize the interfund loan by ordinance or resolution in a public meeting.

(b) The notice and hearing requirements in Subsection (5)(a) are satisfied if the interfund loan is included in an original budget or in a subsequent budget amendment previously approved by the town council for the current fiscal year.

(6) Subsections (2) through (5) do not apply to an interfund loan if the interfund loan is:

(a) a loan from the town general fund to any other fund of the town; or

(b) a short-term advance from the town's cash and investment pool to individual funds that are repaid by the end of the fiscal year.

Section 3. Section 10-6-106 is amended to read:

10-6-106. Definitions.

As used in this chapter:

(1) "Account group" is defined by generally accepted accounting principles as reflected in the Uniform Accounting Manual for Utah Cities.

(2) "Appropriation" means an allocation of money by the governing body for a specific purpose.

(3) (a) "Budget" means a plan of financial operations for a fiscal period which embodies estimates of proposed expenditures for given purposes and the proposed means of financing them.

(b) "Budget" may refer to the budget of a particular fund for which a budget is required by law or it may refer collectively to the budgets for all such funds.

(4) "Budgetary fund" means a fund for which a budget is required.

(5) "Budget officer" means the city auditor in a city of the first and second class, the mayor or some person appointed by the mayor with the approval of the city council in a city of the third, fourth, or fifth class, the mayor in the council-mayor optional form of government, or the person designated by the charter in a charter city.

(6) "Budget period" means the fiscal period for which a budget is prepared.

(7) "Check" means an order in a specific amount drawn upon a depository by an authorized officer of a city.

(8) "City general fund" means the general fund used by a city.

~~(8)~~ (9) "Current period" means the fiscal period in which a budget is prepared and adopted, i.e., the fiscal period next preceding the budget period.

~~(9)~~ (10) "Department" means any functional unit within a fund that carries on a specific activity, such as a fire or police department within a General Fund.

~~(10)~~ (11) "Encumbrance system" means a method of budgetary control in which part of an appropriation is reserved to cover a specific expenditure by charging obligations, such as purchase orders, contracts, or salary commitments to an appropriation account at their time of origin. Such obligations cease to be encumbrances when paid or when the actual liability is entered on the city's books of account.

~~(11)~~ (12) "Estimated revenue" means the amount of revenue estimated to be received from all sources during the budget period in each fund for which a budget is being prepared.

~~(12)~~ (13) "Financial officer" means the mayor in the council-mayor optional form of government or the city official as authorized by Section 10-6-158.

~~(13)~~ (14) "Fiscal period" means the annual or biennial period for accounting for fiscal operations in each city.

~~(14)~~ (15) "Fund" is as defined by generally accepted accounting principles as reflected in the Uniform Accounting Manual for Utah Cities.

~~(15)~~ (16) "Fund balance," "retained earnings," and "deficit" have the meanings commonly accorded such terms under generally accepted accounting principles as reflected in the Uniform Accounting Manual for Utah Cities.

(17) "General fund" is as defined by the Governmental Accounting Standards Board as

reflected in the Uniform Accounting Manual for All Local Governments prepared by the Office of the Utah State Auditor.

[46] (18) "Governing body" means a city council, or city commission, as the case may be, but the authority to make any appointment to any position created by this chapter is vested in the mayor in the council-mayor optional form of government.

[47] (19) "Interfund loan" means a loan of cash from one fund to another, subject to future repayment ~~[and does not constitute an expenditure or a use of retained earnings or fund balance of the lending fund or revenue to the borrowing fund].~~

[48] (20) "Last completed fiscal period" means the fiscal period next preceding the current period.

[49] (21) "Public funds" means any money or payment collected or received by an officer or employee of the city acting in an official capacity and includes money or payment to the officer or employee for services or goods provided by the city, or the officer or employee while acting within the scope of employment or duty. Public funds do not include money or payments collected or received by an officer or employee of a city for charitable purposes if the mayor or city council has consented to the officer's or employee's participation in soliciting contributions for a charity.

[20] (22) "Special fund" means any fund other than the General Fund.

[21] (23) "Warrant" means an order drawn upon the city treasurer, in the absence of sufficient money in the city's depository, by an authorized officer of a city for the purpose of paying a specified amount out of the city treasury to the person named or to the bearer as money becomes available.

Section 4. Section 10-6-132 is amended to read:

10-6-132. Loans by one fund to another -- Acquiring bonds for investment.

(1) Subject to this section, restrictions imposed by ~~bond ordinance, [statute]~~ or other controlling regulations, the governing body of a city may [(4)];

(a) ~~subject to the restrictions in Section 53-2a-605, authorize an interfund [loans] loan from one fund to another [at such interest rates and upon such repayment terms and conditions as it may prescribe,];~~ and [(2)]

(b) with available cash in any fund, purchase or otherwise acquire for investment an unmatured ~~[bonds] bond~~ of the city or of any fund of the city.

(2) An interfund loan under Subsection (1)(a) shall be in writing and specify the terms and conditions of the loan, including the:

- (a) effective date of the loan;
- (b) name of the fund loaning the money;
- (c) name of the fund receiving the money;
- (d) amount of the loan;

(e) subject to Subsection (3), term of and repayment schedule for the loan;

(f) subject to Subsection (4), interest rate of the loan;

(g) method of calculating interest applicable to the loan;

(h) procedures for:

(i) applying interest to the loan; and

(ii) paying interest on the loan; and

(i) other terms and conditions the governing body determines applicable.

(3) The term and repayment schedule specified under Subsection (2)(e) may not exceed 10 years.

(4) (a) In determining the interest rate of the loan specified under Subsection (2)(f), the governing body shall apply an interest rate that reflects the rate of potential gain had the funds been deposited or invested in a comparable investment.

(b) Notwithstanding Subsection (4)(a), the interest rate of the loan specified under Subsection (2)(f):

(i) if the term of the loan under Subsection (2)(e) is one year or less, may not be less than the rate offered by the Public Treasurers' Investment Fund that was created for public funds transferred to the state treasurer in accordance with Section 51-7-5; or

(ii) if the term of the loan under Subsection (2)(e) is more than one year, may not be less than the greater of the rate offered by:

(A) the Public Treasurers' Investment Fund that was created for public funds transferred to the state treasurer in accordance with Section 51-7-5; or

(B) a United States Treasury note of a comparable term.

(5) (a) For an interfund loan under Subsection (1)(a), the governing body shall:

(i) hold a public hearing;

(ii) prepare a written notice of the date, time, place, and purpose of the hearing, and the proposed terms and conditions of the interfund loan under Subsection (2);

(iii) provide notice of the public hearing in the same manner as required under Section 10-6-113 as if the hearing were a budget hearing; and

(iv) authorize the interfund loan by ordinance or resolution in a public meeting.

(b) The notice and hearing requirements in Subsection (5)(a) are satisfied if the interfund loan is included in an original budget or in a subsequent budget amendment previously approved by the governing body for the current fiscal year.

(6) Subsections (2) through (5) do not apply to an interfund loan if the interfund loan is:

(a) a loan from the city general fund to any other fund of the city; or

(b) a short-term advance from the city's cash and investment pool to individual funds that are repaid by the end of the fiscal year.

Section 5. Section 17-36-3 is amended to read:

17-36-3. Definitions.

As used in this chapter:

(1) "Accrual basis of accounting" means a method where revenues are recorded when earned and expenditures recorded when they become liabilities notwithstanding that the receipt of the revenue or payment of the expenditure may take place in another accounting period.

(2) "Appropriation" means an allocation of money for a specific purpose.

(3) (a) "Budget" means a plan for financial operations for a fiscal period, embodying estimates for proposed expenditures for given purposes and the means of financing the expenditures.

(b) "Budget" may refer to the budget of a fund for which a budget is required by law, or collectively to the budgets for all those funds.

(4) "Budgetary fund" means a fund for which a budget is required, such as those described in Section 17-36-8.

(5) "Budget officer" means:

(a) for a county of the second, third, fourth, fifth, or sixth class, the county auditor, county clerk, or county executive as provided in Subsection 17-19-19(1); or

(b) for a county of the first class, a person described in Section 17-19a-203.

(6) "Budget period" means the fiscal period for which a budget is prepared.

(7) "Check" means an order in a specific amount drawn upon the depository by any authorized officer in accordance with Section 17-19-3, 17-19a-301, 17-24-1, or 17-24-1.1, as applicable.

(8) "County general fund" means the general fund used by a county.

~~(8)~~ (9) "Countywide service" means a service provided in both incorporated and unincorporated areas of a county.

~~(9)~~ (10) "Current period" means the fiscal period in which a budget is prepared and adopted.

~~(10)~~ (11) "Department" means any functional unit within a fund which carries on a specific activity.

~~(11)~~ (12) "Encumbrance system" means a method of budgetary control where part of an appropriation is reserved to cover a specific expenditure by charging obligations, such as purchase orders, contracts, or salary commitments to an appropriation account. An expenditure ceases to be an encumbrance when paid or when the actual liability is entered in the books of account.

~~(12)~~ (13) "Estimated revenue" means any revenue estimated to be received during the budget period in any fund for which a budget is prepared.

~~(13)~~ (14) "Fiscal period" means the annual or biennial period for recording county fiscal operations.

~~(14)~~ (15) "Fund" means an independent fiscal and accounting entity comprised of a sum of money or other resources segregated for a specific purpose or objective.

~~(15)~~ (16) "Fund balance" means the excess of the assets over liabilities, reserves, and contributions, as reflected by its books of account.

~~(16)~~ (17) "Fund deficit" means the excess of liabilities, reserves, and contributions over its assets, as reflected by its books of account.

~~(17)~~ (18) "General fund" ~~[means the fund used to account for all receipts, disbursements, assets, liabilities, reserves, fund balances, revenues, and expenditures not required to be accounted for in other funds]~~ is as defined by the Governmental Accounting Standards Board as reflected in the Uniform Accounting Manual for All Local Governments prepared by the Office of the Utah State Auditor.

~~(18)~~ (19) "Interfund loan" means a loan of cash from one fund to another, subject to future repayment; ~~but it does not constitute an expenditure or a use of retained earnings, fund balance, or unappropriated surplus of the lending fund].~~

~~(19)~~ (20) "Last completed fiscal period" means the fiscal period next preceding the current period.

~~(20)~~ (21) "Modified accrual basis of accounting" means a method under which expenditures other than accrued interest on general long-term debt are recorded at the time liabilities are incurred and revenues are recorded when they become measurable and available to finance expenditures of the current period.

~~(21)~~ (22) "Municipal capital project" means the acquisition, construction, or improvement of capital assets that facilitate providing municipal service.

~~(22)~~ (23) "Municipal service" means a service not provided on a countywide basis and not accounted for in an enterprise fund, and includes police patrol, fire protection, culinary or irrigation water retail service, water conservation, local parks, sewers, sewage treatment and disposal, cemeteries, garbage and refuse collection, street lighting, airports, planning and zoning, local streets and roads, curb, gutter, and sidewalk maintenance, and ambulance service.

~~(23)~~ (24) "Retained earnings" means that part of the net earnings retained by an enterprise or internal service fund which is not segregated or reserved for any specific purpose.

~~(24)~~ (25) "Special fund" means any fund other than the General Fund, such as those described in Section 17-36-6.

~~(25)~~ (26) "Unappropriated surplus" means that part of a fund which is not appropriated for an ensuing budget period.

~~[(26)] (27) “Warrant” means an order in a specific amount drawn upon the treasurer by the auditor.~~

Section 6. Section 17-36-30 is amended to read:

17-36-30. Interfund loans -- Acquisition of issued unmaturred bonds.

~~[The] (1) Subject to this section, restrictions imposed by bond covenants, or other controlling regulations, the governing body may ~~[(1)]~~:~~

~~(a) subject to the restrictions in Section 53-2a-605, authorize an interfund ~~[loans] loan~~ from one fund to another ~~[at such interest rates and subject to such terms for repayment as it may prescribe]~~; and ~~[may (2)]~~~~

~~(b) with available cash in any fund, purchase or otherwise acquire for investment~~[,] issued~~ an unmaturred ~~[bonds] bond~~ of the county or of any county fund.~~

~~(2) An interfund loan under Subsection (1)(a) shall be in writing and specify the terms and conditions of the loan, including the:~~

~~(a) effective date of the loan;~~

~~(b) name of the fund loaning the money;~~

~~(c) name of the fund receiving the money;~~

~~(d) amount of the loan;~~

~~(e) subject to Subsection (3), term of and repayment schedule for the loan;~~

~~(f) subject to Subsection (4), interest rate of the loan;~~

~~(g) method of calculating interest applicable to the loan;~~

~~(h) procedures for:~~

~~(i) applying interest to the loan; and~~

~~(ii) paying interest on the loan; and~~

~~(i) other terms and conditions the governing body determines applicable.~~

~~(3) The term and repayment schedule specified under Subsection (2)(e) may not exceed 10 years.~~

~~(4) (a) In determining the interest rate of the loan specified under Subsection (2)(f), the governing body shall apply an interest rate that reflects the rate of potential gain had the funds been deposited or invested in a comparable investment.~~

~~(b) Notwithstanding Subsection (4)(a), the interest rate of the loan specified under Subsection (2)(f):~~

~~(i) if the term of the loan under Subsection (2)(e) is one year or less, may not be less than the rate offered by the Public Treasurers' Investment Fund that was created for public funds transferred to the state treasurer in accordance with Section 51-7-5; or~~

~~(ii) if the term of the loan under Subsection (2)(e) is more than one year, may not be less than the greater of the rate offered by:~~

~~(A) the Public Treasurers' Investment Fund that was created for public funds transferred to the state treasurer in accordance with Section 51-7-5; or~~

~~(B) a United States Treasury note of a comparable term.~~

~~(5) (a) For an interfund loan under Subsection (1)(a), the governing body shall:~~

~~(i) hold a public hearing;~~

~~(ii) prepare a written notice of the date, time, place, and purpose of the hearing, and the proposed terms and conditions of the interfund loan under Subsection (2);~~

~~(iii) provide notice of the public hearing in the same manner as required under Section 17-36-12 as if the hearing were a budget hearing; and~~

~~(iv) authorize the interfund loan by ordinance or resolution in a public meeting.~~

~~(b) The notice and hearing requirements in Subsection (5)(a) are satisfied if the interfund loan is included in an original budget or in a subsequent budget amendment previously approved by the governing body for the current fiscal year.~~

~~(6) Subsections (2) through (5) do not apply to an interfund loan if the interfund loan is:~~

~~(a) a loan from the county general fund to any other fund of the county; or~~

~~(b) a short-term advance from the county's cash and investment pool to individual funds that are repaid by the end of the fiscal year.~~

Section 7. Section 17B-1-601 is amended to read:

17B-1-601. Definitions.

As used in this part:

(1) “Appropriation” means an allocation of money by the board of trustees for a specific purpose.

(2) “Budget” means a plan of financial operations for a fiscal year which embodies estimates of proposed expenditures for given purposes and the proposed means of financing them, and may refer to the budget of a particular fund for which a budget is required by law or it may refer collectively to the budgets for all such funds.

(3) “Budget officer” means the person appointed by the local district board of trustees to prepare the budget for the district.

(4) “Budget year” means the fiscal year for which a budget is prepared.

(5) “Calendar year entity” means a local district whose fiscal year begins January 1 and ends December 31 of each calendar year as described in Section 17B-1-602.

(6) “Current year” means the fiscal year in which a budget is prepared and adopted, which is the fiscal year next preceding the budget year.

(7) "Deficit" has the meaning given under generally accepted accounting principles as reflected in the Uniform Accounting Manual for Local Districts.

(8) "Estimated revenue" means the amount of revenue estimated to be received from all sources during the budget year in each fund for which a budget is being prepared.

(9) "Financial officer" means the official under Section 17B-1-642.

(10) "Fiscal year" means the annual period for accounting for fiscal operations in each district.

(11) "Fiscal year entity" means a local district whose fiscal year begins July 1 of each year and ends on June 30 of the following year as described in Section 17B-1-602.

(12) "Fund" has the meaning given under generally accepted accounting principles as reflected in the Uniform Accounting Manual for Local Districts.

(13) "Fund balance" has the meaning given under generally accepted accounting principles as reflected in the Uniform Accounting Manual for Local Districts.

(14) "General fund" is as defined by the Governmental Accounting Standards Board as reflected in the Uniform Accounting Manual for All Local Governments prepared by the Office of the Utah State Auditor.

(15) "Governmental funds" means the general fund, special revenue fund, debt service fund, and capital projects fund of a local district.

(16) "Interfund loan" means a loan of cash from one fund to another, subject to future repayment. ~~It does not constitute an expenditure or a use of retained earnings or fund balance of the lending fund or revenue to the borrowing fund.~~

(17) "Last completed fiscal year" means the fiscal year next preceding the current fiscal year.

(18) "Local district general fund" means the general fund used by a local district.

(19) "Proprietary funds" means enterprise funds and the internal service funds of a local district.

(20) "Public funds" means any money or payment collected or received by an officer or employee of a local district acting in an official capacity and includes money or payment to the officer or employee for services or goods provided by the district, or the officer or employee while acting within the scope of employment or duty.

(21) "Retained earnings" has the meaning given under generally accepted accounting principles as reflected in the Uniform Accounting Manual for Local Districts.

(22) "Special fund" means any local district fund other than the local district's general fund.

Section 8. Section 17B-1-626 is amended to read:

17B-1-626. Loans by one fund to another.

(1) Subject to this section, restrictions imposed by bond covenants, ~~statute,~~ restrictions in Section 53-2a-605, or other controlling regulations, the board of trustees of a local district may authorize an interfund ~~loans~~ loan from one fund to another ~~at interest rates, repayment terms, and conditions prescribed by the board of trustees~~.

(2) An interfund loan under Subsection (1) shall be in writing and specify the terms and conditions of the loan, including the:

(a) effective date of the loan;

(b) name of the fund loaning the money;

(c) name of the fund receiving the money;

(d) amount of the loan;

(e) subject to Subsection (3), term of and repayment schedule for the loan;

(f) subject to Subsection (4), interest rate of the loan;

(g) method of calculating interest applicable to the loan;

(h) procedures for:

(i) applying interest to the loan; and

(ii) paying interest on the loan; and

(i) other terms and conditions the board of trustees determines applicable.

(3) The term and repayment schedule specified under Subsection (2)(e) may not exceed 10 years.

(4) (a) In determining the interest rate of the loan specified under Subsection (2)(f), the board of trustees shall apply an interest rate that reflects the rate of potential gain had the funds been deposited or invested in a comparable investment.

(b) Notwithstanding Subsection (4)(a), the interest rate of the loan specified under Subsection (2)(f):

(i) if the term of the loan under Subsection (2)(e) is one year or less, may not be less than the rate offered by the Public Treasurers' Investment Fund that was created for public funds transferred to the state treasurer in accordance with Section 51-7-5; or

(ii) if the term of the loan under Subsection (2)(e) is more than one year, may not be less than the greater of the rate offered by:

(A) the Public Treasurers' Investment Fund that was created for public funds transferred to the state treasurer in accordance with Section 51-7-5; or

(B) a United States Treasury note of a comparable term.

(5) (a) For an interfund loan under Subsection (1), the board of trustees shall:

(i) hold a public hearing;

(ii) prepare a written notice of the date, time, place, and purpose of the hearing, and the proposed terms and conditions of the interfund loan under Subsection (2);

(iii) provide notice of the public hearing in the same manner as required under Section 17B-1-609 as if the hearing were a budget hearing; and

(iv) authorize the interfund loan by resolution in a public meeting.

(b) The notice and hearing requirements in Subsection (5)(a) are satisfied if the interfund loan is included in an original budget or in a subsequent budget amendment previously approved by the board of trustees for the current fiscal year.

(6) Subsections (2) through (5) do not apply to an interfund loan if the interfund loan is:

(a) a loan from the local district general fund to any other fund of the local district; or

(b) a short-term advance from the local district's cash and investment pool to individual funds that are repaid by the end of the fiscal year.

Section 9. Coordinating H.B. 381 with S.B. 18 -- Technical amendments.

If this H.B. 381 and S.B. 18, Local Government General Fund Amendments, both pass and become law, the Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, make the following changes:

(1) Section 10-5-102.5 in this H.B. 381 supersedes Section 10-5-102.5 in S.B. 18;

(2) Subsection 10-6-106(8) in this H.B. 381 supersedes Subsection 10-6-106(8) in S.B. 18;

(3) Subsection 17-36-3(8) in this H.B. 381 supersedes Subsection 17-36-3(8) in S.B. 18; and

(4) the definition of "General fund" in Subsection 17-36-3(18) in this H.B. 381 supersedes the changes to the definition of "General Fund" in Subsection 17-36-3(17) in S.B. 18.

CHAPTER 254**S. B. 11**

Passed February 12, 2014

Approved March 31, 2014

Effective May 13, 2014

ELECTION OFFENSE AMENDMENTS

Chief Sponsor: Margaret Dayton

House Sponsor: Brian S. King

LONG TITLE**General Description:**

This bill recodifies and amends portions of Title 20A, Chapter 1, Part 7, Prosecuting and Adjudicating Election Offenses, relating to civil proceedings and investigations of election offenses.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ recodifies and amends the portion of Title 20A, Chapter 1, Part 7, Prosecuting and Adjudicating Election Offenses, relating to civil proceedings and investigations of election offenses;
- ▶ establishes procedures and requirements for a registered voter to file a verified petition alleging a violation of the Election Code;
- ▶ provides that the lieutenant governor (or another person in the event of a conflict) shall review the petition to determine whether a special investigation is necessary;
- ▶ provides for the appointment of special counsel if a special investigation is necessary;
- ▶ describes the duties of special counsel;
- ▶ provides for the filing of a civil action by special counsel;
- ▶ describes the remedies that a court shall order, or other action that a court shall take, if a court finds that a significant violation of the Election Code occurred;
- ▶ provides for costs and attorney fees;
- ▶ provides for compensation of special counsel; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

20A-1-801, Utah Code Annotated 1953

20A-1-802, Utah Code Annotated 1953

20A-1-803, Utah Code Annotated 1953

20A-1-805, Utah Code Annotated 1953

20A-1-806, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

20A-1-804, (Renumbered from 20A-1-704, as enacted by Laws of Utah 1993, Chapter 1)

20A-1-807, (Renumbered from 20A-1-706, as last amended by Laws of Utah 2013, Chapter 174)

20A-1-808, (Renumbered from 20A-1-707, as enacted by Laws of Utah 2013, Chapter 174)

REPEALS:

20A-1-703, as last amended by Laws of Utah 2013, Chapter 174 and last amended by Coordination Clause, Laws of Utah 2013, Chapter 174

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

Section 1. Section 20A-1-801 is enacted to read:**Part 8. Civil Action for Election Code Violation****20A-1-801. Title.**

This part is known as “Civil Action for Election Code Violation.”

Section 2. Section 20A-1-802 is enacted to read:**20A-1-802. Definitions.**

As used in this part:

(1) “Bad faith” means that a person files a petition described in Subsection 20A-1-803(1):

(a) under circumstances where a reasonable person would not believe that the allegations are true; or

(b) (i) within 60 days before an election that the candidate to which the petition relates will appear on the ballot; and

(ii) under circumstances where a reasonable person would not believe that the allegations constitute a significant violation of a provision of this title.

(2) “Defendant” means each person against whom an allegation is made in the verified petition described in Subsection 20A-1-803(1).

(3) “Receiving official” means:

(a) the lieutenant governor, unless the verified petition described in Section 20A-1-803 alleges a violation by the governor, the lieutenant governor, or an employee of the lieutenant governor’s office; or

(b) the attorney general, if the verified petition described in Section 20A-1-803 alleges a violation by the governor, the lieutenant governor, or an employee of the lieutenant governor’s office.

(4) “Reviewing official” means:

(a) except as provided in Subsection (4)(b), the receiving official; or

(b) the reviewing official appointed under Subsection 20A-1-803(3)(a), if the receiving official appoints another individual as the reviewing official under Subsection 20A-1-803(3)(a).

(5) “Significant violation” means:

(a) a violation that, if known by voters before the election, may have resulted in a candidate, other than the candidate certified as having won the election, winning the election; or

(b) a violation that, had the violation not occurred, may have resulted in a candidate, other than the candidate certified as having won the election, winning the election.

Section 3. Section 20A-1-803 is enacted to read:

20A-1-803. Verified petition by registered voter -- Receiving and reviewing official -- Special investigation -- Special counsel -- Civil action.

(1) A registered voter may file a verified petition alleging a violation of any provision of this title, if the registered voter:

(a) has information relating to the alleged violation;

(b) the allegation is against a candidate for whom the registered voter had the right to vote, a personal campaign committee of that candidate, or a member of a personal campaign committee of that candidate.

(2) The registered voter described in Subsection (1) shall file the verified petition with the receiving official.

(3) If the receiving official determines, in writing, that the receiving official has a conflict of interest in relation to taking an action required in this part, the receiving official shall:

(a) designate as the reviewing official an individual who does not have a conflict of interest, in the following order of precedence:

(i) the attorney general;

(ii) the state auditor;

(iii) the state treasurer; or

(iv) the governor; and

(b) forward the petition to the reviewing official for further action.

(4) (a) The reviewing official shall gather information and determine whether, in the discretion of the reviewing official, a special investigation is necessary.

(b) In making the determination described in Subsection (4)(a), the reviewing official may consider the following:

(i) whether, based on the information available to the reviewing official, the reviewing official is able to determine that a violation did not occur;

(ii) the seriousness of the alleged violation;

(iii) whether the alleged violation was intentional or accidental;

(iv) whether the alleged violation could be resolved informally;

(v) whether the petition is frivolous or filed for the purpose of harassment;

(vi) whether the alleged violation should be addressed in, or is being adequately addressed in, another forum, including a criminal investigation or proceeding;

(vii) whether additional investigation, as part of a civil proceeding in relation to the petition, is desirable;

(viii) the likelihood that an action, based on the allegations, is likely to be successful; or

(ix) other criteria relevant to making the determination.

(5) If the reviewing official determines that a special investigation is necessary, the reviewing official shall:

(a) except as provided in Subsection (5)(b), refer the information to the attorney general, who shall appoint special counsel; or

(b) if the verified petition alleges that the attorney general violated a provision of this title, or if the reviewing official determines that the Office of the Attorney General has a conflict of interest in relation to the verified petition, appoint a person who is not an employee of the Office of the Attorney General as special counsel, in accordance with Title 63G, Chapter 6a, Utah Procurement Code.

(6) The special counsel:

(a) shall review the petition and any evidence relative to determining whether a defendant committed a violation of a provision of this title;

(b) may interview individuals or gather additional evidence relative to determining whether a defendant committed a violation of a provision of this title;

(c) shall advise the reviewing official whether, in the opinion of the special counsel, sufficient evidence exists to establish that a defendant committed a significant violation of a provision of this title; and

(d) shall, within three days after the day on which the special counsel complies with Subsection (6)(c), prepare and provide to the reviewing official a document that:

(i) states whether, in the opinion of the special counsel, sufficient evidence exists to establish that a defendant committed at least one significant violation of a provision of this title; and

(ii) if the special counsel is of the opinion that sufficient evidence exists to establish that a defendant committed at least one significant violation of a provision of this title:

(A) states the name of each defendant for which, in the opinion of the special counsel, sufficient evidence exists to establish that the defendant committed at least one significant violation of a provision of this title;

(B) states each provision of this title for which, in the opinion of the special counsel, sufficient evidence exists to establish that the defendant violated; and

(C) may not include a description of the evidence supporting the opinion of the special counsel.

(7) The reviewing official shall:

(a) within three days after the day on which the reviewing official receives the document described in Subsection (6)(d), post a conspicuous link to the document on the home page of the reviewing official's website; and

(b) within seven days after the day on which the special counsel complies with Subsection (6)(c):

(i) determine whether, in the opinion of the reviewing official, sufficient evidence exists to establish that a defendant committed a significant violation of a provision of this title; and

(ii) if the reviewing official is of the opinion that sufficient evidence exists to establish that a defendant committed at least one significant violation of a provision of this title, direct the special counsel to file a civil action and serve summons in accordance with the Utah Rules of Civil Procedure:

(A) against each defendant for whom the reviewing official determines that sufficient evidence exists that the defendant committed a significant violation of this title; and

(B) that includes each significant violation for which the reviewing official determines that sufficient evidence exists.

(8) (a) The purpose of the civil action described in Subsection (7)(b)(ii) is to determine whether a defendant committed a significant violation of a provision of this title.

(b) For a civil action described in Subsection (7)(b)(ii), the complaint may include an allegation of any violation of a provision of this title by a defendant, regardless of whether the violation is alleged in the petition.

(c) The special counsel may amend the complaint at any time after the complaint is filed, including by adding allegations to the complaint or amending allegations already made in the complaint, if the court determines that the amendment will not violate the due process rights of the defendant against whom the added or amended allegation is made.

(9) (a) An action brought under this section shall:

(i) be heard without a jury, with the court determining all issues of fact and issues of law; and

(ii) have precedence over any other civil actions.

(b) The court shall schedule discovery and hearings, and shall otherwise conduct proceedings relating to an action brought under this section, in an expedited manner while preserving the rights of the parties and the integrity of the proceedings.

Section 4. Section 20A-1-804, which is renumbered from Section 20A-1-704 is renumbered and amended to read:

[20A-1-704]. 20A-1-804. Judgment and findings -- Appeal -- Criminal prosecution not affected by judgment.

(1) (a) [If] Except as provided in Subsection (2), if the court finds that the candidate whose right to [any] office is being [investigated, or that the

candidate] challenged, the candidate's personal campaign committee, or [any] a member of the candidate's personal campaign committee has [violated any provision of this title in the conduct of the campaign for nomination or election, and if the candidate is not one mentioned in Subsection (2)] committed a significant violation of any provision of this title, the judge shall enter an order:

(i) declaring void the election of the candidate to that office;

(ii) ousting and excluding the candidate from office; and

(iii) declaring the office vacant.

(b) [The] A vacancy created by [that order] an order described in Subsection (1)(a) shall be filled as provided in this chapter.

(2) (a) [If a proceeding has been brought to investigate the right of] As it relates to a candidate for either house of the Legislature, [and the] if the court finds that the candidate, the candidate's personal campaign committee, or [any] a member of the candidate's personal campaign committee has [violated] committed a significant violation of any provision of this title [in the conduct of the campaign for nomination or election], the court shall:

(i) prepare and sign written findings of fact and conclusions of law relating to the violation; and

(ii) without issuing an order, transmit those findings and conclusions to the [lieutenant governor] reviewing official.

(b) The [lieutenant governor] reviewing official shall transmit the judge's findings and conclusions to the house of the Legislature for which the person is a candidate.

(3) (a) A party may appeal the determination of the court in the same manner as appeals may be taken in civil actions.

(b) A judge may not issue an injunction suspending or staying the proceeding unless:

(i) application is made to the court or to the presiding judge of the court;

(ii) all parties receive notice of the application and the time for the hearing; and

(iii) the judge conducts a hearing.

(4) Any judgment or findings and conclusions issued as provided in this section may not be construed to bar or affect in any way any criminal prosecution of any candidate or other person.

Section 5. Section 20A-1-805 is enacted to read:

20A-1-805. Costs and attorney fees -- Other actions or remedies not foreclosed -- Grant of immunity.

(1) If judgment is in favor of the plaintiff in a civil action brought under this part, the special counsel may petition the judge to recover the reviewing official's taxable costs and attorney fees against the person whose right to the office is contested.

(2) The judge may not award costs or attorney fees to the defendant, unless it appears that the petitioner filed the petition in bad faith.

(3) Nothing in this section may be construed to prohibit any other civil or criminal actions or remedies against alleged violators.

(4) In the event a witness asserts a privilege against self-incrimination, the special counsel may request a person described in Subsections 77-22b-1(1)(a)(i) through (iii) to compel testimony and the production of evidence from the witness pursuant to Title 77, Chapter 22b, Grants of Immunity.

Section 6. Section 20A-1-806 is enacted to read:

20A-1-806. Special counsel on appeal.

If either party appeals the judgment of the trial court, the reviewing official shall appoint a person to appear as special counsel in the appellate court in the matter.

Section 7. Section 20A-1-807, which is renumbered from Section 20A-1-706 is renumbered and amended to read:

[20A-1-706]. 20A-1-807. Compensation of special counsel.

[(1) If either party appeals the judgment of the trial court, the district judge, the attorney general, or the lieutenant governor who appointed special counsel for the trial court shall authorize that counsel, or some other person, to appear as special counsel in the appellate court in the matter.]

[(2)-(a) (1) The special counsel authorized by this chapter shall receive [a] reasonable compensation for [his] the special counsel's services.

[(b) (2) The compensation shall be audited by the [lieutenant governor] reviewing official and paid out of the state treasury upon [a voucher and upon] the written statement of the [officer appointing the counsel] reviewing official that:

[(i) (a) the appointment has been made;

[(ii) (b) the person appointed has faithfully performed the duties [imposed upon him] of special counsel; and

[(iii) that] (c) the special counsel's bill is accurate and correct.

[(e) (3) Compensation for special counsel shall be audited and paid in the same manner as other claims against the state are audited and paid.

Section 8. Section 20A-1-808, which is renumbered from Section 20A-1-707 is renumbered and amended to read:

[20A-1-707]. 20A-1-808. Transition clause.

Any petition that is filed or pending under this part on or after March 1, 2013, shall be subject to the provisions of this part, including any amendments to this part made by Senate Bill 289, passed in the 2013 General Session.

Section 9. Repealer.

This bill repeals:

Section 20A-1-703, Proceedings by registered voter.

CHAPTER 255**S. B. 13**

Passed February 12, 2014

Approved March 31, 2014

Effective May 13, 2014

THEFT AMENDMENTS

Chief Sponsor: Daniel W. Thatcher

House Sponsor: Paul Ray

LONG TITLE**General Description:**

This bill modifies Title 76, Utah Criminal Code, relating to the punishment for theft of property or services.

Highlighted Provisions:

This bill:

- ▶ provides that the penalty for a third theft conviction in 10 years becomes a third degree felony if one of the prior convictions was a class A misdemeanor;
- ▶ provides that the penalty for a third theft conviction in 10 years becomes a third degree felony if the value of the property in the current case is more than \$500 but less than \$1,500;
- ▶ provides that the penalty for a theft conviction is a third degree felony if that person has been previously convicted of felony theft; and
- ▶ changes the penalty from a felony to a class A misdemeanor for a person convicted of theft for a third time in 10 years.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-6-412, as last amended by Laws of Utah 2013, Chapter 278

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

Section 1. Section 76-6-412 is amended to read:**76-6-412. Theft -- Classification of offenses -- Action for treble damages.**

(1) Theft of property and services as provided in this chapter is punishable:

- (a) as a second degree felony if the:
 - (i) value of the property or services is or exceeds \$5,000;
 - (ii) property stolen is a firearm or an operable motor vehicle;
 - (iii) actor is armed with a dangerous weapon, as defined in Section 76-1-601, at the time of the theft; or
 - (iv) property is stolen from the person of another;
- (b) as a third degree felony if:

(i) the value of the property or services is or exceeds \$1,500 but is less than \$5,000;

(ii) the actor has been twice before convicted of any of the offenses listed in ~~[this Subsection (1)(b)(ii)]~~ Subsections (1)(b)(ii)(A) through (1)(b)(ii)(C), if each prior offense was committed within 10 years of the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:

(A) any theft, any robbery, or any burglary with intent to commit theft;

(B) any offense under Title 76, Chapter 6, Part 5, Fraud; or

(C) any attempt to commit any offense under Subsection (1)(b)(ii)(A) or (B);

(iii) in a case not amounting to a second degree felony, the property taken is a stallion, mare, colt, gelding, cow, heifer, steer, ox, bull, calf, sheep, goat, mule, jack, jenny, swine, poultry, or a fur-bearing animal raised for commercial purposes; or

(iv) (A) the value of property or services is or exceeds \$500 but is less than \$1,500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Section 78B-3-108; ~~[or]~~

(v) the actor has been twice before convicted of any of the offenses listed in Subsections (1)(b)(ii)(A) through (1)(b)(ii)(C), if each prior offense was committed within 10 years of the date of the current conviction or the date of the offense upon which the current conviction is based and the value of the property stolen is or exceeds \$500 but is less than \$1,500; or

(vi) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (1)(b)(ii)(A) through (1)(b)(ii)(C);

(c) as a class A misdemeanor if:

(i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;

(ii) (A) the value of property or services is less than \$500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Section 78B-3-108; or

(iii) the actor has been twice before convicted of any of the offenses listed in Subsections (1)(b)(ii)(A) through (1)(b)(ii)(C), if each prior offense was committed within 10 years of the date of the current conviction or the date of the offense upon which the current conviction is based; or

(d) as a class B misdemeanor if the value of the property stolen is less than \$500 and the theft is not an offense under Subsection (1)(c).

(2) Any individual who violates Subsection 76-6-408(1) or Section 76-6-413, or commits theft of property described in Subsection 76-6-412(1)(b)(iii), is civilly liable for three times the amount of actual damages, if any sustained by the plaintiff, and for costs of suit and reasonable attorney fees.

CHAPTER 256**S. B. 61**

Passed March 5, 2014
 Approved March 31, 2014
 Effective May 14, 2014
 (Exception clause in Section 5)

REVISIONS TO PROPERTY TAX

Chief Sponsor: Deidre M. Henderson
 House Sponsor: Daniel McCay

LONG TITLE**General Description:**

This bill addresses procedures and requirements related to imposing property taxes.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ addresses the procedures and requirements for imposing a property tax levy that exceeds the certified tax rate;
- ▶ amends the timing for a public hearing held for the purpose of considering the imposition of a judgment levy;
- ▶ addresses the content of certain tax notices; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an effective date.

This bill provides revisor instructions.

Utah Code Sections Affected:**AMENDS:**

59-2-918.5, as last amended by Laws of Utah 2009, Chapter 204
 59-2-919, as last amended by Laws of Utah 2010, Chapter 90
 59-2-919.1, as last amended by Laws of Utah 2010, Chapter 131
 63I-2-259, as last amended by Laws of Utah 2012, Chapter 102
 Utah Code Sections Affected by Revisor Instructions:
 59-2-919, as last amended by Laws of Utah 2010, Chapter 90
 59-2-919.1, as last amended by Laws of Utah 2010, Chapter 131

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

Section 1. Section 59-2-918.5 is amended to read:**59-2-918.5. Hearings on judgment levies -- Advertisement.**

(1) A taxing entity may not impose a judgment levy unless it first advertises its intention to do so and holds a public hearing in accordance with the requirements of this section.

(2) (a) The advertisement required by this section may be combined with the advertisement described in Section 59-2-919.

(b) The advertisement shall be at least 1/8 of a page in size and shall meet the type, placement, and

frequency requirements established under Section 59-2-919.

(c) (i) For taxing entities operating under a July 1 through June 30 fiscal year the public hearing shall be held at the same time as the hearing at which the annual budget is adopted.

(ii) For taxing entities operating under a January 1 through December 31 fiscal year:

(A) for ~~eligible judgments issued from June 1 through December 15~~ an eligible judgment issued on or after March 1 but on or before September 15, the public hearing shall be held at the same time as the hearing at which the annual budget is adopted; ~~and~~ or

(B) for ~~eligible judgments issued from December 16 through May 31~~ an eligible judgment issued on or after September 16 but on or before the last day of February, the public hearing shall be held at the same time as the hearing at which property tax levies are set.

(3) The advertisement shall specify the date, time, and location of the public hearing at which the levy will be considered and shall set forth the total amount of the eligible judgment and the tax impact on an average residential and business property located within the taxing entity.

(4) If a final decision regarding the judgment levy is not made at the public hearing, the taxing entity shall announce at the public hearing the scheduled time and place for consideration and adoption of the judgment levy.

(5) The date, time, and place of public hearings required by Subsections (2)(c)(i) and (2)(c)(ii)(B) shall be included on the notice mailed to property owners pursuant to Section 59-2-919.1.

Section 2. Section 59-2-919 is amended to read:**59-2-919. Notice and public hearing requirements for certain tax increases -- Exceptions.**

(1) As used in this section:

(a) "Ad valorem tax revenue" means ad valorem property tax revenue not including revenue from new growth as defined in Section 59-2-924.

(b) "Additional ad valorem tax revenue" means ad valorem property tax revenue generated by the portion of the tax rate that exceeds the taxing entity's certified tax rate.

~~(b)~~ (c) "Calendar year taxing entity" means a taxing entity that operates under a fiscal year that begins on January 1 and ends on December 31.

(d) "County executive calendar year taxing entity" means a calendar year taxing entity that operates under the county executive-council form of government described in Section 17-52-504.

(e) "Current calendar year" means the calendar year immediately preceding the calendar year for which a calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate.

(e) (f) "Fiscal year taxing entity" means a taxing entity that operates under a fiscal year that begins on July 1 and ends on June 30.

(2) A taxing entity may not levy a tax rate that exceeds the taxing entity's certified tax rate unless the taxing entity meets:

~~[(a) to the extent required by this section, meets the:]~~

~~[(i) notice requirements of this section; and]~~

~~[(ii) public hearing requirements of this section; and]~~

~~[(b) adopts a resolution in accordance with this section.]~~

(a) the requirements of this section that apply to the taxing entity; and

(b) all other requirements as may be required by law.

(3) (a) [Except] Subject to Subsection (3)(b) and except as provided in Subsection (5), a calendar year taxing entity may levy a tax rate that exceeds the calendar year taxing entity's certified tax rate if the calendar year taxing entity:

~~[(i) (A) provides notice by meeting]~~

(i) 14 or more days before the date of the regular general election or municipal general election held in the current calendar year, states at a public meeting:

(A) that the calendar year taxing entity intends to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate;

(B) the dollar amount of and purpose for additional ad valorem tax revenue that would be generated by the proposed increase in the certified tax rate; and

(C) the approximate percentage increase in ad valorem tax revenue for the taxing entity based on the proposed increase described in Subsection (3)(a)(i)(B);

(ii) provides notice for the public meeting described in Subsection (3)(a)(i) in accordance with Title 52, Chapter 4, Open and Public Meetings Act, including providing a separate item on the meeting agenda that notifies the public that the calendar year taxing entity intends to make the statement described in Subsection (3)(a)(i);

(iii) meets the advertisement requirements of Subsections (6) and (7) before the calendar year taxing entity conducts the public hearing [at which the calendar year taxing entity's annual budget is adopted; and] required by Subsection (3)(a)(v);

~~[(B) before the calendar year taxing entity levies a tax rate that exceeds the calendar year taxing entity's certified tax rate:]~~

~~[(I) provides notice by meeting the advertisement requirements of Subsections (6) and (7); or]~~

~~[(II) (iv) provides [a] notice by mail:~~

~~[(Aa) on or no earlier than 14 days before the date the treasurer furnishes the notice required by Section 59-2-1317 for the calendar year immediately preceding the calendar year for which the calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate;]~~

~~[(Bb) before the calendar year taxing entity conducts the public meeting at which the calendar year taxing entity's annual budget is adopted; and]~~

~~[(Cc) as provided in Subsection (3)(b); and]~~

(A) seven or more days before the regular general election or municipal general election held in the current calendar year; and

(B) as provided in Subsection (3)(c); and

[(iii) (v) conducts a public hearing that is held:

(A) in accordance with Subsections (8) and (9)[; and

~~[(A) on or before the calendar year taxing entity conducts the public meeting at which the calendar year taxing entity's annual budget is adopted; and]~~

~~[(B) if the calendar year taxing entity provides the notice described in Subsection (3)(a)(i)(B)(I), before the calendar year taxing entity levies a tax rate that exceeds the calendar year taxing entity's certified tax rate.]~~

~~[(b) For a calendar year taxing entity that provides the notice described in Subsection (3)(a)(i)(B)(II), the notice:]~~

(B) in conjunction with the public hearing required by Section 17-36-13 or 17B-1-610.

(b) (i) For a county executive calendar year taxing entity, the statement described in Subsection (3)(a)(i) shall be made by the:

(A) county council;

(B) county executive; or

(C) both the county council and county executive.

(ii) If the county council makes the statement described in Subsection (3)(a)(i) or the county council states a dollar amount of additional ad valorem tax revenue that is greater than the amount of additional ad valorem tax revenue previously stated by the county executive in accordance with Subsection (3)(a)(i), the county executive calendar year taxing entity shall:

(A) make the statement described in Subsection (3)(a)(i) 14 or more days before the county executive calendar year taxing entity conducts the public hearing under Subsection (3)(a)(v); and

(B) provide the notice required by Subsection (3)(a)(iv) 14 or more days before the county executive calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v).

(c) The notice described in Subsection (3)(a)(iv):

(i) shall be mailed to each owner of property:

(A) within the calendar year taxing entity; and

(B) listed on the assessment roll;

(ii) shall be printed on a separate form that:

(A) is developed by the commission; [and]

~~[(B) that, as determined by the commission, may be combined with;]~~

~~[(I) a notice described in Subsection (3)(a)(i)(B)(II) provided by one or more other calendar year taxing entities; or]~~

~~[(II) the notice required by Section 59-2-1317;]~~

(B) states at the top of the form, in bold upper-case type no smaller than 18 point "NOTICE OF PROPOSED TAX INCREASE"; and

(C) may be mailed with the notice required by Section 59-2-1317;

(iii) shall contain for each property described in Subsection (3)(b)(c)(i):

(A) the value of the property for the current calendar year [immediately preceding the calendar year for which the calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate];

(B) the tax on the property for the current calendar year [immediately preceding the calendar year for which the calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate]; and

~~[(C) the estimated tax on the property;]~~

~~[(I) for the calendar year for which the calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate; and]~~

~~[(II) calculated on the basis of data for the calendar year immediately preceding the calendar year for which the calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate;]~~

(C) subject to Subsection (3)(d), for the calendar year for which the calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate, the estimated tax on the property;

(iv) shall contain the following statement:

"[Insert name of taxing entity] is proposing a tax increase for [insert applicable calendar year]. This notice contains estimates of the tax on your property and the proposed tax increase on your property as a result of this tax increase. These estimates are calculated on the basis of [insert previous applicable calendar year] data. The actual tax on your property and proposed tax increase on your property may vary from this estimate.";

(v) shall state the date, time, and place of the public hearing ~~[that will be held to discuss the calendar year taxing entity's annual budget] described in Subsection (3)(a)(v); and~~

(vi) may contain other property tax information approved by the commission.

(d) For purposes of Subsection (3)(c)(iii)(C), a calendar year taxing entity shall calculate the estimated tax on property on the basis of:

(i) data for the current calendar year; and

(ii) the amount of additional ad valorem tax revenue stated in accordance with this section.

(4) Except as provided in Subsection (5), a fiscal year taxing entity may levy a tax rate that exceeds the fiscal year taxing entity's certified tax rate if the fiscal year taxing entity:

(a) provides notice by meeting the advertisement requirements of Subsections (6) and (7) before the fiscal year taxing entity conducts the public meeting at which the fiscal year taxing entity's annual budget is adopted; and

(b) conducts a public hearing in accordance with Subsections (8) and (9) before the fiscal year taxing entity's annual budget is adopted.

(5) (a) A taxing entity is not required to meet the notice or public hearing requirements of Subsection (3) or (4) if the taxing entity is expressly exempted by law from complying with the requirements of this section.

~~[(b) (i) Except as provided in Subsection (5)(b)(ii), a taxing entity is not required to meet the notice or public hearing requirements of Subsection (3) or (4) if;]~~

~~[(A) the taxing entity is a party to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, that creates an interlocal entity to provide fire protection, emergency, and emergency medical services;]~~

~~[(B) the tax rate increase is approved by the taxing entity's voters at an election held for that purpose on or before December 31, 2010;]~~

~~[(C) the purpose of the tax rate increase is to pay for fire protection, emergency, and emergency medical services provided by the interlocal entity; and]~~

~~[(D) at least 30 days before the taxing entity's annual budget hearing, the taxing entity;]~~

~~[(I) adopts a resolution certifying that;]~~

~~[(Aa) the taxing entity will dedicate all revenue from the tax rate increase exclusively to pay for fire protection, emergency, and emergency medical services provided by the interlocal entity; and]~~

~~[(Bb) the amount of other revenues, independent of the revenue generated from the tax rate increase, that the taxing entity spends for fire protection, emergency, and emergency medical services each year after the tax rate increase will not decrease below the amount spent by the taxing entity during the year immediately before the tax rate increase without a corresponding decrease in the taxing entity's property tax revenues used in calculating the taxing entity's certified tax rate; and]~~

~~[(II) sends a copy of the resolution to the commission;]~~

~~[(ii) The exception under Subsection (5)(b)(i) from the notice and public hearing requirements of~~

Subsection (3) or (4) does not apply to an increase in a taxing entity's tax rate that occurs after December 31, 2010, even if the tax rate increase is approved by the taxing entity's voters before that date.]

[~~(e)~~ (b) A taxing entity is not required to meet the notice requirements of Subsection (3) or (4) if:

(i) Section 53A-17a-133 allows the taxing entity to levy a tax rate that exceeds that certified tax rate without having to comply with the notice provisions of this section; or

(ii) the taxing entity:

(A) budgeted less than \$20,000 in ad valorem tax revenues for the previous fiscal year; and

(B) sets a budget during the current fiscal year of less than \$20,000 of ad valorem tax revenues.

(6) (a) Subject to Subsections (6)(d) and (7)(b), the advertisement described in this section shall be published:

(i) subject to Section 45-1-101, in a newspaper or combination of newspapers of general circulation in the taxing entity;

(ii) electronically in accordance with Section 45-1-101; and

(iii) on the Utah Public Notice Website created in Section 63F-1-701.

(b) The advertisement described in Subsection (6)(a)(i) shall:

(i) be no less than 1/4 page in size;

(ii) use type no smaller than 18 point; and

(iii) be surrounded by a 1/4-inch border.

(c) The advertisement described in Subsection (6)(a)(i) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear.

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

(i) whenever possible, the advertisement described in Subsection (6)(a)(i) appear in a newspaper that is published at least one day per week; and

(ii) the newspaper or combination of newspapers selected:

(A) be of general interest and readership in the taxing entity; and

(B) not be of limited subject matter.

(e) (i) The advertisement[~~:- (A)~~] described in Subsection (6)(a)(i) shall:

[~~(4)~~ (A) except as provided in Subsection (6)[~~(e)~~(~~(ii)~~)](f), be run once each week for the two weeks[~~:- (Aa)~~] before a taxing entity conducts a public hearing [at which the taxing entity's annual budget is discussed] described under Subsection (3)(a)(v) or (4)(b); and

[~~(Bb)~~ if a calendar year taxing entity provides the notice described in Subsection (3)(a)(i)(B)(I), before the calendar year taxing entity levies a tax rate that exceeds the calendar year taxing entity's certified tax rate; and]

[~~(4)~~ (B) state that the taxing entity will meet on a certain day, time, and place fixed in the advertisement, which shall be [not less than] seven or more days after the day the first advertisement is published, for the purpose of hearing comments regarding any proposed increase and to explain the reasons for the proposed increase[~~;- or~~].

[~~(B)~~ (ii) The advertisement described in Subsection (6)(a)(ii) shall:

[~~(4)~~ (A) be published two weeks[~~:- (Aa)~~] before a taxing entity conducts a public hearing [at which the taxing entity's annual budget is discussed] described in Subsection (3)(a)(v) or (4)(b); and

[~~(Bb)~~ if a calendar year taxing entity provides the notice described in Subsection (3)(a)(i)(B)(I), before the calendar year taxing entity levies a tax rate that exceeds the calendar year taxing entity's certified tax rate; and]

[~~(4)~~ (B) state that the taxing entity will meet on a certain day, time, and place fixed in the advertisement, which shall be [not less than] seven or more days after the day the first advertisement is published, for the purpose of hearing comments regarding any proposed increase and to explain the reasons for the proposed increase.

[~~(ii)~~ (f) If a fiscal year taxing entity's public hearing information is published by the county auditor in accordance with Section 59-2-919.2, the fiscal year taxing entity is not subject to the requirement to run the advertisement twice, as required by Subsection (6)(e)(i)[~~(A)~~], but shall run the advertisement once during the week[~~:- (A)~~] before the fiscal year taxing entity conducts a public hearing at which the taxing entity's annual budget is discussed[~~;- and~~].

[~~(B)~~ if a calendar year taxing entity provides the notice described in Subsection (3)(a)(i)(B)(I), before the calendar year taxing entity levies a tax rate that exceeds the calendar year taxing entity's certified tax rate.]

[~~(4)~~ (i) (g) For purposes of Subsection (3)(a)[~~(i)~~(~~A)~~](~~(iii)~~) or (4)(a), the form and content of an advertisement shall be substantially as follows:

**“NOTICE OF PROPOSED TAX INCREASE
(NAME OF TAXING ENTITY)**

The (name of the taxing entity) is proposing to increase its property tax revenue.

• The (name of the taxing entity) tax on a (insert the average value of a residence in the taxing entity rounded to the nearest thousand dollars) residence would increase from \$ _____ to \$ _____, which is \$ _____ per year.

• The (name of the taxing entity) tax on a (insert the value of a business having the same value as the average value of a residence in the taxing entity) business would increase from \$ _____ to \$ _____, which is \$ _____ per year.

• If the proposed budget is approved, (name of the taxing entity) would increase its property tax budgeted revenue by ___% above last year’s property tax budgeted revenue excluding new growth.

All concerned citizens are invited to a public hearing on the tax increase.

PUBLIC HEARING

Date/Time: (date) (time)

Location: (name of meeting place and address of meeting place)

To obtain more information regarding the tax increase, citizens may contact the (name of the taxing entity) at (phone number of taxing entity).”

~~[(ii) For purposes of Subsection (3)(a)(i)(B)(I), the form and content of an advertisement shall be substantially as follows:]~~

["NOTICE OF PROPOSED TAX INCREASE"]
[(NAME OF TAXING ENTITY)]

~~[The (name of the taxing entity) is proposing to increase its property tax revenue.]~~

~~[• The (name of the taxing entity) tax on a (insert the average value of a residence in the taxing entity rounded to the nearest thousand dollars) residence would increase from \$ _____ to \$ _____, which is \$ _____ per year.]~~

~~[• The (name of the taxing entity) tax on a (insert the value of a business having the same value as the average value of a residence in the taxing entity) business would increase from \$ _____ to \$ _____, which is \$ _____ per year.]~~

~~[• If the proposed budget is approved, (name of the taxing entity) would increase its property tax budgeted revenue by ___% above last year’s property tax budgeted revenue excluding new growth.]~~

~~[(Name of taxing entity) property tax revenue from new growth and other sources will increase from \$ _____ to \$ _____.]~~

~~[All concerned citizens are invited to a public hearing on the tax increase.]~~

[PUBLIC HEARING]

[Date/Time: (date) (time)]

[Location: (name of meeting place and address of meeting place)]

~~[To obtain more information regarding the tax increase, citizens may contact the (name of the taxing entity) at (phone number of taxing entity).”]~~

(7) The commission:

(a) shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing the joint use of one advertisement described in Subsection (6) by two or more taxing entities; and

(b) subject to Section 45-1-101, may authorize:

(i) the use of a weekly newspaper:

(A) in a county having both daily and weekly newspapers if the weekly newspaper would provide equal or greater notice to the taxpayer; and

(B) if the county petitions the commission for the use of the weekly newspaper; or

(ii) the use by a taxing entity ~~[except for a calendar year taxing entity that provides the notice described in Subsection (3)(a)(i)(B)(II)]~~ of a commission approved direct notice to each taxpayer if:

(A) the cost of the advertisement would cause undue hardship;

(B) the direct notice is different and separate from that provided for in Section 59-2-919.1; and

(C) the taxing entity petitions the commission for the use of a commission approved direct notice.

(8) (a) (i) (A) A fiscal year taxing entity shall, on or before March 1, notify the county legislative body in which the fiscal year taxing entity is located of the date, time, and place of the first public hearing at which the fiscal year taxing entity’s annual budget will be discussed.

~~[(ii) (B) A county that receives notice from a fiscal year taxing entity under Subsection (8)(a)(i)(A) shall include on the notice required by Section 59-2-919.1 the date, time, and place of the public hearing described in Subsection (8)(a)(i)(A).~~

(ii) A calendar year taxing entity shall, on or before October 1 of the current calendar year, notify the county legislative body in which the calendar year taxing entity is located of the date, time, and place of the first public hearing at which the calendar year taxing entity’s annual budget will be discussed.

(b) (i) A public hearing described in ~~[this section]~~ Subsection (3)(a)(v) or (4)(b) shall be open to the public.

(ii) The governing body of a taxing entity conducting a public hearing described in ~~[this section]~~ Subsection (3)(a)(v) or (4)(b) shall provide an interested party desiring to be heard an opportunity to present oral testimony within reasonable time limits.

(c) (i) Except as provided in Subsection (8)(c)(ii), a taxing entity may not schedule a public hearing described in ~~[this section]~~ Subsection (3)(a)(v) or (4)(b) at the same time as the public hearing of another overlapping taxing entity in the same county.

(ii) The taxing entities in which the power to set tax levies is vested in the same governing board or authority may consolidate the public hearings described in ~~[this section]~~ Subsection (3)(a)(v) or (4)(b) into one public hearing.

(d) A county legislative body shall resolve any conflict in public hearing dates and times after consultation with each affected taxing entity.

(e) A taxing entity shall hold a public hearing described in ~~[this section]~~ Subsection (3)(a)(v) or (4)(b) beginning at or after 6 p.m.

(9) (a) If a taxing entity does not make a final decision on budgeting ~~[an increased amount of] additional ad valorem tax revenue at a public hearing described in [this section]~~ Subsection (3)(a)(v) or (4)(b), the taxing entity shall announce at that public hearing the scheduled time and place of the next public meeting at which the taxing entity will consider budgeting the ~~[increased amount of] additional ad valorem tax revenue.~~

~~[(b) (i) If a calendar year taxing entity that conducts a public hearing in accordance with Subsection (3)(b)(ii) does not adopt a resolution levying a tax rate on the day of the public hearing, the taxing entity shall announce at that public hearing the scheduled time and place of the next public meeting at which the taxing entity will consider adopting a resolution levying the tax rate.]~~

~~[(ii) If a taxing entity except for a taxing entity described in Subsection (5)(a) or (b) will consider adopting a resolution levying a tax rate at a day and time that is more than two weeks after the public hearing described in Subsection 59-2-919.1(2)(e)(v), the taxing entity shall meet the notice requirements of Subsection (3)(a)(i)(B)(I).]~~

~~[(10) (a) A taxing entity may adopt a resolution levying a tax rate that exceeds the taxing entity's certified tax rate if the taxing entity, to the extent required by this section, meets the:]~~

~~[(i) notice requirements of this section; and]~~

~~[(ii) public hearing requirements of this section.]~~

~~[(b) A public hearing on levying a tax rate that exceeds a taxing entity's certified tax rate may coincide with a public hearing on the taxing entity's proposed annual budget.]~~

~~[(11) The amendments to this section in Laws of Utah 2009, Chapter 204, apply to:]~~

~~[(a) for a fiscal year taxing entity, the fiscal year that begins on July 1, 2009; or]~~

~~[(b) for a calendar year taxing entity, the fiscal year that begins on January 1, 2010.]~~

~~(b) A calendar year taxing entity may not adopt a final budget that budgets an amount of additional ad valorem tax revenue that exceeds the largest amount of additional ad valorem tax revenue stated at a public meeting under Subsection (3)(a)(i).~~

~~(c) A public hearing on levying a tax rate that exceeds a fiscal year taxing entity's certified tax rate may coincide with a public hearing on the fiscal year taxing entity's proposed annual budget.~~

(10) Notwithstanding any other provision of this section, the amendments to this section in this bill apply to:

(a) actions a fiscal year taxing entity is required to take with respect to the fiscal year taxing entity's budgetary process for a fiscal year that begins on or after July 1, 2014; or

(b) actions a calendar year taxing entity is required to take with respect to the calendar year

taxing entity's budgetary process for a fiscal year that begins on or after January 1, 2015.

Section 3. Section 59-2-919.1 is amended to read:

59-2-919.1. Notice of property valuation and tax changes.

(1) In addition to the notice requirements of Section 59-2-919, the county auditor, on or before July 22 of each year, shall notify, by mail, each owner of real estate as defined in Section 59-2-102 who is listed on the assessment roll.

(2) The notice described in Subsection (1) shall:

(a) be sent to all owners of real property by mail ~~[not less than] 10 or more~~ days before the day on which:

(i) the county board of equalization meets; and

(ii) the taxing entity holds a public hearing on the proposed increase in the certified tax rate;

(b) be printed on a form that is:

(i) approved by the commission; and

(ii) uniform in content in all counties in the state; and

(c) contain for each property:

(i) the assessor's determination of the value of the property;

(ii) the date the county board of equalization will meet to hear complaints on the valuation;

(iii) itemized tax information for all applicable taxing entities ~~[(A) stating: (I) (Aa)], including:~~

~~(A) the dollar amount of the taxpayer's tax liability for the property in the prior year; and [(Bb)]~~

~~(B) the dollar amount of the taxpayer's tax liability under the current rate; [and]~~

~~[(II) for a taxing entity that proposes a tax increase that is subject to the notice and hearing requirements of Section 59-2-919:]~~

~~[(Aa) the dollar amount of the taxpayer's liability if the proposed increase is approved;]~~

~~[(Bb) the difference between the dollar amount of the taxpayer's liability if the proposed increase is approved and the dollar amount of the taxpayer's liability under the current rate, placed in close proximity to the information under Subsection (2)(e)(v); and]~~

~~[(Ce) the percentage increase that the dollar amount of the taxpayer's liability under the proposed tax rate represents as compared to the dollar amount of the taxpayer's liability under the current tax rate; and]~~

(iv) the tax impact on the property;

(v) the time and place of the required public hearing for each entity;

(vi) property tax information pertaining to:

(A) taxpayer relief;

- (B) options for payment of taxes; and
- (C) collection procedures;
- (vii) information specifically authorized to be included on the notice under [~~Title 59, Chapter 2, Property Tax Act~~] this chapter;
- (viii) the last property review date of the property as described in Subsection 59-2-303.1(1)(c); and
- (ix) other property tax information approved by the commission.

(3) If a taxing entity that is subject to the notice and hearing requirements of Subsection 59-2-919(4) proposes a tax increase, the notice described in Subsection (1) shall state, in addition to the information required by Subsection (2):

(a) the dollar amount of the taxpayer's tax liability if the proposed increase is approved;

(b) the difference between the dollar amount of the taxpayer's tax liability if the proposed increase is approved and the dollar amount of the taxpayer's tax liability under the current rate, placed in close proximity to the information described in Subsection (2)(c)(v); and

(c) the percentage increase that the dollar amount of the taxpayer's tax liability under the proposed tax rate represents as compared to the dollar amount of the taxpayer's tax liability under the current tax rate.

(4) Notwithstanding any other provision of this section, the amendments to this section in this bill apply to:

(a) actions a fiscal year taxing entity, as defined in Section 59-2-919, is required to take with respect to the fiscal year taxing entity's budgetary process for the fiscal year that begins on July 1, 2014; or

(b) actions a calendar year taxing entity, as defined in Section 59-2-919, is required to take with respect to the calendar year taxing entity's budgetary process for the fiscal year that begins on January 1, 2015.

Section 4. Section 63I-2-259 is amended to read:

63I-2-259. Repeal dates -- Title 59.

[~~Title 59, Chapter 19, Illegal Drug Stamp Tax Act, is repealed July 1, 2012.~~]

(1) Subsection 59-2-919(10) is repealed December 31, 2015.

(2) Subsection 59-2-919.1(4) is repealed December 31, 2015.

Section 5. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 14, 2014.

(2) The actions affecting Section 59-2-918.5 take effect on January 1, 2015.

Section 6. Revisor instructions.

It is the intent of the Legislature that the Office of Legislative Research and General Counsel, in

preparing the Utah Code database for publication, shall replace the references in Subsections 59-2-919(10) and 59-2-919.1(4) from "this bill" to the bill's designated chapter and section number in the Laws of Utah.

CHAPTER 257**S. B. 69**

Passed March 13, 2014
 Approved March 31, 2014
 Effective May 13, 2014

PREJUDGMENT INTEREST REVISIONS

Chief Sponsor: Stephen H. Urquhart
 House Sponsor: Mike K. McKell

LONG TITLE**General Description:**

This bill requires that in order for a plaintiff to receive prejudgment interest, the plaintiff shall have tendered an offer of settlement.

Highlighted Provisions:

This bill:

- ▶ requires a plaintiff to have tendered an offer of settlement before claiming prejudgment interest on a verdict;
- ▶ provides that prejudgment interest is only calculated from the date of a qualifying offer;
- ▶ sets limits on the award of prejudgment interest based upon the offer of settlement amount vis-a-vis the verdict amount;
- ▶ sets the percentage rate the court shall use to calculate prejudgment interest at two percentage points above the prime rate; and
- ▶ sets 5% and 10% as the limits on the rates the court uses.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78B-5-824, as last amended by Laws of Utah 2009, Chapter 276

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

Section 1. Section 78B-5-824 is amended to read:**78B-5-824. Personal injury judgments -- Interest authorized.**

(1) In all actions brought to recover damages for personal injuries sustained by any person, caused by the negligence or willful intent of another person, corporation, association, or partnership, and whether the injury was fatal or otherwise, the plaintiff, including a counterclaim plaintiff or a crossclaim plaintiff, in the complaint may claim interest on special damages actually incurred ~~from the date of the occurrence of the act giving rise to the cause of action~~.

~~[(2) It is the duty of the court, in entering judgment for plaintiff in that action, to add to the amount of special damages actually incurred that are assessed by the verdict of the jury, or found by the court, prejudgment interest on that amount calculated at 7.5% simple interest per annum, from the date of the occurrence of the act giving rise to the cause of action to the date of entering the judgment, and to include it in that judgment.]~~

(2) A plaintiff, including a counterclaim plaintiff or a crossclaim plaintiff, seeking to recover damages for personal injury or wrongful death may claim prejudgment interest if for cases classified as tier 1, pursuant to the Utah Rules of Civil Procedure, the plaintiff tenders:

(a) a written settlement demand, including settlement demands under Utah Rule of Civil Procedure 68; and

(b) the amount of the demand does not exceed 1-1/3 of the amount of the judgment eventually awarded at trial.

(3) For purposes of this statute, the determining offer and counteroffer shall be the last written offer or counteroffer timely tendered by a party, provided that the offer or counteroffer is tendered at least 60 days before trial.

(4) Cases classified as tier 2 or tier 3 by the Utah Rules of Civil Procedure or submitted to binding arbitration in accordance with Sections 18-1-4 and 31A-22-321 are not subject to the requirements outlined in Subsection (2).

(5) (a) Any prejudgment interest shall be computed as simple interest. For first special damages incurred during the year of the occurrence of the act giving rise to the cause of action, any prejudgment interest shall be computed as simple interest accruing from the date on which the first date special damages were actually incurred.

(b) For special damages incurred in successive years, prejudgment interest shall be calculated from January 1 of each year special damages were incurred. The court shall calculate prejudgment interest using a per annum rate, which is two percentage points above the prime rate, as published by the Board of Governors of the Federal Reserve System on the first business day in January of the calendar year in which the judgment is entered. The prejudgment interest rate applied to all cases may not be lower than 5% or higher than 10%.

[{3}] (6) As used in this section, "special damages actually incurred" does not include damages for future medical expenses, loss of future wages, or loss of future earning capacity.

(7) This section applies to any cause of action arising on or after July 1, 2014.

CHAPTER 258**S. B. 83**

Passed March 5, 2014

Approved March 31, 2014

Effective May 13, 2014

**LOCAL SALES AND
USE TAX ACT AMENDMENTS**Chief Sponsor: Lyle W. Hillyard
House Sponsor: Melvin R. Brown**LONG TITLE****General Description:**

This bill modifies the Local Sales and Use Tax Act by amending provisions relating to the local sales and use tax revenue distribution.

Highlighted Provisions:

This bill:

- ▶ repeals the provision that requires the Tax Commission to retain a portion of the local sales and use tax revenues within certain counties and deposit the revenues into a special fund of the county, or a city, town, or other political subdivision of the state located within that county, that has issued bonds to finance sports or recreational facilities or that is leasing sports or recreational facilities, in order to repay those bonds or to pay the lease payments; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

59-12-204, as last amended by Laws of Utah 2012, Chapter 212

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

Section 1. Section 59-12-204 is amended to read:**59-12-204. Sales and use tax ordinance provisions -- Tax rate -- Distribution of tax revenues -- Commission requirement to retain an amount to be deposited into the Qualified Emergency Food Agencies Fund.**

(1) The tax ordinance adopted pursuant to this part shall impose a tax upon those transactions listed in Subsection 59-12-103(1).

(2) (a) The tax ordinance under Subsection (1) shall include a provision imposing a tax upon every transaction listed in Subsection 59-12-103(1) made within a county, including areas contained within the cities and towns located in the county:

(i) at the rate of 1% of the purchase price paid or charged; and

(ii) if the location of the transaction is within the county as determined under Sections 59-12-211 through 59-12-215.

(b) Notwithstanding Subsection (2)(a), a tax ordinance under this Subsection (2) shall include a provision prohibiting a county, city, or town from imposing a tax under this section on the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104.

(3) Such tax ordinance shall include provisions substantially the same as those contained in Part 1, Tax Collection, insofar as they relate to sales or use tax, except that the name of the county as the taxing agency shall be substituted for that of the state where necessary for the purpose of this part and that an additional license is not required if one has been or is issued under Section 59-12-106.

(4) Such tax ordinance shall include a provision that the county shall contract, prior to the effective date of the ordinance, with the commission to perform all functions incident to the administration or operation of the ordinance.

(5) Such tax ordinance shall include a provision that the sale, storage, use, or other consumption of tangible personal property, the purchase price or the cost of which has been subject to sales or use tax under a sales and use tax ordinance enacted in accordance with this part by any county, city, or town in any other county in this state, shall be exempt from the tax due under this ordinance.

(6) Such tax ordinance shall include a provision that any person subject to the provisions of a city or town sales and use tax shall be exempt from the county sales and use tax if the city or town sales and use tax is levied under an ordinance including provisions in substance as follows:

(a) a provision imposing a tax upon every transaction listed in Subsection 59-12-103(1) made within the city or town at the rate imposed by the county in which it is situated pursuant to Subsection (2);

(b) notwithstanding Subsection (2)(a), a provision prohibiting the city or town from imposing a tax under this section on the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104;

(c) provisions substantially the same as those contained in Part 1, Tax Collection, insofar as they relate to sales and use taxes, except that the name of the city or town as the taxing agency shall be substituted for that of the state where necessary for the purposes of this part;

(d) a provision that the city or town shall contract prior to the effective date of the city or town sales and use tax ordinance with the commission to perform all functions incident to the administration or operation of the sales and use tax ordinance of the city or town;

(e) a provision that the sale, storage, use, or other consumption of tangible personal property, the gross receipts from the sale of or the cost of which has been subject to sales or use tax under a sales and use tax ordinance enacted in accordance with this part by any county other than the county in

which the city or town is located, or city or town in this state, shall be exempt from the tax; and

(f) a provision that the amount of any tax paid under Part 1, Tax Collection, shall not be included as a part of the purchase price paid or charged for a taxable item.

~~[(7) Notwithstanding any other provision of this section, beginning July 1, 2000, the commission shall:]~~

~~[(a) determine and retain the portion of sales and use tax imposed under this section:]~~

~~[(i) by each county and by each city and town within that county whose legislative body consents by resolution to the commission's retaining and depositing sales and use tax revenues as provided in this Subsection (7); and]~~

~~[(ii) that is equal to the revenues generated by a 1/64% tax rate;]~~

~~[(b) deposit the revenues described in Subsection (7)(a) into a special fund of the county, or a city, town, or other political subdivision of the state located within that county, that has issued bonds to finance sports or recreational facilities or that is leasing sports or recreational facilities, in order to repay those bonds or to pay the lease payments; and]~~

~~[(c) continue to deposit those revenues into the special fund only as long as the bonds or leases are outstanding.]~~

~~[(8)] (7) (a) Notwithstanding any other provision of this section, beginning on July 1, 2009, the commission shall calculate and retain a portion of the sales and use tax collected under this part as provided in this Subsection ~~[(8)] (7)~~.~~

(b) For a city, town, or unincorporated area of a county that imposes a tax under this part, the commission shall calculate a percentage each month by dividing the sales and use tax collected under this part for that month within the boundaries of that city, town, or unincorporated area of a county by the total sales and use tax collected under this part for that month within the boundaries of all of the cities, towns, and unincorporated areas of the counties that impose a tax under this part.

(c) For a city, town, or unincorporated area of a county that imposes a tax under this part, the commission shall retain each month an amount equal to the product of:

(i) the percentage the commission determines for the month under Subsection ~~[(8)] (7)~~(b) for the city, town, or unincorporated area of a county; and

(ii) \$25,417.

(d) The commission shall deposit an amount the commission retains in accordance with this Subsection ~~[(8)] (7)~~ into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009.

(e) An amount the commission deposits into the Qualified Emergency Food Agencies Fund shall be expended as provided in Section 35A-8-1009.

CHAPTER 259**S. B. 84**

Passed March 11, 2014
 Approved March 31, 2014
 Effective May 13, 2014

**AMENDMENTS TO
 GOVERNOR'S RURAL BOARDS**

Chief Sponsor: Ralph Okerlund
 House Sponsor: Ronda Rudd Menlove

LONG TITLE**General Description:**

This bill amends provisions relating to the Governor's Rural Partnership Board and repeals provisions relating to the Rural Coordinating Committee.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides that the Governor's Rural Partnership Board shall include:
 - a rural representative from the Department of Workforce Services;
 - the director of the Division of Indian Affairs or the director's designee; and
 - a representative from a rural association of governments;
- ▶ creates an executive committee of the Governor's Rural Partnership Board;
- ▶ provides that the Governor's Rural Partnership Board may, under certain circumstances, remove a board member who does not attend at least 60% of the Governor's Rural Partnership Board's meetings in a calendar year;
- ▶ provides that the director of the Office of Rural Development shall serve as staff to the Governor's Rural Partnership Board;
- ▶ modifies the duties of the Governor's Rural Partnership Board;
- ▶ modifies provisions related to accreditation for purposes of a tax credit for community and economic development;
- ▶ repeals the Rural Coordinating Committee and related provisions; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63C-10-102, as last amended by Laws of Utah 2010, Chapter 286
 63C-10-103, as enacted by Laws of Utah 2004, Chapter 73
 63M-1-413, as last amended by Laws of Utah 2011, Chapter 84
 63M-1-1603, as last amended by Laws of Utah 2008, Chapter 381 and renumbered and amended by Laws of Utah 2008, Chapter 382

63M-1-1604, as last amended by Laws of Utah 2010, Chapter 391

63M-1-1605, as last amended by Laws of Utah 2008, Chapter 381 and renumbered and amended by Laws of Utah 2008, Chapter 382

REPEALS:

63C-10-201, as last amended by Laws of Utah 2008, Chapter 33

63C-10-202, as enacted by Laws of Utah 2004, Chapter 73

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

Section 1. Section 63C-10-102 is amended to read:

63C-10-102. Governor's Rural Partnership Board -- Creation -- Membership -- Vacancies -- Chairs -- Expenses.

(1) As used in this section:

(a) "Board" means the Governor's Rural Partnership Board, created in Subsection (2).

(b) "Executive committee" means the executive committee of the Governor's Rural Partnership Board, created in Subsection (5).

~~[(4)]~~ (2) There is created the Governor's Rural Partnership Board composed of ~~[15]~~ 17 members as follows:

(a) the governor or the governor's designee;

(b) a rural member of the Utah Association of Counties' Board of Directors, appointed by the association's board;

(c) a rural member of the Utah League of Cities and Towns' Board of Directors, appointed by the league's board;

(d) the vice president of Utah State University's Extension Services or the vice president's designee;

(e) the president of Southern Utah University or the president's designee;

~~[(f) the chair of the Utah Rural Development Council;]~~

(f) a rural representative from the Department of Workforce Services, appointed by the Department of Workforce Services;

(g) the director of the Division of Indian Affairs or the director's designee;

(h) a representative from a rural association of governments;

~~[(g)]~~ (i) a rural representative of agriculture;

~~[(h)]~~ (j) a rural representative of the travel industry;

~~[(i)]~~ (k) a representative of rural utilities;

~~[(j)]~~ (l) a representative from the oil, gas, or mineral extraction industry; and

~~[(k)]~~ (m) five rural members appointed by the governor, at least one of which shall be a representative from a rural private business.

~~[(2)] (3) (a) Except as required by Subsection [(2)] (3)(b), board members identified in Subsections [(1)] (2)(b), (c), [(g)] (f), (h), (i), (j), [and] (k), (l), and (m) shall be appointed for four-year terms.~~

~~(b) [Notwithstanding the requirements of Subsection (2)(a), the] The governor shall, at the time of appointment or reappointment for members appointed under Subsection [(1)(k)] (2)(m), adjust the length of terms to ensure that the terms of these members are staggered so that approximately half of these five members are appointed every two years.~~

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term in the same manner as the vacated member was chosen.

(d) Once initial board appointments are made pursuant to Subsection [(1)(k)] (2)(m), recommendations for filling vacancies for any reason of those five board positions shall be made to the governor from a nominating committee consisting of:

(i) three individuals selected by the ~~[Steering Committee of the Rural Coordinating Committee] executive committee;~~ and

~~[(ii) three individuals selected by the Governor's Rural Partnership Board from the Utah Rural Development Council membership.]~~

~~(ii) three members of the board, selected by the board.~~

~~(e) The board may remove a member appointed under Subsection (2)(m) who does not attend at least 60% of the board's meetings in any calendar year.~~

~~[(3)-(a)] (4) The governor or the governor's designee and a board member selected by majority vote of the board shall serve as [cochair] cochair of the board.~~

~~[(b) The chair of the Utah Rural Development Council shall serve as cochair of the board.]~~

(5) The board's executive committee shall consist of four board members, as follows:

(a) the cochair selected by the board in accordance with Subsection (4);

(b) the board members described in Subsections (2)(d) and (e); and

(c) a board member selected by majority vote of the board.

(6) (a) The director of the Office of Rural Development shall serve as staff to the board and to the executive committee.

(b) In serving as staff to the board and to the executive committee, the director of the Office of Rural Development shall:

(i) perform all necessary administrative functions, including scheduling meetings and preparing agendas;

(ii) assist the board in the development and implementation of the board's initiatives and programs; and

(iii) work with board members to coordinate efforts and focus available resources to perform the board's duties, described in Section 63C-10-103.

~~[(4)] (7) The board shall meet at the call of the cochairs, but at least semiannually.~~

~~[(5)-(a)] (8) A majority of the members of the board constitute a quorum.~~

~~[(b)] (9) The action of a majority of a quorum constitutes the action of the board.~~

~~[(6)] (10) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:~~

(a) Section 63A-3-106;

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

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

Section 2. Section 63C-10-103 is amended to read:

63C-10-103. Duties.

(1) The board shall:

~~[(1)] (a) serve as an advisory board to:~~

(i) the governor on rural economic and planning issues; and

(ii) the Governor's Office of Economic Development on rural economic development issues;

~~[(2)] (b) prepare an annual strategic plan that:~~

~~[(a)] (i) identifies rural economic development, planning, and leadership training challenges, opportunities, priorities, and objectives; and~~

~~[(b)] (ii) includes a work plan for accomplishing the objectives referred to in Subsection [(2)(a)] (1)(b)(i);~~

~~[(3) solicit input from, and work collaboratively with, the Utah Rural Development Council and the Rural Coordinating Committee in the development of the strategic plan referred to in Subsection (2);]~~

~~[(4) present the strategic plan to the Utah Rural Development Council membership for approval and adoption;]~~

~~[(5) work with the Rural Coordinating Committee to:]~~

~~[(a) coordinate and focus available resources in ways that effectively address the economic development, planning, and leadership training challenges and priorities; and]~~

~~[(b) give direction and oversight to the Rural Coordinating Committee's programs and activities;]~~

~~[(6) oversee the implementation of the strategic plan created under Subsection (2); and]~~

~~[(7) make recommendations on economic planning and development in the state's rural areas and related issues to the Legislature through the Rural Development Legislative Liaison Committee established in Section 36-25-102.]~~

(c) identify local, regional, and statewide rural economic development and planning priorities;

(d) study and take input on issues relating to local, regional, and statewide rural economic development, including challenges, opportunities, best practices, policy, planning, and collaboration;

(e) advocate for rural needs, programs, policies, opportunities, and other issues relating to rural economic development and planning; and

(f) no later than October 1 of each year, submit to the governor and to the Legislature an annual report, in accordance with Section 68-3-14, that provides:

(i) an overview of the rural economy in the state;

(ii) a summary of current issues and policy matters relating to rural economic development; and

(iii) a statement of the board's initiatives, programs, and economic development priorities.

(2) The board may engage in activities necessary to fulfill the board's duties, including:

(a) propose or support rural economic development legislation; and

(b) create one or more subcommittees.

Section 3. Section 63M-1-413 is amended to read:

63M-1-413. State tax credits.

(1) Subject to the limitations of Subsections (2) through (4), the following nonrefundable tax credits against a tax under Title 59, Chapter 7, Corporate Franchise and Income Taxes, or Title 59, Chapter 10, Individual Income Tax Act, are applicable in an enterprise zone:

(a) a tax credit of \$750 may be claimed by a business entity for each new full-time employee position created within the enterprise zone;

(b) an additional \$500 tax credit may be claimed if the new full-time employee position created within the enterprise zone pays at least 125% of:

(i) the county average monthly nonagricultural payroll wage for the respective industry as determined by the Department of Workforce Services; or

(ii) if the county average monthly nonagricultural payroll wage is not available for the respective industry, the total average monthly nonagricultural payroll wage in the respective county where the enterprise zone is located;

(c) an additional tax credit of \$750 may be claimed if the new full-time employee position created within the enterprise zone is in a business entity

that adds value to agricultural commodities through manufacturing or processing;

(d) an additional tax credit of \$200 may be claimed for two consecutive years for each new full-time employee position created within the enterprise zone that is filled by an employee who is insured under an employer-sponsored health insurance program if the employer pays at least 50% of the premium cost for the year for which the credit is claimed;

(e) a tax credit of 50% of the value of a cash contribution to a private nonprofit corporation, except that the credit claimed may not exceed \$100,000:

(i) that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code;

(ii) whose primary purpose is community and economic development; and

(iii) that has been accredited by the ~~[board of directors of the Utah Rural Development Council]~~ Governor's Rural Partnership Board;

(f) a tax credit of 25% of the first \$200,000 spent on rehabilitating a building in the enterprise zone that has been vacant for two years or more; and

(g) an annual investment tax credit of 10% of the first \$250,000 in investment, and 5% of the next \$1,000,000 qualifying investment in plant, equipment, or other depreciable property.

(2) (a) Subject to the limitations of Subsection (2)(b), a business entity claiming tax credits under Subsections (1)(a) through (d) may claim the tax credits for up to 30 full-time employee positions per taxable year.

(b) A business entity that received a tax credit for one or more new full-time employee positions under Subsections (1)(a) through (d) in a prior taxable year may claim a tax credit for a new full-time employee position in a subsequent taxable year under Subsections (1)(a) through (d) if:

(i) the business entity has created a new full-time position within the enterprise zone; and

(ii) the total number of full-time employee positions at the business entity at any point during the tax year for which the tax credit is being claimed is greater than the number of full-time employee positions that existed at the business entity at any point during the taxable year immediately preceding the taxable year for which the credit is being claimed.

(c) Construction jobs are not eligible for the tax credits under Subsections (1)(a) through (d).

(3) If the amount of a tax credit under this section exceeds a business entity's tax liability under this chapter for a taxable year, the business entity may carry forward the amount of the tax credit exceeding the liability for a period that does not exceed the next three taxable years.

(4) Tax credits under Subsections (1)(a) through (g) may not be claimed by a business entity

primarily engaged in retail trade or by a public utilities business.

(5) A business entity that has no employees:

(a) may not claim tax credits under Subsections (1)(a) through (d); and

(b) may claim tax credits under Subsections (1)(e) through (g).

(6) A business entity may not claim or carry forward a tax credit available under this part for a taxable year during which the business entity has claimed the targeted business income tax credit available under Section 63M-1-504.

Section 4. Section 63M-1-1603 is amended to read:

63M-1-1603. Purpose of the Office of Rural Development.

The Office of Rural Development is established to:

(1) foster and support economic development programs and activities for the benefit of rural counties and communities;

(2) foster and support community, county, and resource management planning programs and activities for the benefit of rural counties and communities;

(3) foster and support leadership training programs and activities for the benefit of:

(a) rural leaders in both the public and private sectors;

(b) economic development and planning personnel; and

(c) rural government officials;

(4) foster and support efforts to coordinate and focus the technical and other resources of appropriate institutions of higher education, local governments, private sector interests, associations, nonprofit organizations, federal agencies, and others, in ways that address the economic development, planning, and leadership challenges and priorities of rural Utah as identified in the strategic plan required under Subsection 63C-10-103~~(2)~~(1)(b);

(5) work to enhance the capacity of the Governor's Office of Economic Development to address rural economic development, planning, and leadership training challenges and opportunities by establishing partnerships and positive working relationships with appropriate public and private sector entities, individuals, and institutions; and

(6) foster government-to-government collaboration and good working relations between state and rural government regarding economic development and planning issues.

Section 5. Section 63M-1-1604 is amended to read:

63M-1-1604. Duties.

(1) The Office of Rural Development shall:

(a) provide~~, in conjunction with the Rural Coordinating Committee,~~ staff support to the Governor's Rural Partnership Board in accordance with Subsection 63C-10-102(6);

(b) facilitate within the Governor's Office of Economic Development implementation of the strategic plan prepared under Subsection 63C-10-103~~(2)~~(1)(b);

(c) work to enhance the capacity of the Governor's Office of Economic Development to address rural economic development, planning, and leadership training challenges and opportunities by establishing partnerships and positive working relationships with appropriate public and private sector entities, individuals, and institutions;

(d) work with the ~~[Rural Coordinating Committee]~~ Governor's Rural Partnership Board to coordinate and focus available resources in ways that address the economic development, planning, and leadership training challenges and priorities in rural Utah; and

(e) in accordance with economic development and planning policies set by state government, coordinate relations between:

(i) the state;

(ii) rural governments;

(iii) other public and private groups engaged in rural economic planning and development; and

(iv) federal agencies.

(2) (a) The Office of Rural Development may:

(i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules necessary to carry out its duties;

(ii) accept gifts, grants, devises, and property, in cash or in kind, for the benefit of rural Utah citizens; and

(iii) use those gifts, grants, devises, and property received under Subsection (2)(a)(ii) for the use and benefit of rural citizens within the state.

(b) All resources received under Subsection (2)(a)(ii) shall be deposited in the General Fund as dedicated credits to be used as directed in Subsection (2)(a)(iii).

Section 6. Section 63M-1-1605 is amended to read:

63M-1-1605. Program manager.

(1) The director of the Governor's Office of Economic Development shall appoint a director for the Office of Rural Development with the approval of the governor.

(2) The director of the Office of Rural Development shall be a person knowledgeable in the field of rural economic development and planning and experienced in administration.

(3) Upon change of the director of the Governor's Office of Economic Development, the director of the Office of Rural Development may not be dismissed without cause for at least 180 days.

(4) The director of the Office of Rural Development shall ~~[be a member of the Rural Coordinating Committee's Steering Committee created in Subsection 63C-10-202(3)]~~ serve as staff to the Governor's Rural Partnership Board and to the executive committee of the Governor's Rural Partnership Board in accordance with Subsection 63C-10-102(6).

Section 7. Repealer.

This bill repeals:

Section 63C-10-201, Rural Coordinating Committee -- Creation -- Membership -- Chair -- Vacancies -- Quorum -- Expenses.

Section 63C-10-202, Duties -- Rural Coordinating Committee Steering Committee.

CHAPTER 260**S. B. 90**

Passed February 21, 2014

Approved March 31, 2014

Effective May 13, 2014

RESIDENCY AMENDMENTS

Chief Sponsor: Todd Weiler

House Sponsor: Craig Hall

LONG TITLE**General Description:**

This bill amends provisions of the Election Code relating to residency.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies and clarifies provisions relating to determining residency for voting and other purposes; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

20A-2-105, as last amended by Laws of Utah 2011, Chapter 297

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

Section 1. Section 20A-2-105 is amended to read:**20A-2-105. Determining residency.**

(1) As used in this section:

(a) “Principal place of residence” means the single location where a person’s habitation is fixed and to which, whenever the person is absent, the person has the intention of returning.

(b) “Resident” means a person whose principal place of residence is within a specific voting precinct in Utah.

~~(1) Except as provided in Subsection (4), election]~~

(2) Election officials and judges shall apply the standards and requirements of this section when determining whether ~~[or not]~~ a person is a resident for purposes of interpreting this title or the Utah Constitution.

~~[(2) A “resident” is a person who resides within a specific voting precinct in Utah as provided in this section.]~~

(3) (a) A person resides in Utah if:

(i) the person’s principal place of residence is within Utah; and

(ii) the person has a present intention to ~~[continue residency within]~~ maintain the person’s

principal place of residence in Utah permanently or indefinitely.

(b) A person resides within a particular voting precinct if, as of the date of registering to vote, the ~~[person has the]~~ person’s principal place of residence is in that voting precinct.

~~[(4) (a) The principal place of residence of any person shall be determined by applying the provisions of this Subsection (4).]~~

~~[(b) A person’s “principal place of residence” is that place in which the person’s habitation is fixed and to which, whenever the person is absent, the person has the intention of returning.]~~

(c) A ~~[person has not gained or lost a residence]~~ person’s principal place of residence does not change solely because the person is present in Utah ~~[or]~~, present in a voting precinct ~~[or]~~, absent from Utah, or absent from the person’s voting precinct because the person is:

(i) employed in the service of the United States or of Utah;

(ii) a student at ~~[any]~~ an institution of learning;

(iii) incarcerated in prison or jail; or

(iv) residing upon ~~[any]~~ an Indian or military reservation.

(d) (i) A member of the armed forces of the United States is not a resident of Utah merely because that member is stationed at ~~[any]~~ a military facility within Utah.

(ii) In order to be a resident of Utah, ~~[that]~~ a member of the armed forces described in this Subsection (3)(d) shall meet the other requirements of this section.

(e) (i) Except as provided in Subsection ~~[(4)]~~ (3)(e)(ii) or (iii), a person has not lost the person’s principal place of residence in Utah or a precinct if that person ~~[leaves the person’s home to go into]~~ moves to a foreign country ~~[or into]~~, another state, or ~~[into]~~ another voting precinct within Utah, for temporary purposes with the intention of returning.

~~[(ii) If that person has voted in that other state or voting precinct, the person is a resident of that other state or voting precinct.]~~

(ii) If a person leaves the state or a voting precinct and votes in another state or voting precinct, the person is no longer a resident of the state or voting precinct that the person left.

(iii) A person loses the person’s principal place of residence in Utah or in a precinct, if, after the person moves to another state or another precinct under Subsection (3)(e)(i), the person forms the intent of making the other state or precinct the person’s principal place of residence.

(f) A person is not a resident of ~~[any]~~ a county or voting precinct if that person comes for temporary purposes and does not intend to make that county or voting precinct the person’s ~~[home]~~ principal place of residence.

~~(g) [If a person removes] A person loses the person's principal place of residence in Utah or in a precinct if the person moves to another state or precinct with the intention of making [it] the other state or precinct the person's principal place of residence, the person loses the person's residence in Utah.~~

(h) If a person moves to another state or precinct with the intent of remaining there for an indefinite time as ~~[a place of permanent] the person's principal place of residence~~, the person loses the person's residence in Utah, or in the precinct, even though the person intends to return at some future time.

~~[(i) (i) Except as provided in Subsection (4)(i)(ii), the place]~~

(4) An election official or judge shall, in determining a person's principal place of residence, consider the following factors, to the extent that the election official or judge determines the factors to be relevant:

(a) where ~~[a] the person's family resides [is presumed to be the person's place of residence.];~~

~~[(ii) A person may rebut the presumption established in Subsection (4)(i)(i) by proving the person's intent to remain at a place other than where the person's family resides.]~~

(b) whether the person is single, married, separated, or divorced;

(c) the age of the person;

(d) where the person usually sleeps;

(e) where the person's minor children attend school;

(f) the location of the person's employment, income sources, or business pursuits;

(g) the location of real property owned by the person;

(h) the person's residence for purposes of taxation or tax exemption; and

(i) other relevant factors.

~~[(j) (i)] (5) (a) A person has changed the person's principal place of residence if the person:~~

~~[(A) the person has acted affirmatively to move from one geographic location; and]~~

~~[(B) the person has an]~~

(i) acts affirmatively to move from the state or a precinct in the state; and

(ii) has the intent to remain in another ~~[place]~~ state or precinct.

~~[(ii) There can only be one residence.]~~

~~[(iii) A residence cannot be lost until another is gained.]~~

(b) A person may not have more than one principal place of residence.

(c) A person does not lose the person's principal place of residence until the person establishes another principal place of residence.

~~[(5)] (6) In computing the period [of residence] that a person is a resident, a person shall:~~

(a) include the day on which the ~~[person's residence begins] person establishes the person's principal place of residence; and~~

(b) exclude the day of the next election.

~~[(6)] (7) (a) There is a rebuttable presumption that a [person is a resident of] person's principal place of residence is in Utah and [of a] in the voting precinct [and intends to remain in Utah permanently or indefinitely] claimed by the person if the person makes an oath or affirmation upon a registration application form that the person's [residence address and place of residence is within a specific voting precinct in Utah] principal place of residence is in Utah and in the voting precinct claimed by the person.~~

(b) The election officers and election officials shall allow ~~[that] a person described in Subsection (7)(a) to register and vote unless, upon a challenge by a registrar or some other person, it is shown by law or by clear and convincing evidence that:~~

~~[(i) the person does not intend to remain permanently or indefinitely in Utah; or]~~

(i) the person's principal place of residence is not in Utah; or

(ii) the person is incarcerated in prison or jail and did not, before the person was incarcerated in prison or jail, establish the person's principal place of residence in the voting precinct.

~~[(7)] (8) (a) The [rules set forth] criteria described in this section for [determining] establishing a person's principal place of residence for voting purposes do not apply [to a person] in relation to the person's location while the person is incarcerated in prison or jail.~~

(b) For voting registration purposes, the principal place of residence of a person incarcerated in prison or jail is ~~[considered to reside in] the state and voting precinct [in which] where the person's principal place of residence was located before incarceration.~~

~~[(8)] (9) If a person's principal place of residence is a residential parcel of one acre in size or smaller that is divided by the boundary line between two or more counties, that person shall be considered a resident of the county in which a majority of the residential parcel lies.~~

CHAPTER 261**S. B. 92**

Passed March 11, 2014
 Approved March 31, 2014
 Effective May 13, 2014

METAL THEFT AMENDMENTS

Chief Sponsor: Gene Davis
 House Sponsor: Lynn N. Hemingway

LONG TITLE**General Description:**

This bill modifies the Utah Criminal Code regarding the theft of metal.

Highlighted Provisions:

This bill:

- ▶ provides that the records and identification requirements regarding transactions in regulated metal apply also to persons who refine or melt regulated metals;
- ▶ provides a definition of a metals refiner; and
- ▶ requires that the identification provided for transactions in regulated metals be a form of identification provided by a state or the federal government.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-6-1402, as renumbered and amended by Laws of Utah 2013, Chapter 187
 76-6-1403, as renumbered and amended by Laws of Utah 2013, Chapter 187

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

Section 1. Section 76-6-1402 is amended to read:**76-6-1402. Definitions.**

As used in this part:

(1) "Catalytic converter" means a motor vehicle exhaust system component that reduces vehicle emissions by breaking down harmful exhaust emissions.

(2) "Dealer" means [any]:

(a) a scrap metal processor or secondary metals dealer or recycler, but does not include junk dealers or solid waste management facilities as defined in Section 19-6-502[-]; or

(b) a metals refiner.

(3) "Ferrous metal" means a metal that contains significant quantities of iron or steel.

(4) "Identification" means a form of positive identification issued by a state of the United States or the United States federal government that:

(a) contains a numerical identifier and a photograph of the person identified;

(b) provides the date of birth of the person identified; and

(c) includes a state identification card, a state driver license, a United States military identification card, or a United States passport.

(5) "Junk dealer" means all persons, firms, or corporations engaged in the business of purchasing or selling secondhand or castoff material, including ropes, cordage, bottles, bagging, rags, rubber, paper, and other like materials, but not including regulated metal.

(6) "Local law enforcement agency" means the law enforcement agency that has jurisdiction over the area where the dealer's business is located.

(7) "Metals refiner" means an individual or business that refines or melts any regulated metal, but does not include an individual or business that primarily uses ore, concentrate, or other primary materials in refining, melting, or producing any regulated metal.

[~~(7)~~] (8) "Nonferrous metal":

(a) means a metal that does not contain significant quantities of iron or steel; and

(b) includes copper, brass, aluminum, bronze, lead, zinc, nickel, and their alloys.

[~~(8)~~] (9) (a) "Regulated metal" means any item composed primarily of nonferrous metal, except as provided in Subsection [~~(8)~~] (9)(c).

(b) "Regulated metal" includes:

(i) aluminum, brass, copper, lead, chromium, tin, nickel, or alloys of these metals, except under Subsection [~~(8)~~] (9)(c);

(ii) property owned by, and also identified by marking or other means as the property of:

(A) a telephone, cable, electric, water, or other utility; or

(B) a railroad company;

(iii) unused and undamaged building construction materials made of metal or alloy, including:

(A) copper pipe, tubing, or wiring; and

(B) aluminum wire, siding, downspouts, or gutters;

(iv) oil well rigs, including any part of the rig;

(v) nonferrous materials, stainless steel, and nickel; and

(vi) irrigation pipe.

(c) "Regulated metal" does not include:

(i) ferrous metal, except as provided in Subsection [~~(8)~~] (9)(b)(ii) or (iv);

(ii) household-generated recyclable materials;

(iii) items composed wholly of light iron or sheet steel;

(iv) aluminum beverage containers; or

(v) containers used solely for containing food.

~~[(9)]~~ (10) “Secondary metals dealer or recycler” means any person who:

(a) is engaged in the business of purchasing, collecting, or soliciting regulated metal; or

(b) operates or maintains a facility where regulated metal is purchased or kept for shipment, sale, transfer, or salvage.

~~[(10)]~~ (11) “Scrap metal processor” means any person:

(a) who, from a fixed location, utilizes machinery and equipment for processing and manufacturing iron, steel, or nonferrous scrap into prepared grades; and

(b) whose principal product is scrap iron, scrap steel, or nonferrous metallic scrap, not including precious metals, for sale for remelting purposes.

~~[(11)]~~ (12) “Suspect metal items” are the following items made of regulated metal:

(a) manhole covers and sewer grates;

(b) gas meters and water meters;

(c) traffic signs, street signs, aluminum street light poles, communications transmission towers, and guard rails;

(d) grave site monument vases and monument plaques;

(e) any monument plaque;

(f) brass or bronze bar stock and bar ends;

(g) ingots;

(h) nickel and nickel alloys containing greater than 50% nickel;

(i) #1 and #2 copper as defined by the most recent institute of Scrap Recycling Industries, Inc., Scrap Specifications Circular;

(j) unused and undamaged building materials, including:

(i) greenline copper;

(ii) copper pipe, tubing, or wiring; and

(iii) aluminum wire, siding, downspouts, or gutters;

(k) catalytic converters; and

(l) wire that has been burned or that has the appearance of having been burned.

Section 2. Section 76-6-1403 is amended to read:

76-6-1403. Records of sales and purchases -- Identification required.

(1) Every dealer shall:

(a) require the information under Subsection (2) for each transaction of regulated metal, except under Subsection 76-6-1406(4); and

(b) maintain for each purchase of regulated metal the information required by this part in a written or electronic log, in the English language.

(2) The dealer shall require the following information of the seller and shall record the information as required under Subsection (1) for each purchase of regulated metal:

(a) a complete description of the regulated metal, including weight and metallic description, in accordance with scrap metal recycling industry standards;

(b) the full name and residence of each person selling the regulated metal;

(c) the vehicle type and license plate number, if applicable, of the vehicle transporting the regulated metal to the dealer;

(d) the price per pound and the amount paid for each type of regulated metal purchased by the dealer;

(e) the date, time, and place of the purchase;

(f) the type and the identifying number of the identification provided in Subsection (2)(g);

(g) ~~[at least one]~~ a form of identification that is a valid United States federal or state-issued photo ID, which includes a driver license, a United States passport, a United States passport card, or a United States military identification card;

(h) the seller’s signature on a certificate stating that he has the legal right to sell the scrap metal or junk; and

(i) a digital photograph or still video of the seller, taken at the time of the sale, or a clearly legible photocopy of the seller’s identification.

(3) No entry in the log may be erased, deleted, mutilated, or changed.

(4) The log and entries shall be open to inspection by the following officials having jurisdiction over the area in which the dealer does business during regular business hours:

(a) the county sheriff or deputies;

(b) any law enforcement agency; and

(c) any constable or other state, municipal, or county official in the county in which the dealer does business.

(5) A dealer shall make these records available for inspection by any law enforcement agency, upon request, at the dealer’s place of business during the dealer’s regular business hours.

(6) Log entries made under this section shall be maintained for not less than three years from date of entry.

(7) (a) The dealer may maintain the information required by Subsection (2) for repeat sellers who use the same vehicle to bring regulated metal for each transaction in a relational database that allows the dealer to enter an initial record of the seller’s information and then relate subsequent

transaction records to that initial information, except under Subsection (7)(b).

(b) The dealer shall obtain regarding each transaction with repeat sellers:

- (i) a photograph of the seller; and
- (ii) a signature from the seller.

CHAPTER 262**S. B. 101**

Passed March 13, 2014
 Approved March 31, 2014
 Effective May 13, 2014

**PUBLIC EDUCATION HUMAN
 RESOURCE MANAGEMENT AMENDMENTS**

Chief Sponsor: Aaron Osmond
 House Sponsor: Francis D. Gibson

LONG TITLE**General Description:**

This bill modifies provisions relating to human resource management policies applicable to public education employees.

Highlighted Provisions:

This bill:

- ▶ modifies the date when a school district is required to adopt evaluation systems for educators and school and district administrators in accordance with a State Board of Education framework; and
- ▶ modifies the date when:
 - a public education employee's advancement on a wage or salary scale is primarily based on an evaluation; and
 - a school or district administrator's salary is based on the school or district administrator's most recent evaluation.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-8a-409, as enacted by Laws of Utah 2012, Chapter 425
 53A-8a-601, as enacted by Laws of Utah 2012, Chapter 425
 53A-8a-702, as enacted by Laws of Utah 2012, Chapter 425
 53A-8a-703, as enacted by Laws of Utah 2012, Chapter 425

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

Section 1. Section 53A-8a-409 is amended to read:**53A-8a-409. State Board of Education to establish a framework for the evaluation of educators.**

The State Board of Education shall make rules:

- (1) establishing a framework for the evaluation of educators that is consistent with the requirements of Part 3, Employee Evaluations, and this part;
- (2) requiring a teacher's summative evaluation to be based on:

(a) student learning growth or achievement, if measures of student learning growth are not available; and

(b) standards of instructional quality; and

(3) requiring each school district to fully implement an evaluation system for educators in accordance with the framework established by the State Board of Education no later than the [2014-15] 2015-16 school year.

Section 2. Section 53A-8a-601 is amended to read:**53A-8a-601. State Board of Education to make rules on performance compensation.**

(1) The State Board of Education shall make rules requiring a school district's employee compensation system to be aligned with the district's annual evaluation system.

(2) Rules adopted under Subsection (1) shall:

(a) establish a timeline for developing and implementing an employee compensation system that is aligned with an annual evaluation system; and

(b) provide that beginning no later than the [2015-16] 2016-17 school year:

(i) any advancement on an adopted wage or salary schedule shall be based primarily on an evaluation; and

(ii) an employee may not advance on an adopted wage or salary schedule if the employee's rating on the most recent evaluation is at the lowest level of an evaluation instrument.

Section 3. Section 53A-8a-702 is amended to read:**53A-8a-702. Evaluation of school and district administrators.**

The State Board of Education shall:

(1) establish in rules a framework for the evaluation of school and district administrators that includes the following components:

(a) student achievement indicators emphasizing learning growth and proficiency;

(b) the results of an evaluation tool utilized by the local school board that includes input from employees, parents, and students;

(c) the effectiveness of evaluating employee performance in a school or district for which the school or district administrator has responsibility; and

(d) other factors as determined by a local school board in implementing state law and State Board of Education rules; and

(2) require each school district to fully implement an evaluation system for school and district administrators in accordance with the framework established by the State Board of Education no later than the [2014-15] 2015-16 school year.

Section 4. Section 53A-8a-703 is amended to read:

53A-8a-703. Compensation of school and district administrators.

(1) Beginning no later than the ~~[2015-16]~~ 2016-17 school year, a school or district administrator's salary shall be based on the school or district administrator's most recent evaluation.

(2) A school district shall continue each year to award any salary increases to a school or district administrator based on an evaluation administered pursuant to Section 53A-8a-702 until at least 15% of a school or district administrator's salary is contingent upon the evaluation administered pursuant to Section 53A-8a-702.

CHAPTER 263**S. B. 108**

Passed February 19, 2014

Approved March 31, 2014

Effective May 13, 2014

JUDICIARY AMENDMENTS

Chief Sponsor: Lyle W. Hillyard

House Sponsor: V. Lowry Snow

LONG TITLE**General Description:**

This bill makes amendments related to the judiciary.

Highlighted Provisions:

This bill:

- ▶ requires a peace officer or public official to include on a citation whether the offense was a domestic violence offense;
- ▶ requires a petitioner applying electronically for the expungement of records to follow certain proceedings;
- ▶ requires an additional \$20 filing fee in civil justice court cases if a person files a complaint, petition, answer, or response prepared through the Online Court Assistance Program;
- ▶ changes the filing fee for a domestic relations order; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

77-7-20, as last amended by Laws of Utah 2013, Chapter 65

77-40-103, as last amended by Laws of Utah 2013, Chapter 41

77-40-107, as last amended by Laws of Utah 2013, Chapters 41 and 245

78A-2-301, as last amended by Laws of Utah 2012, Chapter 247

78A-2-501, as renumbered and amended by Laws of Utah 2008, Chapter 3

78B-7-405, as enacted by Laws of Utah 2013, Chapter 179

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

Section 1. Section 77-7-20 is amended to read:**77-7-20. Service of citation on defendant -- Filing in court -- Electronic filing -- Contents of citations.**

(1) A peace officer or public official who issues a citation pursuant to Section 77-7-18 shall give the citation to the person cited and shall within five days electronically file the data from Subsections (2)(a) through (2)(g) with the court specified in the citation. The data transmission shall use the court's electronic filing interface. A nonconforming filing is not effective.

(2) The citation issued under authority of this chapter shall contain the following data:

(a) the name of the court before which the person is to appear;

(b) the name of the person cited;

(c) a brief description of the offense charged;

(d) the date, time, and place at which the offense is alleged to have occurred;

(e) the date on which the citation was issued;

(f) the name of the peace officer or public official who issued the citation, and the name of the arresting person if an arrest was made by a private party and the citation was issued in lieu of taking the arrested person before a magistrate;

(g) the time and date on or before and after which the person is to appear or a statement that the court will notify the person of the time to appear;

(h) the address of the court in which the person is to appear; [and]

(i) whether the offense is a domestic violence offense; and

[~~(j)~~] (j) a notice containing substantially the following language:

READ CAREFULLY

This citation is not an information and will not be used as an information without your consent. If an information is filed you will be provided a copy by the court. You **MUST** appear in court on or before the time set in this citation or as directed by the court. **IF YOU FAIL TO APPEAR, THE COURT MAY ISSUE A WARRANT FOR YOUR ARREST.**

(3) By electronically filing the data with the court, the peace officer or public official certifies to the court that:

(a) the citation or information, including the summons and complaint, was served upon the defendant in accordance with the law;

(b) the defendant committed the offense set forth in the served documents; and

(c) the court to which the defendant was directed to appear is the proper court pursuant to Section 77-7-21.

Section 2. Section 77-40-103 is amended to read:**77-40-103. Expungement procedure overview.**

The process for the expungement of records under this chapter regarding the arrest, investigation, detention, and conviction of a petitioner is as follows:

(1) The petitioner shall apply to the bureau for a certificate of eligibility for expungement and pay the application fee established by the department.

(2) Once the eligibility process is complete, the bureau shall notify the petitioner.

(3) If the petitioner is qualified to receive a certificate of eligibility for expungement, the petitioner shall pay the issuance fee established by the department.

(4) The petitioner shall file the certificate of eligibility with a petition for expungement in the court in which the proceedings occurred. If there were no court proceedings, or the court no longer exists, the petition may be filed in the district court where the arrest occurred. If a certificate is filed electronically, the petitioner or the petitioner's attorney shall keep the original certificate until the proceedings are concluded. If the original certificate is filed with the petition, the clerk or the court shall scan it and return it to the petitioner or the petitioner's attorney, who shall keep it until the proceedings are concluded.

(5) The petitioner shall deliver a copy of the petition and certificate to the prosecutorial office that handled the court proceedings. If there were no court proceedings, the copy of the petition and certificate shall be delivered to the county attorney's office in the jurisdiction where the arrest occurred.

(6) If an objection to the petition is filed by the prosecutor or victim, a hearing shall be set by the court and the prosecutor and victim notified of the date.

(7) If the court requests a response from Adult Probation and Parole and a response is received, the petitioner may file a written reply to the response within 15 days of receipt of the response.

(8) An expungement may be granted without a hearing if no objection is received.

(9) Upon receipt of an order of expungement, the petitioner shall deliver copies to all government agencies in possession of records relating to the expunged matter.

Section 3. Section 77-40-107 is amended to read:

77-40-107. Petition for expungement -- Prosecutorial responsibility -- Hearing -- Standard of proof -- Exception.

(1) The petitioner shall file a petition for expungement and the certificate of eligibility in the court specified in Section 77-40-103 and deliver a copy of the petition and certificate to the prosecuting agency. If the certificate is filed electronically, the petitioner or the petitioner's attorney shall keep the original certificate until the proceedings are concluded. If the original certificate is filed with the petition, the clerk of the court shall scan it and return it to the petitioner or the petitioner's attorney, who shall keep it until the proceedings are concluded.

(2) (a) Upon receipt of a petition for expungement of a conviction, the prosecuting attorney shall provide notice of the expungement request by first-class mail to the victim at the most recent address of record on file.

(b) The notice shall include a copy of the petition, certificate of eligibility, statutes and rules applicable to the petition, state that the victim has a right to object to the expungement, and provide instructions for registering an objection with the court.

(3) The prosecuting attorney and the victim, if applicable, may respond to the petition by filing a recommendation or objection with the court within 30 days after receipt of the petition.

(4) (a) The court may request a written response to the petition from the Division of Adult Probation and Parole within the Department of Corrections.

(b) If requested, the response prepared by Adult Probation and Parole shall include:

(i) the reasons probation was terminated; and

(ii) certification that the petitioner has completed all requirements of sentencing and probation or parole.

(c) A copy of the response shall be provided to the petitioner and the prosecuting attorney.

(5) The petitioner may respond in writing to any objections filed by the prosecutor or the victim and the response prepared by Adult Probation and Parole within 15 days after receipt.

(6) (a) If the court receives an objection concerning the petition from any party, the court shall set a date for a hearing and notify the petitioner and the prosecuting attorney of the date set for the hearing. The prosecuting attorney shall notify the victim of the date set for the hearing.

(b) The petitioner, the prosecuting attorney, the victim, and any other person who has relevant information about the petitioner may testify at the hearing.

(c) The court shall review the petition, the certificate of eligibility, and any written responses submitted regarding the petition.

(7) If no objection is received within 60 days from the date the petition for expungement was filed with the court, the expungement may be granted without a hearing.

(8) The court shall issue an order of expungement if it finds by clear and convincing evidence that:

(a) the petition and certificate of eligibility are sufficient;

(b) the statutory requirements have been met;

(c) if the petitioner seeks expungement of drug possession offenses allowed under Subsection 77-40-105(5), the petitioner is not illegally using controlled substances and is successfully managing any substance addiction; and

(d) it is not contrary to the interests of the public to grant the expungement.

(9) A court may not expunge a conviction of an offense for which a certificate of eligibility may not be or should not have been issued under Section 77-40-104 or 77-40-105.

Section 4. Section 78A-2-301 is amended to read:

78A-2-301. Civil fees of the courts of record -- Courts complex design.

(1) (a) The fee for filing any civil complaint or petition invoking the jurisdiction of a court of record not governed by another subsection is \$360.

(b) The fee for filing a complaint or petition is:

(i) \$75 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is \$2,000 or less;

(ii) \$185 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is greater than \$2,000 and less than \$10,000;

(iii) \$360 if the claim for damages or amount in interpleader is \$10,000 or more;

(iv) \$310 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4, Separate Maintenance;

(v) \$35 for a motion for temporary separation order filed under Section 30-3-4.5; and

(vi) \$125 if the petition is for removal from the Sex Offender and Kidnap Offender Registry under Subsection 77-27-21.5(32).

(c) The fee for filing a small claims affidavit is:

(i) \$60 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is \$2,000 or less;

(ii) \$100 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is greater than \$2,000, but less than \$7,500; and

(iii) \$185 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is \$7,500 or more.

(d) The fee for filing a counter claim, cross claim, complaint in intervention, third party complaint, or other claim for relief against an existing or joined party other than the original complaint or petition is:

(i) \$55 if the claim for relief exclusive of court costs, interest, and attorney fees is \$2,000 or less;

(ii) \$150 if the claim for relief exclusive of court costs, interest, and attorney fees is greater than \$2,000 and less than \$10,000;

(iii) \$155 if the original petition is filed under Subsection (1)(a), the claim for relief is \$10,000 or more, or the party seeks relief other than monetary damages; and

(iv) \$115 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4, Separate Maintenance.

(e) The fee for filing a small claims counter affidavit is:

(i) \$50 if the claim for relief exclusive of court costs, interest, and attorney fees is \$2,000 or less;

(ii) \$70 if the claim for relief exclusive of court costs, interest, and attorney fees is greater than \$2,000, but less than \$7,500; and

(iii) \$120 if the claim for relief exclusive of court costs, interest, and attorney fees is \$7,500 or more.

(f) The fee for depositing funds under Section 57-1-29 when not associated with an action already before the court is determined under Subsection (1)(b) based on the amount deposited.

(g) The fee for filing a petition is:

(i) \$225 for trial de novo of an adjudication of the justice court or of the small claims department; and

(ii) \$65 for an appeal of a municipal administrative determination in accordance with Section 10-3-703.7.

(h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or petition for writ of certiorari is \$225.

(i) The fee for filing a petition for expungement is \$135.

(j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be allocated to and between the Judges' Contributory Retirement Trust Fund and the Judges' Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 17, Judges' Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement Act.

(ii) Four dollars of the fees established by Subsections (1)(a) through (i) shall be allocated by the state treasurer to be deposited in the restricted account, Children's Legal Defense Account, as provided in Section 51-9-408.

(iii) Three dollars of the fees established under Subsections (1)(a) through (e), (1)(g), and (1)(s) shall be allocated to and deposited with the Dispute Resolution Account as provided in Section 78B-6-209.

(iv) Fifteen dollars of the fees established by Subsections (1)(a), (1)(b)(iii) and (iv), (1)(d)(iii) and (iv), (1)(g)(ii), (1)(h), and (1)(i) shall be allocated by the state treasurer to be deposited in the restricted account, Court Security Account, as provided in Section 78A-2-602.

(v) Five dollars of the fees established by Subsections (1)(b)(i) and (ii), (1)(d)(ii) and (1)(g)(i) shall be allocated by the state treasurer to be deposited in the restricted account, Court Security Account, as provided in Section 78A-2-602.

(k) The fee for filing a judgment, order, or decree of a court of another state or of the United States is \$35.

(l) The fee for filing a renewal of judgment in accordance with Section 78B-6-1801 is 50% of the fee for filing an original action seeking the same relief.

(m) The fee for filing probate or child custody documents from another state is \$35.

(n) (i) The fee for filing an abstract or transcript of judgment, order, or decree of the Utah State Tax Commission is \$30.

(ii) The fee for filing an abstract or transcript of judgment of a court of law of this state or a judgment, order, or decree of an administrative agency, commission, board, council, or hearing officer of this state or of its political subdivisions other than the Utah State Tax Commission, is \$50.

(o) The fee for filing a judgment by confession without action under Section 78B-5-205 is \$35.

(p) The fee for filing an award of arbitration for confirmation, modification, or vacation under Title 78B, Chapter 11, Utah Uniform Arbitration Act, that is not part of an action before the court is \$35.

(q) The fee for filing a petition or counter-petition to modify a ~~deeree-of-divoree~~ domestic relations order other than a protective order or stalking injunction is \$100.

(r) The fee for filing any accounting required by law is:

(i) \$15 for an estate valued at \$50,000 or less;

(ii) \$30 for an estate valued at \$75,000 or less but more than \$50,000;

(iii) \$50 for an estate valued at \$112,000 or less but more than \$75,000;

(iv) \$90 for an estate valued at \$168,000 or less but more than \$112,000; and

(v) \$175 for an estate valued at more than \$168,000.

(s) The fee for filing a demand for a civil jury is \$250.

(t) The fee for filing a notice of deposition in this state concerning an action pending in another state under Utah Rule of Civil Procedure 26 is \$35.

(u) The fee for filing documents that require judicial approval but are not part of an action before the court is \$35.

(v) The fee for a petition to open a sealed record is \$35.

(w) The fee for a writ of replevin, attachment, execution, or garnishment is \$50 in addition to any fee for a complaint or petition.

(x) (i) The fee for a petition for authorization for a minor to marry required by Section 30-1-9 is \$5.

(ii) The fee for a petition for emancipation of a minor provided in Title 78A, Chapter 6, Part 8, Emancipation, is \$50.

(y) The fee for a certificate issued under Section 26-2-25 is \$8.

(z) The fee for a certified copy of a document is \$4 per document plus 50 cents per page.

(aa) The fee for an exemplified copy of a document is \$6 per document plus 50 cents per page.

(bb) The Judicial Council shall by rule establish a schedule of fees for copies of documents and forms and for the search and retrieval of records under Title 63G, Chapter 2, Government Records Access and Management Act. Fees under this Subsection (1)(bb) shall be credited to the court as a reimbursement of expenditures.

(cc) There is no fee for services or the filing of documents not listed in this section or otherwise provided by law.

(dd) Except as provided in this section, all fees collected under this section are paid to the General Fund. Except as provided in this section, all fees shall be paid at the time the clerk accepts the pleading for filing or performs the requested service.

(ee) The filing fees under this section may not be charged to the state, its agencies, or political subdivisions filing or defending any action. In judgments awarded in favor of the state, its agencies, or political subdivisions, except the Office of Recovery Services, the court shall order the filing fees and collection costs to be paid by the judgment debtor. The sums collected under this Subsection (1)(ee) shall be applied to the fees after credit to the judgment, order, fine, tax, lien, or other penalty and costs permitted by law.

(2) (a) (i) From March 17, 1994 until June 30, 1998, the administrator of the courts shall transfer all revenues representing the difference between the fees in effect after May 2, 1994, and the fees in effect before February 1, 1994, as dedicated credits to the Division of Facilities Construction and Management Capital Projects Fund.

(ii) (A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities Construction and Management shall use up to \$3,750,000 of the revenue deposited in the Capital Projects Fund under this Subsection (2)(a) to design and take other actions necessary to initiate the development of a courts complex in Salt Lake City.

(B) If the Legislature approves funding for construction of a courts complex in Salt Lake City in the 1995 Annual General Session, the Division of Facilities Construction and Management shall use the revenue deposited in the Capital Projects Fund under this Subsection (2)(a)(ii) to construct a courts complex in Salt Lake City.

(C) After the courts complex is completed and all bills connected with its construction have been paid, the Division of Facilities Construction and Management shall use any money remaining in the Capital Projects Fund under this Subsection (2)(a)(ii) to fund the Vernal District Court building.

(iii) The Division of Facilities Construction and Management may enter into agreements and make expenditures related to this project before the receipt of revenues provided for under this Subsection (2)(a)(iii).

(iv) The Division of Facilities Construction and Management shall:

(A) make those expenditures from unexpended and unencumbered building funds already appropriated to the Capital Projects Fund; and

(B) reimburse the Capital Projects Fund upon receipt of the revenues provided for under this Subsection (2).

(b) After June 30, 1998, the administrator of the courts shall ensure that all revenues representing the difference between the fees in effect after May 2, 1994, and the fees in effect before February 1, 1994, are transferred to the Division of Finance for deposit in the restricted account.

(c) The Division of Finance shall deposit all revenues received from the court administrator into the restricted account created by this section.

(d) (i) From May 1, 1995 until June 30, 1998, the administrator of the courts shall transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court of record to the Division of Facilities Construction and Management Capital Projects Fund. The division of money pursuant to Section 78A-5-110 shall be calculated on the balance of the fine or bail forfeiture paid.

(ii) After June 30, 1998, the administrator of the courts or a municipality shall transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court of record to the Division of Finance for deposit in the restricted account created by this section. The division of money pursuant to Section 78A-5-110 shall be calculated on the balance of the fine or bail forfeiture paid.

(3) (a) There is created within the General Fund a restricted account known as the State Courts Complex Account.

(b) The Legislature may appropriate money from the restricted account to the administrator of the courts for the following purposes only:

(i) to repay costs associated with the construction of the court complex that were funded from sources other than revenues provided for under this Subsection (3)(b)(i); and

(ii) to cover operations and maintenance costs on the court complex.

Section 5. Section 78A-2-501 is amended to read:

78A-2-501. Online court assistance program -- Purpose of program -- User's fee.

(1) There is established an online court assistance program administered by the Administrative Office of the Courts to provide the public with information about civil procedures and to assist the public in preparing and filing civil pleadings and other papers in:

- (a) uncontested divorces;
- (b) enforcement of orders in the divorce decree;
- (c) landlord and tenant actions; and

(d) other types of proceedings approved by the Online Court Assistance Program Policy Board.

(2) The purpose of the online court assistance program shall be to:

- (a) minimize the costs of civil litigation;
- (b) improve access to the courts; and
- (c) provide for informed use of the courts and the law by pro se litigants.

(3) (a) An additional \$20 shall be added to the filing fee established by ~~[Section]~~ Sections 78A-2-301 and 78A-2-301.5 if a person files a complaint, petition, answer, or response prepared through the program. There shall be no fee for using the program or for papers filed subsequent to the initial pleading.

(b) There is created within the General Fund a restricted account known as the Online Court Assistance Account. The ~~[fee]~~ fees collected under this Subsection (3) shall be deposited in the restricted account and appropriated by the Legislature to the Administrative Office of the Courts to develop, operate, and maintain the program and to support the use of the program through education of the public.

Section 6. Section 78B-7-405 is amended to read:

78B-7-405. Hearings on ex parte dating violence protective orders.

(1) (a) Within 20 days after the day on which the court issues an ex parte protective order, the district court shall set a date for a hearing on the petition.

(b) If, at the hearing described in Subsection (1)(a), the district court does not issue a dating violence protective order, the ex parte dating protective order shall expire, unless it is extended by the district court. Extensions beyond the 20-day period may not be granted unless:

- (i) the petitioner is unable to be present at the hearing;
- (ii) the respondent has not been served; or
- (iii) exigent circumstances exist.

(c) Under no circumstances may an ex parte order be extended beyond 180 days from the day on which the court issues the initial ex parte protective order.

(d) If, at the hearing described in Subsection (1)(a), the district court issues a dating violence protective order, the ex parte protective order shall remain in effect until service of process of the dating violence protective order is completed.

(e) A dating violence protective order issued after notice and a hearing shall remain in effect from 180 days after the day on which the ~~[petition]~~ order is issued.

(f) If the hearing on the petition is heard by a commissioner, either the petitioner or respondent may file an objection within 10 calendar days after the day on which the recommended order is

entered, and the assigned judge shall hold a hearing on the objection within 20 days after the day on which the objection is filed.

(2) Upon a hearing under this section, the district court may grant any of the relief permitted under Section 78B-7-404, except the district court shall not grant the relief described in Subsection 78B-7-404(3)(b) without providing the respondent notice and an opportunity to be heard.

(3) If a district court denies a petition for an ex parte dating violence protective order or a petition to modify a dating violence protective order ex parte, the district court shall, upon the petitioner's request:

- (a) set the matter for hearing; and
- (b) notify and serve the respondent.

CHAPTER 264**S. B. 123**

Passed February 25, 2014

Approved March 31, 2014

Effective May 13, 2014

**INTERLOCAL COOPERATION
ACT REVISIONS**

Chief Sponsor: John L. Valentine

House Sponsor: Ryan D. Wilcox

LONG TITLE**General Description:**

This bill amends provisions related to a taxed interlocal entity.

Highlighted Provisions:

This bill:

- ▶ amends the definition of taxed interlocal entity.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

11-13-315, as enacted by Laws of Utah 2013, Chapter 230

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

Section 1. Section 11-13-315 is amended to read:**11-13-315. Taxed interlocal entity.**

(1) As used in this section:

(a) "Asset" means funds, money, an account, real or personal property, or personnel.

(b) "Public asset" means:

(i) an asset used by a public entity;

(ii) tax revenue;

(iii) state funds; or

(iv) public funds.

(c) (i) "Taxed interlocal entity" means a project entity that:

(A) is not exempt from a tax or fee in lieu of taxes imposed in accordance with Part 3, Project Entity Provisions;

(B) does not receive a payment of funds from a federal agency or office, state agency or office, political subdivision, or other public agency or office other than a payment that does not materially exceed the greater of the fair market value and the cost of a service provided or property conveyed by the project entity; and

(C) does not receive, expend, or have the authority to compel payment from tax revenue.

(ii) [~~Before and on May 1, 2014, "taxed"~~] "Taxed interlocal entity" includes an interlocal entity that:

(A) [~~(A)~~] was created before 1981 for the purpose of providing power supply at wholesale to its members; [~~or~~]

[~~(B)~~ is described in Subsection 11-13-204(7);]

(B) does not receive a payment of funds from a federal agency or office, state agency or office, political subdivision, or other public agency or office other than a payment that does not materially exceed the greater of the fair market value and the cost of a service provided or property conveyed by the interlocal entity; and

(C) does not receive, expend, or have the authority to compel payment from tax revenue.

(d) (i) "Use" means to use, own, manage, hold, keep safe, maintain, invest, deposit, administer, receive, expend, appropriate, disburse, or have custody.

(ii) "Use" includes, when constituting a noun, the corresponding nominal form of each term in Subsection (1)(d)(i), individually.

(2) Notwithstanding any other provision of law, the use of an asset by a taxed interlocal entity does not constitute the use of a public asset.

(3) Notwithstanding any other provision of law, a taxed interlocal entity's use of an asset that was a public asset prior to the taxed interlocal entity's use of the asset does not constitute a taxed interlocal entity's use of a public asset.

(4) Notwithstanding any other provision of law, an official of a project entity is not a public treasurer.

(5) Notwithstanding any other provision of law, a taxed interlocal entity's governing body, as described in Section 11-13-206, shall determine and direct the use of an asset by the taxed interlocal entity.

(6) (a) A taxed interlocal entity is not subject to the provisions of Title 63G, Chapter 6a, Utah Procurement Code.

(b) An agent of a taxed interlocal entity is not an external procurement unit as defined in Section 63G-6a-104.

(7) (a) A taxed interlocal entity is not a participating local entity as defined in Section 63A-3-401.

(b) For each fiscal year of a taxed interlocal entity, the taxed interlocal entity shall provide:

(i) the taxed interlocal entity's financial statements for and as of the end of the fiscal year and the prior fiscal year, including the taxed interlocal entity's balance sheet as of the end of the fiscal year and the prior fiscal year, and the related statements of revenues and expenses and of cash flows for the fiscal year; and

(ii) the accompanying auditor's report and management's discussion and analysis with respect to the taxed interlocal entity's financial statements for and as of the end of the fiscal year.

(c) The taxed interlocal entity shall provide the information described in Subsections (7)(b)(i) and (b)(ii):

(i) in a manner described in Subsection 63A-3-405(3); and

(ii) within a reasonable time after the taxed interlocal entity's independent auditor delivers to the taxed interlocal entity's governing body the auditor's report with respect to the financial statements for and as of the end of the fiscal year.

(d) Notwithstanding Subsections (7)(b) and (c) or a taxed interlocal entity's compliance with one or more of the requirements of Title 63A, Chapter 3, Division of Finance:

(i) the taxed interlocal entity is not subject to Title 63A, Chapter 3, Division of Finance; and

(ii) the information described in Subsection (7)(b)(i) or (ii) does not constitute public financial information as defined in Section 63A-3-401.

(8) (a) A taxed interlocal entity's governing body is not a governing board as defined in Section 51-2a-102.

(b) A taxed interlocal entity is not subject to the provisions of Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

CHAPTER 265**S. B. 126**

Passed March 6, 2014

Approved March 31, 2014

Effective May 13, 2014

CHILD WELFARE AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Ronda Rudd Menlove

LONG TITLE**General Description:**

This bill amends provisions of Title 62A, Chapter 4a, Child and Family Services.

Highlighted Provisions:

This bill:

- ▶ renames, clarifies, and modifies provisions related to in-home services for the preservation of families; and
- ▶ provides that a parent may not file a petition for restoration of legal custody during the existence of a permanent guardianship.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

62A-4a-103, as last amended by Laws of Utah 2009, Chapter 75

62A-4a-105, as last amended by Laws of Utah 2013, Chapter 416

62A-4a-202, as last amended by Laws of Utah 2006, Chapter 75

78A-6-1103, as last amended by Laws of Utah 2011, Chapter 208

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

Section 1. Section 62A-4a-103 is amended to read:**62A-4a-103. Division -- Creation -- Purpose.**

(1) (a) There is created the Division of Child and Family Services within the department, under the administration and general supervision of the executive director.

(b) The division is the child, youth, and family services authority of the state and has all functions, powers, duties, rights, and responsibilities created in accordance with this chapter, except those assumed by the department.

(2) (a) The primary purpose of the division is to provide child welfare services.

(b) The division shall, when possible and appropriate, provide ~~[preventive services and family preservation services]~~ in-home services for the preservation of families in an effort to protect the child from the trauma of separation from his family, protect the integrity of the family, and the constitutional rights of parents. In keeping with its

ultimate goal and purpose of protecting children, however, when a child's welfare is endangered or reasonable efforts to maintain or reunify a child with his family have failed, the division shall act in a timely fashion in accordance with the requirements of this chapter and Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings, to provide the child with a stable, permanent environment.

(3) The division shall also provide domestic violence services in accordance with federal law.

Section 2. Section 62A-4a-105 is amended to read:**62A-4a-105. Division responsibilities.**

(1) The division shall:

(a) administer services to minors and families, including:

(i) child welfare services;

(ii) domestic violence services; and

(iii) all other responsibilities that the Legislature or the executive director may assign to the division;

(b) provide the following services:

(i) financial and other assistance to an individual adopting a child with special needs under Part 9, Adoption Assistance, not to exceed the amount the division would provide for the child as a legal ward of the state;

(ii) non-custodial and in-home ~~[preventative]~~ services, including:

(A) services designed to prevent family break-up; and

(B) family preservation services;

(iii) reunification services to families whose children are in substitute care in accordance with the requirements of this chapter and Title 78A, Chapter 6, Juvenile Court Act ~~[of 1996]~~;

(iv) protective supervision of a family, upon court order, in an effort to eliminate abuse or neglect of a child in that family;

(v) shelter care in accordance with the requirements of this chapter and Title 78A, Chapter 6, Juvenile Court Act ~~[of 1996]~~;

(vi) domestic violence services, in accordance with the requirements of federal law;

(vii) protective services to victims of domestic violence, as defined in Section 77-36-1, and their children, in accordance with the provisions of this chapter and Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings;

(viii) substitute care for dependent, abused, neglected, and delinquent children;

(ix) programs and services for minors who have been placed in the custody of the division for reasons other than abuse or neglect, under Section 62A-4a-250; and

(x) training for staff and providers involved in the administration and delivery of services offered by the division in accordance with this chapter;

(c) establish standards for all:

(i) contract providers of out-of-home care for minors and families;

(ii) facilities that provide substitute care for dependent, abused, neglected, and delinquent children placed in the custody of the division; and

(iii) direct or contract providers of domestic violence services described in Subsection (1)(b)(vi);

(d) have authority to:

(i) contract with a private, nonprofit organization to recruit and train foster care families and child welfare volunteers in accordance with Section 62A-4a-107.5; and

(ii) approve facilities that meet the standards established under Subsection (1)(c) to provide substitute care for dependent, abused, neglected, and delinquent children placed in the custody of the division;

(e) cooperate with the federal government in the administration of child welfare and domestic violence programs and other human service activities assigned by the department;

(f) in accordance with Subsection (2)(a), promote and enforce state and federal laws enacted for the protection of abused, neglected, dependent, delinquent, ungovernable, and runaway children, and status offenders, in accordance with the requirements of this chapter, unless administration is expressly vested in another division or department of the state;

(g) cooperate with the Employment Development Division in the Department of Workforce Services in meeting the social and economic needs of an individual who is eligible for public assistance;

(h) compile relevant information, statistics, and reports on child and family service matters in the state;

(i) prepare and submit to the department, the governor, and the Legislature reports of the operation and administration of the division in accordance with the requirements of Sections 62A-4a-117 and 62A-4a-118;

(j) provide social studies and reports for the juvenile court in accordance with Section 78A-6-605;

(k) within appropriations from the Legislature, provide or contract for a variety of domestic violence services and treatment methods;

(l) ensure regular, periodic publication, including electronic publication, regarding the number of children in the custody of the division who:

(i) have a permanency goal of adoption; or

(ii) have a final plan of termination of parental rights, pursuant to Section 78A-6-314, and promote adoption of those children;

(m) subject to Subsection (2)(b), refer an individual receiving services from the division to the local substance abuse authority or other private or public resource for a court-ordered drug screening test; and

(n) perform other duties and functions required by law.

(2) (a) In carrying out the requirements of Subsection (1)(f), the division shall:

(i) cooperate with the juvenile courts, the Division of Juvenile Justice Services, and with all public and private licensed child welfare agencies and institutions, to develop and administer a broad range of services and support;

(ii) take the initiative in all matters involving the protection of abused or neglected children, if adequate provisions have not been made or are not likely to be made; and

(iii) make expenditures necessary for the care and protection of the children described in this Subsection (2)(a), within the division's budget.

(b) When an individual is referred to a local substance abuse authority or other private or public resource for court-ordered drug screening under Subsection (1)(n), the court shall order the individual to pay all costs of the tests unless:

(i) the cost of the drug screening is specifically funded or provided for by other federal or state programs;

(ii) the individual is a participant in a drug court; or

(iii) the court finds that the individual is impecunious.

(3) Except to the extent provided by rule, the division is not responsible for investigating domestic violence in the presence of a child, as described in Section 76-5-109.1.

(4) The division may not require a parent who has a child in the custody of the division to pay for some or all of the cost of any drug testing the parent is required to undergo.

Section 3. Section 62A-4a-202 is amended to read:

62A-4a-202. In-home services for the preservation of families.

(1) (a) Within appropriations from the Legislature and money obtained under Subsection (5), the division shall provide ~~preventive,~~ in-home services ~~[and family preservation services for]~~ for the purpose of family preservation to any family with a child whose health and safety is not immediately endangered, when:

(i) (A) the child is at risk of being removed from the home; or

(B) the family is in crisis; and

(ii) the division determines that it is reasonable and appropriate.

(b) In determining whether [~~preventive or family preservation~~] in-home services are reasonable and appropriate, in keeping with the provisions of Subsection 62A-4a-201(1) the child's health, safety, and welfare shall be the paramount concern.

(c) The division shall consider whether the services described in Subsection (1)(b):

(i) will be effective within a six-month period; and

(ii) are likely to prevent continued abuse or [~~continued~~] neglect of the child.

(2) (a) The division shall maintain a statewide inventory of [~~early intervention, preventive, and family preservation~~] in-home services available through public and private agencies or individuals for use by caseworkers.

(b) The inventory described in Subsection (2)(a) shall include:

(i) the method of accessing each service;

(ii) eligibility requirements for each service;

(iii) the geographic areas and the number of families that can be served by each service; and

(iv) information regarding waiting lists for each service.

(3) (a) As [a] part of its [~~preventive~~] in-home services for the preservation of families, the division shall provide [~~family preservation~~] in-home services in varying degrees of intensity and contact that [~~(a)~~] are [~~short-term, intensive, crisis intervention programs;~~] specific to the needs of each individual family.

(b) As part of its in-home services, the division shall:

(i) provide customized assistance;

(ii) provide support or interventions that are tailored to the needs of the family;

(iii) discuss the family's needs with the parent;

(iv) discuss an assistance plan for the family with the parent; and

[~~(b)~~] (v) address:

[~~(4)~~] (A) the safety of children; [~~and~~]

[~~(4)~~] (B) the needs of the family; and

(C) services necessary to aid in the preservation of the family and a child's ability to remain in the home.

(c) In-home services shall be, as practicable, [are] provided within the region that the family resides, using existing division staff.

(4) (a) The division may use specially trained caseworkers, private providers, or other persons to provide the [~~family preservation~~] in-home services described in Subsection (3).

[~~(b) Family preservation caseworkers may:~~]

[~~(i) only be assigned a minimal number of families;~~]

[~~(ii) be available 24 hours for an intensive period of at least six weeks; and~~]

[~~(iii) respond to an assigned family within 24 hours.~~]

[~~(e) The division shall allow family preservation caseworkers to be creative and flexible in responding to the needs of each individual family.~~]

(b) The division shall allow a caseworker to be flexible in responding to the needs of each individual family, including:

(i) limiting the number of families assigned; and

(ii) being available to respond to assigned families within 24 hours.

(5) To provide, expand, and improve the delivery of in-home services to prevent the removal of children from their homes and promote the preservation of families, the division shall make substantial effort to obtain funding, including:

(a) federal grants;

(b) federal waivers; and

(c) private money.

Section 4. Section 78A-6-1103 is amended to read:

78A-6-1103. Modification or termination of custody order or decree -- Grounds -- Procedure.

(1) A parent or guardian of any child whose legal custody has been transferred by the court to an individual, agency, or institution, except a secure youth corrections facility, may petition the court for restoration of custody or other modification or revocation of the court's order, on the ground that a change of circumstances has occurred which requires such modification or revocation in the best interest of the child or the public.

(2) The court shall make a preliminary investigation. If the court finds that the alleged change of circumstances, if proved, would not affect the decree, it may dismiss the petition. If the court finds that a further examination of the facts is needed, or if the court on its own motion determines that the decree should be reviewed, it shall conduct a hearing. Notice shall be given to all persons concerned. At the hearing, the court may enter an order continuing, modifying, or terminating the decree.

(3) (a) A [~~petition by a~~] parent may not [~~be filed~~] file a petition under this section after the parent's parental rights have been terminated in accordance with Part 5, Termination of Parental Rights Act.

(b) A parent may not file a petition for restoration of custody under this section during the existence of a permanent guardianship established for the child under Subsection 78A-6-117(2)(y).

(4) An individual, agency, or institution vested with legal custody of a child may petition the court

for a modification of the custody order on the ground that the change is necessary for the welfare of the child or in the public interest. The court shall proceed upon the petition in accordance with Subsections (1) and (2).

CHAPTER 266**S. B. 130**

Passed February 27, 2014

Approved March 31, 2014

Effective May 13, 2014

**TRUST DEED
FORECLOSURE AMENDMENTS**

Chief Sponsor: Wayne A. Harper

House Sponsor: R. Curt Webb

LONG TITLE**General Description:**

This bill amends the requirements related to trust deed foreclosures, including communications with a default trustor.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends the qualifications and obligations of a single point of contact;
- ▶ limits the requirements described in this bill to a beneficiary that is also a financial institution;
- ▶ clarifies the requirements of the written notice that a beneficiary or servicer must give to a default trustor;
- ▶ clarifies the relationship between federal law and Section 57-1-24.3;
- ▶ provides that, under certain circumstances, failure to comply with a requirement of Section 57-1-24.3 does not affect the validity of a trustee's sale to a beneficiary; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

57-1-24.3, as last amended by Laws of Utah 2013, Chapter 278

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

Section 1. Section 57-1-24.3 is amended to read:**57-1-24.3. Notices to default trustor -- Opportunity to negotiate foreclosure relief.**

(1) As used in this section:

(a) "Beneficiary" means a financial institution that is the record owner of the beneficial interest under a trust deed, including a successor in interest.

(b) "Current address" means the address at which a person has agreed or requested to receive notices.

(c) "Default trustor" means a trustor under a trust deed that secures a loan that the beneficiary or servicer claims is in default.

(d) "Financial institution" means:

(i) a state or federally chartered:

(A) bank;

(B) savings and loan association;

(C) savings bank;

(D) industrial bank; or

(E) credit union; or

(ii) any other entity under the jurisdiction of the commissioner of financial institutions as provided in Title 7, Financial Institutions Act.

(b) (e) "Foreclosure relief" means a mortgage modification program or other foreclosure relief option offered by a beneficiary or servicer.

(c) (f) "Loan" means an obligation incurred for personal, family, or household purposes, evidenced by a promissory note or other credit agreement for which a trust deed encumbering owner-occupied residential property is given as security.

(d) (g) "Owner-occupied residential property" means real property that is occupied by its owner as the owner's primary residence.

(e) (h) "Servicer" means an entity, retained by the beneficiary:

(i) for the purpose of receiving a scheduled periodic payment from a borrower pursuant to the terms of a loan; or

(ii) that meets the definition of servicer under 12 U.S.C. Sec. 2605(i)(2) with respect to residential mortgage loans.

(f) (i) "Single point of contact" means a person who, as the designated representative of the beneficiary or servicer, is authorized to:

(i) coordinate and ensure effective communication with a default trustor concerning:

(A) foreclosure proceedings initiated by the beneficiary or servicer relating to the trust property; and

(B) any foreclosure relief offered by or acceptable to the beneficiary or servicer; and

(ii) [direct] represent the beneficiary or servicer with respect to all foreclosure proceedings initiated by the beneficiary or servicer relating to the trust property, including:

(A) the filing of a notice of default under Section 57-1-24 and any cancellation of a notice of default;

(B) the publication of a notice of trustee's sale under Section 57-1-25; and

(C) the postponement of a trustee's sale under Section 57-1-27 or this section.

(2) (a) Before a notice of default is filed for record under Section 57-1-24, a beneficiary or servicer shall:

(i) designate a single point of contact; and

(ii) send written notice [by United States mail] to the default trustor at the default trustor's current address or, if none is provided, the address of the property described in the trust deed.

(b) A notice under Subsection (2)(a)(ii) shall:

(i) advise the default trustor of the intent of the beneficiary or servicer to file a notice of default;

(ii) state:

(A) the nature of the default;

(B) the total amount the default trustor is required to pay in order to cure the default and avoid the filing of a notice of default, itemized by the type and amount of each component part of the total cure amount; and

(C) ~~[the date]~~ a date, not fewer than 30 days after the day on which the beneficiary or servicer sends the notice, by which the default trustor ~~[is required to]~~ must pay the amount to cure the default and avoid the filing of a notice of default;

(iii) disclose the name, telephone number, email address, and mailing address of the single point of contact designated by the beneficiary or servicer; and

(iv) direct the default trustor to contact the single point of contact regarding foreclosure relief available through the beneficiary or servicer for which a default trustor may apply, if the beneficiary or servicer offers foreclosure relief.

(3) Before the expiration of the three-month period described in Subsection 57-1-24(2), a default trustor may apply directly with the single point of contact for any available foreclosure relief.

(4) A default trustor shall, within the time required by the beneficiary or servicer, provide all financial and other information requested by the single point of contact to enable the beneficiary or servicer to determine whether the default trustor qualifies for the foreclosure relief for which the default trustor applies.

(5) The single point of contact shall:

(a) inform the default trustor about and make available to the default trustor any available foreclosure relief;

(b) undertake reasonable and good faith efforts, consistent with applicable law, to consider the default trustor for foreclosure relief for which the default trustor is eligible;

(c) ensure timely and appropriate communication with the default trustor concerning foreclosure relief for which the default trustor applies; and

(d) notify the default trustor by ~~[United States mail]~~ written notice of the decision of the beneficiary or servicer regarding the foreclosure relief for which the default trustor applies.

(6) Notice of a trustee's sale may not be given under Section 57-1-25 with respect to the trust property of a default trustor who has applied for foreclosure relief until after the single point of contact provides the notice required by Subsection (5)(d).

(7) A beneficiary or servicer may cause a notice of a trustee's sale to be given with respect to the trust property of a default trustor who has applied for foreclosure relief if, in the exercise of the sole discretion of the beneficiary or servicer, the beneficiary or servicer:

(a) determines that the default trustor does not qualify for the foreclosure relief for which the default trustor has applied; or

(b) elects not to enter into a written agreement with the default trustor to implement the foreclosure relief.

(8) (a) A beneficiary or servicer may postpone a trustee's sale of the trust property in order to allow further time for negotiations relating to foreclosure relief.

(b) A postponement of a trustee's sale under Subsection (8)(a) does not require the trustee to file for record a new or additional notice of default under Section 57-1-24.

(9) A beneficiary or servicer shall cause the cancellation of a notice of default filed under Section 57-1-24 on the trust property of a default trustor if the beneficiary or servicer:

(a) determines that the default trustor qualifies for the foreclosure relief for which the default trustor has applied; and

(b) enters into a written agreement with the default trustor to implement the foreclosure relief.

(10) This section may not be construed to require a beneficiary or servicer to:

(a) establish foreclosure relief; or

(b) approve an application for foreclosure relief submitted by a default trustor.

(11) A beneficiary and servicer shall each take reasonable measures to ensure that their respective practices in the foreclosure of owner-occupied residential property and any foreclosure relief with respect to a loan:

(a) comply with all applicable federal and state fair lending statutes; and

(b) ensure appropriate treatment of default trustors in the foreclosure process.

~~[(12) This section does not apply if the beneficiary under a trust deed securing a loan is an individual.]~~

~~[(13)]~~ (12) A beneficiary or servicer is considered to have complied with the requirements of this section if the beneficiary or servicer designates and uses ~~[a single point of contact]~~ assigned personnel in compliance with 12 C.F.R. 1024, Real Estate Settlement Procedures Act, or other federal law, rules, regulations, guidance, or guidelines governing the beneficiary or servicer and issued by, as applicable, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the National Credit Union Administration, or the Consumer Financial Protection Bureau.

[(14)] (13) The failure of a beneficiary or servicer to comply with a requirement of this section does not affect the validity of a trustee's sale of the trust property to:

(a) a bona fide purchaser[-]; or

(b) a beneficiary of the trust deed after the trust property is sold to a bona fide purchaser.

(14) Subsection (13) does not affect:

(a) a beneficiary's or a servicer's liability under applicable law; or

(b) a default trustor's right to pursue other available remedies, including money damages, against a beneficiary or a servicer.

CHAPTER 267**S. B. 132**

Passed February 26, 2014

Approved March 31, 2014

Effective May 13, 2014

HUMAN SERVICES AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: LaVar Christensen

LONG TITLE**General Description:**

This bill amends provisions of the Utah Code relating to the Office of Guardian ad Litem.

Highlighted Provisions:

This bill:

- ▶ removes the repeal date for Section 78A-2-227.1;
- ▶ renumbers the provisions in the Judicial Administration Act related to the Office of Guardian ad Litem;
- ▶ provides that the district court may appoint an office attorney guardian ad litem when the district court determines that no private attorney guardians ad litem are reasonably available;
- ▶ provides that any savings resulting from assigning private attorney guardians ad litem in a district court case shall be applied to the office to reduce caseloads and improve practices in juvenile court and to recruit and train attorneys for the private attorney guardian ad litem program;
- ▶ provides that the court may appoint only an office attorney guardian ad litem in protective order cases; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

30-3-5.2, as last amended by Laws of Utah 2012, Chapter 223
51-9-408, as last amended by Laws of Utah 2013, Chapter 245
631-1-278, as last amended by Laws of Utah 2013, Chapter 416
78A-6-901, as last amended by Laws of Utah 2009, Chapter 32
78B-3-102, as last amended by Laws of Utah 2012, Chapter 223
78B-7-106, as last amended by Laws of Utah 2013, Chapter 416
78B-7-202, as last amended by Laws of Utah 2013, Chapter 416
78B-15-612, as last amended by Laws of Utah 2012, Chapter 223

ENACTS:

78A-2-701, Utah Code Annotated 1953

78A-2-702, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

78A-2-703, (Renumbered from 78A-2-227.1, as enacted by Laws of Utah 2013, Chapter 416)

78A-2-704, (Renumbered from 78A-2-227.5, as last amended by Laws of Utah 2013, Chapter 171)

78A-2-705, (Renumbered from 78A-2-228, as last amended by Laws of Utah 2013, Chapter 416)

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

Section 1. Section 30-3-5.2 is amended to read:**30-3-5.2. Allegations of child abuse or child sexual abuse -- Investigation.**

When, in any divorce proceeding or upon a request for modification of a divorce decree, an allegation of child abuse or child sexual abuse is made, implicating either party, the court, after making an inquiry, may order that an investigation be conducted by the Division of Child and Family Services within the Department of Human Services in accordance with Title 62A, Chapter 4a, Child and Family Services. A final award of custody or parent-time may not be rendered until a report on that investigation, consistent with Section 62A-4a-412, is received by the court. That investigation shall be conducted by the Division of Child and Family Services within 30 days of the court's notice and request for an investigation. In reviewing this report, the court shall comply with Sections ~~78A-2-228~~ 78A-2-703, 78A-2-705, and 78B-15-612.

Section 2. Section 51-9-408 is amended to read:**51-9-408. Children's Legal Defense Account.**

(1) There is created a restricted account within the General Fund known as the Children's Legal Defense Account.

(2) The purpose of the Children's Legal Defense Account is to provide for programs that protect and defend the rights, safety, and quality of life of children.

(3) The Legislature shall appropriate money from the account for the administrative and related costs of the following programs:

(a) implementing the Mandatory Educational Course on Children's Needs for Divorcing Parents relating to the effects of divorce on children as provided in Sections 30-3-4, 30-3-10.3, 30-3-11.3, and 30-3-15.3, and the Mediation Program - Child Custody or Parent-time;

(b) implementing the use of guardians ad litem as provided in Sections ~~78A-2-228~~ 78A-2-703, 78A-2-705, 78A-6-902, and 78B-3-102; the training of attorney guardians ad litem and volunteers as provided in Section 78A-6-902; and

termination of parental rights as provided in Sections 78A-6-117 and 78A-6-118, and Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act. This account may not be used to supplant funding for the guardian ad litem program in the juvenile court as provided in Section 78A-6-902;

(c) implementing and administering the Expedited Parent-time Enforcement Program as provided in Section 30-3-38; and

(d) implementing and administering the Divorce Education for Children Program.

(4) The following withheld fees shall be allocated only to the Children's Legal Defense Account and used only for the purposes provided in Subsections (3)(a) through (d):

(a) the additional \$10 fee withheld on every marriage license issued in the state of Utah as provided in Section 17-16-21; and

(b) a fee of \$4 shall be withheld from the existing civil filing fee collected on any complaint, affidavit, or petition in a civil, probate, or adoption matter in every court of record.

(5) The Division of Finance shall allocate the money described in Subsection (4) from the General Fund to the Children's Legal Defense Account.

(6) Any funds in excess of \$200,000 remaining in the restricted account as of June 30 of any fiscal year shall lapse into the General Fund.

Section 3. Section 63I-1-278 is amended to read:

63I-1-278. Repeal dates, Title 78A and Title 78B.

(1) The Office of the Court Administrator, created in Section 78A-2-105, is repealed July 1, 2018.

~~[(2) Section 78A-2-227.1 is repealed July 1, 2014].~~

~~[(3)] (2) Section 78B-3-421, regarding medical malpractice arbitration agreements, is repealed July 1, 2019.~~

~~[(4)] (3) Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act, is repealed July 1, 2016.~~

~~[(5)] (4) The following are repealed December 31, 2014:~~

(a) Subsection 78B-6-802(1)(i);

(b) the language in Subsection 78B-6-802(1)(a) that states "except as provided in Subsection (1)(i)"; and

(c) the language in Subsection 78B-6-802(1)(b) that states "and except as provided in Subsection (1)(i)".

~~[(6)] (5) Section 78B-6-901.5, regarding notice to tenants on residential rental property to be foreclosed, is repealed December 31, 2014.~~

Section 4. Section 78A-2-701 is enacted to read:

Part 7. District Court Guardian ad Litem Act

78A-2-701. Title.

This part is known as the "District Court Guardian ad Litem Act."

Section 5. Section 78A-2-702 is enacted to read:

78A-2-702. Definitions.

As used in this part:

(1) "Attorney guardian ad litem" means an attorney employed by the office.

(2) "Director" means the director of the office.

(3) "Guardian ad litem" means either an attorney guardian ad litem or a private attorney guardian ad litem.

(4) "Office" means the Office of Guardian ad Litem, created in Section 78A-6-901.

(5) "Private attorney guardian ad litem" means an attorney designated by the office pursuant to Section 78A-2-705 who is not an employee of the office.

Section 6. Section 78A-2-703, which is renumbered from Section 78A-2-227.1 is renumbered and amended to read:

[78A-2-227.1]. 78A-2-703. Appointment of attorney guardian ad litem in district court matters.

(1) A district court may appoint ~~[the Office of Guardian ad Litem]~~ an attorney guardian ad litem to represent the best interests of a minor in the following district court matters:

~~[(1)] (a) protective order proceedings; and~~

~~[(2)] (b) district court actions when:~~

~~[(a)] (i) child abuse, child sexual abuse, or neglect is alleged in a formal complaint, petition, or counterclaim;~~

~~[(b)] (ii) the child abuse, child sexual abuse, or neglect described in Subsection ~~[(2)(a)] (1)(b)(i)~~ has been reported to Child Protective Services; ~~and~~~~

~~[(c)] (iii) the court makes a finding that the adult parties to the case are indigent, as defined in Section 77-32-202[.]; and~~

~~(iv) the district court determines that there are no private attorney guardians ad litem who are reasonably available to be appointed in the district court action.~~

~~[(3)] (2) (a) A court may not appoint an attorney guardian ad litem in a criminal case.~~

(b) Subsection ~~[(3)] (2)(a)~~ does not prohibit the appointment of an attorney guardian ad litem in a case where a court is determining whether to adjudicate a minor for committing an act that would be a crime if committed by an adult.

(c) Subsection ~~[(3)]~~ (2)(a) does not prohibit an attorney guardian ad litem from entering an appearance, filing motions, or taking other action in a criminal case on behalf of a minor, if:

(i) the attorney guardian ad litem is appointed to represent the minor in a case that is not a criminal case; and

(ii) the interests of the minor may be impacted by:

(A) an order that has been, or may be, issued in the criminal case; or

(B) other proceedings that have occurred, or may occur, in the criminal case.

~~[(4)]~~ (3) If a court appoints an attorney guardian ad litem in a divorce or child custody case, the court shall:

(a) specify in the order appointing the attorney guardian ad litem the specific issues in the proceeding that the attorney guardian ad litem is required to be involved in resolving, which may include issues relating to the custody of children and parent-time schedules;

(b) to the extent possible, bifurcate the issues specified in the order described in Subsection ~~[(4)]~~ (3)(a) from the other issues in the case, in order to minimize the time constraints placed upon the attorney guardian ad litem in the case; and

(c) except as provided in Subsection ~~[(6)]~~ (5), within one year after the day on which the attorney guardian ad litem is appointed in the case, issue a final order:

(i) resolving the issues ~~[described]~~ in the order described in Subsection ~~[(4)]~~ (3)(a); and

(ii) terminating the appointment of the attorney guardian ad litem in the case.

~~[(5) The]~~ (4) A court shall issue an order terminating the appointment of an attorney guardian ad litem made under this section, if:

(a) the court determines that the allegations of abuse or neglect are unfounded;

(b) after receiving input from the attorney guardian ad litem, the court determines that the children are no longer at risk of abuse or neglect; or

(c) there has been no activity in the case for which the attorney guardian ad litem is appointed for a period of six consecutive months.

~~[(6)]~~ (5) A court may issue a written order extending the one-year period described in Subsection ~~[(4)]~~ (3)(c) for a time certain, if the court makes a written finding that there is a compelling reason that the court cannot comply with the requirements described in Subsection ~~[(4)]~~ (3)(c) within the one-year period.

~~[(7)]~~ (6) When appointing an attorney guardian ad litem for a minor under this section, a court may appoint the same attorney guardian ad litem who represents the minor in another proceeding, or who has represented the minor in a previous proceeding, if that attorney guardian ad litem is available.

~~[(8)]~~ (7) The court is responsible for all costs resulting from the appointment of an attorney guardian ad litem and shall use funds appropriated by the Legislature for the guardian ad litem program to cover those costs.

~~[(9) (a) If the court appoints the Office of Guardian ad Litem in a civil case pursuant to this section, the court may assess all or part of those attorney fees, court costs, paralegal, staff, and volunteer expenses against the minor's parent, parents, or legal guardian in an amount that the court determines to be just and appropriate.]~~

~~[(b) The court may not assess those fees or costs against a legal guardian, when that guardian is the state, or against a parent, parents, or legal guardian who is found to be impecunious. If a person claims to be impecunious, the court shall require of that person an affidavit of impecuniosity as provided in Section 78A-2-302 and the court shall follow the procedures and make the determinations as provided in Section 78A-2-302.]~~

~~[(10)]~~ (8) An attorney guardian ad litem appointed in accordance with the requirements of this section and Chapter 6, Part 9, Guardian ad Litem, is, when serving in the scope of duties of an attorney guardian ad litem, considered an employee of this state for purposes of indemnification under the Governmental Immunity Act.

Section 7. Section 78A-2-704, which is renumbered from Section 78A-2-227.5 is renumbered and amended to read:

~~78A-2-227.5]. 78A-2-704. Public policy regarding attorney guardian ad litem -- Training.~~

(1) [A] An attorney guardian ad litem may not presume that a child and the child's parent are adversaries.

(2) [A] An attorney guardian ad litem shall be trained on and implement into practice:

(a) the parental rights and child and family protection principles provided in Section 62A-4a-201;

(b) the fundamental liberties of parents and the public policy of the state to support family unification to the fullest extent possible;

(c) the constitutionally protected rights of parents, in cases where the state is a party;

(d) the use of a least restrictive means analysis regarding state claims of a compelling child welfare interest;

(e) the priority of maintaining a child safely in the child's home, whenever possible;

(f) the importance of:

(i) kinship placement, in the event the child is removed from the home; and

(ii) keeping sibling groups together, whenever practicable and in the best interests of the children;

(g) the preference for kinship adoption over nonkinship adoption, if the parent-child relationship is legally terminated;

(h) the potential for a guardianship placement if the parent-child relationship is legally terminated and no appropriate adoption placement is available; and

(i) the use of an individualized permanency plan, only as a last resort.

(3) The [Office of the Guardian ad Litem] office shall implement policies and practice guidelines that reflect the priorities described in Subsections (2)(e) through (i) for the placement of children.

Section 8. Section 78A-2-705, which is renumbered from Section 78A-2-228 is renumbered and amended to read:

[78A-2-228]. 78A-2-705. Private attorney guardian ad litem -- Appointment -- Costs and fees -- Duties -- Conflicts of interest -- Pro bono obligation -- Indemnification -- Minimum qualifications.

(1) The court may appoint ~~a private~~ an attorney as a private attorney guardian ad litem to represent the best interests of the minor in any district court action when:

(a) child abuse, child sexual abuse, or neglect is alleged in any proceeding, and the court has made a finding that an adult party is not indigent, as defined by Section 77-32-202; or

(b) the custody of, or parent-time with, a child is at issue.

(2) (a) The court shall consider the limited number of eligible private attorneys guardian ad litem, as well as the limited time and resources available to a private attorney guardian ad litem, when making an appointment under Subsection (1) and prioritize case assignments accordingly.

(b) The court shall make findings regarding the need and basis for the appointment of a private attorney guardian ad litem.

(c) A court may not appoint a private attorney guardian ad litem in a criminal case.

~~[(3) When appointing a private attorney guardian ad litem, the court shall:]~~

(3) (a) If the parties stipulate to a private attorney guardian ad litem, the office shall assign the stipulated private attorney guardian ad litem to the case in accordance with this section.

(b) If, under Subsection (3)(a), the parties have not stipulated to a private attorney guardian ad litem, or if the stipulated private attorney guardian ad litem is unable to take the case, the court shall appoint a private attorney guardian ad litem in accordance with Subsection (3)(c).

~~[(a)]~~ (c) The court shall state in ~~[its]~~ an order that the court is appointing a private attorney guardian ad litem, to be assigned by the [Office of Guardian ad Litem] office, to represent the best interests of the child in the matter~~;~~ and~~].~~

~~[(b)]~~ (d) The court shall send the order described in Subsection (3)~~[(a)]~~(c) to the ~~[Director of the Office~~

~~of Guardian ad Litem]~~ office, in care of the Private Attorney Guardian ad Litem program.

(4) The court shall:

(a) specify in the order appointing a private attorney guardian ad litem the specific issues in the proceeding that the private attorney guardian ad litem shall be involved in resolving, which may include issues relating to the custody of the child and a parent-time schedule;

(b) to the extent possible, bifurcate the issues described in Subsection ~~[(3)]~~ (4)(a) from the other issues in the case in order to minimize the time constraints placed upon the private attorney guardian ad litem; and

(c) except as provided in Subsection (6), issue a final order within one year after the day on which the private attorney guardian ad litem is appointed in the case:

(i) resolving the issues described in Subsection (4)(a); and

(ii) terminating the private attorney guardian ad litem from the appointment to the case.

(5) The court shall issue an order terminating the appointment of a private attorney guardian ad litem made under this section if:

(a) after receiving input from the private attorney guardian ad litem, the court determines that the minor no longer requires the services of the private attorney guardian ad litem; or

(b) there has been no activity in the case for a period of six consecutive months.

(6) A court may issue an order extending the one-year period described in Subsection (4)(c) for a specified amount of time if the court makes a written finding that there is a compelling reason that the court cannot comply with the requirements described in Subsection (4)(c) within the one-year period.

(7) When appointing a private attorney guardian ad litem under this section, a court may appoint the same private attorney guardian ad litem who represents the minor in another proceeding, or who has represented the minor in a previous proceeding, if that private attorney guardian ad litem is available.

(8) (a) Upon receipt of the court's order, described in ~~[Subsection (3), the director or the director's designee]~~ Subsections (3)(c) and (d), the office shall assign the case to ~~[an eligible]~~ a private attorney guardian ad litem, if available ~~[and as established by rule under Subsection (17)].~~, in accordance with this section.

(b) (i) If, after the initial assignment of a private attorney guardian ad litem, either party objects to the assigned private attorney guardian ad litem, that party may file an objection with the court within seven days after the day on which the party received notice of the assigned private attorney guardian ad litem.

(ii) If, after the initial assignment of a private attorney guardian ad litem, either attorney for a party discovers that the private attorney guardian ad litem represents an adverse party in a separate matter, that attorney may file an objection with the court within seven days after the day on which the attorney received notice of the private attorney guardian ad litem's representation of an adverse party in a separate matter.

(iii) Upon receipt of an objection, the court shall determine whether grounds exist for the objection, and if grounds exist, the court shall order, without a hearing, the office to assign a new private attorney guardian ad litem, in consultation with the parties and in accordance with this section.

(iv) If no alternative private attorney guardian ad litem is available, the office shall notify the court.

(9) (a) When appointing a private attorney guardian ad litem, the court shall:

(i) assess all or part of the private attorney guardian ad litem fees, [courts] court costs, and paralegal, staff, and volunteer expenses against the parties in a proportion the court determines to be just; and

(ii) designate in the order whether the private attorney guardian ad litem shall, as established by rule under Subsection (17):

(A) be paid a set fee and initial retainer;

(B) not be paid and serve pro bono; or

(C) be paid at a rate less than the set fee established by court rule.

(b) If a party claims to be impecunious, the court shall follow the procedure and make a determination, described in Section 78A-2-302, to set the amount that the party is required to pay, if any, toward the private attorney guardian ad litem's fees and expenses.

(c) The private attorney guardian ad litem may adjust the court-ordered fees or retainer to an amount less than what was ordered by the court at any time before being released from representation by the court.

(10) Upon accepting the court's appointment, the assigned private attorney guardian ad litem shall:

(a) file a notice of appearance with the court within five business days of the day on which the attorney was assigned; and

(b) represent the best interests of the minor until released by the court.

(11) The private attorney guardian ad litem:

(a) shall be certified by the director of the [Office of Guardian ad Litem] office as meeting the minimum qualifications for appointment; and

(b) may not be employed by, or under contract with, the [Office of Guardian ad Litem] office unless under contract as a conflict private attorney guardian ad litem in an unrelated case.

(12) The private attorney guardian ad litem appointed under the provisions of this section shall:

(a) represent the best interests of the minor from the date of the appointment until released by the court;

(b) conduct or supervise an ongoing, independent investigation in order to obtain, first-hand, a clear understanding of the situation and needs of the minor;

(c) interview witnesses and review relevant records pertaining to the minor and the minor's family, including medical, psychological, and school records;

(d) (i) personally meet with the minor, unless:

(A) the minor is outside of the state; or

(B) meeting with the minor would be detrimental to the minor;

(ii) personally interview the minor, unless:

(A) the minor is not old enough to communicate;

(B) the minor lacks the capacity to participate in a meaningful interview; or

(C) the interview would be detrimental to the minor;

(iii) to the extent possible, determine the minor's goals and concerns regarding custody or visitation; and

(iv) to the extent possible, and unless it would be detrimental to the minor, keep the minor advised of:

(A) the status of the minor's case;

(B) all court and administrative proceedings;

(C) discussions with, and proposals made by, other parties;

(D) court action; and

(E) the psychiatric, medical, or other treatment or diagnostic services that are to be provided to the minor;

(e) unless excused by the court, prepare for and attend all mediation hearings and all court conferences and hearings, and present witnesses and exhibits as necessary to protect the best interests of the minor;

(f) identify community resources to protect the best interests of the minor and advocate for those resources; and

(g) participate in all appeals unless excused by the court.

(13) (a) The private attorney guardian ad litem shall represent the best interests of a minor.

(b) If the minor's intent and desires differ from the [attorney's] private attorney guardian ad litem's determination of the minor's best interests, the private attorney guardian ad litem shall communicate to the court the minor's intent and desires and the [attorney's] private attorney guardian ad litem's determination of the minor's best interests.

(c) A difference between the minor's intent and desires and the ~~attorney's~~ private attorney guardian ad litem's determination of best interests is not sufficient to create a conflict of interest.

(d) The private attorney guardian ad litem shall disclose the intent and desires of the minor unless the minor:

(i) instructs the private attorney guardian ad litem to not disclose the minor's intent and desires; or

(ii) has not expressed an intent and desire.

(e) The court may appoint one private attorney guardian ad litem to represent the best interests of more than one child of a marriage.

(14) In every court hearing where the private attorney guardian ad litem makes a recommendation regarding the best interest of the minor, the court shall require the private attorney guardian ad litem to disclose the factors that form the basis of the recommendation.

(15) ~~An~~ A private attorney guardian ad litem appointed under this section is immune from any civil liability that might result by reason of acts performed within the scope of duties of the private attorney guardian ad litem.

(16) The ~~Office of Guardian ad Litem~~ office and the Guardian ad Litem Oversight Committee shall compile a list of attorneys willing to accept an appointment as a private attorney guardian ad litem.

(17) Upon the advice of the director ~~of the Office of Guardian ad Litem~~ and the Guardian ad Litem Oversight Committee, the Judicial Council shall establish by rule:

(a) the minimum qualifications and requirements for appointment by the court as ~~an~~ a private attorney guardian ad litem;

(b) the standard fee rate and retainer amount for a private attorney guardian ad litem;

(c) the percentage of cases a private attorney guardian ad litem may be expected to take on pro bono;

(d) a system to:

(i) select a private attorney guardian ad litem for a given appointment; and

(ii) determine when a private attorney guardian ad litem shall be expected to accept an appointment pro bono; and

(e) the process for handling a complaint relating to the eligibility status of a private attorney guardian ad litem.

(18) (a) Any savings that result from assigning a private attorney guardian ad litem in a district court case, instead of [a] an office guardian ad litem ~~from the Office of Guardian ad Litem~~, shall be applied to the ~~private guardian ad litem program~~ office to recruit and train attorneys for the private attorney guardian ad litem program.

(b) After complying with Subsection (18)(a), the office shall use any additional savings to reduce caseloads and improve current practices in juvenile court.

Section 9. Section 78A-6-901 is amended to read:

78A-6-901. Office of Guardian ad Litem -- Appointment of director -- Duties of director -- Contracts in second, third, and fourth districts.

(1) As used in this part:

(a) "Attorney guardian ad litem" means an attorney employed by the office.

~~(a)~~ (b) "Director" means the director of the office.

~~(b)~~ (c) "Office" means the Office of Guardian ad Litem, created in this section.

(d) "Private attorney guardian ad litem" means an attorney designated by the office pursuant to Section 78A-2-705 who is not an employee of the office.

(2) There is created the Office of Guardian ad Litem under the direct supervision of the Guardian ad Litem Oversight Committee.

(3) (a) The Guardian ad Litem Oversight Committee shall appoint one person to serve full time as the guardian ad litem director for the state. The guardian ad litem director shall serve at the pleasure of the Guardian ad Litem Oversight Committee, in consultation with the state court administrator.

(b) The director shall be an attorney licensed to practice law in this state and selected on the basis of:

(i) professional ability;

(ii) experience in abuse, neglect, and dependency proceedings;

(iii) familiarity with the role, purpose, and function of guardians ad litem in both juvenile and district courts; and

(iv) ability to develop training curricula and reliable methods for data collection and evaluation.

(c) The director shall, prior to or immediately after the director's appointment, be trained in nationally recognized standards for an attorney guardian ad litem.

(4) The guardian ad litem director shall:

(a) establish policy and procedure for the management of a statewide guardian ad litem program;

(b) manage the guardian ad litem program to assure that minors receive qualified guardian ad litem services in abuse, neglect, and dependency proceedings in accordance with state and federal law and policy;

(c) develop standards for contracts of employment and contracts with independent contractors, and employ or contract with attorneys

licensed to practice law in this state, to act as attorney guardians ad litem in accordance with Section 78A-6-902;

(d) develop and provide training programs for volunteers in accordance with the United States Department of Justice National Court Appointed Special Advocates Association standards;

(e) develop and update a guardian ad litem manual that includes:

(i) best practices for an attorney guardian ad litem; and

(ii) statutory and case law relating to an attorney guardian ad litem;

(f) develop and provide a library of materials for the continuing education of attorney guardians ad litem and volunteers;

(g) educate court personnel regarding the role and function of guardians ad litem;

(h) develop needs assessment strategies, perform needs assessment surveys, and ensure that guardian ad litem training programs correspond with actual and perceived needs for training;

(i) design and implement evaluation tools based on specific objectives targeted in the needs assessments described in Subsection (4)(h);

(j) prepare and submit an annual report to the Guardian ad Litem Oversight Committee and the Child Welfare Legislative Oversight Panel regarding:

(i) the development, policy, and management of the statewide guardian ad litem program;

(ii) the training and evaluation of attorney guardians ad litem and volunteers; and

(iii) the number of minors served by the ~~Office of Guardian ad Litem~~ office;

(k) hire, train, and supervise investigators; and

(l) administer the program of private attorney guardians ad litem established by Section ~~78A-2-228~~ 78A-2-705.

(5) A contract of employment or independent contract described under Subsection (4)(c) shall provide that attorney guardians ad litem in the second, third, and fourth judicial districts devote their full time and attention to the role of attorney guardian ad litem, having no clients other than the minors whose interest they represent within the guardian ad litem program.

Section 10. Section 78B-3-102 is amended to read:

78B-3-102. Injury of a child -- Suit by parent or guardian.

(1) Except as provided in Title 34A, Chapter 2, Workers' Compensation Act, a parent or guardian may bring an action for the injury of a minor child when the injury is caused by the wrongful act or neglect of another.

(2) A civil action may be maintained against the person causing the injury or, if the person is employed by another person who is responsible for that person's conduct, also against the employer.

(3) If a parent, stepparent, adoptive parent, or legal guardian is the alleged defendant in an action for the injury of a child, a guardian ad litem may be appointed for the injured child according to the procedures outlined in ~~Section 78A-2-228~~ Sections 78A-2-703 and 78A-2-705.

Section 11. Section 78B-7-106 is amended to read:

78B-7-106. Protective orders -- Ex parte protective orders -- Modification of orders -- Service of process -- Duties of the court.

(1) If it appears from a petition for an order for protection or a petition to modify an order for protection that domestic violence or abuse has occurred or a modification of an order for protection is required, a court may:

(a) without notice, immediately issue an order for protection ex parte or modify an order for protection ex parte as it considers necessary to protect the petitioner and all parties named to be protected in the petition; or

(b) upon notice, issue an order for protection or modify an order after a hearing, whether or not the respondent appears.

(2) A court may grant the following relief without notice in an order for protection or a modification issued ex parte:

(a) enjoin the respondent from threatening to commit or committing domestic violence or abuse against the petitioner and any designated family or household member;

(b) prohibit the respondent from harassing, telephoning, contacting, or otherwise communicating with the petitioner, directly or indirectly;

(c) order that the respondent is excluded from the petitioner's residence and its premises, and order the respondent to stay away from the residence, school, or place of employment of the petitioner, and the premises of any of these, or any specified place frequented by the petitioner and any designated family or household member;

(d) upon finding that the respondent's use or possession of a weapon may pose a serious threat of harm to the petitioner, prohibit the respondent from purchasing, using, or possessing a firearm or other weapon specified by the court;

(e) order possession and use of an automobile and other essential personal effects, and direct the appropriate law enforcement officer to accompany the petitioner to the residence of the parties to ensure that the petitioner is safely restored to possession of the residence, automobile, and other essential personal effects, or to supervise the petitioner's or respondent's removal of personal belongings;

(f) grant to the petitioner temporary custody of any minor children of the parties;

(g) order the appointment of ~~[(i) before July 1, 2014, a] an attorney guardian ad litem under [Section 78A-2-227.1, if appropriate; and] Sections 78A-2-703 and 78A-6-902;~~

~~[(ii) on or after July 1, 2014, a private attorney guardian ad litem under Section 78A-2-228, if appropriate;]~~

(h) order any further relief that the court considers necessary to provide for the safety and welfare of the petitioner and any designated family or household member; and

(i) if the petition requests child support or spousal support, at the hearing on the petition order both parties to provide verification of current income, including year-to-date pay stubs or employer statements of year-to-date or other period of earnings, as specified by the court, and complete copies of tax returns from at least the most recent year.

(3) A court may grant the following relief in an order for protection or a modification of an order after notice and hearing, whether or not the respondent appears:

(a) grant the relief described in Subsection (2); and

(b) specify arrangements for parent-time of any minor child by the respondent and require supervision of that parent-time by a third party or deny parent-time if necessary to protect the safety of the petitioner or child.

(4) Following the protective order hearing, the court shall:

(a) as soon as possible, deliver the order to the county sheriff for service of process;

(b) make reasonable efforts to ensure that the order for protection is understood by the petitioner, and the respondent, if present;

(c) transmit electronically, by the end of the next business day after the order is issued, a copy of the order for protection to the local law enforcement agency or agencies designated by the petitioner; and

(d) transmit a copy of the order to the statewide domestic violence network described in Section 78B-7-113.

(5) (a) Each protective order shall include two separate portions, one for provisions, the violation of which are criminal offenses, and one for provisions, the violation of which are civil violations, as follows:

(i) criminal offenses are those under Subsections (2)(a) through (e), and under Subsection (3)(a) as it refers to Subsections (2)(a) through (e); and

(ii) civil offenses are those under Subsections (2)(f), (h), and (i), and Subsection (3)(a) as it refers to Subsections (2)(f), (h), and (i).

(b) The criminal provision portion shall include a statement that violation of any criminal provision is a class A misdemeanor.

(c) The civil provision portion shall include a notice that violation of or failure to comply with a civil provision is subject to contempt proceedings.

(6) The protective order shall include:

(a) a designation of a specific date, determined by the court, when the civil portion of the protective order either expires or is scheduled for review by the court, which date may not exceed 150 days after the date the order is issued, unless the court indicates on the record the reason for setting a date beyond 150 days;

(b) information the petitioner is able to provide to facilitate identification of the respondent, such as Social Security number, driver license number, date of birth, address, telephone number, and physical description; and

(c) a statement advising the petitioner that:

(i) after two years from the date of issuance of the protective order, a hearing may be held to dismiss the criminal portion of the protective order;

(ii) the petitioner should, within the 30 days prior to the end of the two-year period, advise the court of the petitioner's current address for notice of any hearing; and

(iii) the address provided by the petitioner will not be made available to the respondent.

(7) Child support and spouse support orders issued as part of a protective order are subject to mandatory income withholding under Title 62A, Chapter 11, Part 4, Income Withholding in IV-D Cases, and Title 62A, Chapter 11, Part 5, Income Withholding in Non IV-D Cases, except when the protective order is issued ex parte.

(8) (a) The county sheriff that receives the order from the court, pursuant to Subsection (5)(a), shall provide expedited service for orders for protection issued in accordance with this chapter, and shall transmit verification of service of process, when the order has been served, to the statewide domestic violence network described in Section 78B-7-113.

(b) This section does not prohibit any law enforcement agency from providing service of process if that law enforcement agency:

(i) has contact with the respondent and service by that law enforcement agency is possible; or

(ii) determines that under the circumstances, providing service of process on the respondent is in the best interests of the petitioner.

(9) (a) When an order is served on a respondent in a jail or other holding facility, the law enforcement agency managing the facility shall make a reasonable effort to provide notice to the petitioner at the time the respondent is released from incarceration.

(b) Notification of the petitioner shall consist of a good faith reasonable effort to provide notification,

including mailing a copy of the notification to the last-known address of the victim.

(10) A court may modify or vacate an order of protection or any provisions in the order after notice and hearing, except that the criminal provisions of a protective order may not be vacated within two years of issuance unless the petitioner:

(a) is personally served with notice of the hearing as provided in Rules 4 and 5, Utah Rules of Civil Procedure, and the petitioner personally appears before the court and gives specific consent to the vacation of the criminal provisions of the protective order; or

(b) submits a verified affidavit, stating agreement to the vacation of the criminal provisions of the protective order.

(11) A protective order may be modified without a showing of substantial and material change in circumstances.

(12) Insofar as the provisions of this chapter are more specific than the Utah Rules of Civil Procedure, regarding protective orders, the provisions of this chapter govern.

Section 12. Section 78B-7-202 is amended to read:

78B-7-202. Petition -- Ex parte determination -- Guardian ad litem -- Referral to division.

(1) Any interested person may file a petition for a protective order on behalf of a child who is being abused or is in imminent danger of being abused. The petitioner shall first make a referral to the division.

(2) Upon the filing of a petition, the clerk of the court shall:

(a) review the records of the juvenile court, the district court, and the management information system of the division to find any petitions, orders, or investigations related to the child or the parties to the case;

(b) request the records of any law enforcement agency identified by the petitioner as having investigated abuse of the child; and

(c) identify and obtain any other background information that may be of assistance to the court.

(3) Upon the filing of a petition, the court shall immediately determine, based on the evidence and information presented, whether the minor is being abused or is in imminent danger of being abused. If so, the court shall enter an ex parte child protective order.

(4) The court may appoint~~[-(a)]~~ an attorney guardian ad litem under ~~[Section 78A-2-227.1 for district court cases, before July 1, 2014;]~~ Sections 78A-2-703 and 78A-6-902.

~~[(b) a private attorney guardian ad litem under Section 78A-2-228 for district court cases, on or after July 1, 2014; or]~~

~~[(c) the Office of Guardian ad Litem for juvenile court cases under Section 78A-6-902, for the child who is the subject of the petition.]~~

Section 13. Section 78B-15-612 is amended to read:

78B-15-612. Minor as party -- Representation.

(1) A minor is a permissible party, but is not a necessary party to a proceeding under this part.

(2) The tribunal may appoint an attorney guardian ad litem under Sections 78A-2-703 and 78A-6-902, or a private guardian ad litem ~~[for district court cases]~~ under Section ~~[78A-2-228 or the Office of Guardian ad Litem for juvenile court cases under Section 78A-6-902]~~ 78A-2-705, to represent a minor or incapacitated child if the child is a party ~~[or the tribunal finds that the interests of the child are not adequately represented].~~

CHAPTER 268**S. B. 159**

Passed March 13, 2014
 Approved March 31, 2014
 Effective May 13, 2014

BAIL AMENDMENTS

Chief Sponsor: Scott K. Jenkins
 House Sponsor: Lee B. Perry

LONG TITLE**General Description:**

This bill allows a court to order bail money to be paid to a judgment creditor.

Highlighted Provisions:

This bill:

- ▶ allows the court to order that a judgment creditor be paid from funds posted as bail by a judgment debtor.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78B-6-306, as renumbered and amended by Laws of Utah 2008, Chapter 3

78B-6-311, as renumbered and amended by Laws of Utah 2008, Chapter 3

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

Section 1. Section 78B-6-306 is amended to read:**78B-6-306. Bail bond -- Form.**

(1) When a direction to allow the person arrested to post bail is contained in the warrant of attachment, the person shall be released if bond is posted and the person executes a written promise to appear on the return of the warrant, and abide by the order of the court or judge.

(2) Any bail posted is subject to the provisions of Section 78B-6-311.

Section 2. Section 78B-6-311 is amended to read:**78B-6-311. Damages to party aggrieved.**

(1) If an actual loss or injury to a party in an action or special proceeding is caused by the contempt, the court, in lieu of or in addition to the fine or imprisonment imposed for the contempt, may order the person proceeded against to pay the party aggrieved a sum of money sufficient to indemnify [him] and [to] satisfy [his] the aggrieved party's costs and expenses. The court may order that any bail posted by the person proceeded against be used to satisfy all or part of the money ordered to be paid to the aggrieved party. The order and the acceptance of money under it is a bar to an action by the aggrieved party for the loss and injury.

(2) A judgment creditor may request that the court pay bail posted by a judgment debtor to the judgment creditor if:

(a) the judgment debtor owes the judgment creditor funds pursuant to a court-ordered judgment;

(b) the judgment creditor provides the court with a copy of the valid judgment; and

(c) bail was posted in cash, or by credit or debit card.

(3) Upon receipt of a request by a judgment creditor, the court shall require the judgment debtor to provide either proof of payment or good cause why the court should not order the forfeiture of bail to then be paid to the judgment creditor. The court shall find that good cause exists if the judgment debtor provides admissible evidence that the bail was paid by a third party.

(4) The court may, in its discretion, order all or a portion of the funds deposited with the court as bail to be paid to the judgment creditor towards the amount of the judgment. If the amount paid to the court exceeds the amount of the judgment, the court shall refund the excess to the judgment debtor.

(5) Within seven days of the receipt of funds, the judgment creditor shall provide to the judgment debtor an accounting of amounts received and the balance still due, if any.

CHAPTER 269**S. B. 174**

Passed February 26, 2014

Approved March 31, 2014

Effective May 13, 2014

**EMERGENCY FISCAL
PROCEDURES COUNTIES**

Chief Sponsor: Deidre M. Henderson

House Sponsor: Craig Hall

LONG TITLE**General Description:**

This bill authorizes a county to make certain expenditures and budgetary changes for a natural disaster or fiscal emergency.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ authorizes a county to make certain expenditures for a natural disaster or fiscal emergency;
- ▶ authorizes a county, in certain circumstances, to make changes to an appropriation in a county budget or fund and make an expenditure in excess of any budget or fund;
- ▶ provides for an emergency budget action to take effect immediately; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17-36-27, as last amended by Laws of Utah 2007, Chapter 328

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

Section 1. Section 17-36-27 is amended to read:**17-36-27. Emergency expenditures -- Deficit.**

(1) As used in this section:

(a) "Fiscal emergency" means a major disruption in county operations or services caused by the unforeseen and sudden significant decrease or elimination of funding from the United States government or Legislature that was appropriated in the county's current budget.

(b) "Natural disaster" means widespread damage within a county caused by:

- (i) an explosion;
- (ii) fire;
- (iii) a flood;
- (iv) a storm;
- (v) a tornado;
- (vi) winds;

(vii) an earthquake;

(viii) lightning; or

(ix) any other adverse weather event.

~~(1) If~~ (2) (a) Subject to Subsection (2)(b), if the governing body determines that ~~[a] a~~ a natural disaster or fiscal emergency exists, ~~[such as widespread damage from fire, flood, or earthquake,]~~ and that the expenditure of money in excess of the general fund budget is necessary~~[-it]~~ to respond to the natural disaster or fiscal emergency, the county legislative body may make ~~[such]~~ expenditures and incur ~~[such]~~ deficits as reasonably necessary to meet the natural disaster or fiscal emergency.

(b) (i) A county may not take an action in response to a natural disaster or fiscal emergency in accordance with Subsection (2)(a) or (3) unless the action:

(A) is for the current budget year only and the current budget year is the year in which the natural disaster or fiscal emergency occurs; and

(B) is approved by a majority of the elected members of the county legislative body.

(ii) If a fiscal emergency occurs, the county may take an action described in Subsection (2)(a) or (3) only if the state or federal funding that was significantly decreased or eliminated was:

(A) ongoing funding appropriated by the county to a county program or service; and

(B) repeatedly relied on by the county for that program or service rather than a one-time or limited-time funding source.

(3) (a) Notwithstanding the provisions of Sections 17-36-21, 17-36-22, 17-36-23, 17-36-24, and 17-36-26, and subject to Subsections (3)(b) and (c), the county legislative body may respond to a natural disaster or fiscal emergency by:

(i) transferring, increasing, or decreasing an appropriation in a county budget or fund; or

(ii) making or directing the making of an expenditure in excess of a budget or fund.

(b) An action by the county legislative body described in Subsection (3)(a)(i) or (ii) may not result in an expenditure or change in an appropriation that exceeds the total unencumbered county budget.

(c) If a county legislative body takes an action described in Subsection (3)(a)(i) or (ii), the county legislative body shall, as soon as possible, conduct a public hearing on the action and affirm the emergency action by adopting a resolution.

~~[(2)]~~ (4) Except to the extent provided for in Title 53, Chapter 2a, Part 6, Disaster Recovery Funding Act, the governing body of the county may not expend money in the county's local fund for an emergency, if the county creates a local fund under Title 53, Chapter 2a, Part 6, Disaster Recovery Funding Act.

CHAPTER 270**S. B. 180**

Passed March 5, 2014

Approved March 31, 2014

Effective May 13, 2014

(Retrospective operation to January 1, 2014)

PROPERTY TAX MODIFICATIONS

Chief Sponsor: Wayne A. Harper

House Sponsor: Brad R. Wilson

LONG TITLE**General Description:**

This bill amends the Property Tax Act.

Highlighted Provisions:

This bill:

- ▶ amends the tax rate for the multicounty assessing and collecting levy;
- ▶ amends the allocation of revenue collected from the multicounty assessing and collecting levy;
- ▶ provides that a county shall increase its county additional property tax rate by an amount sufficient to offset the decrease to the multicounty assessing and collecting levy;
- ▶ provides for the allocation of money in the Property Tax Valuation Agency Fund;
- ▶ consolidates additional county property tax administration levies;
- ▶ amends funding of the Multicounty Appraisal Trust; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill has retrospective operation to January 1, 2014.

This bill provides revisor instructions.

Utah Code Sections Affected:**AMENDS:**

- 59-2-911, as last amended by Laws of Utah 2009, Chapter 204
- 59-2-924, as last amended by Laws of Utah 2012, Chapter 245
- 59-2-924.2, as last amended by Laws of Utah 2010, Chapter 279
- 59-2-1601, as last amended by Laws of Utah 2010, Chapter 131
- 59-2-1602, as last amended by Laws of Utah 2010, Chapter 131
- 59-2-1603, as last amended by Laws of Utah 2012, Chapter 240
- 59-2-1605, as renumbered and amended by Laws of Utah 2008, Chapter 330
- 59-2-1606, as last amended by Laws of Utah 2010, Chapter 131
- 63H-1-102, as last amended by Laws of Utah 2013, Chapter 362

REPEALS:

- 59-2-1604, as last amended by Laws of Utah 2009, Chapter 204 Utah Code Sections Affected by Revisor Instructions:
- 59-2-924.2, as last amended by Laws of Utah 2010, Chapter 279

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 59-2-911 is amended to read:****59-2-911. Exceptions to maximum levy limitation.**

(1) The maximum levies set forth in Section 59-2-908 do not apply to and do not include:

(a) levies made to pay outstanding judgment debts;

(b) levies made in any special improvement districts;

(c) levies made for extended services in any county service area;

(d) levies made for county library services;

(e) levies made to be used for storm water, flood, and water quality control;

(f) levies made to share disaster recovery expenses for public facilities and structures as a condition of state assistance when a Presidential Declaration has been issued under the Disaster Relief Act of 1974, 42 U.S.C. Sec. 5121;

(g) levies made to pay interest and provide for a sinking fund in connection with any bonded or voter authorized indebtedness, including the bonded or voter authorized indebtedness of county service areas, special service districts, and special improvement districts;

(h) levies made to fund local health departments;

(i) levies made to fund public transit districts;

(j) levies made to establish, maintain, and replenish special improvement guaranty funds;

(k) levies made in any special service district;

(l) levies made to fund municipal-type services to unincorporated areas of counties under Title 17, Chapter 34, Municipal-Type Services to Unincorporated Areas;

(m) levies made to fund the purchase of paramedic or ambulance facilities and equipment and to defray administration, personnel, and other costs of providing emergency medical and paramedic services, but this exception only applies to those counties in which a resolution setting forth the intention to make those levies has been duly adopted by the county legislative body and approved by a majority of the voters of the county voting at a special or general election;

~~[(n) levies made to pay for the costs of state legislative mandates or judicial or administrative orders under Section 59-2-1604;]~~~~[(o) (n) the multicounty and county assessing and collecting levies [made to promote accurate property valuations, uniform assessment levels, and the efficient administration of the property tax system] under Section 59-2-1602; and~~~~[(p) (o) all other exceptions to the maximum levy limitation pursuant to statute.~~

(2) (a) Upon the retirement of bonds issued for the development of a convention complex described in

Section 17-12-4, and notwithstanding Section 59-2-908, any county of the first class may continue to impose a property tax levy equivalent to the average property tax levy previously imposed to pay debt service on those retired bonds.

(b) Notwithstanding that the imposition of the levy described in Subsection (2)(a) may not result in an increased amount of ad valorem tax revenue, the levy is subject to the notice requirements of Section 59-2-919.

(c) The revenues from this continued levy shall be used only for the funding of convention facilities as defined in Section 59-12-602.

Section 2. Section 59-2-924 is amended to read:

59-2-924. Report of valuation of property to county auditor and commission -- Transmittal by auditor to governing bodies -- Certified tax rate -- Calculation of certified tax rate -- Rulemaking authority -- Adoption of tentative budget.

(1) Before June 1 of each year, the county assessor of each county shall deliver to the county auditor and the commission the following statements:

(a) a statement containing the aggregate valuation of all taxable real property assessed by a county assessor in accordance with Part 3, County Assessment, for each taxing entity; and

(b) a statement containing the taxable value of all personal property assessed by a county assessor in accordance with Part 3, County Assessment, from the prior year end values.

(2) The county auditor shall, on or before June 8, transmit to the governing body of each taxing entity:

(a) the statements described in Subsections (1)(a) and (b);

(b) an estimate of the revenue from personal property;

(c) the certified tax rate; and

(d) all forms necessary to submit a tax levy request.

(3) (a) The "certified tax rate" means a tax rate that will provide the same ad valorem property tax revenues for a taxing entity as were budgeted by that taxing entity for the prior year.

(b) For purposes of this Subsection (3):

(i) "Ad valorem property tax revenues" do not include:

(A) interest;

(B) penalties; and

(C) revenue received by a taxing entity from personal property that is:

(I) assessed by a county assessor in accordance with Part 3, County Assessment; and

(II) semiconductor manufacturing equipment.

(ii) "Aggregate taxable value of all property taxed" means:

(A) the aggregate taxable value of all real property assessed by a county assessor in accordance with Part 3, County Assessment, for the current year;

(B) the aggregate taxable year end value of all personal property assessed by a county assessor in accordance with Part 3, County Assessment, for the prior year; and

(C) the aggregate taxable value of all real and personal property assessed by the commission in accordance with Part 2, Assessment of Property, for the current year.

(c) (i) Except as otherwise provided in this section, the certified tax rate shall be calculated by dividing the ad valorem property tax revenues budgeted for the prior year by the taxing entity by the amount calculated under Subsection (3)(c)(ii).

(ii) For purposes of Subsection (3)(c)(i), the legislative body of a taxing entity shall calculate an amount as follows:

(A) calculate for the taxing entity the difference between:

(I) the aggregate taxable value of all property taxed; and

(II) any redevelopment adjustments for the current calendar year;

(B) after making the calculation required by Subsection (3)(c)(ii)(A), calculate an amount determined by increasing or decreasing the amount calculated under Subsection (3)(c)(ii)(A) by the average of the percentage net change in the value of taxable property for the equalization period for the three calendar years immediately preceding the current calendar year;

(C) after making the calculation required by Subsection (3)(c)(ii)(B), calculate the product of:

(I) the amount calculated under Subsection (3)(c)(ii)(B); and

(II) the percentage of property taxes collected for the five calendar years immediately preceding the current calendar year; and

(D) after making the calculation required by Subsection (3)(c)(ii)(C), calculate an amount determined by subtracting from the amount calculated under Subsection (3)(c)(ii)(C) any new growth as defined in this section:

(I) within the taxing entity; and

(II) for the following calendar year:

(Aa) for new growth from real property assessed by a county assessor in accordance with Part 3, County Assessment and all property assessed by the commission in accordance with Section 59-2-201, the current calendar year; and

(Bb) for new growth from personal property assessed by a county assessor in accordance with Part 3, County Assessment, the prior calendar year.

(iii) For purposes of Subsection (3)(c)(ii)(A), the aggregate taxable value of all property taxed:

(A) except as provided in Subsection (3)(c)(iii)(B) or (3)(c)(ii)(C), is as defined in Subsection (3)(b)(ii);

(B) does not include the total taxable value of personal property contained on the tax rolls of the taxing entity that is:

(I) assessed by a county assessor in accordance with Part 3, County Assessment; and

(II) semiconductor manufacturing equipment; and

(C) for personal property assessed by a county assessor in accordance with Part 3, County Assessment, the taxable value of personal property is the year end value of the personal property contained on the prior year's tax rolls of the entity.

(iv) For purposes of Subsection (3)(c)(ii)(B), for calendar years beginning on or after January 1, 2007, the value of taxable property does not include the value of personal property that is:

(A) within the taxing entity assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) semiconductor manufacturing equipment.

(v) For purposes of Subsection (3)(c)(ii)(C)(II), for calendar years beginning on or after January 1, 2007, the percentage of property taxes collected does not include property taxes collected from personal property that is:

(A) within the taxing entity assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) semiconductor manufacturing equipment.

(vi) For purposes of Subsection (3)(c)(ii)(B), for calendar years beginning on or after January 1, 2009, the value of taxable property does not include the value of personal property that is within the taxing entity assessed by a county assessor in accordance with Part 3, County Assessment.

(vii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may prescribe rules for calculating redevelopment adjustments for a calendar year.

(viii) (A) Except as provided in Subsections (3)(c)(ix) and (x), for purposes of Subsection (3)(c)(i), a taxing entity's ad valorem property tax revenues budgeted for the prior year shall be decreased by an amount of revenue equal to the five-year average of the most recent prior five years of redemptions adjusted by the five-year average redemption calculated for the prior year as reported on the county treasurer's final annual settlement required under Subsection 59-2-1365(2).

(B) A decrease under Subsection (3)(c)(viii)(A) does not apply to the multicounty assessing and collecting levy authorized in Subsection 59-2-1602(2)(a), the certified revenue levy, or the

minimum basic tax rate established in Section 53A-17a-135.

(ix) As used in Subsection (3)(c)(x):

(A) "One-fourth of qualifying redemptions excess amount" means a qualifying redemptions excess amount divided by four.

(B) "Qualifying redemptions" means that, for a calendar year, a taxing entity's total amount of redemptions is greater than three times the five-year average of the most recent prior five years of redemptions calculated for the prior year under Subsection (3)(c)(viii)(A).

(C) "Qualifying redemptions base amount" means an amount equal to three times the five-year average of the most recent prior five years of redemptions for a taxing entity, as reported on the county treasurer's final annual settlement required under Subsection 59-2-1365(2).

(D) "Qualifying redemptions excess amount" means the amount by which a taxing entity's qualifying redemptions for a calendar year exceed the qualifying redemptions base amount for that calendar year.

(x) (A) If, for a calendar year, a taxing entity has qualifying redemptions, the redemption amount for purposes of calculating the five-year redemption average required by Subsection (3)(c)(viii)(A) is as provided in Subsections (3)(c)(x)(B) and (C).

(B) For the initial calendar year a taxing entity has qualifying redemptions, the taxing entity's redemption amount for that calendar year is the qualifying redemptions base amount.

(C) For each of the four calendar years after the calendar year described in Subsection (3)(c)(x)(B), one-fourth of the qualifying redemptions excess amount shall be added to the redemption amount.

(d) (i) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules determining the calculation of ad valorem property tax revenues budgeted by a taxing entity.

(ii) For purposes of Subsection (3)(d)(i), ad valorem property tax revenues budgeted by a taxing entity shall be calculated in the same manner as budgeted property tax revenues are calculated for purposes of Section 59-2-913.

(e) The certified tax rates for the taxing entities described in this Subsection (3)(e) shall be calculated as follows:

(i) except as provided in Subsection (3)(e)(ii), for new taxing entities the certified tax rate is zero;

(ii) for each municipality incorporated on or after July 1, 1996, the certified tax rate is:

(A) in a county of the first, second, or third class, the levy imposed for municipal-type services under Sections 17-34-1 and 17-36-9; and

(B) in a county of the fourth, fifth, or sixth class, the levy imposed for general county purposes and

such other levies imposed solely for the municipal-type services identified in Section 17-34-1 and Subsection 17-36-3(22); and

(iii) for debt service voted on by the public, the certified tax rate shall be the actual levy imposed by that section, except that the certified tax rates for the following levies shall be calculated in accordance with Section 59-2-913 and this section:

(A) school levies provided for under Sections 53A-16-113, 53A-17a-133, and 53A-17a-164; and

(B) levies to pay for the costs of state legislative mandates or judicial or administrative orders under Section ~~[59-2-1604]~~ 59-2-1602.

(f) (i) A judgment levy imposed under Section 59-2-1328 or 59-2-1330 shall be established at that rate which is sufficient to generate only the revenue required to satisfy one or more eligible judgments, as defined in Section 59-2-102.

(ii) The ad valorem property tax revenue generated by the judgment levy shall not be considered in establishing the taxing entity's aggregate certified tax rate.

(g) The ad valorem property tax revenue generated by the capital local levy described in Section 53A-16-113 within a taxing entity in a county of the first class:

(i) may not be considered in establishing the school district's aggregate certified tax rate; and

(ii) shall be included by the commission in establishing a certified tax rate for that capital outlay levy determined in accordance with the calculation described in Subsection 59-2-913(3).

(4) (a) For the purpose of calculating the certified tax rate, the county auditor shall use:

(i) the taxable value of real property assessed by a county assessor contained on the assessment roll;

(ii) the taxable value of real and personal property assessed by the commission; and

(iii) the taxable year end value of personal property assessed by a county assessor contained on the prior year's assessment roll.

(b) For purposes of Subsection (4)(a)(i), the taxable value of real property on the assessment roll does not include new growth as defined in Subsection (4)(c).

(c) "New growth" means:

(i) the difference between the increase in taxable value of the following property of the taxing entity from the previous calendar year to the current year:

(A) real property assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) property assessed by the commission under Section 59-2-201; plus

(ii) the difference between the increase in taxable year end value of personal property of the taxing entity from the year prior to the previous calendar year to the previous calendar year; minus

(iii) the amount of an increase in taxable value described in Subsection (4)(e).

(d) For purposes of Subsection (4)(c)(ii), the taxable value of personal property of the taxing entity does not include the taxable value of personal property that is:

(i) contained on the tax rolls of the taxing entity if that property is assessed by a county assessor in accordance with Part 3, County Assessment; and

(ii) semiconductor manufacturing equipment.

(e) Subsection (4)(c)(iii) applies to the following increases in taxable value:

(i) the amount of increase to locally assessed real property taxable values resulting from factoring, reappraisal, or any other adjustments; or

(ii) the amount of an increase in the taxable value of property assessed by the commission under Section 59-2-201 resulting from a change in the method of apportioning the taxable value prescribed by:

(A) the Legislature;

(B) a court;

(C) the commission in an administrative rule; or

(D) the commission in an administrative order.

(f) For purposes of Subsection (4)(a)(ii), the taxable year end value of personal property on the prior year's assessment roll does not include:

(i) new growth as defined in Subsection (4)(c); or

(ii) the total taxable year end value of personal property contained on the prior year's tax rolls of the taxing entity that is:

(A) assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) semiconductor manufacturing equipment.

(5) (a) On or before June 22, each taxing entity shall annually adopt a tentative budget.

(b) If the taxing entity intends to exceed the certified tax rate, it shall notify the county auditor of:

(i) its intent to exceed the certified tax rate; and

(ii) the amount by which it proposes to exceed the certified tax rate.

(c) The county auditor shall notify property owners of any intent to levy a tax rate that exceeds the certified tax rate in accordance with Sections 59-2-919 and 59-2-919.1.

Section 3. Section 59-2-924.2 is amended to read:

59-2-924.2. Adjustments to the calculation of a taxing entity's certified tax rate.

(1) For purposes of this section, "certified tax rate" means a certified tax rate calculated in accordance with Section 59-2-924.

(2) Beginning January 1, 1997, if a taxing entity receives increased revenues from uniform fees on

tangible personal property under Section 59-2-404, 59-2-405, 59-2-405.1, 59-2-405.2, or 59-2-405.3 as a result of any county imposing a sales and use tax under Chapter 12, Part 11, County Option Sales and Use Tax, the taxing entity shall decrease its certified tax rate to offset the increased revenues.

(3) (a) Beginning July 1, 1997, if a county has imposed a sales and use tax under Chapter 12, Part 11, County Option Sales and Use Tax, the county's certified tax rate shall be:

(i) decreased on a one-time basis by the amount of the estimated sales and use tax revenue to be distributed to the county under Subsection 59-12-1102(3); and

(ii) increased by the amount necessary to offset the county's reduction in revenue from uniform fees on tangible personal property under Section 59-2-404, 59-2-405, 59-2-405.1, 59-2-405.2, or 59-2-405.3 as a result of the decrease in the certified tax rate under Subsection (3)(a)(i).

(b) The commission shall determine estimates of sales and use tax distributions for purposes of Subsection (3)(a).

(4) Beginning January 1, 1998, if a municipality has imposed an additional resort communities sales and use tax under Section 59-12-402, the municipality's certified tax rate shall be decreased on a one-time basis by the amount necessary to offset the first 12 months of estimated revenue from the additional resort communities sales and use tax imposed under Section 59-12-402.

(5) (a) This Subsection (5) applies to each county that:

(i) establishes a countywide special service district under Title 17D, Chapter 1, Special Service District Act, to provide jail service, as provided in Subsection 17D-1-201(10); and

(ii) levies a property tax on behalf of the special service district under Section 17D-1-105.

(b) (i) The certified tax rate of each county to which this Subsection (5) applies shall be decreased by the amount necessary to reduce county revenues by the same amount of revenues that will be generated by the property tax imposed on behalf of the special service district.

(ii) Each decrease under Subsection (5)(b)(i) shall occur contemporaneously with the levy on behalf of the special service district under Section 17D-1-105.

(6) (a) As used in this Subsection (6):

(i) "Annexing county" means a county whose unincorporated area is included within a public safety district by annexation.

(ii) "Annexing municipality" means a municipality whose area is included within a public safety district by annexation.

(iii) "Equalized public safety protection tax rate" means the tax rate that results from:

(A) calculating, for each participating county and each participating municipality, the property tax revenue necessary:

(I) in the case of a fire district, to cover all of the costs associated with providing fire protection, paramedic, and emergency services:

(Aa) for a participating county, in the unincorporated area of the county; and

(Bb) for a participating municipality, in the municipality; or

(II) in the case of a police district, to cover all the costs:

(Aa) associated with providing law enforcement service:

(Ii) for a participating county, in the unincorporated area of the county; and

(IIii) for a participating municipality, in the municipality; and

(Bb) that the police district board designates as the costs to be funded by a property tax; and

(B) adding all the amounts calculated under Subsection (6)(a)(iii)(A) for all participating counties and all participating municipalities and then dividing that sum by the aggregate taxable value of the property, as adjusted in accordance with Section 59-2-913:

(I) for participating counties, in the unincorporated area of all participating counties; and

(II) for participating municipalities, in all the participating municipalities.

(iv) "Fire district" means a service area under Title 17B, Chapter 2a, Part 9, Service Area Act:

(A) created to provide fire protection, paramedic, and emergency services; and

(B) in the creation of which an election was not required under Subsection 17B-1-214(3)(c).

(v) "Participating county" means a county whose unincorporated area is included within a public safety district at the time of the creation of the public safety district.

(vi) "Participating municipality" means a municipality whose area is included within a public safety district at the time of the creation of the public safety district.

(vii) "Police district" means a service area under Title 17B, Chapter 2a, Part 9, Service Area Act, within a county of the first class:

(A) created to provide law enforcement service; and

(B) in the creation of which an election was not required under Subsection 17B-1-214(3)(c).

(viii) "Public safety district" means a fire district or a police district.

(ix) "Public safety service" means:

(A) in the case of a public safety district that is a fire district, fire protection, paramedic, and emergency services; and

(B) in the case of a public safety district that is a police district, law enforcement service.

(b) In the first year following creation of a public safety district, the certified tax rate of each participating county and each participating municipality shall be decreased by the amount of the equalized public safety tax rate.

(c) In the first budget year following annexation to a public safety district, the certified tax rate of each annexing county and each annexing municipality shall be decreased by an amount equal to the amount of revenue budgeted by the annexing county or annexing municipality:

(i) for public safety service; and

(ii) in:

(A) for a taxing entity operating under a January 1 through December 31 fiscal year, the prior calendar year; or

(B) for a taxing entity operating under a July 1 through June 30 fiscal year, the prior fiscal year.

(d) Each tax levied under this section by a public safety district shall be considered to be levied by:

(i) each participating county and each annexing county for purposes of the county's tax limitation under Section 59-2-908; and

(ii) each participating municipality and each annexing municipality for purposes of the municipality's tax limitation under Section 10-5-112, for a town, or Section 10-6-133, for a city.

(e) The calculation of a public safety district's certified tax rate for the year of annexation shall be adjusted to include an amount of revenue equal to one half of the amount of revenue budgeted by the annexing entity for public safety service in the annexing entity's prior fiscal year if:

(i) the public safety district operates on a January 1 through December 31 fiscal year;

(ii) the public safety district approves an annexation of an entity operating on a July 1 through June 30 fiscal year; and

(iii) the annexation described in Subsection (6)(e)(ii) takes effect on July 1.

(7) For the calendar year beginning on January 1, 2007, the calculation of a taxing entity's certified tax rate, calculated in accordance with Section 59-2-924, shall be adjusted by the amount necessary to offset any change in the certified tax rate that may result from excluding the following from the certified tax rate under Subsection 59-2-924(3) enacted by the Legislature during the 2007 General Session:

(a) personal property tax revenue:

(i) received by a taxing entity;

(ii) assessed by a county assessor in accordance with Part 3, County Assessment; and

(iii) for personal property that is semiconductor manufacturing equipment; or

(b) the taxable value of personal property:

(i) contained on the tax rolls of a taxing entity;

(ii) assessed by a county assessor in accordance with Part 3, County Assessment; and

(iii) that is semiconductor manufacturing equipment.

(8) (a) The taxable value for the base year under Subsection 17C-1-102(6) shall be reduced for any year to the extent necessary to provide a community development and renewal agency established under Title 17C, Limited Purpose Local Government Entities - Community Development and Renewal Agencies Act, with approximately the same amount of money the agency would have received without a reduction in the county's certified tax rate, calculated in accordance with Section 59-2-924, if:

(i) in that year there is a decrease in the certified tax rate under Subsection (2) or (3)(a);

(ii) the amount of the decrease is more than 20% of the county's certified tax rate of the previous year; and

(iii) the decrease results in a reduction of the amount to be paid to the agency under Section 17C-1-403 or 17C-1-404.

(b) The base taxable value under Subsection 17C-1-102(6) shall be increased in any year to the extent necessary to provide a community development and renewal agency with approximately the same amount of money as the agency would have received without an increase in the certified tax rate that year if:

(i) in that year the base taxable value under Subsection 17C-1-102(6) is reduced due to a decrease in the certified tax rate under Subsection (2) or (3)(a); and

(ii) the certified tax rate of a city, school district, local district, or special service district increases independent of the adjustment to the taxable value of the base year.

(c) Notwithstanding a decrease in the certified tax rate under Subsection (2) or (3)(a), the amount of money allocated and, when collected, paid each year to a community development and renewal agency established under Title 17C, Limited Purpose Local Government Entities - Community Development and Renewal Agencies Act, for the payment of bonds or other contract indebtedness, but not for administrative costs, may not be less than that amount would have been without a decrease in the certified tax rate under Subsection (2) or (3)(a).

(9) (a) For the calendar year beginning on January 1, 2014, the calculation of a county

assessing and collecting levy shall be adjusted by the amount necessary to offset:

(i) any change in the certified tax rate that may result from amendments to Part 16, Multicounty Assessing and Collecting Levy, in this bill; and

(ii) the difference in the amount of revenue a taxing entity receives from or contributes to the Property Tax Valuation Agency Fund, created in Section 59-2-1602, that may result from amendments to Part 16, Multicounty Assessing and Collecting Levy, in this bill.

(b) A taxing entity is not required to comply with the notice and public hearing requirements in Section 59-2-919 for an adjustment to the county assessing and collecting levy described in Subsection (9)(a).

Section 4. Section 59-2-1601 is amended to read:

59-2-1601. Definitions.

As used in this part:

~~[(1) “Contributing county” means a county that:]~~

~~[(a) retains less revenue from the imposition of the multicounty assessing and collecting levy within the county pursuant to Section 59-2-1603 than it collects; and]~~

~~[(b) transmits a portion of the revenue collected from the imposition of the multicounty assessing and collecting levy to the Property Tax Valuation Agency Fund pursuant to Section 59-2-1603.]~~

~~[(2) “Contributing county surplus revenue” means an amount equal to the difference between the following:]~~

~~[(a) the revenue collected by a county from imposing the multicounty assessing and collecting levy during a calendar year; and]~~

~~[(b) the county’s multicounty assessing and collecting allocation as calculated in accordance with Subsection 59-2-1603(3).]~~

~~[(3)(1) “County additional property tax” means the property tax levy described in Subsection 59-2-1602(4).]~~

~~[(4)(2) “Fund” means the Property Tax Valuation Agency Fund created in Section 59-2-1602.]~~

~~[(5) “Maximum county contribution” means an amount equal to the following:]~~

~~[(a) for a county of the first class, \$300,000;]~~

~~[(b) for a county of the second class, \$100,000;]~~

~~[(c) for a county of the third class, \$100,000;]~~

~~[(d) for a county of the fourth class, \$50,000; and]~~

~~[(e) for a county of the fifth or sixth class, \$0.]~~

~~[(6) “Minimum county contribution” means an amount equal to the following:]~~

~~[(a) for a county of the first class, \$300,000; and]~~

~~[(b) for a county of the second or third class, \$0.]~~

~~[(7) “Multicounty assessing and collecting allocation” means the revenue to which a county is entitled from the statewide imposition of the multicounty assessing and collecting levy, as determined in accordance with the calculation described in Subsection 59-2-1603(3).]~~

~~[(3) “Multicounty Appraisal Trust” means the Multicounty Appraisal Trust created by an agreement:~~

~~[(a) entered into by all of the counties in the state; and]~~

~~[(b) authorized by Title 11, Chapter 13, Interlocal Cooperation Act.]~~

~~[(8)(4) “Multicounty assessing and collecting levy” means a property tax [rate not to exceed .0002 per dollar of taxable value] levied in accordance with [Section] Subsection 59-2-1602(2).]~~

~~[(9)(a) “Parcel” means an identifiable contiguous unit of real property that is treated as separate for valuation or zoning purposes and includes any improvements on that unit of real property.]~~

~~[(b) “Parcel” or “other parcel” does not include an item of personal property.]~~

~~[(10) “Receiving county” means a county that:]~~

~~[(a) receives a disbursement from the Property Tax Valuation Agency Fund in accordance with Section 59-2-1603; and]~~

~~[(b) levies a county additional property tax of at least .0003 per dollar of taxable value in accordance with Subsection 59-2-1602(4).]~~

Section 5. Section 59-2-1602 is amended to read:

59-2-1602. Property Tax Valuation Agency Fund -- Creation -- Statewide levy -- Additional county levy.

~~(1)(a) There is created [the] an agency fund known as the “Property Tax Valuation Agency Fund[.]” [to be funded by the revenue collected from the multicounty assessing and collecting levy as provided in Subsection (3)(c) and Section 59-2-1603.]~~

~~[(b) The purpose of the multicounty assessing and collecting levy required under Subsection (2) and the disbursement formulas established in Section 59-2-1603 is to promote the:]~~

~~[(i) accurate valuation of property;]~~

~~[(ii) establishment and maintenance of uniform assessment levels within and among counties; and]~~

~~[(iii) efficient administration of the property tax system, including the costs of assessment, collection, and distribution of property taxes.]~~

~~[(c) Income derived from the investment of money in the fund created in this Subsection (1) shall be deposited in and become part of the fund.]~~

~~[(b) The fund consists of:~~

~~[(i) deposits made and penalties received under Subsection (3); and]~~

(ii) interest on money deposited into the fund.

(c) Deposits, penalties, and interest described in Subsection (1)(b) shall be disbursed and used as provided in Section 59-2-1603.

(2) (a) ~~[Annually, each]~~ Each county shall annually impose a multicounty assessing and collecting levy ~~[not to exceed .0002 per dollar of taxable value as authorized by the Legislature as provided in Subsection (2)(b)]~~ as provided in this Subsection (2).

(b) ~~[Subject to Subsections (2)(c), (2)(d), and (5), in order to fund the Property Tax Valuation Agency Fund, the Legislature shall authorize the amount of the]~~ The tax rate of the multicounty assessing and collecting levy~~[-]~~ is:

(i) for the calendar year beginning on January 1, 2014, .00013; and

(ii) for a calendar year beginning on or after January 1, 2015, the certified revenue levy.

(c) ~~[Except as provided in Subsection (2)(d)(i), the]~~ The multicounty assessing and collecting levy may not exceed the certified revenue levy as defined in Section 59-2-102, unless:

(i) the Legislature authorizes a multicounty assessing and collecting levy that exceeds the certified revenue levy; and

(ii) the state complies with the notice requirements of Section 59-2-926.

~~[(d) (i) For a calendar year beginning on or after January 1, 2010, the multicounty assessing and collecting levy for a county of the first class is adjusted to be the same rate as for a county of the second, third, fourth, fifth, or sixth class.]~~

~~[(ii) The notice requirements of Section 59-2-926 do not apply to the rate adjustment under Subsection (2)(d)(i).]~~

(d) Revenue collected from the multicounty assessing and collecting levy shall be allocated as follows:

(i) 82% of the revenue collected shall be deposited into the Multicounty Appraisal Trust; and

(ii) 18% of the revenue collected shall be deposited into the Property Tax Valuation Agency Fund.

(3) (a) The multicounty assessing and collecting levy ~~[authorized by the Legislature]~~ imposed under Subsection (2) shall be separately stated on the tax notice as a multicounty assessing and collecting levy.

(b) The multicounty assessing and collecting levy ~~[authorized by the Legislature under Subsection (2)]~~ is:

(i) exempt from [the provisions of] Sections 17C-1-403 [and 17C-1-404] through 17C-1-406;

(ii) in addition to and exempt from the maximum levies allowable under Section 59-2-908; and

(iii) exempt from the notice and public hearing requirements of Section 59-2-919.

(c) (i) Each ~~[contributing]~~ county shall transmit quarterly to the state treasurer the ~~[portion of the]~~ revenue collected from the multicounty assessing and collecting levy ~~[which is above the amount to which that county is entitled to under Section 59-2-1603].~~

(ii) The revenue transmitted under Subsection (3)(c)(i) shall be transmitted no later than the tenth day of the month following the end of the quarter in which the revenue is collected.

(iii) If revenue transmitted under Subsection (3)(c)(i) is transmitted after the tenth day of the month following the end of the quarter in which the revenue is collected, the county shall pay an interest penalty at the rate of 10% each year until the revenue is transmitted.

~~[(iv) Each contributing county that transmits to the state treasurer a portion of the multicounty assessing and collecting levy in accordance with Subsection (3)(c)(i) shall levy sufficient property taxes to fund its county assessing and collecting budgets.]~~

(d) The state treasurer shall ~~[deposit in the fund the:]~~ allocate the penalties received under this Subsection (3) in the same manner as revenue is allocated under Subsection (2)(d).

~~[(i) revenue transmitted to the fund by contributing counties;]~~

~~[(ii) interest accrued from that levy; and]~~

~~[(iii) penalties received under Subsection (3)(c)(iii).]~~

(4) (a) A county may levy a county additional property tax in accordance with this Subsection (4).

~~[(b) A receiving county may not receive funds from the Property Tax Valuation Agency Fund unless the receiving county levies a county additional property tax of at least .0003 per dollar of taxable value of taxable property as reported by each county.]~~

~~[(e) (b) The county additional property tax [described in Subsection (4)(a) shall be levied by the county and:]~~

~~(i) shall be separately stated on the tax notice as a county assessing and collecting levy[-];~~

~~[(d) The purpose of the county additional property tax established in this Subsection (4) is to promote the:]~~

~~[(i) accurate valuation of property;]~~

~~[(ii) establishment and maintenance of uniform assessment levels within and among counties; and]~~

~~[(iii) efficient administration of the property tax system, including the costs of assessment, collection, and distribution of property taxes.]~~

~~[(e) A county additional property tax levy established in Subsection (4)(a) is:]~~

~~[(i) exempt from the provisions of Sections 17C-1-403 and 17C-1-404;]~~

~~[(ii) in addition to and exempt from the maximum levies allowable under Section 59-2-908; and]~~

~~[(iii) beginning on January 1, 2009;]~~

~~[(A) for a county that was designated as a receiving county by the state auditor during the prior calendar year, subject to the notice and public hearing provisions of Section 59-2-919 only if the county additional property tax levied by that county levy is raised to a rate in excess of .0003; and]~~

~~[(B) except as provided in Subsection (4)(f), for a county that was designated as a contributing county by the state auditor during the prior calendar year, subject to the notice and public hearing provisions of Section 59-2-919.]~~

~~[(f) A county additional property tax levy in a county that was not a receiving county during the prior year shall be subject to the notice and public hearing provisions described in Subsection (4)(e)(iii)(A) if the county would have been designated as a receiving county during the prior calendar year if the county had levied a county additional property tax of at least .0003 per dollar of taxable value.]~~

~~[(5) Subject to Subsection (6), for calendar years beginning on or after January 1, 2007, the amount of the multicounty assessing and collecting levy described in this section shall be reduced by an amount equal to the difference between:]~~

~~[(a) the amount of revenue budgeted;]~~

~~[(i) by each receiving county for that calendar year; and]~~

~~[(ii) for the county additional property tax levy described in Subsection (4)(a); and]~~

~~[(b) the amount of revenue budgeted;]~~

~~[(i) by each receiving county for the calendar year immediately preceding the calendar year described in Subsection (5)(a)(i); and]~~

~~[(ii) for the county additional property tax levy described in Subsection (4)(a).]~~

~~[(6) The amounts described in the calculations required by Subsection (5) are exclusive of new growth.]~~

~~(ii) may not be incorporated into the rate of any other levy;~~

~~(iii) is exempt from Sections 17C-1-403 through 17C-1-406; and~~

~~(iv) is in addition to and exempt from the maximum levies allowable under Section 59-2-908.~~

~~(c) Revenue collected from the county additional property tax shall be used to:~~

~~(i) promote the accurate valuation and uniform assessment levels of property as required by Section 59-2-103;~~

~~(ii) promote the efficient administration of the property tax system, including the costs of assessment, collection, and distribution of property taxes;~~

~~(iii) fund state mandated actions to meet legislative mandates or judicial or administrative orders that relate to promoting:~~

~~(A) the accurate valuation of property; and~~

~~(B) the establishment and maintenance of uniform assessment levels within and among counties; and~~

~~(iv) establish reappraisal programs that:~~

~~(A) are adopted by a resolution or ordinance of the county legislative body; and~~

~~(B) conform to rules the commission makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~

Section 6. Section 59-2-1603 is amended to read:

59-2-1603. Allocation of money in the Property Tax Valuation Agency Fund -- Use of funds.

~~[(1) The state auditor shall authorize disbursement of money from the Property Tax Valuation Agency Fund to each receiving county in accordance with this section.]~~

~~[(2) Except as provided in Section 59-2-1606 and Subsection 59-2-303.1(4), money derived from funds transmitted by contributing counties shall be disbursed pro rata to receiving counties of the second through sixth class based upon the number of adjusted parcel units in each county as determined in Subsection (3).]~~

~~[(3) (a) The state auditor shall determine the amount of each county's multicounty assessing and collecting allocation in accordance with this Subsection (3).]~~

~~[(b) A county's multicounty assessing and collecting allocation shall be the product of:]~~

~~(i) the county's adjusted parcel ratio; and]~~

~~[(ii) a base unit value of \$10.]~~

~~[(c) For purposes of this section, a county's adjusted parcel ratio shall be determined by multiplying the sum of the following by the county parcel factor:]~~

~~(i) the number of residential parcels multiplied by 2;]~~

~~[(ii) the number of commercial parcels multiplied by 4; and]~~

~~[(iii) the number of all other parcels multiplied by 1.]~~

~~[(d) For purposes of this Subsection (3), the county class factor is:]~~

~~(i) 0.8 for a county of the first class;]~~

~~[(ii) 0.9 for a county of the second class;]~~

~~[(iii) 1.0 for a county of the third class;]~~

~~[(iv) 1.05 for a county of the fourth class;]~~

~~[(v) 1.15 for a county of the fifth class; and]~~

~~[(vi) 1.3 for a county of the sixth class.]~~

~~[(e) The commission shall provide the state auditor a list of each county's parcel counts described in Subsection (3)(e).]~~

~~[(4) (a) A first class county shall transmit \$300,000 to the fund.]~~

~~[(b) A second, third, or fourth class contributing county shall transmit to the fund an amount equal to the following:]~~

~~[(i) if the contributing county's surplus revenue is equal to or less than the contributing county's minimum county contribution, the minimum county contribution;]~~

~~[(ii) if the contributing county's surplus revenue is more than the county's minimum county contribution and less than the county's maximum county contribution, the contributing county's surplus revenue; or]~~

~~[(iii) if the contributing county's surplus revenue is equal to or greater than the county's maximum county contribution, the contributing county's maximum county contribution.]~~

~~[(5) Money in the Property Tax Valuation Agency Fund on the 10th day of the month following the end of the quarter in which the revenue is collected shall, upon authorization by the state auditor, be transmitted by the state treasurer according to the disbursement formula determined under Subsection (3) no later than five working days after the 10th day of the month following the end of the quarter in which the revenue is collected.]~~

~~[(6) If money in the Property Tax Valuation Agency Fund on the 10th day of the month following the end of the quarter in which the revenue is collected is not transmitted to a receiving county within five working days of the 10th day of that month, except as provided for in Subsection (5), income from the investment of that money shall be:]~~

~~[(a) deposited in and become part of the Property Tax Valuation Agency Fund; and]~~

~~[(b) disbursed to the receiving county in the next quarter.]~~

~~(1) The state auditor shall annually conduct a study of each county of the fourth, fifth, or sixth class to determine:~~

~~(a) the costs of assessing and collecting property taxes;~~

~~(b) the ability to generate revenue from an assessing and collecting levy; and~~

~~(c) the tax burden of levying a property tax sufficient to cover the costs of assessing and collecting property taxes.~~

~~(2) Subject to Subsection (3), and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the auditor shall make rules~~

providing for the allocation of money in the Property Tax Valuation Agency Fund.

(3) The rules described in Subsection (2) shall give priority in the allocation of money in the Property Tax Valuation Agency Fund to the counties of the fourth, fifth, or sixth class that the state auditor determines:

(a) in accordance with the study required by Subsection (1), to have the highest tax burden; or

(b) to have the greatest need to improve:

(i) the accurate valuation and uniform assessment levels of property as required by Section 59-2-103; or

(ii) the efficiency of the property tax system.

[(7) (4) A county shall use money disbursed from the Property Tax Valuation Agency Fund [for] to:

[(a) establishing and maintaining accurate property]

(a) offset the costs of assessing and collecting property taxes;

(b) improve the accurate [valuations] valuation and uniform assessment levels of property as required by Section 59-2-103; [and] or

[(b) improving] (c) improve the efficiency of the property tax system.

[(8) The state auditor shall reallocate any:]

[(a) deficit from the allocation under Subsection (3) amongst all receiving counties based on their adjusted parcel counts; or]

[(b) surplus from the allocation under Subsection (3) amongst all contributing counties based on the county's percentage of the total contribution under this section.]

[(9) A receiving county may not receive more than \$200,000 total from an allocation under Subsection (3).]

[(10) (5) If money remains in the fund after all allocations have been distributed to receiving counties in a calendar year, the state auditor shall retain the money in the fund for distribution the following calendar year.

Section 7. Section 59-2-1605 is amended to read:

59-2-1605. Accounting records for levies.

Each county shall separately budget and account for the use of any money received or expended ~~[under]~~ from a levy imposed under Section 59-2-1602~~[, 59-2-1603, or 59-2-1604].~~

Section 8. Section 59-2-1606 is amended to read:

59-2-1606. CAMA system funding for counties -- Disbursements to the Multicounty Appraisal Trust -- Use of funds.

(1) As used in this section~~[-(a)]~~, "CAMA" means computer assisted mass appraisal.

~~[(b) “CAMA fee rate” means:]~~

~~[(i) \$1.50 for the calendar year that begins on January 1, 2009; and]~~

~~[(ii) for a calendar year beginning on or after January 1, 2010, the \$1.50 described in Subsection (1)(b)(i) may be increased each year up to 2% at the discretion of the Multicounty Appraisal Trust.]~~

~~[(c) (i) “County parcel count” means the total number of residential parcels, commercial parcels, and other parcels within a county.]~~

~~[(ii) “County parcel count” does not include a county’s parcel factor as described in Subsection 59-2-1603(3)(e).]~~

~~[(d) “Factored parcel count” means the product of:]~~

~~[(i) a county’s parcel count; and]~~

~~[(ii) the county’s class factor described in Subsection 59-2-1603(3)(d).]~~

~~[(e) “Multicounty Appraisal Trust” means the Multicounty Appraisal Trust created by interlocal agreement by all 29 counties in the state.]~~

~~[(2) For a calendar year beginning on or after January 1, 2009, before determining the amount of each county’s multicounty assessing and collecting allocation in accordance with Subsection 59-2-1603(3), the state auditor shall disburse to the Multicounty Appraisal Trust an amount of revenue equal to the product of:]~~

~~[(a) the sum of the factored parcel counts for all second through sixth class counties; and]~~

~~[(b) the CAMA fee rate.]~~

~~[(3) (2) (a) The funds [described in Subsection (2)] deposited into the Multicounty Appraisal Trust in accordance with Section 59-2-1602 shall be used to provide funding for a statewide CAMA system that will promote:~~

~~(i) the accurate valuation of property;~~

~~(ii) the establishment and maintenance of uniform assessment levels among counties within the state; and~~

~~(iii) efficient administration of the property tax system, including the costs of assessment, collection, and distribution of property taxes.~~

~~(b) The Multicounty Appraisal Trust shall determine which projects shall be funded and oversee the administration of a statewide CAMA system.~~

Section 9. Section 63H-1-102 is amended to read:

63H-1-102. Definitions.

As used in this chapter:

(1) “Authority” means the Military Installation Development Authority, created under Section 63H-1-201.

(2) “Base taxable value” means:

(a) for military land or other land that was exempt from a property tax at the time that a project area was created that included the military land or other land, a taxable value of zero; or

(b) for private property that is included in a project area, the taxable value of the property within any portion of the project area, as designated by board resolution, from which tax increment will be collected, as shown upon the assessment roll last equalized before the year in which the authority issues a building permit for a building within that portion of the project area.

(3) “Board” means the governing body of the authority created under Section 63H-1-301.

(4) (a) “Dedicated tax collections” means the property tax that remains after the authority is paid the tax increment it is entitled to receive under Subsection 63H-1-501(1), for a property tax levied by:

(i) a county, including a district the county has established under Subsection 17-34-3(2) to levy a property tax under Title 17, Chapter 34, Municipal-Type Services to Unincorporated Areas; or

(ii) an included municipality.

(b) “Dedicated tax collections” does not include a property tax levied by a county to assess and collect property taxes under Subsections 59-2-1602(1) and (4) county additional property tax or multicounty assessing and collecting levy imposed in accordance with Section 59-2-1602.

(5) “Development project” means a project to develop land within a project area.

(6) “Elected member” means a member of the authority board who:

(a) is a mayor or member of a legislative body appointed under Subsection 63H-1-302(2)(b); or

(b) (i) is appointed to the authority board under Subsection 63H-1-302(2)(a) or (3); and

(ii) concurrently serves in an elected state, county, or municipal office.

(7) “Included municipality” means a municipality, some or all of which is included within a project area.

(8) “Military Installation Development Authority energy tax” or “MIDA energy tax” means the tax levied under Section 63H-1-204.

(9) “Military land” means land or a facility, including leased land or a leased facility, that is part of or affiliated with a base, camp, post, station, yard, center, or installation under the jurisdiction of the U.S. Department of Defense or the Utah National Guard.

(10) “Municipal energy tax” means a municipal energy sales and use tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act.

(11) “Municipal services revenue” means revenue that the authority:

- (a) collects from the authority's:
- (i) levy of a municipal energy tax;
 - (ii) levy of a MIDA energy tax;
 - (iii) levy of a telecommunications tax;
 - (iv) imposition of a transient room tax; and
 - (v) imposition of a resort communities tax;
- (b) receives under Subsection 59-12-205(2)(b)(ii); and
- (c) receives as dedicated tax collections.
- (12) "Municipal tax" means a municipal energy tax, MIDA energy tax, telecommunications tax, transient room tax, or resort communities tax.
- (13) "Project area" means the land, including military land, whether consisting of a single contiguous area or multiple noncontiguous areas, described in a project area plan or draft project area plan, where the development project set forth in the project area plan or draft project area plan takes place or is proposed to take place.
- (14) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to a project area that includes:
- (a) the base taxable value of property in the project area;
 - (b) the projected tax increment expected to be generated within the project area;
 - (c) the amount of the tax increment expected to be shared with other taxing entities;
 - (d) the amount of the tax increment expected to be used to implement the project area plan, including the estimated amount of the tax increment to be used for land acquisition, public improvements, infrastructure improvements, and loans, grants, or other incentives to private and public entities;
 - (e) the tax increment expected to be used to cover the cost of administering the project area plan;
 - (f) if the tax increment is to be collected at different times or from different portions of the project area, or both:
 - (i) (A) the tax identification numbers of the parcels from which the tax increment will be collected; or
 - (B) a legal description of the portion of the project area from which the tax increment will be collected; and
 - (ii) an estimate of when other portions of the project area will become subject to collection of the tax increment; and
 - (g) for property that the authority owns or leases and expects to sell or sublease, the expected total cost of the property to the authority and the expected selling price or lease payments.

(15) "Project area plan" means a written plan that, after its effective date, guides and controls the development within a project area.

(16) "Property tax" includes a privilege tax and each levy on an ad valorem basis on tangible or intangible personal or real property.

(17) "Public entity" means:

(a) the state, including each department or agency of the state; or

(b) a political subdivision of the state, including a county, city, town, school district, local district, special service district, or interlocal cooperation entity.

(18) "Publicly owned infrastructure and improvements" means water, sewer, storm drainage, electrical, telecommunications, and other similar systems and lines, streets, roads, curb, gutter, sidewalk, walkways, parking facilities, public transportation facilities, and other buildings, facilities, infrastructure, and improvements that:

(a) benefit the public; and

(b) are:

(i) publicly owned or owned by a utility; or

(ii) publicly maintained or operated by the authority or another public entity.

(19) "Remaining municipal services revenue" means municipal services revenue that the authority has not spent during its fiscal year for municipal services as provided in Subsection 63H-1-503(1).

(20) "Resort communities tax" means a sales and use tax imposed under Section 59-12-401.

(21) "Taxable value" means the value of property as shown on the last equalized assessment roll as certified by the county assessor.

(22) "Tax increment" means the difference between:

(a) the amount of property tax revenues generated each tax year by all taxing entities from the area within a project area designated in the project area plan as the area from which the tax increment is to be collected, using the current assessed value of the property; and

(b) the amount of property tax revenues that would be generated from that same area using the base taxable value of the property.

(23) "Taxing entity" means a public entity that levies a tax on property within a project area.

(24) "Telecommunications tax" means a telecommunications license tax under Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act.

(25) "Transient room tax" means a tax under Section 59-12-352.

Section 10. Repealer.

This bill repeals:

Section 59-2-1604, Additional levies by counties.

Section 11. Retrospective operation.

This bill has retrospective operation to January 1, 2014.

Section 12. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, shall replace the references in Subsection 59-2-924.2(9) from "this bill" to the bill's designated chapter and section number in the Laws of Utah.

CHAPTER 271

S. B. 188

Passed March 13, 2014

Approved March 31, 2014

Effective July 1, 2014

LOCAL OPTION SALES TAX AMENDMENTS

Chief Sponsor: Deidre M. Henderson

House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This bill amends the Local Option Sales and Use Taxes for Transportation Act.

Highlighted Provisions:

This bill:

- ▶ provides that a county, city, or town option sales and use tax for airports, highways, and systems for public transit may be used for additional purposes;
- ▶ provides that certain uses of a county, city, or town option sales and use tax for airports, highways, and systems for public transit shall be recommended by a metropolitan planning organization or council of governments; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2014.

Utah Code Sections Affected:

AMENDS:

59-12-2218, as renumbered and amended by Laws of Utah 2010, Chapter 263

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

Section 1. Section 59-12-2218 is amended to read:

59-12-2218. County, city, or town option sales and use tax for airports, highways, and systems for public transit -- Base -- Rate -- Administration of sales and use tax -- Voter approval exception.

(1) ~~[(a)]~~ Subject to the other provisions of this part, the following may impose a sales and use tax under this section:

~~[(4)]~~ (a) if, on April 1, 2009, a county legislative body of a county of the second class imposes a sales and use tax under this section, the county legislative body of the county of the second class may impose the sales and use tax on the transactions:

~~[(A)]~~ (i) described in Subsection 59-12-103(1); and

~~[(B)]~~ (ii) within the county, including the cities and towns within the county; or

~~[(4)]~~ (b) if, on April 1, 2009, a county legislative body of a county of the second class does not impose a sales and use tax under this section:

~~[(A)]~~ (i) a city legislative body of a city within the county of the second class may impose a sales and use tax under this section on the transactions described in Subsection 59-12-103(1) within that city;

~~[(B)]~~ (ii) a town legislative body of a town within the county of the second class may impose a sales and use tax under this section on the transactions described in Subsection 59-12-103(1) within that town; and

~~[(C)]~~ (iii) the county legislative body of the county of the second class may impose a sales and use tax on the transactions described in Subsection 59-12-103(1):

~~[(4)]~~ (A) within the county, including the cities and towns within the county, if on the date the county legislative body provides the notice described in Section 59-12-2209 to the commission stating that the county will enact a sales and use tax under this section, no city or town within that county~~[-(Aa)]~~ imposes a sales and use tax under this section~~;~~ or ~~[(Bb)]~~ has provided the notice described in Section 59-12-2209 to the commission stating that the city or town will enact a sales and use tax under this section; or

~~[(4)]~~ (B) within the county, except for within a city or town within that county, if, on the date the county legislative body provides the notice described in Section 59-12-2209 to the commission stating that the county will enact a sales and use tax under this section, that city or town~~[-(Aa)]~~ imposes a sales and use tax under this section~~;~~ or ~~[(Bb)]~~ has provided the notice described in Section 59-12-2209 to the commission stating that the city or town will enact a sales and use tax under this section.

~~[(b)]~~ (2) For purposes of Subsection (1)~~[(a)]~~ and subject to the other provisions of this section, a county, city, or town legislative body that imposes a sales and use tax under this section may impose the tax at a rate of:

~~[(4)]~~ (a) .10%~~[-to be-];~~ or

~~[(4)]~~ (b) .25%.

(3) A sales and use tax imposed at a rate described in Subsection (2)(a) shall be expended as determined by the county, city, or town legislative body as follows:

~~[(A)]~~ (a) ~~[as determined by the county, city, or town legislative body,]~~ deposited as provided in Subsection ~~[(3)]~~ (9)(b)~~[(4)]~~ into the County of the Second Class State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in Section 72-2-121.2;

~~[(B)]~~ (b) ~~[as determined by the county, city, or town legislative body,]~~ expended for a project or service relating to an airport facility for the portion of the project or service that is performed within the county, city, or town within which the tax is imposed:

~~[(4)]~~ (i) for a county legislative body that imposes the sales and use tax, if that airport facility is part of the regional transportation plan of the area

metropolitan planning organization if a metropolitan planning organization exists for the area; or

~~[(H)]~~ (ii) for a city or town legislative body that imposes the sales and use tax, if:

~~[(Aa)]~~ (A) that city or town owns or operates the airport facility; and

~~[(Bb)]~~ (B) an airline is headquartered in that city or town; or

~~[(C)]~~ (c) ~~[as determined by the county, city, or town legislative body,]~~ deposited or expended for a combination of Subsections ~~[(1)(b)(i)(A) and (B); or]~~ (3)(a) and (b).

~~[(ii) subject to Subsection (1)(e), .25%, to be expended as follows:]~~

~~[(A) .10% to be deposited as provided in Subsection (3)(b)(i) into the County of the Second Class State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in Section 72-2-121.2;]~~

~~[(B) .05%, to be deposited as provided in Subsection (3)(b)(ii) into the Local Transportation Corridor Preservation Fund created by Section 72-2-117.5 and expended and distributed in accordance with Section 72-2-117.5; and]~~

~~[(C) as determined by the county, city, or town legislative body, .10% to be:]~~

(4) Subject to Subsections (5) through (7), a sales and use tax imposed at a rate described in Subsection (2)(b) shall be expended as determined by the county, city, or town legislative body as follows:

[(4)] (a) deposited as provided in Subsection ~~[(3)]~~ (9)(b)~~[(4)]~~ into the County of the Second Class State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in Section 72-2-121.2;

[(H)] (b) expended for:

[(Aa)] (i) a state highway designated under Title 72, Chapter 4, Part 1, State Highways;

[(Bb)] (ii) a local highway that is a principal arterial highway, minor arterial highway, major collector highway, or minor collector road; or

[(Ce)] (iii) a combination of Subsections ~~[(1)(b)(ii)(C)(D)(Aa) and (Bb)]~~ (4)(b)(i) and (ii);

[(H)] (c) expended for a project or service relating to a system for public transit for the portion of the project or service that is performed within the county, city, or town within which the sales and use tax is imposed;

[(IV)] (d) expended for a project or service relating to an airport facility for the portion of the project or service that is performed within the county, city, or town within which the sales and use tax is imposed:

[(Aa)] (i) for a county legislative body that imposes the sales and use tax, if that airport facility is part of the regional transportation plan of the

area metropolitan planning organization if a metropolitan planning organization exists for the area; or

~~[(Bb)]~~ (ii) for a city or town legislative body that imposes the sales and use tax, if:

~~[(H)]~~ (A) that city or town owns or operates the airport facility; and

~~[(Hii)]~~ (B) an airline is headquartered in that city or town; ~~[(ø)]~~

(e) expended for:

(i) a class B road, as defined in Section 72-3-103;

(ii) a class C road, as defined in Section 72-3-104;
or

(iii) a combination of Subsections (4)(e)(i) and (ii);

(f) expended for traffic and pedestrian safety, including:

(i) for a class B road, as defined in Section 72-3-103, or class C road, as defined in Section 72-3-104, for:

(A) a sidewalk;

(B) curb and gutter;

(C) a safety feature;

(D) a traffic sign;

(E) a traffic signal;

(F) street lighting; or

(G) a combination of Subsections (4)(f)(i)(A) through (F);

(ii) the construction of an active transportation facility that:

(A) is for nonmotorized vehicles and multimodal transportation; and

(B) connects an origin with a destination; or

(iii) a combination of Subsections (4)(f)(i) and (ii);
or

[(V)] (g) deposited or expended for a combination of Subsections ~~[(1)(b)(ii)(C)(D) through (IV)]~~ (4)(a) through (f).

(5) A county, city, or town legislative body may not expend revenue collected within a county, city, or town from a tax under this part for a purpose described in Subsections (4)(b) through (f) unless the purpose is recommended by:

(a) for a county that is part of a metropolitan planning organization, the metropolitan planning organization of which the county is a part; or

(b) for a county that is not part of a metropolitan planning organization, the council of governments of which the county is a part.

(6) (a) (i) Except as provided in Subsection (6)(b), a county, city, or town that imposes a tax described in Subsection (2)(b) shall deposit the revenue collected from a tax rate of .05% as provided in Subsection (9)(b)(i) into the Local Transportation

Corridor Preservation Fund created by Section 72-2-117.5.

(ii) Revenue deposited in accordance with Subsection (6)(a)(i) shall be expended and distributed in accordance with Section 72-2-117.5.

(b) A county, city, or town is not required to make the deposit required by Subsection (6)(a)(i) if the county, city, or town:

(i) imposed a tax described in Subsection (2)(b) on July 1, 2010; or

(ii) has continuously imposed a tax described in Subsection (2)(b):

(A) beginning after July 1, 2010; and

(B) for a five-year period.

(~~(e)~~(i)) (7) (a) Subject to the other provisions of this Subsection [~~(4)~~(e)] (7), a city or town within which a sales and use tax is imposed at the tax rate described in Subsection [~~(4)~~(b)(ii)] (2)(b) may:

(~~(A)~~) (i) expend the revenues in accordance with Subsection [~~(4)~~(b)(ii)] (4); or

(~~(B)~~) (ii) expend the revenues in accordance with Subsections [~~(4)~~(e)(ii) through (iv)] (7)(b) through (d) if:

(~~(I)~~) (A) that city or town owns or operates an airport facility; and

(~~(II)~~) (B) an airline is headquartered in that city or town.

(~~(ii)~~(A)) (b) (i) A city or town legislative body of a city or town within which a sales and use tax is imposed at the tax rate described in Subsection [~~(4)~~(b)(ii)] (2)(b) may expend the revenues collected from a tax rate of greater than .10% but not to exceed the revenues collected from a tax rate of .25% for a purpose described in Subsection [~~(4)~~(e)(ii)(B)] (7)(b)(ii) if:

(~~(I)~~) (A) that city or town owns or operates an airport facility; and

(~~(II)~~) (B) an airline is headquartered in that city or town.

(~~(B)~~) (ii) A city or town described in Subsection [~~(4)~~(e)(ii)(A)] (7)(b)(i) may expend the revenues collected from a tax rate of greater than .10% but not to exceed the revenues collected from a tax rate of .25% for:

(~~(I)~~) (A) a project or service relating to the airport facility; and

(~~(II)~~) (B) the portion of the project or service that is performed within the city or town imposing the sales and use tax.

(~~(iii)~~) (c) If a city or town legislative body described in Subsection [~~(4)~~(e)(ii)(A)] (7)(b)(i) determines to expend the revenues collected from a tax rate of greater than .10% but not to exceed the revenues collected from a tax rate of .25% for a project or service relating to an airport facility as allowed by Subsection [~~(4)~~(e)(ii)] (7)(b), any remaining [~~revenues that are~~] revenue that is

collected from the sales and use tax imposed at the tax rate described in Subsection [~~(4)~~(b)(ii)] (2)(b) that [~~are~~] is not expended for the project or service relating to an airport facility as allowed by Subsection [~~(4)~~(e)(ii)] (7)(b) shall be expended as follows:

(~~(A)~~) (i) 75% of the remaining revenues shall be deposited as provided in Subsection [~~(3)~~] (9)(c) into the County of the Second Class State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in Section 72-2-121.2; and

(~~(B)~~) (ii) 25% of the remaining revenues shall be deposited as provided in Subsection [~~(3)~~] (9)(c) into the Local Transportation Corridor Preservation Fund created by Section 72-2-117.5 and expended and distributed in accordance with Section 72-2-117.5.

(~~(iv)~~) (d) A city or town legislative body that expends the revenues collected from a sales and use tax imposed at the tax rate described in Subsection [~~(4)~~(b)(ii)] (2)(b) in accordance with Subsections [~~(4)~~(e)(ii) and (iii)] (7)(b) and (c):

(~~(A)~~) (i) shall, on or before the date the city or town legislative body provides the notice described in Section 59-12-2209 to the commission stating that the city or town will enact a sales and use tax under this section:

(~~(I)~~) (A) determine the tax rate[~~:-~~(Aa)], the percentage of which is greater than .10% but does not exceed .25%, the collections from which the city or town legislative body will expend for a project or service relating to an airport facility as allowed by Subsection [~~(4)~~(e)(ii)] (7)(b); and

(~~(B)~~) at a percentage that is greater than .10% but does not exceed .25%; and

(~~(II)~~) (B) notify the commission in writing of the tax rate the city or town legislative body determines in accordance with Subsection [~~(4)~~(e)(iv)(A)(I)] (7)(d)(i)(A);

(~~(B)~~) (ii) shall, on or before the April 1 immediately following the date the city or town legislative body provides the notice described in Subsection [~~(4)~~(e)(iv)(A)] (7)(d)(i) to the commission:

(~~(I)~~) (A) determine the tax rate[~~:-~~(Aa)], the percentage of which is greater than .10% but does not exceed .25%, the collections from which the city or town legislative body will expend for a project or service relating to an airport facility as allowed by Subsection [~~(4)~~(e)(ii)] (7)(b); and

(~~(B)~~) at a percentage that is greater than .10% but does not exceed .25%; and

(~~(II)~~) (B) notify the commission in writing of the tax rate the city or town legislative body determines in accordance with Subsection [~~(4)~~(e)(iv)(B)(I)] (7)(d)(ii)(A);

(~~(C)~~) (iii) shall, on or before April 1 of each year after the April 1 described in Subsection [~~(4)~~(e)(iv)(B)] (7)(d)(ii):

(~~(I)~~) (A) determine the tax rate[~~:-~~(Aa)], the percentage of which is greater than .10% but does

not exceed .25%, the collections from which the city or town legislative body will expend for a project or service relating to an airport facility as allowed by Subsection ~~[(1)(e)(iii)]~~ (7)(b); and

~~[(Bb) at a percentage that is greater than .10% but does not exceed .25%; and]~~

~~[(H)]~~ (B) notify the commission in writing of the tax rate the city or town legislative body determines in accordance with Subsection ~~[(1)(e)(iv)(C)(I)]~~ (7)(d)(iii)(A); and

~~[(D)]~~ (iv) may not change the tax rate the city or town legislative body determines in accordance with Subsections ~~[(1)(e)(iv)(A) through (C)]~~ (7)(d)(i) through (iii) more frequently than as prescribed by Subsections ~~[(1)(e)(iv)(A) through (C)]~~ (7)(d)(i) through (iii).

~~[(2)]~~ (8) Before a city or town legislative body may impose a sales and use tax under this section, the city or town legislative body shall provide a copy of the notice described in Section 59-12-2209 that the city or town legislative body provides to the commission:

(a) to the county legislative body within which the city or town is located; and

(b) at the same time as the city or town legislative body provides the notice to the commission.

~~[(3)]~~ (9) (a) Subject to Subsections ~~[(3)]~~ (9)(b) through (e) and Section 59-12-2207, the commission shall transmit revenues collected within a county, city, or town from a tax under this part that will be expended for a purpose described in Subsection ~~[(1)(b)(i)(B)]~~ (3)(b) or Subsections ~~[(1)(b)(ii)(C)(II) through (IV)]~~ (4)(b) through (f) to the county, city, or town legislative body in accordance with Section 59-12-2206.

(b) Except as provided in Subsection ~~[(3)]~~ (9)(c) and subject to Section 59-12-2207, the commission shall deposit revenues collected within a county, city, or town from a sales and use tax under this section that:

~~[(i) are required to be expended for a purpose described in Subsection (1)(b)(ii)(A) into the County of the Second Class State Highway Projects Fund created by Section 72-2-121.2;]~~

~~[(ii)]~~ (i) are required to be expended for a purpose described in Subsection ~~[(1)(b)(ii)(B)]~~ (6)(a) into the Local Transportation Corridor Preservation Fund created by Section 72-2-117.5; or

~~[(iii)]~~ (ii) a county, city, or town legislative body determines to expend for a purpose described in Subsection ~~[(1)(b)(i)(A) or (1)(b)(ii)(C)(I)]~~ (3)(a) or (4)(a) into the County of the Second Class State Highway Projects Fund created by Section 72-2-121.2 if the county, city, or town legislative body provides written notice to the commission requesting the deposit.

(c) Subject to Subsection ~~[(3)]~~ (9)(d) or (e), if a city or town legislative body provides notice to the

commission in accordance with Subsection ~~[(1)(e)(iv)]~~ (7)(d), the commission shall:

(i) transmit the revenues collected from the tax rate stated on the notice to the city or town legislative body monthly by electronic funds transfer; and

(ii) deposit any remaining revenues described in Subsection ~~[(1)(e)(iii)]~~ (7)(c) in accordance with Subsection ~~[(1)(e)(iii)]~~ (7)(c).

(d) (i) If a city or town legislative body provides the notice described in Subsection ~~[(1)(e)(iv)(A)]~~ (7)(d)(i) to the commission, the commission shall transmit or deposit the revenues collected from the sales and use tax:

(A) in accordance with Subsection ~~[(3)]~~ (9)(c);

(B) beginning on the date the city or town legislative body enacts the sales and use tax; and

(C) ending on the earlier of ~~[(1)]~~ the June 30 immediately following the date the city or town legislative body provides the notice described in Subsection ~~[(1)(e)(iv)(B)]~~ (7)(d)(ii) to the commission~~;~~ or ~~[(H)]~~ the date the city or town legislative body repeals the sales and use tax.

(ii) If a city or town legislative body provides the notice described in Subsection ~~[(1)(e)(iv)(B) or (C)]~~ (7)(d)(ii) or (iii) to the commission, the commission shall transmit or deposit the revenues collected from the sales and use tax:

(A) in accordance with Subsection ~~[(3)]~~ (9)(c);

(B) beginning on the July 1 immediately following the date the city or town legislative body provides the notice described in Subsection ~~[(1)(e)(iv)(B) or (C)]~~ (7)(d)(ii) or (iii) to the commission; and

(C) ending on the earlier of ~~[(1)]~~ the June 30 of the year after the date the city or town legislative body provides the notice described in Subsection ~~[(1)(e)(iv)(B) or (C)]~~ (7)(d)(ii) or (iii) to the commission~~;~~ or ~~[(H)]~~ the date the city or town legislative body repeals the sales and use tax.

(e) (i) If a city or town legislative body that is required to provide the notice described in Subsection ~~[(1)(e)(iv)(A)]~~ (7)(d)(i) does not provide the notice described in Subsection ~~[(1)(e)(iv)(A)]~~ (7)(d)(i) to the commission on or before the date required by Subsection ~~[(1)(e)(iv)]~~ (7)(d) for providing the notice, the commission shall transmit, transfer, or deposit the revenues collected from the sales and use tax within the city or town in accordance with Subsections ~~[(3)]~~ (9)(a) and (b).

(ii) If a city or town legislative body that is required to provide the notice described in Subsection ~~[(1)(e)(iv)(B) or (C)]~~ (7)(d)(ii) or (iii) does not provide the notice described in Subsection ~~[(1)(e)(iv)(B) or (C)]~~ (7)(d)(ii) or (iii) to the commission on or before the date required by Subsection ~~[(1)(e)(iv)]~~ (7)(d) for providing the notice, the commission shall transmit or deposit the revenues collected from the sales and use tax within the city or town in accordance with:

(A) Subsection ~~[(3)]~~ (9)(c); and

(B) the most recent notice the commission received from the city or town legislative body under Subsection ~~[(1)(e)(iv)]~~ (7)(d).

~~[(4) — Notwithstanding Section 59-12-2208, a county, city, or town legislative body is not required to submit an opinion question to the county's, city's, or town's registered voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section if:]~~

~~[(a) the county, city, or town imposes the sales and use tax under this section on or after July 1, 2010, but on or before July 1, 2011; and]~~

~~[(b) a purpose for which the county, city, or town will expend revenues collected from the sales and use tax under this section is:]~~

~~[(i) a project or service described in Subsection (1)(b)(i)(B); or]~~

~~[(ii) a project or service described in Subsection (1)(b)(ii)(C)(IV).]~~

Section 2. Effective date.

This bill takes effect on July 1, 2014.

CHAPTER 272**S. B. 198**

Passed March 5, 2014

Approved March 31, 2014

Effective May 13, 2014

**LAW ENFORCEMENT EXEMPTION
FOR MEDICAL INFORMATION**

Chief Sponsor: J. Stuart Adams

House Sponsor: Edward H. Redd

LONG TITLE**General Description:**

This bill modifies provisions for a county sheriff regarding health care of jail detainees.

Highlighted Provisions:

This bill:

- ▶ allows a health care provider to issue a statement as to whether a detainee is medically cleared for incarceration in certain circumstances.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

17-22-8.1, Utah Code Annotated 1953

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

Section 1. Section 17-22-8.1 is enacted to read:**17-22-8.1. Disclosure of detainee medical clearance.**

(1) A health care provider, as defined in Section 78B-3-403, who provides health care to a detainee before the detainee is booked into a county jail by a competent authority, is authorized to disclose to the competent authority whether a detainee is medically cleared for incarceration.

(2) The disclosure under Subsection (1) shall be in writing if requested by the competent authority.

CHAPTER 273**S. B. 207**

Passed March 7, 2014

Approved March 31, 2014

Effective May 13, 2014

(Retrospective operation to January 1, 2014)

**CORPORATE FRANCHISE
AND INCOME TAX AMENDMENTS**

Chief Sponsor: Curtis S. Bramble

House Sponsor: Ryan D. Wilcox

LONG TITLE**General Description:**

This bill amends corporate franchise and income tax provisions.

Highlighted Provisions:

This bill:

- ▶ enacts a subtraction from unadjusted income for an increase in income due to claiming certain federal tax credits.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill has retrospective operation for a taxable year beginning on or after January 1, 2014.

Utah Code Sections Affected:**AMENDS:**

59-7-106, as last amended by Laws of Utah 2010, Chapters 6 and 198

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

Section 1. Section 59-7-106 is amended to read:**59-7-106. Subtractions from unadjusted income.**

(1) In computing adjusted income the following amounts shall be subtracted from unadjusted income:

(a) the foreign dividend gross-up included in gross income for federal income tax purposes under Section 78, Internal Revenue Code;

(b) subject to Subsection (2), the net capital loss, as defined for federal purposes, if the taxpayer elects to deduct the net capital loss on the return filed under this chapter for the taxable year for which the net capital loss is incurred;

(c) the decrease in salary expense deduction for federal income tax purposes due to claiming the federal work opportunity credit under Section 51, Internal Revenue Code;

(d) the decrease in qualified research and basic research expense deduction for federal income tax purposes due to claiming the federal credit for increasing research activities under Section 41, Internal Revenue Code;

(e) the decrease in qualified clinical testing expense deduction for federal income tax purposes due to claiming the federal credit for clinical testing expenses for certain drugs for rare diseases or

conditions under Section 45C, Internal Revenue Code;

(f) any decrease in any expense deduction for federal income tax purposes due to claiming any other federal credit;

(g) the safe harbor lease adjustment required under Subsections 59-7-111(1)(b) and (2)(b);

(h) any income on the federal corporation income tax return that has been previously taxed by Utah;

(i) an amount included in federal taxable income that is due to a refund of a tax, including a franchise tax, an income tax, a corporate stock and business tax, or an occupation tax: (i) if that tax is imposed for the privilege of:

(A) doing business; or

(B) exercising a corporate franchise;

(ii) if that tax is paid by the corporation to:

(A) Utah;

(B) another state of the United States;

(C) a foreign country;

(D) a United States possession; or

(E) the Commonwealth of Puerto Rico; and

(iii) to the extent that tax was added to unadjusted income under Section 59-7-105;

(j) a charitable contribution, to the extent the charitable contribution is allowed as a subtraction under Section 59-7-109;

(k) subject to Subsection (3), 50% of a dividend considered to be received or received from a subsidiary that:

(i) is a member of the unitary group;

(ii) is organized or incorporated outside of the United States; and

(iii) is not included in a combined report under Section 59-7-402 or 59-7-403;

(l) subject to Subsection (4) and Section 59-7-401, 50% of the adjusted income of a foreign operating company;

(m) the amount of gain or loss that is included in unadjusted income but not recognized for federal purposes on stock sold or exchanged by a member of a selling consolidated group as defined in Section 338, Internal Revenue Code, if an election has been made in accordance with Section 338(h)(10), Internal Revenue Code;

(n) the amount of gain or loss that is included in unadjusted income but not recognized for federal purposes on stock sold, exchanged, or distributed by a corporation in accordance with Section 336(e), Internal Revenue Code, if an election under Section 336(e), Internal Revenue Code, has been made for federal purposes;

(o) subject to Subsection (5), an adjustment to the following due to a difference between basis for federal purposes and basis as computed under Section 59-7-107:

- (i) an amortization expense;
- (ii) a depreciation expense;
- (iii) a gain;
- (iv) a loss; or
- (v) an item similar to Subsections (1)(o)(i) through (iv);
- (p) an interest expense that is not deducted on a federal corporation income tax return under Section 265(b) or 291(e), Internal Revenue Code;
- (q) 100% of dividends received from a subsidiary that is an insurance company if that subsidiary that is an insurance company is:
 - (i) exempt from this chapter under Subsection 59-7-102(1)(c); and
 - (ii) under common ownership;
 - (r) subject to Subsection 59-7-105(12), the amount of a qualified investment as defined in Section 53B-8a-102 that:
 - (i) a corporation that is an account owner as defined in Section 53B-8a-102 makes during the taxable year;
 - (ii) the corporation described in Subsection (1)(r)(i) does not deduct on a federal corporation income tax return; and
 - (iii) does not exceed the maximum amount of the qualified investment that may be subtracted from unadjusted income for a taxable year in accordance with Subsection 53B-8a-106(1); ~~and~~
 - (s) for purposes of income included in a combined report under Part 4, Combined Reporting, the entire amount of the dividends a member of a unitary group receives or is considered to receive from a captive real estate investment trust[-]; and
 - (t) the increase in income for federal income tax purposes due to claiming a:
 - (i) qualified tax credit bond credit under Section 54A, Internal Revenue Code; or
 - (ii) qualified zone academy bond under Section 1397E, Internal Revenue Code.
- (2) For purposes of Subsection (1)(b):
 - (a) the subtraction shall be made by claiming the subtraction on a return filed:
 - (i) under this chapter for the taxable year for which the net capital loss is incurred; and
 - (ii) by the due date of the return, including extensions; and
 - (b) a net capital loss for a taxable year shall be:
 - (i) subtracted for the taxable year for which the net capital loss is incurred; or
 - (ii) carried forward as provided in Sections 1212(a)(1)(B) and (C), Internal Revenue Code.
- (3) (a) For purposes of calculating the subtraction provided for in Subsection (1)(k), a taxpayer shall

first subtract from a dividend considered to be received or received an expense directly attributable to that dividend.

(b) For purposes of Subsection (3)(a), the amount of an interest expense that is considered to be directly attributable to a dividend is calculated by multiplying the interest expense by a fraction:

(i) the numerator of which is the taxpayer's average investment in the dividend paying subsidiaries; and

(ii) the denominator of which is the taxpayer's average total investment in assets.

(c) (i) For purposes of calculating the subtraction allowed by Subsection (1)(k), in determining income apportionable to this state, a portion of the factors of a foreign subsidiary that has dividends that are partially subtracted under Subsection (1)(k) shall be included in the combined report factors as provided in this Subsection (3)(c).

(ii) For purposes of Subsection (3)(c)(i), the portion of the factors of a foreign subsidiary that has dividends that are partially subtracted under Subsection (1)(k) that shall be included in the combined report factors is calculated by multiplying each factor of the foreign subsidiary by a fraction:

(A) not to exceed 100%; and

(B) (I) the numerator of which is the amount of the dividend paid by the foreign subsidiary that is included in adjusted income; and

(II) the denominator of which is the current year earnings and profits of the foreign subsidiary as determined under the Internal Revenue Code.

(4) (a) For purposes of Subsection (1)(l), a taxpayer may not make a subtraction under Subsection (1)(l):

(i) if the taxpayer elects to file a worldwide combined report as provided in Section 59-7-403; or

(ii) for the following:

(A) income generated from intangible property; or

(B) a capital gain, dividend, interest, rent, royalty, or other similar item that is generated from an asset held for investment and not from a regular business trading activity.

(b) In calculating the subtraction provided for in Subsection (1)(l), a foreign operating company:

(i) may not subtract an amount provided for in Subsection (1)(k) or (l); and

(ii) prior to determining the subtraction under Subsection (1)(l), shall eliminate a transaction that occurs between members of a unitary group.

(c) For purposes of the subtraction provided for in Subsection (1)(l), in determining income apportionable to this state, the factors for a foreign operating company shall be included in the combined report factors in the same percentages as

the foreign operating company's adjusted income is included in the combined adjusted income.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes:

- (i) income generated from intangible property; or
- (ii) a capital gain, dividend, interest, rent, royalty, or other similar item that is generated from an asset held for investment and not from a regular business trading activity.

(5) (a) For purposes of the subtraction provided for in Subsection (1)(o), the amount of a reduction in basis shall be allowed as an expense for the taxable year in which a federal tax credit is claimed if:

- (i) there is a reduction in federal basis for a federal tax credit; and
- (ii) there is no corresponding tax credit allowed in this state.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes an item similar to Subsections (1)(o)(i) through (iv).

Section 2. Retrospective operation.

This bill has retrospective operation for a taxable year beginning on or after January 1, 2014.

CHAPTER 274**S. B. 212**

Passed March 11, 2014
 Approved March 31, 2014
 Effective May 13, 2014

INVASIVE SPECIES AMENDMENTS

Chief Sponsor: Peter C. Knudson
 House Sponsor: Melvin R. Brown

LONG TITLE**General Description:**

This bill modifies the Division of Wildlife Resources' ability to eradicate and prevent the infestation of the Dreissena mussel.

Highlighted Provisions:

This bill:

- ▶ authorizes the Division of Wildlife Resources to establish inspection stations to temporarily stop, detain, and inspect a conveyance or equipment that may be contaminated with Dreissena mussel;
- ▶ provides that a person who proceeds through an inspection station or administrative checkpoint during normal hours of operation without presenting a conveyance for inspection is guilty of a class B misdemeanor; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

23-27-201, as enacted by Laws of Utah 2008, Chapter 284

23-27-301, as enacted by Laws of Utah 2008, Chapter 284

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

Section 1. Section 23-27-201 is amended to read:**23-27-201. Invasive species prohibited -- Administrative inspection authorized.**

(1) Except as authorized in this title or a board rule or order, a person may not:

- (a) possess, import, export, ship, or transport a Dreissena mussel;
- (b) release, place, plant, or cause to be released, placed, or planted a Dreissena mussel in a water body, facility, or water supply system; or
- (c) transport a conveyance or equipment that has been in an infested water within the previous 30 days without decontaminating the conveyance or equipment.

(2) A person who violates Subsection (1):

- (a) is strictly liable;
- (b) is guilty of an infraction; and

(c) shall reimburse the state for all costs associated with detaining, quarantining, and decontaminating the conveyance or equipment.

(3) A person who knowingly or intentionally violates Subsection (1) is guilty of a class A misdemeanor.

(4) A person may not proceed past or travel through an inspection station or administrative checkpoint, as described in Section 23-27-301, while transporting a conveyance during an inspection station's or administrative checkpoint's hours of operations without presenting the conveyance for inspection.

(5) A person who violates Subsection (4) is guilty of a class B misdemeanor.

Section 2. Section 23-27-301 is amended to read:**23-27-301. Division's power to prevent invasive species infestation.**

To eradicate and prevent the infestation of a Dreissena mussel, the division may:

(1) (a) establish inspection stations located at or along:

(i) highways, as defined in Section 72-1-102;

(ii) ports of entry, if the Department of Transportation authorizes the division to use the port of entry; and

(iii) publicly accessible:

(A) boat ramps; and

(B) conveyance launch sites; and

(4) (b) temporarily stop, detain, and inspect a conveyance or equipment that:

(a) (i) the division reasonably believes is in violation of Section 23-27-201; [or]

(b) (ii) is stopped at [a port of entry;] an inspection station; or

(iii) is stopped at an administrative checkpoint;

(2) require a motor vehicle transporting a conveyance or equipment to stop for an inspection at a port of entry if the Department of Transportation authorizes the division to use the port of entry;]

(3) (2) conduct an administrative checkpoint in accordance with Section 77-23-104;

(4) (3) detain and quarantine a conveyance or equipment as provided in Section 23-27-302;

(5) (4) order a person to decontaminate a conveyance or equipment; and

(6) (5) inspect the following that may contain a Dreissena mussel:

- (a) a water body;
- (b) a facility; and
- (c) a water supply system.

CHAPTER 275**S. B. 221**

Passed March 13, 2014

Approved March 31, 2014

Effective May 13, 2014

INDIGENT COUNSEL IN JUVENILE COURT

Chief Sponsor: Todd Weiler
House Sponsor: Eric K. Hutchings

LONG TITLE**General Description:**

This bill amends provisions related to the appointment of counsel for indigents in juvenile court proceedings.

Highlighted Provisions:

This bill:

- ▶ provides for a parent, legal guardian, or child who is found to be indigent, the option of legal counsel appointed by the court under certain circumstances;
- ▶ defines when, and under what circumstances, court appointed legal counsel can be used for indigent representation;
- ▶ describes when a child can be represented by an attorney guardian ad litem in cases requiring counsel for indigents;
- ▶ describes payment and reimbursement practices when legal counsel is appointed by the court for indigent representation; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78A-6-317, as last amended by Laws of Utah 2010, Chapter 247

REPEALS AND REENACTS:

78A-6-1111, as last amended by Laws of Utah 2011, Chapter 265

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

Section 1. Section 78A-6-317 is amended to read:**78A-6-317. All proceedings -- Persons entitled to be present.**

(1) A child who is the subject of a juvenile court hearing, any person entitled to notice pursuant to Section 78A-6-306 or 78A-6-310, preadoptive parents, foster parents, and any relative providing care for the child, are:

(a) entitled to notice of, and to be present at, each hearing and proceeding held under this part, including administrative reviews; and

(b) have a right to be heard at each hearing and proceeding described in Subsection (1)(a).

(2) A child shall be represented at each hearing by the guardian ad litem appointed to the child's case by the court. The child has a right to be present at

each hearing, subject to the discretion of the guardian ad litem or the court regarding any possible detriment to the child.

(3) (a) The parent or guardian of a child who is the subject of a petition under this part has the right to be represented by counsel, and to present evidence, at each hearing.

(b) When it appears to the court that a parent or guardian of the child desires counsel but is financially unable to afford and cannot for that reason employ counsel, [~~and the child has been placed in out-of-home care, or the petitioner is recommending that the child be placed in out-of-home care,~~] the court shall appoint counsel as provided in Section 78A-6-1111.

(4) In every abuse, neglect, or dependency proceeding under this chapter, the court shall order that the child be represented by a guardian ad litem, in accordance with Section 78A-6-902. The guardian ad litem shall represent the best interest of the child, in accordance with the requirements of that section, at the shelter hearing and at all subsequent court and administrative proceedings, including any proceeding for termination of parental rights in accordance with Part 5, Termination of Parental Rights Act.

(5) (a) Except as provided in Subsection (5)(b), and notwithstanding any other provision of law:

(i) counsel for all parties to the action shall be given access to all records, maintained by the division or any other state or local public agency, that are relevant to the abuse, neglect, or dependency proceeding under this chapter; and

(ii) if the natural parent of a child is not represented by counsel, the natural parent shall have access to the records described in Subsection (5)(a)(i).

(b) The disclosures described in Subsection (5)(a) are not required in the following circumstances:

(i) subject to Subsection (5)(c), the division or other state or local public agency did not originally create the record being requested;

(ii) disclosure of the record would jeopardize the life or physical safety of a child who has been a victim of abuse or neglect, or any person who provided substitute care for the child;

(iii) disclosure of the record would jeopardize the anonymity of the person or persons making the initial report of abuse or neglect or any others involved in the subsequent investigation;

(iv) disclosure of the record would jeopardize the life or physical safety of a person who has been a victim of domestic violence;

(v) the record is a report maintained in the Management Information System, for which a finding of unsubstantiated, unsupported, or without merit has been made, unless the person requesting the information is the alleged perpetrator in the report or counsel for the alleged perpetrator in the report; or

(vi) the record is a Children's Justice Center investigative interview, video or audio, the release of which is governed by Section 77-37-4.

(c) If a disclosure is denied under Subsection (5)(b)(i), the division shall inform the person making the request of the following:

(i) the existence of all records in the possession of the division or any other state or local public agency;

(ii) the name and address of the person or agency that originally created the record; and

(iii) that the person must seek access to the record from the person or agency that originally created the record.

Section 2. Section 78A-6-1111 is repealed and reenacted to read:

78A-6-1111. Right to counsel --

Appointment of counsel for indigent -- Costs.

(1) (a) In any action in juvenile court initiated by the state, a political subdivision of the state, or a private party, the parents, legal guardian, and the minor, where applicable, shall be informed that they may be represented by counsel at every stage of the proceedings.

(b) In any action initiated by a private party, the parents or legal guardian shall have the right to employ counsel of their own choice at their own expense.

(c) If, in any action initiated by the state or a political subdivision of the state under Part 3, Abuse, Neglect, and Dependency Proceedings; Part 5, Termination of Parental Rights Act; or Part 10, Adult Offenses, of this chapter or under Section 78A-6-1101, a parent or legal guardian requests an attorney and is found by the court to be indigent, counsel shall be appointed by the court to represent the parent or legal guardian in all proceedings directly related to the petition or motion filed by the state, or a political subdivision of the state, subject to the provisions of this section.

(d) In any action initiated by the state, a political subdivision of the state, or a private party under Part 3, Abuse, Neglect, and Dependency Proceedings, or Part 5, Termination of Parental Rights Act, of this chapter, the child shall be represented by a guardian ad litem in accordance with Sections 78A-6-317 and 78A-6-902. The child shall also be represented by an attorney guardian ad litem in other actions initiated under this chapter when appointed by the court under Section 78A-6-902 or as otherwise provided by law.

(e) In any action initiated by the state or a political subdivision of the state under Part 6, Delinquency and Criminal Actions, or Part 7, Transfer of Jurisdiction, of this chapter, or against a minor under Section 78A-6-1101, the parents or legal guardian and the minor shall be informed that the minor may be represented by counsel at every stage of the proceedings and that if the minor is found to be indigent, counsel shall be appointed by the court to represent the minor in all proceedings directly related to the petition or motion filed by the state or a political subdivision of the state, subject to the provisions of this section.

(f) Indigency of a parent, legal guardian, or minor shall be determined in accordance with the process and procedure defined in Section 77-32-202. The court shall take into account the income and financial ability of the parent or legal guardian to retain counsel in determining the indigency of the minor.

(g) The cost of appointed counsel for a party found to be indigent, including the cost of counsel and expense of the first appeal, shall be paid by the county in which the trial court proceedings are held. Counties may levy and collect taxes for these purposes.

(2) Counsel appointed by the court may not provide representation as court-appointed counsel for a parent or legal guardian in any action initiated by, or in any proceeding to modify court orders in a proceeding initiated by, a private party.

(3) If the county responsible to provide legal counsel for an indigent under Subsection (1)(g) has arranged by contract to provide services, the court shall appoint the contracting attorney as legal counsel to represent that indigent.

(4) The court may order a parent or legal guardian for whom counsel is appointed, and the parents or legal guardian of any minor for whom counsel is appointed, to reimburse the county for the cost of appointed counsel.

(5) The state, or an agency of the state, may not be ordered to reimburse the county for expenses incurred under Subsection (1)(g).

CHAPTER 276**S. B. 222**

Passed March 12, 2014

Approved March 31, 2014

Effective May 13, 2014

**AUTOMATIC LICENSE PLATE
READER SYSTEM AMENDMENTS**Chief Sponsor: Todd Weiler
House Sponsor: Daniel McCay**LONG TITLE****General Description:**

This bill modifies the Traffic Code by amending provisions relating to automatic license plate reader systems.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ provides that the restrictions on the use of an automatic license plate reader system only apply to a governmental entity;
- ▶ provides that a governmental entity may obtain, receive, or use privately held captured plate data only:
 - pursuant to a warrant or a court order; and
 - if the private automatic license plate reader system retains captured plate data for 30 days or fewer; and
- ▶ makes conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-6a-2002, as enacted by Laws of Utah 2013, Chapter 447

41-6a-2003, as enacted by Laws of Utah 2013, Chapter 447

41-6a-2004, as enacted by Laws of Utah 2013, Chapter 447

41-6a-2005, as enacted by Laws of Utah 2013, Chapter 447

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

Section 1. Section 41-6a-2002 is amended to read:**41-6a-2002. Definitions.**

As used in this section:

(1) "Automatic license plate reader system" means a system of one or more mobile or fixed automated high-speed cameras used in combination with computer algorithms to convert an image of a license plate into computer-readable data.

(2) "Captured plate data" means the global positioning system coordinates, date and time, photograph, license plate number, and any other data captured by or derived from an automatic license plate reader system.

(3) (a) "Governmental entity" ~~[has the same meaning as defined in Section 63G-2-103.]~~ means:

- (i) executive department agencies of the state;
- (ii) the offices of the governor, the lieutenant governor, the state auditor, the attorney general, and the state treasurer;
- (iii) the Board of Pardons and Parole;
- (iv) the Board of Examiners;
- (v) the National Guard;
- (vi) the Career Service Review Office;
- (vii) the State Board of Education;
- (viii) the State Board of Regents;
- (ix) the State Archives;
- (x) the Office of the Legislative Auditor General;
- (xi) the Office of Legislative Fiscal Analyst;
- (xii) the Office of Legislative Research and General Counsel;
- (xiii) the Legislature;
- (xiv) legislative committees, except any political party, group, caucus, or rules or sifting committee of the Legislature;

(xv) courts, the Judicial Council, the Office of the Court Administrator, and similar administrative units in the judicial branch;

(xvi) any state-funded institution of higher education or public education; or

(xvii) any political subdivision of the state.

(b) "Governmental entity" includes:

(i) every office, agency, board, bureau, committee, department, advisory board, or commission of an entity listed in Subsections (3)(a)(i) through (xvii) that is funded or established by the government to carry out the public's business; or

(ii) a person acting as an agent of a governmental entity or acting on behalf of a governmental entity.

(4) "Secured area" means an area, enclosed by clear boundaries, to which access is limited and not open to the public and entry is only obtainable through specific access-control points.

Section 2. Section 41-6a-2003 is amended to read:**41-6a-2003. Automatic license plate reader systems -- Restrictions.**

(1) Except as provided in Subsection (2), a ~~person or~~ governmental entity may not use an automatic license plate reader system.

(2) An automatic license plate reader system may be used:

(a) by a law enforcement agency for the purpose of protecting public safety, conducting criminal investigations, or ensuring compliance with local, state, and federal laws;

(b) by a governmental parking enforcement entity for the purpose of enforcing state and local parking laws;

(c) by a parking enforcement entity for regulating the use of a parking facility;

(d) for the purpose of controlling access to a secured area;

(e) for the purpose of collecting an electronic toll; or

(f) for the purpose of enforcing motor carrier laws.

Section 3. Section 41-6a-2004 is amended to read:

41-6a-2004. Captured plate data -- Preservation and disclosure.

(1) Captured plate data obtained for the purposes described in Section 41-6a-2003:

(a) in accordance with Section 63G-2-305, is a protected record under Title 63G, Chapter 2, Government Records Access and Management Act, if the captured plate data is maintained by a governmental entity;

(b) may not be used or shared for any purpose other than the purposes described in Section 41-6a-2003;

(c) may not be preserved for more than ~~[30 days by a private entity or]~~ nine months by a governmental entity except pursuant to:

(i) a preservation request under Section 41-6a-2005;

(ii) a disclosure order under Subsection 41-6a-2005(2); or

(iii) a warrant issued under the Utah Rules of Criminal Procedure or an equivalent federal warrant; and

(d) may only be disclosed:

(i) in accordance with the disclosure requirements for a protected record under Section 63G-2-202;

(ii) pursuant to a disclosure order under Subsection 41-6a-2005(2); or

(iii) pursuant to a warrant issued under the Utah Rules of Criminal Procedure or an equivalent federal warrant.

(2) (a) A ~~[person or]~~ governmental entity that is authorized to use an automatic license plate reader system under this part may not sell captured plate data for any purpose.

(b) A ~~[person or]~~ governmental entity that is authorized to use an automatic license plate reader system under this part may not share captured plate data for a purpose not authorized under Subsection 41-6a-2003(2).

(c) Notwithstanding the provisions of this section, a governmental entity may preserve and disclose aggregate captured plate data for planning and statistical purposes if the information identifying a specific license plate is not preserved or disclosed.

Section 4. Section 41-6a-2005 is amended to read:

41-6a-2005. Preservation request.

(1) A person or governmental entity using an automatic license plate reader system shall take all steps necessary to preserve captured plate data in its possession for 14 days after the date the data is captured pending the issuance of a court order requiring the disclosure of the captured plate data if a governmental entity or defendant in a criminal case requesting the captured plate data submits a written statement to the person or governmental entity using an automatic license plate reader system:

(a) requesting the person or governmental entity to preserve the captured plate data;

(b) identifying:

(i) the camera or cameras for which captured plate data shall be preserved;

(ii) the license plate for which captured plate data shall be preserved; or

(iii) the dates and time frames for which captured plate data shall be preserved; and

(c) notifying the person or governmental entity maintaining the captured plate data that the governmental entity or defendant in a criminal case is applying for a court order for disclosure of the captured plate data.

(2) (a) A governmental entity or defendant in a criminal case may apply for a court order for the disclosure of captured plate data.

(b) A court that is a court of competent jurisdiction shall issue a court order requiring the disclosure of captured plate data if the governmental entity or defendant in a criminal case offers specific and articulable facts showing that there are reasonable grounds to believe that the captured plate data is relevant and material to an ongoing criminal or missing person investigation.

(3) Captured plate data that is the subject of an application for a disclosure order under Subsection (2) may be destroyed at the later of:

(a) the date that an application for an order under Subsection (2) is denied and any appeal exhausted;

(b) the end of 14 days, if the person or governmental entity does not otherwise preserve the captured plate data; or

(c) the end of the period described in Subsection 41-6a-2004(1)(c).

(4) A governmental entity may obtain, receive, or use privately held captured plate data only:

(a) (i) pursuant to a warrant issued using the procedures described in the Utah Rules of Criminal Procedure or an equivalent federal warrant; or

(ii) using the procedure described in Subsection (2); and

(b) if the private automatic license plate reader system retains captured plate data for 30 days or fewer.

CHAPTER 277**S. B. 230**

Passed March 11, 2014

Approved March 31, 2014

Effective May 13, 2014

INSURANCE MODIFICATIONS

Chief Sponsor: Jerry W. Stevenson
House Sponsor: James A. Dunnigan

LONG TITLE**General Description:**

This bill modifies the Insurance Code to address travel insurance.

Highlighted Provisions:

This bill:

- ▶ enacts the Travel Insurance Act, including:
 - defining terms;
 - providing for the issuance of a limited lines insurance producer license;
 - establishing requirements related to travel retailers;
 - addressing offering or disseminating travel insurance;
 - providing that travel insurance can be an individual, group, or master policy; and
 - addressing market conduct and penalties;
- ▶ addresses sharing of commissions; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

31A-23a-106, as last amended by Laws of Utah 2013, Chapter 319

31A-23a-504, as last amended by Laws of Utah 2013, Chapter 319

ENACTS:

31A-23a-901, Utah Code Annotated 1953

31A-23a-902, Utah Code Annotated 1953

31A-23a-903, Utah Code Annotated 1953

31A-23a-904, Utah Code Annotated 1953

31A-23a-905, Utah Code Annotated 1953

31A-23a-906, Utah Code Annotated 1953

31A-23a-907, Utah Code Annotated 1953

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

Section 1. Section 31A-23a-106 is amended to read:**31A-23a-106. License types.**

(1) (a) A resident or nonresident license issued under this chapter shall be issued under the license types described under Subsection (2).

(b) A license type and a line of authority pertaining to a license type describe the type of licensee and the lines of business that a licensee may sell, solicit, or negotiate. A license type is intended to describe the matters to be considered

under any education, examination, and training required of a license applicant under Sections 31A-23a-108, 31A-23a-202, and 31A-23a-203.

(2) (a) A producer license type includes the following lines of authority:

(i) life insurance, including a nonvariable contract;

(ii) variable contracts, including variable life and annuity, if the producer has the life insurance line of authority;

(iii) accident and health insurance, including a contract issued to a policyholder under Chapter 7, Nonprofit Health Service Insurance Corporations, or Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(iv) property insurance;

(v) casualty insurance, including a surety or other bond;

(vi) title insurance under one or more of the following categories:

(A) search, including authority to act as a title marketing representative;

(B) escrow, including authority to act as a title marketing representative; and

(C) title marketing representative only; and

(vii) personal lines insurance.

(b) A surplus lines producer license type includes the following lines of authority:

(i) property insurance, if the person holds an underlying producer license with the property line of insurance; and

(ii) casualty insurance, if the person holds an underlying producer license with the casualty line of authority.

(c) A limited line producer license type includes the following limited lines of authority:

(i) limited line credit insurance;

(ii) travel insurance, as set forth in Part 9, Travel Insurance Act;

(iii) motor club insurance;

(iv) car rental related insurance;

(v) legal expense insurance;

(vi) crop insurance;

(vii) self-service storage insurance;

(viii) bail bond producer;

(ix) guaranteed asset protection waiver; and

(x) portable electronics insurance.

(d) A consultant license type includes the following lines of authority:

(i) life insurance, including a nonvariable contract;

(ii) variable contracts, including variable life and annuity, if the consultant has the life insurance line of authority;

(iii) accident and health insurance, including a contract issued to a policyholder under Chapter 7, Nonprofit Health Service Insurance Corporations, or Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(iv) property insurance;

(v) casualty insurance, including a surety or other bond; and

(vi) personal lines insurance.

(e) A managing general agent license type includes the following lines of authority:

(i) life insurance, including a nonvariable contract;

(ii) variable contracts, including variable life and annuity, if the managing general agent has the life insurance line of authority;

(iii) accident and health insurance, including a contract issued to a policyholder under Chapter 7, Nonprofit Health Service Insurance Corporations, or Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(iv) property insurance;

(v) casualty insurance, including a surety or other bond; and

(vi) personal lines insurance.

(f) A reinsurance intermediary license type includes the following lines of authority:

(i) life insurance, including a nonvariable contract;

(ii) variable contracts, including variable life and annuity, if the reinsurance intermediary has the life insurance line of authority;

(iii) accident and health insurance, including a contract issued to a policyholder under Chapter 7, Nonprofit Health Service Insurance Corporations, or Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(iv) property insurance;

(v) casualty insurance, including a surety or other bond; and

(vi) personal lines insurance.

(g) A person who holds a license under Subsection (2)(a) has the qualifications necessary to act as a holder of a license under Subsection (2)(c), except that the person may not act under Subsection (2)(c)(viii) or (ix).

(3) (a) The commissioner may by rule recognize other producer, surplus lines producer, limited line producer, consultant, managing general agent, or reinsurance intermediary lines of authority as to kinds of insurance not listed under Subsections (2)(a) through (f).

(b) Notwithstanding Subsection (3)(a), for purposes of title insurance the Title and Escrow Commission may by rule, with the concurrence of

the commissioner and subject to Section 31A-2-404, recognize other categories for an individual title insurance producer or agency title insurance producer line of authority not listed under Subsection (2)(a)(vi).

(4) The variable contracts line of authority requires:

(a) for a producer, licensure by the Financial Industry Regulatory Authority as a:

(i) registered broker-dealer; or

(ii) broker-dealer agent, with a current registration with a broker-dealer; and

(b) for a consultant, registration with the Securities and Exchange Commission or licensure by the Utah Division of Securities as an:

(i) investment adviser; or

(ii) investment adviser representative, with a current association with an investment adviser.

(5) A surplus lines producer is a producer who has a surplus lines license.

Section 2. Section 31A-23a-504 is amended to read:

31A-23a-504. Sharing commissions.

(1) (a) Except as provided in Subsection 31A-15-103(3), a licensee under this chapter or an insurer may only pay consideration or reimburse out-of-pocket expenses to a person if the licensee knows that the person is licensed under this chapter as to the particular type of insurance to act in Utah as:

(i) a producer;

(ii) a limited line producer;

(iii) a consultant;

(iv) a managing general agent; or

(v) a reinsurance intermediary.

(b) A person may only accept commission compensation or other compensation as a person described in Subsections (1)(a)(i) through (v) that is directly or indirectly the result of an insurance transaction if that person is licensed under this chapter to act as described in Subsection (1)(a).

(2) (a) Except as provided in Section 31A-23a-501, a consultant may not pay or receive a commission or other compensation that is directly or indirectly the result of an insurance transaction.

(b) A consultant may share a consultant fee or other compensation received for consulting services performed within Utah only:

(i) with another consultant licensed under this chapter; and

(ii) to the extent that the other consultant contributed to the services performed.

(3) This section does not prohibit:

(a) the payment of renewal commissions to former licensees under this chapter, former Title

31, Chapter 17, or their successors in interest under a deferred compensation or agency sales agreement;

(b) compensation paid to or received by a person for referral of a potential customer that seeks to purchase or obtain an opinion or advice on an insurance product if:

- (i) the person is not licensed to sell insurance;
- (ii) the person does not sell or provide opinions or advice on the product; and

(iii) the compensation does not depend on whether the referral results in a purchase or sale; or

(c) the payment or assignment of a commission, service fee, brokerage, or other valuable consideration to an agency or a person who does not sell, solicit, or negotiate insurance in this state, unless the payment would constitute an inducement or commission rebate under Section 31A-23a-402 or 31A-23a-402.5.

(4) (a) In selling a policy of title insurance, sharing of commissions under Subsection (1) may not occur if it will result in:

- (i) an unlawful rebate;
- (ii) compensation in connection with controlled business; or
- (iii) payment of a forwarding fee or finder's fee.

(b) A person may share compensation for the issuance of a title insurance policy only to the extent that the person contributed to the search and examination of the title or other services connected with the title insurance policy.

(5) This section does not apply to:

(a) a bail bond producer or bail enforcement agent as defined in Section 31A-35-102 and as described in Subsection 31A-23a-106(2)(c);

(b) a travel retailer registered pursuant to Part 9, Travel Insurance Act; or

(c) a nonlicensed individual employee or authorized representative of a licensed limited line producer who holds one or more of the following limited lines of authority as described in Subsection 31A-23a-106(2)(c):

- ~~(a)~~ (i) car rental related insurance;
- ~~(b)~~ (ii) self-service storage insurance; ~~(e)~~
- ~~(e)~~ (iii) portable electronics insurance~~[-];~~ or
- (iv) travel insurance.

Section 3. Section 31A-23a-901 is enacted to read:

Part 9. Travel Insurance Act

31A-23a-901. Title.

This part is known as the "Travel Insurance Act."

Section 4. Section 31A-23a-902 is enacted to read:

31A-23a-902. Definitions.

As used in this part, unless the context requires otherwise:

(1) "Limited lines travel insurance producer" means one of the following designated by an insurer as the travel insurance supervising entity as provided in Subsection 31A-23a-905(4):

(a) a licensed managing general agent or third party administrator; or

(b) a licensed insurance producer, including a limited lines producer.

(2) "Offer and disseminate" means:

(a) providing general information, including a description of the coverage and price;

(b) processing an application;

(c) collecting a premium; and

(d) performing activities that the state permits to be done by a person who is not licensed.

(3) (a) "Travel insurance" means insurance coverage for personal risks incident to planned travel, including:

(i) interruption or cancellation of a trip or event;

(ii) loss of baggage or personal effects;

(iii) damages to accommodations or rental vehicles; or

(iv) sickness, accident, disability, or death during travel.

(b) "Travel insurance" does not include a major medical plan that provides comprehensive medical protection for a traveler with a trip lasting six months or longer, including an individual working overseas or military personnel being deployed.

(4) "Travel retailer" means a business entity that makes, arranges, or offers travel services and may offer and disseminate travel insurance as a service to its customers on behalf of and under the direction of a limited lines travel insurance producer.

Section 5. Section 31A-23a-903 is enacted to read:

31A-23a-903. Issuance of limited lines travel insurance producer license.

Notwithstanding any other provision of this chapter:

(1) The commissioner may issue to an individual or business entity that has filed with the commissioner an application in a form and manner prescribed by the commissioner a limited lines travel insurance producer license that authorizes the limited lines travel insurance producer to sell, solicit, or negotiate travel insurance through a licensed insurer.

(2) A limited lines travel insurance producer, and those registered under the license of the limited lines travel producer, are exempt from:

(a) the examination requirements under Section 31A-23a-108; and

(b) the continuing education requirements under Section 31A-23a-202.

Section 6. Section 31A-23a-904 is enacted to read:

31A-23a-904. Travel retailers.

Notwithstanding any other provision of this chapter, a travel retailer may offer and disseminate travel insurance under a limited lines travel insurance producer business entity license only if the following conditions are met:

(1) The limited lines travel insurance producer or travel retailer shall provide to a purchaser of travel insurance:

(a) a description of the material terms or the actual material terms of the insurance coverage;

(b) a description of the process for filing a claim;

(c) a description of the review or cancellation process for the travel insurance policy; and

(d) the identity and contact information of the insurer and limited lines travel insurance producer.

(2) (a) At the time of licensure, the limited lines travel insurance producer shall establish and maintain a register on a form prescribed by the commissioner of each travel retailer that offers travel insurance on the limited lines travel insurance producer's behalf.

(b) The limited lines travel insurance producer shall maintain and update the register annually and include:

(i) the name, address, and contact information of the travel retailer;

(ii) the name, address, and contact information of an officer or person who directs or controls the travel retailer's operations; and

(iii) the travel retailer's federal tax identification number.

(c) The limited lines travel insurance producer shall submit the register to the department upon reasonable request by the department.

(d) The limited lines travel insurance producer shall certify that the travel retailer registered with the limited lines travel insurance producer has not violated 18 U.S.C. Sec. 1033.

(3) The limited lines travel insurance producer shall designate one of its employees who is a licensed individual travel insurance producer as the designated responsible producer who is responsible for the limited lines travel insurance producer's compliance with the travel insurance laws and rules of the state.

(4) The designated responsible producer, president, secretary, treasurer, and any other officer or person who directs or controls the limited lines travel insurance producer's insurance operations shall comply with the fingerprinting requirements applicable to insurance producers in the resident state of the limited lines travel insurance producer.

(5) The limited lines travel insurance producer shall pay all applicable insurance producer

licensing fees imposed in accordance with Section 31A-3-103.

(6) The limited lines travel insurance producer shall require an employee or authorized representative of a travel retailer whose duties include offering and disseminating travel insurance to receive a program of instruction or training that may be subject to review by the commissioner. The training materials shall, at a minimum, contain instructions on the types of insurance offered, ethical sales practices, and required disclosures to prospective customers.

Section 7. Section 31A-23a-905 is enacted to read:

31A-23a-905. Offering or disseminating travel insurance.

(1) A travel retailer offering or disseminating travel insurance shall make available to a prospective purchaser a brochure or other written material that:

(a) provides the identity and contact information of the insurer and the limited lines travel insurance producer;

(b) explains that the purchase of travel insurance is not required to purchase any other product or service from the travel retailer; and

(c) explains that an unlicensed travel retailer is permitted to provide general information about the insurance offered by the travel retailer, including a description of the coverage and price, but is not qualified or authorized to answer technical questions about the terms and conditions of the insurance offered by the travel retailer or to evaluate the adequacy of the prospective purchaser's existing insurance coverage.

(2) A travel retailer's employee or authorized representative who is not licensed as an insurance producer may not:

(a) evaluate or interpret the technical terms, benefits, and conditions of the offered travel insurance coverage;

(b) evaluate or provide advice concerning a prospective purchaser's existing insurance coverage; or

(c) hold the person out as a licensed insurer, licensed producer, or insurance expert.

(3) Notwithstanding any other provision of this chapter, a travel retailer whose insurance-related activities, and those of its employees and authorized representatives, are limited to offering and disseminating travel insurance on behalf of and under the direction of a limited lines travel insurance producer meeting the conditions stated in this part, is authorized to do so and receive related compensation for services, upon registration of the limited lines travel insurance producer as described in Subsection 31A-23a-904(2).

(4) As the insurer designee, the limited lines travel insurance producer is responsible for the acts of the travel retailer and shall use responsible

means to ensure compliance by the travel retailer under this part.

Section 8. Section 31A-23a-906 is enacted to read:

31A-23a-906. Travel insurance.

Travel insurance may be provided under an individual policy or under a group or master policy.

Section 9. Section 31A-23a-907 is enacted to read:

31A-23a-907. Market conduct and penalties.

A limited lines travel insurance producer and any travel retailer offering and disseminating travel insurance under the limited lines travel insurance producer license are subject to Sections 31A-2-308, 31A-23a-402, and 31A-23a-402.5.

CHAPTER 278**S. B. 240**

Passed March 13, 2014
 Approved March 31, 2014
 Effective May 13, 2014

**CARSON SMITH
 SCHOLARSHIP AMENDMENTS**

Chief Sponsor: J. Stuart Adams
 House Sponsor: Gregory H. Hughes

LONG TITLE**General Description:**

This bill modifies provisions of the Carson Smith Scholarships for Students with Special Needs Act.

Highlighted Provisions:

This bill:

- ▶ changes requirements relating to the application deadline for the Carson Smith Scholarship Program; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-1a-704, as last amended by Laws of Utah 2011, Chapter 366

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

Section 1. Section 53A-1a-704 is amended to read:

53A-1a-704. Scholarship program created -- Qualifications.

(1) The Carson Smith Scholarship Program is created to award scholarships to students with disabilities to attend a private school.

(2) To qualify for a scholarship:

(a) the student's custodial parent or legal guardian shall reside within Utah;

(b) the student shall have one or more of the following disabilities:

- (i) an intellectual disability;
- (ii) a hearing impairment;
- (iii) a speech or language impairment;
- (iv) a visual impairment;
- (v) a serious emotional disturbance;
- (vi) an orthopedic impairment;
- (vii) autism;
- (viii) traumatic brain injury;
- (ix) other health impairment;
- (x) specific learning disabilities; or

(xi) a developmental delay, provided the student is at least five years of age, pursuant to Subsection (2)(c), and is younger than eight years of age;

(c) the student shall be at least five years of age before September 2 of the year in which admission to a private school is sought and under 19 years of age on the last day of the school year as determined by the private school, or, if the individual has not graduated from high school, will be under 22 years of age on the last day of the school year as determined by the private school; and

(d) except as provided in Subsection (3), the student shall:

(i) be enrolled in a Utah public school in the school year prior to the school year the student will be enrolled in a private school;

(ii) have an IEP; and

(iii) have obtained acceptance for admission to an eligible private school.

(3) The requirements of Subsection (2)(d) do not apply in the following circumstances:

(a) the student is enrolled or has obtained acceptance for admission to an eligible private school that has previously served students with disabilities; and

(b) an assessment team is able to readily determine with reasonable certainty:

(i) that the student has a disability listed in Subsection (2)(b) and would qualify for special education services, if enrolled in a public school; and

(ii) for the purpose of establishing the scholarship amount, the appropriate level of special education services which should be provided to the student.

~~[(4) (a) To receive a scholarship, the parent of a student shall submit an application for the scholarship to the school district within which the student is enrolled:]~~

~~[(i) at least 60 days before the date of the first scholarship payment; and]~~

~~[(ii) that contains an acknowledgment by the parent that the selected school is qualified and capable of providing the level of special education services required for the student.]~~

~~[(b) The board may waive the 60-day application deadline.]~~

(4) (a) To receive a full-year scholarship under this part, a parent of a student shall submit to the school district where the student is enrolled an application on or before the August 15 immediately preceding the first day of the school year for which the student would receive the scholarship.

(b) The board may waive the full-year scholarship deadline described in Subsection (4)(a).

(c) An application for a scholarship shall contain an acknowledgment by the parent that the selected school is qualified and capable of providing the level of special education services required for the student.

(5) (a) The scholarship application form shall contain the following statement:

“I acknowledge that:

(1) A private school may not provide the same level of special education services that are provided in a public school;

(2) I will assume full financial responsibility for the education of my scholarship student if I accept this scholarship;

(3) Acceptance of this scholarship has the same effect as a parental refusal to consent to services pursuant to Section 614(a)(1) of the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.; and

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

(b) Upon acceptance of the scholarship, the parent assumes full financial responsibility for the education of the scholarship student.

(c) Acceptance of a scholarship has the same effect as a parental refusal to consent to services pursuant to Section 614(a)(1) of the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

(d) The creation of the scholarship program or granting of a scholarship does not:

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

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

(6) (a) A scholarship shall remain in force for three years.

(b) A scholarship shall be extended for an additional three years, if:

(i) the student is evaluated by an assessment team; and

(ii) the assessment team determines that the student would qualify for special education services, if enrolled in a public school.

(c) The assessment team shall determine the appropriate level of special education services which should be provided to the student for the purpose of setting the scholarship amount.

(d) A scholarship shall be extended for successive three-year periods as provided in Subsections (6)(a) and (b):

(i) until the student graduates from high school; or

(ii) if the student does not graduate from high school, until the student is age 22.

(7) A student's parent, at any time, may remove the student from a private school and place the student in another eligible private school and retain the scholarship.

(8) A scholarship student may not participate in a dual enrollment program pursuant to Section 53A-11-102.5.

(9) The parents or guardians of a scholarship student have the authority to choose the private school that will best serve the interests and educational needs of that student, which may be a sectarian or nonsectarian school, and to direct the scholarship resources available for that student solely as a result of their genuine and independent private choices.

(10) (a) A school district or charter school shall notify in writing the parents or guardians of students enrolled in the school district or charter school who have an IEP of the availability of a scholarship to attend a private school through the Carson Smith Scholarship Program.

(b) The notice described under Subsection (10)(a) shall:

(i) be provided no later than 30 days after the student initially qualifies for an IEP;

(ii) be provided annually no later than February 1 to all students who have an IEP; and

(iii) include the address of the Internet website maintained by the board that provides prospective applicants with detailed program information and application forms for the Carson Smith Scholarship Program.

(c) A school district, school within a school district, or charter school that has an enrolled student who has an IEP shall post the address of the Internet website maintained by the board that provides prospective applicants with detailed program information and application forms for the Carson Smith Scholarship Program on the school district's or school's website, if the school district or school has one.

CHAPTER 279**S. B. 244**

Passed March 13, 2014
 Approved March 31, 2014
 Effective May 13, 2014

MODIFICATIONS TO PROPERTY TAX

Chief Sponsor: Aaron Osmond
 House Sponsor: Eric K. Hutchings

LONG TITLE**General Description:**

This bill amends provisions related to certain property tax notices.

Highlighted Provisions:

This bill:

- ▶ addresses the contents of certain property tax notices;
- ▶ authorizes a county treasurer to provide certain property tax notices by electronic mail under certain circumstances if a taxpayer elects to receive the property tax notice by electronic mail; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 59-2-327, as last amended by Laws of Utah 1997, Chapter 360
 59-2-506, as last amended by Laws of Utah 2013, Chapter 322
 59-2-913, as last amended by Laws of Utah 2008, Chapters 61, 231, and 236
 59-2-924.1, as enacted by Laws of Utah 1997, Chapter 53
 59-2-1317, as last amended by Laws of Utah 2013, Chapter 265
 59-2-1331, as last amended by Laws of Utah 2010, Chapter 63
 59-2-1705, as enacted by Laws of Utah 2012, Chapter 197

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

Section 1. Section 59-2-327 is amended to read:**59-2-327. Assessment roll -- Taxes charged to county treasurer.**

(1) The county auditor shall deliver the assessment roll, with the taxes extended, all orders of the county board of equalization and commission posted, and all relief granted, prior to the time prescribed in Section 59-2-1317 for ~~mailing~~ providing the original tax notice, to the county treasurer, together with a report of the accumulated total, which shall be considered to be a preliminary taxes charged amount. ~~[On]~~

(2) After delivering the corrected assessment roll to the county treasurer, under Section 59-2-326, the county auditor shall charge the treasurer with

the full amount of taxes levied, except the taxes of rail car companies and state-assessed commercial vehicles, in an account established for the purpose.

(3) The county auditor shall either report the final taxes charged or report the adjustments in taxable value and tax amounts from the preliminary taxes charged amount to the county treasurer for use in settling with all taxing entities under Section 59-2-1365.

Section 2. Section 59-2-506 is amended to read:**59-2-506. Rollback tax -- Penalty -- Computation of tax -- Procedure -- Lien -- Interest -- Notice -- Collection -- Distribution -- Appeal to county board of equalization.**

(1) Except as provided in this section, Section 59-2-506.5, or Section 59-2-511, if land is withdrawn from this part, the land is subject to a rollback tax imposed in accordance with this section.

(2) (a) An owner shall notify the county assessor that land is withdrawn from this part within 120 days after the day on which the land is withdrawn from this part.

(b) An owner that fails to notify the county assessor under Subsection (2)(a) that land is withdrawn from this part is subject to a penalty equal to the greater of:

- (i) \$10; or
- (ii) 2% of the rollback tax due for the last year of the rollback period.

(3) (a) The county assessor shall determine the amount of the rollback tax by computing the difference for the rollback period described in Subsection (3)(b) between:

(i) the tax paid while the land was assessed under this part; and

(ii) the tax that would have been paid had the property not been assessed under this part.

(b) For purposes of this section, the rollback period is a time period that:

- (i) begins on the later of:
 - (A) the date the land is first assessed under this part; or
 - (B) five years preceding the day on which the county assessor mails the notice required by Subsection (5); and
- (ii) ends the day on which the county assessor mails the notice required by Subsection (5).

(4) (a) The county treasurer shall:

(i) collect the rollback tax; and

(ii) after the rollback tax is paid, certify to the county recorder that the rollback tax lien on the property has been satisfied by:

(A) preparing a document that certifies that the rollback tax lien on the property has been satisfied; and

(B) providing the document described in Subsection (4)(a)(ii)(A) to the county recorder for recordation.

(b) The rollback tax collected under this section shall:

(i) be paid into the county treasury; and

(ii) be paid by the county treasurer to the various taxing entities pro rata in accordance with the property tax levies for the current year.

(5) (a) The county assessor shall mail to an owner of the land that is subject to a rollback tax a notice that:

(i) the land is withdrawn from this part;

(ii) the land is subject to a rollback tax under this section; and

(iii) the rollback tax is delinquent if the owner of the land does not pay the tax within 30 days after the day on which the county assessor mails the notice.

(b) (i) The rollback tax is due and payable on the day the county assessor mails the notice required by Subsection (5)(a).

(ii) Subject to Subsection (7), the rollback tax is delinquent if an owner of the land that is withdrawn from this part does not pay the rollback tax within 30 days after the day on which the county assessor mails the notice required by Subsection (5)(a).

(6) (a) Subject to Subsection (6)(b), the following are a lien on the land assessed under this part:

(i) the rollback tax; and

(ii) interest imposed in accordance with Subsection (7).

(b) The lien described in Subsection (6)(a) shall:

(i) arise upon the imposition of the rollback tax under this section;

(ii) end on the day on which the rollback tax and interest imposed in accordance with Subsection (7) are paid in full; and

(iii) relate back to the first day of the rollback period described in Subsection (3)(b).

(7) (a) A delinquent rollback tax under this section shall accrue interest:

(i) from the date of delinquency until paid; and

(ii) at the interest rate established under Section 59-2-1331 and in effect on January 1 of the year in which the delinquency occurs.

(b) A rollback tax that is delinquent on September 1 of any year shall be included on the notice required by Section 59-2-1317, along with interest calculated on that delinquent amount through November 30 of the year in which the county treasurer provides the notice under Section 59-2-1317 ~~is mailed~~.

(8) (a) Land that becomes ineligible for assessment under this part only as a result of an amendment to this part is not subject to the rollback tax if the owner of the land notifies the county assessor that the land is withdrawn from this part in accordance with Subsection (2).

(b) Land described in Subsection (8)(a) that is withdrawn from this part as a result of an event other than an amendment to this part, whether voluntary or involuntary, is subject to the rollback tax.

(9) Except as provided in Section 59-2-511, land that becomes exempt from taxation under Utah Constitution Article XIII, Section 3, is not subject to the rollback tax if the land meets the requirements of Section 59-2-503 to be assessed under this part.

(10) Land that becomes ineligible for assessment under this part only as a result of a split estate mineral rights owner exercising the right to extract a mineral is not subject to the rollback tax:

(a) (i) for the portion of the land required by a split estate mineral rights owner to extract a mineral if, after the split estate mineral rights owner exercises the right to extract a mineral, the portion of the property that remains in agricultural production still meets the acreage requirements of Section 59-2-503 for assessment under this part; or

(ii) for the entire acreage that would otherwise qualify for assessment under this part if, after the split estate mineral rights owner exercises the right to extract a mineral, the entire acreage that would otherwise qualify for assessment under this part no longer meets the acreage requirements of Section 59-2-503 for assessment under this part only due to the extraction of the mineral by the split estate mineral rights owner; and

(b) for the period of time that the property described in Subsection (10)(a) is ineligible for assessment under this part due to the extraction of a mineral by the split estate mineral rights owner.

(11) (a) Subject to Subsection (11)(b), an owner of land may appeal to the county board of equalization:

(i) a decision by a county assessor to withdraw land from assessment under this part; or

(ii) the imposition of a rollback tax under this section.

(b) An owner shall file an appeal under Subsection (11)(a) no later than 45 days after the day on which the county assessor mails the notice required by Subsection (5).

Section 3. Section 59-2-913 is amended to read:

59-2-913. Definitions -- Statement of amount and purpose of levy -- Contents of statement -- Filing with county auditor -- Transmittal to commission -- Calculations for establishing tax levies -- Format of statement.

(1) As used in this section, "budgeted property tax revenues" does not include property tax revenue

received by a taxing entity from personal property that is:

- (a) assessed by a county assessor in accordance with Part 3, County Assessment; and
- (b) semiconductor manufacturing equipment.

(2) (a) The legislative body of each taxing entity shall file a statement as provided in this section with the county auditor of the county in which the taxing entity is located.

(b) The auditor shall annually transmit the statement to the commission:

- (i) before June 22; or
- (ii) with the approval of the commission, on a subsequent date prior to the date ~~[established]~~ required by Section 59-2-1317 for the county treasurer to provide the notice under Section 59-2-1317 [for mailing tax notices].

(c) The statement shall contain the amount and purpose of each levy fixed by the legislative body of the taxing entity.

(3) For purposes of establishing the levy set for each of a taxing entity's applicable funds, the legislative body of the taxing entity shall calculate an amount determined by dividing the budgeted property tax revenues, specified in a budget which has been adopted and approved prior to setting the levy, by the amount calculated under Subsections 59-2-924(3)(c)(ii)(A) through (C).

(4) The format of the statement under this section shall:

- (a) be determined by the commission; and
- (b) cite any applicable statutory provisions that:
 - (i) require a specific levy; or
 - (ii) limit the property tax levy for any taxing entity.

(5) The commission may require certification that the information submitted on a statement under this section is true and correct.

Section 4. Section 59-2-924.1 is amended to read:

59-2-924.1. Definitions -- Commission authorized to adjust taxing entity's certified rate for clerical error -- Requirements -- Amount of adjustment.

- (1) For purposes of this section:
 - (a) "Clerical error" means the following in an assessment roll:
 - (i) an omission;
 - (ii) an error; or
 - (iii) a defect in form.
 - (b) "Year" means the period beginning on January 1 and ending on December 31 during which there is a clerical error on the taxing entity's assessment roll.

(2) The commission shall adjust a taxing entity's certified tax rate as provided in Subsection (3) if the county legislative body in which the taxing entity is located certifies to the commission in writing that:

- (a) the taxing entity's assessment roll contained a clerical error;
- (b) the county adjusted the clerical error on the assessment roll;
- (c) the taxing entity's actual collections for the year were different than the taxing entity's budgeted collections for the year; and
- (d) the taxing entity notified the county legislative body of the clerical error after the county treasurer ~~[mailed]~~ provided the tax notices under Section 59-2-1317, but no later than 60 days after the day on which the county treasurer made the final annual settlement with the taxing entity under Section 59-2-1365.

(3) (a) The adjustment under Subsection (2) is an amount equal to the lesser of:

- (i) the difference between the taxing entity's budgeted collections for the year and the taxing entity's actual collections for the year; or
- (ii) the amount of the clerical error.

(b) The commission shall make an adjustment under Subsection (2) no later than 90 days after the day on which the county treasurer made the final annual settlement with the taxing entity under Section 59-2-1365.

Section 5. Section 59-2-1317 is amended to read:

59-2-1317. Tax notice -- Contents of notice -- Procedures and requirements for providing notice.

(1) ~~[The]~~ Subject to the other provisions of this section, the county treasurer shall:

- (a) collect the taxes; and
- (b) ~~[furnish] provide a notice to each taxpayer[, except those taxpayers under Sections 59-2-1302 and 59-2-1307, by mail, postage prepaid, or leave at the taxpayer's residence or usual place of business, if known, a notice stating]~~ that contains the following:
 - (i) the kind and value of property assessed to the taxpayer;
 - (ii) the street address of the property, if available to the county;
 - (iii) that the property may be subject to a detailed review in the next year under Section 59-2-303.1;
 - (iv) the amount of taxes levied;
 - (v) a separate statement of the taxes levied only on a certain kind or class of property for a special purpose;

~~[(v)]~~ (vi) property tax information pertaining to taxpayer relief, options for payment of taxes, and collection procedures;

~~[(vi)]~~ (vii) if applicable, the amount of an assessment assessed in accordance with Section 11-42-401;

- (viii) the date the taxes are due;
- (ix) the street address at which the taxes may be paid;
- (x) the date on which the taxes are delinquent;
- (xi) the penalty imposed on delinquent taxes;
- (vii) (xii) other information specifically authorized to be included on the notice under [Title 59, Chapter 2, Property Tax Act] this chapter; and
- (viii) (xiii) other property tax information approved by the commission.
- (2) For any property for which property taxes are delinquent, ~~the treasurer shall stamp on~~ the notice described in Subsection (1) shall state, "Prior taxes are delinquent on this parcel."

~~[(3) The notice shall:]~~

~~[(a) separately state all taxes levied only on a certain kind or class of property for a special purpose;]~~

~~[(b) have printed or stamped on it when and where the taxes are payable;]~~

~~[(c) state the date on which the taxes will be delinquent; and]~~

~~[(d) state the penalty provided by law.]~~

~~[(4) (a) The notice shall be mailed by November 1.]~~

(3) Except as provided in Subsection (4), the county treasurer shall:

(a) mail the notice required by this section, postage prepaid; or

(b) leave the notice required by this section at the taxpayer's residence or usual place of business, if known.

(4) (a) Subject to the other provisions of this Subsection (4), a county treasurer may, at the county treasurer's discretion, provide the notice required by this section by electronic mail if a taxpayer makes an election, according to procedures determined by the county treasurer, to receive the notice by electronic mail.

(b) A taxpayer may revoke an election to receive the notice required by this section by electronic mail if the taxpayer provides written notice to the treasurer on or before October 1.

(c) A revocation of an election under this section does not relieve a taxpayer of the duty to pay a tax due under this chapter on or before the due date for paying the tax.

(d) A county treasurer shall provide the notice required by this section using a method described in Subsection (3), until a taxpayer makes a new election in accordance with this Subsection (4), if:

(i) the taxpayer revokes an election in accordance with Subsection (4)(b) to receive the notice required by this section by electronic mail; or

(ii) the county treasurer finds that the taxpayer's electronic mail address is invalid.

(e) A person is considered to be a taxpayer for purposes of this Subsection (4) regardless of whether the property that is the subject of the notice required by this section is exempt from taxation.

(5) (a) The county treasurer shall provide the notice required by this section to a taxpayer on or before November 1.

(b) The county treasurer shall keep on file in the county treasurer's office the information set forth in the notice.

(c) The county treasurer is not required to mail ~~out~~ a tax receipt acknowledging payment.

(6) This section does not apply to property taxed under Section 59-2-1302 or 59-2-1307.

Section 6. Section 59-2-1331 is amended to read:

59-2-1331. Date tax is delinquent -- Penalty -- Interest -- Payments -- Refund of prepayment.

(1) (a) Except as provided in Subsection (1)(b), all taxes, unless otherwise specifically provided for under Section 59-2-1332, or other law, unpaid or postmarked after November 30 of each year following the date of levy, are delinquent, and the county treasurer shall close the treasurer's office for the posting of current year tax payments until a delinquent list has been prepared.

(b) Notwithstanding Subsection (1)(a), if November 30 falls on a Saturday, Sunday, or holiday:

(i) the date of the next following day that is not a Saturday, Sunday, or holiday shall be substituted in Subsection (1)(a) and Subsection 59-2-1332(1) for November 30; and

(ii) the date of the day occurring 30 days after the date under Subsection (1)(b)(i) shall be substituted in Subsection 59-2-1332(1) for December 30.

(2) (a) Except as provided in Subsection (2)(e), for each parcel, all delinquent taxes on each separately assessed parcel are subject to a penalty of 2.5% of the amount of the delinquent taxes or \$10, whichever is greater.

(b) Unless the delinquent taxes, together with the penalty, are paid on or before January 31, the amount of taxes and penalty shall bear interest on a per annum basis from the January 1 immediately following the delinquency date.

(c) Except as provided in Subsection (2)(d), for purposes of Subsection (2)(b), the interest rate is equal to the sum of:

(i) 6%; and

(ii) the federal funds rate target:

(A) established by the Federal Open Markets Committee; and

(B) that exists on the January 1 immediately following the date of delinquency.

(d) The interest rate described in Subsection (2)(c) may not be:

- (i) less than 7%; or
- (ii) more than 10%.

(e) The penalty described in Subsection (2)(a) is 1% of the amount of the delinquent taxes or \$10, whichever is greater, if all delinquent taxes and the penalty are paid on or before the January 31 immediately following the delinquency date.

(3) If the delinquency exceeds one year, the amount of taxes and penalties for that year and all succeeding years shall bear interest until settled in full through redemption or tax sale. The interest rate to be applied shall be calculated for each year as established under Subsection (2) and shall apply on each individual year's delinquency until paid.

(4) The county treasurer may accept and credit on account against taxes becoming due during the current year, at any time before or after the tax rates are adopted, but not subsequent to the date of delinquency, either:

- (a) payments in amounts of not less than \$10; or
- (b) the full amount of the unpaid tax.

(5) (a) At any time before the county treasurer [mails] provides the tax notice described in Section 59-2-1317, the county treasurer may refund amounts accepted and credited on account against taxes becoming due during the current year.

(b) Upon recommendation by the county treasurer, the county legislative body shall adopt rules or ordinances to implement the provisions of this Subsection (5).

Section 7. Section 59-2-1705 is amended to read:

59-2-1705. Rollback tax -- Penalty -- Computation of tax -- Procedure -- Lien -- Interest -- Notice -- Collection -- Distribution -- Appeal to county board of equalization.

(1) Except as provided in this section or Section 59-2-1710, land that is withdrawn from this part is subject to a rollback tax imposed as provided in this section.

(2) (a) An owner shall notify the county assessor that land is withdrawn from this part within 120 days after the day on which the land is withdrawn from this part.

(b) An owner who fails to notify the county assessor under Subsection (2)(a) that land is withdrawn from this part is subject to a penalty equal to the greater of:

- (i) \$10; or
- (ii) 2% of the rollback tax due for the last year of the rollback period.

(3) (a) The county assessor shall determine the amount of the rollback tax by computing the difference for the rollback period described in Subsection (3)(b) between:

(i) the tax paid while the land was assessed under this part; and

(ii) the tax that would have been paid had the property not been assessed under this part.

(b) For purposes of this section, the rollback period is a time period that:

(i) begins on the later of:

(A) the date the land is first assessed under this part; or

(B) 10 years preceding the day on which the county assessor mails the notice required by Subsection (5); and

(ii) ends the day on which the county assessor mails the notice required by Subsection (5).

(4) (a) The county treasurer shall:

(i) collect the rollback tax; and

(ii) after the rollback tax is paid, certify to the county recorder that the rollback tax lien on the property has been satisfied by:

(A) preparing a document that certifies that the rollback tax lien on the property has been satisfied; and

(B) providing the document described in Subsection (4)(a)(ii)(A) to the county recorder for recording.

(b) The rollback tax collected under this section shall:

(i) be paid into the county treasury; and

(ii) be paid by the county treasurer to the various taxing entities pro rata in accordance with the property tax levies for the current year.

(5) (a) The county assessor shall mail to an owner of the land that is subject to a rollback tax a notice that:

(i) the land is withdrawn from this part;

(ii) the land is subject to a rollback tax under this section; and

(iii) the rollback tax is delinquent if the owner of the land does not pay the tax within 30 days after the day on which the county assessor mails the notice.

(b) (i) The rollback tax is due and payable on the day the county assessor mails the notice required by Subsection (5)(a).

(ii) Subject to Subsection (7), the rollback tax is delinquent if an owner of the land that is withdrawn from this part does not pay the rollback tax within 30 days after the day on which the county assessor mails the notice required by Subsection (5)(a).

(6) (a) Subject to Subsection (6)(b), the rollback tax and interest imposed under Subsection (7) are a lien on the land assessed under this part.

(b) The lien described in Subsection (6)(a) shall:

(i) arise upon the imposition of the rollback tax under this section;

(ii) end on the day on which the rollback tax and interest imposed under Subsection (7) are paid in full; and

(iii) relate back to the first day of the rollback period described in Subsection (3)(b).

(7) (a) A delinquent rollback tax under this section shall accrue interest:

(i) from the date of delinquency until paid; and

(ii) at the interest rate established under Section 59-2-1331 and in effect on January 1 of the year in which the delinquency occurs.

(b) A rollback tax that is delinquent on September 1 of any year shall be included on the notice required by Section 59-2-1317, along with interest calculated on that delinquent amount through November 30 of the year in which the county treasurer provides the notice under Section 59-2-1317 ~~is mailed~~.

(8) (a) Land that becomes ineligible for assessment under this part only as a result of an amendment to this part is not subject to the rollback tax if the owner of the land notifies the county assessor that the land is withdrawn from this part in accordance with Subsection (2).

(b) Land described in Subsection (8)(a) that is withdrawn from this part as a result of an event other than an amendment to this part, whether voluntary or involuntary, is subject to the rollback tax.

(9) Except as provided in Section 59-2-1710, land that becomes exempt from taxation under Utah Constitution, Article XIII, Section 3, is not subject to the rollback tax if the land meets the requirements of Section 59-2-1703 to be assessed under this part.

(10) (a) Subject to Subsection (10)(b), an owner of land may appeal to the county board of equalization:

(i) a decision by a county assessor to withdraw land from assessment under this part; or

(ii) the imposition of a rollback tax under this section.

(b) An owner shall file an appeal under Subsection (10)(a) no later than 45 days after the day on which the county assessor mails the notice required by Subsection (5).

CHAPTER 280**S. B. 265**

Passed March 13, 2014
 Approved March 31, 2014
 Effective May 13, 2014

LAW ENFORCEMENT SERVICES ACCOUNT

Chief Sponsor: Luz Robles
 House Sponsor: Eric K. Hutchings

LONG TITLE**General Description:**

This bill modifies the uses of the Law Enforcement Services Account.

Highlighted Provisions:

This bill:

- ▶ provides that funds available in the Law Enforcement Services Account may be distributed to law enforcement agencies based on the average number of occupied halfway house beds and the number of parole violator center beds occupied within their jurisdiction.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

51-9-412, as last amended by Laws of Utah 2013, Chapter 439

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

Section 1. Section 51-9-412 is amended to read:**51-9-412. Law Enforcement Services Account -- Funding -- Uses.**

- (1) As used in this section:
 - (a) "Account" means the Law Enforcement Services Account.
 - (b) "Commission" means the Commission on Criminal and Juvenile Justice created in Section 63M-7-201.
 - (c) "Halfway house" means a facility that houses parolees upon release from prison or houses probationers who have violated the terms of their probation.
 - (d) "Law enforcement agency" means a local law enforcement agency.
 - (e) "Parole violator center" means a facility that houses parolees who have violated the conditions of their parole agreement.
- (2) There is created a restricted account within the General Fund known as the "Law Enforcement Services Account."
 - (3) (a) The Division of Finance shall allocate funds from the collected surcharge in accordance with Subsection 51-9-401(1)(c) to the account, but not to exceed the amount appropriated by the Legislature.

(b) Money in the account shall be appropriated to the commission to administer and distribute to law enforcement agencies providing services directly to areas with halfway houses or parole violator centers, or both.

(4) The commission shall allocate funds from the account to local law enforcement agencies on a pro-rata basis determined by:

(a) the average daily number of occupied beds in a halfway house in each agency's jurisdiction for increased enforcement in areas with halfway houses [~~or parole violator centers, or both.~~];

(b) the average daily number of occupied beds in a parole violator center in each agency's jurisdiction; or

(c) both Subsections (4)(a) and (b).

(5) A law enforcement agency may use funds received under this section only for the purposes stated in this section.

(6) For each fiscal year, any law enforcement agency that receives funds from the commission under this section shall prepare, and file with the commission and the state auditor, a report in a form specified by the commission. The report shall include the following:

(a) the agency's name;

(b) the amount received;

(c) how the funds were used, including the impact on crime reduction efforts in areas with halfway houses or parole violator centers, or both; and

(d) a statement signed by both the agency's or political subdivision's executive officer or designee and by the agency's legal counsel that all funds were used for law enforcement operations related to reducing criminal activity in areas with halfway houses or parole violator centers, or both.

(7) The commission shall report in writing to the legislative Law Enforcement and Criminal Justice Interim Committee annually regarding the funds allocated under this section, including the amounts and uses.

CHAPTER 281**S. B. 271**

Passed March 13, 2014
 Approved March 31, 2014
 Effective May 13, 2014

**POSTJUDGMENT
 INTEREST AMENDMENTS**

Chief Sponsor: Curtis S. Bramble
 House Sponsor: V. Lowry Snow

LONG TITLE**General Description:**

This bill increases the postjudgment interest rate.

Highlighted Provisions:

This bill:

- ▶ increases the postjudgment interest rate addition on the first \$10,000 from 2% to 10%; and
- ▶ specifies that a final judgment is the judgment rendered after exhaustion of all appeals.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

15-1-4, as last amended by Laws of Utah 2011, Chapter 79

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

Section 1. Section 15-1-4 is amended to read:

15-1-4. Interest on judgments.

(1) As used in this section[, "federal"]:

(a) "Federal postjudgment interest rate" means the interest rate established for the federal court system under 28 U.S.C. Sec. 1961, as amended.

(b) "Final judgment" means the judgment rendered when all avenues of appeal have been exhausted.

(2) (a) Except as provided in Subsection (2)(b), a judgment rendered on a lawful contract shall conform to the contract and shall bear the interest agreed upon by the parties, which shall be specified in the judgment.

(b) A judgment rendered on a deferred deposit loan subject to Title 7, Chapter 23, Check Cashing and Deferred Deposit Lending Registration Act, shall bear interest at the rate imposed under Subsection (3) on an amount not exceeding the sum of:

(i) the total of the principal balance of the deferred deposit loan;

(ii) interest at the rate imposed by the deferred deposit loan agreement for a period not exceeding 10 weeks as provided in Subsection 7-23-401(4);

(iii) costs;

(iv) attorney fees; and

(v) other amounts allowed by law and ordered by the court.

(3) (a) Except as otherwise provided by law, all other final civil and criminal judgments of the district court and justice court shall bear interest at the federal postjudgment interest rate as of January 1 of each year, plus 2%.

(b) Except as otherwise provided by law or contract, all final judgments under \$10,000 in actions regarding the purchase of goods and services shall bear interest at the federal post judgment interest rate as of January 1 of each year, plus 10%.

~~(b)~~ (c) The postjudgment interest rate in effect at the time of the judgment shall remain the interest rate for the duration of the judgment.

~~(e)~~ (d) The interest on criminal judgments shall be calculated on the total amount of the judgment.

~~(d)~~ (e) Interest paid on state revenue shall be deposited in accordance with Section 63A-3-505.

~~(e)~~ (f) Interest paid on revenue to a county or municipality shall be paid to the general fund of the county or municipality.

CHAPTER 282

H.B. 2

Passed March 12, 2014

Approved April 1, 2014

Effective July 1, 2014

**NEW FISCAL YEAR SUPPLEMENTAL
APPROPRIATIONS ACT**

Chief Sponsor: Melvin R. Brown
Senate Sponsor: Lyle W. Hillyard

LONG TITLE

General Description:

This bill supplements or reduces appropriations previously provided for the use and operation of state government for the fiscal year beginning July 1, 2014 and ending June 30, 2015.

Highlighted Provisions:

This bill:

- ▶ provides budget increases and decreases for the use and support of certain state agencies;
- ▶ provides budget increases and decreases for the use and support of certain institutions of higher education;
- ▶ provides budget increases and decreases for other purposes as described;
- ▶ authorizes capital outlay amounts for certain internal service funds;
- ▶ authorizes full time employment levels for certain internal service funds; and
- ▶ provides intent language.

Money Appropriated in this Bill:

This bill appropriates \$521,420,300 in operating and capital budgets for fiscal year 2015, including:

- ▶ \$127,683,300 from the General Fund;
- ▶ \$235,075,800 from the Education Fund;
- ▶ \$158,661,200 from various sources as detailed in this bill.

This bill appropriates \$20,432,200 in expendable funds and accounts for fiscal year 2015, including:

- ▶ \$200,000 from the General Fund;
- ▶ \$20,232,200 from various sources as detailed in this bill.

This bill appropriates \$32,828,900 in business-like activities for fiscal year 2015.

This bill appropriates \$15,500,000 in restricted fund and account transfers for fiscal year 2015, all of which is from the General Fund.

This bill appropriates \$27,047,200 in transfers to unrestricted funds for fiscal year 2015.

This bill appropriates \$5,821,000 in fiduciary funds for fiscal year 2015.

This bill appropriates \$62,993,500 in capital project funds for fiscal year 2015.

Other Special Clauses:

This bill takes effect on July 1, 2014.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2015 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2014 and ending June 30, 2015. These are additions to amounts previously appropriated for fiscal year 2015.

Subsection 1(a). Operating and Capital

Budgets. Under the terms and conditions of Utah Code Title 63J, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use and support of the government of the State of Utah.

**EXECUTIVE OFFICES AND
CRIMINAL JUSTICE**

GOVERNOR'S OFFICE

Item 1

To Governor's Office

From General Fund, One-time 50,000

From Federal Funds (54,800)

Schedule of Programs:

Lt. Governor's Office (54,800)

Literacy Projects 50,000

Item 2

To Governor's Office - Public Lands Litigation

From General Fund Restricted -

Constitutional Defense 987,400

Schedule of Programs:

Public Lands Litigation 987,400

Item 3

To Governor's Office - Governor's

Office of Management and Budget

From General Fund 32,000

From General Fund, One-time 400,000

Schedule of Programs:

Administration 32,000

Planning and Budget Analysis 250,000

Demographic and Economic Analysis . . 150,000

Item 4

To Governor's Office - Commission on

Criminal and Juvenile Justice

From General Fund 1,667,600

From General Fund, One-time 150,000

From Crime Victim Reparations

Fund (2,047,700)

Schedule of Programs:

Utah Office for Victims of Crime 150,000

Gang Reduction Grant Program (292,100)

Sexual Exploitation of Children (171,000)

Judicial Performance Evaluation

Commission 83,000

Item 5

To Governor's Office - CCJJ Factual

Innocence Payments

From General Fund, One-time 456,600

Schedule of Programs:

Factual Innocence Payments 456,600

STATE TREASURER

Item 6

To State Treasurer

From Unclaimed Property Trust	150,000
Schedule of Programs:	
Unclaimed Property	150,000

ATTORNEY GENERAL

Item 7

To Attorney General

From General Fund	1,427,400
From General Fund, One-time	180,000
From Federal Funds	138,200
From Dedicated Credits Revenue	1,243,600
Schedule of Programs:	
Child Protection	110,000
Criminal Prosecution	2,879,200

The Legislature intends and hereby approves the Attorney General's expenditure of money provided by the United States Department of Justice pursuant to an equitable sharing agreement to fund crime prevention and law enforcement activities described in Subsection 24-4-117(9).

UTAH DEPARTMENT OF CORRECTIONS

Item 8

To Utah Department of Corrections - Programs and Operations

From General Fund	357,400
From General Fund, One-time	515,800
Schedule of Programs:	
Institutional Operations Draper Facility	448,200
Programming Treatment	425,000

The Legislature intends that, if the Department of Corrections is able to reallocate resources internally to fund additional Adult Probation and Parole agents, for every two agents hired, the Legislature grants authority to purchase one vehicle with Department funds.

The Legislature intends that the Department of Corrections report to the Executive Offices and Criminal Justice Appropriations Subcommittee on implementation of audit recommendations from the Legislator Auditor General found in the document An In-Depth Budget Review of the Utah Department of Corrections including identified potential savings amounts as follows: (1) Lower Offsite Outpatient Care Costs - \$304,000; (2) Lower Prescription Drug Purchases - \$167,000 annually; (3) Streamline duplicative medical claims processing - \$89,000; (4) Eliminate Errors in Manual Claims Processing - \$140,000; (5) Menu Portion Sizes for Female Inmates - \$240,000; and (6) Maximize Draper and Other Food Cost Purchases Similar to Gunnison Prison - \$1,000,000.

Item 9

To Utah Department of Corrections - Department Medical Services

From General Fund	51,800
Schedule of Programs:	
Medical Services	51,800

The Legislature intends that the Department of Corrections report to the Executive Offices and Criminal Justice Appropriations Subcommittee on implementation of audit recommendations from the Legislator Auditor General found in the document An In-Depth Budget Review of the Utah Department of Corrections including identified potential savings amounts as follows: (1) Lower Offsite Outpatient Care Costs - \$304,000; (2) Lower Prescription Drug Purchases - \$167,000 annually; (3) Streamline duplicative medical claims processing - \$89,000; (4) Eliminate Errors in Manual Claims Processing - \$140,000; (5) Menu Portion Sizes for Female Inmates - \$240,000; and (6) Maximize Draper and Other Food Cost Purchases Similar to Gunnison Prison - \$1,000,000.

Item 10

To Utah Department of Corrections - Jail Contracting

From General Fund	4,765,400
From General Fund, One-time	500,000
Schedule of Programs:	
Jail Contracting	5,265,400

Under Section 64-13e-105 the Legislature intends that the final state daily incarceration rate be set at \$65.55 for FY 2015.

BOARD OF PARDONS AND PAROLE

Item 11

To Board of Pardons and Parole

From General Fund	158,200
Schedule of Programs:	
Board of Pardons and Parole	158,200

DEPARTMENT OF HUMAN SERVICES - DIVISION OF JUVENILE JUSTICE SERVICES

Item 12

To Department of Human Services - Division of Juvenile Justice Services - Programs and Operations

From General Fund	715,300
From General Fund, One-time	1,490,000
From Federal Funds	572,700
From Revenue Transfers - Medicaid	31,000
Schedule of Programs:	
Community Programs	879,600
Correctional Facilities	1,200,000
Rural Programs	729,400

It is the intent of the Legislature that the \$439,400 ongoing General Fund and \$290,000 one-time General Fund appropriations to receiving centers and youth services for the FY 2015 budget, be used for implementation of recommendations 1, 8, 9, 11, and 13 contained in the CCJJ working group report titled "Youth Services and Receiving Centers Working Group Report."

It is the intent of the Legislature that the \$440,000 one-time appropriation from the Social Services Block Grant and/or the

Temporary Assistance for Needy Families grant, on the Executive Offices and Criminal Justice Appropriations Subcommittee's Non-state Funds/Other list, is an additional allocation to the Division of Juvenile Justice Services for its operations in FY 2015.

JUDICIAL COUNCIL/STATE COURT ADMINISTRATOR

Item 13

To Judicial Council/State Court Administrator - Administration
 From General Fund 75,000
 From General Fund, One-time 200,000
 From General Fund Restricted - Court Reporting Technology (254,300)
 Schedule of Programs:
 District Courts (254,300)
 Administrative Office 275,000

The Legislature intends that the salary of district court judges be increased by the same percentage as state employees generally, and if state employees salaries are not adjusted, that the salary of a district court judge remain at \$134,800.

Item 14

To Judicial Council/State Court Administrator - Contracts and Leases
 From General Fund 268,800
 Schedule of Programs:
 Contracts and Leases 268,800

Item 15

To Judicial Council/State Court Administrator - Guardian ad Litem
 From General Fund 300,000
 Schedule of Programs:
 Guardian ad Litem 300,000

DEPARTMENT OF PUBLIC SAFETY

Item 16

To Department of Public Safety - Programs & Operations
 From General Fund 1,676,000
 From General Fund, One-time (712,500)
 From General Fund Restricted - Fire Academy Support 1,370,000
 From General Fund Restricted - Public Safety Honoring Heroes Account 30,000
 Schedule of Programs:
 Department Commissioner's Office 30,000
 Highway Patrol - Field Operations 563,500
 Highway Patrol - Technology Services 400,000
 Fire Marshall - Fire Operations 530,000
 Fire Marshall - Fire Fighter Training 840,000

The Legislature intends that Public Safety is allowed to increase its fleet by 2 vehicles due to the expansion of State Bureau of Investigation Agents funded during the 2013 General Session and 2 vehicles for the Fire Marshal's office 1 to tow training trailers and 1 for an additional deputy fire marshal.

Funding for the vehicles will be provided from nonlapsing balances.

The legislature intends that Public Safety be allowed to increase its fleet by the number of additional law enforcement officers approved and funded by the legislature in the current session.

The Legislature intends that the Department of Public Safety use money appropriated to adjust the top of the pay ranges for law enforcement officers within their department.

INFRASTRUCTURE AND GENERAL GOVERNMENT

TRANSPORTATION

Item 17

To Transportation - Support Services
 From Transportation Fund 1,900,000
 Schedule of Programs:
 Data Processing 1,900,000

Item 18

To Transportation - Engineering Services
 From General Fund, One-time 3,100,000
 From Transportation Fund 277,000
 Schedule of Programs:
 Program Development 3,100,000
 Materials Lab 79,400
 Right-of-Way 92,000
 Construction Management 105,600

Item 19

To Transportation - Operations/Maintenance Management
 From Transportation Fund (94,000)
 From Transportation Investment Fund of 2005 4,000,000
 Schedule of Programs:
 Maintenance Administration 4,000,000
 Field Crews (94,000)

The Legislature intends that any and all collections or cash income from the sale or salvage of land and buildings are to be lapsed to the Transportation Fund.

There is appropriated to the Department of Transportation from the Transportation Fund, not otherwise appropriated, a sum sufficient, but not more than the surplus of the Transportation Fund, to be used by the Department for the construction, rehabilitation, and preservation of State highways in Utah. It is the intent of the Legislature that the appropriation fund first, a maximum participation with the federal government for the construction of federally designated highways, as provided by law, and last the construction of State highways, as funding permits. It is also the intent of the Legislature that the FTEs for field crews may be adjusted to accommodate the increase or decrease in the Federal Construction Program. No portion of the money appropriated by this item shall be used either directly or indirectly to enhance or increase the appropriations otherwise made by this act

to the Department of Transportation for other purposes.

The Legislature intends that the Department of Transportation use maintenance funds previously used on state highways that now qualify for Transportation Investment Funds of 2005 to address maintenance and preservation issues on other state highways.

Item 20

To Transportation - Construction Management
From General Fund (1,470,600)
Schedule of Programs:

Federal Construction - New (1,470,600)

There is appropriated to the Department of Transportation from the Transportation Fund, not otherwise appropriated, a sum sufficient, but not more than the surplus of the Transportation Fund, to be used by the Department for the construction, rehabilitation, and preservation of State highways in Utah. It is the intent of the Legislature that the appropriation fund first, a maximum participation with the federal government for the construction of federally designated highways, as provided by law, and last the construction of State highways, as funding permits. No portion of the money appropriated by this item shall be used either directly or indirectly to enhance or increase the appropriations otherwise made by this act to the Department of Transportation for other purposes.

Item 21

To Transportation - Region Management
From Transportation Fund (183,000)
Schedule of Programs:

Region 1 94,000
Region 2 (277,000)

Item 22

To Transportation - Aeronautics
From General Fund, One-time 50,000
From Aeronautics Restricted Account .. 5,000,000
Schedule of Programs:

Administration 50,000
Airport Construction 5,000,000

The Legislature intends that the Division of Aeronautics consider using \$300,000 of the one-time airport construction appropriation for a feasibility study at the Ogden Airport. The Legislature also intends that the one-time appropriation of \$5,000,000 to Airport Construction is non-lapsing.

Item 23

To Transportation - Safe Sidewalk Construction

The Legislature intends that the funds appropriated from the Transportation Fund for pedestrian safety projects be used specifically to correct pedestrian hazards on State highways. The Legislature also intends that local authorities be encouraged to participate in the construction of pedestrian safety devices. The appropriated funds are to be used according to the criteria

set forth in Section 72-8-104, Utah code Annotated, 1953. The funds appropriated for sidewalk construction shall not lapse. If local governments cannot use their allocation of Sidewalk Safety Funds in two years, these funds will be available for other governmental entities which are prepared to use the resources. It is the intent of the Legislature that local participation in the Sidewalk Construction Program is on a 75% state and 25% local match basis.

Item 24

To Transportation - Mineral Lease

It is the intent of the Legislature that the funds appropriated from the Federal Mineral Lease Account shall be used for improvement or reconstruction of highways that have been heavily impacted by energy development. It is the intent of the Legislature that if private industries engaged in developing the State's natural resources are willing to participate in the cost of the construction of highways leading to their facilities, that local governments consider that highway as a higher priority as they prioritize the use of Mineral Lease Funds received through 59-21-1(4)(c)(i). The funds appropriated for improvement or reconstruction of energy impacted highways are non-lapsing.

Item 25

To Transportation - Transportation Investment Fund Capacity Program

There is appropriated to the Department of Transportation from the Transportation Investment Fund of 2005, not otherwise appropriated, a sum sufficient, but not more than the surplus of the Transportation Investment Fund of 2005, to be used by the Department for the construction, rehabilitation, and preservation of State and Federal highways in Utah. No portion of the money appropriated by this item shall be used either directly or indirectly to enhance or increase the appropriations otherwise made by this act to the Department of Transportation for other purposes.

DEPARTMENT OF ADMINISTRATIVE SERVICES

Item 26

To Department of Administrative Services - Executive Director
From Dedicated Credits Revenue 20,000
Schedule of Programs:
Parental Defense 20,000

Item 27

To Department of Administrative Services - Inspector General of Medicaid Services

The Legislature intends that the Inspector General of Medicaid Services retain up to an additional \$60,000 of Medicaid collections during FY 2015 to pay the Department of Health for the state costs of the one attorney FTE that the Office is using.

Item 28

To Department of Administrative Services - Administrative Rules
 From General Fund, One-time 25,000
 Schedule of Programs:
 DAR Administration 25,000

Item 29

To Department of Administrative Services - DFCM Administration
 From Capital Projects Fund (248,000)
 Schedule of Programs:
 DFCM Administration (248,000)

The Legislature intends that DFCM Administration may add one additional vehicle to its authorized level using existing funds. Any added vehicles must be reviewed and approved by the Legislature.

In accordance with Section 63A-5-104(4) of the Utah Code the Legislature intends that the Utah State Building Board allocate up to \$300,000 of capital improvement funds to facility energy efficiency projects and require the entities receiving those funds to repay the funds to the State Facility Energy Efficiency Fund based on a payback schedule adopted by the Utah State Building Board.

Item 30

To Department of Administrative Services - Building Board Program
 From Capital Projects Fund 1,253,000
 Schedule of Programs:
 Building Board Program 1,253,000

Item 31

To Department of Administrative Services - State Archives
 From General Fund, One-time 150,000
 From Federal Funds (61,100)
 Schedule of Programs:
 Archives Administration 150,000
 Patron Services (61,100)

Item 32

To Department of Administrative Services - Finance Administration
 From Dedicated Credits Revenue 500,000
 Schedule of Programs:
 Financial Information Systems 500,000

The Legislature intends that the Division of Finance research the funds in Fund 8020, Finance Suspense Fund and determine which funds, if any, are unencumbered and which funds are legally obligated. The Legislature furthermore intends that upon this determination, the Division of Finance transfer the funds accordingly to lawful recipient entities.

Item 33

To Department of Administrative Services - Finance - Mandated
 From General Fund 1,016,300
 Schedule of Programs:
 Jail Reimbursement 1,016,300

Item 34

To Department of Administrative Services - Finance - Elected Official Post-Retirement Benefits Contribution
 From General Fund (642,400)
 Schedule of Programs:
 Elected Official Post-Retirement Trust Fund (642,400)

DEPARTMENT OF TECHNOLOGY SERVICES

Item 35

To Department of Technology Services - Chief Information Officer
 From Federal Funds 566,700
 Schedule of Programs:
 Chief Information Officer 566,700

CAPITAL BUDGET

Item 36

To Capital Budget - Capital Development Fund
 The Legislature intends that the Courts may use existing funds to enter into a High cost Lease agreement that may include a lease-purchase option for the Duchesne County Courthouse.

Item 37

To Capital Budget - Capital Development - Higher Education
 From Education Fund, One-time 111,200,000
 Schedule of Programs:
 SWATC Allied Health and Technology Building 19,300,000
 WSU Science Building 57,400,000
 UU Huntsman Cancer Institute 8,000,000
 USU Eastern - Central Instructional 19,000,000
 USU Brigham City Campus 7,500,000

Item 38

To Capital Budget - Capital Development - Other State Government
 From General Fund, One-time 48,700,000
 Schedule of Programs:
 DHS Developmental Center Housing 6,500,000
 UDC Gunnison Inmate Housing 36,000,000
 Weber Valley Multiuse Youth Center 2,300,000
 UNG Armories 3,900,000

Item 39

To Capital Budget - Capital Development - Public Education
 From Education Fund, One-time 1,500,000
 Schedule of Programs:
 USDB Salt Lake Facility 1,500,000

Item 40

To Capital Budget - Capital Improvements
 From General Fund 4,930,000
 From General Fund, One-time 22,770,000
 From Education Fund 5,000,000
 From Education Fund, One-time 24,304,500
 Schedule of Programs:
 Capital Improvements 57,004,500

The Legislature intends that the University of Utah Utility Distribution Infrastructure Replacement project be completed and funded over multiple years and that the capital improvement allocation of \$21,235,400 to the University of Utah for the Utility Distribution Infrastructure Replacement project satisfies the affirmative authorization requirement in Subsection 63A-5-104(4)(g) to fund the University of Utah Utility Distribution Infrastructure Replacement project in phases.

The Legislature intends that the University of Utah use the utility surcharges assessed to the university auxiliaries, to fund a portion of the replacement of the campus utility distribution infrastructure.

Item 41

To Capital Budget - Property Acquisition
 From Education Fund, One-time 4,000,000
 Schedule of Programs:
 Snow College Sevier Valley Center .. 3,000,000
 Dixie East Elementary 1,000,000

**STATE BOARD OF BONDING
 COMMISSIONERS - DEBT SERVICE**

Item 42

To State Board of Bonding Commissioners -
 Debt Service - Debt Service
 From General Fund (126,600)
 From General Fund, One-time 14,154,200
 From Education Fund 37,700
 From Transportation Investment
 Fund of 2005 (6,752,000)
 From Federal Funds (1,224,000)
 From Dedicated Credits Revenue 2,134,100
 From County of First Class State
 Hwy Fund (8,116,100)
 From Beginning Nonlapsing
 Appropriation Balances 4,677,100
 From Closing Nonlapsing Appropriation
 Balances (6,689,600)
 Schedule of Programs:
 Debt Service (27,924,300)
 Revenue Bonds Debt Service 26,019,100

**BUSINESS, ECONOMIC
 DEVELOPMENT, AND LABOR**

DEPARTMENT OF HERITAGE AND ARTS

Item 43

To Department of Heritage and
 Arts - Administration
 From Federal Funds 309,500
 Schedule of Programs:
 Commission on Service and
 Volunteerism 309,500

Item 44

To Department of Heritage and Arts -
 Division of Arts and Museums
 From General Fund 60,000
 From General Fund, One-time 20,000
 Schedule of Programs:
 Community Arts Outreach 80,000

Item 45

To Department of Heritage and Arts - Division of
 Arts and Museums - Office of Museum Services
 From General Fund, One-time 75,000
 Schedule of Programs:
 Office of Museum Services 75,000

Item 46

To Department of Heritage and Arts -
 State Library
 From General Fund 61,900
 Schedule of Programs:
 Library Resources 61,900

Item 47

To Department of Heritage and Arts -
 Indian Affairs
 From General Fund 20,000
 Schedule of Programs:
 Indian Affairs 20,000

Item 48

To Department of Heritage
 and Arts - Pass-Through
 From General Fund 89,400
 From General Fund, One-time 1,220,000
 Schedule of Programs:
 Pass-Through 1,309,400

**GOVERNOR'S OFFICE OF
 ECONOMIC DEVELOPMENT**

Item 49

To Governor's Office of Economic
 Development - Administration
 From General Fund (150,000)
 From General Fund, One-time 4,435,000
 Schedule of Programs:
 Administration 4,285,000

Item 50

To Governor's Office of Economic
 Development - STEM Action Center
 From Dedicated Credits Revenue 1,500,000
 Schedule of Programs:
 STEM Action Center 1,500,000

Item 51

To Governor's Office of Economic
 Development - Office of Tourism
 From General Fund, One-time 375,000
 From General Fund Restricted -
 Tourism Marketing Performance ... 15,000,000
 Schedule of Programs:
 Operations and Fulfillment 375,000
 Marketing and Advertising 15,000,000

Item 52

To Governor's Office of Economic
 Development - Business Development
 From General Fund 199,000
 Schedule of Programs:
 Corporate Recruitment and
 Business Services 199,000

UTAH STATE TAX COMMISSION

Item 53

To Utah State Tax Commission -
 Tax Administration
 From General Fund 205,500

Schedule of Programs:
 Auditing Division 133,800
 Tax Payer Services 71,700

Item 54

To Utah State Tax Commission -
 Liquor Profit Distribution
 From General Fund Restricted-Alcoholic Beverage
 Enforcement & Treatment (77,400)
 Schedule of Programs:
 Liquor Profit Distribution (77,400)

**UTAH SCIENCE TECHNOLOGY AND
 RESEARCH GOVERNING AUTHORITY**

Item 55

To Utah Science Technology and
 Research Governing Authority
 From General Fund (3,495,100)
 From Dedicated Credits Revenue (5,200)
 From Beginning Nonlapsing
 Appropriation Balances (186,500)
 From Closing Nonlapsing Appropriation
 Balances 130,800
 Schedule of Programs:
 Administration (706,900)
 Technology Outreach (2,849,100)

Item 56

To Utah Science Technology and Research
 Governing Authority - Utah Science Technology
 and Research Governing Authority Research
 Teams
 From General Fund (18,518,900)
 Schedule of Programs:
 Utah State University (7,407,600)
 University of Utah (11,111,300)

Item 57

To Utah Science Technology and Research
 Governing Authority - University of Utah
 Research Teams
 From General Fund 11,111,300
 Schedule of Programs:
 Alternative Energy Center 746,500
 Biomedical Device 556,900
 Circuits of the Brain 296,600
 Diagnostic Imaging 650,000
 Digital Media 479,700
 Fossil Energy 647,600
 Health Sciences 1,501,000
 Imaging Technology 927,500
 Micro Nano/Nanoscale 893,100
 Nanotechnology Biosensors 215,000
 Wireless Nanosystems 1,132,100
 U of U Equipment and Other 3,065,300

Item 58

To Utah Science Technology and Research
 Governing Authority - Utah State University
 Research Teams
 From General Fund 7,407,600
 Schedule of Programs:
 Applied Nutrition Research 135,000
 Synthetic Bio-Manufacturing
 Institute 2,431,700
 Veterinary Diagnostics and Infectious
 Disease 2,138,600

Utah Advanced Transportation
 Institute 1,308,500
 Energy Initiative 1,148,800
 USU Equipment and Other 245,000

Item 59

To Utah Science Technology and Research
 Governing Authority - Technology Outreach and
 Innovation
 From General Fund 2,789,100
 From Dedicated Credits Revenue 5,200
 From Beginning Nonlapsing
 Appropriation Balances 83,900
 From Closing Nonlapsing Appropriation
 Balances (29,100)
 Schedule of Programs:
 Southern Utah University and Dixie
 State University (Southern) 398,000
 Utah Valley University (Central) 670,000
 Weber State University (Northern) 670,000
 Utah State University - Uintah
 Basin (Eastern) 589,400
 Small Business Innovation Research (SBIR) and
 Science Technology Transfer and Research
 (STTR) Assistance Center (SBIR-STTR
 Resource Center) 265,200
 BioInnovations Gateway (BiG) 160,000
 Projects 96,500

Item 60

To Utah Science Technology and Research
 Governing Authority - USTAR Administration
 From General Fund 706,000
 From Beginning Nonlapsing
 Appropriation Balances 102,600
 From Closing Nonlapsing Appropriation
 Balances (101,700)
 Schedule of Programs:
 Administration 706,900

**DEPARTMENT OF ALCOHOLIC
 BEVERAGE CONTROL**

Item 61

To Department of Alcoholic Beverage
 Control - DABC Operations
 From Liquor Control Fund 504,000
 From Liquor Control Fund,
 One-time 1,500,000
 Schedule of Programs:
 Stores and Agencies 2,004,000

Item 62

To Department of Alcoholic Beverage
 Control - Parents Empowered
 From GFR - Underage Drinking Prevention
 Media and Education Campaign
 Restricted Account 149,000
 Schedule of Programs:
 Parents Empowered 149,000

LABOR COMMISSION

Item 63

To Labor Commission
 From General Fund 30,000
 From General Fund, One-time 55,000
 Schedule of Programs:
 Adjudication 30,000
 Anti-Discrimination and Labor 55,000

DEPARTMENT OF COMMERCE

Item 64

To Department of Commerce - Commerce
 General Regulation
 From General Fund Restricted - Commerce
 Service Account 30,000
 From General Fund Restricted -
 Commerce Service Account, One-time . 261,000
 Schedule of Programs:
 Administration 230,000
 Occupational and Professional
 Licensing 61,000

FINANCIAL INSTITUTIONS

Item 65

To Financial Institutions - Financial
 Institutions Administration
 From General Fund Restricted -
 Financial Institutions 330,800
 From General Fund Restricted -
 Financial Institutions, One-Time 32,400
 Schedule of Programs:
 Administration 363,200

INSURANCE DEPARTMENT

Item 66

To Insurance Department - Insurance
 Department Administration
 From Federal Funds 969,000
 From Dedicated Credits Revenue 8,600
 From General Fund Restricted -
 Insurance Department Account (1,360,000)
 From General Fund Restricted -
 Technology Development 1,000
 Schedule of Programs:
 Administration (391,000)
 Insurance Fraud Program 8,600
 Electronic Commerce Fee 1,000

SOCIAL SERVICES

DEPARTMENT OF HEALTH

Item 67

To Department of Health - Executive
 Director's Operations
 From General Fund 60,000
 Schedule of Programs:
 Program Operations 60,000

The Legislature intends that the Inspector General of Medicaid Services pay the full state cost of the one attorney FTE that it is using at the Department of Health.

The Legislature intends that the Departments of Workforce Services, Health, Human Services, Technology Services, and the Utah State Office of Rehabilitation provide a report regarding all current background checks of individuals and possible efficiencies for consolidation. The Legislature intends that agencies provide a report to the Office of the Legislative Fiscal Analyst by September 1, 2014. The report shall include the following regarding each background check program: (1) name and

purpose of the program, (2) expenditures and staffing for the last three years, (3) types of problems the background check is looking for, (4) the databases searched, and (5) technology used. The report should provide recommendations where different background check systems might be combined.

The Legislature intends that the Department of Health prepare proposed performance measures for all new state funding or TANF federal funds for building blocks and give this information to the Office of the Legislative Fiscal Analyst by June 30, 2014. The Department of Health shall provide its first report on its performance measures to the Office of the Legislative Fiscal Analyst by October 31, 2014. The Office of the Legislative Fiscal Analyst shall give this information to the legislative staff of the Health and Human Services Interim Committee. If the new money will go to a pass through entity, the Department of Health shall work with each pass through entity to provide the same performance measure information.

Item 68

To Department of Health - Family
 Health and Preparedness
 From General Fund 200,000
 From General Fund, One-time 220,000
 From Federal Funds (15,000,000)
 Schedule of Programs:
 Director's Office (15,000,000)
 Child Development 220,000
 Emergency Medical Services 200,000

The Legislature intends that the Utah State Office of Education and the Department of Health develop quantifiable performance measures associated with activities of the "CPR and AED Instruction" program, and report its findings to the Social Services Appropriations Subcommittee and Public Education Appropriations Subcommittee before the November 2015 Interim meeting.

Item 69

To Department of Health - Disease
 Control and Prevention
 From General Fund 20,000
 From General Fund, One-time 25,000
 Schedule of Programs:
 Health Promotion 20,000
 Epidemiology 25,000

Item 70

To Department of Health - Medicaid
 and Health Financing
 From General Fund (25,000)
 From General Fund, One-time 1,000,000
 From Federal Funds 1,035,000
 From Transfers - Medicaid - Department
 of Administrative Services 60,000
 Schedule of Programs:
 Director's Office (60,000)
 Medicaid Operations 2,070,000
 Other Seeded Services 60,000

Item 71

To Department of Health - Children's Health Insurance Program
 From General Fund (500,000)
 From Federal Funds (1,953,700)
 Schedule of Programs:
 Children's Health Insurance Program (2,453,700)

Item 72

To Department of Health - Medicaid Mandatory Services
 From General Fund, One-time 5,922,300
 From Federal Funds 40,875,700
 From Beginning Nonlapsing Appropriation Balances 1,500,000
 Schedule of Programs:
 Managed Health Care 6,892,200
 Nursing Home 6,405,800
 Medicaid Management Information System Replacement 35,000,000

The Legislature intends that the Department of Health report quarterly to the Office of the Legislative Fiscal Analyst on the status of replacing the Medicaid Management Information System replacement beginning September 30, 2014. The reports should include, where applicable, the responses to any requests for proposals.

The Legislature intends that the \$1,500,000 in Beginning Nonlapsing provided to the Department of Health is dependent upon up to \$1,500,000 of savings above \$3,030,000 from savings from higher federal match rate for certain Medicaid eligibility systems maintenance and operations in the Department of Workforce Services in FY 2014. The use of any nonlapsing funds is limited to replacing the Medicaid Management Information System in the Department of Health in FY 2015.

Item 73

To Department of Health - Medicaid Optional Services
 From General Fund 285,400
 From General Fund, One-time 110,600
 From Federal Funds 17,332,300
 From General Fund Restricted - Nursing Care Facilities Account 411,000
 Schedule of Programs:
 Intermediate Care Facilities for Intellectually Disabled 1,796,700
 Dental Services 1,221,900
 Hospice Care Services 375,000
 Other Optional Services 14,745,700

The Legislature intends that up to 5% be allowed for contracted plan administration (for the building block entitled Dental Provider Rates).

DEPARTMENT OF WORKFORCE SERVICES

Item 74

To Department of Workforce Services - Administration

The Legislature intends that the Department of Workforce Services prepare proposed performance measures for all new state funding or TANF federal funds for building blocks and give this information to the Office of the Legislative Fiscal Analyst by June 30, 2014. The Department of Workforce Services shall provide its first report on its performance measures to the Office of the Legislative Fiscal Analyst by October 31, 2014. The Office of the Legislative Fiscal Analyst shall give this information to the legislative staff of the Health and Human Services Interim Committee. If the new money will go to a pass through entity, the Department of Workforce Services shall work with each pass through entity to provide the same performance measure information.

The Legislature intends that the Departments of Workforce Services, Health, Human Services, Technology Services, and the Utah State Office of Rehabilitation provide a report regarding all current background checks of individuals and possible efficiencies for consolidation. The Legislature intends that agencies provide a report to the Office of the Legislative Fiscal Analyst by September 1, 2014. The report shall include the following regarding each background check program: (1) name and purpose of the program, (2) expenditures and staffing for the last three years, (3) types of problems the background check is looking for, (4) the databases searched, and (5) technology used. The report should provide recommendations where different background check systems might be combined.

Item 75

To Department of Workforce Services - Operations and Policy
 From General Fund, One-time (7,540,000)
 From Federal Funds 21,283,000
 From Federal Funds - American Recovery and Reinvestment Act (2,000,000)
 From General Fund Restricted - Special Administrative Expense Account 10,000,000
 From Unemployment Compensation Fund 6,576,000
 Schedule of Programs:
 Workforce Development 13,076,000
 Temporary Assistance to Needy Families 2,804,000
 Refugee Assistance 1,500,000
 Child Care Assistance 10,939,000

The Legislature intends the Department of Workforce Services (DWS) actively seek ways to use available Temporary Assistance for Needy Families (TANF) funding to increase services to families in need statewide. The Legislature further intends DWS provide to the Office of the Legislative Fiscal Analyst no later than September 1, 2014 a report that includes a(n): 1) detail of DWS efforts to serve families in need statewide including

additional ways of serving families pursued in the prior 6 months, 2) analysis of relevant fiscal implications including implications on systems and staffing, 3) review of demographic data informing why individuals are currently not receiving services, 4) review of other options to implement additional services and programs, 5) inventory of other states currently availing themselves of options not currently in place in Utah, and 6) further options for Legislative consideration to use available TANF funding to better serve families in need statewide.

The Legislature intends that the \$6,144,900 provided to the Department of Workforce Services for the child care competitive rate subsidy increase from federal Temporary Assistance for Needy Families (TANF) funding spent over future years in equal amount each year for the following three years.

The \$2,179,200 in federal funds appropriated for after school programs to address intergenerational poverty in Department of Workforce Services in Operations and Policy line item is dependent upon the availability of and qualification for the after school programs to address intergenerational poverty for Temporary Assistance for Needy Families federal funds.

The \$8,193,200 in federal funds appropriated for child care competitive rate subsidy increase in Department of Workforce Services in Operations and Policy line item is dependent upon the availability of and qualification for the child care competitive rate subsidy increase for Temporary Assistance for Needy Families federal funds.

The \$566,600 in federal funds appropriated for child care for 60 days during temporary unemployment in Department of Workforce Services in Operations and Policy line item is dependent upon the availability of and qualification for the child care for 60 days during temporary unemployment for Temporary Assistance for Needy Families federal funds.

The Legislature intends Reed Act funds appropriated for Fiscal Year 2015 to the Department of Workforce Services be used for workforce development and labor exchange activities consistent with UCA 35A-4-501(3)(b).

The \$1,500,000 in federal funds appropriated for refugee services in Department of Workforce Services - Operations and Policy line item is dependent upon the availability of and qualification for refugee services for Temporary Assistance for Needy Families federal funds.

The Legislature intends the Department of Workforce Services explore the viability of Temporary Assistance for Needy Families (TANF) funding for services provided at the Garland and Hyrum Community Resource

Centers and utilize TANF funding if these two resource centers are found to provide services that meet one of the four TANF purposes.

The Legislature intends the Department of Workforce Services provide a report to the Office of the Legislative Fiscal Analyst no later than September 1, 2014 on efforts to pursue Temporary Assistance for Needy Families (TANF) funding for items identified by the Legislature as possible candidates for meeting one or more of the four TANF purposes.

The Legislature intends the Department of Workforce Services seek a Temporary Assistance for Needy Families (TANF) waiver from the United States Department of Health and Human Services during the 2014 Interim. The purpose of the request is to waive federal TANF requirements with regard to supported employment services provided to individuals with disabilities who might otherwise meet the TANF purposes of: provide assistance to needy families so that children can be cared for in their own homes, reduce the dependency of needy parents by promoting job preparation, work and marriage, and encourage the formation and maintenance of two parent families. The Legislature further intends the Department of Workforce Services provide a report on its efforts to seek a federal TANF waiver to the Office of the Legislative Fiscal Analyst no later than September 1, 2014.

The \$1,000,000 in federal funds appropriated for the Children's Center in Department of Workforce Services - Operations and Policy line item is dependent upon the availability of and qualification for the Children's Center for Temporary Assistance for Needy Families federal funds.

The \$104,000 in federal funds appropriated for the Garland Community Resource Center in Department of Workforce Services - Operations and Policy line item is dependent upon the availability of and qualification for the Garland Community Resource Center for Temporary Assistance for Needy Families federal funds.

The \$150,000 in federal funds appropriated for the Hyrum Community Resource Center in Department of Workforce Services - Operations and Policy line item is dependent upon the availability of and qualification for the Hyrum Community Resource Center for Temporary Assistance for Needy Families federal funds.

The Legislature intends that the \$25,000 provided to the Department of Workforce Services for the Weber County Youth Impact Program increase from federal Temporary Assistance for Needy Families (TANF) funding be spent over future years in equal amount each year for the following one year.

The Legislature intends that the \$750,000 provided to the Department of Workforce

Services for the Children’s Center increase from federal Temporary Assistance for Needy Families (TANF) funding spent over future years in equal amount each year for the following three years.

The \$50,000 in federal funds appropriated for the Weber County Youth Impact Program in Department of Workforce Services - Operations and Policy line item is dependent upon the availability of and qualification for the Weber County Youth Impact Program for Temporary Assistance for Needy Families federal funds.

Item 76

To Department of Workforce Services - Unemployment Insurance
 From Federal Funds - American Recovery and Reinvestment Act (300,000)
 From General Fund Restricted - Special Administrative Expense Account 2,000,000
 From Unemployment Compensation Fund 300,000
 Schedule of Programs:
 Unemployment Insurance Administration 2,000,000

Item 77

To Department of Workforce Services - Housing and Community Development
 From General Fund, One-time 1,000,000
 From Federal Funds 20,000,000
 From General Fund Restricted - Pamela Atkinson Homeless Account 900,000
 Schedule of Programs:
 Housing Development 20,000,000
 Homeless Committee 1,900,000

The Legislature intends that if any money is allocated from the National Housing Trust Fund to the State of Utah, the Department of Workforce Services is authorized to receive this money and this money shall be allocated to the Division of Housing and Community Development for use by the division in increasing and preserving the supply of rental housing, and increasing homeownership and housing opportunities, for low income households in accordance with federal requirements.

DEPARTMENT OF HUMAN SERVICES

Item 78

To Department of Human Services - Executive Director Operations
 From General Fund, One-time 500,000
 From Federal Funds 300,000
 Schedule of Programs:
 Executive Director’s Office 500,000
 Utah Marriage Commission 300,000

The Legislature intends that the Department of Human Services prepare proposed performance measures for all new state funding or TANF federal funds for building blocks and give this information to the Office of the Legislative Fiscal Analyst by June 30, 2014. The Department of Human

Services shall provide its first report on its performance measures to the Office of the Legislative Fiscal Analyst by October 31, 2014. The Office of the Legislative Fiscal Analyst shall give this information to the legislative staff of the Health and Human Services Interim Committee. If the new money will go to a pass through entity, the Department of Human Services shall work with each pass through entity to provide the same performance measure information.

The Legislature intends that the Departments of Workforce Services, Health, Human Services, Technology Services, and the Utah State Office of Rehabilitation provide a report regarding all current background checks of individuals and possible efficiencies for consolidation. The Legislature intends that agencies provide a report to the Office of the Legislative Fiscal Analyst by September 1, 2014. The report shall include the following regarding each background check program: (1) name and purpose of the program, (2) expenditures and staffing for the last three years, (3) types of problems the background check is looking for, (4) the databases searched, and (5) technology used. The report should provide recommendations where different background check systems might be combined.

The \$300,000 in federal funds appropriated for the Marriage Commission in the Department of Human Services - Executive Director Operations line item is dependent upon the availability of and qualification for the Marriage Commission for Temporary Assistance for Needy Families federal funds.

Item 79

To Department of Human Services - Division of Substance Abuse and Mental Health
 From General Fund 300,000
 From General Fund, One-time 10,766,800
 Schedule of Programs:
 Community Mental Health Services 3,466,800
 Mental Health Centers 6,400,000
 State Hospital 1,200,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the \$720,400 provided to the Department of Human Services for the Weber Human Services Behavioral and Physical Health Integration Pilot not lapse at the close of FY 2015. The nonlapsing funding for FY 2016 is limited to spending on the Weber Human Services Behavioral and Physical Health Integration Pilot. Money is to be spent over future years in equal amount each year.

The \$1,500,000 in federal funds appropriated for the Mental Health Early Intervention for Children/Youth in Department of Human Services - Substance Abuse and Mental Health line item is dependent upon the availability of and qualification for the Mental Health Early

Intervention for Children/Youth for Temporary Assistance for Needy Families federal funds.

The Legislature intends funds provided to local mental health centers for Medicaid match be used solely for that purpose. The Legislature further intends the Division of Substance Abuse and Mental Health (DSAMH), in conjunction with the Utah Association of Counties and local mental health centers, provide a report to the Office of the Legislative Fiscal Analyst no later than September 1, 2014. The report shall include, at a minimum: 1) FY 2009 through FY 2013 General Fund amounts passed through from DSAMH to each individual local mental health center, 2) FY 2009 through FY 2013 Medicaid caseloads for each individual local mental health center and actual expenditures associated with the Medicaid caseloads served during those years as well as actual Medicaid match paid in association with the expenditures, 3) FY 2014 and FY 2015 estimated Medicaid match amounts for each local mental health center, 4) an assessment regarding uniformity, or lack of uniformity, of Medicaid match need across all local mental health centers, 5) a review of options for improvement and recommendations to address any existing need without providing funds unnecessarily, and 6) any other relevant data in understanding where and to what extent there exists Medicaid match issues.

Item 80

To Department of Human Services - Division of Services for People with Disabilities

From General Fund	1,048,800
From General Fund, One-time	1,455,200
From Federal Funds	1,000,000
From Revenue Transfers - Medicaid . . .	5,007,000
From Beginning Nonlapsing Appropriation Balances	330,200
Schedule of Programs:	
Community Supports Waiver	7,841,200
Non-waiver Services	1,000,000

The Legislature intends the Department of Human Services provide a report to the Office of the Legislative Fiscal Analyst no later than September 1, 2014. The report shall include, at a minimum: 1) detailed information reflecting current transportation funding and expenditures for individuals with disabilities provided in the Division of Services for People with Disabilities (DSPD), 2) current and historical rates paid by DSPD for transportation, 3) comparisons with other similar rates paid in other agencies, 4) analysis of relevant fiscal implications, 5) review of options for improvement, 6) and a listing of similar rates as paid in surrounding and other selected states.

The Legislature intends the Division of Services for People with Disabilities (DSPD) in the Department of Human Services actively seek ways to revise its Needs

Assessment process to insure, within the requirements found at UCA 62A-5-102(4)(b) regarding allocation of new appropriations for eligible persons waiting for services from DSPD, that in determining the prioritization for funding, a persons age, family status, and family income are not a part of the needs determination. The Legislature further intends DSPD provide to the Office of the Legislative Fiscal Analyst no later than September 1, 2014 a report that includes a(n): 1) detailed description of the current Needs Assessment process, 2) review of other options and their impact including possible modifications to current statute, 3) review of relevant data informing why individuals are currently not receiving services, and 4) assessment of other states processes and how they determine who receives funding. The Legislature further intends that the study include supported employment to determine if we are being successful in keeping people off of the waiting list.

The Legislature intends that \$330,200 in Beginning Nonlapsing provided to the Department of Human Services is dependent upon up to \$330,200 of savings above \$800,000 from affordable care act mandatory changes in the Department of Workforce Services in FY 2014. The use of any nonlapsing funds is limited to respite care provided by the Department of Human Services in FY 2015.

The \$1,000,000 in federal funds appropriated for Supported Employment for Individuals with Disabilities in Department of Human Services - Services for People with Disabilities line item is dependent upon the availability of and qualification for Supported Employment for Individuals with Disabilities for Temporary Assistance for Needy Families federal funds.

Item 81

To Department of Human Services - Office of Recovery Services

From Dedicated Credits Revenue	2,053,300
Schedule of Programs:	
Child Support Services	2,053,300

The Legislature intends the \$70,000 in new funding provided for the Independent Study Requiring an Open Child Support Case as a Condition of Food Stamps Eligibility to the Department of Human Services require that the independent study be provided to the Office of the Legislative Fiscal Analyst no later than September 1, 2014. The study shall include a(n): 1) discussion of options for a voluntary program, 2) implication on systems and staffing, 3) analysis of relevant fiscal implications, 4) review of demographic data informing why individuals are currently not seeking child support, 5) review of phase-in options to implement, 6) inventory of other states currently availing themselves of this option, and 7) results following implementation of a similar policy with

Temporary Assistance for Needy Families and Medicaid.

Item 82

To Department of Human Services - Division of Child and Family Services

From General Fund	690,600
From General Fund, One-time	1,247,500
From Federal Funds	919,000
From General Fund Restricted - Children's Account	50,000
Schedule of Programs:	
Out-of-Home Care	2,163,600
Domestic Violence	693,500
Children's Account	50,000

The Legislature intends that the \$500,000 provided to the Department of Human Services for the Family Resource Facilitator Higher Education Navigator Program increase from federal Temporary Assistance for Needy Families (TANF) funding spent over future years in equal amount each year for the following two years.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the \$400,000 provided to the Department of Human Services for the GrandFamilies program not lapse at the close of FY 2015. The nonlapsing funding for FY 2016 is limited to spending on the GrandFamilies program. Money is to be spent over future years in equal amount each year.

The \$750,000 in federal funds appropriated for the Family Resource Facilitator Higher Education Navigator Program in Department of Human Services - Child and Family Services line item is dependent upon the availability of and qualification for the Family Resource Facilitator Higher Education Navigator Program for Temporary Assistance for Needy Families federal funds.

Item 83

To Department of Human Services - Division of Aging and Adult Services

From General Fund, One-time	150,000
Schedule of Programs:	
Local Government Grants - Formula Funds	150,000

STATE BOARD OF EDUCATION

Item 84

To State Board of Education - State Office of Rehabilitation

From Education Fund	1,747,700
From Education Fund, One-time	750,000
From Federal Funds	6,155,600
Schedule of Programs:	
Rehabilitation Services	8,571,600
Deaf and Hard of Hearing	81,700

The Legislature intends that the Utah State Office of Rehabilitation prepare proposed performance measures for all new state funding or TANF federal funds for building blocks and give this information to the Office of the Legislative Fiscal Analyst by

June 30, 2014. The Utah State Office of Rehabilitation shall provide its first report on its performance measures to the Office of the Legislative Fiscal Analyst by October 31, 2014. The Office of the Legislative Fiscal Analyst shall give this information to the legislative staff of the Health and Human Services Interim Committee. If the new money will go to a pass through entity, the Utah State Office of Rehabilitation shall work with each pass through entity to provide the same performance measure information.

The Legislature intends that the Departments of Workforce Services, Health, Human Services, Technology Services, and the Utah State Office of Rehabilitation provide a report regarding all current background checks of individuals and possible efficiencies for consolidation. The Legislature intends that agencies provide a report to the Office of the Legislative Fiscal Analyst by September 1, 2014. The report shall include the following regarding each background check program: (1) name and purpose of the program, (2) expenditures and staffing for the last three years, (3) types of problems the background check is looking for, (4) the databases searched, and (5) technology used. The report should provide recommendations where different background check systems might be combined.

HIGHER EDUCATION

UNIVERSITY OF UTAH

Item 85

To University of Utah - Education and General

From General Fund	(15,000,000)
From Education Fund	15,779,600
From Education Fund, One-time	150,000
Schedule of Programs:	
Education and General	929,600

The Legislature intends that the University of Utah report on the following performance measures: (1) graduation rates (100 percent, 150 percent, and 200 percent) by cohort, with comparisons to national averages; (2) transfer and retention rates, by cohort; (3) job placement rates following graduation, by classification of instructional program (CIP) where feasible; (4) cost per degree as defined by CIP, with comparisons to national averages, if available; (5) percentage of students enrolling in, and successfully completing, developmental mathematics course who immediately or concurrently enroll in college level math (1030 or higher); and (6) the amount of grant money applied for and received and the number of research/outreach initiatives funded by non-state-funded grants. The Legislature intends that this information be available to the Higher Education Appropriations Subcommittee by January 15, 2015.

The Legislature intends that the University of Utah purchase seven vehicles in FY 2015.

UTAH STATE UNIVERSITY

Item 86

To Utah State University - Education and General
 From General Fund 1,500,000
 From Education Fund 1,686,000
 From Education Fund, One-time (66,400)
 Schedule of Programs:
 Education and General 1,619,600
 USU - School of Veterinary Medicine 1,500,000

The Legislature intends that Utah State University report on the following performance measures: (1) graduation rates (100 percent, 150 percent, and 200 percent) by cohort, with comparisons to national averages; (2) transfer and retention rates, by cohort; (3) job placement rates following graduation, by classification of instructional program (CIP) where feasible; (4) cost per degree as defined by CIP, with comparisons to national averages, if available; (5) percentage of students enrolling in, and successfully completing, developmental mathematics course who immediately or concurrently enroll in college level math (1030 or higher); and (6) the amount of grant money applied for and received and the number of research/outreach initiatives funded by non-state-funded grants. The Legislature intends that this information be available to the Higher Education Appropriations Subcommittee by January 15, 2015.

Item 87

To Utah State University - USU - Eastern Education and General
 From Education Fund 415,600
 From Education Fund, One-time (328,900)
 Schedule of Programs:
 USU - Eastern Education and General 86,700

Item 88

To Utah State University - Educationally Disadvantaged
 From Education Fund (159,700)
 Schedule of Programs:
 Educationally Disadvantaged (159,700)

Item 89

To Utah State University - Uintah Basin Regional Campus
 From Education Fund (26,000)
 Schedule of Programs:
 Uintah Basin Regional Campus (26,000)

Item 90

To Utah State University - Southeastern Continuing Education Center
 From Education Fund 41,700
 Schedule of Programs:
 Southeastern Continuing Education Center 41,700

Item 91

To Utah State University - Brigham City Regional Campus
 From Education Fund 4,036,300
 From Education Fund, One-time (365,400)
 Schedule of Programs:
 Brigham City Regional Campus 3,670,900

Item 92

To Utah State University - Tooele Regional Campus
 From Education Fund 1,825,200
 Schedule of Programs:
 Tooele Regional Campus 1,825,200

Item 93

To Utah State University - Agriculture Experiment Station
 From Education Fund 173,800
 Schedule of Programs:
 Agriculture Experiment Station 173,800

Item 94

To Utah State University - Cooperative Extension
 From Education Fund 189,700
 From Education Fund, One-time 500,000
 Schedule of Programs:
 Cooperative Extension 689,700

WEBER STATE UNIVERSITY

Item 95

To Weber State University - Education and General
 From Education Fund 6,093,800
 From Education Fund, One-time (711,000)
 Schedule of Programs:
 Education and General 5,382,800

The Legislature intends that Weber State University report on the following performance measures: (1) graduation rates (100 percent, 150 percent, and 200 percent) by cohort, with comparisons to national averages; (2) transfer and retention rates, by cohort; (3) job placement rates following graduation, by classification of instructional program (CIP) where feasible; (4) cost per degree as defined by CIP, with comparisons to national averages, if available; and (5) percentage of students enrolling in, and successfully completing, developmental mathematics course who immediately or concurrently enroll in college level math (1030 or higher). The Legislature intends that this information be available to the Higher Education Appropriations Subcommittee by January 15, 2015.

SOUTHERN UTAH UNIVERSITY

Item 96

To Southern Utah University - Education and General
 From Education Fund 415,000
 Schedule of Programs:
 Education and General 415,000

The Legislature intends that Southern Utah University report on the following performance measures: (1) graduation rates

(100 percent, 150 percent, and 200 percent) by cohort, with comparisons to national averages; (2) transfer and retention rates, by cohort; (3) job placement rates following graduation, by classification of instructional program (CIP) where feasible; (4) cost per degree as defined by CIP, with comparisons to national averages, if available; and (5) percentage of students enrolling in, and successfully completing, developmental mathematics course who immediately or concurrently enroll in college level math (1030 or higher). The Legislature intends that this information be available to the Higher Education Appropriations Subcommittee by January 15, 2015.

UTAH VALLEY UNIVERSITY

Item 97

To Utah Valley University - Education and General

From Education Fund 22,207,900
 From Education Fund, One-time (831,900)
 Schedule of Programs:
 Education and General 21,376,000

The Legislature intends that Utah Valley University report on the following performance measures: (1) graduation rates (100 percent, 150 percent, and 200 percent) by cohort, with comparisons to national averages; (2) transfer and retention rates, by cohort; (3) job placement rates following graduation, by classification of instructional program (CIP) where feasible; (4) cost per degree as defined by CIP, with comparisons to national averages, if available; and (5) percentage of students enrolling in, and successfully completing, developmental mathematics course who immediately or concurrently enroll in college level math (1030 or higher). The Legislature intends that this information be available to the Higher Education Appropriations Subcommittee by January 15, 2015.

The Legislature intends that Utah Valley University purchase five vehicles in FY 2015.

SNOW COLLEGE

Item 98

To Snow College - Education and General

From Education Fund 244,600
 Schedule of Programs:
 Education and General 244,600

The Legislature intends that Snow College report on the following performance measures: (1) graduation rates (100 percent, 150 percent, and 200 percent) by cohort, with comparisons to national averages; (2) transfer and retention rates, by cohort; (3) job placement rates following graduation, by classification of instructional program (CIP) where feasible; (4) cost per degree as defined by CIP, with comparisons to national averages, if available; and (5) percentage of students enrolling in, and successfully

completing, developmental mathematics course who immediately or concurrently enroll in college level math (1030 or higher). The Legislature intends that this information be available to the Higher Education Appropriations Subcommittee by January 15, 2015.

DIXIE STATE UNIVERSITY

Item 99

To Dixie State University - Education and General

From Education Fund 5,856,800
 Schedule of Programs:
 Education and General 5,856,800

The Legislature intends that Dixie State University report on the following performance measures: (1) graduation rates (100 percent, 150 percent, and 200 percent) by cohort, with comparisons to national averages; (2) transfer and retention rates, by cohort; (3) job placement rates following graduation, by classification of instructional program (CIP) where feasible; (4) cost per degree as defined by CIP, with comparisons to national averages, if available; and (5) percentage of students enrolling in, and successfully completing, developmental mathematics course who immediately or concurrently enroll in college level math (1030 or higher). The Legislature intends that this information be available to the Higher Education Appropriations Subcommittee by January 15, 2015.

The Legislature intends that Dixie State University purchase three vehicles in FY 2015.

SALT LAKE COMMUNITY COLLEGE

Item 100

To Salt Lake Community College - Education and General

From Education Fund 16,578,700
 Schedule of Programs:
 Education and General 16,578,700

The Legislature intends that Salt Lake Community College report on the following performance measures: (1) graduation rates (100 percent, 150 percent, and 200 percent) by cohort, with comparisons to national averages; (2) transfer and retention rates, by cohort; (3) job placement rates following graduation, by classification of instructional program (CIP) where feasible; (4) cost per degree as defined by CIP, with comparisons to national averages, if available; and (5) percentage of students enrolling in, and successfully completing, developmental mathematics course who immediately or concurrently enroll in college level math (1030 or higher). The Legislature intends that this information be available to the Higher Education Appropriations Subcommittee by January 15, 2015.

The Legislature intends that Salt Lake Community College purchase a vehicle in FY 2015.

Item 101

To Salt Lake Community College - School of Applied Technology
 From Education Fund 53,800
 Schedule of Programs:
 School of Applied Technology 53,800

STATE BOARD OF REGENTS

Item 102

To State Board of Regents - Administration
 From Education Fund 242,500
 Schedule of Programs:
 Administration 242,500

The Legislature intends that State Board of Regents make earnings and other pertinent data from Utah Data Alliance available to students, parents, teachers, counselors, and other interested parties, subject to the Utah Data Alliance receiving continued funding.

The Legislature further intends that the State Board of Regents support institutions within the Utah System of Higher Education in compiling, standardizing, and reporting data to the Higher Education Appropriations Subcommittee.

The Legislature intends that the State Board of Regents explore the feasibility of collecting graduation rates by CIP and report its findings to the Legislature during the 2015 General Session.

Item 103

To State Board of Regents - Student Assistance
 From Education Fund, One-time 3,500,000
 Schedule of Programs:
 Regents' Scholarship 3,000,000
 New Century Scholarships 500,000

Item 104

To State Board of Regents - Education Excellence
 From Education Fund 500,000
 From Education Fund, One-time 1,500,000
 Schedule of Programs:
 Education Excellence 2,000,000

UTAH COLLEGE OF APPLIED TECHNOLOGY

Item 105

To Utah College of Applied Technology - Administration
 From Education Fund 500,000
 From Education Fund, One-time 100,000
 Schedule of Programs:
 Administration 100,000
 Custom Fit 500,000

The Legislature intends that the Utah College of Applied Technology provide summary year-end performance data for certificate-seeking, occupational upgrade, other post-secondary, and secondary students detailing the number and percentage of: (1) completers (graduate and non-graduate/early-hire completers, where applicable); (2) non-completers, and (3) those who are still enrolled at the end of the fiscal

year. The Legislature further intends that the Utah College of Applied Technology provide summary data detailing average cost per membership hour, average cost per certificate awarded, and average cost per occupational upgrade awarded.

Item 106

To Utah College of Applied Technology - Bridgerland Applied Technology College
 From Education Fund 592,900
 Schedule of Programs:
 Bridgerland Applied Technology College 592,900

The Legislature intends that Bridgerland Applied Technology College provide year-end performance data for certificate-seeking, occupational upgrade, other post-secondary, and secondary students detailing the number and percentage of: (1) completers (graduate and non-graduate/early-hire completers, where applicable); (2) non-completers, and (3) those who are still enrolled at the end of the fiscal year. The Legislature further intends that Bridgerland Applied Technology College provide average cost per membership hour, average cost per certificate awarded, and average cost per occupational upgrade awarded.

Item 107

To Utah College of Applied Technology - Davis Applied Technology College
 From Education Fund 991,000
 Schedule of Programs:
 Davis Applied Technology College 991,000

The Legislature intends that Davis Applied Technology College provide year-end performance data for certificate-seeking, occupational upgrade, other post-secondary, and secondary students detailing the number and percentage of: (1) completers (graduate and non-graduate/early-hire completers, where applicable); (2) non-completers, and (3) those who are still enrolled at the end of the fiscal year. The Legislature further intends that Davis Applied Technology College provide average cost per membership hour, average cost per certificate awarded, and average cost per occupational upgrade awarded.

Item 108

To Utah College of Applied Technology - Dixie Applied Technology College
 From Education Fund 605,700
 Schedule of Programs:
 Dixie Applied Technology College 605,700

The Legislature intends that Dixie Applied Technology College provide year-end performance data for certificate-seeking, occupational upgrade, other post-secondary, and secondary students detailing the number and percentage of: (1) completers (graduate and non-graduate/early-hire completers, where applicable); (2) non-completers, and (3) those who are still enrolled at the end of the fiscal year. The Legislature further

intends that Dixie Applied Technology College provide average cost per membership hour, average cost per certificate awarded, and average cost per occupational upgrade awarded.

Item 109

To Utah College of Applied Technology - Mountainland Applied Technology College
From Education Fund 2,040,400
Schedule of Programs:

Mountainland Applied Technology College 2,040,400

The Legislature intends that Mountainland Applied Technology College provide year-end performance data for certificate-seeking, occupational upgrade, other post-secondary, and secondary students detailing the number and percentage of: (1) completers (graduate and non-graduate/early-hire completers, where applicable); (2) non-completers, and (3) those who are still enrolled at the end of the fiscal year. The Legislature further intends that Mountainland Applied Technology College provide average cost per membership hour, average cost per certificate awarded, and average cost per occupational upgrade awarded.

The Legislature intends that Mountainland Applied Technology College purchase a vehicle in FY 2015.

Item 110

To Utah College of Applied Technology - Ogden/Weber Applied Technology College
From Education Fund 671,500
Schedule of Programs:

Ogden/Weber Applied Technology College 671,500

The Legislature intends that Ogden/Weber Applied Technology College provide year-end performance data for certificate-seeking, occupational upgrade, other post-secondary, and secondary students detailing the number and percentage of: (1) completers (graduate and non-graduate/early-hire completers, where applicable); (2) non-completers, and (3) those who are still enrolled at the end of the fiscal year. The Legislature further intends that Ogden/Weber Applied Technology College provide average cost per membership hour, average cost per certificate awarded, and average cost per occupational upgrade awarded.

Item 111

To Utah College of Applied Technology - Southwest Applied Technology College
From Education Fund 946,500
From Education Fund, One-time (587,500)
Schedule of Programs:

Southwest Applied Technology College 359,000

The Legislature intends that Southwest Applied Technology College provide year-end performance data for certificate-seeking, occupational upgrade, other post-secondary,

and secondary students detailing the number and percentage of: (1) completers (graduate and non-graduate/early-hire completers, where applicable); (2) non-completers, and (3) those who are still enrolled at the end of the fiscal year. The Legislature further intends that Southwest Applied Technology College provide average cost per membership hour, average cost per certificate awarded, and average cost per occupational upgrade awarded.

Item 112

To Utah College of Applied Technology - Tooele Applied Technology College
From Education Fund 358,600
Schedule of Programs:

Tooele Applied Technology College 358,600

The Legislature intends that Tooele Applied Technology College provide year-end performance data for certificate-seeking, occupational upgrade, other post-secondary, and secondary students detailing the number and percentage of: (1) completers (graduate and non-graduate/early-hire completers, where applicable); (2) non-completers, and (3) those who are still enrolled at the end of the fiscal year. The Legislature further intends that Tooele Applied Technology College provide average cost per membership hour, average cost per certificate awarded, and average cost per occupational upgrade awarded.

The Legislature intends that Tooele Applied Technology College purchase a vehicle in FY 2015.

Item 113

To Utah College of Applied Technology - Uintah Basin Applied Technology College
From Education Fund 380,900
Schedule of Programs:

Uintah Basin Applied Technology College 380,900

The Legislature intends that Uintah Basin Applied Technology College provide year-end performance data for certificate-seeking, occupational upgrade, other post-secondary, and secondary students detailing the number and percentage of: (1) completers (graduate and non-graduate/early-hire completers, where applicable); (2) non-completers, and (3) those who are still enrolled at the end of the fiscal year. The Legislature further intends that Uintah Basin Applied Technology College provide average cost per membership hour, average cost per certificate awarded, and average cost per occupational upgrade awarded.

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF NATURAL RESOURCES

Item 114

To Department of Natural Resources - Administration

From General Fund	(78,000)
From General Fund, One-time	3,300,000
From General Fund Restricted - Sovereign Land Management	78,000
Schedule of Programs: Executive Director	3,300,000

The Legislature intends that the sage grouse appropriation of \$2,000,000 in FY 2015 be used by the Department of Natural Resources to solicit responders and award a contract or contracts, in compliance with the requirements of the Utah Procurement Code, to hire a contractor or contractors for the purpose of delaying a possible sage grouse listing as an endangered species. The Legislature further intends that the contractor or contractors use the funding for the following purposes: (1) legal strategies; (2) educating members of Congress; and (3) engaging the public in the process. The contractor or contractors shall provide written, quarterly progress reports to the Department and to the Natural Resources, Agriculture, and Environment Interim Committee. The Department and the contractor or contractors shall report on or before November 2014 to the Natural Resources, Agriculture, and Environment Interim Committee on the progress and results achieved.

Item 115

To Department of Natural Resources - Species Protection	
From General Fund Restricted - Species Protection	500,000
Schedule of Programs: Species Protection	500,000

The Legislature intends that the last \$200,000 of \$500,000 appropriation in FY 2015 for carp removal be met with a one-to-one match by the Utah Lake Commission.

Item 116

To Department of Natural Resources - Watershed

The Legislature intends that the \$2 million increase from the Sovereign Lands Management restricted account be used for pre-suppression projects. The Legislature further intends that the Watershed Program manager provide a progress report on these projects to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee by November 2014.

Item 117

To Department of Natural Resources - Forestry, Fire and State Lands	
From General Fund	75,000
From General Fund, One-time	(1,675,200)
From General Fund Restricted - Sovereign Land Management	8,871,800
Schedule of Programs: Division Administration	2,950,000
Fire Management	56,600

Lands Management	85,000
Program Delivery	70,000
Project Management	4,110,000

The Legislature intends that the appropriation for catastrophic fires be used for on-the-ground projects, not to be used for education, in FY 2015 and report to the Natural Resources, Agriculture, and Environment Interim Subcommittee by November 30, 2014.

The Legislature intends that the agencies that will be housed in the new Cedar City Regional Administration building pay their rents directly to the Sovereign Lands Management Restricted Account from which the \$2,950,000 has been borrowed until the debt is paid off.

Item 118

To Department of Natural Resources - Oil, Gas and Mining	
From General Fund Restricted - Oil & Gas Conservation Account	75,000
Schedule of Programs: Oil and Gas Program	75,000

Item 119

To Department of Natural Resources - Wildlife Resources	
From General Fund Restricted - Wildlife Conservation Easement Account	15,000
From General Fund Restricted - Wildlife Resources	3,175,000
Schedule of Programs: Administrative Services	1,700,000
Habitat Section	15,000
Wildlife Section	200,000
Aquatic Section	1,275,000

Item 120

To Department of Natural Resources - Cooperative Agreements	
From Federal Funds	5,078,300
Schedule of Programs: Cooperative Agreements	5,078,300

Item 121

To Department of Natural Resources - Parks and Recreation	
From Federal Funds	529,400
Schedule of Programs: Executive Management	7,900
Recreation Services	521,500

The Legislature intends that the \$50,000 appropriation increase for This Is the Place Heritage Park be transferred to the park only after the park has received matching funds of at least \$50,000 from Salt Lake City and at least \$50,000 from Salt Lake County.

Item 122

To Department of Natural Resources - Parks and Recreation Capital Budget	
From Federal Funds	69,700
Schedule of Programs: Trails Program	22,100
Land and Water Conservation	47,600

Item 123

To Department of Natural Resources -
 Utah Geological Survey
 From General Fund 106,000
 From Federal Funds 119,500
 From General Fund Restricted -
 Mineral Lease 93,600
 Schedule of Programs:
 Energy and Minerals 213,100
 Ground Water and Paleontology 106,000

Item 124

To Department of Natural Resources -
 Water Rights
 From General Fund (42,800)
 Schedule of Programs:
 Administration (42,800)

The Legislature intends that the Division of Water Rights report to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee on the status of the water commissioners compensation before November 2014.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 125

To Department of Environmental Quality -
 Air Quality
 From General Fund 900,400
 From General Fund, One-time 1,400,000
 Schedule of Programs:
 Air Quality 2,300,400

The Legislature intends that the one-time appropriation for air quality research be nonlapsing. Any nonlapsing funds shall be used to facilitate completion of contracted research work initiated during FY 2015.

Item 126

To Department of Environmental
 Quality - Radiation Control
 From General Fund 50,000
 From Dedicated Credits Revenue 14,400
 Schedule of Programs:
 Radiation Control 64,400

Item 127

To Department of Environmental
 Quality - Drinking Water
 From Water Development Security
 Fund - Drinking Water Loan
 Program 800,000
 Schedule of Programs:
 Drinking Water 800,000

Item 128

To Department of Environmental Quality -
 Solid and Hazardous Waste
 From General Fund Restricted -
 Environmental Quality (187,200)
 Schedule of Programs:
 Solid and Hazardous Waste (187,200)

PUBLIC LANDS POLICY COORDINATION OFFICE

Item 129

To Public Lands Policy Coordination Office
 From General Fund Restricted -
 Constitutional Defense (700,000)
 From General Fund Restricted -
 Sovereign Land Management 1,675,000
 Schedule of Programs:
 Public Lands Office 975,000

The Legislature intends that the Public Lands Policy Coordination Office present to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee by September 30, 2014 a minimum of three performance measures that are quantifiable and reflect the office's mission and objectives.

GOVERNOR'S OFFICE

Item 130

To Governor's Office - Office of
 Energy Development
 From General Fund 265,000
 Schedule of Programs:
 Office of Energy Development 265,000

DEPARTMENT OF AGRICULTURE AND FOOD

Item 131

To Department of Agriculture and
 Food - Administration
 From General Fund (2,653,400)
 From Federal Funds (651,000)
 From Dedicated Credits Revenue (1,180,100)
 From General Fund Restricted -
 Livestock Brand (900)
 From Agriculture Resource
 Development Fund (181,600)
 From Pass-through (54,700)
 Schedule of Programs:
 General Administration 300,000
 Regulatory Services (3,923,400)
 Marketing and Development (325,900)
 Grazing Improvement (772,400)

The Legislature intends that the Department of Agriculture and Food purchase seven vehicles in FY 2014.

Item 132

To Department of Agriculture and Food -
 Animal Health
 From General Fund 34,200
 From General Fund, One-time 384,300
 From Dedicated Credits Revenue 250,000
 From General Fund Restricted -
 Livestock Brand 900
 Schedule of Programs:
 Animal Health 669,400

Item 133

To Department of Agriculture and
 Food - Plant Industry
 From General Fund 476,300
 From Federal Funds 95,000
 From Dedicated Credits Revenue 62,100

From Agriculture Resource
Development Fund 181,600
Schedule of Programs:
Environmental Quality (19,500)
Plant Industry 62,100
Grazing Improvement Program 772,400

Item 134

To Department of Agriculture
and Food - Regulatory Services
From General Fund 1,847,600
From Federal Funds 556,000
From Dedicated Credits Revenue 1,756,900
From Pass-through 54,700
Schedule of Programs:
Regulatory Services 4,215,200

Item 135

To Department of Agriculture
and Food - Marketing and Development
From General Fund 559,900
Schedule of Programs:
Marketing and Development 559,900

Item 136

To Department of Agriculture and
Food - Utah State Fair Corporation
From General Fund (675,200)
From General Fund, One-time 1,275,200
Schedule of Programs:
State Fair Corporation 600,000

The Legislature intends that the State Fair Corporation provide monthly reports on their budgets to the chairs of the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee in FY 2014 and FY 2015.

**SCHOOL AND INSTITUTIONAL
TRUST LANDS ADMINISTRATION**

Item 137

To School and Institutional Trust
Lands Administration
From Land Grant Management Fund,
One-time 446,300
Schedule of Programs:
Director 400,000
Surface 46,300

**RETIREMENT AND
INDEPENDENT ENTITIES**

UTAH EDUCATION NETWORK

Item 138

To Utah Education Network
From Education Fund 434,200
Schedule of Programs:
Technical Services 434,200

EXECUTIVE APPROPRIATIONS

**DEPARTMENT OF VETERANS'
AND MILITARY AFFAIRS**

Item 139

To Department of Veterans' and Military Affairs -
Veterans' and Military Affairs

From General Fund 724,600
From General Fund, One-time 300,000
Schedule of Programs:
Outreach Services 74,600
Military Affairs 950,000

CAPITOL PRESERVATION BOARD

Item 140

To Capitol Preservation Board
From General Fund 500,000
From General Fund, One-time 125,000
Schedule of Programs:
Capitol Preservation Board 625,000

LEGISLATURE

Item 141

To Legislature - Senate
From General Fund 96,000
From General Fund, One-time 50,000
Schedule of Programs:
Administration 146,000

Item 142

To Legislature - House of Representatives
From General Fund 156,000
From General Fund, One-time 50,000
Schedule of Programs:
Administration 206,000

Item 143

To Legislature - Office of the Legislative
Auditor General
From General Fund 102,900
Schedule of Programs:
Administration 102,900

Item 144

To Legislature - Office of the Legislative
Fiscal Analyst
From General Fund 408,900
Schedule of Programs:
Administration and Research 408,900

Item 145

To Legislature - Legislative Printing
From General Fund 10,700
Schedule of Programs:
Administration 10,700

Item 146

To Legislature - Office of Legislative
Research and General Counsel
From General Fund 1,392,000
Schedule of Programs:
Administration 1,392,000

Item 147

To Legislature - Legislative Services
From General Fund 704,200
Schedule of Programs:
Legislative Services 704,200

Subsection 1(b). Expendable Funds and

Accounts. The Legislature has reviewed the following expendable funds. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated. Outlays and expenditures from the recipient funds or accounts may be made without further

legislative action according to a fund or account's applicable authorizing statute.

**EXECUTIVE OFFICES
AND CRIMINAL JUSTICE**

GOVERNOR'S OFFICE

Item 148

To Governor's Office - Juvenile
Accountability Incentive Block
Grant Fund
From Federal Funds 1,000,000
Schedule of Programs:
Juvenile Accountability Incentive
Block Grant Fund 1,000,000

Item 149

To Governor's Office - State Elections
Grant Fund
From Federal Funds 584,000
From Interest Income 12,000
Schedule of Programs:
State Elections Grant Fund 596,000

Item 150

To Governor's Office - Justice Assistance
Grant Fund
From Federal Funds 3,000,000
Schedule of Programs:
Justice Assistance Grant Fund 3,000,000

ATTORNEY GENERAL

Item 151

To Attorney General - Crime and
Violence Prevention Fund
From Beginning Fund Balance 168,500
From Ending Fund Balance (88,500)
Schedule of Programs:
Crime and Violence Prevention Fund ... 80,000

DEPARTMENT OF PUBLIC SAFETY

Item 152

To Department of Public Safety -
Alcoholic Beverage Control
Act Enforcement Fund
From Licenses/Fees 3,500,000
From Interest Income 20,000
From Beginning Fund Balance 2,907,900
From Ending Fund Balance (2,907,900)
Schedule of Programs:
Alcoholic Beverage Control
Act Enforcement Fund 3,520,000

**INFRASTRUCTURE AND
GENERAL GOVERNMENT**

**DEPARTMENT OF
ADMINISTRATIVE SERVICES**

Item 153

To Department of Administrative Services -
Child Welfare Parental Defense Fund
From Beginning Fund Balance 79,000
From Ending Fund Balance (67,000)
Schedule of Programs:
Child Welfare Parental Defense Fund ... 12,000

Item 154

To Department of Administrative Services -
State Archives Fund
From Revenue Transfers - Other Funds 600
From Beginning Fund Balance 1,200
From Ending Fund Balance (1,500)
Schedule of Programs:
State Archives Fund 300

Item 155

To Department of Administrative Services -
State Debt Collection Fund
From Revenue Transfers -
Other Funds 1,730,000
From Beginning Fund Balance 684,000
From Ending Fund Balance (764,000)
Schedule of Programs:
State Debt Collection Fund 1,650,000

Item 156

To Department of Administrative Services -
Wire Estate Memorial Fund
From Beginning Fund Balance 161,500
From Ending Fund Balance (156,500)
Schedule of Programs:
Wire Estate Memorial Fund 5,000

**BUSINESS, ECONOMIC
DEVELOPMENT, AND LABOR**

DEPARTMENT OF HERITAGE AND ARTS

Item 157

To Department of Heritage and Arts -
State Library Donation Fund
From Interest Income 5,500
From Beginning Fund Balance 1,149,500
From Ending Fund Balance (905,000)
Schedule of Programs:
State Library Donation Fund 250,000

Item 158

To Department of Heritage and Arts -
History Donation Fund
From Dedicated Credits Revenue 7,500
From Interest Income 1,500
From Beginning Fund Balance 252,100
From Ending Fund Balance (151,100)
Schedule of Programs:
History Donation Fund 110,000

Item 159

To Department of Heritage and Arts -
State Arts Endowment Fund
From Interest Income 9,000
From Beginning Fund Balance 279,700
From Ending Fund Balance (281,200)
Schedule of Programs:
State Arts Endowment Fund 7,500

**GOVERNOR'S OFFICE OF
ECONOMIC DEVELOPMENT**

Item 160

To Governor's Office of Economic
Development - Industrial Assistance Fund
From Interest Income 150,000
From Revenue Transfers 6,500,000
From Revenue Transfers -
Within Agency (250,000)

From Beginning Fund Balance 29,005,300
 From Ending Fund Balance (33,307,700)
 Schedule of Programs:
 Industrial Assistance Fund 2,097,600

Item 161

To Governor's Office of Economic Development -
 Private Proposal Restricted Revenue Fund
 From Beginning Fund Balance 7,000
 From Ending Fund Balance (7,000)

Item 162

To Governor's Office of Economic
 Development - Transient Room Tax Fund
 From Transient Room Tax Fund 2,100,000
 Schedule of Programs:
 Transient Room Tax Fund 2,100,000

DEPARTMENT OF COMMERCE**Item 163**

To Department of Commerce -
 Architecture Education and Enforcement Fund
 From Licenses/Fees 9,800
 From Interest Income 200
 From Beginning Fund Balance 30,000
 Schedule of Programs:
 Architecture Education and
 Enforcement Fund 40,000

Item 164

To Department of Commerce -
 Consumer Protection Education
 and Training Fund
 From Licenses/Fees 147,000
 From Interest Income 3,000
 From Beginning Fund Balance 500,000
 From Ending Fund Balance (325,000)
 Schedule of Programs:
 Consumer Protection Education
 and Training Fund 325,000

Item 165

To Department of Commerce -
 Cosmetologist/Barber, Esthetician,
 Electrologist Fund
 From Licenses/Fees 19,800
 From Interest Income 200
 From Beginning Fund Balance 10,000
 Schedule of Programs:
 Cosmetologist/Barber, Esthetician,
 Electrologist Fund 30,000

Item 166

To Department of Commerce -
 Land Surveyor/Engineer Education
 and Enforcement Fund
 From Licenses/Fees 400
 From Interest Income 100
 From Beginning Fund Balance 50,000
 From Ending Fund Balance (5,500)
 Schedule of Programs:
 Land Surveyor/Engineer Education
 and Enforcement Fund 45,000

Item 167

To Department of Commerce - Landscapes
 Architects Education and Enforcement Fund

From Beginning Fund Balance 10,000
 Schedule of Programs:
 Landscapes Architects Education
 and Enforcement Fund 10,000

Item 168

To Department of Commerce -
 Physicians Education Fund
 From Licenses/Fees 9,800
 From Interest Income 200
 From Beginning Fund Balance 50,000
 From Ending Fund Balance (30,000)
 Schedule of Programs:
 Physicians Education Fund 30,000

Item 169

To Department of Commerce - Real
 Estate Education, Research, and
 Recovery Fund
 From Licenses/Fees 95,000
 From Interest Income 5,000
 From Beginning Fund Balance 830,000
 From Ending Fund Balance (660,000)
 Schedule of Programs:
 Real Estate Education, Research,
 and Recovery Fund 270,000

Item 170

To Department of Commerce - Residence
 Lien Recovery Fund
 From Licenses/Fees 15,000
 From Interest Income 5,000
 From Beginning Fund Balance 1,700,000
 From Ending Fund Balance (720,000)
 Schedule of Programs:
 Residence Lien Recovery Fund 1,000,000

Item 171

To Department of Commerce -
 Residential Mortgage Loan Education,
 Research, and Recovery Fund
 From Licenses/Fees 98,000
 From Interest Income 2,000
 From Beginning Fund Balance 300,000
 From Ending Fund Balance (180,000)
 Schedule of Programs:
 RMLERR Fund 220,000

Item 172

To Department of Commerce - Securities Investor
 Education/Training/Enforcement Fund
 From Licenses/Fees 198,000
 From Interest Income 2,000
 From Beginning Fund Balance 100,000
 Schedule of Programs:
 Securities Investor Education/Training/
 Enforcement Fund 300,000

SOCIAL SERVICES**DEPARTMENT OF HEALTH****Item 173**

To Department of Health - Traumatic
 Brain Injury Fund
 From General Fund, One-time 200,000
 Schedule of Programs:
 Traumatic Brain Injury Fund 200,000

**NATURAL RESOURCES, AGRICULTURE,
AND ENVIRONMENTAL QUALITY**

DEPARTMENT OF NATURAL RESOURCES

Item 174

To Department of Natural Resources -
UGS Sample Library Fund
From Interest Income 400
From Beginning Fund Balance 79,500
From Ending Fund Balance (79,900)

**DEPARTMENT OF
ENVIRONMENTAL QUALITY**

Item 175

To Department of Environmental
Quality - Hazardous Substance
Mitigation Fund
From General Fund Restricted -
Environmental Quality 400,000
Schedule of Programs:
Hazardous Substance Mitigation
Fund 400,000

Item 176

To Department of Environmental Quality -
Waste Tire Recycling Fund
From Dedicated Credits Revenue 3,118,400
From Beginning Fund Balance 2,042,100
From Ending Fund Balance (2,526,700)
Schedule of Programs:
Waste Tire Recycling Fund 2,633,800

**DEPARTMENT OF
AGRICULTURE AND FOOD**

Item 177

To Department of Agriculture and Food -
Salinity Offset Fund
From Revenue Transfers 144,900
From Beginning Fund Balance 667,800
From Ending Fund Balance (312,700)
Schedule of Programs:
Salinity Offset Fund 500,000

Subsection 1(c). Business-like Activities.

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

**INFRASTRUCTURE AND
GENERAL GOVERNMENT**

**DEPARTMENT OF ADMINISTRATIVE
SERVICES INTERNAL SERVICE FUNDS**

Item 178

To Department of Administrative
Services - Division of Finance

The Legislature intends that the Finance internal service fund Consolidated Budget & Accounting Program may add up to two FTE if new customers or tasks come on line. Any added FTE will be reviewed and may be approved by the Legislature in the next legislative session.

Item 179

To Department of Administrative
Services - Division of Fleet Operations
Authorized Capital Outlay 1,411,200

Item 180

To Department of Administrative Services -
Risk Management
Budgeted FTE 1.0

Item 181

To Department of Administrative Services -
Division of Facilities Construction
and Management - Facilities Management
The Legislature intends that the DFCM internal service fund may add up to three FTEs and up to two vehicles beyond the authorized level if new facilities come on line or maintenance agreements are requested. Any added FTEs or vehicles will be reviewed and may be approved by the Legislature in the next legislative session.

**DEPARTMENT OF TECHNOLOGY
SERVICES INTERNAL SERVICE FUNDS**

Item 182

To Department of Technology Services -
Enterprise Technology Division
From Dedicated Credits -
Intragovernmental Revenue (8,621,200)
Schedule of Programs:
ISF - Enterprise Technology
Division (8,621,200)
Budgeted FTE (67.0)
Authorized Capital Outlay (3,102,800)

Item 183

To Department of Technology Services -
Agency Services
From Dedicated Credits -
Intragovernmental Revenue 41,450,100
Schedule of Programs:
ISF - Agency Services Division 41,450,100

**Subsection 1(d). Restricted Fund and
Account Transfers.**

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

**BUSINESS, ECONOMIC
DEVELOPMENT, AND LABOR**

FUND AND ACCOUNT TRANSFERS

Item 184

To Fund and Account Transfers - GFR -
Tourism Marketing Performance Fund
From General Fund, One-time 15,000,000

Schedule of Programs:
 GFR - Tourism Marketing Performance
 Fund 15,000,000

SOCIAL SERVICES

FUND AND ACCOUNT TRANSFERS

Item 185
 To Fund and Account Transfers - GFR -
 Homeless Account
 From General Fund, One-time 500,000
 Schedule of Programs:
 General Fund Restricted - Pamela Atkinson
 Homeless Account 500,000

Subsection 1(e). Transfers to Unrestricted Funds. The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General, Education, or Uniform School Fund as indicated from the restricted funds or accounts indicated. Expenditures and outlays from the General, Education, or Uniform School Fund must be authorized elsewhere in an appropriations act.

INFRASTRUCTURE AND GENERAL GOVERNMENT

TRANSFERS TO UNRESTRICTED FUNDS

Item 186
 To General Fund
 From Purchasing and General Services
 Internal Service Fund 1,900,000
 From Capital Project Fund - Project
 Reserve 5,100,000
 From Nonlapsing Balances -
 Debt Service 14,154,200
 Schedule of Programs:
 General Fund, One-time 21,154,200

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

TRANSFERS TO UNRESTRICTED FUNDS

Item 187
 To General Fund
 From General Fund Restricted -
 Financial Institutions 500,000
 From General Fund Restricted -
 Industrial Assistance Account 1,900,000
 From Nonlapsing Balances -
 Tax Commission 3,000,000
 From Nonlapsing Balances -
 Heritage and Arts 700,000
 Schedule of Programs:
 General Fund, One-time 6,100,000

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

TRANSFERS TO UNRESTRICTED FUNDS

Item 188
 To General Fund
 From General Fund Restricted -
 Species Protection (207,000)

Schedule of Programs:
 General Fund (207,000)

Subsection 1(f). Fiduciary Funds. The Legislature has reviewed proposed revenues, expenditures, fund balances and changes in fund balances for the following fiduciary funds.

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF ADMINISTRATIVE SERVICES

Item 189
 To Department of Administrative Services -
 Utah Navajo Royalties Holding Fund
 From Revenue Transfers -
 Other Funds 5,541,900
 From Beginning Fund Balance 61,134,000
 From Ending Fund Balance (64,154,900)
 Schedule of Programs:
 Utah Navajo Royalties
 Holding Fund 2,521,000

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF NATURAL RESOURCES

Item 190
 To Department of Natural Resources -
 Wildland Fire Suppression Fund
 From Revenue Transfers 2,750,000
 From Beginning Fund Balance 5,400,000
 From Ending Fund Balance (4,850,000)
 Schedule of Programs:
 Wildland Fire Suppression Fund 3,300,000

Subsection 1(g). Capital Project Funds. The Legislature has reviewed the following capital project funds. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated.

INFRASTRUCTURE AND GENERAL GOVERNMENT

CAPITAL BUDGET

Item 191
 To Capital Budget - DFCM Capital
 Projects Fund
 From Revenue Transfers 50,939,100
 From Beginning Fund Balance 22,353,800
 From Ending Fund Balance (10,299,400)
 Schedule of Programs:
 DFCM Capital Projects Fund 62,993,500

Section 2. Effective Date.
 This bill takes effect on July 1, 2014.

CHAPTER 283

H. B. 4

Passed March 12, 2014

Approved April 1, 2014

Effective April 1, 2014

**CURRENT SCHOOL YEAR
SUPPLEMENTAL PUBLIC
EDUCATION BUDGET AMENDMENTS**

Chief Sponsor: Melvin R. Brown

Senate Sponsor: Lyle W. Hillyard

LONG TITLE

General Description:

This bill modifies education funding for school districts, charter schools, and certain state agencies for the fiscal year beginning July 1, 2013, and ending June 30, 2014, and modifies related budgetary provisions.

Highlighted Provisions:

This bill:

- ▶ appropriates funding to school districts and charter schools for educator salary adjustments;
- ▶ provides budget increases for the use and support of certain state education agencies; and
- ▶ balances appropriations among revenue sources and funds.

Monies Appropriated in this Bill:

This bill appropriates for fiscal year 2014:

- ▶ \$37,981,600 from the Education Fund; and
- ▶ (\$33,802,600) from various sources as detailed in this bill.

Other Special Clauses:

This bill provides an immediate effective date.

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

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

**Section 1. Operating and capital budgets --
FY 2014 appropriations for state education
agencies, school districts, and charter
schools.**

(1) (a) The following sums of money are appropriated for the fiscal year beginning July 1, 2013, and ending June 30, 2014.

(b) Under the terms and conditions of Title 63J, Budgeting, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of state education agencies, school districts, and charter schools.

(c) These sums of money are in addition to any amounts previously appropriated for fiscal year 2014.

BASIC SCHOOL PROGRAM

ITEM 1

To Basic School Program

From Education Fund, One-time \$29,504,000

From Closing Nonlapsing
Appropriation Balances (\$29,504,000)

RELATED TO BASIC PROGRAMS

ITEM 2

To Related to Basic Programs - Related to Basic School Programs

From Education Fund, One-time \$7,266,600

From Closing Nonlapsing
Appropriation Balances (\$4,398,600)

Schedule of Programs:

Educator Salary Adjustments \$2,868,000

STATE BOARD OF EDUCATION

ITEM 3

To State Board of Education - State Office of Education

From Education Fund, One-time \$700,000

Schedule of Programs:

Board and Administration \$700,000

ITEM 4

To State Board of Education - State Charter School Board

From Education Fund, One-time \$21,000

Schedule of Programs:

State Charter School Board \$21,000

ITEM 5

To State Board of Education - Educator Licensing Professional Practices

From Professional Practices
Restricted Subfund \$100,000

Schedule of Programs:

Educator Licensing \$100,000

ITEM 6

To State Board of Education - Utah Schools for the Deaf and the Blind

From Education Fund, One-time \$490,000

Schedule of Programs:

Instructional Services \$490,000

Section 2. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 284

H.B. 7

Passed March 12, 2014

Approved April 1, 2014

Effective July 1, 2014

**STATE AGENCY AND HIGHER EDUCATION
COMPENSATION APPROPRIATIONS**

Chief Sponsor: Melvin R. Brown
Senate Sponsor: Lyle W. Hillyard

LONG TITLE

General Description:

This bill supplements or reduces appropriations previously provided for the use and operation of state government for the fiscal year beginning July 1, 2014 and ending June 30, 2015.

Highlighted Provisions:

This bill:

- ▶ provides funding equivalent to a 1.25% cost of living allowance adjustment for state and higher education employees;
- ▶ provides step and lane increases for employees of the Utah Schools for the Deaf and the Blind;
- ▶ provides funding for a 2.2% increase in health insurance benefits rates for state and higher education employees;
- ▶ provides funding for a 25.7% increase in workers' compensation rates for state employees;
- ▶ provides funding for retirement rate increases for state and higher education employees; and
- ▶ provides appropriations for an up-to \$26 per pay period 401(k) match for state employees enrolled in the 401(k) program.

Money Appropriated in this Bill:

This bill appropriates \$57,926,900 in operating and capital budgets for fiscal year 2015, including:

- ▶ \$17,480,700 from the General Fund;
- ▶ \$15,667,000 from the Education Fund;
- ▶ \$24,779,200 from various sources as detailed in this bill.

This bill appropriates \$1,102,800 in business-like activities for fiscal year 2015.

This bill appropriates \$3,600 in fiduciary funds for fiscal year 2015.

Other Special Clauses:

This bill takes effect on July 1, 2014.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2015 Appropriations. Under provisions of Section 67-19-43, Utah Code Annotated, the employer 401(k) matching contribution rate for the fiscal year beginning July 1, 2014 and ending June 30, 2015 shall be \$26 per pay period. The following sums of money are appropriated for the fiscal year beginning July 1, 2014 and ending June 30,

2015. These are additions to amounts previously appropriated for fiscal year 2015.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Utah Code Title 63J, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use and support of the government of the State of Utah.

**EXECUTIVE OFFICES
AND CRIMINAL JUSTICE**

GOVERNOR'S OFFICE

Item 1

To Governor's Office	
From General Fund	97,200
From General Fund, One-time	6,600
From Federal Funds	1,500
From Dedicated Credits Revenue	11,500
Schedule of Programs:	
Administration	84,600
Governor's Residence	4,800
Washington Funding	2,800
Lt. Governor's Office	24,600

Item 2

To Governor's Office - Governor's Office of Management and Budget	
From General Fund	80,900
From General Fund, One-time	11,600
Schedule of Programs:	
Administration	20,800
Planning and Budget Analysis	36,800
Demographic and Economic Analysis	28,000
State and Local Planning	6,000
Prison Relocation	900

Item 3

To Governor's Office - Commission on Criminal and Juvenile Justice	
From General Fund	7,700
From General Fund, One-time	2,100
From Federal Funds	25,700
From Dedicated Credits Revenue	500
From General Fund Restricted - Criminal Forfeiture Restricted Account	1,100
From General Fund Restricted - Law Enforcement Operations	5,900
From Crime Victim Reparations Fund	71,700
Schedule of Programs:	
CCJJ Commission	39,500
Utah Office for Victims of Crime	55,200
Extraditions	1,400
Substance Abuse Advisory Council	4,000
Sentencing Commission	3,200
Gang Reduction Grant Program	500
State Asset Forfeiture Grant Program	1,100
Sexual Exploitation of Children	600
Judicial Performance Evaluation Commission	9,200

OFFICE OF THE STATE AUDITOR

Item 4

To Office of the State Auditor - State Auditor	
From General Fund	81,700
From General Fund, One-time	11,900

From Dedicated Credits Revenue 44,200
 Schedule of Programs:
 State Auditor 137,800

STATE TREASURER

Item 5

To State Treasurer
 From General Fund 17,000
 From General Fund, One-time 3,300
 From Dedicated Credits Revenue 11,100
 From Unclaimed Property Trust 28,600
 Schedule of Programs:
 Treasury and Investment 29,400
 Unclaimed Property 28,600
 Money Management Council 2,000

ATTORNEY GENERAL

Item 6

To Attorney General
 From General Fund 631,900
 From General Fund, One-time 102,100
 From Federal Funds 41,600
 From Dedicated Credits Revenue 521,300
 From General Fund Restricted -
 Constitutional Defense 11,800
 From Attorney General Litigation Fund .. 10,500
 Schedule of Programs:
 Administration 72,000
 Child Protection 208,700
 Children's Justice 38,900
 Criminal Prosecution 415,300
 Civil 584,300

Item 7

To Attorney General - Children's Justice Centers
 From General Fund 4,600
 From General Fund, One-time 600
 From Federal Funds 400
 From Dedicated Credits Revenue 400
 Schedule of Programs:
 Children's Justice Centers 6,000

Item 8

To Attorney General - Prosecution Council
 From Federal Funds 5,400
 From Dedicated Credits Revenue 700
 From General Fund Restricted -
 Public Safety Support 11,900
 Schedule of Programs:
 Prosecution Council 18,000

UTAH DEPARTMENT OF CORRECTIONS

Item 9

To Utah Department of Corrections -
 Programs and Operations
 From General Fund 3,828,400
 From General Fund, One-time 717,200
 From Federal Funds 1,400
 From Dedicated Credits Revenue 200
 From Revenue Transfers 149,900
 Schedule of Programs:
 Department Executive Director 149,000
 Department Administrative Services .. 104,800
 Department Training 38,000
 Adult Probation and Parole
 Administration 16,300

Adult Probation and Parole
 Programs 1,353,400
 Institutional Operations
 Administration 8,800
 Institutional Operations
 Draper Facility 1,661,500
 Institutional Operations
 Central Utah/Gunnison 839,300
 Institutional Operations
 Inmate Placement 61,200
 Institutional Operations
 Support Services 117,200
 Programming Administration 14,900
 Programming Treatment 203,100
 Programming Skill Enhancement 129,600

Item 10

To Utah Department of Corrections -
 Department Medical Services
 From General Fund 436,700
 From General Fund, One-time 87,500
 Schedule of Programs:
 Medical Services 524,200

BOARD OF PARDONS AND PAROLE

Item 11

To Board of Pardons and Parole
 From General Fund 76,800
 From General Fund, One-time 12,100
 Schedule of Programs:
 Board of Pardons and Parole 88,900

**DEPARTMENT OF HUMAN SERVICES -
 DIVISION OF JUVENILE
 JUSTICE SERVICES**

Item 12

To Department of Human Services -
 Division of Juvenile Justice Services -
 Programs and Operations
 From General Fund 1,198,100
 From General Fund, One-time 270,900
 From Federal Funds 44,700
 From Dedicated Credits Revenue 64,000
 From Revenue Transfers - Commission
 on Criminal and Juvenile Justice 3,300
 Schedule of Programs:
 Administration 106,900
 Early Intervention Services 330,700
 Community Programs 196,500
 Correctional Facilities 465,000
 Rural Programs 471,900
 Youth Parole Authority 10,000

**JUDICIAL COUNCIL/STATE
 COURT ADMINISTRATOR**

Item 13

To Judicial Council/State Court
 Administrator - Administration
 From General Fund 2,627,900
 From General Fund, One-time 367,400
 From Federal Funds 7,300
 From Dedicated Credits Revenue 31,800
 From General Fund Restricted -
 Children's Legal Defense 4,700
 From General Fund Restricted -
 Court Security Account 2,700

From General Fund Restricted -
 DNA Specimen Account 2,000
 From General Fund Restricted -
 Justice Court Tech., Security &
 Training 21,300
 From General Fund Restricted -
 Non-Judicial Adjustment Account 21,100
 From General Fund Restricted -
 Substance Abuse Prevention 5,500
 From Revenue Transfers 1,800
 Schedule of Programs:
 Supreme Court 92,400
 Law Library 16,800
 Court of Appeals 135,400
 District Courts 1,483,100
 Juvenile Courts 1,113,500
 Justice Courts 25,900
 Courts Security 2,700
 Administrative Office 79,000
 Judicial Education 10,900
 Data Processing 122,100
 Grants Program 11,700

Item 14

To Judicial Council/State Court
 Administrator - Contracts and Leases
 From General Fund 4,200
 From General Fund, One-time 700
 Schedule of Programs:
 Contracts and Leases 4,900

Item 15

To Judicial Council/State Court
 Administrator - Jury and Witness Fees
 From General Fund 12,400
 From General Fund, One-time 1,600
 Schedule of Programs:
 Jury, Witness, and Interpreter 14,000

Item 16

To Judicial Council/State Court
 Administrator - Guardian ad Litem
 From General Fund 151,500
 From General Fund, One-time 20,400
 Schedule of Programs:
 Guardian ad Litem 171,900

DEPARTMENT OF PUBLIC SAFETY

Item 17

To Department of Public Safety -
 Programs & Operations
 From General Fund 1,250,500
 From General Fund, One-time 417,200
 From Federal Funds 7,800
 From Dedicated Credits Revenue 251,600
 From General Fund Restricted -
 DNA Specimen Account 17,500
 From General Fund Restricted -
 Statewide Unified E-911
 Emergency Account 3,300
 From General Fund Restricted -
 Fire Academy Support 56,700
 From General Fund Restricted -
 Utah Highway Patrol Aero Bureau 1,600
 From Department of Public Safety
 Restricted Account 43,800
 From Revenue Transfers 1,100

Schedule of Programs:
 Department Commissioner's Office 66,700
 Aero Bureau 7,800
 Department Intelligence Center 22,700
 Department Grants 7,800
 Department Fleet Management 1,800
 Enhanced 911 Program 3,300
 CITS Administration 11,100
 CITS Bureau of Criminal
 Identification 184,600
 CITS Communications 161,300
 CITS State Crime Labs 111,100
 CITS State Bureau of Investigation 74,200
 Highway Patrol - Administration 26,400
 Highway Patrol - Field Operations 933,800
 Highway Patrol - Commercial
 Vehicle 116,100
 Highway Patrol - Safety Inspections 29,000
 Highway Patrol - Protective
 Services 112,300
 Highway Patrol - Special Services 90,800
 Highway Patrol - Special Enforcement 9,000
 Highway Patrol - Technology
 Services 21,400
 Fire Marshall - Fire Operations 49,000
 Fire Marshall - Fire Fighter Training 10,900

Item 18

To Department of Public Safety -
 Emergency Management
 From General Fund 19,700
 From General Fund, One-time 5,600
 From Federal Funds 84,600
 Schedule of Programs:
 Emergency Management 109,900

Item 19

To Department of Public Safety -
 Peace Officers' Standards and Training
 From General Fund Restricted -
 Public Safety Support 59,700
 Schedule of Programs:
 Basic Training 21,600
 Regional/Inservice Training 14,100
 POST Administration 24,000

Item 20

To Department of Public Safety -
 Driver License
 From Federal Funds 6,200
 From Public Safety Motorcycle
 Education Fund 2,600
 From Department of Public
 Safety Restricted Account 631,400
 Schedule of Programs:
 Driver License Administration 55,300
 Driver Services 399,200
 Driver Records 176,900
 Motorcycle Safety 2,600
 DL Federal Grants 6,200

Item 21

To Department of Public Safety -
 Highway Safety
 From General Fund 300
 From General Fund, One-time 100
 From Federal Funds 47,200
 Schedule of Programs:
 Highway Safety 47,600

**INFRASTRUCTURE AND
GENERAL GOVERNMENT**

TRANSPORTATION

Item 22

To Transportation – Support Services
 From Transportation Fund 257,200
 From Transportation Fund, One-time 57,400
 From Federal Funds 46,400
 Schedule of Programs:
 Administrative Services 28,500
 Risk Management 11,300
 Procurement 27,400
 Comptroller 71,500
 Data Processing 11,600
 Internal Auditor 21,900
 Community Relations 12,300
 Ports of Entry 176,500

Item 23

To Transportation – Engineering Services
 From Transportation Fund 358,100
 From Transportation Fund, One-time 69,300
 From Federal Funds 267,000
 Schedule of Programs:
 Program Development 166,900
 Preconstruction Administration 58,600
 Environmental 24,300
 Structures 84,800
 Materials Lab 106,200
 Engineering Services 58,100
 Right-of-Way 58,500
 Research 29,000
 Construction Management 99,600
 Civil Rights 8,400

Item 24

To Transportation – Operations/
 Maintenance Management
 From Transportation Fund 1,520,900
 From Transportation Fund, One-time ... 388,100
 From Federal Funds 141,600
 From Dedicated Credits Revenue 3,100
 Schedule of Programs:
 Region 1 274,900
 Region 2 407,800
 Region 3 261,500
 Region 4 526,600
 Field Crews 284,600
 Traffic Safety/Tramway 96,200
 Traffic Operations Center 149,100
 Maintenance Planning 53,000

Item 25

To Transportation – Region Management
 From Transportation Fund 531,500
 From Transportation Fund, One-time ... 114,600
 From Federal Funds 100,800
 Schedule of Programs:
 Region 1 160,100
 Region 2 258,300
 Region 3 135,400
 Region 4 175,800
 Richfield 1,500
 Price 7,900
 Cedar City 7,900

Item 26

To Transportation – Equipment Management
 From Dedicated Credits Revenue 188,200
 Schedule of Programs:
 Shops 188,200

Item 27

To Transportation – Aeronautics
 From Aeronautics Restricted Account 41,500
 Schedule of Programs:
 Administration 13,700
 Airplane Operations 27,800

**DEPARTMENT OF
ADMINISTRATIVE SERVICES**

Item 28

To Department of Administrative
 Services – Executive Director
 From General Fund 15,800
 From General Fund, One-time 2,000
 Schedule of Programs:
 Executive Director 17,800

Item 29

To Department of Administrative
 Services – Inspector General of
 Medicaid Services
 From General Fund 27,100
 From General Fund, One-time 3,400
 From Revenue Transfers – Medicaid 43,000
 Schedule of Programs:
 Inspector General of Medicaid
 Services 73,500

Item 30

To Department of Administrative
 Services – Administrative Rules
 From General Fund 9,000
 From General Fund, One-time 2,500
 Schedule of Programs:
 DAR Administration 11,500

Item 31

To Department of Administrative
 Services – DFCM Administration
 From General Fund 38,400
 From General Fund, One-time 7,000
 From Dedicated Credits Revenue 27,300
 From Capital Projects Fund 47,500
 Schedule of Programs:
 DFCM Administration 107,900
 Energy Program 12,300

Item 32

To Department of Administrative
 Services – Building Board Program
 From Capital Projects Fund 2,900
 Schedule of Programs:
 Building Board Program 2,900

Item 33

To Department of Administrative
 Services – State Archives
 From General Fund 43,800
 From General Fund, One-time 11,600
 Schedule of Programs:
 Archives Administration 16,300
 Records Analysis 6,900
 Preservation Services 8,300
 Patron Services 17,500

Records Services 6,400

Item 34
 To Department of Administrative Services - Finance Administration
 From General Fund 109,500
 From General Fund, One-time 27,500
 From Dedicated Credits Revenue 15,700
 Schedule of Programs:
 Finance Director's Office 15,100
 Payroll 16,300
 Payables/Disbursing 38,700
 Financial Reporting 50,500
 Financial Information Systems 32,100

Item 35
 To Department of Administrative Services - Finance - Mandated
 From General Fund, One-time (3,789,700)
 Schedule of Programs:
 State Employee Benefits (3,789,700)

Item 36
 To Department of Administrative Services - Judicial Conduct Commission
 From General Fund 4,900
 From General Fund, One-time 700
 Schedule of Programs:
 Judicial Conduct Commission 5,600

Item 37
 To Department of Administrative Services - Purchasing
 From General Fund 13,700
 From General Fund, One-time 2,500
 Schedule of Programs:
 Purchasing and General Services 16,200

DEPARTMENT OF TECHNOLOGY SERVICES

Item 38
 To Department of Technology Services - Chief Information Officer
 From General Fund 11,200
 From General Fund, One-time 3,800
 Schedule of Programs:
 Chief Information Officer 15,000

Item 39
 To Department of Technology Services - Integrated Technology Division
 From General Fund 24,600
 From General Fund, One-time 5,900
 From Dedicated Credits Revenue 11,200
 Schedule of Programs:
 Automated Geographic Reference Center 41,700

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF HERITAGE AND ARTS

Item 40
 To Department of Heritage and Arts - Administration
 From General Fund 40,800
 From General Fund, One-time 11,300
 From Federal Funds 5,500

Schedule of Programs:
 Executive Director's Office 13,300
 Information Technology 3,500
 Administrative Services 24,700
 Utah Multicultural Affairs Office 4,800
 Commission on Service and Volunteerism 11,300

Item 41
 To Department of Heritage and Arts - Historical Society
 From Dedicated Credits Revenue 1,400
 Schedule of Programs:
 State Historical Society 1,400

Item 42
 To Department of Heritage and Arts - State History
 From General Fund 36,000
 From General Fund, One-time 9,000
 From Federal Funds 15,900
 From Dedicated Credits Revenue 900
 Schedule of Programs:
 Administration 5,200
 Library and Collections 10,800
 Public History, Communication and Information 9,700
 Historic Preservation and Antiquities ... 36,100

Item 43
 To Department of Heritage and Arts - Division of Arts and Museums
 From General Fund 30,300
 From General Fund, One-time 7,800
 Schedule of Programs:
 Administration 8,300
 Community Arts Outreach 29,800

Item 44
 To Department of Heritage and Arts - State Library
 From General Fund 57,400
 From General Fund, One-time 12,100
 From Federal Funds 1,900
 From Dedicated Credits Revenue 33,700
 Schedule of Programs:
 Administration 6,800
 Blind and Disabled 40,900
 Library Development 34,100
 Library Resources 23,300

Item 45
 To Department of Heritage and Arts - Indian Affairs
 From General Fund 4,300
 From General Fund, One-time 1,400
 Schedule of Programs:
 Indian Affairs 5,700

GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT

Item 46
 To Governor's Office of Economic Development - Administration
 From General Fund 32,800
 From General Fund, One-time 6,600
 Schedule of Programs:
 Administration 39,400

Item 47
 To Governor's Office of Economic Development - STEM Action Center

From General Fund	400
From General Fund, One-time	700
Schedule of Programs:	
STEM Action Center	1,100

Item 48

To Governor's Office of Economic Development - Office of Tourism	
From General Fund	49,800
From General Fund, One-time	10,100
Schedule of Programs:	
Administration	20,900
Operations and Fulfillment	25,500
Film Commission	13,500

Item 49

To Governor's Office of Economic Development - Business Development	
From General Fund	76,000
From General Fund, One-time	12,500
From Federal Funds	3,200
From Dedicated Credits Revenue	3,000
Schedule of Programs:	
Outreach and International Trade	46,800
Corporate Recruitment and Business Services	47,900

Item 50

To Governor's Office of Economic Development - Pete Suazo Utah Athletics Commission	
From General Fund	2,900
From General Fund, One-time	700
Schedule of Programs:	
Pete Suazo Utah Athletics Commission	3,600

UTAH STATE TAX COMMISSION

Item 51

To Utah State Tax Commission - Tax Administration	
From General Fund	507,800
From General Fund, One-time	131,600
From Education Fund	397,600
From Education Fund, One-time	97,300
From Dedicated Credits Revenue	172,000
From General Fund Restricted - Tax Commission Administrative Charge	219,000
Schedule of Programs:	
Administration Division	194,700
Auditing Division	318,700
Tax Processing Division	164,100
Seasonal Employees	2,100
Tax Payer Services	289,300
Property Tax Division	133,500
Motor Vehicles	334,500
Motor Vehicle Enforcement Division	88,400

UTAH SCIENCE TECHNOLOGY AND RESEARCH GOVERNING AUTHORITY

Item 52

To Utah Science Technology and Research Governing Authority	
From General Fund	21,500
From General Fund, One-time	4,000
Schedule of Programs:	
Administration	10,000
Technology Outreach	15,500

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Item 53

To Department of Alcoholic Beverage Control - DABC Operations	
From Liquor Control Fund	371,900
From Liquor Control Fund, One-time	87,900
Schedule of Programs:	
Executive Director	60,700
Administration	25,000
Warehouse and Distribution	45,900
Stores and Agencies	328,200

LABOR COMMISSION

Item 54

To Labor Commission	
From General Fund	110,700
From General Fund, One-time	23,400
From Federal Funds	86,000
From Dedicated Credits Revenue	800
From General Fund Restricted - Industrial Accident Restricted Account	73,000
From General Fund Restricted - Workplace Safety Account	16,300
Schedule of Programs:	
Administration	31,300
Industrial Accidents	42,000
Adjudication	31,200
Boiler, Elevator and Coal Mine Safety Division	40,500
Workplace Safety	1,200
Anti-Discrimination and Labor	56,500
Utah OSHA	107,500

DEPARTMENT OF COMMERCE

Item 55

To Department of Commerce - Commerce General Regulation	
From Federal Funds	6,500
From General Fund Restricted - Commerce Service Account	364,000
From General Fund Restricted - Commerce Service Account, One-time ..	82,100
From General Fund Restricted - Commerce Service Account - Public Utilities Regulatory Fee	105,700
From General Fund Restricted - Pawnbroker Operations	1,100
Schedule of Programs:	
Administration	45,300
Occupational and Professional Licensing	183,000
Securities	56,900
Consumer Protection	52,300
Corporations and Commercial Code	62,300
Real Estate	47,400
Public Utilities	93,000
Office of Consumer Services	19,200

Item 56

To Department of Commerce - Building Inspector Training	
From Dedicated Credits Revenue	2,300
Schedule of Programs:	
Building Inspector Training	2,300

FINANCIAL INSTITUTIONS**Item 57**

To Financial Institutions - Financial Institutions Administration	
From General Fund Restricted - Financial Institutions	138,300
From General Fund Restricted - Financial Institutions, One-Time	26,800
Schedule of Programs:	
Administration	165,100

INSURANCE DEPARTMENT**Item 58**

To Insurance Department - Insurance Department Administration	
From Federal Funds	2,100
From General Fund Restricted - Insurance Department Account	135,100
From General Fund Restricted - Insurance Department Account, One-time	32,600
From General Fund Restricted - Insurance Fraud Investigation Account	47,400
From General Fund Restricted - Captive Insurance	23,700
Schedule of Programs:	
Administration	169,800
Insurance Fraud Program	47,400
Captive Insurers	23,700

Item 59

To Insurance Department - Title Insurance Program	
From General Fund Restricted - Title Licensee Enforcement Account	2,300
Schedule of Programs:	
Title Insurance Program	2,300

PUBLIC SERVICE COMMISSION**Item 60**

To Public Service Commission	
From Federal Funds	3,500
From General Fund Restricted - Commerce Service Account - Public Utilities Regulatory Fee	55,900
Schedule of Programs:	
Administration	59,400

Item 61

To Public Service Commission - Speech and Hearing Impaired	
From Dedicated Credits Revenue	3,600
Schedule of Programs:	
Speech and Hearing Impaired	3,600

SOCIAL SERVICES**DEPARTMENT OF HEALTH****Item 62**

To Department of Health - Executive Director's Operations	
From General Fund	87,300
From General Fund, One-time	14,100
From Federal Funds	92,300
From Dedicated Credits Revenue	56,700

From Revenue Transfers - Within Agency	4,300
Schedule of Programs:	
Executive Director	58,400
Center for Health Data and Informatics	112,500
Program Operations	64,200
Office of Internal Audit	19,600

Item 63

To Department of Health - Family Health and Preparedness	
From General Fund	104,000
From General Fund, One-time	22,900
From Federal Funds	353,400
From Dedicated Credits Revenue	100,800
From General Fund Restricted - Autism Treatment Account	17,200
From General Fund Restricted - Children's Hearing Aid Pilot Program Account	2,300
From General Fund Restricted - Kurt Oscarson Children's Organ Transplant	200
From Revenue Transfers - Human Services	23,000
From Revenue Transfers - Medicaid	55,900
From Revenue Transfers - Public Safety	2,200
From Revenue Transfers - Within Agency	900
From Revenue Transfers - Workforce Services	49,300
Schedule of Programs:	
Director's Office	24,200
Maternal and Child Health	74,800
Child Development	111,800
Children with Special Health Care Needs	230,600
Public Health Preparedness	69,300
Emergency Medical Services	62,000
Facility Licensure, Certification, and Resident Assessment	140,300
Primary Care	19,100

Item 64

To Department of Health - Disease Control and Prevention	
From General Fund	185,700
From General Fund, One-time	36,700
From Federal Funds	267,900
From Dedicated Credits Revenue	100,600
From General Fund Restricted - State Lab Drug Testing Account	11,000
From General Fund Restricted - Tobacco Settlement Account	41,500
From Revenue Transfers - Medicaid	17,200
From Revenue Transfers - Within Agency	3,200
From Revenue Transfers - Workforce Services	12,000
Schedule of Programs:	
Laboratory General Administration	29,000
Laboratory Operations and Testing	138,100
Health Promotion	199,500
Epidemiology	200,000
Office of the Medical Examiner	79,000
Certification Programs	30,200

Item 65

To Department of Health - Medicaid and Health Financing	
---	--

From General Fund	79,800
From General Fund, One-time	15,800
From Federal Funds	304,000
From Dedicated Credits Revenue	97,200
From General Fund Restricted - Nursing Care Facilities Account	13,100
From Transfers - Medicaid - Department of Human Services	5,500
From Revenue Transfers - Within Agency	34,000
Schedule of Programs:	
Director's Office	54,300
Financial Services	66,100
Medicaid Operations	101,800
Managed Health Care	92,900
Authorization and Community Based Services	83,600
Coverage and Reimbursement	73,700
Eligibility Policy	77,000

Item 66

To Department of Health - Children's Health Insurance Program	
From General Fund	2,600
From General Fund, One-time	700
From Federal Funds	27,400
From Dedicated Credits Revenue	900
From General Fund Restricted - Tobacco Settlement Account	5,500
From Revenue Transfers - Workforce Services	100
Schedule of Programs: Children's Health Insurance Program	37,200

Item 67

To Department of Health - Medicaid Mandatory Services	
From General Fund	40,700
From General Fund, One-time	9,300
From Federal Funds	23,000
From Dedicated Credits Revenue	27,800
From Revenue Transfers - Within Agency	46,700
Schedule of Programs: Medicaid Management Information System Replacement	9,500
Other Mandatory Services	138,000

Item 68

To Department of Health - Medicaid Optional Services	
From General Fund	400
From General Fund, One-time	400
From Federal Funds	1,700
From Dedicated Credits Revenue	8,200
Schedule of Programs: Pharmacy	10,100
Home and Community Based Waiver Services	600

**DEPARTMENT OF
WORKFORCE SERVICES**

Item 69

To Department of Workforce Services - Administration	
From General Fund	42,700

From General Fund, One-time	12,300
From Federal Funds	129,800
From Dedicated Credits Revenue	1,300
From Permanent Community Impact Loan Fund	2,500
From Revenue Transfers - Medicaid	22,400
Schedule of Programs: Executive Director's Office	45,000
Communications	22,600
Administrative Support	124,900
Internal Audit	18,500

Item 70

To Department of Workforce Services - Operations and Policy	
From General Fund	713,900
From General Fund, One-time	201,200
From Federal Funds	1,542,900
From Dedicated Credits Revenue	91,400
From Revenue Transfers - Medicaid	378,100
Schedule of Programs: Workforce Development	1,339,500
Workforce Research and Analysis	63,300
Eligibility Services	1,524,700

Item 71

To Department of Workforce Services - General Assistance	
From General Fund	18,000
From General Fund, One-time	5,200
Schedule of Programs: General Assistance	23,200

Item 72

To Department of Workforce Services - Unemployment Insurance	
From General Fund	12,700
From General Fund, One-time	3,800
From Federal Funds	506,000
From Dedicated Credits Revenue	9,000
From Revenue Transfers - Medicaid	7,300
Schedule of Programs: Unemployment Insurance Administration	453,800
Adjudication	85,000

Item 73

To Department of Workforce Services - Housing and Community Development	
From General Fund	15,200
From General Fund, One-time	4,400
From Federal Funds	72,900
From Dedicated Credits Revenue	4,500
From General Fund Restricted - Pamela Atkinson Homeless Account	3,400
From Permanent Community Impact Loan Fund	19,200
Schedule of Programs: Community Development Administration	20,100
Community Development	18,800
Housing Development	28,200
Homeless Committee	22,000
HEAT	11,600
Weatherization Assistance	12,300
Community Services	6,200
Emergency Food Network	400

DEPARTMENT OF HUMAN SERVICES

Item 74

To Department of Human Services -
 Executive Director Operations

From General Fund	134,000
From General Fund, One-time	25,500
From Federal Funds	72,600
From Revenue Transfers - Indirect Costs	7,400
From Revenue Transfers - Medicaid	23,700
From Revenue Transfers - Within Agency	22,300
Schedule of Programs:	
Executive Director's Office	25,000
Legal Affairs	31,700
Information Technology	1,500
Fiscal Operations	104,200
Office of Services Review	43,800
Office of Licensing	69,700
Utah Developmental Disabilities Council	9,600

Item 75

To Department of Human Services - Division
 of Substance Abuse and Mental Health

From General Fund	845,100
From General Fund, One-time	150,900
From Federal Funds	46,300
From Dedicated Credits Revenue	48,300
From Revenue Transfers - Medicaid	276,000
Schedule of Programs:	
Administration - DSAMH	78,800
Community Mental Health Services	7,100
State Hospital	1,269,200
State Substance Abuse Services	11,500

Item 76

To Department of Human Services - Division
 of Services for People with Disabilities

From General Fund	317,800
From General Fund, One-time	57,400
From Dedicated Credits Revenue	42,500
From Revenue Transfers - Medicaid	677,400
Schedule of Programs:	
Administration - DSPD	91,200
Service Delivery	150,300
Utah State Developmental Center	853,600

Item 77

To Department of Human Services -
 Office of Recovery Services

From General Fund	289,600
From General Fund, One-time	67,700
From Federal Funds	490,600
From Dedicated Credits Revenue	122,600
From Revenue Transfers - Medicaid	51,200
From Revenue Transfers - Other Agencies	1,900
Schedule of Programs:	
Administration - ORS	27,600
Financial Services	63,000
Electronic Technology	52,100
Child Support Services	660,900
Children in Care Collections	15,400
Attorney General Contract	125,000
Medical Collections	79,600

Item 78

To Department of Human Services - Division
 of Child and Family Services

From General Fund	1,296,000
From General Fund, One-time	322,900
From Federal Funds	554,600
From Dedicated Credits Revenue	900
From General Fund Restricted - Victims of Domestic Violence Services Account	9,300
Schedule of Programs:	
Administration - DCFS	108,900
Service Delivery	1,895,100
Facility-based Services	10,500
Minor Grants	41,300
Selected Programs	34,900
Domestic Violence	52,000
Adoption Assistance	2,400
Child Welfare Management Information System	38,600

Item 79

To Department of Human Services - Division
 of Aging and Adult Services

From General Fund	76,800
From General Fund, One-time	15,100
From Federal Funds	21,300
From Revenue Transfers - Medicaid	4,100
From Revenue Transfers - Other Agencies	500
Schedule of Programs:	
Administration - DAAS	33,200
Adult Protective Services	75,800
Aging Waiver Services	6,800
Aging Alternatives	2,000

STATE BOARD OF EDUCATION

Item 80

To State Board of Education - State
 Office of Rehabilitation

From General Fund	2,300
From General Fund, One-time	600
From Education Fund	211,500
From Education Fund, One-time	47,500
From Federal Funds	729,200
From Dedicated Credits Revenue	17,100
Schedule of Programs:	
Executive Director	49,800
Blind and Visually Impaired	112,100
Rehabilitation Services	604,700
Disability Determination	178,600
Deaf and Hard of Hearing	63,000

HIGHER EDUCATION

UNIVERSITY OF UTAH

Item 81

To University of Utah - Education and General

From Education Fund	3,991,700
From Dedicated Credits Revenue	1,330,500
Schedule of Programs:	
Education and General	5,322,200

Item 82

To University of Utah -
 Educationally Disadvantaged

From Education Fund	5,300
Schedule of Programs:	

Educationally Disadvantaged 5,300

Item 83

To University of Utah - School of Medicine
 From Education Fund 358,200
 From Dedicated Credits Revenue 119,400
 Schedule of Programs:
 School of Medicine 477,600

Item 84

To University of Utah - University Hospital
 From Education Fund 72,900
 Schedule of Programs:
 University Hospital 64,300
 Miners' Hospital 8,600

Item 85

To University of Utah - Regional Dental
 Education Program
 From Education Fund 13,400
 From Dedicated Credits Revenue 4,400
 Schedule of Programs:
 Regional Dental Education Program 17,800

Item 86

To University of Utah - Public Service
 From Education Fund 25,400
 Schedule of Programs:
 Seismograph Stations 9,000
 Natural History Museum of Utah 14,900
 State Arboretum 1,500

Item 87

To University of Utah -
 Statewide TV Administration
 From Education Fund 35,700
 Schedule of Programs:
 Public Broadcasting 35,700

Item 88

To University of Utah - Poison Control Center
 From Dedicated Credits Revenue 22,200
 Schedule of Programs:
 Poison Control Center 22,200

Item 89

To University of Utah - Utah Tele-Health
 Network
 From General Fund 5,200
 Schedule of Programs:
 Utah Tele-Health Network 5,200

Item 90

To University of Utah - Center on Aging
 From General Fund 1,300
 Schedule of Programs:
 Center on Aging 1,300

Item 91

To University of Utah - Rocky Mountain Center
 for Occupational and Environmental Health
 From General Fund Restricted -
 Workplace Safety Account 2,300
 Schedule of Programs:
 Center for Occupational and
 Environmental Health 2,300

UTAH STATE UNIVERSITY

Item 92

To Utah State University - Education and General
 From Education Fund 1,841,000
 From Dedicated Credits Revenue 613,900
 Schedule of Programs:
 Education and General 2,403,000
 USU - School of Veterinary Medicine 51,900

Item 93

To Utah State University - USU -
 Eastern Education and General
 From Education Fund 121,300
 From Dedicated Credits Revenue 40,400
 Schedule of Programs:
 USU - Eastern Education and
 General 161,700

Item 94

To Utah State University - USU -
 Eastern Career and Technical Education
 From Education Fund 13,800
 From Dedicated Credits Revenue 4,600
 Schedule of Programs:
 USU - Eastern Career and Technical
 Education 18,400

Item 95

To Utah State University - Uintah
 Basin Regional Campus
 From Education Fund 57,900
 From Dedicated Credits Revenue 19,400
 Schedule of Programs:
 Uintah Basin Regional Campus 77,300

Item 96

To Utah State University -
 Southeastern Continuing Education Center
 From Education Fund 12,400
 From Dedicated Credits Revenue 4,200
 Schedule of Programs:
 Southeastern Continuing
 Education Center 16,600

Item 97

To Utah State University - Brigham
 City Regional Campus
 From Education Fund 124,100
 From Dedicated Credits Revenue 41,300
 Schedule of Programs:
 Brigham City Regional Campus 165,400

Item 98

To Utah State University -
 Tooele Regional Campus
 From Education Fund 86,900
 From Dedicated Credits Revenue 28,900
 Schedule of Programs:
 Tooele Regional Campus 115,800

Item 99

To Utah State University -
 Water Research Laboratory
 From Education Fund 55,400
 Schedule of Programs:
 Water Research Laboratory 55,400

Item 100

To Utah State University - Agriculture
 Experiment Station

From Education Fund 173,400
 Schedule of Programs:
 Agriculture Experiment Station 173,400

Item 101

To Utah State University - Cooperative
 Extension
 From Education Fund 199,300
 Schedule of Programs:
 Cooperative Extension 199,300

Item 102

To Utah State University - Prehistoric
 Museum
 From Education Fund 3,900
 Schedule of Programs:
 Prehistoric Museum 3,900

Item 103

To Utah State University - Blanding Campus
 From Education Fund 31,000
 From Dedicated Credits Revenue 10,300
 Schedule of Programs:
 Blanding Campus 41,300

WEBER STATE UNIVERSITY**Item 104**

To Weber State University -
 Education and General
 From Education Fund 1,205,900
 From Dedicated Credits Revenue 402,000
 Schedule of Programs:
 Education and General 1,607,900

Item 105

To Weber State University -
 Educationally Disadvantaged
 From Education Fund 4,700
 Schedule of Programs:
 Educationally Disadvantaged 4,700

SOUTHERN UTAH UNIVERSITY**Item 106**

To Southern Utah University -
 Education and General
 From Education Fund 648,500
 From Dedicated Credits Revenue 216,200
 Schedule of Programs:
 Education and General 864,700

Item 107

To Southern Utah University -
 Educationally Disadvantaged
 From Education Fund 600
 Schedule of Programs:
 Educationally Disadvantaged 600

Item 108

To Southern Utah University -
 Rural Development
 From Education Fund 1,000
 Schedule of Programs:
 Rural Development 1,000

UTAH VALLEY UNIVERSITY**Item 109**

To Utah Valley University - Education
 and General

From Education Fund 1,669,500
 From Dedicated Credits Revenue 556,400
 Schedule of Programs:
 Education and General 2,225,900

Item 110

To Utah Valley University -
 Educationally Disadvantaged
 From Education Fund 2,700
 Schedule of Programs:
 Educationally Disadvantaged 2,700

SNOW COLLEGE**Item 111**

To Snow College - Education and General
 From Education Fund 226,900
 From Dedicated Credits Revenue 75,600
 Schedule of Programs:
 Education and General 302,500

Item 112

To Snow College - Career and Technical
 Education
 From Education Fund 16,600
 Schedule of Programs:
 Career and Technical Education 16,600

DIXIE STATE UNIVERSITY**Item 113**

To Dixie State University - Education
 and General
 From Education Fund 452,800
 From Dedicated Credits Revenue 150,900
 Schedule of Programs:
 Education and General 603,700

Item 114

To Dixie State University -
 Zion Park Amphitheater
 From Education Fund 1,000
 Schedule of Programs:
 Zion Park Amphitheater 1,000

SALT LAKE COMMUNITY COLLEGE**Item 115**

To Salt Lake Community College -
 Education and General
 From Education Fund 1,139,600
 From Dedicated Credits Revenue 379,900
 Schedule of Programs:
 Education and General 1,519,500

Item 116

To Salt Lake Community College -
 School of Applied Technology
 From Education Fund 90,100
 Schedule of Programs:
 School of Applied Technology 90,100

STATE BOARD OF REGENTS**Item 117**

To State Board of Regents - Administration
 From General Fund 28,200
 Schedule of Programs:
 Administration 28,200

Item 118

To State Board of Regents - Student Assistance

From Education Fund 4,600
 Schedule of Programs:
 Regents' Scholarship 4,400
 Western Interstate Commission
 for Higher Education 200

Item 119

To State Board of Regents - Student Support
 From Education Fund 10,300
 Schedule of Programs:
 Concurrent Enrollment 4,900
 Articulation Support 3,400
 Campus Compact 2,000

Item 120

To State Board of Regents - Economic
 Development
 From Education Fund 3,100
 Schedule of Programs:
 Economic Development Initiatives 3,100

Item 121

To State Board of Regents - Education
 Excellence
 From Education Fund 1,800
 Schedule of Programs:
 Education Excellence 1,800

Item 122

To State Board of Regents - Medical
 Education Council
 From General Fund 11,600
 Schedule of Programs:
 Medical Education Council 11,600

**UTAH COLLEGE OF
 APPLIED TECHNOLOGY**

Item 123

To Utah College of Applied
 Technology - Administration
 From Education Fund 18,500
 Schedule of Programs:
 Administration 18,500

Item 124

To Utah College of Applied Technology -
 Bridgerland Applied Technology College
 From Education Fund 215,900
 Schedule of Programs:
 Bridgerland Applied Technology
 College 215,900

Item 125

To Utah College of Applied Technology -
 Davis Applied Technology College
 From Education Fund 217,000
 Schedule of Programs:
 Davis Applied Technology College 217,000

Item 126

To Utah College of Applied Technology -
 Dixie Applied Technology College
 From Education Fund 42,300
 Schedule of Programs:
 Dixie Applied Technology College 42,300

Item 127

To Utah College of Applied Technology -
 Mountainland Applied Technology College

From Education Fund 97,700
 Schedule of Programs:
 Mountainland Applied Technology
 College 97,700

Item 128

To Utah College of Applied Technology -
 Ogden/Weber Applied Technology College
 From Education Fund 203,800
 Schedule of Programs:
 Ogden/Weber Applied Technology
 College 203,800

Item 129

To Utah College of Applied Technology -
 Southwest Applied Technology College
 From Education Fund 52,200
 Schedule of Programs:
 Southwest Applied Technology
 College 52,200

Item 130

To Utah College of Applied Technology -
 Tooele Applied Technology College
 From Education Fund 41,900
 Schedule of Programs:
 Tooele Applied Technology College 41,900

Item 131

To Utah College of Applied Technology -
 Uintah Basin Applied Technology College
 From Education Fund 148,200
 Schedule of Programs:
 Uintah Basin Applied Technology
 College 148,200

**NATURAL RESOURCES, AGRICULTURE,
 AND ENVIRONMENTAL QUALITY**

DEPARTMENT OF NATURAL RESOURCES

Item 132

To Department of Natural
 Resources - Administration
 From General Fund 45,500
 From General Fund, One-time 8,700
 Schedule of Programs:
 Executive Director 20,400
 Administrative Services 23,500
 Public Affairs 6,200
 Law Enforcement 4,100

Item 133

To Department of Natural Resources -
 Species Protection
 From General Fund Restricted -
 Species Protection 10,900
 Schedule of Programs:
 Species Protection 10,900

Item 134

To Department of Natural Resources -
 Watershed
 From General Fund 1,400
 From General Fund, One-time 200
 From Dedicated Credits Revenue 500
 From General Fund Restricted -
 Sovereign Land Management 2,400
 Schedule of Programs:
 Watershed 4,500

Item 135

To Department of Natural Resources - Forestry, Fire and State Lands	
From General Fund	12,900
From General Fund, One-time	3,500
From Federal Funds	42,500
From Dedicated Credits Revenue	67,100
From General Fund Restricted - Sovereign Land Management	116,200
Schedule of Programs:	
Division Administration	22,800
Fire Management	13,900
Fire Suppression Emergencies	1,700
Lands Management	20,600
Forest Management	13,000
Program Delivery	114,500
Lone Peak Center	55,700

Item 136

To Department of Natural Resources - Oil, Gas and Mining	
From General Fund	32,000
From General Fund, One-time	7,900
From Federal Funds	94,500
From Dedicated Credits Revenue	6,600
From General Fund Restricted - Oil & Gas Conservation Account	86,500
Schedule of Programs:	
Administration	45,700
Oil and Gas Program	69,700
Minerals Reclamation	26,300
Coal Program	53,400
Abandoned Mine	32,400

Item 137

To Department of Natural Resources - Wildlife Resources	
From General Fund	98,200
From General Fund, One-time	21,400
From Federal Funds	224,100
From Dedicated Credits Revenue	300
From General Fund Restricted - Wildlife Habitat	3,700
From General Fund Restricted - Wildlife Resources	633,700
Schedule of Programs:	
Director's Office	52,500
Administrative Services	101,200
Conservation Outreach	79,300
Law Enforcement	194,700
Habitat Section	138,200
Wildlife Section	166,200
Aquatic Section	249,300

Item 138

To Department of Natural Resources - Contributed Research	
From Federal Funds	1,100
From Dedicated Credits Revenue	400
Schedule of Programs:	
Contributed Research	1,500

Item 139

To Department of Natural Resources - Cooperative Agreements	
From Federal Funds	62,100
From Dedicated Credits Revenue	4,800
From General Fund Restricted - Wildlife Resources	2,800

From Revenue Transfers	25,800
Schedule of Programs:	
Cooperative Agreements	95,500

Item 140

To Department of Natural Resources - Parks and Recreation	
From General Fund	46,200
From General Fund, One-time	10,400
From General Fund Restricted - Boating	94,700
From General Fund Restricted - Off-highway Vehicle	102,900
From General Fund Restricted - State Park Fees	233,300
Schedule of Programs:	
Executive Management	14,700
Park Operation Management	391,100
Planning and Design	9,300
Support Services	36,800
Recreation Services	35,600

Item 141

To Department of Natural Resources - Utah Geological Survey	
From General Fund	60,300
From General Fund, One-time	12,000
From Federal Funds	31,800
From Dedicated Credits Revenue	31,300
From General Fund Restricted - Mineral Lease	79,500
From General Fund Restricted - Land Exchange Distribution Account	6,900
Schedule of Programs:	
Administration	17,400
Technical Services	15,600
Geologic Hazards	36,100
Geologic Mapping	30,500
Energy and Minerals	54,400
Ground Water and Paleontology	45,600
Information and Outreach	22,200

Item 142

To Department of Natural Resources - Water Resources	
From General Fund	53,000
From General Fund, One-time	10,700
From Water Resources Conservation and Development Fund	82,000
Schedule of Programs:	
Administration	12,300
Interstate Streams	3,900
Planning	64,200
Construction	65,300

Item 143

To Department of Natural Resources - Water Rights	
From General Fund	163,700
From General Fund, One-time	40,000
From Federal Funds	900
From Dedicated Credits Revenue	48,600
Schedule of Programs:	
Administration	31,700
Applications and Records	38,300
Dam Safety	24,500
Field Services	46,100
Technical Services	20,600
Regional Offices	92,000

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 144

To Department of Environmental Quality - Executive Director's Office
 From General Fund 74,600
 From General Fund, One-time 12,900
 From Federal Funds 8,600
 From General Fund Restricted - Environmental Quality 21,400
 Schedule of Programs:
 Executive Director's Office 117,500

Item 145

To Department of Environmental Quality - Air Quality
 From General Fund 72,100
 From General Fund, One-time 17,700
 From Federal Funds 96,500
 From Dedicated Credits Revenue 113,700
 From Clean Fuel Conversion Fund 1,500
 Schedule of Programs:
 Air Quality 301,500

Item 146

To Department of Environmental Quality - Environmental Response and Remediation
 From General Fund 14,200
 From General Fund, One-time 3,600
 From Federal Funds 89,100
 From Dedicated Credits Revenue 15,100
 From General Fund Restricted - Voluntary Cleanup 14,200
 From Petroleum Storage Tank Trust Fund 33,800
 From Petroleum Storage Tank Loan Fund 5,100
 Schedule of Programs:
 Environmental Response and Remediation 175,100

Item 147

To Department of Environmental Quality - Radiation Control
 From General Fund 16,700
 From General Fund, One-time 3,800
 From Federal Funds 1,100
 From Dedicated Credits Revenue 6,100
 From General Fund Restricted - Environmental Quality 64,400
 Schedule of Programs:
 Radiation Control 92,100

Item 148

To Department of Environmental Quality - Water Quality
 From General Fund 62,600
 From General Fund, One-time 14,100
 From Federal Funds 80,700
 From Dedicated Credits Revenue 21,600
 From General Fund Restricted - Underground Wastewater System 1,700
 From Water Development Security Fund - Utah Wastewater Loan Program 28,200
 From Water Development Security Fund - Water Quality Origination Fee ... 2,100
 From Revenue Transfers 5,100
 Schedule of Programs:
 Water Quality 216,100

Item 149

To Department of Environmental Quality - Drinking Water
 From General Fund 16,000
 From General Fund, One-time 3,600
 From Federal Funds 80,900
 From Dedicated Credits Revenue 2,400
 From Water Development Security Fund - Drinking Water Loan Program ... 3,100
 From Water Development Security Fund - Drinking Water Origination Fee . 2,400
 From Revenue Transfers 900
 Schedule of Programs:
 Drinking Water 109,300

Item 150

To Department of Environmental Quality - Solid and Hazardous Waste
 From Federal Funds 27,200
 From Dedicated Credits Revenue 32,900
 From General Fund Restricted - Environmental Quality 70,400
 From General Fund Restricted - Used Oil Collection Administration 12,000
 From Waste Tire Recycling Fund 3,600
 Schedule of Programs:
 Solid and Hazardous Waste 146,100

PUBLIC LANDS POLICY COORDINATION OFFICE

Item 151

To Public Lands Policy Coordination Office
 From General Fund 15,600
 From General Fund, One-time 1,800
 From General Fund Restricted - Constitutional Defense 28,300
 Schedule of Programs:
 Public Lands Office 45,700

GOVERNOR'S OFFICE

Item 152

To Governor's Office - Office of Energy Development
 From General Fund 22,200
 From General Fund, One-time 3,900
 From Federal Funds 9,800
 Schedule of Programs:
 Office of Energy Development 35,900

DEPARTMENT OF AGRICULTURE AND FOOD

Item 153

To Department of Agriculture and Food - Administration
 From General Fund 56,200
 From General Fund, One-time 5,600
 From Federal Funds 8,000
 From Dedicated Credits Revenue 900
 From General Fund Restricted - Cat and Dog Community Spay and Neuter Program Restricted Account 1,400
 Schedule of Programs:
 General Administration 48,300
 Chemistry Laboratory 23,800

Item 154

To Department of Agriculture and Food - Animal Health

From General Fund	41,500
From General Fund, One-time	12,600
From Federal Funds	41,600
From Dedicated Credits Revenue	700
From General Fund Restricted - Livestock Brand	18,800
Schedule of Programs:	
Animal Health	26,500
Brand Inspection	27,600
Meat Inspection	61,100

Item 155

To Department of Agriculture and Food - Plant Industry	
From General Fund	12,900
From General Fund, One-time	3,200
From Federal Funds	24,400
From Dedicated Credits Revenue	44,200
From Agriculture Resource Development Fund	3,700
From Revenue Transfers	1,400
Schedule of Programs:	
Environmental Quality	6,500
Grain Inspection	4,600
Insect Infestation	8,900
Plant Industry	51,800
Grazing Improvement Program	18,000

Item 156

To Department of Agriculture and Food - Regulatory Services	
From General Fund	36,400
From General Fund, One-time	11,300
From Federal Funds	13,900
From Dedicated Credits Revenue	38,400
From Pass-through	700
Schedule of Programs:	
Regulatory Services	100,700

Item 157

To Department of Agriculture and Food - Marketing and Development	
From General Fund	9,800
From General Fund, One-time	2,000
Schedule of Programs:	
Marketing and Development	11,800

Item 158

To Department of Agriculture and Food - Predatory Animal Control	
From General Fund	12,900
From General Fund, One-time	4,600
From General Fund Restricted - Agriculture and Wildlife Damage Prevention	13,700
Schedule of Programs:	
Predatory Animal Control	31,200

Item 159

To Department of Agriculture and Food - Resource Conservation	
From General Fund	3,600
From Utah Rural Rehabilitation Loan State Fund	900
Schedule of Programs:	
Resource Conservation Administration ..	4,500

Item 160

To Department of Agriculture and Food - Invasive Species Mitigation	
--	--

From General Fund Restricted - Invasive Species Mitigation Account	100
Schedule of Programs:	
Invasive Species Mitigation	100

Item 161

To Department of Agriculture and Food - Rangeland Improvement	
From General Fund Restricted - Rangeland Improvement Account	800
Schedule of Programs:	
Rangeland Improvement	800

**SCHOOL AND INSTITUTIONAL
TRUST LANDS ADMINISTRATION****Item 162**

To School and Institutional Trust Lands Administration	
From Land Grant Management Fund	173,300
From Land Grant Management Fund, One-time	35,000
Schedule of Programs:	
Board	1,500
Director	11,700
Public Relations	5,900
Administration	9,100
Accounting	11,600
Auditing	9,700
Oil and Gas	18,300
Mining	14,800
Surface	43,900
Development - Operating	24,400
Legal/Contracts	20,200
Information Technology Group	27,700
Grazing and Forestry	9,500

PUBLIC EDUCATION**STATE BOARD OF EDUCATION****Item 163**

To State Board of Education - State Office of Education	
From General Fund	2,100
From General Fund, One-time	400
From Education Fund	361,100
From Education Fund, One-time	66,300
From Federal Funds	154,600
From Dedicated Credits Revenue	3,600
From General Fund Restricted - Mineral Lease	10,000
From General Fund Restricted - Substance Abuse Prevention	1,600
From Interest and Dividends Account	12,300
From Revenue Transfers	8,400
Schedule of Programs:	
Assessment and Accountability	60,900
Educational Equity	9,300
Board and Administration	132,600
Business Services	41,900
Career and Technical Education	94,700
District Computer Services	85,900
Educational Technology	3,000
Federal Elementary and Secondary Education Act	43,400
Law and Legislation	7,100
Public Relations	3,500
School Trust	12,300

Special Education	54,300
Teaching and Learning	70,800
Student Achievement	700

Item 164

To State Board of Education - Utah State	
Office of Education - Initiative Programs	
From General Fund	1,800
From General Fund, One-time	200
From Education Fund	3,000
From Education Fund, One-time	400
Schedule of Programs:	
Contracts and Grants	5,400

Item 165

To State Board of Education - State	
Charter School Board	
From Education Fund	9,000
From Education Fund, One-time	1,400
Schedule of Programs:	
State Charter School Board	10,400

Item 166

To State Board of Education -	
Educator Licensing Professional Practices	
From Professional Practices	
Restricted Subfund	21,700
Schedule of Programs:	
Educator Licensing	21,700

Item 167

To State Board of Education - State	
Office of Education - Child Nutrition	
From Education Fund	2,400
From Education Fund, One-time	600
From Federal Funds	50,600
Schedule of Programs:	
Child Nutrition	53,600

Item 168

To State Board of Education - Utah	
Schools for the Deaf and the Blind	
From Education Fund	524,400
From Education Fund, One-time	67,500
From Federal Funds	145,900
From Dedicated Credits Revenue	15,800
Schedule of Programs:	
Instructional Services	500,800
Support Services	252,800

**RETIREMENT AND
INDEPENDENT ENTITIES**

CAREER SERVICE REVIEW OFFICE

Item 169

To Career Service Review Office	
From General Fund	5,200
From General Fund, One-time	1,400
Schedule of Programs:	
Career Service Review Office	6,600

**DEPARTMENT OF HUMAN
RESOURCE MANAGEMENT**

Item 170

To Department of Human Resource Management -	
Human Resource Management	
From General Fund	57,500
From General Fund, One-time	8,700

Schedule of Programs:	
Administration	34,400
Policy	26,900
Teacher Salary Supplement	4,900

UTAH EDUCATION NETWORK

Item 171

To Utah Education Network	
From Education Fund	136,800
From Federal Funds	11,400
From Dedicated Credits Revenue	2,300
Schedule of Programs:	
Administration	28,000
Public Information	1,800
KUEN Broadcast	6,400
Technical Services	88,600
Course Management Systems	1,400
Instructional Support	24,300

EXECUTIVE APPROPRIATIONS

UTAH NATIONAL GUARD

Item 172

To Utah National Guard	
From General Fund	92,200
From General Fund, One-time	17,500
From Federal Funds	352,300
Schedule of Programs:	
Administration	16,100
Armory Maintenance	445,900

**DEPARTMENT OF VETERANS'
AND MILITARY AFFAIRS**

Item 173

To Department of Veterans' and Military	
Affairs - Veterans' and Military Affairs	
From General Fund	23,300
From General Fund, One-time	7,600
From Federal Funds	3,400
Schedule of Programs:	
Administration	24,900
Cemetery	9,400

CAPITOL PRESERVATION BOARD

Item 174

To Capitol Preservation Board	
From General Fund	13,800
From General Fund, One-time	3,400
Schedule of Programs:	
Capitol Preservation Board	17,200

LEGISLATURE

Item 175

To Legislature - Senate	
From General Fund	23,600
From General Fund, One-time	3,500
Schedule of Programs:	
Administration	27,100

Item 176

To Legislature - House of Representatives	
From General Fund	33,600
From General Fund, One-time	3,100
Schedule of Programs:	
Administration	36,700

Item 177

To Legislature - Office of the Legislative Auditor General
 From General Fund 74,500
 From General Fund, One-time 14,100
 Schedule of Programs:
 Administration 88,600

Item 178

To Legislature - Office of the Legislative Fiscal Analyst
 From General Fund 59,700
 From General Fund, One-time 7,400
 Schedule of Programs:
 Administration and Research 67,100

Item 179

To Legislature - Legislative Printing
 From General Fund 8,100
 From General Fund, One-time 2,000
 Schedule of Programs:
 Administration 10,100

Item 180

To Legislature - Office of Legislative Research and General Counsel
 From General Fund 172,300
 From General Fund, One-time 26,400
 Schedule of Programs:
 Administration 198,700

Subsection 1(b). Business-like Activities.

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

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

UTAH DEPARTMENT OF CORRECTIONS

Item 181

To Utah Department of Corrections - Utah Correctional Industries
 From Dedicated Credits Revenue 171,000
 Schedule of Programs:
 Utah Correctional Industries 171,000

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF ADMINISTRATIVE SERVICES INTERNAL SERVICE FUNDS

Item 182

To Department of Administrative Services - Division of Finance
 From Dedicated Credits - Intragovernmental Revenue 9,300
 Schedule of Programs:

ISF - Purchasing Card 200
 ISF - Consolidated Budget and Accounting 9,100

Item 183

To Department of Administrative Services - Division of Purchasing and General Services
 From Dedicated Credits - Intragovernmental Revenue 26,300
 Schedule of Programs:
 ISF - Central Mailing 12,500
 ISF - Cooperative Contracting 10,400
 ISF - Print Services 1,200
 ISF - State Surplus Property 2,200

Item 184

To Department of Administrative Services - Division of Fleet Operations
 From Dedicated Credits - Intragovernmental Revenue 17,300
 Schedule of Programs:
 ISF - Fleet Administration 1,700
 ISF - Motor Pool 8,600
 ISF - Fuel Network 5,400
 ISF - Travel Office 1,600

Item 185

To Department of Administrative Services - Risk Management
 From Premiums 17,800
 From Risk Management - Workers Compensation Fund 1,000
 Schedule of Programs:
 ISF - Risk Management Administration 17,800
 ISF - Workers' Compensation 1,000

Item 186

To Department of Administrative Services - Division of Facilities Construction and Management - Facilities Management
 From Dedicated Credits - Intragovernmental Revenue 56,300
 Schedule of Programs:
 ISF - Facilities Management 56,300

DEPARTMENT OF TECHNOLOGY SERVICES INTERNAL SERVICE FUNDS

Item 187

To Department of Technology Services - Enterprise Technology Division
 From Dedicated Credits - Intragovernmental Revenue 439,000
 Schedule of Programs:
 ISF - Enterprise Technology Division 439,000

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 188

To Department of Agriculture and Food - Agriculture Loan Programs
 From Agriculture Resource Development Fund 7,400

From Agriculture Rural Development Loan Fund	300
From Utah Rural Rehabilitation Loan State Fund	4,000
Schedule of Programs: Agriculture Loan Program	11,700

**RETIREMENT AND
INDEPENDENT ENTITIES**

**DEPARTMENT OF HUMAN
RESOURCE MANAGEMENT**

Item 189

To Department of Human Resource Management - Human Resources Internal Service Fund From Dedicated Credits - Intragovernmental Revenue	353,100
Schedule of Programs: ISF - Field Services	353,100

Subsection 1(c). Fiduciary Funds. The Legislature has reviewed proposed revenues, expenditures, fund balances and changes in fund balances for the following fiduciary funds.

**BUSINESS, ECONOMIC
DEVELOPMENT, AND LABOR**

LABOR COMMISSION

Item 190

To Labor Commission - Uninsured Employers Fund From Dedicated Credits Revenue	3,600
Schedule of Programs: Uninsured Employers Fund	3,600

Section 2. Effective Date.
This bill takes effect on July 1, 2014.

**CHAPTER 285
H.B. 8**

Passed March 12, 2014
Approved April 1, 2014
Effective July 1, 2014

**STATE AGENCY FEES AND INTERNAL
SERVICE FUND RATE AUTHORIZATION
AND APPROPRIATIONS**

Chief Sponsor: Brad R. Wilson
Senate Sponsor: Jerry W. Stevenson

LONG TITLE

Committee Note:

The Executive Appropriations Committee recommended this bill.

General Description:

This bill supplements or reduces appropriations previously provided for the use and operation of state government for the fiscal year beginning July 1, 2014 and ending June 30, 2015.

Highlighted Provisions:

This bill:

- ▶ provides budget increases and decreases for the use and support of certain state agencies and institutions of higher education;
- ▶ authorizes certain state agency fees;
- ▶ authorizes internal service fund rates;
- ▶ adjusts funding for the impact of Internal Service Fund rate changes;
- ▶ provides budget increases and decreases for other purposes as described.

Money Appropriated in this Bill:

This bill appropriates \$6,709,900 in operating and capital budgets for fiscal year 2015, including:

- ▶ \$3,553,400 from the General Fund;
- ▶ \$494,700 from the Education Fund;
- ▶ \$2,661,800 from various sources as detailed in this bill.

This bill appropriates \$600 in expendable funds and accounts for fiscal year 2015.

This bill appropriates \$13,400 in business-like activities for fiscal year 2015.

Other Special Clauses:

This bill takes effect on July 1, 2014.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2015 Appropriations. The following sums of money are appropriated for Internal Service Fund rate adjustments for the fiscal year beginning July 1, 2014 and ending June 30, 2015. These are additions to amounts previously appropriated for fiscal year 2015.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Utah Code Title 63J, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use

and support of the government of the State of Utah.

**EXECUTIVE OFFICES
AND CRIMINAL JUSTICE**

GOVERNOR'S OFFICE

Item 1

To Governor's Office

From General Fund	39,900
From Federal Funds	4,000
From Dedicated Credits Revenue	30,900
Schedule of Programs:	
Administration	9,900
Governor's Residence	(200)
Lt. Governor's Office	65,100

Item 2

To Governor's Office - Governor's Office of Management and Budget

From General Fund	30,800
Schedule of Programs:	
Administration	28,400
Planning and Budget Analysis	1,800
Demographic and Economic Analysis	300
State and Local Planning	300

Item 3

To Governor's Office - Commission on Criminal and Juvenile Justice

From General Fund	400
From Federal Funds	700
From Crime Victim Reparations Fund	2,600
Schedule of Programs:	
CCJJ Commission	1,300
Utah Office for Victims of Crime	1,800
Substance Abuse Advisory Council	100
Sentencing Commission	100
Judicial Performance Evaluation Commission	400

OFFICE OF THE STATE AUDITOR

Item 4

To Office of the State Auditor - State Auditor

From General Fund	900
From Dedicated Credits Revenue	300
Schedule of Programs:	
State Auditor	1,200

STATE TREASURER

Item 5

To State Treasurer

From General Fund	200
From Dedicated Credits Revenue	100
From Unclaimed Property Trust	(100)
Schedule of Programs:	
Treasury and Investment	300
Unclaimed Property	(100)

ATTORNEY GENERAL

Item 6

To Attorney General

From General Fund	9,100
From Federal Funds	300
From Dedicated Credits Revenue	2,300
From Attorney General Litigation Fund	100
From Revenue Transfers - Federal	100
Schedule of Programs:	
Administration	8,500

Child Protection	1,200
Children's Justice	(100)
Criminal Prosecution	3,800
Civil	(1,500)

Item 7

To Attorney General - Prosecution Council	
From General Fund Restricted - Public	
Safety Support	(400)
From Revenue Transfers	(300)
Schedule of Programs:	
Prosecution Council	(700)

UTAH DEPARTMENT OF CORRECTIONS

Item 8

To Utah Department of Corrections -	
Programs and Operations	
From General Fund	172,800
From Revenue Transfers	600
Schedule of Programs:	
Department Executive Director	12,400
Department Administrative Services ..	270,500
Department Training	(200)
Adult Probation and Parole	
Administration	200
Adult Probation and Parole Programs ..	31,800
Institutional Operations	
Administration	(300)
Institutional Operations Draper	
Facility	(6,500)
Institutional Operations Central	
Utah/Gunnison	(146,300)
Institutional Operations Inmate	
Placement	1,500
Institutional Operations Support	
Services	12,000
Programming Administration	(100)
Programming Treatment	(300)
Programming Skill Enhancement	(1,300)

Item 9

To Utah Department of Corrections -	
Department Medical Services	
From General Fund	16,100
Schedule of Programs:	
Medical Services	16,100

BOARD OF PARDONS AND PAROLE

Item 10

To Board of Pardons and Parole	
From General Fund	21,400
Schedule of Programs:	
Board of Pardons and Parole	21,400

**DEPARTMENT OF HUMAN SERVICES -
DIVISION OF JUVENILE
JUSTICE SERVICES**

Item 11

To Department of Human Services - Division of	
Juvenile Justice Services - Programs and	
Operations	
From General Fund	79,300
From Federal Funds	2,800
From Dedicated Credits Revenue	200
From Revenue Transfers - Child Nutrition ..	300
From Revenue Transfers - Commission	
on Criminal and Juvenile Justice	1,000
Schedule of Programs:	

Administration	42,400
Early Intervention Services	11,800
Community Programs	12,100
Correctional Facilities	6,600
Rural Programs	10,700

**JUDICIAL COUNCIL/STATE
COURT ADMINISTRATOR**

Item 12

To Judicial Council/State Court	
Administrator - Administration	
From General Fund	2,500
From General Fund Restricted - Justice	
Court Tech., Security & Training	(200)
Schedule of Programs:	
District Courts	4,600
Juvenile Courts	3,600
Administrative Office	(5,900)

Item 13

To Judicial Council/State Court	
Administrator - Contracts and Leases	
From General Fund	112,300
Schedule of Programs:	
Contracts and Leases	112,300

Item 14

To Judicial Council/State Court	
Administrator - Jury and Witness Fees	
From General Fund	300
Schedule of Programs:	
Jury, Witness, and Interpreter	300

Item 15

To Judicial Council/State Court	
Administrator - Guardian ad Litem	
From General Fund	800
Schedule of Programs:	
Guardian ad Litem	800

DEPARTMENT OF PUBLIC SAFETY

Item 16

To Department of Public Safety -	
Programs & Operations	
From General Fund	239,800
From Federal Funds	3,900
From Dedicated Credits Revenue	48,900
From General Fund Restricted -	
DNA Specimen Account	600
From General Fund Restricted - Statewide	
Unified E-911 Emergency Account	100
From General Fund Restricted -	
Fire Academy Support	3,500
From General Fund Restricted -	
Utah Highway Patrol Aero Bureau	100
From Department of Public Safety	
Restricted Account	700
From Revenue Transfers	1,500
Schedule of Programs:	
Department Commissioner's Office ...	224,300
Aero Bureau	400
Department Intelligence Center	1,300
Department Grants	5,400
Department Fleet Management	100
Enhanced 911 Program	100
CITS Administration	1,900
CITS Bureau of Criminal	
Identification	75,700
CITS Communications	4,400

CITS State Crime Labs	3,900
CITS State Bureau of Investigation	5,300
Highway Patrol - Administration	5,100
Highway Patrol - Field Operations ...	(32,700)
Highway Patrol - Commercial Vehicle ...	3,800
Highway Patrol - Safety Inspections	1,900
Highway Patrol - Protective Services ..	(8,100)
Highway Patrol - Special Services	3,000
Highway Patrol - Technology Services	800
Information Management -	
Operations	(1,300)
Fire Marshall - Fire Operations	3,500
Fire Marshall - Fire Fighter Training	300

Item 17

To Department of Public Safety -	
Emergency Management	
From General Fund	2,000
From Federal Funds	7,000
Schedule of Programs:	
Emergency Management	9,000

Item 18

To Department of Public Safety - Peace	
Officers' Standards and Training	
From General Fund Restricted - Public	
Safety Support	8,000
Schedule of Programs:	
Basic Training	1,200
Regional/Inservice Training	(600)
POST Administration	7,400

Item 19

To Department of Public Safety - Driver License	
From Federal Funds	(300)
From Department of Public Safety	
Restricted Account	77,900
Schedule of Programs:	
Driver License Administration	(400)
Driver Services	42,200
Driver Records	36,100
DL Federal Grants	(300)

Item 20

To Department of Public Safety - Highway Safety	
From General Fund	100
From Federal Funds	6,900
Schedule of Programs:	
Highway Safety	7,000

**INFRASTRUCTURE AND
GENERAL GOVERNMENT**

TRANSPORTATION

Item 21

To Transportation - Support Services	
From Transportation Fund	559,500
Schedule of Programs:	
Administrative Services	(400)
Risk Management	216,500
Human Resources Management	6,400
Procurement	(200)
Comptroller	(600)
Data Processing	339,300
Internal Auditor	(100)
Ports of Entry	(1,400)

Item 22

To Transportation - Engineering Services	
From Transportation Fund	(4,000)

Schedule of Programs:	
Program Development	(1,600)
Preconstruction Administration	(300)
Environmental	(100)
Structures	(200)
Materials Lab	(500)
Engineering Services	(400)
Right-of-Way	(400)
Research	(100)
Construction Management	(300)
Civil Rights	(100)

Item 23

To Transportation - Operations/	
Maintenance Management	
From Transportation Fund	(8,900)
Schedule of Programs:	
Region 1	(800)
Region 2	(800)
Region 3	(900)
Region 4	(1,300)
Field Crews	(1,400)
Traffic Safety/Tramway	(500)
Traffic Operations Center	(2,900)
Maintenance Planning	(300)

Item 24

To Transportation - Region Management	
From Transportation Fund	(5,200)
Schedule of Programs:	
Region 1	(1,100)
Region 2	(1,800)
Region 3	(900)
Region 4	(1,200)
Price	(100)
Cedar City	(100)

Item 25

To Transportation - Equipment Management	
From Transportation Fund	(2,900)
From Dedicated Credits	
Revenue	28,600
Schedule of Programs:	
Equipment Purchases	(17,300)
Shops	43,000

Item 26

To Transportation - Aeronautics	
From Aeronautics Restricted Account	(2,300)
Schedule of Programs:	
Administration	(2,200)
Airplane Operations	(100)

**DEPARTMENT OF
ADMINISTRATIVE SERVICES**

Item 27

To Department of Administrative	
Services - Executive Director	
From General Fund	248,100
Schedule of Programs:	
Executive Director	248,100

Item 28

To Department of Administrative Services -	
Inspector General of Medicaid Services	
From General Fund	500
From Revenue Transfers - Medicaid	800
Schedule of Programs:	
Inspector General of Medicaid Services ..	1,300

Item 29
 To Department of Administrative
 Services - Administrative Rules
 From General Fund 900
 Schedule of Programs:
 DAR Administration 900

Item 30
 To Department of Administrative Services -
 DFCM Administration
 From General Fund 3,100
 From Dedicated Credits Revenue 1,400
 From Capital Projects Fund 3,200
 Schedule of Programs:
 DFCM Administration 7,300
 Energy Program 400

Item 31
 To Department of Administrative Services -
 State Archives
 From General Fund 11,900
 Schedule of Programs:
 Archives Administration 12,100
 Records Services (200)

Item 32
 To Department of Administrative
 Services - Finance Administration
 From General Fund 99,300
 From Dedicated Credits Revenue 500
 Schedule of Programs:
 Finance Director's Office 200
 Payroll 27,800
 Payables/Disbursing 5,500
 Technical Services 17,900
 Financial Reporting 600
 Financial Information Systems 47,800

Item 33
 To Department of Administrative
 Services - Judicial Conduct Commission
 From General Fund 200
 Schedule of Programs:
 Judicial Conduct Commission 200

Item 34
 To Department of Administrative
 Services - Purchasing
 From General Fund (500)
 Schedule of Programs:
 Purchasing and General Services (500)

**DEPARTMENT OF
 TECHNOLOGY SERVICES**

Item 35
 To Department of Technology Services -
 Chief Information Officer
 From General Fund 12,000
 Schedule of Programs:
 Chief Information Officer 12,000

Item 36
 To Department of Technology Services -
 Integrated Technology Division
 From General Fund (700)
 From Dedicated Credits Revenue (300)
 Schedule of Programs:
 Automated Geographic Reference
 Center (1,000)

**BUSINESS, ECONOMIC
 DEVELOPMENT, AND LABOR**

DEPARTMENT OF HERITAGE AND ARTS

Item 37
 To Department of Heritage and
 Arts - Administration
 From General Fund 27,000
 From Federal Funds (100)
 Schedule of Programs:
 Executive Director's Office (5,800)
 Information Technology 32,600
 Administrative Services 400
 Utah Multicultural Affairs Office (100)
 Commission on Service and
 Volunteerism (200)

Item 38
 To Department of Heritage and Arts - State History
 From General Fund (400)
 From Federal Funds (200)
 Schedule of Programs:
 Library and Collections (200)
 Public History, Communication and
 Information (100)
 Historic Preservation and Antiquities (300)

Item 39
 To Department of Heritage and Arts - Division
 of Arts and Museums
 From General Fund 600
 Schedule of Programs:
 Administration 600

Item 40
 To Department of Heritage and Arts - State Library
 From General Fund 1,700
 From Dedicated Credits Revenue (200)
 Schedule of Programs:
 Administration 2,000
 Blind and Disabled (200)
 Library Development (100)
 Library Resources (200)

**GOVERNOR'S OFFICE
 OF ECONOMIC DEVELOPMENT**

Item 41
 To Governor's Office of Economic
 Development - Administration
 From General Fund 42,200
 Schedule of Programs:
 Administration 42,200

Item 42
 To Governor's Office of Economic
 Development - Office of Tourism
 From General Fund 500
 Schedule of Programs:
 Administration (100)
 Operations and Fulfillment (100)
 Film Commission 700

Item 43
 To Governor's Office of Economic
 Development - Business Development
 From General Fund (700)
 Schedule of Programs:
 Outreach and International Trade (400)
 Corporate Recruitment and Business
 Services (300)

Item 44

To Governor's Office of Economic Development - Pete Suazo Utah Athletics Commission	
From General Fund	100
Schedule of Programs:	
Pete Suazo Utah Athletics Commission ...	100

UTAH STATE TAX COMMISSION**Item 45**

To Utah State Tax Commission - Tax Administration	
From General Fund	241,200
From Education Fund	189,100
From Dedicated Credits Revenue	19,600
From General Fund Restricted - Tax Commission Administrative Charge	89,100
Schedule of Programs:	
Administration Division	10,800
Auditing Division	13,600
Technology Management	406,200
Tax Processing Division	33,400
Tax Payer Services	17,700
Property Tax Division	9,000
Motor Vehicles	38,300
Motor Vehicle Enforcement Division	10,000

**UTAH SCIENCE TECHNOLOGY AND
RESEARCH GOVERNING AUTHORITY****Item 46**

To Utah Science Technology and Research Governing Authority	
From General Fund	(2,700)
Schedule of Programs:	
Administration	(2,800)
Technology Outreach	100

**DEPARTMENT OF ALCOHOLIC
BEVERAGE CONTROL****Item 47**

To Department of Alcoholic Beverage Control - DABC Operations	
From Liquor Control Fund	75,900
Schedule of Programs:	
Executive Director	1,300
Administration	1,000
Operations	55,800
Warehouse and Distribution	3,000
Stores and Agencies	14,800

LABOR COMMISSION**Item 48**

To Labor Commission	
From General Fund	52,500
From Federal Funds	4,500
From General Fund Restricted - Industrial Accident Restricted Account ..	8,000
From General Fund Restricted - Workplace Safety Account	900
Schedule of Programs:	
Administration	46,500
Industrial Accidents	7,200
Adjudication	800
Boiler, Elevator and Coal Mine Safety Division	2,800
Anti-Discrimination and Labor	2,300
Utah OSHA	6,300

DEPARTMENT OF COMMERCE**Item 49**

To Department of Commerce - Commerce General Regulation	
From General Fund Restricted - Commerce Service Account	92,600
From General Fund Restricted - Commerce Service Account - Public Utilities	
Regulatory Fee	(400)
Schedule of Programs:	
Administration	90,900
Occupational and Professional Licensing	3,300
Securities	(200)
Consumer Protection	(200)
Corporations and Commercial Code	(700)
Real Estate	(500)
Public Utilities	(300)
Office of Consumer Services	(100)

FINANCIAL INSTITUTIONS**Item 50**

To Financial Institutions - Financial Institutions Administration	
From General Fund Restricted - Financial Institutions	22,100
Schedule of Programs:	
Administration	22,100

INSURANCE DEPARTMENT**Item 51**

To Insurance Department - Insurance Department Administration	
From Federal Funds	1,500
From General Fund Restricted - Guaranteed Asset Protection Waiver	100
From General Fund Restricted - Insurance Department Account	112,100
From General Fund Restricted - Insurance Fraud Investigation Account	14,100
From General Fund Restricted - Technology Development	3,600
From General Fund Restricted - Captive Insurance	4,200
Schedule of Programs:	
Administration	113,600
Insurance Fraud Program	14,100
Captive Insurers	4,200
Electronic Commerce Fee	3,600
GAP Waiver Program	100

Item 52

To Insurance Department - Title Insurance Program	
From General Fund Restricted - Title Licensee Enforcement Account	300
Schedule of Programs:	
Title Insurance Program	300

PUBLIC SERVICE COMMISSION**Item 53**

To Public Service Commission	
From Federal Funds	1,400
From General Fund Restricted - Commerce Service Account - Public Utilities Regulatory Fee	20,800
Schedule of Programs:	

Administration 22,200

SOCIAL SERVICES

DEPARTMENT OF HEALTH

Item 54

To Department of Health - Executive
 Director's Operations
 From General Fund 90,200
 From Federal Funds 85,100
 From Dedicated Credits Revenue 10,700
 Schedule of Programs:
 Executive Director (2,200)
 Center for Health Data and
 Informatics 24,100
 Program Operations 164,300
 Office of Internal Audit (200)

Item 55

To Department of Health - Family
 Health and Preparedness
 From General Fund 5,800
 From Federal Funds 53,800
 From Dedicated Credits Revenue 11,100
 From Revenue Transfers 5,200
 Schedule of Programs:
 Maternal and Child Health 54,000
 Child Development 4,500
 Children with Special Health
 Care Needs 5,700
 Public Health Preparedness (3,300)
 Emergency Medical Services 12,500
 Facility Licensure, Certification,
 and Resident Assessment 2,400
 Primary Care 100

Item 56

To Department of Health - Disease
 Control and Prevention
 From General Fund 190,800
 From Federal Funds 8,500
 From Dedicated Credits Revenue 500
 From General Fund Restricted -
 Tobacco Settlement Account 100
 From Revenue Transfers 700
 Schedule of Programs:
 Laboratory General Administration ... 186,900
 Laboratory Operations and Testing 400
 Health Promotion (200)
 Epidemiology 12,300
 Office of the Medical Examiner 1,000
 Certification Programs 200

Item 57

To Department of Health - Medicaid
 and Health Financing
 From General Fund (18,500)
 From Federal Funds (89,000)
 From Dedicated Credits Revenue (1,100)
 From Revenue Transfers (500)
 Schedule of Programs:
 Director's Office (100)
 Financial Services (95,200)
 Medicaid Operations (16,100)
 Managed Health Care (100)
 Authorization and Community
 Based Services 200
 Contracts 6,400
 Coverage and Reimbursement (4,200)

Item 58

To Department of Health - Children's
 Health Insurance Program
 From General Fund (400)
 From Federal Funds (1,300)
 Schedule of Programs:
 Children's Health Insurance Program .. (1,700)

Item 59

To Department of Health - Medicaid
 Mandatory Services
 From General Fund 1,900
 From Federal Funds 5,400
 From Revenue Transfers (100)
 Schedule of Programs:
 Medicaid Management Information
 System Replacement 7,300
 Other Mandatory Services (100)

Item 60

To Department of Health - Medicaid
 Optional Services
 From General Fund 1,700
 From Federal Funds 6,800
 From Dedicated Credits Revenue 800
 From Revenue Transfers 200
 Schedule of Programs:
 Other Optional Services 9,500

**DEPARTMENT OF
 WORKFORCE SERVICES**

Item 61

To Department of Workforce
 Services - Administration
 From General Fund (22,600)
 From Federal Funds (41,000)
 From Dedicated Credits Revenue (800)
 From General Fund Restricted -
 Mineral Lease (3,300)
 From Revenue Transfers - Medicaid (7,200)
 Schedule of Programs:
 Executive Director's Office 100
 Communications (300)
 Human Resources 7,500
 Administrative Support (82,100)
 Internal Audit (100)

Item 62

To Department of Workforce Services -
 Operations and Policy
 From General Fund 137,900
 From Federal Funds 309,400
 From Dedicated Credits Revenue 33,100
 From Revenue Transfers 1,400
 From Revenue Transfers - Medicaid 318,800
 Schedule of Programs:
 Facilities and Pass-Through 38,400
 Workforce Development 143,500
 Workforce Research and Analysis (600)
 Eligibility Services 7,000
 Information Technology 612,300

Item 63

To Department of Workforce Services -
 General Assistance
 From General Fund 200
 Schedule of Programs:
 General Assistance 200

Item 64

To Department of Workforce Services - Unemployment Insurance	
From General Fund	(200)
From Federal Funds	(5,300)
From Dedicated Credits Revenue	(100)
Schedule of Programs:	
Unemployment Insurance	
Administration	(4,600)
Adjudication	(1,000)

Item 65

To Department of Workforce Services - Housing and Community Development	
From General Fund	100
From Federal Funds	3,200
From General Fund Restricted - Mineral Lease	2,400
Schedule of Programs:	
Community Development	
Administration	2,200
Community Development	400
Housing Development	200
Homeless Committee	200
HEAT	400
Weatherization Assistance	2,300

DEPARTMENT OF HUMAN SERVICES**Item 66**

To Department of Human Services - Executive Director Operations	
From General Fund	56,600
From Federal Funds	30,800
From Revenue Transfers - Indirect Costs	(1,300)
From Revenue Transfers - Medicaid	6,800
From Revenue Transfers - Within Agency	300
Schedule of Programs:	
Executive Director's Office	400
Legal Affairs	1,200
Information Technology	64,700
Fiscal Operations	11,400
Human Resources	100
Office of Services Review	1,400
Office of Licensing	14,100
Utah Developmental Disabilities Council	(100)

Item 67

To Department of Human Services - Division of Substance Abuse and Mental Health	
From General Fund	31,700
From Federal Funds	9,400
From Dedicated Credits Revenue	1,600
From Revenue Transfers - Medicaid	9,000
Schedule of Programs:	
Administration - DSAMH	1,600
Community Mental Health Services	8,700
State Hospital	41,300
State Substance Abuse Services	100

Item 68

To Department of Human Services - Division of Services for People with Disabilities	
From General Fund	26,600
From Dedicated Credits Revenue	1,200
From Revenue Transfers - Medicaid	34,700
Schedule of Programs:	
Administration - DSPD	28,600

Service Delivery	11,900
Utah State Developmental Center	22,000

Item 69

To Department of Human Services - Office of Recovery Services	
From General Fund	(21,900)
From Federal Funds	(34,600)
From Dedicated Credits Revenue	3,000
From Revenue Transfers - Medicaid	(4,100)
Schedule of Programs:	
Financial Services	3,000
Electronic Technology	(68,100)
Child Support Services	7,200
Attorney General Contract	500
Medical Collections	(200)

Item 70

To Department of Human Services - Division of Child and Family Services	
From General Fund	117,400
From Federal Funds	52,300
Schedule of Programs:	
Administration - DCFS	3,500
Service Delivery	39,200
Facility-based Services	200
Child Welfare Management Information System	126,800

Item 71

To Department of Human Services - Division of Aging and Adult Services	
From General Fund	3,000
From Federal Funds	500
From Revenue Transfers - Medicaid	100
Schedule of Programs:	
Administration - DAAS	700
Adult Protective Services	2,600
Aging Waiver Services	200
Aging Alternatives	100

STATE BOARD OF EDUCATION**Item 72**

To State Board of Education - State Office of Rehabilitation	
From Education Fund	2,600
From Federal Funds	2,200
From Dedicated Credits Revenue	100
Schedule of Programs:	
Executive Director	200
Blind and Visually Impaired	300
Rehabilitation Services	5,400
Disability Determination	(1,800)
Deaf and Hard of Hearing	800

HIGHER EDUCATION**UNIVERSITY OF UTAH****Item 73**

To University of Utah - Education and General	
From General Fund	507,600
From Dedicated Credits Revenue	169,200
Schedule of Programs:	
Education and General	676,800

UTAH STATE UNIVERSITY**Item 74**

To Utah State University - Education and General	
From General Fund	172,500
From Dedicated Credits Revenue	57,500

Schedule of Programs:
 Education and General 230,000

Item 75

To Utah State University - USU -
 Eastern Education and General
 From Education Fund 5,300
 From Dedicated Credits Revenue 1,700
 Schedule of Programs:
 USU - Eastern Education and
 General 7,000

WEBER STATE UNIVERSITY

Item 76

To Weber State University - Education
 and General
 From General Fund 91,100
 From Dedicated Credits Revenue 30,300
 Schedule of Programs:
 Education and General 121,400

SOUTHERN UTAH UNIVERSITY

Item 77

To Southern Utah University - Education
 and General
 From Education Fund 47,500
 From Dedicated Credits Revenue 15,900
 Schedule of Programs:
 Education and General 63,400

UTAH VALLEY UNIVERSITY

Item 78

To Utah Valley University - Education
 and General
 From General Fund 183,000
 From Dedicated Credits Revenue 61,000
 Schedule of Programs:
 Education and General 244,000

SNOW COLLEGE

Item 79

To Snow College - Education and General
 From Education Fund 37,500
 From Dedicated Credits Revenue 12,600
 Schedule of Programs:
 Education and General 50,100

DIXIE STATE UNIVERSITY

Item 80

To Dixie State University - Education
 and General
 From Education Fund 36,900
 From Dedicated Credits Revenue 12,300
 Schedule of Programs:
 Education and General 49,200

SALT LAKE COMMUNITY COLLEGE

Item 81

To Salt Lake Community College - Education
 and General
 From Education Fund 97,500
 From Dedicated Credits Revenue 32,500
 Schedule of Programs:
 Education and General 130,000

STATE BOARD OF REGENTS

Item 82

To State Board of Regents - Administration
 From General Fund 56,300
 Schedule of Programs:
 Administration 56,300

Item 83

To State Board of Regents - Medical
 Education Council
 From General Fund (100)
 Schedule of Programs:
 Medical Education Council (100)

**UTAH COLLEGE OF APPLIED
 TECHNOLOGY**

Item 84

To Utah College of Applied Technology -
 Bridgerland Applied Technology College
 From Education Fund 17,100
 From Dedicated Credits Revenue 5,700
 Schedule of Programs:
 Bridgerland Applied Technology
 College 22,800

Item 85

To Utah College of Applied Technology -
 Davis Applied Technology College
 From Education Fund 12,800
 From Dedicated Credits Revenue 4,200
 Schedule of Programs:
 Davis Applied Technology College 17,000

Item 86

To Utah College of Applied Technology -
 Dixie Applied Technology College
 From Education Fund 5,000
 From Dedicated Credits Revenue 1,700
 Schedule of Programs:
 Dixie Applied Technology College 6,700

Item 87

To Utah College of Applied Technology -
 Mountainland Applied Technology College
 From Education Fund 6,700
 From Dedicated Credits Revenue 2,200
 Schedule of Programs:
 Mountainland Applied Technology
 College 8,900

Item 88

To Utah College of Applied Technology -
 Ogden/Weber Applied Technology College
 From Education Fund 9,500
 From Dedicated Credits Revenue 3,200
 Schedule of Programs:
 Ogden/Weber Applied Technology
 College 12,700

Item 89

To Utah College of Applied Technology -
 Southwest Applied Technology College
 From Education Fund 2,900
 From Dedicated Credits Revenue 900
 Schedule of Programs:
 Southwest Applied Technology College ... 3,800

Item 90

To Utah College of Applied Technology -
 Tooele Applied Technology College
 From Education Fund (100)

Schedule of Programs:

Tooele Applied Technology College (100)

Item 91

To Utah College of Applied Technology -

Uintah Basin Applied Technology College

From Education Fund 8,100

From Dedicated Credits Revenue 2,700

Schedule of Programs:

Uintah Basin Applied Technology

College 10,800

**NATURAL RESOURCES, AGRICULTURE,
AND ENVIRONMENTAL QUALITY****DEPARTMENT OF NATURAL RESOURCES****Item 92**

To Department of Natural

Resources - Administration

From General Fund (14,700)

Schedule of Programs:

Executive Director (43,200)

Administrative Services 26,800

Public Affairs 100

Law Enforcement 1,600

Item 93

To Department of Natural Resources -

Species Protection

From General Fund Restricted - Species

Protection 200

Schedule of Programs:

Species Protection 200

Item 94

To Department of Natural Resources -

Building Operations

From General Fund 97,200

Schedule of Programs:

Building Operations 97,200

Item 95

To Department of Natural Resources -

Forestry, Fire and State Lands

From General Fund 6,700

From Federal Funds 900

From Dedicated Credits Revenue 1,100

From General Fund Restricted -

Sovereign Land Management 11,900

Schedule of Programs:

Division Administration 16,700

Fire Management 300

Lands Management 200

Forest Management 300

Program Delivery 2,300

Lone Peak Center 800

Item 96

To Department of Natural Resources -

Oil, Gas and Mining

From General Fund 4,300

From Federal Funds 8,100

From Dedicated Credits Revenue 400

From General Fund Restricted -

Oil & Gas Conservation Account 14,300

Schedule of Programs:

Administration 11,600

Oil and Gas Program 9,900

Minerals Reclamation 1,500

Coal Program 4,100

Item 97

To Department of Natural Resources -

Wildlife Resources

From General Fund 5,900

From Federal Funds 5,700

From General Fund Restricted -

Wildlife Resources 48,600

Schedule of Programs:

Director's Office 800

Administrative Services 44,900

Conservation Outreach 1,600

Law Enforcement 4,900

Habitat Section (1,100)

Wildlife Section 2,200

Aquatic Section 6,900

Item 98

To Department of Natural Resources -

Parks and Recreation

From General Fund 1,300

From General Fund Restricted -

Boating 1,300

From General Fund Restricted -

Off-highway Vehicle 2,000

From General Fund Restricted -

State Park Fees 6,300

Schedule of Programs:

Executive Management 300

Park Operation Management 4,500

Planning and Design 300

Support Services 8,900

Recreation Services (3,100)

Item 99

To Department of Natural Resources -

Utah Geological Survey

From General Fund 11,400

From Dedicated Credits Revenue (100)

From General Fund Restricted -

Mineral Lease (100)

Schedule of Programs:

Administration (1,700)

Technical Services 13,000

Geologic Mapping (100)

Item 100

To Department of Natural Resources -

Water Resources

From General Fund 13,900

From Water Resources Conservation

and Development Fund 2,900

Schedule of Programs:

Administration 10,900

Interstate Streams 100

Planning 3,900

Construction 1,900

Item 101

To Department of Natural Resources -

Water Rights

From General Fund 16,600

From Dedicated Credits Revenue 1,200

Schedule of Programs:

Administration 300

Applications and Records 1,100

Dam Safety 400

Field Services 1,100

Technical Services 12,700

Regional Offices 2,200

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 102

To Department of Environmental Quality -
 Quality - Executive Director's Office

From General Fund	51,200
From Federal Funds	4,900
From General Fund Restricted - Environmental Quality	12,500
Schedule of Programs: Executive Director's Office	68,600

Item 103

To Department of Environmental Quality -
 Air Quality

From General Fund	3,700
From Federal Funds	4,100
From Dedicated Credits Revenue	4,700
From Clean Fuel Conversion Fund	100
Schedule of Programs: Air Quality	12,600

Item 104

To Department of Environmental Quality -
 Environmental Response and Remediation

From General Fund	600
From Federal Funds	3,000
From Dedicated Credits Revenue	500
From General Fund Restricted - Voluntary Cleanup	400
From Petroleum Storage Tank Trust Fund	1,200
From Petroleum Storage Tank Loan Fund	200
Schedule of Programs: Environmental Response and Remediation	5,900

Item 105

To Department of Environmental
 Quality - Radiation Control

From General Fund	1,500
From Federal Funds	100
From Dedicated Credits Revenue	600
From General Fund Restricted - Environmental Quality	5,100
Schedule of Programs: Radiation Control	7,300

Item 106

To Department of Environmental Quality -
 Water Quality

From General Fund	3,700
From Federal Funds	3,800
From Dedicated Credits Revenue	1,000
From General Fund Restricted - Underground Wastewater System	100
From Water Development Security Fund - Utah Wastewater Loan Program	1,300
From Water Development Security Fund - Water Quality Origination Fee	100
From Revenue Transfers	200
Schedule of Programs: Water Quality	10,200

Item 107

To Department of Environmental
 Quality - Drinking Water

From General Fund	1,200
-------------------------	-------

From Federal Funds	4,800
From Dedicated Credits Revenue	200
From Water Development Security Fund - Drinking Water Loan Program	200
From Water Development Security Fund - Drinking Water Origination Fee ..	100
From Revenue Transfers	100
Schedule of Programs: Drinking Water	6,600

Item 108

To Department of Environmental Quality -
 Solid and Hazardous Waste

From Federal Funds	1,200
From Dedicated Credits Revenue	1,500
From General Fund Restricted - Environmental Quality	3,000
From General Fund Restricted - Used Oil Collection Administration	500
From Waste Tire Recycling Fund	200
Schedule of Programs: Solid and Hazardous Waste	6,400

PUBLIC LANDS POLICY COORDINATION OFFICE

Item 109

To Public Lands Policy Coordination Office

From General Fund	700
From General Fund Restricted - Constitutional Defense	1,100
Schedule of Programs: Public Lands Office	1,800

GOVERNOR'S OFFICE

Item 110

To Governor's Office - Office of
 Energy Development

From General Fund	400
From Federal Funds	100
From General Fund Restricted - Stripper Well-Petroleum Violation Escrow	100
Schedule of Programs: Office of Energy Development	600

DEPARTMENT OF AGRICULTURE AND FOOD

Item 111

To Department of Agriculture and
 Food - Administration

From General Fund	35,600
From Federal Funds	200
Schedule of Programs: General Administration	35,700
Chemistry Laboratory	100

Item 112

To Department of Agriculture and Food -
 Animal Health

From General Fund	4,900
From Federal Funds	2,900
From General Fund Restricted - Livestock Brand	3,800
Schedule of Programs: Animal Health	400
Brand Inspection	5,600
Meat Inspection	5,600

Item 113

To Department of Agriculture and
 Food - Plant Industry

From General Fund	2,100
From Federal Funds	2,200
From Dedicated Credits Revenue	4,300
Schedule of Programs:	
Environmental Quality	800
Grain Inspection	(100)
Insect Infestation	100
Plant Industry	5,800
Grazing Improvement Program	2,000

Item 114

To Department of Agriculture and Food - Regulatory Services	
From General Fund	1,100
From Federal Funds	300
From Dedicated Credits Revenue	900
Schedule of Programs:	
Regulatory Services	2,300

Item 115

To Department of Agriculture and Food - Marketing and Development	
From General Fund	(100)
Schedule of Programs:	
Marketing and Development	(100)

Item 116

To Department of Agriculture and Food - Building Operations	
From General Fund	51,600
Schedule of Programs:	
Building Operations	51,600

Item 117

To Department of Agriculture and Food - Predatory Animal Control	
From General Fund	(800)
From General Fund Restricted - Agriculture and Wildlife Damage Prevention	(600)
Schedule of Programs:	
Predatory Animal Control	(1,400)

Item 118

To Department of Agriculture and Food - Rangeland Improvement	
From General Fund Restricted - Rangeland Improvement Account	100
Schedule of Programs:	
Rangeland Improvement	100

SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION

Item 119

To School and Institutional Trust Lands Administration	
From Land Grant Management Fund	1,200
Schedule of Programs:	
Administration	(1,400)
Auditing	(100)
Oil and Gas	100
Mining	100
Surface	200
Development - Operating	1,600
Legal/Contracts	(300)
Information Technology Group	600
Grazing and Forestry	400

**PUBLIC EDUCATION
STATE BOARD OF EDUCATION**

Item 120

To State Board of Education - State Office of Education	
From Education Fund	(900)
From Federal Funds	(1,200)
From Dedicated Credits Revenue	5,000
Schedule of Programs:	
Assessment and Accountability	(400)
Educational Equity	(100)
Board and Administration	6,700
Business Services	(200)
Career and Technical Education	(700)
District Computer Services	(700)
Federal Elementary and Secondary Education Act	
Education Act	(300)
Law and Legislation	(100)
School Trust	(100)
Special Education	(400)
Teaching and Learning	(800)

Item 121

To State Board of Education - State Charter School Board	
From Education Fund	(100)
Schedule of Programs:	
State Charter School Board	(100)

Item 122

To State Board of Education - Educator Licensing Professional Practices	
From Professional Practices Restricted Subfund	(300)
Schedule of Programs:	
Educator Licensing	(300)

Item 123

To State Board of Education - State Office of Education - Child Nutrition	
From Federal Funds	(300)
Schedule of Programs:	
Child Nutrition	(300)

Item 124

To State Board of Education - Utah Schools for the Deaf and the Blind	
From Education Fund	17,300
From Dedicated Credits Revenue	300
Schedule of Programs:	
Support Services	17,600

RETIREMENT AND INDEPENDENT ENTITIES

CAREER SERVICE REVIEW OFFICE

Item 125

To Career Service Review Office	
From General Fund	300
Schedule of Programs:	
Career Service Review Office	300

DEPARTMENT OF HUMAN RESOURCE MANAGEMENT

Item 126

To Department of Human Resource Management - Human Resource Management	
From General Fund	69,800
Schedule of Programs:	

Administration	1,300
Teacher Salary Supplement	100
Information Technology	68,400

EXECUTIVE APPROPRIATIONS

UTAH NATIONAL GUARD

Item 127

To Utah National Guard	
From General Fund	81,300
From Federal Funds	1,100
Schedule of Programs:	
Administration	81,200
Armory Maintenance	1,200

DEPARTMENT OF VETERANS' AND MILITARY AFFAIRS

Item 128

To Department of Veterans' and Military Affairs - Veterans' and Military Affairs	
From General Fund	14,600
From Federal Funds	2,700
Schedule of Programs:	
Administration	17,500
Cemetery	(200)

CAPITOL PRESERVATION BOARD

Item 129

To Capitol Preservation Board	
From General Fund	100
Schedule of Programs:	
Capitol Preservation Board	100

LEGISLATURE

Item 130

To Legislature - Senate	
From General Fund	1,100
Schedule of Programs:	
Administration	1,100

Item 131

To Legislature - House of Representatives	
From General Fund	3,700
Schedule of Programs:	
Administration	3,700

Item 132

To Legislature - Office of the Legislative Auditor General	
From General Fund	700
Schedule of Programs:	
Administration	700

Item 133

To Legislature - Office of the Legislative Fiscal Analyst	
From General Fund	3,200
Schedule of Programs:	
Administration and Research	3,200

Item 134

To Legislature - Legislative Printing	
From General Fund	200
Schedule of Programs:	
Administration	200

Item 135

To Legislature - Office of Legislative Research and General Counsel	
---	--

From General Fund	2,200
Schedule of Programs:	
Administration	2,200

Subsection 1(b). Expendable Funds and Accounts.

The Legislature has reviewed the following expendable funds. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated. Outlays and expenditures from the recipient funds or accounts may be made without further legislative action according to a fund or account's applicable authorizing statute.

EXECUTIVE APPROPRIATIONS

CAPITOL PRESERVATION BOARD

Item 136

To Capitol Preservation Board - State Capitol Restricted Special Revenue Fund	
From Dedicated Credits Revenue	600
Schedule of Programs:	
State Capitol Fund	600

Subsection 1(c). Business-like Activities.

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

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

UTAH DEPARTMENT OF CORRECTIONS

Item 137

To Utah Department of Corrections - Utah Correctional Industries	
From Dedicated Credits Revenue	7,900
Schedule of Programs:	
Utah Correctional Industries	7,900

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF TECHNOLOGY SERVICES INTERNAL SERVICE FUNDS

Item 138

To Department of Technology Services - Enterprise Technology Division	
From Dedicated Credits - Intragovernmental Revenue	5,400
Schedule of Programs:	
ISF - Enterprise Technology Division	5,400

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF NATURAL RESOURCES

Item 139

To Department of Natural Resources - Internal Service Fund	
--	--

From Dedicated Credits -	
Intragovernmental Revenue	200
Schedule of Programs:	
ISF - DNR Warehouse	200

**DEPARTMENT OF
AGRICULTURE AND FOOD**

Item 140

To Department of Agriculture and	
Food - Agriculture Loan Programs	
From Agriculture Resource Development	
Fund	(100)
Schedule of Programs:	
Agriculture Loan Program	(100)

Section 2. Fees. Under the terms and conditions of Utah Code Title 63J Chapter 1 and other fee statutes as applicable, the following fees and rates are approved for the use and support of the government of the State of Utah for the Fiscal Year beginning July 1, 2014 and ending June 30, 2015.

**EXECUTIVE OFFICES
AND CRIMINAL JUSTICE**

GOVERNOR'S OFFICE

Lt. Governor's Office	
Lobbyist Disclosure and Regulation	
Lobbyist Registration	100.00
Government Records Access and Management Act	
Copy of Lobbyist List	10.00
Copy of Election Results	35.00
Copy of Complete Voter Information	
Database	1,050.00
Custom Voter Registration Report	
(per hour)	90.00
Photocopies (per page) .....	.25
International Postage	10.00
Certifications	
Notary	
Notary Commission Filing	45.00
Duplicate Notary Commission	15.00
Domestic Notary Certification	15.00
Notary Testing	30.00
Apostille	
Apostille	15.00
Non Apostille	15.00
Authentication	
Expedited Processing	
Within two hours if presented	
before 3:00 p.m.	50.00
End of next business day	25.00

OFFICE OF THE STATE AUDITOR

STATE AUDITOR

CPA training for local government audits ..	75.00
Auditing Services	Actual Costs
This fee is to reimburse the State Auditor	
for the actual costs of audit services provided.	

ATTORNEY GENERAL

Administration	
Government Records Access and Management Act	
Document certification	2.00
CD Duplication (per CD)	5.00
Plus actual staff costs	
DVD Duplication (per DVD)	10.00

Plus actual staff costs	
Photocopies	
Non-color (per page) .....	.25
Color (per page) .....	.40
11 x 17 (per page)	1.00
Odd size	Actual cost
Document faxing (per page)	1.00
Long distance faxing for over 10 pages	1.00
Record preparation	Actual cost
Record preparation	2.00
Plus actual postage costs	
Other media	Actual cost
Other services	Actual cost

UTAH DEPARTMENT OF CORRECTIONS

PROGRAMS AND OPERATIONS

Department Executive Director	
Government Records Access and Management Act	
Odd size photocopies (per page)	Actual cost
GRAMA fees apply for the entire	
Department of Corrections.	
Parole/Probation Supervision	
Supervision Fees	30.00
Fee entitled "Supervision Fees" applies for	
the entire Department of Corrections.	
False Information Fines Range: \$1 - \$84,200	
Fee entitled "False Information Fines"	
applies for the entire Department of	
Corrections.	
Sale of Services	Actual cost
Fee entitled "Sale of Services" applies for	
the entire Department of Corrections.	
Offender Tuition	
Offender Tuition Payments	Actual cost
Fee entitled "Offender Tuition Payments"	
applies to the entire Department of	
Corrections.	
Parole/Probation Supervision	
OSDC Supervision Collection	30.00
Fee entitled "OSDC Supervision	
Collection" applies for the entire Department	
of Corrections.	
Government Records Access and Management Act	
Document Certification	2.00
GRAMA fees apply for the entire	
Department of Corrections	
Restitution for Prisoner Damages	Actual cost
Fee entitled "Restitution for Prisoner	
Damages" applies for the entire Department	
of Corrections.	
Offender Tuition	
Offender Tuition Grants from	
Local Governments	Actual cost
Fee entitled "Offender Tuition Grants from	
Local Governments" applies to the entire	
Department of Corrections.	
Government Records Access and Management Act	
Local document faxing (per page) .....	.50
GRAMA fees apply for the entire	
Department of Corrections.	
Interstate Compact for Adult Offender	50.00
Fee entitled "Interstate Compact for Adult	
Offenders" applies for the entire Department	
of Corrections.	
Patient Social Security Benefits	
Collections	Variable

Fee entitled "Patient Social Security Benefits Collections" applies for the entire Department of Corrections.

Inmate Leases & Concessions 11.00
 Fee entitled "Inmate Leases & Concessions" applies for the entire Department of Corrections.

Sale of Goods and Materials Actual cost
 Fee entitled "Sale of Goods & Materials" applies for the entire Department of Corrections.

Offender Tuition
 Offender Tuition Grants from State
 Agencies Actual cost
 Fee entitled "Offender Tuition Grants from State Agencies" applies for the entire Department of Corrections.

Government Records Access and Management Act
 Long distance document faxing (per page) 2.00
 GRAMA fees apply for the entire Department of Corrections.

Sex Offender Registration 100.00
 Fee entitled "Sex Offender Registration" applies for the entire Department of Corrections.

Buildings Rental Contractual
 Fee entitled "Building Rental" applies for the entire Department of Corrections.

Staff time to search, compile, and otherwise prepare record Actual cost
 GRAMA fees apply for the entire Department of Corrections.

Resident Support 6.00
 Fee entitled "Resident Support" applies for the entire Department of Corrections.

Mail and ship preparation, plus actual postage costs Actual cost
 GRAMA fees apply for the entire Department of Corrections.

CD Duplication (per CD) 5.00
 GRAMA fees apply for the entire Department of Corrections.

DVD Duplication (per DVD) 10.00
 GRAMA fees apply for the entire Department of Corrections.

Other media Actual cost
 GRAMA fees apply for the entire Department of Corrections.

Other services Actual cost
 GRAMA fees apply for the entire Department of Corrections.

8.5 x 11 photocopy (per page)25
 GRAMA fees apply for the entire Department of Corrections.

Non-sufficient Funds Service Charge . Actual cost
 Fee entitled "Non-sufficient Funds Service Charge" applies for the entire Department of Corrections.

Victim Rep Inmate Withheld Range: \$1 - \$50,000
 Fee entitled "Victim Rep Inmate Withheld" applies for the entire Department of Corrections.

Sundry Revenue Collection Miscellaneous collections

Fee entitled "Sundry Revenue Collection" applies for the entire Department of Corrections.

DEPARTMENT MEDICAL SERVICES

Medical Services
 Prisoner Medical Co-pay 5.00
 Prisoner Various Prostheses Co-pay 1/2 cost
 Prisoner Prescription 2.00
 Inmate Support Collections Actual cost

UTAH CORRECTIONAL INDUSTRIES

Sale of Goods and Materials Cost plus profit
 Sale of Services Cost plus profit

BOARD OF PARDONS AND PAROLE

Records Copies (per page)25
 Audiotape of Hearing 10.00
 Government Records Access and Management Act Response Actual cost
 Copies over 100 pages
 CD 10.00

DEPARTMENT OF HUMAN SERVICES - DIVISION OF JUVENILE JUSTICE SERVICES

PROGRAMS AND OPERATIONS

Administration
 Government Records Access and Management Act Paper (per side of sheet)25
 Audio tape (per tape) 5.00
 Video tape (per tape) 15.00
 Mailing Actual cost
 Compiling and reporting in another format (per hour) 25.00
 Programmer/analyst assistance required (per hour) 50.00

JUDICIAL COUNCIL/STATE COURT ADMINISTRATOR

ADMINISTRATION

Administrative Office
 Microfiche (per card) 1.00
 Email
 Up to 10 pages 5.00
 After 10 pages (per page)50
 Audio tape 10.00
 Video tape 15.00
 CD 10.00
 Reporter Text (per half day) 25.00
 Personnel time after 15 min (per 15 minutes) Variable
 Electronic copy of Court Proceeding (per half day) 10.00
 Court Records Online
 Subscription
 Over 200 records (per search)10
 200 records (per month) 30.00
 Online Services Setup 25.00
 Fax
 Up to 10 pages 5.00
 After 10 pages (per page)50
 Mailings Actual cost

Preprinted Forms	Variable
State Court Administrator	
Copies (per page) . . . . .	.25

DEPARTMENT OF PUBLIC SAFETY**PROGRAMS & OPERATIONS**

Department Commissioner's Office	
Courier Delivery	Actual cost
Fax (per page)	1.00
Mailing	Actual cost
Audio/Video/Photos (per CD)	25.00
Developed photo negatives (per photo)	1.00
Printed Digital Photos (per paper)	2.00
1, 2, or 4 photos per sheet (8x11) based on request	
Copies	
Color (per page)	1.00
Over 50 pages (per page) . . . . .	.50
1-10 pages	5.00
11-50 pages	25.00
Miscellaneous Computer Processing	
(per hour)	Hourly rate of the least paid appropriate employee
CITS Bureau of Criminal Identification	
Concealed Firearm Permit Instructor	
Registration	25.00
Board of Pardons Expungement	
Processing	50.00
Fingerprint Services	15.00
Print Other State Agency Cards	5.00
State Agency ID set up	50.00
Child ID Kits	1.00
Extra Copies Rap Sheet	15.00
Extra Fingerprint Cards	5.00
Automated Fingerprint Identification	
System Database Retention	5.00
Concealed weapons permit renewal	
Utah Interactive Convenience Fee . . . . .	.75
Photos	15.00
Sex Offender Kidnap Registry	
Application for removal from registry	168.00
Eligibility Certificate for removal from registry	25.00
Expungements	
Special certificates of eligibility	56.00
Application	50.00
Certificate of Eligibility	56.00
CITS State Crime Labs	
Additional DNA Casework per sample - full analysis	894.00
DNA Casework per sample - Quantitation only	459.00
Drugs - controlled substances per item of evidence	355.00
Fingerprints per item of evidence	345.00
Serology/Biology per item of evidence	335.00
Highway Patrol - Administration	
Online Traffic Reports Utah	
Interactive Convenience Fee	2.50
Photogramatry	100.00
Cessna (per hour)	155.00
Plus meals and lodging. Does not exceed fee amount.	
Helicopter (per hour)	1,350.00
Plus meals and lodging. Does not exceed fee amount.	

Court order requesting blood samples be sent to outside agency	40.00
Highway Patrol - Safety Inspections	
Safety Inspection Program	
Inspection Station	
Permit application fee	100.00
Permit renewal fee	7.00
Station physical address change	100.00
Replacement of lost permit	2.25
Safety Inspection Manual	5.50
Stickers (book of 25)	4.50
Sticker reports (book of 25)	3.00
Inspection certificates for passenger/light truck (book of 50)	3.00
Inspection certificates for ATV (book of 25)	3.00
Inspector	
Certificate application fee	7.00
Valid for 5 years	
Certificate renewal fee	4.50
Replacement of lost certificate	1.00
Highway Patrol - Federal/State Projects	
Transportation and Security Details (per hour)	100.00
Plus mileage. Does not exceed fee amount.	
Fire Marshall - Fire Operations	
Liquid Petroleum Gas	
License	
Class I	450.00
Class II	450.00
Class III	105.00
Class IV	150.00
Branch Office	338.00
Duplicate	30.00
Examination	30.00
Re-examination	30.00
Five Year Examination	30.00
Certificate	40.00
Dispenser Operator B	20.00
Plan Reviews	
More than 5000 gallons	150.00
5000 water gallons or less	75.00
Special inspections (per hour)	50.00
Re-inspection	250.00
3rd inspection or more	
Private Container Inspection	
More than one container	150.00
One container	75.00
Portable Fire Extinguisher and Automatic	
Fire Suppression Systems	
License	300.00
Combination	150.00
Branch Office License	150.00
Certificate of Registration	40.00
Duplicate Certificate of Registration	40.00
License Transfer	50.00
Application for exemption	150.00
Examination	30.00
Re-examination	30.00
Five year examination	30.00
Automatic Fire Sprinkler Inspection and Testing	
Certificate of Registration	30.00
Examination	20.00
Re-examination	20.00
Three year extension	20.00
Fire Alarm Inspection and Testing	
Certificate of Registration	40.00
Examination	30.00

Re-examination	30.00
Three year extension	30.00

**PEACE OFFICERS'
STANDARDS AND TRAINING**

Basic Training	
Cadet Application	
Satellite Academy Technology Fee	25.00
Online Application Processing Fee	35.00
Rental	
Pursuit Interventions Technique	
Training Vehicles	100.00
Firing Range	300.00
Shoot House	150.00
Camp William Firing Range	200.00
Dorm Room	10.00
K-9 Training (out of state agencies)	2,175.00
Duplicate POST Certification	5.00
Duplicate Certificate, Wallet Card	5.00
Duplicate Radar or Intox Card	2.00
Peace Officers' Standards and Training (POST)	
Reactivation	50.00
Waiver	50.00
Supervisor Class	50.00
West Point Class	150.00
Law Enforcement Officials and Judges	
Firearms Course	1,000.00
Special Functions Officer	
Certification	1,700.00
Law Enforcement Officer	
Certification	3,100.00

DRIVER LICENSE

Driver License Administration	
Commercial Driver School	
License	
Original	100.00
Annual Renewal	100.00
Duplicate	10.00
Instructor	30.00
Annual Instructor Renewal	20.00
Duplicate Instructor	6.00
Branch Office Original	30.00
Branch Office Annual Renewal	30.00
Branch Office Reinstatement	75.00
Instructor/Operation Reinstatement	75.00
School Reinstatement	75.00
Commercial Driver License Intra-state	
Medical Waiver	25.00
Certified Record	
first 15 pages	10.75
Includes Motor Vehicle Record	
16 to 30 pages	15.75
Includes Motor Vehicle Record	
31 to 45 pages	20.75
Includes Motor Vehicle Record	
46 or more pages	25.75
Includes Motor Vehicle Record	
Copy of Full Driver History	7.00
Copies of any other record	5.00
Includes tape recording, letter, medical copy, arrests	
Verification	
Driver Address Record Verification	3.00
Validate Service .....	.75
Pedestrian Vehicle Permit	13.00

Citation Monitoring Verification .....	.06
Ignition Interlock System	
License	
Provider	
Original	100.00
Annual Renewal	100.00
Duplicate	10.00
Provider Branch Office Inspection ...	30.00
Provider Branch Office Annual	
Inspection	30.00
Installer	
Original	30.00
Annual Renewal	30.00
Duplicate	6.00
Provider	
Reinstatement	75.00
Installer	75.00
Driver Services	
Commercial Driver License third party testing	
License	
Original Tester	100.00
Annual Tester Renewal	100.00
Duplicate Tester	10.00
Original Examiner	30.00
Annual Examiner Renewal	20.00
Duplicate Examiner	6.00
Examiner Reinstatement	75.00
Tester Reinstatement	75.00
Driver Records	
Online services	3.00
Utah Interactive Convenience Fee	

**INFRASTRUCTURE AND GENERAL
GOVERNMENT**

TRANSPORTATION

SUPPORT SERVICES

Administrative Services	
Outdoor Advertising Permit - New	
Permit (per year)	25.00
New sign permit	
Outdoor Advertising - Replacement	
Permit Plate	25.00
Fee to replace permit plate on outdoor advertising signs.	
Outdoor Advertising - Permit Renewal	
Late Fee (per Sign)	100.00
Fee charged when permit is not renewed by the renewal date.	
Government Records Access and Management Act	
Photocopies	
Self service copy (per copy) .....	.05
UDOT made copy (per copy) .....	.50
11 X 17 sheet (per copy)	1.00
Beginning with first sheet	
Per Computer Run	25.00
Tow Truck Driver Certification	200.00
Access Management Application	
Type 1	75.00
Type 2	475.00
Type 3	1,000.00
Type 4	2,300.00
Access Violation Fine (per day)	100.00
Encroachment Permits	
Landscaping	30.00
Manhole Access	30.00
Special Events	30.00
Inspection (per hour)	60.00

Overtime Inspection (per hour)	80.00
Utility Permits	
Low Impact	30.00
Medium Impact	135.00
High Impact	300.00
Excess Impact	500.00
Express Lanes	
Variable priced toll	Between \$0.25 - \$1.00

OPERATIONS/MAINTENANCE MANAGEMENT

Region 4

Lake Powell Ferry Rates

Foot passengers	10.00
Motorcycles	15.00
Vehicles under 20'	25.00
Vehicles over 20' (per additional foot)	1.50

Traffic Safety/Tramway

Tramway Registration

Two-car or Multicar Aerial Passenger Tramway	
101 Horse Power or over	1,560.00
100 Horse Power or under	940.00

Chair Lift

Double	610.00
Triple	720.00
Quad	840.00
Detachable	1,560.00

Conveyor, Rope Tow	250.00
------------------------------	--------

Funicular	250.00
---------------------	--------

Single or Double Reversible

Rope Tow, J-bar, T-bar, or platter pull	250.00
--	--------

AERONAUTICS

Administration

Airport Licensing	10.00
-----------------------------	-------

Airplane Operations

Aircraft Rental

Cessna (per hour)	155.00
King Air C90B (per hour)	775.00
King Air B200 (per hour)	900.00

DEPARTMENT OF ADMINISTRATIVE SERVICES

EXECUTIVE DIRECTOR

Government Records Access and

Management Act

Electronic copies, material cost (per DVD) (per Per DVD)40
---	-----

Photocopies, black & white (per Copy)10
---	-----

Photocopies, color (per Copy)25
---	-----

Photocopy labor cost (per Utah Statute 63G-2-203(2)) (per page)	Actual Cost
---	-------------

Certified copy of a document (per certification)	4.00
---	------

Long distance fax within US (per fax number)	2.00
---	------

Long distance fax outside US (per fax number)	5.00
--	------

Electronic Documents	
----------------------	--

(per USB (GB))	Actual Cost
--------------------------	-------------

Mail within US (per address)	2.00
--	------

Mail outside US (per address)	5.00
---	------

Research or services	Actual cost
--------------------------------	-------------

Extended research or service	Actual cost
--	-------------

Electronic Copies, Material cost	
----------------------------------	--

(per CD) (per EACH)30
-------------------------------	-----

Parental Defense

Parental Defense Fund -

Parental Defense Conference	
-----------------------------	--

Fee (per Per Person)	100.00
--------------------------------	--------

DFCM ADMINISTRATION

Program Management

DFCM Inspection Services (per Hour)	80.00
---	-------

Capital Development (per hour)	67.00
--	-------

ADMINISTRATIVE STAFF

PROGRAM MANAGEMENT FEE	46.00
----------------------------------	-------

Capital Improvement (per hour)	52.00
--	-------

STATE ARCHIVES

Archives Administration

Data Base Download (plus Work

Setup Fee) (per Record)10
-----------------------------------	-----

Preservation Services

General

16mm master film	12.00
----------------------------	-------

Work Setup Fee (WSF)	25.00
--------------------------------	-------

Microfiche production fee per

image plus (WSF) (per image)035
--	------

Photocopy made by patron (per copy)10
---	-----

Newspaper filming per page

plus (WSF) (per image)30
----------------------------------	-----

35mm master film	20.00
----------------------------	-------

16mm diazo duplicate copy	12.00
-------------------------------------	-------

35mm diazo duplicate copy	14.00
-------------------------------------	-------

16mm silver duplicate copy	20.00
--------------------------------------	-------

35mm silver duplicate copy	22.00
--------------------------------------	-------

Frames filmed (Standard)05
------------------------------------	-----

Frames filmed (Custom)08
----------------------------------	-----

Books filmed (Per Page) (per Page)15
--	-----

Electronic image to microfilm

(per reel) (per Reel)	40.00
---------------------------------	-------

Microfilm to CD/DVD/USB (per reel)	40.00
--	-------

Microfilm Lab Processing Setup Fee	5.00
--	------

Microfilm to digital PDF conversion	5.00
---	------

Patron Services

Copy - Paper to PDF (copier use by patron)10
--	-----

Copy - Paper to PDF (copier use by staff)25
---	-----

General

Certified Copy of a Document	4.00
--	------

Use Charges

Display

Non-Commercial (Education,	
----------------------------	--

Museum, Cultural Institution)	At Cost
---	---------

Commercial (Local, National)	10.00
--	-------

Film/Video (Moving Image or Sound Recording)

Non-Commercial (Education,	
----------------------------	--

Museum, Cultural Institution)	At Cost
---	---------

Commercial

Commercial (Shown in entirety)	75.00
--	-------

Commercial (5 to 10 minutes)	50.00
--	-------

Commercial (Less than 5 minutes)	25.00
--	-------

Broadcast Theatrical Presentations

and Websites

Non-Commercial (Education,	
----------------------------	--

Museum, Cultural Institution)	At Cost
---	---------

Commercial

Commercial (National/Internet)	100.00
--	--------

Commercial (Local/Internet)	75.00
---------------------------------------	-------

Advertisements

Commercial (Catalogs)	75.00
Commercial (National Newspapers and Magazines)	100.00
Commercial (Local Newspapers and Magazines)	75.00
Publications, Books, Pamphlets, Journals, CD and Video	
Commercial (50,000+)	75.00
Commercial (10,000 to 49,999)	35.00
Commercial (less than 10,000)	10.00
Non-Commercial (Education, Museum, Cultural Institutions)	At Cost
Published Posters, Calendars, Post Cards, Brochures	
Non-Commercial (Education, Museum, Cultural Institutions)	At Cost
Commercial (5,000+)	75.00
Commercial (1,000 to 4,999)	50.00
Commercial (less than 1,000)	25.00
Other	
Other - Resale	10.00
Other - Novelties	10.00
Local News Media (at cost)	At Cost
Photo Reproductions	
Digital Imaging 300 dpi or higher	10.00
Glossy or Matte Black and White Prints	
Photo Reproduction - 20x24	55.00
Photo Reproduction - 16x20	35.00
Photo Reproduction - 11x14	25.00
Photo Reproduction - 8x10	15.00
Photo Reproduction - 5x7	10.00
Photo Reproduction - 4x5	7.00
Mailing and Fax Charges	
Within USA	
Mailing & Fax in USA - 1 to 10 Pages ...	3.00
Mailing & Fax in USA - Microfilm 1 to 2 Reels	4.00
Mailing & Fax in USA - Each additional Microfilm Reel	1.00
Mailing & Fax in USA - Photo 11x14	6.00
Mailing & Fax in USA - Photo 8x10	4.00
Mailing & Fax in USA - Video	5.00
Mailing & Fax in USA - CD/DVD/USB	4.00
Mailing & Fax in USA - Add Postage for each 10 pages	1.00
International	
Mailing & Fax International - 1 - 10 pages	5.00
Mailing & Fax International - Each additional 10 pages	1.00
Mailing & Fax International - Microfilm 1 - 2 Reels	6.00
Mailing & Fax International - Each additional Microfilm Reel	2.00
Mailing & Fax International - Photo 11 x 14	8.00
Mailing & Fax International - Photo 8 x 10	6.00
Mailing & Fax International - CD/DVD/ USB	6.00
Fax	
Mailing & Fax - International Fax Fee (plus copy charge)	5.00
Plus copy charge	
Mailing & Fax in USA - Long Distance Fax (plus copy charge)	2.00

Plus copy charge	
Mailing & Fax in USA - Local Fax (plus copy charge)	1.00
Plus copy charge	
Copy Charges	
Audio	
Copy Charges - Audio Recordings	10.00
Price excludes cost of medium	
Documents	
Copy Charges - 11 x 14 and 11 x 17 by staff, limit 50 .....	.50
Copy Charges - 11 x 14 and 11 x 17 by patron .....	.25
8.5x11	
Copy - 8.5 x 11 by staff, limit 50 .....	.25
Copy - 8.5 x 11 by patron .....	.10
Microfilm/Microfiche	
Digital	
Copy - Digital by staff, limit 25	1.00
Copy - Digital by patron .....	.15
Paper	
Copy Microfilm - Paper by staff, limit 25	1.00
Copy Microfilm - Paper by patron .....	.25
Video	
Copy Video - Video Recording (excludes cost of medium)	20.00
Price excludes cost of medium	
Other	
Microfilm Security Storage (at cost) (per reel)	At Cost
Archivist Handling fee (per hr.)	28.00
Special Request (at cost)	At Cost
Supplies	
Supplies - Pencil .....	.25
Supplies - USB Flash Drive (per GB) (per gigabyte)	5.00
Supplies - CD (per disk)	2.50
Supplies - DVD (per disk)	4.00
Film cartridge	3.50
Electronic File on-line (per File)	2.50

FINANCE ADMINISTRATION

Finance Director's Office	
Transparency	
Utah Public Finance Website	
large data download	1.00
Revenue kept by Utah Interactive up to \$10,000. \$1 per download	
Payroll	
Duplicate W-2	5.00
SAP E-learn Services	90,000.00
Payables/Disbursing	
Disbursements	
Tax Garnishment Request	10.00
Payroll Garnishment Request	25.00
Collection Service	15.00
IRS Collection Service	25.00
Financial Reporting	
Loan Servicing	125.00
ISF Accounting Services	Actual cost
Cash Mgt Improvement Act Interest	
Calculation	Actual cost
Bond Accounting Services	Actual cost
Single Audit Billing to State Auditor's Office	Actual Cost

Financial Information Systems	
Credit Card Payments	Variable
Contract rebates	
Automated Payables (per Invoice Page)	.25
UDOT	Actual cost

STATE DEBT COLLECTION FUND

Office of State Debt Collection	
Collection Penalty	6.0%
Collection Fee for Risk Management Cases	
Risk management debt collected	25%
Labor Commission Wage Claim Attorney Fees	
Labor Commission Wage Claims	Variable
10% of partial payments; 1/3 of claim or \$500, whichever is greater for full payments	
Collection Interest	Prime + 2%
Post Judgment Interest	Variable
Administrative Collection	18%
18% of amount collected (21.95% effective rate)	
Non sufficient Check Collection	20.00
Non sufficient Check Service Charge	20.00
Garnishment Request	Actual cost
Legal Document Service	Actual Cost
Greater of \$20 or Actual	
Credit card processing fee charged to collection vendors	1.75%
Court Filing, Deposition/Transcript / Skip Tracing	Actual cost

DEPARTMENT OF ADMINISTRATIVE SERVICES INTERNAL SERVICE FUNDS

DIVISION OF FINANCE

ISF - Purchasing Card	
Purchasing Card	Variable
Contract rebates	
ISF - Consolidated Budget and Accounting	
Basic Accounting and Transactions (per hour)	34.00
Financial Management (per hour)	60.00

DIVISION OF PURCHASING AND GENERAL SERVICES

ISF - Central Mailing	
Business Reply/Postage Due	.09
Special Handling/Labor (per hour)	50.00
Auto Fold	.01
Label Generate	.022
Label Apply	.019
Auto Tab	.016
Meter/Seal	.017
Federal Meter/Seal	.014
Optical Character Reader	.017
Mail Distribution (per Mail Piece)	.065
Accountable Mail	.18
Task Distribution Rate	.012
Intelligent Inserting	.025
ISF - Cooperative Contracting	
Cooperative Contracts	
Administrative	Up to 1.0%
ISF - Print Services	
Contract Management (per impression)	.005
Debt Elimination (per impression)	.005
Self Service Copy Rates	.004

Cost computed by: (Depreciation + Maintenance + Supplies)/Impressions + copy multiplied impressions results	
ISF - State Surplus Property	
Surplus	
Credit Card Convenience Fee (per Purchase Amount)	3% of purchase amount
Miscellaneous Property Pick-up Process	
State Agencies	
Total Sales Proceeds	See formula
Less prorated rebate of retained earnings	
Handheld Devices (PDAs and wireless phones)	
Less than 1 year old	75% of actual cost
\$30 minimum	
1 year and older	50% of cost - \$30 minimum
Unique Property	
Processing	Negotiated % of sales price
Electronic/Hazardous Waste	
Recycling	Actual cost
Vehicles and Heavy	
Equipment	5% of net sales price
Default Auction Bids	10% of sales price
Labor (per hour)	26.00
Half hour minimum	
Copy Rates (per copy)	.10
Semi Truck and Trailer Service (per mile)	1.08
Two-ton Flat Bed Service (per mile)	.61
Forklift Service (per hour)	23.00
4-6000 lbs	
On-site sale away from Utah State Agency	
Surplus Property yard	7% of net sale price
Storage	
Building (per cubic foot per month)	.43
Fenced lot (per square foot per month)	.23
Accounts receivable late fees	
Past 30 days	5% of balance
Past 60 days	10% of balance
ISF - Federal Surplus Property	
Surplus	
Federal Shipping and handling charges	See formula
Not to exceed 20% of federal acquisition cost plus freight/shipping charges	
Accounts receivable late fees	
Past 30 days	5% of balance
Past 60 days	10% of balance

DIVISION OF FLEET OPERATIONS

ISF - Motor Pool	
Telematics GPS tracking	Actual cost
Commercial Equipment	
Rental	Cost plus \$12 Fee
Administrative Fee for Do-Not	
Replace Vehicles (per Month)	51.29
Service Fee (per 12)	\$12 Service Fee
General MP Info Research Fee (per 12)	\$12 Per Hour
Lost or damaged fuel/maint card replacement fee (per 2)	\$2 Fee
Vehicle Complaint Processing Fee (per 20)	\$20 Fee
Operator negligence and vehicle abuse fees (per 0)	Varies (abuse or driver neglect cases only)
Lease Rate	
Sedans (per month, per vehicle)	See formula

Model Year 2013 contract price less 18% salvage value divided by current adjusted life cycle + admin fee + fleet MIS fee + AVF fee (if light duty) + mileage fee.)	
Select trucks, vans, SUVs (per month, per vehicle)	See formula
Model Year 2013 contract price less 21% salvage value divided by current adjusted life cycle + admin fee + fleet MIS fee + AVF fee (if light duty) + mileage fee.	
All other vehicles (per month, per vehicle)	See formula
Model Year 2013 contract price less 17% salvage value divided by current adjusted lifecycle + admin fee + fleet MIS fee + AVF fee (if light duty) + mileage fee.	
Mileage	See formula
Maintenance, repair and fuel costs for a particular class of vehicle, divided by total miles for that class	
Equipment rate for Public Safety vehicles	Actual cost
Fees for agency owned vehicles	
Seasonal Mgt Information System and Alternative Fuel Vehicle only (per month)	10.90
Management Information System and Alternative Fuel Vehicle only (per month)	10.90
Management Information System only (per month)	2.72
Additional Management	
Daily Pool Rates - Actual Cost From	
Vendor Contract - Actual Cost	Actual Cost
Administrative Fee for Overhead	48.57
Alternative Fuel	3.63
Light duty only	
Management Information System (per month)	2.72
Vehicle Feature and Miscellaneous	
Equipment Upgrade	Actual cost
Vehicle Class Differential	
Upgrade	Actual cost
Bad Odometer Research	50.00
Operator fault	
Vehicle Detail Cleaning Service	40.00
Premium Fuel Use (per gallon) . . . . .	.20
Excessive Maintenance, Accessory Fee	Variable
Accounts receivable late fee	
Past 30-days	5% of balance
Past 60-days	10% of balance
Past 90-days	15% of balance
Accident deductible rate charged (per accident)	500.00
Operator negligence and vehicle abuse	Variable
Higher Ed Mgt. Info Sys. & Alternative Fuel Vehicle Mo. (per vehicle)	6.33
Statutory Maintenance Non-Compliance	
10 days late (per vehicle per month)	100.00
20 days late (per vehicle per month)	200.00
30+ days late (per vehicle per month)	300.00
Seasonal Use Vehicle Lease	155.02
Operator Incentives	

Operator Incentives Alternative Fuel Rebate (per gallon) . . . . .	.20
ISF - Fuel Network	
Charge (per gallon) . . . . .	.03
greater than or equal to 60,000 gal./yr	
Charge at low volume sites (per gallon) . . . . .	.035
less than 60,000 gal./yr.	
Percentage of transaction value at all sites	2.0%
Accounts receivable late fee	
Past 30 days	5% of balance
Past 60 days	10% of balance
Past 90 days	15% of balance
CNG Maintenance and Depreciation (per gallon)	1.15
ISF - Travel Office	
Travel	
Travel Agency Service	
Regular	25.00
Online	15.00
State Agent	20.00
Group	
16-25 people	22.50
26-45 people	20.00
46+ people	17.50
School District Agent	15.00

RISK MANAGEMENT

ISF - Risk Management Administration

Liability Premiums	
Administrative Services	356,003.00
Agriculture	38,277.00
Alcoholic Beverage Control	87,998.00
Attorney General's Office	124,248.00
Auditor	10,840.00
Board of Pardons	12,786.00
Capitol Preservation Board	9,006.00
Career Service Review Board	604.00
Commerce	71,334.00
Commission on Criminal and Juvenile Justice	2,727.00
Heritage and Arts	33,139.00
Corrections	757,684.00
Courts	257,467.00
Utah Office for Victims of Crime	1,915.00
Education	251,366.00
Deaf and Blind School	79,377.00
Environmental Quality	99,514.00
Fair Park	8,648.00
Financial Institutions	13,827.00
Governor	13,626.00
Governor's Office of Planning and Budget	12,039.00
Governor's Office of Economic Development	39,650.00
Health	305,347.00
Heber Valley Railroad	2,756.00
House of Representatives	7,673.00
Human Resource Management	33,461.00
Human Services	700,477.00
Labor Commission	27,523.00
Insurance	161,223.00
Legislative Fiscal Analyst	6,652.00
Legislative Auditor	6,956.00
Legislative Printing	1,126.00

Legislative Research & General Counsel	15,229.00	Smoke alarm/Fire detectors	... 5% discount
Medical Education Council		Flexible water/Gas connectors	... 1% discount
National Guard	92,523.00	Surcharges	
Natural Resources	347,305.00	Lack of compliance with Risk Mgt. recommendations	... 10% surcharge
Navajo Trust Fund		Building built prior to 1950	... 10% surcharge
Public Lands	4,670.00	Agency Discount1	... 63.5% discount
Public Safety	590,300.00	Agency Discount2	... See formula
Public Service Commission	15,418.00	Agency specific discount negotiated w/ Risk Mgt	
School and Institutional Trust		Gross Premium for Contents	
Lands	22,409.00	Existing Insured Buildings	
Senate	4,213.00	Existing Insured Buildings	... See formula
Tax Commission	150,545.00	Content value as determined by owner as of Mar 2013 multiplied by the Marshall & Swift Valuation Service rates as of Mar 2013 associated w/ Building Construction Class, Occupancy Type, Building Quality, & Fire Protection Code	
Technology Services	202,153.00	Newly Insured Buildings	
Treasurer	5,848.00	Newly Insured Buildings	... See formula
Utah Communications Network	11,283.00	Content value as determined by owner as of insured date multiplied by the Marshall & Swift Valuation Service rates as of Mar 2013 associated w/ Building Construction Class, Occupancy Type, Building Quality, & Fire Protection Code	
Utah Science and Technology and Research	7,138.00	Gross Premium Discounts	
Veteran's Affairs	4,013.00	Completion of Risk Mgt. self-inspection survey	... 10% discount
Workforce Services	359,092.00	Risk control meetings	... 5% discount
Transportation	2,363,000.00	Automobile/Physical Damage Premiums	
Board of Regents	61,702.00	Public Safety rate for value less than \$35,000 (per vehicle)	... 175.00
Dixie College	82,117.00	Higher Education rate for value less than \$35,000 (per vehicle)	... 125.00
Salt Lake Community College	232,205.00	Other state agency rate for value less than \$35,000 (per vehicle)	... 150.00
Snow College	76,772.00	School bus rate (per vehicle)	... 200.00
Southern Utah University	130,750.00	School district rate for value less than \$35,000 (per vehicle)	... 50.00
Bridgerland Applied Technology College	21,577.00	Rate for value more than \$35,000 (per \$100 of value)	... .80
Davis Applied Technology College	28,829.00	Other vehicles or related equipment State and Higher Education (per vehicle)	... 75.00
Ogden Weber Applied Technology College	25,917.00	School District (per vehicle)	... 50.00
Uintah Basin Applied Technology College	15,584.00	Standard deductible (per incident)	... 500.00
Tooele Applied Technology College	5,371.00	Workers Compensation Rates	
Dixie Applied Technology College	5,566.00	UDOT	... 1.41% per \$100 wages
Mountainland Applied Technology College	12,780.00	State Agencies	... 0.88% (except UDOT)
Southwest Applied Technology College	5,850.00	Aviation (per Per \$100 wages)	... 4.5%
University of Utah	1,371,665.00	Course of Construction Premiums	
Utah State University	507,098.00	Rate per \$100 of value	... .053
Utah Valley University	363,567.00	Charged for half of a year	
Weber State University	263,562.00	Charter Schools	
School Districts	4,686,846.00	Liability (\$2 million coverage)	
Property Insurance Rates		\$1,000 minimum (per student)	... 18.00
Net Estimated Premium	15,676,059.00	Property (\$1,000 deductible per occurrence)	... .10
Gross Premium for Buildings		Comprehensive/Collision (\$500 deductible per occurrence)	
Existing Insured Buildings		Cost per year per vehicle	... 150.00
Existing Insured Buildings	... See formula	Employee Dishonesty Bond (per year)	... 250.00
Building value as determined by Risk Mgt. & owner as of Mar 2013 multiplied by the Marshall & Swift Valuation Service rates as of Mar 2013 associated w/ Building Construction Class, Occupancy Type, Building Quality, & Fire Protection Code			
Newly Insured Buildings			
Newly Insured Buildings	... See formula		
Building value as determined by Risk Mgt. & owner as of insured date multiplied by the Marshall & Swift Valuation Service rates as of Mar 2013 associated w/ Building Construction Class, Occupancy Type, Building Quality, & Fire Protection Code			
Building Demographic Discounts			
Fire Suppression			
Sprinklers	15% discount		

**DIVISION OF FACILITIES CONSTRUCTION
AND MANAGEMENT -
FACILITIES MANAGEMENT**

Alcoholic Beverage Control Stores ..	1,286,145.00
Wasatch Courts	14,605.00
Chase Home	17,428.00
ICAP Building	12,469.00
Vernal DNR	59,481.00
Clearfield Warehouse C6 - Archives	167,010.00
Clearfield Warehouse C7	46,080.00
Cedar City A P & P	23,404.00
N UT Fire Dispatch Center (per Year)	20,972.00
UCAT Admin (per Year)	32,880.00
Veteran's Memorial Cemetery (per Year)	24,464.00
Alcoholic Beverage Control Administration (per Year)	599,961.00
Agriculture	356,706.00
Adult Probation and Parole Freemont Office Building	192,375.00
Archives	120,765.00
Brigham City Court	169,400.00
Brigham City Regional Center	412,059.00
Calvin Rampton Complex	1,602,863.00
Cannon Health	821,860.00
Capitol Hill Complex	3,809,700.00
Cedar City Courts	103,520.00
Cedar City Regional Center	72,008.00
Department of Administrative Services Surplus Property	35,672.00
Department of Public Safety DPS Crime Lab	23,840.00
Drivers License	154,064.00
Farmington Public Safety	68,425.00
Division of Motor Vehicles Fairpark ...	43,437.00
Dixie Drivers License	50,300.00
Driver License West Valley	98,880.00
Division of Services for the Blind and Visually Impaired Training Housing	49,736.00
Farmington 2nd District Courts	537,465.00
Glendinning Fine Arts Center	45,000.00
Governor's Residence	119,220.00
Heber M. Wells	858,321.00
Highland Regional Center	391,766.00
Human Services Clearfield East	129,322.00
Ogden Academy Square	248,906.00
Vernal	60,225.00
DHS 7th West	124,594.00
Layton Court	80,896.00
Logan 1st District Court	281,870.00
Medical Drive Complex	331,230.00
Moab Regional Center	112,533.00
Murray Highway Patrol	141,738.00
National Guard Armories	331,279.00
Natural Resources	745,072.00
Natural Resources Price	75,968.00
Natural Resources Richfield (Forestry)	2,040.00
Navajo Trust Fund Administration ...	132,640.00
Office of Rehabilitation Services	180,942.00
Ogden Court	467,740.00
Ogden Juvenile Court	166,045.00
Ogden Regional Center	593,848.00

Orem Circuit Court	90,792.00
Orem Public Safety	105,640.00
Orem Region Three Department of Transportation	141,192.00
Provo Court	299,400.00
Provo Juvenile Courts	173,940.00
Provo Regional Center	664,011.00
Public Safety Depot Ogden	21,608.00
Richfield Court	82,289.00
Richfield Dept. of Technology Services Center	49,050.00
Richfield Regional Center	50,385.00
Rio Grande Depot	397,565.00
Salt Lake Court	1,868,160.00
Salt Lake Government Building #1 ...	972,934.00
Salt Lake Regional Center - 1950 West	215,571.00
St. George Courts	465,353.00
St. George DPS	59,517.00
St. George Tax Commission	34,272.00
State Library	183,714.00
State Library State Mail	135,240.00
State Library visually impaired	124,027.00
Statewide Facility Focus Taylorsville Center for the Deaf	108,000.00
Taylorsville Office Building	185,250.00
Tooele Courts	311,351.00
Uintah Basin Applied Tech. College Roosevelt - UBATC Vernal - UBATC	
Unified Lab	789,863.00
Utah Arts Collection	26,900.00
Utah State Office of Education	410,669.00
Utah State Tax Commission	928,200.00
Vernal 8th District Court	248,649.00
Vernal Division of Services for People with Disabilities	31,330.00
Vernal Juvenile Courts	20,256.00
Vernal Regional Center	43,493.00
West Jordan Courts	487,796.00
West Valley 3rd District Court	118,350.00
Work Force Services 1385 South State.	292,390.00
Administration	633,591.00
Brigham City	34,308.00
Call Center	200,317.00
Cedar City	78,461.00
Clearfield/Davis Co.	180,633.00
Logan	110,088.00
Metro Employment Center	221,449.00
Midvale	135,640.00
Ogden	153,748.00
PEP Provo	127,680.00
Richfield	58,072.00
South County Employment Center	176,196.00
St. George	66,452.00
Vernal	56,152.00
Ogden Division of Motor Vehicles and Drivers License	71,964.00
Ogden Radio Shop	12,782.00

**DEPARTMENT OF
TECHNOLOGY SERVICES**

INTEGRATED TECHNOLOGY DIVISION

Automated Geographic Reference Center

AGRC
 Regular Plots (per linear foot) 6.00
 GIT Professional Labor (per hour) 73.00
 Utah Reference Network GPS
 Service Rate (per year) 600.00

**DEPARTMENT OF TECHNOLOGY
 SERVICES INTERNAL SERVICE FUNDS**

ENTERPRISE TECHNOLOGY DIVISION

ISF - Enterprise Technology Division
 Network Services
 Network Services (per device/month) 44.00
 Security Assessment (per Tier) Table
 Server Count: 0-4 \$19,000 5-34 \$38,000
 35-85 \$76,000 >85 \$152,000
 Network Services (other State
 agencies) (per device/month) 47.00
 Security (per device/month) 15.00
 Wiring Design and Consulting
 Labor (per Hour) 85.00
 Wiring Materials Charge Direct cost + 5%
 DSL Remote/Line Access (per
 device/month) 104.50
 DSL Remote Access Cost
 Charge Direct cost + 8%
 Miscellaneous Data
 Circuits Direct cost + 10%
 Desktop Services
 Desktop Services (per device/month) 63.50
 VDI (Formerly Shared Citrix Services) SBA
 Special Billing Agreement
 Hosted Email/Email Encryption
 (per month) 5.75
 Telecommunications
 Phone Tech Labor (per hour) 70.00
 Voice Monthly Service (URATE)
 (per dial tone/month) 28.00
 Other Voice Services Direct cost + 8%
 Voice Mail (per mailbox/month) 3.00
 Call Management System SBA
 Special Billing Agreement
 Long Distance Service (per minute)03
 International Long
 Distance Direct cost + 10%
 Long Distance Service Access
 Charge (per unit/month) 1.00
 1-800 Service per Minute (per minute)03
 Print
 High Speed Laser Printing (per image)026
 Other Print Services Direct cost + 10%
 Hosting Cloud Services
 Hosting Services - Processing
 (per CPU Core/month) 73.12
 Hosting Services - System Administration
 (per OS/month) 391.72
 Hosting Services - Storage
 (per 1 GB/month) 2386
 Hosting Services - Storage
 Encryption (per GB/month)782
 Data Center Rack Space (per month) ... 458.00
 Web Application Hosting
 (per instance/month) 41.00
 Mainframe Computing
 Mainframe Charges (per
 Subscription (See Table)) 4,347,752.00
 Subscription Table

Mainframe Consulting Charge
 (per hour) 74.00
 Mainframe Disk (per MB/month)006
 Mainframe Tape (per MB/month)0008
 Database Services
 Database Consulting (per hour) 74.00
 Database Oracle Core Model
 (Min. 2 Cores) SBA
 Special Billing Agreement
 Database Oracle Shared Model
 (per 1 GB/month) 68.00
 Database MS Sequel Core
 Model (Min. 2 Cores) SBA
 Special Billing Agreement
 Database MS Sequel Shared
 Model (per 1 GB/month) 32.00
 Application Services
 Application Support/Project
 Management (per hour) 74.00
 Project Management (per hour) 74.00
 Application Consulting Services SBA
 Special Billing Agreement
 Miscellaneous
 Equipment Maintenance
 Costs (EIS) Direct cost + 10%
 Software Resale (MLA) Direct cost + 6%
 DTS Consulting Charge (per hour) 75.00
 Training Room Rental (per day) 100.00
 Wireless Services
 Microwave Maintenance Labor
 (per hour) 90.00
 Radio Repair Labor (per hour) 65.00
 Install Bay Labor (per hour) 45.00
 Contract Maintenance Console
 (per ch/position) 8.00
 Parts Direct cost
 State Radio Connection
 (per radio/month) 28.47
 Communication Sites SBA
 Special Billing Agreement
 Microwave Services
 Tier 1/DS 1 (per mile) 11.37
 Ethernet Circuit SBA
 Special Billing Agreement
 Tail Circuits Direct cost + 10%
 Voice Grade DSO Card (per card) 31.60
 DSO / Four Wire Analog (per mile)76
 Data Grade DSO Card (per card) 63.19
 Circuit Installation (per install) 947.48

AGENCY SERVICES

ISF - Agency Services Division
 Contract Labor Actual Cost
 Software and Equipment Actual Cost

**BUSINESS, ECONOMIC
 DEVELOPMENT, AND LABOR**

DEPARTMENT OF HERITAGE AND ARTS

ADMINISTRATION

Information Technology
 Preservation Pro (per unit 1-20,
 depending on usage) 50.00
 Community Grants App on
 Salesforce APP Exchange (per user) 240.00
 Community Grants App on Sales
 Force APPEXchange NFP (per user) 144.00

Community Grants Installation	
One-Time Fee (per installation)	500.00
Utah Multicultural Affairs Office	
Cultural Competency Training Fee	150.00
Commission on Service and Volunteerism	
Conference on Service - Regional	50.00
Volunteer Management Training	125.00

HISTORICAL SOCIETY

State Historical Society	
Utah Historical Society Annual Membership	
Student/Senior	25.00
Individual	30.00
Business/Sustaining	40.00
Patron	60.00
Sponsor	100.00
Lifetime	500.00
List (per address) . . . . .	.03
Utah Archeology (per issue)	15.00
First 100 Years (per book)	8.00
Avenues of Salt Lake City (per book)	15.00
Utah's Architecture (per book)	20.00
Utah Historic Trails Map (per map)	5.00
Utah Historical Quarterly (per issue)	7.00
Corinne, The Gentile Capital of Utah (per book)	12.00
Beehive History (per issue)	2.50
County Histories (per book)	20.00
Publication Royalties	1.00

STATE HISTORY

Library and Collections	
B/W Historic Photo	
4x5 B/W Historic Photo	7.00
5x7 B/W Historic Photo	10.00
8x10 B/W Historic Photo	15.00
11x14 B/W Historic Photo	25.00
16x20 B/W Historic Photo	35.00
20x24 B/W Historic Photo	55.00
Sepia Historic Photo	
4x5 Sepia Historic Photo	12.00
5x7 Sepia Historic Photo	16.00
8x10 Sepia Historic Photo	25.00
11x14 Sepia Historic Photo	40.00
16x20 Sepia Historic Photo	60.00
20x24 Sepia Historic Photo	70.00
Self Serve Photo . . . . .	.50
Digital Image 300 dpl>	10.00
Expedited Photo Processing	2.00
Historic Collection Use	10.00
Research Center	
Self Copy 8.5x11 . . . . .	.10
Self Copy 11x17 . . . . .	.25
Staff Copy 8.5x11 . . . . .	.25
Staff Copy 11x17 . . . . .	.50
Microfilm Self-Copy (per page) . . . . .	.25
Microfilm Staff Copy (per page)	1.00
Audio Recording (per item)	4.00
Video Recording (per item)	20.00
Diazo print	
16 mm diazo print (per roll)	10.00
35 mm diazo print (per roll)	12.00
Silver print	
16 mm silver print (per roll)	18.00
35 mm silver print (per roll)	20.00
Microfilm Digitization	40.00

Digital Format Conversion	5.00
Surplus Photo	1.00
Mailing Charges	1.00
Fax Request	1.00
Historic Preservation and Antiquities	
Literature Search/On-site self service - minimum charge up to 1/2 hour (per incident)	22.50
Literature Search - On site-self serve w/o appointment (per hour)	65.00
Literature Search - On site-self serve w/o appointment - minimum charge (per half hour-min fee)	40.00
Site forms and reports - Staff scanned (per Page)	1.00
Site forms and reports - Self Serve Scan (per page) . . . . .	.05
Literature Search - Staff Performed (per hour)	90.00
Literature Search - Staff Performed - 1/2 hour minimum charge (per half hour min)	50.00
Literature Search - On-site self-serve (per hour)	45.00
GIS Search/On-site self service - minimum charge up to 15 min (per incident)	15.00
GIS Search/on-site self-serve (per hour)	60.00
Literature Search/GIS -no show fee (per incident)	60.00
Literature Search copy charge (per page) . . . . .	.20
Literature Search fax charge (per page)	1.00

DIVISION OF ARTS AND MUSEUMS

Community Arts Outreach	
Traveling Exhibit Fees	125.00
MWAC Change Leader Registration	75.00
Visual Arts Workshops	50.00
Saltgrass Prints	100.00
MWAC Conference Merchandise - \$5.00	5.00
MWAC Conference Merchandise - \$10.00	10.00
MWAC Conference Merchandise - \$15.00	15.00
MWAC Conference Merchandise - \$20.00	20.00
Change Leader Registration Level 4	400.00
Traveling Exhibit Fees/Title I	100.00
Mountain West Arts Conference Registration	
MWAC Early Registration (per applicant)	80.00
MWA Regular Registration (per applicant)	95.00
MWAC Late Registration (per applicant)	100.00
MWAC Group Discount Early Registration (per applicant)	70.00
MWAC Group Discount Regular Registration (per applicant)	85.00
MWAC Group Discount Late Registration (per applicant)	90.00
MWAC Governor's Leadership in the Arts Luncheon	55.00
MWAC Governor's Leadership in the Arts Luncheon Late Registrant	60.00
MWAC Student Registration	65.00
MWAC Student Registration Late	75.00
Mountain West Arts Conference	
MWAC Sponsorship \$350	350.00
MWAC Sponsorship \$500	500.00
MWAC Sponsorship \$650	650.00

MWAC Sponsorship \$1,000	1,000.00
MWAC Sponsorship \$2,500	2,500.00
MWAC Sponsorship \$5,000	5,000.00
MWAC Sponsorship \$10,000	10,000.00
UAC/BTS Partnership	25,000.00
Community/State Partnership Change	
Leader Registration	
Change Leader Registration Level 1	100.00
Change Leader Registration Level 2	200.00
Change Leader Registration Level 3	300.00
Change Leader Certification Luncheon	30.00
Change Leader Certification	
Conference	40.00
Community/State Partnership	
Workshop Registration	25.00
Folk Art Hecho en Utah CD - Retail	5.00
Folk Art Hecho en Utah CD - Set of 3	
Retail	10.00
Folk Art Swedish Music in Utah CD -	
Retail	5.00
Folk Art Old Time Dance - Retail	4.00
Folk Art Music from Highway 12 CD -	
Retail	5.00
Folk Art Social Dance in the Mormon	
West - Retail	5.00
Folk Art Old-Time Dance Party	
Sheet Music - Retail	5.00
Folk Art Willow Stories - Utah	
Navajo Baskets Retail	4.00
Folk Art Contemporary Navajo Baskets	
on the Utah Reservation - Retail	3.00
Folk Art Dance Preservation	
Package - Retail	10.00
Folk Art Utah's Sanpete Valley	
Tour Package - Retail	7.00
Folk Art Listening in Utah	
Storytelling - Retail	4.00
Folk Arts Post Cards	.25

STATE LIBRARY

Blind and Disabled	
Lost Library Book Charge	1.00
Basic Braille Services to States	75.00
Full Library Service to Wyoming	1.00
Braille and Audio Service to LDS Church	1.75
Library of Congress Contract (MSCW)	1.00
Library Development	
Bookmobile Services	1.00
Library Resources	
Cataloging Services	1.00
Catalog Express Utilization	.50
Catalog Express Overage	1.00

INDIAN AFFAIRS

Native American Summit Participation Fee	25.00
Native American Summit	
Vendor/Display Table Fee	50.00

**GOVERNOR'S OFFICE OF
ECONOMIC DEVELOPMENT****ADMINISTRATION**

Health Exchange Call Center	2.50
Avenue H Technology Provider Renewal 1	
Avenue H Technology Provider	
Renewal 2	14.00

OFFICE OF TOURISM

Operations and Fulfillment	
Calendars - Individual Sales	10.00
T-shirts Individual	10.00
Posters	2.99
Posters - Framed	55.00
Commissions - UDOT	108,500.00
Calendars	
Envelopes	.50
Bulk	8.00
Bulk State Agencies	6.00
Employees	5.00
These fees may apply to one or more programs within the Office of Tourism Line Item.	

BUSINESS DEVELOPMENT

Corporate Recruitment and Business Services	
Private Activity Bond Application	
Original	
Under \$3 million	1,500.00
\$3-\$5 million	2,000.00
Over \$5 million	3,000.00
Resubmission	
Under \$3 million	750.00
\$3-\$5 million	1,000.00
Over \$5 million	1,500.00
Private Activity Bond Extension	
Second 90 Day Extension	2,000.00
Third 90 Day Extension	4,000.00
Fourth 90 Day Extension	8,000.00
Private Activity Bond	
Confirmation (per million of allocated volume cap)	300.00

**PETE SUAZO UTAH
ATHLETICS COMMISSION**

Boxing Events	
< 500 Seats	500.00
500 - 1,000 Seats	500.00
1,000 - 3,000 Seats	750.00
3,000 - 5,000 seats	1,500.00
5,000 - 10,000 Seats	1,500.00
10,000+ Seats	1,500.00
Conference Registration for Event	
Application	100.00
Unarmed Combat Event	
< 500 Seats	500.00
500 - 1,000 Seats	500.00
1,000 - 3,000 Seats	750.00
3,000 - 5,000 seats	1,500.00
5,000 - 10,000 Seats	1,500.00
10,000+ Seats	1,500.00
Contest Promoters License	250.00
Non-Contest Promoters License	30.00
All other Unarmed Combat Licenses:	
Amateur License, Professional License,	
Second License, Timekeeper License	
Broadcast Revenue	3,000.00
3% of the first \$500,000 and 1% of the next \$1,000,000 of the total gross receipts from the sale, lease or other exploitation of internet, broadcasting, television, and motion picture rights for any contest or exhibition thereof without any deductions for commissions, brokerage fees, distribution fees, advertising,	

contestants' purses or charges, except in no case shall the fee be more than \$25,000, nor less than \$100.

Additional Inspector	100.00
Non-Contest Promoters License	50.00
All other Unarmed Combat Licenses: Judge License, Referee License, Matchmaker License, Contestant Manager License	
Non-Contest Promoters License	10.00
All other Unarmed Combat Licenses: Drug Tests, Fight Fax, Contestant ID Badge	

UTAH STATE TAX COMMISSION

TAX ADMINISTRATION

Administration Division	
Administration	
Liquor Profit Distribution	6.00
All Divisions	
Certified Document	5.00
Faxed Document Processing (per page)	1.00
Record Research	6.50
Photocopies, over 10 copies (per page) .....	.10
Research, special requests (per hour)	20.00
Technology Management Administration	
All Divisions	
Custom Programming (per hour)	85.00
Tax Processing Division Administration	
All Divisions	
Convenience Fee	Not to exceed 3%
Convenience fee for tax payments and other authorized transactions	
Tax Payer Services Administration	
Lien Subordination	300.00
Not to exceed \$300	
Tax Clearance	50.00
Motor Vehicles Administration	
Sample License Plates	5.00
Aeronautics	
Aircraft Registration	3.00
Administration	
All Divisions	
Data Processing Set-Up	55.00
Parks and Recreation	
Parks & Recreation Decal Replacement	4.00
Motor Vehicle	
Motor Vehicle Information	3.00
Motor Vehicle Information Via Internet	1.00
Motor Vehicle Transaction (per standard unit)	1.47
Motor Carrier	
Cab Card	3.00
Duplicate Registration	3.00
Temporary Permit	
Individual permit	6.00
Electronic Payment	
Authorized Motor Vehicle Registrations	Up to \$3
License Plates	
Reflectorized Plate	5.00
Special Group Plate Programs	
Inventory ordered before July 1, 2003	

Plus \$5 standard plate	5.50
New Programs or inventory reorders after July 1, 2003	
Start-up or significant program changes (per program)	3,900.00
Extra Plate Costs (per decal set ordered)	2.92
Extra Handling Cost (per decal set ordered)	2.40
Postage Charge (per decal set ordered)	2.20
Special Group Logo Decals	Variable
Special Group Slogan Decals	Variable
Motor and Special Fuel	
International Fuel Tax Administration	
Decal (per set)	4.00
Reinstatement	100.00
Motor Vehicle Enforcement Division	
MV Business Regulation	
Dismantler's Retitling Inspection	50.00
Salvage Vehicle Inspection	50.00
Electronic Payment	
Temporary Permit Books (per book)	Up to \$4
Dealer Permit Penalties (per penalty)	Up to \$1
Salvage Buyer's License (per license)	Up to \$3
Licenses	
Motor Vehicle Manufacturer License	102.00
Motor Vehicle Remanufacturer License	102.00
New Motor Vehicle Dealer	127.00
Transporter	51.00
Body Shop	112.00
Used Motor Vehicle Dealer	127.00
Dismantler	102.00
Salesperson	31.00
Salesperson's License Transfer or Reissue	5.00
Crusher	102.00
Used Motor Cycle, Off-highway Vehicle, and Small Trailer Dealer	51.00
New Motor Cycle Off-Highway Vehicle and Small Trailer Dealer	51.00
Representative	26.00
Distributor or Factory Branch and Distributor Branch's	61.00
Additional place of business	
Temporary	26.00
Permanent	127.00
License Plates	
Purchase	
Manufacturer	10.00
Dealer	12.00
Dismantler	10.00
Transporter	10.00
Renewal	
Manufacturer	8.50
Dealer	10.50
Dismantler	8.50
Transporter	8.50
Temporary Permit	12.00
Sold to dealers in bulk, not to exceed approved fee amount.	

Temporary Sports Event Registration	
Certificate	12.00
In-transit Permit	2.50

LICENSE PLATES PRODUCTION

License Plates Production	
Decal Replacement	1.00
Reflectorized Plate	5.00

UTAH SCIENCE TECHNOLOGY AND RESEARCH GOVERNING AUTHORITY**UTAH SCIENCE TECHNOLOGY AND RESEARCH GOVERNING AUTHORITY**

Technology Outreach	
Administrative	
Search	75.00
Editing	500.00
Writing	750.00
Submission	150.00
Writing Through Submission	
1st Proposal	1,000.00
2nd Proposal	3,000.00

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL**DABC OPERATIONS**

Executive Director	
Club List	10.00
Restaurant List	10.00
Beer Wholesaler List	10.00
Liquor Representative List	10.00
Handbooks: Club, Restaurant, Beer	10.00
Rules 20.00	
Utah Code	30.00
Customized Reports Produced by	
Request (per hour)	50.00
Administration	
Photocopies	15
"L" Status 12 Week Sales Report	25.00
Video 1/2 Hour or Less	10.00
Returned Check Fee	20.00
Application to Relocate Alcoholic Beverages	
Due to Change or Residence	20.00
Faxed Document Processing Fee	
First Page	2.00
Location Report	25.00
Video More than 1/2 Hour	25.00
Faxed Document Processing Fee	
Subsequent Pages	1.00
Sales/Profit Analysis Report	25.00
Audio (per tape)	5.00
Research (per hour)	30.00
Additional Copies of Vendor Worksheets	10.00
Violation Grids	25.00
Customized Reports Produced by a	
Request (per hour)	50.00
List of Representatives and Companies	10.00
Surveillance Video	25.00
Price Lists	
Master Category	8.00
\$96 Yearly	
Alpha by Product	8.00
\$96 Yearly	
Numeric by Code	8.00

\$96 Yearly	
Military	8.00
\$96 Yearly	

LABOR COMMISSION

Administration	
Industrial Accidents Division	
Workers' Compensation Coverage	
Waiver	50.00
Certificate to Self-Insured	
Workers Compensation	
New Self-Insured Certificate	1,200.00
Self Insured Certificate Renewal	650.00
Boiler, Elevator and Coal Mine Safety Division	
Boiler and Pressure Vessel Inspections	
Owner	
User Inspection Agency	
Certification	250.00
Certificate of Competency	
Original Exam	25.00
Renewal	20.00
Jacketed Kettles and Hot Water Supply	
Consultation	
Witness special inspection	
(per hour)	60.00
Boilers	
Existing	
<250,000 BTU	30.00
> 250,000 BTU but	
<4,000,000 BTU	60.00
> 4,000,001 BTU but	
<20,000,000 BTU	150.00
> 20,000,000 BTU	300.00
New	
> 250,000 BTU but	
<4,000,000 BTU	90.00
< 250,000 BTU	45.00
> 4,000,001 BTU but	
<20,000,000 BTU	225.00
> 20,000,000 BTU	450.00
Pressure Vessel	
Existing	30.00
New	45.00
Pressure Vessel Inspection by Owner-user	
25 or less on single statement	
(per vessel)	5.00
26 through 100 on single	
statement (per statement)	100.00
101 through 500 on single	
statement (per statement)	200.00
over 500 on single statement	
(per statement)	400.00
Elevator Inspections Existing Elevators	
Hydraulic	85.00
Electric	85.00
Handicapped	85.00
Other Elevators	85.00
Elevator Inspections New Elevators	
Hydraulic	300.00
Electric	700.00
Handicapped	200.00
Other Elevators	200.00
Consultation and Review (per hour)	60.00
Escalators/Moving Walks	700.00
Remodeled Electric	500.00
Roped Hydraulic	500.00
Coal Mine Certification	
Mine Foreman	50.00

Temporary Mine Foreman	35.00
Fire Boss	50.00
Surface Foreman	50.00
Temporary Surface Foreman	35.00
Hoistman	50.00
Electrician	
Underground	50.00
Surface	50.00
Certification Retest	
Per section	20.00
Maximum fee charge	50.00
Hydrocarbon Mine Certifications	
Hoistman	50.00
Certification Retest	
Per section	20.00
Maximum fee charge	50.00
Gilsonite	
Mine Examiner	50.00
Shot Firer	50.00
Mine Foreman	
Certificate	50.00
Temporary	35.00
Photocopies, Search, Printing	
Black and White no special handling .....	.25
Research, redacting, unstapling,	
restapling (per hour)	15.00
More than 1 hour (per hour)	20.00
Color Printing (per page) .....	.50
Certified Copies (per certification)	2.00
Plus search fees if applicable	
Electronic documents CD or DVD	2.00
Fax, plus telephone costs .....	.50

DEPARTMENT OF COMMERCE

COMMERCE GENERAL REGULATION

Administration	
Commerce Department	
All Divisions	
Booklets	Variable
Priority Processing	75.00
List of Licensees/Business Entities	25.00
Photocopies (per copy) .....	.30
Verification of Licensure/Custodian	
of Record	20.00
Returned Check Charge	20.00
FBI Fingerprint File Search	20.00
BCI Fingerprint File Search	20.00
Fingerprint Processing for	
non-department	10.00
Government Records and Management	
Act Requested Information Booklet	10.00
Duplication Charge CD	12.00
Government Records and Management Act	
record	
Administration	
Motor Vehicle Franchise Act	
Application	83.00
Renewal	83.00
Powersport Vehicle Franchise Act	
Application	83.00
Renewal	83.00
Application in addition to MVFA	27.00
Renewal in addition to MVFA	27.00
Administration Late Renewal	20.00
Employer Legal Status Voluntary	
Certification (Bi-annual)	3.00

Property Rights Ombudsman	
Filing Request for Advisory Opinion	150.00
Land Use Seminar Continuing	
Education	25.00
Books	
Citizens Guide to Land Use	
Single copy	15.00
Six or more copies	9.00
Case of 22 books	132.00
Administration	
Home Owner Associations	
HOA Registration	37.00
Change in HOA Registration	10.00
Occupational and Professional Licensing	
Acupuncturist	
New Application Filing	110.00
Dentist Educator	
New Application	110.00
New Application Filing	
Renewal	63.00
Electrician	
Apprentice Electrician tracking per	
credit hour .....	.24
Massage	
Apprentice Renewal	20.00
Plumber	
Plumber CE Course approval	40.00
Plumber CE Course Attendee Tracking /	
per hour	1.00
Apprentice Plumber CE attendance	
tracking/ per hour .....	.24
Substance Use Disorder Counselor (Licensed)	
Licensed Advanced New Application	85.00
Licensed Advanced Renewal	78.00
Substance Use Disorder Counselor (Certified)	
Certified Advanced Counselor	70.00
Certified Advanced Counselor Intern	70.00
Acupuncturist	
License Renewal	63.00
Alarm Company	
Company Application Filing	330.00
Company License Renewal	203.00
Agent Application Filing	60.00
Agent License Renewal	42.00
Agent Temporary Permit	20.00
Architect	
New Application Filing	110.00
License Renewals	63.00
Education and Enforcement Surcharge	10.00
Armored Car	
Registration	330.00
Renewal	203.00
Security Officer Registration	60.00
Security Officer Renewal	42.00
Education Approval	300.00
Education Renewal	103.00
Athletic Agents	
New Application Filing	510.00
License Renewal	510.00
Athletic Trainer	
New Application Filing	70.00
License Renewal	47.00
Building Inspector	
New Application Filing	85.00
License Renewal	63.00
Certified Court Reporter	
New Application Filing	45.00

License Renewal	42.00	Continuing Education Course	
Certified Dietician		Approval	40.00
New Application Filing	60.00	Continuing Education (per credit	
License Renewals	37.00	hour tracking)	1.00
Certified Nurse Midwife		Electrologist	
New Application Filing	100.00	New Application Filing	50.00
License Renewal	63.00	License Renewals	32.00
Intern-New Application Filing	35.00	Instructor Certificate	60.00
Certified Public Accountant		School New Application Filing	110.00
Individual CPA Application Filing	85.00	School License Renewal	110.00
Individual License/Certificate Renewal	63.00	Elevator Mechanic	
CPA Firm Application for Registration	90.00	New Application Filing	110.00
CPA Firm Registration Renewal	52.00	License Renewal	63.00
Chiropractic Physician		Continuing Education Course	
New Application Filing	200.00	Approval	40.00
License Renewal	103.00	Continuing Education (per credit	
Contractor		hour tracking)	1.00
New Application Filing-Primary		Engineer, Professional	
Classification	210.00	New Application Filing	110.00
License Renewals	113.00	Engineer License Renewal	63.00
New Application Filing-Secondary		Structural Engineer New	
Classification	110.00	Application Filing	110.00
Change Qualifier	50.00	Structural Engineer License Renewal	63.00
Corporation Conversion	35.00	Engineer	
Continuing Education Course		Education and Enforcement Surcharge	10.00
Approval	40.00	Environmental Health Scientist	
Continuing Education (per credit		New Application Filing	60.00
hour tracking)	1.00	License Renewal	37.00
Controlled Substance		New Application Filing	60.00
New Application Filing	100.00	In training	
License Renewal	78.00	Esthetician	
Controlled Substance Handler		New Application Filing	60.00
Facility New Application Filing	90.00	License Renewals	52.00
Facility License Renewal	68.00	Instructor Certificate	60.00
Individual New Application Filing	90.00	Master Esthetician New Application	
Individual License Renewal	68.00	Filing	85.00
Controlled Substance Precursor		Master Esthetician License Renewal	68.00
Distributor New Application Filing	210.00	School New Application Filing	110.00
License Renewal	113.00	School License Renewal	110.00
Cosmetologist/Barber		Factory Built Housing	
New Application Filing	60.00	Dealer New Application Filing	30.00
License Renewal	52.00	Dealer License Renewal	30.00
Instructor Certificate	60.00	On-site Plant Inspection	
School New Application Filing	110.00	(per hour)	\$50 per hour plus expenses
School License Renewal	110.00	Factory Built Housing Education	
Barber New Application	60.00	and Enforcement	75.00
School License Renewal	52.00	Funeral Services	
Barber Instructor Certificate	60.00	Director New Application Filing	160.00
Deception Detection		Director License Renewal	88.00
Examiner New Application Filing	50.00	Intern New Application Filing	85.00
Examiner License Renewal	32.00	Establishment New Application	
Intern New Application Filing	35.00	Filing	250.00
Intern License Renewal	32.00	Establishment License Renewal	250.00
Dentist		Genetic Counselor	
New Application Filing	110.00	New Application Filing	150.00
License Renewals	63.00	License Renewal	138.00
Anesthesia Upgrade New Application	60.00	Geologist	
Dental Hygienist		New Application Filing	150.00
New Application Filing	60.00	License Renewal	123.00
License Renewal	37.00	Education and Enforcement Fund	15.00
Anesthesia Upgrade New Application	35.00	Handyman Affirmation	
Direct Entry Midwife		Handyman Exemption Registration/	
New Application Filing	100.00	Renewal	35.00
License Renewal	63.00	Health Facility Administrator	
Electrician		New Application Filing	120.00
New Application Filing	110.00	License Renewals	83.00
License Renewal	63.00	Hearing Instrument Specialist	

New Application Filing	150.00
License Renewal	103.00
Intern New Application Filing	35.00
Hunting Guide	
New Application Filing	75.00
License Renewal	50.00
Landscape Architect	
New Application Filing	110.00
License Renewal	63.00
Examination Record	30.00
Education and Enforcement Fund	10.00
Land Surveyor	
New Application Filing	110.00
License Renewals	63.00
Education and Enforcement Surcharge ..	10.00
Marriage and Family Therapist	
Therapist New Application Filing	120.00
Therapist License Renewal	93.00
Associate New Application Filing	85.00
Externship New Application Filling	85.00
Massage	
Therapist New Application Filing	60.00
Therapist License Renewal	52.00
Apprentice New Application Filing	35.00
Medical Language Interpreter	
New Application Filing	50.00
Interpreter Renewal	25.00
Nail Technician	
New Application Filing	60.00
License Renewal	52.00
Instructor Certificate	60.00
School New Application Filing	110.00
School License Renewal	110.00
Naturopathic Physician	
New Application Filing	200.00
License Renewals	103.00
Nursing	
Licensed Practical Nurse New	
Application Filing	60.00
Licensed Practical Nurse License	
Renewal	58.00
Registered Nurse New Application	
Filing	60.00
Registered Nurse License Renewal	58.00
Advanced Practice RN New	
Application Filing	100.00
Advanced Practice RN License	
Renewal	68.00
Advanced Practice RN-Intern New	
Application Filing	35.00
Certified Nurse Anesthetist New	
Application Filing	100.00
Certified Nurse Anesthetist	
License Renewal	68.00
Educational Program Approval-Initial	
Visit	500.00
Educational Program Approval-	
Follow-up	250.00
Medication Aide Certified New	
Application Filing	50.00
Medication Aide Certified License	
Renewal	42.00
Occupational Therapist	
Occupational Therapist New	
Application Filing	70.00
Occupational Therapist License	
Renewal	47.00

Occupational Therapist Assistant	
New Application Filing	70.00
Occupational Therapist Assistants	
License Renewal	47.00
Online Contract Pharmacy	
New Application	200.00
Renewal	103.00
Online Internet Facilitator	
New Application	7,000.00
Renewal	7,000.00
Optometrist	
New Application Filing	140.00
License Renewal	93.00
Osteopathic Physician Online Prescriber	
New Application	200.00
License Renewal	183.00
Outfitter	
New License Filing	150.00
Renewal License	50.00
Osteopathic Physician and Surgeon	
New Application Filing	200.00
License Renewals	183.00
Pharmacy	
Pharmacist New Application Filing	110.00
Pharmacist License Renewal	63.00
Pharmacy Intern New Application	
Filing	100.00
Pharmacy Technician New	
Application Filing	60.00
Pharmacy Technician License	
Renewal	47.00
Class A New Application Filing	200.00
Class A License Renewal	103.00
Class B New Application	200.00
Class B License Renewal	103.00
Class C New Application	200.00
Class C License Renewal	103.00
Class D New Application	200.00
Class D License Renewal	103.00
Class E New Application	200.00
Class E License Renewal	103.00
Physical Therapy	
New Application Filing	70.00
License Renewal	47.00
Physical Therapy Assistant	
New Application Filing	60.00
License Renewal	47.00
Physician/Surgeon	
New Application Filing	200.00
License Renewal	183.00
Physician Assistant	
New Application Filing	180.00
License Renewals	123.00
Physician Online Prescriber	
New Application	200.00
License Renewal	183.00
Plumber	
New Application Filing	110.00
License Renewals	63.00
Podiatric Physician	
New Application Filing	200.00
License Renewal	103.00
Pre-Need Funeral Arrangement	
Sales Agent New Application Filing	85.00
Sales Agent License Renewal	73.00
Private Probation Provider	
New Application Filing	85.00

License Renewal	63.00	Certified Social Worker New	
Clinical Mental Health Counselor		Application Filing	120.00
New Application Filing	120.00	Certified Social Worker License	
License Renewals	93.00	Renewal	93.00
Professional Counselor Associate		Certified Social Worker Intern New	85.00
New Application Filing	85.00	Certified Social Worker Externship	85.00
Associate Clinical Mental Health		Social Service Worker New	
Extern New Application	85.00	Application Filing	85.00
Psychologist		Social Service Worker License	
New Application Filing	200.00	Renewal	78.00
License Renewal	128.00	Speech Language Pathologist/Audiologist	
Certified Psychology Resident New		Speech Language Pathologist	
App Filing	85.00	New Application Filing	70.00
Radiology		Speech Language Pathologist	
Radiology Technologist New		License Renewal	47.00
Application Filing	70.00	Audiologist New Application Filing	70.00
Radiology Technologist License		Audiologist License Renewal	47.00
Renewal	47.00	Speech Language Pathologist / Audiologist	
Radiology Practical Technologist		Speech Language Pathologist and	
New Application Filing	70.00	Audiologist New Application Filing	70.00
Radiology Practical Technologist		Speech Language Pathologist and	
License Renewal	47.00	Audiologist License Renewal	47.00
Recreation Therapy		Substance Use Disorder Counselor (Licensed)	
Master Therapeutic Recreational		New Application Filing	85.00
Specialist New Application Filing	70.00	License Renewal	78.00
Master Therapeutic Recreational		Substance Use Disorder Counselor (Certified)	
Specialist License Renewal	47.00	Certified Substance Counselor	70.00
Therapeutic Recreational Specialist		Certified Counselor Intern	70.00
New Application Filing	70.00	Certified Substance Extern	70.00
Therapeutic Recreational Specialist		Veterinarian	
License Renewal	47.00	New Application Filing	150.00
Therapeutic Recreational Technical		License Renewal	73.00
New License Application	70.00	Intern New Application Filing	35.00
Therapeutic Recreational Technician		Vocational Rehab Counselor	
License Renewal	47.00	New Application Filing	70.00
Residence Lien Recovery Fund		License Renewal	47.00
Initial Assessment	195.00	Other	
Registration Processing		Inactive/Reactivation/Emeritus License	50.00
Fee-Voluntary Registrants	25.00	Temporary License	50.00
Post-claim Laborer Assessment	20.00	Late Renewal	20.00
Beneficiary Claim	120.00	License/Registration Reinstatement	50.00
Laborer Beneficiary Claim	15.00	Duplicate License	10.00
Reinstatement of Lapsed Registration	50.00	Disciplinary File Search (per	
Late	20.00	order document)	12.00
Certificate of Compliance	30.00	Change Qualifier	50.00
Respiratory Care Practitioner		UBC Seminar	Variable
New Application Filing	60.00	surcharge of 1% of Building Permits in	
License Renewal	52.00	accordance w/ UCA-15a-1-209-5-a	
Security Services		UBC Building Permit surcharge	Variable
Contract Security Company		State Construction Registry	
Application Filing	330.00	Online	
Contract Security Company Renewal	203.00	Notice of Commencement	7.50
Replace/Change Qualifier	50.00	Appended Notice of Commencement	
Education Program Approval	300.00	online	7.50
Education Program Approval Renewal	103.00	Preliminary Notice	1.00
Armed Security Officer New		Notice of Completion	7.50
Application Filing	60.00	Required Notifications	Variable
Armed Security Officer New License		Requested Notifications	10.00
Renewal	42.00	Receipt Retrieval	
Unarmed Security Officer New		Within 2 years	1.00
Application Filing	60.00	Beyond 2 years	5.00
Unarmed Security Officer New		Public Search	1.00
License Renewal	42.00	Annual account set up	
Social Worker		Auto bill to credit card	60.00
Clinical Social Worker New		Invoice	100.00
Application Filing	120.00	Notice of Construction Loan	8.00
Clinical Social Worker License		Notice of Intent to Complete	8.00
Renewal	93.00	Notice of Retention	1.25

Notice of Remaining to Complete	1.25
Offline	
Notice of Commencement	15.00
Appended Notice of Commencement -	
On-line	15.00
Preliminary Notice	6.00
Notice of Completion	15.00
Required Notifications	6.00
Requested Notifications	25.00
Receipt Retrieval	
Within 2 years	6.00
Beyond 2 years	12.50
Public Search	Variable
Annual account set up	
Auto bill to credit card	75.00
Invoice	125.00
Notice of Construction Loan	15.00
Notice of Intent to Complete	16.00
Notice of Retention	8.00
Notice of Remaining to Complete	6.00
Notice of Loan Default	Variable
Building Permit	Variable
Filed by city	
Withdrawal of Preliminary Notice	Variable
Construction Ownership	
Ownership Status Report	20.00
Ownership Listing/Change	20.00
Physician Educator	
Physician Educator I new application	200.00
Physician Educator I renewal	183.00
Physician Educator II new application	200.00
Physician Educator I renewal	183.00
Radiologist Assistant	
New Application Filing	70.00
License Renewal	47.00
Residence Lien Recovery Fund	
Special Assessment	105.00
Securities	
Securities Registration	
Qualification Registration	300.00
Coordinated Registration	300.00
Transactional Exemptions	
Transactional Exemptions	60.00
No-action and Interpretative Opinions	120.00
Licensing	
Agent	60.00
Broker/Dealer	200.00
Investment Advisor	
New and renewal	100.00
Investment Advisor Representative	
New and renewal	50.00
Certified Dealer	
New and Renewal	500.00
Certified Adviser	
New and Renewal	500.00
Covered Securities Notice Filings	
Investment Companies	600.00
All Other Covered Securities	100.00
Late Fee Rule 506 Notice Filing	500.00
Less than 15 days after sale	
Federal Covered Adviser	
New and Renewal	100.00
Securities Exemptions	
Securities Exemptions	60.00
Other	
Late Renewal	20.00

Fairness Hearing	1,500.00
Statute Booklet	Variable
Small Corp. Offering	
Registration (SCOR)	Variable
Rules and form booklet	Variable
Excluding SCOR	
Postage and Handling	Variable
Consumer Protection	
Charitable Solicitation Act	
Charity	100.00
Immigration Consultants	
Initial Registration Fee	200.00
License Renewal Fee	200.00
Pawnshop Registry	
Pawnbroker Late Fee	50.00
Charitable Solicitation Act	
Professional Fund Raiser	250.00
Telephone Solicitation	
Telemarketing Registration	500.00
Health Spa	
Health Spa	100.00
Credit Services Organization	
Credit Services Organization	250.00
Debt Management Services Organizations	250.00
Business Opportunity Disclosure Register	
Exempt	100.00
Approved	200.00
Child Protection Register	
Child Protection Registry (per email)	.005
Rate up to 20,000 and 40,000 units per calendar month, discounted thereafter.	
Child Protection Registry	
Step Volume 20,000-40,000 units in a month (\$.00485)	Variable
Previous fee is \$.005. 3% discount off previous step for each additional 20,000 units in calendar month. 3% discount for transactions 40-60K & each 20K step thereafter in a calendar month.	
3% discount off previous step for each additional 20,000 units in calendar month	Variable
Pawnshop Registry	
Out of State Pawnshop Database Request	750.00
Pawnshop/2nd hand store Registration	300.00
Law Enforcement Registration	2.00
Proprietary Schools	
Initial Application	250.00
Renewal Application	1% of gross revenue
Registration Review	1% of gross revenue
Miscellaneous Fees	
Late Renewal (per month)	25.00
Miscellaneous	
Microcassette Copying (per tape)	Variable
Proprietary Schools Registration Application	1% of gross revenue
\$500 min; \$2,500 max	
Proprietary Schools	
Accredited Institution Certificate of Exemption Registration/ Renewal	1% of gross revenue
Up to \$2,500 or \$1,500 min	
Non-Profit Exemption Certificate Registration/Renewal	1,500.00
Corporations and Commercial Code	

Articles of Incorporation		Statement of Certification	12.00
Domestic Profit	70.00	Name Reservation	22.00
General Partnerships	70.00	Telecopier Transmittal	5.00
5 year renewal		Telecopier Transmittal (per page)	1.00
Statement Authority	15.00	Commercial Code Lien Filing	
One time registration or as changes are needed		UCC I Filings (per page)	12.00
Domestic Nonprofit	30.00	UCC Addendum (per page)	12.00
Foreign Profit	70.00	UCC III Assignment/Amendment	12.00
Foreign Nonprofit	30.00	UCC III Continuation	12.00
Reinstatement		UCC III Termination	Variable
Profit	70.00	CFS-1	12.00
Requalification/Reinstatement		CFS Addendum	12.00
Nonprofit	30.00	CFS-3	12.00
Changes of Corporate Status		CFS-2	12.00
Amend/Restate/Merge-Profit	37.00	CFS Registrant	25.00
Amend/Restate/Merge-Nonprofit	17.00	Master List	25.00
Amendment-Foreign	37.00	Lien Search	
Pre-authorization of document	25.00	Search	12.00
Statement of Correction	12.00	Transactions Through Utah Interactive	
Conversion	37.00	Registered Principal Search	3.00
Annual Report		Business Entity Search Principals	1.00
Profit	15.00	Certificate of Good Standing	12.00
Nonprofit	10.00	Subscription	75.00
Limited Partnership	15.00	UCC Searches	12.00
Limited Liability Company	15.00	List Compilation Customized	Variable
On-line	15.00	One Stop Business Registration	Variable
Change Form	15.00	Real Estate	
Certification		Appraisers	
Corporate Standing	12.00	Licensed and Certified	
Corporate Standing-Long Form	20.00	Application	350.00
Commercial Registered Agent		Sales Agent	
Registration	52.00	New Application (2 year)	100.00
Changes	52.00	Renewal	30.00
Terminations	52.00	Mortgage Broker	
Corporation Search		Mortgage Loan Originator New	
In House	10.00	Application	100.00
Limited Partnership		Mortgage Loan Originator Renewal	30.00
Certificate/Qualification	70.00	Appraisers	
Reinstate	70.00	Licensed and Certified	
Amend/Restate/Merge	37.00	Renewal	350.00
Statement of Correction	12.00	National Register	80.00
Conversion	37.00	Temporary Permit	100.00
DBA		Appraiser Trainee Registration	100.00
Registration	22.00	Appraiser expert witness	200.00
Renewals	22.00	Appraiser Trainee Renewal	100.00
Business/Real Estate Investment		Appraiser Pre-License School	
Trust	22.00	Application	100.00
Trademark/Electronic Trademark		Appraiser Pre-License Instructor	
Initial Application and 1st Class Code	50.00	Application	75.00
Each Additional Class Code	25.00	Appraiser CE Course Application/	
Renewals	50.00	Renewal	75.00
Assignments	25.00	Appraiser Temporary Permit	
Unincorporated Cooperative Association		Extension	100.00
Articles of Incorporation/Qualification	22.00	One time only	
Annual Report	7.00	Appraisal Management Company	
Limited Liability Company		Appraisal Management Company	350.00
Articles of Organization/Qualification	70.00	Appraisal Management Company	
Reinstate	70.00	Renewal	350.00
Amend/Merge	37.00	Appraisal Management Company Late	50.00
Statement of Correction	12.00	Broker	
Conversion	37.00	New Application	100.00
Other		2 year	
Late Renewal	10.00	Renewal	30.00
Out of State Motorist Summons	12.00	Broker/Sales Agent	
Collection Agency Bond	32.00	Activation	15.00
Unregistered Foreign Business	12.00	New Company	200.00
Foreign Name Registration	22.00	Company Broker Change	50.00
		Company Name Change	100.00

Verification (per copy)	20.00
General Division	
Duplicate License	10.00
Certifications/Computer Histories	20.00
Late Renewal	50.00
Reinstatement	100.00
Branch Office	200.00
No Action Letter	120.00
Trust Account Seminar	5.00
Continuing Education	
Instructor/Course Late	25.00
Mortgage Broker	
Mortgage Lending Manager	
Application	100.00
Renewal	30.00
Mortgage Lender Entities	
Application	200.00
Renewal	200.00
Mortgage DBA	200.00
Activation	15.00
Subdivided Land	
Exemption	
HUD	100.00
Water Corporation	50.00
Temporary Permit	100.00
Application	500.00
Charge over 30	3.00
Inspection Deposit	300.00
Consolidation	200.00
Charge	3.00
Renewal Report	203.00
Timeshare and Camp Resort	
Salesperson	100.00
New and renewal	
Registration	500.00
Per unit charge over 100	3.00
Inspection Deposit	300.00
Consolidation	200.00
Per unit charge	3.00
Temporary Permit	100.00
Renewal Reports	203.00
Supplementary Filing	
Supplementary Filing	200.00
Mortgage Education	
Individual	36.00
Entity	50.00
Mortgage Prelicense School	
Certification	100.00
Mortgage Prelicense	
Instructor Certification/Renewal	75.00
Mortgage Branch Schools	100.00
Mortgage Continuing Education	
Course Certificatin application	
Renewal	75.00
Mortgage Continuing Education	
Instructor Certification	50.00
Mortgage Out of State Records	
Inspection	500.00

REAL ESTATE EDUCATION

Education	
Real Estate Education Broker	18.00
Real Estate Education Agent	12.00
Certifications	
Real Estate Prelicense School	
Certification	100.00
Real Estate Prelicense Instructor	
Certification	75.00

Real Estate Education	
Real Estate Continuing Education Course	
Certification	75.00
Real Estate Continuing Education Instructor	
Certification	50.00
Certifications	
Real Estate Branch Schools	100.00
Appraiser Prelicense Course	
Certification	70.00
Appraiser CE Instructor Application/	
Renewal	75.00

FINANCIAL INSTITUTIONS

**FINANCIAL INSTITUTIONS
ADMINISTRATION**

Administration	
Photocopies .....	.25
Code Book	
In-office Purchase	20.00
Mailed	21.87
Annual Report	
In-office Purchase	8.00
Mailed	9.87
Third Party Payment Provider	
Initial Filing Fee	100.00
Renewal Fee	100.00

INSURANCE DEPARTMENT

**INSURANCE DEPARTMENT
ADMINISTRATION**

Administration	
Global license fees for Admitted Insurers	
Certificate of Authority	
Initial License Application	1,000.00
Independent Review - Initial	
Application	250.00
Initial individual license (per 35.00)	2,800.00
Initial agency license (per 40.00)	800.00
Renewal	300.00
Late Renewal	350.00
Reinstatement	1,000.00
Amendment	250.00
Orderly Plan of Withdrawal	50,000.00
Form A Filing	2,000.00
Redomestication Filing	2,000.00
Organizational Permit for Mutual	
Insurer	1,000.00
Insurer Examinations	72.00
Agency cost	
Global Service Fees for Admitted Insurers	
Zero premium volume	Insurance Rule
R590-102-5(4)(d)(i)	
More than \$0 to less than \$1M premium volume	
700.00	
\$1M to less than \$3M premium	
volume	1,100.00
\$3M to less than \$6 M premium	
volume	1,550.00
\$6M to less than \$11M premium	
volume	2,100.00
\$11M to less than \$15M premium	
volume	2,750.00
\$15M to less than \$20M premium	
volume	3,500.00
\$20M or more in premium volume	4,350.00
Global license fees for Surplus Lines Insurers, Accredited/Trusteed Reninsurer	

Surplus Lines Insurers, Accredited/Trusted Reinsurers, Employee Welfare Fund	Electronic
Initial 1,000.00	Base fee 50.00
Annual 500.00	1 CD and up to 30 minutes of staff time
Late Annual 550.00	Additional fee billed by invoice 50.00
Reinstatement 1,000.00	For each additional 30 minutes or fraction thereof
Global license fees for Other Organizations	Additional CD (per CD) 1.00
Other Organizations	Restricted Special Revenue Fees
Initial License Application 250.00	Title Insurance Recovery, Education, and Research Fund
Renewal 200.00	Initial Title Agency License 1,000.00
Late Renewal 250.00	Renewal Title Agency License
Reinstatement 250.00	Band A-\$0-\$1 million premium
Annual Service 200.00	volume 125.00
Life Settlement Provider	Band B->\$1-\$10 million premium
Initial license application 1,000.00	volume 250.00
Renewal 300.00	Band C->\$10-\$20 million premium
Late Renewal 350.00	volume 375.00
Reinstatement 1,000.00	Band D->\$20 million premium
Annual service 600.00	volume 500.00
Global Individual License	Individual Title Licensee Initial or Renewal License 15.00
Res/non-res full line producer license or renewal per two-year license period	Professional Employers Organization
Initial, or renewal if renewed prior to renewal deadline 70.00	Standard - Initial/Renewal 2,000.00
Reinstatement of Lapsed License 120.00	Standard - Late Renewal or Reinstatement 2,050.00
Res/non-res limited line producer license or renewal per two-year licensing period	Certified by an Assurance Organization - Initial 2,000.00
Initial or renewal if renewed prior to renewal deadline 45.00	Certified by an Assurance Organization - Renewal 1,000.00
Reinstatement of lapsed license 95.00	Certified Late Renewal or Reinstatement 1,050.00
Res/non-res full line producer license or renewal per two-year license period	Small Operator
Dual Title License Form Filing 25.00	Small Operator - Initial 2,000.00
Addition of producer classification or line of authority to individual producer license 25.00	Small Operator - Renewal 1,000.00
Global Full Line and Limited Line Agency License	Small Operator - Late Renewal or Reinstatement 1,050.00
Res/non-res initial or renewal license if renewed prior to renewal deadline 75.00	Relative Value Study
Reinstatement of lapsed license 125.00	Restricted Revenue
Addition of agency class or line of authority to agency license 25.00	Relative Value Study
Resident Title initial or renewal license if renewed prior to renewal deadline 100.00	Relative Value Study Book 10.00
Resident Title Reinstatement of Lapsed License 150.00	Code Books 57.00
Health Insurance Purchasing Alliance	Cost to agency
Res/non-res initial or renewal license if renewed prior to renewal deadline 500.00	Mailing fee for books 3.00
Per annual license period	Insurance Fraud Program
Late Renewal 550.00	Restricted Revenue
Reinstatement of lapsed license 550.00	Fraud Investigation Division
Continuing Education	Zero to \$1M premium volume 200.00
CE provider initial or renewal license prior to renewal deadline 250.00	>\$1M to less than \$2.5M premium
CE provider reinstatement of lapsed license 300.00	volume 450.00
CE provider post approval or \$5 per hour, whichever is more 25.00	\$2.5M to less than \$5M premium
Other	volume 800.00
Photocopy (per page) 50	\$5M to less than \$10M premium
Copy Complete Annual Statement 40.00	volume 1,600.00
Accepting Service of legal process 10.00	\$10M to less than \$50M premium
Returned check charge 20.00	volume 6,100.00
Workers' Comp schedule 5.00	\$50M or more in premium
Address Correction 35.00	volume 15,000.00
Production of Lists	Fraud Division Investigative
Printed (per page) 1.00	Recovery Variable
Information already in list format	Fraud division assessment late fee 50.00
	Captive Insurers
	Captive Insurer
	Initial license application 200.00
	Initial license application review Captive - Actual cost
	Initial license issuance 5,000.00
	Renewal 5,000.00

Late Renewal	5,050.00
Reinstatement	5,050.00
Captive Insurer Examination Reimbursements	Variable
Electronic Commerce Fee	
Electronic Commerce Restricted E-commerce and internet technology services	
Insurer: admitted, surplus lines	75.00
Captive Insurer	250.00
Other organization and life settlement provider	50.00
CE Provider	20.00
Agency and Health Insurance Purchasing Alliance	10.00
Individual	5.00
Access to rate and form filing database Base	45.00
1 DVD and up to 30 minutes access and staff help	
Additional	45.00
Each additional 30 minutes or fraction thereof	
Additional DVD (per DVD)	2.00
Electronic Commerce Restricted Database access	3.00
Paper filing process	5.00
Paper Application Processing	25.00
GAP Waiver Program Restricted Revenue	
Guaranteed Asset Protection Waiver Registration/Annual	1,000.00
GAP Waiver Assessment	50.00
Criminal Background Checks Fingerprinting	
Bureau of Criminal Investigation	20.00
Federal Bureau of Investigation	16.50

HEALTH INSURANCE ACTUARY

Restricted Revenue Health Insurance Actuarial Review Assessment Assessment for Actuary	150,000.00
--	------------

BAIL BOND PROGRAM

Restricted Revenue Bail Bond Agency	
Resident initial or renewal license if renewed prior to renewal deadline . .	250.00
Annual license period	
Reinstatement of lapsed license	300.00
Annual license period	

TITLE INSURANCE PROGRAM

Restricted Revenue Title Insurance Regulation Assessment	80,000.00
--	-----------

SOCIAL SERVICES

DEPARTMENT OF HEALTH

EXECUTIVE DIRECTOR'S OPERATIONS

Executive Director All the fees in this section apply for the entire Department of Health Non-sufficient Check Collection Fee	20.00
Non-sufficient Check Service Charge	20.00

Testimony Expert Testimony Fee for those without a PhD/MD (per hour)	78.75
Includes preparation, consultation, and appearance on criminal and civil cases. Portal to portal, including travel and waiting time. Per hour charge, plus travel costs. Expert Testimony Fee for those with a PhD/MD (per hour)	250.00
Includes preparation, consultation, and appearance on criminal and civil cases. Portal to portal, including travel and waiting time. Per hour charge, plus travel costs. Government Records Access and Management Act (GRAMA) Staff time for file search and/or information compilation Department of Technology Services (per hour)	70.00
For Department of Technology Services or programmer / analyst staff time. Department of Health (per hour)	35.00
For Department of Health staff time; first 15 minutes free, additional time.	
Copy 11 x 8.5 Black and White (per page) . . . . .	.15
11x17 or color (per page) . . . . .	.40
Information on disk (per kilobyte) . . . . .	.02
Administrative Fee, 1-15 copies	25.00
Administrative Fee, each additional copy	1.00
Fax (per page) . . . . .	.50
Other communication medium	Actual cost
Mailing or shipping cost	Actual cost
Center for Health Data and Informatics Public Use Data Sets Single Year License Fee for Public Agencies and Non-Profit Organizations Inpatient, Ambulatory Surgery, and Emergency Department Encounter Public Use File I for the latest year only	1,575.00
File III for the latest year only	250.00
Public Use Tapes - Multi-Year License Fee - Existing User Multi-Year License Existing User Inpatient, Ambulatory Surgery, and Emergency Department Encounter Public Use; 3 years prior to current year File I for multiple year data set	1,500.00
File III for multiple year data set	250.00
Public Use Secondary Release License Files I per year First year (5 copies)	375.00
Annual renewal fee (5 copies)	375.00
Additional copies (in excess of 5)	50.00
Public Use Data Set Single Year License Fee for Private Sector Agencies Organizations Inpatient, Ambulatory Surgery, and Emergency Department Encounter Public Use File I for the latest year only	3,150.00

File III for one year only	1,050.00	Health Maintenance Organization or Preferred Provider Organization Enrollee Satisfaction Survey Data Set License	
Multi Year License Fee for Private Sector Agencies Existing User		Public, Educational, Non-profit Research Organizations	
Inpatient, Ambulatory Surgery, and Emergency Department Encounter Public Use; 3 years prior to current year		File I for Latest Year	
File I for multiple year data set	3,000.00	(per data set)	1,050.00
File III for multiple year data set	1,000.00	File II for Previous Year	
Single Year License Fee for Data Suppliers		(per data set)	750.00
Inpatient, Ambulatory Surgery, and Emergency Department Encounter Public Use		File III for Any Earlier Years	
File I for the latest year only		(per data set)	500.00
Large System/Corporation		Private Sector Agencies	
(per year)	3,150.00	File I for Latest Year	
Greater than 35,000 discharges per year		(per data set)	1,575.00
Large Single/Multiple Hospital		File II for Previous Year	
(per year)	1,575.00	(per data set)	1,250.00
5,000-35,000 discharges per year		File III for Any Earlier Years	
Small or Medium Single Hospital		(per data set)	1,000.00
(per year)	525.00	Data Suppliers (Contributing Health Maintenance Organizations or Preferred Provider Organizations)	
Less than 5,000 discharges per year		File I for Latest Year (per data set) . . .	420.00
Private Sector Secondary Release License		File II for Previous Year	
File I - III, Per year		(per data set)	300.00
First Year	1,050.00	File III for Any Earlier Years	
5 copies		(per data set)	200.00
Annual renewal fee (5 copies)	525.00	Data Suppliers (Non-contributing Health Maintenance Organizations or Preferred Provider Organizations)	
Additional copies (in excess of 5)	50.00	File I for Latest Year (per data set) . . .	840.00
Financial Database	50.00	File II for Previous Year	
Research Data Set License		(per data set)	600.00
Inpatient, Ambulatory Surgery, and Emergency Department Encounter Research Data Set		File III for Any Earlier Years	
Latest Year	3,150.00	(per data set)	400.00
Three years prior	3,000.00	Fee for Data Suppliers Purchases	
Research Data Set Secondary Release License		Hard Copy Reports Miscellaneous	10.00
Inpatient data set for the latest year . .	1,500.00	Standard Report 1 for Inpatient,	
Ambulatory surgery data set for the latest year	750.00	Emergency	50.00
Emergency Department encounter data set for the last year	750.00	Standard Report 1 for Ambulatory Surgery	50.00
Research Data Set for Federal Databases with Secondary Release License		Hospital Financial Report	50.00
Inpatient data set for the latest year	4,500.00	Special Reports	15.00
Ambulatory surgery data set for the latest year	4,500.00	Special Data Request (\$70 minimum)	
Multi-Year Healthcare Effectiveness Data and Information Set License		(per hour)	55.00
Public, Educational, Non-profit Research Organizations		Special Data Extraction Request	
File I for Latest Year		(per hour)	72.00
(per data set)	1,050.00	Other Fees	
File II for Previous Year		Data suppliers' special data request	
(per data set)	750.00	(per hour)	35.00
File III for Any Earlier Years		Data Management Fees for Reprocessing .	39.90
(per data set)	500.00	To cover costs of processing resubmissions of data with system errors (may be waived as incentive for timely resubmission)	
Private Sector Agencies		Birth Certificate	
File I for Latest Year		Initial Copy	20.00
(per data set)	1,575.00	Additional Copies	8.00
File II for Previous Year		Stillbirth	18.00
(per data set)	1,250.00	Affidavit	25.00
File III for Any Earlier Years		Book Copy of Birth Certificate	25.00
(per data set)	1,000.00	Adoption	60.00
		Expedite	15.00
		Death Certificate	
		Initial Copy	18.00
		Additional Copies	8.00
		Burial Transit Permit	7.00
		Disinterment Permit	25.00

Specialized Services

Paternity Search (1 hour minimum)	
(per hour)	18.00
Delayed Registration	60.00
Marriage and Divorce Abstracts	18.00
Legitimation	60.00
Adoption Registry	25.00
Adoption Expedite Fee	25.00
Death Research (1 hour minimum)	
(per hour)	20.00
Court Order Name Changes	25.00
Court Order Paternity	60.00
Online Access to Computerized Vital	
Records (per month)	12.00
Ad-hoc Statistical Requests (per hour) ...	45.00
Delay of File Fee (charged for every	
birth/death certificate registered	
30 days or more after the event)	50.00

FAMILY HEALTH AND PREPAREDNESS

Child Development

Background checks	15.00
Conditional Monitoring Inspections	
Center-based providers (per visit)	253.00
Charge per extra visit begins with the	
second additional visit required due to	
non-compliance.	
Home-based providers (per visit)	245.00
Charge per extra visit begins with the	
second additional visit required due to	
non-compliance.	
Annual License	
Annual Licensed Child Care	
Facility Base	31.00
Plus the appropriate fee as listed below to	
any new or renewal license	
Change in license or certificate during the license	
period more than twice a year	31.00
Child Care Center Facilities (per child) ...	1.75
Late Fee	15.50
Within 1 - 30 days after expiration of	
license facility will be assessed 50% of	
scheduled fee	
New Provider/Change in Ownership	
New Provider/Change in Ownership	
Applications for Child Care	
center facilities	200.00
A \$200.00 fee will be assessed for services	
rendered to providers seeking initial	
licensure or change of ownership to cover the	
cost of processing the application, staff	
consultation, review of facility policies, initial	
inspection, etc. This fee will be due at the time	
of application.	
Other	
Non-compliant facilities and	
additional inspections for	
non-compliant facilities	25.00
Child care program fees are not	
refundable	Variable
Nonrefundable	
Child Care Licensing Rules	Variable
Licensees receive 1 copy of each newly	
published edition of applicable facility rules.	
Additional copies of the rules will reflect the	
cost of printing & mailing.	
Children with Special Health Care Needs	

Office Visit, New Patient	
99201 Problem focused,	
straightforward	47.00
92550 Tympanometry and Acoustic	
Reflex Threshold Testing	71.00
92570 Tympanometry and Acoustic	
Reflex Threshold and Acoustic	
Reflex Decay Testing	80.00
99202 Expanded problem,	
straightforward	81.00
99203 Detailed, low complexity	120.00
99204 Comprehensive, Moderate	
complexity	182.00
99205 Comprehensive, high	
complexity	229.00
Office Visit, Established Patient	
99211 Minimal Service or	
non-Medical Doctor	28.00
99212 Problem focused,	
straightforward	47.00
99213 Expanded problem,	
low complexity	74.00
99214 Detailed, moderate complexity ...	111.00
99215 Comprehensive,	
high complexity	151.00
Office Consultation, New or Established Patient	
99241 Problem focused,	
straightforward	60.00
99242 Expanded problem	
focused, straightforward	110.00
99243 Detailed exam, low complexity ...	151.00
99244 Comprehensive, moderate	
complexity	223.00
99245 Comprehensive, high	
complexity	275.00
95974 Cranial Neurostimulation	
evaluation	160.00
99354 Prolonged, face to face	114.00
First hour	
99355 Prolonged, face to face	112.00
Additional 30 minutes	
99358 Prolonged, non face to face	93.00
First hour	
99359 Prolonged, non face to face	51.00
Additional 30 minutes	
T1013 Sign Language oral interview	13.00
Nutrition	
97802 Medical Nutrition Assessment ...	22.00
97803 Nutrition Reassessment	22.00
Psychology	
96101 Testing	136.00
96102 Testing by technician	65.00
96103 Testing with computer	60.00
96110 Developmental Testing	136.00
96111 Extended Developmental	
Testing	136.00
90804 Psychotherapy, face to face,	
20-30 minutes	68.00
90806 Psychotherapy, face to face,	
50 minutes	130.00
90846 Family Medical	
Psychotherapy, 30 minutes	90.00
90847 Family Medical Psychotherapy,	
conjoint 30 minutes	130.00
90882 Environmental Intervention	
with Agencies, Employers, etc.	49.00

90882-52 Environmental Intervention		92557 Basic Comprehension,	
Reduced Procedures	23.00	Audiometry	80.00
90885 Evaluation of hospital records	40.00	92567 Tympanometry	26.00
90889 Preparation of reports	40.00	92568 Acoustic reflex testing,	
Physical and Occupational Therapy		threshold	45.00
97001 Physical Therapy Evaluation	90.00	92579 Visual reinforcement	
97002 Physical Therapy		audiometry	57.00
Re-evaluation	52.00	92579-52 Visual reinforcement	
97003 Occupational Therapy		audiometry, limited	47.00
Evaluation	90.00	92582 Conditioning Play Audiometry	80.00
97004 Occupational Therapy		92585 Auditory Evoked Potentials	
Re-evaluation	52.00	testing	125.00
97110 Therapeutic Physical Therapy	33.00	92587 Evoked Otoacoustic emissions	
97530 Therapeutic Activity	40.00	testing	58.00
97535 Self Care Management	30.00	92590 Hearing Aid Exam	53.00
95742 Wheelchair Assessment		92591 Hearing Aid Exam, Binaural	108.00
fitting/training (per 15 minutes)	25.00	92592-52 Hearing aid check,	
95755 Assistive Technology		monaural	31.00
Assessment (per 15 minutes)	25.00	92593-52 Hearing aid check, binaural	44.00
97760 Orthotic Management	38.00	92620 Evaluation of Central	
97762 Orthotic/prosthetic Use		Auditory Function	87.00
Management	38.00	92621 Evaluation of Central	
G9012 Wheelchair Measurement /		Auditory Function	22.00
Fitting	312.00	Each additional 15 minutes	
Speech		V5008 Hearing Check, Patient	
92506 Basic Assessment	170.00	Under 3 Years Old	38.00
92506-22 Assessment, unusual		V5257 Hearing Aid, Digital	
procedures	180.00	Monaural	2,000.00
92506-52 Assessment, reduced		V5261 Hearing Aid, Digital	
procedures	80.00	Binaural	1,100.00
Ophthalmology		V5264 Ear Mold Insert	75.00
92002 Exam & evaluation,		V5266 Hearing Aid battery	1.00
intermediate, new patient	81.00	BabyWatch / Early Intervention	
92012 Exam & evaluation,		Monthly charges based on a sliding fee schedule	
intermediate, established patient	85.00	From \$10 - \$200	
92015 Determination of		Newborn	
refractive state	51.00	Screening	Variable
Audiology		State Lab Collects Fee this is Children with	
92551 Audiometry, Pure Tone Screen	33.00	Special Health Care Needs Portion	
92552 Audiometry, Pure Tone		Hearing	Variable
Threshold	36.00	State Lab Collects Fee this is Children with	
92553 Audiometry, Air and Bone	44.00	Special Health Care Needs Portion	
92555 Speech Audiometry threshold		Health Clinics	
testing	28.00	90791 Psychiatric Diagnostic	
92556 Speech Audiometry		Evaluation	94.00
threshold/speech recognition testing	40.00	90792 Psychiatric Diagnostic	
		Evaluation With Medical Services	94.00

**FAMILY HEALTH AND PREPAREDNESS DIVISION
SLIDING FEE SCHEDULE and CHIP**

Patient's Financial Responsibility (PFR) % of Federal Poverty Guideline	0%	0%	20%	40%	60%	100%	CHIP
	100%	0% to 133%	133% to 150%	150% to 185%	185% to 225%	>225%	200%
FAMILY SIZE .		MONTHLY FAMILY INCOME					
1	\$972.50	\$0.00 - \$1,293.43	\$1,293.44- \$1,458.75	\$1,458.76- \$1,799.13	\$1,799.14- \$2,188.13	\$2,188.14 and up	\$1,945.00
2	\$1,310.83	\$0.00 - \$1,743.41	\$1,743.42- \$1,966.25	\$1,966.26- \$2,425.04	\$2,425.05- \$2,949.38	\$2,949.39 and up	\$2,621.67
3	\$1,649.17	\$0.00 - \$2,193.39	\$2,193.40- \$2,473.75	\$2,473.76- \$3,050.96	\$3,050.97- \$3,710.63	\$3,710.64 and up	\$3,298.33
4	\$1,987.50	\$0.00 - \$2,643.38	\$2,643.39- \$2,981.25	\$2,981.26- \$3,676.88	\$3,676.89- \$4,471.88	\$4,471.89 and up	\$3,975.00
5	\$2,325.83	\$0.00 - \$3,093.36	\$3,093.37- \$3,488.75	\$3,488.76- \$4,302.79	\$4,302.80- \$5,233.13	\$5,233.14 and up	\$4,651.67
6	\$2,664.17	\$0.00 - \$3,543.34	\$3,543.35- \$3,996.25	\$3,996.26- \$4,928.71	\$4,928.72- \$5,994.38	\$5,994.39 and up	\$5,328.33
7	\$3,002.50	\$0.00 - \$3,993.33	\$3,993.34- \$4,503.75	\$4,503.76- \$5,554.63	\$5,554.64- \$6,755.63	\$6,755.64 and up	\$6,005.00
8	\$3,340.83	\$0.00 - \$4,443.31	\$4,443.32- \$5,011.25	\$5,011.26- \$6,180.54	\$6,180.55- \$7,516.88	\$7,516.89 and up	\$6,681.67
Each Additional Family Member	\$338.33	\$449.98	\$507.50	\$625.92	\$761.25	\$761.25	\$676.67

NOTE: This Division of Family Health and Preparedness schedule is based on Federal Poverty Guidelines published in the Federal Register, January 26, 2014.(<http://aspe.hhs.gov/poverty/14poverty.cfm>) When new poverty guidelines are published, the fee scale will be changed as required by federal law, Title V of the Social Security Act, and in accordance with guidelines published by the Department of Health and Human Services, Office of the Secretary.

**FAMILY HEALTH AND PREPAREDNESS DIVISION
Baby Watch Early Intervention Program
2014-2015 Sliding Fee Schedule
Monthly Family Fee, Effective July 1, 2014**

FAMILY SIZE	Federal Poverty	100% Exempt	186% \$10.00	200% \$20.00	250% \$30.00	300% \$40.00
2	\$15,730	\$0.00-	\$29,257.80-	\$31,459.99	\$31,460.00-	\$39,325.00-
		\$29,257.79	\$31,459.99	\$39,324.99	\$47,189.99	\$62,919.99
3	\$19,790	\$0.00-	\$36,809.40-	\$39,580.00-	\$49,475.00-	\$59,370.00-
		\$36,809.39	\$39,579.99	\$49,474.99	\$59,369.99	\$79,159.99
4	\$23,850	\$0.00-	\$44,361.00-	\$47,700.00-	\$59,625.00-	\$71,550.00-
		\$44,360.99	\$47,699.99	\$59,624.99	\$71,549.99	\$95,399.99
5	\$27,910	\$0.00-	\$51,912.60-	\$55,820.00-	\$69,775.00-	\$83,730.00-
		\$51,912.59	\$55,819.99	\$69,774.99	\$83,729.99	\$111,639.99
6	\$31,970	\$0.00-	\$59,464.20-	\$63,940.00-	\$79,925.00-	\$95,910.00-
		\$59,464.19	\$63,939.99	\$79,924.99	\$95,909.99	\$127,879.99
7	\$36,030	\$0.00-	\$67,015.80-	\$72,060.00-	\$90,075.00-	\$108,090.00-
		\$67,015.79	\$72,059.99	\$90,074.99	\$108,089.99	\$144,119.99
8	\$40,090	\$0.00-	\$74,567.40-	\$80,180.00-	\$100,225.00-	\$120,270.00-
		\$74,567.39	\$80,179.99	\$100,224.99	\$120,269.99	\$160,359.99
9	\$44,150	\$0.00-	\$82,119.00-	\$88,300.00-	\$110,375.00-	\$132,450.00-
		\$82,118.99	\$88,299.99	\$110,374.99	\$132,449.99	\$176,599.99
10	\$48,210	\$0.00-	\$89,670.60-	\$96,420.00-	\$120,525.00-	\$144,630.00-
		\$89,670.59	\$96,419.99	\$120,524.99	\$144,629.99	\$192,839.99
11	\$52,270	\$0.00-	\$97,222.20-	\$104,540.00-	\$130,675.00-	\$156,810.00-
		\$97,222.19	\$104,539.99	\$130,674.99	\$156,809.99	\$209,079.99
12	\$56,330	\$0.00-	\$104,773.80-	\$112,660.00-	\$140,825.00-	\$168,990.00-
		\$104,773.79	\$112,659.99	\$140,824.99	\$168,989.99	\$225,319.99
13	\$60,390	\$0.00-	\$112,325.40-	\$120,780.00-	\$150,975.00-	\$181,170.00-
		\$112,325.39	\$120,779.99	\$150,974.99	\$181,169.99	\$241,559.99
14	\$64,450	\$0.00-	\$119,877.00-	\$128,900.00-	\$161,125.00-	\$193,350.00-
		\$119,876.99	\$128,899.99	\$161,124.99	\$193,349.99	\$257,799.99
15	\$68,510	\$0.00-	\$127,428.60-	\$137,020.00-	\$171,725.00-	\$205,530.00-
		\$127,428.59	\$137,019.99	\$171,274.99	\$205,529.99	\$274,039.99
16	\$72,570	\$0.00-	\$134,980.20-	\$145,140.00-	\$181,425.00-	\$217,710.00-
		\$134,980.19	\$145,139.99	\$181,424.99	\$217,709.99	\$290,279.99
17	\$76,630	\$0.00-	\$142,531.80-	\$153,260.00-	\$191,575.00-	\$229,890.00-
		\$142,531.79	\$153,259.99	\$191,574.99	\$229,889.99	\$306,519.99
18	\$80,690	\$0.00-	\$150,083.40-	\$161,380.00-	\$201,725.00-	\$242,070.00-
		\$150,083.39	\$161,379.99	\$201,724.99	\$242,069.99	\$322,759.99
Increment	\$4,060	100%	186%	200%	250%	300%

**Baby Watch Early Intervention Program
2014-2015 Sliding Fee Schedule, Continued
Monthly Family Fee, Effective July 1, 2014**

FAMILY SIZE	Federal Poverty	400% \$50.00	500% \$60.00	600% \$80.00	700% \$100.00	800% \$120.00
2	\$15,730	\$62,920.00- \$78,649.99	\$78,650.00- \$94,379.99	\$94,380.00- \$110,109.99	\$110,110.00 \$125,839.99	\$125,840.00 \$141,569.99
3	\$19,790	\$79,160.00- \$98,949.99	\$98,950.00- \$118,739.99	\$118,740.00- \$138,529.99	\$138,530.00 \$158,319.99	\$158,320.00 \$178,109.99
4	\$23,850	\$95,400.00- \$119,249.99	\$119,250.00- \$143,099.99	\$143,100.00- \$166,949.99	\$166,950.00 \$190,799.99	\$190,800.00 \$214,649.99
5	\$27,910	\$111,640.00- \$139,549.99	\$139,550.00- \$167,459.99	\$167,460.00- \$195,369.99	\$195,370.00 \$223,279.99	\$223,280.00 \$251,189.99
6	\$31,970	\$127,880.00- \$159,849.99	\$159,850.00- \$191,819.99	\$191,820.00- \$223,789.99	\$223,790.00 \$255,759.99	\$255,760.00 \$287,729.99
7	\$36,030	\$144,120.00- \$180,149.99	\$180,150.00- \$216,179.99	\$216,180.00- \$252,209.99	\$252,210.00 \$288,239.99	\$288,240.00 \$324,269.99
8	\$40,090	\$160,360.00- \$200,449.99	\$200,450.00- \$240,539.99	\$240,540.00- \$280,629.99	\$280,630.00 \$320,719.99	\$320,720.00 \$360,809.99
9	\$44,150	\$176,600.00- \$220,749.99	\$220,750.00- \$264,899.99	\$264,900.00- \$309,049.99	\$309,050.00 \$353,199.99	\$353,200.00 \$397,349.99
10	\$48,210	\$192,840.00- \$241,049.99	\$241,050.00- \$289,259.99	\$289,260.00- \$337,469.99	\$337,470.00 \$385,679.99	\$385,680.00 \$433,889.99
11	\$52,270	\$209,080.00- \$261,349.99	\$261,350.00- \$313,619.99	\$313,620.00- \$365,889.99	\$365,890.00 \$418,159.99	\$418,160.00 \$470,429.99
12	\$56,330	\$225,320.00- \$281,649.99	\$281,650.00- \$337,979.99	\$337,980.00- \$394,309.99	\$394,310.00 \$450,639.99	\$450,640.00 \$506,969.99
13	\$60,390	\$241,560.00- \$301,949.99	\$301,950.00- \$362,339.99	\$362,340.00- \$422,729.99	\$422,730.00 \$483,119.99	\$483,120.00 \$543,509.99
14	\$64,450	\$257,800.00- \$322,249.99	\$322,250.00- \$386,699.99	\$386,700.00- \$451,149.99	\$451,150.00 \$515,599.99	\$515,600.00 \$580,049.99
15	\$68,510	\$274,040.00- \$342,549.99	\$342,550.00- \$411,059.99	\$411,060.00- \$479,569.99	\$479,570.00 \$548,079.99	\$548,080.00 \$616,589.99
16	\$72,570	\$290,280.00- \$362,849.99	\$362,850.00- \$435,419.99	\$435,420.00- \$507,989.99	\$507,990.00 \$580,559.99	\$580,560.00 \$653,129.99
17	\$76,630	\$306,520.00- \$383,149.99	\$383,150.00- \$459,779.99	\$459,780.00- \$536,409.99	\$536,410.00 \$613,039.99	\$613,040.00 \$689,669.99
18	\$80,690	\$322,760.00- \$403,449.99	\$403,450.00- \$484,139.99	\$484,140.00- \$564,829.99	\$564,830.00 \$645,519.99	\$645,520.00 \$726,209.99
Increment	\$4,060	400%	500%	600%	700%	800%

**Baby Watch Early Intervention Program
2014-2015 Sliding Fee Schedule, Continued
Monthly Family Fee, Effective July 1, 2014**

FAMILY SIZE	Federal Poverty	900%	1000%	1100%	1200%
2	\$15,730	\$141,570.00	\$157,300.00	\$173,030.00	\$188,760.00
		\$157,299.99	\$173,029.99	\$188,759.99	and above
3	\$19,790	\$178,110.00	\$197,900.00	\$217,690.00	\$237,480.00
		\$197,899.99	\$217,689.99	\$237,479.99	and above
4	\$23,850	\$214,650.00	\$238,500.00	\$262,350.00	\$286,200.00
		\$238,499.99	\$262,349.99	\$286,199.99	and above
5	\$27,910	\$251,190.00	\$279,100.00	\$307,010.00	\$334,920.00
		\$279,099.99	\$307,009.99	\$334,919.99	and above
6	\$31,970	\$287,730.00	\$319,700.00	\$351,670.00	\$383,640.00
		\$319,699.99	\$351,669.99	\$383,639.99	and above
7	\$36,030	\$324,270.00	\$360,300.00	\$396,330.00	\$432,360.00
		\$360,299.99	\$396,329.99	\$432,359.99	and above
8	\$40,090	\$360,810.00	\$400,900.00	\$440,990.00	\$481,080.00
		\$400,899.99	\$440,989.99	\$481,079.99	and above
9	\$44,150	\$397,350.00	\$441,500.00	\$485,650.00	\$529,800.00
		\$441,499.99	\$485,649.99	\$529,799.99	and above
10	\$48,210	\$433,890.00	\$482,100.00	\$530,310.00	\$578,520.00
		\$482,099.99	\$530,309.99	\$578,519.99	and above
11	\$52,270	\$470,430.00	\$522,700.00	\$574,970.00	\$627,240.00
		\$522,699.99	\$574,969.99	\$627,239.99	and above
12	\$56,330	\$506,970.00	\$563,300.00	\$619,630.00	\$675,960.00
		\$563,299.99	\$619,629.99	\$675,959.99	and above
13	\$60,390	\$543,510.00	\$603,900.00	\$664,290.00	\$724,680.00
		\$603,899.99	\$664,289.99	\$724,679.99	and above
14	\$64,450	\$580,050.00	\$644,500.00	\$708,950.00	\$773,400.00
		\$644,499.99	\$708,949.99	\$773,399.99	and above
15	\$68,510	\$616,590.00	\$685,100.00	\$753,610.00	\$822,120.00
		\$685,099.99	\$753,609.99	\$822,119.99	and above
16	\$72,570	\$653,130.00	\$725,700.00	\$798,270.00	\$870,840.00
		\$725,699.99	\$798,269.99	\$870,839.99	and above
17	\$76,630	\$689,670.00	\$766,300.00	\$842,930.00	\$919,560.00
		\$766,299.99	\$842,929.99	\$919,559.99	and above
18	\$80,690	\$726,210.00	\$806,900.00	\$887,590.00	\$968,280.00
		\$806,899.99	\$887,589.99	\$968,279.99	and above
Increment	\$4,060	900%	1000%	1100%	1200%

Please contact the Baby Watch Early Intervention Program, 800-961-4226, for the correct fee amount if the family size is greater than eighteen.

NOTE: This sliding fee schedule is based on 186% of the Federal Poverty Guidelines published in the Federal Register January 26, 2014. (<http://aspe.hhs.gov/poverty/14poverty.com>) The fee scale will be changed in July each year in accordance with these guidelines, which are published annually by the Department of Health and Human Services, Office of the Secretary.

Emergency Medical Services	
Blood Draw Permit	35.00
Initial and Reciprocity Certification	
Quality Assurance Review Fee for	
All Levels Except Emergency	
Medical Dispatcher	30.00
Advanced Practical Test	40.00
Advanced Practical Re-Test	40.00
Initial, Reciprocity, and Recertification	
Quality Assurance Review Fee for	
Emergency Medical Dispatcher	
Initial Certification, Reciprocity	
and Recertification	15.00
Course Quality Assurance Review For	
All Levels Except Emergency	
Medical Dispatch	125.00
Pediatric Advanced Life Support	
Course Renewal	85.00
Pediatric Education for Prehospital	
Professionals Course Renewal	85.00
Emergency Medical Technician	
Practical Re-Test	40.00
Pediatric Advanced Life Support	
Course	170.00
Pediatric Education for Prehospital	
Professionals Course	170.00
Clarification in wording of fee to reflect	
actual course offered	
Rental of pediatric course equipment to	
for-profit agency	150.00
Registration, Certification and Testing	
Recertification Fee	
Recertification Quality Assurance	
Review Fee for All Levels Except	
Emergency Medical Dispatcher	20.00
Lapsed Certification	30.00
Written Test Fee	
All written tests, Retests	20.00
Practical Test	
Emergency Medical Responder	
Certification Practical Test	40.00
Certification Practical Retest	
(per station)	40.00
Emergency Medical Technician	
Basic	
Recertification/Reciprocity	
Practical Test	80.00
Intermediate	
Advanced Practical Test	100.00
Advanced Practical Retest	
(per station)	50.00
Paramedic Practical Initial and	
Reciprocity Test	200.00
Paramedic Practical Reciprocity	
Retest (per station)	70.00
Annual Quality Assurance Review	
Ground Ambulance	
Basic (per vehicle)	100.00
Intermediate (per vehicle)	130.00
Interfacility Transfer Ambulance	
Basic (per vehicle)	100.00
Interfacility Transfer	
Ambulance, Intermediate/Advanced	
(per vehicle)	130.00
Paramedic	
Rescue (per vehicle)	165.00
Tactical Response (per vehicle)	165.00
Ambulance (per vehicle)	170.00

Interfacility Transfer Service	
(per vehicle)	170.00
Fleet fee (per fleet)	3,200.00
Agency with 20 or more vehicles	
Quick Response Unit	
Basic (per vehicle)	65.00
Quick Response Unit, Intermediate/	
Advanced (per vehicle)	65.00
Air Ambulance	
Advanced Air Ambulance	
(per vehicle)	130.00
Specialized (per vehicle)	165.00
Out of State (per vehicle)	200.00
Emergency Medical Dispatch Center	
(per center)	65.00
Resource Hospital (per hospital)	65.00
Quality Assurance Application Reviews	
Original Ground Ambulance/Paramedic	
License Negotiated	650.00
Original Ambulance/Paramedic	
License Contested	Variable
Original Designation	125.00
Renewal Ambulance/Paramedic/Air	
License	125.00
Renewal Designation	125.00
Upgrade in Ambulance Service Level	125.00
Original Air Ambulance License	650.00
Original Air Ambulance License	
with Commission on Accreditation	
of Medical Transport Services	
Certification	250.00
Change in ownership/operator	
Non-contested	650.00
Contested	Up to actual cost
Change in geographic service area	
Non-contested	650.00
Contested	Up to actual cost
Voluntary Trauma Center Designation - Level I, II,	
III, IV, and V	
Site Team Initial Verification/Quality	
Assurance Review	3,000.00
Re-designation Quality Assurance	
Review	2,500.00
Designation Consultation Quality	
Assurance Review	500.00
Focused Quality Assurance Review	1,500.00
Quality Assurance Course Review	
Emergency Medical	
Dispatch Course	35.00
Services Training & Testing	
Agency Designation	125.00
Course Quality Assurance	
Review Late	25.00
Less than 30 days	
New Instructor	
Course Registration	150.00
Course Registration Late	25.00
Course Coordinator	
Seminar Registration	50.00
Seminar Registration Late	25.00
New Course Coordinator	
Course Registration	50.00
Course Registration Late	25.00
Instructor Seminar	
Registration	150.00
Registration Late	25.00
Vendor	200.00

New Training Officer		Residential Treatment Facilities	
Course Registration	50.00	Licensed Bed	26.00
Course Registration Late	25.00	End Stage Renal Disease Centers	
Training Officer		Licensed Station	182.00
Seminar Registration	50.00	Freestanding Ambulatory Surgery	
Seminar Registration Late	25.00	Centers (per facility)	2,990.00
Emergency Vehicle Operations		Birthing Centers (per licensed unit)	520.00
Instructor Course	40.00	Hospice Agencies	1,495.00
Medical Director's Course	50.00	Home Health Agencies	1,495.00
Pediatric		Personal Care Agencies	1,000.00
Advanced Life Support Course	170.00	Mammography Screening Facilities	520.00
Education for Prehospital		Assisted Living Facilities	
Professionals Course	170.00	Type I (per licensed bed)	26.00
Management Seminar	50.00	Type II (per licensed bed)	26.00
Prehospital Trauma Life Support		The fee for each satellite and branch office	
Course	175.00	of current licensed facility	260.00
Equipment Delivery		Late Fee	
Salt Lake County	25.00	Within 1 to 14 days after expiration of	
Davis, Utah, and Weber Counties	50.00	license	50% of scheduled fee
Late (per day)	10.00	Within 15 to 30 days after expiration	
Training supplies, rental of equipment and		of license	75% of scheduled fee
accessories charge for course supplies and		New Provider/Change in Ownership	
accessories to be based upon most recent		New Provider/Change in Ownership	
acquisition cost plus 20% rounded up to the		Applications for health care	
nearest \$0.10 (computed quarterly) Free On		facilities	747.50
Board Salt Lake City, Utah.		A \$747.50 fee will be assessed for services	
Background Checks		rendered providers seeking initial licensure	
Name only	30.00	to or change of ownership to cover the cost of	
fingerprints and name	65.00	processing the application, staff consultation,	
Data		review of facility policies, initial inspection,	
Pre-hospital Data		etc. This fee will be due at the time of	
Non-profits Users	800.00	application.	
Academic, non-profit, and		Assisted Living and Small Health	
other government users		Care Type-N (nursing focus)	
For-profit Users	1,600.00	Limited Capacity/Change of	
Trauma Registry Data		Ownership Applications:	325.00
Non-profits Users	800.00	A \$325.00 application fee will be assessed	
Academic, non-profit, and		for services rendered to providers seeking	
other government users		initial licensure or change of ownership to	
For-profit Users	1,600.00	cover the cost of processing the application,	
Facility Licensure, Certification, and Resident		staff consultation and initial inspection. This	
Assessment		fee will be due at the time of application.	
Annual License		Application Termination or Delay	
Health Facilities base	260.00	If a health care facility application is terminated	
A base fee for health facilities of \$260.00		or delayed during the application process, a fee	
plus the appropriate fee as indicated below		based on services rendered will be retained as	
applies to any new or renewal license.		follows:	
Direct Access Clearance System		Policy and Procedure Review . 50% of total fee	
Initial Clearance	15.00	On-site inspections	90% of total fee
Facility Renewal	200.00	Plan Review and Inspection	
Contractor Access	100.00	Hospitals	
Annual License		Number of Beds	
Abortion Clinics	1,800.00	Up to 16	3,445.00
Two Year Licensing Base		17 to 50	6,890.00
Plus the appropriate fee as listed below to any		51 to 100	10,335.00
new or renewal license		101 to 200	12,870.00
Health Care Facility	520.00	201 to 300	15,470.00
Every other year		301 to 400	17,192.50
Health Care Providers		Over 400, base	17,192.50
Change Fee		Over 400, each additional bed	37.50
Health Care Providers	130.00	In the case of complex or unusual hospital	
A fee of \$130.00 is charged to health care		plans, the Bureau will negotiate with the	
providers making changes to their existing		provider an appropriate plan review fee at the	
license.		start of the review process based on the best	
Hospitals		estimate of the review time involved and the	
Hospital Licensed Bed	39.00	standard hourly review rate.	
Nursing Care Facilities, and Small Health		Nursing Care Facilities and Small Health Care	
Care Facilities Licensed Bed	31.20	Facilities	

Number of Beds	
Up to 5	1,118.00
6 to 16	1,716.00
17 to 50	3,900.00
51 to 100	6,890.00
101 to 200	8,580.00
Freestanding Ambulatory Surgical	
Facilities (per operating room)	1,722.50
Other Freestanding Ambulatory	
Facilities (per service unit)	442.00
Includes Birthing Centers, Abortion Clinics, and similar facilities.	
End Stage Renal Disease Facilities	
(per service unit)	175.50
Assisted Living Type I and Type II	
Number of Beds	
Up to 5	598.00
6 to 16	1,196.00
17 to 50	2,762.50
51 to 100	5,167.50
101 to 200	7,247.50
Each additional inspection required (beyond the two covered by the fees listed above) or each additional inspection requested by the facility shall cost \$559.00 plus mileage reimbursement at the approved state rate, for travel to and from the site by a Department representative.	
Remodels of Licensed Facilities	
Hospitals, Freestanding Surgery	
Facilities (per square foot) .....	.29
All others excluding Home Health	
Agencies (per square foot) .....	.25
Each additional required on-site inspection	559.00
Other Plan-Review Fee Policies	Variable
<p>If an existing facility has obtained an exemption from the requirement to submit preliminary and working drawings, or other info regarding compliance with applicable construction rules, the Department may conduct a detailed on-site inspection in lieu of the plan review. The fee for this will be \$559.00 per inspection, plus mileage reimbursement at the approved state rate. A facility that uses plans and specifications previously reviewed and approved by the Department will be charged 60 percent of the scheduled plan review fee. Fifty-two cents per square foot will be charged for review of facility additions or remodels that house special equipment such as CAT (Computer Assisted Tomography) scanner or linear accelerator. If a project is terminated or delayed during the plan review process, a fee based on services rendered will be retained as follows: Preliminary drawing review - 25% of the total fee. Working drawings and specifications review - 80% of the total fee. If the project is delayed beyond 12 months from the date of the State's last review the applicant must re-submit plans and pay a new plan review fee in order to renew the review action.</p>	
Health Care Facility Licensing Rules Actual cost Plus mailing Certificate of Authority	

Health Maintenance Organization	
Review of Application	650.00

DISEASE CONTROL AND PREVENTION

Laboratory General Administration	
Laboratory General	
Fee Discounts for Large Volume Customers	
High volume customers may receive discounts on individual testing fees. Tests available for discount are listed on the laboratory's posted Fee Schedule at www.health.utah.gov/els .	
Discounts Reflected on Invoices	
The discounts will be reflected on the invoices of customers that meet established volume criteria.	
Discount Levels Clarified	
The discount levels are: 5% for customers spending more than \$1,000 per month, 12% for customers spending more than \$7,500 per month, and 25% for customers spending more than \$15,000 per month.	
These fees apply for the entire Division of Disease Control and Prevention	
Emergency Waiver	
Under certain conditions of public health import (e.g., disease outbreak, terrorist event, or environmental catastrophe) fees may be reduced or waived.	
Administrative retrieval and copy	
1-15 copies	20.00
each additional copy	1.00
Priority Handling of Samples	
Surcharge (per sample)	11.00
Chain of Custody Sample	
Handling Fee (per sample)	20.00
On-site Seminar	
Seminar Instruction Fee	15.00
Cost per continuing education unit of instruction	
Room Cleaning Fee (per room)	50.00
Cost per room cleaned	
Technical Services	
Autoclave and Disposal services (per autoclave run)	10.00
Deionized Water charge (per ten gallon increment)	10.00
Cost for each one to ten gallon increment	
Computer Programming	
Programming - Laboratory	
Information System (per tech hour) .	100.00
Programming - Non-Laboratory	
Information System (per tech hour) ..	75.00
Database Development, Mining, Delivery (per tech hour)	50.00
Technician Consultation (per tech hour)	25.00
Enhanced Data Package Fee	75.00
Cost per test, per method	
Consultation with Laboratory	
Technician for method development (per tech hour)	75.00
Handling	
Providing Samples for Research, per organism of the same species (per sample)	30.00

Pulling and Packing Organisms for Research, time per hour per project ..	27.00	(Enzyme Immunoassay) not required	140.00
Preparation or Preconcentration of sub-standard submissions	16.50	Western Blot only, a reactive Enzyme Immunoassay is not required	
Hazardous Waste (Solids, Sediment, Soil-Sample) Preparation/digestion	22.00	1 Polymerase Chain Reaction	500.00
Dilution of sample for sub-standard submissions	10.00	Supplemental Testing (HIV-1/HIV-2 differentiation)	85.00
Total cost of shipping and testing of referral samples to be rebilled to customer (per Referral lab's invoice)		Hantavirus	100.00
Repeat Testing - normal fee will be charged if repeat testing is required due to poor quality sample		Syphilis	
Referral Fee for Send-Out Testing	35.00	Immunoglobulin G (IgG) Antibody	9.00
Health Promotion		Immunoglobulin M (IgM) Antibody	30.00
Baby Your Baby Program		RPR (Rapid Plasma Reagin), Quantitative	9.00
Health Keepsake books		TP-PA (Treponemal Pallidum - Partial Agglutination) Confirmation ..	25.00
Non-adapted version		Quantiferon	
Based on quantity for \$4.00 to \$5.00 (per copy)	5.00	Tuberculosis-Gold	50.00
Adapted version		Gold Tubes (per set of three)	8.00
Based on quantity for \$3.00 to \$6.50 (per copy)	6.50	Virology	
Epidemiology		Herpes	
Utah Statewide Immunization Information System		Identification and Differentiation by Polymerase Chain Reaction (PCR)	40.00
Non-Financial Contributing Partners		Varicella Zoster Virus Testing by Polymerase Chain Reaction (PCR)	40.00
Match on Immunization Records in Database (per record)	12.00	Rabies	
File Format Conversion (per hour)	30.00	Not epidemiological indicated or pre-authorized	95.00
Financial Contributing Partners		Epidemiological indicated or pre-authorized	
Match on Immunization Records in Database (per record)	Variable	Cytomegalovirus (CMV) culture	23.00
Match on Immunization Records in Database (per hour)	Variable	Gonorrhea and Chlamydia (GC and CT)	21.00
If the Partner's financial contribution is more than or equal to the number of records to be matched multiplied by \$12.00, then the partner shall not have to pay the fee.		DFA (Direct Fluorescent Antibody) for Respiratory Illness	50.00
Negative Human Immunodeficiency Virus antibody test	15.00	DFA (Direct Fluorescent Antibody) for Chicken Pox	50.00
In person notification of an individual		General Virus Culture (Respiratory)	50.00
Fundamentals of Human Immunodeficiency Virus Prevention Counseling Workshops	385.00	Chlamydia (CT) and Gonorrhea (GC) Collection Kit	1.30
Positive/OraQuick/Partner Counseling and Referral Services Workshop	450.00	Viral Transport Kit	2.20
Human Immunodeficiency Virus 101	40.00	Bacteriology	
Tuberculosis Skin Testing	15.00	Clinical	
Placement and reading		Serotyping	
Microbiology		Serotyping of an organism from an isolate	100.00
Immunology		Shigella (Serotyping of an organism from isolate)	57.00
Hepatitis		STEC (Serotyping of an organism from an isolate)	63.00
B Surface Antigen (HBsAg) Neutralization (confirmation)	28.00	Salmonella (Serotyping of an organism from an isolate)	62.00
B Surface Antigen (HBsAg)	19.00	Neisseria meningitidis (Serotyping of an organism from isolate)	66.00
B Surface Antibody (HBsAb)	20.00	Mycobacteriology	
C (HVC), Supplemental Testing	280.00	Mycobacteria Identification by Accuprobe	88.00
C (Anti-HVC) Antibody	27.00	Mycobacteria Identification by 16S sequencing	160.00
HIV (Human Immunodeficiency Virus) 1/2 and O, Antigen/Antibody Combo ..	27.00	for Mycobacteria with Rapid Identification (ID) as well as Rifampin Resistance Detection	160.00
1 Confirmation (Western Blot Serum) WB only, reactive EIA		for Mycobacteria	121.00
		Isolate (Isolated Organism)	
		Escherichia Coli (STEC) Shiga Toxin Producing	
		Escherichia Coli	112.00
		Shiga toxin E. Coli	
		Aeromonas/Plesimonas	58.00

Shiga toxin E. Coli
 Campylobacter (Isolate) 44.00
 Escherichia Coli O157 (Isolate) 61.00
 Haemophilus (Isolate) 36.00
 Neisseria gonorrhoeae (Isolate) 34.00
 Neisseria meningitis (Isolate) 38.00
 Listeria (Isolate) 58.00
 Salmonella (Isolate) 36.00
 Shigella (Isolate) 54.00
 Escherichia coli STEC
 (Shigotoxin) 112.00
 Virology (Isolate) 64.00
 Yersinia (Isolate) 87.00
Culture (Direct Specimen)
 Bacterial (Unknown Pathogen(s)) 44.00
 Blood (Unknown Pathogen(s)) 29.00
 Campylobacter (Culture) 55.00
 Escherichia coli O157 (Culture) 59.00
 Legionella (Culture) 37.00
 Salmonella (Culture) 55.00
 Shigella (Culture) 66.00
 Yersinia (Culture) 40.00
Botulism - Clinical
 Clostridium botulinum Rule-in 717.00
Food Microbiology
 Total and fecal coliform 26.25
 Plate count (per dilution) 17.85
 pH (Test of acidity or alkalinity)
 and water activity 50.00
 Clostridium Perfringens, Staphylococcus
 Aureus, and Bacillus Cereus
 Culture 90.00
 Toxin Assay 320.00
Isolation and Speciation
 Salmonella 231.00
 Shigella 57.75
 Campylobacter 73.50
 Listeria 157.50
 Escherichia Coli O157:H7 or Shiga
 toxin producing organism workup ... 150.00
 Coliform count 26.25
Newborn Screening
 Routine first and follow-up
 screening kit 103.79
 The fee of 103.79 is split between the
 Newborn screening testing program (75.83)
 and the Newborn screening follow-up
 program (27.96).
 Diet Monitoring 7.70
Molecular Biology
Polymerase Chain Reaction
 Multi-Pathogen respiratory
 pathogen panel 336.00
 Influenza A and Influenza B 41.60
 Influenza A sub-typing (H1, H3,
 2009 H1) 79.00
 Influenza A HS Polymerase Chain
 Reaction 418.54
 Influenza A H7N9 349.00
Mosquito or Bird Swab
 Arbovirus, Mosquito Pool 18.00
 West Nile Virus (per Mosquito or
 Bird Swab) 11.00
 Saint Louis Encephalitis 11.00
 Western Equine Encephalitis Virus
 (per Mosquito or Bird Swab) 11.00

Human West Nile Virus,
 Immunoglobulin M (IgM) 85.00
 not screened by Epidemiology
Pulsed-Field Gel Electrophoresis
 Acinetobacter (per enzyme) 255.00
 Campylobacter (per enzyme) 71.00
 Escherichia coli O157
 (per enzyme) 128.00
 Non-O157 Shiga Toxin
 (per enzyme) 143.00
 Listeria (per enzyme) 948.00
 Salmonella (per enzyme) 65.00
 Shigella (per enzyme) 364.00
 Not otherwise specified
 (per enzyme) 59.00
 Respiratory Sample Collection Kit 2.85
 Referral, total cost of testing/shipping
 to be billed to customer 95.00
 Samples provided for studies
 (per sample) 30.00
 Preparing/Packaging Organisms
 for studies (per hour) 32.00
Biothreat Testing
Environmental Multiple Agent
 Rule-Out 622.00
 Ricin Toxin Rule-out 473.00
 Bacillus anthracis Rule-in 197.00
 Brucella antibodies by
 Microcoagulation 117.00
 Brucella Species Rule-in 295.00
 Burkolderia mallei and
 Burkolderia pseudomallei Rule-in .. 298.00
 Clostridium botulinum Rule-in 716.00
 Coxiella burnetii Polymerase
 Chain Reaction 165.00
 Francisella tularensis Rule-in 202.00
 Francisella tularensis antibodies
 by Microagglutination 85.00
Rush testing
 Microbiology Testing <1 week 50.00
Office of the Medical Examiner
Autopsy
 Non-Jurisdictional Case 2,500.00
 Plus cost of body transportation
External Examination, Non-Jurisdictional
 Case 500.00
 Plus transportation
 Use of Medical Examiner facilities and
 assistants for autopsies 500.00
 Use of Medical Examiner facilities and
 assistants for external exams 300.00
Reports
 First copy No charge
 No charge to next of kin, treating
 physicians, and investigative or prosecutorial
 agencies.
 All other requestors and additional
 copies 35.00
Miscellaneous Office of Medical Examiner case file
papers
 First copy No charge
 No charge to next of kin, treating
 physicians, and investigative or prosecutorial
 agencies.
 All other requestors and additional
 copies 35.00

Miscellaneous non-Office of Medical Examiner case file papers	Nitrite 353.2	22.00
All requestors cost for non-Office of Medical Examiner copies (per file request)	Nitrate + Nitrite Environmental Protection Agency 353.2	13.20
50.00	Odor 140.1	27.50
Cremation Authorization	Perchlorate 314.0	55.00
Review and authorize cremation	pH (Test of acidity or alkalinity)	
\$5.00 per permit payable to Vital Records for processing.	150.1	11.00
Court	Sulfate 300.1	16.50
Preparation, consultation and appearance; Portal to portal expenses including travel costs and waiting time	Sulfate 375.2	16.50
Medical Examiner criminal cases	Turbidity 180.1	11.00
out of state (per hour)	Ultraviolet Absorption Standard Method 5910B	33.00
450.00	Ultraviolet Absorption Duplicate Standard Method 5910B	
Non-Jurisdictional Medical Examiner criminal and all civil cases (per hour)	Total Organic Carbon Standard Method 5310B	22.00
450.00	Total Organic Carbon Duplicate Standard Method 5310B	
Medical Examiner Consultation on non-Medical Examiner cases (per hour)	Dissolved Organic Carbon	22.00
450.00	Metals	
Photographic, Slide, and Digital Services	Dissolved and Standard Metals Clarification	
Glass Slides	Fee for Drinking Water metals and Dissolved-Metals are the same as the Standard Metals Fees, listed below.	
20.00	T-Metals Clarification	
Digital Image	Fee for T-Metals will include the Standard Metals fee plus the Preconcentration fee of \$16.50	
Digital X-ray Image from Digital Source - Flat fee per X-ray image	Standard Metals	
10.00	Preconcentration Fee	16.50
Digital image copied from Digital source, flat fee for up to 30 requested images (per image)	Aluminum 200.8	18.75
10.00	Antimony 200.8	18.75
Digital image copied from Digital source, per image cost for request over 30 images	Arsenic 200.8	18.75
1.00	Barium 200.8	18.75
Copied from color slide negatives	Beryllium 200.8	18.75
5.00	Boron 200.7	13.25
Use of Tissue Harvest Room for Acquisition	Cadmium 200.8	18.75
Skin Graft	Calcium 200.7	13.25
132.83	Chromium 200.8	18.75
Bone	Copper 200.8	18.75
265.65	Iron 200.7	13.25
Heart Valve	Lead 200.8	18.75
69.30	Lead and Copper (Type Metals-8) Environmental Protection Agency 200.8	32.00
Eye	Magnesium 200.7	13.25
34.65	Manganese 200.8	18.75
Saphenous vein	Mercury 245.1	27.50
69.30	Molybdenum 200.8	18.75
Body Storage	Nickel 200.8	18.75
Daily charge for use of Medical Examiner Storage Facilities	Potassium 200.7	13.25
30.00	Selenium by Hydride - Atomic Absorption	42.00
Beginning 24 hours after notification that body is ready for release.	Selenium 200.8	18.75
Biologic samples requests	Silver 200.8	18.75
Handling and storage of requested samples by outside sources	Sodium 200.7	13.25
25.00	Thallium 200.8	18.75
Chemical and Environmental Services	Tin 200.7	13.25
Drinking Water Tests	Vanadium 200.8	18.75
Inorganics	Zinc 200.8	18.75
Alkalinity (Total) Standard Method 2320B	Zirconium 200.8	18.75
10.00	Langelier Index	5.50
Bromide 300.1	Calculation: pH (Test acidity or alkalinity), calcium, TDS (Total Dissolved Solids), alkalinity	
27.50	Organic Contaminants	
Bromate 300.1		
55.00		
Chlorate 300.1		
55.00		
Chlorite 300.1		
55.00		
Ion Chromatography (multiple ions) 300.1		
63.00		
Chromium (Hexavalent) Environmental Protection Agency 218.7		
30.00		
Chloride (IC) Environmental Protection Agency 300.1		
33.00		
Free Chlorine		
5.00		
Cyanide 335.4		
50.00		
Fluoride Environmental Protection Agency 300.0		
25.00		

Trihalomethanes Environmental Protection Agency Method 524.2 . . . 82.70

Maximum Total Potential

Trihalomethanes Method 524.2 88.20

Haloacetic Acids Method 6251B 165.00

Maximum-Haloacetic acid 173.00

Volatile Organic Carbons

Environmental Protection Agency 524.2 209.00

Perchloroethylene Environmental Protection Agency 524.2 83.00

Pesticides

Phase II/V Semi Volatile Organic Analytes and Pesticide

4 methods 919.00

Phase II / V 3 methods 787.50

Environmental Protection Agency

508.1 162.25

525.2 367.50

Herbicide 515.1 210.00

Carbamate 531.1 210.00

Taste and Odor Method 525.2 183.75

New Drinking Water Sources

New Drinking water sources, Type Public Water-7 (per 46 parameters) 780.00

This panel consists of a group of 46 inorganic and metals tests and the total fee is the sum of the individual tests.

Water Bacteriology

Swimming pool bacteriology

Colilert and Heterotrophic Plate Count (HPC), Standard Methods 9223 B, Standard Methods 9251 B) . . . 33.00

Polluted water bacteriology (per parameter) 16.50

Environmental Legionella Standard Methods 9260 J 70.00

Liter of water

Water Microbiology (Drinking Water and Surface Water)

Colilert E. Coli 9223B 20.00

Coliform Standard Methods

Total 9222B,C 20.00

Fecal 9222D 25.00

Fecal 9222E 25.00

Heterotrophic Plate Count by 9215 B Pour Plate 13.00

Cryptosporidium and Giarrdia (Drinking Water)

Environmental Protection Agency

Method 1623 analysis 330.75

Protozoa Matrix Spike 315.00

Filter 105.00

Additional slides 30.00

Water Radiochemistry (Drinking Water and Surface Water)

Preparation Fee per sample for each Gross Alpha, Gross Beta, as well as Radium 228 16.50

Gross alpha 900.0 66.00

Gross beta 900.0 66.00

Gross alpha and beta 66.00

Radium 228 904.0 171.00

Uranium Inductive

Coupling Plasma-Mass Spectrometry (ICP/MS) 55.00

Inorganic Surface Water (Lakes, Rivers, etc.) Tests

Preconcentration Fee, per sample if needed 16.50

Alkalinity for Bi-Carbonate, Additional Fee 1.00

Alkalinity for Carbonate, Additional Fee 1.00

Internal Review of Costs and Descriptions

Alkalinity for Carbonate Solids, Additional Fee 1.00

Alkalinity for Carbon dioxide, Additional Fee 1.00

Alkalinity for Hydroxide, Additional Fee 1.00

Ammonia 350.3 22.00

Biochemical Oxygen Demand (BOD)

5 day test 405.1 33.00

Carbonaceous Environmental Protection Agency 405.1 33.00

Carbonaceous Soluble Environmental Protection Agency 405.1 33.00

Chloride 325.1 8.90

Chlorophyll A Standard Method 10200H - Chlorophyll-A 22.00

Chlorophyll-Benthic 22.00

Chemical Oxygen Demand (COD) 410.4 22.00

Color 110.2 22.00

Dissolved Total Nitrogen 25.00

Total Kjeldahl Nitrogen 351.4 40.00

Phosphate, Ortho 365.1 22.00

Phosphorus, Dissolved 365.1 20.00

Phosphorus, Total 365.1 20.00

Silica 370.1 16.50

Total Dissolved Solids (TDS)

Standard Method 3540C 16.50

Total Suspended Solids (TSS) 160.2 16.50

Settable (SS) 160.5 14.35

Total Volatile 160.4 16.50

Specific Conductance 120.1 10.00

Sulfate 300.1 16.50

Sulfate 375.2 16.50

Sulfide 376.2 44.00

Surface Water Metals

Metals Clarification

Fee for T-Metals will include the Standard Metals fee plus the Preconcentration Fee of \$16.50

High Total Dissolved Solids (TDS) Clarification

Samples with high Total Dissolved Solids (TDS), or samples with complex matrix, will be analyzed using Environmental Protection Agency 6010/200.7

Air Filter Metals Test

Lead, Air Filter Environmental Protection Agency 200.8 50.00

Solid and Hazardous Waste Organics Tests

Benzene, Toluene, Ethylbenzene, Xylene, Naphthalene (BTEXN) 83.00

Chlorinated Pesticides (Soil) 8082 220.00

Chlorinated Acid Herbicides (Soil) 8150 331.00

Environmental Protection Agency 8270 Semi Volatiles	441.00	Silver	18.75
Environmental Protection Agency Method 8270 Chlorinated Pesticides by Gas Chromatograph- Mass Spectrometer	441.00	Beryllium	18.75
Environmental Protection Agency Method 8270 Osteo phosphorous Pesticides	441.00	Nickel	18.75
Environmental Protection Agency 8260 (volatile organic compounds)	220.50	Antimony	18.75
Environmental Protection Agency 8082 Poly-Chlorinated Biphenyls	202.00	Thallium	18.75
In waste water		Vanadium	18.75
Poly-Chlorinated Biphenyls in oil (608)	150.00	Zinc	18.75
Environmental Protection Agency Method 625 Base/Neutral Acids	441.00	Other metal	18.75
By Gas Chromatograph- Mass Spectrometer		Other Methods	
Total Petroleum Hydrocarbons 8015	138.00	Perchlorate in Soil	50.00
Volatiles Purgeables		Metals in Urine (per metal)	20.00
Environmental Protection Agency Method 624	220.50	Metals in Blood (per metal)	30.00
Environmental Protection Agency Method 1666	600.00	Volatile Organic Carbons in Blood or Serum	250.00
Environmental Protection Agency Method 525.2	135.00	Cyanide in Blood	100.00
Pharmaceutical		Nerve Agent Metabolites in Urine	350.00
Toxic Chemical Leaching Procedure - Extraction procedure		Tetramine in Urine	100.00
Environmental Protection Agency Solid Waste - 1311 organics	135.00	Metals in Blood Spot Kit (per Four (4) metals tested)	100.00
Toxic Chemical Leaching Procedure Zero Headspace Extraction (ZHE) Environmental Protection Agency Solid Waste 846 - 1311	176.40	Miscellaneous Fees	
Hazardous Metals		Expert Consultation fee with Chemist - per hour (per hour)	50.00
Sample preparation	22.00	Re-Analysis Fee for Poor Sample Quality (per hour)	
Toxicity Characteristic Leaching Procedure Environmental Protection Agency Solid Waste 1311 Metals	110.25	If a test is required to be re-analyzed, due to poor sample quality, the fee will include the fee for the original analysis and the fee for each re-analysis.	
Eight (8) Hazardous Metals		Dilution Fees for poor sample quality (per hour)	
Environmental Protection Agency Method 6010		If a test is required to be diluted, due to poor sample quality, the fee will include the fee for the original analysis and the fees for each dilution and re-analysis.	
Arsenic	13.25	Unregulated Contaminated Monitoring Regulations 3; Environmental Protection Agency	
Barium	13.25	Chlorate by 300.1	50.00
Cadmium	13.25	Hexavalent Chromium by IC 218.7	90.00
Chromium	13.25	Metals by 200.8	90.00
Lead	13.25	Dioxane 522	190.00
Mercury	13.25	Perfluorinated Compounds 537	290.00
Selenium	13.25	Volatile Organic Compounds 524.3	150.00
Silver	13.25	Forensic Toxicology	
Beryllium	13.25	Volatiles	
Nickel	13.25	Screen (acetone, isopropanol, methanol, ethanol)	51.00
Antimony	13.25	Confirmation	70.00
Thallium	13.25	Prescription Drug	
Vanadium	13.25	Screen for a 22-drug panel	32.00
Zinc	13.25	Confirmation by Gas Chromatograph-Mass Spectrometer (GC/MS)	
Environmental Protection Agency Method 6020		Base Drug Panel (per acid/ neutral drug)	97.00
Arsenic	18.75	Acid/Neutral Drug Panel (per Base drug)	97.00
Barium	18.75	Drugs of Abuse	
Cadmium	18.75	Screen	34.00
Chromium	18.75	Methamphetamine, Tetrahydrocannabinol (Marijuana), Cocaine, Heroin	
Lead	18.75	Confirmation	
Mercury	18.75	(1) Meth+metabolite,	
Selenium	18.75	(2) 3,4-methylenedioxy-N- methamphetamine, (3) 3,4-methylened- ioxyamphetamine	163.00
		THC (Tetrahydrocannabinol)+ metabolite	163.00
		Cocaine+metabolite	163.00
		Heroin/morphine	163.00

Rush testing fees - added to cost of performing test	
Toxicology Testing <96 hours	50.00
Certification Programs	
Parameter Category Fees charge for each testing act	
Atomic Absorption/Atomic Emission	300.00
Radchem - Alpha spectrometry	300.00
Radchem - Beta	300.00
Calculation of Analytical Results	50.00
Organic Clean Up	200.00
Toxicity/Synthetic Extractions	
Characteristics Procedure	200.00
Radchem- Gamma	300.00
Simple Gas Chromatography	300.00
Complex Gas Chromatography	600.00
Semivolatle Gas Chromatography	500.00
Volatile Gas Chromatography	500.00
Radchem - Gas Proportional	
Counter	300.00
Gravimetric	100.00
High Pressure Liquid	
Chromatography	300.00
Inductively Coupled Plasma	
Metals Analysis	400.00
Inductively Coupled Plasma Mass	
Spectrometry	500.00
Ion Chromatography	200.00
Ion Selective Electrode base methods	100.00
Radchem - Liquid Scintillation	300.00
Metals Digestion	100.00
Simple Microbiological Testing	100.00
Complex Microbiological Testing	300.00
Organic Extraction	200.00
Organic Wet Chemistry	200.00
Physical Properties	100.00
Radchem - Thermal Ionization	
Spectrometry	300.00
Titrimetric	100.00
Spectrometry	200.00
While Effluent Toxicity	600.00
Environmental Laboratory Certification	
Certification Clarification	
Note: Laboratories applying for certification are subject to the annual certification fee, plus the fee listed, for each category in which they are to be certified.	
Annual certification fee (chemistry and/or microbiology)	
Utah laboratories	825.00
Out-of-state laboratories	6,000.00
Plus reimbursement of all travel expenses	
National Environmental Accreditation Program (NELAP) recognition	825.00
Certification change	100.00
Primary Method Addition Fee for Recognition Laboratories	1,000.00
Rush certification fees - added to fees listed above (under 30 days notice)	
Utah laboratories	1,000.00
Out-of-state laboratories	1,500.00
Plus reimbursement of all travel expenses	
Other Certifications	
Impounded Animals Use Certification	
Annual	425.00
Phlebotomy Permits (to allow authorized individuals to withdraw blood for the purpose of determining alcohol or drug content)	

Triennial	35.00
MEDICAID AND HEALTH FINANCING	
Contracts	
Provider Enrollment	
Medicaid application fee for prospective or re-enrolling providers	542.00
CHILDREN'S HEALTH INSURANCE PROGRAM	
Quarterly Premium	
Plan B	30.00
138%-150% of Poverty Level	
Plan C	75.00
150%-200% of Poverty Level	
Late	15.00
MEDICAID MANDATORY SERVICES	
Other Mandatory Services	
Health Clinics	
10040 Acne Surgery	48.00
31505 Laryngoscopy	70.00
90791 Psychiatric diagnosis evaluation w/o medical service (per 15 minutes)	40.00
Viscous Lidocaine J8499	5.00
Progesterone J2675	4.00
International Normalized Ratio home testing review G0250	8.00
Gauze less than 16 sq in. A6402	1.00
Gauze 16-48 sq in. A6403	2.00
Wood filler/paste A6261	40.00
Malignant lesion removal 0.5 cm or less 11600	120.00
Typhoid 90691	75.00
Artificial Insemination 58321	250.00
Arterial Studies	
93922	120.00
93923	182.00
93924	221.00
IV Monitoring 1st half hour 96360	60.00
IV Monitoring each additional hour 96361	20.00
1000cc normal saline J7030	10.00
New patient well exam 99386	119.00
New patient well exam 99387	126.00
Incision and Drainage	
10060 Abscess Simple/Single	68.00
10061 Complicated or Multiple	125.00
10080 Pilonidal Cyst Simple	73.00
10120 Incision and Removal Foreign Object-Simple	73.00
10140 Incision and Drainage of Cyst, Hematoma or Seroma	130.00
10160 Puncture Aspiration of Abscess, Hematoma	52.00
Debridement	
11000 Infected Skin up to 10%	57.00
11040 Skin Partial Thickness	44.00
11041 Skin Full Thickness	52.00
11042 Skin and Subcutaneous Tissue	110.00
11044 Skin, Tissue, Muscle, Bone	218.00
11100 Biopsy for Skin Lesion Subcutaneous	62.00
11101 Biopsy for Skin Subcutaneous Each Separate/Additional Lesion	32.00
11200 Removal Skin Tags 1-15	78.00

11201 Removal Skin tag any area, Each Add 10 Lesion	14.00	17003 Add-on Benign/ Pre-malignant	47.00
11300 Shave Biopsy for Epidermal/ Dermal Lesion 1 Trunk-Neck	47.00	17004 Benign Lesion 15 or More	182.00
11305 Shave Excision and Electrocautery	67.00	17110 Flat Wart for Up to 15	88.00
11310 Surgery by Electrocautery	42.00	17111 Flat Warts for 15 and More	50.00
Excision		Malignant	
Benign		17260 Trunk/Arm/Leg 0.5 or Less	58.00
Trunk/Arm/Leg		17280 Lesion Face 0.5 cm Less	76.00
11400 Lesion 0.5cm or Less	47.00	17281 Lesion Face 0.6-1	109.00
11401 Lesion 0.6-1cm	88.00	20520 Foreign Body Removal	120.00
11402 Lesion 1.1-2.0 cm	72.00	Simple	
11403 2.1-3.0 cm	104.00	20550 Injection for Trigger	
11404 3.1-4.0 cm	155.00	Point Tendon/Ligament/Ganglion	57.00
11420 Scalp/Neck/Genital		20552 Trigger Point Injection (TPI)	47.00
0.5 or less	47.00	Arthrocentesis	
11421 Lesion 0.6-1.0 cm	73.00	20600 Small Joint/Ganglion	
11422 Subcutaneous/Neck/ Genital/Feet 1.1-2.0 cm	80.00	Fingers/Toes	50.00
11423 Cyst	96.00	20610 Major Joint/Bursa	
11440 Benign Face/Ear/Eyelid		Shoulder/Knee	104.00
0.5cm/less	57.00	20605 Intermediate Joint/Bursa	
11441 Benign Lesion		Ankle/Elbow	52.00
Face/Ear/Eye/Nose 0.6-1.0 cm	100.00	211 Community Service	52.00
11602 Malignant Trunk/Arm/Leg		28190 Foreign Body Removal	
1.1-2.0 cm	112.00	for Foot Subcutaneous	125.00
11604 3.1-4.0 cm	166.00	30901 Cauterize (Limited) for Control	
Malignant		Nasal Hemorrhage/Anterior/Simple	60.00
11622 Lesion Scalp/Neck/Hand/ Feet/Genital 1.1-2.0 cm	166.00	36415 Venipuncture	6.00
11641 Face/Nose/Ear 0.6-1.0 cm	131.00	44641 Excision for Malignant Lesion	131.00
11642 Face/Nose Ears 1.1-2.0 cm ...	172.00	46083 Incision for Thrombosed	
11720 Debridement for Nails 1-5	27.00	Hemorrhoid, External	104.00
11721 Debridement for Nails		46600 Anoscope	23.00
6 or More	55.00	52000 Cystoscopy	125.00
Avulsion		53670 Catheterization, Urinary, Simple	30.00
11730 Nail Plate Single	68.00	Colposcopy	
11731 Nail Second	42.00	57421 Biopsy of Vagina/Cervix	156.00
11732 Nail Each Additional Nail	30.00	57455 Cervix With Biopsy	156.00
11740 Toenail	26.00	57456 Cervix With Electrocautery conization	146.00
11750 Excision for Nail/Matrix		57511 Cryocautery Cervix for Initial or Repeat	83.00
Permanent Removal	175.00	58300 Insertion of Intrauterine Device	104.00
11765 Wedge Excision of Skin of Nail Fold Ingrown	60.00	58301 Removal of Intrauterine Device	163.00
Repair		60001 Aspiration/Injection Thyroid Gland	81.00
Simple		Removal Foreign Body, External	
12001 Superficial Wound 2.5 cm or Less	192.00	65025 Eye, Superficial	173.00
12002 Wound 2.6-7.5 cm	203.00	65220 Eye, Corneal	215.00
12004 Wound 7.6-12.5 cm	133.00	69200 Auditory Canal without General Anesthesia	150.00
12005 Wound 12.6-20.0 cm	166.00	69210 Cerumen Removal/One or Both Ears	78.00
12011 Face/Ear/Nose/Lip 2.5 cm or Less	234.00	80048 Basic Metabolic Profile	6.00
12032 Layer Closure Scalp/ Extremities/Trunk 2.6-7.5 cm	151.00	80053 Metabolic Panel Labs	6.00
12035 Layer Closure Scalp/ Extremities/Trunk 12.6-20 cm	227.00	Comprehensive	
13120 Complex Scalp/Arms/Legs	146.00	80061 Lipid Panel Labs	6.00
16020 Burn Dress without		80061 Quick Lipid Panel	6.00
Anesthesia Office/Hospital Small	35.00	80076 Hepatic Function Panel	6.00
16025 Burn Dress without Anesthesia		80100 Drug Screen for Multiple Drug Classes	26.00
Medical Face/Extremities	68.00	80101 Drug Screen for Single Drug Class	26.00
Destruction		80176 Xylocaine 0-55 cc	29.00
17000 Any Method Benign		Urine Analysis	
First Lesion	78.00		

81000 with Microscope	10.00	90636 A and B Adult	90.00
81002	10.00	90645 Haemophilus Influenza B	47.00
81003 Automated and without Microscope	10.00	90649 Gardasil Human Papillomavirus Vaccine	156.00
81025 Human Chorionic Gonadotropin	22.00	90658 Influenza Virus Vaccine	21.00
Urine		90669 Pneumococcal > 5 years old Only	104.00
82043 Microalbumin	16.00	90701 Diphtheria Tetanus Pertussis	42.00
82055 Alcohol Screen	21.00	90702 Diphtheria Tetanus	14.00
82270 Hemocult	7.00	90703 Tetanus	26.00
Feces Screening		90707 Measles Mumps Rubella	42.00
82570 Creatinine	12.00	90715 Adacel - Tetanus Diphtheria Vaccine	73.00
82728 Ferritin	26.00	90716 Varicella	8.00
82948 Glucose for Blood, Regent Strip	6.00	90732 Pneumovax Shot	36.00
82962 Glucose for Monitoring Device	6.00	90734 Meningitis	5.00
83036 Hemoglobin A1C (long-term blood sugar test)	23.00	90744 Hepatitis B / Newborn- 18 Years	73.00
83540 Iron	31.00	90746 Hepatitis B 19+ Years Adult	88.00
84443 Thyroid Stimulating Hormone Labs	10.00	90772 Injection	18.00
84460 Alanine Amino Test	15.00	Therapeutic, Diagnosis	
85013 Hematocrit	5.00	90805 Psychiatric Diagnosis	
85025 Complete Blood Count Labs	5.00	Interview Follow-up Visit	68.00
85610 Prothrombin Time	10.00	92552 Audiometry	19.00
85651 Erythrocyte Sedimentation Test	11.00	93000 Electrocardiogram	36.00
85652 Sedimentation Rate	11.00	93015 Cardiovascular Stress Test	130.00
86308 Mononucleosis test	15.00	Treadmill	
86318 Helicobacter Pylori test	23.00	93926 Duplex Scan Limited Study	130.00
86318 Quick Helicobacter Pylori test	23.00	93965 Doppler of Extremity	132.00
86403 Monospot	18.00	94010 Spirometry	52.00
85680 Purified Protein Derivative/ Tuberculosis Test	9.00	94060 Spirometry with Bronchodilators	64.00
Culture		94200 Peak Flow	21.00
87060 Strep	17.00	94640 Intermittent Pause Pressure Breathing Device - Nebulizer Breathing	42.00
Bacterial		94760 Pulse Oximetry - Oxygen Saturation	10.00
87070 Any Other Source	16.00	95115 Injections for Allergy Only 1	15.00
87077 Incision and Drainage	16.00	95117 Injections for Allergy 2 or More	16.00
87081 Single Organism	14.00	95860 Electromyogram 1	81.00
87082 Presumptive, Pathogenic Organism Screen	16.00	95861 Electromyogram 2	139.00
87086 Bacterial Urine	12.00	95900 Nerve Conduction Velocity Motor	42.00
87088 Bacterial Urine Identification and Quantification	12.00	95904 Nerve Conduction Velocity Sensory	35.00
87102 Fungal	16.00	97035 Ultrasound	16.00
87106 Yeast	8.00	97110 Therapy	24.00
87110 Chlamydia	16.00	97124 Massage	13.00
87220 Potassium Hydroxide for Wet Prep	10.00	97260 Manipulate for Spinal 1 Area	16.00
87804 Influenza A	23.00	99050 After Hours	24.00
Quick Test		99058 Emergency Visit	36.00
87880 Strep	26.00	99070 Supplies for Above and Beyond Customary	19.00
Quick Test		99080 Form 20	88.00
87880 Quick Strep for Test for Medicaid/Medicare	26.00	Disability Exam	
88147 Papanicolaou (PAP) Smear for Cervical or Vaginal	42.00	99173 Visual Acuity Screening Test	10.00
88164 Cytopathology, Slides, Cervical or Vagina	26.00	New Patient	
90471 Immunization Administration for One Vaccine	25.00	99201 Brief	47.00
90472 Immunization Administration for Additional Vaccine	12.00	99201N Brief Night	47.00
90620 Supplemental Security Income Exam Initial Consult	133.00	99202 Limited	81.00
Immunization		99202N Limited Night	81.00
Hepatitis		99203 Intermediate	120.00
90632 A for 19+ Years	78.00	99203N Intermediate Night	120.00
90634 A for Pediatric-Adolescent	42.00	99204 Extended	182.00
		99204N Extended Night	182.00
		99205 Comprehensive	229.00

99205N Comprehensive Night	229.00	G0107 Hemocult	10.00
Established Patient		G0179 Physician Re-certification for Home Health	83.00
99211 Brief	28.00	G0180 Physician Certification for Home Health	83.00
99211N Brief Night	28.00	J0170 Injection for Epinephrine	10.00
99212 Limited	47.00	J0290 Injection for Ampicillin Sodium 500 mg	8.00
99212N Limited Night	47.00	J0540 Bicillin 1.2 million units	38.00
99213 Intermediate	73.00	J0696 Rocephin 250 mg	47.00
99213N Intermediate Night	73.00	J0702 Injection for Celestone 3 mg	12.00
99214 Extended	110.00	J0704 Injection for Celestone 4 mg	12.00
99214N Extended Night	110.00	J0780 Compazine up to 10 mg	16.00
99215 Comprehensive	151.00	J0810 Solu Medrol 150 mg	21.00
99215N Comprehensive Night	151.00	J1000 Estradiol	12.00
Consult With Another Physician		J1055 Depo-Provera	88.00
99241 History, Exam, Straightforward	36.00	J1200 Benadryl up to 50 mg	10.00
99242 Expanded History and Exam Straightforward	57.00	J1390 Estrogen	31.00
99243 Detailed History, Exam Low Complexity	79.00	J1470 Gamma Globulin 2 cc	21.00
99244 Comprehensive History, Exam	99.00	J1820 Insulin up to 100 units	10.00
Moderate Complexity		J1885 Toradol 15 mg	21.00
99245 Office Consult for New or Established Patient	426.00	J2000 Xylocaine 0-55 cc	5.00
99354 Prolonged Services for 1 Hour	73.00	J2550 Phenergan up to 50 mg	10.00
99361 Medical Conference by Physicians	52.00	J3130 Testosterone	31.00
Check		J3301 Kenalog-10 Per 10 mg	31.00
99381 New Patient Under 1	99.00	J3401 Vistaril 25 mg	12.00
99382 New Patient Age 1-4	109.00	J3420 Injection B-12	10.00
99383 New Patient Age 5-11	109.00	J7300 Intrauterine Device	416.00
99384 Age 12-17	130.00	contraception	
99385 Age 18-20	88.00	J7320 Hyalgan, Synvisc	281.00
99391 Under 1	88.00	Knee Injection	
99392 Age 1-4	99.00	J7620 Albuterol Per ml, Inhalation Solution Durable Medical Equipment	3.00
99393 Age 5-11	99.00	J7625 Albuterol Sulfate 0.5%/ml Inhalation Solution Administration	4.00
99394 Age 12-17	109.00	L3908 Wrist Splint	44.00
99395 Age 18-20	95.00	Liver Function Test	6.00
99396 Medical Evaluation for Adult 40-64	104.00	Lipid	17.00
99397 Medical Evaluation for 65 Years and Over	107.00	PSATE0000 Prostate Specific Antigen Test	42.00
99402 Preventive Medicine		Residual Functional Capacity Questionnaire	52.00
Counseling 30-44 Minutes	468.00	S0020 Marcaine up to 30 ml	18.00
99432 Newborn Normal Care - In Office	42.00	S9981 Medical Records Copying Fee-Administration	6.00
A4460 Ace Wrap (per roll)	7.00	Supplemental Security Insurance Exam	113.00
A4550 Surgical Tray	42.00	Thin Prep	140.00
A4565 Sling	21.00	Thyroid Stimulating Hormone	19.00
A4570 Splint	23.00	Y4600 Injection for Pediatric Immunization Only	11.00
Complete Blood Count	5.00	Y9051 Records Sent to Case Worker	16.00
Complete Metabolic Panel	6.00	Family Dental Plan	
Cornell Well Child Check Visits	36.00	Oral Evaluation	
Form 21	73.00	D0120 Periodic	23.00
Disability Exam		D0140 Limited	37.00
Federal Aviation Administration		D0150 Comprehensive	40.00
Exam	52.00	D0210 Intraoral-complete series including Bitewings	69.00
G0008 Flu Shot Administration for Medicare	8.00	D0220 Intraoral periapical	14.00
G0009 Injection Administration for Pneumonia without Physician for Medicare	4.00	First film	
G0010 Hepatitis B Vaccine Administration	5.00	D0230 Intraoral periapical	11.00
G0101 Papanicolaou (PAP) with Breast Exam Cervical/Vaginal Screen	42.00	Additional film	
Medicare		D0270 Bitewing	14.00
		Cost of single film	
		D0272 Bitewing	22.00
		Cost of two film	

D0274 Bitewing	31.00
Cost of four film	
D0330 Panoramic Film	64.00
D1110 Prophylaxis-adult	48.00
D1120 Prophylaxis-child	33.00
D1203 Topical application of fluoride excluding prophy	20.00
D1351 Sealant (per tooth)	27.00
Space Maintainer	
D1510 Fixed unilateral	170.00
D1515 Fixed bilateral	224.00
D1520 Removable unilateral	204.00
D1525 Removable bilateral	288.00
D1550 Recement	36.00
Amalgam	
D2140 One surface	56.00
D2150 Two surface	74.00
D2160 Three surface	88.00
D2161 4 or more surface	108.00
Resin	
D2330 One surface, anterior	71.00
D2331 Two surface, anterior	90.00
D2332 Three surface, anterior	110.00
D2335 4 or more surface-can be incisal angle, anterior	130.00
D2391 One surface, posterior	82.00
D2751 Crown-porcelain fused to majority base metal	553.00
D2920 Recement Crown	49.00
D2930 Refabricated stainless steel crown-primary	133.00
D2931 Refabricated stainless steel crown-permanent	151.00
D2950 Core build-up	127.00
D2951 Pin retention (per tooth)	29.00
D2954 Prefabricated post and core	161.00
D3220 Therapeutic pulpotomy	82.00
D3221 Open and Medicate	91.00
Root Canal Therapy	
D3310 Anterior	348.00
D3320 Bicuspid	425.00
D3330 1st molar	549.00
D3410 Apicoectomy/ periradicular surgery-bicuspid	398.00
D3430 Retrograde filling	121.00
D4355 Full mouth debridement	86.00
Denture	
D5110 Complete upper	734.00
D5120 Complete lower	734.00
D5130 Immediate upper	801.00
D5140 Immediate lower	801.00
D5211 Upper partial-resin base	621.00
D5212 Lower partial-resin base	720.00
D5213 Upper partial-cast metal frame with resin base	811.00
D5214 Lower partial-cast metal frame with resin base	811.00
D5410 Adjust complete upper	52.00
D5411 Adjust complete lower	52.00
D5421 Adjust partial upper	52.00
D5422 Adjust partial lower	52.00
D5510 Repair broken complete base ..	187.00
D5520 Replace missing/broken teeth complete	104.00
D5610 Repair resin base-partial	130.00
D5630 Repair or replace broken clasp ...	140.00

D5640 Replace broken teeth (per tooth)	74.00
D5650 Add tooth to existing partial ...	101.00
D5750 Reline complete upper	225.00
D5751 Reline complete lower	225.00
D5760 Reline upper partial	224.00
D5761 Reline lower partial	224.00
D7111 Coronal Remnants	55.00
D7140 Single tooth extraction	73.00
D7210 Surgical removal erupted tooth	129.00
D7270 Tooth re-implantation with stabilization	156.00
D7286 Biopsy of oral tissue	104.00
D7410 Excision of benign tumor	182.00
D7510 Incision and drainage of abscess	104.00
D7960 Frenulectomy	148.00
D9248 Nitrous sedation	26.00

**DEPARTMENT OF
WORKFORCE SERVICES**

ADMINISTRATION

Executive Director's Office	
Government Records Access and Management Act (GRAMA) Fees - these GRAMA fees apply for the entire Department of Workforce Services	
Copies, Free After First 10	10
Fax Pages Local, Free After First 10	2.00
Fax Pages Long Distance, All Pages	2.00
Research (per hour)	20.00

OPERATIONS AND POLICY

Workforce Development	
WorkKeys Usage	
Foundational Assessment	45.50
Applied Technology or Other	
Workplace Assessment	15.00
National Career Readiness Certificate (NCRC)	14.00
Talent Assessment	17.00
WorkKeys Profiling	5,000.00

UNEMPLOYMENT INSURANCE

Unemployment Insurance Administration	
Debt Collection Information Disclosure	
Fee (per Report)	15.00
Fee for employment information research and report for creditors providing a court order for employment information of a specific debtor.	

**HOUSING AND
COMMUNITY DEVELOPMENT**

Homeless Committee	
State Community Services Office	
Homeless Summit	35.00
Weatherization Assistance	
Weatherization Laboratory (per day)	250.00
Heating Ventilation and Air Conditioning (HVAC) Laboratory	
Fee (per day)	250.00
Insulation Laboratory (per day)	250.00
Weatherization Classroom (per day)	50.00
Demonstration House (per day)	250.00
Consumer/Small Contractor (per hour) ...	10.00

Materials (per person)	300.00
Trainers Basic	50.00
Trainers Advanced	100.00
Loan Origination Fee for Loan Participation Program (per 1.00)	Variable
1-4% of loan amount based on participation & risk level	
Loan Origination Fee for Loan Guarantee Program (per 1.00)	Variable
1-4% of loan amount based on participation & risk level	

DEPARTMENT OF HUMAN SERVICES

EXECUTIVE DIRECTOR OPERATIONS

Executive Director's Office	
Government Records Access and Management Act (GRAMA) Fees - these GRAMA fees apply for the entire Department of Human Services	
Paper (per side of sheet) . . . . .	.25
Audio tape (per tape)	5.00
Video tape (per tape)	15.00
Compiling and reporting in another format (per hour)	25.00
Compiling and reporting in another format (per hour)	50.00
If programmer/analyst assistance is required (per hour)	
Mailing	Actual cost
Office of Licensing	
Licensing	
Initial license	300.00
Any new Human Service program	
Adult Day Care	
0-50 consumers per program	100.00
More than 50 consumers per program	200.00
Per licensed capacity	3.00
Child Placing	250.00
Day Treatment	150.00
Outpatient Treatment	100.00
Residential Support	100.00
Residential Treatment	
Basic	200.00
Per licensed capacity	3.00
Social Detoxification	200.00
Life Safety Pre-inspection	200.00
Outdoor Youth Program	
Basic	1,408.00
Federal Bureau of Investigation	
Fingerprint Check	36.50
Hard copy passed through to the Federal Bureau of Investigation	
Federal Bureau of Investigation	
Fingerprint Check	36.50
Live scan passed through to the Federal Bureau of Investigation	
Office of Licensing Live Scan	10.00
Intermediate Secure Treatment	
Basic	250.00
Per licensed capacity	3.00
Therapeutic School Program	
Basic	200.00
Per licensed capacity	3.00

DIVISION OF SUBSTANCE ABUSE AND MENTAL HEALTH

Administration - DSAMH

Administration	
Alcoholic Beverage Server	
On Premise Sales	3.50
Off Premise Sales	3.50
State Hospital	
Utah State Hospital	
Photo Shoots (per 2 hours)	20.00
Use of USH Facilities (groups up to 50 people) (per day)	75.00
Use of USH Facilities (groups over 50 people) (per day)	150.00
State Substance Abuse Services	
Substance Abuse Services	
Alcoholic Beverage Server	
On Premise Sales	3.50
Off Premise Sales	3.50

DIVISION OF SERVICES FOR PEOPLE WITH DISABILITIES

Non-waiver Services	
Non-Waiver Services	
Graduated	630.00
Critical Support Services for People with Disabilities who are non-Medicaid matched. The fee ranges between 1% to 3% of Gross Family Income.	

OFFICE OF RECOVERY SERVICES

Child Support Services	
Child Support	
Collections Processing	24.00
6 percent of payment being disbursed up to a maximum of \$24 per month.	
Credit Card Convenience	7.00
Federal Tax Intercept	25.00
Retained	
Collection	25.00

DIVISION OF CHILD AND FAMILY SERVICES

Service Delivery	
Service Delivery	
Live Scan Testing	10.00

STATE BOARD OF EDUCATION

Deaf and Hard of Hearing	
Interpreter Certification - Written Exam (per Exam)	60.00
Interpreter Certification - Novice Exam (per Exam)	150.00
Interpreter Certification - Professional Exam (per Exam)	150.00
Interpreter Certification - Professional Re-test, per component (per Test)	30.00
Interpreter Certification - Temporary Permit (per Permit)	150.00
Interpreter Certification - Student Permit (per Permit)	30.00
Cued Language Transliterator - Written Exam (per Exam)	60.00
Cued Language Transliterator - Utah CLT State Level Assessment (per Assessment)	375.00
Interpreter - Annual Maintenance/ Recognition (per Individual)	70.00
Interpreter - Annual Maintenance/ Recognition - NAD-RID (per Individual)	50.00

Interpreter - Standard Late Fee (per Assessment)	80.00
NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY	
DEPARTMENT OF NATURAL RESOURCES	
FORESTRY, FIRE AND STATE LANDS	
Division Administration	
Administrative	
Application	
Mineral Lease	40.00
Special Lease Agreement	40.00
Mineral Unit/Communitization	
Agreement	40.00
Special Use Lease Agreement	
(SULA)	300.00
Grazing Permit	50.00
Materials Permit	200.00
Easement	150.00
Right of Entry	50.00
Sovereign Land General Permit	
Private	300.00
Public	
Exchange of Land	1,000.00
Assignment	
Mineral Lease	
Total Assignment	50.00
Interest Assignment	50.00
Operating Right Assignment	50.00
Overriding Royalty Assignment	50.00
Partial Assignment	50.00
Collateral Assignment	50.00
Special Use Lease Agreement (SULA) ...	50.00
Grazing Permit per AUM (Animal	
Unit Month)	2.00
Grazing Sublease per AUM (Animal	
Unit Month)	2.00
Materials Permits	50.00
Easement	50.00
Right of Entry (ROE)	50.00
Sovereign Land General Permit	50.00
Grazing Non-use (per lease)	10%
Special Use Lease Agreement	
(SULA) non-use	10%
ROE, Easement, Grazing amendment	50.00
SULA, general permit, mineral lease,	
materials permit amendment	125.00
Reinstatement	150.00
Surface leases & permits per	
reinstatement/per lease or permit	
Bioprospecting - Registration	50.00
Oral Auction Administration	Actual cost
Affidavit of Lost Document	
(per document)	25.00
Certified Document (per document)	10.00
Research on Leases or Title Records	
(per hour)	50.00
Reproduction of Records	
Self service (per copy) .....	.10
By staff (per copy) .....	.40
Change on Name of Division	
Records (per occurrence)	20.00
Fax copy (per page)	1.00
Send only	
Late Fee	6% or \$30
Returned check charge	30.00

Sovereign Lands	
Rights of Entry	
Mooring Bouys: 3 yr max term	50.00
Renewal - Mooring Bouys; 3 yr	
max term	50.00
Seismic Survey Fees	
Primacord (per mile)	200.00
Surface Vibrators (per mile)	200.00
Shothole >50 ft (per hole)	50.00
Shothole <50 ft (per mile)	200.00
Pattern Shotholes (per pattern)	200.00
Commercial	
Commercial Recreation Event (per	
person over 150 people)	2.00
Minimum ROE of \$200 plus per person	
royalty	
Data Processing	
Production Time (per hour)	55.00
Programming Time (per hour)	75.00
Geographic Information System	
Processing Time (per hour)	55.00
Personnel Time (per hour)	50.00
Sovereign Lands	
Easements	
Minimum Easement	225.00
Floating Dock, wheeled pier, seasonal	
use	225.00
12 yr max term	
Renewal-Floating dock, wheeled	
piers; 3 yr max	150.00
Dock/pier, single upland owner use ...	
9 yr max term	
330.00	
Boat ramp, metal or portable	
9 yr max term	
225.00	
Canal	
Existing	
<=33' wide (per rod)	15.00
>33' but <=66' wide (per rod)	30.00
>66' but <=100' wide (per rod)	45.00
>100' wide (per rod)	60.00
New	
<=33' wide (per rod)	30.00
>33' but <=66' wide (per rod)	45.00
>66' but <=100' wide (per rod)	60.00
>100' wide (per rod)	75.00
Roads	
Existing	
<=33' wide (per rod)	5.50
>33' but <=66' wide (per rod)	11.00
>66' but <=100' wide (per rod)	16.50
>100' wide (per rod)	22.00
New	
<=33' wide (per rod)	8.50
>33' but <=66' wide (per rod)	17.00
>66' but <=100' wide (per rod)	25.50
>100' wide (per rod)	34.00
Power lines, Telephone Cables, Retaining walls	
and jetties	
<=30' wide (per rod)	14.00
>30' but <=60' side (per rod)	20.00
>60' but <=100' wide (per rod)	26.00
>100' but <=200' wide (per rod)	32.00
>200' but <=300' wide (per rod)	42.00
>300' wide (per rod)	52.00
Pipelines	
<=2" (per rod)	7.00
>2" but <=13" (per rod)	14.00

>13" but <=25" (per rod)	20.00
>25" but <=37" (per rod)	26.00
>37" (per rod)	52.00
Special Use Lease Agreements (SULA)	
SULA Lease Rate	450.00
Minimum \$450 or market rate per R652-30-400	
Grazing Permits	3.00
Annual rate per AUM (Animal Unit Month)	
Special Use Lease Agreements	Market rate
General Permits	
Same as SULA	450.00
Minimum \$450 or market rate per R652-30-400	
Mineral Lease	
Rental Rate 1st ten years (per acre)	1.10
Rental Rate Renewals (per acre)	2.20

OIL, GAS AND MINING

Administration	
New Coal Mine Permit Application	5.00
Copy	
Bid Specifications	20.00
Telefax of material (per page) .....	.25
Staff Copy (per page) .....	.25
Self Copy (per page) .....	.10
Color	
Staff Copy (per page) .....	.50
Self Copy (per page) .....	.25
Prints from Microfilm	
Staff Copy (per paper-foot) .....	.55
Self Copy (per paper-foot) .....	.40
Print of Microfiche	
Staff Copy (per page) .....	.25
Self Copy (per page) .....	.10
CD	
Mailed	23.00
Picked up	20.00
Well Logs	
Staff Copy (per paper-foot) .....	.75
Self Copy (per paper-foot) .....	.50
Print of computer screen (per screen) .....	.50
Compiling or Photocopying Records	
Actual time spent compiling or copying Current personnel rate	
Actual time spent on data entry or records segregation .. Current personnel rate	
Third Party Services	
Copying maps or charts	Actual cost
Copying odd sized documents	Actual cost
Specific Reports	
Monthly Notice of Intent to Drill/Well Completion Report	
Picked Up .....	.50
Mailed	1.00
Annual Subscription	6.00
Mailed Notice of Board Hearings	
List (per year)	20.00
Current Administrative Rules - Oil and Gas, Coal, Non-Coal, Abandoned Mine Lease (first copy is free)	
Picked up	10.00
Mailed	13.00
Custom-tailored data reports	
Diskettes/Tapes	Current personnel rate
Custom Maps	
Minimum Charges	

Color Plot	25.00
Laser Print	5.00
Minerals Reclamation	
Mineral Program	
Exploration Permit	150.00
Annual Permit	
Small Mining Operations	150.00
Large Mining Operations	
10 to 50 acres	500.00
over 50 acres	1,000.00

WILDLIFE RESOURCES

Director's Office	
Resident Fishing Ages 18-64 (365 day)	34.00
Resident Multi Year License (Up to 5 years) for Ages 18-64 \$33/year.	
Resident Youth Fishing Ages 14-17	
(365 Day)	16.00
Resident Fishing 3 day any age	16.00
Nonresident Fishing age 18 Or Older	
(365 day)	75.00
Nonresident Multi Year (Up to 5 Years) for Ages 18 or Older \$74/year.	
Nonresident Youth Fishing Ages 14-17	
(365 day)	25.00
Nonresident Fishing 3 day any age	24.00
Resident Hunting License Ages 14-17	16.00
Resident Hunting License Ages 18-64	34.00
Resident Multi Year license (Up to 5 years) for Ages 18-64 \$33/year	
Resident Hunting License Ages 65	
Or Older	25.00
Nonresident Youth Hunting License	
Ages 17 and Under	25.00
Nonresident Introductory Combination license (hunter's ed completion)	6.00
Resident Introductory Combination license (hunter's ed completion)	6.00
Resident Combination license	
Ages 18-64	38.00
Resident Multi Year License (Up to 5 Years) for ages 18-64 \$37/year	
Nonresident Combination license	
Ages 18 Or Older	85.00
Nonresident Multi Year License (Up to 5 Years) for Ages 18 or Older \$84/year.	
Resident Youth Combination License	
Ages 14-17	20.00
Resident Combination Ages 65 or Older	29.00
Nonresident Youth Combination license Ages 17 and under	29.00
Ten Punch Pass Shooting Ranges	
(Shotgun)	Up to \$95
Market price up to \$95.00	
Ten Punch Pass Shooting Ranges	
Adult (Rifle/Archery/Handgun)	Up to \$95
Market price up to \$95.00	
Ten Punch Pass Shooting Ranges	
Youth (Rifle/Archery/Handgun)	Up to \$45
Market price up to \$45.00	
Right-of-way Outside Diameter of a Pipe 13.1"-37"	38.00
Assignments: Easements, Grazing	
Permits, Right-of-entry, Special Use ...	250.00
Easements Oil and Gas Pipelines	250.00
Nonresident Hunting License Age 18 or Older (365 day)	65.00

Nonresident Multi Year Hunting License 64.00 (Up to 5 Years)	
Fishing Licenses	
Resident	
Age 65 Or Older (365 day) 25.00	
Disabled Veteran (365 day) 12.00	
7-Day (Any Age) 20.00	
Youth Fishing (12-13) 5.00	
Nonresident	
7-Day (Any Age) 40.00	
Youth Fishing (12-13) 5.00	
Set Line Fishing License 20.00	
Season Fishing Licenses not Combinations Up to 20% discount	
Game Licenses	
Introductory Hunting License 4.00 Upon successful completion of Hunter Education - add to registration fee	
Resident	
Hunting License (up to 13) 11.00	
Dedicated Hunter Certificate of Registration (COR)	
1 yr. (12-17) 40.00	
1 Yr. (18+) 65.00	
3 Yr. (12-17) 120.00	
3 Yr. (18+) 195.00	
Lifetime License Dedicated Hunter Certificate of Registration (COR)	
1 Yr. (12-17) 12.50	
1 Yr. (18+) 25.00	
3 Yr. (12-17) 37.50	
3 Yr. (18+) 75.00	
Nonresident	
Dedicated Hunter Certificate of Registration (COR)	
1 Yr. (14-17) 268.00	
Includes season fishing license	
1 Yr. (18+) 349.00	
Includes season fishing license	
3 Yr. (12-17) 814.00	
Includes season fishing license	
3 Yr. (18+) 1,047.00	
Includes season fishing license	
Small Game - 3 Day 32.00	
Falconry Meet 15.00	
General Season Permits	
Resident	
Turkey 35.00	
General Season Deer 40.00	
Antlerless Deer 30.00	
Two Doe Antlerless 45.00	
Depredation - Antlerless 30.00	
Resident Landowner Mitigation	
Deer - Antlerless 30.00	
Elk - Antlerless 50.00	
Pronghorn - Doe 30.00	
Nonresident Landowner Mitigation	
Deer - Antlerless 93.00	
Elk - Antlerless 218.00	
Pronghorn - Doe 93.00	
Nonresident	
Turkey 100.00	
General Season Deer 268.00	
Includes season fishing license	
Depredation - Antlerless 93.00	
Antlerless Deer 93.00	
Two Doe Antlerless 171.00	

Stamps	
Wyoming Flaming Gorge 10.00	
Arizona Lake Powell 8.00	
Limited Entry Game Permits	
Deer	
Resident	
Limited Entry 80.00	
Premium Limited Entry 168.00	
Co-Operative Wildlife Management Unit (CWMU)/Landowner	
Buck 40.00	
Limited Entry 80.00	
Premium Limited Entry 168.00	
Antlerless 30.00	
Two Doe Antlerless 45.00	
Nonresident	
Limited Entry 468.00	
Includes season fishing license	
Premium Limited Entry 568.00	
Includes season fishing license	
Co-Operative Wildlife Management Unit (CWMU)/Landowner	
Buck 268.00	
Includes season fishing license	
Limited Entry 468.00	
Includes season fishing license	
Premium Limited Entry 568.00	
Includes season fishing license	
Antlerless 93.00	
Two Doe Antlerless 171.00	
Elk	
Resident	
Archery 50.00	
General Bull 50.00	
Limited Entry Bull 285.00	
Antlerless 50.00	
Control 30.00	
Depredation 50.00	
Depredation - Bull Elk - With Current Year Unused Bull Permit 235.00	
Depredation - Bull Elk - Without Current Year Unused Bull Permit 285.00	
Co-Operative Wildlife Management Unit (CWMU)/Landowner	
Any Bull 285.00	
Antlerless 50.00	
Premium Limited Entry Bull 513.00	
Nonresident	
Archery 393.00	
Includes season fishing license	
General Bull 393.00	
Includes season fishing license	
Limited Entry Bull 800.00	
Includes season fishing license	
Antlerless 218.00	
Control 93.00	
Depredation - Antlerless 218.00	
Co-Operative Wildlife Management Unit (CWMU)/Landowner	
Any Bull 800.00	
Includes fishing license	
Antlerless 218.00	
Premium Limited Entry Bull 1,505.00	
Includes fishing license	
Pronghorn	
Resident	
Limited Buck 55.00	

Limited Doe	30.00	Cougar	258.00
Limited Two Doe	45.00	Bear	308.00
Co-Operative Wildlife Management Unit (CWMU)/Landowner		Premium Bear	475.00
Buck	55.00	Cougar Pursuit	135.00
Doe	30.00	Bear Pursuit	135.00
Depredation Doe	30.00	Wolf	
Archery Buck	55.00	Resident	20.00
Nonresident		Nonresident	80.00
Limited Buck	293.00	Cougar/Bear	
Includes season fishing license		Cougar or Bear Damage	30.00
Limited Doe	93.00	Muskrats	
Limited Two Doe	171.00	Over 1000 anticipated	155.00
Archery Buck	293.00	500-1000 anticipated	105.00
Includes season fishing license		100-500 anticipated	55.00
Depredation Doe	93.00	Less than 100 anticipated	30.00
Co-Operative Wildlife Management Unit (CWMU)/Landowner		Wild Turkey	
Buck	293.00	Resident Limited Entry	35.00
Includes season fishing license		Nonresident Limited Entry	100.00
Doe	93.00	Waterfowl	
Moose		Swan	
Resident		Resident	15.00
Bull	413.00	Nonresident	15.00
Antlerless	213.00	Sandhill Crane	
Co-Operative Wildlife Management Unit (CWMU)/Landowner		Resident	15.00
Bull	413.00	Nonresident	15.00
Antlerless	213.00	Sportsman Permits	
Nonresident		Resident	
Bull	1,518.00	Bull Moose	413.00
Includes season fishing license		Hunter's Choice Bison	413.00
Antlerless	713.00	Desert Bighorn Ram	513.00
Co-Operative Wildlife Management Unit (CWMU)/Landowner		Bull Elk	513.00
Bull	1,518.00	Buck Deer	168.00
Includes season fishing license		Buck Pronghorn	55.00
Antlerless	713.00	Bear	83.00
Bison		Cougar	58.00
Resident	413.00	Rocky Mountain Goat	413.00
Resident Antelope Island	1,110.00	Rocky Mountain Sheep	513.00
Nonresident	1,518.00	Turkey	35.00
Includes season fishing license		Other	
Nonresident Antelope Island	2,615.00	Falconry Permits	
Includes season fishing license		Resident	
Bighorn Sheep		Capture	
Resident		Apprentice Class	30.00
Desert	513.00	General Class	50.00
Rocky Mountain	513.00	Master Class	50.00
Nonresident		Nonresident	
Desert	1,518.00	Capture	
Includes season fishing license		Apprentice Class	115.00
Rocky Mountain	1,518.00	General Class	115.00
Includes season fishing license		Master Class	115.00
Goats		Handling	10.00
Resident Rocky Mountain	413.00	Includes licenses, Certificate of Registration, and exchanges	
Nonresident Rocky Mountain	1,518.00	Drawing Application	10.00
Includes season fishing license		Landowner Association Application	150.00
Cougar/Bear		Nonrefundable	
Resident		Resident/Nonresident Dedicated	
Cougar	58.00	Hunter Hourly Labor Buyout Rate	20.00
Bear	83.00	Bird Bands .....	.25
Premium Bear	166.00	Furbearer/Trap Registration	
Bear Archery	83.00	Resident Furbearer	29.00
Cougar Pursuit	30.00	Any age	
Bear Pursuit	30.00	Nonresident Furbearer	154.00
Nonresident		Any age	
		Resident Bobcat Temporary Possession	5.00

Nonresident Bobcat Temporary Possession	5.00	Education Groups (per person)	1.00
Resident Trap Registration	10.00	Easement and Leases Schedule	
Nonresident Trap Registration	10.00	Application for Leases	
Duplicate Licenses, Permits and Tags		Leases	250.00
Hunter Education cards	10.00	Nonrefundable	
Furharvester Education cards	10.00	Easements	
Duplicate Vouchers CWMU/		Rights-of-way	750.00
Conservation/Mitigation	25.00	Nonrefundable	
Refund of Hunting Draw License	25.00	Rights-of-entry	50.00
Application Amendment	25.00	Nonrefundable	
Late Harvest Reporting	50.00	Amendment to lease, easement, right-of-way, right-of-entry	400.00
Wildlife Management Area Access (without a valid license)	10.00	Nonrefundable	
Exchange	10.00	Certified document	5.00
Wood Products on Division Land		Nonrefundable	
Firewood (2 Cords)	10.00	Research on leases or title records (per hour)	50.00
Christmas Tree	5.00	Rights-of-Way	
Ornamentals		Leases and Easements - Resulting in Long-Term Uses of Habitat	Variable
Conifers (per tree)	5.00	Fees shall be determined on a case-by-case basis by the division, using the estimated fair market value of the property, or other legislatively established fees, whichever is greater, plus the cost of administering the lease, right-of-way, or easement. Fair market value shall be determined by customary market valuation practices.	
Maximum \$60.00 per permit		Special Use Permits for non-depleting land uses of < 1 year	Variable
Deciduous (per tree)	3.00	A nonrefundable application of \$50 shall be assessed for any commercial use. Fees for approved special uses will be based on the fair market value of the use, determined by customary practices which may include: an assessment of comparable values for similar properties, comparable fees for similar land uses, or fee schedules. If more than one fee determination applies, the highest fee will be selected.	
Maximum \$60.00 per permit		Width of Easement	
Posts .....	.40	0' - 30' Initial	12.00
Maximum \$60.00 per permit		0' - 30' Renewal	8.00
Hunter Education		31' - 60' Initial	18.00
Hunter Education Training	6.00	31' - 60' Renewal	12.00
Hunter Education Home Study	6.00	61' - 100' Initial	24.00
Furharvester Education Training	6.00	61' - 100' Renewal	16.00
Bowhunter Education Class	6.00	101' - 200' Initial	30.00
Long Distance Verification	2.00	101' - 200' Renewal	20.00
Becoming an Outdoors Woman	150.00	201' - 300' Initial	40.00
Special Needs Rates Available		201' - 300' Renewal	28.00
Hunter Education Range		>300' Initial	50.00
Adult	5.00	>300' Renewal	34.00
Market price up to \$10.		Outside Diameter of Pipe	
Youth	2.00	<2.0' Initial	9.40
Ages 15 and under. Market price up to \$5.		<2.0" Renewal	4.00
Group for organized groups and not for special passes	50% discount	2.0" - 13" Initial	19.00
Spotting Scope Rental	2.00	2.0" - 13" Renewal	8.00
Trap, Skeet or Riverside Skeet (per round)	5.00	13.1" - 25" Renewal	12.00
Market price up to \$10		25.1" - 37" Renewal	16.00
Five Stand - Multi-Station Birds	7.00	>37" Initial	75.00
Market price up to \$10		>37" Renewal	32.00
Sportsmen Club Meetings	20.00	Roads, Canals	
Reproduction of Records		Permanent loss of habitat plus high maintenance disturbance	18.00
Self Service (per copy) .....	.10	1' - 33' New Construction	
Staff Service (per copy) .....	.25		
Geographic Information System			
Personnel Time (per hour)	50.00		
Processing (per hour)	55.00		
Data Processing			
Programming Time (per hour)	75.00		
Production (per hour)	55.00		
License Agency			
Application	20.00		
Other Services to be reimbursed at actual time and materials			
Postage	Current rate		
Lost license paper by license agents (per page)	10.00		
Return check charge	20.00		
Hardware Ranch Sleigh Ride			
Adult	5.00		
Age 4-8	3.00		
Age 0-3	No charge		

Permanent loss of habitat plus high maintenance disturbance	12.00	Driving Range	9.00
1' - 33' Existing		Golf Course Fees GREENS FEES	
Permanent loss of habitat plus high maintenance disturbance	24.00	Promotional Pass - Single person - Personal golf cart	400.00
33.1' - 66' New Construction		20 Round Card Pass	260.00
Permanent loss of habitat plus high maintenance disturbance	18.00	Promotional Pass	1,100.00
33.1' - 66' Existing		9 holes	18.00
Certificates of Registration		Golf Course Fees	
Initial - Personal Use	75.00	School Teams, Tournament Fee (per player)	6.00
Initial - Commercial	150.00	Gift Certificate Fee (per player)	6.00
TYPE I		Camping Fees	28.00
Certificate of Registration (COR) Fishing Contest		Camping Extra Vehicle Fees	15.00
Small, Under 50	20.00	Boating Fees	
Medium, 50 to 100	100.00	Boat Mooring	
Large, over 200	250.00	Day Use	6.00
Amendment	10.00	Boat Camping (2:00 pm)	20.00
Certificate of Registration (COR)		In/Off Season with or without Utilities (per foot)	7.00
Handling	10.00	Watercraft Launch Fee	25.00
Renewal	30.00	Boat storage	200.00
Late fee for failure to renew Certificates of Registration when due: greater of \$10 or 20% of fee.	Variable	Dry Storage	
Required Inspections	100.00	Boating Season, Overnight until 2:00 pm, Off-Season, Unsecured	75.00
Failure to Submit Required Annual Activity Report When Due	10.00	Application Fees	250.00
Request for Species Reclassification	200.00	Easement, Grazing permit, Construction/ Maintenance, Special Use Permit, Waiting List	
Request for Variance	200.00	Assessment and Assignment Fees	
Commercial Fishing and		Entrance Fees	
Dealing Commercially in Aquatic Wildlife Dealer in Live/Dead Bait	75.00	Bicycles & Pedestrians	20.00
Helper Cards - Live/Dead Bait	15.00	Bicycles & Pedestrians, Annual Pass	24.00
Commercial Seiner	1,000.00	Motor Vehicles	
Helper Cards - Commercial Seiner	100.00	Day Use Annual Pass	75.00
Commercial Brine Shrimper	15,000.00	Commercial Dealer Demo Pass	200.00
Helper Cards - Commercial Brine Shrimper	1,500.00	Commercial Groups - per person	3.00
Upland Game Cooperative		Commuter Annual Pass	10.00
Wildlife Management Units		Parking Fee	5.00
New Application	250.00	Causeway	2.00
Annual	150.00	Entrance Fees	15.00
Big Game Cooperative Wildlife Management Unit		Contract Assignment	20.00
New Application	250.00	Fee collection, return checks, and duplicate document	30.00
Annual	150.00	Staff or researcher time per hour	50.00
Falconry		Equipment and building rental per hour	100.00
Three year	45.00	Photo copy each	1.00
Five Year	75.00	Entrance	
Commercial Hunting Areas		OHV Program Fee	
New Application	150.00	Statewide OHV Registration Fee	22.00
Renewal Application	150.00	State issued permit to non-resident OHVs, in which there is no reciprocity	30.00
PARKS AND RECREATION		OHV Education Fee	
Park Operation Management		Division's Off-highway Vehicle Program Safety Certificate	30.00
All fees for the Division of Parks and Recreation may not exceed, but may be less than, the amounts stated in the division's fee schedule.		State Issued and Replacement OHV Safety Certificate	2.00
Group Site Day-Use Fees	250.00	Boating Section Fees	
Reservation Fee	10.65	Statewide Boat Registration Fee	25.00
Group Camping Fees	400.00	Carrying Passengers for Hire Fee	200.00
Golf Course Fees RENTALS		Boat Livery Registration Fee	100.00
Club Rental, per 9 holes	17.00	Boating Education Fee	
Motorized cart, per 9 holes	16.00	Division's Personal Watercraft Course	12.00
Pull carts, per 9 holes	3.50		
Companion Fee	7.00		

State Issued and Replacement	
Boating Education Certificate	5.00
new rule passed by board, will take effect in July	
Repository Fees	
Curation (per storage unit)	700.00
Annual Repository Agreement (per storage unit)	80.00
Annual Agreement Fee	50.00
Lodging Fees	
Cabins and Yurts	80.00

UTAH GEOLOGICAL SURVEY

Administration	
Editorial	
Color Plots	
Set-Up	3.00
Regular Paper (per square foot)	3.00
Special Paper (per square foot)	4.50
Color Scanning (per scan)	9.00
Bluelines (per square foot)	.25
File Conversion (per hour)	36.00
File Conversion (per hour) minimum	5.00
Clear/Matte Mylars from Negatives	
Set-Up	20.00
Actual (per square foot)	6.00
Set-Up	20.00
Division Makes Negatives	
Clear/Matte Mylars from Negatives (Division Makes Negatives)	
Actual (per square foot)	11.00
Division Makes Negatives	
Negatives	
Set-Up	20.00
Actual (per square foot)	9.00
Professional Services (per hour)	36.00
Sample Library	
On-Site Examination	
Cuttings (per box)	5.00
Core (per box)	5.00
Coal (per box)	5.00
Oil/Water (Brine) (per bottle)	5.00
Core Layout Table (per table)	15.00
Binocular/Petrographic Microscopes (per day)	15.00
Saturday/Sunday/Holiday Surcharge	60%
Off-Site Examination	
Cuttings (per box) Plus shipping	6.00
Core (per box) Plus shipping	6.00
Coal (per box) Plus shipping	6.00
Oil/Water (Brine) (per bottle) Plus shipping	10.00
Hazardous Materials	
Packing	12.00
Shipping	6.00
Approximate	
Core Plug (per plug)	10.00
Core Slabbing	
1.8" Diameter or Smaller (per foot)	8.00
1.8"-3.5" Diameter (per foot)	10.00
Larger Diameter	Negotiated
Core Photographing	
Box/Closeup 8x10 color (per print)	20.00
Slides (per slide)	10.00

Coal Petrography (per hour)	36.00
Copying of Data (per page)	.10
Searches and Research (per hour)	36.00
General Building and Lab Use (per day)	100.00
General Building and Lab Use (per week)	500.00
General Building and Lab Use (per month)	900.00
Applied	
School Site Reviews	
Review Geologic Hazards Report for New School Sites	
Review	500.00
Plus travel	
Preliminary Screening of a Proposed School Site	
One School	550.00
Plus travel	
Multiple in same city	750.00
Plus travel	
Paleontology	
File Search Requests	
Minimum Charge	30.00
Up to 15 minutes	
Standard rate (per hour)	60.00
Less than 15 minutes	
Miscellaneous	
Copies, Self-Serve (per copy)	.10
Copies, Staff (per copy)	.25
Large Format Copies (per copy)	4.00
Research (per hour)	36.00
Utah Geological Survey (UGS) Database Searches	
Minimum	5.00
Media Charges	
Compact Disk (650 MB) (per CD)	3.00
Zip Disk	
100 MB (per disk)	15.00
250 MB (per disk)	25.00
Floppy Disk (1.44 MB) (per disk)	2.00
Paper Printout (per page)	.10
Custom Map Plots, Minimum	15.00
Bookstore (per plot)	5.00

WATER RESOURCES

Administration	
Color Plots	
Existing (per linear foot)	2.00
Custom Orders	Current staff rate
Plans and Specifications	
Small Set	10.00
Average Size Set	25.00
Large Set	35.00
Cloud Seeding License	Variable
Copies, Staff (per hour)	Current staff rate

WATER RIGHTS

Administration	
Applications	
Appropriation	Variable
For any application that proposes to appropriate by both direct flow and storage, there shall be charged the fee for quantity, by cubic feet per second (cfs), or volume, by acre-feet (af), whichever is greater, but not both:	
Flow - cubic feet per second (cfs)	

More than 0, not to exceed 0.1	150.00	More than 10,000, not to exceed 10,500	700.00
More than 0.1, not to exceed 0.5	200.00	More than 10,500, not to exceed 11,000	700.00
More than 0.5, not to exceed 1.0	250.00	More than 11,000, not to exceed 11,500	700.00
More than 1.0, not to exceed 2.0	300.00	More than 11,500	700.00
More than 2.0, not to exceed 3.0	350.00	Extension Requests for Submitting a Proof of Appropriation	
More than 3.0, not to exceed 4.0	400.00	Less than 14 years after the date of approval of the application	50.00
More than 4.0, not to exceed 5.0	430.00	14 years or more after the date of approval of the application	150.00
More than 5.0, not to exceed 6.0	460.00	Fixed time periods	150.00
More than 6.0, not to exceed 7.0	490.00	For each certification of copies	10.00
More than 7.0, not to exceed 8.0	520.00	A reasonable charge for preparing copies of any and all documents	Variable
More than 8.0, not to exceed 9.0	550.00	Application to segregate a water right	50.00
More than 9.0, not to exceed 10.0	580.00	Groundwater Recharge Permit	2,500.00
More than 10.0, not to exceed 11.0	610.00	Notification for the use of sewage effluent or to change the point of discharge	750.00
More than 11.0, not to exceed 12.0	640.00	Diligence claim investigation	500.00
More than 12.0, not to exceed 13.0	670.00	Report of Water Right Conveyance Submission	40.00
More than 13.0, not to exceed 14.0	700.00	Protest Filings	15.00
More than 14.0, not to exceed 15.0	730.00	Livestock Watering Certificate	150.00
More than 15.0, not to exceed 16.0	760.00	Well Driller Permit	
More than 16.0, not to exceed 17.0	790.00	Initial	350.00
More than 17.0, not to exceed 18.0	820.00	Renewal (Annual) (per year)	100.00
More than 18.0, not to exceed 19.0	850.00	Late renewal (Annual) (per year)	50.00
More than 19.0, not to exceed 20.0	880.00	Drill Rig Operator Registration	
More than 20.0, not to exceed 21.0	910.00	Initial	100.00
More than 21.0, not to exceed 22.0	940.00	Renewal (Annual) (per year)	50.00
More than 22.0, not to exceed 23.0	970.00	Late Renewal (Annual) (per year)	50.00
More than 23.0	1,000.00	Pump Installer License	
Volume - acre-feet (af)		Initial	200.00
More than 0, not to exceed 20	150.00	Renewal (Annual) (per year)	75.00
More than 20, not to exceed 100	200.00	Late renewal (Annual) (per year)	50.00
More than 100, not to exceed 500	250.00	Pump Rig Operator Registration	
More than 500, not to exceed 1,000	300.00	Initial	75.00
More than 1,000, not to exceed 1,500	350.00	Renewal (Annual) (per year)	25.00
More than 1,500, not to exceed 2,000	400.00	Late renewal (Annual) (per year)	25.00
More than 2,000, not to exceed 2,500	430.00	Stream Alteration	
More than 2,500, not to exceed 3,000	460.00	Commercial	2,000.00
More than 3,000, not to exceed 3,500	490.00	Government	500.00
More than 3,500, not to exceed 4,000	520.00	Non-Commercial	100.00
More than 4,000, not to exceed 4,500	550.00		
More than 4,500, not to exceed 5,000	550.00		
More than 5,000, not to exceed 5,500	550.00		
More than 5,500, not to exceed 6,000	550.00		
More than 6,000, not to exceed 6,500	700.00		
More than 6,500, not to exceed 7,000	700.00		
More than 7,000, not to exceed 7,500	700.00		
More than 7,500, not to exceed 8,000	700.00		
More than 8,000, not to exceed 8,500	700.00		
More than 8,500, not to exceed 9,000	700.00		
More than 9,000, not to exceed 9,500	700.00		
More than 9,500, not to exceed 10,000	700.00		

DEPARTMENT OF ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR'S OFFICE

All Divisions	
Request for copies over 10 pages (per page)	.25
Copies made by the requestor-over 10 pages (per page)	.05
Compiling, tailoring, searching, etc., a record in another format. Actual cost after 1st 1/4 hour Charged at rate of lowest paid staff employee who has necessary skill/training to perform request	
Special computer data requests (per hour)	90.00
CDs (per disk)	10.00
DVDs (per disk)	8.00

Contract Services Actual Cost
 To be charged in order to efficiently utilize dept resources, protect dept permitting processes, address extraordinary or unanticipated requests on permitting processes, or make use of specialized expertise. In providing these services, dept may not provide service in a manner that impairs any other person's service from dept.

AIR QUALITY

State Implementation Plan and Air Conservation Act 20.00
 CD with rules
 Rules 10.00
 Paper copy
 State Implementation Plan 40.00
 Paper copy
 Utah Air Conservation Act 5.00
 Paper copy
 Instructions/Guidelines for Notice of Intent, Modeling, Asbestos, Lead 10.00
 Paper copy/CD
 Emission Inventory Report 10.00
 Paper copy
 Emission Inventory Workshop 15.00
 Attendance
 Air Emissions (per ton) 59.06
 Major and Minor Source Compliance Inspection Actual cost
 Annual Aggregate Compliance
 20 or less (per tons per year) 180.00
 21-79 (per tons per year) 360.00
 80-99 (per tons per year) 900.00
 100 or more (per tons per year) 1,260.00
 Asbestos and Lead-Based Paint (LBP) Abatement Course Review (per hour) 90.00
 Asbestos Company/LBP Firm Certification (per year) 250.00
 LBP Renovator Firm Certification (per year) 100.00
 Asbestos individual (employee) certification 125.00
 Asbestos individual certification surcharge, non-Utah certified training provider 30.00
 LBP abatement worker certification (per year) 100.00
 LBP Inspector, Dust Sampling Technician Certification (per year) 125.00
 LBP Risk Assessor, Supervisor, Project Designer Certification (per year) 200.00
 LBP Renovator Certification (per year) 100.00
 Lost certification card replacement 30.00
 Annual asbestos notification 500.00
 Asbestos/LBP abatement project notification base fee 150.00
 Asbestos/LBP abatement project notification base fee for owner-occupied residential structures 50.00
 Abatement unit /100 units 7.00
 (square feet/linear feet/cubic feet) (times 3)(up to 10,000 units) School building Asbestos Hazard Emergency Response Act (AHERA) abatement fees will be waived
 Abatement unit /100 units 3.50

(square feet/linear feet/cubic feet) (times 3)(10,000 units or more) School building Asbestos Hazard Emergency Response Act (AHERA) abatement fees will be waived
 Demolition Notification Base 75.00
 Demolition unit per 5,000 square feet above initial 5,000 square feet 50.00
 Alternative Work Practice Review <10daytrainingprovider/private residence requests 100.00
 non-National Emission Standards for Hazardous Air Pollutants (NESHAP) requests
 All other requests 250.00
 Permit Category
 Filing Fees
 Name Changes 100.00
 Small Sources Exemptions and Soil Remediation 250.00
 New non-PSD sources, minor & major modifications to existing sources 500.00
 Any unpermitted sources at an existing facility 1,500.00
 New major prevention of significant deterioration (PSD) sources 5,000.00
 Monitoring plan review and site visit
 Application Review Fees
 New major source or modifications to major source in nonattainment area 40,500.00
 Up to 450 hours
 New major source or modifications to major source in attainment area 27,000.00
 Up to 300 hours
 New minor source or modifications to minor source 1,800.00
 Up to 20 hours
 Generic permit for minor source or modifications of minor sources 720.00
 Up to 8 hours (sources for which engineering review/Bact standardized)
 Temporary Relocations 630.00
 Minor sources (new or modified) with <3 tpy uncontrolled emissions 450.00
 Up to 5 hours
 Permitting cost for additional hours (per hour) 90.00
 Technical review of and assistance given (per hour) 90.00
 I.e. appeals, sales/use tax exemptions, soils exemptions, soils remediations, experimental approvals, impact analyses, etc.
 Air Quality Training Actual Cost
 Clean Fuel Vehicle Fund
 Loan/Grant Application Fee
 Vehicle loans 140.00
 Infrastructure loans 350.00
 Grants 280.00

ENVIRONMENTAL RESPONSE AND REMEDIATION	
Comprehensive Environmental Response Compensation and Liability Information System (CERCLIS) Lists	15.00
Disk or paper, refer to internet	
Underground Storage Tank (UST) Program List	
UST Facility List	30.00
Paper only	
Leaking UST Facility List	18.00
Paper only	
Postage for one or both	3.00
Emergency Planning Community Right to Know Act Reports	15.00
Professional and Technical services or assistance (per hour)	90.00
Including but not limited to EPCRA Technical Assistance, PST Claim Preparation Assistance, Oversight for Tanks Failing to pay UST fee, Ust Compliance follow-up Inspection, Apportionment of Liability requested by responsible parties, Prepare, administer or conduct administrative process, Environmental Covenants.	
Voluntary Environmental Cleanup Program Application Fee	2,500.00
Review/Oversight/Participation in Voluntary Agreements (per hour)	90.00
Annual Underground Storage Tank Tanks on Petroleum Storage Tank (PST) Fund	100.00
Tanks not on PST Fund	200.00
Tanks at Facilities significantly out of compliance with leak prevention or leak detection requirements	300.00
PST Fund Reapplication, Certification of Compliance Reapplication Fee, or both	300.00
Initial Approval of Alternate UST Financial Assurance Mechanisms (Non-PST Participants)	420.00
Approval of alternate UST financial assurance mechanisms after initial year	240.00
(with no Mechanism changes)	
Certification or Certification Renewal for UST Consultants	
UST installers, removers, groundwater & soil samplers, & non-government UST inspectors & testers	225.00
Consultant Recertification Class	150.00
Clandestine Drug Lab Decontamination Specialist Certification	
Certification and Recertification	225.00
Retest of Certification Exam	100.00
Enforceable Written Assurance Letters	
Written letter	500.00
Flat fee for up to 8 hours	
Additional charge if over original 8 hours (per hour)	90.00
Environmental Response and Remediation Program Training	Actual cost
UST Operators Certification	50.00
UST Red Tag Replacement	500.00
Applied only when a Red Tag is removed without authorization	

RADIATION CONTROL	
Utah Radiation Control Rules	
Complete set	20.00
List of all radioactive material licensees	10.00
List of all x-ray machine registrants	10.00
Machine-Generated Radiation Annual Registration Fee	
Per control unit including first tube, plus annual fee for each additional tube connected to the control unit	
Hospital/Therapy, Medical, Chiropractic, Podiatry, Veterinary, Dental	35.00
Industrial Facility with High and/or Very High Radiation Areas Accessible to Individuals	35.00
Cabinet X-Ray Units or Units Designated for Other Purposes	35.00
Other	35.00
Division Conducted Inspection, Per Tube	
Hospital/Therapy, Medical, Chiropractic	105.00
Podiatry/Veterinary	75.00
Dental	
First tube on a single control unit	45.00
Additional tubes on a control unit (per Tube)	12.50
Industrial Facilities with High and/or Very High Radiation Areas Accessible to Individuals	105.00
Cabinet X-Ray Units or Units Designated for Other Purposes	75.00
Other	
Annual or Biennial Inspection (per Tube)	105.00
Five year Inspection, per tube	75.00
Independent Qualified Experts Conducted Inspections or Registrants Using Qualified Experts	
Inspection report (per Tube)	15.00
Radioactive Material	
Special Nuclear Material	
New License or Renewal License for:	
Possession and use in sealed sources contained in devices used in industrial measuring systems,	440.00
including X-ray fluorescence analyzers and neutron generators	
Possession and use of less than 15 grams in usealed form for research and development	730.00
Use as calibration and reference sources	180.00
All other licenses	1,150.00
Annual Fee	
Possession and use in sealed sources contained in devices used in industrial measuring systems,	740.00
including X-ray fluorescence analyzers and neutron generators	
Possession and use of less than 15 grams in usealed form for research and development	740.00
Use as calibration and reference sources	240.00

All other licenses	1,600.00		
Source Material			
New License or License Renewal			
Licenses for concentrations of uranium from other areas for the production of uranium yellow cake	5,510.00		
Regulation of source and byproduct material at uranium mills or commercial waste facilities			
Uranium mills or commercial sites disposing of or reprocessing byproduct material (per month)	8,540.00		
Uranium mills the Director has determined that are on standby status	8,540.00		
Licenses for possession and use of source material for shielding	230.00		
All other source material licenses	1,000.00		
Annual Fee			
Licenses for concentrations of uranium from other areas for the production of uranium yellow cake	4,810.00		
Licenses for possession and use of source material for shielding	365.00		
All other source material licenses	1,275.00		
Radioactive Material other than Source Material and Special Nuclear Material			
New License or License Renewal for possession and use of radioactive material for:			
Broad scope for processing or manufacturing for commercial distribution	2,320.00		
Other for processing or manufacturing for commercial distribution	1,670.00		
Processing or manufacturing and distribution of radiopharmaceuticals, generators, reagent kits, or sources or devices containing radioactive material	2,320.00		
The distribution or redistribution of radiopharmaceuticals, generators, reagent kits, or sources or devices not involving processing of radioactive material	860.00		
Industrial radiography operations	1,670.00		
Sealed sources for irradiation of materials in which the source is not removed for its shield (self-shielded units)	700.00		
Less than 10,000 curies of radioactive material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes	1,670.00		
10,000 curies or more of radioactive material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes	3,340.00		
Broad scope for research and development that do not			
authorize commercial distribution	2,320.00		
Research and development that do not authorize commercial distribution	700.00		
All other radioactive material	440.00		
New License or License Renewal for:			
Licenses that authorize services for other licensees, except licenses that authorize leak testing or waste disposal services subject to the fees specified for the listed services	320.00		
Licenses that authorize services for leak testing only	150.00		
New License or License Renewal to distribute items containing radioactive material:			
To persons exempt from licensing requirements of R313-19, except specific licenses authorizing redistribution of items authorized for distribution to persons exempt from the licensing requirements of R313-19	700.00		
To persons generally licensed under R313-21, except specific licenses authorizing redistribution of items authorized for distribution to persons generally licensed under R313-21	700.00		
Annual license fee for possession and use of radioactive material for:			
Broad scope for processing or manufacturing for commercial distribution	2,960.00		
Other for processing or manufacturing for commercial distribution	2,040.00		
Processing or manufacturing and distribution of radio pharmaceuticals, generators, reagent kits, or sources or devices containing radioactive material	2,960.00		
The distribution or redistribution of radiopharmaceuticals, generators, reagent kits, or sources or devices not involving processing of radioactive material	1,000.00		
Industrial radiography operations	2,560.00		
Sealed sources for irradiation of materials in which the source is not removed for its shield (self-shielded units)	940.00		
Less than 10,000 curies of radioactive material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes	1,740.00		
10,000 curies or more of radioactive material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes	3,480.00		
Broad scope for research and development that do not			

authorize commercial distribution 2,960.00
 Research and development that do not authorize commercial distribution 940.00
 All other radioactive material 520.00
 Annual fee for
 Licenses that authorize services for other licensees, except licenses that authorize leak testing or waste disposal services subject to the fees specified for the listed services 420.00
 Licenses that authorize services for leak testing only 160.00
 Annual fee to distribute items containing radioactive material:
 To persons exempt from licensing requirements of R313-19, except specific licenses authorizing redistribution of items authorized for distribution to persons exempt from the licensing requirements of R313-19 580.00
 To persons generally licensed under R313-21, except specific licenses authorizing redistribution of items authorized for distribution to persons generally licensed under R313-21 580.00
 Radioactive Waste Disposal (licenses specifically authorizing the receipt of waste radioactive material from other persons for the purpose of commercial disposal by land by the licensee)
 Annual 2,099,200.00
 New Application
 Siting
 application Actual costs up to \$250,000
 License
 application .. Actual costs up to \$1,000,000
 Renewal Actual costs up to \$1,000,000
 Pre-licensing, operations review, and consultation on commercial low-level radioactive waste facilities (per hour) 90.00
 Review of commercial low-level radioactive waste disposal and uranium recovery special projects. Applicable when the licensee and the Division agree that a review be conducted by a contractor in support of the efforts of Division staff Actual cost
 Review of topical reports submitted by a licensee or manufacturer to certify waste casks for transportation or disposal (per hour) 90.00
 Generator Site Access Permits
 Non-Broker Generators transferring radioactive waste (per year) 2,500.00
 Brokers (waste collectors or processors) (per year) 7,500.00
 Review of licensing or permit actions, amendments, environmental monitoring reports, and miscellaneous reports for uranium recovery facilities (per hour) 90.00
 Licenses authorizing receipt of waste radioactive material from others for packaging/repackaging the material

The licensee will dispose of the materials by transfer to another person authorized to receive or dispose of the material
 New License/Renewal 3,190.00
 Annual 2,760.00
 Licenses authorizing receipt of prepackaged waste radioactive material from others
 The licensee will dispose of the materials by transfer to another person authorized to receive or dispose of the material
 New License/Renewal 700.00
 Annual 1,100.00
 Licenses authorizing packing of radioactive waste for shipment to waste disposal site where licensee does not take possession of waste material
 New License/Renewal 440.00
 Annual 520.00
 Well Logging, Well Surveys, and Tracer Studies Licenses
 for the possession and use of radioactive material for well logging, well surveys and tracer studies other than field flooding tracer studies
 New License/Renewal 1,670.00
 Annual 2,100.00
 Licenses for possession and use of radioactive material for field flooding tracer studies
 New License/Renewal Actual cost
 Annual 4,000.00
 Nuclear Laundries
 Licenses for commercial collection and laundry of items contaminated with radioactive material
 New License/Renewal 1,670.00
 Annual 2,380.00
 Human Use of Radioactive Material
 License for human use of radioactive materials in sealed sources contained in gamma stereotactic radiosurgery or teletherapy devices
 New License/Renewal 1,090.00
 Annual 1,280.00
 Licenses of broad scope issued to medical institutions or two or more physicians authorizing research and development including human use of radioactive material, except for licenses for radioactive material in sealed sources contained in gamma stereotactic radiosurgery or teletherapy devices
 New License/Renewal 2,320.00
 Annual 2,960.00
 Other licenses issued for human use of radioactive material
 except for licenses for radioactive material in sealed sources contained in gamma stereotactic radiosurgery or teletherapy devices
 New License/Renewal 700.00
 Annual 1,100.00
 Civil Defense
 Licenses for possession and use of radioactive material for civil defense activities
 New License/Renewal 700.00
 Annual 380.00
 Power Source
 Licenses for the manufacture and distribution of encapsulated radioactive material wherein the decay energy of the material is used as a source for power

New License/Renewal	5,510.00
Annual	2,520.00
Plan Reviews	
Review of plans for decommissioning, decontamination, reclamation, waste disposal pursuant to R313-15-1002, or site restoration activities	400.00
Plus added cost above 8 hours (per hour)	90.00
Investigation of a misadministration by a third party as defined in R313-30-5 or in R313-32-2, as applicable	Actual cost
General License	
Initial registration/renewal for first year	
Measuring, gauging, and control devices as described in R313-21-22(4),	20.00
other than hydrogen-3 (tritium) devices and polonium-210 devices containing no more than 10 millicuries used for producing light or an ionized atmosphere	
In Vitro testing	20.00
Depleted Uranium	20.00
Reciprocity - Licensees who conduct activities under the reciprocity provisions of R313-19-30	20.00
Annual fee after initial license/renewal	
Measuring, gauging, and control devices as described in R313-21-22(4)	20.00
other than hydrogen-3 (tritium) and polonium-210 devices containing no more than other than 10 millicuries used for producing light or an ionized atmosphere	
In Vitro testing	20.00
Depleted Uranium	20.00
Reciprocity - Licensees who conduct activities under the reciprocity provisions of R313-19-30 (per type of license category)	Full annual fee
Charge for Late Payment of Fees, for all fees, per 30 days late	25.00
Publication costs for making public notice of required actions	Actual cost
Expedited application review (per hour) ..	90.00
Applicable when, by mutual consent of the applicant and staff, an application request is taken out of date order and processed by staff.	
Management and oversight of impounded radioactive material	Actual cost
License amendment, for greater than three applications in a calendar year	200.00
Analytical costs for monitoring samples from radioactive materials facilities	Actual cost

WATER QUALITY

Water Quality Regulations	
Complete set	30.00
R317-1, 2, 5, 6, 7, 10, 11, 100, 101, 102, 103, 550, 560	2.00
R317-3, R317-4, R317-8, R317-15	10.00
305(b) Water Quality Report	20.00
Report: Utah's Lakes and Reservoirs- Inventory and Classification of Utah's Priority Lakes and Reservoirs	50.00
Operator Certification	
Certification Examination	50.00
Renewal of Certificate	25.00

Renewal of Lapsed Certificate plus renewal (per month)	25.00
\$75 maximum	
Duplicate Certificate	25.00
New Certificate change in status	25.00
Certification by reciprocity with another state	50.00
Grandfather Certificate	20.00
Underground Wastewater Disposal Systems	
New Systems	25.00
Certificate Issuance	25.00
Utah Pollutant Discharge Elimination System (UPDES) Permits	
Cement Manufacturing	
Major	792.00
Minor	198.00
Coal Mining and Preparation	
General Permit	396.00
Individual Major	1,188.00
Individual Minor	792.00
Concentrated Animal Feeding Operations (CAFO) General Permit ...	
Construction Dewatering/Hydrostatic Testing General Permit	110.00
Dairy Products	
Major	792.00
Minor	396.00
Electric	
Major	990.00
Minor	396.00
Fish Hatcheries General Permit	
Food and Kindred Products	
Major	990.00
Minor	396.00
Hazardous Waste Clean-up Sites	
Geothermal	
Major	792.00
Minor	396.00
Inorganic Chemicals	
Major	1,188.00
Minor	594.00
Iron and Steel Manufacturing	
Major	2,376.00
Minor	594.00
Leaking Underground Storage Tank(LUST) Cleanup	
General Permit	396.00
LUST Cleanup Individual Permit	792.00
Meat Products	
Major	1,188.00
Minor	396.00
Metal Finishing and Products	
Major	1,188.00
Minor	594.00
Mineral Mining and Processing	
Sand and Gravel	220.00
Salt Extraction	220.00
Other	
Other Majors	792.00
Other Minors	396.00
Manufacturing	
Major	1,584.00
Minor	594.00
Oil and Gas Extraction	
flow rate <0.5million gallons per day (MD)	396.00
flow rate > 0.5 MGD	594.00
Ore Mining	

Major	1,188.00	15-50 Acres	1,540.00
Minor	594.00	50-300 Acres	2,310.00
Major w/ concentration process	2,376.00	Over 300 Acres	3,080.00
Organic Chemicals Manufacturing		Annual UPDES Pesticide Applicator Fee	
Major	1,980.00	Small Applicator	200.00
Minor	594.00	Medium Applicator	500.00
Petroleum Refining		Large Applicator	1,650.00
Major	1,584.00	Underground Injection Control Permit Application Fee	
Minor	594.00	Class I Hazardous Waste Disposal ...	25,000.00
Pharmaceutical Preparations		One time fee	
Major	1,584.00	Class I Non-Hazardous Waste	
Minor	594.00	Disposal	9,000.00
Rubber and Plastic Products		One time fee	
Major	990.00	Class III Solution Mining	7,200.00
Minor	594.00	One time fee	
Space Propulsion		Class V Aquifer Storage and	
Major	2,200.00	Recovery	5,400.00
Minor	594.00	One time fee	
Steam and/or Power Electric Plants		All Other Permits	
Major	792.00	Base (per facility)	770.00
Minor	396.00	Each additional regulated facility	
Water Treatment Plants (Except Political Subdivisions)		(per facility)	770.00
General Permit	110.00	Multi-celled pond system or grouping of facilities with common compliance point is considered one facility	
Annual UPDES Publicly Owned Treatment Works (POTW)		UPDES, ground water, underground injection control, & construction permits not listed above & permit modifications (per hour)	90.00
Large >10 million gallons per day (mgd) flow design (per year)	8,000.00	Except political subdivisions	
Medium >3 mgd but <10 mgd flow design (per year)	5,000.00	Complex facilities where the anticipated permit issuance costs will exceed the above categorical fees by 25% (per hour)	90.00
Small <3mgd but >1 mgd (per year)	1,000.00	Permittee to be notified upon receipt of application	
Very Small <1 mgd (per year)	500.00	Water Quality Cleanup Activities	
Biosolids Annual Fee (Domestic Sludge)		Corrective Action,	
Small Systems (per year)	350.00	Site Investigation/Remediation	
1-4,000 connections		Oversight Administration of Consent	
Medium Systems (per year)	1,015.00	Orders and Agreements and	
4,001 to 15,000 connections		emergency response to spills and	
Large Systems (per year)	1,475.00	water pollution incidents	90.00
greater than 15,000 connections		Actual cost for sample analytical lab work actual cost	
Non-contact Cooling Water		Technical Review of and assistance	
Flow rate <= 10,000 gallons per day (gpd) (per year)	110.00	given (per hour)	90.00
10,000 gpd < Flow rate 100,000 gpd (per year)	220.00	401 Certification reviews and issuance and compliance: permit appeals; and sales and use tax exemptions	
\$500 up to \$1000		Water Quality Loan Origination	
100,000 gpd <Flow rate <1.0 mg (per year)	440.00	1.0% of Loan Amount .....	.01
\$1000 up to \$2000			
Flow Rate > 1.0 mgd (per year)	660.00		
Fee amount is prorated based on flow rate			
General Multi-Sector Industrial Storm Water Permit (per year)	150.00		
General Construction Storm Water Permit > 1 Acre (per year)	150.00		
Municipal Storm Water			
0-5,000 Population (per year)	500.00		
5,001 - 10,000 Population (per year)	800.00		
10,001 - 50,000 Population (per year)	1,200.00		
50,001 - 125,000 Population (per year)	2,000.00		
> 125,000 Population (per year)	3,000.00		
Annual Ground Water Permit Administration Fee			
Tailings/Evaporation/Process Ponds;			
Heaps (per Each)	Actual cost		
0-1 Acre	385.00		
1-15 Acres	770.00		

DRINKING WATER

Safe Drinking Water Regulations Rules	
Bound	50.00
Special Surveys	Actual cost
File Searches	Actual cost
Well Sealing Inspection (per hour+mileage+per diem)	90.00
Special Consulting/Technical Assistance (per hour)	90.00
Operator Certification Program	
Examination	100.00
Any level	
Renewal of certification	100.00
Every 3 years if applied for during designated period	
Reinstatement of lapsed certificate	200.00

Certificate of reciprocity with another state	100.00
Conversion	20.00
Specialist to Operator/Operator to Specialist	
Cross Connection Control Program Certification and Renewal	
Class I	175.00
Class II and III	225.00
Retest	145.00
Certificate of reciprocity with another state	225.00
Replacement Certificate	25.00
Financial Assistance Program Application Processing	Actual cost
Drinking Water Loan Origination 1.0% of Loan Amount .....	.01

SOLID AND HAZARDOUS WASTE

Rules	
Utah Hazardous Waste	10.00
Utah Solid Waste	10.00
Utah Used Oil	5.00
Resource Conservation and Recovery Act (RCRA) Facility List	5.00
Solid and Hazardous Waste Program Administration (including Used Oil and Waste Tire Recycling Programs) Professional (per hour)	90.00
This fee includes but is not limited to: Review of Site Investigation and Site Remediation Plans, Review of Permit Applications, Permit Modifications and Permit Renewals; Review and Oversight of Administrative Consent Orders and Consent Agreements, Judicial Orders, and related compliance activities; Review and Oversight of Construction Activities; Review and Oversight of Corrective Action Activities; and Review and Oversight of Vehicle Manufacturer Mercury Switch Removal and Collection Plans	
Hazardous Waste Permit Filing Hazardous Waste Operation Plan Renewal	1,000.00
Solid Waste Permit Filing (does not apply to Municipalities, Counties, or Special Service Distirctcs seeking review from the Division) New Comm. Facility Class V and Class VI Landfills	1,000.00
New Non-Commercial Facility	750.00
Commercial	5,000.00
Industrial or Private	1,000.00
Plan Renewals and Plan Modifications	100.00
Variance Requests	500.00
Enforceable Written Assurance Letter Flat fee for up to 8 hours to complete letter	500.00
Additional per hour charge if over the original 8 hours	90.00
Waste Tire Recycling Registration Recycler (per year)	100.00
Transporter (per year)	100.00
Fees for registration applications received during the year will be prorated at	

\$8.30/month over the # of months remaining in the year.	
Used Oil Do It Your Selfer and Used Oil Collection Center Registration ..	No charge
Permit filing fee for Transporter, Transfer Facility, Processor/Re-refiner, and Off-Spec Burner	100.00
Plan Review Filing Fee	100.00
Permit Modification Filing Fee	100.00
Annual Registration for Transporter, Transfer Facility, Processor/ Re-refiner, Off-Spec Burner, & Land Application (per year)	100.00
Marketer Registration (per year)	50.00
Permit Filing	50.00
Vehicle Manufacturer Mercury Switch Removal and Collection Plan Mercury Switch Removal and Collection Plan Filing	100.00
Non-Hazardous Solid Waste Polychlorinated Biphenyl (PCBs) (per ton)	4.75
Or fraction of a ton	
Hazardous Waste Flat Fee (per year)	2,414,500.00
Provides for implementation of waste management programs and oversight of the Hazardous Waste Industry in accordance with UCA 19-6-118.	

DEPARTMENT OF AGRICULTURE AND FOOD

ADMINISTRATION

General Administration	
General Administration Produce Dealers	
Produce Dealers	25.00
Dealer's Agent	10.00
Broker/Agent	25.00
Produce Broker	25.00
Livestock Dealer (per dealer)	250.00
Livestock Dealer/Agent (per Agent)	75.00
Livestock Auctions Livestock Auction Market (per Market)	100.00
Auction Weigh Person (per Weigh Person)	25.00
Registered Farms Recording	10.00
Citations, Maximum per Violation	500.00
All Agriculture Divisions Organic Certification Annual registration of producers, handlers, processors or combination	200.00
Fee for inspection (per hour)	28.00
Inspectors' time >40 hours per week (overtime) plus regular fees (per hour)	42.00
Major holidays and Sundays plus regular fees (per min. per hour)	42.00
Gross Sales \$0 to \$5,000: Exempt	Variable
\$10.00 min based on previous calendar year, applies to all Gross Sales Fees	
\$5,001 to \$10,000	100.00

\$10,001 to \$15,000	180.00	Insecticides/Fungicides - Water	205.00
\$15,001 to \$20,000	240.00	Herbicides - Soil/Plants	305.00
\$20,001 to \$25,000	300.00	Insecticides - Soil/Plants	265.00
\$25,001 to \$30,000	360.00	Pesticide	
\$30,001 to \$35,000	420.00	Water	
\$35,001 to \$50,000	600.00	Single Test	205.00
\$50,001 to \$75,000	900.00	Multiresidue Test	275.00
\$75,001 to \$100,000	1,200.00	Non-water	
\$100,001 to \$150,000	1,800.00	Single Test	305.00
\$150,001 to \$280,000	2,240.00	Multiresidue Test	400.00
\$280,001 to \$375,000	3,000.00	Formulation	305.00
\$375,001 to \$500,000	4,000.00	Inorganics	
\$500,001 and up	5,000.00	Undigested	
Certified document	25.00	Testing	Variable
Copies of files		Ag, Al, As, B, Ba, Ca, Cd, Cl, Co, Cr, Cu, Fe,	
Per hour	10.00	K, Mg, Mn, Mo, Na, Ni, P, Pb, S, Se, V, Zn	
Per copy	.25	Prep and First Analyte	25.00
Duplicate	15.00	Additional Analytes	12.00
Internet Access	1.50	Vitamin A	60.00
Late	25.00	Mercury Analysis	85.00
Returned check	15.00	Certification	
Mileage	Variable	Milk Laboratory Evaluation Program	
State rate		Basic Lab	50.00
Meat Inspection		Number of Certified Analyst	30.00
Meat Inspection		3 x \$10.00	
Inspection Service	39.00	Number of Approved Test	30.00
Meat Packing		3 x \$10.00	
Meat Packing Plant	150.00	Total Yearly Assessed	90.00
Custom Exempt	150.00	Standard Plate Count	10.00
T/A (Talmage-Aiken) Official	150.00	Coliform Count	15.00
Packing/Processing Official	150.00	Antibiotic Test	5.00
Chemistry Laboratory		Phosphatase Test	15.00
Chemistry Laboratory		Wisconsin Mastitis Test (WMT)	
Seed, Feed and Meat		Screening Test	5.00
Moisture	20.00	Direct Microscopic Somatic Cell	
Fat	35.00	Count (DMSCC): Confirmation	10.00
Fiber, Crude or ADF (Acid		Direct Somatic Cell Count	
Detergent Fiber)	45.00	(DSCC): Instrumentation	5.00
Proximate analysis (moisture,		Coliform Confirmation	5.00
protein, fat, fiber, ash)	90.00	Container Rinse Test	10.00
Proximate analysis (moisture,		H2O Coliform Total Count	18.00
protein, fiber)	60.00	H2O Coliform Confirmation Test	5.00
Protein	32.00	Butterfat %	10.00
NPN (Non-Protein Nitrogen)	25.00	Babcock method	
Ash	20.00	Added H2O in Raw Milk	5.00
Water Activity	30.00	Reactivated Phosphatase	
Salt	30.00	Confirmation	15.00
Fertilizer		Antibiotic Confirmation Tests	10.00
Nitrogen	32.00	Salmonella Screen	40.00
Available Phosphorous	35.00	E-Coli Screen	30.00
Potash	30.00	Listeria Screen	30.00
Inorganics		All Other Services, per hour	40.00
Digested		The lab performs a variety of tests for other	
Testing	Variable	government agencies. The charges for these	
Ag, Al, As, B, Ba, Ca, Cd, Cl, Co, Cr, Cu, Fe,		tests is determined according to the number	
K, Mg, Mn, Mo, Na, Ni, P, Pb, S, Se, V, Zn		of tests, and based on cost to the Laboratory	
Prep and First Analyte	35.00	and therefore may be different than the fee	
Additional Analytes	22.00	schedule. Because of changing needs, the	
pH	20.00	Laboratory may receive requests for test that	
Water Test I	250.00	are impossible to anticipate and list fully in a	
Al, As, B, Ba, Ca, Cd, Cl, Co, Cr, Cu, Fe, K,		standard fee schedule. Charges for these tests	
Mg, Mn, Mo, Na, Ni, P, Pb, S, Se, Zn		are authorized and are to be based on costs.	
Water Test II	180.00	Campylobacter Screen	40.00
Br, Cl, F, NO3, PO4, CO3, HCO3, CLO4, pH		Charges for other tests performed for other	
Water Quality		government agencies are authorized and are	
Br, Cl, F, NO3, NO2, SO4, PO4, carbonate,		to be based on cost recovery.	
bicarbonate, perchlorate	180.00	Animal Health	
Herbicides - Water	185.00	Animal Health	

Inspection Service	39.00
Commercial Aquaculture Facility	150.00
Commercial Fishing Facility	30.00
Citation	
Per violation	200.00
Per head	2.00
If not paid within 15 days, two times the citation fee; if not paid within 30 days, four times the citation fee.	
Hatchery Operation (Poultry)	25.00
Poultry Dealer License (per dealer)	25.00
Health Certificate Book	8.00
Trichomoniasis Report Book	8.00
Auction Veterinary	
Cattle (per day)	200.00
Sheep (per day)	90.00
Service Fee for Veterinarians	
Per day	250.00
Dog food and brine shrimp, misc.	
Per mile .....	.55
Dog food and brine shrimp, misc.	
Trichomoniasis Ear Tags	2.00
Plant Industry	
Agricultural Inspection	
Shipping Point	
Fruit	
Packages, 19 lb. or less (per package) ...	.02
20 to 29 lb. package (per package) .....	.025
Over 29 lb. package (per package) .....	.03
Bulk load (per hundredweight) .....	.045
Vegetables	
Potatoes (per hundredweight) .....	.06
Onions (per hundredweight) .....	.065
Cucurbita (per hundredweight) .....	.05
Cucurbita family includes: watermelon, muskmelon, squash (summer, fall, and winter), pumpkin, gourd and others.	
Other Vegetables	
Less than 60 lb. package (per package) .....	.035
Over 60 lb. package (per package) ...	.045
Phytosanitary Inspection (per inspection)	50.00
Phytosanitary Inspection with grade certification (per inspection)	15.00
Federal (per inspection)	16.00
One commodity (per certificate)	28.00
Except regular rate at continuous grading facilities	
Mixed loads (per commodity)	28.00
For inspection of raw products at processing plants (per hour)	28.00
For inspectors' time over 40 hrs per week (overtime), plus regular fees (per hour)	42.00
For major holidays and Sundays (per hour)	42.00
4 hour minimum plus regular fees (Holidays include: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.)	
All inspections shall include mileage which will be charged according to the current mileage rate of the State of Utah	Variable
Export Compliance Agreements	50.00
Nursery	

Gross Sales ((\$10.00 min) based on previous calendar year, applies to all Gross Sales Fees)	
\$0 to \$5,000	40.00
\$5,001 to \$100,000	80.00
\$100,001 to \$250,000	120.00
\$250,001 to \$500,000	160.00
\$500,001 and up	200.00
Nursery Agency	50.00
Feed	
Commercial Feed	25.00
Processing	30.00
Custom Formula Permit	75.00
Pesticide	
Commercial Applicator Certification	
4 or less Commercial Pesticide Applicators	75.00
5-9 Commercial Pesticide Applicators	150.00
10 or more Commercial Pesticide Applicators	300.00
Triennial (3 year) Certification and License	45.00
Replacement of lost or stolen certificate/license	15.00
Failed examinations may be retaken two more times at no charge	Variable
Additional re-testing	15.00
Two more times	
Triennial (3 year) examination and educational materials	20.00
Product Registration	60.00
Processing Service	120.00
Dealer License	
Triennial	100.00
Fertilizer	
Blenders License	75.00
Assessment (per ton) .....	.35
Minimum Semiannual Assessment	10.00
Fertilizer Registration	25.00
Processing	30.00
Beekeepers	
Insect Identification	10.00
License	
0 to 20 hives	10.00
21 to 100 hives	25.00
101 to 500 hives	50.00
Inspection (per hour)	28.00
Salvage Wax Registration	10.00
Control Atmosphere	10.00
Seed Purity	
Flowers	12.00
Grains	8.00
Grasses	17.00
Legumes	8.00
Trees and Shrubs	12.00
Vegetables	8.00
Seed Germination	
Flowers	12.00
Grains	8.00
Grasses	12.00
Legumes	8.00
Trees and Shrubs	12.00
Vegetables	8.00
Seed Tetrazolium Test	
Flowers	22.00
Grains	14.00

Grasses	22.00	1,000-5,000 sq. ft., with limited food processing	
Legumes	17.00	Large	250.00
Trees and Shrubs	22.00	Food processor over 1,000 sq. ft. / Grocery store 1,000-50,000 sq. ft. and two or fewer food processing areas / Warehouse 1,000-50,000 sq. ft.	
Vegetables	14.00	Super	400.00
Embryo Analysis (Loose Smut Test)	11.00	Food processor over 20,000 sq. ft. / Grocery store over 50,000 sq. ft. and more than two food processing areas / Warehouse over 50,000 sq. ft.	
Cutting Test	8.00	Special Inspection	
Mill Check (per hour)	Variable	Food and Dairy Inspection	
Examination of Extra Quantity for Other Crop or Weed Seed (per hour)	Variable	Per hour	30.00
Examination for Noxious Weeds Only (per hour)	Variable	Overtime rate	40.00
Identification	No charge	Citations, maximum per violation	500.00
Inspection (per hour)	28.00	Weights and Measures	
Additional Copies of Analysis Reports	1.00	Weighing and measuring devices/ individual servicemen	15.00
Any other inspection service performed (per hour)	28.00	Metrology services (per hour)	35.00
1 hour minimum. Mixtures will be charged based on the sum for each individual kind in excess of 5 percent. Samples which require excessive time, screenings, low grade, dirty, or unusually difficult sample will be charged at the hourly rate. Hourly charges may be made on seed treated with Highly Toxic Substances if special handling is necessary for the Analysts safety. Discount germination is a non-priority service intended for carry-over seed which is ideal for checking inventories from May through August. The discount service is available during the rest of the year, but delays in testing may result due to high test volume of priority samples. Ten or more samples receive a fifty percent discount off normal germination fees.		Base Weights and Measures	
Emergency service for single component only (per sample)	42.00	Small	50.00
Hay and Straw Weed Free Certification		1-3 scales, 1-12 fuel dispensers, 1 meter, 1 large scale, or 1-3 scanners	
Bulk loads of hay up to 10 loads	30.00	Medium	150.00
Hourly rate	28.00	4-15 scales, 13-24 fuel dispensers, 2-3 meters, 2-3 large scales, or 4-15 scanners	
If time involved is 1 hour or less	28.00	Large	250.00
Charge for each hay tag .....	.10	16-25 scales, 25-36 fuel dispensers, 4-6 meters, 4-5 large scales, or 16-25 scanners	
Citations, maximum per violation	500.00	Super	400.00
Regulatory Services		26+ scales, 37+ fuel dispensers, 7+ meters, 6+ large scales, or 26+ scanners	
Regulatory Services		Special Scale Inspections	
Bedding/Upholstered Furniture		Large Capacity Truck (per hour)	25.00
Manufacturers of Bedding and/or Upholstered Furniture	65.00	Large Capacity Truck (per mile)	2.00
Wholesale Dealer	65.00	Large Capacity Truck (per hour)	25.00
Supply Dealer	65.00	Equipment use	
Manufacturers of Quilted Clothing	65.00	Pickup Truck (per hour)	25.00
Upholsterer with employees	50.00	Pickup Truck (per mile)	1.00
Upholsterer without employees	25.00	Pickup Truck (per hour)	20.00
Processing /All Bedding Upholstery		Equipment use	
Licenses	40.00	Overnight Trip (per diem)	Variable
Dairy		Plus cost of hotel	
Test milk for payment	40.00	Petroleum Refinery	
Operate milk manufacturing plant	85.00	Gasoline	
Make butter	40.00	Octane Rating	132.00
Haul farm bulk milk	40.00	Benzene Level	88.00
Make cheese	40.00	Pensky-Martens Flash Point	22.00
Operate a pasteurizer	40.00	Overtime charges (per hour)	33.00
Operate a milk processing plant	85.00	Gravity	11.00
Dairy Products Distributor	85.00	Distillation	28.00
Base Food Inspection		Sulfur, X-ray	39.00
Small	50.00	Reid Vapor Pressure (RVP)	28.00
Less than 1,000 sq. ft. / 4 or fewer employees		Aromatics	55.00
Medium	150.00	Leads	22.00
		Diesel	
		Gravity	28.00
		Distillation	28.00
		Sulfur, X-ray	22.00
		Cloud Point	22.00
		Conductivity	28.00
		Cetane	22.00
		Citations, maximum per violation	500.00
		Certificate of Free Sale	

Single Certificate	25.00
More than 3 pages	55.00
Brand Inspection	
Brand Inspection	
Farm Custom Slaughter	100.00
Estray Animals	Variable
Beef Promotion (per head)	1.50
Cattle only	
Citation (per violation)	200.00
Citation (per head)	2.00
If not paid within 15 days, two times	
citation fee. If not paid within 30 days, four	
times citation fee.	
Brand Inspection	
Special Sales	100.00
Cattle (per head) .....	.75
Horse (per head)	1.00
Sheep (per head) .....	.05
Brand Book	25.00
Show and Seasonal Permits	
Horse	15.00
Cattle	15.00
Horse Permit	
Lifetime	25.00
Duplicate Lifetime	10.00
Lifetime Transfer	10.00
Brand Recording	75.00
Certified copy of Recording (new	
brand card)	5.00
Minimum Charge (per certificate)	10.00
Cattle, Sheep, Hogs, and Horses	
Brand Transfer	50.00
Brand Renewal	50.00
5 year cycle	
Elk Farming	
Elk Inspection New License	300.00
Brand Inspection (per elk)	5.00
Service Charge (per stop, per owner) ...	15.00
Horn Inspection (per set)	1.00
Elk License	
Renewal	300.00
Late	50.00
Utah Horse Commission	
Utah Horse Commission (fees are not to exceed the	
amounts identified)	
Owner/Trainer	100.00
Owner	75.00
Organization	75.00
Trainer	75.00
Assistant trainer	75.00
Jockey	75.00
Jockey Agent	75.00
Veterinarian	75.00
Racing Official	75.00
Racing Organization Manager or	
Official	75.00
Authorized Agent	75.00
Farrier	75.00
Assistant to the Racing Manager or	
Official	75.00
Video Operator	75.00
Photo Finish Operator	75.00
Valet	50.00
Jockey Room Attendant or Custodian ...	50.00
Colors Attendant	50.00
Paddock Attendant	50.00
Pony Rider	50.00

Groom	50.00
Security Guard	50.00
Stable Gate Man	50.00
Security Investigator	50.00
Concessionaire	50.00
Application Processing	25.00
Grain Inspection	
Grain Inspection	
Regular hourly rate (per hour)	28.00
Overtime hourly rate (per hour)	42.00
Official Inspection Services (includes sampling,	
except where indicated)	
Railcar (per car)	25.50
Truck or trailer (per carrier)	13.50
Container Inspection	21.00
Submitted sample (per sample)	9.50
Re-inspection	
Based on new sample (per truck)	10.50
Basis file sample	8.50
Based on new sample rail	20.50
Protein test	
Original or file sample retest	6.50
Oil and starch	6.50
Basis new sample	6.00
Plus sample hourly	
Factor only determination (per factor) ...	4.00
Plus samplers hourly rate, if applicable	
Stowage examination services	
(per certificate)	13.00
A fee for applicant requested certification	
of specific factors (per request)	3.00
Malting barley analysis of non-malting	
class barley, HVAC or DHV percentage	
determination in durum or hard spring	
wheats, etc.	
Extra copies of certificates (per copy) ...	1.00
Insect damaged kernel, determination	
(weevil, bore)	3.00
Sampling only, same as original carrier	
fee, except hopper cars, 4 or more ...	14.00
Mailing sample handling charge	3.00
Plus actual cost	
Sealing rail cars or containers upon	
request over 5 seals per rail car	5.00
Request for services not covered by the	
above fees will be performed at the applicable	
hourly rate stated herein, plus mileage and	
travel time, if applicable. Actual travel time	
will be assessed outside of a 50 mile radius of	
Ogden.	
Non-Official Services	
Safflower Grading	13.00
Class II weighing (per carrier)	6.00
Dark Hard Vitreous kernels (DHV)	
percentage in Hard Red Wheat	4.00
Determination of hard kernel percentage	
in soft white wheat	4.00
Dry Hay Feed Analysis	14.00
Silages (corn or hay) Analysis	20.00
Feed grain Analysis	14.00
Black Light (Alfatoxin)	3.00
Aflatoxin Test	20.00
Strip quick test	
Grain grading instructions (per	
hour, per person)	20.00
Set of check Samples	25.00
Proteins-moisture, Set of 5	

Other Requests (per hour)	Variable
SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION	
SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION	
Administration	
Research on leases or title by staff (per hour)	75.00
Reproduction of Records	
Copies Made By Staff (per copy) . . . . .	.40
Copies - Self-service (per copy) . . . . .	.10
Name change on Administrative Records	
Name Change on Admin. Records -	
Surface Document	15.00
Name Change on Admin. Records -	
Lease (per lease)	15.00
Late fee	6% or \$30, whichever is greater
Fax send only including cover (per page)	1.00
Certified Copies (per document)	10.00
Affidavit of Lost Document (per document)	25.00
Surface	
Easements	
Amendment	400.00
Application	750.00
Assignment	250.00
Collateral Agreement	250.00
Reinstatement	400.00
Exchange	
Application	1,000.00
Grazing Permit	
Amendment	50.00
Application	50.00
Assignment	30.00
Collateral Agreement	50.00
Reinstatement	30.00
Non-Use	20.00
Sublease	
50% of the difference between base grazing fee per Animal Unit Month (AUM) assessed by agency and AUM fee received by the permittee through the sublease multiplied by the number of AUM sublease, or a \$1 per AUM minimum, whichever is greater.	
Modified	
Amendment	50.00
Application	250.00
Assignment	250.00
Collateral Agreement	50.00
Reinstatement	30.00
Letter of Intent	
Application	100.00
Right of Entry	
Amendment	50.00
Application	50.00
Assignment	250.00
Extension of Time	100.00
Processing	50.00
Right of Entry Trailing Permit	
Application plus AUM (Animal Unit Month) fees	50.00
Sales/Certificates	
Application	250.00
Assignment	250.00
Partial Conveyance	250.00

Patent Reissue	50.00
Processing	500.00
Special Use Agreements	
Amendment	400.00
Application	250.00
Assignment	250.00
Collateral Assignment	250.00
Processing	700.00
Reinstatement	400.00
Timber Agreement	
Application	100.00
6 months or less	
Assignment	250.00
6 months or less	
Application	500.00
longer than 6 months	
Assignment	250.00
longer than 6 months	
Extension of Time	250.00
longer than 6 months	
Mineral	
Application	
Materials Permit (Sand and Gravel)	250.00
Mineral Materials Permit	100.00
Mineral Lease	30.00
Rockhounding Permit	
Association	200.00
Individual/Family	10.00
Collateral	50.00
Materials Permit (Sand and Gravel)	200.00
Operating Rights	50.00
Overriding Royalty	50.00
Record Title	50.00
Segregation	100.00
Processing	
Materials Permit (Sand/Gravel)	700.00
Transfer Active Oil and Gas Lease to Current Form	50.00
Utah Interactive Transaction	2.75
Cash Equivalent	3.00
Bank Charge (per incident)	3 percent

PUBLIC EDUCATION

STATE BOARD OF EDUCATION

STATE OFFICE OF EDUCATION

Teaching and Learning	
Conference or Professional	
Development Registration	50.00
Board of Education - Administration	
Indirect Cost Pool	
Restricted Funds	
Percentage of personal service costs	10%
Unrestricted Funds	
Percentage of personal service costs	14%

EDUCATOR LICENSING PROFESSIONAL PRACTICES

Teacher Licensure	
Level I	
Level I	40.00
Utah University Recommended (3 Yrs)	40.00
Student License	20.00
Out of State Application	75.00

District/Charter License	50.00
One Year Extension	25.00
Career and Technology Education	40.00
Level Upgrade	40.00
Renewal	
Active Educators	25.00
Inactive Educators	45.00
Returning Educator Application	35.00
Returning Educator Renewal Recommendation	15.00
Endorsements	
Institutionally or District Approved	20.00
Individual Application	25.00
Duplicates/Replacements	10.00
State Approved Endorsement Program	
Application/Evaluation (State Approved Endorsement Programs) ...	35.00
Letter of Authorization Request	20.00
Alternative Licensure	
Application and Evaluation	75.00
Program Development and Tracking	300.00
License Recommendation	40.00
Finger Printing	
FBI & BCI	25.00
Utah Professional Practices Advisory Commission	15.00

**UTAH SCHOOLS FOR THE
DEAF AND THE BLIND**

Instructional Services	
Instruction	
Teachers Aide	11.58
Student Education Services Aide	26.15
Educator	58.86
After-School Program	30.00
Pre-School Monthly Tuition	75.00
Out-of-State Tuition	50,600.00
Support Services	
Instruction	
Educational Interpreter	36.31
Support Services	
Educator	58.86
Conference Attendance	
Educator - Conference Attendance Fee	100.00
Parent - Conference Attendance Fee ...	25.00
Adult Lunch Tickets	2.00
Copy & Fax Machine	
Fax Machine	1.00
Copy Machine	
Color	1.00
Black/White .....	.10
Athletic (per sport)	100.00
Room Rental	
Dormitory	19.00
Conference	94.00
Multipurpose	188.00

**RETIREMENT AND
INDEPENDENT ENTITIES**

**DEPARTMENT OF HUMAN
RESOURCE MANAGEMENT**

**HUMAN RESOURCES
INTERNAL SERVICE FUND**

ISF - Field Services

Field Services - HR & Payroll Services (per FTE)	628.00
Field Services- HR Services Only (per FTE)	564.00
Per UCA 67-19-13.5, the following agencies are not required to use DHRM payroll services: State Treasurer's Office, State Auditor's Office, Dept. of Technology Services, Dept. of Public Safety, Dept. of Natural Resources, Dept. of Transportation.	
ISF - Legal Services	
Attorney General Legal Fees (per FTE)	24.38

EXECUTIVE APPROPRIATIONS

UTAH NATIONAL GUARD

Armory Maintenance	
Small Commercial/Business	
Armory Rental 4 hr or less Individual or non-profit (per hour)	25.00
Armory Rental >4hr = day individual or non-profit	500.00
Security Attendant (per hour)	15.00
Refundable Cleaning Deposit	100.00
Industrial	
Armory Rental	
Armory Rental 4 hours or less, commercial business (per hour)	100.00
Armory Rental > 4 hours = day, commercial business (per day)	1,000.00
Security Attendant (per hour)	15.00
Refundable Cleaning Deposit	100.00

**DEPARTMENT OF VETERANS'
AND MILITARY AFFAIRS**

Cemetery	
Veterans' Burial	734.00
Cement Burial Vault	700.00
Spouse/Dependent Burial	700.00
Saturday Burial Surcharge	700.00
Lawn Vase	60.00
Disinterment	
Single Depth	600.00
Double Depth	900.00
Cremated Remains Disinterment	150.00
Chapel Rental	125.00

CAPITOL PRESERVATION BOARD

Capitol Hill Grounds	
A, B, C, D	
Commercial Production Grounds/per event (per per day)	2,500.00
Capitol Hill Grounds A, B, C, and D/per event (per day)	2,500.00
Capitol Hill Grounds A, B, C, and D/per hour	750.00
A-South Lawn	
Capitol Hill Grounds A-South Lawn/per event	2,000.00
Capitol Hill Grounds A-South Lawn/per hour	400.00
B-SE Outside of Oval	
Capitol Hill Grounds B-SE Outside of Oval/per event	1,000.00
Capitol Hill Grounds B-SE Outside of Oval/per hour	200.00
C-SW Outside of Oval	
Capitol Hill Grounds C-SW Outside of Oval/per event	1,000.00

Capitol Hill Grounds C-SW Outside of Oval/per hour	200.00
D-West Lawn	
Capitol Hill Grounds D-West Lawn/per event	500.00
Capitol Hill Grounds D-West Lawn/per hour	150.00
South Steps	
South Steps/per event (per event)	500.00
South Steps/per hour (per hour)	125.00
Capitol Hill	
Parking Lot	
Parking Space (per stall per day)	7.00
For events only	
Rotunda	
Commercial Production Rotunda/ per event (per day)	5,000.00
Capitol Hill Rotunda Rental Fee Monday-Thursday (per event)	2,000.00
Capitol Hill Rotunda Rental Fee Friday-Sunday (per event)	2,300.00
Rotunda (2) hour block Mon-Fri during Leg Session (7 a.m.-5:30 p.m.) . .	No charge
The State Capitol Preservation Board may establish the maximum amount of time a person may use a facility.	
Hall of Governors	
Capitol Hill Hall of Governors	1,300.00
Hall of Governors - 2 hour block Mon-Fri during Legislative Session (7:00 a.m.-5:30 p.m.)	No charge
The State Capitol Preservation Board may establish the maximum amount of time a person may use a facility.	
Plaza	
Capitol Hill Plaza/per event	1,300.00
Capitol Hill Plaza/per hour	200.00
Room 170	
General Public, Commercial, & Private Groups Capitol Hill Room #170/per hour	100.00
Capitol Hill Room #170 Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week)	No charge
The State Capitol Preservation Board may establish the maximum amount of time a person may use a facility.	
Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed	
Capitol Hill Room #170/per hour	50.00
Capitol Hill Room #170 Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week)	No charge
The State Capitol Preservation Board may establish the maximum amount of time a person may use a facility.	
Room 210	
General Public, Commercial, & Private Groups Capitol Hill Room #210/per hour	100.00
Capitol Hill Room #210 Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week)	No charge
The State Capitol Preservation Board may establish the maximum amount of time a person may use a facility.	

Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed	
Capitol Hill Room #210/per hour	50.00
Capitol Hill Room #210 Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week)	No charge
The State Capitol Preservation Board may establish the maximum amount of time a person may use a facility.	
State Room	
State Room/per event (per event)	1,000.00
State Room/per hour (per hour)	125.00
Multipurpose Room	
General Public, Commercial, & Private Groups Capitol Hill Multipurpose Room #130/per hour	100.00
Capitol Hill Multipurpose Room #130 Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week) . .	No charge
The State Capitol Preservation Board may establish the maximum amount of time a person may use a facility.	
Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed	
Capitol Hill Multipurpose Room #130/per hour	50.00
Capitol Hill Multipurpose Room #130 Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week) . .	No charge
The State Capitol Preservation Board may establish the maximum amount of time a person may use a facility.	
Board Room	
General Public, Commercial, & Private Groups Capitol Hill Board Room/per hour (per hour)	150.00
General Public, Commercial, and Private Groups	
Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed	
Capitol Hill Board Room/per hour (per hour)	75.00
Nonprofit, Government Nonofficial Business, K-12 & Higher Ed	
Olmsted Room	
General Public, Commercial, & Private Groups Capitol Hill Olmsted Room/ per hour	100.00
Legislative General Session Capitol Hill Olmsted Room Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week) . . .	No charge
Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed	
Capitol Hill Olmsted Room/per hour	50.00
Legislative General Session Capitol Hill Olmsted Room Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week) . . .	No charge
Kletting Room	
General Public, Commercial, & Private Groups Capitol Hill Kletting Room/per hour	100.00
Legislative General Session	

Capitol Hill Kletting Room Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week) ... No charge
 Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed
 Capitol Hill Kletting Room/
 per hour 50.00
 Legislative General Session
 Capitol Hill Kletting Room Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week) ... No charge
Seagull Room
 General Public, Commercial, & Private Groups
 Capitol Hill Seagull Room/
 per hour 100.00
 Legislative General Session
 Capitol Hill Seagull Room Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week) ... No charge
 Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed
 Capitol Hill Seagull Room/
 per hour 50.00
 Legislative General Session
 Capitol Hill Seagull Room Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week) ... No charge
Beehive Room
 General Public, Commercial, & Private Groups
 Capitol Hill Beehive Room/
 per hour 100.00
 Legislative General Session
 Capitol Hill Beehive Room Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week) ... No charge
 Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed
 Capitol Hill Beehive Room/
 per hour 50.00
 Legislative General Session
 Capitol Hill Beehive Room Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week) ... No charge
Copper Room
 General Public, Commercial, & Private Groups
 Capitol Hill Copper Room/
 per hour 100.00
 Legislative General Session
 Capitol Hill Copper Room Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week) ... No charge
 Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed
 Capitol Hill Copper Room/
 per hour 50.00
 Legislative General Session
 Capitol Hill Copper Room Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week) ... No charge
Spruce Room
 General Public, Commercial, & Private Groups
 Capitol Hill Spruce Room/
 per hour 100.00
 Legislative General Session
 Capitol Hill Spruce Room Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week) ... No charge

Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed
 Capitol Hill Spruce Room/per hour ... 50.00
 Legislative General Session
 Capitol Hill Spruce Room Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week) ... No charge
State Office Building Auditorium
 General Public, Commercial, & Private Groups
 State Office Building Auditorium/
 per hour 125.00
 Legislative General Session
 State Office Building Auditorium Mon - Fri, 7:00 a.m.-11 a.m. and 1:30 p.m.-5:30 p.m. during Leg Session (per hour) 125.00
 State Office Building Auditorium Mon - Fri, 11:00 a.m.-1:30 p.m. during Leg Session with the use of preferred caterer No charge
 Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed
 State Office Building Auditorium/
 per hour 75.00
 Legislative General Session
 State Office Building Auditorium Mon - Fri, 7:00 a.m.-11:00 a.m. and 1:30 p.m.-5:30 p.m. during Leg Session (per hour) 75.00
 State Office Building Auditorium Mon - Fri, 11 a.m.-1:30 p.m. during Leg Session with the use of preferred caterer ... No charge
Room 1112
 General Public, Commercial, & Private Groups
 State Office Building Room #1112/
 per hour 100.00
 State Office Building Room #1112 Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week) No charge
 The State Capitol Preservation Board may establish the maximum amount of time a person may use a facility.
 Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed
 State Office Building Room #1112/
 per hour 50.00
 State Office Building Room #1112 Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week) No charge
 The State Capitol Preservation Board may establish the maximum amount of time a person may use a facility.
Room B110
 General Public, Commercial, & Private Groups
 State Office Building Room #B110/per hour 100.00
 State Office Building Room #B110 Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week) No charge
 The State Capitol Preservation Board may establish the maximum amount of time a person may use a facility.
 Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed

State Office Building Room #B110/ per hour	50.00
State Office Building Room #B110 Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week) ..	No charge
The State Capitol Preservation Board may establish the maximum amount of time a person may use a facility.	
White Community Memorial Chapel	
Per day of event	500.00
Noon-midnight rehearsal	250.00
Miscellaneous Other	
Access/Press Badges	25.00
Additional Labor/30 minutes (per person 1/2 hr, per 1/2 hour)	25.00
Additional Personnel/30 minutes (per person 1/2 hr, per 1/2 hour)	25.00
Adjustment/30 minutes (per person 1/2 hour, per)	25.00
Administrative Fee	10.00
Insurance Coverage for Capitol Hill Facilities and Grounds Useage Coverage of \$1,000,000	
Locker Rentals (per year)	40.00
Change in set-up fee/30 minutes (per person 1/2 hour,per)	25.00
Security/hour (per per officer, per hour)	50.00
Baby Grand Piano	200.00
Chairs (per chair)	1.50
Easel	10.00
Extension Cords	5.00
Flags	No charge
Garbage Can	No charge
PA System (Podium & Microphone) with one speaker	50.00
Additional speakers available at a cost of \$15.00 each.	
Free Speech Public Space Useage ..	No charge
Risers (per section)	25.00
Stanchion	10.00
Standing Microphone	15.00
Per Table (per table)	7.00
Upright Piano	50.00
Podium	
With Microphone	35.00
Without Microphone	20.00
POLYCOM Phone Rental	10.00

Section 3. Effective Date.

This bill takes effect on July 1, 2014.

CHAPTER 286**H. B. 10**

Passed February 13, 2014

Approved April 1, 2014

Effective May 13, 2014

(Exception clause in Section 8)

**INJURED WORKER
REEMPLOYMENT AMENDMENTS**

Chief Sponsor: James A. Dunnigan

Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill amends the Workers' Compensation Act to address reemployment of injured workers and repeals the Utah Injured Worker Reemployment Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ addresses the scope of the section on injured worker reemployment;
- ▶ clarifies that the duties of the Utah State Office of Rehabilitation are not affected;
- ▶ authorizes rulemaking by the commission;
- ▶ addresses an initial written report;
- ▶ provides for the evaluation of an injured worker and the development of a reemployment plan;
- ▶ establishes reemployment objectives;
- ▶ imposes requirements on rehabilitation counselors;
- ▶ repeals the Utah Injured Worker Reemployment Act; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an effective date.

Utah Code Sections Affected:**AMENDS:**

34A-2-413, as last amended by Laws of Utah 2011, Chapters 297 and 366

34A-3-102, as last amended by Laws of Utah 2009, Chapter 158

63A-3-501, as last amended by Laws of Utah 2013, Chapter 74

63I-1-234 (Superseded 07/01/14), as last amended by Laws of Utah 2013, Chapters 54 and 144

63I-1-234 (Effective 07/01/14), as last amended by Laws of Utah 2013, Chapters 54, 144, and 417

ENACTS:

34A-2-413.5, Utah Code Annotated 1953

REPEALS:

34A-8a-101, as renumbered and amended by Laws of Utah 2009, Chapter 158

34A-8a-102, as last amended by Laws of Utah 2011, Chapter 366

34A-8a-104, as renumbered and amended by Laws of Utah 2009, Chapter 158

34A-8a-105, as renumbered and amended by Laws of Utah 2009, Chapter 158

34A-8a-201, as renumbered and amended by Laws of Utah 2009, Chapter 158

34A-8a-202, as renumbered and amended by Laws of Utah 2009, Chapter 158

34A-8a-203, as enacted by Laws of Utah 2009, Chapter 158 and last amended by Coordination Clause, Laws of Utah 2009, Chapter 288

34A-8a-204, as renumbered and amended by Laws of Utah 2009, Chapter 158

34A-8a-301, as last amended by Laws of Utah 2011, Chapter 366

34A-8a-302, as last amended by Laws of Utah 2011, Chapter 366

34A-8a-303, as last amended by Laws of Utah 2011, Chapter 366

34A-8a-304, as renumbered and amended by Laws of Utah 2009, Chapter 158

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

Section 1. Section 34A-2-413 is amended to read:**34A-2-413. Permanent total disability -- Amount of payments -- Rehabilitation.**

(1) (a) In the case of a permanent total disability resulting from an industrial accident or occupational disease, the employee shall receive compensation as outlined in this section.

(b) To establish entitlement to permanent total disability compensation, the employee shall prove by a preponderance of evidence that:

(i) the employee sustained a significant impairment or combination of impairments as a result of the industrial accident or occupational disease that gives rise to the permanent total disability entitlement;

(ii) the employee has a permanent, total disability; and

(iii) the industrial accident or occupational disease is the direct cause of the employee's permanent total disability.

(c) To establish that an employee has a permanent, total disability the employee shall prove by a preponderance of the evidence that:

(i) the employee is not gainfully employed;

(ii) the employee has an impairment or combination of impairments that limit the employee's ability to do basic work activities;

(iii) the industrial or occupationally caused impairment or combination of impairments prevent the employee from performing the essential functions of the work activities for which the employee has been qualified until the time of the industrial accident or occupational disease that is the basis for the employee's permanent total disability claim; and

(iv) the employee cannot perform other work reasonably available, taking into consideration the employee's:

(A) age;

- (B) education;
- (C) past work experience;
- (D) medical capacity; and
- (E) residual functional capacity.

(d) Evidence of an employee's entitlement to disability benefits other than those provided under this chapter and Chapter 3, Utah Occupational Disease Act, if relevant:

- (i) may be presented to the commission;
- (ii) is not binding; and

(iii) creates no presumption of an entitlement under this chapter and Chapter 3, Utah Occupational Disease Act.

(e) In determining under Subsections (1)(b) and (c) whether an employee cannot perform other work reasonably available, the following may not be considered:

(i) whether the employee is incarcerated in a facility operated by or contracting with a federal, state, county, or municipal government to house a criminal offender in either a secure or nonsecure setting; or

(ii) whether the employee is not legally eligible to be employed because of a reason unrelated to the impairment or combination of impairments.

(2) For permanent total disability compensation during the initial 312-week entitlement, compensation is 66-2/3% of the employee's average weekly wage at the time of the injury, limited as follows:

(a) compensation per week may not be more than 85% of the state average weekly wage at the time of the injury;

(b) (i) subject to Subsection (2)(b)(ii), compensation per week may not be less than the sum of \$45 per week and:

(A) \$5 for a dependent spouse; and

(B) \$5 for each dependent child under the age of 18 years, up to a maximum of four dependent minor children; and

(ii) the amount calculated under Subsection (2)(b)(i) may not exceed:

(A) the maximum established in Subsection (2)(a); or

(B) the average weekly wage of the employee at the time of the injury; and

(c) after the initial 312 weeks, the minimum weekly compensation rate under Subsection (2)(b) is 36% of the current state average weekly wage, rounded to the nearest dollar.

(3) This Subsection (3) applies to claims resulting from an accident or disease arising out of and in the course of the employee's employment on or before June 30, 1994.

(a) The employer or its insurance carrier is liable for the initial 312 weeks of permanent total disability compensation except as outlined in Section 34A-2-703 as in effect on the date of injury.

(b) The employer or its insurance carrier may not be required to pay compensation for any combination of disabilities of any kind, as provided in this section and Sections 34A-2-410 through 34A-2-412 and Part 5, Industrial Noise, in excess of the amount of compensation payable over the initial 312 weeks at the applicable permanent total disability compensation rate under Subsection (2).

(c) The Employers' Reinsurance Fund shall for an overpayment of compensation described in Subsection (3)(b), reimburse the overpayment:

(i) to the employer or its insurance carrier; and

(ii) out of the Employers' Reinsurance Fund's liability to the employee.

(d) After an employee receives compensation from the employee's employer, its insurance carrier, or the Employers' Reinsurance Fund for any combination of disabilities amounting to 312 weeks of compensation at the applicable permanent total disability compensation rate, the Employers' Reinsurance Fund shall pay all remaining permanent total disability compensation.

(e) Employers' Reinsurance Fund payments shall commence immediately after the employer or its insurance carrier satisfies its liability under this Subsection (3) or Section 34A-2-703.

(4) This Subsection (4) applies to claims resulting from an accident or disease arising out of and in the course of the employee's employment on or after July 1, 1994.

(a) The employer or its insurance carrier is liable for permanent total disability compensation.

(b) The employer or its insurance carrier may not be required to pay compensation for any combination of disabilities of any kind, as provided in this section and Sections 34A-2-410 through 34A-2-412 and Part 5, Industrial Noise, in excess of the amount of compensation payable over the initial 312 weeks at the applicable permanent total disability compensation rate under Subsection (2).

(c) The employer or its insurance carrier may recoup the overpayment of compensation described in Subsection (4) by reasonably offsetting the overpayment against future liability paid before or after the initial 312 weeks.

(5) (a) A finding by the commission of permanent total disability is not final, unless otherwise agreed to by the parties, until:

(i) an administrative law judge reviews a summary of reemployment activities undertaken pursuant to ~~Chapter 8a, Utah Injured Worker Reemployment Act~~ Section 34A-2-413.5;

(ii) the employer or its insurance carrier submits to the administrative law judge:

(A) a reemployment plan as prepared by a qualified rehabilitation provider reasonably

designed to return the employee to gainful employment; or

(B) notice that the employer or its insurance carrier will not submit a plan; and

(iii) the administrative law judge, after notice to the parties, holds a hearing, unless otherwise stipulated, to:

(A) consider evidence regarding rehabilitation; and

(B) review any reemployment plan submitted by the employer or its insurance carrier under Subsection (5)(a)(ii).

(b) Before commencing the procedure required by Subsection (5)(a), the administrative law judge shall order:

(i) the initiation of permanent total disability compensation payments to provide for the employee's subsistence; and

(ii) the payment of any undisputed disability or medical benefits due the employee.

(c) Notwithstanding Subsection (5)(a), an order for payment of benefits described in Subsection (5)(b) is considered a final order for purposes of Section 34A-2-212.

(d) The employer or its insurance carrier shall be given credit for any disability payments made under Subsection (5)(b) against its ultimate disability compensation liability under this chapter or Chapter 3, Utah Occupational Disease Act.

(e) An employer or its insurance carrier may not be ordered to submit a reemployment plan. If the employer or its insurance carrier voluntarily submits a plan, the plan is subject to Subsections (5)(e)(i) through (iii).

(i) The plan may include, but not require an employee to pay for:

(A) retraining;

(B) education;

(C) medical and disability compensation benefits;

(D) job placement services; or

(E) incentives calculated to facilitate reemployment.

(ii) The plan shall include payment of reasonable disability compensation to provide for the employee's subsistence during the rehabilitation process.

(iii) The employer or its insurance carrier shall diligently pursue the reemployment plan. The employer's or insurance carrier's failure to diligently pursue the reemployment plan is cause for the administrative law judge on the administrative law judge's own motion to make a final decision of permanent total disability.

(f) If a preponderance of the evidence shows that successful rehabilitation is not possible, the administrative law judge shall order that the

employee be paid weekly permanent total disability compensation benefits.

(g) If a preponderance of the evidence shows that pursuant to a reemployment plan, as prepared by a qualified rehabilitation provider and presented under Subsection (5)(e), an employee could immediately or without unreasonable delay return to work but for the following, an administrative law judge shall order that the employee be denied the payment of weekly permanent total disability compensation benefits:

(i) incarceration in a facility operated by or contracting with a federal, state, county, or municipal government to house a criminal offender in either a secure or nonsecure setting; or

(ii) not being legally eligible to be employed because of a reason unrelated to the impairment or combination of impairments.

(6) (a) The period of benefits commences on the date the employee acquired the permanent, total disability, as determined by a final order of the commission based on the facts and evidence, and ends:

(i) with the death of the employee; or

(ii) when the employee is capable of returning to regular, steady work.

(b) An employer or its insurance carrier may provide or locate for a permanently totally disabled employee reasonable, medically appropriate, part-time work in a job earning at least minimum wage, except that the employee may not be required to accept the work to the extent that it would disqualify the employee from Social Security disability benefits.

(c) An employee shall:

(i) fully cooperate in the placement and employment process; and

(ii) accept the reasonable, medically appropriate, part-time work.

(d) In a consecutive four-week period when an employee's gross income from the work provided under Subsection (6)(b) exceeds \$500, the employer or insurance carrier may reduce the employee's permanent total disability compensation by 50% of the employee's income in excess of \$500.

(e) If a work opportunity is not provided by the employer or its insurance carrier, an employee with a permanent, total disability may obtain medically appropriate, part-time work subject to the offset provisions of Subsection (6)(d).

(f) (i) The commission shall establish rules regarding the part-time work and offset.

(ii) The adjudication of disputes arising under this Subsection (6) is governed by Part 8, Adjudication.

(g) The employer or its insurance carrier has the burden of proof to show that medically appropriate part-time work is available.

(h) The administrative law judge may:

(i) excuse an employee from participation in any work:

(A) that would require the employee to undertake work exceeding the employee's:

(I) medical capacity; or

(II) residual functional capacity; or

(B) for good cause; or

(ii) allow the employer or its insurance carrier to reduce permanent total disability benefits as provided in Subsection (6)(d) when reasonable, medically appropriate, part-time work is offered, but the employee fails to fully cooperate.

(7) When an employee is rehabilitated or the employee's rehabilitation is possible but the employee has some loss of bodily function, the award shall be for permanent partial disability.

(8) As determined by an administrative law judge, an employee is not entitled to disability compensation, unless the employee fully cooperates with any evaluation or reemployment plan under this chapter or Chapter 3, Utah Occupational Disease Act. The administrative law judge shall dismiss without prejudice the claim for benefits of an employee if the administrative law judge finds that the employee fails to fully cooperate, unless the administrative law judge states specific findings on the record justifying dismissal with prejudice.

(9) (a) The loss or permanent and complete loss of the use of the following constitutes total and permanent disability that is compensated according to this section:

(i) both hands;

(ii) both arms;

(iii) both feet;

(iv) both legs;

(v) both eyes; or

(vi) any combination of two body members described in this Subsection (9)(a).

(b) A finding of permanent total disability pursuant to Subsection (9)(a) is final.

(10) (a) An insurer or self-insured employer may periodically reexamine a permanent total disability claim, except those based on Subsection (9), for which the insurer or self-insured employer had or has payment responsibility to determine whether the employee continues to have a permanent, total disability.

(b) Reexamination may be conducted no more than once every three years after an award is final, unless good cause is shown by the employer or its insurance carrier to allow more frequent reexaminations.

(c) The reexamination may include:

(i) the review of medical records;

(ii) employee submission to one or more reasonable medical evaluations;

(iii) employee submission to one or more reasonable rehabilitation evaluations and retraining efforts;

(iv) employee disclosure of Federal Income Tax Returns;

(v) employee certification of compliance with Section 34A-2-110; and

(vi) employee completion of one or more sworn affidavits or questionnaires approved by the division.

(d) The insurer or self-insured employer shall pay for the cost of a reexamination with appropriate employee reimbursement pursuant to rule for reasonable travel allowance and per diem as well as reasonable expert witness fees incurred by the employee in supporting the employee's claim for permanent total disability benefits at the time of reexamination.

(e) If an employee fails to fully cooperate in the reasonable reexamination of a permanent total disability finding, an administrative law judge may order the suspension of the employee's permanent total disability benefits until the employee cooperates with the reexamination.

(f) (i) If the reexamination of a permanent total disability finding reveals evidence that reasonably raises the issue of an employee's continued entitlement to permanent total disability compensation benefits, an insurer or self-insured employer may petition the Division of Adjudication for a rehearing on that issue. The insurer or self-insured employer shall include with the petition, documentation supporting the insurer's or self-insured employer's belief that the employee no longer has a permanent, total disability.

(ii) If the petition under Subsection (10)(f)(i) demonstrates good cause, as determined by the Division of Adjudication, an administrative law judge shall adjudicate the issue at a hearing.

(iii) Evidence of an employee's participation in medically appropriate, part-time work may not be the sole basis for termination of an employee's permanent total disability entitlement, but the evidence of the employee's participation in medically appropriate, part-time work under Subsection (6) may be considered in the reexamination or hearing with other evidence relating to the employee's status and condition.

(g) In accordance with Section 34A-1-309, the administrative law judge may award reasonable attorney fees to an attorney retained by an employee to represent the employee's interests with respect to reexamination of the permanent total disability finding, except if the employee does not prevail, the attorney fees shall be set at \$1,000. The attorney fees awarded shall be paid by the employer or its insurance carrier in addition to the permanent total disability compensation benefits due.

(h) During the period of reexamination or adjudication, if the employee fully cooperates, each

insurer, self-insured employer, or the Employers' Reinsurance Fund shall continue to pay the permanent total disability compensation benefits due the employee.

(11) If any provision of this section, or the application of any provision to any person or circumstance, is held invalid, the remainder of this section is given effect without the invalid provision or application.

Section 2. Section 34A-2-413.5 is enacted to read:

34A-2-413.5. Injured worker reemployment.

(1) As used in this section:

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

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

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

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

(A) education;

(B) experience; and

(C) physical and mental impairment and condition.

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

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

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

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

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

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

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

(e) "Parties" means:

(i) an injured worker with a disability;

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

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

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

(f) "Reemployment plan" means a written:

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

(ii) definition of the voluntary responsibilities of:

(A) the injured worker with a disability;

(B) the employer; and

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

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

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

(3) This section does not affect the duties of the Utah State Office of Rehabilitation.

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

(5) An employer or the employer's workers' compensation insurance carrier may voluntarily prepare an initial written report assessing an injured worker's need or lack of need for vocational assistance in reemployment if:

(a) it appears that the injured worker is or will be an injured worker with a disability; or

(b) the period of the injured worker's temporary total disability compensation period exceeds 90 days.

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

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

(i) it appears that the injured worker is or will be an injured worker with a disability; or

(ii) the 90-day period described in Subsection (5)(b) ends.

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

(8) Subject to the other provisions of this section, if an injured worker is an injured worker with a disability, the employer or the employer's workers'

compensation insurance carrier may, within 10 days after the day on which the employer or workers' compensation insurance carrier serves the initial written report on the injured worker, refer the injured worker with a disability to:

(a) the Utah State Office of Rehabilitation; or

(b) at the employer's or workers' compensation insurance carrier's option, a private rehabilitation or reemployment service.

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

(a) providing an evaluation; and

(b) developing a reemployment plan.

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

(a) same job, same employer;

(b) modified job, same employer;

(c) same job, new employer;

(d) modified job, new employer;

(e) new job, new employer; or

(f) retraining in a new occupation.

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

(a) modify or in any way affect an existing employee-employer relationship; or

(b) provide an employee with a guarantee or right to employment or continued employment with an employer.

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

Section 3. Section 34A-3-102 is amended to read:

34A-3-102. Chapter to be administered by commission -- Exclusive remedy.

(1) The commission shall administer this chapter through the division, the Division of Adjudication, and the Appeals Board in accordance with Section 34A-2-112.

(2) Subject to the limitations provided in this chapter and, unless otherwise noted, all provisions of Chapter 2, Workers' Compensation Act, [~~and Chapter 8a, Utah Injured Worker Reemployment Act,~~] are incorporated into this chapter and shall be applied to occupational disease claims.

(3) The right to recover compensation under this chapter for diseases or injuries to health sustained

by a Utah employee is the exclusive remedy as outlined in Section 34A-2-105.

Section 4. Section 63A-3-501 is amended to read:

63A-3-501. Definitions.

As used in this part:

(1) (a) "Accounts receivable" or "receivables" means any amount due to a state agency from an entity for which payment has not been received by the state agency that is servicing the debt.

(b) "Accounts receivable" includes unpaid fees, licenses, taxes, loans, overpayments, fines, forfeitures, surcharges, costs, contracts, interest, penalties, restitution to victims, third-party claims, sale of goods, sale of services, claims, and damages.

(2) "Administrative offset" means:

(a) a reduction of an individual's tax refund or other payments due to the individual to reduce or eliminate accounts receivable that the individual owes to a state agency; and

(b) a reduction of an entity's tax refund or other payments due to the entity to reduce or eliminate accounts receivable that the entity owes to a state agency.

(3) "Entity" means an individual, a corporation, partnership, or other organization that pays taxes to or does business with the state.

(4) "Office" means the Office of State Debt Collection established by this part.

(5) "Past due" means any accounts receivable that the state has not received by the payment due date.

(6) "Restitution to victims" means restitution ordered by a court to be paid to a victim of an offense in a criminal or juvenile proceeding.

(7) (a) "State agency" includes:

(i) any department, division, commission, council, board, bureau, committee, office, or other administrative subunit of Utah state government;

(ii) the legislative branch of state government; and

(iii) the judicial branches of state government, including justice courts.

(b) "State agency" does not include:

(i) any institution of higher education;

(ii) except in Subsection 63A-3-502(7)(g), the State Tax Commission; or

(iii) the administrator of the Uninsured Employers' Fund appointed by the Labor Commissioner under Section 34A-2-704, solely for the purposes of collecting money required to be deposited into the Uninsured Employers' Fund under:

(A) Section 34A-1-405;

(B) Title 34A, Chapter 2, Workers' Compensation Act; or

(C) Title 34A, Chapter 3, Utah Occupational Disease Act[; ~~or~~].

[~~(D) Title 34A, Chapter 8a, Utah Injured Worker Reemployment Act.~~]

(8) "Writing-off" means the removal of an accounts receivable from an agency's accounts receivable records but does not necessarily eliminate further collection efforts.

Section 5. Section 63I-1-234 (Superseded 07/01/14) is amended to read:

63I-1-234 (Superseded 07/01/14). Repeal dates, Titles 34 and 34A.

(1) Title 34, Chapter 47, Worker Classification Coordinated Enforcement Act, is repealed July 1, 2016.

(2) Section 34A-2-202.5 is repealed December 31, 2020.

(3) Section 34A-2-705 and Subsection 59-9-101(2)(c)(iv) are repealed July 1, 2018.

[~~(4) Title 34A, Chapter 8a, Utah Injured Worker Reemployment Act, is repealed July 1, 2014.~~]

Section 6. Section 63I-1-234 (Effective 07/01/14) is amended to read:

63I-1-234 (Effective 07/01/14). Repeal dates, Titles 34 and 34A.

(1) Title 34, Chapter 47, Worker Classification Coordinated Enforcement Act, is repealed July 1, 2016.

(2) Section 34A-2-202.5 is repealed December 31, 2020.

(3) Section 34A-2-705 and Subsection 59-9-101(2)(c)(iv) are repealed July 1, 2018.

[~~(4) Title 34A, Chapter 8a, Utah Injured Worker Reemployment Act, is repealed July 1, 2014.~~]

[~~(5)~~] (4) Section 34A-2-213, Coordination of benefits with health benefit plan -- Timely payment of claims, is repealed July 1, 2018.

Section 7. Repealer.

This bill repeals:

Section 34A-8a-101, Title -- Intent statement.

Section 34A-8a-102, Definitions.

Section 34A-8a-104, Application.

Section 34A-8a-105, Duties of Utah State Office of Rehabilitation not affected.

Section 34A-8a-201, Chapter administration.

Section 34A-8a-202, Rulemaking authority.

Section 34A-8a-203, Reporting.

Section 34A-8a-204, Administrative review.

Section 34A-8a-301, Initial report on injured worker.

Section 34A-8a-302, Evaluation of injured worker -- Reemployment plan.

Section 34A-8a-303, Reemployment objectives.

Section 34A-8a-304, Rehabilitation counselor.

Section 8. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 13, 2014.

(2) The amendments to Section 63I-1-234 (Effective 07/01/14) take effect on July 1, 2014.

CHAPTER 287**H. B. 13**

Passed February 13, 2014

Approved April 1, 2014

Effective May 13, 2014

RURAL WASTE DISPOSAL

Chief Sponsor: Ronda Rudd Menlove

Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill amends Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act.

Highlighted Provisions:

This bill:

- ▶ allows an individual to dispose of nonhazardous solid waste under certain circumstances.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

19-6-124, Utah Code Annotated 1953

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

Section 1. Section 19-6-124 is enacted to read:**19-6-124. Burial of nonhazardous solid waste by an individual.**

(1) Notwithstanding any other provision of this chapter, an individual may bury nonhazardous solid waste on the individual's own property if:

(a) the individual lives in an area where no public or duly licensed waste disposal service is available;

(b) the individual owns the nonhazardous solid waste; and

(c) the nonhazardous solid waste is generated on the individual's private property.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board may make rules necessary for the administration of this section.

CHAPTER 288**H. B. 20**

Passed March 5, 2014

Approved April 1, 2014

Effective May 13, 2014

**EMERGENCY VEHICLE OPERATOR
DUTY OF CARE REVISIONS**Chief Sponsor: Brad L. Dee
Senate Sponsor: Todd Weiler**LONG TITLE****General Description:**

This bill modifies the Traffic Code by amending provisions relating to the duty of care for certain emergency vehicle operators.

Highlighted Provisions:

This bill:

- ▶ provides definitions;
- ▶ provides that the operator of a marked authorized emergency vehicle owes no duty of care to a person who is:
 - a suspect in the commission of a crime and evading, fleeing, or otherwise attempting to elude the operator of a marked authorized emergency vehicle; or
 - in a motor vehicle with the suspect, unless it is proven by a preponderance of the evidence that the person's presence in the motor vehicle was involuntary and the person's participation in evading, fleeing, or attempting to elude was involuntary;
- ▶ provides that an operator of a marked authorized emergency vehicle may be held liable for a fleeing suspect's injuries in certain circumstances;
- ▶ provides that if an operator of a marked authorized emergency vehicle complies with certain requirements while operating the marked authorized emergency vehicle, the operator shall be deemed to have met the operator's duty to act as a reasonably prudent emergency vehicle operator under the circumstances; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-6a-212, as last amended by Laws of Utah 2008, Chapter 382

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

Section 1. Section 41-6a-212 is amended to read:**41-6a-212. Emergency vehicles -- Policy regarding vehicle pursuits -- Applicability of traffic law to highway work vehicles -- Exemptions.**

(1) As used in this section, "marked authorized emergency vehicle" means an authorized emergency vehicle that:

(a) has emergency lights that comply with Section 41-6a-1601 affixed to the top of the vehicle; or

(b) is displaying an identification mark designating the vehicle as the property of an entity that is authorized to operate emergency vehicles in a conspicuous place on both sides of the vehicle.

~~[(1)]~~ (2) Subject to Subsections ~~[(2)]~~ (3) through ~~[(5)]~~ (6), the operator of an authorized emergency vehicle may exercise the privileges granted under this section when:

- (a) responding to an emergency call;
- (b) in the pursuit of an actual or suspected violator of the law; or
- (c) responding to but not upon returning from a fire alarm.

~~[(2)]~~ (3) The operator of an authorized emergency vehicle may:

- (a) park or stand, irrespective of the provisions of this chapter;
- (b) proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
- (c) exceed the maximum speed limits, unless prohibited by a local highway authority under Section 41-6a-208; or
- (d) disregard regulations governing direction of movement or turning in specified directions.

~~[(3)]~~ (4) (a) Except as provided in Subsection ~~[(3)]~~ (4)(b), privileges granted under this section to the operator of an authorized emergency vehicle, who is not involved in a vehicle pursuit, apply only when:

- (i) the operator of the vehicle sounds an audible signal under Section 41-6a-1625; or
- (ii) uses a visual signal with emergency lights in accordance with rules made under Section 41-6a-1601, which is visible from in front of the vehicle.

(b) An operator of an authorized emergency vehicle may exceed the maximum speed limit when engaged in normal patrolling activities with the purpose of identifying and apprehending violators.

~~[(4)]~~ (5) Privileges granted under this section to the operator of an authorized emergency vehicle involved in any vehicle pursuit apply only when:

- (a) the operator of the vehicle:
 - (i) sounds an audible signal under Section 41-6a-1625; and
 - (ii) uses a visual signal with emergency lights in accordance with rules made under Section 41-6a-1601, which is visible from in front of the vehicle;

(b) the public agency employing the operator of the vehicle has, in effect, a written policy which describes the manner and circumstances in which any vehicle pursuit should be conducted and terminated;

(c) the operator of the vehicle has been trained in accordance with the written policy described in Subsection ~~[(4)]~~ (5)(b); and

(d) the pursuit policy of the public agency is in conformance with standards established under Subsection ~~[(5)]~~ (6).

~~[(5)]~~ (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Department of Public Safety shall make rules providing minimum standards for all emergency pursuit policies that are adopted by public agencies authorized to operate emergency pursuit vehicles.

~~[(6) The]~~ (7) (a) Except as provided in Subsection (7)(b), the privileges granted under this section do not relieve the operator of an authorized emergency vehicle of the duty to act as a reasonably prudent emergency vehicle operator ~~[in like]~~ under the circumstances.

(b) The operator of a marked authorized emergency vehicle owes no duty of care under this Subsection (7) to a person who is:

(i) (A) a suspect in the commission of a crime; and

(B) evading, fleeing, or otherwise attempting to elude the operator of a marked authorized emergency vehicle; or

(ii) in a motor vehicle with the suspect described in Subsection (7)(b)(i), unless it is proven by a preponderance of the evidence that:

(A) the person's presence in the vehicle was involuntary; and

(B) the person's participation in evading, fleeing, or attempting to elude was involuntary.

(c) (i) Notwithstanding Subsection (7)(b), an operator of a marked authorized emergency vehicle may be held liable for a fleeing suspect's injuries if the operator of a marked authorized emergency vehicle had actual intent to cause harm to the fleeing suspect in an act that was unrelated to the legitimate object of the arrest.

(ii) "Actual intent" under this Subsection (7)(c) means a malicious motive to cause injury, not merely an intent to do the act resulting in the injury.

(d) If an operator of a marked authorized emergency vehicle complies with the requirements described in Subsections (5) and (6) while operating the marked authorized emergency vehicle, the operator shall be deemed to have met the operator's duty to act as a reasonably prudent emergency vehicle operator under the circumstances.

~~[(7)]~~ (8) Except for Sections 41-6a-210, 41-6a-502, and 41-6a-528, this chapter does not apply to persons, motor vehicles, and other equipment while actually engaged in work on the surface of a highway.

CHAPTER 289**H. B. 22**

Passed February 6, 2014

Approved April 1, 2014

Effective May 13, 2014

WORKFORCE SERVICES AMENDMENTS

Chief Sponsor: Rebecca P. Edwards

Senate Sponsor: Aaron Osmond

LONG TITLE**General Description:**

This bill modifies provisions of Title 35A, Chapter 4, Employment Security Act, related to unemployment insurance.

Highlighted Provisions:

This bill:

- ▶ removes a provision regarding the overlapping of base periods when determining when certain benefit costs will not be charged to an employer; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

35A-4-307, as last amended by Laws of Utah 2012, Chapter 54

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

Section 1. Section 35A-4-307 is amended to read:**35A-4-307. Social costs -- Relief of charges.**

(1) Social costs [~~shall consist of those benefit costs defined as follows~~] consist of the following benefit costs:

(a) Benefit costs of an individual will not be charged to a base-period employer [~~, but will be~~] and are considered social costs if the individual's separation from that employer occurred under [any of] the following circumstances:

(i) the individual was discharged by the employer or voluntarily quit employment with the employer for disqualifying reasons, but subsequently requalified for benefits and actually received benefits;

(ii) the individual received benefits following a quit which was not attributable to the employer;

(iii) the individual received benefits following a discharge for nonperformance due to medical reasons;

(iv) the individual received benefits while attending the first week of mandatory apprenticeship training; or

(v) the individual received benefits after quitting voluntarily to accompany or follow a spouse who is a member of the United States armed forces as described in Subsection 35A-4-405(1)(e).

(b) Social costs are benefit costs [~~which~~] that are or have been charged to [~~employers~~] an employer who [~~have~~] has terminated coverage and [~~are~~] is no longer liable for contributions, less the amount of contributions paid by [~~such employers~~] the employer during the same time period.

(c) The difference between the benefit charges of all employers whose benefit ratio exceeds the maximum overall contribution rate and the amount determined by multiplying the taxable payroll of the same employers by the maximum overall contribution rate is a social cost.

(d) Benefit costs attributable to a concurrent base-period employer will not be charged to that employer if the individual's customary hours of work for that employer have not been reduced.

(e) Benefit costs incurred during the course of division-approved training [~~which occurs after December 31, 1985,~~] will not be charged to base-period employers.

(f) Benefit costs will not be charged to employers if [~~such~~] the costs are attributable to:

(i) the state's share of extended benefits;

(ii) uncollectible benefit overpayments; or

(iii) the proportion of benefit costs of combined wage claims that are chargeable to Utah employers and are insufficient when separately considered for a monetary eligible claim under Utah law and which have been transferred to a paying state[; and].

[~~(iv) benefit costs attributable to wages used in a previous benefit year that are available for a second benefit year under Subsection 35A-4-401(2) because of a change in method of computing base periods, overlapping base periods, or for other reasons required by law.~~]

(g) [~~Any benefit~~] Benefit costs that are not charged to an employer and not [~~defined~~] described in this Subsection (1) are also social costs.

(2) Subsection (1) applies only to contributing employers and not to employers that have elected to finance the payment of benefits in accordance with Section 35A-4-309 or 35A-4-311.

CHAPTER 290**H. B. 24**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

(Exception clause in Section 70)

INSURANCE RELATED AMENDMENTS

Chief Sponsor: James A. Dunnigan

Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill modifies Title 31A, Insurance Code, and other related provisions, to address the regulation of insurance.

Highlighted Provisions:

This bill:

- ▶ amends definition provisions;
- ▶ provides for insurance fraud investigators being designated as law enforcement officers;
- ▶ changes the date captive insurance companies are to pay a fee;
- ▶ addresses what constitutes a qualified insurer;
- ▶ modifies requirements for a plan of orderly withdrawal from writing a line of insurance;
- ▶ addresses notice requirements related to a request for a hearing;
- ▶ modifies calculations related to interest payable on life insurance proceeds;
- ▶ addresses uninsured and underinsured motorist coverage;
- ▶ addresses preferred provider contract provisions;
- ▶ addresses coverage of mental health and substance use disorders;
- ▶ modifies requirements for the uniform application form and the uniform waiver of coverage form;
- ▶ amends language regarding the health benefit plan on the Health Insurance Exchange;
- ▶ amends language regarding open enrollment provisions;
- ▶ modifies language regarding dental and vision policies being offered on the Health Insurance Exchange;
- ▶ clarifies language related to the designated responsible licensed individual;
- ▶ clarifies references to the Violent Crime Control and Law Enforcement Act;
- ▶ modifies references to state of residence to home state;
- ▶ addresses requirements related to licensing when a person establishes legal residence in the state;
- ▶ changes requirements related to the commissioner placing a licensee on probation;
- ▶ repeals language related to a voluntarily surrendered license that is reinstated upon completion of continuing education requirements;

- ▶ modifies certain exemptions from continuing education requirements;
- ▶ clarifies training period requirements;
- ▶ changes a navigator license term to one year;
- ▶ provides for training periods for a navigator license;
- ▶ modifies continuing education requirements for a navigator;
- ▶ repeals the requirement that the commissioner publish a list of professional designations whose continuing education requirements could be used for certain circumstances related to navigators;
- ▶ modifies provisions related to inducements;
- ▶ addresses license compensation provisions;
- ▶ makes navigator licensees subject to unfair marketing practice restrictions;
- ▶ amends definitions specific to insurance adjusters' chapter;
- ▶ exempts an applicant for the crop insurance license class from certain requirements;
- ▶ modifies the definition of receiver;
- ▶ addresses the provisions related to the receivership court's seizure order;
- ▶ amends the purpose statement, definition, and applicability and scope provisions for the Individual, Small Employer, and Group Health Insurance Act;
- ▶ addresses the surcharge for groups changing carriers;
- ▶ addresses eligibility for the small employer and individual market;
- ▶ modifies the provisions related to appointment of insurance producers and the Health Insurance Exchange;
- ▶ modifies Health Insurance Exchange disclosure requirements;
- ▶ requires a captive insurance company, rather than an association captive insurance company or industrial insured group, to file a specified report;
- ▶ corrects a reference to a covered employee;
- ▶ changes reference to a multiple coordinated policy to a master policy;
- ▶ includes reference to the defined contribution arrangement market into the Defined Contribution Risk Adjuster Act;
- ▶ modifies definitions in the Small Employer Stop-Loss Insurance Act;
- ▶ addresses stop-loss insurance coverage standards, stop-loss restrictions, filing requirements, and stop-loss insurance disclosure;
- ▶ modifies commissioner's rulemaking authority under the Small Employer Stop-Loss Insurance Act; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an effective date.

This bill provides revisor instructions.

Utah Code Sections Affected:**AMENDS:**

31A-1-301, as last amended by Laws of Utah 2013, Chapter 319

31A-2-104, as last amended by Laws of Utah 1999,

Chapter 21	31A-26-102, as last amended by Laws of Utah 2012, Chapter 151
31A-3-304 (Superseded 07/01/15), as last amended by Laws of Utah 2011, Chapter 284	31A-26-206, as last amended by Laws of Utah 2011, Chapter 284
31A-3-304 (Effective 07/01/15), as last amended by Laws of Utah 2013, Chapter 319	31A-26-207, as last amended by Laws of Utah 2001, Chapter 116
31A-4-102, as last amended by Laws of Utah 2008, Chapter 345	31A-26-213, as last amended by Laws of Utah 2011, Chapter 284
31A-4-115, as last amended by Laws of Utah 2002, Chapter 308	31A-26-214, as last amended by Laws of Utah 2008, Chapter 382
31A-8-402.3, as last amended by Laws of Utah 2004, Chapter 329	31A-26-214.5, as last amended by Laws of Utah 2009, Chapter 349
31A-16-103, as last amended by Laws of Utah 2004, Chapter 2	31A-27a-102, as last amended by Laws of Utah 2008, Chapter 382
31A-17-607, as last amended by Laws of Utah 2001, Chapter 116	31A-27a-107, as enacted by Laws of Utah 2007, Chapter 309
31A-22-305, as last amended by Laws of Utah 2013, Chapter 460	31A-27a-201, as enacted by Laws of Utah 2007, Chapter 309
31A-22-305.3, as last amended by Laws of Utah 2013, Chapter 460	31A-27a-701, as last amended by Laws of Utah 2011, Chapter 297
31A-22-428, as enacted by Laws of Utah 2008, Chapter 345	31A-29-106, as last amended by Laws of Utah 2013, Chapter 319
31A-22-617, as last amended by Laws of Utah 2013, Chapters 104 and 319	31A-29-111, as last amended by Laws of Utah 2012, Chapters 158 and 347
31A-22-618.5, as last amended by Laws of Utah 2013, Chapter 319	31A-29-115, as last amended by Laws of Utah 2004, Chapter 2
31A-22-625, as last amended by Laws of Utah 2012, Chapter 253	31A-30-102, as last amended by Laws of Utah 2009, Chapter 12
31A-22-635, as last amended by Laws of Utah 2012, Chapters 253 and 279	31A-30-103, as last amended by Laws of Utah 2013, Chapter 168
31A-22-721, as last amended by Laws of Utah 2011, Chapter 284	31A-30-104, as last amended by Laws of Utah 2013, Chapters 168 and 341
31A-23a-102, as last amended by Laws of Utah 2013, Chapter 319	31A-30-106, as last amended by Laws of Utah 2011, Chapter 284
31A-23a-104, as last amended by Laws of Utah 2012, Chapter 253	31A-30-106.7, as last amended by Laws of Utah 2008, Chapter 382
31A-23a-105, as last amended by Laws of Utah 2013, Chapter 319	31A-30-107, as last amended by Laws of Utah 2009, Chapter 12
31A-23a-108, as last amended by Laws of Utah 2012, Chapter 253	31A-30-108, as last amended by Laws of Utah 2011, Chapter 284
31A-23a-112, as last amended by Laws of Utah 2008, Chapter 382	31A-30-207, as last amended by Laws of Utah 2011, Second Special Session, Chapter 5
31A-23a-113, as last amended by Laws of Utah 2012, Chapter 253	31A-30-209, as last amended by Laws of Utah 2011, Chapter 400
31A-23a-202, as last amended by Laws of Utah 2013, Chapter 319	31A-30-211, as last amended by Laws of Utah 2011, Second Special Session, Chapter 5
31A-23a-203, as last amended by Laws of Utah 2012, Chapter 253	31A-37-501, as last amended by Laws of Utah 2008, Chapter 302
31A-23a-402.5, as last amended by Laws of Utah 2013, Chapter 319	31A-40-203, as enacted by Laws of Utah 2008, Chapter 318
31A-23a-501, as last amended by Laws of Utah 2013, Chapter 341	31A-40-209, as enacted by Laws of Utah 2008, Chapter 318
31A-23b-102, as enacted by Laws of Utah 2013, Chapter 341	31A-42-202, as last amended by Laws of Utah 2011, Chapter 400
31A-23b-202, as enacted by Laws of Utah 2013, Chapter 341	31A-43-102, as enacted by Laws of Utah 2013, Chapter 341
31A-23b-205, as enacted by Laws of Utah 2013, Chapter 341	31A-43-301, as enacted by Laws of Utah 2013, Chapter 341
31A-23b-206, as enacted by Laws of Utah 2013, Chapter 341	31A-43-302, as enacted by Laws of Utah 2013, Chapter 341
31A-23b-301, as enacted by Laws of Utah 2013, Chapter 341	31A-43-303, as enacted by Laws of Utah 2013, Chapter 341
31A-23b-402, as enacted by Laws of Utah 2013, Chapter 341	31A-43-304, as enacted by Laws of Utah 2013, Chapter 341
31A-25-208, as last amended by Laws of Utah 2011, Chapter 284	53-13-103, as last amended by Laws of Utah 2011, Chapter 58
31A-25-209, as last amended by Laws of Utah 2008, Chapter 382	

REPEALS:

31A-30-110, as last amended by Laws of Utah 2011, Chapters 284 and 297
 31A-30-111, as last amended by Laws of Utah 2002, Chapter 308Utah Code Sections Affected by Revisor Instructions:
 31A-22-305, as last amended by Laws of Utah 2013, Chapter 460
 31A-22-305.3, as last amended by Laws of Utah 2013, Chapter 460

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

Section 1. Section 31A-1-301 is amended to read:

31A-1-301. Definitions.

As used in this title, unless otherwise specified:

(1) (a) "Accident and health insurance" means insurance to provide protection against economic losses resulting from:

(i) a medical condition including:

(A) a medical care expense; or

(B) the risk of disability;

(ii) accident; or

(iii) sickness.

(b) "Accident and health insurance":

(i) includes a contract with disability contingencies including:

(A) an income replacement contract;

(B) a health care contract;

(C) an expense reimbursement contract;

(D) a credit accident and health contract;

(E) a continuing care contract; and

(F) a long-term care contract; and

(ii) may provide:

(A) hospital coverage;

(B) surgical coverage;

(C) medical coverage;

(D) loss of income coverage;

(E) prescription drug coverage;

(F) dental coverage; or

(G) vision coverage.

(c) "Accident and health insurance" does not include workers' compensation insurance.

(2) "Actuary" is as defined by the commissioner by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) "Administrator" is defined in Subsection [~~163~~] (164).

(4) "Adult" means an individual who has attained the age of at least 18 years.

(5) "Affiliate" means a person who controls, is controlled by, or is under common control with, another person. A corporation is an affiliate of another corporation, regardless of ownership, if substantially the same group of individuals manage the corporations.

(6) "Agency" means:

(a) a person other than an individual, including a sole proprietorship by which an individual does business under an assumed name; and

(b) an insurance organization licensed or required to be licensed under Section 31A-23a-301, 31A-25-207, or 31A-26-209.

(7) "Alien insurer" means an insurer domiciled outside the United States.

(8) "Amendment" means an endorsement to an insurance policy or certificate.

(9) "Annuity" means an agreement to make periodical payments for a period certain or over the lifetime of one or more individuals if the making or continuance of all or some of the series of the payments, or the amount of the payment, is dependent upon the continuance of human life.

(10) "Application" means a document:

(a) (i) completed by an applicant to provide information about the risk to be insured; and

(ii) that contains information that is used by the insurer to evaluate risk and decide whether to:

(A) insure the risk under:

(I) the coverage as originally offered; or

(II) a modification of the coverage as originally offered; or

(B) decline to insure the risk; or

(b) used by the insurer to gather information from the applicant before issuance of an annuity contract.

(11) "Articles" or "articles of incorporation" means:

(a) the original articles;

(b) a special law;

(c) a charter;

(d) an amendment;

(e) restated articles;

(f) articles of merger or consolidation;

(g) a trust instrument;

(h) another constitutive document for a trust or other entity that is not a corporation; and

(i) an amendment to an item listed in Subsections (11)(a) through (h).

(12) "Bail bond insurance" means a guarantee that a person will attend court when required, up to and including surrender of the person in execution of a sentence imposed under Subsection

77-20-7(1), as a condition to the release of that person from confinement.

(13) "Binder" is defined in Section 31A-21-102.

(14) "Blanket insurance policy" means a group policy covering a defined class of persons:

(a) without individual underwriting or application; and

(b) that is determined by definition without designating each person covered.

(15) "Board," "board of trustees," or "board of directors" means the group of persons with responsibility over, or management of, a corporation, however designated.

(16) "Bona fide office" means a physical office in this state:

(a) that is open to the public;

(b) that is staffed during regular business hours on regular business days; and

(c) at which the public may appear in person to obtain services.

(17) "Business entity" means:

(a) a corporation;

(b) an association;

(c) a partnership;

(d) a limited liability company;

(e) a limited liability partnership; or

(f) another legal entity.

(18) "Business of insurance" is defined in Subsection (88).

(19) "Business plan" means the information required to be supplied to the commissioner under Subsections 31A-5-204(2)(i) and (j), including the information required when these subsections apply by reference under:

(a) Section 31A-7-201;

(b) Section 31A-8-205; or

(c) Subsection 31A-9-205(2).

(20) (a) "Bylaws" means the rules adopted for the regulation or management of a corporation's affairs, however designated.

(b) "Bylaws" includes comparable rules for a trust or other entity that is not a corporation.

(21) "Captive insurance company" means:

(a) an insurer:

(i) owned by another organization; and

(ii) whose exclusive purpose is to insure risks of the parent organization and an affiliated company; or

(b) in the case of a group or association, an insurer:

(i) owned by the insureds; and

(ii) whose exclusive purpose is to insure risks of:

(A) a member organization;

(B) a group member; or

(C) an affiliate of:

(I) a member organization; or

(II) a group member.

(22) "Casualty insurance" means liability insurance.

(23) "Certificate" means evidence of insurance given to:

(a) an insured under a group insurance policy; or

(b) a third party.

(24) "Certificate of authority" is included within the term "license."

(25) "Claim," unless the context otherwise requires, means a request or demand on an insurer for payment of a benefit according to the terms of an insurance policy.

(26) "Claims-made coverage" means an insurance contract or provision limiting coverage under a policy insuring against legal liability to claims that are first made against the insured while the policy is in force.

(27) (a) "Commissioner" or "commissioner of insurance" means Utah's insurance commissioner.

(b) When appropriate, the terms listed in Subsection (27)(a) apply to the equivalent supervisory official of another jurisdiction.

(28) (a) "Continuing care insurance" means insurance that:

(i) provides board and lodging;

(ii) provides one or more of the following:

(A) a personal service;

(B) a nursing service;

(C) a medical service; or

(D) any other health-related service; and

(iii) provides the coverage described in this Subsection (28)(a) under an agreement effective:

(A) for the life of the insured; or

(B) for a period in excess of one year.

(b) Insurance is continuing care insurance regardless of whether or not the board and lodging are provided at the same location as a service described in Subsection (28)(a)(ii).

(29) (a) "Control," "controlling," "controlled," or "under common control" means the direct or indirect possession of the power to direct or cause the direction of the management and policies of a person. This control may be:

(i) by contract;

- (ii) by common management;
- (iii) through the ownership of voting securities; or
- (iv) by a means other than those described in Subsections (29)(a)(i) through (iii).

(b) There is no presumption that an individual holding an official position with another person controls that person solely by reason of the position.

(c) A person having a contract or arrangement giving control is considered to have control despite the illegality or invalidity of the contract or arrangement.

(d) There is a rebuttable presumption of control in a person who directly or indirectly owns, controls, holds with the power to vote, or holds proxies to vote 10% or more of the voting securities of another person.

(30) "Controlled insurer" means a licensed insurer that is either directly or indirectly controlled by a producer.

(31) "Controlling person" means a person that directly or indirectly has the power to direct or cause to be directed, the management, control, or activities of a reinsurance intermediary.

(32) "Controlling producer" means a producer who directly or indirectly controls an insurer.

(33) (a) "Corporation" means an insurance corporation, except when referring to:

- (i) a corporation doing business:

(A) as:

- (I) an insurance producer;
- (II) a surplus lines producer;
- (III) a limited line producer;
- (IV) a consultant;
- (V) a managing general agent;
- (VI) a reinsurance intermediary;
- (VII) a third party administrator; or
- (VIII) an adjuster; and

(B) under:

(I) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries;

(II) Chapter 25, Third Party Administrators; or

(III) Chapter 26, Insurance Adjusters; or

(ii) a noninsurer that is part of a holding company system under Chapter 16, Insurance Holding Companies.

(b) "Stock corporation" means a stock insurance corporation.

(c) "Mutual" or "mutual corporation" means a mutual insurance corporation.

(34) (a) "Creditable coverage" has the same meaning as provided in federal regulations adopted pursuant to the Health Insurance Portability and Accountability Act.

(b) "Creditable coverage" includes coverage that is offered through a public health plan such as:

(i) the Primary Care Network Program under a Medicaid primary care network demonstration waiver obtained subject to Section 26-18-3;

(ii) the Children's Health Insurance Program under Section 26-40-106; or

(iii) the Ryan White Program Comprehensive AIDS Resources Emergency Act, Pub. L. 101-381, and Ryan White HIV/AIDS Treatment Modernization Act of 2006, Pub. L. 109-415.

(35) "Credit accident and health insurance" means insurance on a debtor to provide indemnity for payments coming due on a specific loan or other credit transaction while the debtor has a disability.

(36) (a) "Credit insurance" means insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation.

(b) "Credit insurance" includes:

- (i) credit accident and health insurance;
- (ii) credit life insurance;
- (iii) credit property insurance;
- (iv) credit unemployment insurance;
- (v) guaranteed automobile protection insurance;
- (vi) involuntary unemployment insurance;
- (vii) mortgage accident and health insurance;
- (viii) mortgage guaranty insurance; and
- (ix) mortgage life insurance.

(37) "Credit life insurance" means insurance on the life of a debtor in connection with an extension of credit that pays a person if the debtor dies.

(38) "Credit property insurance" means insurance:

(a) offered in connection with an extension of credit; and

(b) that protects the property until the debt is paid.

(39) "Credit unemployment insurance" means insurance:

(a) offered in connection with an extension of credit; and

(b) that provides indemnity if the debtor is unemployed for payments coming due on a:

(i) specific loan; or

(ii) credit transaction.

(40) "Creditor" means a person, including an insured, having a claim, whether:

(a) matured;

(b) unmatured;

(c) liquidated;

(d) unliquidated;

(e) secured;

(f) unsecured;

(g) absolute;

(h) fixed; or

(i) contingent.

(41) (a) “Crop insurance” means insurance providing protection against damage to crops from unfavorable weather conditions, fire or lightning, flood, hail, insect infestation, disease, or other yield-reducing conditions or perils that is:

(i) provided by the private insurance market; or

(ii) subsidized by the Federal Crop Insurance Corporation.

(b) “Crop insurance” includes multiperil crop insurance.

(42) (a) “Customer service representative” means a person that provides an insurance service and insurance product information:

(i) for the customer service representative’s:

(A) producer;

(B) surplus lines producer; or

(C) consultant employer; and

(ii) to the customer service representative’s employer’s:

(A) customer;

(B) client; or

(C) organization.

(b) A customer service representative may only operate within the scope of authority of the customer service representative’s producer, surplus lines producer, or consultant employer.

(43) “Deadline” means a final date or time:

(a) imposed by:

(i) statute;

(ii) rule; or

(iii) order; and

(b) by which a required filing or payment must be received by the department.

(44) “Deemer clause” means a provision under this title under which upon the occurrence of a condition precedent, the commissioner is considered to have taken a specific action. If the statute so provides, a condition precedent may be the commissioner’s failure to take a specific action.

(45) “Degree of relationship” means the number of steps between two persons determined by counting the generations separating one person from a common ancestor and then counting the generations to the other person.

(46) “Department” means the Insurance Department.

(47) “Director” means a member of the board of directors of a corporation.

(48) “Disability” means a physiological or psychological condition that partially or totally limits an individual’s ability to:

(a) perform the duties of:

(i) that individual’s occupation; or

(ii) ~~any~~ an occupation for which the individual is reasonably suited by education, training, or experience; or

(b) perform two or more of the following basic activities of daily living:

(i) eating;

(ii) toileting;

(iii) transferring;

(iv) bathing; or

(v) dressing.

(49) “Disability income insurance” is defined in Subsection (79).

(50) “Domestic insurer” means an insurer organized under the laws of this state.

(51) “Domiciliary state” means the state in which an insurer:

(a) is incorporated;

(b) is organized; or

(c) in the case of an alien insurer, enters into the United States.

(52) (a) “Eligible employee” means:

(i) an employee who:

(A) works on a full-time basis; and

(B) has a normal work week of 30 or more hours; or

(ii) a person described in Subsection (52)(b).

(b) “Eligible employee” includes, if the individual is included under a health benefit plan of a small employer:

(i) a sole proprietor;

(ii) a partner in a partnership; or

(iii) an independent contractor.

(c) “Eligible employee” does not include, unless eligible under Subsection (52)(b):

(i) an individual who works on a temporary or substitute basis for a small employer;

(ii) an employer’s spouse; or

- (iii) a dependent of an employer.
- (53) “Employee” means an individual employed by an employer.
- (54) “Employee benefits” means one or more benefits or services provided to:
- (a) an employee; or
 - (b) a dependent of an employee.
- (55) (a) “Employee welfare fund” means a fund:
- (i) established or maintained, whether directly or through a trustee, by:
 - (A) one or more employers;
 - (B) one or more labor organizations; or
 - (C) a combination of employers and labor organizations; and
 - (ii) that provides employee benefits paid or contracted to be paid, other than income from investments of the fund:
 - (A) by or on behalf of an employer doing business in this state; or
 - (B) for the benefit of a person employed in this state.
 - (b) “Employee welfare fund” includes a plan funded or subsidized by a user fee or tax revenues.
- (56) “Endorsement” means a written agreement attached to a policy or certificate to modify the policy or certificate coverage.
- (57) “Enrollment date,” with respect to a health benefit plan, means:
- (a) the first day of coverage; or
 - (b) if there is a waiting period, the first day of the waiting period.
- (58) (a) “Escrow” means:
- (i) a transaction that effects the sale, transfer, encumbering, or leasing of real property, when a person not a party to the transaction, and neither having nor acquiring an interest in the title, performs, in accordance with the written instructions or terms of the written agreement between the parties to the transaction, any of the following actions:
 - (A) the explanation, holding, or creation of a document; or
 - (B) the receipt, deposit, and disbursement of money;
 - (ii) a settlement or closing involving:
 - (A) a mobile home;
 - (B) a grazing right;
 - (C) a water right; or
 - (D) other personal property authorized by the commissioner.
 - (b) “Escrow” does not include:
 - (i) the following notarial acts performed by a notary within the state:
 - (A) an acknowledgment;
 - (B) a copy certification;
 - (C) jurat; and
 - (D) an oath or affirmation;
 - (ii) the receipt or delivery of a document; or
 - (iii) the receipt of money for delivery to the escrow agent.
- (59) “Escrow agent” means an agency title insurance producer meeting the requirements of Sections 31A-4-107, 31A-14-211, and 31A-23a-204, who is acting through an individual title insurance producer licensed with an escrow subline of authority.
- (60) (a) “Excludes” is not exhaustive and does not mean that another thing is not also excluded.
- (b) The items listed in a list using the term “excludes” are representative examples for use in interpretation of this title.
- (61) “Exclusion” means for the purposes of accident and health insurance that an insurer does not provide insurance coverage, for whatever reason, for one of the following:
- (a) a specific physical condition;
 - (b) a specific medical procedure;
 - (c) a specific disease or disorder; or
 - (d) a specific prescription drug or class of prescription drugs.
- (62) “Expense reimbursement insurance” means insurance:
- (a) written to provide a payment for an expense relating to hospital confinement resulting from illness or injury; and
 - (b) written:
 - (i) as a daily limit for a specific number of days in a hospital; and
 - (ii) to have a one or two day waiting period following a hospitalization.
- (63) “Fidelity insurance” means insurance guaranteeing the fidelity of a person holding a position of public or private trust.
- (64) (a) “Filed” means that a filing is:
- (i) submitted to the department as required by and in accordance with applicable statute, rule, or filing order;
 - (ii) received by the department within the time period provided in applicable statute, rule, or filing order; and
 - (iii) accompanied by the appropriate fee in accordance with:
 - (A) Section 31A-3-103; or
 - (B) rule.

(b) "Filed" does not include a filing that is rejected by the department because it is not submitted in accordance with Subsection (64)(a).

(65) "Filing," when used as a noun, means an item required to be filed with the department including:

- (a) a policy;
- (b) a rate;
- (c) a form;
- (d) a document;
- (e) a plan;
- (f) a manual;
- (g) an application;
- (h) a report;
- (i) a certificate;
- (j) an endorsement;
- (k) an actuarial certification;
- (l) a licensee annual statement;
- (m) a licensee renewal application;
- (n) an advertisement; or
- (o) an outline of coverage.

(66) "First party insurance" means an insurance policy or contract in which the insurer agrees to pay a claim submitted to it by the insured for the insured's losses.

(67) "Foreign insurer" means an insurer domiciled outside of this state, including an alien insurer.

(68) (a) "Form" means one of the following prepared for general use:

- (i) a policy;
- (ii) a certificate;
- (iii) an application;
- (iv) an outline of coverage; or
- (v) an endorsement.

(b) "Form" does not include a document specially prepared for use in an individual case.

(69) "Franchise insurance" means an individual insurance policy provided through a mass marketing arrangement involving a defined class of persons related in some way other than through the purchase of insurance.

(70) "General lines of authority" include:

(a) the general lines of insurance in Subsection (71);

(b) title insurance under one of the following sublines of authority:

(i) search, including authority to act as a title marketing representative;

(ii) escrow, including authority to act as a title marketing representative; and

(iii) title marketing representative only;

(c) surplus lines;

(d) workers' compensation; and

(e) [~~any other~~] another line of insurance that the commissioner considers necessary to recognize in the public interest.

(71) "General lines of insurance" include:

(a) accident and health;

(b) casualty;

(c) life;

(d) personal lines;

(e) property; and

(f) variable contracts, including variable life and annuity.

(72) "Group health plan" means an employee welfare benefit plan to the extent that the plan provides medical care:

(a) (i) to an employee; or

(ii) to a dependent of an employee; and

(b) (i) directly;

(ii) through insurance reimbursement; or

(iii) through another method.

(73) (a) "Group insurance policy" means a policy covering a group of persons that is issued:

(i) to a policyholder on behalf of the group; and

(ii) for the benefit of a member of the group who is selected under a procedure defined in:

(A) the policy; or

(B) an agreement that is collateral to the policy.

(b) A group insurance policy may include a member of the policyholder's family or a dependent.

(74) "Guaranteed automobile protection insurance" means insurance offered in connection with an extension of credit that pays the difference in amount between the insurance settlement and the balance of the loan if the insured automobile is a total loss.

(75) (a) Except as provided in Subsection (75)(b), "health benefit plan" means a policy or certificate that:

(i) provides health care insurance;

(ii) provides major medical expense insurance; or

(iii) is offered as a substitute for hospital or medical expense insurance, such as:

(A) a hospital confinement indemnity; or

(B) a limited benefit plan.

(b) "Health benefit plan" does not include a policy or certificate that:

- (i) provides benefits solely for:
- (A) accident;
 - (B) dental;
 - (C) income replacement;
 - (D) long-term care;
 - (E) a Medicare supplement;
 - (F) a specified disease;
 - (G) vision; or
 - (H) a short-term limited duration; or
- (ii) is offered and marketed as supplemental health insurance.

(76) "Health care" means any of the following intended for use in the diagnosis, treatment, mitigation, or prevention of a human ailment or impairment:

- (a) a professional service;
- (b) a personal service;
- (c) a facility;
- (d) equipment;
- (e) a device;
- (f) supplies; or
- (g) medicine.

(77) (a) "Health care insurance" or "health insurance" means insurance providing:

- (i) a health care benefit; or
- (ii) payment of an incurred health care expense.

(b) "Health care insurance" or "health insurance" does not include accident and health insurance providing a benefit for:

- (i) replacement of income;
- (ii) short-term accident;
- (iii) fixed indemnity;
- (iv) credit accident and health;
- (v) supplements to liability;
- (vi) workers' compensation;
- (vii) automobile medical payment;
- (viii) no-fault automobile;
- (ix) equivalent self-insurance; or

(x) a type of accident and health insurance coverage that is a part of or attached to another type of policy.

(78) "Health Insurance Portability and Accountability Act" means the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, 110 Stat. 1936, as amended.

(79) "Income replacement insurance" or "disability income insurance" means insurance

written to provide payments to replace income lost from accident or sickness.

(80) "Indemnity" means the payment of an amount to offset all or part of an insured loss.

(81) "Independent adjuster" means an insurance adjuster required to be licensed under Section 31A-26-201 who engages in insurance adjusting as a representative of an insurer.

(82) "Independently procured insurance" means insurance procured under Section 31A-15-104.

(83) "Individual" means a natural person.

(84) "Inland marine insurance" includes insurance covering:

- (a) property in transit on or over land;
- (b) property in transit over water by means other than boat or ship;
- (c) bailee liability;
- (d) fixed transportation property such as bridges, electric transmission systems, radio and television transmission towers and tunnels; and
- (e) personal and commercial property floaters.

(85) "Insolvency" means that:

(a) an insurer is unable to pay its debts or meet its obligations as the debts and obligations mature;

(b) an insurer's total adjusted capital is less than the insurer's mandatory control level RBC under Subsection 31A-17-601(8)(c); or

(c) an insurer is determined to be hazardous under this title.

(86) (a) "Insurance" means:

(i) an arrangement, contract, or plan for the transfer of a risk or risks from one or more persons to one or more other persons; or

(ii) an arrangement, contract, or plan for the distribution of a risk or risks among a group of persons that includes the person seeking to distribute that person's risk.

(b) "Insurance" includes:

(i) a risk distributing arrangement providing for compensation or replacement for damages or loss through the provision of a service or a benefit in kind;

(ii) a contract of guaranty or suretyship entered into by the guarantor or surety as a business and not as merely incidental to a business transaction; and

(iii) a plan in which the risk does not rest upon the person who makes an arrangement, but with a class of persons who have agreed to share the risk.

(87) "Insurance adjuster" means a person who directs or conducts the investigation, negotiation, or settlement of a claim under an insurance policy other than life insurance or an annuity, on behalf of an insurer, policyholder, or a claimant under an insurance policy.

(88) "Insurance business" or "business of insurance" includes:

(a) providing health care insurance by an organization that is or is required to be licensed under this title;

(b) providing a benefit to an employee in the event of a contingency not within the control of the employee, in which the employee is entitled to the benefit as a right, which benefit may be provided either:

(i) by a single employer or by multiple employer groups; or

(ii) through one or more trusts, associations, or other entities;

(c) providing an annuity:

(i) including an annuity issued in return for a gift; and

(ii) except an annuity provided by a person specified in Subsections 31A-22-1305(2) and (3);

(d) providing the characteristic services of a motor club as outlined in Subsection (116);

(e) providing another person with insurance;

(f) making as insurer, guarantor, or surety, or proposing to make as insurer, guarantor, or surety, a contract or policy of title insurance;

(g) transacting or proposing to transact any phase of title insurance, including:

(i) solicitation;

(ii) negotiation preliminary to execution;

(iii) execution of a contract of title insurance;

(iv) insuring; and

(v) transacting matters subsequent to the execution of the contract and arising out of the contract, including reinsurance;

(h) transacting or proposing a life settlement; and

(i) doing, or proposing to do, any business in substance equivalent to Subsections (88)(a) through (h) in a manner designed to evade this title.

(89) "Insurance consultant" or "consultant" means a person who:

(a) advises another person about insurance needs and coverages;

(b) is compensated by the person advised on a basis not directly related to the insurance placed; and

(c) except as provided in Section 31A-23a-501, is not compensated directly or indirectly by an insurer or producer for advice given.

(90) "Insurance holding company system" means a group of two or more affiliated persons, at least one of whom is an insurer.

(91) (a) "Insurance producer" or "producer" means a person licensed or required to be licensed

under the laws of this state to sell, solicit, or negotiate insurance.

(b) (i) "Producer for the insurer" means a producer who is compensated directly or indirectly by an insurer for selling, soliciting, or negotiating an insurance product of that insurer.

(ii) "Producer for the insurer" may be referred to as an "agent."

(c) (i) "Producer for the insured" means a producer who:

(A) is compensated directly and only by an insurance customer or an insured; and

(B) receives no compensation directly or indirectly from an insurer for selling, soliciting, or negotiating an insurance product of that insurer to an insurance customer or insured.

(ii) "Producer for the insured" may be referred to as a "broker."

(92) (a) "Insured" means a person to whom or for whose benefit an insurer makes a promise in an insurance policy and includes:

(i) a policyholder;

(ii) a subscriber;

(iii) a member; and

(iv) a beneficiary.

(b) The definition in Subsection (92)(a):

(i) applies only to this title; and

(ii) does not define the meaning of this word as used in an insurance policy or certificate.

(93) (a) "Insurer" means a person doing an insurance business as a principal including:

(i) a fraternal benefit society;

(ii) an issuer of a gift annuity other than an annuity specified in Subsections 31A-22-1305(2) and (3);

(iii) a motor club;

(iv) an employee welfare plan; and

(v) a person purporting or intending to do an insurance business as a principal on that person's own account.

(b) "Insurer" does not include a governmental entity to the extent the governmental entity is engaged in an activity described in Section 31A-12-107.

(94) "Interinsurance exchange" is defined in Subsection [(146)] (147).

(95) "Involuntary unemployment insurance" means insurance:

(a) offered in connection with an extension of credit; and

(b) that provides indemnity if the debtor is involuntarily unemployed for payments coming due on a:

- (i) specific loan; or
- (ii) credit transaction.
- (96) “Large employer,” in connection with a health benefit plan, means an employer who, with respect to a calendar year and to a plan year:
- (a) employed an average of at least 51 eligible employees on each business day during the preceding calendar year; and
- (b) employs at least two employees on the first day of the plan year.
- (97) “Late enrollee,” with respect to an employer health benefit plan, means an individual whose enrollment is a late enrollment.
- (98) “Late enrollment,” with respect to an employer health benefit plan, means enrollment of an individual other than:
- (a) on the earliest date on which coverage can become effective for the individual under the terms of the plan; or
- (b) through special enrollment.
- (99) (a) Except for a retainer contract or legal assistance described in Section 31A-1-103, “legal expense insurance” means insurance written to indemnify or pay for a specified legal expense.
- (b) “Legal expense insurance” includes an arrangement that creates a reasonable expectation of an enforceable right.
- (c) “Legal expense insurance” does not include the provision of, or reimbursement for, legal services incidental to other insurance coverage.
- (100) (a) “Liability insurance” means insurance against liability:
- (i) for death, injury, or disability of a human being, or for damage to property, exclusive of the coverages under:
- (A) Subsection (110) for medical malpractice insurance;
- (B) Subsection (138) for professional liability insurance; and
- (C) Subsection [(172)] (173) for workers’ compensation insurance;
- (ii) for a medical, hospital, surgical, and funeral benefit to a person other than the insured who is injured, irrespective of legal liability of the insured, when issued with or supplemental to insurance against legal liability for the death, injury, or disability of a human being, exclusive of the coverages under:
- (A) Subsection (110) for medical malpractice insurance;
- (B) Subsection (138) for professional liability insurance; and
- (C) Subsection [(172)] (173) for workers’ compensation insurance;
- (iii) for loss or damage to property resulting from an accident to or explosion of a boiler, pipe, pressure container, machinery, or apparatus;
- (iv) for loss or damage to property caused by:
- (A) the breakage or leakage of a sprinkler, water pipe, or water container; or
- (B) water entering through a leak or opening in a building; or
- (v) for other loss or damage properly the subject of insurance not within another kind of insurance as defined in this chapter, if the insurance is not contrary to law or public policy.
- (b) “Liability insurance” includes:
- (i) vehicle liability insurance;
- (ii) residential dwelling liability insurance; and
- (iii) making inspection of, and issuing a certificate of inspection upon, an elevator, boiler, machinery, or apparatus of any kind when done in connection with insurance on the elevator, boiler, machinery, or apparatus.
- (101) (a) “License” means authorization issued by the commissioner to engage in an activity that is part of or related to the insurance business.
- (b) “License” includes a certificate of authority issued to an insurer.
- (102) (a) “Life insurance” means:
- (i) insurance on a human life; and
- (ii) insurance pertaining to or connected with human life.
- (b) The business of life insurance includes:
- (i) granting a death benefit;
- (ii) granting an annuity benefit;
- (iii) granting an endowment benefit;
- (iv) granting an additional benefit in the event of death by accident;
- (v) granting an additional benefit to safeguard the policy against lapse; and
- (vi) providing an optional method of settlement of proceeds.
- (103) “Limited license” means a license that:
- (a) is issued for a specific product of insurance; and
- (b) limits an individual or agency to transact only for that product or insurance.
- (104) “Limited line credit insurance” includes the following forms of insurance:
- (a) credit life;
- (b) credit accident and health;
- (c) credit property;
- (d) credit unemployment;
- (e) involuntary unemployment;

- (f) mortgage life;
- (g) mortgage guaranty;
- (h) mortgage accident and health;
- (i) guaranteed automobile protection; and
- (j) another form of insurance offered in connection with an extension of credit that:

(i) is limited to partially or wholly extinguishing the credit obligation; and

(ii) the commissioner determines by rule should be designated as a form of limited line credit insurance.

(105) "Limited line credit insurance producer" means a person who sells, solicits, or negotiates one or more forms of limited line credit insurance coverage to an individual through a master, corporate, group, or individual policy.

(106) "Limited line insurance" includes:

- (a) bail bond;
- (b) limited line credit insurance;
- (c) legal expense insurance;
- (d) motor club insurance;
- (e) car rental related insurance;
- (f) travel insurance;
- (g) crop insurance;
- (h) self-service storage insurance;
- (i) guaranteed asset protection waiver;
- (j) portable electronics insurance; and

(k) another form of limited insurance that the commissioner determines by rule should be designated a form of limited line insurance.

(107) "Limited lines authority" includes ~~[(a)]~~ the lines of insurance listed in Subsection (106) ~~]; and~~.

~~[(b) a customer service representative.]~~

(108) "Limited lines producer" means a person who sells, solicits, or negotiates limited lines insurance.

(109) (a) "Long-term care insurance" means an insurance policy or rider advertised, marketed, offered, or designated to provide coverage:

(i) in a setting other than an acute care unit of a hospital;

(ii) for not less than 12 consecutive months for a covered person on the basis of:

- (A) expenses incurred;
- (B) indemnity;
- (C) prepayment; or
- (D) another method;

(iii) for one or more necessary or medically necessary services that are:

- (A) diagnostic;
- (B) preventative;
- (C) therapeutic;
- (D) rehabilitative;
- (E) maintenance; or
- (F) personal care; and

(iv) that may be issued by:

- (A) an insurer;
- (B) a fraternal benefit society;
- (C) (I) a nonprofit health hospital; and
- (II) a medical service corporation;
- (D) a prepaid health plan;
- (E) a health maintenance organization; or

(F) an entity similar to the entities described in Subsections (109)(a)(iv)(A) through (E) to the extent that the entity is otherwise authorized to issue life or health care insurance.

(b) "Long-term care insurance" includes:

(i) any of the following that provide directly or supplement long-term care insurance:

- (A) a group or individual annuity or rider; or
- (B) a life insurance policy or rider;

(ii) a policy or rider that provides for payment of benefits on the basis of:

- (A) cognitive impairment; or
- (B) functional capacity; or

(iii) a qualified long-term care insurance contract.

(c) "Long-term care insurance" does not include:

(i) a policy that is offered primarily to provide basic Medicare supplement coverage;

(ii) basic hospital expense coverage;

(iii) basic medical/surgical expense coverage;

(iv) hospital confinement indemnity coverage;

(v) major medical expense coverage;

(vi) income replacement or related asset-protection coverage;

(vii) accident only coverage;

(viii) coverage for a specified:

- (A) disease; or
- (B) accident;

(ix) limited benefit health coverage; or

(x) a life insurance policy that accelerates the death benefit to provide the option of a lump sum payment:

(A) if the following are not conditioned on the receipt of long-term care:

(I) benefits; or

(II) eligibility; and

(B) the coverage is for one or more the following qualifying events:

(I) terminal illness;

(II) medical conditions requiring extraordinary medical intervention; or

(III) permanent institutional confinement.

(110) "Medical malpractice insurance" means insurance against legal liability incident to the practice and provision of a medical service other than the practice and provision of a dental service.

(111) "Member" means a person having membership rights in an insurance corporation.

(112) "Minimum capital" or "minimum required capital" means the capital that must be constantly maintained by a stock insurance corporation as required by statute.

(113) "Mortgage accident and health insurance" means insurance offered in connection with an extension of credit that provides indemnity for payments coming due on a mortgage while the debtor has a disability.

(114) "Mortgage guaranty insurance" means surety insurance under which a mortgagee or other creditor is indemnified against losses caused by the default of a debtor.

(115) "Mortgage life insurance" means insurance on the life of a debtor in connection with an extension of credit that pays if the debtor dies.

(116) "Motor club" means a person:

(a) licensed under:

(i) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

(ii) Chapter 11, Motor Clubs; or

(iii) Chapter 14, Foreign Insurers; and

(b) that promises for an advance consideration to provide for a stated period of time one or more:

(i) legal services under Subsection 31A-11-102(1)(b);

(ii) bail services under Subsection 31A-11-102(1)(c); or

(iii) (A) trip reimbursement;

(B) towing services;

(C) emergency road services;

(D) stolen automobile services;

(E) a combination of the services listed in Subsections (116)(b)(iii)(A) through (D); or

(F) other services given in Subsections 31A-11-102(1)(b) through (f).

(117) "Mutual" means a mutual insurance corporation.

(118) "Network plan" means health care insurance:

(a) that is issued by an insurer; and

(b) under which the financing and delivery of medical care is provided, in whole or in part, through a defined set of providers under contract with the insurer, including the financing and delivery of an item paid for as medical care.

(119) "Nonparticipating" means a plan of insurance under which the insured is not entitled to receive a dividend representing a share of the surplus of the insurer.

(120) "Ocean marine insurance" means insurance against loss of or damage to:

(a) ships or hulls of ships;

(b) goods, freight, cargoes, merchandise, effects, disbursements, profits, money, securities, choses in action, evidences of debt, valuable papers, bottomry, respondentia interests, or other cargoes in or awaiting transit over the oceans or inland waterways;

(c) earnings such as freight, passage money, commissions, or profits derived from transporting goods or people upon or across the oceans or inland waterways; or

(d) a vessel owner or operator as a result of liability to employees, passengers, bailors, owners of other vessels, owners of fixed objects, customs or other authorities, or other persons in connection with maritime activity.

(121) "Order" means an order of the commissioner.

(122) "Outline of coverage" means a summary that explains an accident and health insurance policy.

(123) "Participating" means a plan of insurance under which the insured is entitled to receive a dividend representing a share of the surplus of the insurer.

(124) "Participation," as used in a health benefit plan, means a requirement relating to the minimum percentage of eligible employees that must be enrolled in relation to the total number of eligible employees of an employer reduced by each eligible employee who voluntarily declines coverage under the plan because the employee:

(a) has other group health care insurance coverage; or

(b) receives:

(i) Medicare, under the Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965; or

(ii) another government health benefit.

(125) "Person" includes:

- (a) an individual;
- (b) a partnership;
- (c) a corporation;
- (d) an incorporated or unincorporated association;
- (e) a joint stock company;
- (f) a trust;
- (g) a limited liability company;
- (h) a reciprocal;
- (i) a syndicate; or
- (j) another similar entity or combination of entities acting in concert.

(126) "Personal lines insurance" means property and casualty insurance coverage sold for primarily noncommercial purposes to:

- (a) an individual; or
- (b) a family.

(127) "Plan sponsor" is as defined in 29 U.S.C. Sec. 1002(16)(B).

(128) "Plan year" means:

- (a) the year that is designated as the plan year in:
 - (i) the plan document of a group health plan; or
 - (ii) a summary plan description of a group health plan;
- (b) if the plan document or summary plan description does not designate a plan year or there is no plan document or summary plan description:
 - (i) the year used to determine deductibles or limits;

(ii) the policy year, if the plan does not impose deductibles or limits on a yearly basis; or

(iii) the employer's taxable year if:

(A) the plan does not impose deductibles or limits on a yearly basis; and

(B) (I) the plan is not insured; or

(II) the insurance policy is not renewed on an annual basis; or

(c) in a case not described in Subsection (128)(a) or (b), the calendar year.

(129) (a) "Policy" means a document, including an attached endorsement or application that:

- (i) purports to be an enforceable contract; and
- (ii) memorializes in writing some or all of the terms of an insurance contract.
- (b) "Policy" includes a service contract issued by:
 - (i) a motor club under Chapter 11, Motor Clubs;
 - (ii) a service contract provided under Chapter 6a, Service Contracts; and

(iii) a corporation licensed under:

(A) Chapter 7, Nonprofit Health Service Insurance Corporations; or

(B) Chapter 8, Health Maintenance Organizations and Limited Health Plans.

(c) "Policy" does not include:

(i) a certificate under a group insurance contract; or

(ii) a document that does not purport to have legal effect.

(130) "Policyholder" means a person who controls a policy, binder, or oral contract by ownership, premium payment, or otherwise.

(131) "Policy illustration" means a presentation or depiction that includes nonguaranteed elements of a policy of life insurance over a period of years.

(132) "Policy summary" means a synopsis describing the elements of a life insurance policy.

(133) "PPACA" means the Patient Protection and Affordable Care Act, Pub. L. No. 111-148 and the Health Care Education Reconciliation Act of 2010, Pub. L. No. 111-152, and related federal regulations and guidance.

(134) "Preexisting condition," with respect to a health benefit plan:

(a) means a condition that was present before the effective date of coverage, whether or not medical advice, diagnosis, care, or treatment was recommended or received before that day; and

(b) does not include a condition indicated by genetic information unless an actual diagnosis of the condition by a physician has been made.

(135) (a) "Premium" means the monetary consideration for an insurance policy.

(b) "Premium" includes, however designated:

- (i) an assessment;
- (ii) a membership fee;
- (iii) a required contribution; or
- (iv) monetary consideration.

(c) (i) "Premium" does not include consideration paid to a third party administrator for the third party administrator's services.

(ii) "Premium" includes an amount paid by a third party administrator to an insurer for insurance on the risks administered by the third party administrator.

(136) "Principal officers" for a corporation means the officers designated under Subsection 31A-5-203(3).

(137) "Proceeding" includes an action or special statutory proceeding.

(138) "Professional liability insurance" means insurance against legal liability incident to the practice of a profession and provision of a professional service.

(139) (a) Except as provided in Subsection (139)(b), “property insurance” means insurance against loss or damage to real or personal property of every kind and any interest in that property:

- (i) from all hazards or causes; and
- (ii) against loss consequential upon the loss or damage including vehicle comprehensive and vehicle physical damage coverages.

(b) “Property insurance” does not include:

- (i) inland marine insurance; and
- (ii) ocean marine insurance.

(140) “Qualified long-term care insurance contract” or “federally tax qualified long-term care insurance contract” means:

(a) an individual or group insurance contract that meets the requirements of Section 7702B(b), Internal Revenue Code; or

(b) the portion of a life insurance contract that provides long-term care insurance:

- (i) (A) by rider; or
- (B) as a part of the contract; and
- (ii) that satisfies the requirements of Sections 7702B(b) and (e), Internal Revenue Code.

(141) “Qualified United States financial institution” means an institution that:

(a) is:

(i) organized under the laws of the United States or any state; or

(ii) in the case of a United States office of a foreign banking organization, licensed under the laws of the United States or any state;

(b) is regulated, supervised, and examined by a United States federal or state authority having regulatory authority over a bank or trust company; and

(c) meets the standards of financial condition and standing that are considered necessary and appropriate to regulate the quality of a financial institution whose letters of credit will be acceptable to the commissioner as determined by:

- (i) the commissioner by rule; or
- (ii) the Securities Valuation Office of the National Association of Insurance Commissioners.

(142) (a) “Rate” means:

- (i) the cost of a given unit of insurance; or
- (ii) for property or casualty insurance, that cost of insurance per exposure unit either expressed as:

(A) a single number; or

(B) a pure premium rate, adjusted before the application of individual risk variations based on loss or expense considerations to account for the treatment of:

(I) expenses;

(II) profit; and

(III) individual insurer variation in loss experience.

(b) “Rate” does not include a minimum premium.

(143) (a) Except as provided in Subsection (143)(b), “rate service organization” means a person who assists an insurer in rate making or filing by:

- (i) collecting, compiling, and furnishing loss or expense statistics;
- (ii) recommending, making, or filing rates or supplementary rate information; or
- (iii) advising about rate questions, except as an attorney giving legal advice.

(b) “Rate service organization” does not mean:

- (i) an employee of an insurer;
- (ii) a single insurer or group of insurers under common control;
- (iii) a joint underwriting group; or
- (iv) an individual serving as an actuarial or legal consultant.

(144) “Rating manual” means any of the following used to determine initial and renewal policy premiums:

- (a) a manual of rates;
- (b) a classification;
- (c) a rate-related underwriting rule; and
- (d) a rating formula that describes steps, policies, and procedures for determining initial and renewal policy premiums.

(145) (a) “Rebate” means a licensee paying, allowing, giving, or offering to pay, allow, or give, directly or indirectly:

- (i) a refund of premium or portion of premium;
- (ii) a refund of commission or portion of commission;
- (iii) a refund of all or a portion of a consultant fee; or
- (iv) providing services or other benefits not specified in an insurance or annuity contract.

(b) “Rebate” does not include:

- (i) a refund due to termination or changes in coverage;
- (ii) a refund due to overcharges made in error by the licensee; or
- (iii) savings or wellness benefits as provided in the contract by the licensee.

[~~(145)~~] (146) “Received by the department” means:

- (a) the date delivered to and stamped received by the department, if delivered in person;

- (b) the post mark date, if delivered by mail;
- (c) the delivery service's post mark or pickup date, if delivered by a delivery service;
- (d) the received date recorded on an item delivered, if delivered by:

- (i) facsimile;
- (ii) email; or
- (iii) another electronic method; or
- (e) a date specified in:
 - (i) a statute;
 - (ii) a rule; or
 - (iii) an order.

~~[(146)]~~ (147) "Reciprocal" or "interinsurance exchange" means an unincorporated association of persons:

(a) operating through an attorney-in-fact common to all of the persons; and

(b) exchanging insurance contracts with one another that provide insurance coverage on each other.

~~[(147)]~~ (148) "Reinsurance" means an insurance transaction where an insurer, for consideration, transfers any portion of the risk it has assumed to another insurer. In referring to reinsurance transactions, this title sometimes refers to:

- (a) the insurer transferring the risk as the "ceding insurer"; and
- (b) the insurer assuming the risk as the:
 - (i) "assuming insurer"; or
 - (ii) "assuming reinsurer."

~~[(148)]~~ (149) "Reinsurer" means a person licensed in this state as an insurer with the authority to assume reinsurance.

~~[(149)]~~ (150) "Residential dwelling liability insurance" means insurance against liability resulting from or incident to the ownership, maintenance, or use of a residential dwelling that is a detached single family residence or multifamily residence up to four units.

~~[(150)]~~ (151) (a) "Retrocession" means reinsurance with another insurer of a liability assumed under a reinsurance contract.

(b) A reinsurer "retrocedes" when the reinsurer reinsures with another insurer part of a liability assumed under a reinsurance contract.

~~[(151)]~~ (152) "Rider" means an endorsement to:

- (a) an insurance policy; or
- (b) an insurance certificate.

~~[(152)]~~ (153) (a) "Security" means a:

- (i) note;
- (ii) stock;

- (iii) bond;
- (iv) debenture;
- (v) evidence of indebtedness;
- (vi) certificate of interest or participation in a profit-sharing agreement;
- (vii) collateral-trust certificate;
- (viii) preorganization certificate or subscription;
- (ix) transferable share;
- (x) investment contract;
- (xi) voting trust certificate;
- (xii) certificate of deposit for a security;
- (xiii) certificate of interest of participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease;

(xiv) commodity contract or commodity option;

(xv) certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase any of the items listed in Subsections ~~[(152)]~~ (153)(a)(i) through (xiv); or

(xvi) another interest or instrument commonly known as a security.

(b) "Security" does not include:

(i) any of the following under which an insurance company promises to pay money in a specific lump sum or periodically for life or some other specified period:

- (A) insurance;
- (B) an endowment policy; or
- (C) an annuity contract; or
- (ii) a burial certificate or burial contract.

~~[(153)]~~ (154) "Secondary medical condition" means a complication related to an exclusion from coverage in accident and health insurance.

~~[(154)]~~ (155) (a) "Self-insurance" means an arrangement under which a person provides for spreading its own risks by a systematic plan.

(b) Except as provided in this Subsection ~~[(154)]~~ (155), "self-insurance" does not include an arrangement under which a number of persons spread their risks among themselves.

(c) "Self-insurance" includes:

(i) an arrangement by which a governmental entity undertakes to indemnify an employee for liability arising out of the employee's employment; and

(ii) an arrangement by which a person with a managed program of self-insurance and risk management undertakes to indemnify its affiliates, subsidiaries, directors, officers, or employees for liability or risk that is related to the relationship or employment.

(d) "Self-insurance" does not include an arrangement with an independent contractor.

~~[(155)]~~ (156) “Sell” means to exchange a contract of insurance:

- (a) by any means;
- (b) for money or its equivalent; and
- (c) on behalf of an insurance company.

~~[(156)]~~ (157) “Short-term care insurance” means an insurance policy or rider advertised, marketed, offered, or designed to provide coverage that is similar to long-term care insurance, but that provides coverage for less than 12 consecutive months for each covered person.

~~[(157)]~~ (158) “Significant break in coverage” means a period of 63 consecutive days during each of which an individual does not have creditable coverage.

~~[(158)]~~ (159) “Small employer~~[,]~~” means, in connection with a health benefit plan~~[, means an employer who,]~~ and with respect to a calendar year and to a plan year, an employer who:

(a) employed ~~[an average of]~~ at least ~~[two employees]~~ one employee but not more than an average of 50 eligible employees on ~~[each]~~ business ~~[day]~~ days during the preceding calendar year; and

(b) employs at least ~~[two employees]~~ one employee on the first day of the plan year.

~~[(159)]~~ (160) “Special enrollment period,” in connection with a health benefit plan, has the same meaning as provided in federal regulations adopted pursuant to the Health Insurance Portability and Accountability Act.

~~[(160)]~~ (161) (a) “Subsidiary” of a person means an affiliate controlled by that person either directly or indirectly through one or more affiliates or intermediaries.

(b) “Wholly owned subsidiary” of a person is a subsidiary of which all of the voting shares are owned by that person either alone or with its affiliates, except for the minimum number of shares the law of the subsidiary’s domicile requires to be owned by directors or others.

~~[(161)]~~ (162) Subject to Subsection (86)(b), “surety insurance” includes:

(a) a guarantee against loss or damage resulting from the failure of a principal to pay or perform the principal’s obligations to a creditor or other obligee;

(b) bail bond insurance; and

(c) fidelity insurance.

~~[(162)]~~ (163) (a) “Surplus” means the excess of assets over the sum of paid-in capital and liabilities.

(b) (i) “Permanent surplus” means the surplus of an insurer or organization that is designated by the insurer or organization as permanent.

(ii) Sections 31A-5-211, 31A-7-201, 31A-8-209, 31A-9-209, and 31A-14-205 require that insurers or organizations doing business in this state

maintain specified minimum levels of permanent surplus.

(iii) Except for assessable mutuals, the minimum permanent surplus requirement is the same as the minimum required capital requirement that applies to stock insurers.

(c) “Excess surplus” means:

(i) for a life insurer, accident and health insurer, health organization, or property and casualty insurer as defined in Section 31A-17-601, the lesser of:

(A) that amount of an insurer’s or health organization’s total adjusted capital that exceeds the product of:

(I) 2.5; and

(II) the sum of the insurer’s or health organization’s minimum capital or permanent surplus required under Section 31A-5-211, 31A-9-209, or 31A-14-205; or

(B) that amount of an insurer’s or health organization’s total adjusted capital that exceeds the product of:

(I) 3.0; and

(II) the authorized control level RBC as defined in Subsection 31A-17-601(8)(a); and

(ii) for a monoline mortgage guaranty insurer, financial guaranty insurer, or title insurer that amount of an insurer’s paid-in-capital and surplus that exceeds the product of:

(A) 1.5; and

(B) the insurer’s total adjusted capital required by Subsection 31A-17-609(1).

~~[(163)]~~ (164) “Third party administrator” or “administrator” means a person who collects charges or premiums from, or who, for consideration, adjusts or settles claims of residents of the state in connection with insurance coverage, annuities, or service insurance coverage, except:

(a) a union on behalf of its members;

(b) a person administering a:

(i) pension plan subject to the federal Employee Retirement Income Security Act of 1974;

(ii) governmental plan as defined in Section 414(d), Internal Revenue Code; or

(iii) nonelecting church plan as described in Section 410(d), Internal Revenue Code;

(c) an employer on behalf of the employer’s employees or the employees of one or more of the subsidiary or affiliated corporations of the employer;

(d) an insurer licensed under the following, but only for a line of insurance for which the insurer holds a license in this state:

(i) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

(ii) Chapter 7, Nonprofit Health Service Insurance Corporations;

(iii) Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(iv) Chapter 9, Insurance Fraternal; or

(v) Chapter 14, Foreign Insurers;

(e) a person:

(i) licensed or exempt from licensing under:

(A) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries; or

(B) Chapter 26, Insurance Adjusters; and

(ii) whose activities are limited to those authorized under the license the person holds or for which the person is exempt; or

(f) an institution, bank, or financial institution:

(i) that is:

(A) an institution whose deposits and accounts are to any extent insured by a federal deposit insurance agency, including the Federal Deposit Insurance Corporation or National Credit Union Administration; or

(B) a bank or other financial institution that is subject to supervision or examination by a federal or state banking authority; and

(ii) that does not adjust claims without a third party administrator license.

~~[(164)]~~ (165) "Title insurance" means the insuring, guaranteeing, or indemnifying of an owner of real or personal property or the holder of liens or encumbrances on that property, or others interested in the property against loss or damage suffered by reason of liens or encumbrances upon, defects in, or the unmarketability of the title to the property, or invalidity or unenforceability of any liens or encumbrances on the property.

~~[(165)]~~ (166) "Total adjusted capital" means the sum of an insurer's or health organization's statutory capital and surplus as determined in accordance with:

(a) the statutory accounting applicable to the annual financial statements required to be filed under Section 31A-4-113; and

(b) another item provided by the RBC instructions, as RBC instructions is defined in Section 31A-17-601.

~~[(166)]~~ (167) (a) "Trustee" means "director" when referring to the board of directors of a corporation.

(b) "Trustee," when used in reference to an employee welfare fund, means an individual, firm, association, organization, joint stock company, or corporation, whether acting individually or jointly and whether designated by that name or any other, that is charged with or has the overall management of an employee welfare fund.

~~[(167)]~~ (168) (a) "Unauthorized insurer," "unadmitted insurer," or "nonadmitted insurer" means an insurer:

(i) not holding a valid certificate of authority to do an insurance business in this state; or

(ii) transacting business not authorized by a valid certificate.

(b) "Admitted insurer" or "authorized insurer" means an insurer:

(i) holding a valid certificate of authority to do an insurance business in this state; and

(ii) transacting business as authorized by a valid certificate.

~~[(168)]~~ (169) "Underwrite" means the authority to accept or reject risk on behalf of the insurer.

~~[(169)]~~ (170) "Vehicle liability insurance" means insurance against liability resulting from or incident to ownership, maintenance, or use of a land vehicle or aircraft, exclusive of a vehicle comprehensive or vehicle physical damage coverage under Subsection (139).

~~[(170)]~~ (171) "Voting security" means a security with voting rights, and includes a security convertible into a security with a voting right associated with the security.

~~[(171)]~~ (172) "Waiting period" for a health benefit plan means the period that must pass before coverage for an individual, who is otherwise eligible to enroll under the terms of the health benefit plan, can become effective.

~~[(172)]~~ (173) "Workers' compensation insurance" means:

(a) insurance for indemnification of an employer against liability for compensation based on:

(i) a compensable accidental injury; and

(ii) occupational disease disability;

(b) employer's liability insurance incidental to workers' compensation insurance and written in connection with workers' compensation insurance; and

(c) insurance assuring to a person entitled to workers' compensation benefits the compensation provided by law.

Section 2. Section 31A-2-104 is amended to read:

31A-2-104. Other employees -- Insurance fraud investigators.

(1) The department shall employ a chief examiner and such other professional, technical, and clerical employees as necessary to carry out the duties of the department.

(2) An insurance fraud investigator employed pursuant to Subsection (1) may as approved by the commissioner:

(a) be designated a ~~[special function]~~ law enforcement officer, as defined in Section

~~[53-13-105, by the commissioner, but is not 53-13-103; and~~

(b) be eligible for retirement benefits under the Public Safety Employee's Retirement System.

Section 3. Section 31A-3-304 (Superseded 07/01/15) is amended to read:

31A-3-304 (Superseded 07/01/15). Annual fees -- Other taxes or fees prohibited -- Captive Insurance Restricted Account.

(1) (a) A captive insurance company shall pay an annual fee imposed under this section to obtain or renew a certificate of authority.

(b) The commissioner shall:

(i) determine the annual fee pursuant to Section 31A-3-103; and

(ii) consider whether the annual fee is competitive with fees imposed by other states on captive insurance companies.

(2) A captive insurance company that fails to pay the fee required by this section is subject to the relevant sanctions of this title.

(3) (a) Except as provided in Subsection (3)(d) and notwithstanding Title 59, Chapter 9, Taxation of Admitted Insurers, the following constitute the sole taxes, fees, or charges under the laws of this state that may be levied or assessed on a captive insurance company:

(i) a fee under this section;

(ii) a fee under Chapter 37, Captive Insurance Companies Act; and

(iii) a fee under Chapter 37a, Special Purpose Financial Captive Insurance Company Act.

(b) The state or a county, city, or town within the state may not levy or collect an occupation tax or other tax, fee, or charge not described in Subsections (3)(a)(i) through (iii) against a captive insurance company.

(c) The state may not levy, assess, or collect a withdrawal fee under Section 31A-4-115 against a captive insurance company.

(d) A captive insurance company is subject to real and personal property taxes.

(4) A captive insurance company shall pay the fee imposed by this section to the commissioner by June [20] 1 of each year.

(5) (a) Money received pursuant to a fee described in Subsection (3)(a) shall be deposited into the Captive Insurance Restricted Account.

(b) There is created in the General Fund a restricted account known as the "Captive Insurance Restricted Account."

(c) The Captive Insurance Restricted Account shall consist of the fees described in Subsection (3)(a).

(d) The commissioner shall administer the Captive Insurance Restricted Account. Subject to appropriations by the Legislature, the commissioner shall use the money deposited into the Captive Insurance Restricted Account to:

(i) administer and enforce:

(A) Chapter 37, Captive Insurance Companies Act; and

(B) Chapter 37a, Special Purpose Financial Captive Insurance Company Act; and

(ii) promote the captive insurance industry in Utah.

(e) An appropriation from the Captive Insurance Restricted Account is nonlapsing, except that at the end of each fiscal year, money received by the commissioner in excess of \$950,000 shall be treated as free revenue in the General Fund.

Section 4. Section 31A-3-304 (Effective 07/01/15) is amended to read:

31A-3-304 (Effective 07/01/15). Annual fees -- Other taxes or fees prohibited -- Captive Insurance Restricted Account.

(1) (a) A captive insurance company shall pay an annual fee imposed under this section to obtain or renew a certificate of authority.

(b) The commissioner shall:

(i) determine the annual fee pursuant to Section 31A-3-103; and

(ii) consider whether the annual fee is competitive with fees imposed by other states on captive insurance companies.

(2) A captive insurance company that fails to pay the fee required by this section is subject to the relevant sanctions of this title.

(3) (a) Except as provided in Subsection (3)(d) and notwithstanding Title 59, Chapter 9, Taxation of Admitted Insurers, the following constitute the sole taxes, fees, or charges under the laws of this state that may be levied or assessed on a captive insurance company:

(i) a fee under this section;

(ii) a fee under Chapter 37, Captive Insurance Companies Act; and

(iii) a fee under Chapter 37a, Special Purpose Financial Captive Insurance Company Act.

(b) The state or a county, city, or town within the state may not levy or collect an occupation tax or other tax, fee, or charge not described in Subsections (3)(a)(i) through (iii) against a captive insurance company.

(c) The state may not levy, assess, or collect a withdrawal fee under Section 31A-4-115 against a captive insurance company.

(d) A captive insurance company is subject to real and personal property taxes.

(4) A captive insurance company shall pay the fee imposed by this section to the commissioner by June [20] 1 of each year.

(5) (a) Money received pursuant to a fee described in Subsection (3)(a) shall be deposited into the Captive Insurance Restricted Account.

(b) There is created in the General Fund a restricted account known as the "Captive Insurance Restricted Account."

(c) The Captive Insurance Restricted Account shall consist of the fees described in Subsection (3)(a).

(d) The commissioner shall administer the Captive Insurance Restricted Account. Subject to appropriations by the Legislature, the commissioner shall use the money deposited into the Captive Insurance Restricted Account to:

(i) administer and enforce:

(A) Chapter 37, Captive Insurance Companies Act; and

(B) Chapter 37a, Special Purpose Financial Captive Insurance Company Act; and

(ii) promote the captive insurance industry in Utah.

(e) An appropriation from the Captive Insurance Restricted Account is nonlapsing, except that at the end of each fiscal year, money received by the commissioner in excess of \$1,250,000 shall be treated as free revenue in the General Fund.

Section 5. Section 31A-4-102 is amended to read:

31A-4-102. Qualified insurers.

(1) A person may not conduct an insurance business in Utah in person, through an agent, through a broker, through the mail, or through another method of communication, except:

(a) an insurer:

(i) authorized to do business in Utah under ~~[Chapter 5, 7, 8, 9, 10, 11, 13, or 14; and]~~:

(A) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

(B) Chapter 7, Nonprofit Health Service Insurance Corporations;

(C) Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(D) Chapter 9, Insurance Fraternal;

(E) Chapter 10, Annuities;

(F) Chapter 11, Motor Clubs;

(G) Chapter 13, Employee Welfare Funds and Plans;

(H) Chapter 14, Foreign Insurers;

(I) Chapter 37, Captive Insurance Companies Act; or

(J) Chapter 37a, Special Purpose Financial Captive Insurance Company Act; and

(ii) within the limits of its certificate of authority;

(b) a joint underwriting group under Section 31A-2-214 or 31A-20-102;

(c) an insurer doing business under Section 31A-15-103;

(d) a person who submits to the commissioner a certificate from the United States Department of Labor, or such other evidence as satisfies the commissioner, that the laws of Utah are preempted with respect to specified activities of that person by Section 514 of the Employee Retirement Income Security Act of 1974 or other federal law; or

(e) a person exempt from this title under Section 31A-1-103 or another applicable statute.

(2) As used in this section, "insurer" includes a bail bond surety company, as defined in Section 31A-35-102.

Section 6. Section 31A-4-115 is amended to read:

31A-4-115. Plan of orderly withdrawal.

(1) (a) When an insurer intends to withdraw from writing a line of insurance in this state or to reduce its total annual premium volume by 75% or more, the insurer shall file with the commissioner a plan of orderly withdrawal.

(b) For purposes of this section, a discontinuance of a health benefit plan pursuant to one of the following provisions is a withdrawal from a line of insurance:

(i) Subsection 31A-30-107(3)(e); or

(ii) Subsection 31A-30-107.1(3)(e).

(2) An insurer's plan of orderly withdrawal shall:

(a) indicate the date the insurer intends to begin and complete its withdrawal plan; and

(b) include provisions for:

(i) meeting the insurer's contractual obligations;

(ii) providing services to its Utah policyholders and claimants;

(iii) meeting ~~[any]~~ applicable statutory obligations; and

(iv) ~~[(A)]~~ the payment of a withdrawal fee of \$50,000 to the ~~[Utah Comprehensive Health Insurance Pool if: (I) the insurer is an accident and health insurer; and (II) the insurer's line of business is not assumed or placed with another insurer approved by the commissioner; or (B) the payment of a withdrawal fee of \$50,000 to the department if: (I) the insurer is not an accident and health insurer; and (II)]~~ department if the insurer's line of business is not assumed or placed with another insurer approved by the commissioner.

(3) The commissioner shall approve a plan of orderly withdrawal if the plan of orderly withdrawal adequately demonstrates that the insurer will:

(a) protect the interests of the people of the state;

(b) meet the insurer's contractual obligations;

(c) provide service to the insurer's Utah policyholders and claimants; and

(d) meet ~~[any]~~ applicable statutory obligations.

(4) Section 31A-2-302 governs the commissioner's approval or disapproval of a plan for orderly withdrawal.

(5) The commissioner may require an insurer to increase the deposit maintained in accordance with Section 31A-4-105 or Section 31A-4-105.5 and place the deposit in trust in the name of the commissioner upon finding, after an adjudicative proceeding that:

(a) there is reasonable cause to conclude that the interests of the people of the state are best served by such action; and

(b) the insurer:

(i) has filed a plan of orderly withdrawal; or

(ii) intends to:

(A) withdraw from writing a line of insurance in this state; or

(B) reduce the insurer's total annual premium volume by 75% or more.

(6) An insurer is subject to the civil penalties under Section 31A-2-308, if the insurer:

(a) withdraws from writing insurance in this state without receiving the commissioner's approval of a plan of orderly withdrawal; or

(b) reduces its total annual premium volume by 75% or more in any year without ~~[having submitted a plan or receiving the commissioner's approval]~~ receiving the commissioner's approval of a plan of orderly withdrawal.

(7) An insurer that withdraws from writing all lines of insurance in this state may not resume writing insurance in this state for five years unless: ~~(a)~~ the commissioner finds that the prohibition should be waived because the waiver is:

~~[(i)]~~ (a) in the public interest to promote competition; or

~~[(ii)]~~ (b) to resolve inequity in the marketplace; ~~and~~.

~~[(b) the insurer complies with Subsection 31A-30-108(5), if applicable.]~~

(8) The commissioner shall adopt rules necessary to implement this section.

Section 7. Section 31A-8-402.3 is amended to read:

31A-8-402.3. Discontinuance, nonrenewal, or changes to group health benefit plans.

(1) Except as otherwise provided in this section, a group health benefit plan for a plan sponsor is renewable and continues in force:

(a) with respect to all eligible employees and dependents; and

(b) at the option of the plan sponsor.

(2) A health benefit plan for a plan sponsor may be discontinued or nonrenewed:

(a) for a network plan, if ~~[(i)]~~ there is no longer any enrollee under the group health plan who lives, resides, or works in:

~~[(A)]~~ (i) the service area of the insurer; or

~~[(B)]~~ (ii) the area for which the insurer is authorized to do business; ~~[and]~~ or

~~[(ii) in the case of the small employer market, the insurer applies the same criteria the insurer would apply in denying enrollment in the plan under Subsection 31A-30-108(7); or]~~

(b) for coverage made available in the small or large employer market only through an association, if:

(i) the employer's membership in the association ceases; and

(ii) the coverage is terminated uniformly without regard to any health status-related factor relating to any covered individual.

(3) A health benefit plan for a plan sponsor may be discontinued if:

(a) a condition described in Subsection (2) exists;

(b) the plan sponsor fails to pay premiums or contributions in accordance with the terms of the contract;

(c) the plan sponsor:

(i) performs an act or practice that constitutes fraud; or

(ii) makes an intentional misrepresentation of material fact under the terms of the coverage;

(d) the insurer:

(i) elects to discontinue offering a particular health benefit product delivered or issued for delivery in this state; and

(ii) (A) provides notice of the discontinuation in writing:

(I) to each plan sponsor, employee, or dependent of a plan sponsor or an employee; and

(II) at least 90 days before the date the coverage will be discontinued;

(B) provides notice of the discontinuation in writing:

(I) to the commissioner; and

(II) at least three working days prior to the date the notice is sent to the affected plan sponsors, employees, and dependents of the plan sponsors or employees;

(C) offers to each plan sponsor, on a guaranteed issue basis, the option to purchase:

(I) all other health benefit products currently being offered by the insurer in the market; or

(II) in the case of a large employer, any other health benefit product currently being offered in that market; and

(D) in exercising the option to discontinue that product and in offering the option of coverage in this section, acts uniformly without regard to:

(I) the claims experience of a plan sponsor;

(II) any health status–related factor relating to any covered participant or beneficiary; or

(III) any health status–related factor relating to any new participant or beneficiary who may become eligible for the coverage; or

(e) the insurer:

(i) elects to discontinue all of the insurer’s health benefit plans in:

(A) the small employer market;

(B) the large employer market; or

(C) both the small employer and large employer markets; and

(ii) (A) provides notice of the discontinuation in writing:

(I) to each plan sponsor, employee, or dependent of a plan sponsor or an employee; and

(II) at least 180 days before the date the coverage will be discontinued;

(B) provides notice of the discontinuation in writing:

(I) to the commissioner in each state in which an affected insured individual is known to reside; and

(II) at least 30 working days prior to the date the notice is sent to the affected plan sponsors, employees, and the dependents of the plan sponsors or employees;

(C) discontinues and nonrenews all plans issued or delivered for issuance in the market; and

(D) provides a plan of orderly withdrawal as required by Section 31A-4-115.

(4) A large employer health benefit plan may be discontinued or nonrenewed:

(a) if a condition described in Subsection (2) exists; or

(b) for noncompliance with the insurer’s:

(i) minimum participation requirements; or

(ii) employer contribution requirements.

(5) A small employer health benefit plan may be discontinued or nonrenewed:

(a) if a condition described in Subsection (2) exists; or

(b) for noncompliance with the insurer’s employer contribution requirements.

(6) A small employer health benefit plan may be nonrenewed:

(a) if a condition described in Subsection (2) exists; or

(b) for noncompliance with the insurer’s minimum participation requirements.

(7) (a) Except as provided in Subsection (7)(d), an eligible employee may be discontinued if after issuance of coverage the eligible employee:

(i) engages in an act or practice in connection with the coverage that constitutes fraud; or

(ii) makes an intentional misrepresentation of material fact in connection with the coverage.

(b) An eligible employee that is discontinued under Subsection (7)(a) may reenroll:

(i) 12 months after the date of discontinuance; and

(ii) if the plan sponsor’s coverage is in effect at the time the eligible employee applies to reenroll.

(c) At the time the eligible employee’s coverage is discontinued under Subsection (7)(a), the insurer shall notify the eligible employee of the right to reenroll when coverage is discontinued.

(d) An eligible employee may not be discontinued under this Subsection (7) because of a fraud or misrepresentation that relates to health status.

(8) For purposes of this section, a reference to “plan sponsor” includes a reference to the employer:

(a) with respect to coverage provided to an employer member of the association; and

(b) if the health benefit plan is made available by an insurer in the employer market only through:

(i) an association;

(ii) a trust; or

(iii) a discretionary group.

(9) An insurer may modify a health benefit plan for a plan sponsor only:

(a) at the time of coverage renewal; and

(b) if the modification is effective uniformly among all plans with that product.

Section 8. Section 31A-16-103 is amended to read:

31A-16-103. Acquisition of control of or merger with domestic insurer.

(1) (a) A person may not take the actions described in Subsections (1)(b) or (c) unless, at the time any offer, request, or invitation is made or any such agreement is entered into, or prior to the acquisition of securities if no offer or agreement is involved:

(i) the person files with the commissioner a statement containing the information required by this section;

(ii) the person provides a copy of the statement described in Subsection (1)(a)(i) to the insurer; and

(iii) the commissioner approves the offer, request, invitation, agreement, or acquisition.

(b) Unless the person complies with Subsection (1)(a), a person other than the issuer may not make

a tender offer for, a request or invitation for tenders of, or enter into any agreement to exchange securities, or seek to acquire or acquire in the open market or otherwise, any voting security of a domestic insurer if after the acquisition, the person would directly, indirectly, by conversion, or by exercise of any right to acquire be in control of the insurer.

(c) Unless the person complies with Subsection (1)(a), a person may not enter into an agreement to merge with or otherwise to acquire control of:

- (i) a domestic insurer; or
- (ii) any person controlling a domestic insurer.

(d) (i) For purposes of this section, a domestic insurer includes any person controlling a domestic insurer unless the person as determined by the commissioner is either directly or through its affiliates primarily engaged in business other than the business of insurance.

(ii) The controlling person described in Subsection (1)(d)(i) shall file with the commissioner a preacquisition notification containing the information required in Subsection (2) 30 calendar days before the proposed effective date of the acquisition.

(iii) For the purposes of this section, "person" does not include any securities broker that in the usual and customary brokers function holds less than 20% of:

(A) the voting securities of an insurance company; or

(B) any person that controls an insurance company.

(iv) This section applies to all domestic insurers and other entities licensed under Chapters 5, 7, 8, 9, and 11.

(e) (i) An agreement for acquisition of control or merger as contemplated by this Subsection (1) is not valid or enforceable unless the agreement:

(A) is in writing; and

(B) includes a provision that the agreement is subject to the approval of the commissioner upon the filing of any applicable statement required under this chapter.

(ii) A written agreement for acquisition or control that includes the provision described in Subsection (1)(e)(i) satisfies the requirements of this Subsection (1).

(2) The statement to be filed with the commissioner under Subsection (1) shall be made under oath or affirmation and shall contain the following information:

(a) the name and address of the "acquiring party," which means each person by whom or on whose behalf the merger or other acquisition of control referred to in Subsection (1) is to be effected; and

- (i) if the person is an individual:

(A) the person's principal occupation;

(B) a listing of all offices and positions held by the person during the past five years; and

(C) any conviction of crimes other than minor traffic violations during the past 10 years; and

- (ii) if the person is not an individual:

(A) a report of the nature of its business operations during:

(I) the past five years; or

(II) for any lesser period as the person and any of its predecessors has been in existence;

(B) an informative description of the business intended to be done by the person and the person's subsidiaries;

(C) a list of all individuals who are or who have been selected to become directors or executive officers of the person, or individuals who perform, or who will perform functions appropriate to such positions; and

(D) for each individual described in Subsection (2)(a)(ii)(C), the information required by Subsection (2)(a)(i) for each individual;

(b) (i) the source, nature, and amount of the consideration used or to be used in effecting the merger or acquisition of control;

(ii) a description of any transaction in which funds were or are to be obtained for the purpose of effecting the merger or acquisition of control, including any pledge of:

(A) the insurer's stock; or

(B) the stock of any of the insurer's subsidiaries or controlling affiliates; and

(iii) the identity of persons furnishing the consideration;

(c) (i) fully audited financial information, or other financial information considered acceptable by the commissioner, of the earnings and financial condition of each acquiring party for:

(A) the preceding five fiscal years of each acquiring party; or

(B) any lesser period the acquiring party and any of its predecessors shall have been in existence; and

- (ii) unaudited information:

(A) similar to the information described in Subsection (2)(c)(i); and

(B) prepared within the 90 days prior to the filing of the statement;

(d) any plans or proposals which each acquiring party may have to:

(i) liquidate the insurer;

(ii) sell its assets;

(iii) merge or consolidate the insurer with any person; or

(iv) make any other material change in the insurer's:

- (A) business;
- (B) corporate structure; or
- (C) management;
- (e) (i) the number of shares of any security referred to in Subsection (1) that each acquiring party proposes to acquire;
- (ii) the terms of the offer, request, invitation, agreement, or acquisition referred to in Subsection (1); and
- (iii) a statement as to the method by which the fairness of the proposal was arrived at;
- (f) the amount of each class of any security referred to in Subsection (1) that:
 - (i) is beneficially owned; or
 - (ii) concerning which there is a right to acquire beneficial ownership by each acquiring party;
 - (g) a full description of any contract, arrangement, or understanding with respect to any security referred to in Subsection (1) in which any acquiring party is involved, including:
 - (i) the transfer of any of the securities;
 - (ii) joint ventures;
 - (iii) loan or option arrangements;
 - (iv) puts or calls;
 - (v) guarantees of loans;
 - (vi) guarantees against loss or guarantees of profits;
 - (vii) division of losses or profits; or
 - (viii) the giving or withholding of proxies;
 - (h) a description of the purchase by any acquiring party of any security referred to in Subsection (1) during the 12 calendar months preceding the filing of the statement including:
 - (i) the dates of purchase;
 - (ii) the names of the purchasers; and
 - (iii) the consideration paid or agreed to be paid for the purchase;
 - (i) a description of:
 - (i) any recommendations to purchase by any acquiring party any security referred to in Subsection (1) made during the 12 calendar months preceding the filing of the statement; or
 - (ii) any recommendations made by anyone based upon interviews or at the suggestion of the acquiring party;
 - (j) (i) copies of all tender offers for, requests for, or invitations for tenders of, exchange offers for, and agreements to acquire or exchange any securities referred to in Subsection (1); and
 - (ii) if distributed, copies of additional soliciting material relating to the transactions described in Subsection (2)(j)(i);

- (k) (i) the term of any agreement, contract, or understanding made with, or proposed to be made with, any broker-dealer as to solicitation of securities referred to in Subsection (1) for tender; and
- (ii) the amount of any fees, commissions, or other compensation to be paid to broker-dealers with regard to any agreement, contract, or understanding described in Subsection (2)(k)(i); and
- (l) any additional information the commissioner requires by rule, which the commissioner determines to be:
 - (i) necessary or appropriate for the protection of policyholders of the insurer; or
 - (ii) in the public interest.
- (3) The department may request:
 - (a) (i) criminal background information maintained pursuant to Title 53, Chapter 10, Part 2, Bureau of Criminal Identification, from the Bureau of Criminal Identification; and
 - (ii) complete Federal Bureau of Investigation criminal background checks through the national criminal history system.
 - (b) Information obtained by the department from the review of criminal history records received under Subsection (3)(a) shall be used by the department for the purpose of:
 - (i) verifying the information in Subsection (2)(a)(i);
 - (ii) determining the integrity of persons who would control the operation of an insurer; and
 - (iii) preventing persons who violate 18 U.S.C. [Sections] Sec. 1033 [~~and 1034~~] from engaging in the business of insurance in the state.
 - (c) If the department requests the criminal background information, the department shall:
 - (i) pay to the Department of Public Safety the costs incurred by the Department of Public Safety in providing the department criminal background information under Subsection (3)(a)(i);
 - (ii) pay to the Federal Bureau of Investigation the costs incurred by the Federal Bureau of Investigation in providing the department criminal background information under Subsection (3)(a)(ii); and
 - (iii) charge the person required to file the statement referred to in Subsection (1) a fee equal to the aggregate of Subsections (3)(c)(i) and (ii).
- (4) (a) If the source of the consideration under Subsection (2)(b)(i) is a loan made in the lender's ordinary course of business, the identity of the lender shall remain confidential, if the person filing the statement so requests.
 - (b) (i) Under Subsection (2)(e), the commissioner may require a statement of the adjusted book value assigned by the acquiring party to each security in arriving at the terms of the offer.

(ii) For purposes of this Subsection (4)(b), “adjusted book value” means each security’s proportional interest in the capital and surplus of the insurer with adjustments that reflect:

(A) market conditions;

(B) business in force; and

(C) other intangible assets or liabilities of the insurer.

(c) The description required by Subsection (2)(g) shall identify the persons with whom the contracts, arrangements, or understandings have been entered into.

(5) (a) If the person required to file the statement referred to in Subsection (1) is a partnership, limited partnership, syndicate, or other group, the commissioner may require that all the information called for by Subsections (2), (3), or (4) shall be given with respect to each:

(i) partner of the partnership or limited partnership;

(ii) member of the syndicate or group; and

(iii) person who controls the partner or member.

(b) If any partner, member, or person referred to in Subsection (5)(a) is a corporation, or if the person required to file the statement referred to in Subsection (1) is a corporation, the commissioner may require that the information called for by Subsection (2) shall be given with respect to:

(i) the corporation;

(ii) each officer and director of the corporation; and

(iii) each person who is directly or indirectly the beneficial owner of more than 10% of the outstanding voting securities of the corporation.

(6) If any material change occurs in the facts set forth in the statement filed with the commissioner and sent to the insurer pursuant to Subsection (2), an amendment setting forth the change, together with copies of all documents and other material relevant to the change, shall be filed with the commissioner and sent to the insurer within two business days after the filing person learns of such change.

(7) If any offer, request, invitation, agreement, or acquisition referred to in Subsection (1) is proposed to be made by means of a registration statement under the Securities Act of 1933, or under circumstances requiring the disclosure of similar information under the Securities Exchange Act of 1934, or under a state law requiring similar registration or disclosure, a person required to file the statement referred to in Subsection (1) may use copies of any registration or disclosure documents in furnishing the information called for by the statement.

(8) (a) The commissioner shall approve any merger or other acquisition of control referred to in

Subsection (1) unless, after a public hearing on the merger or acquisition, the commissioner finds that:

(i) after the change of control, the domestic insurer referred to in Subsection (1) would not be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed;

(ii) the effect of the merger or other acquisition of control would:

(A) substantially lessen competition in insurance in this state; or

(B) tend to create a monopoly in insurance;

(iii) the financial condition of any acquiring party might:

(A) jeopardize the financial stability of the insurer; or

(B) prejudice the interest of:

(I) its policyholders; or

(II) any remaining securityholders who are unaffiliated with the acquiring party;

(iv) the terms of the offer, request, invitation, agreement, or acquisition referred to in Subsection (1) are unfair and unreasonable to the securityholders of the insurer;

(v) the plans or proposals which the acquiring party has to liquidate the insurer, sell its assets, or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, are:

(A) unfair and unreasonable to policyholders of the insurer; and

(B) not in the public interest; or

(vi) the competence, experience, and integrity of those persons who would control the operation of the insurer are such that it would not be in the interest of the policyholders of the insurer and the public to permit the merger or other acquisition of control.

(b) For purposes of Subsection (8)(a)(iv), the offering price for each security may not be considered unfair if the adjusted book values under Subsection (2)(e):

(i) are disclosed to the securityholders; and

(ii) determined by the commissioner to be reasonable.

(9) (a) The public hearing referred to in Subsection (8) shall be held within 30 days after the statement required by Subsection (1) is filed.

(b) (i) At least 20 days notice of the hearing shall be given by the commissioner to the person filing the statement.

(ii) Affected parties may waive the notice required by this Subsection (9)(b).

(iii) Not less than seven days notice of the public hearing shall be given by the person filing the statement to:

(A) the insurer; and

(B) any person designated by the commissioner.

(c) The commissioner shall make a determination within 30 days after the conclusion of the hearing.

(d) At the hearing, the person filing the statement, the insurer, any person to whom notice of hearing was sent, and any other person whose interest may be affected by the hearing may:

- (i) present evidence;
- (ii) examine and cross-examine witnesses; and
- (iii) offer oral and written arguments.

(e) (i) A person or insurer described in Subsection (9)(d) may conduct discovery proceedings in the same manner as is presently allowed in the district courts of this state.

(ii) All discovery proceedings shall be concluded not later than three days before the commencement of the public hearing.

(10) (a) The commissioner may retain technical experts to assist in reviewing all, or a portion of, information filed in connection with a proposed merger or other acquisition of control referred to in Subsection (1).

(b) In determining whether any of the conditions in Subsection (8) exist, the commissioner may consider the findings of technical experts employed to review applicable filings.

(c) (i) A technical expert employed under Subsection (10)(a) shall present to the commissioner a statement of all expenses incurred by the technical expert in conjunction with the technical expert's review of a proposed merger or other acquisition of control.

(ii) At the commissioner's direction the acquiring person shall compensate the technical expert at customary rates for time and expenses:

- (A) necessarily incurred; and
- (B) approved by the commissioner.

(iii) The acquiring person shall:

- (A) certify the consolidated account of all charges and expenses incurred for the review by technical experts;
- (B) retain a copy of the consolidated account described in Subsection (10)(c)(iii)(A); and
- (C) file with the department as a public record a copy of the consolidated account described in Subsection (10)(c)(iii)(A).

(11) (a) (i) If a domestic insurer proposes to merge into another insurer, any securityholder electing to exercise a right of dissent may file with the insurer a written request for payment of the adjusted book value given in the statement required by Subsection (1) and approved under Subsection (8), in return for the surrender of the security holder's securities.

(ii) The request described in Subsection (11)(a)(i) shall be filed not later than 10 days after the day of the securityholders' meeting where the corporate action is approved.

(b) The dissenting securityholder is entitled to and the insurer is required to pay to the dissenting securityholder the specified value within 60 days of receipt of the dissenting security holder's security.

(c) Persons electing under this Subsection (11) to receive cash for their securities waive the dissenting shareholder and appraisal rights otherwise applicable under Title 16, Chapter 10a, Part 13, Dissenters' Rights.

(d) (i) This Subsection (11) provides an elective procedure for dissenting securityholders to resolve their objections to the plan of merger.

(ii) This section does not restrict the rights of dissenting securityholders under Title 16, Chapter 10a, Utah Revised Business Corporation Act, unless this election is made under this Subsection (11).

(12) (a) All statements, amendments, or other material filed under Subsection (1), and all notices of public hearings held under Subsection (8), shall be mailed by the insurer to its securityholders within five business days after the insurer has received the statements, amendments, other material, or notices.

(b) (i) Mailing expenses shall be paid by the person making the filing.

(ii) As security for the payment of mailing expenses, that person shall file with the commissioner an acceptable bond or other deposit in an amount determined by the commissioner.

(13) This section does not apply to any offer, request, invitation, agreement, or acquisition that the commissioner by order exempts from the requirements of this section as:

(a) not having been made or entered into for the purpose of, and not having the effect of, changing or influencing the control of a domestic insurer; or

(b) [as] otherwise not comprehended within the purposes of this section.

(14) The following are violations of this section:

(a) the failure to file any statement, amendment, or other material required to be filed pursuant to Subsections (1), (2), and (5); or

(b) the effectuation, or any attempt to effectuate, an acquisition of control of or merger with a domestic insurer unless the commissioner has given the commissioner's approval to the acquisition or merger.

(15) (a) The courts of this state are vested with jurisdiction over:

(i) a person who:

(A) files a statement with the commissioner under this section; and

(B) is not resident, domiciled, or authorized to do business in this state; and

(ii) overall actions involving persons described in Subsection (15)(a)(i) arising out of a violation of this section.

(b) A person described in Subsection (15)(a) is considered to have performed acts equivalent to and constituting an appointment of the commissioner by that person, to be that person's lawful agent upon whom may be served all lawful process in any action, suit, or proceeding arising out of a violation of this section.

(c) A copy of a lawful process described in Subsection (15)(b) shall be:

(i) served on the commissioner; and

(ii) transmitted by registered or certified mail by the commissioner to the person at that person's last-known address.

Section 9. Section 31A-17-607 is amended to read:

31A-17-607. Hearings.

(1) (a) Following receipt of a notice described in Subsection (2), the insurer or health organization shall have the right to a confidential departmental hearing at which the insurer or health organization may challenge ~~[any]~~ a determination or action by the commissioner.

(b) The insurer or health organization shall notify the commissioner of its request for a hearing within five days after the notification by the commissioner under ~~[Subsections 31A-17-604(1), (2), and (3)]~~ Subsection (2).

(c) Upon receipt of the insurer's or health organization's request for a hearing, the commissioner shall set a date for the hearing, which date shall be no less than 10 nor more than 30 days after the date of the insurer's or health organization's request.

(2) An insurer or health organization has the right to a hearing under Subsection (1) after:

(a) notification to an insurer or health organization by the commissioner of an adjusted RBC report;

(b) notification to an insurer or health organization by the commissioner that:

(i) the insurer's or health organization's RBC plan or revised RBC plan is unsatisfactory; and

(ii) the notification constitutes a regulatory action level event with respect to the insurer or health organization;

(c) notification to any insurer or health organization by the commissioner that the insurer or health organization has failed to adhere to its RBC plan or revised RBC plan and that the failure has substantial adverse effect on the ability of the insurer or health organization to eliminate the company action level event with respect to the insurer or health organization in accordance with its RBC plan or revised RBC plan; or

(d) notification to an insurer or health organization by the commissioner of a corrective order with respect to the insurer or health organization.

Section 10. Section 31A-22-305 is amended to read:

31A-22-305. Uninsured motorist coverage.

(1) As used in this section, "covered persons" includes:

(a) the named insured;

(b) for a claim arising on or after May 13, 2014, the named insured's dependent minor children;

~~[(b)]~~ (c) persons related to the named insured by blood, marriage, adoption, or guardianship, who are residents of the named insured's household, including those who usually make their home in the same household but temporarily live elsewhere;

~~[(e)]~~ (d) any person occupying or using a motor vehicle:

(i) referred to in the policy; or

(ii) owned by a self-insured; and

~~[(d)]~~ (e) any person who is entitled to recover damages against the owner or operator of the uninsured or underinsured motor vehicle because of bodily injury to or death of persons under Subsection (1)(a), (b), ~~[or]~~ (c), or (d).

(2) As used in this section, "uninsured motor vehicle" includes:

(a) (i) a motor vehicle, the operation, maintenance, or use of which is not covered under a liability policy at the time of an injury-causing occurrence; or

(ii) (A) a motor vehicle covered with lower liability limits than required by Section 31A-22-304; and

(B) the motor vehicle described in Subsection (2)(a)(ii)(A) is uninsured to the extent of the deficiency;

(b) an unidentified motor vehicle that left the scene of an accident proximately caused by the motor vehicle operator;

(c) a motor vehicle covered by a liability policy, but coverage for an accident is disputed by the liability insurer for more than 60 days or continues to be disputed for more than 60 days; or

(d) (i) an insured motor vehicle if, before or after the accident, the liability insurer of the motor vehicle is declared insolvent by a court of competent jurisdiction; and

(ii) the motor vehicle described in Subsection (2)(d)(i) is uninsured only to the extent that the claim against the insolvent insurer is not paid by a guaranty association or fund.

(3) Uninsured motorist coverage under Subsection 31A-22-302(1)(b) provides coverage for covered persons who are legally entitled to recover damages from owners or operators of uninsured

motor vehicles because of bodily injury, sickness, disease, or death.

(4) (a) For new policies written on or after January 1, 2001, the limits of uninsured motorist coverage shall be equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy, unless a named insured rejects or purchases coverage in a lesser amount by signing an acknowledgment form that:

- (i) is filed with the department;
- (ii) is provided by the insurer;
- (iii) waives the higher coverage;

(iv) need only state in this or similar language that uninsured motorist coverage provides benefits or protection to you and other covered persons for bodily injury resulting from an accident caused by the fault of another party where the other party has no liability insurance; and

(v) discloses the additional premiums required to purchase uninsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(b) Any selection or rejection under this Subsection (4) continues for that issuer of the liability coverage until the insured requests, in writing, a change of uninsured motorist coverage from that liability insurer.

(c) (i) Subsections (4)(a) and (b) apply retroactively to any claim arising on or after January 1, 2001, for which, as of May 14, 2013, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsections (4)(a) and (b) clarifies legislative intent and does not enlarge, eliminate, or destroy vested rights.

(d) For purposes of this Subsection (4), "new policy" means:

- (i) any policy that is issued which does not include a renewal or reinstatement of an existing policy; or
- (ii) a change to an existing policy that results in:

(A) a named insured being added to or deleted from the policy; or

(B) a change in the limits of the named insured's motor vehicle liability coverage.

(e) (i) As used in this Subsection (4)(e), "additional motor vehicle" means a change that increases the total number of vehicles insured by the policy, and does not include replacement, substitute, or temporary vehicles.

(ii) The adding of an additional motor vehicle to an existing personal lines or commercial lines policy does not constitute a new policy for purposes of Subsection (4)(d).

(iii) If an additional motor vehicle is added to a personal lines policy where uninsured motorist coverage has been rejected, or where uninsured motorist limits are lower than the named insured's motor vehicle liability limits, the insurer shall provide a notice to a named insured within 30 days that:

(A) in the same manner as described in Subsection (4)(a)(iv), explains the purpose of uninsured motorist coverage; and

(B) encourages the named insured to contact the insurance company or insurance producer for quotes as to the additional premiums required to purchase uninsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(f) A change in policy number resulting from any policy change not identified under Subsection (4)(d)(ii) does not constitute a new policy.

(g) (i) Subsection (4)(d) applies retroactively to any claim arising on or after January 1, 2001, for which, as of May 1, 2012, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsection (4):

(A) does not enlarge, eliminate, or destroy vested rights; and

(B) clarifies legislative intent.

(h) A self-insured, including a governmental entity, may elect to provide uninsured motorist coverage in an amount that is less than its maximum self-insured retention under Subsections (4)(a) and (5)(a) by issuing a declaratory memorandum or policy statement from the chief financial officer or chief risk officer that declares the:

(i) self-insured entity's coverage level; and

(ii) process for filing an uninsured motorist claim.

(i) Uninsured motorist coverage may not be sold with limits that are less than the minimum bodily injury limits for motor vehicle liability policies under Section 31A-22-304.

(j) The acknowledgment under Subsection (4)(a) continues for that issuer of the uninsured motorist coverage until the named insured requests, in writing, different uninsured motorist coverage from the insurer.

(k) (i) In conjunction with the first two renewal notices sent after January 1, 2001, for policies existing on that date, the insurer shall disclose in the same medium as the premium renewal notice, an explanation of:

(A) the purpose of uninsured motorist coverage in the same manner as described in Subsection (4)(a)(iv); and

(B) a disclosure of the additional premiums required to purchase uninsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(ii) The disclosure required under Subsection (4)(k)(i) shall be sent to all named insureds that carry uninsured motorist coverage limits in an amount less than the named insured's motor vehicle liability policy limits or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(l) For purposes of this Subsection (4), a notice or disclosure sent to a named insured in a household constitutes notice or disclosure to all insureds within the household.

(5) (a) (i) Except as provided in Subsection (5)(b), the named insured may reject uninsured motorist coverage by an express writing to the insurer that provides liability coverage under Subsection 31A-22-302(1)(a).

(ii) This rejection shall be on a form provided by the insurer that includes a reasonable explanation of the purpose of uninsured motorist coverage.

(iii) This rejection continues for that issuer of the liability coverage until the insured in writing requests uninsured motorist coverage from that liability insurer.

(b) (i) All persons, including governmental entities, that are engaged in the business of, or that accept payment for, transporting natural persons by motor vehicle, and all school districts that provide transportation services for their students, shall provide coverage for all motor vehicles used for that purpose, by purchase of a policy of insurance or by self-insurance, uninsured motorist coverage of at least \$25,000 per person and \$500,000 per accident.

(ii) This coverage is secondary to any other insurance covering an injured covered person.

(c) Uninsured motorist coverage:

(i) is secondary to the benefits provided by Title 34A, Chapter 2, Workers' Compensation Act;

(ii) may not be subrogated by the workers' compensation insurance carrier;

(iii) may not be reduced by any benefits provided by workers' compensation insurance;

(iv) may be reduced by health insurance subrogation only after the covered person has been made whole;

(v) may not be collected for bodily injury or death sustained by a person:

(A) while committing a violation of Section 41-1a-1314;

(B) who, as a passenger in a vehicle, has knowledge that the vehicle is being operated in violation of Section 41-1a-1314; or

(C) while committing a felony; and

(vi) notwithstanding Subsection (5)(c)(v), may be recovered:

(A) for a person under 18 years of age who is injured within the scope of Subsection (5)(c)(v) but limited to medical and funeral expenses; or

(B) by a law enforcement officer as defined in Section 53-13-103, who is injured within the course and scope of the law enforcement officer's duties.

(d) As used in this Subsection (5), "motor vehicle" has the same meaning as under Section 41-1a-102.

(6) When a covered person alleges that an uninsured motor vehicle under Subsection (2)(b) proximately caused an accident without touching the covered person or the motor vehicle occupied by the covered person, the covered person shall show the existence of the uninsured motor vehicle by clear and convincing evidence consisting of more than the covered person's testimony.

(7) (a) The limit of liability for uninsured motorist coverage for two or more motor vehicles may not be added together, combined, or stacked to determine the limit of insurance coverage available to an injured person for any one accident.

(b) (i) Subsection (7)(a) applies to all persons except a covered person as defined under Subsection (8)(b)(ii).

(ii) A covered person as defined under Subsection (8)(b)(ii) is entitled to the highest limits of uninsured motorist coverage afforded for any one motor vehicle that the covered person is the named insured or an insured family member.

(iii) This coverage shall be in addition to the coverage on the motor vehicle the covered person is occupying.

(iv) Neither the primary nor the secondary coverage may be set off against the other.

(c) Coverage on a motor vehicle occupied at the time of an accident shall be primary coverage, and the coverage elected by a person described under Subsections (1)(a) [and], (b), and (c) shall be secondary coverage.

(8) (a) Uninsured motorist coverage under this section applies to bodily injury, sickness, disease, or death of covered persons while occupying or using a motor vehicle only if the motor vehicle is described in the policy under which a claim is made, or if the motor vehicle is a newly acquired or replacement motor vehicle covered under the terms of the policy. Except as provided in Subsection (7) or this Subsection (8), a covered person injured in a motor vehicle described in a policy that includes uninsured motorist benefits may not elect to collect uninsured motorist coverage benefits from any

other motor vehicle insurance policy under which the person is a covered person.

(b) Each of the following persons may also recover uninsured motorist benefits under any one other policy in which they are described as a “covered person” as defined in Subsection (1):

(i) a covered person injured as a pedestrian by an uninsured motor vehicle; and

(ii) except as provided in Subsection (8)(c), a covered person injured while occupying or using a motor vehicle that is not owned, leased, or furnished:

(A) to the covered person;

(B) to the covered person’s spouse; or

(C) to the covered person’s resident parent or resident sibling.

(c) (i) A covered person may recover benefits from no more than two additional policies, one additional policy from each parent’s household if the covered person is:

(A) a dependent minor of parents who reside in separate households; and

(B) injured while occupying or using a motor vehicle that is not owned, leased, or furnished:

(I) to the covered person;

(II) to the covered person’s resident parent; or

(III) to the covered person’s resident sibling.

(ii) Each parent’s policy under this Subsection (8)(c) is liable only for the percentage of the damages that the limit of liability of each parent’s policy of uninsured motorist coverage bears to the total of both parents’ uninsured coverage applicable to the accident.

(d) A covered person’s recovery under any available policies may not exceed the full amount of damages.

(e) A covered person in Subsection (8)(b) is not barred against making subsequent elections if recovery is unavailable under previous elections.

(f) (i) As used in this section, “interpolicy stacking” means recovering benefits for a single incident of loss under more than one insurance policy.

(ii) Except to the extent permitted by Subsection (7) and this Subsection (8), interpolicy stacking is prohibited for uninsured motorist coverage.

(9) (a) When a claim is brought by a named insured or a person described in Subsection (1) and is asserted against the covered person’s uninsured motorist carrier, the claimant may elect to resolve the claim:

(i) by submitting the claim to binding arbitration; or

(ii) through litigation.

(b) Unless otherwise provided in the policy under which uninsured benefits are claimed, the election provided in Subsection (9)(a) is available to the claimant only, except that if the policy under which insured benefits are claimed provides that either an insured or the insurer may elect arbitration, the insured or the insurer may elect arbitration and that election to arbitrate shall stay the litigation of the claim under Subsection (9)(a)(ii).

(c) Once the claimant has elected to commence litigation under Subsection (9)(a)(ii), the claimant may not elect to resolve the claim through binding arbitration under this section without the written consent of the uninsured motorist carrier.

(d) (i) Unless otherwise agreed to in writing by the parties, a claim that is submitted to binding arbitration under Subsection (9)(a)(i) shall be resolved by a single arbitrator.

(ii) All parties shall agree on the single arbitrator selected under Subsection (9)(d)(i).

(iii) If the parties are unable to agree on a single arbitrator as required under Subsection (9)(d)(ii), the parties shall select a panel of three arbitrators.

(e) If the parties select a panel of three arbitrators under Subsection (9)(d)(iii):

(i) each side shall select one arbitrator; and

(ii) the arbitrators appointed under Subsection (9)(e)(i) shall select one additional arbitrator to be included in the panel.

(f) Unless otherwise agreed to in writing:

(i) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (9)(d)(i); or

(ii) if an arbitration panel is selected under Subsection (9)(d)(iii):

(A) each party shall pay the fees and costs of the arbitrator selected by that party; and

(B) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (9)(e)(ii).

(g) Except as otherwise provided in this section or unless otherwise agreed to in writing by the parties, an arbitration proceeding conducted under this section shall be governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(h) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f), 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of Subsections (10)(a) through (c) are satisfied.

(ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure shall be determined based on the claimant’s specific monetary amount in the written demand for payment of uninsured motorist coverage benefits as required in Subsection (10)(a)(i)(A).

(iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to arbitration claims under this part.

(i) All issues of discovery shall be resolved by the arbitrator or the arbitration panel.

(j) A written decision by a single arbitrator or by a majority of the arbitration panel shall constitute a final decision.

(k) (i) Except as provided in Subsection (10), the amount of an arbitration award may not exceed the uninsured motorist policy limits of all applicable uninsured motorist policies, including applicable uninsured motorist umbrella policies.

(ii) If the initial arbitration award exceeds the uninsured motorist policy limits of all applicable uninsured motorist policies, the arbitration award shall be reduced to an amount equal to the combined uninsured motorist policy limits of all applicable uninsured motorist policies.

(l) The arbitrator or arbitration panel may not decide the issues of coverage or extra-contractual damages, including:

(i) whether the claimant is a covered person;

(ii) whether the policy extends coverage to the loss; or

(iii) any allegations or claims asserting consequential damages or bad faith liability.

(m) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or class-representative basis.

(n) If the arbitrator or arbitration panel finds that the action was not brought, pursued, or defended in good faith, the arbitrator or arbitration panel may award reasonable attorney fees and costs against the party that failed to bring, pursue, or defend the claim in good faith.

(o) An arbitration award issued under this section shall be the final resolution of all claims not excluded by Subsection (9)(l) between the parties unless:

(i) the award was procured by corruption, fraud, or other undue means;

(ii) either party, within 20 days after service of the arbitration award:

(A) files a complaint requesting a trial de novo in the district court; and

(B) serves the nonmoving party with a copy of the complaint requesting a trial de novo under Subsection (9)(o)(ii)(A).

(p) (i) Upon filing a complaint for a trial de novo under Subsection (9)(o), the claim shall proceed through litigation pursuant to the Utah Rules of Civil Procedure and Utah Rules of Evidence in the district court.

(ii) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may request a jury trial with a complaint requesting a trial de novo under Subsection (9)(o)(ii)(A).

(q) (i) If the claimant, as the moving party in a trial de novo requested under Subsection (9)(o),

does not obtain a verdict that is at least \$5,000 and is at least 20% greater than the arbitration award, the claimant is responsible for all of the nonmoving party's costs.

(ii) If the uninsured motorist carrier, as the moving party in a trial de novo requested under Subsection (9)(o), does not obtain a verdict that is at least 20% less than the arbitration award, the uninsured motorist carrier is responsible for all of the nonmoving party's costs.

(iii) Except as provided in Subsection (9)(q)(iv), the costs under this Subsection (9)(q) shall include:

(A) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

(B) the costs of expert witnesses and depositions.

(iv) An award of costs under this Subsection (9)(q) may not exceed \$2,500 unless Subsection (10)(h)(iii) applies.

(r) For purposes of determining whether a party's verdict is greater or less than the arbitration award under Subsection (9)(q), a court may not consider any recovery or other relief granted on a claim for damages if the claim for damages:

(i) was not fully disclosed in writing prior to the arbitration proceeding; or

(ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil Procedure.

(s) If a district court determines, upon a motion of the nonmoving party, that the moving party's use of the trial de novo process was filed in bad faith in accordance with Section 78B-5-825, the district court may award reasonable attorney fees to the nonmoving party.

(t) Nothing in this section is intended to limit any claim under any other portion of an applicable insurance policy.

(u) If there are multiple uninsured motorist policies, as set forth in Subsection (8), the claimant may elect to arbitrate in one hearing the claims against all the uninsured motorist carriers.

(10) (a) Within 30 days after a covered person elects to submit a claim for uninsured motorist benefits to binding arbitration or files litigation, the covered person shall provide to the uninsured motorist carrier:

(i) a written demand for payment of uninsured motorist coverage benefits, setting forth:

(A) subject to Subsection (10)(l), the specific monetary amount of the demand, including a computation of the covered person's claimed past medical expenses, claimed past lost wages, and the other claimed past economic damages; and

(B) the factual and legal basis and any supporting documentation for the demand;

(ii) a written statement under oath disclosing:

(A) (I) the names and last known addresses of all health care providers who have rendered health care services to the covered person that are

material to the claims for which uninsured motorist benefits are sought for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) ~~[whether the covered person has seen other]~~ the names and last known addresses of the health care providers who have rendered health care services to the covered person, which the covered person claims are immaterial to the claims for which uninsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation has been exercised that have not been disclosed under Subsection (10)(a)(ii)(A)(I);

(B) (I) the names and last known addresses of all health insurers or other entities to whom the covered person has submitted claims for health care services or benefits material to the claims for which uninsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) ~~[whether the identity of any]~~ the names and last known addresses of the health insurers or other entities to whom the covered person has submitted claims for health care services or benefits, which the covered person claims are immaterial to the claims for which uninsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation have not been disclosed;

(C) if lost wages, diminished earning capacity, or similar damages are claimed, all employers of the covered person for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation has been exercised;

(D) other documents to reasonably support the claims being asserted; and

(E) all state and federal statutory lienholders including a statement as to whether the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under Title 26, Chapter 40, Utah Children's Health Insurance Act, or if the claim is subject to any other state or federal statutory liens; and

(iii) signed authorizations to allow the uninsured motorist carrier to only obtain records and billings from the individuals or entities disclosed under Subsections (10)(a)(ii)(A)(I), (B)(I), and (C).

(b) (i) If the uninsured motorist carrier determines that the disclosure of undisclosed health care providers or health care insurers under Subsection (10)(a)(ii) is reasonably necessary, the uninsured motorist carrier may:

(A) make a request for the disclosure of the identity of the health care providers or health care insurers; and

(B) make a request for authorizations to allow the uninsured motorist carrier to only obtain records and billings from the individuals or entities not disclosed.

(ii) If the covered person does not provide the requested information within 10 days:

(A) the covered person shall disclose, in writing, the legal or factual basis for the failure to disclose the health care providers or health care insurers; and

(B) either the covered person or the uninsured motorist carrier may request the arbitrator or arbitration panel to resolve the issue of whether the identities or records are to be provided if the covered person has elected arbitration.

(iii) The time periods imposed by Subsection (10)(c)(i) are tolled pending resolution of the dispute concerning the disclosure and production of records of the health care providers or health care insurers.

(c) (i) An uninsured motorist carrier that receives an election for arbitration or a notice of filing litigation and the demand for payment of uninsured motorist benefits under Subsection (10)(a)(i) shall have a reasonable time, not to exceed 60 days from the date of the demand and receipt of the items specified in Subsections (10)(a)(i) through (iii), to:

(A) provide a written response to the written demand for payment provided for in Subsection (10)(a)(i);

(B) except as provided in Subsection (10)(c)(i)(C), tender the amount, if any, of the uninsured motorist carrier's determination of the amount owed to the covered person; and

(C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under Title 26, Chapter 40, Utah Children's Health Insurance Act, or if the claim is subject to any other state or federal statutory liens, tender the amount, if any, of the uninsured motorist carrier's determination of the amount owed to the covered person less:

(I) if the amount of the state or federal statutory lien is established, the amount of the lien; or

(II) if the amount of the state or federal statutory lien is not established, two times the amount of the medical expenses subject to the state or federal statutory lien until such time as the amount of the state or federal statutory lien is established.

(ii) If the amount tendered by the uninsured motorist carrier under Subsection (10)(c)(i) is the total amount of the uninsured motorist policy limits, the tendered amount shall be accepted by the covered person.

(d) A covered person who receives a written response from an uninsured motorist carrier as provided for in Subsection (10)(c)(i), may:

(i) elect to accept the amount tendered in Subsection (10)(c)(i) as payment in full of all uninsured motorist claims; or

(ii) elect to:

(A) accept the amount tendered in Subsection (10)(c)(i) as partial payment of all uninsured motorist claims; and

(B) continue to litigate or arbitrate the remaining claim in accordance with the election made under Subsections (9)(a), (b), and (c).

(e) If a covered person elects to accept the amount tendered under Subsection (10)(c)(i) as partial payment of all uninsured motorist claims, the final award obtained through arbitration, litigation, or later settlement shall be reduced by any payment made by the uninsured motorist carrier under Subsection (10)(c)(i).

(f) In an arbitration proceeding on the remaining uninsured claims:

(i) the parties may not disclose to the arbitrator or arbitration panel the amount paid under Subsection (10)(c)(i) until after the arbitration award has been rendered; and

(ii) the parties may not disclose the amount of the limits of uninsured motorist benefits provided by the policy.

(g) If the final award obtained through arbitration or litigation is greater than the average of the covered person's initial written demand for payment provided for in Subsection (10)(a)(i) and the uninsured motorist carrier's initial written response provided for in Subsection (10)(c)(i), the uninsured motorist carrier shall pay:

(i) the final award obtained through arbitration or litigation, except that if the award exceeds the policy limits of the subject uninsured motorist policy by more than \$15,000, the amount shall be reduced to an amount equal to the policy limits plus \$15,000; and

(ii) any of the following applicable costs:

(A) any costs as set forth in Rule 54(d), Utah Rules of Civil Procedure;

(B) the arbitrator or arbitration panel's fee; and

(C) the reasonable costs of expert witnesses and depositions used in the presentation of evidence during arbitration or litigation.

(h) (i) The covered person shall provide an affidavit of costs within five days of an arbitration award.

(ii) (A) Objection to the affidavit of costs shall specify with particularity the costs to which the uninsured motorist carrier objects.

(B) The objection shall be resolved by the arbitrator or arbitration panel.

(iii) The award of costs by the arbitrator or arbitration panel under Subsection (10)(g)(ii) may not exceed \$5,000.

(i) (i) A covered person shall disclose all material information, other than rebuttal evidence, within 30 days after a covered person elects to submit a

claim for uninsured motorist coverage benefits to binding arbitration or files litigation as specified in Subsection (10)(a).

(ii) If the information under Subsection (10)(i)(i) is not disclosed, the covered person may not recover costs or any amounts in excess of the policy under Subsection (10)(g).

(j) This Subsection (10) does not limit any other cause of action that arose or may arise against the uninsured motorist carrier from the same dispute.

(k) The provisions of this Subsection (10) only apply to motor vehicle accidents that occur on or after March 30, 2010.

(l) (i) The written demand requirement in Subsection (10)(a)(i)(A) does not affect the covered person's requirement to provide a computation of any other economic damages claimed, and the one or more respondents shall have a reasonable time after the receipt of the computation of any other economic damages claimed to conduct fact and expert discovery as to any additional damages claimed. The changes made by this bill to this Subsection (10)(l) and Subsection (10)(a)(i)(A) apply to a claim submitted to binding arbitration or through litigation on or after May 13, 2014.

(ii) The changes made by this bill to Subsections (10)(a)(ii)(A)(II) and (B)(II) apply to any claim submitted to binding arbitration or through litigation on or after May 13, 2014.

Section 11. Section 31A-22-305.3 is amended to read:

31A-22-305.3. Underinsured motorist coverage.

(1) As used in this section:

(a) "Covered person" has the same meaning as defined in Section 31A-22-305.

(b) (i) "Underinsured motor vehicle" includes a motor vehicle, the operation, maintenance, or use of which is covered under a liability policy at the time of an injury-causing occurrence, but which has insufficient liability coverage to compensate fully the injured party for all special and general damages.

(ii) The term "underinsured motor vehicle" does not include:

(A) a motor vehicle that is covered under the liability coverage of the same policy that also contains the underinsured motorist coverage;

(B) an uninsured motor vehicle as defined in Subsection 31A-22-305(2); or

(C) a motor vehicle owned or leased by:

(I) a named insured;

(II) a named insured's spouse; or

(III) a dependent of a named insured.

(2) (a) Underinsured motorist coverage under Subsection 31A-22-302(1)(c) provides coverage for a covered person who is legally entitled to recover damages from an owner or operator of an

underinsured motor vehicle because of bodily injury, sickness, disease, or death.

(b) A covered person occupying or using a motor vehicle owned, leased, or furnished to the covered person, the covered person's spouse, or covered person's resident relative may recover underinsured benefits only if the motor vehicle is:

(i) described in the policy under which a claim is made; or

(ii) a newly acquired or replacement motor vehicle covered under the terms of the policy.

(3) (a) For new policies written on or after January 1, 2001, the limits of underinsured motorist coverage shall be equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy, unless a named insured rejects or purchases coverage in a lesser amount by signing an acknowledgment form that:

(i) is filed with the department;

(ii) is provided by the insurer;

(iii) waives the higher coverage;

(iv) need only state in this or similar language that underinsured motorist coverage provides benefits or protection to you and other covered persons for bodily injury resulting from an accident caused by the fault of another party where the other party has insufficient liability insurance; and

(v) discloses the additional premiums required to purchase underinsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(b) Any selection or rejection under Subsection (3)(a) continues for that issuer of the liability coverage until the insured requests, in writing, a change of underinsured motorist coverage from that liability insurer.

(c) (i) Subsections (3)(a) and (b) apply retroactively to any claim arising on or after January 1, 2001, for which, as of May 14, 2013, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsections (3)(a) and (b) clarifies legislative intent and does not enlarge, eliminate, or destroy vested rights.

(d) For purposes of this Subsection (3), "new policy" means:

(i) any policy that is issued which does not include a renewal or reinstatement of an existing policy; or

(ii) a change to an existing policy that results in:

(A) a named insured being added to or deleted from the policy; or

(B) a change in the limits of the named insured's motor vehicle liability coverage.

(e) (i) As used in this Subsection (3)(e), "additional motor vehicle" means a change that increases the total number of vehicles insured by the policy, and does not include replacement, substitute, or temporary vehicles.

(ii) The adding of an additional motor vehicle to an existing personal lines or commercial lines policy does not constitute a new policy for purposes of Subsection (3)(d).

(iii) If an additional motor vehicle is added to a personal lines policy where underinsured motorist coverage has been rejected, or where underinsured motorist limits are lower than the named insured's motor vehicle liability limits, the insurer shall provide a notice to a named insured within 30 days that:

(A) in the same manner described in Subsection (3)(a)(iv), explains the purpose of underinsured motorist coverage; and

(B) encourages the named insured to contact the insurance company or insurance producer for quotes as to the additional premiums required to purchase underinsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(f) A change in policy number resulting from any policy change not identified under Subsection (3)(d)(ii) does not constitute a new policy.

(g) (i) Subsection (3)(d) applies retroactively to any claim arising on or after January 1, 2001 for which, as of May 1, 2012, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsection (3)(d):

(A) does not enlarge, eliminate, or destroy vested rights; and

(B) clarifies legislative intent.

(h) A self-insured, including a governmental entity, may elect to provide underinsured motorist coverage in an amount that is less than its maximum self-insured retention under Subsections (3)(a) and (l) by issuing a declaratory memorandum or policy statement from the chief financial officer or chief risk officer that declares the:

(i) self-insured entity's coverage level; and

(ii) process for filing an underinsured motorist claim.

(i) Underinsured motorist coverage may not be sold with limits that are less than:

(i) \$10,000 for one person in any one accident; and

(ii) at least \$20,000 for two or more persons in any one accident.

(j) An acknowledgment under Subsection (3)(a) continues for that issuer of the underinsured motorist coverage until the named insured, in writing, requests different underinsured motorist coverage from the insurer.

(k) (i) The named insured's underinsured motorist coverage, as described in Subsection (2), is secondary to the liability coverage of an owner or operator of an underinsured motor vehicle, as described in Subsection (1).

(ii) Underinsured motorist coverage may not be set off against the liability coverage of the owner or operator of an underinsured motor vehicle, but shall be added to, combined with, or stacked upon the liability coverage of the owner or operator of the underinsured motor vehicle to determine the limit of coverage available to the injured person.

(l) (i) In conjunction with the first two renewal notices sent after January 1, 2001, for policies existing on that date, the insurer shall disclose in the same medium as the premium renewal notice, an explanation of:

(A) the purpose of underinsured motorist coverage in the same manner as described in Subsection (3)(a)(iv); and

(B) a disclosure of the additional premiums required to purchase underinsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(ii) The disclosure required under this Subsection (3)(l) shall be sent to all named insureds that carry underinsured motorist coverage limits in an amount less than the named insured's motor vehicle liability policy limits or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(m) For purposes of this Subsection (3), a notice or disclosure sent to a named insured in a household constitutes notice or disclosure to all insureds within the household.

(4) (a) (i) Except as provided in this Subsection (4), a covered person injured in a motor vehicle described in a policy that includes underinsured motorist benefits may not elect to collect underinsured motorist coverage benefits from another motor vehicle insurance policy.

(ii) The limit of liability for underinsured motorist coverage for two or more motor vehicles may not be added together, combined, or stacked to determine the limit of insurance coverage available to an injured person for any one accident.

(iii) Subsection (4)(a)(ii) applies to all persons except a covered person described under Subsections (4)(b)(i) and (ii).

(b) (i) Except as provided in Subsection (4)(b)(ii), a covered person injured while occupying, using, or maintaining a motor vehicle that is not owned, leased, or furnished to the covered person, the covered person's spouse, or the covered person's resident parent or resident sibling, may also recover benefits under any one other policy under which the covered person is also a covered person.

(ii) (A) A covered person may recover benefits from no more than two additional policies, one additional policy from each parent's household if the covered person is:

(I) a dependent minor of parents who reside in separate households; and

(II) injured while occupying or using a motor vehicle that is not owned, leased, or furnished to the covered person, the covered person's resident parent, or the covered person's resident sibling.

(B) Each parent's policy under this Subsection (4)(b)(ii) is liable only for the percentage of the damages that the limit of liability of each parent's policy of underinsured motorist coverage bears to the total of both parents' underinsured coverage applicable to the accident.

(iii) A covered person's recovery under any available policies may not exceed the full amount of damages.

(iv) Underinsured coverage on a motor vehicle occupied at the time of an accident is primary coverage, and the coverage elected by a person described under Subsections 31A-22-305(1)(a) [and], (b), and (c) is secondary coverage.

(v) The primary and the secondary coverage may not be set off against the other.

(vi) A covered person as described under Subsection (4)(b)(i) is entitled to the highest limits of underinsured motorist coverage under only one additional policy per household applicable to that covered person as a named insured, spouse, or relative.

(vii) A covered injured person is not barred against making subsequent elections if recovery is unavailable under previous elections.

(viii) (A) As used in this section, "interpolicy stacking" means recovering benefits for a single incident of loss under more than one insurance policy.

(B) Except to the extent permitted by this Subsection (4), interpolicy stacking is prohibited for underinsured motorist coverage.

(c) Underinsured motorist coverage:

(i) is secondary to the benefits provided by Title 34A, Chapter 2, Workers' Compensation Act;

(ii) may not be subrogated by a workers' compensation insurance carrier;

(iii) may not be reduced by benefits provided by workers' compensation insurance;

(iv) may be reduced by health insurance subrogation only after the covered person is made whole;

(v) may not be collected for bodily injury or death sustained by a person:

(A) while committing a violation of Section 41-1a-1314;

(B) who, as a passenger in a vehicle, has knowledge that the vehicle is being operated in violation of Section 41-1a-1314; or

(C) while committing a felony; and

(vi) notwithstanding Subsection (4)(c)(v), may be recovered:

(A) for a person under 18 years of age who is injured within the scope of Subsection (4)(c)(v), but is limited to medical and funeral expenses; or

(B) by a law enforcement officer as defined in Section 53-13-103, who is injured within the course and scope of the law enforcement officer's duties.

(5) The inception of the loss under Subsection 31A-21-313(1) for underinsured motorist claims occurs upon the date of the last liability policy payment.

(6) (a) Within five business days after notification that all liability insurers have tendered their liability policy limits, the underinsured carrier shall either:

(i) waive any subrogation claim the underinsured carrier may have against the person liable for the injuries caused in the accident; or

(ii) pay the insured an amount equal to the policy limits tendered by the liability carrier.

(b) If neither option is exercised under Subsection (6)(a), the subrogation claim is considered to be waived by the underinsured carrier.

(c) The notification under Subsection (6)(a) shall include:

(i) the name, address, and phone number for all liability insurers;

(ii) the liability insurers' liability policy limits; and

(iii) the claim number associated with each liability insurer.

(7) Except as otherwise provided in this section, a covered person may seek, subject to the terms and conditions of the policy, additional coverage under any policy:

(a) that provides coverage for damages resulting from motor vehicle accidents; and

(b) that is not required to conform to Section 31A-22-302.

(8) (a) When a claim is brought by a named insured or a person described in Subsection 31A-22-305(1) and is asserted against the covered person's underinsured motorist carrier, the claimant may elect to resolve the claim:

(i) by submitting the claim to binding arbitration; or

(ii) through litigation.

(b) Unless otherwise provided in the policy under which underinsured benefits are claimed, the election provided in Subsection (8)(a) is available to the claimant only, except that if the policy under which insured benefits are claimed provides that either an insured or the insurer may elect arbitration, the insured or the insurer may elect arbitration and that election to arbitrate shall stay the litigation of the claim under Subsection (8)(a)(ii).

(c) Once a claimant elects to commence litigation under Subsection (8)(a)(ii), the claimant may not elect to resolve the claim through binding arbitration under this section without the written consent of the underinsured motorist coverage carrier.

(d) (i) Unless otherwise agreed to in writing by the parties, a claim that is submitted to binding arbitration under Subsection (8)(a)(i) shall be resolved by a single arbitrator.

(ii) All parties shall agree on the single arbitrator selected under Subsection (8)(d)(i).

(iii) If the parties are unable to agree on a single arbitrator as required under Subsection (8)(d)(ii), the parties shall select a panel of three arbitrators.

(e) If the parties select a panel of three arbitrators under Subsection (8)(d)(iii):

(i) each side shall select one arbitrator; and

(ii) the arbitrators appointed under Subsection (8)(e)(i) shall select one additional arbitrator to be included in the panel.

(f) Unless otherwise agreed to in writing:

(i) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (8)(d)(i); or

(ii) if an arbitration panel is selected under Subsection (8)(d)(iii):

(A) each party shall pay the fees and costs of the arbitrator selected by that party; and

(B) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (8)(e)(ii).

(g) Except as otherwise provided in this section or unless otherwise agreed to in writing by the parties, an arbitration proceeding conducted under this section is governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(h) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f), 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of Subsections (9)(a) through (c) are satisfied.

(ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure shall be determined based on the claimant's specific monetary amount in the written demand for payment of underinsured motorist coverage benefits as required in Subsection (9)(a)(i)(A).

(iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to arbitration claims under this part.

(i) An issue of discovery shall be resolved by the arbitrator or the arbitration panel.

(j) A written decision by a single arbitrator or by a majority of the arbitration panel constitutes a final decision.

(k) (i) Except as provided in Subsection (9), the amount of an arbitration award may not exceed the underinsured motorist policy limits of all applicable underinsured motorist policies, including applicable underinsured motorist umbrella policies.

(ii) If the initial arbitration award exceeds the underinsured motorist policy limits of all applicable underinsured motorist policies, the arbitration award shall be reduced to an amount equal to the combined underinsured motorist policy limits of all applicable underinsured motorist policies.

(l) The arbitrator or arbitration panel may not decide an issue of coverage or extra-contractual damages, including:

(i) whether the claimant is a covered person;

(ii) whether the policy extends coverage to the loss; or

(iii) an allegation or claim asserting consequential damages or bad faith liability.

(m) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or class-representative basis.

(n) If the arbitrator or arbitration panel finds that the arbitration is not brought, pursued, or defended in good faith, the arbitrator or arbitration panel may award reasonable attorney fees and costs against the party that failed to bring, pursue, or defend the arbitration in good faith.

(o) An arbitration award issued under this section shall be the final resolution of all claims not excluded by Subsection (8)(l) between the parties unless:

(i) the award is procured by corruption, fraud, or other undue means;

(ii) either party, within 20 days after service of the arbitration award:

(A) files a complaint requesting a trial de novo in the district court; and

(B) serves the nonmoving party with a copy of the complaint requesting a trial de novo under Subsection (8)(o)(ii)(A).

(p) (i) Upon filing a complaint for a trial de novo under Subsection (8)(o), a claim shall proceed through litigation pursuant to the Utah Rules of Civil Procedure and Utah Rules of Evidence in the district court.

(ii) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may request a jury

trial with a complaint requesting a trial de novo under Subsection (8)(o)(ii)(A).

(q) (i) If the claimant, as the moving party in a trial de novo requested under Subsection (8)(o), does not obtain a verdict that is at least \$5,000 and is at least 20% greater than the arbitration award, the claimant is responsible for all of the nonmoving party's costs.

(ii) If the underinsured motorist carrier, as the moving party in a trial de novo requested under Subsection (8)(o), does not obtain a verdict that is at least 20% less than the arbitration award, the underinsured motorist carrier is responsible for all of the nonmoving party's costs.

(iii) Except as provided in Subsection (8)(q)(iv), the costs under this Subsection (8)(q) shall include:

(A) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

(B) the costs of expert witnesses and depositions.

(iv) An award of costs under this Subsection (8)(q) may not exceed \$2,500 unless Subsection (9)(h)(iii) applies.

(r) For purposes of determining whether a party's verdict is greater or less than the arbitration award under Subsection (8)(q), a court may not consider any recovery or other relief granted on a claim for damages if the claim for damages:

(i) was not fully disclosed in writing prior to the arbitration proceeding; or

(ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil Procedure.

(s) If a district court determines, upon a motion of the nonmoving party, that a moving party's use of the trial de novo process is filed in bad faith in accordance with Section 78B-5-825, the district court may award reasonable attorney fees to the nonmoving party.

(t) Nothing in this section is intended to limit a claim under another portion of an applicable insurance policy.

(u) If there are multiple underinsured motorist policies, as set forth in Subsection (4), the claimant may elect to arbitrate in one hearing the claims against all the underinsured motorist carriers.

(9) (a) Within 30 days after a covered person elects to submit a claim for underinsured motorist benefits to binding arbitration or files litigation, the covered person shall provide to the underinsured motorist carrier:

(i) a written demand for payment of underinsured motorist coverage benefits, setting forth:

(A) subject to Subsection (9)(l), the specific monetary amount of the demand, including a computation of the covered person's claimed past medical expenses, claimed past lost wages, and all other claimed past economic damages; and

(B) the factual and legal basis and any supporting documentation for the demand;

(ii) a written statement under oath disclosing:

(A) (I) the names and last known addresses of all health care providers who have rendered health care services to the covered person that are material to the claims for which the underinsured motorist benefits are sought for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) ~~[whether the covered person has seen other]~~ the names and last known addresses of the health care providers who have rendered health care services to the covered person, which the covered person claims are immaterial to the claims for which underinsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised that have not been disclosed under Subsection (9)(a)(ii)(A)(I);

(B) (I) the names and last known addresses of all health insurers or other entities to whom the covered person has submitted claims for health care services or benefits material to the claims for which underinsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) ~~[whether the identity of any]~~ the names and last known addresses of the health insurers or other entities to whom the covered person has submitted claims for health care services or benefits, which the covered person claims are immaterial to the claims for which underinsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation have not been disclosed;

(C) if lost wages, diminished earning capacity, or similar damages are claimed, all employers of the covered person for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised;

(D) other documents to reasonably support the claims being asserted; and

(E) all state and federal statutory lienholders including a statement as to whether the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under Title 26, Chapter 40, Utah Children's Health Insurance Act, or if the claim is subject to any other state or federal statutory liens; and

(iii) signed authorizations to allow the underinsured motorist carrier to only obtain records and billings from the individuals or entities

disclosed under Subsections (9)(a)(ii)(A)(I), (B)(I), and (C).

(b) (i) If the underinsured motorist carrier determines that the disclosure of undisclosed health care providers or health care insurers under Subsection (9)(a)(ii) is reasonably necessary, the underinsured motorist carrier may:

(A) make a request for the disclosure of the identity of the health care providers or health care insurers; and

(B) make a request for authorizations to allow the underinsured motorist carrier to only obtain records and billings from the individuals or entities not disclosed.

(ii) If the covered person does not provide the requested information within 10 days:

(A) the covered person shall disclose, in writing, the legal or factual basis for the failure to disclose the health care providers or health care insurers; and

(B) either the covered person or the underinsured motorist carrier may request the arbitrator or arbitration panel to resolve the issue of whether the identities or records are to be provided if the covered person has elected arbitration.

(iii) The time periods imposed by Subsection (9)(c)(i) are tolled pending resolution of the dispute concerning the disclosure and production of records of the health care providers or health care insurers.

(c) (i) An underinsured motorist carrier that receives an election for arbitration or a notice of filing litigation and the demand for payment of underinsured motorist benefits under Subsection (9)(a)(i) shall have a reasonable time, not to exceed 60 days from the date of the demand and receipt of the items specified in Subsections (9)(a)(i) through (iii), to:

(A) provide a written response to the written demand for payment provided for in Subsection (9)(a)(i);

(B) except as provided in Subsection (9)(c)(i)(C), tender the amount, if any, of the underinsured motorist carrier's determination of the amount owed to the covered person; and

(C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under Title 26, Chapter 40, Utah Children's Health Insurance Act, or if the claim is subject to any other state or federal statutory liens, tender the amount, if any, of the underinsured motorist carrier's determination of the amount owed to the covered person less:

(I) if the amount of the state or federal statutory lien is established, the amount of the lien; or

(II) if the amount of the state or federal statutory lien is not established, two times the amount of the medical expenses subject to the state or federal statutory lien until such time as the amount of the state or federal statutory lien is established.

(ii) If the amount tendered by the underinsured motorist carrier under Subsection (9)(c)(i) is the total amount of the underinsured motorist policy limits, the tendered amount shall be accepted by the covered person.

(d) A covered person who receives a written response from an underinsured motorist carrier as provided for in Subsection (9)(c)(i), may:

(i) elect to accept the amount tendered in Subsection (9)(c)(i) as payment in full of all underinsured motorist claims; or

(ii) elect to:

(A) accept the amount tendered in Subsection (9)(c)(i) as partial payment of all underinsured motorist claims; and

(B) continue to litigate or arbitrate the remaining claim in accordance with the election made under Subsections (8)(a), (b), and (c).

(e) If a covered person elects to accept the amount tendered under Subsection (9)(c)(i) as partial payment of all underinsured motorist claims, the final award obtained through arbitration, litigation, or later settlement shall be reduced by any payment made by the underinsured motorist carrier under Subsection (9)(c)(i).

(f) In an arbitration proceeding on the remaining underinsured claims:

(i) the parties may not disclose to the arbitrator or arbitration panel the amount paid under Subsection (9)(c)(i) until after the arbitration award has been rendered; and

(ii) the parties may not disclose the amount of the limits of underinsured motorist benefits provided by the policy.

(g) If the final award obtained through arbitration or litigation is greater than the average of the covered person's initial written demand for payment provided for in Subsection (9)(a)(i) and the underinsured motorist carrier's initial written response provided for in Subsection (9)(c)(i), the underinsured motorist carrier shall pay:

(i) the final award obtained through arbitration or litigation, except that if the award exceeds the policy limits of the subject underinsured motorist policy by more than \$15,000, the amount shall be reduced to an amount equal to the policy limits plus \$15,000; and

(ii) any of the following applicable costs:

(A) any costs as set forth in Rule 54(d), Utah Rules of Civil Procedure;

(B) the arbitrator or arbitration panel's fee; and

(C) the reasonable costs of expert witnesses and depositions used in the presentation of evidence during arbitration or litigation.

(h) (i) The covered person shall provide an affidavit of costs within five days of an arbitration award.

(ii) (A) Objection to the affidavit of costs shall specify with particularity the costs to which the underinsured motorist carrier objects.

(B) The objection shall be resolved by the arbitrator or arbitration panel.

(iii) The award of costs by the arbitrator or arbitration panel under Subsection (9)(g)(ii) may not exceed \$5,000.

(i) (i) A covered person shall disclose all material information, other than rebuttal evidence, within 30 days after a covered person elects to submit a claim for underinsured motorist coverage benefits to binding arbitration or files litigation as specified in Subsection (9)(a).

(ii) If the information under Subsection (9)(i)(i) is not disclosed, the covered person may not recover costs or any amounts in excess of the policy under Subsection (9)(g).

(j) This Subsection (9) does not limit any other cause of action that arose or may arise against the underinsured motorist carrier from the same dispute.

(k) The provisions of this Subsection (9) only apply to motor vehicle accidents that occur on or after March 30, 2010.

(l) (i) The written demand requirement in Subsection (9)(a)(i)(A) does not affect the covered person's requirement to provide a computation of any other economic damages claimed, and the one or more respondents shall have a reasonable time after the receipt of the computation of any other economic damages claimed to conduct fact and expert discovery as to any additional damages claimed. The changes made by this bill to this Subsection (9)(l) and Subsection (9)(a)(i)(A) apply to a claim submitted to binding arbitration or through litigation on or after May 13, 2014.

(ii) The changes made by this bill under Subsections (9)(a)(ii)(A)(II) and (B)(II) apply to a claim submitted to binding arbitration or through litigation on or after May 13, 2014.

Section 12. Section 31A-22-428 is amended to read:

31A-22-428. Interest payable on life insurance proceeds.

(1) For a life insurance policy delivered or issued for delivery in this state on or after May 5, 2008, the insurer shall pay interest on the death proceeds payable upon the death of the insured.

(2) (a) Except as provided in Subsection (4), for the period beginning on the date of death and ending the day before the day described in Subsection (3)(b), interest under Subsection (1) shall accrue at a rate no less than the greater of:

(i) the rate applicable to policy funds left on deposit; ~~or~~ and

(ii) ~~if there is no rate described in Subsection (2)(a)(i), at~~ the Two Year Treasury Constant Maturity Rate as published by the Federal Reserve.

(b) If there is no rate applicable to policy funds on deposit as stated in Subsection (2)(a)(i), then the

Two Year Treasury Constant Maturity Rates as published by the Federal Reserve applies.

(b) (c) The rate described in Subsection (2)(a) or (b) is the rate in effect on the day on which the death occurs.

(e) (d) Interest is payable until the day on which the claim is paid.

(3) (a) Unless the claim is paid and except as provided in Subsection (4), beginning on the day described in Subsection (3)(b) and ending the day on which the claim is paid, interest shall accrue at the rate in Subsection (2) plus additional interest at the rate of 10% annually.

(b) Interest accrues under Subsection (3)(a) beginning with the day that is 31 days from the latest of:

(i) the day on which the insurer receives proof of death;

(ii) the day on which the insurer receives sufficient information to determine:

(A) liability;

(B) the extent of the liability; and

(C) the appropriate payee legally entitled to the proceeds; and

(iii) the day on which:

(A) legal impediments to payment of proceeds that depend on the action of parties other than the insurer are resolved; and

(B) the insurer receives sufficient evidence of the resolution of the legal impediments described in Subsection (3)(b)(iii)(A).

(4) A court of competent jurisdiction may require payment of interest from the date of death to the day on which a claim is paid at a rate equal to the sum of:

(a) the rate specified in Subsection (2); and

(b) the legal rate identified in Subsection 15-1-1(2).

Section 13. Section 31A-22-617 is amended to read:

31A-22-617. Preferred provider contract provisions.

Health insurance policies may provide for insureds to receive services or reimbursement under the policies in accordance with preferred health care provider contracts as follows:

(1) Subject to restrictions under this section, [any] an insurer or third party administrator may enter into contracts with health care providers as defined in Section 78B-3-403 under which the health care providers agree to supply services, at prices specified in the contracts, to persons insured by an insurer.

(a) (i) A health care provider contract may require the health care provider to accept the specified payment in this Subsection (1) as payment in full,

relinquishing the right to collect additional amounts from the insured person.

(ii) In [any] a dispute involving a provider's claim for reimbursement, the same shall be determined in accordance with applicable law, the provider contract, the subscriber contract, and the insurer's written payment policies in effect at the time services were rendered.

(iii) If the parties are unable to resolve their dispute, the matter shall be subject to binding arbitration by a jointly selected arbitrator. Each party is to bear its own expense except the cost of the jointly selected arbitrator shall be equally shared. This Subsection (1)(a)(iii) does not apply to the claim of a general acute hospital to the extent it is inconsistent with the hospital's provider agreement.

(iv) An organization may not penalize a provider solely for pursuing a claims dispute or otherwise demanding payment for a sum believed owing.

(v) If an insurer permits another entity with which it does not share common ownership or control to use or otherwise lease one or more of the organization's networks of participating providers, the organization shall ensure, at a minimum, that the entity pays participating providers in accordance with the same fee schedule and general payment policies as the organization would for that network.

(b) The insurance contract may reward the insured for selection of preferred health care providers by:

(i) reducing premium rates;

(ii) reducing deductibles;

(iii) coinsurance;

(iv) other copayments; or

(v) any other reasonable manner.

(c) If the insurer is a managed care organization, as defined in Subsection 31A-27a-403(1)(f):

(i) the insurance contract and the health care provider contract shall provide that in the event the managed care organization becomes insolvent, the rehabilitator or liquidator may:

(A) require the health care provider to continue to provide health care services under the contract until the earlier of:

(I) 90 days after the date of the filing of a petition for rehabilitation or the petition for liquidation; or

(II) the date the term of the contract ends; and

(B) subject to Subsection (1)(c)(v), reduce the fees the provider is otherwise entitled to receive from the managed care organization during the time period described in Subsection (1)(c)(i)(A);

(ii) the provider is required to:

(A) accept the reduced payment under Subsection (1)(c)(i)(B) as payment in full; and

(B) relinquish the right to collect additional amounts from the insolvent managed care

organization's enrollee, as defined in Subsection 31A-27a-403(1)(b);

(iii) if the contract between the health care provider and the managed care organization has not been reduced to writing, or the contract fails to contain the ~~language required by~~ requirements described in Subsection (1)(c)(i), the provider may not collect or attempt to collect from the enrollee:

(A) sums owed by the insolvent managed care organization; or

(B) the amount of the regular fee reduction authorized under Subsection (1)(c)(i)(B);

(iv) the following may not bill or maintain ~~any~~ an action at law against an enrollee to collect sums owed by the insolvent managed care organization or the amount of the regular fee reduction authorized under Subsection (1)(c)(i)(B):

(A) a provider;

(B) an agent;

(C) a trustee; or

(D) an assignee of a person described in Subsections (1)(c)(iv)(A) through (C); and

(v) notwithstanding Subsection (1)(c)(i):

(A) a rehabilitator or liquidator may not reduce a fee by less than 75% of the provider's regular fee set forth in the contract; and

(B) the enrollee shall continue to pay the copayments, deductibles, and other payments for services received from the provider that the enrollee was required to pay before the filing of:

(I) a petition for rehabilitation; or

(II) a petition for liquidation.

(2) (a) Subject to Subsections (2)(b) through (2)(e), an insurer using preferred health care provider contracts is subject to the reimbursement requirements in Section 31A-8-501 on or after January 1, 2014.

(b) When reimbursing for services of health care providers not under contract, the insurer may make direct payment to the insured.

(c) An insurer using preferred health care provider contracts may impose a deductible on coverage of health care providers not under contract.

(d) When selecting health care providers with whom to contract under Subsection (1), an insurer may not unfairly discriminate between classes of health care providers, but may discriminate within a class of health care providers, subject to Subsection (7).

(e) For purposes of this section, unfair discrimination between classes of health care providers includes:

(i) refusal to contract with class members in reasonable proportion to the number of insureds

covered by the insurer and the expected demand for services from class members; and

(ii) refusal to cover procedures for one class of providers that are:

(A) commonly used by members of the class of health care providers for the treatment of illnesses, injuries, or conditions;

(B) otherwise covered by the insurer; and

(C) within the scope of practice of the class of health care providers.

(3) Before the insured consents to the insurance contract, the insurer shall fully disclose to the insured that it has entered into preferred health care provider contracts. The insurer shall provide sufficient detail on the preferred health care provider contracts to permit the insured to agree to the terms of the insurance contract. The insurer shall provide at least the following information:

(a) a list of the health care providers under contract, and if requested their business locations and specialties;

(b) a description of the insured benefits, including ~~any~~ deductibles, coinsurance, or other copayments;

(c) a description of the quality assurance program required under Subsection (4); and

(d) a description of the adverse benefit determination procedures required under Subsection (5).

(4) (a) An insurer using preferred health care provider contracts shall maintain a quality assurance program for assuring that the care provided by the health care providers under contract meets prevailing standards in the state.

(b) The commissioner in consultation with the executive director of the Department of Health may designate qualified persons to perform an audit of the quality assurance program. The auditors shall have full access to all records of the organization and its health care providers, including medical records of individual patients.

(c) The information contained in the medical records of individual patients shall remain confidential. All information, interviews, reports, statements, memoranda, or other data furnished for purposes of the audit and any findings or conclusions of the auditors are privileged. The information is not subject to discovery, use, or receipt in evidence in any legal proceeding except hearings before the commissioner concerning alleged violations of this section.

(5) An insurer using preferred health care provider contracts shall provide a reasonable procedure for resolving complaints and adverse benefit determinations initiated by the insureds and health care providers.

(6) An insurer may not contract with a health care provider for treatment of illness or injury unless the health care provider is licensed to perform that treatment.

(7) (a) A health care provider or insurer may not discriminate against a preferred health care provider for agreeing to a contract under Subsection (1).

(b) ~~[Any]~~ A health care provider licensed to treat ~~[any]~~ an illness or injury within the scope of the health care provider's practice, who is willing and able to meet the terms and conditions established by the insurer for designation as a preferred health care provider, shall be able to apply for and receive the designation as a preferred health care provider. Contract terms and conditions may include reasonable limitations on the number of designated preferred health care providers based upon substantial objective and economic grounds, or expected use of particular services based upon prior provider-patient profiles.

(8) Upon the written request of a provider excluded from a provider contract, the commissioner may hold a hearing to determine if the insurer's exclusion of the provider is based on the criteria set forth in Subsection (7)(b).

~~[(9) Except as provided in Subsection 31A-22-618.5(3)(a), insurers are subject to Sections 31A-22-613.5, 31A-22-614.5, and 31A-22-618.]~~

~~[(40)]~~ (9) Nothing in this section is to be construed as to require an insurer to offer a certain benefit or service as part of a health benefit plan.

~~[(41)]~~ (10) This section does not apply to catastrophic mental health coverage provided in accordance with Section 31A-22-625.

~~[(42)]~~ (11) Notwithstanding ~~[the provisions of]~~ Subsection (1), Subsection (7)(b), and Section 31A-22-618, an insurer or third party administrator is not required to, but may, enter into ~~[contracts]~~ a contract with a licensed athletic ~~[trainers]~~ trainer, licensed under Title 58, Chapter 40a, Athletic Trainer Licensing Act.

Section 14. Section 31A-22-618.5 is amended to read:

31A-22-618.5. Health benefit plan offerings.

(1) The purpose of this section is to increase the range of health benefit plans available in the small group, small employer group, large group, and individual insurance markets.

(2) A health maintenance organization that is subject to Chapter 8, Health Maintenance Organizations and Limited Health Plans:

(a) shall offer to potential purchasers at least one health benefit plan that is subject to the requirements of Chapter 8, Health Maintenance Organizations and Limited Health Plans; and

(b) may offer to a potential purchaser one or more health benefit plans that:

(i) are not subject to one or more of the following:

(A) the limitations on insured indemnity benefits in Subsection 31A-8-105(4);

(B) the limitation on point of service products in Subsections 31A-8-408(3) through (6);

(C) except as provided in Subsection (2)(b)(ii), basic health care services as defined in Section 31A-8-101; or

(D) coverage mandates enacted after January 1, 2009 that are not required by federal law, provided that the insurer offers one plan under Subsection (2)(a) that covers the mandate enacted after January 1, 2009; and

(ii) when offering a health plan under this section, provide coverage for an emergency medical condition as required by Section 31A-22-627 as follows:

(A) within the organization's service area, covered services shall include health care services from nonaffiliated providers when medically necessary to stabilize an emergency medical condition; and

(B) outside the organization's service area, covered services shall include medically necessary health care services for the treatment of an emergency medical condition that are immediately required while the enrollee is outside the geographic limits of the organization's service area.

(3) An insurer that offers a health benefit plan that is not subject to Chapter 8, Health Maintenance Organizations and Limited Health Plans:

(a) ~~[notwithstanding Subsection 31A-22-617(9),]~~ may offer a health benefit plan that is not subject to Section 31A-22-618;

(b) when offering a health plan under this Subsection (3), shall provide coverage of emergency care services as required by Section 31A-22-627; and

(c) is not subject to coverage mandates enacted after January 1, 2009 that are not required by federal law, provided that an insurer offers one plan that covers a mandate enacted after January 1, 2009.

(4) Section 31A-8-106 does not prohibit the offer of a health benefit plan under Subsection (2)(b).

(5) (a) Any difference in price between a health benefit plan offered under Subsections (2)(a) and (b) shall be based on actuarially sound data.

(b) Any difference in price between a health benefit plan offered under Subsection (3)(a) shall be based on actuarially sound data.

(6) Nothing in this section limits the number of health benefit plans that an insurer may offer.

Section 15. Section 31A-22-625 is amended to read:

31A-22-625. Catastrophic coverage of mental health conditions.

(1) As used in this section:

(a) (i) "Catastrophic mental health coverage" means coverage in a health benefit plan that does

not impose a lifetime limit, annual payment limit, episodic limit, inpatient or outpatient service limit, or maximum out-of-pocket limit that places a greater financial burden on an insured for the evaluation and treatment of a mental health condition than for the evaluation and treatment of a physical health condition.

(ii) "Catastrophic mental health coverage" may include a restriction on cost sharing factors, such as deductibles, copayments, or coinsurance, before reaching a maximum out-of-pocket limit.

(iii) "Catastrophic mental health coverage" may include one maximum out-of-pocket limit for physical health conditions and another maximum out-of-pocket limit for mental health conditions, except that if separate out-of-pocket limits are established, the out-of-pocket limit for mental health conditions may not exceed the out-of-pocket limit for physical health conditions.

(b) (i) "50/50 mental health coverage" means coverage in a health benefit plan that pays for at least 50% of covered services for the diagnosis and treatment of mental health conditions.

(ii) "50/50 mental health coverage" may include a restriction on:

- (A) episodic limits;
- (B) inpatient or outpatient service limits; or
- (C) maximum out-of-pocket limits.

(c) "Large employer" is as defined in 42 U.S.C. Sec. 300gg-91.

(d) (i) "Mental health condition" means a condition or disorder involving mental illness that falls under a diagnostic category listed in the Diagnostic and Statistical Manual, as periodically revised.

(ii) "Mental health condition" does not include the following when diagnosed as the primary or substantial reason or need for treatment:

- (A) a marital or family problem;
- (B) a social, occupational, religious, or other social maladjustment;
- (C) a conduct disorder;
- (D) a chronic adjustment disorder;
- (E) a psychosexual disorder;
- (F) a chronic organic brain syndrome;
- (G) a personality disorder;
- (H) a specific developmental disorder or learning disability; or
- (I) an intellectual disability.

(e) "Small employer" is as defined in 42 U.S.C. Sec. 300gg-91.

(2) (a) At the time of purchase and renewal, an insurer shall offer to a small employer that it insures or seeks to insure a choice between:

(i) (A) catastrophic mental health coverage; or
(B) federally qualified mental health coverage as described in Subsection (3); and

(ii) 50/50 mental health coverage.

(b) In addition to complying with Subsection (2)(a), an insurer may offer to provide:

(i) catastrophic mental health coverage, 50/50 mental health coverage, or both at levels that exceed the minimum requirements of this section; or

(ii) coverage that excludes benefits for mental health conditions.

(c) A small employer may, at its option, regardless of the employer's previous coverage for mental health conditions, choose either:

- (i) coverage offered under Subsection (2)(a)(i);
- (ii) 50/50 mental health coverage; or
- (iii) coverage offered under Subsection (2)(b).

(d) An insurer is exempt from the 30% index rating restriction in Section 31A-30-106.1 and, for the first year only that the employer chooses coverage that meets or exceeds catastrophic mental health coverage, the 15% annual adjustment restriction in Section 31A-30-106.1, for ~~any~~ a small employer with 20 or less enrolled employees who chooses coverage that meets or exceeds catastrophic mental health coverage.

(3) (a) An insurer shall offer a large employer mental health and substance use disorder benefit in compliance with Section 2705 of the Public Health Service Act, 42 U.S.C. Sec. 300gg-26, and federal regulations adopted pursuant to that act.

(b) An insurer shall provide in an individual or small employer health benefit plan, mental health and substance use disorder benefits in compliance with Sections 2705 and 2711 of the Public Health Service Act, 42 U.S.C. Sec. 300gg-26, and federal regulations adopted pursuant to that act.

(4) (a) An insurer may provide catastrophic mental health coverage to a small employer through a managed care organization or system in a manner consistent with Chapter 8, Health Maintenance Organizations and Limited Health Plans, regardless of whether the insurance policy uses a managed care organization or system for the treatment of physical health conditions.

(b) (i) Notwithstanding any other provision of this title, an insurer may:

(A) establish a closed panel of providers for catastrophic mental health coverage; and

(B) refuse to provide a benefit to be paid for services rendered by a nonpanel provider unless:

- (I) the insured is referred to a nonpanel provider with the prior authorization of the insurer; and
- (II) the nonpanel provider agrees to follow the insurer's protocols and treatment guidelines.

(ii) If an insured receives services from a nonpanel provider in the manner permitted by Subsection (4)(b)(i)(B), the insurer shall reimburse the insured for not less than 75% of the average amount paid by the insurer for comparable services of panel providers under a noncapitated arrangement who are members of the same class of health care providers.

(iii) This Subsection (4)(b) may not be construed as requiring an insurer to authorize a referral to a nonpanel provider.

(c) To be eligible for catastrophic mental health coverage, a diagnosis or treatment of a mental health condition shall be rendered:

(i) by a mental health therapist as defined in Section 58-60-102; or

(ii) in a health care facility:

(A) licensed or otherwise authorized to provide mental health services pursuant to:

(I) Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act; or

(II) Title 62A, Chapter 2, Licensure of Programs and Facilities; and

(B) that provides a program for the treatment of a mental health condition pursuant to a written plan.

(5) The commissioner may prohibit an insurance policy that provides mental health coverage in a manner that is inconsistent with this section.

(6) The commissioner ~~[shall: (a) may]~~ adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary to ensure compliance with this section~~[- and]~~.

~~[(b) provide general figures on the percentage of insurance policies that include:]~~

~~[(i) no mental health coverage;]~~

~~[(ii) 50/50 mental health coverage;]~~

~~[(iii) catastrophic mental health coverage; and]~~

~~[(iv) coverage that exceeds the minimum requirements of this section.]~~

~~[(7) This section may not be construed as discouraging or otherwise preventing an insurer from providing mental health coverage in connection with an individual insurance policy.]~~

Section 16. Section 31A-22-635 is amended to read:

31A-22-635. Uniform application -- Uniform waiver of coverage -- Information on Health Insurance Exchange.

(1) For purposes of this section, "insurer":

(a) is defined in Subsection 31A-22-634(1); and

(b) includes the state employee's risk pool under Section 49-20-202.

(2) (a) Insurers offering a health benefit plan to an individual or small employer shall use a uniform application form.

(b) The uniform application form:

(i) ~~[except for cancer and transplants,]~~ may not include questions about an applicant's health history ~~[prior to the previous five years]; and~~

(ii) shall be shortened and simplified in accordance with rules adopted by the commissioner.

(c) Insurers offering a health benefit plan to a small employer shall use a uniform waiver of coverage form, which may not include health status related questions ~~[other than pregnancy]~~, and is limited to:

(i) information that identifies the employee;

(ii) proof of the employee's insurance coverage; and

(iii) a statement that the employee declines coverage with a particular employer group.

(3) Notwithstanding the requirements of Subsection (2)(a), the uniform application and uniform waiver of coverage forms may, if the combination or modification is approved by the commissioner, be combined or modified to facilitate a more efficient and consumer friendly experience for:

(a) enrollees using the Health Insurance Exchange; or

(b) insurers using electronic applications.

(4) The uniform application form, and uniform waiver form, shall be adopted and approved by the commissioner in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) (a) An insurer who offers a health benefit plan ~~[in either the group or individual market]~~ on the Health Insurance Exchange created in Section 63M-1-2504, shall:

(i) accept and process an electronic submission of the uniform application or uniform waiver from the Health Insurance Exchange using the electronic standards adopted pursuant to Section 63M-1-2506;

(ii) if requested, provide the applicant with a copy of the completed application either by mail or electronically;

(iii) post all health benefit plans offered by the insurer in the defined contribution arrangement market on the Health Insurance Exchange; and

(iv) post the information required by Subsection (6) on the Health Insurance Exchange for every health benefit plan the insurer offers on the Health Insurance Exchange.

(b) Except as provided in Subsection (5)(c), an insurer who posts health benefit plans on the Health Insurance Exchange may not directly or indirectly offer products on the Health Insurance Exchange that are not health benefit plans.

(c) Notwithstanding Subsection (5)(b):

(i) an insurer may offer a health savings account on the Health Insurance Exchange; ~~and~~

(ii) an insurer may offer dental ~~and vision~~ plans on the Health Insurance Exchange ~~if~~; and

~~[(A) the department determines, after study and consultation with the Health System Reform Task Force, that the department is able to establish standards for dental and vision policies offered on the Health Insurance Exchange, and the department determines whether a risk adjuster mechanism is necessary for a defined contribution vision and dental plan market on the Health Insurance Exchange; and]~~

~~[(B) (iii) the department, in accordance with recommendations from the Health System Reform Task Force, adopts] may make administrative rules to regulate the offer of dental ~~and vision~~ plans on the Health Insurance Exchange.~~

(6) An insurer shall provide the commissioner and the Health Insurance Exchange with the following information for each health benefit plan submitted to the Health Insurance Exchange, in the electronic format required by Subsection 63M-1-2506(1):

(a) plan design, benefits, and options offered by the health benefit plan including state mandates the plan does not cover;

(b) information and Internet address to online provider networks;

(c) wellness programs and incentives;

(d) descriptions of prescription drug benefits, exclusions, or limitations;

(e) the percentage of claims paid by the insurer within 30 days of the date a claim is submitted to the insurer for the prior year; and

(f) the claims denial and insurer transparency information developed in accordance with Subsection 31A-22-613.5(4).

(7) The department shall post on the Health Insurance Exchange the department's solvency rating for each insurer who posts a health benefit plan on the Health Insurance Exchange. The solvency rating for each insurer shall be based on methodology established by the department by administrative rule and shall be updated each calendar year.

(8) (a) The commissioner may request information from an insurer under Section 31A-22-613.5 to verify the data submitted to the department and to the Health Insurance Exchange.

(b) The commissioner shall regulate ~~any~~ the fees charged by insurers to an enrollee for a uniform application form or electronic submission of the application forms.

Section 17. Section 31A-22-721 is amended to read:

31A-22-721. A health benefit plan for a plan sponsor -- Discontinuance and nonrenewal.

(1) Except as otherwise provided in this section, a health benefit plan for a plan sponsor is renewable and continues in force:

(a) with respect to all eligible employees and dependents; and

(b) at the option of the plan sponsor.

(2) A health benefit plan for a plan sponsor may be discontinued or nonrenewed:

(a) for a network plan, if ~~(i)~~ there is no longer any enrollee under the group health plan who lives, resides, or works in:

~~[(A) (i) the service area of the insurer; or~~

~~[(B) (ii) the area for which the insurer is authorized to do business; and] or~~

~~[(ii) in the case of the small employer market, the insurer applies the same criteria the insurer would apply in denying enrollment in the plan under Subsection 31A-30-108(7); or]~~

(b) for coverage made available in the small or large employer market only through an association, if:

(i) the employer's membership in the association ceases; and

(ii) the coverage is terminated uniformly without regard to any health status-related factor relating to any covered individual.

(3) A health benefit plan for a plan sponsor may be discontinued if:

(a) a condition described in Subsection (2) exists;

(b) the plan sponsor fails to pay premiums or contributions in accordance with the terms of the contract;

(c) the plan sponsor:

(i) performs an act or practice that constitutes fraud; or

(ii) makes an intentional misrepresentation of material fact under the terms of the coverage;

(d) the insurer:

(i) elects to discontinue offering a particular health benefit product delivered or issued for delivery in this state;

(ii) (A) provides notice of the discontinuation in writing:

(I) to each plan sponsor, employee, and dependent of a plan sponsor or employee; and

(II) at least 90 days before the date the coverage will be discontinued;

(B) provides notice of the discontinuation in writing:

- (I) to the commissioner; and
- (II) at least three working days prior to the date the notice is sent to the affected plan sponsors, employees, and dependents of plan sponsors or employees;
- (C) offers to each plan sponsor, on a guaranteed issue basis, the option to purchase any other health benefit products currently being offered:
- (I) by the insurer in the market; or
- (II) in the case of a large employer, any other health benefit plan currently being offered in that market; and
- (D) in exercising the option to discontinue that product and in offering the option of coverage in this section, the insurer acts uniformly without regard to:
- (I) the claims experience of a plan sponsor;
- (II) any health status-related factor relating to any covered participant or beneficiary; or
- (III) any health status-related factor relating to a new participant or beneficiary who may become eligible for coverage; or
- (e) the insurer:
- (i) elects to discontinue all of the insurer's health benefit plans:
- (A) in the small employer market; or
- (B) the large employer market; or
- (C) both the small and large employer markets; and
- (ii) (A) provides notice of the discontinuance in writing:
- (I) to each plan sponsor, employee, or dependent of a plan sponsor or an employee; and
- (II) at least 180 days before the date the coverage will be discontinued;
- (B) provides notice of the discontinuation in writing:
- (I) to the commissioner in each state in which an affected insured individual is known to reside; and
- (II) at least 30 business days prior to the date the notice is sent to the affected plan sponsors, employees, and dependents of a plan sponsor or employee;
- (C) discontinues and nonrenews all plans issued or delivered for issuance in the market; and
- (D) provides a plan of orderly withdrawal as required by Section 31A-4-115.
- (4) A large employer health benefit plan may be discontinued or nonrenewed:
- (a) if a condition described in Subsection (2) exists; or
- (b) for noncompliance with the insurer's:
- (i) minimum participation requirements; or
- (ii) employer contribution requirements.
- (5) A small employer health benefit plan may be discontinued or nonrenewed:
- (a) if a condition described in Subsection (2) exists; or
- (b) for noncompliance with the insurer's employer contribution requirements.
- (6) A small employer health benefit plan may be nonrenewed:
- (a) if a condition described in Subsection (2) exists; or
- (b) for noncompliance with the insurer's minimum participation requirements.
- (7) (a) Except as provided in Subsection (7)(d), an eligible employee may be discontinued if after issuance of coverage the eligible employee:
- (i) engages in an act or practice that constitutes fraud in connection with the coverage; or
- (ii) makes an intentional misrepresentation of material fact in connection with the coverage.
- (b) An eligible employee that is discontinued under Subsection (7)(a) may reenroll:
- (i) 12 months after the date of discontinuance; and
- (ii) if the plan sponsor's coverage is in effect at the time the eligible employee applies to reenroll.
- (c) At the time the eligible employee's coverage is discontinued under Subsection (7)(a), the insurer shall notify the eligible employee of the right to reenroll when coverage is discontinued.
- (d) An eligible employee may not be discontinued under this Subsection (7) because of a fraud or misrepresentation that relates to health status.
- (8) (a) Except as provided in Subsection (8)(b), an insurer that elects to discontinue offering a health benefit plan under Subsection (3)(e) shall be prohibited from writing new business in such market in this state for a period of five years beginning on the date of discontinuation of the last coverage that is discontinued.
- (b) The commissioner may waive the prohibition under Subsection (8)(a) when the commissioner finds that waiver is in the public interest:
- (i) to promote competition; or
- (ii) to resolve inequity in the marketplace.
- (9) If an insurer is doing business in one established geographic service area of the state, this section applies only to the insurer's operations in that geographic service area.
- (10) An insurer may modify a health benefit plan for a plan sponsor only:
- (a) at the time of coverage renewal; and
- (b) if the modification is effective uniformly among all plans with a particular product or service.

(11) For purposes of this section, a reference to “plan sponsor” includes a reference to the employer:

(a) with respect to coverage provided to an employer member of the association; and

(b) if the health benefit plan is made available by an insurer in the employer market only through:

- (i) an association;
- (ii) a trust; or
- (iii) a discretionary group.

(12) (a) A small employer that, after purchasing a health benefit plan in the small group market, employs on average more than 50 eligible employees on each business day in a calendar year may continue to renew the health benefit plan purchased in the small group market.

(b) A large employer that, after purchasing a health benefit plan in the large group market, employs on average less than 51 eligible employees on each business day in a calendar year may continue to renew the health benefit plan purchased in the large group market.

(13) An insurer offering employer sponsored health benefit plans shall comply with the Health Insurance Portability and Accountability Act, 42 U.S.C. Sec. 300gg and 300gg-1.

Section 18. Section 31A-23a-102 is amended to read:

31A-23a-102. Definitions.

As used in this chapter:

(1) “Bail bond producer” is as defined in Section 31A-35-102.

(2) “Home state” means a state or territory of the United States or the District of Columbia in which an insurance producer:

- (a) maintains the insurance producer’s principal:
 - (i) place of residence; or
 - (ii) place of business; and
- (b) is licensed to act as an insurance producer.

(3) “Insurer” is as defined in Section 31A-1-301, except that the following persons or similar persons are not insurers for purposes of Part 7, Producer Controlled Insurers:

- (a) a risk retention group as defined in:
 - (i) the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499;
 - (ii) the Risk Retention Act, 15 U.S.C. Sec. 3901 et seq.; and
 - (iii) Chapter 15, Part 2, Risk Retention Groups Act;
- (b) a residual market pool;
- (c) a joint underwriting authority or association; and
- (d) a captive insurer.

(4) “License” is defined in Section 31A-1-301.

(5) (a) “Managing general agent” means a person that:

(i) manages all or part of the insurance business of an insurer, including the management of a separate division, department, or underwriting office;

(ii) acts as an agent for the insurer whether it is known as a managing general agent, manager, or other similar term;

(iii) produces and underwrites an amount of gross direct written premium equal to, or more than, 5% of [;] the policyholder surplus as reported in the last annual statement of the insurer in any one quarter or year:

- (A) with or without the authority;
- (B) separately or together with an affiliate; and
- (C) directly or indirectly; and

(iv) (A) adjusts or pays claims in excess of an amount determined by the commissioner; or

(B) negotiates reinsurance on behalf of the insurer.

(b) Notwithstanding Subsection (5)(a), the following persons may not be considered as managing general agent for the purposes of this chapter:

- (i) an employee of the insurer;
- (ii) a United States manager of the United States branch of an alien insurer;
- (iii) an underwriting manager that, pursuant to contract:
 - (A) manages all the insurance operations of the insurer;
 - (B) is under common control with the insurer;
 - (C) is subject to Chapter 16, Insurance Holding Companies; and
 - (D) is not compensated based on the volume of premiums written; and
- (iv) the attorney-in-fact authorized by and acting for the subscribers of a reciprocal insurer or inter-insurance exchange under powers of attorney.

(6) “Negotiate” means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning a substantive benefit, term, or condition of the contract if the person engaged in that act:

- (a) sells insurance; or
- (b) obtains insurance from insurers for purchasers.

(7) “Reinsurance intermediary” means:

- (a) a reinsurance intermediary-broker; or
- (b) a reinsurance intermediary-manager.

(8) "Reinsurance intermediary-broker" means a person other than an officer or employee of the ceding insurer, firm, association, or corporation who solicits, negotiates, or places reinsurance cessions or retrocessions on behalf of a ceding insurer without the authority or power to bind reinsurance on behalf of the insurer.

(9) (a) "Reinsurance intermediary-manager" means a person who:

(i) has authority to bind or who manages all or part of the assumed reinsurance business of a reinsurer, including the management of a separate division, department, or underwriting office; and

(ii) acts as an agent for the reinsurer whether the person is known as a reinsurance intermediary-manager, manager, or other similar term.

(b) Notwithstanding Subsection (9)(a), the following persons may not be considered reinsurance intermediary-managers for the purpose of this chapter with respect to the reinsurer:

(i) an employee of the reinsurer;

(ii) a United States manager of the United States branch of an alien reinsurer;

(iii) an underwriting manager that, pursuant to contract:

(A) manages all the reinsurance operations of the reinsurer;

(B) is under common control with the reinsurer;

(C) is subject to Chapter 16, Insurance Holding Companies; and

(D) is not compensated based on the volume of premiums written; and

(iv) the manager of a group, association, pool, or organization of insurers that:

(A) engage in joint underwriting or joint reinsurance; and

(B) are subject to examination by the insurance commissioner of the state in which the manager's principal business office is located.

(10) "Resident" is as defined by rule made by the commissioner in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[49] (11) "Search" means a license subline of authority in conjunction with the title insurance line of authority that allows a person to issue title insurance commitments or policies on behalf of a title insurer.

[44] (12) "Sell" means to exchange a contract of insurance:

(a) by any means;

(b) for money or its equivalent; and

(c) on behalf of an insurance company.

[42] (13) "Solicit" means:

(a) attempting to sell insurance;

(b) asking or urging a person to apply for:

(i) a particular kind of insurance; and

(ii) insurance from a particular insurance company;

(c) advertising insurance, including advertising for the purpose of obtaining leads for the sale of insurance; or

(d) holding oneself out as being in the insurance business.

[43] (14) "Terminate" means:

(a) the cancellation of the relationship between:

(i) an individual licensee or agency licensee and a particular insurer; or

(ii) an individual licensee and a particular agency licensee; or

(b) the termination of:

(i) an individual licensee's or agency licensee's authority to transact insurance on behalf of a particular insurance company; or

(ii) an individual licensee's authority to transact insurance on behalf of a particular agency licensee.

[44] (15) "Title marketing representative" means a person who:

(a) represents a title insurer in soliciting, requesting, or negotiating the placing of:

(i) title insurance; or

(ii) escrow services; and

(b) does not have a search or escrow license as provided in Section 31A-23a-106.

[45] (16) "Uniform application" means the version of the National Association of Insurance Commissioners' uniform application for resident and nonresident producer licensing at the time the application is filed.

[46] (17) "Uniform business entity application" means the version of the National Association of Insurance Commissioners' uniform business entity application for resident and nonresident business entities at the time the application is filed.

Section 19. Section 31A-23a-104 is amended to read:

31A-23a-104. Application for individual license -- Application for agency license.

(1) This section applies to an initial or renewal license as a:

(a) producer;

(b) surplus lines producer;

(c) limited line producer;

(d) consultant;

(e) managing general agent; or

(f) reinsurance intermediary.

(2) (a) Subject to Subsection (2)(b), to obtain or renew an individual license, an individual shall:

(i) file an application for an initial or renewal individual license with the commissioner on forms and in a manner the commissioner prescribes; and

(ii) pay a license fee that is not refunded if the application:

(A) is denied; or

(B) is incomplete when filed and is never completed by the applicant.

(b) An application described in this Subsection (2) shall provide:

(i) information about the applicant's identity;

(ii) the applicant's Social Security number;

(iii) the applicant's personal history, experience, education, and business record;

(iv) whether the applicant is 18 years of age or older;

(v) whether the applicant has committed an act that is a ground for denial, suspension, or revocation as set forth in Section 31A-23a-105 or 31A-23a-111;

(vi) if the application is for a resident individual producer license, certification that the applicant complies with Section 31A-23a-203.5; and

(vii) any other information the commissioner reasonably requires.

(3) The commissioner may require a document reasonably necessary to verify the information contained in an application filed under this section.

(4) An applicant's Social Security number contained in an application filed under this section is a private record under Section 63G-2-302.

(5) (a) Subject to Subsection (5)(b), to obtain or renew an agency license, a person shall:

(i) file an application for an initial or renewal agency license with the commissioner on forms and in a manner the commissioner prescribes; and

(ii) pay a license fee that is not refunded if the application:

(A) is denied; or

(B) is incomplete when filed and is never completed by the applicant.

(b) An application described in Subsection (5)(a) shall provide:

(i) information about the applicant's identity;

(ii) the applicant's federal employer identification number;

(iii) the designated responsible licensed [~~producer~~] individual;

(iv) the identity of the owners, partners, officers, and directors;

(v) whether the applicant has committed an act that is a ground for denial, suspension, or revocation as set forth in Section 31A-23a-105 or 31A-23a-111; and

(vi) any other information the commissioner reasonably requires.

Section 20. Section 31A-23a-105 is amended to read:

31A-23a-105. General requirements for individual and agency license issuance and renewal.

(1) (a) The commissioner shall issue or renew a license to a person described in Subsection (1)(b) to act as:

(i) a producer;

(ii) a surplus lines producer;

(iii) a limited line producer;

(iv) a consultant;

(v) a managing general agent; or

(vi) a reinsurance intermediary.

(b) The commissioner shall issue or renew a license under Subsection (1)(a) to a person who, as to the license type and line of authority classification applied for under Section 31A-23a-106:

(i) satisfies the application requirements under Section 31A-23a-104;

(ii) satisfies the character requirements under Section 31A-23a-107;

(iii) satisfies [~~any~~] applicable continuing education requirements under Section 31A-23a-202;

(iv) satisfies [~~any~~] applicable examination requirements under Section 31A-23a-108;

(v) satisfies [~~any~~] applicable training period requirements under Section 31A-23a-203;

(vi) if an applicant for a resident individual producer license, certifies that, to the extent applicable, the applicant:

(A) is in compliance with Section 31A-23a-203.5; and

(B) will maintain compliance with Section 31A-23a-203.5 during the period for which the license is issued or renewed;

(vii) has not committed an act that is a ground for denial, suspension, or revocation as provided in Section 31A-23a-111;

(viii) if a nonresident:

(A) complies with Section 31A-23a-109; and

(B) holds an active similar license in that person's home state [~~of residence~~];

(ix) if an applicant for an individual title insurance producer or agency title insurance

producer license, satisfies the requirements of Section 31A-23a-204;

(x) if an applicant for a license to act as a life settlement provider or life settlement producer, satisfies the requirements of Section 31A-23a-117; and

(xi) pays the applicable fees under Section 31A-3-103.

(2) (a) This Subsection (2) applies to the following persons:

- (i) an applicant for a pending:
 - (A) individual or agency producer license;
 - (B) surplus lines producer license;
 - (C) limited line producer license;
 - (D) consultant license;
 - (E) managing general agent license; or
 - (F) reinsurance intermediary license; or
- (ii) a licensed:
 - (A) individual or agency producer;
 - (B) surplus lines producer;
 - (C) limited line producer;
 - (D) consultant;
 - (E) managing general agent; or
 - (F) reinsurance intermediary.

(b) A person described in Subsection (2)(a) shall report to the commissioner:

(i) an administrative action taken against the person, including a denial of a new or renewal license application:

- (A) in another jurisdiction; or
- (B) by another regulatory agency in this state; and

(ii) a criminal prosecution taken against the person in any jurisdiction.

(c) The report required by Subsection (2)(b) shall:

- (i) be filed:
 - (A) at the time the person files the application for an individual or agency license; and
 - (B) for an action or prosecution that occurs on or after the day on which the person files the application:

(I) for an administrative action, within 30 days of the final disposition of the administrative action; or

(II) for a criminal prosecution, within 30 days of the initial appearance before a court; and

(ii) include a copy of the complaint or other relevant legal documents related to the action or prosecution described in Subsection (2)(b).

(3) (a) The department may require a person applying for a license or for consent to engage in the business of insurance to submit to a criminal background check as a condition of receiving a license or consent.

(b) A person, if required to submit to a criminal background check under Subsection (3)(a), shall:

(i) submit a fingerprint card in a form acceptable to the department; and

(ii) consent to a fingerprint background check by:

(A) the Utah Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) For a person who submits a fingerprint card and consents to a fingerprint background check under Subsection (3)(b), the department may request:

(i) criminal background information maintained pursuant to Title 53, Chapter 10, Part 2, Bureau of Criminal Identification, from the Bureau of Criminal Identification; and

(ii) complete Federal Bureau of Investigation criminal background checks through the national criminal history system.

(d) Information obtained by the department from the review of criminal history records received under this Subsection (3) shall be used by the department for the purposes of:

(i) determining if a person satisfies the character requirements under Section 31A-23a-107 for issuance or renewal of a license;

(ii) determining if a person has failed to maintain the character requirements under Section 31A-23a-107; and

(iii) preventing a person who violates the federal Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033, from engaging in the business of insurance in the state.

(e) If the department requests the criminal background information, the department shall:

(i) pay to the Department of Public Safety the costs incurred by the Department of Public Safety in providing the department criminal background information under Subsection (3)(c)(i);

(ii) pay to the Federal Bureau of Investigation the costs incurred by the Federal Bureau of Investigation in providing the department criminal background information under Subsection (3)(c)(ii); and

(iii) charge the person applying for a license or for consent to engage in the business of insurance a fee equal to the aggregate of Subsections (3)(e)(i) and (ii).

(4) To become a resident licensee in accordance with Section 31A-23a-104 and this section, a person licensed as one of the following in another state who moves to this state shall apply within 90 days of establishing legal residence in this state:

- (a) insurance producer;
- (b) surplus lines producer;
- (c) limited line producer;
- (d) consultant;
- (e) managing general agent; or
- (f) reinsurance intermediary.

(5) (a) The commissioner may deny a license application for a license listed in Subsection (5)(b) if the person applying for the license, as to the license type and line of authority classification applied for under Section 31A-23a-106:

(i) fails to satisfy the requirements as set forth in this section; or

(ii) commits an act that is grounds for denial, suspension, or revocation as set forth in Section 31A-23a-111.

(b) This Subsection (5) applies to the following licenses:

- (i) producer;
- (ii) surplus lines producer;
- (iii) limited line producer;
- (iv) consultant;
- (v) managing general agent; or
- (vi) reinsurance intermediary.

(6) Notwithstanding the other provisions of this section, the commissioner may:

(a) issue a license to an applicant for a license for a title insurance line of authority only with the concurrence of the Title and Escrow Commission; and

(b) renew a license for a title insurance line of authority only with the concurrence of the Title and Escrow Commission.

Section 21. Section 31A-23a-108 is amended to read:

31A-23a-108. Examination requirements.

(1) (a) The commissioner may require ~~[applicants]~~ an applicant for ~~[any]~~ a particular license type under Section 31A-23a-106 to pass a line of authority examination as a requirement for a license, except that an examination may not be required of ~~[applicants]~~ an applicant for:

(i) ~~[licenses]~~ a license under Subsection 31A-23a-106(2)(c); or

(ii) ~~[other]~~ another limited line license ~~[lines]~~ line of authority recognized by the commissioner or the Title and Escrow Commission by rule as provided in Subsection 31A-23a-106(3).

(b) The examination described in Subsection (1)(a):

(i) shall reasonably relate to the line of authority for which it is prescribed; and

(ii) may be administered by the commissioner or as otherwise specified by rule.

(2) The commissioner shall waive the requirement of an examination for a nonresident applicant who:

(a) applies for an insurance producer license in this state within 90 days of establishing legal residence in this state;

(b) has been licensed for the same line of authority in another state; and

(c) (i) is licensed in the state described in Subsection (2)(b) at the time the applicant applies for an insurance producer license in this state; or

(ii) if the application is received within 90 days of the cancellation of the applicant's previous license:

(A) the prior state certifies that at the time of cancellation, the applicant was in good standing in that state; or

(B) the state's producer database records maintained by the National Association of Insurance Commissioners or the National Association of Insurance Commissioner's affiliates or subsidiaries, indicates that the producer is or was licensed in good standing for the line of authority requested.

~~[(3) A nonresident producer licensee who moves to this state and applies for a resident license within 90 days of establishing legal residence in this state shall be exempt from any line of authority examination that the producer was authorized on the producer's nonresident producer license, except where the commissioner determines otherwise by rule.]~~

~~[(4) (3) This section's requirement may only be applied to [applicants who are natural persons] an applicant who is a natural person.~~

Section 22. Section 31A-23a-112 is amended to read:

31A-23a-112. Probation -- Grounds for revocation.

(1) The commissioner may place a licensee on probation for a period not to exceed 24 months as follows:

(a) after an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, for ~~[any]~~ circumstances that would justify a suspension under Section 31A-23a-111; or

(b) at the issuance or renewal of a ~~[new]~~ license:

(i) with an admitted violation under 18 U.S.C. ~~[Sections]~~ Sec. 1033 ~~[and 1034]~~; or

(ii) with a response to background information questions on a new or renewal license application ~~[indicating that]~~ or information received from a background check conducted in connection with a new or renewal license application that indicates:

(A) the person has been convicted of a crime, that is listed by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as a crime that is grounds for probation;

(B) the person is currently charged with a crime, that is listed by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as a crime that is grounds for probation regardless of whether adjudication is withheld;

(C) the person has been involved in an administrative proceeding regarding ~~[any]~~ a professional or occupational license; or

(D) ~~[any]~~ a business in which the person is or was an owner, partner, officer, or director has been involved in an administrative proceeding regarding ~~[any]~~ a professional or occupational license.

(2) The commissioner may place a licensee on probation for a specified period no longer than 24 months if the licensee has admitted to a violation under 18 U.S.C. ~~[Sections]~~ Sec. 1033 ~~and 1034~~.

(3) The probation order shall state the conditions for retention of the license, which shall be reasonable.

(4) ~~[Any]~~ A violation of the probation is grounds for revocation pursuant to ~~[any]~~ a proceeding authorized under Title 63G, Chapter 4, Administrative Procedures Act.

Section 23. Section 31A-23a-113 is amended to read:

31A-23a-113. License lapse and voluntary surrender.

(1) (a) A license issued under this chapter shall lapse if the licensee fails to:

(i) pay when due a fee under Section 31A-3-103;

(ii) complete continuing education requirements under Section 31A-23a-202 before submitting the license renewal application;

(iii) submit a completed renewal application as required by Section 31A-23a-104;

(iv) submit additional documentation required to complete the licensing process as related to a specific license type or line of authority; or

(v) maintain an active license in a ~~[resident]~~ licensee's home state if the licensee is a nonresident licensee.

(b) (i) A licensee whose license lapses due to the following may request an action described in Subsection (1)(b)(ii):

(A) military service;

(B) voluntary service for a period of time designated by the person for whom the licensee provides voluntary service; or

(C) some other extenuating circumstances, such as long-term medical disability.

(ii) A licensee described in Subsection (1)(b)(i) may request:

(A) reinstatement of the license no later than one year after the day on which the license lapses; and

(B) waiver of any of the following imposed for failure to comply with renewal procedures:

(I) an examination requirement;

(II) reinstatement fees set under Section 31A-3-103;

(III) continuing education requirements; or

(IV) other sanction imposed for failure to comply with renewal procedures.

(2) If a license issued under this chapter is voluntarily surrendered, the license or line of authority may be reinstated:

(a) during the license period in which the license is voluntarily surrendered; and

(b) no later than one year after the day on which the license is voluntarily surrendered.

~~[(3) A voluntarily surrendered license that is reinstated during the license period set forth in Subsection (2) may not be reinstated until the person who voluntarily surrendered the license complies with any applicable continuing education requirements for the period during which the license was voluntarily surrendered.]~~

Section 24. Section 31A-23a-202 is amended to read:

31A-23a-202. Continuing education requirements.

(1) Pursuant to this section, the commissioner shall by rule prescribe the continuing education requirements for a producer and a consultant.

(2) (a) The commissioner may not state a continuing education requirement in terms of formal education.

(b) The commissioner may state a continuing education requirement in terms of hours of insurance-related instruction received.

(c) Insurance-related formal education may be a substitute, in whole or in part, for the hours required under Subsection (2)(b).

(3) (a) The commissioner shall impose continuing education requirements in accordance with a two-year licensing period in which the licensee meets the requirements of this Subsection (3).

(b) (i) Except as provided in this section, the continuing education requirements shall require:

(A) that a licensee complete 24 credit hours of continuing education for every two-year licensing period;

(B) that 3 of the 24 credit hours described in Subsection (3)(b)(i)(A) be ethics courses; and

(C) that the licensee complete at least half of the required hours through classroom hours of insurance-related instruction.

(ii) An hour of continuing education in accordance with Subsection (3)(b)(i) may be obtained through:

(A) classroom attendance;

(B) home study;

(C) watching a video recording;

(D) experience credit; or

(E) another method provided by rule.

(iii) (A) Notwithstanding Subsections (3)(b)(i)(A) and (B), an individual title insurance producer is required to complete 12 credit hours of continuing education for every two-year licensing period, with 3 of the credit hours being ethics courses unless the individual title insurance producer is licensed in this state as an individual title insurance producer for 20 or more consecutive years.

(B) If an individual title insurance producer is licensed in this state as an individual title insurance producer for 20 or more consecutive years, the individual title insurance producer is required to complete 6 credit hours of continuing education for every two-year licensing period, with 3 of the credit hours being ethics courses.

(C) Notwithstanding Subsection (3)(b)(iii)(A) or (B), an individual title insurance producer is considered to have met the continuing education requirements imposed under Subsection (3)(b)(iii)(A) or (B) if the individual title insurance producer:

(I) is an active member in good standing with the Utah State Bar;

(II) is in compliance with the continuing education requirements of the Utah State Bar; and

(III) if requested by the department, provides the department evidence that the individual title insurance producer complied with the continuing education requirements of the Utah State Bar.

(c) A licensee may obtain continuing education hours at any time during the two-year licensing period.

(d) (i) A licensee is exempt from continuing education requirements under this section if:

(A) the licensee was first licensed before ~~April 1, 1978~~ December 31, 1982;

(B) the license does not have a continuous lapse for a period of more than one year, except for a license for which the licensee has had an exemption approved before May 11, 2011;

(C) the licensee requests an exemption from the department; and

(D) the department approves the exemption.

(ii) If the department approves the exemption under Subsection (3)(d)(i), the licensee is not required to apply again for the exemption.

(e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner shall, by rule:

(i) publish a list of insurance professional designations whose continuing education requirements can be used to meet the requirements for continuing education under Subsection (3)(b);

(ii) authorize a continuing education provider or a state or national professional producer or consultant association to:

(A) offer a qualified program for a license type or line of authority on a geographically accessible basis; and

(B) collect a reasonable fee for funding and administration of a continuing education program, subject to the review and approval of the commissioner; and

(iii) provide that membership by a producer or consultant in a state or national professional producer or consultant association is considered a substitute for the equivalent of two hours for each year during which the producer or consultant is a member of the professional association, except that the commissioner may not give more than two hours of continuing education credit in a year regardless of the number of professional associations of which the producer or consultant is a member.

(f) A fee permitted under Subsection (3)(e)(ii)(B) that is charged for attendance at a professional producer or consultant association program may be less for an association member, on the basis of the member's affiliation expense, but shall preserve the right of a nonmember to attend without affiliation.

(4) The commissioner shall approve a continuing education provider or continuing education course that satisfies the requirements of this section.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner shall by rule set the processes and procedures for continuing education provider registration and course approval.

(6) The requirements of this section apply only to a producer or consultant who is an individual.

(7) A nonresident producer or consultant is considered to have satisfied this state's continuing education requirements if the nonresident producer or consultant satisfies the nonresident producer's or consultant's home state's continuing education requirements for a licensed insurance producer or consultant.

(8) A producer or consultant subject to this section shall keep documentation of completing the continuing education requirements of this section for two years after the end of the two-year licensing period to which the continuing education applies.

Section 25. Section 31A-23a-203 is amended to read:

31A-23a-203. Training period requirements.

(1) A producer is eligible to become a surplus lines producer only if the producer:

(a) has passed the applicable surplus lines producer examination;

(b) has been a producer with property ~~and~~ or casualty or both lines of authority for at least three years during the four years immediately preceding the date of application; and

(c) has paid the applicable fee under Section 31A-3-103.

(2) A person is eligible to become a consultant only if the person has acted in a capacity that would provide the person with preparation to act as an insurance consultant for a period aggregating not less than three years during the four years immediately preceding the date of application.

(3) (a) A resident producer with an accident and health line of authority may only sell long-term care insurance if the producer:

(i) initially completes a minimum of three hours of long-term care training before selling long-term care coverage; and

(ii) after completing the training required by Subsection (3)(a)(i), completes a minimum of three hours of long-term care training during each subsequent two-year licensing period.

(b) A course taken to satisfy a long-term care training requirement may be used toward satisfying a producer continuing education requirement.

(c) Long-term care training is not a continuing education requirement to renew a producer license.

(d) An insurer that issues long-term care insurance shall demonstrate to the commissioner, upon request, that a producer who is appointed by the insurer and who sells long-term care insurance coverage is in compliance with this Subsection (3).

(4) The training periods required under this section apply only to an individual applying for a license under this chapter.

Section 26. Section 31A-23a-402.5 is amended to read:

31A-23a-402.5. Inducements.

(1) (a) Except as provided in Subsection (2), a producer, consultant, or other licensee under this title, or an officer or employee of a licensee, may not induce a person to enter into, continue, or terminate an insurance contract by offering a benefit that is not:

(i) specified in the insurance contract; or

(ii) directly related to the insurance contract.

(b) An insurer may not make or knowingly allow an agreement of insurance that is not clearly expressed in the insurance contract to be issued or renewed.

(c) A licensee under this title may not absorb the tax under Section 31A-3-301.

(2) This section does not apply to a title insurer, an individual title insurance producer, or agency title insurance producer, or an officer or employee of a title insurer, an individual title insurance producer, or an agency title insurance producer.

(3) Items not prohibited by Subsection (1) include an insurer:

(a) reducing premiums because of expense savings;

(b) providing to a policyholder or insured one or more incentives, as defined by the commissioner by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to participate in a program or activity designed to reduce claims or claim expenses, including:

(i) a premium discount offered to a small or large employer group based on a wellness program if:

(A) the premium discount for the employer group does not exceed 20% of the group premium; and

(B) the premium discount based on the wellness program is offered uniformly by the insurer to all employer groups in the large or small group market;

(ii) a premium discount offered to employees of a small or large employer group in an amount that does not exceed federal limits on wellness program incentives; or

(iii) a combination of premium discounts offered to the employer group and the employees of an employer group, based on a wellness program, if:

(A) the premium discounts for the employer group comply with Subsection (3)(b)(i); and

(B) the premium discounts for the employees of an employer group comply with Subsection (3)(b)(ii); or

(c) receiving premiums under an installment payment plan.

(4) Items not prohibited by Subsection (1) include a producer, consultant, or other licensee, or an officer or employee of a licensee, either directly or through a third party:

(a) engaging in a usual kind of social courtesy if receipt of the social courtesy is not conditioned on a quote or the purchase of a particular insurance product;

(b) extending credit on a premium to the insured:

(i) without interest, for no more than 90 days from the effective date of the insurance contract;

(ii) for interest that is not less than the legal rate under Section 15-1-1, on the unpaid balance after the time period described in Subsection (4)(b)(i); and

(iii) except that an installment or payroll deduction payment of premiums on an insurance contract issued under an insurer's mass marketing program is not considered an extension of credit for purposes of this Subsection (4)(b);

(c) preparing or conducting a survey that:

(i) is directly related to an accident and health insurance policy purchased from the licensee; or

(ii) is used by the licensee to assess the benefit needs and preferences of insureds, employers, or employees directly related to an insurance product sold by the licensee;

(d) providing limited human resource services that are directly related to an insurance product sold by the licensee, including:

(i) answering questions directly related to:

(A) an employee benefit offering or administration, if the insurance product purchased from the licensee is accident and health insurance or health insurance; and

(B) employment practices liability, if the insurance product offered by or purchased from the licensee is property or casualty insurance; and

(ii) providing limited human resource compliance training and education directly pertaining to an insurance product purchased from the licensee;

(e) providing the following types of information or guidance:

(i) providing guidance directly related to compliance with federal and state laws for an insurance product purchased from the licensee;

(ii) providing a workshop or seminar addressing an insurance issue that is directly related to an insurance product purchased from the licensee; or

(iii) providing information regarding:

(A) employee benefit issues;

(B) directly related insurance regulatory and legislative updates; or

(C) similar education about an insurance product sold by the licensee and how the insurance product interacts with tax law;

(f) preparing or providing a form that is directly related to an insurance product purchased from, or offered by, the licensee;

(g) preparing or providing documents directly related to a premium only cafeteria plan within the meaning of Section 125, Internal Revenue Code, or a flexible spending account, but not providing ongoing administration of a flexible spending account;

(h) providing enrollment and billing assistance, including:

(i) providing benefit statements or new hire insurance benefits packages; and

(ii) providing technology services such as an electronic enrollment platform or application system;

(i) communicating coverages in writing and in consultation with the insured and employees;

(j) providing employee communication materials and notifications directly related to an insurance product purchased from a licensee;

(k) providing claims management and resolution to the extent permitted under the licensee's license;

(l) providing underwriting or actuarial analysis or services;

(m) negotiating with an insurer regarding the placement and pricing of an insurance product;

(n) recommending placement and coverage options;

(o) providing a health fair or providing assistance or advice on establishing or operating a wellness program, but not providing any payment for or direct operation of the wellness program;

(p) providing COBRA and Utah mini-COBRA administration, consultations, and other services directly related to an insurance product purchased from the licensee;

(q) assisting with a summary plan description, including providing a summary plan description wraparound;

(r) providing information necessary for the preparation of documents directly related to the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001, et seq., as amended;

(s) providing information or services directly related to the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, 110 Stat. 1936, as amended, such as services directly related to health care access, portability, and renewability when offered in connection with accident and health insurance sold by a licensee;

(t) sending proof of coverage to a third party with a legitimate interest in coverage;

(u) providing information in a form approved by the commissioner and directly related to determining whether an insurance product sold by the licensee meets the requirements of a third party contract that requires or references insurance coverage;

(v) facilitating risk management services directly related to property and casualty insurance products sold or offered for sale by the licensee, including:

(i) risk management;

(ii) claims and loss control services;

(iii) risk assessment consulting, including analysis of:

(A) employer's job descriptions; or

(B) employer's safety procedures or manuals; and

(iv) providing information and training on best practices;

(w) otherwise providing services that are legitimately part of servicing an insurance product purchased from a licensee; and

(x) providing other directly related services approved by the department.

(5) An inducement prohibited under Subsection (1) includes a producer, consultant, or other licensee, or an officer or employee of a licensee:

(a) (i) providing a [~~premium or commission~~] rebate;

(ii) paying the salary of an employee of a person who purchases an insurance product from the licensee; or

(iii) if the licensee is an insurer, or a third party administrator who contracts with an insurer, paying the salary for an onsite staff member to perform an act prohibited under Subsection (5)(b)(xii); or

(b) engaging in one or more of the following unless a fee is paid in accordance with Subsection (8):

(i) performing background checks of prospective employees;

(ii) providing legal services by a person licensed to practice law;

(iii) performing drug testing that is directly related to an insurance product purchased from the licensee;

(iv) preparing employer or employee handbooks, except that a licensee may:

(A) provide information for a medical benefit section of an employee handbook;

(B) provide information for the section of an employee handbook directly related to an employment practices liability insurance product purchased from the licensee; or

(C) prepare or print an employee benefit enrollment guide;

(v) providing job descriptions, postings, and applications for a person;

(vi) providing payroll services;

(vii) providing performance reviews or performance review training;

(viii) providing union advice;

(ix) providing accounting services;

(x) providing data analysis information technology programs, except as provided in Subsection (4)(h)(ii);

(xi) providing administration of health reimbursement accounts or health savings accounts; or

(xii) if the licensee is an insurer, or a third party administrator who contracts with an insurer, the insurer issuing an insurance policy that lists in the insurance policy one or more of the following prohibited benefits:

(A) performing background checks of prospective employees;

(B) providing legal services by a person licensed to practice law;

(C) performing drug testing that is directly related to an insurance product purchased from the insurer;

(D) preparing employer or employee handbooks;

(E) providing job descriptions postings, and applications;

(F) providing payroll services;

(G) providing performance reviews or performance review training;

(H) providing union advice;

(I) providing accounting services;

(J) providing discrimination testing; or

(K) providing data analysis information technology programs.

(6) A producer, consultant, or other licensee or an officer or employee of a licensee shall itemize and bill separately from any other insurance product or service offered or provided under Subsection (5)(b).

(7) (a) A de minimis gift or meal not to exceed \$25 for each individual receiving the gift or meal is presumed to be a social courtesy not conditioned on a quote or purchase of a particular insurance product for purposes of Subsection (4)(a).

(b) Notwithstanding Subsection (4)(a), a de minimis gift or meal not to exceed \$10 may be conditioned on receipt of a quote of a particular insurance product [~~if the de minimis gift or meal is provided by the insurer and not by a producer or consultant~~].

(8) If as provided under Subsection (5)(b) a producer, consultant, or other licensee is paid a fee to provide an item listed in Subsection (5)(b), the licensee shall comply with Subsection 31A-23a-501(2) in charging the fee, except that the fee paid for the item shall equal or exceed the fair market value of the item.

Section 27. Section 31A-23a-501 is amended to read:

31A-23a-501. Licensee compensation.

(1) As used in this section:

(a) "Commission compensation" includes funds paid to or credited for the benefit of a licensee from:

(i) commission amounts deducted from insurance premiums on insurance sold by or placed through the licensee; ~~or~~

(ii) commission amounts received from an insurer or another licensee as a result of the sale or placement of insurance~~[-]; or~~

(iii) overrides, bonuses, contingent bonuses, or contingent commissions received from an insurer or another licensee as a result of the sale or placement of insurance.

(b) (i) "Compensation from an insurer or third party administrator" means commissions, fees, awards, overrides, bonuses, contingent commissions, loans, stock options, gifts, prizes, or any other form of valuable consideration:

(A) whether or not payable pursuant to a written agreement; and

(B) received from:

(I) an insurer; or

(II) a third party to the transaction for the sale or placement of insurance.

(ii) "Compensation from an insurer or third party administrator" does not mean compensation from a customer that is:

(A) a fee or pass-through costs as provided in Subsection (1)(e); or

(B) a fee or amount collected by or paid to the producer that does not exceed an amount established by the commissioner by administrative rule.

(c) (i) "Customer" means:

(A) the person signing the application or submission for insurance; or

(B) the authorized representative of the insured actually negotiating the placement of insurance with the producer.

(ii) "Customer" does not mean a person who is a participant or beneficiary of:

(A) an employee benefit plan; or

(B) a group or blanket insurance policy or group annuity contract sold, solicited, or negotiated by the producer or affiliate.

(d) (i) "Noncommission compensation" includes all funds paid to or credited for the benefit of a licensee other than commission compensation.

(ii) "Noncommission compensation" does not include charges for pass-through costs incurred by the licensee in connection with obtaining, placing, or servicing an insurance policy.

(e) "Pass-through costs" include:

(i) costs for copying documents to be submitted to the insurer; and

(ii) bank costs for processing cash or credit card payments.

(2) A licensee may receive from an insured or from a person purchasing an insurance policy, noncommission compensation if the noncommission compensation is stated on a separate, written disclosure.

(a) The disclosure required by this Subsection (2) shall:

(i) include the signature of the insured or prospective insured acknowledging the noncommission compensation;

(ii) clearly specify the amount or extent of the noncommission compensation; and

(iii) be provided to the insured or prospective insured before the performance of the service.

(b) Noncommission compensation shall be:

(i) limited to actual or reasonable expenses incurred for services; and

(ii) uniformly applied to all insureds or prospective insureds in a class or classes of business or for a specific service or services.

(c) A copy of the signed disclosure required by this Subsection (2) shall be maintained by any licensee who collects or receives the noncommission compensation or any portion of the noncommission compensation.

(d) All accounting records relating to noncommission compensation shall be maintained by the person described in Subsection (2)(c) in a manner that facilitates an audit.

(3) (a) A licensee may receive noncommission compensation when acting as a producer for the insured in connection with the actual sale or placement of insurance if:

(i) the producer and the insured have agreed on the producer's noncommission compensation; and

(ii) the producer has disclosed to the insured the existence and source of any other compensation that accrues to the producer as a result of the transaction.

(b) The disclosure required by this Subsection (3) shall:

(i) include the signature of the insured or prospective insured acknowledging the noncommission compensation;

(ii) clearly specify the amount or extent of the noncommission compensation and the existence and source of any other compensation; and

(iii) be provided to the insured or prospective insured before the performance of the service.

(c) The following additional noncommission compensation is authorized:

(i) compensation received by a producer of a compensated corporate surety who under procedures approved by a rule or order of the commissioner is paid by surety bond principal debtors for extra services;

(ii) compensation received by an insurance producer who is also licensed as a public adjuster under Section 31A-26-203, for services performed for an insured in connection with a claim adjustment, so long as the producer does not receive or is not promised compensation for aiding in the claim adjustment prior to the occurrence of the claim;

(iii) compensation received by a consultant as a consulting fee, provided the consultant complies with the requirements of Section 31A-23a-401; or

(iv) other compensation arrangements approved by the commissioner after a finding that they do not violate Section 31A-23a-401 and are not harmful to the public.

(d) Subject to Section 31A-23a-402.5, a producer for the insured may receive compensation from an insured through an insurer, for the negotiation and sale of a health benefit plan, if there is a separate written agreement between the insured and the licensee for the compensation. An insurer who passes through the compensation from the insured to the licensee under this Subsection (3)(d) is not

providing direct or indirect compensation or commission compensation to the licensee.

(4) (a) For purposes of this Subsection (4), “producer” includes:

- (i) a producer;
- (ii) an affiliate of a producer; or
- (iii) a consultant.

(b) A producer may not accept or receive any compensation from an insurer or third party administrator for the initial placement of a health benefit plan, other than a hospital confinement indemnity policy, unless prior to the customer’s initial purchase of the health benefit plan the producer discloses in writing to the customer that the producer will receive compensation from the insurer or third party administrator for the placement of insurance, including the amount or type of compensation known to the producer at the time of the disclosure.

(c) A producer shall:

(i) obtain the customer’s signed acknowledgment that the disclosure under Subsection (4)(b) was made to the customer; or

(ii) (A) sign a statement that the disclosure required by Subsection (4)(b) was made to the customer; and

(B) keep the signed statement on file in the producer’s office while the health benefit plan placed with the customer is in force.

(d) (i) A licensee who collects or receives any part of the compensation from an insurer or third party administrator in a manner that facilitates an audit shall, while the health benefit plan placed with the customer is in force, maintain a copy of:

(A) the signed acknowledgment described in Subsection (4)(c)(i); or

(B) the signed statement described in Subsection (4)(c)(ii).

(ii) The standard application developed in accordance with Section 31A-22-635 shall include a place for a producer to provide the disclosure required by this Subsection (4), and if completed, shall satisfy the requirement of Subsection (4)(d)(i).

(e) Subsection (4)(c) does not apply to:

(i) a person licensed as a producer who acts only as an intermediary between an insurer and the customer’s producer, including a managing general agent; or

(ii) the placement of insurance in a secondary or residual market.

(5) This section does not alter the right of any licensee to recover from an insured the amount of any premium due for insurance effected by or through that licensee or to charge a reasonable rate of interest upon past-due accounts.

(6) This section does not apply to bail bond producers or bail enforcement agents as defined in Section 31A-35-102.

(7) A licensee may not receive noncommission compensation from an insured or enrollee for providing a service or engaging in an act that is required to be provided or performed in order to receive commission compensation, except for the surplus lines transactions that do not receive commissions.

Section 28. Section 31A-23b-102 is amended to read:

31A-23b-102. Definitions.

As used in this chapter:

(1) “Compensation” is as defined in:

(a) Subsections 31A-23a-501(1)(a), (b), and (d); and

(b) PPACA.

(2) “Enroll” and “enrollment” mean to:

(a) (i) obtain personally identifiable information about an individual; and

(ii) inform an individual about accident and health insurance plans or public programs offered on an exchange;

(b) solicit insurance; or

(c) submit to the exchange:

(i) personally identifiable information about an individual; and

(ii) an individual’s selection of a particular accident and health insurance plan or public program offered on the exchange.

(3) (a) “Exchange” means an online marketplace~~[- (i) for an individual to purchase a qualified health plan; and (ii)]~~ that is certified by the United States Department of Health and Human Services as either a state-based small employer exchange or a federally facilitated individual exchange under PPACA.

(b) ~~[(i)]~~ “Exchange” does not include~~[- (A)]~~ an online marketplace for the purchase of health insurance if the online marketplace is not a certified exchange ~~[under PPACA; or]~~ in accordance with Subsection (3)(a).

~~[(B) except as provided in Subsection (3)(b)(ii), an online marketplace for small employers that is certified as a PPACA compliant SHOP exchange.]~~

~~[(ii) For purposes of this chapter, exchange does include a small employer SHOP exchange described under Subsection (3)(b)(i)(B) if:]~~

~~[(A) federal regulations under PPACA require a small employer exchange to allow navigators to assist small employers and their employees with selection of qualified health plans on a small employer exchange; and]~~

~~[(B) the state has not entered into an agreement with the United States Department of Health and~~

Human Services that permits the state to limit the scope of practice of navigators to only the individual PPACA exchange.]

(4) "Navigator":

(a) means a person who facilitates enrollment in an exchange by offering to assist, or who advertises any services to assist, with:

(i) the selection of and enrollment in a qualified health plan or a public program offered on an exchange; or

(ii) applying for premium subsidies through an exchange; and

(b) includes a person who is an in-person assister or ~~an~~ a certified application ~~assister~~ counselor as described in ~~(i)~~ federal regulations or guidance issued under PPACA ~~and~~.

~~(ii) the state exchange blueprint published by the Center for Consumer Information and Insurance Oversight within the Centers for Medicare and Medicaid Services in the United States Department of Health and Human Services.]~~

(5) "Personally identifiable information" is as defined in 45 C.F.R. Sec. 155.260.

(6) "Public programs" means the state Medicaid program in Title 26, Chapter 18, Medical Assistance Act, and Chapter 40, Utah Children's Health Insurance Act.

(7) "Resident" is as defined by rule made by the commissioner in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

~~(7)~~ (8) "Solicit" is as defined in Section 31A-23a-102.

Section 29. Section 31A-23b-202 is amended to read:

31A-23b-202. Qualifications for a license.

(1) (a) The commissioner shall issue or renew a license to a person to act as a navigator if the person:

(i) satisfies the:

(A) application requirements under Section 31A-23b-203;

(B) character requirements under Section 31A-23b-204;

(C) examination and training requirements under Section 31A-23b-205; and

(D) continuing education requirements under Section 31A-23b-206;

(ii) certifies that, to the extent applicable, the applicant:

(A) is in compliance with the surety bond requirements of Section 31A-23b-207; and

(B) will maintain compliance with Section 31A-23b-207 during the period for which the license is issued or renewed; and

(iii) has not committed an act that is a ground for denial, suspension, or revocation as provided in Section 31A-23b-401.

(b) A license issued under this chapter is valid for ~~[two years]~~ one year.

(2) (a) A person shall report to the commissioner:

(i) an administrative action taken against the person, including a denial of a new or renewal license application:

(A) in another jurisdiction; or

(B) by another regulatory agency in this state; and

(ii) a criminal prosecution taken against the person in any jurisdiction.

(b) The report required by Subsection (2)(a) shall be filed:

(i) at the time the person files the application for an individual or agency license; and

(ii) for an action or prosecution that occurs on or after the day on which the person files the application:

(A) for an administrative action, within 30 days of the final disposition of the administrative action; or

(B) for a criminal prosecution, within 30 days of the initial appearance before a court.

(c) The report required by Subsection (2)(a) shall include a copy of the complaint or other relevant legal documents related to the action or prosecution described in Subsection (2)(a).

(3) (a) The department may:

(i) require a person applying for a license to submit to a criminal background check as a condition of receiving a license; or

(ii) accept a background check conducted by another organization.

(b) A person, if required to submit to a criminal background check under Subsection (3)(a), shall:

(i) submit a fingerprint card in a form acceptable to the department; and

(ii) consent to a fingerprint background check by:

(A) the Utah Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) For a person who submits a fingerprint card and consents to a fingerprint background check under Subsection (3)(b), the department may request:

(i) criminal background information maintained pursuant to Title 53, Chapter 10, Part 2, Bureau of Criminal Identification, from the Bureau of Criminal Identification; and

(ii) complete Federal Bureau of Investigation criminal background checks through the national criminal history system.

(d) Information obtained by the department from the review of criminal history records received under this Subsection (3) shall be used by the department for the purposes of:

(i) determining if a person satisfies the character requirements under Section 31A-23b-204 for issuance or renewal of a license;

(ii) determining if a person failed to maintain the character requirements under Section 31A-23b-204; and

(iii) preventing a person who violates the federal Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033, from engaging in the business of a navigator or in-person assistor in the state.

(e) If the department requests the criminal background information, the department shall:

(i) pay to the Department of Public Safety the costs incurred by the Department of Public Safety in providing the department criminal background information under Subsection (3)(c)(i);

(ii) pay to the Federal Bureau of Investigation the costs incurred by the Federal Bureau of Investigation in providing the department criminal background information under Subsection (3)(c)(ii); and

(iii) charge the person applying for a license a fee equal to the aggregate of Subsections (3)(e)(i) and (ii).

(4) The commissioner may deny an application for a license under this chapter if the person applying for the license:

(a) fails to satisfy the requirements of this section; or

(b) commits an act that is grounds for denial, suspension, or revocation as set forth in Section 31A-23b-401.

Section 30. Section 31A-23b-205 is amended to read:

31A-23b-205. Examination and training requirements.

(1) The commissioner may require ~~[applicants]~~ an applicant for a license to pass an examination and complete a training program as a requirement for a license.

(2) The examination described in Subsection (1) shall reasonably relate to:

(a) the duties and functions of a navigator;

(b) requirements for navigators as established by federal regulation under PPACA; and

(c) other requirements that may be established by the commissioner by administrative rule.

(3) The examination may be administered by the commissioner or as otherwise specified by administrative rule.

(4) The training required by Subsection (1) shall be approved by the commissioner and shall include:

(a) accident and health insurance plans;

(b) qualifications for and enrollment in public programs;

(c) qualifications for and enrollment in premium subsidies;

(d) cultural and linguistic competence;

(e) conflict of interest standards;

(f) exchange functions; and

(g) other requirements that may be adopted by the commissioner by administrative rule.

(5) The training required by Subsection (1) shall consist of:

(a) at least 21 credit hours of training before obtaining a license;

(b) at least 1 of the 21 credit hours of training described in Subsection (5)(a) on defined contribution arrangement and the small employer Health Insurance Exchange created in accordance with Title 63M, Chapter 1, Part 25, Health System Reform Act; and

(c) the navigator training and certification program developed by the Centers for Medicare and Medicaid Services.

~~[(5)] (6) This section applies only to [applicants who are natural persons]~~ an applicant who is a natural person.

Section 31. Section 31A-23b-206 is amended to read:

31A-23b-206. Continuing education requirements.

(1) The commissioner shall, by rule, prescribe continuing education requirements for a navigator.

(2) (a) The commissioner may not require a degree from an institution of higher education as part of continuing education.

(b) The commissioner may state a continuing education requirement in terms of hours of instruction received in:

(i) accident and health insurance;

(ii) qualification for and enrollment in public programs;

(iii) qualification for and enrollment in premium subsidies;

(iv) cultural competency;

(v) conflict of interest standards; and

(vi) other exchange functions.

(3) (a) Continuing education requirements shall require:

(i) that a licensee complete ~~[24]~~ 12 credit hours of continuing education for every ~~[two-year]~~ one-year licensing period;

(ii) that [3] at least 2 of the [24] 12 credit hours described in Subsection (3)(a)(i) be ethics courses; [and]

~~[(iii) that the licensee complete at least half of the required hours through classroom hours of insurance and exchange-related instruction.]~~

[(iii) that at least 1 of the 12 credit hours described in Subsection (3)(a)(i) be a defined contribution course that includes training on use of the Health Insurance Exchange; and

[(iv) that a licensee complete the annual navigator training and certification program developed by the Centers for Medicare and Medicaid Services.

(b) An hour of continuing education in accordance with Subsection (3)(a)(i) may be obtained through:

- (i) classroom attendance;
- (ii) home study;
- (iii) watching a video recording; or

~~[(iv) experience credit; or]~~

~~[(v)]~~ [(iv)] another method approved by rule.

(c) A licensee may obtain continuing education hours at any time during the ~~[two-year]~~ one-year license period.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner shall~~;~~ by rule~~:~~ ~~(i) publish a list of insurance professional designations whose continuing education requirements can be used to meet the requirements for continuing education under Subsection (3)(b); and (ii) authorize one or more continuing education providers, including a state or national professional producer or consultant associations, to:~~

~~[(A)]~~ [(i)] offer a qualified program on a geographically accessible basis; and

~~[(B)]~~ [(ii)] collect a reasonable fee for funding and administration of a continuing education program, subject to the review and approval of the commissioner.

(4) The commissioner shall approve a continuing education provider or a continuing education course that satisfies the requirements of this section.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner shall by rule establish the procedures for continuing education provider registration and course approval.

(6) This section applies only to a navigator who is a natural person.

(7) A navigator shall keep documentation of completing the continuing education requirements of this section for two years after the end of the ~~[two-year]~~ one-year licensing period to which the continuing education applies.

Section 32. Section 31A-23b-301 is amended to read:

31A-23b-301. Unfair practices -- Compensation -- Limit of scope of practice.

(1) As used in this section, "false or misleading information" includes, with intent to deceive a person examining it:

- (a) filing a report;
- (b) making a false entry in a record; or
- (c) willfully refraining from making a proper entry in a record.

(2) (a) Communication that contains false or misleading information relating to enrollment in an insurance plan or a public program, including information that is false or misleading because it is incomplete, may not be made by:

- (i) a person who is or should be licensed under this title;
- (ii) an employee of a person described in Subsection (2)(a)(i);
- (iii) a person whose primary interest is as a competitor of a person licensed under this title; and
- (iv) a person on behalf of ~~[any of the persons]~~ a person listed in this Subsection (2)(a).

(b) A licensee under this chapter may not:

(i) use ~~[any]~~ a business name, slogan, emblem, or related device that is misleading or likely to cause the exchange, insurer, or other licensee to be mistaken for another governmental agency, a PPACA exchange, insurer, or other licensee already in business; or

(ii) use ~~[any]~~ an advertisement or other insurance promotional material that would cause a reasonable person to mistakenly believe that a state or federal government agency, public program, or insurer:

(A) is responsible for the insurance or public program enrollment assistance activities of the person;

(B) stands behind the credit of the person; or

(C) is a source of payment of ~~[any]~~ an insurance obligation of or sold by the person.

(c) A person who is not an insurer may not assume or use ~~[any]~~ a name that deceptively implies or suggests that person is an insurer.

(3) A person may not engage in an unfair method of competition or any other unfair or deceptive act or practice in the business of insurance, as defined by the commissioner by rule, after a finding that the method of competition, the act, or the practice:

- (a) is misleading;
- (b) is deceptive;
- (c) is unfairly discriminatory;
- (d) provides an unfair inducement; or

(e) unreasonably restrains competition.

(4) A navigator licensed under this chapter is subject to the unfair marketing practices and inducement provisions of [Section] Sections 31A-23a-402 and 31A-23a-402.5.

(5) A navigator licensed under this chapter or who should be licensed under this chapter:

(a) may not receive direct or indirect compensation from an accident or health insurer or from an individual who receives services from a navigator in accordance with:

(i) federal conflict of interest regulations established pursuant to PPACA; and

(ii) administrative rule adopted by the department;

(b) may be compensated by the exchange for performing the duties of a navigator;

(c) (i) may perform, offer to perform, or advertise a service as a navigator only for a person selecting a qualified health plan or public program offered on an exchange; and

(ii) may not perform, offer to perform, or advertise [~~any~~] services as a navigator for individuals or small employer groups selecting accident and health insurance plans, qualified health plans, public programs, business, or services that are not offered on an exchange; and

(d) may not recommend a particular accident and health insurance plan or qualified health plan.

Section 33. Section 31A-23b-402 is amended to read:

31A-23b-402. Probation -- Grounds for revocation.

(1) The commissioner may place a licensee on probation for a period not to exceed 24 months as follows:

(a) after an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, for any circumstances that would justify a suspension under this section; or

(b) at the issuance of a new license:

(i) with an admitted violation under 18 U.S.C. [~~Sees-~~] Sec. 1033 [and 1034]; or

(ii) with a response to background information questions on a new license application indicating that:

(A) the person has been convicted of a crime that is listed by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as a crime that is a ground for probation;

(B) the person is currently charged with a crime that is listed by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as a crime that is a ground for probation regardless of whether adjudication is withheld;

(C) the person has been involved in an administrative proceeding regarding any professional or occupational license; or

(D) any business in which the person is or was an owner, partner, officer, or director has been involved in an administrative proceeding regarding any professional or occupational license.

(2) The commissioner may place a licensee on probation for a specified period no longer than 24 months if the licensee has admitted to a violation under 18 U.S.C. [~~Sees-~~] Sec. 1033 [and 1034].

(3) The probation order shall state the conditions for revocation or retention of the license, which shall be reasonable.

(4) Any violation of the probation is a ground for revocation pursuant to any proceeding authorized under Title 63G, Chapter 4, Administrative Procedures Act.

Section 34. Section 31A-25-208 is amended to read:

31A-25-208. Revocation, suspension, surrender, lapsing, limiting, or otherwise terminating a license -- Rulemaking for renewal and reinstatement.

(1) A license type issued under this chapter remains in force until:

(a) revoked or suspended under Subsection (4);

(b) surrendered to the commissioner and accepted by the commissioner in lieu of administrative action;

(c) the licensee dies or is adjudicated incompetent as defined under:

(i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or

(ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and Minors;

(d) lapsed under Section 31A-25-210; or

(e) voluntarily surrendered.

(2) The following may be reinstated within one year after the day on which the license is no longer in force:

(a) a lapsed license; or

(b) a voluntarily surrendered license, except that a voluntarily surrendered license may not be reinstated after the license period in which the license is voluntarily surrendered.

(3) Unless otherwise stated in a written agreement for the voluntary surrender of a license, submission and acceptance of a voluntary surrender of a license does not prevent the department from pursuing additional disciplinary or other action authorized under:

(a) this title; or

(b) rules made under this title in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) (a) If the commissioner makes a finding under Subsection (4)(b), as part of an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, the commissioner may:

- (i) revoke a license;
 - (ii) suspend a license for a specified period of 12 months or less;
 - (iii) limit a license in whole or in part; or
 - (iv) deny a license application.
- (b) The commissioner may take an action described in Subsection (4)(a) if the commissioner finds that the licensee:
- (i) is unqualified for a license under Section 31A-25-202, 31A-25-203, or 31A-25-204;
 - (ii) has violated:
 - (A) an insurance statute;
 - (B) a rule that is valid under Subsection 31A-2-201(3); or
 - (C) an order that is valid under Subsection 31A-2-201(4);
 - (iii) is insolvent or the subject of receivership, conservatorship, rehabilitation, or other delinquency proceedings in any state;
 - (iv) fails to pay a final judgment rendered against the person in this state within 60 days after the day on which the judgment became final;
 - (v) fails to meet the same good faith obligations in claims settlement that is required of admitted insurers;
 - (vi) is affiliated with and under the same general management or interlocking directorate or ownership as another third party administrator that transacts business in this state without a license;
 - (vii) refuses:
 - (A) to be examined; or
 - (B) to produce its accounts, records, and files for examination;
 - (viii) has an officer who refuses to:
 - (A) give information with respect to the third party administrator's affairs; or
 - (B) perform any other legal obligation as to an examination;
 - (ix) provides information in the license application that is:
 - (A) incorrect;
 - (B) misleading;
 - (C) incomplete; or
 - (D) materially untrue;

(x) has violated an insurance law, valid rule, or valid order of another state's insurance department;

(xi) has obtained or attempted to obtain a license through misrepresentation or fraud;

(xii) has improperly withheld, misappropriated, or converted money or properties received in the course of doing insurance business;

(xiii) has intentionally misrepresented the terms of an actual or proposed:

(A) insurance contract; or

(B) application for insurance;

(xiv) has been convicted of a felony;

(xv) has admitted or been found to have committed an insurance unfair trade practice or fraud;

(xvi) in the conduct of business in this state or elsewhere has:

(A) used fraudulent, coercive, or dishonest practices; or

(B) demonstrated incompetence, untrustworthiness, or financial irresponsibility;

(xvii) has had an insurance license or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory;

(xviii) has forged another's name to:

(A) an application for insurance; or

(B) a document related to an insurance transaction;

(xix) has improperly used notes or any other reference material to complete an examination for an insurance license;

(xx) has knowingly accepted insurance business from an individual who is not licensed;

(xxi) has failed to comply with an administrative or court order imposing a child support obligation;

(xxii) has failed to:

(A) pay state income tax; or

(B) comply with an administrative or court order directing payment of state income tax;

(xxiii) has violated or permitted others to violate the federal Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033 ~~and 1034~~ and therefore under 18 U.S.C. Sec. 1033 is prohibited from engaging in the business of insurance; or

(xxiv) has engaged in methods and practices in the conduct of business that endanger the legitimate interests of customers and the public.

(c) For purposes of this section, if a license is held by an agency, both the agency itself and any individual designated under the license are considered to be the holders of the agency license.

(d) If an individual designated under the agency license commits an act or fails to perform a duty that

is a ground for suspending, revoking, or limiting the individual's license, the commissioner may suspend, revoke, or limit the license of:

- (i) the individual;
- (ii) the agency if the agency:

(A) is reckless or negligent in its supervision of the individual; or

(B) knowingly participated in the act or failure to act that is the ground for suspending, revoking, or limiting the license; or

- (iii) (A) the individual; and

(B) the agency if the agency meets the requirements of Subsection (4)(d)(ii).

(5) A licensee under this chapter is subject to the penalties for acting as a licensee without a license if:

- (a) the licensee's license is:
 - (i) revoked;
 - (ii) suspended;
 - (iii) limited;
 - (iv) surrendered in lieu of administrative action;
 - (v) lapsed; or
 - (vi) voluntarily surrendered; and
- (b) the licensee:
 - (i) continues to act as a licensee; or
 - (ii) violates the terms of the license limitation.

(6) A licensee under this chapter shall immediately report to the commissioner:

(a) a revocation, suspension, or limitation of the person's license in any other state, the District of Columbia, or a territory of the United States;

(b) the imposition of a disciplinary sanction imposed on that person by any other state, the District of Columbia, or a territory of the United States; or

(c) a judgment or injunction entered against the person on the basis of conduct involving:

- (i) fraud;
- (ii) deceit;
- (iii) misrepresentation; or
- (iv) a violation of an insurance law or rule.

(7) (a) An order revoking a license under Subsection (4) or an agreement to surrender a license in lieu of administrative action may specify a time, not to exceed five years, within which the former licensee may not apply for a new license.

(b) If no time is specified in the order or agreement described in Subsection (7)(a), the former licensee may not apply for a new license for five years from the day on which the order or agreement is made without the express approval of the commissioner.

(8) The commissioner shall promptly withhold, suspend, restrict, or reinstate the use of a license issued under this part if so ordered by the court.

(9) The commissioner shall by rule prescribe the license renewal and reinstatement procedures in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 35. Section 31A-25-209 is amended to read:

31A-25-209. Probation -- Grounds for revocation.

(1) The commissioner may place a licensee on probation for a period not to exceed 24 months as follows:

(a) after an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, for any circumstances that would justify a suspension under Section 31A-25-208; or

(b) at the issuance of a new license:

(i) with an admitted violation under 18 U.S.C. [Sections] Sec. 1033 [~~and 1034~~]; or

(ii) with a response to a background information question on a new license application indicating that:

(A) the person has been convicted of a crime that is listed by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as a crime that is grounds for probation;

(B) the person is currently charged with a crime that is listed by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as a crime that is grounds for probation regardless of whether adjudication is withheld;

(C) the person has been involved in an administrative proceeding regarding any professional or occupational license; or

(D) any business in which the person is or was an owner, partner, officer, or director has been involved in an administrative proceeding regarding any professional or occupational license.

(2) The commissioner may place a licensee on probation for a specified period no longer than 24 months if the licensee has admitted to a violation under 18 U.S.C. [Sections] Sec. 1033 [~~and 1034~~].

(3) A probation order under this section shall state the conditions for retention of the license, which shall be reasonable.

(4) A violation of the probation is grounds for revocation pursuant to any proceeding authorized under Title 63G, Chapter 4, Administrative Procedures Act.

Section 36. Section 31A-26-102 is amended to read:

31A-26-102. Definitions.

As used in this chapter, unless expressly provided otherwise:

(1) "Company adjuster" means a person employed by an insurer whose regular duties include insurance adjusting.

(2) “Designated home state” means the state or territory of the United States or the District of Columbia:

(a) in which an insurance adjuster does not maintain the adjuster’s principal:

(i) place of residence; or

(ii) place of business;

(b) if the resident state, territory, or District of Columbia of the adjuster does not license adjusters for the line of authority sought, the adjuster has qualified for the license as if the person were a resident in the state, territory, or District of Columbia described in Subsection (2)(a), including an applicable:

(i) examination requirement;

(ii) fingerprint background check requirement; and

(iii) continuing education requirement; and

(c) the adjuster has designated the state, territory, or District of Columbia as the designated home state.

(3) “Home state” means:

(a) a state or territory of the United States or the District of Columbia in which an insurance adjuster:

(i) maintains the adjuster’s principal:

(A) place of residence; or

(B) place of business; and

(ii) is licensed to act as a resident adjuster; or

(b) if the resident state, territory, or the District of Columbia described in Subsection (3)(a) does not license adjusters for the line of authority sought, a state, territory, or the District of Columbia:

(i) in which the adjuster is licensed;

(ii) in which the adjuster is in good standing; and

(iii) that the adjuster has designated as the adjuster’s designated home state.

[2] (4) “Independent adjuster” means an insurance adjuster required to be licensed under Section 31A-26-201, who engages in insurance adjusting as a representative of one or more insurers.

[3] (5) “Insurance adjusting” or “adjusting” means directing or conducting the investigation, negotiation, or settlement of a claim under an insurance policy, on behalf of an insurer, policyholder, or a claimant under an insurance policy.

[4] (6) “Organization” means a person other than a natural person, and includes a sole proprietorship by which a natural person does business under an assumed name.

[5] (7) “Portable electronics insurance” is as defined in Section 31A-22-1802.

[6] (8) “Public adjuster” means a person required to be licensed under Section 31A-26-201, who engages in insurance adjusting as a representative of insureds and claimants under insurance policies.

Section 37. Section 31A-26-206 is amended to read:

31A-26-206. Continuing education requirements.

(1) Pursuant to this section, the commissioner shall by rule prescribe continuing education requirements for each class of license under Section 31A-26-204.

(2) (a) The commissioner shall impose continuing education requirements in accordance with a two-year licensing period in which the licensee meets the requirements of this Subsection (2).

(b) (i) Except as otherwise provided in this section, the continuing education requirements shall require:

(A) that a licensee complete 24 credit hours of continuing education for every two-year licensing period;

(B) that 3 of the 24 credit hours described in Subsection (2)(b)(i)(A) be ethics courses; and

(C) that the licensee complete at least half of the required hours through classroom hours of insurance-related instruction.

(ii) A continuing education hour completed in accordance with Subsection (2)(b)(i) may be obtained through:

(A) classroom attendance;

(B) home study;

(C) watching a video recording;

(D) experience credit; or

(E) other methods provided by rule.

(iii) Notwithstanding Subsections (2)(b)(i)(A) and (B), a title insurance adjuster is required to complete 12 credit hours of continuing education for every two-year licensing period, with 3 of the credit hours being ethics courses.

(c) A licensee may obtain continuing education hours at any time during the two-year licensing period.

(d) (i) A licensee is exempt from the continuing education requirements of this section if:

(A) the licensee was first licensed before [April 1, 1978] December 31, 1982;

(B) the license does not have a continuous lapse for a period of more than one year, except for a license for which the licensee has had an exemption approved before May 11, 2011;

(C) the licensee requests an exemption from the department; and

(D) the department approves the exemption.

(ii) If the department approves the exemption under Subsection (2)(d)(i), the licensee is not required to apply again for the exemption.

(e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner shall by rule:

(i) publish a list of insurance professional designations whose continuing education requirements can be used to meet the requirements for continuing education under Subsection (2)(b); and

(ii) authorize a professional adjuster association to:

(A) offer a qualified program for a classification of license on a geographically accessible basis; and

(B) collect a reasonable fee for funding and administration of a qualified program, subject to the review and approval of the commissioner.

(f) (i) A fee permitted under Subsection (2)(e)(ii)(B) that is charged to fund and administer a qualified program shall reasonably relate to the cost of administering the qualified program.

(ii) Nothing in this section shall prohibit a provider of a continuing education program or course from charging a fee for attendance at a course offered for continuing education credit.

(iii) A fee permitted under Subsection (2)(e)(ii)(B) that is charged for attendance at an association program may be less for an association member, on the basis of the member's affiliation expense, but shall preserve the right of a nonmember to attend without affiliation.

(3) The continuing education requirements of this section apply only to a licensee who is an individual.

(4) The continuing education requirements of this section do not apply to a member of the Utah State Bar.

(5) The commissioner shall designate a course that satisfies the requirements of this section, including a course presented by an insurer.

(6) A nonresident adjuster is considered to have satisfied this state's continuing education requirements if:

(a) the nonresident adjuster satisfies the nonresident producer's home state's continuing education requirements for a licensed insurance adjuster; and

(b) on the same basis the nonresident adjuster's home state considers satisfaction of Utah's continuing education requirements for a producer as satisfying the continuing education requirements of the home state.

(7) A licensee subject to this section shall keep documentation of completing the continuing education requirements of this section for two years after the end of the two-year licensing period to which the continuing education requirement applies.

Section 38. Section 31A-26-207 is amended to read:

31A-26-207. Examination requirements.

(1) The commissioner may require applicants for ~~[any]~~ a particular class of license under Section 31A-26-204 to pass an examination as a requirement to receiving a license. The examination shall reasonably relate to the specific license class for which it is prescribed. The examinations may be administered by the commissioner or as specified by rule.

(2) The commissioner shall waive the requirement of an examination for a nonresident applicant who:

(a) applies for an insurance adjuster license in this state;

(b) has been licensed for the same line of authority in another state; and

(c) (i) is licensed in the state described in Subsection (2)(b) at the time the applicant applies for an insurance producer license in this state; or

(ii) if the application is received within 90 days of the cancellation of the applicant's previous license:

(A) the prior state certifies that at the time of cancellation, the applicant was in good standing in that state; or

(B) the state's producer database records maintained by the National Association of Insurance Commissioners or the National Association of Insurance Commissioner's affiliates or subsidiaries, indicates that the producer is or was licensed in good standing for the line of authority requested.

(3) (a) To become a resident licensee in accordance with Sections 31A-26-202 and 31A-26-203, a person licensed as an insurance producer in another state who moves to this state shall make application within 90 days of establishing legal residence in this state.

(b) A person who becomes a resident licensee under Subsection (3)(a) may not be required to meet prelicensing education or examination requirements to obtain any line of authority previously held in the prior state unless:

(i) the prior state would require a prior resident of this state to meet the prior state's prelicensing education or examination requirements to become a resident licensee; or

(ii) the commissioner imposes the requirements by rule.

(4) The requirements of this section only apply to ~~[applicants who are natural persons]~~ an applicant who is a natural person.

(5) The requirements of this section do not apply to ~~[members]:~~

(a) a member of the Utah State Bar[-]; or

(b) an applicant for the crop insurance license class who has satisfactorily completed:

(i) a national crop adjuster program, as adopted by the commissioner by rule; or

(ii) the loss adjustment training curriculum and competency testing required by the Federal Crop Insurance Corporation Standard Reinsurance Agreement through the Risk Management Agency of the United States Department of Agriculture.

Section 39. Section 31A-26-213 is amended to read:

31A-26-213. Revocation, suspension, surrender, lapsing, limiting, or otherwise terminating a license -- Rulemaking for renewal or reinstatement.

(1) A license type issued under this chapter remains in force until:

(a) revoked or suspended under Subsection (5);

(b) surrendered to the commissioner and accepted by the commissioner in lieu of administrative action;

(c) the licensee dies or is adjudicated incompetent as defined under:

(i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or

(ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and Minors;

(d) lapsed under Section 31A-26-214.5; or

(e) voluntarily surrendered.

(2) The following may be reinstated within one year after the day on which the license is no longer in force:

(a) a lapsed license; or

(b) a voluntarily surrendered license, except that a voluntarily surrendered license may not be reinstated after the license period in which it is voluntarily surrendered.

(3) Unless otherwise stated in a written agreement for the voluntary surrender of a license, submission and acceptance of a voluntary surrender of a license does not prevent the department from pursuing additional disciplinary or other action authorized under:

(a) this title; or

(b) rules made under this title in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) A license classification issued under this chapter remains in force until:

(a) the qualifications pertaining to a license classification are no longer met by the licensee; or

(b) the supporting license type:

(i) is revoked or suspended under Subsection (5); or

(ii) is surrendered to the commissioner and accepted by the commissioner in lieu of administrative action.

(5) (a) If the commissioner makes a finding under Subsection (5)(b) as part of an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, the commissioner may:

(i) revoke:

(A) a license; or

(B) a license classification;

(ii) suspend for a specified period of 12 months or less:

(A) a license; or

(B) a license classification;

(iii) limit in whole or in part:

(A) a license; or

(B) a license classification; or

(iv) deny a license application.

(b) The commissioner may take an action described in Subsection (5)(a) if the commissioner finds that the licensee:

(i) is unqualified for a license or license classification under Section 31A-26-202, 31A-26-203, 31A-26-204, or 31A-26-205;

(ii) has violated:

(A) an insurance statute;

(B) a rule that is valid under Subsection 31A-2-201(3); or

(C) an order that is valid under Subsection 31A-2-201(4);

(iii) is insolvent, or the subject of receivership, conservatorship, rehabilitation, or other delinquency proceedings in any state;

(iv) fails to pay a final judgment rendered against the person in this state within 60 days after the judgment became final;

(v) fails to meet the same good faith obligations in claims settlement that is required of admitted insurers;

(vi) is affiliated with and under the same general management or interlocking directorate or ownership as another insurance adjuster that transacts business in this state without a license;

(vii) refuses:

(A) to be examined; or

(B) to produce its accounts, records, and files for examination;

(viii) has an officer who refuses to:

(A) give information with respect to the insurance adjuster's affairs; or

(B) perform any other legal obligation as to an examination;

(ix) provides information in the license application that is:

- (A) incorrect;
- (B) misleading;
- (C) incomplete; or
- (D) materially untrue;

(x) has violated an insurance law, valid rule, or valid order of another state's insurance department;

(xi) has obtained or attempted to obtain a license through misrepresentation or fraud;

(xii) has improperly withheld, misappropriated, or converted money or properties received in the course of doing insurance business;

(xiii) has intentionally misrepresented the terms of an actual or proposed:

- (A) insurance contract; or
- (B) application for insurance;

(xiv) has been convicted of a felony;

(xv) has admitted or been found to have committed an insurance unfair trade practice or fraud;

(xvi) in the conduct of business in this state or elsewhere has:

(A) used fraudulent, coercive, or dishonest practices; or

(B) demonstrated incompetence, untrustworthiness, or financial irresponsibility;

(xvii) has had an insurance license, or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory;

(xviii) has forged another's name to:

- (A) an application for insurance; or
- (B) a document related to an insurance transaction;

(xix) has improperly used notes or any other reference material to complete an examination for an insurance license;

(xx) has knowingly accepted insurance business from an individual who is not licensed;

(xxi) has failed to comply with an administrative or court order imposing a child support obligation;

(xxii) has failed to:

- (A) pay state income tax; or
- (B) comply with an administrative or court order directing payment of state income tax;

(xxiii) has violated or permitted others to violate the federal Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033 [and 1034] and therefore under 18 U.S.C. Sec. 1033 is prohibited from engaging in the business of insurance; or

(xxiv) has engaged in methods and practices in the conduct of business that endanger the legitimate interests of customers and the public.

(c) For purposes of this section, if a license is held by an agency, both the agency itself and any individual designated under the license are considered to be the holders of the license.

(d) If an individual designated under the agency license commits an act or fails to perform a duty that is a ground for suspending, revoking, or limiting the individual's license, the commissioner may suspend, revoke, or limit the license of:

- (i) the individual;
- (ii) the agency, if the agency:

(A) is reckless or negligent in its supervision of the individual; or

(B) knowingly participated in the act or failure to act that is the ground for suspending, revoking, or limiting the license; or

(iii) (A) the individual; and

(B) the agency if the agency meets the requirements of Subsection (5)(d)(ii).

(6) A licensee under this chapter is subject to the penalties for conducting an insurance business without a license if:

(a) the licensee's license is:

- (i) revoked;
- (ii) suspended;
- (iii) limited;
- (iv) surrendered in lieu of administrative action;
- (v) lapsed; or
- (vi) voluntarily surrendered; and

(b) the licensee:

- (i) continues to act as a licensee; or
- (ii) violates the terms of the license limitation.

(7) A licensee under this chapter shall immediately report to the commissioner:

(a) a revocation, suspension, or limitation of the person's license in any other state, the District of Columbia, or a territory of the United States;

(b) the imposition of a disciplinary sanction imposed on that person by any other state, the District of Columbia, or a territory of the United States; or

(c) a judgment or injunction entered against that person on the basis of conduct involving:

- (i) fraud;
- (ii) deceit;
- (iii) misrepresentation; or
- (iv) a violation of an insurance law or rule.

(8) (a) An order revoking a license under Subsection (5) or an agreement to surrender a

license in lieu of administrative action may specify a time not to exceed five years within which the former licensee may not apply for a new license.

(b) If no time is specified in the order or agreement described in Subsection (8)(a), the former licensee may not apply for a new license for five years without the express approval of the commissioner.

(9) The commissioner shall promptly withhold, suspend, restrict, or reinstate the use of a license issued under this part if so ordered by a court.

(10) The commissioner shall by rule prescribe the license renewal and reinstatement procedures in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 40. Section 31A-26-214 is amended to read:

31A-26-214. Probation -- Grounds for revocation.

(1) The commissioner may place a licensee on probation for a period not to exceed 24 months as follows:

(a) after an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, for any circumstances that would justify a suspension under Section 31A-26-213; or

(b) at the issuance of a new license:

(i) with an admitted violation under 18 U.S.C. [Sections] Sec. 1033 [~~and 1034~~]; or

(ii) with a response to a background information question on any new license application indicating that:

(A) the person has been convicted of a crime, that is listed by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as a crime that is grounds for probation;

(B) the person is currently charged with a crime, that is listed by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as a crime that is grounds for probation regardless of whether adjudication was withheld;

(C) the person has been involved in an administrative proceeding regarding any professional or occupational license; or

(D) any business in which the person is or was an owner, partner, officer, or director has been involved in an administrative proceeding regarding any professional or occupational license.

(2) The commissioner may put a licensee on probation for a specified period no longer than 24 months if the licensee has admitted to violations under 18 U.S.C. [Sections] Sec. 1033 [~~and 1034~~].

(3) A probation order under this section shall state the conditions for retention of the license, which shall be reasonable.

(4) A violation of the probation is grounds for revocation pursuant to any proceeding authorized

under Title 63G, Chapter 4, Administrative Procedures Act.

Section 41. Section 31A-26-214.5 is amended to read:

31A-26-214.5. License lapse and voluntary surrender.

(1) (a) A license issued under this chapter shall lapse if the licensee fails to:

(i) pay when due a fee under Section 31A-3-103;

(ii) complete continuing education requirements under Section 31A-26-206 before submitting the license renewal application;

(iii) submit a completed renewal application as required by Section 31A-26-202;

(iv) submit additional documentation required to complete the licensing process as related to a specific license type or license classification; or

(v) maintain an active license in [~~a resident~~] the licensee's home state if the licensee is a nonresident licensee.

(b) (i) A licensee whose license lapses due to the following may request an action described in Subsection (1)(b)(ii):

(A) military service;

(B) voluntary service for a period of time designated by the person for whom the licensee provides voluntary service; or

(C) some other extenuating circumstances, such as long-term medical disability.

(ii) A licensee described in Subsection (1)(b)(i) may request:

(A) reinstatement of the license no later than one year after the day on which the license lapses; and

(B) waiver of any of the following imposed for failure to comply with renewal procedures:

(I) an examination requirement;

(II) reinstatement fees set under Section 31A-3-103;

(III) continuing education requirements; or

(IV) other sanction imposed for failure to comply with renewal procedures.

(2) If a license issued under this chapter is voluntarily surrendered, the license may be reinstated:

(a) during the license period in which it is voluntarily surrendered; and

(b) no later than one year after the day on which the license is voluntarily surrendered.

Section 42. Section 31A-27a-102 is amended to read:

31A-27a-102. Definitions.

As used in this chapter:

(1) “Admitted assets” is as defined by and is measured in accordance with the National Association of Insurance Commissioner’s Statements of Statutory Accounting Principles, as incorporated in this state by rules made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the purposes of Subsection 31A-4-113(1)(b)(ii).

(2) “Affected guaranty association” means a guaranty association that is or may become liable for payment of a covered claim.

(3) “Affiliate” is as defined in Section 31A-1-301.

(4) Notwithstanding Section 31A-1-301, “alien insurer” means an insurer incorporated or organized under the laws of a jurisdiction that is not a state.

(5) Notwithstanding Section 31A-1-301, “claimant” or “creditor” means a person having a claim against an insurer whether the claim is:

- (a) matured or not matured;
- (b) liquidated or unliquidated;
- (c) secured or unsecured;
- (d) absolute; or
- (e) fixed or contingent.

(6) “Commissioner” is as defined in Section 31A-1-301.

(7) “Commodity contract” means:

(a) a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of:

- (i) a board of trade or contract market under the Commodity Exchange Act, 7 U.S.C. Sec. 1 et seq.; or
- (ii) a board of trade outside the United States;
- (b) an agreement that is:

(i) subject to regulation under Section 19 of the Commodity Exchange Act, 7 U.S.C. Sec. 1 et seq.; and

(ii) commonly known to the commodities trade as:

- (A) a margin account;
- (B) a margin contract;
- (C) a leverage account; or
- (D) a leverage contract;

(c) an agreement or transaction that is:

(i) subject to regulation under Section 4c(b) of the Commodity Exchange Act, 7 U.S.C. Sec. 1 et seq.; and

(ii) commonly known to the commodities trade as a commodity option;

(d) a combination of the agreements or transactions referred to in this Subsection (7); or

(e) an option to enter into an agreement or transaction referred to in this Subsection (7).

(8) “Control” is as defined in Section 31A-1-301.

(9) “Delinquency proceeding” means a:

(a) proceeding instituted against an insurer for the purpose of rehabilitating or liquidating the insurer; and

(b) summary proceeding under Section 31A-27a-201.

(10) “Department” is as defined in Section 31A-1-301 unless the context requires otherwise.

(11) “Doing business,” “doing insurance business,” and “business of insurance” includes any of the following acts, whether effected by mail, electronic means, or otherwise:

(a) issuing or delivering a contract, certificate, or binder relating to insurance or annuities:

- (i) to a person who is resident in this state; or
- (ii) covering a risk located in this state;

(b) soliciting an application for the contract, certificate, or binder described in Subsection (11)(a);

(c) negotiating preliminary to the execution of the contract, certificate, or binder described in Subsection (11)(a);

(d) collecting premiums, membership fees, assessments, or other consideration for the contract, certificate, or binder described in Subsection (11)(a);

(e) transacting matters:

(i) subsequent to execution of the contract, certificate, or binder described in Subsection (11)(a); and

(ii) arising out of the contract, certificate, or binder described in Subsection (11)(a);

(f) operating as an insurer under a license or certificate of authority issued by the department; or

(g) engaging in an act identified in Chapter 15, Unauthorized Insurers, Surplus Lines, and Risk Retention Groups.

(12) Notwithstanding Section 31A-1-301, “domiciliary state” means the state in which an insurer is incorporated or organized, except that “domiciliary state” means:

(a) in the case of an alien insurer, its state of entry; or

(b) in the case of a risk retention group, the state in which the risk retention group is chartered as contemplated in the Liability Risk Retention Act, 15 U.S.C. Sec. 3901 et seq.

(13) “Estate” has the same meaning as “property of the insurer” as defined in Subsection (30).

(14) “Fair consideration” is given for property or an obligation:

(a) when in exchange for the property or obligation, as a fair equivalent for it, and in good faith:

- (i) property is conveyed;
- (ii) services are rendered;
- (iii) an obligation is incurred; or
- (iv) an antecedent debt is satisfied; or

(b) when the property or obligation is received in good faith to secure a present advance or an antecedent debt in amount not disproportionately small compared to the value of the property or obligation obtained.

(15) Notwithstanding Section 31A-1-301, “foreign insurer” means an insurer domiciled in another state.

(16) “Formal delinquency proceeding” means a rehabilitation or liquidation proceeding.

(17) “Forward contract” is as defined in the Federal Deposit Insurance Act, 12 U.S.C. Sec. 1821(e)(8)(D).

(18) (a) “General assets” include all property of the estate that is not:

- (i) subject to a properly perfected secured claim;
- (ii) subject to a valid and existing express trust for the security or benefit of a specified person or class of person; or
- (iii) required by the insurance laws of this state or any other state to be held for the benefit of a specified person or class of person.

(b) “General assets” [~~include all~~] includes the property of the estate or its proceeds in excess of the amount necessary to discharge a claim described in Subsection (18)(a).

(19) “Good faith” means honesty in fact and intention, and in regard to Part 5, Asset Recovery, also requires the absence of:

- (a) information that would lead a reasonable person in the same position to know that the insurer is financially impaired or insolvent; and
- (b) knowledge regarding the imminence or pendency of a delinquency proceeding against the insurer.

(20) “Guaranty association” means:

- (a) a mechanism mandated by Chapter 28, Guaranty Associations; or
- (b) a similar mechanism in another state that is created for the payment of claims or continuation of policy obligations of a financially impaired or insolvent insurer.

(21) “Impaired” means that an insurer:

- (a) does not have admitted assets at least equal to the sum of:
 - (i) all its liabilities; and

(ii) the minimum surplus required to be maintained by Section 31A-5-211 or 31A-8-209; or

(b) has a total adjusted capital that is less than its authorized control level RBC, as defined in Section 31A-17-601.

(22) “Insolvency” or “insolvent” means that an insurer:

- (a) is unable to pay its obligations when they are due;
- (b) does not have admitted assets at least equal to all of its liabilities; or

(c) has a total adjusted capital that is less than its mandatory control level RBC, as defined in Section 31A-17-601.

(23) Notwithstanding Section 31A-1-301, “insurer” means a person who:

- (a) is doing, has done, purports to do, or is licensed to do the business of insurance;
- (b) is or has been subject to the authority of, or to rehabilitation, liquidation, reorganization, supervision, or conservation by an insurance commissioner; or
- (c) is included under Section 31A-27a-104.

(24) “Liabilities” is as defined by and is measured in accordance with the National Association of Insurance Commissioner’s Statements of Statutory Accounting Principles, as incorporated in this state by rules made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the purposes of Subsection 31A-4-113(1)(b)(ii).

(25) (a) Subject to Subsection (21)(b), “netting agreement” means:

- (i) a contract or agreement that:
 - (A) documents one or more transactions between the parties to the agreement for or involving one or more qualified financial contracts; and
 - (B) provides for the netting, liquidation, setoff, termination, acceleration, or close out under or in connection with:
 - (I) one or more qualified financial contracts; or
 - (II) present or future payment or delivery obligations or payment or delivery entitlements under the agreement, including liquidation or close-out values relating to the obligations or entitlements, among the parties to the netting agreement;

(ii) a master agreement or bridge agreement for one or more master agreements described in Subsection (25)(a)(i); or

(iii) any of the following related to a contract or agreement described in Subsection (25)(a)(i) or (ii):

- (A) a security agreement;
- (B) a security arrangement;
- (C) other credit enhancement or guarantee; or

- (D) a reimbursement obligation.
- (b) If a contract or agreement described in Subsection (25)(a)(i) or (ii) relates to an agreement or transaction that is not a qualified financial contract, the contract or agreement described in Subsection (25)(a)(i) or (ii) is considered a netting agreement only with respect to an agreement or transaction that is a qualified financial contract.
- (c) “Netting agreement” includes:
- (i) a term or condition incorporated by reference in the contract or agreement described in Subsection (25)(a); or
- (ii) a master agreement described in Subsection (25)(a).
- (d) A master agreement described in Subsection (25)(a), together with all schedules, confirmations, definitions, and addenda to that master agreement and transactions under any of the items described in this Subsection (25)(d), are treated as one netting agreement.
- (26) (a) “New value” means:
- (i) money;
- (ii) money’s worth in goods, services, or new credit; or
- (iii) release by a transferee of property previously transferred to the transferee in a transaction that is neither void nor voidable by the insurer or the receiver under ~~any~~ applicable law, including proceeds of the property.
- (b) “New value” does not include an obligation substituted for an existing obligation.
- (27) “Party in interest” means:
- (a) the commissioner;
- (b) a nondomiciliary commissioner in whose state the insurer has outstanding claims liabilities;
- (c) an affected guaranty association; and
- (d) the following parties if the party files a request with the receivership court for inclusion as a party in interest and to be on the service list:
- (i) an insurer that ceded to or assumed business from the insurer;
- (ii) a policyholder;
- (iii) a third party claimant;
- (iv) a creditor;
- (v) a 10% or greater equity security holder in the insolvent insurer; and
- (vi) a person, including an indenture trustee, with a financial or regulatory interest in the delinquency proceeding.
- (28) (a) Notwithstanding Section 31A-1-301, “policy” means, notwithstanding what it is called:
- (i) a written contract of insurance;
- (ii) a written agreement for or affecting insurance; or
- (iii) a certificate of a written contract or agreement described in this Subsection (28)(a).
- (b) “Policy” includes all clauses, riders, endorsements, and papers that are a part of a policy.
- (c) “Policy” does not include a contract of reinsurance.
- (29) “Preference” means a transfer of property of an insurer to or for the benefit of a creditor:
- (a) for or on account of an antecedent debt, made or allowed by the insurer within one year before the day on which a successful petition for rehabilitation or liquidation is filed under this chapter;
- (b) the effect of which transfer may enable the creditor to obtain a greater percentage of the creditor’s debt than another creditor of the same class would receive; and
- (c) if a liquidation order is entered while the insurer is already subject to a rehabilitation order and the transfer otherwise qualifies, that is made or allowed within the shorter of:
- (i) one year before the day on which a successful petition for rehabilitation is filed; or
- (ii) two years before the day on which a successful petition for liquidation is filed.
- (30) “Property of the insurer” or “property of the estate” includes:
- (a) a right, title, or interest of the insurer in property:
- (i) whether:
- (A) legal or equitable;
- (B) tangible or intangible; or
- (C) choate or inchoate; and
- (ii) including choses in action, contract rights, and any other interest recognized under the laws of this state;
- (b) entitlements that exist before the entry of an order of rehabilitation or liquidation;
- (c) entitlements that may arise by operation of this chapter or other provisions of law allowing the receiver to avoid prior transfers or assert other rights; and
- (d) (i) records or data that is otherwise the property of the insurer; and
- (ii) records or data similar to those described in Subsection (30)(d)(i) that are within the possession, custody, or control of a managing general agent, a third party administrator, a management company, a data processing company, an accountant, an attorney, an affiliate, or other person.
- (31) Subject to Subsection 31A-27a-611(10), “qualified financial contract” means any of the following:

- (a) a commodity contract;
- (b) a forward contract;
- (c) a repurchase agreement;
- (d) a securities contract;
- (e) a swap agreement; or
- (f) [any] a similar agreement that the commissioner determines by rule or order to be a qualified financial contract for purposes of this chapter.

(32) As the context requires, “receiver” means the commissioner or the commissioner’s designee, including a rehabilitator, liquidator, or ancillary receiver.

(33) As the context requires, “receivership” means a rehabilitation, liquidation, or ancillary receivership.

(34) Unless the context requires otherwise, “receivership court” refers to the court in which a delinquency proceeding is pending.

(35) “Reciprocal state” means [any] a state other than this state that:

- (a) enforces a law substantially similar to this chapter;
- (b) requires the commissioner to be the receiver of a delinquent insurer; and
- (c) has laws for the avoidance of fraudulent conveyances and preferential transfers by the receiver of a delinquent insurer.

(36) “Record,” when used as a noun, means [any] information or data, in whatever form maintained, including:

- (a) a book;
- (b) a document;
- (c) a paper;
- (d) a file;
- (e) an application file;
- (f) a policyholder list;
- (g) policy information;
- (h) a claim or claim file;
- (i) an account;
- (j) a voucher;
- (k) a litigation file;
- (l) a premium record;
- (m) a rate book;
- (n) an underwriting manual;
- (o) a personnel record;
- (p) a financial record; or
- (q) other material.

(37) “Reinsurance” means a transaction or contract under which an assuming insurer agrees to indemnify a ceding insurer against all, or a part, of [any] a loss that the ceding insurer may sustain under the one or more policies that the ceding insurer issues or will issue.

(38) “Repurchase agreement” is as defined in the Federal Deposit Insurance Act, 12 U.S.C. Sec. 1821(e)(8)(D).

(39) (a) “Secured claim” means, subject to Subsection (39)(b):

- (i) a claim secured by an asset that is not a general asset; or
- (ii) the right to set off as provided in Section 31A-27a-510.

(b) “Secured claim” does not include:

- (i) a special deposit claim;
- (ii) a claim based on mere possession; or
- (iii) a claim arising from a constructive or resulting trust.

(40) “Securities contract” is as defined in the Federal Deposit Insurance Act, 12 U.S.C. Sec. 1821(e)(8)(D).

(41) “Special deposit” means a deposit established pursuant to statute for the security or benefit of a limited class or classes of persons.

(42) (a) Subject to Subsection (42)(b), “special deposit claim” means a claim secured by a special deposit.

(b) “Special deposit claim” does not include a claim against the general assets of the insurer.

(43) “State” means a state, district, or territory of the United States.

(44) “Subsidiary” is as defined in Section 31A-1-301.

(45) “Swap agreement” is as defined in the Federal Deposit Insurance Act, 12 U.S.C. Sec. 1821(e)(8)(D).

(46) (a) “Transfer” includes the sale and every other and different mode of disposing of or parting with property or with an interest in property, whether:

- (i) directly or indirectly;
- (ii) absolutely or conditionally;
- (iii) voluntarily or involuntarily; or
- (iv) by or without judicial proceedings.

(b) An interest in property includes:

- (i) a set off;
- (ii) having possession of the property; or
- (iii) fixing a lien on the property or on an interest in the property.

(c) The retention of a security title in property delivered to an insurer and foreclosure of the

insurer's equity of redemption is considered a transfer suffered by the insurer.

(47) Notwithstanding Section 31A-1-301, "unauthorized insurer" means an insurer transacting the business of insurance in this state that has not received a certificate of authority from this state, or some other type of authority that allows for the transaction of the business of insurance in this state.

Section 43. Section 31A-27a-107 is amended to read:

31A-27a-107. Notice and hearing on matters submitted by the receiver for receivership court approval.

(1) (a) Upon written request to the receiver, a person shall be placed on the service list to receive notice of matters filed by the receiver. The person shall include in a written request under this Subsection (1)(a) the person's address, facsimile number, or electronic mail address.

(b) It is the responsibility of the person requesting notice to:

(i) inform the receiver in writing of any changes in the person's address, facsimile number, or electronic mail address; or

(ii) request that the person's name be deleted from the service list.

(c) (i) The receiver may serve on a person on the service list a request to confirm continuation on the service list by returning a form.

(ii) The request to confirm continuation may be served periodically but not more frequently than every 12 months.

(iii) A person who fails to return the form described in this Subsection (1)(c) may be removed from the service list.

(d) Inclusion on the service list does not confer standing in the delinquency proceeding to raise, appear, or be heard on any issue.

(e) The receiver shall:

(i) file a copy of the service list with the receivership court; and

(ii) periodically provide to the receivership court notice of changes to the service list.

(f) Notice may be provided by first-class mail postage paid, electronic mail, or facsimile transmission, at the receiver's discretion.

(2) Except as otherwise provided by this chapter, notice and hearing of any matter submitted by the receiver to the receivership court for approval under this chapter shall be conducted in accordance with this Subsection (2).

(a) The receiver:

(i) shall file a motion:

(A) explaining the proposed action; and

(B) the basis for the proposed action; and

(ii) may include any evidence in support of the motion.

(b) If a document, material, or other information supporting the motion is confidential, the document, material, or other information may be submitted to the receivership court under seal for in camera inspection.

(c) (i) The receiver shall provide notice and a copy of the motion to:

(A) all persons on the service list; and

(B) any other person as may be required by the receivership court.

(ii) Notice may be provided by first-class mail postage paid, electronic mail, or facsimile transmission, at the receiver's discretion.

(iii) For purposes of this section, notice is considered to be given on the day on which it is deposited with the United States Postmaster or transmitted, as applicable, to the last-known address as shown on the service list.

(d) (i) A party in interest objecting to the motion shall:

(A) file an objection specifying the grounds for the objection within:

(I) 10 days of the day on which the notice of the filing of the motion is sent; or

(II) such other time as the receivership court may specify; and

(B) serve copies on:

(I) the receiver; and

(II) any other person served with the motion within the time period described in this Subsection (2)(d)(i).

(ii) In accordance with the Utah Rules of Civil Procedure, days may be added to the time for filing an objection if the notice of the motion is sent only by way of United States mail.

(iii) An objecting party has the burden of showing why the receivership court should not authorize the proposed action.

(e) (i) If no objection to the motion is timely filed:

(A) the receivership court may:

(I) enter an order approving the motion without a hearing; or

(II) hold a hearing to determine if the receiver's motion should be approved; and

(B) the receiver may request that the receivership court enter an order or hold a hearing on an expedited basis.

(ii) (A) If an objection is timely filed, the receivership court may hold a hearing.

(B) If the receivership court approves the motion and, upon a motion by the receiver, determines that the objection is frivolous or filed merely for delay or for other improper purpose, the receivership court

may order the objecting party to pay the receiver's reasonable costs and fees of defending against the objection.

Section 44. Section 31A-27a-201 is amended to read:

31A-27a-201. Receivership court's seizure order.

(1) The commissioner may file in the Third District Court for Salt Lake County a petition:

(a) with respect to:

(i) an insurer domiciled in this state;

(ii) an unauthorized insurer; or

(iii) pursuant to Section 31A-27a-901, a foreign insurer;

(b) alleging that:

(i) there exists grounds that would justify a court order for a formal delinquency proceeding against the insurer under this chapter; and

(ii) the interests of policyholders, creditors, or the public will be endangered by delay; and

(c) setting forth the contents of a seizure order considered necessary by the commissioner.

(2) (a) Upon a filing under Subsection (1), the receivership court may issue the requested seizure order:

(i) immediately, ex parte, and without notice or hearing;

(ii) that directs the commissioner to take possession and control of:

(A) all or a part of the property, accounts, and records of an insurer; and

(B) the premises occupied by the insurer for transaction of the insurer's business; and

(iii) that until further order of the receivership court, enjoins the insurer and its officers, managers, agents, and employees from disposition of its property and from the transaction of its business except with the written consent of the commissioner.

(b) ~~Any~~ A person having possession or control of and refusing to deliver any of the records or assets of a person against whom a seizure order is issued under this Subsection (2) is guilty of a class B misdemeanor.

(3) (a) A petition that requests injunctive relief:

(i) shall be verified by the commissioner or the commissioner's designee; and

(ii) is not required to plead or prove irreparable harm or inadequate remedy at law.

(b) The commissioner shall provide only the notice that the receivership court may require.

(4) (a) The receivership court shall specify in the seizure order the duration of the seizure, which shall be the time the receivership court considers

necessary for the commissioner to ascertain the condition of the insurer.

(b) The receivership court may from time to time:

(i) hold a hearing that the receivership court considers desirable:

(A) (I) on motion of the commissioner;

(II) on motion of the insurer; or

(III) on its own motion; and

(B) after the notice the receivership court considers appropriate; and

(ii) extend, shorten, or modify the terms of the seizure order.

(c) The receivership court shall vacate the seizure order if the commissioner fails to commence a formal proceeding under this chapter after having had a reasonable opportunity to commence a formal proceeding under this chapter.

(d) An order of the receivership court pursuant to a formal proceeding under this chapter vacates the seizure order.

(5) Entry of a seizure order under this section does not constitute a breach or an anticipatory breach of ~~any~~ a contract of the insurer.

(6) (a) An insurer subject to an ex parte seizure order under this section may petition the receivership court at any time after the issuance of a seizure order for a hearing and review of the basis for the seizure order.

(b) The receivership court shall hold the hearing and review requested under this Subsection (6) not more than 15 days after the day on which the request is received or as soon thereafter as the court may allow.

(c) A hearing under this Subsection (6):

(i) may be held privately in chambers; and

(ii) shall be held privately in chambers if the insurer proceeded against requests that it be private.

(7) (a) If, at any time after the issuance of a seizure order, it appears to the receivership court that a person whose interest is or will be substantially affected by the seizure order did not appear at the hearing and has not been served, the receivership court may order that notice be given to the person.

(b) An order under this Subsection (7) that notice be given may not stay the effect of ~~any~~ a seizure order previously issued by the receivership court.

(8) Whenever the commissioner makes a seizure as provided in Subsection (2), on the demand of the commissioner, it shall be the duty of the sheriff of a county of this state, and of the police department of a municipality in the state to furnish the commissioner with necessary deputies or officers to assist the commissioner in making and enforcing the seizure order.

(9) The commissioner may appoint a receiver under this section. The insurer shall pay the costs and expenses of the receiver appointed.

Section 45. Section 31A-27a-701 is amended to read:

31A-27a-701. Priority of distribution.

(1) (a) The priority of payment of distributions on unsecured claims shall be in accordance with the order in which each class of claim is set forth in this section except as provided in Section 31A-27a-702.

(b) All claims in each class shall be paid in full or adequate funds retained for the claim's payment before a member of the next class receives payment.

(c) All claims within a class shall be paid substantially the same percentage.

(d) Except as provided in Subsections (2)(a)(i)(E), (2)(k), and (2)(m), subclasses may not be established within a class.

(e) A claim by a shareholder, policyholder, or other creditor may not be permitted to circumvent the priority classes through the use of equitable remedies.

(2) The order of distribution of claims shall be as follows:

(a) a Class 1 claim, which:

(i) is a cost or expense of administration expressly approved or ratified by the liquidator, including the following:

(A) the actual and necessary costs of preserving or recovering the property of the insurer;

(B) reasonable compensation for all services rendered on behalf of the administrative supervisor or receiver;

(C) a necessary filing fee;

(D) the fees and mileage payable to a witness;

(E) an unsecured loan obtained by the receiver, which:

(I) unless its terms otherwise provide, has priority over all other costs of administration; and

(II) absent agreement to the contrary, shares pro rata with all other claims described in this Subsection (2)(a)(i)(E); and

(F) an expense approved by the rehabilitator of the insurer, if any, incurred in the course of the rehabilitation that is unpaid at the time of the entry of the order of liquidation; and

(ii) except as expressly approved by the receiver, excludes any expense arising from a duty to indemnify a director, officer, or employee of the insurer which expense, if allowed, is a Class 7 claim;

(b) a Class 2 claim, which:

(i) is a reasonable expense of a guaranty association, including overhead, salaries, or other general administrative expenses allocable to the receivership such as:

(A) an administrative or claims handling expense;

(B) an expense in connection with arrangements for ongoing coverage; and

(C) in the case of a property and casualty guaranty association, a loss adjustment expense, including:

(I) an adjusting or other expense; and

(II) a defense or cost containment expense; and

(ii) excludes an expense incurred in the performance of duties under Section 31A-28-112 or similar duties under the statute governing a similar organization in another state;

(c) a Class 3 claim, which:

(i) is:

(A) a claim under a policy of insurance including a third party claim;

(B) a claim under an annuity contract or funding agreement;

(C) a claim under a nonassessable policy for unearned premium;

(D) a claim of an obligee and, subject to the discretion of the receiver, a completion contractor under a surety bond or surety undertaking, except for:

(I) a bail bond;

(II) a mortgage guaranty;

(III) a financial guaranty; or

(IV) other form of insurance offering protection against investment risk or warranties;

(E) a claim by a principal under a surety bond or surety undertaking for wrongful dissipation of collateral by the insurer or its agents;

(F) an indemnity payment on:

(I) a covered claim; or

~~(II) unearned premium; or~~

~~(III)~~ (II) a payment for the continuation of coverage made by an entity responsible for the payment of a claim or continuation of coverage of an insolvent health maintenance organization;

(G) a claim for unearned premium;

~~(G)~~ (H) a claim incurred during the extension of coverage provided for in Sections 31A-27a-402 and 31A-27a-403; or

~~(H)~~ (I) all other claims incurred in fulfilling the statutory obligations of a guaranty association not included in Class 2, including:

(I) an indemnity payment on covered claims; and

(II) in the case of a life and health guaranty association, a claim:

(Aa) as a creditor of the impaired or insolvent insurer for a payment of and liabilities incurred on behalf of a covered claim or covered obligation of the insurer; and

(Bb) for the funds needed to reinsure the obligations described under this Subsection (2)(c)(i)~~(H)~~(I)(II) with a solvent insurer; and

(ii) notwithstanding any other provision of this chapter, excludes the following which shall be paid under Class 7, except as provided in this section:

(A) an obligation of the insolvent insurer arising out of a reinsurance contract;

(B) an obligation that is incurred pursuant to an occurrence policy or reported pursuant to a claims made policy after:

(I) the expiration date of the policy;

(II) the policy is replaced by the insured;

(III) the policy is canceled at the insured's request; or

(IV) the policy is canceled as provided in this chapter;

(C) an obligation to an insurer, insurance pool, or underwriting association and the insurer's, insurance pool's, or underwriting association's claim for contribution, indemnity, or subrogation, equitable or otherwise, except for direct claims under a policy where the insurer is the named insured;

(D) an amount accrued as punitive or exemplary damages unless expressly covered under the terms of the policy, which shall be paid as a claim in Class 9;

(E) a tort claim of any kind against the insurer;

(F) a claim against the insurer for bad faith or wrongful settlement practices; and

(G) a claim of a guaranty association for assessments not paid by the insurer, which claims shall be paid as claims in Class 7; and

(iii) notwithstanding Subsection (2)(c)(ii)(B), does not exclude an unearned premium claim on a policy, other than a reinsurance agreement;

(d) a Class 4 claim, which is a claim under a policy for mortgage guaranty, financial guaranty, or other forms of insurance offering protection against investment risk or warranties;

(e) a Class 5 claim, which is a claim of the federal government not included in Class 3 or 4;

(f) a Class 6 claim, which is a debt due an employee for services or benefits:

(i) to the extent that the expense:

(A) does not exceed the lesser of:

(I) \$5,000; or

(II) two months' salary; and

(B) represents payment for services performed within one year before the day on which the initial order of receivership is issued; and

(ii) which priority is in lieu of any other similar priority that may be authorized by law as to wages or compensation of employees;

(g) a Class 7 claim, which is a claim of an unsecured creditor not included in Classes 1 through 6, including:

(i) a claim under a reinsurance contract;

(ii) a claim of a guaranty association for an assessment not paid by the insurer; and

(iii) other claims excluded from Class 3 or 4, unless otherwise assigned to Classes 8 through 13;

(h) subject to Subsection (3), a Class 8 claim, which is:

(i) a claim of a state or local government, except a claim specifically classified elsewhere in this section; or

(ii) a claim for services rendered and expenses incurred in opposing a formal delinquency proceeding;

(i) a Class 9 claim, which is a claim for penalties, punitive damages, or forfeitures, unless expressly covered under the terms of a policy of insurance;

(j) a Class 10 claim, which is, except as provided in Subsections 31A-27a-601(2) and 31A-27a-601(3), a late filed claim that would otherwise be classified in Classes 3 through 9;

(k) subject to Subsection (4), a Class 11 claim, which is:

(i) a surplus note;

(ii) a capital note;

(iii) a contribution note;

(iv) a similar obligation;

(v) a premium refund on an assessable policy; or

(vi) any other claim specifically assigned to this class;

(l) a Class 12 claim, which is a claim for interest on an allowed claim of Classes 1 through 11, according to the terms of a plan to pay interest on allowed claims proposed by the liquidator and approved by the receivership court; and

(m) subject to Subsection (4), a Class 13 claim, which is a claim of a shareholder or other owner arising out of:

(i) the shareholder's or owner's capacity as shareholder or owner or any other capacity; and

(ii) except as the claim may be qualified in Class 3, 4, 7, or 12.

(3) To prove a claim described in Class 8, the claimant shall show that:

(a) the insurer that is the subject of the delinquency proceeding incurred the fee or expense on the basis of the insurer's best knowledge, information, and belief:

(i) formed after reasonable inquiry indicating opposition is in the best interests of the insurer;

(ii) that is well grounded in fact; and

(iii) is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; and

(b) opposition is not pursued for any improper purpose, such as to harass, to cause unnecessary delay, or to cause needless increase in the cost of the litigation.

(4) (a) A claim in Class 11 is subject to a subordination agreement related to other claims in Class 11 that exist before the entry of a liquidation order.

(b) A claim in Class 13 is subject to a subordination agreement, related to other claims in Class 13 that exist before the entry of a liquidation order.

Section 46. Section 31A-29-106 is amended to read:

31A-29-106. Powers of board.

(1) The board shall have the general powers and authority granted under the laws of this state to insurance companies licensed to transact health care insurance business. In addition, the board shall have the specific authority to:

(a) enter into contracts to carry out the provisions and purposes of this chapter, including, with the approval of the commissioner, contracts with:

(i) similar pools of other states for the joint performance of common administrative functions; or

(ii) persons or other organizations for the performance of administrative functions;

(b) sue or be sued, including taking such legal action necessary to avoid the payment of improper claims against the pool or the coverage provided through the pool;

(c) establish appropriate rates, rate schedules, rate adjustments, expense allowances, agents' referral fees, claim reserve formulas, and any other actuarial function appropriate to the operation of the pool;

(d) issue policies of insurance in accordance with the requirements of this chapter;

(e) retain an executive director and appropriate legal, actuarial, and other personnel as necessary to provide technical assistance in the operations of the pool;

(f) establish rules, conditions, and procedures for reinsuring risks under this chapter;

(g) cause the pool to have an annual audit of its operations by the state auditor;

(h) coordinate with the Department of Health in seeking to obtain from the Centers for Medicare and Medicaid Services, or other appropriate office or agency of government, all appropriate waivers, authority, and permission needed to coordinate the coverage available from the pool with coverage

available under Medicaid, either before or after Medicaid coverage, or as a conversion option upon completion of Medicaid eligibility, without the necessity for requalification by the enrollee;

(i) provide for and employ cost containment measures and requirements including preadmission certification, concurrent inpatient review, and individual case management for the purpose of making the pool more cost-effective;

(j) offer pool coverage through contracts with health maintenance organizations, preferred provider organizations, and other managed care systems that will manage costs while maintaining quality care;

(k) establish annual limits on benefits payable under the pool to or on behalf of any enrollee;

(l) exclude from coverage under the pool specific benefits, medical conditions, and procedures for the purpose of protecting the financial viability of the pool;

(m) administer the Pool Fund;

(n) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this chapter;

(o) adopt, trademark, and copyright a trade name for the pool for use in marketing and publicizing the pool and its products; and

(p) transition health care coverage for all individuals covered under the pool as part of the conversion to health insurance coverage, regardless of preexisting conditions, under PPACA.

(2) (a) The board shall prepare and submit an annual report to the Legislature which shall include:

(i) the net premiums anticipated;

(ii) actuarial projections of payments required of the pool;

(iii) the expenses of administration; and

(iv) the anticipated reserves or losses of the pool.

(b) The budget for operation of the pool is subject to the approval of the board.

(c) The administrative budget of the board and the commissioner under this chapter shall comply with the requirements of Title 63J, Chapter 1, Budgetary Procedures Act, and is subject to review and approval by the Legislature.

~~[(3) (a) The board shall on or before September 1, 2004, require the plan administrator or an independent actuarial consultant retained by the plan administrator to redetermine the reasonable equivalent of the criteria for uninsurability required under Subsection 31A-30-106(1)(h) that is used by the board to determine eligibility for coverage in the pool.]~~

~~[(b) The board shall redetermine the criteria established in Subsection (3)(a) at least every five years thereafter.]~~

Section 47. Section 31A-29-111 is amended to read:

31A-29-111. Eligibility -- Limitations.

(1) (a) Except as provided in Subsection (1)(b), an individual who is not HIPAA eligible is eligible for pool coverage if the individual:

- (i) pays the established premium;
- (ii) is a resident of this state; and
- (iii) meets the health underwriting criteria under Subsection (5)(a).

(b) Notwithstanding Subsection (1)(a), an individual who is not HIPAA eligible is not eligible for pool coverage if one or more of the following conditions apply:

(i) the individual is eligible for health care benefits under Medicaid or Medicare, except as provided in Section 31A-29-112;

(ii) the individual has terminated coverage in the pool, unless:

(A) 12 months have elapsed since the termination date; or

(B) the individual demonstrates that creditable coverage has been involuntarily terminated for any reason other than nonpayment of premium;

(iii) the pool has paid the maximum lifetime benefit to or on behalf of the individual;

(iv) the individual is an inmate of a public institution;

(v) the individual is eligible for a public health plan, as defined in federal regulations adopted pursuant to 42 U.S.C. Sec. 300gg;

(vi) the individual's health condition does not meet the criteria established under Subsection (5);

(vii) the individual is eligible for coverage under an employer group that offers a health benefit plan or a self-insurance arrangement to its eligible employees, dependents, or members as:

- (A) an eligible employee;
- (B) a dependent of an eligible employee; or
- (C) a member;

(viii) the individual is covered under any other health benefit plan;

(ix) except as provided in Subsections (3) and (6), at the time of application, the individual has not resided in Utah for at least 12 consecutive months preceding the date of application; or

(x) the individual's employer pays any part of the individual's health benefit plan premium, either as an insured or a dependent, for pool coverage.

(2) (a) Except as provided in Subsection (2)(b), an individual who is HIPAA eligible is eligible for pool coverage if the individual:

- (i) pays the established premium; and
- (ii) is a resident of this state.

(b) Notwithstanding Subsection (2)(a), a HIPAA eligible individual is not eligible for pool coverage if one or more of the following conditions apply:

(i) the individual is eligible for health care benefits under Medicaid or Medicare, except as provided in Section 31A-29-112;

(ii) the individual is eligible for a public health plan, as defined in federal regulations adopted pursuant to 42 U.S.C. Sec. 300gg;

(iii) the individual is covered under any other health benefit plan;

(iv) the individual is eligible for coverage under an employer group that offers a health benefit plan or self-insurance arrangements to its eligible employees, dependents, or members as:

- (A) an eligible employee;
- (B) a dependent of an eligible employee; or
- (C) a member;

(v) the pool has paid the maximum lifetime benefit to or on behalf of the individual;

(vi) the individual is an inmate of a public institution; or

(vii) the individual's employer pays any part of the individual's health benefit plan premium, either as an insured or a dependent, for pool coverage.

(3) (a) Notwithstanding Subsection (1)(b)(ix), if otherwise eligible under Subsection (1)(a), an individual whose health care insurance coverage from a state high risk pool with similar coverage is terminated because of nonresidency in another state is eligible for coverage under the pool subject to the conditions of Subsections (1)(b)(i) through (viii).

(b) Coverage under Subsection (3)(a) shall be applied for within 63 days after the termination date of the previous high risk pool coverage.

(c) The effective date of this state's pool coverage shall be the date of termination of the previous high risk pool coverage.

(d) The waiting period of an individual with a preexisting condition applying for coverage under this chapter shall be waived:

(i) to the extent to which the waiting period was satisfied under a similar plan from another state; and

(ii) if the other state's benefit limitation was not reached.

(4) (a) If an eligible individual applies for pool coverage within 30 days of being denied coverage by an individual carrier, the effective date for pool coverage shall be no later than the first day of the month following the date of submission of the completed insurance application to the carrier.

(b) Notwithstanding Subsection (4)(a), for individuals eligible for coverage under Subsection (3), the effective date shall be the date of termination of the previous high risk pool coverage.

(5) (a) The board shall establish and adjust, as necessary, health underwriting criteria based on:

(i) health condition; and

(ii) expected claims so that the expected claims are anticipated to remain within available funding.

(b) The board, with approval of the commissioner, may contract with one or more providers under Title 63G, Chapter 6a, Utah Procurement Code, to develop underwriting criteria under Subsection (5)(a).

~~[(c) If an individual is denied coverage by the pool under the criteria established in Subsection (5)(a), the pool shall issue a certificate of insurability to the individual for coverage under Subsection 31A-30-108(3).]~~

(6) (a) Notwithstanding Subsection (1)(b)(ix), if otherwise eligible under Subsection (1)(a), an individual whose individual health care insurance coverage was involuntarily terminated, is eligible for coverage under the pool subject to the conditions of Subsections (1)(b)(i) through (viii) and (x).

(b) Coverage under Subsection (6)(a) shall be applied for within 63 days after the termination date of the previous individual health care insurance coverage.

(c) The effective date of this state's pool coverage shall be the date of termination of the previous individual coverage.

(d) The waiting period of an individual with a preexisting condition applying for coverage under this chapter shall be waived to the extent to which the waiting period was satisfied under the individual health insurance plan.

Section 48. Section 31A-29-115 is amended to read:

31A-29-115. Cancellation -- Notice.

(1) ~~[(a)]~~ On the date of renewal, the pool may cancel an enrollee's policy if:

~~[(4)]~~ (a) the enrollee's health condition does not meet the criteria established in Subsection 31A-29-111(5); and

~~[(4)]~~ (b) the pool has provided written notice to the enrollee's last-known address no less than 60 days before cancellation; and

~~[(iii)]~~ at least one individual carrier has not reached the individual enrollment cap established in Section 31A-30-110.

~~[(b)]~~ The pool shall issue a certificate of insurability to an enrollee whose policy is cancelled under Subsection (1)(a) for coverage under Subsection 31A-30-108(3) if the requirements of Subsection 31A-29-111(5) are met.

(2) The pool may cancel an enrollee's policy at any time if:

(a) the pool has provided written notice to the enrollee's last-known address no less than 15 days before cancellation; and

(b) (i) the enrollee establishes a residency outside of Utah for three consecutive months;

(ii) there is nonpayment of premiums; or

(iii) the pool determines that the enrollee does not meet the eligibility requirements set forth in Section 31A-29-111, in which case:

(A) the policy may be retroactively terminated for the period of time in which the enrollee was not eligible;

(B) retroactive termination may not exceed three years; and

(C) the board's remedy under this Subsection (2)(b) shall be a cause of action against the enrollee for benefits paid during the period of ineligibility in accordance with Subsection 31A-29-119(3).

Section 49. Section 31A-30-102 is amended to read:

31A-30-102. Purpose statement.

The purpose of this chapter is to:

(1) prevent abusive rating practices;

(2) require disclosure of rating practices to purchasers;

(3) establish rules regarding:

(a) a universal individual and small group application; and

(b) renewability of coverage;

(4) improve the overall fairness and efficiency of the individual and small group insurance market;

(5) provide increased access for individuals and small employers to health insurance; and

(6) provide an employer with the opportunity to establish a defined contribution arrangement for an employee to purchase a health benefit plan through the ~~[Internet portal]~~ Health Insurance Exchange created by Section 63M-1-2504.

Section 50. Section 31A-30-103 is amended to read:

31A-30-103. Definitions.

As used in this chapter:

(1) "Actuarial certification" means a written statement by a member of the American Academy of Actuaries or other individual approved by the commissioner that a covered carrier is in compliance with ~~[Sections 31A-30-106 and 31A-30-106.1]~~ this chapter, based upon the examination of the covered carrier, including review of the appropriate records and of the actuarial assumptions and methods used by the covered carrier in establishing premium rates for applicable health benefit plans.

(2) "Affiliate" or "affiliated" means ~~[any entity or]~~ a person who directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, a specified ~~[entity or]~~ person.

(3) "Base premium rate" means, for each class of business as to a rating period, the lowest premium

rate charged or that could have been charged under a rating system for that class of business by the covered carrier to covered insureds with similar case characteristics for health benefit plans with the same or similar coverage.

(4) (a) “Bona fide employer association” means an association of employers:

(i) that meets the requirements of Subsection 31A-22-701(2)(b);

(ii) in which the employers of the association, either directly or indirectly, exercise control over the plan;

(iii) that is organized:

(A) based on a commonality of interest between the employers and their employees that participate in the plan by some common economic or representation interest or genuine organizational relationship unrelated to the provision of benefits; and

(B) to act in the best interests of its employers to provide benefits for the employer’s employees and their spouses and dependents, and other benefits relating to employment; and

(iv) whose association sponsored health plan complies with 45 C.F.R. 146.121.

(b) The commissioner shall consider the following with regard to determining whether an association of employers is a bona fide employer association under Subsection (4)(a):

(i) how association members are solicited;

(ii) who participates in the association;

(iii) the process by which the association was formed;

(iv) the purposes for which the association was formed, and what, if any, were the pre-existing relationships of its members;

(v) the powers, rights and privileges of employer members; and

(vi) who actually controls and directs the activities and operations of the benefit programs.

(5) “Carrier” means ~~any~~ a person ~~or entity~~ that provides health insurance in this state including:

(a) an insurance company;

(b) a prepaid hospital or medical care plan;

(c) a health maintenance organization;

(d) a multiple employer welfare arrangement; and

(e) ~~any other~~ another person ~~or entity~~ providing a health insurance plan under this title.

(6) (a) Except as provided in Subsection (6)(b), “case characteristics” means demographic or other objective characteristics of a covered insured that are considered by the carrier in determining premium rates for the covered insured.

(b) “Case characteristics” do not include:

(i) duration of coverage since the policy was issued;

(ii) claim experience; and

(iii) health status.

(7) “Class of business” means all or a separate grouping of covered insureds that is permitted by the commissioner in accordance with Section 31A-30-105.

~~[(8) “Conversion policy” means a policy providing coverage under the conversion provisions required in Chapter 22, Part 7, Group Accident and Health Insurance.]~~

~~[(9)]~~ (8) “Covered carrier” means ~~any~~ an individual carrier or small employer carrier subject to this chapter.

~~[(10)]~~ (9) “Covered individual” means ~~any~~ an individual who is covered under a health benefit plan subject to this chapter.

~~[(11)]~~ (10) “Covered insureds” means small employers and individuals who are issued a health benefit plan that is subject to this chapter.

~~[(12)]~~ (11) “Dependent” means an individual to the extent that the individual is defined to be a dependent by:

(a) the health benefit plan covering the covered individual; and

(b) Chapter 22, Part 6, Accident and Health Insurance.

~~[(13)]~~ (12) “Established geographic service area” means a geographical area approved by the commissioner within which the carrier is authorized to provide coverage.

~~[(14)]~~ (13) “Index rate” means, for each class of business as to a rating period for covered insureds with similar case characteristics, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate.

~~[(15)]~~ (14) “Individual carrier” means a carrier that provides coverage on an individual basis through a health benefit plan regardless of whether:

(a) coverage is offered through:

(i) an association;

(ii) a trust;

(iii) a discretionary group; or

(iv) other similar groups; or

(b) the policy or contract is situated out-of-state.

~~[(16)]~~ (15) “Individual conversion policy” means a conversion policy issued to:

(a) an individual; or

(b) an individual with a family.

~~[(17) “Individual coverage count” means the number of natural persons covered under a carrier’s~~

~~health benefit products that are individual policies.]~~

~~[(18) “Individual enrollment cap” means the percentage set by the commissioner in accordance with Section 31A-30-110.]~~

~~[(19) (16) “New business premium rate” means, for each class of business as to a rating period, the lowest premium rate charged or offered, or that could have been charged or offered, by the carrier to covered insureds with similar case characteristics for newly issued health benefit plans with the same or similar coverage.~~

~~[(20) (17) “Premium” means money paid by covered insureds and covered individuals as a condition of receiving coverage from a covered carrier, including [any] fees or other contributions associated with the health benefit plan.~~

~~[(21) (18) (a) “Rating period” means the calendar period for which premium rates established by a covered carrier are assumed to be in effect, as determined by the carrier.~~

~~(b) A covered carrier may not have:~~

~~(i) more than one rating period in any calendar month; and~~

~~(ii) no more than 12 rating periods in any calendar year.~~

~~[(22) “Resident” means an individual who has resided in this state for at least 12 consecutive months immediately preceding the date of application.]~~

~~[(23) (19) “Short-term limited duration insurance” means a health benefit product that:~~

~~(a) is not renewable; and~~

~~(b) has an expiration date specified in the contract that is less than 364 days after the date the plan became effective.~~

~~[(24) (20) “Small employer carrier” means a carrier that provides health benefit plans covering eligible employees of one or more small employers in this state, regardless of whether:~~

~~(a) coverage is offered through:~~

~~(i) an association;~~

~~(ii) a trust;~~

~~(iii) a discretionary group; or~~

~~(iv) other similar grouping; or~~

~~(b) the policy or contract is situated out-of-state.~~

~~[(25) “Uninsurable” means an individual who:]~~

~~[(a) is eligible for the Comprehensive Health Insurance Pool coverage under the underwriting criteria established in Subsection 31A-29-111(5); or]~~

~~[(b) (i) is issued a certificate for coverage under Subsection 31A-30-108(3); and]~~

~~[(ii) has a condition of health that does not meet consistently applied underwriting criteria as established by the commissioner in accordance with Subsections 31A-30-106(1)(g) and (h) for which coverage the applicant is applying.]~~

~~[(26) “Uninsurable percentage” for a given calendar year equals UC/CI where, for purposes of this formula:]~~

~~[(a) “CI” means the carrier’s individual coverage count as of December 31 of the preceding year; and]~~

~~[(b) “UC” means the number of uninsurable individuals who were issued an individual policy on or after July 1, 1997.]~~

Section 51. Section 31A-30-104 is amended to read:

31A-30-104. Applicability and scope.

(1) This chapter applies to any:

(a) health benefit plan that provides coverage to:

(i) individuals;

(ii) small employers, except as provided in Subsection (3); or

(iii) both Subsections (1)(a)(i) and (ii); or

(b) individual conversion policy for purposes of Sections 31A-30-106.5 and 31A-30-107.5.

(2) This chapter applies to a health benefit plan that provides coverage to small employers or individuals regardless of:

(a) whether the contract is issued to:

(i) an association, except as provided in Subsection (3);

(ii) a trust;

(iii) a discretionary group; or

(iv) other similar grouping; or

(b) the situs of delivery of the policy or contract.

(3) This chapter does not apply to:

(a) short-term limited duration health insurance;

(b) federally funded or partially funded programs; or

(c) a bona fide employer association.

(4) (a) Except as provided in Subsection (4)(b), for the purposes of this chapter:

(i) carriers that are affiliated companies or that are eligible to file a consolidated tax return shall be treated as one carrier; and

(ii) any restrictions or limitations imposed by this chapter shall apply as if all health benefit plans delivered or issued for delivery to covered insureds in this state by the affiliated carriers were issued by one carrier.

(b) Upon a finding of the commissioner, an affiliated carrier that is a health maintenance organization having a certificate of authority under

this title may be considered to be a separate carrier for the purposes of this chapter.

(c) Unless otherwise authorized by the commissioner or by Chapter 42, Defined Contribution Risk Adjuster Act, a covered carrier may not enter into one or more ceding arrangements with respect to health benefit plans delivered or issued for delivery to covered insureds in this state if the ceding arrangements would result in less than 50% of the insurance obligation or risk for the health benefit plans being retained by the ceding carrier.

(d) Section 31A-22-1201 applies if a covered carrier cedes or assumes all of the insurance obligation or risk with respect to one or more health benefit plans delivered or issued for delivery to covered insureds in this state.

(5) (a) A Taft Hartley trust created in accordance with Section 302(c)(5) of the Federal Labor Management Relations Act, or a carrier with the written authorization of such a trust, may make a written request to the commissioner for a waiver from the application of any of the provisions of ~~Subsection~~ Subsections 31A-30-106(1) and 31A-30-106.1(1) with respect to a health benefit plan provided to the trust.

(b) The commissioner may grant a trust or carrier described in Subsection (5)(a) a waiver if the commissioner finds that application with respect to the trust would:

(i) have a substantial adverse effect on the participants and beneficiaries of the trust; and

(ii) require significant modifications to one or more collective bargaining arrangements under which the trust is established or maintained.

(c) A waiver granted under this Subsection (5) may not apply to an individual if the person participates in a Taft Hartley trust as an associate member of any employee organization.

(6) Sections 31A-30-106, 31A-30-106.1, 31A-30-106.5, 31A-30-106.7, 31A-30-107, and 31A-30-108, ~~and 31A-30-111~~ apply to:

(a) any insurer engaging in the business of insurance related to the risk of a small employer for medical, surgical, hospital, or ancillary health care expenses of the small employer's employees provided as an employee benefit; and

(b) any contract of an insurer, other than a workers' compensation policy, related to the risk of a small employer for medical, surgical, hospital, or ancillary health care expenses of the small employer's employees provided as an employee benefit.

(7) The commissioner may make rules requiring that the marketing practices be consistent with this chapter for:

(a) a small employer carrier;

(b) a small employer carrier's agent;

(c) an insurance producer;

(d) an insurance consultant; and

(e) a navigator.

Section 52. Section 31A-30-106 is amended to read:

31A-30-106. Individual premiums -- Rating restrictions -- Disclosure.

(1) Premium rates for health benefit plans for individuals under this chapter are subject to this section.

(a) The index rate for a rating period for any class of business may not exceed the index rate for any other class of business by more than 20%.

(b) (i) For a class of business, the premium rates charged during a rating period to covered insureds with similar case characteristics for the same or similar coverage, or the rates that could be charged to the individual under the rating system for that class of business, may not vary from the index rate by more than 30% of the index rate except as provided under Subsection (1)(b)(ii).

(ii) A carrier that offers individual and small employer health benefit plans may use the small employer index rates to establish the rate limitations for individual policies, even if some individual policies are rated below the small employer base rate.

(c) The percentage increase in the premium rate charged to a covered insured for a new rating period, adjusted pro rata for rating periods less than a year, may not exceed the sum of the following:

(i) the percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period;

(ii) any adjustment, not to exceed 15% annually and adjusted pro rata for rating periods of less than one year, due to the claim experience, health status, or duration of coverage of the covered individuals as determined from the rate manual for the class of business of the carrier offering an individual health benefit plan; and

(iii) any adjustment due to change in coverage or change in the case characteristics of the covered insured as determined from the rate manual for the class of business of the carrier offering an individual health benefit plan.

(d) (i) A carrier offering an individual health benefit plan shall apply rating factors, including case characteristics, consistently with respect to all covered insureds in a class of business.

(ii) Rating factors shall produce premiums for identical individuals that:

(A) differ only by the amounts attributable to plan design; and

(B) do not reflect differences due to the nature of the individuals assumed to select particular health benefit products.

(iii) A carrier offering an individual health benefit plan shall treat all health benefit plans issued or

renewed in the same calendar month as having the same rating period.

(e) For the purposes of this Subsection (1), a health benefit plan that uses a restricted network provision may not be considered similar coverage to a health benefit plan that does not use a restricted network provision, provided that use of the restricted network provision results in substantial difference in claims costs.

(f) A carrier offering a health benefit plan to an individual may not, without prior approval of the commissioner, use case characteristics other than:

- (i) age;
- (ii) gender;
- (iii) geographic area; and
- (iv) family composition.

(g) (i) The commissioner shall establish rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

- (A) implement this chapter; ~~and~~
- (B) assure that rating practices used by carriers who offer health benefit plans to individuals are consistent with the purposes of this chapter~~[-]; and~~

(C) promote transparency of rating practices of health benefit plans, except that a carrier may not be required to disclose proprietary information.

(ii) The rules described in Subsection (1)(g)(i) may include rules that:

(A) assure that differences in rates charged for health benefit products by carriers who offer health benefit plans to individuals are reasonable and reflect objective differences in plan design, not including differences due to the nature of the individuals assumed to select particular health benefit products; and

(B) prescribe the manner in which case characteristics may be used by carriers who offer health benefit plans to individuals~~[-]~~.

~~[(C) implement the individual enrollment cap under Section 31A-30-110, including specifying:]~~

- ~~[(I) the contents for certification;]~~
- ~~[(II) auditing standards;]~~

~~[(III) underwriting criteria for uninsurable classification; and]~~

~~[(IV) limitations on high risk enrollees under Section 31A-30-111; and]~~

~~[(D) establish the individual enrollment cap under Subsection 31A-30-110(1).]~~

~~[(h) Before implementing regulations for underwriting criteria for uninsurable classification, the commissioner shall contract with an independent consulting organization to develop industry-wide underwriting criteria for uninsurability based on an individual's expected claims under open enrollment coverage exceeding~~

~~325% of that expected for a standard insurable individual with the same case characteristics.]~~

~~[(i)] (h) The commissioner shall revise rules issued for Sections 31A-22-602 and 31A-22-605 regarding individual accident and health policy rates to allow rating in accordance with this section.~~

(2) For purposes of Subsection (1)(c)(i), if a health benefit product is a health benefit product into which the covered carrier is no longer enrolling new covered insureds, the covered carrier shall use the percentage change in the base premium rate, provided that the change does not exceed, on a percentage basis, the change in the new business premium rate for the most similar health benefit product into which the covered carrier is actively enrolling new covered insureds.

(3) (a) A covered carrier may not transfer a covered insured involuntarily into or out of a class of business.

(b) A covered carrier may not offer to transfer a covered insured into or out of a class of business unless the offer is made to transfer all covered insureds in the class of business without regard to:

- (i) case characteristics;
- (ii) claim experience;
- (iii) health status; or
- (iv) duration of coverage since issue.

(4) (a) A carrier who offers a health benefit plan to an individual shall maintain at the carrier's principal place of business a complete and detailed description of its rating practices and renewal underwriting practices, including information and documentation that demonstrate that the carrier's rating methods and practices are:

- (i) based upon commonly accepted actuarial assumptions; and
- (ii) in accordance with sound actuarial principles.

(b) (i) ~~[Each]~~ A carrier subject to this section shall file with the commissioner, on or before April 1 of each year, in a form, manner, and containing such information as prescribed by the commissioner, an actuarial certification certifying that:

- (A) the carrier is in compliance with this chapter; and
- (B) the rating methods of the carrier are actuarially sound.

(ii) A copy of the certification required by Subsection (4)(b)(i) shall be retained by the carrier at the carrier's principal place of business.

(c) A carrier shall make the information and documentation described in this Subsection (4) available to the commissioner upon request.

(d) ~~[Records]~~ Except as provided in Subsection (1)(g) or required by PPACA, a record submitted to the commissioner under this section shall be maintained by the commissioner as a protected ~~[records]~~ record under Title 63G, Chapter 2, Government Records Access and Management Act.

Section 53. Section 31A-30-106.7 is amended to read:

31A-30-106.7. Surcharge for groups changing carriers.

(1) (a) Except as provided in Subsection (1)(b), if prior notice is given, a covered carrier may impose upon a small group that changes coverage to that carrier from another carrier a one-time surcharge of up to 25% of the annualized premium that the carrier could otherwise charge under Section ~~[31A-30-106]~~ 31A-30-106.1.

(b) A covered carrier may not impose the surcharge described in Subsection (1)(a) if:

(i) the change in carriers occurs on the anniversary of the plan year, as defined in Section 31A-1-301;

(ii) the previous coverage was terminated under Subsection 31A-30-107(3)(e); ~~or~~

(iii) employees from an existing group form a new business~~[-];~~ and

(iv) the surcharge is not applied uniformly to all similarly situated small groups.

(2) A covered carrier may not impose the surcharge described in Subsection (1) if the offer to cover the group occurs at a time other than the anniversary of the plan year because:

(a) (i) the application for coverage is made prior to the anniversary date in accordance with the covered carrier's published policies; and

(ii) the offer to cover the group is not issued until after the anniversary date; or

(b) (i) the application for coverage is made prior to the anniversary date in accordance with the covered carrier's published policies; and

(ii) additional underwriting or rating information requested by the covered carrier is not received until after the anniversary date.

(3) If a covered carrier chooses to apply a surcharge under Subsection (1), the application of the surcharge and the criteria for incurring or avoiding the surcharge shall be clearly stated in the:

(a) written application materials provided to the applicant at the time of application; and

(b) written producer guidelines.

(4) The commissioner shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure compliance with this section.

Section 54. Section 31A-30-107 is amended to read:

31A-30-107. Renewal -- Limitations -- Exclusions -- Discontinuance and nonrenewal.

(1) Except as otherwise provided in this section, a small employer health benefit plan is renewable and continues in force:

(a) with respect to all eligible employees and dependents; and

(b) at the option of the plan sponsor.

(2) A small employer health benefit plan may be discontinued or nonrenewed:

(a) for a network plan, if ~~[-(i)]~~ there is no longer any enrollee under the group health plan who lives, resides, or works in:

~~[(A)]~~ (i) the service area of the covered carrier; or

~~[(B)]~~ (ii) the area for which the covered carrier is authorized to do business; ~~and~~ or

~~[(ii) in the case of the small employer market, the small employer carrier applies the same criteria the small employer carrier would apply in denying enrollment in the plan under Subsection 31A-30-108(7); or]~~

(b) for coverage made available in the small or large employer market only through an association, if:

(i) the employer's membership in the association ceases; and

(ii) the coverage is terminated uniformly without regard to any health status-related factor relating to any covered individual.

(3) A small employer health benefit plan may be discontinued if:

(a) a condition described in Subsection (2) exists;

(b) except as prohibited by Section 31A-30-206, the plan sponsor fails to pay premiums or contributions in accordance with the terms of the contract;

(c) the plan sponsor:

(i) performs an act or practice that constitutes fraud; or

(ii) makes an intentional misrepresentation of material fact under the terms of the coverage;

(d) the covered carrier:

(i) elects to discontinue offering a particular small employer health benefit product delivered or issued for delivery in this state; and

(ii) (A) provides notice of the discontinuation in writing:

(I) to each plan sponsor, employee, or dependent of a plan sponsor or an employee; and

(II) at least 90 days before the date the coverage will be discontinued;

(B) provides notice of the discontinuation in writing:

(I) to the commissioner; and

(II) at least three working days prior to the date the notice is sent to the affected plan sponsors,

employees, and dependents of the plan sponsors or employees;

(C) offers to each plan sponsor, on a guaranteed issue basis, the option to purchase all other small employer health benefit products currently being offered by the small employer carrier in the market; and

(D) in exercising the option to discontinue that product and in offering the option of coverage in this section, acts uniformly without regard to:

(I) the claims experience of a plan sponsor;

(II) any health status-related factor relating to any covered participant or beneficiary; or

(III) any health status-related factor relating to any new participant or beneficiary who may become eligible for the coverage; or

(e) the covered carrier:

(i) elects to discontinue all of the covered carrier's small employer health benefit plans in:

(A) the small employer market;

(B) the large employer market; or

(C) both the small employer and large employer markets; and

(ii) (A) provides notice of the discontinuation in writing:

(I) to each plan sponsor, employee, or dependent of a plan sponsor or an employee; and

(II) at least 180 days before the date the coverage will be discontinued;

(B) provides notice of the discontinuation in writing:

(I) to the commissioner in each state in which an affected insured individual is known to reside; and

(II) at least 30 working days prior to the date the notice is sent to the affected plan sponsors, employees, and the dependents of the plan sponsors or employees;

(C) discontinues and nonrenews all plans issued or delivered for issuance in the market; and

(D) provides a plan of orderly withdrawal as required by Section 31A-4-115.

(4) A small employer health benefit plan may be discontinued or nonrenewed:

(a) if a condition described in Subsection (2) exists; or

(b) except as prohibited by Section 31A-30-206, for noncompliance with the insurer's employer contribution requirements.

(5) A small employer health benefit plan may be nonrenewed:

(a) if a condition described in Subsection (2) exists; or

(b) except as prohibited by Section 31A-30-206, for noncompliance with the insurer's minimum participation requirements.

(6) (a) Except as provided in Subsection (6)(d), an eligible employee may be discontinued if after issuance of coverage the eligible employee:

(i) engages in an act or practice that constitutes fraud in connection with the coverage; or

(ii) makes an intentional misrepresentation of material fact in connection with the coverage.

(b) An eligible employee that is discontinued under Subsection (6)(a) may reenroll:

(i) 12 months after the date of discontinuance; and

(ii) if the plan sponsor's coverage is in effect at the time the eligible employee applies to reenroll.

(c) At the time the eligible employee's coverage is discontinued under Subsection (6)(a), the covered carrier shall notify the eligible employee of the right to reenroll when coverage is discontinued.

(d) An eligible employee may not be discontinued under this Subsection (6) because of a fraud or misrepresentation that relates to health status.

(7) For purposes of this section, a reference to "plan sponsor" includes a reference to the employer:

(a) with respect to coverage provided to an employer member of the association; and

(b) if the small employer health benefit plan is made available by a covered carrier in the employer market only through:

(i) an association;

(ii) a trust; or

(iii) a discretionary group.

(8) A covered carrier may modify a small employer health benefit plan only:

(a) at the time of coverage renewal; and

(b) if the modification is effective uniformly among all plans with that product.

Section 55. Section 31A-30-108 is amended to read:

31A-30-108. Eligibility for small employer and individual market.

(1) (a) ~~[Small employer carriers shall accept residents]~~ A small employer carrier shall accept a small employer that applies for small group coverage as set forth in the Health Insurance Portability and Accountability Act, Sec. 2701(f) and 2711(a), and PPACA, Sec. 2702.

~~[(b) Individual carriers shall accept residents for individual coverage pursuant to:]~~

~~[(i) Health Insurance Portability and Accountability Act, Sec. 2741(a)-(b); and]~~

~~[(ii) Subsection (3).]~~

(b) An individual carrier shall accept an individual that applies for individual coverage as set forth in PPACA, Sec. 2702.

(2) (a) [Small] A small employer [carriers] carrier shall offer to accept all eligible employees and their dependents at the same level of benefits under any health benefit plan provided to a small employer.

(b) [Small] A small employer [carriers] carrier may:

(i) request a small employer to submit a copy of the small employer's quarterly income tax withholdings to determine whether the employees for whom coverage is provided or requested are bona fide employees of the small employer; and

(ii) deny or terminate coverage if the small employer refuses to provide documentation requested under Subsection (2)(b)(i).

[(3) Except as provided in Subsections (5) and (6) and Section 31A-30-110, individual carriers shall accept for coverage individuals to whom all of the following conditions apply:]

[(a) the individual is not covered or eligible for coverage:]

[(i) (A) as an employee of an employer;]

[(B) as a member of an association; or]

[(C) as a member of any other group; and]

[(ii) under:]

[(A) a health benefit plan; or]

[(B) a self-insured arrangement that provides coverage similar to that provided by a health benefit plan as defined in Section 31A-1-301;]

[(b) the individual is not covered and is not eligible for coverage under any public health benefits arrangement including:]

[(i) the Medicare program established under Title XVIII of the Social Security Act;]

[(ii) any act of Congress or law of this or any other state that provides benefits comparable to the benefits provided under this chapter; or]

[(iii) coverage under the Comprehensive Health Insurance Pool Act created in Chapter 29, Comprehensive Health Insurance Pool Act;]

[(c) unless the maximum benefit has been reached the individual is not covered or eligible for coverage under any:]

[(i) Medicare supplement policy;]

[(ii) conversion option;]

[(iii) continuation or extension under COBRA; or]

[(iv) state extension;]

[(d) the individual has not terminated or declined coverage described in Subsection (3)(a), (b), or (c) within 93 days of application for coverage, unless the individual is eligible for individual coverage under Health Insurance Portability and

Accountability Act, Sec. 2741(b), in which case, the requirement of this Subsection (3)(d) does not apply; and]

[(e) the individual is certified as ineligible for the Health Insurance Pool if:]

[(i) the individual applies for coverage with the Comprehensive Health Insurance Pool within 30 days after being rejected or refused coverage by the covered carrier and reapplies for coverage with that covered carrier within 30 days after the date of issuance of a certificate under Subsection 31A-29-111(5)(c); or]

[(ii) the individual applies for coverage with any individual carrier within 45 days after:]

[(A) notice of cancellation of coverage under Subsection 31A-29-115(1); or]

[(B) the date of issuance of a certificate under Subsection 31A-29-111(5)(c) if the individual applied first for coverage with the Comprehensive Health Insurance Pool.]

[(4) (a) If coverage is obtained under Subsection (3)(e)(i) and the required premium is paid, the effective date of coverage shall be the first day of the month following the individual's submission of a completed insurance application to that covered carrier.]

[(b) If coverage is obtained under Subsection (3)(e)(ii) and the required premium is paid, the effective date of coverage shall be the day following the:]

[(i) cancellation of coverage under Subsection 31A-29-115(1); or]

[(ii) submission of a completed insurance application to the Comprehensive Health Insurance Pool.]

[(5) (a) An individual carrier is not required to accept individuals for coverage under Subsection (3) if the carrier issues no new individual policies in the state after July 1, 1997.]

[(b) A carrier described in Subsection (5)(a) may not issue new individual policies in the state for five years from July 1, 1997.]

[(c) Notwithstanding Subsection (5)(b), a carrier may request permission to issue new policies after July 1, 1999, which may only be granted if:]

[(i) the carrier accepts uninsurables as is required of a carrier entering the market under Subsection 31A-30-110; and]

[(ii) the commissioner finds that the carrier's issuance of new individual policies:]

[(A) is in the best interests of the state; and]

[(B) does not provide an unfair advantage to the carrier.]

[(6) (a) If the Comprehensive Health Insurance Pool, as set forth under Chapter 29, Comprehensive Health Insurance Pool Act, is dissolved or discontinued, or if enrollment is capped or suspended, an individual carrier may decline to

~~accept individuals applying for individual enrollment, other than individuals applying for coverage as set forth in Health Insurance Portability and Accountability Act, Sec. 2741 (a)-(b).]~~

~~[(b) Within two calendar days of taking action under Subsection (6)(a), an individual carrier will provide written notice to the department.]~~

~~[(7) (a) If a small employer carrier offers health benefit plans to small employers through a network plan, the small employer carrier may:]~~

~~[(i) limit the employers that may apply for the coverage to those employers with eligible employees who live, reside, or work in the service area for the network plan; and]~~

~~[(ii) within the service area of the network plan, deny coverage to an employer if the small employer carrier has demonstrated to the commissioner that the small employer carrier:]~~

~~[(A) will not have the capacity to deliver services adequately to enrollees of any additional groups because of the small employer carrier's obligations to existing group contract holders and enrollees; and]~~

~~[(B) applies this section uniformly to all employers without regard to:]~~

~~[(I) the claims experience of an employer, an employer's employee, or a dependent of an employee; or]~~

~~[(II) any health status-related factor relating to an employee or dependent of an employee.]~~

~~[(b) (i) A small employer carrier that denies a health benefit product to an employer in any service area in accordance with this section may not offer coverage in the small employer market within the service area to any employer for a period of 180 days after the date the coverage is denied.]~~

~~[(ii) This Subsection (7)(b) does not:]~~

~~[(A) limit the small employer carrier's ability to renew coverage that is in force; or]~~

~~[(B) relieve the small employer carrier of the responsibility to renew coverage that is in force.]~~

~~[(c) Coverage offered within a service area after the 180-day period specified in Subsection (7)(b) is subject to the requirements of this section.]~~

Section 56. Section 31A-30-207 is amended to read:

31A-30-207. Rating and underwriting restrictions for health plans in the defined contribution arrangement market.

(1) Except as provided in Subsection (2), rating and underwriting restrictions for defined contribution arrangement health benefit plans offered in the Health Insurance Exchange shall be in accordance with Section 31A-30-106.1, and the plan adopted under Chapter 42, Defined Contribution Risk Adjuster Act.

(2) Notwithstanding ~~[the provisions of]~~ Subsections 31A-30-106.1(9)(b)(ii) and (iii), a carrier offering a defined contribution arrangement in the Health Insurance Exchange under this part~~[: (a)]~~ shall calculate rates based on a family tier rating structure that includes four tiers in compliance with Subsection 31A-30-106.1(9)(b)(i)~~[: and]~~.

~~[(b) may not calculate rates based on a family tier rating structure that includes five or six tiers as described in Subsection 31A-30-106(9)(b)(ii) or (iii).]~~

(3) All insurers who participate in the defined contribution market shall:

(a) participate in the risk adjuster mechanism developed under Chapter 42, Defined Contribution Risk Adjuster Act for all defined contribution arrangement health benefit plans;

(b) provide the risk adjuster board with:

(i) an employer group's risk factor; and

(ii) carrier enrollment data; and

(c) submit rates to the exchange that are net of commissions.

(4) When an employer group enters the defined contribution arrangement market and the employer group has a health plan with an insurer who is participating in the defined contribution arrangement market, the risk factor applied to the employer group when it enters the defined contribution arrangement market may not be greater than the employer group's renewal risk factor for the same group of covered employees and the same effective date, as determined by the employer group's insurer.

Section 57. Section 31A-30-209 is amended to read:

31A-30-209. Insurance producers and the Health Insurance Exchange.

(1) A producer may be listed on the Health Insurance Exchange as a credentialed producer ~~[for the defined contribution arrangement market in accordance with Section 63M-1-2504,]~~ if the producer is designated as ~~[an appointed]~~ a credentialed agent for the ~~[defined contribution arrangement market]~~ Health Insurance Exchange in accordance with Subsection (2).

(2) A producer whose license under this title authorizes the producer to sell ~~[defined contribution arrangement health benefit plans may be appointed to the defined contribution arrangement market on]~~ accident and health insurance may be credentialed by the Health Insurance Exchange ~~[by the Insurance Department]~~ and may sell any product on the Health Insurance Exchange, if the producer:

~~[(a) submits an application to the Insurance Department to be appointed as a producer for the defined contribution arrangement market on the Health Insurance Exchange;]~~

~~[(b) is an appointed agent in accordance with Subsection (3), for products offered in the defined~~

~~contribution arrangement market of the Health Insurance Exchange, with the carriers that offer a defined contribution arrangement health benefit plan on the Health Insurance Exchange; and]~~

~~[(e) has completed continuing education for the defined contribution arrangement market that:]~~

~~[(i) is required by administrative rule adopted by the commissioner; and]~~

~~[(ii) provides training on premium assistance programs.]~~

(a) is an appointed producer with:

(i) all carriers that offer a plan in the defined contribution market on the Health Insurance Exchange; and

(ii) at least one carrier that offers a dental plan on the Health Insurance Exchange; and

(b) completes each year the Health Insurance Exchange training that includes training on premium assistance programs.

(3) A carrier shall appoint a producer to sell the carrier's products in the defined contribution arrangement market of the Health Insurance Exchange, within 30 days of the notice required in Subsection (3)(b), if:

(a) the producer is currently appointed by a majority of the carriers in the Health Insurance Exchange to sell products either outside or inside of the Health Insurance Exchange; and

(b) the producer informs the carrier that the producer is:

(i) applying to be appointed to the defined contribution arrangement market in the Health Insurance Exchange;

(ii) appointed by a majority of the carriers in the defined contribution arrangement market in the Health Insurance Exchange;

(iii) willing to complete training regarding the carrier's products offered on the defined contribution arrangement market in the Health Insurance Exchange; and

(iv) willing to sign the contracts and business associate's agreements that the carrier requires for appointed producers in the Health Insurance Exchange.

Section 58. Section 31A-30-211 is amended to read:

31A-30-211. Insurer disclosure.

~~[(1) The Health Insurance Exchange shall provide an employer's producer with the group's risk factor used to calculate the employer group's premium at the time of:]~~

~~[(a) the initial offering of a health benefit plan; and]~~

~~[(b) the renewal of a health benefit plan.]~~

~~[(2) For health benefit plans that renew on or after March 1, 2012:]~~

(1) (a) [a] A carrier shall provide an employer and the employer's producer with premium renewal rates at least 60 days [prior to] before the group's renewal date for a plan offered under Part 1, Individual and Small Employer Group[; and].

(b) [the] The Health Insurance Exchange shall provide an employer and the employer's producer with premium renewal rates at least 60 days [prior to] before the group's renewal date for a plan offered under Part 2, Defined Contribution Arrangements.

~~[(3)] (2) An insurer does not have to provide additional notice of premium renewal rates to the employer or the employer's producer if the Health Insurance Exchange provides notice in accordance with Subsection [(2)] (1)(b).~~

Section 59. Section 31A-37-501 is amended to read:

31A-37-501. Reports to commissioner.

(1) A captive insurance company is not required to make a report except those provided in this chapter.

(2) (a) Before March 1 of each year, a captive insurance company shall submit to the commissioner a report of the financial condition of the captive insurance company, verified by oath of two of the executive officers of the captive insurance company.

(b) Except as provided in Sections 31A-37-204 and 31A-37-205, a captive insurance company shall report:

(i) using generally accepted accounting principles, except to the extent that the commissioner requires, approves, or accepts the use of a statutory accounting principle;

(ii) using a useful or necessary modification or adaptation to an accounting principle that is required, approved, or accepted by the commissioner for the type of insurance and kind of insurer to be reported upon; and

(iii) supplemental or additional information required by the commissioner.

(c) Except as otherwise provided:

(i) [an association captive insurance company and an industrial insured group] a licensed captive insurance company shall file the report required by Section 31A-4-113; and

(ii) an industrial insured group shall comply with Section 31A-4-113.5.

(3) (a) A pure captive insurance company may make written application to file the required report on a fiscal year end that is consistent with the fiscal year of the parent company of the pure captive insurance company.

(b) If the commissioner grants an alternative reporting date for a pure captive insurance company requested under Subsection (3)(a), the annual report is due 60 days after the fiscal year end.

(4) (a) Sixty days after the fiscal year end, a branch captive insurance company shall file with

the commissioner a copy of [all] the reports and statements required to be filed under the laws of the jurisdiction in which the alien captive insurance company is formed, verified by oath by two of the alien captive insurance company's executive officers.

(b) If the commissioner is satisfied that the annual report filed by the alien captive insurance company in the jurisdiction in which the alien captive insurance company is formed provides adequate information concerning the financial condition of the alien captive insurance company, the commissioner may waive the requirement for completion of the annual statement required for a captive insurance company under this section with respect to business written in the alien jurisdiction.

(c) A waiver by the commissioner under Subsection (4)(b):

- (i) shall be in writing; and
- (ii) is subject to public inspection.

Section 60. Section 31A-40-203 is amended to read:

31A-40-203. Covered employee.

(1) (a) An individual is a covered employee of a professional employer organization if the individual is coemployed pursuant to a professional employer agreement subject to this chapter.

(b) An individual who is a covered employee under a professional employer agreement is a covered [employee] employee, whether or not the professional employer organization provides the notice required by Subsection 31A-40-202(3), the earlier of the day on which:

- (i) the employee is first compensated by the professional employer organization; or
- (ii) the client notifies the professional employer organization of a new hire.

(2) An individual who is an officer, director, shareholder, partner, or manager of a client is a covered employee:

(a) to the extent that the client and the professional employer organization expressly agree in the professional employer agreement that the individual is a covered employee;

(b) if the conditions of Subsection (1) are met; and

(c) if the individual acts as an operational manager or performs day-to-day an operational service for the client.

Section 61. Section 31A-40-209 is amended to read:

31A-40-209. Workers' compensation.

(1) In accordance with Section 34A-2-103, a client is responsible for securing workers' compensation coverage for a covered employee.

(2) Subject to the requirements of Section 34A-2-103, if a professional employer organization

obtains or assists a client in obtaining workers' compensation insurance pursuant to a professional employer agreement:

(a) the professional employer organization shall ensure that the client maintains and provides workers' compensation coverage for a covered employee in accordance with Subsection 34A-2-201(1) or (2) and rules of the Labor Commission, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) the workers' compensation coverage may show the professional employer organization as the named insured through a [multiple-coordinated] master policy, if:

- (i) the client is shown as an insured by means of an endorsement for each individual client;
- (ii) the experience modification of a client is used; and

(iii) the insurer files the endorsement with the Division of Industrial Accidents as directed by a rule of the Labor Commission, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(c) at the termination of the professional employer agreement, if requested by the client, the insurer shall provide the client records regarding the loss experience related to workers' compensation insurance provided to a covered employee pursuant to the professional employer agreement; and

(d) the insurer shall notify a client if the workers' compensation coverage for the client is terminated.

(3) In accordance with Section 34A-2-105, the exclusive remedy provisions of Section 34A-2-105 apply to both the client and the professional employer organization under a professional employer agreement regulated under this chapter.

(4) Notwithstanding the other provisions in this section, an insurer may choose whether to issue:

- (a) a policy for a client; or
- (b) a [multiple-coordinated] master policy with the client shown as an additional insured by means of an individual endorsement.

Section 62. Section 31A-42-202 is amended to read:

31A-42-202. Contents of plan.

(1) The board shall submit a plan of operation for the risk adjuster to the commissioner. The plan shall:

- (a) establish the methodology for implementing:
 - (i) Subsection (2) for the defined contribution arrangement market established under Chapter 30, Part 2, Defined Contribution Arrangements; and
 - (ii) the participation of small employer group defined contribution arrangement health benefit plans;

(b) establish regular times and places for meetings of the board;

(c) establish procedures for keeping records of all financial transactions and for sending annual fiscal reports to the commissioner;

(d) contain additional provisions necessary and proper for the execution of the powers and duties of the risk adjuster; and

(e) establish procedures in compliance with Title 63A, Utah Administrative Services Code, to pay for administrative expenses incurred.

(2) (a) The plan adopted by the board for the defined contribution arrangement market shall include:

(i) parameters an employer may use to designate eligible employees for the defined contribution arrangement market; and

(ii) underwriting mechanisms and employer eligibility guidelines:

(A) consistent with the federal Health Insurance Portability and Accountability Act; and

(B) necessary to protect insurance carriers from adverse selection in the defined contribution market.

(b) The plan required by Subsection (2)(a) shall outline how premium rates for a qualified individual in the defined contribution arrangement market are determined, including:

(i) the identification of an initial rate for a qualified individual based on:

(A) standardized age bands submitted by participating insurers; and

(B) wellness incentives for the individual as permitted by federal law; and

(ii) the identification of a group risk factor to be applied to the initial age rate of a qualified individual based on the health conditions of all qualified individuals in the same employer group and, for small employers, in accordance with Sections 31A-30-105 and 31A-30-106.1.

(c) The plan adopted under Subsection (2)(a) for the defined contribution arrangement market shall outline how:

(i) premium contributions for qualified individuals shall be submitted to the Health Insurance Exchange in the amount determined under Subsection (2)(b); and

(ii) the Health Insurance Exchange shall distribute premiums to the insurers selected by qualified individuals within an employer group based on each individual's rating factor determined in accordance with the plan.

(d) The plan adopted under Subsection (2)(a) shall outline a mechanism for adjusting risk between defined contribution arrangement market insurers that:

(i) identifies health care conditions subject to risk adjustment;

(ii) establishes an adjustment amount for each identified health care condition;

(iii) determines the extent to which an insurer has more or less individuals with an identified health condition than would be expected; and

(iv) computes all risk adjustments.

(e) The board may amend the plan if necessary to:

(i) maintain the proper functioning and solvency of the defined contribution arrangement market and the risk adjuster mechanism;

(ii) mitigate significant issues of risk selection; or

(iii) improve the administration of the risk adjuster mechanism.

(3) The board shall establish a mechanism in which the defined contribution arrangement market participating carriers shall submit their plan base rates, rating factors, and premiums to the commissioner for an actuarial review under ~~the provisions of~~ Section 31A-30-115 ~~prior to~~ before the publication of the premium rates on the Health Insurance Exchange.

Section 63. Section 31A-43-102 is amended to read:

31A-43-102. Definitions.

For purposes of this chapter:

(1) "Actuarial certification" means a written statement by a member of the American Academy of Actuaries, or by another individual acceptable to the commissioner, that an insurer is in compliance with ~~the provisions of~~ this chapter, based upon the individual's examination and including a review of the appropriate records and the actuarial assumptions and methods used by the stop-loss insurer in establishing attachment points and other applicable determinations in conjunction with the provision of stop-loss insurance coverage.

(2) "Aggregate attachment point" means the dollar amount ~~in losses for eligible expenses~~ of covered claims incurred by a small employer plan beyond which the stop-loss insurer incurs liability for ~~all or part of the~~ losses incurred by the small employer plan, subject to limitations included in the contract.

(3) "Coverage" means the combination of the employer plan design and the stop-loss contract design.

(4) "Expected claims" means the amount of claims that, in the absence of ~~a~~ aggregate stop-loss ~~contract~~ insurance, are projected to be incurred by a small employer health plan using reasonable and accepted actuarial principles.

(5) "Laserling":

(a) means increasing or removing stop-loss coverage for a specific individual within an employer group; and

(b) includes other practices that are prohibited by the commissioner by administrative rule that result in lowering the stop-loss premium for the employer by transferring the risk for an ~~individual~~ individual's claims back to the employer.

(6) "Small employer" means an employer who, with respect to a calendar year and to a plan year:

(a) employed an average of at least two employees but not more than 50 eligible employees on each business day during the preceding calendar year; and

(b) employs at least two employees on the first day of the plan year.

(7) "Specific attachment point" means the dollar amount ~~[in losses for eligible expenses]~~ of covered claims attributable to a single individual covered by a small employer plan in a contract year beyond which the stop-loss insurer assumes ~~[all or part of]~~ the liability for losses incurred by the small employer plan, subject to limitations included in the contract.

(8) "Stop-loss insurance" means insurance purchased by a small employer for which the stop-loss insurer assumes ~~[, on a per-loss basis,]~~ all loss amounts of the small employer's plan in excess of a stated amount, subject to the policy limit.

Section 64. Section 31A-43-301 is amended to read:

31A-43-301. Stop-loss insurance coverage standards.

(1) A small employer stop-loss insurance contract shall:

(a) be issued to the small employer to provide insurance to the group health benefit plan, not the employees of the small employer;

(b) use a standard application form developed by the commissioner by administrative rule;

(c) have a contract term with guaranteed rates for at least 12 months, without adjustment, unless there is a change in the benefits provided under the small employer's health plan during the contract period;

(d) include both a specific attachment point and an aggregate attachment point in a contract;

(e) align stop-loss plan benefit limitations and exclusions with a small employer's health plan benefit limitations and exclusions, including any annual or lifetime limits in the employer's health plan;

(f) have an annual specific attachment point that is at least \$10,000;

(g) have an annual aggregate attachment point that may not be less than ~~[90%]~~ 85% of expected claims;

(h) pay stop-loss claims:

(i) incurred during the contract period; and

(ii) ~~[submitted]~~ paid within 12 months after the expiration date of the contract; and

(i) include provisions to cover incurred and unpaid claims if a small employer plan terminates.

(2) A small employer stop-loss contract shall not:

(a) include lasing; and

(b) pay claims directly to an individual employee, member, or participant.

Section 65. Section 31A-43-302 is amended to read:

31A-43-302. Stop-loss restrictions -- Filing requirements.

~~[(1) A stop-loss insurer shall demonstrate to the commissioner that the rates associated with specific and aggregate attachment points retained by a small employer group under the insurer's stop-loss plan are actuarially sound.]~~

~~[(2)]~~ (1) A stop-loss insurer shall file the stop-loss insurance contract form and ~~[rates]~~ rate methodology with the commissioner pursuant to Sections 31A-2-201 and 31A-2-201.1 before the stop-loss insurance contract may be issued or delivered in the state.

~~[(3)]~~ (2) A stop-loss insurer shall file with the commissioner, annually on or before April 1, in a form and manner required by the commissioner by administrative rule adopted by the commissioner:

(a) an actuarial memorandum and certification which demonstrates that the insurer is in compliance with this chapter; and

(b) the stop-loss insurer's stop-loss experience.

~~[(4) Each]~~ (3) An insurer shall maintain at its principal place of business:

(a) a complete and detailed description of its rating practices and renewal underwriting practices, including information and documentation that demonstrate the rating methods and practices are:

(i) based upon commonly accepted actuarial assumptions; and

(ii) in accordance with sound actuarial principles; and

(b) a copy of the ~~[actuarial certification]~~ annual filing required by Subsection ~~[(3)]~~ (2).

Section 66. Section 31A-43-303 is amended to read:

31A-43-303. Stop-loss insurance disclosure.

A stop-loss insurance contract delivered, issued for delivery, or entered into shall include the disclosure exhibit required by the commissioner through administrative rule, which shall include at least the following information:

(1) the complete costs for the stop-loss contract;

(2) the date on which the insurance takes effect and terminates, including renewability provisions;

(3) the aggregate attachment point and the specific attachment point;

(4) ~~any~~ limitations on coverage;

(5) an explanation of monthly accommodation and disclosure about any monthly accommodation features included in the stop-loss contract; ~~and~~

(6) a description of terminal liability funding, including ~~(a)~~ the cost of processing claims before and after the termination of the contract; and

~~(4b)~~ (7) maximum claims liability to the employer.

Section 67. Section 31A-43-304 is amended to read:

31A-43-304. Administrative rules.

The commissioner may adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(1) implement this chapter;

~~(2) assure that differences in rates charged are reasonable and reflect objective differences in plan design;~~

~~(3)~~ (2) define lasering practices that are prohibited by this chapter;

~~(4)~~ (3) establish the form and manner of the actuarial certification and the annual report on stop-loss experience required by Section 31A-43-302;

~~(5)~~ (4) establish the form and manner of the disclosure required by Section 31A-43-303;

~~(6)~~ (5) assure the rates associated with the specific attachment points and aggregate attachment points are actuarially sound and are not against the public interest; and

~~(7)~~ (6) assure that stop-loss contracts include provisions to cover incurred and unpaid claims if a small employer plan terminates.

Section 68. Section 53-13-103 is amended to read:

53-13-103. Law enforcement officer.

(1) (a) "Law enforcement officer" means a sworn and certified peace officer who is an employee of a law enforcement agency that is part of or administered by the state or any of its political subdivisions, and whose primary and principal duties consist of the prevention and detection of crime and the enforcement of criminal statutes or ordinances of this state or any of its political subdivisions.

(b) "Law enforcement officer" specifically includes the following:

(i) any sheriff or deputy sheriff, chief of police, police officer, or marshal of any county, city, or town;

(ii) the commissioner of public safety and any member of the Department of Public Safety certified as a peace officer;

(iii) all persons specified in Sections 23-20-1.5 and 79-4-501;

(iv) any police officer employed by any college or university;

(v) investigators for the Motor Vehicle Enforcement Division;

(vi) investigators for the Department of Insurance, Fraud Division;

~~(vii)~~ (vii) special agents or investigators employed by the attorney general, district attorneys, and county attorneys;

~~(viii)~~ (viii) employees of the Department of Natural Resources designated as peace officers by law;

~~(ix)~~ (ix) school district police officers as designated by the board of education for the school district;

~~(x)~~ (x) the executive director of the Department of Corrections and any correctional enforcement or investigative officer designated by the executive director and approved by the commissioner of public safety and certified by the division;

~~(xi)~~ (xi) correctional enforcement, investigative, or adult probation and parole officers employed by the Department of Corrections serving on or before July 1, 1993;

~~(xii)~~ (xii) members of a law enforcement agency established by a private college or university provided that the college or university has been certified by the commissioner of public safety according to rules of the Department of Public Safety;

~~(xiii)~~ (xiii) airport police officers of any airport owned or operated by the state or any of its political subdivisions; and

~~(xiv)~~ (xiv) transit police officers designated under Section 17B-2a-823.

(2) Law enforcement officers may serve criminal process and arrest violators of any law of this state and have the right to require aid in executing their lawful duties.

(3) (a) A law enforcement officer has statewide full-spectrum peace officer authority, but the authority extends to other counties, cities, or towns only when the officer is acting under Title 77, Chapter 9, Uniform Act on Fresh Pursuit, unless the law enforcement officer is employed by the state.

(b) (i) A local law enforcement agency may limit the jurisdiction in which its law enforcement officers may exercise their peace officer authority to a certain geographic area.

(ii) Notwithstanding Subsection (3)(b)(i), a law enforcement officer may exercise authority outside of the limited geographic area, pursuant to Title 77, Chapter 9, Uniform Act on Fresh Pursuit, if the officer is pursuing an offender for an offense that occurred within the limited geographic area.

(c) The authority of law enforcement officers employed by the Department of Corrections is

regulated by Title 64, Chapter 13, Department of Corrections - State Prison.

(4) A law enforcement officer shall, prior to exercising peace officer authority:

(a) (i) have satisfactorily completed the requirements of Section 53-6-205; or

(ii) have met the waiver requirements in Section 53-6-206; and

(b) have satisfactorily completed annual certified training of at least 40 hours per year as directed by the director of the division, with the advice and consent of the council.

Section 69. Repealer.

This bill repeals:

Section 31A-30-110, Individual enrollment cap.

Section 31A-30-111, Limitations on high risk enrollees.

Section 70. Effective date.

This bill takes effect on May 13, 2014, except that the amendments to Section 31A-3-304 (Effective 07/01/15) take effect on July 1, 2015.

Section 71. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, replace the language in Subsections 31A-22-305(10) and 31A-22-305.3(9), from "this bill" with the bill's designated chapter and section number in the Laws of Utah.

CHAPTER 291**H. B. 36**

Passed February 27, 2014

Approved April 1, 2014

Effective May 13, 2014

**CHARTER SCHOOL
ENROLLMENT AMENDMENTS**Chief Sponsor: David E. Lifferth
Senate Sponsor: Deidre M. Henderson**LONG TITLE****General Description:**

This bill modifies provisions regarding the enrollment of students in charter schools.

Highlighted Provisions:

This bill:

- ▶ allows a charter school to give an enrollment preference to:
 - a child or grandchild of an individual who actively participated in the development of the charter school; or
 - a child or grandchild of a member of the charter school governing board; and
- ▶ allows a charter school to weight its lottery to give a slightly better chance of admission to educationally disadvantaged students.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-1a-506, as last amended by Laws of Utah 2013, Chapter 278

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

Section 1. Section 53A-1a-506 is amended to read:**53A-1a-506. Eligible students.**

(1) As used in this section:

(a) "District school" means a public school under the control of a local school board elected pursuant to Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.

(b) "Refugee" means a person who is eligible to receive benefits and services from the federal Office of Refugee Resettlement.

(2) All resident students of the state qualify for admission to a charter school, subject to the limitations set forth in this section and Section 53A-1a-506.5.

(3) (a) A charter school shall enroll an eligible student who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or the charter school.

(b) If the number of applications exceeds the capacity of a program, class, grade level, or the charter school, students shall be selected on a

random basis, except as provided in Subsections (4) through ~~[(6)]~~ (7).

(4) A charter school may give an enrollment preference to:

(a) a ~~[student of a parent]~~ child or grandchild of an individual who has actively participated in the development of the charter school;

(b) a child or grandchild of a member of the charter school governing board;

~~[(b) siblings of students]~~

(c) a sibling of a student presently enrolled in the charter school;

~~[(c) a student of a parent who is employed by the charter school;]~~

(d) a child of an employee of the charter school;

~~[(d)]~~ (e) students articulating between charter schools offering similar programs that are governed by the same governing body;

~~[(e)]~~ (f) students articulating from one charter school to another pursuant to an articulation agreement between the charter schools that is approved by the State Charter School Board; or

~~[(f)]~~ (g) students who reside within:

(i) the school district in which the charter school is located;

(ii) the municipality in which the charter school is located; or

(iii) a two-mile radius from the charter school.

(5) If a district school converts to charter status, the charter school shall give an enrollment preference to students who would have otherwise attended it as a district school.

(6) (a) A charter school whose mission is to enhance learning opportunities for refugees or children of refugee families may give an enrollment preference to refugees or children of refugee families.

(b) A charter school whose mission is to enhance learning opportunities for English language learners may give an enrollment preference to English language learners.

(7) A charter school may weight its lottery to give a slightly better chance of admission to educationally disadvantaged students, including:

(a) low-income students;

(b) students with disabilities;

(c) English language learners;

(d) migrant students;

(e) neglected or delinquent students; and

(f) homeless students.

~~[(7)]~~ (8) A charter school may not discriminate in its admission policies or practices on the same basis as other public schools may not discriminate in their admission policies and practices.

CHAPTER 292**H. B. 38**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

RESOURCE STEWARDSHIP AMENDMENTS

Chief Sponsor: Patrice M. Arent

Senate Sponsor: Ralph Okerlund

LONG TITLE**General Description:**

This bill creates a coordinator of resource stewardship.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the Executive Director of the Department of Administrative Services to appoint a coordinator of resource stewardship to serve within the Department of Administrative Services;
- ▶ describes the duties of the coordinator of resource stewardship; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63A-1-103, as renumbered and amended by Laws of Utah 1993, Chapter 212

ENACTS:

63A-1-116, Utah Code Annotated 1953

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

Section 1. Section 63A-1-103 is amended to read:**63A-1-103. Definitions.**

As used in this title:

(1) "Agency" means a board, commission, department, division, officer, council, office, committee, bureau, or other administrative unit of the state, including the agency head, agency employees, or other persons acting on behalf of or under the authority of the agency head, the Legislature, the courts, or the governor, but does not mean a political subdivision of the state, or any administrative unit of a political subdivision of the state.

~~[(1)]~~ (2) "Department" means the Department of Administrative Services.

~~[(2)]~~ (3) "Executive director" means the executive director of the Department of Administrative Services.

Section 2. Section 63A-1-116 is enacted to read:**63A-1-116. Appointment of coordinator of resource stewardship -- Duties of the coordinator of resource stewardship.**

(1) The executive director of the department shall appoint a state coordinator of resource stewardship and establish the coordinator of resource stewardship's salary.

(2) The coordinator of resource stewardship shall report to the executive director or the executive director's designee.

(3) The coordinator of resource stewardship shall:

(a) work with agencies to implement best practices and stewardship measures to improve air quality; and

(b) make an annual report on best practices and stewardship efforts to improve air quality to the Business and Labor Interim Committee and Natural Resources, Agriculture, and Environment Interim Committee.

(4) Each agency will retain absolute discretion whether or not to incorporate any of the practices or measures suggested by the coordinator.

CHAPTER 293**H. B. 42**

Passed March 6, 2014

Approved April 1, 2014

Effective May 13, 2014

CONSTRUCTION LIENS AMENDMENTS

Chief Sponsor: R. Curt Webb
Senate Sponsor: Scott K. Jenkins

LONG TITLE**General Description:**

This bill amends provisions relating to preconstruction and construction liens.

Highlighted Provisions:

This bill:

- ▶ clarifies the claims available under Title 14, Chapter 1, Public Contracts, and Title 14, Chapter 2, Private Contracts;
- ▶ defines and modifies terms in Title 38, Chapter 1a, Preconstruction and Construction Liens;
- ▶ provides that a person who files a preliminary notice that links to a preliminary notice filed by an original contractor has substantially complied with the provisions of Title 38, Chapter 1a, Preconstruction and Construction Liens;
- ▶ modifies the procedure by which a mortgage or a trust deed gains priority over an earlier-filed preliminary notice; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

14-1-20, as last amended by Laws of Utah 2012, Chapters 278 and 330

14-2-5, as last amended by Laws of Utah 2012, Chapters 278 and 330

38-1a-102, as last amended by Laws of Utah 2013, Chapter 464

38-1a-501, as renumbered and amended by Laws of Utah 2012, Chapter 278

38-1a-503, as renumbered and amended by Laws of Utah 2012, Chapter 278

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

Section 1. Section 14-1-20 is amended to read:**14-1-20. Preliminary notice requirement.**

(1) Any person [~~furnishing~~] who furnishes labor, service, equipment, or material for which a [~~payment bond~~] claim may be made under this chapter shall provide preliminary notice to the designated agent as prescribed by Section 38-1b-202, except that this section does not apply:

- (a) to an individual performing labor for wages; or
- (b) if a notice of commencement is not filed as prescribed in Section 38-1b-201 for the project or improvement for which labor, service, equipment, or material is furnished.

(2) Any person who fails to provide the preliminary notice required by Subsection (1) may not make a [~~payment bond~~] claim under this chapter.

(3) The preliminary notice required by Subsection (1) shall be provided prior to commencement of any action on the payment bond.

(4) Subsection (1)(a) does not exempt the following from complying with the requirements of this section:

- (a) a temporary labor service company or organization;
- (b) a professional employer company or organization; or
- (c) any other entity that provides labor.

Section 2. Section 14-2-5 is amended to read:**14-2-5. Preliminary notice requirement.**

(1) Any person [~~furnishing~~] who furnishes labor, service, equipment, or material for which a [~~payment bond~~] claim may be made under this chapter shall provide preliminary notice to the designated agent as prescribed by Section 38-1a-501, except that this section does not apply to an individual performing labor for wages.

(2) Any person who fails to provide the preliminary notice required by Subsection (1) may not make a [~~payment bond~~] claim under this chapter.

(3) The preliminary notice required by Subsection (1) shall be provided prior to commencement of any action on the payment bond.

(4) Subsection (1) does not exempt the following from complying with the requirements of this section:

- (a) a temporary labor service company or organization;
- (b) a professional employer company or organization; or
- (c) any other entity that provides labor.

Section 3. Section 38-1a-102 is amended to read:**38-1a-102. Definitions.**

As used in this chapter:

(1) "Alternate means" means a method of filing a legible and complete notice or other document with the registry other than electronically, as established by the division by rule.

(2) "Anticipated improvement" means the improvement:

- (a) for which preconstruction service is performed; and
- (b) that is anticipated to follow the performing of preconstruction service.

(3) "Applicable county recorder" means the office of the recorder of each county in which any part of

the property on which a claimant claims or intends to claim a preconstruction or construction lien is located.

(4) “Bona fide loan” means a loan to an owner or owner-builder by a lender in which the owner or owner-builder has no financial or beneficial interest greater than 5% of the voting shares or other ownership interest.

(5) “Claimant” means a person entitled to claim a preconstruction or construction lien.

(6) “Compensation” means the payment of money for a service rendered or an expense incurred, whether based on:

(a) time and expense, lump sum, stipulated sum, percentage of cost, cost plus fixed or percentage fee, or commission; or

(b) a combination of the bases listed in Subsection (6)(a).

(7) “Construction lender” means a person who makes a construction loan.

~~[(7)]~~ (8) “Construction lien” means a lien under this chapter for construction work.

~~[(8)]~~ (9) “Construction loan” does not include a consumer loan secured by the equity in the consumer’s home.

~~[(9)]~~ (10) “Construction project” means ~~[construction work provided under]~~ an improvement that is constructed pursuant to an original contract.

~~[(10)]~~ (11) “Construction work”:

(a) means labor, service, material, or equipment provided for the purpose and during the process of constructing, altering, or repairing an improvement; and

(b) includes scheduling, estimating, staking, supervising, managing, materials testing, inspection, observation, and quality control or assurance involved in constructing, altering, or repairing an improvement.

~~[(11)]~~ (12) “Contestable notice” means a notice of preconstruction service under Section 38-1a-401, a preliminary notice under Section 38-1a-501, or a notice of completion under Section 38-1a-506.

~~[(12)]~~ (13) “Contesting person” means an owner, original contractor, subcontractor, or other interested person.

~~[(13)]~~ (14) “Designated agent” means the third party the division contracts with as provided in Section 38-1a-202 to create and maintain the registry.

~~[(14)]~~ (15) “Division” means the Division of Occupational and Professional Licensing created in Section 58-1-103.

~~[(15)]~~ (16) “Entry number” means the reference number that:

(a) the designated agent assigns to each notice or other document filed with the registry; and

(b) is unique for each notice or other document.

~~[(16)]~~ (17) “Final completion” means:

(a) the date of issuance of a permanent certificate of occupancy by the local government entity having jurisdiction over the construction project, if a permanent certificate of occupancy is required;

(b) the date of the final inspection of the construction work by the local government entity having jurisdiction over the construction project, if an inspection is required under a state-adopted building code applicable to the construction work, but no certificate of occupancy is required;

(c) unless the owner is holding payment to ensure completion of construction work, the date on which there remains no substantial work to be completed to finish the construction work under the original contract, if a certificate of occupancy is not required and a final inspection is not required under an applicable state-adopted building code; or

(d) the last date on which substantial work was performed under the original contract, if, because the original contract is terminated before completion of the construction work defined by the original contract, the local government entity having jurisdiction over the construction project does not issue a certificate of occupancy or perform a final inspection.

~~[(17)]~~ (18) “First preliminary notice filing” means ~~[the filing of]~~ a preliminary notice that ~~[is]~~:

(a) is the earliest preliminary notice filed on the construction project for which the preliminary notice is filed;

(b) is filed on a construction project that, at the time the preliminary notice is filed, has not reached final completion; and

~~[(a) the earliest preliminary notice filed on a construction project;]~~

~~[(b) filed on or after August 1, 2011;]~~

~~[(c) not filed on a project that, according to the law in effect before August 1, 2011, commenced before August 1, 2011;]~~

~~[(d) not canceled under Section 38-1a-307; and]~~

~~[(e) not withdrawn under Subsection 38-1a-501(5).]~~

(c) is not cancelled under Section 38-1a-307.

~~[(18)]~~ (19) “Government project-identifying information” has the same meaning as defined in Section 38-1b-102.

~~[(19)]~~ (20) “Improvement” means:

(a) a building, infrastructure, utility, or other human-made structure or object constructed on or for and affixed to real property; or

(b) a repair, modification, or alteration of a building, infrastructure, utility, or object referred to in Subsection (19)(a).

~~[(20)]~~ (21) “Interested person” means a person that may be affected by a construction project.

~~[(21)]~~ (22) “Notice of commencement” means a notice required under Section 38-1b-201 for a government project, as defined in Section 38-1b-102.

~~[(22)]~~ (23) “Original contract”:

(a) means a contract between an owner and an original contractor for preconstruction service or construction work; and

(b) does not include a contract between an owner-builder and another person.

~~[(23)]~~ (24) “Original contractor” means a person, including an owner-builder, that contracts with an owner, ~~other than an owner-builder,~~ to provide preconstruction service or construction work.

~~[(24)]~~ (25) “Owner” means the person that owns the project property.

~~[(25)]~~ (26) “Owner-builder” means an owner, including an owner who is also an original contractor, who:

(a) contracts with one or more other persons for preconstruction service or construction work for an improvement on the owner’s real property; and

(b) obtains a building permit for the improvement.

(27) “Preconstruction lien” means a lien under this chapter for a preconstruction service.

~~[(26)]~~ (28) “Preconstruction service”:

(a) means to plan or design, or to assist in the planning or design of, an improvement or a proposed improvement:

(i) before construction of the improvement commences; and

(ii) for compensation paid or to be paid for construction work for the improvement; and

(b) includes consulting, conducting a site investigation or assessment, programming, preconstruction cost or quantity estimating, preconstruction scheduling, performing a preconstruction construction feasibility review, procuring construction services, and preparing a study, report, rendering, model, boundary or topographic survey, plat, map, design, plan, drawing, specification, or contract document.

~~[(28)]~~ “Prelender claimant” means a person whose construction lien is made subject to a construction lender’s mortgage or trust deed, as provided in Section 38-1a-503, by the person’s acceptance of payment in full and the person’s withdrawal of the person’s preliminary notice.]

(29) “Private project” means a construction project that is not a government project.

(30) “Project property” means the real property on or for which preconstruction service or construction work is or will be provided.

~~[(31)]~~ “Refiled preliminary notice” means a preliminary notice that a prelender claimant files

~~with the registry on a construction project after withdrawing a preliminary notice that the claimant previously filed for the same project.]~~

~~[(32)]~~ (31) “Registry” means the State Construction Registry under Part 2, State Construction Registry.

~~[(33)]~~ (32) “Required notice” means:

(a) a notice of preconstruction service under Section 38-1a-401;

(b) a preliminary notice under Section 38-1a-501 or Section 38-1b-202;

(c) a notice of commencement;

(d) a notice of construction loan under Section 38-1a-601;

(e) a notice under Section 38-1a-602 concerning a construction loan default;

(f) a notice of intent to obtain final completion under Section 38-1a-506; or

(g) a notice of completion under Section 38-1a-507.

~~[(34)]~~ (33) “Subcontractor” means a person that contracts to provide preconstruction service or construction work to:

(a) a person other than the owner; or

(b) the owner, if the owner is an owner-builder.

~~[(35)]~~ (34) “Substantial work” does not include repair work or warranty work.

~~[(36)]~~ (35) “Supervisory subcontractor” means a person that:

(a) is a subcontractor under contract to provide preconstruction service or construction work; and

(b) contracts with one or more other subcontractors for the other subcontractor or subcontractors to provide preconstruction service or construction work that the person is under contract to provide.

Section 4. Section 38-1a-501 is amended to read:

38-1a-501. Preliminary notice.

(1) (a) ~~[(i)]~~ A person who desires to claim a construction lien on real property shall file a preliminary notice with the registry no later than 20 days after the day on which the person commences providing construction work on the real property.

~~[(ii)]~~ A prelender claimant who provides construction work to a construction project after the recording of a construction lender’s mortgage or trust deed on the project property and who desires to claim a construction lien for that construction work shall file a preliminary notice with the registry no later than 20 days after the recording of the mortgage or trust deed.]

(b) Subject to Subsection (1)(c), a preliminary notice is effective as to all construction work that the person filing the notice provides to the

construction project under a single original contract, including construction work that the person provides to more than one supervisory subcontractor under that original contract.

(c) (i) A person who desires to claim a construction lien on real property but fails to file a timely preliminary notice within the period specified in Subsection (1)(a) may, subject to Subsection (1)(d), file a preliminary notice with the registry after the period specified in Subsection (1)(a).

(ii) A person who files a preliminary notice under Subsection (1)(c)(i) may not claim a construction lien for construction work the person provides to the construction project before the date that is five days after the preliminary notice is filed.

(d) Notwithstanding Subsections (1)(a) and (c), a preliminary notice has no effect if it is filed more than 10 days after the filing of a notice of completion under Section 38-1a-507 for the construction project for which the preliminary notice is filed.

(e) A person who fails to file a preliminary notice as required in this section may not claim a construction lien.

(f) ~~(i) Except as provided in Subsection (1)(f)(ii),~~ a preliminary notice that is filed with the registry as provided in this section is considered to be filed at the time of the first preliminary notice filing.

~~(ii) A timely filed preliminary notice that is a refiled preliminary notice is considered to be filed immediately after the recording of a mortgage or trust deed of the construction lender that paid the pre-lender claimant in full for construction work the claimant provided before the recording of the mortgage or trust deed.]~~

(g) If a preliminary notice filed with the registry includes the tax parcel identification number of a parcel not previously associated in the registry with a construction project, the designated agent shall promptly notify the person who filed the preliminary notice that:

(i) the preliminary notice includes a tax parcel identification number of a parcel not previously associated in the registry with a construction project; and

(ii) the likely explanation is that:

(A) the preliminary notice is the first filing for the project; or

(B) the tax parcel identification number is incorrectly stated in the preliminary notice.

(h) A preliminary notice shall include:

(i) the name, address, telephone number, and email address of the person providing the construction work for which the preliminary notice is filed;

(ii) the name and address of the person who contracted with the claimant for the construction work;

(iii) the name of the record or reputed owner;

(iv) the name of the original contractor for construction work under which the claimant is providing or will provide construction work;

(v) the address of the project property or a description of the location of the project;

(vi) the name of the county in which the project property is located; and

(vii) (A) the tax parcel identification number of each parcel included in the project property;

(B) the entry number of a previously filed notice of construction loan under Section 38-1a-601 on the same project;

(C) the entry number of a previously filed preliminary notice on the same project that includes the tax parcel identification number of each parcel included in the project property; or

(D) the entry number of the building permit issued for the project.

(i) A preliminary notice may include:

(i) the subdivision, development, or other project name applicable to the construction project for which the preliminary notice is filed; and

(ii) the lot or parcel number of each lot or parcel that is included in the project property.

(2) (a) ~~[The]~~ Except as provided in Subsection (2)(b), the burden is upon the person filing the preliminary notice to prove that the person has substantially complied with the requirements of this section.

(b) A person has substantially complied with the requirements of this section if the person files a preliminary notice that links, within the registry, to a preliminary notice filed by an original contractor for the same construction project, using the entry number assigned to the original contractor's preliminary notice.

~~(b)~~ (c) Substantial compliance with the requirements of Subsections (1)(h)(iii) through (vii) may be established by a person's reasonable reliance on information in the registry provided by a previously filed:

(i) notice of construction loan under Section 38-1a-601;

(ii) preliminary notice; or

(iii) building permit.

(3) (a) Subject to Subsection (3)(b), a person required by this section to give preliminary notice is required to give only one notice for each construction project.

(b) If the construction work is provided pursuant to contracts under more than one original contract for construction work, the notice requirements shall be met with respect to the construction work provided under each original contract.

(4) A person filing a preliminary notice by alternate means is responsible for verifying and changing any incorrect information in the

preliminary notice before the expiration of the time period during which the notice is required to be filed.

~~[(5) (a) A person who files a preliminary notice before the recording of a construction lender's mortgage or trust deed may withdraw the preliminary notice by filing with the registry a notice of withdrawal as provided in Subsection (5)(b).]~~

~~[(b) A notice of withdrawal shall include:]~~

~~[(i) the information required for a preliminary notice under Subsection (1)(g); and]~~

~~[(ii) the entry number of the preliminary notice being withdrawn.]~~

~~[(6)]~~ (5) A person who files a preliminary notice that contains inaccurate or incomplete information may not be held liable for damages suffered by any other person who relies on the inaccurate or incomplete information in filing a preliminary notice.

Section 5. Section 38-1a-503 is amended to read:

38-1a-503. Relation back and priority of liens.

(1) A construction lien relates back to, and takes effect as of, the time of the first preliminary notice filing.

(2) (a) Subject to Subsection (2)(b), a construction lien has priority over:

(i) any lien, mortgage, or other encumbrance that attaches after the first preliminary notice filing; and

(ii) any lien, mortgage, or other encumbrance of which the claimant had no notice and which was unrecorded at the time of the first preliminary notice filing.

~~[(b) A recorded mortgage or trust deed of a construction lender has priority over a construction lien of a claimant who files a preliminary notice in accordance with Section 38-1a-501 before the mortgage or trust deed is recorded if the claimant:]~~

~~[(i) accepts payment in full for construction work that the claimant provides to the construction project before the mortgage or trust deed is recorded; and]~~

~~[(ii) withdraws the claimant's preliminary notice by filing a notice of withdrawal under Subsection 38-1a-501(5).]~~

(b) A recorded mortgage or trust deed that secures a construction loan attaches immediately before the first preliminary notice filing for the construction project if each claimant that has a preliminary notice on file on the construction project before the mortgage or trust deed was recorded receives full payment for all construction work the claimant performed before the mortgage or trust deed was recorded, regardless of whether the claimant receives full payment before or after

the day on which the mortgage or trust deed is recorded.

CHAPTER 294**H. B. 44**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

**INTERSTATE ELECTRIC
TRANSMISSION LINES**Chief Sponsor: Stephen G. Handy
Senate Sponsor: Curtis S. Bramble**LONG TITLE****General Description:**

This bill enacts language related to a merchant electric transmission line.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires a merchant electric transmission line to file an open solicitation notice with the Office of Energy Development;
- ▶ requires the Office of Energy Development to post notice of receipt of the open solicitation notice;
- ▶ permits an in-state merchant generator to submit an expression of need to the Office of Energy Development;
- ▶ requires the Office of Energy Development to prepare a certificate of in-state need;
- ▶ requires a merchant electric transmission line to provide to the Federal Energy Regulatory Commission a copy of the certificate of in-state need; and
- ▶ requires a merchant electric transmission line to report to the Office of Energy Development whether a merchant in-state generator has entered into a transmission service agreement with the merchant electric transmission line.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

63M-4-402, Utah Code Annotated 1953

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

Section 1. Section 63M-4-402 is enacted to read:**63M-4-402. In-state generator need --
Merchant electric transmission line.**

(1) As used in this section:

(a) "Capacity allocation process" means the process outlined by the Federal Energy Regulatory Commission in its final policy statement dated January 17, 2013, "Allocation of Capacity on New Merchant Transmission Projects and New Cost-Based, Participant-Funded Transmission Projects, Priority Rights to New Participant-Funded Transmission," 142 F.E.R.C. P61,038 (2013).

(b) "Certificate of in-state need" means a certificate issued by the office in accordance with this section identifying an in-state generator that meets the requirements and qualifications of this section.

(c) "Expression of need" means a document prepared and submitted to the office by an in-state merchant generator that describes or otherwise documents the transmission needs of the in-state merchant generator in conformance with the requirements of this section.

(d) "In-state merchant generator" means an electric power provider that generates power in Utah and does not provide service to retail customers within the boundaries of Utah.

(e) "Merchant electric transmission line" means a transmission line that does not provide electricity to retail customers within the boundaries of Utah.

(f) "Office" means the Office of Energy Development established in Section 63M-4-401.

(g) "Open solicitation notice" means a document prepared and submitted to the office by a merchant electric transmission line regarding the commencement of the line's open solicitation in compliance with 142 F.E.R.C. P61,038 (2013).

(2) As part of the capacity allocation process, a merchant electric transmission line shall file an open solicitation notice with the office containing a description of the merchant electric transmission line, including:

(a) the proposed capacity;

(b) the location of potential interconnection for in-state merchant generators;

(c) the planned date for commencement of construction; and

(d) the planned commercial operations date.

(3) Upon receipt of the open solicitation notice, the office shall:

(a) publish the notice on the Utah Public Notice Website created under Section 63F-1-701;

(b) include in the notice contact information; and

(c) provide the deadline date for submission of an expression of need.

(4) (a) In response to the open solicitation notice published by the office, and no later than 30 days after publication of the notice, an in-state merchant generator may submit an expression of need to the office.

(b) An expression of need submitted under Subsection (4)(a) shall include:

(i) a description of the in-state merchant generator; and

(ii) a schedule of transmission capacity requirement provided in megawatts, by point of receipt and point of delivery and by operating year.

(5) No later than 60 days after notice is published under Subsection (3), the office shall prepare a

certificate of in-state need identifying the in-state merchant generators.

(6) Within five days of preparing the certificate of in-state need, the office shall:

(a) publish the certificate on the Utah Public Notice Website created under Section 63F-1-701; and

(b) provide the certificate to the merchant electric transmission line for consideration in the capacity allocation process.

(7) The merchant electric transmission line shall:

(a) provide the Federal Energy Regulatory Commission with a copy of the certificate of in-state need; and

(b) certify that the certificate is being provided to the Federal Energy Regulatory Commission in accordance with the requirements of this section, including a citation to this section.

(8) At the conclusion of the capacity allocation process, and unless prohibited by a contractual obligation of confidentiality, the merchant electric transmission line shall report to the office whether a merchant in-state generator reflected on the certificate of in-state need has entered into a transmission service agreement with the merchant electric transmission line.

(9) This section may not be interpreted to:

(a) create an obligation of a merchant electric transmission line to pay for, or construct any portion of, the transmission line on behalf of an in-state merchant generator; or

(b) preempt, supersede, or otherwise conflict with Federal Energy Regulatory Commission rules and regulations applicable to a commercial transmission agreement, including agreements, or terms of agreements, as to cost, terms, transmission capacity, or key rates.

(10) Subsections (2) through (9) do not apply to a project entity as defined in Section 11-13-103.

CHAPTER 295**H. B. 61**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

CLEAN AIR PROGRAMS

Chief Sponsor: Patrice M. Arent
Senate Sponsor: Ralph Okerlund

LONG TITLE**General Description:**

This bill modifies Title 19, Environmental Quality Code, by modifying the Clean Fuels and Vehicle Technology Program Act and enacting the Clean Air Retrofit, Replacement, and Off-road Technology Program.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends definitions;
- ▶ modifies the process for the Department of Environmental Quality to make a loan or grant from the Clean Fuels and Vehicle Technology Program, including:
 - allowing electric-hybrids to be eligible for the program; and
 - removing the state match requirements for a grant for refueling infrastructure;
- ▶ describes the requirements for receiving a grant from the Division of Air Quality;
- ▶ authorizes the Air Quality Board to make rules; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2015:

- ▶ to the Department of Environmental Quality - Clean Air Retrofit, Replacement, and Off-road Technology, as a one-time appropriation:
 - from the General Fund, \$200,000.

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

19-1-402, as last amended by Laws of Utah 2006, Chapter 136

19-1-403, as last amended by Laws of Utah 2011, Chapter 303

19-1-404, as last amended by Laws of Utah 2008, Chapter 382

19-1-405, as last amended by Laws of Utah 2008, Chapter 382

ENACTS:

19-2-201, Utah Code Annotated 1953

19-2-202, Utah Code Annotated 1953

19-2-203, Utah Code Annotated 1953

19-2-204, Utah Code Annotated 1953

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

Section 1. Section 19-1-402 is amended to read:**19-1-402. Definitions.**

As used in this part:

(1) "Clean fuel" means:

(a) propane, natural gas, or electricity; or

~~[(b) other fuel the Air Quality Board certifies, as authorized by Subsection 19-1-405(1)(d), to be at least as effective in reducing air pollution as fuels under Subsection (1)(a); or]~~

~~[(e) (b) other fuel that meets the clean fuel vehicle standards in the federal Clean Air Act Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.]~~

(2) "Clean ~~[fuel]~~ vehicle" means a vehicle that:

(a) uses a clean fuel; ~~[and]~~ or

~~[(b) meets clean fuel vehicle standards in the federal Clean Air Act Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.]~~

(b) is an electric-hybrid vehicle.

(3) "Electric-hybrid vehicle" means a vehicle:

(a) primarily powered by an electric motor that draws current from:

(i) rechargeable storage batteries;

(ii) fuel cells; or

(iii) other sources of electric current; and

(b) that also operates on or is capable of operating on a nonelectrical source of power.

~~[(4) "Fuel system" means tanks, pumps, hoses, injectors, electronic controls, and related components that deliver fuel or energy or both to a motor used to propel a vehicle.]~~

~~[(5) (4) "Fund" means the Clean Fuels and Vehicle Technology Fund created in Section 19-1-403.]~~

~~[(6) (5) (a) "Government vehicle" means a motor vehicle:~~

(i) registered in Utah; and

(ii) owned and operated by:

(A) the state;

(B) a public trust authority;

(C) a school district;

(D) a county; or

(E) a municipality.

(b) "Government vehicle" includes a metropolitan rapid transit motor vehicle, bus, truck, law enforcement vehicle, or emergency vehicle.

~~[(7) (6) "Incremental cost" means the difference between the cost of the OEM vehicle and the same vehicle model manufactured without the clean fuel fueling system.]~~

~~[(8) (7) "OEM vehicle" means a vehicle manufactured by the original vehicle manufacturer or its contractor [to use a clean fuel] as a clean vehicle.]~~

~~[(9) (8) "Private sector business vehicle" means a motor vehicle registered in Utah that is owned and~~

operated solely in the conduct of a private business enterprise.

[40] (9) "Refueling equipment" means compressors when used separately, compressors used in combination with cascade tanks, and other equipment that constitute a central refueling system capable of dispensing vehicle fuel.

[11] ~~"Retrofit" means conversion or augmentation of an existing motor, fuel system, exhaust system, or related components to systems that lead to a reduction in air pollution.~~

Section 2. Section 19-1-403 is amended to read:

19-1-403. Clean Fuels and Vehicle Technology Fund -- Contents -- Loans or grants made with fund money.

(1) (a) There is created a revolving fund known as the Clean Fuels and Vehicle Technology Fund.

(b) The fund consists of:

(i) appropriations to the fund;

(ii) other public and private contributions made under Subsection (1)(c);

(iii) interest earnings on cash balances; and

(iv) all money collected for loan repayments and interest on loans.

(c) The department may accept contributions from other public and private sources for deposit into the fund.

(2) (a) ~~[Except as provided in Subsection (3), the]~~ The department may make a loan or a grant with money available in the fund for:

(i) the conversion of a private sector business vehicle or a government vehicle to use a clean fuel, if certified by the Air Quality Board under Subsection 19-1-405(1)(a); or

(ii) the purchase of ~~[-(A)]~~ an OEM vehicle for use as a private sector business vehicle or government vehicle ~~[-or]~~.

~~[(B) a vehicle, certified by the Air Quality Board under Subsection 19-1-405(1)(d), for use as a private sector business vehicle or government vehicle;]~~

~~[(iii) the retrofit, certified by the Air Quality Board under Subsection 19-1-405(1)(d), of a private sector business vehicle or government vehicle;]~~

~~[(iv) a fuel system, certified by the Air Quality Board under Subsection 19-1-405(1)(d), for a private sector business vehicle or government vehicle; or]~~

~~[(v) a state match of a federal or nonfederal grant for any item under this Subsection (2)(a).]~~

(b) The amount of a loan for any vehicle under Subsection (2)(a) ~~[(i) or (2)(a)(ii)(A)]~~ may not exceed:

(i) the actual cost of the vehicle conversion;

(ii) the incremental cost of purchasing the OEM vehicle; or

(iii) the cost of purchasing the OEM vehicle if there is no documented incremental cost.

(c) The amount of a grant for any vehicle under Subsection (2)(a) ~~[(i) or (2)(a)(ii)(A)]~~ may not exceed:

(i) 50% of the actual cost of the vehicle conversion minus the amount of any tax credit claimed under Section 59-7-605 or 59-10-1009 for the vehicle for which a grant is requested; or

(ii) 50% of the incremental cost of purchasing an OEM vehicle minus the amount of any tax credit claimed under Section 59-7-605 or 59-10-1009 for the vehicle for which a grant is requested.

~~(d) (i) [Except as provided in Subsection (3) and subject] Subject to the availability of money in the fund, the department may make a loan or grant for the purchase of vehicle refueling equipment for a private sector business vehicle or a government vehicle.~~

(ii) The maximum amount loaned or granted per installation of refueling equipment may not exceed the actual cost of the refueling equipment.

~~[(iii) Except as provided in Subsection (3) and subject to the availability of money in the fund, the department may make a grant for a state match of a federal or nonfederal grant for the purchase of vehicle refueling equipment for a private sector business vehicle or a government vehicle.]~~

~~[(3) The department may not make a loan or grant under this part for an electric hybrid vehicle.]~~

[4] (3) The department may:

(a) establish an application fee for a loan or grant from the fund by following the procedures and requirements of Section 63J-1-504; and

~~[(a)]~~ (b) reimburse itself for the costs incurred in administering the fund from:

(i) the fund; or

(ii) application fees ~~[-and]~~ established under Subsection (3)(a).

~~[(b) establish an application fee for a loan or grant from the fund by following the procedures and requirements of Section 63J-1-504.]~~

~~[(5)]~~ (4) (a) The fund balance may not exceed \$10,000,000.

(b) Interest on cash balances and repayment of loans in excess of the amount necessary to maintain the fund balance at \$10,000,000 shall be deposited in the General Fund.

~~[(6)]~~ (5) (a) Loans made from money in the fund shall be supported by loan documents evidencing the intent of the borrower to repay the loan.

(b) The original loan documents shall be filed with the Division of Finance and a copy shall be filed with the department.

Section 3. Section 19-1-404 is amended to read:

19-1-404. Department duties -- Rulemaking -- Loan repayment.

(1) The department shall:

(a) administer the fund created in Section 19-1-403 to encourage government officials and private sector business vehicle owners and operators to obtain and use clean fuel vehicles; and

(b) by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules:

(i) specifying the amount of money in the fund to be dedicated annually for grants;

(ii) limiting the amount of a grant given to any person claiming a tax credit under Section 59-7-605 or 59-10-1009 for the motor vehicle for which a grant is requested to assure that the sum of the tax credit and grant does not exceed:

(A) 50% of the incremental cost of the OEM vehicle; or

(B) 50% of the cost of conversion equipment;

(iii) limiting the number of motor vehicles per fleet operator that may be eligible for a grant in a year;

(iv) specifying criteria the department shall consider in prioritizing and awarding loans and grants;

(v) specifying repayment periods;

(vi) specifying procedures for:

(A) awarding loans and grants; and

(B) collecting loans; and

(vii) requiring all loan and grant applicants to:

(A) apply on forms provided by the department;

(B) agree in writing to use the clean fuel for which each vehicle is converted or purchased using loan or grant proceeds for a minimum of 70% of the vehicle miles traveled beginning from the time of conversion or purchase of the vehicle;

(C) agree in writing to notify the department if a vehicle converted or purchased using loan or grant proceeds becomes inoperable through mechanical failure or accident and to pursue a remedy outlined in department rules;

(D) provide reasonable data to the department on a vehicle converted or purchased with loan or grant proceeds; and

(E) submit a vehicle converted or purchased with loan or grant proceeds to inspections by the department as required in department rules and as necessary for administration of the loan and grant program; and

~~(viii) specifying the criteria for awarding a state match under Subsection 19-1-403(2).~~

(2) (a) When developing repayment schedules for the loans, the department shall consider the projected savings from use of the clean [fuel] vehicle.

(b) A repayment schedule may not exceed 10 years.

(c) The department shall make a loan from the fund for a private sector vehicle at an interest rate equal to the annual return earned in the state treasurer's Public Treasurer's Pool as determined the month immediately preceding the closing date of the loan.

(d) The department shall make a loan from the fund for a government vehicle with no interest rate.

(3) The Division of Finance shall:

(a) collect and account for the loans; and

(b) have custody of all loan documents, including all notes and contracts, evidencing the indebtedness of the fund.

Section 4. Section 19-1-405 is amended to read:

19-1-405. Air Quality Board duties -- Rulemaking.

(1) By following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Air Quality Board may make rules to:

(a) certify a motor vehicle on which conversion equipment has been installed if:

(i) before the installation of conversion equipment, the motor vehicle does not exceed the emission cut points for:

(A) a transient test driving cycle, as specified in 40 CFR 51, Appendix E to Subpart S; or

(B) an equivalent test for the make, model, and year of the motor vehicle; and

(ii) the motor vehicle's emissions of regulated pollutants, when operating with clean fuel, is less than the emissions were before the installation of conversion equipment;

(b) recognize a test or standard that demonstrates a reduction in emissions; or

(c) recognize a certification standard from another state[;].

~~[(d) certify a fuel, vehicle, retrofit, or fuel system if it is at least as effective in reducing air pollution as fuels under Subsection 19-1-402(1)(a) or vehicles under Subsection 19-1-402(2); or]~~

~~[(e) establish criteria for determining the effectiveness of a fuel, vehicle, retrofit, or fuel system in reducing air pollution.]~~

(2) A reduction in emissions under Subsection (1)(a)(ii) is demonstrated by:

(a) certification of the conversion equipment by the federal Environmental Protection Agency or by a state whose certification standards are recognized by the Air Quality Board;

(b) testing the motor vehicle, before and after the installation of the conversion equipment, in accordance with 40 CFR 86, Control of Air Pollution

from New and In-use Motor Vehicle Engines: Certification and Test Procedures, using all fuel the motor vehicle is capable of using; or

(c) any other test or standard recognized by the Air Quality Board in rule.

Section 5. Section 19-2-201 is enacted to read:

Part 2. Clean Air Retrofit, Replacement, and Off-road Technology Program

19-2-201. Title.

This part is known as the "Clean Air Retrofit, Replacement, and Off-road Technology Program."

Section 6. Section 19-2-202 is enacted to read:

19-2-202. Definitions.

As used in this part:

(1) "Board" means the Air Quality Board.

(2) "Certified" means certified by the United States Environmental Protection Agency or the California Air Resources Board to meet appropriate emission standards.

(3) "Cost" means the total reasonable cost of a project eligible for a grant under the fund, including the cost of labor.

(4) "Director" means the director of the Division of Air Quality.

(5) "Division" means the Division of Air Quality, created in Subsection 19-1-105(1)(a).

(6) "Eligible equipment" means equipment with engines, including stationary generators and pumps, operated and, if applicable, permitted in Utah.

(7) "Eligible vehicle" means a vehicle operated and, if applicable, registered in Utah that is:

(a) a medium-duty or heavy-duty transit bus;

(b) a school bus as defined in Subsection 53-3-102(33);

(c) a medium-duty or heavy-duty truck with a gross vehicle weight rating of at least 16,001 GVWR;

(d) a locomotive; or

(e) another type of vehicle identified by the board in rule as being a significant potential source of air pollution, as defined in Subsection 19-2-102(3).

(8) "Verified" means verified by the United States Environmental Protection Agency or the California Air Resources Board to reduce air emissions and meet durability requirements.

Section 7. Section 19-2-203 is enacted to read:

19-2-203. Grants and programs -- Conditions.

(1) The director may make grants for implementing:

(a) verified technologies for eligible vehicles or equipment; and

(b) certified vehicles, engines, or equipment.

(2) (a) The division may develop programs, including exchange, rebate, or low-cost purchase programs, to encourage replacement of:

(i) landscaping and maintenance equipment with equipment that is lower in emissions; and

(ii) other equipment or products identified by the board in rule as being a significant potential source of air pollution, as defined in Subsection 19-2-102(3).

(b) The division may enter into agreements with local health departments to administer the programs described in Subsection (2)(a).

(3) As a condition for receiving the grant, a person receiving a grant under Subsection (1) or receiving a grant under this Subsection (3) shall agree to:

(a) provide information to the division about the vehicles, equipment, or technology acquired with the grant proceeds;

(b) allow inspections by the division to ensure compliance with the terms of the grant;

(c) permanently disable replaced vehicles, engines, and equipment from use; and

(d) comply with the conditions for the grant.

(4) Grants and programs under Subsections (1) and (2) may be administered using a rebate program.

(5) Grants issued under this section may not exceed the actual cost of the project.

Section 8. Section 19-2-204 is enacted to read:

19-2-204. Duties and authorities -- Rulemaking.

(1) The board may, by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules:

(a) specifying the amount of money to be dedicated annually for grants;

(b) specifying criteria the director shall consider in prioritizing and awarding grants, including:

(i) a preference for awarding a grant to an individual who has already secured some other source of funding; and

(ii) a limitation on the types of vehicles that are eligible for funds;

(c) specifying the terms of a grant or exchange under Subsections 19-2-203(2), (3), and (4);

(d) specifying the procedures to be used in the grant and exchange programs authorized in Subsections 19-2-203(2), (3), and (5); and

(e) requiring all grant applicants to apply on forms provided by the division.

(2) The division shall:

(a) administer funds to encourage vehicle and equipment owners and operators to reduce emissions from vehicles and equipment;

(b) provide forms for application for a grant or exchange under Subsection 19-2-203(2) or (3); and

(c) provide information about which vehicles, engines, or equipment are certified and which technology is verified as provided in this part.

(3) The division may inspect vehicles, equipment, or technology for which a grant was made to ensure compliance with the terms of the grant.

Section 9. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or fund accounts indicated for the fiscal year beginning July 1, 2014 and ending June 30, 2015. These are in addition to amounts previously appropriated for fiscal year 2015.

To the Department of Environmental Quality - Clean Air Retrofit, Replacement, and Off-road Technology

<u>From General Fund, One-time</u>	<u>\$200,000</u>
------------------------------------	------------------

Schedule of Programs:

<u>Clean Air Retrofit, Replacement, and Off-road Technology</u>	<u>\$200,000</u>
---	------------------

The Legislature intends that the appropriation under this section is to be used by the Division of Air Quality to provide grants for clean air projects, consistent with Title 19, Chapter 2, Part 2, Clean Air Retrofit, Replacement, and Off-road Technology Program.

CHAPTER 296**H. B. 67**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

**POLITICAL SUBDIVISION
JURISDICTION AMENDMENTS**

Chief Sponsor: Marc K. Roberts

Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill modifies provisions of Title 11, Chapter 51, Local Jurisdiction Related to Federally Managed Land Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ authorizes a chief executive officer of a political subdivision or county sheriff to exercise jurisdiction over a federally managed national monument or recreation area in the state that is encompassed by or adjacent to the political subdivision;
- ▶ provides that the attorney general shall take certain actions if a legal action is filed by the United States or a federal representative against a chief executive officer, a county sheriff, or an employee or agent of the chief executive officer or county sheriff; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

11-51-102, as enacted by Laws of Utah 2013, Chapter 342

11-51-103, as enacted by Laws of Utah 2013, Chapter 342

ENACTS:

11-51-104, Utah Code Annotated 1953

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

Section 1. Section 11-51-102 is amended to read:**11-51-102. Definitions.**

As used in this chapter:

- (1) "Chief executive officer" means:
 - (a) for a municipality:
 - (i) the mayor, if the municipality is operating under a form of municipal government other than the council-manager form of government; or
 - (ii) the city manager, if the municipality is operating under the council-manager form of government; or
 - (b) for a county:

(i) the chair of the county commission, if the county is operating under the county commission or expanded county commission form of government;

(ii) the county executive officer, if the county is operating under the county-executive council form of government; or

(iii) the county manager, if the county is operating under the council-manager form of government.

(2) "County sheriff" means an individual elected to the office of county sheriff in the state who meets the qualifications described in Section 17-22-1.5.

(3) "Federal agency" means the United States Bureau of Land Management [ø], the United States Forest Service, the United States Fish and Wildlife Service, or the National Park Service.

(4) "Federally managed land" means land that is managed by the United States Bureau of Land Management [ø], the United States Forest Service, or the National Park Service.

(5) "National monument" means a national monument designated or declared in accordance with the Antiquities Act of 1906, 16 U.S.C. Sec. 431 et seq.

(6) "National recreation area" means a recreation area designated by an act of Congress.

[4] (7) "Political subdivision" means a municipality or county.

Section 2. Section 11-51-103 is amended to read:**11-51-103. Local jurisdiction related to federally managed land -- Written notice -- Mitigation action.**

(1) (a) The authority of a chief executive officer of a political subdivision or county sheriff to exercise jurisdiction [over] on federally managed land, a national monument, or a national recreation area in the state that is [encompassed by or adjacent to the] wholly or partially situated within a political subdivision includes the following:

[4] (i) if the action or inaction of a federal agency related to federally managed land, a national monument, or a national recreation area threatens to adversely [affects or constitutes an imminent threat to] affect the health, safety, or welfare of the people of the political subdivision, the chief executive officer or county sheriff may, after consulting with the attorney general, provide written notice to the federal agency, which notice shall:

[4] (ii) be delivered to the federal agency by hand or by certified mail and a copy provided by certified mail to the governor, the [state] attorney general, and the state's congressional delegation;

[4] (iii) include a detailed explanation of how the action or inaction of the federal agency related to federally managed land, a national monument, or a national recreation area threatens to adversely [affects or constitutes an imminent threat to] affect the health, safety, or welfare of the people of the political subdivision;

(e) (iv) include a detailed description of the action the federal agency should take to mitigate the risk to the health, safety, or welfare of the people of the political subdivision; and

(d) (v) provide a specific date by which time the federal agency should respond to the notice; and

(2) (b) if after receiving notice as described in Subsection (1)(a)(ii), the federal agency does not respond by the date requested in the notice, or otherwise indicates that it is unwilling to take action to mitigate the risk to the health, safety, or welfare of the people of the political subdivision described in the notice⁵;

(i) the chief executive officer or county sheriff ~~may take action to mitigate the risk to the health, safety, or welfare of the people of the political subdivision.~~ shall consult with the county attorney and attorney general; and

(ii) the attorney general shall send within 20 days of consulting with the chief executive officer or county sheriff a written notice to the federal agency stating what legal steps, if any, the attorney general will take to protect the people of the political subdivision from the threat to their health, safety, or welfare.

(2) (a) If an action or inaction of a federal agency related to federally managed land, a national monument, or a national recreation area constitutes an imminent threat to the health, safety, or welfare of the people of the political subdivision, the chief executive officer or county sheriff may, after consulting with the attorney general, provide written notice to the federal agency.

(b) The chief executive officer or county sheriff shall:

(i) deliver the notice described in Subsection (2)(a) to the federal agency in person or by certified mail;

(ii) provide a copy of the notice by certified mail to the governor, the attorney general, and the state's congressional delegation; and

(iii) include in the notice:

(A) a detailed explanation of how the federal agency's action or inaction constitutes an imminent threat to the health, safety, or welfare of the people of the political subdivision;

(B) a detailed description of the action that the federal agency should take to eliminate the imminent threat; and

(C) provide a specific date by which the federal agency should respond to the notice, either with action or by written communication.

(3) If a federal agency does not respond, either with action or in written communication, to a notice described in Subsection (2)(b) by the date described in Subsection (2)(b)(iii)(C), or otherwise indicates that the agency is unwilling to take action, the chief executive officer or county sheriff may, after additional consultation with the county attorney

and attorney general, take action and exercise necessary jurisdictional authority to mitigate the risk to the health, safety, or welfare of the people of the political subdivision.

Section 3. Section 11-51-104 is enacted to read:

11-51-104. Attorney general duties.

(1) If the United States or a federal representative brings a legal action or a proceeding against a chief executive officer, a county sheriff, or an employee or agent of a chief executive officer or county sheriff for taking action to exercise the jurisdictional authority described in this chapter, and that action is taken to mitigate an imminent threat to the health, safety, or welfare of the people of a political subdivision in accordance with Section 11-51-103, the attorney general shall:

(a) review the legal action brought by the United States or federal representative;

(b) investigate the matter, including conducting interviews of the chief executive officer, county sheriff, or employees or agents of the political subdivision; and

(c) decide in the attorney general's discretion whether to provide a defense for a person named as a defendant in the legal action.

(2) If the attorney general determines to provide or not provide a defense to a person named as a defendant in a legal action described in Subsection (1), that determination does not imply:

(a) a position or opinion by the attorney general as to the merits of the legal action; and

(b) a duty or agreement by the state to pay a monetary judgment for the United States or federal representative that may be obtained against a person named in the legal action.

(3) Subsections (1) and (2) may not be interpreted to prohibit a county from:

(a) reviewing a legal action described in Subsection (1);

(b) investigating the matter, including conducting interviews;

(c) providing a defense for a person named as a defendant in the legal action; or

(d) assisting the attorney general with a duty described in this section.

CHAPTER 297**H. B. 70**

Passed March 13, 2014

Approved April 1, 2014

Effective July 1, 2014

FORCIBLE ENTRY AMENDMENTS

Chief Sponsor: Marc K. Roberts
 Senate Sponsor: Luz Robles
 Cosponsors: Rebecca Chavez-Houck
 Brian M. Greene
 Eric K. Hutchings
 Brian S. King
 Lee B. Perry
 V. Lowry Snow
 Mark A. Wheatley
 Ryan D. Wilcox
 Larry B. Wiley

LONG TITLE**General Description:**

This bill modifies the Utah Code of Criminal Procedure regarding the use of forcible entry by law enforcement officers when conducting a search or making an arrest.

Highlighted Provisions:

This bill:

- ▶ requires that the issuance of a warrant under the provisions of this bill shall be in accordance with Rule 40, Utah Rules of Criminal Procedure;
- ▶ amends existing law regarding the use of forcible entry by law enforcement officers when executing a warrant;
- ▶ requires law enforcement officers to identify themselves before forcing entry into a building;
- ▶ amends existing law to allow law enforcement officers to force entry into a building without first issuing a demand or explanation if there is probable cause to believe that evidence will be easily or quickly destroyed, or there is reason to believe giving notice will endanger the officer or another person;
- ▶ requires law enforcement officers to use the least amount of force necessary when executing forcible entry, as authorized; and
- ▶ providing an effective date.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2014.

Utah Code Sections Affected:**AMENDS:**

77-7-8, as last amended by Laws of Utah 2003, Chapter 29

77-23-210, as last amended by Laws of Utah 2007, Chapter 153

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

Section 1. Section 77-7-8 is amended to read:

77-7-8. Forcible entry to conduct search or make arrest -- Conditions requiring a warrant.

(1) (a) Subject to Subsection (2), a peace officer when making an arrest may forcibly enter the building in which the person to be arrested is, or in which there ~~[are reasonable grounds]~~ is probable cause for believing him to be.

(b) Before making the forcible entry, the officer shall:

(i) identify himself or herself as a law enforcement officer; and

(ii) demand admission and explain the purpose for which admission is desired.

(c) (i) The officer need not give a demand and explanation, or identify himself or herself, before making a forcible entry under the exceptions in Section 77-7-6 or where there is ~~[reason]~~ probable cause to believe evidence will be easily or quickly secreted or destroyed.

(ii) The officer shall identify himself or herself and state the purpose of entering the premises as soon as practicable after entering the premises.

(d) The officer may use only that force which is reasonable and necessary to effectuate forcible entry under this section.

(2) If the building to be entered under Subsection (1) appears to be a private residence or the officer knows the building is a private residence, and if there is no consent to enter or there are no exigent circumstances, the officer shall, before entering the building:

(a) obtain an arrest or search warrant if the building is the residence of the person to be arrested; or

(b) obtain a search warrant if the building is a residence, but not the residence of the person whose arrest is sought.

Section 2. Section 77-23-210 is amended to read:**77-23-210. Force used in executing a search warrant -- When notice of authority is required as a prerequisite.**

(1) When a search warrant has been issued authorizing entry into any building, room, conveyance, compartment, or other enclosure, the officer executing the warrant may ~~[use such force as is reasonably necessary to]~~ enter:

~~[(1)]~~ (a) if, after notice of the officer's authority and purpose, there is no response or the officer is not admitted with reasonable promptness; or

~~[(2)]~~ (b) without notice of the officer's authority and purpose~~[, if the magistrate issuing the warrant directs in the warrant that the officer need not give notice.]~~ as provided in Subsection (3).

(2) The officer executing the warrant under Subsection (1) may use only that force which is reasonable and necessary to execute the warrant.

(3) (a) The officer shall identify himself or herself and state the purpose of entering the premises as soon as practicable.

(b) The officer may enter without notice only if:

(i) there is reason to believe the notice will endanger the life or safety of the officer or another person;

(ii) there is probable cause to believe that evidence may be easily or quickly secreted or destroyed; or

(iii) the magistrate, having found probable cause based upon proof provided under oath, that the object of the search may be easily or quickly secreted or destroyed, or having found reason to believe that physical harm may result to any person if notice were given, has directed that the officer need not give notice of authority and purpose before entering the premises to be searched under Rule 40, Rules of Criminal Procedure.

(4) (a) The officer shall take reasonable precautions in execution of any search warrant to minimize the risks of unnecessarily confrontational or invasive methods which may result in harm to any person.

(b) The officer shall minimize the risk of searching the wrong premises by verifying that the premises being searched is consistent with a particularized description in the search warrant, including such factors as the type of structure, the color, the address, and orientation of the target property in relation to nearby structures as is reasonably necessary.

Section 3. Effective date.

This bill takes effect on July 1, 2014.

CHAPTER 298**H. B. 72**

Passed March 12, 2014

Approved April 1, 2014

Effective May 13, 2014

**HIGHER EDUCATION GRIEVANCE
PROCEDURE AMENDMENTS**Chief Sponsor: Mark A. Wheatley
Senate Sponsor: Stephen H. Urquhart**LONG TITLE****General Description:**

This bill requires the State Board of Regents to enact regulations requiring sworn testimony during certain employee grievance hearings at institutions of higher education.

Highlighted Provisions:

This bill:

- ▶ requires the State Board of Regents to enact regulations requiring sworn testimony during certain employee grievance hearings at institutions of higher education; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53B-3-103, as last amended by Laws of Utah 2007, Chapter 193

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

Section 1. Section 53B-3-103 is amended to read:**53B-3-103. Power of board to adopt rules and enact regulations.**

(1) The board may enact regulations governing the conduct of university and college students, faculty, and employees.

(2) (a) The board may:

(i) enact and authorize higher education institutions to enact traffic, parking, and related regulations governing all individuals on campuses and other facilities owned or controlled by the institutions or the board; and

(ii) acknowledging that the Legislature has the authority to regulate, by law, firearms at higher education institutions:

(A) authorize higher education institutions to establish no more than one secure area at each institution as a hearing room as prescribed in Section 76-8-311.1, but not otherwise restrict the lawful possession or carrying of firearms; and

(B) authorize a higher education institution to make a rule that allows a resident of a dormitory located at the institution to request only roommates who are not licensed to carry a concealed firearm under Section 53-5-704 or 53-5-705.

(b) In addition to the requirements and penalty prescribed in Subsections 76-8-311.1(3), (4), (5), and (6), the board shall make rules to ensure that:

(i) reasonable means such as mechanical, electronic, x-ray, or similar devices are used to detect firearms, ammunition, or dangerous weapons contained in the personal property of or on the person of any individual attempting to enter a secure area hearing room;

(ii) an individual required or requested to attend a hearing in a secure area hearing room is notified in writing of the requirements related to entering a secured area hearing room under this Subsection (2)(b) and Section 76-8-311.1;

(iii) the restriction of firearms, ammunition, or dangerous weapons in the secure area hearing room is in effect only during the time the secure area hearing room is in use for hearings and for a reasonable time before and after its use; and

(iv) reasonable space limitations are applied to the secure area hearing room as warranted by the number of individuals involved in a typical hearing.

(3) The board shall enact regulations that require all testimony be given under oath during an employee grievance hearing for a non-faculty employee of an institution of higher education if the grievance hearing relates to the non-faculty employee's:

(a) demotion; or

(b) termination.

[3] (4) The board and institutions may enforce these rules and regulations in any reasonable manner, including the assessment of fees, fines, and forfeitures, the collection of which may be by withholding from money owed the violator, the imposition of probation, suspension, or expulsion from the institution, the revocation of privileges, the refusal to issue certificates, degrees, and diplomas, through judicial process or any reasonable combination of these alternatives.

CHAPTER 299**H. B. 75**

Passed February 24, 2014

Approved April 1, 2014

Effective May 13, 2014

RESTORATION OF CIVIL RIGHTS FOR NONVIOLENT FELONSChief Sponsor: Curtis Oda
Senate Sponsor: Mark B. Madsen**LONG TITLE****General Description:**

This bill exempts nonviolent felons from the categories of restricted persons who are prohibited from possessing a dangerous weapon.

Highlighted Provisions:

This bill:

- ▶ exempts persons convicted of certain nonviolent felonies and who have had felonies expunged from the categories of restricted persons prohibited from possessing a dangerous weapon.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-10-503, as last amended by Laws of Utah 2012, Chapter 317

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

Section 1. Section 76-10-503 is amended to read:**76-10-503. Restrictions on possession, purchase, transfer, and ownership of dangerous weapons by certain persons.**

- (1) For purposes of this section:
- (a) A Category I restricted person is a person who:
- (i) has been convicted of any violent felony as defined in Section 76-3-203.5;
 - (ii) is on probation or parole for any felony;
 - (iii) is on parole from a secure facility as defined in Section 62A-7-101;
 - (iv) within the last 10 years has been adjudicated delinquent for an offense which if committed by an adult would have been a violent felony as defined in Section 76-3-203.5; or
 - (v) is an alien who is illegally or unlawfully in the United States.
- (b) A Category II restricted person is a person who:
- (i) has been convicted of any felony;
 - (ii) within the last seven years has been adjudicated delinquent for an offense which if committed by an adult would have been a felony;

(iii) is an unlawful user of a controlled substance as defined in Section 58-37-2;

(iv) is in possession of a dangerous weapon and is knowingly and intentionally in unlawful possession of a Schedule I or II controlled substance as defined in Section 58-37-2;

(v) has been found not guilty by reason of insanity for a felony offense;

(vi) has been found mentally incompetent to stand trial for a felony offense;

(vii) has been adjudicated as mentally defective as provided in the Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993), or has been committed to a mental institution;

(viii) has been dishonorably discharged from the armed forces; or

(ix) has renounced his citizenship after having been a citizen of the United States.

(c) As used in this section, a conviction of a felony or adjudication of delinquency for an offense which would be a felony if committed by an adult does not include:

(i) a conviction or adjudication of delinquency for an offense pertaining to antitrust violations, unfair trade practices, restraint of trade, or other similar offenses relating to the regulation of business practices not involving theft or fraud; or

(ii) a conviction or adjudication of delinquency which, according to the law of the jurisdiction in which it occurred, has been expunged, set aside, reduced to a misdemeanor by court order, pardoned or regarding which the person's civil rights have been restored unless the pardon, reduction, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

(d) It is the burden of the defendant in a criminal case to provide evidence that a conviction or adjudication of delinquency is subject to an exception provided in Subsection (1)(c), after which it is the burden of the state to prove beyond a reasonable doubt that the conviction or adjudication of delinquency is not subject to that exception.

(2) A Category I restricted person who intentionally or knowingly agrees, consents, offers, or arranges to purchase, transfer, possess, use, or have under the person's custody or control, or who intentionally or knowingly purchases, transfers, possesses, uses, or has under the person's custody or control:

(a) any firearm is guilty of a second degree felony; or

(b) any dangerous weapon other than a firearm is guilty of a third degree felony.

(3) A Category II restricted person who purchases, transfers, possesses, uses, or has under the person's custody or control:

(a) any firearm is guilty of a third degree felony; or

(b) any dangerous weapon other than a firearm is guilty of a class A misdemeanor.

(4) A person may be subject to the restrictions of both categories at the same time.

(5) If a higher penalty than is prescribed in this section is provided in another section for one who purchases, transfers, possesses, uses, or has under this custody or control any dangerous weapon, the penalties of that section control.

(6) It is an affirmative defense to a charge based on the definition in Subsection (1)(b)(iv) that the person was:

(a) in possession of a controlled substance pursuant to a lawful order of a practitioner for use of a member of the person's household or for administration to an animal owned by the person or a member of the person's household; or

(b) otherwise authorized by law to possess the substance.

(7) (a) It is an affirmative defense to transferring a firearm or other dangerous weapon by a person restricted under Subsection (2) or (3) that the firearm or dangerous weapon:

(i) was possessed by the person or was under the person's custody or control before the person became a restricted person;

(ii) was not used in or possessed during the commission of a crime or subject to disposition under Section 76-10-525;

(iii) is not being held as evidence by a court or law enforcement agency;

(iv) was transferred to a person not legally prohibited from possessing the weapon; and

(v) unless a different time is ordered by the court, was transferred within 10 days of the person becoming a restricted person.

(b) Subsection (7)(a) is not a defense to the use, purchase, or possession on the person of a firearm or other dangerous weapon by a restricted person.

(8) (a) A person may not sell, transfer, or otherwise dispose of any firearm or dangerous weapon to any person, knowing that the recipient is a person described in Subsection (1)(a) or (b).

(b) A person who violates Subsection (8)(a) when the recipient is:

(i) a person described in Subsection (1)(a) and the transaction involves a firearm, is guilty of a second degree felony;

(ii) a person described in Subsection (1)(a) and the transaction involves any dangerous weapon other than a firearm, is guilty of a third degree felony;

(iii) a person described in Subsection (1)(b) and the transaction involves a firearm, is guilty of a third degree felony; or

(iv) a person described in Subsection (1)(b) and the transaction involves any dangerous weapon other than a firearm, is guilty of a class A misdemeanor.

(9) (a) A person may not knowingly solicit, persuade, encourage or entice a dealer or other person to sell, transfer or otherwise dispose of a firearm or dangerous weapon under circumstances which the person knows would be a violation of the law.

(b) A person may not provide to a dealer or other person what the person knows to be materially false information with intent to deceive the dealer or other person about the legality of a sale, transfer or other disposition of a firearm or dangerous weapon.

(c) "Materially false information" means information that portrays an illegal transaction as legal or a legal transaction as illegal.

(d) A person who violates this Subsection (9) is guilty of:

(i) a third degree felony if the transaction involved a firearm; or

(ii) a class A misdemeanor if the transaction involved a dangerous weapon other than a firearm.

CHAPTER 300**H. B. 76**

Passed March 7, 2014

Approved April 1, 2014

Effective May 13, 2014

(Exception clause in Section 70)

INSURANCE RELATED REVISIONS

Chief Sponsor: Jim Bird

Senate Sponsor: Wayne A. Harper

LONG TITLE**General Description:**

This bill modifies Title 31A, Insurance Code, and other related provisions, to address the regulation of insurance.

Highlighted Provisions:

This bill:

- ▶ amends definition provisions;
- ▶ provides for insurance fraud investigators being designated as law enforcement officers;
- ▶ changes the date captive insurance companies are to pay a fee;
- ▶ addresses what constitutes a qualified insurer;
- ▶ modifies requirements for a plan of orderly withdrawal from writing a line of insurance;
- ▶ addresses notice requirements related to a request for a hearing;
- ▶ modifies calculations related to interest payable on life insurance proceeds;
- ▶ addresses uninsured and underinsured motorist coverage;
- ▶ addresses preferred provider contract provisions;
- ▶ addresses coverage of mental health and substance use disorders;
- ▶ modifies requirements for the uniform application form and the uniform waiver of coverage form;
- ▶ amends language regarding the health benefit plan on the Health Insurance Exchange;
- ▶ amends language regarding open enrollment provisions;
- ▶ modifies language regarding dental and vision policies being offered on the Health Insurance Exchange;
- ▶ clarifies language related to the designated responsible licensed individual;
- ▶ clarifies references to the Violent Crime Control and Law Enforcement Act;
- ▶ modifies references to state of residence to home state;
- ▶ addresses requirements related to licensing when a person establishes legal residence in the state;
- ▶ changes requirements related to the commissioner placing a licensee on probation;
- ▶ repeals language related to a voluntarily surrendered license that is reinstated upon completion of continuing education requirements;
- ▶ modifies certain exemptions from continuing education requirements;

- ▶ clarifies training period requirements;
- ▶ changes a navigator license term to one year;
- ▶ provides for training periods for a navigator license;
- ▶ modifies continuing education requirements for a navigator;
- ▶ repeals the requirement that the commissioner publish a list of professional designations whose continuing education requirements could be used for certain circumstances related to navigators;
- ▶ modifies provisions related to inducements;
- ▶ addresses license compensation provisions;
- ▶ makes navigator licensees subject to unfair marketing practice restrictions;
- ▶ amends definitions specific to insurance adjusters' chapter;
- ▶ exempts an applicant for the crop insurance license class from certain requirements;
- ▶ modifies the definition of receiver;
- ▶ addresses the provisions related to the receivership court's seizure order;
- ▶ amends the purpose statement, definition, and applicability and scope provisions for the Individual, Small Employer, and Group Health Insurance Act;
- ▶ addresses the surcharge for groups changing carriers;
- ▶ addresses eligibility for the small employer and individual market;
- ▶ modifies the provisions related to appointment of insurance producers and the Health Insurance Exchange;
- ▶ modifies Health Insurance Exchange disclosure requirements;
- ▶ requires a captive insurance company, rather than an association captive insurance company or industrial insured group, to file a specified report;
- ▶ corrects a reference to a covered employee;
- ▶ changes reference to a multiple coordinated policy to a master policy;
- ▶ includes reference to the defined contribution arrangement market into the Defined Contribution Risk Adjuster Act;
- ▶ modifies definitions in the Small Employer Stop-Loss Insurance Act;
- ▶ addresses stop-loss insurance coverage standards, stop-loss restrictions, filing requirements, and stop-loss insurance disclosure;
- ▶ modifies commissioner's rulemaking authority under the Small Employer Stop-Loss Insurance Act; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an effective date.

This bill coordinates with H.B. 141, Health Reform Amendments, by providing superseding and substantive amendments.

This bill provides revisor instructions.

Utah Code Sections Affected:**AMENDS:**

31A-1-301, as last amended by Laws of Utah 2013,

Chapter 319	31A-25-209, as last amended by Laws of Utah 2008, Chapter 382
31A-2-104, as last amended by Laws of Utah 1999, Chapter 21	31A-26-102, as last amended by Laws of Utah 2012, Chapter 151
31A-3-304 (Superseded 07/01/15), as last amended by Laws of Utah 2011, Chapter 284	31A-26-206, as last amended by Laws of Utah 2011, Chapter 284
31A-3-304 (Effective 07/01/15), as last amended by Laws of Utah 2013, Chapter 319	31A-26-207, as last amended by Laws of Utah 2001, Chapter 116
31A-4-102, as last amended by Laws of Utah 2008, Chapter 345	31A-26-213, as last amended by Laws of Utah 2011, Chapter 284
31A-4-115, as last amended by Laws of Utah 2002, Chapter 308	31A-26-214, as last amended by Laws of Utah 2008, Chapter 382
31A-8-402.3, as last amended by Laws of Utah 2004, Chapter 329	31A-26-214.5, as last amended by Laws of Utah 2009, Chapter 349
31A-16-103, as last amended by Laws of Utah 2004, Chapter 2	31A-27a-102, as last amended by Laws of Utah 2008, Chapter 382
31A-17-607, as last amended by Laws of Utah 2001, Chapter 116	31A-27a-107, as enacted by Laws of Utah 2007, Chapter 309
31A-22-305, as last amended by Laws of Utah 2013, Chapter 460	31A-27a-201, as enacted by Laws of Utah 2007, Chapter 309
31A-22-305.3, as last amended by Laws of Utah 2013, Chapter 460	31A-27a-701, as last amended by Laws of Utah 2011, Chapter 297
31A-22-428, as enacted by Laws of Utah 2008, Chapter 345	31A-29-106, as last amended by Laws of Utah 2013, Chapter 319
31A-22-617, as last amended by Laws of Utah 2013, Chapters 104 and 319	31A-29-111, as last amended by Laws of Utah 2012, Chapters 158 and 347
31A-22-618.5, as last amended by Laws of Utah 2013, Chapter 319	31A-29-115, as last amended by Laws of Utah 2004, Chapter 2
31A-22-625, as last amended by Laws of Utah 2012, Chapter 253	31A-30-102, as last amended by Laws of Utah 2009, Chapter 12
31A-22-635, as last amended by Laws of Utah 2012, Chapters 253 and 279	31A-30-103, as last amended by Laws of Utah 2013, Chapter 168
31A-22-721, as last amended by Laws of Utah 2011, Chapter 284	31A-30-104, as last amended by Laws of Utah 2013, Chapters 168 and 341
31A-23a-102, as last amended by Laws of Utah 2013, Chapter 319	31A-30-106, as last amended by Laws of Utah 2011, Chapter 284
31A-23a-104, as last amended by Laws of Utah 2012, Chapter 253	31A-30-106.7, as last amended by Laws of Utah 2008, Chapter 382
31A-23a-105, as last amended by Laws of Utah 2013, Chapter 319	31A-30-107, as last amended by Laws of Utah 2009, Chapter 12
31A-23a-108, as last amended by Laws of Utah 2012, Chapter 253	31A-30-108, as last amended by Laws of Utah 2011, Chapter 284
31A-23a-112, as last amended by Laws of Utah 2008, Chapter 382	31A-30-207, as last amended by Laws of Utah 2011, Second Special Session, Chapter 5
31A-23a-113, as last amended by Laws of Utah 2012, Chapter 253	31A-30-209, as last amended by Laws of Utah 2011, Chapter 400
31A-23a-202, as last amended by Laws of Utah 2013, Chapter 319	31A-30-211, as last amended by Laws of Utah 2011, Second Special Session, Chapter 5
31A-23a-203, as last amended by Laws of Utah 2012, Chapter 253	31A-37-501, as last amended by Laws of Utah 2008, Chapter 302
31A-23a-402.5, as last amended by Laws of Utah 2013, Chapter 319	31A-40-203, as enacted by Laws of Utah 2008, Chapter 318
31A-23a-501, as last amended by Laws of Utah 2013, Chapter 341	31A-40-209, as enacted by Laws of Utah 2008, Chapter 318
31A-23b-102, as enacted by Laws of Utah 2013, Chapter 341	31A-42-202, as last amended by Laws of Utah 2011, Chapter 400
31A-23b-202, as enacted by Laws of Utah 2013, Chapter 341	31A-43-102, as enacted by Laws of Utah 2013, Chapter 341
31A-23b-205, as enacted by Laws of Utah 2013, Chapter 341	31A-43-301, as enacted by Laws of Utah 2013, Chapter 341
31A-23b-206, as enacted by Laws of Utah 2013, Chapter 341	31A-43-302, as enacted by Laws of Utah 2013, Chapter 341
31A-23b-301, as enacted by Laws of Utah 2013, Chapter 341	31A-43-303, as enacted by Laws of Utah 2013, Chapter 341
31A-23b-402, as enacted by Laws of Utah 2013, Chapter 341	31A-43-304, as enacted by Laws of Utah 2013, Chapter 341
31A-25-208, as last amended by Laws of Utah 2011, Chapter 284	53-13-103, as last amended by Laws of Utah 2011,

Chapter 58

REPEALS:

31A-30-110, as last amended by Laws of Utah 2011, Chapters 284 and 297

31A-30-111, as last amended by Laws of Utah 2002, Chapter 308

Utah Code Sections Affected by Coordination Clause:

31A-23b-205, as enacted by Laws of Utah 2013, Chapter 341

31A-23b-206, as enacted by Laws of Utah 2013, Chapter 341 Utah Code Sections Affected by Revisor Instructions:

31A-22-305, as last amended by Laws of Utah 2013, Chapter 460

31A-22-305.3, as last amended by Laws of Utah 2013, Chapter 460

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

Section 1. Section 31A-1-301 is amended to read:**31A-1-301. Definitions.**

As used in this title, unless otherwise specified:

(1) (a) "Accident and health insurance" means insurance to provide protection against economic losses resulting from:

(i) a medical condition including:

(A) a medical care expense; or

(B) the risk of disability;

(ii) accident; or

(iii) sickness.

(b) "Accident and health insurance":

(i) includes a contract with disability contingencies including:

(A) an income replacement contract;

(B) a health care contract;

(C) an expense reimbursement contract;

(D) a credit accident and health contract;

(E) a continuing care contract; and

(F) a long-term care contract; and

(ii) may provide:

(A) hospital coverage;

(B) surgical coverage;

(C) medical coverage;

(D) loss of income coverage;

(E) prescription drug coverage;

(F) dental coverage; or

(G) vision coverage.

(c) "Accident and health insurance" does not include workers' compensation insurance.

(2) "Actuary" is as defined by the commissioner by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) "Administrator" is defined in Subsection [~~163~~] (164).

(4) "Adult" means an individual who has attained the age of at least 18 years.

(5) "Affiliate" means a person who controls, is controlled by, or is under common control with, another person. A corporation is an affiliate of another corporation, regardless of ownership, if substantially the same group of individuals manage the corporations.

(6) "Agency" means:

(a) a person other than an individual, including a sole proprietorship by which an individual does business under an assumed name; and

(b) an insurance organization licensed or required to be licensed under Section 31A-23a-301, 31A-25-207, or 31A-26-209.

(7) "Alien insurer" means an insurer domiciled outside the United States.

(8) "Amendment" means an endorsement to an insurance policy or certificate.

(9) "Annuity" means an agreement to make periodical payments for a period certain or over the lifetime of one or more individuals if the making or continuance of all or some of the series of the payments, or the amount of the payment, is dependent upon the continuance of human life.

(10) "Application" means a document:

(a) (i) completed by an applicant to provide information about the risk to be insured; and

(ii) that contains information that is used by the insurer to evaluate risk and decide whether to:

(A) insure the risk under:

(I) the coverage as originally offered; or

(II) a modification of the coverage as originally offered; or

(B) decline to insure the risk; or

(b) used by the insurer to gather information from the applicant before issuance of an annuity contract.

(11) "Articles" or "articles of incorporation" means:

(a) the original articles;

(b) a special law;

(c) a charter;

(d) an amendment;

(e) restated articles;

(f) articles of merger or consolidation;

(g) a trust instrument;

(h) another constitutive document for a trust or other entity that is not a corporation; and

(i) an amendment to an item listed in Subsections (11)(a) through (h).

(12) "Bail bond insurance" means a guarantee that a person will attend court when required, up to and including surrender of the person in execution of a sentence imposed under Subsection 77-20-7(1), as a condition to the release of that person from confinement.

(13) "Binder" is defined in Section 31A-21-102.

(14) "Blanket insurance policy" means a group policy covering a defined class of persons:

(a) without individual underwriting or application; and

(b) that is determined by definition without designating each person covered.

(15) "Board," "board of trustees," or "board of directors" means the group of persons with responsibility over, or management of, a corporation, however designated.

(16) "Bona fide office" means a physical office in this state:

(a) that is open to the public;

(b) that is staffed during regular business hours on regular business days; and

(c) at which the public may appear in person to obtain services.

(17) "Business entity" means:

(a) a corporation;

(b) an association;

(c) a partnership;

(d) a limited liability company;

(e) a limited liability partnership; or

(f) another legal entity.

(18) "Business of insurance" is defined in Subsection (88).

(19) "Business plan" means the information required to be supplied to the commissioner under Subsections 31A-5-204(2)(i) and (j), including the information required when these subsections apply by reference under:

(a) Section 31A-7-201;

(b) Section 31A-8-205; or

(c) Subsection 31A-9-205(2).

(20) (a) "Bylaws" means the rules adopted for the regulation or management of a corporation's affairs, however designated.

(b) "Bylaws" includes comparable rules for a trust or other entity that is not a corporation.

(21) "Captive insurance company" means:

(a) an insurer:

(i) owned by another organization; and

(ii) whose exclusive purpose is to insure risks of the parent organization and an affiliated company; or

(b) in the case of a group or association, an insurer:

(i) owned by the insureds; and

(ii) whose exclusive purpose is to insure risks of:

(A) a member organization;

(B) a group member; or

(C) an affiliate of:

(I) a member organization; or

(II) a group member.

(22) "Casualty insurance" means liability insurance.

(23) "Certificate" means evidence of insurance given to:

(a) an insured under a group insurance policy; or

(b) a third party.

(24) "Certificate of authority" is included within the term "license."

(25) "Claim," unless the context otherwise requires, means a request or demand on an insurer for payment of a benefit according to the terms of an insurance policy.

(26) "Claims-made coverage" means an insurance contract or provision limiting coverage under a policy insuring against legal liability to claims that are first made against the insured while the policy is in force.

(27) (a) "Commissioner" or "commissioner of insurance" means Utah's insurance commissioner.

(b) When appropriate, the terms listed in Subsection (27)(a) apply to the equivalent supervisory official of another jurisdiction.

(28) (a) "Continuing care insurance" means insurance that:

(i) provides board and lodging;

(ii) provides one or more of the following:

(A) a personal service;

(B) a nursing service;

(C) a medical service; or

(D) any other health-related service; and

(iii) provides the coverage described in this Subsection (28)(a) under an agreement effective:

(A) for the life of the insured; or

(B) for a period in excess of one year.

(b) Insurance is continuing care insurance regardless of whether or not the board and lodging

are provided at the same location as a service described in Subsection (28)(a)(ii).

(29) (a) “Control,” “controlling,” “controlled,” or “under common control” means the direct or indirect possession of the power to direct or cause the direction of the management and policies of a person. This control may be:

- (i) by contract;
- (ii) by common management;
- (iii) through the ownership of voting securities; or
- (iv) by a means other than those described in Subsections (29)(a)(i) through (iii).

(b) There is no presumption that an individual holding an official position with another person controls that person solely by reason of the position.

(c) A person having a contract or arrangement giving control is considered to have control despite the illegality or invalidity of the contract or arrangement.

(d) There is a rebuttable presumption of control in a person who directly or indirectly owns, controls, holds with the power to vote, or holds proxies to vote 10% or more of the voting securities of another person.

(30) “Controlled insurer” means a licensed insurer that is either directly or indirectly controlled by a producer.

(31) “Controlling person” means a person that directly or indirectly has the power to direct or cause to be directed, the management, control, or activities of a reinsurance intermediary.

(32) “Controlling producer” means a producer who directly or indirectly controls an insurer.

(33) (a) “Corporation” means an insurance corporation, except when referring to:

- (i) a corporation doing business:
- (A) as:
 - (I) an insurance producer;
 - (II) a surplus lines producer;
 - (III) a limited line producer;
 - (IV) a consultant;
 - (V) a managing general agent;
 - (VI) a reinsurance intermediary;
 - (VII) a third party administrator; or
 - (VIII) an adjuster; and
- (B) under:

(I) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries;

- (II) Chapter 25, Third Party Administrators; or
- (III) Chapter 26, Insurance Adjusters; or

(ii) a noninsurer that is part of a holding company system under Chapter 16, Insurance Holding Companies.

(b) “Stock corporation” means a stock insurance corporation.

(c) “Mutual” or “mutual corporation” means a mutual insurance corporation.

(34) (a) “Creditable coverage” has the same meaning as provided in federal regulations adopted pursuant to the Health Insurance Portability and Accountability Act.

(b) “Creditable coverage” includes coverage that is offered through a public health plan such as:

- (i) the Primary Care Network Program under a Medicaid primary care network demonstration waiver obtained subject to Section 26-18-3;
- (ii) the Children’s Health Insurance Program under Section 26-40-106; or
- (iii) the Ryan White Program Comprehensive AIDS Resources Emergency Act, Pub. L. 101-381, and Ryan White HIV/AIDS Treatment Modernization Act of 2006, Pub. L. 109-415.

(35) “Credit accident and health insurance” means insurance on a debtor to provide indemnity for payments coming due on a specific loan or other credit transaction while the debtor has a disability.

(36) (a) “Credit insurance” means insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation.

(b) “Credit insurance” includes:

- (i) credit accident and health insurance;
- (ii) credit life insurance;
- (iii) credit property insurance;
- (iv) credit unemployment insurance;
- (v) guaranteed automobile protection insurance;
- (vi) involuntary unemployment insurance;
- (vii) mortgage accident and health insurance;
- (viii) mortgage guaranty insurance; and
- (ix) mortgage life insurance.

(37) “Credit life insurance” means insurance on the life of a debtor in connection with an extension of credit that pays a person if the debtor dies.

(38) “Credit property insurance” means insurance:

- (a) offered in connection with an extension of credit; and
- (b) that protects the property until the debt is paid.

(39) “Credit unemployment insurance” means insurance:

- (a) offered in connection with an extension of credit; and

(b) that provides indemnity if the debtor is unemployed for payments coming due on a:

- (i) specific loan; or
- (ii) credit transaction.

(40) “Creditor” means a person, including an insured, having a claim, whether:

- (a) matured;
- (b) unmatured;
- (c) liquidated;
- (d) unliquidated;
- (e) secured;
- (f) unsecured;
- (g) absolute;
- (h) fixed; or
- (i) contingent.

(41) (a) “Crop insurance” means insurance providing protection against damage to crops from unfavorable weather conditions, fire or lightning, flood, hail, insect infestation, disease, or other yield-reducing conditions or perils that is:

- (i) provided by the private insurance market; or
- (ii) subsidized by the Federal Crop Insurance Corporation.

(b) “Crop insurance” includes multiperil crop insurance.

(42) (a) “Customer service representative” means a person that provides an insurance service and insurance product information:

- (i) for the customer service representative’s:
 - (A) producer;
 - (B) surplus lines producer; or
 - (C) consultant employer; and
- (ii) to the customer service representative’s employer’s:
 - (A) customer;
 - (B) client; or
 - (C) organization.

(b) A customer service representative may only operate within the scope of authority of the customer service representative’s producer, surplus lines producer, or consultant employer.

(43) “Deadline” means a final date or time:

- (a) imposed by:
 - (i) statute;
 - (ii) rule; or
 - (iii) order; and

(b) by which a required filing or payment must be received by the department.

(44) “Deemer clause” means a provision under this title under which upon the occurrence of a condition precedent, the commissioner is considered to have taken a specific action. If the statute so provides, a condition precedent may be the commissioner’s failure to take a specific action.

(45) “Degree of relationship” means the number of steps between two persons determined by counting the generations separating one person from a common ancestor and then counting the generations to the other person.

(46) “Department” means the Insurance Department.

(47) “Director” means a member of the board of directors of a corporation.

(48) “Disability” means a physiological or psychological condition that partially or totally limits an individual’s ability to:

- (a) perform the duties of:
 - (i) that individual’s occupation; or
 - (ii) [any] an occupation for which the individual is reasonably suited by education, training, or experience; or

(b) perform two or more of the following basic activities of daily living:

- (i) eating;
- (ii) toileting;
- (iii) transferring;
- (iv) bathing; or
- (v) dressing.

(49) “Disability income insurance” is defined in Subsection (79).

(50) “Domestic insurer” means an insurer organized under the laws of this state.

(51) “Domiciliary state” means the state in which an insurer:

- (a) is incorporated;
- (b) is organized; or
- (c) in the case of an alien insurer, enters into the United States.

(52) (a) “Eligible employee” means:

- (i) an employee who:
 - (A) works on a full-time basis; and
 - (B) has a normal work week of 30 or more hours; or
- (ii) a person described in Subsection (52)(b).

(b) “Eligible employee” includes, if the individual is included under a health benefit plan of a small employer:

- (i) a sole proprietor;
- (ii) a partner in a partnership; or
- (iii) an independent contractor.

(c) "Eligible employee" does not include, unless eligible under Subsection (52)(b):

(i) an individual who works on a temporary or substitute basis for a small employer;

(ii) an employer's spouse; or

(iii) a dependent of an employer.

(53) "Employee" means an individual employed by an employer.

(54) "Employee benefits" means one or more benefits or services provided to:

(a) an employee; or

(b) a dependent of an employee.

(55) (a) "Employee welfare fund" means a fund:

(i) established or maintained, whether directly or through a trustee, by:

(A) one or more employers;

(B) one or more labor organizations; or

(C) a combination of employers and labor organizations; and

(ii) that provides employee benefits paid or contracted to be paid, other than income from investments of the fund:

(A) by or on behalf of an employer doing business in this state; or

(B) for the benefit of a person employed in this state.

(b) "Employee welfare fund" includes a plan funded or subsidized by a user fee or tax revenues.

(56) "Endorsement" means a written agreement attached to a policy or certificate to modify the policy or certificate coverage.

(57) "Enrollment date," with respect to a health benefit plan, means:

(a) the first day of coverage; or

(b) if there is a waiting period, the first day of the waiting period.

(58) (a) "Escrow" means:

(i) a transaction that effects the sale, transfer, encumbering, or leasing of real property, when a person not a party to the transaction, and neither having nor acquiring an interest in the title, performs, in accordance with the written instructions or terms of the written agreement between the parties to the transaction, any of the following actions:

(A) the explanation, holding, or creation of a document; or

(B) the receipt, deposit, and disbursement of money;

(ii) a settlement or closing involving:

(A) a mobile home;

(B) a grazing right;

(C) a water right; or

(D) other personal property authorized by the commissioner.

(b) "Escrow" does not include:

(i) the following notarial acts performed by a notary within the state:

(A) an acknowledgment;

(B) a copy certification;

(C) jurat; and

(D) an oath or affirmation;

(ii) the receipt or delivery of a document; or

(iii) the receipt of money for delivery to the escrow agent.

(59) "Escrow agent" means an agency title insurance producer meeting the requirements of Sections 31A-4-107, 31A-14-211, and 31A-23a-204, who is acting through an individual title insurance producer licensed with an escrow subline of authority.

(60) (a) "Excludes" is not exhaustive and does not mean that another thing is not also excluded.

(b) The items listed in a list using the term "excludes" are representative examples for use in interpretation of this title.

(61) "Exclusion" means for the purposes of accident and health insurance that an insurer does not provide insurance coverage, for whatever reason, for one of the following:

(a) a specific physical condition;

(b) a specific medical procedure;

(c) a specific disease or disorder; or

(d) a specific prescription drug or class of prescription drugs.

(62) "Expense reimbursement insurance" means insurance:

(a) written to provide a payment for an expense relating to hospital confinement resulting from illness or injury; and

(b) written:

(i) as a daily limit for a specific number of days in a hospital; and

(ii) to have a one or two day waiting period following a hospitalization.

(63) "Fidelity insurance" means insurance guaranteeing the fidelity of a person holding a position of public or private trust.

(64) (a) "Filed" means that a filing is:

(i) submitted to the department as required by and in accordance with applicable statute, rule, or filing order;

(ii) received by the department within the time period provided in applicable statute, rule, or filing order; and

(iii) accompanied by the appropriate fee in accordance with:

- (A) Section 31A-3-103; or
- (B) rule.

(b) "Filed" does not include a filing that is rejected by the department because it is not submitted in accordance with Subsection (64)(a).

(65) "Filing," when used as a noun, means an item required to be filed with the department including:

- (a) a policy;
- (b) a rate;
- (c) a form;
- (d) a document;
- (e) a plan;
- (f) a manual;
- (g) an application;
- (h) a report;
- (i) a certificate;
- (j) an endorsement;
- (k) an actuarial certification;
- (l) a licensee annual statement;
- (m) a licensee renewal application;
- (n) an advertisement; or
- (o) an outline of coverage.

(66) "First party insurance" means an insurance policy or contract in which the insurer agrees to pay a claim submitted to it by the insured for the insured's losses.

(67) "Foreign insurer" means an insurer domiciled outside of this state, including an alien insurer.

(68) (a) "Form" means one of the following prepared for general use:

- (i) a policy;
- (ii) a certificate;
- (iii) an application;
- (iv) an outline of coverage; or
- (v) an endorsement.

(b) "Form" does not include a document specially prepared for use in an individual case.

(69) "Franchise insurance" means an individual insurance policy provided through a mass marketing arrangement involving a defined class of persons related in some way other than through the purchase of insurance.

(70) "General lines of authority" include:

(a) the general lines of insurance in Subsection (71);

(b) title insurance under one of the following sublines of authority:

- (i) search, including authority to act as a title marketing representative;
 - (ii) escrow, including authority to act as a title marketing representative; and
 - (iii) title marketing representative only;
- (c) surplus lines;
- (d) workers' compensation; and
- (e) ~~any other~~ another line of insurance that the commissioner considers necessary to recognize in the public interest.

(71) "General lines of insurance" include:

- (a) accident and health;
- (b) casualty;
- (c) life;
- (d) personal lines;
- (e) property; and
- (f) variable contracts, including variable life and annuity.

(72) "Group health plan" means an employee welfare benefit plan to the extent that the plan provides medical care:

- (a) (i) to an employee; or
- (ii) to a dependent of an employee; and
- (b) (i) directly;
- (ii) through insurance reimbursement; or
- (iii) through another method.

(73) (a) "Group insurance policy" means a policy covering a group of persons that is issued:

- (i) to a policyholder on behalf of the group; and
- (ii) for the benefit of a member of the group who is selected under a procedure defined in:

- (A) the policy; or
- (B) an agreement that is collateral to the policy.

(b) A group insurance policy may include a member of the policyholder's family or a dependent.

(74) "Guaranteed automobile protection insurance" means insurance offered in connection with an extension of credit that pays the difference in amount between the insurance settlement and the balance of the loan if the insured automobile is a total loss.

(75) (a) Except as provided in Subsection (75)(b), "health benefit plan" means a policy or certificate that:

- (i) provides health care insurance;
- (ii) provides major medical expense insurance; or
- (iii) is offered as a substitute for hospital or medical expense insurance, such as:

(A) a hospital confinement indemnity; or

(B) a limited benefit plan.

(b) “Health benefit plan” does not include a policy or certificate that:

(i) provides benefits solely for:

(A) accident;

(B) dental;

(C) income replacement;

(D) long-term care;

(E) a Medicare supplement;

(F) a specified disease;

(G) vision; or

(H) a short-term limited duration; or

(ii) is offered and marketed as supplemental health insurance.

(76) “Health care” means any of the following intended for use in the diagnosis, treatment, mitigation, or prevention of a human ailment or impairment:

(a) a professional service;

(b) a personal service;

(c) a facility;

(d) equipment;

(e) a device;

(f) supplies; or

(g) medicine.

(77) (a) “Health care insurance” or “health insurance” means insurance providing:

(i) a health care benefit; or

(ii) payment of an incurred health care expense.

(b) “Health care insurance” or “health insurance” does not include accident and health insurance providing a benefit for:

(i) replacement of income;

(ii) short-term accident;

(iii) fixed indemnity;

(iv) credit accident and health;

(v) supplements to liability;

(vi) workers’ compensation;

(vii) automobile medical payment;

(viii) no-fault automobile;

(ix) equivalent self-insurance; or

(x) a type of accident and health insurance coverage that is a part of or attached to another type of policy.

(78) “Health Insurance Portability and Accountability Act” means the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, 110 Stat. 1936, as amended.

(79) “Income replacement insurance” or “disability income insurance” means insurance written to provide payments to replace income lost from accident or sickness.

(80) “Indemnity” means the payment of an amount to offset all or part of an insured loss.

(81) “Independent adjuster” means an insurance adjuster required to be licensed under Section 31A-26-201 who engages in insurance adjusting as a representative of an insurer.

(82) “Independently procured insurance” means insurance procured under Section 31A-15-104.

(83) “Individual” means a natural person.

(84) “Inland marine insurance” includes insurance covering:

(a) property in transit on or over land;

(b) property in transit over water by means other than boat or ship;

(c) bailee liability;

(d) fixed transportation property such as bridges, electric transmission systems, radio and television transmission towers and tunnels; and

(e) personal and commercial property floaters.

(85) “Insolvency” means that:

(a) an insurer is unable to pay its debts or meet its obligations as the debts and obligations mature;

(b) an insurer’s total adjusted capital is less than the insurer’s mandatory control level RBC under Subsection 31A-17-601(8)(c); or

(c) an insurer is determined to be hazardous under this title.

(86) (a) “Insurance” means:

(i) an arrangement, contract, or plan for the transfer of a risk or risks from one or more persons to one or more other persons; or

(ii) an arrangement, contract, or plan for the distribution of a risk or risks among a group of persons that includes the person seeking to distribute that person’s risk.

(b) “Insurance” includes:

(i) a risk distributing arrangement providing for compensation or replacement for damages or loss through the provision of a service or a benefit in kind;

(ii) a contract of guaranty or suretyship entered into by the guarantor or surety as a business and not as merely incidental to a business transaction; and

(iii) a plan in which the risk does not rest upon the person who makes an arrangement, but with a class of persons who have agreed to share the risk.

(87) "Insurance adjuster" means a person who directs or conducts the investigation, negotiation, or settlement of a claim under an insurance policy other than life insurance or an annuity, on behalf of an insurer, policyholder, or a claimant under an insurance policy.

(88) "Insurance business" or "business of insurance" includes:

(a) providing health care insurance by an organization that is or is required to be licensed under this title;

(b) providing a benefit to an employee in the event of a contingency not within the control of the employee, in which the employee is entitled to the benefit as a right, which benefit may be provided either:

(i) by a single employer or by multiple employer groups; or

(ii) through one or more trusts, associations, or other entities;

(c) providing an annuity:

(i) including an annuity issued in return for a gift; and

(ii) except an annuity provided by a person specified in Subsections 31A-22-1305(2) and (3);

(d) providing the characteristic services of a motor club as outlined in Subsection (116);

(e) providing another person with insurance;

(f) making as insurer, guarantor, or surety, or proposing to make as insurer, guarantor, or surety, a contract or policy of title insurance;

(g) transacting or proposing to transact any phase of title insurance, including:

(i) solicitation;

(ii) negotiation preliminary to execution;

(iii) execution of a contract of title insurance;

(iv) insuring; and

(v) transacting matters subsequent to the execution of the contract and arising out of the contract, including reinsurance;

(h) transacting or proposing a life settlement; and

(i) doing, or proposing to do, any business in substance equivalent to Subsections (88)(a) through (h) in a manner designed to evade this title.

(89) "Insurance consultant" or "consultant" means a person who:

(a) advises another person about insurance needs and coverages;

(b) is compensated by the person advised on a basis not directly related to the insurance placed; and

(c) except as provided in Section 31A-23a-501, is not compensated directly or indirectly by an insurer or producer for advice given.

(90) "Insurance holding company system" means a group of two or more affiliated persons, at least one of whom is an insurer.

(91) (a) "Insurance producer" or "producer" means a person licensed or required to be licensed under the laws of this state to sell, solicit, or negotiate insurance.

(b) (i) "Producer for the insurer" means a producer who is compensated directly or indirectly by an insurer for selling, soliciting, or negotiating an insurance product of that insurer.

(ii) "Producer for the insurer" may be referred to as an "agent."

(c) (i) "Producer for the insured" means a producer who:

(A) is compensated directly and only by an insurance customer or an insured; and

(B) receives no compensation directly or indirectly from an insurer for selling, soliciting, or negotiating an insurance product of that insurer to an insurance customer or insured.

(ii) "Producer for the insured" may be referred to as a "broker."

(92) (a) "Insured" means a person to whom or for whose benefit an insurer makes a promise in an insurance policy and includes:

(i) a policyholder;

(ii) a subscriber;

(iii) a member; and

(iv) a beneficiary.

(b) The definition in Subsection (92)(a):

(i) applies only to this title; and

(ii) does not define the meaning of this word as used in an insurance policy or certificate.

(93) (a) "Insurer" means a person doing an insurance business as a principal including:

(i) a fraternal benefit society;

(ii) an issuer of a gift annuity other than an annuity specified in Subsections 31A-22-1305(2) and (3);

(iii) a motor club;

(iv) an employee welfare plan; and

(v) a person purporting or intending to do an insurance business as a principal on that person's own account.

(b) "Insurer" does not include a governmental entity to the extent the governmental entity is engaged in an activity described in Section 31A-12-107.

(94) "Interinsurance exchange" is defined in Subsection [(446)] (147).

(95) “Involuntary unemployment insurance” means insurance:

(a) offered in connection with an extension of credit; and

(b) that provides indemnity if the debtor is involuntarily unemployed for payments coming due on a:

- (i) specific loan; or
- (ii) credit transaction.

(96) “Large employer,” in connection with a health benefit plan, means an employer who, with respect to a calendar year and to a plan year:

(a) employed an average of at least 51 eligible employees on each business day during the preceding calendar year; and

(b) employs at least two employees on the first day of the plan year.

(97) “Late enrollee,” with respect to an employer health benefit plan, means an individual whose enrollment is a late enrollment.

(98) “Late enrollment,” with respect to an employer health benefit plan, means enrollment of an individual other than:

(a) on the earliest date on which coverage can become effective for the individual under the terms of the plan; or

(b) through special enrollment.

(99) (a) Except for a retainer contract or legal assistance described in Section 31A-1-103, “legal expense insurance” means insurance written to indemnify or pay for a specified legal expense.

(b) “Legal expense insurance” includes an arrangement that creates a reasonable expectation of an enforceable right.

(c) “Legal expense insurance” does not include the provision of, or reimbursement for, legal services incidental to other insurance coverage.

(100) (a) “Liability insurance” means insurance against liability:

(i) for death, injury, or disability of a human being, or for damage to property, exclusive of the coverages under:

(A) Subsection (110) for medical malpractice insurance;

(B) Subsection (138) for professional liability insurance; and

(C) Subsection [(172)] (173) for workers’ compensation insurance;

(ii) for a medical, hospital, surgical, and funeral benefit to a person other than the insured who is injured, irrespective of legal liability of the insured, when issued with or supplemental to insurance against legal liability for the death, injury, or disability of a human being, exclusive of the coverages under:

(A) Subsection (110) for medical malpractice insurance;

(B) Subsection (138) for professional liability insurance; and

(C) Subsection [(172)] (173) for workers’ compensation insurance;

(iii) for loss or damage to property resulting from an accident to or explosion of a boiler, pipe, pressure container, machinery, or apparatus;

(iv) for loss or damage to property caused by:

(A) the breakage or leakage of a sprinkler, water pipe, or water container; or

(B) water entering through a leak or opening in a building; or

(v) for other loss or damage properly the subject of insurance not within another kind of insurance as defined in this chapter, if the insurance is not contrary to law or public policy.

(b) “Liability insurance” includes:

(i) vehicle liability insurance;

(ii) residential dwelling liability insurance; and

(iii) making inspection of, and issuing a certificate of inspection upon, an elevator, boiler, machinery, or apparatus of any kind when done in connection with insurance on the elevator, boiler, machinery, or apparatus.

(101) (a) “License” means authorization issued by the commissioner to engage in an activity that is part of or related to the insurance business.

(b) “License” includes a certificate of authority issued to an insurer.

(102) (a) “Life insurance” means:

(i) insurance on a human life; and

(ii) insurance pertaining to or connected with human life.

(b) The business of life insurance includes:

(i) granting a death benefit;

(ii) granting an annuity benefit;

(iii) granting an endowment benefit;

(iv) granting an additional benefit in the event of death by accident;

(v) granting an additional benefit to safeguard the policy against lapse; and

(vi) providing an optional method of settlement of proceeds.

(103) “Limited license” means a license that:

(a) is issued for a specific product of insurance; and

(b) limits an individual or agency to transact only for that product or insurance.

(104) “Limited line credit insurance” includes the following forms of insurance:

- (a) credit life;
- (b) credit accident and health;
- (c) credit property;
- (d) credit unemployment;
- (e) involuntary unemployment;
- (f) mortgage life;
- (g) mortgage guaranty;
- (h) mortgage accident and health;
- (i) guaranteed automobile protection; and
- (j) another form of insurance offered in connection with an extension of credit that:

(i) is limited to partially or wholly extinguishing the credit obligation; and

(ii) the commissioner determines by rule should be designated as a form of limited line credit insurance.

(105) "Limited line credit insurance producer" means a person who sells, solicits, or negotiates one or more forms of limited line credit insurance coverage to an individual through a master, corporate, group, or individual policy.

(106) "Limited line insurance" includes:

- (a) bail bond;
- (b) limited line credit insurance;
- (c) legal expense insurance;
- (d) motor club insurance;
- (e) car rental related insurance;
- (f) travel insurance;
- (g) crop insurance;
- (h) self-service storage insurance;
- (i) guaranteed asset protection waiver;
- (j) portable electronics insurance; and

(k) another form of limited insurance that the commissioner determines by rule should be designated a form of limited line insurance.

(107) "Limited lines authority" includes ~~[-(a)]~~ the lines of insurance listed in Subsection (106) ~~[-and]~~.

~~[(b) a customer service representative.]~~

(108) "Limited lines producer" means a person who sells, solicits, or negotiates limited lines insurance.

(109) (a) "Long-term care insurance" means an insurance policy or rider advertised, marketed, offered, or designated to provide coverage:

(i) in a setting other than an acute care unit of a hospital;

(ii) for not less than 12 consecutive months for a covered person on the basis of:

- (A) expenses incurred;

- (B) indemnity;
- (C) prepayment; or
- (D) another method;

(iii) for one or more necessary or medically necessary services that are:

- (A) diagnostic;
- (B) preventative;
- (C) therapeutic;
- (D) rehabilitative;
- (E) maintenance; or
- (F) personal care; and

(iv) that may be issued by:

- (A) an insurer;
- (B) a fraternal benefit society;
- (C) (I) a nonprofit health hospital; and
- (II) a medical service corporation;
- (D) a prepaid health plan;
- (E) a health maintenance organization; or

(F) an entity similar to the entities described in Subsections (109)(a)(iv)(A) through (E) to the extent that the entity is otherwise authorized to issue life or health care insurance.

(b) "Long-term care insurance" includes:

(i) any of the following that provide directly or supplement long-term care insurance:

- (A) a group or individual annuity or rider; or
- (B) a life insurance policy or rider;

(ii) a policy or rider that provides for payment of benefits on the basis of:

- (A) cognitive impairment; or
- (B) functional capacity; or

(iii) a qualified long-term care insurance contract.

(c) "Long-term care insurance" does not include:

(i) a policy that is offered primarily to provide basic Medicare supplement coverage;

(ii) basic hospital expense coverage;

(iii) basic medical/surgical expense coverage;

(iv) hospital confinement indemnity coverage;

(v) major medical expense coverage;

(vi) income replacement or related asset-protection coverage;

(vii) accident only coverage;

(viii) coverage for a specified:

- (A) disease; or
- (B) accident;

- (ix) limited benefit health coverage; or
- (x) a life insurance policy that accelerates the death benefit to provide the option of a lump sum payment:
- (A) if the following are not conditioned on the receipt of long-term care:
- (I) benefits; or
- (II) eligibility; and
- (B) the coverage is for one or more the following qualifying events:
- (I) terminal illness;
- (II) medical conditions requiring extraordinary medical intervention; or
- (III) permanent institutional confinement.
- (110) "Medical malpractice insurance" means insurance against legal liability incident to the practice and provision of a medical service other than the practice and provision of a dental service.
- (111) "Member" means a person having membership rights in an insurance corporation.
- (112) "Minimum capital" or "minimum required capital" means the capital that must be constantly maintained by a stock insurance corporation as required by statute.
- (113) "Mortgage accident and health insurance" means insurance offered in connection with an extension of credit that provides indemnity for payments coming due on a mortgage while the debtor has a disability.
- (114) "Mortgage guaranty insurance" means surety insurance under which a mortgagee or other creditor is indemnified against losses caused by the default of a debtor.
- (115) "Mortgage life insurance" means insurance on the life of a debtor in connection with an extension of credit that pays if the debtor dies.
- (116) "Motor club" means a person:
- (a) licensed under:
- (i) Chapter 5, Domestic Stock and Mutual Insurance Corporations;
- (ii) Chapter 11, Motor Clubs; or
- (iii) Chapter 14, Foreign Insurers; and
- (b) that promises for an advance consideration to provide for a stated period of time one or more:
- (i) legal services under Subsection 31A-11-102(1)(b);
- (ii) bail services under Subsection 31A-11-102(1)(c); or
- (iii) (A) trip reimbursement;
- (B) towing services;
- (C) emergency road services;

- (D) stolen automobile services;
- (E) a combination of the services listed in Subsections (116)(b)(iii)(A) through (D); or
- (F) other services given in Subsections 31A-11-102(1)(b) through (f).
- (117) "Mutual" means a mutual insurance corporation.
- (118) "Network plan" means health care insurance:
- (a) that is issued by an insurer; and
- (b) under which the financing and delivery of medical care is provided, in whole or in part, through a defined set of providers under contract with the insurer, including the financing and delivery of an item paid for as medical care.
- (119) "Nonparticipating" means a plan of insurance under which the insured is not entitled to receive a dividend representing a share of the surplus of the insurer.
- (120) "Ocean marine insurance" means insurance against loss of or damage to:
- (a) ships or hulls of ships;
- (b) goods, freight, cargoes, merchandise, effects, disbursements, profits, money, securities, choses in action, evidences of debt, valuable papers, bottomry, respondentia interests, or other cargoes in or awaiting transit over the oceans or inland waterways;
- (c) earnings such as freight, passage money, commissions, or profits derived from transporting goods or people upon or across the oceans or inland waterways; or
- (d) a vessel owner or operator as a result of liability to employees, passengers, bailors, owners of other vessels, owners of fixed objects, customs or other authorities, or other persons in connection with maritime activity.
- (121) "Order" means an order of the commissioner.
- (122) "Outline of coverage" means a summary that explains an accident and health insurance policy.
- (123) "Participating" means a plan of insurance under which the insured is entitled to receive a dividend representing a share of the surplus of the insurer.
- (124) "Participation," as used in a health benefit plan, means a requirement relating to the minimum percentage of eligible employees that must be enrolled in relation to the total number of eligible employees of an employer reduced by each eligible employee who voluntarily declines coverage under the plan because the employee:
- (a) has other group health care insurance coverage; or
- (b) receives:

(i) Medicare, under the Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965; or

(ii) another government health benefit.

(125) "Person" includes:

(a) an individual;

(b) a partnership;

(c) a corporation;

(d) an incorporated or unincorporated association;

(e) a joint stock company;

(f) a trust;

(g) a limited liability company;

(h) a reciprocal;

(i) a syndicate; or

(j) another similar entity or combination of entities acting in concert.

(126) "Personal lines insurance" means property and casualty insurance coverage sold for primarily noncommercial purposes to:

(a) an individual; or

(b) a family.

(127) "Plan sponsor" is as defined in 29 U.S.C. Sec. 1002(16)(B).

(128) "Plan year" means:

(a) the year that is designated as the plan year in:

(i) the plan document of a group health plan; or

(ii) a summary plan description of a group health plan;

(b) if the plan document or summary plan description does not designate a plan year or there is no plan document or summary plan description:

(i) the year used to determine deductibles or limits;

(ii) the policy year, if the plan does not impose deductibles or limits on a yearly basis; or

(iii) the employer's taxable year if:

(A) the plan does not impose deductibles or limits on a yearly basis; and

(B) (I) the plan is not insured; or

(II) the insurance policy is not renewed on an annual basis; or

(c) in a case not described in Subsection (128)(a) or (b), the calendar year.

(129) (a) "Policy" means a document, including an attached endorsement or application that:

(i) purports to be an enforceable contract; and

(ii) memorializes in writing some or all of the terms of an insurance contract.

(b) "Policy" includes a service contract issued by:

(i) a motor club under Chapter 11, Motor Clubs;

(ii) a service contract provided under Chapter 6a, Service Contracts; and

(iii) a corporation licensed under:

(A) Chapter 7, Nonprofit Health Service Insurance Corporations; or

(B) Chapter 8, Health Maintenance Organizations and Limited Health Plans.

(c) "Policy" does not include:

(i) a certificate under a group insurance contract; or

(ii) a document that does not purport to have legal effect.

(130) "Policyholder" means a person who controls a policy, binder, or oral contract by ownership, premium payment, or otherwise.

(131) "Policy illustration" means a presentation or depiction that includes nonguaranteed elements of a policy of life insurance over a period of years.

(132) "Policy summary" means a synopsis describing the elements of a life insurance policy.

(133) "PPACA" means the Patient Protection and Affordable Care Act, Pub. L. No. 111-148 and the Health Care Education Reconciliation Act of 2010, Pub. L. No. 111-152, and related federal regulations and guidance.

(134) "Preexisting condition," with respect to a health benefit plan:

(a) means a condition that was present before the effective date of coverage, whether or not medical advice, diagnosis, care, or treatment was recommended or received before that day; and

(b) does not include a condition indicated by genetic information unless an actual diagnosis of the condition by a physician has been made.

(135) (a) "Premium" means the monetary consideration for an insurance policy.

(b) "Premium" includes, however designated:

(i) an assessment;

(ii) a membership fee;

(iii) a required contribution; or

(iv) monetary consideration.

(c) (i) "Premium" does not include consideration paid to a third party administrator for the third party administrator's services.

(ii) "Premium" includes an amount paid by a third party administrator to an insurer for insurance on the risks administered by the third party administrator.

(136) “Principal officers” for a corporation means the officers designated under Subsection 31A-5-203(3).

(137) “Proceeding” includes an action or special statutory proceeding.

(138) “Professional liability insurance” means insurance against legal liability incident to the practice of a profession and provision of a professional service.

(139) (a) Except as provided in Subsection (139)(b), “property insurance” means insurance against loss or damage to real or personal property of every kind and any interest in that property:

(i) from all hazards or causes; and

(ii) against loss consequential upon the loss or damage including vehicle comprehensive and vehicle physical damage coverages.

(b) “Property insurance” does not include:

(i) inland marine insurance; and

(ii) ocean marine insurance.

(140) “Qualified long-term care insurance contract” or “federally tax qualified long-term care insurance contract” means:

(a) an individual or group insurance contract that meets the requirements of Section 7702B(b), Internal Revenue Code; or

(b) the portion of a life insurance contract that provides long-term care insurance:

(i) (A) by rider; or

(B) as a part of the contract; and

(ii) that satisfies the requirements of Sections 7702B(b) and (e), Internal Revenue Code.

(141) “Qualified United States financial institution” means an institution that:

(a) is:

(i) organized under the laws of the United States or any state; or

(ii) in the case of a United States office of a foreign banking organization, licensed under the laws of the United States or any state;

(b) is regulated, supervised, and examined by a United States federal or state authority having regulatory authority over a bank or trust company; and

(c) meets the standards of financial condition and standing that are considered necessary and appropriate to regulate the quality of a financial institution whose letters of credit will be acceptable to the commissioner as determined by:

(i) the commissioner by rule; or

(ii) the Securities Valuation Office of the National Association of Insurance Commissioners.

(142) (a) “Rate” means:

(i) the cost of a given unit of insurance; or

(ii) for property or casualty insurance, that cost of insurance per exposure unit either expressed as:

(A) a single number; or

(B) a pure premium rate, adjusted before the application of individual risk variations based on loss or expense considerations to account for the treatment of:

(I) expenses;

(II) profit; and

(III) individual insurer variation in loss experience.

(b) “Rate” does not include a minimum premium.

(143) (a) Except as provided in Subsection (143)(b), “rate service organization” means a person who assists an insurer in rate making or filing by:

(i) collecting, compiling, and furnishing loss or expense statistics;

(ii) recommending, making, or filing rates or supplementary rate information; or

(iii) advising about rate questions, except as an attorney giving legal advice.

(b) “Rate service organization” does not mean:

(i) an employee of an insurer;

(ii) a single insurer or group of insurers under common control;

(iii) a joint underwriting group; or

(iv) an individual serving as an actuarial or legal consultant.

(144) “Rating manual” means any of the following used to determine initial and renewal policy premiums:

(a) a manual of rates;

(b) a classification;

(c) a rate-related underwriting rule; and

(d) a rating formula that describes steps, policies, and procedures for determining initial and renewal policy premiums.

(145) (a) “Rebate” means a licensee paying, allowing, giving, or offering to pay, allow, or give, directly or indirectly:

(i) a refund of premium or portion of premium;

(ii) a refund of commission or portion of commission;

(iii) a refund of all or a portion of a consultant fee; or

(iv) providing services or other benefits not specified in an insurance or annuity contract.

(b) “Rebate” does not include:

(i) a refund due to termination or changes in coverage;

(ii) a refund due to overcharges made in error by the licensee; or

(iii) savings or wellness benefits as provided in the contract by the licensee.

~~[(145)]~~ (146) “Received by the department” means:

(a) the date delivered to and stamped received by the department, if delivered in person;

(b) the post mark date, if delivered by mail;

(c) the delivery service’s post mark or pickup date, if delivered by a delivery service;

(d) the received date recorded on an item delivered, if delivered by:

(i) facsimile;

(ii) email; or

(iii) another electronic method; or

(e) a date specified in:

(i) a statute;

(ii) a rule; or

(iii) an order.

~~[(146)]~~ (147) “Reciprocal” or “interinsurance exchange” means an unincorporated association of persons:

(a) operating through an attorney-in-fact common to all of the persons; and

(b) exchanging insurance contracts with one another that provide insurance coverage on each other.

~~[(147)]~~ (148) “Reinsurance” means an insurance transaction where an insurer, for consideration, transfers any portion of the risk it has assumed to another insurer. In referring to reinsurance transactions, this title sometimes refers to:

(a) the insurer transferring the risk as the “ceding insurer”; and

(b) the insurer assuming the risk as the:

(i) “assuming insurer”; or

(ii) “assuming reinsurer.”

~~[(148)]~~ (149) “Reinsurer” means a person licensed in this state as an insurer with the authority to assume reinsurance.

~~[(149)]~~ (150) “Residential dwelling liability insurance” means insurance against liability resulting from or incident to the ownership, maintenance, or use of a residential dwelling that is a detached single family residence or multifamily residence up to four units.

~~[(150)]~~ (151) (a) “Retrocession” means reinsurance with another insurer of a liability assumed under a reinsurance contract.

(b) A reinsurer “retrocedes” when the reinsurer reinsures with another insurer part of a liability assumed under a reinsurance contract.

~~[(151)]~~ (152) “Rider” means an endorsement to:

(a) an insurance policy; or

(b) an insurance certificate.

~~[(152)]~~ (153) (a) “Security” means a:

(i) note;

(ii) stock;

(iii) bond;

(iv) debenture;

(v) evidence of indebtedness;

(vi) certificate of interest or participation in a profit-sharing agreement;

(vii) collateral-trust certificate;

(viii) preorganization certificate or subscription;

(ix) transferable share;

(x) investment contract;

(xi) voting trust certificate;

(xii) certificate of deposit for a security;

(xiii) certificate of interest of participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease;

(xiv) commodity contract or commodity option;

(xv) certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase any of the items listed in Subsections ~~[(152)]~~ (153)(a)(i) through (xiv); or

(xvi) another interest or instrument commonly known as a security.

(b) “Security” does not include:

(i) any of the following under which an insurance company promises to pay money in a specific lump sum or periodically for life or some other specified period:

(A) insurance;

(B) an endowment policy; or

(C) an annuity contract; or

(ii) a burial certificate or burial contract.

~~[(153)]~~ (154) “Secondary medical condition” means a complication related to an exclusion from coverage in accident and health insurance.

~~[(154)]~~ (155) (a) “Self-insurance” means an arrangement under which a person provides for spreading its own risks by a systematic plan.

(b) Except as provided in this Subsection ~~[(154)]~~ (155), “self-insurance” does not include an arrangement under which a number of persons spread their risks among themselves.

(c) “Self-insurance” includes:

(i) an arrangement by which a governmental entity undertakes to indemnify an employee for liability arising out of the employee’s employment; and

(ii) an arrangement by which a person with a managed program of self-insurance and risk management undertakes to indemnify its affiliates, subsidiaries, directors, officers, or employees for liability or risk that is related to the relationship or employment.

(d) “Self-insurance” does not include an arrangement with an independent contractor.

~~[(455)]~~ (156) “Sell” means to exchange a contract of insurance:

(a) by any means;

(b) for money or its equivalent; and

(c) on behalf of an insurance company.

~~[(456)]~~ (157) “Short-term care insurance” means an insurance policy or rider advertised, marketed, offered, or designed to provide coverage that is similar to long-term care insurance, but that provides coverage for less than 12 consecutive months for each covered person.

~~[(457)]~~ (158) “Significant break in coverage” means a period of 63 consecutive days during each of which an individual does not have creditable coverage.

~~[(458)]~~ (159) “Small employer~~;~~” means, in connection with a health benefit plan~~;~~ ~~means an employer who,~~ and with respect to a calendar year and to a plan year, an employer who:

(a) employed ~~[an average of]~~ at least ~~[two employees]~~ one employee but not more than an average of 50 eligible employees on ~~[each]~~ business ~~[day]~~ days during the preceding calendar year; and

(b) employs at least ~~[two employees]~~ one employee on the first day of the plan year.

~~[(459)]~~ (160) “Special enrollment period,” in connection with a health benefit plan, has the same meaning as provided in federal regulations adopted pursuant to the Health Insurance Portability and Accountability Act.

~~[(460)]~~ (161) (a) “Subsidiary” of a person means an affiliate controlled by that person either directly or indirectly through one or more affiliates or intermediaries.

(b) “Wholly owned subsidiary” of a person is a subsidiary of which all of the voting shares are owned by that person either alone or with its affiliates, except for the minimum number of shares the law of the subsidiary’s domicile requires to be owned by directors or others.

~~[(461)]~~ (162) Subject to Subsection (86)(b), “surety insurance” includes:

(a) a guarantee against loss or damage resulting from the failure of a principal to pay or perform the principal’s obligations to a creditor or other obligee;

(b) bail bond insurance; and

(c) fidelity insurance.

~~[(462)]~~ (163) (a) “Surplus” means the excess of assets over the sum of paid-in capital and liabilities.

(b) (i) “Permanent surplus” means the surplus of an insurer or organization that is designated by the insurer or organization as permanent.

(ii) Sections 31A-5-211, 31A-7-201, 31A-8-209, 31A-9-209, and 31A-14-205 require that insurers or organizations doing business in this state maintain specified minimum levels of permanent surplus.

(iii) Except for assessable mutuals, the minimum permanent surplus requirement is the same as the minimum required capital requirement that applies to stock insurers.

(c) “Excess surplus” means:

(i) for a life insurer, accident and health insurer, health organization, or property and casualty insurer as defined in Section 31A-17-601, the lesser of:

(A) that amount of an insurer’s or health organization’s total adjusted capital that exceeds the product of:

(I) 2.5; and

(II) the sum of the insurer’s or health organization’s minimum capital or permanent surplus required under Section 31A-5-211, 31A-9-209, or 31A-14-205; or

(B) that amount of an insurer’s or health organization’s total adjusted capital that exceeds the product of:

(I) 3.0; and

(II) the authorized control level RBC as defined in Subsection 31A-17-601(8)(a); and

(ii) for a monoline mortgage guaranty insurer, financial guaranty insurer, or title insurer that amount of an insurer’s paid-in-capital and surplus that exceeds the product of:

(A) 1.5; and

(B) the insurer’s total adjusted capital required by Subsection 31A-17-609(1).

~~[(463)]~~ (164) “Third party administrator” or “administrator” means a person who collects charges or premiums from, or who, for consideration, adjusts or settles claims of residents of the state in connection with insurance coverage, annuities, or service insurance coverage, except:

(a) a union on behalf of its members;

(b) a person administering a:

(i) pension plan subject to the federal Employee Retirement Income Security Act of 1974;

(ii) governmental plan as defined in Section 414(d), Internal Revenue Code; or

(iii) nonelecting church plan as described in Section 410(d), Internal Revenue Code;

(c) an employer on behalf of the employer's employees or the employees of one or more of the subsidiary or affiliated corporations of the employer;

(d) an insurer licensed under the following, but only for a line of insurance for which the insurer holds a license in this state:

(i) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

(ii) Chapter 7, Nonprofit Health Service Insurance Corporations;

(iii) Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(iv) Chapter 9, Insurance Fraternal; or

(v) Chapter 14, Foreign Insurers;

(e) a person:

(i) licensed or exempt from licensing under:

(A) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries; or

(B) Chapter 26, Insurance Adjusters; and

(ii) whose activities are limited to those authorized under the license the person holds or for which the person is exempt; or

(f) an institution, bank, or financial institution:

(i) that is:

(A) an institution whose deposits and accounts are to any extent insured by a federal deposit insurance agency, including the Federal Deposit Insurance Corporation or National Credit Union Administration; or

(B) a bank or other financial institution that is subject to supervision or examination by a federal or state banking authority; and

(ii) that does not adjust claims without a third party administrator license.

~~(164)~~ (165) "Title insurance" means the insuring, guaranteeing, or indemnifying of an owner of real or personal property or the holder of liens or encumbrances on that property, or others interested in the property against loss or damage suffered by reason of liens or encumbrances upon, defects in, or the unmarketability of the title to the property, or invalidity or unenforceability of any liens or encumbrances on the property.

~~(165)~~ (166) "Total adjusted capital" means the sum of an insurer's or health organization's statutory capital and surplus as determined in accordance with:

(a) the statutory accounting applicable to the annual financial statements required to be filed under Section 31A-4-113; and

(b) another item provided by the RBC instructions, as RBC instructions is defined in Section 31A-17-601.

~~(166)~~ (167) (a) "Trustee" means "director" when referring to the board of directors of a corporation.

(b) "Trustee," when used in reference to an employee welfare fund, means an individual, firm, association, organization, joint stock company, or corporation, whether acting individually or jointly and whether designated by that name or any other, that is charged with or has the overall management of an employee welfare fund.

~~(167)~~ (168) (a) "Unauthorized insurer," "unadmitted insurer," or "nonadmitted insurer" means an insurer:

(i) not holding a valid certificate of authority to do an insurance business in this state; or

(ii) transacting business not authorized by a valid certificate.

(b) "Admitted insurer" or "authorized insurer" means an insurer:

(i) holding a valid certificate of authority to do an insurance business in this state; and

(ii) transacting business as authorized by a valid certificate.

~~(168)~~ (169) "Underwrite" means the authority to accept or reject risk on behalf of the insurer.

~~(169)~~ (170) "Vehicle liability insurance" means insurance against liability resulting from or incident to ownership, maintenance, or use of a land vehicle or aircraft, exclusive of a vehicle comprehensive or vehicle physical damage coverage under Subsection (139).

~~(170)~~ (171) "Voting security" means a security with voting rights, and includes a security convertible into a security with a voting right associated with the security.

~~(171)~~ (172) "Waiting period" for a health benefit plan means the period that must pass before coverage for an individual, who is otherwise eligible to enroll under the terms of the health benefit plan, can become effective.

~~(172)~~ (173) "Workers' compensation insurance" means:

(a) insurance for indemnification of an employer against liability for compensation based on:

(i) a compensable accidental injury; and

(ii) occupational disease disability;

(b) employer's liability insurance incidental to workers' compensation insurance and written in connection with workers' compensation insurance; and

(c) insurance assuring to a person entitled to workers' compensation benefits the compensation provided by law.

Section 2. Section 31A-2-104 is amended to read:

31A-2-104. Other employees -- Insurance fraud investigators.

(1) The department shall employ a chief examiner and such other professional, technical, and clerical employees as necessary to carry out the duties of the department.

(2) An insurance fraud investigator employed pursuant to Subsection (1) may as approved by the commissioner:

(a) be designated a ~~[special function]~~ law enforcement officer, as defined in Section ~~[53-13-105, by the commissioner, but is not]~~ 53-13-103; and

(b) be eligible for retirement benefits under the Public Safety Employee's Retirement System.

Section 3. Section 31A-3-304 (Superseded 07/01/15) is amended to read:

31A-3-304 (Superseded 07/01/15). Annual fees -- Other taxes or fees prohibited -- Captive Insurance Restricted Account.

(1) (a) A captive insurance company shall pay an annual fee imposed under this section to obtain or renew a certificate of authority.

(b) The commissioner shall:

(i) determine the annual fee pursuant to Section 31A-3-103; and

(ii) consider whether the annual fee is competitive with fees imposed by other states on captive insurance companies.

(2) A captive insurance company that fails to pay the fee required by this section is subject to the relevant sanctions of this title.

(3) (a) Except as provided in Subsection (3)(d) and notwithstanding Title 59, Chapter 9, Taxation of Admitted Insurers, the following constitute the sole taxes, fees, or charges under the laws of this state that may be levied or assessed on a captive insurance company:

(i) a fee under this section;

(ii) a fee under Chapter 37, Captive Insurance Companies Act; and

(iii) a fee under Chapter 37a, Special Purpose Financial Captive Insurance Company Act.

(b) The state or a county, city, or town within the state may not levy or collect an occupation tax or other tax, fee, or charge not described in Subsections (3)(a)(i) through (iii) against a captive insurance company.

(c) The state may not levy, assess, or collect a withdrawal fee under Section 31A-4-115 against a captive insurance company.

(d) A captive insurance company is subject to real and personal property taxes.

(4) A captive insurance company shall pay the fee imposed by this section to the commissioner by June [20] 1 of each year.

(5) (a) Money received pursuant to a fee described in Subsection (3)(a) shall be deposited into the Captive Insurance Restricted Account.

(b) There is created in the General Fund a restricted account known as the "Captive Insurance Restricted Account."

(c) The Captive Insurance Restricted Account shall consist of the fees described in Subsection (3)(a).

(d) The commissioner shall administer the Captive Insurance Restricted Account. Subject to appropriations by the Legislature, the commissioner shall use the money deposited into the Captive Insurance Restricted Account to:

(i) administer and enforce:

(A) Chapter 37, Captive Insurance Companies Act; and

(B) Chapter 37a, Special Purpose Financial Captive Insurance Company Act; and

(ii) promote the captive insurance industry in Utah.

(e) An appropriation from the Captive Insurance Restricted Account is nonlapsing, except that at the end of each fiscal year, money received by the commissioner in excess of \$950,000 shall be treated as free revenue in the General Fund.

Section 4. Section 31A-3-304 (Effective 07/01/15) is amended to read:

31A-3-304 (Effective 07/01/15). Annual fees -- Other taxes or fees prohibited -- Captive Insurance Restricted Account.

(1) (a) A captive insurance company shall pay an annual fee imposed under this section to obtain or renew a certificate of authority.

(b) The commissioner shall:

(i) determine the annual fee pursuant to Section 31A-3-103; and

(ii) consider whether the annual fee is competitive with fees imposed by other states on captive insurance companies.

(2) A captive insurance company that fails to pay the fee required by this section is subject to the relevant sanctions of this title.

(3) (a) Except as provided in Subsection (3)(d) and notwithstanding Title 59, Chapter 9, Taxation of Admitted Insurers, the following constitute the sole taxes, fees, or charges under the laws of this state that may be levied or assessed on a captive insurance company:

(i) a fee under this section;

(ii) a fee under Chapter 37, Captive Insurance Companies Act; and

(iii) a fee under Chapter 37a, Special Purpose Financial Captive Insurance Company Act.

(b) The state or a county, city, or town within the state may not levy or collect an occupation tax or other tax, fee, or charge not described in Subsections (3)(a)(i) through (iii) against a captive insurance company.

(c) The state may not levy, assess, or collect a withdrawal fee under Section 31A-4-115 against a captive insurance company.

(d) A captive insurance company is subject to real and personal property taxes.

(4) A captive insurance company shall pay the fee imposed by this section to the commissioner by June [20] 1 of each year.

(5) (a) Money received pursuant to a fee described in Subsection (3)(a) shall be deposited into the Captive Insurance Restricted Account.

(b) There is created in the General Fund a restricted account known as the "Captive Insurance Restricted Account."

(c) The Captive Insurance Restricted Account shall consist of the fees described in Subsection (3)(a).

(d) The commissioner shall administer the Captive Insurance Restricted Account. Subject to appropriations by the Legislature, the commissioner shall use the money deposited into the Captive Insurance Restricted Account to:

(i) administer and enforce:

(A) Chapter 37, Captive Insurance Companies Act; and

(B) Chapter 37a, Special Purpose Financial Captive Insurance Company Act; and

(ii) promote the captive insurance industry in Utah.

(e) An appropriation from the Captive Insurance Restricted Account is nonlapsing, except that at the end of each fiscal year, money received by the commissioner in excess of \$1,250,000 shall be treated as free revenue in the General Fund.

Section 5. Section 31A-4-102 is amended to read:

31A-4-102. Qualified insurers.

(1) A person may not conduct an insurance business in Utah in person, through an agent, through a broker, through the mail, or through another method of communication, except:

(a) an insurer:

(i) authorized to do business in Utah under [Chapter 5, 7, 8, 9, 10, 11, 13, or 14; and];

(A) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

(B) Chapter 7, Nonprofit Health Service Insurance Corporations;

(C) Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(D) Chapter 9, Insurance Fraternal;

(E) Chapter 10, Annuities;

(F) Chapter 11, Motor Clubs;

(G) Chapter 13, Employee Welfare Funds and Plans;

(H) Chapter 14, Foreign Insurers;

(I) Chapter 37, Captive Insurance Companies Act; or

(J) Chapter 37a, Special Purpose Financial Captive Insurance Company Act; and

(ii) within the limits of its certificate of authority;

(b) a joint underwriting group under Section 31A-2-214 or 31A-20-102;

(c) an insurer doing business under Section 31A-15-103;

(d) a person who submits to the commissioner a certificate from the United States Department of Labor, or such other evidence as satisfies the commissioner, that the laws of Utah are preempted with respect to specified activities of that person by Section 514 of the Employee Retirement Income Security Act of 1974 or other federal law; or

(e) a person exempt from this title under Section 31A-1-103 or another applicable statute.

(2) As used in this section, "insurer" includes a bail bond surety company, as defined in Section 31A-35-102.

Section 6. Section 31A-4-115 is amended to read:

31A-4-115. Plan of orderly withdrawal.

(1) (a) When an insurer intends to withdraw from writing a line of insurance in this state or to reduce its total annual premium volume by 75% or more, the insurer shall file with the commissioner a plan of orderly withdrawal.

(b) For purposes of this section, a discontinuance of a health benefit plan pursuant to one of the following provisions is a withdrawal from a line of insurance:

(i) Subsection 31A-30-107(3)(e); or

(ii) Subsection 31A-30-107.1(3)(e).

(2) An insurer's plan of orderly withdrawal shall:

(a) indicate the date the insurer intends to begin and complete its withdrawal plan; and

(b) include provisions for:

(i) meeting the insurer's contractual obligations;

(ii) providing services to its Utah policyholders and claimants;

(iii) meeting [any] applicable statutory obligations; and

(iv) [~~(A)~~] the payment of a withdrawal fee of \$50,000 to the [Utah Comprehensive Health Insurance Pool if: (I) the insurer is an accident and

health insurer; and (II) the insurer's line of business is not assumed or placed with another insurer approved by the commissioner; or (B) the payment of a withdrawal fee of \$50,000 to the department if: (I) the insurer is not an accident and health insurer; and (II) department if the insurer's line of business is not assumed or placed with another insurer approved by the commissioner.

(3) The commissioner shall approve a plan of orderly withdrawal if the plan of orderly withdrawal adequately demonstrates that the insurer will:

- (a) protect the interests of the people of the state;
- (b) meet the insurer's contractual obligations;
- (c) provide service to the insurer's Utah policyholders and claimants; and
- (d) meet ~~any~~ applicable statutory obligations.

(4) Section 31A-2-302 governs the commissioner's approval or disapproval of a plan for orderly withdrawal.

(5) The commissioner may require an insurer to increase the deposit maintained in accordance with Section 31A-4-105 or Section 31A-4-105.5 and place the deposit in trust in the name of the commissioner upon finding, after an adjudicative proceeding that:

(a) there is reasonable cause to conclude that the interests of the people of the state are best served by such action; and

- (b) the insurer:
 - (i) has filed a plan of orderly withdrawal; or
 - (ii) intends to:

(A) withdraw from writing a line of insurance in this state; or

(B) reduce the insurer's total annual premium volume by 75% or more.

(6) An insurer is subject to the civil penalties under Section 31A-2-308, if the insurer:

(a) withdraws from writing insurance in this state without receiving the commissioner's approval of a plan of orderly withdrawal; or

(b) reduces its total annual premium volume by 75% or more in any year without ~~having submitted a plan or receiving the commissioner's approval~~ receiving the commissioner's approval of a plan of orderly withdrawal.

(7) An insurer that withdraws from writing all lines of insurance in this state may not resume writing insurance in this state for five years unless: ~~(a)~~ the commissioner finds that the prohibition should be waived because the waiver is:

~~(4)~~ (a) in the public interest to promote competition; or

~~(4)(b)~~ (b) to resolve inequity in the marketplace; ~~and~~.

~~(b) the insurer complies with Subsection 31A-30-108(5), if applicable.]~~

(8) The commissioner shall adopt rules necessary to implement this section.

Section 7. Section 31A-8-402.3 is amended to read:

31A-8-402.3. Discontinuance, nonrenewal, or changes to group health benefit plans.

(1) Except as otherwise provided in this section, a group health benefit plan for a plan sponsor is renewable and continues in force:

- (a) with respect to all eligible employees and dependents; and
- (b) at the option of the plan sponsor.

(2) A health benefit plan for a plan sponsor may be discontinued or nonrenewed:

(a) for a network plan, if ~~(i)~~ there is no longer any enrollee under the group health plan who lives, resides, or works in:

~~(A)~~ (i) the service area of the insurer; or

~~(B)~~ (ii) the area for which the insurer is authorized to do business; ~~and~~ or

~~(ii) in the case of the small employer market, the insurer applies the same criteria the insurer would apply in denying enrollment in the plan under Subsection 31A-30-108(7); or]~~

(b) for coverage made available in the small or large employer market only through an association, if:

(i) the employer's membership in the association ceases; and

(ii) the coverage is terminated uniformly without regard to any health status-related factor relating to any covered individual.

(3) A health benefit plan for a plan sponsor may be discontinued if:

(a) a condition described in Subsection (2) exists;

(b) the plan sponsor fails to pay premiums or contributions in accordance with the terms of the contract;

(c) the plan sponsor:

(i) performs an act or practice that constitutes fraud; or

(ii) makes an intentional misrepresentation of material fact under the terms of the coverage;

(d) the insurer:

(i) elects to discontinue offering a particular health benefit product delivered or issued for delivery in this state; and

(ii) (A) provides notice of the discontinuation in writing:

(I) to each plan sponsor, employee, or dependent of a plan sponsor or an employee; and

(II) at least 90 days before the date the coverage will be discontinued;

(B) provides notice of the discontinuation in writing:

(I) to the commissioner; and

(II) at least three working days prior to the date the notice is sent to the affected plan sponsors, employees, and dependents of the plan sponsors or employees;

(C) offers to each plan sponsor, on a guaranteed issue basis, the option to purchase:

(I) all other health benefit products currently being offered by the insurer in the market; or

(II) in the case of a large employer, any other health benefit product currently being offered in that market; and

(D) in exercising the option to discontinue that product and in offering the option of coverage in this section, acts uniformly without regard to:

(I) the claims experience of a plan sponsor;

(II) any health status-related factor relating to any covered participant or beneficiary; or

(III) any health status-related factor relating to any new participant or beneficiary who may become eligible for the coverage; or

(e) the insurer:

(i) elects to discontinue all of the insurer's health benefit plans in:

(A) the small employer market;

(B) the large employer market; or

(C) both the small employer and large employer markets; and

(ii) (A) provides notice of the discontinuation in writing:

(I) to each plan sponsor, employee, or dependent of a plan sponsor or an employee; and

(II) at least 180 days before the date the coverage will be discontinued;

(B) provides notice of the discontinuation in writing:

(I) to the commissioner in each state in which an affected insured individual is known to reside; and

(II) at least 30 working days prior to the date the notice is sent to the affected plan sponsors, employees, and the dependents of the plan sponsors or employees;

(C) discontinues and nonrenews all plans issued or delivered for issuance in the market; and

(D) provides a plan of orderly withdrawal as required by Section 31A-4-115.

(4) A large employer health benefit plan may be discontinued or nonrenewed:

(a) if a condition described in Subsection (2) exists; or

(b) for noncompliance with the insurer's:

(i) minimum participation requirements; or

(ii) employer contribution requirements.

(5) A small employer health benefit plan may be discontinued or nonrenewed:

(a) if a condition described in Subsection (2) exists; or

(b) for noncompliance with the insurer's employer contribution requirements.

(6) A small employer health benefit plan may be nonrenewed:

(a) if a condition described in Subsection (2) exists; or

(b) for noncompliance with the insurer's minimum participation requirements.

(7) (a) Except as provided in Subsection (7)(d), an eligible employee may be discontinued if after issuance of coverage the eligible employee:

(i) engages in an act or practice in connection with the coverage that constitutes fraud; or

(ii) makes an intentional misrepresentation of material fact in connection with the coverage.

(b) An eligible employee that is discontinued under Subsection (7)(a) may reenroll:

(i) 12 months after the date of discontinuance; and

(ii) if the plan sponsor's coverage is in effect at the time the eligible employee applies to reenroll.

(c) At the time the eligible employee's coverage is discontinued under Subsection (7)(a), the insurer shall notify the eligible employee of the right to reenroll when coverage is discontinued.

(d) An eligible employee may not be discontinued under this Subsection (7) because of a fraud or misrepresentation that relates to health status.

(8) For purposes of this section, a reference to "plan sponsor" includes a reference to the employer:

(a) with respect to coverage provided to an employer member of the association; and

(b) if the health benefit plan is made available by an insurer in the employer market only through:

(i) an association;

(ii) a trust; or

(iii) a discretionary group.

(9) An insurer may modify a health benefit plan for a plan sponsor only:

(a) at the time of coverage renewal; and

(b) if the modification is effective uniformly among all plans with that product.

Section 8. Section 31A-16-103 is amended to read:

31A-16-103. Acquisition of control of or merger with domestic insurer.

(1) (a) A person may not take the actions described in Subsections (1)(b) or (c) unless, at the time any offer, request, or invitation is made or any such agreement is entered into, or prior to the acquisition of securities if no offer or agreement is involved:

(i) the person files with the commissioner a statement containing the information required by this section;

(ii) the person provides a copy of the statement described in Subsection (1)(a)(i) to the insurer; and

(iii) the commissioner approves the offer, request, invitation, agreement, or acquisition.

(b) Unless the person complies with Subsection (1)(a), a person other than the issuer may not make a tender offer for, a request or invitation for tenders of, or enter into any agreement to exchange securities, or seek to acquire or acquire in the open market or otherwise, any voting security of a domestic insurer if after the acquisition, the person would directly, indirectly, by conversion, or by exercise of any right to acquire be in control of the insurer.

(c) Unless the person complies with Subsection (1)(a), a person may not enter into an agreement to merge with or otherwise to acquire control of:

(i) a domestic insurer; or

(ii) any person controlling a domestic insurer.

(d) (i) For purposes of this section, a domestic insurer includes any person controlling a domestic insurer unless the person as determined by the commissioner is either directly or through its affiliates primarily engaged in business other than the business of insurance.

(ii) The controlling person described in Subsection (1)(d)(i) shall file with the commissioner a preacquisition notification containing the information required in Subsection (2) 30 calendar days before the proposed effective date of the acquisition.

(iii) For the purposes of this section, "person" does not include any securities broker that in the usual and customary brokers function holds less than 20% of:

(A) the voting securities of an insurance company; or

(B) any person that controls an insurance company.

(iv) This section applies to all domestic insurers and other entities licensed under Chapters 5, 7, 8, 9, and 11.

(e) (i) An agreement for acquisition of control or merger as contemplated by this Subsection (1) is not valid or enforceable unless the agreement:

(A) is in writing; and

(B) includes a provision that the agreement is subject to the approval of the commissioner upon the filing of any applicable statement required under this chapter.

(ii) A written agreement for acquisition or control that includes the provision described in Subsection (1)(e)(i) satisfies the requirements of this Subsection (1).

(2) The statement to be filed with the commissioner under Subsection (1) shall be made under oath or affirmation and shall contain the following information:

(a) the name and address of the "acquiring party," which means each person by whom or on whose behalf the merger or other acquisition of control referred to in Subsection (1) is to be effected; and

(i) if the person is an individual:

(A) the person's principal occupation;

(B) a listing of all offices and positions held by the person during the past five years; and

(C) any conviction of crimes other than minor traffic violations during the past 10 years; and

(ii) if the person is not an individual:

(A) a report of the nature of its business operations during:

(I) the past five years; or

(II) for any lesser period as the person and any of its predecessors has been in existence;

(B) an informative description of the business intended to be done by the person and the person's subsidiaries;

(C) a list of all individuals who are or who have been selected to become directors or executive officers of the person, or individuals who perform, or who will perform functions appropriate to such positions; and

(D) for each individual described in Subsection (2)(a)(ii)(C), the information required by Subsection (2)(a)(i) for each individual;

(b) (i) the source, nature, and amount of the consideration used or to be used in effecting the merger or acquisition of control;

(ii) a description of any transaction in which funds were or are to be obtained for the purpose of effecting the merger or acquisition of control, including any pledge of:

(A) the insurer's stock; or

(B) the stock of any of the insurer's subsidiaries or controlling affiliates; and

(iii) the identity of persons furnishing the consideration;

(c) (i) fully audited financial information, or other financial information considered acceptable by the commissioner, of the earnings and financial condition of each acquiring party for:

(A) the preceding five fiscal years of each acquiring party; or

(B) any lesser period the acquiring party and any of its predecessors shall have been in existence; and

(ii) unaudited information:

(A) similar to the information described in Subsection (2)(c)(i); and

(B) prepared within the 90 days prior to the filing of the statement;

(d) any plans or proposals which each acquiring party may have to:

(i) liquidate the insurer;

(ii) sell its assets;

(iii) merge or consolidate the insurer with any person; or

(iv) make any other material change in the insurer's:

(A) business;

(B) corporate structure; or

(C) management;

(e) (i) the number of shares of any security referred to in Subsection (1) that each acquiring party proposes to acquire;

(ii) the terms of the offer, request, invitation, agreement, or acquisition referred to in Subsection (1); and

(iii) a statement as to the method by which the fairness of the proposal was arrived at;

(f) the amount of each class of any security referred to in Subsection (1) that:

(i) is beneficially owned; or

(ii) concerning which there is a right to acquire beneficial ownership by each acquiring party;

(g) a full description of any contract, arrangement, or understanding with respect to any security referred to in Subsection (1) in which any acquiring party is involved, including:

(i) the transfer of any of the securities;

(ii) joint ventures;

(iii) loan or option arrangements;

(iv) puts or calls;

(v) guarantees of loans;

(vi) guarantees against loss or guarantees of profits;

(vii) division of losses or profits; or

(viii) the giving or withholding of proxies;

(h) a description of the purchase by any acquiring party of any security referred to in Subsection (1) during the 12 calendar months preceding the filing of the statement including:

(i) the dates of purchase;

(ii) the names of the purchasers; and

(iii) the consideration paid or agreed to be paid for the purchase;

(i) a description of:

(i) any recommendations to purchase by any acquiring party any security referred to in Subsection (1) made during the 12 calendar months preceding the filing of the statement; or

(ii) any recommendations made by anyone based upon interviews or at the suggestion of the acquiring party;

(j) (i) copies of all tender offers for, requests for, or invitations for tenders of, exchange offers for, and agreements to acquire or exchange any securities referred to in Subsection (1); and

(ii) if distributed, copies of additional soliciting material relating to the transactions described in Subsection (2)(j)(i);

(k) (i) the term of any agreement, contract, or understanding made with, or proposed to be made with, any broker-dealer as to solicitation of securities referred to in Subsection (1) for tender; and

(ii) the amount of any fees, commissions, or other compensation to be paid to broker-dealers with regard to any agreement, contract, or understanding described in Subsection (2)(k)(i); and

(l) any additional information the commissioner requires by rule, which the commissioner determines to be:

(i) necessary or appropriate for the protection of policyholders of the insurer; or

(ii) in the public interest.

(3) The department may request:

(a) (i) criminal background information maintained pursuant to Title 53, Chapter 10, Part 2, Bureau of Criminal Identification, from the Bureau of Criminal Identification; and

(ii) complete Federal Bureau of Investigation criminal background checks through the national criminal history system.

(b) Information obtained by the department from the review of criminal history records received under Subsection (3)(a) shall be used by the department for the purpose of:

(i) verifying the information in Subsection (2)(a)(i);

(ii) determining the integrity of persons who would control the operation of an insurer; and

(iii) preventing persons who violate 18 U.S.C. [Sections] Sec. 1033 [and 1034] from engaging in the business of insurance in the state.

(c) If the department requests the criminal background information, the department shall:

(i) pay to the Department of Public Safety the costs incurred by the Department of Public Safety in providing the department criminal background information under Subsection (3)(a)(i);

(ii) pay to the Federal Bureau of Investigation the costs incurred by the Federal Bureau of Investigation in providing the department criminal background information under Subsection (3)(a)(ii); and

(iii) charge the person required to file the statement referred to in Subsection (1) a fee equal to the aggregate of Subsections (3)(c)(i) and (ii).

(4) (a) If the source of the consideration under Subsection (2)(b)(i) is a loan made in the lender's ordinary course of business, the identity of the lender shall remain confidential, if the person filing the statement so requests.

(b) (i) Under Subsection (2)(e), the commissioner may require a statement of the adjusted book value assigned by the acquiring party to each security in arriving at the terms of the offer.

(ii) For purposes of this Subsection (4)(b), "adjusted book value" means each security's proportional interest in the capital and surplus of the insurer with adjustments that reflect:

(A) market conditions;

(B) business in force; and

(C) other intangible assets or liabilities of the insurer.

(c) The description required by Subsection (2)(g) shall identify the persons with whom the contracts, arrangements, or understandings have been entered into.

(5) (a) If the person required to file the statement referred to in Subsection (1) is a partnership, limited partnership, syndicate, or other group, the commissioner may require that all the information called for by Subsections (2), (3), or (4) shall be given with respect to each:

(i) partner of the partnership or limited partnership;

(ii) member of the syndicate or group; and

(iii) person who controls the partner or member.

(b) If any partner, member, or person referred to in Subsection (5)(a) is a corporation, or if the person required to file the statement referred to in Subsection (1) is a corporation, the commissioner may require that the information called for by Subsection (2) shall be given with respect to:

(i) the corporation;

(ii) each officer and director of the corporation; and

(iii) each person who is directly or indirectly the beneficial owner of more than 10% of the outstanding voting securities of the corporation.

(6) If any material change occurs in the facts set forth in the statement filed with the commissioner and sent to the insurer pursuant to Subsection (2), an amendment setting forth the change, together with copies of all documents and other material

relevant to the change, shall be filed with the commissioner and sent to the insurer within two business days after the filing person learns of such change.

(7) If any offer, request, invitation, agreement, or acquisition referred to in Subsection (1) is proposed to be made by means of a registration statement under the Securities Act of 1933, or under circumstances requiring the disclosure of similar information under the Securities Exchange Act of 1934, or under a state law requiring similar registration or disclosure, a person required to file the statement referred to in Subsection (1) may use copies of any registration or disclosure documents in furnishing the information called for by the statement.

(8) (a) The commissioner shall approve any merger or other acquisition of control referred to in Subsection (1) unless, after a public hearing on the merger or acquisition, the commissioner finds that:

(i) after the change of control, the domestic insurer referred to in Subsection (1) would not be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed;

(ii) the effect of the merger or other acquisition of control would:

(A) substantially lessen competition in insurance in this state; or

(B) tend to create a monopoly in insurance;

(iii) the financial condition of any acquiring party might:

(A) jeopardize the financial stability of the insurer; or

(B) prejudice the interest of:

(I) its policyholders; or

(II) any remaining securityholders who are unaffiliated with the acquiring party;

(iv) the terms of the offer, request, invitation, agreement, or acquisition referred to in Subsection (1) are unfair and unreasonable to the securityholders of the insurer;

(v) the plans or proposals which the acquiring party has to liquidate the insurer, sell its assets, or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, are:

(A) unfair and unreasonable to policyholders of the insurer; and

(B) not in the public interest; or

(vi) the competence, experience, and integrity of those persons who would control the operation of the insurer are such that it would not be in the interest of the policyholders of the insurer and the public to permit the merger or other acquisition of control.

(b) For purposes of Subsection (8)(a)(iv), the offering price for each security may not be

considered unfair if the adjusted book values under Subsection (2)(e):

- (i) are disclosed to the securityholders; and
- (ii) determined by the commissioner to be reasonable.

(9) (a) The public hearing referred to in Subsection (8) shall be held within 30 days after the statement required by Subsection (1) is filed.

(b) (i) At least 20 days notice of the hearing shall be given by the commissioner to the person filing the statement.

(ii) Affected parties may waive the notice required by this Subsection (9)(b).

(iii) Not less than seven days notice of the public hearing shall be given by the person filing the statement to:

- (A) the insurer; and
- (B) any person designated by the commissioner.

(c) The commissioner shall make a determination within 30 days after the conclusion of the hearing.

(d) At the hearing, the person filing the statement, the insurer, any person to whom notice of hearing was sent, and any other person whose interest may be affected by the hearing may:

- (i) present evidence;
- (ii) examine and cross-examine witnesses; and
- (iii) offer oral and written arguments.

(e) (i) A person or insurer described in Subsection (9)(d) may conduct discovery proceedings in the same manner as is presently allowed in the district courts of this state.

(ii) All discovery proceedings shall be concluded not later than three days before the commencement of the public hearing.

(10) (a) The commissioner may retain technical experts to assist in reviewing all, or a portion of, information filed in connection with a proposed merger or other acquisition of control referred to in Subsection (1).

(b) In determining whether any of the conditions in Subsection (8) exist, the commissioner may consider the findings of technical experts employed to review applicable filings.

(c) (i) A technical expert employed under Subsection (10)(a) shall present to the commissioner a statement of all expenses incurred by the technical expert in conjunction with the technical expert's review of a proposed merger or other acquisition of control.

(ii) At the commissioner's direction the acquiring person shall compensate the technical expert at customary rates for time and expenses:

- (A) necessarily incurred; and
- (B) approved by the commissioner.

(iii) The acquiring person shall:

(A) certify the consolidated account of all charges and expenses incurred for the review by technical experts;

(B) retain a copy of the consolidated account described in Subsection (10)(c)(iii)(A); and

(C) file with the department as a public record a copy of the consolidated account described in Subsection (10)(c)(iii)(A).

(11) (a) (i) If a domestic insurer proposes to merge into another insurer, any securityholder electing to exercise a right of dissent may file with the insurer a written request for payment of the adjusted book value given in the statement required by Subsection (1) and approved under Subsection (8), in return for the surrender of the security holder's securities.

(ii) The request described in Subsection (11)(a)(i) shall be filed not later than 10 days after the day of the securityholders' meeting where the corporate action is approved.

(b) The dissenting securityholder is entitled to and the insurer is required to pay to the dissenting securityholder the specified value within 60 days of receipt of the dissenting security holder's security.

(c) Persons electing under this Subsection (11) to receive cash for their securities waive the dissenting shareholder and appraisal rights otherwise applicable under Title 16, Chapter 10a, Part 13, Dissenters' Rights.

(d) (i) This Subsection (11) provides an elective procedure for dissenting securityholders to resolve their objections to the plan of merger.

(ii) This section does not restrict the rights of dissenting securityholders under Title 16, Chapter 10a, Utah Revised Business Corporation Act, unless this election is made under this Subsection (11).

(12) (a) All statements, amendments, or other material filed under Subsection (1), and all notices of public hearings held under Subsection (8), shall be mailed by the insurer to its securityholders within five business days after the insurer has received the statements, amendments, other material, or notices.

(b) (i) Mailing expenses shall be paid by the person making the filing.

(ii) As security for the payment of mailing expenses, that person shall file with the commissioner an acceptable bond or other deposit in an amount determined by the commissioner.

(13) This section does not apply to any offer, request, invitation, agreement, or acquisition that the commissioner by order exempts from the requirements of this section as:

(a) not having been made or entered into for the purpose of, and not having the effect of, changing or influencing the control of a domestic insurer; or

(b) [as] otherwise not comprehended within the purposes of this section.

(14) The following are violations of this section:

(a) the failure to file any statement, amendment, or other material required to be filed pursuant to Subsections (1), (2), and (5); or

(b) the effectuation, or any attempt to effectuate, an acquisition of control of or merger with a domestic insurer unless the commissioner has given the commissioner's approval to the acquisition or merger.

(15) (a) The courts of this state are vested with jurisdiction over:

(i) a person who:

(A) files a statement with the commissioner under this section; and

(B) is not resident, domiciled, or authorized to do business in this state; and

(ii) overall actions involving persons described in Subsection (15)(a)(i) arising out of a violation of this section.

(b) A person described in Subsection (15)(a) is considered to have performed acts equivalent to and constituting an appointment of the commissioner by that person, to be that person's lawful agent upon whom may be served all lawful process in any action, suit, or proceeding arising out of a violation of this section.

(c) A copy of a lawful process described in Subsection (15)(b) shall be:

(i) served on the commissioner; and

(ii) transmitted by registered or certified mail by the commissioner to the person at that person's last-known address.

Section 9. Section 31A-17-607 is amended to read:

31A-17-607. Hearings.

(1) (a) Following receipt of a notice described in Subsection (2), the insurer or health organization shall have the right to a confidential departmental hearing at which the insurer or health organization may challenge ~~[any]~~ a determination or action by the commissioner.

(b) The insurer or health organization shall notify the commissioner of its request for a hearing within five days after the notification by the commissioner under ~~[Subsections 31A-17-604(1), (2), and (3)]~~ Subsection (2).

(c) Upon receipt of the insurer's or health organization's request for a hearing, the commissioner shall set a date for the hearing, which date shall be no less than 10 nor more than 30 days after the date of the insurer's or health organization's request.

(2) An insurer or health organization has the right to a hearing under Subsection (1) after:

(a) notification to an insurer or health organization by the commissioner of an adjusted RBC report;

(b) notification to an insurer or health organization by the commissioner that:

(i) the insurer's or health organization's RBC plan or revised RBC plan is unsatisfactory; and

(ii) the notification constitutes a regulatory action level event with respect to the insurer or health organization;

(c) notification to any insurer or health organization by the commissioner that the insurer or health organization has failed to adhere to its RBC plan or revised RBC plan and that the failure has substantial adverse effect on the ability of the insurer or health organization to eliminate the company action level event with respect to the insurer or health organization in accordance with its RBC plan or revised RBC plan; or

(d) notification to an insurer or health organization by the commissioner of a corrective order with respect to the insurer or health organization.

Section 10. Section 31A-22-305 is amended to read:

31A-22-305. Uninsured motorist coverage.

(1) As used in this section, "covered persons" includes:

(a) the named insured;

(b) for a claim arising on or after May 13, 2014, the named insured's dependent minor children;

~~[(b)]~~ (c) persons related to the named insured by blood, marriage, adoption, or guardianship, who are residents of the named insured's household, including those who usually make their home in the same household but temporarily live elsewhere;

~~[(c)]~~ (d) any person occupying or using a motor vehicle:

(i) referred to in the policy; or

(ii) owned by a self-insured; and

~~[(d)]~~ (e) any person who is entitled to recover damages against the owner or operator of the uninsured or underinsured motor vehicle because of bodily injury to or death of persons under Subsection (1)(a), (b), ~~[(c)]~~ (c), or (d).

(2) As used in this section, "uninsured motor vehicle" includes:

(a) (i) a motor vehicle, the operation, maintenance, or use of which is not covered under a liability policy at the time of an injury-causing occurrence; or

(ii) (A) a motor vehicle covered with lower liability limits than required by Section 31A-22-304; and

(B) the motor vehicle described in Subsection (2)(a)(ii)(A) is uninsured to the extent of the deficiency;

(b) an unidentified motor vehicle that left the scene of an accident proximately caused by the motor vehicle operator;

(c) a motor vehicle covered by a liability policy, but coverage for an accident is disputed by the

liability insurer for more than 60 days or continues to be disputed for more than 60 days; or

(d) (i) an insured motor vehicle if, before or after the accident, the liability insurer of the motor vehicle is declared insolvent by a court of competent jurisdiction; and

(ii) the motor vehicle described in Subsection (2)(d)(i) is uninsured only to the extent that the claim against the insolvent insurer is not paid by a guaranty association or fund.

(3) Uninsured motorist coverage under Subsection 31A-22-302(1)(b) provides coverage for covered persons who are legally entitled to recover damages from owners or operators of uninsured motor vehicles because of bodily injury, sickness, disease, or death.

(4) (a) For new policies written on or after January 1, 2001, the limits of uninsured motorist coverage shall be equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy, unless a named insured rejects or purchases coverage in a lesser amount by signing an acknowledgment form that:

(i) is filed with the department;

(ii) is provided by the insurer;

(iii) waives the higher coverage;

(iv) need only state in this or similar language that uninsured motorist coverage provides benefits or protection to you and other covered persons for bodily injury resulting from an accident caused by the fault of another party where the other party has no liability insurance; and

(v) discloses the additional premiums required to purchase uninsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(b) Any selection or rejection under this Subsection (4) continues for that issuer of the liability coverage until the insured requests, in writing, a change of uninsured motorist coverage from that liability insurer.

(c) (i) Subsections (4)(a) and (b) apply retroactively to any claim arising on or after January 1, 2001, for which, as of May 14, 2013, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsections (4)(a) and (b) clarifies legislative intent and does not enlarge, eliminate, or destroy vested rights.

(d) For purposes of this Subsection (4), "new policy" means:

(i) any policy that is issued which does not include a renewal or reinstatement of an existing policy; or

(ii) a change to an existing policy that results in:

(A) a named insured being added to or deleted from the policy; or

(B) a change in the limits of the named insured's motor vehicle liability coverage.

(e) (i) As used in this Subsection (4)(e), "additional motor vehicle" means a change that increases the total number of vehicles insured by the policy, and does not include replacement, substitute, or temporary vehicles.

(ii) The adding of an additional motor vehicle to an existing personal lines or commercial lines policy does not constitute a new policy for purposes of Subsection (4)(d).

(iii) If an additional motor vehicle is added to a personal lines policy where uninsured motorist coverage has been rejected, or where uninsured motorist limits are lower than the named insured's motor vehicle liability limits, the insurer shall provide a notice to a named insured within 30 days that:

(A) in the same manner as described in Subsection (4)(a)(iv), explains the purpose of uninsured motorist coverage; and

(B) encourages the named insured to contact the insurance company or insurance producer for quotes as to the additional premiums required to purchase uninsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(f) A change in policy number resulting from any policy change not identified under Subsection (4)(d)(ii) does not constitute a new policy.

(g) (i) Subsection (4)(d) applies retroactively to any claim arising on or after January 1, 2001, for which, as of May 1, 2012, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsection (4):

(A) does not enlarge, eliminate, or destroy vested rights; and

(B) clarifies legislative intent.

(h) A self-insured, including a governmental entity, may elect to provide uninsured motorist coverage in an amount that is less than its maximum self-insured retention under Subsections (4)(a) and (5)(a) by issuing a declaratory memorandum or policy statement from the chief financial officer or chief risk officer that declares the:

(i) self-insured entity's coverage level; and

(ii) process for filing an uninsured motorist claim.

(i) Uninsured motorist coverage may not be sold with limits that are less than the minimum bodily injury limits for motor vehicle liability policies under Section 31A-22-304.

(j) The acknowledgment under Subsection (4)(a) continues for that issuer of the uninsured motorist coverage until the named insured requests, in writing, different uninsured motorist coverage from the insurer.

(k) (i) In conjunction with the first two renewal notices sent after January 1, 2001, for policies existing on that date, the insurer shall disclose in the same medium as the premium renewal notice, an explanation of:

(A) the purpose of uninsured motorist coverage in the same manner as described in Subsection (4)(a)(iv); and

(B) a disclosure of the additional premiums required to purchase uninsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(ii) The disclosure required under Subsection (4)(k)(i) shall be sent to all named insureds that carry uninsured motorist coverage limits in an amount less than the named insured's motor vehicle liability policy limits or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(l) For purposes of this Subsection (4), a notice or disclosure sent to a named insured in a household constitutes notice or disclosure to all insureds within the household.

(5) (a) (i) Except as provided in Subsection (5)(b), the named insured may reject uninsured motorist coverage by an express writing to the insurer that provides liability coverage under Subsection 31A-22-302(1)(a).

(ii) This rejection shall be on a form provided by the insurer that includes a reasonable explanation of the purpose of uninsured motorist coverage.

(iii) This rejection continues for that issuer of the liability coverage until the insured in writing requests uninsured motorist coverage from that liability insurer.

(b) (i) All persons, including governmental entities, that are engaged in the business of, or that accept payment for, transporting natural persons by motor vehicle, and all school districts that provide transportation services for their students, shall provide coverage for all motor vehicles used for that purpose, by purchase of a policy of insurance or by self-insurance, uninsured motorist coverage of at least \$25,000 per person and \$500,000 per accident.

(ii) This coverage is secondary to any other insurance covering an injured covered person.

(c) Uninsured motorist coverage:

(i) is secondary to the benefits provided by Title 34A, Chapter 2, Workers' Compensation Act;

(ii) may not be subrogated by the workers' compensation insurance carrier;

(iii) may not be reduced by any benefits provided by workers' compensation insurance;

(iv) may be reduced by health insurance subrogation only after the covered person has been made whole;

(v) may not be collected for bodily injury or death sustained by a person:

(A) while committing a violation of Section 41-1a-1314;

(B) who, as a passenger in a vehicle, has knowledge that the vehicle is being operated in violation of Section 41-1a-1314; or

(C) while committing a felony; and

(vi) notwithstanding Subsection (5)(c)(v), may be recovered:

(A) for a person under 18 years of age who is injured within the scope of Subsection (5)(c)(v) but limited to medical and funeral expenses; or

(B) by a law enforcement officer as defined in Section 53-13-103, who is injured within the course and scope of the law enforcement officer's duties.

(d) As used in this Subsection (5), "motor vehicle" has the same meaning as under Section 41-1a-102.

(6) When a covered person alleges that an uninsured motor vehicle under Subsection (2)(b) proximately caused an accident without touching the covered person or the motor vehicle occupied by the covered person, the covered person shall show the existence of the uninsured motor vehicle by clear and convincing evidence consisting of more than the covered person's testimony.

(7) (a) The limit of liability for uninsured motorist coverage for two or more motor vehicles may not be added together, combined, or stacked to determine the limit of insurance coverage available to an injured person for any one accident.

(b) (i) Subsection (7)(a) applies to all persons except a covered person as defined under Subsection (8)(b)(ii).

(ii) A covered person as defined under Subsection (8)(b)(ii) is entitled to the highest limits of uninsured motorist coverage afforded for any one motor vehicle that the covered person is the named insured or an insured family member.

(iii) This coverage shall be in addition to the coverage on the motor vehicle the covered person is occupying.

(iv) Neither the primary nor the secondary coverage may be set off against the other.

(c) Coverage on a motor vehicle occupied at the time of an accident shall be primary coverage, and the coverage elected by a person described under

Subsections (1)(a) [~~and~~], (b), and (c) shall be secondary coverage.

(8) (a) Uninsured motorist coverage under this section applies to bodily injury, sickness, disease, or death of covered persons while occupying or using a motor vehicle only if the motor vehicle is described in the policy under which a claim is made, or if the motor vehicle is a newly acquired or replacement motor vehicle covered under the terms of the policy. Except as provided in Subsection (7) or this Subsection (8), a covered person injured in a motor vehicle described in a policy that includes uninsured motorist benefits may not elect to collect uninsured motorist coverage benefits from any other motor vehicle insurance policy under which the person is a covered person.

(b) Each of the following persons may also recover uninsured motorist benefits under any one other policy in which they are described as a "covered person" as defined in Subsection (1):

(i) a covered person injured as a pedestrian by an uninsured motor vehicle; and

(ii) except as provided in Subsection (8)(c), a covered person injured while occupying or using a motor vehicle that is not owned, leased, or furnished:

(A) to the covered person;

(B) to the covered person's spouse; or

(C) to the covered person's resident parent or resident sibling.

(c) (i) A covered person may recover benefits from no more than two additional policies, one additional policy from each parent's household if the covered person is:

(A) a dependent minor of parents who reside in separate households; and

(B) injured while occupying or using a motor vehicle that is not owned, leased, or furnished:

(I) to the covered person;

(II) to the covered person's resident parent; or

(III) to the covered person's resident sibling.

(ii) Each parent's policy under this Subsection (8)(c) is liable only for the percentage of the damages that the limit of liability of each parent's policy of uninsured motorist coverage bears to the total of both parents' uninsured coverage applicable to the accident.

(d) A covered person's recovery under any available policies may not exceed the full amount of damages.

(e) A covered person in Subsection (8)(b) is not barred against making subsequent elections if recovery is unavailable under previous elections.

(f) (i) As used in this section, "interpolicy stacking" means recovering benefits for a single

incident of loss under more than one insurance policy.

(ii) Except to the extent permitted by Subsection (7) and this Subsection (8), interpolicy stacking is prohibited for uninsured motorist coverage.

(9) (a) When a claim is brought by a named insured or a person described in Subsection (1) and is asserted against the covered person's uninsured motorist carrier, the claimant may elect to resolve the claim:

(i) by submitting the claim to binding arbitration; or

(ii) through litigation.

(b) Unless otherwise provided in the policy under which uninsured benefits are claimed, the election provided in Subsection (9)(a) is available to the claimant only, except that if the policy under which insured benefits are claimed provides that either an insured or the insurer may elect arbitration, the insured or the insurer may elect arbitration and that election to arbitrate shall stay the litigation of the claim under Subsection (9)(a)(ii).

(c) Once the claimant has elected to commence litigation under Subsection (9)(a)(ii), the claimant may not elect to resolve the claim through binding arbitration under this section without the written consent of the uninsured motorist carrier.

(d) (i) Unless otherwise agreed to in writing by the parties, a claim that is submitted to binding arbitration under Subsection (9)(a)(i) shall be resolved by a single arbitrator.

(ii) All parties shall agree on the single arbitrator selected under Subsection (9)(d)(i).

(iii) If the parties are unable to agree on a single arbitrator as required under Subsection (9)(d)(ii), the parties shall select a panel of three arbitrators.

(e) If the parties select a panel of three arbitrators under Subsection (9)(d)(iii):

(i) each side shall select one arbitrator; and

(ii) the arbitrators appointed under Subsection (9)(e)(i) shall select one additional arbitrator to be included in the panel.

(f) Unless otherwise agreed to in writing:

(i) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (9)(d)(i); or

(ii) if an arbitration panel is selected under Subsection (9)(d)(iii):

(A) each party shall pay the fees and costs of the arbitrator selected by that party; and

(B) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (9)(e)(ii).

(g) Except as otherwise provided in this section or unless otherwise agreed to in writing by the parties, an arbitration proceeding conducted under this section shall be governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(h) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f), 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of Subsections (10)(a) through (c) are satisfied.

(ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure shall be determined based on the claimant's specific monetary amount in the written demand for payment of uninsured motorist coverage benefits as required in Subsection (10)(a)(i)(A).

(iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to arbitration claims under this part.

(i) All issues of discovery shall be resolved by the arbitrator or the arbitration panel.

(j) A written decision by a single arbitrator or by a majority of the arbitration panel shall constitute a final decision.

(k) (i) Except as provided in Subsection (10), the amount of an arbitration award may not exceed the uninsured motorist policy limits of all applicable uninsured motorist policies, including applicable uninsured motorist umbrella policies.

(ii) If the initial arbitration award exceeds the uninsured motorist policy limits of all applicable uninsured motorist policies, the arbitration award shall be reduced to an amount equal to the combined uninsured motorist policy limits of all applicable uninsured motorist policies.

(l) The arbitrator or arbitration panel may not decide the issues of coverage or extra-contractual damages, including:

(i) whether the claimant is a covered person;

(ii) whether the policy extends coverage to the loss; or

(iii) any allegations or claims asserting consequential damages or bad faith liability.

(m) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or class-representative basis.

(n) If the arbitrator or arbitration panel finds that the action was not brought, pursued, or defended in good faith, the arbitrator or arbitration panel may award reasonable attorney fees and costs against the party that failed to bring, pursue, or defend the claim in good faith.

(o) An arbitration award issued under this section shall be the final resolution of all claims not excluded by Subsection (9)(l) between the parties unless:

(i) the award was procured by corruption, fraud, or other undue means;

(ii) either party, within 20 days after service of the arbitration award:

(A) files a complaint requesting a trial de novo in the district court; and

(B) serves the nonmoving party with a copy of the complaint requesting a trial de novo under Subsection (9)(o)(ii)(A).

(p) (i) Upon filing a complaint for a trial de novo under Subsection (9)(o), the claim shall proceed through litigation pursuant to the Utah Rules of Civil Procedure and Utah Rules of Evidence in the district court.

(ii) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may request a jury trial with a complaint requesting a trial de novo under Subsection (9)(o)(ii)(A).

(q) (i) If the claimant, as the moving party in a trial de novo requested under Subsection (9)(o), does not obtain a verdict that is at least \$5,000 and is at least 20% greater than the arbitration award, the claimant is responsible for all of the nonmoving party's costs.

(ii) If the uninsured motorist carrier, as the moving party in a trial de novo requested under Subsection (9)(o), does not obtain a verdict that is at least 20% less than the arbitration award, the uninsured motorist carrier is responsible for all of the nonmoving party's costs.

(iii) Except as provided in Subsection (9)(q)(iv), the costs under this Subsection (9)(q) shall include:

(A) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

(B) the costs of expert witnesses and depositions.

(iv) An award of costs under this Subsection (9)(q) may not exceed \$2,500 unless Subsection (10)(h)(iii) applies.

(r) For purposes of determining whether a party's verdict is greater or less than the arbitration award under Subsection (9)(q), a court may not consider any recovery or other relief granted on a claim for damages if the claim for damages:

(i) was not fully disclosed in writing prior to the arbitration proceeding; or

(ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil Procedure.

(s) If a district court determines, upon a motion of the nonmoving party, that the moving party's use of the trial de novo process was filed in bad faith in accordance with Section 78B-5-825, the district court may award reasonable attorney fees to the nonmoving party.

(t) Nothing in this section is intended to limit any claim under any other portion of an applicable insurance policy.

(u) If there are multiple uninsured motorist policies, as set forth in Subsection (8), the claimant may elect to arbitrate in one hearing the claims against all the uninsured motorist carriers.

(10) (a) Within 30 days after a covered person elects to submit a claim for uninsured motorist benefits to binding arbitration or files litigation, the covered person shall provide to the uninsured motorist carrier:

(i) a written demand for payment of uninsured motorist coverage benefits, setting forth:

(A) subject to Subsection (10)(l), the specific monetary amount of the demand, including a computation of the covered person's claimed past medical expenses, claimed past lost wages, and the other claimed past economic damages; and

(B) the factual and legal basis and any supporting documentation for the demand;

(ii) a written statement under oath disclosing:

(A) (I) the names and last known addresses of all health care providers who have rendered health care services to the covered person that are material to the claims for which uninsured motorist benefits are sought for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) ~~whether the covered person has seen other~~ the names and last known addresses of the health care providers who have rendered health care services to the covered person, which the covered person claims are immaterial to the claims for which uninsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation has been exercised that have not been disclosed under Subsection (10)(a)(ii)(A)(I);

(B) (I) the names and last known addresses of all health insurers or other entities to whom the covered person has submitted claims for health care services or benefits material to the claims for which uninsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) ~~whether the identity of any~~ the names and last known addresses of the health insurers or other entities to whom the covered person has submitted claims for health care services or benefits, which the covered person claims are immaterial to the claims for which uninsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation have not been disclosed;

(C) if lost wages, diminished earning capacity, or similar damages are claimed, all employers of the covered person for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation has been exercised;

(D) other documents to reasonably support the claims being asserted; and

(E) all state and federal statutory lienholders including a statement as to whether the covered person is a recipient of Medicare or Medicaid

benefits or Utah Children's Health Insurance Program benefits under Title 26, Chapter 40, Utah Children's Health Insurance Act, or if the claim is subject to any other state or federal statutory liens; and

(iii) signed authorizations to allow the uninsured motorist carrier to only obtain records and billings from the individuals or entities disclosed under Subsections (10)(a)(ii)(A)(I), (B)(I), and (C).

(b) (i) If the uninsured motorist carrier determines that the disclosure of undisclosed health care providers or health care insurers under Subsection (10)(a)(ii) is reasonably necessary, the uninsured motorist carrier may:

(A) make a request for the disclosure of the identity of the health care providers or health care insurers; and

(B) make a request for authorizations to allow the uninsured motorist carrier to only obtain records and billings from the individuals or entities not disclosed.

(ii) If the covered person does not provide the requested information within 10 days:

(A) the covered person shall disclose, in writing, the legal or factual basis for the failure to disclose the health care providers or health care insurers; and

(B) either the covered person or the uninsured motorist carrier may request the arbitrator or arbitration panel to resolve the issue of whether the identities or records are to be provided if the covered person has elected arbitration.

(iii) The time periods imposed by Subsection (10)(c)(i) are tolled pending resolution of the dispute concerning the disclosure and production of records of the health care providers or health care insurers.

(c) (i) An uninsured motorist carrier that receives an election for arbitration or a notice of filing litigation and the demand for payment of uninsured motorist benefits under Subsection (10)(a)(i) shall have a reasonable time, not to exceed 60 days from the date of the demand and receipt of the items specified in Subsections (10)(a)(i) through (iii), to:

(A) provide a written response to the written demand for payment provided for in Subsection (10)(a)(i);

(B) except as provided in Subsection (10)(c)(i)(C), tender the amount, if any, of the uninsured motorist carrier's determination of the amount owed to the covered person; and

(C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under Title 26, Chapter 40, Utah Children's Health Insurance Act, or if the claim is subject to any other state or federal statutory liens, tender the amount, if any, of the uninsured motorist carrier's determination of the amount owed to the covered person less:

(I) if the amount of the state or federal statutory lien is established, the amount of the lien; or

(II) if the amount of the state or federal statutory lien is not established, two times the amount of the medical expenses subject to the state or federal statutory lien until such time as the amount of the state or federal statutory lien is established.

(ii) If the amount tendered by the uninsured motorist carrier under Subsection (10)(c)(i) is the total amount of the uninsured motorist policy limits, the tendered amount shall be accepted by the covered person.

(d) A covered person who receives a written response from an uninsured motorist carrier as provided for in Subsection (10)(c)(i), may:

(i) elect to accept the amount tendered in Subsection (10)(c)(i) as payment in full of all uninsured motorist claims; or

(ii) elect to:

(A) accept the amount tendered in Subsection (10)(c)(i) as partial payment of all uninsured motorist claims; and

(B) continue to litigate or arbitrate the remaining claim in accordance with the election made under Subsections (9)(a), (b), and (c).

(e) If a covered person elects to accept the amount tendered under Subsection (10)(c)(i) as partial payment of all uninsured motorist claims, the final award obtained through arbitration, litigation, or later settlement shall be reduced by any payment made by the uninsured motorist carrier under Subsection (10)(c)(i).

(f) In an arbitration proceeding on the remaining uninsured claims:

(i) the parties may not disclose to the arbitrator or arbitration panel the amount paid under Subsection (10)(c)(i) until after the arbitration award has been rendered; and

(ii) the parties may not disclose the amount of the limits of uninsured motorist benefits provided by the policy.

(g) If the final award obtained through arbitration or litigation is greater than the average of the covered person's initial written demand for payment provided for in Subsection (10)(a)(i) and the uninsured motorist carrier's initial written response provided for in Subsection (10)(c)(i), the uninsured motorist carrier shall pay:

(i) the final award obtained through arbitration or litigation, except that if the award exceeds the policy limits of the subject uninsured motorist policy by more than \$15,000, the amount shall be reduced to an amount equal to the policy limits plus \$15,000; and

(ii) any of the following applicable costs:

(A) any costs as set forth in Rule 54(d), Utah Rules of Civil Procedure;

(B) the arbitrator or arbitration panel's fee; and

(C) the reasonable costs of expert witnesses and depositions used in the presentation of evidence during arbitration or litigation.

(h) (i) The covered person shall provide an affidavit of costs within five days of an arbitration award.

(ii) (A) Objection to the affidavit of costs shall specify with particularity the costs to which the uninsured motorist carrier objects.

(B) The objection shall be resolved by the arbitrator or arbitration panel.

(iii) The award of costs by the arbitrator or arbitration panel under Subsection (10)(g)(ii) may not exceed \$5,000.

(i) (i) A covered person shall disclose all material information, other than rebuttal evidence, within 30 days after a covered person elects to submit a claim for uninsured motorist coverage benefits to binding arbitration or files litigation as specified in Subsection (10)(a).

(ii) If the information under Subsection (10)(i)(i) is not disclosed, the covered person may not recover costs or any amounts in excess of the policy under Subsection (10)(g).

(j) This Subsection (10) does not limit any other cause of action that arose or may arise against the uninsured motorist carrier from the same dispute.

(k) The provisions of this Subsection (10) only apply to motor vehicle accidents that occur on or after March 30, 2010.

(l) (i) The written demand requirement in Subsection (10)(a)(i)(A) does not affect the covered person's requirement to provide a computation of any other economic damages claimed, and the one or more respondents shall have a reasonable time after the receipt of the computation of any other economic damages claimed to conduct fact and expert discovery as to any additional damages claimed. The changes made by this bill to this Subsection (10)(l) and Subsection (10)(a)(i)(A) apply to a claim submitted to binding arbitration or through litigation on or after May 13, 2014.

(ii) The changes made by this bill to Subsections (10)(a)(ii)(A)(II) and (B)(II) apply to any claim submitted to binding arbitration or through litigation on or after May 13, 2014.

Section 11. Section 31A-22-305.3 is amended to read:

31A-22-305.3. Underinsured motorist coverage.

(1) As used in this section:

(a) "Covered person" has the same meaning as defined in Section 31A-22-305.

(b) (i) "Underinsured motor vehicle" includes a motor vehicle, the operation, maintenance, or use of which is covered under a liability policy at the time of an injury-causing occurrence, but which has insufficient liability coverage to compensate fully the injured party for all special and general damages.

(ii) The term “underinsured motor vehicle” does not include:

(A) a motor vehicle that is covered under the liability coverage of the same policy that also contains the underinsured motorist coverage;

(B) an uninsured motor vehicle as defined in Subsection 31A-22-305(2); or

(C) a motor vehicle owned or leased by:

(I) a named insured;

(II) a named insured’s spouse; or

(III) a dependent of a named insured.

(2) (a) Underinsured motorist coverage under Subsection 31A-22-302(1)(c) provides coverage for a covered person who is legally entitled to recover damages from an owner or operator of an underinsured motor vehicle because of bodily injury, sickness, disease, or death.

(b) A covered person occupying or using a motor vehicle owned, leased, or furnished to the covered person, the covered person’s spouse, or covered person’s resident relative may recover underinsured benefits only if the motor vehicle is:

(i) described in the policy under which a claim is made; or

(ii) a newly acquired or replacement motor vehicle covered under the terms of the policy.

(3) (a) For new policies written on or after January 1, 2001, the limits of underinsured motorist coverage shall be equal to the lesser of the limits of the named insured’s motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured’s motor vehicle policy, unless a named insured rejects or purchases coverage in a lesser amount by signing an acknowledgment form that:

(i) is filed with the department;

(ii) is provided by the insurer;

(iii) waives the higher coverage;

(iv) need only state in this or similar language that underinsured motorist coverage provides benefits or protection to you and other covered persons for bodily injury resulting from an accident caused by the fault of another party where the other party has insufficient liability insurance; and

(v) discloses the additional premiums required to purchase underinsured motorist coverage with limits equal to the lesser of the limits of the named insured’s motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured’s motor vehicle policy.

(b) Any selection or rejection under Subsection (3)(a) continues for that issuer of the liability coverage until the insured requests, in writing, a

change of underinsured motorist coverage from that liability insurer.

(c) (i) Subsections (3)(a) and (b) apply retroactively to any claim arising on or after January 1, 2001, for which, as of May 14, 2013, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsections (3)(a) and (b) clarifies legislative intent and does not enlarge, eliminate, or destroy vested rights.

(d) For purposes of this Subsection (3), “new policy” means:

(i) any policy that is issued which does not include a renewal or reinstatement of an existing policy; or

(ii) a change to an existing policy that results in:

(A) a named insured being added to or deleted from the policy; or

(B) a change in the limits of the named insured’s motor vehicle liability coverage.

(e) (i) As used in this Subsection (3)(e), “additional motor vehicle” means a change that increases the total number of vehicles insured by the policy, and does not include replacement, substitute, or temporary vehicles.

(ii) The adding of an additional motor vehicle to an existing personal lines or commercial lines policy does not constitute a new policy for purposes of Subsection (3)(d).

(iii) If an additional motor vehicle is added to a personal lines policy where underinsured motorist coverage has been rejected, or where underinsured motorist limits are lower than the named insured’s motor vehicle liability limits, the insurer shall provide a notice to a named insured within 30 days that:

(A) in the same manner described in Subsection (3)(a)(iv), explains the purpose of underinsured motorist coverage; and

(B) encourages the named insured to contact the insurance company or insurance producer for quotes as to the additional premiums required to purchase underinsured motorist coverage with limits equal to the lesser of the limits of the named insured’s motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured’s motor vehicle policy.

(f) A change in policy number resulting from any policy change not identified under Subsection (3)(d)(ii) does not constitute a new policy.

(g) (i) Subsection (3)(d) applies retroactively to any claim arising on or after January 1, 2001 for which, as of May 1, 2012, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsection (3)(d):

(A) does not enlarge, eliminate, or destroy vested rights; and

(B) clarifies legislative intent.

(h) A self-insured, including a governmental entity, may elect to provide underinsured motorist coverage in an amount that is less than its maximum self-insured retention under Subsections (3)(a) and (l) by issuing a declaratory memorandum or policy statement from the chief financial officer or chief risk officer that declares the:

(i) self-insured entity's coverage level; and

(ii) process for filing an underinsured motorist claim.

(i) Underinsured motorist coverage may not be sold with limits that are less than:

(i) \$10,000 for one person in any one accident; and

(ii) at least \$20,000 for two or more persons in any one accident.

(j) An acknowledgment under Subsection (3)(a) continues for that issuer of the underinsured motorist coverage until the named insured, in writing, requests different underinsured motorist coverage from the insurer.

(k) (i) The named insured's underinsured motorist coverage, as described in Subsection (2), is secondary to the liability coverage of an owner or operator of an underinsured motor vehicle, as described in Subsection (1).

(ii) Underinsured motorist coverage may not be set off against the liability coverage of the owner or operator of an underinsured motor vehicle, but shall be added to, combined with, or stacked upon the liability coverage of the owner or operator of the underinsured motor vehicle to determine the limit of coverage available to the injured person.

(l) (i) In conjunction with the first two renewal notices sent after January 1, 2001, for policies existing on that date, the insurer shall disclose in the same medium as the premium renewal notice, an explanation of:

(A) the purpose of underinsured motorist coverage in the same manner as described in Subsection (3)(a)(iv); and

(B) a disclosure of the additional premiums required to purchase underinsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(ii) The disclosure required under this Subsection (3)(l) shall be sent to all named insureds that carry underinsured motorist coverage limits in an amount less than the named insured's motor vehicle liability policy limits or the maximum underinsured motorist coverage limits available by

the insurer under the named insured's motor vehicle policy.

(m) For purposes of this Subsection (3), a notice or disclosure sent to a named insured in a household constitutes notice or disclosure to all insureds within the household.

(4) (a) (i) Except as provided in this Subsection (4), a covered person injured in a motor vehicle described in a policy that includes underinsured motorist benefits may not elect to collect underinsured motorist coverage benefits from another motor vehicle insurance policy.

(ii) The limit of liability for underinsured motorist coverage for two or more motor vehicles may not be added together, combined, or stacked to determine the limit of insurance coverage available to an injured person for any one accident.

(iii) Subsection (4)(a)(ii) applies to all persons except a covered person described under Subsections (4)(b)(i) and (ii).

(b) (i) Except as provided in Subsection (4)(b)(ii), a covered person injured while occupying, using, or maintaining a motor vehicle that is not owned, leased, or furnished to the covered person, the covered person's spouse, or the covered person's resident parent or resident sibling, may also recover benefits under any one other policy under which the covered person is also a covered person.

(ii) (A) A covered person may recover benefits from no more than two additional policies, one additional policy from each parent's household if the covered person is:

(I) a dependent minor of parents who reside in separate households; and

(II) injured while occupying or using a motor vehicle that is not owned, leased, or furnished to the covered person, the covered person's resident parent, or the covered person's resident sibling.

(B) Each parent's policy under this Subsection (4)(b)(ii) is liable only for the percentage of the damages that the limit of liability of each parent's policy of underinsured motorist coverage bears to the total of both parents' underinsured coverage applicable to the accident.

(iii) A covered person's recovery under any available policies may not exceed the full amount of damages.

(iv) Underinsured coverage on a motor vehicle occupied at the time of an accident is primary coverage, and the coverage elected by a person described under Subsections 31A-22-305(1)(a) [and], (b), and (c) is secondary coverage.

(v) The primary and the secondary coverage may not be set off against the other.

(vi) A covered person as described under Subsection (4)(b)(i) is entitled to the highest limits of underinsured motorist coverage under only one additional policy per household applicable to that covered person as a named insured, spouse, or relative.

(vii) A covered injured person is not barred against making subsequent elections if recovery is unavailable under previous elections.

(viii) (A) As used in this section, "interpolicy stacking" means recovering benefits for a single incident of loss under more than one insurance policy.

(B) Except to the extent permitted by this Subsection (4), interpolicy stacking is prohibited for underinsured motorist coverage.

(c) Underinsured motorist coverage:

(i) is secondary to the benefits provided by Title 34A, Chapter 2, Workers' Compensation Act;

(ii) may not be subrogated by a workers' compensation insurance carrier;

(iii) may not be reduced by benefits provided by workers' compensation insurance;

(iv) may be reduced by health insurance subrogation only after the covered person is made whole;

(v) may not be collected for bodily injury or death sustained by a person:

(A) while committing a violation of Section 41-1a-1314;

(B) who, as a passenger in a vehicle, has knowledge that the vehicle is being operated in violation of Section 41-1a-1314; or

(C) while committing a felony; and

(vi) notwithstanding Subsection (4)(c)(v), may be recovered:

(A) for a person under 18 years of age who is injured within the scope of Subsection (4)(c)(v), but is limited to medical and funeral expenses; or

(B) by a law enforcement officer as defined in Section 53-13-103, who is injured within the course and scope of the law enforcement officer's duties.

(5) The inception of the loss under Subsection 31A-21-313(1) for underinsured motorist claims occurs upon the date of the last liability policy payment.

(6) (a) Within five business days after notification that all liability insurers have tendered their liability policy limits, the underinsured carrier shall either:

(i) waive any subrogation claim the underinsured carrier may have against the person liable for the injuries caused in the accident; or

(ii) pay the insured an amount equal to the policy limits tendered by the liability carrier.

(b) If neither option is exercised under Subsection (6)(a), the subrogation claim is considered to be waived by the underinsured carrier.

(c) The notification under Subsection (6)(a) shall include:

(i) the name, address, and phone number for all liability insurers;

(ii) the liability insurers' liability policy limits; and

(iii) the claim number associated with each liability insurer.

(7) Except as otherwise provided in this section, a covered person may seek, subject to the terms and conditions of the policy, additional coverage under any policy:

(a) that provides coverage for damages resulting from motor vehicle accidents; and

(b) that is not required to conform to Section 31A-22-302.

(8) (a) When a claim is brought by a named insured or a person described in Subsection 31A-22-305(1) and is asserted against the covered person's underinsured motorist carrier, the claimant may elect to resolve the claim:

(i) by submitting the claim to binding arbitration; or

(ii) through litigation.

(b) Unless otherwise provided in the policy under which underinsured benefits are claimed, the election provided in Subsection (8)(a) is available to the claimant only, except that if the policy under which insured benefits are claimed provides that either an insured or the insurer may elect arbitration, the insured or the insurer may elect arbitration and that election to arbitrate shall stay the litigation of the claim under Subsection (8)(a)(ii).

(c) Once a claimant elects to commence litigation under Subsection (8)(a)(ii), the claimant may not elect to resolve the claim through binding arbitration under this section without the written consent of the underinsured motorist coverage carrier.

(d) (i) Unless otherwise agreed to in writing by the parties, a claim that is submitted to binding arbitration under Subsection (8)(a)(i) shall be resolved by a single arbitrator.

(ii) All parties shall agree on the single arbitrator selected under Subsection (8)(d)(i).

(iii) If the parties are unable to agree on a single arbitrator as required under Subsection (8)(d)(ii), the parties shall select a panel of three arbitrators.

(e) If the parties select a panel of three arbitrators under Subsection (8)(d)(iii):

(i) each side shall select one arbitrator; and

(ii) the arbitrators appointed under Subsection (8)(e)(i) shall select one additional arbitrator to be included in the panel.

(f) Unless otherwise agreed to in writing:

(i) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (8)(d)(i); or

(ii) if an arbitration panel is selected under Subsection (8)(d)(iii):

(A) each party shall pay the fees and costs of the arbitrator selected by that party; and

(B) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (8)(e)(ii).

(g) Except as otherwise provided in this section or unless otherwise agreed to in writing by the parties, an arbitration proceeding conducted under this section is governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(h) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f), 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of Subsections (9)(a) through (c) are satisfied.

(ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure shall be determined based on the claimant's specific monetary amount in the written demand for payment of uninsured motorist coverage benefits as required in Subsection (9)(a)(i)(A).

(iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to arbitration claims under this part.

(i) An issue of discovery shall be resolved by the arbitrator or the arbitration panel.

(j) A written decision by a single arbitrator or by a majority of the arbitration panel constitutes a final decision.

(k) (i) Except as provided in Subsection (9), the amount of an arbitration award may not exceed the underinsured motorist policy limits of all applicable underinsured motorist policies, including applicable underinsured motorist umbrella policies.

(ii) If the initial arbitration award exceeds the underinsured motorist policy limits of all applicable underinsured motorist policies, the arbitration award shall be reduced to an amount equal to the combined underinsured motorist policy limits of all applicable underinsured motorist policies.

(l) The arbitrator or arbitration panel may not decide an issue of coverage or extra-contractual damages, including:

(i) whether the claimant is a covered person;

(ii) whether the policy extends coverage to the loss; or

(iii) an allegation or claim asserting consequential damages or bad faith liability.

(m) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or class-representative basis.

(n) If the arbitrator or arbitration panel finds that the arbitration is not brought, pursued, or defended in good faith, the arbitrator or arbitration panel may award reasonable attorney fees and costs

against the party that failed to bring, pursue, or defend the arbitration in good faith.

(o) An arbitration award issued under this section shall be the final resolution of all claims not excluded by Subsection (8)(l) between the parties unless:

(i) the award is procured by corruption, fraud, or other undue means;

(ii) either party, within 20 days after service of the arbitration award:

(A) files a complaint requesting a trial de novo in the district court; and

(B) serves the nonmoving party with a copy of the complaint requesting a trial de novo under Subsection (8)(o)(ii)(A).

(p) (i) Upon filing a complaint for a trial de novo under Subsection (8)(o), a claim shall proceed through litigation pursuant to the Utah Rules of Civil Procedure and Utah Rules of Evidence in the district court.

(ii) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may request a jury trial with a complaint requesting a trial de novo under Subsection (8)(o)(ii)(A).

(q) (i) If the claimant, as the moving party in a trial de novo requested under Subsection (8)(o), does not obtain a verdict that is at least \$5,000 and is at least 20% greater than the arbitration award, the claimant is responsible for all of the nonmoving party's costs.

(ii) If the underinsured motorist carrier, as the moving party in a trial de novo requested under Subsection (8)(o), does not obtain a verdict that is at least 20% less than the arbitration award, the underinsured motorist carrier is responsible for all of the nonmoving party's costs.

(iii) Except as provided in Subsection (8)(q)(iv), the costs under this Subsection (8)(q) shall include:

(A) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

(B) the costs of expert witnesses and depositions.

(iv) An award of costs under this Subsection (8)(q) may not exceed \$2,500 unless Subsection (9)(h)(iii) applies.

(r) For purposes of determining whether a party's verdict is greater or less than the arbitration award under Subsection (8)(q), a court may not consider any recovery or other relief granted on a claim for damages if the claim for damages:

(i) was not fully disclosed in writing prior to the arbitration proceeding; or

(ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil Procedure.

(s) If a district court determines, upon a motion of the nonmoving party, that a moving party's use of the trial de novo process is filed in bad faith in accordance with Section 78B-5-825, the district court may award reasonable attorney fees to the nonmoving party.

(t) Nothing in this section is intended to limit a claim under another portion of an applicable insurance policy.

(u) If there are multiple underinsured motorist policies, as set forth in Subsection (4), the claimant may elect to arbitrate in one hearing the claims against all the underinsured motorist carriers.

(9) (a) Within 30 days after a covered person elects to submit a claim for underinsured motorist benefits to binding arbitration or files litigation, the covered person shall provide to the underinsured motorist carrier:

(i) a written demand for payment of underinsured motorist coverage benefits, setting forth:

(A) subject to Subsection (9)(l), the specific monetary amount of the demand, including a computation of the covered person's claimed past medical expenses, claimed past lost wages, and all other claimed past economic damages; and

(B) the factual and legal basis and any supporting documentation for the demand;

(ii) a written statement under oath disclosing:

(A) (I) the names and last known addresses of all health care providers who have rendered health care services to the covered person that are material to the claims for which the underinsured motorist benefits are sought for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) ~~whether the covered person has seen other~~ the names and last known addresses of the health care providers who have rendered health care services to the covered person, which the covered person claims are immaterial to the claims for which underinsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised that have not been disclosed under Subsection (9)(a)(ii)(A)(I);

(B) (I) the names and last known addresses of all health insurers or other entities to whom the covered person has submitted claims for health care services or benefits material to the claims for which underinsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) ~~whether the identity of any~~ the names and last known addresses of the health insurers or other entities to whom the covered person has submitted claims for health care services or benefits, which the covered person claims are immaterial to the claims for which underinsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the

election for arbitration or litigation have not been disclosed;

(C) if lost wages, diminished earning capacity, or similar damages are claimed, all employers of the covered person for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised;

(D) other documents to reasonably support the claims being asserted; and

(E) all state and federal statutory lienholders including a statement as to whether the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under Title 26, Chapter 40, Utah Children's Health Insurance Act, or if the claim is subject to any other state or federal statutory liens; and

(iii) signed authorizations to allow the underinsured motorist carrier to only obtain records and billings from the individuals or entities disclosed under Subsections (9)(a)(ii)(A)(I), (B)(I), and (C).

(b) (i) If the underinsured motorist carrier determines that the disclosure of undisclosed health care providers or health care insurers under Subsection (9)(a)(ii) is reasonably necessary, the underinsured motorist carrier may:

(A) make a request for the disclosure of the identity of the health care providers or health care insurers; and

(B) make a request for authorizations to allow the underinsured motorist carrier to only obtain records and billings from the individuals or entities not disclosed.

(ii) If the covered person does not provide the requested information within 10 days:

(A) the covered person shall disclose, in writing, the legal or factual basis for the failure to disclose the health care providers or health care insurers; and

(B) either the covered person or the underinsured motorist carrier may request the arbitrator or arbitration panel to resolve the issue of whether the identities or records are to be provided if the covered person has elected arbitration.

(iii) The time periods imposed by Subsection (9)(c)(i) are tolled pending resolution of the dispute concerning the disclosure and production of records of the health care providers or health care insurers.

(c) (i) An underinsured motorist carrier that receives an election for arbitration or a notice of filing litigation and the demand for payment of underinsured motorist benefits under Subsection (9)(a)(i) shall have a reasonable time, not to exceed 60 days from the date of the demand and receipt of the items specified in Subsections (9)(a)(i) through (iii), to:

(A) provide a written response to the written demand for payment provided for in Subsection (9)(a)(i);

(B) except as provided in Subsection (9)(c)(i)(C), tender the amount, if any, of the underinsured motorist carrier's determination of the amount owed to the covered person; and

(C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under Title 26, Chapter 40, Utah Children's Health Insurance Act, or if the claim is subject to any other state or federal statutory liens, tender the amount, if any, of the underinsured motorist carrier's determination of the amount owed to the covered person less:

(I) if the amount of the state or federal statutory lien is established, the amount of the lien; or

(II) if the amount of the state or federal statutory lien is not established, two times the amount of the medical expenses subject to the state or federal statutory lien until such time as the amount of the state or federal statutory lien is established.

(ii) If the amount tendered by the underinsured motorist carrier under Subsection (9)(c)(i) is the total amount of the underinsured motorist policy limits, the tendered amount shall be accepted by the covered person.

(d) A covered person who receives a written response from an underinsured motorist carrier as provided for in Subsection (9)(c)(i), may:

(i) elect to accept the amount tendered in Subsection (9)(c)(i) as payment in full of all underinsured motorist claims; or

(ii) elect to:

(A) accept the amount tendered in Subsection (9)(c)(i) as partial payment of all underinsured motorist claims; and

(B) continue to litigate or arbitrate the remaining claim in accordance with the election made under Subsections (8)(a), (b), and (c).

(e) If a covered person elects to accept the amount tendered under Subsection (9)(c)(i) as partial payment of all underinsured motorist claims, the final award obtained through arbitration, litigation, or later settlement shall be reduced by any payment made by the underinsured motorist carrier under Subsection (9)(c)(i).

(f) In an arbitration proceeding on the remaining underinsured claims:

(i) the parties may not disclose to the arbitrator or arbitration panel the amount paid under Subsection (9)(c)(i) until after the arbitration award has been rendered; and

(ii) the parties may not disclose the amount of the limits of underinsured motorist benefits provided by the policy.

(g) If the final award obtained through arbitration or litigation is greater than the average of the covered person's initial written demand for payment provided for in Subsection (9)(a)(i) and the underinsured motorist carrier's initial written

response provided for in Subsection (9)(c)(i), the underinsured motorist carrier shall pay:

(i) the final award obtained through arbitration or litigation, except that if the award exceeds the policy limits of the subject underinsured motorist policy by more than \$15,000, the amount shall be reduced to an amount equal to the policy limits plus \$15,000; and

(ii) any of the following applicable costs:

(A) any costs as set forth in Rule 54(d), Utah Rules of Civil Procedure;

(B) the arbitrator or arbitration panel's fee; and

(C) the reasonable costs of expert witnesses and depositions used in the presentation of evidence during arbitration or litigation.

(h) (i) The covered person shall provide an affidavit of costs within five days of an arbitration award.

(ii) (A) Objection to the affidavit of costs shall specify with particularity the costs to which the underinsured motorist carrier objects.

(B) The objection shall be resolved by the arbitrator or arbitration panel.

(iii) The award of costs by the arbitrator or arbitration panel under Subsection (9)(g)(ii) may not exceed \$5,000.

(i) (i) A covered person shall disclose all material information, other than rebuttal evidence, within 30 days after a covered person elects to submit a claim for underinsured motorist coverage benefits to binding arbitration or files litigation as specified in Subsection (9)(a).

(ii) If the information under Subsection (9)(i)(i) is not disclosed, the covered person may not recover costs or any amounts in excess of the policy under Subsection (9)(g).

(j) This Subsection (9) does not limit any other cause of action that arose or may arise against the underinsured motorist carrier from the same dispute.

(k) The provisions of this Subsection (9) only apply to motor vehicle accidents that occur on or after March 30, 2010.

(l) (i) The written demand requirement in Subsection (9)(a)(i)(A) does not affect the covered person's requirement to provide a computation of any other economic damages claimed, and the one or more respondents shall have a reasonable time after the receipt of the computation of any other economic damages claimed to conduct fact and expert discovery as to any additional damages claimed. The changes made by this bill to this Subsection (9)(l) and Subsection (9)(a)(i)(A) apply to a claim submitted to binding arbitration or through litigation on or after May 13, 2014.

(ii) The changes made by this bill under Subsections (9)(a)(ii)(A)(II) and (B)(II) apply to a claim submitted to binding arbitration or through litigation on or after May 13, 2014.

Section 12. Section 31A-22-428 is amended to read:

31A-22-428. Interest payable on life insurance proceeds.

(1) For a life insurance policy delivered or issued for delivery in this state on or after May 5, 2008, the insurer shall pay interest on the death proceeds payable upon the death of the insured.

(2) (a) Except as provided in Subsection (4), for the period beginning on the date of death and ending the day before the day described in Subsection (3)(b), interest under Subsection (1) shall accrue at a rate no less than the greater of:

(i) the rate applicable to policy funds left on deposit; ~~or~~ and

(ii) ~~[if there is no rate described in Subsection (2)(a)(i), at]~~ the Two Year Treasury Constant Maturity Rate as published by the Federal Reserve.

(b) If there is no rate applicable to policy funds on deposit as stated in Subsection (2)(a)(i), then the Two Year Treasury Constant Maturity Rates as published by the Federal Reserve applies.

~~[(b)]~~ (c) The rate described in Subsection (2)(a) or (b) is the rate in effect on the day on which the death occurs.

~~[(e)]~~ (d) Interest is payable until the day on which the claim is paid.

(3) (a) Unless the claim is paid and except as provided in Subsection (4), beginning on the day described in Subsection (3)(b) and ending the day on which the claim is paid, interest shall accrue at the rate in Subsection (2) plus additional interest at the rate of 10% annually.

(b) Interest accrues under Subsection (3)(a) beginning with the day that is 31 days from the latest of:

(i) the day on which the insurer receives proof of death;

(ii) the day on which the insurer receives sufficient information to determine:

(A) liability;

(B) the extent of the liability; and

(C) the appropriate payee legally entitled to the proceeds; and

(iii) the day on which:

(A) legal impediments to payment of proceeds that depend on the action of parties other than the insurer are resolved; and

(B) the insurer receives sufficient evidence of the resolution of the legal impediments described in Subsection (3)(b)(iii)(A).

(4) A court of competent jurisdiction may require payment of interest from the date of death to the day on which a claim is paid at a rate equal to the sum of:

(a) the rate specified in Subsection (2); and

(b) the legal rate identified in Subsection 15-1-1(2).

Section 13. Section 31A-22-617 is amended to read:

31A-22-617. Preferred provider contract provisions.

Health insurance policies may provide for insureds to receive services or reimbursement under the policies in accordance with preferred health care provider contracts as follows:

(1) Subject to restrictions under this section, ~~[any]~~ an insurer or third party administrator may enter into contracts with health care providers as defined in Section 78B-3-403 under which the health care providers agree to supply services, at prices specified in the contracts, to persons insured by an insurer.

(a) (i) A health care provider contract may require the health care provider to accept the specified payment in this Subsection (1) as payment in full, relinquishing the right to collect additional amounts from the insured person.

(ii) In ~~[any]~~ a dispute involving a provider's claim for reimbursement, the same shall be determined in accordance with applicable law, the provider contract, the subscriber contract, and the insurer's written payment policies in effect at the time services were rendered.

(iii) If the parties are unable to resolve their dispute, the matter shall be subject to binding arbitration by a jointly selected arbitrator. Each party is to bear its own expense except the cost of the jointly selected arbitrator shall be equally shared. This Subsection (1)(a)(iii) does not apply to the claim of a general acute hospital to the extent it is inconsistent with the hospital's provider agreement.

(iv) An organization may not penalize a provider solely for pursuing a claims dispute or otherwise demanding payment for a sum believed owing.

(v) If an insurer permits another entity with which it does not share common ownership or control to use or otherwise lease one or more of the organization's networks of participating providers, the organization shall ensure, at a minimum, that the entity pays participating providers in accordance with the same fee schedule and general payment policies as the organization would for that network.

(b) The insurance contract may reward the insured for selection of preferred health care providers by:

(i) reducing premium rates;

(ii) reducing deductibles;

(iii) coinsurance;

(iv) other copayments; or

(v) any other reasonable manner.

(c) If the insurer is a managed care organization, as defined in Subsection 31A-27a-403(1)(f):

(i) the insurance contract and the health care provider contract shall provide that in the event the managed care organization becomes insolvent, the rehabilitator or liquidator may:

(A) require the health care provider to continue to provide health care services under the contract until the earlier of:

(I) 90 days after the date of the filing of a petition for rehabilitation or the petition for liquidation; or

(II) the date the term of the contract ends; and

(B) subject to Subsection (1)(c)(v), reduce the fees the provider is otherwise entitled to receive from the managed care organization during the time period described in Subsection (1)(c)(i)(A);

(ii) the provider is required to:

(A) accept the reduced payment under Subsection (1)(c)(i)(B) as payment in full; and

(B) relinquish the right to collect additional amounts from the insolvent managed care organization's enrollee, as defined in Subsection 31A-27a-403(1)(b);

(iii) if the contract between the health care provider and the managed care organization has not been reduced to writing, or the contract fails to contain the ~~[language required by]~~ requirements described in Subsection (1)(c)(i), the provider may not collect or attempt to collect from the enrollee:

(A) sums owed by the insolvent managed care organization; or

(B) the amount of the regular fee reduction authorized under Subsection (1)(c)(i)(B);

(iv) the following may not bill or maintain ~~[any]~~ an action at law against an enrollee to collect sums owed by the insolvent managed care organization or the amount of the regular fee reduction authorized under Subsection (1)(c)(i)(B):

(A) a provider;

(B) an agent;

(C) a trustee; or

(D) an assignee of a person described in Subsections (1)(c)(iv)(A) through (C); and

(v) notwithstanding Subsection (1)(c)(i):

(A) a rehabilitator or liquidator may not reduce a fee by less than 75% of the provider's regular fee set forth in the contract; and

(B) the enrollee shall continue to pay the copayments, deductibles, and other payments for services received from the provider that the enrollee was required to pay before the filing of:

(I) a petition for rehabilitation; or

(II) a petition for liquidation.

(2) (a) Subject to Subsections (2)(b) through (2)(e), an insurer using preferred health care provider contracts is subject to the reimbursement

requirements in Section 31A-8-501 on or after January 1, 2014.

(b) When reimbursing for services of health care providers not under contract, the insurer may make direct payment to the insured.

(c) An insurer using preferred health care provider contracts may impose a deductible on coverage of health care providers not under contract.

(d) When selecting health care providers with whom to contract under Subsection (1), an insurer may not unfairly discriminate between classes of health care providers, but may discriminate within a class of health care providers, subject to Subsection (7).

(e) For purposes of this section, unfair discrimination between classes of health care providers includes:

(i) refusal to contract with class members in reasonable proportion to the number of insureds covered by the insurer and the expected demand for services from class members; and

(ii) refusal to cover procedures for one class of providers that are:

(A) commonly used by members of the class of health care providers for the treatment of illnesses, injuries, or conditions;

(B) otherwise covered by the insurer; and

(C) within the scope of practice of the class of health care providers.

(3) Before the insured consents to the insurance contract, the insurer shall fully disclose to the insured that it has entered into preferred health care provider contracts. The insurer shall provide sufficient detail on the preferred health care provider contracts to permit the insured to agree to the terms of the insurance contract. The insurer shall provide at least the following information:

(a) a list of the health care providers under contract, and if requested their business locations and specialties;

(b) a description of the insured benefits, including ~~[any]~~ deductibles, coinsurance, or other copayments;

(c) a description of the quality assurance program required under Subsection (4); and

(d) a description of the adverse benefit determination procedures required under Subsection (5).

(4) (a) An insurer using preferred health care provider contracts shall maintain a quality assurance program for assuring that the care provided by the health care providers under contract meets prevailing standards in the state.

(b) The commissioner in consultation with the executive director of the Department of Health may designate qualified persons to perform an audit of the quality assurance program. The auditors shall have full access to all records of the organization

and its health care providers, including medical records of individual patients.

(c) The information contained in the medical records of individual patients shall remain confidential. All information, interviews, reports, statements, memoranda, or other data furnished for purposes of the audit and any findings or conclusions of the auditors are privileged. The information is not subject to discovery, use, or receipt in evidence in any legal proceeding except hearings before the commissioner concerning alleged violations of this section.

(5) An insurer using preferred health care provider contracts shall provide a reasonable procedure for resolving complaints and adverse benefit determinations initiated by the insureds and health care providers.

(6) An insurer may not contract with a health care provider for treatment of illness or injury unless the health care provider is licensed to perform that treatment.

(7) (a) A health care provider or insurer may not discriminate against a preferred health care provider for agreeing to a contract under Subsection (1).

(b) ~~[Any]~~ A health care provider licensed to treat ~~[any]~~ an illness or injury within the scope of the health care provider's practice, who is willing and able to meet the terms and conditions established by the insurer for designation as a preferred health care provider, shall be able to apply for and receive the designation as a preferred health care provider. Contract terms and conditions may include reasonable limitations on the number of designated preferred health care providers based upon substantial objective and economic grounds, or expected use of particular services based upon prior provider-patient profiles.

(8) Upon the written request of a provider excluded from a provider contract, the commissioner may hold a hearing to determine if the insurer's exclusion of the provider is based on the criteria set forth in Subsection (7)(b).

~~[(9) Except as provided in Subsection 31A-22-618.5(3)(a), insurers are subject to Sections 31A-22-613.5, 31A-22-614.5, and 31A-22-618.]~~

~~[(10)]~~ (9) Nothing in this section is to be construed as to require an insurer to offer a certain benefit or service as part of a health benefit plan.

~~[(11)]~~ (10) This section does not apply to catastrophic mental health coverage provided in accordance with Section 31A-22-625.

~~[(12)]~~ (11) Notwithstanding ~~[the provisions of]~~ Subsection (1), Subsection (7)(b), and Section 31A-22-618, an insurer or third party administrator is not required to, but may, enter into ~~[contracts]~~ a contract with a licensed athletic ~~[trainers]~~ trainer, licensed under Title 58, Chapter 40a, Athletic Trainer Licensing Act.

Section 14. Section 31A-22-618.5 is amended to read:

31A-22-618.5. Health benefit plan offerings.

(1) The purpose of this section is to increase the range of health benefit plans available in the small group, small employer group, large group, and individual insurance markets.

(2) A health maintenance organization that is subject to Chapter 8, Health Maintenance Organizations and Limited Health Plans:

(a) shall offer to potential purchasers at least one health benefit plan that is subject to the requirements of Chapter 8, Health Maintenance Organizations and Limited Health Plans; and

(b) may offer to a potential purchaser one or more health benefit plans that:

(i) are not subject to one or more of the following:

(A) the limitations on insured indemnity benefits in Subsection 31A-8-105(4);

(B) the limitation on point of service products in Subsections 31A-8-408(3) through (6);

(C) except as provided in Subsection (2)(b)(ii), basic health care services as defined in Section 31A-8-101; or

(D) coverage mandates enacted after January 1, 2009 that are not required by federal law, provided that the insurer offers one plan under Subsection (2)(a) that covers the mandate enacted after January 1, 2009; and

(ii) when offering a health plan under this section, provide coverage for an emergency medical condition as required by Section 31A-22-627 as follows:

(A) within the organization's service area, covered services shall include health care services from nonaffiliated providers when medically necessary to stabilize an emergency medical condition; and

(B) outside the organization's service area, covered services shall include medically necessary health care services for the treatment of an emergency medical condition that are immediately required while the enrollee is outside the geographic limits of the organization's service area.

(3) An insurer that offers a health benefit plan that is not subject to Chapter 8, Health Maintenance Organizations and Limited Health Plans:

(a) ~~[notwithstanding Subsection 31A-22-617(9),]~~ may offer a health benefit plan that is not subject to Section 31A-22-618;

(b) when offering a health plan under this Subsection (3), shall provide coverage of emergency care services as required by Section 31A-22-627; and

(c) is not subject to coverage mandates enacted after January 1, 2009 that are not required by federal law, provided that an insurer offers one plan

that covers a mandate enacted after January 1, 2009.

(4) Section 31A-8-106 does not prohibit the offer of a health benefit plan under Subsection (2)(b).

(5) (a) Any difference in price between a health benefit plan offered under Subsections (2)(a) and (b) shall be based on actuarially sound data.

(b) Any difference in price between a health benefit plan offered under Subsection (3)(a) shall be based on actuarially sound data.

(6) Nothing in this section limits the number of health benefit plans that an insurer may offer.

Section 15. Section 31A-22-625 is amended to read:

31A-22-625. Catastrophic coverage of mental health conditions.

(1) As used in this section:

(a) (i) "Catastrophic mental health coverage" means coverage in a health benefit plan that does not impose a lifetime limit, annual payment limit, episodic limit, inpatient or outpatient service limit, or maximum out-of-pocket limit that places a greater financial burden on an insured for the evaluation and treatment of a mental health condition than for the evaluation and treatment of a physical health condition.

(ii) "Catastrophic mental health coverage" may include a restriction on cost sharing factors, such as deductibles, copayments, or coinsurance, before reaching a maximum out-of-pocket limit.

(iii) "Catastrophic mental health coverage" may include one maximum out-of-pocket limit for physical health conditions and another maximum out-of-pocket limit for mental health conditions, except that if separate out-of-pocket limits are established, the out-of-pocket limit for mental health conditions may not exceed the out-of-pocket limit for physical health conditions.

(b) (i) "50/50 mental health coverage" means coverage in a health benefit plan that pays for at least 50% of covered services for the diagnosis and treatment of mental health conditions.

(ii) "50/50 mental health coverage" may include a restriction on:

- (A) episodic limits;
- (B) inpatient or outpatient service limits; or
- (C) maximum out-of-pocket limits.

(c) "Large employer" is as defined in 42 U.S.C. Sec. 300gg-91.

(d) (i) "Mental health condition" means a condition or disorder involving mental illness that falls under a diagnostic category listed in the Diagnostic and Statistical Manual, as periodically revised.

(ii) "Mental health condition" does not include the following when diagnosed as the primary or substantial reason or need for treatment:

- (A) a marital or family problem;
- (B) a social, occupational, religious, or other social maladjustment;
- (C) a conduct disorder;
- (D) a chronic adjustment disorder;
- (E) a psychosexual disorder;
- (F) a chronic organic brain syndrome;
- (G) a personality disorder;
- (H) a specific developmental disorder or learning disability; or
- (I) an intellectual disability.

(e) "Small employer" is as defined in 42 U.S.C. Sec. 300gg-91.

(2) (a) At the time of purchase and renewal, an insurer shall offer to a small employer that it insures or seeks to insure a choice between:

- (i) (A) catastrophic mental health coverage; or
- (B) federally qualified mental health coverage as described in Subsection (3); and
- (ii) 50/50 mental health coverage.

(b) In addition to complying with Subsection (2)(a), an insurer may offer to provide:

(i) catastrophic mental health coverage, 50/50 mental health coverage, or both at levels that exceed the minimum requirements of this section; or

(ii) coverage that excludes benefits for mental health conditions.

(c) A small employer may, at its option, regardless of the employer's previous coverage for mental health conditions, choose either:

- (i) coverage offered under Subsection (2)(a)(i);
- (ii) 50/50 mental health coverage; or
- (iii) coverage offered under Subsection (2)(b).

(d) An insurer is exempt from the 30% index rating restriction in Section 31A-30-106.1 and, for the first year only that the employer chooses coverage that meets or exceeds catastrophic mental health coverage, the 15% annual adjustment restriction in Section 31A-30-106.1, for ~~any~~ a small employer with 20 or less enrolled employees who chooses coverage that meets or exceeds catastrophic mental health coverage.

(3) (a) An insurer shall offer a large employer mental health and substance use disorder benefit in compliance with Section 2705 of the Public Health Service Act, 42 U.S.C. Sec. 300gg-26, and federal regulations adopted pursuant to that act.

(b) An insurer shall provide in an individual or small employer health benefit plan, mental health

and substance use disorder benefits in compliance with Sections 2705 and 2711 of the Public Health Service Act, 42 U.S.C. Sec. 300gg-26, and federal regulations adopted pursuant to that act.

(4) (a) An insurer may provide catastrophic mental health coverage to a small employer through a managed care organization or system in a manner consistent with Chapter 8, Health Maintenance Organizations and Limited Health Plans, regardless of whether the insurance policy uses a managed care organization or system for the treatment of physical health conditions.

(b) (i) Notwithstanding any other provision of this title, an insurer may:

(A) establish a closed panel of providers for catastrophic mental health coverage; and

(B) refuse to provide a benefit to be paid for services rendered by a nonpanel provider unless:

(I) the insured is referred to a nonpanel provider with the prior authorization of the insurer; and

(II) the nonpanel provider agrees to follow the insurer's protocols and treatment guidelines.

(ii) If an insured receives services from a nonpanel provider in the manner permitted by Subsection (4)(b)(i)(B), the insurer shall reimburse the insured for not less than 75% of the average amount paid by the insurer for comparable services of panel providers under a noncapitated arrangement who are members of the same class of health care providers.

(iii) This Subsection (4)(b) may not be construed as requiring an insurer to authorize a referral to a nonpanel provider.

(c) To be eligible for catastrophic mental health coverage, a diagnosis or treatment of a mental health condition shall be rendered:

(i) by a mental health therapist as defined in Section 58-60-102; or

(ii) in a health care facility:

(A) licensed or otherwise authorized to provide mental health services pursuant to:

(I) Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act; or

(II) Title 62A, Chapter 2, Licensure of Programs and Facilities; and

(B) that provides a program for the treatment of a mental health condition pursuant to a written plan.

(5) The commissioner may prohibit an insurance policy that provides mental health coverage in a manner that is inconsistent with this section.

(6) The commissioner ~~shall: (a) may~~ adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary to ensure compliance with this section~~[-and]~~.

~~[(b) provide general figures on the percentage of insurance policies that include:]~~

~~[(i) no mental health coverage;]~~

~~[(ii) 50/50 mental health coverage;]~~

~~[(iii) catastrophic mental health coverage; and]~~

~~[(iv) coverage that exceeds the minimum requirements of this section.]~~

~~[(7) This section may not be construed as discouraging or otherwise preventing an insurer from providing mental health coverage in connection with an individual insurance policy.]~~

Section 16. Section 31A-22-635 is amended to read:

31A-22-635. Uniform application -- Uniform waiver of coverage -- Information on Health Insurance Exchange.

(1) For purposes of this section, "insurer":

(a) is defined in Subsection 31A-22-634(1); and

(b) includes the state employee's risk pool under Section 49-20-202.

(2) (a) Insurers offering a health benefit plan to an individual or small employer shall use a uniform application form.

(b) The uniform application form:

(i) ~~[except for cancer and transplants,]~~ may not include questions about an applicant's health history ~~[prior to the previous five years]; and~~

(ii) shall be shortened and simplified in accordance with rules adopted by the commissioner.

(c) Insurers offering a health benefit plan to a small employer shall use a uniform waiver of coverage form, which may not include health status related questions ~~[other than pregnancy]~~, and is limited to:

(i) information that identifies the employee;

(ii) proof of the employee's insurance coverage; and

(iii) a statement that the employee declines coverage with a particular employer group.

(3) Notwithstanding the requirements of Subsection (2)(a), the uniform application and uniform waiver of coverage forms may, if the combination or modification is approved by the commissioner, be combined or modified to facilitate a more efficient and consumer friendly experience for:

(a) enrollees using the Health Insurance Exchange; or

(b) insurers using electronic applications.

(4) The uniform application form, and uniform waiver form, shall be adopted and approved by the commissioner in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) (a) An insurer who offers a health benefit plan ~~[in either the group or individual market]~~ on the Health Insurance Exchange created in Section 63M-1-2504, shall:

(i) accept and process an electronic submission of the uniform application or uniform waiver from the Health Insurance Exchange using the electronic standards adopted pursuant to Section 63M-1-2506;

(ii) if requested, provide the applicant with a copy of the completed application either by mail or electronically;

(iii) post all health benefit plans offered by the insurer in the defined contribution arrangement market on the Health Insurance Exchange; and

(iv) post the information required by Subsection (6) on the Health Insurance Exchange for every health benefit plan the insurer offers on the Health Insurance Exchange.

(b) Except as provided in Subsection (5)(c), an insurer who posts health benefit plans on the Health Insurance Exchange may not directly or indirectly offer products on the Health Insurance Exchange that are not health benefit plans.

(c) Notwithstanding Subsection (5)(b):

(i) an insurer may offer a health savings account on the Health Insurance Exchange; ~~and~~

(ii) an insurer may offer dental ~~and vision~~ plans on the Health Insurance Exchange ~~if~~; and

~~[(A) the department determines, after study and consultation with the Health System Reform Task Force, that the department is able to establish standards for dental and vision policies offered on the Health Insurance Exchange, and the department determines whether a risk adjuster mechanism is necessary for a defined contribution vision and dental plan market on the Health Insurance Exchange; and]~~

~~[(B) (iii) the department ~~in accordance with recommendations from the Health System Reform Task Force, adopts~~ may make administrative rules to regulate the offer of dental ~~and vision~~ plans on the Health Insurance Exchange.~~

(6) An insurer shall provide the commissioner and the Health Insurance Exchange with the following information for each health benefit plan submitted to the Health Insurance Exchange, in the electronic format required by Subsection 63M-1-2506(1):

(a) plan design, benefits, and options offered by the health benefit plan including state mandates the plan does not cover;

(b) information and Internet address to online provider networks;

(c) wellness programs and incentives;

(d) descriptions of prescription drug benefits, exclusions, or limitations;

(e) the percentage of claims paid by the insurer within 30 days of the date a claim is submitted to the insurer for the prior year; and

(f) the claims denial and insurer transparency information developed in accordance with Subsection 31A-22-613.5(4).

(7) The department shall post on the Health Insurance Exchange the department's solvency rating for each insurer who posts a health benefit plan on the Health Insurance Exchange. The solvency rating for each insurer shall be based on methodology established by the department by administrative rule and shall be updated each calendar year.

(8) (a) The commissioner may request information from an insurer under Section 31A-22-613.5 to verify the data submitted to the department and to the Health Insurance Exchange.

(b) The commissioner shall regulate ~~any~~ the fees charged by insurers to an enrollee for a uniform application form or electronic submission of the application forms.

Section 17. Section 31A-22-721 is amended to read:

31A-22-721. A health benefit plan for a plan sponsor -- Discontinuance and nonrenewal.

(1) Except as otherwise provided in this section, a health benefit plan for a plan sponsor is renewable and continues in force:

(a) with respect to all eligible employees and dependents; and

(b) at the option of the plan sponsor.

(2) A health benefit plan for a plan sponsor may be discontinued or nonrenewed:

(a) for a network plan, if ~~(i)~~ there is no longer any enrollee under the group health plan who lives, resides, or works in:

~~[(A) (i) the service area of the insurer; or~~

~~[(B) (ii) the area for which the insurer is authorized to do business; and] or~~

~~[(ii) in the case of the small employer market, the insurer applies the same criteria the insurer would apply in denying enrollment in the plan under Subsection 31A-30-108(7); or]~~

(b) for coverage made available in the small or large employer market only through an association, if:

(i) the employer's membership in the association ceases; and

(ii) the coverage is terminated uniformly without regard to any health status-related factor relating to any covered individual.

(3) A health benefit plan for a plan sponsor may be discontinued if:

(a) a condition described in Subsection (2) exists;

(b) the plan sponsor fails to pay premiums or contributions in accordance with the terms of the contract;

(c) the plan sponsor:

(i) performs an act or practice that constitutes fraud; or

(ii) makes an intentional misrepresentation of material fact under the terms of the coverage;

(d) the insurer:

(i) elects to discontinue offering a particular health benefit product delivered or issued for delivery in this state;

(ii) (A) provides notice of the discontinuation in writing:

(I) to each plan sponsor, employee, and dependent of a plan sponsor or employee; and

(II) at least 90 days before the date the coverage will be discontinued;

(B) provides notice of the discontinuation in writing:

(I) to the commissioner; and

(II) at least three working days prior to the date the notice is sent to the affected plan sponsors, employees, and dependents of plan sponsors or employees;

(C) offers to each plan sponsor, on a guaranteed issue basis, the option to purchase any other health benefit products currently being offered:

(I) by the insurer in the market; or

(II) in the case of a large employer, any other health benefit plan currently being offered in that market; and

(D) in exercising the option to discontinue that product and in offering the option of coverage in this section, the insurer acts uniformly without regard to:

(I) the claims experience of a plan sponsor;

(II) any health status-related factor relating to any covered participant or beneficiary; or

(III) any health status-related factor relating to a new participant or beneficiary who may become eligible for coverage; or

(e) the insurer:

(i) elects to discontinue all of the insurer's health benefit plans:

(A) in the small employer market; or

(B) the large employer market; or

(C) both the small and large employer markets; and

(ii) (A) provides notice of the discontinuance in writing:

(I) to each plan sponsor, employee, or dependent of a plan sponsor or an employee; and

(II) at least 180 days before the date the coverage will be discontinued;

(B) provides notice of the discontinuation in writing:

(I) to the commissioner in each state in which an affected insured individual is known to reside; and

(II) at least 30 business days prior to the date the notice is sent to the affected plan sponsors, employees, and dependents of a plan sponsor or employee;

(C) discontinues and nonrenews all plans issued or delivered for issuance in the market; and

(D) provides a plan of orderly withdrawal as required by Section 31A-4-115.

(4) A large employer health benefit plan may be discontinued or nonrenewed:

(a) if a condition described in Subsection (2) exists; or

(b) for noncompliance with the insurer's:

(i) minimum participation requirements; or

(ii) employer contribution requirements.

(5) A small employer health benefit plan may be discontinued or nonrenewed:

(a) if a condition described in Subsection (2) exists; or

(b) for noncompliance with the insurer's employer contribution requirements.

(6) A small employer health benefit plan may be nonrenewed:

(a) if a condition described in Subsection (2) exists; or

(b) for noncompliance with the insurer's minimum participation requirements.

(7) (a) Except as provided in Subsection (7)(d), an eligible employee may be discontinued if after issuance of coverage the eligible employee:

(i) engages in an act or practice that constitutes fraud in connection with the coverage; or

(ii) makes an intentional misrepresentation of material fact in connection with the coverage.

(b) An eligible employee that is discontinued under Subsection (7)(a) may reenroll:

(i) 12 months after the date of discontinuance; and

(ii) if the plan sponsor's coverage is in effect at the time the eligible employee applies to reenroll.

(c) At the time the eligible employee's coverage is discontinued under Subsection (7)(a), the insurer shall notify the eligible employee of the right to reenroll when coverage is discontinued.

(d) An eligible employee may not be discontinued under this Subsection (7) because of a fraud or misrepresentation that relates to health status.

(8) (a) Except as provided in Subsection (8)(b), an insurer that elects to discontinue offering a health benefit plan under Subsection (3)(e) shall be

prohibited from writing new business in such market in this state for a period of five years beginning on the date of discontinuation of the last coverage that is discontinued.

(b) The commissioner may waive the prohibition under Subsection (8)(a) when the commissioner finds that waiver is in the public interest:

- (i) to promote competition; or
- (ii) to resolve inequity in the marketplace.

(9) If an insurer is doing business in one established geographic service area of the state, this section applies only to the insurer's operations in that geographic service area.

(10) An insurer may modify a health benefit plan for a plan sponsor only:

- (a) at the time of coverage renewal; and
- (b) if the modification is effective uniformly among all plans with a particular product or service.

(11) For purposes of this section, a reference to "plan sponsor" includes a reference to the employer:

- (a) with respect to coverage provided to an employer member of the association; and
- (b) if the health benefit plan is made available by an insurer in the employer market only through:
 - (i) an association;
 - (ii) a trust; or
 - (iii) a discretionary group.

(12) (a) A small employer that, after purchasing a health benefit plan in the small group market, employs on average more than 50 eligible employees on each business day in a calendar year may continue to renew the health benefit plan purchased in the small group market.

(b) A large employer that, after purchasing a health benefit plan in the large group market, employs on average less than 51 eligible employees on each business day in a calendar year may continue to renew the health benefit plan purchased in the large group market.

(13) An insurer offering employer sponsored health benefit plans shall comply with the Health Insurance Portability and Accountability Act, 42 U.S.C. Sec. 300gg and 300gg-1.

Section 18. Section 31A-23a-102 is amended to read:

31A-23a-102. Definitions.

As used in this chapter:

(1) "Bail bond producer" is as defined in Section 31A-35-102.

(2) "Home state" means a state or territory of the United States or the District of Columbia in which an insurance producer:

- (a) maintains the insurance producer's principal:

(i) place of residence; or

(ii) place of business; and

(b) is licensed to act as an insurance producer.

(3) "Insurer" is as defined in Section 31A-1-301, except that the following persons or similar persons are not insurers for purposes of Part 7, Producer Controlled Insurers:

(a) a risk retention group as defined in:

(i) the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499;

(ii) the Risk Retention Act, 15 U.S.C. Sec. 3901 et seq.; and

(iii) Chapter 15, Part 2, Risk Retention Groups Act;

(b) a residual market pool;

(c) a joint underwriting authority or association; and

(d) a captive insurer.

(4) "License" is defined in Section 31A-1-301.

(5) (a) "Managing general agent" means a person that:

(i) manages all or part of the insurance business of an insurer, including the management of a separate division, department, or underwriting office;

(ii) acts as an agent for the insurer whether it is known as a managing general agent, manager, or other similar term;

(iii) produces and underwrites an amount of gross direct written premium equal to, or more than, 5% of[,] the policyholder surplus as reported in the last annual statement of the insurer in any one quarter or year:

(A) with or without the authority;

(B) separately or together with an affiliate; and

(C) directly or indirectly; and

(iv) (A) adjusts or pays claims in excess of an amount determined by the commissioner; or

(B) negotiates reinsurance on behalf of the insurer.

(b) Notwithstanding Subsection (5)(a), the following persons may not be considered as managing general agent for the purposes of this chapter:

(i) an employee of the insurer;

(ii) a United States manager of the United States branch of an alien insurer;

(iii) an underwriting manager that, pursuant to contract:

(A) manages all the insurance operations of the insurer;

(B) is under common control with the insurer;

(C) is subject to Chapter 16, Insurance Holding Companies; and

(D) is not compensated based on the volume of premiums written; and

(iv) the attorney-in-fact authorized by and acting for the subscribers of a reciprocal insurer or inter-insurance exchange under powers of attorney.

(6) "Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning a substantive benefit, term, or condition of the contract if the person engaged in that act:

(a) sells insurance; or

(b) obtains insurance from insurers for purchasers.

(7) "Reinsurance intermediary" means:

(a) a reinsurance intermediary-broker; or

(b) a reinsurance intermediary-manager.

(8) "Reinsurance intermediary-broker" means a person other than an officer or employee of the ceding insurer, firm, association, or corporation who solicits, negotiates, or places reinsurance cessions or retrocessions on behalf of a ceding insurer without the authority or power to bind reinsurance on behalf of the insurer.

(9) (a) "Reinsurance intermediary-manager" means a person who:

(i) has authority to bind or who manages all or part of the assumed reinsurance business of a reinsurer, including the management of a separate division, department, or underwriting office; and

(ii) acts as an agent for the reinsurer whether the person is known as a reinsurance intermediary-manager, manager, or other similar term.

(b) Notwithstanding Subsection (9)(a), the following persons may not be considered reinsurance intermediary-managers for the purpose of this chapter with respect to the reinsurer:

(i) an employee of the reinsurer;

(ii) a United States manager of the United States branch of an alien reinsurer;

(iii) an underwriting manager that, pursuant to contract:

(A) manages all the reinsurance operations of the reinsurer;

(B) is under common control with the reinsurer;

(C) is subject to Chapter 16, Insurance Holding Companies; and

(D) is not compensated based on the volume of premiums written; and

(iv) the manager of a group, association, pool, or organization of insurers that:

(A) engage in joint underwriting or joint reinsurance; and

(B) are subject to examination by the insurance commissioner of the state in which the manager's principal business office is located.

(10) "Resident" is as defined by rule made by the commissioner in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

~~[(40)]~~ (11) "Search" means a license subline of authority in conjunction with the title insurance line of authority that allows a person to issue title insurance commitments or policies on behalf of a title insurer.

~~[(41)]~~ (12) "Sell" means to exchange a contract of insurance:

(a) by any means;

(b) for money or its equivalent; and

(c) on behalf of an insurance company.

~~[(42)]~~ (13) "Solicit" means:

(a) attempting to sell insurance;

(b) asking or urging a person to apply for:

(i) a particular kind of insurance; and

(ii) insurance from a particular insurance company;

(c) advertising insurance, including advertising for the purpose of obtaining leads for the sale of insurance; or

(d) holding oneself out as being in the insurance business.

~~[(43)]~~ (14) "Terminate" means:

(a) the cancellation of the relationship between:

(i) an individual licensee or agency licensee and a particular insurer; or

(ii) an individual licensee and a particular agency licensee; or

(b) the termination of:

(i) an individual licensee's or agency licensee's authority to transact insurance on behalf of a particular insurance company; or

(ii) an individual licensee's authority to transact insurance on behalf of a particular agency licensee.

~~[(44)]~~ (15) "Title marketing representative" means a person who:

(a) represents a title insurer in soliciting, requesting, or negotiating the placing of:

(i) title insurance; or

(ii) escrow services; and

(b) does not have a search or escrow license as provided in Section 31A-23a-106.

[15] (16) "Uniform application" means the version of the National Association of Insurance Commissioners' uniform application for resident and nonresident producer licensing at the time the application is filed.

[16] (17) "Uniform business entity application" means the version of the National Association of Insurance Commissioners' uniform business entity application for resident and nonresident business entities at the time the application is filed.

Section 19. Section 31A-23a-104 is amended to read:

31A-23a-104. Application for individual license -- Application for agency license.

(1) This section applies to an initial or renewal license as a:

- (a) producer;
- (b) surplus lines producer;
- (c) limited line producer;
- (d) consultant;
- (e) managing general agent; or
- (f) reinsurance intermediary.

(2) (a) Subject to Subsection (2)(b), to obtain or renew an individual license, an individual shall:

(i) file an application for an initial or renewal individual license with the commissioner on forms and in a manner the commissioner prescribes; and

(ii) pay a license fee that is not refunded if the application:

(A) is denied; or

(B) is incomplete when filed and is never completed by the applicant.

(b) An application described in this Subsection (2) shall provide:

- (i) information about the applicant's identity;
- (ii) the applicant's Social Security number;
- (iii) the applicant's personal history, experience, education, and business record;
- (iv) whether the applicant is 18 years of age or older;
- (v) whether the applicant has committed an act that is a ground for denial, suspension, or revocation as set forth in Section 31A-23a-105 or 31A-23a-111;

(vi) if the application is for a resident individual producer license, certification that the applicant complies with Section 31A-23a-203.5; and

(vii) any other information the commissioner reasonably requires.

(3) The commissioner may require a document reasonably necessary to verify the information contained in an application filed under this section.

(4) An applicant's Social Security number contained in an application filed under this section is a private record under Section 63G-2-302.

(5) (a) Subject to Subsection (5)(b), to obtain or renew an agency license, a person shall:

(i) file an application for an initial or renewal agency license with the commissioner on forms and in a manner the commissioner prescribes; and

(ii) pay a license fee that is not refunded if the application:

(A) is denied; or

(B) is incomplete when filed and is never completed by the applicant.

(b) An application described in Subsection (5)(a) shall provide:

- (i) information about the applicant's identity;
- (ii) the applicant's federal employer identification number;
- (iii) the designated responsible licensed ~~producer~~ individual;
- (iv) the identity of the owners, partners, officers, and directors;

(v) whether the applicant has committed an act that is a ground for denial, suspension, or revocation as set forth in Section 31A-23a-105 or 31A-23a-111; and

(vi) any other information the commissioner reasonably requires.

Section 20. Section 31A-23a-105 is amended to read:

31A-23a-105. General requirements for individual and agency license issuance and renewal.

(1) (a) The commissioner shall issue or renew a license to a person described in Subsection (1)(b) to act as:

- (i) a producer;
- (ii) a surplus lines producer;
- (iii) a limited line producer;
- (iv) a consultant;
- (v) a managing general agent; or
- (vi) a reinsurance intermediary.

(b) The commissioner shall issue or renew a license under Subsection (1)(a) to a person who, as to the license type and line of authority classification applied for under Section 31A-23a-106:

(i) satisfies the application requirements under Section 31A-23a-104;

(ii) satisfies the character requirements under Section 31A-23a-107;

(iii) satisfies ~~any~~ applicable continuing education requirements under Section 31A-23a-202;

(iv) satisfies [any] applicable examination requirements under Section 31A-23a-108;

(v) satisfies [any] applicable training period requirements under Section 31A-23a-203;

(vi) if an applicant for a resident individual producer license, certifies that, to the extent applicable, the applicant:

(A) is in compliance with Section 31A-23a-203.5; and

(B) will maintain compliance with Section 31A-23a-203.5 during the period for which the license is issued or renewed;

(vii) has not committed an act that is a ground for denial, suspension, or revocation as provided in Section 31A-23a-111;

(viii) if a nonresident:

(A) complies with Section 31A-23a-109; and

(B) holds an active similar license in that person's home state ~~(of residence)~~;

(ix) if an applicant for an individual title insurance producer or agency title insurance producer license, satisfies the requirements of Section 31A-23a-204;

(x) if an applicant for a license to act as a life settlement provider or life settlement producer, satisfies the requirements of Section 31A-23a-117; and

(xi) pays the applicable fees under Section 31A-3-103.

(2) (a) This Subsection (2) applies to the following persons:

(i) an applicant for a pending:

(A) individual or agency producer license;

(B) surplus lines producer license;

(C) limited line producer license;

(D) consultant license;

(E) managing general agent license; or

(F) reinsurance intermediary license; or

(ii) a licensed:

(A) individual or agency producer;

(B) surplus lines producer;

(C) limited line producer;

(D) consultant;

(E) managing general agent; or

(F) reinsurance intermediary.

(b) A person described in Subsection (2)(a) shall report to the commissioner:

(i) an administrative action taken against the person, including a denial of a new or renewal license application:

(A) in another jurisdiction; or

(B) by another regulatory agency in this state; and

(ii) a criminal prosecution taken against the person in any jurisdiction.

(c) The report required by Subsection (2)(b) shall:

(i) be filed:

(A) at the time the person files the application for an individual or agency license; and

(B) for an action or prosecution that occurs on or after the day on which the person files the application:

(I) for an administrative action, within 30 days of the final disposition of the administrative action; or

(II) for a criminal prosecution, within 30 days of the initial appearance before a court; and

(ii) include a copy of the complaint or other relevant legal documents related to the action or prosecution described in Subsection (2)(b).

(3) (a) The department may require a person applying for a license or for consent to engage in the business of insurance to submit to a criminal background check as a condition of receiving a license or consent.

(b) A person, if required to submit to a criminal background check under Subsection (3)(a), shall:

(i) submit a fingerprint card in a form acceptable to the department; and

(ii) consent to a fingerprint background check by:

(A) the Utah Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) For a person who submits a fingerprint card and consents to a fingerprint background check under Subsection (3)(b), the department may request:

(i) criminal background information maintained pursuant to Title 53, Chapter 10, Part 2, Bureau of Criminal Identification, from the Bureau of Criminal Identification; and

(ii) complete Federal Bureau of Investigation criminal background checks through the national criminal history system.

(d) Information obtained by the department from the review of criminal history records received under this Subsection (3) shall be used by the department for the purposes of:

(i) determining if a person satisfies the character requirements under Section 31A-23a-107 for issuance or renewal of a license;

(ii) determining if a person has failed to maintain the character requirements under Section 31A-23a-107; and

(iii) preventing a person who violates the federal Violent Crime Control and Law Enforcement Act of

1994, 18 U.S.C. Sec. 1033, from engaging in the business of insurance in the state.

(e) If the department requests the criminal background information, the department shall:

(i) pay to the Department of Public Safety the costs incurred by the Department of Public Safety in providing the department criminal background information under Subsection (3)(c)(i);

(ii) pay to the Federal Bureau of Investigation the costs incurred by the Federal Bureau of Investigation in providing the department criminal background information under Subsection (3)(c)(ii); and

(iii) charge the person applying for a license or for consent to engage in the business of insurance a fee equal to the aggregate of Subsections (3)(e)(i) and (ii).

(4) To become a resident licensee in accordance with Section 31A-23a-104 and this section, a person licensed as one of the following in another state who moves to this state shall apply within 90 days of establishing legal residence in this state:

- (a) insurance producer;
- (b) surplus lines producer;
- (c) limited line producer;
- (d) consultant;
- (e) managing general agent; or
- (f) reinsurance intermediary.

(5) (a) The commissioner may deny a license application for a license listed in Subsection (5)(b) if the person applying for the license, as to the license type and line of authority classification applied for under Section 31A-23a-106:

(i) fails to satisfy the requirements as set forth in this section; or

(ii) commits an act that is grounds for denial, suspension, or revocation as set forth in Section 31A-23a-111.

(b) This Subsection (5) applies to the following licenses:

- (i) producer;
- (ii) surplus lines producer;
- (iii) limited line producer;
- (iv) consultant;
- (v) managing general agent; or
- (vi) reinsurance intermediary.

(6) Notwithstanding the other provisions of this section, the commissioner may:

(a) issue a license to an applicant for a license for a title insurance line of authority only with the concurrence of the Title and Escrow Commission; and

(b) renew a license for a title insurance line of authority only with the concurrence of the Title and Escrow Commission.

Section 21. Section 31A-23a-108 is amended to read:

31A-23a-108. Examination requirements.

(1) (a) The commissioner may require ~~[applicants]~~ an applicant for ~~[any]~~ a particular license type under Section 31A-23a-106 to pass a line of authority examination as a requirement for a license, except that an examination may not be required of ~~[applicants]~~ an applicant for:

(i) ~~[licenses]~~ a license under Subsection 31A-23a-106(2)(c); or

(ii) ~~[other]~~ another limited line license ~~[lines]~~ line of authority ~~recognized~~ by the commissioner or ~~the~~ Title and Escrow Commission by rule as provided in Subsection 31A-23a-106(3).

(b) The examination described in Subsection (1)(a):

(i) shall reasonably relate to the line of authority for which it is prescribed; and

(ii) may be administered by the commissioner or as otherwise specified by rule.

(2) The commissioner shall waive the requirement of an examination for a nonresident applicant who:

(a) applies for an insurance producer license in this state within 90 days of establishing legal residence in this state;

(b) has been licensed for the same line of authority in another state; and

(c) (i) is licensed in the state described in Subsection (2)(b) at the time the applicant applies for an insurance producer license in this state; or

(ii) if the application is received within 90 days of the cancellation of the applicant's previous license:

(A) the prior state certifies that at the time of cancellation, the applicant was in good standing in that state; or

(B) the state's producer database records maintained by the National Association of Insurance Commissioners or the National Association of Insurance Commissioner's affiliates or subsidiaries, indicates that the producer is or was licensed in good standing for the line of authority requested.

~~[(3) A nonresident producer licensee who moves to this state and applies for a resident license within 90 days of establishing legal residence in this state shall be exempt from any line of authority examination that the producer was authorized on the producer's nonresident producer license, except where the commissioner determines otherwise by rule.]~~

~~[(4)]~~ (3) This section's requirement may only be applied to ~~[applicants who are natural persons]~~ an applicant who is a natural person.

Section 22. Section 31A-23a-112 is amended to read:

31A-23a-112. Probation -- Grounds for revocation.

(1) The commissioner may place a licensee on probation for a period not to exceed 24 months as follows:

(a) after an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, for ~~[any]~~ circumstances that would justify a suspension under Section 31A-23a-111; or

(b) at the issuance or renewal of a ~~[new]~~ license:

(i) with an admitted violation under 18 U.S.C. ~~[Sections]~~ Sec. 1033 ~~[and 1034]~~; or

(ii) with a response to background information questions on a new or renewal license application ~~[indicating that]~~ or information received from a background check conducted in connection with a new or renewal license application that indicates:

(A) the person has been convicted of a crime, that is listed by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as a crime that is grounds for probation;

(B) the person is currently charged with a crime, that is listed by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as a crime that is grounds for probation regardless of whether adjudication is withheld;

(C) the person has been involved in an administrative proceeding regarding ~~[any]~~ a professional or occupational license; or

(D) ~~[any]~~ a business in which the person is or was an owner, partner, officer, or director has been involved in an administrative proceeding regarding ~~[any]~~ a professional or occupational license.

(2) The commissioner may place a licensee on probation for a specified period no longer than 24 months if the licensee has admitted to a violation under 18 U.S.C. ~~[Sections]~~ Sec. 1033 ~~[and 1034]~~.

(3) The probation order shall state the conditions for retention of the license, which shall be reasonable.

(4) ~~[Any]~~ A violation of the probation is grounds for revocation pursuant to ~~[any]~~ a proceeding authorized under Title 63G, Chapter 4, Administrative Procedures Act.

Section 23. Section 31A-23a-113 is amended to read:

31A-23a-113. License lapse and voluntary surrender.

(1) (a) A license issued under this chapter shall lapse if the licensee fails to:

(i) pay when due a fee under Section 31A-3-103;

(ii) complete continuing education requirements under Section 31A-23a-202 before submitting the license renewal application;

(iii) submit a completed renewal application as required by Section 31A-23a-104;

(iv) submit additional documentation required to complete the licensing process as related to a specific license type or line of authority; or

(v) maintain an active license in a ~~[resident]~~ licensee's home state if the licensee is a nonresident licensee.

(b) (i) A licensee whose license lapses due to the following may request an action described in Subsection (1)(b)(ii):

(A) military service;

(B) voluntary service for a period of time designated by the person for whom the licensee provides voluntary service; or

(C) some other extenuating circumstances, such as long-term medical disability.

(ii) A licensee described in Subsection (1)(b)(i) may request:

(A) reinstatement of the license no later than one year after the day on which the license lapses; and

(B) waiver of any of the following imposed for failure to comply with renewal procedures:

(I) an examination requirement;

(II) reinstatement fees set under Section 31A-3-103;

(III) continuing education requirements; or

(IV) other sanction imposed for failure to comply with renewal procedures.

(2) If a license issued under this chapter is voluntarily surrendered, the license or line of authority may be reinstated:

(a) during the license period in which the license is voluntarily surrendered; and

(b) no later than one year after the day on which the license is voluntarily surrendered.

~~[(3) A voluntarily surrendered license that is reinstated during the license period set forth in Subsection (2) may not be reinstated until the person who voluntarily surrendered the license complies with any applicable continuing education requirements for the period during which the license was voluntarily surrendered.]~~

Section 24. Section 31A-23a-202 is amended to read:

31A-23a-202. Continuing education requirements.

(1) Pursuant to this section, the commissioner shall by rule prescribe the continuing education requirements for a producer and a consultant.

(2) (a) The commissioner may not state a continuing education requirement in terms of formal education.

(b) The commissioner may state a continuing education requirement in terms of hours of insurance-related instruction received.

(c) Insurance-related formal education may be a substitute, in whole or in part, for the hours required under Subsection (2)(b).

(3) (a) The commissioner shall impose continuing education requirements in accordance with a two-year licensing period in which the licensee meets the requirements of this Subsection (3).

(b) (i) Except as provided in this section, the continuing education requirements shall require:

(A) that a licensee complete 24 credit hours of continuing education for every two-year licensing period;

(B) that 3 of the 24 credit hours described in Subsection (3)(b)(i)(A) be ethics courses; and

(C) that the licensee complete at least half of the required hours through classroom hours of insurance-related instruction.

(ii) An hour of continuing education in accordance with Subsection (3)(b)(i) may be obtained through:

(A) classroom attendance;

(B) home study;

(C) watching a video recording;

(D) experience credit; or

(E) another method provided by rule.

(iii) (A) Notwithstanding Subsections (3)(b)(i)(A) and (B), an individual title insurance producer is required to complete 12 credit hours of continuing education for every two-year licensing period, with 3 of the credit hours being ethics courses unless the individual title insurance producer is licensed in this state as an individual title insurance producer for 20 or more consecutive years.

(B) If an individual title insurance producer is licensed in this state as an individual title insurance producer for 20 or more consecutive years, the individual title insurance producer is required to complete 6 credit hours of continuing education for every two-year licensing period, with 3 of the credit hours being ethics courses.

(C) Notwithstanding Subsection (3)(b)(iii)(A) or (B), an individual title insurance producer is considered to have met the continuing education requirements imposed under Subsection (3)(b)(iii)(A) or (B) if the individual title insurance producer:

(I) is an active member in good standing with the Utah State Bar;

(II) is in compliance with the continuing education requirements of the Utah State Bar; and

(III) if requested by the department, provides the department evidence that the individual title insurance producer complied with the continuing education requirements of the Utah State Bar.

(c) A licensee may obtain continuing education hours at any time during the two-year licensing period.

(d) (i) A licensee is exempt from continuing education requirements under this section if:

(A) the licensee was first licensed before ~~April 1, 1978~~ December 31, 1982;

(B) the license does not have a continuous lapse for a period of more than one year, except for a license for which the licensee has had an exemption approved before May 11, 2011;

(C) the licensee requests an exemption from the department; and

(D) the department approves the exemption.

(ii) If the department approves the exemption under Subsection (3)(d)(i), the licensee is not required to apply again for the exemption.

(e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner shall, by rule:

(i) publish a list of insurance professional designations whose continuing education requirements can be used to meet the requirements for continuing education under Subsection (3)(b);

(ii) authorize a continuing education provider or a state or national professional producer or consultant association to:

(A) offer a qualified program for a license type or line of authority on a geographically accessible basis; and

(B) collect a reasonable fee for funding and administration of a continuing education program, subject to the review and approval of the commissioner; and

(iii) provide that membership by a producer or consultant in a state or national professional producer or consultant association is considered a substitute for the equivalent of two hours for each year during which the producer or consultant is a member of the professional association, except that the commissioner may not give more than two hours of continuing education credit in a year regardless of the number of professional associations of which the producer or consultant is a member.

(f) A fee permitted under Subsection (3)(e)(ii)(B) that is charged for attendance at a professional producer or consultant association program may be less for an association member, on the basis of the member's affiliation expense, but shall preserve the right of a nonmember to attend without affiliation.

(4) The commissioner shall approve a continuing education provider or continuing education course that satisfies the requirements of this section.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner shall by rule set the processes and procedures for continuing education provider registration and course approval.

(6) The requirements of this section apply only to a producer or consultant who is an individual.

(7) A nonresident producer or consultant is considered to have satisfied this state's continuing

education requirements if the nonresident producer or consultant satisfies the nonresident producer's or consultant's home state's continuing education requirements for a licensed insurance producer or consultant.

(8) A producer or consultant subject to this section shall keep documentation of completing the continuing education requirements of this section for two years after the end of the two-year licensing period to which the continuing education applies.

Section 25. Section 31A-23a-203 is amended to read:

31A-23a-203. Training period requirements.

(1) A producer is eligible to become a surplus lines producer only if the producer:

(a) has passed the applicable surplus lines producer examination;

(b) has been a producer with property ~~and~~ or casualty or both lines of authority for at least three years during the four years immediately preceding the date of application; and

(c) has paid the applicable fee under Section 31A-3-103.

(2) A person is eligible to become a consultant only if the person has acted in a capacity that would provide the person with preparation to act as an insurance consultant for a period aggregating not less than three years during the four years immediately preceding the date of application.

(3) (a) A resident producer with an accident and health line of authority may only sell long-term care insurance if the producer:

(i) initially completes a minimum of three hours of long-term care training before selling long-term care coverage; and

(ii) after completing the training required by Subsection (3)(a)(i), completes a minimum of three hours of long-term care training during each subsequent two-year licensing period.

(b) A course taken to satisfy a long-term care training requirement may be used toward satisfying a producer continuing education requirement.

(c) Long-term care training is not a continuing education requirement to renew a producer license.

(d) An insurer that issues long-term care insurance shall demonstrate to the commissioner, upon request, that a producer who is appointed by the insurer and who sells long-term care insurance coverage is in compliance with this Subsection (3).

(4) The training periods required under this section apply only to an individual applying for a license under this chapter.

Section 26. Section 31A-23a-402.5 is amended to read:

31A-23a-402.5. Inducements.

(1) (a) Except as provided in Subsection (2), a producer, consultant, or other licensee under this title, or an officer or employee of a licensee, may not induce a person to enter into, continue, or terminate an insurance contract by offering a benefit that is not:

- (i) specified in the insurance contract; or
- (ii) directly related to the insurance contract.

(b) An insurer may not make or knowingly allow an agreement of insurance that is not clearly expressed in the insurance contract to be issued or renewed.

(c) A licensee under this title may not absorb the tax under Section 31A-3-301.

(2) This section does not apply to a title insurer, an individual title insurance producer, or agency title insurance producer, or an officer or employee of a title insurer, an individual title insurance producer, or an agency title insurance producer.

(3) Items not prohibited by Subsection (1) include an insurer:

(a) reducing premiums because of expense savings;

(b) providing to a policyholder or insured one or more incentives, as defined by the commissioner by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to participate in a program or activity designed to reduce claims or claim expenses, including:

(i) a premium discount offered to a small or large employer group based on a wellness program if:

(A) the premium discount for the employer group does not exceed 20% of the group premium; and

(B) the premium discount based on the wellness program is offered uniformly by the insurer to all employer groups in the large or small group market;

(ii) a premium discount offered to employees of a small or large employer group in an amount that does not exceed federal limits on wellness program incentives; or

(iii) a combination of premium discounts offered to the employer group and the employees of an employer group, based on a wellness program, if:

(A) the premium discounts for the employer group comply with Subsection (3)(b)(i); and

(B) the premium discounts for the employees of an employer group comply with Subsection (3)(b)(ii); or

(c) receiving premiums under an installment payment plan.

(4) Items not prohibited by Subsection (1) include a producer, consultant, or other licensee, or an officer or employee of a licensee, either directly or through a third party:

(a) engaging in a usual kind of social courtesy if receipt of the social courtesy is not conditioned on a quote or the purchase of a particular insurance product;

(b) extending credit on a premium to the insured:

(i) without interest, for no more than 90 days from the effective date of the insurance contract;

(ii) for interest that is not less than the legal rate under Section 15-1-1, on the unpaid balance after the time period described in Subsection (4)(b)(i); and

(iii) except that an installment or payroll deduction payment of premiums on an insurance contract issued under an insurer's mass marketing program is not considered an extension of credit for purposes of this Subsection (4)(b);

(c) preparing or conducting a survey that:

(i) is directly related to an accident and health insurance policy purchased from the licensee; or

(ii) is used by the licensee to assess the benefit needs and preferences of insureds, employers, or employees directly related to an insurance product sold by the licensee;

(d) providing limited human resource services that are directly related to an insurance product sold by the licensee, including:

(i) answering questions directly related to:

(A) an employee benefit offering or administration, if the insurance product purchased from the licensee is accident and health insurance or health insurance; and

(B) employment practices liability, if the insurance product offered by or purchased from the licensee is property or casualty insurance; and

(ii) providing limited human resource compliance training and education directly pertaining to an insurance product purchased from the licensee;

(e) providing the following types of information or guidance:

(i) providing guidance directly related to compliance with federal and state laws for an insurance product purchased from the licensee;

(ii) providing a workshop or seminar addressing an insurance issue that is directly related to an insurance product purchased from the licensee; or

(iii) providing information regarding:

(A) employee benefit issues;

(B) directly related insurance regulatory and legislative updates; or

(C) similar education about an insurance product sold by the licensee and how the insurance product interacts with tax law;

(f) preparing or providing a form that is directly related to an insurance product purchased from, or offered by, the licensee;

(g) preparing or providing documents directly related to a premium only cafeteria plan within the meaning of Section 125, Internal Revenue Code, or a flexible spending account, but not providing

ongoing administration of a flexible spending account;

(h) providing enrollment and billing assistance, including:

(i) providing benefit statements or new hire insurance benefits packages; and

(ii) providing technology services such as an electronic enrollment platform or application system;

(i) communicating coverages in writing and in consultation with the insured and employees;

(j) providing employee communication materials and notifications directly related to an insurance product purchased from a licensee;

(k) providing claims management and resolution to the extent permitted under the licensee's license;

(l) providing underwriting or actuarial analysis or services;

(m) negotiating with an insurer regarding the placement and pricing of an insurance product;

(n) recommending placement and coverage options;

(o) providing a health fair or providing assistance or advice on establishing or operating a wellness program, but not providing any payment for or direct operation of the wellness program;

(p) providing COBRA and Utah mini-COBRA administration, consultations, and other services directly related to an insurance product purchased from the licensee;

(q) assisting with a summary plan description, including providing a summary plan description wraparound;

(r) providing information necessary for the preparation of documents directly related to the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001, et seq., as amended;

(s) providing information or services directly related to the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, 110 Stat. 1936, as amended, such as services directly related to health care access, portability, and renewability when offered in connection with accident and health insurance sold by a licensee;

(t) sending proof of coverage to a third party with a legitimate interest in coverage;

(u) providing information in a form approved by the commissioner and directly related to determining whether an insurance product sold by the licensee meets the requirements of a third party contract that requires or references insurance coverage;

(v) facilitating risk management services directly related to property and casualty insurance products sold or offered for sale by the licensee, including:

(i) risk management;

(ii) claims and loss control services;

(iii) risk assessment consulting, including analysis of:

(A) employer's job descriptions; or

(B) employer's safety procedures or manuals; and

(iv) providing information and training on best practices;

(w) otherwise providing services that are legitimately part of servicing an insurance product purchased from a licensee; and

(x) providing other directly related services approved by the department.

(5) An inducement prohibited under Subsection (1) includes a producer, consultant, or other licensee, or an officer or employee of a licensee:

(a) (i) providing a [~~premium or commission~~] rebate;

(ii) paying the salary of an employee of a person who purchases an insurance product from the licensee; or

(iii) if the licensee is an insurer, or a third party administrator who contracts with an insurer, paying the salary for an onsite staff member to perform an act prohibited under Subsection (5)(b)(xii); or

(b) engaging in one or more of the following unless a fee is paid in accordance with Subsection (8):

(i) performing background checks of prospective employees;

(ii) providing legal services by a person licensed to practice law;

(iii) performing drug testing that is directly related to an insurance product purchased from the licensee;

(iv) preparing employer or employee handbooks, except that a licensee may:

(A) provide information for a medical benefit section of an employee handbook;

(B) provide information for the section of an employee handbook directly related to an employment practices liability insurance product purchased from the licensee; or

(C) prepare or print an employee benefit enrollment guide;

(v) providing job descriptions, postings, and applications for a person;

(vi) providing payroll services;

(vii) providing performance reviews or performance review training;

(viii) providing union advice;

(ix) providing accounting services;

(x) providing data analysis information technology programs, except as provided in Subsection (4)(h)(ii);

(xi) providing administration of health reimbursement accounts or health savings accounts; or

(xii) if the licensee is an insurer, or a third party administrator who contracts with an insurer, the insurer issuing an insurance policy that lists in the insurance policy one or more of the following prohibited benefits:

(A) performing background checks of prospective employees;

(B) providing legal services by a person licensed to practice law;

(C) performing drug testing that is directly related to an insurance product purchased from the insurer;

(D) preparing employer or employee handbooks;

(E) providing job descriptions postings, and applications;

(F) providing payroll services;

(G) providing performance reviews or performance review training;

(H) providing union advice;

(I) providing accounting services;

(J) providing discrimination testing; or

(K) providing data analysis information technology programs.

(6) A producer, consultant, or other licensee or an officer or employee of a licensee shall itemize and bill separately from any other insurance product or service offered or provided under Subsection (5)(b).

(7) (a) A de minimis gift or meal not to exceed a fair market value of \$25 for each individual receiving the gift or meal is presumed to be a social courtesy not conditioned on a quote or purchase of a particular insurance product for purposes of Subsection (4)(a).

(b) Notwithstanding Subsection (4)(a), a de minimis gift or meal not to exceed \$10 may be conditioned on receipt of a quote of a particular insurance product [~~if the de minimis gift or meal is provided by the insurer and not by a producer or consultant~~].

(8) If as provided under Subsection (5)(b) a producer, consultant, or other licensee is paid a fee to provide an item listed in Subsection (5)(b), the licensee shall comply with Subsection 31A-23a-501(2) in charging the fee, except that the fee paid for the item shall equal or exceed the fair market value of the item.

(9) For purposes of this section, "fair market value" is determined on the basis of what an individual insured or policyholder would pay on the open market for that item.

Section 27. Section 31A-23a-501 is amended to read:

31A-23a-501. Licensee compensation.

(1) As used in this section:

(a) "Commission compensation" includes funds paid to or credited for the benefit of a licensee from:

(i) commission amounts deducted from insurance premiums on insurance sold by or placed through the licensee; [øø]

(ii) commission amounts received from an insurer or another licensee as a result of the sale or placement of insurance[-]; or

(iii) overrides, bonuses, contingent bonuses, or contingent commissions received from an insurer or another licensee as a result of the sale or placement of insurance.

(b) (i) "Compensation from an insurer or third party administrator" means commissions, fees, awards, overrides, bonuses, contingent commissions, loans, stock options, gifts, prizes, or any other form of valuable consideration:

(A) whether or not payable pursuant to a written agreement; and

(B) received from:

(I) an insurer; or

(II) a third party to the transaction for the sale or placement of insurance.

(ii) "Compensation from an insurer or third party administrator" does not mean compensation from a customer that is:

(A) a fee or pass-through costs as provided in Subsection (1)(e); or

(B) a fee or amount collected by or paid to the producer that does not exceed an amount established by the commissioner by administrative rule.

(c) (i) "Customer" means:

(A) the person signing the application or submission for insurance; or

(B) the authorized representative of the insured actually negotiating the placement of insurance with the producer.

(ii) "Customer" does not mean a person who is a participant or beneficiary of:

(A) an employee benefit plan; or

(B) a group or blanket insurance policy or group annuity contract sold, solicited, or negotiated by the producer or affiliate.

(d) (i) "Noncommission compensation" includes all funds paid to or credited for the benefit of a licensee other than commission compensation.

(ii) "Noncommission compensation" does not include charges for pass-through costs incurred by the licensee in connection with obtaining, placing, or servicing an insurance policy.

(e) "Pass-through costs" include:

(i) costs for copying documents to be submitted to the insurer; and

(ii) bank costs for processing cash or credit card payments.

(2) A licensee may receive from an insured or from a person purchasing an insurance policy, noncommission compensation if the noncommission compensation is stated on a separate, written disclosure.

(a) The disclosure required by this Subsection (2) shall:

(i) include the signature of the insured or prospective insured acknowledging the noncommission compensation;

(ii) clearly specify the amount or extent of the noncommission compensation; and

(iii) be provided to the insured or prospective insured before the performance of the service.

(b) Noncommission compensation shall be:

(i) limited to actual or reasonable expenses incurred for services; and

(ii) uniformly applied to all insureds or prospective insureds in a class or classes of business or for a specific service or services.

(c) A copy of the signed disclosure required by this Subsection (2) shall be maintained by any licensee who collects or receives the noncommission compensation or any portion of the noncommission compensation.

(d) All accounting records relating to noncommission compensation shall be maintained by the person described in Subsection (2)(c) in a manner that facilitates an audit.

(3) (a) A licensee may receive noncommission compensation when acting as a producer for the insured in connection with the actual sale or placement of insurance if:

(i) the producer and the insured have agreed on the producer's noncommission compensation; and

(ii) the producer has disclosed to the insured the existence and source of any other compensation that accrues to the producer as a result of the transaction.

(b) The disclosure required by this Subsection (3) shall:

(i) include the signature of the insured or prospective insured acknowledging the noncommission compensation;

(ii) clearly specify the amount or extent of the noncommission compensation and the existence and source of any other compensation; and

(iii) be provided to the insured or prospective insured before the performance of the service.

(c) The following additional noncommission compensation is authorized:

(i) compensation received by a producer of a compensated corporate surety who under procedures approved by a rule or order of the commissioner is paid by surety bond principal debtors for extra services;

(ii) compensation received by an insurance producer who is also licensed as a public adjuster under Section 31A-26-203, for services performed for an insured in connection with a claim adjustment, so long as the producer does not receive or is not promised compensation for aiding in the claim adjustment prior to the occurrence of the claim;

(iii) compensation received by a consultant as a consulting fee, provided the consultant complies with the requirements of Section 31A-23a-401; or

(iv) other compensation arrangements approved by the commissioner after a finding that they do not violate Section 31A-23a-401 and are not harmful to the public.

(d) Subject to Section 31A-23a-402.5, a producer for the insured may receive compensation from an insured through an insurer, for the negotiation and sale of a health benefit plan, if there is a separate written agreement between the insured and the licensee for the compensation. An insurer who passes through the compensation from the insured to the licensee under this Subsection (3)(d) is not providing direct or indirect compensation or commission compensation to the licensee.

(4) (a) For purposes of this Subsection (4), “producer” includes:

- (i) a producer;
- (ii) an affiliate of a producer; or
- (iii) a consultant.

(b) A producer may not accept or receive any compensation from an insurer or third party administrator for the initial placement of a health benefit plan, other than a hospital confinement indemnity policy, unless prior to the customer’s initial purchase of the health benefit plan the producer discloses in writing to the customer that the producer will receive compensation from the insurer or third party administrator for the placement of insurance, including the amount or type of compensation known to the producer at the time of the disclosure.

(c) A producer shall:

(i) obtain the customer’s signed acknowledgment that the disclosure under Subsection (4)(b) was made to the customer; or

(ii) (A) sign a statement that the disclosure required by Subsection (4)(b) was made to the customer; and

(B) keep the signed statement on file in the producer’s office while the health benefit plan placed with the customer is in force.

(d) (i) A licensee who collects or receives any part of the compensation from an insurer or third party administrator in a manner that facilitates an audit shall, while the health benefit plan placed with the customer is in force, maintain a copy of:

(A) the signed acknowledgment described in Subsection (4)(c)(i); or

(B) the signed statement described in Subsection (4)(c)(ii).

(ii) The standard application developed in accordance with Section 31A-22-635 shall include a place for a producer to provide the disclosure required by this Subsection (4), and if completed, shall satisfy the requirement of Subsection (4)(d)(i).

(e) Subsection (4)(c) does not apply to:

(i) a person licensed as a producer who acts only as an intermediary between an insurer and the customer’s producer, including a managing general agent; or

(ii) the placement of insurance in a secondary or residual market.

(5) This section does not alter the right of any licensee to recover from an insured the amount of any premium due for insurance effected by or through that licensee or to charge a reasonable rate of interest upon past-due accounts.

(6) This section does not apply to bail bond producers or bail enforcement agents as defined in Section 31A-35-102.

(7) A licensee may not receive noncommission compensation from an insured or enrollee for providing a service or engaging in an act that is required to be provided or performed in order to receive commission compensation, except for the surplus lines transactions that do not receive commissions.

Section 28. Section 31A-23b-102 is amended to read:

31A-23b-102. Definitions.

As used in this chapter:

(1) “Compensation” is as defined in:

(a) Subsections 31A-23a-501(1)(a), (b), and (d); and

(b) PPACA.

(2) “Enroll” and “enrollment” mean to:

(a) (i) obtain personally identifiable information about an individual; and

(ii) inform an individual about accident and health insurance plans or public programs offered on an exchange;

(b) solicit insurance; or

(c) submit to the exchange:

(i) personally identifiable information about an individual; and

(ii) an individual’s selection of a particular accident and health insurance plan or public program offered on the exchange.

(3) (a) “Exchange” means an online marketplace: ~~(i) for an individual to purchase a qualified health plan; and (ii)~~ that is certified by the United States Department of Health and Human Services as either a state-based small employer exchange or a federally facilitated individual exchange under PPACA.

(b) [(i)] “Exchange” does not include [; (A)] an online marketplace for the purchase of health insurance if the online marketplace is not a certified exchange [under PPACA; or] in accordance with Subsection (3)(a).

~~[(B) except as provided in Subsection (3)(b)(ii), an online marketplace for small employers that is certified as a PPACA-compliant SHOP exchange.]~~

~~[(ii) For purposes of this chapter, exchange does include a small employer SHOP exchange described under Subsection (3)(b)(i)(B) if:]~~

~~[(A) federal regulations under PPACA require a small employer exchange to allow navigators to assist small employers and their employees with selection of qualified health plans on a small employer exchange; and]~~

~~[(B) the state has not entered into an agreement with the United States Department of Health and Human Services that permits the state to limit the scope of practice of navigators to only the individual PPACA exchange.]~~

(4) “Navigator”:

(a) means a person who facilitates enrollment in an exchange by offering to assist, or who advertises any services to assist, with:

(i) the selection of and enrollment in a qualified health plan or a public program offered on an exchange; or

(ii) applying for premium subsidies through an exchange; and

(b) includes a person who is an in-person assister or ~~[an]~~ a certified application ~~[assister]~~ counselor as described in ~~[(i)]~~ federal regulations or guidance issued under PPACA ~~;~~ and].

~~[(ii) the state exchange blueprint published by the Center for Consumer Information and Insurance Oversight within the Centers for Medicare and Medicaid Services in the United States Department of Health and Human Services.]~~

(5) “Personally identifiable information” is as defined in 45 C.F.R. Sec. 155.260.

(6) “Public programs” means the state Medicaid program in Title 26, Chapter 18, Medical Assistance Act, and Chapter 40, Utah Children’s Health Insurance Act.

(7) “Resident” is as defined by rule made by the commissioner in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

~~[(7)]~~ (8) “Solicit” is as defined in Section 31A-23a-102.

Section 29. Section 31A-23b-202 is amended to read:

31A-23b-202. Qualifications for a license.

(1) (a) The commissioner shall issue or renew a license to a person to act as a navigator if the person:

(i) satisfies the:

(A) application requirements under Section 31A-23b-203;

(B) character requirements under Section 31A-23b-204;

(C) examination and training requirements under Section 31A-23b-205; and

(D) continuing education requirements under Section 31A-23b-206;

(ii) certifies that, to the extent applicable, the applicant:

(A) is in compliance with the surety bond requirements of Section 31A-23b-207; and

(B) will maintain compliance with Section 31A-23b-207 during the period for which the license is issued or renewed; and

(iii) has not committed an act that is a ground for denial, suspension, or revocation as provided in Section 31A-23b-401.

(b) A license issued under this chapter is valid for ~~[two years]~~ one year.

(2) (a) A person shall report to the commissioner:

(i) an administrative action taken against the person, including a denial of a new or renewal license application:

(A) in another jurisdiction; or

(B) by another regulatory agency in this state; and

(ii) a criminal prosecution taken against the person in any jurisdiction.

(b) The report required by Subsection (2)(a) shall be filed:

(i) at the time the person files the application for an individual or agency license; and

(ii) for an action or prosecution that occurs on or after the day on which the person files the application:

(A) for an administrative action, within 30 days of the final disposition of the administrative action; or

(B) for a criminal prosecution, within 30 days of the initial appearance before a court.

(c) The report required by Subsection (2)(a) shall include a copy of the complaint or other relevant legal documents related to the action or prosecution described in Subsection (2)(a).

(3) (a) The department may:

(i) require a person applying for a license to submit to a criminal background check as a condition of receiving a license; or

(ii) accept a background check conducted by another organization.

(b) A person, if required to submit to a criminal background check under Subsection (3)(a), shall:

(i) submit a fingerprint card in a form acceptable to the department; and

(ii) consent to a fingerprint background check by:

(A) the Utah Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) For a person who submits a fingerprint card and consents to a fingerprint background check under Subsection (3)(b), the department may request:

(i) criminal background information maintained pursuant to Title 53, Chapter 10, Part 2, Bureau of Criminal Identification, from the Bureau of Criminal Identification; and

(ii) complete Federal Bureau of Investigation criminal background checks through the national criminal history system.

(d) Information obtained by the department from the review of criminal history records received under this Subsection (3) shall be used by the department for the purposes of:

(i) determining if a person satisfies the character requirements under Section 31A-23b-204 for issuance or renewal of a license;

(ii) determining if a person failed to maintain the character requirements under Section 31A-23b-204; and

(iii) preventing a person who violates the federal Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033, from engaging in the business of a navigator or in-person assistor in the state.

(e) If the department requests the criminal background information, the department shall:

(i) pay to the Department of Public Safety the costs incurred by the Department of Public Safety in providing the department criminal background information under Subsection (3)(c)(i);

(ii) pay to the Federal Bureau of Investigation the costs incurred by the Federal Bureau of Investigation in providing the department criminal background information under Subsection (3)(c)(ii); and

(iii) charge the person applying for a license a fee equal to the aggregate of Subsections (3)(e)(i) and (ii).

(4) The commissioner may deny an application for a license under this chapter if the person applying for the license:

(a) fails to satisfy the requirements of this section; or

(b) commits an act that is grounds for denial, suspension, or revocation as set forth in Section 31A-23b-401.

Section 30. Section 31A-23b-205 is amended to read:

31A-23b-205. Examination and training requirements.

(1) The commissioner may require ~~[applicants]~~ an applicant for a license to pass an examination and complete a training program as a requirement for a license.

(2) The examination described in Subsection (1) shall reasonably relate to:

(a) the duties and functions of a navigator;

(b) requirements for navigators as established by federal regulation under PPACA; and

(c) other requirements that may be established by the commissioner by administrative rule.

(3) The examination may be administered by the commissioner or as otherwise specified by administrative rule.

(4) The training required by Subsection (1) shall be approved by the commissioner and shall include:

(a) accident and health insurance plans;

(b) qualifications for and enrollment in public programs;

(c) qualifications for and enrollment in premium subsidies;

(d) cultural and linguistic competence;

(e) conflict of interest standards;

(f) exchange functions; and

(g) other requirements that may be adopted by the commissioner by administrative rule.

(5) The training required by Subsection (1) shall consist of:

(a) at least 21 credit hours of training before obtaining a license;

(b) at least 1 of the 21 credit hours of training described in Subsection (5)(a) on defined contribution arrangement and the small employer Health Insurance Exchange created in accordance with Title 63M, Chapter 1, Part 25, Health System Reform Act; and

(c) the navigator training and certification program developed by the Centers for Medicare and Medicaid Services.

~~[(5)] (6) This section applies only to [applicants who are natural persons]~~ an applicant who is a natural person.

Section 31. Section 31A-23b-206 is amended to read:

31A-23b-206. Continuing education requirements.

(1) The commissioner shall, by rule, prescribe continuing education requirements for a navigator.

(2) (a) The commissioner may not require a degree from an institution of higher education as part of continuing education.

(b) The commissioner may state a continuing education requirement in terms of hours of instruction received in:

- (i) accident and health insurance;
- (ii) qualification for and enrollment in public programs;
- (iii) qualification for and enrollment in premium subsidies;
- (iv) cultural competency;
- (v) conflict of interest standards; and
- (vi) other exchange functions.

(3) (a) Continuing education requirements shall require:

(i) that a licensee complete [24] 12 credit hours of continuing education for every ~~[two-year]~~ one-year licensing period;

(ii) that ~~[3]~~ at least 2 of the [24] 12 credit hours described in Subsection (3)(a)(i) be ethics courses; ~~and]~~

~~[(iii) that the licensee complete at least half of the required hours through classroom hours of insurance and exchange related instruction.]~~

[(iii) that at least 1 of the 12 credit hours described in Subsection (3)(a)(i) be a defined contribution course that includes training on use of the Health Insurance Exchange; and

(iv) that a licensee complete the annual navigator training and certification program developed by the Centers for Medicare and Medicaid Services.

(b) An hour of continuing education in accordance with Subsection (3)(a)(i) may be obtained through:

- (i) classroom attendance;
- (ii) home study;
- (iii) watching a video recording; or

~~[(iv) experience credit; or]~~

~~[(v)]~~ (iv) another method approved by rule.

(c) A licensee may obtain continuing education hours at any time during the ~~[two-year]~~ one-year license period.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner shall ~~;~~ by rule: ~~(i) publish a list of insurance professional designations whose continuing education requirements can be used to meet the requirements for continuing education under Subsection (3)(b); and (ii)]~~ authorize one or more continuing education providers, including a state or national professional producer or consultant associations, to:

~~[(A)]~~ (i) offer a qualified program on a geographically accessible basis; and

~~[(B)]~~ (ii) collect a reasonable fee for funding and administration of a continuing education program, subject to the review and approval of the commissioner.

(4) The commissioner shall approve a continuing education provider or a continuing education course that satisfies the requirements of this section.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner shall by rule establish the procedures for continuing education provider registration and course approval.

(6) This section applies only to a navigator who is a natural person.

(7) A navigator shall keep documentation of completing the continuing education requirements of this section for two years after the end of the ~~[two-year]~~ one-year licensing period to which the continuing education applies.

Section 32. Section 31A-23b-301 is amended to read:

31A-23b-301. Unfair practices -- Compensation -- Limit of scope of practice.

(1) As used in this section, "false or misleading information" includes, with intent to deceive a person examining it:

- (a) filing a report;
- (b) making a false entry in a record; or
- (c) willfully refraining from making a proper entry in a record.

(2) (a) Communication that contains false or misleading information relating to enrollment in an insurance plan or a public program, including information that is false or misleading because it is incomplete, may not be made by:

- (i) a person who is or should be licensed under this title;
- (ii) an employee of a person described in Subsection (2)(a)(i);
- (iii) a person whose primary interest is as a competitor of a person licensed under this title; and
- (iv) a person on behalf of ~~[any of the persons]~~ a person listed in this Subsection (2)(a).

(b) A licensee under this chapter may not:

(i) use ~~[any]~~ a business name, slogan, emblem, or related device that is misleading or likely to cause the exchange, insurer, or other licensee to be mistaken for another governmental agency, a PPACA exchange, insurer, or other licensee already in business; or

(ii) use ~~[any]~~ an advertisement or other insurance promotional material that would cause a reasonable person to mistakenly believe that a state or federal government agency, public program, or insurer:

(A) is responsible for the insurance or public program enrollment assistance activities of the person;

(B) stands behind the credit of the person; or

(C) is a source of payment of ~~[any]~~ an insurance obligation of or sold by the person.

(c) A person who is not an insurer may not assume or use ~~[any]~~ a name that deceptively implies or suggests that person is an insurer.

(3) A person may not engage in an unfair method of competition or any other unfair or deceptive act or practice in the business of insurance, as defined by the commissioner by rule, after a finding that the method of competition, the act, or the practice:

- (a) is misleading;
- (b) is deceptive;
- (c) is unfairly discriminatory;
- (d) provides an unfair inducement; or
- (e) unreasonably restrains competition.

(4) A navigator licensed under this chapter is subject to the unfair marketing practices and inducement provisions of ~~[Section]~~ Sections 31A-23a-402 and 31A-23a-402.5.

(5) A navigator licensed under this chapter or who should be licensed under this chapter:

(a) may not receive direct or indirect compensation from an accident or health insurer or from an individual who receives services from a navigator in accordance with:

(i) federal conflict of interest regulations established pursuant to PPACA; and

(ii) administrative rule adopted by the department;

(b) may be compensated by the exchange for performing the duties of a navigator;

(c) (i) may perform, offer to perform, or advertise a service as a navigator only for a person selecting a qualified health plan or public program offered on an exchange; and

(ii) may not perform, offer to perform, or advertise ~~[any]~~ services as a navigator for individuals or small employer groups selecting accident and health insurance plans, qualified health plans, public programs, business, or services that are not offered on an exchange; and

(d) may not recommend a particular accident and health insurance plan or qualified health plan.

Section 33. Section 31A-23b-402 is amended to read:

31A-23b-402. Probation -- Grounds for revocation.

(1) The commissioner may place a licensee on probation for a period not to exceed 24 months as follows:

(a) after an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, for any circumstances that would justify a suspension under this section; or

(b) at the issuance of a new license:

(i) with an admitted violation under 18 U.S.C. ~~[Secs.]~~ Sec. 1033 ~~[and 1034]~~; or

(ii) with a response to background information questions on a new license application indicating that:

(A) the person has been convicted of a crime that is listed by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as a crime that is a ground for probation;

(B) the person is currently charged with a crime that is listed by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as a crime that is a ground for probation regardless of whether adjudication is withheld;

(C) the person has been involved in an administrative proceeding regarding any professional or occupational license; or

(D) any business in which the person is or was an owner, partner, officer, or director has been involved in an administrative proceeding regarding any professional or occupational license.

(2) The commissioner may place a licensee on probation for a specified period no longer than 24 months if the licensee has admitted to a violation under 18 U.S.C. ~~[Secs.]~~ Sec. 1033 ~~[and 1034]~~.

(3) The probation order shall state the conditions for revocation or retention of the license, which shall be reasonable.

(4) Any violation of the probation is a ground for revocation pursuant to any proceeding authorized under Title 63G, Chapter 4, Administrative Procedures Act.

Section 34. Section 31A-25-208 is amended to read:

31A-25-208. Revocation, suspension, surrender, lapsing, limiting, or otherwise terminating a license -- Rulemaking for renewal and reinstatement.

(1) A license type issued under this chapter remains in force until:

(a) revoked or suspended under Subsection (4);

(b) surrendered to the commissioner and accepted by the commissioner in lieu of administrative action;

(c) the licensee dies or is adjudicated incompetent as defined under:

(i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or

(ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and Minors;

(d) lapsed under Section 31A-25-210; or

(e) voluntarily surrendered.

(2) The following may be reinstated within one year after the day on which the license is no longer in force:

(a) a lapsed license; or

(b) a voluntarily surrendered license, except that a voluntarily surrendered license may not be reinstated after the license period in which the license is voluntarily surrendered.

(3) Unless otherwise stated in a written agreement for the voluntary surrender of a license, submission and acceptance of a voluntary surrender of a license does not prevent the department from pursuing additional disciplinary or other action authorized under:

(a) this title; or

(b) rules made under this title in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) (a) If the commissioner makes a finding under Subsection (4)(b), as part of an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, the commissioner may:

(i) revoke a license;

(ii) suspend a license for a specified period of 12 months or less;

(iii) limit a license in whole or in part; or

(iv) deny a license application.

(b) The commissioner may take an action described in Subsection (4)(a) if the commissioner finds that the licensee:

(i) is unqualified for a license under Section 31A-25-202, 31A-25-203, or 31A-25-204;

(ii) has violated:

(A) an insurance statute;

(B) a rule that is valid under Subsection 31A-2-201(3); or

(C) an order that is valid under Subsection 31A-2-201(4);

(iii) is insolvent or the subject of receivership, conservatorship, rehabilitation, or other delinquency proceedings in any state;

(iv) fails to pay a final judgment rendered against the person in this state within 60 days after the day on which the judgment became final;

(v) fails to meet the same good faith obligations in claims settlement that is required of admitted insurers;

(vi) is affiliated with and under the same general management or interlocking directorate or ownership as another third party administrator that transacts business in this state without a license;

(vii) refuses:

(A) to be examined; or

(B) to produce its accounts, records, and files for examination;

(viii) has an officer who refuses to:

(A) give information with respect to the third party administrator's affairs; or

(B) perform any other legal obligation as to an examination;

(ix) provides information in the license application that is:

(A) incorrect;

(B) misleading;

(C) incomplete; or

(D) materially untrue;

(x) has violated an insurance law, valid rule, or valid order of another state's insurance department;

(xi) has obtained or attempted to obtain a license through misrepresentation or fraud;

(xii) has improperly withheld, misappropriated, or converted money or properties received in the course of doing insurance business;

(xiii) has intentionally misrepresented the terms of an actual or proposed:

(A) insurance contract; or

(B) application for insurance;

(xiv) has been convicted of a felony;

(xv) has admitted or been found to have committed an insurance unfair trade practice or fraud;

(xvi) in the conduct of business in this state or elsewhere has:

(A) used fraudulent, coercive, or dishonest practices; or

(B) demonstrated incompetence, untrustworthiness, or financial irresponsibility;

(xvii) has had an insurance license or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory;

(xviii) has forged another's name to:

(A) an application for insurance; or

(B) a document related to an insurance transaction;

(xix) has improperly used notes or any other reference material to complete an examination for an insurance license;

(xx) has knowingly accepted insurance business from an individual who is not licensed;

(xxi) has failed to comply with an administrative or court order imposing a child support obligation;

(xxii) has failed to:

(A) pay state income tax; or

(B) comply with an administrative or court order directing payment of state income tax;

(xxiii) has violated or permitted others to violate the federal Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033 [~~and 1034~~] and therefore under 18 U.S.C. Sec. 1033 is prohibited from engaging in the business of insurance; or

(xxiv) has engaged in methods and practices in the conduct of business that endanger the legitimate interests of customers and the public.

(c) For purposes of this section, if a license is held by an agency, both the agency itself and any individual designated under the license are considered to be the holders of the agency license.

(d) If an individual designated under the agency license commits an act or fails to perform a duty that is a ground for suspending, revoking, or limiting the individual's license, the commissioner may suspend, revoke, or limit the license of:

- (i) the individual;
- (ii) the agency if the agency:

(A) is reckless or negligent in its supervision of the individual; or

(B) knowingly participated in the act or failure to act that is the ground for suspending, revoking, or limiting the license; or

- (iii) (A) the individual; and

(B) the agency if the agency meets the requirements of Subsection (4)(d)(ii).

(5) A licensee under this chapter is subject to the penalties for acting as a licensee without a license if:

- (a) the licensee's license is:
 - (i) revoked;
 - (ii) suspended;
 - (iii) limited;
 - (iv) surrendered in lieu of administrative action;
 - (v) lapsed; or
 - (vi) voluntarily surrendered; and
- (b) the licensee:
 - (i) continues to act as a licensee; or
 - (ii) violates the terms of the license limitation.

(6) A licensee under this chapter shall immediately report to the commissioner:

- (a) a revocation, suspension, or limitation of the person's license in any other state, the District of Columbia, or a territory of the United States;
- (b) the imposition of a disciplinary sanction imposed on that person by any other state, the District of Columbia, or a territory of the United States; or

(c) a judgment or injunction entered against the person on the basis of conduct involving:

- (i) fraud;

(ii) deceit;

(iii) misrepresentation; or

(iv) a violation of an insurance law or rule.

(7) (a) An order revoking a license under Subsection (4) or an agreement to surrender a license in lieu of administrative action may specify a time, not to exceed five years, within which the former licensee may not apply for a new license.

(b) If no time is specified in the order or agreement described in Subsection (7)(a), the former licensee may not apply for a new license for five years from the day on which the order or agreement is made without the express approval of the commissioner.

(8) The commissioner shall promptly withhold, suspend, restrict, or reinstate the use of a license issued under this part if so ordered by the court.

(9) The commissioner shall by rule prescribe the license renewal and reinstatement procedures in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 35. Section 31A-25-209 is amended to read:

31A-25-209. Probation -- Grounds for revocation.

(1) The commissioner may place a licensee on probation for a period not to exceed 24 months as follows:

(a) after an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, for any circumstances that would justify a suspension under Section 31A-25-208; or

(b) at the issuance of a new license:

(i) with an admitted violation under 18 U.S.C. [~~Sections~~] Sec. 1033 [~~and 1034~~]; or

(ii) with a response to a background information question on a new license application indicating that:

(A) the person has been convicted of a crime that is listed by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as a crime that is grounds for probation;

(B) the person is currently charged with a crime that is listed by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as a crime that is grounds for probation regardless of whether adjudication is withheld;

(C) the person has been involved in an administrative proceeding regarding any professional or occupational license; or

(D) any business in which the person is or was an owner, partner, officer, or director has been involved in an administrative proceeding regarding any professional or occupational license.

(2) The commissioner may place a licensee on probation for a specified period no longer than 24 months if the licensee has admitted to a violation under 18 U.S.C. [~~Sections~~] Sec. 1033 [~~and 1034~~].

(3) A probation order under this section shall state the conditions for retention of the license, which shall be reasonable.

(4) A violation of the probation is grounds for revocation pursuant to any proceeding authorized under Title 63G, Chapter 4, Administrative Procedures Act.

Section 36. Section 31A-26-102 is amended to read:

31A-26-102. Definitions.

As used in this chapter, unless expressly provided otherwise:

(1) “Company adjuster” means a person employed by an insurer whose regular duties include insurance adjusting.

(2) “Designated home state” means the state or territory of the United States or the District of Columbia:

(a) in which an insurance adjuster does not maintain the adjuster’s principal:

(i) place of residence; or

(ii) place of business;

(b) if the resident state, territory, or District of Columbia of the adjuster does not license adjusters for the line of authority sought, the adjuster has qualified for the license as if the person were a resident in the state, territory, or District of Columbia described in Subsection (2)(a), including an applicable:

(i) examination requirement;

(ii) fingerprint background check requirement; and

(iii) continuing education requirement; and

(c) the adjuster has designated the state, territory, or District of Columbia as the designated home state.

(3) “Home state” means:

(a) a state or territory of the United States or the District of Columbia in which an insurance adjuster:

(i) maintains the adjuster’s principal:

(A) place of residence; or

(B) place of business; and

(ii) is licensed to act as a resident adjuster; or

(b) if the resident state, territory, or the District of Columbia described in Subsection (3)(a) does not license adjusters for the line of authority sought, a state, territory, or the District of Columbia:

(i) in which the adjuster is licensed;

(ii) in which the adjuster is in good standing; and

(iii) that the adjuster has designated as the adjuster’s designated home state.

~~(4)~~ (4) “Independent adjuster” means an insurance adjuster required to be licensed under Section 31A-26-201, who engages in insurance adjusting as a representative of one or more insurers.

~~(5)~~ (5) “Insurance adjusting” or “adjusting” means directing or conducting the investigation, negotiation, or settlement of a claim under an insurance policy, on behalf of an insurer, policyholder, or a claimant under an insurance policy.

~~(6)~~ (6) “Organization” means a person other than a natural person, and includes a sole proprietorship by which a natural person does business under an assumed name.

~~(7)~~ (7) “Portable electronics insurance” is as defined in Section 31A-22-1802.

~~(8)~~ (8) “Public adjuster” means a person required to be licensed under Section 31A-26-201, who engages in insurance adjusting as a representative of insureds and claimants under insurance policies.

Section 37. Section 31A-26-206 is amended to read:

31A-26-206. Continuing education requirements.

(1) Pursuant to this section, the commissioner shall by rule prescribe continuing education requirements for each class of license under Section 31A-26-204.

(2) (a) The commissioner shall impose continuing education requirements in accordance with a two-year licensing period in which the licensee meets the requirements of this Subsection (2).

(b) (i) Except as otherwise provided in this section, the continuing education requirements shall require:

(A) that a licensee complete 24 credit hours of continuing education for every two-year licensing period;

(B) that 3 of the 24 credit hours described in Subsection (2)(b)(i)(A) be ethics courses; and

(C) that the licensee complete at least half of the required hours through classroom hours of insurance-related instruction.

(ii) A continuing education hour completed in accordance with Subsection (2)(b)(i) may be obtained through:

(A) classroom attendance;

(B) home study;

(C) watching a video recording;

(D) experience credit; or

(E) other methods provided by rule.

(iii) Notwithstanding Subsections (2)(b)(i)(A) and (B), a title insurance adjuster is required to complete 12 credit hours of continuing education for

every two-year licensing period, with 3 of the credit hours being ethics courses.

(c) A licensee may obtain continuing education hours at any time during the two-year licensing period.

(d) (i) A licensee is exempt from the continuing education requirements of this section if:

(A) the licensee was first licensed before ~~April 1, 1978~~ December 31, 1982;

(B) the license does not have a continuous lapse for a period of more than one year, except for a license for which the licensee has had an exemption approved before May 11, 2011;

(C) the licensee requests an exemption from the department; and

(D) the department approves the exemption.

(ii) If the department approves the exemption under Subsection (2)(d)(i), the licensee is not required to apply again for the exemption.

(e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner shall by rule:

(i) publish a list of insurance professional designations whose continuing education requirements can be used to meet the requirements for continuing education under Subsection (2)(b); and

(ii) authorize a professional adjuster association to:

(A) offer a qualified program for a classification of license on a geographically accessible basis; and

(B) collect a reasonable fee for funding and administration of a qualified program, subject to the review and approval of the commissioner.

(f) (i) A fee permitted under Subsection (2)(e)(ii)(B) that is charged to fund and administer a qualified program shall reasonably relate to the cost of administering the qualified program.

(ii) Nothing in this section shall prohibit a provider of a continuing education program or course from charging a fee for attendance at a course offered for continuing education credit.

(iii) A fee permitted under Subsection (2)(e)(ii)(B) that is charged for attendance at an association program may be less for an association member, on the basis of the member's affiliation expense, but shall preserve the right of a nonmember to attend without affiliation.

(3) The continuing education requirements of this section apply only to a licensee who is an individual.

(4) The continuing education requirements of this section do not apply to a member of the Utah State Bar.

(5) The commissioner shall designate a course that satisfies the requirements of this section, including a course presented by an insurer.

(6) A nonresident adjuster is considered to have satisfied this state's continuing education requirements if:

(a) the nonresident adjuster satisfies the nonresident producer's home state's continuing education requirements for a licensed insurance adjuster; and

(b) on the same basis the nonresident adjuster's home state considers satisfaction of Utah's continuing education requirements for a producer as satisfying the continuing education requirements of the home state.

(7) A licensee subject to this section shall keep documentation of completing the continuing education requirements of this section for two years after the end of the two-year licensing period to which the continuing education requirement applies.

Section 38. Section 31A-26-207 is amended to read:

31A-26-207. Examination requirements.

(1) The commissioner may require applicants for ~~any~~ a particular class of license under Section 31A-26-204 to pass an examination as a requirement to receiving a license. The examination shall reasonably relate to the specific license class for which it is prescribed. The examinations may be administered by the commissioner or as specified by rule.

(2) The commissioner shall waive the requirement of an examination for a nonresident applicant who:

(a) applies for an insurance adjuster license in this state;

(b) has been licensed for the same line of authority in another state; and

(c) (i) is licensed in the state described in Subsection (2)(b) at the time the applicant applies for an insurance producer license in this state; or

(ii) if the application is received within 90 days of the cancellation of the applicant's previous license:

(A) the prior state certifies that at the time of cancellation, the applicant was in good standing in that state; or

(B) the state's producer database records maintained by the National Association of Insurance Commissioners or the National Association of Insurance Commissioner's affiliates or subsidiaries, indicates that the producer is or was licensed in good standing for the line of authority requested.

(3) (a) To become a resident licensee in accordance with Sections 31A-26-202 and 31A-26-203, a person licensed as an insurance producer in another state who moves to this state shall make application within 90 days of establishing legal residence in this state.

(b) A person who becomes a resident licensee under Subsection (3)(a) may not be required to meet prelicensing education or examination requirements to obtain any line of authority previously held in the prior state unless:

(i) the prior state would require a prior resident of this state to meet the prior state's prelicensing education or examination requirements to become a resident licensee; or

(ii) the commissioner imposes the requirements by rule.

(4) ~~The requirements of this section only apply to [applicants who are natural persons]~~ an applicant who is a natural person.

(5) ~~The requirements of this section do not apply to [members];~~

(a) a member of the Utah State Bar[-]; or

(b) an applicant for the crop insurance license class who has satisfactorily completed:

(i) a national crop adjuster program, as adopted by the commissioner by rule; or

(ii) the loss adjustment training curriculum and competency testing required by the Federal Crop Insurance Corporation Standard Reinsurance Agreement through the Risk Management Agency of the United States Department of Agriculture.

Section 39. Section 31A-26-213 is amended to read:

31A-26-213. Revocation, suspension, surrender, lapsing, limiting, or otherwise terminating a license -- Rulemaking for renewal or reinstatement.

(1) A license type issued under this chapter remains in force until:

(a) revoked or suspended under Subsection (5);

(b) surrendered to the commissioner and accepted by the commissioner in lieu of administrative action;

(c) the licensee dies or is adjudicated incompetent as defined under:

(i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or

(ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and Minors;

(d) lapsed under Section 31A-26-214.5; or

(e) voluntarily surrendered.

(2) The following may be reinstated within one year after the day on which the license is no longer in force:

(a) a lapsed license; or

(b) a voluntarily surrendered license, except that a voluntarily surrendered license may not be reinstated after the license period in which it is voluntarily surrendered.

(3) Unless otherwise stated in a written agreement for the voluntary surrender of a license, submission and acceptance of a voluntary surrender of a license does not prevent the department from pursuing additional disciplinary or other action authorized under:

(a) this title; or

(b) rules made under this title in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) A license classification issued under this chapter remains in force until:

(a) the qualifications pertaining to a license classification are no longer met by the licensee; or

(b) the supporting license type:

(i) is revoked or suspended under Subsection (5); or

(ii) is surrendered to the commissioner and accepted by the commissioner in lieu of administrative action.

(5) (a) If the commissioner makes a finding under Subsection (5)(b) as part of an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, the commissioner may:

(i) revoke:

(A) a license; or

(B) a license classification;

(ii) suspend for a specified period of 12 months or less:

(A) a license; or

(B) a license classification;

(iii) limit in whole or in part:

(A) a license; or

(B) a license classification; or

(iv) deny a license application.

(b) The commissioner may take an action described in Subsection (5)(a) if the commissioner finds that the licensee:

(i) is unqualified for a license or license classification under Section 31A-26-202, 31A-26-203, 31A-26-204, or 31A-26-205;

(ii) has violated:

(A) an insurance statute;

(B) a rule that is valid under Subsection 31A-2-201(3); or

(C) an order that is valid under Subsection 31A-2-201(4);

(iii) is insolvent, or the subject of receivership, conservatorship, rehabilitation, or other delinquency proceedings in any state;

(iv) fails to pay a final judgment rendered against the person in this state within 60 days after the judgment became final;

(v) fails to meet the same good faith obligations in claims settlement that is required of admitted insurers;

(vi) is affiliated with and under the same general management or interlocking directorate or ownership as another insurance adjuster that transacts business in this state without a license;

(vii) refuses:

(A) to be examined; or

(B) to produce its accounts, records, and files for examination;

(viii) has an officer who refuses to:

(A) give information with respect to the insurance adjuster's affairs; or

(B) perform any other legal obligation as to an examination;

(ix) provides information in the license application that is:

(A) incorrect;

(B) misleading;

(C) incomplete; or

(D) materially untrue;

(x) has violated an insurance law, valid rule, or valid order of another state's insurance department;

(xi) has obtained or attempted to obtain a license through misrepresentation or fraud;

(xii) has improperly withheld, misappropriated, or converted money or properties received in the course of doing insurance business;

(xiii) has intentionally misrepresented the terms of an actual or proposed:

(A) insurance contract; or

(B) application for insurance;

(xiv) has been convicted of a felony;

(xv) has admitted or been found to have committed an insurance unfair trade practice or fraud;

(xvi) in the conduct of business in this state or elsewhere has:

(A) used fraudulent, coercive, or dishonest practices; or

(B) demonstrated incompetence, untrustworthiness, or financial irresponsibility;

(xvii) has had an insurance license, or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory;

(xviii) has forged another's name to:

(A) an application for insurance; or

(B) a document related to an insurance transaction;

(xix) has improperly used notes or any other reference material to complete an examination for an insurance license;

(xx) has knowingly accepted insurance business from an individual who is not licensed;

(xxi) has failed to comply with an administrative or court order imposing a child support obligation;

(xxii) has failed to:

(A) pay state income tax; or

(B) comply with an administrative or court order directing payment of state income tax;

(xxiii) has violated or permitted others to violate the federal Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033 [and 1034] and therefore under 18 U.S.C. Sec. 1033 is prohibited from engaging in the business of insurance; or

(xxiv) has engaged in methods and practices in the conduct of business that endanger the legitimate interests of customers and the public.

(c) For purposes of this section, if a license is held by an agency, both the agency itself and any individual designated under the license are considered to be the holders of the license.

(d) If an individual designated under the agency license commits an act or fails to perform a duty that is a ground for suspending, revoking, or limiting the individual's license, the commissioner may suspend, revoke, or limit the license of:

(i) the individual;

(ii) the agency, if the agency:

(A) is reckless or negligent in its supervision of the individual; or

(B) knowingly participated in the act or failure to act that is the ground for suspending, revoking, or limiting the license; or

(iii) (A) the individual; and

(B) the agency if the agency meets the requirements of Subsection (5)(d)(ii).

(6) A licensee under this chapter is subject to the penalties for conducting an insurance business without a license if:

(a) the licensee's license is:

(i) revoked;

(ii) suspended;

(iii) limited;

(iv) surrendered in lieu of administrative action;

(v) lapsed; or

(vi) voluntarily surrendered; and

(b) the licensee:

(i) continues to act as a licensee; or

(ii) violates the terms of the license limitation.

(7) A licensee under this chapter shall immediately report to the commissioner:

(a) a revocation, suspension, or limitation of the person's license in any other state, the District of Columbia, or a territory of the United States;

(b) the imposition of a disciplinary sanction imposed on that person by any other state, the District of Columbia, or a territory of the United States; or

(c) a judgment or injunction entered against that person on the basis of conduct involving:

- (i) fraud;
- (ii) deceit;
- (iii) misrepresentation; or
- (iv) a violation of an insurance law or rule.

(8) (a) An order revoking a license under Subsection (5) or an agreement to surrender a license in lieu of administrative action may specify a time not to exceed five years within which the former licensee may not apply for a new license.

(b) If no time is specified in the order or agreement described in Subsection (8)(a), the former licensee may not apply for a new license for five years without the express approval of the commissioner.

(9) The commissioner shall promptly withhold, suspend, restrict, or reinstate the use of a license issued under this part if so ordered by a court.

(10) The commissioner shall by rule prescribe the license renewal and reinstatement procedures in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 40. Section 31A-26-214 is amended to read:

31A-26-214. Probation -- Grounds for revocation.

(1) The commissioner may place a licensee on probation for a period not to exceed 24 months as follows:

(a) after an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, for any circumstances that would justify a suspension under Section 31A-26-213; or

(b) at the issuance of a new license:

(i) with an admitted violation under 18 U.S.C. [Sections] Sec. 1033 [and 1034]; or

(ii) with a response to a background information question on any new license application indicating that:

(A) the person has been convicted of a crime, that is listed by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as a crime that is grounds for probation;

(B) the person is currently charged with a crime, that is listed by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking

Act, as a crime that is grounds for probation regardless of whether adjudication was withheld;

(C) the person has been involved in an administrative proceeding regarding any professional or occupational license; or

(D) any business in which the person is or was an owner, partner, officer, or director has been involved in an administrative proceeding regarding any professional or occupational license.

(2) The commissioner may put a licensee on probation for a specified period no longer than 24 months if the licensee has admitted to violations under 18 U.S.C. [Sections] Sec. 1033 [and 1034].

(3) A probation order under this section shall state the conditions for retention of the license, which shall be reasonable.

(4) A violation of the probation is grounds for revocation pursuant to any proceeding authorized under Title 63G, Chapter 4, Administrative Procedures Act.

Section 41. Section 31A-26-214.5 is amended to read:

31A-26-214.5. License lapse and voluntary surrender.

(1) (a) A license issued under this chapter shall lapse if the licensee fails to:

(i) pay when due a fee under Section 31A-3-103;

(ii) complete continuing education requirements under Section 31A-26-206 before submitting the license renewal application;

(iii) submit a completed renewal application as required by Section 31A-26-202;

(iv) submit additional documentation required to complete the licensing process as related to a specific license type or license classification; or

(v) maintain an active license in [a resident] the licensee's home state if the licensee is a nonresident licensee.

(b) (i) A licensee whose license lapses due to the following may request an action described in Subsection (1)(b)(ii):

(A) military service;

(B) voluntary service for a period of time designated by the person for whom the licensee provides voluntary service; or

(C) some other extenuating circumstances, such as long-term medical disability.

(ii) A licensee described in Subsection (1)(b)(i) may request:

(A) reinstatement of the license no later than one year after the day on which the license lapses; and

(B) waiver of any of the following imposed for failure to comply with renewal procedures:

(I) an examination requirement;

(II) reinstatement fees set under Section 31A-3-103;

(III) continuing education requirements; or

(IV) other sanction imposed for failure to comply with renewal procedures.

(2) If a license issued under this chapter is voluntarily surrendered, the license may be reinstated:

(a) during the license period in which it is voluntarily surrendered; and

(b) no later than one year after the day on which the license is voluntarily surrendered.

Section 42. Section 31A-27a-102 is amended to read:

31A-27a-102. Definitions.

As used in this chapter:

(1) "Admitted assets" is as defined by and is measured in accordance with the National Association of Insurance Commissioner's Statements of Statutory Accounting Principles, as incorporated in this state by rules made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the purposes of Subsection 31A-4-113(1)(b)(ii).

(2) "Affected guaranty association" means a guaranty association that is or may become liable for payment of a covered claim.

(3) "Affiliate" is as defined in Section 31A-1-301.

(4) Notwithstanding Section 31A-1-301, "alien insurer" means an insurer incorporated or organized under the laws of a jurisdiction that is not a state.

(5) Notwithstanding Section 31A-1-301, "claimant" or "creditor" means a person having a claim against an insurer whether the claim is:

- (a) matured or not matured;
- (b) liquidated or unliquidated;
- (c) secured or unsecured;
- (d) absolute; or
- (e) fixed or contingent.

(6) "Commissioner" is as defined in Section 31A-1-301.

(7) "Commodity contract" means:

(a) a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of:

- (i) a board of trade or contract market under the Commodity Exchange Act, 7 U.S.C. Sec. 1 et seq.; or
- (ii) a board of trade outside the United States;
- (b) an agreement that is:

(i) subject to regulation under Section 19 of the Commodity Exchange Act, 7 U.S.C. Sec. 1 et seq.; and

- (ii) commonly known to the commodities trade as:

(A) a margin account;

(B) a margin contract;

(C) a leverage account; or

(D) a leverage contract;

(c) an agreement or transaction that is:

(i) subject to regulation under Section 4c(b) of the Commodity Exchange Act, 7 U.S.C. Sec. 1 et seq.; and

(ii) commonly known to the commodities trade as a commodity option;

(d) a combination of the agreements or transactions referred to in this Subsection (7); or

(e) an option to enter into an agreement or transaction referred to in this Subsection (7).

(8) "Control" is as defined in Section 31A-1-301.

(9) "Delinquency proceeding" means a:

(a) proceeding instituted against an insurer for the purpose of rehabilitating or liquidating the insurer; and

(b) summary proceeding under Section 31A-27a-201.

(10) "Department" is as defined in Section 31A-1-301 unless the context requires otherwise.

(11) "Doing business," "doing insurance business," and "business of insurance" includes any of the following acts, whether effected by mail, electronic means, or otherwise:

(a) issuing or delivering a contract, certificate, or binder relating to insurance or annuities:

- (i) to a person who is resident in this state; or
- (ii) covering a risk located in this state;

(b) soliciting an application for the contract, certificate, or binder described in Subsection (11)(a);

(c) negotiating preliminary to the execution of the contract, certificate, or binder described in Subsection (11)(a);

(d) collecting premiums, membership fees, assessments, or other consideration for the contract, certificate, or binder described in Subsection (11)(a);

(e) transacting matters:

(i) subsequent to execution of the contract, certificate, or binder described in Subsection (11)(a); and

(ii) arising out of the contract, certificate, or binder described in Subsection (11)(a);

(f) operating as an insurer under a license or certificate of authority issued by the department; or

(g) engaging in an act identified in Chapter 15, Unauthorized Insurers, Surplus Lines, and Risk Retention Groups.

(12) Notwithstanding Section 31A-1-301, "domiciliary state" means the state in which an

insurer is incorporated or organized, except that “domiciliary state” means:

(a) in the case of an alien insurer, its state of entry; or

(b) in the case of a risk retention group, the state in which the risk retention group is chartered as contemplated in the Liability Risk Retention Act, 15 U.S.C. Sec. 3901 et seq.

(13) “Estate” has the same meaning as “property of the insurer” as defined in Subsection (30).

(14) “Fair consideration” is given for property or an obligation:

(a) when in exchange for the property or obligation, as a fair equivalent for it, and in good faith:

- (i) property is conveyed;
- (ii) services are rendered;
- (iii) an obligation is incurred; or
- (iv) an antecedent debt is satisfied; or

(b) when the property or obligation is received in good faith to secure a present advance or an antecedent debt in amount not disproportionately small compared to the value of the property or obligation obtained.

(15) Notwithstanding Section 31A-1-301, “foreign insurer” means an insurer domiciled in another state.

(16) “Formal delinquency proceeding” means a rehabilitation or liquidation proceeding.

(17) “Forward contract” is as defined in the Federal Deposit Insurance Act, 12 U.S.C. Sec. 1821(e)(8)(D).

(18) (a) “General assets” include all property of the estate that is not:

- (i) subject to a properly perfected secured claim;
- (ii) subject to a valid and existing express trust for the security or benefit of a specified person or class of person; or
- (iii) required by the insurance laws of this state or any other state to be held for the benefit of a specified person or class of person.

(b) “General assets” ~~include all~~ includes the property of the estate or its proceeds in excess of the amount necessary to discharge a claim described in Subsection (18)(a).

(19) “Good faith” means honesty in fact and intention, and in regard to Part 5, Asset Recovery, also requires the absence of:

(a) information that would lead a reasonable person in the same position to know that the insurer is financially impaired or insolvent; and

(b) knowledge regarding the imminence or pendency of a delinquency proceeding against the insurer.

(20) “Guaranty association” means:

(a) a mechanism mandated by Chapter 28, Guaranty Associations; or

(b) a similar mechanism in another state that is created for the payment of claims or continuation of policy obligations of a financially impaired or insolvent insurer.

(21) “Impaired” means that an insurer:

(a) does not have admitted assets at least equal to the sum of:

- (i) all its liabilities; and
- (ii) the minimum surplus required to be maintained by Section 31A-5-211 or 31A-8-209; or

(b) has a total adjusted capital that is less than its authorized control level RBC, as defined in Section 31A-17-601.

(22) “Insolvency” or “insolvent” means that an insurer:

(a) is unable to pay its obligations when they are due;

(b) does not have admitted assets at least equal to all of its liabilities; or

(c) has a total adjusted capital that is less than its mandatory control level RBC, as defined in Section 31A-17-601.

(23) Notwithstanding Section 31A-1-301, “insurer” means a person who:

(a) is doing, has done, purports to do, or is licensed to do the business of insurance;

(b) is or has been subject to the authority of, or to rehabilitation, liquidation, reorganization, supervision, or conservation by an insurance commissioner; or

(c) is included under Section 31A-27a-104.

(24) “Liabilities” is as defined by and is measured in accordance with the National Association of Insurance Commissioner’s Statements of Statutory Accounting Principles, as incorporated in this state by rules made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the purposes of Subsection 31A-4-113(1)(b)(ii).

(25) (a) Subject to Subsection (21)(b), “netting agreement” means:

(i) a contract or agreement that:

(A) documents one or more transactions between the parties to the agreement for or involving one or more qualified financial contracts; and

(B) provides for the netting, liquidation, setoff, termination, acceleration, or close out under or in connection with:

(I) one or more qualified financial contracts; or

(II) present or future payment or delivery obligations or payment or delivery entitlements under the agreement, including liquidation or

close-out values relating to the obligations or entitlements, among the parties to the netting agreement;

(ii) a master agreement or bridge agreement for one or more master agreements described in Subsection (25)(a)(i); or

(iii) any of the following related to a contract or agreement described in Subsection (25)(a)(i) or (ii):

- (A) a security agreement;
- (B) a security arrangement;
- (C) other credit enhancement or guarantee; or
- (D) a reimbursement obligation.

(b) If a contract or agreement described in Subsection (25)(a)(i) or (ii) relates to an agreement or transaction that is not a qualified financial contract, the contract or agreement described in Subsection (25)(a)(i) or (ii) is considered a netting agreement only with respect to an agreement or transaction that is a qualified financial contract.

(c) "Netting agreement" includes:

(i) a term or condition incorporated by reference in the contract or agreement described in Subsection (25)(a); or

(ii) a master agreement described in Subsection (25)(a).

(d) A master agreement described in Subsection (25)(a), together with all schedules, confirmations, definitions, and addenda to that master agreement and transactions under any of the items described in this Subsection (25)(d), are treated as one netting agreement.

(26) (a) "New value" means:

- (i) money;
- (ii) money's worth in goods, services, or new credit; or
- (iii) release by a transferee of property previously transferred to the transferee in a transaction that is neither void nor voidable by the insurer or the receiver under ~~any~~ applicable law, including proceeds of the property.

(b) "New value" does not include an obligation substituted for an existing obligation.

(27) "Party in interest" means:

- (a) the commissioner;
- (b) a nondomiciliary commissioner in whose state the insurer has outstanding claims liabilities;
- (c) an affected guaranty association; and
- (d) the following parties if the party files a request with the receivership court for inclusion as a party in interest and to be on the service list:

(i) an insurer that ceded to or assumed business from the insurer;

(ii) a policyholder;

(iii) a third party claimant;

(iv) a creditor;

(v) a 10% or greater equity security holder in the insolvent insurer; and

(vi) a person, including an indenture trustee, with a financial or regulatory interest in the delinquency proceeding.

(28) (a) Notwithstanding Section 31A-1-301, "policy" means, notwithstanding what it is called:

- (i) a written contract of insurance;
- (ii) a written agreement for or affecting insurance; or
- (iii) a certificate of a written contract or agreement described in this Subsection (28)(a).

(b) "Policy" includes all clauses, riders, endorsements, and papers that are a part of a policy.

(c) "Policy" does not include a contract of reinsurance.

(29) "Preference" means a transfer of property of an insurer to or for the benefit of a creditor:

(a) for or on account of an antecedent debt, made or allowed by the insurer within one year before the day on which a successful petition for rehabilitation or liquidation is filed under this chapter;

(b) the effect of which transfer may enable the creditor to obtain a greater percentage of the creditor's debt than another creditor of the same class would receive; and

(c) if a liquidation order is entered while the insurer is already subject to a rehabilitation order and the transfer otherwise qualifies, that is made or allowed within the shorter of:

- (i) one year before the day on which a successful petition for rehabilitation is filed; or
- (ii) two years before the day on which a successful petition for liquidation is filed.

(30) "Property of the insurer" or "property of the estate" includes:

(a) a right, title, or interest of the insurer in property:

- (i) whether:
 - (A) legal or equitable;
 - (B) tangible or intangible; or
 - (C) choate or inchoate; and
- (ii) including choses in action, contract rights, and any other interest recognized under the laws of this state;

(b) entitlements that exist before the entry of an order of rehabilitation or liquidation;

(c) entitlements that may arise by operation of this chapter or other provisions of law allowing the receiver to avoid prior transfers or assert other rights; and

(d) (i) records or data that is otherwise the property of the insurer; and

(ii) records or data similar to those described in Subsection (30)(d)(i) that are within the possession, custody, or control of a managing general agent, a third party administrator, a management company, a data processing company, an accountant, an attorney, an affiliate, or other person.

(31) Subject to Subsection 31A-27a-611(10), "qualified financial contract" means any of the following:

- (a) a commodity contract;
- (b) a forward contract;
- (c) a repurchase agreement;
- (d) a securities contract;
- (e) a swap agreement; or

(f) [any] a similar agreement that the commissioner determines by rule or order to be a qualified financial contract for purposes of this chapter.

(32) As the context requires, "receiver" means the commissioner or the commissioner's designee, including a rehabilitator, liquidator, or ancillary receiver.

(33) As the context requires, "receivership" means a rehabilitation, liquidation, or ancillary receivership.

(34) Unless the context requires otherwise, "receivership court" refers to the court in which a delinquency proceeding is pending.

(35) "Reciprocal state" means [any] a state other than this state that:

(a) enforces a law substantially similar to this chapter;

(b) requires the commissioner to be the receiver of a delinquent insurer; and

(c) has laws for the avoidance of fraudulent conveyances and preferential transfers by the receiver of a delinquent insurer.

(36) "Record," when used as a noun, means [any] information or data, in whatever form maintained, including:

- (a) a book;
- (b) a document;
- (c) a paper;
- (d) a file;
- (e) an application file;
- (f) a policyholder list;
- (g) policy information;
- (h) a claim or claim file;
- (i) an account;

(j) a voucher;

(k) a litigation file;

(l) a premium record;

(m) a rate book;

(n) an underwriting manual;

(o) a personnel record;

(p) a financial record; or

(q) other material.

(37) "Reinsurance" means a transaction or contract under which an assuming insurer agrees to indemnify a ceding insurer against all, or a part, of [any] a loss that the ceding insurer may sustain under the one or more policies that the ceding insurer issues or will issue.

(38) "Repurchase agreement" is as defined in the Federal Deposit Insurance Act, 12 U.S.C. Sec. 1821(e)(8)(D).

(39) (a) "Secured claim" means, subject to Subsection (39)(b):

(i) a claim secured by an asset that is not a general asset; or

(ii) the right to set off as provided in Section 31A-27a-510.

(b) "Secured claim" does not include:

(i) a special deposit claim;

(ii) a claim based on mere possession; or

(iii) a claim arising from a constructive or resulting trust.

(40) "Securities contract" is as defined in the Federal Deposit Insurance Act, 12 U.S.C. Sec. 1821(e)(8)(D).

(41) "Special deposit" means a deposit established pursuant to statute for the security or benefit of a limited class or classes of persons.

(42) (a) Subject to Subsection (42)(b), "special deposit claim" means a claim secured by a special deposit.

(b) "Special deposit claim" does not include a claim against the general assets of the insurer.

(43) "State" means a state, district, or territory of the United States.

(44) "Subsidiary" is as defined in Section 31A-1-301.

(45) "Swap agreement" is as defined in the Federal Deposit Insurance Act, 12 U.S.C. Sec. 1821(e)(8)(D).

(46) (a) "Transfer" includes the sale and every other and different mode of disposing of or parting with property or with an interest in property, whether:

(i) directly or indirectly;

(ii) absolutely or conditionally;

- (iii) voluntarily or involuntarily; or
- (iv) by or without judicial proceedings.
- (b) An interest in property includes:
 - (i) a set off;
 - (ii) having possession of the property; or
 - (iii) fixing a lien on the property or on an interest in the property.

(c) The retention of a security title in property delivered to an insurer and foreclosure of the insurer's equity of redemption is considered a transfer suffered by the insurer.

(47) Notwithstanding Section 31A-1-301, "unauthorized insurer" means an insurer transacting the business of insurance in this state that has not received a certificate of authority from this state, or some other type of authority that allows for the transaction of the business of insurance in this state.

Section 43. Section 31A-27a-107 is amended to read:

31A-27a-107. Notice and hearing on matters submitted by the receiver for receivership court approval.

(1) (a) Upon written request to the receiver, a person shall be placed on the service list to receive notice of matters filed by the receiver. The person shall include in a written request under this Subsection (1)(a) the person's address, facsimile number, or electronic mail address.

(b) It is the responsibility of the person requesting notice to:

(i) inform the receiver in writing of any changes in the person's address, facsimile number, or electronic mail address; or

(ii) request that the person's name be deleted from the service list.

(c) (i) The receiver may serve on a person on the service list a request to confirm continuation on the service list by returning a form.

(ii) The request to confirm continuation may be served periodically but not more frequently than every 12 months.

(iii) A person who fails to return the form described in this Subsection (1)(c) may be removed from the service list.

(d) Inclusion on the service list does not confer standing in the delinquency proceeding to raise, appear, or be heard on any issue.

(e) The receiver shall:

(i) file a copy of the service list with the receivership court; and

(ii) periodically provide to the receivership court notice of changes to the service list.

(f) Notice may be provided by first-class mail postage paid, electronic mail, or facsimile transmission, at the receiver's discretion.

(2) Except as otherwise provided by this chapter, notice and hearing of any matter submitted by the receiver to the receivership court for approval under this chapter shall be conducted in accordance with this Subsection (2).

(a) The receiver:

(i) shall file a motion:

(A) explaining the proposed action; and

(B) the basis for the proposed action; and

(ii) may include any evidence in support of the motion.

(b) If a document, material, or other information supporting the motion is confidential, the document, material, or other information may be submitted to the receivership court under seal for in camera inspection.

(c) (i) The receiver shall provide notice and a copy of the motion to:

(A) all persons on the service list; and

(B) any other person as may be required by the receivership court.

(ii) Notice may be provided by first-class mail postage paid, electronic mail, or facsimile transmission, at the receiver's discretion.

(iii) For purposes of this section, notice is considered to be given on the day on which it is deposited with the United States Postmaster or transmitted, as applicable, to the last-known address as shown on the service list.

(d) (i) A party in interest objecting to the motion shall:

(A) file an objection specifying the grounds for the objection within:

(I) 10 days of the day on which the notice of the filing of the motion is sent; or

(II) such other time as the receivership court may specify; and

(B) serve copies on:

(I) the receiver; and

(II) any other person served with the motion within the time period described in this Subsection (2)(d)(i).

(ii) In accordance with the Utah Rules of Civil Procedure, days may be added to the time for filing an objection if the notice of the motion is sent only by way of United States mail.

(iii) An objecting party has the burden of showing why the receivership court should not authorize the proposed action.

(e) (i) If no objection to the motion is timely filed:

(A) the receivership court may:

(I) enter an order approving the motion without a hearing; or

(II) hold a hearing to determine if the receiver's motion should be approved; and

(B) the receiver may request that the receivership court enter an order or hold a hearing on an expedited basis.

(ii) (A) If an objection is timely filed, the receivership court may hold a hearing.

(B) If the receivership court approves the motion and, upon a motion by the receiver, determines that the objection is frivolous or filed merely for delay or for other improper purpose, the receivership court may order the objecting party to pay the receiver's reasonable costs and fees of defending against the objection.

Section 44. Section 31A-27a-201 is amended to read:

31A-27a-201. Receivership court's seizure order.

(1) The commissioner may file in the Third District Court for Salt Lake County a petition:

(a) with respect to:

(i) an insurer domiciled in this state;

(ii) an unauthorized insurer; or

(iii) pursuant to Section 31A-27a-901, a foreign insurer;

(b) alleging that:

(i) there exists grounds that would justify a court order for a formal delinquency proceeding against the insurer under this chapter; and

(ii) the interests of policyholders, creditors, or the public will be endangered by delay; and

(c) setting forth the contents of a seizure order considered necessary by the commissioner.

(2) (a) Upon a filing under Subsection (1), the receivership court may issue the requested seizure order:

(i) immediately, ex parte, and without notice or hearing;

(ii) that directs the commissioner to take possession and control of:

(A) all or a part of the property, accounts, and records of an insurer; and

(B) the premises occupied by the insurer for transaction of the insurer's business; and

(iii) that until further order of the receivership court, enjoins the insurer and its officers, managers, agents, and employees from disposition of its property and from the transaction of its business except with the written consent of the commissioner.

(b) ~~Any~~ A person having possession or control of and refusing to deliver any of the records or assets of

a person against whom a seizure order is issued under this Subsection (2) is guilty of a class B misdemeanor.

(3) (a) A petition that requests injunctive relief:

(i) shall be verified by the commissioner or the commissioner's designee; and

(ii) is not required to plead or prove irreparable harm or inadequate remedy at law.

(b) The commissioner shall provide only the notice that the receivership court may require.

(4) (a) The receivership court shall specify in the seizure order the duration of the seizure, which shall be the time the receivership court considers necessary for the commissioner to ascertain the condition of the insurer.

(b) The receivership court may from time to time:

(i) hold a hearing that the receivership court considers desirable:

(A) (I) on motion of the commissioner;

(II) on motion of the insurer; or

(III) on its own motion; and

(B) after the notice the receivership court considers appropriate; and

(ii) extend, shorten, or modify the terms of the seizure order.

(c) The receivership court shall vacate the seizure order if the commissioner fails to commence a formal proceeding under this chapter after having had a reasonable opportunity to commence a formal proceeding under this chapter.

(d) An order of the receivership court pursuant to a formal proceeding under this chapter vacates the seizure order.

(5) Entry of a seizure order under this section does not constitute a breach or an anticipatory breach of ~~any~~ a contract of the insurer.

(6) (a) An insurer subject to an ex parte seizure order under this section may petition the receivership court at any time after the issuance of a seizure order for a hearing and review of the basis for the seizure order.

(b) The receivership court shall hold the hearing and review requested under this Subsection (6) not more than 15 days after the day on which the request is received or as soon thereafter as the court may allow.

(c) A hearing under this Subsection (6):

(i) may be held privately in chambers; and

(ii) shall be held privately in chambers if the insurer proceeded against requests that it be private.

(7) (a) If, at any time after the issuance of a seizure order, it appears to the receivership court that a person whose interest is or will be substantially affected by the seizure order did not appear at the hearing and has not been served, the

receivership court may order that notice be given to the person.

(b) An order under this Subsection (7) that notice be given may not stay the effect of ~~any~~ a seizure order previously issued by the receivership court.

(8) Whenever the commissioner makes a seizure as provided in Subsection (2), on the demand of the commissioner, it shall be the duty of the sheriff of a county of this state, and of the police department of a municipality in the state to furnish the commissioner with necessary deputies or officers to assist the commissioner in making and enforcing the seizure order.

(9) The commissioner may appoint a receiver under this section. The insurer shall pay the costs and expenses of the receiver appointed.

Section 45. Section 31A-27a-701 is amended to read:

31A-27a-701. Priority of distribution.

(1) (a) The priority of payment of distributions on unsecured claims shall be in accordance with the order in which each class of claim is set forth in this section except as provided in Section 31A-27a-702.

(b) All claims in each class shall be paid in full or adequate funds retained for the claim's payment before a member of the next class receives payment.

(c) All claims within a class shall be paid substantially the same percentage.

(d) Except as provided in Subsections (2)(a)(i)(E), (2)(k), and (2)(m), subclasses may not be established within a class.

(e) A claim by a shareholder, policyholder, or other creditor may not be permitted to circumvent the priority classes through the use of equitable remedies.

(2) The order of distribution of claims shall be as follows:

(a) a Class 1 claim, which:

(i) is a cost or expense of administration expressly approved or ratified by the liquidator, including the following:

(A) the actual and necessary costs of preserving or recovering the property of the insurer;

(B) reasonable compensation for all services rendered on behalf of the administrative supervisor or receiver;

(C) a necessary filing fee;

(D) the fees and mileage payable to a witness;

(E) an unsecured loan obtained by the receiver, which:

(I) unless its terms otherwise provide, has priority over all other costs of administration; and

(II) absent agreement to the contrary, shares pro rata with all other claims described in this Subsection (2)(a)(i)(E); and

(F) an expense approved by the rehabilitator of the insurer, if any, incurred in the course of the rehabilitation that is unpaid at the time of the entry of the order of liquidation; and

(ii) except as expressly approved by the receiver, excludes any expense arising from a duty to indemnify a director, officer, or employee of the insurer which expense, if allowed, is a Class 7 claim;

(b) a Class 2 claim, which:

(i) is a reasonable expense of a guaranty association, including overhead, salaries, or other general administrative expenses allocable to the receivership such as:

(A) an administrative or claims handling expense;

(B) an expense in connection with arrangements for ongoing coverage; and

(C) in the case of a property and casualty guaranty association, a loss adjustment expense, including:

(I) an adjusting or other expense; and

(II) a defense or cost containment expense; and

(ii) excludes an expense incurred in the performance of duties under Section 31A-28-112 or similar duties under the statute governing a similar organization in another state;

(c) a Class 3 claim, which:

(i) is:

(A) a claim under a policy of insurance including a third party claim;

(B) a claim under an annuity contract or funding agreement;

(C) a claim under a nonassessable policy for unearned premium;

(D) a claim of an obligee and, subject to the discretion of the receiver, a completion contractor under a surety bond or surety undertaking, except for:

(I) a bail bond;

(II) a mortgage guaranty;

(III) a financial guaranty; or

(IV) other form of insurance offering protection against investment risk or warranties;

(E) a claim by a principal under a surety bond or surety undertaking for wrongful dissipation of collateral by the insurer or its agents;

(F) an indemnity payment on:

(I) a covered claim; or

~~(II) unearned premium; or~~

~~(III)~~ (II) a payment for the continuation of coverage made by an entity responsible for the payment of a claim or continuation of coverage of an insolvent health maintenance organization;

(G) a claim for unearned premium;

~~(G)~~ (H) a claim incurred during the extension of coverage provided for in Sections 31A-27a-402 and 31A-27a-403; or

~~(H)~~ (I) all other claims incurred in fulfilling the statutory obligations of a guaranty association not included in Class 2, including:

(I) an indemnity payment on covered claims; and

(II) in the case of a life and health guaranty association, a claim:

(Aa) as a creditor of the impaired or insolvent insurer for a payment of and liabilities incurred on behalf of a covered claim or covered obligation of the insurer; and

(Bb) for the funds needed to reinsure the obligations described under this Subsection (2)(c)(i)~~(H)~~(I)(II) with a solvent insurer; and

(ii) notwithstanding any other provision of this chapter, excludes the following which shall be paid under Class 7, except as provided in this section:

(A) an obligation of the insolvent insurer arising out of a reinsurance contract;

(B) an obligation that is incurred pursuant to an occurrence policy or reported pursuant to a claims made policy after:

(I) the expiration date of the policy;

(II) the policy is replaced by the insured;

(III) the policy is canceled at the insured's request; or

(IV) the policy is canceled as provided in this chapter;

(C) an obligation to an insurer, insurance pool, or underwriting association and the insurer's, insurance pool's, or underwriting association's claim for contribution, indemnity, or subrogation, equitable or otherwise, except for direct claims under a policy where the insurer is the named insured;

(D) an amount accrued as punitive or exemplary damages unless expressly covered under the terms of the policy, which shall be paid as a claim in Class 9;

(E) a tort claim of any kind against the insurer;

(F) a claim against the insurer for bad faith or wrongful settlement practices; and

(G) a claim of a guaranty association for assessments not paid by the insurer, which claims shall be paid as claims in Class 7; and

(iii) notwithstanding Subsection (2)(c)(ii)(B), does not exclude an unearned premium claim on a policy, other than a reinsurance agreement;

(d) a Class 4 claim, which is a claim under a policy for mortgage guaranty, financial guaranty, or other forms of insurance offering protection against investment risk or warranties;

(e) a Class 5 claim, which is a claim of the federal government not included in Class 3 or 4;

(f) a Class 6 claim, which is a debt due an employee for services or benefits:

(i) to the extent that the expense:

(A) does not exceed the lesser of:

(I) \$5,000; or

(II) two months' salary; and

(B) represents payment for services performed within one year before the day on which the initial order of receivership is issued; and

(ii) which priority is in lieu of any other similar priority that may be authorized by law as to wages or compensation of employees;

(g) a Class 7 claim, which is a claim of an unsecured creditor not included in Classes 1 through 6, including:

(i) a claim under a reinsurance contract;

(ii) a claim of a guaranty association for an assessment not paid by the insurer; and

(iii) other claims excluded from Class 3 or 4, unless otherwise assigned to Classes 8 through 13;

(h) subject to Subsection (3), a Class 8 claim, which is:

(i) a claim of a state or local government, except a claim specifically classified elsewhere in this section; or

(ii) a claim for services rendered and expenses incurred in opposing a formal delinquency proceeding;

(i) a Class 9 claim, which is a claim for penalties, punitive damages, or forfeitures, unless expressly covered under the terms of a policy of insurance;

(j) a Class 10 claim, which is, except as provided in Subsections 31A-27a-601(2) and 31A-27a-601(3), a late filed claim that would otherwise be classified in Classes 3 through 9;

(k) subject to Subsection (4), a Class 11 claim, which is:

(i) a surplus note;

(ii) a capital note;

(iii) a contribution note;

(iv) a similar obligation;

(v) a premium refund on an assessable policy; or

(vi) any other claim specifically assigned to this class;

(l) a Class 12 claim, which is a claim for interest on an allowed claim of Classes 1 through 11, according to the terms of a plan to pay interest on allowed claims proposed by the liquidator and approved by the receivership court; and

(m) subject to Subsection (4), a Class 13 claim, which is a claim of a shareholder or other owner arising out of:

(i) the shareholder's or owner's capacity as shareholder or owner or any other capacity; and

(ii) except as the claim may be qualified in Class 3, 4, 7, or 12.

(3) To prove a claim described in Class 8, the claimant shall show that:

(a) the insurer that is the subject of the delinquency proceeding incurred the fee or expense on the basis of the insurer's best knowledge, information, and belief:

(i) formed after reasonable inquiry indicating opposition is in the best interests of the insurer;

(ii) that is well grounded in fact; and

(iii) is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; and

(b) opposition is not pursued for any improper purpose, such as to harass, to cause unnecessary delay, or to cause needless increase in the cost of the litigation.

(4) (a) A claim in Class 11 is subject to a subordination agreement related to other claims in Class 11 that exist before the entry of a liquidation order.

(b) A claim in Class 13 is subject to a subordination agreement, related to other claims in Class 13 that exist before the entry of a liquidation order.

Section 46. Section 31A-29-106 is amended to read:

31A-29-106. Powers of board.

(1) The board shall have the general powers and authority granted under the laws of this state to insurance companies licensed to transact health care insurance business. In addition, the board shall have the specific authority to:

(a) enter into contracts to carry out the provisions and purposes of this chapter, including, with the approval of the commissioner, contracts with:

(i) similar pools of other states for the joint performance of common administrative functions; or

(ii) persons or other organizations for the performance of administrative functions;

(b) sue or be sued, including taking such legal action necessary to avoid the payment of improper claims against the pool or the coverage provided through the pool;

(c) establish appropriate rates, rate schedules, rate adjustments, expense allowances, agents' referral fees, claim reserve formulas, and any other actuarial function appropriate to the operation of the pool;

(d) issue policies of insurance in accordance with the requirements of this chapter;

(e) retain an executive director and appropriate legal, actuarial, and other personnel as necessary to provide technical assistance in the operations of the pool;

(f) establish rules, conditions, and procedures for reinsuring risks under this chapter;

(g) cause the pool to have an annual audit of its operations by the state auditor;

(h) coordinate with the Department of Health in seeking to obtain from the Centers for Medicare and Medicaid Services, or other appropriate office or agency of government, all appropriate waivers, authority, and permission needed to coordinate the coverage available from the pool with coverage available under Medicaid, either before or after Medicaid coverage, or as a conversion option upon completion of Medicaid eligibility, without the necessity for requalification by the enrollee;

(i) provide for and employ cost containment measures and requirements including preadmission certification, concurrent inpatient review, and individual case management for the purpose of making the pool more cost-effective;

(j) offer pool coverage through contracts with health maintenance organizations, preferred provider organizations, and other managed care systems that will manage costs while maintaining quality care;

(k) establish annual limits on benefits payable under the pool to or on behalf of any enrollee;

(l) exclude from coverage under the pool specific benefits, medical conditions, and procedures for the purpose of protecting the financial viability of the pool;

(m) administer the Pool Fund;

(n) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this chapter;

(o) adopt, trademark, and copyright a trade name for the pool for use in marketing and publicizing the pool and its products; and

(p) transition health care coverage for all individuals covered under the pool as part of the conversion to health insurance coverage, regardless of preexisting conditions, under PPACA.

(2) (a) The board shall prepare and submit an annual report to the Legislature which shall include:

(i) the net premiums anticipated;

(ii) actuarial projections of payments required of the pool;

(iii) the expenses of administration; and

(iv) the anticipated reserves or losses of the pool.

(b) The budget for operation of the pool is subject to the approval of the board.

(c) The administrative budget of the board and the commissioner under this chapter shall comply

with the requirements of Title 63J, Chapter 1, Budgetary Procedures Act, and is subject to review and approval by the Legislature.

~~[(3) (a) The board shall on or before September 1, 2004, require the plan administrator or an independent actuarial consultant retained by the plan administrator to redetermine the reasonable equivalent of the criteria for uninsurability required under Subsection 31A-30-106(1)(h) that is used by the board to determine eligibility for coverage in the pool.]~~

~~[(b) The board shall redetermine the criteria established in Subsection (3)(a) at least every five years thereafter.]~~

Section 47. Section 31A-29-111 is amended to read:

31A-29-111. Eligibility -- Limitations.

(1) (a) Except as provided in Subsection (1)(b), an individual who is not HIPAA eligible is eligible for pool coverage if the individual:

- (i) pays the established premium;
- (ii) is a resident of this state; and

(iii) meets the health underwriting criteria under Subsection (5)(a).

(b) Notwithstanding Subsection (1)(a), an individual who is not HIPAA eligible is not eligible for pool coverage if one or more of the following conditions apply:

(i) the individual is eligible for health care benefits under Medicaid or Medicare, except as provided in Section 31A-29-112;

(ii) the individual has terminated coverage in the pool, unless:

(A) 12 months have elapsed since the termination date; or

(B) the individual demonstrates that creditable coverage has been involuntarily terminated for any reason other than nonpayment of premium;

(iii) the pool has paid the maximum lifetime benefit to or on behalf of the individual;

(iv) the individual is an inmate of a public institution;

(v) the individual is eligible for a public health plan, as defined in federal regulations adopted pursuant to 42 U.S.C. Sec. 300gg;

(vi) the individual's health condition does not meet the criteria established under Subsection (5);

(vii) the individual is eligible for coverage under an employer group that offers a health benefit plan or a self-insurance arrangement to its eligible employees, dependents, or members as:

- (A) an eligible employee;
- (B) a dependent of an eligible employee; or
- (C) a member;

(viii) the individual is covered under any other health benefit plan;

(ix) except as provided in Subsections (3) and (6), at the time of application, the individual has not resided in Utah for at least 12 consecutive months preceding the date of application; or

(x) the individual's employer pays any part of the individual's health benefit plan premium, either as an insured or a dependent, for pool coverage.

(2) (a) Except as provided in Subsection (2)(b), an individual who is HIPAA eligible is eligible for pool coverage if the individual:

- (i) pays the established premium; and
- (ii) is a resident of this state.

(b) Notwithstanding Subsection (2)(a), a HIPAA eligible individual is not eligible for pool coverage if one or more of the following conditions apply:

(i) the individual is eligible for health care benefits under Medicaid or Medicare, except as provided in Section 31A-29-112;

(ii) the individual is eligible for a public health plan, as defined in federal regulations adopted pursuant to 42 U.S.C. Sec. 300gg;

(iii) the individual is covered under any other health benefit plan;

(iv) the individual is eligible for coverage under an employer group that offers a health benefit plan or self-insurance arrangements to its eligible employees, dependents, or members as:

- (A) an eligible employee;
- (B) a dependent of an eligible employee; or
- (C) a member;

(v) the pool has paid the maximum lifetime benefit to or on behalf of the individual;

(vi) the individual is an inmate of a public institution; or

(vii) the individual's employer pays any part of the individual's health benefit plan premium, either as an insured or a dependent, for pool coverage.

(3) (a) Notwithstanding Subsection (1)(b)(ix), if otherwise eligible under Subsection (1)(a), an individual whose health care insurance coverage from a state high risk pool with similar coverage is terminated because of nonresidency in another state is eligible for coverage under the pool subject to the conditions of Subsections (1)(b)(i) through (viii).

(b) Coverage under Subsection (3)(a) shall be applied for within 63 days after the termination date of the previous high risk pool coverage.

(c) The effective date of this state's pool coverage shall be the date of termination of the previous high risk pool coverage.

(d) The waiting period of an individual with a preexisting condition applying for coverage under this chapter shall be waived:

(i) to the extent to which the waiting period was satisfied under a similar plan from another state; and

(ii) if the other state's benefit limitation was not reached.

(4) (a) If an eligible individual applies for pool coverage within 30 days of being denied coverage by an individual carrier, the effective date for pool coverage shall be no later than the first day of the month following the date of submission of the completed insurance application to the carrier.

(b) Notwithstanding Subsection (4)(a), for individuals eligible for coverage under Subsection (3), the effective date shall be the date of termination of the previous high risk pool coverage.

(5) (a) The board shall establish and adjust, as necessary, health underwriting criteria based on:

(i) health condition; and

(ii) expected claims so that the expected claims are anticipated to remain within available funding.

(b) The board, with approval of the commissioner, may contract with one or more providers under Title 63G, Chapter 6a, Utah Procurement Code, to develop underwriting criteria under Subsection (5)(a).

~~[(c) If an individual is denied coverage by the pool under the criteria established in Subsection (5)(a), the pool shall issue a certificate of insurability to the individual for coverage under Subsection 31A-30-108(3).]~~

(6) (a) Notwithstanding Subsection (1)(b)(ix), if otherwise eligible under Subsection (1)(a), an individual whose individual health care insurance coverage was involuntarily terminated, is eligible for coverage under the pool subject to the conditions of Subsections (1)(b)(i) through (viii) and (x).

(b) Coverage under Subsection (6)(a) shall be applied for within 63 days after the termination date of the previous individual health care insurance coverage.

(c) The effective date of this state's pool coverage shall be the date of termination of the previous individual coverage.

(d) The waiting period of an individual with a preexisting condition applying for coverage under this chapter shall be waived to the extent to which the waiting period was satisfied under the individual health insurance plan.

Section 48. Section 31A-29-115 is amended to read:

31A-29-115. Cancellation -- Notice.

(1) ~~[(a)]~~ On the date of renewal, the pool may cancel an enrollee's policy if:

~~[(4)]~~ (a) the enrollee's health condition does not meet the criteria established in Subsection 31A-29-111(5); and

~~[(4)]~~ (b) the pool has provided written notice to the enrollee's last-known address no less than 60 days before cancellation; and].

~~[(iii) at least one individual carrier has not reached the individual enrollment cap established in Section 31A-30-110.]~~

~~[(b) The pool shall issue a certificate of insurability to an enrollee whose policy is cancelled under Subsection (1)(a) for coverage under Subsection 31A-30-108(3) if the requirements of Subsection 31A-29-111(5) are met.]~~

(2) The pool may cancel an enrollee's policy at any time if:

(a) the pool has provided written notice to the enrollee's last-known address no less than 15 days before cancellation; and

(b) (i) the enrollee establishes a residency outside of Utah for three consecutive months;

(ii) there is nonpayment of premiums; or

(iii) the pool determines that the enrollee does not meet the eligibility requirements set forth in Section 31A-29-111, in which case:

(A) the policy may be retroactively terminated for the period of time in which the enrollee was not eligible;

(B) retroactive termination may not exceed three years; and

(C) the board's remedy under this Subsection (2)(b) shall be a cause of action against the enrollee for benefits paid during the period of ineligibility in accordance with Subsection 31A-29-119(3).

Section 49. Section 31A-30-102 is amended to read:

31A-30-102. Purpose statement.

The purpose of this chapter is to:

(1) prevent abusive rating practices;

(2) require disclosure of rating practices to purchasers;

(3) establish rules regarding:

(a) a universal individual and small group application; and

(b) renewability of coverage;

(4) improve the overall fairness and efficiency of the individual and small group insurance market;

(5) provide increased access for individuals and small employers to health insurance; and

(6) provide an employer with the opportunity to establish a defined contribution arrangement for an employee to purchase a health benefit plan through the ~~[Internet portal]~~ Health Insurance Exchange created by Section 63M-1-2504.

Section 50. Section 31A-30-103 is amended to read:

31A-30-103. Definitions.

As used in this chapter:

(1) “Actuarial certification” means a written statement by a member of the American Academy of Actuaries or other individual approved by the commissioner that a covered carrier is in compliance with ~~[Sections 31A-30-106 and 31A-30-106.1]~~ this chapter, based upon the examination of the covered carrier, including review of the appropriate records and of the actuarial assumptions and methods used by the covered carrier in establishing premium rates for applicable health benefit plans.

(2) “Affiliate” or “affiliated” means ~~[any entity or]~~ a person who directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, a specified ~~[entity or]~~ person.

(3) “Base premium rate” means, for each class of business as to a rating period, the lowest premium rate charged or that could have been charged under a rating system for that class of business by the covered carrier to covered insureds with similar case characteristics for health benefit plans with the same or similar coverage.

(4) (a) “Bona fide employer association” means an association of employers:

(i) that meets the requirements of Subsection 31A-22-701(2)(b);

(ii) in which the employers of the association, either directly or indirectly, exercise control over the plan;

(iii) that is organized:

(A) based on a commonality of interest between the employers and their employees that participate in the plan by some common economic or representation interest or genuine organizational relationship unrelated to the provision of benefits; and

(B) to act in the best interests of its employers to provide benefits for the employer’s employees and their spouses and dependents, and other benefits relating to employment; and

(iv) whose association sponsored health plan complies with 45 C.F.R. 146.121.

(b) The commissioner shall consider the following with regard to determining whether an association of employers is a bona fide employer association under Subsection (4)(a):

(i) how association members are solicited;

(ii) who participates in the association;

(iii) the process by which the association was formed;

(iv) the purposes for which the association was formed, and what, if any, were the pre-existing relationships of its members;

(v) the powers, rights and privileges of employer members; and

(vi) who actually controls and directs the activities and operations of the benefit programs.

(5) “Carrier” means ~~[any]~~ a person ~~[or entity]~~ that provides health insurance in this state including:

(a) an insurance company;

(b) a prepaid hospital or medical care plan;

(c) a health maintenance organization;

(d) a multiple employer welfare arrangement; and

(e) ~~[any other]~~ another person ~~[or entity]~~ providing a health insurance plan under this title.

(6) (a) Except as provided in Subsection (6)(b), “case characteristics” means demographic or other objective characteristics of a covered insured that are considered by the carrier in determining premium rates for the covered insured.

(b) “Case characteristics” do not include:

(i) duration of coverage since the policy was issued;

(ii) claim experience; and

(iii) health status.

(7) “Class of business” means all or a separate grouping of covered insureds that is permitted by the commissioner in accordance with Section 31A-30-105.

~~[(8) “Conversion policy” means a policy providing coverage under the conversion provisions required in Chapter 22, Part 7, Group Accident and Health Insurance.]~~

~~[(9)]~~ (8) “Covered carrier” means ~~[any]~~ an individual carrier or small employer carrier subject to this chapter.

~~[(10)]~~ (9) “Covered individual” means ~~[any]~~ an individual who is covered under a health benefit plan subject to this chapter.

~~[(11)]~~ (10) “Covered insureds” means small employers and individuals who are issued a health benefit plan that is subject to this chapter.

~~[(12)]~~ (11) “Dependent” means an individual to the extent that the individual is defined to be a dependent by:

(a) the health benefit plan covering the covered individual; and

(b) Chapter 22, Part 6, Accident and Health Insurance.

~~[(13)]~~ (12) “Established geographic service area” means a geographical area approved by the commissioner within which the carrier is authorized to provide coverage.

~~[(14)]~~ (13) “Index rate” means, for each class of business as to a rating period for covered insureds with similar case characteristics, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate.

~~[(15)]~~ (14) “Individual carrier” means a carrier that provides coverage on an individual basis

through a health benefit plan regardless of whether:

- (a) coverage is offered through:
 - (i) an association;
 - (ii) a trust;
 - (iii) a discretionary group; or
 - (iv) other similar groups; or
- (b) the policy or contract is situated out-of-state.

[46] (15) "Individual conversion policy" means a conversion policy issued to:

- (a) an individual; or
- (b) an individual with a family.

[17] "Individual coverage count" means the number of natural persons covered under a carrier's health benefit products that are individual policies.]

[18] "Individual enrollment cap" means the percentage set by the commissioner in accordance with Section 31A-30-110.]

[19] (16) "New business premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or offered, or that could have been charged or offered, by the carrier to covered insureds with similar case characteristics for newly issued health benefit plans with the same or similar coverage.

[20] (17) "Premium" means money paid by covered insureds and covered individuals as a condition of receiving coverage from a covered carrier, including [any] fees or other contributions associated with the health benefit plan.

[21] (18) (a) "Rating period" means the calendar period for which premium rates established by a covered carrier are assumed to be in effect, as determined by the carrier.

(b) A covered carrier may not have:

- (i) more than one rating period in any calendar month; and
- (ii) no more than 12 rating periods in any calendar year.

[22] "Resident" means an individual who has resided in this state for at least 12 consecutive months immediately preceding the date of application.]

[23] (19) "Short-term limited duration insurance" means a health benefit product that:

- (a) is not renewable; and
- (b) has an expiration date specified in the contract that is less than 364 days after the date the plan became effective.

[24] (20) "Small employer carrier" means a carrier that provides health benefit plans covering eligible employees of one or more small employers in this state, regardless of whether:

- (a) coverage is offered through:
 - (i) an association;
 - (ii) a trust;
 - (iii) a discretionary group; or
 - (iv) other similar grouping; or
- (b) the policy or contract is situated out-of-state.

[25] "Uninsurable" means an individual who:]

[a] is eligible for the Comprehensive Health Insurance Pool coverage under the underwriting criteria established in Subsection 31A-29-111(5); or]

[b] (i) is issued a certificate for coverage under Subsection 31A-30-108(3); and]

[ii] has a condition of health that does not meet consistently applied underwriting criteria as established by the commissioner in accordance with Subsections 31A-30-106(1)(g) and (h) for which coverage the applicant is applying.]

[26] "Uninsurable percentage" for a given calendar year equals UC/CI where, for purposes of this formula:]

[a] "CI" means the carrier's individual coverage count as of December 31 of the preceding year; and]

[b] "UC" means the number of uninsurable individuals who were issued an individual policy on or after July 1, 1997.]

Section 51. Section 31A-30-104 is amended to read:

31A-30-104. Applicability and scope.

(1) This chapter applies to any:

- (a) health benefit plan that provides coverage to:
 - (i) individuals;
 - (ii) small employers, except as provided in Subsection (3); or
 - (iii) both Subsections (1)(a)(i) and (ii); or
- (b) individual conversion policy for purposes of Sections 31A-30-106.5 and 31A-30-107.5.

(2) This chapter applies to a health benefit plan that provides coverage to small employers or individuals regardless of:

- (a) whether the contract is issued to:
 - (i) an association, except as provided in Subsection (3);
 - (ii) a trust;
 - (iii) a discretionary group; or
 - (iv) other similar grouping; or
- (b) the situs of delivery of the policy or contract.

(3) This chapter does not apply to:

- (a) short-term limited duration health insurance;
- (b) federally funded or partially funded programs; or

(c) a bona fide employer association.

(4) (a) Except as provided in Subsection (4)(b), for the purposes of this chapter:

(i) carriers that are affiliated companies or that are eligible to file a consolidated tax return shall be treated as one carrier; and

(ii) any restrictions or limitations imposed by this chapter shall apply as if all health benefit plans delivered or issued for delivery to covered insureds in this state by the affiliated carriers were issued by one carrier.

(b) Upon a finding of the commissioner, an affiliated carrier that is a health maintenance organization having a certificate of authority under this title may be considered to be a separate carrier for the purposes of this chapter.

(c) Unless otherwise authorized by the commissioner or by Chapter 42, Defined Contribution Risk Adjuster Act, a covered carrier may not enter into one or more ceding arrangements with respect to health benefit plans delivered or issued for delivery to covered insureds in this state if the ceding arrangements would result in less than 50% of the insurance obligation or risk for the health benefit plans being retained by the ceding carrier.

(d) Section 31A-22-1201 applies if a covered carrier cedes or assumes all of the insurance obligation or risk with respect to one or more health benefit plans delivered or issued for delivery to covered insureds in this state.

(5) (a) A Taft Hartley trust created in accordance with Section 302(c)(5) of the Federal Labor Management Relations Act, or a carrier with the written authorization of such a trust, may make a written request to the commissioner for a waiver from the application of any of the provisions of [Subsection] Subsections 31A-30-106(1) and 31A-30-106.1(1) with respect to a health benefit plan provided to the trust.

(b) The commissioner may grant a trust or carrier described in Subsection (5)(a) a waiver if the commissioner finds that application with respect to the trust would:

(i) have a substantial adverse effect on the participants and beneficiaries of the trust; and

(ii) require significant modifications to one or more collective bargaining arrangements under which the trust is established or maintained.

(c) A waiver granted under this Subsection (5) may not apply to an individual if the person participates in a Taft Hartley trust as an associate member of any employee organization.

(6) Sections 31A-30-106, 31A-30-106.1, 31A-30-106.5, 31A-30-106.7, 31A-30-107, and 31A-30-108, [and 31A-30-111] apply to:

(a) any insurer engaging in the business of insurance related to the risk of a small employer for medical, surgical, hospital, or ancillary health care

expenses of the small employer's employees provided as an employee benefit; and

(b) any contract of an insurer, other than a workers' compensation policy, related to the risk of a small employer for medical, surgical, hospital, or ancillary health care expenses of the small employer's employees provided as an employee benefit.

(7) The commissioner may make rules requiring that the marketing practices be consistent with this chapter for:

(a) a small employer carrier;

(b) a small employer carrier's agent;

(c) an insurance producer;

(d) an insurance consultant; and

(e) a navigator.

Section 52. Section 31A-30-106 is amended to read:

31A-30-106. Individual premiums -- Rating restrictions -- Disclosure.

(1) Premium rates for health benefit plans for individuals under this chapter are subject to this section.

(a) The index rate for a rating period for any class of business may not exceed the index rate for any other class of business by more than 20%.

(b) (i) For a class of business, the premium rates charged during a rating period to covered insureds with similar case characteristics for the same or similar coverage, or the rates that could be charged to the individual under the rating system for that class of business, may not vary from the index rate by more than 30% of the index rate except as provided under Subsection (1)(b)(ii).

(ii) A carrier that offers individual and small employer health benefit plans may use the small employer index rates to establish the rate limitations for individual policies, even if some individual policies are rated below the small employer base rate.

(c) The percentage increase in the premium rate charged to a covered insured for a new rating period, adjusted pro rata for rating periods less than a year, may not exceed the sum of the following:

(i) the percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period;

(ii) any adjustment, not to exceed 15% annually and adjusted pro rata for rating periods of less than one year, due to the claim experience, health status, or duration of coverage of the covered individuals as determined from the rate manual for the class of business of the carrier offering an individual health benefit plan; and

(iii) any adjustment due to change in coverage or change in the case characteristics of the covered

insured as determined from the rate manual for the class of business of the carrier offering an individual health benefit plan.

(d) (i) A carrier offering an individual health benefit plan shall apply rating factors, including case characteristics, consistently with respect to all covered insureds in a class of business.

(ii) Rating factors shall produce premiums for identical individuals that:

(A) differ only by the amounts attributable to plan design; and

(B) do not reflect differences due to the nature of the individuals assumed to select particular health benefit products.

(iii) A carrier offering an individual health benefit plan shall treat all health benefit plans issued or renewed in the same calendar month as having the same rating period.

(e) For the purposes of this Subsection (1), a health benefit plan that uses a restricted network provision may not be considered similar coverage to a health benefit plan that does not use a restricted network provision, provided that use of the restricted network provision results in substantial difference in claims costs.

(f) A carrier offering a health benefit plan to an individual may not, without prior approval of the commissioner, use case characteristics other than:

- (i) age;
- (ii) gender;
- (iii) geographic area; and
- (iv) family composition.

(g) (i) The commissioner shall establish rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(A) implement this chapter; ~~and~~

(B) assure that rating practices used by carriers who offer health benefit plans to individuals are consistent with the purposes of this chapter~~[-]; and~~

(C) promote transparency of rating practices of health benefit plans, except that a carrier may not be required to disclose proprietary information.

(ii) The rules described in Subsection (1)(g)(i) may include rules that:

(A) assure that differences in rates charged for health benefit products by carriers who offer health benefit plans to individuals are reasonable and reflect objective differences in plan design, not including differences due to the nature of the individuals assumed to select particular health benefit products; and

(B) prescribe the manner in which case characteristics may be used by carriers who offer health benefit plans to individuals~~[-];~~

~~[(C) implement the individual enrollment cap under Section 31A-30-110, including specifying:]~~

~~[(I) the contents for certification;]~~

~~[(II) auditing standards;]~~

~~[(III) underwriting criteria for uninsurable classification; and]~~

~~[(IV) limitations on high risk enrollees under Section 31A-30-111; and]~~

~~[(D) establish the individual enrollment cap under Subsection 31A-30-110(1).]~~

~~[(h) Before implementing regulations for underwriting criteria for uninsurable classification, the commissioner shall contract with an independent consulting organization to develop industry-wide underwriting criteria for uninsurability based on an individual's expected claims under open enrollment coverage exceeding 325% of that expected for a standard insurable individual with the same case characteristics.]~~

~~[(4)] (h) The commissioner shall revise rules issued for Sections 31A-22-602 and 31A-22-605 regarding individual accident and health policy rates to allow rating in accordance with this section.~~

(2) For purposes of Subsection (1)(c)(i), if a health benefit product is a health benefit product into which the covered carrier is no longer enrolling new covered insureds, the covered carrier shall use the percentage change in the base premium rate, provided that the change does not exceed, on a percentage basis, the change in the new business premium rate for the most similar health benefit product into which the covered carrier is actively enrolling new covered insureds.

(3) (a) A covered carrier may not transfer a covered insured involuntarily into or out of a class of business.

(b) A covered carrier may not offer to transfer a covered insured into or out of a class of business unless the offer is made to transfer all covered insureds in the class of business without regard to:

- (i) case characteristics;
- (ii) claim experience;
- (iii) health status; or
- (iv) duration of coverage since issue.

(4) (a) A carrier who offers a health benefit plan to an individual shall maintain at the carrier's principal place of business a complete and detailed description of its rating practices and renewal underwriting practices, including information and documentation that demonstrate that the carrier's rating methods and practices are:

- (i) based upon commonly accepted actuarial assumptions; and
- (ii) in accordance with sound actuarial principles.

(b) (i) ~~[Each]~~ A carrier subject to this section shall file with the commissioner, on or before April 1 of each year, in a form, manner, and containing such information as prescribed by the commissioner, an actuarial certification certifying that:

(A) the carrier is in compliance with this chapter; and

(B) the rating methods of the carrier are actuarially sound.

(ii) A copy of the certification required by Subsection (4)(b)(i) shall be retained by the carrier at the carrier's principal place of business.

(c) A carrier shall make the information and documentation described in this Subsection (4) available to the commissioner upon request.

(d) ~~[Records]~~ Except as provided in Subsection (1)(g) or required by PPACA, a record submitted to the commissioner under this section shall be maintained by the commissioner as a protected ~~[records]~~ record under Title 63G, Chapter 2, Government Records Access and Management Act.

Section 53. Section 31A-30-106.7 is amended to read:

31A-30-106.7. Surcharge for groups changing carriers.

(1) (a) Except as provided in Subsection (1)(b), if prior notice is given, a covered carrier may impose upon a small group that changes coverage to that carrier from another carrier a one-time surcharge of up to 25% of the annualized premium that the carrier could otherwise charge under Section ~~[31A-30-106]~~ 31A-30-106.1.

(b) A covered carrier may not impose the surcharge described in Subsection (1)(a) if:

(i) the change in carriers occurs on the anniversary of the plan year, as defined in Section 31A-1-301;

(ii) the previous coverage was terminated under Subsection 31A-30-107(3)(e); ~~[or]~~

(iii) employees from an existing group form a new business~~[-]; and~~

(iv) the surcharge is not applied uniformly to all similarly situated small groups.

(2) A covered carrier may not impose the surcharge described in Subsection (1) if the offer to cover the group occurs at a time other than the anniversary of the plan year because:

(a) (i) the application for coverage is made prior to the anniversary date in accordance with the covered carrier's published policies; and

(ii) the offer to cover the group is not issued until after the anniversary date; or

(b) (i) the application for coverage is made prior to the anniversary date in accordance with the covered carrier's published policies; and

(ii) additional underwriting or rating information requested by the covered carrier is not received until after the anniversary date.

(3) If a covered carrier chooses to apply a surcharge under Subsection (1), the application of the surcharge and the criteria for incurring or avoiding the surcharge shall be clearly stated in the:

(a) written application materials provided to the applicant at the time of application; and

(b) written producer guidelines.

(4) The commissioner shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure compliance with this section.

Section 54. Section 31A-30-107 is amended to read:

31A-30-107. Renewal -- Limitations -- Exclusions -- Discontinuance and nonrenewal.

(1) Except as otherwise provided in this section, a small employer health benefit plan is renewable and continues in force:

(a) with respect to all eligible employees and dependents; and

(b) at the option of the plan sponsor.

(2) A small employer health benefit plan may be discontinued or nonrenewed:

(a) for a network plan, if ~~[-(i)]~~ there is no longer any enrollee under the group health plan who lives, resides, or works in:

~~[(A)]~~ (i) the service area of the covered carrier; or

~~[(B)]~~ (ii) the area for which the covered carrier is authorized to do business; ~~[and]~~ or

~~[(ii) in the case of the small employer market, the small employer carrier applies the same criteria the small employer carrier would apply in denying enrollment in the plan under Subsection 31A-30-108(7); or]~~

(b) for coverage made available in the small or large employer market only through an association, if:

(i) the employer's membership in the association ceases; and

(ii) the coverage is terminated uniformly without regard to any health status-related factor relating to any covered individual.

(3) A small employer health benefit plan may be discontinued if:

(a) a condition described in Subsection (2) exists;

(b) except as prohibited by Section 31A-30-206, the plan sponsor fails to pay premiums or contributions in accordance with the terms of the contract;

(c) the plan sponsor:

(i) performs an act or practice that constitutes fraud; or

(ii) makes an intentional misrepresentation of material fact under the terms of the coverage;

(d) the covered carrier:

(i) elects to discontinue offering a particular small employer health benefit product delivered or issued for delivery in this state; and

(ii) (A) provides notice of the discontinuation in writing:

(I) to each plan sponsor, employee, or dependent of a plan sponsor or an employee; and

(II) at least 90 days before the date the coverage will be discontinued;

(B) provides notice of the discontinuation in writing:

(I) to the commissioner; and

(II) at least three working days prior to the date the notice is sent to the affected plan sponsors, employees, and dependents of the plan sponsors or employees;

(C) offers to each plan sponsor, on a guaranteed issue basis, the option to purchase all other small employer health benefit products currently being offered by the small employer carrier in the market; and

(D) in exercising the option to discontinue that product and in offering the option of coverage in this section, acts uniformly without regard to:

(I) the claims experience of a plan sponsor;

(II) any health status-related factor relating to any covered participant or beneficiary; or

(III) any health status-related factor relating to any new participant or beneficiary who may become eligible for the coverage; or

(e) the covered carrier:

(i) elects to discontinue all of the covered carrier's small employer health benefit plans in:

(A) the small employer market;

(B) the large employer market; or

(C) both the small employer and large employer markets; and

(ii) (A) provides notice of the discontinuation in writing:

(I) to each plan sponsor, employee, or dependent of a plan sponsor or an employee; and

(II) at least 180 days before the date the coverage will be discontinued;

(B) provides notice of the discontinuation in writing:

(I) to the commissioner in each state in which an affected insured individual is known to reside; and

(II) at least 30 working days prior to the date the notice is sent to the affected plan sponsors, employees, and the dependents of the plan sponsors or employees;

(C) discontinues and nonrenews all plans issued or delivered for issuance in the market; and

(D) provides a plan of orderly withdrawal as required by Section 31A-4-115.

(4) A small employer health benefit plan may be discontinued or nonrenewed:

(a) if a condition described in Subsection (2) exists; or

(b) except as prohibited by Section 31A-30-206, for noncompliance with the insurer's employer contribution requirements.

(5) A small employer health benefit plan may be nonrenewed:

(a) if a condition described in Subsection (2) exists; or

(b) except as prohibited by Section 31A-30-206, for noncompliance with the insurer's minimum participation requirements.

(6) (a) Except as provided in Subsection (6)(d), an eligible employee may be discontinued if after issuance of coverage the eligible employee:

(i) engages in an act or practice that constitutes fraud in connection with the coverage; or

(ii) makes an intentional misrepresentation of material fact in connection with the coverage.

(b) An eligible employee that is discontinued under Subsection (6)(a) may reenroll:

(i) 12 months after the date of discontinuance; and

(ii) if the plan sponsor's coverage is in effect at the time the eligible employee applies to reenroll.

(c) At the time the eligible employee's coverage is discontinued under Subsection (6)(a), the covered carrier shall notify the eligible employee of the right to reenroll when coverage is discontinued.

(d) An eligible employee may not be discontinued under this Subsection (6) because of a fraud or misrepresentation that relates to health status.

(7) For purposes of this section, a reference to "plan sponsor" includes a reference to the employer:

(a) with respect to coverage provided to an employer member of the association; and

(b) if the small employer health benefit plan is made available by a covered carrier in the employer market only through:

(i) an association;

(ii) a trust; or

(iii) a discretionary group.

(8) A covered carrier may modify a small employer health benefit plan only:

(a) at the time of coverage renewal; and

(b) if the modification is effective uniformly among all plans with that product.

Section 55. Section 31A-30-108 is amended to read:

31A-30-108. Eligibility for small employer and individual market.

~~(1) (a) [Small employer carriers shall accept residents] A small employer carrier shall accept a small employer that applies for small group coverage as set forth in the Health Insurance Portability and Accountability Act, Sec. 2701(f) and 2711(a), and PPACA, Sec. 2702.~~

~~[(b) Individual carriers shall accept residents for individual coverage pursuant to:]~~

~~[(i) Health Insurance Portability and Accountability Act, Sec. 2741(a)-(b); and]~~

~~[(ii) Subsection (3).]~~

~~(b) An individual carrier shall accept an individual that applies for individual coverage as set forth in PPACA, Sec. 2702.~~

~~(2) (a) [Small] A small employer [carriers] carrier shall offer to accept all eligible employees and their dependents at the same level of benefits under any health benefit plan provided to a small employer.~~

~~(b) [Small] A small employer [carriers] carrier may:~~

~~(i) request a small employer to submit a copy of the small employer's quarterly income tax withholdings to determine whether the employees for whom coverage is provided or requested are bona fide employees of the small employer; and~~

~~(ii) deny or terminate coverage if the small employer refuses to provide documentation requested under Subsection (2)(b)(i).~~

~~[(3) Except as provided in Subsections (5) and (6) and Section 31A-30-110, individual carriers shall accept for coverage individuals to whom all of the following conditions apply:]~~

~~[(a) the individual is not covered or eligible for coverage:]~~

~~[(i) (A) as an employee of an employer;]~~

~~[(B) as a member of an association; or]~~

~~[(C) as a member of any other group; and]~~

~~[(ii) under:]~~

~~[(A) a health benefit plan; or]~~

~~[(B) a self-insured arrangement that provides coverage similar to that provided by a health benefit plan as defined in Section 31A-1-301;]~~

~~[(b) the individual is not covered and is not eligible for coverage under any public health benefits arrangement including:]~~

~~[(i) the Medicare program established under Title XVIII of the Social Security Act;]~~

~~[(ii) any act of Congress or law of this or any other state that provides benefits comparable to the benefits provided under this chapter; or]~~

~~[(iii) coverage under the Comprehensive Health Insurance Pool Act created in Chapter 29, Comprehensive Health Insurance Pool Act;]~~

~~[(c) unless the maximum benefit has been reached the individual is not covered or eligible for coverage under any:]~~

~~[(i) Medicare supplement policy;]~~

~~[(ii) conversion option;]~~

~~[(iii) continuation or extension under COBRA; or]~~

~~[(iv) state extension;]~~

~~[(d) the individual has not terminated or declined coverage described in Subsection (3)(a), (b), or (c) within 93 days of application for coverage, unless the individual is eligible for individual coverage under Health Insurance Portability and Accountability Act, Sec. 2741(b), in which case, the requirement of this Subsection (3)(d) does not apply; and]~~

~~[(e) the individual is certified as ineligible for the Health Insurance Pool if:]~~

~~[(i) the individual applies for coverage with the Comprehensive Health Insurance Pool within 30 days after being rejected or refused coverage by the covered carrier and reapplies for coverage with that covered carrier within 30 days after the date of issuance of a certificate under Subsection 31A-29-111(5)(e); or]~~

~~[(ii) the individual applies for coverage with any individual carrier within 45 days after:]~~

~~[(A) notice of cancellation of coverage under Subsection 31A-29-115(1); or]~~

~~[(B) the date of issuance of a certificate under Subsection 31A-29-111(5)(c) if the individual applied first for coverage with the Comprehensive Health Insurance Pool.]~~

~~[(4) (a) If coverage is obtained under Subsection (3)(c)(i) and the required premium is paid, the effective date of coverage shall be the first day of the month following the individual's submission of a completed insurance application to that covered carrier.]~~

~~[(b) If coverage is obtained under Subsection (3)(c)(ii) and the required premium is paid, the effective date of coverage shall be the day following the:]~~

~~[(i) cancellation of coverage under Subsection 31A-29-115(1); or]~~

~~[(ii) submission of a completed insurance application to the Comprehensive Health Insurance Pool.]~~

~~[(5) (a) An individual carrier is not required to accept individuals for coverage under Subsection (3) if the carrier issues no new individual policies in the state after July 1, 1997.]~~

~~[(b) A carrier described in Subsection (5)(a) may not issue new individual policies in the state for five years from July 1, 1997.]~~

~~[(c) Notwithstanding Subsection (5)(b), a carrier may request permission to issue new policies after July 1, 1999, which may only be granted if:]~~

~~[(i) the carrier accepts uninsurables as is required of a carrier entering the market under Subsection 31A-30-110; and]~~

~~[(ii) the commissioner finds that the carrier's issuance of new individual policies:]~~

~~[(A) is in the best interests of the state; and]~~

~~[(B) does not provide an unfair advantage to the carrier.]~~

~~[(6) (a) If the Comprehensive Health Insurance Pool, as set forth under Chapter 29, Comprehensive Health Insurance Pool Act, is dissolved or discontinued, or if enrollment is capped or suspended, an individual carrier may decline to accept individuals applying for individual enrollment, other than individuals applying for coverage as set forth in Health Insurance Portability and Accountability Act, Sec. 2741 (a)-(b).]~~

~~[(b) Within two calendar days of taking action under Subsection (6)(a), an individual carrier will provide written notice to the department.]~~

~~[(7) (a) If a small employer carrier offers health benefit plans to small employers through a network plan, the small employer carrier may:]~~

~~[(i) limit the employers that may apply for the coverage to those employers with eligible employees who live, reside, or work in the service area for the network plan; and]~~

~~[(ii) within the service area of the network plan, deny coverage to an employer if the small employer carrier has demonstrated to the commissioner that the small employer carrier:]~~

~~[(A) will not have the capacity to deliver services adequately to enrollees of any additional groups because of the small employer carrier's obligations to existing group contract holders and enrollees; and]~~

~~[(B) applies this section uniformly to all employers without regard to:]~~

~~[(I) the claims experience of an employer, an employer's employee, or a dependent of an employee; or]~~

~~[(II) any health status-related factor relating to an employee or dependent of an employee.]~~

~~[(b) (i) A small employer carrier that denies a health benefit product to an employer in any service area in accordance with this section may not offer coverage in the small employer market within the service area to any employer for a period of 180 days after the date the coverage is denied.]~~

~~[(ii) This Subsection (7)(b) does not:]~~

~~[(A) limit the small employer carrier's ability to renew coverage that is in force; or]~~

~~[(B) relieve the small employer carrier of the responsibility to renew coverage that is in force.]~~

~~[(c) Coverage offered within a service area after the 180-day period specified in Subsection (7)(b) is subject to the requirements of this section.]~~

Section 56. Section 31A-30-207 is amended to read:

31A-30-207. Rating and underwriting restrictions for health plans in the defined contribution arrangement market.

(1) Except as provided in Subsection (2), rating and underwriting restrictions for defined contribution arrangement health benefit plans offered in the Health Insurance Exchange shall be in accordance with Section 31A-30-106.1, and the plan adopted under Chapter 42, Defined Contribution Risk Adjuster Act.

(2) Notwithstanding ~~[the provisions of]~~ Subsections 31A-30-106.1(9)(b)(ii) and (iii), a carrier offering a defined contribution arrangement in the Health Insurance Exchange under this part~~;~~ ~~(a)~~ shall calculate rates based on a family tier rating structure that includes four tiers in compliance with Subsection 31A-30-106.1(9)(b)(i)~~;~~ ~~and]~~.

~~[(b) may not calculate rates based on a family tier rating structure that includes five or six tiers as described in Subsection 31A-30-106(9)(b)(ii) or (iii).]~~

(3) All insurers who participate in the defined contribution market shall:

(a) participate in the risk adjuster mechanism developed under Chapter 42, Defined Contribution Risk Adjuster Act for all defined contribution arrangement health benefit plans;

(b) provide the risk adjuster board with:

(i) an employer group's risk factor; and

(ii) carrier enrollment data; and

(c) submit rates to the exchange that are net of commissions.

(4) When an employer group enters the defined contribution arrangement market and the employer group has a health plan with an insurer who is participating in the defined contribution arrangement market, the risk factor applied to the employer group when it enters the defined contribution arrangement market may not be greater than the employer group's renewal risk factor for the same group of covered employees and the same effective date, as determined by the employer group's insurer.

Section 57. Section 31A-30-209 is amended to read:

31A-30-209. Insurance producers and the Health Insurance Exchange.

(1) A producer may be listed on the Health Insurance Exchange as a credentialed producer ~~[for the defined contribution arrangement market in accordance with Section 63M-1-2504,]~~ if the producer is designated as ~~[an appointed]~~ a credentialed agent for the ~~[defined contribution arrangement market]~~ Health Insurance Exchange in accordance with Subsection (2).

(2) A producer whose license under this title authorizes the producer to sell ~~[defined contribution arrangement health benefit plans may be appointed to the defined contribution arrangement market on]~~ accident and health insurance may be credentialed by the Health Insurance Exchange [by the Insurance Department] and may sell any product on the Health Insurance Exchange, if the producer:

~~[(a) submits an application to the Insurance Department to be appointed as a producer for the defined contribution arrangement market on the Health Insurance Exchange;]~~

~~[(b) is an appointed agent in accordance with Subsection (3), for products offered in the defined contribution arrangement market of the Health Insurance Exchange, with the carriers that offer a defined contribution arrangement health benefit plan on the Health Insurance Exchange; and]~~

~~[(c) has completed continuing education for the defined contribution arrangement market that:]~~

~~[(i) is required by administrative rule adopted by the commissioner; and]~~

~~[(ii) provides training on premium assistance programs.]~~

(a) is an appointed producer with:

(i) all carriers that offer a plan in the defined contribution market on the Health Insurance Exchange; and

(ii) at least one carrier that offers a dental plan on the Health Insurance Exchange; and

(b) completes each year the Health Insurance Exchange training that includes training on premium assistance programs.

(3) A carrier shall appoint a producer to sell the carrier's products in the defined contribution arrangement market of the Health Insurance Exchange, within 30 days of the notice required in Subsection (3)(b), if:

(a) the producer is currently appointed by a majority of the carriers in the Health Insurance Exchange to sell products either outside or inside of the Health Insurance Exchange; and

(b) the producer informs the carrier that the producer is:

(i) applying to be appointed to the defined contribution arrangement market in the Health Insurance Exchange;

(ii) appointed by a majority of the carriers in the defined contribution arrangement market in the Health Insurance Exchange;

(iii) willing to complete training regarding the carrier's products offered on the defined contribution arrangement market in the Health Insurance Exchange; and

(iv) willing to sign the contracts and business associate's agreements that the carrier requires for

appointed producers in the Health Insurance Exchange.

Section 58. Section 31A-30-211 is amended to read:

31A-30-211. Insurer disclosure.

~~[(1) The Health Insurance Exchange shall provide an employer's producer with the group's risk factor used to calculate the employer group's premium at the time of:]~~

~~[(a) the initial offering of a health benefit plan; and]~~

~~[(b) the renewal of a health benefit plan.]~~

~~[(2) For health benefit plans that renew on or after March 1, 2012:]~~

(1) (a) [a] A carrier shall provide an employer and the employer's producer with premium renewal rates at least 60 days [prior to] before the group's renewal date for a plan offered under Part 1, Individual and Small Employer Group[; and].

(b) [the] The Health Insurance Exchange shall provide an employer and the employer's producer with premium renewal rates at least 60 days [prior to] before the group's renewal date for a plan offered under Part 2, Defined Contribution Arrangements.

~~[(3) (2) An insurer does not have to provide additional notice of premium renewal rates to the employer or the employer's producer if the Health Insurance Exchange provides notice in accordance with Subsection [(2)] (1)(b).~~

Section 59. Section 31A-37-501 is amended to read:

31A-37-501. Reports to commissioner.

(1) A captive insurance company is not required to make a report except those provided in this chapter.

(2) (a) Before March 1 of each year, a captive insurance company shall submit to the commissioner a report of the financial condition of the captive insurance company, verified by oath of two of the executive officers of the captive insurance company.

(b) Except as provided in Sections 31A-37-204 and 31A-37-205, a captive insurance company shall report:

(i) using generally accepted accounting principles, except to the extent that the commissioner requires, approves, or accepts the use of a statutory accounting principle;

(ii) using a useful or necessary modification or adaptation to an accounting principle that is required, approved, or accepted by the commissioner for the type of insurance and kind of insurer to be reported upon; and

(iii) supplemental or additional information required by the commissioner.

(c) Except as otherwise provided:

(i) ~~[an association captive insurance company and an industrial insured group]~~ a licensed captive

insurance company shall file the report required by Section 31A-4-113; and

(ii) an industrial insured group shall comply with Section 31A-4-113.5.

(3) (a) A pure captive insurance company may make written application to file the required report on a fiscal year end that is consistent with the fiscal year of the parent company of the pure captive insurance company.

(b) If the commissioner grants an alternative reporting date for a pure captive insurance company requested under Subsection (3)(a), the annual report is due 60 days after the fiscal year end.

(4) (a) Sixty days after the fiscal year end, a branch captive insurance company shall file with the commissioner a copy of ~~[all]~~ the reports and statements required to be filed under the laws of the jurisdiction in which the alien captive insurance company is formed, verified by oath by two of the alien captive insurance company's executive officers.

(b) If the commissioner is satisfied that the annual report filed by the alien captive insurance company in the jurisdiction in which the alien captive insurance company is formed provides adequate information concerning the financial condition of the alien captive insurance company, the commissioner may waive the requirement for completion of the annual statement required for a captive insurance company under this section with respect to business written in the alien jurisdiction.

(c) A waiver by the commissioner under Subsection (4)(b):

(i) shall be in writing; and

(ii) is subject to public inspection.

Section 60. Section 31A-40-203 is amended to read:

31A-40-203. Covered employee.

(1) (a) An individual is a covered employee of a professional employer organization if the individual is coemployed pursuant to a professional employer agreement subject to this chapter.

(b) An individual who is a covered employee under a professional employer agreement is a covered ~~[employee]~~ employee, whether or not the professional employer organization provides the notice required by Subsection 31A-40-202(3), the earlier of the day on which:

(i) the employee is first compensated by the professional employer organization; or

(ii) the client notifies the professional employer organization of a new hire.

(2) An individual who is an officer, director, shareholder, partner, or manager of a client is a covered employee:

(a) to the extent that the client and the professional employer organization expressly agree

in the professional employer agreement that the individual is a covered employee;

(b) if the conditions of Subsection (1) are met; and

(c) if the individual acts as an operational manager or performs day-to-day an operational service for the client.

Section 61. Section 31A-40-209 is amended to read:

31A-40-209. Workers' compensation.

(1) In accordance with Section 34A-2-103, a client is responsible for securing workers' compensation coverage for a covered employee.

(2) Subject to the requirements of Section 34A-2-103, if a professional employer organization obtains or assists a client in obtaining workers' compensation insurance pursuant to a professional employer agreement:

(a) the professional employer organization shall ensure that the client maintains and provides workers' compensation coverage for a covered employee in accordance with Subsection 34A-2-201(1) or (2) and rules of the Labor Commission, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) the workers' compensation coverage may show the professional employer organization as the named insured through a ~~[multiple-coordinated]~~ master policy, if:

(i) the client is shown as an insured by means of an endorsement for each individual client;

(ii) the experience modification of a client is used; and

(iii) the insurer files the endorsement with the Division of Industrial Accidents as directed by a rule of the Labor Commission, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(c) at the termination of the professional employer agreement, if requested by the client, the insurer shall provide the client records regarding the loss experience related to workers' compensation insurance provided to a covered employee pursuant to the professional employer agreement; and

(d) the insurer shall notify a client if the workers' compensation coverage for the client is terminated.

(3) In accordance with Section 34A-2-105, the exclusive remedy provisions of Section 34A-2-105 apply to both the client and the professional employer organization under a professional employer agreement regulated under this chapter.

(4) Notwithstanding the other provisions in this section, an insurer may choose whether to issue:

(a) a policy for a client; or

(b) a ~~[multiple-coordinated]~~ master policy with the client shown as an additional insured by means of an individual endorsement.

Section 62. Section 31A-42-202 is amended to read:

31A-42-202. Contents of plan.

(1) The board shall submit a plan of operation for the risk adjuster to the commissioner. The plan shall:

(a) establish the methodology for implementing:

(i) Subsection (2) for the defined contribution arrangement market established under Chapter 30, Part 2, Defined Contribution Arrangements; and

(ii) the participation of small employer group defined contribution arrangement health benefit plans;

(b) establish regular times and places for meetings of the board;

(c) establish procedures for keeping records of all financial transactions and for sending annual fiscal reports to the commissioner;

(d) contain additional provisions necessary and proper for the execution of the powers and duties of the risk adjuster; and

(e) establish procedures in compliance with Title 63A, Utah Administrative Services Code, to pay for administrative expenses incurred.

(2) (a) The plan adopted by the board for the defined contribution arrangement market shall include:

(i) parameters an employer may use to designate eligible employees for the defined contribution arrangement market; and

(ii) underwriting mechanisms and employer eligibility guidelines:

(A) consistent with the federal Health Insurance Portability and Accountability Act; and

(B) necessary to protect insurance carriers from adverse selection in the defined contribution market.

(b) The plan required by Subsection (2)(a) shall outline how premium rates for a qualified individual in the defined contribution arrangement market are determined, including:

(i) the identification of an initial rate for a qualified individual based on:

(A) standardized age bands submitted by participating insurers; and

(B) wellness incentives for the individual as permitted by federal law; and

(ii) the identification of a group risk factor to be applied to the initial age rate of a qualified individual based on the health conditions of all qualified individuals in the same employer group and, for small employers, in accordance with Sections 31A-30-105 and 31A-30-106.1.

(c) The plan adopted under Subsection (2)(a) for the defined contribution arrangement market shall outline how:

(i) premium contributions for qualified individuals shall be submitted to the Health Insurance Exchange in the amount determined under Subsection (2)(b); and

(ii) the Health Insurance Exchange shall distribute premiums to the insurers selected by qualified individuals within an employer group based on each individual's rating factor determined in accordance with the plan.

(d) The plan adopted under Subsection (2)(a) shall outline a mechanism for adjusting risk between defined contribution arrangement market insurers that:

(i) identifies health care conditions subject to risk adjustment;

(ii) establishes an adjustment amount for each identified health care condition;

(iii) determines the extent to which an insurer has more or less individuals with an identified health condition than would be expected; and

(iv) computes all risk adjustments.

(e) The board may amend the plan if necessary to:

(i) maintain the proper functioning and solvency of the defined contribution arrangement market and the risk adjuster mechanism;

(ii) mitigate significant issues of risk selection; or

(iii) improve the administration of the risk adjuster mechanism.

(3) The board shall establish a mechanism in which the defined contribution arrangement market participating carriers shall submit their plan base rates, rating factors, and premiums to the commissioner for an actuarial review under ~~the provisions of~~ Section 31A-30-115 ~~[prior to]~~ before the publication of the premium rates on the Health Insurance Exchange.

Section 63. Section 31A-43-102 is amended to read:

31A-43-102. Definitions.

For purposes of this chapter:

(1) "Actuarial certification" means a written statement by a member of the American Academy of Actuaries, or by another individual acceptable to the commissioner, that an insurer is in compliance with ~~the provisions of~~ this chapter, based upon the individual's examination and including a review of the appropriate records and the actuarial assumptions and methods used by the stop-loss insurer in establishing attachment points and other applicable determinations in conjunction with the provision of stop-loss insurance coverage.

(2) "Aggregate attachment point" means the dollar amount ~~[in losses for eligible expenses]~~ of covered claims incurred by a small employer plan beyond which the stop-loss insurer incurs liability for ~~[all or part of the]~~ losses incurred by the small employer plan, subject to limitations included in the contract.

(3) "Coverage" means the combination of the employer plan design and the stop-loss contract design.

(4) "Expected claims" means the amount of claims that, in the absence of [a] aggregate stop-loss [contract] insurance, are projected to be incurred by a small employer health plan using reasonable and accepted actuarial principles.

(5) "Lasering":

(a) means increasing or removing stop-loss coverage for a specific individual within an employer group; and

(b) includes other practices that are prohibited by the commissioner by administrative rule that result in lowering the stop-loss premium for the employer by transferring the risk for an [individual] individual's claims back to the employer.

(6) "Small employer" means an employer who, with respect to a calendar year and to a plan year:

(a) employed an average of at least two employees but not more than 50 eligible employees on each business day during the preceding calendar year; and

(b) employs at least two employees on the first day of the plan year.

(7) "Specific attachment point" means the dollar amount [in losses for eligible expenses] of covered claims attributable to a single individual covered by a small employer plan in a contract year beyond which the stop-loss insurer assumes [all or part of] the liability for losses incurred by the small employer plan, subject to limitations included in the contract.

(8) "Stop-loss insurance" means insurance purchased by a small employer for which the stop-loss insurer assumes[, on a per-loss basis,] all loss amounts of the small employer's plan in excess of a stated amount, subject to the policy limit.

Section 64. Section 31A-43-301 is amended to read:

31A-43-301. Stop-loss insurance coverage standards.

(1) A small employer stop-loss insurance contract shall:

(a) be issued to the small employer to provide insurance to the group health benefit plan, not the employees of the small employer;

(b) use a standard application form developed by the commissioner by administrative rule;

(c) have a contract term with guaranteed rates for at least 12 months, without adjustment, unless there is a change in the benefits provided under the small employer's health plan during the contract period;

(d) include both a specific attachment point and an aggregate attachment point in a contract;

(e) align stop-loss plan benefit limitations and exclusions with a small employer's health plan benefit limitations and exclusions, including any annual or lifetime limits in the employer's health plan;

(f) have an annual specific attachment point that is at least \$10,000;

(g) have an annual aggregate attachment point that may not be less than [90%] 85% of expected claims;

(h) pay stop-loss claims:

(i) incurred during the contract period; and

(ii) [submitted] paid within 12 months after the expiration date of the contract; and

(i) include provisions to cover incurred and unpaid claims if a small employer plan terminates.

(2) A small employer stop-loss contract shall not:

(a) include lasering; and

(b) pay claims directly to an individual employee, member, or participant.

Section 65. Section 31A-43-302 is amended to read:

31A-43-302. Stop-loss restrictions -- Filing requirements.

~~[(1) A stop-loss insurer shall demonstrate to the commissioner that the rates associated with specific and aggregate attachment points retained by a small employer group under the insurer's stop-loss plan are actuarially sound.]~~

~~[(2)]~~ (1) A stop-loss insurer shall file the stop-loss insurance contract form and [rates] rate methodology with the commissioner pursuant to Sections 31A-2-201 and 31A-2-201.1 before the stop-loss insurance contract may be issued or delivered in the state.

~~[(3)]~~ (2) A stop-loss insurer shall file with the commissioner, annually on or before April 1, in a form and manner required by the commissioner by administrative rule adopted by the commissioner:

(a) an actuarial memorandum and certification which demonstrates that the insurer is in compliance with this chapter; and

(b) the stop-loss insurer's stop-loss experience.

~~[(4) Each]~~ (3) An insurer shall maintain at its principal place of business:

(a) a complete and detailed description of its rating practices and renewal underwriting practices, including information and documentation that demonstrate the rating methods and practices are:

(i) based upon commonly accepted actuarial assumptions; and

(ii) in accordance with sound actuarial principles; and

(b) a copy of the [actuarial certification] annual filing required by Subsection ~~[(3)]~~ (2).

Section 66. Section 31A-43-303 is amended to read:

31A-43-303. Stop-loss insurance disclosure.

A stop-loss insurance contract delivered, issued for delivery, or entered into shall include the disclosure exhibit required by the commissioner through administrative rule, which shall include at least the following information:

- (1) the complete costs for the stop-loss contract;
- (2) the date on which the insurance takes effect and terminates, including renewability provisions;
- (3) the aggregate attachment point and the specific attachment point;
- (4) ~~any~~ limitations on coverage;
- (5) an explanation of monthly accommodation and disclosure about any monthly accommodation features included in the stop-loss contract; ~~and~~
- (6) a description of terminal liability funding, including ~~(a)~~ the cost of processing claims before and after the termination of the contract; and
- ~~(b)~~ (7) maximum claims liability to the employer.

Section 67. Section 31A-43-304 is amended to read:

31A-43-304. Administrative rules.

The commissioner may adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

- (1) implement this chapter;
- ~~(2) assure that differences in rates charged are reasonable and reflect objective differences in plan design;~~
- ~~(3)~~ (2) define lasering practices that are prohibited by this chapter;
- ~~(4)~~ (3) establish the form and manner of the actuarial certification and the annual report on stop-loss experience required by Section 31A-43-302;
- ~~(5)~~ (4) establish the form and manner of the disclosure required by Section 31A-43-303;
- ~~(6)~~ (5) assure the rates associated with the specific attachment points and aggregate attachment points are actuarially sound and are not against the public interest; and
- ~~(7)~~ (6) assure that stop-loss contracts include provisions to cover incurred and unpaid claims if a small employer plan terminates.

Section 68. Section 53-13-103 is amended to read:

53-13-103. Law enforcement officer.

(1) (a) "Law enforcement officer" means a sworn and certified peace officer who is an employee of a law enforcement agency that is part of or administered by the state or any of its political subdivisions, and whose primary and principal

duties consist of the prevention and detection of crime and the enforcement of criminal statutes or ordinances of this state or any of its political subdivisions.

(b) "Law enforcement officer" specifically includes the following:

- (i) any sheriff or deputy sheriff, chief of police, police officer, or marshal of any county, city, or town;
- (ii) the commissioner of public safety and any member of the Department of Public Safety certified as a peace officer;
- (iii) all persons specified in Sections 23-20-1.5 and 79-4-501;
- (iv) any police officer employed by any college or university;
- (v) investigators for the Motor Vehicle Enforcement Division;
- (vi) investigators for the Department of Insurance, Fraud Division;
- ~~(vi)~~ (vii) special agents or investigators employed by the attorney general, district attorneys, and county attorneys;

~~(vii)~~ (viii) employees of the Department of Natural Resources designated as peace officers by law;

~~(viii)~~ (ix) school district police officers as designated by the board of education for the school district;

~~(ix)~~ (x) the executive director of the Department of Corrections and any correctional enforcement or investigative officer designated by the executive director and approved by the commissioner of public safety and certified by the division;

~~(x)~~ (xi) correctional enforcement, investigative, or adult probation and parole officers employed by the Department of Corrections serving on or before July 1, 1993;

~~(xi)~~ (xii) members of a law enforcement agency established by a private college or university provided that the college or university has been certified by the commissioner of public safety according to rules of the Department of Public Safety;

~~(xii)~~ (xiii) airport police officers of any airport owned or operated by the state or any of its political subdivisions; and

~~(xiii)~~ (xiv) transit police officers designated under Section 17B-2a-823.

(2) Law enforcement officers may serve criminal process and arrest violators of any law of this state and have the right to require aid in executing their lawful duties.

(3) (a) A law enforcement officer has statewide full-spectrum peace officer authority, but the authority extends to other counties, cities, or towns only when the officer is acting under Title 77, Chapter 9, Uniform Act on Fresh Pursuit, unless

the law enforcement officer is employed by the state.

(b) (i) A local law enforcement agency may limit the jurisdiction in which its law enforcement officers may exercise their peace officer authority to a certain geographic area.

(ii) Notwithstanding Subsection (3)(b)(i), a law enforcement officer may exercise authority outside of the limited geographic area, pursuant to Title 77, Chapter 9, Uniform Act on Fresh Pursuit, if the officer is pursuing an offender for an offense that occurred within the limited geographic area.

(c) The authority of law enforcement officers employed by the Department of Corrections is regulated by Title 64, Chapter 13, Department of Corrections - State Prison.

(4) A law enforcement officer shall, prior to exercising peace officer authority:

(a) (i) have satisfactorily completed the requirements of Section 53-6-205; or

(ii) have met the waiver requirements in Section 53-6-206; and

(b) have satisfactorily completed annual certified training of at least 40 hours per year as directed by the director of the division, with the advice and consent of the council.

Section 69. Repealer.

This bill repeals:

Section 31A-30-110, Individual enrollment cap.

Section 31A-30-111, Limitations on high risk enrollees.

Section 70. Effective date.

This bill takes effect on May 13, 2014, except that the amendments to Section 31A-3-304 (Effective 07/01/15) take effect on July 1, 2015.

Section 71. Coordinating H.B. 76 with H.B. 141 -- Superseding and substantive amendments.

If this H.B. 76 and H.B. 141, Health Reform Amendments, both pass and become law, it is the intent of the Legislature that the amendments to Sections 31A-23b-205 and 31A-23b-206 in H.B. 141, supersede the amendments to Sections 31A-23b-205 and 31A-23b-206 in this H.B. 76, when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.

Section 72. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, replace the language in Subsections 31A-22-305(10)(l) and 31A-22-305.3(9)(l), from "this bill" with the bill's designated chapter and section number in the Laws of Utah.

CHAPTER 301**H. B. 86**

Passed March 7, 2014

Approved April 1, 2014

Effective May 13, 2014

**UTAH ENERGY INFRASTRUCTURE
AUTHORITY ACT AMENDMENTS**Chief Sponsor: Roger E. Barrus
Senate Sponsor: Kevin T. Van Tassell**LONG TITLE****General Description:**

This bill addresses bonding authority under the Utah Energy Infrastructure Authority Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ addresses the purposes for which a bond may be issued under the Utah Energy Infrastructure Authority Act; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63H-2-102, as last amended by Laws of Utah 2012, Chapter 37

63H-2-401, as last amended by Laws of Utah 2012, Chapter 37

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

Section 1. Section 63H-2-102 is amended to read:**63H-2-102. Definitions.**

As used in this chapter:

(1) "Agency" is as defined in Section 17C-1-102.

(2) "Assessment area" is as defined in Section 11-42-102.

(3) "Assessment bonds" is as defined in Section 11-42-102.

(4) (4) "Authority" means the Utah Energy Infrastructure Authority created in Section 63H-2-201.

(5) (5) "Authority bond" means a bond issued by the authority in accordance with Part 4, Bonding.

(6) (6) "Board" means the board created under Section 63H-2-202.

(7) (7) "Community" means the county, city, or town in which is located a qualifying energy delivery project financed by an authority bond.

(8) (8) "Electric interlocal entity" has the same meaning as defined in Section 11-13-103.

(9) (9) "Energy advisor" means the governor's energy advisor appointed under Section 63M-4-201.

(10) (10) "Energy delivery project" means a project that is designed to:

(a) increase the capacity for the delivery of energy to a user of energy inside or outside the state; or

(b) increase the capability of an existing energy delivery system or related facility to deliver energy to a user of energy inside or outside the state.

(11) (11) "Independent state agency" is as defined in Section 63E-1-102.

(12) (12) "Project area" is as defined in Section 17C-1-102.

(13) (13) "Public entity" means:

(a) the United States or an agency of the United States;

(b) the state or an agency of the state;

(c) a political subdivision of the state or an agency of a political subdivision of the state;

(d) another state or an agency of that state; or

(e) a political subdivision of another state or an agency of that political subdivision.

(14) (14) "Qualifying energy delivery project" means a project approved by the board in accordance with Part 3, Qualifying Energy Delivery Projects.

(15) (15) "Record" means information that is:

(a) inscribed on a tangible medium; or

(b) (i) stored in an electronic or other medium; and

(ii) retrievable in perceivable form.

(16) (16) "Tax increment bond" is as defined in Section 11-27-2.

Section 2. Section 63H-2-401 is amended to read:**63H-2-401. Resolution authorizing issuance of authority bond -- Characteristics of bond.**

(1) (a) (The) Subject to the other requirements of this part, the authority may issue a bond [subject to the requirements of this part to]:

(i) if the authority obtains the consent of the agency or municipality in which the assessment area or project area is located, to finance, in whole or in part, a qualifying energy delivery project[.]; or

(ii) to:

(A) finance the purchase of one or more assessment bonds or tax increment bonds issued by a municipality or agency to facilitate an energy delivery project in a specific assessment area or project area; and

(B) administer an assessment area or project area that generates revenue to pay the debt service on an

assessment bond or a tax increment bond described in Subsection (1)(a)(ii)(A).

(b) The authority may not issue a bond under this part unless before the issuance of the bond, the board adopts a resolution authorizing the issuance of the bond.

(2) (a) If provided in a resolution authorizing the issuance of an authority bond or in the trust indenture under which the authority bond is issued, an authority bond may be:

(i) issued in one or more series; and

(ii) sold:

(A) at a public or private sale; and

(B) in the manner provided in the resolution or indenture.

(b) An authority bond shall:

(i) bear the date provided in the resolution authorizing the issuance of the authority bond or the trust indenture under which the authority bond is issued;

(ii) be payable at the time provided in the resolution authorizing the issuance of the authority bond or the trust indenture under which the authority bond is issued;

(iii) bear interest at the rate provided in the resolution authorizing the issuance of the authority bond or the trust indenture under which the authority bond is issued;

(iv) be in the denomination and in the form provided in the resolution authorizing the issuance of the authority bond or the trust indenture under which the authority bond is issued;

(v) carry the conversion or registration privileges provided in the resolution authorizing the issuance of the authority bond or the trust indenture under which the authority bond is issued;

(vi) have the rank or priority as provided in the resolution authorizing the issuance of the authority bond or the trust indenture under which the authority bond is issued;

(vii) be executed in the manner as provided in the resolution authorizing the issuance of the authority bond or the trust indenture under which the authority bond is issued;

(viii) be subject to the terms of redemption or tender, with or without premium, as provided in the resolution authorizing the issuance of the authority bond or the trust indenture under which the authority bond is issued;

(ix) be payable in the medium of payment and at the place as provided in the resolution authorizing the issuance of the authority bond or the trust indenture under which the authority bond is issued; and

(x) have other characteristics as provided in the resolution authorizing the issuance of the authority bond or the trust indenture under which the authority bond is issued.

CHAPTER 302**H. B. 88**

Passed March 12, 2014

Approved April 1, 2014

Effective May 13, 2014

AUTISM PROGRAM AMENDMENTS

Chief Sponsor: Ronda Rudd Menlove

Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill amends provisions of the Utah Health Code and the Utah State Retirement and Insurance Benefit Act related to programs for the treatment of autism spectrum disorder.

Highlighted Provisions:

This bill:

- ▶ requires the Department of Health to establish, through a Medicaid waiver, an ongoing program for the treatment of qualified children with autism spectrum disorder;
- ▶ requires the Public Employee Insurance and Benefit Program to establish an ongoing program for the treatment of qualified children with autism spectrum disorder; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 26-18-407, as enacted by Laws of Utah 2012, Chapter 402
- 26-52-102, as last amended by Laws of Utah 2012, Chapter 402
- 26-52-201, as last amended by Laws of Utah 2012, Chapter 402
- 26-52-202, as last amended by Laws of Utah 2012, Chapters 242 and 402
- 26-52-203, as enacted by Laws of Utah 2012, Chapter 402
- 49-20-411, as enacted by Laws of Utah 2012, Chapter 402

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

Section 1. Section 26-18-407 is amended to read:**26-18-407. Medicaid waiver for autism spectrum disorder.**

(1) ~~[For purposes of]~~ As used in this section ~~“autism”~~:

(a) “Autism spectrum disorder” ~~[means a pervasive developmental disorder]~~ is as defined by the most recent edition of the Diagnostic and Statistical Manual on Mental Disorders~~;~~ including or a recent edition of a professionally accepted diagnostic manual.

~~[(a) autistic disorder;]~~

~~[(b) asperger’s disorder; and]~~

~~[(c) pervasive developmental disorder not otherwise specified.]~~

(b) “Program” means the autism spectrum disorder program created in Subsection (3).

(c) “Qualified child” means a child who is:

(i) at least two years of age but less than seven years of age; and

(ii) diagnosed with an autism spectrum disorder by a qualified professional.

(2) The department shall~~[, by July 1, 2012,]~~ apply for a Medicaid waiver with the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services to implement ~~[an autism spectrum disorders program]~~, within the state Medicaid program, the program described in Subsection (3).

~~[(3) The autism spectrum disorders waiver program shall:]~~

~~[(a) provide services to children between the ages of two years and six years with autism spectrum disorders;]~~

(3) The department shall offer an autism spectrum disorder program that:

(a) as funding permits, provides treatment for autism spectrum disorders to qualified children; and

(b) ~~[accept]~~ accepts applications for the program during periods of open enrollment~~;~~.

~~[(c) initially provide services for up to 500 children, as funding permits;]~~

(4) The department shall:

~~[(4)]~~ (a) convene a public process with the Department of Human Services to [develop] determine the benefits and services [to include in the autism waiver program, including] the program shall offer qualified children that considers, in addition to any other relevant factor:

(i) demonstrated effective treatments;

(ii) methods to engage family members in the treatment process; and

(iii) outreach to qualified children in rural and underserved areas of the state; and

~~[(e) include a mechanism to]~~

(b) evaluate the [cost, effectiveness, and outcomes of the different services provided as part of the autism waiver] ongoing results, cost, and effectiveness of the program.

~~[(4)]~~ (5) The department shall annually report to the Legislature’s Health and Human Services Interim Committee ~~[by November 30, 2013, and prior to]~~ before each November 30 ~~[thereafter]~~ while the waiver is in effect regarding:

(a) the number of [children diagnosed with autism spectrum disorder and the number of] qualified children served under the waiver;

(b) success involving families in supporting treatment plans for autistic children;

- (c) the cost of the ~~[autism waiver]~~ program; and
- (d) the ~~[outcomes]~~ results and effectiveness of the ~~[services offered by the autism waiver]~~ program.

Section 2. Section 26-52-102 is amended to read:

26-52-102. Definitions.

As used in this chapter:

(1) "Account" means the Autism Treatment Account created in Section 26-52-201.

(2) "Applied behavior analysis" means the design, implementation, and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior that are:

(a) necessary to develop, maintain, or restore, to the maximum extent practicable, the functioning of an individual; and

(b) provided or supervised by, for the purposes of the program, a:

(i) board certified behavior analyst; or

(ii) ~~[a]~~ licensed psychologist with equivalent university training and supervised experience who is working toward board certification in applied behavior analysis.

(3) "Autism spectrum disorder" ~~[means a pervasive developmental disorder]~~ is as defined by the most recent edition of the Diagnostic and Statistical Manual on Mental Disorders~~], including;~~ or a recent edition of a professionally accepted diagnostic manual.

~~[(a) autistic disorder;]~~

~~[(b) asperger's disorder; and]~~

~~[(c) pervasive developmental disorder not otherwise specified.]~~

(4) "Committee" means the Autism Treatment Account Advisory Committee created under Section 26-52-202.

(5) "Program" means the services offered by the committee using funds from the account.

(6) "Qualified child" means a child who:

(a) is at least two years of age but less than seven years of age;

(b) is diagnosed with an autism spectrum disorder; and

(c) meets the other qualification criteria established by the committee under Subsection 26-52-202(4).

(7) "Treatment" means the treatment of autism spectrum disorder.

Section 3. Section 26-52-201 is amended to read:

26-52-201. Autism Treatment Account -- Medical loss ratio calculation -- Use of account.

(1) There is created within the General Fund a restricted account known as the Autism Treatment Account.

(2) ~~[(a)]~~ The account shall consist of:

~~[(i)]~~ (a) gifts, grants, devises, donations, and bequests of real property, personal property, or services, from any source, or any other conveyance that may be made to the account from private sources;

~~[(ii)]~~ (b) interest and other earnings derived from the account money; and

~~[(iii)]~~ (c) any additional amounts as appropriated by the Legislature.

~~[(b) (i) For purposes of this subsection, the Affordable Care Act is as defined in Section 31A-2-212.]~~

~~[(ii)]~~ (3) If an insurer contributes to the ~~[Autism Treatment Account]~~ account, for purposes of calculating an insurer's medical loss ratio under the ~~[Affordable Care Act,]~~ PPACA, as defined in Section 31A-1-301, the insurance commissioner shall consider the contribution to the ~~[Autism Treatment Account as]~~ account to be a claims payment by the insurer.

~~[(3) (a)]~~ (4) Except as provided ~~[under]~~ in Subsection ~~[(3)(b)]~~ (5), the executive director of the department shall be responsible for administering the account.

~~[(b)]~~ (5) The committee shall ~~[be responsible for the following actions in relation to the account],~~ consistent with the requirements of this title:

~~[(i) prioritizing and allocating uses for account money;]~~

(a) prioritize spending of account funds, as permitted under Subsection ~~[(4)]~~ (6);

~~[(ii) determining which providers of services for the treatment of autism spectrum disorder]~~

(b) determine which treatment providers qualify for disbursements from the account for services rendered; and

~~[(iii) authorization of]~~

(c) authorize all other distributions from the account, except that disbursements for expenses authorized under Subsections ~~[(6) and (7)]~~ (6)(b) and (c) shall also require the approval of the executive director.

~~[(4)]~~ (6) Account money may be used to:

~~[(a) assist with the cost of evaluating and treating a child between the age of two and six years with an autism spectrum disorder; and]~~

~~[(b) provide a child between the age of two and six years with an autism spectrum disorder with treatments that utilize]~~

(a) evaluate and treat a qualified child by utilizing applied behavior analysis ~~[and]~~ or other proven effective treatments ~~[included under]~~ as determined by the committee under Subsection 26-52-202(4)(b)(ii);

~~[(4) An individual who receives services that are paid for from the account shall:]~~

~~[(a) be a resident of Utah;]~~

~~[(b) have been diagnosed by a qualified professional as having an autism spectrum disorder;]~~

~~[(c) be between the age of two and six years; and]~~

~~[(d) have a need that can be met within the requirements of this chapter.]~~

~~[(6) All] (b) pay all actual and necessary operating expenses for the committee and staff [shall be paid by the account.]; and~~

~~[(7) No more than 9% of the account money may be used for]~~

(c) pay administrative or other expenses of the Department of Health related to the program, except where those expenses are greater than 9% of the total account funds.

~~[(8) (7) All interest and other earnings derived from the account money shall be deposited into the account.~~

~~[(9) (8) The state treasurer shall invest the money in the account under Title 51, Chapter 7, State Money Management Act.~~

Section 4. Section 26-52-202 is amended to read:

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

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

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

(ii) one ~~[person who is a]~~ board certified behavior analyst;

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

(iv) one ~~[person who is employed in]~~ employee of the Department of Health; and

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

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

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

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

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

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

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

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

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

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

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

(ii) for good cause.

(4) The committee ~~[may]~~ shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules governing the committee's activities, ~~[which rules shall: (a)]~~ that comply with the requirements of this title; ~~[and]~~, including rules that:

~~[(b) include:]~~

~~[(i) qualification criteria and procedures for selecting children who may qualify for assistance from the account;]~~

~~[(ii) qualifications, criteria, and procedures for evaluating the services and providers to include in the program, which shall include at least:]~~

(a) establish criteria and procedures for selecting qualified children to participate in the program;

(b) establish the services, providers, and treatments to include in the program, and the qualifications, criteria, and procedures for evaluating the providers and treatments; and

(c) address and avoid conflicts of interest that may arise in relation to the committee and its duties.

(5) As part of its duties under Subsection 26-52-201(5), the committee shall, at minimum:

~~[(A)]~~ (a) offer applied behavior analysis provided by or supervised by a board certified behavior analyst or a licensed psychologist with equivalent university training and supervised experience;

~~[(B) collaboration]~~ (b) collaborate with existing telehealth networks to reach children in rural and under-served areas of the state; and

~~[(C) methods to] (c) engage family members in the treatment process; and].~~

~~[(iii) provisions to address and avoid conflicts of interest that may arise in relation to the committee's work.]~~

~~[(5)] (6) The committee shall meet as necessary to carry out its duties and shall meet upon a call of the committee chair or a call of a majority of the committee members.~~

~~[(6)] (7) The committee shall comply with the procedures and requirements of:~~

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

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

~~[(7)] (8) Committee members [shall receive no] may not receive compensation or per diem allowance for their services.~~

~~[(8) (a)] (9) Not later than November 30 of each year, the committee shall provide a written report summarizing the activities of the committee to:~~

~~[(4)] (a) the executive director of the department;~~

~~[(ii)] (b) the Legislature's Health and Human Services Interim Committee; and~~

~~[(iii)] (c) the Legislature's Social Services Appropriations Subcommittee.~~

~~[(8) (a)] (10) The report under Subsection [(8) (a)] (9) shall include:~~

~~[(4)] (a) the number of children diagnosed with autism spectrum disorder who are receiving services under this chapter;~~

~~[(ii)] (b) the types of services provided to qualified children under this chapter; and~~

~~[(iii)] (c) results of any evaluations on the effectiveness of treatments and services provided under this chapter.~~

Section 5. Section 26-52-203 is amended to read:

26-52-203. Administration of services for eligible individuals.

(1) ~~[(a)]~~ The department shall establish [a mechanism] procedures to:

~~[(4)] (a) identify the qualified children who are eligible to receive services from the account in accordance with the standards for eligibility established in rules adopted by the committee under Subsection 26-52-202(4); and~~

~~[(ii)] (b) review and pay for services provided to a qualified child under this chapter.~~

~~[(b)] (2) The department may contract with another state agency or a private entity to [assist with the mechanism to] identify [eligible] qualified children, provide for services, and pay for services.~~

~~[(2)] (3) The department, or [the entity selected to assist the department] an entity contracted under Subsection [(4)] (2), may negotiate with providers of the services [that are eligible] offered under this chapter to maximize [efficiencies] the efficiency and quality of services offered to qualified children.~~

Section 6. Section 49-20-411 is amended to read:

49-20-411. Autism Spectrum Disorder Treatment Program.

(1) As used in this section:

(a) "Applied behavior analysis" means the design, implementation, and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior that are:

(i) necessary to develop, maintain, or restore, to the maximum extent practicable, the functioning of an individual; and

(ii) provided or supervised by a board certified behavior analyst or a licensed psychologist with equivalent university training and supervised experience.

(b) "Autism spectrum disorder" ~~[means a pervasive developmental disorder,]~~ is as defined by the most recent edition of the Diagnostic and Statistical Manual on Mental Disorders~~[, including,]~~ or a recent edition of a professionally accepted diagnostic manual.

~~[(i) autistic disorder;]~~

~~[(ii) asperger's disorder; and]~~

~~[(iii) a pervasive developmental disorder not otherwise specified.]~~

(c) "Health plan" does not include the health plan offered by the Public Employees' Benefit and Insurance Program that is the state's designated essential health benefit package for purposes of the PPACA, as defined in Section 31A-1-401.

(d) "Parent" means a parent of a qualified child.

(e) "Program" means the autism spectrum disorder treatment program created in Subsection (2).

(f) "Qualified child" means a child who is:

(i) at least two years of age but less than seven years of age;

(ii) diagnosed with an autism spectrum disorder by a qualified professional; and

(iii) the eligible dependent of a state employee who is enrolled in a health plan that is offered under this chapter.

~~[(e)] (g) "Treatment [of autism spectrum disorders]" means any treatment generally accepted by the medical community or the American Academy of Pediatrics as an effective~~

treatment for an individual with an autism spectrum disorder, including applied behavior analysis.

~~(2) [(a) Beginning July 1, 2012 and ending July 1, 2014, the] The Public Employees' Benefit and Insurance Program shall [provide] offer a [pilot] program for the treatment of autism spectrum disorders in accordance with Subsection ~~[(2)(b) for up to 50 children who:]~~ (3).~~

~~[(i) are between the age of two and six years old by July 1, 2012;]~~

~~[(ii) enroll in the pilot program on or before July 1, 2012; and]~~

~~[(iii) have a parent who is a state employee and is enrolled in a health plan that was offered under this chapter on or before January 1, 2012.]~~

~~[(b) The autism services provided in this pilot program shall include:]~~

(3) The program shall offer qualified children:

~~[(4)] (a) diagnosis of autism spectrum disorder by a physician or qualified mental health professional, and the development of a treatment plan;~~

~~[(4)] (b) applied behavior analysis provided by a certified behavior analyst or someone with equivalent training [for a child with an autism spectrum disorder]; and~~

~~[(4)] (c) an annual cost-shared maximum benefit of \$30,000 [for autism spectrum disorder treatments with the following cost sharing from the parents of the child with autism spectrum disorder] toward the cost of treatment that the program covers, where, for each qualified child, for the cost of the treatment:~~

~~[(A) the parents will pay the first \$250 of expenses for autism treatments provided by the pilot program;]~~

~~[(B) the pilot program will pay 80% of the cost of the treatment after the first \$250, and the parents will pay 20% of the cost of treatment; and]~~

~~[(C) the pilot program will pay a maximum of a \$150 per day for treatment of autism spectrum disorder under Subsection (1)(e).]~~

(i) the parent pays the first \$250;

(ii) after the first \$250, the program pays 80% and the parent pays 20%;

(iii) the program pays no more than \$150 per day; and

(iv) the program pays no more than \$24,000 total.

~~[(3)] (4) The [autism pilot] purpose of the program is [a limited pilot] to study the efficacy of providing autism treatment and is not a mandate for coverage of autism treatment within the health plans offered by the Public Employees' Benefit and Insurance Program.~~

(5) The program shall be funded on an ongoing basis through the risk pool established in Subsection 49-20-202(1)(a).

CHAPTER 303**H. B. 94**

Passed March 13, 2014

Approved April 1, 2014

Effective July 1, 2015

**WORKERS' COMPENSATION AND HOME
AND COMMUNITY BASED SERVICES**

Chief Sponsor: Rebecca P. Edwards

Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill modifies the Workers' Compensation Act to address home and community based services.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of employer for purposes of home and community based services;
- ▶ removes the exemption of certain workers from the definition of employee; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2015.

Utah Code Sections Affected:**AMENDS:**

34A-2-103, as last amended by Laws of Utah 2012, Chapter 346

34A-2-104, as last amended by Laws of Utah 2013, Chapter 58

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

Section 1. Section 34A-2-103 is amended to read:**34A-2-103. Employers enumerated and defined -- Regularly employed -- Statutory employers.**

(1) (a) The state, and each county, city, town, and school district in the state are considered employers under this chapter and Chapter 3, Utah Occupational Disease Act.

(b) For the purposes of the exclusive remedy in this chapter and Chapter 3, Utah Occupational Disease Act prescribed in Sections 34A-2-105 and 34A-3-102, the state is considered to be a single employer and includes any office, department, agency, authority, commission, board, institution, hospital, college, university, or other instrumentality of the state.

(2) (a) Except as provided in Subsection (4), each person, including each public utility and each independent contractor, who regularly employs one or more workers or operatives in the same business, or in or about the same establishment, under any contract of hire, express or implied, oral or written, is considered an employer under this chapter and Chapter 3, Utah Occupational Disease Act.

(b) As used in this Subsection (2):

(i) "Independent contractor" means any person engaged in the performance of any work for another who, while so engaged, is:

(A) independent of the employer in all that pertains to the execution of the work;

(B) not subject to the routine rule or control of the employer;

(C) engaged only in the performance of a definite job or piece of work; and

(D) subordinate to the employer only in effecting a result in accordance with the employer's design.

(ii) "Regularly" includes all employments in the usual course of the trade, business, profession, or occupation of the employer, whether continuous throughout the year or for only a portion of the year.

(3) (a) The client under a professional employer organization agreement regulated under Title 31A, Chapter 40, Professional Employer Organization Licensing Act:

(i) is considered the employer of a covered employee; and

(ii) subject to Section 31A-40-209, shall secure workers' compensation benefits for a covered employee by complying with Subsection 34A-2-201(1) or (2) and commission rules.

(b) The division shall promptly inform the Insurance Department if the division has reason to believe that a professional employer organization is not in compliance with Subsection 34A-2-201(1) or (2) and commission rules.

(4) A domestic employer who does not employ one employee or more than one employee at least 40 hours per week is not considered an employer under this chapter and Chapter 3, Utah Occupational Disease Act.

(5) (a) As used in this Subsection (5):

(i) (A) "agricultural employer" means a person who employs agricultural labor as defined in Subsections 35A-4-206(1) and (2) and does not include employment as provided in Subsection 35A-4-206(3); and

(B) notwithstanding Subsection (5)(a)(i)(A), only for purposes of determining who is a member of the employer's immediate family under Subsection (5)(a)(ii), if the agricultural employer is a corporation, partnership, or other business entity, "agricultural employer" means an officer, director, or partner of the business entity;

(ii) "employer's immediate family" means:

(A) an agricultural employer's:

(I) spouse;

(II) grandparent;

(III) parent;

(IV) sibling;

(V) child;

(VI) grandchild;

(VII) nephew; or

(VIII) niece;

(B) a spouse of any person provided in [Subsection] Subsections (5)(a)(ii)(A)(II) through (VIII); or

(C) an individual who is similar to those listed in Subsection (5)(a)(ii)(A) or (B) as defined by rules of the commission; and

(iii) “nonimmediate family” means a person who is not a member of the employer’s immediate family.

(b) For purposes of this chapter and Chapter 3, Utah Occupational Disease Act, an agricultural employer is not considered an employer of a member of the employer’s immediate family.

(c) For purposes of this chapter and Chapter 3, Utah Occupational Disease Act, an agricultural employer is not considered an employer of a nonimmediate family employee if:

(i) for the previous calendar year the agricultural employer’s total annual payroll for all nonimmediate family employees was less than \$8,000; or

(ii) (A) for the previous calendar year the agricultural employer’s total annual payroll for all nonimmediate family employees was equal to or greater than \$8,000 but less than \$50,000; and

(B) the agricultural employer maintains insurance that covers job-related injuries of the employer’s nonimmediate family employees in at least the following amounts:

(I) \$300,000 liability insurance, as defined in Section 31A-1-301; and

(II) \$5,000 for health care benefits similar to benefits under health care insurance as defined in Section 31A-1-301.

(d) For purposes of this chapter and Chapter 3, Utah Occupational Disease Act, an agricultural employer is considered an employer of a nonimmediate family employee if:

(i) for the previous calendar year the agricultural employer’s total annual payroll for all nonimmediate family employees is equal to or greater than \$50,000; or

(ii) (A) for the previous year the agricultural employer’s total payroll for nonimmediate family employees was equal to or exceeds \$8,000 but is less than \$50,000; and

(B) the agricultural employer fails to maintain the insurance required under Subsection (5)(c)(ii)(B).

(6) An employer of agricultural laborers or domestic servants who is not considered an employer under this chapter and Chapter 3, Utah Occupational Disease Act, may come under this chapter and Chapter 3, Utah Occupational Disease Act, by complying with:

(a) this chapter and Chapter 3, Utah Occupational Disease Act; and

(b) the rules of the commission.

(7) (a) (i) As used in this Subsection (7)(a), “employer” includes any of the following persons that procures work to be done by a contractor notwithstanding whether or not the person directly employs a person:

(A) a sole proprietorship;

(B) a corporation;

(C) a partnership;

(D) a limited liability company; or

(E) a person similar to one described in Subsections (7)(a)(i)(A) through (D).

(ii) If an employer procures any work to be done wholly or in part for the employer by a contractor over whose work the employer retains supervision or control, and this work is a part or process in the trade or business of the employer, the contractor, all persons employed by the contractor, all subcontractors under the contractor, and all persons employed by any of these subcontractors, are considered employees of the original employer for the purposes of this chapter and Chapter 3, Utah Occupational Disease Act.

(b) Any person who is engaged in constructing, improving, repairing, or remodeling a residence that the person owns or is in the process of acquiring as the person’s personal residence may not be considered an employee or employer solely by operation of Subsection (7)(a).

(c) A partner in a partnership or an owner of a sole proprietorship is not considered an employee under Subsection (7)(a) if the employer who procures work to be done by the partnership or sole proprietorship obtains and relies on either:

(i) a valid certification of the partnership’s or sole proprietorship’s compliance with Section 34A-2-201 indicating that the partnership or sole proprietorship secured the payment of workers’ compensation benefits pursuant to Section 34A-2-201; or

(ii) if a partnership or sole proprietorship with no employees other than a partner of the partnership or owner of the sole proprietorship, a workers’ compensation coverage waiver issued pursuant to Part 10, Workers’ Compensation Coverage Waivers Act, stating that:

(A) the partnership or sole proprietorship is customarily engaged in an independently established trade, occupation, profession, or business; and

(B) the partner or owner personally waives the partner’s or owner’s entitlement to the benefits of this chapter and Chapter 3, Utah Occupational Disease Act, in the operation of the partnership or sole proprietorship.

(d) A director or officer of a corporation is not considered an employee under Subsection (7)(a) if

the director or officer is excluded from coverage under Subsection 34A-2-104(4).

(e) A contractor or subcontractor is not an employee of the employer under Subsection (7)(a), if the employer who procures work to be done by the contractor or subcontractor obtains and relies on either:

(i) a valid certification of the contractor's or subcontractor's compliance with Section 34A-2-201; or

(ii) if a partnership, corporation, or sole proprietorship with no employees other than a partner of the partnership, officer of the corporation, or owner of the sole proprietorship, a workers' compensation coverage waiver issued pursuant to Part 10, Workers' Compensation Coverage Waivers Act, stating that:

(A) the partnership, corporation, or sole proprietorship is customarily engaged in an independently established trade, occupation, profession, or business; and

(B) the partner, corporate officer, or owner personally waives the partner's, corporate officer's, or owner's entitlement to the benefits of this chapter and Chapter 3, Utah Occupational Disease Act, in the operation of the partnership's, corporation's, or sole proprietorship's enterprise under a contract of hire for services.

(f) (i) For purposes of this Subsection (7)(f), "eligible employer" means a person who:

(A) is an employer; and

(B) procures work to be done wholly or in part for the employer by a contractor, including:

(I) all persons employed by the contractor;

(II) all subcontractors under the contractor; and

(III) all persons employed by any of these subcontractors.

(ii) Notwithstanding the other provisions in this Subsection (7), if the conditions of Subsection (7)(f)(iii) are met, an eligible employer is considered an employer for purposes of Section 34A-2-105 of the contractor, subcontractor, and all persons employed by the contractor or subcontractor described in Subsection (7)(f)(i)(B).

(iii) Subsection (7)(f)(ii) applies if the eligible employer:

(A) under Subsection (7)(a) is liable for and pays workers' compensation benefits as an original employer under Subsection (7)(a) because the contractor or subcontractor fails to comply with Section 34A-2-201;

(B) (I) secures the payment of workers' compensation benefits for the contractor or subcontractor pursuant to Section 34A-2-201;

(II) procures work to be done that is part or process of the trade or business of the eligible employer; and

(III) does the following with regard to a written workplace accident and injury reduction program that meets the requirements of Subsection 34A-2-111(3)(d):

(Aa) adopts the workplace accident and injury reduction program;

(Bb) posts the workplace accident and injury reduction program at the work site at which the eligible employer procures work; and

(Cc) enforces the workplace accident and injury reduction program according to the terms of the workplace accident and injury reduction program; or

(C) (I) obtains and relies on:

(Aa) a valid certification described in Subsection (7)(c)(i) or (7)(e)(i);

(Bb) a workers' compensation coverage waiver described in Subsection (7)(c)(ii) or (7)(e)(ii); or

(Cc) proof that a director or officer is excluded from coverage under Subsection 34A-2-104(4);

(II) is liable under Subsection (7)(a) for the payment of workers' compensation benefits if the contractor or subcontractor fails to comply with Section 34A-2-201;

(III) procures work to be done that is part or process in the trade or business of the eligible employer; and

(IV) does the following with regard to a written workplace accident and injury reduction program that meets the requirements of Subsection 34A-2-111(3)(d):

(Aa) adopts the workplace accident and injury reduction program;

(Bb) posts the workplace accident and injury reduction program at the work site at which the eligible employer procures work; and

(Cc) enforces the workplace accident and injury reduction program according to the terms of the workplace accident and injury reduction program.

(8) (a) For purposes of this Subsection (8), "unincorporated entity" means an entity organized or doing business in the state that is not:

(i) an individual;

(ii) a corporation; or

(iii) publicly traded.

(b) For purposes of this chapter and Chapter 3, Utah Occupational Disease Act, an unincorporated entity that is required to be licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act, is presumed to be the employer of each individual who holds, directly or indirectly, an ownership interest in the unincorporated entity. Notwithstanding Subsection (7)(c) and Subsection 34A-2-104(3), the unincorporated entity shall provide the individual who holds the ownership interest workers' compensation coverage under this chapter and Chapter 3, Utah Occupational Disease

Act, unless the presumption is rebutted under Subsection (8)(c).

(c) Pursuant to rules made by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, an unincorporated entity may rebut the presumption under Subsection (8)(b) for an individual by establishing by clear and convincing evidence that the individual:

(i) is an active manager of the unincorporated entity;

(ii) directly or indirectly holds at least an 8% ownership interest in the unincorporated entity; or

(iii) is not subject to supervision or control in the performance of work by:

(A) the unincorporated entity; or

(B) a person with whom the unincorporated entity contracts.

(d) As part of the rules made under Subsection (8)(c), the commission may define:

(i) “active manager”;

(ii) “directly or indirectly holds at least an 8% ownership interest”; and

(iii) “subject to supervision or control in the performance of work.”

(9) (a) As used in this Subsection (9), “home and community based services” means one or more of the following services provided to an individual with a disability or to the individual’s family that helps prevent the individual with a disability from being placed in a more restrictive setting:

(i) respite care;

(ii) skilled nursing;

(iii) nursing assistant services;

(iv) home health aide services;

(v) personal care and attendant services;

(vi) other in-home care, such as support for the daily activities of the individual with a disability;

(vii) specialized in-home training for the individual with a disability or a family member of the individual with a disability;

(viii) specialized in-home support, coordination, and other supported living services; and

(ix) other home and community based services unique to the individual with a disability or the family of the individual with a disability that help prevent the individual with a disability from being placed in a more restrictive setting.

(b) Notwithstanding Subsection (4) and subject to Subsection (9)(c), an individual with a disability or designated representative of the individual with a disability is considered an employer under this chapter and Chapter 3, Utah Occupational Disease Act, of an individual who provides home and community based services if the individual with a

disability or designated representative of the individual with a disability:

(i) employs the individual to provide home and community based services for seven hours per week or more; and

(ii) pays the individual providing the home and community based services from state or federal money received by the individual with a disability or designated representative of the individual with a disability to fund home and community based services, including through a person designated by the Secretary of the Treasury in accordance with Section 3504, Internal Revenue Code, as a fiduciary, agent, or other person who has the control, receipt, custody, or disposal of, or pays the wages of, the individual providing the home and community based services.

(c) The state and federal money received by an individual with a disability or designated representative of an individual with a disability shall include the cost of the workers’ compensation coverage required by this Subsection (9) in addition to the money necessary to fund the home and community based services that the individual with a disability or family of the individual with a disability is eligible to receive so that the home and community based services are not reduced in order to pay for the workers’ compensation coverage required by this Subsection (9).

Section 2. Section 34A-2-104 is amended to read:

34A-2-104. “Employee,” “worker,” and “operative” defined -- Specific circumstances -- Exemptions.

(1) As used in this chapter and Chapter 3, Utah Occupational Disease Act, “employee,” “worker,” and “operative” mean:

(a) (i) an elective or appointive officer and any other person:

(A) in the service of:

(I) the state;

(II) a county, city, or town within the state; or

(III) a school district within the state;

(B) serving the state, or any county, city, town, or school district under:

(I) an election;

(II) appointment; or

(III) any contract of hire, express or implied, written or oral; and

(ii) including:

(A) an officer or employee of the state institutions of learning; and

(B) a member of the National Guard while on state active duty; and

(b) a person in the service of any employer, as defined in Section 34A-2-103, who employs one or more workers or operatives regularly in the same business, or in or about the same establishment:

- (i) under any contract of hire:
- (A) express or implied; and
- (B) oral or written;
- (ii) including aliens and minors, whether legally or illegally working for hire; and
- (iii) not including any person whose employment:
- (A) is casual; and
- (B) not in the usual course of the trade, business, or occupation of the employee's employer.
- (2) (a) Unless a lessee provides coverage as an employer under this chapter and Chapter 3, Utah Occupational Disease Act, any lessee in mines or of mining property and each employee and sublessee of the lessee shall be:
- (i) covered for compensation by the lessor under this chapter and Chapter 3, Utah Occupational Disease Act;
- (ii) subject to this chapter and Chapter 3, Utah Occupational Disease Act; and
- (iii) entitled to the benefits of this chapter and Chapter 3, Utah Occupational Disease Act, to the same extent as if the lessee, employee, or sublessee were employees of the lessor drawing the wages paid employees for substantially similar work.
- (b) The lessor may deduct from the proceeds of ores mined by the lessees an amount equal to the insurance premium for that type of work.
- (3) (a) A partnership or sole proprietorship may elect to include any partner of the partnership or owner of the sole proprietorship as an employee of the partnership or sole proprietorship under this chapter and Chapter 3, Utah Occupational Disease Act.
- (b) If a partnership or sole proprietorship makes an election under Subsection (3)(a), the partnership or sole proprietorship shall serve written notice upon its insurance carrier naming the persons to be covered.
- (c) A partner of a partnership or owner of a sole proprietorship may not be considered an employee of the partner's partnership or the owner's sole proprietorship under this chapter or Chapter 3, Utah Occupational Disease Act, until the notice described in Subsection (3)(b) is given.
- (d) For premium rate making, the insurance carrier shall assume the salary or wage of the partner or sole proprietor electing coverage under Subsection (3)(a) to be 100% of the state's average weekly wage.
- (4) (a) A corporation may elect not to include any director or officer of the corporation as an employee under this chapter and Chapter 3, Utah Occupational Disease Act.
- (b) If a corporation makes an election under Subsection (4)(a), the corporation shall serve written notice naming the individuals who are directors or officers to be excluded from coverage:

- (i) upon its insurance carrier, if any; or
- (ii) upon the commission if the corporation is self-insured or has no employee other than the one or more directors or officers being excluded.
- (c) A corporation may exclude no more than five individuals who are directors or officers under Subsection (4)(b)(ii).
- (d) An exclusion under this Subsection (4) is subject to Subsection 34A-2-103(7)(d).
- (e) A director or officer of a corporation is considered an employee under this chapter and Chapter 3, Utah Occupational Disease Act, until the notice described in Subsection (4)(b) is given.
- (f) The commission may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the form of the notice described in Subsection (4)(b)(ii), including a requirement to provide documentation, if any.
- (5) As used in this chapter and Chapter 3, Utah Occupational Disease Act, "employee," "worker," and "operative" do not include:
- (a) a sales agent or associate broker, as defined in Section 61-2f-102, who performs services in that capacity for a principal broker if:
- (i) substantially all of the sales agent's or associate broker's income for services is from real estate commissions; and
- (ii) the sales agent's or associate broker's services are performed under a written contract that provides that:
- (A) the real estate agent is an independent contractor; and
- (B) the sales agent or associate broker is not to be treated as an employee for federal income tax purposes;
- (b) an offender performing labor under Section 64-13-16 or 64-13-19, except as required by federal statute or regulation;
- (c) an individual who for an insurance producer, as defined in Section 31A-1-301, solicits, negotiates, places, or procures insurance if:
- (i) substantially all of the individual's income from those services is from insurance commissions; and
- (ii) the services of the individual are performed under a written contract that states that the individual:
- (A) is an independent contractor;
- (B) is not to be treated as an employee for federal income tax purposes; and
- (C) can derive income from more than one insurance company; or
- ~~[(d) notwithstanding Subsection 34A-2-103(4), an individual who provides domestic work for a person if:]~~
- ~~[(i) the person for whom the domestic work is being provided receives or is eligible to receive the~~

~~domestic work under a state or federal program designed to pay the costs of domestic work to prevent the person from being placed in:]~~

~~[(A) an institution; or]~~

~~[(B) a more restrictive placement than where that person resides at the time the person receives the domestic work;]~~

~~[(ii) the individual is paid by a person designated by the Secretary of the Treasury in accordance with Section 3504, Internal Revenue Code, as a fiduciary, agent, or other person that has the control, receipt, custody, or disposal of, or pays the wages of the individual; and]~~

~~[(iii) the domestic work is performed under a written contract that notifies the individual that the individual is not an employee under this chapter or Chapter 3, Utah Occupational Disease Act; or]~~

~~[(e)] (d) subject to Subsections (6), (7), and (8), an individual who:~~

~~(i) (A) owns a motor vehicle; or~~

~~(B) leases a motor vehicle to a motor carrier;~~

~~(ii) personally operates the motor vehicle described in Subsection (5)(~~(e)~~)(d)(i);~~

~~(iii) operates the motor vehicle described in Subsection (5)(~~(e)~~)(d)(i) under a written agreement with the motor carrier that states that the individual operates the motor vehicle as an independent contractor; and~~

~~(iv) (A) provides to the motor carrier at the time the written agreement described in Subsection (5)(~~(e)~~)(d)(iii) is executed or as soon after the execution as provided by the commission, a copy of a workers' compensation coverage waiver issued pursuant to Part 10, Workers' Compensation Coverage Waivers Act, to the individual; and~~

~~(B) provides to the motor carrier at the time the written agreement described in Subsection (5)(~~(e)~~)(d)(iii) is executed or as soon after the execution as provided by an insurer, proof that the individual is covered by occupational accident related insurance with the coverage and benefit limits listed in Subsection (7)(c).~~

~~(6) An individual described in Subsection (5)(d) [~~(e)~~] may become an employee under this chapter and Chapter 3, Utah Occupational Disease Act, if the employer of the individual complies with:~~

~~(a) this chapter and Chapter 3, Utah Occupational Disease Act; and~~

~~(b) commission rules.~~

~~(7) For purposes of Subsection (5)(~~(e)~~)(d):~~

~~(a) "Motor carrier" means a person engaged in the business of transporting freight, merchandise, or other property by a commercial vehicle on a highway within this state.~~

~~(b) "Motor vehicle" means a self-propelled vehicle intended primarily for use and operation on the highways, including a trailer or semitrailer designed for use with another motorized vehicle.~~

(c) "Occupational accident related insurance" means insurance that provides the following coverage at a minimum aggregate policy limit of \$1,000,000 for all benefits paid, including medical expense benefits, for an injury sustained in the course of working under a written agreement described in Subsection (5)(~~(e)~~)(d)(iii):

(i) disability benefits;

(ii) death benefits; and

(iii) medical expense benefits, which include:

(A) hospital coverage;

(B) surgical coverage;

(C) prescription drug coverage; and

(D) dental coverage.

(8) For an individual described in Subsection (5)(~~(e)~~)(d), the commission shall verify the existence of occupational accident insurance coverage with the coverage and benefit limits listed in Subsection (7)(c) before the commission may issue a workers' compensation coverage waiver to the individual pursuant to Part 10, Workers' Compensation Coverage Waivers Act.

Section 3. Effective date.

This bill takes effect on July 1, 2015.

CHAPTER 304**H. B. 96**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

UTAH SCHOOL READINESS INITIATIVE

Chief Sponsor: Gregory H. Hughes
Senate Sponsor: Stephen H. Urquhart

LONG TITLE**General Description:**

This bill creates the School Readiness Board, which provides grants to certain early childhood education programs, and may enter into certain contracts with private entities to provide funding for early childhood education programs for at-risk students.

Highlighted Provisions:

This bill:

- ▶ creates the School Readiness Restricted Account;
- ▶ creates the School Readiness Board (board) to negotiate contracts with private entities to fund certain early childhood education programs and award grants to certain early childhood education programs;
- ▶ details components of a high quality school readiness program that may be funded through a results-based contract between the board and private entities;
- ▶ describes a home-based educational technology program that may be funded through a results-based contract between the board and a private entity or entities;
- ▶ requires the State Board of Education and the Department of Workforce Services to:
 - solicit proposals from qualifying early childhood education programs for quality school readiness grants;
 - make recommendations to the board to award grants to qualifying early childhood education programs;
 - monitor and evaluate the programs; and
 - develop policies and enact rules;
- ▶ requires the board to award grants to qualifying early childhood education programs based on recommendations of the State Board of Education and the Department of Workforce Services and other criteria;
- ▶ requires the Governor's Office of Management and Budget to staff the board;
- ▶ requires the repayment to private entities to be conditioned on meeting performance outcomes set in the contract;
- ▶ requires an independent evaluation of the performance outcomes;
- ▶ allows the board no more than \$15,000,000 of outstanding obligations at any one time;
- ▶ exempts the awarding of a results-based contract from general procurement requirements; and
- ▶ establishes reporting requirements.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2015:

- ▶ to the General Fund Restricted - School Readiness Restricted Account, as an ongoing appropriation:
 - from the General Fund, \$3,000,000; and
- ▶ to Governor's Office - Governor's Office of Management and Budget, as an ongoing appropriation:
 - from the School Readiness Restricted Account, \$3,000,000.

Other Special Clauses:

This bill provides an effective date.

Utah Code Sections Affected:**AMENDS:**

63J-1-602.3, as last amended by Laws of Utah 2013, Chapters 117, 295 and last amended by Coordination Clause, Laws of Utah 2013, Chapter 117

ENACTS:

53A-1b-101, Utah Code Annotated 1953
53A-1b-102, Utah Code Annotated 1953
53A-1b-103, Utah Code Annotated 1953
53A-1b-104, Utah Code Annotated 1953
53A-1b-105, Utah Code Annotated 1953
53A-1b-106, Utah Code Annotated 1953
53A-1b-107, Utah Code Annotated 1953
53A-1b-108, Utah Code Annotated 1953
53A-1b-109, Utah Code Annotated 1953
53A-1b-110, Utah Code Annotated 1953
53A-1b-111, Utah Code Annotated 1953

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

Section 1. Section 53A-1b-101 is enacted to read:

**CHAPTER 1b. SCHOOL READINESS
INITIATIVE**

Part 1. School Readiness Initiative Act

53A-1b-101. Title.

This chapter is known as "School Readiness Initiative."

Section 2. Section 53A-1b-102 is enacted to read:**53A-1b-102. Definitions.**

As used in this part:

(1) "Board" means the School Readiness Board, created in Section 53A-1b-103.

(2) "Economically disadvantaged" means a student who:

(a) is eligible to receive free lunch;

(b) is eligible to receive reduced price lunch; or

(c) (i) is not otherwise accounted for in Subsection (2)(a) or (b); and

(ii) (A) is enrolled in a Provision 2 or Provision 3 school, as defined by the United States Department of Agriculture;

(B) has a Declaration of Household Income on file;

(C) is eligible for a fee waiver; or

(D) is enrolled at a school that does not offer a lunch program and is a sibling of a student accounted for in Subsection (2)(a) or (b).

(3) “Eligible home-based educational technology provider” means a provider that intends to offer a home-based educational technology program.

(4) “Eligible LEA” means an LEA that has a data system capacity to collect longitudinal academic outcome data, including special education use by student, by identifying each student with a statewide unique student identifier.

(5) (a) “Eligible private provider” means a child care program that:

(i) (A) except as provided in Subsection (5)(b), is licensed under Title 26, Chapter 39, Utah Child Care Licensing Act; or

(B) is exempt from licensure under Section 26-39-403; and

(ii) meets other criteria as established by the board, consistent with Utah Constitution, Article X, Section 1.

(b) “Eligible private provider” does not include residential child care, as defined in Section 26-39-102.

(6) “Eligible student” means a student who is economically disadvantaged.

(7) “Local Education Agency” or “LEA” means a school district or charter school.

(8) “Performance outcome measure” means a cost avoidance in special education use for a student at-risk for later special education placement in kindergarten through grade 12 who receives preschool education funded pursuant to a results-based school readiness contract.

(9) (a) “Private entity” means a private investor or investors that enter into a results-based school readiness contract.

(b) “Private entity” includes an authorized representative of the private investor or investors.

(10) “Results-based school readiness contract” means a contract entered into by the board, a private entity, and a provider of early childhood education that may result in repayment to a private entity if certain performance outcome measures are achieved.

(11) “Student at-risk for later special education placement” means a preschool student who, at preschool entry, scores at or below two standard deviations below the mean on the assessment selected by the board under Section 53A-1b-110.

Section 3. Section 53A-1b-103 is enacted to read:

53A-1b-103. Establishment of the School Readiness Board -- Membership.

(1) There is created a School Readiness Board within the Governor’s Office of Management and Budget composed of:

(a) the director of the Department of Workforces Services or the director’s designee;

(b) one member appointed by the State Board of Education;

(c) one member appointed by the chair of the State Charter School Board;

(d) one member appointed by the speaker of the House of Representatives; and

(e) one member appointed by the president of the Senate.

(2) (a) A member described in Subsections (1)(c), (d), and (e) shall serve for a term of two years.

(b) If a vacancy occurs for a member described in Subsection (1)(c), (d), or (e), the person appointing the member shall appoint a replacement to serve the remainder of the member’s term.

(3) A member may not receive compensation or benefits for the member’s service.

(4) Upon request, the Governor’s Office of Management and Budget shall provide staff support to the board.

(5) (a) The board members shall elect a chair of the board from the board’s membership.

(b) The board shall meet upon the call of the chair or a majority of the board members.

Section 4. Section 53A-1b-104 is enacted to read:

53A-1b-104. School Readiness Restricted Account -- Creation -- Funding -- Distribution of funds.

(1) There is created in the General Fund a restricted account known as the “School Readiness Restricted Account” to fund:

(a) the High Quality School Readiness Grant Program described in Section 53A-1b-106; and

(b) results-based school readiness contracts for eligible students to participate in:

(i) a high quality preschool program described in:

(A) Section 53A-1b-107; or

(B) Section 53A-1b-108; or

(ii) an eligible home-based educational technology program described in Section 53A-1b-109.

(2) The restricted account consists of:

(a) money appropriated to the restricted account by the Legislature;

(b) all income and interest derived from the deposit and investment of money in the account;

(c) federal grants; and

(d) private donations.

(3) Subject to legislative appropriations, money in the restricted account may be used for the following purposes:

(a) to award grants under the High Quality School Readiness Grant Program described in Section 53A-1b-106;

(b) to contract with an independent evaluator as required in Subsection 53A-1b-110(3);

(c) in accordance with Section 53A-1b-110, to make payments to one or more private entities that the board has entered into a results-based contract with if the independent evaluator selected by the board determines that the performance-based results have been met; and

(d) for administration costs and to monitor the programs described in this part.

Section 5. Section 53A-1b-105 is enacted to read:

53A-1b-105. Elements of a high quality school readiness program.

(1) A high quality school readiness program run by an eligible LEA or eligible private provider shall include the following components:

(a) an evidence-based curriculum that is aligned with all of the developmental domains and academic content areas defined in the Utah Early Childhood Standards adopted by the State Board of Education, and incorporates intentional and differentiated instruction in whole group, small group, and child-directed learning, including the following academic content areas:

(i) oral language and listening comprehension;

(ii) phonological awareness and prereading;

(iii) alphabet and word knowledge;

(iv) prewriting;

(v) book knowledge and print awareness;

(vi) numeracy;

(vii) creative arts;

(viii) science and technology; and

(ix) social studies, health, and safety;

(b) ongoing, focused, and intensive professional development for staff of the school readiness program;

(c) ongoing assessment of a student's educational growth and developmental progress to inform instruction;

(d) a pre- and post-assessment, selected by the board in accordance with Section 53A-1b-110, of each student;

(e) for a preschool program run by an eligible LEA, a class size that does not exceed 20 students, with one adult for every 10 students in the class;

(f) ongoing program evaluation and data collection to monitor program goal achievement and implementation of required program components;

(g) family engagement, including ongoing communication between home and school, and parent education opportunities based on each family's circumstances;

(h) for a preschool program run by an eligible LEA, each teacher having at least obtained:

(i) the minimum standard of a child development associate certification; or

(ii) an associate or bachelor's degree in an early childhood education related field; and

(i) for a preschool program run by an eligible private provider, by a teacher's second year, each teacher having at least obtained:

(i) the minimum standard of a child development associate certification; or

(ii) an associate or bachelor's degree in an early childhood education related field.

(2) A high quality school readiness program run by a home-based educational technology provider shall:

(a) be an evidence-based and age appropriate individualized interactive instruction assessment and feedback technology program that teaches eligible students early learning skills needed to be successful upon entry into kindergarten;

(b) require regular parental engagement with the student in the student's use of the home-based educational technology program;

(c) be aligned with the Utah early childhood core standards;

(d) require the administration of the pre- and post-assessment, designated by the board in accordance with Section 53A-1b-110, of each eligible student; and

(e) require technology providers to ensure successful implementation and utilization of the technology program.

Section 6. Section 53A-1b-106 is enacted to read:

53A-1b-106. High Quality School Readiness Grant Program.

(1) The High Quality School Readiness Grant Program is created to provide grants to the following, in order to upgrade an existing preschool or home-based technology program to a high quality school readiness program:

(a) an eligible private provider;

(b) an eligible LEA; or

(c) an eligible home-based educational technology provider.

(2) The State Board of Education shall:

(a) solicit proposals from eligible LEAs; and

(b) make recommendations to the board to award grants to respondents based on criteria described in Subsection (5).

(3) The Department of Workforce Services shall:

(a) solicit proposals from eligible private providers and eligible home-based educational technology providers; and

(b) make recommendations to the board to award grants to respondents based on criteria described in Subsection (5).

(4) Subject to legislative appropriations, the board shall award grants to respondents based on:

(a) the recommendations of the State Board of Education;

(b) the recommendations of the Department of Workforce Services; and

(c) the criteria described in Subsection (5).

(5) (a) In awarding a grant under Subsection (4), the State Board of Education, Department of Workforce Services, and the board shall consider:

(i) a respondent's capacity to effectively implement the components described in Section 53A-1b-105;

(ii) the percentage of a respondent's students who are economically disadvantaged; and

(iii) the level of administrative support and leadership at a respondent's program to effectively implement, monitor, and evaluate the program.

(b) The board may not award a grant to an LEA without obtaining approval from the State Board of Education to award the grant to the LEA.

(6) To receive a grant under this section, a respondent that is an eligible LEA shall submit a proposal to the State Board of Education detailing:

(a) the respondent's strategy to implement the high quality components described in Subsection 53A-1b-105(1);

(b) the number of students the respondent plans to serve, categorized by age and economically disadvantaged status;

(c) the number of high quality preschool classrooms the respondent plans to operate; and

(d) the estimated cost per student.

(7) To receive a grant under this section, a respondent that is an eligible private provider or an eligible home-based educational technology provider shall submit a proposal to the Department of Workforce Services detailing:

(a) the respondent's strategy to implement the high quality components described in Section 53A-1b-105;

(b) the number of students the respondent plans to serve, categorized by age and economically disadvantaged status;

(c) for a respondent that is an eligible private provider, the number of high quality preschool classrooms the respondent plans to operate; and

(d) the estimated cost per student.

(8) All recipients of grants under this section shall establish a preschool or home-based educational technology program with the components described in Section 53A-1b-105.

(9) (a) A grant recipient shall allow classroom or other visits by an independent evaluator chosen by the board in accordance with Section 53A-1b-110.

(b) The independent evaluator shall:

(i) determine whether a grant recipient has effectively implemented the components described in Section 53A-1b-105; and

(ii) report the independent evaluator's findings to the board.

(10) (a) A grant recipient that is an eligible LEA shall assign a statewide unique student identifier to each eligible student funded pursuant to a grant received under this section.

(b) A grant recipient that is an eligible private provider or an eligible home-based educational technology provider shall work in conjunction with the State Board of Education to assign a statewide unique student identifier to each eligible student funded pursuant to a grant received under this section.

(11) A grant recipient that is an LEA shall report annually to the board and the State Board of Education the following:

(a) number of students served by the preschool, reported by economically disadvantaged status;

(b) attendance;

(c) cost per student; and

(d) assessment results.

(12) A grant recipient that is an eligible private provider or an eligible home-based educational technology provider shall report annually to the board and the Department of Workforce Services the following:

(a) number of students served by the preschool or program, reported by economically disadvantaged status;

(b) attendance;

(c) cost per student; and

(d) assessment results.

(13) The State Board of Education and the Department of Workforce Services shall make rules to effectively administer and monitor the High Quality School Readiness Grant Program, including:

(a) requiring grant recipients to use the pre- and post-assessment selected by the board in accordance with Section 53A-1b-110; and

(b) establishing reporting requirements for grant recipients.

(14) At the request of the board, the State Board of Education and the Department of Workforce Services shall annually share the information

received from grant recipients described in Subsections (11) and (12) with the board.

Section 7. Section 53A-1b-107 is enacted to read:

53A-1b-107. High quality preschool programs for eligible LEAs.

(1) To receive funding pursuant to a results-based contract awarded under Section 53A-1b-110, an eligible LEA shall establish or currently operate a high quality preschool with the components described in Subsection 53A-1b-105(1).

(2) An eligible LEA shall assign a statewide unique student identifier to each eligible student funded pursuant to a results-based contract issued under this part.

(3) An eligible LEA may not use funds awarded pursuant to a results-based contract to supplant funds for an existing high quality preschool program, but may use the funds to supplement an existing high quality preschool program.

(4) If permitted under Title 1 of the No Child Left Behind Act of 2001, 20 U.S.C. Sec. 6301-6578, an LEA may charge a sliding scale fee to a student participating in a high quality preschool program under this section, based on household income.

(5) An LEA that receives funds under this section shall report annually to the board the de-identified information described in Section 53A-1b-111.

(6) (a) An eligible LEA may contract with an eligible private provider to provide the high quality preschool program to a portion of the LEA's eligible students funded by a results-based contract.

(b) The board shall determine in a results-based contract the portion of an LEA's eligible students funded by the results-based contract to be served by an eligible private provider.

(7) To receive funding pursuant to a results-based contract, an eligible private provider shall:

(a) offer a preschool program that contains the components described in Subsection 53A-1b-105(1);

(b) allow classroom visits by the evaluator chosen in accordance with Section 53A-1b-110 and the private entity, to ensure the components described in this section are implemented;

(c) allow the evaluator chosen in accordance with Section 53A-1b-110 to administer the required pre- and post-assessments to eligible students funded under this part; and

(d) report the information described in Section 53A-1b-111 to the board and the contracting LEA.

(8) An LEA may provide the eligible private provider with:

(a) professional development;

(b) staffing or staff support;

(c) materials; and

(d) assessments.

(9) (a) If permitted under Title 1 of the No Child Left Behind Act of 2001, 20 U.S.C. Sec. 6301-6578, an eligible private provider may charge a sliding scale fee to a student participating in a high quality preschool program under this section, based on household income.

(b) The eligible private provider may use grants, scholarships, or other funds to help fund the preschool program.

(10) A contractual partnership established under Subsection (6) shall be consistent with Utah Constitution, Article X, Section 1.

(11) The evaluator selected pursuant to Section 53A-1b-110 shall annually evaluate:

(a) the quality and outcomes of the high quality preschool program funded by a results-based contract between a private entity and the board, including:

(i) adherence to required components described in Subsection 53A-1b-105(1); and

(ii) the pre- and post-assessment results of the assessment, designated by the board under Section 53A-1b-110, of eligible students in the high quality preschool program; and

(b) whether the performance outcome measures set in the results-based contract have been met, using de-identified data reported in Section 53A-1b-111.

Section 8. Section 53A-1b-108 is enacted to read:

53A-1b-108. High quality preschool programs for eligible private providers.

(1) To receive funding pursuant to a results-based contract awarded under Section 53A-1b-110, an eligible private provider shall:

(a) establish or currently operate a high quality preschool with the components described in Subsection 53A-1b-105(1);

(b) allow classroom visits by the evaluator chosen in accordance with Section 53A-1b-110 and the private entity, to ensure the components described in Subsection 53A-1b-105(1) are being implemented; and

(c) allow the evaluator chosen in accordance with Section 53A-1b-110 to administer the required pre- and post-assessments to eligible students funded under this part.

(2) An eligible private provider shall work in conjunction with the State Board of Education to assign a statewide unique student identifier to each eligible student funded pursuant to a results-based contract.

(3) An eligible private provider may not use funds awarded pursuant to a results-based contract to supplant funds for an existing high quality preschool program, but may use the funds to

supplement an existing high quality preschool program.

(4) (a) If permitted under Title 1 of the No Child Left Behind Act of 2001, 20 U.S.C. Sec. 6301-6578, an eligible private provider may charge a sliding scale fee to a student participating in a high quality preschool program under this section, based on household income.

(b) The eligible private provider may use grants, scholarships, or other funds to help fund the preschool program.

(5) An eligible private provider that receives funds under this section shall report annually to the board the de-identified information described in Section 53A-1b-111.

(6) The State Board of Education shall annually share with the board aggregated longitudinal data on eligible students currently receiving funding under this section and any eligible students who previously received funding under this section, including:

- (a) academic achievement outcomes;
- (b) special education use; and
- (c) English language learner services.

(7) The evaluator selected pursuant to Section 53A-1b-110 shall annually evaluate:

(a) the quality and outcomes of a high quality preschool program funded by a results-based contract between a private entity and the board, including:

(i) adherence to required components described in Subsection 53A-1b-105(1); and

(ii) the pre- and post-assessment results of the assessment, designated by the board under Section 53A-1b-110, of eligible students in the high quality preschool program; and

(b) whether the performance outcome measures set in the results-based contract have been met, using de-identified or aggregated data reported in Subsections (5) and (6).

Section 9. Section 53A-1b-109 is enacted to read:

53A-1b-109. Home-based educational technology for school readiness.

(1) To receive funding pursuant to a results-based contract awarded under Section 53A-1b-110, an eligible home-based educational technology provider shall administer a home-based educational technology program designed to prepare eligible students for kindergarten.

(2) An eligible home-based educational technology provider described in Subsection (1) shall establish or currently operate a high quality school readiness program with the components described in Subsection 53A-1b-105(2).

(3) An eligible home-based educational technology provider shall work in conjunction with

the State Board of Education to assign a statewide unique student identifier to each eligible student funded pursuant to a results-based contract.

(4) An eligible home-based educational technology provider that receives funds under this section shall report annually to the board the following de-identified information for eligible students funded in whole or in part pursuant to a results-based contract:

(a) number of eligible students served by the home-based educational technology program, reported by economically disadvantaged status and English language learner status;

(b) average time, and range of time usage, an eligible student spent using the program per week;

(c) cost per eligible student;

(d) assessment results of the pre- and post-assessments selected by the board; and

(e) number of eligible students served by the home-based educational technology program who participated in any other public or private preschool program, including the type of preschool attended.

(5) The State Board of Education shall annually share with the board aggregated longitudinal data on eligible students currently receiving funding under this section and any eligible students who previously received funding under this section, including:

(a) academic achievement outcomes;

(b) special education use; and

(c) English language learner services.

(6) The evaluator selected pursuant to Section 53A-1b-110 shall annually evaluate:

(a) the quality and outcomes of a home-based educational technology program funded by a results-based contract between a private entity and the board, including the pre- and post-assessment results, on the assessment designated by the board under Section 53A-1b-110, of eligible students in the program; and

(b) whether the performance outcome measures set in the results-based contract have been met, using de-identified or aggregated data reported in Subsections (4) and (5).

Section 10. Section 53A-1b-110 is enacted to read:

53A-1b-110. Results-based school readiness contracts -- Board duties -- Independent evaluator.

(1) (a) The board may negotiate and enter into a results-based contract with a private entity, selected through a competitive process, to fund:

(i) a high quality preschool program described in Section 53A-1b-107;

(ii) a high quality preschool program described in Section 53A-1b-108; or

(iii) a home-based education technology program described in Section 53A-1b-109.

(b) The board may not issue a results-based contract if the total outstanding obligations of results-based contracts issued by the board under this part would exceed \$15,000,000 at any one time.

(c) The board may provide for a repayment to a private entity to include a return of investment and an additional return on investment, dependent on achievement of specific performance outcome measures set in the results-based contract.

(d) The additional return on investment described in Subsection (1)(c) may not exceed 5% above the current Municipal Market Data General Obligation Bond AAA scale for a 10 year maturity at the time of the issuance of the results-based school readiness contract.

(e) Funding obtained for an early education program under this part is not a procurement item under Section 63G-6a-103.

(2) A contract shall include:

(a) a requirement that the repayment to the private entity be conditioned on specific performance outcome measures set in the results-based contract;

(b) a requirement for an independent evaluator to determine whether the performance outcomes have been achieved;

(c) a provision that repayment to the private entity is:

(i) based upon available money in the School Readiness Restricted Account; and

(ii) subject to legislative appropriation; and

(d) that the private entity is not eligible to receive or view any personally identifiable student data of students funded through a results-based contract.

(3) The board shall select an independent, nationally recognized early childhood education evaluator, selected through a request for proposals process, to annually evaluate:

(a) performance outcome measures set in a results-based contract of the board; and

(b) a High Quality School Readiness Grant Program recipient's program.

(4) The board shall select a uniform assessment of age-appropriate cognitive or language skills that:

(a) is nationally norm-referenced;

(b) has established reliability;

(c) has established validity with other similar measures and with later school outcomes; and

(d) has strong psychometric characteristics.

(5) (a) At the end of each year of a results-based contract after a student funded through a results-based contract completes kindergarten, the independent evaluator shall determine whether

the performance outcome measures set in the results-based contract have been met.

(b) If the independent evaluator determines under Subsection (5)(a) that the performance outcome measures have been met, the board may pay the private entity according to the terms of the results-based contract.

(6) (a) The board shall ensure that a parent or guardian of an eligible student participating in a program funded pursuant to a results-based contract has given permission and signed an acknowledgment that the student's data may be shared with an independent evaluator for research and evaluation purposes.

(b) The board shall maintain documentation of parental permission required in Subsection (6)(a).

Section 11. Section 53A-1b-111 is enacted to read:

53A-1b-111. Reporting requirements for recipients of a results-based school readiness contract -- Reporting requirements for the School Readiness Board.

(1) An eligible LEA, eligible private provider, or eligible home-based educational technology provider that receives funds pursuant to a results-based contract under this part shall report annually to the board the following de-identified information for eligible students funded in whole or in part pursuant to a results-based contract:

(a) number of eligible students served by the recipient's preschool or home-based educational technology program, reported by economically disadvantaged status and English language learner status;

(b) attendance;

(c) cost per eligible student;

(d) assessment results of the pre- and post-assessments selected by the board; and

(e) aggregated longitudinal data on eligible students currently receiving funding under this part and any eligible students who previously received funding under this part, including:

(i) academic achievement outcomes;

(ii) special education use; and

(iii) English language learner services.

(2) For each year of a results-based contract, the board shall report to the Education Interim Committee the following:

(a) information collected under Subsection (1) for each participating LEA, private provider, and home-based educational technology provider; and

(b) the terms of the results-based contract, including:

(i) the name of each private entity and funding source;

(ii) the amount of money each private entity has invested;

(iii) the performance outcome measures set in the results-based contract by which repayment will be determined; and

(iv) the repayment schedule to the private entity if the performance outcomes are met.

Section 12. Section 63J-1-602.3 is amended to read:

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

(1) Funding for the Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1101.

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

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

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

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

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

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

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

~~(8)~~ (9) Appropriations to the State Board of Education, as provided in Section 53A-17a-105.

~~(9)~~ (10) Money received by the State Office of Rehabilitation for the sale of certain products or services, as provided in Section 53A-24-105.

~~(10)~~ (11) Certain funds appropriated from the General Fund to the State Board of Regents for teacher preparation programs, as provided in Section 53B-6-104.

~~(11)~~ (12) A certain portion of money collected for administrative costs under the School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

~~(12)~~ (13) Certain surcharges on residential and business telephone numbers imposed by the Public Service Commission, as provided in Section 54-8b-10.

~~(13)~~ (14) Certain fines collected by the Division of Occupational and Professional Licensing for violation of unlawful or unprofessional conduct that

are used for education and enforcement purposes, as provided in Section 58-17b-505.

~~(14)~~ (15) Certain fines collected by the Division of Occupational and Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58-63-103.

~~(15)~~ (16) Appropriations from the Relative Value Study Restricted Account created in Section 59-9-105.

~~(16)~~ (17) The Cigarette Tax Restricted Account created in Section 59-14-204.

Section 13. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2014, and ending June 30, 2015, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2015.

(1) Operating and Capital Budgets. Under the terms and conditions of Title 63J, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use and support of the government of the State of Utah.

To Governor's Office - Governor's Office of Management and Budget

From General Fund Restricted - School Readiness

<u>Restricted Account</u>	<u>\$3,000,000</u>
---------------------------	--------------------

Schedule of Programs:

<u>Administration</u>	<u>\$200,000</u>
-----------------------	------------------

<u>School Readiness Initiative</u>	<u>\$2,800,000</u>
------------------------------------	--------------------

(2) Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts among the following funds or accounts as indicated. Expenditures and outlays from the recipient funds must be authorized elsewhere in an appropriations act.

To General Fund Restricted - School Readiness Restricted Account

<u>From General Fund</u>	<u>\$3,000,000</u>
--------------------------	--------------------

Schedule of Programs:

<u>General Fund Restricted - School Readiness Restricted Account</u>	<u>\$3,000,000</u>
--	--------------------

Section 14. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 13, 2014.

(2) Uncodified Section 13, Appropriation, takes effect on July 1, 2014.

CHAPTER 305**H. B. 98**

Passed February 27, 2014

Approved April 1, 2014

Effective May 13, 2014

**UTAH OPTOMETRY
PRACTICE ACT AMENDMENTS**Chief Sponsor: Paul Ray
Senate Sponsor: Brian E. Shiozawa**LONG TITLE****General Description:**

This bill amends the Utah Optometry Practice Act.

Highlighted Provisions:

This bill:

- ▶ amends licensure provisions for optometrists;
- ▶ amends licensure by endorsement provisions for optometrists;
- ▶ authorizes an optometrist to continue to administer or prescribe a hydrocodone combination drug, even if the drug is reclassified as a Schedule II controlled substance under the Utah Controlled Substances Act; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-16a-302, as last amended by Laws of Utah 2009, Chapter 183

58-16a-601, as last amended by Laws of Utah 2000, Chapter 160

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 58-16a-302 is amended to read:****58-16a-302. Qualifications for licensure.**(1) ~~Each~~ An applicant for licensure as an optometrist shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee as determined by the division under Section 63J-1-504;

(c) be of good moral character;

(d) (i) be a doctoral graduate of a recognized school of optometry accredited by ~~[-(A)] a regional accrediting body recognized by the Council on Post-Secondary Education; and (B)] the American Optometric Association's Accreditation Council on Optometric Education; or~~

(ii) be a graduate of a school of optometry located outside the United States that meets the criteria that would qualify the school for accreditation under Subsection (1)(d)(i), as demonstrated by the applicant for licensure;

(e) if the applicant graduated from a recognized school of optometry prior to July 1, 1996, have successfully completed a course of study satisfactory to the division, in consultation with the board, in general and ocular pharmacology and emergency medical care;

(f) have passed examinations approved by the division in consultation with the board that include:

(i) a standardized national optometry examination;

(ii) a standardized clinical examination;

(iii) a standardized national therapeutics examination; and

(iv) the Utah Optometry Law Examination; and

(g) meet with the board and representatives of the division, if requested by either party, for the purpose of evaluating the applicant's qualifications for licensure.

~~[(2) An applicant for licensure as an optometrist qualifying under the endorsement provision of Section 58-1-302 shall: (a) be currently licensed]~~

(2) Notwithstanding Subsection (1) and Section 58-1-302, the division shall issue a license under this chapter by endorsement to an individual who:

(a) submits an application for licensure by endorsement on a form approved by the division;(b) pays a fee established by the division in accordance with Section 63J-1-504;(c) provides satisfactory evidence to the division that the individual is of good moral character;(d) verifies that the individual is licensed as an optometrist in good standing in [any] each state of the United States, or province of Canada, in which the individual is currently licensed as an optometrist; and~~[(b) have]~~ (e) has been actively engaged in the legal practice of optometry for [not less than] at least 3,200 hours [in] during the immediately preceding two years[,], in a manner [that is] consistent with the legal practice of optometry in this state.**Section 2. Section 58-16a-601 is amended to read:****58-16a-601. Scope of practice.**

(1) An optometrist may:

(a) provide ~~[any]~~ optometric services not specifically prohibited under this chapter or division rules ~~[and that]~~ if the services are within the optometrist's training, skills, and scope of competence; and(b) prescribe or administer ~~[any]~~ pharmaceutical ~~[agent]~~ agents for the eye and its adnexa, including ~~[all]~~ oral ~~[pharmaceutical]~~ agents, ~~[except that]~~ subject to the following conditions:(i) ~~[the]~~ an optometrist may prescribe oral antibiotics ~~[may only be prescribed for: (A) eyelid-related]~~ for only eyelid related ocular

conditions or diseases^[5], and ~~[(B) any]~~ other ocular ~~[disease or condition as]~~ conditions or diseases specified by division rule; and

~~[(ii) Schedule III controlled substances may only be prescribed or administered to be taken orally or topically for pain of the eye or adnexa in a quantity not to exceed 72 hours in duration and which may not be refilled.]~~

(ii) an optometrist may administer or prescribe a hydrocodone combination drug, or a Schedule III controlled substance, as defined in Section 58-37-4, only if:

(A) the substance is administered or prescribed for pain of the eye or adnexa;

(B) the substance is administered orally or topically or is prescribed for oral or topical use;

(C) the amount of the substance administered or prescribed does not exceed a 72-hour quantity; and

(D) if the substance is prescribed, the prescription does not include refills.

(2) An optometrist may not:

(a) perform surgery, including laser surgery; or

(b) prescribe or administer ~~[any]~~ a Schedule II controlled substance, as defined in ~~[Title 58, Chapter 37, Controlled Substances]~~ Section 58-37-4, except for a hydrocodone combination drug, if so scheduled and prescribed or administered in accordance with Subsection (1)(b).

(3) ~~[An]~~ For purposes of Sections 31A-22-617 and 31A-22-618, an optometrist is a health care provider ~~[for purposes of Sections 31A-22-617 and 31A-22-618].~~

CHAPTER 306**H. B. 101**

Passed March 6, 2014

Approved April 1, 2014

Effective May 13, 2014

**ROADWAY AND SIDEWALK
SAFETY AMENDMENTS**

Chief Sponsor: Jim Nielson

Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill amends provisions relating to safety on roadways and sidewalks.

Highlighted Provisions:

This bill:

- ▶ prohibits individuals from engaging in conduct that impedes or blocks traffic within certain roadways; and
- ▶ prohibits individuals from soliciting money or goods in an aggressive manner on sidewalks within 10 feet of the entrance or exit of a bank or an automated teller machine.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-6a-1009, as last amended by Laws of Utah 2011, Chapter 159

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

Section 1. Section 41-6a-1009 is amended to read:**41-6a-1009. Use of roadway by pedestrians -- Prohibited activities.**

(1) Where there is a sidewalk provided and its use is practicable, a pedestrian may not walk along or on an adjacent roadway.

(2) Where a sidewalk is not provided, a pedestrian walking along or on a highway shall walk only on the shoulder, as far as practicable from the edge of the roadway.

(3) Where a sidewalk or a shoulder is not available, a pedestrian walking along or on a highway shall:

(a) walk as near as practicable to the outside edge of the roadway; and

(b) if on a two-way roadway, walk only on the left side of the roadway facing traffic.

~~[(4) A person may not sit, stand, or loiter on or near a roadway for the purpose of soliciting from the occupant of a vehicle:]~~

~~[(a) a ride;]~~

~~[(b) contributions;]~~

~~[(c) employment;]~~

~~[(d) the parking, watching, or guarding of a vehicle; or]~~

~~[(e) other business.]~~

(4) (a) An individual may not engage in conduct that impedes or blocks traffic within any of the following:

(i) an interstate system, as defined in Section 72-1-102;

(ii) a freeway, as defined in Section 41-6a-102;

(iii) a state highway, as defined in Title 72, Chapter 4, Designation of State Highways Act; or

(iv) a state route, or "SR," as defined in Section 72-1-102.

(b) The locations described in Subsection (4)(a) include:

(i) shoulder areas, as defined in Section 41-6a-102;

(ii) on-ramps;

(iii) off-ramps; and

(iv) an area between the roadways of a divided highway, as defined in Section 41-6a-102.

(c) The locations described in Subsection (4)(a) do not include sidewalks, as defined in Section 41-6a-102.

(d) Conduct that impedes or blocks traffic may include:

(i) loitering;

(ii) demonstrating or picketing;

(iii) distributing materials;

(iv) gathering signatures;

(v) holding signs; or

(vi) soliciting rides, contributions, or other business.

(e) Conduct that impedes or blocks traffic does not include the conduct described in Section 41-6a-209.

(f) A county or municipality may adopt a resolution, ordinance, or regulation prohibiting conduct in locations described in Subsections (4)(a) and (b) within any of the roadways under its jurisdiction.

(g) (i) The state, a county, or a municipality shall create a permitting process for granting a person an exemption from this Subsection (4).

(ii) Upon receipt of a valid permit application, the state, a county, or a municipality shall grant a person a temporary exemption from this Subsection (4) for a specified location or time.

(h) Nothing in this section prohibits a temporary spontaneous demonstration.

(5) A pedestrian who is under the influence of alcohol or any drug to a degree which renders the pedestrian a hazard may not walk or be on a highway except on a sidewalk or sidewalk area.

(6) Except as otherwise provided in this chapter, a pedestrian on a roadway shall yield the right-of-way to all vehicles on the roadway.

(7) A pedestrian may not walk along or on a no-access freeway facility except during an emergency.

(8) (a) As used in this Subsection (8):

(i) “Aggressive manner” means intentionally:

(A) persisting in approaching or following an individual after the individual has negatively responded to the solicitation;

(B) engaging in conduct that would cause a reasonable individual to fear imminent bodily harm;

(C) engaging in conduct that would intimidate a reasonable individual into giving money or goods;

(D) blocking the path of an individual; or

(E) physically contacting an individual or the individual’s personal property without that individual’s consent.

(ii) “Bank” is as defined in Section 13-42-102.

(iii) “Sidewalk” is as defined in Section 41-6a-102.

(b) An individual may not solicit money or goods from another individual in an aggressive manner:

(i) during the business hours of a bank if either the individual soliciting, or the individual being solicited, is on the portion of a sidewalk that is within 10 feet of the bank’s entrance or exit; or

(ii) on the portion of a sidewalk that is within 10 feet of an automated teller machine.

CHAPTER 307**H. B. 103**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

**STATE MONEY MANAGEMENT
ACT AMENDMENTS**Chief Sponsor: Rich Cunningham
Senate Sponsor: Curtis S. Bramble**LONG TITLE****General Description:**

This bill modifies the State Money Management Act by amending provisions relating to the requirements for and reports on the investment of public funds.

Highlighted Provisions:

This bill:

- ▶ requires the state treasurer to include in the state treasurer's report at the end of each fiscal year on the State School Fund a comparison of the fund's internal rate of return with benchmark rates of return for the previous year, three years, and five years for the same asset classes; and
- ▶ requires the public treasurer to consider protection of principal during periods of financial market volatility when depositing and investing public funds.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

51-7-9.5, as enacted by Laws of Utah 2002, Chapter 237

51-7-17, as last amended by Laws of Utah 2013, Chapter 388

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

Section 1. Section 51-7-9.5 is amended to read:**51-7-9.5. State School Fund report.**

(1) The state treasurer shall prepare a report at the end of each fiscal year on the State School Fund created in Utah Constitution Article X, Section 5.

(2) The report shall include the following information:

(a) the name of each asset within the fund and the fair market value of each asset as of June 30;

(b) the amount and date of each contribution to the fund during the fiscal year;

(c) a balance sheet for the most recently completed fiscal year and the previous fiscal year;

(d) the fund's internal rate of return for the previous year, three years, and five years and a comparison of the fund's internal rate of return with benchmark rates of return for the previous year,

three years, and five years for the same asset classes;

(e) a summary of the asset allocation policy for the fund;

(f) a description of the fund income, including amounts distributed and amounts retained; and

(g) expenses in dollars and as a percent of fund assets.

(3) The state treasurer shall submit the report to the Education Interim Committee by October 1 of each year.

Section 2. Section 51-7-17 is amended to read:**51-7-17. Criteria for investments.**

(1) As used in this section:

(a) "Affiliate" means, in relation to a provider:

(i) an entity controlled, directly or indirectly, by the provider;

(ii) an entity that controls, directly or indirectly, the provider; or

(iii) an entity directly or indirectly under common control with the provider.

(b) "Control" means ownership of a majority of the voting power of the entity or provider.

(2) (a) A public treasurer shall consider and meet the following objectives when depositing and investing public funds:

(i) safety of principal;

(ii) protection of principal during periods of financial market volatility;

~~[(iii)]~~ (iii) need for liquidity;

~~[(iv)]~~ (iv) yield on investments;

~~[(v)]~~ (v) recognition of the different investment objectives of operating and permanent funds; and

~~[(vi)]~~ (vi) maturity of investments, so that the maturity date of the investment does not exceed the anticipated date of the expenditure of funds.

(b) A public treasurer shall invest the proceeds of general obligation bond issues, tax anticipation note issues, and funds pledged or otherwise dedicated to the payment of interest and principal of general obligation bonds and tax anticipation notes issued by the state or a political subdivision of the state in accordance with:

(i) Section 51-7-11; or

(ii) the terms of the borrowing instrument applicable to those issues and funds, if those terms are more restrictive than Section 51-7-11.

(c) A public treasurer shall invest the proceeds of bonds other than general obligation bonds and the proceeds of notes other than tax anticipation notes issued by the state or a political subdivision of the state, and all funds pledged or otherwise dedicated to the payment of interest and principal of those notes and bonds:

(i) in accordance with the terms of the borrowing instruments applicable to those bonds or notes; or

(ii) if none of those provisions are applicable, in accordance with Section 51-7-11.

(d) A public treasurer may invest proceeds of bonds, notes, or other money pledged or otherwise dedicated to the payment of debt service on the bonds or notes in investment agreements if:

(i) the investment is permitted by the terms of the borrowing instrument applicable to those bonds or notes or the borrowing instrument authorizes the investment as an investment permitted by the State Money Management Act;

(ii) either the provider of the investment agreement or an entity fully, unconditionally, and irrevocably guaranteeing the provider's obligations under the investment agreement has received a rating of:

(A) at least "AA-" from S&P or "Aa3" from Moody's for investment agreements having a term of more than one year; or

(B) at least "A-1+" from S&P or "P-1" from Moody's for investment agreements having a term of one year or less;

(iii) the investment agreement contains provisions approved by the public treasurer that provide that, in the event of a rating downgrade of the provider or its affiliate guarantor, as applicable, by either S&P or Moody's below the "A" category or its equivalent, or a rating downgrade of a nonaffiliate guarantor by either S&P or Moody's below the "AA" category or its equivalent, the provider must, within 30 days after receipt of notice of the downgrade:

(A) collateralize the investment agreement with direct obligations of, or obligations guaranteed by, the United States of America having a market value at least equal to 105% of the amount of the money invested, valued at least quarterly, and deposit the collateral with a third-party custodian or trustee selected by the public treasurer; or

(B) terminate the agreement without penalty and repay all of the principal invested and the interest accrued on the investment to the date of termination; and

(iv) the public treasurer receives an enforceability opinion from the legal counsel of the investment agreement provider and, if there is a guarantee, an enforceability opinion from the legal counsel of the guarantor with respect to the guarantee.

(3) (a) As used in this Subsection (3), "interest rate contract" means interest rate exchange contracts, interest rate floor contracts, interest rate ceiling contracts, or other similar contracts authorized by resolution of the governing board or issuing authority, as applicable.

(b) A public treasurer may:

(i) enter into interest rate contracts that the governing board or issuing authority determines

are necessary, convenient, or appropriate for the control or management of debt or for the cost of servicing debt; and

(ii) use its public funds to satisfy its payment obligations under those contracts.

(c) Those contracts:

(i) shall comply with the requirements established by council rules; and

(ii) may contain payment, security, default, termination, remedy, and other terms and conditions that the governing board or issuing authority considers appropriate.

(d) Neither interest rate contracts nor public funds used in connection with these interest rate contracts may be considered a deposit or investment.

(4) A public treasurer shall ensure that all public funds invested in deposit instruments are invested with qualified depositories within Utah, except:

(a) for deposits made in accordance with Section 53B-7-601 in a foreign depository institution as defined in Section 7-1-103;

(b) reciprocal deposits, subject to rules made by the council under Subsection 51-7-18(2); or

(c) if national market rates on instruments of similar quality and term exceed those offered by qualified depositories, investments in out-of-state deposit instruments may be made only with institutions that meet quality criteria set forth by the rules of the council.

CHAPTER 308**H. B. 114**

Passed March 6, 2014
 Approved April 1, 2014
 Effective July 1, 2014

**MAIL-ORDER WHOLESALE
 DRUG AMENDMENTS**

Chief Sponsor: Stewart Barlow
 Senate Sponsor: Evan J. Vickers

LONG TITLE**General Description:**

This bill amends the Pharmacy Practice Act.

Highlighted Provisions:

This bill:

- ▶ amends the definition of a class C pharmacy subject to regulation under the Pharmacy Practice Act.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2014.

Utah Code Sections Affected:**AMENDS:**

58-17b-102, as last amended by Laws of Utah 2013, Chapters 52, 166, and 423

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

Section 1. Section 58-17b-102 is amended to read:

58-17b-102. Definitions.

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

(1) "Administering" means:

(a) the direct application of a prescription drug or device, whether by injection, inhalation, ingestion, or by any other means, to the body of a human patient or research subject by another person; or

(b) the placement by a veterinarian with the owner or caretaker of an animal or group of animals of a prescription drug for the purpose of injection, inhalation, ingestion, or any other means directed to the body of the animal by the owner or caretaker in accordance with written or verbal directions of the veterinarian.

(2) "Adulterated drug or device" means a drug or device considered adulterated under 21 U.S.C.S. Sec. 351 (2003).

(3) (a) "Analytical laboratory" means a facility in possession of prescription drugs for the purpose of analysis.

(b) "Analytical laboratory" does not include a laboratory possessing prescription drugs used as standards and controls in performing drug monitoring or drug screening analysis if the prescription drugs are prediluted in a human or animal body fluid, human or animal body fluid components, organic solvents, or inorganic buffers

at a concentration not exceeding one milligram per milliliter when labeled or otherwise designated as being for in vitro diagnostic use.

(4) "Animal euthanasia agency" means an agency performing euthanasia on animals by the use of prescription drugs.

(5) "Automated pharmacy systems" includes mechanical systems which perform operations or activities, other than compounding or administration, relative to the storage, packaging, dispensing, or distribution of medications, and which collect, control, and maintain all transaction information.

(6) "Beyond use date" means the date determined by a pharmacist and placed on a prescription label at the time of dispensing that indicates to the patient or caregiver a time beyond which the contents of the prescription are not recommended to be used.

(7) "Board of pharmacy" or "board" means the Utah State Board of Pharmacy created in Section 58-17b-201.

(8) "Branch pharmacy" means a pharmacy or other facility in a rural or medically underserved area, used for the storage and dispensing of prescription drugs, which is dependent upon, stocked by, and supervised by a pharmacist in another licensed pharmacy designated and approved by the division as the parent pharmacy.

(9) "Centralized prescription processing" means the processing by a pharmacy of a request from another pharmacy to fill or refill a prescription drug order or to perform processing functions such as dispensing, drug utilization review, claims adjudication, refill authorizations, and therapeutic interventions.

(10) "Class A pharmacy" means a pharmacy located in Utah that is authorized as a retail pharmacy to compound or dispense a drug or dispense a device to the public under a prescription order.

(11) "Class B pharmacy":

(a) means a pharmacy located in Utah:

(i) that is authorized to provide pharmaceutical care for patients in an institutional setting; and

(ii) whose primary purpose is to provide a physical environment for patients to obtain health care services; and

(b) (i) includes closed-door, hospital, clinic, nuclear, and branch pharmacies; and

(ii) pharmaceutical administration and sterile product preparation facilities.

(12) "Class C pharmacy" means a pharmacy ~~located in Utah that is authorized to engage~~ that engages in the manufacture, production, wholesale, or distribution of drugs or devices in Utah.

(13) "Class D pharmacy" means a nonresident pharmacy.

(14) "Class E pharmacy" means all other pharmacies.

(15) “Closed-door pharmacy” means a pharmacy that provides pharmaceutical care to a defined and exclusive group of patients who have access to the services of the pharmacy because they are treated by or have an affiliation with a specific entity, including a health maintenance organization or an infusion company, but not including a hospital pharmacy, a retailer of goods to the general public, or the office of a practitioner.

(16) “Collaborative pharmacy practice” means a practice of pharmacy whereby one or more pharmacists have jointly agreed, on a voluntary basis, to work in conjunction with one or more practitioners under protocol whereby the pharmacist may perform certain pharmaceutical care functions authorized by the practitioner or practitioners under certain specified conditions or limitations.

(17) “Collaborative pharmacy practice agreement” means a written and signed agreement between one or more pharmacists and one or more practitioners that provides for collaborative pharmacy practice for the purpose of drug therapy management of patients and prevention of disease of human subjects.

(18) (a) “Compounding” means the preparation, mixing, assembling, packaging, or labeling of a limited quantity drug, sterile product, or device:

(i) as the result of a practitioner’s prescription order or initiative based on the practitioner, patient, or pharmacist relationship in the course of professional practice;

(ii) for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale or dispensing; or

(iii) in anticipation of prescription drug orders based on routine, regularly observed prescribing patterns.

(b) “Compounding” does not include:

(i) the preparation of prescription drugs by a pharmacist or pharmacy intern for sale to another pharmacist or pharmaceutical facility;

(ii) the preparation by a pharmacist or pharmacy intern of any prescription drug in a dosage form which is regularly and commonly available from a manufacturer in quantities and strengths prescribed by a practitioner; or

(iii) the preparation of a prescription drug, sterile product, or device which has been withdrawn from the market for safety reasons.

(19) “Confidential information” has the same meaning as “protected health information” under the Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. Parts 160 and 164.

(20) “Controlled substance” has the same definition as in Section 58-37-2.

(21) “Dietary supplement” has the same meaning as Public Law Title 103, Chapter 417, Sec. 3a(ff) which is incorporated by reference.

(22) “Dispense” means the interpretation, evaluation, and implementation of a prescription drug order or device or nonprescription drug or device under a lawful order of a practitioner in a suitable container appropriately labeled for subsequent administration to or use by a patient, research subject, or an animal.

(23) “Distribute” means to deliver a drug or device other than by administering or dispensing.

(24) (a) “Drug” means:

(i) a substance recognized in the official United States Pharmacopoeia, Official Homeopathic Pharmacopoeia of the United States, or Official National Formulary, or any supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;

(ii) a substance that is required by any applicable federal or state law or rule to be dispensed by prescription only or is restricted to administration by practitioners only;

(iii) a substance other than food intended to affect the structure or any function of the body of humans or other animals; and

(iv) substances intended for use as a component of any substance specified in Subsections (24)(a)(i), (ii), (iii), and (iv).

(b) “Drug” does not include dietary supplements.

(25) “Drug regimen review” includes the following activities:

(a) evaluation of the prescription drug order and patient record for:

(i) known allergies;

(ii) rational therapy-contraindications;

(iii) reasonable dose and route of administration; and

(iv) reasonable directions for use;

(b) evaluation of the prescription drug order and patient record for duplication of therapy;

(c) evaluation of the prescription drug order and patient record for the following interactions:

(i) drug-drug;

(ii) drug-food;

(iii) drug-disease; and

(iv) adverse drug reactions; and

(d) evaluation of the prescription drug order and patient record for proper utilization, including over- or under-utilization, and optimum therapeutic outcomes.

(26) “Drug sample” means a prescription drug packaged in small quantities consistent with limited dosage therapy of the particular drug, which is marked “sample”, is not intended to be sold, and is intended to be provided to practitioners for the immediate needs of patients for trial purposes or to provide the drug to the patient until a prescription can be filled by the patient.

(27) “Electronic signature” means a trusted, verifiable, and secure electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(28) “Electronic transmission” means transmission of information in electronic form or the transmission of the exact visual image of a document by way of electronic equipment.

(29) “Hospital pharmacy” means a pharmacy providing pharmaceutical care to inpatients of a general acute hospital or specialty hospital licensed by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(30) “Legend drug” has the same meaning as prescription drug.

(31) “Licensed pharmacy technician” means an individual licensed with the division, that may, under the supervision of a pharmacist, perform the activities involved in the technician practice of pharmacy.

(32) “Manufacturer” means a person or business physically located in Utah licensed to be engaged in the manufacturing of drugs or devices.

(33) (a) “Manufacturing” means:

(i) the production, preparation, propagation, conversion, or processing of a drug or device, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical or biological synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container; and

(ii) the promotion and marketing of such drugs or devices.

(b) “Manufacturing” includes the preparation and promotion of commercially available products from bulk compounds for resale by pharmacies, practitioners, or other persons.

(c) “Manufacturing” does not include the preparation or compounding of a drug by a pharmacist, pharmacy intern, or practitioner for that individual’s own use or the preparation, compounding, packaging, labeling of a drug, or incident to research, teaching, or chemical analysis.

(34) “Medical order” means a lawful order of a practitioner which may include a prescription drug order.

(35) “Medication profile” or “profile” means a record system maintained as to drugs or devices prescribed for a pharmacy patient to enable a pharmacist or pharmacy intern to analyze the profile to provide pharmaceutical care.

(36) “Misbranded drug or device” means a drug or device considered misbranded under 21 U.S.C.S. Sec. 352 (2003).

(37) (a) “Nonprescription drug” means a drug which:

(i) may be sold without a prescription; and

(ii) is labeled for use by the consumer in accordance with federal law.

(b) “Nonprescription drug” includes homeopathic remedies.

(38) “Nonresident pharmacy” means a pharmacy located outside of Utah that sells to a person in Utah.

(39) “Nuclear pharmacy” means a pharmacy providing radio-pharmaceutical service.

(40) “Out-of-state mail service pharmacy” means a pharmaceutical facility located outside the state that is licensed and in good standing in another state, that:

(a) ships, mails, or delivers by any lawful means a dispensed legend drug to a patient in this state pursuant to a lawfully issued prescription;

(b) provides information to a patient in this state on drugs or devices which may include, but is not limited to, advice relating to therapeutic values, potential hazards, and uses; or

(c) counsels pharmacy patients residing in this state concerning adverse and therapeutic effects of drugs.

(41) “Patient counseling” means the written and oral communication by the pharmacist or pharmacy intern of information, to the patient or caregiver, in order to ensure proper use of drugs, devices, and dietary supplements.

(42) “Pharmaceutical administration facility” means a facility, agency, or institution in which:

(a) prescription drugs or devices are held, stored, or are otherwise under the control of the facility or agency for administration to patients of that facility or agency;

(b) prescription drugs are dispensed to the facility or agency by a licensed pharmacist or pharmacy intern with whom the facility has established a prescription drug supervising relationship under which the pharmacist or pharmacy intern provides counseling to the facility or agency staff as required, and oversees drug control, accounting, and destruction; and

(c) prescription drugs are professionally administered in accordance with the order of a practitioner by an employee or agent of the facility or agency.

(43) (a) “Pharmaceutical care” means carrying out the following in collaboration with a prescribing practitioner, and in accordance with division rule:

(i) designing, implementing, and monitoring a therapeutic drug plan intended to achieve favorable outcomes related to a specific patient for the purpose of curing or preventing the patient’s disease;

(ii) eliminating or reducing a patient’s symptoms; or

(iii) arresting or slowing a disease process.

(b) "Pharmaceutical care" does not include prescribing of drugs without consent of a prescribing practitioner.

(44) "Pharmaceutical facility" means a business engaged in the dispensing, delivering, distributing, manufacturing, or wholesaling of prescription drugs or devices within or into this state.

(45) (a) "Pharmaceutical wholesaler or distributor" means a pharmaceutical facility engaged in the business of wholesale vending or selling of a prescription drug or device to other than a consumer or user of the prescription drug or device that the pharmaceutical facility has not produced, manufactured, compounded, or dispensed.

(b) "Pharmaceutical wholesaler or distributor" does not include a pharmaceutical facility carrying out the following business activities:

(i) intracompany sales;

(ii) the sale, purchase, or trade of a prescription drug or device, or an offer to sell, purchase, or trade a prescription drug or device, if the activity is carried out between one or more of the following entities under common ownership or common administrative control, as defined by division rule:

(A) hospitals;

(B) pharmacies;

(C) chain pharmacy warehouses, as defined by division rule; or

(D) other health care entities, as defined by division rule;

(iii) the sale, purchase, or trade of a prescription drug or device, or an offer to sell, purchase, or trade a prescription drug or device, for emergency medical reasons, including supplying another pharmaceutical facility with a limited quantity of a drug, if:

(A) the facility is unable to obtain the drug through a normal distribution channel in sufficient time to eliminate the risk of harm to a patient that would result from a delay in obtaining the drug; and

(B) the quantity of the drug does not exceed an amount reasonably required for immediate dispensing to eliminate the risk of harm;

(iv) the distribution of a prescription drug or device as a sample by representatives of a manufacturer; and

(v) the distribution of prescription drugs, if:

(A) the dosage units distributed during a calendar year do not exceed five percent of the sum of the dosage units distributed by the facility during the calendar year and the dosage units dispensed by the facility during the calendar year; and

(B) the distribution otherwise complies with 21 C.F.R. Sec. 1307.11.

(46) "Pharmacist" means an individual licensed by this state to engage in the practice of pharmacy.

(47) "Pharmacist-in-charge" means a pharmacist currently licensed in good standing who accepts responsibility for the operation of a pharmacy in conformance with all laws and rules pertinent to the practice of pharmacy and the distribution of drugs, and who is personally in full and actual charge of the pharmacy and all personnel.

(48) "Pharmacist preceptor" means a licensed pharmacist in good standing with one or more years of licensed experience. The preceptor serves as a teacher, example of professional conduct, and supervisor of interns in the professional practice of pharmacy.

(49) "Pharmacy" means any place where:

(a) drugs are dispensed;

(b) pharmaceutical care is provided;

(c) drugs are processed or handled for eventual use by a patient; or

(d) drugs are used for the purpose of analysis or research.

(50) "Pharmacy benefits manager or coordinator" means a person or entity that provides pharmacy benefit management services as defined in Section 49-20-502 on behalf of a self-insured employer, insurance company, health maintenance organization, or other plan sponsor, as defined by rule.

(51) "Pharmacy intern" means an individual licensed by this state to engage in practice as a pharmacy intern.

(52) "Pharmacy technician training program" means an approved technician training program providing education for pharmacy technicians.

(53) (a) "Practice as a licensed pharmacy technician" means engaging in practice as a pharmacy technician under the general supervision of a licensed pharmacist and in accordance with a scope of practice defined by division rule made in collaboration with the board.

(b) "Practice as a licensed pharmacy technician" does not include:

(i) performing a drug utilization review, prescription drug order clarification from a prescriber, final review of the prescription, dispensing of the drug, or counseling a patient with respect to a prescription drug;

(ii) except as permitted by rules made by the division in consultation with the board, final review of a prescribed drug prepared for dispensing;

(iii) counseling regarding nonprescription drugs and dietary supplements unless delegated by the supervising pharmacist; or

(iv) receiving new prescription drug orders when communicating telephonically or electronically unless the original information is recorded so the

pharmacist may review the prescription drug order as transmitted.

(54) "Practice of pharmacy" includes the following:

- (a) providing pharmaceutical care;
- (b) collaborative pharmacy practice in accordance with a collaborative pharmacy practice agreement;
- (c) compounding, packaging, labeling, dispensing, administering, and the coincident distribution of prescription drugs or devices, provided that the administration of a prescription drug or device is:
 - (i) pursuant to a lawful order of a practitioner when one is required by law; and
 - (ii) in accordance with written guidelines or protocols:
 - (A) established by the licensed facility in which the prescription drug or device is to be administered on an inpatient basis; or
 - (B) approved by the division, in collaboration with the board and the Physicians Licensing Board, created in Section 58-67-201, if the prescription drug or device is to be administered on an outpatient basis solely by a licensed pharmacist;
- (d) participating in drug utilization review;
- (e) ensuring proper and safe storage of drugs and devices;
- (f) maintaining records of drugs and devices in accordance with state and federal law and the standards and ethics of the profession;
- (g) providing information on drugs or devices, which may include advice relating to therapeutic values, potential hazards, and uses;
- (h) providing drug product equivalents;
- (i) supervising pharmacist's supportive personnel, pharmacy interns, and pharmacy technicians;
- (j) providing patient counseling, including adverse and therapeutic effects of drugs;
- (k) providing emergency refills as defined by rule;
- (l) telepharmacy; and
- (m) formulary management intervention.

(55) "Practice of telepharmacy" means the practice of pharmacy through the use of telecommunications and information technologies.

(56) "Practice of telepharmacy across state lines" means the practice of pharmacy through the use of telecommunications and information technologies that occurs when the patient is physically located within one jurisdiction and the pharmacist is located in another jurisdiction.

(57) "Practitioner" means an individual currently licensed, registered, or otherwise authorized by the appropriate jurisdiction to prescribe and

administer drugs in the course of professional practice.

(58) "Prescribe" means to issue a prescription:

- (a) orally or in writing; or
- (b) by telephone, facsimile transmission, computer, or other electronic means of communication as defined by division rule.

(59) "Prescription" means an order issued:

- (a) by a licensed practitioner in the course of that practitioner's professional practice or by collaborative pharmacy practice agreement; and
- (b) for a controlled substance or other prescription drug or device for use by a patient or an animal.

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

(61) "Prescription drug" means a drug that is required by federal or state law or rule to be dispensed only by prescription or is restricted to administration only by practitioners.

(62) "Research using pharmaceuticals" means research:

- (a) conducted in a research facility, as defined by division rule, that is associated with a university or college in the state accredited by the Northwest Commission on Colleges and Universities;
- (b) requiring the use of a controlled substance, prescription drug, or prescription device;
- (c) that uses the controlled substance, prescription drug, or prescription device in accordance with standard research protocols and techniques, including, if required, those approved by an institutional review committee; and
- (d) that includes any documentation required for the conduct of the research and the handling of the controlled substance, prescription drug, or prescription device.

(63) "Retail pharmacy" means a pharmaceutical facility dispensing prescription drugs and devices to the general public.

(64) "Self-audit" means an internal evaluation of a pharmacy to determine compliance with this chapter.

(65) "Self-audit" means an internal evaluation of a pharmacy to determine compliance with this chapter.

(65) "Supervising pharmacist" means a pharmacist who is overseeing the operation of the pharmacy during a given day or shift.

(66) "Supportive personnel" means unlicensed individuals who:

- (a) may assist a pharmacist, pharmacist preceptor, pharmacy intern, or licensed pharmacy

technician in nonjudgmental duties not included in the definition of the practice of pharmacy, practice of a pharmacy intern, or practice of a licensed pharmacy technician, and as those duties may be further defined by division rule adopted in collaboration with the board; and

(b) are supervised by a pharmacist in accordance with rules adopted by the division in collaboration with the board.

(67) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-17b-501.

(68) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-17b-502 and may be further defined by rule.

(69) "Veterinary pharmaceutical facility" means a pharmaceutical facility that dispenses drugs intended for use by animals or for sale to veterinarians for the administration for animals.

Section 2. Effective date.

This bill takes effect on July 1, 2014.

CHAPTER 309**H. B. 116**

Passed March 13, 2014

Approved April 1, 2014

Effective July 1, 2014

**SCHOOL CONSTRUCTION
MODIFICATIONS**

Chief Sponsor: Rich Cunningham

Senate Sponsor: Curtis S. Bramble

Cosponsors: Jim Bird

Ken Ivory

John Knotwell

Daniel McCay

Earl D. Tanner

LONG TITLE**General Description:**

This bill enacts language related to school construction guidelines.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the State Board of Education to adopt school construction guidelines;
- ▶ requires a public school to review and take into consideration those guidelines when planning public school construction; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2014.

Utah Code Sections Affected:**AMENDS:**

53A-20-104.5, as last amended by Laws of Utah 2005, Chapter 7

ENACTS:

53A-20-110, Utah Code Annotated 1953

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

Section 1. Section 53A-20-104.5 is amended to read:**53A-20-104.5. School building construction and inspection manual -- Annual construction and inspection conference -- Verification of school construction inspections.**

(1) (a) The State Board of Education, through the state superintendent of public instruction, shall develop and distribute to each school district a school building construction and inspection resource manual.

(b) The manual shall be provided to a charter school upon request of the charter school.

(2) (a) The manual shall include:

- (i) current legal requirements; and
- (ii) information on school building construction and inspections, including the guidelines adopted

by the State Board of Education in accordance with Section 53A-20-110.

(b) The state superintendent shall review and update the manual at least once every three years.

(3) The board shall provide for an annual school construction conference to allow a representative from each school district and charter school to:

(a) receive current information on the design, construction, and inspection of school buildings;

(b) receive training on such matters as:

- (i) using properly certified building inspectors;
- (ii) filing construction inspection summary reports and the final inspection certification with the local governmental authority's building official;

(iii) the roles and relationships between a school district or charter school and the local governmental authority, either a county or municipality, as related to the construction and inspection of school buildings; and

(iv) adequate documentation of school building inspections; and

(c) provide input on any changes that may be needed to improve the existing school building inspection program.

(4) The board shall develop a process to verify that inspections by qualified inspectors occur in each school district or charter school.

Section 2. Section 53A-20-110 is enacted to read:**53A-20-110. Board to adopt public school construction guidelines.**

(1) As used in this section:

(a) "Board" means the State Board of Education.

(b) "Public school construction" means construction work on a new public school.

(2) (a) The board shall:

(i) adopt guidelines for public school construction; and

(ii) consult with the Division of Facilities Construction and Management Administration on proposed guidelines before adoption.

(b) The board shall ensure that guidelines adopted under Subsection (2)(a)(i) maximize funds used for public school construction and reflect efficient and economic use of those funds, including adopting guidelines that address a school's essential needs rather than encouraging or endorsing excessive costs per square foot of construction or nonessential facilities, design, or furnishings.

(3) Before a school district or charter school may begin public school construction, the school district or charter school shall:

(a) review the guidelines adopted by the board under this section; and

(b) take into consideration the guidelines when planning the public school construction.

(4) In adopting the guidelines for public school construction, the board shall consider the following and adopt alternative guidelines as needed:

(a) location factors, including whether the school is in a rural or urban setting, and climate factors;

(b) variations in guidelines for significant or minimal projected student population growth;

(c) guidelines specific to schools that serve various populations and grades, including high schools, junior high schools, middle schools, elementary schools, alternative schools, and schools for people with disabilities; and

(d) year-round use.

(5) The guidelines shall address the following:

(a) square footage per student;

(b) minimum and maximum required real property for a public school;

(c) athletic facilities and fields, playgrounds, and hard surface play areas;

(d) cost per square foot;

(e) minimum and maximum qualities and costs for building materials;

(f) design efficiency;

(g) parking;

(h) furnishing;

(i) proof of compliance with applicable building codes; and

(j) safety.

Section 3. Effective date.

This bill takes effect on July 1, 2014.

CHAPTER 310**H. B. 117**

Passed March 12, 2014

Approved April 1, 2014

Effective May 13, 2014

PATENT INFRINGEMENT AMENDMENTS

Chief Sponsor: Mike K. McKell
 Senate Sponsor: John L. Valentine

LONG TITLE**General Description:**

This bill creates a cause of action for the distribution of bad faith demand letters asserting patent infringement.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits the distribution of bad faith demand letters asserting patent infringement;
- ▶ allows a person who has been the recipient of a demand letter asserting patent infringement to file an action;
- ▶ allows the court to require the filing of a bond to cover costs of the action;
- ▶ provides remedies; and
- ▶ sets limits on punitive damages.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

78B-6-1901, Utah Code Annotated 1953

78B-6-1902, Utah Code Annotated 1953

78B-6-1903, Utah Code Annotated 1953

78B-6-1904, Utah Code Annotated 1953

78B-6-1905, Utah Code Annotated 1953

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

Section 1. Section 78B-6-1901 is enacted to read:**Part 19. Distribution of Bad Faith Patent Infringement Letters Act****78B-6-1901. Title -- Purpose.**

(1) This part is known as the "Distribution of Bad Faith Patent Infringement Letters Act."

(2) The Legislature acknowledges that it is preempted from passing any law that conflicts with federal patent law. However, this part seeks to protect Utah businesses from the use of demand letters containing abusive and bad faith assertions of patent infringement, and build Utah's economy, while at the same time respecting federal law and not interfering with legitimate patent enforcement efforts.

Section 2. Section 78B-6-1902 is enacted to read:**78B-6-1902. Definitions.**

As used in this part:

(1) (a) "Demand letter" means a letter, email, or other written communication directed to a target and asserting or claiming that the target has engaged in patent infringement.

(b) "Demand letter" does not include a complaint filed in a United States District Court asserting patent infringement or discovery responses or other papers filed in an action.

(2) "Target" means a person or entity residing in, incorporated in, or organized under the laws of this state that has received a demand letter and includes the customers, distributors, and agents of the person or entity.

(3) "Sponsor" means the party or parties responsible for distribution of a demand letter.

Section 3. Section 78B-6-1903 is enacted to read:**78B-6-1903. Prohibition against distribution of demand letters containing bad faith assertions of patent infringement.**

(1) A sponsor may not distribute a demand letter to a target that includes a bad faith assertion of patent infringement.

(2) A court may consider the following factors as evidence in determining whether a sponsor has or has not distributed a demand letter containing a bad faith assertion of patent infringement, but no one factor may be considered conclusive as to whether a demand letter contains a bad faith assertion of patent infringement:

(a) the demand letter does not contain all of the following information:

(i) the patent numbers of the patent or patents being asserted;

(ii) the name and address of the current patent owner or owners and any other person or entity having the right to enforce or license the patent;

(iii) the name and address of all persons and entities holding a controlling interest in the persons and entities identified in Subsection (2)(a)(ii) of this section;

(iv) the identification of at least one claim of each asserted patent that is allegedly infringed;

(v) for each claim identified in Subsection (2)(a)(iv), a description of one or more allegedly infringing products, including the make, model number, and other specific identifying indicia of allegedly infringing products, services, or methods made, used, offered for sale, sold, imported or performed by the target, provided in sufficient detail to allow the target to assess the merits of the assertion of patent infringement; and

(vi) identification of each judicial or administrative proceeding pending as of the date of the demand letter where the validity of the asserted patent or patents is under challenge; or

(b) the demand letter contains any of the following:

(i) an assertion of patent infringement based on a patent or a claim of a patent that has been previously held invalid or unenforceable in a final judicial or administrative decision from which no appeal is possible;

(ii) an assertion that a complaint has been filed alleging that the target has infringed the patent when no complaint has, in fact, been filed;

(iii) an assertion of infringement based on acts occurring after the asserted patent or claim at issue has expired or been held invalid or unenforceable;

(iv) an assertion of infringement of a patent that the sponsor does not own or have the right to enforce or license; or

(v) an assertion that the amount of compensation demanded will increase if the target retains counsel to defend against the assertions in the demand letter or if the target does not pay the sponsor within a period of 60 days or less;

(vi) a false or misleading statement; or

(vii) the demand letter demands payment of a license fee or response within an unreasonably short period of time depending on the number and complexity of the claims.

(3) A court may consider the following factors as evidence to mitigate a conclusion that a sponsor has distributed a demand letter containing a bad faith assertion of patent infringement:

(a) the demand letter contains the information described in Subsection (2)(a);

(b) the demand letter lacks the information described in Subsection (2)(a) and when the target requests the information, the sponsor provides the information within a reasonable period of time;

(c) the sponsor engages in a good faith effort to establish that the target has infringed the patent and to negotiate an appropriate remedy;

(d) the sponsor has made a substantial investment in the practice of the patent or in the production or sale of a product or item covered by the patent; and

(e) the sponsor is:

(i) the inventor or joint inventor of the patent or the original assignee of the inventor or joint inventor, or an entity owned by or affiliated with the original assignee; or

(ii) an institution of higher education or a technology transfer organization owned by or affiliated with an institution of higher education.

Section 4. Section 78B-6-1904 is enacted to read:

78B-6-1904. Action -- Enforcement -- Remedies -- Damages.

(1) A target who has received a demand letter asserting patent infringement in bad faith, or a person aggrieved by a violation of this part, may bring an action in district court. The court may

award the following remedies to a target who prevails in an action brought pursuant to this part:

(a) equitable relief;

(b) actual damages;

(c) costs and fees, including reasonable attorney fees; and

(d) punitive damages in an amount to be established by the court, of not more than the greater of \$50,000 or three times the total of damages, costs, and fees.

(2) The attorney general may conduct civil investigations and bring civil actions pursuant to this part. In an action brought by the attorney general under this part, the court may award or impose any relief it considers prudent, including the following:

(a) equitable relief;

(b) statutory damages of not less than \$750 per demand letter distributed in bad faith; and

(c) costs and fees, including reasonable attorney fees, to the attorney general.

(3) This part may not be construed to limit other rights and remedies available to the state or to any person under any other law.

(4) A demand letter or assertion of a patent infringement that includes a claim for relief arising under 35 U.S.C. Sec. 271(e)(2) is not subject to the provisions of this part.

(5) The attorney general shall report annually to the Executive Appropriations Committee regarding the number of investigations and actions brought under this part. The report shall include:

(a) the number of investigations commenced;

(b) the number of actions brought under the provisions of this part;

(c) the current status of actions brought under Subsection (5)(b); and

(d) final resolution of actions brought under this part, including any recovery under Subsection (2).

Section 5. Section 78B-6-1905 is enacted to read:

78B-6-1905. Bond.

(1) Upon motion by a target and a finding by the court that a target has established a reasonable likelihood that a sponsor has made a bad faith assertion of patent infringement in a demand letter in violation of this part, the court shall require the sponsor to post a bond in an amount equal to a good faith estimate of the target's costs to litigate the claim under this part and amounts reasonably likely to be recovered under Subsections 78B-6-1904(1)(b) and (c), conditioned upon payment of any amounts finally determined to be due to the target.

(2) A hearing on the appropriateness and amount of a bond under this section shall be held if either party requests it.

(3) A bond ordered pursuant to this section may not exceed \$250,000. The court may waive the bond requirement if it finds the sponsor has available assets equal to the amount of the proposed bond or for other good cause shown.

CHAPTER 311**H. B. 126**

Passed March 12, 2014

Approved April 1, 2014

Effective May 13, 2014

RETIREMENT AMENDMENTS

Chief Sponsor: Lee B. Perry
Senate Sponsor: John L. Valentine

LONG TITLE**General Description:**

This bill modifies the Utah State Retirement and Insurance Benefit Act by amending provisions for postretirement reemployment.

Highlighted Provisions:

This bill:

- ▶ allows a reemployed retiree to be considered as having completed the one-year separation requirement from a participating employer, if the retiree:
 - suffered an injury while performing the duties of employment as a public safety service employee, which resulted in the inability to perform the duties of the employment; and
 - is reemployed with a different participating employer; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

49-11-505, as last amended by Laws of Utah 2013, Chapter 48

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

Section 1. Section 49-11-505 is amended to read:**49-11-505. Reemployment of a retiree -- Restrictions.**

- (1) (a) For purposes of this section, "retiree":
- (i) means a person who:
 - (A) retired from a participating employer; and
 - (B) begins reemployment on or after July 1, 2010, with a participating employer;
 - (ii) does not include a person:
 - (A) who was reemployed by a participating employer before July 1, 2010; and
 - (B) whose participating employer that reemployed the person under Subsection (1)(a)(ii)(A) was dissolved, consolidated, merged, or structurally changed in accordance with Section 49-11-621 after July 1, 2010; and
 - (iii) does not include a person who is reemployed as an active senior judge appointed to hear cases by

the Utah Supreme Court in accordance with Article VIII, Section 4, Utah Constitution.

(b) (i) This section does not apply to employment as an elected official if the elected official's position is not full time as certified by the participating employer.

(ii) The provisions of this section apply to an elected official whose elected position is full time as certified by the participating employer.

(2) A retiree may not for the same period of reemployment:

- (a) (i) earn additional service credit; or
- (ii) receive any retirement related contribution from a participating employer; and
- (b) receive a retirement allowance.

(3) (a) Except as provided under Subsection (3)(b) or (10), the office shall cancel the retirement allowance of a retiree if the reemployment with a participating employer begins within one year of the retiree's retirement date.

(b) The office may not cancel the retirement allowance of a retiree who is reemployed with a participating employer within one year of the retiree's retirement date if:

(i) the retiree is not reemployed by a participating employer for a period of at least 60 days from the retiree's retirement date;

(ii) upon reemployment after the break in service under Subsection (3)(b)(i), the retiree does not receive any employer provided benefits, including:

- (A) medical benefits;
- (B) dental benefits;

(C) other insurance benefits except for workers' compensation as provided under Title 34A, Chapter 2, Workers' Compensation Act, and withholdings required by federal or state law for Social Security, Medicare, and unemployment insurance; or

(D) paid time off, including sick, annual, or other type of leave; and

(iii) the retiree does not earn in any calendar year of reemployment an amount in excess of the lesser of:

- (A) \$15,000; or

(B) one-half of the retiree's final average salary upon which the retiree's retirement allowance is based.

(c) Beginning January 1, 2013, the board shall adjust the amount under Subsection (3)(b)(iii)(A) by the annual change in the Consumer Price Index during the previous calendar year as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(d) The office shall cancel the retirement allowance of a retiree for the remainder of the calendar year if the reemployment with a participating employer exceeds the limitations under Subsection (3)(b)(iii).

(e) If a retiree is reemployed under the provisions of Subsection (3)(b), the termination date of the reemployment, as confirmed in writing by the participating employer, is considered the retiree's retirement date for the purpose of calculating the separation requirement under Subsection (3)(a).

(4) If a reemployed retiree has completed the one-year separation from employment with a participating employer required under Subsection (3)(a), the retiree may elect to:

(a) earn additional service credit in accordance with this title and cancel the retiree's retirement allowance; or

(b) continue to receive the retiree's retirement allowance and forfeit any retirement related contribution from the participating employer who reemployed the retiree.

(5) A participating employer who reemploys a retiree shall contribute to the office the amortization rate, as defined in Section 49-11-102, to be applied to the system that would have covered the retiree, if the reemployed retiree:

(a) has completed the one-year separation from employment with a participating employer required under Subsection (3)(a); and

(b) makes an election under Subsection (4)(b) to continue to receive a retirement allowance while reemployed.

(6) (a) A participating employer shall immediately notify the office:

(i) if the participating employer reemploys a retiree;

(ii) whether the reemployment is subject to Subsection (3)(b) or (4) of this section; and

(iii) of any election by the retiree under Subsection (4).

(b) A participating employer shall certify to the office whether the position of an elected official is or is not full time.

(c) A participating employer is liable to the office for a payment or failure to make a payment in violation of this section.

(d) If a participating employer fails to notify the office in accordance with this section, the participating employer is immediately subject to a compliance audit by the office.

(7) (a) The office shall immediately cancel the retirement allowance of a retiree in accordance with Subsection (7)(b) if the office receives notice or learns of:

(i) the reemployment of a retiree in violation of Subsection (3); or

(ii) the election of a reemployed retiree under Subsection (4)(a).

(b) If the retiree is eligible for retirement coverage in the reemployed position, the office shall cancel the allowance of a retiree subject to Subsection

(7)(a), and reinstate the retiree to active member status on the first day of the month following the date of:

(i) reemployment if the retiree is subject to Subsection (3); or

(ii) an election by an employee under Subsection (4)(a).

(c) If the retiree is not otherwise eligible for retirement coverage in the reemployed position:

(i) the office shall cancel the allowance of a retiree subject to Subsection (7)(a)(i); and

(ii) the participating employer shall pay the amortization rate to the office on behalf of the retiree.

(8) (a) A retiree subject to Subsection (7)(b) who retires within two years from the date of reemployment:

(i) is not entitled to a recalculated retirement benefit; and

(ii) will resume the allowance that was being paid at the time of cancellation.

(b) Subject to Subsection (2), a retiree who is reinstated to active membership under Subsection (7) and who retires two or more years after the date of reinstatement to active membership shall:

(i) resume receiving the allowance that was being paid at the time of cancellation; and

(ii) receive an additional allowance based on the formula in effect at the date of the subsequent retirement for all service credit accrued between the first and subsequent retirement dates.

(9) (a) A retiree subject to this section shall report to the office the status of the reemployment under Subsection (3) or (4).

(b) If the retiree fails to inform the office of an election under Subsection (4), the office shall withhold one month's benefit for each month the retiree fails to inform the office under Subsection (9)(a).

(10) A retiree shall be considered as having completed the one-year separation from employment with a participating employer required under Subsection (3)(a), if the retiree:

(a) before retiring:

(i) was employed with a participating employer as a public safety service employee as defined in Section 49-14-102, 49-15-102, or 49-23-102;

(ii) and during the employment under Subsection (10)(a)(i), suffered a physical injury resulting from external force or violence while performing the duties of the employment, and for which injury the retiree would have been approved for total disability in accordance with the provisions under Title 49, Chapter 21, Public Employees' Long-Term Disability Act, if years of service are not considered;

(iii) had less than 30 years of service credit but had sufficient service credit to retire, with an

unreduced allowance making the public safety service employee ineligible for long-term disability payments under Title 49, Chapter 21, Public Employees' Long-Term Disability Act, or a substantially similar long-term disability program; and

(iv) does not receive any long-term disability benefits from any participating employer; and

(b) is reemployed by a different participating employer.

[~~40~~] (11) The board may make rules to implement this section.

CHAPTER 312**H. B. 132**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

**TEMPORARY HOMELESS
YOUTH SHELTER AMENDMENTS**Chief Sponsor: Gage Froerer
Senate Sponsor: Allen M. Christensen

Cosponsors: Jack R. Draxler

Susan Duckworth

Rebecca P. Edwards

Richard A. Greenwood

Lynn N. Hemingway

Brian S. King

Ronda Rudd Menlove

Curtis Oda

Lee B. Perry

Dixon M. Pitcher

Mark A. Wheatley

Larry B. Wiley

LONG TITLE**General Description:**

This bill enacts and modifies provisions relating to temporary homeless youth shelters.

Highlighted Provisions:

This bill:

- ▶ grants the Office of Licensing rulemaking authority to make rules establishing age-appropriate and gender-appropriate sleeping quarters in temporary homeless youth shelters;
- ▶ requires a temporary homeless youth shelter to notify the Division of Child and Family Services or a youth services center within 48 hours after the later of:
 - the time that the temporary homeless youth shelter becomes aware that the minor is a runaway; or
 - the time that the temporary homeless youth shelter begins harboring the minor; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

62A-4a-501, as last amended by Laws of Utah 2009, Chapter 19

ENACTS:

62A-2-108.8, Utah Code Annotated 1953

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

Section 1. Section 62A-2-108.8 is enacted to read:**62A-2-108.8. Residential support program -- Temporary homeless youth shelter.**

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules that establish age-appropriate and

gender-appropriate sleeping quarters in temporary homeless youth shelters, as defined in Section 62A-4a-501, that provide overnight shelter to minors.

Section 2. Section 62A-4a-501 is amended to read:**62A-4a-501. Harboring a runaway -- Reporting requirements -- Division to provide assistance -- Affirmative defense -- Providing shelter after notice.**

(1) As used in this section:

(a) "Harbor" means to provide shelter in:

(i) the home of the person who is providing the shelter; or

(ii) any structure over which the person providing the shelter has any control.

~~[(b) "Promptly" means within eight hours after the later of:]~~

~~[(i) the time that the person becomes aware that the minor is a runaway; or]~~

~~[(ii) the time that the person begins harboring the minor.]~~

~~[(e)]~~ (b) "Receiving center" is as defined in Section 62A-7-101.

~~[(d)]~~ (c) "Runaway" means a minor, other than an emancipated minor, who is absent from the home or lawfully prescribed residence of the parent or legal guardian of the minor without the permission of the parent or legal guardian.

~~[(e)]~~ (d) "Temporary homeless youth shelter" means a facility that:

(i) provides temporary shelter to a runaway; and

(ii) is licensed by the Office of Licensing, created in Section 62A-1-105, as a residential support program.

~~[(f)]~~ (e) "Youth services center" means a center established by, or under contract with, the Division of Juvenile Justice Services, created in Section 62A-1-105, to provide youth services, as defined in Section 62A-7-101.

(2) [A] Except as provided in Subsection (3), a person is guilty of a class B misdemeanor if the person:

(a) knowingly and intentionally harbors a minor;

(b) knows at the time of harboring the minor that the minor is a runaway; ~~and]~~

(c) ~~[except as provided in Subsection (3),]~~ fails to ~~[promptly]~~ notify one of the following, by telephone or other reasonable means, of the location of the minor:

(i) the parent or legal guardian of the minor;

(ii) the division; or

(iii) a youth services center~~[-]; and~~

(d) fails to notify a person described in Subsection ~~(2)(c)~~ within eight hours after the later of:

(i) the time that the person becomes aware that the minor is a runaway; or

(ii) the time that the person begins harboring the minor.

(3) A person described in Subsection (2) is not guilty of a violation of Subsection (2) and is not required to comply with [Subsection] Subsections (2)(c) and (d), if:

(a) a court order is issued authorizing a peace officer to take the minor into custody; and

(b) the person [~~promptly~~] notifies a peace officer or the nearest detention center, as defined in Section 62A-7-101, by telephone or other reasonable means, of the location of the minor[.], within eight hours after the later of:

(i) the time that the person becomes aware that the minor is a runaway; or

(ii) the time that the person begins harboring the minor.

(4) Nothing in this section limits the obligation of a person to report child abuse or neglect in accordance with Section 62A-4a-403.

(5) Except as provided in Subsection (6), a temporary homeless youth shelter shall notify:

(a) the parent or legal guardian of a minor within eight hours after the later of:

(i) the time that the temporary homeless youth shelter becomes aware that the minor is a runaway; or

(ii) the time that the temporary homeless youth shelter begins harboring the minor; and

(b) the division or a youth services center, within 48 hours after the later of:

(i) the time that the temporary homeless youth shelter becomes aware that a minor is a runaway; or

(ii) the time that the temporary homeless youth shelter begins harboring the minor.

(6) A temporary homeless youth shelter is not required to comply with Subsection (5) if:

(a) a court order is issued authorizing a peace officer to take the minor into custody; and

(b) the temporary homeless youth shelter notifies a peace officer or the nearest detention center, as defined in Section 62A-7-101, by telephone or other reasonable means, of the location of the minor, within eight hours after the later of:

(i) the time that the person becomes aware that the minor is a runaway; or

(ii) the time that the person begins harboring the minor.

[4] (7) It is an affirmative defense to the crime described in Subsection (2) that:

(a) the person failed to [~~promptly~~] provide notice as described in Subsection (2)[~~(c)~~] or (3) due to circumstances beyond the control of the person providing the shelter; and

(b) the person provided the notice described in Subsection (2)[~~(c)~~] or (3) as soon as it was reasonably practicable to [~~do so~~] provide the notice.

[5] (8) Upon receipt of a report that a runaway is being harbored by a person:

(a) a youth services center shall:

(i) notify the parent or legal guardian that a report has been made; and

(ii) inform the parent or legal guardian of assistance available from the youth services center; or

(b) the division shall:

(i) determine whether the runaway is abused, neglected, or dependent; and

(ii) if appropriate, make a referral for services for the runaway.

[6] (9) A parent or legal guardian of a runaway who is aware that the runaway is being harbored may notify a law enforcement agency and request assistance in retrieving the runaway. The local law enforcement agency may assist the parent or legal guardian in retrieving the runaway.

[7] (10) Nothing in this section prohibits [~~an individual~~] a person or a temporary homeless youth shelter from continuing to provide shelter to a runaway, after giving the notice described in [Subsection (2)(c) or (3)] Subsections (2) through (6), if:

(a) a parent or legal guardian of the minor consents to the continued provision of shelter; or

(b) a peace officer or a parent or legal guardian of the minor fails to retrieve the runaway.

[8] (11) Nothing in this section prohibits [~~an individual~~] a person or a temporary homeless youth shelter from providing shelter to a non-emancipated minor whose parents or legal guardians have intentionally:

(a) ceased to maintain physical custody of the minor;

(b) failed to make reasonable arrangements for the safety, care, and physical custody of the minor; and

(c) failed to provide the minor with food, shelter, or clothing.

[9] (12) Nothing in this section prohibits:

(a) a receiving center or a youth services center from providing shelter to a runaway in accordance with the requirements of Title 62A, Chapter 7, Juvenile Justice Services, and the rules relating to a receiving center or a youth services center; or

(b) a government agency from taking custody of a minor as otherwise provided by law.

~~[(10) Nothing in this section releases a person from the obligation, under Section 62A-4a-403, to report abuse or neglect of a child.]~~

CHAPTER 313**H. B. 133**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

**CONTINGENT MANAGEMENT
FOR FEDERAL FACILITIES**

Chief Sponsor: David E. Lifferth

Senate Sponsor: J. Stuart Adams

LONG TITLE**General Description:**

This bill authorizes the governor to work with the federal government to operate and maintain national parks, monuments, forests, and recreation areas in the state during a fiscal emergency.

Highlighted Provisions:

This bill:

- ▶ defines the term “fiscal emergency”;
- ▶ authorizes the governor to work with the federal government to open and maintain the operation of one or more national parks, national monuments, national forests, or national recreation areas in the state; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63G-6a-107, as last amended by Laws of Utah 2013, Chapter 445

63I-2-265, as enacted by Laws of Utah 2013, Second Special Session, Chapter 3

65A-5-1, as last amended by Laws of Utah 2013, Second Special Session, Chapter 3

65A-5-2, as last amended by Laws of Utah 1994, Chapter 294

ENACTS:

79-4-1101, Utah Code Annotated 1953

79-4-1102, Utah Code Annotated 1953

79-4-1103, Utah Code Annotated 1953

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

Section 1. Section 63G-6a-107 is amended to read:**63G-6a-107. Exemptions from chapter -- Compliance with federal law.**

(1) Except for Part 23, Unlawful Conduct and Penalties, the provisions of this chapter are not applicable to:

(a) funds administered under the Percent-for-Art Program of the Utah Percent-for-Art Act;

(b) grants awarded by the state or contracts between the state and any of the following:

- (i) an educational procurement unit;

(ii) a conservation district;

(iii) a local building authority;

(iv) a local district;

(v) a public corporation;

(vi) a special service district;

(vii) a public transit district; or

(viii) two or more of the entities described in Subsections (1)(b)(i) through (vii), acting under legislation that authorizes intergovernmental cooperation;

(c) medical supplies or medical equipment, including service agreements for medical equipment, obtained through a purchasing consortium by the Utah State Hospital, the Utah State Developmental Center, the University of Utah Hospital, or any other hospital owned by the state or a political subdivision of the state, if:

(i) the consortium uses a competitive procurement process; and

(ii) the chief administrative officer of the hospital makes a written finding that the prices for purchasing medical supplies and medical equipment through the consortium are competitive with market prices;

(d) goods purchased for resale; [øø]

(e) the Division of Parks and Recreation, during a fiscal emergency, as defined by Subsection 79-4-1102(1), if the division is acting under the authority described in Sections 79-4-1101 through 79-4-1103; or

[øø] (f) any action taken by a majority of both houses of the Legislature.

(2) (a) Notwithstanding Subsection (1), the provisions of Part 23, Unlawful Conduct and Penalties, are not applicable to an entity described in Subsection (1)(b)(ii), (iii), (iv), (vi), (vii), or (viii).

(b) This chapter does not prevent a procurement unit from complying with the terms and conditions of any grant, gift, or bequest that is otherwise consistent with law.

(3) Notwithstanding any conflicting provision of this chapter, when a procurement involves the expenditure of federal assistance, federal contract funds, local matching funds, or federal financial participation funds, the procurement unit shall comply with mandatory applicable federal law and regulations not reflected in this chapter.

(4) This chapter does not supersede the requirements for retention or withholding of construction proceeds and release of construction proceeds as provided in Section 13-8-5.

Section 2. Section 63I-2-265 is amended to read:**63I-2-265. Repeal dates -- Title 65A.**

[Subsection 65A-5-1(4) is repealed on December 2, 2013.]

Section 3. Section 65A-5-1 is amended to read:

65A-5-1. Sovereign Lands Management Account -- Creation -- Contents -- Appropriation to fund division expenses.

(1) There is created within the General Fund a restricted account known as the Sovereign Lands Management Account.

(2) The account shall consist of the following:

(a) all revenues derived from sovereign lands; [and]

(b) that portion of all revenues derived from mineral leases on other lands managed by the division necessary to recover management costs[.]; and

(c) any fees deposited by the division.

(3) All expenditures of the division relating directly to the management of state lands shall be funded by appropriation by the Legislature from the Sovereign Lands Management Account or other sources.

(4) The Legislature may appropriate funds in the account to reimburse one or more state government entities for money spent on the operation of national parks, national monuments, national forests, and national recreation areas in the state during a fiscal emergency, as defined in Section 79-4-1102.

Section 4. Section 65A-5-2 is amended to read:

65A-5-2. Deposit and allocation of money received.

(1) (a) ~~[The]~~ Subject to Subsection (3), the division shall pay to the state treasurer all money received, accompanied by a statement showing the respective sources of this money.

(b) Each source shall be classified as to sales, rentals, royalties, interest, fees, penalties, and forfeitures.

(2) (a) All money received by the division as a first or down payment on applications to purchase, permit, or lease state lands or minerals shall be paid to the state treasurer and held in suspense pending final action on those applications.

(b) After final action these payments shall either be credited to the appropriate fund or account, or refunded to the applicant in accordance with the action taken.

(3) The division shall provide a separate accounting for all fees received under Subsection 65A-5-1(4).

Section 5. Section 79-4-1101 is enacted to read:

Part 11. Contingency Planning for Management of Federal Land

79-4-1101. Title.

This part is known as "Contingency Planning for Management of Federal Land."

Section 6. Section 79-4-1102 is enacted to read:

79-4-1102. Contingency plan for federal property.

(1) As used in this part, "fiscal emergency" means a major disruption in the operation of one or more national parks, national monuments, national forests, or national recreation areas in the state caused by the unforeseen or sudden significant decrease or elimination of funding from the federal government.

(2) During a fiscal emergency, and subject to congressional approval, the governor's agreement with the United States Department of the Interior, or a presidential executive order, the governor is authorized to enter into an agreement with the federal government to ensure that one or more national parks, national monuments, national forests, or national recreation areas in the state, according to the priority set under Section 79-4-1103, remain open to the public.

Section 7. Section 79-4-1103 is enacted to read:

79-4-1103. Governor's duties -- Priority of federal property.

(1) During a fiscal emergency, the governor shall:

(a) if financially practicable, work with the federal government to open and maintain the operation of one or more national parks, national monuments, national forests, and national recreation areas in the state, in the order established under this section; and

(b) report to the speaker of the House and the president of the Senate on the need, if any, for additional appropriations to assist the division in opening and operating one or more national parks, national monuments, national forests, and national recreation areas in the state.

(2) The director of the Outdoor Recreation Office, created in Section 63M-1-3304, in consultation with the executive director of the Governor's Office of Economic Development, shall determine, by rule, the priority of national parks, national monuments, national forests, and national recreation areas in the state.

(3) In determining the priority described in Subsection (2), the director of the Outdoor Recreation Office shall consider the:

(a) economic impact of the national park, national monument, national forest, or national recreation area in the state; and

(b) recreational value offered by the national park, national monument, national forest, or national recreation area.

(4) The director of the Outdoor Recreation Office shall:

(a) report the priority determined under Subsection (2) to the Natural Resources,

Agriculture, and Environment Interim Committee
by November 30, 2014; and

(b) annually review the priority set under
Subsection (2) to determine whether the priority
list should be amended.

CHAPTER 314**H. B. 137**

Passed March 11, 2014

Approved April 1, 2014

Effective April 1, 2014

**AMENDMENTS TO DRIVER LICENSE
SANCTIONS FOR ALCOHOL RELATED
OFFENSES**Chief Sponsor: John Knotwell
Senate Sponsor: Scott K. Jenkins**LONG TITLE****General Description:**

This bill modifies provisions relating to driver license suspension requirements for certain alcohol related offenses.

Highlighted Provisions:

This bill:

- ▶ authorizes a court to reduce the driver license suspension period for certain alcohol related offenses in certain circumstances; and
- ▶ makes conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.

Utah Code Sections Affected:**AMENDS:**

32B-4-409, as enacted by Laws of Utah 2010, Chapter 276

32B-4-410, as enacted by Laws of Utah 2010, Chapter 276

53-3-219, as last amended by Laws of Utah 2010, Chapter 276

76-9-701, as last amended by Laws of Utah 2009, Chapter 390

78A-6-606, as last amended by Laws of Utah 2010, Chapter 276

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

Section 1. Section 32B-4-409 is amended to read:**32B-4-409. Unlawful purchase, possession, consumption by minor -- Measurable amounts in body.**

(1) Unless specifically authorized by this title, it is unlawful for a minor to:

- (a) purchase an alcoholic product;
- (b) attempt to purchase an alcoholic product;
- (c) solicit another person to purchase an alcoholic product;
- (d) possess an alcoholic product;
- (e) consume an alcoholic product; or
- (f) have measurable blood, breath, or urine alcohol concentration in the minor's body.

(2) It is unlawful for the purpose of purchasing or otherwise obtaining an alcoholic product for a minor for:

- (a) a minor to misrepresent the minor's age; or
- (b) any other person to misrepresent the age of a minor.

(3) It is unlawful for a minor to possess or consume an alcoholic product while riding in a limousine or chartered bus.

(4) If a minor is found by a court to have violated this section and the violation is the minor's second or subsequent violation of this section, the court:

(a) shall order the minor to participate in an educational series as defined in Section 41-6a-501; and

(b) may order the minor to participate in a screening as defined in Section 41-6a-501.

(5) (a) When a minor who is at least 18 years old, but younger than 21 years old, is found by a court to have violated this section, except as provided in Section 32B-4-411, the court hearing the case shall suspend the minor's driving privileges under Section 53-3-219.

(b) Notwithstanding the provision in Subsection (5)(a), the court may reduce the suspension period required under Section 53-3-219 if:

(i) the violation is the minor's first violation of this section; and

(ii) the minor completes an educational series as defined in Section 41-6a-501.

(c) Notwithstanding the requirement in Subsection (5)(a) and in accordance with the requirements of Section 53-3-219, the court may reduce the suspension period required under Section 53-3-219 if:

(i) the violation is the minor's second or subsequent violation of this section; and

(ii) (A) the person is 18 years of age or older and provides a sworn statement to the court that the person has not unlawfully consumed alcohol for at least a one-year consecutive period during the suspension period imposed under Subsection (5)(a); or

(B) the person is under 18 years of age and has the person's parent or legal guardian provide an affidavit or sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not unlawfully consumed alcohol for at least a one-year consecutive period during the suspension period imposed under Subsection (5)(a).

(6) When a minor who is at least 13 years old, but younger than 18 years old, is found by the court to have violated this section, Section 78A-6-606 applies to the violation.

(7) When a court issues an order suspending a person's driving privileges for a violation of this section, the Driver License Division shall suspend the person's license under Section 53-3-219.

(8) When the Department of Public Safety receives the arrest or conviction record of a person for a driving offense committed while the person's license is suspended pursuant to this section, the

Department of Public Safety shall extend the suspension for an additional like period of time.

(9) This section does not apply to a minor's consumption of an alcoholic product in accordance with this title:

- (a) for medicinal purposes if:
 - (i) the minor is at least 18 years old; or
 - (ii) the alcoholic product is furnished by:
 - (A) the parent or guardian of the minor; or

(B) the minor's health care practitioner, if the health care practitioner is authorized by law to write a prescription; or

(b) as part of a religious organization's religious services.

Section 2. Section 32B-4-410 is amended to read:

32B-4-410. Unlawful admittance or attempt to gain admittance by minor.

(1) It is unlawful for a minor to gain admittance or attempt to gain admittance to the premises of:

- (a) a tavern; or
- (b) a social club licensee, except to the extent authorized by Section 32B-6-406.1.

(2) A minor who violates this section is guilty of a class C misdemeanor.

(3) If a minor is found by a court to have violated this section and the violation is the minor's second or subsequent violation of this section, the court:

- (a) shall order the minor to participate in an educational series as defined in Section 41-6a-501; and
- (b) may order the minor to participate in a screening as defined in Section 41-6a-501.

(4) (a) When a minor who is at least 18 years old, but younger than 21 years old, is found by a court to have violated this section, except as provided in Section 32B-4-411, the court hearing the case shall suspend the minor's driving privileges under Section 53-3-219.

(b) Notwithstanding the provision in Subsection (4)(a), the court may reduce the suspension period required under Section 53-3-219 if:

- (i) the violation is the minor's first violation of this section; and
- (ii) the minor completes an educational series as defined in Section 41-6a-501.

(c) Notwithstanding the requirement in Subsection (4)(a) and in accordance with the requirements of Section 53-3-219, the court may reduce the suspension period required under Section 53-3-219 if:

(i) the violation is the minor's second or subsequent violation of this section; and

(ii) (A) the person is 18 years of age or older and provides a sworn statement to the court that the person has not unlawfully consumed alcohol for at least a one-year consecutive period during the suspension period imposed under Subsection (4)(a); or

(B) the person is under 18 years of age and has the person's parent or legal guardian provide an affidavit or sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not unlawfully consumed alcohol for at least a one-year consecutive period during the suspension period imposed under Subsection (4)(a).

(5) When a minor who is at least 13 years old, but younger than 18 years old, is found by a court to have violated this section, Section 78A-6-606 applies to the violation.

(6) When a court issues an order suspending a person's driving privileges for a violation of this section, the Driver License Division shall suspend the person's license under Section 53-3-219.

(7) When the Department of Public Safety receives the arrest or conviction record of a person for a driving offense committed while the person's license is suspended pursuant to this section, the Department of Public Safety shall extend the suspension for an additional like period of time.

Section 3. Section 53-3-219 is amended to read:

53-3-219. Suspension of minor's driving privileges.

(1) The division shall immediately suspend all driving privileges of any person upon receipt of an order suspending driving privileges under Section 32B-4-409, Section 32B-4-410, Subsection 76-9-701(1), or Section 78A-6-606.

(2) (a) (i) ~~[Except as provided in Subsection (2)(a)(ii), upon]~~ Upon receipt of the first order suspending a person's driving privileges under Section 32B-4-409, Section 32B-4-410, Subsection 76-9-701(1), or Section 78A-6-606 ~~[for a violation that was committed on or after July 1, 2009]~~, the division shall:

- (A) impose a suspension for a period of one year;
- (B) if the person has not been issued an operator license, deny the person's application for a license or learner's permit for a period of one year; or

(C) if the person is under the age of eligibility for a driver license, deny the person's application for a license or learner's permit beginning on the date of conviction and continuing for one year beginning on the date of eligibility for a driver license.

(ii) Upon receipt of the first order suspending a person's driving privileges under this section, the division shall reduce the suspension period under Subsection (2)(a)(i)(A), (B), or (C) if ordered by the court in accordance with Subsection 32B-4-409(5)(b), 32B-4-410(4)(b), 76-9-701(4)(b), or 78A-6-606(3)(b).

(b) (i) Upon receipt of a second or subsequent order suspending a person's driving privileges

under Section 32B-4-409, Section 32B-4-410, Subsection 76-9-701(1), or Section 78A-6-606 ~~for a violation that was committed on or after July 1, 2009~~, the division shall:

~~(i)~~ (A) impose a suspension for a period of two years; ~~or~~

~~(ii)~~ (B) if the person has not been issued an operator license or is under the age of eligibility for a driver license, deny the person's application for a license or learner's permit for a period of two years~~[-]; or~~

~~(c) The Driver License Division shall impose a suspension for the suspension period in effect prior to July 1, 2009, if the order suspending driving privileges under Section 32B-4-409, Section 32B-4-410, Subsection 76-9-701(1), or Section 78A-6-606 is for a violation committed prior to July 1, 2009.]~~

(C) if the person is under the age of eligibility for a driver license, deny the person's application for a license or learner's permit beginning on the date of conviction and continuing for two years beginning on the date of eligibility for a driver license.

(ii) Upon receipt of the second or subsequent order suspending a person's driving privileges under Section 32B-4-409, Section 32B-4-410, Subsection 76-9-701(1), or Section 78A-6-606, the division shall reduce the suspension period if ordered by the court in accordance with Subsection 32B-4-409(5)(c), 32B-4-410(4)(c), 76-9-701(4)(c), or 78A-6-606(3)(c).

(3) The Driver License Division shall subtract from any suspension or revocation period for a conviction of a violation of Section 32B-4-409 the number of days for which a license was previously suspended under Section 53-3-231, if the previous sanction was based on the same occurrence upon which the record of conviction is based.

(4) After reinstatement of the license described in Subsection (1), a report authorized under Section 53-3-104 may not contain evidence of the suspension of a minor's license under this section if the minor has not been convicted of any other offense for which the suspension under Subsection (1) may be extended.

Section 4. Section 76-9-701 is amended to read:

76-9-701. Intoxication -- Release of arrested person or placement in detoxification center.

(1) A person is guilty of intoxication if the person is under the influence of alcohol, a controlled substance, or any substance having the property of releasing toxic vapors, to a degree that the person may endanger the person or another, in a public place or in a private place where the person unreasonably disturbs other persons.

(2) (a) A peace officer or a magistrate may release from custody a person arrested under this section if the peace officer or magistrate believes

imprisonment is unnecessary for the protection of the person or another.

(b) A peace officer may take the arrested person to a detoxification center or other special facility as an alternative to incarceration or release from custody.

(3) If a minor is found by a court to have violated this section and the violation is the minor's second or subsequent violation of this section, the court:

(a) shall order the minor to participate in an educational series as defined in Section 41-6a-501; and

(b) may order the minor to participate in a screening as defined in Section 41-6a-501.

(4) (a) When a minor who is at least 18 years old, but younger than 21 years old, is found by a court to have violated this section, the court hearing the case shall suspend the minor's driving privileges under Section 53-3-219.

(b) Notwithstanding the requirement in Subsection (4)(a), the court may reduce the suspension period required under Section 53-3-219 if:

(i) the violation is the minor's first violation of this section; and

(ii) the minor completes an educational series as defined in Section 41-6a-501.

(c) Notwithstanding the requirement in Subsection (4)(a) and in accordance with the requirements of Section 53-3-219, the court may reduce the suspension period required under Section 53-3-219 if:

(i) the violation is the minor's second or subsequent violation of this section; and

(ii) (A) the person is 18 years of age or older and provides a sworn statement to the court that the person has not unlawfully consumed alcohol for at least a one-year consecutive period during the suspension period imposed under Subsection (4)(a); or

(B) the person is under 18 years of age and has the person's parent or legal guardian provide an affidavit or sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not unlawfully consumed alcohol for at least a one-year consecutive period during the suspension period imposed under Subsection (4)(a).

(5) When a person who is at least 13 years old, but younger than 18 years old, is found by a court to have violated this section, the provisions regarding suspension of the driver's license under Section 78A-6-606 apply to the violation.

(6) When the court issues an order suspending a person's driving privileges for a violation of this section, the person's driver license shall be suspended under Section 53-3-219.

(7) An offense under this section is a class C misdemeanor.

Section 5. Section 78A-6-606 is amended to read:

78A-6-606. Suspension of license for certain offenses.

(1) This section applies to a minor who is at least 13 years of age when found by the court to be within its jurisdiction by the commission of an offense under:

- (a) Section 32B-4-409;
- (b) Section 32B-4-410;
- (c) Section 32B-4-411;
- (d) Section 58-37-8;
- (e) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
- (f) Title 58, Chapter 37b, Imitation Controlled Substances Act; or
- (g) Subsection 76-9-701(1).

(2) If the court hearing the case determines that the minor committed an offense under Section 58-37-8 or Title 58, Chapter 37a or 37b, the court shall prepare and send to the Driver License Division of the Department of Public Safety an order to suspend that minor's driving privileges.

(3) (a) The court hearing the case shall suspend the minor's driving privileges if:

- (i) the minor violated Section 32B-4-409, Section 32B-4-410, or Subsection 76-9-701(1); and
- (ii) the violation described in Subsection (3)(a)(i) was committed on or after July 1, 2009.

(b) Notwithstanding the requirement in Subsection (3)(a), the court may reduce the suspension period required under Section 53-3-219 if:

- (i) the violation is the minor's first violation of Section 32B-4-409, Section 32B-4-410, or Subsection 76-9-701(1); and
- (ii) the minor completes an educational series as defined in Section 41-6a-501.

~~[(c) The suspension periods and requirements that were in effect prior to July 1, 2009, apply:]~~

~~[(i) to a minor that violated Section 32B-4-409, Section 32B-4-410, or Subsection 76-9-701(1); and]~~

~~[(ii) for a violation that was committed prior to July 1, 2009.]~~

(c) Notwithstanding the requirement in Subsection (3)(a) and in accordance with the requirements of Section 53-3-219, the court may reduce the suspension period required under Section 53-3-219 if:

- (i) the violation is the minor's second or subsequent violation of Section 32B-4-409, Section 32B-4-410, or Subsection 76-9-701(1); and

(ii) (A) the person is 18 years of age or older and provides a sworn statement to the court that the

person has not unlawfully consumed alcohol for at least a one-year consecutive period during the suspension period imposed under Subsection (3)(a); or

(B) the person is under 18 years of age and has the person's parent or legal guardian provide an affidavit or sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not unlawfully consumed alcohol for at least a one-year consecutive period during the suspension period imposed under Subsection (3)(a).

(d) If a minor commits a proof of age violation, as defined in Section 32B-4-411:

(i) the court shall forward a record of adjudication to the Department of Public Safety for a first or subsequent violation; and

(ii) the minor's driving privileges will be suspended:

(A) for a period of at least one year under Section 53-3-220 for a first conviction for a violation of Section 32B-4-411; or

(B) for a period of two years for a second or subsequent conviction for a violation of Section 32B-4-411.

(4) A minor's license shall be suspended under Section 53-3-219 when a court issues an order suspending the minor's driving privileges for a violation of:

- (a) Section 32B-4-409;
- (b) Section 32B-4-410;
- (c) Section 58-37-8;
- (d) Title 58, Chapter 37a or 37b; or
- (e) Subsection 76-9-701(1).

(5) When the Department of Public Safety receives the arrest or conviction record of a person for a driving offense committed while the person's license is suspended under this section, the Department of Public Safety shall extend the suspension for a like period of time.

Section 6. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 315**H. B. 140**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

(Exception clause in Section 12)

TAX CREDIT AMENDMENTS

Chief Sponsor: Brian S. King
 Senate Sponsor: Curtis S. Bramble
 Cosponsors: Jennifer M. Seelig
 Rebecca Chavez-Houck
 Joel K. Briscoe
 Patrice M. Arent
 Steve Eliason
 Janice M. Fisher
 Gage Froerer
 Stephen G. Handy
 Lynn N. Hemingway
 Eric K. Hutchings
 Dana L. Layton
 Kay L. McIff
 Carol Spackman Moss
 Jim Nielson
 Michael E. Noel
 Dixon M. Pitcher
 Marie H. Poulson
 Angela Romero
 Douglas V. Sagers
 V. Lowry Snow
 Keven J. Stratton
 Earl D. Tanner
 Mark A. Wheatley
 Larry B. Wiley

LONG TITLE**General Description:**

This bill addresses provisions related to tax credits.

Highlighted Provisions:

This bill:

- ▶ enacts tax credits for the employment of persons who are homeless;
- ▶ repeals provisions related to tax credits and enacts the Tax Credit Administration Act; and
- ▶ enacts the Tax Credit for Employment of Persons Who Are Homeless Act, including:
 - defining terms;
 - addressing the procedures and requirements for the Department of Workforce Services to authorize, and a person to claim, a tax credit; and
 - requires the Department of Workforce Services to make certain reports to the Legislature.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides effective dates.

Utah Code Sections Affected:**ENACTS:**

35A-5-301, Utah Code Annotated 1953
 35A-5-302, Utah Code Annotated 1953
 35A-5-303, Utah Code Annotated 1953
 35A-5-304, Utah Code Annotated 1953
 35A-5-305, Utah Code Annotated 1953
 35A-5-306, Utah Code Annotated 1953
 59-7-616, Utah Code Annotated 1953
 59-7-901, Utah Code Annotated 1953
 59-7-902, Utah Code Annotated 1953
 59-7-903, Utah Code Annotated 1953
 59-10-1032, Utah Code Annotated 1953

REPEALS:

59-7-615, as enacted by Laws of Utah 2002,
 Chapter 62

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

Section 1. Section 35A-5-301 is enacted to read:**Part 3. Tax Credit for Employment of Persons Who Are Homeless Act****35A-5-301. Title.**

This part is known as the "Tax Credit for Employment of Persons Who Are Homeless Act."

Section 2. Section 35A-5-302 is enacted to read:**35A-5-302. Definitions.**

As used in this part:

(1) "Date of hire" means the date a person who is homeless first performs labor or services for compensation for an employer.

(2) "Governmental entity" is as defined in Section 59-2-511.

(3) "Permanent housing, permanent supportive, or transitional facility" means a facility:

(a) located within the state;

(b) that provides supervision of residents of the facility; and

(c) that is:

(i) a publicly or privately operated shelter:

(A) designed to provide temporary living accommodations, including a welfare hotel, congregate shelter, or transitional housing for the mentally ill; and

(B) that receives federal homeless assistance funding distributed by the United States Department of Housing and Urban Development; or

(ii) an emergency shelter that receives homeless assistance funding from a county, city, or town.

(4) "Person who is homeless" means an individual whose primary nighttime residence is a permanent housing, permanent supportive, or transitional facility.

(5) "Wage requirement" means that an employer pays a person who is homeless \$4,000 or more in wages during a time period that:

(a) begins on the date of hire; and

(b) ends no later than two calendar quarters after the calendar quarter in which the date of hire occurs.

Section 3. Section 35A-5-303 is enacted to read:

35A-5-303. Application for tax credit certificate.

(1) An employer who employs a person who is homeless and seeks to receive a tax credit certificate under this part shall file an application with the department with respect to each person who is homeless that the employer employs.

(2) The application shall be on a form the department provides to the employer.

(3) The application shall require the employer to certify that:

(a) the person who is homeless who the employer employs:

(i) on the date of hire, has a primary nighttime residence at a permanent housing, permanent supportive, or transitional facility;

(ii) is an employee, and not an independent contractor, of the employer;

(iii) is legally eligible to work in the United States; and

(iv) has not worked for the employer for more than 40 hours during the 60-day period immediately preceding the date of hire; and

(b) the employer:

(i) complies with all state, federal, or local requirements related to the employment of the person who is homeless; and

(ii) is not a governmental entity.

(4) The application:

(a) shall list, for each person who is homeless that the employer employs:

(i) the person's name;

(ii) the person's Social Security number; and

(iii) the person's current address;

(b) shall list the employer's federal employer identification number; and

(c) may require additional information as determined by the department.

(5) An employer shall provide documentation to the department to support the certifications and other information the employer provides in the application described in this section.

(6) If the department determines that, on the basis of the documentation and other information the employer provides, the employer has satisfied the certification requirements of Subsection (3) and provided the information described in Subsection

(4), the department shall enter into a participation agreement with the employer as provided in Section 35A-5-304 for each person who is homeless who the employer employs.

(7) If the department determines that, on the basis of the documentation and other information the employer provides, the employer has not satisfied the certification requirements of Subsection (3) or provided the information described in Subsection (4), the department:

(a) shall deny the application; or

(b) inform the employer that the documentation the employer provided is inadequate and request the employer to submit new or additional documentation.

Section 4. Section 35A-5-304 is enacted to read:

35A-5-304. Participation agreements.

(1) If the department enters into a participation agreement with an employer, the participation agreement shall:

(a) be provided by the department; and

(b) establish the requirements the employer is required to meet to be eligible to receive a tax credit certificate, including:

(i) requiring the employer to meet the certification requirements of Subsection 35A-5-303(3);

(ii) requiring the employer to provide written notice to the department within 10 days after the date the employer meets the wage requirement; and

(iii) requiring the employer to provide documentation or other information the department requests:

(A) to establish the hours and dates that the person who is homeless works for the employer; and

(B) to support the employer's eligibility to receive a tax credit certificate under this part.

(2) An agreement under this section does constitute a right to receive a tax credit certificate under this part.

Section 5. Section 35A-5-305 is enacted to read:

35A-5-305. Tax credit certificate.

(1) An employer shall provide written notice to the department within 10 days after the date the employer meets the wage requirement as provided in the participation agreement described in Section 35A-5-304.

(2) The department shall determine whether an employer has met the requirements of the participation agreement under Section 35A-5-304 to receive a tax credit certificate:

(a) after the employer provides the written notice described in Subsection (1) to the department; and

(b) no later than 60 days after the date that the employer provides the department unemployment insurance wage information:

(i) for the person who is homeless;

(ii) as required by Subsection 35A-4-305(8); and

(iii) for each calendar quarter during which the employer pays wages to meet the wage requirement.

(3) Subject to the other provisions of this section, if the department determines that an employer has met the requirements of the participation agreement under Section 35A-5-304 to receive a tax credit certificate, the department may issue a tax credit certificate to the employer.

(4) A tax credit certificate under this section:

(a) shall list the amount of tax credit allowable for the taxable year in an amount that does not exceed \$2,000;

(b) shall list the name and federal employer number of the employer;

(c) shall list the name, Social Security identification number, and current address of the person who is homeless with respect to whom the employer has met the wage requirement; and

(d) may include any other information required by the department.

(5) Subject to Subsections (6) and (7), the department shall issue tax credit certificates under this section in the order that the department receives the written notice described in Subsection (1).

(6) The department may not issue tax credit certificates that total more than \$100,000 in a fiscal year.

(7) (a) Subject to Subsection (7)(b), if the department would have issued tax credit certificates that total more than \$100,000 in a fiscal year but for the limit provided in Subsection (6), the department shall issue the tax credit certificates that exceed \$100,000 in the next fiscal year.

(b) If the department issues tax credit certificates in accordance with Subsection (7)(a):

(i) the tax credit certificates may not total more than \$100,000; and

(ii) the department may not issue tax credit certificates for an amount that exceeds the limit described in Subsection (7)(b)(i) in a future fiscal year.

(8) The department shall provide a copy of a tax credit certificate the department issues under this section to the State Tax Commission.

Section 6. Section 35A-5-306 is enacted to read:

35A-5-306. Report to the Legislature.

Beginning with the 2016 interim, the department shall report annually to the Economic Development

and Workforce Services Interim Committee and the Revenue and Taxation Interim Committee:

(1) on or before the November interim meeting; and

(2) on the amount of tax credits the department grants under this part.

Section 7. Section 59-7-616 is enacted to read:

59-7-616. (Codified as 59-7-617)

Nonrefundable tax credit for employment of a person who is homeless.

(1) As used in this section:

(a) "Eligible employer" means a person who receives a tax credit certificate from the Department of Workforce Services in accordance with Title 35A, Chapter 5, Part 3, Tax Credit for Employment of Persons Who Are Homeless Act.

(b) "Person who is homeless" is as defined in Section 35A-5-302.

(2) Subject to the other provisions of this section, an eligible employer that is a corporation may claim a nonrefundable tax credit as provided in this section against a tax under this chapter.

(3) The tax credit under this section is the amount of tax credit listed on a tax credit certificate that the Department of Workforce Services issues to an employer for a taxable year under Title 35A, Chapter 5, Part 3, Tax Credit for Employment of Persons Who Are Homeless Act.

(4) An eligible employer may carry forward a tax credit under this section for a period that does not exceed the next five taxable years if:

(a) the eligible employer is allowed to claim a tax credit under this section; and

(b) the amount of the tax credit exceeds the eligible employer's tax liability under this chapter for that taxable year.

(5) An eligible employer shall retain a tax credit certificate the eligible employer receives from the Department of Workforce Services for the same time period a person is required to keep books and records under Section 59-1-1406.

Section 8. Section 59-7-901 is enacted to read:

Part 9. Tax Credit Administration Act

59-7-901. Title.

This part is known as the "Tax Credit Administration Act."

Section 9. Section 59-7-902 is enacted to read:

59-7-902. Definitions.

As used in this part:

(1) "Tax credit" means a nonrefundable tax credit listed on a tax return.

(2) "Tax return" means:

(a) a corporate return as defined in Section 59-7-101 filed in accordance with this chapter; or

(b) a tax return filed in accordance with Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act.

Section 10. Section 59-7-903 is enacted to read:

59-7-903. Removal of tax credit from tax return -- Prohibition on claiming or carrying forward a tax credit -- Commission reporting requirements.

(1) Subject to Subsection (2), the commission shall remove a tax credit from a tax return and a person filing a tax return may not claim or carry forward the tax credit if:

(a) the total amount of tax credit claimed or carried forward by all persons who file a tax return is less than \$10,000 per taxable year for three consecutive taxable years; and

(b) less than 10 persons per year for the three consecutive taxable years described in Subsection (1)(a) file a tax return claiming or carrying forward the tax credit.

(2) If the commission determines the requirements of Subsection (1) are met, the commission shall remove a tax credit from a tax return and a person filing a tax return may not claim or carry forward the tax credit beginning two taxable years after the January 1 immediately following the date the commission determines the requirements of Subsection (1) are met.

(3) The commission shall, on or before the November interim meeting of the year after the taxable year in which the commission determines the requirements of Subsection (1) are met:

(a) report to the Revenue and Taxation Interim Committee that, in accordance with this section:

(i) the commission is required to remove a tax credit from a return on which the tax credit appears; and

(ii) a person filing a tax return may not claim or carry forward the tax credit; and

(b) notify each state agency required by statute to assist in the administration of the tax credit that, in accordance with this section:

(i) the commission is required to remove a tax credit from a return on which the tax credit appears; and

(ii) a person filing a tax return may not claim or carry forward the tax credit.

Section 11. Section 59-10-1032 is enacted to read:

59-10-1032. Nonrefundable tax credit for employment of a person who is homeless.

(1) As used in this section:

(a) "Eligible employer" means a person who receives a tax credit certificate from the Department of Workforce Services in accordance

with Title 35A, Chapter 5, Part 3, Tax Credit for Employment of Persons Who Are Homeless Act.

(b) "Person who is homeless" is as defined in Section 35A-5-302.

(2) Subject to the other provisions of this section, an eligible employer that is a claimant, estate, or trust may claim a nonrefundable tax credit as provided in this section against a tax under this chapter.

(3) The tax credit under this section is the amount of tax credit listed on a tax credit certificate that the Department of Workforce Services issues to an employer for a taxable year under Title 35A, Chapter 5, Part 3, Tax Credit for Employment of Persons Who Are Homeless Act.

(4) An eligible employer may carry forward a tax credit under this section for a period that does not exceed the next five taxable years if:

(a) the eligible employer is allowed to claim a tax credit under this section; and

(b) the amount of the tax credit exceeds the eligible employer's tax liability under this chapter for that taxable year.

(5) An eligible employer shall retain a tax credit certificate the eligible employer receives from the Department of Workforce Services for the same time period a person is required to keep books and records under Section 59-1-1406.

Section 12. Effective dates.

(1) Except as provided in Subsection (2), this bill takes effect on May 13, 2014.

(2) The actions affecting the following sections take effect for a taxable year beginning on or after January 1, 2015:

(a) Section 59-7-616;

(b) Section 59-7-901;

(c) Section 59-7-902;

(d) Section 59-7-903; and

(e) Section 59-10-1032.

Section 13. Repealer.

This bill repeals:

Section 59-7-615, Removal of tax credit from tax form and prohibition on claiming or carrying forward a tax credit -- Conditions for removal and prohibition on claiming or carrying forward a tax credit -- Commission reporting requirements.

CHAPTER 316**H. B. 143**

Passed March 11, 2014

Approved April 1, 2014

Effective May 13, 2014

PSYCHIATRIC NURSE AMENDMENTS

Chief Sponsor: Edward H. Redd
Senate Sponsor: Brian E. Shiozawa

LONG TITLE**General Description:**

This bill amends provisions of the Nurse Practice Act related to advanced practice registered nurse licensing.

Highlighted Provisions:

This bill:

- ▶ for an applicant for a license in advanced practice registered nursing in the psychiatric mental health specialty:
 - removes a provision that requires the applicant to complete the applicant's clinical practice requirements before licensure; and
 - adds a provision that requires the applicant to complete the applicant's clinical practice requirements before renewal, or, if the applicant is renewing in less than two years, to demonstrate satisfactory progress toward completing the clinical practice requirements; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-31b-302, as last amended by Laws of Utah 2011, Chapter 367

58-31b-305, as last amended by Laws of Utah 2009, Chapter 183

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

Section 1. Section 58-31b-302 is amended to read:**58-31b-302. Qualifications for licensure or certification -- Criminal background checks.**

(1) An applicant for certification as a medication aide shall:

(a) submit an application to the division on a form prescribed by the division;

(b) pay a fee to the division as determined under Section 63J-1-504;

(c) have a high school diploma or its equivalent;

(d) have a current certification as a nurse aide, in good standing, from the Department of Health;

(e) have a minimum of 2,000 hours of experience within the two years prior to application, working as a certified nurse aide in a long-term care facility;

(f) obtain letters of recommendation from a long-term care facility administrator and one licensed nurse familiar with the applicant's work practices as a certified nurse aide;

(g) be in a condition of physical and mental health that will permit the applicant to practice safely as a medication aide certified;

(h) have completed an approved education program or an equivalent as determined by the division in collaboration with the board;

(i) have passed the examinations as required by division rule made in collaboration with the board; and

(j) meet with the board, if requested, to determine the applicant's qualifications for certification.

(2) An applicant for licensure as a licensed practical nurse shall:

(a) submit to the division an application in a form prescribed by the division;

(b) pay to the division a fee determined under Section 63J-1-504;

(c) have a high school diploma or its equivalent;

(d) be in a condition of physical and mental health that will permit the applicant to practice safely as a licensed practical nurse;

(e) have completed an approved practical nursing education program or an equivalent as determined by the board;

(f) have passed the examinations as required by division rule made in collaboration with the board; and

(g) meet with the board, if requested, to determine the applicant's qualifications for licensure.

(3) An applicant for licensure as a registered nurse shall:

(a) submit to the division an application form prescribed by the division;

(b) pay to the division a fee determined under Section 63J-1-504;

(c) have a high school diploma or its equivalent;

(d) be in a condition of physical and mental health that will allow the applicant to practice safely as a registered nurse;

(e) have completed an approved registered nursing education program;

(f) have passed the examinations as required by division rule made in collaboration with the board; and

(g) meet with the board, if requested, to determine the applicant's qualifications for licensure.

(4) Applicants for licensure as an advanced practice registered nurse shall:

(a) submit to the division an application on a form prescribed by the division;

(b) pay to the division a fee determined under Section 63J-1-504;

(c) be in a condition of physical and mental health which will allow the applicant to practice safely as an advanced practice registered nurse;

(d) hold a current registered nurse license in good standing issued by the state or be qualified at the time for licensure as a registered nurse;

(e) (i) have earned a graduate degree in:

(A) an advanced practice registered nurse nursing education program; or

(B) a related area of specialized knowledge as determined appropriate by the division in collaboration with the board; or

(ii) have completed a nurse anesthesia program in accordance with Subsection (4)(f)(ii);

(f) have completed:

(i) course work in patient assessment, diagnosis and treatment, and pharmacotherapeutics from an education program approved by the division in collaboration with the board; or

(ii) a nurse anesthesia program which is approved by the Council on Accreditation of Nurse Anesthesia Educational Programs;

~~[(g) have successfully completed clinical practice in psychiatric and mental health nursing, including psychotherapy as defined by division rule, after completion of a doctorate or master's degree required for licensure, to practice within the psychiatric and mental health nursing specialty;]~~

(g) to practice within the psychiatric mental health nursing specialty, demonstrate, as described in division rule, that the applicant, after completion of a doctorate or master's degree required for licensure, is in the process of completing the applicant's clinical practice requirements in psychiatric mental health nursing, including in psychotherapy;

(h) have passed the examinations as required by division rule made in collaboration with the board;

(i) be currently certified by a program approved by the division in collaboration with the board and submit evidence satisfactory to the division of the certification; and

(j) meet with the board, if requested, to determine the applicant's qualifications for licensure.

(5) For each applicant for licensure or certification under this chapter:

(a) the applicant shall:

(i) submit fingerprint cards in a form acceptable to the division at the time the application is filed; and

(ii) consent to a fingerprint background check by the Utah Bureau of Criminal Identification and the Federal Bureau of Investigation regarding the application; and

(b) the division shall request the Department of Public Safety to complete a Federal Bureau of Investigation criminal background check through the national criminal history system (NCIC) or any successor system.

(6) For purposes of conducting the criminal background checks required in Subsection (5), the division shall have direct access to criminal background information maintained pursuant to Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

(7) (a) (i) Any new nurse license or certification issued under this section shall be conditional, pending completion of the criminal background check.

(ii) If the criminal background check discloses the applicant has failed to accurately disclose a criminal history, the license or certification shall be immediately and automatically revoked.

(b) (i) Any person whose conditional license or certification has been revoked under Subsection (7)(a) shall be entitled to a postrevocation hearing to challenge the revocation.

(ii) The hearing shall be conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(8) (a) If a person has been charged with a violent felony, as defined in Subsection 76-3-203.5(1)(c), and, as a result, the person has been convicted, entered a plea of guilty or nolo contendere, or entered a plea of guilty or nolo contendere held in abeyance pending the successful completion of probation:

(i) the person is disqualified for licensure under this chapter; and

(ii) (A) if the person is licensed under this chapter, the division:

(I) shall act upon the license as required under Section 58-1-401; and

(II) may not renew or subsequently issue a license to the person under this chapter; and

(B) if the person is not licensed under this chapter, the division may not issue a license to the person under this chapter.

(b) If a person has been charged with a felony other than a violent felony, as defined in Subsection 76-3-203.5(1)(c), and, as a result, the person has been convicted, entered a plea of guilty or nolo contendere, or entered a plea of guilty or nolo contendere held in abeyance pending the successful completion of probation:

(i) if the person is licensed under this chapter, the division shall determine whether the felony disqualifies the person for licensure under this chapter and act upon the license, as required, in accordance with Section 58-1-401; and

(ii) if the person is not licensed under this chapter, the person may not file an application for licensure under this chapter any sooner than five years after having completed the conditions of the sentence or plea agreement.

Section 2. Section 58-31b-305 is amended to read:

58-31b-305. Term of license -- Expiration -- Renewal.

(1) The division shall issue each license or certification under this chapter in accordance with a two-year renewal cycle established by rule. The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal cycles it administers.

~~[(2) At the time of renewal, the licensee or person certified under this chapter shall show satisfactory evidence of each of the following renewal requirements:]~~

(2) The division shall renew the license of a licensee who, at the time of renewal:

(a) ~~[complete and submit]~~ completes and submits an application for renewal in a form prescribed by the division ~~[and pay the renewal fee determined];~~

(b) pays a renewal fee established by the division under Section 63J-1-504; and

~~[(b)] (c) ~~[meet]~~ meets continuing competency requirements as established by rule^[5] ~~[which shall include continuing education requirements for medication aide certified established by the board and adopted by the division by rule].~~~~

(3) In addition to the renewal requirements under Subsection (2), a person licensed as a advanced practice registered nurse shall be currently certified by a program approved by the division in collaboration with the board and submit evidence satisfactory to the division of that qualification or if licensed prior to July 1, 1992, meet the requirements established by rule.

(4) In addition to the requirements described in Subsections (2) and (3), an advanced practice registered nurse licensee specializing in psychiatric mental health nursing who, as of the day on which the division originally issued the licensee's license had not completed the division's clinical practice requirements in psychiatric and mental health nursing, shall, to qualify for renewal:

(a) if renewing less than two years after the day on which the division originally issued the license, demonstrate satisfactory progress toward completing the clinical practice requirements; or

(b) have completed the clinical practice requirements.

~~[(4)] (5) Each license or certification automatically expires on the expiration date shown on the license or certification unless renewed in accordance with Section 58-1-308.~~

CHAPTER 317**H. B. 149**

Passed March 12, 2014

Approved April 1, 2014

Effective May 13, 2014

**AMENDMENTS TO FEDERAL LAW
ENFORCEMENT LIMITATIONS**Chief Sponsor: Michael E. Noel
Senate Sponsor: David P. Hinkins**LONG TITLE****General Description:**

This bill modifies the Public Safety Code regarding the authority of federal, state, and local law enforcement officers.

Highlighted Provisions:

This bill:

- ▶ defines the exercise of law enforcement authority, including on state land, private land, and federal land;
- ▶ defines federal employee for the purposes of this bill;
- ▶ defines proprietary jurisdiction of federally managed land;
- ▶ describes when state and local law enforcement officers may recognize a federal employee's exercise of law enforcement authority;
- ▶ describes the scope of law enforcement action as it relates to the federal Assimilative Crimes Act, and proprietary jurisdiction federally managed land;
- ▶ provides that state and local law enforcement officers may not recognize a federal employee's exercise of law enforcement authority when the exercise is based on a state or local law or ordinance;
- ▶ authorizes state and local law enforcement to assist a federal agency or employee under specified circumstances;
- ▶ addresses federal authority on federally managed land regarding violation of a state or local law in the case of an emergency;
- ▶ prohibits a federal agency's use of state or local law enforcement correctional or communication facilities without consent of the state or local law enforcement agency;
- ▶ provides procedures, requirements, and duration regarding entering into agreements with federal employees to exercise law enforcement powers regarding state and federal law;
- ▶ allows county sheriffs to enter into agreements with federal agencies requiring fair compensation for assisting the federal agency; and
- ▶ requires that county sheriffs regularly review the duties and activities of federal agencies that have law enforcement responsibilities and are acting within the jurisdictional area of a county.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

53-13-106.1, Utah Code Annotated 1953
53-13-106.2, Utah Code Annotated 1953
53-13-106.3, Utah Code Annotated 1953
53-13-106.4, Utah Code Annotated 1953
53-13-106.6, Utah Code Annotated 1953
53-13-106.7, Utah Code Annotated 1953
53-13-106.8, Utah Code Annotated 1953
53-13-106.9, Utah Code Annotated 1953
53-13-106.10, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-13-106.1 is enacted to read:**53-13-106.1. State and local law enforcement officers and federal employees -- Definitions.**

As used in this section and in Sections 53-13-106.2 through 53-13-106.10:

(1) "Exercise law enforcement authority" and "exercise of law enforcement authority" means:

(a) to take any action on private land, state-owned land, or federally managed land, to investigate, stop, serve process, search, arrest, cite, book, or incarcerate a person for a federal, state, or local criminal violation when the action is based on:

(i) a federal statute, regulation, or rule;

(ii) a state or local statute, ordinance, regulation, or rule; or

(iii) a state or local statute, ordinance, regulation, or rule that is being enforced by a federal agency pursuant to the Assimilative Crimes Act, 18 U.S.C. Sec. 13; or

(b) to gain access to or use the correctional or communication facilities and equipment of any state or local law enforcement agency.

(2) "Federal agency" means a federal agency that manages federally managed land or regulates activities on that land, including:

(a) the United States Bureau of Land Management;

(b) the United States Forest Service;

(c) the National Park Service;

(d) the United States Fish and Wildlife Service;

(e) the United States Bureau of Reclamation;

(f) the United States Environmental Protection Agency; and

(g) the United States Army Corps of Engineers.

(3) "Federal employee" means an employee or other agent of a federal agency, but does not include:

(a) a special agent of the Federal Bureau of Investigation;

(b) a special agent of the United States Secret Service;

(c) a special agent of the United States Department of Homeland Security, unless the

employee is a customs inspector or detention removal officer;

(d) a special agent of the Bureau of Alcohol, Tobacco, Firearms, and Explosives;

(e) a special agent of the United States Drug Enforcement Administration;

(f) a United States marshal, deputy marshal, or special deputy United States marshal; or

(g) a United States postal inspector of the United States Postal Inspection Service.

(4) "Federally managed land" means land managed by the following federal agencies:

(a) the United States Bureau of Land Management;

(b) the United States Forest Service;

(c) the National Park Service;

(d) the United States Fish and Wildlife Service; and

(e) the United States Bureau of Reclamation.

(5) "Proprietary jurisdiction federally managed land" means all federally managed land as defined in this section except:

(a) buildings, installations, and other structures under the exclusive jurisdiction of the Congress of the United States pursuant to the United States Constitution, Article I, Section 8, Clause 17; and

(b) parcels that constitute federal enclaves subject to the concurrent jurisdiction of the United States and the state of Utah.

Section 2. Section 53-13-106.2 is enacted to read:

53-13-106.2. State and local law enforcement officers and federal employees -- Exercise of federal law enforcement authority when based on a federal enactment.

Subject to Sections 53-13-106.6 and 53-13-106.7, and Subsection 53-13-106.9(1):

(1) State and local law enforcement officers may recognize a federal employee's exercise of law enforcement authority, either on or off federally managed land, when the exercise is consistent with the Constitution of the United States and based on:

(a) a federal statute other than the Assimilative Crimes Act, 18 U.S.C. Sec. 13; or

(b) a federal regulation that is authorized by a federal statute other than the Assimilative Crimes Act, 18 U.S.C. Sec. 13.

(2) Notwithstanding Subsection 53-13-106.2(1), state and local law enforcement officers may recognize a federal employee's exercise of law enforcement authority, on federally managed land other than proprietary jurisdiction federally managed land, when the exercise is consistent with the Constitution of the United States and based on:

(a) a federal statute, including the Assimilative Crimes Act, 18 U.S.C. Sec. 13; or

(b) a federal regulation that is authorized by a federal statute including the Assimilative Crimes Act, 18 U.S.C. Sec. 13.

Section 3. Section 53-13-106.3 is enacted to read:

53-13-106.3. State and local law enforcement officers and federal employees -- Exercise of federal law enforcement authority when based on a state or local enactment.

Subject to Section 53-13-106.7 and Subsection 53-13-106.9(1), state and local law enforcement officers are not authorized to recognize a federal employee's exercise of law enforcement authority, either on or off federally managed land, when the exercise is based on a state or local statute, ordinance, regulation, or rule.

Section 4. Section 53-13-106.4 is enacted to read:

53-13-106.4. State and county sheriff law enforcement officers and federal employees -- Enforcement of federal laws and regulations by state and county sheriff officers.

A state law enforcement agency or a county sheriff may assist a federal agency or federal employee to enforce federal statutes and regulations on lands managed pursuant to 43 U.S.C. Secs. 1701-1736 and Secs. 1737-1782, Federal Land Policy Management Act, after the state law enforcement agency or a county sheriff has entered into an agreement authorized by Subsection 53-13-106.9(3).

Section 5. Section 53-13-106.6 is enacted to read:

53-13-106.6. State and local law enforcement officers and federal employees -- Exercise of federal law enforcement authority to enforce the Federal Land Policy Management Act.

Notwithstanding Section 53-13-106.2, state and local law enforcement officers are authorized to recognize a federal employee's exercise of law enforcement authority to enforce the provisions of the Federal Land Policy Management Act on proprietary jurisdiction federally managed land, only if the exercise is consistent with the Constitution of the United States and based on:

(1) a federal statute other than the Assimilative Crimes Act, 18 U.S.C. Sec. 13; or

(2) a federal regulation that is:

(a) authorized by a federal statute other than the Assimilative Crimes Act, 18 U.S.C. Sec. 13; and

(b) necessary to implement the provisions of the Federal Land Policy Management Act with respect to the management, use, and protection of the public lands, including the property located on those lands, as provided in 43 U.S.C. Sec. 1733(a).

Section 6. Section 53-13-106.7 is enacted to read:

53-13-106.7. State and local law enforcement officers and federal employees -- Exercise of federal law enforcement authority based on state law during emergency.

Notwithstanding Section 53-13-106.3, state and local law enforcement officers are authorized to recognize a federal employee's limited exercise of law enforcement authority on federally managed land in cases of a violation of a state or local statute, ordinance, regulation, or rule when:

(1) the offense is an emergency and poses an immediate risk of bodily injury or damage to property;

(2) a state, county, or municipal law enforcement officer is not reasonably available to take action;

(3) the action is within the scope of the employee's or official's law enforcement power; and

(4) the federal employee turns the matter, as well as the custody of any detained citizen, over to the state, county, or municipal law enforcement officer for further action as soon as the officer becomes available.

Section 7. Section 53-13-106.8 is enacted to read:

53-13-106.8. State and local law enforcement officers and federal employees -- Use of correctional and communication facilities.

State and local government agencies may not allow any federal agency access to or use of the correctional and communication facilities and equipment of any state or local law enforcement agency without the express written consent of the appropriate responsible official of the state or local law enforcement agency.

Section 8. Section 53-13-106.9 is enacted to read:

53-13-106.9. State and county sheriff law enforcement officers and federal employees -- Interagency agreements.

Notwithstanding Section 53-13-106.3:

(1) County sheriffs may enter into agreements with federal agencies granting limited authority to specific federal employees to exercise law enforcement powers to enforce federal state and local laws, provided the agreements are limited to a term not to exceed two years and the officers granted authority have completed a 20-hour course focusing on Utah law and process approved by the director of the Peace Officer Standards and Training Division.

(2) State law enforcement agencies may, with the consent of the local county sheriff, enter into agreements as described in Subsection (1), provided that the agreements may not exceed a duration of two years.

(3) Local county sheriffs may enter into agreements with federal agencies requiring fair compensation for assisting a federal agency or federal employee to enforce federal statutes and regulations managed pursuant to 43 U.S.C. Secs. 1701-1736 and 43 U.S.C. Secs. 1737-1782, Federal Land Policy Management Act.

Section 9. Section 53-13-106.10 is enacted to read:

53-13-106.10. State and local law enforcement officers and federal employees -- Review by county sheriffs.

County sheriffs shall regularly review the duties and activities of federal agencies that have law enforcement responsibilities and that are acting within the jurisdictional area of the county to determine if the federal agencies are acting consistently with this section.

CHAPTER 318**H. B. 150**

Passed March 13, 2014

Approved April 1, 2014

Effective April 1, 2014

**SCIENCE, TECHNOLOGY, ENGINEERING,
AND MATHEMATICS AMENDMENTS**

Chief Sponsor: Val L. Peterson
Senate Sponsor: Stephen H. Urquhart
Cosponsors: Rebecca D. Lockhart

Brad L. Dee

Gregory H. Hughes

Don L. Ipson

Jacob L. Anderegg

Jerry B. Anderson

Johnny Anderson

Stewart Barlow

Jim Bird

Kay J. Christofferson

Jack R. Draxler

Susan Duckworth

Rebecca P. Edwards

Francis D. Gibson

Richard A. Greenwood

Keith Grover

Craig Hall

Stephen G. Handy

Michael S. Kennedy

Brian S. King

John Knotwell

Dana L. Layton

David E. Lifferth

John G. Mathis

Kay L. McIff

Jim Nielson

Michael E. Noel

Curtis Oda

Lee B. Perry

Dixon M. Pitcher

Kraig Powell

Edward H. Redd

Angela Romero

Douglas V. Sagers

V. Lowry Snow

Robert M. Spendlove

Keven J. Stratton

Earl D. Tanner

John R. Westwood

Mark A. Wheatley

Larry B. Wiley

Brad R. Wilson

LONG TITLE**General Description:**

This bill amends and enacts provisions relating to the Science, Technology, Engineering, and Mathematics Action Center.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ adds members to the STEM Action Center Board;
- ▶ allows the STEM Action Center Board to create a foundation;

- ▶ specifies that the STEM Action Center shall support high quality professional development for educators related to STEM education in kindergarten through grade 12;
- ▶ allows the STEM Action Center to further STEM education with nontechnological means;
- ▶ expands the scope of the STEM education related technology program to more students;
- ▶ creates the STEM education endorsements and incentive program, and requires the State Board of Education to make rules regarding the endorsements;
- ▶ requires the STEM Action Center to select technology providers to create a certain professional development application;
- ▶ requires the STEM Action Center to create in-person STEM education high quality professional development;
- ▶ creates the STEM education middle school applied science initiative;
- ▶ creates the high school STEM education initiative; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2015:

- ▶ to the Governor's Office of Economic Development - STEM Action Center, as an ongoing appropriation:
 - from the General Fund, \$5,000,000; and
- ▶ to the Governor's Office of Economic Development - STEM Action Center, as a one-time appropriation:
 - from the General Fund, \$15,000,000.

Other Special Clauses:

This bill provides an effective date.

Utah Code Sections Affected:**AMENDS:**

- 63M-1-3201, as enacted by Laws of Utah 2013, Chapter 336
- 63M-1-3202, as enacted by Laws of Utah 2013, Chapter 336
- 63M-1-3203, as enacted by Laws of Utah 2013, Chapter 336
- 63M-1-3204, as enacted by Laws of Utah 2013, Chapter 336
- 63M-1-3205, as enacted by Laws of Utah 2013, Chapter 336
- 63M-1-3207, as enacted by Laws of Utah 2013, Chapter 336

ENACTS:

- 63M-1-3208, Utah Code Annotated 1953
- 63M-1-3209, Utah Code Annotated 1953
- 63M-1-3210, Utah Code Annotated 1953
- 63M-1-3211, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63M-1-3201 is amended to read:**63M-1-3201. Definitions.**

As used in this part:

- (1) "Board" means the STEM Action Center Board created in Section 63M-1-3202.
- (2) "Educator" has the meaning defined in Section 53A-6-103.

(3) “High quality professional development” means professional development that meets high quality standards developed by the State Board of Education.

[43] (4) “Office” means the Governor’s Office of Economic Development.

[44] (5) “Provider” means a provider, selected by staff of the board and staff of the Utah State Board of Education, on behalf of the board:

- (a) through a request for proposals process; or
- (b) through a direct award or sole source procurement process for a pilot described in Section 63M-1-3205.

[45] (6) “STEM” means science, technology, engineering, and mathematics.

[46] (7) “STEM Action Center” means the center described in Section 63M-1-3204.

Section 2. Section 63M-1-3202 is amended to read:

63M-1-3202. STEM Action Center Board creation -- Membership.

(1) There is created the STEM Action Center Board within the office, composed of the following members:

- (a) ~~[five]~~ six private sector members who represent business, appointed by the governor;
- (b) the state superintendent of public instruction or the state superintendent of public instruction’s designee;
- (c) the commissioner of higher education or the commissioner of higher education’s designee;
- (d) one member appointed by the governor;
- (e) a member of the State Board of Education, chosen by the chair of the State Board of Education;
- (f) the executive director of the Governor’s Office of Economic Development or the executive director of the Governor’s Office of Economic Development’s designee; ~~and~~

(g) the president of the Utah College of Applied Technology or the president of the Utah College of Applied Technology’s designee~~[-];~~ and

(h) one member who has a degree in engineering and experience working in a government military installation, appointed by the governor.

(2) (a) The private sector members appointed by the governor in Subsection (1)(a) shall represent a business or trade association whose primary focus is science, technology, or engineering.

(b) Except as required by Subsection (2)(c), members appointed by the governor shall be appointed to four-year terms.

(c) The length of terms of the members shall be staggered so that approximately half of the committee is appointed every two years.

(d) The members may not serve more than two full consecutive terms except where the governor determines that an additional term is in the best interest of the state.

(e) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(3) Attendance of a simple majority of the members constitutes a quorum for the transaction of official committee business.

(4) Formal action by the committee requires a majority vote of a quorum.

(5) A member may not receive compensation or benefits for the member’s service, but may receive per diem and travel expenses in accordance with:

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(6) The governor shall select the chair of the board to serve a one-year term.

(7) The executive director of the Governor’s Office of Economic Development or the executive director of the Governor’s Office of Economic Development’s designee shall serve as the vice chair of the board.

~~[(8) The state science advisor described in Section 63M-1-606 and the office shall provide staff support to the board.]~~

Section 3. Section 63M-1-3203 is amended to read:

63M-1-3203. STEM Action Center Board -- Duties.

(1) The board shall:

(a) establish a STEM Action Center program to:

- (i) coordinate STEM activities in the state among the following stakeholders:

- (A) the State Board of Education;
- (B) school districts and charter schools;
- (C) the State Board of Regents;
- (D) institutions of higher education;
- (E) parents of home-schooled students; and
- (F) other state agencies;

(ii) align public education STEM activities with higher education STEM activities; and

(iii) create and coordinate best practices among public education and higher education;

(b) with the consent of the Senate, appoint an executive director to oversee the administration of the STEM Action Center;

(c) select a physical location for the STEM Action Center;

(d) strategically engage industry and business entities to cooperate with the board;

(i) to support high quality professional development and provide other assistance for educators and students; and

(ii) to provide private funding and support for the STEM Action Center;

(e) give direction to the STEM Action Center and the providers selected through a request for proposals process pursuant to this part; and

(f) work to meet the following expectations:

(i) that at least 50 educators are implementing best practice learning tools in classrooms per each product specialist or manager working with the STEM Action Center;

(ii) performance change in student achievement in each classroom working with a STEM Action Center product specialist or manager; and

(iii) that students from at least 50 high schools participate in the STEM competitions, fairs, and camps described in Subsection 63M-1-3204(2)(d).

(2) The board may:

(a) enter into contracts for the purposes of this part;

(b) apply for, receive, and disburse funds, contributions, or grants from any source for the purposes set forth in this part;

(c) employ, compensate, and prescribe the duties and powers of individuals necessary to execute the duties and powers of the board;

(d) prescribe the duties and powers of the STEM Action Center providers; and

(e) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to administer this part.

(3) The board may establish a foundation to assist in:

(a) the development and implementation of the programs authorized under this part to promote STEM education; and

(b) implementation of other STEM education objectives described in this part.

(4) A foundation established by the board under Subsection (3):

(a) may solicit and receive contributions from a private organization for STEM education objectives described in this part;

(b) shall comply with Title 51, Chapter 7, State Money Management Act;

(c) does not have power or authority to incur contractual obligations or liabilities that constitute a claim against public funds;

(d) may not exercise executive or administrative authority over the programs or other activities described in this part, except to the extent specifically authorized by the board;

(e) shall provide the board with information detailing transactions and balances of funds managed for the board; and

(f) may not:

(i) engage in lobbying activities;

(ii) attempt to influence legislation; or

(iii) participate in any campaign activity for or against:

(A) a political candidate; or

(B) an initiative, referendum, proposed constitutional amendment, bond, or any other ballot proposition submitted to the voters.

(5) Money donated to a foundation established under Subsection (3) may be accounted for in an expendable special revenue fund.

Section 4. Section 63M-1-3204 is amended to read:

63M-1-3204. STEM Action Center.

(1) As funding allows, the board shall:

(a) establish a STEM Action Center;

(b) ensure that the STEM Action Center:

(i) is accessible by the public; and

(ii) includes the components described in Subsection (2);

(c) work cooperatively with the State Board of Education to ~~acquire technology and select schools~~;

(i) further STEM education; and

(ii) ensure best practices are implemented as described in Sections 63M-1-3205 and 63M-1-3206; and

(d) engage private entities to provide financial support or employee time for STEM activities in schools in addition to what is currently provided by private entities.

(2) As funding allows, the executive director of the STEM Action Center shall:

(a) support high quality professional development for educators regarding ~~education related instructional technology that supports~~ STEM education;

(b) ensure that the STEM Action Center acts as a research and development center for STEM education ~~related instructional technology acquired~~ through a request for proposals process described in Section 63M-1-3205;

(c) review and acquire STEM education related ~~technology~~ materials and products for:

(i) ~~educator~~ high quality professional development;

(ii) assessment, data collection, analysis, and reporting; and

(iii) public school instruction;

(d) facilitate participation in interscholastic STEM related competitions, fairs, ~~and~~ camps, and STEM education activities;

(e) engage private industry in the development and maintenance of the STEM Action Center and STEM Action Center projects;

(f) use resources to bring the latest STEM education learning tools into public education classrooms;

(g) identify at least 10 best practice innovations used in Utah ~~schools~~ that have resulted in at least 80% of students performing at grade level in STEM areas;

(h) identify best practices being used outside the state and, as appropriate, develop and implement selected practices through a pilot program;

(i) identify:

(i) ~~three~~ learning tools for kindergarten through grade 6 identified as best practices; and

(ii) ~~three~~ learning tools ~~per STEM subject~~ for grades 7 through 12 identified as best practices;

(j) provide a Utah best practices database, including best practices from public education, higher education, the Utah Education Network, and other STEM related entities;

(k) keep track of the following items related to the best practices database described in Subsection (2)(j):

(i) how the best practices database is being used; and

(ii) how many individuals are using the database, including the demographics of the users, if available;

(l) as appropriate, join and participate in a national STEM network;

(m) identify performance changes linked to use of the best practices database described in Subsection (2)(j);

(n) work cooperatively with the State Board of Education to designate schools as STEM schools, where the schools have agreed to adopt a plan of STEM implementation in alignment with criteria set by the State Board of Education and the board;

(o) support best methods of high quality professional development[;] for STEM education in kindergarten through grade 12, including methods of high quality professional development that reduce cost and increase effectiveness, to help educators learn how to most effectively implement best practice learning tools in classrooms;

(p) recognize a high school's achievement in the STEM competitions, fairs, and camps described in Subsection (2)(d);

(q) send student results from STEM competitions, fairs, and camps described in

Subsection (2)(d) to media and ask the media to report on them;

(r) develop and distribute STEM ~~toolkits~~ information to parents of students being served by the STEM Action Center;

(s) support targeted high quality professional development for improved instruction in STEM ~~in~~ grades 6, 7, and 8 education, including:

(i) improved instructional materials that are dynamic and engaging for students;

~~[(ii) targeted instruction for students who traditionally avoid enrolling in STEM courses;]~~

~~[(iii) introduction of engaging engineering courses; and]~~

(ii) use of applied instruction; and

~~[(iv)]~~ (iii) introduction of other research-based methods that support student achievement in STEM areas; and

(t) ensure that an online college readiness assessment tool be accessible by:

(i) public education students; and

(ii) higher education students.

(3) The board may prescribe other duties for the STEM Action Center in addition to the responsibilities described in this section.

(4) (a) The executive director shall track and compare the student performance of students participating in a STEM Action Center program to all other similarly situated students in the state, in the following STEM related activities, at the beginning and end of each year:

(i) public education high school graduation rates;

(ii) the number of students taking a remedial mathematics course at an institution of higher education described in Section 53B-2-101;

(iii) the number of students who graduate from a Utah public school and begin a postsecondary education program; and

(iv) the number of students, as compared to all similarly situated students, who are performing at grade level in STEM classes.

(b) The State Board of Education and the State Board of Regents shall provide information to the board to assist the board in complying with the requirements of Subsection (4)(a) if allowed under federal law.

Section 5. Section 63M-1-3205 is amended to read:

63M-1-3205. Acquisition of STEM education related instructional technology program -- Research and development of education related instructional technology through a pilot program.

(1) For purposes of this section:

(a) "Pilot" means a pilot of the program.

(b) "Program" means the STEM education related instructional technology program created in Subsection (2).

(2) (a) There is created the STEM education related instructional technology program to provide public schools the STEM education related instructional technology described in Subsection (3).

(b) On behalf of the board, the staff of the board and the staff of the State Board of Education shall collaborate and may select one or more providers, through a request for proposals process, to provide STEM education related instructional technology to school districts and charter schools.

(c) On behalf of the board, the staff of the board and the staff of the State Board of Education shall consider and may accept an offer from a provider in response to the request for proposals described in Subsection (2)(b) even if the provider did not participate in a pilot described in Subsection (5).

(3) The STEM education related instructional technology shall:

(a) support mathematics instruction for students in grade 6, 7, or 8; or:

(i) kindergarten through grade 6; or

(ii) grades 7 and 8; or

(b) support mathematics instruction for secondary students to prepare the secondary students for college mathematics courses.

(4) In selecting a provider for STEM education related instructional technology to support mathematics instruction for the students in grade 6, 7, or 8 as described in Subsection (3)(a), the board shall consider the following criteria:

(a) the technology contains individualized instructional support for skills and understanding of the core standards in mathematics;

(b) the technology is self-adapting to respond to the needs and progress of the learner; and

(c) the technology provides opportunities for frequent, quick, and informal assessments and includes an embedded progress monitoring tool and mechanisms for regular feedback to students and teachers.

(5) Before issuing a request for proposals described in Subsection (2), on behalf of the board, the staff of the board and the staff of the State Board of Education shall collaborate and may:

(a) conduct a pilot of the program to test and select providers for the program;

(b) select at least two providers through a direct award or sole source procurement process for the purpose of conducting the pilot; and

(c) select schools to participate in the pilot.

(6) (a) A contract with a provider for STEM education related instructional technology may

include professional development for full deployment of the STEM education related instructional technology.

(b) No more than 10% of the money appropriated for the program may be used to provide professional development related to STEM education related instructional technology in addition to the professional development described in Subsection (6)(a).

Section 6. Section 63M-1-3207 is amended to read:

63M-1-3207. Report to Legislature and the State Board of Education.

(1) The board shall report the progress of the STEM Action Center, including the information described in Subsection (2), to the following groups once each year:

(a) the Education Interim Committee;

(b) the Public Education Appropriations Subcommittee; and

(c) the State Board of Education.

(2) The report described in Subsection (1) shall include information that demonstrates the effectiveness of the program, including:

(a) the number of educators receiving high quality professional development;

(b) the number of students receiving services from the STEM Action Center;

(c) a list of the providers selected pursuant to this part;

(d) a report on the STEM Action Center's fulfillment of its duties described in Subsection 63M-1-3204; and

(e) student performance of students participating in a STEM Action Center program as collected in Subsection 63M-1-3204(4).

Section 7. Section 63M-1-3208 is enacted to read:

63M-1-3208. STEM education endorsements and incentive program.

(1) The State Board of Education shall collaborate with the STEM Action Center to:

(a) develop STEM education endorsements; and

(b) create and implement financial incentives for:

(i) an educator to earn an elementary or secondary STEM education endorsement described in Subsection (1)(a); and

(ii) a school district or a charter school to have STEM endorsed educators on staff.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules to establish how a STEM education endorsement incentive described in Subsection (1)(a) will be valued on a salary scale for educators.

Section 8. Section 63M-1-3209 is enacted to read:

63M-1-3209. Acquisition of STEM education high quality professional development.

(1) The STEM Action Center shall, through a request for proposals process, select technology providers for the purpose of providing a STEM education high quality professional development application.

(2) The high quality professional development application described in Subsection (1) shall:

(a) allow the State Board of Education, a school district, or a school to define the application's input and track results of the high quality professional development;

(b) allow educators to access automatic tools, resources, and strategies;

(c) allow educators to work in online learning communities, including giving and receiving feedback via uploaded video;

(d) track and report data on the usage of the components of the application's system and the relationship to improvement in classroom instruction;

(e) include video examples of highly effective STEM education teaching that:

(i) cover a cross section of grade levels and subjects;

(ii) under the direction of the State Board of Education, include videos of highly effective Utah STEM educators; and

(iii) contain tools to help educators implement what they have learned; and

(f) allow for additional STEM education video content to be added.

(3) In addition to the high quality professional development application described in Subsections (1) and (2), the STEM Action Center may create STEM education hybrid or blended high quality professional development that allows for face-to-face applied learning.

Section 9. Section 63M-1-3210 is enacted to read:

63M-1-3210. STEM education middle school applied science initiative.

(1) The STEM Action Center shall develop an applied science initiative for students in grades 7 and 8 that includes:

(a) a STEM applied science curriculum with instructional materials;

(b) STEM hybrid or blended high quality professional development that allows for face-to-face applied learning; and

(c) hands-on tools for STEM applied science learning.

(2) The STEM Action Center may, through a request for proposals process, select a consultant to assist in developing the initiative described in Subsection (1).

Section 10. Section 63M-1-3211 is enacted to read:

63M-1-3211. High school STEM education initiative.

(1) Subject to legislative appropriations, after consulting with State Board of Education staff, the STEM Action Center shall award grants to school districts and charter schools to fund STEM related certification for high school students.

(2) (a) A school district or charter school may apply for a grant from the STEM Action Center, through a competitive process, to fund the school district's or charter school's STEM related certification training program.

(b) A school district's or charter school's STEM related certification training program shall:

(i) prepare high school students to be job ready for available STEM related positions of employment; and

(ii) when a student completes the program, result in the student gaining a nationally industry-recognized employer STEM related certification.

(3) A school district or charter school may partner with one or more of the following to provide a STEM related certification program:

(a) a Utah College of Applied Technology college campus;

(b) Salt Lake Community College;

(c) Snow College; or

(d) a private sector employer.

Section 11. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2014, and ending June 30, 2015, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2015.

To Governor's Office of Economic Development - STEM Action Center

From General Fund \$5,000,000

From General Fund, One-time \$15,000,000

Schedule of Programs:

STEM Action Center \$20,000,000

The Legislature intends that:

(1) up to \$5,000,000 of the appropriation for the STEM Action Center program be used for STEM education related instructional technology and related professional development to support

mathematics instruction as described in Subsection 63M-1-3205(3)(a)(i) and Section 63M-1-3206, and related assessment, data collection, analysis, and reporting;

(2) up to \$1,500,000 of the appropriation for the STEM Action Center program be used for developing the STEM education endorsements and related incentive program described in Section 63M-1-3208;

(3) up to \$5,000,000 of the appropriation for the STEM Action Center program be used for providing a STEM education high quality professional development application as described in Section 63M-1-3209;

(4) up to \$3,500,000 of the appropriation for the STEM Action Center program be used to fund the STEM education middle school applied science initiative described in Section 63M-1-3210;

(5) up to \$5,000,000 of the appropriation for the STEM Action Center program be used to fund the high school STEM education initiative described in Section 63M-1-3211;

(6) the appropriations described in Subsections (1), (2), (4), and (5):

(a) are one-time; and

(b) not lapse at the close of fiscal year 2015; and

(7) the appropriation described in Subsection (3):

(a) is ongoing; and

(b) not lapse at the close of fiscal year 2015.

Section 12. Effective date.

(1) Except as provided in Subsection (2), if approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(2) Uncodified Section 11, Appropriation, takes effect on July 1, 2014.

CHAPTER 319**H. B. 151**

Passed March 12, 2014

Approved April 1, 2014

Effective May 13, 2014

(Exception clause in Section 5)

**COMMISSION FOR THE
STEWARDSHIP OF PUBLIC LANDS**

Chief Sponsor: Keven J. Stratton

Senate Sponsor: David P. Hinkins

Cosponsors: Rebecca D. Lockhart

Brad L. Dee

Gregory H. Hughes

Don L. Ipson

Jacob L. Anderegg

Jerry B. Anderson

Roger E. Barrus

Melvin R. Brown

Kay J. Christofferson

Jack R. Draxler

Francis D. Gibson

Brian M. Greene

Keith Grover

Stephen G. Handy

Eric K. Hutchings

Ken Ivory

John Knotwell

Dana L. Layton

David E. Lifferth

John G. Mathis

Mike K. McKell

Jim Nielson

Michael E. Noel

Curtis Oda

Lee B. Perry

Val L. Peterson

Dixon M. Pitcher

Kraig Powell

Marc K. Roberts

Douglas V. Sagers

V. Lowry Snow

Robert M. Spendlove

Jon E. Stanard

John R. Westwood

Brad R. Wilson

LONG TITLE**General Description:**

This bill creates the Commission for the Stewardship of Public Lands.

Highlighted Provisions:

This bill:

- ▶ creates the Commission for the Stewardship of Public Lands;
- ▶ designates the duties of the commission; and
- ▶ requires the Public Lands Policy Coordinating Office to periodically report to the commission.

Monies Appropriated in this Bill:

This bill appropriates:

- ▶ to the Senate, as an ongoing appropriation:
 - from the General Fund \$9,000 to pay for the commission; and
- ▶ to the House of Representatives, as an ongoing appropriation:

- from the General Fund \$16,000 to pay for the commission.

Other Special Clauses:

This bill provides a repeal date for the commission.

Utah Code Sections Affected:**AMENDS:**

63J-4-606, as last amended by Laws of Utah 2013, Chapter 337

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63J-4-606 is amended to read:**63J-4-606. Public lands transfer study and economic analysis -- Report.**

(1) As used in this section:

(a) "Public lands" is as defined in Section 63L-6-102.

(b) "Transfer of public lands" means the transfer of public lands from federal ownership to state ownership.

(2) (a) The coordinator and the office shall:

(i) conduct a study and economic analysis of the ramifications and economic impacts of the transfer of public lands; ~~and~~

(ii) during the study and economic analysis, consult with county representatives on an ongoing basis regarding how to consider and incorporate county land use plans and planning processes into the analysis~~[-];~~ and

(iii) on an ongoing basis, report on the progress and findings of the study to the Commission for the Stewardship of Public Lands.

(b) The study and economic analysis shall:

(i) inventory public lands;

(ii) examine public lands':

(A) ownership;

(B) management;

(C) jurisdiction;

(D) resource characteristics;

(E) federal management requirements related to national forests, national recreation areas, or other public lands administered by the United States; and

(F) current and potential future uses and ways that socioeconomic conditions are influenced by those uses;

(iii) determine:

(A) public lands' ongoing and deferred maintenance costs, revenue production, and funding sources;

(B) whether historical federal funding levels have been sufficient to manage, maintain, preserve, and

restore public lands and whether that funding level is likely to continue;

(C) the amount of public lands revenue paid to state, county, and local governments and other recipients designated by law from payments in lieu of taxes, timber receipts, secure rural school receipts, severance taxes, and mineral lease royalties;

(D) historical trends of the revenue sources listed in Subsection (2)(b)(iii)(C);

(E) ways that the payments listed in Subsection (2)(b)(iii)(C) can be maintained or replaced following the transfer of public lands; and

(F) ways that, following the transfer of public lands, revenue from public lands can be increased while mitigating environmental impact;

(iv) identify:

(A) existing oil and gas, mining, grazing, hunting, fishing, recreation, and other rights and interests on public lands;

(B) the economic impact of those rights and interests on state, county, and local economies;

(C) actions necessary to secure, preserve, and protect those rights and interests; and

(D) how those rights and interests may be affected in the event the federal government does not complete the transfer of public lands;

(v) evaluate the impact of federal land ownership on:

(A) the Utah School and Institutional Trust Lands Administration's ability to administer trust lands for the benefit of Utah schoolchildren;

(B) the state's ability to fund education; and

(C) state and local government tax bases;

(vi) identify a process for the state to:

(A) transfer and receive title to public lands from the United States;

(B) utilize state agencies with jurisdiction over land, natural resources, environmental quality, and water to facilitate the transfer of public lands;

(C) create a permanent state framework to oversee the transfer of public lands;

(D) transition to state ownership and management of public lands using existing state and local government resources; and

(E) indemnify political subdivisions of the state for actions taken in connection with the transfer of public lands;

(vii) examine ways that multiple use of public lands through tourism and outdoor recreation contributes to:

(A) the economic growth of state and local economies; and

(B) the quality of life of Utah citizens;

(viii) using theoretical modeling of various levels of land transfer, usage, and development, evaluate the potential economic impact of the transfer of public lands on state, county, and local governments; and

(ix) recommend the optimal use of public lands following the transfer of public lands.

(3) The coordinator and office shall:

(a) on an ongoing basis, discuss issues related to the transfer of public lands with:

(i) the School and Institutional Trust Lands Administration;

(ii) local governments;

(iii) water managers;

(iv) environmental advocates;

(v) outdoor recreation advocates;

(vi) nonconventional and renewable energy producers;

(vii) tourism representatives;

(viii) wilderness advocates;

(ix) ranchers and agriculture advocates;

(x) oil, gas, and mining producers;

(xi) fishing, hunting, and other wildlife interests;

(xii) timber producers; ~~and~~

(xiii) other interested parties; and

(xiv) the Commission for the Stewardship of Public Lands; and

(b) develop ways to obtain input from Utah citizens regarding the transfer of public lands and the future care and use of public lands.

(4) The coordinator may contract with another state agency or private entity to assist the coordinator and office with the study and economic analysis required by Subsection (2)(a).

(5) The coordinator shall submit a final report on the study and economic analysis described in Subsection (2)(a), including proposed legislation and recommendations, to the governor ~~and~~, the Natural Resources, Agriculture, and Environment Interim Committee, and the Commission for the Stewardship of Public Lands before November 30, 2014.

Section 2. Commission for the Stewardship of Public Lands -- Creation -- Membership -- Interim rules followed -- Compensation -- Staff.

(1) There is created the Commission for the Stewardship of Public Lands consisting of the following eight members:

(a) three members of the Senate appointed by the president of the Senate, no more than two of whom may be from the same political party; and

(b) five members of the House of Representatives appointed by the speaker of the House of Representatives, no more than four of whom may be from the same political party.

(2) (a) The president of the Senate shall designate a member of the Senate appointed under Subsection (1)(a) as a cochair of the commission.

(b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (1)(b) as a cochair of the commission.

(3) In conducting its business, the commission shall comply with the rules of legislative interim committees.

(4) Salaries and expenses of the members of the commission shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(5) The Office of Legislative Research and General Counsel shall provide staff support to the commission.

Section 3. Duties -- Interim report.

(1) The commission shall:

(a) convene at least eight times each year;

(b) review and make recommendations on the transfer of federally controlled public lands to the state in accordance with Section 63L-6-102;

(c) review and make recommendations regarding the state's sovereign right to protect the health, safety, and welfare of its citizens as it relates to public lands;

(d) study and evaluate the progress and recommendations of the public lands transfer study and economic analysis conducted by the Public Lands Policy Coordinating Office in accordance with Section 63J-4-606;

(e) coordinate with and report on the efforts of the executive branch, counties and political subdivisions of the state, the state congressional delegation, western governors, other states, and other stake holders concerning the transfer of federally controlled public lands to the state including convening working groups such as a working group composed of members of the Utah Association of Counties;

(f) study and make recommendations regarding the appropriate designation of public lands transferred to the state, including stewardship of the land and appropriate uses of the land;

(g) study and make recommendations regarding the use of funds received by the state from the public lands transferred to the state; and

(h) receive reports from and make recommendations to the attorney general and other stakeholders involved in litigation on behalf of the state's interest in the transfer of public lands to the state, regarding:

(i) preparation for potential litigation;

(ii) selection of outside legal counsel;

(iii) ongoing legal strategy for the transfer of public lands; and

(iv) use of money appropriated by the Legislature for the purpose of securing the transfer of public lands to the state.

(2) The commission shall prepare an annual report, including any proposed legislation, and present the report to the Natural Resources, Agriculture, and Environment Interim Committee before November 30, 2014, and every November 30 thereafter.

Section 4. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2014, and ending June 30, 2015, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2015

To Legislature - Senate

<u>From General Fund, ongoing</u>	<u>\$9,000</u>
-----------------------------------	----------------

Schedule of Programs

<u>Administration</u>	<u>\$6,000</u>
-----------------------	----------------

To Legislature - House of Representatives

<u>From General Fund, ongoing</u>	<u>\$16,000</u>
-----------------------------------	-----------------

Schedule of Programs:

<u>Administration</u>	<u>\$16,000</u>
-----------------------	-----------------

Section 5. Repeal date.

Uncodified Sections 2, 3, and 4, that create the Commission for the Stewardship of Public Lands, are repealed on November 30, 2019.

CHAPTER 320**H. B. 155**

Passed March 12, 2014

Approved April 1, 2014

Effective July 1, 2014

**UTAH COMMUNICATION AGENCY
NETWORK AND UTAH 911
COMMITTEE AMENDMENTS**Chief Sponsor: Brad L. Dee
Senate Sponsor: J. Stuart Adams**LONG TITLE****General Description:**

This bill merges the Utah Communications Agency Network, an independent state agency, and the Utah 911 Committee into an independent state agency named the Utah Communications Authority.

Highlighted Provisions:

This bill:

- ▶ renames the Utah Communications Agency Network the Utah Communications Authority (UCA);
- ▶ moves the statutory provisions for the Utah Communications Agency Network from Title 63C, State Commissions and Councils Code to Title 63H, Independent State Entities;
- ▶ amends definitions;
- ▶ amends the duties of UCA to include:
 - administering the program established for the computer aided dispatch system; and
 - coordination with the Utah 911 Committee;
- ▶ amends the membership of the UCA governing board and incorporates members of the Statewide Communications and Interoperability Committee into the governing board;
- ▶ creates the Office of the 911 Program Manager to provide staff and support to the Utah 911 Committee;
- ▶ moves Title 53, Chapter 10, Part 6, Coordination of Statewide 911 Emergency Communications, into Title 63H, Chapter 7, Utah Communications Authority Act;
- ▶ amends membership of the Utah 911 committee;
- ▶ amends the duties of the Utah 911 committee;
- ▶ creates the Radio Network Division in UCA to provide technical staff and support to UCA;
- ▶ creates the Office of Statewide Interoperability Coordinator in UCA and establishes its duties;
- ▶ establishes the Computer Aided Dispatch Restricted Account within the General Fund administered by the Division of Finance;
- ▶ modifies the distribution of revenue collected from the wireless 911 charges;
- ▶ provides transition language that instructs the Division of Finance, the Department of Technology Services, the Division of Facilities and Construction Management, and the Department of Human Resource Management regarding the transfer of employees, benefits, property, equipment, and assets into UCA; and
- ▶ makes technical amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an effective date.

Utah Code Sections Affected:**AMENDS:**

- 26-8b-102, as last amended by Laws of Utah 2013, Chapters 98 and 99
- 59-1-403, as last amended by Laws of Utah 2013, Chapter 310
- 63A-4-205.5, as enacted by Laws of Utah 1997, Chapter 136
- 63E-1-102, as last amended by Laws of Utah 2013, Chapter 220
- 63G-2-305, as last amended by Laws of Utah 2013, Chapters 12, 445, and 447
- 63I-1-269, as last amended by Laws of Utah 2011, Chapter 199
- 63I-4a-102, as renumbered and amended by Laws of Utah 2013, Chapter 325
- 63J-1-201, as last amended by Laws of Utah 2013, Chapters 158, 167, and 413
- 63J-7-102, as last amended by Laws of Utah 2013, Chapters 28 and 295
- 69-2-2, as last amended by Laws of Utah 2012, Chapter 369
- 69-2-3, as enacted by Laws of Utah 1986, Chapter 33
- 69-2-4, as last amended by Laws of Utah 2008, Chapter 360
- 69-2-5, as last amended by Laws of Utah 2012, Chapter 326
- 69-2-5.5, as last amended by Laws of Utah 2012, Chapter 326
- 69-2-5.6, as last amended by Laws of Utah 2012, Chapter 326
- 69-2-5.7, as last amended by Laws of Utah 2012, Chapter 326

ENACTS:

- 63H-7-301, Utah Code Annotated 1953
- 63H-7-308, Utah Code Annotated 1953
- 63H-7-309, Utah Code Annotated 1953
- 63H-7-310, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

- 63H-7-101, (Renumbered from 63C-7-101, as enacted by Laws of Utah 1997, Chapter 136)
- 63H-7-102, (Renumbered from 63C-7-102, as last amended by Laws of Utah 2013, Chapter 197)
- 63H-7-103, (Renumbered from 63C-7-103, as last amended by Laws of Utah 2007, Chapter 329)
- 63H-7-201, (Renumbered from 63C-7-201, as enacted by Laws of Utah 1997, Chapter 136)
- 63H-7-202, (Renumbered from 63C-7-202, as last amended by Laws of Utah 2013, Chapter 197)
- 63H-7-203, (Renumbered from 63C-7-205, as last amended by Laws of Utah 2013, Chapter 197)
- 63H-7-204, (Renumbered from 63C-7-206, as enacted by Laws of Utah 1997, Chapter 136)
- 63H-7-205, (Renumbered from 63C-7-207, as enacted by Laws of Utah 1997, Chapter 136)

- 63H-7-302, (Renumbered from 53-10-601, as last amended by Laws of Utah 2008, Chapter 77)
- 63H-7-303, (Renumbered from 53-10-602, as last amended by Laws of Utah 2010, Chapters 278 and 307)
- 63H-7-304, (Renumbered from 53-10-603, as last amended by Laws of Utah 2010, Chapters 278 and 307)
- 63H-7-305, (Renumbered from 53-10-604, as last amended by Laws of Utah 2011, Chapter 309)
- 63H-7-306, (Renumbered from 53-10-605, as last amended by Laws of Utah 2010, Chapter 278)
- 63H-7-307, (Renumbered from 53-10-606, as last amended by Laws of Utah 2010, Chapters 278 and 323)
- 63H-7-401, (Renumbered from 63C-7-301, as enacted by Laws of Utah 1997, Chapter 136)
- 63H-7-402, (Renumbered from 63C-7-302, as enacted by Laws of Utah 1997, Chapter 136)
- 63H-7-403, (Renumbered from 63C-7-303, as enacted by Laws of Utah 1997, Chapter 136)
- 63H-7-404, (Renumbered from 63C-7-304, as enacted by Laws of Utah 1997, Chapter 136)
- 63H-7-405, (Renumbered from 63C-7-305, as enacted by Laws of Utah 1997, Chapter 136)
- 63H-7-406, (Renumbered from 63C-7-306, as last amended by Laws of Utah 2009, Chapter 388)
- 63H-7-501, (Renumbered from 63C-7-208, as enacted by Laws of Utah 1997, Chapter 136)
- 63H-7-502, (Renumbered from 63C-7-209, as enacted by Laws of Utah 1997, Chapter 136)
- 63H-7-503, (Renumbered from 63C-7-210, as last amended by Laws of Utah 2013, Chapter 220)
- 63H-7-504, (Renumbered from 63C-7-211, as last amended by Laws of Utah 1999, Chapter 21)

REPEALS:

- 63C-7-203, as enacted by Laws of Utah 1997, Chapter 136
- 63C-7-204, as last amended by Laws of Utah 2013, Chapter 197
- 63F-1-801, as enacted by Laws of Utah 2009, Chapter 195
- 63F-1-802, as enacted by Laws of Utah 2009, Chapter 195

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 26-8b-102 is amended to read:****26-8b-102. Definitions.**

As used in this chapter:

(1) "Account" means the Automatic External Defibrillator Restricted Account, created in Section 26-8b-602.

(2) "Automatic external defibrillator" or "AED" means an automated or automatic computerized medical device that:

(a) has received pre-market notification approval from the United States Food and Drug Administration, pursuant to Section 360(k), Title 21 of the United States Code;

(b) is capable of recognizing the presence or absence of ventricular fibrillation or rapid ventricular tachycardia;

(c) is capable of determining, without intervention by an operator, whether defibrillation should be performed; and

(d) upon determining that defibrillation should be performed, automatically charges, enabling delivery of, or automatically delivers, an electrical impulse through the chest wall and to a person's heart.

(3) "Bureau" means the Bureau of Emergency Medical Services, within the department.

(4) "Cardiopulmonary resuscitation" or "CPR" means artificial ventilation or external chest compression applied to a person who is unresponsive and not breathing.

(5) "Emergency medical dispatch center" means a public safety answering point, as defined in Section ~~[63C-7-103]~~ 63H-7-103, that is designated as an emergency medical dispatch center by the bureau.

(6) "Sudden cardiac arrest" means a life-threatening condition that results when a person's heart stops or fails to produce a pulse.

Section 2. Section 59-1-403 is amended to read:**59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.**

(1) (a) Any of the following may not divulge or make known in any manner any information gained by that person from any return filed with the commission:

(i) a tax commissioner;

(ii) an agent, clerk, or other officer or employee of the commission; or

(iii) a representative, agent, clerk, or other officer or employee of any county, city, or town.

(b) An official charged with the custody of a return filed with the commission is not required to produce the return or evidence of anything contained in the return in any action or proceeding in any court, except:

(i) in accordance with judicial order;

(ii) on behalf of the commission in any action or proceeding under:

(A) this title; or

(B) other law under which persons are required to file returns with the commission;

(iii) on behalf of the commission in any action or proceeding to which the commission is a party; or

(iv) on behalf of any party to any action or proceeding under this title if the report or facts shown by the return are directly involved in the action or proceeding.

(c) Notwithstanding Subsection (1)(b), a court may require the production of, and may admit in evidence, any portion of a return or of the facts shown by the return, as are specifically pertinent to the action or proceeding.

(2) This section does not prohibit:

(a) a person or that person's duly authorized representative from receiving a copy of any return or report filed in connection with that person's own tax;

(b) the publication of statistics as long as the statistics are classified to prevent the identification of particular reports or returns; and

(c) the inspection by the attorney general or other legal representative of the state of the report or return of any taxpayer:

(i) who brings action to set aside or review a tax based on the report or return;

(ii) against whom an action or proceeding is contemplated or has been instituted under this title; or

(iii) against whom the state has an unsatisfied money judgment.

(3) (a) Notwithstanding Subsection (1) and for purposes of administration, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for a reciprocal exchange of information with:

(i) the United States Internal Revenue Service; or

(ii) the revenue service of any other state.

(b) Notwithstanding Subsection (1) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and other written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, except as limited by Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal government grant substantially similar privileges to this state.

(c) Notwithstanding Subsection (1) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for the issuance of information concerning the identity and other information of taxpayers who have failed to file tax returns or to pay any tax due.

(d) Notwithstanding Subsection (1), the commission shall provide to the director of the Division of Solid and Hazardous Waste, as defined in Section 19-6-102, as requested by the director of the Division of Solid and Hazardous Waste, any records, returns, or other information filed with the commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5 regarding the environmental assurance program participation fee.

(e) Notwithstanding Subsection (1), at the request of any person the commission shall provide that person sales and purchase volume data reported to the commission on a report, return, or other information filed with the commission under:

(i) Chapter 13, Part 2, Motor Fuel; or

(ii) Chapter 13, Part 4, Aviation Fuel.

(f) Notwithstanding Subsection (1), upon request from a tobacco product manufacturer, as defined in Section 59-22-202, the commission shall report to the manufacturer:

(i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer and reported to the commission for the previous calendar year under Section 59-14-407; and

(ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer for which a tax refund was granted during the previous calendar year under Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

(g) Notwithstanding Subsection (1), the commission shall notify manufacturers, distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

(h) Notwithstanding Subsection (1), the commission may:

(i) provide to the Division of Consumer Protection within the Department of Commerce and the attorney general data:

(A) reported to the commission under Section 59-14-212; or

(B) related to a violation under Section 59-14-211; and

(ii) upon request, provide to any person data reported to the commission under Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

(i) Notwithstanding Subsection (1), the commission shall, at the request of a committee of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of Management and Budget, provide to the committee or office the total amount of revenues collected by the commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period specified by the committee or office.

(j) Notwithstanding Subsection (1), the commission shall make the directory required by Section 59-14-603 available for public inspection.

(k) Notwithstanding Subsection (1), the commission may share information with federal, state, or local agencies as provided in Subsection 59-14-606(3).

(l) (i) Notwithstanding Subsection (1), the commission shall provide the Office of Recovery Services within the Department of Human Services any relevant information obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer who has become obligated to the Office of Recovery Services.

(ii) The information described in Subsection (3)(l)(i) may be provided by the Office of Recovery Services to any other state's child support collection agency involved in enforcing that support obligation.

(m) (i) Notwithstanding Subsection (1), upon request from the state court administrator, the commission shall provide to the state court administrator, the name, address, telephone number, county of residence, and Social Security number on resident returns filed under Chapter 10, Individual Income Tax Act.

(ii) The state court administrator may use the information described in Subsection (3)(m)(i) only as a source list for the master jury list described in Section 78B-1-106.

(n) Notwithstanding Subsection (1), the commission shall at the request of a committee, commission, or task force of the Legislature provide to the committee, commission, or task force of the Legislature any information relating to a tax imposed under Chapter 9, Taxation of Admitted Insurers, relating to the study required by Section 59-9-101.

(o) (i) As used in this Subsection (3)(o), "office" means the:

(A) Office of the Legislative Fiscal Analyst; or

(B) Office of Legislative Research and General Counsel.

(ii) Notwithstanding Subsection (1) and except as provided in Subsection (3)(o)(iii), the commission shall at the request of an office provide to the office all information:

(A) gained by the commission; and

(B) required to be attached to or included in returns filed with the commission.

(iii) (A) An office may not request and the commission may not provide to an office a person's:

(I) address;

(II) name;

(III) Social Security number; or

(IV) taxpayer identification number.

(B) The commission shall in all instances protect the privacy of a person as required by Subsection (3)(o)(iii)(A).

(iv) An office may provide information received from the commission in accordance with this Subsection (3)(o) only:

(A) as:

(I) a fiscal estimate;

(II) fiscal note information; or

(III) statistical information; and

(B) if the information is classified to prevent the identification of a particular return.

(v) (A) A person may not request information from an office under Title 63G, Chapter 2, Government Records Access and Management Act, or this section, if that office received the information from the commission in accordance with this Subsection (3)(o).

(B) An office may not provide to a person that requests information in accordance with Subsection (3)(o)(v)(A) any information other than the information the office provides in accordance with Subsection (3)(o)(iv).

(p) Notwithstanding Subsection (1), the commission may provide to the governing board of the agreement or a taxing official of another state, the District of Columbia, the United States, or a territory of the United States:

(i) the following relating to an agreement sales and use tax:

(A) information contained in a return filed with the commission;

(B) information contained in a report filed with the commission;

(C) a schedule related to Subsection (3)(p)(i)(A) or (B); or

(D) a document filed with the commission; or

(ii) a report of an audit or investigation made with respect to an agreement sales and use tax.

(q) Notwithstanding Subsection (1), the commission may provide information concerning a taxpayer's state income tax return or state income tax withholding information to the Driver License Division if the Driver License Division:

(i) requests the information; and

(ii) provides the commission with a signed release form from the taxpayer allowing the Driver License Division access to the information.

(r) Notwithstanding Subsection (1), the commission shall provide to the Utah 911 Committee the information requested by the Utah 911 Committee under Subsection ~~[53-10-602(3)]~~ 63H-7-303(4).

(s) Notwithstanding Subsection (1), the commission shall provide to the Utah Educational Savings Plan information related to a resident or

nonresident individual's contribution to a Utah Educational Savings Plan account as designated on the resident or nonresident's individual income tax return as provided under Section 59-10-1313.

(t) Notwithstanding Subsection (1), for the purpose of verifying eligibility under Sections 26-18-2.5 and 26-40-105, the commission shall provide an eligibility worker with the Department of Health or its designee with the adjusted gross income of an individual if:

(i) an eligibility worker with the Department of Health or its designee requests the information from the commission; and

(ii) the eligibility worker has complied with the identity verification and consent provisions of Sections 26-18-2.5 and 26-40-105.

(u) Notwithstanding Subsection (1), the commission may provide to a county, as determined by the commission, information declared on an individual income tax return in accordance with Section 59-10-103.1 that relates to eligibility to claim a residential exemption authorized under Section 59-2-103.

(4) (a) Each report and return shall be preserved for at least three years.

(b) After the three-year period provided in Subsection (4)(a) the commission may destroy a report or return.

(5) (a) Any person who violates this section is guilty of a class A misdemeanor.

(b) If the person described in Subsection (5)(a) is an officer or employee of the state, the person shall be dismissed from office and be disqualified from holding public office in this state for a period of five years thereafter.

(c) Notwithstanding Subsection (5)(a) or (b), an office that requests information in accordance with Subsection (3)(o)(iii) or a person that requests information in accordance with Subsection (3)(o)(v):

- (i) is not guilty of a class A misdemeanor; and
- (ii) is not subject to:

(A) dismissal from office in accordance with Subsection (5)(b); or

(B) disqualification from holding public office in accordance with Subsection (5)(b).

(6) Except as provided in Section 59-1-404, this part does not apply to the property tax.

Section 3. Section 63A-4-205.5 is amended to read:

63A-4-205.5. Risk management -- Coverage of the Utah Communications Authority.

The [~~Utah Communications Agency Network~~] Utah Communications Authority established under authority of Title [~~63C~~] 63H, Chapter 7, Utah Communications Authority Act, may participate in the Risk Management Fund.

Section 4. Section 63E-1-102 is amended to read:

63E-1-102. Definitions -- List of independent entities.

As used in this title:

(1) "Authorizing statute" means the statute creating an entity as an independent entity.

(2) "Committee" means the Retirement and Independent Entities Committee created by Section 63E-1-201.

(3) "Independent corporation" means a corporation incorporated in accordance with Chapter 2, Independent Corporations Act.

(4) (a) "Independent entity" means an entity having a public purpose relating to the state or its citizens that is individually created by the state or is given by the state the right to exist and conduct its affairs as an:

- (i) independent state agency; or
- (ii) independent corporation.

(b) "Independent entity" includes the:

(i) Utah Dairy Commission created by Section 4-22-2;

(ii) Heber Valley Historic Railroad Authority created by Section 63H-4-102;

(iii) Utah State Railroad Museum Authority created by Section 63H-5-102;

(iv) Utah Science Center Authority created by Section 63H-3-103;

(v) Utah Housing Corporation created by Section 35A-8-704;

(vi) Utah State Fair Corporation created by Section 63H-6-103;

(vii) Workers' Compensation Fund created by Section 31A-33-102;

(viii) Utah State Retirement Office created by Section 49-11-201;

(ix) School and Institutional Trust Lands Administration created by Section 53C-1-201;

[~~(x) Utah Communications Agency Network created by Section 63C-7-201;~~]

(x) Utah Communications Authority created in Section 63H-7-201;

(xi) Utah Energy Infrastructure Authority created by Section 63H-2-201;

(xii) Utah Capital Investment Corporation created by Section 63M-1-1207; and

(xiii) Military Installation Development Authority created by Section 63H-1-201.

(c) Notwithstanding this Subsection (4), "independent entity" does not include:

(i) the Public Service Commission of Utah created by Section 54-1-1;

(ii) an institution within the state system of higher education;

(iii) a city, county, or town;

(iv) a local school district;

(v) a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts; or

(vi) a special service district under Title 17D, Chapter 1, Special Service District Act.

(5) "Independent state agency" means an entity that is created by the state, but is independent of the governor's direct supervisory control.

(6) "Money held in trust" means money maintained for the benefit of:

(a) one or more private individuals, including public employees;

(b) one or more public or private entities; or

(c) the owners of a quasi-public corporation.

(7) "Public corporation" means an artificial person, public in ownership, individually created by the state as a body politic and corporate for the administration of a public purpose relating to the state or its citizens.

(8) "Quasi-public corporation" means an artificial person, private in ownership, individually created as a corporation by the state which has accepted from the state the grant of a franchise or contract involving the performance of a public purpose relating to the state or its citizens.

Section 5. Section 63G-2-305 is amended to read:

63G-2-305. Protected records.

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will

interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties, a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

(a) an invitation for bids;

(b) a request for proposals;

(c) a request for quotes;

(d) a grant; or

(e) other similar document;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the

potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or

records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

- (A) relating to research; and
- (B) of:
- (I) the institution within the state system of higher education defined in Section 53B-1-102; or
- (II) a sponsor of sponsored research;
- (iii) unpublished manuscripts;
- (iv) creative works in process;
- (v) scholarly correspondence; and
- (vi) confidential information contained in research proposals;
- (b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and
- (c) Subsection (40)(a) may not be construed to affect the ownership of a record;
- (41) (a) records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and
- (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;
- (42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:
- (a) a production facility; or
- (b) a magazine;
- (43) information:
- (a) contained in the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1; or
- (b) received or maintained in relation to the Identity Theft Reporting Information System (IRIS) established under Section 67-5-22;
- (44) information contained in the Management Information System and Licensing Information System described in Title 62A, Chapter 4a, Child and Family Services;
- (45) information regarding National Guard operations or activities in support of the National Guard's federal mission;
- (46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;
- (47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;
- (48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:
- (a) the safety of the general public; or
- (b) the security of:
- (i) governmental property;
- (ii) governmental programs; or
- (iii) the property of a private person who provides the Division of Emergency Management information;
- (49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act or Title 4, Chapter 31, Control of Animal Disease;
- (50) as provided in Section 26-39-501:
- (a) information or records held by the Department of Health related to a complaint regarding a child care program or residential child care which the department is unable to substantiate; and
- (b) information or records related to a complaint received by the Department of Health from an anonymous complainant regarding a child care program or residential child care;
- (51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:
- (a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and
- (b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:
- (i) the nature of the law, ordinance, rule, or order; and
- (ii) the individual complying with the law, ordinance, rule, or order;
- (52) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:
- (a) conducted within the state system of higher education, as defined in Section 53B-1-102; and
- (b) conducted using animals;

(53) an initial proposal under Title 63M, Chapter 1, Part 26, Government Procurement Private Proposal Program, to the extent not made public by rules made under that chapter;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote on whether or not to recommend that the voters retain a judge;

(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(56) records contained in the Management Information System created in Section 62A-4a-1003;

(57) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63J-4-603;

(58) information requested by and provided to the Utah State 911 Committee under Section ~~53-10-602~~ 63H-7-303;

(59) recorded Children's Justice Center investigative interviews, both video and audio, the release of which are governed by Section 77-37-4;

(60) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(61) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final

audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(62) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or abuse;

(63) information provided to the Department of Health or the Division of Occupational and Professional Licensing under Subsection 58-68-304(3) or (4);

(64) a record described in Section 63G-12-210; and

(65) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003.

Section 6. Section 63H-7-101, which is renumbered from Section 63C-7-101 is renumbered and amended to read:

CHAPTER 7. UTAH COMMUNICATIONS AUTHORITY ACT

Part 1. General Provisions

[63C-7-101]. 63H-7-101. Title.

This chapter is known as the ~~“Utah Communications Agency Network Act.”~~ “Utah Communications Authority Act.”

Section 7. Section 63H-7-102, which is renumbered from Section 63C-7-102 is renumbered and amended to read:

[63C-7-102]. 63H-7-102. Purpose.

The purpose of this chapter is to establish an independent state agency and a board ~~and executive committee~~ to administer the creation, administration, and maintenance of the ~~Utah Communications Agency Network~~ Utah Communications Authority to provide a public safety communications network ~~and~~, facilities, and 911 emergency services on a statewide basis for the benefit and use of public agencies, and ~~the~~ state and federal agencies.

Section 8. Section 63H-7-103, which is renumbered from Section 63C-7-103 is renumbered and amended to read:

[63C-7-103]. 63H-7-103. Definitions.

As used in this chapter:

~~(1) “Board” means the Utah Communications Agency Network Board created in Section 63C-7-201.~~

(1) “Authority” means the Utah Communications Authority, an independent state agency created in Section 67H-7-201.

~~(2)~~ (2) “Board” means the Utah Communications Authority Board created in Section 67H-7-203.

~~[(2)]~~ (3) “Bonds” means bonds, notes, certificates, debentures, contracts, lease purchase agreements, or other evidences of indebtedness or borrowing issued or incurred by the ~~[Utah Communications Agency Network]~~ authority pursuant to this chapter.

~~[(3)]~~ (4) “Communications network” means:

(a) a regional or statewide public safety governmental communications network and related facilities, including real property, improvements, and equipment necessary for the acquisition, construction, and operation of the services and facilities~~[-]; and~~

(b) 911 emergency services, including radio communications, microwave connectivity, FirstNet coordination, and computer aided dispatch system.

~~[(4)~~ (4) “Effective date” means the first date after which the Utah Communications Agency Network is officially created and shall be the first date after which.]

~~[(a)~~ (a) at least 10 public agencies have submitted to the Utah Communications Agency Network office the membership resolutions required to become a member; and]

~~[(b)~~ (b) the governor has appointed the four state representatives to the executive committee.]

~~[(5)~~ (5) “Executive Committee” means the administrative body of the Utah Communications Agency Network created in Section 63C-7-205.]

(5) “FirstNet” means the First Responder Network Authority created by Congress in the Middle Class Tax Relief and Job Creation Act of 2012.

(6) “Lease” means any lease, lease purchase, sublease, operating, management, or similar agreement.

(7) “Local entity” means a county, city, town, local district, special service district, or interlocal entity created under Title 11, Chapter 13, Interlocal Cooperation Act.

~~[(7)]~~ (8) “Member” means a public agency which:

(a) adopts a membership resolution to be included within the ~~[Utah Communications Agency Network]~~ authority; and

(b) submits an originally executed copy of an authorizing resolution to the ~~[Utah Communications Agency Network]~~ authority’s office.

~~[(8)]~~ (9) “Member representative” means a person or that person’s designee appointed by the governing body of each member.

~~[(9)]~~ (10) “Public agency” means any political subdivision of the state, including cities, towns, counties, school districts, local districts, and special

service districts, dispatched by a public safety answering point.

~~[(10)]~~ (11) “Public safety answering point” means an organization, entity, or combination of entities which have joined together to form a central answering point for the receipt, management, and dissemination to the proper responding agency, of emergency and nonemergency communications, including 911 ~~[calls]~~ communications, police, fire, emergency medical, transportation, parks, wildlife, corrections, and any other governmental communications.

~~[(11)]~~ (12) “State” means the state of Utah.

~~[(12)]~~ (13) “State representative” means~~[-(a)]~~ the ~~[four]~~ six appointees of the governor or their designees~~[-]~~ and ~~[(b)]~~ the Utah State Treasurer or his designee.

Section 9. Section 63H-7-201, which is renumbered from Section 63C-7-201 is renumbered and amended to read:

Part 2. The Utah Communications Authority and the Board

[63C-7-201]. 63H-7-201. Establishment of the Utah Communications Authority.

(1) There is established the ~~[Utah Communications Agency Network, formerly the Utah Wireless Interagency Network, created by executive order of the governor on June 6, 1996. The Utah Communications Agency Network shall assume the operations of the Utah Wireless Interagency Network on May 4, 1997.]~~ Utah Communications Authority, formerly known as the Utah Communications Agency Network, which shall assume the operations of the Utah Communications Agency Network and shall perform the functions as provided in this chapter.

(2) The ~~[Utah Communications Agency Network]~~ Utah Communications Authority is an independent state agency and not a division within any other department of the state.

(3) The initial offices of the ~~[Utah Communications Agency Network]~~ authority shall be in Salt Lake ~~[City]~~ County, but branches of the office may be established in other areas of the state upon approval of the board.

~~[(4) (a) As soon after the effective date as possible, the state representatives shall schedule an organizational meeting date and shall give written notice of the time and location of the organizational meeting to the governing bodies of known prospective members.]~~

~~[(b) At the organizational meeting:]~~

~~[(i) the board shall be organized as provided in Section 63C-7-203;]~~

~~[(ii) bylaws shall be adopted; and]~~

~~[(iii) the executive committee shall be established as provided in Section 63C-7-205.]~~

Section 10. Section 63H-7-202, which is renumbered from Section 63C-7-202 is renumbered and amended to read:

[63C-7-202]. 63H-7-202. Powers of the Authority.

The [~~Utah Communications Agency Network~~] authority shall have the power to:

- (1) sue and be sued in its own name;
- (2) have an official seal and power to alter that seal at will;
- (3) make and execute contracts and all other instruments necessary or convenient for the performance of its duties and the exercise of its powers and functions under this chapter, including contracts with private companies licensed under Title 26, Chapter 8a, Utah Emergency Medical Services System Act;
- (4) own, acquire, construct, operate, maintain, and repair a communications network, and dispose of any portion of it;
- (5) borrow money and incur indebtedness;
- (6) issue bonds as provided in this chapter;
- (7) enter into agreements with public agencies, the state, and federal government to provide communications network services on terms and conditions it considers to be in the best interest of its members;
- (8) acquire, by gift, grant, purchase, or by exercise of eminent domain, any real property or personal property in connection with the acquisition and construction of a communications network and all related facilities and rights-of-way which it owns, operates, and maintains;
- (9) contract with other public agencies, the state, or federal government to provide public safety communications services in excess of those required to meet the needs or requirements of its members and the state and federal government if:
 - (a) it is determined by the [~~executive committee~~] board to be necessary to accomplish the purposes and realize the benefits of this chapter; and
 - (b) any excess is sold to other public agencies, the state, or federal government and is sold on terms that assure:
 - (i) that the excess services will be used only for the purposes and benefits authorized by the authority under Section 63H-7-102; and
 - (ii) that the cost of providing the excess service will be received by the [~~Utah Communications Agency Network~~] authority;
- (10) provide and maintain the public safety network for all state and local governmental agencies:
 - (a) within the current [~~Utah Communications Agency Network~~] authority network for the state and local governmental agencies that currently subscribe to the [~~Utah Communications Agency Network~~; and] authority;

(b) outside of the current [~~Utah Communications Agency Network~~] authority network for state and local governmental agencies that do not currently subscribe to the [~~Utah Communications Agency Network~~;] authority; and

(c) in a manner that:

- (i) promotes high quality, cost effective services; and
 - (ii) evaluates the benefits, costs, existing facilities and equipment, and services of public and private providers;
- (11) maintain the current VHF high-band network; [and]
 - (12) review, approve, disapprove, or revise recommendations made by the Utah 911 Committee regarding the expenditure of funds under Sections 69-2-5.5 and 69-2-5.6; and
- [~~(12)~~] (13) perform all other duties authorized by this chapter.

Section 11. Section 63H-7-203, which is renumbered from Section 63C-7-205 is renumbered and amended to read:

[63C-7-205]. 63H-7-203. Board established -- Terms -- Vacancies.

[~~(4) The executive committee~~]

- (1) There is created the "Utah Communications Authority Board."
- (2) The board shall consist of the following [~~24~~] individuals:
 - (a) [~~15~~] the member representatives elected [~~by the board at its annual meetings; and~~] as follows:
 - [~~(b) six state representatives.~~]
 - (i) one representative elected from each county of the first and second class, who:
 - (A) is in law enforcement, fire service, or a public safety answering point; and
 - (B) has a leadership position with public safety communication experience;
 - (ii) one representative elected from each of the seven associations of government who:
 - (A) is in law enforcement, fire service, or a public safety answering point; and
 - (B) has a leadership position with public safety communication experience;
 - (iii) one representative of the Native American tribes elected by the representative of tribal governments listed in Subsection 9-9-104.5(2);
 - (iv) one representative elected by the Utah National Guard;
 - (v) one representative elected by an association that represents fire chiefs;
 - (vi) one representative elected by an association that represents sheriffs;
 - (vii) one representative elected by an association that represents chiefs of police; and

(viii) one member elected by the Utah 911 Committee created in Section 63H-7-302; and

(b) seven state representatives appointed in accordance with Subsection (3).

~~(2)~~ (3) (a) (i) ~~[Five]~~ Six of the state representatives shall be appointed by the governor, with two of the positions having an initial term of two years, two having an initial term of three years, and one having an initial term of four years.

(ii) Successor state representatives shall each serve for a term of four years.

(iii) The ~~[five]~~ six governor-appointed state representatives shall consist of:

(A) the executive director of the Utah Department of Transportation or the director's designee;

(B) the commissioner of public safety or the commissioner's designee;

(C) the executive director of the Department of Natural Resources or the director's designee;

(D) the executive director of the Department of Corrections or the director's designee; ~~and~~

(E) the chief information officer of the Department of Technology Services, or the officer's designee~~;~~; and

(F) the executive director of the Department of Health or the director's designee.

(b) The ~~[sixth]~~ seventh state representative shall be the Utah State Treasurer or the treasurer's designee.

(c) A vacancy on the ~~[executive committee]~~ board for a state representative shall be filled for the unexpired term by appointment by the governor.

~~(3)~~ (4) (a) (i) One-half of the positions for member representatives [elected by the board] selected under Subsection (2) shall have an initial term of two years and one-half of the positions shall have an initial term of four years.

(ii) Successor member representatives of the ~~[executive committee]~~ board shall each serve for a term of four years, so that the term of office for six of the member representatives expires every two years.

(b) The member representatives of the ~~[executive committee]~~ board shall be removable, with or without cause, by ~~[a majority vote of the board]~~ the entity that selected the member. A vacancy on the ~~[executive committee]~~ board for a member representative shall be filled for the unexpired term by ~~[a majority of the remaining member representatives of the executive committee]~~ the entity the member represents.

~~(4)~~ (5) The ~~[executive committee]~~ board shall elect annually one of its members as chair.

~~(5)~~ (6) The ~~[executive committee]~~ board shall meet on an as-needed basis and as provided in the bylaws.

~~(6)~~ (7) The ~~[executive committee]~~ board shall also elect a vice chair, secretary, and treasurer to perform those functions provided in the bylaws.

(a) The vice chair shall be a member of the ~~[executive committee]~~ board.

(b) The secretary and treasurer need not be members of the ~~[executive committee]~~ board, but shall not have voting powers if they are not members of the ~~[executive committee]~~ board.

(c) The offices of chair, vice chair, secretary, and treasurer shall be held by separate individuals.

~~(7)~~ (8) Each member representative and state representative shall have one vote, including the chair, at all meetings of the ~~[executive committee]~~ board.

~~(8)~~ (9) A constitutional majority of the members of the ~~[executive committee constitute]~~ board constitutes a quorum. A vote of a majority of the quorum at any meeting of the ~~[executive committee]~~ board is necessary to take action on behalf of the ~~[executive committee]~~ board.

Section 12. Section 63H-7-204, which is renumbered from Section 63C-7-206 is renumbered and amended to read:

63C-7-206. 63H-7-204. Board -- Powers and duties.

The ~~[executive committee]~~ board shall:

(1) manage the affairs and business of the ~~[Utah Communications Agency Network]~~ authority consistent with this chapter including adopting bylaws by a majority vote of its members;

(2) appoint an executive director to administer the ~~[Utah Communications Agency Network]~~ authority;

(3) receive and act upon reports covering the operations of the communications network and funds administered by the ~~[Utah Communications Agency Network]~~ authority;

(4) ensure that the communications network and funds are administered according to law;

(5) examine and approve an annual operating budget for the ~~[Utah Communications Agency Network]~~ authority;

(6) receive and act upon recommendations of the chair;

(7) recommend to the governor and Legislature any necessary or desirable changes in the statutes governing the communications network;

(8) develop broad policies for the long-term operation of the ~~[Utah Communications Agency Network]~~ authority for the performance of its functions;

(9) make and execute contracts and other instruments on behalf of the ~~[Utah Communications Agency Network]~~ authority, including agreements with members and other entities;

(10) authorize the borrowing of money, the incurring of indebtedness, and the issuance of bonds as provided in this chapter;

(11) adopt rules consistent with this chapter for the management of the communications network in order to carry out the purposes of this chapter, and perform all other acts necessary for the administration of the communications network;

(12) exercise the powers and perform the duties conferred on it by this chapter; ~~and~~

(13) provide for audits of the ~~[Utah Communications Agency Network]~~ authority;

(14) establish a division within the authority for radio network services;

(15) establish an office within the authority for a statewide interoperability coordinator; and

(16) establish an office within the authority for a 911 program manager.

Section 13. Section 63H-7-205, which is renumbered from Section 63C-7-207 is renumbered and amended to read:

~~[63C-7-207]. 63H-7-205. Executive director -- Powers and duties.~~

The executive director shall:

(1) act as the executive officer of the ~~[Utah Communications Agency Network]~~ authority;

(2) administer the various acts, systems, plans, programs, and functions assigned to the office;

(3) with the approval of the ~~[executive committee]~~ board, develop and ~~[promulgate]~~ make administrative rules which are within the authority granted by this title for the administration of the ~~[Utah Communications Agency Network]~~ authority;

(4) recommend to the ~~[executive committee]~~ board any changes in the statutes affecting the ~~[Utah Communications Agency Network]~~ authority;

(5) recommend to the ~~[executive committee]~~ board an annual administrative budget covering administration, management, and operations of the communications network and, upon approval of the ~~[executive committee]~~ board, direct and control the subsequent expenditures of the budget; and

(6) within the limitations of the budget, employ staff personnel, consultants, a chief financial officer, and legal counsel to provide professional services and advice regarding the administration of the ~~[Utah Communications Agency Network]~~ authority.

Section 14. Section 63H-7-301 is enacted to read:

Part 3. Offices and Division of the Authority 63H-7-301. 911 program manager.

(1) There is created within the authority the 911 program manager.

(2) The 911 program manager shall:

(a) be appointed by the executive director:

(i) based on the recommendation of the Utah 911 Committee; and

(ii) with the approval of the board; and

(b) provide staff services to the Utah 911 Committee created in Section 63H-7-302.

Section 15. Section 63H-7-302, which is renumbered from Section 53-10-601 is renumbered and amended to read:

~~[53-10-601]. 63H-7-302. Utah 911 Committee.~~

(1) There is created within the ~~[division,]~~ authority the Utah 911 Committee consisting of the following ~~[18]~~ members:

(a) ~~[a]~~ one representative from ~~[each of the following]~~ a primary ~~[emergency]~~ public safety answering ~~[points:]~~ point from each county of the first and second class;

~~(i) Salt Lake County;~~

~~(ii) Davis County;~~

~~(iii) Utah County;~~

~~(iv) Weber County; and~~

~~(v) Washington County;~~

~~(b) six members representing the following primary emergency public safety answering points:]~~

(b) one representative from a primary public safety answering point representing each of the following:

(i) Bear River Association;

(ii) Uintah Basin Association;

(iii) South East Association;

(iv) Six County Association;

(v) Five County Association; ~~[and]~~

(vi) Mountainlands Association~~[, not including Utah County]; and~~

~~(c) the following people with knowledge of technology and equipment that might be needed for an emergency public safety answering system:]~~

~~(i) a representative from a local exchange carrier;~~

~~(ii) a representative from a rural incumbent local exchange carrier; and]~~

~~(iii) two representatives from radio communications services as defined in Section 69-2-2;~~

~~(vii) Wasatch Front Regional Council;~~

~~(d) (c) two representatives from the Department of Public Safety;~~

(i) one of whom represents an urban Utah ~~[and the other rural Utah; and]~~ public service answering point; and

(ii) one of whom represents a rural Utah public safety answering point; and

~~[(c) a representative from the Department of Technology Services, created in Title 63F, Chapter 1.]~~

~~(d) the statewide interoperability coordinator, created in Section 63H-7-309.~~

(2) (a) Each committee member shall be appointed as follows:

(i) a member described in Subsection (1)(a) shall be appointed by the governor from a nominee or nominees submitted to the governor by the council of government for that member's county;

(ii) the ~~[six]~~ seven members described in Subsection (1)(b) shall be appointed by the governor from a nominee or nominees submitted to the governor by the associations described in Subsection (1)(b) as follows:

(A) the ~~[six]~~ seven associations shall select by lot~~;~~ the first ~~[four]~~ five associations to begin the rotation of membership as required by Subsection (2)(b)(i); and

(B) as each association is represented on the ~~[commission]~~ committee in accordance with Subsection (2)(b)(i), that association shall select the person to represent it on the ~~commission~~; and

~~[(iii) the members described in Subsection (1)(c) shall be appointed by the governor with the consent of the Senate; and]~~

~~[(iv) (iii) the members described in Subsections (1)(d)(c) and (e) (d) shall be appointed by the governor.~~

(b) The term of office of each member is four years~~[-, except as provided in Subsections (2)(b)(ii) through (iv)].~~

~~[(i) The representatives from Subsection (1)(b) must rotate to provide each geographic location at least one representative every four years, except as provided for the initial appointment under Subsection (2)(b)(ii).]~~

~~[(ii) The associations listed in Subsection (1)(b) shall select by lot, two of its members to an initial two-year term.]~~

~~[(iii) The governor shall appoint two representatives from Subsection (1)(c) to initial two-year terms.]~~

~~[(iv) The public service answering points listed in Subsection (1)(a) shall, by lot, select two members to serve an initial two-year term.]~~

(c) No member of the committee may serve more than two consecutive four-year terms.

(d) Each mid-term vacancy shall be filled for the unexpired term in the same manner as an appointment under Subsection (2)(a).

(3) (a) Committee members shall elect a chair from their number and establish rules for the organization and operation of the committee, with the chair ~~[rotating among]~~ selected by representatives from Subsections (1)(a), (b), and ~~[(d) (c)]~~ every year.

(b) Staff services to the committee~~[-(i)]~~ shall be provided by the ~~[division; and]~~ authority.

~~[(ii) may be provided by local entities through the Utah Association of Counties and the Utah League of Cities and Towns.]~~

(c) Funding for staff services shall be provided with funds approved by the ~~[committee]~~ board from those identified under Section ~~[53-10-605]~~ 63H-7-306.

(4) (a) No member may receive compensation or benefits for the member's service on the committee.

(b) A member is not required to give bond for the performance of official duties.

~~(5) A majority of the committee constitutes a quorum for voting purposes.~~

Section 16. Section 63H-7-303, which is renumbered from Section 53-10-602 is renumbered and amended to read:

[53-10-602]. 63H-7-303. Committee's duties and powers.

(1) The committee shall:

(a) review and make recommendations to the ~~[division, the Bureau of Communications]~~ board, public safety answering points, and the Legislature on:

(i) technical, administrative, fiscal, and operational issues for the implementation of ~~[a]~~ unified statewide ~~[wireless and land-based E-911]~~ 911 emergency ~~[system]~~ services;

(ii) ~~[specific]~~ technology and standards for the implementation of ~~[a]~~ unified statewide ~~[wireless and land-based E-911]~~ 911 emergency ~~[system]~~ services;

(iii) emerging technological upgrades;

(iv) expenditures by local public ~~[service]~~ safety answering points to assure implementation of ~~[a]~~ unified statewide ~~[wireless and land-based E-911]~~ 911 emergency ~~[system]~~ services and standards of operation; and

(v) mapping systems and technology necessary to implement the unified statewide ~~[wireless and land-based E-911]~~ 911 emergency ~~[system]~~ services;

(b) administer the program funded by the Unified Statewide ~~[Unified E-911]~~ 911 Emergency Service Account as provided in this part;

(c) administer the program funded by the Computer Aided Dispatch Restricted Account created in Section 63H-7-310;

~~[(e) (d)]~~ assist as many local entities as possible, at their request, to implement the recommendations of the committee; and

~~[(d) (e)]~~ fulfill all other duties imposed on the committee by the Legislature by this part.

(2) The committee may recommend to the board to sell, lease, or otherwise dispose of equipment or personal property purchased, leased, or belonging

to the ~~[committee, the proceeds from which shall return to the restricted account.]~~ board that is related to:

- (a) unified statewide 911 emergency service;
- (b) the computer aided dispatch system; or

(c) funds expended from the restricted account created in Sections 69-2-5.5 and 69-2-5.6, the proceeds from which shall return to the respective restricted accounts.

(3) The committee may make recommendations to the board to own, operate, or enter into contracts for unified statewide 911 emergency services and a computer aided dispatch system.

~~[(3)]~~ (4) (a) The committee shall review information regarding:

(i) in aggregate, the number of ~~[telecommunication]~~ service subscribers by ~~[telecommunication]~~ service type in a political subdivision;

- (ii) 911 ~~[call]~~ delivery network costs;
- (iii) public safety answering point costs; ~~[and]~~
- (iv) system engineering information~~[-]; and~~
- (v) a computer aided dispatch system.

(b) In accordance with Subsection ~~[(3)]~~ (4)(a) the committee may request:

(i) information as described in Subsection ~~[(3)]~~ (4)(a)(i) from the Utah State Tax Commission; and

(ii) information from public safety answering points connected to the ~~[911 call delivery]~~ computer aided dispatch system.

(c) The information requested by and provided to the committee under Subsection ~~[(3)]~~ (4) is a protected record in accordance with Section 63G-2-305.

~~[(4)]~~ The committee shall issue the reimbursement allowed under Subsection 53-10-605(1)(b) ~~provided that:~~

~~[(a) the reimbursement is based on aggregated cost studies submitted to the committee by the wireless carriers seeking reimbursement; and]~~

~~[(b) the reimbursement to any one carrier does not exceed 125% of the wireless carrier's contribution to the restricted account.]~~

(5) The committee shall ~~[adopt]~~ make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the program funded by the restricted account created in Section ~~[53-10-603]~~ 63H-7-304 including rules that establish the criteria, standards, technology, and equipment that a local entity or state agency must adopt in order to qualify for ~~[grants]~~ funds from the restricted account.

(6) The committee shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the restricted account created in Section 63H-7-310, including

rules that establish the criteria, standards, technology, and equipment that a local entity or state agency must adopt in order to qualify as a recipient of a computer aided dispatch system.

~~[(6)]~~ (7) The committee may employ an outside consultant to:

(a) study and advise on the issue of public safety answering points~~[-]; and~~

(b) advise the committee regarding:

(i) public safety communications and other issues regarding unified state 911 emergency services;

(ii) computer aided dispatch system consolidation; and

(iii) consolidation of public safety answering points by county or region.

~~[(7)]~~ (8) This section does not expand the authority of the Utah State Tax Commission to request additional information from a telecommunication service provider.

Section 17. Section 63H-7-304, which is renumbered from Section 53-10-603 is renumbered and amended to read:

[53-10-603]. 63H-7-304. Creation of Unified Statewide 911 Emergency Service Account.

(1) There is created a restricted account within the General Fund known as the ~~["Statewide Unified E-911"]~~ "Unified Statewide 911 Emergency Service Account," consisting of:

(a) proceeds from the fee imposed in Section 69-2-5.6;

(b) money appropriated or otherwise made available by the Legislature; and

(c) contributions of money, property, or equipment from federal agencies, political subdivisions of the state, persons, or corporations.

(2) The money in this restricted account shall be used exclusively for the following statewide public purposes:

(a) enhancing public safety as provided in this chapter; and

(b) providing [a] unified statewide[, unified, wireless E-911] 911 emergency service available to public safety answering points~~[-];~~

~~[(c) providing reimbursement to providers for certain costs associated with Phase II wireless E-911 service; and]~~

~~[(d) paying for an outside consultant hired by the Utah 911 Committee to study and advise the committee regarding public safety answering points.]~~

Section 18. Section 63H-7-305, which is renumbered from Section 53-10-604 is renumbered and amended to read:

[53-10-604]. 63H-7-305. Committee expenses -- Committee responsibilities.

(1) ~~[Committee]~~ Subject to appropriation, expenses and the costs of administering [grants]

disbursements from the restricted account, as provided in Subsection (2), shall be paid from the restricted account.

(2) (a) The ~~[Division of Finance]~~ committee shall be responsible for the care, custody, safekeeping, collection, and accounting for ~~[grants issued]~~ disbursements made by the committee under the provisions of Section ~~[53-10-605]~~ 63H-7-306.

(b) ~~[The]~~ Subject to appropriation, the Division of Finance may charge the restricted account the administrative costs incurred in discharging the responsibilities imposed by ~~[Subsection (2)(a)]~~ Section 63H-7-306.

Section 19. Section 63H-7-306, which is renumbered from Section 53-10-605 is renumbered and amended to read:

[53-10-605]. 63H-7-306. Use of money in restricted account -- Criteria -- Division of Finance responsibilities.

(1) (a) Subject to an annual legislative appropriation from the restricted account to ~~[-(a) the committee, the committee shall: (i) authorize the use of]~~ the Division of Finance, the Division of Finance shall disburse the money in the fund ~~[, by grant to a local entity or state agency] for the benefit of a public agency in accordance with this Subsection (1) and Subsection (2)(5)].~~

~~[(ii) grant to state agencies and local entities]~~

(b) The committee shall administer the program and forward to the Division of Finance the committee's authorization for disbursement from the restricted account in accordance with this section.

(c) The committee shall:

(i) disburse on behalf of public agencies an amount not to exceed the per month fee levied on telecommunications service under Section 69-2-5.6 for installation, implementation, and maintenance of unified~~[,]~~ statewide 911 emergency services and technology; and

~~[(iii)]~~ (ii) in addition to any money under Subsection (1)~~[(a)(ii)](c)(i), [grant to]~~ disburse on behalf of counties of the third through sixth class the amount dedicated for rural assistance, which is at least 3 cents per month levied on ~~[telecommunications]~~ 911 emergency service under Section 69-2-5.6 to:

(A) enhance the 911 emergency services with a focus on areas or counties that do not have ~~[E-911]~~ 911 emergency services; and

(B) where needed, assist the counties, in cooperation with private industry, with the creation or integration of wireless systems and location technology in rural areas of the state~~[,]~~.

~~[(b) the committee, the committee shall:]~~

~~[(i) include reimbursement to a provider of radio communications service, as defined in Section 69-2-2, for costs as provided in Subsection (1)(b)(ii); and]~~

~~[(ii) an agreement to reimburse costs to a provider of radio communications services must be a written agreement among the committee, the local public safety answering point and the carrier; and]~~

~~[(e)]~~ (d) The committee shall reimburse the state's Automated Geographic Reference Center in the Division of Integrated Technology of the Department of Technology Services, an amount equal to 1 cent per month levied on telecommunications service under Section 69-2-5.6 ~~[shall be used]~~ to enhance and upgrade ~~[statewide]~~ digital mapping standards for unified statewide 911 emergency service as required by the committee.

(2) ~~[(a)]~~ Beginning July 1, ~~[2007]~~ 2014, the committee may not ~~[grant]~~ authorize disbursements and the Division of Finance may not disburse the money in the restricted account ~~[to a local]~~ on behalf of an entity unless the ~~[local]~~ entity ~~[is in compliance with Phase I, wireless E-911]~~ has the capability to receive Internet protocol based 911 emergency service.

~~[(b) Beginning July 1, 2009, the committee may not grant money in the restricted account to a local entity unless the local entity is in compliance with Phase II, wireless E-911 service.]~~

~~[(3) A local entity must deposit any money it receives from the committee into a special emergency telecommunications service fund in accordance with Subsection 69-2-5(4).]~~

~~[(4) For purposes of this part, "local entity" means a county, city, town, local district, special service district, or interlocal entity created under Title 11, Chapter 13, Interlocal Cooperation Act.]~~

Section 20. Section 63H-7-307, which is renumbered from Section 53-10-606 is renumbered and amended to read:

[53-10-606]. 63H-7-307. Committee to report annually.

(1) The committee shall submit an annual report to the Executive Offices and Criminal Justice Appropriations Subcommittee, which shall include:

(a) the total aggregate surcharge collected by local entities and the state in the last fiscal year under Sections 69-2-5 and 69-2-5.6;

(b) the amount of each disbursement from the restricted account;

(c) the recipient of each disbursement and describing the project for which money was disbursed;

(d) the conditions, if any, placed by the committee or the Division of Finance on disbursements from the restricted account;

(e) the planned expenditures from the restricted account for the next fiscal year;

(f) the amount of any unexpended funds carried forward;

(g) a cost study to guide the Legislature towards necessary adjustments of both the Unified

Statewide [~~Unified E-911~~] 911 Emergency Service Account and the monthly emergency services telephone charge imposed under Section 69-2-5; and

(h) a progress report of local government implementation of [~~wireless and land-based E-911~~] 911 emergency services including:

(i) a fund balance or balance sheet from each agency maintaining its own emergency telephone service fund;

(ii) a report from each public safety answering point of annual call activity separating wireless and land-based 911 call volumes; and

(iii) other relevant justification for ongoing support from the Unified Statewide [~~Unified E-911~~] 911 Emergency Service Account created by Section [~~53-10-603~~] 63H-7-304.

(2) (a) The committee may request information from a local entity as necessary to prepare the report required by this section.

(b) A local entity imposing a levy under Section 69-2-5 or receiving a [~~grant~~] disbursement under Section [~~53-10-605~~] 63H-7-306 shall provide the information requested pursuant to Subsection (2)(a).

Section 21. Section 63H-7-308 is enacted to read:

63H-7-308. Radio Network Division.

(1) There is created within the authority the Radio Network Division.

(2) The technical operations manager of the Radio Network Division shall be appointed by the executive director with the approval of the board.

(3) The Radio Network Division shall provide technical staff and support to the authority.

Section 22. Section 63H-7-309 is enacted to read:

63H-7-309. Office of Statewide Interoperability Coordinator.

(1) There is created within the authority the Office of the Statewide Interoperability Coordinator.

(2) The executive director shall appoint the statewide interoperability coordinator with the approval of the board.

(3) The Office of the Statewide Interoperability Coordinator shall:

(a) promote wireless technology information and interoperability among local, state, federal, and other agencies;

(b) provide a mechanism for coordinating and resolving wireless communication issues among local, state, federal, and other agencies;

(c) improve data and information sharing and coordination of multijurisdictional responses;

(d) identify opportunities to consolidate infrastructures and technologies;

(e) evaluate current technologies and determine if they are meeting the needs of agency personnel in respective service areas; and

(f) create and maintain procedures for requesting interoperability channels.

Section 23. Section 63H-7-310 is enacted to read:

63H-7-310. Creation of Computer Aided Dispatch Restricted Account -- Administration -- Use of money.

(1) There is created a restricted account within the General Fund known as the "Computer Aided Dispatch Restricted Account," consisting of:

(a) proceeds from the fee imposed in Section 69-2-5.5;

(b) money appropriated or otherwise made available by the Legislature; and

(c) contributions of money from federal agencies, political subdivisions of the state, persons, or corporations.

(2) The money in this restricted account shall be used exclusively for the following statewide public purposes:

(a) enhancing public safety as provided in this chapter; and

(b) creating and maintaining a shared computer aided dispatch system including:

(i) a single computer aided dispatch platform that will be selected, maintained, shared, or hosted on a statewide or regional basis;

(ii) a single computer aided dispatch platform selected by a county of the first class, when:

(A) authorized through an interlocal agreement between the county's two primary public safety answering points; and

(B) the county's computer aided dispatch platform is capable of interfacing with the platform described in Subsection (2)(b)(i); and

(iii) a statewide computer aided dispatch system data sharing platform to provide interoperability of systems.

(3) Subject to appropriation, the Division of Finance may charge the administrative costs incurred in discharging the responsibilities imposed by this section.

(4) (a) Subject to an annual legislative appropriation from the restricted account to the Division of Finance, the Division of Finance shall disburse the money in the fund, based on the authorization of the committee under Subsections (4)(b) and (c).

(b) The Utah 911 Committee shall administer the development and maintenance of the shared computer aided dispatch system:

(i) for state agencies and local entities; and

(ii) where needed, to assist public agencies with the creation or integration and maintenance of the shared computer aided dispatch system.

(c) The Utah 911 Committee shall:

(i) annually report to the Division of Finance the committee's authorized disbursements from the restricted account;

(ii) be responsible for the care, custody, safekeeping, collection, and accounting for disbursements; and

(iii) submit an annual report to the Executive Offices and Criminal Justice Appropriations Subcommittee, which shall include:

(A) the amount of each disbursement from the restricted account;

(B) the recipient of each disbursement and a description of the project for which money was disbursed;

(C) the conditions, if any, placed by the committee or the Division of Finance on disbursements from the amount appropriated from the restricted account;

(D) the planned expenditures from the restricted account for the next fiscal year;

(E) the amount of any unexpended funds carried forward; and

(F) a progress report of implementation of a statewide computer aided dispatch system.

(5) (a) The committee may request information from a public safety answering point as necessary to prepare the report required by this section.

(b) A recipient under this section shall provide the information requested pursuant to Subsection (5)(a).

Section 24. Section 63H-7-401, which is renumbered from Section 63C-7-301 is renumbered and amended to read:

Part 4. Bonding Authority

[63C-7-301]. 63H-7-401. Bond authorized -- Payment -- Security -- Liability -- Purpose -- Exemption from certain taxes.

(1) The [Utah Communications Agency Network] authority may:

(a) issue bonds from time to time for any of its corporate purposes provided in Section [63C-7-102] 63H-7-102;

(b) issue refunding bonds for the purpose of paying or retiring bonds previously issued by it;

(c) issue bonds on which the principal and interest are payable:

(i) exclusively from the income, purchase or lease payments, and revenues of all or a portion of the communications network; or

(ii) from its revenues generally.

(2) Any bonds issued by the [Utah Communications Agency Network] authority may be additionally secured by a pledge of any loan, lease, grant, agreement, or contribution, in whole or in part, from the federal government or other source, or a pledge of any income or revenue of the [Utah Communications Agency Network] authority.

(3) The officers of the [Utah Communications Agency Network] authority and any person executing the bonds are not liable personally on the bonds.

(4) (a) The bonds and other obligations of the [Utah Communications Agency Network] authority are not a debt of any member or state representative of the [Utah Communications Agency Network] authority, and do not constitute indebtedness for purposes of any constitutional or statutory debt limitation or restrictions.

(b) The face of the bonds and other obligations shall state the provisions of Subsection (4)(a).

(5) Any bonds of the [Utah Communications Agency Network] authority shall be revenue obligations, payable solely from the proceeds, revenues, or purchase and lease payments received by the [Utah Communications Agency Network] authority for the communications network.

(6) The full faith and credit of any member or state representative may not be pledged directly or indirectly for the payment of the bonds.

(7) A member or state representative may not incur any pecuniary liability under this chapter until it enters into a service contract, lease, or other financing obligation with the [Utah Communications Agency Network] authority. Once a member enters into a service contract, lease, or other financing obligation with the [Utah Communications Agency Network] authority, the member shall be obligated to the [Utah Communications Agency Network] authority as provided in that contract, lease, or financing obligation.

(8) A bond or obligation may not be made payable out of any funds or properties other than those of the [Utah Communications Agency Network] authority.

(9) Bonds of the [Utah Communications Agency Network] authority are:

(a) declared to be issued for an essential public and governmental purpose by public instrumentalities; and

(b) together with interest and income, exempt from all taxes, except the corporate franchise tax.

(10) The provisions of this chapter exempting the properties of the [Utah Communications Agency Network] authority and its bonds and interest and income on them from taxation shall be considered part of the contract for the security of bonds and have the force of contract, by virtue of this part and without the necessity of this being restated in the bonds, between the bondholders, including all transferees of the bonds, [and] the [Utah

~~Communications Agency Network~~ authority and the state.

Section 25. Section 63H-7-402, which is renumbered from Section 63C-7-302 is renumbered and amended to read:

[63C-7-302]. 63H-7-402. Bonds to be authorized by resolution -- Form -- Sale -- Negotiability -- Validity presumed.

(1) Bonds of the ~~[Utah Communications Agency Network]~~ authority shall:

(a) be authorized by resolution of the ~~[executive committee]~~ board and may be issued in one or more series;

(b) bear dates, mature, bear interest rates, be in denominations, be either coupon or registered, carry conversion or registration privileges, have rank or priority, be executed, and be payable; and

(c) be subject to terms of redemption, with or without premium, as the resolution or its trust indenture provides.

(2) The bonds may bear interest at a fixed or variable interest rate as the resolution provides. The resolution may establish a method, formula, or index pursuant to which the interest rate on the bonds may be determined from time to time.

(3) In connection with the bonds, and on behalf of the ~~[Utah Communications Agency Network, the executive committee]~~ authority, the board may authorize and enter into agreements or other arrangements with financial, banking, and other institutions for letters of credit, standby letters of credit, surety bonds, reimbursement agreements, remarketing agreements, indexing agreements, tender agent agreements, and other agreements to secure the bonds, to enhance the marketability and creditworthiness of the bonds, to determine a fixed or variable interest rate on the bonds, and to pay from any legally available source, including the proceeds of the bonds, of fees, charges, and other amounts coming due with respect to any such agreements.

(4) The bonds may be sold at public or private sale in a manner and at prices, either at, in excess of, or below par value as provided by resolution of the ~~[executive committee]~~ board.

(5) If members or officers of the ~~[Utah Communications Agency Network]~~ authority whose signatures appear on bonds or coupons cease to be members or officers before the delivery of the bonds, their signatures are valid and sufficient for all purposes.

(6) Any bonds issued under this part are fully negotiable.

(7) In any suit, action, or proceeding involving the validity or enforceability of any bond of the ~~[Utah Communications Agency Network]~~ authority or the security for it, any bond reciting in substance that it has been issued by the ~~[Utah Communications Agency Network]~~ authority to aid in financing the communications network shall be conclusively

considered to have been issued for such purposes, and the communications network shall be conclusively considered to have been planned, located, and carried out in accordance with this part.

Section 26. Section 63H-7-403, which is renumbered from Section 63C-7-303 is renumbered and amended to read:

[63C-7-303]. 63H-7-403. Bonds and other obligations -- Additional powers of the authority.

In connection with the issuance of bonds or the incurring of obligations under leases, and in order to secure the payment of bonds or obligations, the ~~[Utah Communications Agency Network]~~ authority, in addition to its other powers, may:

(1) pledge all or any part of its gross or net rents, fees, or revenues to which its right then exists or may accrue in the future;

(2) mortgage all or any part of its real or personal property owned or acquired in the future;

(3) covenant against:

(a) pledging all or any part of its rents, fees, and revenues;

(b) mortgaging all or any part of its real or personal property to which its right or title then exists or accrues in the future;

(c) permitting any lien on its revenues or property;

(d) extending the time for the payment of its bonds or interest on them;

(e) the use and disposition of the money held in the funds in Subsection (7); and

(f) the use, maintenance, and replacement of any or all of its real or personal property;

(4) covenant as to:

(a) bonds to be issued;

(b) the issuance of bonds in escrow or otherwise;

(c) the use and disposition of the bond proceeds;

(d) the insurance to be carried on the property in Subsection (3)(f) and the use and disposition of insurance money; and

(e) the rights, liabilities, powers, and duties arising upon its breach of any covenant, condition, or obligation;

(5) provide for the replacement of lost, destroyed, or mutilated bonds;

(6) covenant for the redemption of the bonds and provide the terms and conditions for their redemption;

(7) create or authorize the creation of special funds for money held for construction or operating costs, debt service, reserves, or other purposes; ~~[and]~~

(8) prescribe the procedure, if any, by which the terms of any contract with bondholders may be

amended or abrogated, the number of bondholders of outstanding bonds which must consent to the action, and the manner in which consent shall be given;

(9) covenant and prescribe as to events of default and terms and conditions upon which any or all of its bonds or obligations shall become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived;

(10) vest in any obligee of the ~~[Utah Communications Agency Network]~~ authority or any specified proportion of them the right:

(a) to enforce the payment of bonds or any covenants securing or relating to the bonds;

(b) after default by the ~~[Utah Communications Agency Network]~~ authority to:

(i) take possession of and use, operate, and manage any facilities or any part of it or any funds connected with the facilities and funds, and collect the revenues arising from them; and

(ii) dispose of the facilities and funds in accordance with the agreement with the ~~[Utah Communications Agency Network]~~ authority;

(11) provide the:

(a) powers and duties of an obligee and limit the obligee's liabilities; and

(b) terms and conditions upon which the obligees may enforce any covenant or rights securing or relating to the bonds;

(12) exercise all or any part or combination of the powers granted in this chapter;

(13) perform any acts necessary, convenient, or desirable to secure its bonds; and

(14) make any covenants or perform any acts calculated to make the bonds more marketable.

Section 27. Section 63H-7-404, which is renumbered from Section 63C-7-304 is renumbered and amended to read:

[63C-7-304]. 63H-7-404. Reserve funds for debt service.

(1) To assure the continued operation and solvency of the ~~[Utah Communications Agency Network]~~ authority for the carrying out of its purpose, the ~~[Utah Communications Agency Network]~~ authority may establish reserve funds necessary to secure the payment of debt service on its bonds.

(2) The resolution authorizing the issuance of the bonds shall specify the minimum amount that is required to be on deposit in the reserve funds.

(3) The chair shall annually, on or before December 1, certify to the governor, the director of finance, and to each member the amount, if any, required to restore the funds to their required funding levels.

(4) (a) The governor may request from the Legislature an appropriation of the amount certified in Subsection (3) to restore the reserve funds to their required funding levels or to meet any projected principal or interest payment deficiency. Any amount appropriated shall be repaid to the General Fund of the state in excess of the amounts which the ~~[executive committee]~~ board determines will keep it self-supporting.

(b) The ~~[executive committee]~~ board shall adjust the fees of the members so that the state is repaid for the amount appropriated in Subsection (4)(a) within 18 months after the state has paid the deficit.

(5) The members are jointly responsible for 1/2 the amount certified in Subsection (3) to restore the reserve funds to their required funding levels. The ~~[executive committee]~~ board may request from each member money proportionate to their participation in the network to restore the funding level. Any amount paid by the members shall be proportionally repaid to them from 1/2 of any money in excess of the amounts which the ~~[executive committee]~~ board determines will keep it self-supporting.

Section 28. Section 63H-7-405, which is renumbered from Section 63C-7-305 is renumbered and amended to read:

[63C-7-305]. 63H-7-405. Investment of the authority funds.

The state treasurer shall invest all money held on deposit by or on behalf of the ~~[Utah Communications Agency Network]~~ authority. The ~~[executive committee]~~ board may provide advice to the state treasurer concerning investment of the money of the ~~[Utah Communications Agency Network]~~ authority.

Section 29. Section 63H-7-406, which is renumbered from Section 63C-7-306 is renumbered and amended to read:

[63C-7-306]. 63H-7-406. Publication of notice, resolution, or other proceeding -- Period for contesting.

(1) The ~~[executive committee of the Utah Communications Agency Network]~~ board may provide for the publication of any resolution or other proceedings adopted under this chapter:

(a) in a newspaper of general circulation within the state; and

(b) as required in Section 45-1-101.

(2) In case of a resolution or other proceeding providing for the issuance of bonds, the ~~[executive committee]~~ board may, in lieu of publishing the entire resolution or other proceeding, publish a notice of bonds to be issued containing:

(a) the name of the issuer;

(b) the purpose of the issue;

(c) the type of bonds and the maximum principal amount which may be issued;

(d) the maximum number of years over which the bonds may mature;

(e) the maximum interest rate which the bonds may bear, if any;

(f) the maximum discount from par, expressed as a percentage of principal amount, at which the bonds may be sold; and

(g) the times and place where a copy of the resolution or other proceeding may be examined, which shall be at the principal office of the [Utah Communications Agency Network] authority during regular business hours and for a period of at least 30 days after the publication of the notice.

(3) For a period of 30 days after the publication, any person in interest may contest the legality of the resolution or proceeding, any bonds which may be authorized by the resolution or proceeding, or any provision made for the security and payment of the bonds by filing a pleading with the district court for the city in which the [Utah Communications Network] authority maintains its principal office.

Section 30. Section 63H-7-501, which is renumbered from Section 63C-7-208 is renumbered and amended to read:
Part 5. General Provisions

[63C-7-208]. 63H-7-501. Property and funds of the authority declared public property -- Exemption from taxes.

(1) The property and funds of the [Utah Communications Agency Network] authority are declared to be public property used for essential public and governmental purposes.

(2) The property and the [Utah Communications Agency Network] authority are exempt from all taxes and special assessments of any public body. This tax exemption does not apply to any portion of a project used for a profit-making enterprise.

Section 31. Section 63H-7-502, which is renumbered from Section 63C-7-209 is renumbered and amended to read:

[63C-7-209]. 63H-7-502. Term of the authority -- Dissolution -- Withdrawal.

(1) (a) The [Utah Communications Agency Network] authority may be dissolved by [a vote of 3/4 of all the members of the board or by] an act of the legislature.

(b) Title to all assets of the [Utah Communications Agency Network] authority upon its dissolution shall revert to the members and the state pro rata, based upon the total amount of money paid to the [Utah Communications Agency Network] authority by each member or the state for services provided to each by the communications network.

(c) The board is authorized to:

(i) take any necessary action to dissolve the [Utah Communications Agency Network] authority; and

(ii) dispose of the property of the [Utah Communications Agency Network] authority upon its dissolution as provided in Subsection (1)(b).

(2) (a) Each member may, at any time, withdraw as a member of the [Utah Communications Agency Network] authority by delivering to the [executive committee] board a written notice of withdrawal which has been approved by the governing body of the member, except that a member may not withdraw from the [Utah Communications Agency Network] authority at any time during which it has an outstanding payment obligation to the [Utah Communications Agency Network] authority as a result of having entered into a service contract, lease, or other financial obligation.

(b) Except as provided in Subsection (2)(a), the [executive committee] board shall delete the petitioning member from the membership of the [Utah Communications Agency Network] authority as of the date of the [executive committee's] board's receipt of the member's notice of withdrawal. The [executive committee] board may not include a member who has given notice of withdrawal in any future obligation of the [Utah Communications Agency Network] authority.

Section 32. Section 63H-7-503, which is renumbered from Section 63C-7-210 is renumbered and amended to read:

[63C-7-210]. 63H-7-503. Relation to certain acts -- Participation in Risk Management Fund.

(1) The [Utah Communications Agency Network] Utah Communications Authority is exempt from:

(a) Title 63J, Chapter 1, Budgetary Procedures Act;

(b) Title 63A, Utah Administrative Services Code, except as provided in Section 63A-4-205.5;

(c) Title 63G, Chapter 6a, Utah Procurement Code;

(d) Title 63G, Chapter 4, Administrative Procedures Act; and

(e) Title 67, Chapter 19, Utah State Personnel Management Act.

(2) The board shall adopt budgetary procedures, accounting, procurement, and personnel policies substantially similar to those from which they have been exempted in Subsection (1).

(3) Subject to the requirements of Subsection 63E-1-304(2), the administration may participate in coverage under the Risk Management Fund created by Section 63A-4-201.

Section 33. Section 63H-7-504, which is renumbered from Section 63C-7-211 is renumbered and amended to read:

[63C-7-211]. 63H-7-504. Annual report to governor and Legislature -- Contents -- Audit by state auditor -- Reimbursement for costs.

(1) The [Utah Communications Agency Network] authority shall, following the close of each fiscal

year, submit an annual report of its activities for the preceding year to the governor and the Legislature. Each report shall set forth a complete operating and financial statement of the agency during the fiscal year it covers.

(2) The state auditor shall at least once in each year audit the books and accounts of the ~~[Utah Communications Agency Network]~~ authority or shall contract with an independent certified public accountant for this audit. The audit shall include a review of the procedures adopted under the requirements of Subsection ~~[63C-7-210]~~ 63H-7-503(2) and a determination as to whether the board has complied with the requirements of Subsection ~~[63C-7-210]~~ 63H-7-503(2).

(3) The ~~[Utah Communications Agency Network]~~ authority shall reimburse the state auditor from available money of the ~~[Utah Communications Agency Network]~~ authority for the actual and necessary costs of that audit.

Section 34. Section 63I-1-269 is amended to read:

63I-1-269. Repeal dates, Title 69.

Section 69-2-5.6, Emergency services telecommunications charge to fund unified statewide ~~[unified E-911]~~ 911 emergency service, is repealed July 1, 2021.

Section 35. Section 63I-4a-102 is amended to read:

63I-4a-102. Definitions.

(1) (a) "Activity" means to provide a good or service.

(b) "Activity" includes to:

- (i) manufacture a good or service;
- (ii) process a good or service;
- (iii) sell a good or service;
- (iv) offer for sale a good or service;
- (v) rent a good or service;
- (vi) lease a good or service;
- (vii) deliver a good or service;
- (viii) distribute a good or service; or
- (ix) advertise a good or service.

(2) (a) Except as provided in Subsection (2)(b), "agency" means:

- (i) the state; or
- (ii) an entity of the state including a department, office, division, authority, commission, or board.

(b) "Agency" does not include:

- (i) the Legislature;
- (ii) an entity or agency of the Legislature;
- (iii) the state auditor;
- (iv) the state treasurer;

(v) the Office of the Attorney General;

(vi) the Dairy Commission created in Title 4, Chapter 22, Dairy Promotion Act;

(vii) the Utah Science Center Authority created in Title 63H, Chapter 3, Utah Science Center Authority;

(viii) the Heber Valley Railroad Authority created in Title 63H, Chapter 4, Heber Valley Historic Railroad Authority;

(ix) the Utah State Railroad Museum Authority created in Title 63H, Chapter 5, Utah State Railroad Museum Authority;

(x) the Utah Housing Corporation created in Title 35A, Chapter 8, Part 7, Utah Housing Corporation Act;

(xi) the Utah State Fair Corporation created in Title 63H, Chapter 6, Utah State Fair Corporation Act;

(xii) the Workers' Compensation Fund created in Title 31A, Chapter 33, Workers' Compensation Fund;

(xiii) the Utah State Retirement Office created in Title 49, Chapter 11, Utah State Retirement Systems Administration;

(xiv) a charter school chartered by the State Charter School Board or a board of trustees of a higher education institution under Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act;

(xv) the Utah Schools for the Deaf and the Blind created in Title 53A, Chapter 25b, Utah Schools for the Deaf and the Blind;

(xvi) an institution of higher education as defined in Section 53B-3-102;

(xvii) the School and Institutional Trust Lands Administration created in Title 53C, Chapter 1, Part 2, School and Institutional Trust Lands Administration;

(xviii) the ~~[Utah Communications Agency Network]~~ Utah Communications Authority created in Title ~~[63C]~~ 63H, Chapter 7, ~~[Utah Communications Agency Network]~~ Utah Communications Authority Act; or

(xix) the Utah Capital Investment Corporation created in Title 63M, Chapter 1, Part 12, Utah Venture Capital Enhancement Act.

(3) "Agency head" means the chief administrative officer of an agency.

(4) "Board" means the Free Market Protection and Privatization Board created in Section 63I-4a-202.

(5) "Commercial activity" means to engage in an activity that can be obtained in whole or in part from a private enterprise.

(6) "Local entity" means:

- (a) a political subdivision of the state, including a:
 - (i) county;

- (ii) city;
- (iii) town;
- (iv) local school district;
- (v) local district; or
- (vi) special service district;

(b) an agency of an entity described in this Subsection (6), including a department, office, division, authority, commission, or board; or

(c) an entity created by an interlocal cooperative agreement under Title 11, Chapter 13, Interlocal Cooperation Act, between two or more entities described in this Subsection (6).

(7) "Private enterprise" means a person that engages in an activity for profit.

(8) "Privatize" means that an activity engaged in by an agency is transferred so that a private enterprise engages in the activity, including a transfer by:

- (a) contract;
 - (b) transfer of property; or
 - (c) another arrangement.
- (9) "Special district" means:

(a) a local district, as defined in Section 17B-1-102;

(b) a special service district, as defined in Section 17D-1-102; or

(c) a conservation district, as defined in Section 17D-3-102.

Section 36. Section 63J-1-201 is amended to read:

63J-1-201. Governor's proposed budget to Legislature -- Contents -- Preparation -- Appropriations based on current tax laws and not to exceed estimated revenues.

(1) The governor shall deliver, not later than 30 days before the date the Legislature convenes in the annual general session, a confidential draft copy of the governor's proposed budget recommendations to the Office of the Legislative Fiscal Analyst according to the requirements of this section.

(2) (a) When submitting a proposed budget, the governor shall, within the first three days of the annual general session of the Legislature, submit to the presiding officer of each house of the Legislature:

- (i) a proposed budget for the ensuing fiscal year;
- (ii) a schedule for all of the proposed changes to appropriations in the proposed budget, with each change clearly itemized and classified; and
- (iii) as applicable, a document showing proposed changes in estimated revenues that are based on changes in state tax laws or rates.

(b) The proposed budget shall include:

(i) a projection of the total estimated revenues, including estimated receipts of federal funds, and appropriations for the next fiscal year;

(ii) the source of changes to all direct, indirect, and in-kind matching funds for all federal grants or assistance programs included in the budget;

(iii) a plan of proposed changes to appropriations and estimated revenues for the next fiscal year that is based upon the current fiscal year state tax laws and rates and considers projected changes in federal grants or assistance programs included in the budget;

(iv) an itemized estimate of the proposed changes to appropriations for:

(A) the Legislative Department as certified to the governor by the president of the Senate and the speaker of the House;

(B) the Executive Department;

(C) the Judicial Department as certified to the governor by the state court administrator;

(D) changes to salaries payable by the state under the Utah Constitution or under law for lease agreements planned for the next fiscal year; and

(E) all other changes to ongoing or one-time appropriations, including dedicated credits, restricted funds, nonlapsing balances, grants, and federal funds;

(v) for each line item, the average annual dollar amount of staff funding associated with all positions that were vacant during the last fiscal year;

(vi) deficits or anticipated deficits;

(vii) the recommendations for each state agency for new full-time employees for the next fiscal year, which shall also be provided to the State Building Board as required by Subsection 63A-5-103(2);

(viii) any explanation that the governor may desire to make as to the important features of the budget and any suggestion as to methods for the reduction of expenditures or increase of the state's revenue; and

(ix) information detailing certain fee increases as required by Section 63J-1-504.

(3) For the purpose of preparing and reporting the proposed budget:

(a) The governor shall require the proper state officials, including all public and higher education officials, all heads of executive and administrative departments and state institutions, bureaus, boards, commissions, and agencies expending or supervising the expenditure of the state money, and all institutions applying for state money and appropriations, to provide itemized estimates of changes in revenues and appropriations.

(b) The governor may require the persons and entities subject to Subsection (3)(a) to provide other information under these guidelines and at times as the governor may direct, which may include a requirement for program productivity and

performance measures, where appropriate, with emphasis on outcome indicators.

(c) The governor may require representatives of public and higher education, state departments and institutions, and other institutions or individuals applying for state appropriations to attend budget meetings.

(4) In submitting the budgets for the Departments of Health and Human Services and the Office of the Attorney General, the governor shall consider a separate recommendation in the governor's budget for changes in funds to be contracted to:

(a) local mental health authorities under Section 62A-15-110;

(b) local substance abuse authorities under Section 62A-15-110;

(c) area agencies under Section 62A-3-104.2;

(d) programs administered directly by and for operation of the Divisions of Substance Abuse and Mental Health and Aging and Adult Services;

(e) local health departments under Title 26A, Chapter 1, Local Health Departments; and

(f) counties for the operation of Children's Justice Centers under Section 67-5b-102.

(5) (a) In making budget recommendations, the governor shall consider an amount sufficient to grant the following entities the same percentage increase for wages and benefits that the governor includes in the governor's budget for persons employed by the state:

(i) local health departments, local mental health authorities, local substance abuse authorities, and area agencies;

(ii) local conservation districts and Utah Association of Conservation District employees, as related to the budget for the Department of Agriculture; and

(iii) employees of corporations that provide direct services under contract with:

(A) the Utah State Office of Rehabilitation and the Division of Services for People with Disabilities;

(B) the Division of Child and Family Services; and

(C) the Division of Juvenile Justice Services within the Department of Human Services.

(b) If the governor does not include in the governor's budget an amount sufficient to grant an increase for any entity described in Subsection (5)(a), the governor shall include a message to the Legislature regarding the governor's reason for not including that amount.

(6) The governor shall include in the governor's budget the state's portion of the budget for the [~~Utah Communications Agency Network~~] Utah Communications Authority established in Title [~~63C~~] 63H, Chapter 7, [~~Utah Communications~~

~~Agency Network~~] Utah Communications Authority Act.

(7) (a) The governor shall include a separate recommendation in the governor's budget for funds to maintain the operation and administration of the Utah Comprehensive Health Insurance Pool. In making the recommendation, the governor may consider:

(i) actuarial analysis of growth or decline in enrollment projected over a period of at least three years;

(ii) actuarial analysis of the medical and pharmacy claims costs projected over a period of at least three years;

(iii) the annual Medical Care Consumer Price Index;

(iv) the annual base budget for the pool established by the Business, Economic Development, and Labor Appropriations Subcommittee for each fiscal year;

(v) the growth or decline in insurance premium taxes and fees collected by the State Tax Commission and the Insurance Department; and

(vi) the availability of surplus General Fund revenue under Section 63J-1-312 and Subsection 59-14-204(5).

(b) In considering the factors in Subsections (7)(a)(i), (ii), and (iii), the governor may consider the actuarial data and projections prepared for the board of the Utah Comprehensive Health Insurance Pool as it develops the governor's financial statements and projections for each fiscal year.

(8) (a) In submitting the budget for the Department of Public Safety, the governor shall include a separate recommendation in the governor's budget for maintaining a sufficient number of alcohol-related law enforcement officers to maintain the enforcement ratio equal to or below the number specified in Subsection 32B-1-201(2).

(b) If the governor does not include in the governor's budget an amount sufficient to maintain the number of alcohol-related law enforcement officers described in Subsection (8)(a), the governor shall include a message to the Legislature regarding the governor's reason for not including that amount.

(9) (a) The governor may revise all estimates, except those relating to the Legislative Department, the Judicial Department, and those providing for the payment of principal and interest to the state debt and for the salaries and expenditures specified by the Utah Constitution or under the laws of the state.

(b) The estimate for the Judicial Department, as certified by the state court administrator, shall also be included in the budget without revision, but the governor may make separate recommendations on the estimate.

(10) The total appropriations requested for expenditures authorized by the budget may not

exceed the estimated revenues from taxes, fees, and all other sources for the next ensuing fiscal year.

(11) If any item of the budget as enacted is held invalid upon any ground, the invalidity does not affect the budget itself or any other item in it.

Section 37. Section 63J-7-102 is amended to read:

63J-7-102. Scope and applicability of chapter.

(1) Except as provided in Subsection (2), and except as otherwise provided by a statute superseding provisions of this chapter by explicit reference to this chapter, the provisions of this chapter apply to each agency and govern each grant received on or after May 5, 2008.

(2) This chapter does not govern:

(a) a grant deposited into a General Fund restricted account;

(b) a grant deposited into a Trust and Agency Fund as defined in Section 51-5-4;

(c) a grant deposited into an Enterprise Fund as defined in Section 51-5-4;

(d) a grant made to the state without a restriction or other designated purpose that is deposited into the General Fund as free revenue;

(e) a grant made to the state that is restricted only to "education" and that is deposited into the Education Fund or Uniform School Fund as free revenue;

(f) in-kind donations;

(g) a tax, fees, penalty, fine, surcharge, money judgment, or other money due the state when required by state law or application of state law;

(h) a contribution made under Title 59, Chapter 10, Part 13, Individual Income Tax Contribution Act;

(i) a grant received by an agency from another agency or political subdivision;

(j) a grant to the Dairy Commission created in Title 4, Chapter 22, Dairy Promotion Act;

(k) a grant to the Utah Science Center Authority created in Title 63H, Chapter 3, Utah Science Center Authority;

(l) a grant to the Heber Valley Railroad Authority created in Title 63H, Chapter 4, Heber Valley Historic Railroad Authority;

(m) a grant to the Utah State Railroad Museum Authority created in Title 63H, Chapter 5, Utah State Railroad Museum Authority;

(n) a grant to the Utah Housing Corporation created in Title 35A, Chapter 8, Part 7, Utah Housing Corporation Act;

(o) a grant to the Utah State Fair Corporation created in Title 63H, Chapter 6, Utah State Fair Corporation Act;

(p) a grant to the Workers' Compensation Fund created in Title 31A, Chapter 33, Workers' Compensation Fund;

(q) a grant to the Utah State Retirement Office created in Title 49, Chapter 11, Utah State Retirement Systems Administration;

(r) a grant to the School and Institutional Trust Lands Administration created in Title 53C, Chapter 1, Part 2, School and Institutional Trust Lands Administration;

(s) a grant to the ~~Utah Communications Agency Network~~ Utah Communications Authority created in Title ~~[63C]~~ 63H, Chapter 7, ~~Utah Communications Agency Network~~ Utah Communications Authority Act;

(t) a grant to the Medical Education Program created in Section 53B-24-202;

(u) a grant to the Utah Capital Investment Corporation created in Title 63M, Chapter 1, Part 12, Utah Venture Capital Enhancement Act;

(v) a grant to the Utah Charter School Finance Authority created in Section 53A-20b-103;

(w) a grant to the State Building Ownership Authority created in Section 63B-1-304;

(x) a grant to the Utah Comprehensive Health Insurance Pool created in Section 31A-29-104; or

(y) a grant to the Military Installation Development Authority created in Section 63H-1-201.

(3) An agency need not seek legislative review or approval of grants under Part 2, Grant Approval Requirements, if:

(a) the governor has declared a state of emergency; and

(b) the grant is donated to the agency to assist victims of the state of emergency under Subsection 53-2a-204(1).

Section 38. Section 69-2-2 is amended to read:

69-2-2. Definitions.

As used in this chapter:

(1) "911 emergency ~~telephone~~ service" means a unified statewide communication system which provides citizens with rapid direct access to public ~~emergency operation centers by dialing the telephone number~~ safety answering points by accessing "911" with the objective of reducing the response time to situations requiring law enforcement, fire, medical, rescue, and other emergency services.

(2) "Local exchange service" means the provision of public telecommunications services by a wireline common carrier to customers within a geographic area encompassing one or more local communities as described in the carrier's service territory maps, tariffs, price lists, or rate schedules filed with and approved by the Public Service Commission.

(3) "Local exchange service switched access line" means the transmission facility and local switching

equipment used by a wireline common carrier to connect a customer location to a carrier's local exchange switching network for providing two-way interactive voice, or voice capable, services.

(4) "Mobile telecommunications service" is as defined in Section 54-8b-2.

(5) "Public agency" means any county, city, town, special service district, or public authority located within the state which provides or has authority to provide fire fighting, law enforcement, ambulance, medical, or other emergency services.

(6) "Public safety agency" means a functional division of a public agency which provides fire fighting, law enforcement, medical, or other emergency services.

(7) "Public safety answering point" means a facility that:

(a) is equipped and staffed under the authority of a political subdivision; and

(b) receives 911 [calls] communications, other calls for emergency services, and asynchronous event notifications for a defined geographic area.

(8) "Radio communications access line" means the radio equipment and assigned customer identification number used to connect a mobile or fixed radio customer in Utah to a radio communication service provider's network for two-way interactive voice, or voice capable, services.

(9) "Radio communications service" means a public telecommunications service providing the capability of two-way interactive telecommunications between mobile and fixed radio customers, and between mobile or fixed radio customers and the local exchange service network customers of a wireline common carrier. Radio communications service providers include corporations, persons or entities offering cellular telephone service, enhanced specialized mobile radio service, rural radio service, radio common carrier services, personal communications services, and any equivalent wireless public telecommunications service, as defined in 47 CFR, parts 20, 22, 24, and 90.

(10) "Wireline common carrier" means a public telecommunications service provider that primarily uses metallic or nonmetallic cables and wires for connecting customers to its local exchange service networks.

Section 39. Section 69-2-3 is amended to read:

69-2-3. 911 service -- Establishment.

The governing authority of any public agency may establish a 911 emergency [telephone] service to provide service to any part or all of the territory lying within the geographical area of such public agency and may join with the governing authority of any other public agency to provide 911 emergency [telephone] service to any part or all of the territory lying within their respective jurisdictions. A county

may provide 911 emergency [telephone] service within other public safety agency jurisdictions only upon agreement with the governing authority of such public safety agency.

Section 40. Section 69-2-4 is amended to read:

69-2-4. Administration.

The administration of the 911 emergency [telephone] system shall be provided by the governing authority of the public agency establishing 911 emergency [telephone] service either directly or by the appointment of employees of the public agency as directed by the governing authority, except that any 911 emergency [telephone] service established by a special service district shall be administered as set forth in Title 17D, Chapter 1, Special Service District Act.

Section 41. Section 69-2-5 is amended to read:

69-2-5. Funding for 911 emergency service -- Administrative charge.

(1) In providing funding of 911 emergency [telecommunications] service, any public agency establishing a 911 emergency [telecommunications] service may:

(a) seek assistance from the federal or state government, to the extent constitutionally permissible, in the form of loans, advances, grants, subsidies, and otherwise, directly or indirectly;

(b) seek funds appropriated by local governmental taxing authorities for the funding of public safety agencies; and

(c) seek gifts, donations, or grants from individuals, corporations, or other private entities.

(2) For purposes of providing funding of 911 emergency [telecommunications] service, special service districts may raise funds as provided in Section 17D-1-105 and may borrow money and incur indebtedness as provided in Section 17D-1-103.

(3) (a) Except as provided in Subsection (3)(b) and subject to the other provisions of this Subsection (3) a county, city, or town within which 911 emergency [telecommunications] service is provided may levy a monthly [an] 911 emergency services [telecommunications] charge on:

(i) each local exchange service switched access line within the boundaries of the county, city, or town;

(ii) each revenue producing radio communications access line with a billing address within the boundaries of the county, city, or town; and

(iii) any other service, including voice over Internet protocol, provided to a user within the boundaries of the county, city, or town that allows the user to make calls to and receive calls from the public switched telecommunications network, including commercial mobile radio service networks.

(b) Notwithstanding Subsection (3)(a), an access line provided for public coin telecommunications service is exempt from 911 emergency [telecommunications] service charges.

(c) The amount of the charge levied under this section may not exceed:

(i) 61 cents per month for each local exchange service switched access line;

(ii) 61 cents per month for each radio communications access line; and

(iii) 61 cents per month for each service under Subsection (3)(a)(iii).

(d) (i) For purposes of this Subsection (3)(d) the following terms shall be defined as provided in Section 59-12-102 or 59-12-215:

(A) “mobile telecommunications service”;

(B) “place of primary use”;

(C) “service address”; and

(D) “telecommunications service.”

(ii) An access line described in Subsection (3)(a) is considered to be within the boundaries of a county, city, or town if the telecommunications services provided over the access line are located within the county, city, or town:

(A) for purposes of sales and use taxes under Title 59, Chapter 12, Sales and Use Tax Act; and

(B) determined in accordance with Section 59-12-215.

(iii) The rate imposed on an access line under this section shall be determined in accordance with Subsection (3)(d)(iv) if the location of an access line described in Subsection (3)(a) is determined under Subsection (3)(d)(ii) to be a county, city, or town other than county, city, or town in which is located:

(A) for a telecommunications service, the purchaser’s service address; or

(B) for mobile telecommunications service, the purchaser’s place of primary use.

(iv) The rate imposed on an access line under this section shall be the lower of:

(A) the rate imposed by the county, city, or town in which the access line is located under Subsection (3)(d)(ii); or

(B) the rate imposed by the county, city, or town in which it is located:

(I) for telecommunications service, the purchaser’s service address; or

(II) for mobile telecommunications service, the purchaser’s place of primary use.

(e) (i) A county, city, or town shall notify the Public Service Commission of the intent to levy the charge under this Subsection (3) at least 30 days before the effective date of the charge being levied.

(ii) For purposes of this Subsection (3)(e):

(A) “Annexation” means an annexation to:

(I) a city or town under Title 10, Chapter 2, Part 4, Annexation; or

(II) a county under Title 17, Chapter 2, County Consolidations and Annexations.

(B) “Annexing area” means an area that is annexed into a county, city, or town.

(iii) (A) Except as provided in Subsection (3)(e)(iii)(C) or (D), if [on or after July 1, 2003,] a county, city, or town enacts or repeals a charge or changes the amount of the charge under this section, the enactment, repeal, or change shall take effect:

(I) on the first day of a calendar quarter; and

(II) after a 90-day period beginning on the date the State Tax Commission receives notice meeting the requirements of Subsection (3)(e)(iii)(B) from the county, city, or town.

(B) The notice described in Subsection (3)(e)(iii)(A) shall state:

(I) that the county, city, or town will enact or repeal a charge or change the amount of the charge under this section;

(II) the statutory authority for the charge described in Subsection (3)(e)(iii)(B)(I);

(III) the effective date of the charge described in Subsection (3)(e)(iii)(B)(I); and

(IV) if the county, city, or town enacts the charge or changes the amount of the charge described in Subsection (3)(e)(iii)(B)(I), the amount of the charge.

(C) Notwithstanding Subsection (3)(e)(iii)(A), the enactment of a charge or a charge increase under this section shall take effect on the first day of the first billing period:

(I) that begins after the effective date of the enactment of the charge or the charge increase; and

(II) if the billing period for the charge begins before the effective date of the enactment of the charge or the charge increase imposed under this section.

(D) Notwithstanding Subsection (3)(e)(iii)(A), the repeal of a charge or a charge decrease under this section shall take effect on the first day of the last billing period:

(I) that began before the effective date of the repeal of the charge or the charge decrease; and

(II) if the billing period for the charge begins before the effective date of the repeal of the charge or the charge decrease imposed under this section.

(iv) (A) Except as provided in Subsection (3)(e)(iv)(C) or (D), if [for an annexation that occurs on or after July 1, 2003,] the annexation will result in the enactment, repeal, or a change in the amount of a charge imposed under this section for an

annexing area, the enactment, repeal, or change shall take effect:

(I) on the first day of a calendar quarter; and

(II) after a 90-day period beginning on the date the State Tax Commission receives notice meeting the requirements of Subsection (3)(e)(iv)(B) from the county, city, or town that annexes the annexing area.

(B) The notice described in Subsection (3)(e)(iv)(A) shall state:

(I) that the annexation described in Subsection (3)(e)(iv)(A) will result in an enactment, repeal, or a change in the charge being imposed under this section for the annexing area;

(II) the statutory authority for the charge described in Subsection (3)(e)(iv)(B)(I);

(III) the effective date of the charge described in Subsection (3)(e)(iv)(B)(I); and

(IV) if the county, city, or town enacts the charge or changes the amount of the charge described in Subsection (3)(e)(iv)(B)(I), the amount of the charge.

(C) Notwithstanding Subsection (3)(e)(iv)(A), the enactment of a charge or a charge increase under this section shall take effect on the first day of the first billing period:

(I) that begins after the effective date of the enactment of the charge or the charge increase; and

(II) if the billing period for the charge begins before the effective date of the enactment of the charge or the charge increase imposed under this section.

(D) Notwithstanding Subsection (3)(e)(iv)(A), the repeal of a charge or a charge decrease under this section shall take effect on the first day of the last billing period:

(I) that began before the effective date of the repeal of the charge or the charge decrease; and

(II) if the billing period for the charge begins before the effective date of the repeal of the charge or the charge decrease imposed under this section.

(f) Subject to Subsection (3)(g), ~~an~~ a 911 emergency services ~~telecommunications~~ charge levied under this section shall:

(i) be billed and collected by the person that provides the:

(A) local exchange service switched access line services; or

(B) radio communications access line services; and

(ii) except for costs retained under Subsection (3)(h), remitted to the State Tax Commission.

(g) ~~An~~ A 911 emergency services ~~telecommunications~~ charge on a mobile telecommunications service may be levied, billed,

and collected only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

(h) The person that bills and collects the charges levied under Subsection (3)(f) may:

(i) bill the charge imposed by this section in combination with the charge levied under Section 69-2-5.6 as one line item charge; and

(ii) retain an amount not to exceed 1.5% of the levy collected under this section as reimbursement for the cost of billing, collecting, and remitting the levy.

(i) The State Tax Commission shall~~(i)~~ collect, enforce, and administer the charge imposed under this Subsection (3) using the same procedures used in the administration, collection, and enforcement of the state sales and use taxes under:

~~(A)~~ (i) Title 59, Chapter 1, General Taxation Policies; and

~~(B)~~ (ii) Title 59, Chapter 12, Part 1, Tax Collection, except for:

~~(4)~~ (A) Section 59-12-104;

~~(4B)~~ (B) Section 59-12-104.1;

~~(4C)~~ (C) Section 59-12-104.2;

(D) Section 59-12-104.6;

~~(4V)~~ (E) Section 59-12-107.1; and

~~(4V)~~ (F) Section 59-12-123 ~~and~~.

~~(4ii)~~ (j) The State Tax Commission shall transmit money collected under this Subsection (3) monthly by electronic funds transfer to the county, city, or town that imposes the charge.

~~(4j)~~ (k) A person that pays a charge under this section shall pay the charge to the commission:

(i) monthly on or before the last day of the month immediately following the last day of the previous month if:

(A) the person is required to file a sales and use tax return with the commission monthly under Section 59-12-108; or

(B) the person is not required to file a sales and use tax return under Title 59, Chapter 12, Sales and Use Tax Act; or

(ii) quarterly on or before the last day of the month immediately following the last day of the previous quarter if the person is required to file a sales and use tax return with the commission quarterly under Section 59-12-107.

~~(4k)~~ (l) A charge a person pays under this section shall be paid using a form prescribed by the State Tax Commission.

(4) (m) The State Tax Commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the State Tax Commission collects from a charge under this section.

~~(m)~~ (n) A charge under this section is subject to Section ~~69-2-5.8~~.

(4) (a) Any money received by a public agency for the provision of 911 emergency ~~telecommunications~~ service shall be deposited in a special emergency telecommunications service fund.

(b) (i) Except as provided in Subsection (5)(b), the money in the 911 emergency ~~telecommunications~~ service fund shall be expended by the public agency to pay the costs of:

(A) establishing, installing, maintaining, and operating a 911 emergency ~~telecommunications~~ service system;

(B) receiving and processing emergency ~~calls~~ communications from the 911 system or other ~~calls~~ communications or requests for emergency services;

(C) integrating a 911 emergency service system into an established public safety dispatch center, including contracting with the providers of local exchange service, radio communications service, and vendors of appropriate terminal equipment as necessary to implement the 911 emergency ~~telecommunications service~~ services; or

(D) indirect costs associated with the maintaining and operating of a 911 emergency ~~telecommunications~~ services system.

(ii) Revenues derived for the funding of 911 emergency ~~telecommunications~~ service may be used by the public agency for personnel costs associated with receiving and processing ~~calls~~ communications and deploying emergency response resources when the system is integrated with any public safety dispatch system.

(c) Any unexpended money in the 911 emergency ~~telecommunications~~ service fund at the end of a fiscal year does not lapse, and must be carried forward to be used for the purposes described in this section.

(5) (a) Revenue received by a local entity from an increase in the levy imposed under Subsection (3) after the 2004 Annual General Session:

(i) may be used by the public ~~agency~~ safety answering point for the purposes under Subsection (4)(b); and

(ii) shall be deposited into the special 911 emergency ~~telecommunications~~ service fund described in Subsection (4)(a).

(b) Revenue received by a local entity from ~~grants~~ disbursements from the Utah 911 Committee under Section ~~53-10-605~~ ~~63H-7-306~~:

(i) shall be deposited into the special 911 emergency ~~telecommunications~~ service fund under Subsection (4)(a); and

(ii) shall only be used for that portion of the costs related to the development and operation of wireless and land-based enhanced 911 emergency telecommunications service and the

implementation of ~~wireless E-911 Phase I and Phase II~~ 911 services as provided in Subsection (5)(c).

(c) The costs allowed under Subsection (5)(b)(ii) include the public safety answering point's ~~or local entity's~~ costs for:

(i) acquisition, upgrade, modification, maintenance, and operation of public service answering point equipment capable of receiving ~~E-911~~ 911 information;

(ii) database development, operation, and maintenance; and

(iii) personnel costs associated with establishing, installing, maintaining, and operating wireless ~~E-911 Phase I and Phase II~~ 911 services, including training emergency service personnel regarding receipt and use of ~~E-911~~ 911 wireless service information and educating consumers regarding the appropriate and responsible use of ~~E-911~~ 911 wireless service.

(6) A local entity that increases the levy it imposes under Subsection (3)(c) after the 2004 Annual General Session shall increase the levy to the maximum amount permitted by Subsection (3)(c).

Section 42. Section 69-2-5.5 is amended to read:

69-2-5.5. Emergency services telecommunications charge to fund the Computer Aided Dispatch Restricted Account -- Administrative charge.

(1) Subject to Subsection (7), there is imposed an emergency services telecommunications charge of ~~[7]~~ 6 cents per month on each local exchange service switched access line and each revenue producing radio communications access line that is subject to an emergency services telecommunications charge levied by a county, city, or town under Section 69-2-5.

(2) (a) Subject to Subsection (7), an emergency services telecommunications charge imposed under this section shall be billed and collected by the person that provides:

(i) local exchange service switched access line services; or

(ii) radio communications access line services.

(b) A person that pays an emergency services telecommunications charge under this section shall pay the emergency services telecommunications charge to the commission:

(i) monthly on or before the last day of the month immediately following the last day of the previous month if:

(A) the person is required to file a sales and use tax return with the commission monthly under Section 59-12-108; or

(B) the person is not required to file a sales and use tax return under Title 59, Chapter 12, Sales and Use Tax Act; or

(ii) quarterly on or before the last day of the month immediately following the last day of the previous quarter if the person is required to file a sales and use tax return with the commission quarterly under Section 59-12-107.

(c) An emergency services telecommunications charge imposed under this section shall be deposited into the ~~[General Fund as dedicated credits to pay for:]~~ Computer Aided Dispatch Restricted Account created in Section 63H-7-310.

~~[(i) costs of establishing, installing, maintaining, and operating the University of Utah Poison Control Center; and]~~

~~[(ii) expenses of the State Tax Commission to administer and enforce the collection of the emergency services telecommunications charges.]~~

~~[(3) Funds for the University of Utah Poison Control Center program are nonlapsing.]~~

~~[(4)]~~ (3) Emergency services telecommunications charges remitted to the State Tax Commission pursuant to Subsection (2) shall be accompanied by the form prescribed by the State Tax Commission.

~~[(5)]~~ (4) (a) The State Tax Commission shall administer, collect, and enforce the charge imposed under Subsection (1) according to the same procedures used in the administration, collection, and enforcement of the state sales and use tax under:

(i) Title 59, Chapter 1, General Taxation Policies; and

(ii) Title 59, Chapter 12, Part 1, Tax Collection, except for:

(A) Section 59-12-104;

(B) Section 59-12-104.1;

(C) Section 59-12-104.2; ~~and]~~

(D) Section 59-12-104.6;

~~[(D)]~~ (E) Section 59-12-107.1[-]; and

(F) Section 59-12-123.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Tax Commission may make rules to administer, collect, and enforce the emergency services telecommunications charges imposed under this section.

(c) The State Tax Commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the State Tax Commission collects from an emergency services telecommunications charge under this section.

(d) A charge under this section is subject to Section 69-2-5.8.

~~[(6)]~~ (5) A provider of local exchange service switched access line services or radio communications access line services who fails to comply with this section is subject to penalties and

interest as provided in Sections 59-1-401 and 59-1-402.

~~[(7)]~~ (6) An emergency services telecommunications charge under this section on a mobile telecommunications service may be imposed, billed, and collected only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

Section 43. Section 69-2-5.6 is amended to read:

69-2-5.6. 911 services charge to fund unified statewide 911 emergency service -- Administrative charge.

(1) Subject to Subsection 69-2-5(3)(g), there is imposed a unified statewide ~~[unified E-911]~~ 911 emergency service charge of 9 cents per month on each local exchange service switched access line and each revenue producing radio communications access line that is subject to ~~an~~ a 911 emergency services ~~[telecommunications]~~ charge levied by a county, city, or town under Section 69-2-5 ~~[or 69-2-5.5 at:]~~.

~~[(a) 13 cents per month until June 30, 2007; and]~~

~~[(b) 8 cents per month on and after July 1, 2007.]~~

(2) (a) ~~[An]~~ A 911 emergency services ~~[telecommunications]~~ charge imposed under this section shall be:

(i) subject to Subsection 69-2-5(3)(g); and

(ii) billed and collected by the person that provides:

(A) local exchange service switched access line services;

(B) radio communications access line services; or

(C) service described in Subsection 69-2-5(3)(a)(iii).

(b) A person that pays a charge under this section shall pay the charge to the commission:

(i) monthly on or before the last day of the month immediately following the last day of the previous month if:

(A) the person is required to file a sales and use tax return with the commission monthly under Section 59-12-108; or

(B) the person is not required to file a sales and use tax return under Title 59, Chapter 12, Sales and Use Tax Act; or

(ii) quarterly on or before the last day of the month immediately following the last day of the previous quarter if the person is required to file a sales and use tax return with the commission quarterly under Section 59-12-107.

(c) A charge imposed under this section shall be deposited into the ~~[Statewide]~~ Unified ~~[E-911]~~ Statewide 911 Emergency Service Account created by Section ~~[53-10-603]~~ 63H-7-304.

(3) The person that bills and collects the charges levied by this section pursuant to Subsections (2)(b) and (c) may:

(a) bill the charge imposed by this section in combination with the charge levied under Section 69-2-5 as one line item charge; and

(b) retain an amount not to exceed 1.5% of the charges collected under this section as reimbursement for the cost of billing, collecting, and remitting the levy.

(4) The State Tax Commission shall collect, enforce, and administer the charges imposed under Subsection (1) using the same procedures used in the administration, collection, and enforcement of the emergency services telecommunications charge to fund the ~~[Poison Control Center under Section 69-2-5.5]~~ Computer Aided Dispatch Restricted Account under Section 63H-7-310.

(5) Notwithstanding Section ~~[53-10-603]~~ 63H-7-304, the State Tax Commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the State Tax Commission collects from a charge under this section.

(6) A charge under this section is subject to Section 69-2-5.8.

(7) This section sunsets in accordance with Section 63I-1-269.

Section 44. Section 69-2-5.7 is amended to read:

69-2-5.7. Prepaid wireless telecommunications charge to fund 911 service -- Administrative charge.

(1) As used in this section:

(a) "Consumer" means a person who purchases prepaid wireless telecommunications service in a transaction.

(b) "Prepaid wireless 911 service charge" means the charge that is required to be collected by a seller from a consumer in the amount established under Subsection (2).

(c) (i) "Prepaid wireless telecommunications service" means a wireless telecommunications service that:

(A) is paid for in advance;

(B) is sold in predetermined units of time or dollars that decline with use in a known amount or provides unlimited use of the service for a fixed amount or time; and

(C) allows a caller ~~[to dial 911]~~ to access 911 emergency ~~[telephone]~~ service.

(ii) "Prepaid wireless telecommunications service" does not include a wireless telecommunications service that is billed:

(A) to a customer on a recurring basis; and

(B) in a manner that includes the emergency services telecommunications charges, described in Sections 69-2-5, 69-2-5.5, and 69-2-5.6, for each radio communication access line assigned to the customer.

(d) "Seller" means a person that sells prepaid wireless telecommunications service to a consumer.

(e) "Transaction" means each purchase of prepaid wireless telecommunications service from a seller.

(f) "Wireless telecommunications service" means commercial mobile radio service as defined by 47 C.F.R. Sec. 20.3, as amended.

(2) There is imposed a prepaid wireless 911 service charge of 1.9% of the sales price per transaction.

(3) The prepaid wireless 911 service charge shall be collected by the seller from the consumer for each transaction occurring in this state.

(4) The prepaid wireless 911 service charge shall be separately stated on an invoice, receipt, or similar document that is provided by the seller to the consumer.

(5) For purposes of Subsection (3), the location of a transaction is determined in accordance with Sections 59-12-211 through 59-12-215.

(6) When prepaid wireless telecommunications service is sold with one or more other products or services for a single non-itemized price, then the percentage specified in Section (2) shall apply to the entire non-itemized price.

(7) A seller may retain 3% of prepaid wireless 911 service charges that are collected by the seller from consumers as reimbursement for the cost of billing, collecting, and remitting the charge.

(8) Prepaid wireless 911 service charges collected by a seller, except as retained under Subsection (7), shall be remitted to the State Tax Commission at the same time as the seller remits to the State Tax Commission money collected by the person under Title 59, Chapter 12, Sales and Use Tax Act.

(9) The State Tax Commission:

(a) shall collect, enforce, and administer the charge imposed under this section using the same procedures used in the administration, collection, and enforcement of the state sales and use taxes under:

(i) Title 59, Chapter 1, General Taxation Policies; and

(ii) Title 59, Chapter 12, Part 1, Tax Collection, except for:

(A) Section 59-12-104;

(B) Section 59-12-104.1;

(C) Section 59-12-104.2;

(D) Section 59-12-107.1; and

(E) Section 59-12-123;

(b) may retain up to 1.5% of the prepaid wireless 911 service charge revenue collected under Subsection (9)(a) as reimbursement for administering this section;

(c) shall distribute the prepaid wireless 911 service charge revenue, except as retained under Subsection (9)(b), as follows:

(i) 80.3% of the revenue shall be distributed to each county, city, or town in the same percentages and in the same manner as the entities receive money to fund 911 emergency telecommunications services under Section 69-2-5;

(ii) ~~[9.2%]~~ 7.9% of the revenue shall be distributed to fund the ~~[Poison Control Center as in Section 69-2-5.5]~~ Computer Aided Dispatch Restricted Account created in Section 63H-7-310; and

(iii) ~~[10.5%]~~ 11.8% of the revenue shall be distributed to fund the unified statewide [unified E-911] 911 emergency service as in Section 69-2-5.6; and

(d) may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer, collect, and enforce the charges imposed under this section.

(10) A charge under this section is subject to Section 69-2-5.8.

Section 45. Repealer.

This bill repeals:

Section 63C-7-203, Establishment of the Utah Communications Agency Network Board -- Terms -- Vacancies.

Section 63C-7-204, Powers of the board.

Section 63F-1-801, Statewide Communications Interoperability Committee -- Membership -- Chair -- Quorum.

Section 63F-1-802, Duties and powers.

Section 46. Transition of Utah 911 Committee, the Statewide Communications and Interoperability Committee, radio services within the Department of Technology Services, and the Utah Communications Agency Network into the Utah Communications Authority.

(1) The Legislature finds that there is a statewide purpose and need to consolidate the management of 911 emergency services and communications in the state and to create a statewide computer aided dispatch platform. In order to improve unified statewide emergency services, the Utah Communications Agency Network shall be renamed the Utah Communications Authority and shall be consolidated with the Utah 911 Committee, the Statewide Communications and Interoperability Committee, and the radio services within the Department of Technology Services. The consolidation of services management and assets creates a unique opportunity to improve the development, delivery, and administration of unified statewide 911 emergency services, radio, and radio interoperability.

(2) The executive directors of the Department of Technology Services and the Utah Communications Agency Network shall serve as the transition directors for the consolidation described in Subsection (1).

(3) (a) The transition directors shall, in accordance with the provisions of this bill and this transition section, enter into a memorandum of understanding with the appropriate entities to, effective July 1, 2014:

(i) transfer employees and adjust the employment status of state personnel as necessary to implement the consolidation of 911 emergency services management and a statewide computer aided dispatch platform into the Utah Communications Authority;

(ii) transfer service level agreements and responsibilities, maintenance resources, equipment, communications system assets, and sites and facilities from the Department of Technology Services, the Utah 911 Committee, and the Department of Public Safety to the Utah Communications Authority; and

(iii) allocate the cost of the transfer and mergers required by the memorandum of understanding.

(b) The memorandum of understanding shall:

(i) preserve the value of vested Program 1 and Program 2 sick leave benefits and other vested leave benefits for state employees transferred to the Utah Communications Authority;

(ii) establish the entities and funds that will be responsible for paying for postretirement sick leave benefits and other vested leave benefits for the employees transferred to the Utah Communications Authority; and

(iii) include other agreements necessary to transfer the appropriate employees, entities, communications system assets, sites, facilities, service level agreements, maintenance resources and agreements, and equipment into the Utah Communications Authority in accordance with this bill.

(4) If the transition directors cannot agree on the terms of consolidation under Subsection (3) of this chapter, each transition director shall submit a recommendation to the governor and to the Legislature's Public Utilities and Technology Interim Committee. The governor shall determine the resolution of the transition director's memorandum of understanding.

(5) The Department of Administrative Services, through the Division of Finance, the Division of Facilities and Construction Management, Fleet Management, and the Department of Human Resource Management shall, effective July 1, 2014:

(a) designate the funds that will be responsible for vested postretirement sick leave benefits and vested leave benefits for employees transferred to the Utah Communications Authority;

(b) transfer funds from the termination pools administered by the Division of Finance to the Utah Communications Authority or to the Post-Retirement Benefits Trust Fund as necessary to implement the memorandum of understanding entered into under Subsection (3);

(c) assist the Department of Technology Services with the transfer of ownership of equipment,

assignment of leases, and transition of leaseholds and property from the Department of Technology Services to the Utah Communications Authority; and

(d) take other action required by the memorandum of understanding established under Subsection (3) that is necessary to assist with the consolidation of the management of 911 emergency services and a statewide computer aided dispatch platform into the Utah Communications Authority.

(6) The memorandum of understanding shall be made public and posted on the state's transparency website.

(7) All administrative rules, orders, contracts, grants, bonds, and agreements relating to the functions of the radio services within the Department of Technology Services, the Utah Communications Agency Network, or the Utah 911 Committee, its board or officers, prior to July 1, 2014, remain in effect until revised, amended, or rescinded, and shall be assigned to and administered by the Utah Communications Authority, including the collection of revenues under contracts and the payment for services under contract.

(8) Any suit, action, or other proceeding lawfully commenced by, against, or before any entity affected by this chapter shall not be abated by reason of this bill or the reorganization of the Utah Communications Agency Network, the Utah 911 Committee, and the radio services within the Department of Technology Services into the Utah Communications Authority.

(9) The authority of the transition directors under this chapter is repealed on July 1, 2014.

Section 47. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on July 1, 2014.

(2) Uncodified Section 46, Transition of Utah 911 Committee, takes effect on May 13, 2014.

CHAPTER 321**H. B. 158**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

**GRAZING AND TIMBER AGRICULTURAL
COMMODITY ZONES IN UTAH**Chief Sponsor: Michael E. Noel
Senate Sponsor: Ralph Okerlund**LONG TITLE****General Description:**

This bill establishes Utah Grazing Agricultural Commodity Zones and Utah Timber Agricultural Commodity Zones.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ establishes Utah Grazing Agricultural Commodity Zones;
- ▶ states that Utah Grazing Agricultural Commodity Zones are designed to preserve and protect the agricultural livestock industry and maximize efficient and responsible restoration, reclamation, preservation, enhancement, and development of grazing and water resources;
- ▶ establishes Utah Timber Agricultural Commodity Zones;
- ▶ states that Utah Timber Agricultural Commodity Zones are designed to preserve and protect the agricultural timber, logging, and forest products industry, and maximize efficient and responsible restoration, reclamation, preservation, enhancement, and development of timber, logging, and forest products;
- ▶ promotes local, state, and federal collaboration; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63J-8-102, as last amended by Laws of Utah 2013, Chapters 393 and 472

63J-8-105, as last amended by Laws of Utah 2013, Chapters 393, 472 and last amended by Coordination Clause, Laws of Utah 2013, Chapter 472

63J-8-105.5, as enacted by Laws of Utah 2012, Chapter 189

63J-8-105.7, as enacted by Laws of Utah 2013, Chapter 472 and last amended by Coordination Clause, Laws of Utah 2013, Chapter 472

ENACTS:

63J-8-105.8, Utah Code Annotated 1953

63J-8-105.9, Utah Code Annotated 1953

REPEALS:

63J-8-105.6, as enacted by Laws of Utah 2013, Chapter 393

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63J-8-102 is amended to read:**63J-8-102. Definitions.**

As used in this chapter:

(1) "ACEC" means an area of critical environmental concern as defined in 43 U.S.C. Sec. 1702.

(2) "AUM" means animal unit months, a unit of grazing forage.

(3) "BLM" means the United States Bureau of Land Management.

(4) "BLM recommended wilderness" means a wilderness study area recommended for wilderness designation in the final report of the president of the United States to the United States Congress in 1993.

~~[(5) "Escalante Region Grazing Zone" means BLM and Forest Service lands situated in the following townships in Garfield and Kane Counties, as more fully illustrated in the map jointly prepared by the Garfield County and Kane County GIS Departments in February 2013, entitled "Escalante Region Grazing Zone":]~~

~~[(a) in Garfield County, Township 32S Range 6E, Township 32S Range 7E, Township 33S Range 5E, Township 33S Range 6E, Township 33S Range 7E, Township 34S Range 3E, Township 34S Range 4E, Township 34S Range 5E, Township 34S Range 6E, Township 34S Range 7E, Township 35S Range 1E, Township 35S Range 2E, Township 35S Range 3E, Township 35S Range 4E, Township 35S Range 5E, Township 35S Range 6E, Township 35S Range 7E, Township 35S Range 8E, Township 36S Range 1W, Township 36S Range 2W, Township 36S Range 3W, Township 36S Range 1E, Township 36S Range 2E, Township 36S Range 3E, Township 36S Range 4E, Township 36S Range 5E, Township 36S Range 6E, Township 36S Range 7E, Township 36S Range 8E, Township 37S Range 1W, Township 37S Range 2W, Township 37S Range 3W, Township 37S Range 4W, Township 37S Range 1E, Township 37S Range 2E, Township 37S Range 3E, Township 37S Range 4E, Township 37S Range 5E, Township 37S Range 6E, Township 37S Range 7E, Township 37S Range 8E, and Township 37S Range 9E; and]~~

~~[(b) in Kane County, Township 38S Range 1W, Township 38S Range 2W, Township 38S Range 3W, Township 38S Range 4W, Township 38S Range 1E, Township 38S Range 2E, Township 38S Range 3E, Township 38S Range 4E, Township 38S Range 5E, Township 38S Range 6E, Township 38S Range 7E, Township 38S Range 8E, Township 38S Range 9E, Township 39S Range 1W, Township 39S Range 2W, Township 39S Range 3W, Township 39S Range 4W, Township 39S Range 1E, Township 39S Range 2E, Township 39S Range 3E, Township 39S Range 4E, Township 39S Range 5E, Township 39S Range 6E, Township 39S Range 7E, Township 39S Range 8E, Township 39S Range 9E, Township 40S Range 1W, Township 40S Range 2W, Township 40S Range 3W, Township 40S Range 4W, Township 40S Range 1E, Township 40S Range 2E, Township 40S Range 3E, Township 40S Range 4E, Township 40S Range 5E, Township 40S Range 6E, Township 40S Range 7E, Township 40S Range 8E, Township 40S Range 9E, Township 40S Range 1W, Township 40S Range 2W, Township 40S Range 3W, Township 40S Range 4W, Township 40S Range 5W, Township 40S Range 6W, Township 40S Range 7W, Township 40S Range 8W, and Township 40S Range 9W; and]~~

Range 1E, Township 40S Range 2E, Township 40S Range 3E, Township 40S Range 4E, Township 40S Range 5E, Township 40S Range 6E, Township 40S Range 7E, Township 40S Range 8E, Township 40S Range 9E, Township 40.5S Range 9E, Township 41S Range 1W, Township 41S Range 2W, Township 41S Range 3W, Township 41S Range 4W, Township 41S Range 4.5W, Township 41S Range 5W, Township 41S Range 1E, Township 41S Range 2E, Township 41S Range 3E, Township 41S Range 4E, Township 41S Range 5E, Township 41S Range 6E, Township 41S Range 7E, Township 41S Range 8E, Township 41S Range 9E, Township 42S Range 1W, Township 42S Range 2W, Township 42S Range 3W, Township 42S Range 4W, Township 42S Range 4.5W, Township 42S Range 5W, Township 42S Range 1E, Township 42S Range 2E, Township 42S Range 3E, Township 42S Range 4E, Township 42S Range 5E, Township 42S Range 6E, Township 42S Range 7E, Township 42S Range 8E, Township 42S Range 9E, Township 43S Range 1W, Township 43S Range 2W, Township 43S Range 3W, Township 43S Range 4W, Township 43S Range 4.5W, Township 43S Range 5W, Township 43S Range 1E, Township 43S Range 2E, Township 43S Range 3E, Township 43S Range 4E, Township 43S Range 5E, Township 43S Range 6E, Township 44S Range 1W, Township 44S Range 2W, Township 44S Range 3W, Township 44S Range 4W, Township 44S Range 4.5W, Township 44S Range 5W, Township 44S Range 1E, Township 44S Range 2E, Township 44S Range 3E, Township 44S Range 4E, and Township 44S Range 5E.]

[(6)] (5) "Federal land use designation" means one or a combination of the following congressional or federal actions included in proposed congressional land use legislation:

(a) designation of wilderness within the National Wilderness Preservation System;

(b) designation of a national conservation area;

(c) designation of a watercourse within the National Wild and Scenic River System;

(d) designation of an ACEC;

(e) designation of a national monument in accordance with the Antiquities Act of 1906, 16 U.S.C. Sec. 431 et seq. or by Congress;

(f) designation of a national park within the National Park System;

(g) designation of a national recreational area; or

(h) any other designation, classification, categorization, reservation, withdrawal, or similar action that has the purpose or effect of eliminating, restricting, or reducing energy and mineral development, motorized travel, grazing, active vegetation management, or any other traditional multiple use on public land.

[(7)] (6) "FLPMA" means the Federal Land [and] Policy and Management Act of 1976, 43 U.S.C. Sec. 1701 et seq.

[(8)] (7) "Forest Service" means the United States Forest Service within the United States Department of Agriculture.

[(9)] (8) "Green River Energy Zone" means the lands described as follows in Subsections [(9)] (8)(a) and (b), as more fully illustrated in the maps prepared by the Carbon County and Emery County GIS Departments in February 2013, each entitled "2013 Green River Energy Zone":

(a) BLM[,] and Forest Service[, and SITLA] lands in Carbon County that are situated in the following townships: Township 12S Range 6E, Township 12S Range 7E, Township 12S Range 8E, Township 12S Range 9E, Township 12S Range 10E, Township 12S Range 11E, Township 12S Range 12E, Township 12S Range 13E, Township 12S Range 14E, Township 12S Range 15E, Township 12S Range 16E, Township 12S Range 17E, Township 12S Range 18E, Township 13S Range 6E, Township 13S Range 8E, Township 13S Range 9E, Township 13S Range 10E, Township 13S Range 11E, Township 13S Range 12E, Township 13S Range 13E, Township 13S Range 14E, Township 13S Range 15E, Township 13S Range 16E, Township 13S Range 17E, Township 14S Range 6E, Township 14S Range 8E, Township 14S Range 9E, Township 14S Range 11E, Township 14S Range 12E, Township 14S Range 13E, Township 14S Range 14E, Township 14S Range 15E, Township 14S Range 16E, Township 14S Range 17E, Township 15S Range 7E, Township 15S Range 8E, Township 15S Range 9E, Township 15S Range 10E, Township 15S Range 11E, Township 15S Range 12E, Township 15S Range 13E, Township 15S Range 14E, Township 15S Range 15E, and Township 15S Range 16E; and

(b) BLM[,] and Forest Service[, and SITLA] lands in Emery County, excluding any areas that are or may be designated as wilderness, national conservation areas, or wild or scenic rivers, that are situated in the following townships and represented in the Emery County Public Land Management Act DRAFT Map prepared by Emery County and available at emerycounty.com/publiclands/LANDS-USE-15.pdf: Township 13S Range 6E, Township 14S Range 6E, Township 14S Range 7E, Township 15S Range 6E, Township 15S Range 7E, Township 16S Range 6E, Township 16S Range 7E, Township 16S Range 8E, Township 16S Range 9E, Township 16S Range 10E, Township 16S Range 11E, Township 16S Range 12E, Township 16S Range 13E, Township 16S Range 14E, Township 16S Range 15E, Township 17S Range 6E, Township 17S Range 7E, Township 17S Range 8E, Township 17S Range 9E, Township 17S Range 10E, Township 17S Range 11E, Township 17S Range 12E, Township 17S Range 13E, Township 17S Range 14E, Township 17S Range 15E, Township 18S Range 6E, Township 18S Range 7E, Township 18S Range 8E, Township 18S Range 9E, Township 18S Range 10E, Township 18S Range 11E, Township 18S Range 12E, Township 18S Range 13E, Township 18S Range 14E, Township 18S Range 15E, Township 19S Range 6E, Township 19S Range 7E, Township 19S Range 8E, Township 19S Range 9E, Township 19S Range 10E, Township 19S Range 11E, Township 19S Range 12E, Township 19S Range 13E, Township 19S Range 14E, Township 19S Range 15E, Township 20S Range 6E, Township 20S Range

7E, Township 20S Range 8E, Township 20S Range 9E, Township 20S Range 10E, Township 20S Range 11E, Township 20S Range 12E, Township 20S Range 13E, Township 20S Range 14E, Township 20S Range 15E, Township 20S Range 16E, Township 21S Range 6E, Township 21S Range 7E, Township 21S Range 8E, Township 21S Range 9E, Township 21S Range 14E, Township 21S Range 15E, Township 21S Range 16E, Township 22S Range 6E, Township 22S Range 7E, Township 22S Range 8E, Township 22S Range 9E, Township 22S Range 14E, Township 22S Range 15E, Township 22S Range 16E, Township 23S Range 6E, Township 23S Range 7E, Township 23S Range 8E, Township 23S Range 9E, Township 23S Range 13E, Township 23S Range 14E, Township 23S Range 15E, Township 23S Range 16E, Township 24S Range 6E, Township 24S Range 7E, Township 24S Range 8E, Township 24S Range 12E, Township 24S Range 13E, Township 24S Range 14E, Township 24S Range 15E, Township 24S Range 16E, Township 24S Range 17E, Township 25S Range 6E, Township 25S Range 7E, Township 25S Range 8E, Township 25S Range 11E, Township 25S Range 12E, Township 25S Range 13E, Township 25S Range 14E, Township 25S Range 15E, Township 25S Range 16E, Township 25S Range 17E, Township 26S Range 6E, Township 26S Range 7E, Township 26S Range 8E, Township 26S Range 9E, Township 26S Range 10E, Township 26S Range 11E, Township 26S Range 12E, Township 26S Range 13E, Township 26S Range 14E, Township 26S Range 15E, Township 26S Range 16E, and Township 26S Range 17E.

[440] (9) "Multiple use" means proper stewardship of the subject lands pursuant to Section 103(c) of FLPMA, 43 U.S.C. Sec. 1702(c).

[441] (10) "National conservation area" means an area designated by Congress and managed by the BLM.

[442] (11) "National wild and scenic river" means a watercourse:

(a) identified in a BLM or Forest Service planning process; or

(b) designated as part of the National Wild and Scenic River System.

[443] (12) "National Wild and Scenic River System" means the National Wild and Scenic River System established in 16 U.S.C. Sec. 1271 et seq.

[444] (13) "Office" means the Public Lands Policy Coordinating Office created in Section 63J-4-602.

[445] (14) "OHV" means off-highway vehicle as defined in Section 41-22-2.

[446] (15) "Proposed congressional land use legislation" means a draft or a working document of congressional legislation prepared by a person that includes a federal land use designation.

[447] (16) "RARE II" means the second United States Forest Service Roadless Area Review and Evaluation report of 1984.

[448] (17) "R.S. 2477 right-of-way" means a right-of-way established in accordance with 43 U.S.C. Sec. 932 repealed by FLPMA 1976.

[449] (18) "Settlement Agreement" means the written agreement between the state and the Department of the Interior in 2003 (revised in 2005) that resolved the case of State of Utah v. Gale Norton, Secretary of Interior (United States District Court, D. Utah, Case No. 2:96cv0870).

[450] (19) "SITLA" means the School and Institutional Trust Lands Administration as created in Section 53C-1-201.

[451] (20) (a) "Subject lands" means the following non-WSA BLM lands:

(i) in Beaver County:

(A) Mountain Home Range South, Jackson Wash, The Toad, North Wah Wah Mountains, Central Wah Wah Mountains, and San Francisco Mountains according to the region map entitled "Great Basin Central" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011; and

(B) White Rock Range, South Wah Wah Mountains, and Granite Peak according to the region map entitled "Great Basin South" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(ii) in Box Elder County: Little Goose Creek, Grouse Creek Mountains North, Grouse Creek Mountains South, Bald Eagle Mountain, Central Pilot Range, Pilot Peak, Crater Island West, Crater Island East, Newfoundland Mountains, and Grassy Mountains North according to the region map entitled "Great Basin North" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at

<http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(iii) in Carbon County: Desbrough Canyon and Turtle Canyon according to the region map entitled "Book Cliffs" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(iv) in Daggett County: Goslin Mountain, Home Mountain, Red Creek Badlands, O-wi-yu-kuts, Lower Flaming Gorge, Crouse Canyon, and Diamond Breaks according to the region map entitled "Dinosaur" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(v) in Duchesne County: Desbrough Canyon according to the region map entitled "Book Cliffs" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(vi) in Emery County:

(A) San Rafael River and Sweetwater Reef, according to the region map entitled "Canyonlands Basin" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(B) Flat Tops according to the region map entitled "Glen Canyon," which is available by clicking the link entitled "Dirty Devil" at the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011; and

(C) Price River, Lost Spring Wash, Eagle Canyon, Upper Muddy Creek, Molen Reef, Rock Canyon, Mussentuchit Badland, and Muddy Creek, according to the region map entitled "San Rafael Swell" linked at the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(vii) in Garfield County:

(A) Pole Canyon, according to the region map entitled "Great Basin South" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(B) Dirty Devil, Fiddler Butte, Little Rockies, Cane Spring Desert, and Cane Spring Desert Adjacents, according to the region map entitled "Glen Canyon," which is available by clicking the link entitled "Dirty Devil" at the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(C) Lampstand, Wide Hollow, Steep Creek, Brinkerhof Flats, Little Valley Canyon, Death Hollow, Studhorse Peaks, Box Canyon, Heaps Canyon, North Escalante Canyon, Colt Mesa, East of Bryce, Slopes of Canaan Peak, Horse Spring Canyon, Muley Twist Flank, Pioneer Mesa, Slopes of Bryce, Blue Hills, Mud Springs Canyon, Carcass Canyon, Willis Creek North, Kodachrome Basin, and Kodachrome Headlands, according to the region map entitled "Grand Staircase Escalante" linked at the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011; and

(D) Notom Bench, Mount Ellen, Bull Mountain, Dogwater Creek, Ragged Mountain, Mount Pennell, Mount Hillers, Bullfrog Creek, and Long Canyon, according to the region map entitled "Henry Mountains" linked at the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(viii) in Iron County: Needle Mountains, Steamboat Mountain, Broken Ridge, Paradise

Mountains, Crook Canyon, Hamlin, North Peaks, Mount Escalante, and Antelope Ridge, according to the region map entitled "Great Basin South" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(ix) in Juab County: Deep Creek Mountains, Essex Canyon, Kern Mountains, Wild Horse Pass, Disappointment Hills, Granite Mountain, Middle Mountains, Tule Valley, Fish Springs Ridge, Thomas Range, Drum Mountains, Dugway Mountains, Keg Mountains West, Keg Mountains East, Lion Peak, and Rockwell Little Sahara, according to the region map entitled "Great Basin Central" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(x) in Kane County:

(A) Willis Creek North, Willis Creek, Kodachrome Badlands, Mud Springs Canyon, Carcass Canyon, Scorpion, Bryce Boot, Paria-Hackberry Canyons, Fiftymile Canyon, Hurricane Wash, Upper Kanab Creek, Timber Mountain, Nephi Point, Paradise Canyon, Wahweap Burning Hills, Fiftymile Bench, Forty Mile Gulch, Sooner Bench 1, 2, & 3, Rock Cove, Warm Bench, Andalex Not, Vermillion Cliffs, Ladder Canyon, The Cockscomb, Nipple Bench, Moquith Mountain, Bunting Point, Glass Eye Canyon, and Pine Hollow, according to the region map entitled "Grand Staircase Escalante" linked at the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011; and

(B) Orderville Canyon, Jolley Gulch, and Parunuweap Canyon, according to the region map entitled "Zion/Mohave" linked at the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(xi) in Millard County: Kern Mountains, Wild Horse Pass, Disappointment Hills, Granite Mountain, Middle Mountains, Tule Valley, Swasey Mountain, Little Drum Mountains North, Little Drum Mountains South, Drum Mountains, Snake Valley, Coyote Knoll, Howell Peak, Tule Valley South, Ledger Canyon, Chalk Knolls, Orr Ridge, Notch View, Bullgrass Knoll, Notch Peak, Barn Hills, Cricket Mountains, Burbank Pass, Middle Burbank Hills, King Top, Barn Hills, Red Tops, Middle Burbank Hills, Juniper, Painted Rock Mountain, Black Hills, Tunnel Springs, Red Canyon, Sand Ridge, Little Sage Valley, Cat Canyon, Headlight Mountain, Black Hills, Mountain Range Home North, Tweedy Wash, North Wah Wah Mountains, Jackson Wash, and San Francisco Mountains, according to the region map entitled "Great Basin Central" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at

<http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(xii) in Piute County: Kingston Ridge, Rocky Ford, and Phonolite Hill, according to the region map entitled “Great Basin South” linked in the webpage entitled “Citizen’s Proposal for Wilderness in Utah” at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(xiii) in San Juan County:

(A) Horseshoe Point, Deadhorse Cliffs, Gooseneck, Demon’s Playground, Hatch Canyon, Lockhart Basin, Indian Creek, Hart’s Point, Butler Wash, Bridger Jack Mesa, and Shay Mountain, according to the region map entitled “Canyonlands Basin” linked in the webpage entitled “Citizen’s Proposal for Wilderness in Utah” at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(B) Dark Canyon, Copper Point, Fortknocker Canyon, White Canyon, The Needle, Red Rock Plateau, Upper Red Canyon, and Tuwa Canyon, according to the region map entitled “Glen Canyon,” which is available by clicking the link entitled “Dirty Devil” at the webpage entitled “Citizen’s Proposal for Wilderness in Utah” at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(C) Hunters Canyon, Behind the Rocks, Mill Creek, and Coyote Wash, according to the region map entitled “Moab/La Sal” linked at the webpage entitled “Citizen’s Proposal for Wilderness in Utah” at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011; and

(D) Hammond Canyon, Allen Canyon, Mancos Jim Butte, Arch Canyon, Monument Canyon, Tin Cup Mesa, Cross Canyon, Nokai Dome, Grand Gulch, Fish and Owl Creek Canyons, Comb Ridge, Road Canyon, The Tabernacle, Lime Creek, San Juan River, and Valley of the Gods, according to the region map entitled “San Juan” linked at the webpage entitled “Citizen’s Proposal for Wilderness in Utah” at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(xiv) in Sevier County: Rock Canyon, Mussentuchit Badland, Limestone Cliffs, and Jones’ Bench, according to the region map entitled “San Rafael Swell” linked at the webpage entitled “Citizen’s Proposal for Wilderness in Utah” at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(xv) in Tooele County:

(A) Silver Island Mountains, Crater Island East, Grassy Mountains North, Grassy Mountains South, Stansbury Island, Cedar Mountains North, Cedar Mountains Central, Cedar Mountains South, North Stansbury Mountains, Oquirrh Mountains, and Big Hollow, according to the region map entitled “Great Basin North” linked in the webpage

entitled “Citizen’s Proposal for Wilderness in Utah” at

<http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011, excluding the areas that Congress designated as wilderness under the National Defense Authorization Act for Fiscal Year 2006; and

(B) Ochre Mountain, Deep Creek Mountains, Dugway Mountains, Indian Peaks, and Lion Peak, according to the region map entitled “Great Basin Central” linked in the webpage entitled “Citizen’s Proposal for Wilderness in Utah” at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(xvi) in Uintah County:

(A) White River, Lower Bitter Creek, Sunday School Canyon, Dragon Canyon, Wolf Point, Winter Ridge, Seep Canyon, Bitter Creek, Hideout Canyon, Sweetwater Canyon, and Hell’s Hole, according to the region map entitled “Book Cliffs” linked in the webpage entitled “Citizen’s Proposal for Wilderness in Utah” at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011; and

(B) Lower Flaming Gorge, Crouse Canyon Stone Bridge Draw, Diamond Mountain, Wild Mountain, Split Mountain Benches, Vivas Cake Hill, Split Mountain Benches South, Beach Draw, Stuntz Draw, Moonshine Draw, Bourdette Draw, and Bull Canyon, according to the region map entitled “Dinosaur” linked in the webpage entitled “Citizen’s Proposal for Wilderness in Utah” at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(xvii) in Washington County: Cougar Canyon, Docs Pass, Slaughter Creek, Butcher Knife Canyon, Square Top, Scarecrow Creek, Beaver Dam Wash, Beaver Dam Mountains North, Beaver Dam Mountains South, Joshua Tree, Beaver Dam Wilderness Expansion, Red Mountain, Cottonwood Canyon, Taylor Canyon, LaVerkin Creek, Beartrap Canyon, Deep Creek, Black Ridge, Red Butte, Kolob Creek, Goose Creek, Dry Creek, Zion National Park Adjacents, Crater Hill, The Watchman, and Canaan Mountain, according to the region map entitled “Zion/Mohave” linked at the webpage entitled “Citizen’s Proposal for Wilderness in Utah” at

<http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011, excluding the areas that Congress designated as wilderness and conservation areas under the Omnibus Public Lands Management Act of 2009; and

(xviii) in Wayne County:

(A) Sweetwater Reef, Upper Horseshoe Canyon, and Labyrinth Canyon, according to the region map entitled “Canyonlands Basin” linked in the webpage entitled “Citizen’s Proposal for Wilderness in Utah” at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(B) Flat Tops and Dirty Devil, according to the region map entitled “Glen Canyon,” which is

available by clicking the link entitled “Dirty Devil” at the webpage entitled “Citizen’s Proposal for Wilderness in Utah” at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(C) Fremont Gorge, Pleasant Creek Bench, Notom Bench, Mount Ellen, and Bull Mountain, according to the region map entitled “Henry Mountains” linked at the webpage entitled “Citizen’s Proposal for Wilderness in Utah” at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011; and

(D) Capital Reef Adjacents, Muddy Creek, Wild Horse Mesa, North Blue Flats, Red Desert, and Factory Butte, according to the region map entitled “San Rafael Swell” linked at the webpage entitled “Citizen’s Proposal for Wilderness in Utah” at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011.

(b) “Subject lands” also includes all BLM and Forest Service lands in the state that are not Wilderness Area or Wilderness Study Areas;

(c) “Subject lands” does not include the following lands that are the subject of consideration for a possible federal lands bill and should be managed according to the 2008 Price BLM Field Office Resource Management Plan until a federal lands bill provides otherwise:

(i) Turtle Canyon and Desolation Canyon according to the region map entitled “Book Cliffs” linked in the webpage entitled “Citizen’s Proposal for Wilderness in Utah” at <http://protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(ii) Labyrinth Canyon, Duma Point, and Horseshoe Point, according to the region map entitled “Canyonlands Basin” linked in the webpage entitled “Citizen’s Proposal for Wilderness in Utah” at <http://protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011; and

(iii) Devil’s Canyon, Sid’s Mountain, Mexican Mountain, San Rafael Reef, Hondu Country, Cedar Mountain, and Wild Horse, according to the region map entitled “San Rafael Swell” linked at the webpage entitled “Citizen’s Proposal for Wilderness in Utah” at <http://protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011.

[(22)] (21) “Uintah Basin Energy Zone” means BLM[₇] and Forest Service[₇ and SITLA] lands situated in the following townships in Daggett, Duchesne, and Uintah counties, as more fully illustrated in the map prepared by the Uintah County GIS Department in February 2012 entitled “Uintah Basin Utah Energy Zone”:

(a) in Daggett County, Township 3N Range 17 E, Township 3N Range 18E, Township 3N Range 19E, Township 3N Range 20E, Township 3N Range 22E, Township 3N Range 23E, Township 3N Range 24E, Township 3N Range 25E, Township 2N Range 17E,

Township 2N Range 18E, Township 2N Range 19E, Township 2N Range 20E, Township 2N Range 21E, and Township 2S Range 25E;

(b) in Duchesne County, Township 3N Range 4W, Township 3N Range 3W, Township 3N Range 2W, Township 3N Range 1W, Township 2N Range 6W, Township 2N Range 5W, Township 2N Range 4W, Township 2N Range 3W, Township 2N Range 1W, Township 1N Range 9W, Township 1N Range 8W, Township 1N Range 7W, Township 1N Range 6W, Township 1S Range 9W, Township 1S Range 8W, Township 4S Range 9W, Township 4S Range 3W, Township 4S Range 2W, Township 4S Range 1W, Township 8S Range 15E, Township 8S Range 16E, Township 8S Range 17E, Township 5S Range 9W, Township 5S Range 3W, Township 9S Range 15E, Township 9S Range 16E, Township 9S Range 17E, Township 6S Range 9W, Township 6S Range 8W, Township 6S Range 7W, Township 6S Range 6W, Township 6S Range 5W, Township 6S Range 3W, Township 10S Range 15E, Township 10S Range 16E, Township 10S Range 17E, Township 7S Range 9W, Township 7S Range 8W, Township 7S Range 7W, Township 7S Range 6W, Township 7S Range 5W, Township 7S Range 4W, Township 10S Range 11E, Township 10S Range 12E, Township 10S Range 13E, Township 10S Range 14E, Township 10S Range 15E, Township 10S Range 16E, Township 10S Range 17E, Township 11S Range 10E, Township 11S Range 11E, Township 11S Range 12E, Township 11S Range 13E, Township 11S Range 14E, Township 11S Range 15E, Township 11S Range 16E, and Township 11S Range 17E; and

(c) in Uintah County: Township 2S Range 18E, Township 2S Range 19E, Township 2S Range 20E, Township 2S Range 21E, Township 2S Range 22E, Township 2S Range 23E, Township 2S Range 24E, Township 2N Range 1W, Township 2N Range 1E, Township 2N Range 2E, Township 3S Range 18E, Township 3S Range 19E, Township 3S Range 20E, Township 3S Range 21E, Township 3S Range 22E, Township 3S Range 23E, Township 3S Range 24E, Township 4S Range 19E, Township 4S Range 20E, Township 4S Range 21E, Township 4S Range 22E, Township 4S Range 23E, Township 4S Range 24E, Township 4S Range 19E, Township 4S Range 20E, Township 4S Range 21E, Township 4S Range 22E, Township 4S Range 23E, Township 4S Range 24E, Township 5S Range 19E, Township 5S Range 20E, Township 5S Range 21E, Township 5S Range 22E, Township 5S Range 23E, Township 5S Range 24E, Township 5S Range 25E, Township 6S Range 19E, Township 6S Range 20E, Township 6S Range 21E, Township 6S Range 22E, Township 6S Range 23E, Township 6S Range 24E, Township 6S Range 25E, Township 7S Range 19E, Township 7S Range 20E, Township 7S Range 21E, Township 7S Range 22E, Township 7S Range 23E, Township 7S Range 24E, Township 7S Range 25E, Township 8S Range 17E, Township 8S Range 18E, Township 8S Range 19E, Township 8S Range 20E, Township 8S Range 21E, Township 8S Range 22E, Township 8S Range 23E, Township 8S Range 24E, Township 8S Range 25E, Township 9S Range 17E, Township 9S Range 18E, Township 9S Range 19E, Township 9S Range 20E, Township 9S Range 21E, Township 9S Range 22E, Township 9S Range 23E, Township 9S Range 24E, Township 9S Range 25E, Township 10S Range 17E, Township 10S Range

18E, Township 10S Range 19E, Township 10S Range 20E, Township 10S Range 21E, Township 10S Range 22E, Township 10S Range 23E, Township 10S Range 24E, Township 10S Range 25E, Township 11S Range 17E, Township 11S Range 18E, Township 11S Range 19E, Township 11S Range 20E, Township 11S Range 21E, Township 11S Range 22E, Township 11S Range 23E, Township 11S Range 24E, Township 11S Range 25E, Township 12S Range 20E, Township 12S Range 21E, Township 12S Range 22E, Township 12S Range 23E, Township 12S Range 24E, Township 12S Range 25E, Township 13S Range 20E, Township 13S Range 21E, Township 13S Range 22E, Township 13S Range 23E, Township 13S Range 24E, Township 13S Range 25E, Township 13S Range 26 E, Township 14S Range 21E, Township 14S Range 22E, Township 14S Range 23E, Township 14S Range 24E, Township 14S Range 25E, and Township 14S Range 26E.

(23) (22) "Wilderness" is as defined in 16 U.S.C. Sec. 1131.

(24) (23) "Wilderness area" means those BLM and Forest Service lands added to the National Wilderness Preservation System by an act of Congress.

(25) (24) "Wilderness Preservation System" means the Wilderness Preservation System established in 16 U.S.C. Sec. 1131 et seq.

(26) (25) "WSA" and "Wilderness Study Area" mean the BLM lands in Utah that were identified as having the necessary wilderness character and were classified as wilderness study areas during the BLM wilderness review conducted between 1976 and 1993 by authority of 43 U.S.C. Sec. 1782 and labeled as Wilderness Study Areas within the final report of the President of the United States to the United States Congress in 1993.

Section 2. Section 63J-8-105 is amended to read:

63J-8-105. Maps available for public review.

A printed copy of the maps referenced in Subsections 63J-8-102~~(5), (9), (21), and (22)~~(8), (20), and (21) shall be available for inspection by the public at the offices of the Utah Association of Counties.

Section 3. Section 63J-8-105.5 is amended to read:

63J-8-105.5. Uintah Basin Energy Zone established -- Findings -- Management and land use priorities.

(1) There is established the Uintah Basin Energy Zone in Daggett, Uintah, and Duchesne Counties for the purpose of maximizing efficient and responsible development of energy and mineral resources.

(2) The land area and boundaries of the Uintah Basin Energy Zone are described in Subsection

63J-8-102~~(22)~~(21) and illustrated on the map described in Section 63J-8-105.

(3) The state finds that:

(a) the lands comprising the Uintah Basin Energy Zone contain abundant, world-class deposits of energy and mineral resources, including oil, natural gas, oil shale, oil sands, gilsonite, coal, phosphate, gold, uranium, and copper, as well as areas with high wind and solar energy potential; and

(b) the highest management priority for all lands within the Uintah Basin Energy Zone is responsible management and development of existing energy and mineral resources in order to provide long-term domestic energy and supplies for Utah and the United States.

(4) The state supports:

(a) efficient and responsible full development of all existing energy and mineral resources located within the Uintah Basin Energy Zone, including oil, oil shale, natural gas, oil sands, gilsonite, phosphate, gold, uranium, copper, solar, and wind resources; and

(b) a cooperative management approach among federal agencies, state, and local governments to achieve broadly supported management plans for the full development of all energy and mineral resources within the Uintah Basin Energy Zone.

(5) The state calls upon the federal agencies who administer lands within the Uintah Basin Energy Zone to:

(a) fully cooperate and coordinate with the state and with Daggett, Uintah, and Duchesne Counties to develop, amend, and implement land and resource management plans and to implement management decisions that are consistent with the purposes, goals, and policies described in this section to the maximum extent allowed under federal law;

(b) expedite the processing, granting, and streamlining of mineral and energy leases and applications to drill, extract, and otherwise develop all existing energy and mineral resources located within the Uintah Basin Energy Zone, including oil, natural gas, oil shale, oil sands, gilsonite, phosphate, gold, uranium, copper, solar, and wind resources;

(c) allow continued maintenance and increased development of roads, power lines, pipeline infrastructure, and other utilities necessary to achieve the goals, purposes, and policies described in this section;

(d) refrain from any planning decisions and management actions that will undermine, restrict, or diminish the goals, purposes, and policies for the Uintah Basin Energy Zone as stated in this section; and

(e) refrain from implementing a policy that is contrary to the goals and purposes described within this section.

(6) The state calls upon Congress to establish an intergovernmental standing commission among federal, state, and local governments to guide and control planning decisions and management actions in the Uintah Basin Energy Zone in order to achieve and maintain the goals, purposes, and policies described in this section.

(7) Notwithstanding the provisions of this section, the state's grazing and livestock policies and plans on land within the Uintah Basin Energy Zone shall continue to be governed by Sections 63J-4-401 and 63J-8-104.

Section 4. Section 63J-8-105.7 is amended to read:

63J-8-105.7. Green River Energy Zone established -- Findings -- Management and land use priorities.

(1) There is established the Green River Energy Zone in Carbon and Emery Counties for the purpose of maximizing efficient and responsible development of energy and mineral resources.

(2) The land area and boundaries of the Green River Energy Zone are described in Subsection 63J-8-102(4)(8) and illustrated on the maps described in Section 63J-8-105.

(3) The state finds that:

(a) the lands comprising the Green River Energy Zone contain abundant world-class deposits of energy and mineral resources, including oil, natural gas, oil shale, oil sands, gilsonite, coal, phosphate, gold, uranium, and copper, as well as areas with high wind and solar energy potential;

(b) for lands within the Carbon County portion of the Green River Energy Zone, the highest management priority is the responsible management, development, and extraction of existing energy and mineral resources in order to provide long-term domestic energy and supplies for Utah and the United States; and

(c) for lands within the Emery County portion of the Green River Energy Zone:

(i) the responsible management and development of existing energy and mineral resources in order to provide long-term domestic energy and supplies for Utah and the United States is a high management priority; and

(ii) the management priority described in Subsection (3)(c)(i) should be balanced with the following high management priorities:

(A) watershed health;

(B) water storage and water delivery systems;

(C) Emery County Heritage Sites;

(D) facilities and resources associated with the domestic livestock industry;

(E) wildlife and wildlife habitat; and

(F) recreation opportunities.

(4) The state supports:

(a) efficient and responsible full development of all existing energy and mineral resources located within the Green River Energy Zone, including oil, oil shale, natural gas, oil sands, gilsonite, coal, phosphate, gold, uranium, copper, solar, and wind resources; and

(b) a cooperative management approach by federal agencies, the state of Utah, and local governments to achieve broadly supported management plans for the full development of all energy and mineral resources within the Green River Energy Zone.

(5) The state requests that the federal agencies that administer lands within the Green River Energy Zone:

(a) fully cooperate and coordinate with the state of Utah and with Carbon and Emery Counties to develop, amend, and implement land and resource management plans and to implement management decisions that are consistent with the purposes, goals, and policies described in this section to the maximum extent allowed under federal law;

(b) expedite the processing, granting, and streamlining of mineral and energy leases and applications to drill, extract, and otherwise develop all existing energy and mineral resources located within the Green River Energy Zone, including oil, natural gas, oil shale, oil sands, gilsonite, coal, phosphate, gold, uranium, copper, solar, and wind resources;

(c) allow continued maintenance and increased development of roads, power lines, pipeline infrastructure, and other utilities necessary to achieve the goals, purposes, and policies described in this section;

(d) refrain from any planning decisions and management actions that will undermine, restrict, or diminish the goals, purposes, and policies for the Green River Energy Zone as stated in this section; and

(e) refrain from implementing a policy that is contrary to the goals and purposes within this section.

(6) The state calls upon Congress to establish an intergovernmental standing commission, with membership consisting of representatives from the United States government, the state of Utah, and local governments to guide and control planning and management actions in the Green River Energy Zone in order to achieve and maintain the goals, purposes, and policies described in this section.

(7) Notwithstanding the provisions of this section, the state's grazing and livestock policies and plans on land within the Green River Energy Zone shall continue to be governed by Sections 63J-4-401 and 63J-8-104.

Section 5. Section 63J-8-105.8 is enacted to read:

63J-8-105.8. Utah Grazing Agricultural Commodity Zones established -- Findings -- Management and land use priorities.

(1) There are established Utah Grazing Agricultural Commodity Zones in the counties of Beaver, Emery, Garfield, Kane, Piute, Iron, Sanpete, San Juan, Sevier, and Wayne for the purpose of:

(a) preserving and protecting the agricultural livestock industry from ongoing threats;

(b) preserving and protecting the history, culture, custom, and economic value of the agricultural livestock industry from ongoing threats; and

(c) maximizing efficient and responsible restoration, reclamation, preservation, enhancement, and development of forage and watering resources for grazing and wildlife, practices, and affected natural, historical, and cultural activities from ongoing threats.

(2) The titles, land area, and boundaries of the zones are as follows:

(a) “Escalante Region Grazing Zone,” consisting of certain BLM and Forest Service land in the following townships in Garfield and Kane counties, as more fully illustrated in the map jointly prepared by the Garfield County and Kane County Geographic Information Systems departments entitled “Escalante Region Grazing Zone”:

(i) in Garfield County, Township 32S Range 6E, Township 32S Range 7E, Township 33S Range 4E, Township 33S Range 5E, Township 33S Range 6E, Township 33S Range 7E, Township 33S Range 8E, Township 34S Range 2E, Township 34S Range 3E, Township 34S Range 4E, Township 34S Range 5E, Township 34S Range 6E, Township 34S Range 7E, Township 34S Range 8E, Township 35S Range 1E, Township 35S Range 2E, Township 35S Range 3E, Township 35S Range 4E, Township 35S Range 5E, Township 35S Range 6E, Township 35S Range 7E, Township 35S Range 8E, Township 36S Range 1W, Township 36S Range 2W, Township 36S Range 3W, Township 36S Range 1E, Township 36S Range 2E, Township 36S Range 3E, Township 36S Range 4E, Township 36S Range 5E, Township 36S Range 6E, Township 36S Range 7E, Township 36S Range 8E, Township 36S Range 9E, Township 37S Range 1W, Township 37S Range 2W, Township 37S Range 3W, Township 37S Range 4W, Township 37S Range 1E, Township 37S Range 2E, Township 37S Range 3E, Township 37S Range 4E, Township 37S Range 5E, Township 37S Range 6E, Township 37S Range 7E, Township 37S Range 8E, and Township 37S Range 9E; and

(ii) in Kane County, Township 38S Range 1W, Township 38S Range 2W, Township 38S Range 3W, Township 38S Range 4W, Township 38S Range 1E, Township 38S Range 2E, Township 38S Range 3E, Township 38S Range 4E, Township 38S Range 5E, Township 38S Range 6E, Township 38S Range 7E, Township 38S Range 8E, and Township 38S Range 9E,

Township 39S Range 1W, Township 39S Range 2W, Township 39S Range 3W, Township 39S Range 4W, Township 39S Range 4.5W, Township 39S Range 1E, Township 39S Range 2E, Township 39S Range 3E, Township 39S Range 4E, Township 39S Range 5E, Township 39S Range 6E, Township 39S Range 7E, Township 39S Range 8E, Township 39S Range 9E, Township 40S Range 1W, Township 40S Range 2W, Township 40S Range 3W, Township 40S Range 4W, Township 40S Range 4.5W, Township 40S Range 5W, Township 40S Range 1E, Township 40S Range 2E, Township 40S Range 3E, Township 40S Range 4E, Township 40S Range 5E, Township 40S Range 6E, Township 40S Range 7E, Township 40S Range 8E, Township 40S Range 9E, Township 40.5S Range 9E, Township 41S Range 1W, Township 41S Range 2W, Township 41S Range 3W, Township 41S Range 4W, Township 41S Range 4.5W, Township 41S Range 5W, Township 41S Range 1E, Township 41S Range 2E, Township 41S Range 3E, Township 41S Range 4E, Township 41S Range 5E, Township 41S Range 6E, Township 41S Range 7E, Township 41S Range 8E, Township 41S Range 9E, Township 42S Range 1W, Township 42S Range 2W, Township 42S Range 3W, Township 42S Range 4W, Township 42S Range 4.5W, Township 42S Range 5W, Township 42S Range 1E, Township 42S Range 2E, Township 42S Range 3E, Township 42S Range 4E, Township 42S Range 5E, Township 42S Range 6E, Township 42S Range 7E, Township 42S Range 8E, Township 42S Range 9E, Township 42.5S Range 6.5E, Township 42.5S Range 7E, Township 43S Range 1W, Township 43S Range 2W, Township 43S Range 3W, Township 43S Range 4W, Township 43S Range 4.5W, Township 43S Range 5W, Township 43S Range 1E, Township 43S Range 2E, Township 43S Range 3E, Township 43S Range 4E, Township 43S Range 5E, Township 43S Range 6E, Township 44S Range 1W, Township 44S Range 2W, Township 44S Range 3W, Township 44S Range 4W, Township 44S Range 4.5W, Township 44S Range 5W, Township 44S Range 1E, Township 44S Range 2E, Township 44S Range 3E, Township 44S Range 4E, and Township 44S Range 5E;

(b) “Beaver County Southwest Desert Region Grazing Zone,” consisting of BLM lands in the following townships in Beaver County, as more fully illustrated in the map prepared by the Beaver County Geographic Information Systems Departments entitled “Beaver County Southeast Desert Grazing Zone”: Township 26S Range 11W, Township 27S Range 11W, Township 28S Range 11W, Township 29S Range 11W, Township 30S Range 11W, Township 26S Range 12W, Township 27S Range 12W, Township 28S Range 12W, Township 29S Range 12W, Township 30S Range 12W, Township 26S Range 13W, Township 27S Range 13W, Township 28S Range 13W, Township 29S Range 13W, Township 30S Range 13W, Township 26S Range 14W, Township 27S Range 14W, Township 28S Range 14W, Township 29S Range 14W, Township 30S Range 14W, Township 26S Range 15W, Township 27S Range 15W, Township 28S Range 15W, Township 29S Range 15W, Township 30S Range 15W, Township 26S Range 16W, Township 27S Range 16W, Township 28S Range 16W, Township 29S Range 16W,

Township 30S Range 16W, Township 26S Range 17W, Township 27S Range 17W, Township 28S Range 17W, Township 29S Range 17W, Township 30S Range 17W, Township 26S Range 18W, Township 27S Range 18W, Township 28S Range 18W, Township 29S Range 18W, Township 30S Range 18W, Township 26S Range 19W, Township 27S Range 19W, Township 28S Range 19W, Township 29S Range 19W, Township 30S Range 19W, Township 26S Range 20W, Township 27S Range 20W, Township 28S Range 20W, Township 29S Range 20W, and Township 30S Range 20W;

(c) “Tushar Mountain Region Grazing Zone,” consisting of certain BLM and Forest Service lands in the following townships in Beaver, Garfield, and Piute counties, as more fully illustrated in the map jointly prepared by the Beaver, Garfield, and Piute counties GIS departments in February 2014, entitled “Tushar Mountain Region Grazing Zone”:

(i) in Beaver County, Township 28S Range 4W, Township 29S Range 4W, Township 27S Range 5W, Township 28S Range 5W, Township 29S Range 5W, Township 30S Range 5W, Township 26S Range 6W, Township 27S Range 6W, Township 28S Range 6W, Township 29S Range 6W, and Township 30S Range 6W;

(ii) in Piute County, Township 26S Range 6W, Township 27S Range 6W, Township 26S Range 5W, Township 27S Range 5W, Township 28S Range 5W, Township 29S Range 5W, Township 30S Range 5W, Township 26S Range 4.5W, Township 26S Range 4W, Township 27S Range 4W, Township 28S Range 4W, Township 29S Range 4W, Township 30S Range 4W; and

(iii) in Garfield County, Township 32S Range 5 1/2 W, Township 31S Range 5W, Township 32S Range 5W, Township 33S Range 5W, Township 32S Range 4 1/2W, Township 33S Range 4 1/2W, Township 31S Range 4W, and Township 31S Range 3W;

(d) “Last Chance Region Grazing Zone,” consisting of BLM and Forest Service lands in the following townships in Sevier County, as more fully illustrated in the map prepared by the Sevier County GIS department in February 2014, entitled “Last Chance Region Grazing Zone”: Township 23S Range 5E, Township 24S Range 4E, Township 24S Range 5E, Township 25S Range 5E, Township 26S Range 5E;

(e) “Muddy Creek Region Grazing Zone,” consisting of certain BLM lands in the following townships of Emery County, as more fully illustrated in the map prepared by the Emery County GIS department in February 2014, entitled “Muddy Creek Region Grazing Zone”: Township 22S Range 7E, Township 23S Range 7E, Township 24S Range 7E, Township 25S Range 7E, Township 22S Range 8E, Township 23S Range 8E, Township 24S Range 8E, Township 25S Range 8E, Township 23S Range 9E, and Township 24S Range 9E;

(f) “McKay Flat Region Grazing Zone,” consisting of certain BLM lands in the following townships of Emery County, as more fully illustrated in the map prepared by the Emery County GIS department in

February 2014, entitled “McKay Flat Region Grazing Zone”: Township 25S Range 9E, Township 26S Range 9E, Township 23S Range 10E, Township 24S Range 10E, Township 25S Range 10E, Township 24S Range 11E, and Township 25S Range 11E;

(g) “Sinbad Region Grazing Zone,” consisting of certain BLM lands in the following townships of Emery County, as more fully illustrated in the map prepared by the Emery County GIS department in February 2014, entitled “Sinbad Region Grazing Zone”: Township 20S Range 11E, Township 21S Range 11E, Township 21S Range 12E, Township 22S Range 12E, Township 23S Range 12E, Township 21S Range 13E, Township 22S Range 13E, and Township 23S Range 13E;

(h) “Robbers Roost Region Grazing Zone,” consisting of certain BLM lands in the following townships of Emery County, as more fully illustrated in the map prepared by the Emery County GIS department in February 2014, entitled “Robbers Roost Region Grazing Zone”: Township 25S Range 13E, Township 26S Range 13E, Township 25S Range 14E, Township 26S Range 14E, Township 25S Range 15E, and Township 26S Range 15E;

(i) “Western Iron County Region Grazing Zone,” consisting of BLM and Forest Service lands in the following townships in Iron County, as more fully illustrated in the map jointly prepared by the Iron County GIS department in February 2014, entitled “Western Iron County Region Grazing Zone”: Township 31S Range 7W, Township 31S Range 8W, Township 31S Range 9W, Township 31S Range 10W, Township 31S Range 11W, Township 31S Range 12W, Township 31S Range 13W, Township 31S Range 14W, Township 31S Range 15W, Township 31S Range 16W, Township 31S Range 17W, Township 31S Range 18W, Township 31S Range 19W, Township 31S Range 20W, Township 32S Range 8W, Township 32S Range 9W, Township 32S Range 10W, Township 32S Range 11W, Township 32S Range 12W, Township 32S Range 13W, Township 32S Range 14W, Township 32S Range 15W, Township 32S Range 16W, Township 32S Range 17W, Township 32S Range 18W, Township 32S Range 19W, Township 32S Range 20W, Township 33S Range 8W, Township 33S Range 9W, Township 33S Range 10W, Township 33S Range 11W, Township 33S Range 12W, Township 33S Range 13W, Township 33S Range 14W, Township 33S Range 15W, Township 33S Range 16W, Township 33S Range 17W, Township 33S Range 18W, Township 33S Range 19W, Township 33S Range 20W, Township 34S Range 9W, Township 34S Range 10W, Township 34S Range 11W, Township 34S Range 12W, Township 34S Range 13W, Township 34S Range 14W, Township 34S Range 15W, Township 34S Range 17W, Township 34S Range 18W, Township 34S Range 19W, Township 34S Range 20W, Township 35S Range 10W, Township 35S Range 12W, Township 35S Range 13W, Township 35S Range 14W, Township 35S Range 15W, Township 35S Range 17W, Township 35S Range 18W, Township 35S Range 19W, Township 35S Range 20W, Township 36S Range

11W, Township 36S Range 12W, Township 36S Range 13W, Township 36S Range 14W, Township 36S Range 15W, Township 36S Range 17W, Township 36S Range 18W, Township 36S Range 19W, Township 36S Range 20W, Township 37S Range 12W, Township 37S Range 13W, Township 37S Range 14W, and Township 38S Range 12W;

(j) “Eastern Iron County Region Grazing Zone,” consisting of certain BLM and Forest Service lands in the following townships in Iron County, as more fully illustrated in the map jointly prepared by the Iron County GIS department in February 2014, entitled “Eastern Iron County Region Grazing Zone”: Township 31S Range 6W, Township 31S Range 7W, Township 32S Range 6W, Township 32S Range 7W, Township 33S Range 6W, Township 33S Range 7W, Township 33S Range 8W, Township 34S Range 7W, Township 34S Range 8W, Township 34S Range 9W, Township 35S Range 8W, Township 35S Range 9W, Township 35S Range 10W, Township 36S Range 8W, Township 36S Range 9W, Township 36S Range 10W, Township 36S Range 11W, Township 37S Range 8W, Township 37S Range 9W, Township 37S Range 11W, Township 37S Range 12W, Township 38S Range 11W, Township 38S Range 12W, Township 38S Range 10W, Township 38S Range 11W, and Township 38S Range 12W, excluding Zion National Park;

(k) “Panguitch Lake Region Grazing Zone,” consisting of BLM and Forest Service lands in the following townships in Kane and Garfield counties, as more fully illustrated in the map prepared by the Kane County GIS department in February 2014, entitled “Panguitch Lake Region Grazing Zone”:

(i) in Kane County, Township 38S Range 9W, Township 38S Range 8W, Township 38S Range 7W, Township 38S Range 6W, Township 39S Range 8W, and Township 39S Range 7W; and

(ii) in Garfield County, Township 35S Range 7W, Township 36S Range 7W, Township 34S Range 6W, Township 35S Range 6W, Township 36S Range 6W, Township 37S Range 6W, Township 34S Range 5W, Township 35S Range 5W, Township 36S Range 5W, and Township 37S Range 5W;

(l) “East Fork Region Grazing Zone,” the land area of which consists of certain BLM and Forest Service lands situated in the following townships in Kane and Garfield counties, as more fully illustrated in the map jointly prepared by the Kane and Garfield counties GIS departments in February 2014, entitled “East Fork Region Grazing Zone”:

(i) in Kane County, Township 38S Range 5W, Township 38S Range 4.5W, Township 39S Range 5W, and Township 39S Range 4.5W; and

(ii) in Garfield County, Township 34S Range 4 1/2W, Township 35S Range 4 1/2W, Township 36S Range 4 1/2W, Township 37S Range 4 1/2W, Township 33S Range 4W, Township 34S Range 4W, Township 35S Range 4W, Township 36S Range 4W, Township 37S Range 4W, Township 33S Range 3W, Township 34S Range 3W, Township 35S Range 3W, Township 36S Range 3W, Township 33S Range 2W,

Township 34S Range 2W, and Township 35S Range 2W;

(m) “Sevier River Region Grazing Zone,” consisting of certain BLM and Forest Service lands in the following townships in Piute County, as more fully illustrated in the map prepared by the Piute GIS department in February 2014, entitled “Sevier River Region Grazing Zone”: Township 27S Range 3W, Township 28S Range 3W, and Township 29S Range 3W;

(n) “Kingston Canyon Region Grazing Zone,” the land area of which consists of certain BLM and Forest Service lands situated in the following townships in Piute and Garfield counties, as more fully illustrated in the map jointly prepared by the Piute and Garfield counties GIS departments in February 2014, entitled “Kingston Canyon Region Grazing Zone”:

(i) in Piute County, Township 30S Range 3W, Township 30S Range 2.5W, and Township 30S Range 2W; and

(ii) in Garfield County, Township 32S Range 4W, Township 31S Range 3W, Township 32S Range 3W, Township 31S Range 2 1/2W, Township 31S Range 2W, Township 32S Range 2W, Township 31S Range 1W, and Township 32S Range 1W;

(o) “Monroe Mountain Region Grazing Zone,” consisting of certain BLM and Forest Service lands in the following townships in Piute County, as more fully illustrated in the map prepared by the Piute County GIS department in February 2014, entitled “Monroe Mountain Region Grazing Zone”: Township 26S Range 3W, Township 27S Range 2.5W, Township 28S Range 2.5W, Township 29S Range 2.5W, Township 26S Range 2W, Township 27S Range 2W, Township 28S Range 2W, Township 29S Range 2W, Township 26S Range 1W, and Township 27S Range 1W;

(p) “Parker Mountain Region Grazing Zone,” consisting of certain BLM and Forest Service lands in the following townships in Wayne County, as more fully illustrated in the map jointly prepared by the Wayne County GIS department in February 2014, entitled “Parker Mountain Region Grazing Zone”: Township 26S Range 2E, Township 27S Range 2E, Township 28S Range 2E, Township 29S Range 2E, and Township 30S Range 2E;

(q) “Boulder Mountain Region Grazing Zone,” the land area of which consists of certain Forest Service lands situated in the following townships in Wayne and Garfield counties, as more fully illustrated in the map jointly prepared by the Wayne and Garfield counties GIS departments in February 2014, entitled “Boulder Mountain Region Grazing Zone”:

(i) in Wayne County, Township 30S Range 3E, Township 30S Range 4E, and Township 30S Range 5E; and

(ii) in Garfield County, Township 35S Range 3W, Township 33S Range 2W, Township 34S Range 2W, Township 35S Range 2W, Township 31S Range 1W, Township 32S Range 1W, Township 33S Range 1W, Township 34S Range 1W, Township 35S Range 1W, Township 31S Range 1E, Township 32S Range 1E,

Township 33S Range 1E, Township 34S Range 1E, Township 31S Range 2E, Township 32S Range 2E, Township 33S Range 2E, Township 34S Range 2E, Township 31S Range 3E, Township 32S Range 3E, Township 33S Range 3E, Township 31S Range 4E, Township 32S Range 4E, Township 33S Range 4E, Township 30 1/2S Range 5E, Township 31S Range 5E, Township 32S Range 5E, and Township 31S Range 6E;

(r) “Thousand Lake Region Grazing Zone,” consisting of certain Forest Service lands in the following townships in Wayne County, as more fully illustrated in the map jointly prepared by the Wayne County GIS department in February 2014, entitled “Thousand Lake Region Grazing Zone”: Township 26S Range 4E, Township 27S Range 4E, Township 28S Range 4E;

(s) “Hartnet-Middle Desert Region Grazing Zone,” consisting of certain BLM lands in the following townships in Wayne County, as more fully illustrated in the map jointly prepared by the Wayne County GIS department in February 2014, entitled “Hartnet-Middle Desert Region Grazing Zone”: Township 28S Range 7E, Township 27S Range 8E, and Township 28S Range 8E;

(t) “Sandy No. 1 Region Grazing Zone,” consisting of certain BLM lands situated in the following townships in Wayne County, as more fully illustrated in the map jointly prepared by the Wayne County GIS department in February 2014, entitled “Sandy No. 1 Region Grazing Zone”: Township 29S Range 8E, Township 30S Range 8E;

(u) “Blue Benches Region Grazing Zone,” consisting of certain BLM lands in the following townships in Wayne County, as more fully illustrated in the map jointly prepared by the Wayne County GIS department in February 2014, entitled “Blue Benches Region Grazing Zone”: Township 29S Range 9E, Township 29S Range 10E, and Township 30S Range 10E;

(v) “Wild Horse Region Grazing Zone,” consisting of certain BLM lands in the following townships in Wayne County, as more fully illustrated in the map jointly prepared by the Wayne County GIS department in February 2014, entitled “Wild Horse Region Grazing Zone”: Township 27S Range 10E, and Township 27S Range 11E;

(w) “Hanksville Region Grazing Zone,” consisting of certain BLM lands in the following townships in Wayne County, as more fully illustrated in the map jointly prepared by the Wayne County GIS department in February 2014, entitled “Hanksville Region Grazing Zone”: Township 29S Range 11E, Township 30S Range 11E, Township 28S Range 12E, Township 29S Range 12E, Township 30S Range 12E, and Township 30S Range 13E;

(x) “Jeffery Wells Region Grazing Zone,” consisting of certain BLM lands in the following townships in Wayne County, as more fully illustrated in the map jointly prepared by the Wayne County GIS department in February 2014, entitled “Jeffery Wells Region Grazing Zone”:

Township 27S Range 14E and Township 27S Range 15E;

(y) “Robbers Roost Region Grazing Zone,” consisting of certain BLM lands situated in the following townships in Wayne County, as more fully illustrated in the map jointly prepared by the Wayne County GIS department in February 2014, entitled “Robbers Roost Region Grazing Zone”: Township 29S Range 14E;

(z) “French Springs Region Grazing Zone,” the land area of which consists of certain BLM lands situated in the following townships in Wayne County, as more fully illustrated in the map jointly prepared by the Wayne County GIS department in February 2014, entitled “French Springs Region Grazing Zone”: Township 30S Range 16E;

(aa) “12 Mile C&H Region Grazing Zone,” consisting of certain Forest Service lands in the following townships of Sanpete County, as more fully illustrated in the map prepared by the Sanpete County GIS department in February 2014, entitled “12 Mile C&H Region Grazing Zone”: Township 19S Range 3E and Township 20S Range 3E;

(bb) “Horseshoe Region Grazing Zone,” consisting of certain Forest Service lands in the following townships of Sanpete County, as more fully illustrated in the map prepared by the Sanpete County GIS department in February 2014, entitled “Horseshoe Region Grazing Zone”: Township 14S Range 5E, Township 14S Range 6E, Township 15S Range 5E, and Township 15S Range 6E;

(cc) “Nokai Dome Region Grazing Zone,” consisting of certain BLM and National Park Service lands in the following townships of San Juan County, as more fully illustrated in the map prepared by the San Juan County GIS department in February 2014, entitled “Nokai Dome Region Grazing Zone”: Township 38S Range 11E, Township 38S Range 12E, Township 39S Range 11E, Township 39S Range 12E, Township 39S Range 13E, Township 39S Range 14E, Township 39S Range 15E, Township 40S Range 10E, Township 40S Range 11E, Township 40S Range 12E, Township 40S Range 13E, Township 40S Range 14E, Township 41S Range 9E, Township 41S Range 10E, Township 41S Range 11E, and Township 41S Range 12E;

(dd) “Grand Gulch Region Grazing Zone,” consisting of certain BLM and National Park Service lands in the following townships of San Juan County, as more fully illustrated in the map prepared by the San Juan County GIS department in February 2014, entitled “Grand Gulch Region Grazing Zone”: Township 37S Range 17E, Township 37S Range 18E, Township 38S Range 16E, Township 38S Range 17E, Township 38S Range 18E, Township 39S Range 14E, Township 39S Range 15E, Township 39S Range 16E, Township 39S Range 17E, Township 39S Range 18E, Township 40S Range 14E, Township 40S Range 15E, Township 40S Range 16E, Township 40S Range 17E, and Township 40S Range 18E;

(ee) “Cedar Mesa East Region Grazing Zone,” consisting of certain BLM and National Park

Service lands in the following townships of San Juan County, as more fully illustrated in the map prepared by the San Juan County GIS department in February 2014, entitled "Cedar Mesa East Region Grazing Zone": Township 36S Range 20E, Township 37S Range 18E, Township 37S Range 19E, Township 37S Range 20E, Township 37S Range 21E, Township 38S Range 18E, Township 38S Range 19E, Township 38S Range 20E, Township 38S Range 21E, Township 39S Range 18E, Township 39S Range 19E, Township 39S Range 20E, Township 39S Range 21E, Township 40S Range 18E, Township 40S Range 19E, Township 40S Range 20E, Township 40S Range 21E, Township 41S Range 18E, Township 41S Range 19E, Township 41S Range 20E, and Township 41S Range 21E;

(ff) "Mancos Mesa Region Grazing Zone," consisting of certain BLM and National Park Service lands in the following townships of San Juan County, as more fully illustrated in the map prepared by the San Juan County GIS department in February 2014, entitled "Mancos Mesa Region Grazing Zone": Township 35S Range 13E, Township 36S Range 12E, Township 36S Range 13E, Township 36S Range 14E, Township 37S Range 12E, Township 37S Range 13E, Township 37S Range 14E, Township 37S Range 15E, Township 38S Range 11E, Township 38S Range 12E, Township 38S Range 13E, Township 38S Range 14E, Township 38S Range 15E, Township 38S Range 18E, Township 39S Range 13E, Township 39S Range 14E, and Township 39S Range 15E;

(gg) "Red Canyon Region Grazing Zone," consisting of certain BLM and National Park Service lands in the following townships of San Juan County, as more fully illustrated in the map prepared by the San Juan County GIS department in February 2014, entitled "Red Canyon Region Grazing Zone": Township 33S Range 14E, Township 34S Range 13E, Township 34S Range 14E, Township 34S Range 15E, Township 35S Range 13E, Township 35S Range 14E, Township 35S Range 15E, Township 36S Range 14E, Township 36S Range 15E, Township 36S Range 16E, Township 36S Range 17E, Township 37S Range 14E, Township 37S Range 15E, Township 37S Range 16E, Township 37S Range 17E, Township 38S Range 15E, and Township 38S Range 16E;

(hh) "White Canyon Region Grazing Zone," consisting of certain BLM and National Park Service lands in the following townships of San Juan County, as more fully illustrated in the map prepared by the San Juan County GIS department in February 2014, entitled "White Canyon Region Grazing Zone": Township 33S Range 14E, Township 33S Range 15E, Township 33S Range 16E, Township 34S Range 14E, Township 34S Range 15E, Township 34S Range 16E, Township 34S Range 17E, Township 35S Range 15E, Township 35S Range 16E, Township 35S Range 17E, Township 35S Range 18E, Township 36S Range 15E, Township 36S Range 16E, Township 36S Range 17E, Township 36S Range 18E, Township 37S Range 17E, and Township 37S Range 18E;

(ii) "Dark Canyon/Hammond Canyon Region Grazing Zone," consisting of certain Forest Service lands in the following townships of San Juan County, as more fully illustrated in the map prepared by the San Juan County GIS department in February 2014, entitled "Dark Canyon/Hammond Canyon Region Grazing Zone": Township 34S Range 17E, Township 34S Range 18E, Township 34S Range 19E, Township 34S Range 20E, Township 35S Range 17E, Township 35S Range 18E, Township 35S Range 19E, Township 35S Range 20E, Township 36S Range 18E, Township 36S Range 19E, Township 36S Range 20E, and Township 37S Range 19E;

(ij) "Chippean/Indian Creek Region Grazing Zone," consisting of certain Forest Service lands in the following townships of San Juan County, as more fully illustrated in the map prepared by the San Juan County GIS department in February 2014, entitled "Chippean/Indian Creek Region Grazing Zone": Township 32S Range 21E, Township 32S Range 22E, Township 33S Range 21E, Township 33S Range 22E, Township 34S Range 20E, Township 34S Range 21E, Township 34S Range 22E, Township 35S Range 20E, Township 35S Range 21E, and Township 35S Range 22E;

(kk) "Henry Mountain Region Grazing Zone," the land area of which consists of certain BLM lands situated in the following townships in Garfield County, as more fully illustrated in the map prepared by the Garfield County GIS department in February 2014, entitled "Henry Mountain Region Grazing Zone": Township 31S Range 7E, Township 31S Range 8E, Township 32S Range 8E, Township 33S Range 8E, Township 34S Range 8E, Township 31S Range 9E, Township 32S Range 9E, Township 33S Range 9E, Township 34S Range 9E, Township 35S Range 9E, Township 31S Range 10E, Township 32S Range 10E, Township 33S Range 10E, Township 34S Range 10E, Township 35S Range 10E, Township 31S Range 11E, Township 32S Range 11E, Township 33S Range 11E, Township 34S Range 11E, Township 32S Range 12E, and Township 34S Range 12E;

(ll) "Glen Canyon Region Grazing Zone," the land area of which consists of certain BLM and National Park Service lands situated in the following townships in Garfield County, as more fully illustrated in the map prepared by the Garfield County GIS department in February 2014, entitled "Glen Canyon Region Grazing Zone": Township 36S Range 9E, Township 36S Range 10E, Township 37S Range 10E, Township 35S Range 11E, Township 36S Range 11E, Township 37S Range 11E, Township 31S Range 12E, Township 32S Range 12E, Township 33S Range 12E, Township 34S Range 12E, Township 35S Range 12E, Township 35 1/2S Range 12E, Township 36S Range 12E, Township 37S Range 12E, Township 31S Range 13E, Township 32S Range 13E, Township 33S Range 13E, Township 34S Range 13E, Township 35S Range 13E, Township 35 1/2S Range 13E, Township 36S Range 13E, Township 31S Range 14E, Township 32S Range 14E, Township 32 1/2S Range 14E, Township 33S Range 14E, Township

31S Range 15E, Township 32S Range 15E, Township 32 1/2S Range 15E, Township 33S Range 15E, Township 30 1/2S Range 16E, Township 31S Range 16E, Township 32S Range 16E, Township 30 1/2S Range 17E, Township 31S Range 17E, Township 32S Range 17E, Township 30 1/2S Range 18E, and Township 31S Range 18E;

(mm) “Glendale Bench Region Grazing Zone,” the land area of which consists of certain BLM and Forest Service lands situated in the following townships in Kane County, as more fully illustrated in the map prepared by the Kane County GIS department in February 2014, entitled “Glendale Bench Region Grazing Zone”: Township 39S Range 6W, Township 39S Range 5W, Township 39S Range 4.5W, Township 40S Range 7W, Township 40S Range 6W, Township 41S Range 7W, and Township 41S Range 6W; and

(nn) “John R. Region Grazing Zone,” the land area of which consists of certain BLM and Forest Service lands situated in the following townships in Kane County, as more fully illustrated in the map prepared by the Kane County GIS department in February 2014, entitled “John R. Region Grazing Zone”: Township 41S Range 7W, Township 41S Range 6W, Township 42S Range 7W, Township 42S Range 6W, Township 43S Range 6W, and Township 44S Range 6W.

(3) Printed copies of the maps referenced in Subsection (2) shall be available for inspection by the public at the offices of the Utah Association of Counties.

(4) The state finds with respect to the grazing zones described in Subsection (2) that:

(a) agricultural livestock industry on the lands comprising these zones has provided a significant contribution to the history, customs, culture, economy, welfare, and other values of each area for more than 100 years;

(b) the potential for abundant natural and vegetative resources exists within these zones if managed properly, that will support and expand continued, responsible agricultural livestock activities and wildlife habitat;

(c) agricultural livestock activities in these zones and the associated historic resources, human history, shaping of human endeavors, variety of cultural resources, landmarks, structures, and other objects of historic or scientific interest are worthy of recognition, preservation, and protection;

(d) (i) the highest management priority for lands within these zones is the preservation, restoration, and enhancement of watershed and rangeland health to sustain and expand forage production for both livestock grazing and wildlife habitat, and the restoration and development of historic, existing, and future livestock grazing and wildlife habitat resources in order to provide protection for the resources, objects, customs, culture, and values identified above; and

(ii) notwithstanding Subsection (4)(d)(i), if part or all of any zone lies within a sage grouse

management area, then the management priorities for such part shall be consistent with the management priorities set forth in Subsection (4)(d)(i) to the maximum extent consistent with the management priorities of the sage grouse management area;

(e) subject to Subsection (4)(d)(ii), responsible development of any deposits of energy and mineral resources, including oil, natural gas, oil shale, oil sands, coal, phosphate, gold, uranium, and copper, as well as areas with wind and solar energy potential, that may exist in these zones is compatible with the management priorities of Subsection (4)(d)(i) in these zones; and

(f) subject to Subsection (4)(d)(ii), responsible development of any recreation resources, including roads, campgrounds, water resources, trails, OHV use, sightseeing, canyoneering, hunting, fishing, trapping, and hiking resources that may exist in these grazing zones is compatible with the management priorities of Subsection (4)(d)(i) in these grazing zones.

(5) The state finds with respect to the zones described in Subsection (2) that the historic levels of livestock grazing activity and other values identified in Subsection (4) in each zone have greatly diminished, or are under other serious threat, due to:

(a) unreasonable, arbitrary, and unlawfully restrictive federal management policies, including:

(i) de facto managing for wilderness in nonwilderness areas and non-WSAs;

(ii) ignoring the chiefly valuable for grazing designation of the Secretary of the Interior applicable to each of these zones; and

(iii) the arbitrary administrative reductions in animal unit months of permitted forage;

(b) inflexible federal grazing practices that disallow grazing at different times each year proven to be most effective for maintaining and enhancing rangeland conditions;

(c) mismanagement of wild horses and burros resulting in competition for forage by excess and mismanaged populations of wild horses and burros in Beaver and Emery counties;

(d) improper management of vegetation resulting in the overgrowth of pinion, invasive species, and juniper, and other woody vegetation that:

(i) compromise watershed and rangeland health;

(ii) crowd out grazing forage;

(iii) degrade habitat and limit wildlife populations;

(iv) reduce water yield; and

(v) heighten the risk of catastrophic wildfire; and

(e) other practices that degrade overall rangeland health.

(6) To protect and preserve against the threats described in Subsection (5), the state supports the

following with respect to the zones described in Subsection (2):

(a) efficient and sustained policies, programs, and practices directed at preserving, restoring, and enhancing watershed and rangeland health to maximize:

(i) all permitted forage production for livestock grazing and other compatible uses, including flexible grazing on and off dates adaptive to yearly climate and range conditions; and

(ii) forage for fish and wildlife;

(b) a cooperative management approach by federal agencies, the state, and local government agencies to achieve broadly supported management plans for the full development of:

(i) forage resources for grazing livestock and wildlife; and

(ii) other uses compatible with livestock grazing and wildlife utilization;

(c) effective and responsible management of wild horses and burros to eliminate excess populations; and

(d) effective and responsible management of wildlife habitat.

(7) The state requests that the federal agencies that administer lands within each grazing zone:

(a) fully cooperate and coordinate with the state and the respective counties within which each grazing zone is situated to develop, amend, and implement land and resource management plans, and implement management decisions that are consistent with the purposes, goals, and policies described in this section to the maximum extent allowed under federal law;

(b) expedite the processing, granting, and streamlining of grazing permits, range improvements, and applications to enhance and otherwise develop all existing and permitted grazing resources located within each grazing zone, including renewable vegetative resources;

(c) allow continued maintenance and increased development of roads, power lines, pipeline infrastructure, and other utilities necessary to achieve the goals, purposes, and policies described in this section and consistent with multiple use and sustained yield principles;

(d) refrain from any planning decisions and management actions that will undermine, restrict, or diminish the goals, purposes, and policies for each grazing zone as stated in this section;

(e) subject to Subsection (4)(d)(ii), refrain from implementing a policy that is contrary to the goals and purposes described within this section; and

(f) refrain from implementing utilization standards less than 50%, unless:

(i) implementing a standard of less than 50% utilization on a temporary basis is necessary to resolve site-specific concerns; and

(ii) the federal agency consults, coordinates, and cooperates fully with local governments.

(8) (a) The state recognizes the importance of all grazing districts on Utah BLM and Forest Service lands but establishes the grazing zones described in Subsection (2) to provide special protection and preservation against the identified threats found in Subsection (5) to exist in these zones.

(b) It is the intent of the state to designate additional grazing agricultural commodity zones in future years, if circumstances warrant special protection and preservation for new zones.

(9) The state calls upon applicable federal, state, and local agencies to coordinate with each other and establish applicable intergovernmental standing commissions, with membership consisting of representatives from the United States government, the state, and local governments to coordinate and achieve consistency in planning decisions and management actions in zones described in Subsection (2) in order to achieve the goals, purposes, and policies described in this section.

(10) Notwithstanding the provisions of this section, and subject to Subsection (4)(d)(ii), the state's mineral, oil, gas, and energy policies and plans on land within the zones described in Subsection (2) shall be governed by Sections 63J-4-401 and 63J-8-104.

Section 6. Section 63J-8-105.9 is enacted to read:

63J-8-105.9. Utah Timber Agricultural Commodity Zones established -- Findings -- Management and land use priorities.

(1) There are established and designated Utah Timber Agricultural Commodity Zones for the purpose of:

(a) preserving and protecting the agricultural timber, logging, and forest products industry within these zones from ongoing threats;

(b) preserving and protecting the significant history, culture, customs, and economic value of the agricultural timber, logging, and forest products industry within these zones from ongoing threats; and

(c) maximizing efficient and responsible restoration, reclamation, preservation, enhancement, and development of timber, logging, and forest products and affected natural, historical, and cultural activities within these zones, in order to protect and preserve these zones from ongoing threats.

(2) The titles, land area, and boundaries of these zones are described as follows:

(a) "Tushar Mountain Region Timber Zone," the land area of which consists of certain Forest Service lands in the following townships in Beaver County,

as more fully illustrated in the map jointly prepared by the Beaver and Piute counties GIS departments in February 2014, entitled “Tushar Mountain Region Timber Zone”:

(i) in Beaver County, Township 28S Range 4W, Township 29S Range 4W, Township 27S Range 5W, Township 28S Range 5W, Township 29S Range 5W, Township 30S Range 5W, Township 26S Range 6W, Township 27S Range 6W, Township 28S Range 6W, Township 29S Range 6W, Township 30S Range 6W; and

(ii) in Piute County, Township 26S Range 6W, Township 27S Range 6W, Township 26S Range 5W, Township 27S Range 5W, Township 28S Range 5W, Township 29S Range 5W, Township 30S Range 5W, Township 26S Range 4.5W, Township 26S Range 4W, Township 28S Range 4W, Township 29S Range 4W, Township 30S Range 4W;

(b) “Panguitch Lake Region Timber Zone,” the land area of which consists of certain Forest Service lands situated in the following townships in Iron, Kane, and Garfield counties, as more fully illustrated in the map jointly prepared by the Iron, Kane, and Garfield counties GIS departments in February 2014, entitled “Panguitch Lake Region Timber Zone”:

(i) in Iron County, Township 34S Range 7W, Township 35S Range 8W, Township 36S Range 8W, Township 36S Range 9W (excluding Cedar Breaks National Monument and Ashdown Wilderness Area), Township 37S Range 8W, and Township 37S Range 9W;

(ii) in Kane County, Township 38S Range 9W, Township 38S Range 8W, Township 38S Range 7W, Township 38S Range 6W, Township 39S Range 8W, Township 39S Range 7W, Township 39S Range 6W; and

(iii) in Garfield County, Township 35S Range 7W, Township 35S Range 6W, Township 36S Range 7W, Township 36S Range 6W, Township 37S Range 7W, and Township 37S Range 6W;

(c) “Monroe Mountain Region Timber Zone,” consisting of certain Forest Service lands in the following townships in Piute County, as more fully illustrated in the map prepared by the Piute County GIS department in February 2014, entitled “Monroe Mountain Region Timber Zone”: Township 26S Range 3W, Township 27S Range 2.5W, Township 28S Range 2.5W, Township 29S Range 2.5W, Township 26S Range 2W, Township 27S Range 2W, Township 28S Range 2W, Township 29S Range 2W, Township 26S Range 1W, and Township 7S Range 1W;

(d) “Boulder Mountain Region Timber Zone,” the land area of which consists of certain Forest Service lands situated in the following townships in Wayne and Garfield counties, as more fully illustrated in the map jointly prepared by the Wayne and Garfield counties GIS departments in February 2014, entitled “Boulder Mountain Region Timber Zone”:

(i) in Wayne County, Township 30S Range 3E, Township 30S Range 4E, and Township 30S Range 5E; and

(ii) in Garfield County, Township 31S Range 1E, Township 31S Range 2E, Township 31S Range 3E, Township 32S Range 2E, Township 32S Range 3E, Township 32S Range 4E, Township 33S Range 3E, Township 33S Range 4E, Township 30 1/2S Range 5E, Township 31S Range 5E, Township 31S Range 6E, Township 32S Range 5E, and Township 32S Range 6E;

(e) “Thousand Lake Region Timber Zone,” consisting of certain Forest Service lands in the following townships in Wayne County, as more fully illustrated in the map jointly prepared by the Wayne County GIS department in February 2014, entitled “Thousand Lake Region Timber Zone”: Township 26S Range 4E, Township 27S Range 4E, and Township 28S Range 4E;

(f) “Millers Flat Region Timber Zone,” the land area of which consists of certain Forest Service lands situated in the following townships in Sanpete County, as more fully illustrated in the map jointly prepared by the Sanpete County GIS department in February 2014, entitled “Millers Flat Region Timber Zone”: Township 16S Range 5E, Township 17S Range 5E, Township 17S Range 4E, and Township 17S Range 6E;

(g) “East Fork Timber Zone,” the land area of which consists of certain Forest Service lands situated in the following townships in Garfield and Kane counties, as more fully illustrated in the map jointly prepared by the Garfield and Kane counties GIS departments in February 2014, entitled “East Fork Region Timber Zone”:

(i) in Garfield County, Township 36S Range 4 1/2W, Township 36S Range 4W, Township 37S Range 5W, Township 37S Range 4 1/2W, and Township 37S Range 4W; and

(ii) in Kane County, Township 38S Range 5W, Township 38S Range 4.5W, Township 39S Range 5W, and Township 39S Range 4.5W;

(h) “Upper Valley Timber Zone,” the land area of which consists of certain Forest Service lands situated in the following townships in Garfield County, as more fully illustrated in the map jointly prepared by the Garfield County GIS department in February 2014, entitled “Upper Valley Region Timber Zone”: Township 34S Range 1W, Township 35S Range 1W, Township 35S Range 1E, Township 36S Range 1W, Township 36S Range 1E, and Township 37S Range 1E;

(i) “Iron Springs Timber Zone,” the land area of which consists of certain Forest Service lands situated in the following townships in Garfield County, as more fully illustrated in the map jointly prepared by the Garfield County GIS department in February 2014, entitled “Iron Springs Region Timber Zone”: Township 32S Range 1E, Township 33S Range 1W, Township 33S Range 1E, and Township 34S Range 1W; and

(j) “Dutton Timber Zone,” the land area of which consists of certain Forest Service lands situated in

the following townships in Garfield County, as more fully illustrated in the map jointly prepared by the Garfield County GIS department in February 2014, entitled "Dutton Region Timber Zone": Township 32S Range 3W, Township 32S Range 2W, Township 33S Range 3W, and Township 33S Range 2W.

(3) Printed copies of the maps referenced in Subsection (2) shall be available for inspection by the public at the offices of the Utah Association of Counties.

(4) The state finds with respect to the zones described in Subsection (2) that:

(a) agricultural timber, logging, and forest product industries on the lands comprising these timber zones have provided a significant contribution to the history, customs, culture, economy, welfare, and other values of each area for many decades;

(b) abundant natural and vegetative resources exist within these zones to support and expand continued, responsible timber, logging, and other forest product activities;

(c) agricultural timber, logging, and forest product activities in these zones, and the associated historic resources, human history, shaping of human endeavors, variety of cultural resources, landmarks, structures, and other objects of historic or scientific interest are worthy of recognition, preservation, and protection;

(d) (i) the highest management priority for lands within these zones is maintenance and promotion of forest and vegetation ecosystem health achieved by responsible active management in development of historic, existing, and future timber, logging, and forest product resources in order to provide protection for the resources, objects, customs, culture, and values identified above; and

(ii) notwithstanding Subsection (4)(d)(i), if part or all of any zone lies within a sage grouse management area, then the management priorities for such part shall be consistent with the management priorities set forth in Subsection (4)(d)(i) to the maximum extent consistent with the management priorities of the sage grouse management area;

(e) subject to Subsection (4)(d)(ii), responsible development of any deposits of energy and mineral resources, including oil, natural gas, oil shale, oil sands, coal, phosphate, gold, uranium, and copper, as well as areas with wind and solar energy potential, that may exist in these zones is compatible with the management priorities of Subsection (4)(d)(i) in these zones; and

(f) subject to Subsection (4)(d)(ii), responsible development of any recreation resources, including wildlife, roads, campgrounds, water resources, trails, OHV use, sightseeing, canyoneering, hunting, fishing, trapping, and hiking resources that may exist in these timber zones is compatible with the management priorities of Subsection (4)(d)(i) in these timber zones.

(5) The state finds that the historic levels of timber, logging, and forest products activities in the zones described in Subsection (2) have greatly diminished, or are under serious threat, due to:

(a) unreasonable, arbitrary, and unlawfully restrictive federal management policies, including:

(i) de facto managing for wilderness in nonwilderness areas;

(ii) ignoring the multiple use sustained yield mission of the Forest Service;

(iii) ignoring the fact that the Forest Service's parent agency is the United States Department of Agriculture whose mission includes providing timber as an important agriculture resource; and

(iv) the arbitrary administrative reductions in timber, logging, and forest products activities;

(b) improper management of forest vegetation resulting in the overcrowding of old growth alpine species and the crowding out of aspen diversity, all of which results in:

(i) devastation of entire mountainsides due to insect infestation and disease;

(ii) reduced water yield;

(iii) increased catastrophic wildfire;

(iv) increased soil erosion;

(v) degradation of wildlife habitat; and

(vi) suppression and threatened extinction of important rural economic activities; and

(c) other practices that degrade overall forest health.

(6) To protect and preserve against the threats described in Subsection (5), the state supports the following with respect to the zones described in Subsection (2):

(a) efficient and responsible development, within each timber zone, of:

(i) robust timber thinning and harvesting programs and activities; and

(ii) other uses compatible with increased timber, logging, and forest product activities, including a return to historic levels of timber, logging, and forest product activity in each of these zones;

(b) a cooperative management approach by federal agencies, the state, and local governments to achieve broadly supported management plans for the full development, within each timber zone, of:

(i) forest product resources; and

(ii) other uses compatible with timber activities; and

(c) effective and responsible management of wildlife habitat.

(7) The state requests that the federal agencies that administer lands within each timber zone:

(a) fully cooperate and coordinate with the state and the respective counties within which each

timber zone is situated to develop, amend, and implement land and resource management plans and implement management decisions that are consistent with the purposes, goals, and policies described in this section to the maximum extent allowed under federal law;

(b) expedite the processing, granting, and streamlining of logging and forest product harvesting permits, range improvements, and applications to enhance and otherwise develop existing and permitted timber resources located within each timber zone, including renewable vegetative resources;

(c) expedite stewardship programs to allow private enterprise to carry out the timber, logging, and forest activities described in this section;

(d) allow continued maintenance and increased development of roads, power lines, pipeline infrastructure, and other utilities necessary to achieve the goals, purposes, and policies described in this section and consistent with multiple use and sustained yield principles;

(e) refrain from any planning decisions and management actions that will undermine, restrict, or diminish the goals, purposes, and policies for each timber zone as stated in this section; and

(f) subject to Subsection (4)(d)(ii), refrain from implementing a policy that is contrary to the goals and purposes described within this section.

(8) (a) The state recognizes the importance of all areas on BLM and Forest Service lands high value lumber and forest product resources but establishes the special Timber Agricultural Commodity Zones to provide special protection and preservation against the identified threats found in Subsection (5) to exist in these zones.

(b) It is the intent of the Legislature to designate additional Timber Agricultural Commodity Zones in future years, if circumstances warrant special protection and preservation for new zones.

(9) The state calls upon applicable federal, state, and local agencies to coordinate with each other and establish applicable intergovernmental standing commissions, with membership consisting of representatives from the United States government, the state, and local governments to coordinate and achieve consistency in planning decisions and management actions in the zones described in Subsection (2).

(10) Notwithstanding the provisions of this section, and subject to Subsection (4)(d)(ii), the state's mineral, oil, gas, and energy policies, as well as its grazing policies, on land within zones described in Subsection (2), shall continue to be governed by Sections 63J-4-401 and 63J-8-104.

Section 7. Repealer.

This bill repeals:

Section 63J-8-105.6, Escalante Region Grazing Zone established -- Findings -- Management and land use priorities.

CHAPTER 322**H. B. 159**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

**REGULATION OF
CHILD CARE PROGRAMS**

Chief Sponsor: Gregory H. Hughes

Senate Sponsor: Margaret Dayton

LONG TITLE**General Description:**

This bill modifies the Utah Child Care Licensing Act by amending provisions for regulation of child care licensing.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the Child Care Center Licensing Committee to regulate and make rules for center based child care;
- ▶ provides for duties and powers of the Child Care Center Licensing Committee;
- ▶ provides for appointment and membership of the Child Care Center Licensing Committee;
- ▶ changes the name of the Child Care Licensing Advisory Committee to the Residential Child Care Licensing Advisory Committee to advise the department of residential child care; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-1-7, as last amended by Laws of Utah 2003, Chapter 246

26-39-102, as last amended by Laws of Utah 2008, Chapter 111

26-39-201, as renumbered and amended by Laws of Utah 2008, Chapter 111

26-39-202, as repealed and reenacted by Laws of Utah 2010, Chapter 286

26-39-301, as renumbered and amended by Laws of Utah 2008, Chapter 111

ENACTS:

26-39-200, Utah Code Annotated 1953

26-39-203, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-1-7 is amended to read:**26-1-7. Committees within department.**

(1) There are created within the department the following committees:

- (a) Health Facility Committee;
- (b) State Emergency Medical Services Committee;
- (c) Health Data Committee; ~~and~~

(d) Utah Health Care Workforce Financial Assistance Program Advisory Committee~~[-];~~

(e) Residential Child Care Licensing Advisory Committee; and

(f) Child Care Center Licensing Committee.

(2) The department shall:

(a) review all committees and advisory groups in existence before July 1, 2003 that are not listed in Subsection (1) or Section 26-1-7.5, and not required by state or federal law; and

(b) beginning no later than July 1, 2003:

(i) consolidate those advisory groups and committees with other committees or advisory groups as appropriate to create greater efficiencies and budgetary savings for the department; and

(ii) create in writing, time-limited and subject-limited duties for the advisory groups or committees as necessary to carry out the responsibilities of the department.

Section 2. Section 26-39-102 is amended to read:**26-39-102. Definitions.**

As used in this chapter:

(1) "Advisory committee" means the Residential Child Care Licensing Advisory Committee, created in Section 26-1-7.

~~[(4)]~~ (2) "Child care" means continuous care and supervision of five or more qualifying children, that is:

(a) in lieu of care ordinarily provided by a parent in the parent's home;

(b) for less than 24 hours a day; and

(c) for direct or indirect compensation.

~~[(2)]~~ (3) "Child care program" means a child care facility or program operated by a person who holds a license or certificate issued in accordance with this chapter.

~~[(3) "Committee" means the Child Care Licensing Advisory Committee, created in Section 26-39-201.]~~

(4) (a) "Center based child care" means, except as provided in Subsection (4)(b), a child care program licensed under this chapter.

(b) "Center based child care" does not include:

(i) a residential child care provider certified under Section 26-39-402; or

(ii) a facility or program exempt under Section 26-39-403.

(5) "Licensing committee" means the Child Care Center Licensing Committee created in Section 26-1-7.

~~[(4)]~~ (6) "Public school" means:

(a) a school, including a charter school, that:

(i) is directly funded at public expense; and

(ii) provides education to qualifying children for any grade from first grade through twelfth grade; or

(b) a school, including a charter school, that provides:

(i) preschool or kindergarten to qualifying children, regardless of whether the preschool or kindergarten is funded at public expense; and

(ii) education to qualifying children for any grade from first grade through twelfth grade, if each grade, from first grade to twelfth grade, that is provided at the school, is directly funded at public expense.

[45] (7) "Qualifying child" means a person who is:

(a) (i) under the age of 13; or

(ii) under the age of 18, if the person has a disability; and

(b) a child of:

(i) a person other than the person providing care to the child;

(ii) a licensed or certified residential child care provider, if the child is under the age of four; or

(iii) an employee or owner of a licensed child care center, if the child is under the age of four.

[46] (8) "Residential child care" means child care provided in the home of a provider.

Section 3. Section 26-39-200 is enacted to read:

Part 2. Child Care Licensing Committees

26-39-200. Child Care Center Licensing Committee.

(1) (a) The Child Care Center Licensing Committee created in Section 26-1-7 shall be comprised of seven members appointed by the governor and approved by the Senate in accordance with this subsection.

(b) The governor shall appoint three members who:

(i) have at least five years of experience as an owner in or director of a for profit or not-for-profit center based child care; and

(ii) hold an active license as a child care center from the department to provide center based child care.

(c) (i) The governor shall appoint one member to represent each of the following:

(A) a parent with a child in center based child care;

(B) a child development expert from the state system of higher education;

(C) a pediatrician licensed in the state; and

(D) an architect licensed in the state.

(ii) Except as provided in Subsection (1)(c)(i)(B), a member appointed under Subsection (1)(c)(i) may not be an employee of the state or a political subdivision of the state.

(d) At least one member described in Subsection (1)(b) shall at the time of appointment reside in a county that is not a county of the first class.

(2) (a) Except as required by Subsection (2)(b), as terms of current members expire, the governor shall appoint each new member or reappointed member to a four-year term ending June 30.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of members are staggered so that approximately half of the licensing committee is appointed every two years.

(c) Upon the expiration of the term of a member of the licensing committee, the member shall continue to hold office until a successor is appointed and qualified.

(d) A member may not serve more than two consecutive terms.

(e) Members of the licensing committee shall annually select one member to serve as chair who shall establish the agenda for licensing committee meetings.

(3) When a vacancy occurs in the membership for any reason, the governor, with the consent of the Senate, shall appoint a replacement for the unexpired term.

(4) (a) The licensing committee shall meet at least every two months.

(b) The director may call additional meetings:

(i) at the director's discretion;

(ii) upon the request of the chair; or

(iii) upon the written request of three or more members.

(5) Three members of the licensing committee constitute a quorum for the transaction of business.

Section 4. Section 26-39-201 is amended to read:

26-39-201. Residential Child Care Licensing Advisory Committee.

(1) (a) [There is established the] The Residential Child Care Licensing Advisory Committee [to] created in Section 26-1-7 shall advise the department on rules made by the department under this chapter for residential child care.

(b) The advisory committee shall be composed of the following [13] nine members who shall be appointed by the executive director:

(i) two child care consumers;

(ii) [two] three licensed residential child care providers;

(iii) one certified residential child care provider;

~~[(iv) five representatives of licensed child care center programs;]~~

~~[(v)]~~ (iv) one individual with expertise in early childhood development; and

~~[(vi)]~~ (v) two health care providers.

(2) (a) Members of the advisory committee shall be appointed for four-year terms, except for those members who have been appointed to complete an unexpired term.

(b) Appointments and reappointments may be staggered so that 1/4 of the advisory committee changes each year.

(c) The advisory committee shall annually elect a chairman from its membership.

(3) The advisory committee shall meet at least quarterly, or more frequently as determined by the executive director, the chairman, or three or more members of the committee.

(4) ~~Five~~ ~~[Seven]~~ members constitute a quorum and a vote of the majority of the members present constitutes an action of the advisory committee.

Section 5. Section 26-39-202 is amended to read:

26-39-202. Members serve without pay -- Reimbursement for expenses.

A member of the Residential Child Care Licensing Advisory Committee and the Child Care Center Licensing Committee may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses ~~[in accordance with]~~ as allowed in:

(1) Section 63A-3-106;

(2) Section 63A-3-107; and

(3) rules made by the Division of Finance ~~[pursuant]~~ according to Sections 63A-3-106 and 63A-3-107.

Section 6. Section 26-39-203 is enacted to read:

26-39-203. Duties of the Child Care Center Licensing Committee.

(1) The licensing committee shall:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that govern center based child care as necessary to protect qualifying children's common needs for a safe and healthy environment, to provide for:

(i) adequate facilities and equipment; and

(ii) competent caregivers considering the age of the children and the type of program offered by the licensee;

(b) make rules necessary to carry out the purposes of this chapter that govern center based child care, in the following areas:

(i) requirements for applications, the application process, and compliance with other applicable statutes and rules;

(ii) documentation and policies and procedures that providers shall have in place in order to be licensed, in accordance with Subsection (1);

(iii) categories, classifications, and duration of initial and ongoing licenses;

(iv) changes of ownership or name, changes in licensure status, and changes in operational status;

(v) license expiration and renewal, contents, and posting requirements;

(vi) procedures for inspections, complaint resolution, disciplinary actions, and other procedural measures to encourage and assure compliance with statute and rule; and

(vii) guidelines necessary to assure consistency and appropriateness in the regulation and discipline of licensees;

(c) advise the department on the administration of a matter affecting center based child care;

(d) advise and assist the department in conducting center based child care provider seminars; and

(e) perform other duties as provided under Section 26-39-301.

(2) The licensing committee may not enforce the rules adopted under this section. The department shall enforce the rules adopted under this section in accordance with Section 26-39-301.

Section 7. Section 26-39-301 is amended to read:

26-39-301. Duties of the department -- Enforcement of chapter -- Licensing committee requirements.

(1) With regard to ~~[child care programs]~~ residential child care licensed or certified under this chapter, the department may:

(a) make and enforce rules to implement this chapter and, as necessary to protect qualifying children's common needs for a safe and healthy environment, to provide for:

(i) adequate facilities and equipment; and

(ii) competent caregivers considering the age of the children and the type of program offered by the licensee;

(b) make and enforce rules necessary to carry out the purposes of this chapter, in the following areas:

(i) requirements for applications, the application process, and compliance with other applicable statutes and rules;

(ii) documentation and policies and procedures that providers shall have in place in order to be licensed, in accordance with Subsection (1)(a);

(iii) categories, classifications, and duration of initial and ongoing licenses;

(iv) changes of ownership or name, changes in licensure status, and changes in operational status;

(v) license expiration and renewal, contents, and posting requirements;

(vi) procedures for inspections, complaint resolution, disciplinary actions, and other procedural measures to encourage and assure compliance with statute and rule; and

(vii) guidelines necessary to assure consistency and appropriateness in the regulation and discipline of licensees; and

(c) set and collect licensing and other fees in accordance with Section 26-1-6.

(2) The department shall enforce the rules established by the licensing committee for center based child care.

[(2)] (3) Rules made under this chapter by the department or the licensing committee shall be made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[(3)] (4) (a) The licensing committee and the department may not regulate educational curricula, academic methods, or the educational philosophy or approach of the provider.

(b) The licensing committee and the department shall allow for a broad range of educational training and academic background in certification or qualification of child day care directors.

[(4)] (5) In licensing and regulating child care programs, the licensing committee and the department shall reasonably balance the benefits and burdens of each regulation and, by rule, provide for a range of licensure, depending upon the needs and different levels and types of child care provided.

[(5)] (6) Notwithstanding the definition of "qualifying child" in Section 26-39-102, the licensing committee and the department shall count children through age 12 and children with disabilities through age 18 toward the minimum square footage requirement for indoor and outdoor areas, including the child of:

- (a) a licensed residential child care provider; or
- (b) an owner or employee of a licensed child care center.

[(6)] (7) Notwithstanding Subsection (1)(a)(i), the licensing committee and the department may not exclude floor space used for furniture, fixtures, or equipment from the minimum square footage requirement for indoor and outdoor areas if the furniture, fixture, or equipment is used:

- (a) by qualifying children;
- (b) for the care of qualifying children; or
- (c) to store classroom materials.

[(7)] (8) (a) A child care center constructed prior to January 1, 2004, and licensed and operated as a child care center continuously since January 1, 2004, is exempt from the licensing committee's and

the department's group size restrictions, if the child to caregiver ratios are maintained, and adequate square footage is maintained for specific classrooms.

(b) An exemption granted under Subsection (7)(a) is transferrable to subsequent licensed operators at the center if a licensed child care center is continuously maintained at the center.

[(8)] (9) The licensing committee and the department shall develop, by rule, a five-year phased-in compliance schedule for playground equipment safety standards.

[(9)] (10) Nothing in this chapter may be interpreted to grant a municipality or county the authority to license or certify a child care program.

CHAPTER 323**H. B. 160**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

UTAH WILDERNESS ACT

Chief Sponsor: Stephen G. Handy

Senate Sponsor: Ralph Okerlund

LONG TITLE**General Description:**

This bill enacts the Utah Wilderness Act.

Highlighted Provisions:

This bill:

- ▶ recognizes the importance of securing the benefits of protected wilderness areas;
- ▶ defines terms;
- ▶ establishes the process for mapping and evaluating potential wilderness areas;
- ▶ establishes the process for designating a protected wilderness area;
- ▶ describes the acceptable uses of a protected wilderness area; and
- ▶ requires the director of the Public Lands Policy Coordination Office to make annual reports to the:
 - governor, for transmission to the Legislature; and
 - Natural Resources, Agriculture, and Environment Interim Committee by November 30 of each year.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

63L-7-101, Utah Code Annotated 1953

63L-7-102, Utah Code Annotated 1953

63L-7-103, Utah Code Annotated 1953

63L-7-104, Utah Code Annotated 1953

63L-7-105, Utah Code Annotated 1953

63L-7-106, Utah Code Annotated 1953

63L-7-107, Utah Code Annotated 1953

63L-7-108, Utah Code Annotated 1953

63L-7-109, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 63L-7-101 is enacted to read:****CHAPTER 7. UTAH WILDERNESS ACT****63L-7-101. Title.**This chapter is known as the "Utah Wilderness Act."**Section 2. Section 63L-7-102 is enacted to read:****63L-7-102. Purpose.**

- (1) The purpose of this chapter is to:

(a) secure for the people of Utah, present and future generations, as well as for visitors to Utah, the benefits of an enduring resource of wilderness on designated state-owned lands;

(b) provide a window into the natural world, into which our pioneer forebears ventured and formed our collective story and character;

(c) recognize that the preservation of wilderness shall be part of a balanced pattern of multiple land uses;

(d) demonstrate the proper stewardship of certain primitive lands by providing the protection to allow natural forces to operate; and

(e) create a Utah wilderness preservation system.

(2) No state-owned lands may be designated as a protected wilderness area except as provided in this chapter.

(3) This chapter does not apply to lands owned or acquired by the School and Institutional Trust Lands Administration.

Section 3. Section 63L-7-103 is enacted to read:**63L-7-103. Definitions.**As used in this chapter:

(1) "Acquisition date" means the day on which the state received title to land.

(2) "Conservation area" means an area that potentially has wilderness characteristics.

(3) "DNR" means the Department of Natural Resources.

(4) "PLPCO" means the Public Lands Policy Coordination Office.

(5) "Protected wilderness area" means an area of wilderness that has been designated under this chapter as part of the Utah wilderness preservation system.

(6) "Road" means a road classified as either a class B road, as described in Section 72-3-103, or a class D road, as described in Section 72-3-105.

(7) "Roadless area" means an area without a road, as defined in Subsection (6).

(8) "Wilderness" means a roadless area of undeveloped state-owned land, other than land owned by the School and Institutional Trust Lands Administration, that:

(a) is acquired by the state from the federal government through purchase, exchange, grant, or any other means of conveyance of title after May 13, 2014;

(b) retains its primeval character and influence, without permanent improvements or human habitation;

(c) generally appears to have been affected primarily by the forces of nature, with minimal human impact;

(d) has at least 5,000 contiguous acres of land, or is of sufficient size as to make practicable its preservation and use in an unimpaired condition;

(e) has outstanding opportunities for solitude, or a primitive and unconfined type of recreation; and

(f) may contain ecological, geological, or other features of scientific, educational, scenic, or historical value.

Section 4. Section 63L-7-104 is enacted to read:

63L-7-104. Identification of a potential wilderness area.

(1) (a) Subject to Subsection (1)(b), the director of PLPCO, within one year of the acquisition date, shall identify within a parcel of acquired land any conservation areas.

(b) Before identifying a parcel of land as a conservation area, the director of PLPCO shall:

(i) inform the School and Institutional Trust Lands Administration that a parcel is being considered for designation as a conservation area; and

(ii) provide the School and Institutional Trust Lands Administration with the opportunity to trade out land owned by the School and Institutional Trust Lands Administration for the parcel in question subject to reaching an exchange agreement with the agency that manages the parcel.

(2) The director of PLPCO shall:

(a) file a map and legal description of each identified conservation area with the governor, the Senate, and the House of Representatives;

(b) maintain, and make available to the public, records pertaining to identified conservation areas, including:

(i) maps;

(ii) legal descriptions;

(iii) copies of proposed regulations governing the conservation area; and

(iv) copies of public notices of, and reports submitted to the Legislature, regarding pending additions, eliminations, or modifications to a conservation area; and

(c) within five years of the date of acquisition:

(i) review each identified conservation area for its suitability to be classified as a protected wilderness area; and

(ii) report the findings under Subsection (2)(c)(i) to the governor.

(3) The records described in Subsection (2)(b) shall be available for inspection at:

(a) the PLPCO office;

(b) the main office of DNR;

(c) a regional office of the Division of Forestry, Fire, and State Lands for any record that deals with an identified conservation area in that region; and

(d) the Division of Parks and Recreation.

(4) A conservation area may be designated as a protected wilderness area as described in Section 63L-7-105.

(5) A conservation area identified under Subsection (1) shall be managed by DNR, in coordination with the county government having jurisdiction over the area, without the conservation area being designated as a protected wilderness area unless otherwise provided by the Legislature.

Section 5. Section 63L-7-105 is enacted to read:

63L-7-105. Report to the governor -- Governor's report to the Legislature -- Designation of a protected wilderness area -- Modification of a protected wilderness area -- Rulemaking authority.

(1) Within five years of the acquisition date of a parcel of land, the director of PLPCO shall:

(a) review all areas identified as conservation areas under Section 63L-7-104; and

(b) subject to Subsection (3), submit a report and recommendation to the governor on the suitability of a conservation area for designation as a protected wilderness area.

(2) Before making a recommendation, the director of PLPCO shall:

(a) give notice of the proposed recommendation in a newspaper having general circulation in the vicinity of the affected land;

(b) hold a public hearing at a location convenient to citizens who live in the affected area; and

(c) at least 30 days before the date of the hearing described in Subsection (2)(b), invite local authorities to submit their opinions on the proposed action:

(i) at the hearing; or

(ii) to the director of PLPCO, in writing, no later than 30 days after the day on which the hearing is held.

(3) Any opinions submitted to the director of PLPCO shall be included with any recommendations to the governor under Subsection (2) and the Legislature under Subsection (5).

(4) The governor shall, after receiving the reports described in Subsection (1)(b):

(a) formulate a recommendation on which conservation areas to designate as protected wilderness areas; and

(b) advise the speaker of the House of Representatives and the president of the Senate of the governor's recommendation.

(5) An area shall be designated as a protected wilderness area upon a concurrent resolution of the Legislature, the governor concurring therein, including:

(a) the legal description of the proposed protected wilderness area; and

(b) any special conditions that shall be placed upon the protected wilderness area.

(6) Any modification or adjustment to the boundaries of a protected wilderness area shall be:

(a) recommended by the director of PLPCO after public notice of, and hearing on, the proposal, as described in Subsections (1) and (2); and

(b) made official as described in Subsections (4) and (5).

(7) DNR shall make rules governing the protection of a protected wilderness area.

Section 6. Section 63L-7-106 is enacted to read:

63L-7-106. Use of protected wilderness areas.

(1) Except as otherwise provided in this chapter, each agency administering any area designated as a protected wilderness area shall be responsible for preserving the wilderness character of the area and shall administer such area for the purposes for which it may have been established to preserve its wilderness character.

(2) Except as specifically provided in this chapter, and subject to valid existing rights, there shall be:

(a) no commercial enterprise and no permanent road within any protected wilderness area designated by this chapter; and

(b) no temporary road, no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, no other form of mechanical transport, and no structure or installation with any such area except as necessary to meet minimum requirements for the administration of the area for the purpose of this chapter, including measures required in emergencies involving the health and safety of persons within the area.

(3) Except as otherwise provided in this chapter, a protected wilderness area shall be devoted to the public purposes of:

(a) recreation, including hunting, trapping, and fishing;

(b) conservation; and

(c) scenic, scientific, educational, and historical use.

(4) Commercial services may be performed within a protected wilderness area to the extent necessary to support the activities described in Subsection (3).

(5) Within an area designated as a protected wilderness area by this chapter:

(a) subject to the rules established by DNR, the use of a motor vehicle, aircraft, or motorboat is authorized where:

(i) the use of a motor vehicle, aircraft, or motorboat is already established;

(ii) the motor vehicle, aircraft, or motorboat is used by the Division of Wildlife Resources in furtherance of its wildlife management responsibilities, as described in Title 23, Wildlife Resources Code of Utah; or

(iii) the use of a motor vehicle, aircraft, or motorboat is necessary for emergency services or law enforcement purposes; and

(b) measures may be taken, under the direction of the director of the Division of Forestry, Fire, and State Lands, as necessary to manage fire, insects, habitat, and diseases.

(6) Nothing in this chapter shall prevent, within a designated protected wilderness area, any activity, including prospecting, if the activity is conducted in a manner compatible with the preservation of the wilderness environment, subject to such conditions as the executive director of DNR considers desirable.

(7) The executive director of DNR shall develop and conduct surveys of wilderness areas:

(a) on a planned, recurring basis;

(b) in a manner consistent with wildlife management and preservation principles;

(c) in order to determine the mineral values, if any, that may be present in wilderness areas; and

(d) make a completed survey available to the public, the governor, and the Legislature.

(8) Notwithstanding any other provision of this chapter, until midnight December 31, 2034:

(a) state laws pertaining to mining and mineral leasing shall, to the extent applicable before May 13, 2014, extend to wilderness areas designated under this chapter, subject to reasonable regulation governing ingress and egress as may be prescribed by the executive director of DNR, consistent with the use of the land for:

(i) mineral location and development;

(ii) exploration, drilling, and production; and

(iii) use of land for transmission lines, waterlines, telephone lines, or facilities necessary in exploring, drilling, producing, mining, and processing operations, including the use of mechanized ground or air equipment when necessary, if restoration of the disturbed land is practicable and performed as soon as the land has served its purpose; and

(b) mining locations lying within the boundaries of a protected wilderness area that existed as of the date of acquisition shall be held and used solely for mining or processing operations, and uses that are reasonably related to an underlying mining or processing operation.

(9) Any newly issued mineral lease, permit, or license for land within a wilderness area shall contain stipulations, as may be determined by the executive director of DNR in consultation with the director of the Division of Oil, Gas, and Mining, for

the protection of the wilderness character of the land, consistent with the use of the land for the purpose for which it is leased, permitted, or licensed.

(10) Subject to valid rights then existing, effective January 1, 2015, the minerals in all lands designated by this chapter as wilderness areas are withdrawn from disposition under all laws pertaining to mineral leasing.

(11) Mineral leases shall not be permitted within protected wilderness areas.

(12) The governor may, within protected wilderness areas, authorize:

(a) prospecting for water resources;

(b) the establishment and maintenance of reservoirs, water-conservation works, power projects, transmission lines, and other facilities needed in developing water resources, including road construction and essential maintenance; and

(c) subject to Subsection (13), the grazing of livestock, if the practice of grazing livestock was established as of the effective date of this chapter.

(13) The commissioner of the Department of Agriculture and Food may make regulations as necessary to govern the grazing of livestock on a protected wilderness area.

Section 7. Section 63L-7-107 is enacted to read:

63L-7-107. Private lands within wilderness areas.

(1) In any case where privately owned land is completely surrounded by lands within areas designated by this chapter as protected wilderness:

(a) the private landowner shall be given rights as may be necessary to ensure adequate access to the privately owned land by the private owner and any successors in interest; or

(b) the privately owned land shall be exchanged for state-owned land of approximately equal value.

(2) If the School Institutional Trust Lands Administration owns land that is completely surrounded by lands within areas designated by this chapter as protected wilderness:

(a) the School Institutional Trust Lands Administration shall be given rights as may be necessary to ensure adequate access to the land owned by the School Institutional Trust Lands Administration and any successors in interest; or

(b) the land owned by the School Institutional Trust Lands Administration may be exchanged for state-owned land of approximately equal value.

(3) If a valid mining claim or other valid occupancy is located wholly within a protected wilderness area, the executive director of DNR shall, by reasonable regulations consistent with the preservation of the area as wilderness, permit ingress and egress to such surrounded areas by means which have been, or are being, customarily

enjoyed with respect to other similarly situated areas.

(4) Subject to available funds, PLPCO is authorized to acquire land, or interest in land, through purchase from a private landowner.

Section 8. Section 63L-7-108 is enacted to read:

63L-7-108. Gifts, bequests, and contributions.

(1) The executive director of DNR may accept gifts or bequests of land:

(a) within protected wilderness areas designated pursuant to this chapter for preservation as wilderness; and

(b) adjacent to designated protected wilderness areas, if the executive director of DNR gives 60 days advance notice to the governor.

(2) Land accepted by the executive director of DNR under this section:

(a) shall become part of the protected wilderness area involved; and

(b) is subject to:

(i) the same regulations made under this chapter; and

(ii) any conditions that were made at the time the gift or bequest was made that are consistent with the regulations made under this chapter.

Section 9. Section 63L-7-109 is enacted to read:

63L-7-109. Annual reports.

(1) The director of PLPCO shall report to the governor, for transmission to the Legislature, on:

(a) the status of the Utah wilderness preservation system;

(b) regulations in effect; and

(c) other pertinent information.

(2) The director of PLPCO shall report any recommendations for future action to the Natural Resources, Agriculture, and Environment Interim Committee by November 30 of each year.

CHAPTER 324**H. B. 164**

Passed March 11, 2014

Approved April 1, 2014

Effective May 13, 2014

**INTERSTATE COMPACT ON
TRANSFER OF PUBLIC LANDS**

Chief Sponsor: Keven J. Stratton

Senate Sponsor: Evan J. Vickers

Cosponsors: Rebecca D. Lockhart

Brad L. Dee

Gregory H. Hughes

Don L. Ipson

Jacob L. Anderegg

Jerry B. Anderson

Roger E. Barrus

Melvin R. Brown

Kay J. Christofferson

Jack R. Draxler

Brian M. Greene

Keith Grover

Stephen G. Handy

Eric K. Hutchings

Ken Ivory

John Knotwell

Dana L. Layton

David E. Lifferth

John G. Mathis

Kay L. McIff

Mike K. McKell

Jim Nielson

Michael E. Noel

Curtis Oda

Lee B. Perry

Val L. Peterson

Dixon M. Pitcher

Kraig Powell

Marc K. Roberts

Douglas V. Sagers

V. Lowry Snow

Robert M. Spendlove

Jon E. Stanard

John R. Westwood

Brad R. Wilson

LONG TITLE**General Description:**

This bill provides for an interstate compact for the transfer of western public lands from federal control to state control.

Highlighted Provisions:

This bill:

- ▶ enacts an interstate compact establishing a compact commission to consider mechanisms for securing the transfer of federal land to member states;
- ▶ provides for membership and withdrawal;
- ▶ establishes a commission and an administrator;
- ▶ designates funding sources; and
- ▶ defines the goals of securing sovereignty and jurisdiction over western states' public lands.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

63L-6-105, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63L-6-105 is enacted to read:**63L-6-105. Interstate compact -- Transfer of public land.**

The Interstate Compact on the Transfer of Public Lands is hereby enacted and entered into with all other jurisdictions that can legally join in the compact, which is, in form, substantially as follows:

Interstate Compact on the Transfer of Public
Lands

Whereas, the separation of powers, both between the branches of the federal government and between federal and state authority, is essential to the preservation of individual liberty;

Whereas, the Constitution of the United States creates a federal government of limited and enumerated powers and reserves to the states or to the people those powers not expressly granted to the federal government to protect the liberty of individual property incidental to the sovereignty and the health, safety, and welfare of its citizens;

Whereas, each state adopting and agreeing to be bound by this compact finds that the coordinated, regular, institutional exercise of its sovereign power under its respective constitution and the Constitution of the United States is an essential component of the governing partnership between the states and the federal government;

NOW, THEREFORE, the states hereto resolve and, by the adoption into law under their respective state constitutions of this Interstate Compact on the Transfer of Public Lands, agree, as follows:

Sec. 1. Definitions.

As used in this chapter, unless the context clearly indicates otherwise:

(1) "Associate member state" means any state that is not a "member state."

(2) "Compact" means the Interstate Compact on the Transfer of Public Lands.

(3) "Compact administrator" means the person selected by the compact commission to staff the compact commission and whose duties, powers, and tenure are only those approved by the commission.

(4) "Compact commission" means the entity composed of member state representatives and who will administer the compact.

(5) "Compact notice recipient" means the archivist of the United States, the president of the United States, the office of the secretary of the United States Senate, the majority leader of the United States Senate, the speaker of the United States House of Representatives, the office of the

clerk of the United States House of Representatives, the chief executive of each state, and the presiding officer of each chamber of the Legislature of each state.

(6) "Member state" means any of the following states that are a signatory to the compact and that have adopted it under the laws of that state: Alaska; Arizona; California; Colorado; Idaho; Montana; Nevada; New Mexico; Oregon; Utah; Washington; and Wyoming.

Sec. 2. Purpose of the compact and commission.

The purpose of the compact and commission is to study, collect data, and develop political and legal mechanisms for securing the transfer to the respective member states of certain specially identified federally controlled public lands within the respective member state boundaries.

Sec. 3. Compact commission and compact administrator.

(1) The compact commission is hereby established and has the powers and duties as follows:

(a) elect, by majority vote, a chair and cochair from among the compact's members, who shall serve a term of office of two years and may serve no more than two terms as chair or cochair;

(b) appoint a compact administrator who shall report to the chair and cochair;

(c) request and disburse funds for the operation of the compact commission;

(d) allow the compact commission to seek staff and research assistance from nonprofit organizations;

(e) adopt parliamentary procedures and publish bylaws consistent with member states;

(f) receive, evaluate, and respond to input from compact commission members regarding actions taken by the federal government that interfere with the:

(i) powers reserved to the state;

(ii) regulation of real property, including land titles, uses, and transfers;

(iii) regulation of agriculture and nonagricultural businesses that do not engage in interstate commerce; and

(iv) jurisdiction for the health, safety, and welfare of a state's residents;

(g) keep and publish minutes of compact commission meetings and records of the compact administrator both of which shall be considered public records and available upon request by the public; and

(h) prepare an annual report of the compact commission's activities for member and associate member states.

(2) The compact administrator shall staff the compact commission, perform duties, and exercise

powers as granted by the commission, or as directed by the chair or cochair.

(3) A majority of the member state representatives present at a compact commission meeting constitutes a quorum and an action of the quorum constitutes an action of the compact commission. Each member state shall have one official representative who shall have one vote.

(4) The compact commission may not take any action within a member or associate member state that contravenes any state law of that member or associate member state.

Sec. 4. Compact membership and withdrawal.

(1) Each member and associate member state agrees to perform and comply in accordance with the terms of membership of this compact consistent with the constitution and laws of the member or associate member state. Actions by members of the compact, for the purpose for which it was created, are based upon the mutual participation, reliance, and reciprocal performance in agreeing to enact this compact into law.

(2) A state enacting this compact into law shall appoint one official representative to the compact commission and shall provide to the compact commission a letter of that representative's appointment. A copy of the letter of appointment with a government-issued photo identity card shall constitute proof of membership on the compact commission.

(3) For voting purposes, only a member state representative may vote and each member state may have only one vote.

(4) A member or associate member state may withdraw from this compact by enacting legislation and giving notice of the enacted withdrawal legislation to the compact administrator. No such withdrawal shall take effect until six months following the enactment of withdrawal legislation and a withdrawing state is liable for any obligations that it may have incurred prior to the date upon which its withdrawal legislation becomes effective.

Sec. 5. Adoption of compact.

Upon a state adopting the compact and notifying the compact administrator, the administrator shall notify all other member states of the adoption by sending an updated certified copy of the compact with the new adoptee state listed.

Sec. 6. Commission meetings.

(1) The initial meeting of the compact commission shall be within 90 days after the compact is enacted by two or more states. The official representatives of the enacting states shall determine the date, time, and location of the initial meeting and publish that information in their respective states in a manner consistent with the laws of those states for posting notifications and agendas of public meetings. At the initial meeting, those official representatives shall, as provided in Sec. 4, elect a chair and cochair, and appoint a compact administrator. The compact administrator shall, as directed by the compact commission chairs and as

provided in the compact, organize the compact commission's activities.

(2) Following the compact commission's initial meeting, the compact commission shall meet at least one time per year. No meeting shall continue longer than three consecutive days.

(3) Special meetings may be called if half or more of the member states notify the chair of the compact commission in writing of the request for a meeting. Attendance at the meeting may be in person or by electronic means. No meeting shall continue longer than three consecutive days.

(4) Meetings shall be recorded, and the recording and minutes of the meeting shall be made available to the public within 30 days after the meeting. Meetings closed to the public are not permitted except where provided by law in the state in which the meeting is held.

Sec. 7. Funding.

The activities of the compact commission and compact administrator shall be funded exclusively by each member and associate member state, as permitted by the laws of those states, or by voluntary donations. Records shall be kept of all funding and disbursements, and that information shall be available within 30 days upon request by a compact commission member, or by a member state or associate member state.

Sec. 8. Cooperation.

The compact commission, member states, associate member states, and the compact administrator shall cooperate and offer mutual assistance with each other in enforcing the terms of the compact for securing the transfer of title to federally controlled public lands to willing western states.

Sec. 9. Declaration of Interstate Compact on the Transfer of Public Lands goals.

(1) Member states, in order to restore, protect, and promote state sovereignty and the health, safety, and welfare of their citizens, shall:

(a) develop and draft model uniform legislation for member states to adopt in securing sovereignty and jurisdiction over federal lands within the respective member state boundaries;

(b) develop and draft model uniform legislation for member states to send to their federal delegation for introduction in Congress for the transfer of federally controlled public lands to the respective member state governments; and

(c) develop legal strategies for securing state sovereignty and jurisdiction over federally controlled public lands within member state boundaries.

(2) The compact goals in Subsection (1) take effect when:

(a) two states have become member states and adopted the terms in legislation; and

(b) Congress votes to consent to the terms of this compact under United States Constitution Article I, Section 10.

CHAPTER 325**H. B. 170**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

**LOCAL SCHOOL BOARD
BOND AMENDMENTS**

Chief Sponsor: Daniel McCay

Senate Sponsor: Howard A. Stephenson

LONG TITLE**General Description:**

This bill amends provisions related to local school board bond issuances.

Highlighted Provisions:

This bill:

- ▶ requires a local school board to:
 - include a plan of finance in the voter information pamphlet for a bond election;
 - ensure that the bond proceeds are used to complete projects in accordance with the plan of finance; and
 - post on the local school board's website certain information related to the plan of finance and the status of the projects;
- ▶ subject to certain conditions, including the approval of two-thirds of the local school board, provides that a local school board may adjust the plan of finance for a bond that has been authorized by an election; and
- ▶ provides a remedy for a registered voter if a local school board adjusts the plan of finance without obtaining the necessary local school board approval.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

11-14-202, as last amended by Laws of Utah 2012, Chapter 334

53A-18-102, as last amended by Laws of Utah 2005, Chapter 105

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-14-202 is amended to read:**11-14-202. Notice of election -- Contents -- Publication -- Mailing.**

(1) The governing body shall ensure that notice of the election is provided:

(a) once per week during three consecutive weeks by publication in a newspaper having general circulation in the local political subdivision in accordance with Section 11-14-316, the first publication occurring not less than 21 nor more than 35 days before the election;

(b) on a website, if available, in accordance with Section 45-1-101 for the three weeks that immediately precede the election; and

(c) in a local political subdivision where there is no newspaper of general circulation, by posting notice of the bond election in at least five public places in the local political subdivision at least 21 days before the election.

(2) When the debt service on the bonds to be issued will increase the property tax imposed upon the average value of a residence by an amount that is greater than or equal to \$15 per year, the governing body shall prepare and mail either a voter information pamphlet or a notification described in Subsection (6):

(a) at least 15 days but not more than 45 days before the bond election;

(b) to each household containing a registered voter who is eligible to vote on the bonds; and

(c) that includes the information required by Subsections (3) and (4).

(3) The notice and voter information pamphlet required by this section shall include:

(a) the date and place of the election;

(b) the hours during which the polls will be open; and

(c) the title and text of the ballot proposition.

(4) The voter information pamphlet required by this section shall include:

(a) the information required by Subsection (3); and

(b) an explanation of the property tax impact, if any, of the issuance of the bonds, which may be based on information the governing body determines to be useful, including:

(i) expected debt service on the bonds to be issued;

(ii) a description of the purpose, remaining principal balance, and maturity date of any outstanding general obligation bonds of the issuer;

(iii) funds other than property taxes available to pay debt service on general obligation bonds;

(iv) timing of expenditures of bond proceeds;

(v) property values; and

(vi) any additional information that the governing body determines may be useful to explain the property tax impact of issuance of the bonds.

(5) The governing body shall pay the costs associated with the notice required by this section.

(6) (a) The governing body may mail a notice printed on a postage prepaid, preaddressed return form that a person may use to request delivery of a voter information pamphlet by mail.

(b) The notice described in Subsection (6)(a) shall include:

(i) the website upon which the voter information pamphlet is available; and

(ii) the phone number a voter may call to request delivery of a voter information pamphlet by mail.

(7) A local school board shall comply with the voter information pamphlet requirements described in Section 53A-18-102.

Section 2. Section 53A-18-102 is amended to read:

53A-18-102. Additional indebtedness -- Election -- Voter information pamphlet.

(1) As used in this section:

(a) "Qualifying general obligation bond" means a bond:

(i) issued pursuant to Title 11, Chapter 14, Local Government Bonding Act; and

(ii) authorized by an election held on or after July 1, 2014.

(b) "Voter information pamphlet" means the notification required by Section 11-14-202.

(2) A local school board may require the qualified electors of the district to vote on a proposition as to whether to incur indebtedness, subject to conditions provided in Title 11, Chapter 14, Local Government Bonding Act, [under the following circumstances] if:

[1- if] (a) the debts of the district are equal to school taxes and other estimated revenues for the school year, and it is necessary to create and incur additional indebtedness in order to maintain and support schools within the district; or

[2] (b) the local school board determines it advisable to issue school district bonds to purchase school sites, buildings, or furnishings or to improve existing school property.

(3) A local school board shall specify, in the voter information pamphlet for a bond election, a plan of finance, including:

(a) the specific project or projects for which a bond is to be issued; and

(b) a priority designation for each project.

(4) Except as provided in Subsection (5), a local school board shall ensure that qualifying general obligation bond proceeds are used to complete projects in accordance with the plan of finance described in Subsection (3).

(5) (a) After distribution to the public of the voter information pamphlet, with two-thirds majority approval of the local school board, a local school board may upon a determination of compelling circumstances adjust the plan of finance described in Subsection (3) by:

(i) changing the priority designation of a project;

(ii) adding a project that was not listed in the voter information pamphlet; or

(iii) removing a project that was listed in the voter information pamphlet.

(b) A local school board may not vote on more than one adjustment described in Subsection (5)(a) per meeting.

(6) For a qualifying general obligation bond, a local school board shall post on the local school board's website:

(a) the plan of finance as described in the voter information pamphlet; and

(b) a progress report detailing the status of the projects listed in the plan of finance, including:

(i) the status of any construction contracts related to a project;

(ii) the bid amount;

(iii) the estimated and actual construction start date;

(iv) the estimated and actual construction end date; and

(v) the final cost.

(7) (a) If a local school board violates Subsection (4), a registered voter in the school district may file an action for an extraordinary writ to prohibit the local school board from adjusting the plan of finance without obtaining the necessary local school board approval.

(b) If a registered voter prevails in an action under Subsection (7)(a), the court shall award reasonable costs and attorney fees to the registered voter.

(c) The action described in Subsection (7)(a) may not be used to challenge the validity of a bond.

CHAPTER 326**H. B. 171**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

NATURAL GAS FACILITIES AMENDMENTS

Chief Sponsor: Gregory H. Hughes

Senate Sponsor: J. Stuart Adams

LONG TITLE**General Description:**

This bill addresses provisions related to the installation of natural gas facilities.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ addresses who may install natural gas facilities;
- ▶ addresses the inspection of natural gas facilities by a gas corporation; and
- ▶ addresses the duty of a gas corporation to supply natural gas or to accept ownership of natural gas facilities.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

58-55-308.1, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-55-308.1 is enacted to read:**58-55-308.1. Definitions -- Installation of natural gas facilities -- Scope of practice.**

(1) As used in this section:

(a) "Gas corporation" is as defined in Section 54-2-1.

(b) "Minimum system" means the minimum natural gas facilities necessary to serve each intended consumer, as determined by a gas corporation.

(c) (i) "Natural gas facilities" means:

(A) one or more natural gas mains;

(B) one or more natural gas service lines; or

(C) a combination of Subsections (1)(c)(i)(A) and (B); and

(ii) "Natural gas facilities" includes any necessary appurtenant facilities.

(d) (i) "Natural gas main" means a natural gas distribution pipeline that delivers natural gas to another natural gas distribution supply line or to a natural gas service line.

(ii) "Natural gas main" does not include a natural gas service line.

(e) "Natural gas service line" means a natural gas pipeline that carries natural gas from a natural gas main to a meter for use by the ultimate consumer.

(f) "Natural gas tariff specifications" means the standards and specifications:

(i) for the construction of natural gas facilities; and

(ii) that are:

(A) established by a gas corporation; and

(B) included in the gas corporation's tariff that is approved by the Public Service Commission.

(g) "Qualifying installer" means a person who:

(i) a gas corporation approves to install natural gas facilities; and

(ii) is:

(A) licensed under this chapter; and

(B) authorized to install natural gas facilities within the person's scope of practice as established by statute or administrative rule.

(2) A qualifying installer may install natural gas facilities.

(3) (a) Except as provided in Subsections (3)(b) and (c), a qualifying installer shall pay the costs to install natural gas facilities.

(b) A gas corporation shall pay the costs of the following services related to natural gas facilities installed by a qualifying installer:

(i) engineering;

(ii) inspection;

(iii) mapping; and

(iv) locating.

(c) If a gas corporation requires a qualifying installer to install natural gas facilities that are greater than the minimum system, the gas corporation shall pay any difference in cost between the required natural gas facilities and the minimum system.

(4) A gas corporation shall inspect and test natural gas facilities that a qualifying installer installs to verify that the natural gas facilities comply with applicable federal, state, and local law and natural gas tariff specifications.

(5) A gas corporation is not required to supply natural gas to or accept ownership of natural gas facilities until the gas corporation completes all necessary inspections and testing to verify that the natural gas facilities have been installed and tested in compliance with applicable federal, state, and local law and natural gas tariff specifications.

CHAPTER 327**H. B. 176**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

FOOD HANDLER PERMIT AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Lyle W. Hillyard

LONG TITLE**General Description:**

This bill amends provisions of the Health Code related to food handler permits and food safety managers.

Highlighted Provisions:

This bill:

- ▶ subject to rules established by the Department of Health, exempts an individual from food handler permit requirements and food safety manager requirements at an event that is sponsored by a charitable organization where the organization provides food, free of charge, to a disadvantaged group; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-15a-105, as last amended by Laws of Utah 2008, Chapter 382

ENACTS:

26-15-5.1, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-15-5.1 is enacted to read:**26-15-5.1. Exemptions to food handler requirements.**

(1) The requirements of Section 26-15-5 do not apply to an individual who handles food:

(a) at an event sponsored by a charitable organization where the organization provides food to a disadvantaged group free of charge; and

(b) in compliance with rules established by the department under Subsection (2).

(2) The department may establish additional requirements, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for individuals handling food at an event sponsored by a charitable organization under Subsection (1).

Section 2. Section 26-15a-105 is amended to read:**26-15a-105. Exemptions to food service establishment requirements.**

(1) The following are not subject to the provisions of Section 26-15a-104:

(a) special events sponsored by municipal or nonprofit civic organizations, including food booths at school sporting events and little league athletic events and church functions;

(b) temporary event food services approved by a local health department;

(c) vendors and other food service establishments that serve only commercially prepackaged foods and beverages as defined by the department by rule;

(d) private homes not used as a commercial food service establishment;

(e) health care facilities licensed under Chapter 21, Health Care Facility Licensing and Inspection Act;

(f) bed and breakfast establishments at which the only meal served is a continental breakfast as defined by the department by rule;

(g) residential child care providers;

(h) child care providers and programs licensed under Chapter 39, Utah Child Care Licensing Act;

(i) back country food service establishments; ~~and~~

(j) an event that is sponsored by a charitable organization, if, at the event, the organization:

(i) provides food to a disadvantaged group free of charge; and

(ii) complies with rules established by the department under Subsection (3); and

~~(j)]~~ (k) a lowest risk or permitted food establishment category determined by a risk assessment evaluation established by the department by administrative rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) Nothing in this section may be construed as exempting a food service establishment described in Subsection (1) from any other applicable food safety laws of this state.

(3) The department may establish additional requirements, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for charitable organizations providing food for free under Subsection (1)(j).

CHAPTER 328**H. B. 183**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

**FEDERAL LAND EXCHANGE
AND SALE AMENDMENTS**Chief Sponsor: Michael E. Noel
Senate Sponsor: Ralph Okerlund**LONG TITLE****General Description:**

This bill deals with the exchange of federal land for state land.

Highlighted Provisions:

This bill:

- ▶ encourages the federal government to:
 - move forward with the exchange of state and federal lands; and
 - support, in good faith, congressional action to finalize the exchange of state and federal lands; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63J-8-104, as last amended by Laws of Utah 2012, Chapter 369

63L-2-201, as last amended by Laws of Utah 2011, Chapter 247

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63J-8-104 is amended to read:**63J-8-104. State land use planning and management program.**

(1) The BLM and Forest Service land use plans should produce planning documents consistent with state and local land use plans to the maximum extent consistent with federal law and FLPMA's purposes, by incorporating the state's land use planning and management program for the subject lands that is as follows:

(a) preserve traditional multiple use and sustained yield management on the subject lands to:

(i) achieve and maintain in perpetuity a high-level annual or regular periodic output of agricultural, mineral, and various other resources from the subject lands;

(ii) support valid existing transportation, mineral, and grazing privileges in the subject lands at the highest reasonably sustainable levels;

(iii) produce and maintain the desired vegetation for watersheds, timber, food, fiber, livestock forage, wildlife forage, and minerals that are necessary to

meet present needs and future economic growth and community expansion in each county where the subject lands are situated without permanent impairment of the productivity of the land;

(iv) meet the recreational needs and the personal and business-related transportation needs of the citizens of each county where the subject lands are situated by providing access throughout each such county;

(v) meet the needs of wildlife, provided that the respective forage needs of wildlife and livestock are balanced according to the provisions of Subsection 63J-4-401(6)(m);

(vi) protect against adverse effects to historic properties, as defined by 36 C.F.R. Sec. 800;

(vii) meet the needs of community economic growth and development;

(viii) provide for the protection of existing water rights and the reasonable development of additional water rights; and

(ix) provide for reasonable and responsible development of electrical transmission and energy pipeline infrastructure on the subject lands;

(b) (i) do not designate, establish, manage, or treat any of the subject lands as an area with management prescriptions that parallel, duplicate, or resemble the management prescriptions established for wilderness areas or wilderness study areas, including the nonimpairment standard applicable to WSAs or anything that parallels, duplicates, or resembles that nonimpairment standard; and

(ii) recognize, follow, and apply the agreement between the state and the Department of the Interior in the settlement agreement;

(c) call upon the BLM to revoke and revise BLM Manuals H 6301, H 6302, and H 6303, issued on or about February 25, 2011, in light of the settlement agreement and the following principles of this state plan:

(i) BLM lacks congressional authority to manage subject lands, other than WSAs, as if they are or may become wilderness;

(ii) BLM lacks authority to designate geographic areas as lands with wilderness characteristics or designate management prescriptions for such areas other than to use specific geographic-based tools and prescriptions expressly identified in FLPMA;

(iii) BLM lacks authority to manage the subject lands in any manner other than to prevent unnecessary or undue degradation, unless the BLM uses geographic tools expressly identified in FLPMA and does so pursuant to a duly adopted provision of a resource management plan adopted under FLPMA, 43 U.S.C. Sec. 1712;

(iv) BLM inventories for the presence of wilderness characteristics must be closely coordinated with inventories for those characteristics conducted by state and local governments, and should reflect a consensus among

those governmental agencies about the existence of wilderness characteristics, as follows:

(A) any inventory of wilderness characteristics should reflect all of the criteria identified in the Wilderness Act of 1964, including:

(I) a size of 5,000 acres or more, containing no visible roads; and

(II) the presence of naturalness, the opportunity for primitive and unconfined recreation, and the opportunity for solitude;

(B) geographic areas found to contain the presence of naturalness must appear pristine to the average viewer, and not contain any of the implements, artifacts, or effects of human presence, including:

(I) visible roads, whether maintained or not; and

(II) human-made features such as vehicle bridges, fire breaks, fisheries, enhancement facilities, fire rings, historic mining and other properties, including tailings piles, commercial radio and communication repeater sites, fencing, spring developments, linear disturbances, stock ponds, visible drill pads, pipeline and transmission line rights-of-way, and other similar features;

(C) factors, such as the following, though not necessarily conclusive, should weigh against a determination that a land area has the presence of naturalness:

(I) the area is or once was the subject of mining and drilling activities;

(II) mineral and hard rock mining leases exist in the area; and

(III) the area is in a grazing district with active grazing allotments and visible range improvements;

(D) geographic areas found to contain the presence of solitude should convey the sense of solitude within the entire geographic area identified, otherwise boundary adjustments should be performed in accordance with Subsection (1)(c)(iv)(F);

(E) geographic areas found to contain the presence of an opportunity for primitive and unconfined recreation must find these features within the entire area and provide analysis about the effect of the number of visitors to the geographic area upon the presence of primitive or unconfined recreation, otherwise boundary adjustments should be performed in accordance with Subsection (1)(c)(iv)(F);

(F) in addition to the actions required by the review for roads pursuant to the definitions of roads contained in BLM Manual H 6301, or any similar authority, the BLM should, pursuant to its authority to inventory, identify and list all roads or routes identified as part of a local or state governmental transportation system, and consider those routes or roads as qualifying as roads within the definition of the Wilderness Act of 1964; and

(G) BLM should adjust the boundaries for a geographic area to exclude areas that do not meet the criteria of lacking roads, lacking solitude, and lacking primitive and unconfined recreation and the boundaries should be redrawn to reflect an area that clearly meets the criteria above, and which does not employ minor adjustments to simply exclude small areas with human intrusions, specifically:

(I) the boundaries of a proposed geographic area containing lands with wilderness characteristics should not be drawn around roads, rights-of-way, and intrusions; and

(II) lands located between individual human impacts that do not meet the requirements for lands with wilderness characteristics should be excluded;

(v) BLM should consider the responses of the Department of the Interior under cover of the letter dated May 20, 2009, clearly stating that BLM does not have the authority to apply the nonimpairment management standard to the subject lands, or to manage the subject lands in any manner to preserve their suitability for designation as wilderness, when considering the proper management principles for areas that meet the full definition of lands with wilderness characteristics; and

(vi) even if the BLM were to properly inventory an area for the presence of wilderness characteristics, the BLM still lacks authority to make or alter project level decisions to automatically avoid impairment of any wilderness characteristics without express congressional authority to do so;

(d) achieve and maintain at the highest reasonably sustainable levels a continuing yield of energy, hard rock, and nuclear resources in those subject lands with economically recoverable amounts of such resources as follows:

(i) the development of the solid, fluid, and gaseous mineral resources in portions of the subject lands is an important part of the state's economy and the economies of the respective counties, and should be recognized that it is technically feasible to access mineral and energy resources in portions of the subject lands while preserving or, as necessary, restoring nonmineral and nonenergy resources;

(ii) all available, recoverable solid, fluid, gaseous, and nuclear mineral resources in the subject lands should be seriously considered for contribution or potential contribution to the state's economy and the economies of the respective counties;

(iii) those portions of the subject lands shown to have reasonable mineral, energy, and nuclear potential should be open to leasing, drilling, and other access with reasonable stipulations and conditions, including mitigation, reclamation, and bonding measures where necessary, that will protect the lands against unnecessary and undue damage to other significant resource values;

(iv) federal oil and gas existing lease conditions and restrictions should not be modified, waived, or removed unless the lease conditions or restrictions are no longer necessary or effective;

(v) any prior existing lease restrictions in the subject lands that are no longer necessary or effective should be modified, waived, or removed;

(vi) restrictions against surface occupancy should be eliminated, modified, or waived, where reasonable;

(vii) in the case of surface occupancy restrictions that cannot be reasonably eliminated, modified, or waived, directional drilling should be considered where the mineral and energy resources beneath the area can be reached employing available directional drilling technology;

(viii) applications for permission to drill in the subject lands that meet standard qualifications, including reasonable and effective mitigation and reclamation requirements, should be expeditiously processed and granted; and

(ix) any moratorium that may exist against the issuance of qualified mining patents and oil and gas leases in the subject lands, and any barriers that may exist against developing unpatented mining claims and filing for new claims, should be carefully evaluated for removal;

(e) achieve and maintain livestock grazing in the subject lands at the highest reasonably sustainable levels by adhering to the policies, goals, and management practices set forth in Subsection 63J-4-401(6)(m);

(f) manage the watershed in the subject lands to achieve and maintain water resources at the highest reasonably sustainable levels as follows:

(i) adhere to the policies, goals, and management practices set forth in Subsection 63J-4-401(6)(m);

(ii) deter unauthorized cross-country OHV use in the subject lands by establishing a reasonable system of roads and trails in the subject lands for the use of an OHV, as closing the subject lands to all OHV use will only spur increased and unauthorized use; and

(iii) keep open any road or trail in the subject lands that historically has been open to OHV use, as identified on respective county road maps;

(g) achieve and maintain traditional access to outdoor recreational opportunities available in the subject lands as follows:

(i) hunting, trapping, fishing, hiking, family and group parties, family and group campouts and campfires, rock hounding, OHV travel, geological exploring, pioneering, recreational vehicle parking, or just touring in personal vehicles are activities that are important to the traditions, customs, and character of the state and individual counties where the subject lands are located and should continue;

(ii) wildlife hunting, trapping, and fishing should continue at levels determined by the Wildlife Board and the Division of Wildlife Resources and traditional levels of group camping, group day use, and other traditional forms of outdoor recreation, both motorized and nonmotorized, should continue; and

(iii) the broad spectrum of outdoor recreational activities available on the subject lands should be available to citizens for whom a primitive, nonmotorized, outdoor experience is not preferred, affordable, or physically achievable;

(h) (i) keep open to motorized travel, any road in the subject lands that is part of the respective counties' duly adopted transportation plan;

(ii) provide that R.S. 2477 rights-of-way should be recognized by the BLM;

(iii) provide that a county road may be temporarily closed or permanently abandoned only by statutorily authorized action of the county or state;

(iv) provide that the BLM and the Forest Service must recognize and not unduly interfere with a county's ability to maintain and repair roads and, where reasonably necessary, make improvements to the roads; and

(v) recognize that additional roads and trails may be needed in the subject lands from time to time to facilitate reasonable access to a broad range of resources and opportunities throughout the subject lands, including livestock operations and improvements, solid, fluid, and gaseous mineral operations, recreational opportunities and operations, search and rescue needs, other public safety needs, access to public lands for people with disabilities and the elderly, and access to Utah school and institutional trust lands for the accomplishment of the purposes of those lands;

(i) manage the subject lands so as to protect prehistoric rock art, three dimensional structures, and other artifacts and sites recognized as culturally important and significant by the state historic preservation officer or each respective county by imposing reasonable and effective stipulations and conditions reached by agreement between the federal agency and the state authorized officer pursuant to the authority granted by the National Historic Preservation Act, 16 U.S.C. Sec. 470 et seq.;

(j) manage the subject lands so as to not interfere with the property rights of private landowners as follows:

(i) the state recognizes that there are parcels of private fee land throughout the subject lands;

(ii) land management policies and standards in the subject lands should not interfere with the property rights of any private landowner to enjoy and engage in uses and activities on an individual's private property consistent with controlling county zoning and land use laws; and

(iii) a private landowner or a guest or client of a private landowner should not be denied the right of motorized access to the private landowner's property consistent with past uses of the private property;

(k) manage the subject lands in a manner that supports the fiduciary agreement made between the state and the federal government concerning the school and institutional trust lands, as managed according to state law, by:

(i) formally recognizing, by duly authorized federal proclamation, the duty of the federal government to support the purposes of the school and institutional trust lands owned by the state and administered by SITLA in trust for the benefit of public schools and other institutions as mandated in the Utah Constitution and the Utah Enabling Act of 1894, 28 Stat. 107;

(ii) actively seeking to support SITLA's fiduciary responsibility to manage the school trust lands to optimize revenue by making the school trust lands available for sale and private development and for other multiple and consumptive use activities such as mineral development, grazing, recreation, timber, and agriculture;

(iii) not interfering with SITLA's ability to carry out its fiduciary responsibilities by the creation of geographical areas burdened with management restrictions that prohibit or discourage the optimization of revenue, without just compensation;

(iv) recognizing SITLA's right of economic access to the school trust lands to enable SITLA to put those sections to use in its fiduciary responsibilities; ~~and~~

(v) recognizing any management plan enacted by SITLA pursuant to Section 53C-2-201; ~~and~~

(vi) acting responsibly as the owner of land parcels with potential for exchange for state land parcels by:

(A) moving forward with the process for identifying federal land parcels suitable and desirable for exchange for state land parcels;

(B) removing barriers to the exchange of federal land parcels for state land parcels;

(C) expediting the procedures and processes necessary to execute the exchange of federal land parcels for state land parcels; and

(D) lobbying and supporting in good faith any congressional legislation to enact and finalize the exchange of federal land parcels for state land parcels;

(l) oppose the designation of BLM lands as areas of critical environmental concern (ACEC), as the BLM lands are generally not compatible with the state's plan and policy for managing the subject lands, but special cases may exist where such a designation is appropriate if compliance with FLPMA, 43 U.S.C. Sec. 1702(a) is clearly demonstrated and where the proposed designation and protection:

(i) is limited to the geographic size to the minimum necessary to meet the standards required by Section 63J-4-401;

(ii) is necessary to protect not just a temporary change in ground conditions or visual resources that can be reclaimed or reversed naturally, but is clearly shown as necessary to protect against visible damage on the ground that will persist on a time

scale beyond that which would effectively disqualify the land for a later inventory of wilderness characteristics;

(iii) will not be applied in a geographic area already protected by other protective designations available pursuant to law; and

(iv) is not a substitute for the nonimpairment management requirements of wilderness study areas; and

(m) recognize that a BLM visual resource management class I or II rating is generally not compatible with the state's plan and policy for managing the subject lands, but special cases may exist where such a rating is appropriate if jointly considered and created by state, local, and federal authorities as part of an economic development plan for a region of the state, with due regard for school trust lands and private lands within the area.

(2) All BLM and Forest Service decision documents should be accompanied with an analysis of the social and economic impact of the decision. Such analysis should:

(a) consider all facets of the decision in light of valuation techniques for the potential costs and benefits of the decision;

(b) clarify whether the costs and benefits employ monetized or nonmonetized techniques;

(c) compare the accuracy, completeness, and viability of monetized and nonmonetized valuation techniques used as part of the analysis, including all caveats on use of the techniques; and

(d) compare the valuation techniques employed in the analysis to the federal standards for valuation employed by the U.S. Department of Justice in court actions.

Section 2. Section 63L-2-201 is amended to read:

63L-2-201. Federal government acquisition of real property in the state.

(1) As used in this ~~section~~ chapter:

(a) "Agency" is defined in Section 63G-10-102.

(b) "Agency" includes:

(i) the School and Institutional Trust Lands Administration created in Section 53C-1-201; and

(ii) the School and Institutional Trust Lands Board of Trustees created in Section 53C-1-202.

(2) (a) Before legally binding the state by executing an agreement to sell or transfer to the United States government 10,000 or more acres of any state lands or school and institutional trust lands, an agency shall submit the agreement or proposal:

(i) to the Legislature for its approval or rejection; or

(ii) in the interim, to the Legislative Management Committee for review of the agreement or proposal.

(b) The Legislative Management Committee may:

(i) recommend that the agency execute the agreement or proposal;

(ii) recommend that the agency reject the agreement or proposal; or

(iii) recommend to the governor that the governor call a special session of the Legislature to review and approve or reject the agreement or proposal.

(3) Before legally binding the state by executing an agreement to sell or transfer to the United States government less than 10,000 acres of any state lands or school and institutional trust lands, an agency shall notify the Natural Resources, Agriculture, and Environment Interim Committee.

(4) Notwithstanding Subsections (2) and (3), the Legislature approves all conveyances of school trust lands to the United States government made for the purpose of completing the Red Cliffs Desert Reserve in Washington County.

CHAPTER 329**H. B. 192**

Passed March 11, 2014

Approved April 1, 2014

Effective May 13, 2014

**INITIATIVE AND REFERENDUM
PETITION AMENDMENTS**Chief Sponsor: Jon E. Stanard
Senate Sponsor: Margaret Dayton**LONG TITLE****General Description:**

This bill makes changes to an initiative petition signature sheet and a referendum petition signature sheet.

Highlighted Provisions:

This bill:

- ▶ adds a statement to a statewide or local initiative petition signature sheet stating that a signer has read and understands the law proposed by the petition;
- ▶ adds a statement to a statewide or local referendum petition signature sheet stating that a signer has read and understands the law the petition seeks to overturn; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

20A-7-203, as last amended by Laws of Utah 2013, Chapter 310

20A-7-303, as last amended by Laws of Utah 2007, Chapter 78

20A-7-503, as last amended by Laws of Utah 2012, Chapter 72

20A-7-603, as last amended by Laws of Utah 2012, Chapter 72

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-7-203 is amended to read:**20A-7-203. Form of initiative petition and signature sheets.**

(1) (a) Each proposed initiative petition shall be printed in substantially the following form:

“INITIATIVE PETITION To the Honorable _____, Lieutenant Governor:

We, the undersigned citizens of Utah, respectfully demand that the following proposed law be submitted to the legal voters/Legislature of Utah for their/its approval or rejection at the regular general election/session to be held/ beginning on _____ (month \day \year);

Each signer says:

I have personally signed this petition;

I am registered to vote in Utah or intend to become registered to vote in Utah before the certification of the petition names by the county clerk; and

My residence and post office address are written correctly after my name.

NOTICE TO SIGNERS:

Public hearings to discuss this petition were held at: (list dates and locations of public hearings.)”

(b) The sponsors of an initiative shall attach a copy of the proposed law to each initiative petition.

(2) Each signature sheet shall:

(a) be printed on sheets of paper 8-1/2 inches long and 11 inches wide;

(b) be ruled with a horizontal line three-fourths inch from the top, with the space above that line blank for the purpose of binding;

(c) contain the title of the initiative printed below the horizontal line;

(d) contain the initial fiscal impact estimate’s summary statement issued by the Governor’s Office of Management and Budget according to Subsection 20A-7-202.5(2)(b), including any update according to Subsection 20A-7-204.1(4), and the cost estimate for printing and distributing information related to the initiative petition according to Subsection 20A-7-202.5(3), printed or typed in not less than 12 point, bold type, at the top of each signature sheet under the title of the initiative;

(e) contain the word “Warning” printed or typed at the top of each signature sheet under the initial fiscal impact estimate’s summary statement;

(f) contain, to the right of the word “Warning,” the following statement printed or typed in not less than eight_point, single_leaded type:

“It is a class A misdemeanor for anyone to sign any initiative petition with any other name than his own, or knowingly to sign his name more than once for the same measure, or to sign an initiative petition when he knows he is not a registered voter and knows that he does not intend to become registered to vote before the certification of the petition names by the county clerk.”; and

(g) be vertically divided into columns as follows:

(i) the first column shall appear at the extreme left of the sheet, be five-eighths inch wide, be headed with “For Office Use Only,” and be subdivided with a light vertical line down the middle with the left subdivision entitled “Registered” and the right subdivision left untitled;

(ii) the next column shall be 2-1/2 inches wide, headed “Registered Voter’s Printed Name (must be legible to be counted)”;

(iii) the next column shall be 2-1/2 inches wide, headed “Signature of Registered Voter”;

(iv) the next column shall be one inch wide, headed “Birth Date or Age (Optional)”;

(v) the final column shall be 4-3/8 inches wide, headed "Street Address, City, Zip Code"; ~~and~~

(h) spanning the sheet horizontally beneath each row on which a registered voter may submit the information described in Subsection (2)(g), contain the following statement printed or typed in not less than eight-point, single-leaded type:

"By signing this petition, you are stating that you have read and understand the law proposed by this petition."; and

~~[(v)]~~ (i) at the bottom of the sheet, contain the following statement: "Birth date or age information is not required, but it may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be verified as a valid signature if you change your address before petition signatures are verified or if the information you provide does not match your voter registration records."

(3) The final page of each initiative packet shall contain the following printed or typed statement:

"Verification

State of Utah, County of _____

I, _____, of _____, hereby state that:

I am a resident of Utah and am at least 18 years old;

All the names that appear in this packet were signed by persons who professed to be the persons whose names appear in it, and each of them signed his name on it in my presence;

I believe that each has printed and signed his name and written his post office address and residence correctly, and that each signer is registered to vote in Utah or intends to become registered to vote before the certification of the petition names by the county clerk.

I have not paid or given anything of value to any person who signed this petition to encourage that person to sign it.

(Name) (Residence Address) (Date)"

(4) The forms prescribed in this section are not mandatory, and, if substantially followed, the initiative petitions are sufficient, notwithstanding clerical and merely technical errors.

Section 2. Section 20A-7-303 is amended to read:

20A-7-303. Form of referendum petition and signature sheets.

(1) (a) Each proposed referendum petition shall be printed in substantially the following form:

"REFERENDUM PETITION To the Honorable _____, Lieutenant Governor:

We, the undersigned citizens of Utah, respectfully order that Senate (or House) Bill No.

_____, entitled (title of act, and, if the petition is against less than the whole act, set forth here the part or parts on which the referendum is sought), passed by the _____ Session of the Legislature of the state of Utah, be referred to the people of Utah for their approval or rejection at a regular general election or a statewide special election;

Each signer says:

I have personally signed this petition;

I am registered to vote in Utah or intend to become registered to vote in Utah before the certification of the petition names by the county clerk; and

My residence and post office address are written correctly after my name."

(b) The sponsors of a referendum shall attach a copy of the law that is the subject of the referendum to each referendum petition.

(2) Each signature sheet shall:

(a) be printed on sheets of paper 8-1/2 inches long and 11 inches wide;

(b) be ruled with a horizontal line [3/4] three-fourths inch from the top, with the space above that line blank for the purpose of binding;

(c) contain the title of the referendum printed below the horizontal line;

(d) contain the word "Warning" printed or typed at the top of each signature sheet under the title of the referendum;

(e) contain, to the right of the word "Warning," the following statement printed or typed in not less than eight-point, single-leaded type:

"It is a class A misdemeanor for anyone to sign any referendum petition with any other name than his own, or knowingly to sign his name more than once for the same measure, or to sign a referendum petition when he knows he is not a registered voter and knows that he does not intend to become registered to vote before the certification of the petition names by the county clerk.";

(f) contain horizontally ruled lines, [3/8] three-eighths inch apart under the "Warning" statement required by this section; and

(g) be vertically divided into columns as follows:

(i) the first column shall appear at the extreme left of the sheet, be [5/8] five-eighths inch wide, be headed with "For Office Use Only," and be subdivided with a light vertical line down the middle;

(ii) the next column shall be 2-1/2 inches wide, headed "Registered Voter's Printed Name (must be legible to be counted)";

(iii) the next column shall be 2-1/2 inches wide, headed "Signature of Registered Voter";

(iv) the next column shall be one inch wide, headed "Birth Date or Age (Optional)"; and

(v) the final column shall be 4-3/8 inches wide, headed "Street Address, City, Zip Code"; ~~and~~

(h) spanning the sheet horizontally beneath each row on which a registered voter may submit the information described in Subsection (2)(g), contain the following statement printed or typed in not less than eight-point, single-leaded type:

"By signing this petition, you are stating that you have read and understand the law this petition seeks to overturn."; and

[~~(vi)~~] (i) at the bottom of the sheet, contain the following statement: "Birth date or age information is not required, but it may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be verified as a valid signature if you change your address before petition signatures are verified or if the information you provide does not match your voter registration records."

(3) The final page of each referendum packet shall contain the following printed or typed statement:

"Verification

State of Utah, County of ____

I, _____, of _____, hereby state that:

I am a Utah resident and am at least 18 years old;

All the names that appear in this packet were signed by persons who professed to be the persons whose names appear in it, and each of them signed his name on it in my presence;

I believe that each has printed and signed his name and written his post office address and residence correctly, and that each signer is registered to vote in Utah or intends to become registered to vote before the certification of the petition names by the county clerk. _____

(Name) (Residence Address) (Date)"

(4) The forms prescribed in this section are not mandatory, and, if substantially followed, the referendum petitions are sufficient, notwithstanding clerical and merely technical errors.

Section 3. Section 20A-7-503 is amended to read:

20A-7-503. Form of initiative petitions and signature sheets.

(1) (a) Each proposed initiative petition shall be printed in substantially the following form:

"INITIATIVE PETITION To the Honorable _____, County Clerk/City Recorder/Town Clerk:

We, the undersigned citizens of Utah, respectfully demand that the following proposed law be submitted to: the legislative body for its approval or rejection at its next meeting; and the legal voters of the county/city/town, if the

legislative body rejects the proposed law or takes no action on it.

Each signer says:

I have personally signed this petition;

I am registered to vote in Utah or intend to become registered to vote in Utah before the certification of the petition names by the county clerk; and

My residence and post office address are written correctly after my name."

(b) The sponsors of an initiative shall attach a copy of the proposed law to each initiative petition.

(2) Each signature sheet shall:

(a) be printed on sheets of paper 8-1/2 inches long and 11 inches wide;

(b) be ruled with a horizontal line [3/4] three-fourths inch from the top, with the space above that line blank for the purpose of binding;

(c) contain the title of the initiative printed below the horizontal line;

(d) contain the initial fiscal impact estimate's summary statement issued by the budget officer according to Subsection 20A-7-502.5(2)(b) and the cost estimate for printing and distributing information related to the initiative petition according to Subsection 20A-7-502.5(3) printed or typed in not less than 12-point, bold type, at the top of each signature sheet under the title of the initiative;

(e) contain the word "Warning" printed or typed at the top of each signature sheet under the initial fiscal impact estimate's summary statement;

(f) contain, to the right of the word "Warning," the following statement printed or typed in not less than eight-point, single-leaded type:

"It is a class A misdemeanor for anyone to sign any initiative petition with any other name than his own, or knowingly to sign his name more than once for the same measure, or to sign an initiative petition when he knows he is not a registered voter and knows that he does not intend to become registered to vote before the certification of the petition names by the county clerk.";

(g) contain horizontally ruled lines [3/8] three-eighths inch apart under the "Warning" statement required by this section;

(h) be vertically divided into columns as follows:

(i) the first column shall appear at the extreme left of the sheet, be [5/8] five-eighths inch wide, be headed with "For Office Use Only", and be subdivided with a light vertical line down the middle with the left subdivision entitled "Registered" and the right subdivision left untitled;

(ii) the next column shall be 2-1/2 inches wide, headed "Registered Voter's Printed Name (must be legible to be counted)";

(iii) the next column shall be 2-1/2 inches wide, headed "Signature of Registered Voter";

(iv) the next column shall be one inch wide, headed "Birth Date or Age (Optional)"; and

(v) the final column shall be 4-3/8 inches wide, headed "Street Address, City, Zip Code"; ~~and~~

(i) spanning the sheet horizontally beneath each row on which a registered voter may submit the information described in Subsection (2)(h), contain the following statement printed or typed in not less than eight-point, single-led type:

"By signing this petition, you are stating that you have read and understand the law proposed by this petition."; and

~~(iv)~~ (j) at the bottom of the sheet, contain the following statement: "Birth date or age information is not required, but it may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be verified as a valid signature if you change your address before petition signatures are verified or if the information you provide does not match your voter registration records."~~;~~ ~~and~~

~~(4)~~ (3) The final page of each initiative packet shall contain the following ~~[statement,]~~ printed or typed ~~[upon the last page of each initiative packet]~~ statement:

"Verification

State of Utah, County of ____

I, _____, of _____, hereby state that:

I am a resident of Utah and am at least 18 years old;

All the names that appear in this initiative packet were signed by persons who professed to be the persons whose names appear in it, and each of them signed his name on it in my presence;

I believe that each has printed and signed his name and written his post office address and residence correctly, and that each signer is registered to vote in Utah or intends to become registered to vote before the certification of the petition names by the county clerk.

"

~~(3)~~ (4) The forms prescribed in this section are not mandatory, and, if substantially followed, the initiative petitions are sufficient, notwithstanding clerical and merely technical errors.

Section 4. Section 20A-7-603 is amended to read:

20A-7-603. Form of referendum petition and signature sheets.

(1) (a) Each proposed referendum petition shall be printed in substantially the following form:

"REFERENDUM PETITION To the Honorable _____, County Clerk/City Recorder/Town Clerk:

We, the undersigned citizens of Utah, respectfully order that Ordinance No. _____, entitled (title of ordinance, and, if the petition is against less than the whole ordinance, set forth here the part or

parts on which the referendum is sought), passed by the _____ be referred to the voters for their approval or rejection at the regular/municipal general election to be held on _____(month \ day \ year);

Each signer says:

I have personally signed this petition;

I am registered to vote in Utah or intend to become registered to vote in Utah before the certification of the petition names by the county clerk; and

My residence and post office address are written correctly after my name."

(b) The sponsors of a referendum shall attach a copy of the law that is the subject of the referendum to each referendum petition.

(2) Each signature sheet shall:

(a) be printed on sheets of paper 8-1/2 inches long and 11 inches wide;

(b) be ruled with a horizontal line ~~[3/4]~~ three-fourths inch from the top, with the space above that line blank for the purpose of binding;

(c) contain the title of the referendum printed below the horizontal line;

(d) contain the word "Warning" printed or typed at the top of each signature sheet under the title of the referendum;

(e) contain, to the right of the word "Warning," the following statement printed or typed in not less than eight-point, single-led type:

"It is a class A misdemeanor for anyone to sign any referendum petition with any other name than his own, or knowingly to sign his name more than once for the same measure, or to sign a referendum petition when he knows he is not a registered voter and knows that he does not intend to become registered to vote before the certification of the petition names by the county clerk.";

(f) contain horizontally ruled lines~~[-3/8]~~ three-eighths inch apart under the "Warning" statement required by this section;

(g) be vertically divided into columns as follows:

(i) the first column shall appear at the extreme left of the sheet, be ~~[5/8]~~ five-eighths inch wide, be headed with "For Office Use Only," and be subdivided with a light vertical line down the middle;

(ii) the next column shall be 2-1/2 inches wide, headed "Registered Voter's Printed Name (must be legible to be counted)";

(iii) the next column shall be 2-1/2 inches wide, headed "Signature of Registered Voter";

(iv) the next column shall be one inch wide, headed "Birth Date or Age (Optional)"; and

(v) the final column shall be 4-3/8 inches wide, headed "Street Address, City, Zip Code"; ~~and~~

(h) spanning the sheet horizontally beneath each row on which a registered voter may submit the

information described in Subsection (2)(g), contain the following statement printed or typed in not less than eight-point, single-leaded type:

"By signing this petition, you are stating that you have read and understand the law this petition seeks to overturn."; and

[~~(vi)~~] (i) at the bottom of the sheet, contain the following statement: "Birth date or age information is not required, but it may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be verified as a valid signature if you change your address before petition signatures are verified or if the information you provide does not match your voter registration records."~~]; and~~

[~~(4)~~] (3) The final page of each referendum packet shall contain the following ~~[statement,]~~ printed or typed ~~[upon the last page of the referendum packet]~~ statement:

"Verification

State of Utah, County of ____

I, _____, of ____, hereby state that:

I am a resident of Utah and am at least 18 years old;

All the names that appear in this referendum packet were signed by persons who professed to be the persons whose names appear in it, and each of them signed his name on it in my presence;

I believe that each has printed and signed his name and written his post office address and residence correctly, and that each signer is registered to vote in Utah or intends to become registered to vote before the certification of the petition names by the county clerk.

"

[~~(3)~~] (4) The forms prescribed in this section are not mandatory, and, if substantially followed, the referendum petitions are sufficient, notwithstanding clerical and merely technical errors.

CHAPTER 330**H. B. 207**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

**MASSAGE THERAPY
PRACTICE ACT AMENDMENTS**Chief Sponsor: Brian M. Greene
Senate Sponsor: Margaret Dayton**LONG TITLE****General Description:**

This bill modifies Title 58, Chapter 47b, Massage Therapy Practice Act, by exempting certain individuals from licensure under the act.

Highlighted Provisions:

This bill:

- ▶ exempts an individual from licensure as a massage therapist if the individual is certified by, and in good standing with, a nationally recognized association that represents a profession with established standards and ethics and:
 - engages in the manipulation of the soft tissues of the body to the hands, feet, and outer ears only, including the practice of reflexology and foot zone therapy; and
 - the individual's clients remain fully clothed from the shoulders to the knees; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill coordinates with H.B. 324, Ortho-Bionomy Exemption Amendments, by providing substantive and technical amendments.

Utah Code Sections Affected:**AMENDS:**

58-47b-304, as last amended by Laws of Utah 2009, Chapter 220

Utah Code Sections Affected by Coordination Clause:

58-47b-304, as last amended by Laws of Utah 2009, Chapter 220

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-47b-304 is amended to read:**58-47b-304. Exemptions from licensure.**

(1) In addition to the exemptions from licensure in Section 58-1-307, the following individuals may engage in the practice of massage therapy as defined under this chapter, subject to the stated circumstances and limitations, without being licensed, but may not represent themselves as a massage therapist or massage apprentice:

(a) ~~[physicians and surgeons]~~ a physician or surgeon licensed under Title 58, Chapter 67, Utah Medical Practice Act;

(b) ~~[nurses]~~ a nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, or under Title 58, Chapter 44a, Nurse Midwife Practice Act;

(c) ~~[physical therapists]~~ a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice Act;

(d) ~~[physical therapist assistants]~~ a physical therapist assistant licensed under Title 58, Chapter 24b, Physical Therapy Practice Act, while under the general supervision of a physical therapist;

(e) ~~[osteopathic physicians and surgeons]~~ an osteopathic physician or surgeon licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(f) ~~[chiropractic physicians]~~ a chiropractic physician licensed under Title 58, Chapter 73, Chiropractic Physician Practice Act;

(g) ~~[hospital staff members]~~ a hospital staff member employed by a hospital, who ~~[practice]~~ practices massage as part of ~~[their]~~ the staff member's responsibilities;

~~[(h) athletic trainers who practice massage as part of their responsibilities while employed by an educational institution or an athletic team that participates in organized sports competition;]~~

(h) an athletic trainer licensed under Title 58, Chapter 40a, Athletic Trainer Licensing Act;

(i) ~~[students]~~ a student in training enrolled in a massage therapy school approved by the division;

(j) ~~[naturopathic physicians]~~ a naturopathic physician licensed under Title 58, Chapter 71, Naturopathic Physician Practice Act;

(k) an occupational therapist licensed under Title 58, Chapter 42a, Occupational Therapy Practice Act; ~~and]~~

(l) ~~[persons]~~ an individual performing gratuitous massage[-]; and

(m) an individual certified by or through, and in good standing with, an industry recognized organization that represents a profession with established standards and ethics:

(i) who engages in the manipulation of the soft tissues of the body to the hands, feet, and outer ears only, including the practice of reflexology and foot zone therapy;

(ii) whose clients remain fully clothed from the shoulders to the knees; and

(iii) whose clients do not receive gratuitous massage from the individual.

(2) This chapter may not be construed to authorize any individual licensed under this chapter to engage in any manner in the practice of medicine as defined by the laws of this state.

(3) This chapter may not be construed to:

(a) ~~[create or]~~ require insurance coverage or reimbursement for massage therapy from third party payors ~~[if this type of coverage did not exist on or before February 15, 1990]; or~~

(b) prevent ~~any~~ an insurance carrier from offering coverage for massage therapy.

Section 2. Coordinating H.B. 207 with H.B. 324 -- Substantive and technical amendments.

If this H.B. 207 and H.B. 324, Ortho-Bionomy Exemption Amendments, both pass and become law, the Legislature intends that:

(1) this coordinating clause supersedes the coordinating clause contained in H.B. 324; and

(2) the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, modify Subsection 58-47b-304(1)(m) to read:

”(m) an individual:

(i) certified by or through, and in good standing with, an industry organization that is recognized by the division, and that represents a profession with established standards and ethics;

(ii) (A) who limits the manipulation of the soft tissues of the body to the hands, feet, and outer ears only, including the practice of reflexology and foot zone therapy; or

(B) who is certified to practice ortho-bionomy and whose practice is limited to the scope of practice of ortho-bionomy;

(iii) whose clients remain fully clothed from the shoulders to the knees; and

(iv) whose clients do not receive gratuitous massage from the individual.”

CHAPTER 331**H. B. 212**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

DNA COLLECTION AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: J. Stuart Adams

LONG TITLE**General Description:**

This bill modifies the provisions of the Public Safety Code regarding the collection of DNA from offenders.

Highlighted Provisions:

This bill:

- ▶ provides that law enforcement agencies may collect DNA samples at the time of booking for any person arrested for any felony offense beginning May 13, 2014 through December 31, 2014; and
- ▶ on and after January 1, 2015, requires law enforcement agencies to collect DNA samples at the time of booking for any person arrested for any felony offense.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53-10-403, as last amended by Laws of Utah 2013, Chapter 344

53-10-404, as last amended by Laws of Utah 2012, Chapter 145

53-10-404.5, as enacted by Laws of Utah 2010, Chapter 405

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-10-403 is amended to read:**53-10-403. DNA specimen analysis -- Application to offenders, including minors.**

(1) Sections 53-10-404, 53-10-404.5, 53-10-405, and 53-10-406 apply to any person who:

(a) has pled guilty to or has been convicted of any of the offenses under Subsection (2)(a) or (b) on or after July 1, 2002;

(b) has pled guilty to or has been convicted by any other state or by the United States government of an offense which if committed in this state would be punishable as one or more of the offenses listed in Subsection (2)(a) or (b) on or after July 1, 2003;

(c) has been booked on or after January 1, 2011, through December 31, 2014, for any offense under Subsection (2)(c); ~~or~~

(d) has been booked:

(i) by a law enforcement agency that is obtaining a DNA specimen on or after May 13, 2014, through December 31, 2014, under Subsection 53-10-404(4)(b) for any felony offense; or

(ii) on or after January 1, 2015, for any felony offense; or

~~[(d)]~~ (e) is a minor under Subsection (3).

(2) Offenses referred to in Subsection (1) are:

(a) any felony or class A misdemeanor under the Utah Code;

(b) any offense under Subsection (2)(a):

(i) for which the court enters a judgment for conviction to a lower degree of offense under Section 76-3-402; or

(ii) regarding which the court allows the defendant to enter a plea in abeyance as defined in Section 77-2a-1; or

(c) (i) any violent felony as defined in Section 53-10-403.5;

(ii) sale or use of body parts, Section 26-28-116;

(iii) failure to stop at an accident that resulted in death, Section 41-6a-401.5;

(iv) driving with any amount of a controlled substance in a person's body and causing serious bodily injury or death, Subsection 58-37-8(2)(g);

(v) a felony violation of enticing a minor over the Internet, Section 76-4-401;

(vi) a felony violation of propelling a substance or object at a correctional or peace officer, Section 76-5-102.6;

(vii) aggravated human trafficking and aggravated human smuggling, Section 76-5-310;

(viii) a felony violation of unlawful sexual activity with a minor, Section 76-5-401;

(ix) a felony violation of sexual abuse of a minor, Section 76-5-401.1;

(x) unlawful sexual contact with a 16 or 17-year old, Section 76-5-401.2;

(xi) sale of a child, Section 76-7-203;

(xii) aggravated escape, Subsection 76-8-309(2);

(xiii) a felony violation of assault on an elected official, Section 76-8-315;

(xiv) influencing, impeding, or retaliating against a judge or member of the Board of Pardons and Parole, Section 76-8-316;

(xv) advocating criminal syndicalism or sabotage, Section 76-8-902;

(xvi) assembly for advocating criminal syndicalism or sabotage, Section 76-8-903;

(xvii) a felony violation of sexual battery, Section 76-9-702.1;

(xviii) a felony violation of lewdness involving a child, Section 76-9-702.5;

(xix) a felony violation of abuse or desecration of a dead human body, Section 76-9-704;

(xx) manufacture, possession, sale, or use of a weapon of mass destruction, Section 76-10-402;

(xxi) manufacture, possession, sale, or use of a hoax weapon of mass destruction, Section 76-10-403;

(xxii) possession of a concealed firearm in the commission of a violent felony, Subsection 76-10-504(4);

(xxiii) assault with the intent to commit bus hijacking with a dangerous weapon, Subsection 76-10-1504(3);

(xxiv) commercial obstruction, Subsection 76-10-2402(2);

(xxv) a felony violation of failure to register as a sex or kidnap offender, Section 77-41-107;

(xxvi) repeat violation of a protective order, Subsection 77-36-1.1(2)(c); or

(xxvii) violation of condition for release after arrest for domestic violence, Section 77-36-2.5.

(3) A minor under Subsection (1) is a minor 14 years of age or older whom a Utah court has adjudicated to be within the jurisdiction of the juvenile court due to the commission of any offense described in Subsection (2), and who is:

(a) within the jurisdiction of the juvenile court on or after July 1, 2002 for an offense under Subsection (2); or

(b) in the legal custody of the Division of Juvenile Justice Services on or after July 1, 2002 for an offense under Subsection (2).

Section 2. Section 53-10-404 is amended to read:

53-10-404. DNA specimen analysis -- Requirement to obtain the specimen.

(1) As used in this section, "person" refers to any person as described under Section 53-10-403.

(2) (a) A person under Section 53-10-403 or any person added to the sex offender register as defined in Section 77-41-102 shall provide a DNA specimen and shall reimburse the agency responsible for obtaining the DNA specimen \$150 for the cost of obtaining the DNA specimen unless:

(i) the person was booked under Section 53-10-403 and is not required to reimburse the agency under Section 53-10-404.5; or

(ii) the agency determines the person lacks the ability to pay.

(b) (i) (A) The responsible agencies shall establish guidelines and procedures for determining if the person is able to pay the fee.

(B) An agency's implementation of Subsection (2)(b)(~~iii~~)(i) meets an agency's obligation to determine an inmate's ability to pay.

(ii) An agency's guidelines and procedures may provide for the assessment of \$150 on the inmate's county trust fund account and may allow a negative balance in the account until the \$150 is paid in full.

(3) (a) (i) All fees collected under Subsection (2) shall be deposited in the DNA Specimen Restricted Account created in Section 53-10-407, except that the agency collecting the fee may retain not more than \$25 per individual specimen for the costs of obtaining the saliva DNA specimen.

(ii) The agency collecting the \$150 fee may not retain from each separate fee more than \$25, and no amount of the \$150 fee may be credited to any other fee or agency obligation.

(b) The responsible agency shall determine the method of collecting the DNA specimen. Unless the responsible agency determines there are substantial reasons for using a different method of collection or the person refuses to cooperate with the collection, the preferred method of collection shall be obtaining a saliva specimen.

(c) The responsible agency may use reasonable force, as established by its guidelines and procedures, to collect the DNA sample if the person refuses to cooperate with the collection.

(d) If the judgment places the person on probation, the person shall submit to the obtaining of a DNA specimen as a condition of the probation.

(e) (i) Under this section a person is required to provide one DNA specimen and pay the collection fee as required under this section.

(ii) The person shall provide an additional DNA specimen only if the DNA specimen previously provided is not adequate for analysis.

(iii) The collection fee is not imposed for a second or subsequent DNA specimen collected under this section.

(f) Any agency that is authorized to obtain a DNA specimen under this part may collect any outstanding amount of a fee due under this section from any person who owes any portion of the fee and deposit the amount in the DNA Specimen Restricted Account created in Section 53-10-407.

(4) (a) The responsible agency shall cause a DNA specimen to be obtained as soon as possible and transferred to the Department of Public Safety:

(i) after a conviction or a finding of jurisdiction by the juvenile court; ~~and~~

(ii) on and after January 1, 2011, through December 31, 2014, after the booking of a person for any offense under Subsection 53-10-403(1)(c)[-]; and

(iii) on and after January 1, 2015, after the booking of a person for any felony offense, as provided under Subsection 53-10-403(1)(d)(ii).

(b) On and after May 13, 2014, through December 31, 2014, the responsible agency may cause a DNA specimen to be obtained and transferred to the Department of Public Safety after the booking of a

person for any felony offense, as provided under Subsection 53-10-403(1)(d)(i).

~~(f)~~ (c) If notified by the Department of Public Safety that a DNA specimen is not adequate for analysis, the agency shall, as soon as possible:

(i) obtain and transmit an additional DNA specimen; or

(ii) request that another agency that has direct access to the person and that is authorized to collect DNA specimens under this section collect the necessary second DNA specimen and transmit it to the Department of Public Safety.

~~(e)~~ (d) Each agency that is responsible for collecting DNA specimens under this section shall establish:

(i) a tracking procedure to record the handling and transfer of each DNA specimen it obtains; and

(ii) a procedure to account for the management of all fees it collects under this section.

(5) (a) The Department of Corrections is the responsible agency whenever the person is committed to the custody of or is under the supervision of the Department of Corrections.

(b) The juvenile court is the responsible agency regarding a minor under Subsection 53-10-403(3), but if the minor has been committed to the legal custody of the Division of Juvenile Justice Services, that division is the responsible agency if a DNA specimen of the minor has not previously been obtained by the juvenile court under Section 78A-6-117.

(c) The sheriff operating a county jail is the responsible agency regarding the collection of DNA specimens from persons who:

(i) have pled guilty to or have been convicted of an offense listed under Subsection 53-10-403(2) but who have not been committed to the custody of or are not under the supervision of the Department of Corrections;

(ii) are incarcerated in the county jail:

(A) as a condition of probation for a felony offense; or

(B) for a misdemeanor offense for which collection of a DNA specimen is required; ~~and~~

(iii) on and after January 1, 2011, through May 12, 2014, are booked at the county jail for any offense under Subsection 53-10-403(1)(c)[,]; and

(iv) are booked at the county jail:

(A) by a law enforcement agency that is obtaining a DNA specimen for any felony offense on or after May 13, 2014, through December 31, 2014, under Subsection 53-10-404(4)(b); or

(B) on or after January 1, 2015, for any felony offense.

(d) Each agency required to collect a DNA specimen under this section shall:

(i) designate employees to obtain the saliva DNA specimens required under this section; and

(ii) ensure that employees designated to collect the DNA specimens receive appropriate training and that the specimens are obtained in accordance with generally accepted protocol.

(6) (a) As used in this Subsection (6), "department" means the Department of Corrections.

(b) Priority of obtaining DNA specimens by the department is:

(i) first, to obtain DNA specimens of persons who as of July 1, 2002, are in the custody of or under the supervision of the department before these persons are released from incarceration, parole, or probation, if their release date is prior to that of persons under Subsections (6)(b)(ii), but in no case later than July 1, 2004; and

(ii) second, the department shall obtain DNA specimens from persons who are committed to the custody of the department or who are placed under the supervision of the department after July 1, 2002, within 120 days after the commitment, if possible, but not later than prior to release from incarceration if the person is imprisoned, or prior to the termination of probation if the person is placed on probation.

(c) The priority for obtaining DNA specimens from persons under Subsection (6)(b)(ii) is:

(i) first, persons on probation;

(ii) second, persons on parole; and

(iii) third, incarcerated persons.

(d) Implementation of the schedule of priority under Subsection (6)(c) is subject to the priority of Subsection (6)(b)(i), to ensure that the Department of Corrections obtains DNA specimens from persons in the custody of or under the supervision of the Department of Corrections as of July 1, 2002, prior to their release.

(7) (a) As used in this Subsection (7):

(i) "Court" means the juvenile court.

(ii) "Division" means the Division of Juvenile Justice Services.

(b) Priority of obtaining DNA specimens by the court from minors under Section 53-10-403 who are under the jurisdiction of the court but who are not in the legal custody of the division shall be:

(i) first, to obtain specimens from minors who as of July 1, 2002, are within the court's jurisdiction, prior to termination of the court's jurisdiction over these minors; and

(ii) second, to obtain specimens from minors who are found to be within the court's jurisdiction after July 1, 2002, within 120 days of the minor's being found to be within the court's jurisdiction, if possible, but not later than prior to termination of the court's jurisdiction over the minor.

(c) Priority of obtaining DNA specimens by the division from minors under Section 53-10-403 who

are committed to the legal custody of the division shall be:

(i) first, to obtain specimens from minors who as of July 1, 2002, are within the division's legal custody and who have not previously provided a DNA specimen under this section, prior to termination of the division's legal custody of these minors; and

(ii) second, to obtain specimens from minors who are placed in the legal custody of the division after July 1, 2002, within 120 days of the minor's being placed in the custody of the division, if possible, but not later than prior to termination of the court's jurisdiction over the minor.

(8) (a) The Department of Corrections, the juvenile court, the Division of Juvenile Justice Services, and all law enforcement agencies in the state shall by policy establish procedures for obtaining saliva DNA specimens, and shall provide training for employees designated to collect saliva DNA specimens.

(b) (i) The department may designate correctional officers, including those employed by the adult probation and parole section of the department, to obtain the saliva DNA specimens required under this section.

(ii) The department shall ensure that the designated employees receive appropriate training and that the specimens are obtained in accordance with accepted protocol.

(c) Blood DNA specimens shall be obtained in accordance with Section 53-10-405.

Section 3. Section 53-10-404.5 is amended to read:

53-10-404.5. Obtaining DNA specimen at time of booking -- Payment of fee upon conviction.

(1) (a) When a sheriff books a person for any offense under ~~[Subsection]~~ Subsections 53-10-403(1)(c) and (d), the sheriff shall obtain a DNA specimen from the person upon booking of the person at the county jail, except under Subsection (1)(b).

(b) If at the time of booking the sheriff is able to obtain information from the bureau stating that the bureau has on file a DNA specimen for the person, the sheriff is not required to obtain an additional DNA specimen.

(2) The person booked under Subsection (1) shall pay a fee of \$150 for the cost of obtaining the DNA specimen if:

(a) the charge upon which the booking is based is resolved by a conviction or the person is convicted of any charge arising out of the same criminal episode regarding which the DNA specimen was obtained; and

(b) the person's DNA sample is not on file under Subsection (1)(b).

(3) (a) All fees collected under Subsection (2) shall be deposited in the DNA Specimen Restricted

Account created in Section 53-10-407, except that the agency collecting the fee may retain not more than \$25 per individual specimen for the costs of obtaining the DNA specimen.

(b) The agency collecting the \$150 fee may not retain from each separate fee more than \$25, and no amount of the \$150 fee may be credited to any other fee or agency obligation.

(4) Any DNA specimen obtained under this section shall be held and may not be processed until:

(a) the court has bound the person over for trial following a preliminary hearing for any charge arising out of the same criminal episode regarding which the person was booked;

(b) the person has waived the preliminary hearing for any charge arising out of the same criminal episode regarding which the person was booked; or

(c) a grand jury has returned an indictment for any charge arising out of the same criminal episode regarding which the person was booked.

CHAPTER 332**H. B. 221**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

**SCHOOL COMMUNITY
COUNCIL REVISIONS**Chief Sponsor: Rich Cunningham
Senate Sponsor: Curtis S. Bramble**LONG TITLE****General Description:**

This bill amends certain provisions related to school community councils.

Highlighted Provisions:

This bill:

- ▶ changes the deadline for an election for the parent or guardian members of a school community council;
- ▶ changes the deadline for the date by which a principal must post certain information related to school community councils to October 20;
- ▶ requires school districts to record the amount of School LAND Trust Program funds distributed to each school on the School LAND Trust Program website by October 1;
- ▶ requires the president or chair of a local school board or charter school governing board to ensure that the members of their respective boards are provided with annual training on the School LAND Trust Program; and
- ▶ requires the School Children's Trust Section to provide training on the School LAND Trust Program and school community councils to:
 - local school boards and charter school governing boards;
 - school districts and charter schools; and
 - school community councils.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-1a-108, as last amended by Laws of Utah 2013, Chapter 296

53A-1a-108.1, as last amended by Laws of Utah 2013, Chapter 296

53A-16-101.5, as last amended by Laws of Utah 2013, Chapter 296

53A-16-101.6, as enacted by Laws of Utah 2012, Chapter 224

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53A-1a-108 is amended to read:**53A-1a-108. School community councils -- Duties -- Composition -- Election procedures and selection of members.**

(1) As used in this section:

(a) "Educator" has the meaning defined in Section 53A-6-103.

(b) (i) "Parent or guardian member" means a member of a school community council who is a parent or guardian of a student who:

(A) is attending the school; or

(B) will be enrolled at the school during the parent's or guardian's term of office.

(ii) "Parent or guardian member" may not include an educator who is employed at the school.

(c) "School employee member" means a member of a school community council who is a person employed at the school by the school or school district, including the principal.

(d) "School LAND Trust Program money" means money allocated to a school pursuant to Section 53A-16-101.5.

(2) Each public school, in consultation with its local school board, shall establish a school community council at the school building level for the purpose of:

(a) involving parents or guardians of students in decision making at the school level;

(b) improving the education of students;

(c) prudently expending School LAND Trust Program money for the improvement of students' education through collaboration among parents and guardians, school employees, and the local school board; and

(d) increasing public awareness of:

(i) school trust lands and related land policies;

(ii) management of the State School Fund established in Utah Constitution Article X, Section V; and

(iii) educational excellence.

(3) (a) Except as provided in Subsection (3)(b), a school community council shall:

(i) create a school improvement plan in accordance with Section 53A-1a-108.5;

(ii) create the School LAND Trust Program in accordance with Section 53A-16-101.5;

(iii) assist in the creation and implementation of a staff professional development plan as provided by Section 53A-3-701; and

(iv) advise and make recommendations to school and school district administrators and the local school board regarding the school and its programs, school district programs, a child access routing plan in accordance with Section 53A-3-402, and other issues relating to the community environment for students.

(b) In addition to the duties specified in Subsection (3)(a), a school community council for an elementary school shall create a reading achievement plan in accordance with Section 53A-1-606.5.

(c) A school or school district administrator may not prohibit or discourage a school community council from discussing issues, or offering advice or recommendations, regarding the school and its programs, school district programs, the curriculum, or the community environment for students.

(4) (a) Each school community council shall consist of school employee members and parent or guardian members in accordance with this section.

(b) Except as provided in Subsection (4)(c) or (d):

(i) each school community council for a high school shall have six parent or guardian members and four school employee members, including the principal; and

(ii) each school community council for a school other than a high school shall have four parent or guardian members and two school employee members, including the principal.

(c) A school community council may determine the size of the school community council by a majority vote of a quorum of the school community council provided that:

(i) the membership includes two or more parent or guardian members than the number of school employee members; and

(ii) there are at least two school employee members on the school community council.

(d) (i) The number of parent or guardian members of a school community council who are not educators employed by the school district shall exceed the number of parent or guardian members who are educators employed by the school district.

(ii) If, after an election, the number of parent or guardian members who are not educators employed by the school district does not exceed the number of parent or guardian members who are educators employed by the school district, the parent or guardian members of the school community council shall appoint one or more parent or guardian members to the school community council so that the number of parent or guardian members who are not educators employed by the school district exceeds the number of parent or guardian members who are educators employed by the school district.

(5) (a) Except as provided in Subsection (5)(f), a school employee member, other than the principal, shall be elected by secret ballot by a majority vote of the school employees and serve a two-year term. The principal shall serve as an ex officio member with full voting privileges.

(b) (i) Except as provided in Subsection (5)(f), a parent or guardian member shall be elected by secret ballot at an election held at the school by a majority vote of those voting at the election and serve a two-year term.

(ii) Only parents or guardians of students attending the school may vote at the election under Subsection (5)(b)(i).

(iii) Any parent or guardian of a student who meets the qualifications of this section may file or declare the parent's or guardian's candidacy for election to a school community council.

(iv) (A) Subject to Subsections (5)(b)(iv)(B) and (5)(b)(iv)(C), a timeline for the election of parent or guardian members of a school community council shall be established by a local school board for the schools within the school district.

(B) An election for the parent or guardian members of a school community council shall be held near the beginning of the school year ~~and completed before October 15~~ or held in the spring and completed before the last week of school.

(C) Each school shall establish a time period for the election of parent or guardian members of a school community council under Subsection (5)(b)(iv)(B) that is consistent for at least a four-year period.

(c) (i) The principal of the school, or the principal's designee, shall provide notice of the available community council positions to school employees, parents, and guardians at least 10 days before the date that voting commences for the elections held under Subsections (5)(a) and (5)(b).

(ii) The notice shall include:

(A) the dates and times of the elections;

(B) a list of council positions that are up for election; and

(C) instructions for becoming a candidate for a community council position.

(iii) The principal of the school, or the principal's designee, shall oversee the elections held under Subsections (5)(a) and (5)(b).

(iv) Ballots cast in an election held under Subsection (5)(b) shall be deposited in a secure ballot box.

(d) Results of the elections held under Subsections (5)(a) and (5)(b) shall be made available to the public upon request.

(e) (i) If a parent or guardian position on a school community council remains unfilled after an election is held, the other parent or guardian members of the council shall appoint a parent or guardian who meets the qualifications of this section to fill the position.

(ii) If a school employee position on a school community council remains unfilled after an election is held, the other school employee members of the council shall appoint a school employee to fill the position.

(iii) A member appointed to a school community council under Subsection (5)(e)(i) or (ii) shall serve a two-year term.

(f) (i) If the number of candidates who file for a parent or guardian position or school employee position on a school community council is less than or equal to the number of open positions, an election is not required.

(ii) If an election is not held pursuant to Subsection (5)(f)(i) and a parent or guardian position remains unfilled, the other parent or guardian members of the council shall appoint a parent or guardian who meets the qualifications of this section to fill the position.

(iii) If an election is not held pursuant to Subsection (5)(f)(i) and a school employee position remains unfilled, the other school employee members of the council shall appoint a school employee who meets the qualifications of this section to fill the position.

(g) The principal shall enter the names of the council members on the School LAND Trust website on or before ~~November 15~~ October 20 of each year, pursuant to Section 53A-1a-108.1.

(h) Terms shall be staggered so that approximately half of the council members stand for election each year.

(i) A school community council member may serve successive terms provided the member continues to meet the definition of a parent or guardian member or school employee member as specified in Subsection (1).

(j) Each school community council shall elect:

(i) a chair from its parent or guardian members; and

(ii) a vice chair from either its parent or guardian members or school employee members, excluding the principal.

(6) (a) A school community council may create subcommittees or task forces to:

(i) advise or make recommendations to the council; or

(ii) develop all or part of a plan listed in Subsection (3).

(b) Any plan or part of a plan developed by a subcommittee or task force shall be subject to the approval of the school community council.

(c) A school community council may appoint individuals who are not council members to serve on a subcommittee or task force, including parents or guardians, school employees, or other community members.

(7) (a) A majority of the members of a school community council is a quorum for the transaction of business.

(b) The action of a majority of the members of a quorum is the action of the school community council.

(8) A local school board shall provide training for a school community council each year, including training:

(a) for the chair and vice chair about their responsibilities;

(b) on resources available on the School LAND Trust website; and

(c) on the following statutes governing school community councils:

(i) Section 53A-1a-108;

(ii) Section 53A-1a-108.1;

(iii) Section 53A-1a-108.5; and

(iv) Section 53A-16-101.5.

Section 2. Section 53A-1a-108.1 is amended to read:

53A-1a-108.1. School community councils -- Open and public meeting requirements.

(1) A school community council established under Section 53A-1a-108:

(a) shall conduct deliberations and take action openly as provided in this section; and

(b) is exempt from Title 52, Chapter 4, Open and Public Meetings Act.

(2) As required by Section 53A-1a-108, a local school board shall provide training for the members of a school community council on this section.

(3) (a) A meeting of a school community council is open to the public.

(b) A school community council may not close any portion of a meeting.

(4) A school community council shall, at least one week prior to a meeting, post the following information on the school's website:

(a) a notice of the meeting, time, and place;

(b) an agenda for the meeting; and

(c) the minutes of the previous meeting.

(5) (a) On or before ~~November 15~~ October 20, a principal shall post the following information on the school website and in the school office:

(i) the proposed school community council meeting schedule for the year;

(ii) a telephone number or email address, or both, where each school community council member can be reached directly; and

(iii) a summary of the annual report required under Section 53A-16-101.5 on how the school's School LAND Trust Program money was used to enhance or improve academic excellence at the school and implement a component of the school's improvement plan.

(b) (i) A school community council shall identify and use methods of providing the information listed in Subsection (5)(a) to a parent or guardian who does not have Internet access.

(ii) Money allocated to a school under the School LAND Trust Program created in Section 53A-16-101.5 may not be used to provide information as required by Subsection (5)(b)(i).

(6) (a) The notice requirement of Subsection (4) may be disregarded if:

(i) because of unforeseen circumstances it is necessary for a school community council to hold an

emergency meeting to consider matters of an emergency or urgent nature; and

(ii) the school community council gives the best notice practicable of:

(A) the time and place of the emergency meeting; and

(B) the topics to be considered at the emergency meeting.

(b) An emergency meeting of a school community council may not be held unless:

(i) an attempt has been made to notify all the members of the school community council; and

(ii) a majority of the members of the school community council approve the meeting.

(7) (a) An agenda required under Subsection (4)(b) shall provide reasonable specificity to notify the public as to the topics to be considered at the meeting.

(b) Each topic described in Subsection (7)(a) shall be listed under an agenda item on the meeting agenda.

(c) A school community council may not take final action on a topic in a meeting unless the topic is:

(i) listed under an agenda item as required by Subsection (7)(b); and

(ii) included with the advance public notice required by Subsection (4).

(8) (a) Written minutes shall be kept of a school community council meeting.

(b) Written minutes of a school community council meeting shall include:

(i) the date, time, and place of the meeting;

(ii) the names of members present and absent;

(iii) a brief statement of the matters proposed, discussed, or decided;

(iv) a record, by individual member, of each vote taken;

(v) the name of each person who:

(A) is not a member of the school community council; and

(B) after being recognized by the chair, provided testimony or comments to the school community council;

(vi) the substance, in brief, of the testimony or comments provided by the public under Subsection (8)(b)(v); and

(vii) any other information that is a record of the proceedings of the meeting that any member requests be entered in the minutes.

(c) The written minutes of a school community council meeting:

(i) are a public record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(ii) shall be retained for three years.

(9) (a) As used in this Subsection (9), "rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(i) parliamentary order and procedure;

(ii) ethical behavior; and

(iii) civil discourse.

(b) A school community council shall:

(i) adopt rules of order and procedure to govern a public meeting of the school community council;

(ii) conduct a public meeting in accordance with the rules of order and procedure described in Subsection (9)(b)(i); and

(iii) make the rules of order and procedure described in Subsection (9)(b)(i) available to the public:

(A) at each public meeting of the school community council; and

(B) on the school's website.

Section 3. Section 53A-16-101.5 is amended to read:

53A-16-101.5. School LAND Trust Program -- Purpose -- Distribution of funds -- School plans for use of funds.

(1) There is established the School LAND (Learning And Nurturing Development) Trust Program to:

(a) provide financial resources to public schools to enhance or improve student academic achievement and implement a component of the school improvement plan; and

(b) involve parents and guardians of a school's students in decision making regarding the expenditure of School LAND Trust Program money allocated to the school.

(2) (a) The program shall be funded each fiscal year:

(i) from the Interest and Dividends Account created in Section 53A-16-101; and

(ii) in the amount of the sum of the following:

(A) the interest and dividends from the investment of money in the permanent State School Fund deposited to the Interest and Dividends Account in the immediately preceding year; and

(B) interest accrued on money in the Interest and Dividends Account in the immediately preceding fiscal year.

(b) On and after July 1, 2003, the program shall be funded as provided in Subsection (2)(a) up to an amount equal to 2% of the funds provided for the Minimum School Program, pursuant to Title 53A, Chapter 17a, Minimum School Program Act, each fiscal year.

(c) (i) The Legislature shall annually allocate, through an appropriation to the State Board of Education, a portion of the Interest and Dividends Account created in Section 53A-16-101 to be used for:

(A) the administration of the School LAND Trust Program; and

(B) the performance of duties described in Section 53A-16-101.6.

(ii) Any unused balance remaining from an amount appropriated under Subsection (2)(c)(i) shall be deposited in the Interest and Dividends Account for distribution to schools in the School LAND Trust Program.

(3) (a) The State Board of Education shall allocate the money referred to in Subsection (2) annually for the fiscal year beginning July 1, 2013, and for each fiscal year thereafter as follows:

(i) the Utah Schools for the Deaf and the Blind and the charter schools combined shall receive funding equal to the product of:

(A) enrollment on October 1 in the prior year at the Utah Schools for the Deaf and the Blind, or in the charter schools combined, divided by enrollment on October 1 in the prior year in public schools statewide; and

(B) the total amount available for distribution under Subsection (2);

(ii) the amount allocated to the charter schools combined under Subsection (3)(a)(i) shall be distributed among charter schools in accordance with a formula specified in rules adopted by the State Board of Education in consultation with the State Charter School Board; and

(iii) of the funds available for distribution under Subsection (2) after the allocation of funds for the Utah Schools for the Deaf and the Blind and charter schools:

(A) school districts shall receive 10% of the funds on an equal basis; and

(B) the remaining 90% of the funds shall be distributed on a per student basis.

(b) A school district shall distribute its allocation under Subsection (3)(a)(iii) to each school within the district on an equal per student basis.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education may make rules regarding the time and manner in which the student count shall be made for allocation of the money under Subsection (3)(a)(iii).

(4) To receive its allocation under Subsection (3):

(a) a school shall have established a school community council in accordance with Section 53A-1a-108; and

(b) the school's principal shall provide a signed, written assurance in accordance with rules of the State Board of Education that the membership of

the school community council is consistent with the membership requirements specified in Section 53A-1a-108.

(5) (a) The school community council or its subcommittee shall create a program to use its allocation under Subsection (3) to implement a component of the school's improvement plan, including:

(i) the school's identified most critical academic needs;

(ii) a recommended course of action to meet the identified academic needs;

(iii) a specific listing of any programs, practices, materials, or equipment which the school will need to implement a component of its school improvement plan to have a direct impact on the instruction of students and result in measurable increased student performance; and

(iv) how the school intends to spend its allocation of funds under this section to enhance or improve academic excellence at the school.

(b) (i) A school community council shall create and vote to adopt a plan for the use of School LAND Trust Program money in a meeting of the school community council at which a quorum is present.

(ii) If a majority of the quorum votes to adopt a plan for the use of School LAND Trust Program money, the plan is adopted.

(c) A school community council shall:

(i) post a plan for the use of School LAND Trust Program money that is adopted in accordance with Subsection (5)(b) on the School LAND Trust Program website; and

(ii) include with the plan a report noting the number of school community council members who voted for or against the approval of the plan and the number of members who were absent for the vote.

(d) (i) A school's local school board shall approve or disapprove a plan for the use of School LAND Trust Program money.

(ii) If a local school board disapproves a plan for the use of School LAND Trust Program money, the local school board shall provide a written explanation of why the plan was disapproved and request the school community council who submitted the plan to revise the plan.

(iii) The school community council shall submit a revised plan to the local school board for approval.

(6) (a) Each school shall:

(i) implement the program as approved;

(ii) provide ongoing support for the council's program; and

(iii) meet State Board of Education reporting requirements regarding financial and performance accountability of the program.

(b) (i) Each school, through its school community council, shall prepare and post an annual report of

the program on the School LAND Trust Program website each fall.

(ii) The report shall detail the use of program funds received by the school under this section and an assessment of the results obtained from the use of the funds.

(iii) A summary of the report shall be provided to parents or guardians of students attending the school.

(7) On or before October 1 of each year, a school district shall record the amount of the program funds distributed to each school under Subsection (3)(b) on the School LAND Trust Program website to assist schools in developing the annual report described in Subsection (6)(b).

~~[(7)]~~ (8) (a) The governing board of a charter school shall establish a council, which shall prepare a plan for the use of School LAND Trust Program money that includes the elements listed in Subsection (5).

(b) (i) The membership of the council shall include parents or guardians of students enrolled at the school and may include other members.

(ii) The number of council members who are parents or guardians of students enrolled at the school shall exceed all other members combined by at least two.

(c) A charter school governing board may serve as the council that prepares a plan for the use of School LAND Trust Program money if the membership of the charter school governing board meets the requirements of Subsection ~~[(7)]~~ (8)(b)(ii).

(d) (i) Except as provided in Subsection ~~[(7)]~~ (8)(d)(ii), council members who are parents or guardians of students enrolled at the school shall be elected in accordance with procedures established by the charter school governing board.

(ii) Subsection ~~[(7)]~~ (8)(d)(i) does not apply to a charter school governing board that serves as the council that prepares a plan for the use of School LAND Trust Program money.

(e) A parent or guardian of a student enrolled at the school shall serve as chair or cochair of a council that prepares a plan for the use of School LAND Trust Program money.

(f) A plan for the use of School LAND Trust Program money shall be subject to approval by the charter school governing board and the entity that authorized the establishment of the charter school.

(9) The president or chair of a local school board or charter school governing board shall ensure that the members of the local school board or charter school governing board are provided with annual training on the requirements of this section.

Section 4. Section 53A-16-101.6 is amended to read:

53A-16-101.6. Creation of School Children's Trust Section -- Duties.

(1) As used in this section:

(a) "School and institutional trust lands" is as defined in Section 53C-1-103.

(b) "Section" means the School Children's Trust Section created in this section.

(c) "Trust" means:

(i) the School LAND Trust Program created in Section 53A-16-101.5; and

(ii) the lands and funds associated with the trusts described in Subsection 53C-1-103(7).

(2) There is established a School Children's Trust Section within the State Office of Education.

(3) (a) The section shall have a director.

(b) The director shall have professional qualifications and expertise in the areas generating revenue to the trust, including:

(i) economics;

(ii) energy development;

(iii) finance;

(iv) public education;

(v) real estate;

(vi) renewable resources; and

(vii) trust law.

(c) The director shall be appointed as provided in this Subsection (3).

(d) The School and Institutional Trust Lands Board of Trustees nominating committee shall submit to the State Board of Education the name of one person to serve as director.

(e) The State Board of Education may:

(i) appoint the person described in Subsection (3)(d) to serve as director; or

(ii) deny the appointment of the person described in Subsection (3)(d) to serve as director.

(f) If the State Board of Education denies an appointment under this Subsection (3):

(i) the State Board of Education shall provide in writing one or more reasons for the denial to the School and Institutional Trust Lands Board of Trustees nominating committee; and

(ii) the School and Institutional Trust Lands Board of Trustees nominating committee and the State Board of Education shall follow the procedures and requirements of this Subsection (3) until the State Board of Education appoints a director.

(4) The director shall report to the state superintendent or the state superintendent's designee.

(5) The section shall have a staff.

(6) The section shall protect current and future beneficiary rights and interests in the trust consistent with the state's perpetual obligations under:

- (a) the Utah Enabling Act;
- (b) the Utah Constitution;
- (c) state statute; and
- (d) standard trust principles described in Section 53C-1-102.

(7) The section shall promote productive use of school and institutional trust lands.

(8) The section shall provide representation, advocacy, and input:

(a) on behalf of current and future beneficiaries of the trust, school community councils, schools, and school districts;

(b) on federal, state, and local land decisions and policies that affect the trust; and

(c) to:

(i) the School and Institutional Trust Lands Administration;

(ii) the School and Institutional Trust Lands Board of Trustees;

(iii) the Legislature;

(iv) the state treasurer;

(v) the attorney general;

(vi) the public; and

(vii) other entities as determined by the section.

(9) The section shall provide independent oversight on the prudent and profitable management of the trust and report annually to the State Board of Education and the Legislature.

(10) The section shall provide information requested by a person or entity described in Subsections (8)(c)(i) through (v).

(11) (a) The section shall provide training to the entities described in Subsection (11)(b) on:

(i) the School LAND Trust Program established in Section 53A-16-101.5; and

(ii) (A) school community councils established pursuant to Section 53A-1a-108; or

(B) councils established by charter school governing boards pursuant to Section 53A-16-101.5.

(b) The section shall provide the training to:

(i) local school boards and charter school governing boards;

(ii) school districts and charter schools; and

(iii) school community councils.

CHAPTER 333**H. B. 225**

Passed February 28, 2014

Approved April 1, 2014

Effective May 13, 2014

**PRIMARY LAW ENFORCEMENT
DUTIES FOR SHERIFFS**

Chief Sponsor: Paul Ray

Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill enacts language designating the sheriff as the primary law enforcement authority of state law on federal land.

Highlighted Provisions:

This bill:

- ▶ enacts language designating, with certain exceptions, the sheriff as the primary law enforcement authority of state law on federal land.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

17-22-31, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-22-31 is enacted to read:

17-22-31. Sheriff -- Primary law enforcement authority.

The sheriff is the primary law enforcement authority of state law on federal land except as otherwise assigned by law to the authority of a state or municipal law enforcement agency.

CHAPTER 334**H. B. 243**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

AMENDMENTS TO THE FUND OF FUNDS

Chief Sponsor: Jim Bird
 Senate Sponsor: Curtis S. Bramble
 Cosponsors: Jacob L. Anderegg
 Johnny Anderson
 Stewart Barlow
 Melvin R. Brown
 James A. Dunnigan
 Gage Froerer
 John Knotwell
 Curtis Oda
 Dixon M. Pitcher
 Larry B. Wiley

LONG TITLE**General Description:**

This bill amends Title 63M, Chapter 1, Part 12, the Utah Venture Capital Enhancement Act.

Highlighted Provisions:

This bill:

- ▶ amends the quorum requirements of the Utah Capital Investment Board;
- ▶ requires that the annual report and the annual audit for the Utah fund of funds be completed on or before September 1 for the previous calendar year;
- ▶ describes additional information required in the annual report and audit;
- ▶ provides that the aggregate outstanding certificates may not exceed a total of \$150,000,000 for a loan guarantee;
- ▶ provides that the aggregate outstanding certificates may not exceed a total of \$75,000,000 for a guarantee of equity investments in the Utah fund of funds; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill coordinates with S.B. 31, State Agency Reporting Amendments, by providing superseding substantive and technical amendments.

Utah Code Sections Affected:**AMENDS:**

- 63M-1-1203, as last amended by Laws of Utah 2008, Chapter 18 and renumbered and amended by Laws of Utah 2008, Chapter 382
- 63M-1-1205, as last amended by Laws of Utah 2010, Chapter 286
- 63M-1-1206, as last amended by Laws of Utah 2012, Chapter 242
- 63M-1-1214, as last amended by Laws of Utah 2008, Chapter 18 and renumbered and amended by Laws of Utah 2008, Chapter 382
- 63M-1-1217, as renumbered and amended by Laws of Utah 2008, Chapter 382

63M-1-1218, as last amended by Laws of Utah 2011, Chapter 342

Utah Code Sections Affected by Coordination Clause:

63M-1-1206, as last amended by Laws of Utah 2012, Chapter 242

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63M-1-1203 is amended to read:**63M-1-1203. Definitions.**

As used in this part:

- (1) "Board" means the Utah Capital Investment Board.
- (2) "Certificate" means a contract between the board and a designated investor under which a contingent tax credit is available and issued to the designated investor.
- (3) (a) Except as provided in Subsection (3)(b), "claimant" means a resident or nonresident person.
 - (b) "Claimant" does not include an estate or trust.
- (4) "Commitment" means a written commitment by a designated purchaser to purchase from the board certificates presented to the board for redemption by a designated investor. Each commitment shall state the dollar amount of contingent tax credits that the designated purchaser has committed to purchase from the board.
- (5) "Contingent tax credit" means a contingent tax credit issued under this part that is available against tax liabilities imposed by Title 59, Chapter 7, Corporate Franchise and Income Taxes, or Title 59, Chapter 10, Individual Income Tax Act, if there are insufficient funds in the redemption reserve and the board has not exercised other options for redemption under Subsection 63M-1-1220(3)(b).
- (6) "Corporation" means the Utah Capital Investment Corporation created under Section 63M-1-1207.
- (7) "Designated investor" means:
 - (a) a person who makes a private investment; or
 - (b) a transferee of a certificate or contingent tax credit.
- (8) "Designated purchaser" means:
 - (a) a person who enters into a written undertaking with the board to purchase a commitment; or
 - (b) a transferee who assumes the obligations to make the purchase described in the commitment.
- (9) "Estate" means a nonresident estate or a resident estate.
- (10) "Person" means an individual, partnership, limited liability company, corporation, association, organization, business trust, estate, trust, or any other legal or commercial entity.
- (11) "Private investment" means:

(a) an equity interest in the Utah fund of funds; or

(b) a loan to ~~[or other debt obligation from the Utah fund of funds]~~ the Utah fund of funds initiated before July 1, 2014, including a loan refinanced on or after July 1, 2014, that was originated before July 1, 2014.

(12) "Redemption reserve" means the reserve established by the corporation to facilitate the cash redemption of certificates.

(13) "Taxpayer" means a taxpayer:

(a) of an investor; and

(b) if that taxpayer is a:

(i) claimant;

(ii) estate; or

(iii) trust.

(14) "Trust" means a nonresident trust or a resident trust.

(15) "Utah fund of funds" means a limited partnership or limited liability company established under Section 63M-1-1213 in which a designated investor purchases an equity interest.

Section 2. Section 63M-1-1205 is amended to read:

63M-1-1205. Board members -- Meetings -- Expenses.

(1) (a) The board shall consist of [five] the following five members~~[-(b) Of the five members]~~:

(i) ~~[one shall be]~~ the state treasurer;

(ii) ~~[one shall be]~~ the director or the director's designee; and

(iii) three ~~[shall be]~~ members appointed by the governor and confirmed by the Senate.

~~[(e)]~~ (b) The three members appointed by the governor shall serve four-year staggered terms with the initial terms of the first three members to be four years for one member, three years for one member, and two years for one member.

(c) The governor shall appoint members of the board based on demonstrated expertise and competence in:

(i) the supervision of investment managers;

(ii) the fiduciary management of investment funds; or

(iii) the management and administration of tax credit allocation programs.

(2) When a vacancy occurs in the membership of the board for any reason, the vacancy shall be:

(a) filled in the same manner as the appointment of the original member; and

(b) for the unexpired term of the board member being replaced.

(3) Appointed members of the board may not serve more than two full consecutive terms except

[where] when the governor determines that an additional term is in the best interest of the state.

(4) ~~[(Three)]~~ (a) Four members of the board constitute a quorum for conducting business and exercising board power~~[-, provided that a minimum of three affirmative votes is required for board action and at least one of the affirmative votes is cast by either the director or the director's designee or the state treasurer].~~

(b) If a quorum is present, the action of a majority of members present is the action of the board.

(5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant according to Sections 63A-3-106 and 63A-3-107.

~~[(6) Members of the board shall be selected on the basis of demonstrated expertise and competence in:]~~

~~[(a) the supervision of investment managers;]~~

~~[(b) the fiduciary management of investment funds; or]~~

~~[(c) the management and administration of tax credit allocation programs.]~~

~~[(7)]~~ (6) The board and its members are considered to be a governmental entity with all of the rights, privileges, and immunities of a governmental entity of the state, including all of the rights and benefits conferred under Title 63G, Chapter 7, Governmental Immunity Act of Utah.

~~[(8)]~~ (7) Meetings of the board, except to the extent necessary to protect the information identified in Subsection 63M-1-1224(3), are subject to Title 52, Chapter 4, Open and Public Meetings Act.

Section 3. Section 63M-1-1206 is amended to read:

63M-1-1206. Board duties and powers.

(1) The board shall:

(a) establish criteria and procedures for the allocation and issuance of contingent tax credits to designated investors by means of certificates issued by the board, provided that a contingent tax credit may not be issued unless the Utah fund of funds:

(i) first agrees to treat the amount of the tax credit redeemed by the state as a loan from the state to the Utah fund of funds; and

(ii) agrees to repay the loan upon terms and conditions established by the board;

(b) establish criteria and procedures for assessing the likelihood of future certificate redemptions by designated investors, including:

(i) criteria and procedures for evaluating the value of investments made by the Utah fund of funds; and

- (ii) the returns from the Utah fund of funds;
- (c) establish criteria and procedures for registering and redeeming contingent tax credits by designated investors holding certificates issued by the board;
- (d) establish a target rate of return or range of returns ~~[on venture capital investments]~~ for the investment portfolio of the Utah fund of funds;
- (e) establish criteria and procedures governing commitments obtained by the board from designated purchasers including:
- (i) entering into commitments with designated purchasers; and
- (ii) drawing on commitments to redeem certificates from designated investors;
- (f) have power to:
- (i) expend funds;
- (ii) invest funds;
- (iii) issue debt and borrow funds;
- (iv) enter into contracts;
- (v) insure against loss; and
- (vi) perform any other act necessary to carry out its purpose; and
- (g) make, amend, and repeal rules for the conduct of its affairs, consistent with this part and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (2) (a) All rules made by the board under Subsection (1)(g) are subject to review by the Legislative Management Committee:
- (i) whenever made, modified, or repealed; and
- (ii) in each even-numbered year.
- (b) Subsection (2)(a) does not preclude the legislative Administrative Rules Review Committee from reviewing and taking appropriate action on any rule made, amended, or repealed by the board.
- (3) (a) The criteria and procedures established by the board for the allocation and issuance of contingent tax credits shall:
- (i) include the contingencies that must be met for a certificate and its related tax credits to be:
- (A) issued by the board;
- (B) transferred by a designated investor; and
- (C) redeemed by a designated investor in order to receive a contingent tax credit; and
- (ii) tie the contingencies for redemption of certificates to:
- (A) the targeted rates of return and scheduled redemptions of equity interests purchased by designated investors in the Utah fund of funds; and

(B) the scheduled principal and interest payments payable to designated investors that have made loans ~~[or other debt obligations]~~ initiated before July 1, 2014, including a loan refinanced on or after July 1, 2014, that was originated before July 1, 2014, to the Utah fund of funds.

(b) The board may not issue contingent tax credits under this part ~~[prior to]~~ before July 1, 2004.

(4) (a) The board may charge a placement fee to the Utah fund of funds for the issuance of a certificate and related contingent tax credit to a designated investor.

(b) The fee shall:

(i) be charged only to pay for reasonable and necessary costs of the board; and

(ii) not exceed .5% of the private investment of the designated investor.

(5) The board's criteria and procedures for redeeming certificates:

(a) shall give priority to the redemption amount from the available funds in the redemption reserve; and

(b) to the extent there are insufficient funds in the redemption reserve to redeem certificates, shall grant the board the option to redeem certificates:

(i) by certifying a contingent tax credit to the designated investor; or

(ii) by making demand on designated purchasers consistent with the requirements of Section 63M-1-1221.

(6) (a) The board shall, in consultation with the corporation, publish on or before September 1 an annual report of the activities conducted by the Utah fund of funds, and submit the report to the governor [and]; the Business, Economic Development, and Labor Appropriations Subcommittee[-]; the Business and Labor Interim Committee; and the Retirement and Independent Entities Committee.

(b) The annual report shall:

(i) be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature;

~~(4)~~ (ii) include a copy of the audit of the Utah fund of funds [and a valuation of the assets of the Utah fund of funds] described in Section 63M-1-1217;

(iii) include a detailed balance sheet, revenue and expenses statement, and cash flow statement;

(iv) include detailed information regarding new fund commitments made during the year, including the amount of money committed;

(v) include the net annual rate of return of the Utah fund of funds for the reported year, and the net rate of return from the inception of the Utah fund of funds, after accounting for all expenses, including administrative and financing costs;

(vi) include detailed information regarding:

(A) realized gains from investments and any realized losses; and

(B) unrealized gains and any unrealized losses based on the net present value of ongoing investments;

(vii) include detailed information regarding all yearly expenditures, including:

(A) administrative, operating, and financing costs;

(B) aggregate compensation information separated by full- and part-time employees, including benefit and travel expenses; and

(C) expenses related to the allocation manager;

(viii) include detailed information regarding all funding sources for administrative, operations, and financing expenses, including expenses charged by or to the Utah fund of funds, including management and placement fees;

~~(iii)~~ (ix) review the progress of the investment fund allocation manager in implementing its investment plan and provide a general description of the investment plan; ~~and~~

(x) for each individual fund that the Utah fund of funds is invested in that represents at least 5% of the net assets of the Utah fund of funds, include the name of the fund, the total value of the fund, the fair market value of the Utah fund of funds' investment in the fund, and the percentage of the total value of the fund held by the Utah fund of funds;

(xi) include the number of companies in Utah where an investment was made from a fund that the Utah fund of funds is invested in, and provide an aggregate count of new full-time employees in the state added by all companies where investments were made by funds that the Utah fund of funds is invested in;

(xii) include an aggregate total value for all funds the Utah fund of funds is invested in, and an aggregate total amount of money invested in the state by the funds the Utah fund of funds is invested in;

~~(iii)~~ (xiii) describe any redemption or transfer of a certificate issued under this part[.];

(xiv) include actual and estimated potential appropriations the Legislature will be required to provide as a result of redeemed certificates or tax credits during the following five years;

(xv) include an evaluation of the state's progress in accomplishing the purposes stated in Section 63M-1-1202; and

(xvi) be directly accessible to the public via a link from the main page of the Utah fund of fund's website.

(c) The annual report may not identify ~~any~~ a specific designated investor who has redeemed or transferred a certificate.

~~(d) (i) Beginning July 1, 2006, and thereafter every two years, the board shall publish a progress report which shall evaluate the progress of the state in accomplishing the purposes stated in Section 63M-1-1202.~~

~~(ii) The board shall give a copy of the report to the Legislature.~~

Section 4. Section 63M-1-1214 is amended to read:

63M-1-1214. Compensation from the Utah fund of funds to the corporation -- Redemption reserve.

(1) The corporation shall be compensated for its involvement in the Utah fund of funds through the payment of the management fee described in Section 63M-1-1211.

(2) Before any returns may be reinvested in the Utah fund of funds:

(a) ~~Any~~ any returns shall be paid to designated investors, including the repayment by the Utah fund of funds of any outstanding loans;

(b) any returns in excess of those payable to designated investors shall be deposited in the redemption reserve and held by the corporation as a first priority reserve for the redemption of certificates[.];

~~(b) Any~~ (c) any returns received by the corporation from investment of amounts held in the redemption reserve shall be added to the redemption reserve until it has reached a total of ~~[\$300,000,000.]~~ \$250,000,000; and

~~(e) If~~ (d) if at the end of a calendar year the redemption reserve exceeds the ~~[\$300,000,000]~~ \$250,000,000 limitation referred to in Subsection (2)~~(b)~~(c), the corporation ~~shall~~ may reinvest the excess in the Utah fund of funds.

(3) Funds held by the corporation in the redemption reserve shall be invested in accordance with Title 51, Chapter 7, State Money Management Act.

Section 5. Section 63M-1-1217 is amended to read:

63M-1-1217. Annual audits.

(1) Each calendar year, an audit of the activities of the Utah fund of funds shall be made as described in this section.

(2) (a) The audit shall be conducted by:

(i) the state auditor; or

(ii) an independent auditor engaged by the state auditor.

(b) An independent auditor used under Subsection (2)(a)(ii) must have no business, contractual, or other connection to:

(i) the corporation; or

(ii) the Utah fund of funds.

(3) The corporation shall pay the costs associated with the annual audit.

(4) The annual audit report shall:

- (a) be delivered to:
 - (i) the corporation; and
 - (ii) the board; ~~and~~

(b) include a valuation of the assets owned by the Utah fund of funds as of the end of the reporting year[-];

(c) include an opinion regarding the accuracy of the information provided in the annual report described in Subsection 63M-1-1206(6); and

(d) be completed on or before September 1 for the previous calendar year so that it may be included in the annual report described in Section 63M-1-1206.

Section 6. Section 63M-1-1218 is amended to read:

63M-1-1218. Certificates and contingent tax credits.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board, in consultation with the State Tax Commission, shall make rules governing the form, issuance, transfer, and redemption of certificates.

(2) The board's issuance of certificates and related contingent tax credits to designated investors is subject to the following:

(a) the aggregate outstanding certificates may not exceed a total of ~~[\$300,000,000]~~:

(i) ~~\$150,000,000~~ of contingent tax credits~~;~~ used as collateral or a guarantee on loans for the debt-based financing of investments in the Utah fund of funds, including a loan refinanced using debt- or equity-based financing as described in Subsection (2)(e); and

(ii) ~~\$75,000,000~~ used as a guarantee on equity investments in the Utah fund of funds;

(b) the board shall issue a certificate contemporaneously with an investment in the Utah fund of funds by a designated investor;

(c) the board shall issue contingent tax credits in a manner that not more than \$20,000,000 of contingent tax credits for each \$100,000,000 increment of contingent tax credits may be redeemable in ~~any~~ a fiscal year; ~~and~~

(d) the credits are certifiable if there are insufficient funds in the redemption reserve to make a cash redemption and the board does not exercise its other options under Subsection 63M-1-1220(3)(b)[-];

(e) the board may not issue additional certificates as collateral or a guarantee on a loan for the debt-based financing of investments in the Utah fund of funds that is initiated after July 1, 2014, except for a loan refinanced using debt- or equity-based financing on or after July 1, 2014, that was originated before July 1, 2014;

(f) after July 1, 2014, and on or before December 31, 2017, the board may issue certificates that represent a guarantee of no more than 100% of the principal of each equity investment in the Utah fund of funds; and

(g) the board may not issue certificates after December 31, 2017.

(3) In determining the ~~[\$300,000,000 maximum limit in Subsection]~~ maximum limits in Subsections (2)(a)(i) and (ii) and the \$20,000,000 limitation for each \$100,000,000 increment of contingent tax credits in Subsection (2)(c):

(a) the board shall use the cumulative amount of scheduled aggregate returns on certificates issued by the board to designated investors;

(b) certificates and related contingent tax credits ~~which~~ that have expired may not be included; and

(c) certificates and related contingent tax credits ~~which~~ that have been redeemed shall be included only to the extent of tax credits actually allowed.

(4) Contingent tax credits are subject to the following:

(a) a contingent tax credit may not be redeemed except by a designated investor in accordance with the terms of a certificate from the board;

(b) a contingent tax credit may not be redeemed prior to the time the Utah fund of funds receives full payment from the designated investor for the certificate;

(c) a contingent tax credit shall be claimed for a tax year that begins during the calendar year maturity date stated on the certificate;

(d) an investor who redeems a certificate and the related contingent tax credit shall allocate the amount of the contingent tax credit to the taxpayers of the investor based on the taxpayer's pro rata share of the investor's earnings; and

(e) a contingent tax credit shall be claimed as a refundable credit.

(5) In calculating the amount of a contingent tax credit:

(a) the board shall certify a contingent tax credit only if the actual return, or payment of principal and interest for a loan initiated before July 1, 2014, including a loan refinanced on or after July 1, 2014, that was originated before July 1, 2014, to the designated investor is less than that targeted at the issuance of the certificate;

(b) the amount of the contingent tax credit for a designated investor with an equity interest may not exceed the difference between~~[- (i) the sum of: (A) the initial private investment of the designated investor in the Utah fund of funds; and (B) the scheduled aggregate return to the designated investor at rates of return authorized by the board at the issuance of the certificate; and (ii)]~~ the actual principal investment of the designated investor in the Utah fund of funds and the aggregate actual return received by the designated investor and any predecessor in interest of the initial equity

investment and interest on the initial equity investment;

(c) the rates, whether fixed rates or variable rates, shall be determined by a formula stipulated in the certificate; and

(d) the amount of the contingent tax credit for a designated investor with ~~[a loan or other debt obligation from]~~ an outstanding loan to the Utah fund of funds initiated before July 1, 2014, including a loan refinanced on or after July 1, 2014, that was originated before July 1, 2014, shall be equal to the amount of any principal, interest, or interest equivalent unpaid at the redemption of the loan or other obligation, as stipulated in the certificate.

(6) The board shall clearly indicate on the certificate:

(a) the targeted return on the invested capital, if the private investment is an equity interest;

(b) the payment schedule of principal, interest, or interest equivalent, if the private investment is a loan ~~[or other debt obligation]~~ initiated before July 1, 2014, including a loan refinanced on or after July 1, 2014, that was originated before July 1, 2014;

(c) the amount of the initial private investment;

(d) the calculation formula for determining the scheduled aggregate return on the initial equity investment, if applicable; and

(e) the calculation formula for determining the amount of the contingent tax credit that may be claimed.

(7) Once money is invested by a designated investor, ~~[the]~~ a certificate:

(a) is binding on the board; and

(b) may not be modified, terminated, or rescinded.

(8) Funds invested by a designated investor for a certificate shall be paid to the corporation for placement in the Utah fund of funds.

(9) The State Tax Commission may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in consultation with the board, make rules to help implement this section.

Section 7. Coordinating H.B. 243 with S.B. 31 -- Superseding substantive and technical amendments.

If this H.B. 243 and S.B. 31, State Agency Reporting Amendments, both pass and become law, it is the intent of the Legislature that the amendments to Section 63M-1-1206 in this bill supersede the amendments to Section 63M-1-1206 in S.B. 31, when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.

CHAPTER 335**H. B. 246**

Passed March 13, 2014

Approved April 1, 2014

Effective April 1, 2014

GOVERNMENT ETHICS REVISIONS

Chief Sponsor: Craig Hall
Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill amends provisions of the Election Code and the Lobbyist Disclosure and Regulation Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the chief election officer to provide notice to each filing entity, for which the chief election officer has a physical or email address, of the reporting and filing requirements described in Title 20A, Chapter 11, Campaign and Financial Reporting Requirements;
- ▶ imposes a penalty for a state office candidate, a legislative office candidate, a school board office candidate, or a judge, who fails to report contributions or public service assistance, as applicable, within the time period required by law;
- ▶ provides for publication of information relating to a penalty described in the preceding paragraph;
- ▶ reduces from 30 days to three business days, under certain circumstances, the deadline by which a state office candidate, a legislative office candidate, or a school board office candidate, is required to report contributions or public service assistance;
- ▶ requires that the Legislature's website include, for each legislative officeholder, a link to the financial reports maintained on the lieutenant governor's website in relation to that legislative officeholder;
- ▶ amends provisions of the Lobbyist Disclosure and Regulation Act by:
 - increasing the license fee by \$10;
 - requiring a lobbyist to, while engaging in lobbying at the capitol hill complex, wear a name tag, issued by the lieutenant governor, that identifies the lobbyist as a lobbyist;
 - requiring a lobbyist to, at the beginning of making a communication to a public official that constitutes lobbying, inform the public official of the identity of the principal on whose behalf the lobbyist is lobbying; and
 - modifying penalty provisions; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.

Utah Code Sections Affected:**AMENDS:**

- 20A-11-103, as last amended by Laws of Utah 2012, Chapter 369
- 20A-11-201, as last amended by Laws of Utah 2012, Chapter 230
- 20A-11-301, as last amended by Laws of Utah 2012, Chapter 230
- 20A-11-1301, as last amended by Laws of Utah 2012, Chapter 230
- 20A-12-303, as last amended by Laws of Utah 2011, Chapter 396
- 36-11-102, as last amended by Laws of Utah 2011, Chapter 212
- 36-11-103, as last amended by Laws of Utah 2010, Chapter 325
- 36-11-401, as last amended by Laws of Utah 2011, Chapter 389

ENACTS:

- 20A-11-1604, Utah Code Annotated 1953
- 36-11-305.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-11-103 is amended to read:**20A-11-103. Notice of pending interim and summary reports -- Form of submission -- Public availability -- Notice of reporting and filing requirements.**

(1) (a) Except as provided under Subsection (1)(b), 10 days before an interim report or summary report is due under this chapter or Chapter 12, Part 2, Judicial Retention Elections, the chief election officer shall inform the filing entity by postal mail or, if requested by the filing entity, by electronic mail:

- (i) that the financial statement is due;
- (ii) of the date that the financial statement is due; and
- (iii) of the penalty for failing to file the financial statement.

(b) The chief election officer is not required to provide notice:

- (i) to a candidate or political party of the financial statement that is due before the candidate's or political party's political convention;
- (ii) of a financial statement due in connection with a public hearing for an initiative under the requirements of Section 20A-7-204.1; or
- (iii) to a corporation or labor organization, as defined in Section 20A-11-1501.

(2) A filing entity shall electronically file a financial statement via electronic mail or the Internet according to specifications established by the chief election officer.

(3) (a) A financial statement is considered timely filed if it is received by the chief election officer's office before the close of regular office hours on the date that it is due.

(b) A chief election officer may extend the time in which a filing entity is required to file a financial statement if a filing entity notifies the chief election officer of the existence of an extenuating circumstance that is outside the control of the filing entity.

(4) Notwithstanding any provision of Title 63G, Chapter 2, Government Records Access and Management Act, the lieutenant governor shall:

(a) make each campaign finance statement filed by a candidate available for public inspection and copying no later than one business day after the statement is filed; and

(b) post an electronic copy or the contents of each financial statement in a searchable format on a website established by the lieutenant governor:

(i) for campaign finance statements submitted to the lieutenant governor under the requirements of Section 10-3-208 or Section 17-16-6.5, no later than seven business days after the date of receipt of the campaign finance statement; or

(ii) for a summary report or interim report filed under the requirements of this chapter or Chapter 12, Part 2, Judicial Retention Elections, no later than three business days after the date the summary report or interim report is electronically filed.

(5) If a municipality, under Section 10-3-208, or a county, under Section 17-16-6.5, elects to provide campaign finance disclosure on its own website, rather than through the lieutenant governor, the website established by the lieutenant governor shall contain a link or other access point to the municipality or county website.

(6) Between January 1 and January 15 of each year, the chief election officer shall provide notice, by postal mail or email, to each filing entity for which the chief election officer has a physical or email address, of the reporting and filing requirements described in this chapter.

Section 2. Section 20A-11-201 is amended to read:

20A-11-201. State office candidate -- Separate bank account for campaign funds -- No personal use -- Contribution reporting deadline -- Report other accounts.

(1) (a) Each state office candidate or the candidate's personal campaign committee shall deposit each contribution and public service assistance received in one or more separate campaign accounts in a financial institution.

(b) A state office candidate or a candidate's personal campaign committee may not use money deposited in a campaign account for:

- (i) a personal use expenditure; or
- (ii) an expenditure prohibited by law.

(2) A state office candidate or the candidate's personal campaign committee may not deposit or

mingle any contributions received into a personal or business account.

(3) If a person who is no longer a state office candidate chooses not to expend the money remaining in a campaign account, the person shall continue to file the year-end summary report required by Section 20A-11-203 until the statement of dissolution and final summary report required by Section 20A-11-205 are filed with the lieutenant governor.

(4) (a) Except as provided in Subsection (4)(b) and Section 20A-11-402, a person who is no longer a state office candidate may not expend or transfer the money in a campaign account in a manner that would cause the former state office candidate to recognize the money as taxable income under federal tax law.

(b) A person who is no longer a state office candidate may transfer the money in a campaign account in a manner that would cause the former state office candidate to recognize the money as taxable income under federal tax law if the transfer is made to a campaign account for federal office.

(5) (a) As used in this Subsection (5) and Section 20A-11-204, "received" means:

(i) for a cash contribution, that the cash is given to a state office candidate or a member of the candidate's personal campaign committee;

(ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and

(iii) for any other type of contribution, that any portion of the contribution's benefit inures to the state office candidate.

(b) Each state office candidate shall report to the lieutenant governor each contribution and public service assistance ~~to the lieutenant governor~~ received by the state office candidate:

(i) except as provided in Subsection (5)(b)(ii), within 30 days after the day on which the contribution or public service assistance is received[.]; or

(ii) within three business days after the day on which the contribution or public service assistance is received, if:

(A) the state office candidate is contested in a convention and the contribution or public service assistance is received within 30 days before the day on which the convention is held;

(B) the state office candidate is contested in a primary election and the contribution or public service assistance is received within 30 days before the day on which the primary election is held; or

(C) the state office candidate is contested in a general election and the contribution or public service assistance is received within 30 days before the day on which the general election is held.

(c) Except as provided in Subsection (5)(d), for each contribution or provision of public service assistance that a state office candidate fails to

report within the time period described in Subsection (5)(b), the lieutenant governor shall impose a fine against the state office candidate in an amount equal to:

(i) the greater of \$50 or 15% of the amount of the contribution; or

(ii) the greater of \$50 or 15% of the value of the public service assistance.

(d) A fine described in Subsection (5)(c) may not exceed the amount of the contribution or the value of the public service assistance to which the fine relates.

(e) The lieutenant governor shall:

(i) deposit money received under Subsection (5)(c) into the General Fund; and

(ii) report on the lieutenant governor's website, in the location where reports relating to each state office candidate are available for public access:

(A) each fine imposed by the lieutenant governor against the state office candidate;

(B) the amount of the fine;

(C) the amount of the contribution to which the fine relates; and

(D) the date of the contribution.

(6) (a) As used in this Subsection (6), "account" means an account in a financial institution:

(i) that is not described in Subsection (1)(a); and

(ii) into which or from which a person who, as a candidate for an office, other than the state office for which the person files a declaration of candidacy or federal office, or as a holder of an office, other than a state office for which the person files a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.

(b) A state office candidate shall include on any financial statement filed in accordance with this part:

(i) a contribution deposited in an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account; or

(ii) an expenditure made from an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account.

Section 3. Section 20A-11-301 is amended to read:

20A-11-301. Legislative office candidate -- Campaign finance requirements -- Candidate as a political action committee officer -- No personal use -- Contribution

reporting deadline -- Report other accounts.

(1) (a) (i) Each legislative office candidate shall deposit each contribution and public service assistance received in one or more separate accounts in a financial institution that are dedicated only to that purpose.

(ii) A legislative office candidate may:

(A) receive a contribution or public service assistance from a political action committee registered under Section 20A-11-601; and

(B) be designated by a political action committee as an officer who has primary decision-making authority as described in Section 20A-11-601.

(b) A legislative office candidate or the candidate's personal campaign committee may not use money deposited in an account described in Subsection (1)(a)(i) for:

(i) a personal use expenditure; or

(ii) an expenditure prohibited by law.

(2) A legislative office candidate may not deposit or mingle any contributions or public service assistance received into a personal or business account.

(3) If a person who is no longer a legislative candidate chooses not to expend the money remaining in a campaign account, the person shall continue to file the year-end summary report required by Section 20A-11-302 until the statement of dissolution and final summary report required by Section 20A-11-304 are filed with the lieutenant governor.

(4) (a) Except as provided in Subsection (4)(b) and Section 20A-11-402, a person who is no longer a legislative office candidate may not expend or transfer the money in a campaign account in a manner that would cause the former legislative office candidate to recognize the money as taxable income under federal tax law.

(b) A person who is no longer a legislative office candidate may transfer the money in a campaign account in a manner that would cause the former legislative office candidate to recognize the money as taxable income under federal tax law if the transfer is made to a campaign account for federal office.

(5) (a) As used in this Subsection (5) and Section 20A-11-303, "received" means:

(i) for a cash contribution, that the cash is given to a legislative office candidate or a member of the candidate's personal campaign committee;

(ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and

(iii) for any other type of contribution, that any portion of the contribution's benefit inures to the legislative office candidate.

(b) Each legislative office candidate shall report to the lieutenant governor each contribution and

public service assistance ~~to the lieutenant governor~~ received by the legislative office candidate:

(i) except as provided in Subsection (5)(b)(ii), within 30 days after the day on which the contribution or public service assistance is received[-]; or

(ii) within three business days after the day on which the contribution or public service assistance is received, if:

(A) the legislative office candidate is contested in a convention and the contribution or public service assistance is received within 30 days before the day on which the convention is held;

(B) the legislative office candidate is contested in a primary election and the contribution or public service assistance is received within 30 days before the day on which the primary election is held; or

(C) the legislative office candidate is contested in a general election and the contribution or public service assistance is received within 30 days before the day on which the general election is held.

(c) Except as provided in Subsection (5)(d), for each contribution or provision of public service assistance that a legislative office candidate fails to report within the time period described in Subsection (5)(b), the lieutenant governor shall impose a fine against the legislative office candidate in an amount equal to:

(i) the greater of \$50 or 15% of the amount of the contribution; or

(ii) the greater of \$50 or 15% of the value of the public service assistance.

(d) A fine described in Subsection (5)(c) may not exceed the amount of the contribution or the value of the public service assistance to which the fine relates.

(e) The lieutenant governor shall:

(i) deposit money received under Subsection (5)(c) into the General Fund; and

(ii) report on the lieutenant governor's website, in the location where reports relating to each legislative office candidate are available for public access:

(A) each fine imposed by the lieutenant governor against the legislative office candidate;

(B) the amount of the fine;

(C) the amount of the contribution to which the fine relates; and

(D) the date of the contribution.

(6) (a) As used in this Subsection (6), "account" means an account in a financial institution:

(i) that is not described in Subsection (1)(a)(i); and

(ii) into which or from which a person who, as a candidate for an office, other than a legislative office

for which the person files a declaration of candidacy or federal office, or as a holder of an office, other than a legislative office for which the person files a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.

(b) A legislative office candidate shall include on any financial statement filed in accordance with this part:

(i) a contribution deposited in an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account; or

(ii) an expenditure made from an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account.

Section 4. Section 20A-11-1301 is amended to read:

20A-11-1301. School board office candidate -- Campaign finance requirements -- Candidate as a political action committee officer -- No personal use -- Contribution reporting deadline -- Report other accounts.

(1) (a) (i) Each school board office candidate shall deposit each contribution and public service assistance received in one or more separate accounts in a financial institution that are dedicated only to that purpose.

(ii) A school board office candidate may:

(A) receive a contribution or public service assistance from a political action committee registered under Section 20A-11-601; and

(B) be designated by a political action committee as an officer who has primary decision-making authority as described in Section 20A-11-601.

(b) A school board office candidate may not use money deposited in an account described in Subsection (1)(a)(i) for:

(i) a personal use expenditure; or

(ii) an expenditure prohibited by law.

(2) A school board office candidate may not deposit or mingle any contributions or public service assistance received into a personal or business account.

(3) A school board office candidate may not make any political expenditures prohibited by law.

(4) If a person who is no longer a school board candidate chooses not to expend the money remaining in a campaign account, the person shall continue to file the year-end summary report required by Section 20A-11-1302 until the statement of dissolution and final summary report required by Section 20A-11-1304 are filed with:

(a) the lieutenant governor in the case of a state school board candidate; and

(b) the county clerk, in the case of a local school board candidate.

(5) (a) Except as provided in Subsection (5)(b) and Section 20A-11-402, a person who is no longer a school board candidate may not expend or transfer the money in a campaign account in a manner that would cause the former school board candidate to recognize the money as taxable income under federal tax law.

(b) A person who is no longer a school board candidate may transfer the money in a campaign account in a manner that would cause the former school board candidate to recognize the money as taxable income under federal tax law if the transfer is made to a campaign account for federal office.

(6) (a) As used in this Subsection (6) and Section 20A-11-1303, "received" means:

(i) for a cash contribution, that the cash is given to a school board office candidate or a member of the candidate's personal campaign committee;

(ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and

(iii) for any other type of contribution, that any portion of the contribution's benefit inures to the school board office candidate.

(b) Each school board office candidate shall report to the chief election officer each contribution and public service assistance received by the school board office candidate:

(i) except as provided in Subsection (6)(b)(ii), within 30 days after the day on which the contribution or public service assistance is received[-]; or

(ii) within three business days after the day on which the contribution or public service assistance is received, if:

(A) the school board office candidate is contested in a primary election and the contribution or public service assistance is received within 30 days before the day on which the primary election is held; or

(B) the school board office candidate is contested in a general election and the contribution or public service assistance is received within 30 days before the day on which the general election is held.

(c) Except as provided in Subsection (6)(d), for each contribution or provision of public service assistance that a school board office candidate fails to report within the time period described in Subsection (6)(b), the chief election officer shall impose a fine against the school board office candidate in an amount equal to:

(i) the greater of \$50 or 15% of the amount of the contribution; or

(ii) the greater of \$50 or 15% of the value of the public service assistance.

(d) A fine described in Subsection (6)(c) may not exceed the amount of the contribution or the value of the public service assistance to which the fine relates.

(e) The chief election officer shall:

(i) deposit money received under Subsection (6)(c) into the General Fund; and

(ii) report on the chief election officer's website, in the location where reports relating to each school board office candidate are available for public access:

(A) each fine imposed by the chief election officer against the school board office candidate;

(B) the amount of the fine;

(C) the amount of the contribution to which the fine relates; and

(D) the date of the contribution.

(7) (a) As used in this Subsection (7), "account" means an account in a financial institution:

(i) that is not described in Subsection (1)(a)(i); and

(ii) into which or from which a person who, as a candidate for an office, other than a school board office for which the person files a declaration of candidacy or federal office, or as a holder of an office, other than a school board office for which the person files a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.

(b) A school board office candidate shall include on any financial statement filed in accordance with this part:

(i) a contribution deposited in an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account; or

(ii) an expenditure made from an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account.

Section 5. Section 20A-11-1604 is enacted to read:

20A-11-1604. (Codified as 20A-11-1606)

Link to financial reports on Legislature's website.

The Legislature's website shall include, for each legislative officeholder, a link to the financial reports maintained on the lieutenant governor's website in relation to that legislative officeholder.

Section 6. Section 20A-12-303 is amended to read:

20A-12-303. Separate account for campaign funds -- Reporting contributions.

(1) The judge or the judge's personal campaign committee shall deposit each contribution in one or

more separate personal campaign accounts in a financial institution.

(2) The judge or the judge's personal campaign committee may not deposit or mingle any contributions received into a personal or business account.

(3) (a) As used in this Subsection (3) and Section 20A-12-305, "received" means:

(i) for a cash contribution, that the cash is given to a judge or the judge's personal campaign committee;

(ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and

(iii) for any other type of contribution, that any portion of the contribution's benefit inures to the judge.

(b) The judge or the judge's personal campaign committee shall report to the lieutenant governor each contribution received by the judge, within 30 days after the day on which the contribution is received.

(c) Except as provided in Subsection (3)(d), for each contribution that a judge fails to report within the time period described in Subsection (3)(b), the lieutenant governor shall impose a fine against the judge in an amount equal to the greater of \$50 or 15% of the amount of the contribution.

(d) A fine described in Subsection (3)(c) may not exceed the amount of the contribution to which the fine relates.

(e) The lieutenant governor shall:

(i) deposit money received under Subsection (3)(c) into the General Fund; and

(ii) report on the lieutenant governor's website, in the location where reports relating to each judge are available for public access:

(A) each fine imposed by the lieutenant governor against the judge;

(B) the amount of the fine;

(C) the amount of the contribution to which the fine relates; and

(D) the date of the contribution.

Section 7. Section 36-11-102 is amended to read:

36-11-102. Definitions.

As used in this chapter:

(1) "Aggregate daily expenditures" means:

(a) for a single lobbyist, principal, or government officer, the total of all expenditures made within a calendar day by the lobbyist, principal, or government officer for the benefit of an individual public official;

(b) for an expenditure made by a member of a lobbyist group, the total of all expenditures made

within a calendar day by every member of the lobbyist group for the benefit of an individual public official; or

(c) for a multiclient lobbyist, the total of all expenditures made by the multiclient lobbyist within a calendar day for the benefit of an individual public official, regardless of whether the expenditures were attributed to different clients.

(2) "Approved meeting or activity" means a meeting or activity:

(a) (i) to which a legislator is invited; and

(ii) attendance at which is approved by:

(A) the speaker of the House of Representatives, if the public official is a member of the House of Representatives; or

(B) the president of the Senate, if the public official is a member of the Senate; or

(b) (i) to which a public official who holds a position in the executive branch of state government is invited; and

(ii) attendance at which is approved by the governor or the lieutenant governor.

(3) "Capitol hill complex" is as defined in Section 63C-9-102.

~~[(3)]~~ (4) (a) "Compensation" means anything of economic value, however designated, that is paid, loaned, granted, given, donated, or transferred to an individual for the provision of services or ownership before any withholding required by federal or state law.

(b) "Compensation" includes:

(i) a salary or commission;

(ii) a bonus;

(iii) a benefit;

(iv) a contribution to a retirement program or account;

(v) a payment includable in gross income, as defined in Section 62, Internal Revenue Code, and subject to Social Security deductions, including a payment in excess of the maximum amount subject to deduction under Social Security law;

(vi) an amount that the individual authorizes to be deducted or reduced for salary deferral or other benefits authorized by federal law; or

(vii) income based on an individual's ownership interest.

~~[(4)]~~ (5) "Compensation payor" means a person who pays compensation to a public official in the ordinary course of business:

(a) because of the public official's ownership interest in the compensation payor; or

(b) for services rendered by the public official on behalf of the compensation payor.

~~[(5)]~~ (6) "Executive action" means:

(a) a nomination or appointment by the governor;

(b) the proposal, drafting, amendment, enactment, or defeat by a state agency of a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(c) agency ratemaking proceedings; or

(d) an adjudicative proceeding of a state agency.

~~[(6)]~~ (7) (a) "Expenditure" means any of the items listed in this Subsection ~~[(6)]~~ (7)(a) when given to or for the benefit of a public official unless consideration of equal or greater value is received:

(i) a purchase, payment, or distribution;

(ii) a loan, gift, or advance;

(iii) a deposit, subscription, or forbearance;

(iv) services or goods;

(v) money;

(vi) real property;

(vii) a ticket or admission to a sporting, recreational, or artistic event; or

(viii) a contract, promise, or agreement, whether or not legally enforceable, to provide any item listed in Subsections ~~[(6)]~~ (7)(a)(i) through (vii).

(b) "Expenditure" does not mean:

(i) a commercially reasonable loan made in the ordinary course of business;

(ii) a campaign contribution reported in accordance with Title 20A, Chapter 11, Campaign and Financial Reporting Requirements;

(iii) printed informational material that is related to the performance of the recipient's official duties;

(iv) a devise or inheritance;

(v) any item listed in Subsection ~~[(6)]~~ (7)(a) if:

(A) given by a relative;

(B) given by a compensation payor for a purpose solely unrelated to the public official's position as a public official; or

(C) (I) the item has a value of less than \$10; and

(II) the aggregate daily expenditures do not exceed \$10;

(vi) food or beverage that is provided at an event to which the following are invited:

(A) all members of the Legislature;

(B) all members of a standing or interim committee;

(C) all members of an official legislative task force;

(D) all members of a party caucus; or

(E) all members of a group described in Subsections ~~[(6)]~~ (7)(b)(vi)(A) through (D) who are attending a meeting of a national organization

whose primary purpose is addressing general legislative policy;

(vii) food or beverage that is provided at an event to a public official who is:

(A) giving a speech at the event;

(B) participating in a panel discussion at the event; or

(C) presenting or receiving an award at the event;

(viii) a plaque, commendation, or award presented in public and having a cash value not exceeding \$50;

(ix) admission to or attendance at an event, the primary purpose of which is:

(A) to solicit contributions reportable under:

(I) Title 20A, Chapter 11, Campaign and Financial Reporting Requirements; or

(II) 2 U.S.C. Sec. 434; or

(B) charitable solicitation, as defined in Section 13-22-2;

(x) travel to, lodging at, food or beverage served at, and admission to an approved meeting or activity;

(xi) sponsorship of an official event or official entertainment of an approved meeting or activity;

(xii) notwithstanding Subsection ~~[(6)]~~ (7)(a)(vii), admission to or attendance at an event:

(A) that is sponsored by a governmental entity; or

(B) that is widely attended and related to a governmental duty of a public official; or

(xiii) travel to a widely attended event related to a governmental duty of a public official if that travel results in a financial savings to the state.

~~[(7)]~~ (8) (a) "Government officer" means:

(i) an individual elected to a position in state or local government, when acting within the government officer's official capacity; or

(ii) an individual appointed to or employed in a full-time position by state or local government, when acting within the scope of the individual's employment.

(b) "Government officer" does not mean a member of the legislative branch of state government.

~~[(8)]~~ (9) "Immediate family" means:

(a) a spouse;

(b) a child residing in the household; or

(c) an individual claimed as a dependent for tax purposes.

~~[(9)]~~ (10) "Legislative action" means:

(a) a bill, resolution, amendment, nomination, veto override, or other matter pending or proposed in either house of the Legislature or its committees or requested by a legislator; and

(b) the action of the governor in approving or vetoing legislation.

~~[(40)]~~ (11) “Lobbying” means communicating with a public official for the purpose of influencing the passage, defeat, amendment, or postponement of legislative or executive action.

~~[(41)]~~ (12) (a) “Lobbyist” means:

(i) an individual who is employed by a principal; or

(ii) an individual who contracts for economic consideration, other than reimbursement for reasonable travel expenses, with a principal to lobby a public official.

(b) “Lobbyist” does not include:

(i) a government officer;

(ii) a member or employee of the legislative branch of state government;

(iii) a person while appearing at, or providing written comments to, a hearing conducted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act or Title 63G, Chapter 4, Administrative Procedures Act;

(iv) a person participating on or appearing before an advisory or study task force, commission, board, or committee, constituted by the Legislature or any agency or department of state government, except legislative standing, appropriation, or interim committees;

(v) a representative of a political party;

(vi) an individual representing a bona fide church solely for the purpose of protecting the right to practice the religious doctrines of the church, unless the individual or church makes an expenditure that confers a benefit on a public official;

(vii) a newspaper, television station or network, radio station or network, periodical of general circulation, or book publisher for the purpose of publishing news items, editorials, other comments, or paid advertisements that directly or indirectly urge legislative or executive action; or

(viii) an individual who appears on the individual’s own behalf before a committee of the Legislature or an agency of the executive branch of state government solely for the purpose of testifying in support of or in opposition to legislative or executive action.

~~[(42)]~~ (13) “Lobbyist group” means two or more lobbyists, principals, government officers, or any combination of lobbyists, principals, and officers who each contribute a portion of an expenditure made to benefit a public official or member of the public official’s immediate family.

~~[(43)]~~ (14) “Multi-client lobbyist” means a single lobbyist, principal, or government officer who represents two or more clients and divides the aggregate daily expenditure made to benefit a public official or member of the public official’s

immediate family between two or more of those clients.

~~[(44)]~~ (15) “Principal” means a person that employs an individual to perform lobbying, either as an employee or as an independent contractor.

~~[(45)]~~ (16) “Public official” means:

(a) (i) a member of the Legislature;

(ii) an individual elected to a position in the executive branch of state government; or

(iii) an individual appointed to or employed in a position in the executive or legislative branch of state government if that individual:

(A) occupies a policymaking position or makes purchasing or contracting decisions;

(B) drafts legislation or makes rules;

(C) determines rates or fees; or

(D) makes adjudicative decisions; or

(b) an immediate family member of a person described in Subsection ~~[(45)]~~ (16)(a).

~~[(46)]~~ (17) “Public official type” means a notation to identify whether a public official is:

(a) (i) a member of the Legislature;

(ii) an individual elected to a position in the executive branch of state government;

(iii) an individual appointed to or employed in a position in the legislative branch of state government who meets the definition of public official under Subsection ~~[(45)]~~ (16)(a)(iii); or

(iv) an individual appointed to or employed in a position in the executive branch of state government who meets the definition of public official under Subsection ~~[(45)]~~ (16)(a)(iii); or

(b) an immediate family member of a person described in Subsection ~~[(45)(b)]~~ (16)(a).

~~[(47)]~~ (18) “Quarterly reporting period” means the three-month period covered by each financial report required under Subsection 36-11-201(2)(a).

~~[(48)]~~ (19) “Related person” means a person, agent, or employee who knowingly and intentionally assists a lobbyist, principal, or government officer in lobbying.

~~[(49)]~~ (20) “Relative” means a spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or spouse of any of these individuals.

Section 8. Section 36-11-103 is amended to read:

36-11-103. Licensing requirements.

(1) (a) Before engaging in any lobbying, a lobbyist shall obtain a license from the lieutenant governor by completing the form required by this section.

(b) The lieutenant governor shall issue licenses to qualified lobbyists.

(c) The lieutenant governor shall prepare a Lobbyist License Application Form that includes:

(i) a place for the lobbyist's name and business address;

(ii) a place for the following information for each principal for whom the lobbyist works or is hired as an independent contractor:

(A) the principal's name;

(B) the principal's business address;

(C) the name of each public official that the principal employs and the nature of the employment with the public official; and

(D) the general purposes, interests, and nature of the principal;

(iii) a place for the name and address of the person who paid or will pay the lobbyist's registration fee, if the fee is not paid by the lobbyist;

(iv) a place for the lobbyist to disclose:

(A) any elected or appointed position that the lobbyist holds in state or local government, if any; and

(B) the name of each public official that the lobbyist employs and the nature of the employment with the public official, if any;

(v) a place for the lobbyist to disclose the types of expenditures for which the lobbyist will be reimbursed; and

(vi) a certification to be signed by the lobbyist that certifies that the information provided in the form is true, accurate, and complete to the best of the lobbyist's knowledge and belief.

(2) Each lobbyist who obtains a license under this section shall update the licensure information when the lobbyist accepts employment for lobbying by a new client.

(3) (a) Except as provided in Subsection (4), the lieutenant governor shall grant a lobbying license to an applicant who:

(i) files an application with the lieutenant governor that contains the information required by this section; and

(ii) pays a ~~[\$100]~~ \$110 filing fee.

(b) A license entitles a person to serve as a lobbyist on behalf of one or more principals and expires on December 31 of each even-numbered year.

(4) (a) The lieutenant governor may disapprove an application for a lobbying license:

(i) if the applicant has been convicted of violating Section 76-8-103, 76-8-107, 76-8-108, or 76-8-303 within five years before the date of the lobbying license application;

(ii) if the applicant has been convicted of violating Section 76-8-104 or 76-8-304 within one year before the date of the lobbying license application;

(iii) for the term of any suspension imposed under Section 36-11-401;

(iv) if, within one year before the date of the lobbying license application, the applicant has been found to have willingly and knowingly:

(A) violated this section or Section 36-11-201, 36-11-301, 36-11-302, 36-11-303, 36-11-304, 36-11-305, or 36-11-403; or

(B) filed a document required by this chapter that the lobbyist knew contained materially false information or omitted material information; or

(v) if the applicant is prohibited from becoming a lobbyist under Title 67, Chapter 24, Lobbying Restrictions Act.

(b) An applicant may appeal the disapproval in accordance with the procedures established by the lieutenant governor under this chapter and Title 63G, Chapter 4, Administrative Procedures Act.

(5) The lieutenant governor shall:

(a) deposit \$100 of each license ~~[fees in]~~ fee into the General Fund; and

(b) deposit \$10 of each license fee into the General Fund as a dedicated credit to be used by the lieutenant governor to pay the cost of administering the license program described in this section.

(6) A principal need not obtain a license under this section, but if the principal makes expenditures to benefit a public official without using a lobbyist as an agent to confer those benefits, the principal shall disclose those expenditures as required by Section 36-11-201.

(7) Government officers need not obtain a license under this section, but shall disclose any expenditures made to benefit public officials as required by Section 36-11-201.

(8) Surrender, cancellation, or expiration of a lobbyist license does not absolve the lobbyist of the duty to file the financial reports if the lobbyist is otherwise required to file the reports by Section 36-11-201.

Section 9. Section 36-11-305.5 is enacted to read:

36-11-305.5. Lobbyist requirements.

(1) The lieutenant governor shall issue to each lobbyist a name tag that includes:

(a) the word "Lobbyist" in at least 18-point type; and

(b) the first and last name of the lobbyist, in at least 18-point type.

(2) Beginning on August 1, 2014, a lobbyist may not lobby a public official while the lobbyist is at the capitol hill complex unless the lobbyist is wearing the name tag described in Subsection (1) in plain view.

(3) A lobbyist shall, at the beginning of making a communication to a public official that constitutes lobbying, inform the public official of the identity of the principal on whose behalf the lobbyist is lobbying.

Section 10. Section 36-11-401 is amended to read:

36-11-401. Penalties.

(1) Any person who ~~[willfully and knowingly]~~ intentionally violates Section 36-11-103, 36-11-201, 36-11-301, 36-11-302, 36-11-303, 36-11-304, 36-11-305, 36-11-308, or 36-11-403, is subject to the following penalties:

(a) an administrative penalty of up to \$1,000 for each violation; and

(b) for each subsequent violation of that same section within 24 months, either:

(i) an administrative penalty of up to \$5,000; or

(ii) suspension of the violator's lobbying license for up to one year, if the person is a lobbyist.

(2) Any person who ~~[willfully and knowingly]~~ intentionally fails to file a financial report required by this chapter, omits material information from a license application form or financial report, or files false information on a license application form or financial report, is subject to the following penalties:

(a) an administrative penalty of up to \$1,000 for each violation; or

(b) suspension of the violator's lobbying license for up to one year, if the person is a lobbyist.

(3) Any person who ~~[willfully and knowingly]~~ intentionally fails to file a financial report required by this chapter on the date that it is due shall, in addition to the penalties, if any, imposed under Subsection (1) or (2), pay a penalty of up to \$50 per day for each day that the report is late.

(4) (a) When a lobbyist is convicted of violating Section 76-8-103, 76-8-107, 76-8-108, or 76-8-303, the lieutenant governor shall suspend the lobbyist's license for up to five years from the date of the conviction.

(b) When a lobbyist is convicted of violating Section 76-8-104 or 76-8-304, the lieutenant governor shall suspend a lobbyist's license for up to one year from the date of conviction.

(5) (a) Any person who ~~[willfully and knowingly]~~ intentionally violates Section 36-11-301, 36-11-302, or 36-11-303 is guilty of a class B misdemeanor.

(b) The lieutenant governor shall suspend the lobbyist license of any person convicted under any of these sections for up to one year.

(c) The suspension shall be in addition to any administrative penalties imposed by the lieutenant governor under this section.

(d) Any person with evidence of a possible violation of this chapter may submit that evidence to the lieutenant governor for investigation and resolution.

(6) A lobbyist who does not complete the training required by Section 36-11-307 is subject to the following penalties:

(a) an administrative penalty of up to \$1,000 for each failure to complete the training required by Section 36-11-307; and

(b) for two or more failures to complete the training required by Section 36-11-307 within 24 months, suspension of the lobbyist's lobbying license.

(7) Nothing in this chapter creates a third-party cause of action or appeal rights.

Section 11. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 336**H. B. 250**

Passed February 24, 2014

Approved April 1, 2014

Effective May 13, 2014

LOCAL SCHOOL BOARD AMENDMENTS

Chief Sponsor: Jack R. Draxler

Senate Sponsor: Stuart C. Reid

LONG TITLE**General Description:**

This bill amends provisions related to local school boards.

Highlighted Provisions:

This bill:

- ▶ defines the term “body corporate”;
- ▶ provides that an elected member of a local school board serves and represents the residents of the local school board member’s district; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-3-401, as enacted by Laws of Utah 1988, Chapter 2

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53A-3-401 is amended to read:

53A-3-401. Boards of education are bodies corporate -- Seal -- Authority to sue -- Conveyance of property -- Duty to residents of the local school board member’s district.

(1) As used in this section, “body corporate” means a public corporation and legal subdivision of the state, vested with the powers and duties of a government entity as specified in this chapter.

(2) The board of education of a school district is a body corporate under the name of the “Board of Education of School District” (inserting the proper name), and shall have an official seal conformable to its name.

(3) The seal is used by its business administrator in the authentication of all required matters.

(4) A local school board may sue and be sued, and may take, hold, lease, sell, and convey real and personal property as the interests of the schools may require.

(5) Notwithstanding a local school board’s status as a body corporate, an elected member of a local school board serves and represents the residents of the local school board member’s district, and that service and representation may not be restricted or impaired by the local school board member’s

membership on, or obligations to, the local school board.

CHAPTER 337**H. B. 260**

Passed February 27, 2014

Approved April 1, 2014

Effective May 13, 2014

**LOCAL SCHOOL BOARD
CANDIDATE REPORTING AMENDMENTS**Chief Sponsor: Kraig Powell
Senate Sponsor: Kevin T. Van Tassell**LONG TITLE****General Description:**

This bill amends provisions of the Election Code and Title 17, Chapter 16, County Officers, in relation to financial reporting requirements for a local school board candidate.

Highlighted Provisions:

This bill:

- ▶ removes provisions that require a local school board office candidate to comply with the financial reporting requirements applicable to a state school board office candidate;
- ▶ requires a local school board office candidate to comply with the financial reporting requirements applicable to a county office candidate in the county where the local school board office candidate resides; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 17-16-6.5, as last amended by Laws of Utah 2012, Chapter 230
- 20A-11-101, as last amended by Laws of Utah 2013, Chapters 86, 170, 318, and 420
- 20A-11-1301, as last amended by Laws of Utah 2012, Chapter 230
- 20A-11-1303, as last amended by Laws of Utah 2013, Chapter 420
- 20A-11-1305, as last amended by Laws of Utah 2013, Chapters 252, 317, and 420

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-16-6.5 is amended to read:**17-16-6.5. Campaign financial disclosure in county elections.**

(1) (a) A county shall adopt an ordinance establishing campaign finance disclosure requirements for:

- (i) candidates for county office[-]; and
- (ii) candidates for local school board office who reside in that county.

(b) The ordinance required by Subsection (1)(a) shall include:

(i) a requirement that each candidate for county office or local school board office report the candidate's itemized and total campaign contributions and expenditures at least once within the two weeks before the election and at least once within two months after the election;

(ii) a definition of "contribution" and "expenditure" that requires reporting of nonmonetary contributions such as in-kind contributions and contributions of tangible things;

(iii) a requirement that the financial reports identify:

(A) for each contribution of more than \$50, the name of the donor of the contribution and the amount of the contribution; and

(B) for each expenditure, the name of the recipient and the amount of the expenditure;

(iv) a requirement that a candidate for county office or local school board office deposit a contribution in a separate campaign account in a financial institution; and

(v) a prohibition against a candidate for county office or local school board office depositing or mingling any contributions received into a personal or business account.

(c) (i) As used in this Subsection (1)(c), "account" means an account in a financial institution:

(A) that is not described in Subsection (1)(b)(iv); and

(B) into which or from which a person who, as a candidate for an office, other than a county office for which the person files a declaration of candidacy or federal office, or as a holder of an office, other than a county office for which the person files a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.

(ii) The ordinance required by Subsection (1)(a) shall include a requirement that a candidate for county office or local school board office include on a financial report filed in accordance with the ordinance a contribution deposited in or an expenditure made from an account:

(A) since the last financial report was filed; or

(B) that has not been reported under a statute or ordinance that governs the account.

(2) If any county fails to adopt a campaign finance disclosure ordinance described in Subsection (1), candidates for county office, other than community council office, and candidates for local school board office shall comply with the financial reporting requirements contained in Subsections (3) through (7).

(3) A candidate for elective office in a county or local school board office:

(a) shall deposit a contribution in a separate campaign account in a financial institution; and

(b) may not deposit or mingle any contributions received into a personal or business account.

(4) Each candidate for elective office in any county who is not required to submit a campaign financial statement to the lieutenant governor, and each candidate for local school board office, shall file a signed campaign financial statement with the county clerk:

(a) seven days before the date of the regular general election, reporting each contribution of more than \$50 and each expenditure as of 10 days before the date of the regular general election; and

(b) no later than 30 days after the date of the regular general election.

(5) (a) The statement filed seven days before the regular general election shall include:

(i) a list of each contribution of more than \$50 received by the candidate, and the name of the donor;

(ii) an aggregate total of all contributions of \$50 or less received by the candidate; and

(iii) a list of each expenditure for political purposes made during the campaign period, and the recipient of each expenditure.

(b) The statement filed 30 days after the regular general election shall include:

(i) a list of each contribution of more than \$50 received after the cutoff date for the statement filed seven days before the election, and the name of the donor;

(ii) an aggregate total of all contributions of \$50 or less received by the candidate after the cutoff date for the statement filed seven days before the election; and

(iii) a list of all expenditures for political purposes made by the candidate after the cutoff date for the statement filed seven days before the election, and the recipient of each expenditure.

(6) (a) As used in this Subsection (6), "account" means an account in a financial institution:

(i) that is not described in Subsection (3)(a); and

(ii) into which or from which a person who, as a candidate for an office, other than a county office for which the person filed a declaration of candidacy or federal office, or as a holder of an office, other than a county office for which the person filed a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.

(b) A county office candidate and a local school board office candidate shall include on any campaign financial statement filed in accordance with Subsection (4) or (5):

(i) a contribution deposited in an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account; or

(ii) an expenditure made from an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account.

(7) Candidates for elective office in any county, and candidates for local school board office, who are eliminated at a primary election shall file a signed campaign financial statement containing the information required by this section not later than 30 days after the primary election.

(8) Any person who fails to comply with this section is guilty of an infraction.

(9) (a) Counties may, by ordinance, enact requirements that:

~~(a)~~ (i) require greater disclosure of campaign contributions and expenditures; and

~~(b)~~ (ii) impose additional penalties.

(b) The requirements described in Subsection (9)(a) apply to a local school board office candidate who resides in that county.

(10) (a) If a candidate fails to file an interim report due before the election, the county clerk shall, after making a reasonable attempt to discover if the report was timely mailed, inform the appropriate election officials who:

(i) (A) shall, if practicable, remove the name of the candidate by blacking out the candidate's name before the ballots are delivered to voters; or

(B) shall, if removing the candidate's name from the ballot is not practicable, inform the voters by any practicable method that the candidate has been disqualified and that votes cast for the candidate will not be counted; and

(ii) may not count any votes for that candidate.

(b) Notwithstanding Subsection (10)(a), a candidate is not disqualified if:

(i) the candidate files the reports required by this section;

(ii) those reports are completed, detailing accurately and completely the information required by this section except for inadvertent omissions or insignificant errors or inaccuracies; and

(iii) those omissions, errors, or inaccuracies are corrected in an amended report or in the next scheduled report.

(c) A report is considered filed if:

(i) it is received in the county clerk's office no later than 5 p.m. on the date that it is due;

(ii) it is received in the county clerk's office with a United States Postal Service postmark three days or more before the date that the report was due; or

(iii) the candidate has proof that the report was mailed, with appropriate postage and addressing, three days before the report was due.

(11) (a) Any private party in interest may bring a civil action in district court to enforce the provisions

of this section or any ordinance adopted under this section.

(b) In a civil action filed under Subsection (11)(a), the court shall award costs and attorney's fees to the prevailing party.

(12) Notwithstanding any provision of Title 63G, Chapter 2, Government Records Access and Management Act, the county clerk shall:

(a) make each campaign finance statement filed by a candidate available for public inspection and copying no later than one business day after the statement is filed; and

(b) make the campaign finance statement filed by a candidate available for public inspection by:

(i) (A) posting an electronic copy or the contents of the statement on the county's website no later than seven business days after the statement is filed; and

(B) verifying that the address of the county's website has been provided to the lieutenant governor in order to meet the requirements of Subsection 20A-11-103(5); or

(ii) submitting a copy of the statement to the lieutenant governor for posting on the website established by the lieutenant governor under Section 20A-11-103 no later than two business days after the statement is filed.

Section 2. Section 20A-11-101 is amended to read:

20A-11-101. Definitions.

As used in this chapter:

(1) "Address" means the number and street where an individual resides or where a reporting entity has its principal office.

(2) "Ballot proposition" includes initiatives, referenda, proposed constitutional amendments, and any other ballot propositions submitted to the voters that are authorized by the Utah Code Annotated 1953.

(3) "Candidate" means any person who:

(a) files a declaration of candidacy for a public office; or

(b) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination or election to a public office.

(4) "Chief election officer" means:

(a) the lieutenant governor for state office candidates, legislative office candidates, officeholders, political parties, political action committees, corporations, political issues committees, state school board candidates, judges, and labor organizations, as defined in Section 20A-11-1501; and

(b) the county clerk for local school board candidates.

(5) (a) "Contribution" means any of the following when done for political purposes:

(i) a gift, subscription, donation, loan, advance, or deposit of money or anything of value given to the filing entity;

(ii) an express, legally enforceable contract, promise, or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to the filing entity;

(iii) any transfer of funds from another reporting entity to the filing entity;

(iv) compensation paid by any person or reporting entity other than the filing entity for personal services provided without charge to the filing entity;

(v) remuneration from:

(A) any organization or its directly affiliated organization that has a registered lobbyist; or

(B) any agency or subdivision of the state, including school districts; and

(vi) goods or services provided to or for the benefit of the filing entity at less than fair market value.

(b) "Contribution" does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of the filing entity;

(ii) money lent to the filing entity by a financial institution in the ordinary course of business; or

(iii) goods or services provided for the benefit of a candidate or political party at less than fair market value that are not authorized by or coordinated with the candidate or political party.

(6) "Coordinated with" means that goods or services provided for the benefit of a candidate or political party are provided:

(a) with the candidate's or political party's prior knowledge, if the candidate or political party does not object;

(b) by agreement with the candidate or political party;

(c) in coordination with the candidate or political party; or

(d) using official logos, slogans, and similar elements belonging to a candidate or political party.

(7) (a) "Corporation" means a domestic or foreign, profit or nonprofit, business organization that is registered as a corporation or is authorized to do business in a state and makes any expenditure from corporate funds for:

(i) the purpose of expressly advocating for political purposes; or

(ii) the purpose of expressly advocating the approval or the defeat of any ballot proposition.

(b) "Corporation" does not mean:

(i) a business organization's political action committee or political issues committee; or

(ii) a business entity organized as a partnership or a sole proprietorship.

(8) "County political party" means, for each registered political party, all of the persons within a single county who, under definitions established by the political party, are members of the registered political party.

(9) "County political party officer" means a person whose name is required to be submitted by a county political party to the lieutenant governor in accordance with Section 20A-8-402.

(10) "Detailed listing" means:

(a) for each contribution or public service assistance:

(i) the name and address of the individual or source making the contribution or public service assistance;

(ii) the amount or value of the contribution or public service assistance; and

(iii) the date the contribution or public service assistance was made; and

(b) for each expenditure:

(i) the amount of the expenditure;

(ii) the person or entity to whom it was disbursed;

(iii) the specific purpose, item, or service acquired by the expenditure; and

(iv) the date the expenditure was made.

(11) (a) "Donor" means a person that gives money, including a fee, due, or assessment for membership in the corporation, to a corporation without receiving full and adequate consideration for the money.

(b) "Donor" does not include a person that signs a statement that the corporation may not use the money for an expenditure or political issues expenditure.

(12) "Election" means each:

(a) regular general election;

(b) regular primary election; and

(c) special election at which candidates are eliminated and selected.

(13) "Electioneering communication" means a communication that:

(a) has at least a value of \$10,000;

(b) clearly identifies a candidate or judge; and

(c) is disseminated through the Internet, newspaper, magazine, outdoor advertising facility, direct mailing, broadcast, cable, or satellite provider within 45 days of the clearly identified candidate's or judge's election date.

(14) (a) "Expenditure" means:

(i) any disbursement from contributions, receipts, or from the separate bank account required by this chapter;

(ii) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value made for political purposes;

(iii) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value for political purposes;

(iv) compensation paid by a filing entity for personal services rendered by a person without charge to a reporting entity;

(v) a transfer of funds between the filing entity and a candidate's personal campaign committee; or

(vi) goods or services provided by the filing entity to or for the benefit of another reporting entity for political purposes at less than fair market value.

(b) "Expenditure" does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a reporting entity;

(ii) money lent to a reporting entity by a financial institution in the ordinary course of business; or

(iii) anything listed in Subsection (14)(a) that is given by a reporting entity to candidates for office or officeholders in states other than Utah.

(15) "Federal office" means the office of President of the United States, United States Senator, or United States Representative.

(16) "Filing entity" means the reporting entity that is required to file a financial statement required by this chapter or Chapter 12, Part 2, Judicial Retention Elections.

(17) "Financial statement" includes any summary report, interim report, verified financial statement, or other statement disclosing contributions, expenditures, receipts, donations, or disbursements that is required by this chapter or Chapter 12, Part 2, Judicial Retention Elections.

(18) "Governing board" means the individual or group of individuals that determine the candidates and committees that will receive expenditures from a political action committee, political party, or corporation.

(19) "Incorporation" means the process established by Title 10, Chapter 2, Part 1, Incorporation, by which a geographical area becomes legally recognized as a city or town.

(20) "Incorporation election" means the election authorized by Section 10-2-111.

(21) "Incorporation petition" means a petition authorized by Section 10-2-109.

(22) "Individual" means a natural person.

(23) "Interim report" means a report identifying the contributions received and expenditures made since the last report.

(24) "Legislative office" means the office of state senator, state representative, speaker of the House of Representatives, president of the Senate, and the leader, whip, and assistant whip of any party caucus in either house of the Legislature.

(25) "Legislative office candidate" means a person who:

(a) files a declaration of candidacy for the office of state senator or state representative;

(b) declares oneself to be a candidate for, or actively campaigns for, the position of speaker of the House of Representatives, president of the Senate, or the leader, whip, and assistant whip of any party caucus in either house of the Legislature; or

(c) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination, election, or appointment to a legislative office.

(26) "Major political party" means either of the two registered political parties that have the greatest number of members elected to the two houses of the Legislature.

(27) "Officeholder" means a person who holds a public office.

(28) "Party committee" means any committee organized by or authorized by the governing board of a registered political party.

(29) "Person" means both natural and legal persons, including individuals, business organizations, personal campaign committees, party committees, political action committees, political issues committees, and labor organizations, as defined in Section 20A-11-1501.

(30) "Personal campaign committee" means the committee appointed by a candidate to act for the candidate as provided in this chapter.

(31) "Personal use expenditure" has the same meaning as provided under Section 20A-11-104.

(32) (a) "Political action committee" means an entity, or any group of individuals or entities within or outside this state, a major purpose of which is to:

(i) solicit or receive contributions from any other person, group, or entity for political purposes; or

(ii) make expenditures to expressly advocate for any person to refrain from voting or to vote for or against any candidate or person seeking election to a municipal or county office.

(b) "Political action committee" includes groups affiliated with a registered political party but not authorized or organized by the governing board of the registered political party that receive contributions or makes expenditures for political purposes.

(c) "Political action committee" does not mean:

(i) a party committee;

(ii) any entity that provides goods or services to a candidate or committee in the regular course of its business at the same price that would be provided to the general public;

(iii) an individual;

(iv) individuals who are related and who make contributions from a joint checking account;

(v) a corporation, except a corporation a major purpose of which is to act as a political action committee; or

(vi) a personal campaign committee.

(33) "Political convention" means a county or state political convention held by a registered political party to select candidates.

(34) (a) "Political issues committee" means an entity, or any group of individuals or entities within or outside this state, a major purpose of which is to:

(i) solicit or receive donations from any other person, group, or entity to assist in placing a ballot proposition on the ballot, assist in keeping a ballot proposition off the ballot, or to advocate that a voter refrain from voting or vote for or vote against any ballot proposition;

(ii) make expenditures to expressly advocate for any person to sign or refuse to sign a ballot proposition or incorporation petition or refrain from voting, vote for, or vote against any proposed ballot proposition or an incorporation in an incorporation election; or

(iii) make expenditures to assist in qualifying or placing a ballot proposition on the ballot or to assist in keeping a ballot proposition off the ballot.

(b) "Political issues committee" does not mean:

(i) a registered political party or a party committee;

(ii) any entity that provides goods or services to an individual or committee in the regular course of its business at the same price that would be provided to the general public;

(iii) an individual;

(iv) individuals who are related and who make contributions from a joint checking account; or

(v) a corporation, except a corporation a major purpose of which is to act as a political issues committee.

(35) (a) "Political issues contribution" means any of the following:

(i) a gift, subscription, unpaid or partially unpaid loan, advance, or deposit of money or anything of value given to a political issues committee;

(ii) an express, legally enforceable contract, promise, or agreement to make a political issues donation to influence the approval or defeat of any ballot proposition;

(iii) any transfer of funds received by a political issues committee from a reporting entity;

(iv) compensation paid by another reporting entity for personal services rendered without charge to a political issues committee; and

(v) goods or services provided to or for the benefit of a political issues committee at less than fair market value.

(b) "Political issues contribution" does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political issues committee; or

(ii) money lent to a political issues committee by a financial institution in the ordinary course of business.

(36) (a) "Political issues expenditure" means any of the following:

(i) any payment from political issues contributions made for the purpose of influencing the approval or the defeat of:

(A) a ballot proposition; or

(B) an incorporation petition or incorporation election;

(ii) a purchase, payment, distribution, loan, advance, deposit, or gift of money made for the express purpose of influencing the approval or the defeat of:

(A) a ballot proposition; or

(B) an incorporation petition or incorporation election;

(iii) an express, legally enforceable contract, promise, or agreement to make any political issues expenditure;

(iv) compensation paid by a reporting entity for personal services rendered by a person without charge to a political issues committee; or

(v) goods or services provided to or for the benefit of another reporting entity at less than fair market value.

(b) "Political issues expenditure" does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political issues committee; or

(ii) money lent to a political issues committee by a financial institution in the ordinary course of business.

(37) "Political purposes" means an act done with the intent or in a way to influence or tend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any candidate or a person seeking a municipal or county office at any caucus, political convention, or election.

(38) (a) "Poll" means the survey of a person regarding the person's opinion or knowledge of an individual who has filed a declaration of candidacy for public office, or of a ballot proposition that has legally qualified for placement on the ballot, which is conducted in person or by telephone, facsimile, Internet, postal mail, or email.

(b) "Poll" does not include:

(i) a ballot; or

(ii) an interview of a focus group that is conducted, in person, by one individual, if:

(A) the focus group consists of more than three, and less than thirteen, individuals; and

(B) all individuals in the focus group are present during the interview.

(39) "Primary election" means any regular primary election held under the election laws.

(40) "Public office" means the office of governor, lieutenant governor, state auditor, state treasurer, attorney general, state ~~or local~~ school board member, state senator, state representative, speaker of the House of Representatives, president of the Senate, and the leader, whip, and assistant whip of any party caucus in either house of the Legislature.

(41) (a) "Public service assistance" means the following when given or provided to an officeholder to defray the costs of functioning in a public office or aid the officeholder to communicate with the officeholder's constituents:

(i) a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to an officeholder; or

(ii) goods or services provided at less than fair market value to or for the benefit of the officeholder.

(b) "Public service assistance" does not include:

(i) anything provided by the state;

(ii) services provided without compensation by individuals volunteering a portion or all of their time on behalf of an officeholder;

(iii) money lent to an officeholder by a financial institution in the ordinary course of business;

(iv) news coverage or any publication by the news media; or

(v) any article, story, or other coverage as part of any regular publication of any organization unless substantially all the publication is devoted to information about the officeholder.

(42) "Publicly identified class of individuals" means a group of 50 or more individuals sharing a common occupation, interest, or association that contribute to a political action committee or political issues committee and whose names can be obtained by contacting the political action committee or political issues committee upon whose financial statement the individuals are listed.

(43) "Receipts" means contributions and public service assistance.

(44) "Registered lobbyist" means a person registered under Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act.

(45) "Registered political action committee" means any political action committee that is required by this chapter to file a statement of organization with the Office of the Lieutenant Governor.

(46) "Registered political issues committee" means any political issues committee that is required by this chapter to file a statement of organization with the Office of the Lieutenant Governor.

(47) "Registered political party" means an organization of voters that:

(a) participated in the last regular general election and polled a total vote equal to 2% or more of the total votes cast for all candidates for the United States House of Representatives for any of its candidates for any office; or

(b) has complied with the petition and organizing procedures of Chapter 8, Political Party Formation and Procedures.

(48) (a) "Remuneration" means a payment:

(i) made to a legislator for the period the Legislature is in session; and

(ii) that is approximately equivalent to an amount a legislator would have earned during the period the Legislature is in session in the legislator's ordinary course of business.

(b) "Remuneration" does not mean anything of economic value given to a legislator by:

(i) the legislator's primary employer in the ordinary course of business; or

(ii) a person or entity in the ordinary course of business:

(A) because of the legislator's ownership interest in the entity; or

(B) for services rendered by the legislator on behalf of the person or entity.

(49) "Reporting entity" means a candidate, a candidate's personal campaign committee, a judge, a judge's personal campaign committee, an officeholder, a party committee, a political action committee, a political issues committee, a corporation, or a labor organization, as defined in Section 20A-11-1501.

(50) "School board office" means the office of state school board ~~[or local school board]~~.

(51) (a) "Source" means the person or entity that is the legal owner of the tangible or intangible asset that comprises the contribution.

(b) "Source" means, for political action committees and corporations, the political action committee and the corporation as entities, not the contributors to the political action committee or the owners or shareholders of the corporation.

(52) "State office" means the offices of governor, lieutenant governor, attorney general, state auditor, and state treasurer.

(53) "State office candidate" means a person who:

(a) files a declaration of candidacy for a state office; or

(b) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination, election, or appointment to a state office.

(54) "Summary report" means the year end report containing the summary of a reporting entity's contributions and expenditures.

(55) "Supervisory board" means the individual or group of individuals that allocate expenditures from a political issues committee.

Section 3. Section 20A-11-1301 is amended to read:

20A-11-1301. School board office candidate -- Campaign finance requirements -- Candidate as a political action committee officer -- No personal use -- Report contributions within 30 days -- Report other accounts.

(1) (a) (i) Each school board office candidate shall deposit each contribution and public service assistance received in one or more separate accounts in a financial institution that are dedicated only to that purpose.

(ii) A school board office candidate may:

(A) receive a contribution or public service assistance from a political action committee registered under Section 20A-11-601; and

(B) be designated by a political action committee as an officer who has primary decision-making authority as described in Section 20A-11-601.

(b) A school board office candidate may not use money deposited in an account described in Subsection (1)(a)(i) for:

(i) a personal use expenditure; or

(ii) an expenditure prohibited by law.

(2) A school board office candidate may not deposit or mingle any contributions or public service assistance received into a personal or business account.

(3) A school board office candidate may not make any political expenditures prohibited by law.

(4) If a person who is no longer a school board candidate chooses not to expend the money remaining in a campaign account, the person shall continue to file the year-end summary report required by Section 20A-11-1302 until the statement of dissolution and final summary report required by Section 20A-11-1304 are filed with ~~the~~ ~~lieutenant governor~~ ~~[in the case of a state school board candidate; and]~~.

~~the county clerk, in the case of a local school board candidate.]~~

(5) (a) Except as provided in Subsection (5)(b) and Section 20A-11-402, a person who is no longer a school board candidate may not expend or transfer the money in a campaign account in a manner that would cause the former school board candidate to recognize the money as taxable income under federal tax law.

(b) A person who is no longer a school board candidate may transfer the money in a campaign account in a manner that would cause the former school board candidate to recognize the money as taxable income under federal tax law if the transfer is made to a campaign account for federal office.

(6) (a) As used in this Subsection (6) and Section 20A-11-1303, "received" means:

(i) for a cash contribution, that the cash is given to a school board office candidate or a member of the candidate's personal campaign committee;

(ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and

(iii) for any other type of contribution, that any portion of the contribution's benefit inures to the school board office candidate.

(b) Each school board office candidate shall report to the chief election officer each contribution and public service assistance within 30 days after the contribution or public service assistance is received.

(7) (a) As used in this Subsection (7), "account" means an account in a financial institution:

(i) that is not described in Subsection (1)(a)(i); and

(ii) into which or from which a person who, as a candidate for an office, other than a school board office for which the person files a declaration of candidacy or federal office, or as a holder of an office, other than a school board office for which the person files a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.

(b) A school board office candidate shall include on any financial statement filed in accordance with this part:

(i) a contribution deposited in an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account; or

(ii) an expenditure made from an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account.

Section 4. Section 20A-11-1303 is amended to read:

20A-11-1303. School board office candidate and school board office holder -- Financial reporting requirements -- Interim reports.

(1) (a) As used in this Subsection (1), "campaign account" means a separate campaign account required under Subsection 20A-11-1301(1)(a)(i).

(b) Each school board office candidate shall file an interim report at the following times in any year in which the candidate has filed a declaration of candidacy for a public office:

(i) May 15~~], for a state school board office candidate];~~

(ii) seven days before the regular primary election date;

(iii) August 31; and

(iv) seven days before the regular general election date.

(c) Each [state] school board office holder who has a campaign account that has not been dissolved under Section 20A-11-1304 shall, in an even year, file an interim report at the following times, regardless of whether an election for the [state] school board office holder's office is held that year:

(i) May 15;

(ii) seven days before the regular primary election date for that year;

(iii) August 31; and

(iv) seven days before the regular general election date.

(2) Each interim report shall include the following information:

(a) the net balance of the last summary report, if any;

(b) a single figure equal to the total amount of receipts reported on all prior interim reports, if any, during the calendar year in which the interim report is due;

(c) a single figure equal to the total amount of expenditures reported on all prior interim reports, if any, filed during the calendar year in which the interim report is due;

(d) a detailed listing of each contribution and public service assistance received since the last summary report that has not been reported in detail on a prior interim report;

(e) for each nonmonetary contribution:

(i) the fair market value of the contribution with that information provided by the contributor; and

(ii) a specific description of the contribution;

(f) a detailed listing of each expenditure made since the last summary report that has not been reported in detail on a prior interim report;

(g) for each nonmonetary expenditure, the fair market value of the expenditure;

(h) a net balance for the year consisting of the net balance from the last summary report, if any, plus all receipts since the last summary report minus all expenditures since the last summary report;

(i) a summary page in the form required by the lieutenant governor that identifies:

- (i) beginning balance;
- (ii) total contributions during the period since the last statement;
- (iii) total contributions to date;
- (iv) total expenditures during the period since the last statement; and
- (v) total expenditures to date; and
- (j) the name of a political action committee for which the school board office candidate or school board office holder is designated as an officer who has primary decision-making authority under Section 20A-11-601.

(3) (a) For all individual contributions or public service assistance of \$50 or less, a single aggregate figure may be reported without separate detailed listings.

(b) Two or more contributions from the same source that have an aggregate total of more than \$50 may not be reported in the aggregate, but shall be reported separately.

(4) (a) In preparing each interim report, all receipts and expenditures shall be reported as of five days before the required filing date of the report.

(b) Any negotiable instrument or check received by a school board office candidate or school board office holder more than five days before the required filing date of a report required by this section shall be included in the interim report.

Section 5. Section 20A-11-1305 is amended to read:

20A-11-1305. School board office candidate -- Failure to file statement -- Penalties.

(1) (a) A school board office candidate who fails to file a financial statement by the deadline is subject to a fine imposed in accordance with Section 20A-11-1005.

(b) If a school board office candidate fails to file an interim report due before the regular primary election, on August 31, or before the regular general election, the chief election officer shall, after making a reasonable attempt to discover if the report was timely filed, inform the county clerk and other appropriate election officials who:

(i) (A) shall, if practicable, remove the name of the candidate from the ballots before the ballots are delivered to voters; or

(B) shall, if removing the candidate's name from the ballot is not practicable, inform the voters by any practicable method that the candidate has been disqualified and that votes cast for the candidate will not be counted; and

(ii) may not count any votes for that candidate.

(c) Any school board office candidate who fails to file timely a financial statement required by Subsection 20A-11-1303(1)(b)(ii), (iii), or (iv) is disqualified.

(d) Notwithstanding Subsections (1)(b) and (1)(c), a school board office candidate is not disqualified and the chief election officer may not impose a fine if:

(i) the candidate timely files the reports required by this section in accordance with Section 20A-11-103;

(ii) those reports are completed, detailing accurately and completely the information required by this part except for inadvertent omissions or insignificant errors or inaccuracies; and

(iii) those omissions, errors, or inaccuracies described in Subsection (1)(d)(ii) are corrected in:

- (A) an amended report; or
- (B) the next scheduled report.

(2) (a) Within 30 days after a deadline for the filing of a summary report by a school board office candidate [~~for state school board~~], the lieutenant governor shall review each filed summary report to ensure that:

(i) each [state] school board candidate that is required to file a summary report has filed one; and

(ii) each summary report contains the information required by this part.

(b) If it appears that [any state] a school board candidate has failed to file the summary report required by law, if it appears that a filed summary report does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any summary report, the lieutenant governor shall, within five days of discovery of a violation or receipt of a written complaint, notify the [state] school board candidate of the violation or written complaint and direct the [state] school board candidate to file a summary report correcting the problem.

(c) (i) It is unlawful for [any state] a school board candidate to fail to file or amend a summary report within seven days after receiving notice from the lieutenant governor under this section.

(ii) Each [state] school board candidate who violates Subsection (2)(c)(i) is guilty of a class B misdemeanor.

(iii) The lieutenant governor shall report all violations of Subsection (2)(c)(i) to the attorney general.

(iv) In addition to the criminal penalty described in Subsection (2)(c)(ii), the lieutenant governor shall impose a civil fine of \$100 against a [state] school board candidate who violates Subsection (2)(c)(i).

~~(3) (a) Within 30 days after a deadline for the filing of a summary report, the county clerk shall review each filed summary report to ensure that:~~

~~[(i) each local school board candidate that is required to file a summary report has filed one; and]~~

~~[(ii) each summary report contains the information required by this part.]~~

~~[(b) If it appears that any local school board candidate has failed to file the summary report required by law, if it appears that a filed summary report does not conform to the law, or if the county clerk has received a written complaint alleging a violation of the law or the falsity of any summary report, the county clerk shall, within five days of discovery of a violation or receipt of a written complaint, notify the local school board candidate of the violation or written complaint and direct the local school board candidate to file a summary report correcting the problem.]~~

~~[(c) (i) It is unlawful for any local school board candidate to fail to file or amend a summary report within seven days after receiving notice from the county clerk under this section.]~~

~~[(ii) Each local school board candidate who violates Subsection (3)(c)(i) is guilty of a class B misdemeanor.]~~

~~[(iii) The county clerk shall report all violations of Subsection (3)(c)(i) to the district or county attorney.]~~

~~[(iv) In addition to the criminal penalty described in Subsection (3)(c)(ii), the lieutenant governor shall impose a civil fine of \$100 against a local school board candidate who violates Subsection (3)(c)(i).]~~

CHAPTER 338**H. B. 262**

Passed March 12, 2014

Approved April 1, 2014

Effective May 13, 2014

**LOCAL GOVERNING
BODY VOTING AMENDMENTS**Chief Sponsor: Kraig Powell
Senate Sponsor: Brian E. Shiozawa

LONG TITLE**General Description:**

This bill enacts language related to the minimum vote requirements of a local governing body.

Highlighted Provisions:

This bill:

- ▶ requires a majority vote of the total number of voting members of a municipal council to pass an ordinance or resolution or take other action.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

10-3-507, as last amended by Laws of Utah 2011, Chapter 176

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-3-507 is amended to read:**10-3-507. Minimum vote required.**

(1) The minimum number of yes votes required to pass any ordinance or resolution, or to take any action by the council, unless otherwise prescribed by law, is a majority of the voting members of the council, ~~[without considering any vacancy in the council]~~ regardless of absence or vacancy.

(2) (a) Any ordinance, resolution, or motion of the council having fewer favorable votes than required in this section is defeated and invalid.

(b) Notwithstanding Subsection (2)(a), a council meeting may be adjourned to a specific time by a majority vote of the council even though the majority vote is less than that required in this section.

(3) [A] If a vacancy exists in one or more council seats, a majority of the council members presently occupying council seats, regardless of number, may vote to fill [any vacancy in the council] the vacancy as provided under Section 20A-1-510.

CHAPTER 339**H. B. 274**

Passed February 24, 2014

Approved April 1, 2014

Effective May 13, 2014

**COMMITTEE SUBPOENA
POWERS AMENDMENT**

Chief Sponsor: Jim Bird

Senate Sponsor: Aaron Osmond

LONG TITLE**General Description:**

This bill allows chairs of the Executive Appropriations Committee and any appropriations subcommittee to issue a subpoena.

Highlighted Provisions:

This bill:

- ▶ adds chairs of the Executive Appropriations Committee and any appropriations subcommittee to the list of those who may issue legislative subpoenas.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

36-14-2, as last amended by Laws of Utah 2013, First Special Session, Chapter 1

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 36-14-2 is amended to read:**36-14-2. Issuers.**

(1) Any of the following persons is an issuer, who may issue legislative subpoenas by following the procedures set forth in this chapter:

- (a) the speaker of the House of Representatives;
- (b) the president of the Senate;
- (c) a chair of any legislative standing committee;
- (d) a chair of any legislative interim committee;
- (e) a chair of any special committee established by the Legislative Management Committee, the speaker of the House, or the president of the Senate;
- (f) a chair of any subcommittee of the Legislative Management Committee;
- (g) a chair of a special investigative committee;
- (h) a chair of a Senate or House Ethics Committee;
- (i) a chair of the Executive Appropriations Committee as created in JR3-2-401;
- (j) a chair of an appropriations subcommittee as created in JR3-2-302;

~~(k)~~ (k) the director of the Office of Legislative Research and General Counsel;

~~(l)~~ (l) the legislative auditor general;

~~(m)~~ (m) the director of the Office of Legislative Fiscal Analyst; and

~~(n)~~ (n) the legislative general counsel.

(2) A legislative body, a legislative office, an issuer, or a legislative staff member designated by an issuer may:

- (a) administer an oath or affirmation; and
- (b) take evidence, including testimony.

CHAPTER 340**H. B. 277**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

**MUSIC THERAPIST
LICENSURE AMENDMENTS**

Chief Sponsor: Rebecca P. Edwards

Senate Sponsor: John L. Valentine

LONG TITLE**General Description:**

This bill modifies Title 58, Occupations and Professions, by creating a state certification designation for music therapists.

Highlighted Provisions:

This bill:

- ▶ defines terms, including “state certification,” which means a designation granted by the division on behalf of the state to an individual who has met the requirements for state certification related to an occupation or profession;
- ▶ requires the Division of Occupational and Professional Licensing to grant state certification to a person who qualifies under this chapter to engage in the practice of music therapy as a state certified music therapist;
- ▶ provides the qualifications and renewal requirements for being a state certified music therapist, which include the applicant providing satisfactory documentation of being board certified in good standing with the Certification Board for Music Therapists or an equivalent board as determined by division rule;
- ▶ provides that this act may not be construed to prevent a person from lawfully engaging in the practice of music therapy without state certification; and
- ▶ provides what constitutes unlawful conduct related to the state certification of music therapy, including that it is unlawful for a person who is not a state certified music therapist to use the title state certified music therapist, or represent that the person is a state certified music therapist, in connection with the person’s name or business.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

58-84-101, Utah Code Annotated 1953

58-84-102, Utah Code Annotated 1953

58-84-103, Utah Code Annotated 1953

58-84-201, Utah Code Annotated 1953

58-84-202, Utah Code Annotated 1953

58-84-203, Utah Code Annotated 1953

58-84-301, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-84-101 is enacted to read:**CHAPTER 84. STATE CERTIFICATION OF
MUSIC THERAPISTS ACT****Part 1. General Provisions****58-84-101. Title.**

This chapter is known as the “State Certification of Music Therapists Act.”

Section 2. Section 58-84-102 is enacted to read:**58-84-102. Definitions.**

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) “Practice of music therapy” means the clinical and evidence-based use of music interventions to accomplish individualized goals within a therapeutic relationship.

(2) “State certification” means a designation granted by the division on behalf of the state to an individual who has met the requirements for state certification related to an occupation or profession described in this chapter.

(3) “State certified” means, when used in conjunction with an occupation or profession described in this chapter, a title that:

(a) may be used by a person who has met the state certification requirements related to that occupation or profession described in this chapter; and

(b) may not be used by a person who has not met the state certification requirements related to that occupation or profession described in this chapter.

Section 3. Section 58-84-103 is enacted to read:**58-84-103. Rulemaking.**

When exercising rulemaking authority under this chapter, the division shall comply with the requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 4. Section 58-84-201 is enacted to read:**Part 2. State Certification****58-84-201. Qualifications for state certification.**

(1) The division shall grant state certification to a person who qualifies under this chapter to engage in the practice of music therapy as a state certified music therapist.

(2) Each applicant for state certification as a state certified music therapist shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character; and

(d) provide satisfactory documentation that the applicant is board certified by, and in good standing with, the Certification Board for Music Therapists, or an equivalent board as determined by division rule.

Section 5. Section 58-84-202 is enacted to read:

58-84-202. Term of state certification.

(1) The division shall grant state certification under this chapter in accordance with a two-year renewal cycle established by division rule.

(2) At the time of renewal, an applicant for renewal shall provide satisfactory documentation that the applicant is board certified by, and in good standing with, the Certification Board for Music Therapists, or an equivalent board as determined by division rule.

(3) If the board certification of a state certified music therapist required for obtaining or renewing state certification under this chapter is suspended, placed on probation, revoked, or has expired for any reason, the person:

(a) shall suspend using the title state certified music therapist in connection with the person's name or business;

(b) shall suspend representing to others that the person is a state certified music therapist; and

(c) shall inform the division within two weeks of the suspension, probation, revocation, or expiration of the board certification.

(4) When the division learns that the board certification of a state certified music therapist required for obtaining or renewing state certification under this chapter is suspended, placed on probation, revoked, or has expired for any reason, that person's state certification shall be revoked and may not be reinstated unless the person meets the requirements and again applies for state certification as described in Section 58-84-201.

Section 6. Section 58-84-203 is enacted to read:

58-84-203. Limitation of state certification.

Nothing in this chapter shall be construed to prevent a person from lawfully engaging in the practice of music therapy without state certification.

Section 7. Section 58-84-301 is enacted to read:

Part 3. Unlawful Conduct - Penalties

58-84-301. Unlawful conduct.

(1) It is unlawful for a person who is not a state certified music therapist to use the title state certified music therapist, or represent that the person is a state certified music therapist, in connection with the person's name or business.

(2) It is unlawful for a state certified person whose board certification is suspended, placed on probation, revoked, or has expired for any reason to use the title state certified music therapist, or represent that the person is a state certified music therapist, in connection with the person's name or business.

CHAPTER 341**H. B. 283**

Passed March 3, 2014

Approved April 1, 2014

Effective May 13, 2014

**NONPROFIT ENTITY RECEIPT
OF GOVERNMENT MONEY**

Chief Sponsor: Ronda Rudd Menlove

Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill addresses nonprofit entity receipt of state money.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ addresses audits of nonprofit entities;
- ▶ requires written agreements for grants to nonprofit entities;
- ▶ enacts the Nonprofit Entity Receipt of State Money Act, including:
 - defining terms;
 - imposing requirements on a nonprofit entity's receipt of state money; and
 - authorizing a state entity to seek return of state money if the nonprofit entity fails to comply with the requirements; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

51-2a-102, as last amended by Laws of Utah 2007, Chapter 170

ENACTS:

51-2a-204, Utah Code Annotated 1953

63J-9-101, Utah Code Annotated 1953

63J-9-102, Utah Code Annotated 1953

63J-9-201, Utah Code Annotated 1953

63J-9-202, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 51-2a-102 is amended to read:**51-2a-102. Definitions.**

As used in this chapter:

(1) "Accounting reports" means an audit, a review, a compilation, or a fiscal report.

(2) "Audit" means an examination that:

(a) analyzes the accounts of all officers of the entity having responsibility for the care, management, collection, or disbursement of money belonging to it or appropriated by law or otherwise acquired for its use or benefit;

(b) is performed in accordance with generally accepted government auditing standards, or for nonprofit corporations described in Subsection (6)(f), in accordance with generally accepted auditing standards; and

(c) conforms to the uniform classification of accounts established or approved by the state auditor or any other classification of accounts established by any federal government agency.

(3) "Audit report" means:

(a) the financial statements presented in conformity with generally accepted accounting principles;

(b) the auditor's opinion on the financial statements;

(c) a statement by the auditor expressing positive assurance of compliance with state fiscal laws identified by the state auditor;

(d) a copy of the auditor's letter to management that identifies any material weakness in internal controls discovered by the auditor and other financial issues related to the expenditure of funds received from federal, state, or local governments to be considered by management; and

(e) management's response to the specific recommendations.

(4) "Compilation" means information presented in the form of financial statements presented in conformity with generally accepted accounting principles that are the representation of management without the accountant undertaking to express any assurances on the statements.

(5) "Fiscal report" means providing information detailing revenues and expenditures of all funds using forms provided by the state auditor.

(6) "Governing board" means:

(a) the governing board of each political subdivision;

(b) the governing board of each interlocal organization having the power to tax or to expend public funds;

(c) the governing board of any local mental health authority established under the authority of Title 62A, Chapter 15, Substance Abuse and Mental Health Act;

(d) the governing board of any substance abuse authority established under the authority of Title 62A, Chapter 15, Substance Abuse and Mental Health Act;

(e) the governing board of any area agency established under the authority of Title 62A, Chapter 3, Aging and Adult Services;

(f) the governing board of any nonprofit corporation that receives:

(i) at least 50% of its funds from federal, state, and local government entities through contracts; or

(ii) an amount from state entities that is equal to or exceeds the amount specified in Subsection

51-2a-201(1) that would require an audit to be made by a competent certified public accountant;

(g) the governing board of any other entity established by a local governmental unit that receives tax exempt status for bonding or taxing purposes; and

(h) in municipalities organized under an optional form of municipal government, the municipal legislative body.

(7) "Review" means performing inquiry and analytical procedures that provide the accountant with a reasonable basis for expressing limited assurance that there are no material modifications that should be made to the financial statements for them to be in conformity with generally accepted accounting principles.

(8) "State entity" means a department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

Section 2. Section 51-2a-204 is enacted to read:

51-2a-204. Grants to nonprofit corporations -- Reporting to the state auditor.

(1) A state entity that grants money to a nonprofit corporation shall enter into a written agreement with the nonprofit corporation that requires the nonprofit corporation to:

(a) disclose whether:

(i) it met or exceeded the requirements listed in Subsection 51-2a-102(6)(f) in the previous fiscal year of the nonprofit corporation; and

(ii) it anticipates meeting or exceeding the requirements listed in Subsection 51-2a-102(6)(f) in the fiscal year the grant is issued; and

(b) comply with the requirements of Title 63J, Chapter 9, Nonprofit Entity Receipt of State Money Act.

(2) If the nonprofit corporation discloses to the state entity that it meets or exceeds the requirements listed in Subsection 51-2a-102(6)(f) as described in Subsection (1), the state entity shall notify the state auditor.

Section 3. Section 63J-9-101 is enacted to read:

CHAPTER 9. NONPROFIT ENTITY RECEIPT OF STATE MONEY ACT

Part 1. General Provisions

63J-9-101. Title.

This chapter is known as the "Nonprofit Entity Receipt of State Money Act."

Section 4. Section 63J-9-102 is enacted to read:

63J-9-102. Definitions.

As used in this chapter:

(1) "Bylaws" means the one or more codes of rules, other than the articles of incorporation, adopted for the regulation or management of the affairs of a nonprofit entity irrespective of the one or more names by which the codes of rules are designated.

(2) (a) "Grant" means the furnishing by a state entity of state money to a nonprofit entity.

(b) "Grant" does not include a contract between a state entity and a nonprofit entity to purchase goods or services from the nonprofit entity that was subject to the state procurement process provided in Title 63G, Chapter 6a, Utah Procurement Code.

(3) "Nonprofit entity" means an entity that:

(a) is operated primarily for a scientific purpose, educational purpose, religious purpose, charitable purpose, or similar purpose in the public interest;

(b) is not organized primarily for profit; and

(c) no part of the net earnings of which inures to the benefit of any private shareholder or individual holding an interest in the entity.

(4) "State entity" means a department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

(5) (a) "State money" means money that is owned, held, or administered by a state entity and derived from state fee or tax revenues.

(b) "State money" does not include contributions or donations received by a state entity.

Section 5. Section 63J-9-201 is enacted to read:

Part 2. Provision of State Money

63J-9-201. Conditions for providing state grant money to a nonprofit entity.

A state entity may not provide a nonprofit entity state money through a grant, including a pass-through funding grant, unless:

(1) the state entity enters into a written agreement with the nonprofit entity;

(2) the written agreement described in Subsection (1) requires the nonprofit entity to provide the state entity an itemized report at least annually detailing the expenditure of the state money; and

(3) at the time of receipt of the state money the nonprofit entity has:

(a) bylaws that provide for:

(i) the financial oversight of the state money; and

(ii) compliance with state laws related to the state money;

(b) procedures for the governing board of the nonprofit entity to designate an administrator who manages the state money; and

(c) procedures for the governing board to dismiss the administrator described by Subsection (3)(b).

Section 6. Section 63J-9-202 is enacted to read:

63J-9-202. Nonprofit entity's return of state money.

The state entity that provides a nonprofit entity state money in accordance with Section 63J-9-201 may require the nonprofit entity to return to the state entity an amount of money that is equal to the state money that is expended in violation of Section 63J-9-201 if the nonprofit entity fails to comply with the written agreement, bylaws, and procedures required by Section 63J-9-201 during the time period that the nonprofit entity holds or expends the state money.

CHAPTER 342**H. B. 286**

Passed March 12, 2014

Approved April 1, 2014

Effective May 13, 2014

CHILD SEXUAL ABUSE PREVENTION

Chief Sponsor: Angela Romero
Senate Sponsor: J. Stuart Adams

LONG TITLE**General Description:**

This bill enacts provisions relating to child sexual abuse prevention training and instruction in public schools.

Highlighted Provisions:

This bill:

- ▶ adopts certain recommendations of Illinois's Erin's Law Task Force;
- ▶ requires the State Board of Education, in partnership with the Department of Human Services, to approve instructional materials for child sexual abuse prevention and awareness training and instruction;
- ▶ requires a school district or charter school to use the instructional materials approved by the State Board of Education to provide child sexual abuse prevention and awareness training and instruction to:
 - school personnel; and
 - the parents or guardians of elementary school students;
- ▶ provides that a school district or charter school may provide child sexual abuse prevention and awareness instruction to elementary school students subject to certain requirements; and
- ▶ requires the State Board of Education to report to the Education Interim Committee.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

53A-13-112, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53A-13-112 is enacted to read:**53A-13-112. Child sexual abuse prevention.**

(1) As used in this section, "school personnel" is as defined in Section 53A-11-605.

(2) On or before July 1, 2015, the State Board of Education shall approve, in partnership with the Department of Human Services, age-appropriate instructional materials for the training and instruction described in Subsections (3)(a) and (4).

(3) (a) Beginning in the 2016-17 school year, a school district or charter school shall provide training and instruction on child sexual abuse prevention and awareness to:

(i) school personnel in elementary and secondary schools on:

(A) responding to a disclosure of child sexual abuse in a supportive, appropriate manner; and

(B) the mandatory reporting requirements described in Sections 53A-6-502 and 62A-4a-403; and

(ii) parents or guardians of elementary school students on:

(A) recognizing warning signs of a child who is being sexually abused; and

(B) effective, age-appropriate methods for discussing the topic of child sexual abuse with a child.

(b) A school district or charter school shall use the instructional materials approved by the State Board of Education under Subsection (2) to provide the training and instruction to school personnel and parents or guardians under Subsection (3)(a).

(4) (a) In accordance with Subsections (4)(b) and (5), a school district or charter school may provide instruction on child sexual abuse prevention and awareness to elementary school students using age-appropriate curriculum.

(b) Beginning in the 2016-17 school year, a school district or charter school that provides the instruction described in Subsection (4)(a) shall use the instructional materials approved by the board under Subsection (2) to provide the instruction.

(5) (a) An elementary school student may not be given the instruction described in Subsection (4) unless the parent or guardian of the student is:

(i) notified in advance of the:

(A) instruction and the content of the instruction; and

(B) parent or guardian's right to have the student excused from the instruction;

(ii) given an opportunity to review the instructional materials before the instruction occurs; and

(iii) allowed to be present when the instruction is delivered.

(b) Upon the written request of the parent or guardian of an elementary school student, the student shall be excused from the instruction described in Subsection (4).

(c) Participation of a student requires compliance with Sections 53A-13-301 and 53A-13-302.

(6) A school district or charter school may determine the mode of delivery for the training and instruction described in Subsections (3) and (4).

(7) (a) The State Board of Education shall report to the Education Interim Committee on the progress of the provisions of this section by the committee's November 2017 meeting.

(b) Upon request of the State Board of Education, a school district or charter school shall provide to

the State Board of Education information that is necessary for the report required under Subsection (7)(a).

CHAPTER 343**H. B. 291**

Passed February 21, 2014

Approved April 1, 2014

Effective July 1, 2014

**STATE LABORATORY DRUG
TESTING ACCOUNT AMENDMENTS**

Chief Sponsor: Ronda Rudd Menlove

Senate Sponsor: Allen M. Christensen

LONG TITLE**General Description:**

This bill amends provisions related to drug and alcohol analysis testing and associated funding provisions.

Highlighted Provisions:

This bill:

- ▶ increases the administrative fee for license reinstatement after an alcohol-related or drug-related offense;
- ▶ increases the amount deposited in the State Laboratory Drug Testing Account from the Department of Public Safety Restricted Account; and
- ▶ requires the Department of Public Safety to report to the Department of Health annually the amount the Department of Public Safety expects to collect from administrative fees for license reinstatement in the next fiscal year.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2014–2015:

- ▶ to the Department of Health - Disease Control and Prevention as an ongoing appropriation:
 - from the General Fund Restricted - State Laboratory Drug Testing Account, \$228,300.

Other Special Clauses:

This bill takes effect on July 1, 2014.

Utah Code Sections Affected:**AMENDS:**

53-3-105, as last amended by Laws of Utah 2011, Chapter 428

53-3-106, as last amended by Laws of Utah 2012, Chapter 356

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-3-105 is amended to read:**53-3-105. Fees for licenses, renewals, extensions, reinstatements, rescheduling, and identification cards.**

The following fees apply under this chapter:

- (1) An original class D license application under Section 53-3-205 is \$25.
- (2) An original provisional license application for a class D license under Section 53-3-205 is \$30.
- (3) An original application for a motorcycle endorsement under Section 53-3-205 is \$9.50.
- (4) An original application for a taxicab endorsement under Section 53-3-205 is \$7.

(5) A learner permit application under Section 53-3-210.5 is \$15.

(6) A renewal of a class D license under Section 53-3-214 is \$25 unless Subsection (10) applies.

(7) A renewal of a provisional license application for a class D license under Section 53-3-214 is \$25.

(8) A renewal of a motorcycle endorsement under Section 53-3-214 is \$9.50.

(9) A renewal of a taxicab endorsement under Section 53-3-214 is \$7.

(10) A renewal of a class D license for a person 65 and older under Section 53-3-214 is \$13.

(11) An extension of a class D license under Section 53-3-214 is \$20 unless Subsection (15) applies.

(12) An extension of a provisional license application for a class D license under Section 53-3-214 is \$20.

(13) An extension of a motorcycle endorsement under Section 53-3-214 is \$9.50.

(14) An extension of a taxicab endorsement under Section 53-3-214 is \$7.

(15) An extension of a class D license for a person 65 and older under Section 53-3-214 is \$11.

(16) An original or renewal application for a commercial class A, B, or C license or an original or renewal of a provisional commercial class A or B license under Part 4, Uniform Commercial Driver License Act, is:

- (a) \$40 for the knowledge test; and
- (b) \$60 for the skills test.

(17) Each original CDL endorsement for passengers, hazardous material, double or triple trailers, or tankers is \$7.

(18) An original CDL endorsement for a school bus under Part 4, Uniform Commercial Driver License Act, is \$7.

(19) A renewal of a CDL endorsement under Part 4, Uniform Commercial Driver License Act, is \$7.

(20) (a) A retake of a CDL knowledge test provided for in Section 53-3-205 is \$20.

(b) A retake of a CDL skills test provided for in Section 53-3-205 is \$40.

(21) A retake of a CDL endorsement test provided for in Section 53-3-205 is \$7.

(22) A duplicate class A, B, C, or D license certificate under Section 53-3-215 is \$18.

(23) (a) A license reinstatement application under Section 53-3-205 is \$30.

(b) A license reinstatement application under Section 53-3-205 for an alcohol, drug, or combination of alcohol and any drug-related offense is \$35 in addition to the fee under Subsection (23)(a).

(24) (a) An administrative fee for license reinstatement after an alcohol, drug, or

combination of alcohol and any drug-related offense under Section 41-6a-520, 53-3-223, or 53-3-231 or an alcohol, drug, or combination of alcohol and any drug-related offense under Part 4, Uniform Commercial Driver License Act, is [~~\$170~~] \$230.

(b) This administrative fee is in addition to the fees under Subsection (23).

(25) (a) An administrative fee for providing the driving record of a driver under Section 53-3-104 or 53-3-420 is \$6.

(b) The division may not charge for a report furnished under Section 53-3-104 to a municipal, county, state, or federal agency.

(26) A rescheduling fee under Section 53-3-205 or 53-3-407 is \$25.

(27) (a) Except as provided under Subsections (27)(b) and (c), an identification card application under Section 53-3-808 is \$18.

(b) An identification card application under Section 53-3-808 for a person with a disability, as defined in 42 U.S.C. Sec. 12102, is \$13.

(c) A fee may not be charged for an identification card application if the person applying:

- (i) has not been issued a Utah driver license;
- (ii) is indigent; and
- (iii) is at least 18 years of age.

(28) In addition to any license application fees collected under this chapter, the division shall impose on individuals submitting fingerprints in accordance with Section 53-3-205.5 the fees that the Bureau of Criminal Identification is authorized to collect for the services the Bureau of Criminal Identification provides under Section 53-3-205.5.

Section 2. Section 53-3-106 is amended to read:

53-3-106. Disposition of revenues under this chapter -- Restricted account created -- Uses as provided by appropriation -- Nonlapsing.

(1) There is created within the Transportation Fund a restricted account known as the "Department of Public Safety Restricted Account."

(2) The account consists of money generated from the following revenue sources:

- (a) all money received under this chapter;
- (b) administrative fees received according to the fee schedule authorized under this chapter and Section 63J-1-504;
- (c) beginning on January 1, 2013, money received in accordance with Section 41-1a-1201; and
- (d) any appropriations made to the account by the Legislature.

(3) (a) The account shall earn interest.

(b) All interest earned on account money shall be deposited in the account.

(4) The expenses of the department in carrying out this chapter shall be provided for by legislative appropriation from this account.

(5) The amount in excess of \$45 of the fees collected under Subsection 53-3-105(24) shall be appropriated by the Legislature from this account to the department to implement the provisions of Section 53-1-117, except that of the amount in excess of \$45, [~~\$40~~] \$100 shall be deposited in the State Laboratory Drug Testing Account created in Section 26-1-34.

(6) All money received under Subsection 41-6a-1406(6)(b)(ii) shall be appropriated by the Legislature from this account to the department to implement the provisions of Section 53-1-117.

(7) Beginning in fiscal year 2009-10, the Legislature shall appropriate \$100,000 annually from the account to the state medical examiner appointed under Section 26-4-4 for use in carrying out duties related to highway crash deaths under Subsection 26-4-7(1).

(8) The division shall remit the fees collected under Subsection 53-3-105(28) to the Bureau of Criminal Identification to cover the costs for the services the Bureau of Criminal Identification provides under Section 53-3-205.5.

(9) (a) Beginning on January 1, 2013, the Legislature shall appropriate all money received in the account under Section 41-1a-1201 to the Utah Highway Patrol Division for field operations.

(b) The Legislature may appropriate additional money from the account to the Utah Highway Patrol Division for law enforcement purposes.

(10) Appropriations to the department from the account are nonlapsing.

(11) The department shall report to the Department of Health, on or before December 31, the amount the department expects to collect under Subsection 53-3-105(24) in the next fiscal year.

Section 3. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2014, and ending June 30, 2015, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2015.

To Department of Health - Disease Control and Prevention

<u>From General Fund Restricted -</u>	
<u>State Laboratory Drug Testing Account</u>	<u>\$228,300</u>

Schedule of Programs:

<u>Forensic Toxicology</u>	<u>\$228,300</u>
----------------------------	------------------

Section 4. Effective date.

This bill takes effect on July 1, 2014.

CHAPTER 344**H. B. 311**

Passed March 7, 2014

Approved April 1, 2014

Effective May 13, 2014

BUDGETING AMENDMENTS

Chief Sponsor: Brad R. Wilson
Senate Sponsor: Jerry W. Stevenson

LONG TITLE**General Description:**

This bill modifies provisions relating to budgeting requirements.

Highlighted Provisions:

This bill:

- ▶ requires the Office of Legislative Fiscal Analyst to:
 - prepare, before each annual general session of the Legislature, a summary showing the current status of debt, long-term liabilities, contingent liabilities, General Fund borrowing, reserves, fund and nonlapsing balances, and cash funded capital investments as compared to the past nine fiscal years; and
 - make recommendations for addressing the items in the upcoming annual general session of the Legislature;
- ▶ requires the Office of Legislative Fiscal Analyst to include in the review and analysis of revenue estimates for existing and proposed revenue a comparison of current estimates to 15-year trends by tax type;
- ▶ requires the Office of Legislative Fiscal Analyst to report the review and analysis of revenue estimates for existing and proposed revenue acts to the Executive Appropriations Committee of the Legislature before each upcoming annual general session of the Legislature;
- ▶ requires the governor to include in the proposed budget submitted to the presiding officer of each house of the Legislature a projection of:
 - estimated revenues by major tax type; and
 - 15-year trends for each major tax type; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

36-12-13, as last amended by Laws of Utah 2013, Chapter 190

63J-1-201, as last amended by Laws of Utah 2013, Chapters 158, 167, and 413

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 36-12-13 is amended to read:

36-12-13. Office of Legislative Fiscal Analyst established -- Powers, functions, and duties -- Qualifications.

(1) There is established an Office of Legislative Fiscal Analyst as a permanent staff office for the Legislature.

(2) The powers, functions, and duties of the Office of Legislative Fiscal Analyst under the supervision of the fiscal analyst are:

(a) to analyze in detail the executive budget before the convening of each legislative session and make recommendations to the Legislature on each item or program appearing in the executive budget;

(b) to prepare cost estimates on all proposed bills that anticipate state government expenditures;

(c) to prepare cost estimates on all proposed bills that anticipate expenditures by county, municipal, local district, or special service district governments;

(d) to prepare cost estimates on all proposed bills that anticipate direct expenditures by any Utah resident, and the cost to the overall impacted Utah resident population;

(e) to prepare a review and analysis of revenue estimates for existing and proposed revenue acts, which shall include a comparison of current estimates to 15-year trends by tax type;

(f) to report instances in which the administration may be failing to carry out the expressed intent of the Legislature;

(g) to direct attention to each new proposed service contained in the governor's budget;

(h) to direct attention to each budget item previously denied by the Legislature;

(i) to propose and analyze statutory changes for more effective operational economies or more effective administration;

(j) to prepare, before each annual general session of the Legislature, a summary showing the current status of the following as compared to the past nine fiscal years:

(i) debt;

(ii) long-term liabilities;

(iii) contingent liabilities;

(iv) General Fund borrowing;

(v) reserves;

(vi) fund and nonlapsing balances; and

(vii) cash funded capital investments;

(k) to make recommendations for addressing the items described in Subsection (2)(j) in the upcoming annual general session of the Legislature;

(~~j~~) (1) to prepare, after each session of the Legislature, a summary showing the effect of the final legislative program on the financial condition of the state;

(~~k~~) (m) to conduct organizational and management improvement studies;

(4) (n) to prepare and deliver upon request of any interim committee or the Legislative Management

Committee, reports on the finances of the state and on anticipated or proposed requests for appropriations;

~~(m)~~ (o) to recommend areas for research studies by the executive department or the interim committees;

~~(n)~~ (p) to assist in prescribing the format for the presentation of the governor's budget to facilitate program and in-depth review of state expenditures in accordance with Sections 63J-1-701 and 63J-1-702;

~~(o)~~ (q) to recommend to the appropriations subcommittees the agencies or programs for which an in-depth budget review should be requested, and to recommend to the Legislative Management Committee the priority in which the request should be made;

~~(p)~~ (r) to appoint and develop a professional staff within budget limitations;

~~(q)~~ (s) to prepare and submit the annual budget request for the office;

~~(r)~~ (t) to develop a taxpayer receipt:

- (i) available to taxpayers through a website; and
- (ii) that allows a taxpayer to view on the website an estimate of how the taxpayer's tax dollars are expended for government purposes; and

~~(s)~~ (u) to publish or provide other information on taxation and government expenditures that may be accessed by the public.

(3) The Office of Legislative Fiscal Analyst shall report the review and analysis required under Subsection (2)(e) to the Executive Appropriations Committee of the Legislature before each upcoming annual general session of the Legislature.

~~(3)~~ (4) (a) In accordance with Subsection ~~(3)~~ (4)(b) and subject to Subsection ~~(3)~~ (4)(c), the Office of Legislative Fiscal Analyst shall submit an annual report to the Executive Appropriations Committee of the Legislature, at the committee's November meeting, on funds expended by the state during the preceding state fiscal year to provide financial assistance or services to low-income individuals and families.

(b) The report described in Subsection ~~(3)~~ (4)(a) shall:

(i) separate the funds expended into categories by program, service, or population served;

(ii) indicate whether the expended funds described in Subsection ~~(3)~~ (4)(a) are state or federal funds; and

(iii) include a total of all state funds and federal funds expended by the state in the preceding fiscal year to provide financial assistance or services to low-income individuals and families.

(c) If the Executive Appropriations Committee of the Legislature does not meet in November, the Office of Legislative Fiscal Analyst shall submit the

report described in Subsection ~~(3)~~ (4)(a) at the committee's next meeting.

~~(4)~~ (5) The legislative fiscal analyst shall have a master's degree in public administration, political science, economics, accounting, or the equivalent in academic or practical experience.

~~(5)~~ (6) In carrying out the duties provided for in this section, the legislative fiscal analyst may obtain access to all records, documents, and reports necessary to the scope of the legislative fiscal analyst's duties according to the procedures contained in Title 36, Chapter 14, Legislative Subpoena Powers.

Section 2. Section 63J-1-201 is amended to read:

63J-1-201. Governor's proposed budget to Legislature -- Contents -- Preparation -- Appropriations based on current tax laws and not to exceed estimated revenues.

(1) The governor shall deliver, not later than 30 days before the date the Legislature convenes in the annual general session, a confidential draft copy of the governor's proposed budget recommendations to the Office of the Legislative Fiscal Analyst according to the requirements of this section.

(2) (a) When submitting a proposed budget, the governor shall, within the first three days of the annual general session of the Legislature, submit to the presiding officer of each house of the Legislature:

- (i) a proposed budget for the ensuing fiscal year;
- (ii) a schedule for all of the proposed changes to appropriations in the proposed budget, with each change clearly itemized and classified; and

(iii) as applicable, a document showing proposed changes in estimated revenues that are based on changes in state tax laws or rates.

(b) The proposed budget shall include:

(i) a projection of ~~the total~~:

(A) estimated revenues~~, including~~ by major tax type;

(B) 15-year trends for each major tax type;

(C) estimated receipts of federal funds~~;~~ and

(D) appropriations for the next fiscal year;

(ii) the source of changes to all direct, indirect, and in-kind matching funds for all federal grants or assistance programs included in the budget;

(iii) a plan of proposed changes to appropriations and estimated revenues for the next fiscal year that is based upon the current fiscal year state tax laws and rates and considers projected changes in federal grants or assistance programs included in the budget;

(iv) an itemized estimate of the proposed changes to appropriations for:

(A) the Legislative Department as certified to the governor by the president of the Senate and the speaker of the House;

- (B) the Executive Department;
- (C) the Judicial Department as certified to the governor by the state court administrator;
- (D) changes to salaries payable by the state under the Utah Constitution or under law for lease agreements planned for the next fiscal year; and
- (E) all other changes to ongoing or one-time appropriations, including dedicated credits, restricted funds, nonlapsing balances, grants, and federal funds;
- (v) for each line item, the average annual dollar amount of staff funding associated with all positions that were vacant during the last fiscal year;
- (vi) deficits or anticipated deficits;
- (vii) the recommendations for each state agency for new full-time employees for the next fiscal year, which shall also be provided to the State Building Board as required by Subsection 63A-5-103(2);
- (viii) any explanation that the governor may desire to make as to the important features of the budget and any suggestion as to methods for the reduction of expenditures or increase of the state's revenue; and
- (ix) information detailing certain fee increases as required by Section 63J-1-504.
- (3) For the purpose of preparing and reporting the proposed budget:
- (a) The governor shall require the proper state officials, including all public and higher education officials, all heads of executive and administrative departments and state institutions, bureaus, boards, commissions, and agencies expending or supervising the expenditure of the state money, and all institutions applying for state money and appropriations, to provide itemized estimates of changes in revenues and appropriations.
- (b) The governor may require the persons and entities subject to Subsection (3)(a) to provide other information under these guidelines and at times as the governor may direct, which may include a requirement for program productivity and performance measures, where appropriate, with emphasis on outcome indicators.
- (c) The governor may require representatives of public and higher education, state departments and institutions, and other institutions or individuals applying for state appropriations to attend budget meetings.
- (4) In submitting the budgets for the Departments of Health and Human Services and the Office of the Attorney General, the governor shall consider a separate recommendation in the governor's budget for changes in funds to be contracted to:
- (a) local mental health authorities under Section 62A-15-110;
- (b) local substance abuse authorities under Section 62A-15-110;
- (c) area agencies under Section 62A-3-104.2;
- (d) programs administered directly by and for operation of the Divisions of Substance Abuse and Mental Health and Aging and Adult Services;
- (e) local health departments under Title 26A, Chapter 1, Local Health Departments; and
- (f) counties for the operation of Children's Justice Centers under Section 67-5b-102.
- (5) (a) In making budget recommendations, the governor shall consider an amount sufficient to grant the following entities the same percentage increase for wages and benefits that the governor includes in the governor's budget for persons employed by the state:
- (i) local health departments, local mental health authorities, local substance abuse authorities, and area agencies;
- (ii) local conservation districts and Utah Association of Conservation District employees, as related to the budget for the Department of Agriculture; and
- (iii) employees of corporations that provide direct services under contract with:
- (A) the Utah State Office of Rehabilitation and the Division of Services for People with Disabilities;
- (B) the Division of Child and Family Services; and
- (C) the Division of Juvenile Justice Services within the Department of Human Services.
- (b) If the governor does not include in the governor's budget an amount sufficient to grant an increase for any entity described in Subsection (5)(a), the governor shall include a message to the Legislature regarding the governor's reason for not including that amount.
- (6) The governor shall include in the governor's budget the state's portion of the budget for the Utah Communications Agency Network established in Title 63C, Chapter 7, Utah Communications Agency Network Act.
- (7) (a) The governor shall include a separate recommendation in the governor's budget for funds to maintain the operation and administration of the Utah Comprehensive Health Insurance Pool. In making the recommendation, the governor may consider:
- (i) actuarial analysis of growth or decline in enrollment projected over a period of at least three years;
- (ii) actuarial analysis of the medical and pharmacy claims costs projected over a period of at least three years;
- (iii) the annual Medical Care Consumer Price Index;
- (iv) the annual base budget for the pool established by the Business, Economic

Development, and Labor Appropriations Subcommittee for each fiscal year;

(v) the growth or decline in insurance premium taxes and fees collected by the State Tax Commission and the Insurance Department; and

(vi) the availability of surplus General Fund revenue under Section 63J-1-312 and Subsection 59-14-204(5).

(b) In considering the factors in Subsections (7)(a)(i), (ii), and (iii), the governor may consider the actuarial data and projections prepared for the board of the Utah Comprehensive Health Insurance Pool as it develops the governor's financial statements and projections for each fiscal year.

(8) (a) In submitting the budget for the Department of Public Safety, the governor shall include a separate recommendation in the governor's budget for maintaining a sufficient number of alcohol-related law enforcement officers to maintain the enforcement ratio equal to or below the number specified in Subsection 32B-1-201(2).

(b) If the governor does not include in the governor's budget an amount sufficient to maintain the number of alcohol-related law enforcement officers described in Subsection (8)(a), the governor shall include a message to the Legislature regarding the governor's reason for not including that amount.

(9) (a) The governor may revise all estimates, except those relating to the Legislative Department, the Judicial Department, and those providing for the payment of principal and interest to the state debt and for the salaries and expenditures specified by the Utah Constitution or under the laws of the state.

(b) The estimate for the Judicial Department, as certified by the state court administrator, shall also be included in the budget without revision, but the governor may make separate recommendations on the estimate.

(10) The total appropriations requested for expenditures authorized by the budget may not exceed the estimated revenues from taxes, fees, and all other sources for the next ensuing fiscal year.

(11) If any item of the budget as enacted is held invalid upon any ground, the invalidity does not affect the budget itself or any other item in it.

CHAPTER 345**H. B. 316**

Passed March 11, 2014

Approved April 1, 2014

Effective May 13, 2014

**FINANCIAL INSTITUTIONS
FEE AMENDMENTS**Chief Sponsor: James A. Dunnigan
Senate Sponsor: Curtis S. Bramble**LONG TITLE****General Description:**

This bill modifies the Financial Institutions Act.

Highlighted Provisions:

This bill:

- ▶ reduces certain fees imposed by statute;
- ▶ addresses use of money by the commissioner; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

7-1-401, as last amended by Laws of Utah 2008, Chapter 96

7-1-403, as last amended by Laws of Utah 1986, Fourth Special Session, Chapter 1

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 7-1-401 is amended to read:****7-1-401. Fees payable to commissioner.**

(1) Except for an out-of-state depository institution with a branch in Utah, a depository institution under the jurisdiction of the department shall pay an annual fee:

(a) computed by averaging the total assets of the depository institution shown on each quarterly report of condition for the depository institution for the calendar year immediately preceding the date on which the annual fee is due under Section 7-1-402; and

(b) at the following rates:

(i) on the first \$5,000,000 of these assets, the greater of:

(A) 65 cents per \$1,000; or

(B) \$500;

(ii) on the next \$10,000,000 of these assets, ~~[36]~~ 35 cents per \$1,000;

(iii) on the next \$35,000,000 of these assets, ~~[17]~~ 15 cents per \$1,000;

(iv) on the next \$50,000,000 of these assets, ~~[14]~~ 12 cents per \$1,000;

(v) on the next \$200,000,000 of these assets, ~~[11]~~ 10 cents per \$1,000;

(vi) on the next \$300,000,000 of these assets, ~~[7]~~ 6 cents per \$1,000; and

(vii) on all amounts over \$600,000,000 of these assets, ~~[2-625]~~ 2 cents per \$1,000.

(2) A financial institution with a trust department shall pay a fee determined in accordance with Subsection (7) for each examination of the trust department by a state examiner.

(3) Notwithstanding Subsection (1), a credit union in its first year of operation shall pay a basic fee of \$25 instead of the fee required under Subsection (1).

(4) A trust company that is not a depository institution or a subsidiary of a depository institution holding company shall pay:

(a) an annual fee of \$500; and

(b) an additional fee determined in accordance with Subsection (7) for each examination by a state examiner.

(5) Any person or institution under the jurisdiction of the department that does not pay a fee under Subsections (1) through (4) shall pay:

(a) an annual fee of \$200; and

(b) an additional fee determined in accordance with Subsection (7) for each examination by a state examiner.

(6) A person filing an application or request under Section 7-1-503, 7-1-702, 7-1-703, 7-1-704, 7-1-713, 7-5-3, or 7-18a-202 shall pay:

(a) (i) a filing fee of \$500 if on the day on which the application or request is filed the person:

(A) is a person with authority to transact business as:

(I) a depository institution;

(II) a trust company; or

(III) any other person described in Section 7-1-501 as being subject to the jurisdiction of the department; and

(B) has total assets in an amount less than \$5,000,000; or

(ii) a filing fee of \$2,500 for any person not described in Subsection (6)(a)(i); and

(b) all reasonable expenses incurred in processing the application.

(7) (a) Per diem assessments for an examination shall be calculated at the rate of \$55 per hour:

(i) for each examiner; and

(ii) per hour worked.

(b) For an examination of a branch or office of a financial institution located outside of this state, in addition to the per diem assessment under this

Subsection (7), the institution shall pay all reasonable travel, lodging, and other expenses incurred by each examiner while conducting the examination.

(8) In addition to a fee under Subsection (5), a person registering under Section 7-23-201 or 7-24-201 shall pay an original registration fee of \$300.

Section 2. Section 7-1-403 is amended to read:

7-1-403. Funds and balances paid to treasurer -- Separate account -- Use of funds.

~~[Unexpended]~~ (1) The commissioner shall deposit unexpended balances and ~~[all funds]~~ money accruing to the department ~~[shall be deposited by the commissioner]~~ with the state treasurer monthly ~~[and]~~. The unexpended balances and money accruing to the department constitute a separate account within the General Fund. No part of the account may revert to the General Fund except an amount as required by law to be transferred for general government and administrative costs.

(2) With the approval of the director of the Division of Finance, the commissioner may withdraw ~~[sums]~~ money from the account to pay costs and expenses of administration incurred in proceedings under ~~[Title 7, Chapters 1, 2, and 19]~~ Chapter 1, General Provisions, Chapter 2, Possession of Depository Institution by Commissioner, and Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies, or to use in connection with the rehabilitation, reorganization, or liquidation of an institution under the jurisdiction of the department.

(3) The commissioner, after consultation with the Board of Financial Institutions and with the approval of the director of the Division of Finance, may withdraw money from the account to promote, protect, and encourage the dual banking system and state-chartered institutions.

CHAPTER 346**H. B. 320**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

EDUCATORS' PROFESSIONAL LEARNING

Chief Sponsor: Bradley G. Last
Senate Sponsor: Aaron Osmond

LONG TITLE**General Description:**

This bill modifies provisions related to educators' professional learning.

Highlighted Provisions:

This bill:

- ▶ requires a school district or charter school to implement professional learning that meets specified standards;
- ▶ requires the State Board of Education, school districts, and charter schools to:
 - determine resources needed to implement professional learning that meets specified standards; and
 - evaluate the impact of professional learning efforts and resources; and
- ▶ requires a school district or charter school to use state or federal money designated for professional learning to implement professional learning that meets specified standards.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-1a-108, as last amended by Laws of Utah 2013, Chapter 296

53A-17a-124, as last amended by Laws of Utah 2010, Chapter 3

REPEALS AND REENACTS:

53A-3-701, as last amended by Laws of Utah 2003, Chapter 221

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53A-1a-108 is amended to read:**53A-1a-108. School community councils -- Duties -- Composition -- Election procedures and selection of members.**

(1) As used in this section:

(a) "Educator" has the meaning defined in Section 53A-6-103.

(b) (i) "Parent or guardian member" means a member of a school community council who is a parent or guardian of a student who:

(A) is attending the school; or

(B) will be enrolled at the school during the parent's or guardian's term of office.

(ii) "Parent or guardian member" may not include an educator who is employed at the school.

(c) "School employee member" means a member of a school community council who is a person employed at the school by the school or school district, including the principal.

(d) "School LAND Trust Program money" means money allocated to a school pursuant to Section 53A-16-101.5.

(2) Each public school, in consultation with its local school board, shall establish a school community council at the school building level for the purpose of:

(a) involving parents or guardians of students in decision making at the school level;

(b) improving the education of students;

(c) prudently expending School LAND Trust Program money for the improvement of students' education through collaboration among parents and guardians, school employees, and the local school board; and

(d) increasing public awareness of:

(i) school trust lands and related land policies;

(ii) management of the State School Fund established in Utah Constitution Article X, Section V; and

(iii) educational excellence.

(3) (a) Except as provided in Subsection (3)(b), a school community council shall:

(i) create a school improvement plan in accordance with Section 53A-1a-108.5;

(ii) create the School LAND Trust Program in accordance with Section 53A-16-101.5;

(iii) assist in the creation and implementation of a [staff] professional development plan [as provided by Section 53A-3-701]; and

(iv) advise and make recommendations to school and school district administrators and the local school board regarding the school and its programs, school district programs, a child access routing plan in accordance with Section 53A-3-402, and other issues relating to the community environment for students.

(b) In addition to the duties specified in Subsection (3)(a), a school community council for an elementary school shall create a reading achievement plan in accordance with Section 53A-1-606.5.

(c) A school or school district administrator may not prohibit or discourage a school community council from discussing issues, or offering advice or recommendations, regarding the school and its programs, school district programs, the curriculum, or the community environment for students.

(4) (a) Each school community council shall consist of school employee members and parent or guardian members in accordance with this section.

(b) Except as provided in Subsection (4)(c) or (d):

(i) each school community council for a high school shall have six parent or guardian members and four school employee members, including the principal; and

(ii) each school community council for a school other than a high school shall have four parent or guardian members and two school employee members, including the principal.

(c) A school community council may determine the size of the school community council by a majority vote of a quorum of the school community council provided that:

(i) the membership includes two or more parent or guardian members than the number of school employee members; and

(ii) there are at least two school employee members on the school community council.

(d) (i) The number of parent or guardian members of a school community council who are not educators employed by the school district shall exceed the number of parent or guardian members who are educators employed by the school district.

(ii) If, after an election, the number of parent or guardian members who are not educators employed by the school district does not exceed the number of parent or guardian members who are educators employed by the school district, the parent or guardian members of the school community council shall appoint one or more parent or guardian members to the school community council so that the number of parent or guardian members who are not educators employed by the school district exceeds the number of parent or guardian members who are educators employed by the school district.

(5) (a) Except as provided in Subsection (5)(f), a school employee member, other than the principal, shall be elected by secret ballot by a majority vote of the school employees and serve a two-year term. The principal shall serve as an ex officio member with full voting privileges.

(b) (i) Except as provided in Subsection (5)(f), a parent or guardian member shall be elected by secret ballot at an election held at the school by a majority vote of those voting at the election and serve a two-year term.

(ii) Only parents or guardians of students attending the school may vote at the election under Subsection (5)(b)(i).

(iii) Any parent or guardian of a student who meets the qualifications of this section may file or declare the parent's or guardian's candidacy for election to a school community council.

(iv) (A) Subject to Subsections (5)(b)(iv)(B) and (5)(b)(iv)(C), a timeline for the election of parent or guardian members of a school community council shall be established by a local school board for the schools within the school district.

(B) An election for the parent or guardian members of a school community council shall be

held near the beginning of the school year and completed before October 15 or held in the spring and completed before the last week of school.

(C) Each school shall establish a time period for the election of parent or guardian members of a school community council under Subsection (5)(b)(iv)(B) that is consistent for at least a four-year period.

(c) (i) The principal of the school, or the principal's designee, shall provide notice of the available community council positions to school employees, parents, and guardians at least 10 days before the date that voting commences for the elections held under Subsections (5)(a) and (5)(b).

(ii) The notice shall include:

(A) the dates and times of the elections;

(B) a list of council positions that are up for election; and

(C) instructions for becoming a candidate for a community council position.

(iii) The principal of the school, or the principal's designee, shall oversee the elections held under Subsections (5)(a) and (5)(b).

(iv) Ballots cast in an election held under Subsection (5)(b) shall be deposited in a secure ballot box.

(d) Results of the elections held under Subsections (5)(a) and (5)(b) shall be made available to the public upon request.

(e) (i) If a parent or guardian position on a school community council remains unfilled after an election is held, the other parent or guardian members of the council shall appoint a parent or guardian who meets the qualifications of this section to fill the position.

(ii) If a school employee position on a school community council remains unfilled after an election is held, the other school employee members of the council shall appoint a school employee to fill the position.

(iii) A member appointed to a school community council under Subsection (5)(e)(i) or (ii) shall serve a two-year term.

(f) (i) If the number of candidates who file for a parent or guardian position or school employee position on a school community council is less than or equal to the number of open positions, an election is not required.

(ii) If an election is not held pursuant to Subsection (5)(f)(i) and a parent or guardian position remains unfilled, the other parent or guardian members of the council shall appoint a parent or guardian who meets the qualifications of this section to fill the position.

(iii) If an election is not held pursuant to Subsection (5)(f)(i) and a school employee position remains unfilled, the other school employee members of the council shall appoint a school employee who meets the qualifications of this section to fill the position.

(g) The principal shall enter the names of the council members on the School LAND Trust website on or before November 15 each year, pursuant to Section 53A-1a-108.1.

(h) Terms shall be staggered so that approximately half of the council members stand for election each year.

(i) A school community council member may serve successive terms provided the member continues to meet the definition of a parent or guardian member or school employee member as specified in Subsection (1).

(j) Each school community council shall elect:

(i) a chair from its parent or guardian members; and

(ii) a vice chair from either its parent or guardian members or school employee members, excluding the principal.

(6) (a) A school community council may create subcommittees or task forces to:

(i) advise or make recommendations to the council; or

(ii) develop all or part of a plan listed in Subsection (3).

(b) Any plan or part of a plan developed by a subcommittee or task force shall be subject to the approval of the school community council.

(c) A school community council may appoint individuals who are not council members to serve on a subcommittee or task force, including parents or guardians, school employees, or other community members.

(7) (a) A majority of the members of a school community council is a quorum for the transaction of business.

(b) The action of a majority of the members of a quorum is the action of the school community council.

(8) A local school board shall provide training for a school community council each year, including training:

(a) for the chair and vice chair about their responsibilities;

(b) on resources available on the School LAND Trust website; and

(c) on the following statutes governing school community councils:

(i) Section 53A-1a-108;

(ii) Section 53A-1a-108.1;

(iii) Section 53A-1a-108.5; and

(iv) Section 53A-16-101.5.

Section 2. Section 53A-3-701 is repealed and reenacted to read:

53A-3-701. Professional learning standards.

(1) As used in this section, "professional learning" means a comprehensive, sustained, and evidence-based approach to improving teachers' and principals' effectiveness in raising student achievement.

(2) A school district or charter school shall implement high quality professional learning that meets the following standards:

(a) professional learning occurs within learning communities committed to continuous improvement, individual and collective responsibility, and goal alignment;

(b) professional learning requires skillful leaders who develop capacity, advocate, and create support systems, for professional learning;

(c) professional learning requires prioritizing, monitoring, and coordinating resources for educator learning;

(d) professional learning uses a variety of sources and types of student, educator, and system data to plan, assess, and evaluate professional learning;

(e) professional learning integrates theories, research, and models of human learning to achieve its intended outcomes;

(f) professional learning applies research on change and sustains support for implementation of professional learning for long-term change;

(g) professional learning aligns its outcomes with:

(i) performance standards for teachers and school administrators as described in rules of the State Board of Education; and

(ii) performance standards for students as described in the core curriculum standards adopted by the State Board of Education pursuant to Section 53A-1-402.6; and

(h) professional learning:

(i) incorporates the use of technology in the design, implementation, and evaluation of high quality professional learning practices; and

(ii) includes targeted professional learning on the use of technology devices to enhance the teaching and learning environment and the integration of technology in content delivery.

(3) School districts and charter schools shall use money appropriated by the Legislature for professional learning or federal grant money awarded for professional learning to implement professional learning that meets the standards specified in Subsection (2).

(4) (a) In the fall of 2014, the State Board of Education, through the state superintendent of public instruction, and in collaboration with an independent consultant acquired through a competitive bid process, shall conduct a statewide survey of school districts and charter schools to:

(i) determine the current state of professional learning for educators as aligned with the standards specified in Subsection (2);

(ii) determine the effectiveness of current professional learning practices; and

(iii) identify resources to implement professional learning as described in Subsection (2).

(b) The State Board of Education shall select a consultant from bidders who have demonstrated successful experience in conducting a statewide analysis of professional learning.

(c) (i) Annually in the fall, beginning in 2015 through 2020, the State Board of Education, through the state superintendent of public instruction, in conjunction with school districts and charter schools, shall gather and use data to determine the impact of professional learning efforts and resources.

(ii) Data used to determine the impact of professional learning efforts and resources under Subsection (4)(c)(i) shall include:

(A) student achievement data;

(B) educator evaluation data; and

(C) survey data.

Section 3. Section 53A-17a-124 is amended to read:

53A-17a-124. Quality Teaching Block Grant Program -- State contributions.

(1) The State Board of Education shall distribute money appropriated for the Quality Teaching Block Grant Program to school districts and charter schools according to a formula adopted by the board, after consultation with school districts and charter schools, that allocates the funding in a fair and equitable manner.

(2) ~~[(a)—Schools]~~ School districts and charter schools shall use Quality Teaching Block Grant money to implement ~~[school and school district comprehensive, long-term professional development plans required by]~~ professional learning that meets the standards specified in Section 53A-3-701.

~~[(b)—In recognition of exceptional quality teaching, Quality Teaching Block Grant money may be used for the award of individual Quality Teaching Bonuses for Exemplary Teachers to recognize and reward excellence in classrooms as determined by school principals in partnership with their school community councils.]~~

~~[(3) Each local school board shall:]~~

~~[(a) as provided by Section 53A-3-701, review and either approve or recommend modifications for each school's comprehensive, long-term professional development plan within the district so that each school's plan is compatible with the district's comprehensive, long-term professional development plan; and]~~

~~[(b) in an open public meeting, approve a plan to spend Quality Teaching Block Grant money to implement the school district's comprehensive, long-term professional development plan.]~~

CHAPTER 347**H. B. 323**

Passed March 7, 2014
 Approved April 1, 2014
 Effective July 1, 2014

DIVORCE ORIENTATION COURSE TIMING

Chief Sponsor: Jim Nielson
 Senate Sponsor: Mark B. Madsen

LONG TITLE**General Description:**

This bill amends provisions of the mandatory divorce orientation course.

Highlighted Provisions:

This bill:

- ▶ requires a party to a divorce to complete the divorce orientation course prior to the court hearing any temporary orders; and
- ▶ allows for the divorce orientation course to be completed through live instruction, video instruction, or through an online provider.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2014.

Utah Code Sections Affected:**AMENDS:**

30-3-11.4, as last amended by Laws of Utah 2012, Chapter 347

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 30-3-11.4 is amended to read:**30-3-11.4. Mandatory orientation course for divorcing parties -- Purpose -- Curriculum -- Exceptions.**

(1) There is established a mandatory divorce orientation course for all parties with minor children who file a petition for temporary separation or for a divorce. A couple with no minor children are not required, but may choose to attend the course. The purpose of the course shall be to educate parties about the divorce process and reasonable alternatives.

(2) A petitioner shall attend a divorce orientation course no more than 60 days after filing a petition for divorce.

(3) With the exception of temporary restraining orders pursuant to Rule 65, Utah Rules of Civil Procedures, a party may file, but the court may not hear, temporary orders until the party seeking temporary orders has completed the divorce orientation course.

[~~3~~](4) The respondent shall attend the divorce orientation course no more than 30 days after being served with a petition for divorce.

[4](5) The clerk of the court shall provide notice to a petitioner of the requirement for the course, and information regarding the course shall be included

with the petition or motion, when served on the respondent.

[~~5~~](6) The divorce orientation course shall be neutral, unbiased, at least one hour in duration, and include:

- (a) options available as alternatives to divorce;
- (b) resources available from courts and administrative agencies for resolving custody and support issues without filing for divorce;
- (c) resources available to improve or strengthen the marriage;
- (d) a discussion of the positive and negative consequences of divorce;
- (e) a discussion of the process of divorce;
- (f) options available for proceeding with a divorce, including:
 - (i) mediation;
 - (ii) collaborative law; and
 - (iii) litigation; and
- (g) a discussion of post-divorce resources.

[~~6~~](7) The course may be provided in conjunction with the mandatory course for divorcing parents required by Section 30-3-11.3.

[~~7~~](8) The Administrative Office of the Courts shall administer the course pursuant to Title 63G, Chapter 6a, Utah Procurement Code, through private or public contracts.

(9) The course may be through live instruction, video instruction, or through an online provider.

[~~8~~](10) Each participant shall pay the costs of the course, which may not exceed [~~\$20~~] \$30, to the independent contractor providing the course at the time and place of the course. A petitioner who attends a live instruction course within 30 days of filing may not be charged more than \$15 for the course. A respondent who attends a live instruction course within 30 days of being served with a petition for divorce may not be charged more than \$15 for the course.

(a) A fee of \$5 shall be collected, as part of the course fee paid by each participant, and deposited in the Children's Legal Defense Account described in Section 51-9-408.

(b) A participant who is unable to pay the costs of the course may attend without payment and request an Affidavit of Impecuniosity from the provider to be filed with the petition or motion. The provider shall be reimbursed for its costs by the Administrative Office of the Courts. A petitioner who is later determined not to meet the qualifications for impecuniosity may be ordered to pay the costs of the course.

[~~9~~](11) Appropriations from the General Fund to the Administrative Office of the Courts for the divorce orientation course shall be used to pay the costs of an indigent petitioner who is determined to be impecunious as provided in Subsection [~~8~~](10)(b).

~~[(10)]~~ (12) The Online Court Assistance Program shall include instructions with the forms for divorce which inform the petitioner of the requirement of this section.

~~[(11)]~~ (13) Both parties shall attend a divorce orientation course before a divorce decree may be entered, unless waived by the court. A certificate of completion constitutes evidence to the court of course completion by the parties.

~~[(12)]~~ (14) It shall be an affirmative defense in all divorce actions that the divorce orientation requirement was not complied with, and the action may not continue until a party has complied.

~~[(13)]~~ (15) The Administrative Office of the Courts shall adopt a program to evaluate the effectiveness of the mandatory educational course. Progress reports shall be provided if requested by the Judiciary Interim Committee.

Section 2. Effective date.

This bill takes effect on July 1, 2014.

CHAPTER 348**H. B. 324**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

**ORTHO-BIONOMY
EXEMPTION AMENDMENTS**Chief Sponsor: Brad R. Wilson
Senate Sponsor: Deidre M. Henderson**LONG TITLE****General Description:**

This bill modifies Title 58, Chapter 47b, Massage Therapy Practice Act, by exempting the practice of ortho-bionomy from licensure under the act.

Highlighted Provisions:

This bill:

- ▶ exempts an individual from licensure as a massage therapist if:
 - the individual is certified to practice ortho-bionomy;
 - the individual's practice is limited to the scope of practice of ortho-bionomy; and
 - the individual's clients remain fully clothed from the shoulders to the knees; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill coordinates with H.B. 207, Massage Therapy Practice Act Amendments, by providing substantive and technical amendments.

Utah Code Sections Affected:**AMENDS:**

58-47b-304, as last amended by Laws of Utah 2009, Chapter 220

Utah Code Sections Affected by Coordination Clause:

58-47b-304, as last amended by Laws of Utah 2009, Chapter 220

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-47b-304 is amended to read:**58-47b-304. Exemptions from licensure.**

(1) In addition to the exemptions from licensure in Section 58-1-307, the following individuals may engage in the practice of massage therapy as defined under this chapter, subject to the stated circumstances and limitations, without being licensed, but may not represent themselves as a massage therapist or massage apprentice:

(a) ~~[physicians and surgeons]~~ a physician or surgeon licensed under Title 58, Chapter 67, Utah Medical Practice Act;

(b) ~~[nurses]~~ a nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, or under Title 58, Chapter 44a, Nurse Midwife Practice Act;

(c) ~~[physical therapists]~~ a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice Act;

(d) ~~[physical therapist assistants]~~ a physical therapist assistant licensed under Title 58, Chapter 24b, Physical Therapy Practice Act, while under the general supervision of a physical therapist;

(e) ~~[osteopathic physicians and surgeons]~~ an osteopathic physician or surgeon licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(f) ~~[chiropractic physicians]~~ a chiropractic physician licensed under Title 58, Chapter 73, Chiropractic Physician Practice Act;

(g) ~~[hospital staff members]~~ a hospital staff member employed by a hospital, who ~~[practice]~~ practices massage as part of ~~[their]~~ the staff member's responsibilities;

~~[(h) athletic trainers who practice massage as part of their responsibilities while employed by an educational institution or an athletic team that participates in organized sports competition;]~~

(h) an athletic trainer licensed under Title 58, Chapter 40a, Athletic Trainer Licensing Act;

(i) ~~[students]~~ a student in training enrolled in a massage therapy school approved by the division;

(j) ~~[naturopathic physicians]~~ a naturopathic physician licensed under Title 58, Chapter 71, Naturopathic Physician Practice Act;

(k) an occupational therapist licensed under Title 58, Chapter 42a, Occupational Therapy Practice Act; ~~[and]~~

(l) ~~[persons]~~ an individual performing gratuitous massage~~[-];~~ and

~~(m) an individual:~~

~~(i) certified to practice ortho-bionomy by, and who is in good standing with, an industry recognized organization that is approved by the division, in collaboration with the board;~~

~~(ii) whose practice is limited to the scope of practice of ortho-bionomy;~~

~~(iii) whose clients remain fully clothed from the shoulders to the knees; and~~

~~(iv) whose clients do not receive gratuitous massage from the individual.~~

(2) This chapter may not be construed to authorize any individual licensed under this chapter to engage in any manner in the practice of medicine as defined by the laws of this state.

(3) This chapter may not be construed to:

(a) ~~[create or]~~ require insurance coverage or reimbursement for massage therapy from third party payors ~~[if this type of coverage did not exist on or before February 15, 1990];~~ or

(b) prevent ~~[any]~~ an insurance carrier from offering coverage for massage therapy.

**Section 2. Coordinating H.B. 324 with
H.B. 207 Substantive and technical
amendments.**

If this H.B. 324 and H.B. 207, Massage Therapy Practice Act Amendments, both pass and become law, the Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, modify Subsection 58-47b-304(1)(m) to read:

”(m) an individual:

(i) certified by or through, and in good standing with, an industry recognized organization that is approved by the division, in collaboration with the board, and that represents a profession with established standards and ethics;

(ii) (A) who limits the manipulation of the soft tissues of the body to the hands, feet, and outer ears only, including the practice of reflexology and foot zone therapy; or

(B) who is certified to practice ortho-bionomy and whose practice is limited to the scope of practice of ortho-bionomy;

(iii) whose clients remain fully clothed from the shoulders to the knees; and

(iv) whose clients do not receive gratuitous massage from the individual.”

CHAPTER 349**H. B. 329**

Passed March 13, 2014

Approved April 1, 2014

Effective July 1, 2014

PROGRAMS FOR YOUTH PROTECTION

Chief Sponsor: Steve Eliason
Senate Sponsor: Aaron Osmond

LONG TITLE**General Description:**

This bill modifies programs to protect youth.

Highlighted Provisions:

This bill:

- ▶ provides money for schools to implement evidence-based practices and programs, or emerging best practices and programs, for preventing suicide; and
- ▶ imposes requirements regarding a parent seminar on youth protection offered by school districts, including:
 - the number of parent seminars to be offered annually; and
 - the curriculum.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2015:

- ▶ to the State Board of Education - State Office of Education, as an ongoing appropriation:
 - from the Education Fund, \$159,000.

Other Special Clauses:

This bill takes effect on July 1, 2014.

Utah Code Sections Affected:**AMENDS:**

53A-15-1301, as enacted by Laws of Utah 2013, Chapter 194

53A-15-1302, as enacted by Laws of Utah 2013, Chapter 139

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53A-15-1301 is amended to read:**53A-15-1301. Youth suicide prevention programs required in secondary schools -- State Board of Education to develop model programs -- Reporting requirements.**

- (1) As used in the section:
- (a) "Board" means the State Board of Education.
- (b) "Intervention" means an effort to prevent a student from attempting suicide.
- (c) "Postvention" means mental health intervention after a suicide attempt or death to prevent or contain contagion.
- (d) "Program" means a youth suicide prevention program described in Subsection (2).
- (e) "Secondary grades":
- (i) means grades 7 through 12; and

(ii) if a middle or junior high school includes grade 6, includes grade 6.

(f) "State Office of Education suicide prevention coordinator" means a person designated by the board as described in Subsection (3).

(g) "State suicide prevention coordinator" means the state suicide prevention coordinator described in Section 62A-15-1101.

(2) (a) In collaboration with the State Office of Education suicide prevention coordinator, a school district or charter school shall implement a youth suicide prevention program in the secondary grades of the school district or charter school.

(b) A school district or charter school's program shall include the following components:

- (i) prevention of youth suicides;
- (ii) youth suicide intervention; and
- (iii) postvention for family, students, and faculty.

(3) The board shall:

(a) designate a State Office of Education suicide prevention coordinator; and

(b) in collaboration with the Department of Health and the state suicide prevention coordinator, develop model programs to provide to school districts and charter schools:

- (i) program training; and
- (ii) resources regarding the required components described in Subsection (2)(b).

(4) The State Office of Education suicide prevention coordinator shall:

(a) oversee the youth suicide prevention programs of school districts and charter schools; and

(b) coordinate prevention and postvention programs, services, and efforts with the state suicide prevention coordinator.

(5) (a) Subject to legislative appropriation, the board may distribute money to a school district or charter school to be used to implement evidence-based practices and programs, or emerging best practices and programs, for preventing suicide in the school district or charter school.

(b) The board shall distribute money under Subsection (5)(a) so that each school that enrolls students in grade 7 or a higher grade receives an allocation of at least \$500, or a lesser amount per school if the legislative appropriation is not sufficient to provide at least \$500 per school.

(c) (i) A school shall use money allocated to the school under Subsection (5)(b) to implement evidence-based practices and programs, or emerging best practices and programs, for preventing suicide.

(ii) Each school may select the evidence-based practices and programs, or emerging best practices

and programs, for preventing suicide that the school implements.

(6) (a) The board shall report to the Legislature's Education Interim Committee, by the November 2014 meeting, jointly with the state suicide prevention coordinator, on:

(i) the progress of school district and charter school programs; and

(ii) the board's coordination efforts with the Department of Health and the state suicide prevention coordinator.

(b) School districts and charter schools shall provide to the board information that is necessary for the board's report to the Legislature's Education Interim Committee as required in Subsection (6)(a).

Section 2. Section 53A-15-1302 is amended to read:

53A-15-1302. Parent education -- Mental health -- Bullying -- Safety.

(1) (a) Except as provided in Subsection (5), a school district shall offer a seminar for parents of students in the school district that:

(i) is offered at no cost to parents;

(ii) begins at or after 6 p.m.;

(iii) is held in at least one school located in the school district; and

~~[(iv) is offered once a year; and]~~

~~[(v)]~~ (iv) covers the topics described in Subsection (2).

(b) A school district shall annually offer one parent seminar for each 11,000 students enrolled in the school district.

~~[(b)]~~ (c) A school district may:

(i) develop its own curriculum for the seminar described in Subsection (1)(a); or

(ii) use the curriculum developed by the State Board of Education under Subsection (2).

~~[(e)]~~ (d) A school district shall notify each charter school located in the attendance boundaries of the school district of the date and time of ~~[the]~~ a parent seminar, so the charter school may inform parents of the seminar.

(2) The State Board of Education shall:

(a) develop a curriculum for the parent seminar described in Subsection (1) that includes information on:

(i) substance abuse, including illegal drugs and prescription drugs and prevention;

(ii) bullying;

(iii) mental health, depression, ~~[and]~~ suicide awareness~~;~~, and suicide prevention, including education on limiting access to fatal means; and

(iv) Internet safety, including pornography addiction; and

(b) provide the curriculum, including resources and training, to school districts upon request.

(3) The State Board of Education shall report to the Legislature's Education Interim Committee, by the November 2013 meeting, on the progress of implementation of the parent seminar, including if a local school board has opted out of providing the parent seminar, as described in Subsection (5), and the reasons why a local school board opted out.

(4) The State Board of Education shall report to the Legislature's Education Interim Committee by the November 2014 meeting on:

(a) the progress of implementation of the parent seminar;

(b) the estimated attendance reported by each school district;

(c) a recommendation of whether to continue the parent seminar program; and

(d) if a local school board has opted out of providing the parent seminar, as described in Subsection (5), and the reasons why a local school board opted out.

(5) (a) A school district is not required to offer the parent seminar if the local school board determines that the topics described in Subsection (2) are not of significant interest or value to families in the school district.

(b) If a local school board chooses not to offer the parent seminar, the local school board shall notify the State Board of Education and provide the reasons why the local school board chose not to offer the parent seminar.

Section 3. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2014, and ending June 30, 2015, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2015.

To State Board of Education - State Office of Education

From Education Fund	<u>\$159,000</u>
---------------------	------------------

Schedule of Programs:

Teaching and Learning	<u>\$159,000</u>
-----------------------	------------------

Section 4. Effective date.

This bill takes effect on July 1, 2014.

CHAPTER 350**H. B. 332**

Passed March 6, 2014
 Approved April 1, 2014
 Effective May 13, 2014

REAL ESTATE AMENDMENTS

Chief Sponsor: Gage Froerer
 Senate Sponsor: J. Stuart Adams

LONG TITLE**General Description:**

This bill amends provisions of Title 61, Securities Division - Real Estate Division.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies the scope of the business of residential mortgage loans;
- ▶ establishes a procedure for the voluntary surrender of a license issued under Title 61, Chapter 2c, Utah Residential Mortgage Practices and Licensing Act; Title 61, Chapter 2f, Real Estate Licensing and Practices Act; and Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act;
- ▶ requires certain state agencies to obtain the concurrence of the Real Estate Commission before the agency makes a rule that changes the rights, duties, or obligations of buyers, sellers, or persons licensed under Title 61, Chapter 2f, Real Estate Licensing and Practices Act, in relation to a real estate transaction between private parties;
- ▶ clarifies the procedure for renewal of an expired license under Title 61, Chapter 2f, Real Estate Licensing and Practices Act;
- ▶ provides that the division may send a license issued under Title 61, Chapter 2f, Real Estate Licensing and Practices Act, by mail or by email;
- ▶ clarifies the circumstances under which a buyer's principal broker may directly contact a seller who is represented by a principal broker;
- ▶ provides a statute of limitations for certain disciplinary actions;
- ▶ clarifies the effect of the expiration, revocation, or suspension of a license issued under Title 61, Chapter 2f, Real Estate Licensing and Practices Act;
- ▶ provides that the education and experience requirements for a licensee under Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act, must meet or exceed the requirements established by the Appraisal Qualification Board;
- ▶ provides that the Real Estate Appraiser Licensing and Certification Board may delegate certain duties to the Division of Real Estate;
- ▶ establishes procedures to request the review of certain decisions relating to licensure, certification, and registration under Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act;
- ▶ broadens the applicability of the background check requirements described in Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act;

- ▶ clarifies the standards for reciprocal licensure under Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 61-2c-102, as last amended by Laws of Utah 2012, Chapter 166
- 61-2c-402.1, as last amended by Laws of Utah 2009, Chapter 372
- 61-2f-103, as last amended by Laws of Utah 2010, Chapter 286 and renumbered and amended by Laws of Utah 2010, Chapter 379
- 61-2f-204, as last amended by Laws of Utah 2013, Chapter 292
- 61-2f-205, as renumbered and amended by Laws of Utah 2010, Chapter 379
- 61-2f-308, as renumbered and amended by Laws of Utah 2010, Chapter 379
- 61-2f-402, as renumbered and amended by Laws of Utah 2010, Chapter 379
- 61-2f-406, as renumbered and amended by Laws of Utah 2010, Chapter 379
- 61-2g-102, as last amended by Laws of Utah 2012, Chapter 166
- 61-2g-205, as renumbered and amended by Laws of Utah 2011, Chapter 289
- 61-2g-302, as enacted by Laws of Utah 2011, Chapter 289
- 61-2g-310, as renumbered and amended by Laws of Utah 2011, Chapter 289
- 61-2g-311, as renumbered and amended by Laws of Utah 2011, Chapter 289
- 61-2g-312, as last amended by Laws of Utah 2012, Chapter 166
- 61-2g-313, as renumbered and amended by Laws of Utah 2011, Chapter 289
- 61-2g-314, as renumbered and amended by Laws of Utah 2011, Chapter 289
- 61-2g-501, as renumbered and amended by Laws of Utah 2011, Chapter 289

ENACTS:

- 61-2c-210, Utah Code Annotated 1953
- 61-2f-208, Utah Code Annotated 1953
- 61-2f-410, Utah Code Annotated 1953
- 61-2g-304.5, Utah Code Annotated 1953
- 61-2g-316, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 61-2c-102 is amended to read:**61-2c-102. Definitions.**

- (1) As used in this chapter:
- (a) "Affiliation" means that a mortgage loan originator is associated with a principal lending manager in accordance with Section 61-2c-209.
- (b) "Applicant" means a person applying for a license under this chapter.

(c) “Approved examination provider” means a person approved by the nationwide database as an approved test provider.

(d) “Associate lending manager” means an individual who:

(i) qualifies under this chapter as a principal lending manager; and

(ii) works by or on behalf of another principal lending manager in transacting the business of residential mortgage loans.

(e) “Branch lending manager” means an individual who is:

(i) licensed as a lending manager; and

(ii) designated in the nationwide database by the individual’s sponsoring entity as being responsible to work from a branch office and to supervise the business of residential mortgage loans that is conducted at the branch office.

(f) “Branch office” means a licensed entity’s office:

(i) for the transaction of the business of residential mortgage loans regulated under this chapter;

(ii) other than the main office of the licensed entity; and

(iii) that operates under:

(A) the same business name as the licensed entity; or

(B) another trade name that is registered with the division under the entity license.

(g) “Business day” means a day other than:

(i) a Saturday;

(ii) a Sunday; or

(iii) a federal or state holiday.

(h) (i) “Business of residential mortgage loans” means for compensation or in the expectation of compensation to:

(A) engage in an act that makes an individual a mortgage loan originator;

(B) make or originate a residential mortgage loan;

(C) directly or indirectly solicit a residential mortgage loan for another;

(D) unless excluded under Subsection (1)(h)(ii), render services related to the origination of a residential mortgage loan including:

(I) preparing a loan package;

(II) communicating with the borrower or lender;

(III) advising on a loan term; ~~or~~

(IV) acting as a loan processor without being employed by a licensed entity; or

~~(V) except as provided in Subsection (1)(h)(ii)(B) or (C), acting as a loan underwriter; or~~

(E) engage in loan modification assistance.

(ii) “Business of residential mortgage loans” does not include:

(A) if working as an employee under the direction of and subject to the supervision and instruction of a person licensed under this chapter, the performance of a clerical or support duty ~~[such as]~~, including:

(I) the receipt, collection, or distribution of information common for the processing or underwriting of a loan in the mortgage industry other than taking an application;

(II) communicating with a consumer to obtain information necessary for the processing or underwriting of a residential mortgage loan;

(III) word processing;

(IV) sending correspondence;

(V) assembling files; or

(VI) acting as a loan processor;

~~(B) acting as a loan underwriter under the direction and control of an employer licensed under this chapter;~~

~~(C) acting as a loan underwriter, as an employee of a depository institution, exclusively in the capacity of the depository institution’s employee;~~

~~(D)~~ (D) ownership of an entity that engages in the business of residential mortgage loans if the owner does not personally perform the acts listed in Subsection (1)(h)(i); ~~or~~

~~(E)~~ (E) except if an individual will engage in an activity as a mortgage loan originator, acting in one or more of the following capacities:

(I) a loan wholesaler;

(II) an account executive for a loan wholesaler;

(III) a loan underwriter;

(IV) a loan closer; or

(V) funding a loan; or

~~(F)~~ (F) if employed by a person who owns or services an existing residential mortgage loan, the direct negotiation with the borrower for the purpose of loan modification.

(i) “Certified education provider” means a person who is certified under Section 61-2c-204.1 to provide one or more of the following:

(i) Utah-specific preclicensing education; or

(ii) Utah-specific continuing education.

(j) “Closed-end” means a loan:

(i) with a fixed amount borrowed; and

(ii) that does not permit additional borrowing secured by the same collateral.

(k) "Commission" means the Residential Mortgage Regulatory Commission created in Section 61-2c-104.

(l) "Compensation" means anything of economic value that is paid, loaned, granted, given, donated, or transferred to an individual or entity for or in consideration of:

- (i) services;
- (ii) personal or real property; or
- (iii) another thing of value.

(m) "Concurrence" means that entities given a concurring role must jointly agree for the action to be taken.

(n) "Continuing education" means education taken by an individual licensed under this chapter in order to meet the education requirements imposed by Sections 61-2c-204.1 and 61-2c-205 to renew a license under this chapter.

(o) "Control," as used in Subsection 61-2c-105(2)(f), means the power to directly or indirectly:

- (i) direct or exercise a controlling interest over:
 - (A) the management or policies of an entity; or
 - (B) the election of a majority of the directors, officers, managers, or managing partners of an entity;
- (ii) vote 20% or more of a class of voting securities of an entity by an individual; or
- (iii) vote more than 5% of a class of voting securities of an entity by another entity.

(p) (i) "Control person" means an individual identified by an entity registered with the nationwide database as being an individual directing the management or policies of the entity.

(ii) "Control person" may include one of the following who is identified as provided in Subsection (1)(p)(i):

- (A) a manager;
 - (B) a managing partner;
 - (C) a director;
 - (D) an executive officer; or
 - (E) an individual who performs a function similar to an individual listed in this Subsection (1)(p)(ii).
- (q) "Depository institution" is as defined in Section 7-1-103.

- (r) "Director" means the director of the division.
- (s) "Division" means the Division of Real Estate.

(t) "Dwelling" means a residential structure attached to real property that contains one to four units including any of the following if used as a residence:

- (i) a condominium unit;

- (ii) a cooperative unit;
 - (iii) a manufactured home; or
 - (iv) a house.
- (u) "Employee":

(i) means an individual:

(A) whose manner and means of work performance are subject to the right of control of, or are controlled by, another person; and

(B) whose compensation for federal income tax purposes is reported, or is required to be reported, on a W-2 form issued by the controlling person; and

(ii) does not include an independent contractor who performs duties other than at the direction of, and subject to the supervision and instruction of, another person.

(v) "Entity" means:

- (i) a corporation;
- (ii) a limited liability company;
- (iii) a partnership;
- (iv) a company;
- (v) an association;
- (vi) a joint venture;
- (vii) a business trust;
- (viii) a trust; or
- (ix) another organization.

(w) "Executive director" means the executive director of the Department of Commerce.

(x) "Federal licensing requirements" means Secure and Fair Enforcement for Mortgage Licensing, 12 U.S.C. Sec. 5101 et seq.

(y) "Foreclosure rescue" means, for compensation or with the expectation of receiving valuable consideration, to:

(i) engage, or offer to engage, in an act that:

(A) the person represents will assist a borrower in preventing a foreclosure; and

(B) relates to a transaction involving the transfer of title to residential real property; or

(ii) as an employee or agent of another person:

(A) solicit, or offer that the other person will engage in an act described in Subsection (1)(y)(i); or

(B) negotiate terms in relationship to an act described in Subsection (1)(y)(i).

(z) "Inactive status" means a dormant status into which an unexpired license is placed when the holder of the license is not currently engaging in the business of residential mortgage loans.

(aa) "Lending manager" means an individual licensed as a lending manager under Section 61-2c-206 to transact the business of residential mortgage loans.

(bb) "Licensee" means a person licensed with the division under this chapter.

(cc) "Licensing examination" means the examination required by Section 61-2c-204.1 or 61-2c-206 for an individual to obtain a license under this chapter.

(dd) "Loan modification assistance" means, for compensation or with the expectation of receiving valuable consideration, to:

(i) act, or offer to act, on behalf of a person to:

(A) obtain a loan term of a residential mortgage loan that is different from an existing loan term including:

(I) an increase or decrease in an interest rate;

(II) a change to the type of interest rate;

(III) an increase or decrease in the principal amount of the residential mortgage loan;

(IV) a change in the number of required period payments;

(V) an addition of collateral;

(VI) a change to, or addition of, a prepayment penalty;

(VII) an addition of a cosigner; or

(VIII) a change in persons obligated under the existing residential mortgage loan; or

(B) substitute a new residential mortgage loan for an existing residential mortgage loan; or

(ii) as an employee or agent of another person:

(A) solicit, or offer that the other person will engage in an act described in Subsection (1)(dd)(i); or

(B) negotiate terms in relationship to an act described in Subsection (1)(dd)(i).

(ee) (i) Except as provided in Subsection (1)(ee)(ii), "mortgage loan originator" means an individual who for compensation or in expectation of compensation:

(A) (I) takes a residential mortgage loan application; or

(II) offers or negotiates terms of a residential mortgage loan for the purpose of:

(Aa) a purchase;

(Bb) a refinance;

(Cc) a loan modification assistance; or

(Dd) a foreclosure rescue; and

(B) is licensed as a mortgage loan originator in accordance with this chapter.

(ii) "Mortgage loan originator" does not include a person who:

(A) is described in Subsection (1)(ee)(i), but who performs exclusively administrative or clerical tasks as described in Subsection (1)(h)(ii)(A);

(B) (I) is licensed under Chapter 2f, Real Estate Licensing and Practices Act;

(II) performs only real estate brokerage activities; and

(III) receives no compensation from:

(Aa) a lender;

(Bb) a lending manager; or

(Cc) an agent of a lender or lending manager; or

(C) is solely involved in extension of credit relating to a timeshare plan, as defined in 11 U.S.C. Sec. 101(53D).

(ff) "Nationwide database" means the Nationwide Mortgage Licensing System and Registry, authorized under federal licensing requirements.

(gg) "Nontraditional mortgage product" means a mortgage product other than a 30-year fixed rate mortgage.

(hh) "Person" means an individual or entity.

(ii) "Prelicensing education" means education taken by an individual seeking to be licensed under this chapter in order to meet the education requirements imposed by Section 61-2c-204.1 or 61-2c-206 for an individual to obtain a license under this chapter.

(jj) "Principal lending manager" means an individual:

(i) licensed as a lending manager under Section 61-2c-206; and

(ii) identified in the nationwide database by the individual's sponsoring entity as the entity's principal lending manager.

(kk) "Record" means information that is:

(i) prepared, owned, received, or retained by a person; and

(ii) (A) inscribed on a tangible medium; or

(B) (I) stored in an electronic or other medium; and

(II) in a perceivable and reproducible form.

(ll) "Referral fee":

(i) means any fee, kickback, or thing of value tendered for a referral of business or a service incident to or part of a residential mortgage loan transaction; and

(ii) does not mean a payment made:

(A) by a licensed entity to an individual employed by the entity;

(B) under a contractual incentive program; and

(C) according to rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(mm) "Residential mortgage loan" means an extension of credit, if:

- (i) the loan or extension of credit is secured by a:
 - (A) mortgage;
 - (B) deed of trust; or
 - (C) consensual security interest;

(ii) the mortgage, deed of trust, or consensual security interest described in Subsection (1)(mm)(i):

- (A) is on a dwelling located in the state; and
- (B) is created with the consent of the owner of the residential real property; and

(iii) solely for the purposes of defining "mortgage loan originator," the extension of credit is primarily for personal, family, or household use.

(nn) "Sponsorship" means an association in accordance with Section 61-2c-209 between an individual licensed under this chapter and an entity licensed under this chapter.

(oo) "State" means:

- (i) a state, territory, or possession of the United States;
- (ii) the District of Columbia; or
- (iii) the Commonwealth of Puerto Rico.

(pp) "Unique identifier" is as defined in 12 U.S.C. Sec. 5102.

(qq) "Utah-specific" means an educational or examination requirement under this chapter that relates specifically to Utah.

(2) (a) If a term not defined in this section is defined by rule, the term shall have the meaning established by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) If a term not defined in this section is not defined by rule, the term shall have the meaning commonly accepted in the business community.

Section 2. Section 61-2c-210 is enacted to read:

61-2c-210. Surrender of license.

(1) The division may, by written agreement, accept the voluntary surrender of a license issued under this chapter.

(2) Tender and acceptance of a voluntary surrender of a license under Subsection (1):

(a) does not prevent the division from pursuing additional action, including disciplinary action, that relates to the surrendered license and is authorized by this chapter or by rules made under this chapter; and

(b) terminates all rights and privileges associated with the license.

(3) A person may restore the rights and privileges described in Subsection (2)(b) only if the person reapplies for, and is granted, licensure in accordance with the requirements described in this chapter.

(4) Any documentation relating to the tender and acceptance of a voluntary surrender is a public record.

Section 3. Section 61-2c-402.1 is amended to read:

61-2c-402.1. Adjudicative proceedings -- Review.

(1) (a) Before an action described in Section 61-2c-402 may be taken, the division shall:

- (i) give notice to the person against whom the action is brought; and
- (ii) commence an adjudicative proceeding.

(b) If after the adjudicative proceeding is commenced under Subsection (1)(a) the presiding officer determines that a person required to be licensed under this chapter has violated this chapter, the division may take an action described in Section 61-2c-402 by written order.

(2) In accordance with Title 63G, Chapter 4, Administrative Procedures Act, a person against whom action is taken under this section may seek review by the executive director of the action.

(3) If a person prevails in a judicial appeal and the court finds that the state action was undertaken without substantial justification, the court may award reasonable litigation expenses to that individual or entity as provided under Title 78B, Chapter 8, Part 5, Small Business Equal Access to Justice Act.

(4) (a) An order issued under this section takes effect 30 days after the service of the order unless otherwise provided in the order.

(b) If an appeal of an order issued under this section is taken by a person, the division may stay enforcement of the order in accordance with Section 63G-4-405.

(5) If ordered by the court of competent jurisdiction, the division shall promptly take an action described in Section 61-2c-402 against a license granted under this chapter.

(6) (a) Except as provided in Subsection (6)(b), the division shall commence a disciplinary action under this chapter no later than the earlier of the following:

- (i) four years after the day on which the violation is reported to the division; or
- (ii) 10 years after the day on which the violation occurred.

(b) The division may commence a disciplinary action under this chapter after the time period described in Subsection (6)(a) expires if:

- (i) (A) the disciplinary action is in response to a civil or criminal judgment or settlement; and

(B) the division initiates the disciplinary action no later than one year after the day on which the judgment is issued or the settlement is final; or

(ii) the division and the person subject to a disciplinary action enter into a written stipulation to extend the time period described in Subsection (6)(a).

Section 4. Section 61-2f-103 is amended to read:

61-2f-103. Real Estate Commission.

(1) There is created within the division a Real Estate Commission. The commission shall:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules for the administration of this chapter that are not inconsistent with this chapter, including:

(i) licensing of:

(A) a principal broker;

(B) an associate broker; and

(C) a sales agent;

(ii) registration of:

(A) an entity; and

(B) a branch office;

(iii) prelicensing and postlicensing education curricula;

(iv) examination procedures;

(v) the certification and conduct of:

(A) a real estate school;

(B) a course provider; or

(C) an instructor;

(vi) proper handling of money received by a licensee under this chapter;

(vii) brokerage office procedures and recordkeeping requirements;

(viii) property management;

(ix) standards of conduct for a licensee under this chapter;

(x) a rule made under Section 61-2f-307 regarding an undivided fractionalized long-term estate; and

(xi) if the commission determines necessary, a rule as provided in Subsection 61-2f-306(3) regarding a legal form;

(b) establish, with the concurrence of the division, a fee provided for in this chapter, except a fee imposed under Part 5, Real Estate Education, Research, and Recovery Fund Act;

(c) conduct an administrative hearing not delegated by the commission to an administrative law judge or the division relating to the:

(i) licensing of an applicant;

(ii) conduct of a licensee;

(iii) the certification or conduct of a real estate school, course provider, or instructor regulated under this chapter; or

(iv) violation of this chapter by any person;

(d) with the concurrence of the director, impose a sanction as provided in Section 61-2f-404;

(e) advise the director on the administration and enforcement of a matter affecting the division and the real estate sales and property management industries;

(f) advise the director on matters affecting the division budget;

(g) advise and assist the director in conducting real estate seminars; and

(h) perform other duties as provided by this chapter.

(2) (a) Except as provided in Subsection (2)(b), a state entity may not, without the concurrence of the commission, make a rule that changes the rights, duties, or obligations of buyers, sellers, or persons licensed under this chapter in relation to a real estate transaction between private parties.

(b) Subsection (2)(a) does not apply to a rule made:

(i) under Title 31A, Insurance Code, or Title 7, Financial Institutions Act; or

(ii) by the Department of Commerce or any division or other rulemaking body within the Department of Commerce.

~~[(2)]~~ (3) (a) The commission shall be comprised of five members appointed by the governor and approved by the Senate.

(b) Four of the commission members shall:

(i) have at least five years' experience in the real estate business; and

(ii) hold an active principal broker, associate broker, or sales agent license.

(c) One commission member shall be a member of the general public.

(d) The governor may not appoint a commission member described in Subsection ~~[(2)]~~ (3)(b) who, at the time of appointment, resides in the same county in the state as another commission member.

(e) At least one commission member described in Subsection ~~[(2)]~~ (3)(b) shall at the time of an appointment reside in a county that is not a county of the first or second class.

~~[(3)]~~ (4) (a) Except as required by Subsection ~~[(3)]~~ (4)(b), as terms of current commission members expire, the governor shall appoint each new member or reappointed member to a four-year term ending June 30.

(b) Notwithstanding the requirements of Subsection ~~[(3)]~~ (4)(a), the governor shall, at the time of appointment or reappointment, adjust the

length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.

(c) Upon the expiration of the term of a member of the commission, the member of the commission shall continue to hold office until a successor is appointed and qualified.

(d) A commission member may not serve more than two consecutive terms.

(e) Members of the commission shall annually select one member to serve as chair.

[4] (5) When a vacancy occurs in the membership for any reason, the governor, with the consent of the Senate, shall appoint a replacement for the unexpired term.

[5] (6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

[6] (7) (a) The commission shall meet at least monthly.

(b) The director may call additional meetings:

(i) at the director's discretion;

(ii) upon the request of the chair; or

(iii) upon the written request of three or more commission members.

[7] (8) Three members of the commission constitute a quorum for the transaction of business.

Section 5. Section 61-2f-204 is amended to read:

61-2f-204. Licensing fees and procedures -- Renewal fees and procedures.

(1) (a) Upon filing an application for an examination for a license under this chapter, the applicant shall pay a nonrefundable fee established in accordance with Section 63J-1-504 for admission to the examination.

(b) An applicant for a principal broker, associate broker, or sales agent license shall pay a nonrefundable fee as determined by the commission with the concurrence of the division under Section 63J-1-504 for issuance of an initial license or license renewal.

(c) A license issued under this Subsection (1) shall be issued for a period of not less than two years as determined by the division with the concurrence of the commission.

(d) (i) Any of the following applicants shall comply with this Subsection (1)(d):

(A) a new sales agent applicant;

(B) a principal broker applicant; or

(C) an associate broker applicant.

(ii) An applicant described in this Subsection (1)(d) shall:

(A) submit fingerprint cards in a form acceptable to the division at the time the license application is filed; and

(B) consent to a criminal background check by the Utah Bureau of Criminal Identification and the Federal Bureau of Investigation regarding the application.

(iii) The division shall request the Department of Public Safety to complete a Federal Bureau of Investigation criminal background check for each applicant described in this Subsection (1)(d) through the national criminal history system or any successor system.

(iv) The applicant shall pay the cost of the criminal background check and the fingerprinting.

(v) Money paid to the division by an applicant for the cost of the criminal background check is nonlapsing.

(e) (i) A license issued under Subsection (1)(d) is conditional, pending completion of the criminal background check.

(ii) A license is immediately and automatically revoked if the criminal background check discloses the applicant fails to accurately disclose a criminal history involving:

(A) the real estate industry; or

(B) a felony conviction on the basis of an allegation of fraud, misrepresentation, or deceit.

(iii) If a criminal background check discloses that an applicant fails to accurately disclose a criminal history other than one described in Subsection (1)(e)(ii), the division:

(A) shall review the application; and

(B) in accordance with rules made by the division pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, may:

(I) place a condition on a license;

(II) place a restriction on a license;

(III) revoke a license; or

(IV) refer the application to the commission for a decision.

(iv) A person whose conditional license is automatically revoked under Subsection (1)(e)(ii) or whose license is conditioned, restricted, or revoked under Subsection (1)(e)(iii) may have a hearing after the action is taken to challenge the action. The hearing shall be conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(v) The director shall designate one of the following to act as the presiding officer in a hearing described in Subsection (1)(e)(iv):

(A) the division; or

(B) the division with the concurrence of the commission.

(vi) The decision on whether relief from an action under this Subsection (1)(e) will be granted shall be made by the presiding officer.

(vii) Relief from an automatic revocation under Subsection (1)(e)(ii) may be granted only if:

(A) the criminal history upon which the division based the revocation:

(I) did not occur; or

(II) is the criminal history of another person;

(B) (I) the revocation is based on a failure to accurately disclose a criminal history; and

(II) the applicant has a reasonable good faith belief at the time of application that there was no criminal history to be disclosed; or

(C) the division fails to follow the prescribed procedure for the revocation.

(viii) If a license is revoked or a revocation under this Subsection (1)(e) is upheld after a hearing, the individual may not apply for a new license until at least 12 months after the day on which the license is revoked.

(2) (a) (i) A license expires if it is not renewed on or before its expiration date.

(ii) As a condition of renewal, an active licensee shall demonstrate competence by completing 18 hours of continuing education within a two-year renewal period subject to rules made by the commission, with the concurrence of the division.

(iii) In making a rule described in Subsection (2)(c)(ii), the division and commission shall consider:

(A) evaluating continuing education on the basis of competency, rather than course time;

(B) allowing completion of courses in a significant variety of topic areas that the division and commission determine are valuable in assisting an individual licensed under this chapter to increase the individual's competency; and

(C) allowing completion of courses that will increase a licensee's professional competency in the area of practice of the licensee.

(iv) The division may award credit to a licensee for a continuing education requirement of this Subsection (2)(a) for a reasonable period of time upon a finding of reasonable cause, including:

(A) military service; or

(B) if an individual is elected or appointed to government service, the individual's government service during which the individual spends a substantial time addressing real estate issues subject to conditions established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) For a period of 30 days after ~~the expiration date of~~ the day on which a license expires, the license may be reinstated ~~[upon]~~:

(i) if the applicant's license was inactive on the day on which the applicant's license expired, upon payment of a renewal fee and a late fee determined by the commission with the concurrence of the division under Section 63J-1-504; or

(ii) if the applicant's license was active on the day on which the applicant's license expired, upon ~~[(i)]~~ payment of a renewal fee and a late fee determined by the commission with the concurrence of the division under Section 63J-1-504~~[(i)]~~, and ~~[(ii)]~~ providing proof acceptable to the division and the commission of the licensee having:

(A) completed the hours of education required by Subsection (2)(a); or

(B) demonstrated competence as required under Subsection (2)(a).

(c) After the 30-day period described in Subsection (2)(b), and until six months after the ~~[expiration date]~~ day on which an active or inactive license expires, the license may be reinstated by:

(i) paying a renewal fee and a late fee determined by the commission with the concurrence of the division under Section 63J-1-504;

(ii) providing to the division proof of satisfactory completion of six hours of continuing education:

(A) in addition to the requirements for a timely renewal; and

(B) on a subject determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) providing proof acceptable to the division and the commission of the licensee having:

(A) completed the hours of education required under Subsection (2)(a); or

(B) demonstrated competence as required under Subsection (2)(a).

(d) After the six-month period described in Subsection (2)(c), and until one year after the ~~[expiration date]~~ day on which an active or inactive license expires, the license may be reinstated by:

(i) paying a renewal fee and a late fee determined by the commission with the concurrence of the division under Section 63J-1-504;

(ii) providing to the division proof of satisfactory completion of 24 hours of continuing education:

(A) in addition to the requirements for a timely renewal; and

(B) on a subject determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) providing proof acceptable to the division and the commission of the licensee having:

(A) completed the hours of education required by Subsection (2)(a); or

(B) demonstrated competence as required under Subsection (2)(a).

(e) The division shall relicense a person who does not renew that person's license within one year as prescribed for an original application.

(f) Notwithstanding Subsection (2)(a), the division may extend the term of a license that would expire under Subsection (2)(a) except for the extension if:

(i) (A) the person complies with the requirements of this section to renew the license; and

(B) the renewal application remains pending at the time of the extension; or

(ii) at the time of the extension, there is pending a disciplinary action under this chapter.

(3) (a) As a condition for the activation of an inactive license that was in an inactive status at the time of the licensee's most recent renewal, the licensee shall supply the division with proof of:

(i) successful completion of the respective sales agent or principal broker licensing examination within six months before applying to activate the license; or

(ii) the successful completion of the hours of continuing education that the licensee would have been required to complete under Subsection (2)(a) if the license had been on active status at the time of the licensee's most recent renewal.

(b) The commission may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish by rule:

(i) the nature or type of continuing education required for reactivation of a license; and

(ii) how long before reactivation the continuing education must be completed.

Section 6. Section 61-2f-205 is amended to read:

61-2f-205. Form of license -- Display of license.

(1) The division shall issue to a licensee a wall license that contains:

(a) the name and address of the licensee;

(b) the seal of the state; and

(c) any other matter prescribed by the division.

(2) The division shall send, by mail or email, the license described in Subsection (1) to the licensee at the mailing address or email address furnished by the licensee.

(3) A principal broker shall keep the license of the principal broker and the license of any associate broker or sales agent affiliated with the principal broker in the office in which the licensee works to be made available on request.

Section 7. Section 61-2f-208 is enacted to read:

61-2f-208. Surrender of license.

(1) The division may, by written agreement, accept the voluntary surrender of a license issued under this chapter.

(2) Tender and acceptance of a voluntary surrender of a license under Subsection (1):

(a) does not prevent the division from pursuing additional action, including disciplinary action, that relates to the surrendered license and is authorized by this chapter or by rules made under this chapter; and

(b) terminates all rights and privileges associated with the license.

(3) A person may restore the rights and privileges described in Subsection (2)(b) only if the person reapplies for, and is granted, licensure in accordance with the requirements described in this chapter.

(4) Any documentation relating to the tender and acceptance of a voluntary surrender is a public record.

Section 8. Section 61-2f-308 is amended to read:

61-2f-308. Brokerage agreements.

(1) As used in this section:

(a) "Brokerage agreement" means a written agreement between a client and a principal broker:

(i) (A) to list for sale, lease, or exchange, real estate, an option on real estate, or an improvement on real estate; or

(B) for representation in the purchase, lease, or exchange of real estate, an option on real estate, or an improvement on real estate; and

(ii) that gives the principal broker the expectation of receiving valuable consideration in exchange for the principal broker's services.

~~[(a)]~~ (b) "Client" means a person who makes an exclusive brokerage agreement with a principal broker under Subsection (1)[(e)](d).

~~[(b)]~~ (c) "Closed" means that:

(i) the documents required to be executed under the contract are executed;

(ii) the money required to be paid by either party under the contract is paid in the form of collected or cleared funds;

(iii) the proceeds of any new loan are delivered by the lender to the seller; and

(iv) the applicable documents are recorded in the office of the county recorder for the county in which the real estate is located.

~~[(e)]~~ (d) "Exclusive brokerage agreement" means a [written agreement between a client and a principal broker: (i) (A) to list for sale, lease, or exchange: (I) real estate; (II) an option on real

~~estate; or (III) an improvement on real estate; or (B) for representation in the purchase, lease, or exchange of: (I) real estate; (II) an option on real estate; or (III) an improvement on real estate; (ii) brokerage agreement that gives the principal broker the sole right to act as the agent or representative of the client for the purchase, sale, lease, or exchange of real estate, an option on real estate, or an improvement on real estate.~~

~~[(A) real estate;]~~

~~[(B) an option on real estate; or]~~

~~[(C) an improvement on real estate; and]~~

~~[(iii) that gives the principal broker the expectation of receiving valuable consideration in exchange for the principal broker's services.]~~

(2) (a) Except as provided in Subsection (2)(b), a principal broker subject to an exclusive brokerage agreement shall:

(i) accept delivery of and present to the client offers and counteroffers to buy, lease, or exchange the client's real estate;

(ii) assist the client in developing, communicating, and presenting offers, counteroffers, and notices; and

(iii) answer any question the client has concerning:

(A) an offer;

(B) a counteroffer;

(C) a notice; and

(D) a contingency.

(b) A principal broker subject to an exclusive brokerage agreement need not comply with Subsection (2)(a) after:

(i) (A) an agreement for the sale, lease, or exchange of the real estate, option on real estate, or improvement on real estate is signed;

(B) the contingencies related to the sale, lease, or exchange are satisfied or waived; and

(C) the sale, lease, or exchange is closed; or

(ii) the exclusive brokerage agreement expires or terminates.

(3) A principal broker who violates this section is subject to Sections 61-2f-404 and 61-2f-405.

(4) (a) Subject to Subsection (4)(b), a principal broker who represents a buyer may directly contact a seller who is subject to a brokerage agreement or an exclusive brokerage agreement if:

(i) the seller's principal broker gives the buyer's principal broker written authorization; or

(ii) subject to Subsection (4)(c), the seller gives the buyer's principal broker written authorization.

(b) If a buyer's principal broker obtains a written authorization described in Subsection (4)(a), the

buyer's principal broker may contact the seller directly to:

(i) discuss items related to a real estate transaction between the buyer and the seller;

(ii) provide the seller with blank state-approved forms; and

(iii) negotiate the terms of a real estate transaction between the buyer and the seller.

(c) A buyer's principal broker may not solicit from a seller a written authorization described in Subsection (4)(a)(ii).

(5) A principal broker who, in accordance with Subsection (4), engages in the conduct described in Subsection (4)(b) is not, by that conduct, representing that the principal broker is acting on behalf of both the buyer and the seller.

Section 9. Section 61-2f-402 is amended to read:

61-2f-402. Investigations.

(1) The division may make an investigation within or outside of this state as the division considers necessary to determine whether a person has violated, is violating, or is about to violate this chapter or any rule or order under this chapter.

(2) To aid in the enforcement of this chapter or in the prescribing of rules and forms under this chapter, the division may require or permit a person to file a statement in writing, under oath or otherwise as to the facts and circumstances concerning the matter to be investigated.

(3) For the purpose of the investigation described in Subsection (1), the division or an employee designated by the division may:

(a) administer an oath or affirmation;

(b) subpoena witnesses and evidence;

(c) take evidence;

(d) require the production of a book, paper, contract, record, other document, or information relevant to the investigation; and

(e) serve a subpoena by certified mail.

(4) (a) If a person is found to have violated this chapter or a rule made under this chapter, the person shall pay the costs incurred by the division to copy a book, paper, contract, document, or record required under this chapter, including the costs incurred to copy an electronic book, paper, contract, document, or record in a universally readable format.

(b) If a person fails to pay the costs described in Subsection (4)(a) when due, the person's license, certification, or registration is automatically suspended:

(i) beginning the day on which the payment of costs is due; and

(ii) ending the day on which the costs are paid.

(5) (a) Except as provided in Subsection (5)(b), the division shall commence a disciplinary action under

this chapter no later than the earlier of the following:

(i) four years after the day on which the violation is reported to the division; or

(ii) 10 years after the day on which the violation occurred.

(b) The division may commence a disciplinary action under this chapter after the time period described in Subsection (5)(a) expires if:

(i) (A) the disciplinary action is in response to a civil or criminal judgment or settlement; and

(B) the division initiates the disciplinary action no later than one year after the day on which the judgment is issued or the settlement is final; or

(ii) the division and the person subject to a disciplinary action enter into a written stipulation to extend the time period described in Subsection (5)(a).

Section 10. Section 61-2f-406 is amended to read:

61-2f-406. Grounds for revocation of principal broker's license.

(1) ~~[(a)]~~ An unlawful act or violation of this chapter committed by a person listed in Subsection ~~[(1)(b)]~~ (2) is cause for:

~~[(i)]~~ (a) the revocation, suspension, or probation of a principal broker's license; or

~~[(ii)]~~ (b) the imposition of a fine against the principal broker in an amount not to exceed \$5,000 per violation.

~~[(b)]~~ (2) Subsection (1)~~[(a)]~~ applies to an act or violation by any of the following:

~~[(i)]~~ (a) a sales agent or associate broker employed by a principal broker;

~~[(ii)]~~ (b) a sales agent or associate broker engaged as an independent contractor by or on behalf of a principal broker; or

~~[(iii)]~~ (c) an employee, officer, or member of a principal broker.

~~[(2) (a) The revocation or suspension of a principal broker license automatically inactivates an associate broker or sales agent license granted to an individual by reason of that individual's affiliation with the principal broker whose license is revoked or suspended, pending a change of principal broker affiliation.]~~

~~[(b) A principal broker shall, before the effective date of a suspension or revocation of the principal broker's license, notify in writing every licensee affiliated with the principal broker of the revocation or suspension of the principal broker license.]~~

Section 11. Section 61-2f-410 is enacted to read:

61-2f-410. Effect of expiration, revocation, or suspension -- Notice required.

(1) (a) The revocation or suspension of a principal broker license automatically inactivates an associate broker license or a sales agent license that was issued based upon the licensee's affiliation with the principal broker whose license is revoked or suspended, pending a change of principal broker affiliation.

(b) If an individual's associate broker license or sales agent license becomes inactive under Subsection (1)(a), the individual may affiliate with another principal broker licensed under this chapter.

(2) Before the day on which a suspension or revocation of a principal broker's license is effective, the principal broker shall notify, in writing, each licensee affiliated with the principal broker:

(a) that the principal broker's license will be revoked or suspended;

(b) of the day on which the revocation or suspension is effective; and

(c) that the licensee's license will be inactive beginning on the day on which the principal broker's license is revoked or suspended.

(3) If a principal broker fails to timely renew the principal broker's license in accordance with this chapter, on the day on which the principal broker's license expires, the principal broker shall notify, in writing, each licensee affiliated with the principal broker:

(a) that the principal broker's license is expired;

(b) of the day on which the principal broker's license expired; and

(c) that the licensee's license is inactive beginning on the day on which the principal broker's license expired.

Section 12. Section 61-2g-102 is amended to read:

61-2g-102. Definitions.

(1) As used in this chapter:

(a) (i) "Appraisal" means an analysis, opinion, or conclusion relating to the nature, quality, value, or utility of a specified interest in, or aspect of, identified real estate or identified real property.

(ii) An appraisal is classified by the nature of the assignment as a valuation appraisal, an analysis assignment, or a review assignment in accordance with the following definitions:

(A) "Analysis assignment" means an unbiased analysis, opinion, or conclusion that relates to the nature, quality, or utility of identified real estate or identified real property.

(B) "Review assignment" means an unbiased analysis, opinion, or conclusion that forms an opinion as to the adequacy and appropriateness of a valuation appraisal or an analysis assignment.

(C) "Valuation appraisal" means an unbiased analysis, opinion, or conclusion that estimates the value of an identified parcel of real estate or

identified real property at a particular point in time.

(b) “Appraisal Foundation” means the Appraisal Foundation that was incorporated as an Illinois not-for-profit corporation on November 30, 1987.

(c) (i) “Appraisal report” means a communication, written or oral, of an appraisal.

(ii) An appraisal report is classified by the nature of the assignment as a valuation report, analysis report, or review report in accordance with the definitions provided in Subsection (1)(a)(ii).

(iii) The testimony of a person relating to the person’s analyses, conclusions, or opinions concerning identified real estate or identified real property is considered to be an oral appraisal report.

(d) “Appraisal Qualification Board” means the Appraisal Qualification Board of the Appraisal Foundation.

(e) “Board” means the Real Estate Appraiser Licensing and Certification Board that is established in Section 61-2g-204.

(f) “Certified appraisal report” means a written or oral appraisal report that is certified by a state-certified general appraiser or state-certified residential appraiser.

(g) “Concurrence” means that the entities that are given a concurring role jointly agree to an action.

(h) (i) (A) “Consultation service” means an engagement to provide a real estate valuation service analysis, opinion, conclusion, or other service that does not fall within the definition of appraisal.

(B) “Consultation service” does not mean a valuation appraisal, analysis assignment, or review assignment.

(ii) Regardless of the intention of the client or employer, if a person prepares an unbiased analysis, opinion, or conclusion, the analysis, opinion, or conclusion is considered to be an appraisal and not a consultation service.

(i) “Contingent fee” means a fee or other form of compensation, payment of which is dependent on or conditioned by:

(i) the reporting of a predetermined analysis, opinion, or conclusion by the person performing the analysis, opinion, or conclusion; or

(ii) achieving a result specified by the person requesting the analysis, opinion, or conclusion.

(j) “Credential” means a state-issued registration, license, or certification that allows an individual to perform any act or service that requires licensure or certification under this chapter.

(k) “Division” means the Division of Real Estate of the Department of Commerce.

(l) “Executive director” means the executive director of the Department of Commerce.

~~(k)~~ (m) “Federally related transaction” means a real estate related transaction that is required by federal law or by federal regulation to be supported by an appraisal prepared by:

(i) a state-licensed appraiser; or

(ii) a state-certified appraiser.

~~(4)~~ (n) “Real estate” means an identified parcel or tract of land including improvements if any.

~~(m)~~ (o) “Real estate appraisal activity” means the act or process of making an appraisal of real estate or real property and preparing an appraisal report.

~~(n)~~ (p) “Real estate related transaction” means:

(i) the sale, lease, purchase, investment in, or exchange of real property or an interest in real property, or the financing of such a transaction;

(ii) the refinancing of real property or an interest in real property; or

(iii) the use of real property or an interest in real property as security for a loan or investment, including mortgage-backed securities.

~~(o)~~ (q) “Real property” means one or more defined interests, benefits, or rights inherent in the ownership of real estate.

~~(p)~~ (r) “State-certified general appraiser” means a person who holds a current, valid certification as a state-certified general appraiser issued under this chapter.

~~(q)~~ (s) “State-certified residential appraiser” means a person who holds a current, valid certification as a state-certified residential real estate appraiser issued under this chapter.

~~(r)~~ (t) “State-licensed appraiser” means a person who holds a current, valid license as a state-licensed appraiser issued under this chapter.

~~(s)~~ (u) “Trainee” means an individual who:

(i) does not hold an appraiser license or appraiser certification issued under this chapter;

(ii) works under the direct supervision of a state-certified appraiser to earn experience for licensure; and

(iii) is registered as a trainee under this chapter.

~~(t)~~ (v) “Unbiased analysis, opinion, or conclusion” means an analysis, opinion, or conclusion relating to the nature, quality, value, or utility of identified real estate or identified real property that is prepared by a person who is employed or retained to act, or would be perceived by third parties or the public as acting, as a disinterested third-party in rendering the analysis, opinion, or conclusion.

(2) (a) If a term not defined in this section is defined by rule, the term shall have the meaning established by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) If a term not defined in this section is not defined by rule, the term shall have the meaning commonly accepted in the business community.

Section 13. Section 61-2g-205 is amended to read:

61-2g-205. Duties of board.

(1) (a) The board shall provide technical assistance to the division relating to real estate appraisal standards and real estate appraiser qualifications.

(b) The board has the powers and duties listed in this section.

(2) The board shall:

(a) determine the experience and education requirements appropriate for a person licensed under this chapter;

(b) determine the experience and education requirements appropriate for a person certified under this chapter:

(i) in compliance with the minimum requirements of Financial Institutions Reform, Recovery, and Enforcement Act of 1989; and

(ii) consistent with the intent of this chapter;

(c) determine the appraisal related acts that may be performed by:

(i) a trainee on the basis of the trainee's education and experience;

(ii) clerical staff; and

(iii) a person who:

(A) does not hold a license or certification; and

(B) assists an appraiser licensed or certified under this chapter in providing appraisal services or consultation services;

(d) determine the procedures for a trainee to register and to renew a registration with the division; and

(e) develop one or more programs to upgrade and improve the experience, education, and examinations as required under this chapter.

(3) ~~[(a)]~~ The experience and education requirements ~~[established]~~ determined by the board for a person licensed or certified under this chapter shall ~~[be]~~ meet or exceed the minimum criteria established by the Appraisal Qualification Board~~[, unless, after notice and a public hearing held in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board finds that the minimum criteria are not appropriate for a state-licensed appraiser or a state-certified appraiser in this state].~~

~~[(b) If under Subsection (3)(a) the board makes a finding that the minimum criteria are not appropriate, the board shall recommend appropriate criteria to the Legislature.]~~

(4) The board shall:

(a) determine the continuing education requirements appropriate for the renewal of a license, certification, or registration issued under this chapter~~[,] [except that the continuing education requirements established by the board shall at least] that meet or exceed the minimum criteria established by the Appraisal Qualification Board;~~

(b) develop one or more programs to upgrade and improve continuing education; and

(c) recommend to the division one or more available continuing education courses that meet the requirements of this chapter.

(5) (a) The board shall consider the proper interpretation or explanation of the Uniform Standards of Professional Appraisal Practice as required by Section 61-2g-403 when:

(i) an interpretation or explanation is necessary in the enforcement of this chapter; and

(ii) the Appraisal Standards Board of the Appraisal Foundation has not issued an interpretation or explanation.

(b) If the conditions of Subsection (5)(a) are met, the board shall recommend to the division the appropriate interpretation or explanation that the division should adopt as a rule under this chapter.

(c) The board may by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and Section 61-2g-403, and with the concurrence of the division, provide for an exemption from a provision of the Uniform Standards of Professional Appraisal Practice for an activity engaged in on behalf of a governmental entity.

(6) (a) The board shall conduct an administrative hearing, not delegated by the board to an administrative law judge, in connection with a disciplinary proceeding under Section 61-2g-504 concerning:

(i) a person required to be licensed, certified, or registered under this chapter; and

(ii) the person's failure to comply with this chapter and the Uniform Standards of Professional Appraisal Practice as adopted under Section 61-2g-403.

(b) The board, with the concurrence of the division, shall issue in an administrative hearing a decision that contains findings of fact and conclusions of law.

(c) When a determination is made that a person required to be licensed, certified, or registered under this chapter has violated this chapter, the division shall implement disciplinary action determined through concurrence of the board and the division.

(7) A member of the board is immune from a civil action or criminal prosecution for a disciplinary proceeding concerning a person required to be registered, licensed, certified, or approved as an expert under this chapter if the action is taken

without malicious intent and in the reasonable belief that the action taken was taken pursuant to the powers and duties vested in a member of the board under this chapter.

(8) (a) The board shall require and pass upon proof necessary to determine the honesty, competency, integrity, ~~and~~ truthfulness, and general fitness to command the confidence of the community of an applicant for:

~~[(a)]~~ (i) original licensure, certification, or registration; and

~~[(b)]~~ (ii) renewal licensure, certification, or registration.

(b) The board may delegate to the division the authority to:

(i) review a class or category of applications for an original or renewed license, certification, or registration;

(ii) determine whether an applicant meets the qualifications for licensure, certification, or registration;

(iii) conduct any necessary hearing on an application for an original or renewed license, certification, or registration; and

(iv) approve or deny an application for an original or renewed license, certification, or registration.

(c) Except as provided in Subsections (8)(d) and (e), and in accordance with Title 63G, Chapter 4, Administrative Procedures Act, an applicant who is denied licensure, certification, or registration under this chapter may submit a request for agency review to the executive director of the division within 30 days after the day on which the board issues the order denying the applicant's application.

(d) If the board delegates to the division the authority to approve or deny an application without the concurrence of the board under Subsection (8)(b), and the division denies an application for licensure, certification, or registration, the applicant may, in accordance with Title 63G, Chapter 4, Administrative Procedures Act, petition the board for a de novo review of the application within 30 days after the day on which the division issues the order denying the applicant's application.

(e) If the board denies an applicant's application for licensure, certification, or registration after a de novo review under Subsection (8)(d), the applicant may, in accordance with Title 63G, Chapter 4, Administrative Procedures Act, petition the executive director for review of the board's denial within 30 days after the day on which the board issues the order denying the applicant's application.

Section 14. Section 61-2g-302 is amended to read:

61-2g-302. Registration as trainee.

(1) ~~[(a)]~~ An individual ~~[is required to]~~ shall register with the division as a trainee before the individual acts in the capacity of a trainee ~~[earning] or earns~~ experience for licensure.

~~[(b)]~~ (2) Subject to Subsection (2), the board, with the concurrence of the division, shall ~~[adopt]~~ make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for:

~~[(i)]~~ (a) the trainee registration required ~~[by this] under~~ Subsection (1); and

~~[(ii)]~~ (b) renewal of ~~[the] a~~ trainee registration ~~[required by this Subsection (1)].~~

~~[(2) (a) An individual applying to register as a trainee under this chapter shall:]~~

~~[(i) submit a fingerprint card in a form acceptable to the division at the time of applying for registration; and]~~

~~[(ii) consent to a criminal background check by:]~~

~~[(A) the Utah Bureau of Criminal Identification; and]~~

~~[(B) the Federal Bureau of Investigation.]~~

~~[(b) The division shall request the Department of Public Safety to complete a Federal Bureau of Investigation criminal background check for an applicant through a national criminal history system.]~~

~~[(c) The applicant shall pay the cost of:]~~

~~[(i) the fingerprinting required by this section; and]~~

~~[(ii) the criminal background check required by this section.]~~

~~[(d) (i) A registration as a trainee under this chapter is conditional pending completion of the criminal background check required by this Subsection (2).]~~

~~[(ii) A registration is immediately and automatically revoked if a criminal background check discloses that the applicant fails to accurately disclose a criminal history involving:]~~

~~[(A) the appraisal industry; or]~~

~~[(B) a felony conviction on the basis of an allegation of fraud, misrepresentation, or deceit.]~~

~~[(iii) If a criminal background check discloses that an applicant fails to accurately disclose a criminal history other than one described in Subsection (2)(d)(ii), the division shall review the application, and in accordance with rules made by the division pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, may:]~~

~~[(A) place one or more conditions on a registration;]~~

~~[(B) place one or more restrictions on a registration;]~~

~~[(C) revoke a registration; or]~~

~~[(D) refer the application to the board for a decision.]~~

~~[(iv) An individual whose conditional registration is automatically revoked under Subsection (2)(d)(ii) or whose registration is conditioned, restricted, or revoked under Subsection (2)(d)(iii) may appeal the action in a hearing conducted by the board.]~~

~~[(A) after the action is taken; and]~~

~~[(B) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.]~~

~~[(v) The board may delegate to the division or an administrative law judge the authority to conduct a hearing described in Subsection (2)(d)(iv).]~~

~~[(vi) Relief from an automatic revocation under Subsection (2)(d)(ii) may be granted only if:]~~

~~[(A) the criminal history upon which the division bases the revocation did not occur or is the criminal history of another person;]~~

~~[(B) the revocation is based on a failure to accurately disclose a criminal history, and the applicant has a reasonable good faith belief at the time of application that there was no criminal history to be disclosed; or]~~

~~[(C) the division fails to follow the prescribed procedure for the revocation.]~~

~~[(e) If a registration is revoked or a revocation is upheld after a hearing described in Subsection (2)(d)(iv), the individual may not apply for a new registration for a period of 12 months after the day on which the registration is revoked.]~~

~~[(f) The board may delegate to the division the authority to make a decision on whether relief from a revocation should be granted.]~~

~~[(g) Money paid by an applicant for the cost of the criminal background check is nonlapsing.]~~

Section 15. Section 61-2g-304.5 is enacted to read:

61-2g-304.5. Background checks.

(1) An individual applying for licensure, certification, or registration under this chapter shall:

(a) submit, with the individual's application, a fingerprint card in a form acceptable to the division; and

(b) consent to a criminal background check by:

(i) the Utah Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation.

(2) The division shall request that the Department of Public Safety complete a Federal Bureau of Investigation criminal background check for each applicant through the national criminal history system or any system that succeeds the national criminal history system.

(3) The applicant shall pay the cost of:

(a) the fingerprint card described in Subsection (1)(a); and

(b) a criminal background check.

(4) (a) A license, certification, or registration issued under this chapter is conditional pending completion of a criminal background check.

(b) A license, certification, or registration issued under this chapter is immediately and automatically revoked if a criminal background check reveals that the applicant failed to accurately disclose a criminal history that:

(i) relates to the appraisal industry; or

(ii) includes a felony conviction based on fraud, misrepresentation, or deceit.

(c) If a criminal background check reveals that an applicant failed to accurately disclose a criminal history other than a type described in Subsection (4)(b), the division shall review the application and, in accordance with rules made by the division pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, may:

(i) place one or more conditions on the license, certification, or registration;

(ii) place one or more restrictions on the license, certification, or registration;

(iii) revoke the license, certification, or registration; or

(iv) refer the application to the board for a decision.

(d) An individual whose conditional license, certification, or registration is automatically revoked under Subsection (4)(b) or whose license, certification, or registration is conditioned, restricted, or revoked under Subsection (4)(c) may appeal the action in a hearing conducted by the board in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(e) The board may delegate to the division or an administrative law judge the authority to conduct a hearing described in Subsection (4)(d).

(f) The board, the division, or an administrative law judge may reverse an automatic revocation under Subsection (4)(b) only if:

(i) the criminal history upon which the revocation was based did not occur or is the criminal history of another individual;

(ii) at the time the applicant disclosed the applicant's criminal history, the applicant had a reasonable good faith belief that there was no criminal history to be disclosed; or

(iii) the division failed to follow the prescribed procedure for the revocation.

(5) (a) If an individual's conditional license, certification, or registration is revoked under Subsection (4) and the individual does not appeal the revocation in accordance with Subsection (4)(d), the individual may not apply for a new certification, license, or registration under this chapter for a period of 12 months after the day on which the conditional license, certification, or registration is revoked.

(b) If an individual's conditional license, certification, or registration is revoked, the individual appeals that revocation in accordance with Subsection (4)(d), and the revocation is upheld, the individual may not apply for a new license, certification, or registration under this chapter for a period of 12 months after the day on which the decision from the appeal is issued.

(6) The board may delegate to the division the authority to make a decision on whether relief from a revocation should be granted.

(7) Money an applicant pays for the cost of the criminal background check is nonlapsing.

Section 16. Section 61-2g-310 is amended to read:

61-2g-310. Reciprocal licensure.

(1) An applicant for licensure or certification in this state who is [~~licensed or certified~~] credentialed under the laws of any other state, territory, or district may obtain a [~~license or certification~~] reciprocal credential in this state [~~upon the terms and conditions determined by the division and the board, if, in the determination of the division and the board~~] if:

~~[(1) the state, territory, or the District of Columbia is considered to have substantially equivalent licensing laws for real estate appraisers;]~~

~~[(2) the laws of that state, territory, or the District of Columbia accord substantially equal reciprocal rights to a person licensed or certified and in good standing in this state; and]~~

~~[(3) no formal charges alleging violation of state appraisal licensing or certification laws have been filed against the applicant by the applicant's state of domicile.]~~

(a) the individual holds a current, valid credential issued by a state that, on the day on which the individual submits an application, is in compliance with Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, as determined by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council; and

(b) the credentialing requirements of that state, that are in force on the day on which the individual submits an application, meet or exceed the credentialing requirements described in this chapter and the rules made under this chapter.

(2) An individual who holds a reciprocal credential described in Subsection (1) shall comply with all statutes and rules that govern the appraisal industry in this state, including requirements relating to:

(a) the payment of fees; and

(b) continuing education.

Section 17. Section 61-2g-311 is amended to read:

61-2g-311. State-licensed appraiser -- Authority and qualifications.

(1) A state-licensed appraiser is authorized to appraise complex and noncomplex 1-4 family residential units in this state having a transaction value permitted under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and related federal regulations.

(2) A state-licensed appraiser is authorized to appraise vacant or unimproved land having a transaction value permitted under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and related federal regulations that is utilized for 1-4 family purposes or for which the highest and best use is 1-4 family purposes and subdivisions for which a development analysis/appraisal is not necessary.

(3) A state-licensed appraiser may not issue a certified appraisal report.

(4) To qualify as a state-licensed appraiser, an applicant must:

(a) be of good moral character;

(b) demonstrate honesty, competency, integrity, [~~and~~] truthfulness, and general fitness to command the confidence of the community;

(c) pass the licensing examination with a satisfactory score as determined by the Appraisal Qualification Board;

(d) successfully complete [~~not less than 150 classroom hours in courses of study that relate to:~~] the educational requirements established by rule in accordance with Subsection (5); and

~~[(i) real estate appraisal;]~~

~~[(ii) the Uniform Standards of Professional Appraisal Practice; and]~~

~~[(iii) ethical rules to be observed by a real estate appraiser as required by Section 61-2g-403; and]~~

(e) possess [~~the minimum number of hours of~~] the experience in real property appraisal [as] established by rule in accordance with Subsection (5).

~~[(5) The courses of study under Subsection (4)(d) shall be conducted by:]~~

~~[(a) a college or university;]~~

~~[(b) a community or junior college;]~~

~~[(c) a real estate appraisal or real estate related organization;]~~

~~[(d) a state or federal agency or commission;]~~

~~[(e) a proprietary school;]~~

~~[(f) a provider approved by a state certification and licensing agency; or]~~

~~[(g) the Appraisal Foundation or its boards.]~~

(5) (a) The division shall, with the concurrence of the board, make rules in accordance with Title 63G,

Chapter 3, Utah Administrative Rulemaking Act, that establish:

(i) the educational requirements described in Subsection (4)(d); and

(ii) the experience in real property appraisal described in Subsection (4)(e).

(b) The educational and experience requirements established under Subsection (5)(a) shall meet or exceed the educational requirements and the hourly experience requirements adopted by the Appraisal Qualification Board.

Section 18. Section 61-2g-312 is amended to read:

61-2g-312. State-certified appraisers -- Authority.

(1) A state-certified residential appraiser:

(a) is authorized to appraise the types of real estate [which] that a state-licensed appraiser is authorized to appraise[.];

~~[(2) A state-certified residential appraiser is also]~~

(b) is authorized to appraise 1-4 unit residential real estate without regard to transaction value or complexity[.]; and

~~[(3) A state-certified residential appraiser]~~

(c) is not authorized to appraise subdivisions for which a development analysis/appraisal is necessary.

~~[(4)]~~ (2) A state-certified general appraiser is authorized to appraise all types of real estate and real property.

(3) A state-certified appraiser who satisfies all requirements described in this chapter and in rule made under this chapter may supervise trainees as allowed by rule.

Section 19. Section 61-2g-313 is amended to read:

61-2g-313. State-certified residential appraiser -- Authority and qualifications.

(1) An applicant for certification as a residential appraiser shall provide to the division evidence of:

(a) the applicant's good moral character, honesty, competency, integrity, [and] truthfulness, and general fitness to command the confidence of the community;

(b) completion of the certification examination with a satisfactory score as determined by the Appraisal Qualification Board;

~~[(c) (i) an associate degree or higher degree from an accredited.];~~

~~[(A) college;]~~

~~[(B) junior college;]~~

~~[(C) community college; or]~~

~~[(D) university; or]~~

~~[(ii) successfully passing a curriculum determined by rule of collegiate level subject matter courses from an accredited.];~~

~~[(A) college;]~~

~~[(B) junior college;]~~

~~[(C) community college; or]~~

~~[(D) university;]~~

~~[(d) satisfactory completion of not less than 200 classroom hours in a curriculum.];~~

~~[(i) of specific appraisal education determined by rule made by the board, with the concurrence of the division; and]~~

~~[(ii) that includes a course in the Uniform Standards of Professional Practice or its equivalent that is approved by the Appraisal Qualification Board.];~~

~~[(c) completion of the educational requirements established by rule in accordance with Subsection (3); and]~~

~~[(e) (d) [the minimum number of hours of] experience in real property appraisal as established by rule[; and] in accordance with Subsection (3).]~~

~~[(f) acquiring the experience required under Subsection (1)(e) within a reasonable period, as determined by rule, immediately preceding the filing of the application for certification.]~~

(2) Upon request by the division, an applicant shall make available to the division for examination:

(a) a detailed listing of the real estate appraisal reports or file memoranda [for each year] for which experience is claimed; and

(b) a sample selected by the division of appraisal reports that the applicant has prepared in the course of the applicant's appraisal practice.

~~[(3) The classroom hours required by Subsection (1)(d) shall be provided by:]~~

~~[(a) a college or university;]~~

~~[(b) a community or junior college;]~~

~~[(c) a real estate appraisal or real estate related organization;]~~

~~[(d) a state or federal agency or commission;]~~

~~[(e) a proprietary school;]~~

~~[(f) a provider approved by a state certification and licensing agency; or]~~

~~[(g) the Appraisal Foundation or its boards.]~~

(3) (a) The division shall, with the concurrence of the board, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish:

(i) the educational requirements described in Subsection (1)(c); and

(ii) the experience in real property appraisal described in Subsection (1)(d).

(b) The educational and experience requirements established under Subsection (3)(a) shall meet or exceed the educational requirements and the hourly experience requirements adopted by the Appraisal Qualification Board.

Section 20. Section 61-2g-314 is amended to read:

61-2g-314. State-certified general appraiser -- Application -- Qualifications.

(1) An applicant for certification as a general appraiser shall provide to the division evidence of:

(a) the applicant's good moral character, honesty, competency, integrity, [and] truthfulness, and general fitness to command the confidence of the community;

(b) completion of the certification examination with a satisfactory score as determined by the Appraisal Qualification Board;

~~[(c) (i) a bachelors degree or higher degree from an accredited college or university; or]~~

~~[(ii) successfully passing a curriculum determined by rule of collegiate level subject matter courses from an accredited;]~~

~~[(A) college;]~~

~~[(B) junior college;]~~

~~[(C) community college; or]~~

~~[(D) university;]~~

~~[(d) satisfactory completion of not less than 300 classroom hours in a curriculum;]~~

~~[(i) of specific appraisal education determined by rule; and]~~

~~[(ii) that includes a course in the Uniform Standards of Professional Practice or its equivalent that has been approved by the Appraisal Qualification Board;]~~

(c) completion of the educational requirements established by rule in accordance with Subsection (3); and

~~[(e) (d) [the minimum number of hours of] experience in real property appraisal as established by rule; and] in accordance with Subsection (3).~~

~~[(f) acquiring the experience required under Subsection (1)(e) within a reasonable period, as determined by rule, immediately preceding the filing of the application for certification.]~~

(2) Upon request by the division, an applicant shall make available to the division for examination:

(a) a detailed listing of the real estate appraisal reports or file memoranda [~~for each year~~] for which experience is claimed; and

(b) a sample selected by the division of appraisal reports that the applicant has prepared in the course of the applicant's appraisal practice.

~~[(3) The classroom hours required by Subsection (1)(d) shall be provided by:]~~

~~[(a) a college or university;]~~

~~[(b) a community or junior college;]~~

~~[(c) a real estate appraisal or real estate related organization;]~~

~~[(d) a state or federal agency or commission;]~~

~~[(e) a proprietary school;]~~

~~[(f) a provider approved by a state certification and licensing agency; or]~~

~~[(g) the Appraisal Foundation or its boards.]~~

(3) (a) The division shall, with the concurrence of the board, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish:

(i) the educational requirements described in Subsection (1)(c); and

(ii) the experience in real property appraisal described in Subsection (1)(d).

(b) The educational and experience requirements established under Subsection (3)(a) shall meet or exceed the educational requirements and the hourly experience requirements adopted by the Appraisal Qualification Board.

Section 21. Section 61-2g-316 is enacted to read:

61-2g-316. Surrender of license.

(1) The division may, by written agreement, accept the voluntary surrender of a license issued under this chapter.

(2) Tender and acceptance of a voluntary surrender of a license under Subsection (1):

(a) does not prevent the division from pursuing additional action, including disciplinary action, that relates to the surrendered license and is authorized by this chapter or by rules made under this chapter; and

(b) terminates all rights and privileges associated with the license.

(3) A person may restore the rights and privileges described in Subsection (2)(b) only if the person reapplies for, and is granted, licensure in accordance with the requirements described in this chapter.

(4) Any documentation relating to the tender and acceptance of a voluntary surrender is a public record.

Section 22. Section 61-2g-501 is amended to read:

61-2g-501. Enforcement -- Investigation -- Orders -- Hearings.

(1) (a) The division may investigate the actions of:

(i) a person registered, licensed, or certified under this chapter;

(ii) an applicant for registration, licensure, or certification;

(iii) an applicant for renewal of registration, licensure, or certification; or

(iv) a person required to be registered, licensed, or certified under this chapter.

(b) The division may initiate an agency action against a person described in Subsection (1)(a) in accordance with Title 63G, Chapter 4, Administrative Procedures Act, to:

(i) impose disciplinary action;

(ii) deny issuance to an applicant of:

(A) an original registration, license, or certification; or

(B) a renewal of a registration, license, or certification; or

(iii) issue a cease and desist order as provided in Subsection (3).

(2) (a) The division may:

(i) administer an oath or affirmation;

(ii) subpoena a witness or evidence;

(iii) take evidence; and

(iv) require the production of a book, paper, contract, record, document, information, or evidence relevant to the investigation described in Subsection (1).

(b) The division may serve a subpoena by certified mail.

(c) A failure to respond to a request by the division in an investigation authorized under this chapter is considered to be a separate violation of this chapter, including:

(i) failing to respond to a subpoena as a witness;

(ii) withholding evidence; or

(iii) failing to produce a book, paper, contract, document, information, or record.

(d) (i) If a person is found to have violated this chapter or a rule made under this chapter, the person shall pay the costs incurred by the division to copy a book, paper, contract, document, information, or record required under this chapter, including the costs incurred to copy an electronic book, paper, contract, document, information, or record in a universally readable format.

(ii) If a person fails to pay the costs described in Subsection (2)(d)(i) when due, the person's license, certification, or registration is automatically suspended:

(A) beginning the day on which the payment of costs is due; and

(B) ending the day on which the costs are paid.

(3) (a) The director shall issue and serve upon a person an order directing that person to cease and desist from an act if:

(i) the director has reason to believe that the person has been engaging, is about to engage, or is engaging in the act constituting a violation of this chapter; and

(ii) it appears to the director that it would be in the public interest to stop the act.

(b) Within 10 days after receiving the order, the person upon whom the order is served may request a hearing.

(c) Pending a hearing requested under Subsection (3)(b), a cease and desist order shall remain in effect.

(d) If a request for hearing is made, the division shall follow the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.

(4) (a) After a hearing requested under Subsection (3), if the board and division concur that an act of the person violates this chapter, the board, with the concurrence of the division:

(i) shall issue an order making the cease and desist order permanent; and

(ii) may impose another disciplinary action under Section 61-2g-502.

(b) The director shall commence an action in the name of the Department of Commerce and Division of Real Estate, in the district court in the county in which an act described in Subsection (3) occurs or where the person resides or carries on business, to enjoin and restrain the person from violating this chapter if:

(i) (A) a hearing is not requested under Subsection (3); and

(B) the person fails to cease the act described in Subsection (3); or

(ii) after discontinuing the act described in Subsection (3), the person again commences the act.

(5) A remedy or action provided in this section does not limit, interfere with, or prevent the prosecution of another remedy or action, including a criminal proceeding.

(6) (a) Except as provided in Subsection (6)(b), the division shall commence a disciplinary action under this chapter no later than the earlier of the following:

(i) four years after the day on which the violation is reported to the division; or

(ii) 10 years after the day on which the violation occurred.

(b) The division may commence a disciplinary action under this chapter after the time period described in Subsection (6)(a) expires if:

(i) (A) the disciplinary action is in response to a civil or criminal judgment or settlement; and

(B) the division initiates the disciplinary action no later than one year after the day on which the judgment is issued or the settlement is final; or

(ii) the division and the person subject to a disciplinary action enter into a written stipulation to extend the time period described in Subsection (6)(a).

CHAPTER 351**H. B. 337**

Passed March 13, 2014

Approved April 1, 2014

Effective July 1, 2014

**TEACHER SALARY SUPPLEMENT
PROGRAM AMENDMENTS**

Chief Sponsor: Bradley G. Last

Senate Sponsor: Howard A. Stephenson

LONG TITLE**General Description:**

This bill modifies the Teacher Salary Supplement Program.

Highlighted Provisions:

This bill:

- ▶ replaces the Department of Human Resource Management with the State Board of Education as the administrator of the Teacher Salary Supplement Program; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2014.

Utah Code Sections Affected:**AMENDS:**

53A-17a-156, as last amended by Laws of Utah 2011, Chapters 340 and 399

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53A-17a-156 is amended to read:**53A-17a-156. Teacher Salary Supplement Program -- Appeal process.**

(1) As used in this section:

~~[(a) "Department" means the Department of Human Resource Management, established in Section 67-19-5.]~~

(a) "Board" means the State Board of Education.

(b) "Eligible teacher" means a teacher who:

(i) has an assignment to teach:

(A) a secondary school level mathematics course;

(B) integrated science in grade seven or eight;

(C) chemistry; or

(D) physics;

(ii) holds the appropriate endorsement for the assigned course;

(iii) has qualifying educational background; and

(iv) (A) is a new employee; or

(B) received a satisfactory rating or above on the teacher's most recent evaluation.

(c) "Qualifying educational background" means:

(i) for a teacher who is assigned a secondary school level mathematics course:

(A) a bachelor's degree major, master's degree, or doctoral degree in mathematics; or

(B) a bachelor's degree major, master's degree, or doctoral degree that has course requirements that are substantially equivalent to the course requirements for a bachelor's degree major, master's degree, or doctoral degree in mathematics; and

(ii) for a teacher who is assigned a grade seven or eight integrated science course, chemistry course, or physics course, a bachelor's degree major, master's degree, or doctoral degree in:

(A) integrated science;

(B) chemistry;

(C) physics;

(D) physical science;

(E) general science; or

(F) a bachelor's degree major, master's degree, or doctoral degree that has course requirements that are substantially equivalent to the course requirements of those required for a degree listed in Subsections (1)(c)(ii)(A) through (E).

(2) (a) Subject to future budget constraints, the Legislature shall annually appropriate money to the Teacher Salary Supplement Restricted Account established in Section 53A-17a-157 to fund the Teacher Salary Supplement Program.

(b) Money appropriated for the Teacher Salary Supplement Program shall include money for the following employer-paid benefits:

(i) retirement;

(ii) workers' compensation;

(iii) Social Security; and

(iv) Medicare.

(3) (a) Beginning in fiscal year 2008-09, the annual salary supplement is \$4,100 for an eligible teacher who:

(i) is assigned full time to teach one or more courses listed in Subsections (1)(b)(i)(A) through (D); and

(ii) meets the requirements of Subsections (1)(b)(ii) and (iii) for each course assignment.

(b) An eligible teacher who has a part-time assignment to teach one or more courses listed in Subsections (1)(b)(i)(A) through (D) shall receive a partial salary supplement based on the number of hours worked in a course assignment that meets the requirements of Subsections (1)(b)(ii) and (iii).

(4) The ~~department~~ board shall:

(a) create an online application system for a teacher to apply to receive a salary supplement through the Teacher Salary Supplement Program;

(b) determine if a teacher:

- (i) is an eligible teacher; and
- (ii) has a course assignment as listed in Subsections (1)(b)(i)(A) through (D);
- (c) verify, as needed, the determinations made under Subsection (4)(b) with school district and school administrators; and
- (d) certify a list of eligible teachers and the amount of their salary supplement, sorted by school district and charter school, to the Division of Finance.
- (5) (a) An eligible teacher shall apply with the [department] board before the conclusion of a school year to receive the salary supplement authorized in this section.
- (b) An eligible teacher may apply with the [department] board, after verification that the requirements under this section have been satisfied, to receive a salary supplement after the completion of:
- (i) the school year as an annual award; or
- (ii) a semester or trimester as a partial award based on the portion of the school year that has been completed.
- (6) (a) The [department] board shall establish and administer an appeal process for a teacher to follow if the teacher applies for the salary supplement and is not certified under Subsection (4)(d).
- (b) (i) The appeal process established in Subsection (6)(a) shall allow a teacher to appeal on the basis that the teacher has a degree or degree major with course requirements that are substantially equivalent to the course requirements for a degree listed in Subsection (1)(c)(i)(A) or Subsections (1)(c)(ii)(A) through (E).
- (ii) A teacher shall provide transcripts and other documentation to the [department] board in order for the [department] board to determine if the teacher has a degree or degree major with course requirements that are substantially equivalent to the course requirements for a degree listed in Subsection (1)(c)(i)(A) or Subsections (1)(c)(ii)(A) through (E).
- (7) (a) The Division of Finance shall distribute money from the Teacher Salary Supplement Restricted Account to school districts and charter schools for the Teacher Salary Supplement Program in accordance with the provisions of this section.
- (b) The [department] board shall include the employer-paid benefits described under Subsection (2)(b) in the amount of each salary supplement certified to the Division of Finance.
- (c) The employer-paid benefits described under Subsection (2)(b) are an addition to the salary supplement limits described under Subsection (3).
- (8) (a) Money received from the Teacher Salary Supplement Restricted Account shall be used by a school district or charter school to provide a salary

supplement equal to the amount specified for each eligible teacher.

(b) The salary supplement is part of the teacher's base pay, subject to the teacher's qualification as an eligible teacher every year, semester, or trimester.

~~[(9) The State Board of Education shall cooperate with the department as it administers the Teacher Salary Supplement Program by:]~~

~~[(a) providing or verifying teacher data, as requested;]~~

~~[(b) making information technology resources available; and]~~

~~[(c) providing course descriptions, degree requirements, and other information requested by the department in order for the department to determine if a teacher has a degree or degree major with course requirements that are substantially equivalent to the course requirements for a degree listed in Subsection (1)(c)(i)(A) or Subsections (1)(c)(ii)(A) through (E), as part of the appeal process described in Subsection (6).]~~

~~[(10)]~~ (9) Notwithstanding the provisions of this section, if the appropriation for the program is insufficient to cover the costs associated with salary supplements, the [department] board may limit or reduce the salary supplements.

Section 2. Effective date.

This bill takes effect on July 1, 2014.

CHAPTER 352**H. B. 342**

Passed March 11, 2014

Approved April 1, 2014

Effective May 13, 2014

**POWERS AND DUTIES OF
THE STATE BOARD OF EDUCATION**

Chief Sponsor: Dana L. Layton

Senate Sponsor: Deidre M. Henderson

LONG TITLE**General Description:**

This bill modifies the powers and duties of the State Board of Education related to the development and adoption of core curriculum standards.

Highlighted Provisions:

This bill:

- ▶ requires the State Board of Education to establish:
 - a time line for the review of core curriculum standards in certain curriculum areas by a standards review committee; and
 - a standards review committee to review, and recommend revisions to, core curriculum standards;
- ▶ specifies the membership of a standards review committee; and
- ▶ directs the State Board of Education to take into consideration the comments and recommendations of a standards review committee in adopting core curriculum standards.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-1-402.6, as last amended by Laws of Utah 2012, Chapter 106

ENACTS:

53A-1-402.8, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53A-1-402.6 is amended to read:**53A-1-402.6. Core curriculum standards.**

(1) In establishing minimum standards related to curriculum and instruction requirements under Section 53A-1-402, the State Board of Education shall, in consultation with local school boards, school superintendents, teachers, employers, and parents implement core curriculum standards which will enable students to, among other objectives:

- (a) communicate effectively, both verbally and through written communication;
- (b) apply mathematics; and
- (c) access, analyze, and apply information.

(2) The board shall:

(a) identify the basic knowledge, skills, and competencies each student is expected to acquire or master as the student advances through the public education system; and

(b) align the core curriculum standards and tests administered under the Utah Performance Assessment System for Students (U-PASS) with each other.

(3) The basic knowledge, skills, and competencies identified pursuant to Subsection (2)(a) shall increase in depth and complexity from year to year and focus on consistent and continual progress within and between grade levels and courses in the core academic areas of:

(a) English, including explicit phonics, spelling, grammar, reading, writing, vocabulary, speech, and listening; and

(b) mathematics, including basic computational skills.

(4) Before adopting core curriculum standards, the State Board of Education shall:

(a) publicize draft core curriculum standards on the State Board of Education's website and the Utah Public Notice website created under Section 63F-1-701;

(b) invite public comment on the draft core curriculum standards for a period of not less than 90 days; and

(c) conduct three public hearings that are held in different regions of the state on the draft core curriculum standards.

[(4)] (5) Local school boards shall design their school programs, that are supported by generally accepted scientific standards of evidence, to focus on the core curriculum standards with the expectation that each program will enhance or help achieve mastery of the core curriculum standards.

[(5)] (6) Except as provided in Section 53A-13-101, each school may select instructional materials and methods of teaching, that are supported by generally accepted scientific standards of evidence, that it considers most appropriate to meet core curriculum standards.

[(6)] (7) The state may exit any agreement, contract, memorandum of understanding, or consortium that cedes control of Utah's core curriculum standards to any other entity, including a federal agency or consortium, for any reason, including:

(a) the cost of developing or implementing core curriculum standards;

(b) the proposed core curriculum standards are inconsistent with community values; or

(c) the agreement, contract, memorandum of understanding, or consortium:

(i) was entered into in violation of Part 9, Implementing Federal Programs Act, or Title 63J, Chapter 5, Federal Funds Procedures Act;

- (ii) conflicts with Utah law;
- (iii) requires Utah student data to be included in a national or multi-state database;
- (iv) requires records of teacher performance to be included in a national or multi-state database; or
- (v) imposes curriculum, assessment, or data tracking requirements on home school or private school students.

[7] (8) The State Board of Education shall annually report to the Education Interim Committee on the development and implementation of core curriculum standards, including the time line established for the review of core curriculum standards by a standards review committee and the recommendations of a standards review committee established under Section 53A-1-402.8.

Section 2. Section 53A-1-402.8 is enacted to read:

53A-1-402.8. Standards review committee.

(1) As used in this section, "board" means the State Board of Education.

(2) Subject to Subsection (5), the State Board of Education shall establish:

(a) a time line for the review by a standards review committee of core curriculum standards for:

- (i) English language arts;
- (ii) mathematics;
- (iii) science;
- (iv) social studies;
- (v) fine arts;
- (vi) physical education and health; and
- (vii) early childhood education; and

(b) a separate standards review committee for each subject area specified in Subsection (2)(a) to review, and recommend to the board revisions to, core curriculum standards.

(3) At least one year before the board takes formal action to adopt new core curriculum standards, the board shall establish a standards review committee as required by Subsection (2)(b).

(4) A standards review committee shall meet at least twice during the time period described in Subsection (3).

(5) In establishing a time line for the review of core curriculum standards by a standards review committee, the board shall give priority to establishing a standards review committee to review, and recommend revisions to, the core curriculum standards for mathematics.

(6) The membership of a standards review committee consists of:

(a) seven individuals, with expertise in the subject being reviewed, appointed by the board chair, including teachers, business representatives,

faculty of higher education institutions in Utah, and others as determined by the board chair;

(b) five parents or guardians of public education students appointed by the speaker of the House of Representatives; and

(c) five parents or guardians of public education students appointed by the president of the Senate.

(7) The board shall provide staff support to the standards review committee.

(8) A member of the standards review committee may not receive compensation or benefits for the member's service on the committee.

(9) Among the criteria a standards review committee shall consider when reviewing core curriculum standards is giving students an adequate foundation to successfully pursue college, technical education, a career, or other life pursuits.

(10) A standards review committee shall submit, to the board, comments and recommendations for revision of core curriculum standards.

(11) The board shall take into consideration the comments and recommendations of a standards review committee in adopting core curriculum standards.

(12) (a) Nothing in this section prohibits the board from amending or adding individual core curriculum standards as the need arises in the board's ongoing responsibilities.

(b) If the board makes changes as described in Subsection (12)(a), the board shall include the changes in the annual report the board submits to the Education Interim Committee under Section 53A-1-402.6.

CHAPTER 353**H. B. 347**

Passed March 11, 2014

Approved April 1, 2014

Effective May 13, 2014

**INSURANCE COVERAGE FOR
INFERTILITY TREATMENT**

Chief Sponsor: LaVar Christensen

Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill authorizes, at the discretion of the insurer, the use of the adoption indemnity benefit for infertility treatment.

Highlighted Provisions:

This bill:

- ▶ authorizes, at the discretion of the insurer, the use of the value of the adoption indemnity benefit for infertility treatment.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

31A-22-610.1, as last amended by Laws of Utah 2006, Chapter 94

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 31A-22-610.1 is amended to read:**31A-22-610.1. Indemnity benefit for adoption or infertility treatments.**

(1) (a) (i) If an insured has coverage for maternity benefits on the date of an adoptive placement, the insured's policy shall provide an adoption indemnity benefit payable to the insured, if a child is placed for adoption with the insured within 90 days of the child's birth. If more than one child from the same birth is placed for adoption with the insured, only one adoption indemnity benefit is required.

(ii) This section does not prevent an accident and health insurer from:

(A) adjusting the benefit payable under this section for cost sharing measures imposed under the policy or contract for maternity benefit coverage; or

(B) providing additional adoption indemnity benefits including:

(I) extending the period of time after birth in which a child must be placed with an insured; or

(II) providing a benefit in excess of the amount specified in Subsection (1)(c).

(b) An insurer that has paid the adoption indemnity benefit under Subsection (1)(a) may seek reimbursement of the benefit if:

(i) the postplacement evaluation disapproves the adoption placement; and

(ii) a court rules the adoption may not be finalized because of an act or omission of an adoptive parent or parents that affects the child's health or safety.

(c) (i) The amount of the adoption indemnity benefit provided under Subsection (1) is \$4,000 subject to the adjustments permitted by Subsection (1)(a)(ii).

(ii) An insurer may comply with the provisions of this section by providing the \$4,000 adoption indemnity benefit to an enrollee to be used for the purpose of the enrollee obtaining infertility treatments rather than seeking reimbursement for an adoption in accordance with terms designated by the insurer.

(d) Each insurer shall pay its pro rata share of the adoption indemnity benefit if each adoptive parent:

(i) has coverage for maternity benefits with a different insurer; and

(ii) makes a claim for the adoption indemnity benefit provided in Subsection (1)(a).

(2) If a policy offers optional maternity benefits, it shall also offer coverage for adoption indemnity benefits if:

(a) a child is placed for adoption with the insured within 90 days of the child's birth; and

(b) the adoption is finalized within one year of the child's birth.

(3) If an insured qualifies for the adoption indemnity benefit under this section and receives services from a health care provider under contract with his insurer, the contracting health care provider may only collect from the insured the amount that the contracting health care provider is entitled to receive for such services under the contract, including any applicable copayment.

(4) For purposes of this section, "contracting health care provider" means:

(a) a "participating provider" as defined in Section 31A-8-101; or

(b) a "preferred health care provider" as described in Section 31A-22-617.

CHAPTER 354**H. B. 367**

Passed March 12, 2014

Approved April 1, 2014

Effective May 13, 2014

PHYSICAL THERAPY SCOPE OF PRACTICE AMENDMENTS

Chief Sponsor: Gregory H. Hughes

Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill amends provisions of the Physical Therapy Practice Act related to trigger point dry needling.

Highlighted Provisions:

This bill:

- ▶ allows a licensed physical therapist with two years of experience that meets certain other requirements to practice trigger point dry needling; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-24b-102, as last amended by Laws of Utah 2012, Chapter 117

ENACTS:

58-24b-505, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-24b-102 is amended to read:**58-24b-102. Definitions.**

As used in this chapter:

(1) "Animal physical therapy" means practicing physical therapy or physiotherapy on an animal.

(2) "Board" means the Utah Physical Therapy Licensing Board, created in Section 58-24b-201.

(3) "Consultation by telecommunication" means the provision of expert or professional advice by a physical therapist who is licensed outside of Utah to a licensed physical therapist or a health care provider by telecommunication or electronic communication.

(4) "General supervision" means supervision and oversight of a person by a licensed physical therapist when the licensed physical therapist is immediately available in person, by telephone, or by electronic communication to assist the person.

(5) "Licensed physical therapist" means a person licensed under this chapter to engage in the practice of physical therapy.

(6) "Licensed physical therapist assistant" means a person licensed under this chapter to engage in

the practice of physical therapy, subject to the provisions of Subsection 58-24b-401(2)(a).

(7) "Licensing examination" means a nationally recognized physical therapy examination that is approved by the division, in consultation with the board.

(8) "On-site supervision" means supervision and oversight of a person by a licensed physical therapist or a licensed physical therapist assistant when the licensed physical therapist or licensed physical therapist assistant is:

(a) continuously present at the facility where the person is providing services;

(b) immediately available to assist the person; and

(c) regularly involved in the services being provided by the person.

(9) "Physical impairment" means:

(a) a mechanical impairment;

(b) a physiological impairment;

(c) a developmental impairment;

(d) a functional limitation;

(e) a disability;

(f) a mobility impairment; or

(g) a bodily malfunction.

~~[(11)]~~ (10) (a) "Physical therapy" or "physiotherapy" means:

(i) examining, evaluating, and testing an individual who has a physical impairment or injury;

(ii) identifying or labeling a physical impairment or injury;

(iii) formulating a therapeutic intervention plan for the treatment of a physical impairment, injury, or pain;

(iv) assessing the ongoing effects of therapeutic intervention for the treatment of a physical impairment or injury;

(v) treating or alleviating a physical impairment by designing, modifying, or implementing a therapeutic intervention;

(vi) reducing the risk of an injury or physical impairment;

(vii) providing instruction on the use of physical measures, activities, or devices for preventative and therapeutic purposes;

(viii) promoting and maintaining health and fitness;

(ix) the administration of a prescription drug pursuant to Section 58-24b-403;

(x) subject to Subsection 58-28-307(12)(b), engaging in the functions described in Subsections ~~[(11)]~~ (10)(a)(i) through (ix) in relation to an animal, in accordance with the requirements of Section 58-24b-405; and

(xi) engaging in administration, consultation, education, and research relating to the practices described in this Subsection [(11)] (10)(a).

(b) “Physical therapy” or “physiotherapy” does not include:

- (i) diagnosing disease;
- (ii) performing surgery;
- (iii) performing acupuncture;
- (iv) taking x-rays; or

(v) prescribing or dispensing a drug, as defined in Section 58-37-2.

[(40)] (11) “Physical therapy aide” means a person who:

(a) is trained, on-the-job, by a licensed physical therapist; and

(b) provides routine assistance to a licensed physical therapist or licensed physical therapist assistant, while the licensed physical therapist or licensed physical therapist assistant practices physical therapy, within the scope of the licensed physical therapist’s or licensed physical therapist assistant’s license.

(12) “Recognized accreditation agency” means an accreditation agency that:

(a) grants accreditation, nationally, in the United States of America; and

(b) is approved by the division, in consultation with the board.

(13) (a) “Testing” means a standard method or technique used to gather data regarding a patient that is generally and nationally accepted by physical therapists for the practice of physical therapy.

(b) “Testing” includes measurement or evaluation of:

- (i) muscle strength, force, endurance, or tone;
- (ii) cardiovascular fitness;
- (iii) physical work capacity;
- (iv) joint motion, mobility, or stability;
- (v) reflexes or autonomic reactions;
- (vi) movement skill or accuracy;
- (vii) sensation;
- (viii) perception;
- (ix) peripheral nerve integrity;
- (x) locomotor skills, stability, and endurance;
- (xi) the fit, function, and comfort of prosthetic, orthotic, or other assistive devices;
- (xii) posture;
- (xiii) body mechanics;
- (xiv) limb length, circumference, and volume;

(xv) thoracic excursion and breathing patterns;

(xvi) activities of daily living related to physical movement and mobility;

(xvii) functioning in the physical environment at home or work, as it relates to physical movement and mobility; and

(xviii) neural muscular responses.

(14) (a) “Trigger point dry needling” means the stimulation of a trigger point using a dry needle to treat neuromuscular pain and functional movement deficits.

(b) “Trigger point dry needling” does not include the stimulation of auricular or distal points.

[(44)] (15) “Therapeutic intervention” includes:

(a) therapeutic exercise, with or without the use of a device;

(b) functional training in self-care, as it relates to physical movement and mobility;

(c) community or work integration, as it relates to physical movement and mobility;

(d) manual therapy, including:

(i) soft tissue mobilization;

(ii) therapeutic massage; or

(iii) joint mobilization, as defined by the division, by rule;

(e) prescribing, applying, or fabricating an assistive, adaptive, orthotic, prosthetic, protective, or supportive device;

(f) airway clearance techniques, including postural drainage;

(g) integumentary protection and repair techniques;

(h) wound debridement, cleansing, and dressing;

(i) the application of a physical agent, including:

(i) light;

(ii) heat;

(iii) cold;

(iv) water;

(v) air;

(vi) sound;

(vii) compression;

(viii) electricity; and

(ix) electromagnetic radiation;

(j) mechanical or electrotherapeutic modalities;

(k) positioning;

(l) instructing or training a patient in locomotion or other functional activities, with or without an assistive device;

(m) manual or mechanical traction; ~~and~~

(n) correction of posture, body mechanics, or gait[.]; and

(o) trigger point dry needling, under the conditions described in Section 58-24b-505.

Section 2. Section 58-24b-505 is enacted to read:

58-24b-505. Trigger point dry needling -- Experience required -- Registration.

(1) A physical therapist may practice trigger point dry needling if the physical therapist:

(a) has held a license to practice physical therapy under this chapter, and has actively practiced physical therapy, for two years;

(b) has successfully completed a course in trigger point dry needling that:

(i) is approved by the division; and

(ii) includes at least 300 total course hours, including at least:

(A) 54 hours of in-person instruction; and

(B) 250 supervised patient treatment sessions;

(c) files a certificate of completion of the course described in Subsection (1)(b) with the division;

(d) registers with the division as a trigger point dry needling practitioner; and

(e) meets any other requirement to practice trigger point dry needling established by the division.

(2) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish:

(a) the criteria for approving a course described in Subsection (1)(b); and

(b) the requirements described in Subsection (1)(e).

(3) The division may charge, in accordance with Section 63J-1-504, a fee for the registration described in Subsection (1)(d).

CHAPTER 355**H. B. 370**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

CANAL SAFETY AMENDMENTS

Chief Sponsor: Johnny Anderson

Senate Sponsor: Gene Davis

LONG TITLE**General Description:**

This bill modifies the Water and Irrigation code.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of “water conveyance facility”;
- ▶ requires the state engineer, by July 1, 2017, to inventory and maintain a list of all open, human-made water conveyance systems in the state;
- ▶ requires the state engineer to contract with a local conservation district to provide technical support for a canal owner who is adopting a management plan; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

73-5-7, Utah Code Annotated 1953

73-10-33, as enacted by Laws of Utah 2010, Chapter 113

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 73-5-7 is amended to read:**73-5-7. Inspection of ditches and diverting works by engineer.**

(1) (a) The state engineer shall have authority to examine and inspect any ditch or other diverting works, and at the time of such inspection [he], the state engineer may order the owners thereof to make any addition or alteration [which he] that the state engineer considers necessary for the security of such works, the safety of persons, or the protection of property.

(b) If any person, firm, copartnership, association, or corporation refuses or neglects to comply with [such] the requirements of the state engineer[, he] as described in Subsection (1)(a), the state engineer may bring action in the name of the state in the district court to enforce [his] the order.

(2) The state engineer shall, by July 1, 2017, inventory and maintain a list of all open, human-made water conveyance systems that carry 5 cubic feet per second or more in the state, including the following information on each conveyance system:

- (a) alignment;
- (b) contact information of the owner;
- (c) maximum flow capacity in cubic feet per second;
- (d) whether the conveyance system is used for flood or storm water management; and
- (e) notice of the adoption of a management plan for the conveyance system as reported to the Division of Water Resources under Section 73-10-33.

(3) The owner of an open, human-made water conveyance system that carries 5 cubic feet per second or more shall inform the state engineer if the information described in Subsection (2) changes.

(4) The state engineer:

(a) may contract with a local conservation district created in Title 17D, Chapter 3, Conservation District Act, to fulfill the duties described in Subsection (2); and

(b) may contract a local conservation district created in Title 17D, Chapter 3, Conservation District Act, to provide technical support for a canal owner who is adopting a management plan, as described in Section 73-10-33.

Section 2. Section 73-10-33 is amended to read:**73-10-33. Management plan for water conveyance facilities.****(1) As used in this section:**

(a) “Board” means the Board of Water Resources created by Section 73-10-1.5.

(b) “Conservation district” means a conservation district created under Title 17D, Chapter 3, Conservation District Act.

(c) “Division” means the Division of Water Resources created by Section 73-10-18.

(d) “Facility owner or operator” means:

(i) a water company as defined in Subsection 73-3-3.5(1)(b); or

(ii) an owner or operator of a water conveyance facility.

(e) “Management plan” means a written document meeting the requirements of Subsection (3).

(f) “Potential risk” means a condition where, if a water conveyance facility fails, the failure would create a high probability of:

(i) causing loss of human life; or

(ii) causing extensive economic loss, including damage to critical transportation facilities, utility facilities, or public buildings.

(g) “Potential risk location” means a segment of a water conveyance facility that constitutes a potential risk due to:

(i) location;

(ii) elevation;

(iii) soil conditions;

(iv) structural instability;

(v) water volume or pressure; or

(vi) other conditions.

(h) (i) "Water conveyance facility" means a water conveyance defined in Section 57-13a-101.

(ii) "Water conveyance facility" does not include:

(A) a pipeline conveying water for industrial use, or municipal use, within a public water system as defined in Section 19-4-102;

(B) a natural channel used to convey water for use within a water conveyance facility; or

(C) a fully piped[,pressurized] irrigation system.

(2) (a) For a water conveyance facility that has a potential risk location, the board or division may issue a grant or loan to the facility owner or operator, and the facility owner or operator may receive state money for water development or water conveyance facility repair or improvements, only if the facility owner or operator promptly adopts a management plan in accordance with this section.

(b) For a management plan to be considered to be promptly adopted for purposes of this Subsection (2), the facility owner or operator shall:

(i) adopt the management plan by an affirmative vote of the facility owner or operator's board of directors, or persons occupying a similar status or performing similar functions before receiving money under Subsection (2)(a);

(ii) (A) adopt the management plan as described in Subsection (2)(b)(i) by no later than:

(I) May 1, 2013, for a water conveyance facility in operation on May 11, 2011; or

(II) for a water conveyance facility that begins operation after May 11, 2011, one year after the day on which the water conveyance facility begins operation; or

(B) (I) adopt the management plan as described in Subsection (2)(b)(i); and

(II) provide written justification satisfactory to the board as to why the facility owner or operator was unable to adopt a management plan during the time period provided in Subsection (2)(b)(ii)(A); and

(iii) update the management plan adopted under Subsection (2)(b)(i) no less frequently than every 10 years.

(3) A management plan described in Subsection (2) shall include at least the following:

(a) a GIS coverage or drawing of each potential risk location of a water conveyance facility identifying any:

(i) existing canal and lateral alignment of the canal facility;

(ii) point of diversion;

(iii) bridge;

(iv) culvert;

(v) screen or trash rack; and

(vi) spill point;

(b) an evaluation of any potential slope instability that may cause a potential risk, including:

(i) failure of the facility;

(ii) land movement that might result in failure of the facility; or

(iii) land movement that might result from failure of the facility;

(c) proof of insurance coverage or other means of financial responsibility against liability resulting from failure of the water conveyance facility;

(d) a maintenance and improvement plan;

(e) a schedule for implementation of a maintenance and improvement plan;

(f) an emergency response plan that:

(i) is developed after consultation with local emergency response officials;

(ii) is updated annually; and

(iii) includes, in the case of an emergency, how a first responder can:

(A) contact the facility owner or operator; and

(B) obtain information described in Subsection (3)(a);

(g) any potential source of financing for maintenance and improvements under a maintenance and improvement plan;

(h) identification of each municipality or county through which water is conveyed or delivered by the water conveyance facility;

(i) a statement concerning whether storm water enters the water conveyance facility; and

(j) if storm water enters the water conveyance facility:

(i) an estimate of the maximum volume and flow of all water present in the water conveyance facility as a result of a six-hour, 25-year storm event;

(ii) on the basis of information provided in accordance with Subsection (4), identification of the points at which any storm structures introduce water into the water conveyance facility and the anticipated flow that may occur at each structure; and

(iii) the name of each governmental agency that has responsibility for storm water management within the area from which storm water drains into the water conveyance facility.

(4) A private or public entity that introduces storm water into a water conveyance facility shall provide the facility owner or operator with an

estimate of the maximum volume and flow of water that may occur at each structure that introduces storm water into the water conveyance facility.

(5) (a) A facility owner or operator of a water conveyance facility shall provide a municipality or county in which is located a potential risk location of the water conveyance facility an outline of the information provided in Subsection (3)(f).

(b) A facility owner or operator shall give notice to the planning and zoning department of each municipality and county identified in Subsection (3)(h) outlining the information provided in Subsections (3)(f), (i), and (j).

(c) An outline of information provided under this Subsection (5) is a protected record under Section 63G-2-305.

(6) (a) The division may provide information and technical resources to a facility owner or operator of a water conveyance facility, regardless of whether the water conveyance facility has a potential risk location.

(b) In providing the information and resources described in Subsection ~~[(45)]~~ (6)(a), the division may coordinate with efforts of any association of conservation districts that may provide similar information and technical resources.

(c) The information and technical resources described in Subsection ~~[(45)]~~ (6)(a) include:

(i) engaging state and local water users in voluntary completion of a management plan;

(ii) developing standard guidelines, checklists, or templates that may be used by a facility owner or operator;

(iii) using conservation districts as points of contact with a facility owner or operator;

(iv) providing training to help a facility owner or operator to adopt a management plan; and

(v) assisting, at the request and under the direction of, a facility owner or operator with efforts to adopt or implement a management plan.

(7) (a) A facility owner or operator of a water conveyance facility that has a potential risk location shall provide the board or division upon request:

(i) written certification signed under oath by a person authorized to act for the board of directors or persons occupying a similar status or performing similar functions, certifying that the management plan complies with this section; and

(ii) an opportunity to review a management plan.

(b) A management plan received by the board or division under this section is a protected record under Section 63G-2-305.

(8) The board shall report concerning compliance with this section to the Natural Resources, Agriculture, and Environment Interim Committee of the Legislature before November 30, 2013.

(9) The division and board may make rules, in accordance with Title 63G, Chapter 3, Utah

Administrative Rulemaking Act, concerning the requirements of this section.

(10) This section does not:

(a) create a private right of action for a violation of this section; or

(b) limit, impair, or enlarge a person's right to sue and recover damages from a facility owner or operator in a civil action for a cause of action that is not based on a violation of this section.

(11) The following may not be introduced as evidence in any civil litigation on the issue of negligence, injury, or the calculation of damages:

(a) a management plan prepared in accordance with this section;

(b) the failure to prepare or adopt a management plan in accordance with this section; or

(c) the failure to update a management plan in accordance with this section.

CHAPTER 356**H. B. 379**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

**TRANSPARENCY OF
BALLOT PROPOSITIONS**

Chief Sponsor: Ryan D. Wilcox

Senate Sponsor: Deidre M. Henderson

LONG TITLE**General Description:**

This bill provides requirements for certain ballot propositions.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides for the submission and posting of arguments in favor of and against certain ballot propositions;
- ▶ requires a governing body of a taxing entity to conduct a public meeting to allow interested parties to:
 - present arguments in favor of and against certain ballot propositions; and
 - provide oral testimony regarding the ballot proposition; and
- ▶ requires a taxing entity to provide a digital audio recording of the public meeting.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

11-14-201, as last amended by Laws of Utah 2006, Chapter 83

ENACTS:

59-1-1601, Utah Code Annotated 1953

59-1-1602, Utah Code Annotated 1953

59-1-1603, Utah Code Annotated 1953

59-1-1604, Utah Code Annotated 1953

59-1-1605, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-14-201 is amended to read:**11-14-201. Election on bond issues --
Qualified electors -- Resolution and
notice.**

(1) The governing body of any local political subdivision that wishes to issue bonds under the authority granted in Section 11-14-103 shall[;];

(a) at least 75 days before the date of election:

[(a)] (i) approve a resolution submitting the question of the issuance of the bonds to the voters of the local political subdivision; and

[(b)] (ii) provide a copy of the resolution to:

[(4)] (A) the lieutenant governor; and

[(4)] (B) the election officer, as defined in Section 20A-1-102, charged with conducting the election[;]; and

(b) comply with the requirements of Title 59, Chapter 1, Part 16, Transparency of Ballot Propositions Act.

(2) The local political subdivision may not issue the bonds unless the majority of the qualified voters of the local political subdivision who vote on the bond proposition approve the issuance of the bonds.

(3) Nothing in this section requires an election for the issuance of:

(a) refunding bonds; or

(b) other bonds not required by law to be voted on at an election.

(4) The resolution calling the election shall include a ballot proposition, in substantially final form, that complies with the requirements of Subsection 11-14-206(2).

Section 2. Section 59-1-1601 is enacted to read:**Part 16. Transparency of Ballot
Propositions Act****59-1-1601. Title.**

This part is known as the "Transparency of Ballot Propositions Act."

Section 3. Section 59-1-1602 is enacted to read:**59-1-1602. Definitions.**

As used in this part:

(1) (a) "Ballot proposition" means:

(i) an opinion question or other question concerning a tax increase submitted to voters for their approval or rejection; or

(ii) a question submitted to voters concerning the issuance of bonds under Section 11-14-103.

(b) "Ballot proposition" does not include an initiative or referendum authorized under Title 20A, Chapter 7, Issues Submitted to the Voters.

(2) "Determination date" means the date of an election at which a ballot proposition is considered by voters.

(3) "Election officer" is as defined in Section 20A-1-102.

(4) "Eligible voter" means a person who:

(a) has registered to vote in accordance with Title 20A, Chapter 2, Voter Registration; and

(b) is a resident of a voting district or precinct within the taxing entity that is holding an election to consider a ballot proposition.

(5) "Governing body" is as defined in Section 59-2-102.

(6) "Tax increase" means:

(a) for a property tax, the imposition of a property tax rate or increase in a property tax rate if the imposition or increase is required to be submitted to voters for their approval or rejection; or

(b) for a sales and use tax imposed under Chapter 12, Sales and Use Tax Act, a sales and use tax rate that:

(i) is not currently imposed; or

(ii) exceeds the sales and use tax rate that is currently imposed.

(7) "Taxing entity" means:

(a) a taxing entity as defined in Section 59-2-102; or

(b) a county, city, or town authorized to impose a sales and use tax under Chapter 12, Sales and Use Tax Act.

Section 4. Section 59-1-1603 is enacted to read:

59-1-1603. Applicability of part.

A taxing entity may not submit a ballot proposition unless the taxing entity complies with this part.

Section 5. Section 59-1-1604 is enacted to read:

59-1-1604. Arguments for and against a ballot proposition -- Rebuttal arguments -- Posting arguments.

(1) (a) The governing body of a taxing entity shall submit to the election officer an argument in favor of a ballot proposition.

(b) (i) Any eligible voter may submit to the election officer an argument against the ballot proposition.

(ii) If two or more eligible voters wish to submit an argument under Subsection (1)(b)(i), the election officer shall designate one of the eligible voters to submit the argument described in Subsection (1)(b)(i).

(c) (i) Subject to Subsection (1)(c)(ii), the election officer shall ensure that each argument submitted under this Subsection (1):

(A) does not exceed 500 words in length; and

(B) is submitted not less than 60 days before the determination date.

(ii) The election officer shall ensure that each argument submitted under Subsection (1)(b)(ii) is submitted not less than 50 days before the determination date.

(2) (a) When the election officer has received the arguments in favor of and against a ballot proposition, the election officer shall immediately send, via email or mail:

(i) a copy of the argument in favor of the ballot proposition to the author of the argument against the ballot proposition; and

(ii) a copy of the argument against the ballot proposition to the author of the argument in favor of the ballot proposition.

(b) (i) The author of the argument in favor of the ballot proposition may submit to the election officer a rebuttal argument directed to the argument against the ballot proposition.

(ii) The author of the argument against the ballot proposition may submit to the election officer a rebuttal argument directed to the argument in favor of the ballot proposition.

(c) The election officer shall ensure that each rebuttal argument submitted under Subsection (2)(b):

(i) does not exceed 250 words in length; and

(ii) is submitted not less than 40 days before the determination date.

(d) (i) An author of an argument described in Subsection (1) may designate a person to submit a rebuttal argument described in this Subsection (2).

(ii) A person designated in Subsection (2)(d)(i) shall be an eligible voter.

(3) A person submitting an argument under this section shall provide the election officer with:

(a) the person's name and address; and

(b) an email address by which the person may be contacted.

(4) (a) Except as provided in Subsection (4)(c), an author may not amend or change an argument or rebuttal argument after the argument or rebuttal argument is submitted to the election officer.

(b) Except as provided in Subsection (4)(c), the election officer may not alter an argument or rebuttal argument in any way.

(c) The election officer and an author of an argument may jointly modify an argument or a rebuttal argument after the argument or rebuttal argument is submitted if the election officer and the author jointly agree that changes to the argument or rebuttal argument must be made to correct spelling, factual, or grammatical errors.

(5) The governing body of a taxing entity shall:

(a) post the arguments and rebuttal arguments on the Statewide Electronic Voter Information Website as described in Section 20A-7-801 for 30 consecutive days before the determination date;

(b) if a taxing entity has a public website, post all arguments and rebuttal arguments in a prominent place on the taxing entity's public website for 30 consecutive days before the determination date; and

(c) if the taxing entity publishes a newsletter or other periodical, post all arguments and rebuttal arguments in the next scheduled newsletter or other periodical published before the determination date.

(6) For purposes of posting an argument and rebuttal argument under Subsection (5), the governing body of a taxing entity shall ensure that:

(a) a rebuttal argument is posted in the same manner as a direct argument;

(b) each rebuttal argument follows immediately after the direct argument that it seeks to rebut; and

(c) information regarding the public meeting required by Section 59-1-1605 follows immediately after the posted arguments, including the date, time, and place of the public meeting.

Section 6. Section 59-1-1605 is enacted to read:

59-1-1605. Public meeting requirements.

(1) The governing body of a taxing entity shall conduct a public meeting in accordance with this section no more than 14, but at least four, days before the determination date.

(2) The governing body of the taxing entity shall allow equal time, within a reasonable limit, for a presentation of the arguments:

(a) in favor of the ballot proposition; and

(b) against the ballot proposition.

(3) (a) A governing body of a taxing entity conducting a public meeting described in Subsection (1) shall provide an interested party desiring to be heard an opportunity to present oral testimony within reasonable time limits.

(b) A taxing entity shall hold a public meeting described in this section beginning at or after 6 p.m.

(4) (a) A taxing entity shall provide a digital audio recording of a public meeting described in Subsection (1) no later than three days after the date of the public meeting.

(b) For purposes of providing the digital audio recording described in Subsection (4)(a), a governing body of a taxing entity shall:

(i) if a taxing entity has a public website, provide access to the digital audio recording described in Subsection (4)(a) on the taxing entity's public website; or

(ii) provide a digital copy of the recording described in Subsection (4)(a) to members of the public at the taxing entity's primary government office building.

CHAPTER 357**H. B. 382**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

**LIMITED PURPOSE LOCAL
GOVERNMENT ENTITIES AMENDMENTS**

Chief Sponsor: Brad L. Dee

Senate Sponsor: Jerry W. Stevenson

LONG TITLE**General Description:**

This bill amends provisions related to a special service district.

Highlighted Provisions:

This bill:

- ▶ addresses appointment of an improvement district board of trustees;
- ▶ enacts language clarifying that a special service district is a political subdivision of the state similar to a local district; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17B-2a-404, as last amended by Laws of Utah 2012, Chapter 97

17D-1-103, as enacted by Laws of Utah 2008, Chapter 360

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17B-2a-404 is amended to read:**17B-2a-404. Improvement district board of trustees.**

(1) As used in this section:

(a) "County district" means an improvement district that does not include within its boundaries any territory of a municipality.

(b) "County member" means a member of a board of trustees of a county district.

(c) "Electric district" means an improvement district that was created for the purpose of providing electric service.

(d) "Included municipality" means a municipality whose boundaries are entirely contained within but do not coincide with the boundaries of an improvement district.

(e) "Municipal district" means an improvement district whose boundaries coincide with the boundaries of a single municipality.

(f) "Regular district" means an improvement district that is not a county district, electric district, or municipal district.

(g) "Remaining area" means the area of a regular district that:

(i) is outside the boundaries of an included municipality; and

(ii) includes the area of an included municipality whose legislative body elects, under Subsection (4)(a)(ii), not to appoint a member to the board of trustees of the regular district.

(h) "Remaining area member" means a member of a board of trustees of a regular district who is appointed, or, if applicable, elected to represent the remaining area of the district.

(2) The legislative body of the municipality included within a municipal district may:

(a) elect, at the time of the creation of the district, to be the board of trustees of the district; and

(b) adopt at any time a resolution providing for:

(i) the election of board of trustees members, as provided in Section 17B-1-306; or

(ii) the appointment of board of trustees members, as provided in Section 17B-1-304.

(3) (a) The legislative body of a county whose unincorporated area is partly or completely within a county district may:

~~(a)~~ (i) elect, at the time of the creation of the district, to be the board of trustees of the district, even though a member of the legislative body of the county may not meet the requirements of Subsection 17B-1-302(1)(a); ~~and~~

~~(b)~~ (ii) adopt at any time a resolution providing for:

~~(i)~~ (A) the election of board of trustees members, as provided in Section 17B-1-306; or

~~(ii)~~ (B) the appointment of board of trustees members, as provided in Section 17B-1-304~~[-]~~; and

(iii) if the conditions of Subsection (3)(b) are met, appoint a member of the legislative body of the county to the board of trustees, except that the legislative body of the county may not appoint more than three members of the legislative body of the county to the board of trustees.

(b) A legislative body of a county whose unincorporated area is partly or completely within a county district may take an action under Subsection (3)(a)(iii) if:

(i) more than 35% of the residences within a county district that receive service from the district are seasonally occupied homes, as defined in Subsection 17B-1-302(1)(b)(i)(B);

(ii) the board of trustees are appointed by the legislative body of the county; and

(iii) there are at least two appointed board members who meet the requirements of Subsection 17B-1-302(1), except that a member of the legislative body of the county need not satisfy the requirements of Subsection 17B-1-302(1).

(4) (a) (i) Except as provided in Subsection (4)(a)(ii), the legislative body of each included municipality shall each appoint one member to the board of trustees of a regular district.

(ii) The legislative body of an included municipality may elect not to appoint a member to the board under Subsection (4)(a)(i).

(b) Except as provided in Subsection (5), the legislative body of each county whose boundaries include a remaining area shall appoint all other members to the board of trustees of a regular district.

(5) Notwithstanding Subsection (3), each remaining area member of a regular district and each county member of a county district shall be elected, as provided in Section 17B-1-306, if:

(a) the petition or resolution initiating the creation of the district provides for remaining area or county members to be elected;

(b) the district holds an election to approve the district's issuance of bonds;

(c) for a regular district, an included municipality elects, under Subsection (4)(a)(ii), not to appoint a member to the board of trustees; or

(d) (i) at least 90 days before the municipal general election, a petition is filed with the district's board of trustees requesting remaining area members or county members, as the case may be, to be elected; and

(ii) the petition is signed by registered voters within the remaining area or county district, as the case may be, equal in number to at least 10% of the number of registered voters within the remaining area or county district, respectively, who voted in the last gubernatorial election.

(6) Subject to Section 17B-1-302, the number of members of a board of trustees of a regular district shall be:

(a) the number of included municipalities within the district, if:

(i) the number is an odd number; and

(ii) the district does not include a remaining area;

(b) the number of included municipalities plus one, if the number of included municipalities within the district is even; and

(c) the number of included municipalities plus two, if:

(i) the number of included municipalities is odd; and

(ii) the district includes a remaining area.

(7) (a) Except as provided in Subsection (7)(b), each remaining area member of the board of trustees of a regular district shall reside within the remaining area.

(b) Notwithstanding Subsection (7)(a) and subject to Subsection (7)(c), each remaining area member shall be chosen from the district at large if:

(i) the population of the remaining area is less than 5% of the total district population; or

(ii) (A) the population of the remaining area is less than 50% of the total district population; and

(B) the majority of the members of the board of trustees are remaining area members.

(c) Application of Subsection (7)(b) may not prematurely shorten the term of any remaining area member serving the remaining area member's elected or appointed term on May 11, 2010.

(8) If the election of remaining area or county members of the board of trustees is required because of a bond election, as provided in Subsection (5)(b):

(a) a person may file a declaration of candidacy if:

(i) the person resides within:

(A) the remaining area, for a regular district; or

(B) the county district, for a county district; and

(ii) otherwise qualifies as a candidate;

(b) the board of trustees shall, if required, provide a ballot separate from the bond election ballot, containing the names of candidates and blanks in which a voter may write additional names; and

(c) the election shall otherwise be governed by Title 20A, Election Code.

(9) (a) (i) This Subsection (9) applies to the board of trustees members of an electric district.

(ii) Subsections (2) through (8) do not apply to an electric district.

(b) The legislative body of the county in which an electric district is located may appoint the initial board of trustees of the electric district as provided in Section 17B-1-304.

(c) After the initial board of trustees is appointed as provided in Subsection (9)(b), each member of the board of trustees of an electric district shall be elected by persons using electricity from and within the district.

(d) Each member of the board of trustees of an electric district shall be a user of electricity from the district and, if applicable, the division of the district from which elected.

(e) The board of trustees of an electric district may be elected from geographic divisions within the district.

(f) A municipality within an electric district is not entitled to automatic representation on the board of trustees.

Section 2. Section 17D-1-103 is amended to read:

17D-1-103. Special service district status, powers, and duties -- Limitation on districts providing jail service.

(1) A special service district:

(a) is:

(i) a body corporate and politic with perpetual succession, separate and distinct from the county or municipality that creates it;

~~[(b) is-]~~ (ii) a quasi-municipal corporation; and

(iii) a political subdivision of the state; and

~~[(e)]~~ (b) may sue and be sued.

(2) A special service district may:

(a) exercise the power of eminent domain possessed by the county or municipality that creates the special service district;

(b) enter into a contract that the governing authority considers desirable to carry out special service district functions, including a contract:

(i) with the United States or an agency of the United States, the state, an institution of higher education, a county, a municipality, a school district, a local district, another special service district, or any other political subdivision of the state; or

(ii) that includes provisions concerning the use, operation, and maintenance of special service district facilities and the collection of fees or charges with respect to commodities, services, or facilities that the district provides;

(c) acquire or construct facilities;

(d) acquire real or personal property, or an interest in real or personal property, including water and water rights, whether by purchase, lease, gift, devise, bequest, or otherwise, and whether the property is located inside or outside the special service district, and own, hold, improve, use, finance, or otherwise deal in and with the property or property right;

(e) sell, convey, lease, exchange, transfer, or otherwise dispose of all or any part of the special service district's property or assets, including water and water rights;

(f) mortgage, pledge, or otherwise encumber all or any part of the special service district's property or assets, including water and water rights;

(g) enter into a contract with respect to the use, operation, or maintenance of all or any part of the special service district's property or assets, including water and water rights;

(h) accept a government grant or loan and comply with the conditions of the grant or loan;

(i) use an officer, employee, property, equipment, office, or facility of the county or municipality that created the special service district, subject to reimbursement as provided in Subsection (3);

(j) employ one or more officers, employees, or agents, including one or more engineers, accountants, attorneys, or financial consultants, and establish their compensation;

(k) designate an assessment area and levy an assessment as provided in Title 11, Chapter 42, Assessment Area Act;

(l) contract with a franchised, certificated public utility for the construction and operation of an electrical service distribution system within the special service district;

(m) borrow money and incur indebtedness;

(n) as provided in Part 5, Special Service District Bonds, issue bonds for the purpose of acquiring, constructing, and equipping any of the facilities required for the services the special service district is authorized to provide, including:

(i) bonds payable in whole or in part from taxes levied on the taxable property in the special service district;

(ii) bonds payable from revenues derived from the operation of revenue-producing facilities of the special service district;

(iii) bonds payable from both taxes and revenues;

(iv) guaranteed bonds, payable in whole or in part from taxes levied on the taxable property in the special service district;

(v) tax anticipation notes;

(vi) bond anticipation notes;

(vii) refunding bonds;

(viii) special assessment bonds; and

(ix) bonds payable in whole or in part from mineral lease payments as provided in Section 11-14-308;

(o) except as provided in Subsection (4), impose fees or charges or both for commodities, services, or facilities that the special service district provides;

(p) provide to an area outside the special service district's boundary, whether inside or outside the state, a service that the special service district is authorized to provide within its boundary, if the governing body makes a finding that there is a public benefit to providing the service to the area outside the special service district's boundary;

(q) provide other services that the governing body determines will more effectively carry out the purposes of the special service district; and

(r) adopt an official seal for the special service district.

(3) Each special service district that uses an officer, employee, property, equipment, office, or facility of the county or municipality that created the special service district shall reimburse the county or municipality a reasonable amount for what the special service district uses.

(4) (a) A special service district that provides jail service as provided in Subsection 17D-1-201(10) may not impose a fee or charge for the service it provides.

(b) Subsection (4)(a) may not be construed to limit a special service district that provides jail service from:

(i) entering into a contract with the federal government, the state, or a political subdivision of the state to provide jail service for compensation; or

(ii) receiving compensation for jail service it provides under a contract described in Subsection (4)(b)(i).

CHAPTER 358**H. B. 392**

Passed March 11, 2014

Approved April 1, 2014

Effective May 13, 2014

**DELEGATE RESPONSIBILITY
AMENDMENTS**Chief Sponsor: Kraig Powell
Senate Sponsor: Curtis S. Bramble**LONG TITLE****General Description:**

This bill establishes requirements for a Utah delegate to a United States Article V convention.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits a Utah delegate to a United States Article V convention from acting in a manner that supports or approves the proposing of an unauthorized amendment or change to the United States Constitution;
- ▶ provides for the removal of a delegate; and
- ▶ provides criminal penalties.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

20A-17-101, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-17-101 is enacted to read:**20A-17-101. (Codified as 20A-18-101)
Article V convention delegates.**

(1) As used in this section:

(a) "Article V application" means an application or resolution passed by the Legislature applying to Congress to call an Article V convention.

(b) "Article V convention" means a convention called for the purpose of proposing an amendment to the United States Constitution as provided in the United States Constitution, Article V.

(c) "Delegate" means an individual elected by the Legislature, or by any other method provided by law, to represent the state at an Article V convention.

(d) "Legislative instructions" means instruction given by the Legislature to a delegate before or during an Article V convention.

(e) "Unauthorized amendment" means a proposed amendment or change to the United States Constitution that is outside the scope of the Article V application and legislative instructions.

(2) A delegate from the state to an Article V convention may not act in a manner that supports

or approves the proposing of an unauthorized amendment or change to the United States Constitution by the convention.

(3) (a) A delegate who violates Subsection (2) is immediately recalled and shall be replaced by an alternate selected by the Legislature.

(b) An alternate selected by the Legislature has the same duties and is subject to the same requirements and penalties as a delegate.

(4) Upon selection by the Legislature, or by any other method provided by law, a delegate from the state to an Article V convention shall take the following oath:

"I do solemnly swear (or affirm) that to the best of my abilities, I will, as a delegate to an Article V convention, uphold the Constitution and laws of the United States of America and of the State of Utah, and that I will act at all times in accordance with the Article V application and the legislative instructions given to me as a delegate. I will not act in a manner that supports or approves the proposing of an unauthorized amendment or change to the United States Constitution by the convention."

(5) The Legislature shall certify in writing to the Article V convention:

- (a) the selection of delegates and alternates;
- (b) if a delegate is recalled, the recall and replacement of the delegate with an alternate; and
- (c) if a delegate from the state violates Subsection (2), the nullification of the action that violated Subsection (2).

(6) A delegate who violates this section is guilty of a third degree felony.

CHAPTER 359**H. B. 399**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

TRUANCY AMENDMENTS

Chief Sponsor: Francis D. Gibson
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill amends certain provisions related to truancy.

Highlighted Provisions:

This bill:

- ▶ provides that a local school board or charter school governing board may not issue a habitual truant citation to a school-age minor if the school-age minor:
 - has at least a 3.5 cumulative grade point average; and
 - is at least 16 years old; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-11-101.7, as last amended by Laws of Utah 2012, Chapter 203

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53A-11-101.7 is amended to read:**53A-11-101.7. Truancy -- Notice of truancy -- Failure to cooperate with school authorities -- Habitual truant citation.**

(1) Except as provided in Section 53A-11-102 or 53A-11-102.5, a school-age minor who is enrolled in a public school shall attend the public school in which the school-age minor is enrolled.

(2) A local school board, [local] charter school governing board, or school district may impose administrative penalties on a school-age minor who is truant.

(3) A local school board or [local] charter school governing board:

(a) may authorize a school administrator, a designee of a school administrator, a law enforcement officer acting as a school resource officer, or a truancy specialist to issue notices of truancy to school-age minors who are at least 12 years old; and

(b) shall establish a procedure for a school-age minor, or the school-age minor's parents, to contest a notice of truancy.

(4) The notice of truancy described in Subsection (3):

(a) may not be issued until the school-age minor has been truant at least five times during the school year;

(b) may not be issued to a school-age minor who is less than 12 years old;

(c) may not be issued to a minor exempt from school attendance as provided in Section 53A-11-102 or 53A-11-102.5;

(d) shall direct the school-age minor and the parent of the school-age minor to:

(i) meet with school authorities to discuss the school-age minor's trancies; and

(ii) cooperate with the school board, local charter board, or school district in securing regular attendance by the school-age minor; and

(e) shall be mailed to, or served on, the school-age minor's parent.

(5) [A] (a) Except as provided in Subsection (5)(b), a habitual truant citation may be issued to a habitual truant if:

[A] (i) the local school board, [local] charter school governing board, or school district has made reasonable efforts, under Section 53A-11-103, to resolve the school attendance problems of the habitual truant; and

[B] (ii) the efforts to resolve the school attendance problems, described in Subsection (5)(a)(i), have not been successful.

(b) A habitual truant citation may not be issued to a habitual truant if the habitual truant:

(i) has at least a 3.5 cumulative grade point average; and

(ii) is at least 16 years old.

(6) A habitual truant to whom a habitual truant citation is issued under Subsection (5):

(a) shall be referred to the juvenile court for violation of Subsection (1); and

(b) is subject to the jurisdiction of the juvenile court.

(7) A notice of truancy or a habitual truant citation may only be issued by:

(a) a school administrator, or a truancy specialist, who is authorized by a local school board or [local] charter school governing board;

(b) a designee of a school administrator described in Subsection (7)(a); or

(c) a law enforcement officer acting as a school resource officer.

(8) Nothing in this part prohibits a local school board, [local] charter school governing board, or school district from taking action to resolve a truancy problem with a school-age minor who has been truant less than five times, provided that the

action does not conflict with the requirements of this part.

(9) Nothing in this part allows a local school board or charter school governing board to issue a citation pursuant to this section if the minor is exempt from school attendance as provided in Section 53A-11-102 or 53A-11-102.5.

CHAPTER 360**H. B. 405**

Passed March 11, 2014

Approved April 1, 2014

Effective May 13, 2014

**POSTSECONDARY SCHOOL
STATE AUTHORIZATION**

Chief Sponsor: James A. Dunnigan

Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill enacts the Utah Postsecondary School State Authorization Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides that a postsecondary school may obtain state authorization for purposes of 34 C.F.R. Sec. 600.9 by obtaining a certificate of postsecondary state authorization;
- ▶ allows the Division of Consumer Protection to:
 - enter into an interstate reciprocity agreement; and
 - make rules consistent with the provisions of this bill;
- ▶ authorizes the State Board of Regents to make rules to implement an interstate reciprocity agreement if the agreement includes institutions that are part of the state system of higher education under Section 53B-1-102;
- ▶ establishes qualifications for and a procedure by which a postsecondary school may obtain a certificate of postsecondary state authorization from the Division of Consumer Protection;
- ▶ provides that, under certain circumstances, the Division of Consumer Protection may deny, suspend, or revoke a certificate of postsecondary state authorization;
- ▶ provides procedures to enforce compliance with the provisions of this bill; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

13-2-1, as last amended by Laws of Utah 2012, Chapter 375

13-34-103, as last amended by Laws of Utah 2011, Chapter 221

13-34-105, as last amended by Laws of Utah 2013, Chapter 124

13-34-106, as last amended by Laws of Utah 2011, Chapter 221

13-34-110, as last amended by Laws of Utah 2011, Chapter 221

13-34-113, as last amended by Laws of Utah 2011, Chapter 221

ENACTS:

13-34a-101, Utah Code Annotated 1953

13-34a-102, Utah Code Annotated 1953

13-34a-103, Utah Code Annotated 1953

13-34a-104, Utah Code Annotated 1953

13-34a-201, Utah Code Annotated 1953

13-34a-202, Utah Code Annotated 1953

13-34a-203, Utah Code Annotated 1953

13-34a-204, Utah Code Annotated 1953

13-34a-205, Utah Code Annotated 1953

13-34a-206, Utah Code Annotated 1953

13-34a-207, Utah Code Annotated 1953

13-34a-301, Utah Code Annotated 1953

13-34a-302, Utah Code Annotated 1953

13-34a-303, Utah Code Annotated 1953

13-34a-304, Utah Code Annotated 1953

13-34a-305, Utah Code Annotated 1953

13-34a-306, Utah Code Annotated 1953

REPEALS:

13-34-107.5, as enacted by Laws of Utah 2011, Chapter 221

13-34-107.6, as enacted by Laws of Utah 2011, Chapter 221

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-2-1 is amended to read:**13-2-1. Consumer protection division established -- Functions.**

(1) There is established within the Department of Commerce the Division of Consumer Protection.

(2) The division shall administer and enforce the following:

- (a) Chapter 5, Unfair Practices Act;
- (b) Chapter 10a, Music Licensing Practices Act;
- (c) Chapter 11, Utah Consumer Sales Practices Act;
- (d) Chapter 15, Business Opportunity Disclosure Act;
- (e) Chapter 20, New Motor Vehicle Warranties Act;
- (f) Chapter 21, Credit Services Organizations Act;
- (g) Chapter 22, Charitable Solicitations Act;
- (h) Chapter 23, Health Spa Services Protection Act;
- (i) Chapter 25a, Telephone and Facsimile Solicitation Act;
- (j) Chapter 26, Telephone Fraud Prevention Act;
- (k) Chapter 28, Prize Notices Regulation Act;
- (l) Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;
- (m) Chapter 34, Utah Postsecondary Proprietary School Act;
- (n) Chapter 34a, Utah Postsecondary School State Authorization Act;

[~~(n)~~] (o) Chapter 41, Price Controls During Emergencies Act;

~~[(e)]~~ (p) Chapter 42, Uniform Debt-Management Services Act; and

~~[(p)]~~ (q) Chapter 49, Immigration Consultants Registration Act.

Section 2. Section 13-34-103 is amended to read:

13-34-103. Definitions.

As used in this chapter:

(1) "Agent" means any person who:

(a) owns an interest in or is employed by a proprietary school ~~[and who]; and~~

~~[(a)]~~ (b) (i) enrolls or attempts to enroll a resident of this state in a proprietary school;

~~[(b)]~~ (ii) offers to award educational credentials for remuneration on behalf of a proprietary school; or

~~[(e)]~~ (iii) holds himself out to residents of this state as representing a proprietary school for any purpose.

(2) (a) "Certificate of registration" means approval ~~of~~ from the division to operate a school or institution in compliance with this chapter and rules adopted under this chapter. ~~[The registration is not]~~

(b) "Certificate of registration" does not mean an endorsement of the school or institution by either the division or the state.

(3) "Division" means the Division of Consumer Protection.

(4) "Educational credentials" means degrees, diplomas, certificates, transcripts, reports, documents, or letters of designation, marks, appellations, series of letters, numbers, or words which signify or appear to signify enrollment, attendance, progress, or satisfactory completion of the requirements or prerequisites for any educational program.

(5) "Institution" means an individual, corporation, partnership, association, cooperative, or other legal entity.

(6) "Offer" means to advertise, publicize, solicit, or encourage any person directly or indirectly.

(7) "Operate" in this state means to:

(a) maintain a place of business in the state;

(b) solicit business in the state;

(c) conduct significant educational activities within the state; or

(d) offer or provide postsecondary instruction leading to a postsecondary degree or certificate to any number of Utah residents from a location outside the state by correspondence or any telecommunications or electronic media technology.

(8) "Ownership" means:

(a) the controlling interest in a school, institution, or college ~~[-If]; or~~

(b) if an entity holds the controlling interest in the school, institution, or college ~~[is owned or controlled by other than a natural person, "ownership" refers to],~~ the controlling interest in the ~~[legal]~~ entity ~~[which controls]~~ that holds the controlling interest in the school, institution, or college.

(9) "Postsecondary education" means education or educational services offered primarily to ~~[persons]~~ individuals who:

(a) have completed or terminated their secondary or high school education; or ~~[who]~~

(b) are beyond the age of compulsory school attendance.

(10) (a) "Proprietary school" means ~~[any]~~ a private institution, including a business, modeling, paramedical, tax preparation, or trade or technical school, ~~[other than a school exempted under this chapter,]~~ that offers postsecondary education:

~~[(a)]~~ (i) in consideration of the payment of tuition or fees; and

~~[(b)]~~ (ii) for the attainment of educational, professional, or vocational objectives.

~~[(11)]~~ "Rules" means those rules adopted by the division under the Utah Administrative Rulemaking Act necessary to enforce and administer this chapter.]

(b) "Proprietary school" does not include an institution that is exempt from this chapter under Section 13-34-105.

~~[(12)]~~ (11) "Utah institution" means a ~~[postsecondary educational]~~ school or institution ~~[whose headquarters or primary operations are in Utah.]~~ that:

(a) offers postsecondary education; and

(b) is headquartered or primarily operates in Utah.

Section 3. Section 13-34-105 is amended to read:

13-34-105. Exempted institutions.

(1) This chapter does not apply to:

(a) a Utah institution directly supported, to a substantial degree, with funds provided by:

(i) the state;

(ii) a local school district; or

(iii) other Utah governmental subdivision;

(b) an institution that offers instruction exclusively at or below the 12th grade level;

(c) a lawful enterprise that offers only professional review programs, ~~[such as]~~ including C.P.A. and bar examination review and preparation courses;

(d) a private ~~[-postsecondary educational]~~ institution that:

- (i) provides postsecondary education; and
- (ii) is owned, controlled, operated, or maintained by a bona fide church or religious denomination, [which] that is exempted from property taxation under the laws of this state;
- (e) [~~subject to Subsection (3) and Section 13-34-107.5,~~] a school or institution that is accredited by a regional or national accrediting agency recognized by the United States Department of Education;
- (f) subject to Subsection (4), a business organization, trade or professional association, fraternal society, or labor union that:
- (i) sponsors or conducts courses of instruction or study predominantly for bona fide employees or members; and
- (ii) does not~~[, in advertising, describe itself]~~ advertise as a school;
- (g) an institution that:
- (i) (A) exclusively offers general education courses or instruction [~~solely~~] that are remedial, avocational, nonvocational, or recreational in nature; and
- (B) does not advertise occupation objectives or grant educational credentials; and
- (ii) exclusively prepares individuals to teach courses or instruction described in Subsection (1)(g)(i)(A);
- (h) an institution that offers only workshops or seminars:
- (i) lasting no longer than three calendar days; and
- (ii) for which academic credit is not awarded;
- (i) an institution that offers programs:
- (i) in barbering, cosmetology, real estate, or insurance; and
- (ii) that are regulated and approved by a state or federal governmental agency;
- (j) an education provider certified by the Division of Real Estate under Section 61-2c-204.1;
- (k) an institution that offers aviation training if the institution:
- (i) (A) is approved under Federal Aviation Regulations, 14 C.F.R. Part 141; or
- (B) provides aviation training under Federal Aviation Regulations, 14 C.F.R. Part 61; and
- (ii) exclusively offers aviation training that a student fully receives within 24 hours after the student pays any tuition, fee, or other charge for the aviation training;
- (l) an institution that provides emergency medical services training if all of the institution's instructors, course coordinators, and courses are approved by the Department of Health; and

(m) an institution that exclusively conducts nurse aide training programs that are approved by the State Office of Vocational Education and are subject to the Nurse Aide Registry~~[; and]~~.

~~[(n) a private, nonprofit educational institution that has been in continuous operation as a private, nonprofit educational institution for at least 20 years, except as provided in Subsection (5), Subsection 13-34-106(8) and Section 13-34-107.6.]~~

(2) If available evidence suggests that an exempt institution under this section is not in compliance with the standards of registration under this chapter and applicable division rules, the division shall contact the institution and, if appropriate, the state or federal government agency to request corrective action.

(3) An institution, branch, extension, or facility operating within the state that is affiliated with an institution operating in another state shall be separately approved by the affiliate's regional or national accrediting agency to qualify for the exemption described in Subsection (1)(e).

(4) For purposes of Subsection (1)(f), a business organization, trade or professional association, fraternal society, or labor union is considered to be conducting the course predominantly for bona fide employees or members if it hires a majority of the persons who:

(a) successfully complete its course of instruction or study with a reasonable degree of proficiency; and

(b) apply for employment with that same entity.

~~[(5) An institution subject to, or expressly exempted from any part of, this chapter is:]~~

~~[(a) established as an educational institution within the state;]~~

~~[(b) independent of the state system of higher education;]~~

~~[(c) subject to compliance with the applicable provisions of this chapter; and]~~

~~[(d) authorized to operate educational programs beyond secondary education, including programs leading to a degree or certificate.]~~

Section 4. Section 13-34-106 is amended to read:

13-34-106. Responsibilities of division.

The division [~~is responsible for the administration of this chapter, and]~~ shall [~~do the following~~]:

(1) prescribe the contents of the registration statements required by this chapter relating to the quality of education and ethical and business practices;

~~[(2) issue;]~~

~~[(a) certification of registration upon receipt and approval of the registration statement required under Section 13-34-107; and]~~

~~(b) a certificate of exemption under Section 13-34-107.5 upon receipt and approval of an application and verification that the requirements of Subsection 13-34-105(1)(e) and Section 13-34-107.5 are met;~~

(2) upon receipt and approval of a registration statement under Section 13-34-107, issue a certification of registration;

(3) receive, investigate, and make available for public inspection ~~the~~ a registration ~~statements~~ statement filed by a proprietary ~~schools~~ school operating or intending to operate in the state;

(4) maintain and publicize a list of proprietary schools for which a registration statement is on file with the division;

(5) on the division's own initiative or in response to a complaint filed with the division, do any of the following with respect to ~~any~~ an institution subject to, or reasonably believed by the division to be subject to, this chapter:

(a) investigate;

(b) audit;

(c) review;

(d) appropriately act, including enforcing this chapter or any other law enforced by the division; ~~and~~ or

(e) refer a matter to ~~(i)~~ another governmental entity; ~~or~~

~~(ii) the institution's accrediting body, if the institution is an exempt institution under Section 13-34-107.5;~~

(6) negotiate and enter into an interstate reciprocity ~~agreements~~ agreement with ~~other states~~ another state, if in the judgment of the division, the ~~agreements are or will help to~~ agreement helps effectuate the purposes of this chapter;

(7) consent to the use of ~~educational terms in business names~~ an educational term in a business name in accordance with Section 13-34-114; and

(8) establish and maintain a process for reviewing and appropriately acting on complaints concerning ~~postsecondary educational~~ institutions ~~operating~~ that provide postsecondary education and operate in the state, including enforcing applicable state laws.

Section 5. Section 13-34-110 is amended to read:

13-34-110. Enforcement of contracts or agreements -- Rescission based on defective registration statement.

(1) A proprietary school ~~shall be unable to~~ may not enforce in the courts of this state ~~any~~ a contract or agreement relating to postsecondary education services in this state unless, at the time the contract or agreement was ~~entered into~~ executed, an effective registration statement was on file with the division and made accessible to

every applicant at the time of admission to the school.

(2) It is a violation of this chapter if a proprietary school or ~~its~~ the proprietary school's agent:

(a) fails to file an effective registration statement;

(b) willfully omits from a registration statement provided under Section 13-34-107 ~~or an application under Section 13-34-107.5 for an exemption certificate any~~ a material statement of fact required by this chapter ~~and~~ or applicable regulations; or

(c) includes in a registration statement any material statement of fact that ~~was known, or should have been known, to~~ the proprietary school knew or should have known to be false, deceptive, inaccurate, or misleading.

(3) A student who enrolled in a proprietary school, in reliance upon the school's registration statement, may rescind the contract or agreement of enrollment and obtain a refund from the school of all tuition, fees, and other charges paid to the school if the school or its agent committed a violation under Subsection (2).

(4) A violation of this chapter is also a violation of Section 13-11-4.

Section 6. Section 13-34-113 is amended to read:

13-34-113. Denial, suspension, or revocation of a certificate of registration -- Limitations.

(1) In accordance with Chapter 2, Division of Consumer Protection, and Title 63G, Chapter 4, Administrative Procedures Act, the division may initiate proceedings to deny, suspend, or revoke a certificate of registration to operate a proprietary school under this chapter ~~or an exemption certificate under Section 13-34-107.5~~ if:

(a) the division finds that the order is in the public interest; and

(b) (i) the registration statement~~,~~ or renewal statement~~,~~ ~~or application for an exemption certificate~~ is incomplete, false, or misleading in any respect;

(ii) the division determines that the educational credential associated with the proprietary school ~~or accredited institution~~ represents the undertaking or completion of educational achievement that has not been undertaken and earned; or

(iii) the proprietary school~~,~~ ~~accredited institution,~~ or an individual described in Subsection 13-34-107(2)(a)(ii)(B) has:

(A) violated any provision of:

(I) this chapter;

(II) the rules made by the division pursuant to this chapter; or

(III) a commitment made in a registration statement for a certificate of registration to operate

the proprietary school [or in an application for an exemption certificate];

(B) caused or allowed to occur a violation of any provision of:

(I) this chapter;

(II) the rules made by the division pursuant to this chapter; or

(III) a commitment made in a registration statement for a certificate of registration to operate the proprietary school;

(C) been enjoined by any court, or is the subject of an administrative or judicial order issued in this or another state, if the injunction or order:

(I) includes a finding or admission of fraud, breach of fiduciary duty, or material misrepresentation; or

(II) was based on a finding of lack of integrity, truthfulness, or mental competence;

(D) been convicted of a crime involving moral turpitude;

(E) obtained or attempted to obtain a certificate of registration under this chapter by misrepresentation;

(F) failed to timely file with the division any report required by:

(I) this chapter; or

(II) rules made by the division pursuant to this chapter;

(G) failed to furnish information requested by the division; or

(H) failed to pay an administrative fine imposed by the division in accordance with this chapter.

(2) Division staff may place reasonable limits upon a proprietary school's continued certificate of registration to operate if:

(a) there are serious concerns about the proprietary school's ability to provide the training in the manner approved by the division; and

(b) limitation is warranted to protect the students' interests.

~~[(3) (a) The division may:]~~

~~[(i) conduct a criminal background check on an individual described in Subsection 13-34-107(2)(a)(ii)(B); and]~~

~~[(ii) require a proprietary school to provide to the division any information and to cover any costs necessary to conduct a criminal background check on an individual described in Subsection 13-34-107(2)(a)(ii)(B)(I) through (IV), including:]~~

~~[(A) a fingerprint card in a form acceptable to the division;]~~

~~[(B) consent to a criminal background check by the Utah Bureau of Criminal Identification and the Federal Bureau of Investigation;]~~

~~[(C) the cost of a criminal background check; and]~~

~~[(D) the cost of fingerprinting.]~~

~~[(b) Money paid to the division for the cost of a criminal background check is nonlapsing.]~~

~~(3) (a) The division may require an individual described in Subsection 13-34-107(2)(a)(ii)(B) to:~~

~~(i) submit a fingerprint card in a form acceptable to the division; and~~

~~(ii) consent to a criminal background check by:~~

~~(A) the Federal Bureau of Investigation;~~

~~(B) the Utah Bureau of Criminal Identification; or~~

~~(C) another agency of any state that performs criminal background checks.~~

~~(b) The proprietary school or the individual who is subject to the background check shall pay the cost of:~~

~~(i) the fingerprint card described in Subsection (3)(a)(i); and~~

~~(ii) the criminal background check.~~

Section 7. Section 13-34a-101 is enacted to read:

CHAPTER 34a. UTAH POSTSECONDARY SCHOOLSTATE AUTHORIZATION ACT

Part 1. General Provisions

13-34a-101. Title.

(1) This chapter is known as "Utah Postsecondary School State Authorization Act."

(2) This part is known as "General Provisions."

Section 8. Section 13-34a-102 is enacted to read:

13-34a-102. Definitions.

As used in this chapter:

(1) "Accredited institution" means a postsecondary school that is accredited by an accrediting agency.

(2) "Accrediting agency" means a regional or national private educational association that:

(a) is recognized by the United States Department of Education;

(b) develops evaluation criteria; and

(c) conducts peer evaluations to assess whether a postsecondary school meets the criteria described in Subsection (2)(b).

(3) "Agent" means a person who:

(a) (i) owns an interest in a postsecondary school; or

(ii) is employed by a postsecondary school; and

(b) (i) enrolls or attempts to enroll a Utah resident in a postsecondary school;

(ii) offers to award an educational credential for remuneration on behalf of a postsecondary school; or

(iii) holds oneself out to Utah residents as representing a postsecondary school for any purpose.

(4) “Certificate of postsecondary state authorization” means a certificate issued by the division to a postsecondary school in accordance with the provisions of this chapter.

(5) “Division” means the Division of Consumer Protection.

(6) “Educational credential” means a degree, diploma, certificate, transcript, report, document, letter of designation, mark, or series of letters, numbers, or words that represent enrollment, attendance, or satisfactory completion of the requirements or prerequisites of an educational program.

(7) “Intentional violation” means a violation of a provision of this chapter that occurs or continues after the division, the attorney general, a county attorney, or a district attorney gives the violator written notice, delivered by certified mail, that the violator is or has been in violation of the provision.

(8) “Operate” means to:

(a) maintain a place of business in the state;

(b) conduct significant educational activities within the state; or

(c) provide postsecondary education to a Utah resident that:

(i) is intended to lead to a postsecondary degree or certificate; and

(ii) is provided from a location outside the state by correspondence or telecommunications or electronic media technology.

(9) “Operating history” means a report, written evaluation, publication, or other documentation regarding:

(a) the current accreditation status of a postsecondary school with an accrediting agency; and

(b) an action taken by an accrediting agency that:

(i) places a postsecondary school on probation;

(ii) imposes disciplinary action against a postsecondary school; or

(iii) requires a postsecondary school to take corrective action.

(10) “Ownership” means:

(a) the controlling interest in a postsecondary school; or

(b) if an entity holds the controlling interest in the postsecondary school, the controlling interest in the entity that holds the controlling interest in the postsecondary school.

(11) “Postsecondary education” means education or educational services offered primarily to individuals who:

(a) have completed or terminated their secondary or high school education; or

(b) are beyond the age of compulsory school attendance.

(12) (a) “Postsecondary school” means a person that provides or offers educational services to individuals who:

(i) have completed or terminated secondary or high school education; or

(ii) are beyond the age of compulsory school attendance.

(b) “Postsecondary school” does not include an institution that is part of the state system of higher education under Section 53B-1-102.

(13) “Private postsecondary school” means a postsecondary school that is not a public postsecondary school.

(14) “Public postsecondary school” means a postsecondary school:

(a) established by a state or other governmental entity; and

(b) substantially supported with government funds.

Section 9. Section 13-34a-103 is enacted to read:

13-34a-103. Duties of the division.

(1) The division shall administer and enforce the provisions of this chapter.

(2) In administering this chapter, the division shall:

(a) receive and review completed registration forms in accordance with the provisions of this chapter;

(b) develop, maintain, and make available to the public a list of postsecondary schools that have a current, valid certificate of postsecondary state authorization;

(c) adopt a fee schedule in accordance with Section 63J-1-504 to cover the cost of processing a registration form and issuing a certificate of postsecondary state authorization; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this chapter, make rules governing:

(i) the content and form of a registration form;

(ii) the filing and review procedures relating to a registration form submitted under this chapter;

(iii) the filing and review of complaints filed with the division under this chapter;

(iv) the denial, suspension, or revocation of a certificate of postsecondary school state authorization; and

(v) enforcement of the provisions of this chapter.

Section 10. Section 13-34a-104 is enacted to read:

13-34a-104. Authority to execute interstate reciprocity agreement -- Rulemaking.

(1) The division may execute an interstate reciprocity agreement that:

(a) is for purposes of state authorization under 34 C.F.R. Sec. 600.9; and

(b) is for the benefit of:

(i) postsecondary schools in the state; or

(ii) (A) postsecondary schools in the state; and

(B) institutions that are part of the state system of higher education under Section 53B-1-102.

(2) If the division executes an interstate reciprocity agreement described in Subsection (1):

(a) except as provided by division rule, the provisions of this chapter do not apply to a postsecondary school that obtains state authorization under the reciprocity agreement; and

(b) the division may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules relating to:

(i) the standards for granting a postsecondary school state authorization under a reciprocity agreement;

(ii) any filing, document, or fee required for a postsecondary school to obtain authorization under a reciprocity agreement; and

(iii) penalties if a postsecondary school fails to comply with the rules that the division makes under this Subsection (2).

(3) If the division executes an interstate reciprocity agreement described in Subsection (1) that includes institutions that are part of the state system of higher education under Section 53B-1-102, the State Board of Regents may make rules that:

(a) implement the reciprocity agreement; and

(b) relate to institutions that are part of the state system of higher education under Section 53B-1-102.

Section 11. Section 13-34a-201 is enacted to read:

Part 2. State Authorization Procedures

13-34a-201. Title.

This part is known as "State Authorization Procedures."

Section 12. Section 13-34a-202 is enacted to read:

13-34a-202. State authorization -- Certificate of postsecondary state authorization.

(1) A postsecondary school that operates in the state obtains state authorization for purposes of 34 C.F.R. Sec. 600.9 if the postsecondary school obtains a certificate of postsecondary state authorization under this chapter.

(2) A postsecondary school may obtain state authorization in a manner different from the manner described in Subsection (1) if the alternative manner is accepted by the United States Department of Education.

(3) (a) A certificate of postsecondary state authorization is not an endorsement or approval of a postsecondary school by the division or the state.

(b) A postsecondary school may not represent that a certificate of postsecondary state authorization is an endorsement or approval by the division or the state.

Section 13. Section 13-34a-203 is enacted to read:

13-34a-203. Nonprofit postsecondary school -- Procedure to obtain certificate of postsecondary state authorization.

(1) The division shall, in accordance with the provisions of this section, issue a certificate of postsecondary state authorization to a postsecondary school that:

(a) is a nonprofit postsecondary school; and

(b) has operated as a nonprofit for at least 20 years.

(2) To obtain a certificate of postsecondary state authorization under this section, a postsecondary school shall:

(a) submit a completed registration form to the division that:

(i) for a nonprofit, private postsecondary school, includes:

(A) a copy of the private postsecondary school's articles of incorporation;

(B) documentation from the United States Internal Revenue Service that demonstrates that the private postsecondary school has nonprofit status, and that the private postsecondary school has had nonprofit status for at least 20 consecutive years from the day on which the private postsecondary school submits the completed registration form; and

(C) satisfactory documentation that the private postsecondary school has complied with the complaint process requirements described in Section 13-34a-206; or

(ii) for a nonprofit, public postsecondary school, includes:

(A) documentation sufficient to demonstrate that the public postsecondary school has operated as a nonprofit for at least 20 consecutive years from the day on which the public postsecondary school submits the completed registration form; and

(B) satisfactory documentation that the public postsecondary school has complied with the complaint process requirements described in Section 13-34a-206; and

(b) pay a nonrefundable fee, established by the division, in accordance with Subsection

13-34a-103(2)(c) to pay for the cost of processing the registration form and issuing the certificate of postsecondary state authorization.

(3) The division shall develop and make available to the public:

(a) a registration form for nonprofit, private postsecondary schools, as described in Subsection (2)(a)(i); and

(b) a registration form for nonprofit, public postsecondary schools, as described in Subsection (2)(a)(ii).

(4) The division shall deposit money that the division receives under Subsection (2)(b) into the Commerce Service Account, created in Section 13-1-2.

(5) If there is a change in circumstance that may affect a postsecondary school's status under this section, the postsecondary school shall notify the division in writing of the change within 30 days after the day on which the change occurs.

(6) A certificate of postsecondary state authorization issued under this section:

(a) establishes a postsecondary school by name as an educational institution, as described in 34 C.F.R. Sec. 600.9(a)(1)(i);

(b) makes a postsecondary school independent of the state system of higher education; and

(c) authorizes a postsecondary school to operate educational programs in the state that are beyond secondary education, including programs that lead to a degree or certificate.

Section 14. Section 13-34a-204 is enacted to read:

13-34a-204. Postsecondary school -- Procedure to obtain certificate of postsecondary state authorization.

(1) The division shall, in accordance with the provisions of this section, issue a certificate of postsecondary state authorization to a postsecondary school.

(2) To obtain a certificate of postsecondary state authorization under this section, a postsecondary school shall:

(a) submit a completed registration form to the division that includes:

(i) proof of current accreditation from the postsecondary school's accrediting agency;

(ii) proof that the postsecondary school is fiscally responsible and can reasonably fulfill the postsecondary school's financial obligations, including:

(A) a copy of an audit of the postsecondary school's financial statements, with all applicable footnotes, including a balance sheet, an income statement, a statement of retained earnings, and a statement of cash flow, that was performed by a certified public accountant;

(B) at the postsecondary school's election, a copy of an audit of the postsecondary school's parent company's financial statements, with all applicable footnotes, including a balance sheet, an income statement, a statement of retained earnings, and a statement of cash flow, that was performed by a certified public accountant; and

(C) a copy of all other financial documentation that the postsecondary school provided to the postsecondary school's accrediting agency since the postsecondary school's last registration with the division under this chapter or within the 12 months before the day on which the postsecondary school submits a completed registration form under this section, whichever is longer;

(iii) proof of good standing in the state where the postsecondary school is organized;

(iv) the postsecondary school's operating history with the postsecondary school's accrediting agency since the postsecondary school's last registration with the division under this chapter or within the 12 months before the day on which the postsecondary school submits a completed registration form under this section, whichever is longer;

(v) the number of Utah residents who enrolled in the postsecondary school since the postsecondary school's last registration with the division under this chapter or within the 12 months before the day on which the postsecondary school submits a completed registration form under this section, whichever is longer;

(vi) satisfactory documentation that the postsecondary school has complied with the complaint process requirements described in Section 13-34a-206;

(vii) (A) the number of complaints that a Utah resident has filed against the postsecondary school since the postsecondary school's last registration with the division under this chapter or within the 12 months before the day on which the postsecondary school submits a completed registration form under this section, whichever is longer; and

(B) upon request, includes copies of the complaints described in Subsection (2)(a)(vii)(A);

(viii) a disclosure that states whether the postsecondary school or an owner, officer, director, or administrator of the postsecondary school has been:

(A) convicted of a crime;

(B) subject to an order issued by a court; or

(C) subject to an order issued by an administrative agency that imposed disciplinary action; and

(ix) a notarized personal verification by the owner or a responsible officer of the postsecondary school that the information provided under this Subsection (2)(a) is complete and accurate; and

(b) pay a nonrefundable fee, established by the division, in accordance with Subsection 13-34a-103(2)(c) to pay for the cost of processing

the registration form and issuing the certificate of postsecondary state authorization.

(3) The division shall develop and make available to the public a registration form described in Subsection (2)(a).

(4) The division shall deposit money that the division receives under Subsection (2)(b) into the Commerce Service Account, created in Section 13-1-2.

(5) If a postsecondary school maintains more than one physical campus in the state, the postsecondary school shall file a separate registration form for each physical campus in the state.

(6) (a) A certificate of postsecondary state authorization issued under this section is not transferrable.

(b) (i) If a postsecondary school's ownership or governing body changes after the postsecondary school obtains a certificate of postsecondary state authorization under this section, the postsecondary school shall submit a new completed registration form in accordance with Subsection (2) within 60 days after the day on which the change in ownership or governing body occurs.

(ii) If a postsecondary school fails to timely comply with the requirements described in Subsection (6)(b)(i), the postsecondary school's certificate of postsecondary state authorization immediately and automatically expires.

(c) If there is a change in circumstance that may affect a postsecondary school's status under this section, the postsecondary school shall notify the division in writing of the change within 30 days after the day on which the change occurs.

(7) A certificate of postsecondary state authorization issued under this section expires one year after the day on which the certificate of postsecondary state authorization is issued.

Section 15. Section 13-34a-205 is enacted to read:

13-34a-205. Background checks.

(1) The division may require an owner, officer, director, administrator, faculty member, staff member, or other agent of a postsecondary school that applies for or holds a certificate of postsecondary state authorization to:

(a) submit a fingerprint card in a form acceptable to the division; and

(b) consent to a criminal background check by:

(i) the Federal Bureau of Investigation;

(ii) the Utah Bureau of Criminal Identification; or

(iii) another agency of any state that performs criminal background checks.

(2) The postsecondary school or the postsecondary school's owner, officer, director, administrator, faculty member, staff member, or

other agent who is subject to the background check shall pay the cost of:

(a) the fingerprint card described in Subsection (1)(a); and

(b) the criminal background check.

Section 16. Section 13-34a-206 is enacted to read:

13-34a-206. Complaints -- Information for students and prospective students.

(1) A postsecondary school shall provide each student or prospective student written information regarding how to file a complaint against the postsecondary school with the division, the postsecondary school's accrediting agency, and the postsecondary school's approval or licensing entity.

(2) To satisfy the requirements described in Subsection (1), a postsecondary school may place a conspicuous link on the postsecondary school's website that links to:

(a) the contact information of each entity described in Subsection (1); or

(b) a third party's website that states the contact information for each entity described in Subsection (1).

(3) The division shall establish a process for reviewing and responding to complaints that the division receives under this chapter.

Section 17. Section 13-34a-207 is enacted to read:

13-34a-207. Discontinuance of operations.

(1) If a postsecondary school ceases to operate, at least 30 days before the day on which the postsecondary school ceases to operate, the postsecondary school shall give the division written notice that includes:

(a) the date on which the postsecondary school will cease to operate; and

(b) for an accredited institution, a written certification, signed by the postsecondary school's owner or officer, that the postsecondary school has complied with the postsecondary school's accrediting agency's closure requirements.

(2) After a postsecondary school submits a written notice described in Subsection (1), the postsecondary school may not recruit or enroll new students in the state.

Section 18. Section 13-34a-301 is enacted to read:

Part 3. Enforcement

13-34a-301. Title.

This part is known as "Enforcement."

Section 19. Section 13-34a-302 is enacted to read:

13-34a-302. Denial, suspension, or revocation of certificate of postsecondary state authorization.

(1) In accordance with Chapter 2, Division of Consumer Protection, and Title 63G, Chapter 4, Administrative Procedures Act, the division may deny, suspend, or revoke a certificate of postsecondary state authorization if:

(a) for a certificate of postsecondary state authorization issued under Section 13-34a-203, the postsecondary school:

(i) fails to comply with a requirement described in Section 13-34a-203;

(ii) omits a material fact from the postsecondary school's completed registration form; or

(iii) includes a material fact in the postsecondary school's completed registration form that is incomplete, false, inaccurate, or misleading; or

(b) for a certificate of postsecondary state authorization issued under Section 13-34a-204:

(i) the denial, suspension, or revocation is in the public interest; and

(ii) the postsecondary school:

(A) fails to meet a requirement described in Section 13-34a-204;

(B) submits a registration form or any supporting documentation that is incomplete, false, inaccurate, or misleading;

(C) grants an educational credential to an individual that the individual did not earn;

(D) violates a provision of this chapter or a rule made under this chapter;

(E) is the subject of an order issued by a court or an administrative agency that includes a finding or admission of fraud, breach of fiduciary duty, or misrepresentation, or behavior that lacked moral integrity, truthfulness, or mental competence;

(F) has been convicted of a crime of moral turpitude;

(G) fails to give the division information that the division requests in connection with a certificate of postsecondary state authorization; or

(H) fails to timely pay a fine imposed under this chapter.

(2) For a postsecondary school that obtains a certificate of postsecondary state authorization under Section 13-34a-204, the division may place reasonable requirements on the postsecondary school if:

(a) the requirement protects student interests; and

(b) the postsecondary school engaged in any of the behavior described in Subsection (1)(b)(ii).

Section 20. Section 13-34a-303 is enacted to read:

13-34a-303. Right to rescind.

If a postsecondary school's certificate of postsecondary state authorization is revoked under

Subsection 13-34a-302(2), a student who enrolled in the postsecondary school in reliance upon the postsecondary school's possession of a valid certificate of postsecondary state authorization may rescind any enrollment agreement and obtain a full refund from the postsecondary school for any tuition, fees, or other charges that the student paid to the postsecondary school.

Section 21. Section 13-34a-304 is enacted to read:

13-34a-304. Violations.

A postsecondary school violates this chapter if:

(1) the postsecondary school fails to comply with a provision of this chapter or a rule made under this chapter; or

(2) for a postsecondary school that submits a registration form under Section 13-34a-204, the postsecondary school:

(a) intentionally omits a material fact from the postsecondary school's registration form; or

(b) includes a material fact in the postsecondary school's registration form that the postsecondary school knows or should have known is false, deceptive, inaccurate, or misleading.

Section 22. Section 13-34a-305 is enacted to read:

13-34a-305. Enforcement.

(1) The division may, in accordance with Chapter 2, Division of Consumer Protection, and Title 63G, Chapter 4, Administrative Procedures Act:

(a) investigate a postsecondary school, in response to a complaint or on the division's own initiative, to verify compliance with the provisions of this chapter; or

(b) initiate an adjudicative proceeding to enforce compliance with the provisions of this chapter.

(2) (a) The division may refer an alleged violation of a provision of this chapter to the attorney general, a county attorney, or a district attorney.

(b) The attorney general, county attorney, or district attorney shall investigate the alleged violation, and, following the investigation, may file a civil or criminal action in district court to:

(i) enjoin the defendant from further violation of the chapter; and

(ii) impose the applicable penalties described in Section 13-34a-306.

(3) Nothing in this chapter prevents a postsecondary school from performing an internal investigation.

Section 23. Section 13-34a-306 is enacted to read:

13-34a-306. Penalties.

(1) In an adjudicative proceeding under Subsection 13-34a-305(1) or in a district court action under Subsection 13-34a-305(2), the division or the district court may impose a fine of up to:

(a) \$1,000 for each violation of this chapter that is not an intentional violation; and

(b) \$5,000 for each intentional violation.

(2) The division shall deposit any money the division receives under Subsection (1) into the Consumer Protection Education and Training Fund, created in Section 13-2-8.

(3) A violation of a provision of this chapter is a violation of Section 13-11-4.

(4) An intentional violation is a class B misdemeanor.

Section 24. Repealer.

This bill repeals:

Section 13-34-107.5, Exemption certificate -- Application and renewal process.

Section 13-34-107.6, Confirmation of private nonprofit educational institution -- Effect of confirmation -- Fees.

CHAPTER 361**H. B. 412**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

**STATE OF UTAH TRANSPORTATION PLAN
FOR THE DIXIE NATIONAL FOREST**

Chief Sponsor: Michael E. Noel

Senate Sponsor: Evan J. Vickers

LONG TITLE**General Description:**

This bill modifies the State of Utah Resource Management Plan for Federal Lands code by enacting provisions relating to a state transportation plan for Dixie National Forest.

Highlighted Provisions:

This bill:

- ▶ establishes and designates a State of Utah Transportation Plan for the Dixie National Forest;
- ▶ describes the purposes and map locations of the State of Utah Transportation Plan for the Dixie National Forest;
- ▶ recognizes that the State of Utah Transportation Plan for the Dixie National Forest conflicts with the United States Forest Service's recent motorized travel plan for the Dixie National Forest;
- ▶ requests that federal agencies:
 - fully cooperate and coordinate with the state of Utah and the respective counties in which these ranger districts lie, to develop, amend, and implement United States Forest Service land and resource management plans and transportation plans;
 - enter into agreements regarding the maintenance, upkeep, and improvement of roads in these ranger districts;
 - refrain from any planning decisions and management actions that will undermine, restrict, or diminish the goals, purposes, and policies as stated in this section; and
 - refrain from implementing a policy that is contrary to the goals and purposes described within this bill;
- ▶ encourages applicable federal, state, and local agencies to coordinate with each other and establish applicable intergovernmental standing commissions to coordinate and achieve consistency in planning decisions and management actions consistent with the goals and policies of this section for the Cedar City, Powell, Escalante, and Fremont ranger districts of the Dixie National Forest.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

63J-8-105.9, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63J-8-105.9 is enacted to read:**63J-8-105.9. (Codified as 63J-8-105.1) State of Utah Transportation Plan for the Cedar City, Powell, Escalante, and Fremont ranger districts of the Dixie National Forest.**

(1) (a) The state of Utah designates this state of Utah transportation plan for the Cedar City, Powell, Escalante, and Fremont ranger districts of the Dixie National Forest.

(b) The plan was established pursuant to:

(i) the requirement in the United States Forest Service's Multiple-Use Sustained-Yield Act of 1960, 16 U.S.C. Sec. 528, that lands within the national forests be managed according to the principles of multiple use; and

(ii) the right which FLPMA, the National Environmental Policy Act, 42 U.S.C. Sec. 4321 et seq., and the Federal Advisory Committee Act, 5 U.S.C. Appendix 2, give to state and local governments to participate in all BLM and United States Forest Service efforts to plan for the responsible use of BLM and United States Forest Service lands and the requirement that BLM and the United States Forest Service coordinate planning efforts with those of state and local governments.

(c) This section is a statement of the state of Utah's policy and plan for a desired transportation system for the Cedar City, Powell, Escalante, and Fremont ranger districts of the Dixie National Forest.

(d) This section does not mandate compliance with this policy by the United States Forest Service nor does it override or usurp the United States Forest Service's authority within this area.

(e) This section is a statement of state policy for use by the United States Forest Service and other interested stakeholders as required by federal law in making planning decisions and project management decisions within the Cedar City, Powell, Escalante, and Fremont ranger districts of the Dixie National Forest.

(2) There is established and designated a state of Utah transportation plan for the Cedar City, Powell, Escalante, and Fremont ranger districts of the Dixie National Forest in Garfield, Iron, Kane, and Wayne counties, Utah for the purpose of:

(a) preserving and protecting against threats to the longstanding transportation networks that have served the public for decades within these ranger districts;

(b) preserving and protecting against threats to the longstanding traditional recreation resource values that have served the public for decades within these ranger districts;

(c) preserving and protecting against threats to the longstanding public road access that is vital to

the agricultural livestock and forest products industries within these ranger districts;

(d) preserving and protecting against threats to the significant history, culture, customs, and economic values in these ranger districts, and in the various communities situated near these ranger districts;

(e) preserving and protecting against threats to the civil rights of the disabled, the elderly, and the economically disadvantaged to have access to the great outdoor resource and values existing in these ranger districts;

(f) preserving and protecting against threats to road networks vital to restoring, reclaiming, preserving, protecting, enhancing, and developing the state's water resources on the watersheds existing within these ranger districts;

(g) protecting, preserving, and enhancing affected natural, historical, and cultural activities within these ranger districts from ongoing threats; and

(h) preserving and protecting the longstanding network of publicly accessible roads within these ranger districts, in order to protect:

(i) the health, safety, and welfare of citizens who live near these ranger districts, and persons who visit and recreate therein, from the threat of catastrophic fire and its resulting problems of watershed and habitat destruction, erosion, silt load, and flooding, which can only be managed, prevented, combatted, and mitigated through a proper transportation network throughout these ranger districts;

(ii) hunter access to manage wildlife populations; and

(iii) forage conditions for livestock grazing and wildlife habitat.

(3) The state of Utah transportation plan for the Cedar City, Powell, Escalante, and Fremont ranger districts of the Dixie National Forest consists of all roads shown in the map jointly prepared by the Garfield, Iron, Kane, and Wayne County GIS departments in February 2014, entitled "State of Utah Transportation Plan for Dixie National Forest," printed copies of which will be maintained by the Utah Association of Counties and made available to the public upon request.

(4) (a) (i) The map described in Subsection (3) also documents the move by Dixie National Forest to close and otherwise deny the public's longstanding access to many of the roads shown on the map in the Cedar City, Powell, Escalante, and Fremont ranger districts, by reason of the United States Forest Service's implementing a recent motorized travel plan for the Dixie National Forest.

(ii) These closures and other denials of public road access through the motorized travel plan of the Dixie National Forest constitute an ongoing direct threat to the resources and values referenced in Subsection (2).

(b) The state of Utah's transportation plan for these ranger districts conflicts with the United States Forest Service's recent motorized travel plan for the Dixie National Forest.

(c) The state of Utah's transportation plan for these ranger districts recognizes that all roads shown on the map referenced in Subsection (3) should be kept open to the public.

(5) The state finds that keeping open to the public all roads shown on the map referenced in Subsection (3) is necessary and vital to preserve and protect the values cited in Subsection (2).

(6) The state requests that the federal agencies that administer lands within the Cedar City, Powell, Escalante, and Fremont ranger districts of the Dixie National Forest:

(a) fully cooperate and coordinate with the state of Utah and the respective counties in which these ranger districts lie, to develop, amend, and implement United States Forest Service land and resource management plans and transportation plans, and implement management decisions pursuant to those plans, that are consistent with the purposes, goals, and policies described in this section to the maximum extent allowed under federal law;

(b) enter into agreements regarding the maintenance, upkeep, and improvement of roads in these ranger districts;

(c) refrain from any planning decisions and management actions that will undermine, restrict, or diminish the goals, purposes, and policies as stated in this section; and

(d) refrain from implementing a policy that is contrary to the goals and purposes described within this section.

(7) (a) The state recognizes the importance of longstanding road networks in all national forests in the state but establishes this transportation plan to provide special protection and preservation against the identified threats found to exist in the Cedar City, Powell, Escalante, and Fremont ranger districts of the Dixie National Forest.

(b) It is the intent of the state to designate additional forest transportation plans in future years as circumstances warrant their special protection and preservation.

(8) The state calls upon applicable federal, state, and local agencies to coordinate with each other and establish applicable intergovernmental standing commissions, with membership consisting of representatives from the United States government, the state of Utah, and local governments, to coordinate and achieve consistency in planning decisions and management actions consistent with the goals and policies of this section for the Cedar City, Powell, Escalante, and Fremont ranger districts of the Dixie National Forest.

CHAPTER 362**H. B. 415**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

**LOCAL AND SPECIAL SERVICE
DISTRICT ELECTIONS AMENDMENTS**Chief Sponsor: Steve Eliason
Senate Sponsor: Brian E. Shiozawa**LONG TITLE****General Description:**

This bill permits a local district board, or the administrative control board of a special service district that has elected members on the board, to hold elections in an even-numbered year, if approved by the lieutenant governor.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ permits a local district board, or the administrative control board of a special service district that has elected members on the board, to hold elections in an even-numbered year, if approved by the lieutenant governor;
- ▶ describes application requirements to apply to hold an election in an even-numbered year;
- ▶ describes the criteria upon which the lieutenant governor may approve an application to hold an election in an even-numbered year;
- ▶ provides a procedure and requirements for a local district board, or the administrative control board of a special service district that has elected members on the board, to switch back to holding elections in an odd-numbered year;
- ▶ permits the lieutenant governor to increase the length of a term of a board member in order to adjust for a change in the year in which an election is held; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 17B-1-301, as last amended by Laws of Utah 2011, Chapter 209
- 17B-1-303, as last amended by Laws of Utah 2013, Chapter 448
- 17B-1-305, as renumbered and amended by Laws of Utah 2007, Chapter 329
- 17B-1-306, as last amended by Laws of Utah 2013, Chapters 402 and 448
- 17B-2a-404, as last amended by Laws of Utah 2012, Chapter 97
- 17D-1-106, as last amended by Laws of Utah 2012, Chapters 97 and 347
- 20A-1-102, as last amended by Laws of Utah 2013, Chapter 320
- 20A-1-201, as last amended by Laws of Utah 2000, Chapter 241

20A-1-202, as last amended by Laws of Utah 2011, Chapter 40

20A-5-101, as last amended by Laws of Utah 2011, Chapters 291 and 292

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 17B-1-301 is amended to read:****17B-1-301. Board of trustees duties and powers.**

(1) (a) Each local district shall be governed by a board of trustees which shall manage and conduct the business and affairs of the district and shall determine all questions of district policy.

(b) All powers of a local district are exercised through the board of trustees.

(2) The board of trustees may:

(a) fix the location of the local district's principal place of business and the location of all offices and departments, if any;

(b) fix the times of meetings of the board of trustees;

(c) select and use an official district seal;

(d) subject to Subsections (3) and (4), employ employees and agents, or delegate to district officers power to employ employees and agents, for the operation of the local district and its properties and prescribe or delegate to district officers the power to prescribe the duties, compensation, and terms and conditions of employment of those employees and agents;

(e) require district officers and employees charged with the handling of district funds to provide surety bonds in an amount set by the board or provide a blanket surety bond to cover officers and employees;

(f) contract for or employ professionals to perform work or services for the local district that cannot satisfactorily be performed by the officers or employees of the district;

(g) through counsel, prosecute on behalf of or defend the local district in all court actions or other proceedings in which the district is a party or is otherwise involved;

(h) adopt bylaws for the orderly functioning of the board;

(i) adopt and enforce rules and regulations for the orderly operation of the local district or for carrying out the district's purposes;

(j) prescribe a system of civil service for district employees;

(k) on behalf of the local district, enter into contracts that the board considers to be for the benefit of the district;

(l) acquire, construct or cause to be constructed, operate, occupy, control, and use buildings, works, or other facilities for carrying out the purposes of the local district;

(m) on behalf of the local district, acquire, use, hold, manage, occupy, and possess property necessary to carry out the purposes of the district, dispose of property when the board considers it appropriate, and institute and maintain in the name of the district any action or proceeding to enforce, maintain, protect, or preserve rights or privileges associated with district property;

(n) delegate to a district officer the exercise of a district duty; and

(o) exercise all powers and perform all functions in the operation of the local district and its properties as are ordinarily exercised by the governing body of a political subdivision of the state and as are necessary to accomplish the purposes of the district.

(3) (a) As used in this Subsection (3), "interim vacancy period" means:

(i) if any member of the local district board is elected, the period of time that:

(A) begins on the day on which ~~a municipal general election described in Section 17B-1-306~~ an election is held to elect a local district board member; and

(B) ends on the day on which the local district board member-elect begins the member's term; or

(ii) if any member of the local district board is appointed, the period of time that:

(A) begins on the day on which an appointing authority posts a notice of vacancy in accordance with Section 17B-1-304; and

(B) ends on the day on which the person who is appointed by the local district board to fill the vacancy begins the person's term.

(b) (i) The local district may not hire during an interim vacancy period a manager, a chief executive officer, a chief administrative officer, or a similar position to perform executive and administrative duties or functions.

(ii) Notwithstanding Subsection (3)(b)(i):

(A) the local district may hire an interim manager, a chief executive officer, a chief administrative officer, or a similar position during an interim vacancy period; and

(B) the interim manager's, chief executive officer's, chief administrative officer's, or similar position's employment shall terminate once a new manager, chief executive officer, chief administrative officer, or similar position is hired by the new local district board after the interim vacancy period has ended.

(c) Subsection (3)(b) does not apply if:

(i) all the elected local district board members who held office on the day of the ~~municipal general~~ election for the local district board members, whose term of office was vacant for the election are re-elected to the local district board; and

(ii) all the appointed local district board members who were appointed whose term of appointment was expiring are re-appointed to the local district board.

(4) A local district board that hires an interim manager, a chief executive officer, a chief administrative officer, or a similar position in accordance with this section may not, on or after May 10, 2011, enter into an employment contract that contains an automatic renewal provision with the interim manager, chief executive officer, chief administrative officer, or similar position.

Section 2. Section 17B-1-303 is amended to read:

17B-1-303. Term of board of trustees members -- Oath of office -- Bond.

(1) (a) Except as provided in Subsections (1)(b) and (c), the term of each member of a board of trustees shall begin at noon on the January 1 following the member's election or appointment.

(b) The term of each member of the initial board of trustees of a newly created local district shall begin:

(i) upon appointment, for an appointed member; and

(ii) upon the member taking the oath of office after the canvass of the election at which the member is elected, for an elected member.

(c) The term of each water conservancy district board member appointed by the governor as provided in Subsection 17B-2a-1005(2)(c) shall begin on the date on which the senate consents to the appointment.

(2) (a) (i) ~~[Subject]~~ Except as provided in Subsection (8), and subject to Subsection (2)(a)(ii), the term of each member of a board of trustees shall be four years, except that approximately half the members of the initial board of trustees, chosen by lot, shall serve a two-year term so that the term of approximately half the board members expires every two years.

(ii) (A) If the terms of members of the initial board of trustees of a newly created local district do not begin on January 1 because of application of Subsection (1)(b), the terms of those members shall be adjusted as necessary, subject to Subsection (2)(a)(ii)(B), to result in the terms of their successors complying with:

(I) the requirement under Subsection (1)(a) for a term to begin on January 1 following a member's election or appointment; and

(II) the requirement under Subsection (2)(a)(i) that terms be four years.

(B) An adjustment under Subsection (2)(a)(ii)(A) may not add more than a year to or subtract more than a year from a member's term.

(b) Each board of trustees member shall serve until a successor is duly elected or appointed and qualified, unless the member earlier is removed from office or resigns or otherwise leaves office.

(c) If a member of a board of trustees no longer meets the qualifications of Subsection 17B-1-302(1), or if the member's term expires without a duly elected or appointed successor:

(i) the member's position is considered vacant, subject to Subsection (2)(c)(ii); and

(ii) the member may continue to serve until a successor is duly elected or appointed and qualified.

(3) (a) (i) Before entering upon the duties of office, each member of a board of trustees shall take the oath of office specified in Utah Constitution Article IV, Section 10.

(ii) An oath of office may be administered by a judge, county clerk, notary public, or the local district clerk.

(b) Each oath of office shall be filed with the clerk of the local district.

(c) The failure of a board of trustees member to take the oath required by Subsection (3)(a) does not invalidate any official act of that member.

(4) A board of trustees member is not limited in the number of terms the member may serve.

(5) Except as provided in Subsection (6), each midterm vacancy in a board of trustees position shall be filled as provided in Section 20A-1-512.

(6) (a) For purposes of this Subsection (6):

(i) "Appointed official" means a person who:

(A) is appointed as a member of a local district board of trustees by a county or municipality entitled to appoint a member to the board; and

(B) holds an elected position with the appointing county or municipality.

(ii) "Appointing entity" means the county or municipality that appointed the appointed official to the board of trustees.

(b) The board of trustees shall declare a midterm vacancy for the board position held by an appointed official if:

(i) during the appointed official's term on the board of trustees, the appointed official ceases to hold the elected position with the appointing entity; and

(ii) the appointing entity submits a written request to the board to declare the vacancy.

(c) Upon the board's declaring a midterm vacancy under Subsection (6)(b), the appointing entity shall appoint another person to fill the remaining unexpired term on the board of trustees.

(7) (a) Each member of a board of trustees shall give a bond for the faithful performance of the member's duties, in the amount and with the sureties prescribed by the board of trustees.

(b) The local district shall pay the cost of each bond required under Subsection (7)(a).

(8) The lieutenant governor may extend the term of an elected district board member by one year in order to compensate for a change in the election year under Subsection 17B-1-306(13).

Section 3. Section 17B-1-305 is amended to read:

17B-1-305. Notice of offices to be filled.

On or before February 1 of each ~~municipal~~ election year in which board members of a local district are elected, the board of each local district required to participate in an election that year shall prepare and transmit to the clerk of each county in which any part of the district is located a written notice that:

(1) designates the offices to be filled at that year's ~~municipal-general~~ election; and

(2) identifies the dates for filing a declaration of candidacy for those offices.

Section 4. Section 17B-1-306 is amended to read:

17B-1-306. Local district board -- Election procedures.

(1) Except as provided in Subsection (11), each elected board member shall be selected as provided in this section.

(2) (a) Each election of a local district board member shall be held:

(i) at the same time as the municipal general election or the regular general election, as applicable; and

(ii) at polling places designated by the county clerk in consultation with the local district for each county in which the local district is located, which polling places shall coincide with municipal general election or regular general election polling places, as applicable, whenever feasible.

(b) The county clerk may consolidate two or more polling places to enable voters from more than one district to vote at one consolidated polling place.

(c) (i) Subject to Subsections (4)(f) and (g), the number of polling places under Subsection (2)(a)(ii) in an election of board members of an irrigation district shall be one polling place per division of the district, designated by the district board.

(ii) Each polling place designated by an irrigation district board under Subsection (2)(c)(i) shall coincide with a polling place designated by the county clerk under Subsection (2)(a)(ii).

(3) (a) The clerk of each local district with a board member position to be filled at the next municipal general election or regular general election, as applicable, shall provide notice of:

(i) each elective position of the local district to be filled at the next municipal general election or regular general election, as applicable;

(ii) the constitutional and statutory qualifications for each position; and

(iii) the dates and times for filing a declaration of candidacy.

(b) The notice required under Subsection (3)(a) shall be:

(i) posted in at least five public places within the local district at least 10 days before the first day for filing a declaration of candidacy; or

(ii) (A) published in a newspaper of general circulation within the local district at least three but no more than 10 days before the first day for filing a declaration of candidacy; and

(B) published, in accordance with Section 45-1-101, for 10 days before the first day for filing a declaration of candidacy.

(4) (a) To become a candidate for an elective local district board position, the prospective candidate shall file a declaration of candidacy in person with the local district, during office hours [~~and not later than the close of normal office hours between June 1 and June 7 of any odd-numbered year~~], within the candidate filing period for the applicable election year in which the election for the local district board is held.

(b) When [~~June 7 is~~] the candidate filing deadline falls on a Saturday, Sunday, or holiday, the filing time shall be extended until the close of normal office hours on the following regular business day.

(c) (i) Before the filing officer may accept any declaration of candidacy, the filing officer shall:

(A) read to the prospective candidate the constitutional and statutory qualification requirements for the office that the candidate is seeking; and

(B) require the candidate to state whether or not the candidate meets those requirements.

(ii) If the prospective candidate does not meet the qualification requirements for the office, the filing officer may not accept the declaration of candidacy.

(iii) If it appears that the prospective candidate meets the requirements of candidacy, the filing officer shall accept the declaration of candidacy.

(d) The declaration of candidacy shall substantially comply with the following form:

“I, (print name) _____, being first duly sworn, say that I reside at (Street) _____, City of _____, County of _____, State of Utah, (Zip Code) _____, (Telephone Number, if any) _____; that I meet the qualifications for the office of board of trustees member for _____ (state the name of the local district); that I am a candidate for that office to be voted upon at the next election, and I hereby request that my name be printed upon the official ballot for that election.

(Signed)

Subscribed and sworn to (or affirmed) before me by _____ on this _____ day of _____, _____.

(Signed) _____

(Clerk or Notary Public)”

(e) Each person wishing to become a valid write-in candidate for an elective local district board position is governed by Section 20A-9-601.

(f) If at least one person does not file a declaration of candidacy as required by this section, a person shall be appointed to fill that board position by following the procedures and requirements for appointment established in Section 20A-1-512.

(g) If only one candidate files a declaration of candidacy and there is no write-in candidate who complies with Section 20A-9-601, the board, in accordance with Section 20A-1-206, may:

(i) consider the candidate to be elected to the position; and

(ii) cancel the election.

(5) (a) A primary election may be held if:

(i) the election is authorized by the local district board; and

(ii) the number of candidates for a particular local board position or office exceeds twice the number of persons needed to fill that position or office.

(b) The primary election shall be conducted:

(i) on the same date as the municipal primary election [~~, as provided for in Section 20A-1-201.5] or the regular primary election, as applicable; and~~

(ii) according to the procedures for [~~municipal~~] primary elections provided under Title 20A, Election Code.

(6) (a) Except as provided in Subsection (6)(c), within one business day after the deadline for filing a declaration of candidacy, the local district clerk shall certify the candidate names to the clerk of each county in which the local district is located [~~no later than June 12 of the municipal election year~~].

(b) (i) Except as provided in Subsection (6)(c) and in accordance with Section 20A-6-305, the clerk of each county in which the local district is located shall coordinate the placement of the name of each candidate for local district office in the nonpartisan section of the [~~municipal general election~~] ballot with the [~~municipal election clerk~~] appropriate election officer.

(ii) If consolidation of the local district election ballot with the municipal general election ballot or the regular general election ballot, as applicable, is not feasible, the county clerk shall provide for a separate local district election ballot to be administered by poll workers at polling locations designated under Subsection (2).

(c) (i) Subsections (6)(a) and (b) do not apply to an election of a member of the board of an irrigation district established under Chapter 2a, Part 5, Irrigation District Act.

(ii) (A) Subject to Subsection (6)(c)(ii)(B), the board of each irrigation district shall prescribe the form of the ballot for each board member election.

(B) Each ballot for an election of an irrigation district board member shall be in a nonpartisan format.

(C) The name of each candidate shall be placed on the ballot in the order specified under Section 20A-6-305.

(7) (a) Each voter at an election for a board of trustees member of a local district shall:

(i) be a registered voter within the district, except for an election of:

(A) an irrigation district board of trustees member; or

(B) a basic local district board of trustees member who is elected by property owners; and

(ii) meet the requirements to vote established by the district.

(b) Each voter may vote for as many candidates as there are offices to be filled.

(c) The candidates who receive the highest number of votes are elected.

(8) Except as otherwise provided by this section, the election of local district board members is governed by Title 20A, Election Code.

(9) (a) [A] Except as provided in Subsection 17B-1-303(8), a person elected to serve on a local district board shall serve a four-year term, beginning at noon on the January 1 after the person's election.

(b) A person elected shall be sworn in as soon as practical after January 1.

(10) (a) Except as provided in Subsection (10)(b), each local district shall reimburse the county or municipality holding an election under this section for the costs of the election attributable to that local district.

(b) Each irrigation district shall bear its own costs of each election it holds under this section.

(11) This section does not apply to an improvement district that provides electric or gas service.

(12) Except as provided in Subsection 20A-3-605(1)(b), the provisions of Title 20A, Chapter 3, Part 6, Early Voting, do not apply to an election under this section.

(13) (a) As used in this Subsection (13), "board" means:

(i) a local district board; or

(ii) the administrative control board of a special service district that has elected members on the board.

(b) A board may hold elections for membership on the board at a regular general election instead of a municipal general election if the board submits an application to the lieutenant governor that:

(i) requests permission to hold elections for membership on the board at a regular general election instead of a municipal general election; and

(ii) indicates that holding elections at the time of the regular general election is beneficial, based on potential cost savings, a potential increase in voter turnout, or another material reason.

(c) Upon receipt of an application described in Subsection (13)(b), the lieutenant governor may approve the application if the lieutenant governor concludes that holding the elections at the regular general election is beneficial based on the criteria described in Subsection (13)(b)(ii).

(d) If the lieutenant governor approves a board's application described in this section:

(i) all future elections for membership on the board shall be held at the time of the regular general election; and

(ii) the board may not hold elections at the time of a municipal general election unless the board receives permission from the lieutenant governor to hold all future elections for membership on the board at a municipal general election instead of a regular general election, under the same procedure, and by applying the same criteria, described in this Subsection (13).

Section 5. Section 17B-2a-404 is amended to read:

17B-2a-404. Improvement district board of trustees.

(1) As used in this section:

(a) "County district" means an improvement district that does not include within its boundaries any territory of a municipality.

(b) "County member" means a member of a board of trustees of a county district.

(c) "Electric district" means an improvement district that was created for the purpose of providing electric service.

(d) "Included municipality" means a municipality whose boundaries are entirely contained within but do not coincide with the boundaries of an improvement district.

(e) "Municipal district" means an improvement district whose boundaries coincide with the boundaries of a single municipality.

(f) "Regular district" means an improvement district that is not a county district, electric district, or municipal district.

(g) "Remaining area" means the area of a regular district that:

(i) is outside the boundaries of an included municipality; and

(ii) includes the area of an included municipality whose legislative body elects, under Subsection (4)(a)(ii), not to appoint a member to the board of trustees of the regular district.

(h) "Remaining area member" means a member of a board of trustees of a regular district who is

appointed, or, if applicable, elected to represent the remaining area of the district.

(2) The legislative body of the municipality included within a municipal district may:

(a) elect, at the time of the creation of the district, to be the board of trustees of the district; and

(b) adopt at any time a resolution providing for:

(i) the election of board of trustees members, as provided in Section 17B-1-306; or

(ii) the appointment of board of trustees members, as provided in Section 17B-1-304.

(3) The legislative body of a county whose unincorporated area is partly or completely within a county district may:

(a) elect, at the time of the creation of the district, to be the board of trustees of the district; and

(b) adopt at any time a resolution providing for:

(i) the election of board of trustees members, as provided in Section 17B-1-306; or

(ii) the appointment of board of trustees members, as provided in Section 17B-1-304.

(4) (a) (i) Except as provided in Subsection (4)(a)(ii), the legislative body of each included municipality shall each appoint one member to the board of trustees of a regular district.

(ii) The legislative body of an included municipality may elect not to appoint a member to the board under Subsection (4)(a)(i).

(b) Except as provided in Subsection (5), the legislative body of each county whose boundaries include a remaining area shall appoint all other members to the board of trustees of a regular district.

(5) Notwithstanding Subsection (3), each remaining area member of a regular district and each county member of a county district shall be elected, as provided in Section 17B-1-306, if:

(a) the petition or resolution initiating the creation of the district provides for remaining area or county members to be elected;

(b) the district holds an election to approve the district's issuance of bonds;

(c) for a regular district, an included municipality elects, under Subsection (4)(a)(ii), not to appoint a member to the board of trustees; or

(d) (i) at least 90 days before the municipal general election or regular general election, as applicable, a petition is filed with the district's board of trustees requesting remaining area members or county members, as the case may be, to be elected; and

(ii) the petition is signed by registered voters within the remaining area or county district, as the case may be, equal in number to at least 10% of the number of registered voters within the remaining

area or county district, respectively, who voted in the last gubernatorial election.

(6) Subject to Section 17B-1-302, the number of members of a board of trustees of a regular district shall be:

(a) the number of included municipalities within the district, if:

(i) the number is an odd number; and

(ii) the district does not include a remaining area;

(b) the number of included municipalities plus one, if the number of included municipalities within the district is even; and

(c) the number of included municipalities plus two, if:

(i) the number of included municipalities is odd; and

(ii) the district includes a remaining area.

(7) (a) Except as provided in Subsection (7)(b), each remaining area member of the board of trustees of a regular district shall reside within the remaining area.

(b) Notwithstanding Subsection (7)(a) and subject to Subsection (7)(c), each remaining area member shall be chosen from the district at large if:

(i) the population of the remaining area is less than 5% of the total district population; or

(ii) (A) the population of the remaining area is less than 50% of the total district population; and

(B) the majority of the members of the board of trustees are remaining area members.

(c) Application of Subsection (7)(b) may not prematurely shorten the term of any remaining area member serving the remaining area member's elected or appointed term on May 11, 2010.

(8) If the election of remaining area or county members of the board of trustees is required because of a bond election, as provided in Subsection (5)(b):

(a) a person may file a declaration of candidacy if:

(i) the person resides within:

(A) the remaining area, for a regular district; or

(B) the county district, for a county district; and

(ii) otherwise qualifies as a candidate;

(b) the board of trustees shall, if required, provide a ballot separate from the bond election ballot, containing the names of candidates and blanks in which a voter may write additional names; and

(c) the election shall otherwise be governed by Title 20A, Election Code.

(9) (a) (i) This Subsection (9) applies to the board of trustees members of an electric district.

(ii) Subsections (2) through (8) do not apply to an electric district.

(b) The legislative body of the county in which an electric district is located may appoint the initial board of trustees of the electric district as provided in Section 17B-1-304.

(c) After the initial board of trustees is appointed as provided in Subsection (9)(b), each member of the board of trustees of an electric district shall be elected by persons using electricity from and within the district.

(d) Each member of the board of trustees of an electric district shall be a user of electricity from the district and, if applicable, the division of the district from which elected.

(e) The board of trustees of an electric district may be elected from geographic divisions within the district.

(f) A municipality within an electric district is not entitled to automatic representation on the board of trustees.

Section 6. Section 17D-1-106 is amended to read:

17D-1-106. Special service districts subject to other provisions.

(1) A special service district is, to the same extent as if it were a local district, subject to and governed by:

(a) (i) Sections 17B-1-105, 17B-1-107, 17B-1-108, 17B-1-110, 17B-1-111, 17B-1-112, 17B-1-113, 17B-1-116, 17B-1-118, 17B-1-119, 17B-1-120, 17B-1-121, 17B-1-304, [~~17B-1-305, 17B-1-306,~~] 17B-1-307, 17B-1-310, 17B-1-311, 17B-1-312, 17B-1-313, and 17B-1-314; and

(ii) Sections 17B-1-305 and 17B-1-306, to the extent that a county legislative body or a municipal legislative body, as applicable, has delegated authority to an administrative control board with elected members, under Section 17D-1-301.

(b) Subsections:

(i) 17B-1-301(3) and (4); and

(ii) 17B-1-303(1), (2)(a) and (b), (3), (4), (5), (6), and (7);

(c) Section 20A-1-512;

(d) Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts;

(e) Title 17B, Chapter 1, Part 7, Local District Budgets and Audit Reports;

(f) Title 17B, Chapter 1, Part 8, Local District Personnel Management; and

(g) Title 17B, Chapter 1, Part 9, Collection of Service Fees and Charges.

(2) For purposes of applying the provisions listed in Subsection (1) to a special service district, each reference in those provisions to the local district board of trustees means the governing body.

Section 7. Section 20A-1-102 is amended to read:

20A-1-102. Definitions.

As used in this title:

(1) "Active voter" means a registered voter who has not been classified as an inactive voter by the county clerk.

(2) "Automatic tabulating equipment" means apparatus that automatically examines and counts votes recorded on paper ballots or ballot sheets and tabulates the results.

(3) (a) "Ballot" means the storage medium, whether paper, mechanical, or electronic, upon which a voter records the voter's votes.

(b) "Ballot" includes ballot sheets, paper ballots, electronic ballots, and secrecy envelopes.

(4) "Ballot sheet":

(a) means a ballot that:

(i) consists of paper or a card where the voter's votes are marked or recorded; and

(ii) can be counted using automatic tabulating equipment; and

(b) includes punch card ballots and other ballots that are machine-countable.

(5) "Ballot label" means the cards, papers, booklet, pages, or other materials that:

(a) contain the names of offices and candidates and statements of ballot propositions to be voted on; and

(b) are used in conjunction with ballot sheets that do not display that information.

(6) "Ballot proposition" means a question, issue, or proposal that is submitted to voters on the ballot for their approval or rejection including:

(a) an opinion question specifically authorized by the Legislature;

(b) a constitutional amendment;

(c) an initiative;

(d) a referendum;

(e) a bond proposition;

(f) a judicial retention question;

(g) an incorporation of a city or town; or

(h) any other ballot question specifically authorized by the Legislature.

(7) "Bind," "binding," or "bound" means securing more than one piece of paper together with a staple or stitch in at least three places across the top of the paper in the blank space reserved for securing the paper.

(8) "Board of canvassers" means the entities established by Sections 20A-4-301 and 20A-4-306 to canvass election returns.

(9) “Bond election” means an election held for the purpose of approving or rejecting the proposed issuance of bonds by a government entity.

(10) “Book voter registration form” means voter registration forms contained in a bound book that are used by election officers and registration agents to register persons to vote.

(11) “Business reply mail envelope” means an envelope that may be mailed free of charge by the sender.

(12) “By-mail voter registration form” means a voter registration form designed to be completed by the voter and mailed to the election officer.

(13) “Canvass” means the review of election returns and the official declaration of election results by the board of canvassers.

(14) “Canvassing judge” means a poll worker designated to assist in counting ballots at the canvass.

(15) “Contracting election officer” means an election officer who enters into a contract or interlocal agreement with a provider election officer.

(16) “Convention” means the political party convention at which party officers and delegates are selected.

(17) “Counting center” means one or more locations selected by the election officer in charge of the election for the automatic counting of ballots.

(18) “Counting judge” means a poll worker designated to count the ballots during election day.

(19) “Counting poll watcher” means a person selected as provided in Section 20A-3-201 to witness the counting of ballots.

(20) “Counting room” means a suitable and convenient private place or room, immediately adjoining the place where the election is being held, for use by the poll workers and counting judges to count ballots during election day.

(21) “County officers” means those county officers that are required by law to be elected.

(22) “Date of the election” or “election day” or “day of the election”:

(a) means the day that is specified in the calendar year as the day that the election occurs; and

(b) does not include:

(i) deadlines established for absentee voting; or
 (ii) any early voting or early voting period as provided under Chapter 3, Part 6, Early Voting.

(23) “Elected official” means:

(a) a person elected to an office under Section 20A-1-303;

(b) a person who is considered to be elected to a municipal office in accordance with Subsection 20A-1-206(1)(c)(ii); or

(c) a person who is considered to be elected to a local district office in accordance with Subsection 20A-1-206(3)(c)(ii).

(24) “Election” means a regular general election, a municipal general election, a statewide special election, a local special election, a regular primary election, a municipal primary election, and a local district election.

(25) “Election Assistance Commission” means the commission established by Public Law 107-252, the Help America Vote Act of 2002.

(26) “Election cycle” means the period beginning on the first day persons are eligible to file declarations of candidacy and ending when the canvass is completed.

(27) “Election judge” means a poll worker that is assigned to:

(a) preside over other poll workers at a polling place;

(b) act as the presiding election judge; or

(c) serve as a canvassing judge, counting judge, or receiving judge.

(28) “Election officer” means:

(a) the lieutenant governor, for all statewide ballots and elections;

(b) the county clerk for:

(i) a county ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(c) the municipal clerk for:

(i) a municipal ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(d) the local district clerk or chief executive officer for:

(i) a local district ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5; or

(e) the business administrator or superintendent of a school district for:

(i) a school district ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5.

(29) “Election official” means any election officer, election judge, or poll worker.

(30) “Election results” means:

(a) for an election other than a bond election, the count of votes cast in the election and the election returns requested by the board of canvassers; or

(b) for bond elections, the count of those votes cast for and against the bond proposition plus any or all

of the election returns that the board of canvassers may request.

(31) "Election returns" includes the pollbook, the military and overseas absentee voter registration and voting certificates, one of the tally sheets, any unprocessed absentee ballots, all counted ballots, all excess ballots, all unused ballots, all spoiled ballots, the ballot disposition form, and the total votes cast form.

(32) "Electronic ballot" means a ballot that is recorded using a direct electronic voting device or other voting device that records and stores ballot information by electronic means.

(33) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(34) (a) "Electronic voting device" means a voting device that uses electronic ballots.

(b) "Electronic voting device" includes a direct recording electronic voting device.

(35) "Inactive voter" means a registered voter who has:

(a) been sent the notice required by Section 20A-2-306; and

(b) failed to respond to that notice.

(36) "Inspecting poll watcher" means a person selected as provided in this title to witness the receipt and safe deposit of voted and counted ballots.

(37) "Judicial office" means the office filled by any judicial officer.

(38) "Judicial officer" means any justice or judge of a court of record or any county court judge.

(39) "Local district" means a local government entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and includes a special service district under Title 17D, Chapter 1, Special Service District Act.

(40) "Local district officers" means those local district officers board members that are required by law to be elected.

(41) "Local election" means a regular municipal election, a local special election, a local district election, and a bond election.

(42) "Local political subdivision" means a county, a municipality, a local district, or a local school district.

(43) "Local special election" means a special election called by the governing body of a local political subdivision in which all registered voters of the local political subdivision may vote.

(44) "Municipal executive" means:

(a) the mayor in the council-mayor form of government defined in Section 10-3b-102; or

(b) the mayor in the council-manager form of government defined in Subsection 10-3b-103(6).

(45) "Municipal general election" means the election held in municipalities and, as applicable, local districts on the first Tuesday after the first Monday in November of each odd-numbered year for the purposes established in Section 20A-1-202.

(46) "Municipal legislative body" means the council of the city or town in any form of municipal government.

(47) "Municipal office" means an elective office in a municipality.

(48) "Municipal officers" means those municipal officers that are required by law to be elected.

(49) "Municipal primary election" means an election held to nominate candidates for municipal office.

(50) "Official ballot" means the ballots distributed by the election officer to the poll workers to be given to voters to record their votes.

(51) "Official endorsement" means:

(a) the information on the ballot that identifies:

(i) the ballot as an official ballot;

(ii) the date of the election; and

(iii) the facsimile signature of the election officer; and

(b) the information on the ballot stub that identifies:

(i) the poll worker's initials; and

(ii) the ballot number.

(52) "Official register" means the official record furnished to election officials by the election officer that contains the information required by Section 20A-5-401.

(53) "Paper ballot" means a paper that contains:

(a) the names of offices and candidates and statements of ballot propositions to be voted on; and

(b) spaces for the voter to record the voter's vote for each office and for or against each ballot proposition.

(54) "Political party" means an organization of registered voters that has qualified to participate in an election by meeting the requirements of Chapter 8, Political Party Formation and Procedures.

(55) (a) "Poll worker" means a person assigned by an election official to assist with an election, voting, or counting votes.

(b) "Poll worker" includes election judges.

(c) "Poll worker" does not include a watcher.

(56) "Pollbook" means a record of the names of voters in the order that they appear to cast votes.

(57) "Polling place" means the building where voting is conducted.

(58) "Position" means a square, circle, rectangle, or other geometric shape on a ballot in which the voter marks the voter's choice.

[~~(62)~~] (59) "Primary convention" means the political party conventions at which nominees for the regular primary election are selected.

[~~(63)~~] (60) "Protective counter" means a separate counter, which cannot be reset, that:

(a) is built into a voting machine; and

(b) records the total number of movements of the operating lever.

[~~(59)~~] (61) "Provider election officer" means an election officer who enters into a contract or interlocal agreement with a contracting election officer to conduct an election for the contracting election officer's local political subdivision in accordance with Section 20A-5-400.1.

[~~(60)~~] (62) "Provisional ballot" means a ballot voted provisionally by a person:

(a) whose name is not listed on the official register at the polling place;

(b) whose legal right to vote is challenged as provided in this title; or

(c) whose identity was not sufficiently established by a poll worker.

[~~(61)~~] (63) "Provisional ballot envelope" means an envelope printed in the form required by Section 20A-6-105 that is used to identify provisional ballots and to provide information to verify a person's legal right to vote.

(64) "Qualify" or "qualified" means to take the oath of office and begin performing the duties of the position for which the person was elected.

(65) "Receiving judge" means the poll worker that checks the voter's name in the official register, provides the voter with a ballot, and removes the ballot stub from the ballot after the voter has voted.

(66) "Registration form" means a book voter registration form and a by-mail voter registration form.

(67) "Regular ballot" means a ballot that is not a provisional ballot.

(68) "Regular general election" means the election held throughout the state on the first Tuesday after the first Monday in November of each even-numbered year for the purposes established in Section 20A-1-201.

(69) "Regular primary election" means the election on the fourth Tuesday of June of each even-numbered year, to nominate candidates of political parties and nonpolitical groups to advance to the regular general election.

(70) "Resident" means a person who resides within a specific voting precinct in Utah.

(71) "Sample ballot" means a mock ballot similar in form to the official ballot printed and distributed as provided in Section 20A-5-405.

(72) "Scratch vote" means to mark or punch the straight party ticket and then mark or punch the ballot for one or more candidates who are members of different political parties.

(73) "Secrecy envelope" means the envelope given to a voter along with the ballot into which the voter places the ballot after the voter has voted it in order to preserve the secrecy of the voter's vote.

(74) "Special election" means an election held as authorized by Section 20A-1-203.

(75) "Spoiled ballot" means each ballot that:

(a) is spoiled by the voter;

(b) is unable to be voted because it was spoiled by the printer or a poll worker; or

(c) lacks the official endorsement.

(76) "Statewide special election" means a special election called by the governor or the Legislature in which all registered voters in Utah may vote.

(77) "Stub" means the detachable part of each ballot.

(78) "Substitute ballots" means replacement ballots provided by an election officer to the poll workers when the official ballots are lost or stolen.

(79) "Ticket" means each list of candidates for each political party or for each group of petitioners.

(80) "Transfer case" means the sealed box used to transport voted ballots to the counting center.

(81) "Vacancy" means the absence of a person to serve in any position created by statute, whether that absence occurs because of death, disability, disqualification, resignation, or other cause.

(82) "Valid voter identification" means:

(a) a form of identification that bears the name and photograph of the voter which may include:

(i) a currently valid Utah driver license;

(ii) a currently valid identification card that is issued by:

(A) the state; or

(B) a branch, department, or agency of the United States;

(iii) a currently valid Utah permit to carry a concealed weapon;

(iv) a currently valid United States passport; or

(v) a currently valid United States military identification card;

(b) one of the following identification cards, whether or not the card includes a photograph of the voter:

(i) a valid tribal identification card;

(ii) a Bureau of Indian Affairs card; or

(iii) a tribal treaty card; or

(c) two forms of identification not listed under Subsection (82)(a) or (b) but that bear the name of

the voter and provide evidence that the voter resides in the voting precinct, which may include:

(i) a current utility bill or a legible copy thereof, dated within the 90 days before the election;

(ii) a bank or other financial account statement, or a legible copy thereof;

(iii) a certified birth certificate;

(iv) a valid Social Security card;

(v) a check issued by the state or the federal government or a legible copy thereof;

(vi) a paycheck from the voter's employer, or a legible copy thereof;

(vii) a currently valid Utah hunting or fishing license;

(viii) certified naturalization documentation;

(ix) a currently valid license issued by an authorized agency of the United States;

(x) a certified copy of court records showing the voter's adoption or name change;

(xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;

(xii) a currently valid identification card issued by:

(A) a local government within the state;

(B) an employer for an employee; or

(C) a college, university, technical school, or professional school located within the state; or

(xiii) a current Utah vehicle registration.

(83) "Valid write-in candidate" means a candidate who has qualified as a write-in candidate by following the procedures and requirements of this title.

(84) "Voter" means a person who:

(a) meets the requirements for voting in an election;

(b) meets the requirements of election registration;

(c) is registered to vote; and

(d) is listed in the official register book.

(85) "Voter registration deadline" means the registration deadline provided in Section 20A-2-102.5.

(86) "Voting area" means the area within six feet of the voting booths, voting machines, and ballot box.

(87) "Voting booth" means:

(a) the space or compartment within a polling place that is provided for the preparation of ballots, including the voting machine enclosure or curtain; or

(b) a voting device that is free standing.

(88) "Voting device" means:

(a) an apparatus in which ballot sheets are used in connection with a punch device for piercing the ballots by the voter;

(b) a device for marking the ballots with ink or another substance;

(c) an electronic voting device or other device used to make selections and cast a ballot electronically, or any component thereof;

(d) an automated voting system under Section 20A-5-302; or

(e) any other method for recording votes on ballots so that the ballot may be tabulated by means of automatic tabulating equipment.

(89) "Voting machine" means a machine designed for the sole purpose of recording and tabulating votes cast by voters at an election.

(90) "Voting poll watcher" means a person appointed as provided in this title to witness the distribution of ballots and the voting process.

(91) "Voting precinct" means the smallest voting unit established as provided by law within which qualified voters vote at one polling place.

(92) "Watcher" means a voting poll watcher, a counting poll watcher, an inspecting poll watcher, and a testing watcher.

(93) "Western States Presidential Primary" means the election established in Chapter 9, Part 8, Western States Presidential Primary.

(94) "Write-in ballot" means a ballot containing any write-in votes.

(95) "Write-in vote" means a vote cast for a person whose name is not printed on the ballot according to the procedures established in this title.

Section 8. Section 20A-1-201 is amended to read:

20A-1-201. Date and purpose of regular general elections.

(1) A regular general election shall be held throughout the state on the first Tuesday after the first Monday in November of each even-numbered year.

(2) At the regular general election, the voters shall:

(a) choose persons to serve the terms established by law for the following offices:

(i) electors of President and Vice President of the United States;

(ii) United States Senators;

(iii) Representatives to the United States Congress;

(iv) governor, lieutenant governor, attorney general, state treasurer, and state auditor;

(v) senators and representatives to the Utah Legislature;

(vi) county officers;

(vii) State School Board members;

(viii) local school board members; ~~and~~

(ix) except as provided in Subsection (3), local district officers, as applicable; and

~~(ix)~~ (x) any elected judicial officers; and

(b) approve or reject:

(i) any proposed amendments to the Utah Constitution that have qualified for the ballot under procedures established in the Utah Code;

(ii) any proposed initiatives or referenda that have qualified for the ballot under procedures established in the Utah Code; and

(iii) any other ballot propositions submitted to the voters that are authorized by the Utah Code.

(3) This section:

(a) applies to a special service district for which the county legislative body or the municipal legislative body, as applicable, has delegated authority for the special service district to an administrative control board; and

(b) does not apply to a special service district for which the county legislative body or the municipal legislative body, as applicable, has not delegated authority for the special service district to an administrative control board.

Section 9. Section 20A-1-202 is amended to read:

20A-1-202. Date and purpose of municipal general election.

(1) Except as provided in Section 20A-1-206, a municipal general election shall be held in municipalities, and local districts as applicable, on the first Tuesday after the first Monday in November of each odd-numbered year.

(2) At the municipal general election, the voters shall:

(a) (i) choose persons to serve as municipal officers; and

(ii) for a local district that holds an election during an odd-numbered year, choose persons to serve as local district officers; and

(b) approve or reject:

(i) any proposed initiatives or referenda that have qualified for the ballot as provided by law; and

(ii) any other ballot propositions submitted to the voters that are authorized by the Utah Code.

Section 10. Section 20A-5-101 is amended to read:

20A-5-101. Notice of election.

(1) On or before February 1 in each regular general election year, the lieutenant governor shall prepare and transmit a written notice to each county clerk that:

(a) designates the offices to be filled at the regular general election;

(b) identifies the dates for filing a declaration of candidacy for those offices;

(c) includes the master ballot position list for the current year and the next year as established under Section 20A-6-305; and

(d) contains a description of any ballot propositions to be decided by the voters that have qualified for the ballot as of that date.

(2) (a) No later than February 15, each county clerk shall:

(i) publish a notice:

(A) once in a newspaper published in that county; and

(B) as required in Section 45-1-101; or

(ii) (A) cause a copy of the notice to be posted in a conspicuous place most likely to give notice of the election to the voters in each voting precinct within the county; and

(B) prepare an affidavit of that posting, showing a copy of the notice and the places where the notice was posted.

(b) The notice required by Subsection (2)(a) shall:

(i) designate the offices to be voted on in that election ~~[in that county, other than local district offices]; and~~

(ii) identify the dates for filing a declaration of candidacy for those offices.

(3) Before each election, the election officer shall give written or printed notice of:

(a) the date and place of election;

(b) the hours during which the polls will be open;

(c) the polling places for each voting precinct;

(d) an election day voting center designated under Section 20A-3-703; and

(e) the qualifications for persons to vote in the election.

(4) To provide the notice required by Subsection (3), the election officer shall publish the notice at least two days before the election:

(a) in a newspaper of general circulation common to the area or in which the election is being held; and

(b) as required in Section 45-1-101.

CHAPTER 363**H. B. 419**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

CHARTER SCHOOL REVISIONS

Chief Sponsor: Steve Eliason

Senate Sponsor: Howard A. Stephenson

LONG TITLE**General Description:**

This bill modifies provisions related to charter schools.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ establishes requirements for charter school applications;
- ▶ establishes requirements for charter school agreements;
- ▶ requires the State Charter School Board to establish certain requirements, processes, and standards relating to charter school applications submitted to the State Charter School Board;
- ▶ requires a board of trustees of a higher education institution to, before accepting a charter school application, establish certain requirements, processes, and standards relating to an application;
- ▶ requires a local school board to, before accepting a charter school application, establish certain requirements, processes, and standards relating to an application;
- ▶ requires a charter school to obtain attorney review of certain documents relating to the charter school's facilities or financing the charter school's facilities;
- ▶ allows another charter school to apply for assumption of operation of a charter school whose charter agreement is terminated;
- ▶ allows a proposed or authorized charter school to elect to participate in state retirement programs;
- ▶ allows a charter school to weight its lottery to give a slightly better chance of admission to educationally disadvantaged students; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 10-9a-103, as last amended by Laws of Utah 2013, Chapters 309 and 334
- 11-36a-102, as last amended by Laws of Utah 2013, Chapter 200
- 17-27a-103, as last amended by Laws of Utah 2013, Chapters 309, 334, and 476
- 49-12-202, as last amended by Laws of Utah 2009, Chapters 51 and 165
- 49-13-202, as last amended by Laws of Utah 2012, Chapter 298
- 49-22-202, as last amended by Laws of Utah 2012, Chapter 298

- 52-4-209, as last amended by Laws of Utah 2012, Chapter 403
- 53A-1a-501.3, as last amended by Laws of Utah 2013, Chapter 10
- 53A-1a-501.6, as last amended by Laws of Utah 2010, Chapter 353
- 53A-1a-503.5, as last amended by Laws of Utah 2008, Chapter 319
- 53A-1a-505, as last amended by Laws of Utah 2005, Chapter 291
- 53A-1a-506, as last amended by Laws of Utah 2013, Chapter 278
- 53A-1a-506.5, as last amended by Laws of Utah 2010, Chapter 162
- 53A-1a-507, as last amended by Laws of Utah 2011, Chapter 349
- 53A-1a-509, as last amended by Laws of Utah 2012, Chapter 201
- 53A-1a-510, as last amended by Laws of Utah 2012, Chapter 201
- 53A-1a-510.5, as enacted by Laws of Utah 2007, Chapter 344
- 53A-1a-512, as last amended by Laws of Utah 2012, Chapter 425
- 53A-1a-514, as last amended by Laws of Utah 2007, Chapter 344
- 53A-1a-515, as last amended by Laws of Utah 2010, Chapters 162 and 303
- 53A-1a-517, as enacted by Laws of Utah 2007, Chapter 344
- 53A-1a-520, as last amended by Laws of Utah 2010, Chapter 353
- 53A-1a-521, as last amended by Laws of Utah 2013, Chapter 239
- 53A-20b-201, as enacted by Laws of Utah 2012, Chapter 201

REPEALS AND REENACTS:

- 53A-1a-504, as last amended by Laws of Utah 2007, Chapter 344
- 53A-1a-508, as last amended by Laws of Utah 2011, Chapter 349

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-9a-103 is amended to read:**10-9a-103. Definitions.**

As used in this chapter:

- (1) "Affected entity" means a county, municipality, local district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified public utility, property owner, property owners association, or the Utah Department of Transportation, if:
 - (a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;
 - (b) the entity has filed with the municipality a copy of the entity's general or long-range plan; or
 - (c) the entity has filed with the municipality a request for notice during the same calendar year and before the municipality provides notice to an affected entity in compliance with a requirement imposed under this chapter.

(2) “Appeal authority” means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

(3) “Billboard” means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(4) (a) “Charter school” means:

(i) an operating charter school;

(ii) a charter school applicant that has its application approved by a [chartering entity] charter school authorizer in accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; or

(iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) “Charter school” does not include a therapeutic school.

(5) “Conditional use” means a land use that, because of its unique characteristics or potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

(6) “Constitutional taking” means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(b) Utah Constitution, Article I, Section 22.

(7) “Culinary water authority” means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

(8) “Development activity” means:

(a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;

(b) any change in use of a building or structure that creates additional demand and need for public facilities; or

(c) any change in the use of land that creates additional demand and need for public facilities.

(9) (a) “Disability” means a physical or mental impairment that substantially limits one or more of a person’s major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

(b) “Disability” does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.

(10) “Educational facility”:

(a) means:

(i) a school district’s building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;

(ii) a structure or facility:

(A) located on the same property as a building described in Subsection (10)(a)(i); and

(B) used in support of the use of that building; and

(iii) a building to provide office and related space to a school district’s administrative personnel; and

(b) does not include:

(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

(A) not located on the same property as a building described in Subsection (10)(a)(i); and

(B) used in support of the purposes of a building described in Subsection (10)(a)(i); or

(ii) a therapeutic school.

(11) “Fire authority” means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

(12) “Flood plain” means land that:

(a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or

(b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

(13) “General plan” means a document that a municipality adopts that sets forth general guidelines for proposed future development of the land within the municipality.

(14) “Geologic hazard” means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

(f) unstable soil;

(g) a rock fall; or

(h) any other geologic condition that presents a risk:

- (i) to life;
- (ii) of substantial loss of real property; or
- (iii) of substantial damage to real property.

(15) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other utility system.

(16) "Identical plans" means building plans submitted to a municipality that:

- (a) are clearly marked as "identical plans";
- (b) are substantially identical to building plans that were previously submitted to and reviewed and approved by the municipality; and
- (c) describe a building that:
 - (i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;
 - (ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;
 - (iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the municipality; and
 - (iv) does not require any additional engineering or analysis.

(17) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

(18) "Improvement completion assurance" means a surety bond, letter of credit, cash, or other security required by a municipality to guaranty the proper completion of landscaping or infrastructure that the land use authority has required as a condition precedent to:

- (a) recording a subdivision plat; or
- (b) beginning development activity.

(19) "Improvement warranty" means an applicant's unconditional warranty that the accepted landscaping or infrastructure:

- (a) complies with the municipality's written standards for design, materials, and workmanship; and
- (b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

(20) "Improvement warranty period" means a period:

- (a) no later than one year after a municipality's acceptance of required landscaping; or

(b) no later than one year after a municipality's acceptance of required infrastructure, unless the municipality:

(i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and

(ii) has substantial evidence, on record:

(A) of prior poor performance by the applicant; or

(B) that the area upon which the infrastructure will be constructed contains suspect soil and the municipality has not otherwise required the applicant to mitigate the suspect soil.

(21) "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:

(a) runs with the land; and

(b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or

(ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

(22) "Land use application" means an application required by a municipality's land use ordinance.

(23) "Land use authority" means a person, board, commission, agency, or other body designated by the local legislative body to act upon a land use application.

(24) "Land use ordinance" means a planning, zoning, development, or subdivision ordinance of the municipality, but does not include the general plan.

(25) "Land use permit" means a permit issued by a land use authority.

(26) "Legislative body" means the municipal council.

(27) "Local district" means an entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

(28) "Lot line adjustment" means the relocation of the property boundary line in a subdivision between two adjoining lots with the consent of the owners of record.

(29) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the city is located.

(30) "Nominal fee" means a fee that reasonably reimburses a municipality only for time spent and expenses incurred in:

(a) verifying that building plans are identical plans; and

(b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

(31) “Noncomplying structure” means a structure that:

(a) legally existed before its current land use designation; and

(b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations, which govern the use of land.

(32) “Nonconforming use” means a use of land that:

(a) legally existed before its current land use designation;

(b) has been maintained continuously since the time the land use ordinance governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

(33) “Official map” means a map drawn by municipal authorities and recorded in a county recorder’s office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the municipality’s general plan.

(34) “Parcel boundary adjustment” means a recorded agreement between owners of adjoining properties adjusting their mutual boundary if:

(a) no additional parcel is created; and

(b) each property identified in the agreement is unsubdivided land, including a remainder of subdivided land.

(35) “Person” means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

(36) “Plan for moderate income housing” means a written document adopted by a city legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the city;

(b) an estimate of the need for moderate income housing in the city for the next five years as revised biennially;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the city’s program to encourage an adequate supply of moderate income housing.

(37) “Plat” means a map or other graphical representation of lands being laid out and prepared in accordance with Section 10-9a-603, 17-23-17, or 57-8-13.

(38) “Potential geologic hazard area” means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area’s potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

(39) “Public agency” means:

(a) the federal government;

(b) the state;

(c) a county, municipality, school district, local district, special service district, or other political subdivision of the state; or

(d) a charter school.

(40) “Public hearing” means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

(41) “Public meeting” means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

(42) “Receiving zone” means an area of a municipality that the municipality designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

(43) “Record of survey map” means a map of a survey of land prepared in accordance with Section 17-23-17.

(44) “Residential facility for persons with a disability” means a residence:

(a) in which more than one person with a disability resides; and

(b) (i) which is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or

(ii) which is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(45) “Rules of order and procedure” means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

(46) “Sanitary sewer authority” means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

(47) "Sending zone" means an area of a municipality that the municipality designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

(48) "Specified public agency" means:

- (a) the state;
- (b) a school district; or
- (c) a charter school.

(49) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(50) "State" includes any department, division, or agency of the state.

(51) "Street" means a public right-of-way, including a highway, avenue, boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other way.

(52) (a) "Subdivision" means any land that is divided, resubdivided or proposed to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

(i) the division or development of land whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument; and

(ii) except as provided in Subsection (52)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) "Subdivision" does not include:

(i) a bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable land use ordinance;

(ii) a recorded agreement between owners of adjoining unsubdivided properties adjusting their mutual boundary if:

(A) no new lot is created; and

(B) the adjustment does not violate applicable land use ordinances;

(iii) a recorded document, executed by the owner of record:

(A) revising the legal description of more than one contiguous unsubdivided parcel of property into one legal description encompassing all such parcels of property; or

(B) joining a subdivided parcel of property to another parcel of property that has not been

subdivided, if the joinder does not violate applicable land use ordinances;

(iv) a recorded agreement between owners of adjoining subdivided properties adjusting their mutual boundary if:

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance;

(v) a bona fide division or partition of land by deed or other instrument where the land use authority expressly approves in writing the division in anticipation of further land use approvals on the parcel or parcels; or

(vi) a parcel boundary adjustment.

(d) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision under this Subsection (52) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's subdivision ordinance.

(53) "Suspect soil" means soil that has:

(a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;

(b) bedrock units with high shrink or swell susceptibility; or

(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

(54) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals who are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

(55) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

(56) "Unincorporated" means the area outside of the incorporated area of a city or town.

(57) "Water interest" means any right to the beneficial use of water, including:

(a) each of the rights listed in Section 73-1-11; and

(b) an ownership interest in the right to the beneficial use of water represented by:

(i) a contract; or

(ii) a share in a water company, as defined in Section 73-3-3.5.

(58) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 2. Section 11-36a-102 is amended to read:

11-36a-102. Definitions.

As used in this chapter:

(1) (a) "Affected entity" means each county, municipality, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Chapter 13, Interlocal Cooperation Act, and specified public utility:

(i) whose services or facilities are likely to require expansion or significant modification because of the facilities proposed in the proposed impact fee facilities plan; or

(ii) that has filed with the local political subdivision or private entity a copy of the general or long-range plan of the county, municipality, local district, special service district, school district, interlocal cooperation entity, or specified public utility.

(b) "Affected entity" does not include the local political subdivision or private entity that is required under Section 11-36a-501 to provide notice.

(2) "Charter school" includes:

(a) an operating charter school;

(b) an applicant for a charter school whose application has been approved by a [chartering entity] charter school authorizer as provided in Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; and

(c) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(3) "Development activity" means any construction or expansion of a building, structure, or use, any change in use of a building or structure, or any changes in the use of land that creates additional demand and need for public facilities.

(4) "Development approval" means:

(a) except as provided in Subsection (4)(b), any written authorization from a local political subdivision that authorizes the commencement of development activity;

(b) development activity, for a public entity that may develop without written authorization from a local political subdivision;

(c) a written authorization from a public water supplier, as defined in Section 73-1-4, or a private water company:

(i) to reserve or provide:

(A) a water right;

(B) a system capacity; or

(C) a distribution facility; or

(ii) to deliver for a development activity:

(A) culinary water; or

(B) irrigation water; or

(d) a written authorization from a sanitary sewer authority, as defined in Section 10-9a-103:

(i) to reserve or provide:

(A) sewer collection capacity; or

(B) treatment capacity; or

(ii) to provide sewer service for a development activity.

(5) "Enactment" means:

(a) a municipal ordinance, for a municipality;

(b) a county ordinance, for a county; and

(c) a governing board resolution, for a local district, special service district, or private entity.

(6) "Encumber" means:

(a) a pledge to retire a debt; or

(b) an allocation to a current purchase order or contract.

(7) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a gas, water, sewer, storm water, power, or other utility system of a municipality, county, local district, special service district, or private entity.

(8) (a) "Impact fee" means a payment of money imposed upon new development activity as a condition of development approval to mitigate the impact of the new development on public infrastructure.

(b) "Impact fee" does not mean a tax, a special assessment, a building permit fee, a hookup fee, a fee for project improvements, or other reasonable permit or application fee.

(9) "Impact fee analysis" means the written analysis of each impact fee required by Section 11-36a-303.

(10) "Impact fee facilities plan" means the plan required by Section 11-36a-301.

(11) "Level of service" means the defined performance standard or unit of demand for each capital component of a public facility within a service area.

(12) (a) "Local political subdivision" means a county, a municipality, a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act.

(b) "Local political subdivision" does not mean a school district, whose impact fee activity is governed by Section 53A-20-100.5.

(13) "Private entity" means an entity in private ownership with at least 100 individual shareholders, customers, or connections, that is located in a first, second, third, or fourth class county and provides water to an applicant for development approval who is required to obtain water from the private entity either as a:

(a) specific condition of development approval by a local political subdivision acting pursuant to a prior agreement, whether written or unwritten, with the private entity; or

(b) functional condition of development approval because the private entity:

(i) has no reasonably equivalent competition in the immediate market; and

(ii) is the only realistic source of water for the applicant's development.

(14) (a) "Project improvements" means site improvements and facilities that are:

(i) planned and designed to provide service for development resulting from a development activity;

(ii) necessary for the use and convenience of the occupants or users of development resulting from a development activity; and

(iii) not identified or reimbursed as a system improvement.

(b) "Project improvements" does not mean system improvements.

(15) "Proportionate share" means the cost of public facility improvements that are roughly proportionate and reasonably related to the service demands and needs of any development activity.

(16) "Public facilities" means only the following impact fee facilities that have a life expectancy of 10 or more years and are owned or operated by or on behalf of a local political subdivision or private entity:

(a) water rights and water supply, treatment, storage, and distribution facilities;

(b) wastewater collection and treatment facilities;

(c) storm water, drainage, and flood control facilities;

(d) municipal power facilities;

(e) roadway facilities;

(f) parks, recreation facilities, open space, and trails;

(g) public safety facilities; or

(h) environmental mitigation as provided in Section 11-36a-205.

(17) (a) "Public safety facility" means:

(i) a building constructed or leased to house police, fire, or other public safety entities; or

(ii) a fire suppression vehicle costing in excess of \$500,000.

(b) "Public safety facility" does not mean a jail, prison, or other place of involuntary incarceration.

(18) (a) "Roadway facilities" means a street or road that has been designated on an officially adopted subdivision plat, roadway plan, or general plan of a political subdivision, together with all necessary appurtenances.

(b) "Roadway facilities" includes associated improvements to a federal or state roadway only when the associated improvements:

(i) are necessitated by the new development; and

(ii) are not funded by the state or federal government.

(c) "Roadway facilities" does not mean federal or state roadways.

(19) (a) "Service area" means a geographic area designated by an entity that imposes an impact fee on the basis of sound planning or engineering principles in which a public facility, or a defined set of public facilities, provides service within the area.

(b) "Service area" may include the entire local political subdivision or an entire area served by a private entity.

(20) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

(21) (a) "System improvements" means:

(i) existing public facilities that are:

(A) identified in the impact fee analysis under Section 11-36a-304; and

(B) designed to provide services to service areas within the community at large; and

(ii) future public facilities identified in the impact fee analysis under Section 11-36a-304 that are intended to provide services to service areas within the community at large.

(b) "System improvements" does not mean project improvements.

Section 3. Section 17-27a-103 is amended to read:

17-27a-103. Definitions.

As used in this chapter:

(1) “Affected entity” means a county, municipality, local district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified property owner, property owners association, public utility, or the Utah Department of Transportation, if:

(a) the entity’s services or facilities are likely to require expansion or significant modification because of an intended use of land;

(b) the entity has filed with the county a copy of the entity’s general or long-range plan; or

(c) the entity has filed with the county a request for notice during the same calendar year and before the county provides notice to an affected entity in compliance with a requirement imposed under this chapter.

(2) “Appeal authority” means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

(3) “Billboard” means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(4) (a) “Charter school” means:

(i) an operating charter school;

(ii) a charter school applicant that has its application approved by a ~~[chartering entity]~~ charter school authorizer in accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; or

(iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) “Charter school” does not include a therapeutic school.

(5) “Chief executive officer” means the person or body that exercises the executive powers of the county.

(6) “Conditional use” means a land use that, because of its unique characteristics or potential impact on the county, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

(7) “Constitutional taking” means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(b) Utah Constitution, Article I, Section 22.

(8) “Culinary water authority” means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

(9) “Development activity” means:

(a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;

(b) any change in use of a building or structure that creates additional demand and need for public facilities; or

(c) any change in the use of land that creates additional demand and need for public facilities.

(10) (a) “Disability” means a physical or mental impairment that substantially limits one or more of a person’s major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

(b) “Disability” does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.

(11) “Educational facility”:

(a) means:

(i) a school district’s building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;

(ii) a structure or facility:

(A) located on the same property as a building described in Subsection (11)(a)(i); and

(B) used in support of the use of that building; and

(iii) a building to provide office and related space to a school district’s administrative personnel; and

(b) does not include:

(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

(A) not located on the same property as a building described in Subsection (11)(a)(i); and

(B) used in support of the purposes of a building described in Subsection (11)(a)(i); or

(ii) a therapeutic school.

(12) “Fire authority” means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

(13) “Flood plain” means land that:

(a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or

(b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

(14) "Gas corporation" has the same meaning as defined in Section 54-2-1.

(15) "General plan" means a document that a county adopts that sets forth general guidelines for proposed future development of the unincorporated land within the county.

(16) "Geologic hazard" means:

- (a) a surface fault rupture;
- (b) shallow groundwater;
- (c) liquefaction;
- (d) a landslide;
- (e) a debris flow;
- (f) unstable soil;
- (g) a rock fall; or
- (h) any other geologic condition that presents a risk:
 - (i) to life;
 - (ii) of substantial loss of real property; or
 - (iii) of substantial damage to real property.

(17) "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:

- (a) runs with the land; and
- (b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or
- (ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

(18) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility system.

(19) "Identical plans" means building plans submitted to a county that:

- (a) are clearly marked as "identical plans";
- (b) are substantially identical building plans that were previously submitted to and reviewed and approved by the county; and
- (c) describe a building that:
 - (i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;
 - (ii) is subject to the same geological and meteorological conditions and the same law as the

building described in the previously approved plans;

(iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the county; and

(iv) does not require any additional engineering or analysis.

(20) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

(21) "Improvement completion assurance" means a surety bond, letter of credit, cash, or other security required by a county to guaranty the proper completion of landscaping or infrastructure that the land use authority has required as a condition precedent to:

- (a) recording a subdivision plat; or
- (b) beginning development activity.

(22) "Improvement warranty" means an applicant's unconditional warranty that the accepted landscaping or infrastructure:

- (a) complies with the county's written standards for design, materials, and workmanship; and
- (b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

(23) "Improvement warranty period" means a period:

- (a) no later than one year after a county's acceptance of required landscaping; or
- (b) no later than one year after a county's acceptance of required infrastructure, unless the county:

- (i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and
- (ii) has substantial evidence, on record:

- (A) of prior poor performance by the applicant; or
- (B) that the area upon which the infrastructure will be constructed contains suspect soil and the county has not otherwise required the applicant to mitigate the suspect soil.

(24) "Interstate pipeline company" means a person or entity engaged in natural gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

(25) "Intrastate pipeline company" means a person or entity engaged in natural gas transportation that is not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

(26) "Land use application" means an application required by a county's land use ordinance.

(27) "Land use authority" means a person, board, commission, agency, or other body designated by

the local legislative body to act upon a land use application.

(28) "Land use ordinance" means a planning, zoning, development, or subdivision ordinance of the county, but does not include the general plan.

(29) "Land use permit" means a permit issued by a land use authority.

(30) "Legislative body" means the county legislative body, or for a county that has adopted an alternative form of government, the body exercising legislative powers.

(31) "Local district" means any entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

(32) "Lot line adjustment" means the relocation of the property boundary line in a subdivision between two adjoining lots with the consent of the owners of record.

(33) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the housing is located.

(34) "Nominal fee" means a fee that reasonably reimburses a county only for time spent and expenses incurred in:

(a) verifying that building plans are identical plans; and

(b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

(35) "Noncomplying structure" means a structure that:

(a) legally existed before its current land use designation; and

(b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations that govern the use of land.

(36) "Nonconforming use" means a use of land that:

(a) legally existed before its current land use designation;

(b) has been maintained continuously since the time the land use ordinance regulation governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

(37) "Official map" means a map drawn by county authorities and recorded in the county recorder's office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the county's general plan.

(38) "Parcel boundary adjustment" means a recorded agreement between owners of adjoining properties adjusting their mutual boundary if:

(a) no additional parcel is created; and

(b) each property identified in the agreement is unsubdivided land, including a remainder of subdivided land.

(39) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

(40) "Plan for moderate income housing" means a written document adopted by a county legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the county;

(b) an estimate of the need for moderate income housing in the county for the next five years as revised biennially;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the county's program to encourage an adequate supply of moderate income housing.

(41) "Plat" means a map or other graphical representation of lands being laid out and prepared in accordance with Section 17-27a-603, 17-23-17, or 57-8-13.

(42) "Potential geologic hazard area" means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

(43) "Public agency" means:

(a) the federal government;

(b) the state;

(c) a county, municipality, school district, local district, special service district, or other political subdivision of the state; or

(d) a charter school.

(44) “Public hearing” means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

(45) “Public meeting” means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

(46) “Receiving zone” means an unincorporated area of a county that the county designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

(47) “Record of survey map” means a map of a survey of land prepared in accordance with Section 17-23-17.

(48) “Residential facility for persons with a disability” means a residence:

(a) in which more than one person with a disability resides; and

(b) (i) which is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or

(ii) which is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(49) “Rules of order and procedure” means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

(50) “Sanitary sewer authority” means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

(51) “Sending zone” means an unincorporated area of a county that the county designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

(52) “Site plan” means a document or map that may be required by a county during a preliminary review preceding the issuance of a building permit to demonstrate that an owner’s or developer’s proposed development activity meets a land use requirement.

(53) “Specified public agency” means:

(a) the state;

(b) a school district; or

(c) a charter school.

(54) “Specified public utility” means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(55) “State” includes any department, division, or agency of the state.

(56) “Street” means a public right-of-way, including a highway, avenue, boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other way.

(57) (a) “Subdivision” means any land that is divided, resubdivided or proposed to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) “Subdivision” includes:

(i) the division or development of land whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument; and

(ii) except as provided in Subsection (57)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) “Subdivision” does not include:

(i) a bona fide division or partition of agricultural land for agricultural purposes;

(ii) a recorded agreement between owners of adjoining properties adjusting their mutual boundary if:

(A) no new lot is created; and

(B) the adjustment does not violate applicable land use ordinances;

(iii) a recorded document, executed by the owner of record:

(A) revising the legal description of more than one contiguous unsubdivided parcel of property into one legal description encompassing all such parcels of property; or

(B) joining a subdivided parcel of property to another parcel of property that has not been subdivided, if the joinder does not violate applicable land use ordinances;

(iv) a bona fide division or partition of land in a county other than a first class county for the purpose of siting, on one or more of the resulting separate parcels:

(A) an electrical transmission line or a substation;

(B) a natural gas pipeline or a regulation station; or

(C) an unmanned telecommunications, microwave, fiber optic, electrical, or other utility service regeneration, transformation, retransmission, or amplification facility;

(v) a recorded agreement between owners of adjoining subdivided properties adjusting their mutual boundary if:

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance;

(vi) a bona fide division or partition of land by deed or other instrument where the land use authority expressly approves in writing the division in anticipation of further land use approvals on the parcel or parcels; or

(vii) a parcel boundary adjustment.

(d) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision under this Subsection (57) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision ordinance.

(58) "Suspect soil" means soil that has:

(a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;

(b) bedrock units with high shrink or swell susceptibility; or

(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

(59) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals who are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

(60) "Township" means a contiguous, geographically defined portion of the unincorporated area of a county, established under this part or reconstituted or reinstated under Section 17-27a-306, with planning and zoning functions as exercised through the township planning commission, as provided in this chapter, but with no legal or political identity separate from the county and no taxing authority, except that "township" means a former township under Laws of Utah 1996, Chapter 308, where the context so indicates.

(61) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

(62) "Unincorporated" means the area outside of the incorporated area of a municipality.

(63) "Water interest" means any right to the beneficial use of water, including:

(a) each of the rights listed in Section 73-1-11; and

(b) an ownership interest in the right to the beneficial use of water represented by:

(i) a contract; or

(ii) a share in a water company, as defined in Section 73-3-3.5.

(64) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 4. Section 49-12-202 is amended to read:

49-12-202. Participation of employers -- Limitations -- Exclusions -- Admission requirements -- Exceptions -- Nondiscrimination requirements.

(1) (a) Unless excluded under Subsection (2), an employer is a participating employer and may not withdraw from participation in this system.

(b) In addition to their participation in this system, participating employers may provide or participate in public or private retirement, supplemental or defined contribution plan, either directly or indirectly, for their employees.

(2) The following employers may be excluded from participation in this system:

(a) an employer not initially admitted or included as a participating employer in this system prior to January 1, 1982 if:

(i) the employer elects not to provide or participate in any type of private or public retirement, supplemental or defined contribution plan, either directly or indirectly, for its employees, except for Social Security; or

(ii) the employer offers another collectively bargained retirement benefit and has continued to do so on an uninterrupted basis since that date;

~~[(b) an employer that is a charter school sponsored by the State Board of Education or a school district that makes an election of nonparticipation in accordance with Section 53A-1a-512 unless the charter school makes a one-time, irrevocable retraction of the election of nonparticipation in accordance with Subsection 53A-1a-512(9); or]~~

(b) an employer that is a charter school authorized under Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act, and does not elect to

participate in accordance with Section 53A-1a-512; or

(c) an employer that is a hospital created as a special service district under Title 17D, Chapter 1, Special Service District Act, that makes an election of nonparticipation in accordance with Subsection (4).

(3) An employer who did not become a participating employer in this system prior to July 1, 1986, may not participate in this system.

(4) (a) Until June 30, 2009, an employer that is a hospital created as a special service district under Title 17D, Chapter 1, Special Service District Act, may make an election of nonparticipation as an employer for retirement programs under this chapter.

(b) An election provided under Subsection (4)(a):

(i) is a one-time election made no later than the time specified under Subsection (4)(a);

(ii) shall be documented by a resolution adopted by the governing body of the special service district;

(iii) is irrevocable; and

(iv) applies to the special service district as the employer and to all employees of the special service district.

(c) The governing body of the special service district may offer employee benefit plans for its employees:

(i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act; or

(ii) under any other program.

(5) If a participating employer purchases service credit on behalf of regular full-time employees for service rendered prior to the participating employer's admission to this system, the service credit shall be purchased in a nondiscriminatory manner on behalf of all current and former regular full-time employees who were eligible for service credit at the time service was rendered.

Section 5. Section 49-13-202 is amended to read:

49-13-202. Participation of employers -- Limitations -- Exclusions -- Admission requirements -- Nondiscrimination requirements -- Service credit purchases.

(1) (a) Unless excluded under Subsection (2), an employer is a participating employer and may not withdraw from participation in this system.

(b) In addition to their participation in this system, participating employers may provide or participate in any additional public or private retirement, supplemental or defined contribution plan, either directly or indirectly, for their employees.

(2) The following employers may be excluded from participation in this system:

(a) an employer not initially admitted or included as a participating employer in this system before January 1, 1982, if:

(i) the employer elects not to provide or participate in any type of private or public retirement, supplemental or defined contribution plan, either directly or indirectly, for its employees, except for Social Security; or

(ii) the employer offers another collectively bargained retirement benefit and has continued to do so on an uninterrupted basis since that date;

~~(b) an employer that is a charter school sponsored by the State Board of Education or a school district that makes an election of nonparticipation in accordance with Section 53A-1a-512 unless the charter school makes a one-time, irrevocable retraction of the election of nonparticipation in accordance with Subsection 53A-1a-512(9);~~

(b) an employer that is a charter school authorized under Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act, and does not elect to participate in accordance with Section 53A-1a-512;

(c) an employer that is a hospital created as a special service district under Title 17D, Chapter 1, Special Service District Act, that makes an election of nonparticipation in accordance with Subsection (5); or

(d) an employer that is a risk management association initially created by interlocal agreement before 1986 for the purpose of implementing a self-insurance joint protection program for the benefit of member municipalities of the association.

(3) If an employer that may be excluded under Subsection (2)(a)(i) elects at any time to provide or participate in any type of public or private retirement, supplemental or defined contribution plan, either directly or indirectly, except for Social Security, the employer shall be a participating employer in this system regardless of whether the employer has applied for admission under Subsection (4).

(4) (a) An employer may, by resolution of its governing body, apply for admission to this system.

(b) Upon approval of the resolution by the board, the employer is a participating employer in this system and is subject to this title.

(5) (a) (i) Until June 30, 2009, an employer that is a hospital created as a special service district under Title 17D, Chapter 1, Special Service District Act, may make an election of nonparticipation as an employer for retirement programs under this chapter.

(ii) On or before July 1, 2010, an employer described in Subsection (2)(d) may make an election of nonparticipation as an employer for retirement programs under this chapter.

(b) An election provided under Subsection (5)(a):

(i) is a one-time election made no later than the time specified under Subsection (5)(a);

(ii) shall be documented by a resolution adopted by the governing body of the employer;

(iii) is irrevocable; and

(iv) applies to the employer described in Subsection (5)(a) and to all employees of that employer.

(c) The employer making an election under Subsection (5)(a) may offer employee benefit plans for its employees:

(i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act; or

(ii) under any other program.

(6) If a participating employer purchases service credit on behalf of regular full-time employees for service rendered prior to the participating employer's admission to this system, the service credit shall be purchased in a nondiscriminatory manner on behalf of all current and former regular full-time employees who were eligible for service credit at the time service was rendered.

Section 6. Section 49-22-202 is amended to read:

49-22-202. Participation of employers -- Limitations -- Exclusions -- Admission requirements.

(1) Unless excluded under Subsection (2), an employer is a participating employer and may not withdraw from participation in this system.

(2) The following employers may be excluded from participation in this system:

(a) an employer not initially admitted or included as a participating employer in this system before January 1, 1982, if:

(i) the employer elects not to provide or participate in any type of private or public retirement, supplemental or defined contribution plan, either directly or indirectly, for its employees, except for Social Security; or

(ii) the employer offers another collectively bargained retirement benefit and has continued to do so on an uninterrupted basis since that date;

~~[(b) an employer that is a charter school sponsored by the State Board of Education or a school district that makes an election of nonparticipation in accordance with Section 53A-1a-512 unless the charter school makes a one-time, irrevocable retraction of the election of nonparticipation in accordance with Subsection 53A-1a-512(9); or]~~

(b) an employer that is a charter school authorized under Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act, and does not elect to participate in accordance with Section 53A-1a-512; or

(c) an employer that is a risk management association initially created by interlocal agreement before 1986 for the purpose of implementing a self-insurance joint protection program for the benefit of member municipalities of the association.

(3) If an employer that may be excluded under Subsection (2)(a)(i) elects at any time to provide or participate in any type of public or private retirement, supplemental or defined contribution plan, either directly or indirectly, except for Social Security, the employer shall be a participating employer in this system regardless of whether the employer has applied for admission under Subsection (4).

(4) (a) An employer may, by resolution of its governing body, apply for admission to this system.

(b) Upon approval of the resolution by the board, the employer is a participating employer in this system and is subject to this title.

(5) If a participating employer purchases service credit on behalf of a regular full-time employee for service rendered prior to the participating employer's admission to this system, the participating employer:

(a) shall purchase credit in a nondiscriminatory manner on behalf of all current and former regular full-time employees who were eligible for service credit at the time service was rendered; and

(b) shall comply with the provisions of Section 49-11-403.

Section 7. Section 52-4-209 is amended to read:

52-4-209. Electronic meetings for charter school board.

(1) Notwithstanding the definitions provided in Section 52-4-103 for this chapter, as used in this section:

(a) "Anchor location" means a physical location where:

(i) the charter school board would normally meet if the charter school board were not holding an electronic meeting; and

(ii) space, a facility, and technology are provided to the public to monitor and, if public comment is allowed, to participate in an electronic meeting during regular business hours.

(b) "Charter school board" means the governing [body] board of a school created under Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act.

(c) "Meeting" means the convening of a charter school board:

(i) with a quorum who:

(A) monitors a website at least once during the electronic meeting; and

(B) casts a vote on a website, if a vote is taken; and

(ii) for the purpose of discussing, receiving comments from the public about, or acting upon a

matter over which the charter school board has jurisdiction or advisory power.

(d) "Monitor" means to:

(i) read all the content added to a website by the public or a charter school board member; and

(ii) view a vote cast by a charter school board member on a website.

(e) "Participate" means to add content to a website.

(2) (a) A charter school board may convene and conduct an electronic meeting in accordance with Section 52-4-207.

(b) A charter school board may convene and conduct an electronic meeting in accordance with this section that is in writing on a website if:

(i) the chair verifies that a quorum monitors the website;

(ii) the content of the website is available to the public;

(iii) the chair controls the times in which a charter school board member or the public participates; and

(iv) the chair requires a person to identify himself or herself if the person:

(A) participates; or

(B) casts a vote as a charter school board member.

(3) A charter school that conducts an electronic meeting under this section shall:

(a) give public notice of the electronic meeting:

(i) in accordance with Section 52-4-202; and

(ii) by posting written notice at the anchor location as required under Section 52-4-207;

(b) in addition to giving public notice required by Subsection (3)(a), provide:

(i) notice of the electronic meeting to the members of the charter school board at least 24 hours before the meeting so that they may participate in and be counted as present for all purposes, including the determination that a quorum is present;

(ii) a description of how the members and the public may be connected to the electronic meeting;

(iii) a start and end time for the meeting, which shall be no longer than 5 days; and

(iv) a start and end time for when a vote will be taken in an electronic meeting, which shall be no longer than four hours; and

(c) provide an anchor location.

(4) The chair shall:

(a) not allow anyone to participate from the time the notice described in Subsection (3)(b)(iv) is given until the end time for when a vote will be taken; and

(b) allow a charter school board member to change a vote until the end time for when a vote will be taken.

(5) During the time in which a vote may be taken, a charter school board member may not communicate in any way with any person regarding an issue over which the charter school board has jurisdiction.

(6) A charter school conducting an electronic meeting under this section may not close a meeting as otherwise allowed under this part.

(7) (a) Written minutes shall be kept of an electronic meeting conducted as required in Section 52-4-203.

(b) (i) Notwithstanding Section 52-4-203, a recording is not required of an electronic meeting described in Subsection (2)(b).

(ii) All of the content of the website shall be kept for an electronic meeting conducted under this section.

(c) Written minutes are the official record of action taken at an electronic meeting as required in Section 52-4-203.

(8) (a) A charter school board shall ensure that the website used to conduct an electronic meeting:

(i) is secure; and

(ii) provides with reasonably certainty the identity of a charter school board member who logs on, adds content, or casts a vote on the website.

(b) A person is guilty of a class B misdemeanor if the person falsely identifies himself or herself as required by Subsection (2)(b)(iv).

(9) Compliance with the provisions of this section by a charter school constitutes full and complete compliance by the public body with the corresponding provisions of Sections 52-4-201 and 52-4-202.

Section 8. Section 53A-1a-501.3 is amended to read:

53A-1a-501.3. Definitions.

As used in this part:

(1) "Asset" means property of all kinds, real and personal, tangible and intangible, and includes:

(a) cash;

(b) stock or other investments;

(c) real property;

(d) equipment and supplies;

(e) an ownership interest;

(f) a license;

(g) a cause of action; and

(h) any similar property.

(2) "Board of trustees of a higher education institution" or "board of trustees" means:

(a) the board of trustees of:

- (i) the University of Utah;
- (ii) Utah State University;
- (iii) Weber State University;
- (iv) Southern Utah University;
- (v) Snow College;
- (vi) Dixie State University;
- (vii) Utah Valley University; or
- (viii) Salt Lake Community College; or

(b) the campus board of directors of a college campus within the Utah College of Applied Technology.

(3) “Charter agreement” or “charter” means an agreement made in accordance with Section 53A-1a-508, that authorizes the operation of a charter school.

~~[(3)]~~ (4) ~~[-“Chartering entity”]~~ “Charter school authorizer” or “authorizer” means the [entity] State Charter School Board, local school board, or board of trustees of a higher education institution that authorizes the establishment of a charter school.

(5) “Governing board” means the board that operates a charter school.

Section 9. Section 53A-1a-501.6 is amended to read:

53A-1a-501.6. Power and duties of State Charter School Board.

- (1) The State Charter School Board shall:
- (a) authorize and promote the establishment of charter schools, subject to the provisions in this part;
 - (b) annually review and evaluate the performance of charter schools authorized by the State Charter School Board and hold the schools accountable for their performance;
 - (c) monitor charter schools authorized by the State Charter School Board for compliance with federal and state laws, rules, and regulations;
 - (d) provide technical support to charter schools and persons seeking to establish charter schools by:
 - (i) identifying and promoting successful charter school models;
 - (ii) facilitating the application and approval process for charter school authorization;
 - (iii) directing charter schools and persons seeking to establish charter schools to sources of private funding and support;
 - (iv) reviewing and evaluating proposals to establish charter schools for the purpose of supporting and strengthening proposals before an application for charter school authorization is submitted to a ~~[chartering entity]~~ charter school authorizer; and
 - (v) assisting charter schools to understand and carry out their charter obligations;

(e) provide technical support, as requested, to a ~~[chartering entity]~~ charter school authorizer relating to charter schools;

(f) make recommendations on legislation and rules pertaining to charter schools to the Legislature and State Board of Education, respectively; and

(g) make recommendations to the State Board of Education on the funding of charter schools.

(2) The State Charter School Board may:

- (a) contract;
- (b) sue and be sued; and

(c) (i) at the discretion of the charter school, provide administrative services to, or perform other school functions for, charter schools authorized by the State Charter School Board; and

(ii) charge fees for the provision of services or functions.

Section 10. Section 53A-1a-503.5 is amended to read:

53A-1a-503.5. Status of charter schools.

(1) Charter schools are:

- (a) considered to be public schools within the state’s public education system;
- (b) subject to Subsection 53A-1-401(3); and
- (c) governed by independent boards and held accountable to a legally binding written contractual agreement.

(2) A charter school may be established by:

- (a) creating a new school; or
- (b) converting an existing public school to charter status.

(3) A parochial school or home school is not eligible for charter school status.

Section 11. Section 53A-1a-504 is repealed and reenacted to read:

53A-1a-504. Charter school application -- Applicants -- Contents -- Expansion.

(1) (a) An application to establish a charter school may be submitted by:

- (i) an individual;
- (ii) a group of individuals; or
- (iii) a nonprofit legal entity organized under Utah law.

(b) An authorized charter school may apply under this chapter for a charter from another charter school authorizer.

(2) A charter school application shall include:

- (a) the purpose and mission of the school;
- (b) except for a charter school authorized by a local school board, a statement that, after entering into a charter agreement, the charter school will be

organized and managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act;

(c) a description of the governance structure of the school, including;

(i) a list of the governing board members that describes the qualifications of each member; and

(ii) an assurance that the applicant shall, within 30 days of authorization, provide the authorizer with the results of a background check for each member;

(d) a description of the target population of the school that includes:

(i) the projected maximum number of students the school proposes to enroll;

(ii) the projected school enrollment for each of the first three years of school operation; and

(iii) the ages or grade levels the school proposes to serve;

(e) academic goals;

(f) qualifications and policies for school employees, including policies that:

(i) require completion of a criminal background check for teachers;

(ii) require employee evaluations; and

(iii) address employment of relatives within the charter school;

(g) a description of how the charter school will provide, as required by state and federal law, special education and related services;

(h) for a public school converting to charter status, arrangements for:

(i) students who choose not to continue attending the charter school; and

(ii) teachers who choose not to continue teaching at the charter school;

(i) a statement that describes the charter school's plan for establishing the charter school's facilities, including:

(i) whether the charter school intends to lease or purchase the charter school's facilities; and

(ii) financing arrangements;

(j) a market analysis of the community the school plans to serve;

(k) a capital facility plan;

(l) a business plan;

(m) other major issues involving the establishment and operation of the charter school; and

(n) the signatures of the governing board members of the charter school.

(3) A charter school authorizer may require a charter school application to include:

(a) the charter school's proposed:

(i) curriculum;

(ii) instructional program; or

(iii) delivery methods;

(b) a method for assessing whether students are reaching academic goals, including, at a minimum, participation in the Utah Performance Assessment System for Students under Chapter 1, Part 6, Achievement Tests;

(c) a proposed calendar;

(d) sample policies;

(e) a description of opportunities for parental involvement;

(f) a description of the school's administrative, supervisory, or other proposed services that may be obtained through service providers; or

(g) other information that demonstrates an applicant's ability to establish and operate a charter school.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules regarding the expansion of a charter school, including establishing a satellite campus, that provide:

(a) requirements for a charter school to apply and qualify for expansion; and

(b) procedures and deadlines for the application process.

Section 12. Section 53A-1a-505 is amended to read:

53A-1a-505. Charter schools authorized by the State Charter School Board -- Application process -- Prohibited bases of application denial.

(1) (a) An applicant seeking authorization of a charter school from the State Charter School Board shall provide a copy of the application to the local school board of the school district in which the proposed charter school shall be located either before or at the same time it files its application with the State Charter School Board.

(b) The local board may review the application and may offer suggestions or recommendations to the applicant or the State Charter School Board prior to its acting on the application.

(c) The State Charter School Board shall give due consideration to suggestions or recommendations made by the local school board under Subsection (1)(b).

(d) The State Charter School Board shall review and, by majority vote, either approve or deny the application.

(e) The State Board of Education shall, by majority vote, within 60 days after action by the State Charter School Board under Subsection (1)(d):

(i) approve or deny an application approved by the State Charter School Board; or

(ii) hear an appeal, if any, of an application denied by the State Charter School Board.

(f) The State Board of Education's action under Subsection (1)(d) is final action subject to judicial review.

(g) A charter school application may not be denied on the basis that the establishment of the charter school will have any or all of the following impacts on a public school, including another charter school:

- (i) an enrollment decline;
- (ii) a decrease in funding; or
- (iii) a modification of programs or services.

(2) The State Board of Education shall make a rule providing a timeline for the opening of a charter school following the approval of a charter school application by the State Charter School Board.

(3) ~~[(a)]~~ After approval of a charter school application~~],~~ and in accordance with Section 53A-1a-508, the applicant and the State Charter School Board shall set forth the terms and conditions for the operation of the charter school in a written ~~[contractual]~~ charter agreement.

~~[(b) The agreement is the school's charter.]~~

~~[(4) (a) A school holding a charter granted by a local school board may request a charter from the State Charter School Board.]~~

~~[(b) This section shall govern the application and approval of a charter requested under Subsection 4)(a).]~~

(4) The State Charter School Board shall, in accordance with State Board of Education rules, establish and make public the State Charter School Board's:

(a) application requirements, in accordance with Section 53A-1a-504;

(b) application process, including timelines, in accordance with this section; and

(c) minimum academic, financial, and enrollment standards.

Section 13. Section 53A-1a-506 is amended to read:

53A-1a-506. Eligible students.

(1) As used in this section:

(a) "District school" means a public school under the control of a local school board elected pursuant to Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.

(b) "Refugee" means a person who is eligible to receive benefits and services from the federal Office of Refugee Resettlement.

(2) All resident students of the state qualify for admission to a charter school, subject to the limitations set forth in this section and Section 53A-1a-506.5.

(3) (a) A charter school shall enroll an eligible student who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or the charter school.

(b) If the number of applications exceeds the capacity of a program, class, grade level, or the charter school, students shall be selected on a random basis, except as provided in Subsections (4) through ~~[(6)]~~ (7).

(4) A charter school may give an enrollment preference to:

(a) a student of a parent who has actively participated in the development of the charter school;

(b) siblings of students presently enrolled in the charter school;

(c) a student of a parent who is employed by the charter school;

(d) students articulating between charter schools offering similar programs that are governed by the same governing ~~[body]~~ board;

(e) students articulating from one charter school to another pursuant to an articulation agreement between the charter schools that is approved by the State Charter School Board; or

(f) students who reside within:

(i) the school district in which the charter school is located;

(ii) the municipality in which the charter school is located; or

(iii) a two-mile radius from the charter school.

(5) If a district school converts to charter status, the charter school shall give an enrollment preference to students who would have otherwise attended it as a district school.

(6) (a) A charter school whose mission is to enhance learning opportunities for refugees or children of refugee families may give an enrollment preference to refugees or children of refugee families.

(b) A charter school whose mission is to enhance learning opportunities for English language learners may give an enrollment preference to English language learners.

(7) A charter school may weight its lottery to give a slightly better chance of admission to educationally disadvantaged students, including:

(a) low-income students;

(b) students with disabilities;

(c) English language learners;

(d) neglected or delinquent students; and

(e) homeless students.

~~[(7)]~~ (8) A charter school may not discriminate in its admission policies or practices on the same basis as other public schools may not discriminate in their admission policies and practices.

Section 14. Section 53A-1a-506.5 is amended to read:

53A-1a-506.5. Charter school students -- Admissions procedures -- Transfers.

(1) As used in this section:

(a) "District school" means a public school under the control of a local school board elected pursuant to Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.

(b) "Nonresident school district" means a school district other than a student's school district of residence.

(c) "School district of residence" means a student's school district of residence as determined under Section 53A-2-201.

(d) "School of residence" means the school to which a student is assigned to attend based on the student's place of residence.

(2) (a) The State School Board, in consultation with the State Charter School Board, shall make rules describing procedures for students to follow in applying for entry into, or exiting, a charter school.

(b) The rules under Subsection (2)(a) shall, at a minimum, provide for:

(i) posting on a charter school's Internet website, beginning no later than 60 days before the school's initial period of applications:

(A) procedures for applying for admission to the charter school;

(B) ~~[(4)]~~ the school's opening date, if the school has not yet opened~~[,]~~; or ~~[(4)]~~ the school calendar; and

(C) information on how a student may transfer from a charter school to another charter school or a district school;

~~[(ii) use of standard application forms prescribed by the State Board of Education;]~~

~~[(iii)]~~ (ii) written notification to a student's parent or legal guardian of an offer of admission;

~~[(iv)]~~ (iii) written acceptance of an offer of admission by a student's parent or legal guardian;

~~[(v)]~~ (iv) written notification to a student's current charter school or school district of residence upon acceptance of the student for enrollment in a charter school; and

~~[(vi)]~~ (v) the admission of students~~[,] provided that the admission does not disqualify the charter school from federal funding.~~ at:

(A) any time to protect the health or safety of a student; or

(B) times other than those permitted under standard policies if there are other conditions of special need that warrant consideration.

(c) The rules under Subsection (2)(a) shall prevent the parent of a student who is enrolled in a charter school or who has accepted an offer of

admission to a charter school from duplicating enrollment for the student in another charter school or a school district without following the withdrawal procedures described in Subsection (3).

(3) The parent of a student enrolled in a charter school may withdraw the student from the charter school for enrollment in another charter school or a school district by submitting to the charter school:

(a) on or before June 30, a notice of intent to enroll the student in the student's school of residence for the following school year;

(b) after June 30, a letter of acceptance for enrollment in the student's school district of residence for the following year;

(c) a letter of acceptance for enrollment in the student's school district of residence in the current school year;

(d) a letter of acceptance for enrollment in a nonresident school district; or

(e) a letter of acceptance for enrollment in a charter school.

(4) (a) A charter school shall report to a school district, by the last business day of each month the aggregate number of new students, sorted by their school of residence and grade level, who have accepted enrollment in the charter school for the following school year.

(b) A school district shall report to a charter school, by the last business day of each month, the aggregate number of students enrolled in the charter school who have accepted enrollment in the school district in the following school year, sorted by grade level.

(5) When a vacancy occurs because a student has withdrawn from a charter school, the charter school may immediately enroll a new student from its list of applicants.

(6) Unless provisions have previously been made for enrollment in another school, a charter school releasing a student from enrollment during a school year shall immediately notify the school district of residence, which shall enroll the student in the school district of residence and take additional steps as may be necessary to ensure compliance with laws governing school attendance.

(7) (a) The parent of a student enrolled in a charter school may withdraw the student from the charter school for enrollment in the student's school of residence in the following school year if an application of admission is submitted to the school district of residence by June 30.

(b) If the parent of a student enrolled in a charter school submits an application of admission to the student's school district of residence after June 30 for the student's enrollment in the school district of residence in the following school year, or an application of admission is submitted for enrollment during the current school year, the student may enroll in a school of the school district of residence that has adequate capacity in:

(i) the student's grade level, if the student is an elementary school student; or

(ii) the core classes that the student needs to take, if the student is a secondary school student.

(c) State Board of Education rules made under Subsection (2)(a) shall specify how adequate capacity in a grade level or core classes is determined for the purposes of Subsection (7)(b).

(8) Notwithstanding Subsection (7), a school district may enroll a student at any time to protect the health and safety of the student.

(9) A school district or charter school may charge secondary students a one-time \$5 processing fee, to be paid at the time of application.

Section 15. Section 53A-1a-507 is amended to read:

53A-1a-507. Requirements for charter schools.

(1) A charter school shall be nonsectarian in its programs, admission policies, employment practices, and operations.

(2) A charter school may not charge tuition or fees, except those fees normally charged by other public schools.

(3) A charter school shall meet all applicable federal, state, and local health, safety, and civil rights requirements.

(4) (a) A charter school shall make the same annual reports required of other public schools under this title, including an annual financial audit report.

(b) A charter school shall file its annual financial audit report with the Office of the State Auditor within six months of the end of the fiscal year.

(5) (a) A charter school shall be accountable to ~~its chartering entity~~ the charter school's authorizer for performance as provided in the school's charter.

(b) To measure the performance of a charter school, ~~a chartering entity~~ an authorizer may use data contained in:

(i) the charter school's annual financial audit report;

(ii) a report submitted by the charter school as required by statute; or

(iii) a report submitted by the charter school as required by its charter.

(c) A ~~chartering entity~~ charter school authorizer may not impose performance standards, except as permitted by statute, that limit, infringe, or prohibit a charter school's ability to successfully accomplish the purposes of charter schools as provided in Section 53A-1a-503 or as otherwise provided in law.

(6) A charter school may not advocate unlawful behavior.

(7) Except as provided in Section 53A-1a-515, a charter school shall be organized and managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, after its authorization.

(8) A charter school shall provide adequate liability and other appropriate insurance.

(9) Beginning on July 1, ~~2007~~ 2014, a charter school shall submit any lease, lease-purchase agreement, or other contract or agreement relating to the charter school's facilities or financing of the charter ~~school~~ school's facilities to ~~its chartering entity~~ the school's authorizer and an attorney for review and advice prior to the charter school entering into the lease, agreement, or contract.

(10) A charter school may not employ an educator whose license has been suspended or revoked by the State Board of Education ~~as provided in~~ under Section 53A-6-501.

Section 16. Section 53A-1a-508 is repealed and reenacted to read:

53A-1a-508. Charter agreement -- Content -- Modification.

(1) A charter agreement:

(a) is a contract between the charter school applicant and the charter school authorizer;

(b) shall describe the rights and responsibilities of each party; and

(c) shall allow for the operation of the applicant's proposed charter school.

(2) A charter agreement shall include:

(a) the name of:

(i) the charter school; and

(ii) the charter school applicant;

(b) the mission statement and purpose of the charter school;

(c) the charter school's opening date;

(d) the grade levels and number of students the charter school will serve;

(e) a description of the structure of the charter school's governing board, including:

(i) the number of board members;

(ii) how members of the board are appointed; and

(iii) board members' terms of office;

(f) assurances that:

(i) the governing board shall comply with:

(A) the charter school's bylaws;

(B) the charter school's articles of incorporation; and

(C) applicable federal law, state law, and State Board of Education rules;

(ii) the governing board will meet all reporting requirements described in Section 53A-1b-115; and

(iii) except as provided in Title 53A, Chapter 20b, Part 2, Charter School Credit Enhancement Program, neither the authorizer nor the state, including an agency of the state, is liable for the debts or financial obligations of the charter school or a person who operates the charter school;

(g) which administrative rules the State Board of Education will waive for the charter school;

(h) minimum financial standards for operating the charter school;

(i) minimum standards for student achievement; and

(j) signatures of the charter school authorizer and the charter school's governing board members.

(3) A charter agreement may not be modified except by mutual agreement between the charter school authorizer and the governing board of the charter school.

Section 17. Section 53A-1a-509 is amended to read:

53A-1a-509. Noncompliance -- Rulemaking.

(1) If a charter school is found to be out of compliance with the requirements of Section 53A-1a-507 or the school's charter, the ~~[chartering entity]~~ charter school authorizer shall notify the following in writing that the charter school has a reasonable time to remedy the deficiency, except as otherwise provided in Subsection 53A-1a-510(4):

(a) the governing ~~[body]~~ board of the charter school; and

(b) if the charter school is a qualifying charter school with outstanding bonds issued in accordance with Chapter 20b, Part 2, Charter School Credit Enhancement Program, the Utah Charter School Finance Authority.

(2) If the charter school does not remedy the deficiency within the established timeline, the ~~[chartering entity]~~ authorizer may:

(a) subject to the requirements of Subsection (4), take one or more of the following actions:

(i) remove a charter school director or finance officer;

(ii) remove a governing board member; or

(iii) appoint an interim director or mentor to work with the charter school; or

(b) subject to the requirements of Section 53A-1a-510, terminate the school's charter.

(3) The costs of an interim director or mentor appointed pursuant to Subsection (2)(a) shall be paid from the funds of the charter school for which the interim director or mentor is working.

(4) The ~~[chartering entity]~~ authorizer shall notify the Utah Charter School Finance Authority before the ~~[chartering entity]~~ authorizer takes an action described in Subsections (2)(a)(i) through (iii) if the charter school is a qualifying charter school with

outstanding bonds issued in accordance with Chapter 20b, Part 2, Charter School Credit Enhancement Program.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules:

(a) specifying the timeline for remedying deficiencies under Subsection (1); and

(b) ensuring the compliance of a charter school with its approved charter.

Section 18. Section 53A-1a-510 is amended to read:

53A-1a-510. Termination of a charter.

(1) Subject to the requirements of Subsection (3), a ~~[chartering entity]~~ charter school authorizer may terminate a school's charter for any of the following reasons:

(a) failure of the charter school to meet the requirements stated in the charter;

(b) failure to meet generally accepted standards of fiscal management;

(c) subject to Subsection (8), failure to make adequate yearly progress under the No Child Left Behind Act of 2001, 20 U.S.C. Sec. 6301 et seq.;

(d) violation of requirements under this part or another law; or

(e) other good cause shown.

(2) (a) The ~~[chartering entity]~~ authorizer shall notify the following of the proposed termination in writing, state the grounds for the termination, and stipulate that the governing ~~[body]~~ board may request an informal hearing before the ~~[chartering entity]~~ authorizer:

(i) the governing ~~[body]~~ board of the charter school; and

(ii) if the charter school is a qualifying charter school with outstanding bonds issued in accordance with Chapter 20b, Part 2, Charter School Credit Enhancement Program, the Utah Charter School Finance Authority.

(b) Except as provided in Subsection (2)(e), the ~~[chartering entity]~~ authorizer shall conduct the hearing in accordance with Title 63G, Chapter 4, Administrative Procedures Act, within 30 days after receiving a written request under Subsection (2)(a).

(c) If the ~~[chartering entity]~~ authorizer, by majority vote, approves a motion to terminate a charter school, the governing ~~[body]~~ board of the charter school may appeal the decision to the State Board of Education.

(d) (i) The State Board of Education shall hear an appeal of a termination made pursuant to Subsection (2)(c).

(ii) The State Board of Education's action is final action subject to judicial review.

(e) (i) If the ~~[chartering entity]~~ authorizer proposes to terminate the charter of a qualifying charter school with outstanding bonds issued in accordance with Chapter 20b, Part 2, Charter School Credit Enhancement Program, the ~~[chartering entity]~~ authorizer shall conduct a hearing described in Subsection (2)(b) 120 days or more after notifying the following of the proposed termination:

(A) the governing ~~[body]~~ board of the qualifying charter school; and

(B) the Utah Charter School Finance Authority.

(ii) Prior to the hearing described in Subsection (2)(e)(i), the Utah Charter School Finance Authority shall meet with the ~~[chartering entity]~~ authorizer to determine whether the deficiency may be remedied in lieu of termination of the qualifying charter school's charter.

(3) ~~[A chartering entity]~~ An authorizer may not terminate the charter of a qualifying charter school with outstanding bonds issued in accordance with Chapter 20b, Part 2, Charter School Credit Enhancement Program, without mutual agreement of the Utah Charter School Finance Authority and the ~~[chartering entity]~~ authorizer.

(4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules that require a charter school to report any threats to the health, safety, or welfare of its students to the State Charter School Board in a timely manner.

(b) The rules under Subsection (4)(a) shall also require the charter school report to include what steps the charter school has taken to remedy the threat.

(5) Subject to the requirements of Subsection (3), the ~~[chartering entity]~~ authorizer may terminate a charter immediately if good cause has been shown or if the health, safety, or welfare of the students at the school is threatened.

(6) If a charter is terminated during a school year, the following entities may apply to the charter school's authorizer to assume operation of the school:

(a) the school district ~~[in which]~~ where the charter school is located ~~[may assume operation of the school; or];~~

(b) the governing board of another charter school; or

~~[(b)]~~ (c) a private management company ~~[may be hired to operate the charter school].~~

(7) (a) If a charter is terminated, a student who attended the school may apply to and shall be enrolled in another public school under the enrollment provisions of ~~[Title 53A,]~~ Chapter 2, Part 2, District of Residency, subject to space availability.

(b) Normal application deadlines shall be disregarded under Subsection (7)(a).

(8) Subject to the requirements of Subsection (3), ~~[a chartering entity]~~ an authorizer may terminate a charter pursuant to Subsection (1)(c) under the same circumstances that local educational agencies are required to implement alternative governance arrangements under 20 U.S.C. Sec. 6316.

Section 19. Section 53A-1a-510.5 is amended to read:

53A-1a-510.5. Charter school closure.

(1) If a charter school is closed for any reason, including the termination of a charter in accordance with Section 53A-1a-510 or the conversion of a charter school to a private school, the provisions of this section apply.

(2) (a) As soon as possible after the decision is made to close a charter school, notification of the decision, in writing, shall be provided by the charter school to:

(i) its ~~[chartering entity]~~ charter school authorizer;

(ii) the State Charter School Board;

(iii) the State Board of Education;

(iv) parents of its students;

(v) its creditors; and

(vi) the school district in which the charter school is located and other charter schools located in that school district.

(b) The notification under Subsection (2)(a) shall include:

(i) the proposed date of school closure;

(ii) the school's plans to help students identify and transition into a new school; and

(iii) contact information for the charter school during the transition.

(3) A closing charter school shall:

(a) present a school closure plan to its ~~[chartering entity]~~ authorizer as soon as possible after the decision to close is made;

(b) designate a custodian for the protection of student files and school business records;

(c) maintain a base of operation throughout the charter school closing, including:

(i) an office;

(ii) hours of operation; and

(iii) operational telephone service with voice messaging stating the hours of operation;

(d) maintain insurance coverage and risk management coverage throughout the transition to closure and for a period following closure of the charter school as specified by the ~~[chartering entity]~~ authorizer;

(e) complete a financial audit immediately after the decision to close is made;

(f) inventory all assets of the charter school;

(g) list all creditors of the charter school and specifically identify secured creditors and assets that are security interests; and

(h) protect all school assets against theft, misappropriation, and deterioration.

(4) (a) Any assets held subject to written conditions or limitations in accordance with Section 53A-1a-517 shall be disposed of in accordance with those conditions or limitations.

(b) All liabilities and obligations of the closing charter school shall be paid and discharged or adequate provisions shall be made to discharge the liabilities and obligations to the extent of the closing school's assets.

(c) (i) The remaining assets shall be returned to the closing charter school's ~~chartering entity~~ authorizer.

(ii) The ~~chartering entity~~ authorizer may liquidate assets at fair market value or assign the assets to another public school.

(5) To the extent possible, all leases, service agreements, and other contracts not necessary for the transition of the closing charter school should be terminated.

(6) The closing charter school shall submit all documentation required by its ~~chartering entity~~ authorizer, including documents to verify its compliance with procedural requirements as well as satisfaction of all financial issues.

(7) When the closing charter school's financial affairs are closed out and dissolution is complete, the ~~chartering entity~~ authorizer shall ensure that a final audit of the charter school is completed.

(8) The State Board of Education may make rules that provide additional closure requirements upon charter schools or that specify elements of charter school closure plans.

Section 20. Section 53A-1a-512 is amended to read:

53A-1a-512. Employees of charter schools.

(1) A charter school shall select its own employees.

(2) The school's governing ~~body~~ board shall determine the level of compensation and all terms and conditions of employment, except as otherwise provided in Subsections (7) and (8) and under this part.

(3) The following statutes governing public employees and officers do not apply to a charter school:

(a) Chapter 8a, Public Education Human Resource Management Act; and

(b) Title 52, Chapter 3, Prohibiting Employment of Relatives.

(4) (a) To accommodate differentiated staffing and better meet student needs, a charter school, under rules adopted by the State Board of Education, shall employ teachers who:

(i) are licensed; or

(ii) on the basis of demonstrated competency, would qualify to teach under alternative certification or authorization programs.

(b) The school's governing ~~body~~ board shall disclose the qualifications of its teachers to the parents of its students.

(5) State Board of Education rules governing the licensing or certification of administrative and supervisory personnel do not apply to charter schools.

(6) (a) An employee of a school district may request a leave of absence in order to work in a charter school upon approval of the local school board.

(b) While on leave, the employee may retain seniority accrued in the school district and may continue to be covered by the benefit program of the district if the charter school and the locally elected school board mutually agree.

~~[(7) Except as provided under Subsection (8), an employee of a charter school shall be a member of a retirement system or plan under Title 49, Utah State Retirement and Insurance Benefit Act.]~~

~~[(8) (7) (a) [At the time of application for a charter school, whether the chartering entity is the State Charter School Board, a local school board, or a board of trustees of a higher education institution, a proposed charter] A proposed or authorized charter school may [make an election of nonparticipation] elect to participate as an employer for retirement programs under:~~

(i) Title 49, Chapter 12, Public Employees' Contributory Retirement Act;

(ii) Title 49, Chapter 13, Public Employees' Noncontributory Retirement Act; and

(iii) Title 49, Chapter 22, New Public Employees' Tier II Contributory Retirement Act.

~~[(b) A charter school that was approved prior to July 1, 2004, may make an election of nonparticipation prior to December 31, 2004.]~~

~~[(e) (b) An election [provided] under this Subsection [(8) (7)]:~~

~~[(i) shall be made at the time specified under Subsection (8)(a) or (b);]~~

~~[(ii) (i) shall be documented by a resolution adopted by the governing [body] board of the charter school; and]~~

~~[(iii) is in effect unless the charter school makes an irrevocable retraction of the election of nonparticipation in accordance with Subsection (9); and]~~

~~[(4)(v) (ii) applies to the charter school as the employer and to all employees of the charter school.]~~

~~[(d)] (c) The governing [body] board of a charter school may offer employee benefit plans for its employees:~~

~~(i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act; or~~

~~(ii) under any other program.~~

~~[(9) (a) A charter school that made an election of nonparticipation as an employer for the following retirement programs may subsequently make an irrevocable retraction of the election of nonparticipation:]~~

~~[(i) Title 49, Chapter 12, Public Employees' Contributory Retirement Act;]~~

~~[(ii) Title 49, Chapter 13, Public Employees' Noncontributory Retirement Act; or]~~

~~[(iii) Title 49, Chapter 22, New Public Employees' Tier II Contributory Retirement Act;]~~

~~[(b) A retraction provided under this Subsection (9):]~~

~~[(i) shall be documented by a resolution adopted by the governing body of the charter school;]~~

~~[(ii) is a one-time election;]~~

~~[(iii) is irrevocable; and]~~

~~[(iv) applies to the charter school as the employer and to all employees of the charter school.]~~

~~(8) A charter school may not revoke an election to participate made under Subsection (7).~~

~~[(10)] (9) The governing [body] board of a charter school shall ensure that, prior to the beginning of each school year, each of its employees signs a document acknowledging that the employee:~~

~~(a) has received:~~

~~(i) the disclosure required under Section 63A-4-204.5 if the charter school participates in the Risk Management Fund; or~~

~~(ii) written disclosure similar to the disclosure required under Section 63A-4-204.5 if the charter school does not participate in the Risk Management Fund; and~~

~~(b) understands the legal liability protection provided to the employee and what is not covered, as explained in the disclosure.~~

Section 21. Section 53A-1a-514 is amended to read:

53A-1a-514. Tort liability.

(1) An employee of a charter school is a public employee and the governing [body] board is a public employer in the same manner as a local school board for purposes of tort liability.

(2) The governing [body] board of a charter school, the nonprofit corporation under which the charter school is organized and managed, and the school are solely liable for any damages resulting from a legal challenge involving the operation of the school.

Section 22. Section 53A-1a-515 is amended to read:

53A-1a-515. Charters authorized by local school boards -- Application process -- Local school board responsibilities.

(1) (a) ~~[Individuals and entities]~~ An applicant identified in Section 53A-1a-504 may ~~[enter into an agreement with]~~ submit an application to a local school board to establish and operate a charter school within the geographical boundaries of the school district administered by the local school board.

(b) (i) The principal, teachers, or parents of students at an existing public school may submit an application to the local school board to convert the school or a portion of the school to charter status.

(A) If the entire school is applying for charter status, at least two-thirds of the licensed educators employed at the school and at least two-thirds of the parents or guardians of students enrolled at the school must have signed a petition approving the application prior to its submission to the charter school authorizer.

(B) If only a portion of the school is applying for charter status, the percentage is reduced to a simple majority.

(ii) The local school board may not approve an application submitted under Subsection (1)(b)(i) unless the local school board determines that:

(A) students opting not to attend the proposed converted school would have access to a comparable public education alternative; and

(B) current teachers who choose not to teach at the converted charter school or who are not retained by the school at the time of its conversion would receive a first preference for transfer to open teaching positions for which they qualify within the school district, and, if no positions are open, contract provisions or board policy regarding reduction in staff would apply.

(2) (a) An existing public school that converts to charter status under a charter granted by a local school board may:

(i) continue to receive the same services from the school district that it received prior to its conversion; or

(ii) contract out for some or all of those services with other public or private providers.

(b) Any other charter school authorized by a local school board may contract with the board to receive some or all of the services referred to in Subsection (3)(a).

(c) Except as specified in a charter agreement, local school board assets do not transfer to an existing public school that converts to charter status under a charter granted by a local school board under this section.

(3) (a) (i) A public school that converts to a charter school under a charter granted by a local school board shall receive funding:

(A) through the school district; and

(B) on the same basis as it did prior to its conversion to a charter school.

(ii) The school may also receive federal money designated for charter schools under any federal program.

(b) (i) A local school board-authorized charter school operating in a facility owned by the school district and not paying reasonable rent to the school district shall receive funding:

(A) through the school district; and

(B) on the same basis that other district schools receive funding.

(ii) The school may also receive federal money designated for charter schools under any federal program.

(c) Subject to the provisions in Section 53A-1a-502.5, a charter school authorized by a local school board shall receive funding as provided in Section 53A-1a-513.

(d) (i) A charter school authorized by a local school board, but not described in Subsection (3)(a), (b), or (c) shall receive funding:

(A) through the school district; and

(B) on the same basis that other district schools receive funding.

(ii) The school may also receive federal money designated for charter schools under any federal program.

(4) (a) A local school board that receives an application for a charter school under this section shall, within 45 days, either accept or reject the application.

(b) If the board rejects the application, it shall notify the applicant in writing of the reason for the rejection.

(c) The applicant may submit a revised application for reconsideration by the board.

(d) If the local school board refuses to authorize the applicant, the applicant may seek a charter from the State Charter School Board under Section 53A-1a-505.

(5) The State Board of Education shall make a rule providing for a timeline for the opening of a charter school following the approval of a charter school application by a local school board.

(6) ~~[(a)]~~ After approval of a charter school application~~],~~ and in accordance with Section 53A-1a-508, the applicant and the local school board shall set forth the terms and conditions for the operation of the charter school in a written ~~[contractual]~~ charter agreement.

~~[(b) The agreement is the school's charter.]~~

(7) A local school board shall:

(a) annually review and evaluate the performance of charter schools authorized by the local school board and hold the schools accountable for their performance;

(b) monitor charter schools authorized by the local school board for compliance with federal and state laws, rules, and regulations; and

(c) provide technical support to charter schools authorized by the local school board to assist them in understanding and performing their charter obligations.

(8) A local school board may terminate a charter school it authorizes as provided in Sections 53A-1a-509 and 53A-1a-510.

(9) In addition to the exemptions described in Sections 53A-1a-511 and 53A-1a-512, a charter school authorized by a local school board is:

(a) not required to separately submit a report or information required under this title to the State Board of Education if the information is included in a report or information that is submitted by the local school board or school district; and

(b) exempt from the requirement under Section 53A-1a-507 that a charter school shall be organized and managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

(10) Before a local school board accepts a charter school application, the local school board shall, in accordance with State Board of Education rules, establish and make public the local school board's:

(a) application requirements, in accordance with Section 53A-1a-504;

(b) application process, including timelines, in accordance with this section; and

(c) minimum academic, financial, and enrollment standards.

Section 23. Section 53A-1a-517 is amended to read:

53A-1a-517. Charter school assets.

(1) (a) A charter school may receive, hold, manage, and use any devise, bequest, grant, endowment, gift, or donation of any asset made to the school for any of the purposes of this part.

(b) Unless a donor or grantor specifically provides otherwise in writing, all assets described in Subsection (1) shall be presumed to be made to the charter school and shall be included in the charter school's assets.

(2) It is unlawful for any person affiliated with a charter school to demand or request any gift, donation, or contribution from a parent, teacher, employee, or other person affiliated with the charter school as a condition for employment or enrollment at the school or continued attendance at the school.

(3) All assets purchased with charter school funds shall be included in the charter school's assets.

(4) A charter school may not dispose of its assets in violation of the provisions of this part, state board

rules, policies of its [~~chartering entity~~] charter school authorizer, or its charter, including the provisions governing the closure of a charter school under Section 53A-1a-510.5.

Section 24. Section 53A-1a-520 is amended to read:

53A-1a-520. Accountability -- Rules.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and after consultation with chartering entities, the State Board of Education shall make rules that:

(1) require a charter school to develop an accountability plan, approved by its [~~chartering entity~~] charter school authorizer, during its first year of operation;

(2) require [~~a chartering entity~~] an authorizer to:

(a) visit a charter school at least once during:

(i) its first year of operation; and

(ii) the review period described under Subsection (3); and

(b) provide written reports to its charter schools after the visits; and

(3) establish a review process that is required of a charter school once every five years by its [~~chartering entity~~] authorizer.

Section 25. Section 53A-1a-521 is amended to read:

53A-1a-521. Charter schools authorized by a board of trustees of a higher education institution -- Application process -- Board of trustees responsibilities.

(1) Subject to the approval of the State Board of Education and except as provided in Subsection (8), an [~~individual or entity~~] applicant identified in Section 53A-1a-504 may enter into an agreement with a board of trustees of a higher education institution authorizing the [~~individual or entity~~] applicant to establish and operate a charter school.

(2) (a) An [~~individual or entity identified in Section 53A-1a-504~~] applicant applying for authorization from a board of trustees [~~of a higher education institution~~] to establish and operate a charter school shall provide a copy of the application to the State Charter School Board and the local school board of the school district in which the proposed charter school shall be located either before or at the same time [~~it files its~~] the applicant files the application with the board of trustees.

(b) The State Charter School Board and the local school board may review the application and [~~may~~] offer suggestions or recommendations to the applicant or the board of trustees [~~of a higher education institution prior to its~~] before acting on the application.

(c) The board of trustees [~~of a higher education institution~~] shall give due consideration to suggestions or recommendations made by the State

Charter School Board or the local school board under Subsection (2)(b).

(3) (a) If a board of trustees [~~of a higher education institution~~] approves an application to establish and operate a charter school, the board of trustees shall submit the application to the State Board of Education.

(b) The State Board of Education shall, by majority vote, within 60 days of receipt of the application, approve or deny an application approved by a board of trustees [~~of a higher education institution~~].

(c) The State Board of Education's action under Subsection (3)(b) is final action subject to judicial review.

(4) The State Board of Education shall make a rule providing a timeline for the opening of a charter school following the approval of a charter school application by a board of trustees [~~of a higher education institution~~].

(5) [~~(a)~~] After approval of a charter school application, the applicant and the board of trustees [~~of a higher education institution~~] shall set forth the terms and conditions for the operation of the charter school in a written [~~contractual~~] charter agreement.

~~(b) The agreement is the school's charter.~~

(6) (a) The school's charter may include a provision that the charter school pay an annual fee for the board of trustees' costs in providing oversight of, and technical support to, the charter school in accordance with Subsection (7).

(b) In the first two years that a charter school is in operation, an annual fee described in Subsection (6)(a) may not exceed the product of 3% of the revenue the charter school receives from the state in the current fiscal year.

(c) Beginning with the third year that a charter school is in operation, an annual fee described in Subsection (6)(a) may not exceed the product of 1% of the revenue a charter school receives from the state in the current fiscal year.

(d) An annual fee described in Subsection (6)(a) shall be:

(i) paid to the board of trustees' higher education institution; and

(ii) expended as directed by the board of trustees.

(7) A board of trustees [~~of a higher education institution~~] shall:

(a) annually review and evaluate the performance of charter schools authorized by the board of trustees and hold the schools accountable for their performance;

(b) monitor charter schools authorized by the board of trustees for compliance with federal and state laws, rules, and regulations; and

(c) provide technical support to charter schools authorized by the board of trustees to assist them in

understanding and performing their charter obligations.

(8) (a) In addition to complying with the requirements of this section, a campus board of directors of a college campus within the Utah College of Applied Technology shall obtain the approval of the Utah College of Applied Technology Board of Trustees before entering into an agreement to establish and operate a charter school.

(b) If a campus board of directors of a college campus with the Utah College of Applied Technology approves an application to establish and operate a charter school, the campus board of directors of the college campus shall submit the application to the Utah College of Applied Technology Board of Trustees.

(c) The Utah College of Applied Technology Board of Trustees shall, by majority vote, within 60 days ~~of~~ receipt of the application, approve or deny the application approved by the campus board of directors.

(d) The Utah College of Applied Technology Board of Trustees may deny an application approved by a campus board of directors if the proposed charter school does not accomplish a purpose of charter schools as provided in Section 53A-1a-503.

(e) A charter school application may not be denied on the basis that the establishment of the charter school will have any or all of the following impacts on a public school, including another charter school:

- (i) an enrollment decline;
- (ii) a decrease in funding; or
- (iii) a modification of programs or services.

(9) (a) Subject to the requirements of this part, a campus board of directors of a college campus within the Utah College of Applied Technology may establish:

(i) procedures for submitting applications to establish and operate a charter school to a campus board of directors of a college campus within the Utah College of Applied Technology; and

(ii) criteria for a campus board of directors' approval of an application to establish and operate a charter school.

(b) The Utah College of Applied Technology Board of Trustees may not establish policy governing the procedures or criteria described in Subsection (9)(a).

(10) Before a board of trustees accepts a charter school application, the board of trustees shall, in accordance with State Board of Education rules, establish and make public the board of trustees':

(a) application requirements, in accordance with Section 53A-1a-504;

(b) application process, including timelines, in accordance with this section; and

(c) minimum academic, financial, and enrollment standards.

Section 26. Section 53A-20b-201 is amended to read:

53A-20b-201. Charter School Credit Enhancement Program -- Standards for the designation of qualifying charter schools -- Debt service reserve fund requirements.

(1) There is created the Charter School Credit Enhancement Program to assist qualifying charter schools in obtaining favorable financing by providing a means of replenishing a qualifying charter school's debt service reserve fund.

(2) The authority shall establish standards for a charter school to be designated as a qualifying charter school.

(3) In establishing the standards described in Subsection (2) the authority shall consider:

(a) whether a charter school has received an investment grade rating, independent of any rating enhancement resulting from the issuance of bonds pursuant to the credit enhancement program;

(b) the location of the charter school's project;

(c) the operating history of the charter school;

(d) the financial strength of the charter school; and

(e) any other criteria the authority determines are relevant.

(4) The bonds issued by the authority for a qualifying charter school are not an indebtedness of the state or of the authority but are special obligations payable solely from:

(a) the revenues or other funds pledged by the qualifying charter school; and

(b) amounts appropriated by the Legislature pursuant to Subsection (9).

(5) The authority shall notify the ~~chartering entity~~ authorizer of a charter school that the charter school is participating in the credit enhancement program if the authority:

(a) designates the charter school as a qualifying charter school; and

(b) issues bonds for the qualifying charter school under the credit enhancement program.

(6) One or more debt service reserve funds shall be established for a qualifying charter school with respect to bonds issued pursuant to the credit enhancement program.

(7) (a) Except as provided in Subsection (7)(b), money in a debt service reserve fund may not be withdrawn from the debt service reserve fund if the amount withdrawn would reduce the level of money in the debt service reserve fund to less than the debt service reserve fund requirement.

(b) So long as the applicable bonds issued under the credit enhancement program remain

outstanding, money in a debt service reserve fund may be withdrawn in an amount that would reduce the level of money in the debt service reserve fund to less than the debt service reserve fund requirement if the money is withdrawn for the purpose of:

(i) paying the principal of, redemption price of, or interest on a bond when due and if no other money of the qualifying charter school is available to make the payment, as determined by the authority; or

(ii) paying any redemption premium required to be paid when the bonds are redeemed prior to maturity if no bonds will remain outstanding upon payment from the funds in the qualifying charter school's debt service reserve fund.

(8) Money in a qualifying charter school's debt service reserve fund that exceeds the debt service reserve fund requirement may be withdrawn by the qualifying charter school.

(9) (a) The authority shall annually, on or before December 1, certify to the governor the amount, if any, required to restore amounts on deposit in the debt service reserve funds of qualifying charter schools to the respective debt service reserve fund requirements.

(b) The governor shall request from the Legislature an appropriation of the certified amount to restore amounts on deposit in the debt service reserve funds of qualifying charter schools to the respective debt service reserve fund requirements.

(c) The Legislature may appropriate money to the authority to restore amounts on deposit in the debt service reserve funds of qualifying charter schools to the respective debt service reserve fund requirements.

(d) A qualifying charter school that receives money from an appropriation to restore amounts on deposit in a debt service reserve fund to the debt service reserve fund requirement, shall repay the state at the time and in the manner as the authority shall require.

(10) The authority may create and establish other funds for its purposes.

CHAPTER 364**H. B. 422**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

**INITIATIVE AND REFERENDUM
IMPACT DISCLOSURE**Chief Sponsor: Bradley G. Last
Senate Sponsor: J. Stuart Adams**LONG TITLE****General Description:**

This bill changes the requirements for a financial impact disclosure.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ for a local initiative, requires an initial fiscal impact estimate to contain information regarding the legal impact of the initiative;
- ▶ for a local referendum:
 - establishes requirements for a fiscal impact estimate; and
 - requires a fiscal impact estimate to contain information regarding the legal impact of the referendum; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

20A-7-101, as last amended by Laws of Utah 2012, Chapters 17 and 72

20A-7-502.5, as last amended by Laws of Utah 2011, Chapter 17

20A-7-513, as enacted by Laws of Utah 2005, Chapter 236

ENACTS:

20A-7-602.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-7-101 is amended to read:**20A-7-101. Definitions.**

As used in this chapter:

- (1) "Budget officer" means:
 - (a) (i) for a county of the first class, the person designated as budget officer in Section 17-19a-203; or
 - (ii) for a county not described in Subsection (1)(a)(i), a person designated as budget officer in Section 17-19-19;
 - (b) for a city, the person designated as budget officer in Subsection 10-6-106(5); or
 - (c) for a town, the town council.

(2) "Certified" means that the county clerk has acknowledged a signature as being the signature of a registered voter.

(3) "Circulation" means the process of submitting an initiative or referendum petition to legal voters for their signature.

(4) "Final fiscal impact statement" means a financial statement prepared after voters approve an initiative that contains the information required by Subsection 20A-7-202.5(2) or 20A-7-502.5(2).

(5) "Initial fiscal impact estimate" means:

(a) a financial statement prepared [~~according to the terms of~~] under Section 20A-7-202.5 [~~or 20A-7-502.5~~] after the filing of an application for an initiative petition[-]; or

(b) a financial and legal statement prepared under Section 20A-7-502.5 or 20A-7-602.5 for an initiative or referendum petition.

(6) "Initiative" means a new law proposed for adoption by the public as provided in this chapter.

(7) "Initiative packet" means a copy of the initiative petition, a copy of the proposed law, and the signature sheets, all of which have been bound together as a unit.

(8) "Legal signatures" means the number of signatures of legal voters that:

(a) meet the numerical requirements of this chapter; and

(b) have been certified and verified as provided in this chapter.

(9) "Legal voter" means a person who:

(a) is registered to vote; or

(b) becomes registered to vote before the county clerk certifies the signatures on an initiative or referendum petition.

(10) "Local attorney" means the county attorney, city attorney, or town attorney in whose jurisdiction a local initiative or referendum petition is circulated.

(11) "Local clerk" means the county clerk, city recorder, or town clerk in whose jurisdiction a local initiative or referendum petition is circulated.

(12) (a) "Local law" includes an ordinance, resolution, master plan, and any comprehensive zoning regulation adopted by ordinance or resolution.

(b) "Local law" does not include an individual property zoning decision.

(13) "Local legislative body" means the legislative body of a county, city, or town.

(14) "Local obligation law" means a local law passed by the local legislative body regarding a bond that was approved by a majority of qualified voters in an election.

(15) "Measure" means a proposed constitutional amendment, an initiative, or referendum.

(16) "Referendum" means a process by which a law passed by the Legislature or by a local legislative body is submitted or referred to the voters for their approval or rejection.

(17) "Referendum packet" means a copy of the referendum petition, a copy of the law being submitted or referred to the voters for their approval or rejection, and the signature sheets, all of which have been bound together as a unit.

(18) (a) "Signature" means a holographic signature.

(b) "Signature" does not mean an electronic signature.

(19) "Signature sheets" means sheets in the form required by this chapter that are used to collect signatures in support of an initiative or referendum.

(20) "Sponsors" means the legal voters who support the initiative or referendum and who sign the application for petition copies.

(21) "Sufficient" means that the signatures submitted in support of an initiative or referendum petition have been certified and verified as required by this chapter.

(22) "Verified" means acknowledged by the person circulating the petition as required in Sections 20A-7-205 and 20A-7-305.

Section 2. Section 20A-7-502.5 is amended to read:

20A-7-502.5. Initial fiscal and legal impact estimate -- Preparation of estimate -- Challenge to estimate.

(1) Within three working days of receipt of an application for an initiative petition, the local clerk shall submit a copy of the application to the county, city, or town's budget officer.

(2) (a) The budget officer, together with legal counsel, shall prepare an unbiased, good faith estimate of the fiscal and legal impact of the law proposed by the initiative that contains:

(i) a dollar amount representing the total estimated fiscal impact of the proposed law;

(ii) if the proposed law would increase or decrease taxes, a dollar amount representing the total estimated increase or decrease for each type of tax affected under the proposed law and a dollar amount representing the total estimated increase or decrease in taxes under the proposed law;

(iii) if the proposed law would result in the issuance or a change in the status of bonds, notes, or other debt instruments, a dollar amount representing the total estimated increase or decrease in public debt under the proposed law;

(iv) a listing of all sources of funding for the estimated costs associated with the proposed law showing each source of funding and the percentage of total funding provided from each source;

(v) a dollar amount representing the estimated costs or savings, if any, to state and local government entities under the proposed law; ~~and~~

(vi) the proposed law's legal impact, including:

(A) any significant effects on a person's vested property rights;

(B) any significant effects on other laws or ordinances;

(C) any significant legal liability the city, county, or town may incur; and

(D) any other significant legal impact as determined by the budget officer and the legal counsel; and

~~[(vi)]~~ (vii) a concise explanation, not exceeding 100 words, of the above information and of the estimated fiscal impact, if any, under the proposed law.

(b) (i) If the proposed law is estimated to have no fiscal impact, the local budget officer shall include a summary statement in the initial fiscal impact statement in substantially the following form:

"The (title of the local budget officer) estimates that the law proposed by this initiative would have no significant fiscal impact and would not result in either an increase or decrease in taxes or debt."

(ii) If the proposed law is estimated to have a fiscal impact, the local budget officer shall include a summary statement in the initial fiscal impact estimate in substantially the following form:

"The (title of the local budget officer) estimates that the law proposed by this initiative would result in a total fiscal expense/savings of \$_____, which includes a (type of tax or taxes) tax increase/decrease of \$_____ and a \$_____ increase/decrease in public debt."

(iii) If the estimated fiscal impact of the proposed law is highly variable or is otherwise difficult to reasonably express in a summary statement, the local budget officer may include in the summary statement a brief explanation that identifies those factors affecting the variability or difficulty of the estimate.

(3) The budget officer shall prepare an unbiased, good faith estimate of the cost of printing and distributing information related to the initiative petition in the voter information pamphlet as required by Section 20A-7-402.

(4) Within 25 calendar days from the date that the local clerk delivers a copy of the application, the budget officer shall:

(a) deliver a copy of the initial fiscal impact estimate, including the legal impact estimate, to the local clerk's office; and

(b) mail a copy of the initial fiscal impact estimate, including the legal impact estimate, to the first five sponsors named in the application.

(5) (a) Three or more of the sponsors of the petition may, within 20 calendar days of the date of delivery of the initial fiscal impact estimate to the

local clerk's office, file a petition with the Supreme Court, alleging that the initial fiscal impact estimate, including the legal impact estimate, taken as a whole, is an inaccurate estimate of the fiscal or legal impact of the initiative.

(b) (i) There is a presumption that the initial fiscal impact estimate, including the legal impact estimate, prepared by the budget officer and legal counsel is based upon reasonable assumptions, uses reasonable data, and applies accepted analytical methods to present the estimated fiscal and legal impact of the initiative.

(ii) The Supreme Court may not revise the contents of, or direct the revision of, the initial fiscal impact estimate, including the legal impact estimate, unless the plaintiffs rebut the presumption by clear and convincing evidence that establishes that the fiscal estimate, including the legal impact estimate, taken as a whole, is an inaccurate statement of the estimated fiscal or legal impact of the initiative.

(iii) The Supreme Court may refer an issue related to the initial fiscal impact estimate, including the legal impact estimate, to a master to examine the issue and make a report in accordance with Utah Rules of Civil Procedure, Rule 53.

(c) The Supreme Court shall certify to the local clerk an initial fiscal impact estimate, including the legal impact estimate, for the measure that meets the requirements of this section.

Section 3. Section 20A-7-513 is amended to read:

20A-7-513. Fiscal review -- Repeal, amendment, or resubmission.

(1) No later than 60 days after the date of an election in which the voters approve an initiative petition, the budget officer shall:

(a) for each initiative approved by the voters, prepare a final fiscal impact statement, using current financial information and containing the information required by Subsection 20A-7-502.5(2), except for the information required by Subsection 20A-7-502.5(2)(a)(vi); and

(b) deliver a copy of the final fiscal impact statement to:

(i) the local legislative body of the jurisdiction where the initiative was circulated;

(ii) the local clerk; and

(iii) the first five sponsors listed on the initiative application.

(2) If the final fiscal impact statement exceeds the initial fiscal impact estimate by 25% or more, the local legislative body shall review the final fiscal impact statement and may, by a majority vote:

(a) repeal the law established by passage of the initiative;

(b) amend the law established by the passage of the initiative; or

(c) pass a resolution informing the voters that they may file an initiative petition to repeal the law enacted by the passage of the initiative.

Section 4. Section 20A-7-602.5 is enacted to read:

20A-7-602.5. Initial fiscal and legal impact estimate -- Preparation of estimate -- Challenge to estimate.

(1) Within three working days after the day on which the local clerk receives an application for a referendum petition, the local clerk shall submit a copy of the application to the county, city, or town's budget officer.

(2) (a) The budget officer, together with legal counsel, shall prepare an unbiased, good faith estimate of the fiscal and legal impact of repealing the law the referendum proposes to repeal that contains:

(i) a dollar amount representing the total estimated fiscal impact of repealing the law;

(ii) if repealing the law would increase or decrease taxes, a dollar amount representing the total estimated increase or decrease for each type of tax that would be impacted by the law's repeal and a dollar amount representing the total estimated increase or decrease in taxes that would result from the law's repeal;

(iii) if repealing the law would result in the issuance or a change in the status of bonds, notes, or other debt instruments, a dollar amount representing the total estimated increase or decrease in public debt that would result;

(iv) a listing of all sources of funding for the estimated costs that would be associated with the law's repeal, showing each source of funding and the percentage of total funding that would be provided from each source;

(v) a dollar amount representing the estimated costs or savings, if any, to state and local government entities if the law were repealed;

(vi) the legal impacts that would result from repealing the law, including:

(A) any significant effects on a person's vested property rights;

(B) any significant effects on other laws or ordinances;

(C) any significant legal liability the city, county, or town may incur; and

(D) any other significant legal impact as determined by the budget officer and the legal counsel; and

(vii) a concise explanation, not exceeding 100 words, of the above information and of the estimated fiscal impact, if any, if the law were repealed.

(b) (i) If repealing the law would have no fiscal impact, the local budget officer shall include a summary statement in the initial fiscal impact statement in substantially the following form:

"The (title of the local budget officer) estimates that repealing the law this referendum proposes to repeal would have no significant fiscal impact and would not result in either an increase or decrease in taxes or debt."

(ii) If repealing the law is estimated to have a fiscal impact, the local budget officer shall include a summary statement describing the fiscal impact.

(iii) If the estimated fiscal impact of repealing the law is highly variable or is otherwise difficult to reasonably express in a summary statement, the local budget officer may include in the summary statement a brief explanation that identifies those factors impacting the variability or difficulty of the estimate.

(3) Within 25 calendar days after the day on which the local clerk submits a copy of the application under Subsection (1), the budget officer shall:

(a) deliver a copy of the initial fiscal impact estimate, including the legal impact estimate, to the local clerk's office; and

(b) mail a copy of the initial fiscal impact estimate, including the legal impact estimate, to the first five sponsors named in the application.

CHAPTER 365**H. B. 426**

Passed March 11, 2014

Approved April 1, 2014

Effective May 13, 2014

**RETIREMENT
PARTICIPATION MODIFICATIONS**Chief Sponsor: Don L. Ipson
Senate Sponsor: J. Stuart Adams**LONG TITLE****General Description:**

This bill modifies the Utah State Retirement and Insurance Benefit Act by providing for the withdrawal of employees of a withdrawing entity.

Highlighted Provisions:

This bill:

- ▶ defines “withdrawing entity”;
- ▶ allows a withdrawing entity to make an election of continued participation or withdrawal in a Utah retirement system or plan for future employees beginning on a date, no later than January 1, 2017, determined by the withdrawing entity;
- ▶ requires the withdrawing entity to pay any costs that arise out of the election of nonparticipation;
- ▶ provides for rulemaking by the Utah State Retirement Board;
- ▶ excludes new employees of a withdrawing entity from participation in the Public Employees’ Contributory Retirement System, the Public Employees’ Noncontributory Retirement System, and the New Public Employees’ Tier II Contributory Retirement Act under certain circumstances; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

49-12-203, as last amended by Laws of Utah 2013, Chapters 310 and 316

49-13-203, as last amended by Laws of Utah 2013, Chapters 310 and 316

49-22-203, as last amended by Laws of Utah 2013, Chapter 316

ENACTS:

49-11-623, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 49-11-623 is enacted to read:**49-11-623. Withdrawing entity --
Participation election date -- Withdrawal costs -- Rulemaking.**

(1) As used in this section, “withdrawing entity” means an entity that:

(a) participates in a system or plan under this title prior to July 1, 2014;

(b) provides mental health and substance abuse services for a county under Section 17-50-318;

(c) after beginning participation with a system or plan under this title, has modified its federal tax status to a nonprofit organization that qualifies under Section 501(c)(3) of the Internal Revenue Code; and

(d) is not a state institution of higher education as described in Section 53B-2-101.

(2) Notwithstanding any other provision of this title, a withdrawing entity may provide for the participation of its employees with that system or plan as follows:

(a) the withdrawing entity shall determine a date that is no later than January 1, 2017, on which the withdrawing entity shall make an election under Subsection (3); and

(b) the withdrawing entity shall pay to the office any reasonable actuarial and administrative costs determined by the office to have arisen out of an election made under this section.

(3) The withdrawing entity described under Subsection (2) may elect to:

(a) continue its participation for all current employees of the withdrawing entity, who are covered by a system or plan as of the date set under Subsection (2)(a); and

(b) withdraw from participation in all systems or plans for all persons initially entering employment with the withdrawing entity, beginning on the date set under Subsection (2)(a).

(4) (a) An election provided under Subsection (3):

(i) is a one-time election made no later than the date specified under Subsection (2)(a);

(ii) shall be documented by a resolution adopted by the governing body of the withdrawing entity;

(iii) is irrevocable; and

(iv) applies to the withdrawing entity as the employer and to all employees of the withdrawing entity.

(b) Notwithstanding an election made under Subsection (3), any eligibility for service credit earned by an employee under this title before the date specified under Subsection (2)(a) is not affected by this section.

(5) If a withdrawing entity elects to continue participation under Subsection (3), the withdrawing entity shall continue to be subject to the laws and the rules governing the system or plan in which an employee participates, including the accrual of service credit and payment of contributions.

(6) The board shall make rules to implement this section.

Section 2. Section 49-12-203 is amended to read:

49-12-203. Exclusions from membership in system.

(1) The following employees are not eligible for service credit in this system:

(a) subject to the requirements of Subsection (2), an employee whose employment status is temporary in nature due to the nature or the type of work to be performed;

(b) except as provided under Subsection (3)(a), an employee of an institution of higher education who participates in a retirement system with the Teachers' Insurance and Annuity Association of America or with any other public or private retirement system, organization, or company during any period in which required contributions based on compensation have been paid on behalf of the employee by the employer;

(c) an employee serving as an exchange employee from outside the state;

(d) an executive department head of the state, a member of the State Tax Commission, the Public Service Commission, and a member of a full-time or part-time board or commission who files a formal request for exemption;

(e) an employee of the Department of Workforce Services who is covered under another retirement system allowed under Title 35A, Chapter 4, Employment Security Act; [øø]

(f) an employee who is employed on or after July 1, 2009 with an employer that has elected, prior to July 1, 2009, to be excluded from participation in this system under Subsection 49-12-202(2)(c)[-]; or

(g) an employee who is employed with a withdrawing entity that has elected, prior to January 1, 2017, to exclude new employees from participation in this system under Subsection 49-11-623(3).

(2) If an employee whose status is temporary in nature due to the nature of type of work to be performed:

(a) is employed for a term that exceeds six months and the employee otherwise qualifies for service credit in this system, the participating employer shall report and certify to the office that the employee is a regular full-time employee effective the beginning of the seventh month of employment; or

(b) was previously terminated prior to being eligible for service credit in this system and is reemployed within three months of termination by the same participating employer, the participating employer shall report and certify that the member is a regular full-time employee when the total of the periods of employment equals six months and the employee otherwise qualifies for service credits in this system.

(3) (a) Upon cessation of the participating employer contributions, an employee under

Subsection (1)(b) is eligible for service credit in this system.

(b) Notwithstanding the provisions of Subsection (1)(f), any eligibility for service credit earned by an employee under this chapter before July 1, 2009 is not affected under Subsection (1)(f).

(4) Upon filing a written request for exemption with the office, the following employees shall be exempt from coverage under this system:

(a) a full-time student or the spouse of a full-time student and individuals employed in a trainee relationship;

(b) an elected official;

(c) an executive department head of the state, a member of the State Tax Commission, a member of the Public Service Commission, and a member of a full-time or part-time board or commission;

(d) an employee of the Governor's Office of Management and Budget;

(e) an employee of the Governor's Office of Economic Development;

(f) an employee of the Commission on Criminal and Juvenile Justice;

(g) an employee of the Governor's Office;

(h) an employee of the State Auditor's Office;

(i) an employee of the State Treasurer's Office;

(j) any other member who is permitted to make an election under Section 49-11-406;

(k) a person appointed as a city manager or chief city administrator or another person employed by a municipality, county, or other political subdivision, who is an at-will employee; and

(l) an employee of an interlocal cooperative agency created under Title 11, Chapter 13, Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through membership in a labor organization that provides retirement benefits to its members.

(5) (a) Each participating employer shall prepare a list designating those positions eligible for exemption under Subsection (4).

(b) An employee may not be exempted unless the employee is employed in a position designated by the participating employer.

(6) (a) In accordance with this section, a municipality, county, or political subdivision may not exempt more than 50 positions or a number equal to 10% of the employees of the municipality, county, or political subdivision whichever is lesser.

(b) A municipality, county, or political subdivision may exempt at least one regular full-time employee.

(7) Each participating employer shall:

(a) file employee exemptions annually with the office; and

(b) update the employee exemptions in the event of any change.

(8) The office may make rules to implement this section.

Section 3. Section 49-13-203 is amended to read:

49-13-203. Exclusions from membership in system.

(1) The following employees are not eligible for service credit in this system:

(a) subject to the requirements of Subsection (2), an employee whose employment status is temporary in nature due to the nature or the type of work to be performed;

(b) except as provided under Subsection (3)(a), an employee of an institution of higher education who participates in a retirement system with the Teachers' Insurance and Annuity Association of America or with any other public or private retirement system, organization, or company during any period in which required contributions based on compensation have been paid on behalf of the employee by the employer;

(c) an employee serving as an exchange employee from outside the state;

(d) an executive department head of the state or a legislative director, senior executive employed by the governor's office, a member of the State Tax Commission, a member of the Public Service Commission, and a member of a full-time or part-time board or commission who files a formal request for exemption;

(e) an employee of the Department of Workforce Services who is covered under another retirement system allowed under Title 35A, Chapter 4, Employment Security Act; [ø]

(f) an employee who is employed with an employer that has elected to be excluded from participation in this system under Subsection 49-13-202(5), effective on or after the date of the employer's election under Subsection 49-13-202(5)[;]; or

(g) an employee who is employed with a withdrawing entity that has elected, prior to January 1, 2017, to exclude new employees from participation in this system under Subsection 49-11-623(3).

(2) If an employee whose status is temporary in nature due to the nature of type of work to be performed:

(a) is employed for a term that exceeds six months and the employee otherwise qualifies for service credit in this system, the participating employer shall report and certify to the office that the employee is a regular full-time employee effective the beginning of the seventh month of employment; or

(b) was previously terminated prior to being eligible for service credit in this system and is reemployed within three months of termination by the same participating employer, the participating

employer shall report and certify that the member is a regular full-time employee when the total of the periods of employment equals six months and the employee otherwise qualifies for service credits in this system.

(3) (a) Upon cessation of the participating employer contributions, an employee under Subsection (1)(b) is eligible for service credit in this system.

(b) Notwithstanding the provisions of Subsection (1)(f), any eligibility for service credit earned by an employee under this chapter before the date of the election under Subsection 49-13-202(5) is not affected under Subsection (1)(f).

(4) Upon filing a written request for exemption with the office, the following employees shall be exempt from coverage under this system:

(a) a full-time student or the spouse of a full-time student and individuals employed in a trainee relationship;

(b) an elected official;

(c) an executive department head of the state, a member of the State Tax Commission, a member of the Public Service Commission, and a member of a full-time or part-time board or commission;

(d) an employee of the Governor's Office of Management and Budget;

(e) an employee of the Governor's Office of Economic Development;

(f) an employee of the Commission on Criminal and Juvenile Justice;

(g) an employee of the Governor's Office;

(h) an employee of the State Auditor's Office;

(i) an employee of the State Treasurer's Office;

(j) any other member who is permitted to make an election under Section 49-11-406;

(k) a person appointed as a city manager or chief city administrator or another person employed by a municipality, county, or other political subdivision, who is an at-will employee;

(l) an employee of an interlocal cooperative agency created under Title 11, Chapter 13, Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through membership in a labor organization that provides retirement benefits to its members; and

(m) an employee of the Utah Science Technology and Research Initiative created under Title 63M, Chapter 2, Utah Science Technology and Research Governing Authority Act.

(5) (a) Each participating employer shall prepare a list designating those positions eligible for exemption under Subsection (4).

(b) An employee may not be exempted unless the employee is employed in a position designated by the participating employer.

(6) (a) In accordance with this section, a municipality, county, or political subdivision may not exempt more than 50 positions or a number equal to 10% of the employees of the municipality, county, or political subdivision, whichever is lesser.

(b) A municipality, county, or political subdivision may exempt at least one regular full-time employee.

(7) Each participating employer shall:

(a) file employee exemptions annually with the office; and

(b) update the employee exemptions in the event of any change.

(8) The office may make rules to implement this section.

Section 4. Section 49-22-203 is amended to read:

49-22-203. Exclusions from membership in system.

(1) The following employees are not eligible for service credit in this system:

(a) subject to the requirements of Subsection (2), an employee whose employment status is temporary in nature due to the nature or the type of work to be performed;

(b) except as provided under Subsection (3), an employee of an institution of higher education who participates in a retirement system with the Teachers' Insurance and Annuity Association of America or with any other public or private retirement system, organization, or company during any period in which required contributions based on compensation have been paid on behalf of the employee by the employer;

(c) an employee serving as an exchange employee from outside the state; ~~or~~

(d) an employee of the Department of Workforce Services who is covered under another retirement system allowed under Title 35A, Chapter 4, Employment Security Act~~[-]~~; or

(e) an employee who is employed with a withdrawing entity that has elected, prior to January 1, 2017, to exclude new employees from participation in this system under Subsection 49-11-623(3).

(2) If an employee whose status is temporary in nature due to the nature of type of work to be performed:

(a) is employed for a term that exceeds six months and the employee otherwise qualifies for service credit in this system, the participating employer shall report and certify to the office that the employee is a regular full-time employee effective the beginning of the seventh month of employment; or

(b) was previously terminated prior to being eligible for service credit in this system and is reemployed within three months of termination by

the same participating employer, the participating employer shall report and certify that the member is a regular full-time employee when the total of the periods of employment equals six months and the employee otherwise qualifies for service credits in this system.

(3) Upon cessation of the participating employer contributions, an employee under Subsection (1)(b) is eligible for service credit in this system.

CHAPTER 366**H. B. 433**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

PEACE OFFICER MERIT AMENDMENTS

Chief Sponsor: Brad L. Dee

Senate Sponsor: Howard A. Stephenson

LONG TITLE**General Description:**

This bill enacts language related to a peace officer merit system in a county of the first class.

Highlighted Provisions:

This bill:

- ▶ enacts the Peace Officer Merit System in Counties of the First Class Act, including provisions relating to the following:
 - definitions and application;
 - merit system commission powers and duties;
 - merit officer conditions of employment;
 - disciplinary actions and appeals; and
 - the sheriff's authority to appoint more than one chief deputy, deputy chief, or undersheriff; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 17-22-2, as last amended by Laws of Utah 2009, Chapter 218
- 17-30-2, as last amended by Laws of Utah 1993, Chapter 227
- 17-33-1, as last amended by Laws of Utah 2008, Chapters 25 and 172
- 53-13-105, as last amended by Laws of Utah 2002, Fifth Special Session, Chapter 8

ENACTS:

- 17-30a-101, Utah Code Annotated 1953
- 17-30a-102, Utah Code Annotated 1953
- 17-30a-103, Utah Code Annotated 1953
- 17-30a-104, Utah Code Annotated 1953
- 17-30a-201, Utah Code Annotated 1953
- 17-30a-202, Utah Code Annotated 1953
- 17-30a-203, Utah Code Annotated 1953
- 17-30a-204, Utah Code Annotated 1953
- 17-30a-205, Utah Code Annotated 1953
- 17-30a-206, Utah Code Annotated 1953
- 17-30a-207, Utah Code Annotated 1953
- 17-30a-301, Utah Code Annotated 1953
- 17-30a-302, Utah Code Annotated 1953
- 17-30a-303, Utah Code Annotated 1953
- 17-30a-304, Utah Code Annotated 1953
- 17-30a-305, Utah Code Annotated 1953
- 17-30a-306, Utah Code Annotated 1953
- 17-30a-307, Utah Code Annotated 1953
- 17-30a-308, Utah Code Annotated 1953
- 17-30a-309, Utah Code Annotated 1953
- 17-30a-310, Utah Code Annotated 1953

- 17-30a-311, Utah Code Annotated 1953
- 17-30a-312, Utah Code Annotated 1953
- 17-30a-313, Utah Code Annotated 1953
- 17-30a-314, Utah Code Annotated 1953
- 17-30a-401, Utah Code Annotated 1953
- 17-30a-402, Utah Code Annotated 1953
- 17-30a-403, Utah Code Annotated 1953
- 17-30a-404, Utah Code Annotated 1953
- 17-30a-501, Utah Code Annotated 1953
- 17-30a-502, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-22-2 is amended to read:**17-22-2. Sheriff -- General duties.**

- (1) The sheriff shall:
 - (a) preserve the peace;
 - (b) make all lawful arrests;
 - (c) attend in person or by deputy the Supreme Court and the Court of Appeals when required or when the court is held within his county, all courts of record, and court commissioner and referee sessions held within his county, obey their lawful orders and directions, and comply with the court security rule, Rule 3-414, of the Utah Code of Judicial Administration;
 - (d) upon request of the juvenile court, aid the court in maintaining order during hearings and transport a minor to and from youth corrections facilities, other institutions, or other designated places;
 - (e) attend county justice courts if the judge finds that the matter before the court requires the sheriff's attendance for security, transportation, and escort of jail prisoners in his custody, or for the custody of jurors;
 - (f) command the aid of as many inhabitants of his county as he considers necessary in the execution of these duties;
 - (g) take charge of and keep the county jail and the jail prisoners;
 - (h) receive and safely keep all persons committed to his custody, file and preserve the commitments of those persons, and record the name, age, place of birth, and description of each person committed;
 - (i) release on the record all attachments of real property when the attachment he receives has been released or discharged;
 - (j) endorse on all process and notices the year, month, day, hour, and minute of reception, and, upon payment of fees, issue a certificate to the person delivering process or notice showing the names of the parties, title of paper, and the time of receipt;
 - (k) serve all process and notices as prescribed by law;
 - (l) if he makes service of process or notice, certify on the process or notices the manner, time, and place of service, or, if he fails to make service, certify

the reason upon the process or notice, and return them without delay;

(m) extinguish fires occurring in the undergrowth, trees, or wooded areas on the public land within his county;

(n) perform as required by any contracts between the county and private contractors for management, maintenance, operation, and construction of county jails entered into under the authority of Section 17-53-311;

(o) for the sheriff of a county that enters into an interlocal agreement for law enforcement service under Title 11, Chapter 13, Interlocal Cooperation Act, provide law enforcement service as provided in the interlocal agreement;

(p) manage search and rescue services in his county;

(q) obtain saliva DNA specimens as required under Section 53-10-404;

(r) on or before January 1, 2003, adopt a written policy that prohibits the stopping, detention, or search of any person when the action is solely motivated by considerations of race, color, ethnicity, age, or gender; and

(s) perform any other duties that are required by law.

(2) Violation of Subsection (1)(j) is a class C misdemeanor. Violation of any other subsection under Subsection (1) is a class A misdemeanor.

(3) (a) As used in this Subsection (3):

(i) "Police interlocal entity" has the same meaning as defined in ~~[Section]~~ Sections 17-30-3 and 17-30a-102.

(ii) "Police local district" has the same meaning as defined in Section 17-30-3.

(b) A sheriff in a county which includes within its boundary a police local district or police interlocal entity, or both:

(i) serves as the chief executive officer of each police local district and police interlocal entity within the county with respect to the provision of law enforcement service within the boundary of the police local district or police interlocal entity, respectively; and

(ii) is subject to the direction of the police local district board of trustees or police interlocal entity governing body, as the case may be, as and to the extent provided by agreement between the police local district or police interlocal entity, respectively, and the sheriff.

(c) If a police interlocal entity or police local district enters an interlocal agreement with a public agency, as defined in Section 11-13-103, for the provision of law enforcement service, the sheriff:

(i) does not serve as the chief executive officer of any interlocal entity created under that interlocal

agreement, unless the agreement provides for the sheriff to serve as the chief executive officer; and

(ii) shall provide law enforcement service under that interlocal agreement as provided in the agreement.

Section 2. Section 17-30-2 is amended to read:

17-30-2. Application -- Subordinate officers in sheriff's office to be appointed from list -- Officers serving on effective date considered qualified.

(1) This chapter does not apply to a county of the first class or an interlocal entity, as defined in Section 11-13-103, in which a county of the first class is a party to an interlocal agreement to provide law enforcement service.

~~[(1)]~~ (2) From and after the effective date of this act the sheriff of each county with a population of 20,000 people or more which shall regularly employ one or more peace officers shall, by and with the advice and consent of the county legislative body, and subject to the rules and regulations of the merit service commission, appoint from the classified merit service list furnished by the merit service commission, all subordinate peace officers in his department and in like manner fill all vacancies in the same and shall further promote, transfer, demote, suspend or remove peace officers in accordance with the provisions of this act.

~~[(2)]~~ (3) Every peace officer who is serving as such upon the effective date of this act ~~[shall be deemed]~~ is considered fully qualified for such position without examination or test and ~~[deemed]~~ is considered to have been appointed and to hold his position and classification pursuant to the provisions of this act.

~~[(3)]~~ (4) Counties with a population of less than 20,000 people may implement a deputy sheriff's merit system if approved by the county legislative body or the people of the county through referendum or initiative.

Section 3. Section 17-30a-101 is enacted to read:

CHAPTER 30a. PEACE OFFICER MERIT SYSTEM IN COUNTIES OF THE FIRST CLASS ACT

Part 1. General Provisions

17-30a-101. Title.

(1) This chapter is known as "Peace Officer Merit System in Counties of the First Class Act."

(2) This part is known as "General Provisions."

Section 4. Section 17-30a-102 is enacted to read:

17-30a-102. Definitions.

(1) "Appointing authority" means the county sheriff or the chief executive officer of a police interlocal entity.

(2) "Commission" means the merit system commission consisting of three persons appointed in accordance with Section 17-30a-202.

(3) “Department” means a county sheriff’s office or a police interlocal entity.

(4) “Legislative body” means the county legislative body or the governing body of the police interlocal entity.

(5) “Merit system officer” means a peace officer who has merit status as defined in this chapter.

(6) “Peace officer” means a paid deputy sheriff or law enforcement officer, other than a chief deputy or other exempt appointed officer designated by the appointing authority, who is in the continuous employ of the appointing authority.

(7) “Police interlocal entity” means an interlocal entity, as defined in Section 11-13-103, created:

(a) under Title 11, Chapter 13, Interlocal Cooperation Act, by an agreement to which a county of the first class is a party; and

(b) to provide law enforcement service to an area that includes the unincorporated part of the county.

Section 5. Section 17-30a-103 is enacted to read:

17-30a-103. Application.

This chapter applies to a county of the first class or a police interlocal entity in which a county of the first class is a party to an interlocal agreement to provide law enforcement service.

Section 6. Section 17-30a-104 is enacted to read:

17-30a-104. Subordinate officers appointed, reappointed -- Officers serving on effective date considered qualified.

(1) The appointing authority of a county or police interlocal entity subject to this chapter that regularly employs one or more peace officers shall:

(a) appoint a peace officer with the advice and consent of the county legislative body or police interlocal entity governing body, subject to the rules and regulations of the commission;

(b) appoint each subordinate peace officer;

(c) fill a vacancy in the department; and

(d) further promote, transfer, reassign, reappoint, demote, suspend, or remove a peace officer in accordance with the provisions of this chapter.

(2) The commission shall adopt rules governing the appointment of peace officers through reappointment of a former employee who separated in good standing, within one year after separation.

(3) A peace officer appointed before May 13, 2014, is considered to have been appointed to and hold the officer’s position and classification pursuant to the provisions of this chapter.

Section 7. Section 17-30a-201 is enacted to read:

Part 2. Merit System Commission Powers and Duties

17-30a-201. Title.

This part is known as “Merit System Commission Powers and Duties.”

Section 8. Section 17-30a-202 is enacted to read:

17-30a-202. Establishment of merit commission -- Appointment, qualifications, and compensation of members.

(1) (a) Except as provided in Subsection (1)(b), a county subject to this chapter shall establish a merit system commission consisting of three appointed members:

(i) two members appointed by the legislative body of the county; and

(ii) one member appointed by the governing body of a police interlocal entity.

(b) If there is no police interlocal entity within the county, the county legislative body shall appoint all three members of a commission described in Subsection (1)(a).

(c) No more than two members of the commission may be affiliated with or members of the same political party.

(d) (i) Of the original appointees described in Subsection (1)(a) or (b), one member shall be appointed for a term ending February 1 of the first odd-numbered year after the date of appointment, and one each for terms ending two and four years thereafter.

(ii) For a term subsequent to a term described in Subsection (1)(d), a commission member shall hold a term of six years.

(e) If an appointed position described in Subsection (1)(a) or (b) is vacated for a cause other than expiration of the member’s term, the position is filled by appointment for the unexpired portion of the term only.

(2) A member of the commission:

(a) shall be a resident of the state;

(b) for at least five years preceding the date of appointment a resident of:

(i) the county; or

(ii) if applicable, the area served by the police interlocal entity from which appointed; and

(c) may not hold another office or employment with the county or, if applicable, in a municipality served by the police interlocal entity for which the member is appointed.

(3) The county legislative body or interlocal entity governing body may compensate a member for

service on the commission and reimburse the member for necessary expenses incurred in the performance of the member's duties.

Section 9. Section 17-30a-203 is enacted to read:

17-30a-203. General duty of commission.

(1) The commission:

(a) is responsible for carrying out the provisions of this chapter; and

(b) shall make necessary rules and regulations to govern the merit system in accordance with this chapter, including:

(i) adopting merit rules regarding:

(A) appointments and registers;

(B) examinations;

(C) promotions;

(D) reassignments;

(E) reappointments;

(F) disciplinary grievance procedures;

(G) administrative reviews;

(H) recognition of the equivalency of another merit system for the purpose of appointing a peace officer from another agency; and

(I) reductions in force;

(ii) adopting a rule regarding the preparation of a job classification plan; and

(iii) adopting rules necessary for the efficient management of the merit system not specifically enumerated above and not inconsistent with this chapter or applicable law.

(2) Upon the request of the appointing authority and after conducting a public hearing, the commission may temporarily suspend a rule if the suspension is necessary for the proper enforcement of this chapter.

Section 10. Section 17-30a-204 is enacted to read:

17-30a-204. Organization of commission -- Support -- Offices.

(1) The members of the commission shall select one member as chair.

(2) The commission shall adopt rules concerning its internal organization and procedures.

(3) (a) The county sheriff or the chief executive of the police interlocal entity:

(i) shall assign human resources staff sufficient to perform the commission's support duties; and

(ii) may assign other staff to the commission with the consent of the commission.

(b) The county or police interlocal entity shall provide suitable accommodations, supplies, and equipment as needed to enable the commission to attend to its business.

(c) The county sheriff or chief executive of the police interlocal entity may, in accordance with the contracting process established by the county or police interlocal entity, contract support services to third parties.

Section 11. Section 17-30a-205 is enacted to read:

17-30a-205. Comprehensive job classification plan.

(1) The commission shall formulate a comprehensive job classification plan covering all merit system officers employed by the sheriff or by the police interlocal entity.

(2) The plan shall:

(a) place all positions requiring substantially the same duties and qualifications in the same classification;

(b) include minimum physical and educational qualifications of the applicants for each position; and

(c) provide standards for promotion.

(3) In the event a new position is created and approved, the commission shall classify the position in the classification plan.

Section 12. Section 17-30a-206 is enacted to read:

17-30a-206. Oaths and subpoenas -- Witnesses.

(1) (a) A member of the commission, in performance of commission duties, may administer oaths and subpoena witnesses and documents.

(b) If a person refuses to or fails to obey a subpoena issued by a commissioner, the district court may, upon application by a commissioner, compel obedience.

(2) (a) A witness in a proceeding before the commission is subject to all the rights, privileges, duties, and penalties of witnesses in courts of record.

(b) The commission shall pay a witness fee equivalent to those paid for a court of record.

Section 13. Section 17-30a-207 is enacted to read:

17-30a-207. Duty of commission to provide for unspecified activities.

The commission may provide by rule for the operation and functioning of an activity within the purpose and spirit of this chapter if the activity is necessary and proper and not otherwise prohibited by law.

Section 14. Section 17-30a-301 is enacted to read:

Part 3. Merit Officer Conditions of Employment

17-30a-301. Title.

This part is known as "Merit Officer Conditions of Employment."

Section 15. Section 17-30a-302 is enacted to read:

17-30a-302. Examinations -- How prepared, conducted, and graded -- Notice of examination.

(1) (a) If necessary, the commission shall give a competitive examination to determine the qualification of an applicant for a position as a merit system officer.

(b) The commission shall ensure that an examination:

(i) is practical in character; and

(ii) relates to matters that fairly test the mental and physical ability and knowledge of an applicant to discharge the duties of the position.

(c) (i) Except as provided in Subsection (1)(c)(ii), the commission shall direct the preparation, administration, and grading of the examination.

(ii) The commission may direct an impartial special examiner to prepare, administer, and grade the examination on behalf of the commission.

(2) (a) The commission shall publish notice of an examination internally and to the public.

(b) (i) The commission shall design the notice described in Subsection (2)(a) to encourage an applicant to participate in competitive appointments.

(ii) The notice shall set forth minimum qualifications, pay scale, physical and educational requirements, and passing grades.

(c) The commission or the commission's designee shall promptly notify a person of the person's final grade.

Section 16. Section 17-30a-303 is enacted to read:

17-30a-303. Disqualification of applicant for examination -- Appeal to commission.

(1) In accordance with this section and rules adopted by the commission, an applicant may be disqualified if the applicant:

(a) does not meet minimum qualifications;

(b) has been convicted of a criminal offense inimical to the public service or involving moral turpitude;

(c) has practiced or attempted deception or fraud in the application or examination process or in securing eligibility for appointment; or

(d) is not a citizen of the United States.

(2) If an applicant is rejected, the applicant shall be promptly notified.

(3) At any time prior to the date of examination, an applicant may correct a defect in the applicant's application.

(4) An applicant may file a written appeal regarding the application process with the commission at any time before the date of the exam.

Section 17. Section 17-30a-304 is enacted to read:

17-30a-304. Preservation and inspection of examination papers.

(1) (a) Examination papers and related documents are the property of the commission and the commission shall preserve them until the expiration of the eligible register for which an examination is given.

(b) Preservation of examination papers and related documents after the time period described in Subsection (1)(a) is subject to a retention schedule adopted by the commission.

(2) (a) Except as provided in Subsection (2)(b), examination papers and related documents are not open to public inspection without a court order.

(b) An applicant may inspect the applicant's own papers at any time within 30 days after the commission sends notice of the applicant's grade.

(c) The appointing authority may inspect the papers of any eligible applicant certified for appointment.

Section 18. Section 17-30a-305 is enacted to read:

17-30a-305. Preparation and expiration of eligible appointment register.

(1) Upon completion of an examination, the commission shall prepare and adopt an eligible appointment register containing the names of applicants receiving a passing grade ranked in the order of grades earned, beginning with the highest.

(2) (a) An eligible appointment register shall expire not later than two years after the date of the examination unless the commission, for good reason, extends the time not to exceed one additional year.

(b) If the commission adopts a new eligible appointment register, a previous appointment register for the same class or position is cancelled.

Section 19. Section 17-30a-306 is enacted to read:

17-30a-306. Appointments from eligible appointment register -- Failure to accept appointment.

(1) If the appointment of a peace officer is an appointment based on an examination, the appointing authority shall request that the commission certify eligible applicants for each position.

(2) (a) The commission shall certify, to the appointing authority, a number of names equal to three times the number of allocations being filled.

(b) The names of the applicants shall be ranked in order of examination score, beginning with the name of the applicant standing highest on the eligible appointment register.

(3) The appointing authority shall select a person described in Subsection (2)(b) and appoint one person to each open position.

(4) If a certified applicant fails to accept a proffered appointment, the applicant:

(a) may request in writing that the applicant be able to retain the applicant's place on the eligible appointment register; and

(b) shall provide reasons sufficient, in the judgment of the commission, to justify the applicant's failure to accept.

Section 20. Section 17-30a-307 is enacted to read:

17-30a-307. Probationary period of appointment.

(1) A peace officer appointed under Section 17-30a-306 shall serve a probationary period of 12 consecutive months, during which time the officer may be discharged at the sole discretion of the appointing authority.

(2) (a) At the request of the appointing authority and with the approval of the commission, the probationary period may be extended beyond 12 months for an officer who has not yet satisfactorily completed an approved peace officer training program and received a certificate of completion under Title 53, Chapter 6, Peace Officer Standards and Training Act.

(b) At the request of the appointing authority and with the approval of the commission, the probationary period of an officer may be extended beyond 12 months for good cause shown.

(c) Service under a temporary or part-time appointment is not considered a part of the probationary period.

(3) If a peace officer is retained in a position after the expiration of the probationary period, the officer's retention constitutes appointment to merit status.

(4) A person removed from employment during the probationary period may not be placed on the eligible register again without having passed another regular examination.

(5) The commission may adopt rules governing probationary periods for other appointments, including the appointing or transfer of a peace officer from another jurisdiction.

Section 21. Section 17-30a-308 is enacted to read:

17-30a-308. Vacancies -- Positions requiring special qualifications -- Competition suspended -- Promotion -- Promotional register.

(1) In case of a vacancy in a position requiring peculiar and exceptional qualifications of a scientific, professional, or expert character, and upon satisfactory evidence that competition is impracticable and the position can best be filled by the selection of some designated person of recognized attainments, the commission may, after a public hearing and by unanimous vote, suspend competition regarding that position.

(2) The commission shall report a suspension under Subsection (1) in the commission minutes, together with the reason for suspension.

(3) With the exception of an appointment made in accordance with a commission rule adopted under Subsection 17-30a-203(1)(b)(i)(H), a department shall fill a supervisor vacancy in the merit system classification by promotion insofar as possible.

(4) (a) A department shall make a promotion only after an open competitive examination, admission to which shall be limited to merit system officers.

(b) An examination process described in Subsection (4)(a) shall include consideration of the seniority and competence of the peace officer to perform the duties required in the position for which application is made.

(c) The seniority element of the examination may not exceed 40% of the entire examination score.

(5) (a) After a promotional examination, the commission shall prepare a promotional register that shall take precedence over any previously existing register.

(b) The certified promotional register shall consist of three names for the initial vacancy and one more name for each additional vacancy, ranked in the order of the examination score, beginning with the highest scoring applicant.

Section 22. Section 17-30a-309 is enacted to read:

17-30a-309. Transfer and reassignment.

(1) A merit system officer may be transferred, without examination, from one position to a similar position in the same class and grade within the department.

(2) A merit system officer may be voluntarily reassigned, including to another class and grade, in accordance with rules adopted by the commission.

Section 23. Section 17-30a-310 is enacted to read:

17-30a-310. Temporary and part-time appointment.

(1) A department may appoint an employee to a temporary appointment for a period not exceeding 120 days within any 12 month period.

(2) A temporary employee is not a merit system officer and may be appointed without examination.

(3) A department may appoint an employee to a part-time appointment for a period not to exceed 29 hours per week.

(4) A part-time employee is not a merit system officer and may be appointed without examination.

Section 24. Section 17-30a-311 is enacted to read:

17-30a-311. Temporary layoffs -- Reappointment register.

(1) Subject to Subsections (2) and (3), and if necessary, because of lack of funds or work, a department may temporarily lay off a merit system officer.

(2) A department that lays off a merit system officer under Subsection (1) shall lay off the officer according to the seniority of the officers of the class of positions affected, following the process prescribed by commission rule.

(3) A department shall lay off a person serving under temporary or part-time appointment before a merit system officer.

(4) (a) If a merit system officer is laid off, the department shall place the officer on a reappointment register to be reappointed in the inverse order in which the officer is laid off.

(b) The register described in Subsection (4)(a) takes precedence over all eligible reappointment registers.

Section 25. Section 17-30a-312 is enacted to read:

17-30a-312. Reappointment after temporary leave.

(1) (a) Consistent with rules adopted by the commission and within the appointing authority's discretion, a merit system officer may be granted a temporary leave of absence outside the department.

(b) Leave granted under Subsection (1)(a) is without pay and for a period not to exceed one year.

(c) In accordance with applicable law or ordinance, the appointing authority may reappoint the officer without examination at the end of the leave.

(2) (a) In the event a merit system officer is elected sheriff or is appointed to any merit-exempt position in the department, the officer's merit system status shall automatically be suspended for the period of time the officer remains sheriff or in a merit-exempt appointment.

(b) At the end of the period of election to sheriff or suspension of merit status under Subsection (2)(a), the officer shall be returned to the officer's former position as a merit system officer without examination.

(3) The appointing authority shall authorize any leave required by federal law.

Section 26. Section 17-30a-313 is enacted to read:

17-30a-313. Vacation, sick leave, and other benefits.

For merit system officers, provisions regarding vacation, sick, other leave, or any other employment condition or benefit not covered by this chapter shall be established by:

- (1) applicable law;
- (2) county ordinance or regulation; or
- (3) police interlocal entity rule or regulation.

Section 27. Section 17-30a-314 is enacted to read:

17-30a-314. Prohibitions against political activities -- Penalties.

(1) (a) An officer, employee, or member of a governing body of a county or a police interlocal entity, whether elected or appointed, may not directly or indirectly coerce, command, or advise a merit system officer to pay, lend, or contribute part of the officer's salary or compensation or anything else of value to a party, committee, organization, agency, or person for political purpose.

(b) A county or police interlocal entity officer, employee, or member of a governing body, whether elected or appointed, may not make or attempt to make a merit system officer's personnel status dependent upon the officer's support or lack of support for a political party, committee, organization, agency, or person engaged in a political activity.

(2) Subsection (1) does not apply to political speeches or use of mass communications media for political purposes by a person where a merit system officer is present, unless the purpose and intent of the speaker is to violate this section with direct respect to those merit system officers.

(3) (a) Except as provided in Subsection (3)(b), a merit system officer may not engage in a political activity or solicit political contributions from merit system officers during the hours of employment, or use employer resources at any time for political purposes.

(b) Subsection (3)(a) does not preclude a voluntary contribution by a merit system officer to the party or candidate of the officer's choice.

Section 28. Section 17-30a-401 is enacted to read:

Part 4. Disciplinary Actions and Appeals

17-30a-401. Title.

This part is known as "Disciplinary Actions and Appeals."

Section 29. Section 17-30a-402 is enacted to read:

17-30a-402. Disciplinary charges -- Grounds -- Process.

(1) An appointing authority may demote, suspend, discharge, or reduce a merit system officer's pay for:

- (a) neglect of duty;
- (b) disobedience of a reasonable order;
- (c) misconduct;
- (d) inefficiency or inability to satisfactorily perform assigned duties; or
- (e) an act inimical to public service.

(2) A department may not suspend a merit system officer for more than 176 work hours at one time or for more than 352 work hours in one year.

(3) The appointing authority shall order the demotion, reduction in pay, suspension, or discharge of a merit system officer.

Section 30. Section 17-30a-403 is enacted to read:

17-30a-403. Disciplinary charges -- Appeal to commission -- Hearing -- Findings.

- (1) The appointing authority:
 - (a) may impose disciplinary charges in accordance with a rule, policy, ordinance, or law; and
 - (b) shall serve the merit system officer to be disciplined with a copy of the written charges.
- (2) (a) A disciplined merit system officer may file an appeal of the disciplinary charges with the department, which shall conduct the appeal internally.
- (b) The department shall conduct an appeal in accordance with rules or policies adopted by the appointing authority.
- (3) If the disciplinary charges are sustained on internal appeal, the merit system officer may appeal to the commission in accordance with the provisions of this section and commission rule.
- (4) (a) A merit system officer disciplined in accordance with Subsection (1) may, within 10 calendar days after the internal department appeal decision described in Subsection (2), make an appeal in writing to the commission.
- (b) If the merit system officer fails to make an internal appeal of the disciplinary action, the officer may not appeal to the commission.
- (5) The commission may hear appeals regarding demotion, reduction in pay, suspension, or discharge of a merit system officer for any cause provided in Section 17-30a-402.

(6) In the absence of an appeal, a copy of the charges under Subsection (1) may not be made public without the consent of the officer charged.

- (7) (a) The commission shall:
 - (i) fix a time and place for a hearing on the appeal; and
 - (ii) give notice of the hearing to the parties.
- (b) (i) Except as provided in Subsection (7)(b)(ii), the commission shall hold a hearing under this

Subsection (7) no less than 10 and no more than 90 days after an appeal is filed.

(ii) The commission may hold a hearing more than 90 days after an appeal is filed if:

- (A) the parties agree; or
- (B) the commission finds that the delay is for good cause.

(8) (a) The commission shall hold the hearing in accordance with Title 52, Chapter 4, Open and Public Meetings Act.

(b) Notwithstanding Subsection (8)(a), if the commission proposes to and is authorized to close the hearing to the public in accordance with Title 52, Chapter 4, Open and Public Meetings Act, the commission shall open the meeting to the public if the aggrieved officer requests that the commission open the hearing.

(9) The parties may be represented by counsel at the hearing.

(10) The commission, on its own motion or at the request of the appointing authority, may dismiss an appeal for unjustified delay, removal to a court or other venue, or for other good cause shown.

(11) In resolving an appeal, the commission may sustain, modify, or vacate a decision of the appointing authority.

(12) After the hearing, the commission shall publish a written decision, including findings of fact and conclusions of law, and shall notify each party.

Section 31. Section 17-30a-404 is enacted to read:

17-30a-404. Appeal to Court of Appeals -- Scope of review.

- (1) A person may appeal a final action or order of the commission to the Court of Appeals for review.
- (2) A person shall file a notice of appeal within 30 days of the issuance of the final action or order of the commission.
- (3) The Court of Appeals shall base its review on the record of the commission and for the purpose of determining if the commission has abused its discretion or exceeded its authority.

Section 32. Section 17-30a-501 is enacted to read:

Part 5. Miscellaneous Provisions

17-30a-501. Title.

This part is known as "Miscellaneous Provisions."

Section 33. Section 17-30a-502 is enacted to read:

17-30a-502. More than one chief deputy in larger county departments.

The sheriff, with the consent of the commission and the county legislative body, may appoint more than one chief deputy, deputy chief, or undersheriff.

Section 34. Section 17-33-1 is amended to read:

17-33-1. Title -- Establishment of merit system -- Separate systems for peace

officers and firemen recognized -- Options of small counties.

(1) This chapter shall be known and may be cited as the "County Personnel Management Act."

(2) A merit system of personnel administration for the counties of the state of Utah, their departments, offices, and agencies, except as otherwise specifically provided, is established.

(3) This chapter recognizes the existence of the merit systems for peace officers of the several counties as provided for in Chapter 30, Deputy Sheriffs - Merit System, and Chapter 30a, Peace Officer Merit System in Counties of the First Class Act, and for firemen of the several counties as provided for in Chapter 28, Firemen's Civil Service Commission, and is intended to give county commissions the option of using the provisions of this chapter as a single merit system for all county employees or in combination with these existing systems for firemen and peace officers.

(4) On or after May 6, 2002, any county that has fewer than 200 employees not covered by other merit systems or not exempt under Subsections 17-33-8(1)(b)(i) through (vii) may, at its option, comply with the provisions of this chapter.

(5) Notwithstanding the provisions of Subsection (4), any county which was in compliance with the provisions of this chapter prior to May 6, 2002, shall continue to comply with the provisions of this chapter even though the county may not thereafter meet or exceed the threshold requirements of Subsection (4).

Section 35. Section 53-13-105 is amended to read:

53-13-105. Special function officer.

(1) (a) "Special function officer" means a sworn and certified peace officer performing specialized investigations, service of legal process, security functions, or specialized ordinance, rule, or regulatory functions.

(b) "Special function officer" includes:

(i) state military police;

(ii) constables;

(iii) port-of-entry agents as defined in Section 72-1-102;

(iv) authorized employees or agents of the Department of Transportation assigned to administer and enforce the provisions of Title 72, Chapter 9, Motor Carrier Safety Act;

(v) school district security officers;

(vi) Utah State Hospital security officers designated pursuant to Section 62A-15-603;

(vii) Utah State Developmental Center security officers designated pursuant to Subsection 62A-5-206(9);

(viii) fire arson investigators for any political subdivision of the state;

(ix) ordinance enforcement officers employed by municipalities or counties may be special function officers;

(x) employees of the Department of Natural Resources who have been designated to conduct supplemental enforcement functions as a collateral duty;

(xi) railroad special agents deputized by a county sheriff under Section 17-30-2 or 17-30a-104, or appointed pursuant to Section 56-1-21.5;

(xii) auxiliary officers, as described by Section 53-13-112;

(xiii) special agents, process servers, and investigators employed by city attorneys;

(xiv) criminal tax investigators designated under Section 59-1-206; and

(xv) all other persons designated by statute as having special function officer authority or limited peace officer authority.

(2) (a) A special function officer may exercise that spectrum of peace officer authority that has been designated by statute to the employing agency, and only while on duty, and not for the purpose of general law enforcement.

(b) If the special function officer is charged with security functions respecting facilities or property, the powers may be exercised only in connection with acts occurring on the property where the officer is employed or when required for the protection of the employer's interest, property, or employees.

(c) A special function officer may carry firearms only while on duty, and only if authorized and under conditions specified by the officer's employer or chief administrator.

(3) (a) A special function officer may not exercise the authority of a peace officer until:

(i) the officer has satisfactorily completed an approved basic training program for special function officers as provided under Subsection (4); and

(ii) the chief law enforcement officer or administrator has certified this fact to the director of the division.

(b) City and county constables and their deputies shall certify their completion of training to the legislative governing body of the city or county they serve.

(4) (a) The agency that the special function officer serves may establish and maintain a basic special function course and in-service training programs as approved by the director of the division with the advice and consent of the council.

(b) The in-service training shall consist of no fewer than 40 hours per year and may be conducted by the agency's own staff or by other agencies.

CHAPTER 367**S. B. 2**

Passed March 12, 2014

Approved April 1, 2014

Effective July 1, 2014

**PUBLIC EDUCATION
BUDGET AMENDMENTS**Chief Sponsor: Lyle W. Hillyard
House Sponsor: Melvin R. Brown**LONG TITLE****General Description:**

This bill supplements or reduces appropriations previously provided for school districts, charter schools, and certain state education agencies for the fiscal year beginning July 1, 2014, and ending June 30, 2015, and modifies related budgetary provisions.

Highlighted Provisions:

This bill:

- ▶ provides budget increases and decreases for the use and support of certain state education agencies;
- ▶ provides budget increases and decreases for programs that support school districts and charter schools;
- ▶ provides intent language;
- ▶ establishes the value of the weighted pupil unit for fiscal year 2014–15 at:
 - \$2,726 for the special education and career and technology add-on programs; and
 - \$2,972 for all other programs; and
- ▶ repeals a provision that allows the use of Basic School Program money for special purpose optional programs.

Monies Appropriated in this Bill:

This bill appropriates for fiscal year 2014–15:

- ▶ \$31,000,000 from the Uniform School Fund;
- ▶ \$80,916,200 from the Education Fund; and
- ▶ \$123,024,400 from various sources as detailed in this bill.

Other Special Clauses:

This bill takes effect on July 1, 2014.

Uncodified Material Affected:

REPEALS UNCODIFIED MATERIAL:

**Laws of Utah 1992, Chapter 53, Uncodified
Section 52**

ENACTS UNCODIFIED MATERIAL

*Be it enacted by the Legislature of the state of Utah:***Section 1. Subsection 1(a). Operating and capital budgets -- FY 2015 appropriations for state education agencies, school districts, and charter schools -- Value of the weighted pupil unit.**

(1) (a) The following sums of money are appropriated for the fiscal year beginning July 1, 2014, and ending June 30, 2015.

(b) Under the terms and conditions of Title 63J, Budgeting, the Legislature appropriates the following sums of money from the funds or accounts

indicated for the use and support of state education agencies, school districts, and charter schools.

(c) These sums of money are in addition to any amounts previously appropriated for fiscal year 2015.

(2) The value of each weighted pupil unit (WPU) for fiscal year 2014–15 is increased from the value of the WPU for fiscal year 2014–15 established in H.B. 1, Public Education Base Budget Amendments, and set at:

(a) \$2,726 for:

(i) Special Education – Add-on; and

(ii) Career and Technical Education – Add-on; and

(b) \$2,972 for all other Basic School programs.

BASIC SCHOOL PROGRAM**Item 1**

To Basic School Program	
From Uniform School Fund	\$9,000,000
From Uniform School Fund, One-time	\$22,000,000
From Education Fund	\$88,950,300
From Education Fund, One-time	(\$22,000,000)
From Local Revenue	\$2,617,700
From Revenue Transfers	(\$54,504,000)
From Beginning Nonlapsing Appropriation Balances	\$29,504,000
From Closing Nonlapsing Appropriation Balances	\$25,000,000
Schedule of Programs:	
Kindergarten (1,197 WPUs)	\$5,602,800
Grades 1 – 12 (9,292 WPUs)	\$67,462,000
Necessarily Existent Small Schools	\$683,100
Professional Staff (418 WPUs)	\$5,083,800
Administrative Costs (5 WPUs)	\$124,400
Special Education – Add-on (2,287 WPUs)	\$10,971,500
Special Education – Preschool (163 WPUs)	\$1,184,500
Special Education – Self-contained (76 WPUs)	\$1,263,100
Special Education – Extended School Year (6 WPUs)	\$48,700
Special Education – State Programs (36 WPUs)	\$316,600
Career and Technical Education – Add-on (416 WPUs)	\$3,096,300
Class Size Reduction (651 WPUs)	\$4,731,200

RELATED TO BASIC PROGRAMS**Item 2**

To Related to Basic Programs – Related to Basic School Programs	
From Education Fund	\$23,347,800
From Education Fund, One-time	\$9,000,000
From Interest and Dividends Account	\$8,870,700
From Revenue Transfers	(\$4,398,600)
From Beginning Nonlapsing Appropriation Balances	\$4,398,600
Schedule of Programs:	

To and From School – Pupil Transportation	\$2,929,400
Enhancement for At-Risk Students	\$992,100
Youth in Custody	\$810,300
Adult Education	\$398,000
Enhancement for Accelerated Students	\$176,000
Concurrent Enrollment	\$377,300
School LAND Trust Program	\$8,870,700
Charter School Local Replacement	\$13,531,600
Charter School Administration	\$965,100
Educator Salary Adjustments	\$2,868,000
Critical Languages and Dual Immersion	\$300,000
Teacher Supplies and Materials	\$5,000,000
Beverly Taylor Sorenson Elementary Arts	\$4,000,000

The Legislature intends that the appropriation for the Flexible Allocation – WPU Distribution Program, as provided in H.B. 1, Public Education Base Budget Amendments, be distributed to school districts and charter schools on the basis of the number of weighted pupil units in a school district or charter school compared to the total number of weighted pupil units and that the State Board of Education provide for the reporting of school district and charter school expenditures of the program money.

The Legislature intends that enrollment in charter schools in the 2015–16 school year may increase up to 8,450 students over the projected enrollment of 66,578 in the 2014–15 school year.

The Legislature intends that up to \$4,101,900 of the appropriation for the Charter School Local Replacement program and up to \$247,100 of the appropriation for the Charter School Administration program be used to fund program related costs for the estimated 2,471 students that may enroll in charter schools approved by the State Board of Education under the provisions outlined in Section 53A-1a-501.9 during the 2014–15 school year. The Legislature further intends that the enrollment in charter schools during the 2014–15 school year may exceed the number authorized in the Laws of Utah 2013, Chapter 313, Section 5, Item 2, by 2,001 students for a total estimated enrollment of 66,578 students.

The Legislature intends that the appropriation for Teacher Supplies and Materials be distributed as follows:

(1) As used in statement of intent, “classroom teacher” or “teacher” means permanent teacher positions filled by one teacher or two or more job-sharing teachers:

- (a) who are licensed personnel;
- (b) who are paid on the teacher’s salary schedule;
- (c) who are hired for an entire contract period; and
- (d) whose primary function is to provide instructional or a combination of instructional and counseling services to students in public schools.

(2) (a) The State Board of Education shall distribute money appropriated for Teacher Supplies and Materials to classroom teachers in school districts, the Utah Schools for the Deaf and the Blind, and charter schools on the basis of the number of classroom teachers in each school as compared to the total number of classroom teachers.

(b) Teachers shall receive up to the following amounts:

(i) a teacher on salary schedule steps one through three teaching in grades kindergarten through 6 or a preschool handicapped class – \$250;

(ii) a teacher on salary schedule steps one through three teaching in grades 7 through 12 – \$200;

(iii) a teacher on salary schedule step four or higher teaching in grades kindergarten through 6 or a preschool handicapped class – \$175; and

(iv) a teacher on salary schedule step four or higher teaching in grades 7 through 12 – \$150.

(c) If the appropriation is not sufficient to provide to each teacher the full amount allowed under Subsection (2)(b), teachers on salary schedule steps one through three shall receive the full amount allowed with the remaining money apportioned to all other teachers.

(3) Teachers shall spend money appropriated for Teacher Supplies and Materials for school supplies, materials, or field trips under rules adopted by the State Board of Education.

VOTED AND BOARD LEEWAY PROGRAMS

Item 3

To Voted and Board Leeway Programs - Voted and Board Local Levy Programs

From Education Fund	(\$23,094,900)
From Local Revenue	\$49,831,700
Schedule of Programs:	
Voted Local Levy Program	\$20,326,200
Board Local Levy Program	\$6,410,600

STATE BOARD OF EDUCATION

Item 4

To State Board of Education - State Office of Education

From Education Fund	\$659,000
From General Fund Restricted - Mineral Lease	\$364,400
Schedule of Programs:	
Board and Administration	\$1,023,400

Item 5

To State Board of Education - Utah State Office of Education - Initiative Programs

From Education Fund	\$3,000,000
From Education Fund, One-time	\$300,000
From General Fund Restricted - Autism Awareness Account	\$5,000
Schedule of Programs:	
Upstart Early Childhood Education	\$3,000,000
Autism Awareness Restricted Account	\$5,000
IT Academy	\$300,000

Item 6

To State Board of Education - State Charter School Board	
From Education Fund	\$354,000
Schedule of Programs:	
State Charter School Board	\$354,000

Item 7

To State Board of Education - Educator Licensing Professional Practices	
From Professional Practices	
Restricted Subfund	\$327,600
Schedule of Programs:	
Educator Licensing	\$327,600

Item 8

To State Board of Education - State Office of Education - Child Nutrition	
From Dedicated Credit - Liquor Tax	\$2,011,000
Schedule of Programs:	
Child Nutrition	\$2,011,000

Item 9

To State Board of Education - Utah Schools for the Deaf and the Blind	
From Education Fund	\$400,000
Schedule of Programs:	
Instructional Services	\$400,000

Subsection 1(b). Expendable Funds and Accounts.

The Legislature has reviewed the following expendable funds. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated. Outlays and expenditures from the recipient funds or accounts may be made without further legislative action according to a fund's or account's applicable authorizing statute.

Item 10

To State Board of Education - Child Nutrition Program Commodities Fund	
From Dedicated Credits Revenue	\$4,800
From Beginning Nonlapsing	
Appropriation Balances	\$400
From Closing Nonlapsing	
Appropriation Balances	\$5,200
Schedule of Programs:	
Child Nutrition Program	
Commodities Fund	\$10,400

Item 11

To State Board of Education - Utah Community Center for the Deaf Fund	
From Dedicated Credits Revenue	\$10,500
From Interest Income	\$200
From Beginning Nonlapsing	
Appropriation Balances	\$30,500
From Closing Nonlapsing	
Appropriation Balances	(\$33,600)
Schedule of Programs:	
Utah Community Center for the Deaf Fund	\$7,600

Item 12

To State Board of Education - Charter School Revolving Account	
--	--

From Interest Income	\$137,800
From Repayments	\$49,000
From Beginning Nonlapsing	
Appropriation Balances	\$6,494,200
From Ending Fund Balance	(\$6,681,000)

Item 13

To State Board of Education - School Building Revolving Account	
From Repayments	\$127,200
From Beginning Nonlapsing	
Appropriation Balances	\$9,468,200
From Ending Fund Balance	(\$9,595,400)

Item 14

To State Board of Education - Education Tax Check-off Lease Refunding	
From Trust and Agency Funds	\$28,300
From Beginning Nonlapsing	
Appropriation Balances	\$31,200
From Closing Nonlapsing	
Appropriation Balances	(\$24,200)
Schedule of Programs:	
Education Tax Check-off	
Lease Refunding	\$35,300

Item 15

To State Board of Education - Schools for the Deaf and Blind Donation Fund	
From Dedicated Credits Revenue	\$56,300
From Interest Income	\$1,600
From Beginning Nonlapsing	
Appropriation Balances	\$351,800
From Closing Nonlapsing	
Appropriation Balances	(\$389,300)
Schedule of Programs:	
Schools for the Deaf and Blind	
Donation Fund	\$20,400

Item 16

To State Board of Education - Utah Public Education Foundation	
From Trust and Agency Funds	\$20,000
Schedule of Programs:	
Utah Public Education Foundation	\$20,000

Subsection 1(c). Transfers to Unrestricted Funds.

The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General, Education, or Uniform School Fund as indicated from the restricted funds or accounts indicated. Expenditures and outlays from the General, Education, or Uniform School Fund must be authorized elsewhere in an appropriations act.

TRANSFERS TO UNRESTRICTED FUNDS**Item 17**

To Education Fund	
From Nonlapsing Balances - MSP - Basic Program	\$54,504,000
From Nonlapsing Balances - MSP - Related to Basic Program	\$4,398,600
Schedule of Programs:	
Education Fund, One-time	\$58,902,600

The Legislature intends that the Division of Finance transfer \$54,504,000 or the unreserved, unencumbered balance in the Basic School Program, whichever is less, from the Basic School

Program to the Education Fund one-time at the close of fiscal year 2015.

Section 2. Repealer.

This bill repeals:

Laws of Utah 1992, Chapter 53, Uncodified Section 52, Special purpose optional monies.

Section 3. Effective date.

This bill takes effect on July 1, 2014.

CHAPTER 368**S.B. 3**

Passed March 12, 2014

Approved April 1, 2014

Effective April 1, 2014

**CURRENT FISCAL YEAR
SUPPLEMENTAL APPROPRIATIONS**Chief Sponsor: Lyle W. Hillyard
House Sponsor: Melvin R. Brown**LONG TITLE****Committee Note:**

The Executive Appropriations Committee recommended this bill.

General Description:

This bill supplements or reduces appropriations previously provided for the use and operation of state government for the fiscal year beginning July 1, 2013 and ending June 30, 2014.

Highlighted Provisions:

This bill:

- ▶ provides appropriations for the use and support of higher education and certain state agencies;
- ▶ provides appropriations for other purposes as described; and
- ▶ provides intent language.

Money Appropriated in this Bill:

This bill appropriates (\$48,557,200) in operating and capital budgets for fiscal year 2014, including:

- ▶ (\$99,825,900) from the General Fund;
- ▶ \$50,001,000 from the Education Fund;
- ▶ \$1,267,700 from various sources as detailed in this bill.

This bill appropriates \$114,200 in expendable funds and accounts for fiscal year 2014, all of which is from the General Fund.

This bill appropriates \$43,450,100 in business-like activities for fiscal year 2014.

This bill appropriates \$1,150,001 in restricted fund and account transfers for fiscal year 2014, all of which is from the General Fund.

This bill appropriates \$3,053,200 in transfers to unrestricted funds for fiscal year 2014.

Other Special Clauses:

This bill takes effect immediately.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. FY 2014 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2013 and ending June 30, 2014. These are additions to amounts previously appropriated for fiscal year 2014.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Utah Code Title 63J, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use

and support of the government of the State of Utah.

**EXECUTIVE OFFICES
AND CRIMINAL JUSTICE****GOVERNOR'S OFFICE****Item 1**

To Governor's Office

From General Fund, One-time 350,000

From Federal Funds 307,300

Schedule of Programs:

Lt. Governor's Office 657,300

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Governor's Office in Item 1, Chapter 3, Laws of Utah 2013 not lapse at the close of Fiscal Year 2014.

Item 2

To Governor's Office - Public Lands Litigation

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Governor's Office-Public Land Litigation in Item 2, Chapter 405, Laws of Utah 2013 not lapse at the close of Fiscal Year 2014.

Item 3To Governor's Office - Constitutional
Defense Council

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Governor's Office-Constitutional Defense Council in Item 27, Chapter 417, Laws of Utah 2012 not lapse at the close of Fiscal Year 2014.

Item 4

To Governor's Office - Character Education

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Governor's Office-Character Education in Item 2, Chapter 3, Laws of Utah 2013 not lapse at the close of Fiscal Year 2014.

Item 5

To Governor's Office - Emergency Fund

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Governor's Office-Emergency Fund in Item 3, Chapter 3, Laws of Utah 2013 not lapse at the close of Fiscal Year 2014.

Item 6To Governor's Office - Governor's Office
of Management and Budget

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Governor's Office of Management and Budget in Item 4, Chapter 3, Laws of Utah 2013 not lapse at the close of Fiscal Year 2014.

Item 7To Governor's Office - Commission on Criminal and
Juvenile Justice

From Federal Funds 400,000
 Schedule of Programs:
 CCJJ Commission 400,000

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Commission on Criminal and Juvenile Justice Services in Item 7, of Chapter 3, Laws of Utah 2013 not lapse at the close of fiscal year 2014.

OFFICE OF THE STATE AUDITOR

Item 8

To Office of the State Auditor - State Auditor

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the State Auditor in Item 9, Chapter 3, Laws of Utah 2013 not lapse at the close of Fiscal Year 2014.

It is the intent of the Legislature that the State Auditor continue to identify additional opportunities to use market-based billing practices to improve client preparedness and responsiveness, increase staff efficiency, enhance cost transparency, and expand billing uniformity.

STATE TREASURER

Item 9

To State Treasurer

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the State Treasurer in Item 10, Chapter 3, Laws of Utah 2013 not lapse at the close of fiscal year 2014.

ATTORNEY GENERAL

Item 10

To Attorney General

From General Fund, One-time (50,000)
 From Federal Funds 165,400
 Schedule of Programs:

Criminal Prosecution 115,400

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Attorney General in Item 11, of Chapter 3, Laws of Utah 2013 not lapse at the close of fiscal year 2014.

Item 11

To Attorney General - Contract Attorneys

From General Fund, One-time 774,000
 Schedule of Programs:

Contract Attorneys 774,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Attorney General - Contract Attorneys in Item 12, Chapter 3, Laws of Utah 2013 not lapse at the close of fiscal year 2014.

Item 12

To Attorney General - Children's Justice Centers

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations

provided for the Attorney General - Children's Justice Centers in Item 13, Chapter 3, Laws of Utah 2013 not lapse at the close of fiscal year 2014.

Item 13

To Attorney General - Prosecution Council

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Utah Prosecution Council in Item 14, Chapter 3, Laws of Utah 2013 not lapse at the close of fiscal year 2014.

UTAH DEPARTMENT OF CORRECTIONS

Item 14

To Utah Department of Corrections - Programs and Operations

From General Fund, One-time 2,766,300
 From Federal Funds 101,100
 Schedule of Programs:

Department Executive Director (733,700)
 Institutional Operations Draper

Facility 3,601,100

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the appropriations provided for Programs and Operations not lapse at the close of Fiscal Year 2014.

Item 15

To Utah Department of Corrections - Department Medical Services

From General Fund, One-time 500,000
 Schedule of Programs:

Medical Services 500,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the appropriations provided for the Utah Department of Corrections Department Medical Services not lapse at the close of Fiscal Year 2014.

Item 16

To Utah Department of Corrections - Jail Contracting

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the appropriations provided for the Utah department of Corrections Jail Contracting not lapse at the end of Fiscal Year 2014.

BOARD OF PARDONS AND PAROLE

Item 17

To Board of Pardons and Parole

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$200,000 provided for the Board of Pardons and Parole in Item 19 of Chapter 3 Laws of Utah 2013 not lapse at the close of Fiscal Year 2014. The use of any nonlapsing funds shall be limited to: Capital Equipment or Improvements; Computer Equipment, Software or Programming; Employee Training or Incentives; Special Projects or Studies; Offender Psychological Testing or Risk Assessments; Office Equipment or Office Supplies.

**DEPARTMENT OF HUMAN SERVICES -
DIVISION OF JUVENILE JUSTICE
SERVICES**

Item 18

To Department of Human Services - Division of
Juvenile Justice Services - Programs and
Operations
From Federal Funds 75,000
Schedule of Programs:
Community Programs 75,000

Under Section 63J-1-603 of the Utah Code,
the Legislature intends that appropriations
provided by Item 20, Chapter 3, Laws of Utah
2013 for the Division of Juvenile Justice
Services not lapse at the close of Fiscal Year
2014. The use of any non-lapsing funds is
limited to expenditures for data processing
and technology based expenditures, facility
repairs and maintenance and improvements,
other charges and pass through
expenditures, and short-term projects and
studies that promote efficiency and service
improvement.

**JUDICIAL COUNCIL/
STATE COURT ADMINISTRATOR**

Item 19

To Judicial Council/State Court Administrator -
Administration
From General Fund, One-time 300,000
Schedule of Programs:
Administrative Office 300,000

Under Section 63-J-1-603 of the Utah
Code, the Legislature intends that
appropriations of up to \$2,800,000 provided
for Administration in Item 21 of Chapter 3
Laws of Utah 2013 not lapse at the close of
Fiscal Year 2014. The use of any unused funds
is limited to Computer Equipment/ Software,
Employee Training/Incentives, Equipment/
Supplies, Special Projects/Studies,
Temporary Employees, Juvenile Community
Service Programs, Senior Judge Assistance,
Grant Match, and Law Library Fund Carry
Forward.

Item 20

To Judicial Council/State Court Administrator -
Grand Jury

Under Section 63J-1-603 of the Utah Code,
the Legislature intends that appropriations
provided for Grand Jury in Item 22 of Chapter
3 Laws of Utah 2013 not lapse at the close of
Fiscal Year 2014.

Item 21

To Judicial Council/State Court Administrator -
Contracts and Leases

Under Section 63-J-1-603 of the Utah
Code, the Legislature intends that
appropriations of up to \$250,000 provided for
Contracts and Leases in Item 23 of Chapter 3
Laws of Utah 2013 not lapse at the close of
Fiscal Year 2014. The use of any unused funds
is limited to Alterations, Renovations, and
Improvements.

Item 22

To Judicial Council/State Court Administrator -
Jury and Witness Fees
From General Fund, One-time 861,700
Schedule of Programs:
Jury, Witness, and Interpreter 861,700

Under Section 63J-1-603 of the Utah Code,
the Legislature intends that appropriations
provided for Juror, Witness, and Interpreter
in Item 24 of Chapter 3 Laws of Utah 2013 not
lapse at the close of Fiscal Year 2014.

Item 23

To Judicial Council/State Court Administrator -
Guardian ad Litem
From General Fund, One-time 150,000
Schedule of Programs:
Guardian ad Litem 150,000

Under Section 63-J-1-603 of the Utah
Code, the Legislature intends that
appropriations of up to \$500,000 provided for
Guardian ad Litem in Item 25 of Chapter 3
Laws of Utah 2013 not lapse at the close of
Fiscal Year 2014. The use of any unused funds
is limited to Computer Equipment/ Software,
Management System Programming,
Employee Training/Incentives, Equipment/
Supplies, and Time-limited Employees.

DEPARTMENT OF PUBLIC SAFETY

Item 24

To Department of Public Safety -
Programs & Operations
From General Fund, One-time 628,000
From Federal Funds 195,000
Schedule of Programs:
CITS State Crime Labs 405,000
Highway Patrol - Field Operations 190,000
Information Management -
Operations 228,000

Under Section 63-J-1-603 of the Utah
Code, the Legislature intends that
appropriations of up to \$6,000,000 from the
Statewide Unified E-911 Emergency Service
Account, \$4,500,000 from dedicated credits,
and \$9,000,000 from General Fund and
General Fund restricted provided for
Programs and Operations in Item 26 of
Chapter 3 Laws of Utah 2013 not lapse at the
close of Fiscal Year 2014. The use of any
unused funds is limited to facility
construction, capital equipment or
improvements, computer equipment/
software/programming, law enforcement
overtime, employee training, equipment and
supplies, grant obligations, operations, and
concealed firearms permit carry forward.

The Legislature intends that Public Safety
is allowed to increase its fleet by 2 vehicles
due to the expansion of State Bureau of
Investigation Agents funded during the 2013
General Session and 2 vehicles for the Fire
Marshal's office 1 to tow training trailers and
1 for an additional deputy fire marshal.
Funding for the vehicles will be provided from
nonlapsing balances.

The legislature intends that Public Safety be allowed to increase its fleet by the number of additional law enforcement officers approved and funded by the legislature in the current session.

Item 25

To Department of Public Safety -
Emergency Management
From Federal Funds 950,000
Schedule of Programs:
Emergency Management 950,000

The Legislature intends that up to \$500,000 of the appropriations provided for Emergency Management in Item 27 of Chapter 3 Laws of Utah 2013 not lapse at the close of Fiscal Year 2014. The use of any unused funds is limited to search and rescue reimbursement, computer equipment/software/programming, employee training, and equipment and supplies.

Item 26

To Department of Public Safety - Division of Homeland Security - Emergency and Disaster Management

The Legislature intends that appropriations provided for the Emergency and Disaster line item created in Emergency and Disaster Management Amendments (House Bill 139, 2010 General Session) not lapse at the close of fiscal year 2014.

Item 27

To Department of Public Safety - Peace Officers' Standards and Training
From General Fund, One-time 400,000
Schedule of Programs:
Basic Training 400,000

The Legislature intends that up to \$500,000 of the appropriations provided for Peace Officers Standards and Training in Item 29 of Chapter 3 Laws of Utah 2013 not lapse at the close of Fiscal Year 2014. The use of any unused funds is limited to computer equipment/software/programming, employee training, and equipment and supplies.

Item 28

To Department of Public Safety - Driver License
From Federal Funds 539,000
From Department of Public Safety
Restricted Account 1,500,000
Schedule of Programs:
Driver Services 2,039,000

The Legislature intends that up to \$500,000 of the appropriations from the Uninsured Motorist Identification Restricted Account provided for Driver License in Item 30 of Chapter 3 Laws of Utah 2013 not lapse at the close of Fiscal Year 2014. The use of any unused funds is limited to the uninsured motorist database program.

Item 29

To Department of Public Safety - Highway Safety
The Legislature intends that up to \$50,000 of the appropriations provided for Highway

Safety in Item 31 of Chapter 3 Laws of Utah 2013 not lapse at the close of Fiscal Year 2014. The use of any unused funds is limited to computer equipment/software/programming, employee training, and equipment and supplies.

**INFRASTRUCTURE AND
GENERAL GOVERNMENT**

TRANSPORTATION

Item 30

To Transportation - Support Services

Under terms of Section 63J-1-603-(3)(a) Utah Code Annotated the Legislature intends that appropriations provided for Support Services in item 1 of Chapter 4 Laws of Utah 2013 not lapse at the close of Fiscal Year 2014. The use of any non-lapsing funds is limited to the following: Computer Software Development Projects \$300,000 and Building Improvements - \$200,000.

It is the intent of the Legislature to effectuate the purposes of Section 63B-18-401(3)(b)(x) for an energy corridor study and environmental review for improvements in the Uintah Basin, that the UDOT continue the direction and funding of the Uintah Basin Transportation study which began in 2014 with \$3 million provided to the Department under Section 72-2-124.

Item 31

To Transportation - Engineering Services
From Transportation Fund 171,400
Schedule of Programs:
Materials Lab 79,400
Right-of-Way 92,000

Under terms of Section 63J-1-603-(3)(a) Utah Code Annotated the Legislature intends that appropriations provided for Engineering Services in item 2 of Chapter 4 Laws of Utah 2013 not lapse at the close of Fiscal Year 2014. The use of any non-lapsing funds is limited to the following: Special Projects and Studies - \$300,000.

Item 32

To Transportation - Operations/
Maintenance Management

Under terms of Section 63J-1-603-(3)(a) Utah Code Annotated the Legislature intends that appropriations provided for Operations/Maintenance in item 3 of Chapter 4 Laws of Utah 2013 not lapse at the close of Fiscal Year 2014. The use of any non-lapsing funds is limited to the following: Highway Maintenance - \$2,000,000.

Item 33

To Transportation - Region Management
From Transportation Fund (171,400)
Schedule of Programs:
Region 2 (171,400)

Under terms of Section 63J-1-603-(3)(a) Utah Code Annotated the Legislature intends that appropriations provided for

Region Management in item 5 of Chapter 4 Laws of Utah 2013 not lapse at the close of Fiscal Year 2014. The use of any non-lapsing funds limited to the following: Region Management \$200,000.

Item 34

To Transportation - Equipment Management

Under terms of Section 63J-1-603-(3)(a) Utah Code Annotated the Legislature intends that appropriations provided for Equipment Management in item 6 of Chapter 4 Laws of Utah 2013 not lapse at the close of Fiscal Year 2014. The use of any non-lapsing funds limited to the following: Equipment Purchases \$200,000.

DEPARTMENT OF ADMINISTRATIVE SERVICES

Item 35

To Department of Administrative Services - Executive Director

Under Section 63J-1-603 of the Utah Code the Legislature intends that appropriations provided for Executive Director in Item 13 of Chapter 4 Laws of Utah 2013 not lapse at the close of Fiscal Year 2014. The use of any nonlapsing funds is limited to the following: up to \$95,000 for customer service and Department optimization projects, shared services, IT security auditing and prevention, internal auditing, website maintenance, and marketing; up to \$60,000 for Child Welfare Parental Defense expenses.

Item 36

To Department of Administrative Services - Inspector General of Medicaid Services

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Inspector General for Medicaid Services in Item 5 Chapter 3 Laws of Utah 2013 not lapse at the close of Fiscal Year 2014. The use of any nonlapsing funds is limited to the following: up to \$587,000 to monitor compliance with State and Federal Regulations and implement measures to identify, prevent and reduce fraud, waste and abuse and monitor the quality and reliability of Utah Medicaid providers' service delivery and accuracy of billing.

Item 37

To Department of Administrative Services - DFCM Administration

From Revenue Transfers (28,600)
From Capital Projects Fund 32,100
From Pass-through (3,500)

Under Section 63J-1-603 of the Utah Code the Legislature intends that appropriations provided for DFCM Administration in Item 15 of Chapter 4 Laws of Utah 2013 not lapse at the close of Fiscal Year 2014. The use of any nonlapsing funds is limited to the following: up to \$500,000 for information technology projects, customer service, optimization

efficiency projects, time limited FTE and Governor's Mansion maintenance; up to \$500,000 for Energy Program operations.

The Legislature intends that the Division of Facilities and Construction Management report monthly to the Natural Resources, Agriculture, and Environment Interim Committee and the Government Operations Interim Committee progress related to the development of the master plan for the State Fairpark and the surrounding area. The Legislature further intends that the Master Plan be completed by June 30th, 2014.

Item 38

To Department of Administrative Services - State Archives

From Dedicated Credits Revenue 126,000
Schedule of Programs:
Preservation Services 126,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for State Archives in Item 16 of Chapter 4 Laws of Utah 2013 not lapse at the close of Fiscal Year 2014. The use of any nonlapsing funds is limited to the following: up to \$50,000 for regional repository program support, electronic archives preservation and management.

Item 39

To Department of Administrative Services - Finance Administration

From Dedicated Credits Revenue 500,000
Schedule of Programs:
Financial Information Systems 500,000

Under Section 63J-1-603 of the Utah Code the Legislature intends that appropriations provided for Finance Administration in Item 17 of Chapter 4 Laws of Utah 2013 not lapse at the close of Fiscal Year 2014. The use of any nonlapsing funds is limited to the following: up to \$2,600,000 for maintenance and operation of statewide systems and websites, studies, training, and information technology support and hardware.

The Legislature intends that the Division of Finance research the funds in Fund 8020, Finance Suspense Fund and determine which funds, if any, are unencumbered and which funds are legally obligated. The Legislature furthermore intends that upon this determination, the Division of Finance transfer the funds accordingly to lawful recipient entities.

Item 40

To Department of Administrative Services - Post Conviction Indigent Defense

From General Fund, One-time 100,000
Schedule of Programs:
Post Conviction Indigent Defense
Fund 100,000

Under Section 63J-1-603 of the Utah Code the Legislature intends that appropriations provided for Post Conviction Indigent Defense in Item 20 of Chapter 4 Laws of Utah 2013 not lapse at the close of Fiscal Year 2014.

The use of any nonlapsing funds is limited to the following: up to \$150,000 for Legal costs for death row inmates.

Item 41

To Department of Administrative Services - Judicial Conduct Commission

Under Section 63J-1-603 of the Utah Code the Legislature intends that appropriations provided for Judicial Conduct Commission in Item 21 of Chapter 4 Laws of Utah 2013 not lapse at the close of Fiscal Year 2014. The use of any nonlapsing funds is limited to the following: up to \$80,000 for professional services for Investigations.

DEPARTMENT OF TECHNOLOGY SERVICES

Item 42

To Department of Technology Services - Chief Information Officer

From Federal Funds 566,700

Schedule of Programs:

Chief Information Officer 566,700

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Department of Technology Services - Chief Information Officer, in Item 23, Chapter 4, Laws of Utah 2013, shall not lapse at the close of FY 2014. The use of any nonlapsing funds is limited to the following: up to \$30,000 for data processing costs associated with optimization initiatives.

Item 43

To Department of Technology Services - Integrated Technology Division

From Federal Funds (620,800)

Schedule of Programs:

Automated Geographic Reference Center (620,800)

Under Section 63J-1-603 of the Utah Code the Legislature intends that appropriations provided for the Department of Technology Services - Integrated Technology Division, in Item 24, Chapter 4, Laws of Utah 2013, shall not lapse at the close of FY 2014. The use of any nonlapsing funds is limited to the following: up to \$500,000 for Geographic Reference Center projects and \$75,000 for Global Positioning System Reference Network upgrades and maintenance.

STATE BOARD OF BONDING COMMISSIONERS - DEBT SERVICE

Item 44

To State Board of Bonding Commissioners - Debt Service - Debt Service

From General Fund, One-time (1,140,800)

From Education Fund, One-time 64,300

From Transportation Investment Fund of 2005 10,452,600

From Federal Funds (1,224,000)

From Dedicated Credits Revenue (228,600)

From County of First Class State Hwy Fund 24,300

From Revenue Transfers 1,098,200

From Revenue Transfers -

Other Funds (1,051,400)

From Beginning Nonlapsing

Appropriation Balances 5,750,100

From Closing Nonlapsing Appropriation

Balances (6,600,800)

Schedule of Programs:

Debt Service 7,143,900

The Legislature intends that in the event that sequestration or other federal action reduces the anticipated Build America Bond subsidy payments that are deposited into the Debt Service line item as federal funds, the Division of Finance, acting on behalf of the State Board of Bonding Commissioners, shall reduce the appropriated transfer from Nonlapsing Balances - Debt Service to the General Fund, One-time proportionally to the reduction in subsidy payment received, thus holding the Debt Service fund harmless.

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF HERITAGE AND ARTS

Item 45

To Department of Heritage and Arts - Administration

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$537,800 of any remaining amount of the \$2,960,600 ongoing General Fund appropriation provided by Item 1, Chapter 2, Laws of Utah 2013 for the Department of Heritage and Arts - Administration not lapse at the close of Fiscal Year 2014. These funds will be used for digitization projects and maintenance.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$116,900 of any remaining amount of the \$2,960,600 ongoing General Fund appropriation provided by Item 1, Chapter 2, Laws of Utah 2013 for the Department of Heritage and Arts - Administration not lapse at the close of Fiscal Year 2014. These funds will be used for application development rate payments to DTS.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$254,100 of the funds provided in Item 1, Chapter 2, Laws of Utah 2013, for the Department of Heritage and Arts - Multicultural Commission not lapse at the close of Fiscal Year 2014.

Item 46

To Department of Heritage and Arts - Historical Society

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the \$102,400 in Dedicated Credits provided by Item 2, Chapter 2, Laws of Utah 2013 for the Department of Heritage and Arts - Historical Society not lapse at the close of Fiscal Year 2014.

Item 47

To Department of Heritage and Arts - State History

From General Fund, One-time 65,000
 Schedule of Programs:
 Library and Collections 65,000

Item 48

To Department of Heritage and Arts -
 Division of Arts and Museums
 From General Fund, One-time 100,000
 Schedule of Programs:
 Grants to Non-profits 100,000

Item 49

To Department of Heritage and Arts - State Library
 Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$300,000 of the \$4,277,600 ongoing General Fund provided by Item 6, Chapter 2, Laws of Utah 2013 for the Department of Heritage and Arts - State Library not lapse at the close of Fiscal Year 2014. The State Library shall use the funds for CLEF grants in FY 2015.

Item 50

To Department of Heritage and Arts -
 Indian Affairs
 Under Section 63J-1-603 of the Utah Code, the Legislature intends that any remaining amount of the \$205,700 ongoing General Fund and \$25,000 Dedicated Credit appropriation provided by Item 7, Chapter 2, Laws of Utah 2013 for the Department of Heritage and Arts - Indian Affairs not lapse at the close of Fiscal Year 2014.

**GOVERNOR'S OFFICE OF
 ECONOMIC DEVELOPMENT**

Item 51

To Governor's Office of Economic
 Development - Administration
 From Federal Funds 800,000
 Schedule of Programs:
 Administration 800,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Governor's Office of Economic Development Administration in Laws of Utah 2013, Chapter 2, Item 8 shall not lapse at the close of FY 2014. The use of any nonlapsing funds is limited to system management enhancements: \$200,000; business marketing efforts: \$230,000; and health system reform: \$600,000.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Governor's Office of Economic Development Administration in Laws of Utah 2013, Chapter 173, Section 6 shall not lapse at the close of FY 2014. The use of any nonlapsing funds is limited to implementation of SB 284, Educational Technology Amendments, of the 2013 General Session: \$930,000.

Item 52

To Governor's Office of Economic Development -
 STEM Action Center
 From Dedicated Credits Revenue 1,500,000

Schedule of Programs:
 STEM Action Center 1,500,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the STEM Action Center, in Laws of Utah 2013, Chapter 336, Section 9(4)(b) and (5)(b) shall not lapse at the close of FY 2014.

Item 53

To Governor's Office of Economic Development -
 Office of Tourism

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Governor's Office of Economic Development Office of Tourism, in Laws of Utah 2013, Chapter 2, Item 9 shall not lapse at the close of FY 2014. The use of any nonlapsing funds is limited to contractual obligations and support: \$350,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Motion Picture Incentive Fund, in Laws of Utah 2013, Chapter 28, Section 12(14) shall not lapse at the close of FY 2014. The use of any non-lapsing funds is limited to \$810,000.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Tourism Marketing Performance Fund in Laws of Utah 2013, Chapter 314, Item 132 not lapse at the close of FY 2014. The use of any nonlapsing funds is limited to advertising and promotion: \$5,000,000.

Item 54

To Governor's Office of Economic Development -
 Business Development
 From General Fund, One-time 60,000
 Schedule of Programs:
 Corporate Recruitment and Business
 Services 60,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Governor's Office of Economic Development Business Development, Laws of Utah 2013, Chapter 2, Item 10 shall not lapse at the close of FY 2014. The use of any nonlapsing funds is limited to Business Cluster support: \$50,000; Business Resource Centers: \$300,000; Technology Commercialization and Innovation Program contracts: \$2,400,000; International Development contracts and support: \$200,000; Procurement and Technical Assistance Center contracts: \$150,000; Rural Development contracts and support: \$200,000; and Corporate Recruitment contracts and support: \$75,000.

Item 55

To Governor's Office of Economic Development -
 Pete Suazo Utah Athletics Commission

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Pete Suazo Utah Athletic Commission in Laws of Utah 2013, Chapter 2,

Item 11 shall not lapse at the close of Fiscal Year 2014. The use of any nonlapsing funds is limited to the Pete Suazo Utah Athletic Program: \$154,200.

UTAH STATE TAX COMMISSION

Item 56

To Utah State Tax Commission - Tax Administration
 From Federal Funds 21,800
 Schedule of Programs:
 Auditing Division 21,800

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Utah State Tax Commission not lapse at the close of Fiscal Year 2014. The use of any nonlapsing funds is limited to the costs directly related to the modernization of tax and motor vehicle systems and processes.

UTAH SCIENCE TECHNOLOGY AND RESEARCH GOVERNING AUTHORITY

Item 57

To Utah Science Technology and Research Governing Authority
 From General Fund, One-time (56,000)
 From Federal Funds 80,000
 From Dedicated Credits Revenue 5,800
 Schedule of Programs:
 Administration (56,000)
 Technology Outreach 85,800

Item 58

To Utah Science Technology and Research Governing Authority - Utah Science Technology and Research Governing Authority Research Teams
 From General Fund, One-time 56,000
 Schedule of Programs:
 Utah State University 56,000

LABOR COMMISSION

Item 59

To Labor Commission
 From General Fund, One-time 300,000
 From General Fund Restricted - Industrial Accident Restricted Account 100,000
 Schedule of Programs:
 Industrial Accidents 400,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Labor Commission in Item 19, Chapter 2, Laws of Utah 2013, shall not lapse at the close of FY 2014. Such nonlapsing funds shall be used for computer projects.

DEPARTMENT OF COMMERCE

Item 60

To Department of Commerce - Commerce General Regulation
 Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Office of Consumer Services in Item 20 of Chapter 2, Laws of Utah 2013,

lapse to the Offices' Professional and Technical Services Fund at the close of Fiscal Year 2014.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Department of Commerce, Division of Public Utilities in Item 20 of Chapter 2, Laws of Utah 2013, lapse to the Divisions' Professional and Technical Services Fund at the close of Fiscal Year 2014.

Item 61

To Department of Commerce - Building Inspector Training

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Building Codes Education Funds received by the Division of Occupational and Professional Licensing under the authority of Section 15A-1-209-5 of the Utah Code Item 21 of Chapter 2, Laws of Utah 2013, shall not lapse at the close of Fiscal Year 2014.

Item 62

To Department of Commerce - Public Utilities Professional and Technical Services

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Division of Public Utilities Technical Services Fund in Item 22 of Chapter 2, Laws of Utah 2013, shall not lapse at the close of Fiscal Year 2014.

Item 63

To Department of Commerce - Office of Consumer Services Professional and Technical Services

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Professional and Technical Services Fund of the Office of Consumer Services in Item 23 of Chapter 2, Laws of Utah 2013, shall not lapse at the close of Fiscal Year 2014.

INSURANCE DEPARTMENT

Item 64

To Insurance Department - Insurance Department Administration
 From Federal Funds 383,000
 From Dedicated Credits Revenue 8,600
 From General Fund Restricted - Technology Development 1,000
 Schedule of Programs:
 Administration 383,000
 Insurance Fraud Program 8,600
 Electronic Commerce Fee 1,000

PUBLIC SERVICE COMMISSION

Item 65

To Public Service Commission
 Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Public Service Commission Administration in Item 31, Chapter 2, Laws of Utah 2013, shall not lapse at the close of FY 2014. The use of any nonlapsing funds is

limited to maintenance, upgrades, and licensing for the Public Service Commission's document management system, computer equipment and software upgrades, employee training and incentives, and special projects/studies.

Item 66

To Public Service Commission - Speech and Hearing Impaired

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Public Service Commission for Speech and Hearing Impaired programs in Item 32, Chapter 2 Laws of Utah 2013 shall not lapse at the close of Fiscal Year 2014. The use of any nonlapsing funds is limited to providing telecommunication devices, equipment and for the general administration costs of the program as described in Title 54-8b-10.

SOCIAL SERVICES

DEPARTMENT OF HEALTH

Item 67

To Department of Health - Executive Director's Operations

The Legislature intends that the Department of Health prepare proposed performance measures for all new state funding or TANF federal funds for building blocks and give this information to the Office of the Legislative Fiscal Analyst by June 30, 2014. The Department of Health shall provide its first report on its performance measures to the Office of the Legislative Fiscal Analyst by October 31, 2014. The Office of the Legislative Fiscal Analyst shall give this information to the legislative staff of the Health and Human Services Interim Committee. If the new money will go to a pass through entity, the Department of Health shall work with each pass through entity to provide the same performance measure information.

Item 68

To Department of Health - Family Health and Preparedness
From Federal Funds (5,000,000)
Schedule of Programs:
Director's Office (5,000,000)

Item 69

To Department of Health - Disease Control and Prevention
From Federal Funds 2,468,900
Schedule of Programs:
Laboratory Operations and Testing 2,468,900

Item 70

To Department of Health - Children's Health Insurance Program
From General Fund, One-time (4,000,000)
From Federal Funds (15,147,900)

Schedule of Programs:

Children's Health Insurance Program (19,147,900)

Item 71

To Department of Health - Medicaid Mandatory Services
From General Fund, One-time (23,578,200)
From Federal Funds (249,200)
From General Fund Restricted - Medicaid Restricted Account 41,400

Schedule of Programs:

Inpatient Hospital (62,000,000)
Managed Health Care 122,480,000
Nursing Home 1,000,000
Outpatient Hospital (9,600,000)
Physician Services (9,700,000)
Crossover Services (900,000)
Medical Supplies (1,500,000)
State-run Primary Care Case Management (515,000)
Other Mandatory Services (63,051,000)

Item 72

To Department of Health - Medicaid Optional Services
From General Fund, One-time (26,993,200)
From Federal Funds 227,600
Schedule of Programs:

Pharmacy (23,400,000)
Home and Community Based Waiver Services (7,701,900)
Capitated Mental Health Services .. (4,500,000)
Intermediate Care Facilities for Intellectually Disabled (4,500,000)
Dental Services 4,800,000
Clawback Payments 3,000,000
Disproportionate Hospital Payments (8,825,200)
Vision Care (200,000)
Other Optional Services 14,561,500

DEPARTMENT OF WORKFORCE SERVICES

Item 73

To Department of Workforce Services - Administration

The Legislature intends that the Department of Workforce Services prepare proposed performance measures for all new state funding or TANF federal funds for building blocks and give this information to the Office of the Legislative Fiscal Analyst by June 30, 2014. The Department of Workforce Services shall provide its first report on its performance measures to the Office of the Legislative Fiscal Analyst by October 31, 2014. The Office of the Legislative Fiscal Analyst shall give this information to the legislative staff of the Health and Human Services Interim Committee. If the new money will go to a pass through entity, the Department of Workforce Services shall work with each pass through entity to provide the same performance measure information.

Item 74

To Department of Workforce Services - Operations and Policy

From General Fund, One-time (3,791,900)
 From Federal Funds 2,230,000
 From Federal Funds - American Recovery
 and Reinvestment Act (3,000,000)
 From Unemployment Compensation
 Fund 3,000,000
 From Closing Nonlapsing Appropriation
 Balances (1,830,200)
 Schedule of Programs:
 Facilities and Pass-Through 38,100
 Eligibility Services (3,430,200)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$330,200 of savings above \$800,000 from affordable care act mandatory changes not lapse at the close of FY 2014. The use of any nonlapsing funds is limited to respite care provided by the Department of Human Services in FY 2015.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$1,500,000 of savings above \$3,030,000 from savings from higher federal match rate for certain Medicaid eligibility systems maintenance and operations not lapse at the close of FY 2014. The use of any nonlapsing funds is limited to replacing the Medicaid Management Information System in the Department of Health in FY 2015.

Item 75

To Department of Workforce
 Services - Unemployment Insurance
 From Federal Funds - American Recovery
 and Reinvestment Act (500,000)
 From Unemployment Compensation
 Fund 500,000

DEPARTMENT OF HUMAN SERVICES

Item 76

To Department of Human Services -
 Executive Director Operations
 From General Fund, One-time 38,000
 Schedule of Programs:
 Fiscal Operations 38,000

The Legislature intends that the Department of Human Services prepare proposed performance measures for all new state funding or TANF federal funds for building blocks and give this information to the Office of the Legislative Fiscal Analyst by June 30, 2014. The Department of Human Services shall provide its first report on its performance measures to the Office of the Legislative Fiscal Analyst by October 31, 2014. The Office of the Legislative Fiscal Analyst shall give this information to the legislative staff of the Health and Human Services Interim Committee. If the new money will go to a pass through entity, the Department of Human Services shall work with each pass through entity to provide the same performance measure information.

Item 77

To Department of Human Services - Division
 of Substance Abuse and Mental Health
 From General Fund, One-time (30,000)

Schedule of Programs:
 State Hospital (30,000)

Item 78

To Department of Human Services - Division
 of Child and Family Services
 From General Fund, One-time (3,200,000)
 Schedule of Programs:
 Service Delivery (1,500,000)
 Out-of-Home Care (1,700,000)

STATE BOARD OF EDUCATION

Item 79

To State Board of Education - State
 Office of Rehabilitation

The Legislature intends that the Utah State Office of Rehabilitation prepare proposed performance measures for all new state funding or TANF federal funds for building blocks and give this information to the Office of the Legislative Fiscal Analyst by June 30, 2014. The Utah State Office of Rehabilitation shall provide its first report on its performance measures to the Office of the Legislative Fiscal Analyst by October 31, 2014. The Office of the Legislative Fiscal Analyst shall give this information to the legislative staff of the Health and Human Services Interim Committee. If the new money will go to a pass through entity, the Utah State Office of Rehabilitation shall work with each pass through entity to provide the same performance measure information.

HIGHER EDUCATION

UNIVERSITY OF UTAH

Item 80

To University of Utah - Education and General
 From General Fund, One-time (50,000,000)
 From Education Fund, One-time 50,000,000

UTAH STATE UNIVERSITY

Item 81

To Utah State University - Education and General
 From Education Fund, One-time (63,300)
 Schedule of Programs:
 Education and General (63,300)

**NATURAL RESOURCES, AGRICULTURE,
 AND ENVIRONMENTAL QUALITY**

DEPARTMENT OF NATURAL RESOURCES

Item 82

To Department of Natural
 Resources - Administration
 From General Fund, One-time 1,400,000
 Schedule of Programs:
 Executive Director 1,400,000

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for DNR Administration in Item 1, Chapter 8, Laws of Utah 2013, shall not lapse at the close of FY 2014. Expenditures of these funds are limited

to: Capital Projects \$25,000; Operating Budget Items \$200,000.

Item 83

To Department of Natural Resources - Species Protection
From General Fund Restricted - Species Protection 210,000
Schedule of Programs:
Species Protection 210,000

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Species Protection program in Item 2, Chapter 8, Laws of Utah 2013, shall not lapse at the close of FY 2014. Expenditures of these funds are limited to projects started in 2014: \$200,000.

Item 84

To Department of Natural Resources - Watershed
Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Watershed program in Item 4, Chapter 8, Laws of Utah 2013, shall not lapse at the close of FY 2014. Expenditures of these funds are limited to projects started in 2014: \$700,000.

Item 85

To Department of Natural Resources - Forestry, Fire and State Lands
From General Fund, One-time (1,400,000)
From General Fund Restricted - Sovereign Land Management 2,000,000
Schedule of Programs:
Project Management 600,000

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Division of Forestry, Fire, and State Lands in Item 5, Chapter 8, Laws of Utah 2013, shall not lapse at the close of FY 2014. Expenditures of these funds are limited to: Sovereign Lands Projects and Fire Training \$200,000; Bear River Migratory Bird Refuge Dispute \$100,000; Little Willow Water Line \$32,000; Navigational Hazards Removal \$20,000; Lands Maintenance \$50,000; Information Database \$110,000; Jordan River Assessment \$35,000; Bear River Baseline \$45,000.

Item 86

To Department of Natural Resources - Oil, Gas and Mining
From General Fund Restricted - Oil & Gas Conservation Account 50,000
Schedule of Programs:
Oil and Gas Program 50,000

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Division of Oil, Gas, and Mining in Item 6, Chapter 8, Laws of Utah 2013, shall not lapse at the close of FY 2014. Expenditures of these funds are limited to: Mining Special Projects/Studies \$250,000; Computer Equipment/Software

\$50,000; Employee Training/Incentives \$50,000; Equipment/Supplies \$50,000.

Item 87

To Department of Natural Resources - Wildlife Resources
From General Fund, One-time 245,000
Schedule of Programs:
Aquatic Section 245,000

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Wildlife Resources line item in Item 7, Chapter 8, Laws of Utah 2013, shall not lapse at the close of FY 2014. Expenditures of these funds are limited to projects funded from the Mule Deer Protection Restricted Account \$300,000; and projects funded from the Predator Control Restricted Account \$300,000.

The Legislature intends that up to \$180,000 be spent on livestock damage. \$90,000 will be from the General Fund and up to \$90,000 will be from the General Fund Restricted - Wildlife Resources account.

The Legislature intends that up to \$700,000 of Wildlife Resources budget may be used for big game depredation expenses. The Legislature also intends that half of these funds be from the General Fund Restricted - Wildlife Resources account and half from the General Fund. The Legislature further intends that this appropriation shall not lapse at the close of FY 2014.

The Legislature intends that the \$245,000 appropriation for quagga mussel containment not lapse at the close of FY 2014.

Item 88

To Department of Natural Resources - Wildlife Resources Capital Budget

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Wildlife Resources Capital line item in Item 12, Chapter 8, Laws of Utah 2013, shall not lapse at the close of FY 2014. Expenditures of these funds are limited to Operations and Maintenance of the Hatchery Systems in the state: \$649,400.

Item 89

To Department of Natural Resources - Parks and Recreation
From General Fund, One-time (50,000)
Schedule of Programs:
Park Management Contracts (50,000)

Item 90

To Department of Natural Resources - Utah Geological Survey
From General Fund Restricted - Mineral Lease 58,500
Schedule of Programs:
Energy and Minerals 58,500

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Utah Geological Survey in Item 15, Chapter 8,

Laws of Utah 2013, shall not lapse at the close of FY 2014. Expenditures of these funds are limited to: Mineral Lease Projects \$1,500,000; Computer Equipment/Software \$60,000; Equipment/Supplies \$40,000; Employee Training/Incentives \$30,000.

Item 91

To Department of Natural Resources - Water Resources
From General Fund, One-time 400,000
Schedule of Programs:
Administration 400,000

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Division of Water Resources in Item 16, Chapter 8, Laws of Utah 2013, shall not lapse at the close of FY 2014. Expenditures of these funds are limited to: Computer Equipment/Software \$30,000; Equipment/Supplies \$20,000; Special Projects/Studies \$100,000; Water Conservation Materials/Education \$25,000; Current Expenses \$25,000.

Item 92

To Department of Natural Resources - Water Rights
Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Division of Water Rights in Item 17, Chapter 8, Laws of Utah 2013, shall not lapse at the close of FY 2014. Expenditures of these funds are limited to: Equipment/Supplies \$60,000; Professional/Technical \$190,000, Special Projects/Studies \$200,000, Computer Equipment/Software \$60,000, Employee Training/Incentives \$30,000, Current Expenses \$60,000

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 93

To Department of Environmental Quality - Executive Director's Office
From Closing Nonlapsing Appropriation
Balances 30,000
Schedule of Programs:
Executive Director's Office 30,000

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Executive Directors Office in Item 18, Chapter 8, Laws of Utah 2013, shall not lapse at the close of FY 2014. Expenditures of these funds are limited to high level nuclear waste opposition \$127,400; capital improvements/maintenance and equipment \$350,000; administrative law judge \$150,000.

Under the terms of 63J-1-603 of the Utah Code, notwithstanding Item 109, Chapter 422, Laws of Utah 2012, the Legislature intends that the Department of Environmental Quality may spend \$39,000 from FY 2013 nonlapsing balances for the

purpose of an audit of software licenses during FY 2014.

Item 94

To Department of Environmental Quality - Air Quality

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Division of Air Quality in Item 19, Chapter 8, Laws of Utah 2013, shall not lapse at the close of FY 2014. Expenditures of these funds are limited to reducing future operating permit fees \$100,000.

Item 95

To Department of Environmental Quality - Radiation Control
From Dedicated Credits Revenue 14,400
From Nonlapsing Balances - DEQ Executive Director's Office 30,000
Schedule of Programs:
Radiation Control 44,400

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Division of Radiation Control in Item 21, Chapter 8, Laws of Utah 2013, shall not lapse at the close of FY 2014. Expenditures of these funds are limited to radioactive monitoring/testing equipment \$30,000.

Item 96

To Department of Environmental Quality - Water Quality

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Division of Water Quality in Item 22, Chapter 8, Laws of Utah 2013, shall not lapse at the close of FY 2014. Expenditures of these funds are limited to water pollution control equipment \$70,000; special studies \$30,000.

Item 97

To Department of Environmental Quality - Drinking Water

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Division of Drinking Water in Item 23, Chapter 8, Laws of Utah 2013, shall not lapse at the close of FY 2014. Expenditures of these funds are limited to equipment \$4,000; special studies and database development \$25,000.

PUBLIC LANDS POLICY COORDINATION OFFICE

Item 98

To Public Lands Policy Coordination Office

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Public Lands Policy Coordination Office in Item 25, Chapter 8, Laws of Utah 2013, shall not lapse at the close of FY 2014. Expenditures of these funds are limited to litigation expenses \$600,000.

The Legislature intends that the Public Lands Policy Coordination Office provide to the Natural Resources, Agriculture, and Environment Interim Committee by May 30, 2014 an itemized schedule and costs for the economic analysis from H.B. 142, 2013 General Session.

The Legislature intends that the Public Lands Policy Coordination Office use up to \$20,000 to secure the compilation of Utah-specific data from the Nevadas Public Land Management Task Force Report and report to the Natural Resources, Agriculture, and Environment Interim Committee by June 30, 2014.

GOVERNOR’S OFFICE

Item 99

To Governor’s Office - Office of Energy Development

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Office of Energy Development in Item 26, Chapter 8, Laws of Utah 2013, shall not lapse at the close of FY 2014. Expenditures of these funds are limited to energy efficiency programs and studies targeting agriculture and transportation, not to exceed \$752,800; programs aimed at accomplishing the Governor’s 10-year strategic energy plan, not to exceed \$200,000.

DEPARTMENT OF AGRICULTURE AND FOOD

Item 100

To Department of Agriculture and Food - Administration
From General Fund, One-time (23,200)
From General Fund Restricted - Horse Racing 3,000
From General Fund Restricted - Livestock Brand 20,200

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the General Administration line item in Item 27, Chapter 8, Laws of Utah 2013, shall not lapse at the close of FY 2014. Expenditures of these funds are limited to: Computer Equipment/Software \$35,000; Employee Training/Incentives \$100,000; Equipment/Supplies \$75,000; Special Projects/Studies \$200,000.

Item 101

To Department of Agriculture and Food - Animal Health

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Animal Health line item in Item 27, Chapter 8, Laws of Utah 2013, shall not lapse at the close of FY 2014. Expenditures of these funds are limited to: Special Projects/Studies \$100,000.

Item 102

To Department of Agriculture and Food - Plant Industry
From Dedicated Credits Revenue 21,000
Schedule of Programs:
Plant Industry 21,000

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Plant Industry line item in Item 27, Chapter 8, Laws of Utah 2013, shall not lapse at the close of FY 2014. Expenditures of these funds are limited to: Capital Equipment or Improvements \$100,000; Computer Equipment/Software \$50,000; Employee Training/Incentives \$90,000; Equipment/Supplies \$100,000; Vehicles \$75,000; Special Projects/Studies \$785,000.

Item 103

To Department of Agriculture and Food - Regulatory Services
From Dedicated Credits Revenue 52,500
Schedule of Programs:
Regulatory Services 52,500

Item 104

To Department of Agriculture and Food - Marketing and Development
From General Fund, One-time 85,400
Schedule of Programs:
Marketing and Development 85,400

The Legislature intends the \$85,400 one-time appropriation from the General Fund for the Utah’s Own appropriation not lapse at the close of FY 2014.

Item 105

To Department of Agriculture and Food - Predatory Animal Control
From General Fund, One-time (8,700)
From General Fund Restricted - Agriculture and Wildlife Damage Prevention 8,700

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Predatory Animal Control in Item 29, Chapter 8, Laws of Utah 2013, shall not lapse at the close of FY 2014. Expenditures of these funds are limited to: Equipment/Supplies \$50,000; Special Projects/Studies \$150,000.

Item 106

To Department of Agriculture and Food - Resource Conservation
From General Fund, One-time (3,500)
From Utah Rural Rehabilitation Loan State Fund 3,500

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Resource Conservation in Item 30, Chapter 8, Laws of Utah 2013, shall not lapse at the close of FY 2014. Expenditures of these funds are limited to: Capital Equipment or Improvements \$30,000; Computer Equipment/Software \$25,000; Employee Training/Incentives \$20,000; Equipment/Supplies \$20,000;

Vehicles \$25,000; Special Projects/Studies \$15,000.

Item 107

To Department of Agriculture and Food - Invasive Species Mitigation

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Invasive Species Mitigation in Item 31, Chapter 8, Laws of Utah 2013, shall not lapse at the close of FY 2014. Expenditures of these funds are limited to invasive species mitigation projects \$1,000,000.

Item 108

To Department of Agriculture and Food - Rangeland Improvement

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Rangeland Improvement in Item 32, Chapter 8, Laws of Utah 2013, shall not lapse at the close of FY 2014. Expenditures of these funds are limited to rangeland improvement projects \$1,346,000.

Item 109

To Department of Agriculture and Food - Utah State Fair Corporation

The Legislature intends that the State Fair Corporation provide monthly reports on their budgets to the chairs of the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee in FY 2014 and FY 2015.

SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION

Item 110

To School and Institutional Trust Lands Administration

From Land Grant Management Fund,
One-time 100,000
Schedule of Programs:
Director 100,000

RETIREMENT AND INDEPENDENT ENTITIES

CAREER SERVICE REVIEW OFFICE

Item 111

To Career Service Review Office

Under terms of Section 63J-1-603-(3)(a) Utah Code Annotated the Legislature intends that appropriations provided for Career Service Review Office in Item 1 of Chapter 9 Laws of Utah 2013 not lapse at the close of fiscal year 2014. The use of any non-lapsing funds is limited to the following: Grievance Resolution - \$30,000.

DEPARTMENT OF HUMAN RESOURCE MANAGEMENT

Item 112

To Department of Human Resource Management - Human Resource Management

From General Fund, One-time 250,000
Schedule of Programs:

Information Technology 250,000

Under terms of Section 63J-1-603-(3)(a) Utah Code Annotated the Legislature intends that appropriations provided for Human Resource Management in item 2 of Chapter 9 Laws of Utah 2013 not lapse at the close of Fiscal Year 2014. The use of any non-lapsing funds is limited to the following: Information Technology and Consulting Services - \$300,000; and DHRM Statewide Management of Liability Training Program - \$50,000.

EXECUTIVE APPROPRIATIONS

UTAH NATIONAL GUARD

Item 113

To Utah National Guard

Under terms of Section 63J-1-603(3)(a) Utah Code Annotated the Legislature intends that appropriations provided for the Utah National Guard in item 1 of Chapter 5 Laws of Utah 2013 not lapse at the close of Fiscal Year 2014. The use of any nonlapsing funds is limited to the following: National Guard Tuition Assistance \$25,000 and Armory Maintenance \$100,000.

DEPARTMENT OF VETERANS' AND MILITARY AFFAIRS

Item 114

To Department of Veterans' and Military Affairs - Veterans' and Military Affairs

Under terms of Section 63J-1-603(3)(a) Utah Code Annotated the Legislature intends that appropriations provided for the Department of Veterans' and Military Affairs in item 2 of Chapter 5 Laws of Utah 2013 not lapse at the close of Fiscal Year 2014. The use of any nonlapsing funds is limited to the following: Cemetery and Memorial Park \$30,000 and Outreach Services \$70,000.

CAPITOL PRESERVATION BOARD

Item 115

To Capitol Preservation Board

From General Fund, One-time 402,400
Schedule of Programs:

Capitol Preservation Board 402,400

Under terms of Section 63J-1-603(3)(a) Utah Code Annotated the Legislature intends that appropriations provided for the Capitol Preservation Board in item 3 of Chapter 5 Laws of Utah 2013 not lapse at the close of Fiscal Year 2014.

LEGISLATURE

Item 116

To Legislature - Senate

From General Fund, One-time 90,000
Schedule of Programs:
Administration 90,000

Item 117

To Legislature - House of Representatives
From General Fund, One-time 1,630,000
Schedule of Programs:
Administration 1,630,000

Item 118

To Legislature - Office of the Legislative
Fiscal Analyst
From General Fund, One-time 500,000
Schedule of Programs:
Administration and Research 500,000

Item 119

To Legislature - Office of Legislative
Research and General Counsel
From General Fund, One-time 892,000
Schedule of Programs:
Administration 892,000

Item 120

To Legislature - Legislative Services
From General Fund, One-time 1,155,800
Schedule of Programs:
Legislative Services 1,155,800

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated. Outlays and expenditures from the recipient funds or accounts may be made without further legislative action according to a fund or account's applicable authorizing statute.

**EXECUTIVE OFFICES
AND CRIMINAL JUSTICE**

GOVERNOR'S OFFICE

Item 121

To Governor's Office - Crime Victim Reparations
Fund
From General Fund, One-time 114,200
Schedule of Programs:
Crime Victim Reparations Fund 114,200

**BUSINESS, ECONOMIC
DEVELOPMENT, AND LABOR**

**GOVERNOR'S OFFICE OF
ECONOMIC DEVELOPMENT**

Item 122

To Governor's Office of Economic
Development - Industrial Assistance Fund

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Industrial Assistance Fund (Fund 1054) in Laws of Utah 2013, Chapter 314, Item 121 be nonlapsing.

PUBLIC SERVICE COMMISSION

Item 123

To Public Service Commission -
Universal Telecommunications Support Fund

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Public Service Commission Universal Telecommunications Service Support Fund in Item 33, Chapter 2, Laws of Utah 2013, shall not lapse at the close of Fiscal Year 2014. The use of any nonlapsing funds is to be used as described in Title 54-8b-15 Universal Public Telecommunications Service Support Fund.

Subsection 1(c). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds as indicated estimated revenue from rates, fees, and other charges. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated.

**EXECUTIVE OFFICES
AND CRIMINAL JUSTICE**

UTAH DEPARTMENT OF CORRECTIONS

Item 124

To Utah Department of Corrections -
Utah Correctional Industries
From Federal Funds 2,000,000
Schedule of Programs:
Utah Correctional Industries 2,000,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the appropriations provided for the Utah Correctional Industries not lapse at the close of Fiscal Year 2014.

**INFRASTRUCTURE AND
GENERAL GOVERNMENT**

**DEPARTMENT OF ADMINISTRATIVE
SERVICES INTERNAL SERVICE FUNDS**

Item 125

To Department of Administrative Services -
Division of Purchasing and General Services

The Legislature intends that the Purchasing & General Services internal service fund Central Mailing Program may add up to three vehicles.

Item 126

To Department of Administrative
Services - Division of Fleet Operations
Authorized Capital Outlay 3,490,600

The Legislature intends that appropriations for Fleet Operations not lapse capital outlay authority granted within Fiscal

Year 2014 for vehicles not delivered by the end of Fiscal Year 2014 in which vehicle purchase orders were issued obligating capital outlay funds.

Item 127

To Department of Administrative Services - Division of Facilities Construction and Management - Facilities Management

The Legislature intends that the DFCM internal service fund may add up to three FTEs and up to two vehicles beyond the authorized level if new facilities come on line or maintenance agreements are requested. Any added FTEs or vehicles will be reviewed and may be approved by the Legislature in the next legislative session.

The Legislature intends that the DFCM internal service fund may collect the following rates from these respective agencies in FY2014: Wasatch Courts \$14,605, Chase Home \$17,428, ICAP \$12,469, Vernal DNR \$59,481, Clearfield Warehouse C6 Archives \$138,210, and Clearfield Warehouse C7 \$65,150.

DEPARTMENT OF TECHNOLOGY SERVICES INTERNAL SERVICE FUNDS

Item 128

To Department of Technology Services - Agency Services
 From Dedicated Credits -
 Intragovernmental Revenue 41,450,100
 Schedule of Programs:
 ISF - Agency Services Division 41,450,100

Subsection 1(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts among the following funds or accounts as indicated. Expenditures and outlays from the recipient funds must be authorized elsewhere in an appropriations act.

INFRASTRUCTURE AND GENERAL GOVERNMENT

FUND AND ACCOUNT TRANSFERS

Item 129

To Fund and Account Transfers - General Fund Budget Reserve Account
 From General Fund, One-time 1,000,001
 Schedule of Programs:
 General Fund Budget Reserve Account 1,000,001

SOCIAL SERVICES

FUND AND ACCOUNT TRANSFERS

Item 130

To Fund and Account Transfers - Automatic External Defibrillator Account
 From General Fund, One-time 150,000
 Schedule of Programs:
 GFR - Automatic External Defibrillator Account 150,000

Subsection 1(e). Transfers to Unrestricted Funds. The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General, Education, or Uniform School Fund as indicated from the restricted funds or accounts indicated. Expenditures and outlays from the General, Education, or Uniform School Fund must be authorized elsewhere in an appropriations act.

INFRASTRUCTURE AND GENERAL GOVERNMENT

TRANSFERS TO UNRESTRICTED FUNDS

Item 131

To General Fund
 From Debt Service 1,051,400
 From Purchasing and General Services
 Internal Service Fund 100,000
 From Capital Project Fund -
 Contingency Reserve 3,000,000
 From Nonlapsing Balances -
 Debt Service (1,098,200)
 Schedule of Programs:
 General Fund, One-time 3,053,200

Section 2. Effective Date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override.

CHAPTER 369**S. B. 17**

Passed February 12, 2014

Approved April 1, 2014

Effective May 13, 2014

WATER AND IRRIGATION AMENDMENTS

Chief Sponsor: Margaret Dayton

House Sponsor: Keith Grover

LONG TITLE**General Description:**

This bill amends Title 73, Chapter 2, State Engineer - Division of Water Rights, Chapter 3, Appropriation, and Chapter 5, Administration and Distribution, by modifying provisions relating to the appropriation and distribution of water.

Highlighted Provisions:

This bill:

- ▶ expands the enforcement powers of the state engineer;
- ▶ amends requirements relating to the recording of an instrument transferring or assigning a water right;
- ▶ modifies provisions relating to engaging in well drilling without a license;
- ▶ modifies provisions relating to the relocation or alteration of a natural stream; and
- ▶ amends provisions relating to the duties of the state engineer in the division and distribution of water.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

73-2-25, as last amended by Laws of Utah 2013, Chapter 260

73-3-18, as last amended by Laws of Utah 2013, Chapter 429

73-3-26, as last amended by Laws of Utah 2005, Chapter 215

73-3-29, as last amended by Laws of Utah 2008, Chapter 382

73-5-3, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 73-2-25 is amended to read:****73-2-25. State engineer enforcement powers.**

(1) For purposes of this section, "initial order" means one of the following issued by the state engineer:

- (a) a notice of violation; or
- (b) a cease and desist order.

(2) (a) Except as provided in Subsection (2)(b), the state engineer may commence an enforcement action under this section if the state engineer finds that a person:

(i) is diverting, impounding, or using water for which no water right has been established;

(ii) is diverting, impounding, or using water in violation of an existing water right;

(iii) violates Section 73-5-4;

(iv) violates Section 73-5-9;

(v) violates a written distribution order from the state engineer;

(vi) violates ~~[an order issued under]~~ Section 73-3-29 ~~[regarding the alteration of the bed or bank of a natural stream channel];~~

(vii) violates a notice or order regarding dam safety issued under Chapter 5a, Dam Safety;

(viii) fails to submit a report required by Section 73-3-25; or

(ix) engages in well drilling without a license required by Section 73-3-25.

(b) The state engineer may not commence an enforcement action against a person under Subsection (2)(a)(i), if the person directly captures, or stores, precipitation on the surface of, or under, a parcel owned or leased by the person, including in a catch basin, storm drain pipe, swell, or pond, if the collection or storage:

(i) is consistent with local laws and ordinances;

(ii) does not interfere with an existing water right; and

(iii) is designed to slow, detain, or retain storm water or protect watersheds from pollution with the intention that the precipitation:

(A) absorbs into the ground or is released for discharge; and

(B) is not put to beneficial use.

(c) To commence an enforcement action under this section, the state engineer shall issue an initial order, which shall include:

(i) a description of the violation;

(ii) notice of any penalties to which a person may be subject under Section 73-2-26; and

(iii) notice that the state engineer may treat each day's violation of the provisions listed in Subsection (2)(a) as a separate violation under Subsection 73-2-26(1)(d).

(d) The state engineer's issuance and enforcement of an initial order is exempt from Title 63G, Chapter 4, Administrative Procedures Act.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state engineer shall make rules necessary to enforce an initial order, which shall include:

(a) provisions consistent with this section and Section 73-2-26 for enforcement of the initial order if a person to whom an initial order is issued fails to respond to the order or abate the violation;

(b) the right to a hearing, upon request by a person against whom an initial order is issued; and

(c) provisions for timely issuance of a final order after:

(i) the person to whom the initial order is issued fails to respond to the order or abate the violation; or

(ii) a hearing held under Subsection (3)(b).

(4) A person may not intervene in an enforcement action commenced under this section.

(5) After issuance of a final order under rules made pursuant to Subsection (3)(c), the state engineer shall serve a copy of the final order on the person against whom the order is issued by:

(a) personal service under Utah Rules of Civil Procedure 5; or

(b) certified mail.

(6) (a) The state engineer's final order may be reviewed by trial de novo by the district court in:

(i) Salt Lake County; or

(ii) the county where the violation occurred.

(b) A person shall file a petition for judicial review of the state engineer's final order issued under this section within 20 days from the day on which the final order was served on that person.

(7) The state engineer may bring suit in a court of competent jurisdiction to enforce a final order issued under this section.

(8) If the state engineer prevails in an action brought under Subsection (6)(b) or (7), the state may recover all court costs and a reasonable attorney fee.

Section 2. Section 73-3-18 is amended to read:

73-3-18. Lapse of application -- Notice -- Reinstatement -- Priorities -- Assignment of application -- Filing and recording -- Constructive notice -- Effect of failure to record.

(1) [~~When~~] If an application lapses for failure of the applicant to comply with [~~this title's provisions or the state engineer's order~~] a provision of this title or an order of the state engineer, the state engineer shall promptly give notice of the lapse to the applicant by regular mail.

(2) Within 60 days after notice of a lapse described in Subsection (1), the state engineer may, upon a showing of reasonable cause, reinstate the application with the date of priority changed to the date of reinstatement.

(3) The original priority date of a lapsed application may not be reinstated, except upon a showing of fraud or mistake of the state engineer.

(4) Except as provided in Section 73-3-5.6, Section 73-3-12, Section 73-3-20, or Subsection (2), the priority of an application is determined by the day on which the state engineer's office receives the written application.

(5) Before the state engineer issues a certificate of appropriation, a right claimed under an application for the appropriation of water may be transferred or assigned by a written instrument.

(6) An instrument transferring or assigning a right described in Subsection (5) [~~when acknowledged or proved and certified in the manner provided by law for the acknowledgment or proving of conveyances of real estate, may be filed in the office of the state engineer and shall from time of filing impart notice to all persons~~] shall be recorded in the office of the applicable county recorder to provide notice of the instrument's contents [thereof].

(7) An instrument described in Subsection (6) that is not [~~filed~~] recorded as described in Subsection (6) is void against any subsequent assignee in good faith and for valuable consideration of the same application or any portion of the same application, if the subsequent assignee's own assignment is [~~filed~~] recorded as described in Subsection (6) first.

Section 3. Section 73-3-26 is amended to read:

73-3-26. Violations -- Penalty.

(1) [~~Any~~] A person [~~drilling a well or wells in the state or who advertises or holds himself out as a well driller, or who follows such business, without first having obtained a license as provided by this act or who drills a well or wells after revocation or expiration of his a license theretofore issued, is guilty of a crime punishable under Section 73-2-27 engaged in well drilling, as described in Subsection 73-3-25(1)(c), is guilty of a crime punishable under Section 73-2-27 if the person does not have a current license to engage in well drilling, as provided by this title.~~

(2) Each day that a violation under Subsection (1) continues is a separate offense.

Section 4. Section 73-3-29 is amended to read:

73-3-29. Relocation of natural streams -- Written permit required -- Emergency work -- Violations.

(1) Except as provided in Subsection (2), a state agency, county, city, corporation, or person may not relocate any natural stream channel or alter the beds and banks of any natural stream without first obtaining the written approval of the state engineer.

(2) (a) The state engineer may issue an emergency permit or order to relocate a natural stream channel or alter the beds and banks of a natural stream as provided by this Subsection (2) and Section 63G-4-502.

(b) [~~If~~] Subject to the requirements of this section, a person may take steps reasonably necessary to alleviate or mitigate a threat before a written permit is issued if an emergency situation arises which involves:

(i) immediate or actual flooding [~~and~~]; or

~~(ii) threatens [injury or damage to persons or property, steps reasonably necessary to alleviate or mitigate the threat may be taken before a written permit is issued subject to the requirements of this section] the health or well-being of a person.~~

(c) (i) If ~~[the]~~ a threat described in Subsection (2)(b) occurs during normal working hours, the state engineer or the state engineer's representative must be notified immediately of the threat. After receiving notification of the threat, the state engineer or the state engineer's representative may orally approve action to alleviate or mitigate the threat.

(ii) If ~~[the]~~ a threat described in Subsection (2)(b) does not occur during normal working hours, action may be taken to alleviate or mitigate the threat and the state engineer or the state engineer's representative shall be notified of the action taken on the first working day following the ~~[work]~~ action.

(d) A written application outlining the action taken or the action proposed to be taken to alleviate or mitigate ~~[the]~~ a threat described in Subsection (2)(b) shall be submitted to the state engineer within two working days following notification of the threat to the state engineer or the state engineer's representative.

(e) (i) The state engineer shall inspect in a timely manner the site where the emergency action was taken.

(ii) After inspection, the state engineer may impose additional requirements, including mitigation measures~~[-, may be imposed]~~.

(f) Adjudicative proceedings following the emergency work shall be informal unless otherwise designated by the state engineer.

(3) An application to relocate any natural stream channel or alter the beds and banks of any natural stream shall be in writing and shall contain the following:

(a) the name and address of the applicant;

(b) a complete and detailed statement of the location, nature, and type of relocation or alteration;

(c) the methods ~~[to be employed]~~ of construction;

(d) the purposes of the application; and

(e) any additional information that the state engineer considers necessary, including~~[-, but not limited to,]~~ plans and specifications ~~[of]~~ for the ~~[proposed]~~ construction of works.

(4) (a) The state engineer shall, without undue delay, conduct investigations that may be reasonably necessary to determine whether the ~~[proposed]~~ relocation or alteration will:

(i) impair vested water rights;

(ii) unreasonably or unnecessarily affect ~~[any]~~ a recreational use or the natural stream environment;

(iii) unreasonably or unnecessarily endanger aquatic wildlife; or

(iv) unreasonably or unnecessarily diminish the natural channel's ability to conduct high flows.

(b) The ~~[application shall be approved]~~ state engineer shall approve the application unless the ~~[proposed]~~ relocation or alteration will:

(i) impair vested water rights;

(ii) unreasonably or unnecessarily adversely affect ~~[any]~~ a public recreational use or the natural stream environment;

(iii) unreasonably or unnecessarily endanger aquatic wildlife; or

(iv) unreasonably or unnecessarily diminish the natural channel's ability to conduct high flows.

(c) The state engineer may approve the application, in whole or in part, with any reasonable terms to protect vested water rights, ~~[any]~~ a public recreational use, the natural stream environment, or aquatic wildlife.

(5) No cost incurred by the applicant, including any cost incurred to comply with the terms imposed by the state engineer, is reimbursable by the Division of Water Rights.

(6) Except as provided in Subsection (2), a person who knowingly or intentionally relocates ~~[any]~~ a natural stream channel, or alters the bed or bank of ~~[any]~~ a natural stream channel without first obtaining the written approval of the state engineer is guilty of a crime punishable under Section 73-2-27.

(7) The state engineer may issue an order for the repair and restoration of the bed and banks of a natural stream channel altered contrary to, or without, a permit issued for that purpose.

Section 5. Section 73-5-3 is amended to read:

73-5-3. Control by engineer of division and distribution under judgments.

(1) The state engineer ~~[and his duly authorized assistants shall carry into effect the judgments of the courts]~~ or the state engineer's designee shall carry into effect a judgment of a court in relation to the division, distribution, or use of water under the provisions of this title.

(2) The state engineer shall ~~[divide, or cause to be divided, the water within any district created under the provisions of this title among the several appropriators entitled thereto in accordance with the right of each respectively, and shall regulate and control, or cause to be regulated and controlled, the use of such water by such closing or partial closing of the head gates, caps, valves or other controlling works of any ditch, canal, pipe, flume, well or tunnel or other means of diversion as will prevent the waste of water or its use in excess of the quantity to which any appropriator is lawfully entitled, and shall regulate, or cause to be regulated, the controlling works of reservoirs in accordance with the provisions of this title. Whenever in pursuance~~

of his duties the state engineer regulates or causes to be regulated any head gate, cap, valve or other controlling works of any ditch, canal, pipe, flume, well or tunnel or other means of diversion or the controlling works of any reservoir, he may attach to such controlling works a written notice, properly dated and signed, setting forth that such controlling works have been properly regulated and are wholly under his control, and such notice shall be a legal notice as to the facts therein contained to all parties interested in the division and distribution of the water of such ditch, canal, pipe, flume, well or tunnel or other means of diversion or reservoir. Whenever the state engineer is required to enter upon private property in order to carry out the provisions of this title and is refused by the owner or possessor of such property such right of entry, he may petition the district court for an order granting such right, and after notice and hearing the court may grant such permission, on security being given to pay all damage caused thereby to the owner of such property.]:

(a) divide water among several appropriators entitled to the water in accordance with the right of each appropriator;

(b) regulate and control the use of the water by closing or partially closing a head gate, cap, valve, or other controlling work of a ditch, canal, pipe, flume, well or tunnel, or other means of diversion to prevent the waste of water or its use in excess of the quantity to which an appropriator is lawfully entitled; and

(c) regulate a controlling work of reservoirs in accordance with the provisions of this title.

(3) (a) If the state engineer regulates a head gate, cap, valve, or other controlling work of a ditch, canal, pipe, flume, well or tunnel, or other means of diversion, or the controlling work of a reservoir, the state engineer may attach to the controlling work a written notice, properly dated and signed, setting forth that the controlling work has been properly regulated and is wholly under the state engineer's control.

(b) The notice provided under Subsection (3)(a) shall be a legal notice, as to the facts contained in the notice, to all parties interested in the division and distribution of the water of the ditch, canal, pipe, flume, well or tunnel, or other means of diversion, or reservoir.

(4) (a) If the state engineer is required to enter upon private property to carry out the provisions of this title and is refused by the owner or possessor of the property the right of entry, the state engineer may petition the district court for an order granting a right of entry.

(b) After notice and hearing the court may grant the state engineer a right of entry, on security given by the state engineer to pay the owner of the property for all damage caused by the entry.

CHAPTER 370**S. B. 19**

Passed March 5, 2014

Approved April 1, 2014

Effective May 13, 2014

**APPOINTMENT AND QUALIFICATION
OF MEMBERS OF THE STATE
TAX COMMISSION**

Chief Sponsor: Howard A. Stephenson

House Sponsor: Ryan D. Wilcox

LONG TITLE**General Description:**

This bill addresses the appointment and qualification of members of the State Tax Commission.

Highlighted Provisions:

This bill:

- ▶ repeals a provision from statute that remains in the Utah Constitution requiring that no more than two members of the State Tax Commission may be from the same political party;
- ▶ amends provisions related to the appointment and qualification of members of the State Tax Commission; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

59-1-201, as enacted by Laws of Utah 1987, Chapter 4

59-1-202, as last amended by Laws of Utah 2010, Chapter 356

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-1-201 is amended to read:**59-1-201. Composition of commission -- Terms -- Removal from office -- Appointment.**

(1) The commission shall be composed of four members appointed by the governor with the consent of the Senate. ~~[No more than two members may belong to the same political party. The]~~

(2) Subject to Subsection (3), the term of office of each commissioner shall be for four years and expire on June 30 of the year the term ends. ~~[Terms shall be staggered]~~

(3) The governor shall stagger a term described in Subsection (2) so that the term of one commissioner expires each year. ~~[Each]~~

(4) A commissioner shall hold office until a successor is appointed and qualified. ~~[Any]~~

(5) (a) The governor may remove a commissioner ~~[may, after notice and a hearing, be removed by the governor]~~ from office for neglect of duty,

inefficiency, or malfeasance, after notice and a hearing. ~~[Any replacement]~~

(b) If the governor removes a commissioner from office and appoints another person to replace the commissioner, the person the governor appoints to replace the commissioner:

(i) shall serve for the remainder of the unexpired term; ~~[Any members otherwise qualified shall be eligible for reappointment.];~~ and

(ii) may be reappointed as the governor determines.

(6) (a) Before appointing a commissioner, the governor shall request a list of names of potential appointees from:

(i) the Utah State Bar;

(ii) one or more organizations that represent certified public accountants who are licensed to practice in the state;

(iii) one or more organizations that represent persons who assess or appraise property in the state; and

(iv) one or more national organizations that:

(A) offer a professional certification in the areas of property tax, sales and use tax, and state income tax;

(B) require experience, education, and testing to obtain the certification; and

(C) require additional education to maintain the certification.

(b) In appointing a commissioner, the governor shall consider:

(i) to the extent names of potential appointees are submitted, the names of potential appointees submitted in accordance with Subsection (6)(a); and

(ii) any other potential appointee of the governor's own choosing.

Section 2. Section 59-1-202 is amended to read:**59-1-202. Qualifications of members of commission.**

(1) ~~[Members]~~ Each member of the commission ~~[shall have]:~~

(a) shall have significant tax experience that is relevant to holding office as a commissioner;

(b) shall have knowledge of tax administration or tax compliance; ~~[and]~~

(c) shall have executive and administrative experience; ~~[and]~~

(d) except for one member who has substantial knowledge and expertise in the theory and practice of ad valorem taxation as described in Subsection (2)(a), shall have substantial knowledge and experience in one or more of the following:

(i) the theory and practice of excise taxation;

(ii) the theory and practice of income taxation;

(iii) the theory and practice of sales and use taxation; and

(iv) the theory and practice of corporate taxation.

(2) (a) At least one member of the commission shall have ~~[expertise]~~ substantial knowledge and experience in the theory and practice of ad valorem taxation.

~~[(b) At least one member of the commission shall have substantial knowledge in the theory and practice of excise, income, sales, and corporate taxation.]~~

(b) At least one member of the commission shall have substantial knowledge and experience in the theory and practice of accounting.

(3) The membership of the commission shall represent composite skills in accounting, auditing, property assessment, management, law, and finance.

CHAPTER 371**S. B. 31**

Passed February 12, 2014

Approved April 1, 2014

Effective May 13, 2014

**STATE AGENCY
REPORTING AMENDMENTS**Chief Sponsor: Aaron Osmond
House Sponsor: Rebecca P. Edwards**LONG TITLE****General Description:**

This bill modifies Title 9, Heritage, Arts, Libraries, and Cultural Development; Title 35A, Utah Workforce Services Code; and Title 63M, Chapter 1, Governor's Office of Economic Development, by amending annual agency reporting provisions.

Highlighted Provisions:

This bill:

- ▶ describes annual written reporting requirements for the Department of Heritage and Arts, the Department of Workforce Services, and the Governor's Office of Economic Development;
- ▶ eliminates separate reports to certain legislative committees and instead requires that the information from those reports be included in an annual written report prepared by the Department of Heritage and Arts, the Department of Workforce Services, or the Governor's Office of Economic Development; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 9-1-201, as last amended by Laws of Utah 2013, Chapter 255
- 9-7-217, as last amended by Laws of Utah 2012, Chapter 246
- 9-9-107, as last amended by Laws of Utah 2013, Chapter 255
- 9-9-405, as last amended by Laws of Utah 2013, Chapters 203 and 255
- 35A-1-201, as last amended by Laws of Utah 2013, Chapter 255
- 35A-1-206, as last amended by Laws of Utah 2013, Chapter 255
- 35A-3-116, as last amended by Laws of Utah 2013, Chapters 354 and 400
- 35A-3-203, as last amended by Laws of Utah 2012, Chapters 212 and 246
- 35A-3-206, as last amended by Laws of Utah 2013, Chapter 400
- 35A-3-313, as last amended by Laws of Utah 2012, Chapter 246
- 35A-4-403, as last amended by Laws of Utah 2013, Chapter 315
- 35A-8-307, as last amended by Laws of Utah 2013, Chapter 255

- 35A-8-508, as last amended by Laws of Utah 2012, Chapter 246 and renumbered and amended by Laws of Utah 2012, Chapter 212
- 35A-8-602, as last amended by Laws of Utah 2012, Chapter 242 and renumbered and amended by Laws of Utah 2012, Chapter 212
- 35A-8-721, as last amended by Laws of Utah 2013, Chapter 255
- 35A-8-804, as last amended by Laws of Utah 2012, Chapter 246 and renumbered and amended by Laws of Utah 2012, Chapter 212
- 35A-8-1203, as last amended by Laws of Utah 2012, Chapter 246 and renumbered and amended by Laws of Utah 2012, Chapter 212
- 35A-8-1607, as last amended by Laws of Utah 2013, Chapter 255
- 35A-8-1708, as last amended by Laws of Utah 2013, Chapter 255
- 35A-9-201, as last amended by Laws of Utah 2013, Chapter 255
- 35A-9-305, as enacted by Laws of Utah 2013, Chapter 59
- 63I-4a-203, as renumbered and amended by Laws of Utah 2013, Chapter 325
- 63M-1-201, as last amended by Laws of Utah 2013, Chapter 255
- 63M-1-403, as last amended by Laws of Utah 2012, Chapter 246
- 63M-1-605, as last amended by Laws of Utah 2013, Chapter 255
- 63M-1-704, as last amended by Laws of Utah 2011, Chapter 392
- 63M-1-904, as last amended by Laws of Utah 2012, Chapters 18 and 246
- 63M-1-1103, as last amended by Laws of Utah 2012, Chapter 246
- 63M-1-1206, as last amended by Laws of Utah 2012, Chapter 242
- 63M-1-1304, as last amended by Laws of Utah 2013, Chapter 255
- 63M-1-1404, as last amended by Laws of Utah 2013, Chapter 255
- 63M-1-1606, as last amended by Laws of Utah 2013, Chapter 255
- 63M-1-1805, as last amended by Laws of Utah 2013, Chapter 255
- 63M-1-1901, as last amended by Laws of Utah 2013, Chapter 255
- 63M-1-2006, as last amended by Laws of Utah 2012, Chapter 246
- 63M-1-2406, as last amended by Laws of Utah 2013, Chapters 255 and 392
- 63M-1-2504, as last amended by Laws of Utah 2013, Chapter 255
- 63M-1-2704, as last amended by Laws of Utah 2012, Chapter 246
- 63M-1-2910, as last amended by Laws of Utah 2012, Chapters 246 and 423
- 63M-1-3105, as last amended by Laws of Utah 2013, Chapter 255
- 63M-1-3207, as enacted by Laws of Utah 2013, Chapter 336

ENACTS:

9-1-208, Utah Code Annotated 1953
 35A-1-109, Utah Code Annotated 1953
 63M-1-206, Utah Code Annotated 1953

REPEALS AND REENACTS:

63M-1-3306, as enacted by Laws of Utah 2013,
 Chapter 25

REPEALS:

35A-8-1802, as enacted by Laws of Utah 2012,
 Chapter 212

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 9-1-201 is amended to read:

9-1-201. Department of Heritage and Arts -- Creation -- Powers and duties.

(1) There is created the Department of Heritage and Arts.

(2) The department shall:

(a) be responsible for preserving and promoting the heritage of the state, the arts in the state, and cultural development within the state;

(b) perform heritage, arts, and cultural development planning for the state;

(c) coordinate the program plans of the various divisions within the department;

(d) administer and coordinate all state or federal grant programs which are, or become, available for heritage, arts, and cultural development;

(e) administer any other programs over which the department is given administrative supervision by the governor;

(f) submit~~[, before November 1,]~~ an annual written report to the governor and the Legislature as described in Section 9-1-208; and

(g) perform any other duties as provided by the Legislature.

(3) The department may solicit and accept contributions of money, services, and facilities from any other sources, public or private, but may not use those contributions for publicizing the exclusive interest of the donor.

(4) Money received under Subsection (3) shall be deposited in the General Fund as restricted revenues of the department.

Section 2. Section 9-1-208 is enacted to read:

9-1-208. Annual report -- Content -- Format.

(1) The department shall prepare and submit to the governor and the Legislature, by October 1 of each year, an annual written report of the operations, activities, programs, and services of the department, including its divisions, offices, boards, commissions, councils, and committees, for the preceding fiscal year.

(2) For each operation, activity, program, or service provided by the department, the annual report shall include:

(a) a description of the operation, activity, program, or service;

(b) data selected and used by the department to measure progress, performance, and scope of the operation, activity, program, or service, including summary data;

(c) budget data, including the amount and source of funding, expenses, and allocation of full-time employees for the operation, activity, program, or service;

(d) historical data from previous years for comparison with data reported under Subsections (2)(b) and (c);

(e) goals, challenges, and achievements related to the operation, activity, program, or service;

(f) relevant federal and state statutory references and requirements;

(g) contact information of officials knowledgeable and responsible for each operation, activity, program, or service; and

(h) other information determined by the department that:

(i) may be needed, useful, or of historical significance; or

(ii) promotes accountability and transparency for each operation, activity, program, or service with the public and elected officials.

(3) The annual report shall be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature.

(4) The department shall:

(a) submit the annual report in accordance with Section 68-3-14; and

(b) make the annual report, and previous annual reports, accessible to the public by placing a link to the reports on the department's website.

Section 3. Section 9-7-217 is amended to read:

9-7-217. Reporting.

The division shall ~~[submit an annual written report to the Economic Development and Workforce Services Interim Committee before November 1 regarding]~~ submit a report to the department regarding the compliance of library boards with the provisions of Section 9-7-215 for inclusion in the annual written report described in Section 9-1-208.

Section 4. Section 9-9-107 is amended to read:

9-9-107. Division report.

The ~~[division shall submit, before November 1, an annual written]~~ department shall include a report of ~~[its]~~ the division's operations and recommendations ~~[to:]~~ in the annual written report described in Section 9-1-208.

~~[(1) the department;]~~

~~[(2) the governor; and]~~

~~[(3) the Native American Legislative Liaison Committee created in Section 36-22-1.]~~

Section 5. Section 9-9-405 is amended to read:

9-9-405. Review committee.

(1) There is created a Native American Remains Review Committee.

(2) (a) The review committee shall be composed of seven members as follows:

(i) four Tribal members shall be appointed by the director from nominations submitted by the elected officials of Indian Tribal Nations described in Subsection 9-9-104.5(2)(b); and

(ii) three shall be appointed by the director from nominations submitted by representatives of Utah's repositories.

(b) A member appointed under Subsection (2)(a)(i) shall have familiarity and experience with this part.

(c) (i) A member appointed under Subsection (2)(a)(i) serves at the will of the director, and if the member represents an Indian Tribal Nation, at the will of that Indian Tribal Nation. Removal of a member who represents an Indian Tribal Nation requires the joint decision of the director and the Indian Tribal Nation.

(ii) A member appointed under Subsection (2)(a)(ii) serves at the will of the director, and if the member represents a repository, at the will of the Division of State History. Removal of a member who represents a repository requires the joint decision of the director and the Division of State History.

(d) When a vacancy occurs in the membership for any reason, the director shall appoint a replacement in the same manner as the original appointment under Subsection (2)(a).

(e) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(f) The review committee shall designate one of its members as chair.

(3) The review committee shall:

(a) monitor the identification process conducted under Section 9-9-403 to ensure a fair and objective consideration and assessment of all available relevant information and evidence;

(b) review a finding relating to the following, subject to the rules made by the division under Subsection 9-9-403(6):

(i) the identity or cultural affiliation of Native American remains; or

(ii) the return of Native American remains;

(c) facilitate the resolution of a dispute among Indian Tribal Nations or lineal descendants and state agencies relating to the return of Native American remains, including convening the parties to the dispute if considered desirable;

(d) consult with Indian Tribal Nations on matters within the scope of the work of the review committee affecting these Indian Tribal Nations;

(e) consult with the division in the development of rules to carry out this part;

(f) perform other related functions as the division may assign to the review committee; and

(g) make recommendations, if appropriate, regarding care of Native American remains that are to be repatriated.

(4) A record or finding made by the review committee relating to the identity of or cultural affiliation of Native American remains and the return of Native American remains may be admissible in any action brought under this part.

(5) The appropriate state agency having primary authority over the lands as provided in Chapter 8, Part 3, Antiquities, shall ensure that the review committee has reasonable access to:

(a) Native American remains under review; and

(b) associated scientific and historical documents.

(6) The division shall provide reasonable administrative and staff support necessary for the deliberations of the review committee.

~~(7) The [review committee shall submit, before November 1, an annual written report to the Native American Legislative Liaison Committee, created in Section 36-22-1, on] department shall include in the annual written report described in Section 9-1-208, a description of the progress made, and any barriers encountered, by the review committee in implementing this section during the previous year.~~

Section 6. Section 35A-1-109 is enacted to read:

35A-1-109. Annual report -- Content -- Format.

(1) The department shall prepare and submit to the governor and the Legislature, by October 1 of each year, an annual written report of the operations, activities, programs, and services of the department, including its divisions, offices, boards, commissions, councils, and committees, for the preceding fiscal year.

(2) For each operation, activity, program, or service provided by the department, the annual report shall include:

(a) a description of the operation, activity, program, or service;

(b) data selected and used by the department to measure progress, performance, and scope of the operation, activity, program, or service, including summary data;

(c) budget data, including the amount and source of funding, expenses, and allocation of full-time employees for the operation, activity, program, or service;

(d) historical data from previous years for comparison with data reported under Subsections (2)(b) and (c);

(e) goals, challenges, and achievements related to the operation, activity, program, or service;

(f) relevant federal and state statutory references and requirements;

(g) contact information of officials knowledgeable and responsible for each operation, activity, program, or service; and

(h) other information determined by the department that:

(i) may be needed, useful, or of historical significance; or

(ii) promotes accountability and transparency for each operation, activity, program, or service with the public and elected officials.

(3) The annual report shall be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature.

(4) The department shall:

(a) submit the annual report in accordance with Section 68-3-14; and

(b) make the annual report, and previous annual reports, accessible to the public by placing a link to the reports on the department's website.

Section 7. Section 35A-1-201 is amended to read:

35A-1-201. Executive director -- Appointment -- Removal -- Compensation -- Qualifications -- Responsibilities -- Deputy directors.

(1) (a) The chief administrative officer of the department is the executive director, who is appointed by the governor with the consent of the Senate.

(b) The executive director serves at the pleasure of the governor.

(c) The executive director shall receive a salary established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

(d) The executive director shall be experienced in administration, management, and coordination of complex organizations.

(2) The executive director shall:

(a) administer and supervise the department in compliance with Title 67, Chapter 19, Utah State Personnel Management Act;

(b) supervise and coordinate between the economic service areas and directors created under Chapter 2, Economic Service Areas;

(c) coordinate policies and program activities conducted through the divisions and economic service areas of the department;

(d) approve the proposed budget of each division, the Workforce Appeals Board, and each economic service area within the department;

(e) approve all applications for federal grants or assistance in support of any department program; and

(f) fulfill such other duties as assigned by the Legislature or as assigned by the governor that are not inconsistent with this title.

(3) The executive director may appoint deputy or assistant directors to assist the executive director in carrying out the department's responsibilities.

~~[(4) (a) The executive director shall submit, before November 1, an annual written report to the governor and the Legislature concerning the operations of the department and the programs that the department administers.]~~

~~[(b) If federal law requires that a report to the governor or Legislature be given concerning the department or a program administered by the department, the executive director or the executive director's designee shall make that report.]~~

~~[(5)] (4) The executive director shall at least annually provide for the sharing of information between the advisory councils established under this title.~~

Section 8. Section 35A-1-206 is amended to read:

35A-1-206. State Council on Workforce Services -- Appointment -- Membership -- Terms of members -- Compensation.

(1) There is created a State Council on Workforce Services that shall:

(a) perform the activities described in Subsection (8);

(b) advise on issues requested by the department and the Legislature; and

(c) make recommendations to the department regarding:

(i) the implementation of Chapters 2, Economic Service Areas, 3, Employment Support Act, and 5, Training and Workforce Improvement Act; and

(ii) the coordination of apprenticeship training.

(2) (a) The council shall consist of the following voting members:

(i) a private sector representative from each economic service area as designated by the economic service area director;

(ii) the superintendent of public instruction or the superintendent's designee;

(iii) the commissioner of higher education or the commissioner's designee; and

(iv) the following members appointed by the governor in consultation with the executive director:

(A) four representatives of small employers as defined by rule by the department;

(B) four representatives of large employers as defined by rule by the department;

(C) four representatives of employees or employee organizations, including at least one representative from nominees suggested by public employees organizations;

(D) two representatives of the clients served under this title including community-based organizations;

(E) a representative of veterans in the state;

(F) the executive director of the Utah State Office of Rehabilitation; and

(G) the Applied Technology College president.

(b) The following shall serve as nonvoting ex officio members of the council:

(i) the executive director or the executive director's designee;

(ii) a legislator appointed by the governor from nominations of the speaker of the House of Representatives and president of the Senate;

(iii) the executive director of the Department of Human Services;

(iv) the director of the Governor's Office of Economic Development or the director's designee; and

(v) the executive director of the Department of Health.

(3) (a) The governor shall appoint one nongovernmental member from the council as the chair of the council.

(b) The chair shall serve at the pleasure of the governor.

(4) (a) A member appointed by the governor shall serve a term of four years and may be reappointed to one additional term.

(b) A member shall continue to serve until the member's successor has been appointed and qualified.

(c) Except as provided in Subsection (4)(d), as terms of council members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(d) Notwithstanding the requirements of Subsection (4)(c), the governor shall, at the time of appointment or reappointment, adjust the length of

terms to ensure that the terms of council members are staggered so that approximately one half of the council is appointed every two years.

(e) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(5) A majority of the voting members constitutes a quorum for the transaction of business.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) The department shall provide staff and administrative support to the council at the direction of the executive director.

(8) The council shall:

(a) develop a state workforce services plan in accordance with Section 35A-1-207;

(b) review economic service area plans to certify consistency with state policy guidelines;

(c) improve the understanding and visibility of state workforce services efforts through external and internal marketing strategies;

(d) ~~[submit, before November 1, an annual written report to the governor and the Legislature on]~~ include in the annual written report described in Section 35A-1-109, information and accomplishments related to the activities of the department;

(e) issue other studies, reports, or documents the council considers advisable that are not required under Subsection (8)(d);

(f) coordinate the planning and delivery of workforce development services with public education, higher education, vocational rehabilitation, and human services; and

(g) perform other responsibilities within the scope of workforce services as requested by:

(i) the Legislature;

(ii) the governor; or

(iii) the executive director.

Section 9. Section 35A-3-116 is amended to read:

35A-3-116. Refugee services fund -- Use of money -- Committee and director duties -- Restrictions.

(1) There is created an expendable special revenue fund, known as the "Refugee Services Fund."

(2) The director shall administer the fund with input from the department and any advisory

committee involved with the provision of refugee services within the department.

(3) (a) Money shall be deposited into the fund from legislative appropriations, federal grants, private foundations, and individual donors.

(b) The director shall encourage a refugee who receives services funded under Subsection (8) to be a donor to the fund when the refugee's financial situation improves sufficiently to make a donation.

(4) Except for money restricted to a specific use under federal law or by a donor, the director may not spend money from the fund without the input described in Subsection (2).

(5) The state treasurer shall invest the money in the fund under Title 51, Chapter 7, State Money Management Act, and all interest or other earnings derived from the fund money shall be deposited in the fund.

(6) Money in the fund may not be used by the director for administrative expenses.

(7) If the department establishes a refugee services advisory committee referenced in Subsection (2), the committee may:

(a) advise the director on refugee services needs in the state and on relevant operational aspects of any grant or revenue collection program established under this part;

(b) recommend specific refugee projects to the director;

(c) recommend policies and procedures for administering the fund;

(d) make recommendations on grants made from the fund for refugee services activities authorized under this section;

(e) advise the director on the criteria by which grants from the fund shall be made;

(f) recommend the order approved projects should be funded;

(g) make recommendations regarding the distribution of money from the fund in accordance with federal or donor restrictions; and

(h) have joint responsibility to solicit public and private funding for the fund.

(8) The director may use fund money to:

(a) train an existing refugee organization to develop its capacity to operate professionally and effectively and to become an independent, viable organization; or

(b) provide grants to refugee organizations and other entities identified in Subsection (9) to assist them:

(i) with case management;

(ii) in meeting emergency housing needs for refugees;

(iii) in providing English language services;

(iv) in providing interpretive services;

(v) in finding and maintaining employment for refugees;

(vi) in collaborating with the state's public education system to improve the involvement of refugee parents in assimilating their children into public schools;

(vii) in meeting the health and mental health needs of refugees;

(viii) in providing or arranging for child care services; or

(ix) in administering refugee services.

(9) The director, with the input described in Subsection (2), may grant fund money for refugee services outlined in Subsection (8) through a request for proposal process:

(a) local governments;

(b) nonprofit community, charitable, or neighborhood-based organizations or private for-profit organizations involved with providing or arranging for the provision of refugee services; or

(c) regional or statewide nonprofit organizations.

(10) (a) The director shall enter into a written agreement with each successful grant applicant.

(b) The agreement shall include specific terms for each grant consistent with the provisions of this section, including the structure, amount, and nature of the grant.

(11) The director shall monitor the activities of the recipients of grants issued from the fund on an annual basis to ensure compliance with the terms and conditions imposed on the recipient by the fund.

(12) The director shall require an entity that receives a grant under this section to provide periodic accounting of how the money was used.

(13) ~~The director shall submit an annual written report to the Economic Development and Workforce Services Interim Committee before November 1 regarding~~ As part of the annual written report described in Section 35A-1-109, the director shall report the status of the fund ~~and of~~, including programs and services funded by the fund.

Section 10. Section 35A-3-203 is amended to read:

35A-3-203. Functions and duties of office -- Annual report.

The office shall:

(1) assess critical child care needs throughout the state on an ongoing basis and focus its activities on helping to meet the most critical needs;

(2) provide child care subsidy services for income-eligible children through age 12 and for income-eligible children with disabilities through age 18;

(3) provide information:

(a) to employers for the development of options for child care in the work place; and

(b) for educating the public in obtaining quality child care;

(4) coordinate services for quality child care training and child care resource and referral core services;

(5) apply for, accept, or expend gifts or donations from public or private sources;

(6) provide administrative support services to the committee;

(7) work collaboratively with the following for the delivery of quality child care and early childhood programs, and school age programs throughout the state:

(a) the State Board of Education; and

(b) the Department of Health;

(8) research child care programs and public policy that will improve quality and accessibility and that will further the purposes of the office and child care, early childhood programs, and school age programs;

(9) provide planning and technical assistance for the development and implementation of programs in communities that lack child care, early childhood programs, and school age programs;

(10) provide organizational support for the establishment of nonprofit organizations approved by the Child Care Advisory Committee, created in Section 35A-3-205; and

(11) ~~[submit an annual written report to the Economic Development and Workforce Services Interim Committee before November 1 on] coordinate with the department to include in the annual written report described in Section 35A-1-109 information regarding the status of child care in Utah.~~

Section 11. Section 35A-3-206 is amended to read:

35A-3-206. Child Care Fund -- Use of money -- Committee and director duties -- Restrictions.

(1) There is created an expendable special revenue fund known as the "Child Care Fund."

(2) The director of the office shall administer the fund under the direction of the committee.

(3) (a) The office may form nonprofit corporations or foundations controlled by the director of the office and the committee to aid and assist the office in attaining its charitable, research, and educational objectives.

(b) The nonprofit corporations or foundations may receive and administer Legislative appropriations, government grants, contracts, and private gifts to carry out their public purposes.

(c) Money collected by the nonprofit corporation or foundation may be deposited in the Child Care Fund.

(d) A nonprofit foundation controlled by the director of the office and the committee shall submit to the Division of Finance, within 60 days after the close of the foundation's fiscal year, a financial report summarizing the foundation's financial position and results of operations of the most recent fiscal year.

(4) (a) There shall be deposited into the fund money from numerous sources, including, grants, private foundations, and individual donors.

(b) The fund shall be used to accept money designated for child care initiatives improving the quality, affordability, or accessibility of child care.

(5) The money in the fund that is not restricted to a specific use under federal law or by donors may not be expended without approval of the committee.

(6) The state treasurer shall invest the money in the fund under Title 51, Chapter 7, State Money Management Act, except that all interest or other earnings derived from the fund money shall be deposited in the fund.

(7) The money in the fund may not be used for administrative expenses of the office normally provided for by legislative appropriation.

(8) The committee shall:

(a) advise the director of the office on child care needs in the state and on relevant operational aspects of any grant, loan, or revenue collection program established under this part;

(b) recommend specific child care projects to the director of the office;

(c) recommend policy and procedures for administering the fund;

(d) make recommendations on grants, loans, or contracts from the fund for any of the child care activities authorized under this part;

(e) establish the criteria by which loans and grants will be made;

(f) determine the order in which approved child care projects will be funded;

(g) make recommendations regarding the distribution of money from the fund in accordance with the procedures, conditions, and restrictions placed upon the money by the donors; and

(h) have joint responsibility with the office to solicit public and private funding for the fund.

(9) Fund money shall be used for any of the following activities:

(a) training of child care providers;

(b) scholarships and grants for child care providers' professional development;

(c) child care public awareness and consumer education services;

(d) child care provider recruitment;

(e) Office of Child Care sponsored activities;

(f) matching money for obtaining grants; or

(g) other activities that will assist in the improvement of child care quality, affordability, or accessibility.

(10) The director of the office, with the consent of the committee and the executive director, may grant, lend, or contract fund money for child care purposes to:

- (a) local governments;
- (b) nonprofit community, charitable, or neighborhood-based organizations;
- (c) regional or statewide nonprofit organizations; or
- (d) child care providers.

(11) Preference may be given but awards may not be limited to applicants for fund money that demonstrate any of the following:

- (a) programmatic or financial need;
- (b) diversity of clientele or geographic location; and
- (c) coordination with or enhancement of existing services.

(12) The executive director or the executive director's designee shall monitor the activities of the recipients of grants, loans, or contracts issued from the fund on an annual basis to ensure compliance with the terms and conditions imposed on the recipient by the fund.

(13) The entities receiving grants, loans, or contracts shall provide the director of the office with an annual accounting of how the money they received from the fund has been spent.

(14) (a) The director of the office shall make an annual report to the committee regarding the status of the fund and the programs and services funded by the fund.

(b) The report shall be included ~~[as a component of the report to the Legislature required under Subsection 35A-3-203(11)]~~ in the annual written report described in Section 35A-1-109.

Section 12. Section 35A-3-313 is amended to read:

35A-3-313. Performance goals.

- (1) As used in this section:
 - (a) "Performance goals" means a target level of performance or an expected level of performance against which actual performance is compared.
 - (b) "Performance indicators" means actual performance information regarding a program or activity.
 - (c) "Performance monitoring system" means a process to regularly collect and analyze performance information including performance indicators and performance goals.

(2) (a) The department shall establish a performance monitoring system for cash assistance provided under this part.

(b) The department shall establish the performance indicators and performance goals that will be used in the performance monitoring system for cash assistance under this part.

(c) (i) The department shall ~~[submit an annual written report to the legislative fiscal analyst and the Economic Development and Workforce Services Interim Committee before November 1 describing]~~ include in the annual written report described in Section 35A-1-109, a description of the difference between actual performance and performance goals for the second, third, and fourth quarters of the prior fiscal year and the first quarter of the current fiscal year.

(ii) (A) The legislative fiscal analyst or the analyst's designee shall convey the information ~~[contained in the report]~~ described in Subsection (2)(c)(i) to the appropriation subcommittee that has oversight responsibilities for the Department of Workforce Services during the General Session that follows the submission of the report.

(B) The subcommittee may consider the information in its deliberations regarding the budget for services and supports under this chapter.

Section 13. Section 35A-4-403 is amended to read:

35A-4-403. Eligibility of individual -- Conditions -- Furnishing reports -- Weeks of employment -- Successive benefit years.

(1) Except as provided in Subsections (2) and (3), an unemployed individual is eligible to receive benefits for any week if the division finds:

(a) the individual has made a claim for benefits for that week in accordance with rules the department may prescribe, except as provided in Subsection (4);

(b) the individual has registered for work with the department and acted in a good faith effort to secure employment during each and every week for which the individual made a claim for benefits under this chapter in accordance with rules the department may prescribe, except as provided in Subsection (4);

(c) the individual is able to work and is available for work during each and every week for which the individual made a claim for benefits under this chapter;

(d) the individual has been unemployed for a waiting period of one week for each benefit year, but a week may not be counted as a week of unemployment for the purpose of this Subsection (1)(d):

(i) unless it occurs within the benefit year that includes the week for which the individual claims benefits;

(ii) if benefits have been paid for the claim; or

(iii) unless the individual was eligible for benefits for the week as provided in this section and Sections

35A-4-401 and 35A-4-405, except for the requirement of this Subsection (1)(d);

(e) (i) the individual has furnished the division separation and other information the department may prescribe by rule, or proves to the satisfaction of the division that the individual had good cause for failing to furnish the information;

(ii) if an employer fails to furnish reports concerning separation and employment as required by this chapter and rules adopted under the chapter, the division shall, on the basis of information it obtains, determine the eligibility and insured status of an individual affected by that failure and the employer is not considered to be an interested party to the determination;

(f) (i) the individual's base-period wages were at least 1-1/2 times the individual's wages for insured work paid during that quarter of the individual's base period in which the individual's wages were highest; or

(ii) for any claimant whose benefit year is effective on or before January 1, 2011, the individual shows to the satisfaction of the division that the individual worked at least 20 weeks in insured work during the individual's base-period and earned wages of at least 5% of the monetary base-period wage requirement each week, rounded to the nearest whole dollar, provided that the individual's total base-period wages were not less than the monetary base-period wage requirement as defined in Section 35A-4-201; and

(g) (i) the individual applying for benefits in a successive benefit year has had subsequent employment since the effective date of the preceding benefit year equal to at least six times the individual's weekly benefit amount, in insured work; and

(ii) the individual's total wages and employment experience in the individual's base period meet the requirements specified in Subsection (1)(f).

(2) (a) For purposes of this Subsection (2), "suitable employment" means:

(i) work of a substantially equal or higher skill level than the individual's past adversely affected employment as defined for purposes of the Trade Act of 1974; and

(ii) wages for that work at not less than 80% of the individual's average weekly wage as determined for purposes of the Trade Act of 1974.

(b) (i) An individual in training with the approval of the division is not ineligible to receive benefits by reason of nonavailability for work, failure to search for work, refusal of suitable work, failure to apply for or to accept suitable work, or not having been unemployed for a waiting period of one week for any week the individual is in the approved training.

(ii) For purposes of Subsection (2)(b)(i), the division shall approve any mandatory apprenticeship-related training.

(c) Notwithstanding any other provision of this chapter, the division may not deny an otherwise eligible individual benefits for any week:

(i) because the individual is in training approved under Section 236 (a)(1) of the Trade Act of 1974, 19 U.S.C. 2296(a);

(ii) for leaving work to enter training described in Subsection (2)(c)(i) if the work left is not suitable employment; or

(iii) because of the application to any such week in training of provisions in this law or any applicable federal unemployment compensation law relating to availability for work, active search for work, or refusal to accept work.

(3) An individual located in a foreign country for three or more days of a week and who is otherwise eligible for benefits is only eligible to receive benefits for that week if:

(a) the individual is legally authorized to work in the foreign country; and

(b) the state and the foreign country have entered into a reciprocal agreement concerning the payment of unemployment benefits.

(4) The department may, by rule, waive or alter either or both of the requirements of Subsections (1)(a) and (b) as to:

(a) individuals attached to regular jobs;

(b) a disaster in Utah as declared by the president of the United States or by the state's governor after giving due consideration to factors directly associated with the disaster, including:

(i) the disaster's impact on employers and their ability to employ workers in the affected area in Utah;

(ii) the disaster's impact on claimants and their ability to comply with filing requirements in the affected area in Utah; and

(iii) the magnitude of the disaster and the anticipated time for recovery; and

(c) cases or situations when it finds that compliance with the requirements would be oppressive, or would be inconsistent with the purposes of this chapter, as long as the rule does not conflict with Subsection 35A-4-401(1).

~~[(5) The director of the division or the director's designee shall submit an annual written report to the Workforce Employment Advisory Council and to the Economic Development and Workforce Services Interim Committee before November 1 concerning the impact on individuals applying for unemployment compensation and the unemployment trust insurance fund as a result of amendments made to Subsections (1)(f) and 35A-4-201(1) during the Legislature's 2010 General Session.]~~

Section 14. Section 35A-8-307 is amended to read:

35A-8-307. Impact fund administered by impact board -- Eligibility for assistance

-- Review by board -- Administration costs -- Annual report.

- (1) (a) The impact board shall:
- (i) administer the impact fund in a manner that will keep a portion of the impact fund revolving;
 - (ii) determine provisions for repayment of loans;
 - (iii) establish criteria for determining eligibility for assistance under this part; and
 - (iv) consider recommendations from the School and Institutional Trust Lands Administration when awarding a grant described in Subsection 35A-8-303(6).
- (b) (i) The criteria for awarding loans or grants made from funds described in Subsection 35A-8-303(5) shall be consistent with the requirements of Subsection 35A-8-303(5).
- (ii) The criteria for awarding grants made from funds described in Subsection 35A-8-303(2)(c) shall be consistent with the requirements of Subsection 35A-8-303(6).
- (c) In order to receive assistance under this part, subdivisions and interlocal agencies shall submit formal applications containing the information that the impact board requires.
- (2) In determining eligibility for loans and grants under this part, the impact board shall consider the following:
- (a) the subdivision's or interlocal agency's current mineral lease production;
 - (b) the feasibility of the actual development of a resource that may impact the subdivision or interlocal agency directly or indirectly;
 - (c) current taxes being paid by the subdivision's or interlocal agency's residents;
 - (d) the borrowing capacity of the subdivision or interlocal agency, including:
 - (i) its ability and willingness to sell bonds or other securities in the open market; and
 - (ii) its current and authorized indebtedness;
 - (e) all possible additional sources of state and local revenue, including utility user charges;
 - (f) the availability of federal assistance funds;
 - (g) probable growth of population due to actual or prospective natural resource development in an area;
 - (h) existing public facilities and services;
 - (i) the extent of the expected direct or indirect impact upon public facilities and services of the actual or prospective natural resource development in an area; and
 - (j) the extent of industry participation in an impact alleviation plan, either as specified in Title 63M, Chapter 5, Resource Development Act, or otherwise.

(3) The impact board may not fund an education project that could otherwise have reasonably been funded by a school district through a program of annual budgeting, capital budgeting, bonded indebtedness, or special assessments.

(4) The impact board may restructure all or part of the agency's or subdivision's liability to repay loans for extenuating circumstances.

(5) The impact board shall:

(a) review the proposed uses of the impact fund for loans or grants before approving them and may condition its approval on whatever assurances the impact board considers necessary to ensure that proceeds of the loan or grant will be used in accordance with the Leasing Act and this part; and

(b) ensure that each loan specifies the terms for repayment and is evidenced by general obligation, special assessment, or revenue bonds, notes, or other obligations of the appropriate subdivision or interlocal agency issued to the impact board under whatever authority for the issuance of those bonds, notes, or obligations exists at the time of the loan.

(6) The impact board shall allocate from the impact fund to the department those funds that are appropriated by the Legislature for the administration of the impact fund, but this amount may not exceed 2% of the annual receipts to the impact fund.

(7) The department shall ~~submit, before November 1, an annual written report to the Legislature concerning~~ include in the annual written report described in Section 35A-1-109, the number and type of loans and grants made as well as a list of subdivisions and interlocal agencies that received this assistance.

Section 15. Section 35A-8-508 is amended to read:**35A-8-508. Annual accounting.**

(1) The executive director shall monitor the activities of recipients of grants and loans issued under this part on a yearly basis to ensure compliance with the terms and conditions imposed on the recipient by the executive director with the approval of the board or by this part.

(2) An entity that receives a grant or loan under this part shall provide the executive director with an annual accounting of how the money the entity received from the fund has been spent.

(3) The executive director shall make an annual report to the board accounting for the expenditures authorized by the board.

~~[(4) The board shall submit an annual written report to the Economic Development and Workforce Services Interim Committee before November 1.]~~

(4) The board shall submit a report to the department for inclusion in the annual written report described in Section 35A-1-109:

(a) accounting for expenditures authorized by the board; and

(b) evaluating the effectiveness of the program.

Section 16. Section 35A-8-602 is amended to read:

35A-8-602. Purposes of Homeless Coordinating Committee -- Uses of Pamela Atkinson Homeless Account.

(1) (a) The Homeless Coordinating Committee shall work to ensure that services provided to the homeless by state agencies, local governments, and private organizations are provided in a cost-effective manner.

(b) Programs funded by the committee shall emphasize emergency housing and self-sufficiency, including placement in meaningful employment or occupational training activities and, where needed, special services to meet the unique needs of the homeless who:

- (i) have families with children;
- (ii) have a disability or a mental illness; or
- (iii) suffer from other serious challenges to employment and self-sufficiency.

(c) The committee may also fund treatment programs to ameliorate the effects of substance abuse or a disability.

(2) The committee members designated in Subsection 35A-8-601(2) shall:

(a) award contracts funded by the Pamela Atkinson Homeless Account with the advice and input of those designated in Subsection 35A-8-601(3);

(b) consider need, diversity of geographic location, coordination with or enhancement of existing services, and the extensive use of volunteers; and

(c) give priority for funding to programs that serve the homeless who have a mental illness and who are in families with children.

(3) (a) In any fiscal year, no more than 80% of the funds in the Pamela Atkinson Homeless Account may be allocated to organizations that provide services only in Salt Lake, Davis, Weber, and Utah Counties.

(b) The committee may:

(i) expend up to 3% of its annual appropriation for administrative costs associated with the allocation of funds from the Pamela Atkinson Homeless Account, and up to 2% of its annual appropriation for marketing the account and soliciting donations to the account; and

(ii) pay for the initial costs of the State Tax Commission in implementing Section 59-10-1306 from the account.

(4) (a) The committee may not expend, except as provided in Subsection (4)(b), an amount equal to the greater of \$50,000 or 20% of the amount donated to the Pamela Atkinson Homeless Account during fiscal year 1988-89.

(b) If there are decreases in contributions to the account, the committee may expend money held in

the account to provide program stability, but the committee shall reimburse the amount of those expenditures to the account.

(5) The committee shall make an annual report to the ~~[Business, Economic Development, and Labor Appropriations Subcommittee]~~ department regarding the programs and services funded by contributions to the Pamela Atkinson Homeless Account for inclusion in the annual written report described in Section 35A-1-109.

(6) The state treasurer shall invest the money in the Pamela Atkinson Homeless Account according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act, except that interest and other earnings derived from the restricted account shall be deposited in the restricted account.

Section 17. Section 35A-8-721 is amended to read:

35A-8-721. Annual report to governor and Legislature -- Contents -- Audits.

(1) (a) The corporation shall, following the close of each fiscal year, submit, ~~[before November]~~ by October 1, an annual written report of its activities for the preceding year to the governor and the ~~[Legislature]~~ Retirement and Independent Entities Interim Committee.

(b) Each report shall set forth a complete operating and financial statement of the corporation during the fiscal year it covers.

(c) At least once each year, an independent certified public accountant shall audit the books and accounts of the corporation.

(d) A complete copy of each annual audit report shall be:

- (i) included in the report to the governor and the Legislature under Subsection (2); and
- (ii) available for public inspection at the corporation's office.

(2) The corporation shall, each fiscal year, submit a budget of its operations to the Legislature and the governor.

(3) (a) The corporation shall form an audit committee consisting of no less than three trustees.

(b) The audit committee has exclusive authority to:

- (i) select and engage the independent certified public accountant to audit the corporation; and
- (ii) supervise the audit.

(4) The corporation shall provide additional information upon request by the governor, the Legislature, a legislative committee, the legislative auditor general, or the state auditor.

Section 18. Section 35A-8-804 is amended to read:

35A-8-804. Technical assistance to political subdivisions for housing plan.

(1) Within appropriations from the Legislature, the division shall establish a program to assist municipalities to meet the requirements of Section 10-9a-408 and counties to meet the requirements of Section 17-27a-408.

(2) Assistance under this section may include:

(a) financial assistance for the cost of developing a plan for low and moderate income housing;

(b) information on how to meet present and prospective needs for low and moderate income housing; and

(c) technical advice and consultation on how to facilitate the creation of low and moderate income housing.

(3) The division shall submit an annual ~~written report to the Economic Development and Workforce Services Interim Committee before November 1~~ report to the department regarding the scope, amount, and type of assistance provided to municipalities and counties under this section, including the number of low and moderate income housing units constructed or rehabilitated within the state, for inclusion in the department's annual written report described in Section 35A-1-109.

Section 19. Section 35A-8-1203 is amended to read:

35A-8-1203. Annual accounting.

(1) The director shall monitor the activities of recipients of the loans and loan guarantees issued under this part on a yearly basis to ensure compliance with the terms and conditions imposed on the recipient by the director under this part.

(2) An entity receiving a loan or loan guarantee under this part shall provide the director with an annual accounting of how the money it received from the fund was spent.

(3) The director shall ~~submit an annual written report to the Economic Development and Workforce Services Interim Committee before November 1~~ provide the following information to the department for inclusion in the department's annual written report described in Section 35A-1-109:

(a) an accounting ~~for~~ of expenditures made from the fund; and

(b) ~~evaluating~~ an evaluation of the effectiveness of the loan and loan guarantee program.

Section 20. Section 35A-8-1607 is amended to read:

35A-8-1607. Division to distribute money -- Annual report -- Administration costs.

(1) The division shall distribute loan and grant money if the loan or grant is approved by the board.

(2) The division shall ~~submit an annual written report, before November 1,~~ provide an annual report to the department concerning the number and type of loans and grants made as well as a list of

recipients of this assistance ~~to~~ for inclusion in the department's annual written report described in Section 35A-1-109.

~~[(a) the Native American Legislative Liaison Committee, created in Section 36-22-1; and]~~

~~[(b) the governor.]~~

(3) The division, with board approval, may use fund money for the administration of the fund, but this amount may not exceed 2% of the annual receipts to the fund.

Section 21. Section 35A-8-1708 is amended to read:

35A-8-1708. Annual report.

The division shall ~~submit, before November 1, an annual written report to the Native American Legislative Liaison Committee and the governor~~ provide an annual report to the department concerning the number and type of loans and grants made as well as a list of recipients of this assistance for inclusion in the department's annual written report described in Section 35A-1-109.

Section 22. Section 35A-9-201 is amended to read:

35A-9-201. Intergenerational poverty tracking system -- Data -- Analysis -- Annual report.

(1) The department shall establish and maintain a system to track intergenerational poverty.

(2) The system shall:

(a) identify groups that have a high risk of experiencing intergenerational poverty;

(b) identify incidents, patterns, and trends that explain or contribute to intergenerational poverty;

(c) assist case workers, social scientists, and government officials in the study and development of effective and efficient plans and programs to help individuals and families in the state to break the cycle of poverty; and

(d) gather and track available local, state, and national data on:

(i) official poverty rates;

(ii) child poverty rates;

(iii) years spent by individuals in childhood poverty;

(iv) years spent by individuals in adult poverty; and

(v) related poverty information.

(3) The department shall:

(a) use available data in the tracking system, including public assistance data, census data, and other data made available to the department;

(b) develop and implement methods to integrate, compare, analyze, and validate the data for the purposes described in Subsection (2);

(c) protect the privacy of individuals living in poverty by using and distributing data within the tracking system in compliance with:

(i) federal requirements; and

(ii) the provisions of Title 63G, Chapter 2, Government Records Access and Management Act; and

(d) ~~[submit, before November 1, an annual written report]~~ include in the annual written report described in Section 35A-1-109, a report on the data, findings, and potential uses of the tracking system ~~[to:]~~.

~~[(i) the governor;]~~

~~[(ii) the Legislative Management Committee; and]~~

~~[(iii) the Economic Development and Workforce Services Interim Committee.]~~

Section 23. Section 35A-9-305 is amended to read:

35A-9-305. Annual report by the commission.

(1) The commission shall ~~[submit, before November 1, an annual written report to:]~~ provide a report to the department for inclusion in the department's annual written report described in Section 35A-1-109.

~~[(a) the governor;]~~

~~[(b) the Legislative Management Committee;]~~

~~[(c) the Economic Development and Workforce Services Interim Committee;]~~

~~[(d) the Education Interim Committee;]~~

~~[(e) the Health and Human Services Interim Committee;]~~

~~[(f) the Judiciary Interim Committee; and]~~

~~[(g) the Law Enforcement and Criminal Justice Interim Committee.]~~

(2) The report ~~[described in Subsection (1)]~~ shall:

(a) include the five and 10-year plans described in Subsection 35A-9-303(2)(e);

(b) describe how the commission fulfilled its statutory purposes and duties during the year;

(c) describe policies, procedures, and programs that have been implemented or modified to help break the cycle of poverty and end welfare dependency for children in the state affected by intergenerational poverty; and

(d) contain recommendations on how the state should act to address issues relating to breaking the cycle of poverty and ending welfare dependency for children in the state affected by intergenerational poverty.

Section 24. Section 63I-4a-203 is amended to read:

63I-4a-203. Free Market Protection and Privatization Board -- Duties.

(1) The board shall:

(a) determine whether an activity provided by an agency could be privatized to provide the same types and quality of a good or service that would result in cost savings;

(b) review privatization of an activity at the request of:

(i) an agency; or

(ii) a private enterprise;

(c) review issues concerning agency competition with one or more private enterprises to determine:

(i) whether privatization:

(A) would be feasible;

(B) would result in cost savings; and

(C) would result in equal or better quality of a good or service; and

(ii) ways to eliminate any unfair competition with a private enterprise;

(d) recommend privatization to an agency if a proposed privatization is demonstrated to provide a more cost efficient and effective manner of providing a good or service, taking into account:

(i) the scope of providing the good or service;

(ii) whether cost savings will be realized;

(iii) whether quality will be improved;

(iv) the impact on risk management;

(v) the impact on timeliness;

(vi) the ability to accommodate fluctuating demand;

(vii) the ability to access outside expertise;

(viii) the impact on oversight;

(ix) the ability to develop sound policy and implement best practices; and

(x) legal and practical impediments to privatization;

(e) comply with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in making rules establishing privatization standards, procedures, and requirements;

(f) in fulfilling the duties described in this Subsection (1), consult with, maintain communication with, and access information from:

(i) other entities promoting privatization; and

(ii) managers and employees in the public sector;

(g) comply with Part 3, Commercial Activities Inventory and Review; and

(h) (i) prepare an annual report for each calendar year that contains:

- (A) information about the board's activities;
- (B) recommendations on privatizing an activity provided by an agency; and
- (C) the status of the inventory created under Part 3, Commercial Activities Inventory and Review;

(ii) submit the annual report to the Legislature and the governor by no later than January 15 immediately following the calendar year for which the report is made; and

(iii) ~~each interim, provide an oral~~ submit, before November 1, an annual written report to the Government Operations Interim Committee ~~and the Economic Development and Workforce Services Interim Committee~~.

(2) The board may, using the criteria described in Subsection (1), consider whether to recommend privatization of an activity provided by an agency, a county, or a special district:

- (a) on the board's own initiative;
- (b) upon request by an agency, a county, or a special district;
- (c) in response to a complaint that an agency, a county, or a special district is engaging in unfair competition with a private enterprise; or
- (d) in light of a proposal made by any person, regardless of whether the proposal was solicited.

(3) In addition to filing a copy of recommendations for privatization with an agency head, the board shall file a copy of its recommendations for privatization with:

- (a) the governor's office; and
- (b) the Office of Legislative Fiscal Analyst for submission to the relevant legislative appropriation subcommittee.

(4) (a) The board may appoint advisory groups to conduct studies, research, or analyses, and make reports and recommendations with respect to a matter within the jurisdiction of the board.

(b) At least one member of the board shall serve on each advisory group.

(5) (a) Subject to Subsection (5)(b), this chapter does not preclude an agency from privatizing the provision of a good or service independent of the board.

(b) If an agency privatizes the provision of a good or service, the agency shall include as part of the contract that privatizes the provision of the good or service that any contractor assumes all liability to provide the good or service.

Section 25. Section 63M-1-201 is amended to read:

63M-1-201. Creation of office.

(1) There is created the Governor's Office of Economic Development.

(2) The office shall:

(a) be responsible for economic development within the state;

(b) perform economic development planning for the state;

(c) administer and coordinate all state or federal grant programs which are, or become available, for economic development;

(d) administer any other programs over which the office is given administrative supervision by the governor;

(e) submit ~~before November 1,~~ an annual written report ~~to the Legislature~~ as described in Section 63M-1-206; and

(f) perform any other duties as provided by the Legislature.

(3) The office may solicit and accept contributions of money, services, and facilities from any other source, public or private, but may not use the money for publicizing the exclusive interest of the donor.

(4) Money received under Subsection (3) shall be deposited in the General Fund as dedicated credits of the office.

(5) (a) The office is recognized as an issuing authority as defined in Subsection 63M-1-3002(7), entitled to issue bonds from the Small Issue Bond Account created in Subsection 63M-1-3006(1)(c) as a part of the state's private activity bond volume cap authorized by the Internal Revenue Code of 1986 and computed under Section 146 of the code.

(b) To promote and encourage the issuance of bonds from the Small Issue Bond Account for manufacturing projects, the office may:

- (i) develop campaigns and materials that inform qualified small manufacturing businesses about the existence of the program and the application process;
- (ii) assist small businesses in applying for and qualifying for these bonds; or
- (iii) develop strategies to lower the cost to small businesses of applying for and qualifying for these bonds, including making arrangements with financial advisors, underwriters, bond counsel, and other professionals involved in the issuance process to provide their services at a reduced rate when the division can provide them with a high volume of applicants or issues.

Section 26. Section 63M-1-206 is enacted to read:

63M-1-206. Annual report -- Content -- Format.

(1) The office shall prepare and submit to the governor and the Legislature, by October 1 of each year, an annual written report of the operations, activities, programs, and services of the office, including the divisions, sections, boards, commissions, councils, and committees established under this chapter, for the preceding fiscal year.

(2) For each operation, activity, program, or service provided by the office, the annual report shall include:

(a) a description of the operation, activity, program, or service;

(b) data selected and used by the office to measure progress, performance, and scope of the operation, activity, program, or service, including summary data;

(c) budget data, including the amount and source of funding, expenses, and allocation of full-time employees for the operation, activity, program, or service;

(d) historical data from previous years for comparison with data reported under Subsections (2)(b) and (c);

(e) goals, challenges, and achievements related to the operation, activity, program, or service;

(f) relevant federal and state statutory references and requirements;

(g) contact information of officials knowledgeable and responsible for each operation, activity, program, or service; and

(h) other information determined by the office that:

(i) may be needed, useful, or of historical significance; or

(ii) promotes accountability and transparency for each operation, activity, program, or service with the public and elected officials.

(3) The annual report shall be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature.

(4) The office shall:

(a) submit the annual report in accordance with Section 68-3-14; and

(b) make the annual report, and previous annual reports, accessible to the public by placing a link to the reports on the office's website.

Section 27. Section 63M-1-403 is amended to read:

63M-1-403. Powers of the office.

The office shall:

(1) monitor the implementation and operation of this part and conduct a continuing evaluation of the progress made in the enterprise zones;

(2) evaluate an application for designation as an enterprise zone from a county applicant or a municipal applicant and determine if the applicant qualifies for that designation;

(3) provide technical assistance to county applicants and municipal applicants in developing applications for designation as enterprise zones;

(4) assist county applicants and municipal applicants designated as enterprise zones in obtaining assistance from the federal government and agencies of the state;

(5) assist a qualified business entity in obtaining the benefits of an incentive or inducement program authorized by this part; and

(6) as part of the annual written report described in Section 63M-1-206, prepare an annual evaluation based, in part, on data provided by the State Tax Commission that ~~[-(a)]~~ evaluates the effectiveness of the program and any suggestions for legislation ~~[- and]~~.

~~[(b) is available upon request to the governor and to the Revenue and Taxation Interim Committee of the Legislature before November 1 of each year.]~~

Section 28. Section 63M-1-605 is amended to read:

63M-1-605. Duties and powers.

(1) The council shall:

(a) encourage the use of science and technology in the administration of state and local government;

(b) develop programs whereby state agencies and the several public and private institutions of higher education and technical colleges within the state may assist business and industry in the utilization of science and technology;

(c) further communication between agencies of federal, state, and local government who wish to utilize science and technology;

(d) develop programs of cooperation on matters of science and technology between:

(i) state and local government agencies;

(ii) the several public and private institutions of higher education and technical colleges within the state; and

(iii) business and industry within the state; or

(iv) any combination of these;

(e) provide a means whereby government, business, industry, and higher education may be represented in the formulation and implementation of state policies and programs on matters of science and technology;

(f) review, catalog, and compile the research and development uses by the state universities of the revenue derived from mineral lease funds on state and federal lands;

~~(g) [submit, before November 1, an annual written report to the Legislature on]~~ submit an annual report to the office regarding the expenditure and utilization of these mineral lease funds for inclusion in the office's annual written report described in Section 63M-1-206;

(h) make recommendations to the Legislature on the further uses of these mineral lease funds in order to stimulate research and development directed toward the more effective utilization of the state's natural resources; and

(i) prepare and submit, before November 1, an annual written report to the governor and the Legislature.

(2) The council may:

(a) in accordance with Title 63J, Chapter 5, Federal Funds Procedures Act, apply for, receive, and disburse funds, contributions, or grants from whatever source for the purposes set forth in this part;

(b) employ, compensate, and prescribe the duties and powers of those individuals, subject to the provisions of this part relating to the adviser, necessary to execute the duties and powers of the council; and

(c) enter into contracts for the purposes of this part.

Section 29. Section 63M-1-704 is amended to read:

63M-1-704. Administration -- Grants and loans.

(1) The Governor's Office of Economic Development shall administer this part.

(2) (a) (i) The office may award Technology Commercialization and Innovation Program grants or issue loans to the various colleges, universities, and licensees in the state for the purposes of this part.

(ii) If loans are issued under Subsection (2)(a)(i), the Division of Finance may set up a fund or account as necessary for the proper accounting of the loans.

(b) The Governor's Office of Economic Development shall develop a process to determine whether a college or university that receives a grant under this part must return the grant proceeds or a portion of the grant proceeds if the technology that is developed with the grant proceeds is licensed to a licensee that:

(i) does not maintain a manufacturing or service location in the state from which the licensee or a sublicensee exploits the technology; or

(ii) initially maintains a manufacturing or service location in the state from which the licensee or a sublicensee exploits the technology, but within five years after issuance of the license the licensee or sublicensee transfers the manufacturing or service location for the technology to a location out of the state.

(c) A repayment by a college or university of grant proceeds or a portion of the grant proceeds shall come only from the proceeds of the license established between the licensee and the college or university.

(d) (i) A licensee that receives a grant under this part shall return the grant proceeds or a portion of the grant proceeds to the office if the licensee:

(A) does not maintain a manufacturing or service location in the state from which the licensee exploits the technology; or

(B) initially maintains a manufacturing or service location in the state from which the licensee exploits the technology, but within five years after issuance of the grant the licensee transfers the

manufacturing or service location for the technology to an out of state location.

(ii) A repayment by a licensee that receives a grant shall come only from the proceeds of the license to that licensee.

(iii) A repayment by a licensee shall be prorated based only on the number of full years the licensee operated in the state from the date of the awarded grant.

(3) (a) Funding allocations shall be made by the office with the advice of the State Advisory Council for Science and Technology and the board.

(b) Each proposal shall receive the best available outside review.

(4) (a) In considering each proposal, the office shall weigh technical merit, the level of matching funds from private and federal sources, and the potential for job creation and economic development.

(b) Proposals or consortia that combine and coordinate related research at two or more colleges and universities shall be encouraged.

(5) The State Advisory Council on Science and Technology shall review the activities and progress of grant recipients on a regular basis and assist the office in ~~preparing an annual report on~~ including as part of the office's annual written report described in Section 63M-1-206, the accomplishments and direction of the Technology Commercialization and Innovation Program.

Section 30. Section 63M-1-904 is amended to read:

63M-1-904. Rural Fast Track Program -- Creation -- Funding -- Qualifications for program participation -- Awards -- Reports.

(1) (a) There is created the Rural Fast Track Program.

(b) The program is a funded component of the economically disadvantaged rural areas designation in Subsection 63M-1-903(1)(a).

(2) The purpose of the program is to provide an efficient way for small companies in rural areas of the state to receive incentives for creating high paying jobs in those areas of the state.

(3) (a) Twenty percent of the unencumbered amount in the Industrial Assistance Account created in Subsection 63M-1-903(1) at the beginning of each fiscal year shall be used to fund the program.

(b) The 20% referred to in Subsection (3)(a) is not in addition to but is a part of the up to 50% designation for economically disadvantaged rural areas referred to in Subsection 63M-1-903(1)(a).

(c) If any of the 20% allocation referred to in Subsection (3)(a) has not been used in the program by the end of the third quarter of each fiscal year, that money may be used for any other loan, grant, or assistance program offered through the Industrial Assistance Account during the fiscal year.

(4) (a) To qualify for participation in the program a company shall:

(i) complete and file with the office an application for participation in the program, signed by an officer of the company;

(ii) be located and conduct its business operations in a county in the state that has:

(A) a population of less than 30,000; and

(B) an average household income of less than \$60,000 as reflected in the most recently available data collected and reported by the United States Census Bureau;

(iii) have been in business in the state for at least two years; and

(iv) have at least two employees.

(b) (i) The office shall verify an applicant's qualifications under Subsection (4)(a).

(ii) The application must be approved by the administrator in order for a company to receive an incentive or other assistance under this section.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the administrator may make rules governing:

(i) the content of the application form referred to in Subsection (4)(a)(i);

(ii) who qualifies as an employee under Subsection (4)(a)(iv); and

(iii) the verification procedure referred to in Subsection (4)(b).

(5) (a) The administrator shall make incentive cash awards to small companies under this section based on the following criteria:

(i) \$1,000 for each new incremental job that pays over 110% of the county's average annual wage;

(ii) \$1,250 for each incremental job that pays over 115% of the county's average annual wage; and

(iii) \$1,500 for each incremental job that pays over 125% of the county's average annual wage.

(b) The administrator shall make a cash award under Subsection (5)(a) when a new incremental job has been in place for at least 12 months.

(c) The creation of a new incremental job by a company is based on the number of employees at the company during the previous 24 months.

(d) (i) A small company may also apply for grants, loans, or other financial assistance under the program to help develop its business in rural Utah and may receive up to \$50,000 under the program if approved by the administrator.

(ii) The board must approve a distribution that exceeds the \$50,000 cap under Subsection (5)(d)(i).

(6) The administrator shall make a quarterly report to the board of the awards made by the administrator under this section and ~~submit an~~

~~annual written report to the Economic Development and Workforce Services Interim Committee before November 1] submit a report to the office on the awards and their impact on economic development in the state's rural areas for inclusion in the office's annual written report described in Section 63M-1-206.~~

Section 31. Section 63M-1-1103 is amended to read:

63M-1-1103. Duties of the office.

The office shall:

(1) facilitate recycling development zones through state support of county incentives which encourage development of manufacturing enterprises that use recycling materials currently collected;

(2) evaluate an application from a county or municipality executive authority to be designated as a recycling market development zone and determine if the county or municipality qualifies for that designation;

(3) provide technical assistance to municipalities and counties in developing applications for designation as a recycling market development zone;

(4) assist counties and municipalities designated as recycling market development zones in obtaining assistance from the federal government and agencies of the state;

(5) assist a qualified business in obtaining the benefits of an incentive or inducement program authorized by this part;

(6) monitor the implementation and operation of this part and conduct a continuing evaluation of the progress made in the recycling market development zone; and

(7) ~~submit an annual written report evaluating] include in the annual written report described in Section 63M-1-206, an evaluation of the effectiveness of the program and [providing] recommendations for legislation [to the Natural Resources, Agriculture, and Environment Interim Committee before November 1].~~

Section 32. Section 63M-1-1206 is amended to read:

63M-1-1206. Board duties and powers.

(1) The board shall:

(a) establish criteria and procedures for the allocation and issuance of contingent tax credits to designated investors by means of certificates issued by the board, provided that a contingent tax credit may not be issued unless the Utah fund of funds:

(i) first agrees to treat the amount of the tax credit redeemed by the state as a loan from the state to the Utah fund of funds; and

(ii) agrees to repay the loan upon terms and conditions established by the board;

(b) establish criteria and procedures for assessing the likelihood of future certificate redemptions by designated investors, including:

(i) criteria and procedures for evaluating the value of investments made by the Utah fund of funds; and

(ii) the returns from the Utah fund of funds;

(c) establish criteria and procedures for registering and redeeming contingent tax credits by designated investors holding certificates issued by the board;

(d) establish a target rate of return or range of returns on venture capital investments of the Utah fund of funds;

(e) establish criteria and procedures governing commitments obtained by the board from designated purchasers including:

(i) entering into commitments with designated purchasers; and

(ii) drawing on commitments to redeem certificates from designated investors;

(f) have power to:

(i) expend funds;

(ii) invest funds;

(iii) issue debt and borrow funds;

(iv) enter into contracts;

(v) insure against loss; and

(vi) perform any other act necessary to carry out its purpose; and

(g) make, amend, and repeal rules for the conduct of its affairs, consistent with this part and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) All rules made by the board under Subsection (1)(g) are subject to review by the Legislative Management Committee:

(i) whenever made, modified, or repealed; and

(ii) in each even-numbered year.

(b) Subsection (2)(a) does not preclude the legislative Administrative Rules Review Committee from reviewing and taking appropriate action on any rule made, amended, or repealed by the board.

(3) (a) The criteria and procedures established by the board for the allocation and issuance of contingent tax credits shall:

(i) include the contingencies that must be met for a certificate and its related tax credits to be:

(A) issued by the board;

(B) transferred by a designated investor; and

(C) redeemed by a designated investor in order to receive a contingent tax credit; and

(ii) tie the contingencies for redemption of certificates to:

(A) the targeted rates of return and scheduled redemptions of equity interests purchased by designated investors in the Utah fund of funds; and

(B) the scheduled principal and interest payments payable to designated investors that have made loans or other debt obligations to the Utah fund of funds.

(b) The board may not issue contingent tax credits under this part prior to July 1, 2004.

(4) (a) The board may charge a placement fee to the Utah fund of funds for the issuance of a certificate and related contingent tax credit to a designated investor.

(b) The fee shall:

(i) be charged only to pay for reasonable and necessary costs of the board; and

(ii) not exceed .5% of the private investment of the designated investor.

(5) The board's criteria and procedures for redeeming certificates:

(a) shall give priority to the redemption amount from the available funds in the redemption reserve; and

(b) to the extent there are insufficient funds in the redemption reserve to redeem certificates, shall grant the board the option to redeem certificates:

(i) by certifying a contingent tax credit to the designated investor; or

(ii) by making demand on designated purchasers consistent with the requirements of Section 63M-1-1221.

(6) (a) The board shall, in consultation with the corporation, publish an annual report of the activities conducted by the Utah fund of funds, and ~~submit the report to the governor and the Business, Economic Development, and Labor Appropriations Subcommittee~~ the executive director shall include the report in the office's annual written report described in Section 63M-1-206.

(b) The annual report shall:

(i) include a copy of the audit of the Utah fund of funds and a valuation of the assets of the Utah fund of funds;

(ii) review the progress of the investment fund allocation manager in implementing its investment plan; and

(iii) describe any redemption or transfer of a certificate issued under this part.

(c) The annual report may not identify any specific designated investor who has redeemed or transferred a certificate.

(d) (i) Beginning July 1, 2006, and thereafter every two years, the board shall publish a progress report which shall evaluate the progress of the state in accomplishing the purposes stated in Section 63M-1-1202.

~~[(ii) The board shall give a copy of the report to the Legislature.]~~

~~(ii) The executive director shall include the progress report in the office's annual written report described in Section 63M-1-206.~~

Section 33. Section 63M-1-1304 is amended to read:

63M-1-1304. Council powers and duties.

(1) The council shall:

(a) coordinate and advise on policies and objectives related to economic development and growth within the state;

(b) coordinate with state and private entities, including private venture capital and seed capital firms, to avoid duplication of programs and to increase the availability of venture and seed capital for research and for the development and growth of new and existing businesses in the state;

(c) focus on technologies, industries, and geographical areas of the state in which the state can expand investment and entrepreneurship and stimulate job growth;

(d) coordinate ideas and strategies to increase national and international business activities for both the urban and rural areas of the state; and

(e) plan, coordinate, advise, or recommend any other action that would better the state's economy.

~~(2) The council shall [submit, before November 1, an annual written report of its activities to the governor and the Economic Development and Workforce Services Interim Committee] annually report its activities to the office for inclusion in the office's annual written report described in Section 63M-1-206.~~

Section 34. Section 63M-1-1404 is amended to read:

63M-1-1404. Powers and duties of office related to tourism development plan -- Annual report and survey.

(1) The office shall:

(a) be the tourism development authority of the state;

(b) develop a tourism advertising, marketing, and branding program for the state;

(c) receive approval from the Board of Tourism Development under Subsection 63M-1-1403(1)(a) before implementing the out-of-state advertising, marketing, and branding campaign;

(d) develop a plan to increase the economic contribution by tourists visiting the state;

(e) plan and conduct a program of information, advertising, and publicity relating to the recreational, scenic, historic, and tourist advantages and attractions of the state at large; and

(f) encourage and assist in the coordination of the activities of persons, firms, associations,

corporations, travel regions, counties, and governmental agencies engaged in publicizing, developing, and promoting the scenic attractions and tourist advantages of the state.

(2) Any plan provided for under Subsection (1) shall address, but not be limited to, enhancing the state's image, promoting Utah as a year-round destination, encouraging expenditures by visitors to the state, and expanding the markets where the state is promoted.

(3) The office shall:

(a) conduct a regular and ongoing research program to identify statewide economic trends and conditions in the tourism sector of the economy; and

~~(b) [submit, before November 1, an annual written report to the Economic Development and Workforce Services Interim Committee and the Business, Economic Development, and Labor Appropriations Subcommittee] include in the annual written report described in Section 63M-1-206, a report on the economic efficiency of the advertising and branding campaigns conducted under this part.~~

Section 35. Section 63M-1-1606 is amended to read:

63M-1-1606. Annual report.

The office shall ~~[submit, before November 1, an annual written]~~ include in the annual written report described in Section 63M-1-206, a report of the program's operations and recommendations ~~[to:]~~.

~~[(1) the governor;]~~

~~[(2) the Rural Development Legislative Liaison Committee created in Section 36-25-102; and]~~

~~[(3) the Economic Development and Workforce Services Interim Committee.]~~

Section 36. Section 63M-1-1805 is amended to read:

63M-1-1805. Annual report.

The office shall ~~[submit, before November 1, an annual written report to the Economic Development and Workforce Services Interim Committee describing]~~ include the following information in the annual written report described in Section 63M-1-206:

(1) the office's success in attracting within-the-state production of television series, made-for-television movies, and motion pictures, including feature films and independent films;

(2) the amount of incentive commitments made by the office under this part and the period of time over which the incentives will be paid; and

(3) the economic impact on the state related to:

(a) dollars left in the state; and

(b) providing motion picture incentives under this part.

Section 37. Section 63M-1-1901 is amended to read:

63M-1-1901. Military installation projects for economic development -- Funding -- Criteria -- Dispersal -- Report.

(1) The Legislature recognizes that significant growth in the state's economy can be achieved by state and local support of the continuing expansion and development of federal military installations throughout the state.

(2) The office, through its director, may receive and distribute legislative appropriations and public and private grants and donations for military installation projects that:

(a) have a strong probability of increasing the growth and development of a military facility within the state, thereby providing significant economic benefits to the state;

(b) will provide a significant number of new jobs within the state that should remain within the state for a period of several years; and

(c) involve a partnership between the military and private industry or local government or the military and private industry and local government.

(3) (a) The director may distribute money under this section to:

(i) a regional or statewide nonprofit economic development organization; or

(ii) a federal military partnership that has the mission of promoting the economic growth of a military installation.

(b) The director shall make a distribution under this section upon:

(i) receipt of an application on a form prescribed by the office that lists:

(A) the particulars of the proposed use of the money requested, such as needed equipment purchases and anticipated training costs;

(B) the estimated number of new jobs that will be created by the proposed project;

(C) pending contracts related to the project that are to be finalized from funding anticipated under this section; and

(D) a projected date on which the applicant shall provide the director with a report on the implementation and performance of the project, including the creation of new jobs; and

(ii) a determination by the director that the project satisfies the requirements listed in Subsection (2).

(c) (i) The office shall monitor the activities of a recipient of money under this section to ensure that there is compliance with the terms and conditions imposed on the recipient under this part.

(ii) The office shall ~~[submit, before November 1, an annual written report to the Economic Development and Workforce Services Interim Committee and the Business, Economic Development, and Labor Appropriations Subcommittee]~~ include in the annual written report described in Section 63M-1-206, a report regarding the use and impact of the money distributed under this section.

Section 38. Section 63M-1-2006 is amended to read:

63M-1-2006. Report on amount of grants and loans, projects, and outstanding debt.

The board shall ~~[submit an annual written report to the Economic Development and Workforce Services Interim Committee before November 1 on]~~ annually provide the following information to the office for inclusion in the office's annual written report described in Section 63M-1-206:

(1) the total amount of grants and loans the board awarded to eligible counties under this part during the fiscal year that ended on the June 30 immediately preceding the November interim meeting;

(2) a description of the projects with respect to which the board awarded a grant or loan under this part;

(3) the total amount of outstanding debt service that is being repaid by a grant or loan awarded under this part;

(4) ~~[on]~~ whether the grants and loans awarded under this part have resulted in economic development within project areas; and

(5) ~~[on]~~ whether the board recommends:

(a) that the grants and loans authorized by this part should be continued; or

(b) any modifications to this part~~;~~ and].

~~[(6) on any other issue relating to this part as determined by the Economic Development and Workforce Services Interim Committee.]~~

Section 39. Section 63M-1-2406 is amended to read:

63M-1-2406. Reports -- Posting monthly and annual reports -- Audit and study of tax credits.

(1) The office shall ~~[submit, before November 1, an annual written report to the Economic Development and Workforce Services Interim Committee describing]~~ include the following information in the annual written report described in Section 63M-1-206:

(a) the office's success in attracting new commercial projects to development zones under this part and the corresponding increase in new incremental jobs;

(b) the estimated amount of tax credit commitments made by the office and the period of time over which tax credits will be paid;

(c) the economic impact on the state related to generating new state revenues and providing tax credits under this part;

(d) the estimated costs and economic benefits of the tax credit commitments that the office made;

(e) the actual costs and economic benefits of the tax credit commitments that the office made; and

(f) tax credit commitments that the office made, with the associated calculation.

~~[(2) The office shall post the annual report under Subsection (1) on its website and on a state website.]~~

~~[(3)] (2)~~ The office shall monthly post on its website and on a state website:

(a) the new tax credit commitments that the office made during the previous month; and

(b) the estimated costs and economic benefits of those tax credit commitments.

[4] (3) (a) On or before November 1, 2014, and every five years after November 1, 2014, the office shall:

(i) conduct an audit of the tax credits allowed under Section 63M-1-2405;

(ii) study the tax credits allowed under Section 63M-1-2405; and

(iii) make recommendations concerning whether the tax credits should be continued, modified, or repealed.

(b) An audit under Subsection [4] (3)(a)(i) shall include an evaluation of:

(i) the cost of the tax credits;

(ii) the purposes and effectiveness of the tax credits; and

(iii) the extent to which the state benefits from the tax credits.

Section 40. Section 63M-1-2504 is amended to read:

63M-1-2504. Creation of Office of Consumer Health Services -- Duties.

(1) There is created within the Governor's Office of Economic Development the Office of Consumer Health Services.

(2) The office shall:

(a) in cooperation with the Insurance Department, the Department of Health, and the Department of Workforce Services, and in accordance with the electronic standards developed under Sections 31A-22-635 and 63M-1-2506, create a Health Insurance Exchange that:

(i) provides information to consumers about private and public health programs for which the consumer may qualify;

(ii) provides a consumer comparison of and enrollment in a health benefit plan posted on the Health Insurance Exchange; and

(iii) includes information and a link to enrollment in premium assistance programs and other government assistance programs;

(b) contract with one or more private vendors for:

(i) administration of the enrollment process on the Health Insurance Exchange, including establishing a mechanism for consumers to compare health benefit plan features on the exchange and filter the plans based on consumer preferences;

(ii) the collection of health insurance premium payments made for a single policy by multiple payers, including the policyholder, one or more employers of one or more individuals covered by the policy, government programs, and others; and

(iii) establishing a call center in accordance with Subsection (3);

(c) assist employers with a free or low cost method for establishing mechanisms for the purchase of health insurance by employees using pre-tax dollars;

(d) establish a list on the Health Insurance Exchange of insurance producers who, in accordance with Section 31A-30-209, are appointed producers for the Health Insurance Exchange; and

~~(e) [submit, before November 1, an annual written report to the Business and Labor Interim Committee and the Health System Reform Task Force regarding] include in the annual written report described in Section 63M-1-206, a report on the operations of the Health Insurance Exchange required by this chapter.~~

(3) A call center established by the office:

(a) shall provide unbiased answers to questions concerning exchange operations, and plan information, to the extent the plan information is posted on the exchange by the insurer; and

(b) may not:

(i) sell, solicit, or negotiate a health benefit plan on the Health Insurance Exchange;

(ii) receive producer compensation through the Health Insurance Exchange; and

(iii) be designated as the default producer for an employer group that enters the Health Insurance Exchange without a producer.

(4) The office:

(a) may not:

(i) regulate health insurers, health insurance plans, health insurance producers, or health insurance premiums charged in the exchange;

(ii) adopt administrative rules, except as provided in Section 63M-1-2506; or

(iii) act as an appeals entity for resolving disputes between a health insurer and an insured;

(b) may establish and collect a fee for the cost of the exchange transaction in accordance with Section 63J-1-504 for:

(i) processing an application for a health benefit plan;

(ii) accepting, processing, and submitting multiple premium payment sources;

(iii) providing a mechanism for consumers to filter and compare health benefit plans in the exchange based on consumer preferences; and

(iv) funding the call center; and

(c) shall separately itemize the fee established under Subsection (4)(b) as part of the cost displayed for the employer selecting coverage on the exchange.

Section 41. Section 63M-1-2704 is amended to read:

63M-1-2704. Establishment and administration of business resource centers -- Components.

(1) The Governor's Office of Economic Development, hereafter referred to in this part as "the office," shall establish business resource centers in at least four different geographical regions of the state where host institutions are located and the host institutions agree to enter into a business resource center partnership with the office.

(2) The office, in partnership with a host institution, shall provide methodology and oversight for a business resource center.

(3) A host institution shall contribute 50% of a business resource center's operating costs through cash or in-kind contributions, unless otherwise provided under Subsection 63M-1-2707(7).

(4) The office shall work with the Utah Business Assistance Advisory Board established under Section 63M-1-2706, hereafter referred to in this part as "the board," to provide operational oversight and coordination of the business resource centers established under this part.

(5) (a) A business resource center shall work with state agencies in creating methods to coordinate functions and measure the impact of the efforts provided by the state agencies and the center.

(b) The host institution, state, local and federal governmental entities, quasi-governmental entities, and private entities may:

(i) participate in the activities offered by or through a business resource center; and

(ii) provide personnel or other appropriate links to the center.

(c) (i) Other entities that are not initially involved in the establishment of a business resource center and that are capable of providing supportive services to Utah businesses may apply to the center to become a provider of services at the center.

(ii) Entities identified in Subsections (5)(a) and (b) shall provide the board with a service plan, to include funding, which would be made available or

supplied to cover the expenses of their services offered at a business resource center.

(iii) The board shall review each application made under Subsection (5)(c)(i) and make a recommendation for approval by the office as a precondition for providing the service being offered.

(6) A business resource center may:

(a) partner with the [~~Governor's Office of Economic Development~~] office, other host institutions, and other entities to develop and establish web-based access to virtual business resource center services over the Internet to assist in establishing and growing businesses in the state, particularly in those situations where traveling to a business resource center site is not practical;

(b) develop a data base and software for:

(i) tracking clients and their progress; and

(ii) tracking responses and services provided by state agencies and evaluating their effectiveness; and

(c) develop outreach programs and services targeted to business clients in rural areas of the state.

(7) The [~~Governor's Office of Economic Development shall submit an annual written report to the Economic Development and Workforce Services Interim Committee before November 1~~] office shall include in the annual written report described in Section 63M-1-206, a report on measured performance of economic development programs offered by or through established business resource centers.

Section 42. Section 63M-1-2910 is amended to read:

63M-1-2910. Reports on tax credit certificates -- Study by legislative committees.

(1) The office shall [~~submit an annual written report to the Revenue and Taxation Interim Committee before November 1 describing~~] include the following information in the annual written report described in Section 63M-1-206:

(a) the total amount listed on tax credit certificates the office issues under this part;

(b) the criteria that the office uses in prioritizing the issuance of tax credits amongst tax credit applicants under this part; and

(c) the economic impact on the state related to providing tax credits under this part.

(2) (a) On or before November 1, 2016, and every five years after November 1, 2016, the Revenue and Taxation Interim Committee shall:

(i) study the tax credits allowed under Sections 59-7-614.6, 59-10-1025, and 59-10-1109; and

(ii) make recommendations concerning whether the tax credits should be continued, modified, or repealed.

(b) The study under Subsection (2)(a) shall include an evaluation of:

(i) the cost of the tax credits under Sections 59-7-614.6, 59-10-1025, and 59-10-1109;

(ii) the purposes and effectiveness of the tax credits; and

(iii) the extent to which the state benefits from the tax credits.

Section 43. Section 63M-1-3105 is amended to read:

63M-1-3105. Reporting.

The office shall ~~[submit, before November 1, an annual written report to the Economic Development and Workforce Services Interim Committee and the Revenue and Taxation Interim Committee describing]~~ provide the following information in the annual written report described in Section 63M-1-206:

(1) the office's success in attracting alternative energy manufacturing projects to the state and the resulting increase in new state revenues under this part;

(2) the amount of tax credits the office has granted or will grant and the time period during which the tax credits have been or will be granted; and

(3) the economic impact on the state by comparing new state revenues to tax credits that have been or will be granted under this part.

Section 44. Section 63M-1-3207 is amended to read:

63M-1-3207. Report to Legislature and the State Board of Education.

(1) The board shall report the progress of the STEM Action Center, including the information described in Subsection (2), to the following groups once each year:

(a) the Education Interim Committee;

(b) the Public Education Appropriations Subcommittee; ~~and~~

(c) the State Board of Education~~[-]; and~~

(d) the office for inclusion in the office's annual written report described in Section 63M-1-206.

(2) The report described in Subsection (1) shall include information that demonstrates the effectiveness of the program, including:

(a) the number of educators receiving professional development;

(b) the number of students receiving services from the STEM Action Center;

(c) a list of the providers selected pursuant to this part;

(d) a report on the STEM Action Center's fulfilment of its duties described in Subsection 63M-1-3204; and

(e) student performance of students participating in a STEM Action Center program as collected in Subsection 63M-1-3204(4).

Section 45. Section 63M-1-3306 is repealed and reenacted to read:

63M-1-3306. Annual report.

The executive director shall include in the annual written report described in Section 63M-1-206, a report from the director on the activities of the Outdoor Recreation Office.

Section 46. Repealer.

This bill repeals:

Section 35A-8-1802, Interim study.

CHAPTER 372**S. B. 34**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

**STATEWIDE DATA ALLIANCE
AND UTAH FUTURES**

Chief Sponsor: Howard A. Stephenson

House Sponsor: Bradley G. Last

LONG TITLE**General Description:**

This bill amends provisions related to Utah Futures and appropriates money to support a statewide data system for public education, higher education, and workforce data.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to Utah Futures;
- ▶ establishes an evaluation panel to evaluate Utah Futures and determine whether any or all components of Utah Futures should be outsourced to a private provider;
- ▶ requires the evaluation panel to report to the State Board of Education, the Executive Appropriations Committee, and the Education Interim Committee; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2015:

- ▶ to the Utah Education Network - Utah Education Network as an ongoing appropriation:
 - from the Education Fund, \$345,000;
- ▶ to the Utah Education Network - Utah Education Network as a one-time appropriation:
 - from the Education Fund, \$300,000;
- ▶ to the State Board of Education - State Office of Education as an ongoing appropriation:
 - from the Education Fund, \$355,000;
- ▶ to the Utah College of Applied Technology - Administration as an ongoing appropriation:
 - from the Education Fund, \$245,000;
- ▶ to the State Board of Regents - Administration as an ongoing appropriation:
 - from the Education Fund, \$245,000; and
- ▶ to the University of Utah - Education and General as an ongoing appropriation:
 - from the Education Fund, \$310,000.

Other Special Clauses:

This bill provides an effective date.

Utah Code Sections Affected:**AMENDS:**

53A-1-410, as enacted by Laws of Utah 2012, Chapter 392

63I-2-253, as last amended by Laws of Utah 2013, Chapters 173 and 434

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53A-1-410 is amended to read:**53A-1-410. Utah Futures.**

- (1) As used in this section:
- (a) "Education provider" means:
 - (i) a Utah institution of higher education as defined in Section 53B-2-101; or
 - (ii) a Utah provider of postsecondary education.
 - (b) "Student user" means:
 - (i) a Utah student in kindergarten through grade 12;
 - (ii) a Utah post secondary education student;
 - (iii) a parent or guardian of a Utah public education student; or
 - (iv) a Utah potential post secondary education student.

~~[(e) "Other user" means:]~~

~~[(i) a jobseeker;]~~

~~[(ii) an adult user;]~~

~~[(iii) a Utah business user; or]~~

~~[(iv) any Utah citizen.]~~

~~[(d)]~~ (c) "Utah Futures" means a career planning program developed and administered by the Department of Workforce Services, the State Board of Regents, and the State Board of Education.

~~[(e)]~~ (d) "Utah Futures Steering Committee" means a committee of members designated by the governor to administer and manage Utah Futures in collaboration with the Department of Workforce Services, the State Board of Regents, and the State Board of Education.

(2) The Utah Futures Steering Committee shall ensure, as funding allows and is feasible, that Utah Futures will:

- (a) allow a student user to:
 - (i) access the student user's full academic record;
 - (ii) electronically allow the student user to give access to the student user's academic record and related information to an education provider as allowed by law;
 - (iii) access information about different career opportunities and understand the related educational requirements to enter that career;
 - (iv) access information about education providers;
 - (v) access up to date information about entrance requirements to education providers;
 - (vi) apply for entrance to multiple schools without having to fully replicate the application process;
 - (vii) apply for loans, scholarships, or grants from multiple education providers in one location without having to fully replicate the application process for multiple education providers; and

(viii) research open jobs from different companies within the user's career interest and apply for those jobs without having to leave the website to do so;

(b) allow all users to:

(i) access information about different career opportunities and understand the related educational requirements to enter that career;

(ii) access information about education providers;

(iii) access up-to-date information about entrance requirements to education providers;

(iv) apply for entrance to multiple schools without having to fully replicate the application process;

(v) apply for loans, scholarships, or grants from multiple education providers in one location without having to fully replicate the application process for multiple education providers; and

(vi) research open jobs from different companies within the user's career interest and apply for those jobs without having to leave the website to do so;

~~[(b)]~~ (c) allow an education provider to:

(i) research and find student users who are interested in various educational outcomes;

(ii) promote the education provider's programs and schools to student users; and

(iii) connect with student users within the Utah Futures website;

~~[(e)]~~ (d) allow a Utah business to:

(i) research and find student users who are pursuing educational outcomes that are consistent with jobs the Utah business is trying to fill now or in the future; and

(ii) market jobs and communicate with student users through the Utah Futures website as allowed by law;

~~[(d)]~~ (e) allow the Department of Workforce Services to analyze and report on student user interests, education paths, and behaviors within the education system so as to predictively determine appropriate career and educational outcomes and results; and

~~[(e)]~~ (f) allow all users of the Utah Futures' system to communicate and interact through social networking tools within the Utah Futures website as allowed by law.

(3) On or before ~~[May 15, 2012]~~ October 1, 2014, the State Board of Education, ~~[in consultation with the Utah Futures Steering Committee]~~ after consulting with the Board of Business and Economic Development created in Section 63M-1-301, may select a technology provider, through a request for proposals process, to provide technology and support for Utah Futures.

(4) In evaluating proposals under Subsection (3) in consultation with the Board of Business and Economic Development, the State Board of Education ~~[and the Utah Futures Steering~~

~~Committee]~~ shall ensure that the technology provided by a proposer:

(a) allows Utah Futures to license ~~[and host]~~ the selected service oriented architecture technologies [on Utah Futures' servers];

(b) allows Utah Futures to protect ~~[and control]~~ all user data within the system by leveraging role architecture;

(c) allows Utah Futures to ~~[directly control and]~~ update the user interface, APIs, and web services software layers as needed; [and]

(d) provides the ability for a student user to have a secure profile and login to access and to store personal information related to the services listed in Subsection (2) via the Internet[-.];

(e) protects all user data within Utah Futures;

(f) allows the State Board of Education to license the technology of the selected technology provider; and

(g) provides technology able to support application programming interfaces to integrate technology of other third party providers, which may include cloud-based technology.

(5) (a) On or before August 1, 2014, the evaluation panel described in Subsection (5)(b), using the criteria described in Subsection (5)(c), shall evaluate Utah Futures and determine whether any or all components of Utah Futures, as described in this section, should be outsourced to a private provider or built in-house by the participating state agencies.

(b) The evaluation panel described in Subsection (5)(a) shall consist of the following members, appointed by the governor after consulting with the State Board of Education:

(i) five members who represent business, including:

(A) one member who has extensive knowledge and experience in information technology; and

(B) one member who has extensive knowledge and experience in human resources;

(ii) one member who is a user of the information provided by Utah Futures;

(iii) one member who is a parent of a student who uses Utah Futures;

(iv) one member who:

(A) is an educator as defined in Section 53A-6-103; and

(B) teaches students who use Utah Futures; and

(v) one member who is a high school counselor licensed under Title 53A, Chapter 6, Educator Licensing and Professional Practices Act.

(c) The evaluation panel described in Subsections (5)(a) and (b) shall consider at least the following criteria to make the determination described in Subsection (5)(a):

(i) the complete functional capabilities of a private technology provider versus an in-house version;

(ii) the cost of purchasing privately developed technology versus continuing to develop or build an in-house version;

(iii) the data and security capabilities of a private technology provider versus an in-house version;

(iv) the time frames to implementation; and

(v) the best practices and examples of other states who have implemented a tool similar to Utah Futures.

(d) On or before September 30, 2014, the evaluation panel shall report the determination to:

(i) the State Board of Education;

(ii) the Executive Appropriations Committee; and

(iii) the Education Interim Committee.

Section 2. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates -- Titles 53, 53A, and 53B.

(1) Section 53A-1-402.7 is repealed July 1, 2014.

(2) Section 53A-1-403.5 is repealed July 1, 2017.

(3) Subsection 53A-1-410(5) is repealed July 1, 2015.

[~~(3)~~] (4) Section 53A-1-411 is repealed July 1, 2016.

[~~(4)~~] (5) Section 53A-1-412 is repealed July 1, 2013.

[~~(5)~~] (6) Section 53A-1a-513.5 is repealed July 1, 2017.

[~~(6)~~] (7) Title 53A, Chapter 1a, Part 10, UPSTART, is repealed July 1, 2014.

[~~(7)~~] (8) Title 53A, Chapter 8a, Part 8, Peer Assistance and Review Pilot Program, is repealed July 1, 2017.

[~~(8)~~] (9) Subsection 53A-13-110(4) is repealed July 1, 2013.

[~~(9)~~] (10) Section 53A-17a-169 is repealed July 1, 2016.

Section 3. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2014, and ending June 30, 2015, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2015

To Utah Education Network - Utah Education Network

From Education Fund \$345,000

From Education Fund, One-time \$300,000

Schedule of Programs:

Statewide Data Alliance \$645,000

To State Board of Education - State Office of Education

From Education Fund \$355,000

Schedule of Programs:

Board and Administration \$355,000

To Utah College of Applied Technology - Administration

From Education Fund \$245,000

Schedule of Programs:

Administration \$245,000

To State Board of Regents - Administration

From Education Fund \$245,000

Schedule of Programs:

Administration \$245,000

To University of Utah - Education and General

From Education Fund \$310,000

Schedule of Programs:

Education and General \$310,000

The Legislature intends that the appropriation under this section be used to support a statewide data system for public education, higher education, and workforce data.

Section 4. Effective date.

Uncodified Section 3 takes effect on July 1, 2014.

this form is true, and that I am a citizen of the United States and a resident of the state of Utah, residing at the above address. I will be at least 18 years old and will have resided in Utah for 30 days immediately before the next election. I am not a convicted felon currently incarcerated for commission of a felony.

Signed and sworn

Voter's Signature _____
_____ (month/day/year).

"The portion of a voter registration form that lists a person's driver license or identification card number, social security number, and email address is a private record. The portion of a voter registration form that lists a person's date of birth is a private record, the use of which is restricted to government officials, government employees, political parties, or certain other persons.

If you believe that disclosure of any information contained in this voter registration form to a person other than a government official or government employee is likely to put you or a member of your household's life or safety at risk, or to put you or a member of your household at risk of being stalked or harassed, you may apply to the lieutenant governor or your county clerk to have your entire voter registration record classified as private."

CITIZENSHIP AFFIDAVIT

Name:

Name at birth, if different:

Place of birth: Date of birth:

Date and place of naturalization (if applicable):

I hereby swear and affirm, under penalties for voting fraud set forth below, that I am a citizen and that to the best of my knowledge and belief the information above is true and correct.

Signature of Applicant _____

In accordance with Section 20A-2-401, the penalty for willfully causing, procuring, or allowing yourself to be registered to vote if you know you are not entitled to register to vote is up to one year in jail and a fine of up to \$2,500.

NOTICE: IN ORDER TO BE ALLOWED TO VOTE, YOU MUST PRESENT VALID VOTER IDENTIFICATION TO THE POLL WORKER BEFORE VOTING, WHICH MUST BE A VALID FORM OF PHOTO IDENTIFICATION THAT SHOWS YOUR NAME AND PHOTOGRAPH; OR TWO DIFFERENT FORMS OF IDENTIFICATION THAT SHOW YOUR NAME AND CURRENT ADDRESS. FOR OFFICIAL USE ONLY

Type of I.D. _____

Voting Precinct _____

Voting I.D. Number _____

(2) (a) Except as provided under Subsection (2)(b), the county clerk shall retain a copy of each voter registration form in a permanent countywide alphabetical file, which may be electronic or some other recognized system.

(b) The county clerk may transfer a superceded voter registration form to the Division of Archives and Records Service created under Section 63A-12-101.

(3) (a) Each county clerk shall retain lists of currently registered voters.

(b) The lieutenant governor shall maintain a list of registered voters in electronic form.

(c) If there are any discrepancies between the two lists, the county clerk's list is the official list.

(d) The lieutenant governor and the county clerks may charge the fees established under the authority of Subsection 63G-2-203(10) to individuals who wish to obtain a copy of the list of registered voters.

(4) (a) As used in this Subsection (4), "qualified person" means:

(i) a government official or government employee acting in the government official's or government employee's capacity as a government official or a government employee;

(ii) a health care provider, as defined in Section 26-33a-102, or an agent, employee, or independent contractor of a health care provider;

(iii) an insurance company, as defined in Section 67-4a-102, or an agent, employee, or independent contractor of an insurance company;

(iv) a financial institution, as defined in Section 7-1-103, or an agent, employee, or independent contractor of a financial institution;

(v) a political party, or an agent, employee, or independent contractor of a political party; or

(vi) a person, or an agent, employee, or independent contractor of the person, who:

(A) provides the date of birth of a registered voter that is obtained from the list of registered voters only to a person who is a qualified person;

(B) verifies that a person, described in Subsection (4)(a)(vi)(A), to whom a date of birth that is obtained from the list of registered voters is provided, is a qualified person;

(C) ensures, using industry standard security measures, that the date of birth of a registered voter that is obtained from the list of registered voters may not be accessed by a person other than a qualified person;

(D) verifies that each qualified person, other than a qualified person described in Subsection (4)(a)(i) or (v), to whom the person provides the date of birth of a registered voter that is obtained from the list of registered voters, will only use the date of birth to verify the accuracy of personal information submitted by an individual or to confirm the

identity of a person in order to prevent fraud, waste, or abuse;

(E) verifies that each qualified person described in Subsection (4)(a)(i), to whom the person provides the date of birth of a registered voter that is obtained from the list of registered voters, will only use the date of birth in the qualified person's capacity as a government official or government employee; and

(F) verifies that each qualified person described in Subsection (4)(a)(v), to whom the person provides the date of birth of a registered voter that is obtained from the list of registered voters, will only use the date of birth for a political purpose.

(b) Notwithstanding Subsection 63G-2-302(1)(j)(iv), and except as provided in Subsection 63G-2-302(1)(k), the lieutenant governor or a county clerk shall, when providing the list of registered voters to a qualified person under this section, include, with the list, the dates of birth of the registered voters, if:

(i) the lieutenant governor or a county clerk verifies the identity of the person and that the person is a qualified person; and

(ii) the qualified person signs a document that includes the following:

(A) the name, address, and telephone number of the person requesting the list of registered voters;

(B) an indication of the type of qualified person that the person requesting the list claims to be;

(C) a statement regarding the purpose for which the person desires to obtain the dates of birth;

(D) a list of the purposes for which the date of birth of a registered voter that is obtained from the list of registered voters may be used;

(E) a statement that the date of birth of a registered voter that is obtained from the list of registered voters may not be provided or used for a purpose other than a purpose described under Subsection (4)(b)(ii)(D);

(F) a statement that if the person obtains the date of birth of a registered voter from the list of registered voters under false pretenses, or provides or uses the date of birth of a registered voter that is obtained from the list of registered voters in a manner that is prohibited by law, is guilty of a class A misdemeanor and is subject to a civil fine;

(G) an assertion from the person that the person will not provide or use the date of birth of a registered voter that is obtained from the list of registered voters in a manner that is prohibited by law; and

(H) notice that if the person makes a false statement in the document, the person is punishable by law under Section 76-8-504.

(c) The lieutenant governor or a county clerk may not disclose the date of birth of a registered voter to a person that the lieutenant governor or county clerk reasonably believes:

(i) is not a qualified person or a person described in Subsection (4)(k); or

(ii) will provide or use the date of birth in a manner prohibited by law.

(d) The lieutenant governor or a county clerk may not disclose the voter registration form of a person, or information included in the person's voter registration form, whose voter registration form is classified as private under Subsection (4)(f) to a person other than a government official or government employee acting in the government official's or government employee's capacity as a government official or government employee.

(e) A person is guilty of a class A misdemeanor if the person:

(i) obtains the date of birth of a registered voter from the list of registered voters under false pretenses; or

(ii) uses or provides the date of birth of a registered voter that is obtained from the list of registered voters, in a manner that is not permitted by law.

(f) The lieutenant governor or a county clerk shall classify the voter registration record of a voter as a private record if the voter submits:

(i) a written application, created by the lieutenant governor, requesting that the voter's voter registration record be classified as private; and

(ii) provides evidence to the lieutenant governor or a county clerk establishing that release of the information on the voter's voter registration record is likely to put the voter or a member of the voter's household's life or safety at risk, or to put the voter or a member of the voter's household at risk of being stalked or harassed.

(g) The evidence described in Subsection (4)(f) may include:

(i) a protective order;

(ii) a police report; or

(iii) other evidence designated by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, by the director of elections within the Office of the Lieutenant Governor.

(h) In addition to any criminal penalty that may be imposed under this section, the lieutenant governor may impose a civil fine against a person who obtains the date of birth of a registered voter from the list of registered voters under false pretenses, or provides or uses a date of birth of a registered voter that is obtained from the list of registered voters in a manner that is not permitted by law, in an amount equal to the greater of:

(i) the product of 30 and the square root of the total number of dates of birth obtained, provided, or used unlawfully, rounded to the nearest whole dollar; or

(ii) \$200.

(i) A qualified person may not obtain, provide, or use the date of birth of a registered voter, if the date of birth is obtained from the list of registered voters or from a voter registration record, unless the person:

(i) is a government official or government employee who obtains, provides, or uses the date of birth in the government official's or government employee's capacity as a government official or government employee;

(ii) is a qualified person described in Subsection (4)(a)(ii), (iii), or (iv) and obtains or uses the date of birth only to verify the accuracy of personal information submitted by an individual or to confirm the identity of a person in order to prevent fraud, waste, or abuse;

(iii) is a qualified person described in Subsection (4)(a)(v) and obtains, provides, or uses the date of birth for a political purpose; or

(iv) is a qualified person described in Subsection (4)(a)(vi) and obtains, provides, or uses the date of birth to provide the date of birth to another qualified person to verify the accuracy of personal information submitted by an individual or to confirm the identity of a person in order to prevent fraud, waste, or abuse.

(j) A person who is not a qualified person may not obtain, provide, or use the date of birth of a registered voter, if the date of birth is obtained from the list of registered voters or from a voter registration record, unless the person:

(i) is a candidate for public office and uses the date of birth only for a political purpose; or

(ii) obtains the date of birth from a political party or a candidate for public office and uses the date of birth only for the purpose of assisting the political party or candidate for public office to fulfill a political purpose.

(k) The lieutenant governor or a county clerk may provide a date of birth to a member of the media, in relation to an individual designated by the member of the media, in order for the member of the media to verify the identity of the individual.

[4] (5) When political parties not listed on the voter registration form qualify as registered political parties under Title 20A, Chapter 8, Political Party Formation and Procedures, the lieutenant governor shall inform the county clerks about the name of the new political party and direct the county clerks to ensure that the voter registration form is modified to include that political party.

[4] (6) Upon receipt of a voter registration form from an applicant, the county clerk or the clerk's designee shall:

(a) review each voter registration form for completeness and accuracy; and

(b) if the county clerk believes, based upon a review of the form, that a person may be seeking to register to vote who is not legally entitled to register

to vote, refer the form to the county attorney for investigation and possible prosecution.

Section 2. Section 20A-2-108 is amended to read:

20A-2-108. Driver license registration form -- Transmittal of information.

(1) The lieutenant governor and the Driver License Division shall design the driver license application and renewal forms to include the question "if you are not registered to vote where you live now, would you like to register to vote today?"

(2) (a) The lieutenant governor and the Driver License Division shall design a motor voter registration form to be used in conjunction with driver license application and renewal forms.

(b) Each driver license application and renewal form shall contain:

(i) a place for the applicant to decline to register to vote;

(ii) an eligibility statement in substantially the following form:

"I do swear (or affirm), subject to penalty of law for false statements, that the information contained in this form is true, and that I am a citizen of the United States and a resident of the state of Utah, residing at the above address. I will be at least 18 years old and will have resided in Utah for 30 days immediately before the next election.

Signed and sworn

Voter's Signature
_____(month \ day \ year)";

(iii) a citizenship affidavit in substantially the following form:

"CITIZENSHIP AFFIDAVIT

Name:

Name at birth, if different:Place of birth:

Date of birth:

Date and place of naturalization (if applicable):

I hereby swear and affirm, under penalties for voting fraud set forth below, that I am a citizen and that to the best of my knowledge and belief the information above is true and correct.

Signature of Applicant

In accordance with Section 20A-2-401, the penalty for willfully causing, procuring, or allowing yourself to be registered to vote if you know you are not entitled to register to vote is up to one year in jail and a fine of up to \$2,500";

(iv) a statement that if an applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential and will be used only for voter registration purposes; [and]

(v) a statement that if an applicant does register to vote, the office at which the applicant submits a

voter registration application will remain confidential and will be used only for voter registration purposes[-]; and

(vi) the following statement:

“The portion of a voter registration form that lists a person’s driver license or identification card number, social security number, and email address is a private record. The portion of a voter registration form that lists a person’s date of birth is a private record, the use of which is restricted to government officials, government employees, political parties, or certain other persons.

If you believe that disclosure of any information contained in this voter registration form to a person other than a government official or government employee is likely to put you or a member of your household’s life or safety at risk, or to put you or a member of your household at risk of being stalked or harassed, you may apply to the lieutenant governor or your county clerk to have your entire voter registration record classified as private.”

(3) Upon receipt of a voter registration form from an applicant, the county clerk or the clerk’s designee shall:

(a) review the voter registration form for completeness and accuracy; and

(b) if the county clerk believes, based upon a review of the form, that a person may be seeking to register to vote who is not legally entitled to register to vote, refer the form to the county attorney for investigation and possible prosecution.

Section 3. Section 20A-2-306 is amended to read:

20A-2-306. Removing names from the official register -- Determining and confirming change of residence.

(1) A county clerk may not remove a voter’s name from the official register on the grounds that the voter has changed residence unless the voter:

(a) confirms in writing that the voter has changed residence to a place outside the county; or

(b) (i) has not voted in an election during the period beginning on the date of the notice required by Subsection (3), and ending on the day after the date of the second regular general election occurring after the date of the notice; and

(ii) has failed to respond to the notice required by Subsection (3).

(2) (a) When a county clerk obtains information that a voter’s address has changed and it appears that the voter still resides within the same county, the county clerk shall:

(i) change the official register to show the voter’s new address; and

(ii) send to the voter, by forwardable mail, the notice required by Subsection (3) printed on a postage prepaid, preaddressed return form.

(b) When a county clerk obtains information that a voter’s address has changed and it appears that the voter now resides in a different county, the county clerk shall verify the changed residence by sending to the voter, by forwardable mail, the notice required by Subsection (3) printed on a postage prepaid, preaddressed return form.

(3) Each county clerk shall use substantially the following form to notify voters whose addresses have changed:

“VOTER REGISTRATION NOTICE

We have been notified that your residence has changed. Please read, complete, and return this form so that we can update our voter registration records. What is your current street address?

Street	City	County	State	Zip
--------	------	--------	-------	-----

If you have not changed your residence or have moved but stayed within the same county, you must complete and return this form to the county clerk so that it is received by the county clerk no later than 30 days before the date of the election. If you fail to return this form within that time:

- you may be required to show evidence of your address to the poll worker before being allowed to vote in either of the next two regular general elections; or

- if you fail to vote at least once from the date this notice was mailed until the passing of two regular general elections, you will no longer be registered to vote. If you have changed your residence and have moved to a different county in Utah, you may register to vote by contacting the county clerk in your county.

Signature of Voter”

“The portion of a voter registration form that lists a person’s driver license or identification card number, social security number, and email address is a private record. The portion of a voter registration form that lists a person’s date of birth is a private record, the use of which is restricted to government officials, government employees, political parties, or certain other persons.

If you believe that disclosure of any information contained in this voter registration form to a person other than a government official or government employee is likely to put you or a member of your household’s life or safety at risk, or to put you or a member of your household at risk of being stalked or harassed, you may apply to the lieutenant governor or your county clerk to have your entire voter registration record classified as private.”

(4) (a) Except as provided in Subsection (4)(b), the county clerk may not remove the names of any voters from the official register during the 90 days before a regular primary election and the 90 days before a regular general election.

(b) The county clerk may remove the names of voters from the official register during the 90 days before a regular primary election and the 90 days before a regular general election if:

(i) the voter requests, in writing, that the voter's name be removed; or

(ii) the voter has died.

(c) (i) After a county clerk mails a notice as required in this section, the clerk may list that voter as inactive.

(ii) An inactive voter shall be allowed to vote, sign petitions, and have all other privileges of a registered voter.

(iii) A county is not required to send routine mailings to inactive voters and is not required to count inactive voters when dividing precincts and preparing supplies.

Section 4. Section 20A-2-308 is amended to read:

20A-2-308. Lieutenant governor and county clerks to preserve records.

(1) As used in this section:

(a) "Voter registration [~~records~~] record" means [~~all records~~] a record concerning the implementation of programs and activities conducted for the purpose of ensuring that the official register is accurate and current.

(b) "Voter registration [~~records~~] record" does not [~~mean records~~] include a record that:

(i) [~~relate~~] relates to a person's decision to decline to register to vote; [and] or

(ii) [~~identify~~] identifies the particular public assistance agency, discretionary voter registration agency, or Driver License Division through which a particular voter registered to vote.

(2) The lieutenant governor and each county clerk shall:

(a) preserve for at least two years all records relating to voter registration, including:

(i) the official register; and

(ii) the names and addresses of all persons to whom the notice required by Section 20A-2-306 was sent and a notation as to whether or not the person responded to the notice;

(b) make [~~the records, except for the part of the~~] a voter registration record available for public inspection, except for a voter registration record, or part of a voter registration record that is classified as private under Section 63G-2-302[~~, available for public inspection~~]; and

(c) allow [~~the records~~] a record or part of a record described in Subsection (2)(b) that is not classified as a private record to be photocopied for a reasonable cost.

Section 5. Section 20A-6-105 is amended to read:

20A-6-105. Provisional ballot envelopes.

(1) Each election officer shall ensure that provisional ballot envelopes are printed in substantially the following form:

"AFFIRMATION

Are you a citizen of the United States of America?
Yes No

Will you be 18 years old on or before election day?
Yes No

If you checked "no" in response to either of the two above questions, do not complete this form.

Name of Voter _____
First Middle Last

Driver License or Identification Card Number _____

State of Issuance of Driver License or Identification Card Number _____

Date of Birth _____

Street Address of Principal Place of Residence _____

City County State Zip Code

Telephone Number (optional) _____

Last four digits of Social Security Number _____

Last former address at which I was registered to vote (if known)

City County State Zip Code

Voting Precinct (if known) _____

I, (please print your full name) _____ do solemnly swear or affirm:

That I am currently registered to vote in the state of Utah and am eligible to vote in this election; that I have not voted in this election in any other precinct; that I am eligible to vote in this precinct; and that I request that I be permitted to vote in this precinct; and

Subject to penalty of law for false statements, that the information contained in this form is true, and that I am a citizen of the United States and a resident of Utah, residing at the above address; and that I am at least 18 years old and have resided in Utah for the 30 days immediately before this election.

Signed _____

Dated _____

In accordance with Section 20A-3-506, wilfully providing false information above is a class B misdemeanor under Utah law and is punishable by imprisonment and by fine."

"The portion of a voter registration form that lists a person's driver license or identification card number, social security number, and email address is a private record. The portion of a voter registration form that lists a person's date of birth is a private record, the use of which is restricted to government officials, government employees, political parties, or certain other persons.

If you believe that disclosure of any information contained in this voter registration form to a person

other than a government official or government employee is likely to put you or a member of your household's life or safety at risk, or to put you or a member of your household at risk of being stalked or harassed, you may apply to the lieutenant governor or your county clerk to have your entire voter registration record classified as private."

"CITIZENSHIP AFFIDAVIT

Name:

Name at birth, if different:

Place of birth:

Date of birth:

Date and place of naturalization (if applicable):

I hereby swear and affirm, under penalties for voting fraud set forth below, that I am a citizen and that to the best of my knowledge and belief the information above is true and correct.

Signature of Applicant

In accordance with Section 20A-2-401, the penalty for willfully causing, procuring, or allowing yourself to be registered to vote if you know you are not entitled to register to vote is up to one year in jail and a fine of up to \$2,500."

(2) The provisional ballot envelope shall include:

(a) a unique number;

(b) a detachable part that includes the unique number; and

(c) a telephone number, internet address, or other indicator of a means, in accordance with Section 20A-6-105.5, where the voter can find out if the provisional ballot was counted.

Section 6. Section 63G-2-202 is amended to read:

63G-2-202. Access to private, controlled, and protected documents.

(1) Upon request, and except as provided in Subsection (11)(a), a governmental entity shall disclose a private record to:

(a) the subject of the record;

(b) the parent or legal guardian of an unemancipated minor who is the subject of the record;

(c) the legal guardian of a legally incapacitated individual who is the subject of the record;

(d) any other individual who:

(i) has a power of attorney from the subject of the record;

(ii) submits a notarized release from the subject of the record or the individual's legal representative dated no more than 90 days before the date the request is made; or

(iii) if the record is a medical record described in Subsection 63G-2-302(1)(b), is a health care

provider, as defined in Section 26-33a-102, if releasing the record or information in the record is consistent with normal professional practice and medical ethics; or

(e) any person to whom the record must be provided pursuant to:

(i) court order as provided in Subsection (7); or

(ii) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena Powers.

(2) (a) Upon request, a governmental entity shall disclose a controlled record to:

(i) a physician, psychologist, certified social worker, insurance provider or producer, or a government public health agency upon submission of:

(A) a release from the subject of the record that is dated no more than 90 days prior to the date the request is made; and

(B) a signed acknowledgment of the terms of disclosure of controlled information as provided by Subsection (2)(b); and

(ii) any person to whom the record must be disclosed pursuant to:

(A) a court order as provided in Subsection (7); or

(B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena Powers.

(b) A person who receives a record from a governmental entity in accordance with Subsection (2)(a)(i) may not disclose controlled information from that record to any person, including the subject of the record.

(3) If there is more than one subject of a private or controlled record, the portion of the record that pertains to another subject shall be segregated from the portion that the requester is entitled to inspect.

(4) Upon request, and except as provided in Subsection (10) or (11)(b), a governmental entity shall disclose a protected record to:

(a) the person who submitted the record;

(b) any other individual who:

(i) has a power of attorney from all persons, governmental entities, or political subdivisions whose interests were sought to be protected by the protected classification; or

(ii) submits a notarized release from all persons, governmental entities, or political subdivisions whose interests were sought to be protected by the protected classification or from their legal representatives dated no more than 90 days prior to the date the request is made;

(c) any person to whom the record must be provided pursuant to:

(i) a court order as provided in Subsection (7); or

(ii) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena Powers; or

(d) the owner of a mobile home park, subject to the conditions of Subsection 41-1a-116(5).

(5) A governmental entity may disclose a private, controlled, or protected record to another governmental entity, political subdivision, another state, the United States, or a foreign government only as provided by Section 63G-2-206.

(6) Before releasing a private, controlled, or protected record, the governmental entity shall obtain evidence of the requester's identity.

(7) A governmental entity shall disclose a record pursuant to the terms of a court order signed by a judge from a court of competent jurisdiction, provided that:

(a) the record deals with a matter in controversy over which the court has jurisdiction;

(b) the court has considered the merits of the request for access to the record;

(c) the court has considered and, where appropriate, limited the requester's use and further disclosure of the record in order to protect:

(i) privacy interests in the case of private or controlled records;

(ii) business confidentiality interests in the case of records protected under Subsection 63G-2-305(1), (2), (40)(a)(ii), or (40)(a)(vi); and

(iii) privacy interests or the public interest in the case of other protected records;

(d) to the extent the record is properly classified private, controlled, or protected, the interests favoring access, considering limitations thereon, are greater than or equal to the interests favoring restriction of access; and

(e) where access is restricted by a rule, statute, or regulation referred to in Subsection 63G-2-201(3)(b), the court has authority independent of this chapter to order disclosure.

(8) (a) Except as provided in Subsection (8)(d), a governmental entity may disclose or authorize disclosure of private or controlled records for research purposes if the governmental entity:

(i) determines that the research purpose cannot reasonably be accomplished without use or disclosure of the information to the researcher in individually identifiable form;

(ii) determines that:

(A) the proposed research is bona fide; and

(B) the value of the research is greater than or equal to the infringement upon personal privacy;

(iii) (A) requires the researcher to assure the integrity, confidentiality, and security of the records; and

(B) requires the removal or destruction of the individual identifiers associated with the records as soon as the purpose of the research project has been accomplished;

(iv) prohibits the researcher from:

(A) disclosing the record in individually identifiable form, except as provided in Subsection (8)(b); or

(B) using the record for purposes other than the research approved by the governmental entity; and

(v) secures from the researcher a written statement of the researcher's understanding of and agreement to the conditions of this Subsection (8) and the researcher's understanding that violation of the terms of this Subsection (8) may subject the researcher to criminal prosecution under Section 63G-2-801.

(b) A researcher may disclose a record in individually identifiable form if the record is disclosed for the purpose of auditing or evaluating the research program and no subsequent use or disclosure of the record in individually identifiable form will be made by the auditor or evaluator except as provided by this section.

(c) A governmental entity may require indemnification as a condition of permitting research under this Subsection (8).

(d) A governmental entity may not disclose or authorize disclosure of a private record for research purposes as described in this Subsection (8) if the private record is a record described in Subsection 63G-2-302(1)(~~t~~)(u).

(9) (a) Under Subsections 63G-2-201(5)(b) and 63G-2-401(6), a governmental entity may disclose to persons other than those specified in this section records that are:

(i) private under Section 63G-2-302; or

(ii) protected under Section 63G-2-305 subject to Section 63G-2-309 if a claim for business confidentiality has been made under Section 63G-2-309.

(b) Under Subsection 63G-2-403(11)(b), the records committee may require the disclosure to persons other than those specified in this section of records that are:

(i) private under Section 63G-2-302;

(ii) controlled under Section 63G-2-304; or

(iii) protected under Section 63G-2-305 subject to Section 63G-2-309 if a claim for business confidentiality has been made under Section 63G-2-309.

(c) Under Subsection 63G-2-404(8), the court may require the disclosure of records that are private under Section 63G-2-302, controlled under Section 63G-2-304, or protected under Section 63G-2-305 to persons other than those specified in this section.

(10) A record contained in the Management Information System, created in Section 62A-4a-1003, that is found to be unsubstantiated, unsupported, or without merit may not be disclosed to any person except the person who is alleged in the

report to be a perpetrator of abuse, neglect, or dependency.

(11) (a) A private record described in Subsection 63G-2-302(2)(g) may only be disclosed as provided in Subsection (1)(e).

(b) A protected record described in Subsection 63G-2-305(43) may only be disclosed as provided in Subsection (4)(c) or Section 62A-3-312.

(12) (a) A private, protected, or controlled record described in Section 62A-16-301 shall be disclosed as required under:

(i) Subsections 62A-16-301(1)(b), (2), and (4)(c); and

(ii) Subsections 62A-16-302(1) and (6).

(b) A record disclosed under Subsection (12)(a) shall retain its character as private, protected, or controlled.

Section 7. Section 63G-2-301 is amended to read:

63G-2-301. Public records.

(1) As used in this section:

(a) "Business address" means a single address of a governmental agency designated for the public to contact an employee or officer of the governmental agency.

(b) "Business email address" means a single email address of a governmental agency designated for the public to contact an employee or officer of the governmental agency.

(c) "Business telephone number" means a single telephone number of a governmental agency designated for the public to contact an employee or officer of the governmental agency.

(2) The following records are public except to the extent they contain information expressly permitted to be treated confidentially under the provisions of Subsections 63G-2-201(3)(b) and (6)(a):

(a) laws;

(b) the name, gender, gross compensation, job title, job description, business address, business email address, business telephone number, number of hours worked per pay period, dates of employment, and relevant education, previous employment, and similar job qualifications of a current or former employee or officer of the governmental entity, excluding:

(i) undercover law enforcement personnel; and

(ii) investigative personnel if disclosure could reasonably be expected to impair the effectiveness of investigations or endanger any individual's safety;

(c) final opinions, including concurring and dissenting opinions, and orders that are made by a governmental entity in an administrative, adjudicative, or judicial proceeding except that if

the proceedings were properly closed to the public, the opinion and order may be withheld to the extent that they contain information that is private, controlled, or protected;

(d) final interpretations of statutes or rules by a governmental entity unless classified as protected as provided in Subsection 63G-2-305 (17) or (18);

(e) information contained in or compiled from a transcript, minutes, or report of the open portions of a meeting of a governmental entity as provided by Title 52, Chapter 4, Open and Public Meetings Act, including the records of all votes of each member of the governmental entity;

(f) judicial records unless a court orders the records to be restricted under the rules of civil or criminal procedure or unless the records are private under this chapter;

(g) unless otherwise classified as private under Section 63G-2-303, records or parts of records filed with or maintained by county recorders, clerks, treasurers, surveyors, zoning commissions, the Division of Forestry, Fire, and State Lands, the School and Institutional Trust Lands Administration, the Division of Oil, Gas, and Mining, the Division of Water Rights, or other governmental entities that give public notice of:

(i) titles or encumbrances to real property;

(ii) restrictions on the use of real property;

(iii) the capacity of persons to take or convey title to real property; or

(iv) tax status for real and personal property;

(h) records of the Department of Commerce that evidence incorporations, mergers, name changes, and uniform commercial code filings;

(i) data on individuals that would otherwise be private under this chapter if the individual who is the subject of the record has given the governmental entity written permission to make the records available to the public;

(j) documentation of the compensation that a governmental entity pays to a contractor or private provider;

(k) summary data;

(l) voter registration records, including an individual's voting history, except for a voter registration record or those parts of [the] a voter registration record that are classified as private [in] under Subsection 63G-2-302(1)(j) or (k);

(m) for an elected official, as defined in Section 11-47-102, a telephone number, if available, and email address, if available, where that elected official may be reached as required in Title 11, Chapter 47, Access to Elected Officials;

(n) for a school community council member, a telephone number, if available, and email address, if available, where that elected official may be reached directly as required in Section 53A-1a-108.1;

(o) annual audited financial statements of the Utah Educational Savings Plan described in Section 53B-8a-111; and

(p) an initiative packet, as defined in Section 20A-7-101, and a referendum packet, as defined in Section 20A-7-101, after the packet is submitted to a county clerk.

(3) The following records are normally public, but to the extent that a record is expressly exempt from disclosure, access may be restricted under Subsection 63G-2-201(3)(b), Section 63G-2-302, 63G-2-304, or 63G-2-305:

(a) administrative staff manuals, instructions to staff, and statements of policy;

(b) records documenting a contractor's or private provider's compliance with the terms of a contract with a governmental entity;

(c) records documenting the services provided by a contractor or a private provider to the extent the records would be public if prepared by the governmental entity;

(d) contracts entered into by a governmental entity;

(e) any account, voucher, or contract that deals with the receipt or expenditure of funds by a governmental entity;

(f) records relating to government assistance or incentives publicly disclosed, contracted for, or given by a governmental entity, encouraging a person to expand or relocate a business in Utah, except as provided in Subsection 63G-2-305(35);

(g) chronological logs and initial contact reports;

(h) correspondence by and with a governmental entity in which the governmental entity determines or states an opinion upon the rights of the state, a political subdivision, the public, or any person;

(i) empirical data contained in drafts if:

(i) the empirical data is not reasonably available to the requester elsewhere in similar form; and

(ii) the governmental entity is given a reasonable opportunity to correct any errors or make nonsubstantive changes before release;

(j) drafts that are circulated to anyone other than:

(i) a governmental entity;

(ii) a political subdivision;

(iii) a federal agency if the governmental entity and the federal agency are jointly responsible for implementation of a program or project that has been legislatively approved;

(iv) a government-managed corporation; or

(v) a contractor or private provider;

(k) drafts that have never been finalized but were relied upon by the governmental entity in carrying out action or policy;

(l) original data in a computer program if the governmental entity chooses not to disclose the program;

(m) arrest warrants after issuance, except that, for good cause, a court may order restricted access to arrest warrants prior to service;

(n) search warrants after execution and filing of the return, except that a court, for good cause, may order restricted access to search warrants prior to trial;

(o) records that would disclose information relating to formal charges or disciplinary actions against a past or present governmental entity employee if:

(i) the disciplinary action has been completed and all time periods for administrative appeal have expired; and

(ii) the charges on which the disciplinary action was based were sustained;

(p) records maintained by the Division of Forestry, Fire, and State Lands, the School and Institutional Trust Lands Administration, or the Division of Oil, Gas, and Mining that evidence mineral production on government lands;

(q) final audit reports;

(r) occupational and professional licenses;

(s) business licenses; and

(t) a notice of violation, a notice of agency action under Section 63G-4-201, or similar records used to initiate proceedings for discipline or sanctions against persons regulated by a governmental entity, but not including records that initiate employee discipline.

(4) The list of public records in this section is not exhaustive and should not be used to limit access to records.

Section 8. Section 63G-2-302 is amended to read:

63G-2-302. Private records.

(1) The following records are private:

(a) records concerning an individual's eligibility for unemployment insurance benefits, social services, welfare benefits, or the determination of benefit levels;

(b) records containing data on individuals describing medical history, diagnosis, condition, treatment, evaluation, or similar medical data;

(c) records of publicly funded libraries that when examined alone or with other records identify a patron;

(d) records received by or generated by or for:

(i) the Independent Legislative Ethics Commission, except for:

(A) the commission's summary data report that is required under legislative rule; and

(B) any other document that is classified as public under legislative rule; or

(ii) a Senate or House Ethics Committee in relation to the review of ethics complaints, unless the record is classified as public under legislative rule;

(e) records received by, or generated by or for, the Independent Executive Branch Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review of Executive Branch Ethics Complaints;

(f) records received or generated for a Senate confirmation committee concerning character, professional competence, or physical or mental health of an individual:

(i) if, prior to the meeting, the chair of the committee determines release of the records:

(A) reasonably could be expected to interfere with the investigation undertaken by the committee; or

(B) would create a danger of depriving a person of a right to a fair proceeding or impartial hearing; and

(ii) after the meeting, if the meeting was closed to the public;

(g) employment records concerning a current or former employee of, or applicant for employment with, a governmental entity that would disclose that individual's home address, home telephone number, Social Security number, insurance coverage, marital status, or payroll deductions;

(h) records or parts of records under Section 63G-2-303 that a current or former employee identifies as private according to the requirements of that section;

(i) that part of a record indicating a person's Social Security number or federal employer identification number if provided under Section 31A-23a-104, 31A-25-202, 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;

(j) that part of a voter registration record identifying a voter's:

(i) driver license or identification card number;

(ii) Social Security number, or last four digits of the Social Security number; [øf]

(iii) email address; or

(iv) date of birth;

(k) a voter registration record that is classified as a private record by the lieutenant governor or a county clerk under Subsection 20A-2-104(4)(f);

[~~(k)~~] (l) a record that:

(i) contains information about an individual;

(ii) is voluntarily provided by the individual; and

(iii) goes into an electronic database that:

(A) is designated by and administered under the authority of the Chief Information Officer; and

(B) acts as a repository of information about the individual that can be electronically retrieved and used to facilitate the individual's online interaction with a state agency;

[~~(4)~~] (m) information provided to the Commissioner of Insurance under:

(i) Subsection 31A-23a-115(2)(a);

(ii) Subsection 31A-23a-302(3); or

(iii) Subsection 31A-26-210(3);

[~~(m)~~] (n) information obtained through a criminal background check under Title 11, Chapter 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;

[~~(n)~~] (o) information provided by an offender that is:

(i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap Offender Registry; and

(ii) not required to be made available to the public under Subsection 77-41-110(4);

[~~(o)~~] (p) a statement and any supporting documentation filed with the attorney general in accordance with Section 34-45-107, if the federal law or action supporting the filing involves homeland security;

[~~(p)~~] (q) electronic toll collection customer account information received or collected under Section 72-6-118 and customer information described in Section 17B-2a-815 received or collected by a public transit district, including contact and payment information and customer travel data;

[~~(q)~~] (r) an email address provided by a military or overseas voter under Section 20A-16-501;

[~~(r)~~] (s) a completed military-overseas ballot that is electronically transmitted under Title 20A, Chapter 16, Uniform Military and Overseas Voters Act;

[~~(s)~~] (t) records received by or generated by or for the Political Subdivisions Ethics Review Commission established in Section 11-49-201, except for:

(i) the commission's summary data report that is required in Section 11-49-202; and

(ii) any other document that is classified as public in accordance with Title 11, Chapter 49, Political Subdivisions Ethics Review Commission; and

[~~(t)~~] (u) a record described in Subsection 53A-11a-203(3) that verifies that a parent was notified of an incident or threat.

(2) The following records are private if properly classified by a governmental entity:

(a) records concerning a current or former employee of, or applicant for employment with a governmental entity, including performance evaluations and personal status information such as race, religion, or disabilities, but not including records that are public under Subsection

63G-2-301(2)(b) or 63G-2-301(3)(o) or private under Subsection (1)(b);

(b) records describing an individual's finances, except that the following are public:

(i) records described in Subsection 63G-2-301(2);

(ii) information provided to the governmental entity for the purpose of complying with a financial assurance requirement; or

(iii) records that must be disclosed in accordance with another statute;

(c) records of independent state agencies if the disclosure of those records would conflict with the fiduciary obligations of the agency;

(d) other records containing data on individuals the disclosure of which constitutes a clearly unwarranted invasion of personal privacy;

(e) records provided by the United States or by a government entity outside the state that are given with the requirement that the records be managed as private records, if the providing entity states in writing that the record would not be subject to public disclosure if retained by it; and

(f) any portion of a record in the custody of the Division of Aging and Adult Services, created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult.

(3) (a) As used in this Subsection (3), "medical records" means medical reports, records, statements, history, diagnosis, condition, treatment, and evaluation.

(b) Medical records in the possession of the University of Utah Hospital, its clinics, doctors, or affiliated entities are not private records or controlled records under Section 63G-2-304 when the records are sought:

(i) in connection with any legal or administrative proceeding in which the patient's physical, mental, or emotional condition is an element of any claim or defense; or

(ii) after a patient's death, in any legal or administrative proceeding in which any party relies upon the condition as an element of the claim or defense.

(c) Medical records are subject to production in a legal or administrative proceeding according to state or federal statutes or rules of procedure and evidence as if the medical records were in the possession of a nongovernmental medical care provider.

CHAPTER 374**S. B. 39**

Passed March 12, 2014

Approved April 1, 2014

Effective May 13, 2014

HOME SCHOOL AMENDMENTS

Chief Sponsor: Aaron Osmond
 House Sponsor: John Knotwell
 Cosponsor: Mark B. Madsen

LONG TITLE**General Description:**

This bill modifies provisions pertaining to home school students.

Highlighted Provisions:

This bill:

- ▶ modifies procedures for excusing from public school attendance a school-age minor who attends a home school;
- ▶ eliminates instructional requirements for a school-age minor who attends a home school;
- ▶ specifies procedures for the placement of a home school student who transfers to a public school; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-11-102, as last amended by Laws of Utah 2009, Chapter 335

ENACTS:

53A-11-102.7, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53A-11-102 is amended to read:**53A-11-102. Minors exempt from school attendance.**

(1) (a) A ~~school-age minor may be excused~~ local school board or charter school governing board may excuse a school-age minor from attendance ~~by the local board of education and a parent exempted from application of Subsections 53A-11-101.5(2), (5), and (6)~~ for any of the following reasons:

(i) a school-age minor over age 16 may receive a partial release from school to enter employment, or attend a trade school, if the school-age minor has completed the eighth grade; or

(ii) on an annual basis, a school-age minor may receive a full release from attending a public, regularly established private, or part-time school or class if:

(A) the school-age minor has already completed the work required for graduation from high school, or has demonstrated mastery of required skills and

competencies in accordance with Subsection 53A-15-102(1);

(B) the school-age minor is in a physical or mental condition, certified by a competent physician if required by the ~~district board~~ local school board or charter school governing board, which renders attendance inexpedient and impracticable;

(C) proper influences and adequate opportunities for education are provided in connection with the school-age minor's employment; or

(D) the district superintendent or charter school governing board has determined that a school-age minor over the age of 16 is unable to profit from attendance at school because of inability or a continuing negative attitude toward school regulations and discipline.

(b) ~~Minors~~ A school-age minor receiving a partial release from school under Subsection (1)(a)(i) ~~are~~ is required to attend:

(i) school ~~part-time~~ part time as prescribed by the local school board or charter school governing board; or

(ii) a home school ~~part-time~~ part time.

(c) In each case, evidence of reasons for granting an exemption under Subsection (1) must be sufficient to satisfy the local school board or charter school governing board.

(d) A local school board or charter school governing board that excuses a school-age minor from attendance as provided by this Subsection (1) shall issue a certificate that the minor is excused from attendance during the time specified on the certificate.

(2) (a) ~~On an annual basis,~~ A local school board shall excuse a school-age minor ~~shall be excused~~ from attendance ~~by a local board of education and a parent exempted from application of Subsections 53A-11-101.5(2), (5), and (6)~~, if the school-age minor's parent files a signed and notarized affidavit with the school-age minor's school district of residence, as defined in Section 53A-2-201, that:

(i) the school-age minor will attend a home school ~~and receive instruction as required by Subsection (2)(b).;~~ and

~~(b) Each minor who attends a home school shall receive instruction.;~~

~~(i) in the subjects the State Board of Education requires to be taught in public schools in accordance with the law; and]~~

~~(ii) for the same length of time as minors are required by law to receive instruction in public schools, as provided by rules of the State Board of Education.]~~

(ii) the parent assumes sole responsibility for the education of the school-age minor, except to the extent the school-age minor is dual enrolled in a public school as provided in Section 53A-11-102.5.

(b) A signed and notarized affidavit filed in accordance with Subsection (2)(a) shall remain in effect as long as:

(i) the school-age minor attends a home school; and

(ii) the school district where the affidavit was filed remains the school-age minor's district of residence.

(c) [Subject to the requirements of Subsection (2)(b), -a] A parent of a school-age minor who attends a home school is solely responsible for:

(i) the selection of instructional materials and textbooks;

(ii) the time, place, and method of instruction[;]; and

(iii) the evaluation of the home school instruction.

(d) A local school board may not:

(i) require a parent of a school-age minor who attends a home school to maintain records of instruction or attendance;

(ii) require credentials for individuals providing home school instruction;

(iii) inspect home school facilities; or

(iv) require standardized or other testing of home school students.

[(3)(a) Boards excusing minors]

(e) Upon the request of a parent, a local school board shall identify the knowledge, skills, and competencies a student is recommended to attain by grade level and subject area to assist the parent in achieving college and career readiness through home schooling.

(f) A local school board that excuses a school-age minor from attendance as provided by [Subsections (1) and (2) shall] this Subsection (2) shall annually issue a certificate stating that the school-age minor is excused from attendance [during the time specified on the certificate] for the specified school year.

[(b)] (g) A local school board shall issue a certificate excusing a school-age minor from attendance:

(i) within 30 days after receipt of a signed and notarized affidavit filed by the school-age minor's parent pursuant to Subsection (2)[-]; and

(ii) on or before August 1 each year thereafter unless:

(A) the school-age minor enrolls in a school within the school district;

(B) the school-age minor's parent or guardian notifies the school district that the school-age minor no longer attends a home school; or

(C) the school-age minor's parent or guardian notifies the school district that the school-age minor's school district of residence has changed.

(3) A parent who files a signed and notarized affidavit as provided in Subsection (2)(a) is exempt from the application of Subsections 53A-11-101.5(2), (5), and (6).

(4) Nothing in this section may be construed to prohibit or discourage voluntary cooperation, resource sharing, or testing opportunities between a school or school district and a parent or guardian of a minor attending a home school.

Section 2. Section 53A-11-102.7 is enacted to read:

53A-11-102.7. Placement of a home school student who transfers to a public school.

(1) For the purposes of this section, "home school student" means a student who attends a home school pursuant to Section 53A-11-102.

(2) When a home school student transfers from a home school to a public school, the public school shall place the student in the grade levels, classes, or courses that the student's parent or guardian and in consultation with the school administrator determine are appropriate based on the parent's or guardian's assessment of the student's academic performance.

(3) (a) Within 30 days of a home school student's placement in a public school grade level, class, or course, either the student's teacher or the student's parent or guardian may request a conference to consider changing the student's placement.

(b) If the student's teacher and the student's parent or guardian agree on a placement change, the public school shall place the student in the agreed upon grade level, class, or course.

(c) If the student's teacher and the student's parent or guardian do not agree on a placement change, the public school shall evaluate the student's subject matter mastery in accordance with Subsection (3)(d).

(d) The student's parent or guardian has the option of:

(i) allowing the public school to administer, to the student, assessments that are:

(A) regularly administered to public school students; and

(B) used to measure public school students' subject matter mastery and determine placement; or

(ii) having a private entity or individual administer assessments of subject matter mastery to the student at the parent's or guardian's expense.

(e) After an evaluation of a student's subject matter mastery, a public school may change a student's placement in a grade level, class, or course.

(4) This section does not apply to a student who is dual enrolled in a public school and a home school pursuant to Section 53A-11-102.5.

CHAPTER 375**S. B. 43**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

**INTERGENERATIONAL POVERTY
INTERVENTIONS IN PUBLIC SCHOOLS**

Chief Sponsor: Stuart C. Reid

House Sponsor: Francis D. Gibson

LONG TITLE**General Description:**

This bill creates the Intergenerational Poverty Interventions Grant Program.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the Intergenerational Poverty Interventions Grant Program to fund additional educational opportunities, outside of the regular school day offerings, for students affected by intergenerational poverty;
- ▶ requires the State Board of Education to:
 - solicit proposals from school districts and charter schools to receive money under the program; and
 - award grants to school districts and charter schools based on certain criteria;
- ▶ establishes criteria for the State Board of Education to consider when awarding grants to school districts and charter schools; and
- ▶ requires the State Board of Education to annually report to the Education Interim Committee and the Utah Intergenerational Welfare Reform Commission.

Monies Appropriated in this Bill:

This bill appropriates:

- ▶ to the State Board of Education - Utah State Office of Education - Initiative Programs, as an ongoing appropriation:
 - from the Education Fund, \$1,000,000.

Other Special Clauses:

This bill provides an effective date.

Utah Code Sections Affected:**ENACTS:**

53A-17a-171, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53A-17a-171 is enacted to read:**53A-17a-171. Intergenerational Poverty Interventions Grant Program -- Definitions -- Grant requirements -- Reporting requirements.**

(1) As used in this section:

- (a) "Board" means the State Board of Education.
- (b) "Eligible student" means a student who is classified as a child affected by intergenerational poverty.

(c) "Intergenerational poverty" has the same meaning as in Section 35A-9-102.

(d) "Local Education Agency" or "LEA" means a school district or charter school.

(e) "Program" means the Intergenerational Poverty Interventions Grant Program created in Subsection (2).

(2) The Intergenerational Poverty Interventions Grant Program is created to provide grants to eligible LEAs to fund additional educational opportunities for eligible students, outside of the regular school day offerings.

(3) Subject to future budget constraints, the board shall distribute to LEAs money appropriated for the program in accordance with this section.

(4) The board shall:

(a) solicit proposals from LEAs to receive money under the program; and

(b) award grants to LEAs based on criteria described in Subsection (5).

(5) In awarding a grant under Subsection (4), the board shall consider:

(a) the percentage of an LEA's students that are classified as children affected by intergenerational poverty;

(b) the level of administrative support and leadership at an eligible LEA to effectively implement, monitor, and evaluate the program; and

(c) an LEA's commitment and ability to work with the Department of Workforce Services, the Department of Health, the Department of Human Services, and the juvenile courts to provide services to the LEA's eligible students.

(6) To receive a grant under the program, an LEA shall submit a proposal to the board detailing:

(a) the LEA's strategy to implement the program, including the LEA's strategy to improve the academic achievement of children affected by intergenerational poverty;

(b) the LEA's strategy for coordinating with and engaging the Department of Workforce Services to provide services for the LEA's eligible students;

(c) the number of students the LEA plans to serve, categorized by age and intergenerational poverty status;

(d) the number of students, eligible students, and schools the LEA plans to fund with the grant money; and

(e) the estimated cost per student.

(7) (a) The board shall annually report to the Legislature's Education Interim Committee and the Utah Intergenerational Welfare Reform Commission, created in Section 35A-9-301, by November 30 of each year:

(i) the progress of LEA programs using grant money;

(ii) the progress of LEA programs in improving the academic achievement of children affected by intergenerational poverty; and

(iii) the LEA's coordination efforts with the Department of Workforce Services, the Department of Health, the Department of Human Services, and the juvenile courts.

(b) LEAs that receive grant money pursuant to this section shall provide to the board information that is necessary for the board's report to the Legislature's Education Interim Committee and the Utah Intergenerational Welfare Reform Commission as required in Subsection (7)(a).

Section 2. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2014, and ending June 30, 2015, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2015.

To State Board of Education - Utah State Office of Education - Initiative Programs

<u>From Education Fund</u>	<u>\$1,000,000</u>
----------------------------	--------------------

Schedule of Programs:

<u>Contracts and Grants</u>	<u>\$1,000,000</u>
-----------------------------	--------------------

The Legislature intends that the appropriation under this section is:

- (1) ongoing, subject to availability of funds;
- (2) to be used to carry out the requirements of Section 53A-17a-171; and
- (3) nonlapsing.

Section 3. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 13, 2014.

(2) Uncodified Section 2, Appropriation, takes effect on July 1, 2014.

CHAPTER 376**S. B. 47**

Passed March 11, 2014

Approved April 1, 2014

Effective May 13, 2014

(Retrospective operation to January 1, 2014)

(Exception clauses in Sections 11 and 12)

**EMERGENCY MANAGEMENT
ACT AMENDMENTS**

Chief Sponsor: Wayne A. Harper

House Sponsor: Ryan D. Wilcox

LONG TITLE**General Description:**

This bill modifies the Emergency Management Act regarding out-of-state businesses that provide recovery services in the state during a declared disaster or emergency.

Highlighted Provisions:

This bill:

- ▶ provides that an out-of-state business that enters the state during a declared disaster or emergency to conduct work related to the disaster or emergency is exempt from:
 - licensing or registration requirements as provided;
 - income taxation related to an out-of-state employee as provided; and
 - sales and use taxation of a transaction during a disaster period;
- ▶ provides that any out-of-state business or out-of-state employee that remains in the state after the disaster period is subject to the state's normal standards for establishing presence or residency, or doing business in the state; and
- ▶ requires any out-of-state business that enters the state for disaster- or emergency-related work to provide the Division of Occupational and Professional Licensing a statement about the purpose of its business in the state, upon request.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an effective date.

This bill provides retrospective operation for a taxable year beginning on or after January 1, 2014.

Utah Code Sections Affected:**AMENDS:**

59-7-102, as last amended by Laws of Utah 2012, Chapter 369

59-7-404.5, as last amended by Laws of Utah 2011, Chapter 69

59-10-403, as renumbered and amended by Laws of Utah 1987, Chapter 2

59-12-104, as last amended by Laws of Utah 2013, Chapters 82, 223, 229, 234, and 441

ENACTS:

53-2a-1201, Utah Code Annotated 1953

53-2a-1202, Utah Code Annotated 1953

53-2a-1203, Utah Code Annotated 1953

53-2a-1204, Utah Code Annotated 1953

53-2a-1205, Utah Code Annotated 1953

59-10-116.1, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 53-2a-1201 is enacted to read:****Part 12. Facilitating Business Rapid Response to State Declared Disasters Act****53-2a-1201. Title.**

This part is known as the "Facilitating Business Rapid Response to State Declared Disasters Act."

Section 2. Section 53-2a-1202 is enacted to read:**53-2a-1202. Definitions.**

As used in this part:

(1) "Declared state disaster or emergency" means a declared disaster as defined in Section 53-2a-602.

(2) "Disaster- or emergency-related work" means repairing, renovating, installing, building, rendering services, or other business activities that relate to infrastructure that has been damaged, impaired, or destroyed by a declared state disaster or emergency.

(3) "Disaster period" means a period that begins within 10 days after the first day of a declared state disaster or emergency and that extends for a period of 60 calendar days after the end of the declared state disaster or emergency.

(4) "Infrastructure" means property and equipment owned or used by communications networks, electric generation systems, transmission and distribution systems, gas distribution systems, water pipelines, and related support facilities that serve multiple customers or citizens, including real and personal property, such as buildings, offices, power and communication lines and poles, pipes, structures, and equipment.

(5) "Out-of-state business" means a business entity that:

(a) has no presence in the state, other than any prior disaster- or emergency-related work, and conducts no business in the state, and whose services are requested by a registered business or by a state or local government for purposes of performing disaster- or emergency-related work in the state; and

(b) has no registration or tax filings or presence sufficient to require the collection or payment of a tax in the state prior to the declared state disaster or emergency.

(6) "Out-of-state employee" means an employee who does not work in the state, except for disaster- or emergency-related work during the disaster period.

(7) "Registered business" means a business entity that is currently registered to do business in the state prior to the declared state disaster or emergency.

Section 3. Section 53-2a-1203 is enacted to read:

53-2a-1203. Business and employee status during disaster period.

(1) Notwithstanding any other provision, an out-of-state business that conducts operations within the state for purposes of performing work or services related to a declared state disaster or emergency during the disaster period:

(a) is not considered to have established a level of presence that would require that business to be subject to any state licensing or registration requirements, provided that the out-of-state business is in substantial compliance with all applicable regulatory and licensing requirements in its state of domicile, including:

- (i) unemployment insurance;
- (ii) state or local occupational licensing fees;
- (iii) public service commission regulation; or
- (iv) state or local licensing or regulatory requirements; and

(b) is exempt from the registration requirements under Title 16, Corporations, Title 42, Names, and Title 48, Partnership; and

(c) shall, within a reasonable time after entry, upon the request of the Labor Commission or the Department of Insurance, confirm that it is in compliance with Subsections 34A-2-406(1)(a), (1)(b), and (2).

(2) Notwithstanding any other provision, an out-of-state employee who performs disaster- or emergency-related work specific to a declared state disaster or emergency during the disaster period is not subject to any state licensing or registration requirements provided that the out-of-state employee is in substantial compliance with all applicable regulatory and licensing requirements in the employee's state of residence or state of employment.

(3) (a) Income taxation related to an out-of-state employee or an out-of-state business is as provided in:

(i) Title 59, Chapter 7, Corporate Franchise and Income Taxes; and

(ii) Title 59, Chapter 10, Individual Income Tax Act.

(b) Sales and use taxation during a disaster period is as provided in Title 59, Chapter 12, Sales and Use Tax Act.

(c) Any property brought into the state temporarily during the disaster period is not subject to any state or local ad valorem taxes under Title 59, Chapter 2, Property Tax Act.

Section 4. Section 53-2a-1204 is enacted to read:

53-2a-1204. Business or employee activity after disaster period.

Any out-of-state business or out-of-state employee that remains in the state after the disaster period will become subject to the state's normal standards for establishing presence or residency, or doing business in the state.

Section 5. Section 53-2a-1205 is enacted to read:

53-2a-1205. Administration -- Notification and procedures.

(1) Any out-of-state business that enters the state shall, within a reasonable time after entry, not to exceed 30 days, provide to the Division of Occupational and Professional Licensing a statement that it is in the state for purposes of responding to the disaster or emergency, which statement shall include the business's:

- (a) name;
- (b) state of domicile;
- (c) principal business address;
- (d) federal tax identification number;
- (e) date of entry;
- (f) contact information; and

(g) evidence of compliance with the regulatory or licensing requirements in Section 53-2a-1203, such as a copy of applicable permits or licenses.

(2) Any affiliate of a registered business in the state and any out-of-state business that is registered as a public utility in another state and that is providing assistance under the terms of a utility multistate mutual aid agreement shall not be required to provide the information required in Subsection (1), unless requested by the Division of Occupational and Professional Licensing within a reasonable period of time.

(3) An out-of-state business or an out-of-state employee that remains in the state after the disaster period shall complete state and local registration, licensing, and filing requirements that establish the requisite business presence or residency in the state.

(4) The Division of Occupational and Professional Licensing shall:

(a) make rules necessary to implement Subsection (3);

(b) develop and provide forms or online processes; and

(c) maintain and make available an annual report of any designations made pursuant to this section.

Section 6. Section 59-7-102 is amended to read:

59-7-102. Exemptions.

(1) Except as provided in this section, the following are exempt from a tax under this chapter:

- (a) an organization exempt under Section 501, Internal Revenue Code;

(b) an organization exempt under Section 528, Internal Revenue Code;

(c) an insurance company that is otherwise taxed on the insurance company's premiums under Chapter 9, Taxation of Admitted Insurers;

(d) a local building authority as defined in Section 17D-2-102;

(e) a farmers' cooperative; or

(f) a public agency, as defined in Section 11-13-103, with respect to or as a result of an ownership interest in:

(i) a project, as defined in Section 11-13-103; or

(ii) facilities providing additional project capacity, as defined in Section 11-13-103.

(2) A corporation is exempt from a tax under this chapter:

(a) if the corporation is an out-of-state business as defined in Section 53-2a-1202; and

(b) for income earned:

(i) during a disaster period as defined in Section 53-2a-1202; and

(ii) for the purpose of responding to a declared state disaster or emergency as defined in Section 53-2a-1202.

[(2)] (3) Notwithstanding any other provision in this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, a person not otherwise subject to the tax imposed by this chapter or Chapter 8 is not subject to a tax imposed by Section 59-7-104, 59-7-201, 59-7-701, or 59-8-104, because of:

(a) that person's ownership of tangible personal property located at the premises of a printer's facility in this state with which the person has contracted for printing; or

(b) the activities of the person's employees or agents who are:

(i) located solely at the premises of a printer's facility; and

(ii) performing services:

(A) related to:

(I) quality control;

(II) distribution; or

(III) printing services; and

(B) performed by the printer's facility in this state with which the person has contracted for printing.

[(3)] (4) Notwithstanding Subsection (1), an organization, company, authority, farmers' cooperative, or public agency exempt from this chapter under Subsection (1) is subject to Part 8, Unrelated Business Income, to the extent provided in Part 8.

[(4)] (5) Notwithstanding Subsection (1)(b), to the extent the income of an organization described in Subsection (1)(b) is taxable for federal tax purposes under Section 528, Internal Revenue Code, the organization's income is also taxable under this chapter.

Section 7. Section 59-7-404.5 is amended to read:

59-7-404.5. Adjustment to apportionment factors for corporations in a combined report -- Sales factor -- Property factor.

For purposes of apportionment under Part 3, Allocation and Apportionment of Income - Utah UDITPA Provisions:

(1) corporations filing a combined report under Section 59-7-402 or 59-7-403 may not include intercompany sales or other intercompany transactions between the corporations included in the combined report in determining the sales factor; and

(2) corporations filing a combined report under Section 59-7-402 or 59-7-403 may not include intercompany rents or other intercompany transactions between the corporations included in the combined report in determining the property factor~~[,];~~ and

(3) the amounts of the numerators in this state of the property, payroll, and sales factors of an out-of-state business, as defined in Section 53-2a-1202, that are directly related to disaster- or emergency-related work, as defined in Section 53-2a-1202, during a disaster period, as defined in Section 53-2a-1202, may not be included in the apportionment fraction of the combined group.

Section 8. Section 59-10-116.1 is enacted to read:

59-10-116.1. Exemption for out-of-state employee.

(1) As used in this section:

(a) "Declared state disaster or emergency" is as defined in Section 53-2a-1202.

(b) "Disaster period" is as defined in Section 53-2a-1202.

(c) "Out-of-state business" is as defined in Section 53-2a-1202.

(d) "Out-of-state employee" is as defined in Section 53-2a-1202.

(2) An out-of-state employee, including a pass-through entity taxpayer who is an out-of-state employee, is exempt from a tax under this chapter for income earned or passed through:

(a) from an out-of-state business;

(b) during a disaster period; and

(c) as a result of the out-of-state business responding to a declared state disaster or emergency.

Section 9. Section 59-10-403 is amended to read:

59-10-403. Circumstances under which an employer is not required to deduct and withhold a tax.

(1) Notwithstanding any other provision of this chapter, an employer is not required to deduct and withhold any tax under this chapter upon a payment of wages to an employee;

(a) if there is in effect with respect to ~~[such]~~ the payment a withholding exemption certificate ~~[(in such form and containing such other information as the commission may prescribe)]~~ furnished to the employer by the employee, certifying that the employee:

~~[(a)]~~ (i) incurred no liability for ~~[income]~~ a tax imposed under this chapter for ~~[his]~~ the employee's immediately preceding taxable year; and

~~[(b)]~~ anticipates that he will incur no liability for ~~[income]~~

(ii) expects that the employee will not incur liability for a tax imposed under this chapter for ~~[his]~~ the employee's current taxable year~~[-];~~ or

(b) if the employer:

(i) is an out-of-state business as defined in Section 53-2a-1202; and

(ii) pays the wages as compensation for services performed in response to a declared state disaster or emergency as defined in Section 53-2a-1202.

(2) ~~[The commission shall by rule]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall provide for the coordination of ~~[the provisions of]~~ this section with ~~[the provisions of]~~ Section 59-10-402.

Section 10. Section 59-12-104 is amended to read:

59-12-104. Exemptions.

The following sales and uses are exempt from the taxes imposed by this chapter:

(1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax under Chapter 13, Motor and Special Fuel Tax Act;

(2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political subdivisions; however, this exemption does not apply to sales of:

(a) construction materials except:

(i) construction materials purchased by or on behalf of institutions of the public education system as defined in Utah Constitution Article X, Section 2, provided the construction materials are clearly identified and segregated and installed or converted to real property which is owned by institutions of the public education system; and

(ii) construction materials purchased by the state, its institutions, or its political subdivisions which are installed or converted to real property by employees of the state, its institutions, or its political subdivisions; or

(b) tangible personal property in connection with the construction, operation, maintenance, repair, or replacement of a project, as defined in Section

11-13-103, or facilities providing additional project capacity, as defined in Section 11-13-103;

(3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

(i) the proceeds of each sale do not exceed \$1; and

(ii) the seller or operator of the vending machine reports an amount equal to 150% of the cost of the item described in Subsection (3)(b) as goods consumed; and

(b) Subsection (3)(a) applies to:

(i) food and food ingredients; or

(ii) prepared food;

(4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

(i) alcoholic beverages;

(ii) food and food ingredients; or

(iii) prepared food;

(b) sales of tangible personal property or a product transferred electronically:

(i) to a passenger;

(ii) by a commercial airline carrier; and

(iii) during a flight for in-flight consumption or in-flight use by the passenger; or

(c) services related to Subsection (4)(a) or (b);

(5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts and equipment:

(A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(II) for:

(Aa) installation in an aircraft, including services relating to the installation of parts or equipment in the aircraft;

(Bb) renovation of an aircraft; or

(Cc) repair of an aircraft; or

(B) for installation in an aircraft operated by a common carrier in interstate or foreign commerce; or

(ii) beginning on October 1, 2008, sales of parts and equipment for installation in an aircraft operated by a common carrier in interstate or foreign commerce; and

(b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a refund:

(i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;

(ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;

(iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for the sale prior to filing for the refund;

(iv) for sales and use taxes paid under this chapter on the sale;

(v) in accordance with Section 59-1-1410; and

(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before September 30, 2011;

(6) sales of commercials, motion picture films, prerecorded audio program tapes or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture exhibitor, distributor, or commercial television or radio broadcaster;

(7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal property if the cleaning or washing of the tangible personal property is not assisted cleaning or washing of tangible personal property;

(b) if a seller that sells at the same business location assisted cleaning or washing of tangible personal property and cleaning or washing of tangible personal property that is not assisted cleaning or washing of tangible personal property, the exemption described in Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning or washing of the tangible personal property; and

(c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for sales of assisted cleaning or washing of tangible personal property;

(8) sales made to or by religious or charitable institutions in the conduct of their regular religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are fulfilled;

(9) sales of a vehicle of a type required to be registered under the motor vehicle laws of this state if the vehicle is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the vehicle is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the vehicle to the borders of this state; or

(B) if the vehicle is used to conduct business, for the time period necessary to transport the vehicle to the borders of this state;

(10) (a) amounts paid for an item described in Subsection (10)(b) if:

(i) the item is intended for human use; and

(ii) (A) a prescription was issued for the item; or

(B) the item was purchased by a hospital or other medical facility; and

(b) (i) Subsection (10)(a) applies to:

(A) a drug;

(B) a syringe; or

(C) a stoma supply; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the terms:

(A) "syringe"; or

(B) "stoma supply";

(11) sales or use of property, materials, or services used in the construction of or incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;

(12) (a) sales of an item described in Subsection (12)(c) served by:

(i) the following if the item described in Subsection (12)(c) is not available to the general public:

(A) a church; or

(B) a charitable institution;

(ii) an institution of higher education if:

(A) the item described in Subsection (12)(c) is not available to the general public; or

(B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan offered by the institution of higher education; or

(b) sales of an item described in Subsection (12)(c) provided for a patient by:

(i) a medical facility; or

(ii) a nursing facility; and

(c) Subsections (12)(a) and (b) apply to:

(i) food and food ingredients;

(ii) prepared food; or

(iii) alcoholic beverages;

(13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property or a product transferred electronically by a person:

(i) regardless of the number of transactions involving the sale of that tangible personal property or product transferred electronically by that person; and

(ii) not regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(b) this Subsection (13) does not apply if:

(i) the sale is one of a series of sales of a character to indicate that the person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(ii) the person holds that person out as regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(iii) the person sells an item of tangible personal property or product transferred electronically that the person purchased as a sale that is exempt under Subsection (25); or

(iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of this state in which case the tax is based upon:

(A) the bill of sale or other written evidence of value of the vehicle or vessel being sold; or

(B) in the absence of a bill of sale or other written evidence of value, the fair market value of the vehicle or vessel being sold at the time of the sale as determined by the commission; and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing the circumstances under which:

(i) a person is regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(ii) a sale of tangible personal property or a product transferred electronically is one of a series of sales of a character to indicate that a person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically; or

(iii) a person holds that person out as regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(14) (a) except as provided in Subsection (14)(b), amounts paid or charged on or after July 1, 2006, for a purchase or lease by a manufacturing facility except for a cogeneration facility, of the following:

(i) machinery and equipment that:

(A) are used:

(I) for a manufacturing facility except for a manufacturing facility that is a scrap recycler described in Subsection 59-12-102(64)(b):

(Aa) in the manufacturing process;

(Bb) to manufacture an item sold as tangible personal property; and

(Cc) beginning on July 1, 2009, in a manufacturing facility described in this Subsection (14)(a)(i)(A)(I) in the state; or

(II) for a manufacturing facility that is a scrap recycler described in Subsection 59-12-102(64)(b):

(Aa) to process an item sold as tangible personal property; and

(Bb) beginning on July 1, 2009, in a manufacturing facility described in this Subsection (14)(a)(i)(A)(II) in the state; and

(B) have an economic life of three or more years; and

(ii) normal operating repair or replacement parts that:

(A) have an economic life of three or more years; and

(B) are used:

(I) for a manufacturing facility except for a manufacturing facility that is a scrap recycler described in Subsection 59-12-102(64)(b):

(Aa) in the manufacturing process; and

(Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(I) in the state; or

(II) for a manufacturing facility that is a scrap recycler described in Subsection 59-12-102(64)(b):

(Aa) to process an item sold as tangible personal property; and

(Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(II) in the state;

(b) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006, of the following:

(i) machinery and equipment that:

(A) are used:

(I) in the manufacturing process;

(II) to manufacture an item sold as tangible personal property; and

(III) beginning on July 1, 2009, in a manufacturing facility described in this Subsection (14)(b) in the state; and

(B) have an economic life of three or more years; and

(ii) normal operating repair or replacement parts that:

(A) are used:

(I) in the manufacturing process; and

(II) in a manufacturing facility described in this Subsection (14)(b) in the state; and

(B) have an economic life of three or more years;

(c) amounts paid or charged for a purchase or lease made on or after January 1, 2008, by an establishment described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North American

Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, of the following:

- (i) machinery and equipment that:
 - (A) are used:
 - (I) (Aa) in the production process, other than the production of real property; or
 - (Bb) in research and development; and
 - (II) beginning on July 1, 2009, in an establishment described in this Subsection (14)(c) in the state; and
 - (B) have an economic life of three or more years; and
 - (ii) normal operating repair or replacement parts that:
 - (A) have an economic life of three or more years; and
 - (B) are used in:
 - (I) (Aa) the production process, except for the production of real property; and
 - (Bb) an establishment described in this Subsection (14)(c) in the state; or
 - (II) (Aa) research and development; and
 - (Bb) in an establishment described in this Subsection (14)(c) in the state;
- (d) (i) amounts paid or charged for a purchase or lease made on or after July 1, 2010, but on or before June 30, 2014, by an establishment described in NAICS Code 518112, Web Search Portals, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, of the following:
 - (A) machinery and equipment that:
 - (I) are used in the operation of the web search portal;
 - (II) have an economic life of three or more years; and
 - (III) are used in a new or expanding establishment described in this Subsection (14)(d) in the state; and
 - (B) normal operating repair or replacement parts that:
 - (I) are used in the operation of the web search portal;
 - (II) have an economic life of three or more years; and
 - (III) are used in a new or expanding establishment described in this Subsection (14)(d) in the state; or
 - (ii) amounts paid or charged for a purchase or lease made on or after July 1, 2014, by an establishment described in NAICS Code 518112, Web Search Portals, of the 2002 North American

Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, of the following:

- (A) machinery and equipment that:
 - (I) are used in the operation of the web search portal; and
 - (II) have an economic life of three or more years; and
 - (B) normal operating repair or replacement parts that:
 - (I) are used in the operation of the web search portal; and
 - (II) have an economic life of three or more years;
 - (e) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission:
 - (i) shall by rule define the term “establishment”; and
 - (ii) may by rule define what constitutes:
 - (A) processing an item sold as tangible personal property;
 - (B) the production process, except for the production of real property;
 - (C) research and development; or
 - (D) a new or expanding establishment described in Subsection (14)(d) in the state; and
 - (f) on or before October 1, 2011, and every five years after October 1, 2011, the commission shall:
 - (i) review the exemptions described in this Subsection (14) and make recommendations to the Revenue and Taxation Interim Committee concerning whether the exemptions should be continued, modified, or repealed; and
 - (ii) include in its report:
 - (A) an estimate of the cost of the exemptions;
 - (B) the purpose and effectiveness of the exemptions; and
 - (C) the benefits of the exemptions to the state;
 - (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:
 - (i) tooling;
 - (ii) special tooling;
 - (iii) support equipment;
 - (iv) special test equipment; or
 - (v) parts used in the repairs or renovations of tooling or equipment described in Subsections (15)(a)(i) through (iv); and
 - (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
 - (i) the tooling, equipment, or parts are used or consumed exclusively in the performance of any aerospace or electronics industry contract with the

United States government or any subcontract under that contract; and

(ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as evidenced by:

(A) a government identification tag placed on the tooling, equipment, or parts; or

(B) listing on a government-approved property record if placing a government identification tag on the tooling, equipment, or parts is impractical;

(16) sales of newspapers or newspaper subscriptions;

(17) (a) except as provided in Subsection (17)(b), tangible personal property or a product transferred electronically traded in as full or part payment of the purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

(i) the bill of sale or other written evidence of value of the vehicle being sold and the vehicle being traded in; or

(ii) in the absence of a bill of sale or other written evidence of value, the then existing fair market value of the vehicle being sold and the vehicle being traded in, as determined by the commission; and

(b) Subsection (17)(a) does not apply to the following items of tangible personal property or products transferred electronically traded in as full or part payment of the purchase price:

- (i) money;
- (ii) electricity;
- (iii) water;
- (iv) gas; or
- (v) steam;

(18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property or a product transferred electronically used or consumed primarily and directly in farming operations, regardless of whether the tangible personal property or product transferred electronically:

- (A) becomes part of real estate; or
- (B) is installed by a:
 - (I) farmer;
 - (II) contractor; or
 - (III) subcontractor; or

(ii) sales of parts used in the repairs or renovations of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is exempt under Subsection (18)(a)(i); and

(b) amounts paid or charged for the following are subject to the taxes imposed by this chapter:

(i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is incidental to farming:

- (I) machinery;
- (II) equipment;
- (III) materials; or
- (IV) supplies; and

(B) tangible personal property that is considered to be used in a manner that is incidental to farming includes:

- (I) hand tools; or
- (II) maintenance and janitorial equipment and supplies;

(ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is used in an activity other than farming; and

(B) tangible personal property or a product transferred electronically that is considered to be used in an activity other than farming includes:

- (I) office equipment and supplies; or
- (II) equipment and supplies used in:
 - (Aa) the sale or distribution of farm products;
 - (Bb) research; or
 - (Cc) transportation; or

(iii) a vehicle required to be registered by the laws of this state during the period ending two years after the date of the vehicle's purchase;

- (19) sales of hay;

(20) exclusive sale during the harvest season of seasonal crops, seedling plants, or garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or garden, farm, or other agricultural produce is sold by:

(a) the producer of the seasonal crops, seedling plants, or garden, farm, or other agricultural produce;

(b) an employee of the producer described in Subsection (20)(a); or

(c) a member of the immediate family of the producer described in Subsection (20)(a);

(21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

(22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags, nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler, or retailer for use in packaging tangible personal property to be sold by that manufacturer, processor, wholesaler, or retailer;

- (23) a product stored in the state for resale;
- (24) (a) purchases of a product if:
- (i) the product is:
 - (A) purchased outside of this state;
 - (B) brought into this state:
 - (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
 - (II) by a nonresident person who is not living or working in this state at the time of the purchase;
 - (C) used for the personal use or enjoyment of the nonresident person described in Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and
 - (D) not used in conducting business in this state; and
 - (ii) for:
 - (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of the product for a purpose for which the product is designed occurs outside of this state;
 - (B) a boat, the boat is registered outside of this state; or
 - (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;
 - (b) the exemption provided for in Subsection (24)(a) does not apply to:
 - (i) a lease or rental of a product; or
 - (ii) a sale of a vehicle exempt under Subsection (33); and
 - (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (24)(a), the commission may by rule define what constitutes the following:
 - (i) conducting business in this state if that phrase has the same meaning in this Subsection (24) as in Subsection (63);
 - (ii) the first use of a product if that phrase has the same meaning in this Subsection (24) as in Subsection (63); or
 - (iii) a purpose for which a product is designed if that phrase has the same meaning in this Subsection (24) as in Subsection (63);
 - (25) a product purchased for resale in this state, in the regular course of business, either in its original form or as an ingredient or component part of a manufactured or compounded product;
 - (26) a product upon which a sales or use tax was paid to some other state, or one of its subdivisions, except that the state shall be paid any difference between the tax paid and the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;
 - (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person for use in compounding a service taxable under the subsections;
 - (28) purchases made in accordance with the special supplemental nutrition program for women, infants, and children established in 42 U.S.C. Sec. 1786;
 - (29) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;
 - (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:
 - (a) not registered in this state; and
 - (b) (i) not used in this state; or
 - (ii) used in this state:
 - (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a time period that does not exceed the longer of:
 - (I) 30 days in any calendar year; or
 - (II) the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state; or
 - (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state;
 - (31) sales of aircraft manufactured in Utah;
 - (32) amounts paid for the purchase of telecommunications service for purposes of providing telecommunications service;
 - (33) sales, leases, or uses of the following:
 - (a) a vehicle by an authorized carrier; or
 - (b) tangible personal property that is installed on a vehicle:
 - (i) sold or leased to or used by an authorized carrier; and
 - (ii) before the vehicle is placed in service for the first time;
 - (34) (a) 45% of the sales price of any new manufactured home; and
 - (b) 100% of the sales price of any used manufactured home;
 - (35) sales relating to schools and fundraising sales;
 - (36) sales or rentals of durable medical equipment if:
 - (a) a person presents a prescription for the durable medical equipment; and

(b) the durable medical equipment is used for home use only;

(37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in Section 72-11-102; and

(b) the commission shall by rule determine the method for calculating sales exempt under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

(38) sales to a ski resort of:

(a) snowmaking equipment;

(b) ski slope grooming equipment;

(c) passenger ropeways as defined in Section 72-11-102; or

(d) parts used in the repairs or renovations of equipment or passenger ropeways described in Subsections (38)(a) through (c);

(39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

(40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for amusement, entertainment, or recreation an unassisted amusement device as defined in Section 59-12-102;

(b) if a seller that sells or rents at the same business location the right to use or operate for amusement, entertainment, or recreation one or more unassisted amusement devices and one or more assisted amusement devices, the exemption described in Subsection (40)(a) applies if the seller separately accounts for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for the assisted amusement devices; and

(c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for assisted amusement devices;

(41) (a) sales of photocopies by:

(i) a governmental entity; or

(ii) an entity within the state system of public education, including:

(A) a school; or

(B) the State Board of Education; or

(b) sales of publications by a governmental entity;

(42) amounts paid for admission to an athletic event at an institution of higher education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(43) (a) sales made to or by:

(i) an area agency on aging; or

(ii) a senior citizen center owned by a county, city, or town; or

(b) sales made by a senior citizen center that contracts with an area agency on aging;

(44) sales or leases of semiconductor fabricating, processing, research, or development materials regardless of whether the semiconductor fabricating, processing, research, or development materials:

(a) actually come into contact with a semiconductor; or

(b) ultimately become incorporated into real property;

(45) an amount paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section 59-12-104.2;

(46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary sports event registration certificate in accordance with Section 41-3-306 for the event period specified on the temporary sports event registration certificate;

(47) (a) sales or uses of electricity, if the sales or uses are made under a tariff adopted by the Public Service Commission of Utah only for purchase of electricity produced from a new alternative energy source, as designated in the tariff by the Public Service Commission of Utah; and

(b) the exemption under Subsection (47)(a) applies to the portion of the tariff rate a customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

(48) sales or rentals of mobility enhancing equipment if a person presents a prescription for the mobility enhancing equipment;

(49) sales of water in a:

(a) pipe;

(b) conduit;

(c) ditch; or

(d) reservoir;

(50) sales of currency or coins that constitute legal tender of a state, the United States, or a foreign nation;

(51) (a) sales of an item described in Subsection (51)(b) if the item:

(i) does not constitute legal tender of a state, the United States, or a foreign nation; and

(ii) has a gold, silver, or platinum content of 50% or more; and

(b) Subsection (51)(a) applies to a gold, silver, or platinum:

(i) ingot;

(ii) bar;

(iii) medallion; or

(iv) decorative coin;

(52) amounts paid on a sale-leaseback transaction;

(53) sales of a prosthetic device:

(a) for use on or in a human; and

(b) (i) for which a prescription is required; or

(ii) if the prosthetic device is purchased by a hospital or other medical facility;

(54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) if the machinery or equipment is primarily used in the production or postproduction of the following media for commercial distribution:

(i) a motion picture;

(ii) a television program;

(iii) a movie made for television;

(iv) a music video;

(v) a commercial;

(vi) a documentary; or

(vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the commission by administrative rule made in accordance with Subsection (54)(d); or

(b) purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) that is used for the production or postproduction of the following are subject to the taxes imposed by this chapter:

(i) a live musical performance;

(ii) a live news program; or

(iii) a live sporting event;

(c) the following establishments listed in the 1997 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, apply to Subsections (54)(a) and (b):

(i) NAICS Code 512110; or

(ii) NAICS Code 51219; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule:

(i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi); or

(ii) define:

(A) “commercial distribution”;

(B) “live musical performance”;

(C) “live news program”; or

(D) “live sporting event”;

(55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is an alternative energy electricity production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (55)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) a wind turbine;

(B) generating equipment;

(C) a control and monitoring system;

(D) a power line;

(E) substation equipment;

(F) lighting;

(G) fencing;

(H) pipes; or

(I) other equipment used for locating a power line or pole; and

(b) this Subsection (55) does not apply to:

(i) tangible personal property used in construction of:

(A) a new alternative energy electricity production facility; or

(B) the increase in the capacity of an alternative energy electricity production facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the alternative energy electricity production facility described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

(B) the increased capacity described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii);

(56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

- (i) is leased or purchased for or by a facility that:
 - (A) is a waste energy production facility;
 - (B) is located in the state; and
- (C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

- (ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (56)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

- (A) generating equipment;
- (B) a control and monitoring system;
- (C) a power line;
- (D) substation equipment;
- (E) lighting;
- (F) fencing;
- (G) pipes; or
- (H) other equipment used for locating a power line or pole; and

- (b) this Subsection (56) does not apply to:

(i) tangible personal property used in construction of:

- (A) a new waste energy facility; or
- (B) the increase in the capacity of a waste energy facility;
- (ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the waste energy facility described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii); or

(B) the increased capacity described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii);

(57) (a) leases of five or more years or purchases made on or after July 1, 2004 but on or before June 30, 2027, of tangible personal property that:

- (i) is leased or purchased for or by a facility that:
 - (A) is located in the state;
 - (B) produces fuel from alternative energy, including:
 - (I) methanol; or
 - (II) ethanol; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as a result of the installation of the tangible personal property;

- (ii) has an economic life of five or more years; and
- (iii) is installed on the facility described in Subsection (57)(a)(i);

- (b) this Subsection (57) does not apply to:

(i) tangible personal property used in construction of:

(A) a new facility described in Subsection (57)(a)(i); or

(B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the facility described in Subsection (57)(a)(i) is operational; or

(B) the increased capacity described in Subsection (57)(a)(i) is operational;

(58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a product transferred electronically to a person within this state if that tangible personal property or product transferred electronically is subsequently shipped outside the state and incorporated pursuant to contract into and becomes a part of real property located outside of this state;

(b) the exemption under Subsection (58)(a) is not allowed to the extent that the other state or political entity to which the tangible personal property is shipped imposes a sales, use, gross receipts, or other similar transaction excise tax on the transaction against which the other state or political entity allows a credit for sales and use taxes imposed by this chapter; and

(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a refund:

(i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

(ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on which the sale is made;

(iii) if the person did not claim the exemption allowed by this Subsection (58) for the sale prior to filing for the refund;

(iv) for sales and use taxes paid under this chapter on the sale;

(v) in accordance with Section 59-1-1410; and

(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before June 30, 2011;

- (59) purchases:
- (a) of one or more of the following items in printed or electronic format:
- (i) a list containing information that includes one or more:
- (A) names; or
- (B) addresses; or
- (ii) a database containing information that includes one or more:
- (A) names; or
- (B) addresses; and
- (b) used to send direct mail;
- (60) redemptions or repurchases of a product by a person if that product was:
- (a) delivered to a pawnbroker as part of a pawn transaction; and
- (b) redeemed or repurchased within the time period established in a written agreement between the person and the pawnbroker for redeeming or repurchasing the product;
- (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:
- (i) is purchased or leased by, or on behalf of, a telecommunications service provider; and
- (ii) has a useful economic life of one or more years; and
- (b) the following apply to Subsection (61)(a):
- (i) telecommunications enabling or facilitating equipment, machinery, or software;
- (ii) telecommunications equipment, machinery, or software required for 911 service;
- (iii) telecommunications maintenance or repair equipment, machinery, or software;
- (iv) telecommunications switching or routing equipment, machinery, or software; or
- (v) telecommunications transmission equipment, machinery, or software;
- (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology; and
- (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, for purposes of Subsection (62)(a), make rules defining what constitutes purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology;
- (63) (a) purchases of tangible personal property or a product transferred electronically if:
- (i) the tangible personal property or product transferred electronically is:
- (A) purchased outside of this state;
- (B) brought into this state at any time after the purchase described in Subsection (63)(a)(i)(A); and
- (C) used in conducting business in this state; and
- (ii) for:
- (A) tangible personal property or a product transferred electronically other than the tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property for a purpose for which the property is designed occurs outside of this state; or
- (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;
- (b) the exemption provided for in Subsection (63)(a) does not apply to:
- (i) a lease or rental of tangible personal property or a product transferred electronically; or
- (ii) a sale of a vehicle exempt under Subsection (33); and
- (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (63)(a), the commission may by rule define what constitutes the following:
- (i) conducting business in this state if that phrase has the same meaning in this Subsection (63) as in Subsection (24);
- (ii) the first use of tangible personal property or a product transferred electronically if that phrase has the same meaning in this Subsection (63) as in Subsection (24); or
- (iii) a purpose for which tangible personal property or a product transferred electronically is designed if that phrase has the same meaning in this Subsection (63) as in Subsection (24);
- (64) sales of disposable home medical equipment or supplies if:
- (a) a person presents a prescription for the disposable home medical equipment or supplies;
- (b) the disposable home medical equipment or supplies are used exclusively by the person to whom the prescription described in Subsection (64)(a) is issued; and
- (c) the disposable home medical equipment and supplies are listed as eligible for payment under:
- (i) Title XVIII, federal Social Security Act; or
- (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
- (65) sales:
- (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act; or
- (b) of tangible personal property to a subcontractor of a public transit district, if the tangible personal property is:
- (i) clearly identified; and

(ii) installed or converted to real property owned by the public transit district;

(66) sales of construction materials:

(a) purchased on or after July 1, 2010;

(b) purchased by, on behalf of, or for the benefit of an international airport:

(i) located within a county of the first class; and

(ii) that has a United States customs office on its premises; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the international airport described in Subsection (66)(b); and

(B) located at the international airport described in Subsection (66)(b);

(67) sales of construction materials:

(a) purchased on or after July 1, 2008;

(b) purchased by, on behalf of, or for the benefit of a new airport:

(i) located within a county of the second class; and

(ii) that is owned or operated by a city in which an airline as defined in Section 59-2-102 is headquartered; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the new airport described in Subsection (67)(b);

(B) located at the new airport described in Subsection (67)(b); and

(C) as part of the construction of the new airport described in Subsection (67)(b);

(68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;

(69) purchases and sales described in Section 63H-4-111;

(70) (a) sales of tangible personal property to an aircraft maintenance, repair, and overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft; or

(b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul

provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft;

(71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

(a) to a person admitted to an institution of higher education; and

(b) by a seller, other than a bookstore owned by an institution of higher education, if 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a textbook for a higher education course;

(72) a license fee or tax a municipality imposes in accordance with Subsection 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced level of municipal services;

(73) amounts paid or charged for construction materials used in the construction of a new or expanding life science research and development facility in the state, if the construction materials are:

(a) clearly identified;

(b) segregated; and

(c) installed or converted to real property;

(74) amounts paid or charged for:

(a) a purchase or lease of machinery and equipment that:

(i) are used in performing qualified research:

(A) as defined in Section 59-7-612;

(B) in the state; and

(C) with respect to which the purchaser pays or incurs a qualified research expense as defined in Section 59-7-612; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts:

(i) for the machinery and equipment described in Subsection (74)(a); and

(ii) that have an economic life of three or more years;

(75) a sale or lease of tangible personal property used in the preparation of prepared food if:

(a) for a sale:

(i) the ownership of the seller and the ownership of the purchaser are identical; and

(ii) the seller or the purchaser paid a tax under this chapter on the purchase of that tangible personal property prior to making the sale; or

(b) for a lease:

(i) the ownership of the lessor and the ownership of the lessee are identical; and

(ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible personal property prior to making the lease;

(76) (a) purchases of machinery or equipment if:

(i) the purchaser is an establishment described in NAICS Subsector 713, Amusement, Gambling, and Recreation Industries, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) the machinery or equipment:

(A) has an economic life of three or more years; and

(B) is used by one or more persons who pay admission or user fees described in Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and

(iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:

(A) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(B) subject to taxation under this chapter;

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for verifying that 51% of a purchaser's sales revenue for the previous calendar quarter is:

(i) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(ii) subject to taxation under this chapter; and

(c) on or before the November 2018 interim meeting, and every five years after the November 2018 interim meeting, the commission shall review the exemption provided in this Subsection (76) and report to the Revenue and Taxation Interim Committee on:

(i) the revenue lost to the state and local taxing jurisdictions as a result of the exemption;

(ii) the purpose and effectiveness of the exemption; and

(iii) whether the exemption benefits the state;

(77) purchases of a short-term lodging consumable by a business that provides accommodations and services described in Subsection 59-12-103(1)(i);

(78) amounts paid or charged to access a database:

(a) if the primary purpose for accessing the database is to view or retrieve information from the database; and

(b) not including amounts paid or charged for a:

(i) digital audiowork;

(ii) digital audio-visual work; or

(iii) digital book;

(79) amounts paid or charged for a purchase or lease made by an electronic financial payment service, of:

(a) machinery and equipment that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years; ~~and~~

(80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102[-]; and

(81) amounts paid or charged for a purchase or lease of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically:

(a) is stored, used, or consumed in the state; and

(b) is temporarily brought into the state from another state:

(i) during a disaster period as defined in Section 53-2a-1202;

(ii) by an out-of-state business as defined in Section 53-2a-1202;

(iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and

(iv) for disaster- or emergency-related work as defined in Section 53-2a-1202.

Section 11. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 13, 2014.

(2) The actions affecting Section 59-12-104 take effect on July 1, 2014.

Section 12. Retrospective operation.

The actions affecting the following sections have retrospective operation for a taxable year beginning on or after January 1, 2014:

(1) Section 59-7-102;

(2) Section 59-10-104; and

(3) Section 59-10-403.

CHAPTER 377**S. B. 51**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

**LOCAL GOVERNMENT
ENTITIES AMENDMENTS**

Chief Sponsor: Jerry W. Stevenson

House Sponsor: Stephen G. Handy

LONG TITLE**General Description:**

This bill amends provisions related to local government entities.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits, with certain exceptions, a governing body from spending money deposited in an enterprise fund for a purpose that is not directly related to the goods or services provided by the enterprise for which the enterprise fund was created;
- ▶ authorizes a local district to provide services, nonmonetary assistance, or monetary assistance to a nonprofit entity;
- ▶ amends provisions related to the creation of a local district;
- ▶ amends provisions governing the term of an appointed water conservancy district board member;
- ▶ clarifies provisions that exempt an appointing authority from certain requirements if it appoints one of its own members to a board of trustees;
- ▶ authorizes a local district to designate and consolidate polling places and provide a local district election ballot in consultation with a county clerk;
- ▶ amends provisions related to the division of a local district for the purpose of electing or appointing the members of the board of trustees;
- ▶ amends provisions related to the authority of a local district to continue to tax an area withdrawn from the local district;
- ▶ requires a board of trustees to mail notice of a hearing to consider adoption of a budget to an owner of property or a registered voter within the local district;
- ▶ prohibits in certain circumstances a county legislative body from adopting a resolution for the appointment of a board of trustees member in a county improvement district;
- ▶ amends provisions related to a mosquito abatement district's power to establish a reserve fund;
- ▶ amends certain provisions related to the funding of a public transit district;
- ▶ allows a member of a public transit district board of trustees who is appointed by a county or municipality to be employed by the county or municipality in certain circumstances;
- ▶ amends criminal provisions related to riding in a transit vehicle without payment;
- ▶ amends a public transit district's authority to use certain information obtained through a background check;

- ▶ requires a board of trustees for a water conservancy district to give written notice of an upcoming vacancy in an appointed trustee's term within a certain period of time;
- ▶ amends definitions;
- ▶ amends provisions authorizing a municipality or improvement district to appoint members to an administrative control board;
- ▶ amends provisions related to the board of canvassers for a local district;
- ▶ authorizes a public transit district to use an automatic license plate reader system to assess parking needs and conduct travel pattern analyses;
- ▶ authorizes the dissemination of a criminal history or warrant of arrest information to a public transit district for certain purposes;
- ▶ amends provisions related to the state auditor's authority to withhold state allocated funds or the disbursement of property taxes from a state or local taxing or fee-assessing unit;
- ▶ amends provisions relating to adverse possession to include a local district; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 10-5-107, as last amended by Laws of Utah 2010, Chapters 116 and 378
- 10-6-106, as last amended by Laws of Utah 2003, Chapter 292
- 10-6-135, as last amended by Laws of Utah 2010, Chapter 116
- 17B-1-103, as last amended by Laws of Utah 2011, Chapters 68 and 272
- 17B-1-202, as last amended by Laws of Utah 2013, Chapters 246 and 448
- 17B-1-303, as last amended by Laws of Utah 2013, Chapter 448
- 17B-1-304, as last amended by Laws of Utah 2013, Chapter 448
- 17B-1-306, as last amended by Laws of Utah 2013, Chapters 402 and 448
- 17B-1-306.5, as renumbered and amended by Laws of Utah 2008, Chapter 360
- 17B-1-511, as last amended by Laws of Utah 2012, Chapter 97
- 17B-1-609, as last amended by Laws of Utah 2012, Chapter 97
- 17B-1-641, as renumbered and amended by Laws of Utah 2007, Chapter 329
- 17B-1-901, as enacted by Laws of Utah 2007, Chapter 329
- 17B-2a-404, as last amended by Laws of Utah 2012, Chapter 97
- 17B-2a-703, as enacted by Laws of Utah 2007, Chapter 329
- 17B-2a-804, as last amended by Laws of Utah 2011, Chapter 223
- 17B-2a-807, as last amended by Laws of Utah 2013, Chapter 191
- 17B-2a-821, as renumbered and amended by Laws of Utah 2007, Chapter 329
- 17B-2a-825, as last amended by Laws of Utah 2010, Chapter 281

17B-2a-1005, as last amended by Laws of Utah 2010, Chapter 159
 17D-1-102, as last amended by Laws of Utah 2013, Chapter 265
 17D-1-302, as last amended by Laws of Utah 2012, Chapter 97
 17D-1-303, as enacted by Laws of Utah 2008, Chapter 360
 17D-1-304, as last amended by Laws of Utah 2012, Chapter 97
 20A-1-512, as last amended by Laws of Utah 2013, Chapter 448
 20A-4-301, as last amended by Laws of Utah 2010, Chapter 197
 41-6a-2003, as enacted by Laws of Utah 2013, Chapter 447
 53-10-108, as last amended by Laws of Utah 2012, Chapter 239
 67-3-1, as last amended by Laws of Utah 2013, Chapter 384
 78B-2-216, as last amended by Laws of Utah 2010, Chapter 30

ENACTS:

10-5-102.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-5-102.5 is enacted to read:

10-5-102.5. Definitions.

(1) "Enterprise fund" means a fund as defined by the Governmental Accounting Standards Board that is used by a municipality to report an activity for which a fee is charged to users for goods or services.

(2) "Utility" means a utility owned by a town, in whole or in part, that provides electricity, gas, water, or sewer, or any combination of them.

Section 2. Section 10-5-107 is amended to read:

10-5-107. Tentative budgets required for public inspection -- Contents -- Adoption of tentative budget.

(1) (a) On or before the first regularly scheduled town council meeting of May, the mayor shall:

(i) prepare for the ensuing year, on forms provided by the state auditor, a tentative budget for each fund for which a budget is required;

(ii) make the tentative budget available for public inspection; and

(iii) submit the tentative budget to the town council.

(b) The tentative budget of each fund shall set forth in tabular form:

(i) actual revenues and expenditures in the last completed fiscal year;

(ii) estimated total revenues and expenditures for the current fiscal year; and

(iii) the mayor's estimates of revenues and expenditures for the budget year.

(2) (a) The mayor shall:

(i) estimate the amount of revenue available to serve the needs of each fund;

(ii) estimate the portion to be derived from all sources other than general property taxes; and

(iii) estimate the portion that shall be derived from general property taxes.

(b) From the estimates required by Subsection (2)(a), the mayor shall compute and disclose in the budget the lowest rate of property tax levy that will raise the required amount of revenue, calculating the levy on the latest taxable value.

(3) A governing body may spend or transfer money deposited in an enterprise fund for a good, service, project, venture, or other purpose that is not directly related to the goods or services provided by the enterprise for which the enterprise fund was created, if the governing body:

(a) transfers the money from the enterprise fund to another fund; and

(b) complies with the hearing and notice requirements of Subsections (5)(a), (b), and (c).

~~[(3)]~~ (4) (a) Before the public hearing required under Section 10-5-108, the town council:

(i) shall review, consider, and tentatively adopt the tentative budget in any regular meeting or special meeting called for that purpose; and

(ii) may amend or revise the tentative budget.

(b) At the meeting at which the town council adopts the tentative budget, the council shall establish the time and place of the public hearing required under Section 10-5-108.

~~[(4) (a) Except as provided in Subsection (4)(d), if]~~

(5) (a) Except as provided in Subsection (5)(d), if a town council includes in a tentative budget, or an amendment to a budget, allocations or transfers from [a utility] an enterprise fund to another fund [that are not] for a good, service, project, venture, or purpose other than reasonable allocations of costs between the [utility] enterprise fund and the other fund, the governing body shall:

(i) hold a public hearing;

(ii) prepare a written notice of the date, time, place, and purpose of the hearing as described in Subsection [(4)] (5)(b); and

(iii) subject to Subsection [(4)] (5)(c), mail the notice to each [utility] enterprise fund customer at least seven days before the day of the hearing.

(b) The purpose portion of the written notice shall identify:

(i) the [utility] enterprise fund from which money is being allocated or transferred;

(ii) the amount being allocated or transferred; and

(iii) the fund to which the money is being allocated or transferred.

(c) The town council:

(i) may print the written notice required under Subsection [(4)] (5)(a)(ii) on the [utility] enterprise fund customer's bill; and

(ii) shall include the written notice required under Subsection [(4)] (5)(a)(ii) as separate notification mailed or transmitted with the [utility] enterprise fund customer's bill.

~~[(d) The notice and hearing requirements in this Subsection (4) are not required for an allocation or a transfer included in an original budget or in a subsequent budget amendment previously approved by the town council for the current fiscal year.]~~

~~(d) A governing body is not required to repeat the notice and hearing requirements in this Subsection (5) if the funds to be allocated or transferred for the current year were previously approved by the governing body during the current year and at a public hearing that complies with the notice and hearing requirements of this Subsection (5).~~

Section 3. Section 10-6-106 is amended to read:

10-6-106. Definitions.

As used in this chapter:

(1) "Account group" is defined by generally accepted accounting principles as reflected in the Uniform Accounting Manual for Utah Cities.

(2) "Appropriation" means an allocation of money by the governing body for a specific purpose.

(3) (a) "Budget" means a plan of financial operations for a fiscal period which embodies estimates of proposed expenditures for given purposes and the proposed means of financing them.

(b) "Budget" may refer to the budget of a particular fund for which a budget is required by law or it may refer collectively to the budgets for all such funds.

(4) "Budgetary fund" means a fund for which a budget is required.

(5) "Budget officer" means the city auditor in a city of the first and second class, the mayor or some person appointed by the mayor with the approval of the city council in a city of the third, fourth, or fifth class, the mayor in the council-mayor optional form of government, or the person designated by the charter in a charter city.

(6) "Budget period" means the fiscal period for which a budget is prepared.

(7) "Check" means an order in a specific amount drawn upon a depository by an authorized officer of a city.

(8) "Current period" means the fiscal period in which a budget is prepared and adopted, i.e., the fiscal period next preceding the budget period.

(9) "Department" means any functional unit within a fund that carries on a specific activity, such as a fire or police department within a General Fund.

(10) "Encumbrance system" means a method of budgetary control in which part of an appropriation is reserved to cover a specific expenditure by charging obligations, such as purchase orders, contracts, or salary commitments to an appropriation account at their time of origin. Such obligations cease to be encumbrances when paid or when the actual liability is entered on the city's books of account.

(11) "Enterprise fund" means a fund as defined by the Governmental Accounting Standards Board that is used by a municipality to report an activity for which a fee is charged to users for goods or services.

~~[(11)] (12) "Estimated revenue" means the amount of revenue estimated to be received from all sources during the budget period in each fund for which a budget is being prepared.~~

~~[(12)] (13) "Financial officer" means the mayor in the council-mayor optional form of government or the city official as authorized by Section 10-6-158.~~

~~[(13)] (14) "Fiscal period" means the annual or biennial period for accounting for fiscal operations in each city.~~

~~[(14)] (15) "Fund" is as defined by generally accepted accounting principles as reflected in the Uniform Accounting Manual for Utah Cities.~~

~~[(15)] (16) "Fund balance," "retained earnings," and "deficit" have the meanings commonly accorded such terms under generally accepted accounting principles as reflected in the Uniform Accounting Manual for Utah Cities.~~

~~[(16)] (17) "Governing body" means a city council, or city commission, as the case may be, but the authority to make any appointment to any position created by this chapter is vested in the mayor in the council-mayor optional form of government.~~

~~[(17)] (18) "Interfund loan" means a loan of cash from one fund to another, subject to future repayment and does not constitute an expenditure or a use of retained earnings or fund balance of the lending fund or revenue to the borrowing fund.~~

~~[(18)] (19) "Last completed fiscal period" means the fiscal period next preceding the current period.~~

~~[(19)] (20) (a) "Public funds" means any money or payment collected or received by an officer or employee of the city acting in an official capacity and includes money or payment to the officer or employee for services or goods provided by the city, or the officer or employee while acting within the scope of employment or duty. [Public funds do]~~

~~(b) "Public funds" does not include money or payments collected or received by an officer or~~

employee of a city for charitable purposes if the mayor or city council has consented to the officer's or employee's participation in soliciting contributions for a charity.

[~~(20)~~] (21) "Special fund" means any fund other than the General Fund.

(22) "Utility" means a utility owned by a city, in whole or in part, that provides electricity, gas, water, or sewer, or any combination of them.

[~~(21)~~] (23) "Warrant" means an order drawn upon the city treasurer, in the absence of sufficient money in the city's depository, by an authorized officer of a city for the purpose of paying a specified amount out of the city treasury to the person named or to the bearer as money becomes available.

Section 4. Section 10-6-135 is amended to read:

10-6-135. Operating and capital budgets.

(1) (a) As used in this section, "operating and capital budget" means a plan of financial operation for an enterprise fund or other required special fund that includes estimates of operating resources, expenses, and other outlays for a fiscal period.

(b) Except as otherwise expressly provided, any reference to "budget" or "budgets" and the procedures and controls relating to them in other sections of this chapter do not apply or refer to the operating and capital budgets described in this section.

(2) At or before the time the governing body adopts budgets for the funds described in Section 10-6-109, the governing body shall adopt:

(a) an operating and capital budget for each enterprise fund for the ensuing fiscal period; and

(b) the type of budget for other special funds as required by the Uniform Accounting Manual for Utah Cities.

(3) (a) The governing body shall adopt and administer an operating and capital budget in accordance with this Subsection (3).

(b) A governing body may spend or transfer money deposited in an enterprise fund for a good, service, project, venture, or other purpose that is not directly related to the goods or services provided by the enterprise for which the enterprise fund was created, if the governing body:

(i) transfers the money from the enterprise fund to another fund; and

(ii) complies with the hearing and notice requirements of Subsections (3)(f)(i), (ii), and (iii).

[~~(b)~~] (c) At or before the first regularly scheduled meeting of the governing body in the last May of the current fiscal period, the budget officer shall:

(i) prepare for the ensuing fiscal period and file with the governing body a tentative operating and capital budget for:

(A) each enterprise fund; and

(B) other required special funds;

(ii) include with the tentative operating and capital budget described in Subsection (3)[~~(b)~~](d)(i) specific work programs as submitted by each department head; and

(iii) include any other supporting data required by the governing body.

[~~(e)~~] (d) Each city of the first or second class shall, and each city of the third, fourth, or fifth class may, submit a supplementary estimate of all capital projects which a department head believes should be undertaken within the three next succeeding fiscal periods.

[~~(d)~~] (e) (i) Subject to Subsection (3)[~~(d)~~](e)(ii), the budget officer shall prepare all estimates after review and consultation with each department head described in Subsection (3)[~~(e)~~](d).

(ii) After complying with Subsection (3)[~~(d)~~](e)(i), the budget officer may revise any departmental estimate before it is filed with the governing body.

[~~(e)~~] (i) ~~Except as provided in Subsection (3)(e)(iv), if~~

(f) (i) ~~Except as provided in Subsection (3)(f)(iv), if the governing body includes in a tentative budget or an amendment to a budget allocations or transfers from [a utility] an enterprise fund to another fund [that are not] or a good, service, project, venture, or purpose other than reasonable allocations of costs between the [utility] enterprise fund and the other fund, the governing body shall:~~

(A) hold a public hearing;

(B) prepare a written notice of the date, time, place, and purpose of the hearing, as described in Subsection (3)[~~(e)~~](f)(ii); and

(C) subject to Subsection (3)[~~(e)~~](f)(iii), mail the written notice to each [utility] enterprise fund customer at least seven days before the day of the hearing.

(ii) The purpose portion of the written notice required under Subsection (3)[~~(e)~~](f)(i)(B) shall identify:

(A) the [utility] enterprise fund from which money is being transferred;

(B) the amount being transferred; and

(C) the fund to which the money is being transferred.

(iii) The governing body:

(A) may print the written notice required under Subsection (3)[~~(e)~~](f)(i) on the [utility] enterprise fund customer's bill; and

(B) shall include the written notice required under Subsection (3)[~~(e)~~](f)(i) as a separate notification mailed or transmitted with the [utility] enterprise fund customer's bill.

[~~(iv)~~] ~~The notice and hearing requirements in this Subsection (3)(e) are not required for an allocation or a transfer included in an original budget or in a~~

~~subsequent budget amendment previously approved by the governing body for the current fiscal year.]~~

(iv) A governing body is not required to repeat the notice and hearing requirements in this Subsection (3)(f) if the funds to be allocated or transferred for the current year were previously approved by the governing body during the current year and at a public hearing that complies with the notice and hearing requirements of this Subsection (3)(f).

(4) (a) Each tentative budget, amendment to a budget, or budget shall be reviewed and considered by the governing body at any regular meeting or special meeting called for that purpose.

(b) The governing body may make changes in the tentative budgets.

(5) Budgets for enterprise or other required special funds shall comply with the public hearing requirements established in Sections 10-6-113 and 10-6-114.

(6) (a) Before the last June 30 of each fiscal period, or, in the case of a property tax increase under Sections 59-2-919 through 59-2-923, before August 31 of the year for which a property tax increase is proposed, the governing body shall adopt an operating and capital budget for each applicable fund for the ensuing fiscal period.

(b) A copy of the budget as finally adopted for each fund shall be:

- (i) certified by the budget officer;
- (ii) filed by the budget officer in the office of the city auditor or city recorder;
- (iii) available to the public during regular business hours; and
- (iv) filed with the state auditor within 30 days after the day on which the budget is adopted.

(7) (a) Upon final adoption, the operating and capital budget is in effect for the budget period, subject to later amendment.

(b) During the budget period the governing body may, in any regular meeting or special meeting called for that purpose, review any one or more of the operating and capital budgets for the purpose of determining if the total of any of them should be increased.

(c) If the governing body decides that the budget total of one or more of the funds should be increased under Subsection (7)(b), the governing body shall follow the procedures set forth in Section 10-6-136.

(8) Expenditures from operating and capital budgets shall conform to the requirements relating to budgets specified in Sections 10-6-121 through 10-6-126.

Section 5. Section 17B-1-103 is amended to read:

17B-1-103. Local district status and powers.

- (1) A local district:
 - (a) is:
 - (i) a body corporate and politic with perpetual succession;
 - (ii) a quasi-municipal corporation; and
 - (iii) a political subdivision of the state; and
 - (b) may sue and be sued.
- (2) A local district may:
 - (a) acquire, by any lawful means, or lease any real property, personal property, or a groundwater right necessary or convenient to the full exercise of the district's powers;
 - (b) acquire, by any lawful means, any interest in real property, personal property, or a groundwater right necessary or convenient to the full exercise of the district's powers;
 - (c) transfer an interest in or dispose of any property or interest described in Subsections (2)(a) and (b);
 - (d) acquire or construct works, facilities, and improvements necessary or convenient to the full exercise of the district's powers, and operate, control, maintain, and use those works, facilities, and improvements;
 - (e) borrow money and incur indebtedness for any lawful district purpose;
 - (f) issue bonds, including refunding bonds:
 - (i) for any lawful district purpose; and
 - (ii) as provided in and subject to Part 11, Local District Bonds;
 - (g) levy and collect property taxes:
 - (i) for any lawful district purpose or expenditure, including to cover a deficit resulting from tax delinquencies in a preceding year; and
 - (ii) as provided in and subject to Part 10, Local District Property Tax Levy;
 - (h) as provided in Title 78B, Chapter 6, Part 5, Eminent Domain, acquire by eminent domain property necessary to the exercise of the district's powers;
 - (i) invest money as provided in Title 51, Chapter 7, State Money Management Act;
 - (j) (i) impose fees or other charges for commodities, services, or facilities provided by the district, to pay some or all of the district's costs of providing the commodities, services, and facilities, including the costs of:
 - (A) maintaining and operating the district;
 - (B) acquiring, purchasing, constructing, improving, or enlarging district facilities;
 - (C) issuing bonds and paying debt service on district bonds; and
 - (D) providing a reserve established by the board of trustees; and

(ii) take action the board of trustees considers appropriate and adopt regulations to assure the collection of all fees and charges that the district imposes;

(k) if applicable, charge and collect a fee to pay for the cost of connecting a customer's property to district facilities in order for the district to provide service to the property;

(l) enter into a contract that the local district board of trustees considers necessary, convenient, or desirable to carry out the district's purposes, including a contract:

(i) with the United States or any department or agency of the United States;

(ii) to indemnify and save harmless; or

(iii) to do any act to exercise district powers;

(m) purchase supplies, equipment, and materials;

(n) encumber district property upon terms and conditions that the board of trustees considers appropriate;

(o) exercise other powers and perform other functions that are provided by law;

(p) construct and maintain works and establish and maintain facilities, including works or facilities:

(i) across or along any public street or highway, subject to Subsection (3) and if the district:

(A) promptly restores the street or highway, as much as practicable, to its former state of usefulness; and

(B) does not use the street or highway in a manner that completely or unnecessarily impairs the usefulness of it;

(ii) in, upon, or over any vacant public lands that are or become the property of the state, including school and institutional trust lands, as defined in Section 53C-1-103, if the director of the School and Institutional Trust Lands Administration, acting under Sections 53C-1-102 and 53C-1-303, consents; or

(iii) across any stream of water or watercourse, subject to Section 73-3-29;

(q) perform any act or exercise any power reasonably necessary for the efficient operation of the local district in carrying out its purposes;

(r) (i) except for a local district described in Subsection (2)(r)(ii), designate an assessment area and levy an assessment on land within the assessment area, as provided in Title 11, Chapter 42, Assessment Area Act; or

(ii) for a local district created to assess a groundwater right in a critical management area described in Subsection 17B-1-202(1), designate an assessment area and levy an assessment, as provided in Title 11, Chapter 42, Assessment Area

Act, on a groundwater right to facilitate a groundwater management plan;

(s) contract with another political subdivision of the state to allow the other political subdivision to use the district's surplus water or capacity or have an ownership interest in the district's works or facilities, upon the terms and for the consideration, whether monetary or nonmonetary consideration or no consideration, that the district's board of trustees considers to be in the best interests of the district and the public; ~~and~~

(t) upon the terms and for the consideration, whether monetary or nonmonetary consideration or no consideration, that the district's board of trustees considers to be in the best interests of the district and the public, agree:

(i) with:

(A) another political subdivision of the state; or

(B) a public or private owner of property:

(I) on which the district has a right-of-way; or

(II) adjacent to which the district owns fee title to property; and

(ii) to allow the use of property:

(A) owned by the district; or

(B) on which the district has a right-of-way~~[-];~~ and

(u) if the local district receives, as determined by the local district board of trustees, adequate monetary or nonmonetary consideration in return:

(i) provide services or nonmonetary assistance to a nonprofit entity;

(ii) waive fees required to be paid by a nonprofit entity; or

(iii) provide monetary assistance to a nonprofit entity, whether from the local district's own funds or from funds the local district receives from the state or any other source.

(3) With respect to a local district's use of a street or highway, as provided in Subsection (2)(p)(i):

(a) the district shall comply with the reasonable rules and regulations of the governmental entity, whether state, county, or municipal, with jurisdiction over the street or highway, concerning:

(i) an excavation and the refilling of an excavation;

(ii) the relaying of pavement; and

(iii) the protection of the public during a construction period; and

(b) the governmental entity, whether state, county, or municipal, with jurisdiction over the street or highway:

(i) may not require the district to pay a license or permit fee or file a bond; and

(ii) may require the district to pay a reasonable inspection fee.

(4) (a) A local district may:

(i) acquire, lease, or construct and operate electrical generation, transmission, and distribution facilities, if:

(A) the purpose of the facilities is to harness energy that results inherently from the district's:

(I) operation of a project or facilities that the district is authorized to operate; or

(II) providing a service that the district is authorized to provide;

(B) the generation of electricity from the facilities is incidental to the primary operations of the district; and

(C) operation of the facilities will not hinder or interfere with the primary operations of the district;

(ii) (A) use electricity generated by the facilities; or

(B) subject to Subsection (4)(b), sell electricity generated by the facilities to an electric utility or municipality with an existing system for distributing electricity.

(b) A district may not act as a retail distributor or seller of electricity.

(c) Revenue that a district receives from the sale of electricity from electrical generation facilities it owns or operates under this section may be used for any lawful district purpose, including the payment of bonds issued to pay some or all of the cost of acquiring or constructing the facilities.

(5) A local district may adopt and, after adoption, alter a corporate seal.

(6) (a) As used in this Subsection (6), "knife" means a cutting instrument that includes a sharpened or pointed blade.

(b) The authority to regulate a knife is reserved to the state except where the Legislature specifically delegates responsibility to a local district.

(c) Unless specifically authorized by the Legislature by statute, a local district may not adopt or enforce a regulation or rule pertaining to a knife.

Section 6. Section 17B-1-202 is amended to read:

17B-1-202. Local district may be created -- Services that may be provided -- Limitations.

(1) (a) A local district may be created as provided in this part to provide within its boundaries service consisting of:

(i) the operation of an airport;

(ii) the operation of a cemetery;

(iii) fire protection, paramedic, and emergency services, including consolidated 911 and emergency dispatch services;

(iv) garbage collection and disposal;

(v) health care, including health department or hospital service;

(vi) the operation of a library;

(vii) abatement or control of mosquitos and other insects;

(viii) the operation of parks or recreation facilities or services;

(ix) the operation of a sewage system;

(x) the construction and maintenance of a right-of-way, including:

(A) a curb;

(B) a gutter;

(C) a sidewalk;

(D) a street;

(E) a road;

(F) a water line;

(G) a sewage line;

(H) a storm drain;

(I) an electricity line;

(J) a communications line;

(K) a natural gas line; or

(L) street lighting;

(xi) transportation, including public transit and providing streets and roads;

(xii) the operation of a system, or one or more components of a system, for the collection, storage, retention, control, conservation, treatment, supplying, distribution, or reclamation of water, including storm, flood, sewage, irrigation, and culinary water, whether the system is operated on a wholesale or retail level or both;

(xiii) in accordance with Subsection (1)(c), the acquisition or assessment of a groundwater right for the development and execution of a groundwater management plan in cooperation with and approved by the state engineer in accordance with Section 73-5-15;

(xiv) law enforcement service;

(xv) subject to Subsection (1)(b), the underground installation of an electric utility line or the conversion to underground of an existing electric utility line;

(xvi) the control or abatement of earth movement or a landslide;

(xvii) the operation of animal control services and facilities; or

(xviii) an energy efficiency upgrade or a renewable energy system, as defined in Section 11-42-102, in accordance with Title 11, Chapter 42, Assessment Area Act.

(b) Each local district that provides the service of the underground installation of an electric utility

line or the conversion to underground of an existing electric utility line shall, in installing or converting the line, provide advance notice to and coordinate with the utility that owns the line.

(c) A groundwater management plan described in Subsection (1)(a)(xiii) may include the banking of groundwater rights by a local district in a critical management area as defined in Section 73-5-15 following the adoption of a groundwater management plan by the state engineer under Section 73-5-15.

(i) A local district may manage the groundwater rights it acquires under Subsection 17B-1-103(2)(a) or (b) consistent with the provisions of a groundwater management plan described in this Subsection (1)(c).

(ii) A groundwater right held by a local district to satisfy the provisions of a groundwater management plan is not subject to the forfeiture provisions of Section 73-1-4.

(iii) (A) A local district may divest itself of a groundwater right subject to a determination that the groundwater right is not required to facilitate the groundwater management plan described in this Subsection (1)(c).

(B) The groundwater right described in Subsection (1)(c)(iii)(A) is subject to Section 73-1-4 beginning on the date of divestiture.

(iv) Upon a determination by the state engineer that an area is no longer a critical management area as defined in Section 73-5-15, a groundwater right held by the local district is subject to Section 73-1-4.

(v) A local district created in accordance with Subsection (1)(a)(xiii) to develop and execute a groundwater management plan may hold or acquire a right to surface waters that are naturally tributary to the groundwater basin subject to the groundwater management plan if the surface waters are appropriated in accordance with Title 73, Water and Irrigation, and used in accordance with Title 73, Chapter 3b, Groundwater Recharge and Recovery Act.

(2) For purposes of this section:

(a) "Operation" means all activities involved in providing the indicated service including acquisition and ownership of property reasonably necessary to provide the indicated service and acquisition, construction, and maintenance of facilities and equipment reasonably necessary to provide the indicated service.

(b) "System" means the aggregate of interrelated components that combine together to provide the indicated service including, for a sewage system, collection and treatment.

(3) (a) A local district may not be created to provide and may not after its creation provide more than four of the services listed in Subsection (1).

(b) Subsection (3)(a) may not be construed to prohibit a local district from providing more than

four services if, before April 30, 2007, the local district was authorized to provide those services.

(4) (a) Except as provided in Subsection (4)(b), a local district may not be created to provide and may not after its creation provide to an area the same service that may already [being] be provided to that area by another political subdivision, unless the other political subdivision gives its written consent.

(b) For purposes of Subsection (4)(a), a local district does not provide the same service as another political subdivision if it operates a component of a system that is different from a component operated by another political subdivision but within the same:

- (i) sewage system; or
- (ii) water system.

(5) (a) Except for a local district in the creation of which an election is not required under Subsection 17B-1-214(3)(d), the area of a local district may include all or part of the unincorporated area of one or more counties and all or part of one or more municipalities.

(b) The area of a local district need not be contiguous.

(6) For a local district created before May 5, 2008, the authority to provide fire protection service also includes the authority to provide:

- (a) paramedic service; and
- (b) emergency service, including hazardous materials response service.

(7) A local district created before May 11, 2010, authorized to provide the construction and maintenance of curb, gutter, or sidewalk may provide a service described in Subsection (1)(a)(x) on or after May 11, 2010.

(8) A local district created before May 10, 2011, authorized to provide culinary, irrigation, sewage, or storm water services may provide a service described in Subsection (1)(a)(xii) on or after May 10, 2011.

(9) A local district may not be created under this chapter for two years after the date on which a local district is dissolved as provided in Section 17B-1-217 if the local district proposed for creation:

- (a) provides the same or a substantially similar service as the dissolved local district; and
- (b) is located in substantially the same area as the dissolved local district.

Section 7. Section 17B-1-303 is amended to read:

17B-1-303. Term of board of trustees members -- Oath of office -- Bond.

(1) (a) Except as provided in Subsections (1)(b) and (c), the term of each member of a board of trustees shall begin at noon on the January 1 following the member's election or appointment.

(b) The term of each member of the initial board of trustees of a newly created local district shall begin:

(i) upon appointment, for an appointed member; and

(ii) upon the member taking the oath of office after the canvass of the election at which the member is elected, for an elected member.

(c) The term of each water conservancy district board member appointed by the governor as provided in Subsection 17B-2a-1005(2)(c) shall ~~[begin on the date on which the senate consents to the appointment.];~~

(i) begin on the later of the following:

(A) the date on which the Senate consents to the appointment; or

(B) the expiration date of the prior term; and

(ii) end on the February 1 that is approximately four years after the date described in Subsection (1)(c)(i)(A) or (B).

(2) (a) (i) Subject to Subsection (2)(a)(ii), the term of each member of a board of trustees shall be four years, except that approximately half the members of the initial board of trustees, chosen by lot, shall serve a two-year term so that the term of approximately half the board members expires every two years.

(ii) (A) If the terms of members of the initial board of trustees of a newly created local district do not begin on January 1 because of application of Subsection (1)(b), the terms of those members shall be adjusted as necessary, subject to Subsection (2)(a)(ii)(B), to result in the terms of their successors complying with:

(I) the requirement under Subsection (1)(a) for a term to begin on January 1 following a member's election or appointment; and

(II) the requirement under Subsection (2)(a)(i) that terms be four years.

(B) An adjustment under Subsection (2)(a)(ii)(A) may not add more than a year to or subtract more than a year from a member's term.

(b) Each board of trustees member shall serve until a successor is duly elected or appointed and qualified, unless the member earlier is removed from office or resigns or otherwise leaves office.

(c) If a member of a board of trustees no longer meets the qualifications of Subsection 17B-1-302(1), or if the member's term expires without a duly elected or appointed successor:

(i) the member's position is considered vacant, subject to Subsection (2)(c)(ii); and

(ii) the member may continue to serve until a successor is duly elected or appointed and qualified.

(3) (a) (i) Before entering upon the duties of office, each member of a board of trustees shall take the oath of office specified in Utah Constitution Article IV, Section 10.

(ii) An oath of office may be administered by a judge, county clerk, notary public, or the local district clerk.

(b) Each oath of office shall be filed with the clerk of the local district.

(c) The failure of a board of trustees member to take the oath required by Subsection (3)(a) does not invalidate any official act of that member.

(4) A board of trustees member is not limited in the number of terms the member may serve.

(5) Except as provided in Subsection (6), each midterm vacancy in a board of trustees position shall be filled as provided in Section 20A-1-512.

(6) (a) For purposes of this Subsection (6):

(i) "Appointed official" means a person who:

(A) is appointed as a member of a local district board of trustees by a county or municipality entitled to appoint a member to the board; and

(B) holds an elected position with the appointing county or municipality.

(ii) "Appointing entity" means the county or municipality that appointed the appointed official to the board of trustees.

(b) The board of trustees shall declare a midterm vacancy for the board position held by an appointed official if:

(i) during the appointed official's term on the board of trustees, the appointed official ceases to hold the elected position with the appointing entity; and

(ii) the appointing entity submits a written request to the board to declare the vacancy.

(c) Upon the board's declaring a midterm vacancy under Subsection (6)(b), the appointing entity shall appoint another person to fill the remaining unexpired term on the board of trustees.

(7) (a) Each member of a board of trustees shall give a bond for the faithful performance of the member's duties, in the amount and with the sureties prescribed by the board of trustees.

(b) The local district shall pay the cost of each bond required under Subsection (7)(a).

Section 8. Section 17B-1-304 is amended to read:

17B-1-304. Appointment procedures for appointed members.

(1) The appointing authority may, by resolution, appoint persons to serve as members of a local district board by following the procedures established by this section.

(2) (a) In any calendar year when appointment of a new local district board member is required, the appointing authority shall prepare a notice of vacancy that contains:

(i) the positions that are vacant that shall be filled by appointment;

(ii) the qualifications required to be appointed to those positions;

(iii) the procedures for appointment that the governing body will follow in making those appointments; and

(iv) the person to be contacted and any deadlines that a person shall meet who wishes to be considered for appointment to those positions.

(b) The appointing authority shall:

(i) post the notice of vacancy in four public places within the local district at least one month before the deadline for accepting nominees for appointment; and

(ii) (A) publish the notice of vacancy:

(I) in a daily newspaper of general circulation within the local district for five consecutive days before the deadline for accepting nominees for appointment; or

(II) in a local weekly newspaper circulated within the local district in the week before the deadline for accepting nominees for appointment; and

(B) in accordance with Section 45-1-101 for five days before the deadline for accepting nominees for appointment.

(c) The appointing authority may bill the local district for the cost of preparing, printing, and publishing the notice.

(3) (a) Not sooner than two months after the appointing authority is notified of the vacancy, the appointing authority shall select a person to fill the vacancy from the applicants who meet the qualifications established by law.

(b) The appointing authority shall:

(i) comply with Title 52, Chapter 4, Open and Public Meetings Act, in making the appointment;

(ii) allow any interested persons to be heard; and

(iii) adopt a resolution appointing a person to the local district board.

(c) If no candidate for appointment to fill the vacancy receives a majority vote of the appointing authority, the appointing authority shall select the appointee from the two top candidates by lot.

(4) Persons appointed to serve as members of the local district board serve four-year terms, but may be removed for cause at any time after a hearing by two-thirds vote of the appointing body.

(5) (a) At the end of each board member's term, the position is considered vacant and the appointing authority may either reappoint the old board member or appoint a new member after following the appointment procedures established in this section.

(b) Notwithstanding Subsection (5)(a), a board member may continue to serve until a successor is duly elected or appointed and qualified in accordance with Subsection 17B-1-303(2)(b).

(6) Notwithstanding any other provision of this section, if the appointing authority appoints one of its own members~~[-it]~~ and that member meets all applicable statutory board member qualifications, the appointing authority need not comply with Subsection (2) or (3).

Section 9. Section 17B-1-306 is amended to read:

17B-1-306. Local district board -- Election procedures.

(1) Except as provided in Subsection (11), each elected board member shall be selected as provided in this section.

(2) (a) Each election of a local district board member shall be held:

(i) at the same time as the municipal general election; and

(ii) at polling places designated by the ~~[county clerk]~~ local district board in consultation with the ~~[local district]~~ county clerk for each county in which the local district is located, which polling places shall coincide with municipal general election polling places whenever feasible.

(b) The local district board, in consultation with the county clerk, may consolidate two or more polling places to enable voters from more than one district to vote at one consolidated polling place.

(c) (i) Subject to Subsections (4)(f) and (g), the number of polling places under Subsection (2)(a)(ii) in an election of board members of an irrigation district shall be one polling place per division of the district, designated by the district board.

(ii) Each polling place designated by an irrigation district board under Subsection (2)(c)(i) shall coincide with a polling place designated by the county clerk under Subsection (2)(a)(ii).

(3) (a) The clerk of each local district with a board member position to be filled at the next municipal general election shall provide notice of:

(i) each elective position of the local district to be filled at the next municipal general election;

(ii) the constitutional and statutory qualifications for each position; and

(iii) the dates and times for filing a declaration of candidacy.

(b) The notice required under Subsection (3)(a) shall be:

(i) posted in at least five public places within the local district at least 10 days before the first day for filing a declaration of candidacy; or

(ii) (A) published in a newspaper of general circulation within the local district at least three but no more than 10 days before the first day for filing a declaration of candidacy; and

(B) published, in accordance with Section 45-1-101, for 10 days before the first day for filing a declaration of candidacy.

(4) (a) To become a candidate for an elective local district board position, the prospective candidate

shall file a declaration of candidacy in person with the local district, during office hours and not later than the close of normal office hours between June 1 and June 7 of any odd-numbered year.

(b) When June 7 is a Saturday, Sunday, or holiday, the filing time shall be extended until the close of normal office hours on the following regular business day.

(c) (i) Before the filing officer may accept any declaration of candidacy, the filing officer shall:

(A) read to the prospective candidate the constitutional and statutory qualification requirements for the office that the candidate is seeking; and

(B) require the candidate to state whether or not the candidate meets those requirements.

(ii) If the prospective candidate does not meet the qualification requirements for the office, the filing officer may not accept the declaration of candidacy.

(iii) If it appears that the prospective candidate meets the requirements of candidacy, the filing officer shall accept the declaration of candidacy.

(d) The declaration of candidacy shall substantially comply with the following form:

“I, (print name) _____, being first duly sworn, say that I reside at (Street) _____, City of _____, County of _____, State of Utah, (Zip Code) _____, (Telephone Number, if any) _____; that I meet the qualifications for the office of board of trustees member for _____ (state the name of the local district); that I am a candidate for that office to be voted upon at the next election, and I hereby request that my name be printed upon the official ballot for that election.

(Signed) _____

Subscribed and sworn to (or affirmed) before me by _____ on this _____ day of _____, _____.

(Signed) _____

(Clerk or Notary Public)”

(e) Each person wishing to become a valid write-in candidate for an elective local district board position is governed by Section 20A-9-601.

(f) If at least one person does not file a declaration of candidacy as required by this section, a person shall be appointed to fill that board position by following the procedures and requirements for appointment established in Section 20A-1-512.

(g) If only one candidate files a declaration of candidacy and there is no write-in candidate who complies with Section 20A-9-601, the board, in accordance with Section 20A-1-206, may:

(i) consider the candidate to be elected to the position; and

(ii) cancel the election.

(5) (a) A primary election may be held if:

(i) the election is authorized by the local district board; and

(ii) the number of candidates for a particular local board position or office exceeds twice the number of persons needed to fill that position or office.

(b) The primary election shall be conducted:

(i) on the same date as the municipal primary election, as provided for in Section 20A-1-201.5; and

(ii) according to the procedures for municipal primary elections provided under Title 20A, Election Code.

(6) (a) Except as provided in Subsection (6)(c), the local district clerk shall certify the candidate names to the clerk of each county in which the local district is located no later than June 12 of the municipal election year.

(b) (i) Except as provided in Subsection (6)(c) and in accordance with Section 20A-6-305, the clerk of each county in which the local district is located and the local district clerk shall coordinate the placement of the name of each candidate for local district office in the nonpartisan section of the municipal general election ballot with the municipal election clerk.

(ii) If consolidation of the local district election ballot with the municipal general election ballot is not feasible, the local district board of trustees, in consultation with the county clerk, shall provide for a separate local district election ballot to be administered by poll workers at polling locations designated under Subsection (2).

(c) (i) Subsections (6)(a) and (b) do not apply to an election of a member of the board of an irrigation district established under Chapter 2a, Part 5, Irrigation District Act.

(ii) (A) Subject to Subsection (6)(c)(ii)(B), the board of each irrigation district shall prescribe the form of the ballot for each board member election.

(B) Each ballot for an election of an irrigation district board member shall be in a nonpartisan format.

(C) The name of each candidate shall be placed on the ballot in the order specified under Section 20A-6-305.

(7) (a) Each voter at an election for a board of trustees member of a local district shall:

(i) be a registered voter within the district, except for an election of:

(A) an irrigation district board of trustees member; or

(B) a basic local district board of trustees member who is elected by property owners; and

(ii) meet the requirements to vote established by the district.

(b) Each voter may vote for as many candidates as there are offices to be filled.

(c) The candidates who receive the highest number of votes are elected.

(8) Except as otherwise provided by this section, the election of local district board members is governed by Title 20A, Election Code.

(9) (a) A person elected to serve on a local district board shall serve a four-year term, beginning at noon on the January 1 after the person's election.

(b) A person elected shall be sworn in as soon as practical after January 1.

(10) (a) Except as provided in Subsection (10)(b), each local district shall reimburse the county or municipality holding an election under this section for the costs of the election attributable to that local district.

(b) Each irrigation district shall bear its own costs of each election it holds under this section.

(11) This section does not apply to an improvement district that provides electric or gas service.

(12) Except as provided in Subsection 20A-3-605(1)(b), the provisions of Title 20A, Chapter 3, Part 6, Early Voting, do not apply to an election under this section.

Section 10. Section 17B-1-306.5 is amended to read:

17B-1-306.5. Dividing a local district into divisions.

(1) Subject to Subsection ~~[(2)]~~ (3), the board of trustees of a local district that has elected board members may, upon a vote of two-thirds of the members of the board, divide the local district, or the portion of the local district represented by elected board of trustees members, into divisions so that some or all of the elected members of the board of trustees may be elected by division rather than at large.

(2) Subject to Subsection (3), the appointing authority of a local district that has appointed board members may, upon a vote of two-thirds of the members of the appointing authority, divide the local district, or the portion of the local district represented by appointed board members, into divisions so that some or all of the appointed members of the board of trustees may be appointed by division rather than at large.

~~[(2)]~~ (3) Before dividing a local district into divisions ~~[under Subsection (4)]~~ or before changing the boundaries of divisions already established, the board of trustees under Subsection (1), or the appointing authority, under Subsection (2), shall:

(a) prepare a proposal that describes the boundaries of the proposed divisions; and

(b) hold a public hearing at which any interested person may appear and speak for or against the proposal.

~~[(3)]~~ (4) (a) The board of trustees or the appointing authority shall review the division boundaries at least every 10 years.

(b) Except for changes in the divisions necessitated by annexations to or withdrawals from the local district, the boundaries of divisions established under Subsection (1) or (2) may not be changed more often than every five years.

(c) Changes to the boundaries of divisions already established under Subsection (1) or (2) are not subject to the two-thirds vote requirement of Subsection (1) or (2).

Section 11. Section 17B-1-511 is amended to read:

17B-1-511. Continuation of tax levy after withdrawal to pay for proportionate share of district bonds.

(1) Other than as provided in Subsection (2), and unless an escrow trust fund is established and funded pursuant to Subsection 17B-1-510(5)(j), property within the withdrawn area shall continue after withdrawal to be taxable by the local district:

(a) for the purpose of paying the withdrawn area's just proportion of the local district's general obligation bonds or lease obligations payable from property taxes with respect to lease revenue bonds issued by a local building authority on behalf of the local district, other than those bonds treated as revenue bonds under Subsection 17B-1-510(5)(i), until the bonded indebtedness has been satisfied; and

(b) to the extent and for the years necessary to generate sufficient revenue that, when combined with the revenues from the district remaining after withdrawal, is sufficient to provide for the payment of principal and interest on the district's general obligation bonds that are treated as revenue bonds under Subsection 17B-1-510(5)(i).

(2) For a local district funded predominately by revenues other than property taxes, service charges, or assessments based upon an allotment of acre-feet of water, property within the withdrawn area shall continue to be taxable by the local district for purposes of paying the withdrawn area's proportionate share of bonded indebtedness or judgments against the local district incurred prior to the date the petition was filed.

(3) Except as provided in Subsections (1) and (2), upon withdrawal, the withdrawing area is relieved of all other taxes, assessments, and charges levied by the district, including taxes and charges for the payment of revenue bonds and maintenance and operation cost of the local district.

Section 12. Section 17B-1-609 is amended to read:

17B-1-609. Hearing to consider adoption -- Notice.

(1) At the meeting at which the tentative budget is adopted, the board of trustees shall:

(a) establish the time and place of a public hearing to consider its adoption; and

(b) except as provided in Subsection (5), order that notice of the hearing:

(i) (A) be published at least seven days before the hearing in at least one issue of a newspaper of general circulation published in the county or counties in which the district is located; or

(B) if no newspaper is published, be posted in three public places within the district; and

(ii) be published at least seven days before the hearing on the Utah Public Notice Website created in Section 63F-1-701.

(2) If the budget hearing is held in conjunction with a tax increase hearing, the notice required in Subsection (1)(b):

(a) may be combined with the notice required under Section 59-2-919; and

(b) shall be published in accordance with the advertisement provisions of Section 59-2-919.

(3) Proof that notice was given in accordance with Subsection (1)(b) ~~or~~, (2), or (5) is prima facie evidence that notice was properly given.

(4) If a notice required under Subsection (1)(b) ~~or~~, (2), or (5) is not challenged within 30 days after the day on which the hearing is held, the notice is adequate and proper.

(5) A board of trustees of a local district with an annual operating budget of less than \$250,000 may satisfy the notice requirements in Subsection (1)(b) by:

(a) mailing a written notice, postage prepaid, to each voter in the local district or special service district; and

(b) posting the notice in three public places within the district.

Section 13. Section 17B-1-641 is amended to read:

17B-1-641. Local district may expand uniform procedures -- Limitation.

(1) Subject to Subsection (2), a local district may expand the uniform accounting, budgeting, and reporting procedure prescribed in the Uniform Accounting Manual for Local Districts prepared by the state auditor under Subsection 67-3-1~~(13)~~(14), to better serve the needs of the district.

(2) A local district may not deviate from or alter the basic prescribed classification systems for the identity of funds and accounts set forth in the Uniform Accounting Manual for Local Districts.

Section 14. Section 17B-1-901 is amended to read:

17B-1-901. Providing and billing for multiple commodities, services, or facilities -- Suspending service to a delinquent customer.

(1) If a local district provides more than one commodity, service, or facility, the district may bill for the fees and charges for all commodities, services, and facilities in a single bill.

(2) [A] Regardless of the number of commodities, services, or facilities furnished by a local district, the local district may suspend furnishing [a] any commodity, service, or facility to a customer if the customer fails to pay all fees and charges when due.

Section 15. Section 17B-2a-404 is amended to read:

17B-2a-404. Improvement district board of trustees.

(1) As used in this section:

(a) "County district" means an improvement district that does not include within its boundaries any territory of a municipality.

(b) "County member" means a member of a board of trustees of a county district.

(c) "Electric district" means an improvement district that was created for the purpose of providing electric service.

(d) "Included municipality" means a municipality whose boundaries are entirely contained within but do not coincide with the boundaries of an improvement district.

(e) "Municipal district" means an improvement district whose boundaries coincide with the boundaries of a single municipality.

(f) "Regular district" means an improvement district that is not a county district, electric district, or municipal district.

(g) "Remaining area" means the area of a regular district that:

(i) is outside the boundaries of an included municipality; and

(ii) includes the area of an included municipality whose legislative body elects, under Subsection (4)(a)(ii), not to appoint a member to the board of trustees of the regular district.

(h) "Remaining area member" means a member of a board of trustees of a regular district who is appointed, or, if applicable, elected to represent the remaining area of the district.

(2) The legislative body of the municipality included within a municipal district may:

(a) elect, at the time of the creation of the district, to be the board of trustees of the district; and

(b) adopt at any time a resolution providing for:

(i) the election of board of trustees members, as provided in Section 17B-1-306; or

(ii) the appointment of board of trustees members, as provided in Section 17B-1-304.

(3) The legislative body of a county whose unincorporated area is partly or completely within a county district may:

(a) elect, at the time of the creation of the district, to be the board of trustees of the district; and

(b) adopt at any time a resolution providing for:

(i) the election of board of trustees members, as provided in Section 17B-1-306; or

(ii) except as provided in Subsection (4), the appointment of board of trustees members, as provided in Section 17B-1-304.

(4) Subject to Subsection (6)(d), the legislative body of a county may not adopt a resolution providing for the appointment of board of trustees members as provided in Subsection (3)(b)(ii) at any time after the county district is governed by an elected board of trustees unless:

(a) the elected board has ceased to function;

(b) the terms of all of the elected board members have expired without the board having called an election; or

(c) the elected board of trustees unanimously adopts a resolution approving the change from an elected to an appointed board.

~~[(4)]~~ (5) (a) (i) Except as provided in Subsection ~~[(4)]~~ (5)(a)(ii), the legislative body of each included municipality shall each appoint one member to the board of trustees of a regular district.

(ii) The legislative body of an included municipality may elect not to appoint a member to the board under Subsection ~~[(4)]~~ (5)(a)(i).

(b) Except as provided in Subsection ~~[(5)]~~ (6), the legislative body of each county whose boundaries include a remaining area shall appoint all other members to the board of trustees of a regular district.

~~[(5)]~~ (6) Notwithstanding Subsection (3), each remaining area member of a regular district and each county member of a county district shall be elected, as provided in Section 17B-1-306, if:

(a) the petition or resolution initiating the creation of the district provides for remaining area or county members to be elected;

(b) the district holds an election to approve the district's issuance of bonds;

(c) for a regular district, an included municipality elects, under Subsection ~~[(4)]~~ (5)(a)(ii), not to appoint a member to the board of trustees; or

(d) (i) at least 90 days before the municipal general election, a petition is filed with the district's board of trustees requesting remaining area members or county members, as the case may be, to be elected; and

(ii) the petition is signed by registered voters within the remaining area or county district, as the case may be, equal in number to at least 10% of the number of registered voters within the remaining area or county district, respectively, who voted in the last gubernatorial election.

~~[(6)]~~ (7) Subject to Section 17B-1-302, the number of members of a board of trustees of a regular district shall be:

(a) the number of included municipalities within the district, if:

(i) the number is an odd number; and

(ii) the district does not include a remaining area;

(b) the number of included municipalities plus one, if the number of included municipalities within the district is even; and

(c) the number of included municipalities plus two, if:

(i) the number of included municipalities is odd; and

(ii) the district includes a remaining area.

~~[(7)]~~ (8) (a) Except as provided in Subsection ~~[(7)]~~ (8)(b), each remaining area member of the board of trustees of a regular district shall reside within the remaining area.

(b) Notwithstanding Subsection ~~[(7)]~~ (8)(a) and subject to Subsection ~~[(7)]~~ (8)(c), each remaining area member shall be chosen from the district at large if:

(i) the population of the remaining area is less than 5% of the total district population; or

(ii) (A) the population of the remaining area is less than 50% of the total district population; and

(B) the majority of the members of the board of trustees are remaining area members.

(c) Application of Subsection ~~[(7)]~~ (8)(b) may not prematurely shorten the term of any remaining area member serving the remaining area member's elected or appointed term on May 11, 2010.

~~[(8)]~~ (9) If the election of remaining area or county members of the board of trustees is required because of a bond election, as provided in Subsection ~~[(5)]~~ (9)(b):

(a) a person may file a declaration of candidacy if:

(i) the person resides within:

(A) the remaining area, for a regular district; or

(B) the county district, for a county district; and

(ii) otherwise qualifies as a candidate;

(b) the board of trustees shall, if required, provide a ballot separate from the bond election ballot, containing the names of candidates and blanks in which a voter may write additional names; and

(c) the election shall otherwise be governed by Title 20A, Election Code.

~~[(9)]~~ (10) (a) (i) This Subsection ~~[(9)]~~ (10) applies to the board of trustees members of an electric district.

(ii) Subsections (2) through ~~[(8)]~~ (9) do not apply to an electric district.

(b) The legislative body of the county in which an electric district is located may appoint the initial

board of trustees of the electric district as provided in Section 17B-1-304.

(c) After the initial board of trustees is appointed as provided in Subsection [(9)] (10)(b), each member of the board of trustees of an electric district shall be elected by persons using electricity from and within the district.

(d) Each member of the board of trustees of an electric district shall be a user of electricity from the district and, if applicable, the division of the district from which elected.

(e) The board of trustees of an electric district may be elected from geographic divisions within the district.

(f) A municipality within an electric district is not entitled to automatic representation on the board of trustees.

Section 16. Section 17B-2a-703 is amended to read:

17B-2a-703. Additional mosquito abatement district powers.

In addition to the powers conferred on a mosquito abatement district under Section 17B-1-103, a mosquito abatement district may:

(1) take all necessary and proper steps for the extermination of mosquitos, flies, crickets, grasshoppers, and other insects:

(a) within the district; or

(b) outside the district, if lands inside the district are benefitted;

(2) abate as nuisances all stagnant pools of water and other breeding places for mosquitos, flies, crickets, grasshoppers, or other insects anywhere inside or outside the state from which mosquitos migrate into the district;

(3) enter upon territory referred to in Subsections (1) and (2) in order to inspect and examine the territory and to remove from the territory, without notice, stagnant water or other breeding places for mosquitos, flies, crickets, grasshoppers, or other insects;

(4) issue bonds as provided in and subject to Chapter 1, Part 11, Local District Bonds, to carry out the purposes of the district;

(5) make a contract to indemnify or compensate an owner of land or other property for injury or damage necessarily caused by the exercise of district powers or arising out of the use, taking, or damage of property for a district purpose; and

(6) establish a reserve fund, not to exceed the greater of 25% of the district's annual operating budget [and] or \$50,000, to pay for extraordinary abatement measures, including a vector-borne public health emergency.

Section 17. Section 17B-2a-804 is amended to read:

17B-2a-804. Additional public transit district powers.

(1) In addition to the powers conferred on a public transit district under Section 17B-1-103, a public transit district may:

(a) provide a public transit system for the transportation of passengers and their incidental baggage;

(b) notwithstanding Subsection 17B-1-103(2)(g) and subject to Section 17B-2a-817, levy and collect property taxes only for the purpose of paying:

(i) principal and interest of bonded indebtedness of the public transit district; or

(ii) a final judgment against the public transit district if:

(A) the amount of the judgment exceeds the amount of any collectable insurance or indemnity policy; and

(B) the district is required by a final court order to levy a tax to pay the judgment;

(c) insure against:

(i) loss of revenues from damage to or destruction of some or all of a public transit system from any cause;

(ii) public liability;

(iii) property damage; or

(iv) any other type of event, act, or omission;

(d) acquire, contract for, lease, construct, own, operate, control, or use:

(i) a right-of-way, rail line, monorail, bus line, station, platform, switchyard, terminal, parking lot, or any other facility necessary or convenient for public transit service; or

(ii) any structure necessary for access by persons and vehicles;

(e) (i) hire, lease, or contract for the supplying or management of a facility, operation, equipment, service, employee, or management staff of an operator; and

(ii) provide for a sublease or subcontract by the operator upon terms that are in the public interest;

(f) operate feeder bus lines and other feeder or ridesharing services as necessary;

(g) accept a grant, contribution, or loan, directly through the sale of securities or equipment trust certificates or otherwise, from the United States, or from a department, instrumentality, or agency of the United States~~;~~;

~~(i) establish, finance, participate as a limited partner or member in a development with limited liabilities in accordance with Subsection (1)(1), construct, improve, maintain, or operate transit facilities, equipment, and transit-oriented~~

developments or transit-supportive developments;
or]

~~(iii)~~ (h) study and plan transit facilities in accordance with any legislation passed by Congress;

~~(4b)~~ (i) cooperate with and enter into an agreement with the state or an agency of the state or otherwise contract to finance to establish transit facilities and equipment or to study or plan transit facilities;

~~(4)~~ (j) issue bonds as provided in and subject to Chapter 1, Part 11, Local District Bonds, to carry out the purposes of the district;

~~(4)~~ (k) from bond proceeds or any other available funds, reimburse the state or an agency of the state for an advance or contribution from the state or state agency;

~~(4k)~~ (l) do anything necessary to avail itself of any aid, assistance, or cooperation available under federal law, including complying with labor standards and making arrangements for employees required by the United States or a department, instrumentality, or agency of the United States; ~~and]~~

(m) sell or lease property;

(n) assist in or operate transit-oriented or transit-supportive developments;

(o) establish, finance, participate as a limited partner or member in a development with limited liabilities in accordance with Subsection (1)(p), construct, improve, maintain, or operate transit facilities, equipment, and transit-oriented developments or transit-supportive developments; and

~~(4)~~ (p) subject to the restriction in Subsection (2), assist in a transit-oriented development or a transit-supportive development in connection with ~~the~~ economic development ~~[of areas in proximity to a right-of-way, rail line, station, platform, switchyard, terminal, or parking lot,] by:~~

(i) investing in a project as a limited partner or a member, with limited liabilities; or

(ii) subordinating an ownership interest in real property owned by the public transit district.

(2) (a) A public transit district may only assist in the economic development of areas under Subsection (1)~~(4)~~(p):

(i) in the manner described in Subsection (1)~~(4)~~(p)(i) or (ii); and

(ii) on no more than ~~five~~ eight transit-oriented developments or transit-supportive developments selected by the board of trustees.

(b) A public transit district may not invest in a transit-oriented development or transit-supportive development as a limited partner or other limited liability entity under the provisions of Subsection (1)~~(4)~~(p)(i), unless the partners, developer, or other investor in the entity,

makes an equity contribution equal to no less than 25% of the appraised value of the property to be contributed by the public transit district.

(c) A current board member of a public transit district to which the board member is appointed may not have any interest in the transactions engaged in by the public transit district pursuant to Subsection (1)~~(4)~~(p)(i) or (ii), except as may be required by the board member's fiduciary duty as a board member.

(3) A public transit district may be funded from any combination of federal, state, ~~or~~ local, or private funds.

(4) A public transit district may not acquire property by eminent domain.

Section 18. Section 17B-2a-807 is amended to read:

17B-2a-807. Public transit district board of trustees -- Appointment -- Apportionment -- Qualifications -- Quorum -- Compensation -- Terms.

(1) (a) If 200,000 people or fewer reside within the boundaries of a public transit district, the board of trustees shall consist of members appointed by the legislative bodies of each municipality, county, or unincorporated area within any county on the basis of one member for each full unit of regularly scheduled passenger routes proposed to be served by the district in each municipality or unincorporated area within any county in the following calendar year.

(b) For purposes of determining membership under Subsection (1)(a), the number of service miles comprising a unit shall be determined jointly by the legislative bodies of the municipalities or counties comprising the district.

(c) The board of trustees of a public transit district under this Subsection (1) may include a member that is a commissioner on the Transportation Commission created in Section 72-1-301 and appointed as provided in Subsection (11), who shall serve as a nonvoting, ex officio member.

(d) Members appointed under this Subsection (1) shall be appointed and added to the board or omitted from the board at the time scheduled routes are changed, or as municipalities, counties, or unincorporated areas of counties annex to or withdraw from the district using the same appointment procedures.

(e) For purposes of appointing members under this Subsection (1), municipalities, counties, and unincorporated areas of counties in which regularly scheduled passenger routes proposed to be served by the district in the following calendar year is less than a full unit, as defined in Subsection (1)(b), may combine with any other similarly situated municipality or unincorporated area to form a whole unit and may appoint one member for each whole unit formed.

(2) (a) Subject to Section 17B-2a-807.5, if more than 200,000 people reside within the boundaries of

a public transit district, the board of trustees shall consist of:

(i) 11 members:

(A) appointed as described under this Subsection (2); or

(B) retained in accordance with Section 17B-2a-807.5;

(ii) three members appointed as described in Subsection (4);

(iii) one voting member appointed as provided in Subsection (11); and

(iv) one nonvoting member appointed as provided in Subsection (12).

(b) Except as provided in Subsections (2)(c) and (d), the board shall apportion voting members to each county within the district using an average of:

(i) the proportion of population included in the district and residing within each county, rounded to the nearest 1/11 of the total transit district population; and

(ii) the cumulative proportion of transit sales and use tax collected from areas included in the district and within each county, rounded to the nearest 1/11 of the total cumulative transit sales and use tax collected for the transit district.

(c) The board shall join an entire or partial county not apportioned a voting member under this Subsection (2) with an adjacent county for representation. The combined apportionment basis included in the district of both counties shall be used for the apportionment.

(d) (i) If rounding to the nearest 1/11 of the total public transit district apportionment basis under Subsection (2)(b) results in an apportionment of more than 11 members, the county or combination of counties with the smallest additional fraction of a whole member proportion shall have one less member apportioned to it.

(ii) If rounding to the nearest 1/11 of the total public transit district apportionment basis under Subsection (2)(b) results in an apportionment of less than 11 members, the county or combination of counties with the largest additional fraction of a whole member proportion shall have one more member apportioned to it.

(e) If the population in the unincorporated area of a county is at least 140,000, the county executive, with the advice and consent of the county legislative body, shall appoint one voting member to represent the population within a county's unincorporated area.

(f) If a municipality's population is at least 160,000, the chief municipal executive, with the advice and consent of the municipal legislative body, shall appoint one voting member to represent the population within a municipality.

(g) (i) The number of voting members appointed from a county and municipalities within a county

under Subsections (2)(e) and (f) shall be subtracted from the county's total voting member apportionment under this Subsection (2).

(ii) Notwithstanding Subsections (2)(l) and (10), no more than one voting member appointed by an appointing entity may be a locally elected public official.

(h) If the entire county is within the district, the remaining voting members for the county shall represent the county or combination of counties, if Subsection (2)(c) applies, or the municipalities within the county.

(i) If the entire county is not within the district, and the county is not joined with another county under Subsection (2)(c), the remaining voting members for the county shall represent a municipality or combination of municipalities.

(j) (i) Except as provided under Subsections (2)(e) and (f), voting members representing counties, combinations of counties if Subsection (2)(c) applies, or municipalities within the county shall be designated and appointed by a simple majority of the chief executives of the municipalities within the county or combinations of counties if Subsection (2)(c) applies.

(ii) The appointments shall be made by joint written agreement of the appointing municipalities, with the consent and approval of the county legislative body of the county that has at least 1/11 of the district's apportionment basis.

(k) Voting members representing a municipality or combination of municipalities shall be designated and appointed by the chief executive officer of the municipality or simple majority of chief executive officers of municipalities with the consent of the legislative body of the municipality or municipalities.

(l) The appointment of members shall be made without regard to partisan political affiliation from among citizens in the community.

(m) Each member shall be a bona fide resident of the municipality, county, or unincorporated area or areas which the member is to represent for at least six months before the date of appointment, and shall continue in that residency to remain qualified to serve as a member.

(n) (i) All population figures used under this section shall be derived from the most recent official census or census estimate of the United States Bureau of the Census.

(ii) If population estimates are not available from the United States Bureau of Census, population figures shall be derived from the estimate from the Utah Population Estimates Committee.

(iii) All transit sales and use tax totals shall be obtained from the State Tax Commission.

(o) (i) The board shall be apportioned as provided under this section in conjunction with the decennial United States Census Bureau report every 10 years.

(ii) Within 120 days following the receipt of the population estimates under this Subsection (2)(o),

the district shall reapportion representation on the board of trustees in accordance with this section.

(iii) The board shall adopt by resolution a schedule reflecting the current and proposed apportionment.

(iv) Upon adoption of the resolution, the board shall forward a copy of the resolution to each of its constituent entities as defined under Section 17B-1-701.

(v) The appointing entities gaining a new board member shall appoint a new member within 30 days following receipt of the resolution.

(vi) The appointing entities losing a board member shall inform the board of which member currently serving on the board will step down:

(A) upon appointment of a new member under Subsection (2)(o)(v); or

(B) in accordance with Section 17B-2a-807.5.

(3) Upon the completion of an annexation to a public transit district under Chapter 1, Part 4, Annexation, the annexed area shall have a representative on the board of trustees on the same basis as if the area had been included in the district as originally organized.

(4) In addition to the voting members appointed in accordance with Subsection (2), the board shall consist of three voting members appointed as follows:

(a) one member appointed by the speaker of the House of Representatives;

(b) one member appointed by the president of the Senate; and

(c) one member appointed by the governor.

(5) Except as provided in Section 17B-2a-807.5, the terms of office of the members of the board shall be four years or until a successor is appointed, qualified, seated, and has taken the oath of office.

(6) (a) Vacancies for members shall be filled by the official appointing the member creating the vacancy for the unexpired term, unless the official fails to fill the vacancy within 90 days.

(b) If the appointing official under Subsection (1) does not fill the vacancy within 90 days, the board of trustees of the authority shall fill the vacancy.

(c) If the appointing official under Subsection (2) does not fill the vacancy within 90 days, the governor, with the advice and consent of the Senate, shall fill the vacancy.

(7) (a) Each voting member may cast one vote on all questions, orders, resolutions, and ordinances coming before the board of trustees.

(b) A majority of all voting members of the board of trustees are a quorum for the transaction of business.

(c) The affirmative vote of a majority of all voting members present at any meeting at which a quorum was initially present shall be necessary and, except

as otherwise provided, is sufficient to carry any order, resolution, ordinance, or proposition before the board of trustees.

(8) Each public transit district shall pay to each member:

(a) an attendance fee of \$50 per board or committee meeting attended, not to exceed \$200 in any calendar month to any member; and

(b) reasonable mileage and expenses necessarily incurred to attend board or committee meetings.

(9) (a) Members of the initial board of trustees shall convene at the time and place fixed by the chief executive officer of the entity initiating the proceedings.

(b) The board of trustees shall elect from its voting membership a chair, vice chair, and secretary.

(c) The members elected under Subsection (9)(b) shall serve for a period of two years or until their successors shall be elected and qualified.

(d) On or after January 1, 2011, a locally elected public official is not eligible to serve as the chair, vice chair, or secretary of the board of trustees.

(10) (a) Except as otherwise authorized under ~~Subsection~~ Subsections (2)(g) and (10)(b) and Section 17B-2a-807.5, at the time of a member's appointment or during a member's tenure in office, a member may not hold any employment, except as an independent contractor or locally elected public official, with a county or municipality within the district.

(b) A member appointed by a county or municipality may hold employment with the county or municipality if the employment is disclosed in writing and the public transit district board of trustees ratifies the appointment.

(11) The Transportation Commission created in Section 72-1-301:

(a) for a public transit district serving a population of 200,000 people or fewer, may appoint a commissioner of the Transportation Commission to serve on the board of trustees as a nonvoting, ex officio member; and

(b) for a public transit district serving a population of more than 200,000 people, shall appoint a commissioner of the Transportation Commission to serve on the board of trustees as a voting member.

(12) (a) The board of trustees of a public transit district serving a population of more than 200,000 people shall include a nonvoting member who represents all municipalities and unincorporated areas within the district that are located within a county that is not annexed into the public transit district.

(b) The nonvoting member representing the combination of municipalities and unincorporated areas described in Subsection (12)(a) shall be designated and appointed by a weighted vote of the majority of the chief executive officers of the municipalities described in Subsection (12)(a).

(c) Each municipality's vote under Subsection (12)(b) shall be weighted using the proportion of the public transit district population that resides within that municipality and the adjacent unincorporated areas within the same county.

(13) (a) (i) Each member of the board of trustees of a public transit district is subject to recall at any time by the legislative body of the county or municipality from which the member is appointed.

(ii) Each recall of a board of trustees member shall be made in the same manner as the original appointment.

(iii) The legislative body recalling a board of trustees member shall provide written notice to the member being recalled.

(b) Upon providing written notice to the board of trustees, a member of the board may resign from the board of trustees.

(c) Except as provided in Section 17B-2a-807.5, if a board member is recalled or resigns under this Subsection (13), the vacancy shall be filled as provided in Subsection (6).

Section 19. Section 17B-2a-821 is amended to read:

17B-2a-821. Failure to pay fare -- Multicounty district may establish and enforce parking ordinance.

(1) A person may not ride a transit vehicle without payment of the applicable fare established by the public transit district that operates the transit vehicle.

~~[(2) A person who violates Subsection (1) is guilty of an infraction.]~~

~~[(3)]~~ (2) The board of trustees of a multicounty district may adopt an ordinance governing parking of vehicles at a transit facility, including the imposition of a fine or civil penalty for a violation of the ordinance.

Section 20. Section 17B-2a-825 is amended to read:

17B-2a-825. Criminal background checks authorized -- Employment eligibility.

(1) A public transit district may require an individual described in Subsection (2) to:

(a) submit a fingerprint card in a form acceptable to the public transit district; and

(b) consent to a fingerprint background check by:

(i) the Utah Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation.

(2) A person shall comply with the requirements of Subsection (1) if the person:

(a) is applying for or continuing employment with the public transit district:

(i) working in a safety-sensitive position or other position that may affect:

(A) the safety or well-being of patrons of the public transit district; or

(B) the safety or security of the transit buildings, stations, platforms, railways, bus systems, and transit vehicles;

(ii) handling personally identifiable information, financial information, or other sensitive information including personal health information;

(iii) working in security-sensitive areas; or

(iv) handling security-sensitive information, including information system technologies; or

(b) is seeking access to designated security-sensitive areas.

(3) A public transit district may use the information obtained in accordance with this section only for one or more of the following purposes:

(a) to determine whether or not an individual is convicted of:

(i) a felony under federal or state law within the last 10 years;

(ii) a violation within the last 10 years of a federal law, state law, or local ordinance concerning the sale, manufacture, distribution, warehousing, adulteration, or transportation of an alcoholic beverage;

(iii) a crime involving moral turpitude; or

(iv) two or more convictions within the last 10 years for a violation of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug;

(b) to determine whether or not an individual has accurately disclosed the person's criminal history on an application or document filed with the public transit district;

(c) to approve or deny an application for employment with the public transit district; or

(d) to take disciplinary action against an employee of the public transit district, including possible termination of employment.

(4) A person is not eligible for employment with a public transit district in a capacity described in Subsection (2) if the person has been convicted of any of the offenses described in Subsection (3).

Section 21. Section 17B-2a-1005 is amended to read:

17B-2a-1005. Water conservancy district board of trustees -- Selection of members -- Number -- Qualifications -- Terms -- Vacancies -- Surety bonds -- Authority.

(1) Members of the board of trustees for a water conservancy district shall be:

(a) elected in accordance with:

(i) the petition or resolution that initiated the process of creating the water conservancy district; and

(ii) Section 17B-1-306;

(b) appointed in accordance with Subsection (2); or

(c) elected under Subsection (4)(a).

(2) (a) If the members of the board of trustees are appointed, within 45 days after the day on which a water conservancy district is created as provided in Section 17B-1-215, the board of trustees shall be appointed as provided in this Subsection (2).

(b) For a district located entirely within the boundaries of a single county, the county legislative body of that county shall appoint each trustee.

(c) (i) For a district located in more than a single county, the governor, with the consent of the Senate, shall appoint each trustee from nominees submitted as provided in this Subsection (2)(c).

(ii) (A) Except as provided in Subsection (2)(c)(ii)(B), in a division composed solely of municipalities, the legislative body of each municipality within the division shall submit two nominees per trustee.

(B) The legislative body of a municipality may submit fewer than two nominees per trustee if the legislative body certifies in writing to the governor that the legislative body is unable, after reasonably diligent effort, to identify two nominees who are willing and qualified to serve as trustee.

(iii) (A) Except as provided in Subsection (2)(c)(iii)(B), in all other divisions, the county legislative body of the county in which the division is located shall submit three nominees per trustee.

(B) The county legislative body may submit fewer than three nominees per trustee if the county legislative body certifies in writing to the governor that the county legislative body is unable, after reasonably diligent effort, to identify three nominees who are willing and qualified to serve as trustee.

(iv) If a trustee represents a division located in more than one county, the county legislative bodies of those counties shall collectively compile the list of three nominees.

(v) For purposes of this Subsection (2)(c), a municipality that is located in more than one county shall be considered to be located in only the county in which more of the municipal area is located than in any other county.

(d) In districts where substantial water is allocated for irrigated agriculture, one trustee appointed in that district shall be a person who owns irrigation rights and uses those rights as part of that person's livelihood.

(3) (a) ~~[At least 90 days before expiration of an appointed trustee's term, the]~~ The board shall give written notice of the upcoming vacancy in an

appointed trustee's term and the date when the trustee's term expires to the county legislative body in single county districts and to the nominating entities and the governor in all other districts[-];

(i) if the upcoming vacancy is in a single county district, at least 90 days before the expiration of the trustee's term; and

(ii) for all other districts, on or before October 1 before the expiration of the appointed trustee's term.

(b) (i) Upon receipt of the notice of the expiration of an appointed trustee's term or notice of a vacancy in the office of an appointed trustee, the county or municipal legislative body, as the case may be, shall nominate candidates to fill the unexpired term of office pursuant to Subsection (2).

(ii) If a trustee is to be appointed by the governor and the entity charged with nominating candidates has not submitted the list of nominees within 90 days after service of the notice, the governor shall make the appointment from qualified candidates without consultation with the county or municipal legislative body.

(iii) If the governor fails to appoint, the incumbent shall continue to serve until a successor is appointed and qualified.

(iv) Appointment by the governor vests in the appointee, upon qualification, the authority to discharge the duties of trustee, subject only to the consent of the Senate.

(c) Each trustee shall hold office during the term for which appointed and until a successor is duly appointed and has qualified.

(4) (a) Members of the board of trustees of a water conservancy district shall be elected, if, subject to Subsection (4)(b):

(i) two-thirds of all members of the board of trustees of the water conservancy district vote in favor of changing to an elected board; and

(ii) the legislative body of each municipality or county that appoints a member to the board of trustees adopts a resolution approving the change to an elected board.

(b) A change to an elected board of trustees under Subsection (4)(a) may not shorten the term of any member of the board of trustees serving at the time of the change.

(5) The board of trustees of a water conservancy district shall consist of:

(a) except as provided in Subsection (5)(b), not more than 11 persons who are residents of the district; or

(b) if the district consists of five or more counties, not more than 21 persons who are residents of the district.

(6) If an elected trustee's office is vacated, the vacated office shall be filled in accordance with Section 17B-1-303.

(7) Each trustee shall furnish a corporate surety bond at the expense of the district, conditioned for the faithful performance of duties as a trustee.

(8) (a) The board of trustees of a water conservancy district may:

(i) make and enforce all reasonable rules and regulations for the management, control, delivery, use, and distribution of water;

(ii) withhold the delivery of water with respect to which there is a default or delinquency of payment;

(iii) provide for and declare a forfeiture of the right to the use of water upon the default or failure to comply with an order, contract, or agreement for the purchase, lease, or use of water, and resell, lease, or otherwise dispose of water with respect to which a forfeiture has been declared;

(iv) allocate and reallocate the use of water to lands within the district;

(v) provide for and grant the right, upon terms, to transfer water from lands to which water has been allocated to other lands within the district;

(vi) create a lien, as provided in this part, upon land to which the use of water is transferred;

(vii) discharge a lien from land to which a lien has attached; and

(viii) subject to Subsection (8)(b), enter into a written contract for the sale, lease, or other disposition of the use of water.

(b) (i) A contract under Subsection (8)(a)(viii) may provide for the use of water perpetually or for a specified term.

(ii) (A) If a contract under Subsection (8)(a)(viii) makes water available to the purchasing party without regard to actual taking or use, the board may require that the purchasing party give security for the payment to be made under the contract, unless the contract requires the purchasing party to pay for certain specified annual minimums.

(B) The security requirement under Subsection (8)(b)(ii)(A) in a contract with a public entity may be met by including in the contract a provision for the public entity's levy of a special assessment to make annual payments to the district.

Section 22. Section 17D-1-102 is amended to read:

17D-1-102. Definitions.

As used in this chapter:

(1) "Adequate protests" means written protests timely filed by:

(a) the owners of private real property that:

(i) is located within the applicable area;

(ii) covers at least 25% of the total private land area within the applicable area; and

(iii) is equal in value to at least 15% of the value of all private real property within the applicable area; or

(b) registered voters residing within the applicable area equal in number to at least 25% of the number of votes cast in the applicable area for the office of president of the United States at the most recent election prior to the adoption of the resolution or filing of the petition.

(2) "Applicable area" means:

(a) for a proposal to create a special service district, the area included within the proposed special service district;

(b) for a proposal to annex an area to an existing special service district, the area proposed to be annexed;

(c) for a proposal to add a service to the service or services provided by a special service district, the area included within the special service district; and

(d) for a proposal to consolidate special service districts, the area included within each special service district proposed to be consolidated.

(3) "Facility" or "facilities" includes any structure, building, system, land, water right, water, or other real or personal property required to provide a service that a special service district is authorized to provide, including any related or appurtenant easement or right-of-way, improvement, utility, landscaping, sidewalk, road, curb, gutter, equipment, or furnishing.

(4) "General obligation bond":

(a) means a bond that is directly payable from and secured by ad valorem property taxes that are:

(i) levied:

(A) by the county or municipality that created the special service district that issues the bond; and

(B) on taxable property within the special service district; and

(ii) in excess of the ad valorem property taxes for the current fiscal year; and

(b) does not include:

(i) a short-term bond;

(ii) a tax and revenue anticipation bond; or

(iii) a special assessment bond.

(5) "Governing body" means:

(a) the legislative body of the county or municipality that creates the special service district, to the extent that the county or municipal legislative body has not delegated authority to an administrative control board [appointed] created under Section 17D-1-301; or

(b) the administrative control board of the special service district, to the extent that the county or municipal legislative body has delegated authority to an administrative control board [appointed] created under Section 17D-1-301.

(6) "Guaranteed bonds" means bonds:

(a) issued by a special service district; and

(b) the debt service of which is guaranteed by one or more taxpayers owning property within the special service district.

(7) "Local district" has the same meaning as defined in Section 17B-1-102.

(8) "Revenue bond":

(a) means a bond payable from designated taxes or other revenues other than the ad valorem property taxes of the county or municipality that created the special service district; and

(b) does not include:

(i) an obligation constituting an indebtedness within the meaning of an applicable constitutional or statutory debt limit;

(ii) a tax and revenue anticipation bond; or

(iii) a special assessment bond.

(9) "Special assessment" means an assessment levied against property to pay all or a portion of the costs of making improvements that benefit the property.

(10) "Special assessment bond" means a bond payable from special assessments.

(11) "Special service district" means a limited purpose local government entity, as described in Section 17D-1-103, that:

(a) is created under authority of the Utah Constitution Article XI, Section 7; and

(b) operates under, is subject to, and has the powers set forth in this chapter.

(12) "Tax and revenue anticipation bond" means a bond:

(a) issued in anticipation of the collection of taxes or other revenues or a combination of taxes and other revenues; and

(b) that matures within the same fiscal year as the fiscal year in which the bond is issued.

Section 23. Section 17D-1-302 is amended to read:

17D-1-302. Number of members of an administrative control board.

(1) An administrative control board shall consist of at least three members in addition to a member appointed in accordance with Subsections 17D-1-303~~(2)(b)(i) and (ii)~~ (3) and (4).

(2) The number of administrative control board members for a special service district established by a county of the first class to provide jail service as provided in Subsection 17D-1-201(10) is nine.

Section 24. Section 17D-1-303 is amended to read:

17D-1-303. Election or appointment of administrative control board members.

(1) Except as provided in Subsection ~~(2)(b)(iii)~~ (5), a county or municipal legislative body that creates an administrative control board may

provide for board members to be elected or appointed, or for some members to be elected and some appointed.

~~(2) [(a)]~~ Except as provided in Subsection ~~(2)(b)~~ (3), each member of an administrative control board shall be elected or appointed as provided for the election or appointment, respectively, of a member of a board of trustees of a local district under Title 17B, Chapter 1, Part 3, Board of Trustees.

~~(b)(i)~~ (3) A municipality or improvement district under Title 17B, Chapter 2a, Part 4, Improvement District Act, may appoint one member to represent it on an administrative control board created ~~by~~ for a special service district if:

~~(A)~~ (a) the special service district was created by a county;

~~(B) the special service district provides the same service as the municipality or improvement district; and~~

(b) the municipality or improvement district:

(i) provides the same service as the special service district; or

(ii) provided the same service as the special service district:

~~(A) prior to the creation of the special service district, if all or part of the municipality or improvement district was then included in the special service district; or~~

~~(B) prior to all or part of the municipality or improvement district being annexed into the special service district; and~~

~~(C)~~ (c) the special service district includes some or all of the area included within the municipality or improvement district.

~~(iii)~~ (4) An institution of higher education for which a special service district provides commodities, services, or facilities may appoint the number of members of an administrative control board of that special service district that are equal in number to at least 1/3 of the total number of board members.

~~(iii)~~ (5) With respect to an administrative control board created for a special service district created by a county of the first class to provide jail service as provided in Subsection 17D-1-201(10), the county legislative body shall appoint:

~~(A)~~ (a) three members from a list of at least six recommendations from the county sheriff;

~~(B)~~ (b) three members from a list of at least six recommendations from municipalities within the county; and

~~(C)~~ (c) three members from a list of at least six recommendations from the county executive.

Section 25. Section 17D-1-304 is amended to read:

17D-1-304. Qualifications of administrative control board members -- Term of office.

(1) (a) Except as provided in Subsection (1)(b), each member of an administrative control board shall be:

(i) a registered voter within the special service district;

(ii) an officer or employee of the county or municipality that created the special service district; or

(iii) if over 50% of the residences within a special service district are seasonally occupied homes, as defined in Section 17B-1-302, an owner of land, or an agent or officer of an owner of land, that receives services from the special service district and is located within the special service district, provided that the number of members appointed under this Subsection (1)(a)(iii) comprises less than a quorum of the board.

(b) Subsection (1)(a) does not apply if:

(i) at least 90% of the owners of real property within the special service district are not registered voters within the special service district; or

(ii) the member is appointed under Subsection 17D-1-303~~(2)(b)(i) or (ii)~~ (3) or (4).

(2) (a) Except as provided in Subsection (2)(b), the term of each member of an administrative control board is four years.

(b) The term of as close as possible to half of the initial members of an administrative control board, chosen by lot, is two years.

Section 26. Section 20A-1-512 is amended to read:

20A-1-512. Midterm vacancies on local district boards.

(1) (a) Whenever a vacancy occurs on any local district board for any reason, a replacement to serve out the unexpired term shall be appointed as provided in this section by:

(i) the local district board, if the person vacating the position was elected; or

(ii) the appointing authority, as defined in Section 17B-1-102, if the person vacating the position was appointed.

(b) Except as provided in Subsection (1)(c), before acting to fill the vacancy, the local district board or appointing authority shall:

(i) give public notice of the vacancy at least two weeks before the local district board or appointing authority meets to fill the vacancy; and

(ii) identify, in the notice:

(A) the date, time, and place of the meeting where the vacancy will be filled; and

(B) the person to whom a person interested in being appointed to fill the vacancy may submit his name for consideration and any deadline for submitting it.

(c) An appointing authority is not subject to Subsection (1)(b) if the appointing authority appoints one of its own members and that member

meets all applicable statutory board member qualifications.

(2) If the local district board fails to appoint a person to complete an elected board member's term within 90 days, the legislative body of the county or municipality that created the local district shall fill the vacancy following the procedure set forth for a local district in Subsection (1)(b).

Section 27. Section 20A-4-301 is amended to read:

20A-4-301. Board of canvassers.

(1) (a) Each county legislative body is the board of county canvassers for:

(i) the county; and

(ii) each local district whose election is conducted by the county~~[-]~~ if:

(A) the election relates to the creation of the local district;

(B) the county legislative body serves as the governing body of the local district; or

(C) there is no duly constituted governing body of the local district.

(b) The board of county canvassers shall meet to canvass the returns at the usual place of meeting of the county legislative body, at a date and time determined by the county clerk that is no sooner than seven days after the election and no later than 14 days after the election.

(c) If one or more of the county legislative body fails to attend the meeting of the board of county canvassers, the remaining members shall replace the absent member by appointing in the order named:

(i) the county treasurer;

(ii) the county assessor; or

(iii) the county sheriff.

(d) Attendance of the number of persons equal to a simple majority of the county legislative body, but not less than three persons, shall constitute a quorum for conducting the canvass.

(e) The county clerk is the clerk of the board of county canvassers.

(2) (a) The mayor and the municipal legislative body are the board of municipal canvassers for the municipality.

(b) The board of municipal canvassers shall meet to canvass the returns at the usual place of meeting of the municipal legislative body:

(i) for canvassing of returns from a municipal general election, no sooner than seven days after the election and no later than 14 days after the election; or

(ii) for canvassing of returns from a municipal primary election, no sooner than seven days after the election and no later than 14 days after the election.

(c) Attendance of a simple majority of the municipal legislative body shall constitute a quorum for conducting the canvass.

(3) (a) The legislative body of the entity authorizing a bond election is the board of canvassers for each bond election.

(b) The board of canvassers for the bond election shall comply with the canvassing procedures and requirements of Section 11-14-207.

(c) Attendance of a simple majority of the legislative body of the entity authorizing a bond election shall constitute a quorum for conducting the canvass.

Section 28. Section 41-6a-2003 is amended to read:

41-6a-2003. Automatic license plate reader systems -- Restrictions.

(1) Except as provided in Subsection (2), a person or governmental entity may not use an automatic license plate reader system.

(2) An automatic license plate reader system may be used:

(a) by a law enforcement agency for the purpose of protecting public safety, conducting criminal investigations, or ensuring compliance with local, state, and federal laws;

(b) by a governmental parking enforcement entity for the purpose of enforcing state and local parking laws;

(c) by a parking enforcement entity for regulating the use of a parking facility;

(d) for the purpose of controlling access to a secured area;

(e) for the purpose of collecting an electronic toll; [or]

(f) for the purpose of enforcing motor carrier laws[-]; or

(g) by a public transit district for the purpose of assessing parking needs and conducting a travel pattern analysis.

Section 29. Section 53-10-108 is amended to read:

53-10-108. Restrictions on access, use, and contents of division records -- Limited use of records for employment purposes -- Challenging accuracy of records -- Usage fees -- Missing children records -- Penalty for misuse of records.

(1) Dissemination of information from a criminal history record or warrant of arrest information from division files is limited to:

(a) criminal justice agencies for purposes of administration of criminal justice and for employment screening by criminal justice agencies;

(b) noncriminal justice agencies or individuals for any purpose authorized by statute, executive order, court rule, court order, or local ordinance;

(c) agencies or individuals for the purpose of obtaining required clearances connected with foreign travel or obtaining citizenship;

(d) (i) agencies or individuals pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice; and

(ii) the agreement shall specifically authorize access to data, limit the use of the data to purposes for which given, and ensure the security and confidentiality of the data;

(e) agencies or individuals for the purpose of a preplacement adoptive study, in accordance with the requirements of Sections 78B-6-128 and 78B-6-130;

(f) (i) agencies and individuals as the commissioner authorizes for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency; and

(ii) private security agencies through guidelines established by the commissioner for employment background checks for their own employees and prospective employees;

(g) a qualifying entity for employment background checks for their own employees and persons who have applied for employment with the qualifying entity; and

(h) other agencies and individuals as the commissioner authorizes and finds necessary for protection of life and property and for offender identification, apprehension, and prosecution pursuant to an agreement.

(2) An agreement under Subsection (1)(f) or (1)(h) shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, preserve the anonymity of individuals to whom the information relates, and ensure the confidentiality and security of the data.

(3) (a) Before requesting information under Subsection (1)(g), a qualifying entity must obtain a signed waiver from the person whose information is requested.

(b) The waiver must notify the signee:

(i) that a criminal history background check will be conducted;

(ii) who will see the information; and

(iii) how the information will be used.

(c) Information received by a qualifying entity under Subsection (1)(g) may only be:

(i) available to persons involved in the hiring or background investigation of the employee; and

(ii) used for the purpose of assisting in making an employment or promotion decision.

(d) A person who disseminates or uses information obtained from the division under

Subsection (1)(g) for purposes other than those specified under Subsection (3)(c), in addition to any penalties provided under this section, is subject to civil liability.

(e) A qualifying entity that obtains information under Subsection (1)(g) shall provide the employee or employment applicant an opportunity to:

(i) review the information received as provided under Subsection (8); and

(ii) respond to any information received.

(f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules to implement this Subsection (3).

(g) (i) The applicant fingerprint card fee under Subsection (1)(g) is \$20.

(ii) The name check fee under Subsection (1)(g) is \$15.

(iii) These fees remain in effect until changed by the division through the process under Section 63J-1-504.

(iv) Funds generated under Subsections (3)(g)(i), (3)(g)(ii), and (8)(b) shall be deposited in the General Fund as a dedicated credit by the department to cover the costs incurred in providing the information.

(h) The division or its employees are not liable for defamation, invasion of privacy, negligence, or any other claim in connection with the contents of information disseminated under Subsection (1)(g).

(4) (a) Any criminal history record information obtained from division files may be used only for the purposes for which it was provided and may not be further disseminated, except under [Subsections] Subsection (4)(b) ~~and~~, (c), or (d).

(b) A criminal history provided to an agency pursuant to Subsection (1)(e) may be provided by the agency to the person who is the subject of the history, another licensed child-placing agency, or the attorney for the adoptive parents for the purpose of facilitating an adoption.

(c) A criminal history of a defendant provided to a criminal justice agency under Subsection (1)(a) may also be provided by the prosecutor to a defendant's defense counsel, upon request during the discovery process, for the purpose of establishing a defense in a criminal case.

(d) A public transit district, as described in Title 17B, Chapter 2a, Part 8, Public Transit District Act, that is under contract with a state agency to provide services may, for the purposes of complying with Subsection 62A-5-103.5(7), provide a criminal history record to the state agency or the agency's designee.

(5) If an individual has no prior criminal convictions, criminal history record information contained in the division's computerized criminal history files may not include arrest or disposition data concerning an individual who has been

acquitted, the person's charges dismissed, or when no complaint against the person has been filed.

(6) (a) This section does not preclude the use of the division's central computing facilities for the storage and retrieval of criminal history record information.

(b) This information shall be stored so it cannot be modified, destroyed, or accessed by unauthorized agencies or individuals.

(7) Direct access through remote computer terminals to criminal history record information in the division's files is limited to those agencies authorized by the commissioner under procedures designed to prevent unauthorized access to this information.

(8) (a) The commissioner shall establish procedures to allow an individual right of access to review and receive a copy of the individual's criminal history report.

(b) A processing fee for the right of access service, including obtaining a copy of the individual's criminal history report under Subsection (8)(a) is \$15. This fee remains in effect until changed by the commissioner through the process under Section 63J-1-504.

(c) (i) The commissioner shall establish procedures for an individual to challenge the completeness and accuracy of criminal history record information contained in the division's computerized criminal history files regarding that individual.

(ii) These procedures shall include provisions for amending any information found to be inaccurate or incomplete.

(9) The private security agencies as provided in Subsection (1)(f)(ii):

(a) shall be charged for access; and

(b) shall be registered with the division according to rules made by the division under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(10) Before providing information requested under this section, the division shall give priority to criminal justice agencies needs.

(11) (a) It is a class B misdemeanor for a person to knowingly or intentionally access, use, disclose, or disseminate a record created, maintained, or to which access is granted by the division or any information contained in a record created, maintained, or to which access is granted by the division for a purpose prohibited or not permitted by statute, rule, regulation, or policy of a governmental entity.

(b) A person who discovers or becomes aware of any unauthorized use of records created or maintained, or to which access is granted by the division shall inform the commissioner and the director of the Utah Bureau of Criminal Identification of the unauthorized use.

Section 30. Section 67-3-1 is amended to read:

67-3-1. Functions and duties.

(1) (a) The state auditor is the auditor of public accounts and is independent of any executive or administrative officers of the state.

(b) The state auditor is not limited in the selection of personnel or in the determination of the reasonable and necessary expenses of the state auditor's office.

(2) The state auditor shall examine and certify annually in respect to each fiscal year, financial statements showing:

- (a) the condition of the state's finances;
- (b) the revenues received or accrued;
- (c) expenditures paid or accrued;

(d) the amount of unexpended or unencumbered balances of the appropriations to the agencies, departments, divisions, commissions, and institutions; and

(e) the cash balances of the funds in the custody of the state treasurer.

(3) (a) The state auditor shall:

(i) audit each permanent fund, each special fund, the General Fund, and the accounts of any department of state government or any independent agency or public corporation as the law requires, as the auditor determines is necessary, or upon request of the governor or the Legislature;

(ii) perform the audits in accordance with generally accepted auditing standards and other auditing procedures as promulgated by recognized authoritative bodies;

(iii) as the auditor determines is necessary, conduct the audits to determine:

- (A) honesty and integrity in fiscal affairs;
- (B) accuracy and reliability of financial statements;
- (C) effectiveness and adequacy of financial controls; and
- (D) compliance with the law.

(b) If any state entity receives federal funding, the state auditor shall ensure that the audit is performed in accordance with federal audit requirements.

(c) (i) The costs of the federal compliance portion of the audit may be paid from an appropriation to the state auditor from the General Fund.

(ii) If an appropriation is not provided, or if the federal government does not specifically provide for payment of audit costs, the costs of the federal compliance portions of the audit shall be allocated on the basis of the percentage that each state entity's federal funding bears to the total federal funds received by the state.

(iii) The allocation shall be adjusted to reflect any reduced audit time required to audit funds passed through the state to local governments and to

reflect any reduction in audit time obtained through the use of internal auditors working under the direction of the state auditor.

(4) (a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to financial audits, and as the auditor determines is necessary, conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds, including a determination of any or all of the following:

- (i) the honesty and integrity of all its fiscal affairs;
- (ii) whether or not its administrators have faithfully complied with legislative intent;
- (iii) whether or not its operations have been conducted in an efficient, effective, and cost-efficient manner;
- (iv) whether or not its programs have been effective in accomplishing the intended objectives; and
- (v) whether or not its management, control, and information systems are adequate, effective, and secure.

(b) The auditor may not conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds if the entity:

- (i) has an elected auditor; and
- (ii) has, within the entity's last budget year, had its financial statements or performance formally reviewed by another outside auditor.

(5) The state auditor shall administer any oath or affirmation necessary to the performance of the duties of the auditor's office, and may subpoena witnesses and documents, whether electronic or otherwise, and examine into any matter that the auditor considers necessary.

(6) The state auditor may require all persons who have had the disposition or management of any property of this state or its political subdivisions to submit statements regarding it at the time and in the form that the auditor requires.

(7) The state auditor shall:

(a) except where otherwise provided by law, institute suits in Salt Lake County in relation to the assessment, collection, and payment of its revenues against:

- (i) persons who by any means have become entrusted with public money or property and have failed to pay over or deliver the money or property; and
- (ii) all debtors of the state;
- (b) collect and pay into the state treasury all fees received by the state auditor;

(c) perform the duties of a member of all boards of which the state auditor is a member by the constitution or laws of the state, and any other duties that are prescribed by the constitution and by law;

(d) stop the payment of the salary of any state official or state employee who:

(i) refuses to settle accounts or provide required statements about the custody and disposition of public funds or other state property;

(ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling board or department head with respect to the manner of keeping prescribed accounts or funds; or

(iii) fails to correct any delinquencies, improper procedures, and errors brought to the official's or employee's attention;

(e) establish accounting systems, methods, and forms for public accounts in all taxing or fee-assessing units of the state in the interest of uniformity, efficiency, and economy;

(f) superintend the contractual auditing of all state accounts;

(g) subject to Subsection (8)(a), withhold state allocated funds or the disbursement of property taxes from ~~any~~ a state or local taxing or fee-assessing unit, if necessary, to ensure that officials and employees in those taxing units ~~of the state~~ comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds; and

(h) subject to Subsection (9), withhold the disbursement of tax money from any county, if necessary, to ensure that officials and employees in the county comply with Section 59-2-303.1.

(8) (a) Except as otherwise provided by law, the state auditor may not withhold funds under Subsection (7)(g) until a state or local taxing or fee-assessing unit has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(b) If, after receiving notice under Subsection (8)(a), a state or independent local fee-assessing unit that exclusively assesses fees has not made corrections to comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds, the state auditor:

(i) shall provide a recommended timeline for corrective actions; and

(ii) may prohibit the state or local fee-assessing unit from accessing money held by the state; and

(iii) may prohibit a state or local fee-assessing unit from accessing money held in an account of a financial institution by filing an action in district court requesting an order of the court to prohibit a financial institution from providing the fee-assessing unit access to an account.

(c) The state auditor shall remove a limitation on accessing funds under Subsection (8)(b) upon compliance with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds.

(d) If a local taxing or fee-assessing unit has not adopted a budget in compliance with state law, the state auditor:

(i) shall provide notice to the taxing or fee-assessing unit of the unit's failure to comply;

(ii) may prohibit the taxing or fee-assessing unit from accessing money held by the state; and

(iii) may prohibit a taxing or fee-assessing unit from accessing money held in an account of a financial institution by:

(A) contacting the taxing or fee-assessing unit's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in district court requesting an order of the court to prohibit a financial institution from providing the taxing or fee-assessing unit access to an account.

(e) If the local taxing or fee-assessing unit adopts a budget in compliance with state law, the state auditor shall eliminate a limitation on accessing funds described in Subsection (8)(d).

(9) The state auditor may not withhold funds under Subsection (7)(h) until a county has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(10) Notwithstanding Subsection (7)(g),(7)(h), (8)(b), or (8)(d) the state auditor:

(a) shall authorize a disbursement by a state or local taxing or fee-assessing unit if the disbursement is necessary to:

(i) avoid a major disruption in the operations of the state or local taxing or fee-assessing unit; or

(ii) meet debt service obligations; and

(b) may authorize a disbursement by a state or local taxing or fee-assessing unit as the state auditor determines is appropriate.

~~(40)~~ (11) The state auditor shall:

(a) establish audit guidelines and procedures for audits of local mental health and substance abuse authorities and their contract providers, conducted pursuant to Title 17, Chapter 43, Parts 2, Local Substance Abuse Authorities and 3, Local Mental Health Authorities, Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, and Title 62A, Chapter 15, Substance Abuse and Mental Health Act; and

(b) ensure that those guidelines and procedures provide assurances to the state that:

(i) state and federal funds appropriated to local mental health authorities are used for mental health purposes;

(ii) a private provider under an annual or otherwise ongoing contract to provide comprehensive mental health programs or services for a local mental health authority is in compliance with state and local contract requirements, and state and federal law;

(iii) state and federal funds appropriated to local substance abuse authorities are used for substance abuse programs and services; and

(iv) a private provider under an annual or otherwise ongoing contract to provide comprehensive substance abuse programs or services for a local substance abuse authority is in compliance with state and local contract requirements, and state and federal law.

~~[(41)]~~ (12) The state auditor may, in accordance with the auditor's responsibilities for political subdivisions of the state as provided in Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, initiate audits or investigations of any political subdivision that are necessary to determine honesty and integrity in fiscal affairs, accuracy and reliability of financial statements, effectiveness, and adequacy of financial controls and compliance with the law.

~~[(42)]~~ (13) (a) The state auditor may not audit work that the state auditor performed before becoming state auditor.

(b) If the state auditor has previously been a responsible official in state government whose work has not yet been audited, the Legislature shall:

- (i) designate how that work shall be audited; and
- (ii) provide additional funding for those audits, if necessary.

~~[(43)]~~ (14) The state auditor shall:

(a) with the assistance, advice, and recommendations of an advisory committee appointed by the state auditor from among local district boards of trustees, officers, and employees and special service district boards, officers, and employees:

(i) prepare a Uniform Accounting Manual for Local Districts that:

(A) prescribes a uniform system of accounting and uniform budgeting and reporting procedures for local districts under Title 17B, Limited Purpose Local Government Entities - Local Districts, and special service districts under Title 17D, Chapter 1, Special Service District Act;

(B) conforms with generally accepted accounting principles; and

(C) prescribes reasonable exceptions and modifications for smaller districts to the uniform system of accounting, budgeting, and reporting;

(ii) maintain the manual under Subsection ~~[(43)]~~ (14)(a) so that it continues to reflect generally accepted accounting principles;

(iii) conduct a continuing review and modification of procedures in order to improve them;

(iv) prepare and supply each district with suitable budget and reporting forms; and

(v) prepare instructional materials, conduct training programs, and render other services considered necessary to assist local districts and special service districts in implementing the uniform accounting, budgeting, and reporting procedures; and

(b) continually analyze and evaluate the accounting, budgeting, and reporting practices and experiences of specific local districts and special service districts selected by the state auditor and make the information available to all districts.

~~[(44)]~~ (15) (a) The following records in the custody or control of the state auditor are protected records under Title 63G, Chapter 2, Government Records Access and Management Act:

(i) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a past or present governmental employee if the information or allegation cannot be corroborated by the state auditor through other documents or evidence, and the records relating to the allegation are not relied upon by the state auditor in preparing a final audit report;

(ii) records and audit workpapers to the extent they would disclose the identity of a person who during the course of an audit, communicated the existence of any waste of public funds, property, or manpower, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(iii) before an audit is completed and the final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for their response or information;

(iv) records that would disclose an outline or part of any audit survey plans or audit program; and

(v) requests for audits, if disclosure would risk circumvention of an audit.

(b) The provisions of Subsections ~~[(44)]~~ (15)(a)(i), (ii), and (iii) do not prohibit the disclosure of records or information that relate to a violation of the law by a governmental entity or employee to a government prosecutor or peace officer.

(c) The provisions of this Subsection ~~[(44)]~~ (15) do not limit the authority otherwise given to the state auditor to classify a document as public, private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

~~[(45)]~~ (16) If the state auditor conducts an audit of an entity that the state auditor has previously audited and finds that the entity has not implemented a recommendation made by the state auditor in a previous audit, the state auditor shall notify the Legislative Management Committee through its audit subcommittee that the entity has not implemented that recommendation.

Section 31. Section 78B-2-216 is amended to read:

78B-2-216. Adverse possession of certain real property.

(1) As used in this section:

(a) "Government entity" means a town, city, county, [ø] metropolitan water district, or local district.

(b) "Water facility" means any improvement or structure used, or intended to be used, to divert, convey, store, measure, or treat water.

(2) Except as provided in Subsection (3), a person may not acquire by adverse possession, prescriptive use, or acquiescence any right in or title to any real property:

(a) held by a government entity; and

(b) designated for any present or future public use, including:

(i) a street;

(ii) a lane;

(iii) an avenue;

(iv) an alley;

(v) a park;

(vi) a public square;

(vii) a water facility; or

(viii) a water conveyance right-of-way or water conveyance corridor.

(3) Notwithstanding Subsection (2) and subject to Subsection (4), a person may acquire title if:

(a) a government entity sold, disposed of, or conveyed the right in, or title to, the real property to a purchaser for valuable consideration; and

(b) the purchaser or the purchaser's grantees or successors in interest have been in exclusive, continuous, and adverse possession of the real property for at least seven consecutive years after the day on which the real property was sold, disposed of, or conveyed as described in Subsection (3)(a).

(4) A person who acquires title under Subsection (3) is subject to all other applicable provisions of law.

CHAPTER 378**S. B. 53**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

**AMENDMENTS TO PRIVATE
INVESTIGATOR REGULATIONS**

Chief Sponsor: Margaret Dayton

House Sponsor: Keith Grover

LONG TITLE**General Description:**

This bill modifies Title 53, Chapter 9, Private Investigator Regulation Act, and Title 78B, Chapter 8, Part 3, Process Server Act, by amending provisions governing the licensing and requirements of private investigators.

Highlighted Provisions:

This bill:

- ▶ requires the Bureau of Criminal Identification to provide renewal notices to licensed private investigators;
- ▶ extends the time that a licensee can renew a license after expiration;
- ▶ modifies the experience requirements for licensure;
- ▶ requires that an applicant for a licensure renewal be a resident of the state;
- ▶ modifies license and registration fees;
- ▶ modifies the information a process server, including a private investigator when acting as a process server, is required to include in a return of service; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53-9-103, as last amended by Laws of Utah 2011, Chapter 432

53-9-108, as last amended by Laws of Utah 2011, Chapter 432

53-9-111, as last amended by Laws of Utah 2011, Chapter 432

78B-8-302, as last amended by Laws of Utah 2013, Chapter 352

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 53-9-103 is amended to read:****53-9-103. Commissioner of Public Safety to administer -- Bureau to issue licenses -- Records -- Bonds -- Rulemaking.**

(1) The commissioner shall administer this chapter.

(2) (a) The bureau, acting at the direction of the commissioner, shall issue a private investigator license to ~~any~~ an applicant whom the board finds

meets the qualifications for licensure under this chapter.

(b) The bureau shall issue a license to an apprentice applicant who meets the qualifications for licensure under this chapter within five business days of receipt of the application.

(c) The bureau shall notify each licensee under this chapter when a licensee's license is due for renewal in accordance with procedures established by rule.

(3) (a) The bureau shall keep records of:

(i) all applications for licenses under this chapter; and

(ii) all bonds and proof of certificates of liability and workers' compensation insurance required to be filed.

(b) The records shall include statements as to whether a license or renewal license has been issued for each application.

(4) If a license is revoked, suspended, canceled, or denied or if a licensee is placed on probation, the date of filing the order for revocation, suspension, cancellation, denial, or probation shall be included in the records.

(5) The bureau shall maintain:

(a) a list of all licensees whose license has been revoked, suspended, placed on probation, or canceled; and

(b) a written record of complaints filed against licensees.

(6) ~~[The commissioner may make rules in] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, [as necessary to administer this chapter] the commissioner may make rules governing the administration of the provisions of this chapter.~~

Section 2. Section 53-9-108 is amended to read:**53-9-108. Qualifications for licensure.**

(1) (a) An applicant under this chapter shall be at least 21 years of age and a legal resident of this state.

(b) An applicant may not have been:

(i) convicted of a felony;

(ii) convicted of an act involving illegally using, carrying, or possessing a dangerous weapon;

(iii) convicted of an act of personal violence or force on any person or convicted of threatening to commit an act of personal violence or force against another person;

(iv) convicted of an act constituting dishonesty or fraud;

(v) convicted of an act involving moral turpitude;

(vi) placed on probation or parole;

(vii) named in an outstanding arrest warrant; or

(viii) convicted of illegally obtaining or disclosing private, controlled, or protected records as provided in Section 63G-2-801.

(c) If previously or currently licensed in another state or jurisdiction, the applicant shall be in good standing within that state or jurisdiction.

(2) In assessing if an applicant meets the requirements under Subsection (1)(b), the board shall consider mitigating circumstances presented by an applicant.

(3) (a) An applicant for an agency license shall have ~~completed~~:

(i) a minimum of 10,000 hours of investigative experience that consists of actual work performed as a licensed private investigator ~~or as~~, an investigator in the private sector, an investigator for the federal government, or an investigator for a state, county, or municipal government; ~~or~~

(ii) if the applicant held a registrant license or an apprentice license under this chapter on or before May 1, 2010, a minimum of 2,000 hours of investigative experience that consists of actual work performed as a licensed private investigator, an investigator in the private sector, an investigator for the federal government, or an investigator for a state, county, or municipal government.

(b) An applicant for a registrant license shall have ~~completed~~ a minimum of 2,000 hours of investigative experience that consists of actual investigative work performed as a licensed private investigator ~~or as~~, an investigator in the private sector, an investigator for the federal government, or an investigator for a state, county, or municipal government, or a process server.

(c) ~~Investigative~~ At least 2,000 hours of the investigative experience required under this Subsection (3) shall have been performed within 10 years immediately prior to the application.

(d) An applicant shall substantiate investigative work experience required under this Subsection (3) by providing:

(i) the exact details as to the character and nature of the investigative work on a form prescribed by the bureau and certified by the applicant's employers~~;~~; or

(ii) if the applicant is applying for the reinstatement of an agency license, internal records of the applicant that demonstrate the investigative work experience requirement has previously been met.

(e) (i) The applicant shall prove completion of the investigative experience required under this Subsection (3) to the satisfaction of the board and the board may independently verify the certification offered on behalf of the applicant.

(ii) The board may independently confirm the claimed investigative experience and the verification of the applicant's employers.

(4) An applicant for an apprentice license, lacking the investigative experience required for a

registrant license, shall meet all of the qualification standards in Subsection (1), and shall complete an apprentice application.

(5) An applicant for an agency or registrant license may receive credit toward the hours of investigative experience required under Subsection (3) as follows:

(a) an applicant may receive credit for 2,000 hours of investigative experience if the applicant:

(i) has an associate's degree in criminal justice or police science from an accredited college or university; or

(ii) is certified as a peace officer; and

(b) an applicant may receive credit for 4,000 hours of investigative experience if the applicant has a bachelor's degree in criminal justice or police science from an accredited college or university.

(6) The board shall determine if the applicant may receive credit under Subsection (5) toward the investigative and educational experience requirements under Subsection (3).

(7) An applicant for the renewal of a license under this chapter shall be a legal resident of this state.

Section 3. Section 53-9-111 is amended to read:

53-9-111. License and registration fees -- Deposit in General Fund.

(1) Fees for licensure and renewal ~~shall be~~ are as follows:

(a) for an original agency license application and license, ~~[\$200]~~ \$215, plus an additional fee for the costs of fingerprint processing and background investigation;

(b) for the renewal of an agency license, ~~[\$100]~~ \$115;

(c) for an original registrant or apprentice license application and license, ~~[\$100]~~ \$115, plus an additional fee for the costs of fingerprint processing and background investigation;

(d) for the renewal of a registrant or apprentice license, ~~[\$50]~~ \$65;

(e) for filing an agency renewal application more than 30 days after the expiration date of the license, a delinquency fee of ~~[\$50]~~ \$65;

(f) for filing a registrant or apprentice renewal application more than 30 days after the expiration date of the registration, a delinquency fee of ~~[\$30]~~ \$45;

(g) for the reinstatement of any license, ~~[\$50]~~ \$65;

(h) for a duplicate identification card, ~~[\$10]~~ \$25; and

(i) for the fingerprint processing fee, an amount that does not exceed the cost to the bureau charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of obtaining federal criminal history record information.

(2) (a) The bureau may renew a license granted under this chapter:

- (i) to a resident of the state;
- (ii) upon receipt of a renewal application on forms as prescribed by the bureau; and
- (iii) upon receipt of the fees prescribed in Subsection (1).

(b) (i) The renewal of a license requires the filing of all certificates of insurance or proof of surety bond as required by this chapter.

(ii) Renewal of a license may not be granted more than ~~90~~ 180 days after expiration.

(c) A licensee may not engage in ~~any~~ activity subject to this chapter during ~~any~~ the period between the date of expiration of the license and the renewal of the license.

(3) (a) The bureau shall renew a suspended license if:

- (i) the period of suspension has been completed;
- (ii) the bureau has received a renewal application from the applicant on forms prescribed by the bureau; and
- (iii) the applicant has:

(A) filed all certificates of insurance or proof of surety bond as required by this chapter; and

(B) paid the fees required by this section for renewal, including a delinquency fee if the application is not received by the bureau within 30 days of the termination of the suspension.

(b) Renewal of the license does not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in ~~any~~ activity regulated by this chapter, or in ~~any~~ other activity or conduct in violation of the order or judgment by which the license was suspended.

(4) The bureau may not reinstate a revoked license or accept an application for a license from a person whose license has been revoked for at least one year from the date of revocation.

(5) All fees, except the fingerprint processing fee, collected by the bureau under this section shall be deposited in the General Fund.

Section 4. Section 78B-8-302 is amended to read:

78B-8-302. Process servers.

(1) Complaints, summonses, and subpoenas may be served by ~~any~~ a person who is:

- (a) 18 years of age or older at the time of service^[,]; and
- (b) ~~and who is~~ not a party to the action or a party's attorney.

(2) Except as provided in Subsection (5), the following ~~persons~~ may serve all process issued by the courts of this state:

(a) a peace officer employed by ~~any~~ a political subdivision of the state acting within the scope and jurisdiction of the peace officer's employment;

(b) a sheriff or appointed deputy sheriff employed by ~~any~~ a county of the state;

(c) a constable, or the constable's deputy, serving in compliance with applicable law;

(d) an investigator employed by the state and authorized by law to serve civil process; and

(e) a private investigator licensed in accordance with Title 53, Chapter 9, Private Investigator Regulation Act.

(3) ~~Private investigators~~ A private investigator licensed in accordance with Title 53, Chapter 9, Private Investigator Regulation Act, may not ~~arrest anyone~~ make an arrest pursuant to a bench warrant.

(4) While serving process, a private investigator shall:

(a) have on the investigator's person a visible form of credentials and identification identifying:

- (i) the ~~person-by~~ investigator's name;
- (ii) ~~the person as a~~ that the investigator is a licensed private investigator; and
- (iii) the name and address of the agency employing the investigator or, if the investigator is self-employed, the address of the investigator's place of business;

(b) verbally communicate to the person being served that the investigator is acting as a process server; and

(c) print on the first page of each document served:

- (i) the investigator's name and identification number as a private investigator; and
- (ii) the address and phone number for the investigator's place of business.

~~(4)~~ (5) Any service under this section ~~where~~ when the use of force is authorized on the face of the document, or when a breach of the peace is imminent^[,] or likely under the totality of the circumstances, may only be served by:

(a) a law enforcement officer, as defined in Section 53-13-103; or

(b) a constable, as defined in Subsection 53-13-105(1)(b)(ii).

~~(5)~~ (6) The following ~~persons~~ may not serve process issued by ~~the courts~~ a court:

- (a) a person convicted of a felony violation of an offense listed in Subsection 77-41-102(16); or
- (b) a person who is a respondent in a proceeding described in Title 78B, Chapter 7, Protective Orders, in which a court has granted the petitioner a protective order.

~~(6)~~ (7) A person serving process shall:

(a) legibly document the date and time of service on the front page of the document being served;

(b) legibly print the ~~person's~~ process server's name ~~and~~, address, and telephone number on the return of service; ~~and~~

(c) sign the return of service in substantial compliance with Section 78B-5-705[.];

(d) if the process server is a peace officer, sheriff, or deputy sheriff, legibly print the badge number of the process server on the return of service; and

(e) if the process server is a private investigator, legibly print the private investigator's identification number on the return of service.

CHAPTER 379**S. B. 57**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

(Exception clause in Section 3)

AUTISM SERVICES AMENDMENTS

Chief Sponsor: Brian E. Shiozawa

House Sponsor: Brad L. Dee

LONG TITLE**General Description:**

This bill amends the Insurance Code to provide health benefit plan coverage for the treatment of autism spectrum disorder.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires a health benefit plan offered or renewed in the individual market or large group market, on or after January 1, 2016, to provide coverage for the treatment of autism spectrum disorder for children 2 to 9 years of age;
- ▶ describes minimum coverage limits for autism coverage;
- ▶ requires an assessment of treatment plan every six months;
- ▶ permits the commissioner to waive coverage under this section if the attorney general issues a legal opinion that the limits on autism coverage are unenforceable under federal law;
- ▶ clarifies that all other terms of the insurance plan related to deductibles, provider networks, and cost sharing apply to the autism coverage;
- ▶ provides a waiver for an insurer if premium costs increase by more than a certain percentage; and
- ▶ sunsets the autism coverage on January 1, 2019.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an effective date.

Utah Code Sections Affected:**AMENDS:**

63I-1-231 (Effective 07/01/14), as last amended by Laws of Utah 2013, Chapters 261 and 417

ENACTS:

31A-22-642, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 31A-22-642 is enacted to read:**31A-22-642. Insurance coverage for autism spectrum disorder.**

(1) As used in this section:

(a) “Applied behavior analysis” means the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional

analysis of the relationship between environment and behavior.

(b) “Autism spectrum disorder” means pervasive developmental disorders as defined by the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM).

(c) “Behavioral health treatment” means counseling and treatment programs, including applied behavior analysis, that are:

(i) necessary to develop, maintain, or restore, to the maximum extent practicable, the functioning of an individual; and

(ii) provided or supervised by a:

(A) board certified behavior analyst; or

(B) person licensed under Title 58, Chapter 1, Division of Occupational and Professional Licensing Act, whose scope of practice includes mental health services.

(d) “Diagnosis of autism spectrum disorder” means medically necessary assessments, evaluations, or tests:

(i) performed by a licensed physician who is board certified in neurology, psychiatry, or pediatrics and has experience diagnosing autism spectrum disorder, or a licensed psychologist with experience diagnosing autism spectrum disorder; and

(ii) necessary to diagnose whether an individual has an autism spectrum disorder.

(e) “Pharmacy care” means medications prescribed by a licensed physician and any health-related services considered medically necessary to determine the need or effectiveness of the medications.

(f) “Psychiatric care” means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

(g) “Psychological care” means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

(h) “Therapeutic care” means services provided by licensed or certified speech therapists, occupational therapists, or physical therapists.

(i) “Treatment for autism spectrum disorder”:

(i) means evidence-based care and related equipment prescribed or ordered for an individual diagnosed with an autism spectrum disorder by a physician or a licensed psychologist described in Subsection (1)(d) who determines the care to be medically necessary; and

(ii) includes:

(A) behavioral health treatment, provided or supervised by a person described in Subsection (1)(c)(ii);

(B) pharmacy care;

(C) psychiatric care;

(D) psychological care; and

(E) therapeutic care.

(2) Notwithstanding the provisions of Section 31A-22-618.5, a health benefit plan offered in the individual market or the large group market and entered into or renewed on or after January 1, 2016, shall provide coverage for the diagnosis and treatment of autism spectrum disorder:

(a) for a child who is at least two years old, but younger than 10 years old; and

(b) in accordance with the requirements of this section and rules made by the commissioner.

(3) The commissioner may adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to set the minimum standards of coverage for the treatment of autism spectrum disorder.

(4) Subject to Subsection (5), the rules described in Subsection (3) shall establish durational limits, amount limits, deductibles, copayments, and coinsurance for the treatment of autism spectrum disorder that are similar to, or identical to, the coverage provided for other illnesses or diseases.

(5) (a) Coverage for behavioral health treatment for a person with an autism spectrum disorder shall cover at least 600 hours a year. Other terms and conditions in the health benefit plan that apply to other benefits covered by the health benefit plan apply to coverage required by this section.

(b) Notwithstanding Subsection 31A-22-617(6), a health benefit plan providing treatment under Subsection (5)(a) shall include in the plan's provider network both board certified behavior analysts and mental health providers qualified under Subsection (1)(c)(ii).

(6) A health care provider shall submit a treatment plan for autism spectrum disorder to the insurer within 14 business days of starting treatment for an individual. If an individual is receiving treatment for an autism spectrum disorder, an insurer shall have the right to request a review of that treatment not more than once every six months. A review of treatment under this Subsection (6) may include a review of treatment goals and progress toward the treatment goals. If an insurer makes a determination to stop treatment as a result of the review of the treatment plan under this subsection, the determination of the insurer may be reviewed under Section 31A-22-629.

(7) (a) In accordance with Subsection (7)(b), the commissioner shall waive the requirements of this section for all insurers in the individual market or the large group market, if an insurer demonstrates to the commissioner that the insurer's entire pool of business in the individual market or the large group market has incurred claims for the autism coverage required by this section in a 12 consecutive month period that will cause a premium increase for the insurer's entire pool of business in the individual market or the large group market in excess of 1% over the insurer's premiums in the previous 12 consecutive month period.

(b) The commissioner shall waive the requirements of this section if:

(i) after a public hearing in accordance with Title 63G, Chapter 4, Administrative Procedures Act, the commissioner finds that the insurer has demonstrated to the commissioner based on generally accepted actuarial principles and methodologies that the insurer's entire pool of business in the individual market or the large group market will experience a premium increase of 1% or greater as a result of the claims for autism services as described in this section; or

(ii) the attorney general issues a legal opinion that the limits under Subsection (5)(a) cannot be implemented by an insurer in a manner that complies with federal law.

(8) If a waiver is granted under Subsection (7), the insurer may:

(a) continue to offer autism coverage under the existing plan until the next renewal period for the plan, at which time the insurer:

(i) may delete the autism coverage from the plan without having to re-apply for the waiver under Subsection (7); and

(ii) file the plan with the commissioner in accordance with guidelines issued by the commissioner;

(b) discontinue offering plans subject to Subsection (2), no earlier than the next calendar quarter following the date the waiver is granted, subject to filing guidelines issued by the commissioner; or

(c) nonrenew existing plans that are subject to Subsection (2), in compliance with Subsection 31A-30-107(3)(d).

(9) This section sunsets in accordance with Section 63I-1-231.

Section 2. Section 63I-1-231 (Effective 07/01/14) is amended to read:

63I-1-231 (Effective 07/01/14). Repeal dates, Title 31A.

(1) Section 31A-2-208.5, Comparison tables, is repealed July 1, 2015.

(2) Section 31A-2-217, Coordination with other states, is repealed July 1, 2023.

(3) Section 31A-22-619.6, Coordination of benefits with workers' compensation claim--Health insurer's duty to pay, is repealed on July 1, 2018.

(4) Section 31A-22-642, Insurance coverage for autism spectrum disorder, is repealed on January 1, 2019.

Section 3. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 13, 2014.

(2) The amendments to Section 63I-1-231 (Effective 07/01/14) take effect on July 1, 2014.

CHAPTER 380**S. B. 65**

Passed March 13, 2014

Approved April 1, 2014

Effective July 1, 2014

**SALES AND USE TAX
EXEMPTION MODIFICATIONS**

Chief Sponsor: Howard A. Stephenson

House Sponsor: Ryan D. Wilcox

LONG TITLE**General Description:**

This bill amends provisions related to sales and use taxes.

Highlighted Provisions:

This bill:

- ▶ modifies definitions;
- ▶ addresses the sales and use taxation of parts used in the repair or renovation of tangible personal property;
- ▶ addresses a sales and use exemption for certain manufacturing, processing, producing, operating, or research and development activities; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2014.

Utah Code Sections Affected:**AMENDS:**

59-12-102 (Effective 07/01/14), as last amended by Laws of Utah 2013, Chapters 229, 234, 266, and 441

59-12-103 (Effective 07/01/14), as last amended by Laws of Utah 2013, Chapters 150 and 227

59-12-104, as last amended by Laws of Utah 2013, Chapters 82, 223, 229, 234, and 441

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-12-102 (Effective 07/01/14) is amended to read:**59-12-102 (Effective 07/01/14). Definitions.**

As used in this chapter:

(1) "800 service" means a telecommunications service that:

(a) allows a caller to dial a toll-free number without incurring a charge for the call; and

(b) is typically marketed:

(i) under the name 800 toll-free calling;

(ii) under the name 855 toll-free calling;

(iii) under the name 866 toll-free calling;

(iv) under the name 877 toll-free calling;

(v) under the name 888 toll-free calling; or

(vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.

(2) (a) "900 service" means an inbound toll telecommunications service that:

(i) a subscriber purchases;

(ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the subscriber's:

(A) prerecorded announcement; or

(B) live service; and

(iii) is typically marketed:

(A) under the name 900 service; or

(B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal Communications Commission.

(b) "900 service" does not include a charge for:

(i) a collection service a seller of a telecommunications service provides to a subscriber; or

(ii) the following a subscriber sells to the subscriber's customer:

(A) a product; or

(B) a service.

(3) (a) "Admission or user fees" includes season passes.

(b) "Admission or user fees" does not include annual membership dues to private organizations.

(4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on November 12, 2002, including amendments made to the Streamlined Sales and Use Tax Agreement after November 12, 2002.

(5) "Agreement combined tax rate" means the sum of the tax rates:

(a) listed under Subsection (6); and

(b) that are imposed within a local taxing jurisdiction.

(6) "Agreement sales and use tax" means a tax imposed under:

(a) Subsection 59-12-103(2)(a)(i)(A);

(b) Subsection 59-12-103(2)(b)(i);

(c) Subsection 59-12-103(2)(c)(i);

(d) Subsection 59-12-103(2)(d)(i)(A)(I);

(e) Section 59-12-204;

(f) Section 59-12-401;

(g) Section 59-12-402;

(h) Section 59-12-703;

(i) Section 59-12-802;

(j) Section 59-12-804;

(k) Section 59-12-1102;

- (l) Section 59-12-1302;
 - (m) Section 59-12-1402;
 - (n) Section 59-12-1802;
 - (o) Section 59-12-2003;
 - (p) Section 59-12-2103;
 - (q) Section 59-12-2213;
 - (r) Section 59-12-2214;
 - (s) Section 59-12-2215;
 - (t) Section 59-12-2216;
 - (u) Section 59-12-2217; or
 - (v) Section 59-12-2218.
- (7) "Aircraft" is as defined in Section 72-10-102.
- (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- (a) except for:
 - (i) an airline as defined in Section 59-2-102; or
 - (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group" includes a corporation that is qualified to do business but is not otherwise doing business in the state, of an airline; and
 - (b) that has the workers, expertise, and facilities to perform the following, regardless of whether the business entity performs the following in this state:
 - (i) check, diagnose, overhaul, and repair:
 - (A) an onboard system of a fixed wing turbine powered aircraft; and
 - (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
 - (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft engine;
 - (iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:
 - (A) an inspection;
 - (B) a repair, including a structural repair or modification;
 - (C) changing landing gear; and
 - (D) addressing issues related to an aging fixed wing turbine powered aircraft;
 - (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and completely apply new paint to the fixed wing turbine powered aircraft; and
 - (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that results in a change in the fixed wing turbine powered aircraft's certification requirements by the authority that certifies the fixed wing turbine powered aircraft.

(9) "Alcoholic beverage" means a beverage that:

- (a) is suitable for human consumption; and

(b) contains .5% or more alcohol by volume.

(10) "Alternative energy" means:

- (a) biomass energy;
- (b) geothermal energy;
- (c) hydroelectric energy;
- (d) solar energy;
- (e) wind energy; or
- (f) energy that is derived from:
 - (i) coal-to-liquids;
 - (ii) nuclear fuel;
 - (iii) oil-impregnated diatomaceous earth;
 - (iv) oil sands;
 - (v) oil shale; or
 - (vi) petroleum coke.

(11) (a) Subject to Subsection (11)(b), "alternative energy electricity production facility" means a facility that:

- (i) uses alternative energy to produce electricity; and
- (ii) has a production capacity of two megawatts or greater.

(b) A facility is an alternative energy electricity production facility regardless of whether the facility is:

- (i) connected to an electric grid; or
- (ii) located on the premises of an electricity consumer.

(12) (a) "Ancillary service" means a service associated with, or incidental to, the provision of telecommunications service.

(b) "Ancillary service" includes:

- (i) a conference bridging service;
- (ii) a detailed communications billing service;
- (iii) directory assistance;
- (iv) a vertical service; or
- (v) a voice mail service.

(13) "Area agency on aging" is as defined in Section 62A-3-101.

(14) "Assisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by an individual:

(a) who is not the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device; and

(b) at the direction of the seller of the right to use the amusement device, skill device, or ride device.

(15) "Assisted cleaning or washing of tangible personal property" means cleaning or washing of tangible personal property if the cleaning or washing labor is primarily performed by an individual:

(a) who is not the purchaser of the cleaning or washing of the tangible personal property; and

(b) at the direction of the seller of the cleaning or washing of the tangible personal property.

(16) “Authorized carrier” means:

(a) in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan and the International Fuel Tax Agreement;

(b) in the case of aircraft, the holder of a Federal Aviation Administration operating certificate or air carrier’s operating certificate; or

(c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, ~~the holder of a certificate issued by the United States Surface Transportation Board~~ a person who uses locomotives, freight cars, railroad work equipment, or other rolling stock in more than one state.

(17) (a) Except as provided in Subsection (17)(b), “biomass energy” means any of the following that is used as the primary source of energy to produce fuel or electricity:

(i) material from a plant or tree; or

(ii) other organic matter that is available on a renewable basis, including:

(A) slash and brush from forests and woodlands;

(B) animal waste;

(C) methane produced:

(I) at landfills; or

(II) as a byproduct of the treatment of wastewater residuals;

(D) aquatic plants; and

(E) agricultural products.

(b) “Biomass energy” does not include:

(i) black liquor;

(ii) treated woods; or

(iii) biomass from municipal solid waste other than methane produced:

(A) at landfills; or

(B) as a byproduct of the treatment of wastewater residuals.

(18) (a) “Bundled transaction” means the sale of two or more items of tangible personal property, products, or services if the tangible personal property, products, or services are:

(i) distinct and identifiable; and

(ii) sold for one nonitemized price.

(b) “Bundled transaction” does not include:

(i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of

the selection by the purchaser of the items of tangible personal property included in the transaction;

(ii) the sale of real property;

(iii) the sale of services to real property;

(iv) the retail sale of tangible personal property and a service if:

(A) the tangible personal property:

(I) is essential to the use of the service; and

(II) is provided exclusively in connection with the service; and

(B) the service is the true object of the transaction;

(v) the retail sale of two services if:

(A) one service is provided that is essential to the use or receipt of a second service;

(B) the first service is provided exclusively in connection with the second service; and

(C) the second service is the true object of the transaction;

(vi) a transaction that includes tangible personal property or a product subject to taxation under this chapter and tangible personal property or a product that is not subject to taxation under this chapter if the:

(A) seller’s purchase price of the tangible personal property or product subject to taxation under this chapter is de minimis; or

(B) seller’s sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(vii) the retail sale of tangible personal property that is not subject to taxation under this chapter and tangible personal property that is subject to taxation under this chapter if:

(A) that retail sale includes:

(I) food and food ingredients;

(II) a drug;

(III) durable medical equipment;

(IV) mobility enhancing equipment;

(V) an over-the-counter drug;

(VI) a prosthetic device; or

(VII) a medical supply; and

(B) subject to Subsection (18)(f):

(I) the seller’s purchase price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller’s total purchase price of that retail sale; or

(II) the seller’s sales price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller’s total sales price of that retail sale.

(c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a service that is distinct and identifiable does not include:

(A) packaging that:

(I) accompanies the sale of the tangible personal property, product, or service; and

(II) is incidental or immaterial to the sale of the tangible personal property, product, or service;

(B) tangible personal property, a product, or a service provided free of charge with the purchase of another item of tangible personal property, a product, or a service; or

(C) an item of tangible personal property, a product, or a service included in the definition of "purchase price."

(ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase of another item of tangible personal property, a product, or a service if the sales price of the purchased item of tangible personal property, product, or service does not vary depending on the inclusion of the tangible personal property, product, or service provided free of charge.

(d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service on the following, regardless of whether the following is in paper format or electronic format:

(A) a binding sales document; or

(B) another supporting sales-related document that is available to a purchaser.

(ii) For purposes of Subsection (18)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:

(A) a bill of sale;

(B) a contract;

(C) an invoice;

(D) a lease agreement;

(E) a periodic notice of rates and services;

(F) a price list;

(G) a rate card;

(H) a receipt; or

(I) a service agreement.

(e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:

(A) the seller's purchase price of the tangible personal property or product is 10% or less of the seller's total purchase price of the bundled transaction; or

(B) the seller's sales price of the tangible personal property or product is 10% or less of the seller's total sales price of the bundled transaction.

(ii) For purposes of Subsection (18)(b)(vi), a seller:

(A) shall use the seller's purchase price or the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(B) may not use a combination of the seller's purchase price and the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis.

(iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.

(f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.

(19) "Certified automated system" means software certified by the governing board of the agreement that:

(a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:

(i) on a transaction; and

(ii) in the states that are members of the agreement;

(b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and

(c) maintains a record of the transaction described in Subsection (19)(a)(i).

(20) "Certified service provider" means an agent certified:

(a) by the governing board of the agreement; and

(b) to perform all of a seller's sales and use tax functions for an agreement sales and use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "clothing"; and

(ii) that are consistent with the list of items that constitute "clothing" under the agreement.

(22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

(23) “Commercial use” means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (55) or residential use under Subsection (105).

(24) (a) “Common carrier” means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire within this state.

(b) (i) “Common carrier” does not include a person who, at the time the person is traveling to or from that person’s place of employment, transports a passenger to or from the passenger’s place of employment.

(ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person’s place of employment.

(25) “Component part” includes:

(a) poultry, dairy, and other livestock feed, and their components;

(b) baling ties and twine used in the baling of hay and straw;

(c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and

(d) feed, seeds, and seedlings.

(26) “Computer” means an electronic device that accepts information:

(a) (i) in digital form; or

(ii) in a form similar to digital form; and

(b) manipulates that information for a result based on a sequence of instructions.

(27) “Computer software” means a set of coded instructions designed to cause:

(a) a computer to perform a task; or

(b) automatic data processing equipment to perform a task.

(28) “Computer software maintenance contract” means a contract that obligates a seller of computer software to provide a customer with:

(a) future updates or upgrades to computer software;

(b) support services with respect to computer software; or

(c) a combination of Subsections (28)(a) and (b).

(29) (a) “Conference bridging service” means an ancillary service that links two or more participants of an audio conference call or video conference call.

(b) “Conference bridging service” may include providing a telephone number as part of the ancillary service described in Subsection (29)(a).

(c) “Conference bridging service” does not include a telecommunications service used to reach the ancillary service described in Subsection (29)(a).

(30) “Construction materials” means any tangible personal property that will be converted into real property.

(31) “Delivered electronically” means delivered to a purchaser by means other than tangible storage media.

(32) (a) “Delivery charge” means a charge:

(i) by a seller of:

(A) tangible personal property;

(B) a product transferred electronically; or

(C) services; and

(ii) for preparation and delivery of the tangible personal property, product transferred electronically, or services described in Subsection (32)(a)(i) to a location designated by the purchaser.

(b) “Delivery charge” includes a charge for the following:

(i) transportation;

(ii) shipping;

(iii) postage;

(iv) handling;

(v) crating; or

(vi) packing.

(33) “Detailed telecommunications billing service” means an ancillary service of separately stating information pertaining to individual calls on a customer’s billing statement.

(34) “Dietary supplement” means a product, other than tobacco, that:

(a) is intended to supplement the diet;

(b) contains one or more of the following dietary ingredients:

(i) a vitamin;

(ii) a mineral;

(iii) an herb or other botanical;

(iv) an amino acid;

(v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in Subsections (34)(b)(i) through (v);

(c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:

(A) tablet form;

(B) capsule form;

(C) powder form;

(D) softgel form;

- (E) gelcap form; or
- (F) liquid form; or
- (ii) if the product is not intended for ingestion in a form described in Subsections (34)(c)(i)(A) through (F), is not represented:
- (A) as conventional food; and
- (B) for use as a sole item of:
- (I) a meal; or
- (II) the diet; and
- (d) is required to be labeled as a dietary supplement:
- (i) identifiable by the “Supplemental Facts” box found on the label; and
- (ii) as required by 21 C.F.R. Sec. 101.36.
- (35) (a) “Digital audio work” means a work that results from the fixation of a series of musical, spoken, or other sounds.
- (b) “Digital audio work” includes a ringtone.
- (36) “Digital audio-visual work” means a series of related images which, when shown in succession, imparts an impression of motion, together with accompanying sounds, if any.
- (37) “Digital book” means a work that is generally recognized in the ordinary and usual sense as a book.
- (38) (a) “Direct mail” means printed material delivered or distributed by United States mail or other delivery service:
- (i) to:
- (A) a mass audience; or
- (B) addressees on a mailing list provided:
- (I) by a purchaser of the mailing list; or
- (II) at the discretion of the purchaser of the mailing list; and
- (ii) if the cost of the printed material is not billed directly to the recipients.
- (b) “Direct mail” includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- (c) “Direct mail” does not include multiple items of printed material delivered to a single address.
- (39) “Directory assistance” means an ancillary service of providing:
- (a) address information; or
- (b) telephone number information.
- (40) (a) “Disposable home medical equipment or supplies” means medical equipment or supplies that:
- (i) cannot withstand repeated use; and
- (ii) are purchased by, for, or on behalf of a person other than:
- (A) a health care facility as defined in Section 26-21-2;
- (B) a health care provider as defined in Section 78B-3-403;
- (C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or
- (D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).
- (b) “Disposable home medical equipment or supplies” does not include:
- (i) a drug;
- (ii) durable medical equipment;
- (iii) a hearing aid;
- (iv) a hearing aid accessory;
- (v) mobility enhancing equipment; or
- (vi) tangible personal property used to correct impaired vision, including:
- (A) eyeglasses; or
- (B) contact lenses.
- (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes medical equipment or supplies.
- (41) (a) “Drug” means a compound, substance, or preparation, or a component of a compound, substance, or preparation that is:
- (i) recognized in:
- (A) the official United States Pharmacopoeia;
- (B) the official Homeopathic Pharmacopoeia of the United States;
- (C) the official National Formulary; or
- (D) a supplement to a publication listed in Subsections (41)(a)(i)(A) through (C);
- (ii) intended for use in the:
- (A) diagnosis of disease;
- (B) cure of disease;
- (C) mitigation of disease;
- (D) treatment of disease; or
- (E) prevention of disease; or
- (iii) intended to affect:
- (A) the structure of the body; or
- (B) any function of the body.
- (b) “Drug” does not include:
- (i) food and food ingredients;
- (ii) a dietary supplement;
- (iii) an alcoholic beverage; or

- (iv) a prosthetic device.
- (42) (a) Except as provided in Subsection (42)(c), “durable medical equipment” means equipment that:
- (i) can withstand repeated use;
 - (ii) is primarily and customarily used to serve a medical purpose;
 - (iii) generally is not useful to a person in the absence of illness or injury; and
 - (iv) is not worn in or on the body.
- (b) “Durable medical equipment” includes parts used in the repair or replacement of the equipment described in Subsection (42)(a).
- (c) “Durable medical equipment” does not include mobility enhancing equipment.
- (43) “Electronic” means:
- (a) relating to technology; and
 - (b) having:
 - (i) electrical capabilities;
 - (ii) digital capabilities;
 - (iii) magnetic capabilities;
 - (iv) wireless capabilities;
 - (v) optical capabilities;
 - (vi) electromagnetic capabilities; or
 - (vii) capabilities similar to Subsections (43)(b)(i) through (vi).
- (44) “Electronic financial payment service” means an establishment:
- (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and
 - (b) that performs electronic financial payment services.
- (45) “Employee” is as defined in Section 59-10-401.
- (46) “Fixed guideway” means a public transit facility that uses and occupies:
- (a) rail for the use of public transit; or
 - (b) a separate right-of-way for the use of public transit.
- (47) “Fixed wing turbine powered aircraft” means an aircraft that:
- (a) is powered by turbine engines;
 - (b) operates on jet fuel; and
 - (c) has wings that are permanently attached to the fuselage of the aircraft.
- (48) “Fixed wireless service” means a telecommunications service that provides radio communication between fixed points.
- (49) (a) “Food and food ingredients” means substances:
- (i) regardless of whether the substances are in:
 - (A) liquid form;
 - (B) concentrated form;
 - (C) solid form;
 - (D) frozen form;
 - (E) dried form; or
 - (F) dehydrated form; and
 - (ii) that are:
 - (A) sold for:
 - (I) ingestion by humans; or
 - (II) chewing by humans; and
 - (B) consumed for the substance’s:
 - (I) taste; or
 - (II) nutritional value.
- (b) “Food and food ingredients” includes an item described in Subsection (90)(b)(iii).
- (c) “Food and food ingredients” does not include:
- (i) an alcoholic beverage;
 - (ii) tobacco; or
 - (iii) prepared food.
- (50) (a) “Fundraising sales” means sales:
- (i) (A) made by a school; or
 - (B) made by a school student;
 - (ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and
 - (iii) that are part of an officially sanctioned school activity.
- (b) For purposes of Subsection (50)(a)(iii), “officially sanctioned school activity” means a school activity:
- (i) that is conducted in accordance with a formal policy adopted by the school or school district governing the authorization and supervision of fundraising activities;
 - (ii) that does not directly or indirectly compensate an individual teacher or other educational personnel by direct payment, commissions, or payment in kind; and
 - (iii) the net or gross revenues from which are deposited in a dedicated account controlled by the school or school district.
- (51) “Geothermal energy” means energy contained in heat that continuously flows outward from the earth that is used as the sole source of energy to produce electricity.

(52) “Governing board of the agreement” means the governing board of the agreement that is:

- (a) authorized to administer the agreement; and
- (b) established in accordance with the agreement.

(53) (a) For purposes of Subsection 59-12-104(41), “governmental entity” means:

(i) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, and committees;

(ii) the judicial branch of the state, including the courts, the Judicial Council, the Office of the Court Administrator, and similar administrative units in the judicial branch;

(iii) the legislative branch of the state, including the House of Representatives, the Senate, the Legislative Printing Office, the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;

(iv) the National Guard;

(v) an independent entity as defined in Section 63E-1-102; or

(vi) a political subdivision as defined in Section 17B-1-102.

(b) “Governmental entity” does not include the state systems of public and higher education, including:

(i) a college campus of the Utah College of Applied Technology;

(ii) a school;

(iii) the State Board of Education;

(iv) the State Board of Regents; or

(v) an institution of higher education.

(54) “Hydroelectric energy” means water used as the sole source of energy to produce electricity.

(55) “Industrial use” means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:

(a) in mining or extraction of minerals;

(b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:

(i) commercial greenhouses;

(ii) irrigation pumps;

(iii) farm machinery;

(iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under Title 41, Chapter 1a, Part 2, Registration; and

(v) other farming activities;

(c) in manufacturing tangible personal property at an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification

Manual of the federal Executive Office of the President, Office of Management and Budget;

(d) by a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (55)(d)(i) would otherwise be made with nonrecycled materials; or

(e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a cogeneration facility as defined in Section 54-2-1.

(56) (a) Except as provided in Subsection (56)(b), “installation charge” means a charge for installing:

(i) tangible personal property; or

(ii) a product transferred electronically.

(b) “Installation charge” does not include a charge for:

(i) repairs or renovations of:

(A) tangible personal property; or

(B) a product transferred electronically; or

(ii) attaching tangible personal property or a product transferred electronically:

(A) to other tangible personal property; and

(B) as part of a manufacturing or fabrication process.

(57) “Institution of higher education” means an institution of higher education listed in Section 53B-2-101.

(58) (a) “Lease” or “rental” means a transfer of possession or control of tangible personal property or a product transferred electronically for:

(i) (A) a fixed term; or

(B) an indeterminate term; and

(ii) consideration.

(b) “Lease” or “rental” includes an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code.

(c) “Lease” or “rental” does not include:

(i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(ii) a transfer of possession or control of property under an agreement that requires the transfer of title:

(A) upon completion of required payments; and

(B) if the payment of an option price does not exceed the greater of:

(I) \$100; or

(II) 1% of the total required payments; or

(iii) providing tangible personal property along with an operator for a fixed period of time or an indeterminate period of time if the operator is necessary for equipment to perform as designed.

(d) For purposes of Subsection (58)(c)(iii), an operator is necessary for equipment to perform as designed if the operator's duties exceed the:

(i) set-up of tangible personal property;

(ii) maintenance of tangible personal property; or

(iii) inspection of tangible personal property.

(59) "Life science establishment" means an establishment in this state that is classified under the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

(b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or

(c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

(60) "Life science research and development facility" means a facility owned, leased, or rented by a life science establishment if research and development is performed in 51% or more of the total area of the facility.

(61) "Load and leave" means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser.

(62) "Local taxing jurisdiction" means a:

(a) county that is authorized to impose an agreement sales and use tax;

(b) city that is authorized to impose an agreement sales and use tax; or

(c) town that is authorized to impose an agreement sales and use tax.

(63) "Manufactured home" is as defined in Section 15A-1-302.

(64) [~~For purposes of Section 59-12-104, "manufacturing"~~] "Manufacturing facility" means:

(a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(b) a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (64)(b)(i) would otherwise be made with nonrecycled materials; or

(c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is placed in service on or after May 1, 2006.

(65) "Member of the immediate family of the producer" means a person who is related to a producer described in Subsection 59-12-104(20)(a) as a:

(a) child or stepchild, regardless of whether the child or stepchild is:

(i) an adopted child or adopted stepchild; or

(ii) a foster child or foster stepchild;

(b) grandchild or stepgrandchild;

(c) grandparent or stepgrandparent;

(d) nephew or stepnephew;

(e) niece or stepniece;

(f) parent or stepparent;

(g) sibling or stepsibling;

(h) spouse;

(i) person who is the spouse of a person described in Subsections (65)(a) through (g); or

(j) person similar to a person described in Subsections (65)(a) through (i) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(66) "Mobile home" is as defined in Section 15A-1-302.

(67) "Mobile telecommunications service" is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(68) (a) "Mobile wireless service" means a telecommunications service, regardless of the technology used, if:

(i) the origination point of the conveyance, routing, or transmission is not fixed;

(ii) the termination point of the conveyance, routing, or transmission is not fixed; or

(iii) the origination point described in Subsection (68)(a)(i) and the termination point described in Subsection (68)(a)(ii) are not fixed.

(b) "Mobile wireless service" includes a telecommunications service that is provided by a commercial mobile radio service provider.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define "commercial mobile radio service provider."

(69) (a) Except as provided in Subsection (69)(c), "mobility enhancing equipment" means equipment that is:

(i) primarily and customarily used to provide or increase the ability to move from one place to another;

(ii) appropriate for use in a:

(A) home; or

(B) motor vehicle; and

(iii) not generally used by persons with normal mobility.

(b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection (69)(a).

(c) "Mobility enhancing equipment" does not include:

(i) a motor vehicle;

(ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer;

(iii) durable medical equipment; or

(iv) a prosthetic device.

(70) "Model 1 seller" means a seller registered under the agreement that has selected a certified service provider as the seller's agent to perform all of the seller's sales and use tax functions for agreement sales and use taxes other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(71) "Model 2 seller" means a seller registered under the agreement that:

(a) except as provided in Subsection (71)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and

(b) retains responsibility for remitting all of the sales tax:

(i) collected by the seller; and

(ii) to the appropriate local taxing jurisdiction.

(72) (a) Subject to Subsection (72)(b), "model 3 seller" means a seller registered under the agreement that has:

(i) sales in at least five states that are members of the agreement;

(ii) total annual sales revenues of at least \$500,000,000;

(iii) a proprietary system that calculates the amount of tax:

(A) for an agreement sales and use tax; and

(B) due to each local taxing jurisdiction; and

(iv) entered into a performance agreement with the governing board of the agreement.

(b) For purposes of Subsection (72)(a), "model 3 seller" includes an affiliated group of sellers using the same proprietary system.

(73) "Model 4 seller" means a seller that is registered under the agreement and is not a model 1 seller, model 2 seller, or model 3 seller.

(74) "Modular home" means a modular unit as defined in Section 15A-1-302.

(75) "Motor vehicle" is as defined in Section 41-1a-102.

(76) "Oil sands" means impregnated bituminous sands that:

(a) contain a heavy, thick form of petroleum that is released when heated, mixed with other hydrocarbons, or otherwise treated;

(b) yield mixtures of liquid hydrocarbon; and

(c) require further processing other than mechanical blending before becoming finished petroleum products.

(77) "Oil shale" means a group of fine black to dark brown shales containing kerogen material that yields petroleum upon heating and distillation.

(78) "Optional computer software maintenance contract" means a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.

(79) (a) "Other fuels" means products that burn independently to produce heat or energy.

(b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal property.

(80) (a) "Paging service" means a telecommunications service that provides transmission of a coded radio signal for the purpose of activating a specific pager.

(b) For purposes of Subsection (80)(a), the transmission of a coded radio signal includes a transmission by message or sound.

(81) "Pawnbroker" is as defined in Section 13-32a-102.

(82) "Pawn transaction" is as defined in Section 13-32a-102.

(83) (a) "Permanently attached to real property" means that for tangible personal property attached to real property:

(i) the attachment of the tangible personal property to the real property:

(A) is essential to the use of the tangible personal property; and

(B) suggests that the tangible personal property will remain attached to the real property in the same place over the useful life of the tangible personal property; or

(ii) if the tangible personal property is detached from the real property, the detachment would:

(A) cause substantial damage to the tangible personal property; or

(B) require substantial alteration or repair of the real property to which the tangible personal property is attached.

(b) "Permanently attached to real property" includes:

(i) the attachment of an accessory to the tangible personal property if the accessory is:

(A) essential to the operation of the tangible personal property; and

(B) attached only to facilitate the operation of the tangible personal property;

(ii) a temporary detachment of tangible personal property from real property for a repair or renovation if the repair or renovation is performed where the tangible personal property and real property are located; or

(iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection (83)(c)(iii) or (iv).

(c) "Permanently attached to real property" does not include:

(i) the attachment of portable or movable tangible personal property to real property if that portable or movable tangible personal property is attached to real property only for:

(A) convenience;

(B) stability; or

(C) for an obvious temporary purpose;

(ii) the detachment of tangible personal property from real property except for the detachment described in Subsection (83)(b)(ii);

(iii) an attachment of the following tangible personal property to real property if the attachment to real property is only through a line that supplies water, electricity, gas, telecommunications, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(A) a computer;

(B) a telephone;

(C) a television; or

(D) tangible personal property similar to Subsections (83)(c)(iii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(iv) an item listed in Subsection (123)(c).

(84) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.

(85) "Place of primary use":

(a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:

(i) the residential street address of the customer; or

(ii) the primary business street address of the customer; or

(b) for mobile telecommunications service, is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(86) (a) "Postpaid calling service" means a telecommunications service a person obtains by making a payment on a call-by-call basis:

(i) through the use of a:

(A) bank card;

(B) credit card;

(C) debit card; or

(D) travel card; or

(ii) by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.

(b) "Postpaid calling service" includes a service, except for a prepaid wireless calling service, that would be a prepaid wireless calling service if the service were exclusively a telecommunications service.

(87) "Postproduction" means an activity related to the finishing or duplication of a medium described in Subsection 59-12-104(54)(a).

(88) "Prepaid calling service" means a telecommunications service:

(a) that allows a purchaser access to telecommunications service that is exclusively telecommunications service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(89) "Prepaid wireless calling service" means a telecommunications service:

(a) that provides the right to utilize:

(i) mobile wireless service; and

(ii) other service that is not a telecommunications service, including:

(A) the download of a product transferred electronically;

(B) a content service; or

(C) an ancillary service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(90) (a) "Prepared food" means:

(i) food:

(A) sold in a heated state; or

(B) heated by a seller;

(ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or

(iii) except as provided in Subsection (90)(c), food sold with an eating utensil provided by the seller, including a:

(A) plate;

(B) knife;

(C) fork;

(D) spoon;

(E) glass;

(F) cup;

(G) napkin; or

(H) straw.

(b) "Prepared food" does not include:

(i) food that a seller only:

(A) cuts;

(B) repackages; or

(C) pasteurizes; or

(ii) (A) the following:

(I) raw egg;

(II) raw fish;

(III) raw meat;

(IV) raw poultry; or

(V) a food containing an item described in Subsections (90)(b)(ii)(A)(I) through (IV); and

(B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection (90)(b)(ii)(A) to prevent food borne illness; or

(iii) the following if sold without eating utensils provided by the seller:

(A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;

(B) food and food ingredients sold in an unheated state:

(I) by weight or volume; and

(II) as a single item; or

(C) a bakery item, including:

(I) a bagel;

(II) a bar;

(III) a biscuit;

(IV) bread;

(V) a bun;

(VI) a cake;

(VII) a cookie;

(VIII) a croissant;

(IX) a danish;

(X) a donut;

(XI) a muffin;

(XII) a pastry;

(XIII) a pie;

(XIV) a roll;

(XV) a tart;

(XVI) a torte; or

(XVII) a tortilla.

(c) An eating utensil provided by the seller does not include the following used to transport the food:

(i) a container; or

(ii) packaging.

(91) "Prescription" means an order, formula, or recipe that is issued:

(a) (i) orally;

(ii) in writing;

(iii) electronically; or

(iv) by any other manner of transmission; and

(b) by a licensed practitioner authorized by the laws of a state.

(92) (a) Except as provided in Subsection (92)(b)(ii) or (iii), "prewritten computer software" means computer software that is not designed and developed:

(i) by the author or other creator of the computer software; and

(ii) to the specifications of a specific purchaser.

(b) "Prewritten computer software" includes:

(i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed:

(A) by the author or other creator of the computer software; and

(B) to the specifications of a specific purchaser;

(ii) computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or

(iii) except as provided in Subsection (92)(c), prewritten computer software or a prewritten portion of prewritten computer software:

(A) that is modified or enhanced to any degree; and

(B) if the modification or enhancement described in Subsection (92)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.

(c) "Prewritten computer software" does not include a modification or enhancement described in Subsection (92)(b)(iii) if the charges for the modification or enhancement are:

(i) reasonable; and

(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the invoice or other

statement of price provided to the purchaser at the time of sale or later, as demonstrated by:

(A) the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes;

(B) a preponderance of the facts and circumstances at the time of the transaction; and

(C) the understanding of all of the parties to the transaction.

(93) (a) "Private communication service" means a telecommunications service:

(i) that entitles a customer to exclusive or priority use of one or more communications channels between or among termination points; and

(ii) regardless of the manner in which the one or more communications channels are connected.

(b) "Private communications service" includes the following provided in connection with the use of one or more communications channels:

(i) an extension line;

(ii) a station;

(iii) switching capacity; or

(iv) another associated service that is provided in connection with the use of one or more communications channels as defined in Section 59-12-215.

(94) (a) Except as provided in Subsection (94)(b), "product transferred electronically" means a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.

(b) "Product transferred electronically" does not include:

(i) an ancillary service;

(ii) computer software; or

(iii) a telecommunications service.

(95) (a) "Prosthetic device" means a device that is worn on or in the body to:

(i) artificially replace a missing portion of the body;

(ii) prevent or correct a physical deformity or physical malfunction; or

(iii) support a weak or deformed portion of the body.

(b) "Prosthetic device" includes:

(i) parts used in the repairs or renovation of a prosthetic device;

(ii) replacement parts for a prosthetic device;

(iii) a dental prosthesis; or

(iv) a hearing aid.

- (c) "Prosthetic device" does not include:
- (i) corrective eyeglasses; or
 - (ii) contact lenses.
- (96) (a) "Protective equipment" means an item:
- (i) for human wear; and
 - (ii) that is:
 - (A) designed as protection:
 - (I) to the wearer against injury or disease; or
 - (II) against damage or injury of other persons or property; and
 - (B) not suitable for general use.
- (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:
- (i) listing the items that constitute "protective equipment"; and
 - (ii) that are consistent with the list of items that constitute "protective equipment" under the agreement.
- (97) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or printed matter, other than a photocopy:
- (i) regardless of:
 - (A) characteristics;
 - (B) copyright;
 - (C) form;
 - (D) format;
 - (E) method of reproduction; or
 - (F) source; and
 - (ii) made available in printed or electronic format.
- (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "photocopy."
- (98) (a) "Purchase price" and "sales price" mean the total amount of consideration:
- (i) valued in money; and
 - (ii) for which tangible personal property, a product transferred electronically, or services are:
 - (A) sold;
 - (B) leased; or
 - (C) rented.
- (b) "Purchase price" and "sales price" include:
- (i) the seller's cost of the tangible personal property, a product transferred electronically, or services sold;
 - (ii) expenses of the seller, including:
 - (A) the cost of materials used;
 - (B) a labor cost;
 - (C) a service cost;
 - (D) interest;
 - (E) a loss;
 - (F) the cost of transportation to the seller; or
 - (G) a tax imposed on the seller;
 - (iii) a charge by the seller for any service necessary to complete the sale; or
 - (iv) consideration a seller receives from a person other than the purchaser if:
 - (A) (I) the seller actually receives consideration from a person other than the purchaser; and
 - (II) the consideration described in Subsection (98)(b)(iv)(A)(I) is directly related to a price reduction or discount on the sale;
 - (B) the seller has an obligation to pass the price reduction or discount through to the purchaser;
 - (C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale to the purchaser; and
 - (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the seller to claim a price reduction or discount; and
 - (Bb) a person other than the seller authorizes, distributes, or grants the certificate, coupon, or other documentation with the understanding that the person other than the seller will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
 - (II) the purchaser identifies that purchaser to the seller as a member of a group or organization allowed a price reduction or discount, except that a preferred customer card that is available to any patron of a seller does not constitute membership in a group or organization allowed a price reduction or discount; or
 - (III) the price reduction or discount is identified as a third party price reduction or discount on the:
 - (Aa) invoice the purchaser receives; or
 - (Bb) certificate, coupon, or other documentation the purchaser presents.
- (c) "Purchase price" and "sales price" do not include:
- (i) a discount:
 - (A) in a form including:
 - (I) cash;
 - (II) term; or
 - (III) coupon;
 - (B) that is allowed by a seller;
 - (C) taken by a purchaser on a sale; and
 - (D) that is not reimbursed by a third party; or
 - (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately stated on an

invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:

(A) the following from credit extended on the sale of tangible personal property or services:

- (I) a carrying charge;
- (II) a financing charge; or
- (III) an interest charge;
- (B) a delivery charge;
- (C) an installation charge;
- (D) a manufacturer rebate on a motor vehicle; or
- (E) a tax or fee legally imposed directly on the consumer.

(99) "Purchaser" means a person to whom:

- (a) a sale of tangible personal property is made;
- (b) a product is transferred electronically; or
- (c) a service is furnished.

(100) "Regularly rented" means:

(a) rented to a guest for value three or more times during a calendar year; or

(b) advertised or held out to the public as a place that is regularly rented to guests for value.

(101) "Rental" is as defined in Subsection (58).

(102) (a) Except as provided in Subsection (102)(b), "repairs or renovations of tangible personal property" means:

(i) a repair or renovation of tangible personal property that is not permanently attached to real property; or

(ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal property or a product transferred electronically from other tangible personal property if:

(A) the other tangible personal property to which the tangible personal property or product transferred electronically is attached or from which the tangible personal property or product transferred electronically is detached is not permanently attached to real property; and

(B) the attachment of tangible personal property or a product transferred electronically to other tangible personal property or detachment of tangible personal property or a product transferred electronically from other tangible personal property is made in conjunction with a repair or

replacement of tangible personal property or a product transferred electronically.

(b) "Repairs or renovations of tangible personal property" does not include:

(i) attaching prewritten computer software to other tangible personal property if the other tangible personal property to which the prewritten computer software is attached is not permanently attached to real property; or

(ii) detaching prewritten computer software from other tangible personal property if the other tangible personal property from which the prewritten computer software is detached is not permanently attached to real property.

(103) "Research and development" means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.

(104) (a) "Residential telecommunications services" means a telecommunications service or an ancillary service that is provided to an individual for personal use:

(i) at a residential address; or

(ii) at an institution, including a nursing home or a school, if the telecommunications service or ancillary service is provided to and paid for by the individual residing at the institution rather than the institution.

(b) For purposes of Subsection (104)(a)(i), a residential address includes an:

(i) apartment; or

(ii) other individual dwelling unit.

(105) "Residential use" means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

(106) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other than:

(a) resale;

(b) sublease; or

(c) subrent.

(107) (a) "Retailer" means any person engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.

(b) "Retailer" includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state.

(108) (a) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.

(b) "Sale" includes:

(i) installment and credit sales;

(ii) any closed transaction constituting a sale;

(iii) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;

(iv) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and

(v) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.

(109) "Sale at retail" is as defined in Subsection (106).

(110) "Sale-leaseback transaction" means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter is transferred:

- (a) by a purchaser-lessee;
- (b) to a lessor;
- (c) for consideration; and
- (d) if:

(i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase of the tangible personal property or product transferred electronically;

(ii) the sale of the tangible personal property or product transferred electronically to the lessor is intended as a form of financing:

(A) for the tangible personal property or product transferred electronically; and

(B) to the purchaser-lessee; and

(iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to:

(A) capitalize the tangible personal property or product transferred electronically for financial reporting purposes; and

(B) account for the lease payments as payments made under a financing arrangement.

(111) "Sales price" is as defined in Subsection (98).

(112) (a) "Sales relating to schools" means the following sales by, amounts paid to, or amounts charged by a school:

(i) sales that are directly related to the school's educational functions or activities including:

- (A) the sale of:
 - (I) textbooks;
 - (II) textbook fees;

(III) laboratory fees;

(IV) laboratory supplies; or

(V) safety equipment;

(B) the sale of a uniform, protective equipment, or sports or recreational equipment that:

(I) a student is specifically required to wear as a condition of participation in a school-related event or school-related activity; and

(II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;

(C) sales of the following if the net or gross revenues generated by the sales are deposited into a school district fund or school fund dedicated to school meals:

(I) food and food ingredients; or

(II) prepared food; or

(D) transportation charges for official school activities; or

(ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.

(b) "Sales relating to schools" does not include:

(i) bookstore sales of items that are not educational materials or supplies;

(ii) except as provided in Subsection (112)(a)(i)(B):

(A) clothing;

(B) clothing accessories or equipment;

(C) protective equipment; or

(D) sports or recreational equipment; or

(iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:

(A) other than a:

(I) school;

(II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or

(III) nonprofit association authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; and

(B) that is required to collect sales and use taxes under this chapter.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "passed through."

(113) For purposes of this section and Section 59-12-104, "school":

- (a) means:
- (i) an elementary school or a secondary school that:
- (A) is a:
- (I) public school; or
- (II) private school; and
- (B) provides instruction for one or more grades kindergarten through 12; or
- (ii) a public school district; and
- (b) includes the Electronic High School as defined in Section 53A-15-1002.
- (114) "Seller" means a person that makes a sale, lease, or rental of:
- (a) tangible personal property;
- (b) a product transferred electronically; or
- (c) a service.
- (115) (a) "Semiconductor fabricating, processing, research, or development materials" means tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is:
- (i) used primarily in the process of:
- (A) (I) manufacturing a semiconductor;
- (II) fabricating a semiconductor; or
- (III) research or development of a:
- (Aa) semiconductor; or
- (Bb) semiconductor manufacturing process; or
- (B) maintaining an environment suitable for a semiconductor; or
- (ii) consumed primarily in the process of:
- (A) (I) manufacturing a semiconductor;
- (II) fabricating a semiconductor; or
- (III) research or development of a:
- (Aa) semiconductor; or
- (Bb) semiconductor manufacturing process; or
- (B) maintaining an environment suitable for a semiconductor.
- (b) "Semiconductor fabricating, processing, research, or development materials" includes:
- (i) parts used in the repairs or renovations of tangible personal property or a product transferred electronically described in Subsection (115)(a); or
- (ii) a chemical, catalyst, or other material used to:
- (A) produce or induce in a semiconductor a:
- (I) chemical change; or
- (II) physical change;
- (B) remove impurities from a semiconductor; or
- (C) improve the marketable condition of a semiconductor.
- (116) "Senior citizen center" means a facility having the primary purpose of providing services to the aged as defined in Section 62A-3-101.
- (117) (a) Subject to Subsections (117)(b) and (c), "short-term lodging consumable" means tangible personal property that:
- (i) a business that provides accommodations and services described in Subsection 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services to a purchaser;
- (ii) is intended to be consumed by the purchaser; and
- (iii) is:
- (A) included in the purchase price of the accommodations and services; and
- (B) not separately stated on an invoice, bill of sale, or other similar document provided to the purchaser.
- (b) "Short-term lodging consumable" includes:
- (i) a beverage;
- (ii) a brush or comb;
- (iii) a cosmetic;
- (iv) a hair care product;
- (v) lotion;
- (vi) a magazine;
- (vii) makeup;
- (viii) a meal;
- (ix) mouthwash;
- (x) nail polish remover;
- (xi) a newspaper;
- (xii) a notepad;
- (xiii) a pen;
- (xiv) a pencil;
- (xv) a razor;
- (xvi) saline solution;
- (xvii) a sewing kit;
- (xviii) shaving cream;
- (xix) a shoe shine kit;
- (xx) a shower cap;
- (xxi) a snack item;
- (xxii) soap;
- (xxiii) toilet paper;
- (xxiv) a toothbrush;
- (xxv) toothpaste; or
- (xxvi) an item similar to Subsections (117)(b)(i) through (xxv) as the commission may provide by

rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) "Short-term lodging consumable" does not include:

(i) tangible personal property that is cleaned or washed to allow the tangible personal property to be reused; or

(ii) a product transferred electronically.

(118) "Simplified electronic return" means the electronic return:

(a) described in Section 318(C) of the agreement; and

(b) approved by the governing board of the agreement.

(119) "Solar energy" means the sun used as the sole source of energy for producing electricity.

(120) (a) "Sports or recreational equipment" means an item:

(i) designed for human use; and

(ii) that is:

(A) worn in conjunction with:

(I) an athletic activity; or

(II) a recreational activity; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "sports or recreational equipment"; and

(ii) that are consistent with the list of items that constitute "sports or recreational equipment" under the agreement.

(121) "State" means the state of Utah, its departments, and agencies.

(122) "Storage" means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.

(123) (a) Except as provided in Subsection (123)(d) or (e), "tangible personal property" means personal property that:

(i) may be:

(A) seen;

(B) weighed;

(C) measured;

(D) felt; or

(E) touched; or

(ii) is in any manner perceptible to the senses.

(b) "Tangible personal property" includes:

(i) electricity;

(ii) water;

(iii) gas;

(iv) steam; or

(v) prewritten computer software, regardless of the manner in which the prewritten computer software is transferred.

(c) "Tangible personal property" includes the following regardless of whether the item is attached to real property:

(i) a dishwasher;

(ii) a dryer;

(iii) a freezer;

(iv) a microwave;

(v) a refrigerator;

(vi) a stove;

(vii) a washer; or

(viii) an item similar to Subsections (123)(c)(i) through (vii) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) "Tangible personal property" does not include a product that is transferred electronically.

(e) "Tangible personal property" does not include the following if attached to real property, regardless of whether the attachment to real property is only through a line that supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) a hot water heater;

(ii) a water filtration system; or

(iii) a water softener system.

(124) (a) "Telecommunications enabling or facilitating equipment, machinery, or software" means an item listed in Subsection (124)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:

(i) telecommunications switching or routing equipment, machinery, or software; or

(ii) telecommunications transmission equipment, machinery, or software.

(b) The following apply to Subsection (124)(a):

(i) a pole;

(ii) software;

(iii) a supplementary power supply;

(iv) temperature or environmental equipment or machinery;

(v) test equipment;

(vi) a tower; or

(vii) equipment, machinery, or software that functions similarly to an item listed in Subsections (124)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection (124)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (124)(b)(i) through (vi).

(125) "Telecommunications equipment, machinery, or software required for 911 service" means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.

(126) "Telecommunications maintenance or repair equipment, machinery, or software" means equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or leased as a spare part or as an upgrade or modification to one or more of the following:

(a) telecommunications enabling or facilitating equipment, machinery, or software;

(b) telecommunications switching or routing equipment, machinery, or software; or

(c) telecommunications transmission equipment, machinery, or software.

(127) (a) "Telecommunications service" means the electronic conveyance, routing, or transmission of audio, data, video, voice, or any other information or signal to a point, or among or between points.

(b) "Telecommunications service" includes:

(i) an electronic conveyance, routing, or transmission with respect to which a computer processing application is used to act:

(A) on the code, form, or protocol of the content;

(B) for the purpose of electronic conveyance, routing, or transmission; and

(C) regardless of whether the service:

(I) is referred to as voice over Internet protocol service; or

(II) is classified by the Federal Communications Commission as enhanced or value added;

(ii) an 800 service;

(iii) a 900 service;

(iv) a fixed wireless service;

(v) a mobile wireless service;

(vi) a postpaid calling service;

(vii) a prepaid calling service;

(viii) a prepaid wireless calling service; or

(ix) a private communications service.

(c) "Telecommunications service" does not include:

(i) advertising, including directory advertising;

(ii) an ancillary service;

(iii) a billing and collection service provided to a third party;

(iv) a data processing and information service if:

(A) the data processing and information service allows data to be:

(I) (Aa) acquired;

(Bb) generated;

(Cc) processed;

(Dd) retrieved; or

(Ee) stored; and

(II) delivered by an electronic transmission to a purchaser; and

(B) the purchaser's primary purpose for the underlying transaction is the processed data or information;

(v) installation or maintenance of the following on a customer's premises:

(A) equipment; or

(B) wiring;

(vi) Internet access service;

(vii) a paging service;

(viii) a product transferred electronically, including:

(A) music;

(B) reading material;

(C) a ring tone;

(D) software; or

(E) video;

(ix) a radio and television audio and video programming service:

(A) regardless of the medium; and

(B) including:

(I) furnishing conveyance, routing, or transmission of a television audio and video programming service by a programming service provider;

(II) cable service as defined in 47 U.S.C. Sec. 522(6); or

(III) audio and video programming services delivered by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;

(x) a value-added nonvoice data service; or

(xi) tangible personal property.

(128) (a) "Telecommunications service provider" means a person that:

(i) owns, controls, operates, or manages a telecommunications service; and

(ii) engages in an activity described in Subsection (128)(a)(i) for the shared use with or resale to any person of the telecommunications service.

(b) A person described in Subsection (128)(a) is a telecommunications service provider whether or not the Public Service Commission of Utah regulates:

(i) that person; or

(ii) the telecommunications service that the person owns, controls, operates, or manages.

(129) (a) "Telecommunications switching or routing equipment, machinery, or software" means an item listed in Subsection (129)(b) if that item is purchased or leased primarily for switching or routing:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection (129)(a):

(i) a bridge;

(ii) a computer;

(iii) a cross connect;

(iv) a modem;

(v) a multiplexer;

(vi) plug in circuitry;

(vii) a router;

(viii) software;

(ix) a switch; or

(x) equipment, machinery, or software that functions similarly to an item listed in Subsections (129)(b)(i) through (ix) as determined by the commission by rule made in accordance with Subsection (129)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (129)(b)(i) through (ix).

(130) (a) "Telecommunications transmission equipment, machinery, or software" means an item listed in Subsection (130)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection (130)(a):

(i) an amplifier;

(ii) a cable;

(iii) a closure;

(iv) a conduit;

(v) a controller;

(vi) a duplexer;

(vii) a filter;

(viii) an input device;

(ix) an input/output device;

(x) an insulator;

(xi) microwave machinery or equipment;

(xii) an oscillator;

(xiii) an output device;

(xiv) a pedestal;

(xv) a power converter;

(xvi) a power supply;

(xvii) a radio channel;

(xviii) a radio receiver;

(xix) a radio transmitter;

(xx) a repeater;

(xxi) software;

(xxii) a terminal;

(xxiii) a timing unit;

(xxiv) a transformer;

(xxv) a wire; or

(xxvi) equipment, machinery, or software that functions similarly to an item listed in Subsections (130)(b)(i) through (xxv) as determined by the commission by rule made in accordance with Subsection (130)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (130)(b)(i) through (xxv).

(131) (a) "Textbook for a higher education course" means a textbook or other printed material that is required for a course:

(i) offered by an institution of higher education; and

(ii) that the purchaser of the textbook or other printed material attends or will attend.

(b) "Textbook for a higher education course" includes a textbook in electronic format.

(132) "Tobacco" means:

(a) a cigarette;

- (b) a cigar;
- (c) chewing tobacco;
- (d) pipe tobacco; or
- (e) any other item that contains tobacco.

(133) "Unassisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device.

(134) (a) "Use" means the exercise of any right or power over tangible personal property, a product transferred electronically, or a service under Subsection 59-12-103(1), incident to the ownership or the leasing of that tangible personal property, product transferred electronically, or service.

(b) "Use" does not include the sale, display, demonstration, or trial of tangible personal property, a product transferred electronically, or a service in the regular course of business and held for resale.

(135) "Value-added nonvoice data service" means a service:

(a) that otherwise meets the definition of a telecommunications service except that a computer processing application is used to act primarily for a purpose other than conveyance, routing, or transmission; and

(b) with respect to which a computer processing application is used to act on data or information:

- (i) code;
- (ii) content;
- (iii) form; or
- (iv) protocol.

(136) (a) Subject to Subsection (136)(b), "vehicle" means the following that are required to be titled, registered, or titled and registered:

- (i) an aircraft as defined in Section 72-10-102;
- (ii) a vehicle as defined in Section 41-1a-102;
- (iii) an off-highway vehicle as defined in Section 41-22-2; or
- (iv) a vessel as defined in Section 41-1a-102.

(b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- (i) a vehicle described in Subsection (136)(a); or
- (ii) (A) a locomotive;
- (B) a freight car;
- (C) railroad work equipment; or
- (D) other railroad rolling stock.

(137) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging a vehicle as defined in Subsection (136).

(138) (a) "Vertical service" means an ancillary service that:

- (i) is offered in connection with one or more telecommunications services; and
- (ii) offers an advanced calling feature that allows a customer to:

- (A) identify a caller; and
- (B) manage multiple calls and call connections.

(b) "Vertical service" includes an ancillary service that allows a customer to manage a conference bridging service.

(139) (a) "Voice mail service" means an ancillary service that enables a customer to receive, send, or store a recorded message.

(b) "Voice mail service" does not include a vertical service that a customer is required to have in order to utilize a voice mail service.

(140) (a) Except as provided in Subsection (140)(b), "waste energy facility" means a facility that generates electricity:

(i) using as the primary source of energy waste materials that would be placed in a landfill or refuse pit if it were not used to generate electricity, including:

- (A) tires;
- (B) waste coal;
- (C) oil shale; or
- (D) municipal solid waste; and

(ii) in amounts greater than actually required for the operation of the facility.

(b) "Waste energy facility" does not include a facility that incinerates:

- (i) hospital waste as defined in 40 C.F.R. 60.51c; or
- (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

(141) "Watercraft" means a vessel as defined in Section 73-18-2.

(142) "Wind energy" means wind used as the sole source of energy to produce electricity.

(143) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.

Section 2. Section 59-12-103 (Effective 07/01/14) is amended to read:

59-12-103 (Effective 07/01/14). Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.

(1) A tax is imposed on the purchaser as provided in this part for amounts paid or charged for the following transactions:

- (a) retail sales of tangible personal property made within the state;
- (b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); or

(B) mobile telecommunications service described in Subsection (1)(b)(ii);

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

(i) the tangible personal property; and

(ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), ~~whether or not~~ regardless of whether:

(A) any parts are actually used in the repairs or renovations of that tangible personal property; or

(B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;

(h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;

(i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed; and

(m) amounts paid or charged for a sale:

(i) (A) of a product transferred electronically; or

(B) of a repair or renovation of a product transferred electronically; and

(ii) regardless of whether the sale provides:

(A) a right of permanent use of the product; or

(B) a right to use the product that is less than a permanent use, including a right:

(I) for a definite or specified length of time; and

(II) that terminates upon the occurrence of a condition.

(2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax is imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

(A) 4.70%; and

(B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use

Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed on amounts paid or charged for food and food ingredients equal to the sum of:

(i) a state tax imposed on the amounts paid or charged for food and food ingredients at a tax rate of 1.75%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the amounts paid or charged for food and food ingredients under this chapter other than this part.

(d) (i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

(I) the tax rate described in Subsection (2)(a)(i)(A); and

(II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not

separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(d)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(f) (i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.

(ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

- (i) Subsection (2)(a)(i)(A);
- (ii) Subsection (2)(b)(i);
- (iii) Subsection (2)(c)(i); or
- (iv) Subsection (2)(d)(i)(A)(I).

(h) (i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

- (A) Subsection (2)(a)(i)(A);
- (B) Subsection (2)(b)(i);
- (C) Subsection (2)(c)(i); or

(D) Subsection (2)(d)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

- (A) Subsection (2)(a)(i)(A);
- (B) Subsection (2)(b)(i);
- (C) Subsection (2)(c)(i); or
- (D) Subsection (2)(d)(i)(A)(I).

(i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

- (A) on the first day of a calendar quarter; and
- (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(i)(i) applies to the tax rates described in the following:

- (A) Subsection (2)(a)(i)(A);
- (B) Subsection (2)(b)(i);
- (C) Subsection (2)(c)(i); or
- (D) Subsection (2)(d)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(3) (a) The following state taxes shall be deposited into the General Fund:

- (i) the tax imposed by Subsection (2)(a)(i)(A);
- (ii) the tax imposed by Subsection (2)(b)(i);
- (iii) the tax imposed by Subsection (2)(c)(i); or
- (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

- (i) the tax imposed by Subsection (2)(a)(ii);
- (ii) the tax imposed by Subsection (2)(b)(ii);
- (iii) the tax imposed by Subsection (2)(c)(ii); and
- (iv) the tax imposed by Subsection (2)(d)(i)(B).

(4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

- (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
- (B) for the fiscal year; or
- (ii) \$17,500,000.

(b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection

(4)(a) shall be transferred each year as dedicated credits to the Department of Natural Resources to:

(A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Department of Natural Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

(d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund

under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than \$1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) \$17,500,000.

(b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as dedicated credits; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as dedicated credits; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 94% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c) and subject to Subsection (5)(f), 6% of the remaining difference described in Subsection (5)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred for employing additional technical staff for the administration of water rights.

(f) At the end of each fiscal year, any unexpended dedicated credits described in Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in the Transportation Fund created by Section 72-2-102.

(7) Notwithstanding Subsection (3)(a), beginning on July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created in Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate on the taxable transactions under Subsection (1).

(8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in Subsection (7), and subject to Subsection (8)(b), for a fiscal year beginning on or after July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124:

(i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of the revenues collected from the following taxes, which represents a portion of the approximately 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

(A) the tax imposed by Subsection (2)(a)(i)(A);

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

(ii) an amount equal to 30% of the growth in the amount of revenues collected in the current fiscal year from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) that exceeds the amount collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) in the 2010-11 fiscal year.

(b) (i) Subject to Subsections (8)(b)(ii) and (iii), in any fiscal year that the portion of the sales and use taxes deposited under Subsection (8)(a) represents an amount that is a total lower percentage of the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) generated in the current fiscal year than the total percentage of sales and use taxes deposited in the previous fiscal year, the Division of Finance shall deposit an amount under Subsection (8)(a) equal to the product of:

(A) the total percentage of sales and use taxes deposited under Subsection (8)(a) in the previous fiscal year; and

(B) the total sales and use tax revenue generated by the taxes described in Subsections (8)(a)(i)(A) through (D) in the current fiscal year.

(ii) In any fiscal year in which the portion of the sales and use taxes deposited under Subsection (8)(a) would exceed 17% of the revenues collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) in the current fiscal year, the Division of Finance shall deposit 17% of the revenues collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) for the current fiscal year under Subsection (8)(a).

(iii) In all subsequent fiscal years after a year in which 17% of the revenues collected from the sales and use taxes described in Subsections (8)(a)(i)(A)

through (D) was deposited under Subsection (8)(a), the Division of Finance shall annually deposit 17% of the revenues collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) in the current fiscal year under Subsection (8)(a).

(9) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (7) and (8), for a fiscal year beginning on or after July 1, 2012, the Division of Finance shall annually deposit \$90,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section 72-2-124.

(10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

(11) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (11)(b), and in addition to any amounts deposited under Subsections (7), (8), and (9), beginning on July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .025% tax rate on the transactions described in Subsection (1).

(b) For purposes of Subsection (11)(a), the Division of Finance may not deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients described in Subsection (2)(d).

(12) (a) Notwithstanding Subsection (3)(a), and except as provided in Subsection (12)(b), beginning on January 1, 2009, the Division of Finance shall deposit into the Transportation Fund created by Section 72-2-102 the amount of tax revenue generated by a .025% tax rate on the transactions described in Subsection (1) to be expended to address chokepoints in construction management.

(b) For purposes of Subsection (12)(a), the Division of Finance may not deposit into the Transportation Fund any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients described in Subsection (2)(d).

(13) Notwithstanding Subsections (4) through (12), an amount required to be expended or deposited in accordance with Subsections (4) through (12) may not include an amount the Division of Finance deposits in accordance with Section 59-12-103.2.

Section 3. Section 59-12-104 is amended to read:

59-12-104. Exemptions.

~~[The following sales and uses are exempt]~~
Exemptions from the taxes imposed by this chapter are as follows:

(1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax under Chapter 13, Motor and Special Fuel Tax Act;

(2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political subdivisions; however, this exemption does not apply to sales of:

(a) construction materials except:

(i) construction materials purchased by or on behalf of institutions of the public education system as defined in Utah Constitution Article X, Section 2, provided the construction materials are clearly identified and segregated and installed or converted to real property which is owned by institutions of the public education system; and

(ii) construction materials purchased by the state, its institutions, or its political subdivisions which are installed or converted to real property by employees of the state, its institutions, or its political subdivisions; or

(b) tangible personal property in connection with the construction, operation, maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities providing additional project capacity, as defined in Section 11-13-103;

(3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

(i) the proceeds of each sale do not exceed \$1; and

(ii) the seller or operator of the vending machine reports an amount equal to 150% of the cost of the item described in Subsection (3)(b) as goods consumed; and

(b) Subsection (3)(a) applies to:

(i) food and food ingredients; or

(ii) prepared food;

(4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

(i) alcoholic beverages;

(ii) food and food ingredients; or

(iii) prepared food;

(b) sales of tangible personal property or a product transferred electronically:

(i) to a passenger;

(ii) by a commercial airline carrier; and

(iii) during a flight for in-flight consumption or in-flight use by the passenger; or

(c) services related to Subsection (4)(a) or (b);

(5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts and equipment:

(A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(II) for:

(Aa) installation in an aircraft, including services relating to the installation of parts or equipment in the aircraft;

(Bb) renovation of an aircraft; or

(Cc) repair of an aircraft; or

(B) for installation in an aircraft operated by a common carrier in interstate or foreign commerce; or

(ii) beginning on October 1, 2008, sales of parts and equipment for installation in an aircraft operated by a common carrier in interstate or foreign commerce; and

(b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a refund:

(i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;

(ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;

(iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for the sale prior to filing for the refund;

(iv) for sales and use taxes paid under this chapter on the sale;

(v) in accordance with Section 59-1-1410; and

(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before September 30, 2011;

(6) sales of commercials, motion picture films, prerecorded audio program tapes or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture exhibitor, distributor, or commercial television or radio broadcaster;

(7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal property if the cleaning or washing of the tangible personal property is not assisted cleaning or washing of tangible personal property;

(b) if a seller that sells at the same business location assisted cleaning or washing of tangible personal property and cleaning or washing of tangible personal property that is not assisted cleaning or washing of tangible personal property, the exemption described in Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning or washing of the tangible personal property; and

(c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3, Utah

Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for sales of assisted cleaning or washing of tangible personal property;

(8) sales made to or by religious or charitable institutions in the conduct of their regular religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are fulfilled;

(9) sales of a vehicle of a type required to be registered under the motor vehicle laws of this state if the vehicle is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the vehicle is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the vehicle to the borders of this state; or

(B) if the vehicle is used to conduct business, for the time period necessary to transport the vehicle to the borders of this state;

(10) (a) amounts paid for an item described in Subsection (10)(b) if:

(i) the item is intended for human use; and

(ii) (A) a prescription was issued for the item; or

(B) the item was purchased by a hospital or other medical facility; and

(b) (i) Subsection (10)(a) applies to:

(A) a drug;

(B) a syringe; or

(C) a stoma supply; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the terms:

(A) "syringe"; or

(B) "stoma supply";

(11) sales or use of property, materials, or services used in the construction of or incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;

(12) (a) sales of an item described in Subsection (12)(c) served by:

(i) the following if the item described in Subsection (12)(c) is not available to the general public:

(A) a church; or

(B) a charitable institution;

- (ii) an institution of higher education if:
- (A) the item described in Subsection (12)(c) is not available to the general public; or
- (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan offered by the institution of higher education; or
- (b) sales of an item described in Subsection (12)(c) provided for a patient by:
- (i) a medical facility; or
- (ii) a nursing facility; and
- (c) Subsections (12)(a) and (b) apply to:
- (i) food and food ingredients;
- (ii) prepared food; or
- (iii) alcoholic beverages;
- (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property or a product transferred electronically by a person:
- (i) regardless of the number of transactions involving the sale of that tangible personal property or product transferred electronically by that person; and
- (ii) not regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;
- (b) this Subsection (13) does not apply if:
- (i) the sale is one of a series of sales of a character to indicate that the person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;
- (ii) the person holds that person out as regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;
- (iii) the person sells an item of tangible personal property or product transferred electronically that the person purchased as a sale that is exempt under Subsection (25); or
- (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of this state in which case the tax is based upon:
- (A) the bill of sale or other written evidence of value of the vehicle or vessel being sold; or
- (B) in the absence of a bill of sale or other written evidence of value, the fair market value of the vehicle or vessel being sold at the time of the sale as determined by the commission; and
- (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing the circumstances under which:
- (i) a person is regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;
- (ii) a sale of tangible personal property or a product transferred electronically is one of a series of sales of a character to indicate that a person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;
- (iii) a person holds that person out as regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;
- ~~[(14) (a) except as provided in Subsection (14)(b), amounts paid or charged on or after July 1, 2006, for a purchase or lease by a manufacturing facility except for a cogeneration facility, of the following:]~~
- ~~[(i) machinery and equipment that:]~~
- ~~[(A) are used:]~~
- ~~[(I) for a manufacturing facility except for a manufacturing facility that is a scrap recycler described in Subsection 59-12-102(64)(b):]~~
- ~~[(Aa) in the manufacturing process:]~~
- ~~[(Bb) to manufacture an item sold as tangible personal property; and]~~
- ~~[(Cc) beginning on July 1, 2009, in a manufacturing facility described in this Subsection (14)(a)(i)(A)(I) in the state; or]~~
- ~~[(II) for a manufacturing facility that is a scrap recycler described in Subsection 59-12-102(64)(b):]~~
- ~~[(Aa) to process an item sold as tangible personal property; and]~~
- ~~[(Bb) beginning on July 1, 2009, in a manufacturing facility described in this Subsection (14)(a)(i)(A)(II) in the state; and]~~
- ~~[(B) have an economic life of three or more years; and]~~
- ~~[(ii) normal operating repair or replacement parts that:]~~
- ~~[(A) have an economic life of three or more years; and]~~
- ~~[(B) are used:]~~
- ~~[(I) for a manufacturing facility except for a manufacturing facility that is a scrap recycler described in Subsection 59-12-102(64)(b):]~~
- ~~[(Aa) in the manufacturing process; and]~~
- ~~[(Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(I) in the state; or]~~
- ~~[(II) for a manufacturing facility that is a scrap recycler described in Subsection 59-12-102(64)(b):]~~
- ~~[(Aa) to process an item sold as tangible personal property; and]~~
- ~~[(Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(II) in the state;]~~
- ~~[(b) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006, of the following:]~~

~~[(i) machinery and equipment that:]~~

~~[(A) are used:]~~

~~[(I) in the manufacturing process:]~~

~~[(II) to manufacture an item sold as tangible personal property; and]~~

~~[(III) beginning on July 1, 2009, in a manufacturing facility described in this Subsection (14)(b) in the state; and]~~

~~[(B) have an economic life of three or more years; and]~~

~~[(ii) normal operating repair or replacement parts that:]~~

~~[(A) are used:]~~

~~[(I) in the manufacturing process; and]~~

~~[(II) in a manufacturing facility described in this Subsection (14)(b) in the state; and]~~

~~[(B) have an economic life of three or more years;]~~

~~(14) (a) amounts paid or charged for a purchase or lease:~~

~~(i) by a manufacturing facility located in the state; and~~

~~(ii) of machinery, equipment, or normal operating repair or replacement parts if the machinery, equipment, or normal operating repair or replacement parts have an economic life of three or more years and are used:~~

~~(A) in the manufacturing process to manufacture an item sold as tangible personal property; or~~

~~(B) for a scrap recycler, to process an item sold as tangible personal property;~~

~~[(e) (b) amounts paid or charged for a purchase or lease [made on or after January 1, 2008,]:~~

~~(i) by an establishment:~~

~~(A) described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget[, of the following]; and~~

~~[(i) machinery and equipment that:]~~

~~[(A) are used:]~~

~~[(I) (Aa) in the production process, other than the production of real property; or]~~

~~[(Bb) in research and development; and]~~

~~[(II) beginning on July 1, 2009, in an establishment described in this Subsection (14)(e) in the state; and]~~

~~[(B) have an economic life of three or more years; and]~~

~~[(ii) normal operating repair or replacement parts that:]~~

~~[(A) have an economic life of three or more years; and]~~

~~[(B) are used in:]~~

~~[(I) (Aa) the production process, except for the production of real property; and]~~

~~[(Bb) an establishment described in this Subsection (14)(c) in the state; or]~~

~~[(II) (Aa) research and development; and]~~

~~[(Bb) in an establishment described in this Subsection (14)(e) in the state;]~~

~~[(d) (i) amounts paid or charged for a purchase or lease made on or after July 1, 2010, but on or before June 30, 2014, by an establishment described in NAICS Code 518112, Web Search Portals, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, of the following:]~~

~~[(A) machinery and equipment that:]~~

~~[(I) are used in the operation of the web search portal;]~~

~~[(II) have an economic life of three or more years; and]~~

~~[(III) are used in a new or expanding establishment described in this Subsection (14)(d) in the state; and]~~

~~[(B) normal operating repair or replacement parts that:]~~

~~[(I) are used in the operation of the web search portal;]~~

~~[(II) have an economic life of three or more years; and]~~

~~[(III) are used in a new or expanding establishment described in this Subsection (14)(d) in the state; or]~~

~~(B) located in the state; and~~

~~(ii) of machinery, equipment, or normal operating repair or replacement parts if the machinery, equipment, or normal operating repair or replacement parts have an economic life of three or more years and are used in:~~

~~(A) the production process to produce an item sold as tangible personal property;~~

~~(B) research and development;~~

~~(C) transporting, storing, or managing tailings, overburden, or similar waste materials produced from mining;~~

~~(D) developing or maintaining a road, tunnel, excavation, or similar feature used in mining; or~~

~~(E) preventing, controlling, or reducing dust or other pollutants from mining;~~

~~[(ii) (c) amounts paid or charged for a purchase or lease [made on or after July 1, 2014,]:~~

(i) by an establishment:

(A) described in NAICS Code 518112, Web Search Portals, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, ~~of the following;~~ and

~~[(A) machinery and equipment that:]~~

(B) located in the state; and

(ii) of machinery, equipment, or normal operating repair or replacement parts if the machinery, equipment, or normal operating repair or replacement parts:

~~[(4) (A) are used in the operation of the web search portal; and~~

~~[(4)] (B) have an economic life of three or more years; [and]~~

~~[(B) normal operating repair or replacement parts that:]~~

~~[(4) are used in the operation of the web search portal; and]~~

~~[(4)] have an economic life of three or more years;]~~

[(e) (d) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission:

(i) shall by rule define the term "establishment"; and

(ii) may by rule define what constitutes:

(A) processing an item sold as tangible personal property;

(B) the production process, [except for the production of real property;] to produce an item sold as tangible personal property; or

(C) research and development; ~~or~~ and

~~[(D) a new or expanding establishment described in Subsection (14)(d) in the state; and]~~

~~[(4)] (e) on or before October 1, [2011] 2016, and every five years after October 1, [2011] 2016, the commission shall:~~

(i) review the exemptions described in this Subsection (14) and make recommendations to the Revenue and Taxation Interim Committee concerning whether the exemptions should be continued, modified, or repealed; and

(ii) include in its report:

(A) an estimate of the cost of the exemptions;

(B) the purpose and effectiveness of the exemptions; and

(C) the benefits of the exemptions to the state;

(15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

(i) tooling;

(ii) special tooling;

(iii) support equipment;

(iv) special test equipment; or

(v) parts used in the repairs or renovations of tooling or equipment described in Subsections (15)(a)(i) through (iv); and

(b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

(i) the tooling, equipment, or parts are used or consumed exclusively in the performance of any aerospace or electronics industry contract with the United States government or any subcontract under that contract; and

(ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as evidenced by:

(A) a government identification tag placed on the tooling, equipment, or parts; or

(B) listing on a government-approved property record if placing a government identification tag on the tooling, equipment, or parts is impractical;

(16) sales of newspapers or newspaper subscriptions;

(17) (a) except as provided in Subsection (17)(b), tangible personal property or a product transferred electronically traded in as full or part payment of the purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

(i) the bill of sale or other written evidence of value of the vehicle being sold and the vehicle being traded in; or

(ii) in the absence of a bill of sale or other written evidence of value, the then existing fair market value of the vehicle being sold and the vehicle being traded in, as determined by the commission; and

(b) Subsection (17)(a) does not apply to the following items of tangible personal property or products transferred electronically traded in as full or part payment of the purchase price:

(i) money;

(ii) electricity;

(iii) water;

(iv) gas; or

(v) steam;

(18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property or a product transferred electronically used or consumed primarily and directly in farming operations, regardless of whether the tangible personal property or product transferred electronically:

(A) becomes part of real estate; or

(B) is installed by a:

(I) farmer;

(II) contractor; or

(III) subcontractor; or

(ii) sales of parts used in the repairs or renovations of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is exempt under Subsection (18)(a)(i); and

(b) amounts paid or charged for the following are subject to the taxes imposed by this chapter:

(i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is incidental to farming:

(I) machinery;

(II) equipment;

(III) materials; or

(IV) supplies; and

(B) tangible personal property that is considered to be used in a manner that is incidental to farming includes:

(I) hand tools; or

(II) maintenance and janitorial equipment and supplies;

(ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is used in an activity other than farming; and

(B) tangible personal property or a product transferred electronically that is considered to be used in an activity other than farming includes:

(I) office equipment and supplies; or

(II) equipment and supplies used in:

(Aa) the sale or distribution of farm products;

(Bb) research; or

(Cc) transportation; or

(iii) a vehicle required to be registered by the laws of this state during the period ending two years after the date of the vehicle's purchase;

(19) sales of hay;

(20) exclusive sale during the harvest season of seasonal crops, seedling plants, or garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or garden, farm, or other agricultural produce is sold by:

(a) the producer of the seasonal crops, seedling plants, or garden, farm, or other agricultural produce;

(b) an employee of the producer described in Subsection (20)(a); or

(c) a member of the immediate family of the producer described in Subsection (20)(a);

(21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

(22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags, nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler, or retailer for use in packaging tangible personal property to be sold by that manufacturer, processor, wholesaler, or retailer;

(23) a product stored in the state for resale;

(24) (a) purchases of a product if:

(i) the product is:

(A) purchased outside of this state;

(B) brought into this state:

(I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

(II) by a nonresident person who is not living or working in this state at the time of the purchase;

(C) used for the personal use or enjoyment of the nonresident person described in Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

(D) not used in conducting business in this state; and

(ii) for:

(A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of the product for a purpose for which the product is designed occurs outside of this state;

(B) a boat, the boat is registered outside of this state; or

(C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;

(b) the exemption provided for in Subsection (24)(a) does not apply to:

(i) a lease or rental of a product; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (24)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(ii) the first use of a product if that phrase has the same meaning in this Subsection (24) as in Subsection (63); or

(iii) a purpose for which a product is designed if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(25) a product purchased for resale in this state, in the regular course of business, either in its

original form or as an ingredient or component part of a manufactured or compounded product;

(26) a product upon which a sales or use tax was paid to some other state, or one of its subdivisions, except that the state shall be paid any difference between the tax paid and the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;

(27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person for use in compounding a service taxable under the subsections;

(28) purchases made in accordance with the special supplemental nutrition program for women, infants, and children established in 42 U.S.C. Sec. 1786;

(29) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

- (a) not registered in this state; and
- (b) (i) not used in this state; or
- (ii) used in this state:

(A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a time period that does not exceed the longer of:

- (I) 30 days in any calendar year; or

(II) the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state; or

(B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state;

(31) sales of aircraft manufactured in Utah;

(32) amounts paid for the purchase of telecommunications service for purposes of providing telecommunications service;

(33) sales, leases, or uses of the following:

- (a) a vehicle by an authorized carrier; or
- (b) tangible personal property that is installed on a vehicle:
 - (i) sold or leased to or used by an authorized carrier; and
 - (ii) before the vehicle is placed in service for the first time;

(34) (a) 45% of the sales price of any new manufactured home; and

(b) 100% of the sales price of any used manufactured home;

(35) sales relating to schools and fundraising sales;

(36) sales or rentals of durable medical equipment if:

(a) a person presents a prescription for the durable medical equipment; and

(b) the durable medical equipment is used for home use only;

(37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in Section 72-11-102; and

(b) the commission shall by rule determine the method for calculating sales exempt under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

(38) sales to a ski resort of:

(a) snowmaking equipment;

(b) ski slope grooming equipment;

(c) passenger ropeways as defined in Section 72-11-102; or

(d) parts used in the repairs or renovations of equipment or passenger ropeways described in Subsections (38)(a) through (c);

(39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

(40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for amusement, entertainment, or recreation an unassisted amusement device as defined in Section 59-12-102;

(b) if a seller that sells or rents at the same business location the right to use or operate for amusement, entertainment, or recreation one or more unassisted amusement devices and one or more assisted amusement devices, the exemption described in Subsection (40)(a) applies if the seller separately accounts for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for the assisted amusement devices; and

(c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for assisted amusement devices;

(41) (a) sales of photocopies by:

(i) a governmental entity; or

(ii) an entity within the state system of public education, including:

(A) a school; or

(B) the State Board of Education; or

(b) sales of publications by a governmental entity;

(42) amounts paid for admission to an athletic event at an institution of higher education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(43) (a) sales made to or by:

(i) an area agency on aging; or

(ii) a senior citizen center owned by a county, city, or town; or

(b) sales made by a senior citizen center that contracts with an area agency on aging;

(44) sales or leases of semiconductor fabricating, processing, research, or development materials regardless of whether the semiconductor fabricating, processing, research, or development materials:

(a) actually come into contact with a semiconductor; or

(b) ultimately become incorporated into real property;

(45) an amount paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section 59-12-104.2;

(46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary sports event registration certificate in accordance with Section 41-3-306 for the event period specified on the temporary sports event registration certificate;

(47) (a) sales or uses of electricity, if the sales or uses are made under a tariff adopted by the Public Service Commission of Utah only for purchase of electricity produced from a new alternative energy source, as designated in the tariff by the Public Service Commission of Utah; and

(b) the exemption under Subsection (47)(a) applies to the portion of the tariff rate a customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

(48) sales or rentals of mobility enhancing equipment if a person presents a prescription for the mobility enhancing equipment;

(49) sales of water in a:

(a) pipe;

(b) conduit;

(c) ditch; or

(d) reservoir;

(50) sales of currency or coins that constitute legal tender of a state, the United States, or a foreign nation;

(51) (a) sales of an item described in Subsection (51)(b) if the item:

(i) does not constitute legal tender of a state, the United States, or a foreign nation; and

(ii) has a gold, silver, or platinum content of 50% or more; and

(b) Subsection (51)(a) applies to a gold, silver, or platinum:

(i) ingot;

(ii) bar;

(iii) medallion; or

(iv) decorative coin;

(52) amounts paid on a sale-leaseback transaction;

(53) sales of a prosthetic device:

(a) for use on or in a human; and

(b) (i) for which a prescription is required; or

(ii) if the prosthetic device is purchased by a hospital or other medical facility;

(54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) if the machinery or equipment is primarily used in the production or postproduction of the following media for commercial distribution:

(i) a motion picture;

(ii) a television program;

(iii) a movie made for television;

(iv) a music video;

(v) a commercial;

(vi) a documentary; or

(vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the commission by administrative rule made in accordance with Subsection (54)(d); or

(b) purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) that is used for the production or postproduction of the following are subject to the taxes imposed by this chapter:

(i) a live musical performance;

(ii) a live news program; or

(iii) a live sporting event;

(c) the following establishments listed in the 1997 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, apply to Subsections (54)(a) and (b):

(i) NAICS Code 512110; or

- (ii) NAICS Code 51219; and
- (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule:
- (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi); or
- (ii) define:
- (A) “commercial distribution”;
- (B) “live musical performance”;
- (C) “live news program”;
- (D) “live sporting event”;
- (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:
- (i) is leased or purchased for or by a facility that:
- (A) is an alternative energy electricity production facility;
- (B) is located in the state; and
- (C) (I) becomes operational on or after July 1, 2004; or
- (II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;
- (ii) has an economic life of five or more years; and
- (iii) is used to make the facility or the increase in capacity of the facility described in Subsection (55)(a)(i) operational up to the point of interconnection with an existing transmission grid including:
- (A) a wind turbine;
- (B) generating equipment;
- (C) a control and monitoring system;
- (D) a power line;
- (E) substation equipment;
- (F) lighting;
- (G) fencing;
- (H) pipes; or
- (I) other equipment used for locating a power line or pole; and
- (b) this Subsection (55) does not apply to:
- (i) tangible personal property used in construction of:
- (A) a new alternative energy electricity production facility; or
- (B) the increase in the capacity of an alternative energy electricity production facility;
- (ii) contracted services required for construction and routine maintenance activities; and
- (iii) unless the tangible personal property is used or acquired for an increase in capacity of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or acquired after:
- (A) the alternative energy electricity production facility described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or
- (B) the increased capacity described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii);
- (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:
- (i) is leased or purchased for or by a facility that:
- (A) is a waste energy production facility;
- (B) is located in the state; and
- (C) (I) becomes operational on or after July 1, 2004; or
- (II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;
- (ii) has an economic life of five or more years; and
- (iii) is used to make the facility or the increase in capacity of the facility described in Subsection (56)(a)(i) operational up to the point of interconnection with an existing transmission grid including:
- (A) generating equipment;
- (B) a control and monitoring system;
- (C) a power line;
- (D) substation equipment;
- (E) lighting;
- (F) fencing;
- (G) pipes; or
- (H) other equipment used for locating a power line or pole; and
- (b) this Subsection (56) does not apply to:
- (i) tangible personal property used in construction of:
- (A) a new waste energy facility; or
- (B) the increase in the capacity of a waste energy facility;
- (ii) contracted services required for construction and routine maintenance activities; and
- (iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:
- (A) the waste energy facility described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii); or

(B) the increased capacity described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii);

(57) (a) leases of five or more years or purchases made on or after July 1, 2004 but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is located in the state;

(B) produces fuel from alternative energy, including:

(I) methanol; or

(II) ethanol; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as a result of the installation of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is installed on the facility described in Subsection (57)(a)(i);

(b) this Subsection (57) does not apply to:

(i) tangible personal property used in construction of:

(A) a new facility described in Subsection (57)(a)(i); or

(B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the facility described in Subsection (57)(a)(i) is operational; or

(B) the increased capacity described in Subsection (57)(a)(i) is operational;

(58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a product transferred electronically to a person within this state if that tangible personal property or product transferred electronically is subsequently shipped outside the state and incorporated pursuant to contract into and becomes a part of real property located outside of this state;

(b) the exemption under Subsection (58)(a) is not allowed to the extent that the other state or political entity to which the tangible personal property is shipped imposes a sales, use, gross receipts, or other similar transaction excise tax on the transaction against which the other state or political entity allows a credit for sales and use taxes imposed by this chapter; and

(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may

claim the exemption allowed by this Subsection (58) for a sale by filing for a refund:

(i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

(ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on which the sale is made;

(iii) if the person did not claim the exemption allowed by this Subsection (58) for the sale prior to filing for the refund;

(iv) for sales and use taxes paid under this chapter on the sale;

(v) in accordance with Section 59-1-1410; and

(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before June 30, 2011;

(59) purchases:

(a) of one or more of the following items in printed or electronic format:

(i) a list containing information that includes one or more:

(A) names; or

(B) addresses; or

(ii) a database containing information that includes one or more:

(A) names; or

(B) addresses; and

(b) used to send direct mail;

(60) redemptions or repurchases of a product by a person if that product was:

(a) delivered to a pawnbroker as part of a pawn transaction; and

(b) redeemed or repurchased within the time period established in a written agreement between the person and the pawnbroker for redeeming or repurchasing the product;

(61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

(i) is purchased or leased by, or on behalf of, a telecommunications service provider; and

(ii) has a useful economic life of one or more years; and

(b) the following apply to Subsection (61)(a):

(i) telecommunications enabling or facilitating equipment, machinery, or software;

(ii) telecommunications equipment, machinery, or software required for 911 service;

(iii) telecommunications maintenance or repair equipment, machinery, or software;

(iv) telecommunications switching or routing equipment, machinery, or software; or

(v) telecommunications transmission equipment, machinery, or software;

(62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, for purposes of Subsection (62)(a), make rules defining what constitutes purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology;

(63) (a) purchases of tangible personal property or a product transferred electronically if:

(i) the tangible personal property or product transferred electronically is:

(A) purchased outside of this state;

(B) brought into this state at any time after the purchase described in Subsection (63)(a)(i)(A); and

(C) used in conducting business in this state; and

(ii) for:

(A) tangible personal property or a product transferred electronically other than the tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property for a purpose for which the property is designed occurs outside of this state; or

(B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;

(b) the exemption provided for in Subsection (63)(a) does not apply to:

(i) a lease or rental of tangible personal property or a product transferred electronically; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (63)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(ii) the first use of tangible personal property or a product transferred electronically if that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

(iii) a purpose for which tangible personal property or a product transferred electronically is designed if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(64) sales of disposable home medical equipment or supplies if:

(a) a person presents a prescription for the disposable home medical equipment or supplies;

(b) the disposable home medical equipment or supplies are used exclusively by the person to whom the prescription described in Subsection (64)(a) is issued; and

(c) the disposable home medical equipment and supplies are listed as eligible for payment under:

(i) Title XVIII, federal Social Security Act; or

(ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

(65) sales:

(a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act; or

(b) of tangible personal property to a subcontractor of a public transit district, if the tangible personal property is:

(i) clearly identified; and

(ii) installed or converted to real property owned by the public transit district;

(66) sales of construction materials:

(a) purchased on or after July 1, 2010;

(b) purchased by, on behalf of, or for the benefit of an international airport:

(i) located within a county of the first class; and

(ii) that has a United States customs office on its premises; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the international airport described in Subsection (66)(b); and

(B) located at the international airport described in Subsection (66)(b);

(67) sales of construction materials:

(a) purchased on or after July 1, 2008;

(b) purchased by, on behalf of, or for the benefit of a new airport:

(i) located within a county of the second class; and

(ii) that is owned or operated by a city in which an airline as defined in Section 59-2-102 is headquartered; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the new airport described in Subsection (67)(b);

(B) located at the new airport described in Subsection (67)(b); and

(C) as part of the construction of the new airport described in Subsection (67)(b);

(68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;

(69) purchases and sales described in Section 63H-4-111;

(70) (a) sales of tangible personal property to an aircraft maintenance, repair, and overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft; or

(b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft;

(71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

(a) to a person admitted to an institution of higher education; and

(b) by a seller, other than a bookstore owned by an institution of higher education, if 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a textbook for a higher education course;

(72) a license fee or tax a municipality imposes in accordance with Subsection 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced level of municipal services;

(73) amounts paid or charged for construction materials used in the construction of a new or expanding life science research and development facility in the state, if the construction materials are:

- (a) clearly identified;
- (b) segregated; and
- (c) installed or converted to real property;

(74) amounts paid or charged for:

(a) a purchase or lease of machinery and equipment that:

- (i) are used in performing qualified research:

(A) as defined in Section 59-7-612;

(B) in the state; and

(C) with respect to which the purchaser pays or incurs a qualified research expense as defined in Section 59-7-612; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts:

(i) for the machinery and equipment described in Subsection (74)(a); and

(ii) that have an economic life of three or more years;

(75) a sale or lease of tangible personal property used in the preparation of prepared food if:

(a) for a sale:

(i) the ownership of the seller and the ownership of the purchaser are identical; and

(ii) the seller or the purchaser paid a tax under this chapter on the purchase of that tangible personal property prior to making the sale; or

(b) for a lease:

(i) the ownership of the lessor and the ownership of the lessee are identical; and

(ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible personal property prior to making the lease;

(76) (a) purchases of machinery or equipment if:

(i) the purchaser is an establishment described in NAICS Subsector 713, Amusement, Gambling, and Recreation Industries, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) the machinery or equipment:

(A) has an economic life of three or more years; and

(B) is used by one or more persons who pay admission or user fees described in Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and

(iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:

(A) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(B) subject to taxation under this chapter;

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for verifying that 51% of a purchaser's sales revenue for the previous calendar quarter is:

(i) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(ii) subject to taxation under this chapter; and

(c) on or before the November 2018 interim meeting, and every five years after the November 2018 interim meeting, the commission shall review the exemption provided in this Subsection (76) and report to the Revenue and Taxation Interim Committee on:

(i) the revenue lost to the state and local taxing jurisdictions as a result of the exemption;

(ii) the purpose and effectiveness of the exemption; and

(iii) whether the exemption benefits the state;

(77) purchases of a short-term lodging consumable by a business that provides accommodations and services described in Subsection 59-12-103(1)(i);

(78) amounts paid or charged to access a database:

(a) if the primary purpose for accessing the database is to view or retrieve information from the database; and

(b) not including amounts paid or charged for a:

(i) digital audiowork;

(ii) digital audio-visual work; or

(iii) digital book;

(79) amounts paid or charged for a purchase or lease made by an electronic financial payment service, of:

(a) machinery and equipment that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years; and

(80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102.

Section 4. Effective date.

This bill takes effect on July 1, 2014.

CHAPTER 381**S. B. 67**

Passed March 11, 2014

Approved April 1, 2014

Effective May 13, 2014

**AMENDMENTS TO
PUBLIC UTILITIES TITLE**

Chief Sponsor: J. Stuart Adams

House Sponsor: Don L. Ipson

LONG TITLE**General Description:**

This bill amends Title 54, Public Utilities, and related provisions.

Highlighted Provisions:

This bill:

- ▶ defines terms and modifies definitions, including addressing entities that are not included in the definition of “electrical corporation” or “public utility”;
- ▶ provides that a public utility is not required to furnish or provide electric service under certain circumstances;
- ▶ provides procedures for certain customers to transfer service from a public utility to a nonutility energy supplier;
- ▶ addresses the applicability of certain provisions within the Public Utilities title; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17B-2a-406, as last amended by Laws of Utah 2009, Chapter 384

54-2-1, as last amended by Laws of Utah 2010, Chapters 302 and 390

54-3-8, as last amended by Laws of Utah 2010, Chapter 390

54-4-2, as last amended by Laws of Utah 2010, Chapter 390

54-15-108, as enacted by Laws of Utah 2010, Chapter 302

ENACTS:

54-3-32, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17B-2a-406 is amended to read:**17B-2a-406. Improvement districts providing electric service -- Public Service Commission jurisdiction -- Exceptions.**

(1) As used in this section:

(a) “Commission” means the Public Service Commission of Utah established in Section 54-1-1.

(b) “Electric corporation” has the same meaning as “electrical corporation” defined in Section 54-2-1.

(c) “Electric improvement district” means an improvement district that provides electric service as authorized under Subsection 17B-2a-403(1)(a)(iv).

(d) “Stranded asset” means an asset that:

(i) an electric corporation owns and operates;

(ii) is designed to serve an area that is:

(A) within the electric corporation’s certificated service area before the area is removed from the certificated service area by commission order as provided in Subsection (3)(b)(i)(B)(II); and

(B) within the boundary of an electric improvement district; and

(iii) will not be useful to or used by the electric corporation after removal of the area from the electric corporation’s certificated service area.

(2) An electric improvement district is a public utility and subject to the jurisdiction of the commission.

(3) (a) Except as provided in Subsection (3)(b), an electric improvement district:

(i) may include only an area where:

(A) no retail electricity has been provided to commercial, industrial, residential, and other users of electricity from an investor-owned utility within any part of an area certificated by the commission or an area adjacent to that area, municipal agency, or electric cooperative within the five years immediately preceding September 1, 1985; and

(B) electric service is provided to at least one user of electricity within the electric service district as of September 1, 1985; and

(ii) shall have filed an application for certification and received approval by the commission by September 1, 1986.

(b) (i) An electric improvement district created after May 11, 2009 may provide electric service within the boundary of the improvement district if:

(A) no part of the boundary of the electric improvement district is closer than 40 miles to an existing service line of an electric corporation;

(B) (I) no part of the area within the boundary of the electric improvement district is within the certificated service area of an electric corporation; or

(II) the area within the boundary of the electric improvement district that is also within the certificated service area of an electric corporation is removed from the electric corporation’s certificated service area by commission order in a proceeding initiated by a petition filed by and at the discretion of the electric corporation; and

(C) before January 1, 2010, the electric improvement district receives a certificate of public convenience and necessity from the commission authorizing the electric improvement district to provide electric service to the area within the boundary of the electric improvement district.

(ii) An electric improvement district that provides electric service as provided in Subsection (3)(b)(i) shall pay an electric corporation an amount equal to the fair market value of each stranded asset of the electric corporation.

(4) Nothing in this part may be construed to give the commission jurisdiction over:

(a) an improvement district, other than an electric improvement district;

(b) a municipality; or

(c) an association of municipalities organized under Title 11, Chapter 13, Interlocal Cooperation Act.

(5) Before an electric improvement district serves any customer, the electric improvement district shall obtain a certificate of public convenience and necessity from the commission.

(6) (a) Section 54-7-12 does not apply to rate changes of an electric improvement district if:

(i) the district is organized for the purpose of distributing electricity to customers within the boundary of the district on a not-for-profit basis;

(ii) the schedule of new rates or other change that results in new rates has been approved by the board of trustees of the district;

(iii) prior to the implementation of any rate increases, the district first holds a public meeting for all its customers to whom mailed notice of the meeting is sent at least 10 days prior to the meeting; and

(iv) the district has filed the schedule of new rates or other change with the commission.

(b) The commission shall make the district's schedule of new rates or other change available for public inspection.

Section 2. Section 54-2-1 is amended to read:

54-2-1. Definitions.

As used in this title:

(1) "Avoided costs" means the incremental costs to an electrical corporation of electric energy or capacity or both that, due to the purchase of electric energy or capacity or both from small power production or cogeneration facilities, the electrical corporation would not have to generate itself or purchase from another electrical corporation.

(2) "Cogeneration facility":

(a) means a facility that produces:

(i) electric energy; and

(ii) steam or forms of useful energy, including heat, that are used for industrial, commercial, heating, or cooling purposes; and

(b) is a qualifying cogeneration facility under federal law.

(3) "Commission" means the Public Service Commission of Utah.

(4) "Commissioner" means a member of the commission.

(5) (a) "Corporation" includes an association and a joint stock company having any powers or privileges not possessed by individuals or partnerships.

(b) "Corporation" does not include towns, cities, counties, conservancy districts, improvement districts, or other governmental units created or organized under any general or special law of this state.

(6) "Distribution electrical cooperative" includes an electrical corporation that:

(a) is a cooperative;

(b) conducts a business that includes the retail distribution of electricity the cooperative purchases or generates for the cooperative's members; and

(c) is required to allocate or distribute savings in excess of additions to reserves and surplus on the basis of patronage to the cooperative's:

(i) members; or

(ii) patrons.

(7) (a) "Electrical corporation" includes every corporation, cooperative association, and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any electric plant, or in any way furnishing electric power for public service or to its consumers or members for domestic, commercial, or industrial use, within this state~~[, except]~~.

(b) "Electrical corporation" does not include:

(i) an independent energy [producers, and except] producer;

(ii) where electricity is generated on or distributed by the producer solely for the producer's own use, or the use of the producer's tenants, or [for] the use of members of an association of unit owners formed under Title 57, Chapter 8, Condominium Ownership Act, and not for sale to the public generally[, and except where the electricity generated is consumed by an owner, lessor, or interest holder, or by an affiliate of an owner, lessor, or interest holder, who has provided at least \$25,000,000 in value, including credit support, relating to the electric plant furnishing the electricity and whose consumption does not exceed its long-term entitlement in the plant under a long-term arrangement other than a power purchase agreement, except a power purchase agreement with an electrical corporation.];

(iii) an eligible customer who provides electricity for the eligible customer's own use or the use of the eligible customer's tenant or affiliate; or

(iv) a nonutility energy supplier who sells or provides electricity to:

(A) an eligible customer who has transferred the eligible customer's service to the nonutility energy supplier in accordance with Section 54-3-32; or

(B) the eligible customer's tenant or affiliate.

(8) "Electric plant" includes all real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate the production, generation, transmission, delivery, or furnishing of electricity for light, heat, or power, and all conduits, ducts, or other devices, materials, apparatus, or property for containing, holding, or carrying conductors used or to be used for the transmission of electricity for light, heat, or power.

(9) "Eligible customer" means a person who:

(a) on December 31, 2013:

(i) was a customer of a public utility that, on December 31, 2013, had more than 200,000 retail customers in this state; and

(ii) owned an electric plant that is an electric generation plant that, on December 31, 2013, had a generation name plate capacity of greater than 150 megawatts; and

(b) produces electricity:

(i) from a qualifying power production facility for sale to a public utility in this state;

(ii) primarily for the eligible customer's own use; or

(iii) for the use of the eligible customer's tenant or affiliate.

(10) "Eligible customer's tenant or affiliate" means one or more tenants or affiliates:

(a) of an eligible customer; and

(b) who are primarily engaged in an activity:

(i) related to the eligible customer's core mining or industrial businesses; and

(ii) performed on real property that is:

(A) within a 25-mile radius of the electric plant described in Subsection (9)(a)(ii); and

(B) owned by, controlled by, or under common control with, the eligible customer.

~~(9)~~ (11) "Gas corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any gas plant for public service within this state or for the selling or furnishing of natural gas to any consumer or consumers within the state for domestic, commercial, or industrial use, except in the situation that:

(a) gas is made or produced on, and distributed by the maker or producer through, private property:

(i) solely for the maker's or producer's own use or the use of the maker's or producer's tenants; and

(ii) not for sale to others;

(b) gas is compressed on private property solely for the owner's own use or the use of the owner's employees as a motor vehicle fuel; or

(c) gas is compressed by a retailer of motor vehicle fuel on the retailer's property solely for sale as a motor vehicle fuel.

~~(10)~~ (12) "Gas plant" includes all real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate the production, generation, transmission, delivery, or furnishing of gas, natural or manufactured, for light, heat, or power.

~~(11)~~ (13) "Heat corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any heating plant for public service within this state.

~~(12)~~ (14) (a) "Heating plant" includes all real estate, fixtures, machinery, appliances, and personal property controlled, operated, or managed in connection with or to facilitate the production, generation, transmission, delivery, or furnishing of artificial heat.

(b) "Heating plant" does not include either small power production facilities or cogeneration facilities.

~~(13)~~ (15) "Independent energy producer" means every electrical corporation, person, corporation, or government entity, their lessees, trustees, or receivers, that own, operate, control, or manage an independent power production or cogeneration facility.

~~(14)~~ (16) "Independent power production facility" means a facility that:

(a) produces electric energy solely by the use, as a primary energy source, of biomass, waste, a renewable resource, a geothermal resource, or any combination of the preceding sources; or

(b) is a qualifying power production facility.

(17) "Nonutility energy supplier" means a person that:

(a) has received market-based rate authority from the Federal Energy Regulatory Commission in accordance with 16 U.S.C. Sec. 824d, 18 C.F.R. Part 35, Filing of Rate Schedules and Tariffs, or applicable Federal Energy Regulatory Commission orders; or

(b) owns, leases, operates, or manages an electric plant that is an electric generation plant that:

(i) has a capacity of greater than 100 megawatts; and

(ii) is hosted on the site of an eligible customer that consumes the output of the electric plant, in whole or in part, for the eligible customer's own use or the use of the eligible customer's tenant or affiliate.

~~(15)~~ (18) "Private telecommunications system" includes all facilities for the transmission of signs, signals, writing, images, sounds, messages, data, or other information of any nature by wire, radio, lightwaves, or other electromagnetic means, excluding mobile radio facilities, that are owned, controlled, operated, or managed by a corporation

or person, including their lessees, trustees, receivers, or trustees appointed by any court, for the use of that corporation or person and not for the shared use with or resale to any other corporation or person on a regular basis.

~~[(16)]~~ (19) (a) "Public utility" includes every railroad corporation, gas corporation, electrical corporation, distribution electrical cooperative, wholesale electrical cooperative, telephone corporation, telegraph corporation, water corporation, sewerage corporation, heat corporation, and independent energy producer not described in Subsection ~~[(16)]~~ (19)(d), where the service is performed for, or the commodity delivered to, the public generally, or in the case of a gas corporation or electrical corporation where the gas or electricity is sold or furnished to any member or consumers within the state for domestic, commercial, or industrial use.

(b) (i) If any railroad corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewerage corporation, heat corporation, or independent energy producer not described in Subsection ~~[(16)]~~ (19)(d), performs a service for or delivers a commodity to the public, it is considered to be a public utility, subject to the jurisdiction and regulation of the commission and this title.

(ii) If a gas corporation, independent energy producer not described in Subsection ~~[(16)]~~ (19)(d), or electrical corporation sells or furnishes gas or electricity to any member or consumers within the state, for domestic, commercial, or industrial use, for which any compensation or payment is received, it is considered to be a public utility, subject to the jurisdiction and regulation of the commission and this title.

(c) Any corporation or person not engaged in business exclusively as a public utility as defined in this section is governed by this title in respect only to the public utility owned, controlled, operated, or managed by the corporation or person, and not in respect to any other business or pursuit.

(d) An independent energy producer is exempt from the jurisdiction and regulations of the commission with respect to an independent power production facility if it meets the requirements of Subsection ~~[(16)]~~ (19)(d)(i), (ii), (iii), or (iv), or any combination of these:

(i) the commodity or service is produced or delivered, or both, by an independent energy producer solely for ~~[the uses exempted in Subsection (7)]~~ a use described in Subsections (7)(b)(ii) through (iv) or for the use of state-owned facilities;

(ii) the commodity or service is sold by an independent energy producer solely to an electrical corporation or other wholesale purchaser;

(iii) (A) the commodity or service produced or delivered by the independent energy producer is delivered to an entity that controls, is controlled by, or affiliated with the independent energy producer

or to a user located on real property managed or controlled by the independent energy producer; and

(B) the real property on which the service or commodity is used is contiguous to real property ~~[which] that~~ is owned or controlled by the independent energy producer~~[-Parcels of real property]~~ or is separated ~~[solely] only~~ by a public ~~[roads or easements for public roads shall be considered as contiguous for purposes of this Subsection (16)]~~ road or an easement for a public road; or

(iv) the independent energy producer:

(A) supplies energy for direct consumption by a customer that is:

(I) a county, municipality, city, town, other political subdivision, local district, special service district, state institution of higher education, school district, charter school, or any entity within the state system of public education; or

(II) an entity qualifying as a charitable organization under 26 U.S.C. Sec. 501(c)(3) operated for religious, charitable, or educational purposes that is exempt from federal income tax and able to demonstrate its tax-exempt status;

(B) supplies energy to the customer through use of a customer generation system, as defined in Section 54-15-102, for use on the real property where the customer generation system is located;

(C) supplies energy using a customer generation system designed to supply the lesser of:

(I) no more than 90% of the average annual consumption of electricity by the customer at that site, based on an annualized billing period; or

(II) the maximum size allowable under net metering provisions, defined in Section 54-15-102;

(D) notifies the customer before installing the customer generation system of:

(I) all costs the customer is required to pay for the customer generation system, including any interconnection costs; and

(II) the potential for future changes in amounts paid by the customer for energy received from the public utility and the possibility of changes to the customer fees or charges to the customer associated with net metering and generation;

(E) enters into and performs in accordance with an interconnection agreement with a public utility providing retail electric service where the real property on which the customer generation system is located, with the rates, terms, and conditions of the retail service and interconnection agreement subject to approval by the governing authority of the public utility, as defined in Subsection 54-15-102(8); and

(F) installs the relevant customer generation system by December 31, 2015.

(e) Any person or corporation defined as an electrical corporation or public utility under this section may continue to serve its existing customers

subject to any order or future determination of the commission in reference to the right to serve those customers.

(f) (i) “Public utility” does not include any person that is otherwise considered a public utility under this Subsection [(16)] (19) solely because of that person’s ownership of an interest in an electric plant, cogeneration facility, or small power production facility in this state if all of the following conditions are met:

(A) the ownership interest in the electric plant, cogeneration facility, or small power production facility is leased to:

(I) a public utility, and that lease has been approved by the commission;

(II) a person or government entity that is exempt from commission regulation as a public utility; or

(III) a combination of Subsections [(16)] (19)(f)(i)(A)(I) and (II);

(B) the lessor of the ownership interest identified in Subsection [(16)] (19)(f)(i)(A) is:

(I) primarily engaged in a business other than the business of a public utility; or

(II) a person whose total equity or beneficial ownership is held directly or indirectly by another person engaged in a business other than the business of a public utility; and

(C) the rent reserved under the lease does not include any amount based on or determined by revenues or income of the lessee.

(ii) Any person that is exempt from classification as a public utility under Subsection [(16)] (19)(f)(i) shall continue to be so exempt from classification following termination of the lessee’s right to possession or use of the electric plant for so long as the former lessor does not operate the electric plant or sell electricity from the electric plant. If the former lessor operates the electric plant or sells electricity, the former lessor shall continue to be so exempt for a period of 90 days following termination, or for a longer period that is ordered by the commission. This period may not exceed one year. A change in rates that would otherwise require commission approval may not be effective during the 90-day or extended period without commission approval.

(g) “Public utility” does not include any person that provides financing for, but has no ownership interest in an electric plant, small power production facility, or cogeneration facility. In the event of a foreclosure in which an ownership interest in an electric plant, small power production facility, or cogeneration facility is transferred to a third-party financier of an electric plant, small power production facility, or cogeneration facility, then that third-party financier is exempt from classification as a public utility for 90 days following the foreclosure, or for a longer period that is ordered by the commission. This period may not exceed one year.

(h) (i) The distribution or transportation of natural gas for use as a motor vehicle fuel does not cause the distributor or transporter to be a “public utility,” unless the commission, after notice and a public hearing, determines by rule that it is in the public interest to regulate the distributors or transporters, but the retail sale alone of compressed natural gas as a motor vehicle fuel may not cause the seller to be a “public utility.”

(ii) In determining whether it is in the public interest to regulate the distributors or transporters, the commission shall consider, among other things, the impact of the regulation on the availability and price of natural gas for use as a motor fuel.

~~[(i) “Public utility” does not include any corporation, cooperative association, or person, their affiliates, lessees, trustees, or receivers, owning, controlling, operating, or managing an electric plant or in any way furnishing electricity if the electricity is consumed by an owner, lessor, or interest holder or by an affiliate of an owner, lessor, or interest holder, who has provided at least \$25,000,000 in value, including credit support, relating to the electric plant furnishing the electricity and whose consumption does not exceed its long-term entitlement in the plant under a long-term arrangement other than a power purchase agreement, except a power purchase agreement with an electrical corporation.]~~

(i) “Public utility” does not include:

(i) an eligible customer who provides electricity for the eligible customer’s own use or the use of the eligible customer’s tenant or affiliate; or

(ii) a nonutility energy supplier that sells or provides electricity to:

(A) an eligible customer who has transferred the eligible customer’s service to the nonutility energy supplier in accordance with Section 54-3-32; or

(B) the eligible customer’s tenant or affiliate.

~~[(17)] (20) “Purchasing utility” means any electrical corporation that is required to purchase electricity from small power production or cogeneration facilities pursuant to the Public Utility Regulatory Policies Act, 16 U.S.C. Section 824a-3.~~

~~[(18)] (21) “Qualifying power producer” means a corporation, cooperative association, or person, or the lessee, trustee, and receiver of the corporation, cooperative association, or person, who owns, controls, operates, or manages any qualifying power production facility or cogeneration facility.~~

~~[(19)] (22) “Qualifying power production facility” means a facility that:~~

~~(a) produces electrical energy solely by the use, as a primary energy source, of biomass, waste, a renewable resource, a geothermal resource, or any combination of the preceding sources;~~

~~(b) has a power production capacity that, together with any other facilities located at the same site, is no greater than 80 megawatts; and~~

(c) is a qualifying small power production facility under federal law.

[(20)] (23) "Railroad" includes every commercial, interurban, and other railway, other than a street railway, and each branch or extension of a railway, by any power operated, together with all tracks, bridges, trestles, rights-of-way, subways, tunnels, stations, depots, union depots, yards, grounds, terminals, terminal facilities, structures, and equipment, and all other real estate, fixtures, and personal property of every kind used in connection with a railway owned, controlled, operated, or managed for public service in the transportation of persons or property.

[(21)] (24) "Railroad corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any railroad for public service within this state.

[(22)] (25) (a) "Sewerage corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any sewerage system for public service within this state.

(b) "Sewerage corporation" does not include private sewerage companies engaged in disposing of sewage only for their stockholders, or towns, cities, counties, conservancy districts, improvement districts, or other governmental units created or organized under any general or special law of this state.

[(23)] (26) "Telegraph corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any telegraph line for public service within this state.

[(24)] (27) "Telegraph line" includes all conduits, ducts, poles, wires, cables, instruments, and appliances, and all other real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate communication by telegraph, whether that communication be had with or without the use of transmission wires.

[(25)] (28) (a) "Telephone corporation" means any corporation or person, and their lessees, trustee, receivers, or trustees appointed by any court, who owns, controls, operates, manages, or resells a public telecommunications service as defined in Section 54-8b-2.

(b) "Telephone corporation" does not mean a corporation, partnership, or firm providing:

(i) intrastate telephone service offered by a provider of cellular, personal communication systems (PCS), or other commercial mobile radio service as defined in 47 U.S.C. Sec. 332 that has been issued a covering license by the Federal Communications Commission;

(ii) Internet service; or

(iii) resold intrastate toll service.

[(26)] (29) "Telephone line" includes all conduits, ducts, poles, wires, cables, instruments, and appliances, and all other real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate communication by telephone whether that communication is had with or without the use of transmission wires.

[(27)] (30) "Transportation of persons" includes every service in connection with or incidental to the safety, comfort, or convenience of the person transported, and the receipt, carriage, and delivery of that person and that person's baggage.

[(28)] (31) "Transportation of property" includes every service in connection with or incidental to the transportation of property, including in particular its receipt, delivery, elevation, transfer, switching, carriage, ventilation, refrigeration, icing, dunnage, storage, and hauling, and the transmission of credit by express companies.

[(29)] (32) "Water corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any water system for public service within this state. It does not include private irrigation companies engaged in distributing water only to their stockholders, or towns, cities, counties, water conservancy districts, improvement districts, or other governmental units created or organized under any general or special law of this state.

[(30)] (33) (a) "Water system" includes all reservoirs, tunnels, shafts, dams, dikes, headgates, pipes, flumes, canals, structures, and appliances, and all other real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate the diversion, development, storage, supply, distribution, sale, furnishing, carriage, appointment, apportionment, or measurement of water for power, fire protection, irrigation, reclamation, or manufacturing, or for municipal, domestic, or other beneficial use.

(b) "Water system" does not include private irrigation companies engaged in distributing water only to their stockholders.

[(31)] (34) "Wholesale electrical cooperative" includes every electrical corporation that is:

(a) in the business of the wholesale distribution of electricity it has purchased or generated to its members and the public; and

(b) required to distribute or allocate savings in excess of additions to reserves and surplus to members or patrons on the basis of patronage.

Section 3. Section 54-3-8 is amended to read:

54-3-8. Preferences forbidden -- Power of commission to determine facts -- Applicability of section.

(1) Except as provided in Chapter 8b, Public Telecommunications Law, a public utility may not:

(a) as to rates, charges, service, facilities or in any other respect, make or grant any preference or

advantage to any person, or subject any person to any prejudice or disadvantage; and

(b) establish or maintain any unreasonable difference as to rates, charges, service or facilities, or in any other respect, either as between localities or as between classes of service.

(2) The commission shall have power to determine any question of fact arising under this section.

(3) This section does not apply to, and the commission may not enforce this chapter concerning, a schedule, classification, rate, price, charge, fare, toll, rental, rule, service, facility, or contract of ~~[a public utility or electrical corporation furnishing electricity,]~~ an entity described in Subsection 54-2-1(7)(b)(iii) or (iv), (17), or (19)(i), or if the electricity is consumed by ~~[an owner, lessor, or interest holder or by an affiliate of an owner, lessor, or interest holder, who has provided at least \$25,000,000 in value, including credit support, relating to the electric plant furnishing the electricity and whose consumption does not exceed its long-term entitlement in the plant under a long-term arrangement other than a power purchase agreement, except a power purchase agreement with an electrical corporation.]~~ an eligible customer for the eligible customer's own use or the use of the eligible customer's tenant or affiliate.

Section 4. Section 54-3-32 is enacted to read:

54-3-32. Public utility duties -- Procedure to transfer service to a nonutility energy supplier.

(1) A transmission provider shall offer to an eligible customer available transmission service under the transmission provider's applicable Federal Energy Regulatory Commission approved open access transmission tariff.

(2) Notwithstanding Section 54-3-1, and except for transmission service required to be offered under Subsection (1), a public utility is not required to furnish or provide electric service to an eligible customer if the eligible customer has transferred service to a nonutility energy supplier in accordance with this section.

(3) An eligible customer may initiate the transfer of service to a nonutility energy supplier by:

(a) providing written notice to the public utility that provides electric service to the eligible customer:

(i) no later than 18 months before the date the eligible customer intends to transfer service to the nonutility energy supplier; and

(ii) stating:

(A) that the eligible customer intends to receive service from the nonutility energy supplier; and

(B) the date on which the eligible customer intends to commence receiving service from the nonutility energy supplier; and

(b) filing a written application with the public utility's transmission provider in accordance with the transmission provider's approved Federal Energy Regulatory Commission open access transmission tariff no later than 240 days before the intended date of transfer of service described in Subsection (3)(a)(ii).

(4) (a) Subject to Subsection (4)(c), an eligible customer shall provide written reports to the commission and the public utility updating any change in the intended date of transfer of service described in Subsection (3)(a)(ii):

(i) beginning nine months prior to the intended date of transfer of service described in Subsection (3)(a)(ii); and

(ii) no less frequently than every three months after the first written report is submitted in accordance with Subsection (4)(a)(i) until the sooner of:

(A) the date the notice described in Subsection (3)(a) is withdrawn in accordance with this section; or

(B) the date the eligible customer's service is transferred to the nonutility energy supplier.

(b) An eligible customer:

(i) may withdraw the notice described in Subsection (3)(a) at any time prior to transferring service to a nonutility energy supplier; or

(ii) subject to Subsection (4)(c), may delay the intended date of transfer of service described in Subsection (3)(a)(ii).

(c) Subject to Subsection (4)(d), the notice described in Subsection (3)(a) is considered to be withdrawn if a transfer of service under this section does not occur before the earlier of:

(i) December 31, 2020; or

(ii) 18 months after the intended date of transfer of service described in Subsection (3)(a)(ii).

(d) A time period provided in Subsection (4)(c) is tolled during any period of delay in a transfer of service to a nonutility energy supplier if the delay is solely attributable to the public utility, the public utility's transmission provider, or a contractor of the public utility or the public utility's transmission provider, in fulfilling the public utility's or the public utility's transmission provider's obligations under relevant law.

(5) An eligible customer that transfers service to a nonutility energy supplier shall pay, or receive credit for:

(a) any amounts due to the public utility for electric service provided to the eligible customer in accordance with a tariff or the eligible customer's contract for service;

(b) all balancing account costs, major plant addition costs, and any other surcharges or credits:

(i) attributable to the service provided to the eligible customer; and

(ii) incurred prior to the eligible customer's transfer of service to the nonutility energy supplier;

(c) all costs of metering, communication, and other facilities or equipment necessary to transfer the eligible customer's service to the nonutility energy supplier;

(d) all costs of transmission and ancillary services necessary for the eligible customer to receive service from the nonutility energy supplier; and

(e) any costs assessed to the eligible customer in accordance with Subsection (6).

(6) (a) The Division of Public Utilities shall file a petition with the commission as provided in this section:

(i) no earlier than 12 months but no later than eight months before the later of:

(A) the intended date of transfer of service described in Subsection (3)(a)(ii); or

(B) if the eligible customer updates a change in the intended date of transfer of service in accordance with Subsection (4), the intended date of transfer of service stated in the written report described in Subsection (4); or

(ii) at any time earlier than the time period described in Subsection (6)(a)(i) if agreed to by the public utility, the Division of Public Utilities, the Office of Consumer Services, and the eligible customer.

(b) A petition under Subsection (6)(a) shall seek a determination by the commission of whether the eligible customer's intended transfer of service to a nonutility energy supplier will result in:

(i) costs or credits allocated to Utah under any interjurisdictional cost allocation methodology the commission reasonably expects to be in effect as of:

(A) the intended date of transfer of service described in Subsection (3)(a)(ii); or

(B) if the eligible customer updates a change in the intended date of transfer of service in accordance with Subsection (4), the intended date of transfer of service stated in the written report described in Subsection (4);

(ii) (A) costs of facilities used to serve the eligible customer if the costs will not be recovered from the eligible customer and the facilities will not be used by other customers as a direct result of the eligible customer transferring service to a nonutility energy supplier; and

(B) any credits to offset the costs of facilities described in Subsection (6)(b)(ii)(A); and

(iii) any other costs to the public utility or to other customers of the public utility.

(c) In making its determination under Subsection (6)(b), the commission may consider:

(i) the benefits from resources, the costs of which are attributable to the eligible customer's load;

(ii) the cost of resources attributable to the eligible customer's load compared to the cost of new resources;

(iii) other credits and public interest considerations related to the eligible customer; and

(iv) any other issue raised by a party to the proceeding or any other issue the commission determines to be relevant.

(d) If the eligible customer's load was not substantially offset by the eligible customer's generation in the public utility's load forecast used in the public utility's 2013 integrated resource plan, the commission shall require the eligible customer to pay to the public utility, for the benefit of Utah customers, any costs described in Subsection (6)(b) the commission orders the eligible customer to pay.

(e) If the eligible customer's load was substantially offset by the eligible customer's generation in the public utility's load forecast used in the public utility's 2013 integrated resource plan, the commission, in its discretion, based on substantial evidence and taking into consideration the public interest, shall determine the reasonable amount:

(i) (A) the eligible customer is required to pay to the public utility, for the benefit of Utah customers, for the costs the commission determines in accordance with Subsection (6)(b)(i); and

(B) the public utility is required to pay to the eligible customer, at a cost to be recovered from Utah customers, for any credits the commission determines in accordance with Subsection (6)(b)(i);

(ii) the following are required to pay to the public utility, for the costs or credits the commission determines in accordance with Subsection (6)(b)(ii):

(A) the eligible customer;

(B) other customers of the public utility; or

(C) the eligible customer and other customers of the public utility; and

(iii) the other customers of the public utility are required to pay to the public utility, for any costs the commission determines in accordance with Subsection (6)(b)(iii).

(f) (i) The commission shall issue a decision on the petition filed in accordance with Subsection (6)(a) no later than 180 days after the Division of Public Utilities files the petition.

(ii) If the commission does not issue a decision within the time period required by Subsection (6)(f)(i), the commission shall allow the public utility to recover costs the commission determines in accordance with Subsection (6)(b), but may not impose any of those costs on the eligible customer.

(7) A public utility and an eligible customer may agree in writing to waive a time period described in Subsection (4) as necessary to facilitate the eligible

customer to receive service from a nonutility energy supplier.

(8) (a) Subject to Subsection (8)(b), an eligible customer shall arrange for the installation of any facilities and equipment necessary for the eligible customer to receive service from a nonutility energy supplier:

(i) at the cost of the eligible customer; and

(ii) in compliance with the public utility's applicable equipment standards and industry codes.

(b) The facilities and equipment described in Subsection (8)(a) may be installed by:

(i) the public utility;

(ii) the nonutility energy supplier; or

(iii) a third party contractor.

(9) An eligible customer may commence service from a nonutility energy supplier if:

(a) the eligible customer makes the payments described in Subsection (5);

(b) the eligible customer meets the requirements of Subsection (3);

(c) the eligible customer, or a designee of the eligible customer, enters into any necessary agreements for:

(i) the public utility's transmission provider to provide transmission service; and

(ii) the nonutility energy supplier to provide service;

(d) the installation described in Subsection (8) is completed; and

(e) the notice described in Subsection (3)(a) is not considered to be withdrawn under Subsection (4).

(10) (a) If an eligible customer that has been receiving electricity from a nonutility energy supplier gives the public utility and the commission at least 36 months' prior written notice of the eligible customer's intention to reinstate electric service from the public utility, the public utility shall reinstate electric service to the eligible customer:

(i) under substantially the same terms as a new customer;

(ii) beginning 36 months after the date the public utility receives the written notice; and

(iii) (A) at rates stated in the public utility's applicable rate schedule; or

(B) at a special contract rate agreed upon by the public utility and the eligible customer and approved by the commission.

(b) The notice described in Subsection (10)(a) is irrevocable unless, during the time period beginning on the date the eligible customer provides the notice described in Subsection (10)(a)

and ending on the date the public utility reinstates service, the public utility is no longer a vertically integrated utility providing electric service that includes generation and transmission.

(c) If an eligible customer that has transferred service to a nonutility energy supplier elects to reinstate electric service from a public utility and receives the electric service from the public utility, the eligible customer may not transfer service to a nonutility energy supplier under this section.

Section 5. Section 54-4-2 is amended to read:

54-4-2. Investigations -- Hearings and notice -- Findings -- Applicability of chapter.

(1) (a) ~~Whenever the commission believes that in order]~~ The commission may conduct an investigation if the commission determines an investigation:

(i) is necessary to secure [a] compliance with [the provisions of] this title or with [the orders] an order of the commission[, or that it will be otherwise in the interest of the public, an investigation];

(ii) is in the public interest; or

(iii) should be made of any act or omission to act, or of anything accomplished or proposed, or of any schedule, classification, rate, price, charge, fare, toll, rental, rule, regulation, service, or facility of any public utility[, it shall investigate the same upon its own motion, and may fix].

(b) If the commission conducts an investigation under Subsection (1)(a), the commission may:

(i) establish a time and place for a hearing [thereof with];

(ii) provide notice to the public utility concerning [which such investigation shall be made, and upon such hearing shall make such] the investigation; and

(iii) make findings and orders [as shall be] that are just and reasonable with respect to [any such matter] the investigation.

(2) This chapter does not apply to a schedule, classification, rate, price, charge, fare, toll, rental, rule, service, facility, or contract of [a public utility or electrical corporation furnishing electricity,] an entity described in Subsection 54-2-1(7)(b)(iii) or (iv), (17), or (19)(i), or if the electricity is consumed by [an owner, lessor, or interest holder or by an affiliate of an owner, lessor, or interest holder, who has provided at least \$25,000,000 in value, including credit support, relating to the electric plant furnishing the electricity and whose consumption does not exceed its long-term entitlement in the plant under a long-term arrangement other than a power purchase agreement, except a power purchase agreement with an electrical corporation.] an eligible customer for the eligible customer's own use or the use of the eligible customer's tenant or affiliate.

Section 6. Section 54-15-108 is amended to read:

54-15-108. Damages and fines for connecting a customer generation system to more than one customer.

If an independent energy producer defined in ~~[Subsection 54-2-1(13)]~~ Section 54-2-1 that is supplying energy to a customer ~~[under]~~ as described in Subsection 54-2-1~~(16)~~~~(19)~~(d)(iv) violates the limitations set forth in Subsection 54-2-1~~(16)~~~~(19)~~(d)(iv)(B), the commission may:

(1) award damages to an electrical corporation for actual and consequential damages to the electrical corporation; and

(2) assess a fine against the independent energy producer or person responsible for the violation.

CHAPTER 382**S. B. 72**

Passed March 12, 2014

Approved April 1, 2014

Effective January 1, 2015

UNINSURED MOTORIST PROVISIONS

Chief Sponsor: Lyle W. Hillyard

House Sponsor: Jack R. Draxler

LONG TITLE**General Description:**

This bill modifies provisions relating to uninsured motorists.

Highlighted Provisions:

This bill:

- ▶ provides that the Motor Vehicle Division or a peace officer shall seize and take possession of any vehicle that is being operated on a highway without owner's or operator's security in effect for the vehicle except in certain circumstances;
- ▶ provides that money in the Uninsured Motorist Identification Restricted Account shall be appropriated to the Department of Public Safety to reimburse a person for the costs of towing and storing the person's vehicle in certain circumstances;
- ▶ requires the Department of Public Safety to hold a hearing to determine whether a vehicle was wrongfully impounded;
- ▶ grants the Department of Public Safety rulemaking authority to make rules establishing procedures for a person to apply for a reimbursement; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on January 1, 2015.

Utah Code Sections Affected:**AMENDS:**

41-1a-1101, as last amended by Laws of Utah 2011, Chapter 246

41-1a-1103, as last amended by Laws of Utah 2010, Chapter 295

41-12a-806, as last amended by Laws of Utah 2008, Chapter 322

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-1a-1101 is amended to read:**41-1a-1101. Seizure -- Circumstances where permitted -- Impound lot standards.**

(1) ~~(a)~~ The division or any peace officer, without a warrant, may seize and take possession of any vehicle, vessel, or outboard motor:

~~(4)~~ (a) that the division or the peace officer has reason to believe has been stolen;

~~(4)(b)~~ (b) on which any identification number has been defaced, altered, or obliterated;

~~(4)(c)~~ (c) that has been abandoned in accordance with Section 41-6a-1408;

~~(4)(d)~~ (d) for which the applicant has written a check for registration or title fees that has not been honored by the applicant's bank and that is not paid within 30 days;

~~(4)(e)~~ (e) that is placed on the water with improper registration;

~~(4)(f)~~ (f) that is being operated on a highway:

~~(A)~~ (i) with registration that has been expired for more than three months;

~~(B)~~ (ii) having never been properly registered by the current owner; or

~~(C)~~ (iii) with registration that is suspended or revoked; or

~~(D)~~ ~~subject to the restriction in Subsection (1)(b), without owner's or operator's security in effect for the vehicle as required under Section 41-12a-301; or~~

~~(vii)(A)~~ (g) (i) that the division or the peace officer has reason to believe has been involved in an accident described in Section 41-6a-401, 41-6a-401.3, or 41-6a-401.5; and

~~(B)~~ (ii) whose operator did not remain at the scene of the accident until the operator fulfilled the requirements described in Section 41-6a-401 or 41-6a-401.7.

(2) (a) Subject to the restriction in Subsection (2)(b), the division or any peace officer, without a warrant, shall seize and take possession of any vehicle that is being operated on a highway without owner's or operator's security in effect for the vehicle as required under Section 41-12a-301 unless the division or any peace officer makes a reasonable determination that:

(i) the seizure of the vehicle would present a public safety concern to the operator or any of the occupants in the vehicle; or

(ii) the impoundment of the vehicle would prevent the division or the peace officer from addressing other public safety considerations.

(b) The division or any peace officer may not seize and take possession of a vehicle under Subsection ~~(1)(a)(vi)(D))~~ (2)(a):

(i) if the operator of the vehicle is not carrying evidence of owner's or operator's security as defined in Section 41-12a-303.2 in the vehicle unless the division or peace officer verifies that owner's or operator's security is not in effect for the vehicle through the Uninsured Motorist Identification Database created in accordance with Section 41-12a-803[-]; or

(ii) if the operator of the vehicle is carrying evidence of owner's or operator's security as defined in Section 41-12a-303.2 in the vehicle and the Uninsured Motorist Identification Database created in accordance with Section 41-12a-803 indicates that the owner's or operator's security is not in effect for the vehicle, unless the division or a

peace officer makes a reasonable attempt to independently verify that owner's or operator's security is not in effect for the vehicle.

[42] (3) If necessary for the transportation of a seized vessel, the vessel's trailer may be seized to transport and store the vessel.

[43] (4) Any peace officer seizing or taking possession of a vehicle, vessel, or outboard motor under this section shall comply with the provisions of Section 41-6a-1406.

[44] (5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules setting standards for public garages, impound lots, and impound yards that may be used by peace officers and the division.

(b) The standards shall be equitable, reasonable, and unrestrictive as to the number of public garages, impound lots, or impound yards per geographical area.

[45] (6) (a) Except as provided under Subsection [45] (6)(b), a person may not operate or allow to be operated a vehicle stored in a public garage, impound lot, or impound yard regulated under this part without prior written permission of the owner of the vehicle.

(b) Incidental and necessary operation of a vehicle to move the vehicle from one parking space to another within the facility and that is necessary for the normal management of the facility is not prohibited under Subsection [45] (6)(a).

[46] (7) A person who violates the provisions of Subsection [45] (6) is guilty of a class C misdemeanor.

[47] (8) The division or the peace officer who seizes a vehicle shall record the mileage shown on the vehicle's odometer at the time of seizure, if:

- (a) the vehicle is equipped with an odometer; and
- (b) the odometer reading is accessible to the division or the peace officer.

Section 2. Section 41-1a-1103 is amended to read:

41-1a-1103. Sale.

(1) If the owner or lienholder of a seized vehicle, vessel, or outboard motor does not recover the vehicle, vessel, or outboard motor within 30 days from the date of seizure, or if the division is unable to determine the owner or lienholder through reasonable efforts, the division shall sell the vehicle, vessel, or outboard motor.

(2) The sale shall:

(a) be held in the form of a public auction at the place of storage; and

(b) at the discretion of the division, be conducted by:

- (i) an authorized representative of the division; or
- (ii) a public garage, impound lot, or impound yard that:

(A) is authorized by the division;

(B) meets the standards under Subsection 41-1a-1101[4](5); and

(C) complies with the requirements of Section 72-9-603.

(3) At least five days prior to the date set for sale, the division shall publish a notice of sale setting forth the date, time, and place of sale and a description of the vehicle, vessel, or outboard motor to be sold:

(a) on the division's website; and

(b) as required in Section 45-1-101.

(4) At the time of sale the division or other person authorized to conduct the sale shall tender to the highest bidder a certificate of sale conveying all rights, title, and interest in the vehicle, vessel, or outboard motor.

(5) The proceeds from the sale of a vehicle, vessel, or outboard motor under this section shall be distributed as provided under Section 41-1a-1104.

(6) If the owner or lienholder of a vehicle, vessel, or outboard motor seized under Section 41-1a-1101 and subsequently released by the division fails to take possession of the vehicle, vessel, or outboard motor and satisfy the amount due to the place of storage within 30 days from the date of release, the division shall renotify the owner or lienholder and sell the vehicle, vessel, or outboard motor, in accordance with this section, 30 days from the date of the notice.

Section 3. Section 41-12a-806 is amended to read:

41-12a-806. Restricted account -- Creation -- Funding -- Interest -- Purposes.

(1) There is created within the Transportation Fund a restricted account known as the "Uninsured Motorist Identification Restricted Account."

(2) The account consists of money generated from the following revenue sources:

(a) money received by the state under Section 41-1a-1218, the uninsured motorist identification fee;

(b) money received by the state under Section 41-1a-1220; and

(c) appropriations made to the account by the Legislature.

(3) (a) The account shall earn interest.

(b) All interest earned on account money shall be deposited into the account.

(4) Money shall be appropriated from the account by the Legislature to:

(a) the department to fund the contract with the designated agent;

(b) the department to offset the costs to state and local law enforcement agencies of using the information for the purposes authorized under this part; ~~and~~

(c) the Tax Commission to offset the costs to the Motor Vehicle Division for revoking and reinstating vehicle registrations under Subsection 41-1a-110(2)(a)(ii)[.]; and

(d) the department to reimburse a person for the costs of towing and storing the person's vehicle if:

(i) the person's vehicle was impounded in accordance with Subsection 41-1a-1101(2);

(ii) the impounded vehicle had owner's or operator's security in effect for the vehicle at the time of the impoundment;

(iii) the database indicated that owner's or operator's security was not in effect for the impounded vehicle; and

(iv) the department determines that the person's vehicle was wrongfully impounded.

(5) (a) By following the procedures in Title 63G, Chapter 4, Administrative Procedures Act, the department shall hold a hearing to determine whether a person's vehicle was wrongfully impounded under Subsection 41-1a-1101(2).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing procedures for a person to apply for a reimbursement under Subsection (4)(d).

(c) A person is not eligible for a reimbursement under Subsection (4)(d) unless the person applies for the reimbursement within six months from the date that the motor vehicle was impounded.

Section 4. Effective date.

This bill takes effect on January 1, 2015.

CHAPTER 383**S. B. 73**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

**AGRICULTURAL
ENVIRONMENTAL AMENDMENTS**

Chief Sponsor: Ralph Okerlund

House Sponsor: John G. Mathis

LONG TITLE**General Description:**

This bill modifies the Utah Agriculture Certificate of Environmental Stewardship Program.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends legislative findings;
- ▶ amends definitions;
- ▶ creates an advisory board for making loans from the Agriculture Resource Development Fund;
- ▶ states that the Water Quality Board may not require a holder of an Agriculture Certificate of Environmental Stewardship to implement additional or different practices during the life of the certification, except in certain conditions;
- ▶ states that the Division of Water Quality shall consider an agriculture operation's compliance with a certification under an approved agriculture environmental stewardship program as a mitigating factor for any penalty purposes; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

4-18-102, as renumbered and amended by Laws of Utah 2013, Chapter 227

4-18-103, as renumbered and amended by Laws of Utah 2013, Chapter 227

4-18-105, as renumbered and amended by Laws of Utah 2013, Chapter 227

4-18-106, as renumbered and amended by Laws of Utah 2013, Chapter 227

4-18-107, as enacted by Laws of Utah 2013, Chapter 227

ENACTS:

19-5-105.6, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

4-18-108, (Renumbered from 4-18-6.5, as last amended by Laws of Utah 2008, Chapter 382)

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-18-102 is amended to read:**4-18-102. Purpose declaration.**

- (1) The Legislature finds and declares that:

(a) the soil and water resources of this state constitute one of its basic assets; and ~~that~~

(b) the preservation of these resources requires planning and programs to ensure;

(i) the development and utilization of these resources; and ~~to protect them~~

(ii) their protection from the adverse effects of wind and water erosion, sediment, and sediment related pollutants.

(2) The Legislature finds that local production of food is essential for:

(a) the security of the state's food supply; and

(b) the self-sufficiency of the state's citizens.

(3) The Legislature finds that sustainable agriculture is critical to:

(a) the success of rural communities;

(b) the historical culture of the state;

(c) maintaining healthy farmland;

(d) maintaining high water quality;

(e) maintaining abundant wildlife; ~~and~~

(f) high-quality recreation for citizens of the state[-]; and

(g) helping to stabilize the state economy.

(4) The Legislature finds that livestock grazing on public lands is important for the proper management, maintenance, and health of public lands in the state.

(5) The Legislature encourages each agricultural producer in the state to operate in a reasonable and responsible manner to maintain the integrity of land, soil, water, and air.

(6) To encourage each agricultural producer in this state to operate in a reasonable and responsible manner to maintain the integrity of the state's resources, the state shall administer the Utah Agriculture Certificate of Environmental Stewardship ~~[Certification]~~ Program, created in Section 4-18-107.

Section 2. Section 4-18-103 is amended to read:**4-18-103. Definitions.**

As used in this chapter:

(1) (a) "Agricultural discharge" means the release of agriculture water from the property of a farm, ranch, or feedlot that:

(i) pollutes a surface body of water, including a stream, lake, pond, marshland, watercourse, waterway, river, ditch, or other water conveyance system;

(ii) pollutes ground water; or

(iii) constitutes a significant nuisance to urban land.

(b) "Agricultural discharge" does not include:

(i) runoff from a farm, ranch, or feedlot, or the return flow of water from an irrigated field onto land that is not part of a body of water; or

(ii) a release of water from a farm, ranch, or feedlot into a normally dry water conveyance leading to an active body of water, if the release does not reach the water of a lake, pond, stream, marshland, river, or other active body of water.

(2) “Agricultural operation” means a farm, ranch, or animal feeding operation.

(3) “Agriculture water” means:

(a) water used by a farm, ranch, or feedlot for the production of food, fiber, or fuel;

(b) the return flow of water from irrigated agriculture; or

(c) agricultural storm water runoff.

(4) “Alternate” means a substitute for a district supervisor if the district supervisor cannot attend a meeting.

(5) (a) “Animal feeding operation” means a facility where animals, other than aquatic animals, are stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period.

(b) “Animal feeding operation” does not include an operation where animals are in areas such as pastures or rangeland that sustain crops or forage growth during the ~~[entire time the animals are present]~~ normal growing season.

(6) “Best management practices” means practices, including management policies and the use of technology, used by each sector of agriculture in the production of food and fiber that are commonly accepted practices, or that are at least as effective as commonly accepted practices, and that:

(a) protect the environment;

(b) protect human health;

(c) ensure the humane treatment of animals; and

(d) promote the financial viability of agricultural production.

(7) “Certified agricultural operation” means an agricultural operation that is certified under the Utah Agriculture Certificate of Environmental Stewardship ~~[Certification]~~ Program in accordance with Section 4-18-107.

(8) “Certified conservation planner” means a planner of a state conservation district, or other qualified planner, that is approved by the commission to certify an agricultural operation under the Utah Agriculture Certificate of Environmental Stewardship ~~[Certification]~~ Program, created in Section 4-18-107.

(9) “Commission” means the Conservation Commission created in Section 4-18-104.

(10) “Comprehensive nutrient management plan” or “nutrient management plan” means a plan

to properly store, handle, and spread manure and other agricultural byproducts to:

(a) protect the environment; and

(b) provide nutrients for the production of crops.

(11) “Coordinated resource management plan” means a plan of action created at a local level with broad participation of land owners, natural resource agencies, and interested stakeholders to protect or enhance the environment, human health, humane treatment of animals, and financial viability in the community.

~~[(11)]~~ (12) “District” or “conservation district” has the same meaning as “conservation district” as defined in Section 17D-3-102.

~~[(12)]~~ (13) “Pollution” means a harmful human-made or human-induced alteration to the water of the state, including an alteration to the chemical, physical, biological, or radiological integrity of water that harms the water of the state.

~~[(13)]~~ (14) “State technical standards” means a collection of best management practices that will protect the environment in a reasonable and economical manner for each sector of agriculture as required by this chapter.

~~[(14)]~~ (15) “Sustainable agriculture” means agriculture production and practices that promote:

(a) the environmental responsibility of owners and operators of farms, ranches, and feedlots; and

(b) the profitability of owners and operators of farms, ranches, and feedlots.

Section 3. Section 4-18-105 is amended to read:

4-18-105. Conservation Commission -- Functions and duties.

(1) The commission shall:

(a) facilitate the development and implementation of the strategies and programs necessary to:

(i) protect, conserve, utilize, and develop the soil, air, and water resources of the state; and

(ii) promote the protection, integrity, and restoration of land for agricultural and other beneficial purposes;

(b) disseminate information regarding districts’ activities and programs;

(c) supervise the formation, reorganization, or dissolution of districts according to the requirements of Title 17D, Chapter 3, Conservation District Act;

(d) prescribe uniform accounting and recordkeeping procedures for districts and require each district to submit annually an audit of its funds to the commission;

(e) approve and make loans for agricultural purposes, through the advisory board described in Section 4-18-106, from the Agriculture Resource Development Fund, for:

(i) rangeland improvement and management projects;

(ii) watershed protection and flood prevention projects;

(iii) agricultural cropland soil and water conservation projects; ~~and~~

(iv) programs designed to promote energy efficient farming practices;

(v) development and implementation of coordinated resource management plans, as defined in Section 4-18-103, with conservation districts, as defined in Section 17D-3-102; and

(vi) programs or improvements for agriculture product storage or protections of a crop or animal resource;

(f) administer federal or state funds, including loan funds under this chapter, in accordance with applicable federal or state guidelines and make loans or grants from those funds to land occupiers for:

(i) the conservation of soil or water resources;

(ii) maintenance of rangeland improvement projects; and

(iii) the control or eradication of noxious weeds and invasive plant species:

(A) in cooperation and coordination with local weed boards; and

(B) in accordance with Section 4-2-8.7;

(g) seek to coordinate soil and water protection, conservation, and development activities and programs of state agencies, local governmental units, other states, special interest groups, and federal agencies;

(h) plan watershed and flood control projects in cooperation with appropriate local, state, and federal authorities, and coordinate flood control projects in the state;

(i) assist other state agencies with conservation standards for agriculture when requested; and

(j) when assigned by the governor, when required by contract with the Department of Environmental Quality, or when required by contract with the United States Environmental Protection Agency:

(i) develop programs for the prevention, control, or abatement of new or existing pollution to the soil, water, or air of the state;

(ii) advise, consult, and cooperate with affected parties to further the purpose of this chapter;

(iii) conduct studies, investigations, research, and demonstrations relating to agricultural pollution issues;

(iv) give reasonable consideration in the exercise of its powers and duties to the economic impact on sustainable agriculture;

(v) meet the requirements of federal law related to water and air pollution in the exercise of its powers and duties; and

(vi) establish administrative penalties relating to agricultural discharges as defined in Section 4-18-103 that are proportional to the seriousness of the resulting environmental harm.

(2) The commission may:

(a) employ, with the approval of the department, an administrator and necessary technical experts and employees;

(b) execute contracts or other instruments necessary to exercise its powers;

(c) take necessary action to promote and enforce the purpose and findings of Section 4-18-102;

(d) sue and be sued; and

(e) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to carry out the powers and duties described in Subsection (1) and Subsections (2)(b) and (c).

Section 4. Section 4-18-106 is amended to read:

4-18-106. Agriculture Resource Development Fund -- Contents -- Use of fund money -- Authority board.

(1) There is created a revolving loan fund known as the Agriculture Resource Development Fund.

(2) The Agriculture Resource Development Fund shall consist of:

(a) money appropriated to it by the Legislature;

(b) sales and use tax receipts transferred to the fund in accordance with Section 59-12-103;

(c) money received for the repayment of loans made from the fund;

(d) money made available to the state for agriculture resource development from any source; and

(e) interest earned on the fund.

(3) The commission shall make loans from the Agriculture Resource Development Fund as provided by ~~[Section 4-18-105.]~~ Subsections 4-18-105(1)(e)(i) through (v).

(4) The commission may appoint an advisory board that shall:

(a) oversee the award process for loans, as described in this section;

(b) make recommendations to the commission regarding loans; and

(c) recommend the policies and procedures for the Agriculture Resource Development Fund, consistent with statute.

Section 5. Section 4-18-107 is amended to read:

4-18-107. Utah Agriculture Certificate of Environmental Stewardship Program.

(1) There is created the Utah Agriculture Certificate of Environmental Stewardship [Certification] Program.

(2) The commission, with the assistance of the department and with the advice of the Water Quality Board, created in Section 19-1-106, shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act that establish:

- (a) (i) best management practices;
- (ii) state technical standards; and
- (iii) guidelines for nutrient management plans;

(b) requirements for qualification under the Utah Agriculture Certificate of Environmental Stewardship [Certification] Program that:

(i) are consistent with sustainable agriculture;

(ii) help prevent harm to the environment, including prevention of an agricultural discharge; and

(iii) encourage agricultural operations in the state to follow:

(A) best management practices; and

(B) nutrient management plans that meet the state technical standards appropriate for each type of agricultural operation;

(c) the procedure for qualification under the Utah Agriculture Certificate of Environmental Stewardship [Certification] Program;

(d) the requirements and certification process for an individual to become a certified conservation planner; and

(e) standards and procedures for administering the Utah Agriculture Certificate of Environmental Stewardship [Certification] Program, including:

(i) renewal of a certification under Subsection (4)(b);

(ii) investigation and revocation of a certification under Subsection (6); and

(iii) revocation of a certification under Subsection (7)(b).

(3) An owner or operator of an agricultural operation may apply to certify the agricultural operation under the Utah Agriculture Certificate of Environmental Stewardship [Certification] Program in accordance with this section.

(4) (a) Except as provided in Subsection (6) or (7), a certified agricultural operation remains certified for a period of five years after the day on which the agricultural operation becomes certified.

(b) A certified agricultural operation may, in accordance with commission rule, renew the certification for an additional five years to keep the certification for a total period of 10 years after the day on which the agricultural operation becomes certified.

(5) Subject to review by the commissioner or the commissioner's designee, a certified conservation planner shall certify each qualifying agricultural operation that applies to the Utah Agriculture Certificate of Environmental Stewardship [Certification] Program.

(6) (a) Upon request of the Department of Environmental Quality or upon receipt by the department of a citizen environmental complaint, the department shall, with the assistance of certified conservation planners as necessary, investigate a certified agricultural operation to determine whether the agricultural operation has committed a significant violation of the requirements of the Utah Agriculture Certificate of Environmental Stewardship [Certification] Program.

(b) If, after completing an investigation described in Subsection (6)(a), the department determines that a certified agricultural operation has committed a significant violation of the requirements for the Utah Agriculture Certificate of Environmental Stewardship [Certification] Program, the department shall report the violation to the commission.

(c) Upon receipt of a report described in Subsection (6)(b), the commission shall review the report and:

(i) revoke the agricultural operation's certification; or

(ii) set terms and conditions for the agricultural operation to maintain its certification.

(7) (a) If, for a certification renewal under Subsection (4)(b), or an investigation under Subsection (6)(a), the department requests access to a certified agricultural operation, the certified agricultural operation shall, at a reasonable time, allow access for the department to:

(i) inspect the agricultural operation; or

(ii) review the records of the agricultural operation.

(b) If a certified agricultural operation denies the department access as described in Subsection (7)(a), the commission may revoke the agricultural operation's certification.

(8) If the commission changes a requirement of the Utah Agriculture Certificate of Environmental Stewardship [Certification] Program after an agricultural operation is certified in accordance with former requirements, during the certification and renewal periods described in Subsections (4)(a) and (b) the agricultural operation may choose whether to abide by a new requirement, but the agricultural operation is not subject to the new requirement until the agricultural operation reapplies for certification.

(9) Nothing in this section exempts an agricultural discharge made by a certified agricultural operation from the provisions of Subsection 19-5-105.5(3)(b).

(10) (a) Except as provided in Subsections 19-5-105.6(2) and (3), a certified agriculture

operation may not be required to implement additional projects or best management practices to address nonpoint source discharges.

(b) The Division of Water Quality shall consider an agriculture operation's compliance with certification under an approved agriculture environmental stewardship program a mitigating factor for penalty purposes, as provided in Section 19-5-105.6.

Section 6. Section 4-18-108, which is renumbered from Section 4-18-6.5 is renumbered and amended to read:

[4-18-6.5]. 4-18-108. Agriculture Environment Account -- Contents -- Use of fund money.

(1) (a) [The] Subject to appropriation, the commission, as described in Subsection (4), may make ~~[grants to owners or operators of animal feeding operations]~~ a grant to an owner or operator of a farm or ranch to pay for costs of plans or projects to improve manure management, ~~[or]~~ control surface water runoff or other environmental issues on the farm or ranch operation, including costs of preparing or implementing ~~[comprehensive]~~ a nutrient management ~~[plans]~~ plan.

(b) The commission shall make ~~[the grants]~~ a grant described in Subsection (1)(a) from funds appropriated by the Legislature for that purpose.

(2) (a) In awarding ~~[grants]~~ a grant, the commission shall consider the following criteria:

(i) the ability of the grantee to pay for costs of plans or projects to improve manure management or control surface water runoff;

(ii) the availability of:

(A) matching funds provided by the grantee or another source; or

(B) material, labor, or other items of value provided in lieu of money by the grantee or another source; and

(iii) the benefits that accrue to the general public by the awarding of a grant.

(b) The commission may establish by rule additional criteria for the awarding of ~~[grants]~~ a grant.

(3) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this section.

(4) The commission:

(a) shall be responsible for awarding a grant or loan for water quality or other environmental issues; and

(b) may appoint an advisory board to:

(i) assist with the award process; and

(ii) make recommendations to the commission regarding awards.

Section 7. Section 19-5-105.6 is enacted to read:

19-5-105.6. Agriculture Certificate of Environmental Stewardship.

(1) As used in this section:

(a) "Agriculture operation" means a farm, ranch, or animal feeding operation.

(b) "Approved agriculture environmental stewardship program" means a program:

(i) created under Section 4-18-107;

(ii) that is approved by the board; and

(iii) that includes practices and other requirements sufficient to prevent violations of the Utah Pollutant Discharge Elimination System program, statute, or rules.

(c) "Certified agriculture operation" means an agriculture operation that has current certification under an approved agriculture certificate of environmental stewardship program and that is in compliance with the requirements of that certification.

(2) (a) The division may not require a certified agriculture operation to implement additional or different practices to control nonpoint source discharges for the purpose of meeting total maximum daily load requirements.

(b) If the division implements additional or different best management practices to control nonpoint source discharges, those best management practices shall be effective on a certified agriculture operation upon the expiration of the operation's certificate, as described in Subsection 4-18-107(4).

(3) Notwithstanding Subsection (2), a certified agriculture operation may be required to undertake projects or additional best management practices for the purpose of meeting the total maximum daily load requirements under the following conditions:

(a) the certified agriculture operation has nonpoint source discharges to surface waters in an impaired watershed that is covered by an approved total maximum daily load;

(b) the board, in consultation with the Conservation Commission, has determined that the best management practice or project is necessary to restore water quality in the affected watershed; and

(c) the project or best management practice is funded:

(i) at least 75% by the state, federal government sources, or private sources other than the certified agriculture operation; or

(ii) at least 90% by the state, federal government sources, or private sources other than the certified agriculture operation if the director, commissioner of the Department of Agriculture and Food, and director of the Utah State University Extension service, or their designees, determine by majority vote that the requirements of Subsection (3)(b) pose a serious financial hardship to the certified agriculture operation.

(4) The division shall consider an agriculture operation's compliance with certification under an approved agriculture environmental stewardship program as a mitigating factor for any penalty purposes.

CHAPTER 384**S. B. 75**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

PRIMARY CARE GRANTS AMENDMENTS

Chief Sponsor: Allen M. Christensen

House Sponsor: Michael S. Kennedy

LONG TITLE**General Description:**

This bill amends provisions of the Utah Health Code related to primary care grants.

Highlighted Provisions:

This bill:

- ▶ creates the Primary Care Grant Committee;
- ▶ directs the committee to evaluate applications for primary care grants and make recommendations to the department;
- ▶ directs the department to review and rank applications for primary care grants;
- ▶ allows the department to use up to 5% of funds appropriated by the Legislature for primary care grants to pay the department's costs to administer the primary care grant program;
- ▶ recodifies provisions related to community outreach and education contracts;
- ▶ adds the primary care grant program to the list of programs with nonlapsing funds; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2014-15:

- ▶ to the Department of Health - Primary Care Grants as a one-time appropriation:
 - from General Fund, \$2,000,000.

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-1-7, as last amended by Laws of Utah 2003, Chapter 246

26-10b-101, as renumbered and amended by Laws of Utah 2010, Chapter 340

26-10b-102, as last amended by Laws of Utah 2012, Chapter 347

26-10b-103, as renumbered and amended by Laws of Utah 2010, Chapter 340

26-10b-104, as renumbered and amended by Laws of Utah 2010, Chapter 340

63J-1-602.1, as last amended by Laws of Utah 2013, Chapter 394

ENACTS:

26-10b-105, Utah Code Annotated 1953

26-10b-106, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-1-7 is amended to read:**26-1-7. Committees within department.**

(1) There are created within the department the following committees:

- (a) Health Facility Committee;
- (b) State Emergency Medical Services Committee;
- (c) Health Data Committee; ~~and~~
- (d) Utah Health Care Workforce Financial Assistance Program Advisory Committee~~[-];~~ and
- (e) Primary Care Grant Committee.

(2) The department shall:

(a) review all committees and advisory groups in existence before July 1, 2003 that are not listed in Subsection (1) or Section 26-1-7.5, and not required by state or federal law; and

(b) beginning no later than July 1, 2003:

(i) consolidate those advisory groups and committees with other committees or advisory groups as appropriate to create greater efficiencies and budgetary savings for the department; and

(ii) create in writing, time-limited and subject-limited duties for the advisory groups or committees as necessary to carry out the responsibilities of the department.

Section 2. Section 26-10b-101 is amended to read:**26-10b-101. Definitions.**

As used in this ~~part~~ chapter:

(1) "Committee" means the Primary Care Grant Committee created in Section 26-1-7 and described in Section 26-10b-105.

~~(4)~~ (2) "Community based organization":

(a) means a private entity; and

(b) includes for profit and not for profit entities.

~~(2)~~ (3) "Cultural competence" means a set of congruent behaviors, attitudes, and policies that come together in a system, agency, or profession and enables that system, agency, or profession to work effectively in cross-cultural situations.

(4) "Executive director" means the executive director of the department.

~~(3)~~ (5) "Health literacy" means the degree to which an individual has the capacity to obtain, process, and understand health information and services needed to make appropriate health decisions.

~~(4)~~ (6) "Institutional capacity" means the ability of a community based organization to implement public and private contracts.

~~(5)~~ (7) "Medically underserved population" means the population of an urban or rural area or a population group ~~[designated by the department as having]~~ that the committee determines has a shortage of primary health care [services].

(8) "Primary care grant" means a grant awarded by the department under Subsection 26-10b-102(1).

~~(6)~~ (9) (a) "Primary health care" means:

~~[(a)] (i) basic and general health care services given when a person seeks assistance to screen for or to prevent illness and disease, or for simple and common illnesses and injuries; and~~

~~[(b)] (ii) care given for the management of chronic diseases.~~

~~[(7)] (b) "Primary health care" [services" include] includes:~~

~~[(a)] (i) services of physicians, nurses, physician's assistants, and dentists licensed to practice in this state under Title 58, Occupations and Professions;~~

~~[(b)] (ii) diagnostic and radiologic services;~~

~~[(e)] (iii) preventive health services including perinatal services, well-child services, and other services that seek to prevent disease or its consequences;~~

~~[(d)] (iv) emergency medical services;~~

~~[(e)] (v) preventive dental services; and~~

~~[(f)] (vi) pharmaceutical services.~~

~~(10) "Program" means the primary care grant program created under this chapter.~~

Section 3. Section 26-10b-102 is amended to read:

26-10b-102. Department to award grants -- Applications.

(1) ~~[(a)] Within appropriations specified by the Legislature for this purpose, the department may [make grants to public and nonprofit entities for the cost of operation of providing], in accordance with the recommendation of the committee, award a grant to a public or nonprofit entity to provide primary health care [services] to a medically underserved [populations] population.~~

~~[(b) The department may, as funding permits, contract with community based organizations for the purpose of developing culturally and linguistically appropriate programs and services for low income and medically underserved populations through a pilot program to accomplish one or more of the following:]~~

~~[(i) to educate individuals;]~~

~~[(A) to use private and public health care coverage programs, products, services, and resources in a timely, effective, and responsible manner;]~~

~~[(B) to make prudent use of private and public health care resources;]~~

~~[(C) to pursue preventive health care, health screenings, and disease management; and]~~

~~[(D) to locate health care programs and services;]~~

~~[(ii) to assist individuals to develop:]~~

~~[(A) personal health management;]~~

~~[(B) self-sufficiency in daily care; and]~~

~~[(C) life and disease management skills;]~~

~~[(iii) to support translation of health materials and information;]~~

~~[(iv) to facilitate an individual's access to primary care services and providers, including mental health services; and]~~

~~[(v) to measure and report empirical results of the pilot project.]~~

~~[(2) (a) Grants by the department shall be awarded based on:]~~

~~(2) When awarding a grant under Subsection (1), the department shall, in accordance with the committee's recommendation, consider:~~

~~[(i) applications] (a) the content of a grant application submitted to the department;~~

~~(b) whether an application is submitted in the manner and form prescribed by the department; and~~

~~[(ii)] (c) the criteria established in Section 26-10b-103.~~

~~[(b)] (3) The application for a grant under Subsection (2)(a) shall contain:~~

~~[(i)] (a) a requested award amount;~~

~~[(ii)] (b) a budget; and~~

~~[(iii)] (c) a narrative plan of the manner in which the applicant intends to provide the primary health care [services] described in Subsection [26-10b-101(7)] (1).~~

~~[(e) A contract bid for a service under Subsection (1)(b):]~~

~~[(i) shall be awarded in accordance with Title 63G, Chapter 6a, Utah Procurement Code;]~~

~~[(ii) shall include the information described in Section 26-10b-103; and]~~

~~[(iii) is subject to Subsection (3).]~~

~~[(3) (a) An applicant under this chapter shall demonstrate to the department that the applicant will not deny services to a person because of the person's inability to pay for the services.]~~

~~[(b) Subsection (3)(a) does not preclude an applicant from seeking payment from the person receiving services, a third party, or a government agency if:]~~

~~[(i) the applicant is authorized to charge for the services; and]~~

~~[(ii) the person, third party, or government agency is under legal obligation to pay the charges.]~~

~~[(4) The department shall maximize the use of federal matching funds received for services under Subsection (1)(b) to fund additional contracts under Subsection (1)(b).]~~

Section 4. Section 26-10b-103 is amended to read:

26-10b-103. Content of grant applications.

~~[Applications for grants] An applicant for a grant under this chapter shall include, in an application:~~

(1) a statement of specific, measurable objectives, and the methods ~~[to be used]~~ the applicant will use to assess the achievement of those objectives;

(2) the precise boundaries of the area ~~[to be served by the entity making the application]~~ the applicant will serve, including a description of the medically underserved population ~~[to be served by]~~ the applicant will serve using the grant;

(3) the results of ~~[an assessment of need demonstrating]~~ a need assessment that demonstrates that the population ~~[to be served]~~ the applicant will serve has a need for the services provided by the applicant;

(4) a description of the personnel responsible for carrying out the activities of the grant along with a statement justifying the use of any grant funds for the personnel;

~~[(5) letters and other forms of evidence showing that efforts have been made to secure financial and professional assistance and support for the services to be provided under the grant;]~~

(5) evidence that demonstrates the applicant's existing financial and professional assistance and any attempts by the applicant to obtain financial and professional assistance;

(6) a list of services ~~[to be provided by]~~ the applicant will provide;

(7) the schedule of fees ~~[to be charged by]~~, if any, the applicant will charge;

(8) the estimated number of ~~[medically underserved persons to be served]~~ individuals the applicant will serve with the grant award; and

(9) ~~[other provisions as determined]~~ any other information required by the department in consultation with the committee.

Section 5. Section 26-10b-104 is amended to read:

26-10b-104. Process and criteria for awarding primary care grants.

(1) The department shall review and rank applications based on the criteria in this section and transmit the applications to the committee for review.

(2) The committee shall, after reviewing the applications transferred to the committee under Subsection (1), make recommendations to the executive director.

(3) The executive director shall, in accordance with the committee's recommendations, decide which applications to award grants under Subsection 26-10b-102(1).

~~[(4)]~~ (4) The department shall establish rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing the application form, the process, and the criteria ~~[it]~~ the department will use in ~~[awarding]~~ reviewing, ranking, and awarding grants and contracts under this chapter.

~~[(2)]~~ (5) When reviewing, ranking, and awarding a primary care grant under Subsection 26-10b-102(1)~~[(a)]~~, the department shall consider the extent to which ~~[the]~~ an applicant:

(a) demonstrates that the area or a population group ~~[to be served]~~ the applicant will serve under the application has a shortage of primary health care and that the ~~[services]~~ primary health care will be located so that ~~[they will provide]~~ it provides assistance to the greatest number of ~~[persons residing in the area or included]~~ individuals in the population group;

(b) utilizes other sources of funding, including private funding, to provide primary health care;

(c) demonstrates the ability and expertise to serve ~~[traditionally]~~ a medically underserved ~~[populations]~~ population; ~~[including persons of limited English-speaking ability, single heads of households, the elderly, persons with low incomes, and persons with chronic diseases;]~~

~~[(d) demonstrates that it will assume financial risk for a specified number of medically underserved persons within its catchment area for a predetermined level of care on a prepaid capitation basis; and]~~

(d) agrees to submit a report to the committee annually; and

(e) meets other criteria determined by the department in consultation with the committee.

~~[(3) When awarding a contract for community based services under Subsection 26-10b-102(1)(b), the department shall:]~~

~~[(a) consider the extent to which the applicant:]~~

~~[(i) demonstrates that the area or a population group to be served under the application is a medically underserved area or population and that the services will be located so that they will provide assistance to the greatest number of persons residing in the area or included in the population group;]~~

~~[(ii) utilizes other sources of funding, including private funding, to provide the services described in Subsection 26-10b-102(1)(b);]~~

~~[(iii) demonstrates the ability and expertise to serve traditionally medically underserved populations including persons of limited English-speaking ability, single heads of households, the elderly, persons with low incomes, and persons with chronic diseases;]~~

~~[(iv) meets other criteria determined by the department; and]~~

~~[(v) demonstrates the ability to empirically measure and report the results of all contract supported activities;]~~

~~[(b) consider the extent to which the contract increases the applicant's institutional capacity;]~~

~~[(c) consult with the state's:]~~

~~[(i) Medicaid program;]~~

~~[(ii) Children's Health Insurance Program; and]~~

~~[(iii) other assistance programs within the Department of Workforce Services and the Department of Human Services; and]~~

~~[(d) as funding permits, implement the community based service contract as a pilot program for which the department shall enter into contracts for services as follows:]~~

~~[(i) two contracts in the amount of \$50,000 each to be awarded to experienced and established applicants; and]~~

~~[(ii) three contracts in the amount of \$30,000 each to be awarded to applicants that:]~~

~~[(A) are not as established or experienced as the applicants under Subsection (3)(d)(i); or]~~

~~[(B) represent smaller community based approaches than the applicants described in Subsection (3)(d)(i).]~~

~~[(4) Once a contract has been awarded under Subsection (3), the department shall provide technical assistance to the contractee to familiarize the contractee with public and private resources available to support wellness, health promotion, and disease management.]~~

~~(6) The department may use up to 5% of the funds appropriated by the Legislature to the primary care grant program under this chapter to pay the costs of administering the program.~~

Section 6. Section 26-10b-105 is enacted to read:

**26-10b-105. (Codified as 26-10b-106)
Primary Care Grant Committee.**

(1) The Primary Care Grant Committee created in Section 26-1-7 shall:

(a) review grant applications forwarded to the committee by the department under Subsection 26-10b-104(1);

(b) recommend, to the executive director, grant applications to award under Subsection 26-10b-102(1);

(c) evaluate:

(i) the need for primary health care in different areas of the state;

(ii) how the program is addressing those needs; and

(iii) the overall effectiveness and efficiency of the program;

(d) review annual reports from primary care grant recipients;

(e) meet as necessary to carry out its duties, or upon a call by the committee chair or by a majority of committee members; and

(f) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that govern the committee, including the committee's grant selection criteria.

(2) The committee shall consist of:

(a) as chair, the executive director or an individual designated by the executive director; and

(b) six members appointed by the governor to serve up to two consecutive, two-year terms of office, including:

(i) four licensed health care professionals; and

(ii) two community advocates who are familiar with a medically underserved population and with health care systems, where at least one is familiar with a rural medically underserved population.

(3) The executive director may remove a committee member:

(a) if the member is unable or unwilling to carry out the member's assigned responsibilities; or

(b) for a rational reason.

(4) A committee member may not be compensated for the member's service, except a committee member may be reimbursed for reasonable travel expenses related to the member's committee responsibilities.

Section 7. Section 26-10b-106 is enacted to read:

**26-10b-106. (Codified as 26-10b-107)
Community education and outreach contracts.**

(1) The department may, as funding permits, contract with community based organizations for the purpose of developing culturally and linguistically appropriate programs and services for low income and medically underserved populations to accomplish one or more of the following:

(a) to educate individuals:

(i) to use private and public health care coverage programs, products, services, and resources in a timely, effective, and responsible manner;

(ii) to pursue preventive health care, health screenings, and disease management; and

(iii) to locate health care programs and services;

(b) to assist individuals to develop:

(i) personal health management;

(ii) self-sufficiency in daily care; and

(iii) life and disease management skills;

(c) to support translation of health materials and information;

(d) to facilitate an individual's access to primary care and providers, including mental health services; and

(e) to measure and report empirical results of the pilot project.

(2) When awarding a contract for community based services under Subsection (1), the department shall consider the extent to which the applicant:

(a) demonstrates that the area or a population group to be served under the application is a medically underserved population and that the services will be located to provide assistance to the greatest number of individuals residing in the area or included in the population group;

(b) utilizes other sources of funding, including private funding, to provide the services described in Subsection (1);

(c) demonstrates the ability and expertise to serve medically underserved populations, including individuals with limited English-speaking ability, single heads of households, the elderly, individuals with low income, and individuals with a chronic disease;

(d) meets other criteria determined by the department; and

(e) demonstrates the ability to empirically measure and report the results of all contract supported activities.

(3) The department may only award a contract under Subsection (1):

(a) in accordance with Title 63G, Chapter 6a, Utah Procurement Code;

(b) that contains the information described in Section 26-10b-103, relating to grants; and

(c) that complies with Subsections (4) and (5).

(4) An applicant under this chapter shall demonstrate to the department that the applicant will not deny services to a person because of the person's inability to pay for the services.

(5) Subsection (4) does not preclude an applicant from seeking payment from the person receiving services, a third party, or a government agency if:

(a) the applicant is authorized to charge for the services; and

(b) the person, third party, or government agency is under legal obligation to pay for the services.

(6) The department shall maximize the use of federal matching funds received for services under Subsection (1) to fund additional contracts under Subsection (1).

Section 8. Section 63J-1-602.1 is amended to read:

63J-1-602.1. List of nonlapsing accounts and funds -- General authority and Title 1 through Title 30.

(1) Appropriations made to the Legislature and its committees.

(2) The Percent-for-Art Program created in Section 9-6-404.

(3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

(4) The LeRay McAllister Critical Land Conservation Program created in Section 11-38-301.

(5) An appropriation made to the Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.

(6) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.

(7) Funds collected from the emergency medical services grant program, as provided in Section 26-8a-207.

(8) The Prostate Cancer Support Restricted Account created in Section 26-21a-303.

(9) State funds appropriated for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.

(10) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

(11) The primary care grant program created in Section 26-10b-102.

Section 9. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2014, and ending June 30, 2015, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2015.

To Department of Health - Primary Care Grants

From General Fund, One-time	<u>\$2,000,000</u>
-----------------------------	--------------------

Schedule of Programs:

<u>Primary Care Grants</u>	<u>\$2,000,000</u>
----------------------------	--------------------

CHAPTER 385**S. B. 77**

Passed March 12, 2014

Approved April 1, 2014

Effective July 1, 2014

**PHARMACY PRACTICE
ACT AMENDMENTS**

Chief Sponsor: Evan J. Vickers

House Sponsor: Stewart Barlow

LONG TITLE**General Description:**

This bill amends provisions of the Pharmacy Practice Act related to pharmacies and prescription drugs.

Highlighted Provisions:

This bill:

- ▶ directs the Division of Occupational and Professional Licensing to issue a pharmacy technician trainee license to an individual under certain circumstances;
- ▶ allows a pharmacy to sell a prescription drug to a practitioner for use in the practitioner's office or facility under certain circumstances; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2014.

This bill coordinates with S.B. 55, Pharmaceutical Dispensing Amendments, by providing technical and substantive amendments.

Utah Code Sections Affected:**AMENDS:**

58-17b-301, as last amended by Laws of Utah 2013, Chapter 52

58-17b-309, as last amended by Laws of Utah 2013, Chapter 278

ENACTS:

58-17b-305.1, Utah Code Annotated 1953

58-17b-624, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

58-17b-309, as last amended by Laws of Utah 2013, Chapter 278

58-17b-624, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-17b-301 is amended to read:**58-17b-301. License required -- License classifications for individuals.**

(1) A license is required to engage in the practice of pharmacy, telepharmacy, or the practice of a pharmacy technician, except as specifically provided in Section 58-1-307, 58-17b-309, or 58-17-309.6.

(2) The division shall issue to an individual who qualifies under this chapter a license in the classification of:

- (a) pharmacist;
- (b) pharmacy intern; [øæ]
- (c) pharmacy technician[-]; or
- (d) pharmacy technician trainee.

Section 2. Section 58-17b-305.1 is enacted to read:**58-17b-305.1. Qualifications for licensure of pharmacy technician trainee.**

(1) An applicant for licensure as a pharmacy technician trainee shall:

(a) submit an application to the division on a form created by the division;

(b) pay a fee established by the division in accordance with Section 63J-1-504;

(c) submit satisfactory evidence, as determined by the division, of good moral character as it relates to the applicant's ability to practice pharmacy;

(d) unless exempted by the division, submit a completed criminal background check;

(e) demonstrate, as determined by the division, that the applicant does not have a physical or mental condition that would prevent the applicant from engaging in practice as a pharmacy technician with reasonable skill, competency, and safety to the public; and

(f) submit evidence that the applicant is enrolled in a training program approved by the division.

(2) A pharmacist whose license has been denied, revoked, suspended, or restricted for disciplinary purposes is not eligible to be licensed as a pharmacy technician trainee during division probation.

Section 3. Section 58-17b-309 is amended to read:**58-17b-309. Exemptions from licensure.**

(1) For purposes of this section:

(a) "Cosmetic drug":

(i) means a prescription drug that is:

(A) for the purpose of promoting attractiveness or altering the appearance of an individual; and

(B) listed as a cosmetic drug subject to the exemption under this section by the division by administrative rule or has been expressly approved for online dispensing, whether or not it is dispensed online or through a physician's office; and

(ii) does not include a prescription drug that is:

(A) a controlled substance;

(B) compounded by the physician; or

(C) prescribed or used for the patient for the purpose of diagnosing, curing, or preventing a disease.

(b) "Injectable weight loss drug":

(i) means an injectable prescription drug:

(A) prescribed to promote weight loss; and

(B) listed as an injectable prescription drug subject to exemption under this section by the division by administrative rule; and

(ii) does not include a prescription drug that is a controlled substance.

(c) "Prescribing practitioner" means an individual licensed under:

(i) Chapter 31b, Nurse Practice Act, as an advanced practice registered nurse with prescriptive practice;

(ii) Chapter 67, Utah Medical Practice Act;

(iii) Chapter 68, Utah Osteopathic Medical Practice Act; or

(iv) Chapter 70a, Physician Assistant Act.

(2) In addition to the exemptions from licensure in Sections 58-1-307 and 58-17b-309.5, the following individuals may engage in the acts or practices described in this section without being licensed under this chapter:

(a) if the individual is described in Subsections (2)(b), (d), or (e), the individual notifies the division in writing of the individual's intent to dispense a drug under this subsection;

(b) a person selling or providing contact lenses in accordance with Section 58-16a-801;

~~[(c) an individual engaging in the practice of pharmacy technician under the direct personal supervision of a pharmacist while making satisfactory progress in an approved program as defined in division rule;]~~

~~[(d) (c) a prescribing practitioner who prescribes and dispenses a cosmetic drug or an injectable weight loss drug to the prescribing practitioner's patient in accordance with Subsection [(4)] (3); or~~

~~[(e) (d) an optometrist, as defined in Section 58-16a-102, acting within the optometrist's scope of practice as defined in Section 58-16a-601, who prescribes and dispenses a cosmetic drug to the optometrist's patient in accordance with Subsection [(4)] (3).]~~

~~[(3) In accordance with Subsection 58-1-303(1)(a), an individual exempt under Subsection (2)(c) must take all examinations as required by division rule following completion of an approved curriculum of education, within the required time frame. This exemption expires immediately upon notification of a failing score of an examination, and the individual may not continue working as a pharmacy technician even under direct supervision.]~~

[(4)] (3) A prescribing practitioner or optometrist is exempt from licensing under the provisions of this part if the prescribing practitioner or optometrist:

(a) (i) writes a prescription for a drug the prescribing practitioner or optometrist has the authority to dispense under Subsection [(4)] (3)(b); and

(ii) informs the patient:

(A) that the prescription may be filled at a pharmacy or dispensed in the prescribing practitioner's or optometrist's office;

(B) of the directions for appropriate use of the drug;

(C) of potential side-effects to the use of the drug; and

(D) how to contact the prescribing practitioner or optometrist if the patient has questions or concerns regarding the drug;

(b) dispenses a cosmetic drug or injectable weight loss drug only to the prescribing practitioner's patients or for an optometrist, dispenses a cosmetic drug only to the optometrist's patients;

(c) follows labeling, record keeping, patient counseling, storage, purchasing and distribution, operating, treatment, and quality of care requirements established by administrative rule adopted by the division in consultation with the boards listed in Subsection ~~[(5)]~~ (4)(a); and

(d) follows USP-NF 797 standards for sterile compounding if the drug dispensed to patients is reconstituted or compounded.

~~[(5)]~~ (4) (a) The division, in consultation with the board under this chapter and the relevant professional board, including the Physician Licensing Board, the Osteopathic Physician Licensing Board, the Physician Assistant Licensing Board, the Board of Nursing, the Optometrist Licensing Board, or the Online Prescribing, Dispensing, and Facilitation Board, shall adopt administrative rules pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act to designate:

(i) the prescription drugs that may be dispensed as a cosmetic drug or weight loss drug under this section; and

(ii) the requirements under Subsection [(4)] (3)(c).

(b) When making a determination under Subsection (1)(a), the division and boards listed in Subsection ~~[(5)]~~ (4)(a) may consider any federal Food and Drug Administration indications or approval associated with a drug when adopting a rule to designate a prescription drug that may be dispensed under this section.

(c) The division may inspect the office of a prescribing practitioner or optometrist who is dispensing under the provisions of this section, in order to determine whether the prescribing practitioner or optometrist is in compliance with the provisions of this section. If a prescribing practitioner or optometrist chooses to dispense under the provisions of this section, the prescribing practitioner or optometrist consents to the jurisdiction of the division to inspect the prescribing practitioner's or optometrist's office and determine if the provisions of this section are being met by the prescribing practitioner or optometrist.

(d) If a prescribing practitioner or optometrist violates a provision of this section, the prescribing practitioner or optometrist may be subject to discipline under:

- (i) this chapter; and
- (ii) (A) Chapter 16a, Utah Optometry Practice Act;
- (B) Chapter 31b, Nurse Practice Act;
- (C) Chapter 67, Utah Medical Practice Act;
- (D) Chapter 68, Utah Osteopathic Medical Practice Act;
- (E) Chapter 70a, Physician Assistant Act; or
- (F) Chapter 83, Online Prescribing, Dispensing, and Facilitation Act.

[~~6~~] (5) Except as provided in Subsection (2)(e), this section does not restrict or limit the scope of practice of an optometrist or optometric physician licensed under Chapter 16a, Utah Optometry Practice Act.

Section 4. Section 58-17b-624 is enacted to read:

58-17b-624. Prescription drugs -- Sale to a practitioner for office use.

(1) A pharmacy licensed under this chapter may, subject to rules established by the division, repackage or compound a prescription drug for sale to a practitioner if:

- (a) the prescription drug:
 - (i) does not include a compounded drug; or
 - (ii) (A) includes a compounded drug; and
 - (B) is not a controlled substance;
- (b) the pharmacy labels the prescription drug "for office use only";
- (c) the practitioner administers the drug to a patient in the practitioner's office or facility; and
- (d) the practitioner does not dispense the drug to the patient.

(2) The division shall establish, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, prescription drug labeling and control standards for a prescription drug that a pharmacy provides to a practitioner under this section.

Section 5. Effective date.

This bill takes effect on July 1, 2014.

Section 6. Coordinating S.B. 77 with S.B. 55 -- Technical and substantive amendments.

If this S.B. 77 and S.B. 55, Pharmaceutical Dispensing Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by:

- (1) modifying Section 58-17b-309 to read:

"58-17b-309. Exemption from licensure -- Contact lenses.

In addition to the exemptions from licensure in Section 58-1-307, a person selling or providing contact lenses in accordance with Section 58-16a-801 is exempt from the licensing provisions of this chapter."; and

(2) modifying Subsection 58-17b-624(1)(d) to read:

"(d) except in accordance with Title 58, Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, the practitioner does not dispense the drug to the patient."

CHAPTER 386**S. B. 78**

Passed March 12, 2014

Approved April 1, 2014

Effective May 13, 2014

PRESCRIPTION EYE DROP GUIDELINES

Chief Sponsor: Evan J. Vickers
House Sponsor: John R. Westwood

LONG TITLE**General Description:**

This bill amends the Pharmacy Practice Act related to prescription eye drops.

Highlighted Provisions:

This bill:

- ▶ allows a pharmacist or pharmacy intern to dispense a refill of a prescription for a liquid legend drug administered to the eye once an amount of time has passed after which a patient should have used 70% of the dosage units of the drug according to a practitioner's instructions; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-17b-608.1, as enacted by Laws of Utah 2013, Chapter 166

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-17b-608.1 is amended to read:**58-17b-608.1. Refills of legend drug prescriptions.**

(1) If a prescription for a legend drug includes authorization for one or more refills, a pharmacist or pharmacy intern may dispense one or more of the refills at the time the drug is dispensed, if:

~~[(1)]~~ (a) the drug is not a controlled substance;

~~[(2)]~~ (b) the prescription does not include "Dispense quantity written," or some other notation having similar meaning;

~~[(3)]~~ (c) the total dosage units dispensed, including the units for both the prescription and any refills, do not exceed a 100-day supply; and

~~[(4)]~~ (d) in the professional judgment of the pharmacist or pharmacy intern, the refill~~s~~ or refills~~s~~ should be dispensed at the time the prescription is dispensed.

(2) A pharmacist or pharmacy intern may dispense a refill of a prescription for a liquid legend drug administered to the eye once an amount of time has passed after which a patient should have used 70% of the dosage units of the drug according to a practitioner's instructions.

CHAPTER 387**S. B. 86**

Passed March 7, 2014

Approved April 1, 2014

Effective May 13, 2014

LEGISLATIVE PER DIEM REVISION

Chief Sponsor: Lyle W. Hillyard
House Sponsor: Melvin R. Brown

LONG TITLE**General Description:**

This bill modifies Division of Finance provisions by amending compensation and expenses for a legislator who serves on a board or commission.

Highlighted Provisions:

This bill:

- ▶ clarifies that a legislator who serves on a board or commission only receives compensation and expenses as provided in Legislative Joint Rule and does not receive separate per diem and travel expenses for service on a board or commission;
- ▶ clarifies appointment of Senate and House members to certain boards or commissions; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 9-9-104.6, as last amended by Laws of Utah 2012, Chapter 212
- 26-54-103, as enacted by Laws of Utah 2012, Chapter 226
- 35A-1-206, as last amended by Laws of Utah 2013, Chapter 255
- 36-12-20, as last amended by Laws of Utah 2013, Chapter 288
- 36-22-1, as enacted by Laws of Utah 1995, Chapter 143
- 36-23-104, as last amended by Laws of Utah 2013, Chapter 323
- 36-25-102, as enacted by Laws of Utah 2004, Chapter 73
- 36-26-102, as last amended by Laws of Utah 2012, Chapter 325
- 53A-1-1002, as last amended by Laws of Utah 2013, Chapter 214
- 53A-13-109, as last amended by Laws of Utah 2011, Chapters 404 and 405
- 59-1-905, as last amended by Laws of Utah 2011, Chapter 384
- 62A-1-120, as enacted by Laws of Utah 2013, Chapter 339
- 62A-4a-207, as last amended by Laws of Utah 2012, Chapter 242
- 63A-3-106, as last amended by Laws of Utah 2011, Chapter 308
- 63A-3-107, as last amended by Laws of Utah 2011, Chapter 308
- 63A-3-403, as last amended by Laws of Utah 2013, Chapters 84 and 310
- 63A-3-404, as last amended by Laws of Utah 2009,

Chapter 310

- 63C-4a-202, as renumbered and amended by Laws of Utah 2013, Chapter 101
- 63C-4a-302, as enacted by Laws of Utah 2013, Chapter 101
- 63C-6-103, as last amended by Laws of Utah 2010, Chapter 286
- 63C-9-202, as last amended by Laws of Utah 2010, Chapter 286
- 63C-9-702, as last amended by Laws of Utah 2010, Chapter 286
- 63C-13-107, as enacted by Laws of Utah 2013, Chapter 228
- 63C-14-202, as enacted by Laws of Utah 2013, Chapter 62
- 63E-1-201, as last amended by Laws of Utah 2007, Chapter 5
- 63F-1-202, as last amended by Laws of Utah 2013, Chapter 53
- 63I-3-206, as repealed and reenacted by Laws of Utah 2010, Chapter 286
- 63I-4a-202, as renumbered and amended by Laws of Utah 2013, Chapter 325
- 63M-7-207, as repealed and reenacted by Laws of Utah 2010, Chapter 286
- 63M-7-302, as last amended by Laws of Utah 2010, Chapters 39 and 286
- 63M-7-405, as last amended by Laws of Utah 2010, Chapter 286
- 63M-11-206, as repealed and reenacted by Laws of Utah 2010, Chapter 286
- 67-1a-10, as last amended by Laws of Utah 2010, Chapter 286
- 72-4-302, as last amended by Laws of Utah 2012, Chapter 212
- 73-27-102, as last amended by Laws of Utah 2013, Chapter 232
- 78A-2-502, as last amended by Laws of Utah 2010, Chapter 286
- 78A-11-104, as repealed and reenacted by Laws of Utah 2010, Chapter 286

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 9-9-104.6 is amended to read:

9-9-104.6. Participation of state agencies in meetings with tribal leaders -- Contact information.

(1) For at least three of the joint meetings described in Subsection 9-9-104.5(2)(a), the division shall coordinate with representatives of tribal governments and the entities listed in Subsection (2) to provide for the broadest participation possible in the joint meetings.

(2) The following may participate in all meetings described in Subsection (1):

(a) the chairs of the Native American Legislative Liaison Committee created in Section 36-22-1;

(b) the governor or the governor's designee;

(c) (i) the American Indian-Alaskan Native Health Liaison appointed in accordance with Section 26-7-2.5; or

(ii) if the American Indian-Alaskan Native Health Liaison is not appointed, a representative of

the Department of Health appointed by the executive director of the Department of Health; and

(d) a representative appointed by the chief administrative officer of the following:

- (i) the Department of Human Services;
- (ii) the Department of Natural Resources;
- (iii) the Department of Workforce Services;
- (iv) the Governor's Office of Economic Development;
- (v) the State Office of Education; and
- (vi) the State Board of Regents.

(3) (a) The chief administrative officer of the agencies listed in Subsection (3)(b) shall:

(i) designate the name of a contact person for that agency that can assist in coordinating the efforts of state and tribal governments in meeting the needs of the Native Americans residing in the state; and

(ii) notify the division:

(A) who is the designated contact person described in Subsection (3)(a)(i); and

(B) of any change in who is the designated contact person described in Subsection (3)(a)(i).

(b) This Subsection (3) applies to:

- (i) the Department of Agriculture and Food;
- (ii) the Department of Heritage and Arts;
- (iii) the Department of Corrections;
- (iv) the Department of Environmental Quality;
- (v) the Department of Public Safety;
- (vi) the Department of Transportation;
- (vii) the Office of the Attorney General;
- (viii) the State Tax Commission; and
- (ix) any agency described in Subsection (2)(c) or (d).

(c) At the request of the division, a contact person listed in Subsection (3)(b) may participate in a meeting described in Subsection (1).

(4) (a) A participant under this section who is not a legislator may not receive compensation or benefits for the participant's service, but may receive per diem and travel expenses ~~[in accordance with]~~ as allowed in:

~~[(a)]~~ (i) Section 63A-3-106;

~~[(b)]~~ (ii) Section 63A-3-107; and

~~[(e)]~~ (iii) rules made by the Division of Finance ~~[pursuant]~~ according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a participant who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Section 2. Section 26-54-103 is amended to read:

26-54-103. Traumatic Spinal Cord and Brain Injury Rehabilitation Fund Advisory Committee -- Creation -- Membership -- Terms -- Duties.

(1) There is created a Traumatic Spinal Cord and Brain Injury Rehabilitation Fund Advisory Committee.

(2) The advisory committee shall be composed of five members as follows:

(a) the executive director of the Utah Department of Health, or the executive director's designee;

(b) a survivor, or a family member of a survivor of a traumatic brain injury, appointed by the governor;

(c) a survivor, or a family member of a survivor of a traumatic spinal cord injury, appointed by the governor;

(d) a member of the House of Representatives appointed by the speaker of the House of Representatives; and

(e) a member of the Senate appointed by the president of the Senate.

(3) (a) The term of advisory committee members shall be four years. If a vacancy occurs in the committee membership for any reason, a replacement shall be appointed for the unexpired term in the same manner as the original appointment.

(b) The committee shall elect a chairperson from the membership.

(c) A majority of the committee constitutes a quorum at any meeting, and, if a quorum is present at an open meeting, the action of the majority of members shall be the action of the advisory committee.

(d) The terms of the advisory committee shall be staggered so that members appointed under Subsections (2)(b) and (d) shall serve an initial two-year term and members appointed under Subsections (2)(c) and (e) shall serve four-year terms. Thereafter, members appointed to the advisory committee shall serve four-year terms.

(4) The advisory committee shall comply with the procedures and requirements of:

(a) Title 52, Chapter 4, Open and Public Meetings Act;

(b) Title 63G, Chapter 2, Government Records Access and Management Act; and

(c) Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) (a) A member who is not a legislator may not receive compensation or benefits for the member's service, but, at the executive director's discretion, may receive per diem and travel expenses ~~[in accordance with]~~ as allowed in:

~~[(a)]~~ (i) Section 63A-3-106;

~~(b)~~ (ii) Section 63A-3-107; and

~~(c)~~ (iii) rules adopted by the Division of Finance ~~pursuant~~ according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(6) The advisory committee shall:

(a) adopt rules and procedures in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish priorities and criteria for the advisory committee to follow in recommending distribution of money from the fund to assist qualified IRC 501(c)(3) charitable clinics;

(b) identify, evaluate, and review the quality of care available to people with traumatic spinal cord and brain injuries through qualified IRC 501(c)(3) charitable clinics;

(c) explore, evaluate, and review other possible funding sources and make a recommendation to the Legislature regarding sources that would provide adequate funding for the advisory committee to accomplish its responsibilities under this section; and

(d) submit an annual report, not later than November 30 of each year, summarizing the activities of the advisory committee and making recommendations regarding the ongoing needs of people with spinal cord or brain injuries to:

(i) the governor;

(ii) the Health and Human Services Interim Committee; and

(iii) the Health and Human Services Appropriations Subcommittee.

Section 3. Section 35A-1-206 is amended to read:

35A-1-206. State Council on Workforce Services -- Appointment -- Membership -- Terms of members -- Compensation.

(1) There is created a State Council on Workforce Services that shall:

(a) perform the activities described in Subsection (8);

(b) advise on issues requested by the department and the Legislature; and

(c) make recommendations to the department regarding:

(i) the implementation of Chapters 2, Economic Service Areas, 3, Employment Support Act, and 5, Training and Workforce Improvement Act; and

(ii) the coordination of apprenticeship training.

(2) (a) The council shall consist of the following voting members:

(i) a private sector representative from each economic service area as designated by the economic service area director;

(ii) the superintendent of public instruction or the superintendent's designee;

(iii) the commissioner of higher education or the commissioner's designee; and

(iv) the following members appointed by the governor in consultation with the executive director:

(A) four representatives of small employers as defined by rule by the department;

(B) four representatives of large employers as defined by rule by the department;

(C) four representatives of employees or employee organizations, including at least one representative from nominees suggested by public employees organizations;

(D) two representatives of the clients served under this title including community-based organizations;

(E) a representative of veterans in the state;

(F) the executive director of the Utah State Office of Rehabilitation; and

(G) the Applied Technology College president.

(b) The following shall serve as nonvoting ex officio members of the council:

(i) the executive director or the executive director's designee;

(ii) a legislator appointed by the governor from nominations of the speaker of the House of Representatives and president of the Senate;

(iii) the executive director of the Department of Human Services;

(iv) the director of the Governor's Office of Economic Development or the director's designee; and

(v) the executive director of the Department of Health.

(3) (a) The governor shall appoint one nongovernmental member from the council as the chair of the council.

(b) The chair shall serve at the pleasure of the governor.

(4) (a) A member appointed by the governor shall serve a term of four years and may be reappointed to one additional term.

(b) A member shall continue to serve until the member's successor has been appointed and qualified.

(c) Except as provided in Subsection (4)(d), as terms of council members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(d) Notwithstanding the requirements of Subsection (4)(c), the governor shall, at the time of

appointment or reappointment, adjust the length of terms to ensure that the terms of council members are staggered so that approximately one half of the council is appointed every two years.

(e) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(5) A majority of the voting members constitutes a quorum for the transaction of business.

(6) (a) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses ~~[in accordance with]~~ as allowed in:

~~[(a)]~~ (i) Section 63A-3-106;

~~[(b)]~~ (ii) Section 63A-3-107; and

~~[(e)]~~ (iii) rules made by the Division of Finance ~~[pursuant]~~ according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(7) The department shall provide staff and administrative support to the council at the direction of the executive director.

(8) The council shall:

(a) develop a state workforce services plan in accordance with Section 35A-1-207;

(b) review economic service area plans to certify consistency with state policy guidelines;

(c) improve the understanding and visibility of state workforce services efforts through external and internal marketing strategies;

(d) submit, before November 1, an annual written report to the governor and the Legislature on accomplishments related to the activities of the department;

(e) issue other studies, reports, or documents the council considers advisable that are not required under Subsection (8)(d);

(f) coordinate the planning and delivery of workforce development services with public education, higher education, vocational rehabilitation, and human services; and

(g) perform other responsibilities within the scope of workforce services as requested by:

(i) the Legislature;

(ii) the governor; or

(iii) the executive director.

Section 4. Section 36-12-20 is amended to read:

36-12-20. Development of proposed energy producer states' agreement -- Membership selection -- Agreements -- Goals -- Meetings -- Reports.

(1) The speaker of the House shall appoint two members of the House and the president of the Senate shall appoint two members of the Senate, of which no more than three of the four members shall be from the same political party, to study and work with legislative members of other energy producing states for the purpose of developing a proposed energy producer states' agreement.

(2) The proposed energy producer states' agreement shall have the following goals:

(a) to encourage domestic development of energy in the United States;

(b) to ensure the continued development of each state's domestic natural resources;

(c) to deliver a unified message to the federal government from energy producing states by:

(i) participating in the development of proposed federal legislation and regulations; and

(ii) making recommendations regarding existing federal law and regulations including the following:

(A) the Environmental Protection Act;

(B) the Endangered Species Act; and

(C) federal land access issues that affect the production of energy;

(d) to eliminate or reduce overly broad federal legislation; and

(e) to identify and address consequences of delays and cancellations of economically viable energy projects.

(3) Appointed members shall:

(a) produce a report with recommendations regarding an energy producer states' agreement; and

(b) present the report to the Natural Resources, Agriculture, and Environment Interim Committee on or before November 30 of each year.

~~[(4) Salaries and expenses of the appointed members may be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Expense and Mileage Reimbursement for Authorized Legislative Meetings, Special Sessions, and Veto Override Sessions.]~~

(4) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(5) The Office of Legislative Research and General Counsel shall provide staff assistance as requested.

Section 5. Section 36-22-1 is amended to read:

36-22-1. Native American Legislative Liaison Committee -- Creation -- Membership -- Chairs -- Salaries and expenses.

(1) There is created the Native American Legislative Liaison Committee.

(2) The committee shall consist of 11 members:

(a) seven members from the House of Representatives appointed by the speaker, no more than four of whom shall be members of the same political party; and

(b) four members of the Senate appointed by the president, no more than two of whom shall be members of the same political party.

(3) The speaker of the House shall select one of the members from the House of Representatives to act as cochair of the committee.

(4) The president of the Senate shall select one of the members from the Senate to act as cochair of the committee.

~~[(5) Salaries and expenses of the legislators shall be paid in accordance with Section 36-2-2 and Joint Rule 15.03.]~~

(5) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Section 6. Section 36-23-104 is amended to read:

36-23-104. Committee meetings -- Compensation -- Quorum -- Legislative rules.

(1) The committee shall meet at least twice before November 1 of each year, at the call of the committee chairs, to carry out the duties described in this chapter.

(2) (a) A ~~[public]~~ member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses ~~[in accordance with]~~ as allowed in:

~~[(a)]~~ (i) Section 63A-3-106;

~~[(b)]~~ (ii) Section 63A-3-107; and

~~[(c)]~~ (iii) rules made by the Division of Finance ~~[pursuant]~~ according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(3) (a) Five members of the committee constitute a quorum.

(b) If a quorum is present, the action of a majority of members present is the action of the committee.

(4) Except as provided in Subsection (3), in conducting all its business, the committee shall comply with the rules of legislative interim committees regarding motions.

Section 7. Section 36-25-102 is amended to read:

36-25-102. Rural Development Legislative Liaison Committee -- Creation --

Membership -- Chairs -- Salary -- Expenses.

(1) There is created the Rural Development Legislative Liaison Committee composed of 11 members as follows:

(a) four members of the Senate appointed by the president of the Senate, no more than two of whom shall be from the same political party; and

(b) seven members from the House of Representatives appointed by the speaker of the House of Representatives, no more than four of whom shall be from the same political party.

(2) Senators and representatives from nonrural legislative districts may be considered for membership on the committee.

(3) (a) The president of the Senate shall designate a member of the Senate appointed under Subsection (1)(a) as a cochair.

(b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (1)(b) as a cochair of the committee.

~~[(4) Salaries and expenses of the members of the committee shall be paid in accordance with Section 36-2-2 and Joint Rule 15.03.]~~

(4) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Section 8. Section 36-26-102 is amended to read:

36-26-102. Utah International Relations and Trade Commission -- Creation -- Membership -- Chairs -- Per diem and expenses.

(1) There is created the Utah International Relations and Trade Commission.

(2) The commission membership consists of 13 members:

(a) eight members to be appointed as follows:

(i) five members from the House of Representatives, appointed by the speaker of the House of Representatives, no more than three from the same political party; and

(ii) three members from the Senate, appointed by the president of the Senate, no more than two members from the same political party;

(b) four nonvoting members to be appointed by the governor, including at least:

(i) one representative from a Utah industry involved in international trade;

(ii) one expert in international finance; and

(iii) one expert in higher education with international experience; and

(c) the Utah Attorney General or designee, who is a nonvoting member.

(3) (a) The members appointed or reappointed by the governor shall serve two-year terms.

(b) Notwithstanding the requirement of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of these members are staggered so that approximately half of the members are appointed or reappointed under Subsection (3)(c) every two years.

(c) When a vacancy occurs among members appointed by the governor, the replacement shall be appointed for the unexpired term.

(4) Four members of the commission constitute a quorum.

(5) (a) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (2)(a) as a cochair of the commission.

(b) The president of the Senate shall designate a member of the Senate appointed under Subsection (2)(a) as a cochair of the commission.

(6) (a) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses [in accordance with] as allowed in:

~~[(a)]~~ (i) Section 63A-3-106;

~~[(b)]~~ (ii) Section 63A-3-107; and

~~[(e)]~~ (iii) rules made by the Division of Finance [pursuant] according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Section 9. Section 53A-1-1002 is amended to read:

53A-1-1002. Creation of State Council on Military Children.

(1) There is established a State Council on Military Children, as required in Article VIII of Section 53A-1-1001.

(2) The members of the State Council on Military Children shall include:

(a) the state superintendent of public instruction;

(b) a superintendent of a school district with a high concentration of military children appointed by the governor;

(c) a representative from a military installation, appointed by the governor;

(d) one member of the House of Representatives, appointed by the speaker of the House;

(e) one member of the Senate, appointed by the president of the Senate;

(f) a representative from the Department of Veterans' and Military Affairs, appointed by the governor;

(g) a military family education liaison, appointed by the members listed in Subsections (2)(a) through (f);

(h) the compact commissioner, appointed in accordance with Section 53A-1-1003; and

(i) other members as determined by the governor.

(3) The State Council on Military Children shall carry out the duties established in Section 53A-1-1001.

(4) ~~[Members]~~ (a) A member who is not a legislator may not receive compensation or per diem.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Section 10. Section 53A-13-109 is amended to read:

53A-13-109. Civic and character education -- Definitions -- Legislative finding -- Elements -- Reporting requirements.

(1) As used in this section:

(a) "Character education" means reaffirming values and qualities of character which promote an upright and desirable citizenry.

(b) "Civic education" means the cultivation of informed, responsible participation in political life by competent citizens committed to the fundamental values and principles of representative democracy in Utah and the United States.

(c) "Values" means time-established principles or standards of worth.

(2) The Legislature recognizes that:

(a) Civic and character education are fundamental elements of the public education system's core mission as originally intended and established under Article X of the Utah Constitution;

(b) Civic and character education are fundamental elements of the constitutional responsibility of public education and shall be a continuing emphasis and focus in public schools;

(c) the cultivation of a continuing understanding and appreciation of a constitutional republic and principles of representative democracy in Utah and the United States among succeeding generations of educated and responsible citizens is important to the nation and state;

(d) the primary responsibility for the education of children within the state resides with their parents or guardians and that the role of state and local governments is to support and assist parents in fulfilling that responsibility;

(e) public schools fulfill a vital purpose in the preparation of succeeding generations of informed and responsible citizens who are deeply attached to essential democratic values and institutions; and

(f) the happiness and security of American society relies upon the public virtue of its citizens which requires a united commitment to a moral social order where self-interests are willingly subordinated to the greater common good.

(3) Through an integrated curriculum, students shall be taught in connection with regular school work:

(a) honesty, integrity, morality, civility, duty, honor, service, and obedience to law;

(b) respect for and an understanding of the Declaration of Independence and the constitutions of the United States and of the state of Utah;

(c) Utah history, including territorial and preterritorial development to the present;

(d) the essentials and benefits of the free enterprise system;

(e) respect for parents, home, and family;

(f) the dignity and necessity of honest labor; and

(g) other skills, habits, and qualities of character which will promote an upright and desirable citizenry and better prepare students to recognize and accept responsibility for preserving and defending the blessings of liberty inherited from prior generations and secured by the constitution.

(4) Local school boards and school administrators may provide training, direction, and encouragement, as needed, to accomplish the intent and requirements of this section and to effectively emphasize civic and character education in the course of regular instruction in the public schools.

(5) Civic and character education in public schools are:

(a) not intended to be separate programs in need of special funding or added specialists to be accomplished; and

(b) core principles which reflect the shared values of the citizens of Utah and the founding principles upon which representative democracy in the United States and the state of Utah are based.

(6) To assist the Commission on Civic and Character Education in fulfilling the commission's duties under Section ~~[67-1a-10]~~ 67-1a-11, by December 30 of each year, each school district and the State Charter School Board shall submit to the lieutenant governor and the commission a report summarizing how civic and character education are achieved in the school district or charter schools through an integrated school curriculum and in the regular course of school work as provided in this section.

(7) Each year, the State Board of Education shall report to the Education Interim Committee, on or before the October meeting, the methods used, and the results being achieved, to instruct and prepare students to become informed and responsible citizens through an integrated curriculum taught in connection with regular school work as required in this section.

Section 11. Section 59-1-905 is amended to read:

59-1-905. Per diem and travel expenses.

(1) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses ~~[in accordance with]~~ as allowed in:

~~(1)~~ (a) Section 63A-3-106;

~~(2)~~ (b) Section 63A-3-107; and

~~(3)~~ (c) rules made by the Division of Finance ~~[pursuant]~~ according to Sections 63A-3-106 and 63A-3-107.

(2) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Section 12. Section 62A-1-120 is amended to read:

62A-1-120. Utah Marriage Commission.

(1) As used in this section, "commission" means the Utah Marriage Commission created by this section.

(2) There is created within the department the "Utah Marriage Commission."

(3) The commission shall consist of 17 members appointed as follows:

(a) two members of the Senate appointed by the president of the Senate;

(b) two members of the House of Representatives appointed by the speaker of the House of Representatives;

(c) six current or former representatives from marriage and family studies departments, social or behavioral sciences departments, health sciences departments, colleges of law, or other related and supporting departments at institutions of higher education in this state, as shall be appointed by the governor;

(d) five representatives selected and appointed by the governor from among the following groups:

(i) social workers who are or have been licensed under Title 58, Chapter 60, Part 2, Social Worker Licensing Act;

(ii) psychologists who are or have been licensed under Title 58, Chapter 61, Psychologist Licensing Act;

(iii) physicians who are or have been board certified in psychiatry and are or have been licensed under Title 58, Chapter 67, Utah Medical Practice Act;

(iv) marriage and family therapists who are or have been licensed under Title 58, Chapter 60, Part 3, Marriage and Family Therapist Licensing Act;

(v) representatives of faith communities;

(vi) public health professionals;

(vii) representatives of domestic violence prevention organizations; or

(viii) legal professionals; and

(e) two representatives of the general public appointed by the members of the commission appointed under Subsections (3)(a) through (d).

(4) (a) A member appointed under Subsections (3)(c) through (e) shall serve for a term of four years. A member may be appointed for subsequent terms.

(b) Notwithstanding Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.

(c) A commission member shall serve until a replacement is appointed and qualified.

(d) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term in the same manner as the original appointment.

(5) (a) The commission shall annually elect a chair from its membership.

(b) The commission shall hold meetings as needed to carry out its duties. A meeting may be held on the call of the chair or a majority of the commission members.

(c) Nine commission members constitute a quorum and, if a quorum exists, the action of a majority of commission members present constitutes the action of the commission.

(6) (a) A commission member who is not a legislator may not receive compensation or benefits for the commission member's service, but may receive per diem and travel expenses ~~[in accordance with]~~ as allowed in:

~~[(a)]~~ (i) Section 63A-3-106;

~~[(b)]~~ (ii) Section 63A-3-107; and

~~[(c)]~~ (iii) rules made by the Division of Finance ~~[pursuant]~~ according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a commission member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(7) The department shall staff the commission.

(8) The commission shall:

(a) promote coalitions and collaborative efforts to uphold and encourage a strong and healthy culture of strong and lasting marriages and stable families;

(b) contribute to greater awareness of the importance of marriage and leading to reduced divorce and unwed parenthood in the state;

(c) promote public policies that support marriage;

(d) promote programs and activities that educate individuals and couples on how to achieve strong, successful, and lasting marriages, including promoting and assisting in the offering of:

(i) events;

(ii) classes and services, including those designed to promote strong, healthy, and lasting marriages and prevent domestic violence;

(iii) marriage and relationship education conferences for the public and professionals; and

(iv) enrichment seminars;

(e) actively promote measures designed to maintain and strengthen marriage, family, and the relationships between husband and wife and parents and children; and

(f) support volunteerism and private financial contributions and grants in partnership with the commission and in support of the commission's purposes and activities for the benefit of the state as provided in this section.

(9) Funding for the commission shall be as approved by the Legislature through annual appropriations and the added funding sought by the commission from private contributions and grants that support the duties of the commission described in Subsection (8).

Section 13. Section 62A-4a-207 is amended to read:

62A-4a-207. Legislative Oversight Panel -- Responsibilities.

(1) (a) There is created the Child Welfare Legislative Oversight Panel composed of the following members:

(i) two members of the Senate, one from the majority party and one from the minority party, appointed by the president of the Senate; and

(ii) three members of the House of Representatives, two from the majority party and one from the minority party, appointed by the speaker of the House of Representatives.

(b) Members of the panel shall serve for two-year terms, or until their successors are appointed.

(c) A vacancy exists whenever a member ceases to be a member of the Legislature, or when a member resigns from the panel. Vacancies shall be filled by the appointing authority, and the replacement shall fill the unexpired term.

(2) The president of the Senate shall designate one of the senators appointed to the panel under Subsection (1) as the Senate chair of the panel. The speaker of the House of Representatives shall designate one of the representatives appointed to the panel under Subsection (1) as the House chair of the panel.

(3) The panel shall follow the interim committee rules established by the Legislature.

(4) The panel shall:

(a) examine and observe the process and execution of laws governing the child welfare system by the executive branch and the judicial branch;

(b) upon request, receive testimony from the public, the juvenile court, and from all state

agencies involved with the child welfare system, including the division, other offices and agencies within the department, the attorney general's office, the Office of Guardian Ad Litem, and school districts;

(c) before October 1 of each year, receive a report from the judicial branch identifying the cases not in compliance with the time limits established in the following sections, and the reasons for noncompliance:

(i) Subsection 78A-6-306(1)(a), regarding shelter hearings;

(ii) Section 78A-6-309, regarding pretrial and adjudication hearings;

(iii) Section 78A-6-312, regarding dispositional hearings and reunification services; and

(iv) Section 78A-6-314, regarding permanency hearings and petitions for termination;

(d) receive recommendations from, and make recommendations to the governor, the Legislature, the attorney general, the division, the Office of Guardian Ad Litem, the juvenile court, and the public;

(e) (i) receive reports from the executive branch and the judicial branch on budgetary issues impacting the child welfare system; and

(ii) recommend, as the panel considers advisable, budgetary proposals to the Social Services Appropriations Subcommittee and the Executive Offices and Criminal Justice Appropriations Subcommittee, which recommendation should be made before December 1 of each year;

(f) study and recommend proposed changes to laws governing the child welfare system;

(g) study actions the state can take to preserve, unify, and strengthen the child's family ties whenever possible in the child's best interest, including recognizing the constitutional rights and claims of parents whenever those family ties are severed or infringed;

(h) perform such other duties related to the oversight of the child welfare system as the panel considers appropriate; and

(i) annually report the panel's findings and recommendations to the president of the Senate, the speaker of the House of Representatives, the Health and Human Services Interim Committee, and the Judiciary Interim Committee.

(5) (a) The panel has authority to review and discuss individual cases.

(b) When an individual case is discussed, the panel's meeting may be closed pursuant to Title 52, Chapter 4, Open and Public Meetings Act.

(c) When discussing an individual case, the panel shall make reasonable efforts to identify and consider the concerns of all parties to the case.

(6) (a) The panel has authority to make recommendations to the Legislature, the governor, the Board of Juvenile Court Judges, the division, and any other statutorily created entity related to the policies and procedures of the child welfare system. The panel does not have authority to make recommendations to the court, the division, or any other public or private entity regarding the disposition of any individual case.

(b) The panel may hold public hearings, as it considers advisable, in various locations within the state in order to afford all interested persons an opportunity to appear and present their views regarding the child welfare system in this state.

(7) (a) All records of the panel regarding individual cases shall be classified private, and may be disclosed only in accordance with federal law and the provisions of Title 63G, Chapter 2, Government Records Access and Management Act.

(b) The panel shall have access to all of the division's records, including those regarding individual cases. In accordance with Title 63G, Chapter 2, Government Records Access and Management Act, all documents and information received by the panel shall maintain the same classification that was designated by the division.

(8) In order to accomplish its oversight functions, the panel has:

(a) all powers granted to legislative interim committees in Section 36-12-11; and

(b) legislative subpoena powers under Title 36, Chapter 14, Legislative Subpoena Powers.

~~[(9) Members of the panel shall receive salary and expenses in accordance with Section 36-2-2.]~~

(9) Compensation and expenses of a member of the panel who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(10) (a) The Office of Legislative Research and General Counsel shall provide staff support to the panel.

(b) The panel is authorized to employ additional professional assistance and other staff members as it considers necessary and appropriate.

Section 14. Section 63A-3-106 is amended to read:

63A-3-106. Per diem rates for board members.

(1) As used in this section and Section 63A-3-107:

(a) "Board" means a board, commission, council, committee, task force, or similar body established to perform a governmental function.

(b) "Board member" means a person appointed or designated by statute to serve on a board.

(c) "Executive branch" means a department, division, agency, board, or office within the executive branch of state government.

(d) "Governmental entity" has the same meaning as provided under Section 63G-2-103.

(e) "Higher education" means a state institution of higher education, as defined under Section 53B-1-102.

(f) "Officer" means a person who is elected or appointed to an office or position within a governmental entity.

(g) "Official meeting" means a meeting of a board that is called in accordance with statute.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and subject to approval by the executive director, the director of the Division of Finance shall make rules establishing per diem rates to defray subsistence costs for a board member's attendance at an official meeting.

(3) Unless otherwise provided by statute, a per diem rate established under Subsection (2) is applicable to a board member who serves:

(a) within the executive branch, except as provided under Subsection (3)(b);

(b) within higher education, unless higher education pays the costs of the per diem;

(c) on a board that is:

(i) not included under Subsection (3)(a) or (b); and

(ii) created by a statute that adopts the per diem rates by reference to:

(A) this section; and

(B) the rule authorized by this section; and

(d) within a government entity that is not included under Subsection (3)(a), if the government entity adopts the per diem rates by reference to:

(i) this section; or

(ii) the rule establishing the per diem rates.

(4) (a) Unless otherwise provided by statute, a board member who is not a legislator may receive per diem under this section and travel expenses under Section 63A-3-107 if the per diem and travel expenses are incurred by the board member for attendance at an official meeting.

(b) Notwithstanding Subsection (4)(a), a board member may not receive per diem or travel expenses under this Subsection (4) if the board member is being paid by a governmental entity while performing the board member's service on the board.

(5) A board member may decline to receive per diem for the board member's service.

(6) Compensation and expenses of a board member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Section 15. Section 63A-3-107 is amended to read:

63A-3-107. Travel expenses of board members and state officers and employees.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and subject to approval by the executive director, the director of the Division of Finance shall make rules governing in-state and out-of-state travel expenses.

(2) Unless otherwise provided by statute, a travel expense rule established under Subsection (1) is applicable to:

(a) a board member, an officer, or employee of the executive branch, except as provided under Subsection (2)(b);

(b) a board member, an officer, or employee of higher education, unless higher education pays the costs of the travel expenses;

(c) a board member who:

(i) is not included under Subsection (2)(a) or (b); and

(ii) serves on a board created by a statute that adopts the travel expense rates by reference to:

(A) this section; and

(B) the rule authorized by this section; and

(d) a government entity that is not included under Subsection (2)(a), if the government entity adopts the travel expense provisions by reference to:

(i) this section; or

(ii) the rule establishing the travel expense provisions.

(3) The Division of Finance shall make the travel expense rules on the basis of:

(a) a mileage allowance; and

(b) reimbursement for other travel expenses incurred.

(4) The travel expense rules may specify an exception to a travel expense rule or allow the director of the Division of Finance to make an exception to a travel expense rule, when justified by the executive director of the executive branch agency or department, to meet special circumstances encountered in official attendance at a conference, convention, meeting, or other official business, as determined by the director of the Division of Finance.

(5) An officer or employee of the executive branch may not incur obligations for travel outside the state without the advance approval of the executive director or a designee of the executive director of an executive branch department or agency.

(6) A board member may decline to receive travel expenses for the board member's service.

(7) Compensation and expenses of a board member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Section 16. Section 63A-3-403 is amended to read:

63A-3-403. Utah Transparency Advisory Board -- Creation -- Membership -- Duties.

(1) There is created within the department the Utah Transparency Advisory Board comprised of members knowledgeable about public finance or providing public access to public information.

(2) The board consists of:

(a) an individual appointed by the director of the Division of Finance;

(b) an individual appointed by the executive director of the Governor's Office of Management and Budget;

(c) an individual appointed by the governor on advice from the Legislative Fiscal Analyst;

(d) one member of the Senate, appointed by the governor on advice from the president of the Senate;

(e) one member of the House of Representatives, appointed by the governor on advice from the speaker of the House of Representatives;

(f) an individual appointed by the director of the Department of Technology Services;

(g) the director of the Division of Archives created in Section 63A-12-101 or the director's designee;

(h) an individual who is a member of the State Records Committee created in Section 63G-2-501, appointed by the governor;

(i) an individual representing counties, appointed by the governor;

(j) an individual representing municipalities, appointed by the governor; and

(k) two individuals who are members of the public and who have knowledge, expertise, or experience in matters relating to the board's duties under Subsection (10), appointed by the board members identified in Subsections (2)(a) through (j).

(3) The board shall:

(a) advise the division on matters related to the implementation and administration of this part;

(b) develop plans, make recommendations, and assist in implementing the provisions of this part;

(c) determine what public financial information shall be provided by participating state and local entities, if the public financial information:

(i) only includes records that:

(A) are classified as public under Title 63G, Chapter 2, Government Records Access and Management Act;

(B) are an accounting of money, funds, accounts, bonds, loans, expenditures, or revenues, regardless of the source; and

(C) are owned, held, or administered by the participating state or local entity that is required to provide the record; and

(ii) is of the type or nature that should be accessible to the public via a website based on considerations of:

(A) the cost effectiveness of providing the information;

(B) the value of providing the information to the public; and

(C) privacy and security considerations;

(d) evaluate the cost effectiveness of implementing specific information resources and features on the website;

(e) establish size or budget thresholds to identify those local entities that qualify as participating local entities as defined in this part, giving special consideration to the budget and resource limitations of an entity with a current annual budget of less than \$10,000,000;

(f) require participating local entities to provide public financial information in accordance with the requirements of this part, with a specified content, reporting frequency, and form;

(g) require a participating local entity's website to be accessible by link or other direct route from the Utah Public Finance Website if the participating local entity does not use the Utah Public Finance Website; and

(h) determine the search methods and the search criteria that shall be made available to the public as part of a website used by a participating local entity under the requirements of this part, which criteria may include:

(i) fiscal year;

(ii) expenditure type;

(iii) name of the agency;

(iv) payee;

(v) date; and

(vi) amount.

(4) The board shall annually elect a chair and a vice chair from its members.

(5) (a) Each member shall serve a two-year term.

(b) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the remainder of the unexpired term.

(6) To accomplish its duties, the board ~~shall meet as many as eight times during 2013; and (b) shall, after 2013,~~ shall meet as it determines necessary.

(7) Reasonable notice shall be given to each member of the board before any meeting.

(8) A majority of the board constitutes a quorum for the transaction of business.

(9) (a) A member who is not a legislator may not receive compensation or benefits for the member's

service, but may receive per diem and travel expenses ~~[in accordance with]~~ as allowed in:

~~[(a)]~~ (i) Section 63A-3-106;

~~[(b)]~~ (ii) Section 63A-3-107; and

~~[(e)]~~ (iii) rules made by the Division of Finance ~~[pursuant]~~ according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(10) (a) As used in this Subsection (10):

(i) "Information website" means a single Internet website containing public information or links to public information.

(ii) "Public information" means records of state or local government that are classified as public under Title 63G, Chapter 2, Government Records Access and Management Act.

(b) The board shall:

(i) study the establishment of an information website and develop recommendations for its establishment;

(ii) develop recommendations about how to make public information more readily available to the public through the information website;

(iii) develop standards to make uniform the format and accessibility of public information posted to the information website; and

(iv) ~~[no later than November 30, 2013,]~~ report the board's recommendations and standards developed under Subsections (10)(b)(i) through (iii) to the executive director and the Legislative Management Committee.

(c) In fulfilling its duties under Subsection (10)(b), the board shall be guided by principles that encourage:

(i) (A) the establishment of a standardized format of public information that makes the information more easily accessible by the public;

(B) the removal of restrictions on the reuse of public information;

(C) minimizing limitations on the disclosure of public information while appropriately safeguarding sensitive information; and

(D) balancing factors in favor of excluding public information from an information website against the public interest in having the information accessible on an information website;

(ii) (A) permanent, lasting, open access to public information; and

(B) the publication of bulk public information;

(iii) the implementation of well-designed public information systems that ensure data quality, create a public, comprehensive list or index of public

information, and define a process for continuous publication of and updates to public information;

(iv) the identification of public information not currently made available online and the implementation of a process, including a timeline and benchmarks, for making that public information available online; and

(v) accountability on the part of those who create, maintain, manage, or store public information or post it to an information website.

(d) The department shall implement the board's recommendations, including the establishment of an information website, to the extent that implementation:

(i) is approved by the Legislative Management Committee;

(ii) does not require further legislative appropriation; and

(iii) is within the department's existing statutory authority.

Section 17. Section 63A-3-404 is amended to read:

63A-3-404. Rulemaking authority.

(1) After consultation with the board, and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Division of Finance shall make rules to:

(a) require participating state entities to provide public financial information for inclusion on the Utah Public Finance Website;

(b) define, either uniformly for all participating state entities, or on an entity by entity basis, the term "public financial information" using the standards provided in Subsection 63A-3-403~~(2)~~(3)(c); and

(c) establish procedures for obtaining, submitting, reporting, storing, and providing public financial information on the Utah Public Finance Website, which may include a specified reporting frequency and form.

(2) After consultation with the board, and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Division of Finance may make rules to:

(a) require a participating state or local entity to list certain expenditures made by a person under a contract with the entity; and

(b) if a list is required under Subsection (2)(a), require the following information to be included:

(i) the name of the participating state or local entity making the expenditure;

(ii) the name of the person receiving the expenditure;

(iii) the date of the expenditure;

(iv) the amount of the expenditure;

(v) the purpose of the expenditure;

- (vi) the name of each party to the contract;
- (vii) an electronic copy of the contract; or
- (viii) any other criteria designated by rule.

Section 18. Section 63C-4a-202 is amended to read:

63C-4a-202. Creation of Constitutional Defense Council -- Membership -- Vacancies -- Meetings -- Staff -- Reports -- Per diem, travel expenses, and funding.

(1) There is created the Constitutional Defense Council.

(2) (a) The council shall consist of the following members:

(i) the governor or the lieutenant governor, who shall serve as chair of the council;

(ii) the president of the Senate or the president of the Senate's designee who shall serve as vice chair of the council;

(iii) the speaker of the House or the speaker of the House's designee who shall serve as vice chair of the council;

(iv) another member of the House, appointed by the speaker of the House;

(v) the minority leader of the Senate or the minority leader of the Senate's designee;

(vi) the minority leader of the House or the minority leader of the House's designee;

(vii) the attorney general or the attorney general's designee, who shall be one of the attorney general's appointees, not a current career service employee;

(viii) the director of the School and Institutional Trust Lands Administration;

(ix) four elected county commissioners, county council members, or county executives from different counties who are selected by the Utah Association of Counties, at least one of whom shall be from a county of the first or second class;

(x) the executive director of the Department of Natural Resources, who may not vote;

(xi) the commissioner of the Department of Agriculture and Food, who may not vote;

(xii) the director of the Governor's Office of Economic Development, who may not vote; and

(xiii) two elected county commissioners, county council members, or county executives from different counties appointed by the Utah Association of Counties, who may not vote.

(b) The council vice chairs shall conduct a council meeting in the absence of the chair.

(c) If both the governor and the lieutenant governor are absent from a meeting of the council, the governor may designate a person to attend the meeting solely for the purpose of casting a vote on any matter on the governor's behalf.

(3) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term in the same manner as the original appointment.

(4) (a) (i) Except as provided in Subsection (4)(a)(ii), the council shall meet at least monthly or more frequently as needed.

(ii) The council need not meet monthly if the chair, after polling the members, determines that a majority of the members do not wish to meet.

(b) The governor or any six members of the council may call a meeting of the council.

(c) Before calling a meeting, the governor or council members shall solicit items for the agenda from other members of the council.

(d) (i) The council shall require that any entity, other than the commission, that receives money from the Constitutional Defense Restricted Account provide financial reports and litigation reports to the council.

(ii) Nothing in this Subsection (4)(d) prohibits the council from closing a meeting under Title 52, Chapter 4, Open and Public Meetings Act, or prohibits the council from complying with Title 63G, Chapter 2, Government Records Access and Management Act.

(e) A majority of the voting membership on the council is required for a quorum to conduct council business. A majority vote of the quorum is required for any action taken by the council.

(5) (a) The Office of the Attorney General shall advise the council.

(b) The Public Lands Policy Coordinating Office shall provide staff assistance for meetings of the council.

(6) (a) A member of the council who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses ~~[in accordance with]~~ as allowed in:

~~[(a)]~~ (i) Section 63A-3-106;

~~[(b)]~~ (ii) Section 63A-3-107; and

~~[(c)]~~ (iii) rules made by the Division of Finance ~~[pursuant]~~ according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a member of the council who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(7) Money appropriated for or received by the council may be expended by the governor in consultation with the council.

Section 19. Section 63C-4a-302 is amended to read:

63C-4a-302. Creation of Commission on Federalism -- Membership meetings -- Staff -- Expenses.

(1) There is created the Commission on Federalism, comprised of the following seven members:

(a) the president of the Senate or the president of the Senate's designee who shall serve as cochair of the commission;

(b) another member of the Senate, appointed by the president of the Senate;

(c) the speaker of the House or the speaker of the House's designee who shall serve as cochair of the commission;

(d) two other members of the House, appointed by the speaker of the House;

(e) the minority leader of the Senate or the minority leader of the Senate's designee; and

(f) the minority leader of the House or the minority leader of the House's designee.

(2) (a) A majority of the members of the commission constitute a quorum of the commission.

(b) Action by a majority of the members of a quorum constitutes action by the commission.

(3) The commission shall meet six times each year, unless additional meetings are approved by the Legislative Management Committee.

(4) The Office of Legislative Research and General Counsel shall provide staff support to the commission.

~~[(5) Salary and expenses of a member of the commission shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Expense and Mileage Reimbursement for Authorized Legislative Meetings, Special Sessions, and Veto Override Sessions.]~~

(5) Compensation and expenses of a member of the commission who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(6) Nothing in this section prohibits the commission from closing a meeting under Title 52, Chapter 4, Open and Public Meetings Act, or prohibits the commission from complying with Title 63G, Chapter 2, Government Records Access and Management Act.

Section 20. Section 63C-6-103 is amended to read:

63C-6-103. Compensation of members -- Per diem and travel expenses.

(1) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses ~~[in accordance with]~~ as allowed in:

~~[(1)]~~ (a) Section 63A-3-106;

~~[(2)]~~ (b) Section 63A-3-107; and

~~[(3)]~~ (c) rules made by the Division of Finance ~~[pursuant]~~ according to Sections 63A-3-106 and 63A-3-107.

(2) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and

Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Section 21. Section 63C-9-202 is amended to read:

63C-9-202. Terms -- Vacancies -- Chair -- Vice chair -- Meetings -- Compensation.

(1) (a) The governor, president of the Senate, speaker of the House, chief justice, state treasurer, state attorney general, and state historic preservation officer shall serve terms coterminous with their office.

(b) The other members shall serve two-year terms.

(2) Vacancies in the appointed positions shall be filled by the original appointing authority for the unexpired term.

(3) (a) Except as provided in Subsection (3)(b), the governor is chair of the board.

(b) When the governor is absent from meetings of the board, the vice chair is chair of the board.

(c) The governor shall appoint a member of the board to serve as vice chair with the approval of a majority of the members of the board.

(4) The board shall meet at least quarterly and at other times at the call of the governor or at the request of four members of the board.

(5) (a) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses ~~[in accordance with]~~ as allowed in:

~~[(a)]~~ (i) Section 63A-3-106;

~~[(b)]~~ (ii) Section 63A-3-107; and

~~[(e)]~~ (iii) rules made by the Division of Finance ~~[pursuant]~~ according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Section 22. Section 63C-9-702 is amended to read:

63C-9-702. Art Placement Subcommittee to the State Capitol Preservation Board -- Created -- Membership -- Operations.

(1) (a) There is created an Art Placement Subcommittee to the State Capitol Preservation Board composed of 11 members appointed as provided in this Subsection (1).

(b) (i) The governor shall appoint:

(A) an architect, from a list of three architects submitted by the American Institute of Architects;

(B) an artist, from a list of three artists submitted by the Utah Arts Council Board of Directors;

(C) an historian, from a list of three historians submitted by the Board of State History; and

(D) a citizen to represent the public at large who is not a member of the State Capitol Preservation Board.

(ii) The governor, as chair of the board, with the concurrence of the board, shall appoint a member of the board as a voting member of the subcommittee.

(c) The president of the Senate shall appoint three members of the Senate, two from the majority party and one from the minority party.

(d) The speaker of the House of Representatives shall appoint three members of the House, two from the majority party and one from the minority party.

(2) (a) (i) (A) Subcommittee members appointed by the governor shall serve four-year terms and may serve up to two consecutive terms.

(B) The board member appointed by the governor under Subsection (1)(b)(ii) shall serve a two-year term, and may be reappointed.

(ii) Subcommittee members appointed by the president of the Senate and the speaker of the House of Representatives shall serve two-year terms and may be reappointed.

(b) In appointing members to the first subcommittee, the governor shall designate two members to serve a two-year term and two members to serve four-year terms.

(3) (a) Each subcommittee member shall hold office until his successor has been appointed and qualified.

(b) If a vacancy occurs in the subcommittee because of death, resignation, or otherwise, the appointing authority shall appoint a successor, who shall hold office for the unexpired term.

(c) Six voting members of the subcommittee are a quorum for the purpose of organizing and conducting the business of the subcommittee.

(d) The vote of a majority of members voting when a quorum is present is necessary for the subcommittee to take action.

(4) (a) At the initial meeting of the subcommittee, the subcommittee shall select one of its number to serve as chair of the subcommittee.

(b) The executive director of the board shall assist the subcommittee in their duties and shall provide staff services to the subcommittee.

(5) (a) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses ~~[in accordance with]~~ as allowed in:

~~[(a)]~~ (i) Section 63A-3-106;

~~[(b)]~~ (ii) Section 63A-3-107; and

~~[(c)]~~ (iii) rules made by the Division of Finance ~~[pursuant]~~ according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and

Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(6) The subcommittee shall meet at least quarterly.

Section 23. Section 63C-13-107 is amended to read:

63C-13-107. Compensation and expenses of authority members.

~~[(1) Salaries and expenses of authority members who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Expense and Mileage Reimbursement for Authorized Legislative Meetings, Special Sessions, and Veto Override Sessions.]~~

(1) Compensation and expenses of an authority member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(2) An authority member who is not a legislator may not receive compensation or benefits for the member's service on the authority, but may receive per diem and reimbursement for travel expenses incurred as an authority member at the rates established by the Division of Finance under:

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 24. Section 63C-14-202 is amended to read:

63C-14-202. Terms of commission members -- Removal -- Vacancies -- Salaries and expenses.

(1) Subject to Subsections (3), (4), and (5), the term of commission members is two years.

(2) A commission member may be reappointed to a successive term.

(3) Beginning March 2015, the term of commission members shall be staggered so that the term of approximately half of the members expires every year.

(4) A commission member may be removed from the commission by the person or persons who appointed the member.

(5) Subject to Subsection (7), a commission member appointed under Subsection 63C-14-201(2)(a) or (b) who leaves office as a legislator may not continue to serve as a commission member.

(6) A vacancy in the commission shall be filled in the same manner as the appointment of the member whose departure from the commission creates the vacancy.

(7) A commission member shall serve until a successor is duly appointed and qualified.

~~[(8) (a) Salaries and expenses of commission members who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Expense and~~

~~Mileage Reimbursement for Authorized Legislative Meetings, Special Sessions, and Veto Override Sessions.]~~

~~[(b)] (8) (a) A commission member who is not a legislator may not receive compensation or benefits for the member's service on the commission, but may receive per diem and reimbursement for travel expenses incurred as a commission member [at the rates established by the Division of Finance under Sections] as allowed in:~~

~~(i) Section 63A-3-106 [and];~~

~~(ii) Section 63A-3-107; and~~

~~(iii) rules made by the Division of Finance [pursuant] according to Sections 63A-3-106 and 63A-3-107.~~

~~(b) Compensation and expenses of a commission member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.~~

Section 25. Section 63E-1-201 is amended to read:

63E-1-201. Retirement and Independent Entities Committee creation.

(1) There is created the Retirement and Independent Entities Committee composed of 15 legislators appointed as follows:

(a) six senators, appointed by the president of the Senate, with at least two senators from the minority party; and

(b) nine representatives, appointed by the speaker of the House of Representatives, with at least three representatives from the minority party.

(2) (a) The president of the Senate shall designate one of the Senate appointees as a cochair of the committee.

(b) The speaker of the House of Representatives shall designate one of the House of Representatives appointees as a cochair of the committee.

(3) Committee members serve for two years, but may be reappointed by the speaker or the president.

(4) The committee shall meet at least twice each year, but may meet more frequently if the chairs determine that additional meetings are needed.

(5) In conducting all of its business, the committee shall comply with the rules of legislative interim committees.

(6) The Office of Legislative Research and General Counsel shall provide staff services to the committee.

~~[(7) Salaries and expenses of legislative committee members shall be paid in accordance with:]~~

~~[(a) Section 36-2-2; and]~~

~~[(b) Legislative Joint Rule 15.03.]~~

~~(7) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and~~

Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Section 26. Section 63F-1-202 is amended to read:

63F-1-202. Technology Advisory Board -- Membership -- Duties.

(1) There is created the Technology Advisory Board to the chief information officer. The board shall have seven members as follows:

(a) three members appointed by the governor who are individuals actively involved in business planning for state agencies;

(b) one member appointed by the governor who is actively involved in business planning for higher education or public education;

(c) one member appointed by the speaker of the House of Representatives and president of the Senate from the Legislative Automation Committee of the Legislature to represent the legislative branch;

(d) one member appointed by the Judicial Council to represent the judicial branch; and

(e) one member appointed by the governor who represents private sector business needs in the state, but who is not an information technology vendor for the state.

(2) (a) The members of the advisory board shall elect a chair from the board by majority vote.

(b) The department shall provide staff to the board.

(c) (i) A majority of the members of the board constitutes a quorum.

(ii) Action by a majority of a quorum of the board constitutes an action of the board.

(3) The board shall meet as necessary to advise the chief information officer and assist the chief information officer and executive branch agencies in coming to consensus on:

(a) the development and implementation of the state's information technology strategic plan;

(b) critical information technology initiatives for the state;

(c) the development of standards for state information architecture;

(d) identification of the business and technical needs of state agencies;

(e) the department's performance measures for service agreements with executive branch agencies and subscribers of services, including a process in which an executive branch agency may review the department's implementation of and compliance with an executive branch agency's data security requirements; and

(f) the efficient and effective operation of the department.

(4) (a) A member who is not a legislator may not receive compensation or benefits for the member's

service, but may receive per diem and travel expenses ~~[in accordance with]~~ as allowed in:

~~[(a)]~~ (i) Section 63A-3-106;

~~[(b)]~~ (ii) Section 63A-3-107; and

~~[(e)]~~ (iii) rules made by the Division of Finance ~~[pursuant]~~ according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Section 27. Section 63I-3-206 is amended to read:

63I-3-206. Per diem and travel expenses of members.

(1) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses ~~[in accordance with]~~ as allowed in:

~~[(1)]~~ (a) Section 63A-3-106;

~~[(2)]~~ (b) Section 63A-3-107; and

~~[(3)]~~ (c) rules made by the Division of Finance ~~[pursuant]~~ according to Sections 63A-3-106 and 63A-3-107.

(2) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Section 28. Section 63I-4a-202 is amended to read:

63I-4a-202. Free Market Protection and Privatization Board -- Created -- Membership -- Operations -- Expenses.

(1) (a) There is created a Free Market Protection and Privatization [Policy] Board composed of 17 members.

(b) The governor shall appoint board members as follows:

(i) two senators, one each from the majority and minority political parties, from names recommended by the president of the Senate;

(ii) two representatives, one each from the majority and minority political parties, from names recommended by the speaker of the House of Representatives;

(iii) two members representing public employees, from names recommended by the largest public employees' association;

(iv) one member from state management;

(v) seven members from the private business community;

(vi) one member representing the Utah League of Cities and Towns from names recommended by the Utah League of Cities and Towns;

(vii) one member representing the Utah Association of Counties from names recommended by the Utah Association of Counties; and

(viii) one member representing the Utah Association of Special Districts, from names recommended by the Utah Association of Special Districts.

(2) (a) Except as provided in Subsection (2)(b), a board member shall serve a two-year term.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(3) (a) A board member shall hold office until the board member's successor is appointed and qualified.

(b) When a vacancy occurs in the membership for any reason, a replacement shall be appointed for the unexpired term.

(c) Nine members of the board constitute a quorum.

(d) The vote of a majority of board members voting when a quorum is present is necessary for the board to act.

(4) (a) The board shall select one of the members to serve as chair of the board.

(b) A chair shall serve as chair for a term of one-year, and may be selected as chair for more than one term.

(5) The Governor's Office of Management and Budget shall staff the board. The board may contract for additional staff from the private sector under Section 63I-4a-204.

(6) The board shall meet:

(a) at least quarterly; and

(b) as necessary to conduct its business, as called by the chair.

(7) (a) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses ~~[in accordance with]~~ as allowed in:

~~[(a)]~~ (i) Section 63A-3-106;

~~[(b)]~~ (ii) Section 63A-3-107; and

~~[(e)]~~ (iii) rules made by the Division of Finance ~~[pursuant]~~ according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Section 29. Section 63M-7-207 is amended to read:

63M-7-207. Members serve without pay -- Reimbursement for expenses.

(1) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses ~~[in accordance with]~~ as allowed in:

[4] (a) Section 63A-3-106;

[2] (b) Section 63A-3-107; and

[3] (c) rules made by the Division of Finance ~~[pursuant]~~ according to Sections 63A-3-106 and 63A-3-107.

(2) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Section 30. Section 63M-7-302 is amended to read:

63M-7-302. Chair -- Vacancies -- Quorum -- Expenses.

(1) The Utah Substance Abuse Advisory Council shall annually select one of its members to serve as chair and one of its members to serve as vice chair.

(2) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term in the same manner as the position was originally filled.

(3) A majority of the members of the council constitutes a quorum.

(4) (a) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses ~~[in accordance with]~~ as allowed in:

[a] (i) Section 63A-3-106;

[b] (ii) Section 63A-3-107; and

[e] (iii) rules made by the Division of Finance ~~[pursuant]~~ according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(5) The council may establish committees as needed to assist in accomplishing its duties under Section 63M-7-303.

Section 31. Section 63M-7-405 is amended to read:

63M-7-405. Compensation of members -- Reports to the Legislature, the courts, and the governor.

(1) (a) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses ~~[in accordance with]~~ as allowed in:

[a] (i) Section 63A-3-106;

[b] (ii) Section 63A-3-107; and

[e] (iii) rules made by the Division of Finance ~~[pursuant]~~ according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(2) The commission shall submit to the Legislature, the courts, and to the governor at least 60 days prior to the annual general session of the Legislature its reports and recommendations for sentencing guidelines and amendments. It is intended that the commission utilize existing data and resources from state criminal justice agencies. The commission is authorized to employ professional assistance and other staff members as it considers necessary or desirable.

(3) The commission shall be responsive to all three branches of government, but be part of the Commission on Criminal and Juvenile Justice for coordination on criminal and juvenile justice issues, budget, and administrative support.

Section 32. Section 63M-11-206 is amended to read:

63M-11-206. Members serve without pay -- Reimbursement for expenses.

(1) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses ~~[in accordance with]~~ as allowed in:

[4] (a) Section 63A-3-106;

[2] (b) Section 63A-3-107; and

[3] (c) rules made by the Division of Finance ~~[pursuant]~~ according to Sections 63A-3-106 and 63A-3-107.

(2) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Section 33. Section 67-1a-10 is amended to read:

67-1a-10. Commission on Civic and Character Education -- Membership -- Chair -- Expenses.

(1) There is created within the lieutenant governor's office the Commission on Civic and Character Education.

(2) The commission consists of seven members appointed as follows:

(a) the lieutenant governor, as chief election officer of the state, or a designee;

(b) one member of the House of Representatives, appointed by the speaker of the House;

(c) one member of the Senate, appointed by the president of the Senate;

(d) one member of the State Board of Education, appointed by the chair;

(e) one member of the State Board of Regents, appointed by the chair;

(f) one member of the public with expertise in the area of civic and character education appointed by the other members of the commission to serve for a two year term; and

(g) one justice of the Supreme Court or one appellate court judge appointed by the Supreme Court.

(3) (a) The lieutenant governor shall serve as chairperson or if the lieutenant governor is unable to serve, the commission shall annually elect a chairperson from its membership.

(b) The commission shall hold meetings as needed to carry out its duties. A meeting may be held on the call of the chair or a majority of the commission members.

(c) Three commission members are necessary to constitute a quorum at any meeting and, if a quorum exists, the action of a majority of members present shall be the action of the commission.

(4) (a) An appointed commission member shall be appointed for a two-year term or until their successors are appointed.

(b) When a vacancy occurs in the appointed membership for any reason, the replacement shall be appointed for the unexpired term.

(5) (a) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses ~~[in accordance with]~~ as allowed in:

~~[(a)]~~ (i) Section 63A-3-106;

~~[(b)]~~ (ii) Section 63A-3-107; and

~~[(e)]~~ (iii) rules made by the Division of Finance ~~[pursuant]~~ according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(6) The duties of the lieutenant governor's office shall include leadership of the commission.

(7) The funding of the commission shall be a separate line item to the lieutenant governor's office in the annual appropriations act.

Section 34. Section 72-4-302 is amended to read:

72-4-302. Utah State Scenic Byway Committee -- Creation -- Membership -- Meetings -- Expenses.

(1) There is created the Utah State Scenic Byway Committee.

(2) (a) The committee shall consist of the following 15 members:

(i) a representative from each of the following entities appointed by the governor:

(A) the Governor's Office of Economic Development;

(B) the Utah Department of Transportation;

(C) the Department of Heritage and Arts;

(D) the Division of State Parks and Recreation;

(E) the Federal Highway Administration;

(F) the National Park Service;

(G) the National Forest Service; and

(H) the Bureau of Land Management;

(ii) one local government tourism representative appointed by the governor;

(iii) a representative from the private business sector appointed by the governor;

(iv) three local elected officials from a county, city, or town within the state appointed by the governor;

(v) a member from the House of Representatives appointed by the speaker of the House of Representatives; and

(vi) a member from the Senate appointed by the president of the Senate.

(b) Except as provided in Subsection (2)(c), the members appointed in this Subsection (2) shall be appointed for a four-year term of office.

(c) The governor shall, at the time of appointment or reappointment for appointments made under Subsection (2)(a)(i), (ii), (iii), or (iv) adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(d) (i) The appointments made under Subsections (2)(a)(v) and (vi) by the speaker of the House and the president of the Senate may not be from the same political party.

(ii) The speaker of the House and the president of the Senate shall alternate the appointments made under Subsections (2)(a)(v) and (vi) as follows:

(A) if the speaker appoints a member under Subsection (2)(a)(v), the next appointment made by the speaker following the expiration of the existing member's four-year term of office shall be from a different political party; and

(B) if the president appoints a member under Subsection (2)(a)(vi), the next appointment made by the president following the expiration of the existing member's four-year term of office shall be from a different political party.

(3) (a) The representative from the Governor's Office of Economic Development shall chair the committee.

(b) The members appointed under Subsections (2)(a)(i)(E) through (H) serve as nonvoting, ex officio members of the committee.

(4) The Governor's Office of Economic Development and the department shall provide staff support to the committee.

(5) (a) The chair may call a meeting of the committee only with the concurrence of the department.

(b) A majority of the voting members of the committee constitute a quorum.

(c) Action by a majority vote of a quorum of the committee constitutes action by the committee.

(6) (a) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses ~~[in accordance with]~~ as allowed in:

~~[(a)]~~ (i) Section 63A-3-106;

~~[(b)]~~ (ii) Section 63A-3-107; and

~~[(c)]~~ (iii) rules made by the Division of Finance ~~[pursuant]~~ according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Section 35. Section 73-27-102 is amended to read:

73-27-102. State Water Development Commission created.

(1) The State Water Development Commission is created to determine the state's role in the protection, conservation, and development of the state's water resources.

(2) The commission membership shall include:

(a) five members of the Senate, appointed by the president of the Senate, no more than four of whom may be from the same political party;

(b) eight members of the House of Representatives, appointed by the speaker of the House of Representatives, no more than six of whom may be from the same political party; and

(c) the following nonvoting members, appointed by the governor:

(i) a representative of the Office of the Governor;

(ii) a representative of the Green River District;

(iii) a representative of the Upper Colorado River District;

(iv) a representative of the Lower Colorado River District;

(v) a representative of the Lower Sevier River District;

(vi) a representative of the Upper Sevier River District;

(vii) a representative of the Provo River District;

(viii) a representative of the Salt Lake District;

(ix) a representative of the Weber River District;

(x) a representative of the Bear River District;

(xi) the executive director of the Department of Natural Resources;

(xii) the executive director of the Department of Environmental Quality;

(xiii) the commissioner of agriculture and food;

(xiv) a member of the Board of Water Resources;

(xv) a representative of an organized environmental group; and

(xvi) a representative of agricultural production.

(3) (a) Except as required by Subsection (3)(b), the members appointed by the governor under Subsection (2)(c) shall be appointed or reappointed to a four-year term.

(b) The governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the nonvoting members of the commission are appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the governor shall appoint a replacement for the unexpired term.

(4) The president of the Senate and the speaker of the House of Representatives shall, to the extent possible, appoint members under Subsections (2)(a) and (b) that represent both rural and urban areas of the state.

(5) (a) The president of the Senate shall designate a member of the Senate appointed under Subsection (2)(a) as a cochair of the commission.

(b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (2)(b) as a cochair of the commission.

(6) Attendance by at least 50% of one legislative house and more than 50% of the other legislative house constitutes a quorum.

~~[(7) (a) Salaries and expenses of the members of the commission shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Expense and Mileage Reimbursement for Authorized Legislative Meetings, Special Sessions, and Veto Override Sessions.]~~

(7) (a) Compensation and expenses of a member of the commission who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(b) Commission members who are employees of the state shall receive no additional compensation.

(c) Other commission members shall receive no compensation or expenses for their service on the commission.

(8) The Office of Legislative Research and General Counsel shall provide staff support to the commission.

Section 36. Section 78A-2-502 is amended to read:

78A-2-502. Creation of policy board -- Membership -- Terms -- Chair -- Quorum -- Expenses.

(1) There is created a 13 member policy board to be known as the "Online Court Assistance Program Policy Board" which shall:

(a) identify the subject matter included in the Online Court Assistance Program;

(b) develop information and forms in conformity with the rules of procedure and evidence; and

(c) advise the Administrative Office of the Courts regarding the administration of the program.

(2) The voting membership shall consist of:

(a) two members of the House of Representatives designated by the speaker, with one member from each party;

(b) two members of the Senate designated by the president, with one member from each party;

(c) two attorneys actively practicing in domestic relations designated by the Family Law Section of the Utah State Bar;

(d) one attorney actively practicing in civil litigation designated by the Civil Litigation Section of the Utah State Bar;

(e) one court commissioner designated by the chief justice of the Utah Supreme Court;

(f) one district court judge designated by the chief justice of the Utah Supreme Court;

(g) one attorney from Utah Legal Services designated by its director;

(h) one attorney from Legal Aid designated by its director; and

(i) two persons from the Administrative Office of the Courts designated by the state court administrator.

(3) (a) The terms of the members shall be four years and staggered so that approximately half of the board expires every two years.

(b) The board shall meet as needed.

(4) The board shall select one of its members to serve as chair.

(5) A majority of the members of the board constitutes a quorum.

(6) (a) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses ~~[in accordance with]~~ as allowed in:

~~[(a)]~~ (i) Section 63A-3-106;

~~[(b)]~~ (ii) Section 63A-3-107; and

~~[(c)]~~ (iii) rules made by the Division of Finance ~~[pursuant]~~ according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Section 37. Section 78A-11-104 is amended to read:

78A-11-104. Expenses -- Per diem and travel.

(1) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses ~~[in accordance with]~~ as allowed in:

~~[(1)]~~ (a) Section 63A-3-106;

~~[(2)]~~ (b) Section 63A-3-107; and

~~[(3)]~~ (c) rules made by the Division of Finance ~~[pursuant]~~ according to Sections 63A-3-106 and 63A-3-107.

(2) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

CHAPTER 388**S. B. 89**

Passed March 12, 2014

Approved April 1, 2014

Effective May 13, 2014

**AMENDMENTS TO DEFINITION
OF PUBLIC UTILITY**

Chief Sponsor: Stephen H. Urquhart

House Sponsor: Bradley G. Last

LONG TITLE**General Description:**

This bill amends the definition of a "public utility."

Highlighted Provisions:

This bill:

- ▶ amends the definition of a "public utility"; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

54-2-1, as last amended by Laws of Utah 2010, Chapters 302 and 390

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 54-2-1 is amended to read:****54-2-1. Definitions.**

As used in this title:

(1) "Avoided costs" means the incremental costs to an electrical corporation of electric energy or capacity or both that, due to the purchase of electric energy or capacity or both from small power production or cogeneration facilities, the electrical corporation would not have to generate itself or purchase from another electrical corporation.

(2) "Cogeneration facility":

(a) means a facility that produces:

(i) electric energy; and

(ii) steam or forms of useful energy, including heat, that are used for industrial, commercial, heating, or cooling purposes; and

(b) is a qualifying cogeneration facility under federal law.

(3) "Commission" means the Public Service Commission of Utah.

(4) "Commissioner" means a member of the commission.

(5) (a) "Corporation" includes an association and a joint stock company having any powers or privileges not possessed by individuals or partnerships.

(b) "Corporation" does not include towns, cities, counties, conservancy districts, improvement

districts, or other governmental units created or organized under any general or special law of this state.

(6) "Distribution electrical cooperative" includes an electrical corporation that:

(a) is a cooperative;

(b) conducts a business that includes the retail distribution of electricity the cooperative purchases or generates for the cooperative's members; and

(c) is required to allocate or distribute savings in excess of additions to reserves and surplus on the basis of patronage to the cooperative's:

(i) members; or

(ii) patrons.

(7) "Electrical corporation" includes every corporation, cooperative association, and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any electric plant, or in any way furnishing electric power for public service or to its consumers or members for domestic, commercial, or industrial use, within this state, except independent energy producers, and except where electricity is generated on or distributed by the producer solely for the producer's own use, or the use of the producer's tenants, or for the use of members of an association of unit owners formed under Title 57, Chapter 8, Condominium Ownership Act, and not for sale to the public generally, and except where the electricity generated is consumed by an owner, lessor, or interest holder, or by an affiliate of an owner, lessor, or interest holder, who has provided at least \$25,000,000 in value, including credit support, relating to the electric plant furnishing the electricity and whose consumption does not exceed its long-term entitlement in the plant under a long-term arrangement other than a power purchase agreement, except a power purchase agreement with an electrical corporation.

(8) "Electric plant" includes all real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate the production, generation, transmission, delivery, or furnishing of electricity for light, heat, or power, and all conduits, ducts, or other devices, materials, apparatus, or property for containing, holding, or carrying conductors used or to be used for the transmission of electricity for light, heat, or power.

(9) "Gas corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any gas plant for public service within this state or for the selling or furnishing of natural gas to any consumer or consumers within the state for domestic, commercial, or industrial use, except in the situation that:

(a) gas is made or produced on, and distributed by the maker or producer through, private property:

(i) solely for the maker's or producer's own use or the use of the maker's or producer's tenants; and

- (ii) not for sale to others;
- (b) gas is compressed on private property solely for the owner's own use or the use of the owner's employees as a motor vehicle fuel; or
- (c) gas is compressed by a retailer of motor vehicle fuel on the retailer's property solely for sale as a motor vehicle fuel.
- (10) "Gas plant" includes all real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate the production, generation, transmission, delivery, or furnishing of gas, natural or manufactured, for light, heat, or power.
- (11) "Heat corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any heating plant for public service within this state.
- (12) (a) "Heating plant" includes all real estate, fixtures, machinery, appliances, and personal property controlled, operated, or managed in connection with or to facilitate the production, generation, transmission, delivery, or furnishing of artificial heat.
- (b) "Heating plant" does not include either small power production facilities or cogeneration facilities.
- (13) "Independent energy producer" means every electrical corporation, person, corporation, or government entity, their lessees, trustees, or receivers, that own, operate, control, or manage an independent power production or cogeneration facility.
- (14) "Independent power production facility" means a facility that:
- (a) produces electric energy solely by the use, as a primary energy source, of biomass, waste, a renewable resource, a geothermal resource, or any combination of the preceding sources; or
- (b) is a qualifying power production facility.
- (15) "Private telecommunications system" includes all facilities for the transmission of signs, signals, writing, images, sounds, messages, data, or other information of any nature by wire, radio, lightwaves, or other electromagnetic means, excluding mobile radio facilities, that are owned, controlled, operated, or managed by a corporation or person, including their lessees, trustees, receivers, or trustees appointed by any court, for the use of that corporation or person and not for the shared use with or resale to any other corporation or person on a regular basis.
- (16) (a) "Public utility" includes every railroad corporation, gas corporation, electrical corporation, distribution electrical cooperative, wholesale electrical cooperative, telephone corporation, telegraph corporation, water corporation, sewerage corporation, heat corporation, and independent energy producer not described in Subsection (16)(d), where the service is performed for, or the

commodity delivered to, the public generally, or in the case of a gas corporation or electrical corporation where the gas or electricity is sold or furnished to any member or consumers within the state for domestic, commercial, or industrial use.

(b) (i) If any railroad corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewerage corporation, heat corporation, or independent energy producer not described in Subsection (16)(d), performs a service for or delivers a commodity to the public, it is considered to be a public utility, subject to the jurisdiction and regulation of the commission and this title.

(ii) If a gas corporation, independent energy producer not described in Subsection (16)(d), or electrical corporation sells or furnishes gas or electricity to any member or consumers within the state, for domestic, commercial, or industrial use, for which any compensation or payment is received, it is considered to be a public utility, subject to the jurisdiction and regulation of the commission and this title.

(c) Any corporation or person not engaged in business exclusively as a public utility as defined in this section is governed by this title in respect only to the public utility owned, controlled, operated, or managed by the corporation or person, and not in respect to any other business or pursuit.

(d) An independent energy producer is exempt from the jurisdiction and regulations of the commission with respect to an independent power production facility if it meets the requirements of Subsection (16)(d)(i), (ii), (iii), or (iv), or any combination of these:

(i) the commodity or service is produced or delivered, or both, by an independent energy producer solely for the uses exempted in Subsection (7) or for the use of state-owned facilities;

(ii) the commodity or service is sold by an independent energy producer solely to an electrical corporation or other wholesale purchaser;

(iii) (A) the commodity or service produced or delivered by the independent energy producer is delivered to an entity that controls, is controlled by, or affiliated with the independent energy producer or to a user located on real property managed or controlled by the independent energy producer; and

(B) the real property on which the service or commodity is used is contiguous to real property which is owned or controlled by the independent energy producer. Parcels of real property separated solely by public roads or easements for public roads shall be considered as contiguous for purposes of this Subsection (16); or

(iv) the independent energy producer:

(A) supplies energy for direct consumption by a customer that is:

(I) a United States governmental entity, including an entity of the United States military, or a county, municipality, city, town, other political subdivision, local district, special service district,

state institution of higher education, school district, charter school, or any entity within the state system of public education; or

(II) an entity qualifying as a charitable organization under 26 U.S.C. Sec. 501(c)(3) operated for religious, charitable, or educational purposes that is exempt from federal income tax and able to demonstrate its tax-exempt status;

(B) supplies energy to the customer through use of a customer generation system, as defined in Section 54-15-102, for use on the real property where the customer generation system is located;

(C) supplies energy using a customer generation system designed to supply the lesser of:

(I) no more than 90% of the average annual consumption of electricity by the customer at that site, based on an annualized billing period; or

(II) the maximum size allowable under net metering provisions, defined in Section 54-15-102;

(D) notifies the customer before installing the customer generation system of:

(I) all costs the customer is required to pay for the customer generation system, including any interconnection costs; and

(II) the potential for future changes in amounts paid by the customer for energy received from the public utility and the possibility of changes to the customer fees or charges to the customer associated with net metering and generation;

(E) enters into and performs in accordance with an interconnection agreement with a public utility providing retail electric service where the real property on which the customer generation system is located, with the rates, terms, and conditions of the retail service and interconnection agreement subject to approval by the governing authority of the public utility, as defined in Subsection 54-15-102(8); and

(F) installs the relevant customer generation system by December 31, [2015] 2021.

(e) Any person or corporation defined as an electrical corporation or public utility under this section may continue to serve its existing customers subject to any order or future determination of the commission in reference to the right to serve those customers.

(f) (i) "Public utility" does not include any person that is otherwise considered a public utility under this Subsection (16) solely because of that person's ownership of an interest in an electric plant, cogeneration facility, or small power production facility in this state if all of the following conditions are met:

(A) the ownership interest in the electric plant, cogeneration facility, or small power production facility is leased to:

(I) a public utility, and that lease has been approved by the commission;

(II) a person or government entity that is exempt from commission regulation as a public utility; or

(III) a combination of Subsections (16)(f)(i)(A)(I) and (II);

(B) the lessor of the ownership interest identified in Subsection (16)(f)(i)(A) is:

(I) primarily engaged in a business other than the business of a public utility; or

(II) a person whose total equity or beneficial ownership is held directly or indirectly by another person engaged in a business other than the business of a public utility; and

(C) the rent reserved under the lease does not include any amount based on or determined by revenues or income of the lessee.

(ii) Any person that is exempt from classification as a public utility under Subsection (16)(f)(i) shall continue to be so exempt from classification following termination of the lessee's right to possession or use of the electric plant for so long as the former lessor does not operate the electric plant or sell electricity from the electric plant. If the former lessor operates the electric plant or sells electricity, the former lessor shall continue to be so exempt for a period of 90 days following termination, or for a longer period that is ordered by the commission. This period may not exceed one year. A change in rates that would otherwise require commission approval may not be effective during the 90-day or extended period without commission approval.

(g) "Public utility" does not include any person that provides financing for, but has no ownership interest in an electric plant, small power production facility, or cogeneration facility. In the event of a foreclosure in which an ownership interest in an electric plant, small power production facility, or cogeneration facility is transferred to a third-party financier of an electric plant, small power production facility, or cogeneration facility, then that third-party financier is exempt from classification as a public utility for 90 days following the foreclosure, or for a longer period that is ordered by the commission. This period may not exceed one year.

(h) (i) The distribution or transportation of natural gas for use as a motor vehicle fuel does not cause the distributor or transporter to be a "public utility," unless the commission, after notice and a public hearing, determines by rule that it is in the public interest to regulate the distributors or transporters, but the retail sale alone of compressed natural gas as a motor vehicle fuel may not cause the seller to be a "public utility."

(ii) In determining whether it is in the public interest to regulate the distributors or transporters, the commission shall consider, among other things, the impact of the regulation on the availability and price of natural gas for use as a motor fuel.

(i) "Public utility" does not include any corporation, cooperative association, or person,

their affiliates, lessees, trustees, or receivers, owning, controlling, operating, or managing an electric plant or in any way furnishing electricity if the electricity is consumed by an owner, lessor, or interest holder or by an affiliate of an owner, lessor, or interest holder, who has provided at least \$25,000,000 in value, including credit support, relating to the electric plant furnishing the electricity and whose consumption does not exceed its long-term entitlement in the plant under a long-term arrangement other than a power purchase agreement, except a power purchase agreement with an electrical corporation.

(17) "Purchasing utility" means any electrical corporation that is required to purchase electricity from small power production or cogeneration facilities pursuant to the Public Utility Regulatory Policies Act, 16 U.S.C. Section 824a-3.

(18) "Qualifying power producer" means a corporation, cooperative association, or person, or the lessee, trustee, and receiver of the corporation, cooperative association, or person, who owns, controls, operates, or manages any qualifying power production facility or cogeneration facility.

(19) "Qualifying power production facility" means a facility that:

(a) produces electrical energy solely by the use, as a primary energy source, of biomass, waste, a renewable resource, a geothermal resource, or any combination of the preceding sources;

(b) has a power production capacity that, together with any other facilities located at the same site, is no greater than 80 megawatts; and

(c) is a qualifying small power production facility under federal law.

(20) "Railroad" includes every commercial, interurban, and other railway, other than a street railway, and each branch or extension of a railway, by any power operated, together with all tracks, bridges, trestles, rights-of-way, subways, tunnels, stations, depots, union depots, yards, grounds, terminals, terminal facilities, structures, and equipment, and all other real estate, fixtures, and personal property of every kind used in connection with a railway owned, controlled, operated, or managed for public service in the transportation of persons or property.

(21) "Railroad corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any railroad for public service within this state.

(22) (a) "Sewerage corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any sewerage system for public service within this state.

(b) "Sewerage corporation" does not include private sewerage companies engaged in disposing of sewage only for their stockholders, or towns, cities, counties, conservancy districts,

improvement districts, or other governmental units created or organized under any general or special law of this state.

(23) "Telegraph corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any telegraph line for public service within this state.

(24) "Telegraph line" includes all conduits, ducts, poles, wires, cables, instruments, and appliances, and all other real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate communication by telegraph, whether that communication be had with or without the use of transmission wires.

(25) (a) "Telephone corporation" means any corporation or person, and their lessees, trustee, receivers, or trustees appointed by any court, who owns, controls, operates, manages, or resells a public telecommunications service as defined in Section 54-8b-2.

(b) "Telephone corporation" does not mean a corporation, partnership, or firm providing:

(i) intrastate telephone service offered by a provider of cellular, personal communication systems (PCS), or other commercial mobile radio service as defined in 47 U.S.C. Sec. 332 that has been issued a covering license by the Federal Communications Commission;

(ii) Internet service; or

(iii) resold intrastate toll service.

(26) "Telephone line" includes all conduits, ducts, poles, wires, cables, instruments, and appliances, and all other real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate communication by telephone whether that communication is had with or without the use of transmission wires.

(27) "Transportation of persons" includes every service in connection with or incidental to the safety, comfort, or convenience of the person transported, and the receipt, carriage, and delivery of that person and that person's baggage.

(28) "Transportation of property" includes every service in connection with or incidental to the transportation of property, including in particular its receipt, delivery, elevation, transfer, switching, carriage, ventilation, refrigeration, icing, dunnage, storage, and hauling, and the transmission of credit by express companies.

(29) "Water corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any water system for public service within this state. It does not include private irrigation companies engaged in distributing water only to their stockholders, or towns, cities, counties, water conservancy districts, improvement districts, or other governmental units created or organized under any general or special law of this state.

(30) (a) "Water system" includes all reservoirs, tunnels, shafts, dams, dikes, headgates, pipes,

flumes, canals, structures, and appliances, and all other real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate the diversion, development, storage, supply, distribution, sale, furnishing, carriage, appointment, apportionment, or measurement of water for power, fire protection, irrigation, reclamation, or manufacturing, or for municipal, domestic, or other beneficial use.

(b) "Water system" does not include private irrigation companies engaged in distributing water only to their stockholders.

(31) "Wholesale electrical cooperative" includes every electrical corporation that is:

(a) in the business of the wholesale distribution of electricity it has purchased or generated to its members and the public; and

(b) required to distribute or allocate savings in excess of additions to reserves and surplus to members or patrons on the basis of patronage.

CHAPTER 389**S. B. 103**

Passed February 27, 2014

Approved April 1, 2014

Effective May 13, 2014

**LOCAL CONTROL OF
CLASSROOM TIME REQUIREMENTS**

Chief Sponsor: Aaron Osmond

House Sponsor: Jim Bird

LONG TITLE**General Description:**

This bill allows a local school board or charter school governing board to reduce the number of instructional hours or days within the school term for certain purposes.

Highlighted Provisions:

This bill:

- ▶ allows a local school board or charter school governing board to reallocate instructional hours or schools days to teacher preparation time or teacher professional development; and
- ▶ provides that the reallocated hours or days are considered part of the school term that is required for the Minimum School Program.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-17a-103, as last amended by Laws of Utah 2011, Chapter 371

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53A-17a-103 is amended to read:**53A-17a-103. Definitions.**

As used in this chapter:

(1) "Basic state-supported school program" or "basic program" means public education programs for kindergarten, elementary, and secondary school students that are operated and maintained for the amount derived by multiplying the number of weighted pupil units for each school district or charter school by the value established each year in statute, except as otherwise provided in this chapter.

(2) (a) "Certified revenue levy" means a property tax levy that provides an amount of ad valorem property tax revenue equal to the sum of:

(i) the amount of ad valorem property tax revenue to be generated statewide in the previous year from imposing a minimum basic tax rate, as specified in Subsection 53A-17a-135(1)(a); and

(ii) the product of:

(A) new growth, as defined in:

(I) Section 59-2-924; and

(II) rules of the State Tax Commission; and

(B) the minimum basic tax rate certified by the State Tax Commission for the previous year.

(b) For purposes of this Subsection (2), "ad valorem property tax revenue" does not include property tax revenue received statewide from personal property that is:

(i) assessed by a county assessor in accordance with Title 59, Chapter 2, Part 3, County Assessment; and

(ii) semiconductor manufacturing equipment.

(c) For purposes of calculating the certified revenue levy described in this Subsection (2), the State Tax Commission shall use:

(i) the taxable value of real property assessed by a county assessor contained on the assessment roll;

(ii) the taxable value of real and personal property assessed by the State Tax Commission; and

(iii) the taxable year end value of personal property assessed by a county assessor contained on the prior year's assessment roll.

(3) "Pupil in average daily membership (ADM)" means a full-day equivalent pupil.

(4) (a) "State-supported minimum school program" or "Minimum School Program" means public school programs for kindergarten, elementary, and secondary schools as described in this Subsection (4).

(b) The minimum school program established in school districts and charter schools shall include the equivalent of a school term of nine months as determined by the State Board of Education.

(c) (i) The board shall establish the number of days or equivalent instructional hours that school is held for an academic school year.

(ii) Education, enhanced by utilization of technologically enriched delivery systems, when approved by local school boards or charter school governing boards, shall receive full support by the State Board of Education as it pertains to fulfilling the attendance requirements, excluding time spent viewing commercial advertising.

(d) (i) A local school board or charter school governing board may reallocate up to 32 instructional hours or 4 school days established under Subsection (4)(c) for teacher preparation time or teacher professional development.

(ii) A reallocation of instructional hours or school days under Subsection (4)(d)(i) is subject to the approval of two-thirds of the members of a local school board or charter school governing board voting in a regularly scheduled meeting:

(A) at which a quorum of the local school board or charter school governing board is present; and

(B) held in compliance with Title 52, Chapter 4, Open and Public Meetings Act.

(iii) If a local school board or charter school governing board reallocates instructional hours or

school days as provided by this Subsection (4)(d), the school district or charter school shall notify students' parents and guardians of the school calendar at least 90 days before the beginning of the school year.

(iv) Instructional hours or school days reallocated for teacher preparation time or teacher professional development pursuant to this Subsection (4)(d) is considered part of a school term referred to in Subsection (4)(b).

[(d)] (e) The Minimum School Program includes a program or allocation funded by a line item appropriation or other appropriation designated as follows:

- (i) Basic School Program;
- (ii) Related to Basic Programs;
- (iii) Voted and Board Levy Programs; or
- (iv) Minimum School Program.

(5) "Weighted pupil unit or units or WPU or WPUs" means the unit of measure of factors that is computed in accordance with this chapter for the purpose of determining the costs of a program on a uniform basis for each district.

**CHAPTER 390
S. B. 104**

Passed March 13, 2014
Approved April 1, 2014
Effective July 1, 2014

**IMPROVEMENT OF
READING INSTRUCTION**

Chief Sponsor: Aaron Osmond
House Sponsor: Ronda Rudd Menlove

LONG TITLE

General Description:

This bill provides for assistance to educators and parents in teaching reading.

Highlighted Provisions:

This bill:

- ▶ requires the reading clinic to provide:
 - instruction to teachers in the use of technology and blended learning in providing individualized reading instruction and reading remediation; and
 - access to students for reading remediation and instruction services through distance learning technology.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2015 as an ongoing appropriation:

- ▶ to University of Utah - Education and General:
 - from the Education Fund, \$100,000.

Other Special Clauses:

This bill takes effect on July 1, 2014.

Utah Code Sections Affected:

AMENDS:

53A-3-402.10, as last amended by Laws of Utah 2001, Chapters 86 and 156

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53A-3-402.10 is amended to read:

53A-3-402.10. Reading clinics -- Purpose.

(1) The Legislature recognizes the critical importance of identifying, assessing, and assisting students with reading difficulties at an early age in order for them to have successful and productive school and life experiences.

(2) In order to help accomplish this, there is established a reading clinic, hereafter referred to as the "clinic," based at the University of Utah, College of Education, to assist educators and parents of students statewide in:

- (a) assessing elementary school students who do not demonstrate satisfactory progress in reading;
- (b) providing instructional intervention to enable the students to overcome reading difficulties; and
- (c) becoming better prepared to help all students become successful readers by providing them with professional development programs in reading that are based on best practices and the most current, scientific research available through nationally and

internationally recognized reading researchers and instructional specialists.

(3) (a) The clinic shall focus primarily on students in grades ~~[one]~~ 1 through ~~[three]~~ 3 since research shows the need for students to become successful readers by the end of ~~[the third]~~ grade 3.

(b) The clinic shall make assessment and instructional intervention services available to public education students of all ages.

(4) The clinic shall provide these services ~~[on-site] at [the University of Utah] a base site in Salt Lake County and through remote access interactive technology to reach educators, parents, and students throughout the state.~~

(5) The clinic shall provide:

(a) instruction to teachers in the use of technology and blended learning in providing individualized reading instruction and reading remediation; and

(b) access to students for reading remediation and instruction services through distance learning technology if a student is unable to regularly access a reading clinic location.

(6) The clinic shall integrate both the usage of and instruction on the use of technology-based reading assessment tools as part of the clinic's services.

Section 2. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2014, and ending June 30, 2015, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2015.

To University of Utah - Education and General

From Education Fund \$100,000

Schedule of Programs:

University of Utah Education and General - Reading Clinic \$100,000

Section 3. Effective date.

This bill takes effect on July 1, 2014.

CHAPTER 391**S. B. 116**

Passed February 18, 2014

Approved April 1, 2014

Effective May 13, 2014

POLL WORKER AMENDMENTS

Chief Sponsor: Margaret Dayton

House Sponsor: Jack R. Draxler

LONG TITLE**General Description:**

This bill amends provisions of the Election Code relating to poll workers.

Highlighted Provisions:

This bill:

- ▶ amends the definition of a “local election”;
- ▶ provides for the appointment of poll workers for a special election and a county election; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

20A-1-102, as last amended by Laws of Utah 2013, Chapter 320

20A-5-601, as last amended by Laws of Utah 2007, Chapter 75

20A-5-602, as last amended by Laws of Utah 2007, Chapters 75, 256, and 329

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-1-102 is amended to read:**20A-1-102. Definitions.**

As used in this title:

(1) “Active voter” means a registered voter who has not been classified as an inactive voter by the county clerk.

(2) “Automatic tabulating equipment” means apparatus that automatically examines and counts votes recorded on paper ballots or ballot sheets and tabulates the results.

(3) (a) “Ballot” means the storage medium, whether paper, mechanical, or electronic, upon which a voter records the voter’s votes.

(b) “Ballot” includes ballot sheets, paper ballots, electronic ballots, and secrecy envelopes.

[45] (4) “Ballot label” means the cards, papers, booklet, pages, or other materials that:

(a) contain the names of offices and candidates and statements of ballot propositions to be voted on; and

(b) are used in conjunction with ballot sheets that do not display that information.

[46] (5) “Ballot proposition” means a question, issue, or proposal that is submitted to voters on the ballot for their approval or rejection including:

(a) an opinion question specifically authorized by the Legislature;

(b) a constitutional amendment;

(c) an initiative;

(d) a referendum;

(e) a bond proposition;

(f) a judicial retention question;

(g) an incorporation of a city or town; or

(h) any other ballot question specifically authorized by the Legislature.

[44] (6) “Ballot sheet”:

(a) means a ballot that:

(i) consists of paper or a card where the voter’s votes are marked or recorded; and

(ii) can be counted using automatic tabulating equipment; and

(b) includes punch card ballots and other ballots that are machine-countable.

(7) “Bind,” “binding,” or “bound” means securing more than one piece of paper together with a staple or stitch in at least three places across the top of the paper in the blank space reserved for securing the paper.

(8) “Board of canvassers” means the entities established by Sections 20A-4-301 and 20A-4-306 to canvass election returns.

(9) “Bond election” means an election held for the purpose of approving or rejecting the proposed issuance of bonds by a government entity.

(10) “Book voter registration form” means voter registration forms contained in a bound book that are used by election officers and registration agents to register persons to vote.

(11) “Business reply mail envelope” means an envelope that may be mailed free of charge by the sender.

(12) “By-mail voter registration form” means a voter registration form designed to be completed by the voter and mailed to the election officer.

(13) “Canvass” means the review of election returns and the official declaration of election results by the board of canvassers.

(14) “Canvassing judge” means a poll worker designated to assist in counting ballots at the canvass.

(15) “Contracting election officer” means an election officer who enters into a contract or interlocal agreement with a provider election officer.

(16) “Convention” means the political party convention at which party officers and delegates are selected.

(17) "Counting center" means one or more locations selected by the election officer in charge of the election for the automatic counting of ballots.

(18) "Counting judge" means a poll worker designated to count the ballots during election day.

(19) "Counting poll watcher" means a person selected as provided in Section 20A-3-201 to witness the counting of ballots.

(20) "Counting room" means a suitable and convenient private place or room, immediately adjoining the place where the election is being held, for use by the poll workers and counting judges to count ballots during election day.

(21) "County officers" means those county officers that are required by law to be elected.

(22) "Date of the election" or "election day" or "day of the election":

(a) means the day that is specified in the calendar year as the day that the election occurs; and

(b) does not include:

- (i) deadlines established for absentee voting; or
- (ii) any early voting or early voting period as provided under Chapter 3, Part 6, Early Voting.

(23) "Elected official" means:

(a) a person elected to an office under Section 20A-1-303;

(b) a person who is considered to be elected to a municipal office in accordance with Subsection 20A-1-206(1)(c)(ii); or

(c) a person who is considered to be elected to a local district office in accordance with Subsection 20A-1-206(3)(c)(ii).

(24) "Election" means a regular general election, a municipal general election, a statewide special election, a local special election, a regular primary election, a municipal primary election, and a local district election.

(25) "Election Assistance Commission" means the commission established by Public Law 107-252, the Help America Vote Act of 2002.

(26) "Election cycle" means the period beginning on the first day persons are eligible to file declarations of candidacy and ending when the canvass is completed.

(27) "Election judge" means a poll worker that is assigned to:

(a) preside over other poll workers at a polling place;

(b) act as the presiding election judge; or

(c) serve as a canvassing judge, counting judge, or receiving judge.

(28) "Election officer" means:

(a) the lieutenant governor, for all statewide ballots and elections;

(b) the county clerk for:

(i) a county ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(c) the municipal clerk for:

(i) a municipal ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(d) the local district clerk or chief executive officer for:

(i) a local district ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5; or

(e) the business administrator or superintendent of a school district for:

(i) a school district ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5.

(29) "Election official" means any election officer, election judge, or poll worker.

(30) "Election results" means:

(a) for an election other than a bond election, the count of votes cast in the election and the election returns requested by the board of canvassers; or

(b) for bond elections, the count of those votes cast for and against the bond proposition plus any or all of the election returns that the board of canvassers may request.

(31) "Election returns" includes the pollbook, the military and overseas absentee voter registration and voting certificates, one of the tally sheets, any unprocessed absentee ballots, all counted ballots, all excess ballots, all unused ballots, all spoiled ballots, the ballot disposition form, and the total votes cast form.

(32) "Electronic ballot" means a ballot that is recorded using a direct electronic voting device or other voting device that records and stores ballot information by electronic means.

(33) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(34) (a) "Electronic voting device" means a voting device that uses electronic ballots.

(b) "Electronic voting device" includes a direct recording electronic voting device.

(35) "Inactive voter" means a registered voter who has:

(a) been sent the notice required by Section 20A-2-306; and

(b) failed to respond to that notice.

(36) “Inspecting poll watcher” means a person selected as provided in this title to witness the receipt and safe deposit of voted and counted ballots.

(37) “Judicial office” means the office filled by any judicial officer.

(38) “Judicial officer” means any justice or judge of a court of record or any county court judge.

(39) “Local district” means a local government entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and includes a special service district under Title 17D, Chapter 1, Special Service District Act.

(40) “Local district officers” means those local district officers that are required by law to be elected.

(41) “Local election” means a regular county election, a regular municipal election, a local special election, a local district election, and a bond election.

(42) “Local political subdivision” means a county, a municipality, a local district, or a local school district.

(43) “Local special election” means a special election called by the governing body of a local political subdivision in which all registered voters of the local political subdivision may vote.

(44) “Municipal executive” means:

(a) the mayor in the council-mayor form of government defined in Section 10-3b-102; or

(b) the mayor in the council-manager form of government defined in Subsection 10-3b-103(6).

(45) “Municipal general election” means the election held in municipalities and local districts on the first Tuesday after the first Monday in November of each odd-numbered year for the purposes established in Section 20A-1-202.

(46) “Municipal legislative body” means the council of the city or town in any form of municipal government.

(47) “Municipal office” means an elective office in a municipality.

(48) “Municipal officers” means those municipal officers that are required by law to be elected.

(49) “Municipal primary election” means an election held to nominate candidates for municipal office.

(50) “Official ballot” means the ballots distributed by the election officer to the poll workers to be given to voters to record their votes.

(51) “Official endorsement” means:

(a) the information on the ballot that identifies:

(i) the ballot as an official ballot;

(ii) the date of the election; and

(iii) the facsimile signature of the election officer; and

(b) the information on the ballot stub that identifies:

(i) the poll worker’s initials; and

(ii) the ballot number.

(52) “Official register” means the official record furnished to election officials by the election officer that contains the information required by Section 20A-5-401.

(53) “Paper ballot” means a paper that contains:

(a) the names of offices and candidates and statements of ballot propositions to be voted on; and

(b) spaces for the voter to record the voter’s vote for each office and for or against each ballot proposition.

(54) “Political party” means an organization of registered voters that has qualified to participate in an election by meeting the requirements of Chapter 8, Political Party Formation and Procedures.

(55) (a) “Poll worker” means a person assigned by an election official to assist with an election, voting, or counting votes.

(b) “Poll worker” includes election judges.

(c) “Poll worker” does not include a watcher.

(56) “Pollbook” means a record of the names of voters in the order that they appear to cast votes.

(57) “Polling place” means the building where voting is conducted.

(58) “Position” means a square, circle, rectangle, or other geometric shape on a ballot in which the voter marks the voter’s choice.

~~[(62)]~~ (59) “Primary convention” means the political party conventions at which nominees for the regular primary election are selected.

~~[(63)]~~ (60) “Protective counter” means a separate counter, which cannot be reset, that:

(a) is built into a voting machine; and

(b) records the total number of movements of the operating lever.

~~[(59)]~~ (61) “Provider election officer” means an election officer who enters into a contract or interlocal agreement with a contracting election officer to conduct an election for the contracting election officer’s local political subdivision in accordance with Section 20A-5-400.1.

~~[(60)]~~ (62) “Provisional ballot” means a ballot voted provisionally by a person:

(a) whose name is not listed on the official register at the polling place;

(b) whose legal right to vote is challenged as provided in this title; or

(c) whose identity was not sufficiently established by a poll worker.

[~~61~~] (63) "Provisional ballot envelope" means an envelope printed in the form required by Section 20A-6-105 that is used to identify provisional ballots and to provide information to verify a person's legal right to vote.

(64) "Qualify" or "qualified" means to take the oath of office and begin performing the duties of the position for which the person was elected.

(65) "Receiving judge" means the poll worker that checks the voter's name in the official register, provides the voter with a ballot, and removes the ballot stub from the ballot after the voter has voted.

(66) "Registration form" means a book voter registration form and a by-mail voter registration form.

(67) "Regular ballot" means a ballot that is not a provisional ballot.

(68) "Regular general election" means the election held throughout the state on the first Tuesday after the first Monday in November of each even-numbered year for the purposes established in Section 20A-1-201.

(69) "Regular primary election" means the election on the fourth Tuesday of June of each even-numbered year, to nominate candidates of political parties and nonpolitical groups to advance to the regular general election.

(70) "Resident" means a person who resides within a specific voting precinct in Utah.

(71) "Sample ballot" means a mock ballot similar in form to the official ballot printed and distributed as provided in Section 20A-5-405.

(72) "Scratch vote" means to mark or punch the straight party ticket and then mark or punch the ballot for one or more candidates who are members of different political parties.

(73) "Secrecy envelope" means the envelope given to a voter along with the ballot into which the voter places the ballot after the voter has voted it in order to preserve the secrecy of the voter's vote.

(74) "Special election" means an election held as authorized by Section 20A-1-203.

(75) "Spoiled ballot" means each ballot that:

- (a) is spoiled by the voter;
- (b) is unable to be voted because it was spoiled by the printer or a poll worker; or
- (c) lacks the official endorsement.

(76) "Statewide special election" means a special election called by the governor or the Legislature in which all registered voters in Utah may vote.

(77) "Stub" means the detachable part of each ballot.

(78) "Substitute ballots" means replacement ballots provided by an election officer to the poll workers when the official ballots are lost or stolen.

(79) "Ticket" means each list of candidates for each political party or for each group of petitioners.

(80) "Transfer case" means the sealed box used to transport voted ballots to the counting center.

(81) "Vacancy" means the absence of a person to serve in any position created by statute, whether that absence occurs because of death, disability, disqualification, resignation, or other cause.

(82) "Valid voter identification" means:

(a) a form of identification that bears the name and photograph of the voter which may include:

- (i) a currently valid Utah driver license;
- (ii) a currently valid identification card that is issued by:

(A) the state; or

(B) a branch, department, or agency of the United States;

(iii) a currently valid Utah permit to carry a concealed weapon;

(iv) a currently valid United States passport; or

(v) a currently valid United States military identification card;

(b) one of the following identification cards, whether or not the card includes a photograph of the voter:

(i) a valid tribal identification card;

(ii) a Bureau of Indian Affairs card; or

(iii) a tribal treaty card; or

(c) two forms of identification not listed under Subsection (82)(a) or (b) but that bear the name of the voter and provide evidence that the voter resides in the voting precinct, which may include:

(i) a current utility bill or a legible copy thereof, dated within the 90 days before the election;

(ii) a bank or other financial account statement, or a legible copy thereof;

(iii) a certified birth certificate;

(iv) a valid Social Security card;

(v) a check issued by the state or the federal government or a legible copy thereof;

(vi) a paycheck from the voter's employer, or a legible copy thereof;

(vii) a currently valid Utah hunting or fishing license;

(viii) certified naturalization documentation;

(ix) a currently valid license issued by an authorized agency of the United States;

(x) a certified copy of court records showing the voter's adoption or name change;

(xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;

(xii) a currently valid identification card issued by:

(A) a local government within the state;

(B) an employer for an employee; or

(C) a college, university, technical school, or professional school located within the state; or

(xiii) a current Utah vehicle registration.

(83) "Valid write-in candidate" means a candidate who has qualified as a write-in candidate by following the procedures and requirements of this title.

(84) "Voter" means a person who:

(a) meets the requirements for voting in an election;

(b) meets the requirements of election registration;

(c) is registered to vote; and

(d) is listed in the official register book.

(85) "Voter registration deadline" means the registration deadline provided in Section 20A-2-102.5.

(86) "Voting area" means the area within six feet of the voting booths, voting machines, and ballot box.

(87) "Voting booth" means:

(a) the space or compartment within a polling place that is provided for the preparation of ballots, including the voting machine enclosure or curtain; or

(b) a voting device that is free standing.

(88) "Voting device" means:

(a) an apparatus in which ballot sheets are used in connection with a punch device for piercing the ballots by the voter;

(b) a device for marking the ballots with ink or another substance;

(c) an electronic voting device or other device used to make selections and cast a ballot electronically, or any component thereof;

(d) an automated voting system under Section 20A-5-302; or

(e) any other method for recording votes on ballots so that the ballot may be tabulated by means of automatic tabulating equipment.

(89) "Voting machine" means a machine designed for the sole purpose of recording and tabulating votes cast by voters at an election.

(90) "Voting poll watcher" means a person appointed as provided in this title to witness the distribution of ballots and the voting process.

(91) "Voting precinct" means the smallest voting unit established as provided by law within which qualified voters vote at one polling place.

(92) "Watcher" means a voting poll watcher, a counting poll watcher, an inspecting poll watcher, and a testing watcher.

(93) "Western States Presidential Primary" means the election established in Chapter 9, Part 8, Western States Presidential Primary.

(94) "Write-in ballot" means a ballot containing any write-in votes.

(95) "Write-in vote" means a vote cast for a person whose name is not printed on the ballot according to the procedures established in this title.

Section 2. Section 20A-5-601 is amended to read:

20A-5-601. Poll workers -- Appointment for regular general elections, primary elections, and special elections.

(1) (a) By March 1 of each even-numbered year, each county clerk shall provide to the county chair of each registered political party a list of the number of poll workers that the party must nominate for each voting precinct.

(b) (i) By April 1 of each even-numbered year, the county chair and secretary of each registered political party shall file a list with the county clerk containing, for each voting precinct, the names of registered voters in the county who are willing to be poll workers and who are competent and trustworthy.

(ii) The county chair and secretary shall submit, for each voting precinct, names equal in number to the number required by the county clerk plus one.

(2) Each county legislative body shall provide for the appointment of persons to serve as poll workers at the regular primary election, the regular general election, ~~and~~ the Western States Presidential Primary, and a statewide or countywide special election.

(3) For regular general elections and statewide or countywide special elections, each county legislative body shall provide for the appointment of:

(a) (i) three registered voters from the list to serve as receiving judges for each voting precinct when ballots will be counted after the polls close; or

(ii) three registered voters from the list to serve as receiving judges in each voting precinct and three registered voters from the list to serve as counting judges in each voting precinct when ballots will be counted throughout election day; and

(b) three registered voters from the list for each 100 absentee ballots to be counted to serve as canvassing judges.

(4) For regular primary elections and for the Western States Presidential Primary election, each county legislative body shall provide for the appointment of:

(a) (i) two or three registered voters, or one or two registered voters and one person 17 years old who will be 18 years old by the date of the next regular general election, from the list to serve as receiving judges for each voting precinct when ballots will be counted after the polls close; or

(ii) two or three registered voters, or one or two registered voters and one person 17 years old who will be 18 years old by the date of the next regular general election, from the list to serve as receiving judges in each voting precinct and two or three registered voters, or one or two registered voters and one person 17 years old who will be 18 years old by the date of the next regular general election, from the list to serve as counting judges in each voting precinct when ballots will be counted throughout election day; and

(b) two or three registered voters, or one or two registered voters and one person 17 years old who will be 18 years old by the date of the next regular general election, from the list for each 100 absentee ballots to be counted to serve as canvassing judges.

(5) Each county legislative body may provide for the appointment of:

(a) three registered voters from the list to serve as inspecting judges at the regular general election, or a statewide or countywide special election, to observe the clerk's receipt and deposit of the ballots for safekeeping; and

(b) two or three registered voters, or one or two registered voters and one person 17 years old who will be 18 years old by the date of the next regular general election, from the list to serve as inspecting judges at the regular primary election to observe the clerk's receipt and deposit of the ballots for safekeeping.

(6) (a) For each set of three counting or receiving judges to be appointed for each voting precinct for the regular primary election, the regular general election, ~~and~~ the Western States Presidential Primary election, or a statewide or countywide special election, the county legislative body shall ensure that:

(i) two judges are appointed from the political party that cast the highest number of votes for governor, lieutenant governor, attorney general, state auditor, and state treasurer, excluding votes for unopposed candidates, in the voting precinct at the last regular general election before the appointment of the election judges; and

(ii) one judge is appointed from the political party that cast the second highest number of votes for governor, lieutenant governor, attorney general, state auditor, and state treasurer, excluding votes for unopposed candidates, in the voting precinct at the last regular general election before the appointment of the election judges.

(b) For each set of two counting or receiving judges to be appointed for each voting precinct for the regular primary election and Western States Presidential Primary election, the county legislative body shall ensure that:

(i) one judge is appointed from the political party that cast the highest number of votes for governor, lieutenant governor, attorney general, state auditor, and state treasurer, excluding votes for unopposed candidates, in the voting precinct at the last regular general election before the appointment of the election judges; and

(ii) one judge is appointed from the political party that cast the second highest number of votes for governor, lieutenant governor, attorney general, state auditor, and state treasurer, excluding votes for unopposed candidates, in the voting precinct at the last regular general election before the appointment of the election judges.

(7) When the voting precinct boundaries have been changed since the last regular general election, the county legislative body shall ensure that:

(a) for the regular primary election and the Western States Presidential Primary election, when the county legislative body is using three receiving, counting, and canvassing judges, and regular general election, not more than two of the judges are selected from the political party that cast the highest number of votes for the offices of governor, lieutenant governor, attorney general, state auditor, and state treasurer in the territory that formed the voting precinct at the time of appointment; and

(b) for the regular primary election and the Western States Presidential Primary election, when the county legislative body is using two receiving, counting, and canvassing judges, not more than one of the judges is selected from the political party that cast the highest number of votes for the offices of governor, lieutenant governor, attorney general, state auditor, and state treasurer in the territory that formed the voting precinct at the time of appointment.

(8) The county legislative body shall provide for the appointment of any qualified county voter as an election judge when:

(a) a political party fails to file the poll worker list by the filing deadline; or

(b) the list is incomplete.

(9) A registered voter of the county may serve as a poll worker in any voting precinct of the county.

(10) If a person serves as a poll worker outside the voting precinct where the person is registered, that person may vote an absentee voter ballot.

(11) The county clerk shall fill all poll worker vacancies.

(12) If a conflict arises over the right to certify the poll worker lists for any political party, the county legislative body may decide between conflicting lists, but may only select names from a properly submitted list.

(13) The county legislative body shall establish compensation for poll workers.

(14) The county clerk may appoint additional poll workers to serve in the polling place as needed.

Section 3. Section 20A-5-602 is amended to read:**20A-5-602. Poll workers -- Appointment for local elections.**

(1) At least 15 days before the date scheduled for any local election, the county legislative body, the municipal legislative body, or the local district board shall appoint or provide for the appointment of:

(a) in jurisdictions using paper ballots:

(i) three registered voters, or two registered voters and one person 17 years old who will be 18 years old by the date of the ~~[regular municipal]~~ local election, who reside within the county to serve as poll workers for each voting precinct when the ballots will be counted after the polls close; or

(ii) three registered voters, or two registered voters and one person 17 years old who will be 18 years old by the date of the ~~[regular municipal]~~ local election, who reside within the county to serve as receiving judges in each voting precinct and three registered voters, or two registered voters and one person 17 years old who will be 18 years old by the date of the ~~[regular municipal]~~ local election, who reside within the county to serve as counting judges in each voting precinct when ballots will be counted throughout election day;

(b) in jurisdictions using automated tabulating equipment, three registered voters, or two registered voters and one person 17 years old who will be 18 years old by the date of the ~~[regular municipal]~~ local election, who reside within the county to serve as poll workers for each voting precinct;

(c) in jurisdictions using voting machines, four registered voters, or three registered voters and one person 17 years old who will be 18 years old by the date of the ~~[regular municipal]~~ local election, who reside within the county to serve as poll workers for each voting precinct; and

(d) in all jurisdictions:

(i) at least one registered voter who resides within the county to serve as canvassing judge, if necessary; and

(ii) as many alternate poll workers as needed to replace appointed poll workers who are unable to serve.

(2) The county legislative body, the municipal legislative body, and the local district board may not appoint any candidate's parent, sibling, spouse, child, or in-law to serve as a poll worker in the voting precinct where the candidate resides.

(3) The clerk shall:

(a) prepare and file a list containing the name, address, voting precinct, and telephone number of each person appointed; and

(b) make the list available in the clerk's office for inspection, examination, and copying during business hours.

(4) (a) The county legislative body, the municipal legislative body, and the local district board shall compensate poll workers for their services.

(b) The municipal legislative body and local district board may not compensate their poll workers at a rate higher than that paid by the county to its poll workers.

CHAPTER 392
S. B. 122

Passed March 13, 2014
Approved April 1, 2014
Effective May 13, 2014

PARENTAL RIGHTS
IN PUBLIC EDUCATION

Chief Sponsor: Aaron Osmond
House Sponsor: Rich Cunningham
Cosponsor: Mark B. Madsen

LONG TITLE

General Description:

This bill addresses certain rights of a parent or guardian of a student enrolled in a public school.

Highlighted Provisions:

This bill:

- ▶ specifies certain rights of a parent or guardian of a student enrolled in a public school; and
- ▶ requires a school district, charter school, or the Utah Schools for the Deaf and the Blind to annually notify a student's parent or guardian of certain rights.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

53A-15-1501, Utah Code Annotated 1953
53A-15-1502, Utah Code Annotated 1953
53A-15-1503, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53A-15-1501 is enacted to read:

Part 15. Parental Rights

53A-15-1501. (Codified as 53A-15-1401)

Definitions.

As used in this part:

(1) "LEA" means a school district, charter school, or the Utah Schools for the Deaf and the Blind.

(2) "Reasonably accommodate" means an LEA shall make its best effort to enable a parent or guardian to exercise a parental right specified in Section 53A-15-1503:

(a) without substantial impact to staff and resources, including employee working conditions, safety and supervision on school premises and for school activities, and the efficient allocation of expenditures; and

(b) while balancing:

(i) the parental rights of parents or guardians;

(ii) the educational needs of other students;

(iii) the academic and behavioral impacts to a classroom;

(iv) a teacher's workload; and

(v) the assurance of the safe and efficient operation of a school.

Section 2. Section 53A-15-1502 is enacted to read:

53A-15-1502. (Codified as 53A-15-1402)
Annual notice of parental rights.

An LEA shall annually notify a parent or guardian of a student enrolled in the LEA of the parent's or guardian's rights as specified in this part.

Section 3. Section 53A-15-1503 is enacted to read:

53A-15-1503. (Codified as 53A-15-1403)
Parental right to academic accommodations.

(1) (a) A student's parent or guardian is the primary person responsible for the education of the student, and the state is in a secondary and supportive role to the parent or guardian. As such, a student's parent or guardian has the right to reasonable academic accommodations from the student's LEA as specified in this section.

(b) Each accommodation shall be considered on an individual basis and no student shall be considered to a greater or lesser degree than any other student.

(c) The parental rights specified in this section do not include all the rights or accommodations that may be available to a student's parent or guardian as a user of the public education system.

(2) An LEA shall reasonably accommodate a parent's or guardian's written request to retain a student on grade level based on the student's academic ability or the student's social, emotional, or physical maturity.

(3) An LEA shall reasonably accommodate a parent's or guardian's initial selection of a teacher or request for a change of teacher.

(4) An LEA shall reasonably accommodate the request of a student's parent or guardian to visit and observe any class the student attends.

(5) (a) An LEA shall reasonably accommodate a written request of a student's parent or guardian to excuse the student from attendance for a family event or visit to a health care provider, without obtaining a note from the provider.

(b) An excused absence provided under Subsection (5)(a) does not diminish expectations for the student's academic performance.

(6) (a) An LEA shall reasonably accommodate a parent's or guardian's written request to place a student in a specialized class or an advanced course.

(b) An LEA shall consider multiple academic data points when determining an accommodation under Subsection (6)(a).

(7) Consistent with Section 53A-13-108, which requires the State Board of Education to establish graduation requirements that use competency-based standards and assessments, an

LEA shall allow a student to earn course credit towards high school graduation without completing a course in school by:

(a) testing out of the course; or

(b) demonstrating competency in course standards.

(8) An LEA shall reasonably accommodate a parent's or guardian's request to meet with a teacher at a mutually agreeable time if the parent or guardian is unable to attend a regularly scheduled parent teacher conference.

(9) (a) Upon the written request of a student's parent or guardian, an LEA shall excuse the student from taking a test that is administered statewide or the National Assessment of Educational Progress.

(b) The State Board of Education shall ensure through board rule that neither an LEA nor its employees are negatively impacted through school grading or employee evaluation due to a student not taking a test pursuant to Subsection (9)(a).

(10) (a) An LEA shall provide for:

(i) the distribution of a copy of a school's discipline and conduct policy to each student in accordance with Section 53A-11-903; and

(ii) a parent's or guardian's signature acknowledging receipt of the school's discipline and conduct policy.

(b) An LEA shall notify a parent or guardian of a student's violation of a school's discipline and conduct policy and allow a parent or guardian to respond to the notice in accordance with Chapter 11, Part 9, School Discipline and Conduct Plans.

CHAPTER 393**S. B. 131**

Passed March 13, 2014

Approved April 1, 2014

Effective July 1, 2014

STUDENT LEADERSHIP GRANT

Chief Sponsor: Aaron Osmond

House Sponsor: Joel K. Briscoe

LONG TITLE**General Description:**

This bill modifies provisions related to the Student Leadership Skills Development Pilot Program.

Highlighted Provisions:

This bill:

- ▶ requires a school that receives a grant under the pilot program to:
 - set school-wide goals for the school's student leadership skills development program; and
 - require each student to set personal goals;
- ▶ specifies the data a school shall use to measure the effectiveness and impact of a school's student leadership skills development program on student behavior and academic achievement;
- ▶ prohibits the State Board of Education from awarding additional grant money to a school that fails to demonstrate an improvement in student behavior and academic achievement;
- ▶ modifies the grant amount and matching fund requirements;
- ▶ revises the date for a report on the pilot program to the Legislature; and
- ▶ extends the repeal date for the pilot program.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2015:

- ▶ to the State Board of Education - Utah State Office of Education - Initiative Programs as a one-time appropriation:
 - from the Education Fund, \$250,000.

Other Special Clauses:

This bill takes effect on July 1, 2014.

Utah Code Sections Affected:**AMENDS:**

53A-17a-169, as enacted by Laws of Utah 2013, Chapter 434

63I-2-253, as last amended by Laws of Utah 2013, Chapters 173 and 434

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53A-17a-169 is amended to read:**53A-17a-169. Student Leadership Skills Development Pilot Program.**

- (1) For purposes of this section:
 - (a) "Board" means the State Board of Education.
 - (b) "Pilot program" means the Student Leadership Skills Development Pilot Program created in Subsection (2).
- (2) There is created the Student Leadership Skills Development Pilot Program to develop

student behaviors and skills that enhance a school's learning environment and are vital for success in a career, including:

- (a) communication skills;
- (b) teamwork skills;
- (c) interpersonal skills;
- (d) initiative and self-motivation;
- (e) goal setting skills;
- (f) problem solving skills; and
- (g) creativity.

(3) (a) The board shall administer the program and award grants to elementary schools that apply for a grant on a competitive basis.

(b) ~~[A grant awarded to a school under Subsection (3)(a) shall be]~~ The board may award a grant of:

(i) up to \$10,000 per school[-] for the first year a school participates in the pilot program; and

(ii) up to \$20,000 per school for subsequent years a school participates in the pilot program.

(4) An elementary school may participate in the pilot program established under this section in accordance with rules of the State Board of Education.

(5) In selecting elementary schools to participate in the pilot program, the board shall:

(a) require a school in the first year the school participates in the pilot program to provide matching funds or an in-kind contribution of goods or services in an amount equal to the grant the school receives from the board;

(b) require a school to participate in the pilot program for two years; and

(c) give preference to Title I schools or schools in need of academic improvement.

(6) A school that receives a grant described in Subsection (3) shall ~~[provide the following to the board after the first school year of implementation of the program]:~~

(a) (i) set school-wide goals for the school's student leadership skills development program; and

(ii) require each student to set personal goals; and

(b) provide the following to the board after the first school year of implementation of the program:

~~[(a)]~~ (i) evidence that the grant money was used for the purpose of purchasing or developing the school's own student leadership skills development program; and

~~[(b)]~~ (ii) a report on the effectiveness and impact of the school's student leadership skills development program on student behavior and academic results[-] as measured by:

(A) a reduction in truancy;

(B) assessments of academic achievement;

(C) a reduction in incidents of student misconduct or disciplinary actions; and

(D) the achievement of school-wide goals and students' personal goals.

(7) After three years' participation in the pilot program, a school may not receive additional grant money if the school fails to demonstrate an improvement in student behavior and academic achievement as measured by the data reported under Subsection (6).

[(7)] (8) (a) The board shall make a report on the pilot program to the Education Interim Committee by the committee's October [2015] 2016 meeting.

(b) The report shall include an evaluation of the pilot program's success in enhancing a school's learning environment and improving academic achievement.

Section 2. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates -- Titles 53, 53A, and 53B.

- (1) Section 53A-1-402.7 is repealed July 1, 2014.
- (2) Section 53A-1-403.5 is repealed July 1, 2017.
- (3) Section 53A-1-411 is repealed July 1, 2016.
- (4) Section 53A-1-412 is repealed July 1, 2013.
- (5) Section 53A-1a-513.5 is repealed July 1, 2017.
- (6) Title 53A, Chapter 1a, Part 10, UPSTART, is repealed July 1, 2014.
- (7) Title 53A, Chapter 8a, Part 8, Peer Assistance and Review Pilot Program, is repealed July 1, 2017.
- (8) Subsection 53A-13-110(4) is repealed July 1, 2013.
- (9) Section 53A-17a-169 is repealed July 1, [2016] 2017.

Section 3. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2014, and ending June 30, 2015, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2015.

To State Board of Education - Utah State Office of Education - Initiative Programs

From Education Fund, One-time	\$250,000
-------------------------------	-----------

Schedule of Programs:

Contracts and Grants - Student Leadership Skills Development	\$250,000
--	-----------

The Legislature intends that the State Board of Education:

(1) use the appropriation under this section to implement the Student Leadership Skills Development Pilot Program created in Section 53A-17a-169; and

(2) may use up to \$12,500 of the appropriation under this section to contract with an independent evaluator to conduct an evaluation of the pilot program as required by Section 53A-17a-169.

Section 4. Effective date.

This bill takes effect on July 1, 2014.

CHAPTER 394**S. B. 133**

Passed February 20, 2014

Approved April 1, 2014

Effective May 13, 2014

BENEFIT CORPORATION AMENDMENTS

Chief Sponsor: John L. Valentine
 House Sponsor: Keven J. Stratton
 Cosponsor: Patricia W. Jones

LONG TITLE**General Description:**

This bill modifies corporate provisions to enact the Benefit Corporation Act.

Highlighted Provisions:

This bill:

- ▶ enacts the Benefit Corporation Act, including:
 - providing for the application and effect of chapter;
 - defining terms;
 - providing for incorporation as a benefit corporation;
 - providing for election to become a benefit corporation;
 - allowing for termination of benefit corporation status;
 - addressing establishment of corporate purposes;
 - imposing standards of conduct for directors;
 - providing for a benefit director;
 - imposing standards of conduct for officers;
 - providing for a benefit officer;
 - establishing a right of action;
 - requiring an annual benefit report; and
 - addressing availability of an annual benefit report; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

16-11-6, as last amended by Laws of Utah 2010, Chapter 378

ENACTS:

16-10b-101, Utah Code Annotated 1953
 16-10b-102, Utah Code Annotated 1953
 16-10b-103, Utah Code Annotated 1953
 16-10b-104, Utah Code Annotated 1953
 16-10b-105, Utah Code Annotated 1953
 16-10b-106, Utah Code Annotated 1953
 16-10b-201, Utah Code Annotated 1953
 16-10b-301, Utah Code Annotated 1953
 16-10b-302, Utah Code Annotated 1953
 16-10b-303, Utah Code Annotated 1953
 16-10b-304, Utah Code Annotated 1953
 16-10b-305, Utah Code Annotated 1953
 16-10b-401, Utah Code Annotated 1953
 16-10b-402, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 16-10b-101 is enacted to read:

CHAPTER 10b. BENEFIT CORPORATION ACT

Part 1. General Provisions

16-10b-101. Title.

This chapter is known as the "Benefit Corporation Act."

Section 2. Section 16-10b-102 is enacted to read:

16-10b-102. Application and effect of chapter.

(1) This chapter applies to a benefit corporation organized under this chapter.

(2) The existence of a provision of this chapter does not of itself create an implication that a contrary or different rule of law is applicable to a business corporation that is not a benefit corporation. This chapter does not affect a statute or rule of law that is applicable to a business corporation that is not a benefit corporation.

(3) (a) Except as otherwise provided in this chapter, Chapter 10a, Utah Revised Business Corporation Act, is applicable to a benefit corporation.

(b) A benefit corporation may be subject simultaneously to this chapter and other chapters of this title, including Chapter 11, Professional Corporation Act.

(c) This chapter controls over Chapter 10a, Utah Revised Business Corporation Act, and Chapter 11, Professional Corporation Act, or other laws.

(4) The articles of incorporation or bylaws of a benefit corporation may not limit, be inconsistent with, or supersede a provision of this chapter.

Section 3. Section 16-10b-103 is enacted to read:

16-10b-103. Definitions.

As used in this chapter:

(1) "Annual benefit report" means a report required under Section 16-10b-401.

(2) "Benefit corporation" means a business corporation:

(a) that elects to become subject to this chapter; and

(b) the status of which as a benefit corporation has not been terminated.

(3) "Benefit director" means the director designated as the benefit director of a benefit corporation under Section 16-10b-302.

(4) "Benefit enforcement proceeding" means a proceeding in a court of competent jurisdiction for:

(a) failure of a benefit corporation to pursue or create general public benefit or a specific public

benefit purpose set forth in its articles of incorporation; or

(b) a violation of an obligation, duty, or standard of conduct under this chapter.

(5) "Benefit officer" means the individual designated as the benefit officer of a benefit corporation under Section 16-10b-304.

(6) "Business corporation" means a corporation formed under Chapter 10a, Utah Revised Business Corporation Act, or Chapter 11, Professional Corporation Act.

(7) "Division" means the Division of Corporations and Commercial Code.

(8) "Executive officer" means:

(a) a benefit corporation's president;

(b) a vice president of the benefit corporation in charge of a principal business unit, division, or function; or

(c) any other officer who performs a policy-making function for the benefit corporation.

(9) "General public benefit" means a material positive impact on society and the environment:

(a) taken as a whole;

(b) assessed against a third-party standard; and

(c) from the business of a benefit corporation.

(10) "Immediate family" means a parent, spouse, surviving spouse, child, or sibling of a person.

(11) (a) "Independent" means having no material relationship with a benefit corporation or a subsidiary of the benefit corporation.

(b) Serving as a benefit director or benefit officer does not make an individual not independent.

(c) A material relationship between an individual and a benefit corporation or any of its subsidiaries will be conclusively presumed to exist if one or more of the following apply:

(i) the individual is, or has been within the last three years, an employee other than a benefit officer of the benefit corporation or a subsidiary of the benefit corporation;

(ii) an immediate family member of the individual is, or has been within the last three years, an executive officer other than a benefit officer of the benefit corporation or a subsidiary of the benefit corporation; or

(iii) there is beneficial or record ownership of 5% or more of the outstanding shares of the benefit corporation, calculated as if all outstanding rights to acquire equity interests in the benefit corporation had been exercised, by:

(A) the individual; or

(B) an entity of which the individual is a director, an officer, or a manager, or in which the individual owns beneficially or of record 5% or more of the outstanding equity interests, calculated as if all

outstanding rights to acquire equity interests in the entity had been exercised.

(12) "Minimum status vote" means:

(a) in the case of a business corporation, in addition to any other required approval or vote, the satisfaction of the following conditions:

(i) the shareholders of every class or series may vote as a separate voting group on the corporate action regardless of a limitation stated in the articles of incorporation or bylaws on the voting rights of a class or series; or

(ii) the corporate action is required to be approved by vote of the shareholders of each class or series entitled to cast at least two-thirds of the votes that all shareholders of the class or series are entitled to cast on the action; or

(b) in the case of a domestic entity other than a business corporation, in addition to any other required approval, vote, or consent, the satisfaction of the following conditions:

(i) the holders of every class or series of equity interest in the entity that are entitled to receive a distribution of any kind from the entity may vote on or consent to the action regardless of any otherwise applicable limitation on the voting or consent rights of a class or series; or

(ii) the action must be approved by vote or consent of the holders described in Subsection (12)(b)(i) entitled to cast at least two-thirds of the votes or consents that all of those holders are entitled to cast on the action.

(13) "Publicly traded corporation" means a business corporation that has shares listed on a national securities exchange or traded in a market maintained by one or more members of a national securities association.

(14) "Specific public benefit" includes:

(a) providing low-income or underserved individuals or communities with beneficial products or services;

(b) promoting economic opportunity for individuals or communities beyond the creation of jobs in the normal course of business;

(c) protecting or restoring the environment;

(d) improving human health;

(e) promoting the arts, sciences, or advancement of knowledge;

(f) increasing the flow of capital to entities with a purpose to benefit society or the environment; and

(g) conferring any other particular benefit on society or the environment.

(15) "Subsidiary" means, in relation to a person, an entity in which the person owns beneficially or of record 50% or more of the outstanding equity interests, calculated as if all outstanding rights to acquire equity interests in the entity had been exercised.

(16) "Third-party standard" means a recognized standard for defining, reporting, and assessing

corporate social and environmental performance that:

(a) assesses the effect of the business and its operations upon the interests listed in Subsections 16-10b-301(1)(a)(ii), (iii), (iv), and (v);

(b) is developed by an entity that is not controlled by the benefit corporation;

(c) is developed by an entity that both:

(i) has access to necessary expertise to assess overall corporate social and environmental performance; and

(ii) uses a balanced multistakeholder approach to develop the standard, including a reasonable public comment period; or

(d) makes the following information publicly available:

(i) about the standard:

(A) the criteria considered when measuring the overall social and environmental performance of a business; and

(B) the relative weightings, if any, of those criteria; and

(ii) about the development and revision of the standard:

(A) the identity of the directors, officers, material owners, and the governing body of the entity that developed and controls revisions to the standard;

(B) the process by which revisions to the standard and changes to the membership of the governing body are made; or

(C) an accounting of the revenue and sources of financial support for the entity, with sufficient detail to disclose a relationship that could reasonably be considered to present a potential conflict of interest.

Section 4. Section 16-10b-104 is enacted to read:

16-10b-104. Incorporation of benefit corporation.

A person shall incorporate a benefit corporation in accordance with Chapter 10a, Part 2, Incorporation, but its articles of incorporation shall also state that it is a benefit corporation.

Section 5. Section 16-10b-105 is enacted to read:

16-10b-105. Election of benefit corporation status.

(1) A business corporation may become a benefit corporation under this chapter by amending its articles of incorporation so that the articles of incorporation contain, in addition to the requirements of Section 16-10a-202, a statement that the corporation is a benefit corporation. To be effective, the amendment must be adopted by at least the minimum status vote.

(2) (a) Except as provided in Subsection (2)(b), if a domestic entity that is not a benefit corporation is a party to a merger or the exchanging entity in a share exchange and the surviving entity in the merger or share exchange is to be a benefit corporation, the plan of merger or share exchange must be approved by the domestic entity by at least the minimum status vote.

(b) Subsection (2)(a) does not apply in the case of a corporation that is a party to a merger if the shareholders of the corporation are not entitled to vote on the merger pursuant to Section 16-10a-1104.

Section 6. Section 16-10b-106 is enacted to read:

16-10b-106. Termination of benefit corporation status.

(1) A benefit corporation may terminate its status as a benefit corporation and cease to be subject to this chapter by amending its articles of incorporation to delete the provision required by Section 16-10b-104 or 16-10b-105 to be stated in the articles of incorporation of a benefit corporation. To be effective, the amendment must be adopted by at least the minimum status vote.

(2) (a) Except as provided in Subsection (2)(b), if a plan of merger or share exchange would have the effect of terminating the status of a business corporation as a benefit corporation, the plan must be adopted by at least the minimum status vote to be effective.

(b) Subsection (2)(a) does not apply in the case of a corporation that is a party to a merger if the shareholders of the corporation are not entitled to vote on the merger pursuant to Section 16-10a-1104.

(3) A sale, lease, exchange, or other disposition of all or substantially all of the assets of a benefit corporation, unless the transaction is in the usual and regular course of business, is not effective unless the transaction is approved by at least the minimum status vote.

Section 7. Section 16-10b-201 is enacted to read:

Part 2. Corporate Purposes

16-10b-201. Corporate purposes.

(1) A benefit corporation shall have a purpose of creating general public benefit. This purpose is in addition to its purpose under Section 16-10a-301.

(2) The articles of incorporation of a benefit corporation may identify one or more specific public benefits that it is the purpose of the benefit corporation to create in addition to its purposes under Section 16-10a-301 and Subsection (1). The identification of a specific public benefit under this Subsection (2) does not limit the purpose of a benefit corporation to create general public benefit under Subsection (1).

(3) The creation of general public benefit and a specific public benefit under Subsections (1) and (2) is considered in the best interests of the benefit corporation.

(4) A benefit corporation may amend its articles of incorporation to add, amend, or delete the identification of a specific public benefit that it is the purpose of the benefit corporation to create. To be effective, the amendment must be adopted by at least the minimum status vote.

(5) A professional corporation that is a benefit corporation does not violate Section 16-11-6 by having the purpose to create general public benefit or a specific public benefit.

Section 8. Section 16-10b-301 is enacted to read:

Part 3. Accountability

16-10b-301. Standard of conduct for directors.

(1) Subject to Subsection (2), the board of directors, committees of the board of directors, and individual directors of a benefit corporation, in discharging the duties of their respective positions and in considering the best interests of the benefit corporation:

(a) shall consider the effects of an action or inaction upon:

- (i) the shareholders of the benefit corporation;
- (ii) the employees and workforce of the benefit corporation, its subsidiaries, and its suppliers;
- (iii) the interests of customers as beneficiaries of the general public benefit or specific public benefit purposes of the benefit corporation;
- (iv) community and societal factors, including those of each community in which offices or facilities of the benefit corporation, its subsidiaries, or its suppliers are located;
- (v) the local and global environment;
- (vi) the short-term and long-term interests of the benefit corporation, including benefits that may accrue to the benefit corporation from its long-term plans and the possibility that these interests may be best served by the continued independence of the benefit corporation; and
- (vii) the ability of the benefit corporation to accomplish its general public benefit purpose and a specific public benefit purpose; and

(b) may consider other pertinent factors or the interests of any other group that they consider appropriate.

(2) (a) Subject to Subsection (2)(b), in discharging the duties of their respective positions and in considering the best interests of the benefit corporation, the board of directors, committees of the board of directors, and individual directors of a benefit corporation need not give priority to a particular interest or factor referred to in Subsection (1) over any other interest or factor.

(b) Subsection (2)(a) does not apply if the benefit corporation has stated in its articles of incorporation its intention to give priority to certain interests or factors related to its accomplishment of

its general public benefit purpose or of a specific public benefit purpose identified in its articles of incorporation.

(3) The consideration of interests and factors in the manner required by Subsections (1) and (2) does not constitute a violation of Section 16-10a-840.

(4) Except as provided in the articles of incorporation or bylaws, a director is not personally liable for monetary damages for:

(a) an action or inaction in the course of performing the duties of a director under Subsections (1) and (2) if the director performed the duties of office in compliance with Section 16-10a-840 and this section; or

(b) failure of the benefit corporation to pursue or create general public benefit or specific public benefit.

(5) A director does not have a duty to a person that is a beneficiary of the general public benefit purpose or a specific public benefit purpose of a benefit corporation arising from the status of the person as a beneficiary.

Section 9. Section 16-10b-302 is enacted to read:

16-10b-302. Benefit director.

(1) The board of directors of a benefit corporation that is a publicly traded corporation shall, and the board of directors of any other benefit corporation may, include a director, who:

- (a) is designated the benefit director; and
- (b) shall have, in addition to the powers, duties, rights, and immunities of the other directors of the benefit corporation, the powers, duties, rights, and immunities provided in this chapter.

(2) (a) A benefit director shall be elected, and may be removed, in the manner provided by Sections 16-10a-801 through 16-10a-810.

(b) Except as provided in Subsection (6), the benefit director shall be an individual who is independent.

(c) The benefit director may serve as the benefit officer at the same time as serving as the benefit director.

(d) The articles of incorporation or bylaws of a benefit corporation may prescribe additional qualifications of the benefit director not inconsistent with this Subsection (2).

(3) The benefit director shall prepare, and the benefit corporation shall include in the annual benefit report to shareholders required by Section 16-10b-401, the opinion of the benefit director on all of the following:

(a) whether the benefit corporation acted in accordance with its general public benefit purpose and any specific public benefit purpose in all material respects during the period covered by the report;

(b) whether the directors and officers complied with Subsections 16-10b-301(1) and 16-10b-303(1), respectively; and

(c) if, in the opinion of the benefit director, the benefit corporation or its directors or officers failed to act or comply in the manner described in Subsections (3)(a) and (b), a description of the ways in which the benefit corporation or its directors or officers failed to act or comply.

(4) The act or inaction of an individual in the capacity of a benefit director shall constitute for all purposes an act or inaction of that individual in the capacity of a director of the benefit corporation.

(5) Regardless of whether the articles of incorporation or bylaws of a benefit corporation include a provision eliminating or limiting the personal liability of directors authorized by Section 16-10a-841, a benefit director may not be personally liable for an act or omission in the capacity of a benefit director unless the act or omission constitutes self-dealing, willful misconduct, or a knowing violation of law.

(6) The benefit director of a professional corporation does not need to be independent.

Section 10. Section 16-10b-303 is enacted to read:

16-10b-303. Standard of conduct for officers.

(1) An officer of a benefit corporation shall consider the interests and factors described in Subsection 16-10b-301(1) in the manner provided in Subsections 16-10b-301(1) and (2) if:

(a) the officer has discretion to act with respect to a matter; and

(b) it reasonably appears to the officer that the matter may have a material effect on the creation by the benefit corporation of general public benefit or a specific public benefit identified in the articles of incorporation of the benefit corporation.

(2) The consideration of interests and factors in the manner described in Subsection (1) may not constitute a violation of Section 16-10a-831 or 16-10a-840.

(3) Except as provided in the articles of incorporation or bylaws of a benefit corporation, an officer is not personally liable for monetary damages for:

(a) an action or inaction as an officer in the course of performing the duties of an officer under Subsection (1) if the officer performed the duties of the position in compliance with Section 16-10a-831 or 16-10a-840 and this section; or

(b) failure of the benefit corporation to pursue or create general public benefit or specific public benefit.

(4) An officer does not have a duty to a person that is a beneficiary of the general public benefit purpose or a specific public benefit purpose of a benefit corporation arising from the status of the person as a beneficiary.

Section 11. Section 16-10b-304 is enacted to read:

16-10b-304. Benefit officer.

(1) A benefit corporation may have an officer designated as the benefit officer.

(2) A benefit officer has:

(a) the powers and duties relating to the purpose of the corporation to create general public benefit or specific public benefit provided:

(i) by the bylaws; or

(ii) absent controlling provisions in the bylaws, by resolutions or orders of the board of directors; and

(b) the duty to prepare the benefit report required by Section 16-10b-401.

Section 12. Section 16-10b-305 is enacted to read:

16-10b-305. Right of action.

(1) Except in a benefit enforcement proceeding, a person may not bring an action or assert a claim against a benefit corporation or its directors or officers with respect to:

(a) failure to pursue or create general public benefit or a specific public benefit set forth in its articles of incorporation; or

(b) violation of an obligation, duty, or standard of conduct under this chapter.

(2) A benefit corporation may not be liable for monetary damages under this chapter for a failure of the benefit corporation to pursue or create general public benefit or a specific public benefit.

(3) (a) A benefit enforcement proceeding may be commenced or maintained only:

(i) directly by the benefit corporation; or

(ii) derivatively by:

(A) a person or group of persons that owns beneficially or of record at least 2% of the total number of shares of a class or series outstanding at the time of the act or omission complained of;

(B) a director;

(C) a person or group of persons that own beneficially or of record 5% or more of the outstanding equity interests in an entity of which the benefit corporation is a subsidiary at the time of the act or omission complained of; or

(D) other persons as specified in the articles of incorporation or bylaws of the benefit corporation.

(b) A benefit corporation may provide in its articles of incorporation a greater degree of ownership by a person or group of persons than those listed under Subsection (3)(a) to bring a derivative action.

(4) For purposes of this section, a person is the beneficial owner of shares or equity interests if the shares or equity interests are held in a voting trust or by a nominee on behalf of the beneficial owner.

Section 13. Section 16-10b-401 is enacted to read:

Part 4. Transparency

16-10b-401. Preparation of annual benefit report.

(1) A benefit corporation shall prepare an annual benefit report that includes all of the following:

(a) a narrative description of:

(i) the ways in which the benefit corporation pursued general public benefit during the year and the extent to which general public benefit was created;

(ii) (A) the ways in which the benefit corporation pursued a specific public benefit that the articles of incorporation state it is the purpose of the benefit corporation to create; and

(B) the extent to which that specific public benefit was created; and

(iii) circumstances that have hindered the creation by the benefit corporation of general public benefit or specific public benefit;

(b) an assessment of the overall social and environmental performance of the benefit corporation against a third-party standard:

(i) applied consistently with the application of that third-party standard in prior benefit reports; or

(ii) accompanied by an explanation of the reasons for an inconsistent application;

(c) the name of the benefit director and the benefit officer, if any, and the address to which correspondence to each of them may be directed;

(d) the statement of the benefit director described in Subsection 16-10b-302(3);

(e) an identification of the third-party standard that will be used to prepare the next benefit report of the benefit corporation and a discussion of:

(i) the process and rationale for selecting that third-party standard and, if it is different from the previous third-party standard used by the benefit corporation, the reasons for the change; and

(ii) any connection between the organization that established the third-party standard, or its directors, officers, or a holder of 5% or more of the governance interests in the organization, and the benefit corporation or its directors, officers, or a holder of 5% or more of the outstanding shares of the benefit corporation, including a financial or governance relationship that might materially affect the credibility of the use of the third-party standard; and

(f) if the benefit corporation has dispensed with, or restricted the discretion or powers of, the board of directors, a description of the persons that exercise the powers, duties, and rights and who have the immunities of the board of directors.

(2) If, during the year covered by a benefit report, a benefit director resigns, refuses to stand for

reelection to the position of benefit director, or is removed from the position of benefit director, and the benefit director furnishes the benefit corporation with written correspondence concerning the circumstances surrounding the resignation, refusal, or removal, the benefit report shall include that correspondence as an exhibit.

(3) Neither the benefit report nor the assessment of the performance of the benefit corporation in the benefit report required by Subsection (1)(b) needs to be audited or certified by a third party.

Section 14. Section 16-10b-402 is enacted to read:

16-10b-402. Availability of annual benefit report.

(1) A benefit corporation shall send its annual benefit report required by Section 16-10b-401 to each shareholder on the earlier of:

(a) 120 days following the end of the fiscal year of the benefit corporation; or

(b) the same time that the benefit corporation delivers another annual report to its shareholders.

(2) A benefit corporation shall post all of its benefit reports on the public portion of its Internet website, if any, but financial or proprietary information included in the benefit reports may be omitted from the benefit reports as posted.

(3) If a benefit corporation does not have an Internet website, the benefit corporation shall provide a copy of its most recent benefit report, without charge, to a person that requests a copy, but financial or proprietary information included in the benefit report may be omitted from the copy of the benefit report provided.

(4) (a) Concurrently with the delivery of the benefit report to shareholders under Subsection (2), the benefit corporation shall deliver a copy of the benefit report to the division for filing, but financial or proprietary information included in the benefit report may be omitted from the benefit report as delivered to the division.

(b) The division shall charge a fee established by the division in accordance with Section 63J-1-504 for filing an annual benefit report.

(c) The benefit corporation shall file the annual benefit report in addition to the annual report required by Section 16-10a-1603.

Section 15. Section 16-11-6 is amended to read:

16-11-6. Purpose of professional corporation -- Power to own property and invest funds.

(1) A professional corporation may be organized pursuant to the provisions of this ~~aet~~ chapter only for the purpose of rendering one specific type of professional service and services ancillary ~~thereto~~ to the specific type of professional service and may not engage in any business other than rendering the professional service ~~which~~ that it was organized to render and services ancillary ~~thereto; provided,~~

however, that] to the specific type of professional service.

(2) Notwithstanding Subsection (1), a professional corporation may:

(a) own real and personal property necessary or appropriate for rendering the type of professional service it was organized to render [~~and may~~];

(b) invest its funds in real estate, mortgages, stocks, bonds, and any other type of investments[.]; and

(c) if a benefit corporation, have as a purpose creating a general public benefit and a specific public benefit as provided in Chapter 10b, Benefit Corporation Act.

CHAPTER 395**S. B. 134**

Passed February 28, 2014

Approved April 1, 2014

Effective May 13, 2014

**TAXATION RELATED
REFERENDUM AMENDMENTS**

Chief Sponsor: John L. Valentine

House Sponsor: Keven J. Stratton

LONG TITLE**General Description:**

This bill modifies the Election Code to address a referendum filed on actions taken with regard to property tax rates.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ sets different time periods for actions taken with regard to a referendum petition relating to property tax rates;
- ▶ addresses absentee ballots;
- ▶ exempts a referendum petition described in this bill from the voter information pamphlet requirements;
- ▶ addresses the tax rate if the referendum passes or fails;
- ▶ provides language for the ballot; and
- ▶ addresses payment of costs.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

20A-7-613, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-7-613 is enacted to read:**20A-7-613. Property tax referendum petition.**

(1) As used in this section:

(a) "Certified tax rate" is as defined in Subsection 59-2-924(3)(a).

(b) "Fiscal year taxing entity" means a taxing entity that operates under a fiscal year that begins on July 1 and ends on June 30.

(2) Except as provided in this section, the requirements of this part apply to a referendum petition challenging a fiscal year taxing entity's legislative body's vote to impose a tax rate that exceeds the certified tax rate.

(3) Notwithstanding Subsection 20A-7-604(5), the local clerk shall number each of the referendum packets and return them to the sponsors within two working days.

(4) Notwithstanding Subsection 20A-7-606(1), the sponsors shall deliver each signed and verified

referendum packet to the county clerk of the county in which the packet was circulated no later than 40 days after the day on which the local clerk complies with Subsection (3).

(5) Notwithstanding Subsections 20A-7-606(2) and (3), the county clerk shall take the actions required in Subsections 20A-7-606(2) and (3) within 10 working days after the day on which the county clerk receives the signed and verified referendum packet as described in Subsection (4).

(6) The local clerk shall take the actions required by Section 20A-7-607 within two working days after the day on which the local clerk receives the referendum packets from the county clerk.

(7) Notwithstanding Subsection 20A-7-608(2), the local attorney shall prepare the ballot title within two working days after the day on which the referendum petition is declared sufficient for submission to a vote of the people.

(8) Notwithstanding Subsection 20A-7-609(2)(d), a referendum that qualifies for the ballot under this section shall appear on the ballot for the earlier of the next regular general election or the next municipal general election unless a special election is called.

(9) Notwithstanding the requirements related to absentee ballots under this title:

(a) the election officer shall prepare absentee ballots for those voters who have requested an absentee ballot as soon as possible after the ballot title is prepared as described in Subsection (7); and

(b) the election officer shall mail absentee ballots on a referendum under this section the later of:

(i) the time provided in Section 20A-3-305 or 20A-16-403; or

(ii) the time that absentee ballots are prepared for mailing under this section.

(10) Section 20A-7-402 does not apply to a referendum described in this section.

(11) (a) If a majority of voters does not vote against imposing the tax at a rate calculated to generate the increased revenue budgeted, adopted, and approved by the fiscal year taxing entity's legislative body:

(i) the certified tax rate for the fiscal year during which the referendum petition is filed is its most recent certified tax rate; and

(ii) the proposed increased revenues for purposes of establishing the certified tax rate for the fiscal year after the fiscal year described in Subsection (11)(a)(i) are the proposed increased revenues budgeted, adopted, and approved by the fiscal year taxing entity's legislative body before the filing of the referendum petition.

(b) If a majority of voters votes against imposing a tax at the rate established by the vote of the fiscal year taxing entity's legislative body, the certified tax rate for the fiscal year taxing entity is its most recent certified tax rate.

(c) If the tax rate is set in accordance with Subsection (11)(a)(ii), a fiscal year taxing entity is

not required to comply with the notice and public hearing requirements of Section 59-2-919 if the fiscal year taxing entity complies with those notice and public hearing requirements before the referendum petition is filed.

(12) The ballot title shall, at a minimum, include in substantially this form the following: "Shall the [name of the taxing entity] be authorized to levy a tax rate in the amount sufficient to generate an increased property tax revenue of [amount] for fiscal year [year] as budgeted, adopted, and approved by the [name of the taxing entity]?"

(13) A fiscal year taxing entity shall pay the county the costs incurred by the county that are directly related to meeting the requirements of this section and that the county would not have incurred but for compliance with this section.

(14) (a) An election officer shall include on a ballot a referendum that has not yet qualified for placement on the ballot, if:

(i) sponsors file an application for a referendum described in this section;

(ii) the ballot will be used for the election for which the sponsors are attempting to qualify the referendum; and

(iii) the deadline for qualifying the referendum for placement on the ballot occurs after the day on which the ballot will be printed.

(b) If an election officer includes on a ballot a referendum described in Subsection (14)(a), the ballot title shall comply with Subsection (12).

(c) If an election officer includes on a ballot a referendum described in Subsection (14)(a) that does not qualify for placement on the ballot, the election officer shall inform the voters by any practicable method that the referendum has not qualified for the ballot and that votes cast in relation to the referendum will not be counted.

CHAPTER 396**S. B. 136**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

LOCAL ELECTIONS AMENDMENTS

Chief Sponsor: Howard A. Stephenson

House Sponsor: R. Curt Webb

LONG TITLE**General Description:**

This bill amends provisions of the Election Code relating to elections on local referenda.

Highlighted Provisions:

This bill:

- ▶ defines the term “local tax law”;
- ▶ modifies the deadline for delivering a signed and verified referendum packet in relation to a local tax law;
- ▶ modifies dates for:
 - the certification of referendum petition signatures by a county clerk; and
 - evaluation of the sufficiency of a referendum petition by a local clerk;
- ▶ provides that an election on a referendum challenging a local tax law may be conducted entirely by absentee ballot;
- ▶ describes requirements relating to an election described in the preceding paragraph; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

20A-7-101, as last amended by Laws of Utah 2012, Chapters 17 and 72

20A-7-606, as last amended by Laws of Utah 2012, Chapter 72

20A-7-607, as last amended by Laws of Utah 2011, Chapter 17

20A-7-609, as last amended by Laws of Utah 2011, Chapter 17

ENACTS:

20A-7-609.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-7-101 is amended to read:**20A-7-101. Definitions.**

As used in this chapter:

(1) “Budget officer” means:

(a) (i) for a county of the first class, the person designated as budget officer in Section 17-19a-203; or

(ii) for a county not described in Subsection (1)(a)(i), a person designated as budget officer in Section 17-19-19;

(b) for a city, the person designated as budget officer in Subsection 10-6-106(5); or

(c) for a town, the town council.

(2) “Certified” means that the county clerk has acknowledged a signature as being the signature of a registered voter.

(3) “Circulation” means the process of submitting an initiative or referendum petition to legal voters for their signature.

(4) “Final fiscal impact statement” means a financial statement prepared after voters approve an initiative that contains the information required by Subsection 20A-7-202.5(2) or 20A-7-502.5(2).

(5) “Initial fiscal impact estimate” means a financial statement prepared according to the terms of Section 20A-7-202.5 or 20A-7-502.5 after the filing of an application for an initiative petition.

(6) “Initiative” means a new law proposed for adoption by the public as provided in this chapter.

(7) “Initiative packet” means a copy of the initiative petition, a copy of the proposed law, and the signature sheets, all of which have been bound together as a unit.

(8) “Legal signatures” means the number of signatures of legal voters that:

(a) meet the numerical requirements of this chapter; and

(b) have been certified and verified as provided in this chapter.

(9) “Legal voter” means a person who:

(a) is registered to vote; or

(b) becomes registered to vote before the county clerk certifies the signatures on an initiative or referendum petition.

(10) “Local attorney” means the county attorney, city attorney, or town attorney in whose jurisdiction a local initiative or referendum petition is circulated.

(11) “Local clerk” means the county clerk, city recorder, or town clerk in whose jurisdiction a local initiative or referendum petition is circulated.

(12) (a) “Local law” includes an ordinance, resolution, master plan, and any comprehensive zoning regulation adopted by ordinance or resolution.

(b) “Local law” does not include an individual property zoning decision.

(13) “Local legislative body” means the legislative body of a county, city, or town.

(14) “Local obligation law” means a local law passed by the local legislative body regarding a bond that was approved by a majority of qualified voters in an election.

(15) “Local tax law” means a local law, passed by a political subdivision with an annual or biannual calendar fiscal year, that increases a tax or imposes a new tax.

[15] (16) "Measure" means a proposed constitutional amendment, an initiative, or referendum.

[16] (17) "Referendum" means a process by which a law passed by the Legislature or by a local legislative body is submitted or referred to the voters for their approval or rejection.

[17] (18) "Referendum packet" means a copy of the referendum petition, a copy of the law being submitted or referred to the voters for their approval or rejection, and the signature sheets, all of which have been bound together as a unit.

[18] (19) (a) "Signature" means a holographic signature.

(b) "Signature" does not mean an electronic signature.

[19] (20) "Signature sheets" means sheets in the form required by this chapter that are used to collect signatures in support of an initiative or referendum.

[20] (21) "Sponsors" means the legal voters who support the initiative or referendum and who sign the application for petition copies.

[21] (22) "Sufficient" means that the signatures submitted in support of an initiative or referendum petition have been certified and verified as required by this chapter.

[22] (23) "Verified" means acknowledged by the person circulating the petition as required in Sections 20A-7-205 and 20A-7-305.

Section 2. Section 20A-7-606 is amended to read:

20A-7-606. Submitting the referendum petition -- Certification of signatures by the county clerks -- Transfer to local clerk.

(1) (a) The sponsors shall deliver each signed and verified referendum packet to the county clerk of the county in which the packet was circulated[.] no later than 45 days after the day on which the local law is passed.

~~[(i) for county referenda, no later than 45 days after the passage of the local law;]~~

~~[(ii) for municipal referenda, no later than 45 days after the passage of the local law; or]~~

~~[(iii) for referenda held in relation to the adoption of an ordinance imposing a county option sales and use tax under Section 59-12-1102, no later than 100 days before the election that the referendum qualifies for under Subsection 20A-7-609(2)(c).]~~

(b) A sponsor may not submit a referendum packet after the deadline established in this Subsection (1).

(2) (a) No later than ~~[60 days after the local law passes]~~ 15 days after the day on which a county clerk receives a referendum packet under Subsection (1)(a), the county clerk shall:

(i) check the names of all persons completing the verification on the last page of each referendum packet to determine whether those persons are Utah residents and are at least 18 years old; and

(ii) submit the name of each of those persons who is not a Utah resident or who is not at least 18 years old to the attorney general and county attorney.

(b) The county clerk may not certify a signature under Subsection (3) on a referendum packet that is not verified in accordance with Section 20A-7-605.

(3) No later than ~~[75]~~ 30 days after the [local law passes] day on which a county clerk receives a referendum packet under Subsection (1)(a), the county clerk shall:

(a) determine whether each signer is a registered voter according to the requirements of Section 20A-7-606.3;

(b) certify on the referendum petition whether each name is that of a registered voter; and

(c) deliver all of the verified referendum packets to the local clerk.

Section 3. Section 20A-7-607 is amended to read:

20A-7-607. Evaluation by the local clerk.

(1) When each referendum packet is received from a county clerk, the local clerk shall check off from the local clerk's record the number of each referendum packet filed.

(2) ~~[(a) After all of the referendum packets have been received by]~~ Within 15 days after the day on which the local clerk receives each referendum packet from a county clerk, the local clerk shall:

(a) count the number of the names certified by the county clerks that appear on each verified signature sheet[.];

(b) ~~[(If] if the total number of certified names from each verified signature sheet equals or exceeds the number of names required by Section 20A-7-601 and the requirements of this part are met, [the local clerk shall] mark upon the front of the petition the word "sufficient[.]"~~];

(c) ~~[(If] if the total number of certified names from each verified signature sheet does not equal or exceed the number of names required by Section 20A-7-601 or a requirement of this part is not met, [the local clerk shall] mark upon the front of the petition the word "insufficient[.]"~~; and

(d) ~~[The local clerk shall immediately]~~ notify any one of the sponsors of the local clerk's finding.

(3) If the local clerk finds the total number of certified signatures from each verified signature sheet to be insufficient, any sponsor may file a written demand with the local clerk for a recount of the signatures appearing on the referendum petition in the presence of any sponsor.

(4) (a) If the local clerk refuses to accept and file any referendum petition, any voter may apply to the Supreme Court for an extraordinary writ to compel the local clerk to do so within 10 days after the refusal.

(b) If the Supreme Court determines that the referendum petition is legally sufficient, the local clerk shall file it, with a verified copy of the judgment attached to it, as of the date on which it was originally offered for filing in the local clerk's office.

(c) If the Supreme Court determines that any petition filed is not legally sufficient, the Supreme Court may enjoin the local clerk and all other officers from:

(i) certifying or printing the ballot title and numbers of that measure on the official ballot for the next election[-]; or

(ii) as it relates to a local tax law that is conducted entirely by absentee ballot, certifying, printing, or mailing the ballot title and numbers of that measure under Section 20A-7-609.5.

(5) A petition determined to be sufficient in accordance with this section is qualified for the ballot.

Section 4. Section 20A-7-609 is amended to read:

20A-7-609. Form of ballot -- Manner of voting.

(1) The local clerk shall ensure that the number and ballot title are presented upon the official ballot with, immediately adjacent to them, the words "For" and "Against," each word presented with an adjacent square in which the elector may indicate the elector's vote.

(2) (a) Except as provided in Subsection (2)(c)(i) [~~or (d)(i)~~] or Section 20A-7-609.5, and unless the county legislative body calls a special election, the county clerk shall ensure that county referenda that have qualified for the ballot appear on the next regular general election ballot.

(b) Except as provided in Subsection (2)(~~d~~)(c)(ii) or Section 20A-7-609.5, and unless the municipal legislative body calls a special election, the municipal recorder or clerk shall ensure that municipal referenda that have qualified for the ballot appear on the next regular municipal election ballot.

~~[(c) For referenda held in relation to the adoption of an ordinance imposing a county option sales and use tax under Section 59-12-1102, the county clerk shall ensure that referenda that have qualified for the ballot appear on the ballot at the earlier of:]~~

~~[(i) the next regular general election that is more than 155 days after the date of the adoption of the ordinance; or]~~

~~[(ii) the next municipal general election that is more than 155 days after the date of the adoption of the ordinance.]~~

~~[(d) (c) (i) [If] Except as provided in Section 20A-7-609.5, if a local law passes after January 30 of the year in which there is a regular general election, the county clerk shall ensure that a county referendum that has qualified for the ballot appears~~

on the ballot at the second regular general election immediately following the passage of the local law unless the county legislative body calls a special election.

(ii) [~~If~~] Except as provided in Section 20A-7-609.5, if a local law passes after January 30 of the year in which there is a municipal general election, the municipal recorder or clerk shall ensure that a municipal referendum that has qualified for the ballot appears on the ballot at the second municipal general election immediately following the passage of the local law unless the municipal legislative body calls a special election.

(3) (a) (i) A voter desiring to vote in favor of the law that is the subject of the referendum shall mark the square adjacent to the word "For."

(ii) The law that is the subject of the referendum is effective if a majority of voters mark "For."

(b) (i) A voter desiring to vote against the law that is the subject of the referendum petition shall mark the square following the word "Against."

(ii) The law that is the subject of the referendum is not effective if a majority of voters mark "Against."

Section 5. Section 20A-7-609.5 is enacted to read:

20A-7-609.5. Election on referendum challenging local tax law conducted entirely by absentee ballot.

(1) An election officer may administer an election on a referendum challenging a local tax law entirely by absentee ballot.

(2) For purposes of an election conducted under this section, the election officer shall:

(a) designate as the election day the day that is 30 days after the day on which the election officer complies with Subsection (2)(b); and

(b) within 30 days after the day on which the referendum described in Subsection (1) qualifies for the ballot, mail to each registered voter within the voting precincts to which the local tax law applies:

(i) an absentee ballot;

(ii) a statement that there will be no polling place in the voting precinct for the election;

(iii) a statement specifying the election day described in Subsection (2)(a);

(iv) a business reply mail envelope;

(v) instructions for returning the ballot that include an express notice about any relevant deadlines that the voter must meet in order for the voter's vote to be counted; and

(vi) a warning, on a separate page of colored paper in boldface print, indicating that if the voter fails to follow the instructions included with the absentee ballot, the voter will be unable to vote in that election because there will be no polling place in the voting precinct on the day of the election.

(3) A voter who votes by absentee ballot under this section is not required to apply for an absentee ballot as required by this part.

(4) An election officer who administers an election under this section shall:

(a) (i) obtain, in person, the signatures of each voter within that voting precinct before the election; or

(ii) obtain the signature of each voter within the voting precinct from the county clerk; and

(b) maintain the signatures on file in the election officer's office.

(5) (a) Upon receiving the returned absentee ballots under this section, the election officer shall compare the signature on each absentee ballot with the voter's signature that is maintained on file and verify that the signatures are the same.

(b) If the election officer questions the authenticity of the signature on the absentee ballot, the election officer shall immediately contact the voter to verify the signature.

(c) If the election officer determines that the signature on the absentee ballot does not match the voter's signature that is maintained on file, the election officer shall:

(i) unless the absentee ballot application deadline described in Section 20A-3-304 has passed, immediately send another absentee ballot and other voting materials as required by this section to the voter; and

(ii) disqualify the initial absentee ballot.

CHAPTER 397**S. B. 147**

Passed February 28, 2014

Approved April 1, 2014

Effective May 13, 2014

RESIDENTIAL RENTAL AMENDMENTS

Chief Sponsor: Patricia W. Jones

House Sponsor: Brad R. Wilson

LONG TITLE**General Description:**

This bill modifies provisions of Title 57, Real Estate, relating to rentals.

Highlighted Provisions:

This bill:

- ▶ prohibits, except under certain circumstances, an association or an association of unit owners from requiring a lot owner or a unit owner to:
 - obtain the association's or the association of unit owners' approval of a prospective renter; or
 - give the association or the association of unit owners a copy of certain documents relating to a renter;
- ▶ provides that no later than 30 days after the day on which a renter vacates a rental property, the owner or the owner's agent shall return to the renter the balance of any deposit and the balance of any prepaid rent and provide an itemized notice of any deductions;
- ▶ establishes a procedure by which a renter may:
 - notify the owner or the owner's agent of the owner or the owner's agent's failure to comply with the provisions of the preceding paragraph; and
 - provide the owner or the owner's agent a five-day opportunity to comply;
- ▶ provides that if the owner or the owner's agent fails to comply within five days after the day on which a notice is served, the renter may recover the full deposit, the full amount of any prepaid rent, and a civil penalty of \$100;
- ▶ provides that in an action to enforce compliance with the provisions of this bill, a court shall award costs and attorney fees to the prevailing party if the court determines that the opposing party acted in bad faith; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

57-8-10, as last amended by Laws of Utah 2011, Chapter 355

57-8-13.8, as last amended by Laws of Utah 1992, Chapter 12

57-8-13.10, as last amended by Laws of Utah 2003, Chapter 265

57-8a-209, as enacted by Laws of Utah 2009, Chapter 178

57-17-3, as enacted by Laws of Utah 1981, Chapter 74

ENACTS:

57-8-10.1, Utah Code Annotated 1953

REPEALS AND REENACTS:

57-17-5, as enacted by Laws of Utah 1983, Chapter 208

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 57-8-10 is amended to read:**57-8-10. Contents of declaration.**

(1) ~~[Prior to]~~ Before the conveyance of any unit in a condominium project, a declaration shall be recorded that contains the covenants, conditions, and restrictions relating to the project that shall be enforceable equitable servitudes, where reasonable, and which shall run with the land. Unless otherwise provided, these servitudes may be enforced by ~~[any]~~ a unit owner ~~[and his successors]~~ or a unit owner's successor in interest.

(2) (a) For every condominium project, the declaration shall:

(i) ~~[The declaration shall]~~ include a description of the land or interests in real property included within the project~~[-]~~;

(ii) ~~[The declaration shall]~~ contain a description of any buildings~~[-, which]~~ that states the number of storeys and basements, the number of units, the principal materials of which the building is or is to be constructed, and a description of all other significant improvements contained or to be contained in the project~~[-]~~;

(iii) ~~[The declaration shall]~~ contain the unit number of each unit, the square footage of each unit, and any other description or information necessary to properly identify each unit~~[-]~~;

(iv) ~~[The declaration shall]~~ describe the common areas and facilities of the project~~[-]~~; and

(v) ~~[The declaration shall]~~ describe any limited common areas and facilities and ~~[shall]~~ state to which units the use of the common areas and facilities is reserved.

(b) Any shutters, awnings, window boxes, doorsteps, porches, balconies, patios, or other apparatus intended to serve a single unit, but located outside the boundaries of the unit, shall constitute a limited common area and facility appertaining to that unit exclusively, whether or not the declaration makes such a provision.

(c) The condominium plat recorded with the declaration may provide or supplement the information required under Subsections (2)(a) and (b).

(d) (i) The declaration shall include the percentage or fraction of undivided interest in the common areas and facilities appurtenant to each unit and ~~[its]~~ the unit owner for all purposes, including voting, derived and allocated in accordance with Subsection 57-8-7(2).

(ii) If any use restrictions are to apply, the declaration shall state the purposes for which the

units are intended and ~~restricted as to~~ the use restrictions that apply.

(iii) (A) The declaration shall include the name and address of a person to receive service of process on behalf of the project, in the cases provided by this chapter, ~~together with the residence or place of business of that person.~~

(B) The person described in Subsection (2)(d)(iii)(A) shall be a resident of, or shall maintain a place of business within, this state.

(iv) The declaration shall describe the method by which ~~it~~ the declaration may be amended consistent with this chapter.

(v) Any further matters in connection with the property may be included in the declaration, which the person or persons executing the declaration may consider desirable, consistent with this chapter.

(vi) The declaration shall contain a statement of intention that this chapter applies to the property.

(e) The initial recorded declaration shall include:

(i) an appointment of a trustee who qualifies under Subsection 57-1-21(1)(a)(i) or (iv); and

(ii) the following statement: "The declarant hereby conveys and warrants pursuant to U.C.A. Sections 57-1-20 and 57-8-45 to (name of trustee), with power of sale, the unit and all improvements to the unit for the purpose of securing payment of assessments under the terms of the declaration."

(3) (a) If the condominium project contains any convertible land, the declaration shall:

(i) ~~The declaration shall~~ contain a legal description by metes and bounds of each area of convertible land within the condominium project[-];

(ii) ~~The declaration shall~~ state the maximum number of units that may be created within each area of convertible land[-];

(iii) ~~(A) The declaration shall~~ state, with respect to each area of convertible land, the maximum percentage of the aggregate land and floor area of all units that may be created and the use of which will not or may not be restricted exclusively to residential purposes[-] ~~(B) The statements described in Subsection (3)(a)(iii)(A) need not be supplied if,~~ unless none of the units on other portions of the land within the project are restricted exclusively to residential use[-];

(iv) ~~The declaration shall~~ state the extent to which any structure erected on any convertible land will be compatible with structures on other portions of the land within the condominium project in terms of quality of construction, the principal materials to be used, and architectural style[-];

(v) ~~The declaration shall~~ describe all other improvements that may be made on each area of convertible land within the condominium project[-];

(vi) ~~The declaration shall~~ state that any units created within each area of convertible land will be

substantially identical to the units on other portions of the land within the project or ~~it shall~~ describe in detail what other type of units may be created[-]; and

(vii) ~~The declaration shall~~ describe the declarant's reserved right, if any, to create limited common areas and facilities within any convertible land in terms of the types, sizes, and maximum number of the limited common areas within each convertible land.

(b) The condominium plat recorded with the declaration may provide or supplement the information required under Subsection (3)(a).

(4) (a) If the condominium project is an expandable condominium project, the declaration shall:

~~(a)~~ (i) ~~(A) The declaration shall~~ contain an explicit reservation of an option to expand the project[-];

~~(B) The declaration shall~~ (ii) include a statement of any limitations on the option to expand, including a statement as to whether the consent of any unit owners ~~shall be~~ is required and, a statement as to the method by which consent shall be ascertained, or a statement that there are no such limitations[-];

~~(ii) The declaration shall~~ (iii) include a time limit, not exceeding seven years ~~from the date of the recording of~~ after the day on which the declaration is recorded, upon which the option to expand the condominium project ~~shall expire, together with~~ expires and a statement of any circumstances ~~which~~ that will terminate the option ~~prior to~~ before expiration of the specified time limits[-];

~~(iii) The declaration shall~~ (iv) contain a legal description by metes and bounds of all land that may be added to the condominium project, which is known as additional land[-];

~~(iv) The declaration shall~~ (v) state:

(A) if any of the additional land is added to the condominium project, whether all of it or any particular portion of it must be added;

(B) any limitations as to what portions may be added; or

(C) a statement that there are no such limitations[-];

~~(v) The declaration shall~~ (vi) include a statement as to whether portions of the additional land may be added to the condominium project at different times, ~~together with~~ including any limitations fixing the boundaries of those portions by legal descriptions setting forth the metes and bounds of these lands and regulating the order in which they may be added to the condominium project[-];

~~(vi) The declaration shall~~ (vii) include a statement of any limitations ~~as to~~ on the locations of any improvements that may be made on any portions of the additional land added to the

condominium project, or a statement that no assurances are made in that regard[-];

~~(vii) The declaration shall~~ (viii) (A) state the maximum number of units that may be created on the additional land[-If];

(B) if portions of the additional land may be added to the condominium project and the boundaries of those portions are fixed in accordance with Subsection (4)(a)(~~(v)~~)(vi), ~~[the declaration shall also]~~ state the maximum number of units that may be created on each portion added to the condominium project[-If]; and

(C) if portions of the additional land may be added to the condominium project and the boundaries of those portions are not fixed in accordance with Subsection (4)(a)(~~(v)~~)(vi), ~~[then the declaration shall also]~~ state the maximum number of units per acre that may be created on any portion added to the condominium project[-];

~~(viii) With~~ (ix) with respect to the additional land and to any portion of ~~[it]~~ the additional land that may be added to the condominium project, ~~[the declaration shall]~~ state the maximum percentage of the aggregate land and floor area of all units that may be created on it, the use of which will not or may not be restricted exclusively to residential purposes[-. However, these statements need not be supplied if], unless none of the units on the land originally within the project are restricted exclusively to residential use[-];

~~(ix) The declaration shall~~ (x) state the extent to which any structures erected on any portion of the additional land added to the condominium project will be compatible with structures on the land originally within the project in terms of quality of construction, the principal materials to be used, and architectural style[-. The declaration may also state], or that no assurances are made in those regards[-];

~~(x) The declaration shall~~ (xi) describe all other improvements that will be made on any portion of the additional land added to the condominium project, ~~[or it shall contain a statement of]~~ including any limitations ~~[as to]~~ on what other improvements may be made on ~~[it. The declaration may also]~~ the additional land, or state that no assurances are made in that regard[-];

~~(xi) The declaration shall~~ (xii) contain a statement that any units created on any portion of the additional land added to the condominium project will be substantially identical to the units on the land originally within the project, ~~[or]~~ a statement of any limitations ~~[as to]~~ on what types of units may be created on ~~[it. The declaration may also contain]~~ the additional land, or a statement that no assurances are made in that regard[-]; and

~~(xii) The declaration shall~~ (xiii) describe the declarant's reserved right, if any, to create limited common areas and facilities within any portion of the additional land added to the condominium project, in terms of the types, sizes, and maximum number of limited common areas within each

portion[-. ~~The declaration may also,~~ or state that no assurances are made in those regards.

(b) The condominium plat recorded with the declaration may provide or supplement the information required under Subsections (4)(a)(~~(iii)~~)(iv) through (a)(~~(vi)~~)(vii) and (a)(~~(ix)~~)(x) through (a)(~~(xii)~~)(xiii).

(5) (a) If the condominium project is a contractible condominium, the declaration shall:

~~(a)~~ (i) ~~[The declaration shall]~~ contain an explicit reservation of an option to contract the condominium project[-];

(ii) ~~[The declaration shall]~~ contain a statement of any limitations on the option to contract, including a statement ~~[as to]~~ regarding whether the consent of any unit owners ~~[shall be]~~ is required, and if so, a statement ~~[as to]~~ regarding the method by which this consent shall be ascertained[-. ~~The declaration may also contain,~~ or a statement that there are no such limitations[-];

(iii) ~~[The declaration shall]~~ state the time limit, not exceeding seven years ~~[from the recording of]~~ after the day on which the declaration is recorded, upon which the option to contract the condominium project ~~[shall expire]~~ expires, together with a statement of any circumstances ~~[which]~~ that will terminate ~~[this]~~ the option ~~[prior to]~~ before expiration of the specified time limit[-];

~~(b)~~ (i) ~~The declaration shall~~ (iv) include a legal description by metes and bounds of all land that may be withdrawn from the condominium project, which is known as withdrawable land[-];

~~(ii) The declaration shall~~ (v) include a statement as to whether portions of the withdrawable land may be withdrawn from the condominium project at different times, together with any limitations fixing the boundaries of those portions by legal descriptions setting forth the metes and bounds and regulating the order in which they may be withdrawn from the condominium project[-]; and

~~(iii) The declaration shall~~ (vi) include a legal description by metes and bounds of all of the land within the condominium project to which the option to contract the project does not extend.

~~(e)~~ (b) The condominium plat recorded with the declaration may provide or supplement the information required under ~~[Subsection (5)(b)]~~ Subsections (5)(a)(iv) through (vi).

(6) (a) If the condominium project is a leasehold condominium, ~~[then]~~ the declaration shall, with respect to any ground lease or other leases the expiration or termination of which will or may terminate or contract the condominium project:

(i) ~~[The declaration shall]~~ include recording information enabling the location of each lease in the official records of the county recorder[-];

(ii) ~~[The declaration shall]~~ include the date upon which each lease is due to expire[-];

(iii) ~~[The declaration shall]~~ state whether any land or improvements will be owned by the unit owners in fee simple[-If];

(iv) if there is to be fee simple ownership of any land or improvement, as described in Subsection (6)(a)(iii), ~~[the declaration shall]~~ include:

(A) a description of the land or improvements, including ~~[without limitation,]~~ a legal description by metes and bounds of the land; or

(B) a statement of any rights the unit owners have to remove these improvements within a reasonable time after the expiration or termination of the lease or leases involved, or a statement that they shall have no such rights~~[-]; and~~

~~[(iv) The declaration shall]~~ (v) include a statement of the rights the unit owners have to extend or renew any of the leases or to redeem or purchase any of the reversions, or a statement that they have no such rights.

(b) After the recording of the declaration, ~~[no]~~ a lessor who executed the declaration, ~~[and no]~~ or the lessor's successor in interest ~~[to this lessor, has any right or power to]~~, may not terminate any part of the leasehold interest of any unit owner who:

(i) makes timely payment of ~~[his]~~ the unit owner's share of the rent to the persons designated in the declaration for the receipt of the rent; and

(ii) otherwise complies with all covenants which would entitle the lessor to terminate the lease if ~~[they]~~ the covenants were violated.

(7) (a) If the condominium project contains time period units, the declaration shall also contain the location of each condominium unit in the calendar year. This information shall be set out in a fourth column of the exhibit or schedule referred to in Subsection 57-8-7(2), if the exhibit or schedule accompanies the declaration.

(b) The declaration shall also put timeshare owners on notice that tax notices will be sent to the management committee, not each timeshare owner.

(c) The time period units created with respect to any given physical unit shall be such that the aggregate of the durations involved constitute a full calendar year.

(8) (a) The declaration, bylaws, and condominium plat shall be duly executed and acknowledged by all of the owners and any lessees of the land which is made subject to this chapter.

(b) As used in Subsection (8)(a), "owners and lessees" does not include, in their respective capacities, any mortgagee, any trustee or beneficiary under a deed of trust, any other lien holder, any person having an equitable interest under any contract for the sale or lease of a condominium unit, or any lessee whose leasehold interest does not extend to any portion of the common areas and facilities.

~~[(9) (a) As used in this section, "rentals" or "rental unit" means:]~~

~~[(i) a unit owned by an individual not described in Subsection (9)(a)(ii) that is occupied by someone~~

~~while no unit owner occupies the unit as the unit owner's primary residence; and]~~

~~[(ii) a unit owned by an entity or trust, regardless of who occupies the unit.]~~

~~[(b) (i) Subject to Subsections (9)(c), (f), and (g), an association of unit owners may:]~~

~~[(A) create restrictions on the number and term of rentals in a condominium project; or]~~

~~[(B) prohibit rentals in the condominium project.]~~

~~[(ii) An association of unit owners that creates a rental restriction or prohibition in accordance with Subsection (9)(b)(i) shall create the rental restriction or prohibition in a declaration or by amending the declaration.]~~

~~[(c) If an association of unit owners prohibits or imposes restrictions on the number and term of rentals, the restrictions shall include:]~~

~~[(i) a provision that requires a condominium project to exempt from the rental restrictions the following unit owner and the unit owner's unit:]~~

~~[(A) a unit owner in the military for the period of the unit owner's deployment;]~~

~~[(B) a unit occupied by a unit owner's parent, child, or sibling;]~~

~~[(C) a unit owner whose employer has relocated the unit owner for no less than two years; or]~~

~~[(D) a unit owned by a trust or other entity created for estate planning purposes if the trust or other estate planning entity was created for the estate of:]~~

~~[(I) a current resident of the unit; or]~~

~~[(II) the parent, child, or sibling of the current resident of the unit;]~~

~~[(ii) a provision allowing a unit owner who has a rental in the condominium project before the time the rental restriction described in Subsection (9)(b)(i) is recorded with the county recorder of the county in which the condominium project is located to continue renting until:]~~

~~[(A) the unit owner occupies the unit; or]~~

~~[(B) an officer, owner, member, trustee, beneficiary, director, or person holding a similar position of ownership or control of an entity or trust that holds an ownership interest in the unit, occupies the unit; and]~~

~~[(iii) a requirement that the association of unit owners create, by rule or resolution, procedures to:]~~

~~[(A) determine and track the number of rentals and units in the condominium project subject to the provisions described in Subsections (9)(c)(i) and (ii); and]~~

~~[(B) ensure consistent administration and enforcement of the rental restrictions.]~~

~~[(d) For purposes of Subsection (9)(c)(ii), a transfer occurs when one or more of the following occur:]~~

~~[(i) the conveyance, sale, or other transfer of a unit by deed;]~~

~~[(ii) the granting of a life estate in the unit; or]~~

~~[(iii) if the unit is owned by a limited liability company, corporation, partnership, or other business entity, the sale or transfer of more than 75% of the business entity's share, stock, membership interests, or partnership interests in a 12-month period.]~~

~~[(e) This section does not limit or affect residency age requirements for an association of unit owners that complies with the requirements of the Housing for Older Persons Act, 42 U.S.C. Sec. 3607.]~~

~~[(f) A declaration or amendment to a declaration recorded prior to transfer of the first unit from the initial declarant may prohibit or restrict rentals without providing for the exceptions, provisions, and procedures required under Subsection (9)(e).]~~

~~[(g) This section does not apply to:]~~

~~[(i) a condominium project containing a time period unit as defined in Section 57-8-3;]~~

~~[(ii) any other form of timeshare interest as defined in Section 57-19-2; or]~~

~~[(iii) a condominium project in which the initial declaration is recorded before May 12, 2009.]~~

~~[(h) Notwithstanding this section, an association of unit owners may, upon unanimous approval by all unit owners, restrict or prohibit rentals without an exception described in Subsection (9)(e).]~~

Section 2. Section 57-8-10.1 is enacted to read:

57-8-10.1. Rental restrictions.

(1) As used in this section, "rentals" or "rental unit" means:

(a) a unit owned by an individual not described in Subsection (1)(b) that is occupied by someone while no unit owner occupies the unit as the unit owner's primary residence; and

(b) a unit owned by an entity or trust, regardless of who occupies the unit.

(2) (a) Subject to Subsections (2)(b), (6), and (7), an association of unit owners may:

(i) create restrictions on the number and term of rentals in a condominium project; or

(ii) prohibit rentals in the condominium project.

(b) An association of unit owners that creates a rental restriction or prohibition in accordance with Subsection (2)(a) shall create the rental restriction or prohibition in a declaration or by amending the declaration.

(3) If an association of unit owners prohibits or imposes restrictions on the number and term of rentals, the restrictions shall include:

(a) a provision that requires a condominium project to exempt from the rental restrictions the following unit owner and the unit owner's unit:

(i) a unit owner in the military for the period of the unit owner's deployment;

(ii) a unit occupied by a unit owner's parent, child, or sibling;

(iii) a unit owner whose employer has relocated the unit owner for no less than two years; or

(iv) a unit owned by a trust or other entity created for estate planning purposes if the trust or other estate planning entity was created for the estate of:

(A) a current resident of the unit; or

(B) the parent, child, or sibling of the current resident of the unit;

(b) a provision that allows a unit owner who has a rental in the condominium project before the time the rental restriction described in Subsection (2)(a) is recorded with the county recorder of the county in which the condominium project is located to continue renting until:

(i) the unit owner occupies the unit; or

(ii) an officer, owner, member, trustee, beneficiary, director, or person holding a similar position of ownership or control of an entity or trust that holds an ownership interest in the unit, occupies the unit; and

(c) a requirement that the association of unit owners create, by rule or resolution, procedures to:

(i) determine and track the number of rentals and units in the condominium project subject to the provisions described in Subsections (3)(a) and (b); and

(ii) ensure consistent administration and enforcement of the rental restrictions.

(4) For purposes of Subsection (3)(b), a transfer occurs when one or more of the following occur:

(a) the conveyance, sale, or other transfer of a unit by deed;

(b) the granting of a life estate in the unit; or

(c) if the unit is owned by a limited liability company, corporation, partnership, or other business entity, the sale or transfer of more than 75% of the business entity's share, stock, membership interests, or partnership interests in a 12-month period.

(5) This section does not limit or affect residency age requirements for an association of unit owners that complies with the requirements of the Housing for Older Persons Act, 42 U.S.C. Sec. 3607.

(6) A declaration or amendment to a declaration recorded before transfer of the first unit from the initial declarant may prohibit or restrict rentals without providing for the exceptions, provisions, and procedures required under Subsection (3)(a).

(7) Subsections (2) through (6) do not apply to:

(a) a condominium project that contains a time period unit as defined in Section 57-8-3;

(b) any other form of timeshare interest as defined in Section 57-19-2; or

(c) a condominium project in which the initial declaration is recorded before May 12, 2009.

(8) Notwithstanding this section, an association of unit owners may, upon unanimous approval by all unit owners, restrict or prohibit rentals without an exception described in Subsection (3).

(9) Except as provided in Subsection (10), an association of unit owners may not require a unit owner who owns a rental unit to:

(a) obtain the association of unit owners' approval of a prospective renter; or

(b) give the association of unit owners:

(i) a copy of a rental application;

(ii) a copy of a renter's or prospective renter's credit information or credit report;

(iii) a copy of a renter's or prospective renter's background check; or

(iv) documentation to verify the renter's age.

(10) (a) A unit owner who owns a rental unit shall give an association of unit owners the documents described in Subsection (9)(b) if the unit owner is required to provide the documents by court order or as part of discovery under the Utah Rules of Civil Procedure.

(b) If an association of unit owners' declaration lawfully prohibits or restricts occupancy of the units by a certain class of individuals, the association of unit owners may require a unit owner who owns a rental unit to give the association of unit owners the information described in Subsection (9)(b), if:

(i) the information helps the association of unit owners determine whether the renter's occupancy of the unit complies with the association of unit owners' declaration; and

(ii) the association of unit owners uses the information to determine whether the renter's occupancy of the unit complies with the association of unit owners' declaration.

Section 3. Section 57-8-13.8 is amended to read:

57-8-13.8. Contraction of project.

A condominium project may be contracted under the provisions of the declaration and the provisions of this chapter. Any such contraction shall be considered to have occurred at the time of the recordation of an amendment to the declaration, executed by the declarant, containing a legal description by metes and bounds of the land withdrawn from the condominium project. If portions of the withdrawable land were described pursuant to Subsection 57-8-10(5)(~~b~~)(~~i~~)(a)(iv), then no described portion may be so withdrawn after the conveyance of any unit on the portion. If no withdrawable portions were described, then none of the withdrawable land may be withdrawn after the first conveyance of any unit on the portion.

Section 4. Section 57-8-13.10 is amended to read:

57-8-13.10. Condominiums containing convertible land -- Expandable condominiums -- Allocation of interests in common areas and facilities.

(1) If a condominium project contains any convertible land or is an expandable condominium, then the declaration may not allocate undivided interests in the common areas and facilities on the basis of par value unless the declaration:

(a) prohibits the creation of any units not substantially identical to the units depicted on the condominium plat recorded pursuant to Subsection 57-8-13(1); or

(b) prohibits the creation of any units not described under Subsection 57-8-10(3)(a)(vii) in the case of convertible land, Subsection 57-8-10(4)(a)(~~xii~~)(xii) in the case of additional land, and contains from the outset a statement of the par value that shall be assigned to every unit that may be created.

(2) (a) Interests in the common areas and facilities may not be allocated to any units to be created within any convertible land or within any additional land until a condominium plat depicting the same is recorded pursuant to Subsection 57-8-13(2).

(b) Simultaneously with the recording of the supplemental condominium plat required under Subsection (2)(a), the declarant shall execute and record an amendment to the declaration which reallocates undivided interests in the common areas and facilities so that the units depicted on the supplemental condominium plat shall be allocated undivided interests in the common areas and facilities on the same basis as the units depicted on the condominium plat that was recorded simultaneously with the declaration pursuant to Subsection 57-8-13(1).

(3) If all of a convertible space is converted into common areas and facilities, including limited common areas and facilities, then the undivided interest in the common areas and facilities appertaining to the convertible space shall afterward appertain to the remaining units and shall be allocated among them in proportion to their undivided interests in the common areas and facilities. The principal officer of the unit owners' association or of the management committee, or any other officer specified in the declaration, shall immediately prepare, execute, and record an amendment to the declaration reflecting the reallocation of undivided interest produced by the conversion.

(4) (a) If the expiration or termination of any lease of a leasehold condominium causes a contraction of the condominium project which reduces the number of units, or if the withdrawal of withdrawable land of a contractible condominium causes a contraction of the condominium project which reduces the number of units, the undivided interest in the common areas and facilities appertaining to any units so withdrawn shall

afterward appertain to the remaining units, being allocated among them in proportion to their undivided interests in the common areas and facilities.

(b) The principal officer of the unit owners' association or of the management committee, or any other officer specified in the declaration shall immediately prepare, execute, and record an amendment to the declaration, reflecting the reallocation of undivided interests produced by the reduction of units.

Section 5. Section 57-8a-209 is amended to read:

57-8a-209. Rental restrictions.

(1) As used in this section, "rentals" or "rental lot" means:

(a) a lot owned by an individual not described in Subsection (1)(b) that is occupied by someone while no lot owner occupies the lot as the lot owner's primary residence; and

(b) a lot owned by an entity or trust, regardless of who occupies the lot.

(2) (a) Subject to Subsections (2)(b), (6), and (7), an association may:

(i) create restrictions on the number and term of rentals in an association; or

(ii) prohibit rentals in the association.

(b) An association that creates a rental restriction or prohibition in accordance with Subsection (1)(a)(i) shall create the rental restriction or prohibition in a recorded declaration of covenants, conditions, and restrictions, or by amending the recorded declaration of covenants, conditions, and restrictions.

(3) If an association prohibits or imposes restrictions on the number and term of rentals, the restrictions shall include:

(a) a provision that requires the association to exempt from the rental restrictions the following lot owner and the lot owner's lot:

(i) a lot owner in the military for the period of the lot owner's deployment;

(ii) a lot occupied by a lot owner's parent, child, or sibling;

(iii) a lot owner whose employer has relocated the lot owner for no less than two years; or

(iv) a lot owned by a trust or other entity created for estate planning purposes if the trust or other estate planning entity was created for:

(A) the estate of a current resident of the lot; or

(B) the parent, child, or sibling of the current resident of the lot;

(b) a provision [allowing] that allows a lot owner who has a rental in the association before the time the rental restriction described in Subsection (2)(a) is recorded with the county recorder of the county in

which the association is located to continue renting until:

(i) the lot owner occupies the lot; or

(ii) an officer, owner, member, trustee, beneficiary, director, or person holding a similar position of ownership or control of an entity or trust that holds an ownership interest in the lot, occupies the lot; and

(c) a requirement that the association create, by rule or resolution, procedures to:

(i) determine and track the number of rentals and lots in the association subject to the provisions described in Subsections (3)(a) and (b); and

(ii) ensure consistent administration and enforcement of the rental restrictions.

(4) For purposes of Subsection (3)(b), a transfer occurs when one or more of the following occur:

(a) the conveyance, sale, or other transfer of a lot by deed;

(b) the granting of a life estate in the lot; or

(c) if the lot is owned by a limited liability company, corporation, partnership, or other business entity, the sale or transfer of more than 75% of the business entity's share, stock, membership interests, or partnership interests in a 12-month period.

(5) This section does not limit or affect residency age requirements for an association that complies with the requirements of the Housing for Older Persons Act, 42 U.S.C. Sec. 3607.

(6) The declaration of covenants, conditions, and restrictions or amendments to the declaration of covenants, conditions, and restrictions recorded [prior to] before the transfer of the first lot from the initial declarant may prohibit or restrict rentals without providing for the exceptions, provisions, and procedures required under Subsection (3)(a).

(7) [This section does] Subsections (2) through (6) do not apply to:

(a) an association [containing] that contains a time period unit as defined in Section 57-8-3;

(b) any other form of timeshare interest as defined in Section 57-19-2; or

(c) an association in which the initial declaration of covenants, conditions, and restrictions is recorded before May 12, 2009.

(8) Notwithstanding this section, an association may, upon unanimous approval by all lot owners, restrict or prohibit rentals without an exception described in Subsection (3).

(9) Except as provided in Subsection (10), an association may not require a lot owner who owns a rental lot to:

(a) obtain the association's approval of a prospective renter; or

(b) give the association:

(i) a copy of a rental application;

(ii) a copy of a renter's or prospective renter's credit information or credit report;

(iii) a copy of a renter's or prospective renter's background check; or

(iv) documentation to verify the renter's age.

(10) (a) A lot owner who owns a rental lot shall give an association the documents described in Subsection (9)(b) if the lot owner is required to provide the documents by court order or as part of discovery under the Utah Rules of Civil Procedure.

(b) If an association's declaration of covenants, conditions, and restrictions lawfully prohibits or restricts occupancy of the lots by a certain class of individuals, the association may require a lot owner who owns a rental lot to give the association the information described in Subsection (9)(b), if:

(i) the information helps the association determine whether the renter's occupancy of the lot complies with the association's declaration of covenants, conditions, and restrictions; and

(ii) the association uses the information to determine whether the renter's occupancy of the lot complies with the association's declaration of covenants, conditions, and restrictions.

Section 6. Section 57-17-3 is amended to read:

**57-17-3. Deductions from deposit --
Written itemization -- Time for return.**

(1) Upon termination of [the] a tenancy, the owner or the owner's agent may apply property or money held as a deposit [may be applied, at the owner's or designated agent's option, to] toward the payment of [accrued] rent, damages to the premises beyond reasonable wear and tear, other costs and fees provided for in the contract [and], or cleaning of the unit. [The balance of any deposit and prepaid rent, if any, and a written itemization of any deductions from the deposit, and reasons therefor, shall be delivered or mailed to the renter within 30 days after termination of the tenancy or within 15 days after receipt of the renter's new mailing address, whichever is later. The renter shall notify the owner or designated agent of the location where payment and notice may be made or mailed. If there is damage to the rented premises, this period shall be extended to 30 days.]

(2) No later than 30 days after the day on which a renter vacates and returns possession of a rental property to the owner or the owner's agent, the owner or the owner's agent shall deliver to the renter at the renter's last known address:

(a) the balance of any deposit;

(b) the balance of any prepaid rent; and

(c) if the owner or the owner's agent made any deductions from the deposit or prepaid rent, a written notice that itemizes and explains the reason for each deduction.

(3) If an owner or the owner's agent fails to comply with the requirements described in Subsection (2), the renter may serve the owner or the owner's agent, in accordance with Subsection (4), a notice that:

(a) states:

(i) the names of the parties to the rental agreement;

(ii) the day on which the renter vacated the rental property;

(iii) that the owner or the owner's agent has failed to comply with the requirements described in Subsection (2); and

(vi) the address where the owner or the owner's agent may send the items described in Subsection (2); and

(b) is substantially in the following form:

**TENANT'S NOTICE TO PROVIDE DEPOSIT
DISPOSITION**

TO: (insert owner or owner's agent's name)

RE: (insert address of rental property)

NOTICE IS HEREBY GIVEN THAT WITHIN FIVE (5) CALENDAR DAYS pursuant to Utah Code Sections 57-17-3 et seq., the owner or the owner's agent must provide the tenant, at the address below, a refund of the balance of any security deposit, the balance of any prepaid rent, and a notice of any deductions from the security deposit or prepaid rent as allowed by law.

NOTICE IS FURTHER GIVEN that failure to comply with this notice will require the owner to refund the entire security deposit, the full amount of any prepaid rent, and a penalty of \$100. If the entire security deposit, the full amount of any prepaid rent, and the penalty of \$100 is not tendered to the tenant, and the tenant is required to initiate litigation to enforce the provisions of the statute, the owner may be liable for the tenant's court costs and attorney fees.

Tenant's Name(s): _____

Mailing Address _____

City _____ State _____ Zip _____

This is a legal document. Please read and comply with the document's terms.

Dated this _____ day of _____, 20____.

Return of Service

On this _____ day of _____, 20____, I swear and attest that I served this notice in compliance with Utah Code Section 57-17-3 by:

_____ Delivering a copy to the owner or the owner's agent personally at the address provided in the lease agreement;

_____ Leaving a copy with a person of suitable age and discretion at the address provided in the lease agreement because the owner or the owner's agent was absent from the address provided in the lease agreement;

_____ Affixing a copy in a conspicuous place at the address provided in the lease agreement because a

person of suitable age or discretion could not be found at the address provided in the lease agreement; or

____ Sending a copy through registered or certified mail to the owner or the owner's agent at the address provided in the lease agreement.

The owner's address to which the service was effected is:

Address _____

City _____ State _____ Zip _____

_____ (server's signature)

Self-Authentication Declaration

Pursuant to Utah Code Section 46-5-101, I declare under criminal penalty of the State of Utah that the foregoing is true and correct.

Executed this ____ day of _____, 20 ____.

_____ (server's signature)

(4) A notice described in Subsection (3) shall be served:

(a) (i) by delivering a copy to the owner or the owner's agent personally at the address provided in the lease agreement;

(ii) if the owner or the owner's agent is absent from the address provided in the lease agreement, by leaving a copy with a person of suitable age and discretion at the address provided in the lease agreement; or

(iii) if a person of suitable age or discretion cannot be found at the address provided in the lease agreement, by affixing a copy in a conspicuous place at the address provided in the lease agreement; or

(b) by sending a copy through registered or certified mail to the owner or the owner's agent at the address provided in the lease agreement.

(5) Within five business days after the day on which the notice described in Subsection (3) is served, the owner or the owner's agent shall comply with the requirements described in Subsection (2).

Section 7. Section 57-17-5 is repealed and reenacted to read:

57-17-5. Failure to return deposit or prepaid rent or to give required notice -- Recovery of deposit, penalty, costs, and attorney fees.

(1) If an owner or the owner's agent fails to comply with the requirements described in Subsection 57-17-4(5), the renter may:

(a) recover from the owner:

(i) if the owner or the owner's agent failed to timely return the balance of the renter's deposit, the full deposit;

(ii) if the owner or the owner's agent failed to timely return the balance of the renter's prepaid rent, the full amount of the prepaid rent; and

(iii) a civil penalty of \$100; and

(b) file an action in district court to enforce compliance with the provisions of this section.

(2) In an action under Subsection (1)(b), the court shall award costs and attorney fees to the prevailing party if the court determines that the opposing party acted in bad faith.

(3) A renter is not entitled to relief under this section if the renter fails to serve a notice in accordance with Subsection 57-17-3(3).

(4) This section does not preclude an owner or a renter from recovering other damages to which the owner or the renter is entitled.

CHAPTER 398**S. B. 155**

Passed February 26, 2014

Approved April 1, 2014

Effective May 13, 2014

(Retrospective operation to January 1, 2014)

**APPORTIONMENT OF
INCOME AMENDMENTS**

Chief Sponsor: Curtis S. Bramble

House Sponsor: Ryan D. Wilcox

LONG TITLE**General Description:**

This bill amends provisions related to the apportionment of income.

Highlighted Provisions:

This bill:

- ▶ amends a definition related to the apportionment of income for purposes of corporate franchise and income taxes; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill has retrospective operation for a taxable year beginning on or after January 1, 2014.

Utah Code Sections Affected:**AMENDS:**

59-7-302, as last amended by Laws of Utah 2010, Chapter 155

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-7-302 is amended to read:**59-7-302. Definitions -- Determination of when a taxpayer is considered to be a sales factor weighted taxpayer.**

(1) As used in this part, unless the context otherwise requires:

(a) "Aircraft type" means a particular model of aircraft as designated by the manufacturer of the aircraft.

(b) "Airline" is as defined in Section 59-2-102.

(c) "Airline revenue ton miles" means, for an airline, the total revenue ton miles during the airline's tax period.

(d) "Business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitutes integral parts of the taxpayer's regular trade or business operations.

(e) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(f) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees for personal services.

(g) (i) Except as provided in Subsection (1)(g)(ii), "mobile flight equipment" is as defined in Section 59-2-102.

(ii) "Mobile flight equipment" does not include:

(A) a spare engine; or

(B) tangible personal property described in Subsection 59-2-102(25) owned by an:

(I) air charter service; or

(II) air contract service.

(h) "Nonbusiness income" means all income other than business income.

(i) "Revenue ton miles" is determined in accordance with 14 C.F.R. Part 241.

(j) "Sales" means all gross receipts of the taxpayer not allocated under Sections 59-7-306 through 59-7-310.

(k) Subject to Subsection (2), "sales factor weighted taxpayer" means:

(i) for a taxpayer that is not a unitary group, regardless of the number of economic activities the taxpayer performs, a taxpayer having greater than 50% of the taxpayer's total sales everywhere generated by economic activities ~~performed by the taxpayer; and (B)~~ performed by the taxpayer if the economic activities are classified in a NAICS code of the 2002 or 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, except for:

~~(4)~~ (A) a NAICS code within NAICS Sector 21, Mining;

(B) a NAICS code within NAICS Industry Group 2212, Natural Gas Distribution;

~~(4)~~ (C) a NAICS code within NAICS Sector 31-33, Manufacturing;

~~(4)~~ (D) a NAICS code within NAICS Sector 48-49, Transportation and Warehousing;

~~(4)~~ (E) a NAICS code within NAICS Sector 51, Information, except for NAICS Subsector 519, Other Information Services; or

~~(4)~~ (F) a NAICS code within NAICS Sector 52, Finance and Insurance; or

(ii) for a taxpayer that is a unitary group, a taxpayer having greater than 50% of the taxpayer's total sales everywhere generated by economic activities ~~performed by the unitary group; and (B)~~ performed by the taxpayer if the economic activities are classified in a NAICS code of the 2002 or 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, except for:

~~(4)~~ (A) a NAICS code within NAICS Sector 21, Mining;

(B) a NAICS code within NAICS Industry Group 2212, Natural Gas Distribution;

~~[(4B)]~~ (C) a NAICS code within NAICS Sector 31-33, Manufacturing;

~~[(4D)]~~ (D) a NAICS code within NAICS Sector 48-49, Transportation and Warehousing;

~~[(4V)]~~ (E) a NAICS code within NAICS Sector 51, Information, except for NAICS Subsector 519, Other Information Services; or

~~[(4V)]~~ (F) a NAICS code within NAICS Sector 52, Finance and Insurance.

(l) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

(m) "Transportation revenue" means revenue an airline earns from:

(i) transporting a passenger or cargo; or

(ii) from miscellaneous sales of merchandise as part of providing transportation services.

(n) "Utah revenue ton miles" means, for an airline, the total revenue ton miles within the borders of this state:

(i) during the airline's tax period; and

(ii) from flight stages that originate or terminate in this state.

(2) The following apply to Subsection (1)(k):

(a) (i) Subject to the other provisions of this Subsection (2), a taxpayer shall for each taxable year determine whether the taxpayer is a sales factor weighted taxpayer.

(ii) A taxpayer shall make the determination required by Subsection (2)(a)(i) before the due date for filing the taxpayer's return under this chapter for the taxable year, including extensions.

(iii) For purposes of making the determination required by Subsection (2)(a)(i), total sales everywhere include only the total sales everywhere:

(A) as determined in accordance with this part; and

(B) made during the taxable year for which a taxpayer makes the determination required by Subsection (2)(a)(i).

(b) A taxpayer that files a return as a unitary group for a taxable year is considered to be a unitary group for that taxable year.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may define the term "economic activity" consistent with the use of the term "activity" in the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget.

Section 2. Retrospective operation.

This bill has retrospective operation for a taxable year beginning on or after January 1, 2014.

CHAPTER 399
S. B. 167

Passed March 13, 2014
Approved April 1, 2014
Effective May 13, 2014

REGULATION OF DRONES

Chief Sponsor: Howard A. Stephenson
House Sponsor: Marc K. Roberts

LONG TITLE

General Description:

This bill establishes provisions for the appropriate use of an unmanned aerial vehicle.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ enacts the "Government Use of Unmanned Aerial Vehicles Act";
- ▶ prohibits a law enforcement agency from obtaining data through an unmanned aerial vehicle unless the data was obtained:
 - pursuant to a warrant;
 - in accordance with judicially recognized exceptions to warrant requirements; or
 - under certain conditions, from a nongovernment actor;
- ▶ establishes requirements for the retention and use of data collected by an unmanned aerial vehicle;
- ▶ establishes reporting requirements for:
 - a law enforcement agency that operates an unmanned aerial vehicle; and
 - the Utah Department of Public Safety; and
- ▶ provides a statement of intent.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

63G-18-101, Utah Code Annotated 1953
63G-18-102, Utah Code Annotated 1953
63G-18-103, Utah Code Annotated 1953
63G-18-104, Utah Code Annotated 1953
63G-18-105, Utah Code Annotated 1953

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-18-101 is enacted to read:

CHAPTER 18. GOVERNMENT USE OF UNMANNED AERIAL VEHICLES ACT

63G-18-101. Title.

This chapter is known as the "Government Use of Unmanned Aerial Vehicles Act."

Section 2. Section 63G-18-102 is enacted to read:

63G-18-102. Definitions.

As used in this chapter:

(1) "Law enforcement agency" means an entity of the state or an entity of a political subdivision of the state, including an entity of a state institution of higher education, that exists primarily to prevent, detect, or prosecute crime and enforce criminal statutes or ordinances.

(2) "Nongovernment actor" means a person that is not:

(a) an agency, department, division, or other entity within state government;

(b) a person employed by or acting in an official capacity on behalf of the state;

(c) a political subdivision of the state; or

(d) a person employed by or acting in an official capacity on behalf of a political subdivision of the state.

(3) "Target" means a person upon whom, or a structure or area upon which a person:

(a) has intentionally collected or attempted to collect information through the operation of an unmanned aerial vehicle; or

(b) plans to collect or attempt to collect information through the operation of an unmanned aerial vehicle.

(4) (a) "Unmanned aerial vehicle" means an aircraft that:

(i) is capable of sustaining flight; and

(ii) operates with no possible direct human intervention from on or within the aircraft.

(b) "Unmanned aerial vehicle" does not include an unmanned aircraft that is flown:

(i) within visual line of sight of the individual operating the aircraft; and

(ii) strictly for hobby or recreational purposes.

Section 3. Section 63G-18-103 is enacted to read:

63G-18-103. Warrant required -- Exceptions.

(1) A law enforcement agency may not obtain, receive, or use data acquired through an unmanned aerial vehicle unless the data is obtained:

(a) pursuant to a search warrant;

(b) in accordance with judicially recognized exceptions to warrant requirements; or

(c) subject to Subsection (2), from a person who is a nongovernment actor.

(2) A nongovernment actor may only disclose data acquired through an unmanned aerial vehicle to a law enforcement agency if:

(a) the data appears to pertain to the commission of a crime; or

(b) the nongovernment actor believes, in good faith, that:

(i) the data pertains to an imminent or ongoing emergency involving danger of death or serious bodily injury to an individual; and

(ii) disclosing the data would assist in remedying the emergency.

Section 4. Section 63G-18-104 is enacted to read:

63G-18-104. Data retention.

(1) Except as provided in this section, a law enforcement agency:

(a) may not use, copy, or disclose data collected by an unmanned aerial vehicle on a person, structure, or area that is not a target; and

(b) shall ensure that data described in Subsection (1)(a) is destroyed as soon as reasonably possible after the law enforcement agency collects or receives the data.

(2) A law enforcement agency is not required to comply with Subsection (1) if:

(a) deleting the data would also require the deletion of data that:

(i) relates to the target of the operation; and

(ii) is requisite for the success of the operation;

(b) the law enforcement agency receives the data:

(i) through a court order that:

(A) requires a person to release the data to the law enforcement agency; or

(B) prohibits the destruction of the data; and

(ii) from a person who is a nongovernment actor;

(c) (i) the data was collected inadvertently; and

(ii) the data appears to pertain to the commission of a crime;

(d) (i) the law enforcement agency reasonably determines that the data pertains to an emergency situation; and

(ii) using or disclosing the data would assist in remedying the emergency; or

(e) the data was collected through the operation of an unmanned aerial vehicle over public lands outside of municipal boundaries.

Section 5. Section 63G-18-105 is enacted to read:

63G-18-105. Reporting.

(1) (a) Except as provided by Subsection (1)(b), before March 31 of each year, a law enforcement agency that operated an unmanned aerial vehicle in the previous calendar year shall submit to the Utah Department of Public Safety, and make public on the law enforcement agency's website, a written report containing:

(i) the number of times the law enforcement agency operated an unmanned aerial vehicle in the previous calendar year;

(ii) the number of criminal investigations aided by the use of an unmanned aerial vehicle operated by the law enforcement agency in the previous calendar year;

(iii) a description of how the unmanned aerial vehicle was helpful to each investigation described in Subsection (1)(a)(ii);

(iv) the frequency with which data was collected, and the type of data collected, by an unmanned aerial vehicle operated by the law enforcement agency on any person, structure, or area other than a target in the previous calendar year;

(v) the number of times a law enforcement agency received, from a person who is not a law enforcement agency, data collected by an unmanned aerial vehicle; and

(vi) the total cost of the unmanned aerial vehicle program operated by the law enforcement agency in the previous calendar year.

(b) (i) A law enforcement agency that submits a report described in Subsection (1)(a) may exclude from the report information pertaining to an ongoing investigation.

(ii) A law enforcement agency that excludes information under Subsection (1)(b)(i) from the report shall report the excluded information to the Utah Department of Public Safety on the annual report in the year following the year in which the information was excluded.

(2) Before May 31 of each year, the Utah Department of Public Safety shall, for all reports received under Subsection (1) during the previous calendar year:

(a) transmit to the Government Operations Interim Committee and post on the department's website a report containing:

(i) a summary of the information reported to the department;

(ii) the total number of issued warrants authorizing the operation of an unmanned aerial vehicle; and

(iii) the number of denied warrants for the operation of an unmanned aerial vehicle; and

(b) post on the department's website each report the department received.

Section 6. Statement of intent.

This chapter is intended to govern the use of an unmanned aerial vehicle by a law enforcement agency. Nothing herein is intended to prohibit or impede the public and private research, development, or manufacture of unmanned aerial vehicles. Unmanned aerial vehicles will provide promising technological advances, which, if properly developed, will prove beneficial to the health, safety, and welfare of the citizens of this state and greater society.

CHAPTER 400**S. B. 168**

Passed February 28, 2014

Approved April 1, 2014

Effective May 13, 2014

CHARITY CARE AMENDMENTS

Chief Sponsor: Allen M. Christensen

House Sponsor: Paul Ray

LONG TITLE**General Description:**

This bill amends the Health Care Providers Immunity from Liability Act.

Highlighted Provisions:

This bill:

- ▶ requires a written waiver from a patient; and
- ▶ provides immunity from liability to a health care provider who volunteers services at a federally qualified health center or an Indian health clinic.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-13-3, as last amended by Laws of Utah 2009, Chapter 192

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-13-3 is amended to read:**58-13-3. Qualified immunity -- Health professionals -- Charity care.**

(1) (a) (i) The Legislature finds many residents of this state do not receive medical care and preventive health care because they lack health insurance or because of financial difficulties or cost.

(ii) The Legislature also finds that many physicians, charity health care facilities, and other health care professionals in this state would be willing to volunteer medical and allied services without compensation if they were not subject to the high exposure of liability connected with providing these services.

(b) The Legislature therefore declares that its intention in enacting this section is to encourage the provision of uncompensated volunteer charity health care in exchange for a limitation on liability for the health care facilities and health care professionals who provide those volunteer services.

(2) As used in this section:

(a) "Health care facility" means any clinic or hospital, church, or organization whose primary purpose is to sponsor, promote, or organize uncompensated health care services for people unable to pay for health care services.

(b) "Health care professional" means a person licensed under:

- (i) Chapter 5a, Podiatric Physician Licensing Act;
- (ii) Chapter 16a, Utah Optometry Practice Act;
- (iii) Chapter 17b, Pharmacy Practice Act;
- (iv) Chapter 24b, Physical [Therapist] Therapy Practice Act;
- (v) Chapter 31b, Nurse Practice Act;
- (vi) Chapter 40, Recreational [Therapist] Therapy Practice Act;
- (vii) Chapter 41, Speech-Language Pathology and Audiology Licensing Act;
- (viii) Chapter 42a, Occupational Therapy Practice Act;
- (ix) Chapter 44a, Nurse Midwife Practice Act;
- (x) Chapter 49, Dietitian Certification Act;
- (xi) Chapter 60, Mental Health Professional Practice Act;
- (xii) Chapter 67, Utah Medical Practice Act;
- (xiii) Chapter 68, Utah Osteopathic Medical Practice Act;
- (xiv) Chapter 69, Dentist and Dental Hygienist Practice Act;
- (xv) Chapter 70a, Physician Assistant Act; and
- (xvi) Chapter 73, Chiropractic Physician Practice Act.

(c) "Remuneration or compensation":

(i) (A) means direct or indirect receipt of any payment by a health care professional or health care facility on behalf of the patient, including payment or reimbursement under Medicare or Medicaid, or under the state program for the medically indigent on behalf of the patient; and

(B) compensation, salary, or reimbursement to the health care professional from any source for the health care professional's services or time in volunteering to provide uncompensated health care; and

(ii) does not mean:

(A) any grant or donation to the health care facility used to offset direct costs associated with providing the uncompensated health care such as:

(I) medical supplies;

(II) drugs; or

(III) a charitable donation that is restricted for charitable services at the health care facility; or

(B) incidental reimbursements to the volunteer such as:

(I) food supplied to the volunteer;

(II) clothing supplied to the volunteer to help identify the volunteer during the time of volunteer services;

(III) mileage reimbursement to the volunteer; or

(IV) other similar support to the volunteer.

(3) A health care professional who provides health care treatment at or on behalf of a health care facility is not liable in a medical malpractice action if:

(a) the treatment was within the scope of the health care professional's license under this title;

(b) neither the health care professional nor the health care facility received compensation or remuneration for the treatment;

(c) the acts or omissions of the health care professional were not grossly negligent or willful and wanton; and

(d) prior to rendering services[;]:

(i) the health care professional disclosed in writing to the patient, or if a minor, to the patient's parent or legal guardian, that the health care professional is providing the services without receiving remuneration or compensation; and ~~that in exchange for receiving uncompensated health care, the patient consents]~~

(ii) the patient consented in writing to waive any right to sue for professional negligence except for acts or omissions which are grossly negligent or are willful and wanton.

(4) A health care facility which sponsors, promotes, or organizes the uncompensated care is not liable in a medical malpractice action for acts and omissions if:

(a) the health care facility meets the requirements in Subsection (3)(b);

(b) the acts and omissions of the health care facility were not grossly negligent or willful and wanton; and

(c) the health care facility has posted, in a conspicuous place, a notice that in accordance with this section the health care facility is not liable for any civil damages for acts or omissions except for those acts or omissions that are grossly negligent or are willful and wanton.

(5) A health care professional who provides health care treatment at a federally qualified health center, as defined in Subsection 1905(1)(2)(b) of the Social Security Act, or an Indian health clinic or Urban Indian Health Center, as defined in Title V of the Indian Health Care Improvement Act, is not liable in a medical malpractice action if:

(a) the treatment was within the scope of the health care professional's license under this title;

(b) the health care professional:

(i) does not receive compensation or remuneration for treatment provided to any patient that the provider treats at the federally qualified health center, the Indian health clinic, or the Urban Indian Health Center; and

(ii) is not eligible to be included in coverage under the Federal Tort Claims Act for the treatment provided at the federally qualified health center, the Indian health clinic, or the Urban Indian Health Center;

(c) the acts or omissions of the health care professional were not grossly negligent or willful and wanton; and

(d) prior to rendering services:

(i) the health care professional disclosed in writing to the patient, or if a minor, to the patient's parent or legal guardian, that the health care professional is providing the services without receiving remuneration or compensation; and

(ii) the patient consented in writing to waive any right to sue for professional negligence except for acts or omissions that are grossly negligent or are willful and wanton.

~~[(5)]~~ (6) Immunity from liability under this section does not extend to the use of general anesthesia or care that requires an overnight stay in a general acute or specialty hospital licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(7) The provisions of Subsection (5) apply to treatment provided by a healthcare professional on or after May 13, 2014.

CHAPTER 401**S. B. 178**

Passed March 3, 2014

Approved April 1, 2014

Effective May 13, 2014

**CONTROLLED SUBSTANCE
DATABASE MODIFICATIONS**Chief Sponsor: Evan J. Vickers
House Sponsor: Bradley G. Last**LONG TITLE****General Description:**

This bill modifies the Controlled Substance Database Act regarding access by pharmacy technicians.

Highlighted Provisions:

This bill:

- ▶ allows the pharmacist-in-charge to designate up to three licensed pharmacy technicians to have access to the database on behalf of the pharmacist in accordance with statutory requirements.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-37f-301, as last amended by Laws of Utah 2013, Chapters 12, 130, and 262

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-37f-301 is amended to read:**58-37f-301. Access to database.**

(1) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) effectively enforce the limitations on access to the database as described in this part; and

(b) establish standards and procedures to ensure accurate identification of individuals requesting information or receiving information without request from the database.

(2) The division shall make information in the database and information obtained from other state or federal prescription monitoring programs by means of the database available only to the following individuals, in accordance with the requirements of this chapter and division rules:

(a) personnel of the division specifically assigned to conduct investigations related to controlled substance laws under the jurisdiction of the division;

(b) authorized division personnel engaged in analysis of controlled substance prescription information as a part of the assigned duties and responsibilities of their employment;

(c) in accordance with a written agreement entered into with the department, employees of the Department of Health;

(i) whom the director of the Department of Health assigns to conduct scientific studies regarding the use or abuse of controlled substances, if the identity of the individuals and pharmacies in the database are confidential and are not disclosed in any manner to any individual who is not directly involved in the scientific studies; or

(ii) when the information is requested by the Department of Health in relation to a person or provider whom the Department of Health suspects may be improperly obtaining or providing a controlled substance;

(d) in accordance with a written agreement entered into with the department, a designee of the director of the Department of Health, who is not an employee of the Department of Health, whom the director of the Department of Health assigns to conduct scientific studies regarding the use or abuse of controlled substances pursuant to an application process established in rule by the Department of Health, if:

(i) the designee provides explicit information to the Department of Health regarding the purpose of the scientific studies;

(ii) the scientific studies to be conducted by the designee:

(A) fit within the responsibilities of the Department of Health for health and welfare;

(B) are reviewed and approved by an Institutional Review Board that is approved for human subject research by the United States Department of Health and Human Services; and

(C) are not conducted for profit or commercial gain; and

(D) are conducted in a research facility, as defined by division rule, that is associated with a university or college in the state accredited by the Northwest Commission on Colleges and Universities;

(iii) the designee protects the information as a business associate of the Department of Health; and

(iv) the identity of the prescribers, patients, and pharmacies in the database are de-identified, confidential, not disclosed in any manner to the designee or to any individual who is not directly involved in the scientific studies;

(e) a licensed practitioner having authority to prescribe controlled substances, to the extent the information:

(i) (A) relates specifically to a current or prospective patient of the practitioner; and

(B) is provided to or sought by the practitioner for the purpose of:

(I) prescribing or considering prescribing any controlled substance to the current or prospective patient;

(II) diagnosing the current or prospective patient;

(III) providing medical treatment or medical advice to the current or prospective patient; or

(IV) determining whether the current or prospective patient:

(Aa) is attempting to fraudulently obtain a controlled substance from the practitioner; or

(Bb) has fraudulently obtained, or attempted to fraudulently obtain, a controlled substance from the practitioner;

(ii) (A) relates specifically to a former patient of the practitioner; and

(B) is provided to or sought by the practitioner for the purpose of determining whether the former patient has fraudulently obtained, or has attempted to fraudulently obtain, a controlled substance from the practitioner;

(iii) relates specifically to an individual who has access to the practitioner's Drug Enforcement Administration identification number, and the practitioner suspects that the individual may have used the practitioner's Drug Enforcement Administration identification number to fraudulently acquire or prescribe a controlled substance;

(iv) relates to the practitioner's own prescribing practices, except when specifically prohibited by the division by administrative rule;

(v) relates to the use of the controlled substance database by an employee of the practitioner, described in Subsection (2)(f); or

(vi) relates to any use of the practitioner's Drug Enforcement Administration identification number to obtain, attempt to obtain, prescribe, or attempt to prescribe, a controlled substance;

(f) in accordance with Subsection (3)(a), an employee of a practitioner described in Subsection (2)(e), for a purpose described in Subsection (2)(e)(i) or (ii), if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

(ii) the practitioner provides written notice to the division of the identity of the employee; and

(iii) the division:

(A) grants the employee access to the database; and

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(3)(b) with respect to the employee;

(g) an employee of the same business that employs a licensed practitioner under Subsection (2)(e) if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

(ii) the practitioner and the employing business provide written notice to the division of the identity of the designated employee; and

(iii) the division:

(A) grants the employee access to the database; and

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(3)(b) with respect to the employee;

(h) a licensed pharmacist having authority to dispense a controlled substance to the extent the information is provided or sought for the purpose of:

(i) dispensing or considering dispensing any controlled substance; or

(ii) determining whether a person:

(A) is attempting to fraudulently obtain a controlled substance from the pharmacist; or

(B) has fraudulently obtained, or attempted to fraudulently obtain, a controlled substance from the pharmacist;

(i) in accordance with Subsection (3)(a), a licensed pharmacy technician who is an employee of a pharmacy as defined in Section 58-17b-102, for the purposes described in Subsection (2)(h)(i) or (ii), if:

(i) the employee is designated by the pharmacist-in-charge as an individual authorized to access the information on behalf of a licensed pharmacist employed by the pharmacy;

(ii) the pharmacist-in-charge provides written notice to the division of the identity of the employee; and

(iii) the division:

(A) grants the employee access to the database; and

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(3)(b) with respect to the employee;

(4) (j) federal, state, and local law enforcement authorities, and state and local prosecutors, engaged as a specified duty of their employment in enforcing laws:

(i) regulating controlled substances;

(ii) investigating insurance fraud, Medicaid fraud, or Medicare fraud; or

(iii) providing information about a criminal defendant to defense counsel, upon request during the discovery process, for the purpose of establishing a defense in a criminal case;

(4) (k) employees of the Office of Internal Audit and Program Integrity within the Department of

Health who are engaged in their specified duty of ensuring Medicaid program integrity under Section 26-18-2.3;

~~[4k]~~ (l) a mental health therapist, if:

(i) the information relates to a patient who is:

(A) enrolled in a licensed substance abuse treatment program; and

(B) receiving treatment from, or under the direction of, the mental health therapist as part of the patient's participation in the licensed substance abuse treatment program described in Subsection (2)(k)(i)(A);

(ii) the information is sought for the purpose of determining whether the patient is using a controlled substance while the patient is enrolled in the licensed substance abuse treatment program described in Subsection (2)(k)(i)(A); and

(iii) the licensed substance abuse treatment program described in Subsection (2)(k)(i)(A) is associated with a practitioner who:

(A) is a physician, a physician assistant, an advance practice registered nurse, or a pharmacist; and

(B) is available to consult with the mental health therapist regarding the information obtained by the mental health therapist, under this Subsection (2)(k), from the database;

~~[4]~~ (m) an individual who is the recipient of a controlled substance prescription entered into the database, upon providing evidence satisfactory to the division that the individual requesting the information is in fact the individual about whom the data entry was made;

~~[4m]~~ (n) the inspector general, or a designee of the inspector general, of the Office of Inspector General of Medicaid Services, for the purpose of fulfilling the duties described in Title 63A, Chapter 13, Part 2, Office and Powers; and

~~[4n]~~ (o) the following licensed physicians for the purpose of reviewing and offering an opinion on an individual's request for workers' compensation benefits under Title 34A, Chapter 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah Occupational Disease Act:

(i) a member of the medical panel described in Section 34A-2-601; or

(ii) a physician offering a second opinion regarding treatment.

(3) (a) (i) A practitioner described in Subsection (2)(e) may designate up to three employees to access information from the database under Subsection (2)(f), (2)(g), or (4)(c).

(ii) A pharmacist described in Subsection (2)(h) who is a pharmacist-in-charge may designate up to three employees to access information from the database under Subsection (2)(i).

(b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) establish background check procedures to determine whether an employee designated under Subsection (2)(f), (2)(g), or (4)(c) should be granted access to the database; and

(ii) establish the information to be provided by an emergency room employee under Subsection (4).

(c) The division shall grant an employee designated under Subsection (2)(f), (2)(g), or (4)(c) access to the database, unless the division determines, based on a background check, that the employee poses a security risk to the information contained in the database.

(4) (a) An individual who is employed in the emergency room of a hospital may exercise access to the database under this Subsection (4) on behalf of a licensed practitioner if the individual is designated under Subsection (4)(c) and the licensed practitioner:

(i) is employed in the emergency room;

(ii) is treating an emergency room patient for an emergency medical condition; and

(iii) requests that an individual employed in the emergency room and designated under Subsection (4)(c) obtain information regarding the patient from the database as needed in the course of treatment.

(b) The emergency room employee obtaining information from the database shall, when gaining access to the database, provide to the database the name and any additional identifiers regarding the requesting practitioner as required by division administrative rule established under Subsection (3)(b).

(c) An individual employed in the emergency room under this Subsection (4) may obtain information from the database as provided in Subsection (4)(a) if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

(ii) the practitioner and the hospital operating the emergency room provide written notice to the division of the identity of the designated employee; and

(iii) the division:

(A) grants the employee access to the database; and

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(3)(b) with respect to the employee.

(d) The division may impose a fee, in accordance with Section 63J-1-504, on a practitioner who designates an employee under Subsection (2)(f), (2)(g), or (4)(c) to pay for the costs incurred by the division to conduct the background check and make the determination described in Subsection (3)(b).

(5) (a) An individual who is granted access to the database based on the fact that the individual is a licensed practitioner or a mental health therapist shall be denied access to the database when the individual is no longer licensed.

(b) An individual who is granted access to the database based on the fact that the individual is a designated employee of a licensed practitioner shall be denied access to the database when the practitioner is no longer licensed.

CHAPTER 402**S. B. 186**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

**CONTRACTOR LICENSING AND
CONTINUING EDUCATION AMENDMENTS**

Chief Sponsor: Wayne A. Harper

House Sponsor: Eric K. Hutchings

LONG TITLE**General Description:**

This bill amends requirements related to the professional licensing of contractors.

Highlighted Provisions:

This bill:

- ▶ modifies the requirements for licensure as a contractor, including:
 - allowing experience in any construction classification to count towards employment experience; and
 - adding a 20-hour course of instruction; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-55-302, as last amended by Laws of Utah 2013, Chapters 57, 426, and 430

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-55-302 is amended to read:**58-55-302. Qualifications for licensure.**

(1) Each applicant for a license under this chapter shall:

(a) submit an application prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504;

(c) (i) meet the examination requirements established by rule by the commission with the concurrence of the director, except for the classifications of apprentice plumber and apprentice electrician for whom no examination is required; or

(ii) if required in Section 58-55-304, the individual qualifier must pass the required examination if the applicant is a business entity;

(d) if an apprentice, identify the proposed supervisor of the apprenticeship;

(e) if an applicant for a contractor's license:

(i) produce satisfactory evidence of financial responsibility, except for a construction trades

instructor for whom evidence of financial responsibility is not required;

(ii) produce satisfactory evidence of ~~knowledge and at least~~ [knowledge and at least]:

(A) two years full-time paid employment experience in the construction industry, which experience, unless more specifically described in this section, may be related to any contracting classification; and

(B) knowledge of the principles of the conduct of business as a contractor, reasonably necessary for the protection of the public health, safety, and welfare;

(iii) except as otherwise provided by rule by the commission with the concurrence of the director, complete a 20-hour course established by rule by the commission with the concurrence of the director, which course may include:

(A) construction business practices;

(B) bookkeeping fundamentals;

(C) mechanics lien fundamentals; and

(D) other aspects of business and construction principles considered important by the commission with the concurrence of the director;

~~[(iii)]~~ (iv) (A) be a licensed master electrician if an applicant for an electrical contractor's license or a licensed master residential electrician if an applicant for a residential electrical contractor's license;

(B) be a licensed master plumber if an applicant for a plumbing contractor's license or a licensed master residential plumber if an applicant for a residential plumbing contractor's license; or

(C) be a licensed elevator mechanic and produce satisfactory evidence of three years experience as an elevator mechanic if an applicant for an elevator contractor's license; and

~~[(iv)]~~ (v) when the applicant is an unincorporated entity, provide a list of the one or more individuals who hold an ownership interest in the applicant as of the day on which the application is filed that includes for each individual:

(A) the individual's name, address, birth date, and Social Security number; and

(B) whether the individual will engage in a construction trade; and

(f) if an applicant for a construction trades instructor license, satisfy any additional requirements established by rule.

(2) After approval of an applicant for a contractor's license by the applicable board and the division, the applicant shall file the following with the division before the division issues the license:

(a) proof of workers' compensation insurance which covers employees of the applicant in accordance with applicable Utah law;

(b) proof of public liability insurance in coverage amounts and form established by rule except for a

construction trades instructor for whom public liability insurance is not required; and

(c) proof of registration as required by applicable law with the:

- (i) Utah Department of Commerce;
- (ii) Division of Corporations and Commercial Code;
- (iii) Unemployment Insurance Division in the Department of Workforce Services, for purposes of Title 35A, Chapter 4, Employment Security Act;
- (iv) State Tax Commission; and
- (v) Internal Revenue Service.

(3) In addition to the general requirements for each applicant in Subsection (1), applicants shall comply with the following requirements to be licensed in the following classifications:

(a) (i) A master plumber shall produce satisfactory evidence that the applicant:

(A) has been a licensed journeyman plumber for at least two years and had two years of supervisory experience as a licensed journeyman plumber in accordance with division rule;

(B) has received at least an associate of applied science degree or similar degree following the completion of a course of study approved by the division and had one year of supervisory experience as a licensed journeyman plumber in accordance with division rule; or

(C) meets the qualifications determined by the division in collaboration with the board to be equivalent to Subsection (3)(a)(i)(A) or (B).

(ii) An individual holding a valid Utah license as a journeyman plumber, based on at least four years of practical experience as a licensed apprentice under the supervision of a licensed journeyman plumber and four years as a licensed journeyman plumber, in effect immediately prior to May 5, 2008, is on and after May 5, 2008, considered to hold a current master plumber license under this chapter, and satisfies the requirements of this Subsection (3)(a) for the purpose of renewal or reinstatement of that license under Section 58-55-303.

(iii) An individual holding a valid plumbing contractor's license or residential plumbing contractor's license, in effect immediately prior to May 5, 2008, is on or after May 5, 2008:

(A) considered to hold a current master plumber license under this chapter if licensed as a plumbing contractor and a journeyman plumber, and satisfies the requirements of this Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section 58-55-303; and

(B) considered to hold a current residential master plumber license under this chapter if licensed as a residential plumbing contractor and a residential journeyman plumber, and satisfies the requirements of this Subsection (3)(a) for purposes

of renewal or reinstatement of that license under Section 58-55-303.

(b) A master residential plumber applicant shall produce satisfactory evidence that the applicant:

(i) has been a licensed residential journeyman plumber for at least two years and had two years of supervisory experience as a licensed residential journeyman plumber in accordance with division rule; or

(ii) meets the qualifications determined by the division in collaboration with the board to be equivalent to Subsection (3)(b)(i).

(c) A journeyman plumber applicant shall produce satisfactory evidence of:

(i) successful completion of the equivalent of at least four years of full-time training and instruction as a licensed apprentice plumber under supervision of a licensed master plumber or journeyman plumber and in accordance with a planned program of training approved by the division;

(ii) at least eight years of full-time experience approved by the division in collaboration with the Plumbers Licensing Board; or

(iii) satisfactory evidence of meeting the qualifications determined by the board to be equivalent to Subsection (3)(c)(i) or (c)(ii).

(d) A residential journeyman plumber shall produce satisfactory evidence of:

(i) completion of the equivalent of at least three years of full-time training and instruction as a licensed apprentice plumber under the supervision of a licensed residential master plumber, licensed residential journeyman plumber, or licensed journeyman plumber in accordance with a planned program of training approved by the division;

(ii) completion of at least six years of full-time experience in a maintenance or repair trade involving substantial plumbing work; or

(iii) meeting the qualifications determined by the board to be equivalent to Subsection (3)(d)(i) or (d)(ii).

(e) The conduct of licensed apprentice plumbers and their licensed supervisors shall be in accordance with the following:

(i) while engaging in the trade of plumbing, a licensed apprentice plumber shall be under the immediate supervision of a licensed master plumber, licensed residential master plumber, licensed journeyman plumber, or a licensed residential journeyman plumber; and

(ii) a licensed apprentice plumber in the fourth through tenth year of training may work without supervision for a period not to exceed eight hours in any 24-hour period, but if the apprentice does not become a licensed journeyman plumber or licensed residential journeyman plumber by the end of the tenth year of apprenticeship, this nonsupervision provision no longer applies.

(f) A master electrician applicant shall produce satisfactory evidence that the applicant:

(i) is a graduate electrical engineer of an accredited college or university approved by the division and has one year of practical electrical experience as a licensed apprentice electrician;

(ii) is a graduate of an electrical trade school, having received an associate of applied sciences degree following successful completion of a course of study approved by the division, and has two years of practical experience as a licensed journeyman electrician;

(iii) has four years of practical experience as a journeyman electrician; or

(iv) meets the qualifications determined by the board to be equivalent to Subsection (3)(f)(i), (ii), or (iii).

(g) A master residential electrician applicant shall produce satisfactory evidence that the applicant:

(i) has at least two years of practical experience as a residential journeyman electrician; or

(ii) meets the qualifications determined by the board to be equivalent to this practical experience.

(h) A journeyman electrician applicant shall produce satisfactory evidence that the applicant:

(i) has successfully completed at least four years of full-time training and instruction as a licensed apprentice electrician under the supervision of a master electrician or journeyman electrician and in accordance with a planned training program approved by the division;

(ii) has at least eight years of full-time experience approved by the division in collaboration with the Electricians Licensing Board; or

(iii) meets the qualifications determined by the board to be equivalent to Subsection (3)(h)(i) or (ii).

(i) A residential journeyman electrician applicant shall produce satisfactory evidence that the applicant:

(i) has successfully completed two years of training in an electrical training program approved by the division;

(ii) has four years of practical experience in wiring, installing, and repairing electrical apparatus and equipment for light, heat, and power under the supervision of a licensed master, journeyman, residential master, or residential journeyman electrician; or

(iii) meets the qualifications determined by the division and applicable board to be equivalent to Subsection (3)(i)(i) or (ii).

(j) The conduct of licensed apprentice electricians and their licensed supervisors shall be in accordance with the following:

(i) A licensed apprentice electrician shall be under the immediate supervision of a licensed

master, journeyman, residential master, or residential journeyman electrician. An apprentice in the fourth year of training may work without supervision for a period not to exceed eight hours in any 24-hour period.

(ii) A licensed master, journeyman, residential master, or residential journeyman electrician may have under immediate supervision on a residential project up to three licensed apprentice electricians.

(iii) A licensed master or journeyman electrician may have under immediate supervision on nonresidential projects only one licensed apprentice electrician.

(k) An alarm company applicant shall:

(i) have a qualifying agent who is an officer, director, partner, proprietor, or manager of the applicant who:

(A) demonstrates 6,000 hours of experience in the alarm company business;

(B) demonstrates 2,000 hours of experience as a manager or administrator in the alarm company business or in a construction business; and

(C) passes an examination component established by rule by the commission with the concurrence of the director;

(ii) if a corporation, provide:

(A) the names, addresses, dates of birth, Social Security numbers, and fingerprint cards of all corporate officers, directors, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state; and

(B) the names, addresses, dates of birth, Social Security numbers, and fingerprint cards of all shareholders owning 5% or more of the outstanding shares of the corporation, except this shall not be required if the stock is publicly listed and traded;

(iii) if a limited liability company, provide:

(A) the names, addresses, dates of birth, Social Security numbers, and fingerprint cards of all company officers, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state; and

(B) the names, addresses, dates of birth, Social Security numbers, and fingerprint cards of all individuals owning 5% or more of the equity of the company;

(iv) if a partnership, provide the names, addresses, dates of birth, Social Security numbers, and fingerprint cards of all general partners, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state;

(v) if a proprietorship, provide the names, addresses, dates of birth, Social Security numbers, and fingerprint cards of the proprietor, and those responsible management personnel employed

within the state or having direct responsibility for managing operations of the applicant within the state;

(vi) if a trust, provide the names, addresses, dates of birth, Social Security numbers, and fingerprint cards of the trustee, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state;

(vii) be of good moral character in that officers, directors, shareholders described in Subsection (3)(k)(ii)(B), partners, proprietors, trustees, and responsible management personnel have not been convicted of a felony, a misdemeanor involving moral turpitude, or any other crime that when considered with the duties and responsibilities of an alarm company is considered by the board to indicate that the best interests of the public are served by granting the applicant a license;

(viii) document that none of the applicant's officers, directors, shareholders described in Subsection (3)(k)(ii)(B), partners, proprietors, trustees, and responsible management personnel have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;

(ix) document that none of the applicant's officers, directors, shareholders described in Subsection (3)(k)(ii)(B), partners, proprietors, and responsible management personnel are currently suffering from habitual drunkenness or from drug addiction or dependence;

(x) file and maintain with the division evidence of:

(A) comprehensive general liability insurance in form and in amounts to be established by rule by the commission with the concurrence of the director;

(B) workers' compensation insurance that covers employees of the applicant in accordance with applicable Utah law; and

(C) registration as is required by applicable law with the:

(I) Division of Corporations and Commercial Code;

(II) Unemployment Insurance Division in the Department of Workforce Services, for purposes of Title 35A, Chapter 4, Employment Security Act;

(III) State Tax Commission; and

(IV) Internal Revenue Service; and

(xi) meet with the division and board.

(l) Each applicant for licensure as an alarm company agent shall:

(i) submit an application in a form prescribed by the division accompanied by fingerprint cards;

(ii) pay a fee determined by the department under Section 63J-1-504;

(iii) be of good moral character in that the applicant has not been convicted of a felony, a

misdemeanor involving moral turpitude, or any other crime that when considered with the duties and responsibilities of an alarm company agent is considered by the board to indicate that the best interests of the public are served by granting the applicant a license;

(iv) not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;

(v) not be currently suffering from habitual drunkenness or from drug addiction or dependence; and

(vi) meet with the division and board if requested by the division or the board.

(m) (i) Each applicant for licensure as an elevator mechanic shall:

(A) provide documentation of experience and education credits of not less than three years work experience in the elevator industry, in construction, maintenance, or service and repair; and

(B) satisfactorily complete a written examination administered by the division established by rule under Section 58-1-203; or

(C) provide certificates of completion of an apprenticeship program for elevator mechanics, having standards substantially equal to those of this chapter and registered with the United States Department of Labor Bureau Apprenticeship and Training or a state apprenticeship council.

(ii) (A) If an elevator contractor licensed under this chapter cannot find a licensed elevator mechanic to perform the work of erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator, the contractor may:

(I) notify the division of the unavailability of licensed personnel; and

(II) request the division issue a temporary elevator mechanic license to an individual certified by the contractor as having an acceptable combination of documented experience and education to perform the work described in this Subsection (3)(m)(ii)(A).

(B) (I) The division may issue a temporary elevator mechanic license to an individual certified under Subsection (3)(m)(ii)(A)(II) upon application by the individual, accompanied by the appropriate fee as determined by the department under Section 63J-1-504.

(II) The division shall specify the time period for which the license is valid and may renew the license for an additional time period upon its determination that a shortage of licensed elevator mechanics continues to exist.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules establishing when Federal Bureau of Investigation records shall be checked for applicants as an alarm company or alarm company agent.

(5) To determine if an applicant meets the qualifications of Subsections (3)(k)(vii) and (3)(l)(iii), the division shall provide an appropriate number of copies of fingerprint cards to the Department of Public Safety with the division's request to:

(a) conduct a search of records of the Department of Public Safety for criminal history information relating to each applicant for licensure as an alarm company or alarm company agent and each applicant's officers, directors, shareholders described in Subsection (3)(k)(ii)(B), partners, proprietors, and responsible management personnel; and

(b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant requiring a check of records of the Federal Bureau of Investigation for criminal history information under this section.

(6) The Department of Public Safety shall send to the division:

(a) a written record of criminal history, or certification of no criminal history record, as contained in the records of the Department of Public Safety in a timely manner after receipt of a fingerprint card from the division and a request for review of Department of Public Safety records; and

(b) the results of the Federal Bureau of Investigation review concerning an applicant in a timely manner after receipt of information from the Federal Bureau of Investigation.

(7) (a) The division shall charge each applicant for licensure as an alarm company or alarm company agent a fee, in accordance with Section 63J-1-504, equal to the cost of performing the records reviews under this section.

(b) The division shall pay the Department of Public Safety the costs of all records reviews, and the Department of Public Safety shall pay the Federal Bureau of Investigation the costs of records reviews under this section.

(8) Information obtained by the division from the reviews of criminal history records of the Department of Public Safety and the Federal Bureau of Investigation shall be used or disseminated by the division only for the purpose of determining if an applicant for licensure as an alarm company or alarm company agent is qualified for licensure.

(9) (a) An application for licensure under this chapter shall be denied if:

(i) the applicant has had a previous license, which was issued under this chapter, suspended or revoked within one year prior to the date of the applicant's application;

(ii) (A) the applicant is a partnership, corporation, or limited liability company; and

(B) any corporate officer, director, shareholder holding 25% or more of the stock in the applicant,

partner, member, agent acting as a qualifier, or any person occupying a similar status, performing similar functions, or directly or indirectly controlling the applicant has served in any similar capacity with any person or entity which has had a previous license, which was issued under this chapter, suspended or revoked within one year prior to the date of the applicant's application;

(iii) (A) the applicant is an individual or sole proprietorship; and

(B) any owner or agent acting as a qualifier has served in any capacity listed in Subsection (9)(a)(ii)(B) in any entity which has had a previous license, which was issued under this chapter, suspended or revoked within one year prior to the date of the applicant's application; or

(iv) (A) the applicant includes an individual who was an owner, director, or officer of an unincorporated entity at the time the entity's license under this chapter was revoked; and

(B) the application for licensure is filed within 60 months after the revocation of the unincorporated entity's license.

(b) An application for licensure under this chapter shall be reviewed by the appropriate licensing board prior to approval if:

(i) the applicant has had a previous license, which was issued under this chapter, suspended or revoked more than one year prior to the date of the applicant's application;

(ii) (A) the applicant is a partnership, corporation, or limited liability company; and

(B) any corporate officer, director, shareholder holding 25% or more of the stock in the applicant, partner, member, agent acting as a qualifier, or any person occupying a similar status, performing similar functions, or directly or indirectly controlling the applicant has served in any similar capacity with any person or entity which has had a previous license, which was issued under this chapter, suspended or revoked more than one year prior to the date of the applicant's application; or

(iii) (A) the applicant is an individual or sole proprietorship; and

(B) any owner or agent acting as a qualifier has served in any capacity listed in Subsection (9)(b)(ii)(B) in any entity which has had a previous license, which was issued under this chapter, suspended or revoked more than one year prior to the date of the applicant's application.

(10) (a) (i) A licensee that is an unincorporated entity shall file an ownership status report with the division every 30 days after the day on which the license is issued if the licensee has more than five owners who are individuals who:

(A) own an interest in the contractor that is an unincorporated entity;

(B) own, directly or indirectly, less than an 8% interest, as defined by rule made by the division in accordance with Title 63G, Chapter 3, Utah

Administrative Rulemaking Act, in the unincorporated entity; and

(C) engage, or will engage, in a construction trade in the state as owners of the contractor described in Subsection (10)(a)(i)(A).

(ii) If the licensee has five or fewer owners described in Subsection (10)(a)(i), the licensee shall provide the ownership status report with an application for renewal of licensure.

(b) An ownership status report required under this Subsection (10) shall:

(i) specify each addition or deletion of an owner:

(A) for the first ownership status report, after the day on which the unincorporated entity is licensed under this chapter; and

(B) for a subsequent ownership status report, after the day on which the previous ownership status report is filed;

(ii) be in a format prescribed by the division that includes for each owner, regardless of the owner's percentage ownership in the unincorporated entity, the information described in Subsection(1)(e)(iv);

(iii) list the name of:

(A) each officer or manager of the unincorporated entity; and

(B) each other individual involved in the operation, supervision, or management of the unincorporated entity; and

(iv) be accompanied by a fee set by the division in accordance with Section 63J-1-504 if the ownership status report indicates there is a change described in Subsection (10)(b)(i).

(c) The division may, at any time, audit an ownership status report under this Subsection (10):

(i) to determine if financial responsibility has been demonstrated or maintained as required under Section 58-55-306; and

(ii) to determine compliance with Subsection 58-55-501 (24), (25), or (27) or Subsection 58-55-502(8) or (9).

(11) (a) An unincorporated entity that provides labor to an entity licensed under this chapter by providing an individual who owns an interest in the unincorporated entity to engage in a construction trade in Utah shall file with the division:

(i) before the individual who owns an interest in the unincorporated entity engages in a construction trade in Utah, a current list of the one or more individuals who hold an ownership interest in the unincorporated entity that includes for each individual:

(A) the individual's name, address, birth date, and Social Security number; and

(B) whether the individual will engage in a construction trade; and

(ii) every 30 days after the day on which the unincorporated entity provides the list described in

Subsection (11)(a)(i), an ownership status report containing the information that would be required under Subsection (10) if the unincorporated entity were a licensed contractor.

(b) When filing an ownership list described in Subsection (11)(a)(i) or an ownership status report described in Subsection (11)(a)(ii) or (iii) an unincorporated entity shall pay a fee set by the division in accordance with Section 63J-1-504.

(12) This chapter may not be interpreted to create or support an express or implied independent contractor relationship between an unincorporated entity described in Subsection (10) or (11) and the owners of the unincorporated entity for any purpose, including income tax withholding.

(13) A Social Security number provided under Subsection (1)(e)(iv) is a private record under Subsection 63G-2-302(1)(i).

CHAPTER 403**S. B. 209**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

SCHOOL GRADING REVISIONS

Chief Sponsor: J. Stuart Adams
House Sponsor: Gregory H. Hughes

LONG TITLE**General Description:**

This bill modifies procedures and standards for assigning a letter grade to a school based on the proficiency, learning gains, or college and career readiness of the school's students.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of sufficient growth;
- ▶ requires the State Board of Education to establish a growth target for a student for each statewide assessment the student takes;
- ▶ requires the State Board of Education to create an alignment of scale scores when transitioning between assessment systems;
- ▶ exempts from school grading a school that is designated as an alternative school by the State Board of Education;
- ▶ requires the State Board of Education to annually evaluate an alternative school in accordance with an accountability plan developed by the State Board of Education;
- ▶ exempts certain schools from school grading;
- ▶ defines a combination school and requires the State Board of Education to assign two school grades to a combination school;
- ▶ modifies the calculation of a high school's graduation rate;
- ▶ establishes a standard for determining whether a student is college ready for the purpose of school grading;
- ▶ requires the State Board of Education to lower a school grade by one letter grade if student participation in testing is less than 95%;
- ▶ provides for exceptions to certain requirements for the purpose of determining school grades for the 2013-14 school year; and
- ▶ makes technical amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-1-1102, as last amended by Laws of Utah 2013, Chapter 478

53A-1-1103, as last amended by Laws of Utah 2013, Chapter 478 and last amended by Coordination Clause, Laws of Utah 2013, Chapter 478

53A-1-1104, as enacted by Laws of Utah 2011, Chapter 417

53A-1-1107, as repealed and reenacted by Laws of Utah 2013, Chapter 478

53A-1-1108, as last amended by Laws of Utah 2013, Chapter 478 and last amended by Coordination Clause, Laws of Utah 2013, Chapter 478

53A-1-1110, as last amended by Laws of Utah 2013, Chapter 478

ENACTS:

53A-1-1104.5, Utah Code Annotated 1953

53A-1-1107.5, Utah Code Annotated 1953

53A-1-1114, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53A-1-1102 is amended to read:**53A-1-1102. Definitions.**

As used in this part:

(1) "Alternative school" means a school:

(a) established to serve youth who are not succeeding in a traditional school environment; and

(b) designated as an alternative school by the State Board of Education.

(2) "Board" means the State Board of Education.

(3) "Combination school" means a school that includes:

(a) grade 12; and

(b) a grade lower than grade 7.

[4] (4) "High school" means:

(a) a school that:

(i) includes grade 12[-]; and

(ii) does not include any grade lower than grade 7; or

(b) grades 9 through 12 of a combination school.

(5) "Individualized education program" or "IEP" means a written statement, for a student with a disability, that is developed, reviewed, and revised in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

[2] (6) "Statewide assessment" means[-(a)] a criterion-referenced test of student achievement in language arts, mathematics, or science, including a test administered in a computer adaptive format[; and -(b)], which is administered statewide under Part 6, Achievement Tests.

[3] "Student growth percentile" means the result of a statistical model that calculates each student's change in achievement between two or more points in time on a statewide assessment and compares each student's performance to that of similarly achieving students.]

[4] (7) "Sufficient growth" means [a measurement of growth greater than or equal to growth at a specific percentile in the 2011-12 year adopted by the State Board of Education in rule.] a student's scale score on a statewide assessment is equal to or exceeds the student's growth target established pursuant to Section 53A-1-1107.5.

(8) “Year 1” means the first year of two consecutive years in which a student takes a statewide assessment in the same subject.

(9) “Year 2” means the second year of two consecutive years in which a student takes a statewide assessment in the same subject.

Section 2. Section 53A-1-1103 is amended to read:

53A-1-1103. State Board of Education to establish school grading system -- Report to Education Interim Committee.

(1) (a) The State Board of Education shall establish a school grading system in accordance with this part in which a school annually is designated a grade of A, B, C, D, or F based on the performance of the school’s students on statewide assessments, and for a high school, the graduation rate and, except for the 2012-13 school year, student performance on a college admissions test administered pursuant to Section 53A-1-611.

(b) The school grading system established in this part shall be known and referred to as “school grading.”

(2) The State Board of Education shall:

(a) model the school grading system described in this part using school performance data for the 2010-11 school year;

(b) study modifications to the school grading system; and

(c) make recommendations for proposed legislation to the Education Interim Committee on modifications to the school grading system by the committee’s September 2012 meeting.

(3) The school grading system shall take effect for the 2012-13 school year and shall replace the U-PASS accountability system developed and implemented by the State Board of Education.

(4) For the purposes of school grading, the State Board of Education shall create an alignment mapping of scale scores when transitioning to a new assessment system to reflect the standards of academic achievement set by the State Board of Education.

Section 3. Section 53A-1-1104 is amended to read:

53A-1-1104. Schools included in grading system.

(1) Except as provided in [Subsection] Subsections (2) through (5), a school that has students who take statewide assessments shall receive a school grade.

(2) A school may not receive a school grade, if the number of a school’s students tested is less than the minimum sample size necessary, based on accepted professional practice for statistical reliability or the prevention of the unlawful release of personally identifiable student data under 20 U.S.C. Sec. 1232h.

(3) (a) An alternative school is exempt from school grading.

(b) The board shall annually:

(i) evaluate an alternative school in accordance with an accountability plan approved by the board; and

(ii) report the results on a school report card.

(c) The State Board of Education, a local school board, and a charter school governing board shall provide to a parent or guardian a school report card for an alternative school and electronically publish the school report card in the same manner and at the same time as other school report cards are provided and published pursuant to Section 53A-11-1112.

(4) The State Board of Education shall exempt a school from school grading in the school’s first year of operations if the school’s local school board or charter school governing board requests the exemption.

(5) The State Board of Education shall exempt a high school from school grading or exempt a combination school from the school grading requirement described in Subsection 53A-1-1104.5(2) in the high school’s or combination school’s second year of operations if the school’s local school board or charter school governing board requests the exemption.

Section 4. Section 53A-1-1104.5 is enacted to read:

53A-1-1104.5. Two school grades assigned to a combination school.

The board shall assign two school grades to a combination school as follows:

(1) the board shall assign a school grade based on the proficiency and learning gains of students who are enrolled in a grade below grade 9 as described in Sections 53A-1-1106 and 53A-1-1107; and

(2) the board shall assign a school grade based on:

(a) the proficiency and learning gains of students who are enrolled in grades 9 through 12, as described in Sections 53A-1-1106 and 53A-1-1107;

(b) the school’s graduation rate calculated in accordance with Section 53A-1-1108; and

(c) the percentage of students considered college ready calculated in accordance with Section 53A-1-1108.

Section 5. Section 53A-1-1107 is amended to read:

53A-1-1107. Calculation of points earned for students demonstrating sufficient growth in language arts, mathematics, and science.

(1) A school shall receive points for a school’s students demonstrating sufficient growth in language arts, mathematics, and science[~~and writing~~] as follows:

(a) A school shall receive 0.5 points for each percentage of the school’s students who take a

statewide assessment of language arts achievement and make sufficient growth.

(b) A school shall receive 0.5 points for each percentage of the school's students who take a statewide assessment of mathematics achievement and make sufficient growth.

(c) A school shall receive 0.5 points for each percentage of the school's students who take a statewide assessment of science achievement and make sufficient growth.

(2) A school shall receive points for a school's students who scored below the proficient level on statewide achievement tests in the prior year and who demonstrate sufficient growth in language arts, mathematics, and science as follows:

(a) A school shall receive 0.5 points for each percentage of the school's nonproficient students, as determined by prior year language arts test scores, who take a statewide assessment of language arts achievement and make sufficient growth.

(b) A school shall receive 0.5 points for each percentage of the school's nonproficient students, as determined by prior year mathematics test scores, who take a statewide assessment of mathematics achievement and make sufficient growth.

(c) A school shall receive 0.5 points for each percentage of the school's nonproficient students, as determined by prior year science test scores, who take a statewide assessment of science achievement and make sufficient growth.

(3) A school may earn a maximum of 50 points for each of the criteria listed in Subsections (1)(a), (b), and (c) and (2)(a), (b), and (c).

(4) The State Board of Education shall:

(a) model the school grading system based on awarding points as described in Subsection (2) for students in the lowest quartile, as determined by prior year test scores, who make sufficient growth; and

(b) submit a report on the model results to the Education Interim Committee no later than the committee's November 2013 meeting.

Section 6. Section 53A-1-1107.5 is enacted to read:

53A-1-1107.5. Growth target established to determine whether a student demonstrates sufficient growth in a subject.

(1) (a) For the purpose of determining whether a student demonstrates sufficient growth in the 2013-14 school year in language arts, mathematics, or science as provided in Section 53A-1-1107, the board shall establish a growth target for a student for each statewide assessment the student takes.

(b) A student demonstrates sufficient growth in the 2013-14 school year if the student's scale score

on a statewide assessment administered in the 2013-14 school year is equal to or exceeds the growth target established pursuant to Subsections (1)(c) and (1)(d).

(c) The board shall establish a 2013-14 growth target for each cohort of students with the same scale score on a particular statewide assessment in the 2012-13 school year.

(d) (i) The board shall establish a 2013-14 growth target based on actual student growth in the 2011-12 school year as measured by statewide assessments administered at the end of the 2010-11 and 2011-12 school years.

(ii) Among a cohort of students with the same scale score on a particular statewide assessment in the 2010-11 school year, the scale score of the student who scores in the 2011-12 school year, at a percentile determined by the board in rule, becomes the 2013-14 growth target for any student with a scale score in the 2012-13 school year that is the same as the cohort's scale score in the 2010-11 school year.

(2) (a) For the purpose of determining whether a student demonstrates sufficient growth in the 2014-15 school year, or a succeeding school year, in language arts, mathematics, or science as provided in Section 53A-1-1107, the board shall establish a year 2 growth target for a student for each statewide assessment the student takes.

(b) A student demonstrates sufficient growth if the student's scale score on a statewide assessment in year 2 is equal to or exceeds the year 2 growth target established pursuant to Subsections (2)(c) and (2)(d).

(c) The board shall establish a year 2 growth target for each cohort of students with the same scale score on a particular statewide assessment in year 1.

(d) (i) The board shall establish a year 2 growth target based on actual student growth in the 2014-15 school year as measured by statewide assessments administered at the end of the 2013-14 and 2014-15 school years.

(ii) Among a cohort of students with the same scale score on a particular statewide assessment in the 2013-14 school year, the scale score of the student who scores on a similar statewide assessment in the 2014-15 school year, at a percentile determined by the board in rule, becomes the year 2 growth target for statewide assessments administered in the 2014-15 school year and succeeding years for any student with a year 1 scale score that is the same as the cohort's scale score in the 2013-14 school year.

Section 7. Section 53A-1-1108 is amended to read:

53A-1-1108. Calculation of additional points earned for high school graduation and college and career readiness.

(1) In addition to the points described in Sections 53A-1-1106 and 53A-1-1107 ~~and subject to~~

Subsection (2)], a high school shall receive points, as determined by the State Board of Education, for:

(a) the percentage of students who graduate from high school; and

(b) except for the 2012-13 school year, the percentage of students who are considered college ready as measured by a college admissions test administered pursuant to Section 53A-1-611.

(2) ~~[(a)]~~ (a) Except as provided in Subsection (2)(b), in calculating the percentage of students who graduate, the State Board of Education shall use the same graduation rate for a high school that is used under the federal ~~[No Child Left Behind accountability]~~ four-year cohort system.

(b) In calculating a high school graduation rate for the purpose of school grading, the State Board of Education shall exclude from the four-year cohort for the graduating class a student with a disability who has an individualized education program that includes a plan to complete graduation requirements in more than four years.

(3) (a) Except as provided in Subsection (3)(b), for the purpose of school grading, a student is considered college ready if the student's score in each subject area on the ACT is at or above the College Readiness Benchmark as defined by the ACT.

(b) The board in consultation with the State Board of Regents may adopt by rule a higher subject area score threshold on the ACT to be considered college ready for school grading purposes.

~~[(3)]~~ (4) (a) Except as provided in Subsection ~~[(3)]~~ (4)(b), a school may earn a maximum of 300 points for the criteria described in Subsection (1) with one-half of the maximum number of points allotted to high school graduation and one-half allotted to the percentage of students who are considered college ready as measured by a college admissions test administered pursuant to Section 53A-1-611.

(b) For the 2012-13 school year, a school may earn a maximum of 150 points for the percentage of students who graduate from high school.

Section 8. Section 53A-1-1110 is amended to read:

53A-1-1110. Letter grade based on percentage of maximum points earned.

(1) Except as provided in Subsections (2) and (3), a school shall receive a letter grade based on the percentage of the maximum number of points the school may earn as calculated under Section 53A-1-1109 as follows:

- (a) A, 100% - 80%;
- (b) B, 79% - 70%;
- (c) C, 69% - 60%;
- (d) D, 59% - 50%; and
- (e) F, 49% or less.

(2) When 85% of schools receive an A or B, the State Board of Education shall increase the endpoints of the ranges listed in Subsections (1)(a) through (1)(e) by five percentage points, except the lower endpoint of the A range may not be greater than 90%.

(3) ~~[A school shall receive an F]~~ The board shall lower a school's grade by one letter grade if:

(a) student participation in a statewide assessment is fewer than 95%; or

(b) the participation of nonproficient students as determined by prior year test scores is fewer than 95%.

Section 9. Section 53A-1-1114 is enacted to read:

53A-1-1114. Exceptions applicable to determining school grades for the 2013-14 school year.

(1) Notwithstanding the requirements of Subsection 53A-1-1102(7), Subsection 53A-1-1103(4), Section 53A-1-1107.5, Subsection 53A-1-1110(1), and Subsections 53A-1-1112(5) through (7), for the purposes of determining school grades for the 2013-14 school year, when schools transition to a new assessment system:

(a) the State Board of Education is not required to create an alignment mapping of scale scores between assessments administered in the 2012-13 school year and those administered in the 2013-14 school year;

(b) the State Board of Education shall determine, by rule:

(i) how to measure growth of a school's students on statewide assessments of language arts, mathematics, and science achievement; and

(ii) a standard for sufficient growth;

(c) the State Board of Education may, by rule, adjust the percentage of the maximum number of points required to earn A through F letter grades; and

(d) the State Board of Education, school districts, and charter schools shall publish on their websites school grades for the 2013-14 school year on or before December 15, 2014.

(2) (a) Before the State Board of Education adopts a rule pursuant to Subsection (1)(c), the board shall submit one or more proposals to the Executive Appropriations Committee to adjust the maximum number of points required to earn A through F letter grades for the 2013-14 school year.

(b) For each proposal submitted to the Executive Appropriations Committee, the board shall model the projected distribution of schools earning each letter grade.

(c) The Executive Appropriations Committee may:

(i) recommend that the board adopt a proposal to adjust the maximum number of points required to earn A through F letter grades for the 2013-14 school year;

(ii) recommend that the board modify a proposal to adjust the maximum number of points required to earn A through F letter grades for the 2013-14 school year; or

(iii) recommend that no adjustment be made to the maximum number of points required to earn A through F letter grades for the 2013-14 school year.

CHAPTER 404**S. B. 213**

Passed March 11, 2014

Approved April 1, 2014

Effective May 13, 2014

COMPULSORY POOLING AMENDMENTS

Chief Sponsor: Ralph Okerlund

House Sponsor: Mike K. McKell

LONG TITLE**General Description:**

This bill modifies the procedure for a compulsory pooling order in a drilling unit.

Highlighted Provisions:

This bill:

- ▶ authorizes the Board of Oil, Gas, and Mining to assess against a nonconsenting owner in a compulsory pooling order up to 400% of the nonconsenting owner's share of:
 - the costs of staking a location, preparing a wellsite, rights-of-way, rigging up, drilling, reworking, recompleting, deepening or plugging back, testing, and completing; and
 - the cost of equipment in the well;
- ▶ modifies the royalties paid to an unleased nonconsenting owner in a compulsory pooling order; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

40-6-6.5, as last amended by Laws of Utah 2010, Chapter 324

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 40-6-6.5 is amended to read:

40-6-6.5. Pooling of interests for the development and operation of a drilling unit -- Board may order pooling of interests -- Payment of costs and royalty interests -- Monthly accounting.

(1) Two or more owners within a drilling unit may bring together their interests for the development and operation of the drilling unit.

(2) (a) In the absence of a written agreement for pooling, the board may enter an order pooling all interests in the drilling unit for the development and operation of the drilling unit.

(b) The order shall be made upon terms and conditions that are just and reasonable.

(c) The board may adopt terms appearing in an operating agreement:

(i) for the drilling unit that is in effect between the consenting owners;

(ii) submitted by any party to the proceeding; or

(iii) submitted by its own motion.

(3) (a) Operations incident to the drilling of a well upon any portion of a drilling unit covered by a pooling order shall be deemed for all purposes to be the conduct of the operations upon each separately owned tract in the drilling unit by the several owners.

(b) The portion of the production allocated or applicable to a separately owned tract included in a drilling unit covered by a pooling order shall, when produced, be deemed for all purposes to have been produced from that tract by a well drilled on it.

(4) (a) (i) Each pooling order shall provide for the payment of just and reasonable costs incurred in the drilling and operating of the drilling unit, including ~~but not limited to~~:

(A) the costs of drilling, completing, equipping, producing, gathering, transporting, processing, marketing, and storage facilities;

(B) reasonable charges for the administration and supervision of operations; and

(C) other costs customarily incurred in the industry.

(ii) An owner is not liable under a pooling order for costs or losses resulting from the gross negligence or willful misconduct of the operator.

(b) Each pooling order shall provide for reimbursement to the consenting owners for any nonconsenting owner's share of the costs out of production from the drilling unit attributable to ~~his~~ the nonconsenting owner's tract.

(c) Each pooling order shall provide that each consenting owner shall own and be entitled to receive, subject to royalty or similar obligations:

(i) the share of the production of the well applicable to ~~his~~ the consenting owner's interest in the drilling unit; and

(ii) unless ~~he~~ the consenting owner has agreed otherwise, ~~his~~ the consenting owner's proportionate part of the nonconsenting owner's share of the production until costs are recovered as provided in Subsection (4)(d).

(d) (i) Each pooling order shall provide that each nonconsenting owner shall be entitled to receive, subject to royalty or similar obligations, the share of the production of the well applicable to ~~his~~ the nonconsenting owner's interest in the drilling unit after the consenting owners have recovered from the nonconsenting owner's share of production the following amounts less any cash contributions made by the nonconsenting owner:

(A) 100% of the nonconsenting owner's share of the cost of surface equipment beyond the wellhead connections, including stock tanks, separators, treaters, pumping equipment, and piping;

(B) 100% of the nonconsenting owner's share of the estimated cost to plug and abandon the well as determined by the board;

(C) 100% of the nonconsenting owner's share of the cost of operation of the well commencing with

first production and continuing until the consenting owners have recovered all costs; and

(D) an amount to be determined by the board but not less than 150% nor greater than ~~[300%]~~ 400% of the nonconsenting owner's share of the costs of staking the location, wellsite preparation, rights-of-way, rigging up, drilling, reworking, recompleting, deepening or plugging back, testing, and completing, and the cost of equipment in the well to and including the wellhead connections.

(ii) The nonconsenting owner's share of the costs specified in Subsection (4)(d)(i) is that interest which would have been chargeable to the nonconsenting owner had ~~[he]~~ the nonconsenting owner initially agreed to pay ~~[his]~~ the nonconsenting owner's share of the costs of the well from commencement of the operation.

(iii) A reasonable interest charge may be included if the board finds it appropriate.

(e) If there is any dispute about costs, the board shall determine the proper costs.

(5) If a nonconsenting owner's tract in the drilling unit is subject to a lease or other contract for the development of oil and gas, the pooling order shall provide that the consenting owners shall pay any royalty interest or other interest in the tract not subject to the deduction of the costs of production from the production attributable to that tract.

(6) (a) If a nonconsenting owner's tract in the drilling unit is not subject to a lease or other contract for the development of oil and gas, the pooling order shall provide that the nonconsenting owner shall receive as a royalty:

(i) the acreage weighted average landowner's royalty [attributable to each] based on each leased fee and privately owned tract within the drilling unit, proportionately reduced by the percentage of the nonconsenting owner's interest in the drilling unit; or

(ii) if there is no leased fee or privately owned tract within the drilling unit other than the one owned by the nonconsenting owner, 16-2/3% proportionately reduced by the percentage of the nonconsenting owner's interest in the drilling unit.

(b) The royalty shall be:

(i) determined prior to the commencement of drilling; and

(ii) paid from production attributable to each tract until the consenting owners have recovered the costs specified in Subsection (4)(d).

(7) Once the consenting owners have recovered the costs, as described in Subsection (6)(b)(ii), the royalty shall be merged back into the nonconsenting owner's working interest and shall be terminated.

~~[(7)]~~ (8) The operator of a well under a pooling order in which there ~~[are]~~ is a nonconsenting ~~[owners]~~ owner shall furnish the nonconsenting ~~[owners]~~ owner with monthly statements specifying:

(a) costs incurred;

(b) the quantity of oil or gas produced; and

(c) the amount of oil and gas proceeds realized from the sale of the production during the preceding month.

~~[(8)]~~ (9) Each pooling order shall provide that when the consenting owners recover from a nonconsenting owner's relinquished interest the amounts provided for in Subsection (4)(d):

(a) the relinquished interest of the nonconsenting owner shall automatically revert to him;

(b) the nonconsenting owner shall from that time:

(i) own the same interest in the well and the production from it; and

(ii) be liable for the further costs of the operation as if he had participated in the initial drilling and operation; and

(c) costs are payable out of production unless otherwise agreed between the nonconsenting owner and the operator.

~~[(9)]~~ (10) Each pooling order shall provide that in any circumstance where the nonconsenting owner has relinquished his share of production to consenting owners or at any time fails to take his share of production in-kind when he is entitled to do so, the nonconsenting owner is entitled to:

(a) an accounting of the oil and gas proceeds applicable to his relinquished share of production; and

(b) payment of the oil and gas proceeds applicable to that share of production not taken in-kind, net of costs.

CHAPTER 405**S. B. 216**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

POLITICAL SUBDIVISIONS REVISIONS

Sponsor: Chief Sponsor: Karen MayneHouse

Sponsor: Eric K. Hutchings

LONG TITLE**General Description:**

This bill enacts language related to political subdivisions.

Highlighted Provisions:

This bill:

- ▶ suspends certain township incorporation and township annexation procedures;
- ▶ requires a county of the first class to study the governance of, delivery of services to, and other issues related to the unincorporated county;
- ▶ amends provisions authorizing a county to provide municipal services;
- ▶ exempts the creation of a municipal services district from election requirements;
- ▶ amends provisions related to the withdrawal of an area from a local district;
- ▶ enacts the "Municipal Services District Act," including the following provisions:
 - definitions;
 - applicability of existing law;
 - additional district powers;
 - creation of a municipal services district;
 - board of trustees membership and powers;
 - exclusion of rural real property;
 - remittance of sales tax by certain municipalities; and
 - providing and sharing of funds;
- ▶ provides repeal dates; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17-34-1, as last amended by Laws of Utah 2003, Chapter 275

17B-1-213, as last amended by Laws of Utah 2013, Chapter 265

17B-1-214, as last amended by Laws of Utah 2013, Chapters 70 and 265

17B-1-215, as last amended by Laws of Utah 2013, Chapter 265

17B-1-502, as last amended by Laws of Utah 2013, Chapter 141

63I-2-210, as last amended by Laws of Utah 2009, Chapter 205

63I-2-217, as last amended by Laws of Utah 2012, Chapter 17

ENACTS:

10-2-130, Utah Code Annotated 1953

17-15-30, Utah Code Annotated 1953

17B-2a-1101, Utah Code Annotated 1953

17B-2a-1102, Utah Code Annotated 1953

17B-2a-1103, Utah Code Annotated 1953

17B-2a-1104, Utah Code Annotated 1953

17B-2a-1105, Utah Code Annotated 1953

17B-2a-1106, Utah Code Annotated 1953

17B-2a-1107, Utah Code Annotated 1953

17B-2a-1108, Utah Code Annotated 1953

17B-2a-1109, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-2-130 is enacted to read:**10-2-130. Suspension of township incorporation and annexation procedures on or after January 1, 2014 -- Exceptions.**

(1) As used in this section:

(a) "Township incorporation procedure" means the following actions, the subject of which includes an area located in whole or in part in a township:

(i) a request for incorporation described in Section 10-2-103;

(ii) a feasibility study described in Section 10-2-106;

(iii) a modified request and a supplemental feasibility study described in Section 10-2-107; or

(iv) an incorporation petition described in Section 10-2-109 that is not certified under Section 10-2-110.

(b) "Township annexation procedure" means one or more of the following actions, the subject of which includes an area located in whole or in part in a township:

(i) a petition to annex described in Section 10-2-403;

(ii) a feasibility study described in Section 10-2-413;

(iii) a modified annexation petition or supplemental feasibility study described in Section 10-2-414;

(iv) a boundary commission decision described in Section 10-2-416; or

(v) any action described in Section 10-2-418 before the adoption of an ordinance to approve annexation under Subsection 10-2-418(3)(b).

(2) (a) Except as provided in Subsections (3) and (4):

(i) if a request for incorporation described in Section 10-2-103 is filed with the clerk of the county on or after January 1, 2014, a township incorporation procedure that is the subject of or otherwise relates to that request is suspended until November 15, 2015; and

(ii) if a petition to annex described in Section 10-2-403 is filed with the city recorder or town clerk on or after January 1, 2014, a township annexation procedure that is the subject of or

otherwise relates to that petition is suspended until November 15, 2015.

(b) (i) If a township incorporation procedure or township annexation procedure is suspended under Subsection (2)(a), any applicable deadline or timeline is suspended before and on November 15, 2015.

(ii) On November 16, 2015, the applicable deadline or timeline described in Subsection (2)(b)(i):

(A) may proceed and the period of time during the suspension does not toll against that deadline or timeline; and

(B) does not start over.

(3) Subsection (2) does not apply to a township annexation procedure that:

(a) includes any land area located in whole or in part in a township that is:

(i) 50 acres or more; and

(ii) primarily owned or controlled by a government entity; or

(b) is the subject of or otherwise relates to a petition to annex that is filed in accordance with Subsection 10-2-403(3) before January 1, 2014.

(4) (a) For an incorporation petition suspended in accordance with Subsection (2), the petition sponsors may continue to gather petition signatures and file them with the county clerk as provided in Section 10-2-103.

(b) The county clerk shall process the petition in accordance with Section 10-2-105 and may issue a certification or rejection of the petition as provided in Section 10-2-105.

(c) Notwithstanding any other provision of Chapter 2, Incorporation, Classification, Boundaries, Consolidation, and Dissolution of Municipalities, any further processing, including a feasibility study, public hearing, or an incorporation election, is suspended until November 15, 2015.

Section 2. Section 17-15-30 is enacted to read:

17-15-30. Unincorporated county and services study.

No later than December 1, 2014, a county of the first class shall study the governance of, delivery of services to, and other issues related to the unincorporated county.

Section 3. Section 17-34-1 is amended to read:

17-34-1. Counties may provide municipal services -- Limitation -- First-class counties to provide certain services -- Counties allowed to provide certain services in recreational areas.

(1) For purposes of this chapter, except as otherwise provided in Subsection (3):

(a) "Greater than class C radioactive waste" has the same meaning as in Section 19-3-303.

(b) "High-level nuclear waste" has the same meaning as in Section 19-3-303.

(c) "Municipal-type services" means:

(i) fire protection service;

(ii) waste and garbage collection and disposal;

(iii) planning and zoning;

(iv) street lighting;

(v) animal services;

(vi) storm drains;

(vii) traffic engineering;

(viii) code enforcement;

(ix) business licensing;

(x) building permits and inspections;

[~~(v)~~] (xi) in a county of the first class:

(A) advanced life support and paramedic services; and

(B) detective investigative services; and

[~~(v)~~] (xii) all other services and functions that are required by law to be budgeted, appropriated, and accounted for from a municipal services fund or a municipal capital projects fund as defined under Chapter 36, Uniform Fiscal Procedures Act for Counties.

(d) "Placement" has the same meaning as in Section 19-3-303.

(e) "Storage facility" has the same meaning as in Section 19-3-303.

(f) "Transfer facility" has the same meaning as in Section 19-3-303.

(2) A county may:

(a) provide municipal-type services to areas of the county outside the limits of cities and towns without providing the same services to cities or towns; and

(b) fund those services by:

(i) levying a tax on taxable property in the county outside the limits of cities and towns; [~~or~~]

(ii) charging a service charge or fee to persons benefitting from the municipal-type services[.]; or

(iii) providing funds to a municipal services district in accordance with Section 17B-2a-1109.

(3) A county may not:

(a) provide, contract to provide, or agree in any manner to provide municipal-type services, as these services are defined in Section 19-3-303, to any area under consideration for a storage facility or transfer facility for the placement of high-level nuclear waste, or greater than class C radioactive waste; or

(b) seek to fund services for these facilities by:

- (i) levying a tax; or
 - (ii) charging a service charge or fee to persons benefitting from the municipal-type services.
- (4) Each county of the first class shall provide to the area of the county outside the limits of cities and towns:
- (a) advanced life support and paramedic services; and
 - (b) detective investigative services.
- (5) (a) A county may provide fire, paramedic, and police protection services in any area of the county outside the limits of cities and towns that is designated as a recreational area in accordance with the provisions of this Subsection (5).
- (b) A county legislative body may designate any area of the county outside the limits of cities and towns as a recreational area if:

- (i) the area has fewer than 1,500 residents and is primarily used for recreational purposes, including canyons, ski resorts, wilderness areas, lakes and reservoirs, campgrounds, or picnic areas; and
- (ii) the county legislative body makes a finding that the recreational area is used by residents of the county who live both inside and outside the limits of cities and towns.

(c) Fire, paramedic, and police protection services needed to primarily serve those involved in the recreation activities in areas designated as recreational areas by the county legislative body in accordance with Subsection (5)(b) may be funded from the county general fund.

Section 4. Section 17B-1-213 is amended to read:

17B-1-213. Protest after adoption of resolution -- Adoption of resolution approving creation for certain districts.

- (1) For purposes of this section, "adequate protests" means protests that are:
- (a) filed with the county clerk, municipal clerk or recorder, or local district secretary or clerk, as the case may be, within 60 days after the last public hearing required under Section 17B-1-210; and
 - (b) signed by:
 - (i) the owners of private real property that:
 - (A) is located within the proposed local district;
 - (B) covers at least 25% of the total private land area within the applicable area; and
 - (C) is equal in value to at least 15% of the value of all private real property within the applicable area; or
 - (ii) registered voters residing within the applicable area equal in number to at least 25% of the number of votes cast in the applicable area for the office of president of the United States at the most recent election prior to the adoption of the resolution.

(2) An owner may withdraw a protest at any time before the expiration of the 60-day period described in Subsection (1)(a).

(3) If adequate protests are filed, the governing body that adopted a resolution under Subsection 17B-1-203(1)(d) or (e):

(a) may not:

(i) hold or participate in an election under Subsection 17B-1-214(1) with respect to the applicable area;

(ii) take any further action under the protested resolution to create a local district or include the applicable area in a local district; or

(iii) for a period of two years, adopt a resolution under Subsection 17B-1-203(1)(d) or (e) proposing the creation of a local district including substantially the same area as the applicable area and providing the same service as the proposed local district in the protested resolution; and

(b) shall, within five days after receiving adequate protests, mail or deliver written notification of the adequate protests to the responsible body.

(4) Subsection (3)(a) may not be construed to prevent an election from being held for a proposed local district whose boundaries do not include an applicable area that is the subject of adequate protests.

(5) (a) If adequate protests are not filed with respect to a resolution proposing the creation of a local district for which an election is not required under Subsection 17B-1-214(3)(d), (e), ~~(f)~~ (f), or (g), a resolution approving the creation of the local district may be adopted by:

(i) (A) the legislative body of a county whose unincorporated area is included within the proposed local district; and

(B) the legislative body of a municipality whose area is included within the proposed local district; or

(ii) the board of trustees of the initiating local district.

(b) Each resolution adopted under Subsection (5)(a) shall:

(i) describe the area included in the local district;

(ii) be accompanied by a map that shows the boundaries of the local district;

(iii) describe the service to be provided by the local district;

(iv) state the name of the local district; and

(v) provide a process for the appointment of the members of the initial board of trustees.

Section 5. Section 17B-1-214 is amended to read:

17B-1-214. Election -- Exceptions.

(1) (a) Except as provided in Subsection (3) and in Subsection 17B-1-213(3)(a), an election on the

question of whether the local district should be created shall be held by:

(i) if the proposed local district is located entirely within a single county, the responsible clerk; or

(ii) except as provided under Subsection (1)(b), if the proposed local district is located within more than one county, the clerk of each county in which part of the proposed local district is located, in cooperation with the responsible clerk.

(b) Notwithstanding Subsection (1)(a)(ii), if the proposed local district is located within more than one county and the only area of a county that is included within the proposed local district is located within a single municipality, the election for that area shall be held by the municipal clerk or recorder, in cooperation with the responsible clerk.

(2) Each election under Subsection (1) shall be held at the next special or regular general election date that is:

(a) for an election pursuant to a property owner or registered voter petition, more than 45 days after certification of the petition under Subsection 17B-1-209(3)(a); or

(b) for an election pursuant to a resolution, more than 60 days after the latest hearing required under Section 17B-1-210.

(3) The election requirement of Subsection (1) does not apply to:

(a) a petition filed under Subsection 17B-1-203(1)(a) if it contains the signatures of the owners of private real property that:

(i) is located within the proposed local district;

(ii) covers at least 67% of the total private land area within the proposed local district as a whole and within each applicable area; and

(iii) is equal in value to at least 50% of the value of all private real property within the proposed local district as a whole and within each applicable area;

(b) a petition filed under Subsection 17B-1-203(1)(b) if it contains the signatures of registered voters residing within the proposed local district as a whole and within each applicable area, equal in number to at least 67% of the number of votes cast in the proposed local district as a whole and in each applicable area, respectively, for the office of governor at the last general election prior to the filing of the petition;

(c) a groundwater right owner petition filed under Subsection 17B-1-203(1)(c) if the petition contains the signatures of the owners of groundwater rights that:

(i) are diverted within the proposed local district; and

(ii) cover at least 67% of the total amount of groundwater diverted in accordance with groundwater rights within the proposed local district as a whole and within each applicable area;

(d) a resolution adopted under Subsection 17B-1-203(1)(d) on or after May 5, 2003, that proposes the creation of a local district to provide fire protection, paramedic, and emergency services or law enforcement service, if the proposed local district includes the unincorporated area, whether in whole or in part, of one or more counties;

(e) a resolution adopted under Subsection 17B-1-203(1)(d) or (e) if the resolution proposes the creation of a local district that has no registered voters within its boundaries; ~~or~~

(f) a resolution adopted under Subsection 17B-1-203(1)(d) on or after May 11, 2010, that proposes the creation of a local district described in Subsection 17B-1-202(1)(a)(xiii)[-]; or

(g) a resolution adopted under Section 17B-2a-1105 to create a municipal services district.

(4) (a) If the proposed local district is located in more than one county, the responsible clerk shall coordinate with the clerk of each other county and the clerk or recorder of each municipality involved in an election under Subsection (1) so that the election is held on the same date and in a consistent manner in each jurisdiction.

(b) The clerk of each county and the clerk or recorder of each municipality involved in an election under Subsection (1) shall cooperate with the responsible clerk in holding the election.

(c) Except as otherwise provided in this part, each election under Subsection (1) shall be governed by Title 20A, Election Code.

Section 6. Section 17B-1-215 is amended to read:

17B-1-215. Notice and plat to lieutenant governor -- Recording requirements -- Certificate of incorporation -- Local district incorporated as specialized local district or basic local district -- Effective date.

(1) (a) Within the time specified in Subsection (1)(b), the responsible body shall file with the lieutenant governor:

(i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5.

(b) The responsible body shall file the documents listed in Subsection (1)(a) with the lieutenant governor within 10 days after:

(i) the canvass of an election under Section 17B-1-214, if a majority of those voting at the election within the proposed local district as a whole vote in favor of the creation of a local district;

(ii) certification of a petition as to which the election requirement of Subsection 17B-1-214(1) does not apply because of Subsection 17B-1-214(3)(a), (b), or (c); or

(iii) adoption of a resolution, under Subsection 17B-1-213(5) approving the creation of a local district for which an election was not required under Subsection 17B-1-214(3)(d), (e), ~~(f)~~ (f), or (g) by the legislative body of each county whose unincorporated area is included within and the legislative body of each municipality whose area is included within the proposed local district, or by the board of trustees of the initiating local district.

(2) Upon the lieutenant governor's issuance of a certificate of incorporation under Section 67-1a-6.5, the responsible body shall:

(a) if the local district is located within the boundary of a single county, submit to the recorder of that county:

- (i) the original:
- (A) notice of an impending boundary action;
- (B) certificate of incorporation; and
- (C) approved final local entity plat; and

(ii) if applicable, a certified copy of each resolution adopted under Subsection 17B-1-213(5); or

(b) if the local district is located within the boundaries of more than a single county:

(i) submit to the recorder of one of those counties:

(A) the original of the documents listed in Subsections (2)(a)(i)(A), (B), and (C); and

(B) if applicable, a certified copy of each resolution adopted under Subsection 17B-1-213(5); and

(ii) submit to the recorder of each other county:

(A) a certified copy of the documents listed in Subsection (2)(a)(i)(A), (B), and (C); and

(B) if applicable, a certified copy of each resolution adopted under Subsection 17B-1-213(5).

(3) The area of each local district consists of:

(a) if an election was held under Section 17B-1-214, the area of the new local district as approved at the election;

(b) if an election was not required because of Subsection 17B-1-214(3)(a), (b), or (c), the area of the proposed local district as described in the petition; or

(c) if an election was not required because of Subsection 17B-1-214(3)(d), (e), ~~(f)~~ (f), or (g), the area of the new local district as described in the resolution adopted under Subsection 17B-1-213(5).

(4) (a) Upon the lieutenant governor's issuance of the certificate of incorporation under Section 67-1a-6.5, the local district is created and incorporated as:

(i) the type of specialized local district that was specified in the petition under Subsection 17B-1-203(1)(a), (b), or (c) or resolution under

Subsection 17B-1-203(1)(d) or (e), if the petition or resolution proposed the creation of a specialized local district; or

(ii) a basic local district, if the petition or resolution did not propose the creation of a specialized local district.

(b) (i) The effective date of a local district's incorporation for purposes of assessing property within the local district is governed by Section 59-2-305.5.

(ii) Until the documents listed in Subsection (2) are recorded in the office of the recorder of each county in which the property is located, a newly incorporated local district may not:

(A) levy or collect a property tax on property within the local district;

(B) levy or collect an assessment on property within the local district; or

(C) charge or collect a fee for service provided to property within the local district.

Section 7. Section 17B-1-502 is amended to read:

17B-1-502. Withdrawal of area from local district -- Automatic withdrawal in certain circumstances.

(1) (a) An area within the boundaries of a local district may be withdrawn from the local district only as provided in this part.

(b) Except as provided in Subsections (2) and (3), the inclusion of an area of a local district within a municipality because of a municipal incorporation under Title 10, Chapter 2, Part 1, Incorporation, or a municipal annexation or boundary adjustment under Title 10, Chapter 2, Part 4, Annexation, does not affect the requirements under this part for the process of withdrawing that area from the local district.

(2) (a) An area within the boundaries of a local district is automatically withdrawn from the local district by the annexation of the area to a municipality or the adding of the area to a municipality by boundary adjustment under Title 10, Chapter 2, Part 4, Annexation, if:

(i) the local district provides:

(A) fire protection, paramedic, and emergency services; or

(B) law enforcement service;

(ii) an election for the creation of the local district was not required because of Subsection 17B-1-214(3)(d); and

(iii) before annexation or boundary adjustment, the boundaries of the local district do not include any of the annexing municipality.

(b) The effective date of a withdrawal under this Subsection (2) is governed by Subsection 17B-1-512(2)(b).

(3) (a) ~~Except as provided in Subsection (3)(c), an area within the boundaries of a local~~

district located in a county of the first class is automatically withdrawn from the local district by the incorporation of a municipality whose boundaries include the area if:

(i) the local district provides:

(A) fire protection, paramedic, and emergency services; ~~or~~

(B) law enforcement service; or

(C) municipal services, as defined in Section 17B-2a-1102;

(ii) an election for the creation of the local district was not required because of Subsection 17B-1-214(3)(d); and

(iii) the legislative body of the newly incorporated municipality:

(A) adopts a resolution no later than 180 days after the effective date of incorporation approving the withdrawal that includes the legal description of the area to be withdrawn; and

(B) delivers a copy of the resolution to the board of trustees of the local district.

(b) The effective date of a withdrawal under this Subsection (3) is governed by Subsection 17B-1-512(2)(a).

(c) Section 17B-1-505 shall govern the withdrawal of an incorporated area within a county of the first class if:

(i) the local district from which the area is withdrawn provides:

(A) fire protection, paramedic, and emergency services; or

(B) law enforcement service; and

(ii) an election for the creation of the local district was not required under Subsection 17B-1-214(3)(d).

Section 8. Section 17B-2a-1101 is enacted to read:

Part 11. Municipal Services District Act

17B-2a-1101. Title.

This part is known as the "Municipal Services District Act."

Section 9. Section 17B-2a-1102 is enacted to read:

17B-2a-1102. Definitions.

As used in this part, "municipal services" means:

(1) one or more of the services identified in Section 17-34-1 or 17-36-3; and

(2) any other municipal-type service provided in the district that is in the interest of the district.

Section 10. Section 17B-2a-1103 is enacted to read:

17B-2a-1103. Limited to counties of the first class -- Provisions applicable to municipal services districts.

(1) (a) A municipal services district may be created only in unincorporated areas in a county of the first class.

(b) Notwithstanding Subsection (1)(a) and subject to Subsection (1)(c), after the initial creation of a municipal services district, an area may be annexed into the municipal services district in accordance with Chapter 1, Part 4, Annexation, whether that area is unincorporated or incorporated.

(c) An area annexed under Subsection (1)(b) may not be located outside of the originating county of the first class.

(2) Each municipal services district is governed by the powers stated in:

(a) this part; and

(b) Chapter 1, Provisions Applicable to All Local Districts.

(3) This part applies only to a municipal services district.

(4) A municipal services district is not subject to the provisions of any other part of this chapter.

(5) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Local Districts, and a provision in this part, the provisions in this part govern.

Section 11. Section 17B-2a-1104 is enacted to read:

17B-2a-1104. Additional municipal services district powers.

In addition to the powers conferred on a municipal services district under Section 17B-1-103, a municipal services district may:

(1) notwithstanding Subsection 17B-1-202(3), provide one or multiple municipal services; and

(2) issue bonds as provided in and subject to Chapter 1, Part 11, Local District Bonds, to carry out the purposes of the district.

Section 12. Section 17B-2a-1105 is enacted to read:

17B-2a-1105. Creation of municipal services district.

(1) Notwithstanding any other provision of law, the process to create a municipal services district is initiated by a resolution proposing the creation of the municipal services district, adopted by the legislative body of the county whose unincorporated area includes any of the proposed municipal services district.

(2) The resolution described in Subsection (1) shall comply, as applicable, with the provisions of Subsection 17B-1-203(2)(a).

(3) The legislative body shall comply with the requirements of Sections 17B-1-210 through 17B-1-212.

Section 13. Section 17B-2a-1106 is enacted to read:

17B-2a-1106. Municipal services district board of trustees -- Governance.

(1) Except as provided in Subsection (2), and notwithstanding any other provision of law regarding the membership of a local district board of trustees, the initial board of trustees of a municipal services district shall consist of the county legislative body.

(2) (a) Notwithstanding any provision of law regarding the membership of a local district board of trustees or the governance of a local district, if a municipal services district is created in a county of the first class with the county executive-council form of government, the initial governance of the municipal services district is as follows:

(i) subject to Subsection (2)(b), the county council is the municipal services district board of trustees; and

(ii) subject to Subsection (2)(c), the county executive is the executive of the municipal services district.

(b) Notwithstanding any other provision of law, the board of trustees of a municipal services district described in Subsection (2)(a) shall:

(i) act as the legislative body of the district; and

(ii) exercise legislative branch powers and responsibilities established for county legislative bodies in:

(A) Title 17, Counties; and

(B) an optional plan, as defined in Section 17-52-101, adopted for a county executive-council form of county government as described in Section 17-52-504.

(c) Notwithstanding any other provision of law, in a municipal services district described in Subsection (2)(a), the executive of the district shall:

(i) act as the executive of the district; and

(ii) exercise executive branch powers and responsibilities established for a county executive in:

(A) Title 17, Counties; and

(B) an optional plan, as defined in Section 17-52-101, adopted for a county executive-council form of county government as described in Section 17-52-504.

(3) If, after the initial creation of a municipal services district, an area within the district is incorporated as a municipality and the area is not withdrawn from the district in accordance with Section 17B-1-502, or an area within a municipality is annexed into the municipal services district in accordance with Section 17B-2a-1103:

(a) the district's board of trustees shall include a member of that municipality's governing body; and

(b) the member described in Subsection (3)(a) shall be:

(i) designated by the municipality; and

(ii) a member with powers and duties of other board of trustees members as described in Subsection (2)(b).

(4) The board may adopt a resolution providing for future board members to be appointed, as provided in Section 17B-1-304, or elected, as provided in Section 17B-1-306.

(5) (a) Notwithstanding Subsections 17B-1-309(1) or 17B-1-310(1), the board of trustees may adopt a resolution to determine the internal governance of the board.

(b) A resolution adopted under Subsection (5)(a) may not alter or impair the board of trustees' duties, powers, or responsibilities described in Subsection (2)(b) or the executive's duties, powers, or responsibilities described in Subsection (2)(c).

Section 14. Section 17B-2a-1107 is enacted to read:

17B-2a-1107. Exclusion of rural real property.

(1) As used in this section, "rural real property" means an area:

(a) zoned primarily for manufacturing, commercial, or agricultural purposes; and

(b) that does not include residential units with a density greater than one unit per acre.

(2) Unless an owner gives written consent, rural real property may not be included in a municipal services district if the rural real property:

(a) consists of 1,500 or more contiguous acres of rural real property consisting of one or more tax parcels;

(b) is not contiguous to but is used in connection with rural real property that consists of 1,500 acres or more contiguous acres of real property consisting of one or more tax parcels;

(c) is owned, managed, or controlled by a person, company, or association, including a parent, subsidiary, or affiliate related to the owner of 1,500 or more contiguous acres of rural real property consisting of one or more tax parcels; or

(d) is located in whole or in part in one of the following as defined in Section 17-41-101:

(i) an agricultural protection area;

(ii) a mining protection area; or

(iii) an industrial protection area.

Section 15. Section 17B-2a-1108 is enacted to read:

17B-2a-1108. Municipality required to remit local option sales and use tax.

(1) If, after incorporation, a municipal legislative body of a municipality located in whole or in part

within a municipal services district does not adopt and deliver a resolution to withdraw in accordance with Subsection 17B-1-502(3)(a)(iii), the municipality shall remit to the municipal services district an amount equal to the amount the municipality receives under Title 59, Chapter 12, Part 2, Local Sales and Use Tax Act.

(2) For purposes of Subsection (1), the amount a municipality is required to remit to a municipal services district is an amount:

(a) determined after subtracting amounts required under Title 59, Chapter 12, Part 2, Local Sales and Use Tax Act, to be deducted from the amount a municipality would otherwise receive under Title 59, Chapter 12, Part 2, Local Sales and Use Tax Act; and

(b) representative of only those taxes collected in the area of the municipality that is also located within the municipal services district.

Section 16. Section 17B-2a-1109 is enacted to read:

17B-2a-1109. Counties and municipalities authorized to provide funds to a municipal services district.

A county, or, subject to Section 17B-2a-1108, a municipality involved in the establishment and operation of a municipal services district may fund the operation and maintenance of the district through the sharing of sales tax revenue for district purposes.

Section 17. Section 63I-2-210 is amended to read:

63I-2-210. Repeal dates -- Title 10.

(1) Section 10-2-130 is repealed July 1, 2016.

(2) Subsection 10-9a-305(2) is repealed July 1, 2013.

Section 18. Section 63I-2-217 is amended to read:

63I-2-217. Repeal dates -- Title 17.

(1) Subsection 17-8-7(2), the language that states "Sections 17-19-1 to 17-19-28 and " , as applicable," is repealed January 1, 2015.

(2) Section 17-15-30 is repealed July 1, 2015.

~~(2)~~ (3) Title 17, Chapter 19, County Auditor, is repealed January 1, 2015.

~~(3)~~ (4) Subsection 17-24-1(4)(b), the language that states " , as applicable, Sections 17-19-1, 17-19-3, and 17-19-5 or" is repealed January 1, 2015.

(4) (5) Subsection 17-24-4(2), the language that states " , as applicable, Subsection 17-19-3(3)(b) or" is repealed January 1, 2015.

~~(5)~~ (6) Subsection 17-27a-305(2) is repealed July 1, 2013.

~~(6)~~ (7) (a) Subsection 17-36-3(5)(a), the language that states "for a county of the second, third, fourth, fifth, or sixth class, the county

auditor, county clerk, or county executive as provided in Subsection 17-19-19(1); or" is repealed January 1, 2015.

(b) Subsection 17-36-3(5)(b), the language that states "for a county of the first class," is repealed January 1, 2015.

(c) Subsection 17-36-3(7), the language that states "17-19-3," and " , or 17-24-1.1, as applicable" is repealed January 1, 2015.

~~(7)~~ (8) Subsection 17-36-9(1)(a)(iii), the language that states "17-36-10.1, as applicable, or" is repealed January 1, 2015.

~~(8)~~ (9) Subsection 17-36-10(1), the language that states the following is repealed January 1, 2015:

"(1)(a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or sixth class is not subject to the provisions of this section; and

(b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class is subject to the provisions of this section."

~~(9)~~ (10) Section 17-36-10.1 is repealed January 1, 2015.

~~(10)~~ (11) Subsection 17-36-11(1), the language that states the following is repealed January 1, 2015:

"(1)(a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or sixth class is not subject to the provisions of this section; and

(b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class is subject to the provisions of this section."

~~(11)~~ (12) Section 17-36-11.1 is repealed January 1, 2015.

~~(12)~~ (13) Subsection 17-36-15(1), the language that states the following is repealed January 1, 2015:

"(1)(a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or sixth class is not subject to the provisions of this section; and

(b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class is subject to the provisions of this section."

~~(13)~~ (14) Section 17-36-15.1 is repealed January 1, 2015.

~~(14)~~ (15) Subsection 17-36-20(1), the language that states the following is repealed January 1, 2015:

"(1)(a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or sixth class is not subject to the provisions of this section; and

(b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class is subject to the provisions of this section."

~~(15)~~ (16) Section 17-36-20.1 is repealed January 1, 2015.

~~(16)~~ (17) Subsection 17-36-32(4), the language that states "or 17-36-20.1, as applicable, and" is repealed January 1, 2015.

[47] (18) Subsection 17-36-43(1), the language that states the following is repealed January 1, 2015:

“(1)(a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or sixth class is not subject to the provisions of this section; and

(b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class is subject to the provisions of this section.”.

[48] (19) Section 17-36-43.1 is repealed January 1, 2015.

[49] (20) Section 17-36-44, the language that states “or 17-36-43.1, as applicable” is repealed January 1, 2015.

[20] (21) Subsection 17-50-401(1), the language that states the following is repealed January 1, 2015:

“(1)(a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or sixth class is not subject to the provisions of this section; and

(b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class is subject to the provisions of this section.”.

[21] (22) Section 17-50-401.1 is repealed January 1, 2015.

[22] (23) Subsection 17-52-101(2), the language that states “or 17-52-401.1, as applicable” is repealed January 1, 2015.

[23] (24) Subsection 17-52-401(1), the language that states the following is repealed January 1, 2015:

“(1)(a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or sixth class is not subject to the provisions of this section; and

(b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class is subject to the provisions of this section.”.

[24] (25) Section 17-52-401.1 is repealed January 1, 2015.

[25] (26) Subsection 17-52-403(1)(a), the language that states “or 17-52-401.1(2)(c), as applicable” is repealed January 1, 2015.

[26] (27) On January 1, 2015, when making the changes in this section, the Office of Legislative Research and General Counsel shall:

(a) in addition to its authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office’s perception of the Legislature’s intent; and

(b) identify the text of the affected sections and subsections based upon the section and subsection numbers used in Laws of Utah 2012, Chapter 17.

CHAPTER 406**S. B. 218**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

CHARTER SCHOOL AMENDMENTS

Chief Sponsor: Howard A. Stephenson

House Sponsor: Daniel McCay

LONG TITLE**General Description:**

This bill modifies provisions related to charter schools.

Highlighted Provisions:

This bill:

- ▶ requires the State Board of Education, in approving an increase in charter school enrollment capacity, to give, subject to a certain exception:
 - high priority to approving a charter school located in a high growth area; and
 - low priority to approving a charter school located in an area where student enrollment is stable or declining; and
- ▶ requires a charter school that is approved with high priority status after May 13, 2014, and is located in a high growth area to give an enrollment preference to students who reside within a two-mile radius of the charter school.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-1a-502.5, as last amended by Laws of Utah 2013, Chapter 376

53A-1a-506, as last amended by Laws of Utah 2013, Chapter 278

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53A-1a-502.5 is amended to read:**53A-1a-502.5. Approval of increase in charter school enrollment capacity.**

(1) For the purposes of this section[, "next]:

(a) "High growth area" means an area of the state where school enrollment is significantly increasing or projected to significantly increase.

(b) "Next school year" means the school year that begins on or after the July 1 immediately following the end of a general session of the Legislature.

(2) The State Board of Education may approve an increase in charter school enrollment capacity in the 2012-13 school year or thereafter subject to the Legislature:

(a) appropriating funds for an increase in charter school enrollment capacity in the next school year; or

(b) authorizing an increase in charter school enrollment capacity in the school year immediately following the next school year.

(3) In appropriating funds for, or authorizing, an increase in charter school enrollment capacity, the Legislature shall provide a separate appropriation or authorization of enrollment capacity for a charter school proposed and approved in response to a request for applications issued under Section 53A-1a-501.9.

(4) (a) A charter school may annually submit a request to the State Board of Education for an increase in enrollment capacity in the amount of .25 times the number of students in grades 9 through 12 enrolled in an online course in the previous school year through the Statewide Online Education Program.

(b) A charter school shall submit a request for an increase in enrollment capacity pursuant to Subsection (4)(a) on or before October 1 of the school year for which the increase in enrollment capacity is requested.

(c) The State Board of Education shall approve a request for an increase in enrollment capacity made under Subsection (4)(a) subject to the availability of sufficient funds appropriated under Section 53A-1a-513 to provide the full amount of the per student allocation for each charter school student in the state to supplement school district property tax revenues.

(d) An increase in enrollment capacity approved under Subsection (4)(c) shall be a permanent increase in the charter school's enrollment capacity.

(5) (a) If the Legislature does not appropriate funds for an increase in charter school enrollment capacity that is tentatively approved by the State Board of Education, the State Board of Education shall prioritize the tentatively approved schools and expansions based on approved funds.

(b) A charter school or expansion that is tentatively approved, but not funded, shall be considered to be tentatively approved for the next application year and receive priority status for available funding.

(6) (a) Except as provided in Subsection (5)(b) or (6)(b), in approving an increase in charter school enrollment capacity for new charter schools and expanding charter schools, the State Board of Education shall give:

(i) high priority to approving a new charter school or a charter school expansion in a high growth area; and

(ii) low priority to approving a new charter school or a charter school expansion in an area where student enrollment is stable or declining.

(b) An applicant seeking to establish a charter school in a high growth area may elect to not receive high priority status as provided in Subsection (6)(a)(i).

Section 2. Section 53A-1a-506 is amended to read:

53A-1a-506. Eligible students.

(1) As used in this section:

(a) "District school" means a public school under the control of a local school board elected pursuant to Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.

(b) "Refugee" means a person who is eligible to receive benefits and services from the federal Office of Refugee Resettlement.

(2) All resident students of the state qualify for admission to a charter school, subject to the limitations set forth in this section and Section 53A-1a-506.5.

(3) (a) A charter school shall enroll an eligible student who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or the charter school.

(b) If the number of applications exceeds the capacity of a program, class, grade level, or the charter school, students shall be selected on a random basis, except as provided in Subsections (4) through ~~(6)~~ (7).

(4) A charter school may give an enrollment preference to:

(a) a student of a parent who has actively participated in the development of the charter school;

(b) siblings of students presently enrolled in the charter school;

(c) a student of a parent who is employed by the charter school;

(d) students articulating between charter schools offering similar programs that are governed by the same governing body;

(e) students articulating from one charter school to another pursuant to an articulation agreement between the charter schools that is approved by the State Charter School Board; or

(f) students who reside within:

(i) the school district in which the charter school is located;

(ii) the municipality in which the charter school is located; or

(iii) a two-mile radius ~~from~~ of the charter school.

(5) (a) Except as provided in Subsection (5)(b), a charter school that is approved by the State Board of Education after May 13, 2014, and is located in a high growth area shall give an enrollment preference to students who reside within a two-mile radius of the charter school.

(b) The requirement to give an enrollment preference under Subsection (5)(a) does not apply to a charter school that was approved without a high priority status pursuant to Subsection 53A-1a-502.5(6)(b).

~~(4)~~ (6) If a district school converts to charter status, the charter school shall give an enrollment

preference to students who would have otherwise attended it as a district school.

~~(6)~~ (7) (a) A charter school whose mission is to enhance learning opportunities for refugees or children of refugee families may give an enrollment preference to refugees or children of refugee families.

(b) A charter school whose mission is to enhance learning opportunities for English language learners may give an enrollment preference to English language learners.

~~(7)~~ (8) A charter school may not discriminate in its admission policies or practices on the same basis as other public schools may not discriminate in their admission policies and practices.

CHAPTER 407**S. B. 224**

Passed March 13, 2014

Approved April 1, 2014

Effective January 1, 2015

**RENEWABLE ENERGY TAX
CREDIT AMENDMENTS**

Chief Sponsor: Ralph Okerlund

House Sponsor: Michael E. Noel

LONG TITLE**General Description:**

This bill modifies certain tax credits related to renewable energy.

Highlighted Provisions:

This bill:

- ▶ modifies certain tax credits related to renewable energy;
- ▶ enacts a tax credit related to renewable energy; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect for a taxable year beginning on or after January 1, 2015.

Utah Code Sections Affected:**AMENDS:**

59-7-614, as last amended by Laws of Utah 2012, Chapter 37

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-7-614 is amended to read:**59-7-614. Renewable energy systems tax credit -- Definitions -- Limitations -- Certification -- Rulemaking authority.**

(1) As used in this section:

(a) "Active solar system":

(i) means a system of equipment capable of collecting and converting incident solar radiation into thermal, mechanical, or electrical energy, and transferring these forms of energy by a separate apparatus to storage or to the point of use; and

(ii) includes water heating, space heating or cooling, and electrical or mechanical energy generation.

(b) "Biomass system" means any system of apparatus and equipment for use in converting material into biomass energy, as defined in Section 59-12-102, and transporting that energy by separate apparatus to the point of use or storage.

(c) "Business entity" means any sole proprietorship, estate, trust, partnership, association, corporation, cooperative, or other entity under which business is conducted or transacted.

(d) "Commercial energy system" means any active solar, passive solar, geothermal electricity, direct-use geothermal, geothermal heat-pump system, wind, hydroenergy, or biomass system used to supply energy to a commercial unit or as a commercial enterprise.

(e) "Commercial enterprise" means a business entity whose purpose is to produce electrical, mechanical, or thermal energy for sale from a commercial energy system.

(f) (i) "Commercial unit" means any building or structure that a business entity uses to transact its business.

(ii) Notwithstanding Subsection (1)(f)(i):

(A) in the case of an active solar system used for agricultural water pumping or a wind system, each individual energy generating device shall be a commercial unit; and

(B) if an energy system is the building or structure that a business entity uses to transact its business, a commercial unit is the complete energy system itself.

(g) "Direct-use geothermal system" means a system of apparatus and equipment enabling the direct use of thermal energy, generally between 100 and 300 degrees Fahrenheit, that is contained in the earth to meet energy needs, including heating a building, an industrial process, and aquaculture.

(h) "Geothermal electricity" means energy contained in heat that continuously flows outward from the earth that is used as a sole source of energy to produce electricity.

(i) "Geothermal heat-pump system" means a system of apparatus and equipment enabling the use of thermal properties contained in the earth at temperatures well below 100 degrees Fahrenheit to help meet heating and cooling needs of a structure.

(j) "Hydroenergy system" means a system of apparatus and equipment capable of intercepting and converting kinetic water energy into electrical or mechanical energy and transferring this form of energy by separate apparatus to the point of use or storage.

(k) "Individual taxpayer" means any person who is a taxpayer as defined in Section 59-10-103 and an individual as defined in Section 59-10-103.

(l) "Office" means the Office of Energy Development created in Section 63M-4-401.

(m) "Passive solar system":

(i) means a direct thermal system that utilizes the structure of a building and its operable components to provide for collection, storage, and distribution of heating or cooling during the appropriate times of the year by utilizing the climate resources available at the site; and

(ii) includes those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy.

(n) "Residential energy system" means any active solar, passive solar, biomass, direct-use geothermal, geothermal heat-pump system, wind, or hydroenergy system used to supply energy to or for any residential unit.

(o) "Residential unit" means any house, condominium, apartment, or similar dwelling unit that serves as a dwelling for a person, group of persons, or a family but does not include property subject to a fee under:

- (i) Section 59-2-404;
- (ii) Section 59-2-405;
- (iii) Section 59-2-405.1;
- (iv) Section 59-2-405.2; or
- (v) Section 59-2-405.3.

(p) "Wind system" means a system of apparatus and equipment capable of intercepting and converting wind energy into mechanical or electrical energy and transferring these forms of energy by a separate apparatus to the point of use, sale, or storage.

(2) (a) (i) ~~[For taxable years beginning on or after January 1, 2007, a]~~ A business entity that purchases and completes or participates in the financing of a residential energy system to supply all or part of the energy required for a residential unit owned or used by the business entity and ~~[situated in Utah is entitled to]~~ located in the state may claim a nonrefundable tax credit as provided in this Subsection (2)(a).

(ii) (A) ~~[A business entity is entitled to a]~~ The tax credit is equal to 25% of the reasonable costs of each residential energy system installed with respect to each residential unit ~~[if]~~ the business entity owns or uses, including installation costs, against any tax due under this chapter for the taxable year in which the energy system is completed and placed in service.

(B) The total amount of each tax credit under this Subsection (2)(a) may not exceed \$2,000 per residential unit.

(C) The tax credit under this Subsection (2)(a) is allowed for any residential energy system completed and placed in service on or after January 1, 2007.

(iii) If a business entity sells a residential unit to an individual taxpayer before making a claim for the tax credit under this Subsection (2)(a), the business entity may:

(A) assign its right to this tax credit to the individual taxpayer; and

(B) if the business entity assigns its right to the tax credit to an individual taxpayer under Subsection (2)(a)(iii)(A), the individual taxpayer may claim the tax credit as if the individual taxpayer had completed or participated in the costs of the residential energy system under Section 59-10-1014.

~~(b) (i) [For taxable years beginning on or after January 1, 2007, a]~~ A business entity that purchases or participates in the financing of a commercial energy system situated in Utah ~~[is entitled to]~~ may claim a refundable tax credit as provided in this Subsection (2)(b) if the commercial energy system does not use wind, geothermal electricity, solar, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity or if the commercial energy system does not use solar equipment capable of producing 2,000 or more kilowatts of electricity, and:

(A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the business entity; or

(B) the business entity sells all or part of the energy produced by the commercial energy system as a commercial enterprise.

(ii) (A) A business entity is entitled to a tax credit of up to 10% of the reasonable costs of any commercial energy system installed, including installation costs, against any tax due under this chapter for the taxable year in which the commercial energy system is completed and placed in service.

(B) Notwithstanding Subsection (2)(b)(ii)(A), the total amount of the tax credit under this Subsection (2)(b) may not exceed \$50,000 per commercial unit.

(C) The tax credit under this Subsection (2)(b) is allowed for any commercial energy system completed and placed in service on or after January 1, 2007.

(iii) A business entity that leases a commercial energy system installed on a commercial unit is eligible for the tax credit under this Subsection (2)(b) if the lessee can confirm that the lessor irrevocably elects not to claim the tax credit.

(iv) Only the principal recovery portion of the lease payments, which is the cost incurred by a business entity in acquiring a commercial energy system, excluding interest charges and maintenance expenses, is eligible for the tax credit under this Subsection (2)(b).

(v) A business entity that leases a commercial energy system is eligible to use the tax credit under this Subsection (2)(b) for a period no greater than seven years from the initiation of the lease.

(vi) A tax credit allowed by this Subsection (2)(b) may not be carried forward or carried back.

(c) (i) ~~[For taxable years beginning on or after January 1, 2007, a]~~ A business entity that owns a commercial energy system ~~[situated in Utah]~~ located in the state using wind, geothermal electricity, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity ~~[is entitled to]~~ may claim a refundable tax credit as provided in this Subsection (2)(c) if:

(A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the business entity; or

(B) the business entity sells all or part of the energy produced by the commercial energy system as a commercial enterprise.

(ii) (A) A business entity [is entitled to] may claim a tax credit under this section equal to the product of:

(I) 0.35 cents; and

(II) the kilowatt hours of electricity produced and either used or sold during the taxable year.

(B) (I) The tax credit calculated under Subsection (2)(c)(ii)(A) may be claimed for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(II) The tax credit allowed by this Subsection (2)(c) for each year may not be carried forward or carried back.

(C) The tax credit under this Subsection (2)(c) is allowed for any commercial energy system completed and placed in service on or after January 1, 2007.

(iii) A business entity that leases a commercial energy system installed on a commercial unit is eligible for the tax credit under this Subsection (2)(c) if the lessee can confirm that the lessor irrevocably elects not to claim the tax credit.

(d) (i) A tax credit under Subsection (2)(a) or (b) may be claimed for the taxable year in which the energy system is completed and placed in service.

(ii) Additional energy systems or parts of energy systems may be claimed for subsequent years.

(iii) If the amount of a tax credit under Subsection (2)(a) exceeds a business entity's tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the liability may be carried forward for a period [which] that does not exceed the next four taxable years.

(3) (a) A business entity that owns a commercial energy system located in the state that uses solar equipment capable of producing a total of 660 or more kilowatts of electricity may claim a refundable tax credit as provided in this Subsection (3) if:

(i) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the business entity; or

(B) the business entity sells all or part of the energy produced by the commercial energy system as a commercial enterprise; and

(ii) the business entity does not claim a tax credit under Subsection (2)(b).

(b) A business entity may claim a tax credit under this section equal to the product of:

(i) 0.35 cents; and

(ii) the kilowatt hours of electricity produced and either used or sold during the taxable year.

(c) The tax credit under this Subsection (3) may be claimed for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(d) The tax credit under this Subsection (3) may not be carried forward or carried back.

(e) The tax credit under this Subsection (3) is allowed for a commercial energy system completed and placed in service on or after January 1, 2015.

(f) A business entity that leases a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (3) if the business entity that is the lessee can confirm that the lessor irrevocably elects not to claim the tax credit.

~~[(3)]~~ (4) (a) Except as provided in Subsection ~~[(3)]~~ (4)(b), the tax credits provided for under Subsection (2) or (3) are in addition to any tax credits provided under the laws or rules and regulations of the United States.

(b) A purchaser of one or more solar units that claims a tax credit under Section 59-7-614.3 for the purchase of the one or more solar units may not claim a tax credit under this section for that purchase.

(c) (i) The office may set standards for residential and commercial energy systems claiming a tax credit under Subsections (2)(a) and (b) that cover the safety, reliability, efficiency, leasing, and technical feasibility of the systems to ensure that the systems eligible for the tax credit use the state's renewable and nonrenewable energy resources in an appropriate and economic manner.

(ii) The office may set standards for residential and commercial energy systems that establish the reasonable costs of an energy system, as used in Subsections (2)(a)(ii)(A) and (2)(b)(ii)(A), as an amount per unit of energy production.

(iii) A tax credit may not be taken under Subsection (2) or (3) until the office has certified that the energy system has been completely installed and is a viable system for saving or production of energy from renewable resources.

(d) The office and the commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that are necessary to implement this section.

~~[(4)]~~ (5) (a) On or before October 1, 2012, and every five years thereafter, the Revenue and Taxation Interim Committee shall review each tax credit provided by this section and report its recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed.

(b) The Revenue and Taxation Interim Committee's report under Subsection ~~[(4)]~~ (5)(a) shall include information concerning the cost of the tax credit, the purpose and effectiveness of the tax credit, and the state's benefit from the tax credit.

Section 2. Effective date.

This bill takes effect for a taxable year beginning on or after January 1, 2015.

CHAPTER 408**S. B. 226**

Passed March 10, 2014

Approved April 1, 2014

Effective May 13, 2014

**PROFESSIONAL
LICENSING AMENDMENTS**

Chief Sponsor: John L. Valentine

House Sponsor: Keven J. Stratton

LONG TITLE**General Description:**

This bill modifies unlawful conduct provisions under Title 58, Occupations and Professions.

Highlighted Provisions:

This bill:

- ▶ provides that it is unlawful conduct for a licensee who has had a license reinstated following disciplinary action, to practice an occupation or profession using a different name than the name used before the disciplinary action; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-1-501, as last amended by Laws of Utah 2013, Chapter 262

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-1-501 is amended to read:**58-1-501. Unlawful and unprofessional conduct.**

(1) "Unlawful conduct" means conduct, by any person, that is defined as unlawful under this title and includes:

(a) practicing or engaging in, representing oneself to be practicing or engaging in, or attempting to practice or engage in any occupation or profession requiring licensure under this title if the person is:

(i) not licensed to do so or not exempted from licensure under this title; or

(ii) restricted from doing so by a suspended, revoked, restricted, temporary, probationary, or inactive license;

(b) (i) impersonating another licensee or practicing an occupation or profession under a false or assumed name, except as permitted by law; or

(ii) for a licensee who has had a license under this title reinstated following disciplinary action, practicing the same occupation or profession using a different name than the name used before the disciplinary action, except as permitted by law and after notice to, and approval by, the division;

(c) knowingly employing any other person to practice or engage in or attempt to practice or engage in any occupation or profession licensed under this title if the employee is not licensed to do so under this title;

(d) knowingly permitting the person's authority to practice or engage in any occupation or profession licensed under this title to be used by another, except as permitted by law;

(e) obtaining a passing score on a licensure examination, applying for or obtaining a license, or otherwise dealing with the division or a licensing board through the use of fraud, forgery, or intentional deception, misrepresentation, misstatement, or omission; or

(f) (i) issuing, or aiding and abetting in the issuance of, an order or prescription for a drug or device to a person located in this state:

(A) without prescriptive authority conferred by a license issued under this title, or by an exemption to licensure under this title; or

(B) with prescriptive authority conferred by an exception issued under this title or a multistate practice privilege recognized under this title, if the prescription was issued without first obtaining information, in the usual course of professional practice, that is sufficient to establish a diagnosis, to identify underlying conditions, and to identify contraindications to the proposed treatment; and

(ii) Subsection (1)(f)(i) does not apply to treatment rendered in an emergency, on-call or cross coverage situation, provided that the person who issues the prescription has prescriptive authority conferred by a license under this title, or is exempt from licensure under this title.

(2) "Unprofessional conduct" means conduct, by a licensee or applicant, that is defined as unprofessional conduct under this title or under any rule adopted under this title and includes:

(a) violating, or aiding or abetting any other person to violate, any statute, rule, or order regulating an occupation or profession under this title;

(b) violating, or aiding or abetting any other person to violate, any generally accepted professional or ethical standard applicable to an occupation or profession regulated under this title;

(c) engaging in conduct that results in conviction, a plea of nolo contendere, or a plea of guilty or nolo contendere which is held in abeyance pending the successful completion of probation with respect to a crime of moral turpitude or any other crime that, when considered with the functions and duties of the occupation or profession for which the license was issued or is to be issued, bears a reasonable relationship to the licensee's or applicant's ability to safely or competently practice the occupation or profession;

(d) engaging in conduct that results in disciplinary action, including reprimand, censure, diversion, probation, suspension, or revocation, by any other licensing or regulatory authority having

jurisdiction over the licensee or applicant in the same occupation or profession if the conduct would, in this state, constitute grounds for denial of licensure or disciplinary proceedings under Section 58-1-401;

(e) engaging in conduct, including the use of intoxicants, drugs, narcotics, or similar chemicals, to the extent that the conduct does, or might reasonably be considered to, impair the ability of the licensee or applicant to safely engage in the occupation or profession;

(f) practicing or attempting to practice an occupation or profession regulated under this title despite being physically or mentally unfit to do so;

(g) practicing or attempting to practice an occupation or profession regulated under this title through gross incompetence, gross negligence, or a pattern of incompetency or negligence;

(h) practicing or attempting to practice an occupation or profession requiring licensure under this title by any form of action or communication which is false, misleading, deceptive, or fraudulent;

(i) practicing or attempting to practice an occupation or profession regulated under this title beyond the scope of the licensee's competency, abilities, or education;

(j) practicing or attempting to practice an occupation or profession regulated under this title beyond the scope of the licensee's license;

(k) verbally, physically, mentally, or sexually abusing or exploiting any person through conduct connected with the licensee's practice under this title or otherwise facilitated by the licensee's license;

(l) acting as a supervisor without meeting the qualification requirements for that position that are defined by statute or rule;

(m) issuing, or aiding and abetting in the issuance of, an order or prescription for a drug or device:

(i) without first obtaining information in the usual course of professional practice, that is sufficient to establish a diagnosis, to identify conditions, and to identify contraindications to the proposed treatment; or

(ii) with prescriptive authority conferred by an exception issued under this title, or a multi-state practice privilege recognized under this title, if the prescription was issued without first obtaining information, in the usual course of professional practice, that is sufficient to establish a diagnosis, to identify underlying conditions, and to identify contraindications to the proposed treatment;

(n) violating a provision of Section 58-1-501.5; or

(o) violating the terms of an order governing a license.

CHAPTER 409
S. B. 227

Passed March 13, 2014
Approved April 1, 2014
Effective May 13, 2014

**EXPOSURE OF CHILDREN
TO PORNOGRAPHY**

Chief Sponsor: Todd Weiler
House Sponsor: Curtis Oda

LONG TITLE

General Description:

This bill amends provisions related to factors a court shall consider in a child custody determination and in a termination of parental rights proceeding.

Highlighted Provisions:

This bill:

- ▶ provides that a district court shall consider, when determining child custody in a separation or divorce, whether the parent has intentionally exposed the child to pornography or material harmful to a child; and
- ▶ provides that a juvenile court shall consider, when determining whether to terminate a parent's rights, whether the parent has intentionally exposed the child to pornography or material harmful to a minor.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

30-3-10, as last amended by Laws of Utah 2013, Chapter 22
78A-6-508, as last amended by Laws of Utah 2009, Chapter 161

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 30-3-10 is amended to read:

30-3-10. Custody of children in case of separation or divorce -- Custody consideration.

(1) If a husband and wife having minor children are separated, or their marriage is declared void or dissolved, the court shall make an order for the future care and custody of the minor children as it considers appropriate.

(a) In determining any form of custody, including a change in custody, the court shall consider the best interests of the child without preference for either the mother or father solely because of the biological sex of the parent and, among other factors the court finds relevant, the following:

(i) the past conduct and demonstrated moral standards of each of the parties;

(ii) which parent is most likely to act in the best interest of the child, including allowing the child

frequent and continuing contact with the noncustodial parent;

(iii) the extent of bonding between the parent and child, meaning the depth, quality, and nature of the relationship between a parent and child; ~~and~~

(iv) whether the parent has intentionally exposed the child to pornography or material harmful to a minor, as defined in Section 76-10-1201; and

~~[(4)(v)]~~ (v) those factors outlined in Section 30-3-10.2.

(b) There shall be a rebuttable presumption that joint legal custody, as defined in Section 30-3-10.1, is in the best interest of the child, except in cases where there is:

(i) domestic violence in the home or in the presence of the child;

(ii) special physical or mental needs of a parent or child, making joint legal custody unreasonable;

(iii) physical distance between the residences of the parents, making joint decision making impractical in certain circumstances; or

(iv) any other factor the court considers relevant including those listed in this section and Section 30-3-10.2.

(c) The person who desires joint legal custody shall file a proposed parenting plan in accordance with Sections 30-3-10.8 and 30-3-10.9. A presumption for joint legal custody may be rebutted by a showing by a preponderance of the evidence that it is not in the best interest of the child.

(d) The children may not be required by either party to testify unless the trier of fact determines that extenuating circumstances exist that would necessitate the testimony of the children be heard and there is no other reasonable method to present their testimony.

(e) The court may inquire of the children and take into consideration the children's desires regarding future custody or parent-time schedules, but the expressed desires are not controlling and the court may determine the children's custody or parent-time otherwise. The desires of a child 14 years of age or older shall be given added weight, but is not the single controlling factor.

(f) If interviews with the children are conducted by the court pursuant to Subsection (1)(e), they shall be conducted by the judge in camera. The prior consent of the parties may be obtained but is not necessary if the court finds that an interview with the children is the only method to ascertain the child's desires regarding custody.

(2) In awarding custody, the court shall consider, among other factors the court finds relevant, which parent is most likely to act in the best interests of the child, including allowing the child frequent and continuing contact with the noncustodial parent as the court finds appropriate.

(3) If the court finds that one parent does not desire custody of the child, the court shall take that evidence into consideration in determining whether to award custody to the other parent.

(4) (a) Except as provided in Subsection (4)(b), a court may not discriminate against a parent due to a disability, as defined in Section 57-21-2, in awarding custody or determining whether a substantial change has occurred for the purpose of modifying an award of custody.

(b) If a court takes a parent's disability into account in awarding custody or determining whether a substantial change has occurred for the purpose of modifying an award of custody, the parent with a disability may rebut any evidence, presumption, or inference arising from the disability by showing that:

(i) the disability does not significantly or substantially inhibit the parent's ability to provide for the physical and emotional needs of the child at issue; or

(ii) the parent with a disability has sufficient human, monetary, or other resources available to supplement the parent's ability to provide for the physical and emotional needs of the child at issue.

(c) Nothing in this section may be construed to apply to adoption proceedings under Title 78B, Chapter 6, Part 1, Utah Adoption Act.

(5) This section establishes neither a preference nor a presumption for or against joint physical custody or sole physical custody, but allows the court and the family the widest discretion to choose a parenting plan that is in the best interest of the child.

Section 2. Section 78A-6-508 is amended to read:

78A-6-508. Evidence of grounds for termination.

(1) In determining whether a parent or parents have abandoned a child, it is prima facie evidence of abandonment that the parent or parents:

(a) although having legal custody of the child, have surrendered physical custody of the child, and for a period of six months following the surrender have not manifested to the child or to the person having the physical custody of the child a firm intention to resume physical custody or to make arrangements for the care of the child;

(b) have failed to communicate with the child by mail, telephone, or otherwise for six months;

(c) failed to have shown the normal interest of a natural parent, without just cause; or

(d) have abandoned an infant, as described in Subsection 78A-6-316(1).

(2) In determining whether a parent or parents are unfit or have neglected a child the court shall consider, but is not limited to, the following circumstances, conduct, or conditions:

(a) emotional illness, mental illness, or mental deficiency of the parent that renders the parent unable to care for the immediate and continuing

physical or emotional needs of the child for extended periods of time;

(b) conduct toward a child of a physically, emotionally, or sexually cruel or abusive nature;

(c) habitual or excessive use of intoxicating liquors, controlled substances, or dangerous drugs that render the parent unable to care for the child;

(d) repeated or continuous failure to provide the child with adequate food, clothing, shelter, education, or other care necessary for the child's physical, mental, and emotional health and development by a parent or parents who are capable of providing that care;

(e) whether the parent is incarcerated as a result of conviction of a felony, and the sentence is of such length that the child will be deprived of a normal home for more than one year; [ØÆ]

(f) a history of violent behavior[-]; or

(g) whether the parent has intentionally exposed the child to pornography or material harmful to a minor, as defined in Section 76-10-1201.

(3) A parent who, legitimately practicing the parent's religious beliefs, does not provide specified medical treatment for a child is not, for that reason alone, a negligent or unfit parent.

(4) (a) Notwithstanding Subsection (2), a parent may not be considered neglectful or unfit because of a health care decision made for a child by the child's parent unless the state or other party to the proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed.

(b) Nothing in Subsection (4)(a) may prohibit a parent from exercising the right to obtain a second health care opinion.

(5) If a child has been placed in the custody of the division and the parent or parents fail to comply substantially with the terms and conditions of a plan within six months after the date on which the child was placed or the plan was commenced, whichever occurs later, that failure to comply is evidence of failure of parental adjustment.

(6) The following circumstances constitute prima facie evidence of unfitness:

(a) sexual abuse, sexual exploitation, injury, or death of a sibling of the child, or of any child, due to known or substantiated abuse or neglect by the parent or parents;

(b) conviction of a crime, if the facts surrounding the crime are of such a nature as to indicate the unfitness of the parent to provide adequate care to the extent necessary for the child's physical, mental, or emotional health and development;

(c) a single incident of life-threatening or gravely disabling injury to or disfigurement of the child;

(d) the parent has committed, aided, abetted, attempted, conspired, or solicited to commit murder or manslaughter of a child or child abuse homicide; or

(e) the parent intentionally, knowingly, or recklessly causes the death of another parent of the child, without legal justification.

CHAPTER 410**S. B. 229**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

ADOPTION ACT AMENDMENTS

Chief Sponsor: Todd Weiler
House Sponsor: Brad R. Wilson

LONG TITLE**General Description:**

This bill amends provisions of Title 78B, Chapter 6, Part 1, Utah Adoption Act, relating to the rights and obligations of individuals in relation to the adoption of a child.

Highlighted Provisions:

This bill:

- ▶ provides that if a birth mother has not resided in the state for 90 total days or more:
 - the birth mother shall file with the court a declaration regarding each potential birth father; and
 - the court may, based on the declaration regarding the potential birth father, order the birth mother to serve a potential birth father notice that she intends to consent to adoption or relinquishment of the child for adoption.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78B-6-110, as last amended by Laws of Utah 2013, Chapter 458

ENACTS:

78B-6-110.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78B-6-110 is amended to read:**78B-6-110. Notice of adoption proceedings.**

(1) (a) An unmarried biological father, by virtue of the fact that he has engaged in a sexual relationship with a woman:

(i) is considered to be on notice that a pregnancy and an adoption proceeding regarding the child may occur; and

(ii) has a duty to protect his own rights and interests.

(b) An unmarried biological father is entitled to actual notice of a birth or an adoption proceeding with regard to his child only as provided in this section or Section 78B-6-110.5.

(2) Notice of an adoption proceeding shall be served on each of the following persons:

(a) any person or agency whose consent or relinquishment is required under Section

78B-6-120 or 78B-6-121, unless that right has been terminated by:

(i) waiver;

(ii) relinquishment;

(iii) actual consent, as described in Subsection (12); or

(iv) judicial action;

(b) any person who has initiated a paternity proceeding and filed notice of that action with the state registrar of vital statistics within the Department of Health, in accordance with Subsection (3);

(c) any legally appointed custodian or guardian of the adoptee;

(d) the petitioner's spouse, if any, only if the petitioner's spouse has not joined in the petition;

(e) the adoptee's spouse, if any;

(f) any person who, prior to the time the mother executes her consent for adoption or relinquishes the child for adoption, is recorded on the birth certificate as the child's father, with the knowledge and consent of the mother;

(g) a person who is:

(i) openly living in the same household with the child at the time the consent is executed or relinquishment made; and

(ii) holding himself out to be the child's father; and

(h) any person who is married to the child's mother at the time she executes her consent to the adoption or relinquishes the child for adoption, unless the court finds that the mother's spouse is not the child's father under Section 78B-15-607.

(3) (a) In order to preserve any right to notice, an unmarried biological father shall, consistent with Subsection (3)(d):

(i) initiate proceedings in a district court of Utah to establish paternity under Title 78B, Chapter 15, Utah Uniform Parentage Act; and

(ii) file a notice of commencement of the proceedings described in Subsection (3)(a)(i) with the office of vital statistics within the Department of Health.

(b) If the unmarried, biological father does not know the county in which the birth mother resides, he may initiate his action in any county, subject to a change in trial pursuant to Section 78B-3-307.

(c) The Department of Health shall provide forms for the purpose of filing the notice described in Subsection (3)(a)(ii), and make those forms available in the office of the county health department in each county.

(d) When the state registrar of vital statistics receives a completed form, the registrar shall:

(i) record the date and time the form was received; and

(ii) immediately enter the information provided by the unmarried biological father in the confidential registry established by Subsection 78B-6-121(3)(c).

(e) The action and notice described in Subsection (3)(a):

(i) may be filed before or after the child's birth; and

(ii) shall be filed prior to the mother's:

(A) execution of consent to adoption of the child; or

(B) relinquishment of the child for adoption.

(4) Notice provided in accordance with this section need not disclose the name of the mother of the child who is the subject of an adoption proceeding.

(5) The notice required by this section:

(a) may be served at any time after the petition for adoption is filed, but may not be served on a birth mother before she has given birth to the child who is the subject of the petition for adoption;

(b) shall be served at least 30 days prior to the final dispositional hearing;

(c) shall specifically state that the person served shall fulfill the requirements of Subsection (6)(a), within 30 days after the day on which the person receives service if the person intends to intervene in or contest the adoption;

(d) shall state the consequences, described in Subsection (6)(b), for failure of a person to file a motion for relief within 30 days after the day on which the person is served with notice of an adoption proceeding;

(e) is not required to include, nor be accompanied by, a summons or a copy of the petition for adoption; and

(f) shall state where the person may obtain a copy of the petition for adoption.

(6) (a) A person who has been served with notice of an adoption proceeding and who wishes to contest the adoption shall file a motion to intervene in the adoption proceeding:

(i) within 30 days after the day on which the person was served with notice of the adoption proceeding;

(ii) setting forth specific relief sought; and

(iii) accompanied by a memorandum specifying the factual and legal grounds upon which the motion is based.

(b) A person who fails to fully and strictly comply with all of the requirements described in Subsection (6)(a) within 30 days after the day on which the person was served with notice of the adoption proceeding:

(i) waives any right to further notice in connection with the adoption;

(ii) forfeits all rights in relation to the adoptee; and

(iii) is barred from thereafter bringing or maintaining any action to assert any interest in the adoptee.

(7) Service of notice under this section shall be made as follows:

(a) (i) Subject to Subsection (5)(e), service on a person whose consent is necessary under Section 78B-6-120 or 78B-6-121 shall be in accordance with the provisions of the Utah Rules of Civil Procedure.

(ii) If service of a person described in Subsection (7)(a)(i) is by publication, the court shall designate the content of the notice regarding the identity of the parties.

(iii) The notice described in this Subsection (7)(a) may not include the name of a person seeking to adopt the adoptee.

(b) (i) Except as provided in Subsection (7)(b)(ii) to any other person for whom notice is required under this section, service by certified mail, return receipt requested, is sufficient.

(ii) If the service described in Subsection (7)(b)(i) cannot be completed after two attempts, the court may issue an order providing for service by publication, posting, or by any other manner of service.

(c) Notice to a person who has initiated a paternity proceeding and filed notice of that action with the state registrar of vital statistics in the Department of Health in accordance with the requirements of Subsection (3), shall be served by certified mail, return receipt requested, at the last address filed with the registrar.

(8) The notice required by this section may be waived in writing by the person entitled to receive notice.

(9) Proof of service of notice on all persons for whom notice is required by this section shall be filed with the court before the final dispositional hearing on the adoption.

(10) Notwithstanding any other provision of law, neither the notice of an adoption proceeding nor any process in that proceeding is required to contain the name of the person or persons seeking to adopt the adoptee.

(11) Except as to those persons whose consent to an adoption is required under Section 78B-6-120 or 78B-6-121, the sole purpose of notice under this section is to enable the person served to:

(a) intervene in the adoption; and

(b) present evidence to the court relevant to the best interest of the child.

(12) In order to be excused from the requirement to provide notice as described in Subsection (2)(a) on the grounds that the person has provided consent to the adoption proceeding under Subsection (2)(a)(iii), the consent may not be implied consent, as described in Section 78B-6-120.1.

Section 2. Section 78B-6-110.5 is enacted to read:

78B-6-110.5. Out-of-state birth mothers and adoptive parents -- Declaration regarding potential birth fathers.

(1) (a) For a child who is six months of age or less at the time the child is placed with prospective adoptive parents, if, at any point during the time period beginning at the conception of the child and ending at the time the mother executes consent to adoption or relinquishment of the child for adoption, the birth mother or at least one of the adoptive parents has not resided in the state for 90 total days or more, as described in Subsection (1)(c), the birth mother shall file with the court a declaration regarding each potential birth father, in accordance with this section, before or at the time a petition for adoption is filed with the court.

(b) The birth mother shall search the putative father registry of each state where the birth mother believes the child may have been conceived and each state where the birth mother lived during her pregnancy, if the state has a putative father registry, to determine whether a potential birth father registered with the state's putative father registry.

(c) In determining whether the 90-day requirement is satisfied, the following apply:

- (i) the 90 days are not required to be consecutive;
- (ii) no absence from the state may be for more than seven consecutive days;
- (iii) any day on which the individual is absent from the state does not count toward the total 90-day period; and
- (iv) the 90-day period begins and ends during a period that is no more than 120 consecutive days.

(2) The declaration filed under Subsection (1) regarding a potential birth father shall include, for each potential birth father, the following information:

- (a) if known, the potential birth father's name, date of birth, Social Security number, and address;
- (b) with regard to a state's putative father registry in each state described in Subsection (1)(b):
 - (i) whether the state has a putative father registry; and
 - (ii) for each state that has a putative father registry, with the declaration, a certificate or written statement from the state's putative father registry that a search of the state's putative father registry was made and disclosing the results of the search;

(c) whether the potential birth father was notified of:

- (i) the birth mother's pregnancy;
- (ii) the fact that he is a potential birth father; or

(iii) the fact that the birth mother intends to consent to adoption or relinquishment of the child for adoption, in Utah;

(d) each state where the birth mother lived during the pregnancy;

(e) if known, the state in which the child was conceived;

(f) whether the birth mother informed the potential birth father that she was traveling to or planning to reside in Utah;

(g) whether the birth mother has contacted the potential birth father while she was located in Utah;

(h) whether, and for how long, the potential birth father has ever lived with the child;

(i) whether the potential birth father has given the birth mother money or offered to pay for any of her expenses during pregnancy or the child's birth;

(j) whether the potential birth father has offered to pay child support;

(k) if known, whether the potential birth father has taken any legal action to establish paternity of the child, either in Utah or in any other state, and, if known, what action he has taken; and

(l) whether the birth mother has ever been involved in a domestic violence matter with the potential birth father.

(3) Based on the declaration regarding the potential birth father, the court shall order the birth mother to serve a potential birth father notice that she intends to consent or has consented to adoption or relinquishment of the child for adoption, if the court finds that the potential birth father:

(a) has taken sufficient action to demonstrate an interest in the child;

(b) has taken sufficient action to attempt to preserve his legal rights as a birth father, including by filing a legal action to establish paternity or filing with a state's putative father registry; or

(c) does not know, and does not have a reason to know, that:

- (i) the mother or child are present in Utah;
- (ii) the mother intended to give birth to the child in Utah;
- (iii) the child was born in Utah; or
- (iv) the mother intends to consent to adoption or relinquishment of the child for adoption in Utah.

(4) Notice under this section shall be made in accordance with Subsections 78B-6-110(7) through (12).

CHAPTER 411**S. B. 231**

Passed March 12, 2014

Approved April 1, 2014

Effective May 13, 2014

AGRICULTURAL AMENDMENTS

Chief Sponsor: David P. Hinkins

House Sponsor: John G. Mathis

LONG TITLE**General Description:**

This bill modifies the Colorado River Salinity Offset Program; provisions related to invasive species; the Bedding, Upholstered Furniture, and Quilted Clothing Inspection Act; the Utah Bee Inspection Act; the Utah Pesticide Control Act; The Utah Nursery Act; and the Property Tax Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies definitions;
- ▶ modifies provisions related to invasive species;
- ▶ makes findings regarding The Utah Nursery Act;
- ▶ modifies the Colorado River Salinity Offset Program;
- ▶ prohibits a person from labeling or selling used or secondhand bedding, upholstered furniture, quilted clothing, or filling material as if it were new;
- ▶ describes labeling requirements for a used mattress;
- ▶ requires a manufacturer, repairer, wholesale dealer, or retailer of a mattress to keep an invoice, shipping information, bill of lading, or other record of the mattress for one year;
- ▶ authorizes the Department of Agriculture and Food to review and copy records related to a mattress;
- ▶ amends the registration procedure for a pesticide distributor and a pesticide business;
- ▶ modifies the responsibility of the Department of Agriculture and Food to inspect nursery and nursery stock;
- ▶ states that "farm machinery and equipment" includes balers and cubers; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 4-2-8.5, as last amended by Laws of Utah 2013, Chapter 400
- 4-2-8.6, as last amended by Laws of Utah 2013, Chapter 461
- 4-2-8.7, as last amended by Laws of Utah 2013, Chapter 461
- 4-10-2, as last amended by Laws of Utah 2010, Chapter 73
- 4-10-6, as enacted by Laws of Utah 1979, Chapter 2
- 4-10-7, as last amended by Laws of Utah 2007, Chapter 179

- 4-10-10, as last amended by Laws of Utah 2010, Chapter 73
- 4-11-2, as last amended by Laws of Utah 2010, Chapter 73
- 4-14-3, as last amended by Laws of Utah 2011, Chapter 383
- 4-14-13, as last amended by Laws of Utah 2010, Chapter 391
- 4-15-2, as last amended by Laws of Utah 2010, Chapter 378
- 4-15-7, as enacted by Laws of Utah 1981, Chapter 126
- 4-15-11, as enacted by Laws of Utah 1981, Chapter 126
- 59-2-102, as last amended by Laws of Utah 2013, Chapters 19 and 322

ENACTS:

- 4-10-7.3, Utah Code Annotated 1953
- 4-15-1.5, Utah Code Annotated 1953
- 4-15-13, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-2-8.5 is amended to read:**4-2-8.5. Salinity Offset Fund.**

(1) As used in this section, "Colorado River Salinity Offset Program" means a program, administered by the Division of Water Quality, allowing oil, gas, or mining companies and other entities to provide funds to finance salinity reduction projects in the Colorado River Basin by purchasing salinity credits as offsets against discharges made by the company under permits issued by the Division of Water Quality.

(2) (a) There is created an expendable special revenue fund known as the "Salinity Offset Fund."

(b) The fund shall consist of:

(i) money received from the Division of Water Quality that has been collected as part of the Colorado River Salinity Offset Program;

(ii) grants from local governments, the state, or the federal government;

(iii) grants from private entities; and

(iv) interest on fund money.

(3) (a) The department shall:

(i) subject to the rules established under Subsection (3)(a)(ii), distribute fund money to farmers, ranchers, mutual irrigation companies, and other entities in the state to assist in financing irrigation, rangeland, and watershed improvement projects that will, in accordance with the Colorado River Salinity Offset Program, reduce salinity in the Colorado River; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules establishing:

(A) a project funding application process;

(B) project funding requirements;

(C) project approval criteria; and

(D) standards for evaluating the effectiveness of funded projects in reducing salinity in the Colorado River.

(b) The department may require entities seeking fund money to provide matching funds.

(c) The department shall submit to the Division of Water Quality [Board's executive secretary] proposed funding projects for the [executive secretary's] division's review and approval.

(d) The Division of Water Quality and the department shall establish a committee to review and approve projects, as funding allows.

(4) (a) [The] Except as provided in Subsection (4)(b), the department may use fund money for the administration of the fund, but this amount may not exceed 10% of the [annual] receipts to the fund.

(b) The department may not use earned interest for administration of the fund.

Section 2. Section 4-2-8.6 is amended to read:

4-2-8.6. Cooperative agreements and grants to rehabilitate areas infested with or threatened by invasive species.

After consulting with the Department of Natural Resources and the Conservation Commission, the department may:

(1) enter into a cooperative agreement with a political subdivision, a state agency, a federal agency, or a federal, state, tribal, a county weed board, a cooperative weed management area, a university, or private landowner to:

(a) rehabilitate or treat an area [that: (i) is] infested with, or threatened by, an invasive species; or

[(ii) has a fuel load that may contribute to a catastrophic wildland fire; or]

[(b) prevent catastrophic wildland fire through land restoration in a watershed that:]

[(i) is impacted by an invasive species; or]

[(ii) has a fuel load that may contribute to a catastrophic wildland fire;]

(b) conduct research related to invasive species;

(2) expend money from the Invasive Species Mitigation Account created in Section 4-2-8.7; and

(3) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to:

(a) administer this section; and

(b) give grants from the Invasive Species Mitigation Account.

Section 3. Section 4-2-8.7 is amended to read:

4-2-8.7. Invasive Species Mitigation Account created.

(1) As used in this section, "project" means an undertaking that:

(a) rehabilitates or treats an area [that: (i) is] infested with, or threatened by, an invasive species; or

[(ii) has a fuel load that may contribute to a catastrophic wildland fire; or]

[(b) prevents catastrophic wildland fire through land restoration in a watershed that:]

[(i) is impacted by an invasive species; or]

[(ii) has a fuel load that may contribute to a catastrophic wildland fire.]

(b) conducts research related to invasive species.

(2) (a) There is created a restricted account within the General Fund known as the "Invasive Species Mitigation Account."

(b) The restricted account shall consist of:

(i) money appropriated by the Legislature;

(ii) grants from the federal government; and

(iii) grants or donations from a person.

(3) (a) After consulting with the Department of Natural Resources and the Conservation Commission, the department may expend money in the restricted account:

(i) on a project implemented by:

(A) the department; or

(B) the Conservation Commission; or

(ii) by giving a grant for a project to:

(A) a state agency;

(B) a federal agency;

(C) a federal, state, tribal, or private landowner;

~~or]~~

(D) a political subdivision[-];

(E) a county weed board;

(F) a cooperative weed management area; or

(G) a university.

(b) The department may use up to 10% of restricted account funds [expended] appropriated under Subsection [(3)(a)(i)] (2)(b)(i) on:

(i) department administration; or

(ii) project planning, monitoring, and implementation expenses.

(c) A project that receives funds from the Invasive Species Mitigation Account may not spend more than 10% of an award of funds on planning and administration costs.

~~[(e)]~~ (d) A federal landowner that receives restricted account funds for a project shall match the funds received from the restricted account with an amount that is equal to or greater than the amount received from the restricted account.

(4) In giving a grant, the department shall consider the effectiveness of a project in ~~preventing at least one of the following: (a) encroachment of an~~ the rehabilitation or treatment of an area infested with, or threatened by, an invasive species~~;~~.

~~[(b) soil erosion;]~~

~~[(c) flooding;]~~

~~[(d) the risk of catastrophic wildfire; or]~~

~~[(e) damage to habitat for wildlife or livestock.]~~

Section 4. Section 4-10-2 is amended to read:

4-10-2. Definitions.

As used in this chapter:

(1) "Article" means any bedding, upholstered furniture, quilted clothing, or filling material.

(2) "Bedding" means any:

(a) quilted, packing, mattress or hammock pad; or

(b) mattress, boxsprings, comforter, quilt, sleeping bag, studio couch, pillow or cushion made with any filling material that can be used for sleeping or reclining.

(3) "Consumer" means a person who purchases, rents, or leases an article for the article's intended, everyday use.

~~[(3)]~~ (4) "Filling material" means any cotton, wool, kapok, feathers, down, hair or other material, or any combination of material, whether loose or in bags, bales, batting, pads, or other prefabricated form that is, or can be, used in bedding, upholstered furniture or quilted clothing.

~~[(4)]~~ (5) "Label" means the display of written, printed, or graphic matter upon a tag or upon the immediate container of any bedding, upholstered furniture, quilted clothing, or filling material.

~~[(5)]~~ (6) (a) "Manufacture" means to make, process, or prepare from new or secondhand material, in whole or in part, any bedding, upholstered furniture, quilted clothing, or filling material for sale.

(b) "Manufacture" does not include ~~[isolated]~~ three or fewer annual sales of such articles by persons who are not primarily engaged in the making, processing, or preparation of such articles.

~~[(6)]~~ (7) (a) "New material" means material that has not previously been used in the manufacture of another article used for any purpose.

(b) "New material" includes by-products from a textile mill using only new raw material synthesized from a product that has been melted, liquified, and re-extruded.

~~[(7)]~~ (8) "Owner's own material" means an article owned or in the possession of a person for the person's own or a tenant's use that is sent to another person for manufacture or repair.

~~[(8)]~~ (9) "Quilted clothing" means a quilted garment or apparel, exclusive of trim used for

aesthetic effect, or a stiffener, shoulder pads, interfacing, or other material that is made in whole or in part from filling material and sold or offered for sale.

~~[(9)]~~ (10) "Repair" means to restore, recover, alter, or renew bedding, upholstered furniture, or quilted clothing for a consideration.

~~[(10)]~~ (11) "Retailer" means a person who sells bedding, upholstered furniture, quilted clothing, or filling material to a consumer for use primarily for personal, family, household, or business purposes.

~~[(11)]~~ (12) (a) "Sale" or "sell" means to offer or expose for sale, barter, trade, deliver, consign, lease, or give away any bedding, upholstered furniture, quilted clothing, or filling material.

(b) "Sale" or "sell" does not include any judicial, executor's, administrator's, or guardian's sale of such items.

~~[(12)]~~ (13) "Secondhand ~~[material]~~" means any article or filling material, or portion thereof, that has previously been used ~~[in an article]~~, other than previous use as a floor model.

~~[(13)]~~ (14) "Tag" means a card, flap, or strip attached to an article for the purpose of displaying information required by this chapter or under rule made pursuant to it.

(15) (a) "Used" means an article that has been sold to a consumer and has left the store.

(b) "Used" does not include an article returned to the store:

(i) within three days from the day on which the article is purchased; and

(ii) in its original packaging.

~~[(14)]~~ (16) "Upholstered furniture" means any portable or fixed furniture, except fixed seats in motor vehicles, boats, or aircraft, that is made in whole or in part with filling material, exclusive of trim used for aesthetic effect.

~~[(15)]~~ (17) "Wholesaler" means a person who offers an article for resale to a retailer or institution rather than a final consumer.

Section 5. Section 4-10-6 is amended to read:

4-10-6. Unlawful acts specified.

It is unlawful for any person to:

(1) sell bedding, upholstered furniture, quilted clothing, or filling material as new unless it is made from new material and properly tagged;

(2) sell bedding, upholstered furniture, quilted clothing or filling material made from secondhand material which is not properly tagged;

(3) label or sell a used or secondhand article as if it were a new article;

~~[(3)]~~ (4) use burlap or other material which has been used for packing or baling, or to use any unsanitary, filthy, or vermin or insect infected filling material in the manufacture or repair of any article;

[44] (5) sell bedding, upholstered furniture, quilted clothing or filling material which is not properly tagged regardless of point of origin;

[45] (6) use any false or misleading statement, term, or designation on any tag; [or]

[46] (7) use any false or misleading label[-]; or

(8) engage in the manufacture, repair, or wholesale sale of bedding, upholstered furniture, quilted clothing, or filling material without a license as required by this chapter.

Section 6. Section 4-10-7 is amended to read:

4-10-7. Tagging requirements for bedding, upholstered furniture, and filling material.

(1) (a) All bedding, upholstered furniture, and filling material shall be securely tagged by the manufacturer or repairer.

(b) Tags shall be at least six square inches and plainly and indelibly labeled with:

(i) information as the department requires by rule; [and]

(ii) according to the filling material type, the words "All New Material," "Secondhand Material," or "Owner's Material," stamped or printed on the label[-]; and

(iii) the word "USED" stamped or printed on the label of a used mattress.

(c) Each label shall be placed on the article in such a position as to facilitate ease of examination.

(2) (a) If more than one type of filling material is used, its component parts shall be listed in descending order by weight or by percentages.

(b) If descriptive statements are made about the frame, cover, or style of the article, such statements shall, in fact, be true.

(c) All quilted clothing shall be tagged and labeled in conformity with the Federal Textile Fiber Products Identification Act, 15 U.S.C. Sec. 70 through 70k.

(3) No person, except the purchaser, may remove, deface, or alter a tag attached according to this chapter.

(4) A used mattress shall be tagged with the word "USED," in accordance with rules established by the department.

(5) The retailer of a used mattress shall display the mattress so that the "USED" tag is clearly visible to a customer.

Section 7. Section 4-10-7.3 is enacted to read:

4-10-7.3. Seller's representation of a used mattress -- Bedding records required.

(1) A seller shall represent a mattress tagged "USED" as previously used by a customer.

(2) The manufacturer, repairer, wholesale dealer, or retailer of a mattress shall keep an invoice, shipping information, bill of lading, or other record of the mattress at the manufacture, repair, wholesale, or retail location for a minimum of one year from the day on which the invoice, shipping information, bill of lading, or other record was created or received.

Section 8. Section 4-10-10 is amended to read:

4-10-10. Enforcement -- Inspection authorized -- Samples -- Reimbursement for samples -- Warrants.

(1) (a) The department may access public and private premises where articles subject to this chapter are manufactured, repaired, stored, or sold for the purpose of determining compliance with this chapter.

(b) For purposes of determining compliance, the department may:

(i) open any upholstered furniture, bedding, or quilted clothing to obtain a sample for inspection and analysis of filling material; or

(ii) if considered appropriate by the department, take the entire article for inspection and analysis.

(c) Upon request, the department shall reimburse the owner or person from whom a sample or article is taken in accordance with this Subsection (1) for the actual cost of the sample or article.

(2) Upon request, the department may review and copy any of the records required under Subsection 4-10-7.3(2).

[42] (3) The department may proceed immediately, if admittance is refused or a record is denied, to obtain an ex parte warrant from the nearest court of competent jurisdiction to allow entry upon the premises for the purpose of making inspections and taking samples or articles.

Section 9. Section 4-11-2 is amended to read:

4-11-2. Definitions.

As used in this chapter:

(1) "Abandoned apiary" means any apiary:

(a) to which the owner or operator fails to give reasonable and adequate attention during a given year, with the result that the welfare of a neighboring colony is jeopardized; or

(b) that is not properly identified in accordance with this chapter.

(2) "Apiary" means any place where one or more colonies of bees are located.

(3) "Apiary equipment" means hives, supers, frames, veils, gloves, or other equipment used to handle or manipulate bees, honey, wax, or hives.

(4) "Appliance" means any apparatus, tool, machine, or other device used to handle or manipulate bees, wax, honey, or hives.

(5) "Bee" means the common honey bee, *Apis mellifera*, at any stage of development.

(6) (a) "Beekeeper" means a person who keeps bees in order to:

- (i) collect honey and beeswax;
 - (ii) pollinate crops; or
 - (iii) produce bees for sale to other beekeepers.
- (b) "Beekeeper" includes an apiarists.

(7) "Colony" means an aggregation of bees in any type of hive that includes queens, workers, drones, or brood.

(8) "Disease" means any ~~[disease or abnormal condition of the egg, larval, pupal, or adult stage of bee development]~~ infectious or contagious disease affecting bees, as specified by the department, including American foulbrood.

(9) "Hive" means a frame hive, box hive, box, barrel, log, gum skep, or other artificial or natural receptacle that may be used to house bees.

(10) "Package" means any number of bees in a bee-tight container, with or without a queen, and without comb.

(11) "Parasite" means an organism that parasitizes any developmental stage of a bee.

(12) "Pest" means an organism that:

(a) inflicts damage to a bee or bee colony directly or indirectly; or

(b) may damage apiary equipment in a manner that is likely to have an adverse affect on the health of the colony or an adjacent colony.

(13) "Raise" means:

(a) to hold a colony of bees in a hive for the purpose of pollination, honey production, study, or similar purpose; and

(b) when the person holding a colony, holds the colony or a package of bees in the state for a period of time exceeding 30 days.

(14) "Terminal disease" means a pest, parasite, or pathogen that will kill an occupant colony or subsequent colony on the same equipment.

Section 10. Section 4-14-3 is amended to read:

4-14-3. Registration required for distribution -- Application -- Fees -- Renewal -- Local needs registration -- Distributor or applicator license -- Fees -- Renewal.

(1) (a) No person may distribute a pesticide in this state that is not registered with the department.

(b) Application for registration shall be made to the department upon forms prescribed and furnished by it accompanied with an annual registration fee determined by the department pursuant to Subsection 4-2-2(2) for each pesticide registered.

(c) Upon receipt by the department of a proper application and payment of the appropriate fee, the commissioner shall issue a registration to the applicant allowing distribution of the registered pesticide in this state through June 30 of each year, subject to suspension or revocation for cause.

(d) (i) Each registration is renewable for a period of one year upon the payment of an annual registration renewal fee in an amount equal to the current applicable original registration fee.

(ii) Each renewal fee shall be paid on or before June 30 of each year.

(2) The application shall include the following information:

(a) the name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the applicant's name;

(b) the name of the pesticide;

(c) a complete copy of the label which will appear on the pesticide; and

(d) any information prescribed by rule of the department considered necessary for the safe and effective use of the pesticide.

(3) (a) Forms for the renewal of registration shall be mailed to registrants at least 30 days before their registration expires.

(b) A registration in effect on June 30 for which a renewal application has been filed and the registration fee tendered shall continue in effect until the applicant is notified either that the registration is renewed or that it is suspended or revoked pursuant to Section 4-14-8.

(4) The department may, before approval of any registration, require the applicant to submit the complete formula of any pesticide including active and inert ingredients and may also, for any pesticide not registered according to 7 U.S.C. Sec. 136a or for any pesticide on which restrictions are being considered, require a complete description of all tests and test results that support the claims made by the applicant or the manufacturer of the pesticide.

(5) A registrant who desires to register a pesticide to meet special local needs according to 7 U.S.C. Sec. 136v(c) shall, in addition to complying with Subsections (1) and (2), satisfy the department that:

(a) a special local need exists;

(b) the pesticide warrants the claims made for it;

(c) the pesticide, if used in accordance with commonly accepted practices, will not cause unreasonable adverse effects on the environment; and

(d) the proposed classification for use conforms with 7 U.S.C. Sec. 136a(d).

(6) No registration is required for a pesticide distributed in this state pursuant to an experimental use permit issued by the EPA or under Section 4-14-5.

(7) No pesticide dealer may distribute a restricted use pesticide in this state without a license.

(8) A person shall receive a license before applying:

- (a) a restricted use pesticide; or
- (b) a general use pesticide for hire or in exchange for compensation.

(9) (a) A license to engage in an activity listed in Subsection (7) or (8) may be obtained by:

(i) submitting an application on a form provided by the department;

~~[(ii) paying the license fee determined by the department according to Subsection 4-2-2(2); and]~~

~~[(iii) complying with the rules adopted as authorized by this chapter.]~~

(ii) showing evidence of competence in the pesticide profession, as established by rule, and complying with the rules adopted by the department under this chapter;

(iii) demonstrating good character;

(iv) having no outstanding infractions and owing no money to the department; and

(v) paying the license fee determined by the department according to Subsection 4-2-2(2).

(b) A person may apply for a triennial license that expires on December 31 of the second calendar year after the calendar year in which the license is issued.

(c) Notwithstanding Section 63J-1-504, the department shall retain the fees as dedicated credits and may only use the fees to administer and enforce~~[:]~~ this title.

~~[(i) this chapter; and]~~

~~[(ii) any other chapter of this title for the purpose of improving rangeland health.]~~

Section 11. Section 4-14-13 is amended to read:

4-14-13. Registration required for a pesticide business.

(1) A pesticide applicator business shall register with the department by:

(a) submitting an application on a form provided by the department;

(b) paying the registration fee; and

(c) certifying that the business is in compliance with this chapter and departmental rules authorized by this chapter.

(2) (a) By following the procedures and requirements of Section 63J-1-504, the department shall establish a registration fee based on the number of pesticide applicators employed by the pesticide applicator business.

(b) (i) Notwithstanding Section 63J-1-504, the department shall deposit the fees as dedicated

credits and may only use the fees to administer and enforce this chapter.

(ii) The Legislature may annually designate the revenue generated from the fee as nonlapsing in an appropriations act.

~~[(3) (a) The department shall issue a pesticide applicator business a registration certificate if the pesticide applicator business:]~~

~~[(i) has complied with the requirements of this section; and]~~

~~[(ii) meets the qualifications established by rule.]~~

~~[(b) The department shall notify the pesticide applicator business in writing that the registration is denied if the pesticide applicator business does not meet the registration qualifications.]~~

(3) The department shall issue a business registration certificate to a pesticide applicator business if the individual or entity:

(a) has complied with the requirements of this section;

(b) has shown evidence of competence in the pesticide profession and meets the certification requirements established by rule;

(c) demonstrates good character;

(d) has no outstanding infractions and owes no money to the department; and

(e) pays the licensing fee established by the department.

(4) A registration certificate expires on December 31 of the second calendar year after the calendar year in which the registration certificate is issued.

(5) (a) The department may suspend a registration certificate if the pesticide applicator business violates this chapter or any rules authorized by it.

(b) A pesticide applicator business whose registration certificate has been suspended may apply to the department for reinstatement of the registration certificate by demonstrating compliance with this chapter and rules authorized by it.

(6) A pesticide applicator business shall:

(a) only employ a pesticide applicator who has received a license from the department, as required by Section 4-14-3; and

(b) ensure that all employees comply with this chapter and the rules authorized by it.

Section 12. Section 4-15-1.5 is enacted to read:

4-15-1.5. Background and purpose.

The Legislature finds that:

(1) nursery stock can harbor and vector plant pests and diseases;

(2) unregulated production and shipping of nursery stock presents an unacceptable risk to the

state's agricultural, forestry, and horticultural interests, and to the state's general environmental quality; and

(3) it is necessary to ensure that nurseries produce healthy plants and that nursery stock shipped to other nurseries, brokers, and out-of-state customers meets national nursery stock cleanliness standards.

Section 13. Section 4-15-2 is amended to read:

4-15-2. Definitions.

As used in this [chapter] part:

(1) "Balled and burlapped stock" means nursery stock which is removed from the growing site with a ball of soil containing its root system intact and encased in burlap or other material to hold the soil in place[;].

(2) "Bare-root stock" means nursery stock which is removed from the growing site with the root system free of soil[;].

(3) "Compliance agreement" means any written agreement between a person and a regulatory agency to achieve compliance with any set of requirements being enforced by the department.

~~[(3)]~~ (4) "Container stock" means nursery stock which is transplanted in soil or in a potting mixture contained within a metal, clay, plastic, or other rigid container for a period sufficient to allow newly developed fibrous roots to form so that if the plant is removed from the container its root-media ball will remain intact[;].

~~[(4)]~~ (5) "Etiolated growth" means bleached and unnatural growth resulting from the exclusion of sunlight[;].

~~[(5)]~~ (6) "Minimum indices of vitality" mean standards adopted by the department to determine the health and vigor of nursery stock offered for sale in this state[;].

(7) "National nursery stock cleanliness standards" means nursery stock that:

(a) is free from quarantine pests and pests of concern;

(b) has all nonquarantine plant pests under effective control;

(c) meets the national nursery stock cleanliness standards; and

(d) is eligible for nursery stock certification and shipping permits.

~~[(6)]~~ (8) "Nonestablished container stock" means deciduous nursery stock which is transplanted in soil or in a potting mixture contained within a metal, clay, plastic, or other rigid container for a period insufficient to allow the formation of fibrous roots sufficient to form a root-media ball[;].

~~[(7)]~~ (9) "Nursery" means any place where nursery stock is propagated and grown for sale or distribution[;].

~~[(8)]~~ (10) "Nursery outlet" means any place or location where nursery stock is offered for wholesale or retail sale[;].

~~[(9)]~~ (11) "Nursery stock" means all plants, whether field grown, container grown, or collected native plants; trees, shrubs, vines, grass sod; seedlings, perennials, biennials; and buds, cuttings, grafts, or scions grown or collected or kept for propagation, sale, or distribution; except that it does not include dormant bulbs, tubers, roots, corms, rhizomes, pips; field, vegetable, or flower seeds; or bedding plants, annual plants, florists' greenhouse or field-grown plants, flowers or cuttings[;].

(12) "Packaged stock" means bare-root stock that is packed either in bundles or in single plants with the roots in some type of moisture-retaining material designed to retard evaporation and hold the moisture-retaining material in place.

(13) "Pests of concern" means a nonquarantine pest that is not known to occur in the state, or which has a limited distribution within the state, and has the potential to negatively impact nursery stock health or pose an unacceptable economic or environmental risk.

~~[(10)]~~ (14) "Place of business" means each separate nursery, or nursery outlet, where nursery stock is offered for sale, sold, or distributed[;].

~~[(11)]~~ "Packaged stock" means bare-root stock which is packed either in bundles or in single plants with the roots in some type of moisture-retaining material designed to retard evaporation and hold the moisture-retaining material in place.]

(15) "Plant pests" means:

(a) the egg, pupal, and larval stage, as well as any other living stage of any insect, mite, nematode, slug, snail, protozoa, or other invertebrate animal;

(b) bacteria;

(c) fungi;

(d) parasitic plant or a reproductive part of a parasitic plant;

(e) a virus or viroid;

(f) phytoplasma; or

(g) any infectious substance that can injure or cause disease or damage in any plant.

(16) "Quarantine pest" means a pest that poses potential negative economic or environmental impact to an area in which the pest currently:

(a) does not exist; or

(b) exists, but its presence is not widely distributed or is being officially controlled.

(17) "Shipping permit or certificate of inspection" means a sticker, stamp, imprint, or other document that accompanies nursery stock shipped intrastate and documents that the originating nursery:

(a) is licensed; and

(b) (i) has stock that has passed its annual inspection; or

(ii) produces stock that meets the National Nursery Stock Compliance Standard.

Section 14. Section 4-15-7 is amended to read:

4-15-7. Inspection -- Issuance of certificate -- Destruction of infested or diseased stock.

(1) Each nursery [shall] may be inspected by the department at least once each year. If upon inspection it appears that the nursery and its stock are free of insect pests and plant disease the department shall issue a certificate to that effect to the nursery.

(2) Each nursery outlet [shall] may be inspected by the department at least once each year during the period nursery stock is offered for retail sale. An inspection certificate may be issued by the department to a nursery outlet to permit the interstate shipment of nursery stock if the stock contemplated for shipment appears free of insect pests and plant disease.

(3) Nursery stock found to be infested with insect pests or infected with plant disease shall be destroyed or otherwise treated as determined by the department.

Section 15. Section 4-15-11 is amended to read:

4-15-11. Enforcement -- Inspection -- Stop sale order -- Procedure -- Warrants.

(1) The department may issue a "stop sale" order to any nursery or nursery outlet [~~which it finds, or~~] upon discovery or notification of a quarantine pest or pest of concern, or if the department has reason to believe[,] the nursery is offering, advertising, or selling nursery stock in violation of Section 4-15-10. The "stop sale" order shall be in writing and no nursery stock subject to it shall be advertised or sold, except upon subsequent written release by the department.

(2) The department is authorized for the purpose of ascertaining compliance with this chapter to enter and inspect any nursery or nursery outlet where nursery stock is kept during their business hours. If access for the purpose of inspection is denied, the department may proceed immediately to the nearest court of competent jurisdiction and obtain an ex parte warrant or its equivalent to permit inspection of the nursery or nursery outlet.

Section 16. Section 4-15-13 is enacted to read:

**4-15-13. (Codified as 4-15-14)
Compliance agreements.**

The department may make compliance agreements with the responsible officials of other states and nursery establishments to achieve compliance with any set of requirements being enforced by the department.

Section 17. Section 59-2-102 is amended to read:

59-2-102. Definitions.

As used in this chapter and title:

(1) "Aerial applicator" means aircraft or rotorcraft used exclusively for the purpose of engaging in dispensing activities directly affecting agriculture or horticulture with an airworthiness certificate from the Federal Aviation Administration certifying the aircraft or rotorcraft's use for agricultural and pest control purposes.

(2) "Air charter service" means an air carrier operation which requires the customer to hire an entire aircraft rather than book passage in whatever capacity is available on a scheduled trip.

(3) "Air contract service" means an air carrier operation available only to customers who engage the services of the carrier through a contractual agreement and excess capacity on any trip and is not available to the public at large.

(4) "Aircraft" is as defined in Section 72-10-102.

(5) (a) Except as provided in Subsection (5)(b), "airline" means an air carrier that:

(i) operates:

(A) on an interstate route; and

(B) on a scheduled basis; and

(ii) offers to fly one or more passengers or cargo on the basis of available capacity on a regularly scheduled route.

(b) "Airline" does not include an:

(i) air charter service; or

(ii) air contract service.

(6) "Assessment roll" means a permanent record of the assessment of property as assessed by the county assessor and the commission and may be maintained manually or as a computerized file as a consolidated record or as multiple records by type, classification, or categories.

(7) (a) "Certified revenue levy" means a property tax levy that provides an amount of ad valorem property tax revenue equal to the sum of:

(i) the amount of ad valorem property tax revenue to be generated statewide in the previous year from imposing a school minimum basic tax rate, as specified in Subsection 53A-17a-135(1)(a), or multicounty assessing and collecting levy, as specified in Section 59-2-1602; and

(ii) the product of:

(A) new growth, as defined in:

(I) Section 59-2-924; and

(II) rules of the commission; and

(B) the school minimum basic tax rate or multicounty assessing and collecting levy certified by the commission for the previous year.

(b) For purposes of this Subsection (7), "ad valorem property tax revenue" does not include property tax revenue received by a taxing entity from personal property that is:

(i) assessed by a county assessor in accordance with Part 3, County Assessment; and

(ii) semiconductor manufacturing equipment.

(c) For purposes of calculating the certified revenue levy described in this Subsection (7), the commission shall use:

(i) the taxable value of real property assessed by a county assessor contained on the assessment roll;

(ii) the taxable value of real and personal property assessed by the commission; and

(iii) the taxable year end value of personal property assessed by a county assessor contained on the prior year's assessment roll.

(8) "County-assessed commercial vehicle" means:

(a) any commercial vehicle, trailer, or semitrailer which is not apportioned under Section 41-1a-301 and is not operated interstate to transport the vehicle owner's goods or property in furtherance of the owner's commercial enterprise;

(b) any passenger vehicle owned by a business and used by its employees for transportation as a company car or vanpool vehicle; and

(c) vehicles that are:

(i) especially constructed for towing or wrecking, and that are not otherwise used to transport goods, merchandise, or people for compensation;

(ii) used or licensed as taxicabs or limousines;

(iii) used as rental passenger cars, travel trailers, or motor homes;

(iv) used or licensed in this state for use as ambulances or hearses;

(v) especially designed and used for garbage and rubbish collection; or

(vi) used exclusively to transport students or their instructors to or from any private, public, or religious school or school activities.

(9) (a) Except as provided in Subsection (9)(b), for purposes of Section 59-2-801, "designated tax area" means a tax area created by the overlapping boundaries of only the following taxing entities:

(i) a county; and

(ii) a school district.

(b) Notwithstanding Subsection (9)(a), "designated tax area" includes a tax area created by the overlapping boundaries of:

(i) the taxing entities described in Subsection (9)(a); and

(ii) (A) a city or town if the boundaries of the school district under Subsection (9)(a) and the boundaries of the city or town are identical; or

(B) a special service district if the boundaries of the school district under Subsection (9)(a) are located entirely within the special service district.

(10) "Eligible judgment" means a final and unappealable judgment or order under Section 59-2-1330:

(a) that became a final and unappealable judgment or order no more than 14 months prior to the day on which the notice required by Section 59-2-919.1 is required to be mailed; and

(b) for which a taxing entity's share of the final and unappealable judgment or order is greater than or equal to the lesser of:

(i) \$5,000; or

(ii) 2.5% of the total ad valorem property taxes collected by the taxing entity in the previous fiscal year.

(11) (a) "Escaped property" means any property, whether personal, land, or any improvements to the property, subject to taxation and is:

(i) inadvertently omitted from the tax rolls, assigned to the incorrect parcel, or assessed to the wrong taxpayer by the assessing authority;

(ii) undervalued or omitted from the tax rolls because of the failure of the taxpayer to comply with the reporting requirements of this chapter; or

(iii) undervalued because of errors made by the assessing authority based upon incomplete or erroneous information furnished by the taxpayer.

(b) Property that is undervalued because of the use of a different valuation methodology or because of a different application of the same valuation methodology is not "escaped property."

(12) "Fair market value" means the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts. For purposes of taxation, "fair market value" shall be determined using the current zoning laws applicable to the property in question, except in cases where there is a reasonable probability of a change in the zoning laws affecting that property in the tax year in question and the change would have an appreciable influence upon the value.

(13) "Farm machinery and equipment," for purposes of the exemption provided under Section 59-2-1101, means tractors, milking equipment and storage and cooling facilities, feed handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters, tillage tools, scales, combines, spreaders, sprayers, haying equipment, including balers and cubers, and any other machinery or equipment used primarily for agricultural purposes; but does not include vehicles required to be registered with the Motor Vehicle Division or vehicles or other equipment used for business purposes other than farming.

(14) "Geothermal fluid" means water in any form at temperatures greater than 120 degrees

centigrade naturally present in a geothermal system.

(15) "Geothermal resource" means:

(a) the natural heat of the earth at temperatures greater than 120 degrees centigrade; and

(b) the energy, in whatever form, including pressure, present in, resulting from, created by, or which may be extracted from that natural heat, directly or through a material medium.

(16) (a) "Goodwill" means:

(i) acquired goodwill that is reported as goodwill on the books and records:

(A) of a taxpayer; and

(B) that are maintained for financial reporting purposes; or

(ii) the ability of a business to:

(A) generate income:

(I) that exceeds a normal rate of return on assets; and

(II) resulting from a factor described in Subsection (16)(b); or

(B) obtain an economic or competitive advantage resulting from a factor described in Subsection (16)(b).

(b) The following factors apply to Subsection (16)(a)(ii):

(i) superior management skills;

(ii) reputation;

(iii) customer relationships;

(iv) patronage; or

(v) a factor similar to Subsections (16)(b)(i) through (iv).

(c) "Goodwill" does not include:

(i) the intangible property described in Subsection (20)(a) or (b);

(ii) locational attributes of real property, including:

(A) zoning;

(B) location;

(C) view;

(D) a geographic feature;

(E) an easement;

(F) a covenant;

(G) proximity to raw materials;

(H) the condition of surrounding property; or

(I) proximity to markets;

(iii) value attributable to the identification of an improvement to real property, including:

(A) reputation of the designer, builder, or architect of the improvement;

(B) a name given to, or associated with, the improvement; or

(C) the historic significance of an improvement; or

(iv) the enhancement or assemblage value specifically attributable to the interrelation of the existing tangible property in place working together as a unit.

(17) "Governing body" means:

(a) for a county, city, or town, the legislative body of the county, city, or town;

(b) for a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, the local district's board of trustees;

(c) for a school district, the local board of education; or

(d) for a special service district under Title 17D, Chapter 1, Special Service District Act:

(i) the legislative body of the county or municipality that created the special service district, to the extent that the county or municipal legislative body has not delegated authority to an administrative control board established under Section 17D-1-301; or

(ii) the administrative control board, to the extent that the county or municipal legislative body has delegated authority to an administrative control board established under Section 17D-1-301.

(18) (a) For purposes of Section 59-2-103:

(i) "household" means the association of persons who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses; and

(ii) "household" includes married individuals, who are not legally separated, that have established domiciles at separate locations within the state.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "domicile."

(19) (a) Except as provided in Subsection (19)(c), "improvement" means a building, structure, fixture, fence, or other item that is permanently attached to land, regardless of whether the title has been acquired to the land, if:

(i) (A) attachment to land is essential to the operation or use of the item; and

(B) the manner of attachment to land suggests that the item will remain attached to the land in the same place over the useful life of the item; or

(ii) removal of the item would:

(A) cause substantial damage to the item; or

(B) require substantial alteration or repair of a structure to which the item is attached.

- (b) "Improvement" includes:
- (i) an accessory to an item described in Subsection (19)(a) if the accessory is:
 - (A) essential to the operation of the item described in Subsection (19)(a); and
 - (B) installed solely to serve the operation of the item described in Subsection (19)(a); and
 - (ii) an item described in Subsection (19)(a) that:
 - (A) is temporarily detached from the land for repairs; and
 - (B) remains located on the land.
 - (c) Notwithstanding Subsections (19)(a) and (b), "improvement" does not include:
 - (i) an item considered to be personal property pursuant to rules made in accordance with Section 59-2-107;
 - (ii) a moveable item that is attached to land:
 - (A) for stability only; or
 - (B) for an obvious temporary purpose;
 - (iii) (A) manufacturing equipment and machinery; or
 - (B) essential accessories to manufacturing equipment and machinery;
 - (iv) an item attached to the land in a manner that facilitates removal without substantial damage to:
 - (A) the land; or
 - (B) the item; or
 - (v) a transportable factory-built housing unit as defined in Section 59-2-1502 if that transportable factory-built housing unit is considered to be personal property under Section 59-2-1503.
 - (20) "Intangible property" means:
 - (a) property that is capable of private ownership separate from tangible property, including:
 - (i) money;
 - (ii) credits;
 - (iii) bonds;
 - (iv) stocks;
 - (v) representative property;
 - (vi) franchises;
 - (vii) licenses;
 - (viii) trade names;
 - (ix) copyrights; and
 - (x) patents;
 - (b) a low-income housing tax credit;
 - (c) goodwill; or
 - (d) a renewable energy tax credit or incentive, including:
 - (i) a federal renewable energy production tax credit under Section 45, Internal Revenue Code;
 - (ii) a federal energy credit for qualified renewable electricity production facilities under Section 48, Internal Revenue Code;
 - (iii) a federal grant for a renewable energy property under American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, Section 1603; and
 - (iv) a tax credit under Subsection 59-7-614(2)(c).
 - (21) "Low-income housing tax credit" means:
 - (a) a federal low-income housing tax credit under Section 42, Internal Revenue Code; or
 - (b) a low-income housing tax credit under:
 - (i) Section 59-7-607; or
 - (ii) Section 59-10-1010.
 - (22) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.
 - (23) "Mine" means a natural deposit of either metalliferous or nonmetalliferous valuable mineral.
 - (24) "Mining" means the process of producing, extracting, leaching, evaporating, or otherwise removing a mineral from a mine.
 - (25) (a) "Mobile flight equipment" means tangible personal property that is:
 - (i) owned or operated by an:
 - (A) air charter service;
 - (B) air contract service; or
 - (C) airline; and
 - (ii) (A) capable of flight;
 - (B) attached to an aircraft that is capable of flight; or
 - (C) contained in an aircraft that is capable of flight if the tangible personal property is intended to be used:
 - (I) during multiple flights;
 - (II) during a takeoff, flight, or landing; and
 - (III) as a service provided by an air charter service, air contract service, or airline.
 - (b) (i) "Mobile flight equipment" does not include a spare part other than a spare engine that is rotated:
 - (A) at regular intervals; and
 - (B) with an engine that is attached to the aircraft.
 - (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "regular intervals."

(26) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts, sand, rock, gravel, and all carboniferous materials.

(27) "Personal property" includes:

(a) every class of property as defined in Subsection (28) that is the subject of ownership and not included within the meaning of the terms "real estate" and "improvements";

(b) gas and water mains and pipes laid in roads, streets, or alleys;

(c) bridges and ferries;

(d) livestock, which, for the purposes of the exemption provided under Section 59-2-1112, means all domestic animals, honeybees, poultry, fur-bearing animals, and fish; and

(e) outdoor advertising structures as defined in Section 72-7-502.

(28) (a) "Property" means property that is subject to assessment and taxation according to its value.

(b) "Property" does not include intangible property as defined in this section.

(29) "Public utility," for purposes of this chapter, means the operating property of a railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline company, electrical corporation, telephone corporation, sewerage corporation, or heat corporation where the company performs the service for, or delivers the commodity to, the public generally or companies serving the public generally, or in the case of a gas corporation or an electrical corporation, where the gas or electricity is sold or furnished to any member or consumers within the state for domestic, commercial, or industrial use. Public utility also means the operating property of any entity or person defined under Section 54-2-1 except water corporations.

(30) (a) Subject to Subsection (30)(b), "qualifying exempt primary residential rental personal property" means household furnishings, furniture, and equipment that:

(i) are used exclusively within a dwelling unit that is the primary residence of a tenant;

(ii) are owned by the owner of the dwelling unit that is the primary residence of a tenant; and

(iii) after applying the residential exemption described in Section 59-2-103, are exempt from taxation under this chapter in accordance with Subsection 59-2-1115(2).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "dwelling unit" for purposes of this Subsection (30) and Subsection (33).

(31) "Real estate" or "real property" includes:

(a) the possession of, claim to, ownership of, or right to the possession of land;

(b) all mines, minerals, and quarries in and under the land, all timber belonging to individuals or corporations growing or being on the lands of this state or the United States, and all rights and privileges appertaining to these; and

(c) improvements.

(32) "Relationship with an owner of the property's land surface rights" means a relationship described in Subsection 267(b), Internal Revenue Code:

(a) except that notwithstanding Subsection 267(b), Internal Revenue Code, the term 25% shall be substituted for the term 50% in Subsection 267(b), Internal Revenue Code; and

(b) using the ownership rules of Subsection 267(c), Internal Revenue Code, for determining the ownership of stock.

(33) (a) Subject to Subsection (33)(b), "residential property," for the purposes of the reductions and adjustments under this chapter, means any property used for residential purposes as a primary residence.

(b) Subject to Subsection (33)(c), "residential property":

(i) except as provided in Subsection (33)(b)(ii), includes household furnishings, furniture, and equipment if the household furnishings, furniture, and equipment are:

(A) used exclusively within a dwelling unit that is the primary residence of a tenant; and

(B) owned by the owner of the dwelling unit that is the primary residence of a tenant; and

(ii) does not include property used for transient residential use.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "dwelling unit" for purposes of Subsection (30) and this Subsection (33).

(34) "Split estate mineral rights owner" means a person who:

(a) has a legal right to extract a mineral from property;

(b) does not hold more than a 25% interest in:

(i) the land surface rights of the property where the wellhead is located; or

(ii) an entity with an ownership interest in the land surface rights of the property where the wellhead is located;

(c) is not an entity in which the owner of the land surface rights of the property where the wellhead is located holds more than a 25% interest; and

(d) does not have a relationship with an owner of the land surface rights of the property where the wellhead is located.

(35) (a) "State-assessed commercial vehicle" means:

(i) any commercial vehicle, trailer, or semitrailer which operates interstate or intrastate to transport

passengers, freight, merchandise, or other property for hire; or

(ii) any commercial vehicle, trailer, or semitrailer which operates interstate and transports the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.

(b) "State-assessed commercial vehicle" does not include vehicles used for hire which are specified in Subsection (8)(c) as county-assessed commercial vehicles.

(36) "Taxable value" means fair market value less any applicable reduction allowed for residential property under Section 59-2-103.

(37) "Tax area" means a geographic area created by the overlapping boundaries of one or more taxing entities.

(38) "Taxing entity" means any county, city, town, school district, special taxing district, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or other political subdivision of the state with the authority to levy a tax on property.

(39) "Tax roll" means a permanent record of the taxes charged on property, as extended on the assessment roll and may be maintained on the same record or records as the assessment roll or may be maintained on a separate record properly indexed to the assessment roll. It includes tax books, tax lists, and other similar materials.

CHAPTER 412**S. B. 232**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

SCHOOL SAFETY TIP LINE

Chief Sponsor: Daniel W. Thatcher

House Sponsor: Steve Eliason

LONG TITLE**General Description:**

This bill enacts provisions related to a statewide School Safety Tip Line.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ establishes the School Safety Tip Line Commission within the Office of the Attorney General;
- ▶ requires the School Safety Tip Line Commission to:
 - accomplish certain tasks; and
 - report to the Education Interim Committee and the Executive Appropriations Committee; and
- ▶ establishes a repeal date.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

631-1-253, as last amended by Laws of Utah 2012, Chapter 369

ENACTS:

53A-11-1501, Utah Code Annotated 1953

53A-11-1502, Utah Code Annotated 1953

53A-11-1503, Utah Code Annotated 1953

53A-11-1504, Utah Code Annotated 1953

53A-11-1505, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53A-11-1501 is enacted to read:**Part 15. School Safety Tip Line****53A-11-1501. Title.**

This part is known as "School Safety Tip Line."

Section 2. Section 53A-11-1502 is enacted to read:**53A-11-1502. Definitions.**

As used in this part, "commission" means the School Safety Tip Line Commission established in Section 53A-11-1504.

Section 3. Section 53A-11-1503 is enacted to read:**53A-11-1503. School Safety Tip Line established.**

A School Safety Tip Line is established to provide a means for a public school student, parent, school employee, or citizen to make anonymous reports concerning unsafe, violent, or criminal activities, or the threat of such activities.

Section 4. Section 53A-11-1504 is enacted to read:**53A-11-1504. School Safety Tip Line Commission established -- Members.**

(1) There is created the School Safety Tip Line Commission, within the Office of the Attorney General, composed of the following members:

(a) one member who represents the Office of the Attorney General, appointed by the attorney general;

(b) two members who represent the Utah Public Education System, appointed by the State Board of Education;

(c) one member who represents the Utah Department of Health, appointed by the executive director of the Department of Health;

(d) two members of the House of Representatives, appointed by the speaker of the House of Representatives; and

(e) two members of the Senate, appointed by the president of the Senate.

(2) (a) The attorney general's designee shall serve as chair of the commission.

(b) The chair shall set the agenda for commission meetings.

(3) Attendance of a simple majority of the members constitutes a quorum for the transaction of official commission business.

(4) Formal action by the commission requires a majority vote of a quorum.

(5) (a) Except as provided in Subsection (5)(b), a member may not receive compensation, benefits, per diem, or travel expenses for the member's service.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(6) The Office of the Attorney General shall provide staff support to the commission.

Section 5. Section 53A-11-1505 is enacted to read:**53A-11-1505. School Safety Tip Line Commission duties -- Reporting requirements.**

(1) (a) The commission shall:

(i) designate a School Safety Tip Line provider network after consideration of the ability of the proposed provider network's ability to:

(A) provide the services described in Section 53A-11-1503 24 hours a day, seven days a week; and

(B) employ, as operators, social workers licensed by the Division of Occupational and Professional Licensing under Section 58-60-204;

(ii) estimate the cost of operating a School Safety Tip Line including the extent to which operations will be funded through private donations and grants; and

(iii) designate a phone number for the School Safety Tip Line.

(b) The commission may conduct other business related to establishing a School Safety Tip Line.

(2) The commission shall report to the Education Interim Committee and the Executive Appropriations Committee before November 30, 2014, regarding:

(a) how the commission fulfilled its duties during the year; and

(b) recommendations for future legislation related to a School Safety Tip Line.

Section 6. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates, Titles 53, 53A, and 53B.

The following provisions are repealed on the following dates:

(1) Section 53-3-232, Conditional licenses, is repealed July 1, 2015.

(2) Title 53A, Chapter 1a, Part 6, Public Education Job Enhancement Program is repealed July 1, 2020.

(3) Title 53A, Chapter 11, Part 15, School Safety Tip Line, is repealed July 1, 2015.

~~[(3)]~~ (4) The State Instructional Materials Commission, created in Section 53A-14-101, is repealed July 1, 2016.

~~[(4)]~~ (5) Subsections 53A-16-113(3) and (4) are repealed December 31, 2016.

~~[(5)]~~ (6) Section 53A-16-114 is repealed December 31, 2016.

~~[(6)]~~ (7) Section 53A-17a-163, Performance-based Compensation Pilot Program is repealed July 1, 2016.

~~[(7)]~~ (8) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells, other hydrologic studies, and air quality monitoring in the West Desert, is repealed July 1, 2020.

CHAPTER 413**S. B. 237**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

URBAN FARMING AMENDMENTS

Chief Sponsor: J. Stuart Adams

House Sponsor: Steve Eliason

LONG TITLE**General Description:**

This bill modifies the Urban Farming Assessment Act.

Highlighted Provisions:

This bill:

- ▶ amends the definition of “urban farming” to include certain counties of the second class;
- ▶ states that land may be assessed on the basis of value that the land has for agricultural use if, among other things, the land is at least two contiguous acres in size;
- ▶ states that land that is withdrawn from assessment under the Urban Farming Assessment Act is subject to a rollback tax for the previous five years; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

59-2-1702, as enacted by Laws of Utah 2012, Chapter 197

59-2-1703, as enacted by Laws of Utah 2012, Chapter 197

59-2-1705, as enacted by Laws of Utah 2012, Chapter 197

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-2-1702 is amended to read:**59-2-1702. Definitions.**

As used in this part:

(1) “Actively devoted to urban farming” means that:

(a) land is devoted to active urban farming activities;

(b) the land produces greater than 50% of the average agricultural production per acre:

(i) as determined under Section 59-2-1703; and

(ii) for the given type of land and the given county or area.

(2) “Rollback tax” means the tax imposed under Section 59-2-1705.

(3) (a) Subject to Subsection (3)(b), “urban farming” means cultivating food:

(i) with a reasonable expectation of profit from the sale of the food; and

(ii) from irrigated land located in a county;

(A) of the first class[-], as defined in Section 17-50-501; or

(B) of the second class, as defined in Section 17-50-501, if the county is at least 98% urban, as determined by the United States Census Bureau.

(b) “Urban farming” does not include:

(i) cultivating food derived from an animal; or

(ii) grazing.

(4) “Withdrawn from this part” means that land that has been assessed under this part is no longer assessed under this part or eligible for assessment under this part for any reason including that:

(a) an owner voluntarily requests that the land be withdrawn from this part;

(b) the land is no longer actively devoted to urban farming;

(c) (i) the land has a change in ownership; and

(ii) (A) the new owner fails to apply for assessment under this part as required by Section 59-2-1707; or

(B) an owner applies for assessment under this part, as required by Section 59-2-1707, but the land does not meet the requirements of this part to be assessed under this part;

(d) (i) the legal description of the land changes; and

(ii) (A) an owner fails to apply for assessment under this part, as required by Section 59-2-1707; or

(B) an owner applies for assessment under this part, as required by Section 59-2-1707, but the land does not meet the requirements of this part to be assessed under this part;

(e) the owner of the land fails to file an application as provided in Section 59-2-1707; or

(f) except as provided in Section 59-2-1703, the land fails to meet a requirement of Section 59-2-1703.

Section 2. Section 59-2-1703 is amended to read:**59-2-1703. Qualifications for urban farming assessment.**

(1) (a) For general property tax purposes, land may be assessed on the basis of the value that the land has for agricultural use if the land:

(i) is actively devoted to urban farming;

(ii) is at least two contiguous acres, but less than five acres, in size; and

(iii) has been actively devoted to urban farming for at least two successive years immediately preceding the tax year for which the land is assessed under this part.

(b) Land that is not actively devoted to urban farming may not be assessed as provided in Subsection (1)(a), even if the land is part of a parcel that includes land actively devoted to urban farming.

(2) (a) In determining whether land is actively devoted to urban farming, production per acre for a given county or area and a given type of land shall be determined by using the first applicable of the following:

(i) production levels reported in the current publication of Utah Agricultural Statistics;

(ii) current crop budgets developed and published by Utah State University; or

~~[(iii) other acceptable standards of agricultural production designated by the commission by rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, using:]~~

~~[(A) information provided annually to the commission by the county assessor in a county where urban farming occurs; and]~~

~~[(B) other information the commission determines is appropriate.]~~

(iii) the highest per acre value used for land assessed under the Farmland Assessment Act for the county in which the property is located.

(b) A county assessor may not assess land actively devoted to urban farming on the basis of the value that the land has for agricultural use under this part unless an owner annually files documentation with the county assessor:

(i) on a form provided by the county assessor;

(ii) demonstrating to the satisfaction of the county assessor that the land meets the production levels required under this part; and

(iii) except as provided in Subsection 59-2-1707(2)(c)(i), no later than January 30 for each tax year in which the owner applies for assessment under this part.

(3) Notwithstanding Subsection (1)(a)(ii), a county board of equalization may grant a waiver of the acreage requirements of Subsection (1)(a)(ii):

(a) on appeal by an owner; and

(b) if the owner submits documentation to the county assessor demonstrating to the satisfaction of the county assessor that:

(i) the failure to meet the acreage requirements of Subsection (1)(a)(ii) arose solely as a result of an acquisition by a governmental entity by:

(A) eminent domain; or

(B) the threat or imminence of an eminent domain proceeding;

(ii) the land is actively devoted to urban farming; and

(iii) no change occurs in the ownership of the land.

Section 3. Section 59-2-1705 is amended to read:

59-2-1705. Rollback tax -- Penalty -- Computation of tax -- Procedure -- Lien -- Interest -- Notice -- Collection -- Distribution -- Appeal to county board of equalization.

(1) Except as provided in this section or Section 59-2-1710, land that is withdrawn from this part is subject to a rollback tax imposed as provided in this section.

(2) (a) An owner shall notify the county assessor that land is withdrawn from this part within 120 days after the day on which the land is withdrawn from this part.

(b) An owner who fails to notify the county assessor under Subsection (2)(a) that land is withdrawn from this part is subject to a penalty equal to the greater of:

(i) \$10; or

(ii) 2% of the rollback tax due for the last year of the rollback period.

(3) (a) The county assessor shall determine the amount of the rollback tax by computing the difference for the rollback period described in Subsection (3)(b) between:

(i) the tax paid while the land was assessed under this part; and

(ii) the tax that would have been paid had the property not been assessed under this part.

(b) For purposes of this section, the rollback period is a time period that:

(i) begins on the later of:

(A) the date the land is first assessed under this part; or

(B) ~~[19]~~ five years preceding the day on which the county assessor mails the notice required by Subsection (5); and

(ii) ends the day on which the county assessor mails the notice required by Subsection (5).

(4) (a) The county treasurer shall:

(i) collect the rollback tax; and

(ii) after the rollback tax is paid, certify to the county recorder that the rollback tax lien on the property has been satisfied by:

(A) preparing a document that certifies that the rollback tax lien on the property has been satisfied; and

(B) providing the document described in Subsection (4)(a)(ii)(A) to the county recorder for recording.

(b) The rollback tax collected under this section shall:

(i) be paid into the county treasury; and

(ii) be paid by the county treasurer to the various taxing entities pro rata in accordance with the property tax levies for the current year.

(5) (a) The county assessor shall mail to an owner of the land that is subject to a rollback tax a notice that:

- (i) the land is withdrawn from this part;
- (ii) the land is subject to a rollback tax under this section; and
- (iii) the rollback tax is delinquent if the owner of the land does not pay the tax within 30 days after the day on which the county assessor mails the notice.

(b) (i) The rollback tax is due and payable on the day the county assessor mails the notice required by Subsection (5)(a).

(ii) Subject to Subsection (7), the rollback tax is delinquent if an owner of the land that is withdrawn from this part does not pay the rollback tax within 30 days after the day on which the county assessor mails the notice required by Subsection (5)(a).

(6) (a) Subject to Subsection (6)(b), the rollback tax and interest imposed under Subsection (7) are a lien on the land assessed under this part.

(b) The lien described in Subsection (6)(a) shall:

- (i) arise upon the imposition of the rollback tax under this section;
- (ii) end on the day on which the rollback tax and interest imposed under Subsection (7) are paid in full; and
- (iii) relate back to the first day of the rollback period described in Subsection (3)(b).

(7) (a) A delinquent rollback tax under this section shall accrue interest:

- (i) from the date of delinquency until paid; and
- (ii) at the interest rate established under Section 59-2-1331 and in effect on January 1 of the year in which the delinquency occurs.

(b) A rollback tax that is delinquent on September 1 of any year shall be included on the notice required by Section 59-2-1317, along with interest calculated on that delinquent amount through November 30 of the year in which the notice under Section 59-2-1317 is mailed.

(8) (a) Land that becomes ineligible for assessment under this part only as a result of an amendment to this part is not subject to the rollback tax if the owner of the land notifies the county assessor that the land is withdrawn from this part in accordance with Subsection (2).

(b) Land described in Subsection (8)(a) that is withdrawn from this part as a result of an event other than an amendment to this part, whether voluntary or involuntary, is subject to the rollback tax.

(9) Except as provided in Section 59-2-1710, land that becomes exempt from taxation under Utah Constitution, Article XIII, Section 3, is not subject to the rollback tax if the land meets the

requirements of Section 59-2-1703 to be assessed under this part.

(10) (a) Subject to Subsection (10)(b), an owner of land may appeal to the county board of equalization:

- (i) a decision by a county assessor to withdraw land from assessment under this part; or
- (ii) the imposition of a rollback tax under this section.

(b) An owner shall file an appeal under Subsection (10)(a) no later than 45 days after the day on which the county assessor mails the notice required by Subsection (5).

CHAPTER 414**S. B. 242**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

(Retrospective operation to January 1, 2014)

(Exception clause in Section 3)

ALTERNATIVE ENERGY AMENDMENTS

Chief Sponsor: J. Stuart Adams

House Sponsor: Roger E. Barrus

LONG TITLE**General Description:**

This bill amends provisions related to alternative energy.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to alternative energy income tax credits;
- ▶ amends definitions related to alternative energy for purposes of sales and use taxes; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides effective dates.

This bill provides retrospective operation for a taxable year beginning on or after January 1, 2014.

Utah Code Sections Affected:**AMENDS:**

59-12-102 (Effective 07/01/14), as last amended by Laws of Utah 2013, Chapters 229, 234, 266, and 441

63M-4-503, as enacted by Laws of Utah 2012, Chapter 410

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-12-102 (Effective 07/01/14) is amended to read:**59-12-102 (Effective 07/01/14). Definitions.**

As used in this chapter:

(1) "800 service" means a telecommunications service that:

(a) allows a caller to dial a toll-free number without incurring a charge for the call; and

(b) is typically marketed:

(i) under the name 800 toll-free calling;

(ii) under the name 855 toll-free calling;

(iii) under the name 866 toll-free calling;

(iv) under the name 877 toll-free calling;

(v) under the name 888 toll-free calling; or

(vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.

(2) (a) "900 service" means an inbound toll telecommunications service that:

(i) a subscriber purchases;

(ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the subscriber's:

(A) prerecorded announcement; or

(B) live service; and

(iii) is typically marketed:

(A) under the name 900 service; or

(B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal Communications Commission.

(b) "900 service" does not include a charge for:

(i) a collection service a seller of a telecommunications service provides to a subscriber; or

(ii) the following a subscriber sells to the subscriber's customer:

(A) a product; or

(B) a service.

(3) (a) "Admission or user fees" includes season passes.

(b) "Admission or user fees" does not include annual membership dues to private organizations.

(4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on November 12, 2002, including amendments made to the Streamlined Sales and Use Tax Agreement after November 12, 2002.

(5) "Agreement combined tax rate" means the sum of the tax rates:

(a) listed under Subsection (6); and

(b) that are imposed within a local taxing jurisdiction.

(6) "Agreement sales and use tax" means a tax imposed under:

(a) Subsection 59-12-103(2)(a)(i)(A);

(b) Subsection 59-12-103(2)(b)(i);

(c) Subsection 59-12-103(2)(c)(i);

(d) Subsection 59-12-103(2)(d)(i)(A)(I);

(e) Section 59-12-204;

(f) Section 59-12-401;

(g) Section 59-12-402;

(h) Section 59-12-703;

(i) Section 59-12-802;

(j) Section 59-12-804;

(k) Section 59-12-1102;

(l) Section 59-12-1302;

(m) Section 59-12-1402;

(n) Section 59-12-1802;

(o) Section 59-12-2003;

- (p) Section 59-12-2103;
 - (q) Section 59-12-2213;
 - (r) Section 59-12-2214;
 - (s) Section 59-12-2215;
 - (t) Section 59-12-2216;
 - (u) Section 59-12-2217; or
 - (v) Section 59-12-2218.
- (7) "Aircraft" is as defined in Section 72-10-102.
- (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- (a) except for:
 - (i) an airline as defined in Section 59-2-102; or
 - (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group" includes a corporation that is qualified to do business but is not otherwise doing business in the state, of an airline; and
 - (b) that has the workers, expertise, and facilities to perform the following, regardless of whether the business entity performs the following in this state:
 - (i) check, diagnose, overhaul, and repair:
 - (A) an onboard system of a fixed wing turbine powered aircraft; and
 - (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
 - (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft engine;
 - (iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:
 - (A) an inspection;
 - (B) a repair, including a structural repair or modification;
 - (C) changing landing gear; and
 - (D) addressing issues related to an aging fixed wing turbine powered aircraft;
 - (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and completely apply new paint to the fixed wing turbine powered aircraft; and
 - (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that results in a change in the fixed wing turbine powered aircraft's certification requirements by the authority that certifies the fixed wing turbine powered aircraft.
- (9) "Alcoholic beverage" means a beverage that:
- (a) is suitable for human consumption; and
 - (b) contains .5% or more alcohol by volume.
- (10) "Alternative energy" means:
- (a) biomass energy;
 - (b) geothermal energy;

- (c) hydroelectric energy;
 - (d) solar energy;
 - (e) wind energy; or
 - (f) energy that is derived from:
 - (i) coal-to-liquids;
 - (ii) nuclear fuel;
 - (iii) oil-impregnated diatomaceous earth;
 - (iv) oil sands;
 - (v) oil shale; [øø]
 - (vi) petroleum coke[-]; or
 - (vii) waste heat from:
 - (A) an industrial facility; or
 - (B) a power station in which an electric generator is driven through a process in which water is heated, turns into steam, and spins a steam turbine.
- (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production facility" means a facility that:
- (i) uses alternative energy to produce electricity; and
 - (ii) has a production capacity of two megawatts or greater.
- (b) A facility is an alternative energy electricity production facility regardless of whether the facility is:
- (i) connected to an electric grid; or
 - (ii) located on the premises of an electricity consumer.
- (12) (a) "Ancillary service" means a service associated with, or incidental to, the provision of telecommunications service.
- (b) "Ancillary service" includes:
- (i) a conference bridging service;
 - (ii) a detailed communications billing service;
 - (iii) directory assistance;
 - (iv) a vertical service; or
 - (v) a voice mail service.
- (13) "Area agency on aging" is as defined in Section 62A-3-101.
- (14) "Assisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by an individual:
- (a) who is not the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device; and
 - (b) at the direction of the seller of the right to use the amusement device, skill device, or ride device.
- (15) "Assisted cleaning or washing of tangible personal property" means cleaning or washing of tangible personal property if the cleaning or

washing labor is primarily performed by an individual:

(a) who is not the purchaser of the cleaning or washing of the tangible personal property; and

(b) at the direction of the seller of the cleaning or washing of the tangible personal property.

(16) "Authorized carrier" means:

(a) in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan and the International Fuel Tax Agreement;

(b) in the case of aircraft, the holder of a Federal Aviation Administration operating certificate or air carrier's operating certificate; or

(c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, the holder of a certificate issued by the United States Surface Transportation Board.

(17) (a) Except as provided in Subsection (17)(b), "biomass energy" means any of the following that is used as the primary source of energy to produce fuel or electricity:

(i) material from a plant or tree; or

(ii) other organic matter that is available on a renewable basis, including:

(A) slash and brush from forests and woodlands;

(B) animal waste;

(C) waste vegetable oil;

~~[(C)] (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of wastewater residuals, or through the conversion of a waste material through a nonincineration, thermal conversion process;[:]~~

~~[(I) at landfills; or]~~

~~[(II) as a byproduct of the treatment of wastewater residuals;]~~

~~[(D)] (E) aquatic plants; and~~

~~[(E)] (F) agricultural products.~~

(b) "Biomass energy" does not include:

(i) black liquor; or

(ii) treated woods~~[, or]~~.

~~[(iii) biomass from municipal solid waste other than methane produced;]~~

~~[(A) at landfills; or]~~

~~[(B) as a byproduct of the treatment of wastewater residuals.]~~

(18) (a) "Bundled transaction" means the sale of two or more items of tangible personal property, products, or services if the tangible personal property, products, or services are:

(i) distinct and identifiable; and

(ii) sold for one nonitemized price.

(b) "Bundled transaction" does not include:

(i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction;

(ii) the sale of real property;

(iii) the sale of services to real property;

(iv) the retail sale of tangible personal property and a service if:

(A) the tangible personal property:

(I) is essential to the use of the service; and

(II) is provided exclusively in connection with the service; and

(B) the service is the true object of the transaction;

(v) the retail sale of two services if:

(A) one service is provided that is essential to the use or receipt of a second service;

(B) the first service is provided exclusively in connection with the second service; and

(C) the second service is the true object of the transaction;

(vi) a transaction that includes tangible personal property or a product subject to taxation under this chapter and tangible personal property or a product that is not subject to taxation under this chapter if the:

(A) seller's purchase price of the tangible personal property or product subject to taxation under this chapter is de minimis; or

(B) seller's sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(vii) the retail sale of tangible personal property that is not subject to taxation under this chapter and tangible personal property that is subject to taxation under this chapter if:

(A) that retail sale includes:

(I) food and food ingredients;

(II) a drug;

(III) durable medical equipment;

(IV) mobility enhancing equipment;

(V) an over-the-counter drug;

(VI) a prosthetic device; or

(VII) a medical supply; and

(B) subject to Subsection (18)(f):

(I) the seller's purchase price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price of that retail sale; or

(II) the seller's sales price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total sales price of that retail sale.

(c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a service that is distinct and identifiable does not include:

(A) packaging that:

(I) accompanies the sale of the tangible personal property, product, or service; and

(II) is incidental or immaterial to the sale of the tangible personal property, product, or service;

(B) tangible personal property, a product, or a service provided free of charge with the purchase of another item of tangible personal property, a product, or a service; or

(C) an item of tangible personal property, a product, or a service included in the definition of "purchase price."

(ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase of another item of tangible personal property, a product, or a service if the sales price of the purchased item of tangible personal property, product, or service does not vary depending on the inclusion of the tangible personal property, product, or service provided free of charge.

(d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service on the following, regardless of whether the following is in paper format or electronic format:

(A) a binding sales document; or

(B) another supporting sales-related document that is available to a purchaser.

(ii) For purposes of Subsection (18)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:

(A) a bill of sale;

(B) a contract;

(C) an invoice;

(D) a lease agreement;

(E) a periodic notice of rates and services;

(F) a price list;

(G) a rate card;

(H) a receipt; or

(I) a service agreement.

(e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:

(A) the seller's purchase price of the tangible personal property or product is 10% or less of the seller's total purchase price of the bundled transaction; or

(B) the seller's sales price of the tangible personal property or product is 10% or less of the seller's total sales price of the bundled transaction.

(ii) For purposes of Subsection (18)(b)(vi), a seller:

(A) shall use the seller's purchase price or the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(B) may not use a combination of the seller's purchase price and the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis.

(iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.

(f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.

(19) "Certified automated system" means software certified by the governing board of the agreement that:

(a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:

(i) on a transaction; and

(ii) in the states that are members of the agreement;

(b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and

(c) maintains a record of the transaction described in Subsection (19)(a)(i).

(20) "Certified service provider" means an agent certified:

(a) by the governing board of the agreement; and

(b) to perform all of a seller's sales and use tax functions for an agreement sales and use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "clothing"; and

(ii) that are consistent with the list of items that constitute “clothing” under the agreement.

(22) “Coal-to-liquid” means the process of converting coal into a liquid synthetic fuel.

(23) “Commercial use” means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (55) or residential use under Subsection (105).

(24) (a) “Common carrier” means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire within this state.

(b) (i) “Common carrier” does not include a person who, at the time the person is traveling to or from that person’s place of employment, transports a passenger to or from the passenger’s place of employment.

(ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person’s place of employment.

(25) “Component part” includes:

(a) poultry, dairy, and other livestock feed, and their components;

(b) baling ties and twine used in the baling of hay and straw;

(c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and

(d) feed, seeds, and seedlings.

(26) “Computer” means an electronic device that accepts information:

(a) (i) in digital form; or

(ii) in a form similar to digital form; and

(b) manipulates that information for a result based on a sequence of instructions.

(27) “Computer software” means a set of coded instructions designed to cause:

(a) a computer to perform a task; or

(b) automatic data processing equipment to perform a task.

(28) “Computer software maintenance contract” means a contract that obligates a seller of computer software to provide a customer with:

(a) future updates or upgrades to computer software;

(b) support services with respect to computer software; or

(c) a combination of Subsections (28)(a) and (b).

(29) (a) “Conference bridging service” means an ancillary service that links two or more participants of an audio conference call or video conference call.

(b) “Conference bridging service” may include providing a telephone number as part of the ancillary service described in Subsection (29)(a).

(c) “Conference bridging service” does not include a telecommunications service used to reach the ancillary service described in Subsection (29)(a).

(30) “Construction materials” means any tangible personal property that will be converted into real property.

(31) “Delivered electronically” means delivered to a purchaser by means other than tangible storage media.

(32) (a) “Delivery charge” means a charge:

(i) by a seller of:

(A) tangible personal property;

(B) a product transferred electronically; or

(C) services; and

(ii) for preparation and delivery of the tangible personal property, product transferred electronically, or services described in Subsection (32)(a)(i) to a location designated by the purchaser.

(b) “Delivery charge” includes a charge for the following:

(i) transportation;

(ii) shipping;

(iii) postage;

(iv) handling;

(v) crating; or

(vi) packing.

(33) “Detailed telecommunications billing service” means an ancillary service of separately stating information pertaining to individual calls on a customer’s billing statement.

(34) “Dietary supplement” means a product, other than tobacco, that:

(a) is intended to supplement the diet;

(b) contains one or more of the following dietary ingredients:

(i) a vitamin;

(ii) a mineral;

(iii) an herb or other botanical;

(iv) an amino acid;

(v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in Subsections (34)(b)(i) through (v);

(c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:

- (A) tablet form;
- (B) capsule form;
- (C) powder form;
- (D) softgel form;
- (E) gelcap form; or
- (F) liquid form; or
- (ii) if the product is not intended for ingestion in a form described in Subsections (34)(c)(i)(A) through (F), is not represented:
- (A) as conventional food; and
- (B) for use as a sole item of:
- (I) a meal; or
- (II) the diet; and
- (d) is required to be labeled as a dietary supplement:
- (i) identifiable by the “Supplemental Facts” box found on the label; and
- (ii) as required by 21 C.F.R. Sec. 101.36.
- (35) (a) “Digital audio work” means a work that results from the fixation of a series of musical, spoken, or other sounds.
- (b) “Digital audio work” includes a ringtone.
- (36) “Digital audio-visual work” means a series of related images which, when shown in succession, imparts an impression of motion, together with accompanying sounds, if any.
- (37) “Digital book” means a work that is generally recognized in the ordinary and usual sense as a book.
- (38) (a) “Direct mail” means printed material delivered or distributed by United States mail or other delivery service:
- (i) to:
- (A) a mass audience; or
- (B) addressees on a mailing list provided:
- (I) by a purchaser of the mailing list; or
- (II) at the discretion of the purchaser of the mailing list; and
- (ii) if the cost of the printed material is not billed directly to the recipients.
- (b) “Direct mail” includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- (c) “Direct mail” does not include multiple items of printed material delivered to a single address.
- (39) “Directory assistance” means an ancillary service of providing:
- (a) address information; or
- (b) telephone number information.
- (40) (a) “Disposable home medical equipment or supplies” means medical equipment or supplies that:
- (i) cannot withstand repeated use; and
- (ii) are purchased by, for, or on behalf of a person other than:
- (A) a health care facility as defined in Section 26-21-2;
- (B) a health care provider as defined in Section 78B-3-403;
- (C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or
- (D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).
- (b) “Disposable home medical equipment or supplies” does not include:
- (i) a drug;
- (ii) durable medical equipment;
- (iii) a hearing aid;
- (iv) a hearing aid accessory;
- (v) mobility enhancing equipment; or
- (vi) tangible personal property used to correct impaired vision, including:
- (A) eyeglasses; or
- (B) contact lenses.
- (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes medical equipment or supplies.
- (41) (a) “Drug” means a compound, substance, or preparation, or a component of a compound, substance, or preparation that is:
- (i) recognized in:
- (A) the official United States Pharmacopoeia;
- (B) the official Homeopathic Pharmacopoeia of the United States;
- (C) the official National Formulary; or
- (D) a supplement to a publication listed in Subsections (41)(a)(i)(A) through (C);
- (ii) intended for use in the:
- (A) diagnosis of disease;
- (B) cure of disease;
- (C) mitigation of disease;
- (D) treatment of disease; or
- (E) prevention of disease; or
- (iii) intended to affect:
- (A) the structure of the body; or
- (B) any function of the body.
- (b) “Drug” does not include:

<p>(i) food and food ingredients;</p> <p>(ii) a dietary supplement;</p> <p>(iii) an alcoholic beverage; or</p> <p>(iv) a prosthetic device.</p> <p>(42) (a) Except as provided in Subsection (42)(c), “durable medical equipment” means equipment that:</p> <p>(i) can withstand repeated use;</p> <p>(ii) is primarily and customarily used to serve a medical purpose;</p> <p>(iii) generally is not useful to a person in the absence of illness or injury; and</p> <p>(iv) is not worn in or on the body.</p> <p>(b) “Durable medical equipment” includes parts used in the repair or replacement of the equipment described in Subsection (42)(a).</p> <p>(c) “Durable medical equipment” does not include mobility enhancing equipment.</p> <p>(43) “Electronic” means:</p> <p>(a) relating to technology; and</p> <p>(b) having:</p> <p>(i) electrical capabilities;</p> <p>(ii) digital capabilities;</p> <p>(iii) magnetic capabilities;</p> <p>(iv) wireless capabilities;</p> <p>(v) optical capabilities;</p> <p>(vi) electromagnetic capabilities; or</p> <p>(vii) capabilities similar to Subsections (43)(b)(i) through (vi).</p> <p>(44) “Electronic financial payment service” means an establishment:</p> <p>(a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and</p> <p>(b) that performs electronic financial payment services.</p> <p>(45) “Employee” is as defined in Section 59-10-401.</p> <p>(46) “Fixed guideway” means a public transit facility that uses and occupies:</p> <p>(a) rail for the use of public transit; or</p> <p>(b) a separate right-of-way for the use of public transit.</p> <p>(47) “Fixed wing turbine powered aircraft” means an aircraft that:</p>	<p>(a) is powered by turbine engines;</p> <p>(b) operates on jet fuel; and</p> <p>(c) has wings that are permanently attached to the fuselage of the aircraft.</p> <p>(48) “Fixed wireless service” means a telecommunications service that provides radio communication between fixed points.</p> <p>(49) (a) “Food and food ingredients” means substances:</p> <p>(i) regardless of whether the substances are in:</p> <p>(A) liquid form;</p> <p>(B) concentrated form;</p> <p>(C) solid form;</p> <p>(D) frozen form;</p> <p>(E) dried form; or</p> <p>(F) dehydrated form; and</p> <p>(ii) that are:</p> <p>(A) sold for:</p> <p>(I) ingestion by humans; or</p> <p>(II) chewing by humans; and</p> <p>(B) consumed for the substance’s:</p> <p>(I) taste; or</p> <p>(II) nutritional value.</p> <p>(b) “Food and food ingredients” includes an item described in Subsection (90)(b)(iii).</p> <p>(c) “Food and food ingredients” does not include:</p> <p>(i) an alcoholic beverage;</p> <p>(ii) tobacco; or</p> <p>(iii) prepared food.</p> <p>(50) (a) “Fundraising sales” means sales:</p> <p>(i) (A) made by a school; or</p> <p>(B) made by a school student;</p> <p>(ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and</p> <p>(iii) that are part of an officially sanctioned school activity.</p> <p>(b) For purposes of Subsection (50)(a)(iii), “officially sanctioned school activity” means a school activity:</p> <p>(i) that is conducted in accordance with a formal policy adopted by the school or school district governing the authorization and supervision of fundraising activities;</p> <p>(ii) that does not directly or indirectly compensate an individual teacher or other educational personnel by direct payment, commissions, or payment in kind; and</p>
---	--

(iii) the net or gross revenues from which are deposited in a dedicated account controlled by the school or school district.

(51) “Geothermal energy” means energy contained in heat that continuously flows outward from the earth that is used as the sole source of energy to produce electricity.

(52) “Governing board of the agreement” means the governing board of the agreement that is:

- (a) authorized to administer the agreement; and
- (b) established in accordance with the agreement.

(53) (a) For purposes of Subsection 59-12-104(41), “governmental entity” means:

(i) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, and committees;

(ii) the judicial branch of the state, including the courts, the Judicial Council, the Office of the Court Administrator, and similar administrative units in the judicial branch;

(iii) the legislative branch of the state, including the House of Representatives, the Senate, the Legislative Printing Office, the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;

(iv) the National Guard;

(v) an independent entity as defined in Section 63E-1-102; or

(vi) a political subdivision as defined in Section 17B-1-102.

(b) “Governmental entity” does not include the state systems of public and higher education, including:

(i) a college campus of the Utah College of Applied Technology;

(ii) a school;

(iii) the State Board of Education;

(iv) the State Board of Regents; or

(v) an institution of higher education.

(54) “Hydroelectric energy” means water used as the sole source of energy to produce electricity.

(55) “Industrial use” means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:

(a) in mining or extraction of minerals;

(b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:

(i) commercial greenhouses;

(ii) irrigation pumps;

(iii) farm machinery;

(iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under Title 41, Chapter 1a, Part 2, Registration; and

(v) other farming activities;

(c) in manufacturing tangible personal property at an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(d) by a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (55)(d)(i) would otherwise be made with nonrecycled materials; or

(e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a cogeneration facility as defined in Section 54-2-1.

(56) (a) Except as provided in Subsection (56)(b), “installation charge” means a charge for installing:

(i) tangible personal property; or

(ii) a product transferred electronically.

(b) “Installation charge” does not include a charge for:

(i) repairs or renovations of:

(A) tangible personal property; or

(B) a product transferred electronically; or

(ii) attaching tangible personal property or a product transferred electronically:

(A) to other tangible personal property; and

(B) as part of a manufacturing or fabrication process.

(57) “Institution of higher education” means an institution of higher education listed in Section 53B-2-101.

(58) (a) “Lease” or “rental” means a transfer of possession or control of tangible personal property or a product transferred electronically for:

(i) (A) a fixed term; or

(B) an indeterminate term; and

(ii) consideration.

(b) “Lease” or “rental” includes an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code.

(c) “Lease” or “rental” does not include:

(i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(ii) a transfer of possession or control of property under an agreement that requires the transfer of title:

(A) upon completion of required payments; and

(B) if the payment of an option price does not exceed the greater of:

(I) \$100; or

(II) 1% of the total required payments; or

(iii) providing tangible personal property along with an operator for a fixed period of time or an indeterminate period of time if the operator is necessary for equipment to perform as designed.

(d) For purposes of Subsection (58)(c)(iii), an operator is necessary for equipment to perform as designed if the operator’s duties exceed the:

(i) set-up of tangible personal property;

(ii) maintenance of tangible personal property; or

(iii) inspection of tangible personal property.

(59) “Life science establishment” means an establishment in this state that is classified under the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

(b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or

(c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

(60) “Life science research and development facility” means a facility owned, leased, or rented by a life science establishment if research and development is performed in 51% or more of the total area of the facility.

(61) “Load and leave” means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser.

(62) “Local taxing jurisdiction” means a:

(a) county that is authorized to impose an agreement sales and use tax;

(b) city that is authorized to impose an agreement sales and use tax; or

(c) town that is authorized to impose an agreement sales and use tax.

(63) “Manufactured home” is as defined in Section 15A-1-302.

(64) For purposes of Section 59-12-104, “manufacturing facility” means:

(a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(b) a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (64)(b)(i) would otherwise be made with nonrecycled materials; or

(c) a cogeneration facility as defined in Section 54-2-1.

(65) “Member of the immediate family of the producer” means a person who is related to a producer described in Subsection 59-12-104(20)(a) as a:

(a) child or stepchild, regardless of whether the child or stepchild is:

(i) an adopted child or adopted stepchild; or

(ii) a foster child or foster stepchild;

(b) grandchild or stepgrandchild;

(c) grandparent or stepgrandparent;

(d) nephew or stepnephew;

(e) niece or stepniece;

(f) parent or stepparent;

(g) sibling or stepsibling;

(h) spouse;

(i) person who is the spouse of a person described in Subsections (65)(a) through (g); or

(j) person similar to a person described in Subsections (65)(a) through (i) as determined by the

commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(66) "Mobile home" is as defined in Section 15A-1-302.

(67) "Mobile telecommunications service" is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(68) (a) "Mobile wireless service" means a telecommunications service, regardless of the technology used, if:

(i) the origination point of the conveyance, routing, or transmission is not fixed;

(ii) the termination point of the conveyance, routing, or transmission is not fixed; or

(iii) the origination point described in Subsection (68)(a)(i) and the termination point described in Subsection (68)(a)(ii) are not fixed.

(b) "Mobile wireless service" includes a telecommunications service that is provided by a commercial mobile radio service provider.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define "commercial mobile radio service provider."

(69) (a) Except as provided in Subsection (69)(c), "mobility enhancing equipment" means equipment that is:

(i) primarily and customarily used to provide or increase the ability to move from one place to another;

(ii) appropriate for use in a:

(A) home; or

(B) motor vehicle; and

(iii) not generally used by persons with normal mobility.

(b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection (69)(a).

(c) "Mobility enhancing equipment" does not include:

(i) a motor vehicle;

(ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer;

(iii) durable medical equipment; or

(iv) a prosthetic device.

(70) "Model 1 seller" means a seller registered under the agreement that has selected a certified service provider as the seller's agent to perform all of the seller's sales and use tax functions for agreement sales and use taxes other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(71) "Model 2 seller" means a seller registered under the agreement that:

(a) except as provided in Subsection (71)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and

(b) retains responsibility for remitting all of the sales tax:

(i) collected by the seller; and

(ii) to the appropriate local taxing jurisdiction.

(72) (a) Subject to Subsection (72)(b), "model 3 seller" means a seller registered under the agreement that has:

(i) sales in at least five states that are members of the agreement;

(ii) total annual sales revenues of at least \$500,000,000;

(iii) a proprietary system that calculates the amount of tax:

(A) for an agreement sales and use tax; and

(B) due to each local taxing jurisdiction; and

(iv) entered into a performance agreement with the governing board of the agreement.

(b) For purposes of Subsection (72)(a), "model 3 seller" includes an affiliated group of sellers using the same proprietary system.

(73) "Model 4 seller" means a seller that is registered under the agreement and is not a model 1 seller, model 2 seller, or model 3 seller.

(74) "Modular home" means a modular unit as defined in Section 15A-1-302.

(75) "Motor vehicle" is as defined in Section 41-1a-102.

(76) "Oil sands" means impregnated bituminous sands that:

(a) contain a heavy, thick form of petroleum that is released when heated, mixed with other hydrocarbons, or otherwise treated;

(b) yield mixtures of liquid hydrocarbon; and

(c) require further processing other than mechanical blending before becoming finished petroleum products.

(77) "Oil shale" means a group of fine black to dark brown shales containing kerogen material that yields petroleum upon heating and distillation.

(78) "Optional computer software maintenance contract" means a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.

(79) (a) "Other fuels" means products that burn independently to produce heat or energy.

(b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal property.

(80) (a) "Paging service" means a telecommunications service that provides transmission of a coded radio signal for the purpose of activating a specific pager.

(b) For purposes of Subsection (80)(a), the transmission of a coded radio signal includes a transmission by message or sound.

(81) "Pawnbroker" is as defined in Section 13-32a-102.

(82) "Pawn transaction" is as defined in Section 13-32a-102.

(83) (a) "Permanently attached to real property" means that for tangible personal property attached to real property:

(i) the attachment of the tangible personal property to the real property:

(A) is essential to the use of the tangible personal property; and

(B) suggests that the tangible personal property will remain attached to the real property in the same place over the useful life of the tangible personal property; or

(ii) if the tangible personal property is detached from the real property, the detachment would:

(A) cause substantial damage to the tangible personal property; or

(B) require substantial alteration or repair of the real property to which the tangible personal property is attached.

(b) "Permanently attached to real property" includes:

(i) the attachment of an accessory to the tangible personal property if the accessory is:

(A) essential to the operation of the tangible personal property; and

(B) attached only to facilitate the operation of the tangible personal property;

(ii) a temporary detachment of tangible personal property from real property for a repair or renovation if the repair or renovation is performed where the tangible personal property and real property are located; or

(iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection (83)(c)(iii) or (iv).

(c) "Permanently attached to real property" does not include:

(i) the attachment of portable or movable tangible personal property to real property if that portable or movable tangible personal property is attached to real property only for:

(A) convenience;

(B) stability; or

(C) for an obvious temporary purpose;

(ii) the detachment of tangible personal property from real property except for the detachment described in Subsection (83)(b)(ii);

(iii) an attachment of the following tangible personal property to real property if the attachment to real property is only through a line that supplies water, electricity, gas, telecommunications, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(A) a computer;

(B) a telephone;

(C) a television; or

(D) tangible personal property similar to Subsections (83)(c)(iii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(iv) an item listed in Subsection (123)(c).

(84) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.

(85) "Place of primary use":

(a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:

(i) the residential street address of the customer; or

(ii) the primary business street address of the customer; or

(b) for mobile telecommunications service, is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(86) (a) "Postpaid calling service" means a telecommunications service a person obtains by making a payment on a call-by-call basis:

(i) through the use of a:

(A) bank card;

(B) credit card;

(C) debit card; or

(D) travel card; or

(ii) by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.

(b) "Postpaid calling service" includes a service, except for a prepaid wireless calling service, that would be a prepaid wireless calling service if the service were exclusively a telecommunications service.

(87) "Postproduction" means an activity related to the finishing or duplication of a medium described in Subsection 59-12-104(54)(a).

(88) "Prepaid calling service" means a telecommunications service:

(a) that allows a purchaser access to telecommunications service that is exclusively telecommunications service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(89) "Prepaid wireless calling service" means a telecommunications service:

(a) that provides the right to utilize:

(i) mobile wireless service; and

(ii) other service that is not a telecommunications service, including:

(A) the download of a product transferred electronically;

(B) a content service; or

(C) an ancillary service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(90) (a) "Prepared food" means:

(i) food:

(A) sold in a heated state; or

(B) heated by a seller;

(ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or

(iii) except as provided in Subsection (90)(c), food sold with an eating utensil provided by the seller, including a:

(A) plate;

(B) knife;

(C) fork;

(D) spoon;

(E) glass;

(F) cup;

(G) napkin; or

(H) straw.

(b) "Prepared food" does not include:

(i) food that a seller only:

(A) cuts;

(B) repackages; or

(C) pasteurizes; or

(ii) (A) the following:

(I) raw egg;

(II) raw fish;

(III) raw meat;

(IV) raw poultry; or

(V) a food containing an item described in Subsections (90)(b)(ii)(A)(I) through (IV); and

(B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection (90)(b)(ii)(A) to prevent food borne illness; or

(iii) the following if sold without eating utensils provided by the seller:

(A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;

(B) food and food ingredients sold in an unheated state:

(I) by weight or volume; and

(II) as a single item; or

(C) a bakery item, including:

(I) a bagel;

(II) a bar;

(III) a biscuit;

(IV) bread;

(V) a bun;

(VI) a cake;

- (VII) a cookie;
- (VIII) a croissant;
- (IX) a danish;
- (X) a donut;
- (XI) a muffin;
- (XII) a pastry;
- (XIII) a pie;
- (XIV) a roll;
- (XV) a tart;
- (XVI) a torte; or
- (XVII) a tortilla.

(c) An eating utensil provided by the seller does not include the following used to transport the food:

- (i) a container; or
- (ii) packaging.

(91) "Prescription" means an order, formula, or recipe that is issued:

- (a) (i) orally;
- (ii) in writing;
- (iii) electronically; or
- (iv) by any other manner of transmission; and

(b) by a licensed practitioner authorized by the laws of a state.

(92) (a) Except as provided in Subsection (92)(b)(ii) or (iii), "prewritten computer software" means computer software that is not designed and developed:

(i) by the author or other creator of the computer software; and

(ii) to the specifications of a specific purchaser.

(b) "Prewritten computer software" includes:

(i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed:

(A) by the author or other creator of the computer software; and

(B) to the specifications of a specific purchaser;

(ii) computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or

(iii) except as provided in Subsection (92)(c), prewritten computer software or a prewritten portion of prewritten computer software:

(A) that is modified or enhanced to any degree; and

(B) if the modification or enhancement described in Subsection (92)(b)(iii)(A) is designed and

developed to the specifications of a specific purchaser.

(c) "Prewritten computer software" does not include a modification or enhancement described in Subsection (92)(b)(iii) if the charges for the modification or enhancement are:

(i) reasonable; and

(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the invoice or other statement of price provided to the purchaser at the time of sale or later, as demonstrated by:

(A) the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes;

(B) a preponderance of the facts and circumstances at the time of the transaction; and

(C) the understanding of all of the parties to the transaction.

(93) (a) "Private communication service" means a telecommunications service:

(i) that entitles a customer to exclusive or priority use of one or more communications channels between or among termination points; and

(ii) regardless of the manner in which the one or more communications channels are connected.

(b) "Private communications service" includes the following provided in connection with the use of one or more communications channels:

(i) an extension line;

(ii) a station;

(iii) switching capacity; or

(iv) another associated service that is provided in connection with the use of one or more communications channels as defined in Section 59-12-215.

(94) (a) Except as provided in Subsection (94)(b), "product transferred electronically" means a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.

(b) "Product transferred electronically" does not include:

(i) an ancillary service;

(ii) computer software; or

(iii) a telecommunications service.

(95) (a) "Prosthetic device" means a device that is worn on or in the body to:

(i) artificially replace a missing portion of the body;

(ii) prevent or correct a physical deformity or physical malfunction; or

(iii) support a weak or deformed portion of the body.

- (b) "Prosthetic device" includes:
- (i) parts used in the repairs or renovation of a prosthetic device;
 - (ii) replacement parts for a prosthetic device;
 - (iii) a dental prosthesis; or
 - (iv) a hearing aid.
- (c) "Prosthetic device" does not include:
- (i) corrective eyeglasses; or
 - (ii) contact lenses.
- (96) (a) "Protective equipment" means an item:
- (i) for human wear; and
 - (ii) that is:
 - (A) designed as protection:
 - (I) to the wearer against injury or disease; or
 - (II) against damage or injury of other persons or property; and
 - (B) not suitable for general use.
- (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:
- (i) listing the items that constitute "protective equipment"; and
 - (ii) that are consistent with the list of items that constitute "protective equipment" under the agreement.
- (97) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or printed matter, other than a photocopy:
- (i) regardless of:
 - (A) characteristics;
 - (B) copyright;
 - (C) form;
 - (D) format;
 - (E) method of reproduction; or
 - (F) source; and
 - (ii) made available in printed or electronic format.
- (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "photocopy."
- (98) (a) "Purchase price" and "sales price" mean the total amount of consideration:
- (i) valued in money; and
 - (ii) for which tangible personal property, a product transferred electronically, or services are:
 - (A) sold;
 - (B) leased; or
 - (C) rented.

- (b) "Purchase price" and "sales price" include:
- (i) the seller's cost of the tangible personal property, a product transferred electronically, or services sold;
 - (ii) expenses of the seller, including:
 - (A) the cost of materials used;
 - (B) a labor cost;
 - (C) a service cost;
 - (D) interest;
 - (E) a loss;
 - (F) the cost of transportation to the seller; or
 - (G) a tax imposed on the seller;
 - (iii) a charge by the seller for any service necessary to complete the sale; or
 - (iv) consideration a seller receives from a person other than the purchaser if:
 - (A) (I) the seller actually receives consideration from a person other than the purchaser; and
 - (II) the consideration described in Subsection (98)(b)(iv)(A)(I) is directly related to a price reduction or discount on the sale;
 - (B) the seller has an obligation to pass the price reduction or discount through to the purchaser;
 - (C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale to the purchaser; and
 - (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the seller to claim a price reduction or discount; and
 - (Bb) a person other than the seller authorizes, distributes, or grants the certificate, coupon, or other documentation with the understanding that the person other than the seller will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
 - (II) the purchaser identifies that purchaser to the seller as a member of a group or organization allowed a price reduction or discount, except that a preferred customer card that is available to any patron of a seller does not constitute membership in a group or organization allowed a price reduction or discount; or
 - (III) the price reduction or discount is identified as a third party price reduction or discount on the:
 - (Aa) invoice the purchaser receives; or
 - (Bb) certificate, coupon, or other documentation the purchaser presents.
- (c) "Purchase price" and "sales price" do not include:
- (i) a discount:
 - (A) in a form including:
 - (I) cash;
 - (II) term; or

(III) coupon;

(B) that is allowed by a seller;

(C) taken by a purchaser on a sale; and

(D) that is not reimbursed by a third party; or

(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:

(A) the following from credit extended on the sale of tangible personal property or services:

(I) a carrying charge;

(II) a financing charge; or

(III) an interest charge;

(B) a delivery charge;

(C) an installation charge;

(D) a manufacturer rebate on a motor vehicle; or

(E) a tax or fee legally imposed directly on the consumer.

(99) "Purchaser" means a person to whom:

(a) a sale of tangible personal property is made;

(b) a product is transferred electronically; or

(c) a service is furnished.

(100) "Regularly rented" means:

(a) rented to a guest for value three or more times during a calendar year; or

(b) advertised or held out to the public as a place that is regularly rented to guests for value.

(101) "Rental" is as defined in Subsection (58).

(102) (a) Except as provided in Subsection (102)(b), "repairs or renovations of tangible personal property" means:

(i) a repair or renovation of tangible personal property that is not permanently attached to real property; or

(ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal property or a product transferred electronically from other tangible personal property if:

(A) the other tangible personal property to which the tangible personal property or product transferred electronically is attached or from which the tangible personal property or product transferred electronically is detached is not permanently attached to real property; and

(B) the attachment of tangible personal property or a product transferred electronically to other tangible personal property or detachment of tangible personal property or a product transferred electronically from other tangible personal property is made in conjunction with a repair or replacement of tangible personal property or a product transferred electronically.

(b) "Repairs or renovations of tangible personal property" does not include:

(i) attaching prewritten computer software to other tangible personal property if the other tangible personal property to which the prewritten computer software is attached is not permanently attached to real property; or

(ii) detaching prewritten computer software from other tangible personal property if the other tangible personal property from which the prewritten computer software is detached is not permanently attached to real property.

(103) "Research and development" means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.

(104) (a) "Residential telecommunications services" means a telecommunications service or an ancillary service that is provided to an individual for personal use:

(i) at a residential address; or

(ii) at an institution, including a nursing home or a school, if the telecommunications service or ancillary service is provided to and paid for by the individual residing at the institution rather than the institution.

(b) For purposes of Subsection (104)(a)(i), a residential address includes an:

(i) apartment; or

(ii) other individual dwelling unit.

(105) "Residential use" means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

(106) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other than:

(a) resale;

(b) sublease; or

(c) subrent.

(107) (a) "Retailer" means any person engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.

(b) "Retailer" includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state.

(108) (a) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in

any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.

(b) "Sale" includes:

(i) installment and credit sales;

(ii) any closed transaction constituting a sale;

(iii) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;

(iv) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and

(v) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.

(109) "Sale at retail" is as defined in Subsection (106).

(110) "Sale-leaseback transaction" means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter is transferred:

(a) by a purchaser-lessee;

(b) to a lessor;

(c) for consideration; and

(d) if:

(i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase of the tangible personal property or product transferred electronically;

(ii) the sale of the tangible personal property or product transferred electronically to the lessor is intended as a form of financing:

(A) for the tangible personal property or product transferred electronically; and

(B) to the purchaser-lessee; and

(iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to:

(A) capitalize the tangible personal property or product transferred electronically for financial reporting purposes; and

(B) account for the lease payments as payments made under a financing arrangement.

(111) "Sales price" is as defined in Subsection (98).

(112) (a) "Sales relating to schools" means the following sales by, amounts paid to, or amounts charged by a school:

(i) sales that are directly related to the school's educational functions or activities including:

(A) the sale of:

(I) textbooks;

(II) textbook fees;

(III) laboratory fees;

(IV) laboratory supplies; or

(V) safety equipment;

(B) the sale of a uniform, protective equipment, or sports or recreational equipment that:

(I) a student is specifically required to wear as a condition of participation in a school-related event or school-related activity; and

(II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;

(C) sales of the following if the net or gross revenues generated by the sales are deposited into a school district fund or school fund dedicated to school meals:

(I) food and food ingredients; or

(II) prepared food; or

(D) transportation charges for official school activities; or

(ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.

(b) "Sales relating to schools" does not include:

(i) bookstore sales of items that are not educational materials or supplies;

(ii) except as provided in Subsection (112)(a)(i)(B):

(A) clothing;

(B) clothing accessories or equipment;

(C) protective equipment; or

(D) sports or recreational equipment; or

(iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:

(A) other than a:

(I) school;

(II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or

(III) nonprofit association authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; and

(B) that is required to collect sales and use taxes under this chapter.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "passed through."

(113) For purposes of this section and Section 59-12-104, “school”:

(a) means:

(i) an elementary school or a secondary school that:

(A) is a:

(I) public school; or

(II) private school; and

(B) provides instruction for one or more grades kindergarten through 12; or

(ii) a public school district; and

(b) includes the Electronic High School as defined in Section 53A-15-1002.

(114) “Seller” means a person that makes a sale, lease, or rental of:

(a) tangible personal property;

(b) a product transferred electronically; or

(c) a service.

(115) (a) “Semiconductor fabricating, processing, research, or development materials” means tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is:

(i) used primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor; or

(ii) consumed primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor.

(b) “Semiconductor fabricating, processing, research, or development materials” includes:

(i) parts used in the repairs or renovations of tangible personal property or a product transferred electronically described in Subsection (115)(a); or

(ii) a chemical, catalyst, or other material used to:

(A) produce or induce in a semiconductor a:

(I) chemical change; or

(II) physical change;

(B) remove impurities from a semiconductor; or

(C) improve the marketable condition of a semiconductor.

(116) “Senior citizen center” means a facility having the primary purpose of providing services to the aged as defined in Section 62A-3-101.

(117) (a) Subject to Subsections (117)(b) and (c), “short-term lodging consumable” means tangible personal property that:

(i) a business that provides accommodations and services described in Subsection 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services to a purchaser;

(ii) is intended to be consumed by the purchaser; and

(iii) is:

(A) included in the purchase price of the accommodations and services; and

(B) not separately stated on an invoice, bill of sale, or other similar document provided to the purchaser.

(b) “Short-term lodging consumable” includes:

(i) a beverage;

(ii) a brush or comb;

(iii) a cosmetic;

(iv) a hair care product;

(v) lotion;

(vi) a magazine;

(vii) makeup;

(viii) a meal;

(ix) mouthwash;

(x) nail polish remover;

(xi) a newspaper;

(xii) a notepad;

(xiii) a pen;

(xiv) a pencil;

(xv) a razor;

(xvi) saline solution;

(xvii) a sewing kit;

(xviii) shaving cream;

(xix) a shoe shine kit;

(xx) a shower cap;

(xxi) a snack item;

(xxii) soap;

(xxiii) toilet paper;

(xxiv) a toothbrush;

(xxv) toothpaste; or

(xxvi) an item similar to Subsections (117)(b)(i) through (xxv) as the commission may provide by

rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) "Short-term lodging consumable" does not include:

(i) tangible personal property that is cleaned or washed to allow the tangible personal property to be reused; or

(ii) a product transferred electronically.

(118) "Simplified electronic return" means the electronic return:

(a) described in Section 318(C) of the agreement; and

(b) approved by the governing board of the agreement.

(119) "Solar energy" means the sun used as the sole source of energy for producing electricity.

(120) (a) "Sports or recreational equipment" means an item:

(i) designed for human use; and

(ii) that is:

(A) worn in conjunction with:

(I) an athletic activity; or

(II) a recreational activity; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "sports or recreational equipment"; and

(ii) that are consistent with the list of items that constitute "sports or recreational equipment" under the agreement.

(121) "State" means the state of Utah, its departments, and agencies.

(122) "Storage" means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.

(123) (a) Except as provided in Subsection (123)(d) or (e), "tangible personal property" means personal property that:

(i) may be:

(A) seen;

(B) weighed;

(C) measured;

(D) felt; or

(E) touched; or

(ii) is in any manner perceptible to the senses.

(b) "Tangible personal property" includes:

(i) electricity;

(ii) water;

(iii) gas;

(iv) steam; or

(v) prewritten computer software, regardless of the manner in which the prewritten computer software is transferred.

(c) "Tangible personal property" includes the following regardless of whether the item is attached to real property:

(i) a dishwasher;

(ii) a dryer;

(iii) a freezer;

(iv) a microwave;

(v) a refrigerator;

(vi) a stove;

(vii) a washer; or

(viii) an item similar to Subsections (123)(c)(i) through (vii) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) "Tangible personal property" does not include a product that is transferred electronically.

(e) "Tangible personal property" does not include the following if attached to real property, regardless of whether the attachment to real property is only through a line that supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) a hot water heater;

(ii) a water filtration system; or

(iii) a water softener system.

(124) (a) "Telecommunications enabling or facilitating equipment, machinery, or software" means an item listed in Subsection (124)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:

(i) telecommunications switching or routing equipment, machinery, or software; or

(ii) telecommunications transmission equipment, machinery, or software.

(b) The following apply to Subsection (124)(a):

(i) a pole;

(ii) software;

(iii) a supplementary power supply;

(iv) temperature or environmental equipment or machinery;

(v) test equipment;

(vi) a tower; or

(vii) equipment, machinery, or software that functions similarly to an item listed in Subsections (124)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection (124)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (124)(b)(i) through (vi).

(125) "Telecommunications equipment, machinery, or software required for 911 service" means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.

(126) "Telecommunications maintenance or repair equipment, machinery, or software" means equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or leased as a spare part or as an upgrade or modification to one or more of the following:

(a) telecommunications enabling or facilitating equipment, machinery, or software;

(b) telecommunications switching or routing equipment, machinery, or software; or

(c) telecommunications transmission equipment, machinery, or software.

(127) (a) "Telecommunications service" means the electronic conveyance, routing, or transmission of audio, data, video, voice, or any other information or signal to a point, or among or between points.

(b) "Telecommunications service" includes:

(i) an electronic conveyance, routing, or transmission with respect to which a computer processing application is used to act:

(A) on the code, form, or protocol of the content;

(B) for the purpose of electronic conveyance, routing, or transmission; and

(C) regardless of whether the service:

(I) is referred to as voice over Internet protocol service; or

(II) is classified by the Federal Communications Commission as enhanced or value added;

(ii) an 800 service;

(iii) a 900 service;

(iv) a fixed wireless service;

(v) a mobile wireless service;

(vi) a postpaid calling service;

(vii) a prepaid calling service;

(viii) a prepaid wireless calling service; or

(ix) a private communications service.

(c) "Telecommunications service" does not include:

(i) advertising, including directory advertising;

(ii) an ancillary service;

(iii) a billing and collection service provided to a third party;

(iv) a data processing and information service if:

(A) the data processing and information service allows data to be:

(I) (Aa) acquired;

(Bb) generated;

(Cc) processed;

(Dd) retrieved; or

(Ee) stored; and

(II) delivered by an electronic transmission to a purchaser; and

(B) the purchaser's primary purpose for the underlying transaction is the processed data or information;

(v) installation or maintenance of the following on a customer's premises:

(A) equipment; or

(B) wiring;

(vi) Internet access service;

(vii) a paging service;

(viii) a product transferred electronically, including:

(A) music;

(B) reading material;

(C) a ring tone;

(D) software; or

(E) video;

(ix) a radio and television audio and video programming service:

(A) regardless of the medium; and

(B) including:

(I) furnishing conveyance, routing, or transmission of a television audio and video programming service by a programming service provider;

(II) cable service as defined in 47 U.S.C. Sec. 522(6); or

(III) audio and video programming services delivered by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;

(x) a value-added nonvoice data service; or

(xi) tangible personal property.

(128) (a) "Telecommunications service provider" means a person that:

(i) owns, controls, operates, or manages a telecommunications service; and

(ii) engages in an activity described in Subsection (128)(a)(i) for the shared use with or resale to any person of the telecommunications service.

(b) A person described in Subsection (128)(a) is a telecommunications service provider whether or not the Public Service Commission of Utah regulates:

(i) that person; or

(ii) the telecommunications service that the person owns, controls, operates, or manages.

(129) (a) "Telecommunications switching or routing equipment, machinery, or software" means an item listed in Subsection (129)(b) if that item is purchased or leased primarily for switching or routing:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection (129)(a):

(i) a bridge;

(ii) a computer;

(iii) a cross connect;

(iv) a modem;

(v) a multiplexer;

(vi) plug in circuitry;

(vii) a router;

(viii) software;

(ix) a switch; or

(x) equipment, machinery, or software that functions similarly to an item listed in Subsections (129)(b)(i) through (ix) as determined by the commission by rule made in accordance with Subsection (129)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (129)(b)(i) through (ix).

(130) (a) "Telecommunications transmission equipment, machinery, or software" means an item listed in Subsection (130)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection (130)(a):

(i) an amplifier;

(ii) a cable;

(iii) a closure;

(iv) a conduit;

(v) a controller;

(vi) a duplexer;

(vii) a filter;

(viii) an input device;

(ix) an input/output device;

(x) an insulator;

(xi) microwave machinery or equipment;

(xii) an oscillator;

(xiii) an output device;

(xiv) a pedestal;

(xv) a power converter;

(xvi) a power supply;

(xvii) a radio channel;

(xviii) a radio receiver;

(xix) a radio transmitter;

(xx) a repeater;

(xxi) software;

(xxii) a terminal;

(xxiii) a timing unit;

(xxiv) a transformer;

(xxv) a wire; or

(xxvi) equipment, machinery, or software that functions similarly to an item listed in Subsections (130)(b)(i) through (xxv) as determined by the commission by rule made in accordance with Subsection (130)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (130)(b)(i) through (xxv).

(131) (a) "Textbook for a higher education course" means a textbook or other printed material that is required for a course:

(i) offered by an institution of higher education; and

(ii) that the purchaser of the textbook or other printed material attends or will attend.

(b) "Textbook for a higher education course" includes a textbook in electronic format.

(132) "Tobacco" means:

(a) a cigarette;

- (b) a cigar;
- (c) chewing tobacco;
- (d) pipe tobacco; or
- (e) any other item that contains tobacco.

(133) "Unassisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device.

(134) (a) "Use" means the exercise of any right or power over tangible personal property, a product transferred electronically, or a service under Subsection 59-12-103(1), incident to the ownership or the leasing of that tangible personal property, product transferred electronically, or service.

(b) "Use" does not include the sale, display, demonstration, or trial of tangible personal property, a product transferred electronically, or a service in the regular course of business and held for resale.

(135) "Value-added nonvoice data service" means a service:

(a) that otherwise meets the definition of a telecommunications service except that a computer processing application is used to act primarily for a purpose other than conveyance, routing, or transmission; and

(b) with respect to which a computer processing application is used to act on data or information:

- (i) code;
- (ii) content;
- (iii) form; or
- (iv) protocol.

(136) (a) Subject to Subsection (136)(b), "vehicle" means the following that are required to be titled, registered, or titled and registered:

- (i) an aircraft as defined in Section 72-10-102;
- (ii) a vehicle as defined in Section 41-1a-102;
- (iii) an off-highway vehicle as defined in Section 41-22-2; or
- (iv) a vessel as defined in Section 41-1a-102.

(b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- (i) a vehicle described in Subsection (136)(a); or
- (ii) (A) a locomotive;
- (B) a freight car;
- (C) railroad work equipment; or
- (D) other railroad rolling stock.

(137) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging a vehicle as defined in Subsection (136).

(138) (a) "Vertical service" means an ancillary service that:

- (i) is offered in connection with one or more telecommunications services; and
- (ii) offers an advanced calling feature that allows a customer to:

- (A) identify a caller; and
- (B) manage multiple calls and call connections.

(b) "Vertical service" includes an ancillary service that allows a customer to manage a conference bridging service.

(139) (a) "Voice mail service" means an ancillary service that enables a customer to receive, send, or store a recorded message.

(b) "Voice mail service" does not include a vertical service that a customer is required to have in order to utilize a voice mail service.

(140) (a) Except as provided in Subsection (140)(b), "waste energy facility" means a facility that generates electricity:

(i) using as the primary source of energy waste materials that would be placed in a landfill or refuse pit if it were not used to generate electricity, including:

- (A) tires;
- (B) waste coal;
- (C) oil shale; or
- (D) municipal solid waste; and

(ii) in amounts greater than actually required for the operation of the facility.

(b) "Waste energy facility" does not include a facility that incinerates:

- (i) hospital waste as defined in 40 C.F.R. 60.51c; or
- (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

(141) "Watercraft" means a vessel as defined in Section 73-18-2.

(142) "Wind energy" means wind used as the sole source of energy to produce electricity.

(143) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.

Section 2. Section 63M-4-503 is amended to read:

63M-4-503. Tax credits.

(1) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules establishing standards an alternative energy entity shall meet to qualify for a tax credit.

(b) Before the office enters into an agreement described in Subsection (2) with an alternative

energy entity, the office, in consultation with other state agencies as necessary, shall certify:

(i) that the alternative energy entity plans to produce in the state at least:

(A) two megawatts of electricity; ~~or~~

(B) 1,000 barrels per day if the alternative energy project is a crude oil equivalent production; or

(C) 250 barrels per day if the alternative energy project is a biomass energy fuel production;

(ii) that the alternative energy project will generate new state revenues;

(iii) the economic life of the alternative energy project produced by the alternative energy entity;

(iv) that the alternative energy entity meets the requirements of Section 63M-4-504; and

(v) that the alternative energy entity has received a Certificate of Good Standing from the Division of Corporations and Commercial Code.

(2) If an alternative energy entity meets the requirements of this part to receive a tax credit, the office shall enter into an agreement with the alternative energy entity to authorize the tax credit in accordance with Subsection (3).

(3) (a) Subject to Subsection (3)(b), if the office expects that the time from the commencement of construction until the end of the economic life of the alternative energy project is 20 years or more:

(i) the office shall grant a tax credit for the lesser of:

(A) the economic life of the alternative energy project; or

(B) 20 years; and

(ii) the tax credit is equal to 75% of new state revenues generated by the alternative energy project.

(b) For a taxable year, a tax credit under this section may not exceed the new state revenues generated by an alternative energy project during that taxable year.

(4) An alternative energy entity that seeks to receive a tax credit or has entered into an agreement described in Subsection (2) with the office shall:

(a) annually file a report with the office showing the new state revenues generated by the alternative energy project during the taxable year for which the alternative energy entity seeks to receive a tax credit under Section 59-7-614.7 or 59-10-1029;

(b) subject to Subsection (5), annually file a report with the office prepared by an independent certified public accountant verifying the new state revenue described in Subsection (4)(a);

(c) subject to Subsection (5), file a report with the office at least every four years prepared by an

independent auditor auditing the new state revenue described in Subsection (4)(a);

(d) provide the office with information required by the office to certify the economic life of the alternative energy project produced by the alternative energy entity, which may include a power purchase agreement, a lease, or a permit; and

(e) retain records supporting a claim for a tax credit for at least four years after the alternative energy entity claims a tax credit under Section 59-7-614.7 or 59-10-1029.

(5) An alternative energy entity for which a report is prepared under Subsection (4)(b) or (c) shall pay the costs of preparing the report.

(6) The office shall annually certify the new state revenues generated by an alternative energy project for a taxable year for which an alternative energy entity seeks to receive a tax credit under Section 59-7-614.7 or 59-10-1029.

Section 3. Effective dates -- Retrospective operation.

(1) Except as provided in Subsections (2) and (3), this bill takes effect on May 13, 2014.

(2) The actions affecting Section 59-12-102 (Effective 07/01/14) take effect on July 1, 2014.

(3) The actions affecting Section 63M-4-502 have retrospective operation for a taxable year beginning on or after January 1, 2014.

CHAPTER 415**S. B. 250**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

PUBLIC DUTY DOCTRINE AMENDMENTS

Chief Sponsor: Curtis S. Bramble

House Sponsor: Kay L. McIff

LONG TITLE**General Description:**

This bill enacts a provision relating to the duty of a governmental entity or employee.

Highlighted Provisions:

This bill:

- ▶ provides that a general duty that a governmental entity owes to the public does not create a specific duty to an individual member of the public unless there is a special relationship between the governmental entity and the individual member of the public.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63G-7-202, as last amended by Laws of Utah 2008, Chapter 395 and renumbered and amended by Laws of Utah 2008, Chapter 382

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-7-202 is amended to read:

63G-7-202. Act provisions not construed as admission or denial of liability -- Effect of waiver of immunity -- Exclusive remedy -- Joinder of employee -- Limitations on personal liability -- Public duty does not create specific duty.

(1) (a) Nothing contained in this chapter, unless specifically provided, may be construed as an admission or denial of liability or responsibility by or for a governmental entity or its employees.

(b) If immunity from suit is waived by this chapter, consent to be sued is granted, and liability of the entity shall be determined as if the entity were a private person.

(c) No cause of action or basis of liability is created by any waiver of immunity in this chapter, nor may any provision of this chapter be construed as imposing strict liability or absolute liability.

(2) Nothing in this chapter may be construed as adversely affecting any immunity from suit that a governmental entity or employee may otherwise assert under state or federal law.

(3) (a) Except as provided in Subsection (3)(c), an action under this chapter against a governmental entity for an injury caused by an act or omission

that occurs during the performance of an employee's duties, within the scope of employment, or under color of authority is a plaintiff's exclusive remedy.

(b) Judgment under this chapter against a governmental entity is a complete bar to any action by the claimant, based upon the same subject matter, against the employee whose act or omission gave rise to the claim.

(c) A plaintiff may not bring or pursue any civil action or proceeding based upon the same subject matter against the employee or the estate of the employee whose act or omission gave rise to the claim, unless:

(i) the employee acted or failed to act through fraud or willful misconduct;

(ii) the injury or damage resulted from the employee driving a vehicle, or being in actual physical control of a vehicle:

(A) with a blood alcohol content equal to or greater by weight than the established legal limit;

(B) while under the influence of alcohol or any drug to a degree that rendered the person incapable of safely driving the vehicle; or

(C) while under the combined influence of alcohol and any drug to a degree that rendered the person incapable of safely driving the vehicle;

(iii) injury or damage resulted from the employee being physically or mentally impaired so as to be unable to reasonably perform the employee's job function because of:

(A) the use of alcohol;

(B) the nonprescribed use of a controlled substance as defined in Section 58-37-4; or

(C) the combined influence of alcohol and a nonprescribed controlled substance as defined by Section 58-37-4;

(iv) in a judicial or administrative proceeding, the employee intentionally or knowingly gave, upon a lawful oath or in any form allowed by law as a substitute for an oath, false testimony material to the issue or matter of inquiry under this section; or

(v) the employee intentionally or knowingly:

(A) fabricated evidence; or

(B) except as provided in Subsection (3)(d), with a conscious disregard for the rights of others, failed to disclose evidence that:

(I) was known to the employee; and

(II) (Aa) was known by the employee to be relevant to a material issue or matter of inquiry in a pending judicial or administrative proceeding, if the employee knew of the pending judicial or administrative proceeding; or

(Bb) was known by the employee to be relevant to a material issue or matter of inquiry in a judicial or administrative proceeding, if disclosure of the evidence was requested of the employee by a party

to the proceeding or counsel for a party to the proceeding.

(d) The exception, described in Subsection (3)(c)(v)(B), allowing a plaintiff to bring or pursue a civil action or proceeding against an employee, does not apply if the employee failed to disclose evidence described in Subsection (3)(c)(v)(B), because the employee is prohibited by law from disclosing the evidence.

(4) Except as permitted in Subsection (3)(c), no employee may be joined or held personally liable for acts or omissions occurring:

(a) during the performance of the employee's duties;

(b) within the scope of employment; or

(c) under color of authority.

(5) A general duty that a governmental entity owes to the public does not create a specific duty to an individual member of the public, unless there is a special relationship between the governmental entity and the individual member of the public.

CHAPTER 416**S. B. 253**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

DISTRACTED DRIVER AMENDMENTS

Chief Sponsor: Stephen H. Urquhart

House Sponsor: Don L. Ipson

LONG TITLE**General Description:**

This bill modifies the Traffic Code by amending handheld wireless communication device provisions.

Highlighted Provisions:

This bill:

- ▶ amends and repeals definitions;
- ▶ amends the list of activities taking place within a vehicle during a moving traffic violation that constitute careless driving;
- ▶ amends the devices that are included as examples of a handheld wireless communication device;
- ▶ amends the exceptions to the prohibition on using a handheld wireless communication device;
- ▶ amends the penalties for violating the prohibition on using a handheld wireless communication device while operating a moving motor vehicle; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-6a-1715, as last amended by Laws of Utah 2010, Chapter 157

41-6a-1716, as last amended by Laws of Utah 2012, Chapter 193

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-6a-1715 is amended to read:**41-6a-1715. Careless driving defined and prohibited.**

(1) A person operating a motor vehicle is guilty of careless driving if the person:

(a) commits two or more moving traffic violations under this chapter in a series of acts within a single continuous period of driving covering three miles or less in total distance; or

(b) commits a moving traffic violation under this chapter other than a moving traffic violation under Part 6, Speed Restrictions, while being distracted by one or more activities taking place within the vehicle that are not related to the operation of a motor vehicle, including:

~~(i) using a wireless telephone or other electronic device unless the person is using hands-free talking and listening features while operating the motor vehicle;~~

~~(ii) (i) searching for an item in the vehicle; or~~

~~(iii) (ii) attending to personal hygiene or grooming.~~

(2) A violation of this section is a class C misdemeanor.

(3) In addition to the penalty provided under this section or any other section, a judge may order the revocation of the convicted person's driver license if the violation causes or results in the death of another person in accordance with Subsection 53-3-218(6).

Section 2. Section 41-6a-1716 is amended to read:**41-6a-1716. Prohibition on using a handheld wireless communication device while operating a moving motor vehicle -- Exceptions -- Penalties.**

(1) As used in this section:

(a) ~~(i)~~ "Handheld wireless communication device" means a handheld device used for the transfer of information without the use of electrical conductors or wires.

~~(ii) (b) "Handheld wireless communication device" includes a:~~

~~(A) (i) wireless telephone;~~

~~(B) personal digital assistant;~~

~~(C) pager; or~~

~~(D) (ii) text messaging device[-];~~

~~(b) (i) "Text message" means to manually communicate in the form of electronic text or one or more electronic images sent by the actor from a handheld wireless communication device to another person's handheld wireless communication device or computer by addressing the communication to the person's telephone number.~~

~~(ii) "Text message" includes manually composing a communication in the form of electronic text or an electronic image by the actor even if the electronic text or image has not been sent to another person.~~

~~(iii) laptop; or~~

~~(iv) any substantially similar communication device that is readily removable from the vehicle and is used to write, send, or read text or data through manual input.~~

(2) Except as provided in Subsection (3), a person may not use a handheld wireless communication device while operating a moving motor vehicle on a highway in this state to manually:

(a) write, send, or read a written communication, including:

(a) (i) a text message;

~~[(b) manually communicate through an electronic mail system;]~~

~~[(c) manually enter data into a handheld wireless communication device;]~~

~~[(d) send data, read text, or view images on a handheld wireless communication device; or]~~

~~[(e) manipulate an application from]~~

(ii) an instant message; or

(iii) electronic mail;

(b) dial a phone number;

(c) access the Internet;

(d) view or record video; or

(e) enter data into a handheld wireless communication device.

(3) Subsection (2) does not prohibit a person from using a handheld wireless communication device while operating a moving motor vehicle:

~~[(a) when making or receiving a telephone call;]~~

~~[(b) when using a handheld wireless communication device for global positioning or navigation services;]~~

(a) when using a handheld communication device for voice communication;

(b) to view a global positioning or navigation device or a global positioning or navigation application;

(c) during a medical emergency;

(d) when reporting a safety hazard or requesting assistance relating to a safety hazard;

(e) when reporting criminal activity or requesting assistance relating to a criminal activity;

~~[(f) when providing roadside or medical assistance;]~~

~~[(g)] (f) when used by a law enforcement officer or emergency service personnel acting within the course and scope of the law enforcement officer's or emergency service personnel's employment; or~~

~~[(h)] (g) to operate:~~

(i) hands-free or voice operated technology; or

(ii) a system that is physically or electronically integrated into the motor vehicle.

(4) A person convicted of a violation of this section is guilty of a:

(a) class C misdemeanor with a maximum fine of \$100; or

(b) class B misdemeanor if the person:

(i) has also inflicted serious bodily injury upon another as a proximate result of using a handheld wireless communication device [for text messaging or electronic mail communication] in violation of this section while operating a moving motor vehicle on a highway in this state; or

(ii) has a prior conviction under this section, that is within three years of:

(A) the current conviction under this section; or

(B) the commission of the offense upon which the current conviction is based.

CHAPTER 417**S. B. 258**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

EDUCATOR LICENSURE AMENDMENTS

Chief Sponsor: Jerry W. Stevenson

House Sponsor: Gregory H. Hughes

LONG TITLE**General Description:**

This bill addresses requirements related to licensing of educators.

Highlighted Provisions:

This bill:

- ▶ provides that an individual employed at least half time in a position for which a teacher's license is required, including a position in an online school or a school that uses digital technologies for instruction or blended learning, satisfies the work experience requirement for participation in an alternative preparation program.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

53A-6-113, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53A-6-113 is enacted to read:**53A-6-113. Alternative preparation program
-- Work experience requirement.**

An individual who is employed at least half time in a position for which a teacher's license is required pursuant to board rule, including a position in an online school or a school that uses digital technologies for instruction or blended learning, satisfies the work experience requirement for participation in an alternative preparation program.

CHAPTER 418**S. B. 263**

Passed March 13, 2014

Approved April 1, 2014

Effective July 1, 2014

**SMALL BUSINESS
INNOVATION RESEARCH**Chief Sponsor: Jerry W. Stevenson
House Sponsor: Gregory H. Hughes**LONG TITLE****General Description:**

This bill modifies the Technology Commercialization and Innovation Act by allowing small businesses to apply for grants and loans under the act.

Highlighted Provisions:

This bill:

- ▶ defines small business;
- ▶ allows small businesses, in addition to institutions of higher education, to apply for Technology Commercialization and Innovation Program grants and loans;
- ▶ provides for rulemaking by the Governor's Office of Economic Development;
- ▶ removes the State Advisory Council for Science and Technology from the funding allocation process; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2014.

This bill coordinates with S.B. 31, State Agency Reporting Amendments, by providing superseding amendments.

Utah Code Sections Affected:**AMENDS:**

63M-1-702, as last amended by Laws of Utah 2011, Chapter 392

63M-1-703, as last amended by Laws of Utah 2011, Chapter 392

63M-1-704, as last amended by Laws of Utah 2011, Chapter 392

Utah Code Sections Affected by Coordination Clause:

63M-1-704, as last amended by Laws of Utah 2011, Chapter 392

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63M-1-702 is amended to read:**63M-1-702. Purpose.**

(1) (a) The Legislature recognizes that the growth of new industry and expansion of existing industry requires a strong technology base, new ideas, concepts, innovations, and prototypes.

(b) ~~[These generally come from]~~ Growth in industry frequently results from technological

innovation generated by strong research ~~[colleges and universities]~~ institutions of higher education and by small businesses.

(c) Technical research in Utah's ~~[colleges and universities]~~ institutions of higher education should be enhanced and expanded, particularly in those areas targeted by the state for economic development.

(d) Most states ~~[are enhancing]~~ enhance their research base by direct funding, usually on a matching basis.

(e) The purpose of this part is to catalyze and enhance the growth of these technologies by:

(i) encouraging interdisciplinary research activities in targeted areas ~~[and by]~~;

(ii) facilitating the transition of these technologies out of the ~~[university]~~ higher education environment into industry where the technologies can be used to enhance job creation~~[-]~~; and

(iii) supporting the commercialization of technologies developed by small business to enhance job creation.

(f) The Legislature recognizes that one source of funding is ~~[in matching]~~ to match state funds with federal funds and industrial support to provide and develop ~~[the needed]~~ new technologies.

(2) The Legislature recommends that the governor consider matching the allocation of economic development funds for the Technology Commercialization and Innovation Program ~~[to be matched by]~~ with industry and federal grants ~~[on at least a two-for-one basis for colleges and universities in the state that offer any doctoral degrees]~~.

(3) (a) The Legislature recommends that the funds be allocated on a competitive basis:

(i) to the various ~~[colleges and universities]~~ institutions of higher education in the state ~~[and]~~;

(ii) to companies working in partnership with ~~[colleges and universities]~~ institutions of higher education to commercialize their technologies~~[-]~~; and

(iii) to small businesses that are developing promising technologies.

(b) The funds made available should be used to support:

(i) interdisciplinary research in the Technology Commercialization and Innovation Program in technologies that are considered to have potential for economic development in ~~[this]~~ the state and to help transition these technologies out of ~~[the colleges and universities]~~ institutions of higher education and into industry~~[-]~~; and

(ii) small businesses in commercializing their promising technologies that have the potential to increase economic development in the state.

Section 2. Section 63M-1-703 is amended to read:

63M-1-703. Definitions.

As used in this part:

(1) "Business team consultant" means an experienced technology executive, entrepreneur, or business person who:

(a) is recruited by the office through a request for proposal process to work directly with a college or university in the Technology Commercialization and Innovation Program; and

(b) works with the institution to facilitate the transition of its technology into industry by assisting the institution in developing strategies, including spin out strategies when appropriate, and go-to-market plans, and identifying and working with potential customers and partners.

(2) "Direct license" means ~~[the licensing]~~ a written license agreement between a company and a Utah ~~[college or university of]~~ institution of higher education related to technology developed at the ~~[college or university for]~~ institution of higher education with the intent of commercializing the technology or facilitating its transition into industry.

(3) "Institution of higher education" means:

(a) a state institution of higher education as defined in Section 53B-3-102; or

(b) a private institution of higher education in the state accredited by a regional or national accrediting agency recognized by the United States Department of Education.

~~[(3)]~~ (4) "Licensee" means:

(a) a company that executes or is in the process of executing a direct license; or

(b) a sublicensee of the technology from a direct license.

(5) "Small business" means a business that:

(a) meets the size standards for the business's industry classification as identified by the United States Small Business Administration in 13 C.F.R. Sec. 121.201;

(b) is organized for profit;

(c) operates primarily within the United States;

(d) has a principal place of business in the state, including a manufacturing or service location; and

(e) is independently owned and operated.

~~[(4)]~~ (6) "Technology Commercialization and Innovation Program" means ~~[university-based];~~

(a) a federal- and industry-supported cooperative research and development ~~[programs.]~~ program based at an institution of higher education; or

(b) a federal- and state-supported program for funding technologically innovative small businesses.

Section 3. Section 63M-1-704 is amended to read:

63M-1-704. Administration -- Grants and loans.

(1) The Governor's Office of Economic Development shall administer this part.

(2) (a) (i) The office may award Technology Commercialization and Innovation Program grants or issue loans ~~[to the various colleges, universities, and licensees in the state for the purposes of this part.]~~ under this part to an applicant that is:

(A) an institution of higher education;

(B) a licensee; or

(C) a small business.

(ii) If loans are issued under Subsection (2)(a)(i), the Division of Finance may set up a fund or account as necessary for the proper accounting of the loans.

(b) ~~[The Governor's Office of Economic Development shall develop]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules for a process to determine whether ~~[a college or university]~~ an institution of higher education that receives a grant under this part must return the grant proceeds or a portion of the grant proceeds if the technology that is developed with the grant proceeds is licensed to a licensee that:

(i) does not maintain a manufacturing or service location in the state from which the licensee or a sublicensee exploits the technology; or

(ii) initially maintains a manufacturing or service location in the state from which the licensee or a sublicensee exploits the technology, but within five years after issuance of the license the licensee or sublicensee transfers the manufacturing or service location for the technology to a location out of the state.

(c) A repayment by ~~[a college or university]~~ an institution of higher education of grant proceeds or a portion of the grant proceeds ~~[shall come only]~~ may only come from the proceeds of the license established between the licensee and the ~~[college or university]~~ institution of higher education.

(d) (i) ~~[A licensee]~~ An applicant that is a licensee or small business that receives a grant under this part shall return the grant proceeds or a portion of the grant proceeds to the office if the ~~[licensee]~~ applicant:

(A) does not maintain a manufacturing or service location in the state from which the ~~[licensee]~~ applicant exploits the technology; or

(B) initially maintains a manufacturing or service location in the state from which the ~~[licensee]~~ applicant exploits the technology, but within five years after issuance of the grant, the ~~[licensee]~~ applicant transfers the manufacturing or

service location for the technology to an out-of-state location.

~~[(ii) A repayment by a licensee that receives a grant shall come only from the proceeds of the license to that licensee.]~~

~~[(iii) A repayment by a licensee shall be prorated based only on the number of full years the licensee operated in the state from the date of the awarded grant.]~~

(ii) A repayment by an applicant shall be prorated based on the number of full years the applicant operated in the state from the date of the awarded grant.

(iii) A repayment by a licensee that receives a grant may only come from the proceeds of the license to that licensee.

(3) (a) Funding allocations shall be made by the office with the advice of ~~[the State Advisory Council for Science and Technology and]~~ the board.

(b) Each proposal shall receive the best available outside review.

(4) (a) In considering each proposal, the office shall weigh technical merit, the level of matching funds from private and federal sources, and the potential for job creation and economic development.

(b) Proposals or consortia that combine and coordinate related research at two or more ~~[colleges and universities]~~ institutions of higher education shall be encouraged.

(5) The ~~[State Advisory Council on Science and Technology]~~ office shall review the activities and progress of grant recipients on a regular basis and ~~[assist the office in preparing an annual]~~, as part of the office's annual written report described in Section 63M-1-206, report on the accomplishments and direction of the Technology Commercialization and Innovation Program.

Section 4. Effective date.

This bill takes effect on July 1, 2014.

Section 5. Coordinating S.B. 263 with S.B.

31 -- Superseding amendments.

If this S.B. 263 and S.B. 31, State Agency Reporting Amendments, both pass and become law, as of July 1, 2014, it is the intent of the Legislature that the amendments to Section 63M-1-704 in this bill supersede the amendments to Section 63M-1-704 in S.B. 31, when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.

CHAPTER 419
S. B. 270

Passed March 13, 2014
Approved April 1, 2014
Effective April 1, 2014

**REPEAL OF PRISON RELOCATION
AND DEVELOPMENT AUTHORITY**

Chief Sponsor: Jerry W. Stevenson
House Sponsor: Brad R. Wilson

LONG TITLE

General Description:

This bill addresses provisions relating to the Prison Relocation and Development Authority.

Highlighted Provisions:

This bill:

- ▶ repeals provisions relating to the Prison Relocation and Development Authority.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.

Utah Code Sections Affected:

AMENDS:

63I-1-263, as last amended by Laws of Utah 2013, Chapters 28, 62, 101, 167, 250, and 413

REPEALS:

- 63C-13-101, as enacted by Laws of Utah 2011, Chapter 408
- 63C-13-102, as last amended by Laws of Utah 2013, Chapter 228
- 63C-13-103, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 228 and last amended by Laws of Utah 2013, Chapter 228
- 63C-13-104.3, as enacted by Laws of Utah 2013, Chapter 228
- 63C-13-104.7, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 228 and enacted by Laws of Utah 2013, Chapter 228
- 63C-13-105, as last amended by Laws of Utah 2013, Chapters 228 and 310
- 63C-13-106, as enacted by Laws of Utah 2011, Chapter 408
- 63C-13-107, as enacted by Laws of Utah 2013, Chapter 228
- 63C-13-108, as enacted by Laws of Utah 2013, Chapter 228

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63M.

(1) Section 63A-4-204, authorizing the Risk Management Fund to provide coverage to any public school district which chooses to participate, is repealed July 1, 2016.

(2) Subsections 63A-5-104(4)(d) and (e) are repealed on July 1, 2014.

(3) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2016.

(4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2018.

(5) Section 53B-24-402, rural residency training program, is repealed July 1, 2015.

~~[(6) Title 63C, Chapter 13, Prison Relocation and Development Authority Act, is repealed July 1, 2014.]~~

~~[(7)] (6) Title 63C, Chapter 14, Federal Funds Commission, is repealed July 1, 2018.~~

~~[(8)] (7) Subsection 63G-6a-1402(7) authorizing certain transportation agencies to award a contract for a design-build transportation project in certain circumstances, is repealed July 1, 2015.~~

~~[(9)] (8) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.~~

~~[(10)] (9) The Resource Development Coordinating Committee, created in Section 63J-4-501, is repealed July 1, 2015.~~

~~[(11)] (10) Title 63M, Chapter 1, Part 4, Enterprise Zone Act, is repealed July 1, 2018.~~

~~[(12)] (11) (a) Title 63M, Chapter 1, Part 11, Recycling Market Development Zone Act, is repealed January 1, 2021.~~

(b) Subject to Subsection ~~[(12)] (11)(c)~~, Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections ~~[(12)] (11)(b)~~ and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.

~~[(13)] (12) (a) Section 63M-1-2507, Health Care Compact, is repealed on July 1, 2014.~~

(b) (i) The Legislature shall, before reauthorizing the Health Care Compact:

(A) direct the Health System Reform Task Force to evaluate the issues listed in Subsection ~~[(13)]~~ (12)(b)(ii), and by January 1, 2013, develop and recommend criteria for the Legislature to use to negotiate the terms of the Health Care Compact; and

(B) prior to July 1, 2014, seek amendments to the Health Care Compact among the member states that the Legislature determines are appropriate after considering the recommendations of the Health System Reform Task Force.

(ii) The Health System Reform Task Force shall evaluate and develop criteria for the Legislature regarding:

(A) the impact of the Supreme Court ruling on the Affordable Care Act;

(B) whether Utah is likely to be required to implement any part of the Affordable Care Act prior to negotiating the compact with the federal government, such as Medicaid expansion in 2014;

(C) whether the compact's current funding formula, based on adjusted 2010 state expenditures, is the best formula for Utah and other state compact members to use for establishing the block grants from the federal government;

(D) whether the compact's calculation of current year inflation adjustment factor, without consideration of the regional medical inflation rate in the current year, is adequate to protect the state from increased costs associated with administering a state based Medicaid and a state based Medicare program;

(E) whether the state has the flexibility it needs under the compact to implement and fund state based initiatives, or whether the compact requires uniformity across member states that does not benefit Utah;

(F) whether the state has the option under the compact to refuse to take over the federal Medicare program;

(G) whether a state based Medicare program would provide better benefits to the elderly and disabled citizens of the state than a federally run Medicare program;

(H) whether the state has the infrastructure necessary to implement and administer a better state based Medicare program;

(I) whether the compact appropriately delegates policy decisions between the legislative and executive branches of government regarding the development and implementation of the compact with other states and the federal government; and

(J) the impact on public health activities, including communicable disease surveillance and epidemiology.

~~[(14)]~~ (13) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2017.

~~[(15)]~~ (14) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2017.

Section 2. Repealer.

This bill repeals:

Section 63C-13-101, Title.

Section 63C-13-102, Definitions.

Section 63C-13-103, Creation of Prison Relocation and Development Authority -- Members.

Section 63C-13-104.3, Authority duties and responsibilities.

Section 63C-13-104.7, Request for proposals process.

Section 63C-13-105, Authority staff and expenses.

Section 63C-13-106, No effect on local land use authority.

Section 63C-13-107, Compensation and expenses of authority members.

Section 63C-13-108, Authority member ethics and conflicts of interest.

Section 3. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 420**S. B. 274**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

WATER JURISDICTION AMENDMENTS

Chief Sponsor: Margaret Dayton

House Sponsor: Ken Ivory

LONG TITLE**General Description:**

This bill modifies provisions relating to water rights used for watering livestock on public land and addresses the ability of a party to obtain a water right in the state under certain circumstances.

Highlighted Provisions:

This bill:

- ▶ removes the requirement that a livestock watering right be acquired jointly by a public land agency and a beneficial user;
- ▶ states that a public land agency may not condition the issuance, renewal, amendment, or extension of any permit, approval, license, allotment, easement, right-of-way, or other land use occupancy agreement on the transfer of the water right, or a party acquiring a water right on behalf of the public land agency;
- ▶ states that, among other reasons, a livestock watering right may be considered valid if it is held by a beneficial user who has the right to use the grazing permit and graze livestock on the allotment;
- ▶ provides that if a reduction in livestock grazing results in a partial forfeiture of water, the state engineer shall hold the appropriated water right in trust until the water can be appropriated for livestock watering; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

73-3-31, as last amended by Laws of Utah 2013, Chapter 343

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 73-3-31 is amended to read:**73-3-31. Water right for watering livestock on public land.**

(1) As used in this section:

(a) "Acquire" means to gain the right to use water through obtaining:

(i) an approved application to appropriate water; or

(ii) a perfected water right.

(b) "Allotment" means a designated area of public land available for livestock grazing.

(c) "Animal unit month (AUM)" is the amount of forage needed to sustain one cow and her calf, one horse, or five sheep and goats for one month.

~~[(e)]~~ (d) (i) "Beneficial user" means the person that has the right to use the grazing permit.

(ii) "Beneficial user" does not mean the public land agency issuing the grazing permit.

~~[(d)]~~ (e) "Grazing permit" means a document authorizing livestock to graze on an allotment.

~~[(e)]~~ (f) "Livestock" means a domestic animal raised or kept for profit or personal use.

~~[(f)]~~ (g) "Livestock watering right" means a right for:

(i) livestock to consume water:

(A) directly from the water source located on public land; or

(B) from an impoundment located on public land into which the water is diverted; and

(ii) associated uses of water related to the raising and care of livestock on public land.

~~[(g)]~~ (h) (i) "Public land" means land owned or managed by the United States or the state.

(ii) "Public land" does not mean land owned by:

(A) the Division of Wildlife Resources;

(B) the School and Institutional Trust Lands Administration; or

(C) the Division of Parks and Recreation.

~~[(h)]~~ (i) "Public land agency" means the agency that owns or manages the public land.

~~[(2) On or after May 12, 2009, a livestock watering right may only be acquired by a public land agency jointly with a beneficial user.]~~

(2) A public land agency may not:

(a) condition the issuance, renewal, amendment, or extension of any permit, approval, license, allotment, easement, right-of-way, or other land use occupancy agreement regarding livestock on the transfer of any water right directly to the public land agency;

(b) require any water user to apply for, or acquire a water right in the name of, the public land agency as a condition for the issuance, renewal, amendment, or extension of any permit, approval, license, allotment, easement, right-of-way, or other land use occupancy agreement regarding livestock; or

(c) acquire a livestock watering right if the public land agency is not a beneficial user.

(3) The state engineer may not approve a change application under Section 73-3-3 for a livestock watering right without the consent of the beneficial user.

(4) A beneficial user may file a nonuse application under Section 73-1-4 on a livestock watering right or a portion of a livestock watering right that the beneficial user puts to beneficial use.

(5) A livestock watering right is appurtenant to the allotment on which the livestock is watered.

(6) (a) (i) A beneficial user or a public land agency may file a request with the state engineer for a livestock water use certificate.

(ii) The state engineer shall:

(A) provide the livestock water use certificate application form on the Internet; and

(B) allow electronic submission of the livestock water use certificate application.

(b) The state engineer shall grant a livestock water use certificate to ~~[-(i)]~~ a beneficial user if the beneficial user:

~~[(A)]~~ (i) demonstrates that the beneficial user has a right to use a grazing permit for the allotment to which the livestock watering right is appurtenant; and

~~[(B)]~~ (ii) pays the fee set in accordance with Section 73-2-14 ~~[-and]~~.

~~[(ii) the public land agency if the public land agency:]~~

~~[(A) (I) demonstrates that the public land agency owns a livestock watering right; or]~~

~~[(II) issues a grazing permit for the allotment to which the livestock watering right is appurtenant; and]~~

~~[(B) pays the fee set in accordance with Section 73-2-14.]~~

(c) A livestock water use certificate is valid as long as the livestock watering right is:

(i) held by a beneficial user who has the right to use the grazing permit and graze livestock on the allotment;

~~[(i)]~~ (ii) put to beneficial use within a seven-year time period; or

~~[(ii)]~~ (iii) subject to a nonuse application approved under Section 73-1-4.

(7) A beneficial user may access or improve an allotment as necessary for the beneficial user to beneficially use, develop, and maintain the beneficial user's water right appurtenant to the allotment.

(8) If a federal land management agency reduces livestock grazing AUMs on federal grazing allotments, and the reduction results in the partial forfeiture of an appropriated water right, the amount of water in question for nonuse as a livestock water right shall be held in trust by the state engineer until such water may be appropriated for livestock watering, consistent with this act and state law.

(9) Nothing in this section affects a livestock watering right or a livestock water use certificate held by a public land agency on May 13, 2014.

CHAPTER 421**S. B. 275**

Passed March 13, 2014

Approved April 1, 2014

Effective May 13, 2014

REDEVELOPMENT**AGENCY MODIFICATIONS**

Chief Sponsor: Curtis S. Bramble

House Sponsor: Val L. Peterson

LONG TITLE**General Description:**

This bill repeals language related to a railroad or street railroad located within certain urban renewal project areas.

Highlighted Provisions:

This bill:

- ▶ repeals language related to a railroad or street railroad located within certain urban renewal project areas.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**REPEALS:**

17C-2-701, as enacted by Laws of Utah 2011,
Chapter 43

Be it enacted by the Legislature of the state of Utah:

Section 1. Repealer.

This bill repeals:

**Section 17C-2-701, Railroad crossings
within urban renewal project area.**

**CHAPTER 422
H.B. 3**

Passed March 13, 2014
Approved April 2, 2014
Effective April 2, 2014
(Line Item 105 vetoed)

APPROPRIATIONS ADJUSTMENTS

Chief Sponsor: Melvin R. Brown
Senate Sponsor: Lyle W. Hillyard

LONG TITLE

General Description:

This bill supplements or reduces appropriations previously provided for the use and support of state government for the fiscal years beginning July 1, 2013 and ending June 30, 2014 and beginning July 1, 2014 and ending June 30, 2015.

Highlighted Provisions:

This bill:

- ▶ provides budget increases and decreases for the use and support of certain state agencies;
- ▶ provides budget increases and decreases for the use and support of certain public education programs;
- ▶ provides budget increases and decreases for the use and support of certain institutions of higher education;
- ▶ provides funds for the bills with fiscal impact passed in the 2014 General Session;
- ▶ provides budget increases and decreases for other purposes as described; and,
- ▶ provides intent language.

Money Appropriated in this Bill:

This bill appropriates \$4,029,600 in operating and capital budgets for fiscal year 2014, including:

- ▶ (\$13,893,600) from the General Fund;
- ▶ \$15,150,000 from the Education Fund;
- ▶ \$2,773,200 from various sources as detailed in this bill.

This bill appropriates \$54,245,200 in operating and capital budgets for fiscal year 2015, including:

- ▶ provides budget increases and decreases for the \$12,147,500 from the General Fund;
- ▶ provides budget increases and decreases for the \$8,088,500 from the Education Fund;
- ▶ provides budget increases and decreases for the \$34,009,200 from various sources as detailed in this bill.

This bill appropriates \$1,500,000 in expendable funds and accounts for fiscal year 2015.

This bill appropriates \$200,000 in restricted fund and account transfers for fiscal year 2015, all of which is from the General Fund.

This bill appropriates \$12,675,800 in transfers to unrestricted funds for fiscal year 2015.

This bill appropriates \$16,805,300 in capital project funds for fiscal year 2015.

Other Special Clauses:

Section 1 of this bill takes effect immediately.
Section 2 of this bill takes effect on July 1, 2014.

**Utah Code Sections Affected:
ENACTS UNCODIFIED MATERIAL**

Be it enacted by the Legislature of the state of Utah:

Section 1. FY 2014 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2013 and ending June 30, 2014. These are additions to amounts previously appropriated for fiscal year 2014.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Utah Code Title 63J, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use and support of the government of the State of Utah.

**EXECUTIVE OFFICES AND
CRIMINAL JUSTICE**

GOVERNOR'S OFFICE

Item 1

To Governor's Office
From General Fund, One-time 18,800
Schedule of Programs:
Lt. Governor's Office 18,800
 To implement the provisions of *Government Ethics* (House Bill 246, 2014 General Session).

Item 2

To Governor's Office
From General Fund, One-time (800)
Schedule of Programs:
Lt. Governor's Office (800)
 To implement the provisions of *Financial Disclosure Reporting Amendments* (Senate Bill 105, 2014 General Session).

Item 3

To Governor's Office - Governor's Office of Management and Budget
From General Fund, One-time (421,900)
Schedule of Programs:
Prison Relocation (421,900)
 To implement the provisions of *Repeal of Prison Relocation and Development Authority* (Senate Bill 270, 2014 General Session).

Item 4

To Governor's Office - Commission on Criminal and Juvenile Justice
From General Fund, One-time 2,200
From Crime Victim Reparations Fund . . . (2,200)

DEPARTMENT OF PUBLIC SAFETY

Item 5

To Department of Public Safety - Programs & Operations
From General Fund, One-time 350,000
Schedule of Programs:
CITS State Crime Labs 350,000

Item 6

To Department of Public Safety - Programs & Operations

From General Fund, One-time 8,100
 From General Fund Restricted -
 DNA Specimen Account 39,400
 Schedule of Programs:
 CITS State Crime Labs 47,500

To implement the provisions of *DNA Collection Amendments* (House Bill 212, 2014 General Session).

**INFRASTRUCTURE AND
 GENERAL GOVERNMENT**

**DEPARTMENT OF
 ADMINISTRATIVE SERVICES**

Item 7

To Department of Administrative Services - Finance Administration

Under terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the local government open government initiative in Item 59, Chapter 417, Laws of Utah 2012, shall not lapse at the close of FY 2014. Expenditures of these funds are limited to the local government initiative.

The Legislature intends that the Division of Finance close and transfer to the Transportation Investment Fund the remaining balance of \$158,533.63 in the Mountain View Corridor Subaccount of the Litigation Account for Highways that was repealed in House Bill 349.

Item 8

To Department of Administrative Services - Finance - Mandated

The Legislature intends that notwithstanding intent language in Item 4 and Item 10, Senate Bill 3, 2013 General Session, if the special fiduciary repays \$4 million of the \$5,619,900 appropriation by May 1, 2014, neither the state nor the Legislature will seek reimbursement of the remaining balance.

Under Section 63J-1-603 of the Utah Code the Legislature intends that appropriations provided for the Finance - Mandated State Employee Benefits Program not lapse at the close of FY 2014.

CAPITAL BUDGET

Item 9

To Capital Budget - Capital Development - Higher Education
 From Education Fund, One-time 1,000,000
 Schedule of Programs:
 WSU Science Building 1,000,000

**BUSINESS, ECONOMIC
 DEVELOPMENT, AND LABOR**

DEPARTMENT OF HERITAGE AND ARTS

Item 10

To Department of Heritage and Arts - Division of Arts and Museums
 From General Fund, One-time 150,000
 Schedule of Programs:
 Grants to Non-profits 150,000

**GOVERNOR'S OFFICE OF
 ECONOMIC DEVELOPMENT**

Item 11

To Governor's Office of Economic Development - Business Development

The Legislature intends that the Governor's Office of Economic Development may increase its fleet by two vehicles in FY 2014. One vehicle shall be utilized by the Outdoor Recreation Office, and one vehicle by the Office of Rural Development.

**UTAH SCIENCE TECHNOLOGY AND
 RESEARCH GOVERNING AUTHORITY**

Item 12

To Utah Science Technology and Research Governing Authority

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Utah Science, Technology, and Research Governing Authority in item 16, Chapter 2, Laws of Utah 2013, shall not lapse at the close of FY 2014. Any nonlapsing balances accrued within the Administration program of this line item may be transferred to the Utah Science, Technology, and Research Governing Authority - USTAR Administration item 60, H.B. 2, "New Fiscal Year Supplemental Appropriations Act".

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Utah Science, Technology, and Research Governing Authority in item 16, Chapter 2, Laws of Utah 2013, shall not lapse at the close of FY 2014. Any nonlapsing balances accrued within the Technology Outreach program of this line item may be transferred to the Utah Science, Technology, and Research Governing Authority - Technology Outreach and Innovation item 59, H.B. 2, "New Fiscal Year Supplemental Appropriations Act".

Item 13

To Utah Science Technology and Research Governing Authority - Utah Science Technology and Research Governing Authority Research Teams

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Utah Science, Technology, and Research Governing Authority - Utah Science Technology and Research Governing Authority Research Teams in item 101,

Chapter 406, Laws of Utah 2013, shall not lapse at the close of FY 2014. Any nonlapsing balances accrued within the University of Utah program of this line item may be transferred to the Utah Science, Technology, and Research Governing Authority - University of Utah Research Teams item 57, H.B. 2, "New Fiscal Year Supplemental Appropriations Act".

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Utah Science, Technology, and Research Governing Authority - Utah Science Technology and Research Governing Authority Research Teams in item 101, Chapter 406, Laws of Utah 2013, shall not lapse at the close of FY 2014. Any nonlapsing balances accrued within the Utah State University program of this line item may be transferred to the Utah Science, Technology, and Research Governing Authority - Utah State University Research Teams item 58, H.B. 2, "New Fiscal Year Supplemental Appropriations Act".

INSURANCE DEPARTMENT

Item 14

To Insurance Department - Insurance Department Administration

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided from the Insurance Department Restricted Account for the Insurance Department Administrative line item in Item 25 of Chapter 2 Laws of Utah 2013 not lapse at the close of Fiscal Year 2014.

SOCIAL SERVICES

DEPARTMENT OF HUMAN SERVICES

Item 15

To Department of Human Services - Executive Director Operations
 From Federal Funds 633,300
 Schedule of Programs:
 Executive Director's Office 633,300

Item 16

To Department of Human Services - Division of Substance Abuse and Mental Health
 From Federal Funds 789,800
 Schedule of Programs:
 Administration - DSAMH 789,800

Item 17

To Department of Human Services - Division of Child and Family Services
 From Federal Funds 993,500
 Schedule of Programs:
 Administration - DCFS 993,500

Item 18

To Department of Human Services - Division of Aging and Adult Services
 From Federal Funds 319,400
 Schedule of Programs:

Administration - DAAS 319,400

HIGHER EDUCATION

UNIVERSITY OF UTAH

Item 19

To University of Utah - Education and General
 From General Fund, One-time (14,000,000)
 From Education Fund, One-time 14,000,000

PUBLIC EDUCATION

STATE BOARD OF EDUCATION

Item 20

To State Board of Education - State Office of Education
 From Education Fund, One-time 150,000
 Schedule of Programs:

Business Services 150,000

The Legislature intends that \$150,000 one-time of the appropriation provided under this section to the USOE - Business Services be used for the payment of online courses taken by a private school or home school student pursuant to Title 53A, Chapter 15, Part 12, Statewide Online Education Program Act, except for the online courses taken by a private school or home school student who is participating in the Statewide Online Education Program as a dual enrolled student and is counted in average daily membership.

EXECUTIVE APPROPRIATIONS

LEGISLATURE

Item 21

To Legislature - House of Representatives
 From General Fund, One-time (1,575,000)
 Schedule of Programs:
 Administration (1,575,000)

Item 22

To Legislature - Office of the Legislative Fiscal Analyst
 From General Fund, One-time (500,000)
 Schedule of Programs:
 Administration and Research (500,000)

Item 23

To Legislature - Office of Legislative Research and General Counsel
 From General Fund, One-time (800,000)
 Schedule of Programs:
 Administration (800,000)

Item 24

To Legislature - Legislative Services
 From General Fund, One-time 2,875,000
 Schedule of Programs:
 Legislative Services 2,875,000

Section 2. FY 2015 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2014 and ending June 30, 2015. These are additions to amounts previously appropriated for fiscal year 2015.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of

Utah Code Title 63J, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use and support of the government of the State of Utah.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

GOVERNOR'S OFFICE

Item 25

To Governor's Office
From General Fund 160,000
From General Fund, One-time 140,000
Schedule of Programs:
Lt. Governor's Office 300,000

Item 26

To Governor's Office
From General Fund 11,000
From General Fund, One-time 27,800
Schedule of Programs:
Lt. Governor's Office 38,800

To implement the provisions of *Election Law - Independent Expenditures Amendments* (House Bill 39, 2014 General Session).

Item 27

To Governor's Office
From Dedicated Credits Revenue 5,000
Schedule of Programs:
Lt. Governor's Office 5,000

To implement the provisions of *Government Ethics Revisions* (House Bill 246, 2014 General Session).

Item 28

To Governor's Office
From General Fund, One-time 15,300
Schedule of Programs:
Lt. Governor's Office 15,300

To implement the provisions of *Joint Resolution on Appointment of Legal Counsel for Executive Officers* (House Joint Resolution 12, 2014 General Session).

Item 29

To Governor's Office
From General Fund (2,300)
Schedule of Programs:
Lt. Governor's Office (2,300)

To implement the provisions of *Financial Disclosure Reporting Amendments* (Senate Bill 105, 2014 General Session).

Item 30

To Governor's Office
From General Fund, One-time 15,300
Schedule of Programs:
Lt. Governor's Office 15,300

To implement the provisions of *Joint Resolution Regarding Qualifications of State Tax Commission Members* (Senate Joint Resolution 7, 2014 General Session).

Item 31

To Governor's Office
From General Fund, One-time 15,300
Schedule of Programs:
Lt. Governor's Office 15,300

To implement the provisions of *Joint Resolution on Term of Appointed Lieutenant Governor* (Senate Joint Resolution 8, 2014 General Session).

Item 32

To Governor's Office - Governor's Office of Management and Budget
From General Fund (430,900)
Schedule of Programs:
Prison Relocation (430,900)

To implement the provisions of *Repeal of Prison Relocation and Development Authority* (Senate Bill 270, 2014 General Session).

Item 33

To Governor's Office - Commission on Criminal and Juvenile Justice
From General Fund 29,200
From General Fund, One-time 4,500
From Crime Victim Reparations Fund (264,800)

Schedule of Programs:
Utah Office for Victims of Crime (230,000)
Gang Reduction Grant Program (500)
Sexual Exploitation of Children (600)

ATTORNEY GENERAL

Item 34

To Attorney General
From General Fund 9,000
Schedule of Programs:
Administration 9,000

Item 35

To Attorney General - Children's Justice Centers
From General Fund, One-time 50,000
Schedule of Programs:
Children's Justice Centers 50,000

The Legislature intends that the \$50,000 appropriated by this item be used to support the Utah County Children's Justice Center.

UTAH DEPARTMENT OF CORRECTIONS

Item 36

To Utah Department of Corrections - Programs and Operations
From General Fund 500,000
From General Fund, One-time (500,000)
Schedule of Programs:

Adult Probation and Parole Administration 500,000
Institutional Operations Draper Facility (500,000)

Item 37

To Utah Department of Corrections - Programs and Operations
From General Fund 42,000
From General Fund, One-time (25,700)
Schedule of Programs:

Institutional Operations Draper
 Facility 16,300
 To implement the provisions of *Distribution of Intimate Images* (House Bill 71, 2014 General Session).

JUDICIAL COUNCIL/STATE COURT ADMINISTRATOR

Item 38

To Judicial Council/State Court Administrator - Administration
 From General Fund Restricted - Court Security Account 3,600,000
 Schedule of Programs:
 Courts Security 3,600,000

Under provisions of Section 67-8-2, Utah Code Annotated, salaries for District Court judges for the fiscal year beginning July 1, 2014 and ending June 30, 2015 shall be \$136,500. Other judicial salaries shall be calculated in accordance with the formula set forth in Section 67-8-2 and rounded to the nearest \$50.

Item 39

To Judicial Council/State Court Administrator - Administration
 From General Fund 800
 Schedule of Programs:
 Administrative Office 800

To implement the provisions of *Distribution of Intimate Images* (House Bill 71, 2014 General Session).

Item 40

To Judicial Council/State Court Administrator - Administration
 From General Fund 12,000
 Schedule of Programs:
 Administrative Office 12,000

To implement the provisions of *Patent Infringement Amendments* (House Bill 117, 2014 General Session).

DEPARTMENT OF PUBLIC SAFETY

Item 41

To Department of Public Safety - Programs & Operations
 From General Fund Restricted - Statewide Unified E-911
 Emergency Account (2,896,700)
 Schedule of Programs:
 Enhanced 911 Program (2,896,700)

To implement the provisions of *Utah Communication Agency Network and Utah 911 Committee Amendments* (House Bill 155, 2014 General Session).

Item 42

To Department of Public Safety - Programs & Operations
 From General Fund 65,000
 From General Fund Restricted - DNA Specimen Account 315,000
 Schedule of Programs:
 CITS State Crime Labs 380,000

To implement the provisions of *DNA Collection Amendments* (House Bill 212, 2014 General Session).

Item 43

To Department of Public Safety - Emergency Management
 From General Fund 705,000
 Schedule of Programs:
 Emergency Management 705,000

To implement the provisions of *Utah Communication Agency Network and Utah 911 Committee Amendments* (House Bill 155, 2014 General Session).

Item 44

To Department of Public Safety - Driver License
 From Department of Public Safety Restricted Account 20,000
 Schedule of Programs:
 Driver Services 20,000

To implement the provisions of *Mobility and Pedestrian Vehicles* (House Bill 130, 2014 General Session).

Item 45

To Department of Public Safety - Driver License
 From Uninsured Motorist Identification Restricted Account 13,500
 Schedule of Programs:
 Uninsured Motorist 13,500

To implement the provisions of *Uninsured Motorist Provisions* (Senate Bill 72, 2014 General Session).

INFRASTRUCTURE AND GENERAL GOVERNMENT

TRANSPORTATION

Item 46

To Transportation - Support Services
 From Transportation Fund, One-time 8,000
 Schedule of Programs:
 Data Processing 8,000

To implement the provisions of *Workforce Services Job Listing Amendments* (Senate Bill 22, 2014 General Session).

Item 47

To Transportation - Operations/
 Maintenance Management
 From Transportation Fund (4,300)
 Schedule of Programs:
 Region 4 (4,300)

To implement the provisions of *State Highway System Amendments* (Senate Bill 32, 2014 General Session).

Item 48

To Transportation - Construction Management
 From Transportation Fund (2,256,500)
 From Designated Sales Tax 846,000
 Schedule of Programs:
 Federal Construction - New 846,000
 Rehabilitation/Preservation (2,256,500)

Item 49

To Transportation - B and C Roads
 From Transportation Fund 1,152,000

Schedule of Programs:
 B and C Roads 1,152,000

Item 50

To Transportation – Mineral Lease
 From General Fund Restricted –
 Mineral Lease 2,167,000
 Schedule of Programs:
 Mineral Lease Payments 2,167,000

Item 51

To Transportation – Transportation
 Investment Fund Capacity Program
 From Transportation Investment
 Fund of 2005 16,805,300
 Schedule of Programs:
 Transportation Investment Fund
 Capacity Program 16,805,300
 The Legislature intends that the
 Transportation Commission consider
 funding \$200,000 from the Transportation
 Investment fund of 2005 Capacity Program
 for the Sugarhouse/Parleys Rails to Trails
 DRAW Project.

**DEPARTMENT OF
 ADMINISTRATIVE SERVICES**

Item 52

To Department of Administrative
 Services – Executive Director
 From General Fund 123,700
 Schedule of Programs:
 Executive Director 123,700
 To implement the provisions of *Resource
 Stewardship Amendments* (House Bill 38,
 2014 General Session).

Item 53

To Department of Administrative Services –
 State Archives
 From General Fund 540,000
 From General Fund, One-time 75,000
 Schedule of Programs:
 Archives Administration 615,000
 To implement the provisions of *State Data
 Portal Amendments* (Senate Bill 70, 2014
 General Session).

Item 54

To Department of Administrative
 Services – Finance Administration
 From General Fund 500
 From General Fund, One-time 1,000
 Schedule of Programs:
 Finance Director's Office 1,500
 To implement the provisions of *National
 Guard Program Amendments* (House Bill 59,
 2014 General Session).

Item 55

To Department of Administrative
 Services – Finance Administration
 From General Fund 500
 From General Fund, One-time 1,000
 Schedule of Programs:
 Financial Reporting 1,500

To implement the provisions of *Special
 Group License Plate Amendments* (House Bill
 214, 2014 General Session).

Item 56

To Department of Administrative
 Services – Finance Administration
 From General Fund, One-time 7,000
 Schedule of Programs:
 Financial Information Systems 7,000

To implement the provisions of *Workforce
 Services Job Listing Amendments* (Senate
 Bill 22, 2014 General Session).

Item 57

To Department of Administrative
 Services – Finance – Mandated
 From General Fund, One-time 1,100,000
 Schedule of Programs:
 Studies 1,100,000

Item 58

To Department of Administrative
 Services – Finance – Mandated
 From General Fund 192,500
 Schedule of Programs:
 Employee Health Benefits 192,500
 To implement the provisions of *Autism
 Program Amendments* (House Bill 88, 2014
 General Session).

Item 59

To Department of Administrative
 Services – Finance – Mandated
 From General Fund Restricted –
 Statewide Unified E-911
 Emergency Account 2,990,600
 From General Fund Restricted –
 Computer Aided Dispatch Account .. 2,573,500
 Schedule of Programs:
 Computer Aided Dispatch 2,573,500
 E-911 Emergency Services 2,990,600
 To implement the provisions of *Utah
 Communication Agency Network and Utah
 911 Committee Amendments* (House Bill 155,
 2014 General Session).

Item 60

To Department of Administrative
 Services – Finance – Mandated
 From General Fund 3,039,300
 From General Fund, One-time (3,039,300)
 To implement the provisions of *Autism
 Services Amendments* (Senate Bill 57, 2014
 General Session).

**DEPARTMENT OF
 TECHNOLOGY SERVICES**

Item 61

To Department of Technology Services –
 Chief Information Officer
 From General Fund (55,000)
 Schedule of Programs:
 Chief Information Officer (55,000)
 To implement the provisions of *Utah
 Communication Agency Network and Utah
 911 Committee Amendments* (House Bill 155,
 2014 General Session).

Item 62

To Department of Technology Services -
 Integrated Technology Division
 From General Fund (650,000)
 Schedule of Programs:
 Statewide Interoperable
 Communications (650,000)
 To implement the provisions of *Utah
 Communication Agency Network and Utah
 911 Committee Amendments* (House Bill 155,
 2014 General Session).

CAPITAL BUDGET

Item 63

To Capital Budget - Capital Development Fund
 The Legislature intends that the
 University of Utah use donated funds for
 planning and design of the proposed Crocker
 Science Center.

Item 64

To Capital Budget - Capital Development -
 Higher Education
 From Education Fund, One-time (1,000,000)
 Schedule of Programs:
 WSU Science Building (1,000,000)

Item 65

To Capital Budget - Capital Improvements
 From General Fund (2,310,300)
 From General Fund, One-time 3,011,800
 From Education Fund (2,581,500)
 From Education Fund, One-time 3,380,000
 Schedule of Programs:
 Capital Improvements 1,500,000
 The Legislature intends that the State
 Building Board use \$744,800 from Capital
 Improvements Funding to construct the Utah
 Veterinary Diagnostic Laboratory in Nephi.

**BUSINESS, ECONOMIC
 DEVELOPMENT, AND LABOR**

DEPARTMENT OF HERITAGE AND ARTS

Item 66

To Department of Heritage and Arts - Division of
 Arts and Museums - Office of Museum Services
 From General Fund, One-time 50,000
 Schedule of Programs:
 Office of Museum Services 50,000

Item 67

To Department of Heritage and
 Arts - Pass-Through
 From General Fund 20,000
 From General Fund, One-time 357,500
 Schedule of Programs:
 Pass-Through 377,500

**GOVERNOR'S OFFICE OF ECONOMIC
 DEVELOPMENT**

Item 68

To Governor's Office of Economic
 Development - Administration
 From General Fund 200,000
 From General Fund, One-time 480,000

Schedule of Programs:

Administration 680,000

Item 69

To Governor's Office of Economic
 Development - Office of Tourism
 From General Fund, One-time 125,000
 Schedule of Programs:
 Administration 125,000

Item 70

To Governor's Office of Economic
 Development - Business Development
 From General Fund 300,000
 From General Fund, One-time 125,000
 Schedule of Programs:
 Outreach and International Trade 225,000
 Corporate Recruitment and
 Business Services 200,000

UTAH STATE TAX COMMISSION

Item 71

To Utah State Tax Commission -
 License Plates Production
 From Dedicated Credits Revenue 8,600
 Schedule of Programs:
 License Plates Production 8,600
 To implement the provisions of *Special
 Group License Plate Amendments* (House Bill
 214, 2014 General Session).

**UTAH SCIENCE TECHNOLOGY AND
 RESEARCH GOVERNING AUTHORITY**

Item 72

To Utah Science Technology and
 Research Governing Authority
 From General Fund (18,800)
 From General Fund, One-time (4,000)
 Schedule of Programs:
 Administration (7,200)
 Technology Outreach (15,600)

Item 73

To Utah Science Technology and Research
 Governing Authority - Technology Outreach and
 Innovation
 From General Fund 13,600
 From General Fund, One-time 2,000
 From Dedicated Credits Revenue 5,800
 Schedule of Programs:
 Southern Utah University and Dixie
 State University (Southern) 1,700
 Utah State University - Uintah
 Basin (Eastern) 5,500
 Small Business Innovation Research
 (SBIR) and Science Technology
 Transfer and Research (STTR)
 Assistance Center (SBIR-STTR
 Resource Center) 10,600
 BioInnovations Gateway (BiG) 3,600

Item 74

To Utah Science Technology and Research
 Governing Authority - USTAR Administration
 From General Fund 5,200
 From General Fund, One-time 2,000
 Schedule of Programs:
 Administration 7,200

LABOR COMMISSION

Item 75

To Labor Commission
 From Dedicated Credits Revenue 70,000
 Schedule of Programs:
 Administration 70,000

DEPARTMENT OF COMMERCE

Item 76

To Department of Commerce - Commerce
 General Regulation
 From General Fund Restricted -
 Commerce Service Account 8,700
 Schedule of Programs:
 Administration 8,700

 To implement the provisions of *Eminent Domain Amendments* (House Bill 25, 2014 General Session).

Item 77

To Department of Commerce - Commerce
 General Regulation
 From General Fund Restricted -
 Commerce Service Account 2,000
 Schedule of Programs:
 Corporations and Commercial Code 2,000

 To implement the provisions of *Pharmacy Benefit Manager Amendments* (House Bill 113, 2014 General Session).

Item 78

To Department of Commerce - Commerce
 General Regulation
 From General Fund Restricted -
 Commerce Service Account 41,000
 Schedule of Programs:
 Occupational and Professional
 Licensing 41,000

 To implement the provisions of *Mail-order Wholesale Drug Amendments* (House Bill 114, 2014 General Session).

Item 79

To Department of Commerce - Commerce
 General Regulation
 From Dedicated Credits Revenue (1,400)
 From General Fund Restricted -
 Commerce Service Account 7,600
 Schedule of Programs:
 Occupational and Professional
 Licensing 6,200

 To implement the provisions of *Massage Therapy Practice Act Amendments* (House Bill 207, 2014 General Session).

Item 80

To Department of Commerce - Commerce
 General Regulation
 From Dedicated Credits Revenue (1,400)
 From General Fund Restricted -
 Commerce Service Account 7,600
 Schedule of Programs:
 Occupational and Professional
 Licensing 6,200

To implement the provisions of *Ortho-bionomy Exemption Amendments* (House Bill 324, 2014 General Session).

Item 81

To Department of Commerce - Commerce
 General Regulation
 From General Fund Restricted -
 Commerce Service Account 8,000
 Schedule of Programs:
 Occupational and Professional
 Licensing 8,000

 To implement the provisions of *Physical Therapy Scope of Practice Amendments* (House Bill 367, 2014 General Session).

Item 82

To Department of Commerce - Commerce
 General Regulation
 From General Fund Restricted - Commerce Service
 Account, One-time 8,800
 Schedule of Programs:
 Occupational and Professional Licensing . 8,800

 To implement the provisions of *Controlled Substance Database Amendments* (Senate Bill 29, 2014 General Session).

Item 83

To Department of Commerce - Commerce
 General Regulation
 From General Fund Restricted -
 Commerce Service Account 78,600
 Schedule of Programs:
 Occupational and Professional
 Licensing 78,600

 To implement the provisions of *Pharmaceutical Dispensing Amendments* (Senate Bill 55, 2014 General Session).

Item 84

To Department of Commerce - Commerce
 General Regulation
 From Dedicated Credits Revenue 40,000
 From General Fund Restricted -
 Commerce Service Account 53,300
 Schedule of Programs:
 Occupational and Professional
 Licensing 93,300

 To implement the provisions of *Pharmacy Practice Act Amendments* (Senate Bill 77, 2014 General Session).

Item 85

To Department of Commerce - Commerce
 General Regulation
 From General Fund Restricted -
 Commerce Service Account 35,200
 Schedule of Programs:
 Occupational and Professional
 Licensing 35,200

 To implement the provisions of *Contractor Employee Amendments* (Senate Bill 87, 2014 General Session).

Item 86

To Department of Commerce - Commerce
 General Regulation
 From General Fund Restricted -
 Commerce Service Account 1,100

From General Fund Restricted -
 Commerce Service Account, One-time ... 4,200
 Schedule of Programs:
 Corporations and Commercial Code 5,300
 To implement the provisions of *Benefit Corporation Amendments* (Senate Bill 133, 2014 General Session).

INSURANCE DEPARTMENT

Item 87

To Insurance Department - Insurance
 Department Administration
 From General Fund Restricted - Insurance
 Fraud Investigation Account 62,300
 Schedule of Programs:
 Insurance Fraud Program 62,300
 To implement the provisions of *Insurance Related Amendments* (House Bill 24, 2014 General Session).

Item 88

To Insurance Department - Insurance
 Department Administration
 From Federal Funds 265,500
 From General Fund Restricted -
 Insurance Department Account 265,500
 From General Fund Restricted -
 Insurance Department Account,
 One-time (263,200)
 Schedule of Programs:
 Administration 267,800
 To implement the provisions of *Health Reform Amendments* (House Bill 141, 2014 General Session).

Item 89

To Insurance Department - Insurance
 Department Administration
 From General Fund Restricted -
 Insurance Department Account 1,500
 Schedule of Programs:
 Administration 1,500
 To implement the provisions of *Insurance Coverage for Infertility Treatment* (House Bill 347, 2014 General Session).

Item 90

To Insurance Department - Insurance
 Department Administration
 From General Fund Restricted -
 Insurance Department Account,
 One-time 8,000
 Schedule of Programs:
 Administration 8,000
 To implement the provisions of *Insurance Amendments* (Senate Bill 129, 2014 General Session).

SOCIAL SERVICES

DEPARTMENT OF HEALTH

Item 91

To Department of Health - Executive
 Director's Operations
 From Dedicated Credits Revenue 40,000
 Schedule of Programs:

Center for Health Data and
 Informatics 40,000
 To implement the provisions of *Plant Extract Amendments* (House Bill 105, 2014 General Session).

Item 92

To Department of Health - Family
 Health and Preparedness
 From General Fund (200,000)
 From General Fund, One-time 300,000
 Schedule of Programs:
 Emergency Medical Services (200,000)
 Primary Care 300,000

Item 93

To Department of Health - Disease
 Control and Prevention
 From General Fund 20,000
 Schedule of Programs:
 Health Promotion 20,000

Item 94

To Department of Health - Medicaid
 Mandatory Services
 The Legislature intends that the Medicaid Accountable Care Organizations receive a scheduled two percent increase effective January 1, 2015 consistent with the intent of S.B. 180, 2011 General Session.

Item 95

To Department of Health - Medicaid
 Optional Services
 From General Fund 460,000
 From Federal Funds 1,099,600
 Schedule of Programs:
 Dental Services 1,559,600
 The Legislature intends that up to five percent of the \$1,559,600 provided by this item for dental provider rates may be used for contracted plan administration.

Item 96

To Department of Health - Medicaid
 Optional Services
 From General Fund 1,835,000
 From Federal Funds 4,351,800
 Schedule of Programs:
 Home and Community Based
 Waiver Services 6,186,800
 To implement the provisions of *Autism Program Amendments* (House Bill 88, 2014 General Session).

**DEPARTMENT OF
 WORKFORCE SERVICES**

Item 97

To Department of Workforce
 Services - Administration
 From General Fund 7,000
 From Federal Funds 48,000
 Schedule of Programs:
 Executive Director's Office 55,000
 To implement the provisions of *Women in the Economy Commission* (House Bill 90, 2014 General Session).

Item 98

To Department of Workforce Services -
 Housing and Community Development

From General Fund, One-time 1,500,000

Schedule of Programs:

Homeless Committee 1,500,000

The Legislature intends that the \$500,000 in new funding provided for Road Home Homeless Shelter to the Department of Workforce Services not be released until a building permit is obtained. If the money is not released in FY 2015, then under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$500,000 not lapse at the close of FY 2015. The use of any nonlapsing funds is limited to respite care provided by the Department of Human Services in FY 2016.

DEPARTMENT OF HUMAN SERVICES

Item 99

To Department of Human Services -

Executive Director Operations

From General Fund, One-time 3,500

From Federal Funds 1,800

From Revenue Transfers - Medicaid 1,700

Schedule of Programs:

Fiscal Operations 7,000

To implement the provisions of *Workforce Services Job Listing Amendments* (Senate Bill 22, 2014 General Session).

Item 100

To Department of Human Services - Division of Services for People with Disabilities

From General Fund, One-time 140,000

From Revenue Transfers - Medicaid 235,100

Schedule of Programs:

Administration - DSPD 40,000

Community Supports Waiver 335,100

Item 101

To Department of Human Services - Division of Services for People with Disabilities

From General Fund 232,400

From General Fund, One-time (232,400)

To implement the provisions of *Workers' Compensation and Home and Community Based Services* (House Bill 94, 2014 General Session).

Item 102

To Department of Human Services -

Division of Child and Family Services

From National Professional Men's

Basketball Team Support of

Women and Children Issues 12,500

Schedule of Programs:

Administration - DCFS 12,500

To implement the provisions of *Special Group License Plate Amendments* (House Bill 214, 2014 General Session).

Item 103

To Department of Human Services -

Division of Aging and Adult Services

The Legislature intends the Department of Human Services' Division of Aging and Adult Services use applicable federal funding reserves to provide one-time funding up to \$300,000 for Aging Nutrition in FY 2015.

HIGHER EDUCATION

UNIVERSITY OF UTAH

Item 104

To University of Utah - Education and General

From General Fund 359,000

From Education Fund (359,000)

Item 105

To University of Utah - Education and General

From Education Fund 100,000

Schedule of Programs:

Education and General 100,000

To implement the provisions of *Improvement of Reading Instruction* (Senate Bill 104, 2014 General Session).

Item 106

To University of Utah - Poison Control Center

From General Fund 2,100,000

From Dedicated Credits Revenue (1,620,900)

Schedule of Programs:

Poison Control Center 479,100

To implement the provisions of *Utah Communication Agency Network and Utah 911 Committee Amendments* (House Bill 155, 2014 General Session).

Item 107

To University of Utah - Utah Tele-Health Network

From General Fund (459,600)

From Beginning Nonlapsing

Appropriation Balances (12,000)

From Closing Nonlapsing Appropriation

Balances 12,000

Schedule of Programs:

Utah Tele-Health Network (459,600)

To implement the provisions of *Utah Education and Telehealth Network Amendments* (House Bill 92, 2014 General Session).

UTAH STATE UNIVERSITY

Item 108

To Utah State University - Education and General

From Education Fund 650,000

From Education Fund, One-time 500,000

Schedule of Programs:

Education and General 1,150,000

Item 109

To Utah State University - Tooele

Regional Campus

From Education Fund 30,000

Schedule of Programs:

Tooele Regional Campus 30,000

SOUTHERN UTAH UNIVERSITY

Item 110

To Southern Utah University -

Shakespeare Festival

From Education Fund, One-time 50,000

Schedule of Programs:

Shakespeare Festival 50,000

STATE BOARD OF REGENTS

Item 111

To State Board of Regents - Education Excellence

From Education Fund 500,000
 Schedule of Programs:
 Education Excellence 500,000

**UTAH COLLEGE OF
 APPLIED TECHNOLOGY**

Item 112

To Utah College of Applied
 Technology - Administration
 From Education Fund, One-time 200,000
 Schedule of Programs:
 Administration 200,000

**NATURAL RESOURCES, AGRICULTURE,
 AND ENVIRONMENTAL QUALITY**

DEPARTMENT OF NATURAL RESOURCES

Item 113

To Department of Natural Resources -
 Forestry, Fire and State Lands
 From General Fund Restricted -
 Sovereign Land Management 426,700
 Schedule of Programs:
 Project Management 426,700

Item 114

To Department of Natural Resources -
 Water Rights
 From General Fund 139,000
 From General Fund, One-time 130,000
 Schedule of Programs:
 Administration 269,000
 To implement the provisions of *Canal
 Safety Amendments* (House Bill 370, 2014
 General Session).

Item 115

To Department of Natural Resources -
 Water Rights
 From General Fund 16,300
 From General Fund, One-time 36,000
 Schedule of Programs:
 Administration 52,300
 To implement the provisions of *Water
 Jurisdiction Amendments* (Senate Bill 274,
 2014 General Session).

**DEPARTMENT OF
 ENVIRONMENTAL QUALITY**

Item 116

To Department of Environmental Quality -
 Environmental Response and Remediation
 From Petroleum Storage Tank
 Trust Fund 595,000
 Schedule of Programs:
 Environmental Response and
 Remediation 595,000
 To implement the provisions of
*Underground Petroleum Storage Tank
 Amendments* (House Bill 138, 2014 General
 Session).

**PUBLIC LANDS POLICY
 COORDINATION OFFICE**

Item 117

To Public Lands Policy Coordination Office -
 Commission for Stewardship of Public Lands
 From General Fund Restricted -
 Sovereign Land Management 2,000,000
 Schedule of Programs:

Commission for Stewardship of
 Public Lands 2,000,000

It is the intent of the Legislature that the
 \$2,000,000 one-time appropriation from the
 Sovereign Lands Management Account to the
 Stewardship of Public Lands line item in FY
 2015, is to be available to the Commission for
 the Stewardship of Public Lands to use at its
 discretion in carrying out its statutory duties.

**DEPARTMENT OF
 AGRICULTURE AND FOOD**

Item 118

To Department of Agriculture and
 Food - Administration
 From General Fund 3,200
 Schedule of Programs:
 Plant Industry 3,200

To implement the provisions of *Plant
 Extract Amendments* (House Bill 105, 2014
 General Session).

Item 119

To Department of Agriculture and Food -
 Animal Health
 From General Fund (108,200)
 From General Fund, One-time 108,200

PUBLIC EDUCATION

RELATED TO BASIC PROGRAMS

Item 120

To Related to Basic Programs - Related
 to Basic School Programs
 From Education Fund 2,000,000
 From Education Fund, One-time (1,000,000)
 Schedule of Programs:
 Beverley Taylor Sorenson
 Elementary Arts 1,000,000

STATE BOARD OF EDUCATION

Item 121

To State Board of Education - State
 Office of Education
 From General Fund 200,000
 From Education Fund 841,000
 Schedule of Programs:
 Board and Administration 41,000
 Business Services 500,000
 Teaching and Learning 500,000

The Legislature intends that the Utah
 State Office of Education and the Department
 of Health develop quantifiable performance
 measures associated with the activities of the
 "CPR and AED Instruction" program, and
 report its findings to the Social Services
 Appropriations Subcommittee and the Public

Education Appropriations Subcommittee before the November 2015 Interim meeting.

The Legislature intends that \$500,000 ongoing of the appropriation provided under this section to the USOE – Business Services be used for the payment of online courses taken by a private school or home school student pursuant to Title 53A, Chapter 15, Part 12, Statewide Online Education Program Act, except for the online courses taken by a private school or home school student who is participating in the Statewide Online Education Program as a dual enrolled student and is counted in average daily membership.

Item 122

To State Board of Education – State Office of Education
 From Education Fund, One-time 258,000
 Schedule of Programs:
 Board and Administration 258,000
 To implement the provisions of *School Construction Modifications* (House Bill 116, 2014 General Session).

Item 123

To State Board of Education – State Office of Education
 From Land Grant Management Fund 2,000
 From School and Institutional Trust Fund Management Account 9,000
 Schedule of Programs:
 School Trust 11,000
 To implement the provisions of *School and Institutional Trust Lands and Funds Management Provisions* (House Bill 168, 2014 General Session).

Item 124

To State Board of Education – State Office of Education
 From Interest and Dividends Account 58,000
 Schedule of Programs:
 School Trust 58,000
 To implement the provisions of *School Community Council Revisions* (House Bill 221, 2014 General Session).

Item 125

To State Board of Education – State Office of Education
 From Education Fund, One-time 100,000
 Schedule of Programs:
 Board and Administration 100,000
 To implement the provisions of *Educators’ Professional Learning* (House Bill 320, 2014 General Session).

Item 126

To State Board of Education – State Office of Education
 From Education Fund 80,000
 Schedule of Programs:
 Board and Administration 80,000
 To implement the provisions of *Teacher Salary Supplement Program Amendments* (House Bill 337, 2014 General Session).

Item 127

To State Board of Education – Utah State Office of Education – Initiative Programs
 From Education Fund 840,000
 From Education Fund, One-time 300,000
 Schedule of Programs:
 ProStart Culinary Arts Program 40,000
 Electronic Elementary Reading Tool . . . 800,000
 Peer Assistance 300,000

Item 128

To State Board of Education – Fine Arts Outreach
 From Education Fund, One-time 200,000
 Schedule of Programs:
 Requests for Proposals 200,000

Item 129

To State Board of Education – School and Institutional Trust Fund Office
 From School and Institutional Trust Fund Management Account 578,000
 Schedule of Programs:
 School and Institutional Trust Fund Office 578,000
 To implement the provisions of *School and Institutional Trust Lands and Funds Management Provisions* (House Bill 168, 2014 General Session).

RETIREMENT AND INDEPENDENT ENTITIES

DEPARTMENT OF HUMAN RESOURCE MANAGEMENT

Item 130

To Department of Human Resource Management – Human Resource Management
 From General Fund (133,600)
 From General Fund, One-time (1,400)
 Schedule of Programs:
 Teacher Salary Supplement (135,000)
 To implement the provisions of *Teacher Salary Supplement Program Amendments* (House Bill 337, 2014 General Session).

UTAH EDUCATION NETWORK

Item 131

To Utah Education Network
 From Education Fund, One-time 3,000,000
 Schedule of Programs:
 Technical Services 3,000,000

Item 132

To Utah Education Network
 From General Fund 459,600
 From Dedicated Credits Revenue 380,000
 From Beginning Nonlapsing Appropriation Balances 12,000
 From Closing Nonlapsing Appropriation Balances (12,000)
 Schedule of Programs:
 Utah Education and Telehealth Network 839,600
 To implement the provisions of *Utah Education and Telehealth Network Amendments* (House Bill 92, 2014 General Session).

EXECUTIVE APPROPRIATIONS

CAPITOL PRESERVATION BOARD

Item 133

To Capitol Preservation Board
 From General Fund 150,000
 Schedule of Programs:
 Capitol Preservation Board 150,000

LEGISLATURE

Item 134

To Legislature - Senate
 From General Fund 512,000
 Schedule of Programs:
 Administration 512,000

Item 135

To Legislature - Senate
 From General Fund 7,000
 Schedule of Programs:
 Administration 7,000

To implement the provisions of *Joint Rules Resolution Regarding a Long-term Planning Conference* (House Joint Resolution 10, 2014 General Session).

Item 136

To Legislature - Senate
 From General Fund 15,000
 Schedule of Programs:
 Administration 15,000

To implement the provisions of *Joint Resolution Authorizing Pay of In-session Employees* (Senate Joint Resolution 6, 2014 General Session).

Item 137

To Legislature - House of Representatives
 From General Fund 512,000
 From General Fund, One-time 5,000
 Schedule of Programs:
 Administration 517,000

Item 138

To Legislature - House of Representatives
 From General Fund 18,000
 Schedule of Programs:
 Administration 18,000

To implement the provisions of *Joint Rules Resolution Regarding a Long-term Planning Conference* (House Joint Resolution 10, 2014 General Session).

Item 139

To Legislature - House of Representatives
 From General Fund 15,000
 Schedule of Programs:
 Administration 15,000

To implement the provisions of *Joint Resolution Authorizing Pay of In-session Employees* (Senate Joint Resolution 6, 2014 General Session).

Item 140

To Legislature - Office of Legislative Research and General Counsel

From General Fund (1,000,000)
 From General Fund, One-time 365,000
 Schedule of Programs:
 Administration (635,000)

Item 141

To Legislature - Office of Legislative Research and General Counsel
 From General Fund, One-time 30,000
 Schedule of Programs:
 Administration 30,000

To implement the provisions of *Continuing Education on Federalism* (House Bill 120, 2014 General Session).

Item 142

To Legislature - Office of Legislative Research and General Counsel
 From General Fund, One-time 40,000
 Schedule of Programs:
 Administration 40,000

To implement the provisions of *Commission for the Stewardship of Public Lands* (House Bill 151, 2014 General Session).

Item 143

To Legislature - Office of Legislative Research and General Counsel
 From General Fund, One-time 40,000
 Schedule of Programs:
 Administration 40,000

To implement the provisions of *Veterans' and Military Affairs Commission* (House Bill 313, 2014 General Session).

Item 144

To Legislature - Office of Legislative Research and General Counsel
 From General Fund, One-time 40,000
 Schedule of Programs:
 Administration 40,000

To implement the provisions of *Education Task Force Reauthorization* (Senate Bill 150, 2014 General Session).

Item 145

To Legislature - Legislative Services
 From General Fund (24,000)
 Schedule of Programs:
 Legislative Services (24,000)

Item 146

To Legislature - Legislative Services
 From General Fund (30,000)
 Schedule of Programs:
 Legislative Services (30,000)

To implement the provisions of *Joint Resolution Authorizing Pay of In-session Employees* (Senate Joint Resolution 6, 2014 General Session).

Subsection 2(b). Expendable Funds and

Accounts. The Legislature has reviewed the following expendable funds. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated. Outlays and expenditures from the recipient funds or accounts may be made without further

legislative action according to a fund or account's applicable authorizing statute.

EXECUTIVE APPROPRIATIONS

UTAH NATIONAL GUARD

Item 147

To Utah National Guard - National Guard MWR Fund
From Dedicated Credits Revenue 1,500,000
Schedule of Programs:
National Guard MWR Fund 1,500,000

To implement the provisions of *National Guard Program Amendments* (House Bill 59, 2014 General Session).

Subsection 2(c). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts among the following funds or accounts as indicated. Expenditures and outlays from the recipient funds must be authorized elsewhere in an appropriations act.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

FUND AND ACCOUNT TRANSFERS

Item 148

To General Fund Restricted - Law Enforcement Services Account
From General Fund, One-time 200,000
Schedule of Programs:
General Fund Restricted - Law Enforcement Services Account 200,000

Subsection 2(d). Transfers to Unrestricted Funds. The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General, Education, or Uniform School Fund as indicated from the restricted funds or accounts indicated. Expenditures and outlays from the General, Education, or Uniform School Fund must be authorized elsewhere in an appropriations act.

INFRASTRUCTURE AND GENERAL GOVERNMENT

TRANSFERS TO UNRESTRICTED FUNDS

Item 149

To General Fund
From General Fund Restricted - Mineral Bonus 10,000,000
From Nonlapsing Balances - FLDS Trust Judgment 2,175,800
Schedule of Programs:
General Fund, One-time 12,175,800

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

Item 150

To General Fund
From General Fund Restricted - Financial Institutions 500,000

Schedule of Programs:
General Fund, One-time 500,000

Subsection 2(e). Capital Project Funds. The Legislature has reviewed the following capital project funds. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated.

INFRASTRUCTURE AND GENERAL GOVERNMENT

TRANSPORTATION

Item 151

To Transportation - Transportation Investment Fund of 2005
From Designated Sales Tax 16,805,300
Schedule of Programs:
Transportation Investment Fund . . . 16,805,300

Section 3. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 of this bill takes effect on July 1, 2014.

CHAPTER 423**H. B. 34**

Passed March 13, 2014

Approved April 2, 2014

Effective May 13, 2014

**TOURISM MARKETING PERFORMANCE
ACCOUNT AMENDMENTS**Chief Sponsor: Brad R. Wilson
Senate Sponsor: Scott K. Jenkins**LONG TITLE****General Description:**

This bill modifies Title 63M, Chapter 1, Governor's Office of Economic Development, by amending provisions related to the Tourism Marketing Performance Account and related provisions.

Highlighted Provisions:

This bill:

- ▶ modifies requirements related to a sports organization receiving money from the Tourism Marketing Performance Account;
- ▶ extends from fiscal year 2015 to fiscal year 2019 the number of years that growth in tourism-oriented sales tax revenue is calculated as part of a formula to potentially increase annual funding for the Tourism Marketing Performance Account;
- ▶ requires certain one-time reporting by the Governor's Office of Economic Development;
- ▶ provides for the repeal of the one-time reporting requirement; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-2-263, as last amended by Laws of Utah 2013, Second Special Session, Chapters 1 and 2
63M-1-1406, as last amended by Laws of Utah 2011, Chapters 303 and 342

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-2-263 is amended to read:**63I-2-263. Repeal dates, Title 63A to Title 63M.**

- (1) Section 63A-1-115 is repealed on July 1, 2014.
- (2) Subsection 63J-1-218(3) is repealed on December 1, 2013.
- (3) Subsection 63J-1-218(4) is repealed on December 1, 2013.
- (4) Subsection 63M-1-903(1)(d) is repealed on July 1, 2015.
- (5) Subsection 63M-1-1406(9) is repealed on January 1, 2015.

Section 2. Section 63M-1-1406 is amended to read:**63M-1-1406. Tourism Marketing Performance Account.**

(1) There is created within the General Fund a restricted account known as the Tourism Marketing Performance Account.

(2) The account shall be administered by the office for the purposes listed in Subsection (5).

(3) (a) The account shall earn interest.

(b) All interest earned on account money shall be deposited into the account.

(4) The account shall be funded by appropriations made to the account by the Legislature in accordance with this section.

(5) The director [~~may~~] shall use account money appropriated to the office to pay for the statewide advertising, marketing, and branding campaign for promotion of the state as conducted by the office.

(6) (a) For [~~the~~] a fiscal year beginning on or after July 1, 2007, the [~~director~~] office shall annually allocate 10% of the account money appropriated to the office [~~to be distributed~~] to a sports organization for advertising, marketing, branding, and promoting Utah in attracting sporting events into the state [~~as determined by the office~~].

~~[(b) For a fiscal year beginning on or after July 1, 2008, the amount distributed under Subsection (6)(a) shall be indexed from the July 1, 2007 fiscal year to reflect a percent increase or decrease of money set aside into the account as compared to the previous fiscal year.]~~

~~[(c) The office shall provide for an annual accounting to the office by a sports organization of the use of money it receives under Subsection (6)(a) or (b).]~~

(b) The sports organization shall:

(i) provide an annual written report to the office that gives a complete accounting of the use of money the sports organization receives under this Subsection (6); and

(ii) partner with the office to promote the state and to encourage economic growth in the state.

~~[(d) (c) For purposes of this Subsection (6), "sports organization" means an organization that is:~~

(i) exempt from federal income taxation in accordance with Section 501(c)(3), Internal Revenue Code; and

~~[(ii) created to foster national and international amateur sports competitions to be held in the state and sports tourism throughout the state, to include advertising, marketing, branding, and promoting Utah for the purpose of attracting sporting events into the state.]~~

(ii) created to foster national and international sports competitions in the state, including competitions related to Olympic sports, and to

promote and encourage sports tourism throughout the state, including advertising, marketing, branding, and promoting Utah for the purpose of attracting sporting events into the state.

(7) Money deposited into the account shall consist of a legislative appropriation from the cumulative sales and use tax revenue increases identified in Subsection (8), plus any appropriation made by the Legislature.

(8) (a) In fiscal years 2006 through ~~[2015]~~ 2019, a portion of the state sales and use tax revenues determined under this Subsection (8) shall be certified as a set-aside for the account by the State Tax Commission and reported to the Office of Legislative Fiscal Analyst.

(b) The State Tax Commission shall determine the set-aside under this Subsection (8) in each fiscal year by applying the following formula: if the increase in the state sales and use tax revenues derived from the retail sales of tourist-oriented goods and services, in the fiscal year two years prior to the fiscal year in which the set-aside is to be made for the account, is at least 3% over the state sales and use tax revenues derived from the retail sales of tourist-oriented goods and services generated in the fiscal year three years prior to the fiscal year in which the set-aside is to be made, an amount equal to 1/2 of the state sales and use tax revenues generated above the 3% increase shall be calculated by the commission and set aside by the state treasurer for appropriation to the account.

(c) ~~[Total]~~ The total money [to be] appropriated to the account in any fiscal year under Subsections (8)(a) and (b) may not exceed the amount in the account under this section in the fiscal year immediately preceding the current fiscal year by more than \$3,000,000.

(d) As used in this Subsection (8), “sales of ~~[tourism-oriented]~~ tourist-oriented goods and services” are those sales by businesses registered with the State Tax Commission under the following codes of the 1997 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(i) NAICS Code 453 Miscellaneous Store Retailers;

(ii) NAICS Code 481 Passenger Air Transportation;

(iii) NAICS Code 487 Scenic and Sightseeing Transportation;

(iv) NAICS Code 711 Performing Arts, Spectator Sports and Related Industries;

(v) NAICS Code 712 Museums, Historical Sites and Similar Institutions;

(vi) NAICS Code 713 Amusement, Gambling and Recreation Industries;

(vii) NAICS Code 721 Accommodations;

(viii) NAICS Code 722 Food Services and Drinking Places;

(ix) NAICS Code 4483 Jewelry, Luggage, and Leather Goods Stores;

(x) NAICS Code 4853 Taxi and Limousine Service;

(xi) NAICS Code 4855 Charter Bus;

(xii) NAICS Code 5615 Travel Arrangement and Reservation Services;

(xiii) NAICS Code 44611 Pharmacies and Drug Stores;

(xiv) NAICS Code 45111 Sporting Goods Stores;

(xv) NAICS Code 45112 Hobby Toy and Game Stores;

(xvi) NAICS Code 45121 Book Stores and News Dealers;

(xvii) NAICS Code 445120 Convenience Stores without Gas Pumps;

(xviii) NAICS Code 447110 Gasoline Stations with Convenience Stores;

(xix) NAICS Code 447190 Other Gasoline Stations;

(xx) NAICS Code 532111 Passenger Car Rental; and

(xxi) NAICS Code 532292 Recreational Goods Rental.

(e) The Division of Finance shall for each fiscal year transfer the first \$6,000,000 of ongoing money in the account to the General Fund.

(9) By October 1, 2014, the office shall provide a written report to the Economic Development and Workforce Services Interim Committee containing:

(a) a recommendation, based on economic modeling, for an updated definition of “sales of tourist-oriented goods and services” to replace the definition in Subsection (8)(d); and

(b) information describing the extent to which the state benefits annually from activities funded by the Tourism Marketing Performance Account.

CHAPTER 424**H. B. 97**

Passed March 13, 2014

Approved April 2, 2014

Effective January 1, 2015

**LIMITATION ON LOCAL GOVERNMENT
REGULATION OF ANIMALS**Chief Sponsor: Brian S. King
Senate Sponsor: Ralph Okerlund

LONG TITLE**General Description:**

This bill modifies Title 10, Chapter 8, Powers and Duties of Municipalities, and Title 18, Dogs.

Highlighted Provisions:

This bill:

- ▶ prohibits a municipality from enacting or enforcing a breed-specific rule, regulation, policy, or ordinance about dogs; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an effective date.

Utah Code Sections Affected:**AMENDS:**10-8-65, as last amended by Laws of Utah 1967,
Chapter 23**ENACTS:**

18-2-1, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 10-8-65 is amended to read:****10-8-65. Dogs -- License and tax --
Destruction, sale, or other disposal.**

[They] Subject to Section 18-2-1, a municipality may license, tax, regulate, or prohibit the keeping of dogs, and authorize the destruction, sale, or other disposal of the same when at large contrary to ordinance.

Section 2. Section 18-2-1 is enacted to read:**18-2-1. (Codified as 18-2-101) Regulation of
dogs by a municipality.**

(1) A municipality may not adopt or enforce a breed-specific rule, regulation, policy, or ordinance regarding dogs.

(2) Any breed-specific rule, regulation, policy, or ordinance regarding dogs is void.

Section 3. Effective date.

This bill takes effect on January 1, 2015.

CHAPTER 425**H. B. 141**

Passed March 11, 2014

Approved April 2, 2014

Effective May 13, 2014

(Exception clause in Section 33)

HEALTH REFORM AMENDMENTS

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Allen M. Christensen

LONG TITLE**General Description:**

This bill amends provisions related to health insurance and state and federal health care reform.

Highlighted Provisions:

This bill:

- ▶ amends the period of time in which an employee of a state contractor must be enrolled in health insurance to conform to federal law;
- ▶ amends the Utah Health Data Authority Act to facilitate:
 - the coordination of eligibility for health insurance benefits; and
 - cost and quality reports for episodes of care;
- ▶ amends the health insurance navigator license chapter of the Insurance Code to:
 - create two types of navigator licenses;
 - establish different training for the types of licenses; and
 - add an exception to the license requirement for Indian health centers;
- ▶ amends the state Comprehensive Health Insurance Pool to:
 - close the pool to new enrollees;
 - pay out claims incurred by enrollees; and
 - close down the business of the pool;
- ▶ permits an enrollee to re-new an insurance plan as long as permitted by federal policy;
- ▶ establishes the state option for calculating the cost to the state if the state mandates additional benefits to the PPACA essential health benefits;
- ▶ creates the Individual and Small Employer Risk Adjustment Act, which:
 - requires the insurance commissioner to work with stakeholders to develop a state based risk adjustment program for the individual and small group market;
 - describes the risk adjustment models the commissioner may consider;
 - requires the commissioner to report to the Legislature before implementing a risk adjustment model;
 - authorizes the commissioner to set fees for the operation of the risk adjustment program; and
 - establishes an Individual and Small Employer Risk Adjustment Enterprise Fund for the operation of the program;
- ▶ requires the Office of Consumer Health Services, which runs the small employer health insurance exchange, to provide the form required for the federal small employer premium tax credit to

small employers who purchase qualified health plans; and

- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an effective date.

This bill coordinates with H.B. 24, Insurance Related Amendments, by providing superseding and substantive amendments.

This bill coordinates with H.B. 35, Reauthorization of Utah Health Data Authority Act, by providing superseding and substantive amendments.

Utah Code Sections Affected:**AMENDS:**

- 17B-2a-818.5, as last amended by Laws of Utah 2012, Chapter 347
- 19-1-206, as last amended by Laws of Utah 2012, Chapter 347
- 26-33a-106.1, as last amended by Laws of Utah 2012, Chapter 279
- 26-33a-106.5, as last amended by Laws of Utah 2012, Chapter 279
- 26-33a-109, as last amended by Laws of Utah 2010, Chapter 68
- 31A-4-115, as last amended by Laws of Utah 2002, Chapter 308
- 31A-8-402.3, as last amended by Laws of Utah 2004, Chapter 329
- 31A-22-721, as last amended by Laws of Utah 2011, Chapter 284
- 31A-23b-205, as enacted by Laws of Utah 2013, Chapter 341
- 31A-23b-206, as enacted by Laws of Utah 2013, Chapter 341
- 31A-23b-211, as enacted by Laws of Utah 2013, Chapter 341
- 31A-29-106, as last amended by Laws of Utah 2013, Chapter 319
- 31A-29-110, as last amended by Laws of Utah 2012, Chapter 347
- 31A-29-111, as last amended by Laws of Utah 2012, Chapters 158 and 347
- 31A-29-113, as last amended by Laws of Utah 2013, Chapter 319
- 31A-29-114, as last amended by Laws of Utah 2006, Chapter 95
- 31A-29-115, as last amended by Laws of Utah 2004, Chapter 2
- 31A-30-103, as last amended by Laws of Utah 2013, Chapter 168
- 31A-30-107, as last amended by Laws of Utah 2009, Chapter 12
- 31A-30-108, as last amended by Laws of Utah 2011, Chapter 284
- 31A-30-117, as enacted by Laws of Utah 2013, Chapter 341
- 63A-5-205, as last amended by Laws of Utah 2012, Chapter 347
- 63C-9-403, as last amended by Laws of Utah 2012, Chapter 347
- 63I-1-231 (Effective 07/01/14), as last amended by Laws of Utah 2013, Chapters 261 and 417
- 63M-1-2504, as last amended by Laws of Utah 2013, Chapter 255
- 72-6-107.5, as last amended by Laws of Utah 2012, Chapter 347

79-2-404, as last amended by Laws of Utah 2012, Chapter 347

ENACTS:

31A-23b-202.5, Utah Code Annotated 1953

31A-30-118, Utah Code Annotated 1953

31A-30-301, Utah Code Annotated 1953

31A-30-302, Utah Code Annotated 1953

31A-30-303, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination

Clause:

26-33a-106.1, as last amended by Laws of Utah 2012, Chapter 279

31A-23b-205, as enacted by Laws of Utah 2013, Chapter 341

31A-23b-206, as enacted by Laws of Utah 2013, Chapter 341

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17B-2a-818.5 is amended to read:

17B-2a-818.5. Contracting powers of public transit districts -- Health insurance coverage.

(1) For purposes of this section:

(a) "Employee" means an "employee," "worker," or "operative" as defined in Section 34A-2-104 who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance which may not exceed the first day of the calendar month following [90] 60 days from the date of hire.

(b) "Health benefit plan" has the same meaning as provided in Section 31A-1-301.

(c) "Qualified health insurance coverage" is as defined in Section 26-40-115.

(d) "Subcontractor" has the same meaning provided for in Section 63A-5-208.

(2) (a) Except as provided in Subsection (3), this section applies to a design or construction contract entered into by the public transit district on or after July 1, 2009, and to a prime contractor or to a subcontractor in accordance with Subsection (2)(b).

(b) (i) A prime contractor is subject to this section if the prime contract is in the amount of \$1,500,000 or greater.

(ii) A subcontractor is subject to this section if a subcontract is in the amount of \$750,000 or greater.

(3) This section does not apply if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract is a sole source contract; or

(c) the contract is an emergency procurement.

(4) (a) This section does not apply to a change order as defined in Section 63G-6a-103, or a modification to a contract, when the contract does not meet the initial threshold required by Subsection (2).

(b) A person who intentionally uses change orders or contract modifications to circumvent the requirements of Subsection (2) is guilty of an infraction.

(5) (a) A contractor subject to Subsection (2) shall demonstrate to the public transit district that the contractor has and will maintain an offer of qualified health insurance coverage for the contractor's employees and the employee's dependents during the duration of the contract.

(b) If a subcontractor of the contractor is subject to Subsection (2)(b), the contractor shall demonstrate to the public transit district that the subcontractor has and will maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employee's dependents during the duration of the contract.

(c) (i) (A) A contractor who fails to meet the requirements of Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with an ordinance adopted by the public transit district under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to meet the requirements of Subsection (5)(b).

(ii) (A) A subcontractor who fails to meet the requirements of Subsection (5)(b) during the duration of the contract is subject to penalties in accordance with an ordinance adopted by the public transit district under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to meet the requirements of Subsection (5)(a).

(6) The public transit district shall adopt ordinances:

(a) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) the State Building Board in accordance with Section 63A-5-205;

(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403; and

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(b) which establish:

(i) the requirements and procedures a contractor shall follow to demonstrate to the public transit district compliance with this section which shall include:

(A) that a contractor will not have to demonstrate compliance with Subsection (5)(a) or (b) more than twice in any 12-month period; and

(B) that the actuarially equivalent determination required for the qualified health insurance coverage in Subsection (1) is met by the contractor if the contractor provides the department or division

with a written statement of actuarial equivalency from either:

- (I) the Utah Insurance Department;
 - (II) an actuary selected by the contractor or the contractor's insurer; or
 - (III) an underwriter who is responsible for developing the employer group's premium rates;
 - (ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:
 - (A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the public transit district upon the first violation;
 - (B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the public transit district upon the second violation;
 - (C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and
 - (D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health insurance coverage for employees and dependents of employees of the contractor or subcontractor who were not offered qualified health insurance coverage during the duration of the contract; and
 - (iii) a website on which the district shall post the benchmark for the qualified health insurance coverage identified in Subsection (1)(c).
- (7) (a) (i) In addition to the penalties imposed under Subsection (6)(b)(ii), a contractor or subcontractor who intentionally violates the provisions of this section shall be liable to the employee for health care costs that would have been covered by qualified health insurance coverage.
- (ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:
 - (A) the employer relied in good faith on a written statement of actuarial equivalency provided by an:
 - (I) actuary; or
 - (II) underwriter who is responsible for developing the employer group's premium rates; or
 - (B) a department or division determines that compliance with this section is not required under the provisions of Subsection (3) or (4).
 - (b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).
 - (8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26-18-402.

(9) The failure of a contractor or subcontractor to provide qualified health insurance coverage as required by this section:

- (a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under Section 63G-6a-1603 or any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and
- (b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

Section 2. Section 19-1-206 is amended to read:

19-1-206. Contracting powers of department -- Health insurance coverage.

- (1) For purposes of this section:
 - (a) "Employee" means an "employee," "worker," or "operative" as defined in Section 34A-2-104 who:
 - (i) works at least 30 hours per calendar week; and
 - (ii) meets employer eligibility waiting requirements for health care insurance which may not exceed the first day of the calendar month following [90] 60 days from the date of hire.
 - (b) "Health benefit plan" has the same meaning as provided in Section 31A-1-301.
 - (c) "Qualified health insurance coverage" is as defined in Section 26-40-115.
 - (d) "Subcontractor" has the same meaning provided for in Section 63A-5-208.
- (2) (a) Except as provided in Subsection (3), this section applies to a design or construction contract entered into by or delegated to the department or a division or board of the department on or after July 1, 2009, and to a prime contractor or subcontractor in accordance with Subsection (2)(b).
 - (b) (i) A prime contractor is subject to this section if the prime contract is in the amount of \$1,500,000 or greater.
 - (ii) A subcontractor is subject to this section if a subcontract is in the amount of \$750,000 or greater.
- (3) This section does not apply to contracts entered into by the department or a division or board of the department if:
 - (a) the application of this section jeopardizes the receipt of federal funds;
 - (b) the contract or agreement is between:
 - (i) the department or a division or board of the department; and
 - (ii) (A) another agency of the state;
 - (B) the federal government;
 - (C) another state;
 - (D) an interstate agency;
 - (E) a political subdivision of this state; or

(F) a political subdivision of another state;

(c) the executive director determines that applying the requirements of this section to a particular contract interferes with the effective response to an immediate health and safety threat from the environment; or

(d) the contract is:

(i) a sole source contract; or

(ii) an emergency procurement.

(4) (a) This section does not apply to a change order as defined in Section 63G-6a-103, or a modification to a contract, when the contract does not meet the initial threshold required by Subsection (2).

(b) A person who intentionally uses change orders or contract modifications to circumvent the requirements of Subsection (2) is guilty of an infraction.

(5) (a) A contractor subject to Subsection (2) shall demonstrate to the executive director that the contractor has and will maintain an offer of qualified health insurance coverage for the contractor's employees and the employees' dependents during the duration of the contract.

(b) If a subcontractor of the contractor is subject to Subsection (2), the contractor shall demonstrate to the executive director that the subcontractor has and will maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' dependents during the duration of the contract.

(c) (i) (A) A contractor who fails to comply with Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to meet the requirements of Subsection (5)(b).

(ii) (A) A subcontractor who fails to meet the requirements of Subsection (5)(b) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to meet the requirements of Subsection (5)(a).

(6) The department shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) a public transit district in accordance with Section 17B-2a-818.5;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) the State Building Board in accordance with Section 63A-5-205;

(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(vi) the Legislature's Administrative Rules Review Committee; and

(c) which establish:

(i) the requirements and procedures a contractor shall follow to demonstrate to the public transit district compliance with this section that shall include:

(A) that a contractor will not have to demonstrate compliance with Subsection (5)(a) or (b) more than twice in any 12-month period; and

(B) that the actuarially equivalent determination required for the qualified health insurance coverage in Subsection (1) is met by the contractor if the contractor provides the department or division with a written statement of actuarial equivalency from either:

(I) the Utah Insurance Department;

(II) an actuary selected by the contractor or the contractor's insurer; or

(III) an underwriter who is responsible for developing the employer group's premium rates;

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) notwithstanding Section 19-1-303, monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health insurance coverage for an employee and the dependents of an employee of the contractor or subcontractor who was not offered qualified health insurance coverage during the duration of the contract; and

(iii) a website on which the department shall post the benchmark for the qualified health insurance coverage identified in Subsection (1)(c).

(7) (a) (i) In addition to the penalties imposed under Subsection (6)(c), a contractor or subcontractor who intentionally violates the provisions of this section shall be liable to the employee for health care costs that would have been covered by qualified health insurance coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement of actuarial equivalency provided by:

(I) an actuary; or

(II) an underwriter who is responsible for developing the employer group's premium rates; or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3) or (4).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26-18-402.

(9) The failure of a contractor or subcontractor to provide qualified health insurance coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under Section 63G-6a-1603 or any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

Section 3. Section 26-33a-106.1 is amended to read:

26-33a-106.1. Health care cost and reimbursement data.

~~[(1) (a) The committee shall, as funding is available, establish an advisory panel to advise the committee on the development of a plan for the collection and use of health care data pursuant to Subsection 26-33a-104(6) and this section.]~~

~~[(b) The advisory panel shall include:]~~

~~[(i) the chairman of the Utah Hospital Association;]~~

~~[(ii) a representative of a rural hospital as designated by the Utah Hospital Association;]~~

~~[(iii) a representative of the Utah Medical Association;]~~

~~[(iv) a physician from a small group practice as designated by the Utah Medical Association;]~~

~~[(v) two representatives who are health insurers, appointed by the committee;]~~

~~[(vi) a representative from the Department of Health as designated by the executive director of the department;]~~

~~[(vii) a representative from the committee;]~~

~~[(viii) a consumer advocate appointed by the committee;]~~

~~[(ix) a member of the House of Representatives appointed by the speaker of the House; and]~~

~~[(x) a member of the Senate appointed by the president of the Senate.]~~

~~[(c) The advisory panel shall elect a chair from among its members, and shall be staffed by the committee.]~~

~~[(2) (a)] (1) The committee shall, as funding is available:~~

~~[(4) (a) establish a plan for collecting data from data suppliers, as defined in Section 26-33a-102, to determine measurements of cost and reimbursements for risk-adjusted episodes of health care;~~

~~[(iii) (b) share data regarding insurance claims and an individual's and small employer group's health risk factor and characteristics of insurance arrangements that affect claims and usage with insurers participating in the defined contribution market created in Title 31A, Chapter 30, Part 2, Defined Contribution Arrangements] the Insurance Department, only to the extent necessary for:~~

~~(i) risk adjusting; and~~

~~(ii) the review and analysis of health insurers' premiums and rate filings; and~~

~~[(A) establishing rates and prospective risk adjusting in the defined contribution arrangement market; and]~~

~~[(B) risk adjusting in the defined contribution arrangement market; and]~~

~~[(iii) (c) assist the Legislature and the public with awareness of, and the promotion of, transparency in the health care market by reporting on:~~

~~[(A) (i) geographic variances in medical care and costs as demonstrated by data available to the committee; and~~

~~[(B) (ii) rate and price increases by health care providers:~~

~~[(4) (A) that exceed the Consumer Price Index - Medical as provided by the United States Bureau of Labor Statistics;~~

~~[(4)] (B) as calculated yearly from June to June; and~~

~~[(4)] (C) as demonstrated by data available to the committee[.]; and~~

~~(d) provide on at least a monthly basis, enrollment data collected by the committee to a not-for-profit, broad-based coalition of state health care insurers and health care providers that are involved in the standardized electronic exchange of health data as described in Section 31A-22-614.5, to the extent necessary:~~

~~(i) for the department or the Medicaid Office of the Inspector General to determine insurance enrollment of an individual for the purpose of determining Medicaid third party liability;~~

~~(ii) for an insurer that is a data supplier, to determine insurance enrollment of an individual~~

for the purpose of coordination of health care benefits; and

(iii) for a health care provider, to determine insurance enrollment for a patient for the purpose of claims submission by the health care provider.

(2) (a) The Medicaid Office of Inspector General shall annually report to the Legislature's Health and Human Services Interim Committee regarding how the office used the data obtained under Subsection (1)(d)(i) and the results of obtaining the data.

(b) A data supplier shall not be liable for a breach of or unlawful disclosure of the data obtained by an entity described in Subsection (1)(b).

[~~(b)~~] (3) The plan adopted under [~~this~~] Subsection [~~(2)~~] (1) shall include:

[~~(i)~~] (a) the type of data that will be collected;

[~~(ii)~~] (b) how the data will be evaluated;

[~~(iii)~~] (c) how the data will be used;

[~~(iv)~~] (d) the extent to which, and how the data will be protected; and

[~~(v)~~] (e) who will have access to the data.

Section 4. Section 26-33a-106.5 is amended to read:

26-33a-106.5. Comparative analyses.

(1) The committee may publish compilations or reports that compare and identify health care providers or data suppliers from the data it collects under this chapter or from any other source.

(2) (a) [The] Except as provided in Subsection (7)(c), the committee shall publish compilations or reports from the data it collects under this chapter or from any other source which:

(i) contain the information described in Subsection (2)(b); and

(ii) compare and identify by name at least a majority of the health care facilities, health care plans, and institutions in the state.

(b) [The] Except as provided in Subsection (7)(c), the report required by this Subsection (2) shall:

(i) be published at least annually; and

(ii) contain comparisons based on at least the following factors:

(A) nationally or other generally recognized quality standards;

(B) charges; and

(C) nationally recognized patient safety standards.

(3) The committee may contract with a private, independent analyst to evaluate the standard comparative reports of the committee that identify, compare, or rank the performance of data suppliers by name. The evaluation shall include a validation of statistical methodologies, limitations,

appropriateness of use, and comparisons using standard health services research practice. The analyst shall be experienced in analyzing large databases from multiple data suppliers and in evaluating health care issues of cost, quality, and access. The results of the analyst's evaluation shall be released to the public before the standard comparative analysis upon which it is based may be published by the committee.

(4) The committee shall adopt by rule a timetable for the collection and analysis of data from multiple types of data suppliers.

(5) The comparative analysis required under Subsection (2) shall be available:

(a) free of charge and easily accessible to the public; and

(b) on the Health Insurance Exchange either directly or through a link.

(6) (a) The department shall include in the report required by Subsection (2)(b), or include in a separate report, comparative information on commonly recognized or generally agreed upon measures of cost and quality identified in accordance with Subsection (7), for:

(i) routine and preventive care; and

(ii) the treatment of diabetes, heart disease, and other illnesses or conditions as determined by the committee.

(b) The comparative information required by Subsection (6)(a) shall be based on data collected under Subsection (2) and clinical data that may be available to the committee, and shall [beginning on or after July 1, 2012,] compare:

(i) beginning December 31, 2014, results for health care facilities or institutions;

(ii) beginning December 31, 2014, results for health care providers by geographic regions of the state;

[~~(iii)~~] (iii) beginning July 1, 2016, a clinic's aggregate results for a physician who practices at a clinic with five or more physicians; and

[~~(iii)~~] (iv) beginning July 1, 2016, a geographic region's aggregate results for a physician who practices at a clinic with less than five physicians, unless the physician requests physician-level data to be published on a clinic level.

(c) The department:

(i) may publish information required by this Subsection (6) directly or through one or more nonprofit, community-based health data organizations;

(ii) may use a private, independent analyst under Subsection (3) in preparing the report required by this section; and

(iii) shall identify and report to the Legislature's Health and Human Services Interim Committee by July 1, [2012] 2014, and every July 1₇ thereafter until July 1, [2015, at least five] 2019, at least three new measures of quality to be added to the report each year.

(d) A report published by the department under this Subsection (6):

(i) is subject to the requirements of Section 26-33a-107; and

(ii) shall, prior to being published by the department, be submitted to a neutral, non-biased entity with a broad base of support from health care payers and health care providers in accordance with Subsection (7) for the purpose of validating the report.

(7) (a) The Health Data Committee shall, through the department, for purposes of Subsection (6)(a), use the quality measures that are developed and agreed upon by a neutral, non-biased entity with a broad base of support from health care payers and health care providers.

(b) If the entity described in Subsection (7)(a) does not submit the quality measures, the department may select the appropriate number of quality measures for purposes of the report required by Subsection (6).

(c) (i) For purposes of the reports published on or after July 1, [2012] 2014, the department may not compare individual facilities or clinics as described in Subsections (6)(b)(i) through [(iii)] (iv) if the department determines that the data available to the department can not be appropriately validated, does not represent nationally recognized measures, does not reflect the mix of cases seen at a clinic or facility, or is not sufficient for the purposes of comparing providers.

(ii) The department shall report to the Legislature's Executive Appropriations Committee prior to making a determination not to publish a report under Subsection (7)(c)(i).

Section 5. Section 26-33a-109 is amended to read:

26-33a-109. Exceptions to prohibition on disclosure of identifiable health data.

(1) The committee may not disclose any identifiable health data unless:

(a) the individual has authorized the disclosure; or

(b) the disclosure complies with the provisions of:

(i) this section[-];

(ii) insurance enrollment and coordination of benefits under Subsection 26-33a-106.1(1)(d); or

(iii) risk adjusting under Subsection 26-33a-106.1(1)(b).

(2) The committee shall consider the following when responding to a request for disclosure of information that may include identifiable health data:

(a) whether the request comes from a person after that person has received approval to do the specific research and statistical work from an institutional review board; and

(b) whether the requesting entity complies with the provisions of Subsection (3).

(3) A request for disclosure of information that may include identifiable health data shall:

(a) be for a specified period; or

(b) be solely for bona fide research and statistical purposes as determined in accordance with administrative rules adopted by the department, which shall require:

(i) the requesting entity to demonstrate to the department that the data is required for the research and statistical purposes proposed by the requesting entity; and

(ii) the requesting entity to enter into a written agreement satisfactory to the department to protect the data in accordance with this chapter or other applicable law.

(4) A person accessing identifiable health data pursuant to Subsection (3) may not further disclose the identifiable health data:

(a) without prior approval of the department; and

(b) unless the identifiable health data is disclosed or identified by control number only.

Section 6. Section 31A-4-115 is amended to read:

31A-4-115. Plan of orderly withdrawal.

(1) (a) When an insurer intends to withdraw from writing a line of insurance in this state or to reduce its total annual premium volume by 75% or more, the insurer shall file with the commissioner a plan of orderly withdrawal.

(b) For purposes of this section, a discontinuance of a health benefit plan pursuant to one of the following provisions is a withdrawal from a line of insurance:

(i) Subsection 31A-30-107(3)(e); or

(ii) Subsection 31A-30-107.1(3)(e).

(2) An insurer's plan of orderly withdrawal shall:

(a) indicate the date the insurer intends to begin and complete its withdrawal plan; and

(b) include provisions for:

(i) meeting the insurer's contractual obligations;

(ii) providing services to its Utah policyholders and claimants;

(iii) meeting any applicable statutory obligations; and

(iv) (A) the payment of a withdrawal fee of \$50,000 to the Utah Comprehensive Health Insurance Pool if:

(I) the insurer is an accident and health insurer; and

(II) the insurer's line of business is not assumed or placed with another insurer approved by the commissioner; or

(B) the payment of a withdrawal fee of \$50,000 to the department if:

(I) the insurer is not an accident and health insurer; and

(II) the insurer's line of business is not assumed or placed with another insurer approved by the commissioner.

(3) The commissioner shall approve a plan of orderly withdrawal if the plan adequately demonstrates that the insurer will:

(a) protect the interests of the people of the state;

(b) meet the insurer's contractual obligations;

(c) provide service to the insurer's Utah policyholders and claimants; and

(d) meet any applicable statutory obligations.

(4) Section 31A-2-302 governs the commissioner's approval or disapproval of a plan for orderly withdrawal.

(5) The commissioner may require an insurer to increase the deposit maintained in accordance with Section 31A-4-105 or Section 31A-4-105.5 and place the deposit in trust in the name of the commissioner upon finding, after an adjudicative proceeding that:

(a) there is reasonable cause to conclude that the interests of the people of the state are best served by such action; and

(b) the insurer:

(i) has filed a plan of orderly withdrawal; or

(ii) intends to:

(A) withdraw from writing a line of insurance in this state; or

(B) reduce the insurer's total annual premium volume by 75% or more.

(6) An insurer is subject to the civil penalties under Section 31A-2-308, if the insurer:

(a) withdraws from writing insurance in this state; or

(b) reduces its total annual premium volume by 75% or more in any year without having submitted a plan or receiving the commissioner's approval.

(7) An insurer that withdraws from writing all lines of insurance in this state may not resume writing insurance in this state for five years unless: ~~(a)~~ the commissioner finds that the prohibition should be waived because the waiver is:

~~(i)~~ (a) in the public interest to promote competition; or

~~(ii)~~ (b) to resolve inequity in the marketplace; ~~and~~.

~~(b) the insurer complies with Subsection 31A-30-108(5), if applicable.~~

(8) The commissioner shall adopt rules necessary to implement this section.

Section 7. Section 31A-8-402.3 is amended to read:

31A-8-402.3. Discontinuance, nonrenewal, or changes to group health benefit plans.

(1) Except as otherwise provided in this section, a group health benefit plan for a plan sponsor is renewable and continues in force:

(a) with respect to all eligible employees and dependents; and

(b) at the option of the plan sponsor.

(2) A health benefit plan for a plan sponsor may be discontinued or nonrenewed~~[-(a)]~~ for a network plan, if:

~~(i)~~ (a) there is no longer any enrollee under the group health plan who lives, resides, or works in:

~~(A)~~ (i) the service area of the insurer; or

~~(B)~~ (ii) the area for which the insurer is authorized to do business; ~~and~~ or

~~(ii) in the case of the small employer market, the insurer applies the same criteria the insurer would apply in denying enrollment in the plan under Subsection 31A-30-108(7); or~~

(b) for coverage made available in the small or large employer market only through an association, if:

(i) the employer's membership in the association ceases; and

(ii) the coverage is terminated uniformly without regard to any health status-related factor relating to any covered individual.

(3) A health benefit plan for a plan sponsor may be discontinued if:

(a) a condition described in Subsection (2) exists;

(b) the plan sponsor fails to pay premiums or contributions in accordance with the terms of the contract;

(c) the plan sponsor:

(i) performs an act or practice that constitutes fraud; or

(ii) makes an intentional misrepresentation of material fact under the terms of the coverage;

(d) the insurer:

(i) elects to discontinue offering a particular health benefit product delivered or issued for delivery in this state; and

(ii) (A) provides notice of the discontinuation in writing:

(I) to each plan sponsor, employee, or dependent of a plan sponsor or an employee; and

(II) at least 90 days before the date the coverage will be discontinued;

(B) provides notice of the discontinuation in writing:

(I) to the commissioner; and

(II) at least three working days prior to the date the notice is sent to the affected plan sponsors, employees, and dependents of the plan sponsors or employees;

(C) offers to each plan sponsor, on a guaranteed issue basis, the option to purchase:

(I) all other health benefit products currently being offered by the insurer in the market; or

(II) in the case of a large employer, any other health benefit product currently being offered in that market; and

(D) in exercising the option to discontinue that product and in offering the option of coverage in this section, acts uniformly without regard to:

(I) the claims experience of a plan sponsor;

(II) any health status-related factor relating to any covered participant or beneficiary; or

(III) any health status-related factor relating to any new participant or beneficiary who may become eligible for the coverage; or

(e) the insurer:

(i) elects to discontinue all of the insurer's health benefit plans in:

(A) the small employer market;

(B) the large employer market; or

(C) both the small employer and large employer markets; and

(ii) (A) provides notice of the discontinuation in writing:

(I) to each plan sponsor, employee, or dependent of a plan sponsor or an employee; and

(II) at least 180 days before the date the coverage will be discontinued;

(B) provides notice of the discontinuation in writing:

(I) to the commissioner in each state in which an affected insured individual is known to reside; and

(II) at least 30 working days prior to the date the notice is sent to the affected plan sponsors, employees, and the dependents of the plan sponsors or employees;

(C) discontinues and nonrenews all plans issued or delivered for issuance in the market; and

(D) provides a plan of orderly withdrawal as required by Section 31A-4-115.

(4) A large employer health benefit plan may be discontinued or nonrenewed:

(a) if a condition described in Subsection (2) exists; or

(b) for noncompliance with the insurer's:

(i) minimum participation requirements; or

(ii) employer contribution requirements.

(5) A small employer health benefit plan may be discontinued or nonrenewed:

(a) if a condition described in Subsection (2) exists; or

(b) for noncompliance with the insurer's employer contribution requirements.

(6) A small employer health benefit plan may be nonrenewed:

(a) if a condition described in Subsection (2) exists; or

(b) for noncompliance with the insurer's minimum participation requirements.

(7) (a) Except as provided in Subsection (7)(d), an eligible employee may be discontinued if after issuance of coverage the eligible employee:

(i) engages in an act or practice in connection with the coverage that constitutes fraud; or

(ii) makes an intentional misrepresentation of material fact in connection with the coverage.

(b) An eligible employee that is discontinued under Subsection (7)(a) may reenroll:

(i) 12 months after the date of discontinuance; and

(ii) if the plan sponsor's coverage is in effect at the time the eligible employee applies to reenroll.

(c) At the time the eligible employee's coverage is discontinued under Subsection (7)(a), the insurer shall notify the eligible employee of the right to reenroll when coverage is discontinued.

(d) An eligible employee may not be discontinued under this Subsection (7) because of a fraud or misrepresentation that relates to health status.

(8) For purposes of this section, a reference to "plan sponsor" includes a reference to the employer:

(a) with respect to coverage provided to an employer member of the association; and

(b) if the health benefit plan is made available by an insurer in the employer market only through:

(i) an association;

(ii) a trust; or

(iii) a discretionary group.

(9) An insurer may modify a health benefit plan for a plan sponsor only:

(a) at the time of coverage renewal; and

(b) if the modification is effective uniformly among all plans with that product.

Section 8. Section 31A-22-721 is amended to read:

31A-22-721. A health benefit plan for a plan sponsor -- Discontinuance and nonrenewal.

(1) Except as otherwise provided in this section, a health benefit plan for a plan sponsor is renewable and continues in force:

(a) with respect to all eligible employees and dependents; and

(b) at the option of the plan sponsor.

(2) A health benefit plan for a plan sponsor may be discontinued or nonrenewed~~[-(a)]~~ for a network plan, if:

~~[(4)]~~ (a) there is no longer any enrollee under the group health plan who lives, resides, or works in:

~~[(A)]~~ (i) the service area of the insurer; or

~~[(B)]~~ (ii) the area for which the insurer is authorized to do business; ~~[and]~~ or

~~[(ii) in the case of the small employer market, the insurer applies the same criteria the insurer would apply in denying enrollment in the plan under Subsection 31A-30-108(7); or]~~

(b) for coverage made available in the small or large employer market only through an association, if:

(i) the employer's membership in the association ceases; and

(ii) the coverage is terminated uniformly without regard to any health status-related factor relating to any covered individual.

(3) A health benefit plan for a plan sponsor may be discontinued if:

(a) a condition described in Subsection (2) exists;

(b) the plan sponsor fails to pay premiums or contributions in accordance with the terms of the contract;

(c) the plan sponsor:

(i) performs an act or practice that constitutes fraud; or

(ii) makes an intentional misrepresentation of material fact under the terms of the coverage;

(d) the insurer:

(i) elects to discontinue offering a particular health benefit product delivered or issued for delivery in this state;

(ii) (A) provides notice of the discontinuation in writing:

(I) to each plan sponsor, employee, and dependent of a plan sponsor or employee; and

(II) at least 90 days before the date the coverage will be discontinued;

(B) provides notice of the discontinuation in writing:

(I) to the commissioner; and

(II) at least three working days prior to the date the notice is sent to the affected plan sponsors, employees, and dependents of plan sponsors or employees;

(C) offers to each plan sponsor, on a guaranteed issue basis, the option to purchase any other health benefit products currently being offered:

(I) by the insurer in the market; or

(II) in the case of a large employer, any other health benefit plan currently being offered in that market; and

(D) in exercising the option to discontinue that product and in offering the option of coverage in this section, the insurer acts uniformly without regard to:

(I) the claims experience of a plan sponsor;

(II) any health status-related factor relating to any covered participant or beneficiary; or

(III) any health status-related factor relating to a new participant or beneficiary who may become eligible for coverage; or

(e) the insurer:

(i) elects to discontinue all of the insurer's health benefit plans:

(A) in the small employer market; or

(B) the large employer market; or

(C) both the small and large employer markets; and

(ii) (A) provides notice of the discontinuance in writing:

(I) to each plan sponsor, employee, or dependent of a plan sponsor or an employee; and

(II) at least 180 days before the date the coverage will be discontinued;

(B) provides notice of the discontinuation in writing:

(I) to the commissioner in each state in which an affected insured individual is known to reside; and

(II) at least 30 business days prior to the date the notice is sent to the affected plan sponsors, employees, and dependents of a plan sponsor or employee;

(C) discontinues and nonrenews all plans issued or delivered for issuance in the market; and

(D) provides a plan of orderly withdrawal as required by Section 31A-4-115.

(4) A large employer health benefit plan may be discontinued or nonrenewed:

(a) if a condition described in Subsection (2) exists; or

(b) for noncompliance with the insurer's:

- (i) minimum participation requirements; or
 - (ii) employer contribution requirements.
- (5) A small employer health benefit plan may be discontinued or nonrenewed:
- (a) if a condition described in Subsection (2) exists; or
 - (b) for noncompliance with the insurer's employer contribution requirements.
- (6) A small employer health benefit plan may be nonrenewed:
- (a) if a condition described in Subsection (2) exists; or
 - (b) for noncompliance with the insurer's minimum participation requirements.
- (7) (a) Except as provided in Subsection (7)(d), an eligible employee may be discontinued if after issuance of coverage the eligible employee:
- (i) engages in an act or practice that constitutes fraud in connection with the coverage; or
 - (ii) makes an intentional misrepresentation of material fact in connection with the coverage.
- (b) An eligible employee that is discontinued under Subsection (7)(a) may reenroll:
- (i) 12 months after the date of discontinuance; and
 - (ii) if the plan sponsor's coverage is in effect at the time the eligible employee applies to reenroll.
- (c) At the time the eligible employee's coverage is discontinued under Subsection (7)(a), the insurer shall notify the eligible employee of the right to reenroll when coverage is discontinued.
- (d) An eligible employee may not be discontinued under this Subsection (7) because of a fraud or misrepresentation that relates to health status.
- (8) (a) Except as provided in Subsection (8)(b), an insurer that elects to discontinue offering a health benefit plan under Subsection (3)(e) shall be prohibited from writing new business in such market in this state for a period of five years beginning on the date of discontinuation of the last coverage that is discontinued.
- (b) The commissioner may waive the prohibition under Subsection (8)(a) when the commissioner finds that waiver is in the public interest:
- (i) to promote competition; or
 - (ii) to resolve inequity in the marketplace.
- (9) If an insurer is doing business in one established geographic service area of the state, this section applies only to the insurer's operations in that geographic service area.
- (10) An insurer may modify a health benefit plan for a plan sponsor only:
- (a) at the time of coverage renewal; and

(b) if the modification is effective uniformly among all plans with a particular product or service.

(11) For purposes of this section, a reference to "plan sponsor" includes a reference to the employer:

(a) with respect to coverage provided to an employer member of the association; and

(b) if the health benefit plan is made available by an insurer in the employer market only through:

- (i) an association;
- (ii) a trust; or
- (iii) a discretionary group.

(12) (a) A small employer that, after purchasing a health benefit plan in the small group market, employs on average more than 50 eligible employees on each business day in a calendar year may continue to renew the health benefit plan purchased in the small group market.

(b) A large employer that, after purchasing a health benefit plan in the large group market, employs on average less than 51 eligible employees on each business day in a calendar year may continue to renew the health benefit plan purchased in the large group market.

(13) An insurer offering employer sponsored health benefit plans shall comply with the Health Insurance Portability and Accountability Act, 42 U.S.C. Sec. 300gg and 300gg-1.

Section 9. Section 31A-23b-202.5 is enacted to read:

31A-23b-202.5. License types.

(1) A license issued under this chapter shall be issued under the license types described in Subsection (2).

(2) A license type under this chapter shall be a navigator line of authority or a certified application counselor line of authority. A license type is intended to describe the matters to be considered under any education, examination, and training required of an applicant under this chapter.

(3) (a) A navigator line of authority includes the enrollment process as described in Subsection 31A-23b-102(4)(a).

(b) (i) A certified application counselor line of authority is limited to providing information and assistance to individuals and employees about public programs and premium subsidies available through the exchange.

(ii) A certified application counselor line of authority does not allow the certified application counselor to assist a person with the selection of or enrollment in a qualified health plan offered on an exchange.

Section 10. Section 31A-23b-205 is amended to read:

31A-23b-205. Examination and training requirements.

(1) The commissioner may require ~~[applicants]~~ an applicant for a license to pass an examination and complete a training program as a requirement for a license.

(2) The examination described in Subsection (1) shall reasonably relate to:

(a) the duties and functions of a navigator;

(b) requirements for navigators as established by federal regulation under PPACA; and

(c) other requirements that may be established by the commissioner by administrative rule.

(3) The examination may be administered by the commissioner or as otherwise specified by administrative rule.

(4) The training required by Subsection (1) shall be approved by the commissioner and shall include:

(a) accident and health insurance plans;

(b) qualifications for and enrollment in public programs;

(c) qualifications for and enrollment in premium subsidies;

(d) cultural and linguistic competence;

(e) conflict of interest standards;

(f) exchange functions; and

(g) other requirements that may be adopted by the commissioner by administrative rule.

(5) (a) For the navigator line of authority, the training required by Subsection (1) shall consist of at least 21 credit hours of training before obtaining the license, which shall include:

(i) at least two hours of training on defined contribution arrangements and the small employer health insurance exchange; and

(ii) the navigator training and certification program developed by the Centers for Medicare and Medicaid Services.

(b) For the certified application counselor line of authority, the training required by Subsection (1) shall consist of at least six hours of training before obtaining a license, which shall include:

(i) at least one hour of training on defined contribution arrangements and the small employer health insurance exchange; and

(ii) the certified application counselor training and certification program developed by the Centers for Medicare and Medicaid Services.

~~[(5)]~~ (6) This section applies only to ~~[applicants who are natural persons]~~ an applicant who is a natural person.

Section 11. Section 31A-23b-206 is amended to read:

31A-23b-206. Continuing education requirements.

(1) The commissioner shall, by rule, prescribe continuing education requirements for a navigator.

(2) (a) The commissioner may not require a degree from an institution of higher education as part of continuing education.

(b) The commissioner may state a continuing education requirement in terms of hours of instruction received in:

(i) accident and health insurance;

(ii) qualification for and enrollment in public programs;

(iii) qualification for and enrollment in premium subsidies;

(iv) cultural competency;

(v) conflict of interest standards; and

(vi) other exchange functions.

(3) (a) ~~[Continuing]~~ For a navigator line of authority, continuing education requirements shall require:

(i) that a licensee complete [24] 12 credit hours of continuing education for every ~~two-year~~ one-year licensing period;

(ii) that [3] at least two of the [24] 12 credit hours described in Subsection (3)(a)(i) be ethics courses; ~~and]~~

~~[(iii) that the licensee complete at least half of the required hours through classroom hours of insurance and exchange related instruction.]~~

(iii) that at least one of the 12 credit hours described in Subsection (3)(a)(i) be training on defined contribution arrangements and the use of the small employer health insurance exchange; and

(iv) that a licensee complete the annual navigator training and certification program developed by the Centers for Medicare and Medicaid Services.

(b) For a certified application counselor, the continuing education requirements shall require:

(i) that a licensee complete six credit hours of continuing education for every one-year licensing period;

(ii) that at least two of the six credit hours described in Subsection (3)(b)(i) be on ethics courses;

(iii) that at least one of the six credit hours described in Subsection (3)(b)(i) be training on defined contribution arrangements and the use of the small employer health insurance exchange; and

(iv) that a licensee complete the annual certified application counselor training and certification program developed by the Centers for Medicare and Medicaid Services.

~~[(b)]~~ (c) An hour of continuing education in accordance with [Subsection] Subsections (3)(a)(i) and (b)(i) may be obtained through:

(i) classroom attendance;

(ii) home study;

(iii) watching a video recording; or

~~[(iv) experience credit; or]~~

~~[(v)]~~ (iv) another method approved by rule.

~~[(e)]~~ (d) A licensee may obtain continuing education hours at any time during the ~~[two-year]~~ one-year license period.

~~[(d)]~~ (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner shall, by rule: ~~[(i) publish a list of insurance professional designations whose continuing education requirements can be used to meet the requirements for continuing education under Subsection (3)(b); and (ii)],~~ authorize one or more continuing education providers, including a state or national professional producer or consultant associations, to:

~~[(A)]~~ (i) offer a qualified program on a geographically accessible basis; and

~~[(B)]~~ (ii) collect a reasonable fee for funding and administration of a continuing education program, subject to the review and approval of the commissioner.

(4) The commissioner shall approve a continuing education provider or a continuing education course that satisfies the requirements of this section.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner shall by rule establish the procedures for continuing education provider registration and course approval.

(6) This section applies only to a navigator who is a natural person.

(7) A navigator shall keep documentation of completing the continuing education requirements of this section for two years after the end of the two-year licensing period to which the continuing education applies.

Section 12. Section 31A-23b-211 is amended to read:

31A-23b-211. Exceptions to navigator licensing.

(1) For purposes of this section:

(a) "Negotiate" is as defined in Section 31A-23a-102.

(b) "Sell" is as defined in Section 31A-23a-102.

(c) "Solicit" is as defined in Section 31A-23a-102.

(2) The commissioner may not require a license as a navigator of:

(a) a person who is employed by or contracts with:

(i) a health care facility that is licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, to assist an individual with enrollment in a public program or an application for premium subsidy; or

(ii) the state, a political subdivision of the state, an entity of a political subdivision of the state, or a public school district to assist an individual with enrollment in a public program or an application for premium subsidy;

(b) a federally qualified health center as defined by Section 1905(1)(2)(B) of the Social Security Act which assists an individual with enrollment in a public program or an application for premium subsidy;

(c) a person licensed under Chapter 23a, Insurance Marketing-Licensing, Consultants, and Reinsurance Intermediaries, if the person is licensed in the appropriate line of authority to sell, solicit, or negotiate accident and health insurance plans;

(d) an officer, director, or employee of a navigator:

(i) who does not receive compensation or commission from an insurer issuing an insurance contract, an agency administering a public program, an individual who enrolled in a public program or insurance product, or an exchange; and

(ii) whose activities:

(A) are executive, administrative, managerial, clerical, or a combination thereof;

(B) only indirectly relate to the sale, solicitation, or negotiation of insurance, or the enrollment in a public program offered through the exchange;

(C) are in the capacity of a special agent or agency supervisor assisting an insurance producer or navigator;

(D) are limited to providing technical advice and assistance to a licensed insurance producer or navigator; or

(E) do not include the sale, solicitation, or negotiation of insurance, or the enrollment in a public program; ~~and]~~

(e) a person who does not sell, solicit, or negotiate insurance and is not directly or indirectly compensated by an insurer issuing an insurance contract, an agency administering a public program, an individual who enrolled in a public program or insurance product, or an exchange, including:

(i) an employer, association, officer, director, employee, or trustee of an employee trust plan who is engaged in the administration or operation of a program:

(A) of employee benefits for the employer's or association's own employees or the employees of a subsidiary or affiliate of an employer or association; and

(B) that involves the use of insurance issued by an insurer or enrollment in a public health plan on an exchange;

(ii) an employee of an insurer or organization employed by an insurer who is engaging in the inspection, rating, or classification of risk, or the supervision of training of insurance producers; or

(iii) an employee who counsels or advises the employee's employer with regard to the insurance interests of the employer, or a subsidiary or business affiliate of the employer[-]; and

(f) an Indian health clinic or Urban Indian Health Center, as defined in Title V of the Indian Health Care Improvement Act, which assists a person with enrollment in a public program or an application for a premium subsidy.

(3) The exemption from licensure under Subsections (2)(a) [~~and~~], (b), and (f) does not apply if a person described in Subsections (2)(a) [~~and~~], (b), and (f) enrolls a person in a private insurance plan.

(4) The commissioner may by rule exempt a class of persons from the license requirement of Subsection 31A-23b-201(1) if:

(a) the functions performed by the class of persons do not require:

(i) special competence;

(ii) special trustworthiness; or

(iii) regulatory surveillance made possible by licensing; or

(b) other existing safeguards make regulation unnecessary.

Section 13. Section 31A-29-106 is amended to read:

31A-29-106. Powers of board.

(1) The board shall have the general powers and authority granted under the laws of this state to insurance companies licensed to transact health care insurance business. In addition, the board shall [~~have the specific authority to~~]:

(a) have the specific authority to enter into contracts to carry out the provisions and purposes of this chapter, including, with the approval of the commissioner, contracts with:

(i) similar pools of other states for the joint performance of common administrative functions; or

(ii) persons or other organizations for the performance of administrative functions;

(b) sue or be sued, including taking such legal action necessary to avoid the payment of improper claims against the pool or the coverage provided through the pool;

(c) establish appropriate rates, rate schedules, rate adjustments, expense allowances, agents' referral fees, claim reserve formulas, and any other actuarial function appropriate to the operation of the pool;

~~[(d) issue policies of insurance in accordance with the requirements of this chapter;]~~

(d) (i) close enrollment in the plans issued by the pool and cancel the plans issued by the pool in accordance with the plan of operation approved by the commissioner; and

(ii) close out the business of the pool in accordance with the plan of operation, including processing and paying valid claims incurred by enrollees prior to the date enrollment is closed under Subsection (1)(d)(i);

(e) retain an executive director and appropriate legal, actuarial, and other personnel as necessary to provide technical assistance in the operations of the pool and to close pool business in accordance with Subsection (1)(d);

(f) establish rules, conditions, and procedures for reinsuring risks under this chapter;

(g) cause the pool to have an annual and a final audit of its operations by the state auditor;

~~[(h) coordinate with the Department of Health in seeking to obtain from the Centers for Medicare and Medicaid Services, or other appropriate office or agency of government, all appropriate waivers, authority, and permission needed to coordinate the coverage available from the pool with coverage available under Medicaid, either before or after Medicaid coverage, or as a conversion option upon completion of Medicaid eligibility, without the necessity for requalification by the enrollee;]~~

~~[(i)]~~ (h) provide for and employ cost containment measures and requirements including preadmission certification, concurrent inpatient review, and individual case management for the purpose of making the pool more cost-effective;

~~[(j) offer pool coverage through contracts with health maintenance organizations, preferred provider organizations, and other managed care systems that will manage costs while maintaining quality care;]~~

~~[(k)]~~ (i) establish annual limits on benefits payable under the pool to or on behalf of any enrollee;

~~[(l)]~~ (j) exclude from coverage under the pool specific benefits, medical conditions, and procedures for the purpose of protecting the financial viability of the pool;

~~[(m)]~~ (k) administer the Pool Fund;

~~[(n)]~~ (l) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this chapter;

~~[(o)]~~ (m) adopt, trademark, and copyright a trade name for the pool for use in marketing and publicizing the pool and its products; and

~~[(p)]~~ (n) transition health care coverage for all individuals covered under the pool as part of the conversion to health insurance coverage, regardless of preexisting conditions, under PPACA.

(2) (a) The board shall prepare and submit an annual and final report to the Legislature which shall include:

(i) the net premiums anticipated;

(ii) actuarial projections of payments required of the pool;

(iii) the expenses of administration; and

(iv) the anticipated reserves or losses of the pool.

(b) The budget for operation of the pool is subject to the approval of the board.

(c) The administrative budget of the board and the commissioner under this chapter shall comply with the requirements of Title 63J, Chapter 1, Budgetary Procedures Act, and is subject to review and approval by the Legislature.

~~[(3) (a) The board shall on or before September 1, 2004, require the plan administrator or an independent actuarial consultant retained by the plan administrator to redetermine the reasonable equivalent of the criteria for uninsurability required under Subsection 31A-30-106(1)(h) that is used by the board to determine eligibility for coverage in the pool.]~~

~~[(b) The board shall redetermine the criteria established in Subsection (3)(a) at least every five years thereafter.]~~

Section 14. Section 31A-29-110 is amended to read:

31A-29-110. Pool administrator -- Selection -- Powers.

(1) The board shall select a pool administrator in accordance with Title 63G, Chapter 6a, Utah Procurement Code. The board shall evaluate bids based on criteria established by the board, which shall include:

- (a) ability to manage medical expenses;
- (b) proven ability to handle accident and health insurance;
- (c) efficiency of claim paying procedures;
- (d) marketing and underwriting;
- (e) proven ability for managed care and quality assurance;
- (f) provider contracting and discounts;
- (g) pharmacy benefit management;
- (h) an estimate of total charges for administering the pool; and
- (i) ability to administer the pool in a cost-efficient manner.

(2) A pool administrator may be:

- (a) a health insurer;
- (b) a health maintenance organization;
- (c) a third-party administrator; or

(d) any person or entity which has demonstrated ability to meet the criteria in Subsection (1).

(3) ~~[(a)]~~ The pool administrator shall serve for a period of three years, with ~~[two one-year]~~ yearly extension options until the operations of the pool are closed pursuant to Subsection 31A-29-106(1)(d), subject to the terms, conditions, and limitations of the contract between the board and the administrator.

~~[(b) At least one year prior to the expiration of the contract between the board and the pool administrator, the board shall invite all interested parties, including the current pool administrator, to submit bids to serve as the pool administrator].~~

~~[(c) Selection of the pool administrator for a succeeding period shall be made at least six months prior to the expiration of the period of service under Subsection (3)(a).]~~

(4) The pool administrator is responsible for all operational functions of the pool and shall:

(a) have access to all nonpatient specific experience data, statistics, treatment criteria, and guidelines compiled or adopted by the Medicaid program, the Public Employees Health Plan, the Department of Health, or the Insurance Department, and which are not otherwise declared by statute to be confidential;

(b) perform all marketing, eligibility, enrollment, member agreements, and administrative claim payment functions relating to the pool;

(c) establish, administer, and operate a monthly premium billing procedure for collection of premiums from enrollees;

(d) perform all necessary functions to assure timely payment of benefits to enrollees, including:

(i) making information available relating to the proper manner of submitting a claim for benefits to the pool administrator and distributing forms upon which submission shall be made; and

(ii) evaluating the eligibility of each claim for payment by the pool;

(e) submit regular reports to the board regarding the operation of the pool, the frequency, content, and form of which reports shall be determined by the board;

(f) following the close of each calendar year, determine net written and earned premiums, the expense of administration, and the paid and incurred losses for the year and submit a report of this information to the board, the commissioner, and the Division of Finance on a form prescribed by the commissioner; and

(g) be paid as provided in the plan of operation for expenses incurred in the performance of the pool administrator's services.

Section 15. Section 31A-29-111 is amended to read:

31A-29-111. Eligibility -- Limitations.

(1) (a) Except as provided in Subsection (1)(b) and Subsection 31A-29-106(1)(d), an individual who is not HIPAA eligible is eligible for pool coverage if the individual:

(i) pays the established premium;

(ii) is a resident of this state; and

(iii) meets the health underwriting criteria under Subsection (5)(a).

(b) Notwithstanding Subsection (1)(a), an individual who is not HIPAA eligible is not eligible

for pool coverage if one or more of the following conditions apply:

(i) the individual is eligible for health care benefits under Medicaid or Medicare, except as provided in Section 31A-29-112;

(ii) the individual has terminated coverage in the pool, unless:

(A) 12 months have elapsed since the termination date; or

(B) the individual demonstrates that creditable coverage has been involuntarily terminated for any reason other than nonpayment of premium;

(iii) the pool has paid the maximum lifetime benefit to or on behalf of the individual;

(iv) the individual is an inmate of a public institution;

(v) the individual is eligible for a public health plan, as defined in federal regulations adopted pursuant to 42 U.S.C. 300gg;

(vi) the individual's health condition does not meet the criteria established under Subsection (5);

(vii) the individual is eligible for coverage under an employer group that offers a health benefit plan or a self-insurance arrangement to its eligible employees, dependents, or members as:

(A) an eligible employee;

(B) a dependent of an eligible employee; or

(C) a member;

(viii) the individual is covered under any other health benefit plan;

(ix) except as provided in Subsections (3) and (6), at the time of application, the individual has not resided in Utah for at least 12 consecutive months preceding the date of application; or

(x) the individual's employer pays any part of the individual's health benefit plan premium, either as an insured or a dependent, for pool coverage.

(2) (a) Except as provided in Subsection (2)(b) and Subsection 31A-29-106(1)(d), an individual who is HIPAA eligible is eligible for pool coverage if the individual:

(i) pays the established premium; and

(ii) is a resident of this state.

(b) Notwithstanding Subsection (2)(a), a HIPAA eligible individual is not eligible for pool coverage if one or more of the following conditions apply:

(i) the individual is eligible for health care benefits under Medicaid or Medicare, except as provided in Section 31A-29-112;

(ii) the individual is eligible for a public health plan, as defined in federal regulations adopted pursuant to 42 U.S.C. 300gg;

(iii) the individual is covered under any other health benefit plan;

(iv) the individual is eligible for coverage under an employer group that offers a health benefit plan or self-insurance arrangements to its eligible employees, dependents, or members as:

(A) an eligible employee;

(B) a dependent of an eligible employee; or

(C) a member;

(v) the pool has paid the maximum lifetime benefit to or on behalf of the individual;

(vi) the individual is an inmate of a public institution; or

(vii) the individual's employer pays any part of the individual's health benefit plan premium, either as an insured or a dependent, for pool coverage.

(3) (a) Notwithstanding Subsection (1)(b)(ix), if otherwise eligible under Subsection (1)(a), an individual whose health care insurance coverage from a state high risk pool with similar coverage is terminated because of nonresidency in another state is eligible for coverage under the pool subject to the conditions of Subsections (1)(b)(i) through (viii).

(b) Coverage under Subsection (3)(a) shall be applied for within 63 days after the termination date of the previous high risk pool coverage.

(c) The effective date of this state's pool coverage shall be the date of termination of the previous high risk pool coverage.

(d) The waiting period of an individual with a preexisting condition applying for coverage under this chapter shall be waived:

(i) to the extent to which the waiting period was satisfied under a similar plan from another state; and

(ii) if the other state's benefit limitation was not reached.

(4) (a) If an eligible individual applies for pool coverage within 30 days of being denied coverage by an individual carrier, the effective date for pool coverage shall be no later than the first day of the month following the date of submission of the completed insurance application to the carrier.

(b) Notwithstanding Subsection (4)(a), for individuals eligible for coverage under Subsection (3), the effective date shall be the date of termination of the previous high risk pool coverage.

(5) (a) The board shall establish and adjust, as necessary, health underwriting criteria based on:

(i) health condition; and

(ii) expected claims so that the expected claims are anticipated to remain within available funding.

(b) The board, with approval of the commissioner, may contract with one or more providers under

Title 63G, Chapter 6a, Utah Procurement Code, to develop underwriting criteria under Subsection (5)(a).

(c) If an individual is denied coverage by the pool under the criteria established in Subsection (5)(a), the pool shall issue a certificate of insurability to the individual for coverage under ~~[Subsection]~~ Section 31A-30-108~~(3)~~.

(6) (a) Notwithstanding Subsection (1)(b)(ix), if otherwise eligible under Subsection (1)(a), an individual whose individual health care insurance coverage was involuntarily terminated, is eligible for coverage under the pool subject to the conditions of Subsections (1)(b)(i) through (viii) and (x).

(b) Coverage under Subsection (6)(a) shall be applied for within 63 days after the termination date of the previous individual health care insurance coverage.

(c) The effective date of this state's pool coverage shall be the date of termination of the previous individual coverage.

(d) The waiting period of an individual with a preexisting condition applying for coverage under this chapter shall be waived to the extent to which the waiting period was satisfied under the individual health insurance plan.

Section 16. Section 31A-29-113 is amended to read:

31A-29-113. Benefits -- Additional types of pool insurance -- Preexisting conditions -- Waiver -- Maximum benefits.

(1) (a) The pool policy shall pay for eligible medical expenses rendered or furnished for the diagnoses or treatment of illness or injury that:

(i) exceed the deductible and copayment amounts applicable under Section 31A-29-114; and

(ii) are not otherwise limited or excluded.

(b) Eligible medical expenses are the allowed charges established by the board for the health care services and items rendered during times for which benefits are extended under the pool policy.

(c) Section 31A-21-313 applies to coverage issued under this chapter.

(2) The coverage to be issued by the pool, its schedule of benefits, exclusions, and other limitations shall be established by the board.

(3) The commissioner shall approve the benefit package developed by the board to ensure its compliance with this chapter.

~~[(4) The pool shall offer at least one benefit plan through a managed care program as authorized under Section 31A-29-106.]~~

~~[(5) (4) This chapter may not be construed to prohibit the pool from issuing additional types of pool policies with different types of benefits which in the opinion of the board may be of benefit to the citizens of Utah.~~

~~[(6) (5) (a) The board shall design and require an administrator to employ cost containment measures and requirements including preadmission certification and concurrent inpatient review for the purpose of making the pool more cost effective.~~

~~(b) Sections 31A-22-617 and 31A-22-618 do not apply to coverage issued under this chapter.~~

~~[(7) (6) (a) A pool policy may contain provisions under which coverage for a preexisting condition is excluded if:~~

~~(i) the exclusion relates to a condition, regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received, from an individual licensed or similarly authorized to provide such services under state law and operating within the scope of practice authorized by state law, within the six-month period ending on the effective date of plan coverage; and~~

~~(ii) except as provided in Subsection (8), the exclusion extends for a period no longer than the six-month period following the effective date of plan coverage for a given individual.~~

~~(b) Subsection [(7) (6)(a)] does not apply to a HIPAA eligible individual.~~

~~[(8) (7) (a) A pool policy may contain provisions under which coverage for a preexisting pregnancy is excluded during a ten-month period following the effective date of plan coverage for a given individual.~~

~~(b) Subsection [(8) (7)(a)] does not apply to a HIPAA eligible individual.~~

~~[(9) (8) (a) The pool will waive the preexisting condition exclusion described in Subsections [(7) (6)(a)] and [(8) (7)(a)] for an individual that is changing health coverage to the pool, to the extent to which similar exclusions have been satisfied under any prior health insurance coverage if the individual applies not later than 63 days following the date of involuntary termination, other than for nonpayment of premiums, from health coverage.~~

~~(b) If this Subsection [(9) (8)] applies, coverage in the pool shall be effective from the date on which the prior coverage was terminated.~~

~~[(10) (9) Covered benefits available from the pool may not exceed a \$1,800,000 lifetime maximum, which includes a per enrollee calendar year maximum established by the board.~~

Section 17. Section 31A-29-114 is amended to read:

31A-29-114. Deductibles -- Copayments.

(1) (a) A pool policy shall impose a deductible on a per calendar year basis.

(b) At least two deductible plans shall be offered.

(c) The deductible is applied to all of the eligible medical expenses ~~[as defined in Section 31A-29-113,]~~ incurred by the enrollee until the deductible has been satisfied. There are no benefits payable before the deductible has been satisfied.

(d) The pool may offer separate deductibles for prescription benefits.

(2) (a) A mandatory coinsurance requirement shall be imposed at the rate of at least 20%, except for a qualified high deductible health plan, of eligible medical expenses in excess of the mandatory deductible.

(b) Any coinsurance imposed under this Subsection (2) shall be designated in the pool policy.

(3) The board shall establish maximum aggregate out-of-pocket payments for eligible medical expenses incurred by the enrollee for each of the deductible plans offered under Subsection (1)(b).

(4) (a) When the enrollee has incurred the maximum aggregate out-of-pocket payments under Subsection (3), the board may establish a coinsurance requirement to be imposed on eligible medical expenses in excess of the maximum aggregate out-of-pocket expense.

(b) The circumstances in which the coinsurance authorized by this Subsection (4) may be imposed shall be designated in the pool policy.

(c) The coinsurance authorized by this Subsection (4) may be imposed at a rate not to exceed 5% of eligible medical expenses.

(5) The limits on maximum aggregate out-of-pocket payments for eligible medical expenses incurred by the enrollee under this section may not include out-of-pocket payments for prescription benefits.

Section 18. Section 31A-29-115 is amended to read:

31A-29-115. Cancellation -- Notice.

(1) ~~[(a)]~~ On the date of renewal, the pool may cancel an enrollee's policy if:

~~[(i)]~~ (a) the enrollee's health condition does not meet the criteria established in Subsection 31A-29-111(5); and

~~[(ii)]~~ (b) the pool has provided written notice to the enrollee's last-known address no less than 60 days before cancellation; and

~~[(iii)]~~ at least one individual carrier has not reached the individual enrollment cap established in Section 31A-30-110.

~~[(b)]~~ The pool shall issue a certificate of insurability to an enrollee whose policy is cancelled under Subsection (1)(a) for coverage under Subsection 31A-30-108(3) if the requirements of Subsection 31A-29-111(5) are met.

(2) The pool may cancel an enrollee's policy at any time if:

(a) the pool has provided written notice to the enrollee's last-known address no less than 15 days before cancellation; and

(b) (i) the enrollee establishes a residency outside of Utah for three consecutive months;

(ii) there is nonpayment of premiums; or

(iii) the pool determines that the enrollee does not meet the eligibility requirements set forth in Section 31A-29-111, in which case:

(A) the policy may be retroactively terminated for the period of time in which the enrollee was not eligible;

(B) retroactive termination may not exceed three years; and

(C) the board's remedy under this Subsection (2)(b) shall be a cause of action against the enrollee for benefits paid during the period of ineligibility in accordance with Subsection 31A-29-119(3).

Section 19. Section 31A-30-103 is amended to read:

31A-30-103. Definitions.

As used in this chapter:

(1) "Actuarial certification" means a written statement by a member of the American Academy of Actuaries or other individual approved by the commissioner that a covered carrier is in compliance with Sections 31A-30-106 and 31A-30-106.1, based upon the examination of the covered carrier, including review of the appropriate records and of the actuarial assumptions and methods used by the covered carrier in establishing premium rates for applicable health benefit plans.

(2) "Affiliate" or "affiliated" means any entity or person who directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, a specified entity or person.

(3) "Base premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or that could have been charged under a rating system for that class of business by the covered carrier to covered insureds with similar case characteristics for health benefit plans with the same or similar coverage.

(4) (a) "Bona fide employer association" means an association of employers:

(i) that meets the requirements of Subsection 31A-22-701(2)(b);

(ii) in which the employers of the association, either directly or indirectly, exercise control over the plan;

(iii) that is organized:

(A) based on a commonality of interest between the employers and their employees that participate in the plan by some common economic or representation interest or genuine organizational relationship unrelated to the provision of benefits; and

(B) to act in the best interests of its employers to provide benefits for the employer's employees and their spouses and dependents, and other benefits relating to employment; and

(iv) whose association sponsored health plan complies with 45 C.F.R. 146.121.

(b) The commissioner shall consider the following with regard to determining whether an association of employers is a bona fide employer association under Subsection (4)(a):

- (i) how association members are solicited;
- (ii) who participates in the association;
- (iii) the process by which the association was formed;
- (iv) the purposes for which the association was formed, and what, if any, were the pre-existing relationships of its members;
- (v) the powers, rights and privileges of employer members; and

(vi) who actually controls and directs the activities and operations of the benefit programs.

(5) "Carrier" means any person or entity that provides health insurance in this state including:

- (a) an insurance company;
- (b) a prepaid hospital or medical care plan;
- (c) a health maintenance organization;
- (d) a multiple employer welfare arrangement; and
- (e) any other person or entity providing a health insurance plan under this title.

(6) (a) Except as provided in Subsection (6)(b), "case characteristics" means demographic or other objective characteristics of a covered insured that are considered by the carrier in determining premium rates for the covered insured.

(b) "Case characteristics" do not include:

- (i) duration of coverage since the policy was issued;
- (ii) claim experience; and
- (iii) health status.

(7) "Class of business" means all or a separate grouping of covered insureds that is permitted by the commissioner in accordance with Section 31A-30-105.

(8) "Conversion policy" means a policy providing coverage under the conversion provisions required in Chapter 22, Part 7, Group Accident and Health Insurance.

(9) "Covered carrier" means any individual carrier or small employer carrier subject to this chapter.

(10) "Covered individual" means any individual who is covered under a health benefit plan subject to this chapter.

(11) "Covered insureds" means small employers and individuals who are issued a health benefit plan that is subject to this chapter.

(12) "Dependent" means an individual to the extent that the individual is defined to be a dependent by:

- (a) the health benefit plan covering the covered individual; and
- (b) Chapter 22, Part 6, Accident and Health Insurance.

(13) "Established geographic service area" means a geographical area approved by the commissioner within which the carrier is authorized to provide coverage.

(14) "Index rate" means, for each class of business as to a rating period for covered insureds with similar case characteristics, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate.

(15) "Individual carrier" means a carrier that provides coverage on an individual basis through a health benefit plan regardless of whether:

- (a) coverage is offered through:
 - (i) an association;
 - (ii) a trust;
 - (iii) a discretionary group; or
 - (iv) other similar groups; or
- (b) the policy or contract is situated out-of-state.

(16) "Individual conversion policy" means a conversion policy issued to:

- (a) an individual; or
- (b) an individual with a family.

(17) "Individual coverage count" means the number of natural persons covered under a carrier's health benefit products that are individual policies.

(18) "Individual enrollment cap" means the percentage set by the commissioner in accordance with Section 31A-30-110.

(19) "New business premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or offered, or that could have been charged or offered, by the carrier to covered insureds with similar case characteristics for newly issued health benefit plans with the same or similar coverage.

(20) "Premium" means money paid by covered insureds and covered individuals as a condition of receiving coverage from a covered carrier, including any fees or other contributions associated with the health benefit plan.

(21) (a) "Rating period" means the calendar period for which premium rates established by a covered carrier are assumed to be in effect, as determined by the carrier.

- (b) A covered carrier may not have:
 - (i) more than one rating period in any calendar month; and
 - (ii) no more than 12 rating periods in any calendar year.

(22) "Resident" means an individual who has resided in this state for at least 12 consecutive months immediately preceding the date of application.

(23) "Short-term limited duration insurance" means a health benefit product that:

(a) is not renewable; and

(b) has an expiration date specified in the contract that is less than 364 days after the date the plan became effective.

(24) "Small employer carrier" means a carrier that provides health benefit plans covering eligible employees of one or more small employers in this state, regardless of whether:

(a) coverage is offered through:

(i) an association;

(ii) a trust;

(iii) a discretionary group; or

(iv) other similar grouping; or

(b) the policy or contract is situated out-of-state.

~~[(25) "Uninsurable" means an individual who:]~~

~~[(a) is eligible for the Comprehensive Health Insurance Pool coverage under the underwriting criteria established in Subsection 31A-29-111(5); or]~~

~~[(b) (i) is issued a certificate for coverage under Subsection 31A-30-108(3); and]~~

~~[(ii) has a condition of health that does not meet consistently applied underwriting criteria as established by the commissioner in accordance with Subsections 31A-30-106(1)(g) and (h) for which coverage the applicant is applying.]~~

~~[(26) "Uninsurable percentage" for a given calendar year equals UC/CI where, for purposes of this formula:]~~

~~[(a) "CI" means the carrier's individual coverage count as of December 31 of the preceding year; and]~~

~~[(b) "UC" means the number of uninsurable individuals who were issued an individual policy on or after July 1, 1997.]~~

Section 20. Section 31A-30-107 is amended to read:

31A-30-107. Renewal -- Limitations -- Exclusions -- Discontinuance and nonrenewal.

(1) Except as otherwise provided in this section, a small employer health benefit plan is renewable and continues in force:

(a) with respect to all eligible employees and dependents; and

(b) at the option of the plan sponsor.

(2) A small employer health benefit plan may be discontinued or nonrenewed:

(a) for a network plan, if ~~[(i)]~~ there is no longer any enrollee under the group health plan who lives, resides, or works in:

~~[(A)]~~ (i) the service area of the covered carrier; or

~~[(B)]~~ (ii) the area for which the covered carrier is authorized to do business; ~~and~~ or

~~[(ii) in the case of the small employer market, the small employer carrier applies the same criteria the small employer carrier would apply in denying enrollment in the plan under Subsection 31A-30-108(7); or]~~

(b) for coverage made available in the small or large employer market only through an association, if:

(i) the employer's membership in the association ceases; and

(ii) the coverage is terminated uniformly without regard to any health status-related factor relating to any covered individual.

(3) A small employer health benefit plan may be discontinued if:

(a) a condition described in Subsection (2) exists;

(b) except as prohibited by Section 31A-30-206, the plan sponsor fails to pay premiums or contributions in accordance with the terms of the contract;

(c) the plan sponsor:

(i) performs an act or practice that constitutes fraud; or

(ii) makes an intentional misrepresentation of material fact under the terms of the coverage;

(d) the covered carrier:

(i) elects to discontinue offering a particular small employer health benefit product delivered or issued for delivery in this state; and

(ii) (A) provides notice of the discontinuation in writing:

(I) to each plan sponsor, employee, or dependent of a plan sponsor or an employee; and

(II) at least 90 days before the date the coverage will be discontinued;

(B) provides notice of the discontinuation in writing:

(I) to the commissioner; and

(II) at least three working days prior to the date the notice is sent to the affected plan sponsors, employees, and dependents of the plan sponsors or employees;

(C) offers to each plan sponsor, on a guaranteed issue basis, the option to purchase all other small employer health benefit products currently being offered by the small employer carrier in the market; and

(D) in exercising the option to discontinue that product and in offering the option of coverage in this section, acts uniformly without regard to:

- (I) the claims experience of a plan sponsor;
- (II) any health status-related factor relating to any covered participant or beneficiary; or
- (III) any health status-related factor relating to any new participant or beneficiary who may become eligible for the coverage; or
- (e) the covered carrier:
- (i) elects to discontinue all of the covered carrier's small employer health benefit plans in:
- (A) the small employer market;
- (B) the large employer market; or
- (C) both the small employer and large employer markets; and
- (ii) (A) provides notice of the discontinuation in writing:
- (I) to each plan sponsor, employee, or dependent of a plan sponsor or an employee; and
- (II) at least 180 days before the date the coverage will be discontinued;
- (B) provides notice of the discontinuation in writing:
- (I) to the commissioner in each state in which an affected insured individual is known to reside; and
- (II) at least 30 working days prior to the date the notice is sent to the affected plan sponsors, employees, and the dependents of the plan sponsors or employees;
- (C) discontinues and nonrenews all plans issued or delivered for issuance in the market; and
- (D) provides a plan of orderly withdrawal as required by Section 31A-4-115.
- (4) A small employer health benefit plan may be discontinued or nonrenewed:
- (a) if a condition described in Subsection (2) exists; or
- (b) except as prohibited by Section 31A-30-206, for noncompliance with the insurer's employer contribution requirements.
- (5) A small employer health benefit plan may be nonrenewed:
- (a) if a condition described in Subsection (2) exists; or
- (b) except as prohibited by Section 31A-30-206, for noncompliance with the insurer's minimum participation requirements.
- (6) (a) Except as provided in Subsection (6)(d), an eligible employee may be discontinued if after issuance of coverage the eligible employee:
- (i) engages in an act or practice that constitutes fraud in connection with the coverage; or
- (ii) makes an intentional misrepresentation of material fact in connection with the coverage.

- (b) An eligible employee that is discontinued under Subsection (6)(a) may reenroll:
- (i) 12 months after the date of discontinuance; and
- (ii) if the plan sponsor's coverage is in effect at the time the eligible employee applies to reenroll.
- (c) At the time the eligible employee's coverage is discontinued under Subsection (6)(a), the covered carrier shall notify the eligible employee of the right to reenroll when coverage is discontinued.
- (d) An eligible employee may not be discontinued under this Subsection (6) because of a fraud or misrepresentation that relates to health status.
- (7) For purposes of this section, a reference to "plan sponsor" includes a reference to the employer:
- (a) with respect to coverage provided to an employer member of the association; and
- (b) if the small employer health benefit plan is made available by a covered carrier in the employer market only through:
- (i) an association;
- (ii) a trust; or
- (iii) a discretionary group.
- (8) A covered carrier may modify a small employer health benefit plan only:
- (a) at the time of coverage renewal; and
- (b) if the modification is effective uniformly among all plans with that product.

Section 21. Section 31A-30-108 is amended to read:

31A-30-108. Eligibility for small employer and individual market.

(1) (a) [~~Small employer carriers shall accept residents~~] A small employer carrier shall accept a small employer that applies for small group coverage as set forth in the Health Insurance Portability and Accountability Act, Sec. 2701(f) and 2711(a) and PPACA, Sec. 2702.

~~[(b) Individual carriers shall accept residents for individual coverage pursuant to:]~~

~~[(i) Health Insurance Portability and Accountability Act, Sec. 2741(a)-(b); and]~~

~~[(ii) Subsection (3).]~~

(b) An individual carrier shall accept an individual that applies for individual coverage as set forth in PPACA, Sec. 2702.

(2) (a) [~~Small~~] A small employer [~~carriers~~] carrier shall offer to accept all eligible employees and their dependents at the same level of benefits under any health benefit plan provided to a small employer.

(b) [~~Small~~] A small employer [~~carriers~~] carrier may:

(i) request a small employer to submit a copy of the small employer's quarterly income tax withholdings to determine whether the employees

for whom coverage is provided or requested are bona fide employees of the small employer; and

(ii) deny or terminate coverage if the small employer refuses to provide documentation requested under Subsection (2)(b)(i).

[~~(3) Except as provided in Subsections (5) and (6) and Section 31A-30-110, individual carriers shall accept for coverage individuals to whom all of the following conditions apply:~~]

[~~(a) the individual is not covered or eligible for coverage;~~]

[~~(i) (A) as an employee of an employer;~~]

[~~(B) as a member of an association; or~~]

[~~(C) as a member of any other group; and~~]

[~~(ii) under:~~]

[~~(A) a health benefit plan; or~~]

[~~(B) a self-insured arrangement that provides coverage similar to that provided by a health benefit plan as defined in Section 31A-1-301;~~]

[~~(b) the individual is not covered and is not eligible for coverage under any public health benefits arrangement including:~~]

[~~(i) the Medicare program established under Title XVIII of the Social Security Act;~~]

[~~(ii) any act of Congress or law of this or any other state that provides benefits comparable to the benefits provided under this chapter; or~~]

[~~(iii) coverage under the Comprehensive Health Insurance Pool Act created in Chapter 29, Comprehensive Health Insurance Pool Act;~~]

[~~(c) unless the maximum benefit has been reached the individual is not covered or eligible for coverage under any:~~]

[~~(i) Medicare supplement policy;~~]

[~~(ii) conversion option;~~]

[~~(iii) continuation or extension under COBRA; or~~]

[~~(iv) state extension;~~]

[~~(d) the individual has not terminated or declined coverage described in Subsection (3)(a), (b), or (c) within 93 days of application for coverage, unless the individual is eligible for individual coverage under Health Insurance Portability and Accountability Act, Sec. 2741(b), in which case, the requirement of this Subsection (3)(d) does not apply; and~~]

[~~(e) the individual is certified as ineligible for the Health Insurance Pool if:~~]

[~~(i) the individual applies for coverage with the Comprehensive Health Insurance Pool within 30 days after being rejected or refused coverage by the covered carrier and reapplies for coverage with that covered carrier within 30 days after the date of issuance of a certificate under Subsection 31A-29-111(5)(c); or~~]

[~~(ii) the individual applies for coverage with any individual carrier within 45 days after:~~]

[~~(A) notice of cancellation of coverage under Subsection 31A-29-115(1); or~~]

[~~(B) the date of issuance of a certificate under Subsection 31A-29-111(5)(c) if the individual applied first for coverage with the Comprehensive Health Insurance Pool.]~~]

[~~(4) (a) If coverage is obtained under Subsection (3)(e)(i) and the required premium is paid, the effective date of coverage shall be the first day of the month following the individual's submission of a completed insurance application to that covered carrier.~~]

[~~(b) If coverage is obtained under Subsection (3)(e)(ii) and the required premium is paid, the effective date of coverage shall be the day following the:~~]

[~~(i) cancellation of coverage under Subsection 31A-29-115(1); or~~]

[~~(ii) submission of a completed insurance application to the Comprehensive Health Insurance Pool.]~~]

[~~(5) (a) An individual carrier is not required to accept individuals for coverage under Subsection (3) if the carrier issues no new individual policies in the state after July 1, 1997.]~~]

[~~(b) A carrier described in Subsection (5)(a) may not issue new individual policies in the state for five years from July 1, 1997.]~~]

[~~(c) Notwithstanding Subsection (5)(b), a carrier may request permission to issue new policies after July 1, 1999, which may only be granted if:~~]

[~~(i) the carrier accepts uninsurables as is required of a carrier entering the market under Subsection 31A-30-110; and~~]

[~~(ii) the commissioner finds that the carrier's issuance of new individual policies:~~]

[~~(A) is in the best interests of the state; and~~]

[~~(B) does not provide an unfair advantage to the carrier.]~~]

[~~(6) (a) If the Comprehensive Health Insurance Pool, as set forth under Chapter 29, Comprehensive Health Insurance Pool Act, is dissolved or discontinued, or if enrollment is capped or suspended, an individual carrier may decline to accept individuals applying for individual enrollment, other than individuals applying for coverage as set forth in Health Insurance Portability and Accountability Act, Sec. 2741 (a)-(b).]~~]

[~~(b) Within two calendar days of taking action under Subsection (6)(a), an individual carrier will provide written notice to the department.]~~]

[~~(7) (a) If a small employer carrier offers health benefit plans to small employers through a network plan, the small employer carrier may:~~]

[~~(i) limit the employers that may apply for the coverage to those employers with eligible~~]

employees who live, reside, or work in the service area for the network plan; and]

~~[(ii) within the service area of the network plan, deny coverage to an employer if the small employer carrier has demonstrated to the commissioner that the small employer carrier:]~~

~~[(A) will not have the capacity to deliver services adequately to enrollees of any additional groups because of the small employer carrier's obligations to existing group contract holders and enrollees; and]~~

~~[(B) applies this section uniformly to all employers without regard to:]~~

~~[(I) the claims experience of an employer, an employer's employee, or a dependent of an employee; or]~~

~~[(II) any health status-related factor relating to an employee or dependent of an employee].~~

~~[(b) (i) A small employer carrier that denies a health benefit product to an employer in any service area in accordance with this section may not offer coverage in the small employer market within the service area to any employer for a period of 180 days after the date the coverage is denied.]~~

~~[(ii) This Subsection (7)(b) does not:]~~

~~[(A) limit the small employer carrier's ability to renew coverage that is in force; or]~~

~~[(B) relieve the small employer carrier of the responsibility to renew coverage that is in force.]~~

~~[(c) Coverage offered within a service area after the 180-day period specified in Subsection (7)(b) is subject to the requirements of this section.]~~

Section 22. Section 31A-30-117 is amended to read:

31A-30-117. Patient Protection and Affordable Care Act -- Market transition.

(1) (a) After complying with the reporting requirements of Section 63M-1-2505.5, the commissioner may adopt administrative rules that change the rating and underwriting requirements of this chapter as necessary to transition the insurance market to meet federal qualified health plan standards and rating practices under PPACA.

(b) Administrative rules adopted by the commissioner under this section may include:

(i) the regulation of health benefit plans as described in Subsections 31A-2-212(5)(a) and (b); and

(ii) disclosure of records and information required by PPACA and state law.

(c) (i) The commissioner shall establish by administrative rule one statewide open enrollment period that applies to the individual insurance market that is not on the PPACA certified individual exchange.

(ii) The statewide open enrollment period:

(A) may be shorter, but no longer than the open enrollment period established for the individual insurance market offered in the PPACA certified exchange; and

(B) may not be extended beyond the dates of the open enrollment period established for the individual insurance market offered in the PPACA certified exchange.

(2) A carrier that offers health benefit plans in the individual market that is not part of the individual PPACA certified exchange:

(a) shall open enrollment:

(i) during the statewide open enrollment period established in Subsection (1)(c); and

(ii) at other times, for qualifying events, as determined by administrative rule adopted by the commissioner; and

(b) may open enrollment at any time.

~~[(3) (a) The commissioner shall identify a new mandated benefit that is in excess of the essential health benefits required by PPACA.]~~

~~[(b) In accordance with 45 C.F.R. Sec. 155.170, the state shall make a payment to defray the cost of a new mandated benefit in the amount calculated under Subsection (3)(c) directly to the qualified health plan issuer on behalf of an individual who receives an advance premium tax credit under PPACA.]~~

~~[(c) The state shall quantify the cost attributable to each additional mandated benefit specified in Subsection (3)(a) based on a qualified health plan issuer's calculation of the cost associated with the mandated benefit, which shall be:]~~

~~[(i) calculated in accordance with generally accepted actuarial principles and methodologies;]~~

~~[(ii) conducted by a member of the American Academy of Actuaries; and]~~

~~[(iii) reported to the commissioner and to the individual exchange operating in the state.]~~

~~[(d) The commissioner may require a proponent of a new mandated benefit under Subsection (3)(a) to provide the commissioner with a cost analysis conducted in accordance with Subsection (3)(c). The commissioner may use the cost information provided under this Subsection (3)(d) to establish estimates of the cost to the state for premium subsidies under Subsection (3)(b).]~~

(3) To the extent permitted by the Centers for Medicare and Medicaid Services policy, or federal regulation, the commissioner shall allow a health insurer to choose to continue coverage and individuals and small employers to choose to re-enroll in coverage in nongrandfathered health coverage that is not in compliance with market reforms required by PPACA.

Section 23. Section 31A-30-118 is enacted to read:

31A-30-118. Patient Protection and Affordable Care Act -- State insurance mandates -- Cost of additional benefits.

(1) (a) The commissioner shall identify a new mandated benefit that is in excess of the essential health benefits required by PPACA.

(b) The state shall quantify the cost attributable to each additional mandated benefit specified in Subsection (1)(a) based on a qualified health plan issuer's calculation of the cost associated with the mandated benefit, which shall be:

(i) calculated in accordance with generally accepted actuarial principles and methodologies;

(ii) conducted by a member of the American Academy of Actuaries; and

(iii) reported to the commissioner and to the individual exchange operating in the state.

(c) The commissioner may require a proponent of a new mandated benefit under Subsection (1)(a) to provide the commissioner with a cost analysis conducted in accordance with Subsection (1)(b). The commissioner may use the cost information provided under this Subsection (1)(c) to establish estimates of the cost to the state under Subsection (2).

(2) If the state is required to defray the cost of additional required benefits under the provisions of 45 C.F.R. 155.170:

(a) the state shall make the required payments:

(i) in accordance with Subsection (3); and

(ii) directly to the qualified health plan issuer in accordance with 45 C.F.R. 155.170;

(b) an issuer of a qualified health plan that receives a payment under the provisions of Subsection (1) and 45 C.F.R. 155.170 shall:

(i) reduce the premium charged to the individual on whose behalf the issuer will be paid under Subsection (1), in an amount equal to the amount of the payment under Subsection (1); or

(ii) notwithstanding Subsection 31A-23a-402.5(5), provide a premium rebate to an individual on whose behalf the issuer received a payment under Subsection (1), in an amount equal to the amount of the payment under Subsection (1); and

(c) a premium rebate made under this section is not a prohibited inducement under Section 31A-23a-402.5.

(3) A payment required under 45 C.F.R. 155.170(c) shall:

(a) unless otherwise required by PPACA, be based on a statewide average of the cost of the additional benefit for all issuers who are entitled to payment under the provisions of 45 C.F.R. 155.70; and

(b) be submitted to an issuer through a process established and administered by:

(i) the federal marketplace exchange for the state under PPACA for individual health plans; or

(ii) Avenue H small employer market exchange for qualified health plans offered on the exchange.

(4) The commissioner:

(a) may adopt rules as necessary to administer the provisions of this section and 45 C.F.R. 155.170; and

(b) may not establish or implement the process for submitting the payments to an issuer under Subsection (3)(b)(i) unless the cost of establishing and implementing the process for submitting payments is paid for by the federal exchange marketplace.

Section 24. Section 31A-30-301 is enacted to read:

Part 3. Individual and Small Employer Risk Adjustment Act

31A-30-301. Title.

This part is known as the "Individual and Small Employer Risk Adjustment Act."

Section 25. Section 31A-30-302 is enacted to read:

31A-30-302. Creation of state risk adjustment program.

(1) The commissioner shall convene a group of stakeholders and actuaries to assist the commissioner with the evaluation or the risk adjustment options described in Subsection (2). If the commissioner determines that a state-based risk adjustment program is in the best interest of the state, the commissioner shall establish an individual and small employer market risk adjustment program in accordance with 42 U.S.C. 18063 and this section.

(2) The risk adjustment program adopted by the commissioner may include one of the following models:

(a) continue the United States Department of Health and Human Services administration of the federal model for risk adjustment for the individual and small employer market in the state;

(b) have the state administer the federal model for risk adjustment for the individual and small employer market in the state;

(c) establish and operate a state-based risk adjustment program for the individual and small employer market in the state; or

(d) another risk adjustment model developed by the commissioner under Subsection (1).

(3) Before adopting one of the models described in Subsection (2), the commissioner:

(a) may enter into contracts to carry out the services needed to evaluate and establish one of the risk adjustment options described in Subsection (2); and

(b) shall, prior to October 30, 2014, comply with the reporting requirements of Section 63M-1-2505.5 regarding the commissioner's evaluation of the risk adjustment options described in Subsection (2).

(4) The commissioner may:

(a) adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that require an insurer that is subject to the state-based risk adjustment program to submit data to the all payers claims database created under Section 26-33a-106.1; and

(b) establish fees in accordance with Title 63J, Chapter 1, Budgetary Procedures Act, to cover the ongoing administrative cost of running the state-based risk adjustment program.

Section 26. Section 31A-30-303 is enacted to read:

31A-30-303. Enterprise fund.

(1) There is created an enterprise fund known as the Individual and Small Employer Risk Adjustment Enterprise Fund.

(2) The following funds shall be credited to the fund:

(a) appropriations from the General Fund;

(b) fees established by the commissioner under Section 31A-30-302;

(c) risk adjustment payments received from insurers participating in the risk adjustment program; and

(d) all interest and dividends earned on the fund's assets.

(3) All money received by the fund shall be deposited in compliance with Section 51-4-1 and shall be held by the state treasurer and invested in accordance with Title 51, Chapter 7, State Money Management Act.

(4) The fund shall comply with the accounting policies, procedures, and reporting requirements established by the Division of Finance.

(5) The fund shall comply with Title 63A, Utah Administrative Services Code.

(6) The fund shall be used to implement and operate the risk adjustment program created by this part.

Section 27. Section 63A-5-205 is amended to read:

63A-5-205. Contracting powers of director -- Retainage -- Health insurance coverage.

(1) As used in this section:

(a) "Capital developments" has the same meaning as provided in Section 63A-5-104.

(b) "Capital improvements" has the same meaning as provided in Section 63A-5-104.

(c) "Employee" means an "employee," "worker," or "operative" as defined in Section 34A-2-104 who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance which may not exceed the first day of the calendar month following [90] 60 days from the date of hire.

(d) "Health benefit plan" has the same meaning as provided in Section 31A-1-301.

(e) "Qualified health insurance coverage" is as defined in Section 26-40-115.

(f) "Subcontractor" has the same meaning provided for in Section 63A-5-208.

(2) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the director may:

(a) subject to Subsection (3), enter into contracts for any work or professional services which the division or the State Building Board may do or have done; and

(b) as a condition of any contract for architectural or engineering services, prohibit the architect or engineer from retaining a sales or agent engineer for the necessary design work.

(3) (a) Except as provided in Subsection (3)(b), this Subsection (3) applies to all design or construction contracts entered into by the division or the State Building Board on or after July 1, 2009, and:

(i) applies to a prime contractor if the prime contract is in the amount of \$1,500,000 or greater; and

(ii) applies to a subcontractor if the subcontract is in the amount of \$750,000 or greater.

(b) This Subsection (3) does not apply:

(i) if the application of this Subsection (3) jeopardizes the receipt of federal funds;

(ii) if the contract is a sole source contract;

(iii) if the contract is an emergency procurement; or

(iv) to a change order as defined in Section 63G-6a-103, or a modification to a contract, when the contract does not meet the threshold required by Subsection (3)(a).

(c) A person who intentionally uses change orders or contract modifications to circumvent the requirements of Subsection (3)(a) is guilty of an infraction.

(d) (i) A contractor subject to Subsection (3)(a) shall demonstrate to the director that the contractor has and will maintain an offer of qualified health insurance coverage for the contractor's employees and the employees' dependents.

(ii) If a subcontractor of the contractor is subject to Subsection (3)(a), the contractor shall demonstrate to the director that the subcontractor has and will maintain an offer of qualified health

insurance coverage for the subcontractor's employees and the employees' dependents.

(e) (i) (A) A contractor who fails to meet the requirements of Subsection (3)(d)(i) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the division under Subsection (3)(f).

(B) A contractor is not subject to penalties for the failure of a subcontractor to meet the requirements of Subsection (3)(d)(ii).

(ii) (A) A subcontractor who fails to meet the requirements of Subsection (3)(d)(ii) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the division under Subsection (3)(f).

(B) A subcontractor is not subject to penalties for the failure of a contractor to meet the requirements of Subsection (3)(d)(i).

(f) The division shall adopt administrative rules:

(i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(ii) in coordination with:

(A) the Department of Environmental Quality in accordance with Section 19-1-206;

(B) the Department of Natural Resources in accordance with Section 79-2-404;

(C) a public transit district in accordance with Section 17B-2a-818.5;

(D) the State Capitol Preservation Board in accordance with Section 63C-9-403;

(E) the Department of Transportation in accordance with Section 72-6-107.5; and

(F) the Legislature's Administrative Rules Review Committee; and

(iii) which establish:

(A) the requirements and procedures a contractor must follow to demonstrate to the director compliance with this Subsection (3) which shall include:

(I) that a contractor will not have to demonstrate compliance with Subsection (3)(d)(i) or (ii) more than twice in any 12-month period; and

(II) that the actuarially equivalent determination required for the qualified health insurance coverage in Subsection (1) is met by the contractor if the contractor provides the department or division with a written statement of actuarial equivalency from either:

(Aa) the Utah Insurance Department;

(Bb) an actuary selected by the contractor or the contractor's insurer; or

(Cc) an underwriter who is responsible for developing the employer group's premium rates;

(B) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this Subsection (3), which may include:

(I) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(II) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(III) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(IV) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health insurance coverage for an employee and the dependents of an employee of the contractor or subcontractor who was not offered qualified health insurance coverage during the duration of the contract; and

(C) a website on which the department shall post the benchmark for the qualified health insurance coverage identified in Subsection (1)(e).

(g) (i) In addition to the penalties imposed under Subsection (3)(f)(iii), a contractor or subcontractor who intentionally violates the provisions of this section shall be liable to the employee for health care costs that would have been covered by qualified health insurance coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (3)(g)(i) if:

(A) the employer relied in good faith on a written statement of actuarial equivalency provided by:

(I) an actuary; or

(II) an underwriter who is responsible for developing the employer group's premium rates; or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3)(b).

(iii) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (3)(g).

(h) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created by Section 26-18-402.

(i) The failure of a contractor or subcontractor to provide qualified health insurance coverage as required by this section:

(i) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under Section 63G-6a-1603 or any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(ii) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(4) The judgment of the director as to the responsibility and qualifications of a bidder is conclusive, except in case of fraud or bad faith.

(5) The division shall make all payments to the contractor for completed work in accordance with the contract and pay the interest specified in the contract on any payments that are late.

(6) If any payment on a contract with a private contractor to do work for the division or the State Building Board is retained or withheld, it shall be retained or withheld and released as provided in Section 13-8-5.

Section 28. Section 63C-9-403 is amended to read:

63C-9-403. Contracting power of executive director -- Health insurance coverage.

(1) For purposes of this section:

(a) "Employee" means an "employee," "worker," or "operative" as defined in Section 34A-2-104 who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance which may not exceed the first of the calendar month following [90] 60 days from the date of hire.

(b) "Health benefit plan" has the same meaning as provided in Section 31A-1-301.

(c) "Qualified health insurance coverage" is as defined in Section 26-40-115.

(d) "Subcontractor" has the same meaning provided for in Section 63A-5-208.

(2) (a) Except as provided in Subsection (3), this section applies to a design or construction contract entered into by the board or on behalf of the board on or after July 1, 2009, and to a prime contractor or a subcontractor in accordance with Subsection (2)(b).

(b) (i) A prime contractor is subject to this section if the prime contract is in the amount of \$1,500,000 or greater.

(ii) A subcontractor is subject to this section if a subcontract is in the amount of \$750,000 or greater.

(3) This section does not apply if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract is a sole source contract; or

(c) the contract is an emergency procurement.

(4) (a) This section does not apply to a change order as defined in Section 63G-6a-103, or a modification to a contract, when the contract does not meet the initial threshold required by Subsection (2).

(b) A person who intentionally uses change orders or contract modifications to circumvent the requirements of Subsection (2) is guilty of an infraction.

(5) (a) A contractor subject to Subsection (2) shall demonstrate to the executive director that the contractor has and will maintain an offer of qualified health insurance coverage for the contractor's employees and the employees' dependents during the duration of the contract.

(b) If a subcontractor of the contractor is subject to Subsection (2)(b), the contractor shall demonstrate to the executive director that the subcontractor has and will maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' dependents during the duration of the contract.

(c) (i) (A) A contractor who fails to meet the requirements of Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the division under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to meet the requirements of Subsection (5)(b).

(ii) (A) A subcontractor who fails to meet the requirements of Subsection (5)(b) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to meet the requirements of Subsection (5)(a).

(6) The department shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) the State Building Board in accordance with Section 63A-5-205;

(iv) a public transit district in accordance with Section 17B-2a-818.5;

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(vi) the Legislature's Administrative Rules Review Committee; and

(c) which establish:

(i) the requirements and procedures a contractor must follow to demonstrate to the executive director compliance with this section which shall include:

(A) that a contractor will not have to demonstrate compliance with Subsection (5)(a) or (b) more than twice in any 12-month period; and

(B) that the actuarially equivalent determination required for the qualified health insurance coverage in Subsection (1) is met by the contractor if the contractor provides the department or division

with a written statement of actuarial equivalency from either:

- (I) the Utah Insurance Department;
 - (II) an actuary selected by the contractor or the contractor's insurer; or
 - (III) an underwriter who is responsible for developing the employer group's premium rates;
- (ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:
- (A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;
 - (B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;
 - (C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and
 - (D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health insurance coverage for employees and dependents of employees of the contractor or subcontractor who were not offered qualified health insurance coverage during the duration of the contract; and
- (iii) a website on which the department shall post the benchmark for the qualified health insurance coverage identified in Subsection (1)(c).
- (7) (a) (i) In addition to the penalties imposed under Subsection (6)(c), a contractor or subcontractor who intentionally violates the provisions of this section shall be liable to the employee for health care costs that would have been covered by qualified health insurance coverage.
- (ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:
- (A) the employer relied in good faith on a written statement of actuarial equivalency provided by:
 - (I) an actuary; or
 - (II) an underwriter who is responsible for developing the employer group's premium rates; or
 - (B) the department determines that compliance with this section is not required under the provisions of Subsection (3) or (4).
 - (b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).
 - (8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26-18-402.
 - (9) The failure of a contractor or subcontractor to provide qualified health insurance coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under Section 63G-6a-1603 or any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

Section 29. Section 63I-1-231 (Effective 07/01/14) is amended to read:

63I-1-231 (Effective 07/01/14). Repeal dates, Title 31A.

(1) Section 31A-2-208.5, Comparison tables, is repealed July 1, 2015.

(2) Section 31A-2-217, Coordination with other states, is repealed July 1, 2023.

(3) Section 31A-22-619.6, Coordination of benefits with workers' compensation claim--Health insurer's duty to pay, is repealed on July 1, 2018.

(4) Title 31A, Chapter 29, Comprehensive Health Insurance Pool Act, is repealed July 1, 2015.

Section 30. Section 63M-1-2504 is amended to read:

63M-1-2504. Creation of Office of Consumer Health Services -- Duties.

(1) There is created within the Governor's Office of Economic Development the Office of Consumer Health Services.

(2) The office shall:

(a) in cooperation with the Insurance Department, the Department of Health, and the Department of Workforce Services, and in accordance with the electronic standards developed under Sections 31A-22-635 and 63M-1-2506, create a Health Insurance Exchange that:

(i) provides information to consumers about private and public health programs for which the consumer may qualify;

(ii) provides a consumer comparison of and enrollment in a health benefit plan posted on the Health Insurance Exchange; and

(iii) includes information and a link to enrollment in premium assistance programs and other government assistance programs;

(b) contract with one or more private vendors for:

(i) administration of the enrollment process on the Health Insurance Exchange, including establishing a mechanism for consumers to compare health benefit plan features on the exchange and filter the plans based on consumer preferences;

(ii) the collection of health insurance premium payments made for a single policy by multiple payers, including the policyholder, one or more employers of one or more individuals covered by the policy, government programs, and others; and

(iii) establishing a call center in accordance with Subsection ~~(3)~~ (4);

(c) assist employers with a free or low cost method for establishing mechanisms for the purchase of health insurance by employees using pre-tax dollars;

(d) establish a list on the Health Insurance Exchange of insurance producers who, in accordance with Section 31A-30-209, are appointed producers for the Health Insurance Exchange; ~~and~~

(e) submit, before November 1, an annual written report to the Business and Labor Interim Committee and the Health System Reform Task Force regarding the operations of the Health Insurance Exchange required by this chapter~~[-];~~ and

(f) in accordance with Subsection (3), provide a form to a small employer that certifies:

(i) that the small employer offered a qualified health plan to the small employer's employees; and

(ii) the period of time within the taxable year in which the small employer maintained the qualified health plan coverage.

(3) The form required by Subsection (2)(f) shall be provided to a small employer if:

(a) the small employer selected a qualified health plan on the small employer health exchange created by this section; or

(b) (i) the small employer selected a health plan in the small employer market that is not offered through the exchange created by this section; and

(ii) the issuer of the health plan selected by the small employer submits to the office, in a form and manner required by the office:

(A) an affidavit from a member of the American Academy of Actuaries stating that based on generally accepted actuarial principles and methodologies the issuer's health plan meets the benefit and actuarial requirements for a qualified health plan under PPACA as defined in Section 31A-1-301; and

(B) an affidavit from the issuer that includes the dates of coverage for the small employer during the taxable year.

~~(3)~~ (4) A call center established by the office:

(a) shall provide unbiased answers to questions concerning exchange operations, and plan information, to the extent the plan information is posted on the exchange by the insurer; and

(b) may not:

(i) sell, solicit, or negotiate a health benefit plan on the Health Insurance Exchange;

(ii) receive producer compensation through the Health Insurance Exchange; and

(iii) be designated as the default producer for an employer group that enters the Health Insurance Exchange without a producer.

~~(4)~~ (5) The office:

(a) may not:

(i) regulate health insurers, health insurance plans, health insurance producers, or health insurance premiums charged in the exchange;

(ii) adopt administrative rules, except as provided in Section 63M-1-2506; or

(iii) act as an appeals entity for resolving disputes between a health insurer and an insured;

(b) may establish and collect a fee for the cost of the exchange transaction in accordance with Section 63J-1-504 for:

(i) processing an application for a health benefit plan;

(ii) accepting, processing, and submitting multiple premium payment sources;

(iii) providing a mechanism for consumers to filter and compare health benefit plans in the exchange based on consumer preferences; and

(iv) funding the call center; and

(c) shall separately itemize the fee established under Subsection ~~(4)~~ (5)(b) as part of the cost displayed for the employer selecting coverage on the exchange.

Section 31. Section 72-6-107.5 is amended to read:

72-6-107.5. Construction of improvements of highway -- Contracts -- Health insurance coverage.

(1) For purposes of this section:

(a) "Employee" means an "employee," "worker," or "operative" as defined in Section 34A-2-104 who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance which may not exceed the first day of the calendar month following ~~90~~ 60 days from the date of hire.

(b) "Health benefit plan" has the same meaning as provided in Section 31A-1-301.

(c) "Qualified health insurance coverage" is as defined in Section 26-40-115.

(d) "Subcontractor" has the same meaning provided for in Section 63A-5-208.

(2) (a) Except as provided in Subsection (3), this section applies to contracts entered into by the department on or after July 1, 2009, for construction or design of highways and to a prime contractor or to a subcontractor in accordance with Subsection (2)(b).

(b) (i) A prime contractor is subject to this section if the prime contract is in the amount of \$1,500,000 or greater.

(ii) A subcontractor is subject to this section if a subcontract is in the amount of \$750,000 or greater.

(3) This section does not apply if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract is a sole source contract; or

(c) the contract is an emergency procurement.

(4) (a) This section does not apply to a change order as defined in Section 63G-6a-103, or a modification to a contract, when the contract does not meet the initial threshold required by Subsection (2).

(b) A person who intentionally uses change orders or contract modifications to circumvent the requirements of Subsection (2) is guilty of an infraction.

(5) (a) A contractor subject to Subsection (2) shall demonstrate to the department that the contractor has and will maintain an offer of qualified health insurance coverage for the contractor's employees and the employees' dependents during the duration of the contract.

(b) If a subcontractor of the contractor is subject to Subsection (2), the contractor shall demonstrate to the department that the subcontractor has and will maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' dependents during the duration of the contract.

(c) (i) (A) A contractor who fails to meet the requirements of Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to meet the requirements of Subsection (5)(b).

(ii) (A) A subcontractor who fails to meet the requirements of Subsection (5)(b) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to meet the requirements of Subsection (5)(a).

(6) The department shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) the State Building Board in accordance with Section 63A-5-205;

(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

(v) a public transit district in accordance with Section 17B-2a-818.5; and

(vi) the Legislature's Administrative Rules Review Committee; and

(c) which establish:

(i) the requirements and procedures a contractor must follow to demonstrate to the department compliance with this section which shall include:

(A) that a contractor will not have to demonstrate compliance with Subsection (5)(a) or (b) more than twice in any 12-month period; and

(B) that the actuarially equivalent determination required for qualified health insurance coverage in Subsection (1) is met by the contractor if the contractor provides the department or division with a written statement of actuarial equivalency from either:

(I) the Utah Insurance Department;

(II) an actuary selected by the contractor or the contractor's insurer; or

(III) an underwriter who is responsible for developing the employer group's premium rates;

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health insurance coverage for an employee and a dependent of the employee of the contractor or subcontractor who was not offered qualified health insurance coverage during the duration of the contract; and

(iii) a website on which the department shall post the benchmark for the qualified health insurance coverage identified in Subsection (1)(c).

(7) (a) (i) In addition to the penalties imposed under Subsection (6), a contractor or subcontractor who intentionally violates the provisions of this section shall be liable to the employee for health care costs that would have been covered by qualified health insurance coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement of actuarial equivalency provided by:

(I) an actuary; or

(II) an underwriter who is responsible for developing the employer group's premium rates; or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3) or (4).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26-18-402.

(9) The failure of a contractor or subcontractor to provide qualified health insurance coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under Section 63G-6a-1603 or any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

Section 32. Section 79-2-404 is amended to read:

79-2-404. Contracting powers of department -- Health insurance coverage.

(1) For purposes of this section:

(a) "Employee" means an "employee," "worker," or "operative" as defined in Section 34A-2-104 who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance which may not exceed the first day of the calendar month following [90] 60 days from the date of hire.

(b) "Health benefit plan" has the same meaning as provided in Section 31A-1-301.

(c) "Qualified health insurance coverage" is as defined in Section 26-40-115.

(d) "Subcontractor" has the same meaning provided for in Section 63A-5-208.

(2) (a) Except as provided in Subsection (3), this section applies a design or construction contract entered into by, or delegated to, the department or a division, board, or council of the department on or after July 1, 2009, and to a prime contractor or to a subcontractor in accordance with Subsection (2)(b).

(b) (i) A prime contractor is subject to this section if the prime contract is in the amount of \$1,500,000 or greater.

(ii) A subcontractor is subject to this section if a subcontract is in the amount of \$750,000 or greater.

(3) This section does not apply to contracts entered into by the department or a division, board, or council of the department if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract or agreement is between:

(i) the department or a division, board, or council of the department; and

(ii) (A) another agency of the state;

(B) the federal government;

(C) another state;

(D) an interstate agency;

(E) a political subdivision of this state; or

(F) a political subdivision of another state; or

(c) the contract or agreement is:

(i) for the purpose of disbursing grants or loans authorized by statute;

(ii) a sole source contract; or

(iii) an emergency procurement.

(4) (a) This section does not apply to a change order as defined in Section 63G-6a-103, or a modification to a contract, when the contract does not meet the initial threshold required by Subsection (2).

(b) A person who intentionally uses change orders or contract modifications to circumvent the requirements of Subsection (2) is guilty of an infraction.

(5) (a) A contractor subject to Subsection (2)(b)(i) shall demonstrate to the department that the contractor has and will maintain an offer of qualified health insurance coverage for the contractor's employees and the employees' dependents during the duration of the contract.

(b) If a subcontractor of the contractor is subject to Subsection (2)(b)(ii), the contractor shall demonstrate to the department that the subcontractor has and will maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' dependents during the duration of the contract.

(c) (i) (A) A contractor who fails to meet the requirements of Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to meet the requirements of Subsection (5)(b).

(ii) (A) A subcontractor who fails to meet the requirements of Subsection (5)(b) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to meet the requirements of Subsection (5)(a).

(6) The department shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) a public transit district in accordance with Section 17B-2a-818.5;

(iii) the State Building Board in accordance with Section 63A-5-205;

(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(vi) the Legislature's Administrative Rules Review Committee; and

(c) which establish:

(i) the requirements and procedures a contractor must follow to demonstrate compliance with this section to the department which shall include:

(A) that a contractor will not have to demonstrate compliance with Subsection (5)(a) or (b) more than twice in any 12-month period; and

(B) that the actuarially equivalent determination required for qualified health insurance coverage in Subsection (1) is met by the contractor if the contractor provides the department or division with a written statement of actuarial equivalency from either:

(I) the Utah Insurance Department;

(II) an actuary selected by the contractor or the contractor's insurer; or

(III) an underwriter who is responsible for developing the employer group's premium rates;

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health insurance coverage for an employee and a dependent of an employee of the contractor or subcontractor who was not offered qualified health insurance coverage during the duration of the contract; and

(iii) a website on which the department shall post the benchmark for the qualified health insurance coverage identified in Subsection (1)(c).

(7) (a) (i) In addition to the penalties imposed under Subsection (6), a contractor or subcontractor who intentionally violates the provisions of this section shall be liable to the employee for health care costs that would have been covered by qualified health insurance coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement of actuarial equivalency provided by:

(I) an actuary; or

(II) an underwriter who is responsible for developing the employer group's premium rates; or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3) or (4).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26-18-402.

(9) The failure of a contractor or subcontractor to provide qualified health insurance coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under Section 63G-6a-1603 or any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

Section 33. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect May 13, 2014.

(2) The amendments to Section 63I-1-231 (Effective 07/01/14) take effect on July 1, 2014.

Section 34. Coordinating H.B. 141 with H.B. 24 -- Superseding technical and substantive amendments.

If this H.B. 141 and H.B. 24, Insurance Related Amendments, both pass and become law, it is the intent of the Legislature that the amendments to Sections 31A-23b-205 and 31A-23b-206 in this bill, supersede the amendments to Sections 31A-23b-205 and 31A-23b-206 in H.B. 24, when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.

Section 35. Coordinating H.B. 141 with H.B. 35 -- Superseding technical and substantive amendments.

If this H.B. 141 and H.B. 35, Reauthorization of Health Data Authority Act, both pass and become

law, it is the intent of the Legislature that the amendments to Section 26-33a-106.1 in this bill, supersede the amendments to Section 26-33a-106.1 in H.B. 35, when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.

CHAPTER 426**H. B. 168**

Passed March 12, 2014

Approved April 2, 2014

Effective July 1, 2014

**SCHOOL AND INSTITUTIONAL TRUST
LANDS AND FUNDS MANAGEMENT
PROVISIONS**

Chief Sponsor: Melvin R. Brown
 Senate Sponsor: Curtis S. Bramble
 Cosponsors: Brad L. Dee
 Gregory H. Hughes
 Don L. Ipson
 Rebecca Chavez-Houck
 Joel K. Briscoe
 Jacob L. Anderegg
 Jerry B. Anderson
 Stewart Barlow
 Roger E. Barrus
 Jim Bird
 LaVar Christensen
 Kay J. Christofferson
 Jon Cox
 Rich Cunningham
 Jack R. Draxler
 Susan Duckworth
 Rebecca P. Edwards
 Steve Eliason
 Janice M. Fisher
 Gage Froerer
 Francis D. Gibson
 Brian M. Greene
 Richard A. Greenwood
 Keith Grover
 Stephen G. Handy
 Lynn N. Hemingway
 Eric K. Hutchings
 Ken Ivory
 Michael S. Kennedy
 Brian S. King
 John Knotwell
 Bradley G. Last
 Dana L. Layton
 David E. Lifferth
 John G. Mathis
 Daniel McCay
 Kay L. McIff
 Mike K. McKell
 Carol Spackman Moss
 Merrill F. Nelson
 Jim Nielson
 Michael E. Noel
 Curtis Oda
 Lee B. Perry
 Jeremy A. Peterson
 Val L. Peterson
 Dixon M. Pitcher
 Marie H. Poulson
 Kraig Powell
 Paul Ray
 Edward H. Redd
 Marc K. Roberts
 Angela Romero
 Douglas V. Sagers
 V. Lowry Snow
 Robert M. Spendlove

Jon E. Stanard
 Keven J. Stratton
 John R. Westwood
 Mark A. Wheatley
 Ryan D. Wilcox
 Larry B. Wiley
 Brad R. Wilson

LONG TITLE**General Description:**

This bill modifies and enacts provisions relating to the management of state trust lands and funds.

Highlighted Provisions:

This bill:

- ▶ modifies provisions relating to the director of the School Children's Trust Section, including:
 - the required qualifications of the director;
 - the removal of the director; and
 - the duties of the director;
- ▶ modifies provisions relating to the School Children's Trust Section;
- ▶ requires the School Children's Trust Section to provide staff support to the nominating committee for board members of the School and Institutional Trust Lands Administration;
- ▶ enacts the School and Institutional Trust Fund Management Act;
- ▶ establishes the School and Institutional Trust Fund Office, a board of trustees of the Office, and the position of director of the office;
- ▶ provides for the management of a fund consisting of money from the sale or use of land granted to the state under the Utah Enabling Act and other proceeds, revenue, and assets;
- ▶ provides for a nominating committee for members of the School and Institutional Trust Fund Board of Trustees;
- ▶ provides for funding office operations; and
- ▶ repeals Investment of Land Grant Trust Fund Money provisions.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2014.

Utah Code Sections Affected:**AMENDS:**

- 53A-16-101.6, as enacted by Laws of Utah 2012, Chapter 224
- 53C-1-201, as last amended by Laws of Utah 2013, Chapters 220 and 412
- 53C-1-203, as last amended by Laws of Utah 2012, Chapter 224
- 53C-3-102, as enacted by Laws of Utah 1994, Chapter 294
- 63E-1-102, as last amended by Laws of Utah 2013, Chapter 220

ENACTS:

- 53D-1-101, Utah Code Annotated 1953
- 53D-1-102, Utah Code Annotated 1953
- 53D-1-103, Utah Code Annotated 1953
- 53D-1-104, Utah Code Annotated 1953
- 53D-1-105, Utah Code Annotated 1953
- 53D-1-201, Utah Code Annotated 1953
- 53D-1-202, Utah Code Annotated 1953
- 53D-1-203, Utah Code Annotated 1953

53D-1-301, Utah Code Annotated 1953
 53D-1-302, Utah Code Annotated 1953
 53D-1-303, Utah Code Annotated 1953
 53D-1-304, Utah Code Annotated 1953
 53D-1-401, Utah Code Annotated 1953
 53D-1-402, Utah Code Annotated 1953
 53D-1-403, Utah Code Annotated 1953
 53D-1-501, Utah Code Annotated 1953
 53D-1-502, Utah Code Annotated 1953
 53D-1-503, Utah Code Annotated 1953
 53D-1-601, Utah Code Annotated 1953
 53D-1-602, Utah Code Annotated 1953
 53D-1-603, Utah Code Annotated 1953
 53D-1-604, Utah Code Annotated 1953
 53D-1-701, Utah Code Annotated 1953
 53D-1-702, Utah Code Annotated 1953

REPEALS:

51-7a-101, as last amended by Laws of Utah 2011, Chapter 342
 51-7a-102, as enacted by Laws of Utah 2006, Chapter 277
 51-7a-201, as enacted by Laws of Utah 2006, Chapter 277
 51-7a-202, as enacted by Laws of Utah 2006, Chapter 277
 51-7a-301, as last amended by Laws of Utah 2010, Chapter 286
 51-7a-302, as enacted by Laws of Utah 2006, Chapter 277

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53A-16-101.6 is amended to read:

53A-16-101.6. Creation of School Children's Trust Section -- Duties.

(1) As used in this section:

(a) "School and institutional trust lands" is as defined in Section 53C-1-103.

(b) "Section" means the School Children's Trust Section created in this section.

(c) "Trust" means:

(i) the School LAND Trust Program created in Section 53A-16-101.5; and

(ii) the lands and funds associated with the trusts described in Subsection 53C-1-103(7).

(2) There is established a School Children's Trust Section within the State Office of Education.

(3) (a) The section shall have a director.

(b) The director shall have professional qualifications and expertise in the areas generating revenue to the trust, including:

(i) economics;

(ii) energy development;

(iii) finance;

(iv) investments;

~~[(iv)]~~ (v) public education;

~~[(v)]~~ (vi) real estate;

~~[(vi)]~~ (vii) renewable resources; ~~and~~

(viii) risk management; and

~~[(vii)]~~ (ix) trust law.

(c) The director shall be appointed as provided in this Subsection (3).

(d) The School and Institutional Trust Lands Board of Trustees nominating committee shall submit to the State Board of Education the name of one person to serve as director.

(e) The State Board of Education may:

(i) appoint the person described in Subsection (3)(d) to serve as director; or

(ii) deny the appointment of the person described in Subsection (3)(d) to serve as director.

(f) If the State Board of Education denies an appointment under this Subsection (3):

(i) the State Board of Education shall provide in writing one or more reasons for the denial to the School and Institutional Trust Lands Board of Trustees nominating committee; and

(ii) the School and Institutional Trust Lands Board of Trustees nominating committee and the State Board of Education shall follow the procedures and requirements of this Subsection (3) until the State Board of Education appoints a director.

~~[(4) The director shall report to the state superintendent or the state superintendent's designee.]~~

~~(g) The State Board of Education may remove the director only by majority vote of a quorum in an open and public meeting after proper notice and the inclusion of the removal item on the agenda.~~

(4) The State Board of Education shall make rules regarding:

(a) regular reporting from the School Children's Trust Section director to the State Board of Education, to allow the State Board of Education to fulfill its duties in representing the trust beneficiaries; and

(b) the day-to-day reporting of the School Children's Trust Section director.

(5) (a) The director shall annually submit a proposed section budget to the State Board of Education.

(b) After approving a section budget, the State Board of Education shall propose the approved budget to the Legislature.

(6) The director is entitled to attend any presentation, discussion, meeting, or other gathering concerning the trust, subject to:

(a) provisions of law prohibiting the director's attendance to preserve confidentiality; or

(b) other provisions of law that the director's attendance would violate.

~~[(5)]~~ (7) The section shall have a staff.

~~[(6)]~~ (8) The section shall protect current and future beneficiary rights and interests in the trust consistent with the state's perpetual obligations under:

- (a) the Utah Enabling Act;
- (b) the Utah Constitution;
- (c) state statute; and
- (d) standard trust principles described in Section 53C-1-102.

~~[(7)]~~ (9) The section shall promote:

(a) productive use of school and institutional trust lands[-]; and

(b) the efficient and prudent investment of funds managed by the School and Institutional Trust Fund Office, created in Section 53D-1-201.

~~[(8)]~~ (10) The section shall provide representation, advocacy, and input:

(a) on behalf of current and future beneficiaries of the trust, school community councils, schools, and school districts;

(b) on federal, state, and local land decisions and policies that affect the trust; and

(c) to:

(i) the School and Institutional Trust Lands Administration;

(ii) the School and Institutional Trust Lands Board of Trustees;

(iii) the Legislature;

~~[(iv) the state treasurer;]~~

(iv) the School and Institutional Trust Fund Office, created in Section 53D-1-201;

(v) the School and Institutional Trust Fund Board of Trustees, created in Section 53D-1-301;

~~[(v)]~~ (vi) the attorney general;

~~[(vi)]~~ (vii) the public; and

~~[(vii)]~~ (viii) other entities as determined by the section.

~~[(9)]~~ (11) The section shall provide independent oversight on the prudent and profitable management of the trust and report annually to the State Board of Education and the Legislature.

~~[(10)]~~ (12) The section shall provide information requested by a person or entity described in Subsections ~~[(8)]~~ (10)(c)(i) through ~~[(v)]~~ (vii).

Section 2. Section 53C-1-201 is amended to read:

53C-1-201. Creation of administration -- Purpose -- Director -- Participation in Risk Management Fund.

(1) (a) There is established within state government the School and Institutional Trust Lands Administration.

(b) The administration shall manage all school and institutional trust lands and assets within the state, except as otherwise provided in Title 53C, Chapter 3, Deposit and Allocation of Revenue from Trust Lands, and ~~[Sections 51-7a-201 and 51-7a-202]~~ Title 53D, Chapter 1, School and Institutional Trust Fund Management Act.

(2) The administration is an independent state agency and not a division of any other department.

(3) (a) It is subject to the usual legislative and executive department controls except as provided in this Subsection (3).

(b) (i) The director may make rules as approved by the board that allow the administration to classify a business proposal submitted to the administration as protected under Section 63G-2-305, for as long as is necessary to evaluate the proposal.

(ii) The administration shall return the proposal to the party who submitted the proposal, and incur no further duties under Title 63G, Chapter 2, Government Records Access and Management Act, if the administration determines not to proceed with the proposal.

(iii) The administration shall classify the proposal pursuant to law if it decides to proceed with the proposal.

(iv) Section 63G-2-403 does not apply during the review period.

(c) The director shall make rules in compliance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, except that the administration is not subject to Subsections 63G-3-301(6) and (7) and Section 63G-3-601, and the director, with the board's approval, may establish a procedure for the expedited approval of rules, based on written findings by the director showing:

(i) the changes in business opportunities affecting the assets of the trust;

(ii) the specific business opportunity arising out of those changes which may be lost without the rule or changes to the rule;

(iii) the reasons the normal procedures under Section 63G-3-301 cannot be met without causing the loss of the specific opportunity;

(iv) approval by at least five board members; and

(v) that the director has filed a copy of the rule and a rule analysis, stating the specific reasons and justifications for its findings, with the Division of Administrative Rules and notified interested parties as provided in Subsection 63G-3-301(10).

(d) (i) The administration shall comply with Title 67, Chapter 19, Utah State Personnel Management Act, except as provided in this Subsection (3)(d).

(ii) The board may approve, upon recommendation of the director, that exemption for specific positions under Subsections 67-19-12(2) and 67-19-15(1) is required in order to enable the administration to efficiently fulfill its responsibilities under the law. The director shall

consult with the executive director of the Department of Human Resource Management prior to making such a recommendation.

(iii) The positions of director, deputy director, associate director, assistant director, legal counsel appointed under Section 53C-1-305, administrative assistant, and public affairs officer are exempt under Subsections 67-19-12(2) and 67-19-15(1).

(iv) Salaries for exempted positions, except for the director, shall be set by the director, after consultation with the executive director of the Department of Human Resource Management, within ranges approved by the board. The board and director shall consider salaries for similar positions in private enterprise and other public employment when setting salary ranges.

(v) The board may create an annual incentive and bonus plan for the director and other administration employees designated by the board, based upon the attainment of financial performance goals and other measurable criteria defined and budgeted in advance by the board.

(e) The administration shall comply with Title 63G, Chapter 6a, Utah Procurement Code, except where the board approves, upon recommendation of the director, exemption from the Utah Procurement Code, and simultaneous adoption of rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for procurement, which enable the administration to efficiently fulfill its responsibilities under the law.

(f) (i) Except as provided in Subsection (3)(f)(ii), the administration is not subject to the fee agency requirements of Section 63J-1-504.

(ii) The following fees of the administration are subject to the requirements of Section 63J-1-504: application, assignment, amendment, affidavit for lost documents, name change, reinstatement, grazing nonuse, extension of time, partial conveyance, patent reissue, collateral assignment, electronic payment, and processing.

(4) The administration is managed by a director of school and institutional trust lands appointed by a majority vote of the board of trustees with the consent of the governor.

(5) (a) The board of trustees shall provide policies for the management of the administration and for the management of trust lands and assets.

(b) The board shall provide policies for the ownership and control of Native American remains that are discovered or excavated on school and institutional trust lands in consultation with the Division of Indian Affairs and giving due consideration to Title 9, Chapter 9, Part 4, Native American Grave Protection and Repatriation Act. The director may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement policies provided by the board regarding Native American remains.

(6) In connection with joint ventures and other transactions involving trust lands and minerals approved under Sections 53C-1-303 and 53C-2-401, the administration, with board approval, may become a member of a limited liability company under Title 48, Chapter 2c, Utah Revised Limited Liability Company Act, or Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, as appropriate pursuant to Section 48-3a-1405 and is considered a person under Section 48-2c-102 or Section 48-3a-102.

(7) Subject to the requirements of Subsection 63E-1-304(2), the administration may participate in coverage under the Risk Management Fund created by Section 63A-4-201.

Section 3. Section 53C-1-203 is amended to read:

53C-1-203. Board of trustees nominating committee -- Composition -- Responsibilities -- Per diem and expenses.

(1) There is established an 11 member board of trustees nominating committee.

(2) (a) The State Board of Education shall appoint five members to the nominating committee from different geographical areas of the state.

(b) The governor shall appoint five members to the nominating committee on or before the December 1 of the year preceding the vacancy on the nominating committee as follows:

(i) one individual from a nomination list of at least two names of individuals knowledgeable about institutional trust lands submitted on or before the October 1 of the year preceding the vacancy on the nominating committee by the University of Utah and Utah State University on an alternating basis every four years;

(ii) one individual from a nomination list of at least two names submitted by the Utah Farm Bureau in consultation with the Utah Cattleman's Association and the Utah Wool Growers' Association on or before the October 1 of the year preceding the vacancy on the nominating committee;

(iii) one individual from a nomination list of at least two names submitted by the Utah Petroleum Association on or before the October 1 of the year preceding the vacancy on the nominating committee;

(iv) one individual from a nomination list of at least two names submitted by the Utah Mining Association on or before the October 1 of the year preceding the vacancy on the nominating committee; and

(v) one individual from a nomination list of at least two names submitted by the executive director of the Department of Natural Resources after consultation with statewide wildlife and conservation organizations on or before the October 1 of the year preceding the vacancy on the nominating committee.

(c) The president of the Utah Association of Counties shall designate the chair of the Public

Lands Steering Committee, who must be an elected county commissioner or councilor, to serve as the eleventh member of the nominating committee.

(3) (a) Except as required by Subsection (3)(b), each member shall serve a four-year term.

(b) Notwithstanding the requirements of Subsection (3)(a), the state board and the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(4) The nominating committee shall select a chair and vice chair from its membership by majority vote.

(5) (a) The nominating committee shall nominate at least two candidates for each position or vacancy which occurs on the board of trustees except for the governor's appointee under Subsection 53C-1-202(5).

(b) The nominations shall be by majority vote of the committee.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) The School Children's Trust Section, established in Section 53A-16-101.6, shall provide staff support to the nominating committee.

Section 4. Section 53C-3-102 is amended to read:

53C-3-102. Deposit and allocation of money received.

(1) (a) The director shall pay to the [state treasurer] School and Institutional Trust Fund Office, created in Section 53D-1-201, all money received, accompanied by a statement showing the respective sources of this money.

(b) Each source shall be classified as to sales, rentals, royalties, interest, fees, penalties, and forfeitures.

(2) All money received from the sale of lands granted by Section 6 of the Utah Enabling Act for the support of the common schools, all money received from the sale of lands selected in lieu of those lands, all money received from the United States under Section 9 of the Utah Enabling Act, all money received from the sale of lands or other securities acquired by the state from the investment of those funds, all sums paid for fees, all forfeitures, and all penalties paid in connection

with these sales shall be deposited in the Permanent State School Fund.

(3) All money received from the sale or other disposition of institutional trust lands granted to the state by the United States under Section 7, 8, or 12 of the Utah Enabling Act, and all sums paid for fees, forfeitures, and penalties received in connection with these sales or dispositions shall go to the respective permanent funds established for the benefit of those institutions under the Utah Enabling Act and the Utah Constitution.

(4) (a) All lands acquired by the state through foreclosure of mortgages securing school or institutional trust funds or through deeds from mortgagors or owners of those lands shall become a part of the respective school or institutional trust lands.

(b) All money received from these lands shall be treated as money received from school or institutional trust lands.

(5) All money received from the sale of lands acquired by the state through foreclosure of mortgages securing trust funds or through deeds from mortgagors or owners of such lands, whether a profit is realized or a loss sustained on the principal invested, shall be regarded as principal and shall go into the principal or permanent fund from which it was originally taken in reimbursement of that fund, with profits being used to offset losses.

(6) (a) All money received by the director as a first or down payment on applications to purchase, permit, or lease trust lands or minerals shall be paid to the state treasurer and held in suspense pending final action on those applications.

(b) After final action the payments received under Subsection (6)(a) shall either be credited to the appropriate fund or account, or refunded to the applicant in accordance with the action taken.

Section 5. Section 53D-1-101 is enacted to read:

TITLE 53D. SCHOOL AND INSTITUTIONAL TRUST FUND

CHAPTER 1. SCHOOL AND INSTITUTIONAL TRUST FUND MANAGEMENT ACT

Part 1. General Provisions

53D-1-101. Title.

(1) This title is known as "School and Institutional Trust Fund."

(2) This chapter is known as the "School and Institutional Trust Fund Management Act."

Section 6. Section 53D-1-102 is enacted to read:

53D-1-102. Definitions.

(1) "Account" means the School and Institutional Trust Fund Management Account, created in Section 53D-1-203.

(2) "Beneficiaries":

(a) means those for whose benefit the trust fund is managed and preserved, consistent with the enabling act, the Utah Constitution, and state law; and

(b) does not include other government institutions or agencies, the public at large, or the general welfare of the state.

(3) "Board" means the board of trustees established in Section 53D-1-301.

(4) "Director" means the director of the office.

(5) "Enabling act" means the act of Congress, dated July 16, 1894, enabling the people of Utah to form a constitution and state government and to be admitted into the Union.

(6) "Nominating committee" means the committee established under Section 53D-1-501.

(7) "Office" means the School and Institutional Trust Fund Office, created in Section 53D-1-201.

(8) "School children's trust section" means the School Children's Trust Section within the State Office of Education, established in Section 53A-16-101.6.

(9) "Trust fund" means money derived from:

(a) the sale or use of land granted to the state under Sections 6, 8, and 12 of the enabling act;

(b) proceeds referred to in Section 9 of the enabling act from the sale of public land; and

(c) revenue and assets referred to in Utah Constitution, Article X, Section 5, Subsections (1)(c), (e), and (f).

Section 7. Section 53D-1-103 is enacted to read:

53D-1-103. Application of other law.

(1) The office, board, and nominating committee are subject to Title 52, Chapter 4, Open and Public Meetings Act.

(2) Subject to Subsection 63E-1-304(2), the office may participate in coverage under the Risk Management Fund, created in Section 63A-4-201.

(3) The office and board are subject to Title 63G, Chapter 2, Government Records Access and Management Act.

(4) (a) In making rules under this chapter, the director is subject to and shall comply with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, except as provided in Subsection (4)(b).

(b) Subsections 63G-3-301(6) and (7) and Section 63G-3-601 do not apply to the director's making of rules under this chapter.

(5) Title 63G, Chapter 7, Governmental Immunity Act of Utah, applies to a board member to the same extent as it applies to an employee, as defined in Section 63G-7-102.

(6) (a) A board member, the director, and an office employee or agent are subject to:

(i) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act; and

(ii) other requirements that the board establishes.

(b) In addition to any restrictions or requirements imposed under Subsection (6)(a), a board member, the director, and an office employee or agent may not directly or indirectly acquire an interest in the trust fund or receive any direct benefit from any transaction dealing with trust fund money.

(7) (a) Except as provided in Subsection (7)(b), the office shall comply with Title 67, Chapter 19, Utah State Personnel Management Act.

(b) (i) Upon a recommendation from the director after the director's consultation with the executive director of the Department of Human Resource Management, the board may provide that specified positions in the office are exempt from Section 67-19-12 and the career service provisions of Title 67, Chapter 19, Utah State Personnel Management Act, as provided in Subsection 67-19-15(1), if the board determines that exemption is required for the office to fulfill efficiently its responsibilities under this chapter.

(ii) The director position is exempt from Section 67-19-12 and the career service provisions of Title 67, Chapter 19, Utah State Personnel Management Act, as provided in Subsection 67-19-15(1).

(iii) (A) After consultation with the executive director of the Department of Human Resource Management, the director shall set salaries for positions that are exempted under Subsection (7)(b)(i), within ranges that the board approves.

(B) In approving salary ranges for positions that are exempted under Subsection (7)(b)(i), the board shall consider salaries for similar positions in private enterprise and other public employment.

(8) The office is subject to legislative appropriation, to executive branch budgetary review and recommendation, and to legislative and executive branch review.

Section 8. Section 53D-1-104 is enacted to read:

53D-1-104. Attorney general representation.

(1) The attorney general shall:

(a) represent the board, director, and office in any legal action relating to the trust fund;

(b) undertake suits for damages and any other necessary or appropriate relief in the name of the trust fund and the state; and

(c) ensure that legal counsel assigned to provide legal counsel to the board, director, and office is present at all board meetings.

(2) The attorney general may institute an action to enforce this chapter or to protect the interests of beneficiaries.

Section 9. Section 53D-1-105 is enacted to read:

53D-1-105. Annual audit by state auditor.

(1) The state auditor shall conduct an annual audit of the trust fund money and assets on a fund by fund basis, including:

(a) an evaluation of the independent custodial arrangements made for the management and investment of trust fund money and assets; and

(b) a verification of the accuracy of the office's report of returns generated on the office's investments.

(2) The state auditor shall:

(a) report the results of an audit under this section in writing; and

(b) make the written audit report available to the public.

(3) The state auditor shall consult with the board at least annually as to whether additional matters should be included within the scope of the annual audit.

Section 10. Section 53D-1-201 is enacted to read:

Part 2. School and Institutional Trust Fund Office

53D-1-201. School and Institutional Trust Fund Office -- Status -- Duties.

(1) There is created within state government the School and Institutional Trust Fund Office.

(2) The office is an independent state agency within the executive branch and is not a division of any other executive branch department.

(3) The office shall manage the trust fund.

(4) No later than September 1 of each year, the office shall provide to the Division of Finance financial information for the prior fiscal year that the Division of Finance requests for financial reporting purposes.

Section 11. Section 53D-1-202 is enacted to read:

53D-1-202. Access to office records and personnel.

(1) The office shall provide board members and the director of the school children's trust section access to all office records and personnel as necessary for board members and the director of the school children's trust section to fulfill their responsibilities to ensure that the office is in full compliance with applicable law and policies.

(2) If the director requires, board members and the director of the school children's trust section shall maintain confidentiality of information they obtain from office records and personnel.

Section 12. Section 53D-1-203 is enacted to read:

53D-1-203. Funding of office operations.

(1) There is created an enterprise fund known as the School and Institutional Trust Fund Management Account.

(2) The account is funded by money deposited into the account as provided in Subsection (3).

(3) The director shall deposit into the account an amount of money from the earnings from trust fund assets equal to the annual appropriation that the Legislature makes to the office, to pay for the office's operating costs.

(4) (a) The office may use money in the account to pay for the office's operating costs.

(b) If the amount of money deposited into the account under Subsection (3) in any year exceeds the amount required by the office during that year to fund its operations, the office shall distribute that excess money proportionately to the various funds established for the beneficiaries of land grants under the enabling act, based on the balances of those funds as of June 30.

(5) (a) Before distributing earnings from trust fund assets, the office may deduct any audit, risk management, consulting, equipment, legal, and custodial costs and management fees incurred in managing the trust fund assets.

(b) The costs and fees described in Subsection (5)(a) are separate from and in addition to the office's operating costs that are paid from the account.

Section 13. Section 53D-1-301 is enacted to read:

Part 3. School and Institutional Trust Fund Board of Trustees

53D-1-301. Board of trustees -- Creation -- Membership.

(1) There is created a School and Institutional Trust Fund Board of Trustees.

(2) The board consists of:

(a) the state treasurer; and

(b) four additional members who are appointed by the state treasurer on a nonpartisan basis from a list of at least two qualified candidates per position, nominated by the nominating committee, as provided in Section 53D-1-503.

(3) The state treasurer shall appoint members under Subsection (2)(b) who possess:

(a) outstanding professional qualifications pertinent to the prudent investment of trust fund money; and

(b) expertise in institutional investment management.

(4) (a) The term of a board member under Subsection (2)(b) is six years.

(b) Notwithstanding Subsection (4)(a), the nominating committee shall stagger terms of initial board members so that the term of not more than one member expires in any year.

(c) A board member may not serve consecutive terms, except that:

(i) a board member whose term is less than six years because of the staggering of terms under Subsection (4)(b) may serve a full consecutive term after the completion of the initial term; and

(ii) a member appointed to fill a vacancy may serve a full consecutive term after filling a previous unexpired term.

(d) A board member shall serve until a successor is appointed, confirmed, and qualified.

(5) Before assuming duties as a board member, a member shall take an oath of office that includes the following:

"I solemnly swear to carry out my duties as a member of the School and Institutional Trust Fund Board of Trustees and to act with undivided loyalty to the beneficiaries of the trust fund that the board oversees, to the best of my abilities and consistent with the law."

(6) The state treasurer may remove a board member for cause, subject to the affirmative vote of at least two other board members, besides the state treasurer.

(7) The state treasurer shall fill a vacancy in the same manner as the initial appointment under Subsection (2)(b)(i).

(8) A board member may not receive any compensation or benefits for the member's service, but the member may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 14. Section 53D-1-302 is enacted to read:

53D-1-302. Board chair and vice chair -- Quorum.

(1) (a) The state treasurer is the chair of the board.

(b) The chair shall faithfully represent the will of the board to the extent the board's will is consistent with state law.

(2) (a) The board shall annually select a vice chair from its membership.

(b) The vice chair shall act as chair in the absence of the chair.

(3) (a) Three members of the board constitute a quorum for the purpose of holding a meeting.

(b) Unless otherwise specified in this title, an action of the board requires the affirmative vote of at least three members.

Section 15. Section 53D-1-303 is enacted to read:

53D-1-303. Board authority and duties.

(1) The board has broad policymaking authority over the office and the trust fund.

(2) (a) The board shall establish policies for the management of:

(i) the office, including:

(A) an investment management code of conduct and associated compliance policy;

(B) a policy for the strategic allocation of trust fund assets;

(C) a soft dollar policy; and

(D) a policy articulating the board's investment philosophy for trust fund assets; and

(ii) the trust fund.

(b) Policies that the board adopts shall:

(i) be consistent with the enabling act, the Utah Constitution, and other applicable state law;

(ii) reflect undivided loyalty to the beneficiaries consistent with fiduciary duties;

(iii) be designed to prudently optimize trust fund returns and increase the value of the trust fund, consistent with the balancing of short-term and long-term interests, so that the fiduciary duty of intergenerational equity is met;

(iv) be designed to maintain the integrity of the trust fund and prevent the misapplication of money in the trust fund;

(v) enable the board to oversee the activities of the office; and

(vi) otherwise be in accordance with standard trust principles as provided by state law.

(3) The board shall:

(a) establish a conflict of interest policy for the office and board members;

(b) establish policies governing the evaluation, selection, and monitoring of independent custodial arrangements;

(c) ensure that the office is managed according to law;

(d) establish bylaws to govern the board;

(e) establish the compensation of the director;

(f) annually examine the compensation and performance of the director as part of the board's budget review process;

(g) annually report the director's compensation to the Legislature; and

(h) adopt policies to provide for annual training of board members regarding their duties and responsibilities.

(4) The board may:

(a) after conferring with the director:

(i) hire one or more consultants to advise the board, director, or office on issues affecting the management of the trust fund; and

(ii) pay compensation to any consultant hired under Subsection (4)(a)(i), subject to budgetary constraints; and

(b) submit to the director a written question or set of questions concerning policies and practices affecting the management of the trust fund.

Section 16. Section 53D-1-304 is enacted to read:

53D-1-304. Board meetings.

(1) The board shall hold at least nine meetings per year to conduct business.

(2) The board chair or two board members:

(a) may call a board meeting; and

(b) if calling a board meeting, shall provide as much advance notice as is reasonable under the circumstances to all board members, the director, and the director of the school children's trust section.

(3) Any board member may place an item on a board meeting agenda.

(4) The board shall annually adopt a set of parliamentary procedures to govern board meetings.

(5) The board may establish an attendance policy to govern the attendance of board members at board meetings.

Section 17. Section 53D-1-401 is enacted to read:

Part 4. Director

53D-1-401. Appointment of director -- Qualifications -- Nature of employment -- Removal by State Board of Education petition.

(1) The office shall be managed by a director.

(2) On or before January 25, 2015, the board shall appoint an individual as director.

(3) The board shall ensure that an individual appointed as director possesses:

(a) outstanding professional qualifications pertinent to the prudent investment of trust fund money; and

(b) expertise in institutional investment management.

(4) The director is an at-will employee who may be removed by the board at any time with or without cause.

(5) (a) The State Board of Education may submit a written petition to the board requesting the board to remove the director for cause, explained in the petition.

(b) The board shall hold a hearing on a petition under Subsection (5)(a) within 45 days after receiving the petition.

(c) If, after holding a hearing, the board finds by a preponderance of the evidence that there is cause

for removing the director, the board shall remove the director.

Section 18. Section 53D-1-402 is enacted to read:

53D-1-402. Director duties and responsibilities.

(1) The director has broad authority to manage the office to fulfill its purposes, consistent with the enabling act, the Utah Constitution, state law, and board policies.

(2) The director shall:

(a) before assuming the duties of director, take an oath that includes the following:

"I solemnly swear to carry out my duties as director of the School and Institutional Trust Fund Office with undivided loyalty to the beneficiaries of the trust fund managed by the office, to the best of my abilities and consistent with the law.";

(b) carry out the policies of the board;

(c) act with undivided loyalty to those entitled to the benefit of income from the trust fund, consistent with the director's fiduciary duties and responsibilities;

(d) follow the prudent investor rule, prudently seeking to obtain the optimum return from the investment of trust fund money and assets, balancing short-term and long-term interests under the principle of intergenerational equity;

(e) exercise full discretionary authority to manage, maintain, transfer, or sell assets of the trust fund in the manner that the director determines to be most favorable to beneficiaries;

(f) maintain the integrity of the trust fund and prevent, through prudent management, the misapplication of trust fund money;

(g) adopt rules, as provided in Subsection 53D-1-103(3), that are necessary for the proper exercise of the director's duties under this chapter and policies established by the board;

(h) faithfully manage the office under policies established by the board;

(i) annually submit to the board:

(i) an office budget; and

(ii) a financial plan for operations of the office;

(j) after board approval of the office budget, submit the budget to the governor and the Legislature;

(k) direct and control budget expenditures;

(l) establish job descriptions and, within budgetary constraints, employ staff necessary to accomplish the purposes of the office;

(m) in accordance with generally accepted principles of fund accounting, establish a system to identify and account for the trust fund assets;

(n) notify the director of the school children's trust section of major items that the director knows

may be useful to the director of the school children's trust section in protecting the rights of beneficiaries;

(o) maintain appropriate records of trust fund activities to enable auditors to conduct periodic audits;

(p) respond in writing within a reasonable time to a request by the director of the school children's trust section for information on policies and practices affecting the management of the trust fund; and

(q) respond to a question that the board submits under Subsection 53D-1-303(4)(c) within a reasonable time after receiving the question.

(3) The office may:

(a) sue or be sued; and

(b) contract with other public agencies for personnel management services.

Section 19. Section 53D-1-403 is enacted to read:

53D-1-403. Reports.

(1) At least annually, the director shall report in person to the Legislative Management Committee, the governor, and the State Board of Education, concerning the office's investments, performance, estimated distributions, and other activities.

(2) The director shall report to the board concerning the work of the director and the investment activities and other activities of the office:

(a) in a public meeting at least nine times per year; and

(b) as otherwise requested by the board.

(3) (a) Before November 1 of each year, the director shall:

(i) submit a written report to each school community council, created under Section 53A-1a-108, concerning the office's investments, performance, estimated distributions, and other activities; and

(ii) post the written report described in Subsection (3)(a)(i) on the office's website.

(b) A report under Subsection (3)(a) shall be prepared in simple language designed to be understood by the general public.

(4) The director shall provide to the board:

(a) monthly written reports on the activities of the office;

(b) quarterly financial reports; and

(c) any other report requested by the board.

(5) The director shall:

(a) invite the director of the school children's trust section to attend any meeting at which the director gives a report under this section; and

(b) provide the director of the school children's trust section:

(i) a copy of any written report prepared under this section; and

(ii) any other report requested by the director of the school children's trust section.

Section 20. Section 53D-1-501 is enacted to read:

Part 5. Nominating Committee

53D-1-501. Nominating committee -- Membership -- Terms -- Vacancies -- Compensation.

(1) There is established a School and Institutional Trust Fund Nominating Committee.

(2) The nominating committee consists of:

(a) two members appointed by the State Board of Education;

(b) two members, appointed by the director of the school children's trust section, each of whom is a member of a respected professional organization;

(c) the chief investment officer of the University of Utah endowment;

(d) the chief investment officer of the Utah State University endowment; and

(e) the director of the school children's trust section.

(3) An individual appointed as a member of the nominating committee under Subsection (2)(a) or (b) shall be appointed based on the individual's expertise in:

(a) investment finance;

(b) institutional asset management;

(c) trust administration; or

(d) the practice of law in the areas of capital markets, securities law, trusts, foundations, endowments, investment finance, institutional asset management, or trust administration.

(4) The term of a member appointed under Subsection (2)(a) or (b) is four years, except that the initial term of members appointed under Subsection (2)(b) is two years.

(5) A nominating committee member shall serve until a successor is appointed and qualified.

(6) (a) If a member appointed under Subsection (2)(a) or (b) leaves office, the vacancy shall be filled in the same manner as the initial appointment under Subsection (2)(a) or (b).

(b) An individual appointed to fill a vacancy under Subsection (6)(a) serves the remainder of the unexpired term.

(7) A member of the nominating committee may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 21. Section 53D-1-502 is enacted to read:

53D-1-502. Chair and vice chair -- Quorum and voting requirements -- Bylaws -- Staff.

(1) The nominating committee shall select a chair and vice chair from its members.

(2) (a) Four members of the nominating committee constitute a quorum.

(b) An action of the nominating committee requires the affirmative vote of at least four members.

(3) The nominating committee shall establish bylaws to govern the nominating committee.

(4) The school children's trust section shall provide staff support to the nominating committee.

Section 22. Section 53D-1-503 is enacted to read:

53D-1-503. Process of nominating candidates for board membership.

(1) The nominating committee shall nominate at least two candidates for each position or vacancy on the board.

(2) The nominating committee shall:

(a) nominate candidates who meet the criteria stated in Subsection 53D-1-301(3); and

(b) consider the character and reputation of candidates the nominating committee nominates.

(3) If the state treasurer considers the candidates nominated under Subsection (1) to be unacceptable, the state treasurer may request the nominating committee to nominate at least two other candidates per appointment.

(4) As many times as the state treasurer considers candidates nominated by the nominating committee to be unacceptable under Subsection (3), the nominating committee shall follow the process described in Subsections (1) and (2) until the state treasurer appoints a candidate.

Section 23. Section 53D-1-601 is enacted to read:

Part 6. Management and Investment Standards and Principles

53D-1-601. General management and investment principles -- Duty of person with special skills or expertise.

(1) Board members, the director, and office staff shall act in the best interests of the beneficiaries and comply with the duty of undivided loyalty to the beneficiaries.

(2) A person who manages and invests trust fund money or assets shall:

(a) manage and invest in good faith and with the care a prudent professional in a like position would exercise under similar circumstances;

(b) consider, as relevant:

(i) general economic conditions;

(ii) the possible effect of inflation or deflation;

(iii) any expected tax consequences of investment decisions or strategies;

(iv) the role that each investment or course of action plays within the overall investment portfolio of the trust fund;

(v) the expected net return from income and the appreciation of investments;

(vi) the expected returns and risk characteristics of individual assets;

(vii) the needs of the beneficiaries to receive distributions and to preserve capital;

(viii) liquidity;

(ix) asset allocation; and

(x) costs and management fees; and

(c) make management and investment decisions about an individual asset not in isolation but in the context of the trust fund's portfolio of investments as a whole and as part of an overall investment strategy, having risk and return objectives reasonably suited to the trust fund and to the beneficiaries.

(3) A person who has special skills or expertise, or who is selected to assist in managing and investing the trust fund money or assets based on the person's representation of having special skills or expertise, has a duty to use those skills and that expertise in managing and investing trust fund money and assets.

Section 24. Section 53D-1-602 is enacted to read:

53D-1-602. Office authority, responsibilities, and duties.

(1) In managing and investing trust fund money and assets, the office:

(a) may incur only costs that are appropriate and reasonable in relation to the assets, the purposes of the trust fund, and the skills available to the office; and

(b) shall make a reasonable effort to verify facts related to the management and investment of trust fund money and assets.

(2) Except as otherwise provided by law, the office may invest in any kind of property or any type of investment that is:

(a) consistent with this part; and

(b) in the best interests of the beneficiaries.

(3) The office shall diversify the investments of trust fund money and assets.

(4) Within a reasonable time after receiving a contribution to the trust fund, the office shall make

and carry out decisions concerning the retention or disposition of the contribution or to rebalance the trust fund portfolio, in order to bring the trust fund into compliance with the purposes, terms, and distribution requirements of trust fund money and assets.

(5) The board may delegate any management or investment function to the director, a committee of board members, or an employee of the office.

Section 25. Section 53D-1-603 is enacted to read:

53D-1-603. Director authority, responsibilities, and duties.

(1) (a) The director may delegate to an external agent the management of a portion of the trust fund money or assets, if the delegation is prudent under the circumstances and consistent with the purposes of the trust fund.

(b) The director shall periodically review the actions of an agent under Subsection (1)(a) in order to monitor the agent's performance and compliance with the scope and terms of the delegation.

(2) The director shall act in good faith, with the care that a prudent professional in a like position would exercise under similar circumstances, in:

(a) selecting an agent;

(b) establishing the scope and terms of a delegation under Subsection (1); and

(c) periodically reviewing the agent's actions, as provided in Subsection (1)(b).

(3) In performing a delegated function, an agent owes a duty to the state and the beneficiaries to exercise reasonable care to comply with the scope and terms of the delegation.

Section 26. Section 53D-1-604 is enacted to read:

53D-1-604. Compliance not determined by hindsight.

Compliance with a provision of this part in making a decision or taking an action is determined in light of the facts and circumstances existing at the time a decision is made or an action is taken and not by hindsight.

Section 27. Section 53D-1-701 is enacted to read:

Part 7. Review of Decisions or Actions

53D-1-701. Petition for review of director or office decision or action -- Hearing examiner -- Decision -- Judicial review.

(1) (a) Subject to Subsection (1)(b), a person aggrieved by a decision or action of the director or office may, in accordance with rules adopted by the board under Section 53D-1-702, petition the board for an administrative review of the decision or action.

(b) A person may not petition for review of:

(i) a decision whether to buy, sell, hold, or exchange a specific investment; or

(ii) an action to buy, sell, hold, or exchange a specific investment.

(2) (a) The board may appoint a qualified hearing examiner to take evidence and make a recommendation for board action on the petition.

(b) If the board appoints a hearing examiner under Subsection (2)(a), the board shall, in conducting its review and making its decision on the petition, consider the hearing examiner's recommendation.

(3) In making its decision on the petition, the board shall:

(a) make findings and conclusions and base its decision on the findings and conclusions;

(b) uphold the decision or action of the director or office unless the board finds, by a preponderance of the evidence, that the decision or action violated applicable law, policy, or rule; and

(c) inform the person who filed the petition of the person's right to judicial review of the board's decision.

(4) A person aggrieved by a final decision of the board on a petition filed under this section may seek judicial review of that decision as provided in Sections 63G-4-402 and 63G-4-403.

Section 28. Section 53D-1-702 is enacted to read:

53D-1-702. Board rules on petition for review of director or office decision or action.

(1) The board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to govern proceedings on a petition under Section 53D-1-701.

(2) Rules under Subsection (1) shall ensure procedural due process in proceedings relating to a petition under Section 53D-1-701.

Section 29. Section 63E-1-102 is amended to read:

63E-1-102. Definitions -- List of Independent entities.

As used in this title:

(1) "Authorizing statute" means the statute creating an entity as an independent entity.

(2) "Committee" means the Retirement and Independent Entities Committee created by Section 63E-1-201.

(3) "Independent corporation" means a corporation incorporated in accordance with Chapter 2, Independent Corporations Act.

(4) (a) "Independent entity" means an entity having a public purpose relating to the state or its citizens that is individually created by the state or is given by the state the right to exist and conduct its affairs as an:

- (i) independent state agency; or
 - (ii) independent corporation.
- (b) "Independent entity" includes the:
- (i) Utah Dairy Commission created by Section 4-22-2;
 - (ii) Heber Valley Historic Railroad Authority created by Section 63H-4-102;
 - (iii) Utah State Railroad Museum Authority created by Section 63H-5-102;
 - (iv) Utah Science Center Authority created by Section 63H-3-103;
 - (v) Utah Housing Corporation created by Section 35A-8-704;
 - (vi) Utah State Fair Corporation created by Section 63H-6-103;
 - (vii) Workers' Compensation Fund created by Section 31A-33-102;
 - (viii) Utah State Retirement Office created by Section 49-11-201;
 - (ix) School and Institutional Trust Lands Administration created by Section 53C-1-201;
 - (x) School and Institutional Trust Fund Office created by Section 53D-1-201;
 - ~~(xi)~~ (xi) Utah Communications Agency Network created by Section 63C-7-201;
 - ~~(xii)~~ (xii) Utah Energy Infrastructure Authority created by Section 63H-2-201;
 - ~~(xiii)~~ (xiii) Utah Capital Investment Corporation created by Section 63M-1-1207; and
 - ~~(xiv)~~ (xiv) Military Installation Development Authority created by Section 63H-1-201.
- (c) Notwithstanding this Subsection (4), "independent entity" does not include:
- (i) the Public Service Commission of Utah created by Section 54-1-1;
 - (ii) an institution within the state system of higher education;
 - (iii) a city, county, or town;
 - (iv) a local school district;
 - (v) a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts; or
 - (vi) a special service district under Title 17D, Chapter 1, Special Service District Act.
- (5) "Independent state agency" means an entity that is created by the state, but is independent of the governor's direct supervisory control.
- (6) "Money held in trust" means money maintained for the benefit of:
- (a) one or more private individuals, including public employees;
 - (b) one or more public or private entities; or

- (c) the owners of a quasi-public corporation.

(7) "Public corporation" means an artificial person, public in ownership, individually created by the state as a body politic and corporate for the administration of a public purpose relating to the state or its citizens.

(8) "Quasi-public corporation" means an artificial person, private in ownership, individually created as a corporation by the state which has accepted from the state the grant of a franchise or contract involving the performance of a public purpose relating to the state or its citizens.

Section 30. Repealer.

This bill repeals:

Section 51-7a-101, Title.

Section 51-7a-102, Definitions.

Section 51-7a-201, Investment of land grant trust funds.

Section 51-7a-202, State treasurer to follow "prudent investor" rule -- Standard of care.

Section 51-7a-301, Investment advisory committee -- Creation.

Section 51-7a-302, Investment advisory committee -- Duties.

Section 31. Effective date.

This bill takes effect on July 1, 2014.

CHAPTER 427**H. B. 197**

Passed March 13, 2014

Approved April 2, 2014

Effective May 13, 2014

DAYLIGHT SAVING TIME STUDY

Chief Sponsor: Ronda Rudd Menlove

Senate Sponsor: Stephen H. Urquhart

LONG TITLE**General Description:**

This bill requires the Governor's Office of Economic Development to hold a meeting on daylight saving time.

Highlighted Provisions:

This bill:

- ▶ defines "daylight saving time";
- ▶ requires the Governor's Office of Economic Development to hold a meeting on daylight saving time; and
- ▶ requires the Governor's Office of Economic Development to report on the meeting to the Government Operations Interim Committee and the Economic Development and Workforce Services Interim Committee.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-2-263, as last amended by Laws of Utah 2013, Second Special Session, Chapters 1 and 2

ENACTS:

63M-1-206, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-2-263 is amended to read:**63I-2-263. Repeal dates, Title 63A to Title 63M.**

- (1) Section 63A-1-115 is repealed on July 1, 2014.
- (2) Subsection 63J-1-218(3) is repealed on December 1, 2013.
- (3) Subsection 63J-1-218(4) is repealed on December 1, 2013.
- (4) Section 63M-1-206 is repealed on December 1, 2014.
- [4] (5) Subsection 63M-1-903(1)(d) is repealed on July 1, 2015.

Section 2. Section 63M-1-206 is enacted to read:**63M-1-206. (Codified as 63M-1-207)****Daylight saving time study.**

(1) As used in this section, "daylight saving time" means the period during a year when the observed time of day is advanced one hour according to the provisions of 15 U.S.C. Sec. 260a.

(2) The office shall:

- (a) conduct a meeting to discuss the impacts of exempting Utah from daylight saving time;
- (b) invite parents, senior citizens, and representatives from the agricultural, public education, recreation, and business communities to attend the meeting;
- (c) compile comments and recommendations made at the meeting;
- (d) publish a summary of the meeting; and
- (e) report on the summary to the Government Operations Interim Committee and the Economic Development and Workforce Services Interim Committee no later than November 1, 2014.

CHAPTER 428**H. B. 268**

Passed March 13, 2014

Approved April 2, 2014

Effective May 13, 2014

DANGEROUS WEAPONS AMENDMENTS

Chief Sponsor: Brian M. Greene
Senate Sponsor: Mark B. Madsen

LONG TITLE**General Description:**

This bill redefines dangerous weapon, clarifies restrictions relating to dangerous weapons, and establishes exemptions for the use of archery equipment for hunting and target shooting.

Highlighted Provisions:

This bill:

- ▶ defines dangerous weapon as a firearm or an object which is used unlawfully to inflict serious bodily injury;
- ▶ clarifies the criminal culpability of transferring a dangerous weapon to a restricted person;
- ▶ provides that a restricted person may own, possess, or have under the person's custody or control, archery equipment, including crossbows, for the purpose of lawful hunting and target shooting; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-10-501, as last amended by Laws of Utah 2013, Chapters 278 and 301

76-10-503, as last amended by Laws of Utah 2012, Chapter 317

76-10-509.7, as enacted by Laws of Utah 1993, Second Special Session, Chapter 10

76-10-512, as last amended by Laws of Utah 2000, Chapter 303

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-10-501 is amended to read:**76-10-501. Definitions.**

As used in this part:

- (1) (a) "Antique firearm" means:
- (i) any firearm, including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured in or before 1898; or
 - (ii) a firearm that is a replica of any firearm described in this Subsection (1)(a), if the replica:
 - (A) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; or
 - (B) uses rimfire or centerfire fixed ammunition which is:
 - (I) no longer manufactured in the United States; and
 - (II) is not readily available in ordinary channels of commercial trade; or
 - (iii) (A) that is a muzzle loading rifle, shotgun, or pistol; and
 - (B) is designed to use black powder, or a black powder substitute, and cannot use fixed ammunition.
 - (b) "Antique firearm" does not include:
 - (i) a weapon that incorporates a firearm frame or receiver;
 - (ii) a firearm that is converted into a muzzle loading weapon; or
 - (iii) a muzzle loading weapon that can be readily converted to fire fixed ammunition by replacing the:
 - (A) barrel;
 - (B) bolt;
 - (C) breechblock; or
 - (D) any combination of Subsection (1)(b)(iii)(A), (B), or (C).
 - (2) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201 within the Department of Public Safety.
 - (3) (a) "Concealed dangerous weapon" means a dangerous weapon that is:
 - (i) covered, hidden, or secreted in a manner that the public would not be aware of its presence; and
 - (ii) readily accessible for immediate use.
 - (b) A dangerous weapon is not a concealed dangerous weapon if it is a firearm which is unloaded and is securely encased.
 - (4) "Criminal history background check" means a criminal background check conducted by a licensed firearms dealer on every purchaser of a handgun, except a Federal Firearms Licensee, through the bureau or the local law enforcement agency where the firearms dealer conducts business.
 - (5) "Curio or relic firearm" means a firearm that:
 - (a) is of special interest to a collector because of a quality that is not associated with firearms intended for:
 - (i) sporting use;
 - (ii) use as an offensive weapon; or
 - (iii) use as a defensive weapon;
 - (b) (i) was manufactured at least 50 years before the current date; and
 - (ii) is not a replica of a firearm described in Subsection (5)(b)(i);
 - (c) is certified by the curator of a municipal, state, or federal museum that exhibits firearms to be a curio or relic of museum interest;
 - (d) derives a substantial part of its monetary value:

- (i) from the fact that the firearm is:
- (A) novel;
- (B) rare; or
- (C) bizarre; or
- (ii) because of the firearm's association with an historical:
- (A) figure;
- (B) period; or
- (C) event; and
- (e) has been designated as a curio or relic firearm by the director of the United States Treasury Department Bureau of Alcohol, Tobacco, and Firearms under 27 C.F.R. Sec. 478.11.
- (6) (a) "Dangerous weapon" means:
- (i) a firearm; or
- (ii) an ~~item~~ object that in the manner of its use or intended use is capable of causing death or serious bodily injury.
- (b) The following factors ~~shall be~~ are used in determining whether ~~[a knife, or another item,] any object, [or thing not commonly known as a dangerous weapon]~~ other than a firearm, is a dangerous weapon:
- (i) the ~~[character of the instrument,] location and circumstances in which the object[, or thing] was used or possessed;~~
- (ii) the primary purpose for which the object was made;
- ~~[(ii)] (iii) the character of the wound, if any, produced[, if any] by the object's unlawful use;~~
- ~~[(iii)] (iv) the manner in which the [instrument,] object[, or thing] was unlawfully used; [and]~~
- (v) whether the manner in which the object is used or possessed constitutes a potential imminent threat to public safety; and
- ~~[(iv)] (vi) the [other] lawful purposes for which the [instrument,] object[, or thing] may be used.~~
- ~~[(e)] (d) "Dangerous weapon" does not include an explosive, chemical, or incendiary device as defined by Section 76-10-306.~~
- (7) "Dealer" means a person who is:
- (a) licensed under 18 U.S.C. Sec. 923; and
- (b) engaged in the business of selling, leasing, or otherwise transferring a handgun, whether the person is a retail or wholesale dealer, pawnbroker, or otherwise.
- (8) "Enter" means intrusion of the entire body.
- (9) "Federal Firearms Licensee" means a person who:
- (a) holds a valid Federal Firearms License issued under 18 U.S.C. Sec. 923; and
- (b) is engaged in the activities authorized by the specific category of license held.
- (10) (a) "Firearm" means a pistol, revolver, shotgun, short barreled shotgun, rifle or short barreled rifle, or a device that could be used as a dangerous weapon from which is expelled a projectile by action of an explosive.
- (b) As used in Sections 76-10-526 and 76-10-527, "firearm" does not include an antique firearm.
- (11) "Firearms transaction record form" means a form created by the bureau to be completed by a person purchasing, selling, or transferring a handgun from a dealer in the state.
- (12) "Fully automatic weapon" means a firearm which fires, is designed to fire, or can be readily restored to fire, automatically more than one shot without manual reloading by a single function of the trigger.
- (13) (a) "Handgun" means a pistol, revolver, or other firearm of any description, loaded or unloaded, from which a shot, bullet, or other missile can be discharged, the length of which, not including any revolving, detachable, or magazine breech, does not exceed 12 inches.
- (b) As used in Sections 76-10-520, 76-10-521, and 76-10-522, "handgun" and "pistol or revolver" do not include an antique firearm.
- (14) "House of worship" means a church, temple, synagogue, mosque, or other building set apart primarily for the purpose of worship in which religious services are held and the main body of which is kept for that use and not put to any other use inconsistent with its primary purpose.
- (15) "Prohibited area" means a place where it is unlawful to discharge a firearm.
- (16) "Readily accessible for immediate use" means that a firearm or other dangerous weapon is carried on the person or within such close proximity and in such a manner that it can be retrieved and used as readily as if carried on the person.
- (17) "Residence" means an improvement to real property used or occupied as a primary or secondary residence.
- (18) "Securely encased" means not readily accessible for immediate use, such as held in a gun rack, or in a closed case or container, whether or not locked, or in a trunk or other storage area of a motor vehicle, not including a glove box or console box.
- (19) "Short barreled shotgun" or "short barreled rifle" means a shotgun having a barrel or barrels of fewer than 18 inches in length, or in the case of a rifle, having a barrel or barrels of fewer than 16 inches in length, or a dangerous weapon made from a rifle or shotgun by alteration, modification, or otherwise, if the weapon as modified has an overall length of fewer than 26 inches.
- (20) "State entity" means a department, commission, board, council, agency, institution, officer, corporation, fund, division, office,

committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

(21) "Violent felony" has the same meaning as defined in Section 76-3-203.5.

Section 2. Section 76-10-503 is amended to read:

76-10-503. Restrictions on possession, purchase, transfer, and ownership of dangerous weapons by certain persons.

(1) For purposes of this section:

(a) A Category I restricted person is a person who:

(i) has been convicted of any violent felony as defined in Section 76-3-203.5;

(ii) is on probation or parole for any felony;

(iii) is on parole from a secure facility as defined in Section 62A-7-101;

(iv) within the last 10 years has been adjudicated delinquent for an offense which if committed by an adult would have been a violent felony as defined in Section 76-3-203.5; or

(v) is an alien who is illegally or unlawfully in the United States.

(b) A Category II restricted person is a person who:

(i) has been convicted of any felony;

(ii) within the last seven years has been adjudicated delinquent for an offense which if committed by an adult would have been a felony;

(iii) is an unlawful user of a controlled substance as defined in Section 58-37-2;

(iv) is in possession of a dangerous weapon and is knowingly and intentionally in unlawful possession of a Schedule I or II controlled substance as defined in Section 58-37-2;

(v) has been found not guilty by reason of insanity for a felony offense;

(vi) has been found mentally incompetent to stand trial for a felony offense;

(vii) has been adjudicated as mentally defective as provided in the Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993), or has been committed to a mental institution;

(viii) has been dishonorably discharged from the armed forces; or

(ix) has renounced his citizenship after having been a citizen of the United States.

(2) A Category I restricted person who intentionally or knowingly agrees, consents, offers, or arranges to purchase, transfer, possess, use, or have under the person's custody or control, or who intentionally or knowingly purchases, transfers,

possesses, uses, or has under the person's custody or control:

(a) any firearm is guilty of a second degree felony; or

(b) any dangerous weapon other than a firearm is guilty of a third degree felony.

(3) A Category II restricted person who intentionally or knowingly purchases, transfers, possesses, uses, or has under the person's custody or control:

(a) any firearm is guilty of a third degree felony; or

(b) any dangerous weapon other than a firearm is guilty of a class A misdemeanor.

(4) A person may be subject to the restrictions of both categories at the same time.

(5) If a higher penalty than is prescribed in this section is provided in another section for one who purchases, transfers, possesses, uses, or has under this custody or control any dangerous weapon, the penalties of that section control.

(6) It is an affirmative defense to a charge based on the definition in Subsection (1)(b)(iv) that the person was:

(a) in possession of a controlled substance pursuant to a lawful order of a practitioner for use of a member of the person's household or for administration to an animal owned by the person or a member of the person's household; or

(b) otherwise authorized by law to possess the substance.

(7) (a) It is an affirmative defense to transferring a firearm or other dangerous weapon by a person restricted under Subsection (2) or (3) that the firearm or dangerous weapon:

(i) was possessed by the person or was under the person's custody or control before the person became a restricted person;

(ii) was not used in or possessed during the commission of a crime or subject to disposition under Section 76-10-525;

(iii) is not being held as evidence by a court or law enforcement agency;

(iv) was transferred to a person not legally prohibited from possessing the weapon; and

(v) unless a different time is ordered by the court, was transferred within 10 days of the person becoming a restricted person.

(b) Subsection (7)(a) is not a defense to the use, purchase, or possession on the person of a firearm or other dangerous weapon by a restricted person.

(8) (a) A person may not sell, transfer, or otherwise dispose of any firearm or dangerous weapon to any person, knowing that the recipient is a person described in Subsection (1)(a) or (b).

(b) A person who violates Subsection (8)(a) when the recipient is:

(i) a person described in Subsection (1)(a) and the transaction involves a firearm, is guilty of a second degree felony;

(ii) a person described in Subsection (1)(a) and the transaction involves any dangerous weapon other than a firearm, and the transferor has knowledge that the recipient intends to use the weapon for any unlawful purpose, is guilty of a third degree felony;

(iii) a person described in Subsection (1)(b) and the transaction involves a firearm, is guilty of a third degree felony; or

(iv) a person described in Subsection (1)(b) and the transaction involves any dangerous weapon other than a firearm, and the transferor has knowledge that the recipient intends to use the weapon for any unlawful purpose, is guilty of a class A misdemeanor.

(9) (a) A person may not knowingly solicit, persuade, encourage or entice a dealer or other person to sell, transfer or otherwise dispose of a firearm or dangerous weapon under circumstances which the person knows would be a violation of the law.

(b) A person may not provide to a dealer or other person ~~what~~ any information that the person knows to be materially false information with intent to deceive the dealer or other person about the legality of a sale, transfer or other disposition of a firearm or dangerous weapon.

(c) "Materially false information" means information that portrays an illegal transaction as legal or a legal transaction as illegal.

(d) A person who violates this Subsection (9) is guilty of:

(i) a third degree felony if the transaction involved a firearm; or

(ii) a class A misdemeanor if the transaction involved a dangerous weapon other than a firearm.

Section 3. Section 76-10-509.7 is amended to read:

76-10-509.7. Parent or guardian knowing of minor's possession of dangerous weapon.

Any parent or guardian of a minor who knows that the minor is in possession of a dangerous weapon in violation of Section 76-10-509 or a firearm in violation of Section 76-10-509.4 and fails to make reasonable efforts to remove the dangerous weapon or firearm from the minor's possession is guilty of a class B misdemeanor.

Section 4. Section 76-10-512 is amended to read:

76-10-512. Target concessions, shooting ranges, competitions, and hunting excepted from prohibitions.

(1) The provisions of Section 76-10-509 and Subsection 76-10-509.4(1) regarding possession of handguns by minors ~~shall~~ do not apply to any of the following:

~~[(1) Patrons]~~ (a) patrons firing at lawfully operated target concessions at amusement parks, piers, and similar locations provided that the firearms to be used are firmly chained or affixed to the counters~~[-]~~;

~~[(2) Any]~~ (b) any person in attendance at a hunter's safety course or a firearms safety course~~[-]~~;

~~[(3) Any]~~ (c) any person engaging in practice or any other lawful use of a firearm at an established range or any other area where the discharge of a firearm is not prohibited by state or local law~~[-]~~;

~~[(4) Any]~~ (d) any person engaging in an organized competition involving the use of a firearm, or participating in or practicing for such competition~~[-]~~;

~~[(5) Any]~~ (e) any minor under 18 years of age who is on real property with the permission of the owner, licensee, or lessee of the property and who has the permission of a parent or legal guardian or the owner, licensee, or lessee to possess a firearm not otherwise in violation of law~~[-]~~;

~~[(6) Any]~~ (f) any resident or nonresident hunters with a valid hunting license or other persons who are lawfully engaged in hunting~~[-]~~; or

~~[(7) Any]~~ (g) any person traveling to or from any activity described in Subsection ~~[(2), (3), (4), (5), or (6)]~~ (1)(b), (c), (d), (e), or (f) with an unloaded firearm in ~~his~~ the person's possession.

(2) It is not a violation of Subsection 76-10-503(2) or (3) for a restricted person defined in Subsection 76-10-503(1) to own, possess, or have under the person's custody or control, archery equipment, including crossbows, for the purpose of lawful hunting and lawful target shooting.

(3) Notwithstanding Subsection (2), the possession of archery equipment, including crossbows, by a restricted person defined in Subsection 76-10-503(1) may be prohibited by:

(a) a court, as a condition of pre-trial release or probation; or

(b) the Board of Pardons and Parole, as a condition of parole.

CHAPTER 429**H. B. 356**

Passed March 12, 2014

Approved April 2, 2014

Effective May 13, 2014

(Exception clause in Section 20)

**NEW CONVENTION FACILITY
DEVELOPMENT INCENTIVE PROVISIONS**

Chief Sponsor: Brad R. Wilson
 Senate Sponsor: J. Stuart Adams
 Cosponsor: Rebecca D. Lockhart

LONG TITLE**General Description:**

This bill enacts provisions relating to incentives for the development of a new convention facility.

Highlighted Provisions:

This bill:

- ▶ enacts the New Convention Facility Development Incentive Act;
- ▶ establishes a tax credit for the owner of a new convention hotel or a local government entity, under certain circumstances, in the amount of state and local sales tax revenue generated from sales related to the construction of a new convention hotel and from sales on hotel property, and other local taxes;
- ▶ establishes requirements and criteria for qualifying for a tax credit;
- ▶ establishes a process for applying for and the issuance of a tax credit certificate, including an agreement between the Governor's Office of Economic Development and the hotel owner or local government in which the hotel is located;
- ▶ authorizes a community development and renewal agency of a host local government to receive incremental property tax revenue generated from hotel property during the eligibility period;
- ▶ limits how money derived from a tax credit and incremental property tax revenue may be spent;
- ▶ establishes an independent review committee to review tax credit applications;
- ▶ grants the Governor's Office of Economic Development rulemaking authority to carry out its responsibilities under and to implement provisions of this bill;
- ▶ requires a county in which a new convention hotel is located to make an annual payment into the Stay Another Day and Bounce Back Account;
- ▶ creates the Stay Another Day and Bounce Back Fund as an expendable special revenue fund;
- ▶ creates the Hotel Impact Mitigation Fund as an expendable special revenue fund; and
- ▶ modifies the duties and authority of the Board of Tourism Development.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides effective dates.

Utah Code Sections Affected:**AMENDS:**

59-12-103 (Effective 07/01/14), as last amended by Laws of Utah 2013, Chapters 150 and 227 63I-1-263, as last amended by Laws of Utah 2013, Chapters 28, 62, 101, 167, 250, and 413 63M-1-1403, as renumbered and amended by Laws of Utah 2008, Chapter 382

ENACTS:

17-31-9, Utah Code Annotated 1953
 59-7-616, Utah Code Annotated 1953
 59-10-1110, Utah Code Annotated 1953
 63M-1-3401, Utah Code Annotated 1953
 63M-1-3402, Utah Code Annotated 1953
 63M-1-3403, Utah Code Annotated 1953
 63M-1-3404, Utah Code Annotated 1953
 63M-1-3405, Utah Code Annotated 1953
 63M-1-3406, Utah Code Annotated 1953
 63M-1-3407, Utah Code Annotated 1953
 63M-1-3408, Utah Code Annotated 1953
 63M-1-3409, Utah Code Annotated 1953
 63M-1-3410, Utah Code Annotated 1953
 63M-1-3411, Utah Code Annotated 1953
 63M-1-3412, Utah Code Annotated 1953
 63M-1-3413, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-31-9 is enacted to read:**17-31-9. Payment to Stay Another Day and Bounce Back Fund and Hotel Impact Mitigation Fund.**

A county in which a qualified hotel, as defined in Section 63M-1-3402, is located shall:

(1) make an annual payment to the Division of Finance:

(a) for deposit into the Stay Another Day and Bounce Back Fund, established in Section 63M-1-3411;

(b) for any year in which the Governor's Office of Economic Development issues a tax credit certificate, as defined in Section 63M-1-3402; and

(c) in the amount of 5% of the state portion, as defined in Section 63M-1-3402; and

(2) make payments to the Division of Finance:

(a) for deposit into the Hotel Impact Mitigation Fund, created in Section 63M-1-3412;

(b) for each year described in Subsection 63M-1-3412(5)(a)(ii) during which the balance of the Hotel Impact Mitigation Fund, defined in Section 63M-1-3412, is less than \$2,100,000 before any payment for that year under Subsection 63M-1-3412(5)(a); and

(c) in the amount of the difference between \$2,100,000 and the balance of the Hotel Impact Mitigation Fund, defined in Section 63M-1-3412, before any payment for that year under Subsection 63M-1-3412(5)(a).

Section 2. Section 59-7-616 is enacted to read:**59-7-616. Refundable tax credit for certain business entities.**

(1) As used in this section:

(a) "Office" means the Governor's Office of Economic Development.

(b) "Pass-through entity" has the same meaning as defined in Section 59-10-1402.

(c) "Pass-through entity taxpayer" has the same meaning as defined in Section 59-10-1402.

(d) "Tax credit certificate" has the same meaning as defined in Section 63M-1-3402.

(e) "Tax credit recipient" has the same meaning as defined in Section 63M-1-3402.

(2) (a) Subject to the other provisions of this section, a tax credit recipient that is a corporation may claim a refundable tax credit as provided in Subsection (3).

(b) If the tax credit recipient is a pass-through entity, the pass-through entity shall pass through to one or more pass-through entity taxpayers of the pass-through entity, in accordance with Chapter 10, Part 14, Pass-Through Entities and Pass-Through Entity Taxpayers Act, a refundable tax credit that the tax credit recipient could otherwise claim under this section.

(3) The amount of a tax credit is the amount listed as the tax credit amount on the tax credit certificate that the office issues to the tax credit recipient for the taxable year.

(4) A tax credit recipient:

(a) may claim or pass through a tax credit in a taxable year other than the taxable year during which the tax credit recipient has been issued a tax credit certificate; and

(b) may not claim a tax credit under both this section and Section 59-10-1110.

(5) (a) In accordance with any rules prescribed by the commission under Subsection (5)(b), the commission shall:

(i) make a refund to a tax credit recipient that claims a tax credit under this section if the amount of the tax credit exceeds the tax credit recipient's tax liability under this chapter; and

(ii) transfer at least annually from the General Fund into the Education Fund an amount equal to the amount of tax credit claimed under this section.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making:

(i) a refund to a tax credit recipient or pass-through entity taxpayer as required by Subsection (5)(a)(i); or

(ii) transfers from the General Fund into the Education Fund as required by Subsection (5)(a)(ii).

Section 3. Section 59-10-1110 is enacted to read:

59-10-1110. Refundable tax credit for certain business entities.

(1) As used in this section:

(a) "Office" means the Governor's Office of Economic Development.

(b) "Pass-through entity" has the same meaning as defined in Section 59-10-1402.

(c) "Pass-through entity taxpayer" has the same meaning as defined in Section 59-10-1402.

(d) "Tax credit certificate" has the same meaning as defined in Section 63M-1-3402.

(e) "Tax credit recipient" has the same meaning as defined in Section 63M-1-3402.

(2) (a) Subject to the other provisions of this section, a tax credit recipient may claim a refundable tax credit as provided in Subsection (3).

(b) If the tax credit recipient is a pass-through entity, the pass-through entity shall pass through to one or more pass-through entity taxpayers of the pass-through entity, in accordance with Chapter 10, Part 14, Pass-Through Entities and Pass-Through Entity Taxpayers Act, a refundable tax credit that the tax credit recipient could otherwise claim under this section.

(3) The amount of a tax credit is the amount listed as the tax credit amount on the tax credit certificate that the office issues to the tax credit recipient for the taxable year.

(4) A tax credit recipient:

(a) may claim or pass through a tax credit in a taxable year other than the taxable year during which the tax credit recipient has been issued a tax credit certificate; and

(b) may not claim a tax credit under both this section and Section 59-7-616.

(5) (a) In accordance with any rules prescribed by the commission under Subsection (5)(b), the commission shall:

(i) make a refund to a tax credit recipient that claims a tax credit under this section if the amount of the tax credit exceeds the tax credit recipient's tax liability under this chapter; and

(ii) transfer at least annually from the General Fund into the Education Fund an amount equal to the amount of tax credit claimed under this section.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making:

(i) a refund to a tax credit recipient or pass-through entity taxpayer as required by Subsection (5)(a)(i); or

(ii) transfers from the General Fund into the Education Fund as required by Subsection (5)(a)(ii).

Section 4. Section 59-12-103 (Effective 07/01/14) is amended to read:

59-12-103 (Effective 07/01/14). Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.

(1) A tax is imposed on the purchaser as provided in this part for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); or

(B) mobile telecommunications service described in Subsection (1)(b)(ii);

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

(i) the tangible personal property; and

(ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations of that tangible personal property;

(h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;

(i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed; and

(m) amounts paid or charged for a sale:

(i) (A) of a product transferred electronically; or

(B) of a repair or renovation of a product transferred electronically; and

(ii) regardless of whether the sale provides:

(A) a right of permanent use of the product; or

(B) a right to use the product that is less than a permanent use, including a right:

(I) for a definite or specified length of time; and

(II) that terminates upon the occurrence of a condition.

(2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax is imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

(A) 4.70%; and

(B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as

determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(i) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed on amounts paid or charged for food and food ingredients equal to the sum of:

(i) a state tax imposed on the amounts paid or charged for food and food ingredients at a tax rate of 1.75%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the amounts paid or charged for food and food ingredients under this chapter other than this part.

(d) (i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

(I) the tax rate described in Subsection (2)(a)(i)(A); and

(II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer

software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(d)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(f) (i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.

(ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

- (i) Subsection (2)(a)(i)(A);
- (ii) Subsection (2)(b)(i);
- (iii) Subsection (2)(c)(i); or
- (iv) Subsection (2)(d)(i)(A)(I).

(h) (i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

- (A) Subsection (2)(a)(i)(A);
- (B) Subsection (2)(b)(i);
- (C) Subsection (2)(c)(i); or
- (D) Subsection (2)(d)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

- (A) Subsection (2)(a)(i)(A);
- (B) Subsection (2)(b)(i);
- (C) Subsection (2)(c)(i); or
- (D) Subsection (2)(d)(i)(A)(I).

(i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

- (A) on the first day of a calendar quarter; and
- (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(i)(i) applies to the tax rates described in the following:

- (A) Subsection (2)(a)(i)(A);
- (B) Subsection (2)(b)(i);
- (C) Subsection (2)(c)(i); or
- (D) Subsection (2)(d)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(3) (a) The following state taxes shall be deposited into the General Fund:

- (i) the tax imposed by Subsection (2)(a)(i)(A);
- (ii) the tax imposed by Subsection (2)(b)(i);
- (iii) the tax imposed by Subsection (2)(c)(i); or
- (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

- (i) the tax imposed by Subsection (2)(a)(ii);
- (ii) the tax imposed by Subsection (2)(b)(ii);
- (iii) the tax imposed by Subsection (2)(c)(ii); and
- (iv) the tax imposed by Subsection (2)(d)(i)(B).

(4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

- (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
- (B) for the fiscal year; or
- (ii) \$17,500,000.

(b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection

(4)(a) shall be transferred each year as dedicated credits to the Department of Natural Resources to:

(A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Department of Natural Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

(d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund

under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than \$1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) \$17,500,000.

(b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as dedicated credits; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as dedicated credits; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 94% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c) and subject to Subsection (5)(f), 6% of the remaining difference described in Subsection (5)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred for employing additional technical staff for the administration of water rights.

(f) At the end of each fiscal year, any unexpended dedicated credits described in Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in the Transportation Fund created by Section 72-2-102.

(7) Notwithstanding Subsection (3)(a), beginning on July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created in Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate on the taxable transactions under Subsection (1).

(8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in Subsection (7), and subject to Subsection (8)(b), for a fiscal year beginning on or after July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124:

(i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of the revenues collected from the following taxes, which represents a portion of the approximately 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

(A) the tax imposed by Subsection (2)(a)(i)(A);

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

(ii) an amount equal to 30% of the growth in the amount of revenues collected in the current fiscal year from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) that exceeds the amount collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) in the 2010-11 fiscal year.

(b) (i) Subject to Subsections (8)(b)(ii) and (iii), in any fiscal year that the portion of the sales and use taxes deposited under Subsection (8)(a) represents an amount that is a total lower percentage of the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) generated in the current fiscal year than the total percentage of sales and use taxes deposited in the previous fiscal year, the Division of Finance shall deposit an amount under Subsection (8)(a) equal to the product of:

(A) the total percentage of sales and use taxes deposited under Subsection (8)(a) in the previous fiscal year; and

(B) the total sales and use tax revenue generated by the taxes described in Subsections (8)(a)(i)(A) through (D) in the current fiscal year.

(ii) In any fiscal year in which the portion of the sales and use taxes deposited under Subsection (8)(a) would exceed 17% of the revenues collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) in the current fiscal year, the Division of Finance shall deposit 17% of the revenues collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) for the current fiscal year under Subsection (8)(a).

(iii) In all subsequent fiscal years after a year in which 17% of the revenues collected from the sales and use taxes described in Subsections (8)(a)(i)(A)

through (D) was deposited under Subsection (8)(a), the Division of Finance shall annually deposit 17% of the revenues collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) in the current fiscal year under Subsection (8)(a).

(9) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (7) and (8), for a fiscal year beginning on or after July 1, 2012, the Division of Finance shall annually deposit \$90,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section 72-2-124.

(10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

(11) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (11)(b), and in addition to any amounts deposited under Subsections (7), (8), and (9), beginning on July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .025% tax rate on the transactions described in Subsection (1).

(b) For purposes of Subsection (11)(a), the Division of Finance may not deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients described in Subsection (2)(d).

(12) (a) Notwithstanding Subsection (3)(a), and except as provided in Subsection (12)(b), beginning on January 1, 2009, the Division of Finance shall deposit into the Transportation Fund created by Section 72-2-102 the amount of tax revenue generated by a .025% tax rate on the transactions described in Subsection (1) to be expended to address chokepoints in construction management.

(b) For purposes of Subsection (12)(a), the Division of Finance may not deposit into the Transportation Fund any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients described in Subsection (2)(d).

(13) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the Division of Finance receives notice under Subsection 63M-1-3410(3) that construction on a qualified hotel, as defined in Section 63M-1-3402, has begun, the Division of Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue

generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63M-1-3412.

[~~(13)~~] (14) Notwithstanding Subsections (4) through [~~(12)~~] (13), an amount required to be expended or deposited in accordance with Subsections (4) through [~~(12)~~] (13) may not include an amount the Division of Finance deposits in accordance with Section 59-12-103.2.

Section 5. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63M.

(1) Section 63A-4-204, authorizing the Risk Management Fund to provide coverage to any public school district which chooses to participate, is repealed July 1, 2016.

(2) Subsections 63A-5-104(4)(d) and (e) are repealed on July 1, 2014.

(3) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2016.

(4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2018.

(5) Section 53B-24-402, rural residency training program, is repealed July 1, 2015.

(6) Title 63C, Chapter 13, Prison Relocation and Development Authority Act, is repealed July 1, 2014.

(7) Title 63C, Chapter 14, Federal Funds Commission, is repealed July 1, 2018.

(8) Subsection 63G-6a-1402(7) authorizing certain transportation agencies to award a contract for a design-build transportation project in certain circumstances, is repealed July 1, 2015.

(9) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.

(10) The Resource Development Coordinating Committee, created in Section 63J-4-501, is repealed July 1, 2015.

(11) Title 63M, Chapter 1, Part 4, Enterprise Zone Act, is repealed July 1, 2018.

(12) (a) Title 63M, Chapter 1, Part 11, Recycling Market Development Zone Act, is repealed January 1, 2021.

(b) Subject to Subsection (12)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections (12)(b) and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.

(13) Section 63M-1-3412 is repealed on July 1, 2021.

~~[(43)]~~ (14) (a) Section 63M-1-2507, Health Care Compact, is repealed on July 1, 2014.

(b) (i) The Legislature shall, before reauthorizing the Health Care Compact:

(A) direct the Health System Reform Task Force to evaluate the issues listed in Subsection ~~[(13)]~~ (14)(b)(ii), and by January 1, 2013, develop and recommend criteria for the Legislature to use to negotiate the terms of the Health Care Compact; and

(B) prior to July 1, 2014, seek amendments to the Health Care Compact among the member states that the Legislature determines are appropriate after considering the recommendations of the Health System Reform Task Force.

(ii) The Health System Reform Task Force shall evaluate and develop criteria for the Legislature regarding:

(A) the impact of the Supreme Court ruling on the Affordable Care Act;

(B) whether Utah is likely to be required to implement any part of the Affordable Care Act prior to negotiating the compact with the federal government, such as Medicaid expansion in 2014;

(C) whether the compact's current funding formula, based on adjusted 2010 state expenditures, is the best formula for Utah and other state compact members to use for establishing the block grants from the federal government;

(D) whether the compact's calculation of current year inflation adjustment factor, without consideration of the regional medical inflation rate in the current year, is adequate to protect the state from increased costs associated with administering a state based Medicaid and a state based Medicare program;

(E) whether the state has the flexibility it needs under the compact to implement and fund state based initiatives, or whether the compact requires uniformity across member states that does not benefit Utah;

(F) whether the state has the option under the compact to refuse to take over the federal Medicare program;

(G) whether a state based Medicare program would provide better benefits to the elderly and disabled citizens of the state than a federally run Medicare program;

(H) whether the state has the infrastructure necessary to implement and administer a better state based Medicare program;

(I) whether the compact appropriately delegates policy decisions between the legislative and executive branches of government regarding the development and implementation of the compact with other states and the federal government; and

(J) the impact on public health activities, including communicable disease surveillance and epidemiology.

~~[(14)]~~ (15) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2017.

~~[(45)]~~ (16) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2017.

Section 6. Section 63M-1-1403 is amended to read:

63M-1-1403. Board duties.

(1) The board shall:

(a) have authority to approve a tourism program of out-of-state advertising, marketing, and branding, taking into account the long-term strategic plan, economic trends, and opportunities for tourism development on a statewide basis, as a condition of the distribution of funds to the office from the Tourism Marketing Performance Account under Section 63M-1-1406;

(b) have authority to approve a tourism program of advertising, marketing, and branding of the state, taking into account the long-term strategic plan, economic trends, and opportunities for tourism development on a statewide basis, as a condition of the distribution of money to the office from the Stay Another Day and Bounce Back Account, created in Section 63M-1-3411;

~~[(b)]~~ (c) review the office programs for coordination and integration of advertising and branding themes to be used whenever possible in all office programs, including recreational, scenic, historic, and tourist attractions of the state at large;

~~[(e)]~~ (d) encourage and assist in coordination of the activities of persons, firms, associations, corporations, civic groups, and governmental agencies engaged in publicizing, developing, and promoting the scenic attractions and tourist advantages of the state; and

~~[(d)]~~ (e) (i) advise the office in establishing a Cooperative Program from the money in the Tourism Marketing Performance Account under Section 63M-1-1406 for use by cities, counties, nonprofit destination marketing organizations, and similar public entities for the purpose of

supplementing money committed by these entities for advertising and promotion to and for out-of-state residents to attract them to visit sites advertised by and attend events sponsored by these entities;

(ii) the Cooperative Program shall be allocated 20% of the revenues appropriated to the office from the Tourism Marketing Performance Account;

(iii) the office, with approval from the board, shall establish eligibility, advertising, and timing requirements and criteria and provide for an approval process for applications;

(iv) an application from an eligible applicant to receive money from the Cooperative Program must be submitted on or before the appropriate date established by the office; and

(v) Cooperative Program money not used in each fiscal year shall be returned to the Tourism Marketing Performance Account.

(2) The board may:

(a) solicit and accept contributions of money, services, and facilities from any other sources, public or private and shall use these funds for promoting the general interest of the state in tourism; and

(b) establish subcommittees for the purpose of assisting the board in an advisory role only.

(3) The board may not, except as otherwise provided in Subsection (1)(a), make policy related to the management or operation of the office.

Section 7. Section 63M-1-3401 is enacted to read:

Part 34. New Convention Facility Development Incentive Act

63M-1-3401. Title.

This part is known as the "New Convention Facility Development Incentive Act."

Section 8. Section 63M-1-3402 is enacted to read:

63M-1-3402. Definitions.

As used in this part:

(1) "Agreement" means an agreement described in Section 63M-1-3403.

(2) "Commission" means the Utah State Tax Commission.

(3) "Community development and renewal agency" has the same meaning as defined in Section 17C-1-102.

(4) "Eligibility period" means:

(a) the period that:

(i) begins the date construction of a qualified hotel begins; and

(ii) ends:

(A) for purposes of the state portion, 20 years after the date of initial occupancy of that qualified hotel; or

(B) for purposes of the local portion, 25 years after the date of initial occupancy of that hotel; or

(b) as provided in an agreement between the office and a qualified hotel owner or host local government, a period that:

(i) begins no earlier than the date construction of a qualified hotel begins; and

(ii) is shorter than the period described in Subsection (4)(a).

(5) "Endorsement letter" means a letter:

(a) from the county in which a qualified hotel is located or is proposed to be located;

(b) signed by the county executive; and

(c) expressing the county's endorsement of a developer of a qualified hotel as meeting all the county's criteria for receiving the county's endorsement.

(6) "Host agency" means the community development and renewal agency of the host local government.

(7) "Host local government" means:

(a) a county that enters into an agreement with the office for the construction of a qualified hotel within the unincorporated area of the county; or

(b) a city or town that enters into an agreement with the office for the construction of a qualified hotel within the boundary of the city or town.

(8) "Hotel property" means a qualified hotel and any property that is included in the same development as the qualified hotel, including convention, exhibit, and meeting space, retail shops, restaurants, parking, and other ancillary facilities and amenities.

(9) "Incremental property tax revenue" means the amount of property tax revenue generated from hotel property that equals the difference between:

(a) the amount of property tax revenue generated in any tax year by all taxing entities from hotel property, using the current assessed value of the hotel property; and

(b) the amount of property tax revenue that would be generated that tax year by all taxing entities from hotel property, using a base taxable value of the hotel property as established by the county in which the hotel property is located.

(10) "Local portion" means:

(a) the portion of new tax revenue that is not the state portion; and

(b) incremental property tax revenue.

(11) "New tax revenue" means:

(a) all new revenue generated from a tax under Title 59, Chapter 12, Sales and Use Tax Act, on transactions occurring during the eligibility period

as a result of the construction of the hotel property, including purchases made by a qualified hotel owner and its subcontractors;

(b) all new revenue generated from a tax under Title 59, Chapter 12, Sales and Use Tax Act, on transactions occurring on hotel property during the eligibility period; and

(c) all new revenue generated from a tax under Title 59, Chapter 12, Sales and Use Tax Act, on transactions by a third-party seller occurring other than on hotel property during the eligibility period, if:

(i) the transaction is subject to a tax under Title 59, Chapter 12, Sales and Use Tax Act; and

(ii) the third-party seller voluntarily consents to the disclosure of information to the office, as provided in Subsection 63M-1-3405(1)(b)(i)(E).

(12) "Public infrastructure" means:

(a) water, sewer, storm drainage, electrical, telecommunications, and other similar systems and lines;

(b) streets, roads, curbs, gutters, sidewalks, walkways, parking facilities, and public transportation facilities; and

(c) other buildings, facilities, infrastructure, and improvements that benefit the public.

(13) "Qualified hotel" means a full-service hotel development constructed in the state on or after July 1, 2014 that:

(a) requires a significant capital investment;

(b) includes at least 85 square feet of convention, exhibit, and meeting space per guest room; and

(c) is located within 1,000 feet of a convention center that contains at least 500,000 square feet of convention, exhibit, and meeting space.

(14) "Qualified hotel owner" means a person who owns a qualified hotel.

(15) "Review committee" means the independent review committee established under Section 63M-1-3404.

(16) "Significant capital investment" means an amount of at least \$200,000,000.

(17) "State portion" means the portion of new tax revenue that is attributable to a tax imposed under Subsection 59-12-103(2)(a)(i)(A).

(18) "Tax credit" means a tax credit under Section 59-7-616 or 59-10-1110.

(19) "Tax credit applicant" means a qualified hotel owner or host local government that:

(a) has entered into an agreement with the office; and

(b) pursuant to that agreement, submits an application for the issuance of a tax credit certificate.

(20) "Tax credit certificate" means a certificate issued by the office that includes:

(a) the name of the tax credit recipient;

(b) the tax credit recipient's taxpayer identification number;

(c) the amount of the tax credit authorized under this part for a taxable year; and

(d) other information as determined by the office.

(21) "Tax credit recipient" means a tax credit applicant that has been issued a tax credit certificate.

(22) "Third-party seller" means a person who is a seller in a transaction:

(a) occurring other than on hotel property;

(b) that is:

(i) the sale, rental, or lease of a room or of convention or exhibit space or other facilities on hotel property; or

(ii) the sale of tangible personal property or a service that is part of a bundled transaction, as defined in Section 59-12-102, with a sale, rental, or lease described in Subsection (22)(b)(i); and

(c) that is subject to a tax under Title 59, Chapter 12, Sales and Use Tax Act.

Section 9. Section 63M-1-3403 is enacted to read:

63M-1-3403. Agreement for development of new convention hotel -- Tax credit authorized -- Agreement requirements.

(1) The office, with the board's advice, may enter into an agreement with a qualified hotel owner or a host local government:

(a) for the development of a qualified hotel; and

(b) to authorize a tax credit:

(i) to the qualified hotel owner or host local government, but not both;

(ii) for a period not to exceed the eligibility period;

(iii) if:

(A) the county in which the qualified hotel is proposed to be located has issued an endorsement letter endorsing the qualified hotel owner; and

(B) all applicable requirements of this part and the agreement are met; and

(iv) that is reduced by \$1,900,000 per year during the first two years of the eligibility period, as described in Subsection (2)(c).

(2) An agreement shall:

(a) specify the requirements for a tax credit recipient to qualify for a tax credit;

(b) require compliance with the terms of the endorsement letter issued by the county in which the qualified hotel is proposed to be located;

(c) require the amount of a tax credit listed in a tax credit certificate issued during the first two years of the eligibility period to be reduced by \$1,900,000 per year;

(d) with respect to the state portion of any tax credit that the tax credit recipient may receive during the eligibility period:

(i) specify the maximum dollar amount that the tax credit recipient may receive, subject to a maximum of:

(A) for any taxable year, the amount of the state portion of new tax revenue in that taxable year; and

(B) \$75,000,000 in the aggregate for any tax credit recipient during an eligibility period, calculated as though the two \$1,900,000 reductions of the tax credit amount under Subsection (1)(b)(iv) had not occurred; and

(ii) specify the maximum percentage of the state portion of new tax revenue that may be used in calculating a tax credit that a tax credit recipient may receive during the eligibility period for each taxable year and in the aggregate;

(e) establish a shorter period of time than the period described in Subsection 63M-1-3402(5)(a) during which the tax credit recipient may claim a tax credit or that the host agency may be paid incremental property tax revenue, if the office and qualified hotel owner or host local government agree to a shorter period of time;

(f) require the tax credit recipient to retain books and records supporting a claim for a tax credit as required by Section 59-1-1406;

(g) allow the transfer of the agreement to a third party if the third party assumes all liabilities and responsibilities in the agreement;

(h) limit the expenditure of funds received under a tax credit as provided in Section 63M-1-3412; and

(i) require the tax credit recipient to submit to any audit the office considers appropriate for verification of any tax credit or claimed tax credit.

Section 10. Section 63M-1-3404 is enacted to read:

63M-1-3404. Independent review committee.

(1) In accordance with rules adopted by the office under Section 63M-1-3408, the board shall establish a separate, independent review committee to:

(a) review each initial tax credit application submitted under this part for compliance with the requirements of this part and the agreement; and

(b) consult with the office, as provided in this part.

(2) The review committee shall consist of:

(a) one member appointed by the director to represent the office;

(b) two members appointed by the mayor or chief executive of the county in which the qualified hotel is located or proposed to be located;

(c) two members appointed by:

(i) the mayor of the municipality in which the qualified hotel is located or proposed to be located, if the qualified hotel is located or proposed to be located within the boundary of a municipality; or

(ii) the mayor or chief executive of the county in which the qualified hotel is located or proposed to be located, in addition to the two members appointed under Subsection (2)(b), if the qualified hotel is located or proposed to be located outside the boundary of a municipality;

(d) an individual representing the hotel industry, appointed by the Utah Hotel and Lodging Association;

(e) an individual representing the commercial development and construction industry, appointed by the president or chief executive officer of the local chamber of commerce;

(f) an individual representing the convention and meeting planners industry, appointed by the president or chief executive officer of the local convention and visitors bureau; and

(g) one member appointed by the board.

(3) (a) A member serves an indeterminate term and may be removed from the review committee by the appointing authority at any time.

(b) A vacancy may be filled in the same manner as an appointment under Subsection (2).

(4) A member of the review committee may not be paid for serving on the review committee and may not receive per diem or expense reimbursement.

(5) The office shall provide any necessary staff support to the review committee.

Section 11. Section 63M-1-3405 is enacted to read:

63M-1-3405. Submission of written application for tax credit certificate -- Disclosure of tax returns and other information -- Determination of tax credit application.

(1) For each taxable year for which a tax credit applicant seeks the issuance of a tax credit certificate, the tax credit applicant shall submit to the office:

(a) a written application for a tax credit certificate;

(b) (i) for an application submitted by a qualified hotel owner:

(A) a certification by the individual signing the application that the individual is duly authorized to sign the application on behalf of the qualified hotel owner;

(B) documentation of the new tax revenue generated during the preceding year;

(C) a document in which the qualified hotel owner expressly directs and authorizes the commission to disclose to the office the qualified hotel owner's tax returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code;

(D) a document in which the qualified hotel's direct vendors, lessees, or subcontractors, as applicable, expressly direct and authorize the commission to disclose to the office the tax returns and other information of those vendors, lessees, or subcontractors that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code;

(E) a document in which a third-party seller expressly and voluntarily directs and authorizes the commission to disclose to the office the third-party seller's tax returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code; and

(F) documentation verifying that the qualified hotel owner is in compliance with the terms of the agreement;

(ii) for an application submitted by a host local government, documentation of the new tax revenue generated during the preceding year;

(c) if the host local government intends to assign the tax credit sought in the tax credit application to a community development and renewal agency:

(i) the taxpayer identification number of the community development and renewal agency; and

(ii) a document signed by the governing body members of the community development and renewal agency that expressly directs and authorizes the commission to disclose to the office the agency's tax returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code; and

(d) a statement provided by an independent certified public accountant, at the tax credit applicant's expense, attesting to the accuracy of the documentation of new tax revenue.

(2) (a) The office shall submit to the commission the documents described in Subsections (1)(b)(i)(C), (D), and (E) and (1)(c)(ii) authorizing disclosure of the tax returns and other information.

(b) Upon receipt of the documents described in Subsection (2)(a), the commission shall provide to the office the tax returns and other information described in those documents.

(3) If the office determines that the tax returns and other information is inadequate to validate the issuance of a tax credit certificate, the office shall inform the tax credit applicant that the tax returns and other information were inadequate and request the tax credit applicant to submit additional

documentation to validate the issuance of a tax credit certificate.

(4) If the office determines that the returns and other information, including any additional documentation provided under Subsection (3), provide reasonable justification for the issuance of a tax credit certificate, the office shall:

(a) determine the amount of the tax credit to be listed on the tax credit certificate;

(b) issue a tax credit certificate to the tax credit applicant for the amount of that tax credit; and

(c) provide a copy of the tax credit certificate to the commission.

Section 12. Section 63M-1-3406 is enacted to read:

63M-1-3406. Effect of tax credit certificate -- Retaining tax credit certificate.

(1) A person may not claim a tax credit unless the office has issued the person a tax credit certificate.

(2) A tax credit recipient may claim a tax credit in the amount of the tax credit stated in a tax credit certificate.

(3) A tax credit recipient shall retain the tax credit certificate in accordance with the requirements of Section 59-1-1406 for retaining books and records.

(4) The amount of a tax credit indicated on a tax credit certificate issued during the eligibility period may not exceed the amount of eligible new tax revenue generated during the taxable year preceding the taxable year for which the tax credit certificate is issued.

Section 13. Section 63M-1-3407 is enacted to read:

63M-1-3407. Assigning tax credit.

(1) A host local government that enters into an agreement with the office may, by resolution, assign a tax credit to a community development and renewal agency, in accordance with rules adopted by the office.

(2) A host local government that adopts a resolution assigning a tax credit under Subsection (1) shall provide a copy of the resolution to the office and the commission.

Section 14. Section 63M-1-3408 is enacted to read:

63M-1-3408. Payment of incremental property tax revenue.

(1) (a) In accordance with rules adopted by the office, a host agency shall be paid incremental property tax revenue during the eligibility period.

(b) Incremental property tax revenue may be used only for:

(i) the purchase of or payment for, or reimbursement of a previous purchase of or payment for:

(A) tangible personal property used in the construction of convention, exhibit, or meeting space on hotel property;

(B) tangible personal property that, upon the construction of hotel property, becomes affixed to hotel property as real property; or

(C) any labor and overhead costs associated with the construction described in Subsections (1)(b)(i)(A) and (B);

(ii) public infrastructure; and

(iii) other purposes as approved by the host agency.

(2) A county that collects property tax on hotel property during the eligibility period shall pay and distribute to the host agency the incremental property tax revenue that the host agency is entitled to collect under Subsection (1), in the manner and at the time provided in Section 59-2-1365.

Section 15. Section 63M-1-3409 is enacted to read:

63M-1-3409. Rulemaking authority -- Requirements for rules.

(1) The office shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to carry out its responsibilities under this part and to implement the provisions of this part.

(2) The rules the office makes under Subsection (1) shall:

(a) establish, consistent with this part, the conditions that a tax credit applicant is required to meet to qualify for a tax credit;

(b) require that a significant capital investment be made in the development of the hotel property;

(c) require a tax credit applicant to meet all applicable requirements in order to receive a tax credit certificate;

(d) require that a qualified hotel owner meet the county's requirements to receive an endorsement letter; and

(e) provide for the establishment of an independent review committee, in accordance with the requirements of Section 63M-1-3404.

Section 16. Section 63M-1-3410 is enacted to read:

63M-1-3410. Report by office -- Posting of report.

(1) Before November 1 of each year, the office shall submit a written report to the Economic Development and Workforce Services Interim Committee of the Legislature, the Governor's Office of Management and Budget, and the Office of the Legislative Fiscal Analyst describing:

(a) the state's success in attracting new conventions and corresponding new state revenue;

(b) the estimated amount of tax credit commitments and the associated calculation made by the office and the period of time over which tax credits are expected to be paid;

(c) the economic impact on the state related to generating new state revenue and providing tax credits; and

(d) the estimated and actual costs and economic benefits of the tax credit commitments that the office made.

(2) The office shall post the annual report under Subsection (1) on its website and on a state website.

(3) Upon the commencement of the construction of a qualified hotel, the office shall send a written notice to the Division of Finance:

(a) referring to the two annual deposits required under Subsection 59-12-103(14); and

(b) notifying the Division of Finance that construction on the qualified hotel has begun.

Section 17. Section 63M-1-3411 is enacted to read:

63M-1-3411. Stay Another Day and Bounce Back Fund.

(1) As used in this section:

(a) "Bounce back fund" means the Stay Another Day and Bounce Back Fund, created in Subsection (2).

(b) "Tourism board" means the Board of Tourism Development created in Section 63M-1-1401.

(2) There is created an expendable special revenue fund known as the Stay Another Day and Bounce Back Fund.

(3) The bounce back fund shall:

(a) be administered by the tourism board;

(b) earn interest; and

(c) be funded by:

(i) annual payments under Section 17-31-9 from the county in which a qualified hotel is located;

(ii) money transferred to the bounce back fund under Section 63M-1-3412; and

(iii) any money that the Legislature chooses to appropriate to the bounce back fund.

(4) Interest earned by the bounce back fund shall be deposited into the bounce back fund.

(5) The tourism board may use money in the bounce back fund to pay for a tourism program of advertising, marketing, and branding of the state, taking into consideration the long-term strategic plan, economic trends, and opportunities for tourism development on a statewide basis.

Section 18. Section 63M-1-3412 is enacted to read:

63M-1-3412. Hotel Impact Mitigation Fund.

(1) As used in this section:

(a) “Affected hotel” means a hotel built in the state before July 1, 2014.

(b) “Direct losses” means affected hotels’ losses of hotel guest business attributable to the qualified hotel room supply being added to the market in the state.

(c) “Mitigation fund” means the Hotel Impact Mitigation Fund, created in Subsection (2).

(2) There is created an expendable special revenue fund known as the Hotel Impact Mitigation Fund.

(3) The mitigation fund shall:

(a) be administered by the board;

(b) earn interest; and

(c) be funded by:

(i) payments required to be deposited into the mitigation fund by the Division of Finance under Subsection 59-12-103(14);

(ii) money required to be deposited into the mitigation fund under Subsection 17-31-9(2) by the county in which a qualified hotel is located; and

(iii) any money deposited into the mitigation fund under Subsection (6).

(4) Interest earned by the mitigation fund shall be deposited into the mitigation fund.

(5) (a) In accordance with office rules, the board shall annually pay up to \$2,100,000 of money in the mitigation fund:

(i) to affected hotels;

(ii) for four consecutive years, beginning 12 months after the date of initial occupancy of the qualified hotel occurs; and

(iii) to mitigate direct losses.

(b) (i) If the amount the board pays under Subsection (5)(a) in any year is less than \$2,100,000, the board shall pay to the Stay Another Day and Bounce Back Fund, created in Section 63M-1-3411, the difference between \$2,100,000 and the amount paid under Subsection (5)(a).

(ii) The board shall make any required payment under Subsection (5)(b)(i) within 90 days after the end of the year for which a determination is made of how much the board is required to pay to affected hotels under Subsection (5)(a).

(6) A host local government or qualified hotel owner may make payments to the Division of Finance for deposit into the mitigation fund.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall, in consultation with the Utah Hotel and Lodging Association and the county in which the qualified hotel is located, make rules establishing procedures and criteria governing payments under Subsection (5)(a) to affected hotels.

Section 19. Section 63M-1-3413 is enacted to read:

63M-1-3413. Authorized expenditures of tax credit money.

(1) A tax credit recipient may spend money received as a direct result of the state portion of a tax credit only for the purchase of or payment for, or reimbursement of a previous purchase of or payment for:

(a) tangible personal property used in the construction of convention, exhibit, or meeting space on hotel property;

(b) tangible personal property that, upon the construction of hotel property, becomes affixed to hotel property as real property; or

(c) any labor and overhead costs associated with the construction described in Subsections (1)(a) and (b).

(2) A tax credit recipient may spend money received as a direct result of the local portion of a tax credit only for:

(a) a purpose described in Subsection (1);

(b) public infrastructure; and

(c) other purposes as approved by the host agency.

Section 20. Effective date.

(1) Except as provided in Subsections (2) and (3), this bill takes effect May 13, 2014.

(2) Sections 59-7-616 and 59-10-1110 take effect for a taxable year beginning on or after January 1, 2015.

(3) The amendments to Section 59-12-103 (Effective 07/01/14) take effect on July 1, 2014.

CHAPTER 430**H. B. 357**

Passed March 11, 2014

(Passed into law without governor's signature)

Effective May 13, 2014

BUDGETARY AMENDMENTS

Chief Sponsor: Ronda Rudd Menlove

Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill amends provisions relating to budgeting requirements.

Highlighted Provisions:

This bill:

- ▶ amends provisions regarding the powers, functions, and duties of the Office of Legislative Fiscal Analyst regarding the appropriations process;
- ▶ requires the Governor's Office of Management and Budget to provide to the Office of Legislative Fiscal Analyst certain information, data, analysis, or requests used by the governor in preparing the governor's budget recommendations;
- ▶ repeals provisions regarding certain inclusions and recommendations in the governor's budget;
- ▶ repeals provisions requiring the Legislature to consider in the appropriations process:
 - wage increases for certain entities; and
 - amounts sufficient to fund the Utah Comprehensive Health Insurance Pool;
- ▶ repeals provisions regarding procedures for recommending, requesting, and conducting a single in-depth budget review and makes in-depth budget reviews part of the regular budget process;
- ▶ requires certain inclusions in the revenue volatility report submitted by the Office of Legislative Fiscal Analyst and the Governor's Office of Management and Budget; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

36-12-13, as last amended by Laws of Utah 2013, Chapter 190

51-5-7, as last amended by Laws of Utah 2013, Chapter 400

63J-1-201, as last amended by Laws of Utah 2013, Chapters 158, 167, and 413

63J-1-205, as last amended by Laws of Utah 2013, Chapters 310 and 346

REPEALS:

63J-1-201.7, as last amended by Laws of Utah 2012, Chapters 242 and 341

63J-1-701, as last amended by Laws of Utah 2013, Chapter 310

63J-1-702, as last amended by Laws of Utah 2013, Chapter 310

63J-1-703, as renumbered and amended by Laws of Utah 2009, Chapter 183

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 36-12-13 is amended to read:**36-12-13. Office of Legislative Fiscal Analyst established -- Powers, functions, and duties -- Qualifications.**

(1) There is established an Office of Legislative Fiscal Analyst as a permanent staff office for the Legislature.

(2) The powers, functions, and duties of the Office of Legislative Fiscal Analyst under the supervision of the fiscal analyst are:

(a) to analyze in detail the [executive] state budget before the convening of each legislative session and make recommendations to the Legislature on each item or program appearing in the [executive] budget[;], including:

(i) funding for and performance of programs, acquisitions, and services currently undertaken by state government to determine whether each department, agency, institution, or program should:

(A) continue at its current level of expenditure;

(B) continue at a different level of expenditure; or

(C) be terminated; and

(ii) increases or decreases to spending authority and other resource allocations for the current and future fiscal years;

(b) to prepare cost estimates on all proposed bills that anticipate state government expenditures;

(c) to prepare cost estimates on all proposed bills that anticipate expenditures by county, municipal, local district, or special service district governments;

(d) to prepare cost estimates on all proposed bills that anticipate direct expenditures by any Utah resident or business, and the cost to the overall impacted Utah resident or business population;

(e) to prepare a review and analysis of revenue estimates for existing and proposed revenue acts;

(f) to report instances in which the administration may be failing to carry out the expressed intent of the Legislature;

~~[(g) to direct attention to each new proposed service contained in the governor's budget;]~~

~~[(h) to direct attention to each budget item previously denied by the Legislature;]~~

(i) [(g)] (g) to propose and analyze statutory changes for more effective operational economies or more effective administration;

(j) [(j)] (h) to prepare, after each session of the Legislature, a summary showing the effect of the final legislative program on the financial condition of the state;

~~[(k)]~~ (i) to conduct organizational and management improvement studies;

~~(4)~~ (j) to prepare and deliver upon request of any interim committee or the Legislative Management Committee, reports on the finances of the state and on anticipated or proposed requests for appropriations;

~~(4)~~ (k) to recommend areas for research studies by the executive department or the interim committees;

~~(n) to assist in prescribing the format for the presentation of the governor's budget to facilitate program and in-depth review of state expenditures in accordance with Sections 63J-1-701 and 63J-1-702;~~

~~(o) to recommend to the appropriations subcommittees the agencies or programs for which an in-depth budget review should be requested, and to recommend to the Legislative Management Committee the priority in which the request should be made;~~

~~(p)~~ (l) to appoint and develop a professional staff within budget limitations;

~~(q)~~ (m) to prepare and submit the annual budget request for the office;

~~(r)~~ (n) to develop a taxpayer receipt:

(i) available to taxpayers through a website; and

(ii) that allows a taxpayer to view on the website an estimate of how the taxpayer's tax dollars are expended for government purposes; and

~~(s)~~ (o) to publish or provide other information on taxation and government expenditures that may be accessed by the public.

~~(3) (a) In accordance with Subsection (3)(b) and subject to Subsection (3)(c), the Office of Legislative Fiscal Analyst shall submit an annual report to the Executive Appropriations Committee of the Legislature, at the committee's November meeting, on funds expended by the state during the preceding state fiscal year to provide financial assistance or services to low-income individuals and families.~~

~~(b) The report described in Subsection (3)(a) shall:~~

~~(i) separate the funds expended into categories by program, service, or population served;~~

~~(ii) indicate whether the expended funds described in Subsection (3)(a) are state or federal funds; and~~

~~(iii) include a total of all state funds and federal funds expended by the state in the preceding fiscal year to provide financial assistance or services to low-income individuals and families.~~

~~(c) If the Executive Appropriations Committee of the Legislature does not meet in November, the Office of Legislative Fiscal Analyst shall submit the report described in Subsection (3)(a) at the committee's next meeting.~~

~~(4)~~ (3) The legislative fiscal analyst shall have a master's degree in public administration, political

science, economics, accounting, or the equivalent in academic or practical experience.

~~(5)~~ (4) In carrying out the duties provided for in this section, the legislative fiscal analyst may obtain access to all records, documents, and reports necessary to the scope of the legislative fiscal analyst's duties according to the procedures contained in Title 36, Chapter 14, Legislative Subpoena Powers.

Section 2. Section 51-5-7 is amended to read:

51-5-7. Revenues and other resources of governmental funds subject to legislative review and appropriation.

~~(1) (a) Except as provided in Subsection (1)(b),~~ (a) The revenues and other resources of the governmental funds are subject to legislative review and appropriation for each fiscal period.

~~(b) Expendable Special Revenue Funds are subject to legislative review for each fiscal period.~~

~~(2) Notwithstanding the source of the revenues and the restrictions imposed upon the expenditure of the revenues, the planned expenditures for the governmental funds, except Expendable Special Revenue Funds, shall be incorporated into the governor's budget and submitted to the Legislature according to Section 63J-1-201.~~

~~(3) Expenses required in the administrative activities of the Expendable Special Revenue Funds, the Enterprise Funds, the Internal Service Funds, and the Trust and Agency Funds are subject to legislative review each year.~~

~~(a) Pro forma financial statements, including balance sheets, revenue and expenditure statements, statements of changes in financial position, and other statements that may be required for these funds shall be included in the governor's budget as information items and submitted to the Legislature according to Section 63J-1-201.~~

~~(b) If the operating results of any of these funds demonstrate that an appropriation is needed from any other fund or subfund, that appropriation shall be included in the governor's budget as a budget request.~~

Section 3. Section 63J-1-201 is amended to read:

63J-1-201. Governor's proposed budget to Legislature -- Contents -- Preparation -- Appropriations based on current tax laws and not to exceed estimated revenues.

(1) The governor shall deliver, not later than 30 days before the date the Legislature convenes in the annual general session, a confidential draft copy of the governor's proposed budget recommendations to the Office of the Legislative Fiscal Analyst according to the requirements of this section.

(2) (a) When submitting a proposed budget, the governor shall, within the first three days of the annual general session of the Legislature, submit to the presiding officer of each house of the Legislature:

- (i) a proposed budget for the ensuing fiscal year;
- (ii) a schedule for all of the proposed changes to appropriations in the proposed budget, with each change clearly itemized and classified; and
- (iii) as applicable, a document showing proposed changes in estimated revenues that are based on changes in state tax laws or rates.
- (b) The proposed budget shall include:
- (i) a projection of the total estimated revenues, including estimated receipts of federal funds, and appropriations for the next fiscal year;
- (ii) the source of changes to all direct, indirect, and in-kind matching funds for all federal grants or assistance programs included in the budget;
- (iii) a plan of proposed changes to appropriations and estimated revenues for the next fiscal year that is based upon the current fiscal year state tax laws and rates and considers projected changes in federal grants or assistance programs included in the budget;
- (iv) an itemized estimate of the proposed changes to appropriations for:
- (A) the Legislative Department as certified to the governor by the president of the Senate and the speaker of the House;
- (B) the Executive Department;
- (C) the Judicial Department as certified to the governor by the state court administrator;
- (D) changes to salaries payable by the state under the Utah Constitution or under law for lease agreements planned for the next fiscal year; and
- (E) all other changes to ongoing or one-time appropriations, including dedicated credits, restricted funds, nonlapsing balances, grants, and federal funds;
- (v) for each line item, the average annual dollar amount of staff funding associated with all positions that were vacant during the last fiscal year;
- (vi) deficits or anticipated deficits;
- (vii) the recommendations for each state agency for new full-time employees for the next fiscal year, which shall also be provided to the State Building Board as required by Subsection 63A-5-103(2);
- (viii) any explanation that the governor may desire to make as to the important features of the budget and any suggestion as to methods for the reduction of expenditures or increase of the state's revenue; and
- (ix) information detailing certain fee increases as required by Section 63J-1-504.
- (3) For the purpose of preparing and reporting the proposed budget:
- (a) The governor shall require the proper state officials, including all public and higher education officials, all heads of executive and administrative

departments and state institutions, bureaus, boards, commissions, and agencies expending or supervising the expenditure of the state money, and all institutions applying for state money and appropriations, to provide itemized estimates of changes in revenues and appropriations.

(b) The governor may require the persons and entities subject to Subsection (3)(a) to provide other information under these guidelines and at times as the governor may direct, which may include a requirement for program productivity and performance measures, where appropriate, with emphasis on outcome indicators.

(c) The governor may require representatives of public and higher education, state departments and institutions, and other institutions or individuals applying for state appropriations to attend budget meetings.

~~[(4) In submitting the budgets for the Departments of Health and Human Services and the Office of the Attorney General, the governor shall consider a separate recommendation in the governor's budget for changes in funds to be contracted to:]~~

~~[(a) local mental health authorities under Section 62A-15-110;]~~

~~[(b) local substance abuse authorities under Section 62A-15-110;]~~

~~[(c) area agencies under Section 62A-3-104.2;]~~

~~[(d) programs administered directly by and for operation of the Divisions of Substance Abuse and Mental Health and Aging and Adult Services;]~~

~~[(e) local health departments under Title 26A, Chapter 1, Local Health Departments; and]~~

~~[(f) counties for the operation of Children's Justice Centers under Section 67-5b-102.]~~

~~[(5) (a) In making budget recommendations, the governor shall consider an amount sufficient to grant the following entities the same percentage increase for wages and benefits that the governor includes in the governor's budget for persons employed by the state:]~~

~~[(i) local health departments, local mental health authorities, local substance abuse authorities, and area agencies;]~~

~~[(ii) local conservation districts and Utah Association of Conservation District employees, as related to the budget for the Department of Agriculture; and]~~

~~[(iii) employees of corporations that provide direct services under contract with:]~~

~~[(A) the Utah State Office of Rehabilitation and the Division of Services for People with Disabilities;]~~

~~[(B) the Division of Child and Family Services; and]~~

~~[(C) the Division of Juvenile Justice Services within the Department of Human Services.]~~

~~[(b) If the governor does not include in the governor's budget an amount sufficient to grant an increase for any entity described in Subsection (5)(a), the governor shall include a message to the Legislature regarding the governor's reason for not including that amount.]~~

~~[(6) The governor shall include in the governor's budget the state's portion of the budget for the Utah Communications Agency Network established in Title 63C, Chapter 7, Utah Communications Agency Network Act.]~~

~~[(7) (a) The governor shall include a separate recommendation in the governor's budget for funds to maintain the operation and administration of the Utah Comprehensive Health Insurance Pool. In making the recommendation, the governor may consider:]~~

~~[(i) actuarial analysis of growth or decline in enrollment projected over a period of at least three years;]~~

~~[(ii) actuarial analysis of the medical and pharmacy claims costs projected over a period of at least three years;]~~

~~[(iii) the annual Medical Care Consumer Price Index;]~~

~~[(iv) the annual base budget for the pool established by the Business, Economic Development, and Labor Appropriations Subcommittee for each fiscal year;]~~

~~[(v) the growth or decline in insurance premium taxes and fees collected by the State Tax Commission and the Insurance Department; and]~~

~~[(vi) the availability of surplus General Fund revenue under Section 63J-1-312 and Subsection 59-14-204(5).]~~

~~[(b) In considering the factors in Subsections (7)(a)(i), (ii), and (iii), the governor may consider the actuarial data and projections prepared for the board of the Utah Comprehensive Health Insurance Pool as it develops the governor's financial statements and projections for each fiscal year.]~~

(4) (a) The Governor's Office of Management and Budget shall provide to the Office of Legislative Fiscal Analyst, as soon as practicable, but no later than November 15 of each year, data, analysis, or requests used in preparing the governor's budget recommendations, notwithstanding the restrictions imposed on such recommendations by available revenue.

(b) The information under Subsection (4)(a) shall include:

(i) actual revenues and expenditures for the fiscal year ending the previous June 30;

(ii) estimated or authorized revenues and expenditures for the current fiscal year;

(iii) requested revenues and expenditures for the next fiscal year;

(iv) detailed explanations of any differences between the amounts appropriated by the Legislature in the current fiscal year and the amounts reported under Subsections (4)(b)(ii) and (iii);

(v) a statement of agency and program objectives, effectiveness measures, and program size indicators; and

(vi) other budgetary information required by the Legislature in statute.

(c) The budget information under Subsection (4)(a) shall cover:

(i) all items of appropriation, funds, and accounts included in appropriations acts for the current and previous fiscal years; and

(ii) any new appropriation, fund, or account items requested for the next fiscal year.

(d) The information provided under Subsection (4)(a) may be provided as a shared record under Section 63G-2-206 as considered necessary by the Governor's Office of Management and Budget.

~~[(8)] (5) (a) In submitting the budget for the Department of Public Safety, the governor shall include a separate recommendation in the governor's budget for maintaining a sufficient number of alcohol-related law enforcement officers to maintain the enforcement ratio equal to or below the number specified in Subsection 32B-1-201(2).~~

~~(b) If the governor does not include in the governor's budget an amount sufficient to maintain the number of alcohol-related law enforcement officers described in Subsection [(8)] (5)(a), the governor shall include a message to the Legislature regarding the governor's reason for not including that amount.~~

~~[(9)] (6) (a) The governor may revise all estimates, except those relating to the Legislative Department, the Judicial Department, and those providing for the payment of principal and interest to the state debt and for the salaries and expenditures specified by the Utah Constitution or under the laws of the state.~~

~~(b) The estimate for the Judicial Department, as certified by the state court administrator, shall also be included in the budget without revision, but the governor may make separate recommendations on the estimate.~~

~~[(10)] (7) The total appropriations requested for expenditures authorized by the budget may not exceed the estimated revenues from taxes, fees, and all other sources for the next ensuing fiscal year.~~

~~[(11)] (8) If any item of the budget as enacted is held invalid upon any ground, the invalidity does not affect the budget itself or any other item in it.~~

Section 4. Section 63J-1-205 is amended to read:

63J-1-205. Revenue volatility report.

(1) Beginning in 2011 and continuing every three years after 2011, the Legislative Fiscal Analyst and

the Governor's Office of Management and Budget shall ~~[, by December 20,]~~ submit a joint revenue volatility report to the Executive Appropriations Committee prior to the committee's December meeting.

(2) The Legislative Fiscal Analyst and the Governor's Office of Management and Budget shall ensure that the report:

(a) discusses the tax base and the tax revenue volatility of the revenue streams that provide the source of funding for the state budget;

(b) considers federal funding included in the state budget and any projected changes in the amount or value of federal funding;

(c) identifies the balances in the General Fund Budget Reserve Account and the Education Fund Budget Reserve Account;

(d) analyzes the adequacy of the balances in the General Fund Budget Reserve Account and the Education Fund Budget Reserve Account in relation to the volatility of the revenue streams and the risk of a reduction in the amount or value of federal funding; ~~and~~

(e) recommends changes to the deposit amounts or transfer limits established in Sections 63J-1-312 and 63J-1-313, if the Legislative Fiscal Analyst and Governor's Office of Management and Budget consider it appropriate to recommend changes~~[-]; and~~

(f) presents options for a deposit mechanism linked to one or more tax sources on the basis of each tax source's observed volatility, including:

(i) an analysis of how the options would have performed historically within the state;

(ii) an analysis of how the options will perform based on the most recent revenue forecast; and

(iii) recommendations for deposit mechanisms considered likely to meet the budget reserve account targets established in Sections 63J-1-312 and 63J-1-313.

Section 5. Repealer.

This bill repeals:

Section 63J-1-201.7, Legislative budget considerations -- Wage increases for certain entities -- Comprehensive health insurance pool.

Section 63J-1-701, Request for in-depth budget review of agency or program -- Form of budget submitted.

Section 63J-1-702, Purpose of review -- Information submitted.

Section 63J-1-703, Selection of activities for review -- Coordination with audits.

CHAPTER 431**H. B. 373**

Passed March 13, 2014

Approved April 2, 2014

Effective May 13, 2014

**FIREARM TRANSFER
CERTIFICATION AMENDMENTS**Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Mark B. Madsen**LONG TITLE****General Description:**

This bill provides requirements for law enforcement officials to certify federal firearm transfers within a certain time.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires law enforcement officers or other eligible officials to certify certain federal firearm transfers;
- ▶ provides that the certification is granted only for firearm transfer applicants not prohibited by law; and
- ▶ specifies a time period within which the law enforcement officer shall certify and return the form to the applicant.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

53-5a-104, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-5a-104 is enacted to read:**53-5a-104. Firearm transfer certification.**

(1) As used in this section:

(a) "Certification" means the participation and assent of the chief law enforcement officer necessary under federal law for the approval of the application to transfer or make a firearm.

(b) "Chief law enforcement officer" means any official the Bureau of Alcohol, Tobacco, Firearms and Explosives, or any successor agency, identifies by regulation or otherwise as eligible to provide any required certification for the making or transfer of a firearm.

(c) "Firearm" has the same meaning as provided in the National Firearms Act, 6 U.S.C. Sec. 5845(a).

(2) A chief law enforcement officer may not make a certification under this section that the chief law enforcement officer knows to be untrue. The chief law enforcement officer may not refuse to provide certification based on a generalized objection to private persons or entities making, possessing, or receiving firearms or any certain type of firearm, the possession of which is not prohibited by law.

(3) Upon receiving a federal firearm transfer form a chief law enforcement officer or the chief law enforcement officer's designee shall provide certification if the applicant:

(a) is not prohibited by law from receiving or possessing the firearm; or

(b) is not the subject of a proceeding that could result in the applicant being prohibited by law from receiving or possessing the firearm.

(4) The chief law enforcement officer, the chief law enforcement officer's designee, or official signing the federal transfer form shall:

(a) return the federal transfer form to the applicant within 15 calendar days; or

(b) if the applicant is denied, provide to the applicant the reasons for denial in writing within 15 calendar days.

(5) Chief law enforcement officers and their employees who act in good faith when acting within the scope of their duties are immune from liability arising from any act or omission in making a certification as required by this section. Any action taken against a chief law enforcement officer or an employee shall be in accordance with Title 63G, Chapter 7, Governmental Immunity Act of Utah.

CHAPTER 432**H. B. 401**

Passed March 13, 2014

Approved April 2, 2014

Effective May 13, 2014

UTAH MEDICAID PROGRAM

Chief Sponsor: James A. Dunnigan

Senate Sponsor: John L. Valentine

LONG TITLE**General Description:**

This bill requires the Health Reform Task Force to study programs to provide access to health care to individuals eligible for Medicaid.

Highlighted Provisions:

This bill:

- ▶ instructs the Health Reform Task Force to evaluate the proposals for coverage of the optional Medicaid population.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Uncodified Material Affected:

AMENDS UNCODIFIED MATERIAL:

Uncodified Section 42, Laws of Utah 2013, Chapter 341

Be it enacted by the Legislature of the state of Utah:

Section 1. Uncodified Section 42, Laws of Utah 2013, Chapter 341 is amended to read:**Section 42. Duties -- Interim report.**

(1) The task force shall review and make recommendations on the following issues:

(a) the impact of implementation of the federal health reform law and federal regulations on the state;

(b) options for the state regarding Medicaid expansion and reform including;

(i) the proposals for expansion of coverage for the optional Medicaid population developed during the 2014 General Session of the Legislature;

(ii) coordination of and evaluation of proposals for providing access to health care for the optional Medicaid population developed by the task force, the Governor, the Department of Health, and the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services;

(c) health care cost containment strategies;

(d) the role of the state defined contribution arrangement market and online health insurance market places established under PPACA;

(e) governing structure for the state's defined contribution arrangement market;

(f) Medicaid behavioral health delivery and payment reform models within Medicaid accountable care organizations and other county provided delivery settings, including:

(i) the development of a system to encourage, track, evaluate, share, and disseminate results from existing pilot projects; and

(ii) payment reform models that promote performance based reimbursement;

(g) the delivery of charity care in the state, including:

(i) the identification of:

(A) medically underserved and needy populations and geographic areas of the state;

(B) barriers in the current health care delivery and payment models to the promotion of a comprehensive charity care system; and

(C) current resources available for medical care for medically under-served populations and medically underserved geographic areas in the state; and

(ii) proposals to establish:

(A) wellness education;

(B) personal responsibility for health care; and

(C) a coordinated, statewide, private sector approach to universal, basic health care for Utah's medically underserved populations and geographic areas, using private partners to affect cost savings and market efficiencies; and

(h) the use of self-insured health plans by small employers and the regulation of small employer stop-loss insurance in the state.

(2) A final report, including any proposed legislation, shall be presented to the Business and Labor Interim Committee before [~~November 30, 2013, and before~~] November 30, 2014.

CHAPTER 433
S. B. 93

Passed March 13, 2014
Approved April 2, 2014
Effective May 13, 2014

INTERNAL AUDIT AMENDMENTS

Chief Sponsor: Howard A. Stephenson
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill amends and enacts provisions related to the auditing of state agencies and local education agencies.

Highlighted Provisions:

This bill:

- ▶ requires a local school board or charter school governing board to establish an audit committee;
- ▶ requires a school audit committee to establish an internal audit program;
- ▶ defines terms;
- ▶ directs certain state agencies to establish internal audit programs;
- ▶ amends the powers and duties of an audit committee;
- ▶ amends the powers and duties of an agency internal audit director; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 63I-5-102, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 63I-5-301, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 63I-5-401, as renumbered and amended by Laws of Utah 2008, Chapter 382

ENACTS:

- 53A-30-101, Utah Code Annotated 1953
- 53A-30-102, Utah Code Annotated 1953
- 53A-30-103, Utah Code Annotated 1953

REPEALS AND REENACTS:

- 63I-5-201, as last amended by Laws of Utah 2012, Chapters 212 and 365
- 63I-5-302, as renumbered and amended by Laws of Utah 2008, Chapter 382

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53A-30-101 is enacted to read:

CHAPTER 30. INTERNAL AUDITS

53A-30-101. Title.

This chapter is known as "Internal Audits."

Section 2. Section 53A-30-102 is enacted to read:

53A-30-102. Definitions.

As used in this part:

(1) "Audit committee" means a standing committee:

(a) appointed by the local school board or charter school governing board with the following number of members as applicable to the local school board or charter school governing board:

(i) for a board of a local education agency that consists of seven or more members, three members of that board; or

(ii) for a board of a local education agency that consists of six or fewer members, two members of that board; and

(b) composed of people who are not administrators or employees of the local education agency.

(2) "Audit director" means the person who directs the internal audit program.

(3) "Audit plan" means a prioritized list of audits to be performed by an internal audit program within a specified period of time.

(4) "Internal audit" means an independent appraisal activity established within a local education agency as a control system to examine and evaluate the adequacy and effectiveness of other internal control systems within the local education agency.

(5) "Internal audit program" means an audit function that:

(a) is conducted by a local school board or charter school governing board independent of the local education agency offices or other operations;

(b) objectively evaluates the effectiveness of the local education agency governance, risk management, internal controls, and the efficiency of operations; and

(c) is conducted in accordance with the current:

(i) International Standards for the Professional Practice of Internal Auditing; or

(ii) The Government Auditing Standards, issued by the Comptroller General of the United States.

(6) "Local education agency" means a school district or charter school.

Section 3. Section 53A-30-103 is enacted to read:

53A-30-103. Internal auditing program -- Audit committee -- Powers and duties.

(1) A local school board or charter school governing board shall establish an audit committee.

(2) (a) The audit committee shall establish an internal audit program that provides internal audit

services for the programs administered by the local education agency.

(b) A local education agency that has fewer than 10,000 students is not subject to Subsection (2)(a).

(3) (a) A local school board or charter school governing board shall appoint the audit director, with the advisement of the audit committee, if the local school board or charter school governing board hires an audit director.

(b) If the local school board or charter school governing board has not appointed an audit director and the school board or governing board contracts directly for internal audit services, the local school board or charter school governing board shall approve a contract for internal audit services, with the advisement of the audit committee.

(4) The audit committee shall ensure that copies of all reports of audit findings issued by the internal auditors are available, upon request, to the audit director of the State Board of Education, the Office of the State Auditor, and the Office of Legislative Auditor General.

(5) The audit committee shall ensure that significant audit matters that cannot be appropriately addressed by the local education agency internal auditors are referred to either the audit director of the State Board of Education, the Office of the State Auditor, or the Office of Legislative Auditor General.

(6) The audit director may contract with a consultant to assist with an audit.

(7) The audit director of the State Board of Education and the Office of the State Auditor may contract to provide internal audit services.

Section 4. Section 63I-5-102 is amended to read:

63I-5-102. Definitions.

As used in this chapter:

[~~(6)~~] (1) “Agency governing board” is any board or commission that has policy making and oversight responsibility over the agency, including the authority to appoint and remove the agency director.

[~~(1)~~] (2) “Agency head” means a cabinet officer, an elected official, an executive director, or a board or commission vested with responsibility to administer or make policy for a state agency.

[~~(2)~~] (3) “Agency internal audit director” or “audit director” means the person [appointed by the agency head, with the approval of the audit committee if one has been established, to direct the internal audit function for the state agency.] who:

(a) directs the internal audit program for the state agency; and

(b) is appointed by the audit committee or, if no audit committee has been established, by the agency head.

[~~(3)~~] (4) “Appointing authority” means:

(a) the governor, for state agencies other than the State Tax Commission;

(b) the Judicial Council, for judicial branch agencies;

(c) the Board of Regents, for higher education entities; [~~and~~]

(d) the State Board of Education, for the State Office of Education[.]; and

(e) the four tax commissioners, for the State Tax Commission.

[~~(4)~~] (5) “Audit committee” means a standing committee [whose] composed of members who:

(a) are appointed by an appointing authority[.];

[~~(a) from members of the agency governing board; and~~]

(b) (i) [~~from individuals who~~] do not have administrative responsibilities within the agency [~~who~~]; and

(ii) are not an agency contractor or other service provider; and

(c) have the expertise to provide effective oversight of and advice about internal audit activities and services.

[~~(5)~~] (6) “Audit plan” means a prioritized list of audits to be performed by [the] an internal audit [organization] program within a specified period of time.

(7) “Higher education entity” means the board of regents, the institutional councils of each higher education institution, and each higher education institution.

(8) “Internal audit” means an independent appraisal activity established within a state agency as a control system to examine and evaluate the adequacy and effectiveness of other internal control systems within the agency.

(9) “Internal audit program” means an audit function that:

(a) is conducted by an agency, division, bureau, or office, independent of the agency, division, bureau, or office operations;

(b) objectively evaluates the effectiveness of agency, division, bureau, or office governance, risk management, internal controls, and the efficiency of operations; and

(c) is conducted in accordance with the current:

(i) International Standards for the Professional Practice of Internal Auditing; or

(ii) The Government Auditing Standards, issued by the Comptroller General of the United States.

[~~(9)~~] (10) “Judicial branch agency” means each administrative entity of the judicial branch.

[~~(10)~~] (11) (a) “State agency” means:

(i) each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state; and

(ii) each state public education entity.

(b) "State agency" does not mean:

(i) a legislative branch agency;

(ii) an independent state agency as defined in Section 63E-1-102;

(iii) a county, municipality, school district, local district, or special service district; or

(iv) any administrative subdivision of a county, municipality, school district, local district, or special service district.

Section 5. Section 63I-5-201 is repealed and reenacted to read:

63I-5-201. Internal auditing programs -- State agencies.

(1) (a) The departments of Administrative Services, Agriculture, Commerce, Heritage and Arts, Corrections, Workforce Services, Environmental Quality, Health, Human Services, Natural Resources, Public Safety, and Transportation, and the State Tax Commission shall conduct various types of auditing procedures as determined by the agency head or governor.

(b) The governor may, by executive order, require a state agency not described in Subsection (1)(a) to establish an internal audit program.

(c) The governor shall ensure that each state agency that reports to the governor has adequate internal audit coverage.

(2) (a) The Office of the Court Administrator shall establish an internal audit program under the direction of the Judicial Council, including auditing procedures for courts not of record.

(b) The Judicial Council may, by rule, require other judicial agencies to establish an internal audit program.

(3) (a) Dixie State University, the University of Utah, Utah State University, Salt Lake Community College, Southern Utah University, Utah Valley University, Weber State University, and Snow College shall establish an internal audit program under the direction of the Board of Regents.

(b) The State Board of Regents may issue policies requiring other higher education entities or programs to establish an internal audit program.

(4) The State Office of Education shall establish under the direction of the State Board of Education an internal audit program that provides internal audit services for each program administered by the State Office of Education.

(5) Subject to Section 32B-2-302.5, the internal audit division of the Department of Alcoholic Beverage Control shall establish an internal audit

program under the direction of the Alcoholic Beverage Control Commission.

Section 6. Section 63I-5-301 is amended to read:

63I-5-301. Audit committee -- Powers and duties.

(1) (a) Each appointing authority may establish an audit committee to monitor the activities of the agency internal audit [organization] program.

(b) An audit committee may serve more than one state agency internal audit program.

(2) The appointing authority shall ensure that audit committee members have the expertise to provide effective oversight of and advice about internal audit activities and services.

(3) If an audit committee has been established, the audit committee shall:

(a) [consent to the appointment or removal of] appoint, evaluate, and, if necessary, remove the agency internal audit director [as proposed by the agency head];

(b) prepare and adopt formal policies that define:

(i) the purpose of the agency's internal audit program; and

(ii) the authority and responsibility of the agency's internal auditors;

(c) ensure that policies adopted under Subsection (3)(b):

(i) do not place limitations on the scope of the internal audit program's work; and

(ii) clarify that an auditor does not have authority or responsibility for an activity that the auditor audits;

(d) ensure that:

(i) the audit director employs a sufficient number of professional and support staff to implement an effective internal audit program;

(ii) compensation, training, job tenure, and advancement of internal auditing staff is based upon job performance;

(iii) the audit director and staff collectively possess the knowledge, skills, and experience essential to the practices of the profession and are proficient in applying internal auditing standards, procedures, and techniques;

(iv) the internal audit program has employees who are qualified in disciplines necessary to meet the audit responsibilities, including accounting, business management, public administration, human resource management, economics, finance, statistics, electronic data processing, or engineering;

(v) internal audit staff are free of operational and management responsibilities that would impair their ability to make independent audits of any aspects of the agency's operations;

(vi) the audit director and the internal audit staff have access to all personnel and records, data, and

other agency information that the audit director or staff consider necessary to carry out their assigned duties; and

(vii) that the audit director and the director's employees have the necessary access to the agency head, agency management, and agency staff;

~~[(b)]~~ (e) consent to the internal auditing policies proposed by the agency head;

~~[(e)]~~ (f) review and approve the annual internal audit plan, modifications to the internal audit plan, risk assessment, and budget;

~~[(d)]~~ (g) review internal and external audit reports, follow-up reports, and quality assurance reviews of the internal audit office; and

~~[(e)]~~ (h) periodically meet with the agency internal audit director to discuss pertinent matters, including whether there are any restrictions on the scope of audits.

Section 7. Section 63I-5-302 is repealed and reenacted to read:

63I-5-302. Agency head -- Powers and duties.

If an agency has an internal audit program, and the agency's appointing authority has not established an audit committee, the agency head shall assume the audit committee powers and duties described in Subsection 63I-5-303(3).

Section 8. Section 63I-5-401 is amended to read:

63I-5-401. Duties and powers of the agency internal audit director.

(1) The agency internal audit director ~~may~~ shall:

(a) furnish independent analyses, appraisals, and recommendations that may, depending upon the audit scope, identify:

(i) the adequacy of the state agency's systems of internal control;

(ii) the efficiency and effectiveness of agency management in carrying out assigned responsibilities; and

(iii) the agency's compliance with applicable laws, rules, and regulations;

(b) submit audit reports directly to the agency head and to the audit committee, if one has been established;

(c) conduct internal audits of state agency programs, activities, and functions that may consist of one or more of the following objectives:

(i) to verify the accuracy and reliability of agency records;

(ii) to assess compliance with management policies, plans, procedures, and regulations;

(iii) to assess compliance with applicable laws, rules, and regulations;

(iv) to evaluate the efficient and effective use of agency resources; and

(v) to verify the appropriate protection of agency assets;

(d) prepare audit reports of findings;

(e) review and evaluate internal controls over the state agency's accounting systems, administrative systems, electronic data processing systems, and all other major systems necessary to ensure the fiscal and administrative accountability of the state agency;

(f) develop audit plans containing the information required by Subsection (2) to be based on the findings of periodic risk assessments;

(g) upon request, make a copy of the approved audit plan available to the state auditor, legislative auditor, or other appropriate external auditor to assist in planning and coordination of any external financial, compliance, electronic data processing, or performance audit;

(h) determine the scope and assignment of the audits;

(i) perform an audit of a special program, activity, function, or organizational unit at the direction of the agency head or, if one has been established, an audit committee;

(j) maintain the classification of any public records consistent with Title 63G, Chapter 2, Government Records Access and Management Act;

(k) be subject to the same penalties as the custodian of those public records for violating Title 63G, Chapter 2, Government Records Access and Management Act; and

(l) identify in the audit report any abuse, illegal acts, errors and omissions, or conflicts of interest.

(2) (a) The audit plan required by this section shall:

(i) identify the individual audits to be conducted during each year;

(ii) identify the related resources to be devoted to each of the respective audits;

(iii) ensure that internal controls are reviewed periodically as determined by the agency head or the audit committee, if one has been established; and

(iv) ensure that audits that evaluate the efficient and effective use of agency resources are adequately represented in the plan.

(b) The agency internal audit director shall submit the audit plan to the agency head and the audit committee, if one has been established, for approval.

(3) The agency internal audit director shall ensure that:

~~[(a) audits are conducted in accordance with professional auditing standards such as those published by the Institute of Internal Auditors, Inc.,~~

~~the American Institute of Certified Public Accountants and, when required by other law, regulation, agreement, contract, or policy, in accordance with Government Auditing Standards, issued by the Comptroller General of the United States;]~~

~~[(b)] (a) all reports of audit findings issued by internal audit staff shall include a statement that the audit was conducted according to the appropriate standards;~~

~~[(e)] (b) public release of reports of audit findings comply with the conditions specified by the state laws and rules governing the state agency;~~

~~[(d)] (c) copies of all reports of audit findings issued by the internal audit staff are available, upon written request, to the Offices of the Legislative Auditor General and the Office of the State Auditor [upon request]; and~~

~~[(e)] (d) significant audit matters that cannot be appropriately addressed by the agency internal audit office are referred to either the Office of Legislative Auditor General or the Office of the State Auditor.~~

~~(4) The agency internal audit director may contract with consultants to assist with audits.~~

CHAPTER 434

S. B. 113

Passed March 13, 2014

Approved April 2, 2014

Effective May 13, 2014

PUBLIC MEETINGS AMENDMENTS

Chief Sponsor: Karen Mayne

House Sponsor: Johnny Anderson

LONG TITLE

General Description:

This bill modifies provisions of the Open and Public Meetings Act.

Highlighted Provisions:

This bill:

- ▶ requires specified bodies that include in their membership one or more elected state officials to provide public notice of meetings the body holds on the capitol hill complex, and makes related changes; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

52-4-103, as last amended by Laws of Utah 2012, Chapter 277

52-4-202, as last amended by Laws of Utah 2009, First Special Session, Chapter 5

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 52-4-103 is amended to read:

52-4-103. Definitions.

As used in this chapter:

(1) "Anchor location" means the physical location from which:

- (a) an electronic meeting originates; or
- (b) the participants are connected.

(2) "Capitol hill complex" means the grounds and buildings within the area bounded by 300 North Street, Columbus Street, 500 North Street, and East Capitol Boulevard in Salt Lake City.

~~[(2)]~~ (3) "Convening" means the calling ~~[of a meeting]~~ together of a public body by a person authorized to do so for the express purpose of discussing or acting upon a subject over which that public body has jurisdiction or advisory power.

~~[(3)]~~ (4) "Electronic meeting" means a public meeting convened or conducted by means of a conference using electronic communications.

~~[(4)]~~ (5) "Electronic message" means a communication transmitted electronically, including:

- (a) electronic mail;

(b) instant messaging;

(c) electronic chat;

(d) text messaging as defined in Section 76-4-401; or

(e) any other method that conveys a message or facilitates communication electronically.

~~[(5)]~~ (6) (a) "Meeting" means the convening of a public body or a specified body, with a quorum present, including a workshop or an executive session, whether ~~[the meeting is held]~~ in person or by means of electronic communications, for the purpose of discussing, receiving comments from the public about, or acting upon a matter over which the public body or specific body has jurisdiction or advisory power.

(b) "Meeting" does not mean:

(i) a chance ~~[meeting; (ii) a]~~ gathering or social ~~[meeting;]~~ gathering; or

(ii) a convening of the State Tax Commission to consider a confidential tax matter in accordance with Section 59-1-405.

~~[(iii)]~~ (c) "Meeting" does not mean the convening of a public body that has both legislative and executive responsibilities ~~[where] if:~~

(i) no public funds are appropriated for expenditure during the time the public body is convened; and~~;~~

~~[(A)]~~ (ii) the public body is convened solely for the discussion or implementation of administrative or operational matters:

(A) for which no formal action by the public body is required; or

~~[(B) the public body is convened solely for the discussion or implementation of administrative or operational matters]~~

(B) that would not come before the public body for discussion or action~~;~~

~~[(iv) a meeting of the State Tax Commission to consider a confidential tax matter in accordance with Section 59-1-405.]~~

~~[(6)]~~ (7) "Monitor" means to hear or observe, live, by audio or video equipment, all of the public statements of each member of the public body who is participating in a meeting.

~~[(7)]~~ (8) "Participate" means the ability to communicate with all of the members of a public body, either verbally or electronically, so that each member of the public body can hear or observe the communication.

~~[(8)]~~ (9) (a) "Public body" means any administrative, advisory, executive, or legislative body of the state or its political subdivisions that:

(i) is created by the Utah Constitution, statute, rule, ordinance, or resolution;

(ii) consists of two or more persons;

(iii) expends, disburses, or is supported in whole or in part by tax revenue; and

(iv) is vested with the authority to make decisions regarding the public's business.

(b) "Public body" does not include a:

(i) political party, political group, or political caucus;

(ii) conference committee, rules committee, or sifting committee of the Legislature; or

(iii) school community council established under Section 53A-1a-108.

~~[(9)]~~ (10) "Public statement" means a statement made in the ordinary course of business of the public body with the intent that all other members of the public body receive it.

~~[(10)]~~ (11) (a) "Quorum" means a simple majority of the membership of a public body, unless otherwise defined by applicable law.

(b) "Quorum" does not include a meeting of two elected officials by themselves when no action, either formal or informal, is taken on a subject over which these elected officials have advisory power.

~~[(11)]~~ (12) "Recording" means an audio, or an audio and video, record of the proceedings of a meeting that can be used to review the proceedings of the meeting.

(13) "Specified body" means an administrative, advisory, executive, or legislative body that:

(a) is not a public body;

(b) consists of three or more members; and

(c) includes at least one member who is:

(i) a legislator; and

(ii) officially appointed to the body by the President of the Senate, Speaker of the House of Representatives, or governor.

~~[(12)]~~ (14) "Transmit" means to send, convey, or communicate an electronic message by electronic means.

Section 2. Section 52-4-202 is amended to read:

**52-4-202. Public notice of meetings --
Emergency meetings.**

(1) (a) (i) A public body shall give not less than 24 ~~[hours]~~ hours' public notice of each meeting ~~[including the meeting].~~

(ii) A specified body shall give not less than 24 hours' public notice of each meeting that the specified body holds on the capitol hill complex.

(b) The public notice required under Subsection (1)(a) shall include the meeting:

~~[(a)]~~ (i) agenda;

~~[(b)]~~ (ii) date;

~~[(c)]~~ (iii) time; and

~~[(d)]~~ (iv) place.

(2) (a) In addition to the requirements under Subsection (1), a public body which holds regular meetings that are scheduled in advance over the course of a year shall give public notice at least once each year of its annual meeting schedule as provided in this section.

(b) The public notice under Subsection (2)(a) shall specify the date, time, and place of the scheduled meetings.

~~[(3) (a) Public notice shall be satisfied by:]~~

(3) (a) A public body or specified body satisfies a requirement for public notice by:

(i) posting written notice:

(A) at the principal office of the public body or specified body, or if no principal office exists, at the building where the meeting is to be held; and

(B) beginning October 1, 2008 and except as provided in Subsection (3)(b), on the Utah Public Notice Website created under Section 63F-1-701; and

(ii) providing notice to:

(A) at least one newspaper of general circulation within the geographic jurisdiction of the public body; or

(B) a local media correspondent.

(b) A public body of a municipality under Title 10, Utah Municipal Code, a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act, is encouraged, but not required, to post written notice on the Utah Public Notice Website, if the municipality or district has a current annual budget of less than \$1 million.

(c) A public body or specified body is in compliance with the provisions of Subsection (3)(a)(ii) by providing notice to a newspaper or local media correspondent under the provisions of Subsection 63F-1-701(4)(d).

(4) A public body ~~[is]~~ and a specified body are encouraged to develop and use additional electronic means to provide notice of ~~[its]~~ their meetings under Subsection (3).

(5) (a) The notice requirement of Subsection (1) may be disregarded if:

(i) because of unforeseen circumstances it is necessary for a public body or specified body to hold an emergency meeting to consider matters of an emergency or urgent nature; and

(ii) the public body or specified body gives the best notice practicable of:

(A) the time and place of the emergency meeting; and

(B) the topics to be considered at the emergency meeting.

(b) An emergency meeting of a public body may not be held unless:

(i) an attempt has been made to notify all the members of the public body; and

(ii) a majority of the members of the public body approve the meeting.

(6) (a) A public notice that is required to include an agenda under Subsection (1) shall provide reasonable specificity to notify the public as to the topics to be considered at the meeting. Each topic shall be listed under an agenda item on the meeting agenda.

(b) Subject to the provisions of Subsection (6)(c), and at the discretion of the presiding member of the public body, a topic raised by the public may be discussed during an open meeting, even if the topic raised by the public was not included in the agenda or advance public notice for the meeting.

(c) Except as provided in Subsection (5), relating to emergency meetings, a public body may not take final action on a topic in an open meeting unless the topic is:

(i) listed under an agenda item as required by Subsection (6)(a); and

(ii) included with the advance public notice required by this section.

CHAPTER 435**S. B. 233**

Passed March 13, 2014

Approved April 2, 2014

Effective September 2, 2014

**ECONOMIC DEVELOPMENT AND
THE UTAH SMALL BUSINESS JOBS ACT**

Chief Sponsor: John L. Valentine

House Sponsor: Brad R. Wilson

LONG TITLE**General Description:**

This bill modifies provisions related to economic development including creating a small business job tax credit and investment program.

Highlighted Provisions:

This bill:

- ▶ addresses the Industrial Assistance Account;
- ▶ addresses the relationship between the premium tax and corporate taxes;
- ▶ establishes a tax credit against premium tax liability;
- ▶ provides a sunset date;
- ▶ enacts the Utah Small Business Jobs Act, including:
 - defining terms;
 - providing for the certification of qualified equity investments;
 - granting rulemaking authority to the office;
 - allowing for recapture of the tax credit after a time to cure;
 - requiring, under certain circumstances, a refundable performance deposit;
 - creating the Small Business Jobs Performance Guarantee Account;
 - establishing investment requirements;
 - providing for ceasing of certification;
 - imposing limitations on fees being paid;
 - imposing new capital requirements;
 - requiring reporting;
 - requiring revenue impact assessment; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2015:

- ▶ to the Governor's Office of Economic Development - Business Development, as an ongoing appropriation:
 - from Dedicated Credits Revenue, \$100,000.

Other Special Clauses:

This bill provides an effective date.

Utah Code Sections Affected:**AMENDS:**

- 31A-3-102, as last amended by Laws of Utah 1994, Chapter 243
- 59-7-102, as last amended by Laws of Utah 2012, Chapter 369
- 63I-1-263, as last amended by Laws of Utah 2013, Chapters 28, 62, 101, 167, 250, and 413
- 63M-1-903, as last amended by Laws of Utah 2012, Chapters 18 and 208

ENACTS:

- 59-9-107, Utah Code Annotated 1953
- 63M-1-3401, Utah Code Annotated 1953
- 63M-1-3402, Utah Code Annotated 1953
- 63M-1-3403, Utah Code Annotated 1953
- 63M-1-3404, Utah Code Annotated 1953
- 63M-1-3405, Utah Code Annotated 1953
- 63M-1-3406, Utah Code Annotated 1953
- 63M-1-3407, Utah Code Annotated 1953
- 63M-1-3408, Utah Code Annotated 1953
- 63M-1-3409, Utah Code Annotated 1953
- 63M-1-3410, Utah Code Annotated 1953
- 63M-1-3411, Utah Code Annotated 1953
- 63M-1-3412, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 31A-3-102 is amended to read:**31A-3-102. Exclusive fees and taxes.**

(1) The taxes and fees under this chapter, the premium taxes under Sections 59-9-101 through 59-9-104, the fees under Section 31A-31-108, and the examination costs under Section 31A-2-205 are in place of all other license fees or assessments that might otherwise be levied by the state or any other taxing body within the state.

(2) An insurer that [pays] is subject to premium taxes under Sections 59-9-101 through 59-9-104 is not subject to corporate franchise taxes.

(3) Unless otherwise exempt, a licensee under this title is subject to real and personal property taxes.

Section 2. Section 59-7-102 is amended to read:**59-7-102. Exemptions.**

(1) Except as provided in this section, the following are exempt from a tax under this chapter:

(a) an organization exempt under Section 501, Internal Revenue Code;

(b) an organization exempt under Section 528, Internal Revenue Code;

(c) an insurance company that is [otherwise taxed] subject to taxation on the insurance company's premiums under Chapter 9, Taxation of Admitted Insurers;

(d) a local building authority as defined in Section 17D-2-102;

(e) a farmers' cooperative; or

(f) a public agency, as defined in Section 11-13-103, with respect to or as a result of an ownership interest in:

(i) a project, as defined in Section 11-13-103; or

(ii) facilities providing additional project capacity, as defined in Section 11-13-103.

(2) Notwithstanding any other provision in this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, a person

not otherwise subject to the tax imposed by this chapter or Chapter 8 is not subject to a tax imposed by Section 59-7-104, 59-7-201, 59-7-701, or 59-8-104, because of:

(a) that person's ownership of tangible personal property located at the premises of a printer's facility in this state with which the person has contracted for printing; or

(b) the activities of the person's employees or agents who are:

(i) located solely at the premises of a printer's facility; and

(ii) performing services:

(A) related to:

(I) quality control;

(II) distribution; or

(III) printing services; and

(B) performed by the printer's facility in this state with which the person has contracted for printing.

(3) Notwithstanding Subsection (1), an organization, company, authority, farmers' cooperative, or public agency exempt from this chapter under Subsection (1) is subject to Part 8, Unrelated Business Income, to the extent provided in Part 8.

(4) Notwithstanding Subsection (1)(b), to the extent the income of an organization described in Subsection (1)(b) is taxable for federal tax purposes under Section 528, Internal Revenue Code, the organization's income is also taxable under this chapter.

Section 3. Section 59-9-107 is enacted to read:

59-9-107. Nonrefundable small business jobs credit.

(1) As used in this section:

(a) "Credit allowance date" is as defined in Section 63M-1-3402.

(b) "Office" is as defined in Section 63M-1-102.

(c) "Tax credit certificate" is as defined in Section 63M-1-3402.

(2) An entity may claim a nonrefundable tax credit against a tax liability under this chapter in accordance with this section if the entity is issued a tax credit certificate by the office under Subsection 63M-1-3403(11). The office shall issue a tax credit certificate to an entity that is allocated tax credits under Subsection 63M-1-3403(11)(e).

(3) The tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate issued to the entity for the calendar year.

(4) An entity may carry forward a tax credit under this section for seven years if:

(a) the entity is allowed to claim a tax credit under this section for a calendar year; and

(b) the amount of the tax credit exceeds the entity's tax liability under this chapter for that calendar year.

(5) An entity required to pay a retaliatory tax levied under this chapter for a reason other than claiming the tax credit may claim the tax credit after the retaliatory tax amount is calculated, and the tax credit may be used to offset retaliatory tax liability.

(6) Notwithstanding the other provisions of this section, this section does not apply to an admitted insurer to the extent that the admitted insurer writes workers' compensation insurance in this state and has premiums taxed under Subsection 59-9-101(2).

Section 4. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63M.

(1) Section 63A-4-204, authorizing the Risk Management Fund to provide coverage to any public school district which chooses to participate, is repealed July 1, 2016.

(2) Subsections 63A-5-104(4)(d) and (e) are repealed on July 1, 2014.

(3) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2016.

(4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2018.

(5) Section 53B-24-402, rural residency training program, is repealed July 1, 2015.

(6) Title 63C, Chapter 13, Prison Relocation and Development Authority Act, is repealed July 1, 2014.

(7) Title 63C, Chapter 14, Federal Funds Commission, is repealed July 1, 2018.

(8) Subsection 63G-6a-1402(7) authorizing certain transportation agencies to award a contract for a design-build transportation project in certain circumstances, is repealed July 1, 2015.

(9) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.

(10) The Resource Development Coordinating Committee, created in Section 63J-4-501, is repealed July 1, 2015.

(11) Title 63M, Chapter 1, Part 4, Enterprise Zone Act, is repealed July 1, 2018.

(12) (a) Title 63M, Chapter 1, Part 11, Recycling Market Development Zone Act, is repealed January 1, 2021.

(b) Subject to Subsection (12)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or

59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections (12)(b) and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.

(13) (a) Section 63M-1-2507, Health Care Compact is repealed on July 1, 2014.

(b) (i) The Legislature shall, before reauthorizing the Health Care Compact:

(A) direct the Health System Reform Task Force to evaluate the issues listed in Subsection (13)(b)(ii), and by January 1, 2013, develop and recommend criteria for the Legislature to use to negotiate the terms of the Health Care Compact; and

(B) prior to July 1, 2014, seek amendments to the Health Care Compact among the member states that the Legislature determines are appropriate after considering the recommendations of the Health System Reform Task Force.

(ii) The Health System Reform Task Force shall evaluate and develop criteria for the Legislature regarding:

(A) the impact of the Supreme Court ruling on the Affordable Care Act;

(B) whether Utah is likely to be required to implement any part of the Affordable Care Act prior to negotiating the compact with the federal government, such as Medicaid expansion in 2014;

(C) whether the compact's current funding formula, based on adjusted 2010 state expenditures, is the best formula for Utah and other state compact members to use for establishing the block grants from the federal government;

(D) whether the compact's calculation of current year inflation adjustment factor, without consideration of the regional medical inflation rate in the current year, is adequate to protect the state from increased costs associated with administering a state based Medicaid and a state based Medicare program;

(E) whether the state has the flexibility it needs under the compact to implement and fund state based initiatives, or whether the compact requires

uniformity across member states that does not benefit Utah;

(F) whether the state has the option under the compact to refuse to take over the federal Medicare program;

(G) whether a state based Medicare program would provide better benefits to the elderly and disabled citizens of the state than a federally run Medicare program;

(H) whether the state has the infrastructure necessary to implement and administer a better state based Medicare program;

(I) whether the compact appropriately delegates policy decisions between the legislative and executive branches of government regarding the development and implementation of the compact with other states and the federal government; and

(J) the impact on public health activities, including communicable disease surveillance and epidemiology.

(14) (a) Title 63M, Chapter 1, Part 34, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection (14)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63M-1-3403 on or before December 31, 2023.

[(14)] (15) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2017.

[(15)] (16) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2017.

Section 5. Section 63M-1-903 is amended to read:

63M-1-903. Industrial Assistance Account created -- Uses -- Administrator duties -- Costs.

(1) There is created a restricted account within the General Fund known as the "Industrial Assistance Account" of which:

(a) up to 50% may be used in economically disadvantaged rural areas;

(b) up to 25% may be used to take timely advantage of economic opportunities as they arise;

(c) up to 4% may be used to promote business and economic development in rural areas of the state with the Business Expansion and Retention Initiative; and

(d) up to \$3,000,000 ~~[one-time shall]~~ may be used for the purpose of incubating technology solutions related to economic and workforce development.

(2) The administrator shall administer:

(a) the restricted account created under Subsection (1), under the policy direction of the board; and

(b) the Business Expansion and Retention Initiative for the rural areas of the state.

(3) The administrator may hire appropriate support staff to perform the duties required under this section.

(4) The cost of administering the restricted account shall be paid from money in the restricted account.

(5) Interest accrued from investment of money in the restricted account shall remain in the restricted account.

Section 6. Section 63M-1-3401 is enacted to read:

Part 34. Utah Small Business Jobs Act

63M-1-3401. (Codified as 63M-1-3501) Title.

This part is known as the "Utah Small Business Jobs Act."

Section 7. Section 63M-1-3402 is enacted to read:

63M-1-3402. (Codified as 63M-1-3502)

Definitions.

As used in this part:

(1) "Affiliate" means an entity that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the entity specified.

(2) "Applicable percentage" means:

(a) 0% for the first two credit allowance dates;

(b) 12% for the next three credit allowance dates; and

(c) 11% for the next two credit allowance dates.

(3) "Community Development Financial Institutions Fund" means the fund created in 12 U.S.C. Sec. 4703.

(4) "Credit allowance date" means with respect to a qualified equity investment:

(a) the date on which the qualified equity investment is initially made; and

(b) each of the six anniversary dates of the date described in Subsection (4)(a).

(5) "Federal New Markets Tax Credit Program" means the program created under Section 45D, Internal Revenue Code.

(6) "Long-term debt security" means a debt instrument issued by a qualified community development entity:

(a) with an original maturity date of at least seven years from the date of its issuance; and

(b) with no repayment, amortization, or prepayment features before its original maturity date.

(7) "Purchase price" means the amount paid to the qualified community development entity that issues a qualified equity investment for the qualified equity investment that may not exceed the amount of qualified equity investment authority certified pursuant to Section 63M-1-3403.

(8) (a) "Qualified active low-income community business" is as defined in Section 45D, Internal Revenue Code, and 26 C.F.R. Sec. 1.45D-1, but is limited to those businesses meeting the United States Small Business Administration size eligibility standards established in 13 C.F.R. Sec. 121.101-201 at the time the qualified low-income community investment is made.

(b) Notwithstanding Subsection (8)(a), "qualified active low-income community business" does not include a business that derives or projects to derive 15% or more of its annual revenue from the rental or sale of real estate, unless the business is controlled by or under common control with another business if the second business:

(i) does not derive or project to derive 15% or more of its annual revenue from the rental or sale of real estate; and

(ii) is the primary tenant of the real estate leased from the initial business.

(c) A business is considered a qualified active low-income community business for the duration of the qualified community development entity's investment in, or loan to, the business if the qualified community development entity reasonably expects, at the time it makes the investment or loan, that the business will continue to satisfy the requirements for being a qualified active low-income community business, other than the United States Small Business Administration size standards, throughout the entire period of the investment or loan.

(9) (a) "Qualified community development entity" is as defined in Section 45D, Internal Revenue Code, if the entity has entered into an allocation agreement with the Community Development Financial Institutions Fund of the United States Treasury Department with respect to credits authorized by Section 45D, Internal Revenue Code, that includes Utah within the service area set forth in the allocation agreement.

(b) An entity may not be considered to be controlled by another entity solely as a result of the entity having made a direct or indirect equity investment in the other entity that earns tax credits under Section 45D, Internal Revenue Code, or in a similar state program.

(c) "Qualified community development entity" includes a subsidiary community development entity of a qualified community development entity.

(10) (a) "Qualified equity investment" means an equity investment in, or long-term debt security

issued by, a qualified community development entity that:

(i) is acquired on or after September 2, 2014, at its original issuance solely in exchange for cash;

(ii) has at least 85% of its cash purchase price used by the qualified community development entity to make qualified low-income community investments in qualified active low-income community businesses located in this state by the first anniversary of the initial credit allowance date; and

(iii) is designated by the qualified community development entity as a qualified equity investment and is certified by the office pursuant to Section 63M-1-3403.

(b) Notwithstanding Subsection (10)(a), “qualified equity investment” includes a qualified equity investment that does not meet the provisions of Subsection (10)(a) if the investment was a qualified equity investment in the hands of a prior holder.

(11) “Qualified low-income community investment” means a capital or equity investment in, or a loan to, a qualified active low-income community business, except, with respect to any one qualified active low-income community business, the maximum amount of qualified low-income community investments made in such business, on a collective basis with all of the business’s affiliates, with the proceeds of qualified equity investments certified under Section 63M-1-3403 shall be \$4,000,000, exclusive of qualified low-income community investments made with repaid or redeemed qualified low-income community investments or interest or profits realized on the repaid or redeemed qualified low-income community investments.

(12) “Tax credit certificate” is a certificate issued by the office under Subsection 63M-1-3403(11) to an entity eligible for a tax credit under Section 59-9-107 that:

(a) lists the name of the entity eligible for a tax credit;

(b) lists the entity’s taxpayer identification number;

(c) lists the amount of tax credit that the office determines the entity is eligible for the calendar year; and

(d) may include other information as determined by the office.

Section 8. Section 63M-1-3403 is enacted to read:

63M-1-3403. (Codified as 63M-1-3503)

Certification of qualified equity investments -- Issuance of tax credit related certificates.

(1) A qualified community development entity that seeks to have an equity investment or long-term debt security certified as a qualified equity investment and as eligible for tax credits

under Section 59-9-107 shall apply to the office. The office shall begin accepting applications on September 2, 2014. The qualified community development entity shall include the following in the qualified community development entity’s application:

(a) evidence of the applicant’s certification as a qualified community development entity, including evidence of the service area of the applicant that includes this state;

(b) a copy of an allocation agreement executed by the applicant, or its controlling entity, and the Community Development Financial Institutions Fund;

(c) a certificate executed by an executive officer of the applicant attesting that:

(i) the applicant or its controlling entity has received more than one allocation of qualified equity investment authority under the Federal New Markets Tax Credit Program; and

(ii) the allocation agreement submitted with the application remains in effect and has not been revoked or cancelled by the Community Development Financial Institutions Fund;

(d) a description of the proposed amount, structure, and purchaser of the qualified equity investment;

(e) examples of the types of qualified active low-income businesses in which the applicant, its controlling entity, or affiliates of its controlling entity have invested under the Federal New Markets Tax Credit Program, except that when submitting an application an applicant is not required to identify qualified active low-income community businesses in which the applicant will invest;

(f) the amount of qualified equity investment authority the applicant agrees to designate as a federal qualified equity investment under Section 45D, Internal Revenue Code, including a copy of the screen shot from the Community Development Financial Institutions Fund’s Allocation Tracking System of the applicant’s remaining federal qualified equity investment authority;

(g) if applicable, the refundable performance deposit required by Subsection 63M-1-3406(1);

(h) a copy of a certificate of qualified equity investment authority under another state’s new markets tax credit program; and

(i) evidence that the applicant, its controlling entity, and subsidiary qualified community development entities of the controlling entity have collectively made at least \$40,000,000 in qualified low-income community investments under the Federal New Markets Tax Credit Program and other state’s new markets tax credit programs with a maximum qualified low-income community investment size of \$4,000,000 per business.

(2) (a) Within 30 days after receipt of a completed application containing the information set forth in Subsection (1), including, if applicable, the

refundable performance deposit, the office shall grant or deny the application in full or in part.

(b) If the office denies any part of the application, the office shall inform the applicant of the grounds for the denial. If the applicant provides additional information required by the office or otherwise completes its application within 15 days of the notice of denial, the application shall be considered completed as of the original date of submission.

(c) If the applicant fails to provide the information or complete its application within the 15-day period:

(i) the application is denied;

(ii) the applicant shall resubmit an application in full with a new submission date; and

(iii) the office shall return any refundable performance deposit required by Subsection 63M-1-3406(1).

(3) (a) If the application is complete, the office shall certify the proposed equity investment or long-term debt security as a qualified equity investment, subject to the limitation contained in Subsection (6).

(b) The office shall provide written notice of the certification to the qualified community development entity.

(4) The office shall certify qualified equity investments in the order applications are received by the office. Applications received on the same day are considered to have been received simultaneously.

(5) For applications that are complete and received on the same day, the office shall certify, consistent with remaining qualified equity investment capacity, qualified equity investments of applicants as follows:

(a) First, the office shall certify applications by applicants that agree to designate qualified equity investments as federal qualified equity investments in accordance with Subsection (1)(f) in proportionate percentages based upon the ratio of the amount of qualified equity investments requested in an application to be designated as federal qualified equity investments to the total amount of qualified equity investments to be designated as federal qualified equity investments requested in all applications received on the same day.

(b) After complying with Subsection (5)(a), the office shall certify the qualified equity investments of all other applicants, including the remaining qualified equity investment authority requested by applicants not designated as federal qualified equity investments in accordance with Subsection (1)(f), in proportionate percentages based upon the ratio of the amount of qualified equity investments requested in the applications to the total amount of qualified equity investments requested in all applications received on the same day.

(6) (a) The office shall certify \$50,000,000 in qualified equity investments pursuant to this section. If a pending request cannot be fully certified due to this limit, the office shall certify the portion that may be certified unless the qualified community development entity elects to withdraw its request rather than receive partial certification.

(b) If a qualified community development entity withdraws its request pursuant to Subsection (6)(a), the office shall return any refundable performance deposit required by Subsection 63M-1-3406(1).

(c) A partial certification does not decrease the amount of the refundable performance deposit required under Subsection 63M-1-3406(1).

(7) An approved applicant may transfer all or a portion of its certified qualified equity investment authority to its controlling entity or a subsidiary qualified community development entity of the controlling entity, provided that the applicant and the transferee notify the office of the transfer with the notice set forth in Subsection (8) and include with the notice the information required in the application with respect to the transferee.

(8) (a) Within 45 days of the applicant receiving notice of certification, the qualified community development entity or any transferee under Subsection (7) shall:

(i) issue the qualified equity investment;

(ii) receive cash in the amount of the certified amount; and

(iii) if applicable, designate the required amount of qualified equity investment authority as federal qualified equity investments.

(b) The qualified community development entity or transferee under Subsection (7) shall provide the office with evidence of the receipt of the cash investment and designation of the qualified equity investment as a federal qualified equity investment within 50 days of the applicant receiving notice of certification.

(c) The certification under this section lapses and the qualified community development entity may not issue the qualified equity investment without reapplying to the office for certification if, within 45 days following receipt of the certification notice, the qualified community development entity or any transferee under Subsection (7) does not:

(i) receive the cash investment;

(ii) issue the qualified equity investment; and

(iii) if applicable, designate the required amount of qualified equity investment authority as federal qualified equity investments.

(d) A lapsed certification under this Subsection (8) reverts back to the office and shall be reissued as follows:

(i) first, pro rata to applicants whose qualified equity investment allocations were reduced under Subsection (5)(a), if applicable;

(ii) second, pro rata to applicants whose qualified equity investment allocations were reduced under Subsection (5)(b); and

(iii) after complying with Subsections (8)(d)(i) and (ii), in accordance with the application process.

(e) (i) The office shall:

(A) calculate an annual fee to be paid by each applicant certified pursuant to Subsection (3)(a), regardless of the number of transferees under Subsection (7), by dividing \$100,000 by the number of applications certified pursuant to Subsection (3)(a); and

(B) notify each successful applicant of the amount of the annual fee.

(ii) The initial annual fee shall be due and payable to the office with the evidence of receipt of cash investment set forth in Subsection (8)(b). After the initial annual fee, an annual fee shall be due and payable to the office with each report submitted pursuant to Section 63M-1-3410.

(iii) An annual fee may not be required once a qualified community development entity together with all transferees under Subsection (7) have decertified all qualified equity investments in accordance with Subsection 63M-1-3407(2).

(iv) To maintain an aggregate annual fee of \$100,000 for all qualified community development entities, the office shall recalculate the annual fee as needed upon:

(A) the lapse of any certification under Subsection (8)(c);

(B) the recapture of tax credits pursuant to Section 63M-1-3404; or

(C) the decertification of qualified equity investments pursuant to Subsection 63M-1-3407(2).

(v) An annual fee collected under this Subsection (8)(e) shall be deposited into the General Fund as a dedicated credit for use by the office to implement this part.

(9) A qualified community development entity that issues a debt instrument described in Subsection 63M-1-3402(6) may not make cash interest payments on the debt instrument during the period beginning on the date of issuance and ending on the final credit allowance date in an amount that exceeds the cumulative operating income, as defined by regulations adopted under Section 45D, Internal Revenue Code, of the qualified community development entity for that period before giving effect to the interest expense of the long-term debt security. This Subsection (9) does not limit the holder of the debt instrument's ability to accelerate payments on the debt instrument in situations when the qualified community development entity has defaulted on covenants designed to ensure compliance with this part or Section 45D, Internal Revenue Code.

(10) (a) A qualified community development entity that issues qualified equity investments

shall notify the office of the names of the entities that are eligible to use tax credits under this section and Section 59-9-107:

(i) pursuant to an allocation of tax credits;

(ii) pursuant to a change in allocation of tax credits; or

(iii) due to a transfer of a qualified equity investment.

(b) The office may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for the form and content of the notice required under this Subsection (10).

(11) (a) An entity may claim a tax credit under Section 59-9-107 against tax liability under Title 59, Chapter 9, Taxation of Admitted Insurers, if the entity:

(i) makes a qualified equity investment; and

(ii) obtains a tax credit certificate in accordance with Subsection (11)(b).

(b) For each calendar year, beginning with calendar year 2016, an entity is eligible for a tax credit under this section and Section 59-9-107, the office shall issue to the entity a tax credit certificate for use after January 1, 2017, and provide the State Tax Commission a copy of the tax credit certificate.

(c) On each credit allowance date of the qualified equity investment, the entity that made the qualified equity investment, or the subsequent holder of the qualified equity investment, may claim a portion of the tax credit during the calendar year that includes the credit allowance date.

(d) The office shall calculate the tax credit amount and the tax credit amount shall be equal to the applicable percentage for the credit allowance date multiplied by the purchase price paid to the qualified community development entity for the qualified equity investment.

(e) A tax credit allowed to a partnership, limited liability company, or S-corporation shall be allocated to the partners, members, or shareholders of the partnership, limited liability company, or S-corporation for the partners', members', or shareholders' direct use in accordance with the provisions of any agreement among the partners, members, or shareholders.

(f) An entity may not sell a tax credit allowed under this section on the open market.

(12) (a) An entity that claims a tax credit under Section 59-9-107 and this section shall provide the office with a document that expressly directs and authorizes the State Tax Commission to disclose the entity's tax returns and other information concerning the entity that are required by the office and that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code, to the office.

(b) The office shall submit the document described in Subsection (12)(a) to the State Tax Commission.

(c) Upon receipt of the document described in Subsection (12)(a), the State Tax Commission shall

provide the office with the information requested by the office that the entity authorized the State Tax Commission to provide to the office in the document described in Subsection (12)(a).

Section 9. Section 63M-1-3404 is enacted to read:

**63M-1-3404. (Codified as 63M-1-3504)
Recapture.**

(1) The office may recapture a tax credit from an entity that claimed the tax credit allowed under Section 59-9-107 on a return, if any of the following occur:

(a) If any amount of a federal tax credit available with respect to a qualified equity investment that is eligible for a tax credit under this part is recaptured under Section 45D, Internal Revenue Code, the office may recapture the tax credit in an amount that is proportionate to the federal recapture with respect to the qualified equity investment.

(b) If the qualified community development entity redeems or makes principal repayment with respect to a qualified equity investment before the seventh anniversary of the issuance of the qualified equity investment, the office may recapture an amount proportionate to the amount of the redemption or repayment with respect to the qualified equity investment.

(c) (i) If the qualified community development entity fails to invest an amount equal to 85% of the purchase price of the qualified equity investment in qualified low-income community investments in Utah within 12 months of the issuance of the qualified equity investment and maintains at least 85% of the level of investment in qualified low-income community investments in Utah until the last credit allowance date for the qualified equity investment, the office may recapture the tax credit.

(ii) For purposes of this part, an investment is considered held by a qualified community development entity even if the investment has been sold or repaid if the qualified community development entity reinvests an amount equal to the capital returned to or recovered by the qualified community development entity from the original investment, exclusive of any profits realized, in another qualified low-income community investment within 12 months of the receipt of the capital.

(iii) Periodic amounts received as repayment of principal pursuant to regularly scheduled amortization payments on a loan that is a qualified low-income community investment shall be treated as continuously invested in a qualified low-income community investment if the amounts are reinvested in one or more qualified low-income community investments by the end of the following calendar year.

(iv) A qualified community development entity is not required to reinvest capital returned from a qualified low-income community investment after the sixth anniversary of the issuance of the

qualified equity investment, and the qualified low-income community investment shall be considered held by the qualified community development entity through the seventh anniversary of the qualified equity investment's issuance.

(d) If a qualified community development entity makes a distribution or debt payment in violation of Subsection 63M-1-3407(1), the office may recapture the tax credit.

(e) If there is a violation of Section 63M-1-3409, the office may recapture the tax credit.

(2) A recaptured tax credit and the related qualified equity investment authority revert back to the office and shall be reissued:

(a) first, pro rata to applicants whose qualified equity investment allocations were reduced under Subsection 63M-1-3403(5)(a);

(b) second, pro rata to applicants whose qualified equity investment allocations were reduced under Subsection 63M-1-3403(5)(b); and

(c) after complying with Subsections (2)(a) and (b), in accordance with the application process.

Section 10. Section 63M-1-3405 is enacted to read:

**63M-1-3405. (Codified as 63M-1-3505)
Notice of noncompliance.**

Enforcement of a recapture provision under Subsection 63M-1-3404(1) is subject to a six-month cure period. The office may not recapture a tax credit until the office notifies the qualified community development entity of noncompliance and affords the qualified community development entity six months from the date of the notice to cure the noncompliance.

Section 11. Section 63M-1-3406 is enacted to read:

**63M-1-3406. (Codified as 63M-1-3506)
Refundable performance deposit -- Small Business Jobs Performance Guarantee Account.**

(1) (a) A qualified community development entity that seeks to have an equity investment or long-term debt security certified as a qualified equity investment and as eligible for tax credits under Section 59-9-107 shall pay a deposit in the amount of .5% of the amount of the equity investment or long-term debt security requested in an application to be certified as a qualified equity investment to the office for deposit into the Small Business Jobs Performance Guarantee Account.

(b) (i) There is created in the General Fund a restricted account known as the "Small Business Jobs Performance Guarantee Account" that consists of deposits made under Subsection (1)(a).

(ii) The Small Business Jobs Performance Guarantee Account does not earn interest.

(iii) At the end of a fiscal year, any amount in the Small Business Jobs Performance Guarantee Account that a qualified community development

entity forfeits under this section is to be transferred to the General Fund.

(iv) The office shall work with the Division of Finance to ensure that money in the Small Business Jobs Performance Guarantee Account is properly accounted for at the end of each fiscal year.

(c) A qualified community development entity shall forfeit the deposit required under Subsection (1)(a) in its entirety if:

(i) the qualified community development entity and its subsidiary qualified community development entities fail to issue the total amount of qualified equity investments certified by the office and receive cash in the total amount certified under Section 63M-1-3403; or

(ii) the qualified community development entity or any subsidiary qualified community development entity that issues a qualified equity investment certified under this part fails to make qualified low-income community investments in qualified active low-income community businesses in Utah equal to at least 85% of the purchase price of the qualified equity investment by the second credit allowance date of such qualified equity investment.

(d) The six-month cure period established under Section 63M-1-3405 is not applicable to the forfeiture of a deposit under Subsection (1)(c).

(2) A deposit required under Subsection (1) shall be paid to the office and held in the Small Business Jobs Performance Guarantee Account until such time as compliance with this Subsection (2) is established. A qualified community development entity may request a refund of the deposit from the office no sooner than 30 days after the qualified community development entity and all transferees under Subsection 63M-1-3403(7) have invested 85% of the purchase price of the qualified equity investment authority certified by the office pursuant to Subsection 63M-1-3403(3). The office has 30 days to comply with the request for a refund or give notice of noncompliance.

Section 12. Section 63M-1-3407 is enacted to read:

63M-1-3407. (Codified as 63M-1-3507) 150% investment requirement -- Ceasing of certification.

(1) (a) Once certified under Section 63M-1-3403, a qualified equity investment shall remain certified until all of the requirements of Subsection (2) have been met.

(b) Until such time as the qualified equity investments issued by a qualified community development entity are no longer certified, the qualified community development entity may not distribute to its equity holders or make cash payments on long-term debt securities that have been certified as qualified equity investments in an amount that exceeds the sum of:

(i) the cumulative operating income, as defined by regulations adopted under Section 45D, Internal Revenue Code, earned by the qualified community

development entity since issuance of the qualified equity investment, before giving effect to any interest expense from long-term debt securities certified as qualified equity investments; and

(ii) 50% of the purchase price of the qualified equity investments issued by the qualified community development entity.

(2) Subject to the other provisions of this section, a qualified equity investment ceases to be certified when:

(a) it is beyond its seventh credit allowance date;

(b) the qualified community development entity issuing the qualified equity investment has been in compliance with Section 63M-1-3404 through its seventh credit allowance date, including any cures under Section 63M-1-3405;

(c) the qualified community development entity issuing such qualified equity investment has used the cash purchase of such qualified equity investment, together with capital returned, repaid, or redeemed or profits realized with qualified low-income community investments, to invest in qualified active low-income community businesses such that the total qualified low-income community investments made, cumulatively including reinvestments, exceeds 150% of the qualified equity investment; and

(d) the qualified community development complies with Subsection (4).

(3) For purposes of making the calculation under Subsection (2)(c), qualified low-income community investments to any one qualified active low-income community business, on a collective basis with its affiliates, in excess of \$4,000,000 may not be included, unless such investments are made with capital returned or repaid from qualified low-income community investments made by the qualified community development entity in other qualified active low-income community businesses or interest earned on or profits realized from any qualified low-income community investments.

(4) A qualified community development entity shall file a request for ceasing certification of a qualified equity investment in a form, provided by the office, that establishes that the qualified community development entity has met the requirements of Subsection (2) along with evidence supporting the request for ceasing certification. Subsection (2)(b) shall be considered to be met if no recapture action has been commenced by the office as of the seventh credit allowance date.

(5) (a) A request for ceasing certification may not be unreasonably denied and the office shall respond to the request within 30 days of the office receiving the request.

(b) Upon grant of a request for ceasing certification, the qualified community development entity is no longer subject to Section 63M-1-3410.

(c) If the request is denied for any reason, the office has the burden of proof in any administrative or legal proceeding that follows.

Section 13. Section 63M-1-3408 is enacted to read:

63M-1-3408. (Codified as 63M-1-3508) Limitation on fees.

(1) A qualified community development entity or purchaser of a qualified equity investment may not pay to any qualified community development entity or affiliate of a qualified community development entity any fee in connection with any activity under this part before meeting the requirements of Subsection 63M-1-3407(2) with respect to all qualified equity investments issued by such qualified community development entity and its affiliates.

(2) Subsection (1) does not prohibit the allocation or distribution of income earned by a qualified community development entity or purchaser of a qualified equity investment to the qualified community development entity's or purchaser's equity owners or the payment of reasonable interest on amounts lent to a qualified community development entity or purchaser of a qualified equity investment.

Section 14. Section 63M-1-3409 is enacted to read:

63M-1-3409. (Codified as 63M-1-3509) New capital requirement.

(1) A qualified active low-income community business that receives a qualified low-income community investment from a qualified community development entity that issues qualified equity investments under this part, or any affiliates of a qualified active low-income community business, may not directly or indirectly:

(a) own or have the right to acquire an ownership interest in a qualified community development entity or member or affiliate of a qualified community development entity, including a holder of a qualified equity investment issued by the qualified community development entity; or

(b) loan to or invest in a qualified community development entity or member or affiliate of a qualified community development entity, including a holder of a qualified equity investment issued by a qualified community development entity when the proceeds of the loan or investment are directly or indirectly used to fund or refinance the purchase of a qualified equity investment under this part.

(2) For purposes of this section, a qualified community development entity may not be considered an affiliate of a qualified active low-income community business solely as a result of its qualified low-income community investment in the business.

Section 15. Section 63M-1-3410 is enacted to read:

63M-1-3410. (Codified as 63M-1-3510) Reporting.

(1) A qualified community development entity that issues qualified equity investments shall submit a report to the office within the first five business days after the first anniversary of the initial credit allowance date that provides documentation as to the investment of 85% of the purchase price in qualified low-income community investments in qualified active low-income community businesses located in Utah. The report shall include:

(a) a bank statement of the qualified community development entity evidencing each qualified low-income community investment; and

(b) evidence that the business was a qualified active low-income community business at the time of the qualified low-income community investment.

(2) After the initial report under Subsection (1), a qualified community development entity shall submit an annual report to the office within 60 days of the beginning of the calendar year during the compliance period. An annual report is not due before the first anniversary of the initial credit allowance date. The annual report shall include the following:

(a) the number of employment positions created and retained as a result of qualified low-income community investments;

(b) the average annual salary of positions described in Subsection (2)(a); and

(c) certification from the qualified community development entity that the grounds for recapture under Section 63M-1-3404 have not occurred.

Section 16. Section 63M-1-3411 is enacted to read:

63M-1-3411. (Codified as 63M-1-3511) Revenue impact assessment.

(1) Before making a qualified low-income community investment, a qualified community development entity shall submit to the office a revenue impact assessment prepared using a nationally recognized economic development model that demonstrates that the qualified low-income community investment will have a revenue positive impact on the state over 10 years against the 58% tax credit utilization over the same 10-year period.

(2) The office must notify the qualified community development entity within five business days if the qualified low-income community investment does not have a revenue positive impact on the state over 10 years against the 58% tax credit utilization over the same 10-year period using the revenue impact assessment submitted.

(3) If the office determines that the revenue impact assessment does not reflect a revenue positive qualified low-income community investment, the office may waive the requirement under this section if the office determines that the proposed qualified low-income community investment will further economic development.

Section 17. Section 63M-1-3412 is enacted to read:

63M-1-3412. (Codified as 63M-1-3512) Scope of part.

This part applies only to a return or report originally due on or after September 2, 2014.

Section 18. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2014, and ending June 30, 2015, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2015.

To Governor's Office of Economic Development - Business Development

<u>From Dedicated Credits Revenue</u>	<u>\$100,000</u>
---------------------------------------	------------------

Schedule of Programs:

<u>Corporate Recruitment and Business Services</u>	<u>\$100,000</u>
--	------------------

Section 19. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on September 2, 2014.

(2) Uncodified Section 18, Appropriation, takes effect on July 1, 2014.

CHAPTER 436**S. B. 241**

Passed March 13, 2014

(Passed into law without governor's signature)

Effective May 13, 2014

**COUNTY JAIL
CONTRACTING AMENDMENTS**

Chief Sponsor: Scott K. Jenkins

House Sponsor: Brad L. Dee

LONG TITLE**General Description:**

This bill modifies the provisions regarding the incarceration of state parole inmates or state probationary inmates in a county correctional facility.

Highlighted Provisions:

This bill:

- ▶ provides that a county may release a number of inmates from a county correctional facility if the state does not appropriate funds as specified;
- ▶ delays the dates by which the Commission on Criminal and Juvenile Justice must compile information from reporting counties and then report to the Division of Finance; and
- ▶ delays by two weeks the statutory deadlines related to setting the final state daily incarceration rate.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

64-13e-104, as last amended by Laws of Utah 2012, Chapter 51

64-13e-105, as last amended by Laws of Utah 2013, Chapter 310

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 64-13e-104 is amended to read:****64-13e-104. Housing of state probationary inmates or state parole inmates -- Payment.**

(1) (a) A county shall accept and house a state probationary inmate or a state parole inmate in a county correctional facility, subject to available resources.

~~(b) If a county is unable to accept a person due to lack of resources, the county shall negotiate with another county to accept and house the person.]~~

(b) A county may release a number of inmates from a county correctional facility, but not to exceed the number of state probationary inmates and state parole inmates in excess of the number of inmates funded by the appropriation authorized in Subsection (2) if:

(i) the state does not fully comply with the provisions of Subsection (9) for the most current fiscal year; or

(ii) funds appropriated by the Legislature for this purpose are less than 50% of the average actual state daily incarceration rate.

(2) Within funds appropriated by the Legislature for this purpose, the Division of Finance shall pay a county that houses a state probationary inmate or a state parole inmate at a rate of 50% of the final state daily incarceration rate.

(3) Funds appropriated by the Legislature under Subsection (2):

(a) are nonlapsing;

(b) may only be used for the purposes described in Subsection (2); and

(c) may not be used for:

(i) the costs of administering the payment described in this section; or

(ii) payment of contract costs under Section 64-13e-103.

(4) The costs described in Subsection (3)(c)(i) shall be covered by legislative appropriation.

(5) (a) The Division of Finance shall administer the payment described in Subsection (2).

(b) In accordance with Subsection (9), CCJJ shall, by rule made pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish procedures for the calculation of the payment described in Subsection (2).

(c) Notwithstanding any other provision of this section, CCJJ shall adjust the amount of the payments described in Subsection (7)(b), on a pro rata basis, to ensure that the total amount of the payments made does not exceed the amount appropriated by the Legislature for the payments.

(6) Counties that receive the payment described in Subsection (2) shall, on at least a monthly basis, submit a report to CCJJ that includes:

(a) the number of state probationary inmates and state parole inmates the county housed under this section; and

(b) the total number of state probationary inmate days of incarceration and state parole inmate days of incarceration that were provided by the county.

(7) (a) On or before September ~~1~~ 30 of each year, CCJJ shall compile the information from the reports described in Subsection (6) that relate to the preceding state fiscal year and provide a copy of the compilation to each county that submitted a report.

(b) On or before ~~September 30~~ October 15 of each year, CCJJ shall inform the Division of Finance and each county of the exact amount of the payment described in this section that shall be made to each county.

(8) On or before December 15 of each year, the Division of Finance shall distribute the payment

described in Subsection (7)(b) in a single payment to each county.

(9) The amount paid to each county under Subsection (8) shall be calculated on a pro rata basis, based on the average number of state probationary inmate days of incarceration and the average state parole inmate days of incarceration that were provided by each county for the preceding five state fiscal years.

Section 2. Section 64-13e-105 is amended to read:

64-13e-105. Procedures for setting the final state daily incarceration rate.

(1) (a) Before September [~~1~~] 15 of each year, the department shall calculate, and inform the counties and CCJJ of the average actual state daily incarceration rate for the most recent three years for which the data is available.

(b) The actual state daily incarceration rates used to calculate the average rate described in Subsection (1)(a) may not be less than the rates presented to the Executive Appropriations Committee of the Legislature for purposes of setting the appropriation for the department's budget.

(2) Before September [~~15~~] 30 of each year, the following parties shall meet to review and discuss the average actual state daily incarceration rate, described in Subsection (1) and the compilation described in Subsection 64-13e-104(7):

(a) as designated by the Utah Sheriffs Association:

(i) one sheriff of a county that is currently under contract with the department to house state inmates; and

(ii) one sheriff of a county that is currently receiving reimbursement from the department for housing state probationary inmates or state parole inmates;

(b) the executive director of the department or the executive director's designee;

(c) as designated by the Utah Association of Counties:

(i) one member of the legislative body of one county that is currently under contract with the department to house state inmates; and

(ii) one member of the legislative body of one county that is currently receiving reimbursement from the department for housing state probationary inmates or state parole inmates;

(d) the executive director of the Commission on Criminal and Juvenile Justice or the executive director's designee; and

(e) the executive director of the Governor's Office of Management and Budget or the executive director's designee.

(3) (a) The average actual state daily incarceration rate, reviewed and discussed under

Subsection (2), may not be used for purposes of calculating payment or reimbursement under this chapter, unless approved by the Legislature in the annual appropriations act.

(b) Nothing in this chapter prohibits the Legislature from setting the final state daily incarceration rate at an amount higher or lower than:

(i) the average actual state incarceration rate; or

(ii) the final state daily incarceration rate that was used during the preceding fiscal year.

CHAPTER 437**S. B. 269**

Passed March 13, 2014

(Passed into law without governor's signature)

Effective May 13, 2014

**ANNUAL LEAVE PROGRAM II
FOR STATE EMPLOYEES**

Chief Sponsor: Deidre M. Henderson

House Sponsor: Steve Eliason

LONG TITLE**General Description:**

This bill modifies the Utah State Personnel Management Act by amending provisions for employee leave programs and creates the State Employees' Annual Leave Program II Trust Fund Act.

Highlighted Provisions:

This bill:

- ▶ defines "annual leave II" and "change date";
- ▶ provides that beginning on a date established by the Division of Finance that is no later than January 2, 2016, a state agency will offer annual leave II in lieu of annual leave to eligible state employees;
- ▶ provides that any unused annual leave accrued before a change date established by the Division of Finance that is no later than January 2, 2016, may be used under the same rules that applied to the leave on the change date;
- ▶ requires a state agency to set aside the cost of each hour of annual leave II for each eligible employee for deposit into the State Employees' Annual Leave Program II Trust Fund;
- ▶ provides for rulemaking authority; and
- ▶ enacts the State Employees' Annual Leave Program II Trust Fund Act, which creates the State Employees' Annual Leave Program II Trust Fund and board and provides for administration of the trust fund.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

67-19-14.6, Utah Code Annotated 1953
 67-19f-101, Utah Code Annotated 1953
 67-19f-102, Utah Code Annotated 1953
 67-19f-201, Utah Code Annotated 1953
 67-19f-202, Utah Code Annotated 1953
 67-19f-301, Utah Code Annotated 1953
 67-19f-302, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 67-19-14.6 is enacted to read:**67-19-14.6. Annual leave -- Definitions --
Previously accrued hours -- Recognition
of liability.**

(1) As used in this section:

(a) (i) "Annual leave II" means leave hours an employing agency provides to an employee, beginning on the change date established in Subsection (2), as time off from work for personal use without affecting the employee's pay.

(ii) "Annual leave II" does not include:

(A) legal holidays under Section 63G-1-301;

(B) time off as compensation for actual time worked in excess of an employee's defined work period;

(C) sick leave;

(D) paid or unpaid administrative leave; or

(E) other paid or unpaid leave from work provided by state statute, administrative rule, or by federal law or regulation.

(b) "Change date" means the date established by the Division of Finance under Subsection (2) when annual leave II begins for a state agency.

(2) In accordance with the Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Division of Finance shall establish a date that is no later than January 2, 2016, when a state agency shall offer annual leave II in lieu of annual leave to an employee who is eligible to receive paid leave.

(3) An employing agency shall allow an employee who has an unused balance of accrued annual leave before the change date, to use the annual leave under the same rules that applied to the leave on the change date.

(4) (a) At the time of employee accrual of annual leave II, an employing agency shall set aside the cost of each hour of annual leave II for each eligible employee in an amount determined in accordance with rules made by the Division of Finance.

(b) The rules made under Subsection (4)(a) shall consider:

(i) the employee hourly rate of pay;

(ii) applicable employer paid taxes that would be required if the employee was paid for the annual leave II instead of using it for time off;

(iii) other applicable employer paid benefits; and

(iv) adjustments due to employee hourly rate changes, including the effect on accrued annual leave II balances.

(5) The cost set aside under Subsection (4) shall be deposited by the Division of Finance into the State Employees' Annual Leave Program II Trust Fund created in Section 67-19f-201.

(6) For annual leave hours accrued before the change date, an employing agency shall continue to comply with the Division of Finance requirements for contributions to the termination pool.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) the department shall make rules for the accrual and use of annual leave II provided under this section; and

(b) the Division of Finance shall make rules for the set aside provisions under Subsections (4) and (5).

Section 2. Section 67-19f-101 is enacted to read:

Part 1. State Employees' Annual Leave Program II Trust Fund Act

67-19f-101. Title.

This chapter is known as the "State Employees' Annual Leave Program II Trust Fund Act."

Section 3. Section 67-19f-102 is enacted to read:

67-19f-102. Definitions.

As used in this chapter:

(1) "Annual leave II" is as defined in Section 67-19-14.6.

(2) "Board of trustees" or "board" means the board of trustees created in Section 67-19f-202.

(3) "Income" means the revenues received by the state treasurer from investments of the trust fund principal.

(4) "Trust fund" means the State Employees' Annual Leave Program II Trust Fund created in Section 67-19f-201.

Section 4. Section 67-19f-201 is enacted to read:

Part 2. State Employees' Annual Leave Program II Trust Fund

67-19f-201. Trust fund -- Creation -- Oversight -- Dissolution.

(1) There is created a trust fund entitled the "State Employees' Annual Leave Program II Trust Fund."

(2) The trust fund consists of:

(a) ongoing revenue provided from a state agency set aside for accrued annual leave II required under Section 67-19-14.6;

(b) appropriations made to the trust fund by the Legislature, if any;

(c) income; and

(d) revenue received from other sources.

(3) The Division of Finance shall account for the receipt and expenditures of trust fund money.

(4) (a) The state treasurer shall invest trust fund money by following the procedures and requirements of Part 3, Investment of Trust Funds.

(b) (i) The trust fund shall earn interest.

(ii) The state treasurer shall deposit all interest or other income earned from investment of the trust fund back into the trust fund.

(5) The board of trustees created in Section 67-19f-202 may expend money from the trust fund for:

(a) reimbursement to the employer of the costs paid to the trust fund in accordance with Section 67-19-14.6 as annual leave II is used by an employee; and

(b) reasonable administrative costs that the board of trustees incurs in performing its duties as trustee of the trust fund.

(6) The board of trustees shall ensure that:

(a) money deposited into the trust fund is expended only for the costs of annual leave II, including any allotted benefits under Subsection 67-19-14.6(4); and

(b) assets of the trust fund are dedicated to providing annual leave II established by statute and rule.

Section 5. Section 67-19f-202 is enacted to read:

67-19f-202. Board of trustees of the State Employees' Annual Leave Program II Trust Fund.

(1) (a) There is created a board of trustees of the State Employees' Annual Leave Program II Trust Fund composed of the following three members:

(i) the state treasurer or the state treasurer's designee;

(ii) the director of the Division of Finance or the director's designee; and

(iii) the executive director of the Governor's Office of Management and Budget or the executive director's designee.

(b) The state treasurer is chair of the board.

(c) Three members of the board is a quorum.

(d) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(e) (i) Except as provided in Subsection (1)(e)(ii), the state treasurer shall staff the board of trustees.

(ii) The Division of Finance shall provide accounting services for the trust fund.

(2) The board shall:

(a) on behalf of the state, act as trustee of the trust fund created under Section 67-19f-201 and exercise the state's fiduciary responsibilities;

(b) meet at least twice per year;

(c) review and approve the policies, projections, rules, criteria, procedures, forms, standards, performance goals, and actuarial reports for the trust fund;

(d) review and approve the budget for the trust fund;

(e) review financial records for the trust fund, including trust fund receipts, expenditures, and investments; and

(f) do any other things necessary to perform the state's fiduciary obligations under the trust fund.

(3) The board may:

(a) commission and obtain actuarial studies of the liabilities for the trust fund; and

(b) for purposes of the trust fund, establish labor additive rates to charge for the administrative expenses of the trust fund.

(4) The attorney general shall:

(a) act as legal counsel and provide legal representation to the board of trustees; and

(b) attend, or direct an attorney from the Office of the Attorney General to attend, each meeting of the board of trustees.

Section 6. Section 67-19f-301 is enacted to read:

Part 3. Investment of Trust Funds

67-19f-301. Investment of State Employees' Annual Leave Program II Trust Fund.

(1) The state treasurer shall invest the assets of the trust fund with the primary goal of providing for the stability, income, and growth of the principal.

(2) Nothing in this section requires a specific outcome in investing.

(3) The state treasurer may deduct any administrative costs incurred in managing trust fund assets from earnings before distributing the trust fund assets.

(4) (a) The state treasurer may employ professional asset managers to assist in the investment of assets of the trust fund.

(b) The treasurer may only provide compensation to asset managers from earnings generated by the trust fund's investments.

Section 7. Section 67-19f-302 is enacted to read:

67-19f-302. State treasurer to follow "prudent investor" rule -- Standard of care.

(1) The state treasurer shall invest and manage the trust fund assets as a prudent investor would, by:

(a) considering the purposes, terms, distribution requirements, and other circumstances of the trust fund; and

(b) exercising reasonable care, skill, and caution in order to meet the standard of care of a prudent investor.

(2) In determining whether the state treasurer has met the standard of care of a prudent investor, the judge or finder of fact shall:

(a) consider the state treasurer's actions in light of the facts and circumstances existing at the time of the investment decision or action, and not by hindsight; and

(b) evaluate the state treasurer's investment and management decisions respecting individual assets:

(i) not in isolation, but in the context of the trust fund portfolio as a whole; and

(ii) as a part of an overall investment strategy that has risk and return objectives reasonably suited to the trust fund.

**LEGISLATION VETOED
BY THE GOVERNOR**

H.B. 102
 Passed March 13, 2014
 Vetoed April 2, 2014

ASSESSMENT AREA AMENDMENTS

Chief Sponsor: R. Curt Webb
 Senate Sponsor: J. Stuart Adams

LONG TITLE

General Description:

This bill amends provisions related to the designation of an assessment area.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits a governing body from designating an assessment area beginning on May 13, 2014, and before May 12, 2015;
- ▶ authorizes a governing body to circulate a petition to designate an assessment area if the protests to an assessment area are contestable; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 11-42-102, as last amended by Laws of Utah 2013, Chapter 246
- 11-42-202, as last amended by Laws of Utah 2013, Chapters 246 and 265
- 11-42-206, as last amended by Laws of Utah 2013, Chapter 265

ENACTS:

- 11-42-201.5, Utah Code Annotated 1953
- 63I-2-211, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-42-102 is amended to read:

11-42-102. Definitions.

(1) (a) "Adequate protests" means timely filed, written protests ~~under Section 11-42-203~~ that represent ~~at least 50%~~ no less than 45% of the frontage, area, taxable value, fair market value, lots, number of connections, or equivalent residential units of the property proposed to be assessed, according to the same assessment method by which the assessment is proposed to be levied, ~~after eliminating:~~

[(a)] (b) "Adequate protests" does not include written protests relating to:

(i) (A) property that has been deleted from a proposed assessment area; or

[(ii)] (B) an improvement that has been deleted from the proposed improvements to be provided to property within the proposed assessment area; and

~~[(b)] (ii) protests that have been withdrawn under Subsection 11-42-203(3).~~

(2) "Assessment area" means an area, or, if more than one area is designated, the aggregate of all areas within a local entity's jurisdictional boundaries that is designated by a local entity under Part 2, Designating an Assessment Area, for the purpose of financing the costs of improvements, operation and maintenance, or economic promotion activities that benefit property within the area.

(3) "Assessment bonds" means bonds that are:

(a) issued under Section 11-42-605; and

(b) payable in part or in whole from assessments levied in an assessment area, improvement revenues, and a guaranty fund or reserve fund.

(4) "Assessment fund" means a special fund that a local entity establishes under Section 11-42-412.

(5) "Assessment lien" means a lien on property within an assessment area that arises from the levy of an assessment, as provided in Section 11-42-501.

(6) "Assessment method" means the method

by which an assessment is levied against property, whether by frontage, area, taxable value, fair market value, lot, parcel, number of connections, equivalent residential unit, any combination of these methods, or any other method

that equitably reflects the benefit received from the improvement.

(7) "Assessment ordinance" means an ordinance adopted by a local entity under Section 11-42-404 that levies an assessment on benefitted property within an assessment area.

(8) "Assessment resolution" means a resolution adopted by a local entity under Section 11-42-404 that levies an assessment on benefitted property within an assessment area.

(9) "Benefitted property" means property within an assessment area that directly or indirectly benefits from improvements, operation and maintenance, or economic promotion activities.

(10) "Bond anticipation notes" means notes issued under Section 11-42-602 in anticipation of the issuance of assessment bonds.

(11) "Bonds" means assessment bonds and refunding assessment bonds.

(12) "Commercial area" means an area in which at least 75% of the property is devoted to the interchange of goods or commodities.

(13) (a) "Commercial or industrial real property" means real property used directly or indirectly or held for one of the following purposes or activities, regardless of whether the purpose or activity is for profit:

(i) commercial;

(ii) mining;

(iii) industrial;

- (iv) manufacturing;
- (v) governmental;
- (vi) trade;
- (vii) professional;
- (viii) a private or public club;
- (ix) a lodge;
- (x) a business; or
- (xi) a similar purpose.

(b) “Commercial or industrial real property” includes real property that:

- (i) is used as or held for dwelling purposes; and
- (ii) contains four or more rental units.

(14) “Connection fee” means a fee charged by a local entity to pay for the costs of connecting property to a publicly owned sewer, storm drainage, water, gas, communications, or electrical system, whether or not improvements are installed on the property.

(15) (a) “Contestable protests” means timely filed, written protests that represent no less than 35% and less than 45% of the frontage, area, taxable value, fair market value, lots, number of connections, or equivalent residential units of the property proposed to be assessed, according to the same assessment method by which the assessment is proposed to be levied.

(b) “Contestable protests” does not include written protests relating to:

(i) (A) property that has been deleted from a proposed assessment area;

(B) an improvement that has been deleted from the proposed improvements to be provided to property within the proposed assessment area; and

(ii) protests that have been withdrawn under Subsection 11-42-203(3).

[45] (16) “Contract price” means:

(a) the cost of acquiring an improvement, if the improvement is acquired; or

(b) the amount payable to one or more contractors for the design, engineering, inspection, and construction of an improvement.

[46] (17) “Designation ordinance” means an ordinance adopted by a local entity under Section 11-42-206 designating an assessment area.

[47] (18) “Designation resolution” means a resolution adopted by a local entity under Section 11-42-206 designating an assessment area.

[48] (19) “Economic promotion activities” means activities that promote economic growth in a commercial area of a local entity, including:

- (a) sponsoring festivals and markets;
- (b) promoting business investment or activities;

(c) helping to coordinate public and private actions; and

(d) developing and issuing publications designed to improve the economic well-being of the commercial area.

[49] (20) “Energy efficiency upgrade” means an improvement that is permanently affixed to commercial or industrial real property that is designed to reduce energy consumption, including:

(a) insulation in:

(i) a wall, roof, floor, or foundation; or

(ii) a heating and cooling distribution system;

(b) a window or door, including:

(i) a storm window or door;

(ii) a multiglazed window or door;

(iii) a heat-absorbing window or door;

(iv) a heat-reflective glazed and coated window or door;

(v) additional window or door glazing;

(vi) a window or door with reduced glass area; or

(vii) other window or door modifications;

(c) an automatic energy control system;

(d) in a building or a central plant, a heating, ventilation, or air conditioning and distribution system;

(e) caulk or weatherstripping;

(f) a light fixture that does not increase the overall illumination of a building unless an increase is necessary to conform with the applicable building code;

(g) an energy recovery system;

(h) a daylighting system;

(i) measures to reduce the consumption of water, through conservation or more efficient use of water, including:

(i) installation of low-flow toilets and showerheads;

(ii) installation of timer or timing systems for a hot water heater; or

(iii) installation of rain catchment systems; or

(j) a modified, installed, or remodeled fixture that is approved as a utility cost-saving measure by the governing body of a local entity.

[20] (21) “Equivalent residential unit” means a dwelling, unit, or development that is equal to a single-family residence in terms of the nature of its use or impact on an improvement to be provided in the assessment area.

[21] (22) “Governing body” means:

(a) for a county, city, or town, the legislative body of the county, city, or town;

(b) for a local district, the board of trustees of the local district;

(c) for a special service district:

(i) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or

(ii) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301; and

(d) for the military installation development authority created in Section 63H-1-201, the authority board, as defined in Section 63H-1-102.

~~[(22)]~~ (23) “Guaranty fund” means the fund established by a local entity under Section 11-42-701.

~~[(23)]~~ (24) “Improved property” means property proposed to be assessed within an assessment area upon which a residential, commercial, or other building has been built.

~~[(24)]~~ (25) “Improvement”:

(a) (i) means a publicly owned infrastructure, system, or other facility, a publicly or privately owned energy efficiency upgrade, or a publicly or privately owned renewable energy system that:

(A) a local entity is authorized to provide;

(B) the governing body of a local entity determines is necessary or convenient to enable the local entity to provide a service that the local entity is authorized to provide; or

(C) a local entity is requested to provide through an interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act; and

(ii) includes facilities in an assessment area, including a private driveway, an irrigation ditch, and a water turnout, that:

(A) can be conveniently installed at the same time as an infrastructure, system, or other facility described in Subsection ~~[(24)]~~ (25)(a)(i); and

(B) are requested by a property owner on whose property or for whose benefit the infrastructure, system, or other facility is being installed; or

(b) for a local district created to assess groundwater rights in accordance with Section 17B-1-202, means a system or plan to regulate groundwater withdrawals within a specific groundwater basin in accordance with Sections 17B-1-202 and 73-5-15.

~~[(25)]~~ (26) “Improvement revenues”:

(a) means charges, fees, impact fees, or other revenues that a local entity receives from improvements; and

(b) does not include revenue from assessments.

(27) (a) “Inadequate protests” means timely filed, written protests that represent less than 35% of the frontage, area, taxable value, fair market value, lots, number of connections, or equivalent residential units of the property proposed to be

assessed, according to the same assessment method by which the assessment is proposed to be levied.

(b) “Inadequate protests” does not include written protests relating to:

(i) (A) property that has been deleted from a proposed assessment area;

(B) an improvement that has been deleted from the proposed improvements to be provided to property within the proposed assessment area; and

(ii) protests that have been withdrawn under Subsection 11-42-203(3).

~~[(26)]~~ (28) “Incidental refunding costs” means any costs of issuing refunding assessment bonds and calling, retiring, or paying prior bonds, including:

(a) legal and accounting fees;

(b) charges of financial advisors, escrow agents, certified public accountant verification entities, and trustees;

(c) underwriting discount costs, printing costs, the costs of giving notice;

(d) any premium necessary in the calling or retiring of prior bonds;

(e) fees to be paid to the local entity to issue the refunding assessment bonds and to refund the outstanding prior bonds;

(f) any other costs that the governing body determines are necessary or desirable to incur in connection with the issuance of refunding assessment bonds; and

(g) any interest on the prior bonds that is required to be paid in connection with the issuance of the refunding assessment bonds.

~~[(27)]~~ (29) “Installment payment date” means the date on which an installment payment of an assessment is payable.

~~[(28)]~~ (30) “Interim warrant” means a warrant issued by a local entity under Section 11-42-601.

~~[(29)]~~ (31) “Jurisdictional boundaries” means:

(a) for a county, the boundaries of the unincorporated area of the county; and

(b) for each other local entity, the boundaries of the local entity.

~~[(30)]~~ (32) “Local district” means a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts.

~~[(31)]~~ (33) “Local entity” means a county, city, town, special service district, local district, an interlocal entity as defined in Section 11-13-103, a military installation development authority created in Section 63H-1-201, or other political subdivision of the state.

~~[(32)]~~ (34) “Local entity obligations” means assessment bonds, refunding assessment bonds, interim warrants, and bond anticipation notes issued by a local entity.

~~[(33)]~~ (35) “Mailing address” means:

(a) a property owner's last-known address using the name and address appearing on the last completed real property assessment roll of the county in which the property is located; and

(b) if the property is improved property:

(i) the property's street number; or

(ii) the post office box, rural route number, or other mailing address of the property, if a street number has not been assigned.

[(34)] (36) "Net improvement revenues" means all improvement revenues that a local entity has received since the last installment payment date, less all amounts payable by the local entity from those improvement revenues for operation and maintenance costs.

[(35)] (37) "Operation and maintenance costs":

(a) means the costs that a local entity incurs in operating and maintaining improvements in an assessment area, whether or not those improvements have been financed under this chapter; and

(b) includes service charges, administrative costs, ongoing maintenance charges, and tariffs or other charges for electrical, water, gas, or other utility usage.

[(36)] (38) "Overhead costs" means the actual costs incurred or the estimated costs to be incurred by a local entity in connection with an assessment area for appraisals, legal fees, filing fees, financial advisory charges, underwriting fees, placement fees, escrow, trustee, and paying agent fees, publishing and mailing costs, costs of levying an assessment, recording costs, and all other incidental costs.

[(37)] (39) "Prior assessment ordinance" means the ordinance levying the assessments from which the prior bonds are payable.

[(38)] (40) "Prior assessment resolution" means the resolution levying the assessments from which the prior bonds are payable.

[(39)] (41) "Prior bonds" means the assessment bonds that are refunded in part or in whole by refunding assessment bonds.

[(40)] (42) "Project engineer" means the surveyor or engineer employed by or private consulting engineer engaged by a local entity to perform the necessary engineering services for and to supervise the construction or installation of the improvements.

[(41)] (43) "Property" includes real property and any interest in real property, including water rights and leasehold rights.

[(42)] (44) "Property price" means the price at which a local entity purchases or acquires by eminent domain property to make improvements in an assessment area.

[(43)] (45) "Provide" or "providing," with reference to an improvement, includes the

acquisition, construction, reconstruction, renovation, maintenance, repair, operation, and expansion of an improvement.

[(44)] (46) "Public agency" means:

(a) the state or any agency, department, or division of the state; and

(b) a political subdivision of the state.

[(45)] (47) "Reduced payment obligation" means the full obligation of an owner of property within an assessment area to pay an assessment levied on the property after the assessment has been reduced because of the issuance of refunding assessment bonds, as provided in Section 11-42-608.

[(46)] (48) "Refunding assessment bonds" means assessment bonds that a local entity issues under Section 11-42-607 to refund, in part or in whole, assessment bonds.

[(47)] (49) "Renewable energy system" means a product, a system, a device, or an interacting group of devices that:

(a) is permanently affixed to commercial or industrial real property; and

(b) produces energy from renewable resources, including:

(i) a photovoltaic system;

(ii) a solar thermal system;

(iii) a wind system;

(iv) a geothermal system, including:

(A) a generation system;

(B) a direct-use system; or

(C) a ground source heat pump system;

(v) a microhydro system; or

(vi) other renewable sources approved by the governing body of a local entity.

[(48)] (50) "Reserve fund" means a fund established by a local entity under Section 11-42-702.

[(49)] (51) "Service" means:

(a) water, sewer, storm drainage, garbage collection, library, recreation, communications, or electric service;

(b) economic promotion activities; or

(c) any other service that a local entity is required or authorized to provide.

[(50)] (52) "Special service district" has the same meaning as defined in Section 17D-1-102.

[(51)] (53) "Unimproved property" means property upon which no residential, commercial, or other building has been built.

[(52)] (54) "Voluntary assessment area" means an assessment area that contains only property whose owners have voluntarily consented to an assessment.

Section 2. Section 11-42-201.5 is enacted to read:

11-42-201.5. Prohibition on designation of an assessment area before May 12, 2015.

(1) Except as provided in Subsection (2)(a), a governing body of a local entity may not designate an assessment area under this part beginning on May 13, 2014, and before May 12, 2015.

(2) (a) Subsection (1) does not apply to an assessment area:

(i) for which:

(A) notice described in Subsection 11-42-201(2)(a) is published in accordance with Subsection 11-42-202(3) before May 13, 2014; or

(B) a designation ordinance or resolution has been adopted under Section 11-42-206 before May 13, 2014, designating the assessment area and the assessment area will expire by law unless the governing body redesignates the assessment area; or

(ii) that is a voluntary assessment area and all property owners have consented to the creation of the assessment area in writing before publication of the notice described in Subsection 11-42-201(2)(a).

(b) If a governing body redesignates an assessment area described in Subsection (2)(a), the governing may not expand the boundaries of the assessment area.

Section 3. Section 11-42-202 is amended to read:

11-42-202. Requirements applicable to a notice of a proposed assessment area designation.

(1) Each notice required under Subsection 11-42-201(2)(a) shall:

(a) state that the local entity proposes to:

(i) designate one or more areas within the local entity's jurisdictional boundaries as an assessment area;

(ii) provide an improvement to property within the proposed assessment area; and

(iii) finance some or all of the cost of improvements by an assessment on benefitted property within the assessment area;

(b) describe the proposed assessment area by any reasonable method that allows an owner of property in the proposed assessment area to determine that the owner's property is within the proposed assessment area;

(c) describe, in a general way, the improvements to be provided to the assessment area, including:

(i) the general nature of the improvements; and

(ii) the general location of the improvements, by reference to streets or portions or extensions of streets or by any other means that the governing

body chooses that reasonably describes the general location of the improvements;

(d) state the estimated cost of the improvements as determined by a project engineer;

(e) state that the local entity proposes to levy an assessment on benefitted property within the assessment area to pay some or all of the cost of the improvements according to the estimated direct and indirect benefits to the property from the improvements;

(f) state the assessment method by which the governing body proposes to levy the assessment, including, if the local entity is a municipality or county, whether the assessment will be collected:

(i) by directly billing a property owner; or

(ii) by inclusion on a property tax notice issued in accordance with Section 59-2-1317;

(g) state:

(i) the date described in Section 11-42-203 and the location at which protests against designation of the proposed assessment area or of the proposed improvements are required to be filed; and

(ii) the method by which the governing body will determine the number of protests required to defeat the designation of the proposed assessment area or acquisition or construction of the proposed improvements;

(h) state the date, time, and place of the public hearing required in Section 11-42-204;

(i) if the governing body elects to create and fund a reserve fund under Section 11-42-702, include a description of:

(i) how the reserve fund will be funded and replenished; and

(ii) how remaining money in the reserve fund is to be disbursed upon full payment of the bonds;

(j) if the governing body intends to designate a voluntary assessment area, include a property owner consent form that:

(i) estimates the total assessment to be levied against the particular parcel of property;

(ii) describes any additional benefits that the governing body expects the assessed property to receive from the improvements; and

(iii) designates the date and time by which the fully executed consent form is required to be submitted to the governing body;

(k) if the local entity intends to levy an assessment to pay operation and maintenance costs or for economic promotion activities, include:

(i) a description of the operation and maintenance costs or economic promotion activities to be paid by assessments and the initial estimated annual assessment to be levied;

(ii) a description of how the estimated assessment will be determined;

(iii) a description of how and when the governing body will adjust the assessment to reflect the costs of:

(A) in accordance with Section 11-42-406, current economic promotion activities; or

(B) current operation and maintenance costs;

(iv) a description of the method of assessment if different from the method of assessment to be used for financing any improvement; and

(v) a statement of the maximum number of years over which the assessment will be levied for:

(A) operation and maintenance costs; or

(B) economic promotion activities; and

(1) if the governing body intends to divide the proposed assessment area into zones under Subsection 11-42-201(1)(b), include a description of the proposed zones.

(2) A notice required under Subsection 11-42-201(2)(a) may contain other information that the governing body considers to be appropriate, including:

(a) the amount or proportion of the cost of the improvement to be paid by the local entity or from sources other than an assessment;

(b) the estimated amount of each type of assessment for the various improvements to be financed according to the method of assessment that the governing body chooses; and

(c) provisions for any improvements described in Subsection 11-42-102[(24)] (25)(a)(ii).

(3) Each notice required under Subsection 11-42-201(2)(a) shall:

(a) (i) (A) be published in a newspaper of general circulation within the local entity's jurisdictional boundaries, once a week for four consecutive weeks, with the last publication at least five but not more than 20 days before the day of the hearing required in Section 11-42-204; or

(B) if there is no newspaper of general circulation within the local entity's jurisdictional boundaries, be posted in at least three public places within the local entity's jurisdictional boundaries at least 20 but not more than 35 days before the day of the hearing required in Section 11-42-204; and

(ii) be published on the Utah Public Notice Website described in Section 63F-1-701 for four weeks before the deadline for filing protests specified in the notice under Subsection (1)(g); and

(b) be mailed, postage prepaid, within 10 days after the first publication or posting of the notice under Subsection (3)(a) to each owner of property to be assessed within the proposed assessment area at the property owner's mailing address.

Section 4. Section 11-42-206 is amended to read:

11-42-206. Adoption of a resolution or an ordinance regarding a proposed

assessment area -- Designation of an assessment area may not occur if adequate protests filed -- Recording of resolution or ordinance and notice of proposed assessment.

(1) (a) After holding a public hearing under Section 11-42-204 and considering protests filed under Section 11-42-203, and subject to Subsection (3), the governing body shall hold a public meeting to adopt a resolution or ordinance:

(i) abandoning the proposal to designate an assessment area; or

(ii) designating an assessment area as described in the notice under Section 11-42-202 or with the changes made as authorized under Subsection 11-42-204(4).

(b) In accordance with Section 11-42-203, the governing body:

(i) may not schedule the public meeting before the expiration of the 60-day protest period; and

(ii) shall consider and report on any timely filed protests.

(2) If the notice under Section 11-42-202 indicates that the proposed assessment area is a voluntary assessment area, the governing body shall:

(a) delete from the proposed assessment area all property whose owners have not submitted an executed consent form consenting to inclusion of the owner's property in the proposed assessment area; and

(b) determine whether to designate a voluntary assessment area, after considering:

(i) the amount of the proposed assessment to be levied on the property within the voluntary assessment area; and

(ii) the benefits that property within the voluntary assessment area will receive from improvements proposed to be financed by assessments on the property.

(3) (a) If adequate protests have been filed, the governing body may not designate an assessment area as described in the notice under Section 11-42-202.

(b) If inadequate protests have been filed, the governing body may designate the described assessment area.

(c) If contestable protests have been filed, the governing body may not designate the described assessment area unless the governing body:

(i) (A) circulates a petition to designate the assessment area described in the notice under Section 11-42-202; and

(B) clearly indicates on the petition that it is a petition to designate the assessment area;

(ii) collects for the petition described in Subsection (3)(c)(i)(A):

(A) the signatures of owners of private real property that is located within the proposed assessment area;

(B) enough signatures to exceed the number of contestable protest signatures received by the governing body protesting the described assessment area by no less than 5% based on the same assessment method representation that was used to calculate the number of contestable protest signatures; and

(C) the necessary signatures described in Subsection (3)(c)(ii)(B) no later than 60 days after the day on which the public hearing described in Subsection (1)(a) is held;

(iii) submits the signatures on the petition to the county clerk, municipal clerk, or municipal recorder, respectively, for certification;

(iv) holds a public meeting after the county clerk, municipal clerk, or municipal recorder notifies the governing body that the clerk or recorder has certified the petition in accordance with Subsection (3)(e); and

(v) at the public meeting casts a unanimous vote to adopt a designation resolution or ordinance designating the assessment area.

(d) A property owner who signs the petition may withdraw the owner's signature from the petition at any time before the expiration of the 60-day period described in Subsection (3)(c)(ii)(C) by filing a written withdrawal with the county clerk, municipal clerk, or municipal recorder, respectively.

(e) No later than 30 days after receiving a petition described in Subsection (3)(c)(i) from a governing body for certification, a county clerk, municipal clerk, or municipal recorder shall:

(i) determine if the petition complies with the petition and signature requirements of Subsections (3)(c)(i) and (ii);

(ii) certify the petition if the petition is in compliance or reject the petition; and

(iii) notify the governing body in writing that the petition has been certified or rejected.

(f) If the county clerk, municipal clerk, or municipal recorder, respectively, fails to certify or reject a petition within 30 days after it is submitted by the governing body, the petition shall be considered to be rejected.

(4) (a) If the governing body adopts a designation resolution or ordinance designating an assessment area, the governing body shall, within 15 days after adopting the designation resolution or ordinance:

(i) record the original or certified copy of the designation resolution or ordinance in the office of the recorder of the county in which property within the assessment area is located; and

(ii) file with the recorder of the county in which property within the assessment area is located a notice of proposed assessment that:

(A) states that the local entity has designated an assessment area; and

(B) lists, by legal description and tax identification number, the property proposed to be assessed.

(b) A governing body's failure to comply with the requirements of Subsection (4)(a) does not invalidate the designation of an assessment area.

(5) After the adoption of a designation resolution or ordinance under Subsection (1)(a), the local entity may begin providing the specified improvements.

Section 5. Section 63I-2-211 is enacted to read:

63I-2-211. Repeal dates -- Title 11.

Section 11-42-201.5 is repealed July 1, 2015.



STATE OF UTAH

OFFICE OF THE GOVERNOR
SALT LAKE CITY, UTAH
84114-2220

GARY R. HERBERT
GOVERNOR

SPENCER J. COX
LIEUTENANT GOVERNOR

April 2, 2014

The Honorable Rebecca Lockhart
Speaker of the House

and

The Honorable Wayne Niederhauser
President of the Senate

Dear Speaker Lockhart and President Niederhauser,

As required by Article VII, Section 8 of the Utah Constitution, I am writing to provide you with my objections to House Bill 102, ASSESSMENT AREA AMENDMENTS, and to explain my decision to veto the bill.

After reviewing HB 102, I understand the original purpose was to reform and revise potential problems that exist in the creation of Special Assessment Areas. However, because of the complexity of these revisions and the time constraints of the session, a decision was made to amend HB 102 to place a one-year moratorium on the creation of new Special Assessment Areas.

Unbeknownst to the bill sponsor, several rural counties have been working for years on projects to expand critical natural gas infrastructure to communities and businesses that do not have access to the benefits of this energy resource. Over the past few months, these counties have received the regulatory changes necessary to make these projects happen. Currently, there are six projects planned for later this year that will favorably impact hundreds of families and millions of dollars in business investment for these economically challenged areas. Unfortunately, the only vehicle available for these changes will be the creation of new Special Assessment Area.

I have spoken with the bill sponsor, Representative Webb, and the floor sponsor, Senator Adams, and both understand the importance of these projects and never intended for their delay. Please note that a veto of this bill is not a

commentary on the underlying effort to improve the Special Assessment Areas creation process. Indeed, I support the efforts of the bill sponsor to continue this process during the interim. Furthermore, I urge the League of Cities and Towns, the Utah Association of Counties and other interested parties to work diligently with the bill sponsor to solve these issues.

For these reasons, I veto House Bill 102, ASSESSMENT AREA AMENDMENTS and return it to the House of Representatives.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary R. Herbert". The signature is written in a cursive style with a long horizontal stroke at the end.

Gary R. Herbert
Governor

S.B. 257

Passed March 13, 2014

Vetoed April 2, 2014

PARENT REVIEW OF INSTRUCTIONAL MATERIALS AND CURRICULUM

Chief Sponsor: Howard A. Stephenson

House Sponsor: Gregory H. Hughes

LONG TITLE

General Description:

This bill provides for review by a committee of parents or guardians of a complaint related to curriculum or instructional materials.

Highlighted Provisions:

This bill:

- ▶ expands the duties of a committee of parents responsible to review computer adaptive test questions to include the review of a complaint submitted by a parent or guardian of a public school student related to curriculum or instructional materials;
- ▶ requires the State Board of Education to prepare, and publish on the State Board of Education's website, a report containing information about complaints related to curriculum and instructional materials; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53A-1-603, as last amended by Laws of Utah 2013, Chapter 161

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53A-1-603 is amended to read:

53A-1-603. Duties of State Board of Education.

(1) The State Board of Education shall:

(a) require each school district and charter school to implement the Utah Performance Assessment System for Students, hereafter referred to as U-PASS;

(b) require the state superintendent of public instruction to submit and recommend criterion-referenced achievement tests or online computer adaptive tests, college readiness assessments, an online writing assessment for grades 5 and 8, and a test for students in grade 3 to measure reading grade level to the board for approval and adoption and distribution to each school district and charter school by the state superintendent;

(c) develop an assessment method to uniformly measure statewide performance, school district performance, and school performance of students in

grades 3 through 12 in mastering basic skills courses; and

(d) provide for the state to participate in the National Assessment of Educational Progress state-by-state comparison testing program.

(2) Except as provided in Subsection (3) and Subsection 53A-1-611(3)(4), under U-PASS, the State Board of Education shall annually require each school district and charter school, as applicable, to administer:

(a) as determined by the State Board of Education, statewide criterion-referenced tests or online computer adaptive tests in grades 3 through 12 and courses in basic skill areas of the core curriculum;

(b) an online writing assessment to all students in grades 5 and 8;

(c) college readiness assessments as detailed in Section 53A-1-611; and

(d) a test to all students in grade 3 to measure reading grade level.

(3) Beginning with the 2014-15 school year, the State Board of Education shall annually require each school district and charter school, as applicable, to administer a computer adaptive assessment system that is:

(a) adopted by the State Board of Education; and

(b) aligned to Utah's common core.

(4) The board shall adopt rules for the conduct and administration of U-PASS to include the following:

(a) the computation of student performance based on information that is disaggregated with respect to race, ethnicity, gender, limited English proficiency, and those students who qualify for free or reduced price school lunch;

(b) security features to maintain the integrity of the system, which could include statewide uniform testing dates, multiple test forms, and test administration protocols;

(c) the exemption of student test scores, by exemption category, such as limited English proficiency, mobility, and students with disabilities, with the percent or number of student test scores exempted being publically reported at a district level;

(d) compiling of criterion-referenced, online computer adaptive, and online writing test scores and test score averages at the classroom level to allow for:

(i) an annual review of those scores by parents of students and professional and other appropriate staff at the classroom level at the earliest point in time;

(ii) the assessment of year-to-year student progress in specific classes, courses, and subjects;

(iii) a teacher to review, prior to the beginning of a new school year, test scores from the previous

school year of students who have been assigned to the teacher's class for the new school year;

(e) allowing a school district or charter school to have its tests administered and scored electronically to accelerate the review of test scores and their usefulness to parents and educators under Subsection (4)(d), without violating the integrity of U-PASS; and

(f) providing that scores on the tests and assessments required under Subsection (2)(a) and Subsection (3) shall be considered in determining a student's academic grade for the appropriate course and whether a student shall advance to the next grade level.

(5) (a) A school district or charter school, as applicable, is encouraged to administer an online writing assessment to students in grade 11.

(b) The State Board of Education may award a grant to a school district or charter school to pay for an online writing assessment and instruction program that may be used to assess the writing of students in grade 11.

(6) The State Board of Education shall make rules:

(a) establishing procedures for applying for and awarding money for computer adaptive tests;

(b) specifying how money for computer adaptive tests shall be allocated among school districts and charter schools that qualify to receive the money; and

(c) requiring reporting of the expenditure of money awarded for computer adaptive testing and evidence that the money was used to implement computer adaptive testing.

(7) The State Board of Education shall assure that computer adaptive tests are administered in compliance with the requirements of Chapter 13, Part 3, Utah Family Educational Rights and Privacy Act.

(8) (a) The State Board of Education shall establish a committee consisting of 15 parents or guardians of Utah public education students to review:

(i) all computer adaptive test questions[.]; and

(ii) a complaint submitted by a parent or guardian of a public school student related to curriculum or instructional materials.

(b) The committee established in Subsection (8)(a) shall include the following parent or guardian members:

(i) five members appointed by the chair of the State Board of Education;

(ii) five members appointed by the speaker of the House of Representatives; and

(iii) five members appointed by the president of the Senate.

(c) The State Board of Education shall provide staff support to the parent or guardian committee.

(d) The term of office of each member appointed in Subsection (8)(b) is four years.

(e) The chair of the State Board of Education, the speaker of the House of Representatives, and the president of the Senate shall adjust the length of terms to stagger the terms of committee members so that approximately 1/2 of the committee members are appointed every two years.

(f) No member may receive compensation or benefits for the member's service on the committee.

(g) (i) The State Board of Education shall prepare, and publish on the State Board of Education's website, a report on complaints related to curriculum and instructional materials, including:

(A) a complaint of a factual or other error;

(B) a complaint of bias; or

(C) a complaint made for another reason.

(ii) The report shall include the number of complaints categorized by:

(A) grade level and course;

(B) reason identified; and

(C) action taken by the state school board, a school district, or school with respect to a complaint.

(9) (a) School districts and charter schools shall require each licensed employee to complete two hours of professional development on youth suicide prevention within their license cycle in accordance with Section 53A-6-104.

(b) The State Board of Education shall develop or adopt sample materials to be used by a school district or charter school for professional development training on youth suicide prevention.

(c) The training required by this Subsection (9) shall be incorporated into professional development training required by rule in accordance with Section 53A-6-104.



STATE OF UTAH

OFFICE OF THE GOVERNOR
SALT LAKE CITY, UTAH
84114-2220

GARY R. HERBERT
GOVERNOR

SPENCER J. COX
LIEUTENANT GOVERNOR

April 2, 2014

The Honorable Wayne Niederhauser
President of the Senate

and

The Honorable Rebecca Lockhart
Speaker of the House

Dear President Niederhauser and Speaker Lockhart,

As required by Article VII, Section 8 of the Utah Constitution, I am writing to provide you with my objections to Senate Bill 257, PARENT REVIEW OF INSTRUCTIONAL MATERIALS AND CIRRICULUM, and to explain my decision to veto the bill.

While I greatly appreciate the sponsors' call for increased parent participation in decisions related to curriculum and instructional materials, the participation and dialog should happen with teachers and elected school board members, community councils, and charter officials – at a local level.

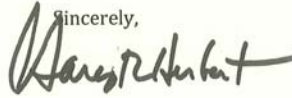
Senate Bill 257 calls for a review of curriculum complaints by an appointed state level panel of parents. Decisions about curriculum and instructional materials are made at the local level: local teachers, schools, school districts, and charter schools make decisions about materials, textbooks, and methods they will use in the classroom. Locally elected school board members and charter board members have the responsibility to work with their teachers and administrators to monitor the instructional materials used in their schools and to respond to parent concerns. Most already have formal processes in place to do this.

In discussions about this bill, the stakeholders, including members of the parent panel given the responsibility by the bill acknowledged the need for school districts and charter schools to have policies in place that outline a clear process to

address parent concerns about curriculum issues. I intend to work with the State Board of Education and sponsors of this bill to assure these policies are in place and implemented on a local level and in a way that will be truly meaningful.

For these reasons, I disapprove of and veto Senate Bill 257, PARENT REVIEW OF INSTRUCTIONAL MATERIALS AND CURRICULUM, and return it to the House of Representatives.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary R. Herbert". The signature is fluid and cursive, with a long horizontal stroke at the end.

Gary R. Herbert
Governor

H.B. 414

Passed March 12, 2014

Vetoed April 2, 2014

LEGISLATIVE SUBPOENA AMENDMENTS

Chief Sponsor: James A. Dunnigan

Senate Sponsor: John L. Valentine

LONG TITLE

General Description:

This bill amends provisions relating to a legislative subpoena.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ describes the nature and purpose of a legislative subpoena;
- ▶ establishes a process for the subject of a legislative subpoena to challenge a legislative subpoena before a legislative review committee;
- ▶ provides that a legislative review committee has the sole and final authority to hear and rule on a challenge to a legislative subpoena;
- ▶ describes the grounds upon which the subject of a subpoena may challenge a legislative subpoena;
- ▶ describes the action that a legislative review committee may take after a hearing on a challenge to a legislative subpoena;
- ▶ establishes a process for the issuer of a legislative subpoena to file a motion with a legislative review committee to find a person in civil contempt of the Legislature and to compel obedience to the legislative subpoena;
- ▶ describes the action that a legislative review committee may take after a hearing on a motion described in the preceding section;
- ▶ provides for a legislative subpoena to be reissued as a court subpoena in order to assist with enforcement of the subpoena outside of Utah;
- ▶ establishes and describes the membership and functioning of a legislative review committee;
- ▶ provides for the civil enforcement of a legislative subpoena by a court; and
- ▶ establishes and describes the class A misdemeanor crime of criminal contempt of the Legislature.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

36-14-1, as last amended by Laws of Utah 2013, First Special Session, Chapter 1

ENACTS:

36-14-5.3, Utah Code Annotated 1953

36-14-5.5, Utah Code Annotated 1953

36-14-7, Utah Code Annotated 1953

REPEALS AND REENACTS:

36-14-5, as last amended by Laws of Utah 2013, First Special Session, Chapter 1

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 36-14-1 is amended to read:

36-14-1. Definitions.

As used in this chapter:

(1) "Disputative motion" means:

(a) a motion to quash a legislative subpoena; or

(b) a motion for a protective order in relation to a legislative subpoena.

[4] (2) "Issuer" means a person authorized to issue a subpoena by this chapter.

[2] (3) "Legislative body" means:

(a) the Legislature;

(b) the House or Senate; or

(c) any committee or subcommittee of the Legislature, the House, or the Senate.

[3] (4) "Legislative office" means the Office of Legislative Research and General Counsel, Office of the Legislative Fiscal Analyst, and the Office of the Legislative Auditor General.

(5) "Legislative review committee" means:

(a) a committee consisting of each member of the House Management Committee if the subpoena is issued by:

(i) the speaker of the House;

(ii) a chair of any House committee or House subcommittee; or

(iii) a person described in Subsections 36-14-2(1)(i) through (l) on behalf of the House or on behalf of a person described in Subsection (5)(a)(i) or (ii);

(b) a committee consisting of each member of the Senate Management Committee if the subpoena is issued by:

(i) the president of the Senate;

(ii) a chair of any Senate committee or Senate subcommittee; or

(iii) a person described in Subsections 36-14-2(1)(i) through (l) on behalf of the Senate or on behalf of a person described in Subsection (5)(b)(i) or (ii); or

(c) a committee consisting of each member of the Legislative Management Committee for a legislative subpoena that is not described in Subsection (5)(a) or (b).

[4] (6) "Legislative staff member" means an employee or independent contractor of a legislative office.

[5] (7) "Legislative subpoena" means a subpoena issued by an issuer on behalf of a legislative body or legislative office and includes:

(a) a subpoena requiring a person to appear and testify at a time and place designated in the subpoena;

(b) a subpoena requiring a person to:

(i) appear and testify at a time and place designated in the subpoena; and

(ii) produce accounts, books, papers, documents, electronically stored information, or tangible things designated in the subpoena; and

(c) a subpoena requiring a person to produce accounts, books, papers, documents, electronically stored information, or tangible things designated in the subpoena at a time and place designated in the subpoena.

[46] (8) "Special investigative committee" is as defined in Subsection 36-12-9(1).

Section 2. Section 36-14-5 is repealed and reenacted to read:

36-14-5. Legislative subpoenas -- Challenges -- Enforcement.

(1) A legislative subpoena:

(a) is an order issued by the legislative branch of state government, backed by the power vested in the Legislature under the Utah Constitution, and backed by the authority of state law, to enable the Legislature to fulfill the Legislature's constitutional and statutory duties and to exercise the Legislature's constitutional and statutory power, to the fullest extent, in the interests of the citizens of Utah; and

(b) is not a mere discovery device.

(2) A legislative review committee has the sole authority to hear and decide a disputative motion.

(3) (a) A person may not file with a court, and a court does not have jurisdiction to hear or decide, a disputative motion or any other motion or action challenging the scope, breadth, or validity of a legislative subpoena.

(b) Except as expressly authorized by this section, a person may not take legal action to challenge or limit a legislative subpoena.

(c) If a person attempts to take legal action that is not expressly authorized by this section to challenge or limit a legislative subpoena, the person:

(i) is not relieved from the duty to fully, strictly, and timely comply with the legislative subpoena; and

(ii) is subject to the criminal penalty described in Section 36-14-7 if the person fails to fully, strictly, and timely comply with the legislative subpoena.

(4) A person may file a disputative motion only upon the grounds that the legislative subpoena seeks an item, information, or testimony that is protected under:

(a) the United States Constitution or the Utah Constitution; or

(b) a privilege, recognized by Utah court rules, that has not been waived.

(5) A person who files a disputative motion shall file the disputative motion by serving the disputative motion on the legislative general counsel:

(a) except as provided in Subsection (5)(b), before the day on which the legislative subpoena requires compliance; or

(b) if the disputative motion relates solely to a question asked while the person subject to the subpoena is in the process of testifying in response to the legislative subpoena, within one business day after the day on which the question is asked.

(6) A legislative review committee:

(a) shall, upon receipt of a timely disputative motion that complies with this section, schedule a hearing;

(b) shall give the person who filed the disputative motion described in Subsection (6)(a) notice and an opportunity to be heard; and

(c) may conduct the hearing in the manner, and in accordance with any rules, that the legislative review committee determines is appropriate.

(7) A legislative review committee may summarily dismiss a disputative motion that is not timely filed or does not comply with the requirements of this section.

(8) If a person files a disputative motion, the person is not relieved from the duty to fully and timely comply with all portions of the legislative subpoena that are not expressly challenged in the disputative motion.

(9) After a hearing on a disputative motion, the legislative review committee may do one or more of the following:

(a) quash the legislative subpoena;

(b) modify the legislative subpoena;

(c) grant a protective order in relation to all or part of the legislative subpoena;

(d) order the issuer to issue another subpoena; or

(e) order the subject of the legislative subpoena to comply with the legislative subpoena or a portion of the legislative subpoena.

(10) If a person disobeys or fails to comply with a legislative subpoena, or appears pursuant to a legislative subpoena and refuses to testify to a matter upon which the person may be lawfully interrogated, the issuer may file with the legislative review committee a motion to find the person in civil contempt of the Legislature and to compel obedience to the subpoena, by delivering the motion to the legislative general counsel.

(11) A legislative review committee:

(a) shall, upon receipt of a motion described in Subsection (10), schedule a hearing;

(b) shall give the person against whom a motion described in Subsection (10) is filed notice and an opportunity to be heard; and

(c) may conduct the hearing in the manner, and in accordance with any rules, that the legislative review committee determines is appropriate.

(12) After a hearing on a motion described in Subsection (10), the legislative review committee may do one or more of the following:

(a) quash the legislative subpoena;

(b) modify the legislative subpoena;

(c) grant a protective order in relation to all or part of the legislative subpoena;

(d) order the issuer to issue another subpoena;

(e) order the subject of the legislative subpoena to comply with the legislative subpoena or a portion of the legislative subpoena;

(f) find the person in civil contempt of the Legislature and impose a civil fine on the person of up to \$1,000;

(g) refer the matter for criminal prosecution;

(h) file with the district court a motion for an order to compel obedience to the legislative subpoena; or

(i) pursue any other legal remedy, including an extraordinary writ.

(13) The civil fine described in Subsection (12)(f) is in addition to any other civil or criminal penalty that may be imposed against the subject of the legislative subpoena.

(14) (a) The issuer of a legislative subpoena may, in order to enforce or increase the likelihood of enforcement of a legislative subpoena outside of Utah, petition a Utah court to issue the legislative subpoena as a court-issued subpoena.

(b) Upon receipt of a petition described in Subsection (14)(a), a Utah court may issue the legislative subpoena as a court-ordered subpoena.

Section 3. Section 36-14-5.3 is enacted to read:

36-14-5.3. Legislative review committee.

(1) A majority of the total members of a legislative review committee constitutes a quorum.

(2) A majority vote of a quorum present at a meeting of a legislative review committee constitutes the action of the committee.

(3) (a) The speaker of the House is the chair of a legislative review committee described in Subsection (5)(a).

(b) The president of the Senate is the chair of a legislative review committee described in Subsection 36-14-1(5)(b).

(c) During an even-numbered year, the speaker of the House is the chair of a legislative review committee described in Subsection 36-14-1(5)(c).

(d) During an odd-numbered year, the president of the Senate is the chair of a legislative review committee described in Subsection 36-14-1(5)(c).

(4) (a) If there is a tie vote in a legislative review committee described in Subsection 36-14-1(5)(a), the speaker of the House shall break the tie.

(b) If there is a tie vote in a legislative review committee described in Subsection 36-14-1(5)(b), the president of the Senate shall break the tie.

(c) (i) If there is a tie vote in a legislative review committee described in Subsection 36-14-1(5)(c), the speaker of the House and the president of the Senate shall break the tie.

(ii) If the vote of the speaker of the House and the president of the Senate results in a tie, the motion fails.

(5) (a) The decision of a legislative review committee is final and is not subject to review by a court.

(b) Subsection (5)(a) does not prohibit a legislative review committee from seeking civil enforcement of a subpoena under Section 36-14-5.5.

Section 4. Section 36-14-5.5 is enacted to read:

36-14-5.5. Civil enforcement of legislative subpoena by a court.

(1) A legislative review committee may:

(a) file with the district court a motion for an order to compel obedience to:

(i) a legislative subpoena; or

(ii) an order of a legislative review committee; or

(b) pursue any other legal remedy, including an extraordinary writ.

(2) Upon receipt of any action or motion described in Subsection (1), the court shall:

(a) grant deference to the Legislature's power, including the power to investigate, as an independent branch of government; and

(b) expedite the hearing and decision on the action or motion.

(3) A court shall take immediate action to enforce a legislative subpoena or an order of a legislative review committee to the full extent permitted by law and to the full extent described in the legislative subpoena or the order of the legislative review committee.

(4) A court shall enforce a legislative subpoena or an order of a legislative review committee by:

(a) ordering the person named in the subpoena or the order to comply with the legislative subpoena or order; and

(b) taking the action described in Sections 78B-6-311 and 78B-6-312.

(5) Any penalty imposed by a court to enforce a legislative subpoena or an order of a legislative

review committee, including a penalty imposed under Subsection (4), is in addition to any other civil or criminal penalty imposed under this chapter.

(6) A court that takes any action to enforce a legislative subpoena or an order of a legislative review committee shall order the subject of the subpoena to pay costs and reasonable attorney fees to the Legislature, including costs of and attorney fees relating to an appeal described in Subsection (7).

(7) Any party aggrieved by a decision of a court under this section may appeal the decision directly to the Utah Supreme Court.

Section 5. Section 36-14-7 is enacted to read:

36-14-7. Criminal contempt of Legislature.

(1) A person is guilty of criminal contempt of the Legislature if the person:

(a) disobeys or fails to comply with a legislative subpoena; or

(b) appears pursuant to a legislative subpoena and refuses to testify to a matter upon which the person may be lawfully interrogated.

(2) Criminal contempt of the Legislature is a class A misdemeanor.

(3) A person is not guilty of a violation of Subsection (1), if:

(a) the person timely files a disputative motion with the legislative review committee, in accordance with Section 36-14-5;

(b) the motion described in Subsection (3)(a) is based on a claim, made in good faith, that the legislative subpoena seeks an item, information, or testimony that is protected under the United States Constitution, the Utah Constitution, or a privilege, recognized by Utah court rules, that has not been waived;

(c) (i) the legislative review committee has not issued a decision on the motion described in Subsection (3)(a);

(ii) the legislative review committee grants the motion described in Subsection (3)(a), provided that, if the legislative review committee grants a protective order, the person fully and strictly complies with all aspects of the legislative subpoena for which the person sought a protective order but for which a protective order was denied, within seven days, or a different time ordered by the legislative review committee, after the day on which the legislative review committee grants the protective order; or

(iii) the legislative review committee denies the motion described in Subsection (3)(a) and the person fully complies with the subpoena within seven days, or a different time ordered by the legislative review committee, after the day on which the legislative review committee denies the motion; and

(d) the person fully, strictly, and timely provides all information, items, and testimony that are responsive to the legislative subpoena and are not subject to a good faith claim described in Subsections (3)(a) and (b).

(4) A criminal action under this section may be brought by the attorney general, the Salt Lake County district attorney, or a county attorney or district attorney where the defendant resides or has a business presence.



STATE OF UTAH

GARY R. HERBERT
GOVERNOR

OFFICE OF THE GOVERNOR
SALT LAKE CITY, UTAH
84114-2220

SPENCER J. COX
LIEUTENANT GOVERNOR

April 2, 2014

The Honorable Rebecca Lockhart
Speaker of the House

and

The Honorable Wayne Niederhauser
President of the Senate

Dear Speaker Lockhart and President Niederhauser,

As required by Article VII, Section 8 of the Utah Constitution, I am writing to provide you with my objections to House Bill 414, LEGISLATIVE SUBPOENA AMENDMENTS, and to explain my decision to veto the bill.

In vetoing HB 414, I do not question the Legislature's authority to seek information through subpoenas and to conduct investigations. The State is best served when policy makers have complete information in order to make informed decisions. Further, I recognize this bill was passed in response to the investigation of former Attorney General John Swallow, and was a result of the frustration the Legislature experienced in conducting that investigation. While I am sympathetic to that frustration, history has repeatedly shown us that government response to scandals can often be excessive and overreaching. Regardless of the motives for passing HB 414, I cannot sign a bill that demands information of anyone, at any time, on any subject, for any purpose, and denies our citizens their fundamental constitutional rights of defense and due process.

HB 414 ignores the checks and balances that are the basis for our system of government by exempting legislative subpoenas from judicial oversight. The bill violates the open courts provision of the Utah Constitution by denying citizens the ability to seek redress in the courts. In fact, the bill specifically states that "A person may not file with a court, and a court does not have jurisdiction to hear or decide, a disputative motion or any other motion or action challenging the scope, breadth, or validity of a legislative subpoena." The bill subjects, not only public officials, but also

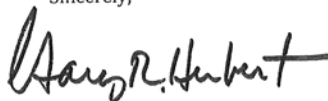
private citizens to unlimited and unrestrained subpoena power. And most egregiously, the bill criminalizes any attempt by an individual to seek relief from anyone other than the legislative body itself, punishable by up to one year in jail.

The problems with HB 414 might have been resolved with sufficient vetting and public debate, but instead, this bill was voted on late in the session, too quickly, and without public hearing or input. The final version of HB 414 did not have a committee hearing in either the House or Senate, and the only debate on the final version of the bill was related to a motion to concur. While the flaws in the bill were acknowledged and discussed in that final vote, the message was, *we know it is flawed but we can fix it later*. That sentiment may work with technical corrections to governmental programs, but should never be applied to a bill that denies citizens their civil rights.

I am confident that when concepts in this bill are looked at more carefully and are given more scrutiny by the public and members of the Legislature, the original purpose of this bill can be accomplished without jeopardizing the rights of our citizens.

For these reasons, I disapprove of and veto House Bill 414, LEGISLATIVE SUBPOENA AMENDMENTS, and return it to the House of Representatives.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary R. Herbert". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

Gary R. Herbert
Governor



STATE OF UTAH
OFFICE OF THE GOVERNOR
SALT LAKE CITY, UTAH
84114-2220

GARY R. HERBERT
GOVERNOR

SPENCER J. COX
LIEUTENANT GOVERNOR

April 2, 2014

The Honorable Rebecca Lockhart
Speaker of the House

and

The Honorable Wayne Niederhauser
President of the Senate

Dear Speaker Lockhart and President Niederhauser,

As required by Article VII, Section 8 of the Utah Constitution, I am writing to provide you with my statement of the item of appropriation of which I disapprove in House Bill 3, APPROPRIATIONS ADJUSTMENTS.

I disapprove of lines 802 through 807 of HB 3. This will correct the unintentional double funding of Senate Bill 104, Improvement of Reading Instruction, which appropriates \$100,000 from the Education Fund to the University of Utah to carry out the provisions of the bill. This bill, HB 3, includes a duplicate appropriation from the Education Fund to the University of Utah for the same purpose. This veto removes the duplicate appropriation.

For these reasons, I veto lines 802 through 807 of House Bill 3, APPROPRIATIONS ADJUSTMENTS.

Sincerely,

Gary R. Herbert
Governor

Resolutions

passed at the
General Session
of the
Sixtieth Legislature
2014

H.C.R. 1

Passed March 10, 2014
 Approved March 25, 2014
 Effective March 25, 2014

**CONCURRENT RESOLUTION
 DESIGNATING CALL YOUR
 MILITARY HERO DAY**

Chief Sponsor: Janice M. Fisher
 Senate Sponsor: Peter C. Knudson
 Cosponsors: Jennifer M. Seelig
 Tim M. Cosgrove
 Rebecca Chavez-Houck
 Joel K. Briscoe
 Brad L. Dee
 Gregory H. Hughes
 Don L. Ipson
 Jacob L. Anderegg
 Jerry B. Anderson
 Johnny Anderson
 Patrice M. Arent
 Stewart Barlow
 Roger E. Barrus
 Jim Bird
 Melvin R. Brown
 Jack R. Draxler
 Susan Duckworth
 Rebecca P. Edwards
 Gage Froerer
 Francis D. Gibson
 Richard A. Greenwood
 Stephen G. Handy
 Lynn N. Hemingway
 Eric K. Hutchings
 Ken Ivory
 Brian S. King
 John Knotwell
 Bradley G. Last
 David E. Lifferth
 John G. Mathis
 Kay L. McIff
 Mike K. McKell
 Carol Spackman Moss
 Merrill F. Nelson
 Jim Nielson
 Michael E. Noel
 Curtis Oda
 Lee B. Perry
 Jeremy A. Peterson
 Val L. Peterson
 Dixon M. Pitcher
 Marie H. Poulson
 Kraig Powell
 Paul Ray
 Edward H. Redd
 Angela Romero
 V. Lowry Snow
 Jon E. Stanard
 R. Curt Webb
 John R. Westwood
 Mark A. Wheatley
 Ryan D. Wilcox
 Larry B. Wiley

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor designates July 3, 2014, as “Call Your Military Hero Day.”

Highlighted Provisions:

This resolution:

- ▶ designates July 3, 2014, as “Call Your Military Hero Day” in the state of Utah and urges Utah’s citizens and military personnel to strengthen bonds of friendship with military veterans and active duty service members.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the United States Department of Veterans Affairs reports that, based on both its own data and data reported by 21 states from 1999 through 2011, 22 military veterans take their own lives every day;

WHEREAS, the United States Department of Veterans Affairs added that 70% of these suicides are committed by military veterans 50 years of age or older;

WHEREAS, if more complete and accurate data were available on suicide victims, the number of suicides among military veterans would be even higher;

WHEREAS, nearly one in five suicides nationally is a military veteran, even though veterans make up about 10% of the population;

WHEREAS, combat stress is just one reason why some military veterans commit suicide;

WHEREAS, these reasons include the struggle some military veterans have after being a victim of violent assault, including rape;

WHEREAS, other reasons include economic pressure and rising unemployment, as many military veterans struggle to obtain employment at the conclusion of their service;

WHEREAS, according to a survey of 4,000 veterans conducted in 2012, about one out of every three responded that they had considered suicide;

WHEREAS, suicide is also a significant challenge among active duty military personnel;

WHEREAS, Leon Panetta, former United States Defense Secretary, has called the suicide rate among active duty military personnel “an epidemic”;

WHEREAS, the United States Army has reported that it has not been able to provide the same type of suicide awareness and prevention programs to Army Reserve and National Guard personnel living as civilians back in their communities as it provides to active duty personnel;

WHEREAS, one key to ending this epidemic is to have more people taking a personal interest in the

lives of individual military veterans and active duty military personnel, people who genuinely care and will make the time and effort to connect and stay connected with those who have served or continue to serve our nation;

WHEREAS, military personnel and Utah citizens who reach out to military veterans and active duty military personnel and establish and strengthen bonds of friendship are an inestimable force for good that can save lives;

WHEREAS, veterans and active duty military personnel deserve to know that they are not alone when facing their struggles, that we feel a deep sense of gratitude and appreciation for the sacrifices of all veterans and active duty military personnel in all branches of military service, and that we recognize our debt to them; and

WHEREAS, after all that our military veterans and active duty military personnel have done and endured for us, in standing in harm's way in our place, it is incumbent upon us to reach out to them and lift their spirits, help them cope with their unique struggles, listen to them, and demonstrate to them that our appreciation for their service and sacrifice has become a part of who we are as individuals and as citizens:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, designates July 3, 2014, as "Call Your Military Hero Day" in the state of Utah.

BE IT FURTHER RESOLVED that the Legislature and the Governor urge citizens and military personnel to reach out to military veterans and active duty military personnel to establish and strengthen bonds of friendship so that they will know that they are not alone when facing their struggles, that we are filled with gratitude and appreciation for the sacrifices of all veterans in all branches of military service, and that we recognize our debt to them for putting themselves in harm's way in our place.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the United States Department of Veterans Affairs, the Utah Department of Veterans' and Military Affairs, and the members of Utah's congressional delegation.

H.C.R. 2

Passed February 13, 2014
 Approved March 27, 2014
 Effective March 27, 2014

**CONCURRENT RESOLUTION
 DESIGNATING IDENTIFY YOUR PET DAY**

Chief Sponsor: Angela Romero
 Senate Sponsor: Brian E. Shiozawa

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor designates Friday, April 18, 2014, as "Identify Your Pet Day" in the state of Utah.

Highlighted Provisions:

This resolution:

- ▶ designates Friday, April 18, 2014, as "Identify Your Pet Day" in the state of Utah; and
- ▶ urges Utahns to ensure that their pets have identification that can assist in reuniting lost pets with their owners, reducing animal shelter costs, and reducing the euthanizing of unclaimed pets.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, many household pets become lost and are picked up by county animal services;

WHEREAS, these lost pets are then taken either to municipal or county animal shelters or the Humane Society or other animal rescue organizations;

WHEREAS, many of these animals do not wear an identification collar or have an implanted identification chip;

WHEREAS, pets that wear identification, or have had implanted an identification chip, can be much more easily reunited with their owners;

WHEREAS, according to Salt Lake County Animal Services, it costs approximately \$33 per day for an animal shelter to house and care for a pet;

WHEREAS, eventually, animal shelters have no choice but to euthanize the pets in their care that are not claimed by their owners;

WHEREAS, as more pets have identification, fewer taxpayer dollars are needed to house lost pets;

WHEREAS, pet identification provides a great service to pets, their owners, and Utah's communities; and

WHEREAS, Friday, April 20-26, 2014, is National Pet ID Week:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, designates Friday, April 18, 2014, as "Identify Your Pet Day" in the state of Utah, in recognition of National Pet ID Week, April 20-26, and urges Utah's pet owners to provide identification for their pets, either through an implanted identification chip or on a pet's collar.

BE IT FURTHER RESOLVED that the Legislature and the Governor recognize that, as Utah's pet owners get identification for their pets, pet owners will more likely be reunited with their lost pets and fewer taxpayer dollars will be spent housing lost animals.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Utah League of Cities and

Towns for distribution to its members, the Utah Association of Counties for distribution to its members, the Humane Society of Utah, and the Humane Society of the United States.

H.C.R. 3

Passed March 12, 2014

Approved April 1, 2014

Effective April 1, 2014

CONCURRENT RESOLUTION ON UNMANNED AIRCRAFT SYSTEMS

Chief Sponsor: Val L. Peterson

Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor expresses support for the development of Unmanned Aircraft Systems, technologies, and businesses in the state of Utah.

Highlighted Provisions:

This resolution:

- ▶ expresses support for the development of Unmanned Aircraft Systems, technologies, and businesses in the state;
- ▶ urges the Governor's Office of Economic Development to evaluate the feasibility of assisting in the creation of an Unmanned Aircraft System test site to increase economic opportunities, further solidify Utah's role in the aerospace and defense ecosystem, and serve as a stimulus to create additional economic opportunities for the state of Utah;
- ▶ urges that, if it identifies a feasible solution for securing an Unmanned Aircraft System test site, the Governor's Office of Economic Development exercise all options at its disposal to facilitate the creation of a test site;
- ▶ recognizes the significant economic benefits that Unmanned Aircraft Systems and their technological development can bring to the state; and
- ▶ recognizes the importance of protecting Utahns' rights to privacy, as guaranteed in the Fourth Amendment to the Constitution of the United States, as Unmanned Aircraft Systems and technologies develop in the state.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the state of Utah has excellent resources that can be used to further advance the research, development, and use of technology to benefit and support Utahns and Americans with the safe use of Unmanned Aircraft Systems (UAS);

WHEREAS, UAS can be designed for gathering information necessary to protect human life in search and rescue operations; aiding in the management of resources, including marine mammal and fisheries research; providing

humanitarian assistance; providing a platform for scientific research; and other private and public sector activities;

WHEREAS, for example, the Alaska Center for Unmanned Aircraft Systems Integration used UAS to assist the United States Coast Guard Cutter Healy and the Russian tanker Renda in delivering fuel to Nome, Alaska, in 2012;

WHEREAS, since the 1990s, the list of potential uses for UAS has expanded exponentially;

WHEREAS, approximately 90% of the known commercial uses of UAS are for agriculture and public safety;

WHEREAS, some of the uses of UAS will be disaster response, critical infrastructure, law enforcement, and natural resource monitoring;

WHEREAS, the Federal Aviation Administration (FAA) restricts the use of UAS by public agencies to conduct routine flights over urban or populated areas, heavily trafficked roads, or open-air assemblies of people, as well as the discharge or dropping of objects while in flight, and the operation of UAS without the capability of pilot intervention;

WHEREAS, the FAA has set up a roadmap for integration of UAS into the National Airspace System (NAS);

WHEREAS, in order to integrate UAS safety into the NAS, four main components of UAS operation will need to be researched: pilot and crew requirements; control station functionality and certification; data link certification requirements and operability; and unmanned aircraft certification requirements, airworthiness standards, measures of performance, and continued airworthiness standards;

WHEREAS, Utah, with the various academic levels of expertise in these areas, is well positioned to help the FAA develop these standards;

WHEREAS, the state of Utah is prepared to work with the FAA to promote the establishment of safe UAS ranges in Utah;

WHEREAS, these efforts will help develop procedures for the safe operation of UAS in the NAS;

WHEREAS, it is estimated that integration of UAS into NAS will have a significant positive impact on the national economy, including the creation of more than 34,000 manufacturing jobs and more than 70,000 new jobs in the first three years;

WHEREAS, by 2025, total job creation is estimated at 103,776;

WHEREAS, the manufacturing jobs created will be high paying and require technical baccalaureate degrees;

WHEREAS, in addition to direct jobs created by the manufacturing process, income generated through newly created jobs will be spread to local communities;

WHEREAS, as new jobs are created, additional money is spent at the local level, creating additional demand for local services and creating more jobs;

WHEREAS, tax revenue to the states from 2015–2025, the first 11 years following integration, are estimated at \$635 billion;

WHEREAS, Utah has a very strong relationship with the national UAS industry players already working within the state;

WHEREAS, Utah has a strong and established history with defense integration initiatives;

WHEREAS, the United States Army has located its UAS technology center at Utah’s Dugway Proving Ground;

WHEREAS, the United States Air Force has chosen Hill Air Force Base’s Ogden Air Logistics Center as its Maintenance, Repair, and Overhaul (MRO) center for the Air Force’s Predator UAS;

WHEREAS, Utah has a substantial academic UAS body of expertise among its five universities that partnered together for the FAA’s UAS Site Award bid;

WHEREAS, this academic partnership, with its diverse levels and types of expertise, is unparalleled by another state;

WHEREAS, Utah State University’s Space Dynamic Lab has a 50–year history of developing satellite imaging and mapping technologies that can serve UAS civil and commercial applications;

WHEREAS, Utah Valley University (UVU) brings expertise in aviation science and has one of the largest aviation programs in the United States;

WHEREAS, UVU’s College of Aviation and Public Services is located at the Provo Airport and is a natural place to start the development and evaluation of the civil applications of UAS;

WHEREAS, the University of Utah brings expertise in computer and visualization technology and is a leading research and development institution supporting data collection, management, and presentation technologies;

WHEREAS, Utah State University brings expertise in imaging and mapping capabilities and spaceflight technologies through its Space Dynamics Lab and research;

WHEREAS, Weber State University brings expertise in aerospace industries applied sciences through its Utah Center for Aeronautical Innovation and Design;

WHEREAS, Brigham Young University brings expertise in UAS guidance and control technologies;

WHEREAS, at the forefront of such research are two academic spin–out companies, Lockheed Martin Procerus Technologies and SAR, which provide autopilots and miniature Synthetic Aperture Radars for UAS;

WHEREAS, the FAA has yet to determine and set its certification requirements for civil and commercial UAS operators;

WHEREAS, working in collaboration with the Utah academic partners, and with its expertise in aviation and public services curriculum and training, UVU can assist the FAA in establishing its UAS operator certification requirements and program;

WHEREAS, Utah’s university partners could collaboratively establish a certification and training center to help the FAA determine a suitable commercial application of UAS into the NAS;

WHEREAS, Utah is uniquely positioned to help the FAA meet some of its initiatives and challenges, including data collection and management;

WHEREAS, the FAA needs comprehensive data on safe integration of UAS into the NAS in a variety of environments;

WHEREAS, Utah, with its diverse topography, geography, climates, and infrastructure of proven research and development is optimally positioned to provide the FAA the rich, meaningful, and diverse data it seeks to successfully integrate UAS into NAS;

WHEREAS, Utah provides operational conditions in congested airspace, in various climate conditions, at various altitudes, all in a diversity of geographical terrain;

WHEREAS, the Governor’s Office of Economic Development should evaluate the feasibility of assisting in the creation of a UAS test site to increase economic opportunities, further solidify Utah’s role in the aerospace and defense ecosystem, and serve as a stimulus to create additional economic opportunities for the state of Utah;

WHEREAS, if the Governor’s Office of Economic Development identifies a feasible solution for securing a UAS test site, it should exercise all options at its disposal to facilitate the creation of a test site;

WHEREAS, to address privacy concerns, Utah will extend principles contained in the Fourth Amendment to the Constitution of the United States to the application of UAS to protect its citizens’ privacy rights from unlawful intrusion;

WHEREAS, in any criminal prosecution or proceeding within the state of Utah, information from UAS is not admissible as evidence unless the information was obtained pursuant to the authority of a search warrant or in accordance with a judicially recognized exception to the warrant requirement;

WHEREAS, any test site developed and approved in the state of Utah will be required to report use data, including frequency of use, equipment, organizations or agencies applying to use the site, and any other information requested by the Governor’s UAS Board;

WHEREAS, use data will be regularly reported to the Governor’s UAS Board;

WHEREAS, a representative from the Governor’s UAS Board will report this same information to the

Transportation Interim Committee on an annual basis;

WHEREAS, the UAS Advisory Board, appointed by the Governor, is addressing issues and concerns of responsible management and privacy;

WHEREAS, Utah's legislative and executive branches are supportive of UAS initiatives and their application among other industries and government agencies;

WHEREAS, with an already established UAS infrastructure and a complex of potential launch and recovery areas that could match the complexity and maturity of the intended UAS applications, Utah has the ability to expand and respond quickly to FAA needs now and in the future; and

WHEREAS, it is expected that Utah will provide a national model for other states to follow:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, expresses support for the development of Unmanned Aircraft Systems, technologies, and businesses in the state.

BE IT FURTHER RESOLVED that the Legislature and the Governor recognize the significant economic benefits that Unmanned Aircraft Systems and their technological development can bring to the state.

BE IT FURTHER RESOLVED that the Legislature and the Governor urge the Governor's Office of Economic Development to evaluate the feasibility of assisting in the creation of an Unmanned Aircraft System test site to increase economic opportunities, further solidify Utah's role in the aerospace and defense ecosystem, and serve as a stimulus to create additional economic opportunities for the state of Utah.

BE IT FURTHER RESOLVED that the Legislature and the Governor urge that, if it identifies a feasible solution for securing an Unmanned Aircraft System test site, the Governor's Office of Economic Development exercise all options at its disposal to facilitate the creation of a test site.

BE IT FURTHER RESOLVED that the Legislature and the Governor recognize the importance of protecting Utahns' rights to privacy, as guaranteed in the Fourth Amendment to the Constitution of the United States, as Unmanned Aircraft Systems and technologies develop in the state of Utah.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Federal Aviation Administration and the members of Utah's congressional delegation.

H.C.R. 4

Passed February 24, 2014

Approved March 27, 2014

Effective March 27, 2014

**CONCURRENT RESOLUTION
RECOGNIZING THE 20TH
ANNIVERSARY OF THE SCHOOL
AND INSTITUTIONAL TRUST LANDS
ADMINISTRATION**

Chief Sponsor: Melvin R. Brown

Senate Sponsor: John L. Valentine

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor recognizes 20 years of successful leadership, management, and accomplishment by the Utah School and Institutional Trust Lands Administration.

Highlighted Provisions:

This resolution:

- ▶ recognizes the 20th anniversary of the School and Institutional Trust Lands Administration; and
- ▶ expresses support for the School and Institutional Trust Lands Administration's leadership and management on behalf of its 12 beneficiaries.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, in 1994, the Legislature of the state of Utah, recognizing the potential of Utah's 3.4 million acres of surface trust land and an additional 1.1 million acres of mineral trust land to better serve the 12 state institutions authorized by the United States Congress in 1894, created the School and Institutional Trust Lands Administration (SITLA) as an independent state agency;

WHEREAS, the Legislature of the state of Utah structured SITLA as a self-funded agency, with no taxpayer or general fund support for its operations;

WHEREAS, SITLA, consistent with its legal mandate, has managed its diverse land portfolio by balancing short- and long-term benefits;

WHEREAS, in addition to its mandate to optimize and maximize trust land uses for financial support of its beneficiaries over time, SITLA has been involved in numerous transactions and projects that have preserved, protected, and improved more than 500,000 acres of land, an area equivalent to the combined acreage of Arches, Zion, Bryce Canyon, and Capitol Reef national parks;

WHEREAS, SITLA works to find federal, state, and private exchange partners with which to improve its land position by acquiring land more suitable for development, as well as preserving and protecting important properties;

WHEREAS, the total asset value of Utah's school and institutional trust land beneficiary funds rose

from \$86 million in 1994 to \$1.73 billion in fiscal year 2013 largely due to SITLA's efforts;

WHEREAS, the percentage growth of these permanent funds in Utah has surpassed all other states in the last 20 years;

WHEREAS, SITLA's contributions to the state's permanent funds, particularly the Permanent School Fund, has resulted in annual distributions now averaging \$40,000 to each K-12 public school, which is the only discretionary funding these schools receive; and

WHEREAS, it is anticipated that the growth of the respective permanent funds and annual distributions to its beneficiaries will become even more significant over time:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, recognizes the 20th anniversary of the School and Institutional Trust Lands Administration.

BE IT FURTHER RESOLVED that the Legislature and the Governor express support for the School and Institutional Trust Lands Administration's leadership and management on behalf of its 12 beneficiaries.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the State Board of Education; the College of Mines at the University of Utah; Miners Hospital at the University of Utah Medical Center; the Division of Water Resources; the Utah School for the Deaf and the Blind; the Utah State Hospital; the University of Utah; Utah State University; the Division of Juvenile Justice Services; the Division of Facilities Construction and Management; the Colleges of Education at the University of Utah and Dixie State; Southern Utah, Utah State, Utah Valley, and Weber State universities; and the director of the Utah School and Institutional Trust Lands Administration.

H.C.R. 5

Passed March 11, 2014
Approved March 25, 2014
Effective March 25, 2014

**CONCURRENT RESOLUTION
TO PROTECT STATE FUNDS**

Chief Sponsor: Robert M. Spendlove
Senate Sponsor: Deidre M. Henderson
Cosponsors: Brad L. Dee
Gregory H. Hughes
Don L. Ipson
Jerry B. Anderson
Stewart Barlow
Roger E. Barrus
Melvin R. Brown
Kay J. Christofferson
Jon Cox
Rebecca P. Edwards
Steve Eliason
Gage Froerer

Francis D. Gibson
Brian M. Greene
Richard A. Greenwood
Keith Grover
Stephen G. Handy
Eric K. Hutchings
Ken Ivory
Michael S. Kennedy
Bradley G. Last
Dana L. Layton
John G. Mathis
Ronda Rudd Menlove
Jim Nielson
Michael E. Noel
Curtis Oda
Lee B. Perry
Jeremy A. Peterson
Val L. Peterson
Dixon M. Pitcher
Kraig Powell
Paul Ray
Edward H. Redd
Marc K. Roberts
Douglas V. Sagers
V. Lowry Snow
Jon E. Stanard
Keven J. Stratton
R. Curt Webb
John R. Westwood
Ryan D. Wilcox
Brad R. Wilson

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor declares that if a state opts out of a federal program, the state should not have to contribute state dollars to the federal program.

Highlighted Provisions:

This resolution:

- ▶ declares that if a state opts out of a federal program, it should not have to contribute state dollars to the federal program.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the 16th Amendment to the Constitution of the United States was passed by the United States Congress in 1909 and ratified by the states in 1913;

WHEREAS, the 16th Amendment made the income tax a permanent fixture in the United States tax system;

WHEREAS, the 16th Amendment gave Congress legal authority to tax income and resulted in a revenue law that taxed incomes of both individuals and corporations;

WHEREAS, the income tax provided the means for policymakers to finance a range of new federal aid programs;

WHEREAS, as the years passed, the portion of tax money collected by the federal government and

returned to the states was accompanied by an increasing number of stipulations regarding how states must spend the money;

WHEREAS, many of these aid programs required states to match federal funds on a dollar-for-dollar basis;

WHEREAS, unfortunately, matching requirements have induced excessive state spending and continuous program expansion;

WHEREAS, in 1925, President Calvin Coolidge stated that aid to the states should be cut because it was "encumbering the national government beyond its wisdom to comprehend, or its ability to administer";

WHEREAS, federal aid has also prompted the growth in state bureaucracies, partly because aid programs have often required that states set up new agencies to oversee spending in the prescribed activities;

WHEREAS, when a state has to cut its budget, and it attempts to do it by cutting federally funded programs, it can only save cents on the dollar;

WHEREAS, because a federal program cut looks more expensive than an equivalent cut in a state-funded program, states often prefer to cut competing state-funded programs or raise taxes;

WHEREAS, federal funding programs tend to expand state budgets, and, over time, those programs grow faster than wholly state-owned functions and account for an ever-larger portion of state budgets;

WHEREAS, initial state resistance to the expansion of federal aid usually bowed to the reality that, even if a state opted out of new aid programs, its residents still had to pay federal taxes to support federal aid spending in other states;

WHEREAS, the number of grants-in-aid programs rose from 15 in 1930 to 132 by 1960;

WHEREAS, during the 1960s, federal aid programs quadrupled from 132 in 1960 to 530 by 1970;

WHEREAS, efforts to trim federal aid in the 1980s were later reversed, and there have been no major efforts to reform or cut the federal aid system since the mid-1990s;

WHEREAS, in recent years, the many failings of the federal aid system have become more acute as hundreds of programs have been added;

WHEREAS, the Affordable Care Act, passed in 2010, added a range of new aid programs and also involved a huge expansion in Medicaid, the largest federal aid program;

WHEREAS, in fiscal year 1993, Medicaid took up almost 12% of Utah's General Fund;

WHEREAS, in 2003, Medicaid took up 15% of Utah's General Fund, and this year, Medicaid will consume 23% of the General Fund;

WHEREAS, this percentage is projected to be more than 30% in the next 10 years;

WHEREAS, according to Congressional Budget Office estimates, when comparing federal spending in Utah to federal revenue received from Utah as a result of the Affordable Care Act, Utah citizens will lose approximately \$97 million per year to the federal government to support the new health care reform law;

WHEREAS, today, the number of federal aid programs for the states is more than triple the number just 25 years ago;

WHEREAS, the grants-in-aid system is not guided by an overall strategy, but has been built over the decades as responses to pressures to fix state and local problems with federal rules and subsidies;

WHEREAS, federal aid stimulates overspending by state governments and creates a web of top-down rules that destroy state innovation;

WHEREAS, at all levels of the federal aid system, the focus is on maximizing the money spent and regulatory compliance, not on delivering quality services;

WHEREAS, every dollar of federal aid sent to the states is ultimately taken from federal taxpayers who live in the 50 states;

WHEREAS, federal grants, which is one form of federal aid, reduce state diversity and innovation because the grants come with one-size-fits-all mandates;

WHEREAS, federal taxpayers pay the direct costs of the grants, but taxpayers at all levels of government are burdened by the costly bureaucracy needed to support the system;

WHEREAS, each of the more than 1,100 current aid programs has different rules and the activities funded by the programs often overlap, causing more confusion;

WHEREAS, the Federal Highway Program's flawed allocation formulas have caused about half of the states, called donors and located mostly in the South and Great Lakes regions, to pay proportionately more into the federal Highway Trust Fund than they get back;

WHEREAS, the lure of federal matching funds has led many states to rely too heavily on this source of funding to address their problems;

WHEREAS, a fiscal analysis of the costs of accepting a federal grant over the life of the grant would assist states in weighing the costs and benefits of participating in federal grant programs;

WHEREAS, states can opt out of federal grants-in-aid but must still pay the taxes that pay for those grants;

WHEREAS, if a state opts out of a federal program, the citizens of that state should not be required to contribute taxpayer dollars to support the federal program; and

WHEREAS, states should be empowered to address the unique challenges inherent in meeting the needs of their citizens:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, declares that if a state opts out of a federal program, it should be able to withhold and redirect federal income tax funds equivalent to the amount that would have been used to fund federal operations for the federal program in the state.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, and the members of Utah's congressional delegation.

H.C.R. 8

Passed March 13, 2014
 Approved March 29, 2014
 Effective March 29, 2014

**CONCURRENT RESOLUTION
 REGARDING MOVING THE STATE PRISON**

Chief Sponsor: Brad R. Wilson
 Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor addresses the relocation of the Utah State Prison.

Highlighted Provisions:

This resolution:

- ▶ concludes that it is in the best interests of the state to move the state prison from its current location in Draper;
- ▶ resolves that the prison should be relocated from its current location;
- ▶ identifies factors that should be given careful, serious, and deliberate consideration in the process of relocating the prison; and
- ▶ directs that a copy of the resolution be given to various persons.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the question of whether to move the Utah State Prison from its current location in Draper has received much attention and study, including the work of the Prison Relocation and Development Authority (PRADA) over the past two years and an in-depth study commissioned by PRADA;

WHEREAS, the decisions of where and how to relocate prison facilities must be given careful, serious, and deliberate consideration, taking into account many important factors, including:

a. whether to locate new prison facilities on land already owned by the state or on land that is currently in public or private ownership but that the state may acquire or lease;

b. the efforts of the Commission on Criminal and Juvenile Justice to evaluate criminal justice policies to increase public safety, reduce recidivism, and reduce prison population growth should be supported;

c. new prison facilities should be conducive to future inmate programming that encourages a reduction in recidivism;

d. the location of new prison facilities should help facilitate an adequate level of volunteer and staff support that will allow for a correctional program that is commensurate with the high standards that should be maintained in the state;

e. new prison facilities should be located within a reasonable distance of comprehensive medical facilities;

f. new prison facilities should be located to be compatible with surrounding land uses for the foreseeable future;

g. new prison facilities should be supported by one or more appropriations from the Legislature;

h. the preparation of performance specifications for new prison facilities, to facilitate a high quality correctional program, and for the use of the current prison site should be designed to maximize the overall value to taxpayers;

i. construction should be phased in over a period of time;

j. every reasonable effort should be made to maximize efficiencies and cost savings that result from building and operating newer, more efficient prison facilities;

k. access to courts, visiting and public access, expansion capabilities, emergency response factors, and the availability of infrastructure should be given careful and serious consideration;

l. the existing relationship between the state and counties regarding the housing of state prisoners in county facilities should be respected, and serious consideration should be given to the role county jails and sheriffs can play in the future in terms of housing prisoners and possibly moderating the need for the state to build and maintain additional prison facilities; and

m. the land on which the current prison is located in Draper should be used, disposed of, or redeveloped through an orderly, competitive, and open process, with the goal of maximizing the economic development potential of the property and achieving the greatest benefit to the state's taxpayers;

WHEREAS, the citizens of the state will be best served by a relocation of the current prison facilities, as these and other relevant factors guide the decisions of where and how to move the current prison facilities; and

WHEREAS, considering all relevant factors, including the substantial expense that will be required in coming years to maintain, replace, expand, and upgrade existing prison facilities at the Draper location, the cost savings to be realized over time from new, more efficient facilities, the opportunity to tailor new facilities to any improved correctional programs, and the substantial economic and other benefits from changing the use of the current prison property, it is sound public policy and in the best interests of the state to move the prison facilities from their current location in Draper:

NOW, THEREFORE, BE IT RESOLVED by the Legislature of the state of Utah, the Governor concurring therein, that the Utah State Prison facilities currently located in Draper should be relocated from that site to one or more other suitable locations in the state.

BE IT FURTHER RESOLVED that the relocation of prison facilities should be guided by the principles stated in paragraphs a through m of this resolution.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Utah Department of Corrections, the Prison Relocation and Development Authority, and the members of Utah's congressional delegation.

H.C.R. 9

Passed March 12, 2014
 Approved March 29, 2014
 Effective March 29, 2014

**CONCURRENT RESOLUTION
 RECOGNIZING THE 20TH ANNIVERSARY
 OF THE UTAH COMMISSION ON
 SERVICE AND VOLUNTEERISM**

Chief Sponsor: Robert M. Spendlove
 Senate Sponsor: Karen Mayne

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor recognizes the 20th anniversary of the Utah Commission on Service and Volunteerism.

Highlighted Provisions:

This resolution:

- ▶ recognizes the 20th anniversary of the Utah Commission on Service and Volunteerism, as established through legislation during Utah's 1994 General Session of the Legislature;
- ▶ encourages Utahns to renew their commitment to community engagement and volunteerism; and
- ▶ encourages Utahns to render an additional measure of service during 2014 and henceforward to further build and support the strength of Utah communities and families through community engagement and volunteerism.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the Utah Commission on Service and Volunteerism was established through legislation in the 1994 General Session;

WHEREAS, the Utah Commission on Service and Volunteerism's mission is to strengthen Utah communities through the power of service and volunteerism;

WHEREAS, the Utah Commission on Service and Volunteerism furthers its mission by connecting people with opportunities to serve;

WHEREAS, for the past two decades, the Utah Commission on Service and Volunteerism has been the central coordinating body for service and volunteerism in the state and has developed, implemented, and sustained a vision and culture of civic engagement and national and community service within the state;

WHEREAS, for eight years in a row, Utah has ranked number one in the nation for volunteerism;

WHEREAS, Utah residents consistently give more service in their communities than in any other state in America, rendering an average of 81.4 hours per resident in 2013;

WHEREAS, in 2013, 47.7% of Utahns rendered service in their communities and across the state, totaling 165.5 million service hours;

WHEREAS, Utah's volunteerism makes an estimated economic contribution of over \$3 billion annually, thereby adding to the strength of Utah's economy;

WHEREAS, the increased mental, emotional, and physical well-being experienced by volunteers has increased the quality of life for all Utahns;

WHEREAS, volunteerism promotes a recognition of self-determination and the ability to solve community and state problems at a local level;

WHEREAS, the Utah Commission on Service and Volunteerism has worked to build and cultivate the capacity to volunteer and serve in the community, to promote and inspire statewide national service and volunteerism, and to recognize the efforts of outstanding volunteers;

WHEREAS, the Utah Commission on Service and Volunteerism recognizes that Utah's volunteers are the bedrock of their communities;

WHEREAS, the Utah Commission on Service and Volunteerism participates in strategic initiatives that mobilize volunteers to meet local needs;

WHEREAS, neighborhoods where volunteers gather and serve are more vibrant, safe, and engaged;

WHEREAS, the Utah Commission on Service and Volunteerism has a long history of advocating the value of volunteerism, training skilled volunteers,

coordinating a statewide system to facilitate service, developing innovative AmeriCorps programs, and promoting Utah's national leadership in volunteerism;

WHEREAS, in 2013, the commission managed five AmeriCorps programs that operated throughout the state, with over 1,000 AmeriCorps members who mobilized more than 13,000 volunteers who subsequently mentored over 26,000 individuals, served over 42,727 children, connected underserved populations to health care resources, cleaned and tended parks and streams, taught environmental stewardship, and operated after-school programs;

WHEREAS, these members dedicated over 575,025 hours throughout the state with an estimated value of over \$10.3 million;

WHEREAS, in the past year, over 10,000 students have been tutored through the Utah AmeriCorps Read. Graduate. Succeed. Program;

WHEREAS, 99% of the students participating in the Utah AmeriCorps Read. Graduate. Succeed. Program showed a significant increase in reading fluency, with 67% achieving reading scores at grade level;

WHEREAS, through the Utah AmeriCorps Health Care Corps, over 15,000 individuals were connected with health care resources in 2013, including screenings, immunizations, pro bono services, preventative health care measures, and translative services;

WHEREAS, Utah's Summer of Service is a statewide campaign that mobilized youth across the state to make a difference in their communities by volunteering over the summer;

WHEREAS, Utah residents often look beyond state needs to serve needy populations across the nation and the world, including the contributions of Utah Conservation Corps AmeriCorps members who managed over 5,000 community volunteers assisting numerous New York households in the aftermath of Superstorm Sandy; and

WHEREAS, the Utah Commission on Service and Volunteerism strongly promotes partnerships and collaboration among public, private, and nonprofit sectors to increase community impact and foster greater stability, security, and long-term prosperity in the state of Utah:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, recognizes the 20th anniversary of the Utah Commission on Service and Volunteerism.

BE IT FURTHER RESOLVED that the Legislature and the Governor encourage all residents to renew their commitment to community engagement and volunteerism.

BE IT FURTHER RESOLVED that the Legislature and the Governor encourage all residents to render an additional measure of service during 2014 and henceforward to further build and

support the strength of Utah communities and families through community engagement and volunteerism.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Utah Commission on Service and Volunteerism.

H.C.R. 10

Passed March 13, 2014

Approved March 29, 2014

Effective March 29, 2014

CONCURRENT RESOLUTION ON SCHOOL AND INSTITUTIONAL TRUST LANDS EXCHANGE ACT

Chief Sponsor: Michael E. Noel

Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor urges the United States Congress to enact legislation affirming the federal land grant process and eliminating barriers to federal-state land exchanges.

Highlighted Provisions:

This resolution:

- ▶ urges the United States Congress to enact legislation that:
 - affirms and clarifies that Congress and federal land management agencies recognize their historic role of establishing land grants to the states for the support of educational and other public institutions;
 - establishes that the United States has a continuing affirmative obligation to assist the states in fulfilling the purposes of the various grants;
 - establishes that rationalizing the land ownership pattern to reposition lands more suited to the management mandates of each owner is an important public purpose equivalent in character to all of the other management mandates required of federal land management and federal resource regulatory agencies;
 - establishes that land exchanges between the United States and the respective states are transactions between coequal sovereign governments and require standards of prioritization, evaluation, and processing that may differ from those involving private parties; and
 - eliminates unnecessary obstacles to federal-state land exchanges contained in the Federal Land Policy and Management Act of 1976 by:
 - creating the presumption in federal environmental and land use planning that state-federal land exchanges are in the public interest;
 - requiring federal land management agencies to give priority to land exchanges that remove state land grant properties from areas of

federal land or resource management provisions that restrict the state's ability to generate revenue; and

- setting a goal for federal land management agencies and managers of state land exchange proposals to work from the feasibility study through the transaction-closing phases of state-federal land exchanges in two years or less.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, pursuant to the Utah Enabling Act of 1894, the Congress of the United States granted four sections in every township in the state of Utah for the benefit of public schools and school children;

WHEREAS, Congress intended that these lands provide the state with revenue to assist in funding the state's education system;

WHEREAS, federal courts have interpreted the grant of lands by Congress, and the acceptance of the lands in the Utah Constitution as the creation of a "trust" between the United States as "settlor" and the state of Utah as "trustee";

WHEREAS, the scattered nature of the congressional land grants established an ownership pattern that results in trust land being included within the areas of federal management for noneconomic purposes;

WHEREAS, this ownership pattern has led to numerous situations where trust land management mandates and federal land management mandates cannot coexist without conflict; and

WHEREAS, processing land exchange proposals through the administrative process has become time-consuming, expensive, ineffectual, and burdensome for both state and federal land management agencies:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, urges the United States Congress to enact legislation that:

1. affirms and clarifies that Congress and federal land management agencies recognize their historic role in establishing land grants to the states for the support of educational and other public institutions;

2. establishes that the United States, through Congress and federal land management agencies, as settlor of the land grant trusts, has a continuing affirmative obligation to assist the states in fulfilling the purposes of the various grants;

3. establishes that rationalizing the land ownership pattern to reposition lands more suited to the management mandates of each owner is, in and of itself, an important public purpose equivalent in character to all of the other management mandates required of federal land

management and federal resource regulatory agencies pursuant to the Federal Land Policy and Management Act of 1976;

4. establishes that land exchanges between the United States and the respective states are transactions between coequal sovereign governments and require standards of prioritization, evaluation, and processing that may differ from those involving private parties;

5. eliminates unnecessary obstacles to federal-state land exchanges contained in the Federal Land Policy and Management Act of 1976 by:

a. creating the presumption in federal environmental and land use planning that state-federal land exchanges are in the public interest;

b. requiring federal land management agencies to give priority to land exchanges that remove state land grant properties from areas of federal land or resource management provisions that restrict the state's ability to generate revenue; and

c. setting a goal for federal land management agencies and managers of state land exchange proposals to work from the feasibility study through the transaction-closing phases of state-federal land exchanges in two years or less.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the President of the United States, the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, the United States Secretary of the Interior, the Principal Deputy Director of the Bureau of Land Management, and the members of Utah's congressional delegation.

H.C.R. 11

Passed March 12, 2014

Approved March 29, 2014

Effective March 29, 2014

**CONCURRENT RESOLUTION
RECOGNIZING 100TH ANNIVERSARY OF
LOGAN REGIONAL HOSPITAL**

Chief Sponsor: Edward H. Redd

Senate Sponsor: Lyle W. Hillyard

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor recognizes the 100th anniversary of Logan Regional Hospital.

Highlighted Provisions:

This resolution:

- ▶ recognizes the 100th anniversary of Logan Regional Hospital.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, Logan Regional Hospital and its predecessors have offered 100 years of continuous health care service to the residents of Northern Utah;

WHEREAS, tens of thousands of professionals have served at the three hospitals that have become Intermountain Logan Regional Hospital;

WHEREAS, hundreds of thousands of Utah residents have received medical care during Logan Regional Hospital's 100 years of service;

WHEREAS, in 1914, the Utah Idaho Hospital was opened in Logan;

WHEREAS, the Utah Idaho Hospital had 60 beds and an X-ray machine and boasted "modern patient conveniences";

WHEREAS, in 1925, the Utah Idaho Hospital was renamed the William Budge Memorial Hospital and was expanded to 100 beds and six operating rooms;

WHEREAS, in 1948, the Church of Jesus Christ of Latter Day Saints assumed ownership of the hospital, remodeled the facility, and renamed it Logan LDS Hospital;

WHEREAS, the LDS Church owned and operated the Logan LDS Hospital until 1975, when it divested hospital operations to the creation of Intermountain Healthcare as a not-for-profit, community-based hospital system with the charge to become a model of health care excellence;

WHEREAS, in 1975, the Logan LDS Hospital name was changed to the Logan Hospital and offered 126 beds and 55 doctors on staff;

WHEREAS, in 1979, the Logan Hospital opened on a new campus and in 1980 was renamed the Logan Regional Hospital;

WHEREAS, the Logan Regional Hospital included a 24-hour emergency room and new services like an independent blood bank and psychiatric ward;

WHEREAS, construction of the new hospital was aided by nearly \$2 million in private donations;

WHEREAS, in 2007, the Logan Regional Hospital opened a new three-story women's center;

WHEREAS, in 2008, thanks to \$2 million in community donations, Logan Regional Hospital opened the Huntsman-Intermountain Cancer Center;

WHEREAS, in 2012, a new Catheterization Lab was added with the help of over \$500,000 in donations from the community;

WHEREAS, today the hospital has 148 beds and offers a full range of hospital services;

WHEREAS, Logan Regional Hospital's contribution to the community at large is a recognition of its responsibility to provide safety net health care services, community support, and healing to the residents of the Cache Valley region,

regardless of ability to pay, in the form of millions of dollars of charity care each year;

WHEREAS, progress toward new additions and growth in health services has come through careful planning, acquiring a single piece of equipment at a time, with each year's efforts building on the last;

WHEREAS, each time a new state-of-the-art facility or device has been needed, funding has been provided, sometimes through debt, sometimes through philanthropy, and sometimes from the operations of the hospital; and

WHEREAS, each time, funding has been the result of not-for-profit community governance:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, recognizes the 100th anniversary of the Logan Regional Hospital.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the board of directors of the Logan Regional Hospital.

H.C.R. 13

Passed March 13, 2014

Approved March 31, 2014

Effective March 31, 2014

**CONCURRENT RESOLUTION ON
TRANSFER OF PUBLIC LANDS ACT**

Chief Sponsor: Michael E. Noel
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor calls upon the federal government to honor the promises that it honored with all states east of Colorado and transfer title of public lands to all willing western states.

Highlighted Provisions:

This resolution:

- ▶ calls upon the federal government to honor the promises that it honored with all states east of Colorado and transfer title of public lands to all willing western states;
- ▶ calls upon national and state government leaders to exert their utmost power and influence to urge the imminent transfer of public lands to all willing western states for the benefit of these western states and for the nation as a whole;
- ▶ strongly urges the members of Utah's congressional delegation to immediately sponsor legislation in the United States House of Representatives and the United States Senate that transfers ownership and title of the public lands within the state of Utah and any other western state that wishes to be included in the legislation; and
- ▶ urges the members of Utah's congressional delegation to use the proposed introduction of legislation to transfer title and ownership of public lands as an opportunity to educate their colleagues regarding the importance of the

legislation and to begin the process of obtaining cosponsors for the bill and support from the numerous individuals that will be positively affected by the transfer of these public lands to state ownership and control.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the federal government promised all newly created states, in their statehood enabling contracts, that it would transfer title of the public lands it held within the borders of those states;

WHEREAS, this promise is the same for all states east and west of Colorado;

WHEREAS, the federal government has honored this promise with Hawaii and all states east of Colorado and today controls, on average, less than 5% of the lands in those states;

WHEREAS, the federal government has failed to honor this same promise with Montana, Wyoming, Colorado, New Mexico, Arizona, Utah, Idaho, Nevada, Washington, Oregon, California, and Alaska and today still controls more than 50% of all lands in these states, including more than 80% of the state of Nevada;

WHEREAS, the United States Supreme Court declared the statehood enabling act contracts to be "solemn compacts" with enforceable rights and obligations on both sides;

WHEREAS, in 1976, the United States Congress ended its nearly 200-year public policy of beneficially transferring ownership of public lands by passing the Federal Land Policy and Management Act of 1976 (FLPMA);

WHEREAS, public lands previously held in trust for the individual states were managed for their resource value prior to the passage of FLPMA;

WHEREAS, since the passage of FLPMA, the public lands of western states are instead being perpetually managed for their conservation value;

WHEREAS, as long as these lands are managed only for their conservation value, local, state, and national economies will be adversely impacted by the loss of use of the natural resources connected to these lands;

WHEREAS, Payment in Lieu of Taxes (PILT), Secure Rural Schools (SRS), and other public offsets are financially inadequate to compensate for that loss, have been unreliably funded, and do not adequately compensate the states for the breach of their enabling acts;

WHEREAS, the United States Supreme Court, in *Hawaii et al. v. Office of Hawaiian Affairs* (07-1372), concluded that Congress cannot, by subsequent, unilateral action, alter or diminish the rights conferred upon a state in consequence of its admission to the Union;

WHEREAS, the United States Supreme Court further declared in the same case that Congress does not have the authority to unilaterally change these statehood promises, known as enabling acts, particularly "where virtually all of a State's public lands . . . are at stake";

WHEREAS, under the guise of sequestration and to cut federal expenses, the federal government is cutting western states' revenues in the form of PILT, SRS, and Federal Mineral Lease (FML) cutbacks;

WHEREAS, states east of Colorado pay billions of dollars each year to subsidize western states to not use their lands and resources to educate their own children and care for their own communities;

WHEREAS, western states already manage millions of acres of state lands and generate more revenue with less expense and less environmental damage, in general, than federally managed public lands;

WHEREAS, the National Association of Forest Service Retirees recently issued a paper describing the unsustainability of current federal forest management practices;

WHEREAS, the resulting increase in catastrophic wildfires is needlessly killing millions of animals and destroying habitat and watersheds;

WHEREAS, western states are incurring inordinate expenses to suppress forest fires related to failed federal forest policies;

WHEREAS, the federal government discourages capital investment and job creation by taking 10 times longer to approve energy development permits than states to whom the federal government honored the promise to transfer title of the public lands;

WHEREAS, in 2013, the Institute for Energy Research discovered that there is more than \$150 trillion in mineral value locked up in federally controlled lands;

WHEREAS, opening 8% of the coastal plain of the Arctic National Wildlife Refuge in Alaska would provide billions of dollars to the federal treasury, create more than 500,000 jobs nationwide, and add 9-16 billion barrels of oil to the nation's supply;

WHEREAS, in 2012, the United States Government Accountability Office testified before Congress that there is more recoverable oil in Utah, Colorado, and Wyoming than in the rest of the world combined;

WHEREAS, legal analyses by the Sutherland Institute and the Federalist Society conclude that the intent of the parties, the text, and the context of the statehood enabling acts obligate the federal government to dispose of public lands;

WHEREAS, for decades, states such as Illinois, Missouri, Indiana, Arkansas, Louisiana, Alabama, Mississippi, and Florida were as much as 90% federally controlled;

WHEREAS, these states persistently protested to the United States Congress that they could not fund

their children's education, grow their economies, or govern themselves as sovereign states due to the federal government's control over their lands;

WHEREAS, under the leadership of United States Senator Thomas Hart Benton from Missouri, these states worked together to compel Congress to transfer title to their public lands;

WHEREAS, Senator Benton wrote that he went to "battle for an ameliorated system of disposing of our public lands . . . I resolved to move against the whole system . . . I did so in a bill, renewed annually for a long time";

WHEREAS, of even more powerful effect than sponsoring a bill every year "for a long time," Senator Benton recorded that, for years, he taught throughout the United States that it was the "solemn compact" of the national government -- from the very founding of this nation -- to transfer title to the public lands within the states;

WHEREAS, Senator Benton taught people true principles of statehood and rallied them to compel the members of their congressional delegations to "fix their eyes steadily upon the period of the speedy extinction of the federal title to all the lands within the limits of their respective States";

WHEREAS, the 1828 Congressional Committee on the Public Lands indicated "in vain may the People of these States expect the advantages of well settled neighborhoods, so essential to the education of youth . . . Those states will, for many generations, without some change, be retarded in endeavors to increase their comfort and wealth, by means of works of internal improvements, because they have not the power, incident to all sovereign States, of taxing the soil, to pay for the benefits conferred upon its owner";

WHEREAS, the Congressional Committee on the Public Lands during Senator Benton's service in Congress found, with respect to their admission as states, that "when these States stipulated not to tax the lands of the United States until they were sold, they rested upon the implied engagement of Congress to cause them to be sold, within a reasonable time. No just equivalent has been given those States for a surrender of an attribute of sovereignty so important to their welfare, and to an equal standing with the original States";

WHEREAS, inspired by the courage and leadership of Senator Benton, those states succeeded in compelling Congress to transfer title of their public lands;

WHEREAS, today, those states have less than 5% of their lands under federal control;

WHEREAS, the national government made the same statehood promise to transfer title of the public lands to Utah and the other western states;

WHEREAS, in 2012, Utah passed H.B. 148, Transfer of Public Lands Act and Related Study, which called upon the federal government to honor the same statehood promise made to Utah that it

made and kept with all states east of Colorado to transfer title of Utah's public lands;

WHEREAS, in 2013, the South Carolina Legislature passed a resolution supporting the transfer of public lands to willing western states;

WHEREAS, other states east of Colorado are considering similar resolutions of support in 2014; and

WHEREAS, national organizations, including the National Association of Counties, the American Farm Bureau Federation, and the Republican National Committee have passed resolutions supporting the transfer of public lands to willing western states:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, calls upon the federal government to honor the promises that it honored with all states east of Colorado and transfer title of public lands to all willing western states.

BE IT FURTHER RESOLVED that the Legislature and the Governor call upon national and state government leaders to exert their utmost power and influence to urge the imminent transfer of public lands to all willing western states for the benefit of these western states and for the nation as a whole.

BE IT FURTHER RESOLVED that the Legislature and the Governor strongly urge the members of Utah's congressional delegation to use every exertion of their power, by reason, argument, and persuasion, to induce the United States to honor the same statehood promise to transfer title of Utah's public lands that it made and kept with all states east of Colorado.

BE IT FURTHER RESOLVED that the Legislature and the Governor strongly urge the members of Utah's congressional delegation, acting for the "separate and independent sovereign" state of Utah, to follow the path of United States Senator Thomas Hart Benton and file, and do all in their power to secure the passage of, legislation to secure the transfer of all of the public lands enumerated in H.B. 148, Transfer of Public Lands Act and Related Study, 2012 General Session.

BE IT FURTHER RESOLVED that the Legislature and the Governor strongly urge the members of Utah's congressional delegation to immediately sponsor legislation in the House of Representatives and the United States Senate that transfers ownership and title of the public lands within the state of Utah and within any other western state that wishes to be included in the legislation.

BE IT FURTHER RESOLVED that the Legislature and the Governor urge the members of Utah's congressional delegation to use the proposed introduction of legislation to transfer title and ownership of public lands as an opportunity to educate their colleagues regarding the importance of the legislation and to begin the process of obtaining cosponsors for the bill and support from

the numerous individuals that will be positively affected by the transfer of these public lands to state ownership and control.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, the leader of each state legislative body in each of the 50 states, the United States Secretary of the Interior, and the members of Utah's congressional delegation.

H.J.R. 3

Passed February 28, 2014
Effective February 28, 2014

**JOINT RESOLUTION RECOGNIZING
SISTER CITY RELATIONSHIP
BETWEEN MAGNA, UTAH,
AND YUZAWA, NIIGATA, JAPAN**

Chief Sponsor: Susan Duckworth
Senate Sponsor: Daniel W. Thatcher

LONG TITLE

General Description:

This joint resolution of the Legislature expresses support for the Magna-Yuzawa Sister City Program on the 10th anniversary of the educational and cultural exchanges between Magna, Utah, and Yuzawa, Niigata, Japan.

Highlighted Provisions:

This resolution:

- ▶ recognizes the 10th anniversary of the student exchange between Magna, Utah, and Yuzawa, Niigata, Japan, which created a framework for the relationship between the two communities; and
- ▶ recognizes the benefits of the sister city relationship between Magna and Yuzawa.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, in early August 2003, the Magna Township, assisted by Salt Lake County, hosted a sister city search committee from Yuzawa, Niigata, Japan, which came to the United States to find an American community with which to begin a short-stay educational and cultural exchange;

WHEREAS, during its time in the United States, the Yuzawa Committee also visited cities in Washington and California as a part of its sister city search;

WHEREAS, after returning to Japan, the Yuzawa Committee reported its findings and recommendation to local government officials;

WHEREAS, on September 25, 2003, based on the Yuzawa Committee's report and recommendation, the Yuzawa Mayor and Town Council chose Magna, Utah, to be the community with which to begin the

journey of conducting an annual educational and cultural exchange;

WHEREAS, in July 2004, Yuzawa's Mayor, Takayuki Murayama, came to Magna with the first group of students and their adult escorts to see Magna, observe the programs and activities Magna had prepared for the exchange, and formally invite Magna to annually send students to Yuzawa;

WHEREAS, in July 2005, Magna sent its first group of students to Yuzawa to learn about Japanese culture and life;

WHEREAS, over the years, Magna has sent 60 students to visit and learn more about Yuzawa and Japan;

WHEREAS, these students were housed in Yuzawa by volunteer host families;

WHEREAS, the 96 students Yuzawa sent to Magna since 2005 were housed by volunteer host families while learning about Magna, the state of Utah, and the United States;

WHEREAS, in July 2010, Yuzawa sent a delegation to Magna requesting that it be allowed to take part in helping Magna celebrate its 100-year anniversary during its 4th of July parade and 4th of July celebration;

WHEREAS, on July 7, 2012, Yuzawa and Magna formalized their sister city relationship by resolution in a ceremony in Yuzawa, Japan;

WHEREAS, on August 9, 2013, in commemoration of the one-year anniversary of the signing of the Magna-Yuzawa Sister City Resolution and the 100-year anniversary of the Japanese "Gift of Trees" to Washington, D.C., Yuzawa gave 30 Akebono flowering cherry trees to Magna to solemnize the friendship between the two communities;

WHEREAS, in 2011, Brigham Young University (BYU) was considering expanding its International Study Program in Japan to the Niigata Prefecture;

WHEREAS, due to the relationship and friendship developed between Magna and Yuzawa, BYU found a community receptive to working with the university to bring its educational, cultural, and community service program to Yuzawa and Niigata; and

WHEREAS, in the spring of 2014, BYU will begin working with Yuzawa to develop the infrastructure for the kickoff of its Study Abroad relationship, which is scheduled to begin in 2015:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah recognizes the 10th anniversary of the commencement of educational and cultural exchanges between the sister cities of Magna and Yuzawa.

BE IT FURTHER RESOLVED that the Legislature recognizes the benefits of the sister city relationship to both Magna and Yuzawa.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the city of Magna and the city of Yuzawa, Niigata, Japan.

H.J.R. 5

Passed February 24, 2014
Effective February 24, 2014

**UNIFORM BUILDING CODE COMMISSION
REVIEW OF PROPOSED BUILDING CODE
CHANGES JOINT RESOLUTION**

Chief Sponsor: Jim Nielson
Senate Sponsor: J. Stuart Adams

LONG TITLE

General Description:

This joint resolution of the Legislature recognizes the Uniform Building Code Commission's role to advise the Division of Occupational and Professional Licensing as it administers state construction codes and to provide its opinion prior to code changes being proposed by legislation.

Highlighted Provisions:

This resolution:

- ▶ recognizes the Uniform Building Code Commission as empowered to advise the Division of Occupational and Professional Licensing with respect to the division's responsibilities in administering the construction codes for the state of Utah; and
- ▶ recognizes that the state is encouraged to submit any action to change the state construction code to the Uniform Building Code Commission for its opinion.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, the 11-member Uniform Building Code Commission (UBCC) is appointed by the governor and comprised of architects, engineers, contractors, building and fire officials, and members of the public who are considered experts in their fields;

WHEREAS, in addition to the UBCC there are also seven advisory committees, comprised of 32 members, who report to the UBCC;

WHEREAS, these advisory committees are also comprised of architects, engineers, contractors, building and fire officials, and members of the public;

WHEREAS, in 2012, the UBCC and its seven advisory committees held 63 meetings to review the 2012 codes and amendments;

WHEREAS, the aggressive meeting schedule required dedication and commitment from all parties involved;

WHEREAS, other than UBCC members, who receive a modest stipend, the time spent is completed at committee members' own expense or

the expense of the business or jurisdiction for which each member works;

WHEREAS, this dedication demonstrates the commitment of all parties involved to providing the state of Utah with the most up-to-date codes, which have been thoroughly reviewed and vetted; and

WHEREAS, it would benefit all parties involved to take advantage of the knowledge and expertise these committee members have to offer:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah is encouraged to submit any action to change the state construction code to the Uniform Building Code Commission for its opinion.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Uniform Building Code Commission and the Division of Occupational and Professional Licensing.

H.J.R. 6

Passed March 12, 2014
Effective March 12, 2014

**JOINT RESOLUTION APPROVING
COMMERCIAL NONHAZARDOUS
SOLID WASTE DISPOSAL FACILITY
AT A NEW LOCATION**

Chief Sponsor: Gregory H. Hughes
Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This joint resolution of the Legislature grants approval for the construction and operation of a commercial nonhazardous solid waste disposal facility to receive nonhazardous solid waste at a new location.

Highlighted Provisions:

This resolution:

- ▶ addresses the proposed Stericycle Medical Waste Commercial Nonhazardous Solid Waste Disposal Facility, owned by Stericycle, Inc., to be constructed at a new location, in unincorporated Tooele County; and
- ▶ grants statutorily required legislative approval of the facility, subject to the approval process in Utah Code Section 19-6-108, to construct and operate a commercial nonhazardous solid waste disposal facility and receive nonhazardous medical waste and other nonhazardous solid waste as approved by the Department of Environmental Quality.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, Stericycle, Inc. desires to construct and operate a commercial nonhazardous solid waste disposal facility to receive nonhazardous medical waste and other nonhazardous solid waste as approved by the Department of Environmental Quality;

WHEREAS, the facility is to be located on an approximately 40-acre parcel in unincorporated Tooele County, Utah, within or near Section 3 of Township 1 North, Range 8 West, Salt Lake Base and Meridian, located approximately 45 miles west of Salt Lake City; and

WHEREAS, an applicant for authority to construct a commercial nonhazardous solid waste disposal facility shall receive approval in accordance with Utah Code Section 19-6-108:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah grants approval to Stericycle, Inc. to construct and operate a commercial nonhazardous solid waste disposal facility at a new location, in unincorporated Tooele County, Utah, but only subject to, and in compliance with, the approval process outlined in Utah Code Section 19-6-108.

H.J.R. 9

Passed February 13, 2014
Effective February 13, 2014

**JOINT RESOLUTION ON UTAH
EPILEPSY PUBLIC EDUCATION,
OUTREACH, AND AWARENESS**

Chief Sponsor: Marie H. Poulson
Senate Sponsor: Patricia W. Jones

LONG TITLE

General Description:

This joint resolution of the Legislature urges the Utah Department of Health and the Utah Department of Human Services to collaborate with other state agencies to deliver public epilepsy education, outreach, and awareness campaign materials and messages to individuals and organizations having regular interaction with individuals subject to epilepsy and seizure incidents.

Highlighted Provisions:

This resolution:

- ▶ urges that, in implementing the existing federal public education, outreach, and awareness campaign under 42 U.S.C. Chapter 6A, the Public Health Service Act, Sec. 330E-1, the Utah Department of Health and the Utah Department of Human Services collaborate with the Utah Department of Veterans' and Military Affairs, the Utah State Office of Education, the Utah Labor Commission, the attorney general's office, and others to deliver the campaign's educational materials and messages to individuals and organizations, including:
 - teachers, administrators, and other education personnel;
 - state, county, and local law enforcement personnel, and first responders;
 - employers and labor organizations; and
 - other individuals and organizations the Department of Health and the Department of

Human Services consider to have regular interaction with individuals who are subject to epilepsy and seizure incidents.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, epilepsy is the third most common neurological disorder, after stroke and Alzheimer's and related dementias;

WHEREAS, epilepsy affects an estimated 100,000 people in Utah;

WHEREAS, one in every 10 people in Utah will experience a seizure during the person's lifetime;

WHEREAS, traumatic brain injury (TBI) is one of the most common injuries of war;

WHEREAS, experts believe that up to 50% of military personnel affected by TBI will develop epilepsy; and

WHEREAS, injury, death, and other negative health, economic, or life outcomes can be avoided through seizure training and awareness in school, the workplace, and the community:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah urges that, in implementing the existing federal public education, outreach, and awareness campaign under 42 U.S.C. Chapter 6A, the Public Health Service Act, Sec. 330E-1, the Utah Department of Health and the Utah Department of Human Services should, to the greatest extent practical, collaborate with the Utah Department of Veterans' and Military Affairs, the Utah State Office of Education, the Utah Labor Commission, the attorney general's office, and others to deliver the campaign's educational materials and messages to individuals and organizations, including:

- teachers, administrators, and other school or education personnel;
- state, county, and local law enforcement personnel, and first responders;
- employers and labor organizations; and
- other individuals and organizations the Department of Health and the Department of Human Services, in consultation with the individuals and representatives described in Section 330E-1(c)(2) of the Public Health Service Act, consider to have regular interaction with individuals who are subject to epilepsy and seizure incidents.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the United States Secretary of Health and Human Services, the Utah Department of Health, the Utah Department of Human Services, and the members of Utah's congressional delegation.

H.J.R. 10

Passed February 28, 2014
Effective February 28, 2014

**JOINT RULES RESOLUTION REGARDING
A LONG-TERM PLANNING CONFERENCE**

Chief Sponsor: Brad R. Wilson
Senate Sponsor: Peter C. Knudson

LONG TITLE

General Description:

This joint rules resolution of the Legislature modifies provisions relating to Joint Conventions and Joint Committees by providing for a joint Long-Term Planning Conference.

Highlighted Provisions:

This resolution:

- ▶ requires the president of the Senate and the speaker of the House of Representatives to call a joint Long-Term Planning Conference of members of the two houses;
- ▶ provides that the conference will be held at least every two years;
- ▶ describes the purposes of the Long-Term Planning Conference;
- ▶ provides for conference staffing; and
- ▶ requires each interim committee to devote part of the May interim committee meeting to long-term planning.

Special Clauses:

None

Legislative Rules Affected:

ENACTS:
IR2-2-103
JR3-3-101
JR3-3-102
JR3-3-103

Be it resolved by the Legislature of the state of Utah:

**Section 1. IR2-2-103 is enacted to read:
IR2-2-103. Interim committees --
Long-term planning emphasis.**

(1) Each interim committee shall devote part of its May interim meeting to long-term planning for the areas over which the committee has jurisdiction.

(2) As part of the meeting, the committee may:

- (a) review economic and demographic trends and other applicable data;
- (b) identify current, emerging, and future issues and challenges; and
- (c) develop an action plan to address the issues and challenges identified.

(3) The action plan under Subsection (2)(c) may include plans to:

- (a) perform additional research into specific issues and challenges;
- (b) develop options to address specific issues and challenges; and

(c) prepare legislation to address specific issues and challenges.

(4) The cochairs of each interim committee are encouraged to seek information, ideas, and assistance from committee members, state agencies, local government, education, business, industry, and interest groups in preparing for the meeting, providing presentations for the meeting, and making assignments related to an action plan.

Section 2. JR3-3-101 is enacted to read:

**CHAPTER 3. LONG-TERM PLANNING
CONFERENCE**

**JR3-3-101. LONG-TERM PLANNING
CONFERENCE.**

(1) The president of the Senate and the speaker of the House of Representatives shall, by mutual consent, call a joint Long-Term Planning Conference of members of the two houses.

(2) The conference will be held at least every two years on a date or dates designated jointly by the president of the Senate and the speaker of the House of Representatives.

(3) The conference may last one or two days and may include meetings, workshops, and other sessions and activities designed to accomplish the purpose of the conference as described in Section JR3-3-102.

Section 3. JR3-3-102 is enacted to read:

**JR3-3-102. Purpose of the Long-Term
Planning Conference.**

The purpose of the Long-Term Planning Conference is to provide information and tools that will encourage the Legislature, and other guests invited at the discretion of the Legislature, to:

- (1) focus on long-term planning, policy making, and budgeting by the Legislature, state and local government agencies, and educational institutions;
- (2) learn about the long-term economic and demographic trends of the state;
- (3) learn about the long-term budgetary outlook for the state, including any issues or constraints;
- (4) consider ways to implement long-term planning processes as part of creating effective policies, laws, and appropriations that address more than just immediate concerns; and
- (5) make informed decisions and implement sound public policy initiatives that ensure the long-term success and economic vitality of the state and its citizens.

Section 4. JR3-3-103 is enacted to read:

JR3-3-103. Conference agenda -- Staffing.

(1) The president of the Senate and the speaker of the House of Representatives shall jointly establish the agenda for the conference.

(2) Under the direction of the president of the Senate and speaker of the House of

Representatives, the Office of Legislative Research and General Counsel, with the assistance of other legislative staff offices, shall staff the conference in accordance with the agenda described in Subsection (1).

(3) The agenda described in Subsection (1) may include a variety of presenters, including representatives of education, government, business, and the private sector.

H.J.R. 11

Passed March 10, 2014

Effective March 10, 2014

JOINT RULES RESOLUTION ON BUDGET PROCESS AMENDMENTS

Chief Sponsor: Brad R. Wilson
Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This joint resolution of the Legislature modifies provisions related to duties of the Executive Appropriations Committee when preparing base budget recommendations.

Highlighted Provisions:

This resolution:

- ▶ provides that when directing staff on what revenue estimates to use in preparing budget recommendations, the Executive Appropriations Committee shall hear a report on treating above-trend revenue growth as one-time revenue for major tax types;
- ▶ provides that when deciding whether to set aside special allocations for the end of the session, the Executive Appropriations Committee shall consider the historical, current, and anticipated status of debt, long-term liabilities, General Fund borrowing, reserves, fund balances, nonlapsing appropriation balances, cash funded infrastructure investment, and federal funds paid to the state;
- ▶ amends deadlines within the general session to:
 - prioritize fiscal note bills;
 - pass or defeat a bill with a fiscal note;
 - pass or defeat a base budget bill;
 - complete decisions necessary to draft the final appropriations bill;
 - for legislators to receive a copy of any supplemental appropriations bill and bond bill; and
 - pass or defeat a bond bill;
- ▶ repeals requirements for the Executive Appropriations Committee to conduct an agency in-depth budget review; and
- ▶ makes technical changes.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:

- JR3-2-402
- JR4-5-101
- JR4-5-201
- JR4-5-202
- JR4-5-301

REPEALS:

- JR3-2-502

Be it resolved by the Legislature of the state of Utah:

Section 1. JR3-2-402 is amended to read:

JR3-2-402. Executive appropriations -- Duties -- Base budgets.

(1) As used in this rule:

(a) "Base budget" means amounts appropriated by the Legislature for each item of appropriation for the current fiscal year that:

(i) are not designated as one-time in an appropriation, regardless of whether the appropriation is covered by ongoing or one-time revenue sources; and

(ii) were not vetoed by the governor, unless the Legislature overrode the veto.

(b) "Base budget" includes:

(i) any changes to those amounts approved by the Executive Appropriations Committee; and

(ii) amounts appropriated for debt service.

(2) (a) The Executive Appropriations Committee shall meet no later than the third Wednesday in December to:

(i) direct staff as to what revenue estimate to use in preparing budget recommendations, to include a forecast for federal fund receipts;

(ii) consider treating above-trend revenue growth as one-time revenue for major tax types;

(iii) hear a report on the historical, current, and anticipated status of the following:

(A) debt;

(B) long term liabilities;

(C) contingent liabilities;

(D) General Fund borrowing;

(E) reserves;

(F) fund balances;

(G) nonlapsing appropriation balances;

(H) cash funded infrastructure investment; and

(I) changes in federal funds paid to the state;

[~~(iii)~~] (iv) decide whether to set aside special allocations for the end of the session, including [any special] allocations [resulting from an anticipated reduction in the amount of federal funds paid to the state];

(A) to address any anticipated reduction in the amount of federal funds paid to the state; and

(B) of one-time revenue to pay down debt and other liabilities;

[(iii)] (v) approve the appropriate amount for each subcommittee to use in preparing its budget;

[(iv)] (vi) set a budget figure; and

[(v)] (vii) adopt a base budget in accordance with Subsection (2)(b) and direct the legislative fiscal analyst to prepare one or more appropriations acts appropriating one or more base budgets for the next fiscal year.

(b) In a base budget adopted under Subsection (2)(a), appropriations from the General Fund, the Education Fund, and the Uniform School Fund shall be set as follows:

(i) if the next fiscal year ongoing revenue estimates set under Subsection (2)(a)(i) are equal to or greater than the current fiscal year ongoing appropriations, the new fiscal year base budget is not changed;

(ii) if the next fiscal year ongoing revenue estimates set under Subsection (2)(a)(i) are less than the current fiscal year ongoing appropriations, the new fiscal year base budget is reduced by the same percentage that projected next fiscal year ongoing revenue estimates are lower than the total of current fiscal year ongoing appropriations; and

(iii) in making a reduction under Subsection (2)(b)(ii), appropriated debt service shall not be reduced, and other ongoing appropriations shall be reduced, in an amount sufficient to make the total ongoing appropriations, including the unadjusted debt service, equal to the percentage calculated under Subsection (2)(b)(ii).

(c) The chairs of each appropriation subcommittee are invited to attend this meeting.

(3) Appropriations subcommittees may not meet while the Senate or House is in session without special leave from the speaker of the House and the president of the Senate.

(4) All proposed items of expenditure to be included in the appropriations bills shall be submitted to one of the subcommittees named in JR3-2-302 for consideration and recommendation.

(5) (a) After receiving and reviewing subcommittee reports, the Executive Appropriations Committee may refer the report back to an appropriations subcommittee with any guidelines the Executive Appropriations Committee considers necessary to assist the subcommittee in producing a balanced budget.

(b) The subcommittee shall meet to review the new guidelines and report the adjustments to the chairs of the Executive Appropriations Committee as soon as possible.

(6) (a) After receiving the reports, the Executive Appropriations Committee chairs will report them to the Executive Appropriations Committee.

(b) That committee shall:

(i) make any further adjustments necessary to balance the budget; and

(ii) complete all decisions necessary to draft the final appropriations bill no later than the [38th] 39th day of the annual general session.

Section 2. JR4-5-101 is amended to read:

JR4-5-101. Deadline for passing certain fiscal note bills.

(1) (a) The House shall refer any Senate bill with a fiscal note of \$10,000 or more to the House Rules Committee before giving that bill a third reading.

(b) The Senate shall table on third reading each House bill with a fiscal note of \$10,000 or more.

(2) (a) Before adjourning on the [32nd] 43rd day of the annual general session, each legislator shall prioritize fiscal note bills and identify other projects or programs for new or one-time funding according to the process established by leadership.

(b) Before adjourning on the [39th] 44th day of the annual general session, the Legislature shall either pass or defeat each bill with a fiscal note of \$10,000 or more except constitutional amendment resolutions.

Section 3. JR4-5-201 is amended to read:

JR4-5-201. Deadline for passing base budget bills.

(1) Each legislator shall receive a copy of each base budget bill for the next fiscal year by calendared floor time on the first day of the annual general session.

(2) By noon on the [tent] 16th day, but not before the third day, of the annual general session, the Legislature shall either pass or defeat each base budget bill.

Section 4. JR4-5-202 is amended to read:

JR4-5-202. Deadline for passing certain appropriations bills and school finance bills.

(1) Each legislator shall receive a copy of any general appropriations bills, any supplemental appropriations bills, and any school finance bills by calendared floor time on the [43rd] 42nd day of the annual general session.

(2) Before the calendared closing time of the 43rd day of the annual general session, the Legislature shall either pass or defeat those general appropriations bills, supplemental appropriations bills, and school finance bills.

Section 5. JR4-5-301 is amended to read:

Part 3. Bond Bills

JR4-5-301. Deadline for passing bond bills.

(1) Each legislator shall receive a copy of any bond bill by noon on the [39th] 42nd day of the annual general session.

(2) Before the calendared closing time of the [39th] 43rd day of the annual general session, the

Legislature shall either pass or defeat each bond bill.

Section 66.

Repealer.

This resolution repeals:

JR3-2-502, In-depth budget review.

H.J.R. 12

Passed March 13, 2014
Effective January 1, 2015

JOINT RESOLUTION ON APPOINTMENT OF LEGAL COUNSEL FOR EXECUTIVE OFFICERS

Chief Sponsor: Mike K. McKell
Senate Sponsor: Todd Weiler

LONG TITLE

General Description:

This joint resolution of the Legislature proposes to amend the Utah Constitution to modify provisions relating to executive branch officers.

Highlighted Provisions:

This resolution proposes to amend the Utah Constitution to:

- ▶ authorize the Lieutenant Governor, State Auditor, and State Treasurer each to appoint legal counsel to advise them.

Special Clauses:

This resolution directs the Lieutenant Governor to submit this proposal to voters.

This resolution provides a contingent effective date of January 1, 2015, for this proposal.

Utah Constitution Sections Affected:

AMENDS:

ARTICLE VII, SECTION 14
ARTICLE VII, SECTION 15

Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:

Section 1. It is proposed to amend Utah Constitution, Article VII, Section 14, to read:

Article VII, Section 14. [Duties of Lieutenant Governor -- Appointment of legal counsel.]

(1) The Lieutenant Governor shall:

(1) (a) serve on all boards and commissions in lieu of the Governor whenever so designated by the Governor;

(2) (b) perform such duties as may be delegated by the Governor; and

(3) (c) perform other duties as may be provided by statute.

(2) The Lieutenant Governor may appoint legal counsel to advise the Lieutenant Governor.

Section 2. It is proposed to amend Utah Constitution, Article VII, Section 15, to read:

Article VII, Section 15. [Duties of State Auditor and State Treasurer -- Appointment of legal counsel.]

(1) The State Auditor shall perform financial post audits of public accounts except as otherwise provided by this Constitution.

(2) The State Treasurer shall be the custodian of public moneys.

(3) Each shall perform other duties as provided by statute.

(4) The State Auditor may appoint legal counsel to advise the State Auditor, and the State Treasurer may appoint legal counsel to advise the State Treasurer.

Section 3. Submittal to voters.

The lieutenant governor is directed to submit this proposed amendment to the voters of the state at the next regular general election in the manner provided by law.

Section 4. Effective date.

If the amendment proposed by this joint resolution is approved by a majority of those voting on it at the next regular general election, the amendment shall take effect on January 1, 2015.

H.J.R. 14

Passed March 10, 2014
Effective March 10, 2014

JOINT RESOLUTION ON CAREGIVING

Chief Sponsor: Rebecca Chavez-Houck
Senate Sponsor: Brian E. Shiozawa

LONG TITLE

General Description:

This joint resolution of the Legislature expresses support for the efforts of Utah's family caregivers and for state policies and programs that address the needs of older, vulnerable, or adults with a disability, and their caregivers.

Highlighted Provisions:

This resolution:

- ▶ expresses support for the dedicated work of family caregivers statewide;
- ▶ recognizes caregiving for older, vulnerable adults as a vital and needed profession today and in the future;
- ▶ expresses support for innovative and creative means to support family caregivers to continue providing needed in-home support for older, vulnerable, or adults with a disability; and
- ▶ expresses support for state policies and programs that address the needs of older, vulnerable, or adults with a disability, and their

caregivers, as well as agencies that provide additional information and education on supporting older, vulnerable, or adults with a disability in their homes through both family caregivers and paid professional caregivers.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, by 2040, the population of the state that is 85 years of age or older and most likely to need caregiving assistance is projected to reach 128,771;

WHEREAS, almost all older adults who need assistance with activities of daily living want to remain in their homes and communities;

WHEREAS, providing services and support to older adults in their homes and communities is generally much less expensive than nursing home care;

WHEREAS, older adults who receive services from caregivers in their homes are much less likely to need public assistance;

WHEREAS, almost three-fourths of older people living in the community who receive personal assistance rely exclusively on unpaid caregivers for help;

WHEREAS, an estimated 382,000 adults in the state provide care to adult relatives or friends, which equates to an estimated 365 million hours a year and an estimated value of \$4.2 billion each year;

WHEREAS, nationally, 70% of people with Alzheimer's Disease or a related disorder live at home and need assistance with activities of daily living; and

WHEREAS, to successfully address the surging population of older adults who have significant needs for long-term services and support, the state should develop methods to both encourage and support families to assist their aging relatives and develop ways to recruit and retain a qualified, responsive in-home care workforce:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah expresses support for the dedicated work of family caregivers statewide and recognizes caregiving for older, vulnerable adults as a vital and needed profession today and in the future.

BE IT FURTHER RESOLVED that the Legislature expresses support for innovative and creative means to support family caregivers to continue providing needed in-home support for older, vulnerable, or adults with a disability.

BE IT FURTHER RESOLVED that the Legislature expresses support for state policies and programs that address the needs of older, vulnerable, or adults with a disability and their caregivers, as well as agencies that provide additional information and education on

supporting older, vulnerable adults, or adults with a disability, in their homes through both family caregivers and paid professional caregivers.

BE IT FURTHER RESOLVED that the Legislature encourages the review of state policies and supports current state programs that address the needs of older adults and their caregivers.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Utah Department of Human Services and the Utah Department of Health.

H.J.R. 17

Passed March 11, 2014

Effective March 11, 2014

JOINT RESOLUTION ON JAIL FACILITIES

Chief Sponsor: Richard A. Greenwood
Senate Sponsor: Ralph Okerlund

LONG TITLE

General Description:

This joint resolution of the Legislature supports contracting for beds for state inmates at correctional facilities in the counties of Tooele, Weber, Davis, Iron, Kane, Emery, Grand, and Garfield.

Highlighted Provisions:

This resolution:

- ▶ supports jail expansion as beneficial to both the state and the counties through a contract with the Utah Department of Corrections; and
- ▶ approves contracting for beds dedicated to housing state inmates in the counties of Tooele, Weber, Davis, Iron, Kane, Emery, Grand, and Garfield.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, counties in Utah contract with the Utah Department of Corrections to provide prison bed space for state prisoners;

WHEREAS, this contracting arrangement has proved beneficial to both the state and the counties and saved taxpayers from the burden of building new state correctional facilities while, at the same time, assisting counties to meet their own correctional space needs;

WHEREAS, in accordance with Utah Code Annotated Subsection 64-13e-103(6), the Utah Department of Corrections may not enter into a contract with a county to house state inmates unless the Legislature has previously passed a joint resolution that includes the approximate number of beds to be contracted, the final state daily incarceration rate, the approximate amount of a county's long-term debt, and the repayment time of the debt for the facility where the inmates are to be housed;

WHEREAS, the Utah Department of Corrections is prepared to contract for:

1. 100 beds in Tooele County
2. 100 beds, in addition to the current 150 beds, in Weber County
3. 30 beds, in addition to the current 100 beds, in Davis County
4. 25 beds, in addition to the current 10 beds, in Iron County
5. 6 beds, in addition to the current 160 beds, in Kane County
6. 10 beds in Emery County
7. 10 beds, in addition to the current 10 beds, in Grand County
8. 4 beds, in addition to the current 92 beds, in Garfield County;

WHEREAS, the state daily incarceration rate that the department will pay the county per inmate is currently \$46.85 per day;

WHEREAS, the debt on the facilities that would house the inmates, and the payment time on the debt, is:

1. \$25 million for 28 years in Tooele County
2. \$6.6 million for 4 years in Weber County
3. \$19 million for 11 years in Davis County
4. no facility debt in Iron County
5. \$18 million for 37 years in Kane County
6. no facility debt in Emery County
7. no facility debt in Grand County
8. \$49,000 for 7 years in Garfield County;

WHEREAS, these counties have sufficient existing facilities and beds to accommodate state inmates and have met the requirements of Utah Code Annotated Subsection 64-13e-103(6); and

WHEREAS, contracting with the Utah Department of Corrections for additional jail bed space would greatly assist the state in addressing projected bed space and treatment needs, and all petitioning counties' efforts to have sufficient capacity to house their jail populations:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah supports contracting for beds in jail facilities in the counties of Tooele, Weber, Davis, Iron, Kane, Emery, Grand, and Garfield in the amounts specified in this resolution.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Tooele, Weber, Davis, Iron, Kane, Emery, Grand, and Garfield County Commissions and the Utah Department of Corrections.

H.J.R. 20

Passed March 12, 2014
Effective March 12, 2014

**JOINT RESOLUTION RECOGNIZING
THE SIGNIFICANCE OF THE
GREAT SALT LAKE**

Chief Sponsor: Larry B. Wiley
Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This joint resolution of the Legislature recognizes the significance of the Great Salt Lake.

Highlighted Provisions:

This resolution:

- ▶ recognizes the economic, recreational, and natural significance of the Great Salt Lake.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, the Great Salt Lake is an economic powerhouse for Utah's economy;

WHEREAS, the Great Salt Lake provides employment for over 7,000 Utahns and annually generates over \$375 million of labor income;

WHEREAS, the total annual economic contribution of the Great Salt Lake to Utah's economy is estimated at over \$1.3 billion and represents industrial, extractive, recreational, and other uses;

WHEREAS, the Great Salt Lake's natural beauty has drawn thousands to make artistic interpretations of its elements, including two landmark earthworks: the Spiral Jetty and the Sun Tunnels;

WHEREAS, Willard Bay, the Great Salt Lake Marina, Antelope Island State Park, and the Bear River Migratory Bird Refuge draw many visitors who enjoy and recreate on the Great Salt Lake and its shores;

WHEREAS, in 1843, John C. Fremont surveyed the Great Salt Lake and in 1847, three days after the pioneers arrived in the Salt Lake Valley, Brigham Young visited and swam in the Great Salt Lake;

WHEREAS, the Great Salt Lake's fabled history includes sails and steamboats;

WHEREAS, the Great Salt Lake has provided a home for beloved resorts, including Saltair;

WHEREAS, the Great Salt Lake annually attracts thousands of duck hunters, bird watchers, boaters, tourists, and other outdoor enthusiasts, which contributes to the economies of surrounding communities;

WHEREAS, products of the brine shrimp harvesting and mineral extraction industries are sold, and valued, worldwide;

WHEREAS, through the lake effect, the Great Salt Lake contributes to the formation of the

“Greatest Snow on Earth,” which plays a critical role in Utah’s economy;

WHEREAS, the Great Salt Lake and associated wetlands provide critically important habitat for brine shrimp, brine flies, and millions of migrating and nesting birds, including American White Pelicans, American Avocets, Western Sandpipers, White-faced Ibis, and the world’s largest staging population of Wilson’s Phalarope;

WHEREAS, the associated wetlands of the Great Salt Lake provide essential habitat for fish, mammals, Bald Eagles, large populations of ducks and geese, and additional large wildlife species in many freshwater bays;

WHEREAS, the multiple economic, industrial, recreational, and ecological demands on the Great Salt Lake present a challenge for management of this important natural resource;

WHEREAS, the Great Salt Lake is a diverse and complex ecosystem, aspects of which are not fully analyzed or understood, and few numerical standards exist to measure impacts upon the lake;

WHEREAS, recent studies of the economic benefits and the ecological health of the lake, as well as the updated Comprehensive Management Plan for the Great Salt Lake, have been added to the knowledge base and informed efforts to balance the multiple interests in the lake while providing for its long-term management;

WHEREAS, the Division of Forestry, Fire, and State Lands, the Great Salt Lake Advisory Council, and the scientific community have developed a long, prioritized list of future scientific studies of the Great Salt Lake ecosystem;

WHEREAS, the Division of Forestry, Fire, and State Lands, the Great Salt Lake Advisory Council, and the scientific community have recommended the development of an integrated Water Resources Management Model for the Great Salt Lake to better understand the impacts that consumptive use will have on the Great Salt Lake and to provide a predictive tool for evaluating mitigation measures; and

WHEREAS, the Great Salt Lake is a symbol of our community and state that is recognized throughout the world:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah recognizes the economic, recreational, and natural significance of the Great Salt Lake.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Utah Department of Natural Resources and the Great Salt Lake Advisory Council.

H.J.R. 21

Passed March 11, 2014

Effective March 11, 2014

JOINT RESOLUTION ON THE SOVEREIGN CHARACTER OF PILT — PAYMENT IN LIEU OF TAXES

Chief Sponsor: Ken Ivory

Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This joint resolution of the Legislature strongly urges the United States Congress to fully and permanently fund Payments in Lieu of Taxes (PILT) and transfer to the state of Utah the federally controlled public lands within the state.

Highlighted Provisions:

This resolution:

- ▶ urges and directs the United States Congress to use every exertion in its power, by reason, argument, and persuasion, to induce the United States to fully fund, on a perpetual and mandatory basis, Payments in Lieu of Taxes (PILT), which the state and its subdivisions would otherwise collect if the federal government honored the same statehood enabling act terms that it honored with all states east of Colorado; and
- ▶ demands, if Congress cannot or will not fully fund PILT at the full assessed value of similarly situated lands within Utah’s counties on a mandatory, permanent, and perpetual basis, that Congress transfer title to the public lands, as was done previously for similarly impacted states east of Colorado, directly to the state of Utah so that Utah and its subdivisions can generate tax and other revenues from these lands to fund education, police, fire, sanitation, social welfare, and other essential public services.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, the United States Congress elected to not fund the Payments in Lieu of Taxes (PILT) Act in its most recent \$1.1 trillion Omnibus Spending Bill of 2014;

WHEREAS, Congress instead included funding for its PILT obligations for only one year in the Farm Bill of 2014;

WHEREAS, PILT was imposed by Congress in 1976 to compensate states for the loss of tax and other revenues that states would generate if Congress had honored its nearly 200-year-old obligation to transfer title to the public lands;

WHEREAS, Congress originally promised that PILT would be mandatory and perpetual because it was intentionally imposed as a substitute for what the congressional Committee on the Public Lands referred to in 1828 as “a power incident to all sovereign states of taxing the soil to confer benefits”;

WHEREAS, in 1976, Congress enacted the Federal Land Policy Management Act of 1976, or

FLPMA, which unilaterally changed the obligation of the federal government to transfer title to the public lands in favor of a policy to “forever retain public lands in federal ownership”;

WHEREAS, as a palliative to the affected states for usurping this “power incident to all sovereign states of taxing the soil” through FLPMA, Congress also imposed the new PILT program;

WHEREAS, as a result of the federal government’s failure or refusal to transfer title to the public lands, some counties in Utah have as little as 5% taxable lands to fund education, police, fire, sanitation, social welfare, and other essential public services;

WHEREAS, an analysis by the Legislature’s Office of Legislative Fiscal Analyst reveals that the amounts previously funded by Congress as PILT to Utah counties amounts only to approximately 13 cents on the dollar of the average taxable value for similarly situated lands;

WHEREAS, PILT more accurately represents “Pennies in Lieu of Trillions,” in light of the fact that the Institute for Energy Research estimated in 2013 that there is more than \$150 trillion in mineral value locked up in federally controlled lands;

WHEREAS, the United States Government Accountability Office estimated in 2012 that there is more recoverable oil in the federally controlled lands in Utah, Colorado, and Wyoming than the rest of the world combined;

WHEREAS, as a result of having such a minimal amount of lands subject to taxation or other revenues because of federal retention of these lands, Utah counties are dependent upon the promise of PILT for as much as 40% of their total county budgets to fund education, police, fire, sanitation, social services, and other essential public services;

WHEREAS, a one-year appropriation for PILT in the Farm Bill of 2014 disregards entirely the uniquely sovereign character of PILT--putting PILT on par with other line items of federal expense like funding the study of excess alcohol on prostitutes in China--rather than honoring PILT as a mandatory and perpetual substitute for the “power incident to all sovereign states of taxing the soil”;

WHEREAS, a mere one-year PILT appropriation denies state and local governments of budgetary certainty to meet fundamental public obligations like funding education, police, fire, sanitation, social welfare, and other essential public services;

WHEREAS, the federal government has not passed a budget for more than five years, has accumulated a national debt exceeding \$17 trillion, overspends at the rate of nearly \$1 trillion a year, has unfunded obligations for Medicare, Medicaid, Social Security, and others in excess of \$87 trillion, and is creating money at the rate of tens of billions of dollars per month;

WHEREAS, the United States Government Accountability Office regularly declares that the financial statement of the United States is “unsustainable”;

WHEREAS, history reflects that Congress previously delayed for decades disposing of as much as 90% of the lands in states such as Illinois, Indiana, Missouri, Arkansas, Louisiana, Alabama, Mississippi, and Florida, depriving these states of the ability to tax or generate revenues from their lands;

WHEREAS, lacking the ability to tax or generate revenues from their lands, the 1828 congressional Committee on the Public Lands indicated “in vain may the People of these States expect the advantages of well settled neighborhoods, so essential to the education of youth . . . Those states will, for many generations, without some change, be retarded in endeavors to increase their comfort and wealth, by means of works of internal improvements, because they have not the power, incident to all sovereign States, of taxing the soil, to pay for the benefits conferred upon its owner”;

WHEREAS, upon raising their collective demand to Congress, the congressional Committee on the Public Lands found with respect to their admission as states that “when these States stipulated not to tax the lands of the United States until they were sold, they rested upon the implied engagement of Congress to cause them to be sold, within a reasonable time. No just equivalent has been given those States for a surrender of an attribute of sovereignty so important to their welfare, and to an equal standing with the original States”;

WHEREAS, ultimately, the collective and persistent demands of these states resulted in the transfer of their public lands by Congress;

WHEREAS, Congress’s obligation to transfer title to the public lands to the states is included in the Enabling Act for Utah’s admission as a state — an agreement the United States Supreme Court refers to as a “bi-lateral” and “solemn compact”;

WHEREAS, the terms of Utah’s Enabling Act, with respect to the transfer of public lands, are in all material respects similar to the enabling acts of most of the newly created states east of Colorado and west of the original 13 states; and

WHEREAS, legal analysis by the Federalist Society concludes that the Enabling Act is “a compact and promise made between two sovereigns where the federal government committed itself to disposal and promised that it would exercise its disposal obligations in a manner (and with an understanding that respects the expectation by the State that the federal government would dispose of such lands) so that both a percentage of the proceeds from the sales would be shared with the State and the State thereafter would have the capacity to tax such lands when disposed . . .”;

NOW, THEREFORE, BE IT RESOLVED that until the federal government honors the promise made at statehood to transfer title to the public lands, the Legislature of the state of Utah urges and directs, in the most strenuous terms within the

power of a sovereign and independent state, that the senators and representatives of the United States Congress use every exertion in their power, by reason, argument, and persuasion, to induce the United States to fully fund, on a perpetual and mandatory basis, Payments in Lieu of Taxes (PILT), which the state and its subdivisions would otherwise collect if the federal government honored the same statehood enabling act terms that it honored with all states east of Colorado.

BE IT FURTHER RESOLVED that if Congress cannot or will not fully fund PILT at the full assessed value of similarly situated lands within Utah’s counties on a mandatory, permanent, and perpetual basis, the Legislature of the state of Utah demands that Congress transfer title to the public lands, as was done previously for similarly impacted states east of Colorado, directly to the state of Utah so that Utah and its subdivisions can generate tax and other revenues from these lands to fund education, police, fire, sanitation, social welfare, and other essential public services.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, the United States Department of the Interior, and the members of Utah’s congressional delegation.

H.J.R. 24

Passed March 3, 2014
Effective March 3, 2014

**JOINT RESOLUTION RECOGNIZING
WEBER STATE UNIVERSITY’S 125TH
ANNIVERSARY**

Chief Sponsor: Brad L. Dee
Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This joint resolution of the Legislature recognizes the 125th anniversary of Weber State University.

Highlighted Provisions:

This resolution:

- recognizes the 125th anniversary of Weber State University.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, Weber State University first opened its doors in downtown Ogden as Weber Stake Academy on January 7, 1889, and became a college during the first two decades of the 20th century;

WHEREAS, Weber Stake Academy was founded by the Church of Jesus Christ of Latter-day Saints;

WHEREAS, in the 1920s, the school changed its name to Weber College;

WHEREAS, the students became Wildcats and Waldo the mascot was born after a sportswriter described Weber athletes as a “scrappy bunch of wildcats”;

WHEREAS, in 1933, Weber College was established as a junior state college and its ownership was transferred to the state of Utah;

WHEREAS, after World War II, the college moved its campus to Harrison Boulevard and, thanks to an outpouring of public support, its enrollment and physical campus grew significantly;

WHEREAS, this growth helped the college to become Weber State College, a four-year institution, in 1962;

WHEREAS, in 1991, Weber State College became recognized as a university and was renamed Weber State University;

WHEREAS, Weber State University experienced significant growth during the 1990s and, recognizing the need to serve the growing number of students from Davis County, opened Weber State University Davis in 2003;

WHEREAS, in 2007, Weber State University established the Center for Community Engaged Learning;

WHEREAS, the Center for Community Engaged Learning has enjoyed a partnership between the community and students who have contributed more than 765,000 combined hours of community service;

WHEREAS, for this service, Carnegie Classification for Community Engagement recognized Weber State University in 2008;

WHEREAS, Weber State University has made education more accessible by continuing to open doors to learning through its affordable tuition, scholarship programs, online classes, and flexible schedules;

WHEREAS, it is these aspects of Weber State University that have provided increased opportunities to many in the state of Utah who otherwise would not have access to a college education;

WHEREAS, Weber State University now serves more than 25,000 students, primarily from Weber and Davis counties, and offers more than 225 degree programs consisting of associate’s degrees, bachelor’s degrees, and master’s degrees;

WHEREAS, Weber State University consistently receives national recognition for providing quality programs in business, nursing, teaching, and many other fields;

WHEREAS, Weber State University has been a consistent contributor to the community for the past 125 years;

WHEREAS, through its academic programs and technology outreach center, Weber State University has become a critical economic driver in northern Utah and a partner in economic development and business growth; and

WHEREAS, Weber State University alumni number over 100,000 across the globe, including national and international leaders in business, education, government, military, religion, sports, and entertainment:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah recognizes the 125th anniversary of Weber State University.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the President of Weber State University.

H.R. 3

Passed March 5, 2014
Effective March 5, 2014

**HOUSE RULES RESOLUTION -
LEGISLATIVE PER DIEM AMENDMENTS**

Chief Sponsor: Melvin R. Brown

LONG TITLE

General Description:

This House resolution of the Legislature modifies legislative rules for compensation and expense reimbursement.

Highlighted Provisions:

This resolution:

- ▶ amends per diem and expense related language in House Rules to comply with current compensation and expense requirements.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:
HR1-3-102

Be it resolved by the House of Representatives of the state of Utah:

Section 1. HR1-3-102 is amended to read:

HR1-3-102. Duties of the speaker.

- (1) The general duties of the speaker are to:
 - (a) call the House to order at the time scheduled for convening, and proceed with the daily order of business;
 - (b) announce the business before the House in the order that it is to be acted upon;
 - (c) receive and submit in the proper manner all motions and proposals presented by representatives;
 - (d) put to a vote all questions that arise in the course of proceedings, and announce the results of the vote;
 - (e) enforce the House Rules governing debates;
 - (f) enforce observance of order and decorum;

(g) inform the House on any point of order or practice;

(h) receive and announce to the House any official messages and communications;

(i) sign all acts, orders, and proceedings of the House;

(j) appoint the members of committees;

(k) assign responsibilities to, and supervise the officers and employees of, the House;

(l) assign places and determine access for news media representatives; and

(m) represent the House, declaring its will and obeying its commands.

(2) The speaker shall:

(a) sign, or authorize a designee to sign, all requisitions on the Division of Finance to pay House expenses; and

(b) give final approval of all expenditure requests as authorized by the majority and minority leaders of the House, including [~~per diem~~] compensation[, ~~travel expenses,~~] and reimbursement for expenses for in-state and out-of-state travel on legislative business.

H.R. 4

Passed March 5, 2014
Effective March 5, 2014

**HOUSE RULES RESOLUTION BANNING
FUNDRAISING ON THE HOUSE FLOOR**

Chief Sponsor: Jennifer M. Seelig

LONG TITLE

General Description:

This resolution prohibits fundraising on the floor of the Utah House of Representatives.

Highlighted Provisions:

This resolution:

- ▶ prohibits fundraising on the floor of the Utah House of Representatives; and
- ▶ provides certain exceptions for approved public announcements.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:
HR2-4-103

Be it resolved by the House of Representatives of the state of Utah:

Section 1. HR2-4-103 is amended to read:

HR2-4-103. Prohibitions on lobbying and fundraising.

(1) As used in this section:

(a) "Fundraising" means:

(i) the solicitation of a monetary contribution for any purpose; or

(ii) the announcement or promotion of an event that has as one of its purposes the collection of funds by means of a monetary contribution.

(b) "Lobbying" is as defined in Section 36-11-102.

(2) Lobbying is not permitted in the House chamber.

(3) (a) Distribution of literature or any other information that announces or promotes fundraising is not permitted on the House floor.

(b) Notwithstanding Subsection (3)(a), a verbal announcement that involves or relates to fundraising is permitted on the House floor if the announcement is:

(i) publicly made to all members on the House floor; and

(ii) an official announcement from the third house or authorized by the speaker of the House.

H.R. 5

Passed March 6, 2014
Effective March 6, 2014

**HOUSE RESOLUTION ON
CLEAN-BURNING RENEWABLE FUELS**

Chief Sponsor: Johnny Anderson

LONG TITLE

General Description:

This resolution of the House of Representatives encourages the state of Utah, all of its subdivisions, and persons in private industry to pursue the use of biodiesel.

Highlighted Provisions:

This resolution:

- ▶ expresses support for the continued development and implementation of biodiesel in the state;
- ▶ recognizes the significant economic and environmental benefits that biodiesel can bring to the state; and
- ▶ strongly urges individuals, restaurants and other businesses, schools, and jails, to dispose of their waste oils at a Utah based biodiesel company that will convert the waste product to a renewable, clean-burning fuel, and by so doing, help diversify Utah's energy portfolio, provide jobs, and clean the environment.

Special Clauses:

None

Be it resolved by the House of Representatives of the state of Utah:

WHEREAS, the state of Utah has excellent resources that can be used to further advance the research, development, and implementation of renewable biodiesel fuel;

WHEREAS, the Governor has called for action to clean the air and adopt cleaner fuel in Utah;

WHEREAS, biodiesel is a clean-burning diesel fuel alternative that can be blended with petroleum diesel, which reduces the United States' dependence on foreign petroleum, creates jobs, and improves the environment;

WHEREAS, biodiesel facilities have the potential to remove large amounts of waste oils and other refuse from the state's overall waste inventory, enhance the environment, and utilize a waste product;

WHEREAS, Utah can utilize waste items, such as recycled cooking oil, cooking grease, animal fats, and other materials to be converted to biodiesel;

WHEREAS, biodiesel companies within Utah compensate participants to collect waste materials;

WHEREAS, biodiesel can also be made from the oil of safflower, camellia, and other seed crops that could be grown in Utah;

WHEREAS, seeds are available for human or livestock consumption after the oil has been extracted so that food protein properties are not lost;

WHEREAS, through increased biodiesel production, Utah agriculture will have the ability to diversify its production portfolio;

WHEREAS, biodiesel can be produced with agricultural and urban biomass resources;

WHEREAS, Utah is well positioned to be a leader in the biodiesel arena for western states due to the private sector facilities and technology currently in place;

WHEREAS, Utah is home to several biodiesel producing enterprises;

WHEREAS, the use of biodiesel has many benefits, including minimizing environmental impact and improving air quality;

WHEREAS, the use of biodiesel and the technology to use waste products represent significant methods of preserving the environment and providing a sustainable alternative fuel supply for the people of Utah;

WHEREAS, biodiesel can expand energy options, contain fuel prices, and help improve environmental conditions;

WHEREAS, vehicle engines using diesel fuel can fully utilize various biodiesel fuel blends without the need for conversion or retrofitting; and

WHEREAS, biodiesel is available for use from Utah based companies:

NOW, THEREFORE, BE IT RESOLVED that the House of Representatives of the state of Utah expresses support for the continued development and implementation of biodiesel in the state.

BE IT FURTHER RESOLVED that the House of Representatives recognizes the significant economic and environmental benefits that biodiesel can bring to the state.

BE IT FURTHER RESOLVED that the House of Representatives strongly urges restaurants, individuals, schools, jails, and other businesses to dispose of their waste oils to a Utah based biodiesel company that will convert the waste product to a renewable, clean-burning fuel, and, by so doing, help to diversify Utah's energy portfolio, provide jobs, and help clean the environment.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Utah Chamber of Commerce, the Utah Restaurant Association, the Department of Agriculture and Food, the Governor's Office of Economic Development, the Office of Energy Development, the Department of Environmental Quality, the State Office of Education for distribution to each school district, the Utah Association of Counties for distribution to its members, and the Utah League of Cities and Towns for distribution to its members.

S. C. R. 1

Passed February 20, 2014
 Approved March 3, 2014
 Effective March 3, 2014

**CONCURRENT RESOLUTION
 RECOGNIZING THE 60TH ANNIVERSARY
 OF THE INCLUSION OF UNDER GOD IN
 THE PLEDGE OF ALLEGIANCE**

Chief Sponsor: Aaron Osmond
 House Sponsor: LaVar Christensen

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor recognizes the 60th anniversary of the introduction of the legislation that added the words "Under God" to the United States Pledge of Allegiance.

Highlighted Provisions:

This resolution:

- ▶ recognizes February 10, 2014, as the 60th anniversary of the introduction of the legislation that added the words "Under God" to the United States Pledge of Allegiance.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, on February 10, 1954, Senator Homer Ferguson of Michigan introduced a bill in the United States Congress to amend the Pledge of Allegiance by adding the words "Under God" to the pledge;

WHEREAS, February 10, 1954, was chosen as the date to introduce the bill because it was the five-year anniversary of the imprisonment of Cardinal Joseph Mindszenty of Hungary;

WHEREAS, Cardinal Mindszenty was imprisoned and tortured because he refused to stop

delivering sermons about the dangers of Communism, particularly the threat it posed to religious freedom;

WHEREAS, speeches delivered in the United States Congress by members of both political parties honored Cardinal Mindszenty and emphasized the threat posed to America by Communism;

WHEREAS, Senator Ferguson commented, "I believe this modification of the pledge is important because it highlights one of the real fundamental differences between the free world and the Communist world, namely, belief in God," and added, "Our nation is founded on a fundamental belief in God, and the first and most important reason for the existence of our Government is to protect the God-given rights of our citizens. Spiritual values are every bit as important to the defense and safety of our nation as are military and economic values";

WHEREAS, on February 7, 1954, President Dwight D. Eisenhower became convinced that the words "Under God" should be added to the United States Pledge of Allegiance after hearing Reverend George Docherty point out that the phrase "nation under God" was first used by President Abraham Lincoln in the Gettysburg Address;

WHEREAS, Reverend Docherty further reasoned, "Lincoln claims that it is 'UNDER GOD' that this nation shall know a new birth of freedom. And by implication, it is under God that 'government of the people, by the people, and for the people shall not perish from the earth'";

WHEREAS, on June 8, 1954, the legislation adding "Under God" to the United States Pledge of Allegiance passed by unanimous vote;

WHEREAS, President Eisenhower stated, "This law and its effects today have profound meaning. In this way we are reaffirming the transcendence of religious faith in America's heritage and future; in this way we shall constantly strengthen those spiritual weapons which forever will be our country's most powerful resource, in peace or in war";

WHEREAS, the first time the United States Pledge of Allegiance was recited in its current form was on Flag Day, June 14, 1954; and

WHEREAS, recognizing the 60th anniversary of the introduction of this legislation strengthens the ties of history that bind us to the nation's religious heritage:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, recognizes February 10, 2014, as the 60th anniversary of the introduction of the legislation that added the words "Under God" to the United States Pledge of Allegiance.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the President of the United States, the Majority Leader of the United States Senate, the Speaker of the United States House of

Representatives, and to the members of Utah’s congressional delegation.

S. C. R. 2

Passed February 26, 2014
Approved March 12, 2014
Effective March 12, 2014

**CONCURRENT RESOLUTION
RECOGNIZING THE 50TH
ANNIVERSARY OF THE
RIRIE-WOODBURY DANCE COMPANY**

Chief Sponsor: Gene Davis
House Sponsor: Lynn N. Hemingway

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor recognizes the 50th Anniversary of the Ririe-Woodbury Dance Company.

Highlighted Provisions:

This resolution:

- ▶ recognizes the 50th Anniversary of the Ririe-Woodbury Dance Company; and
- ▶ recognizes the Ririe-Woodbury Dance Company and its founders for 50 years of performance excellence and the prestige it has brought to Utah’s reputation in the arts.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the Ririe-Woodbury Dance Company has been referred to by the Los Angeles Times as “Movers and Shakers worth remembering”;

WHEREAS, the New York Times ranked a Ririe-Woodbury Dance Company performance as “number 6 of 10 of the best events of the year!”;

WHEREAS, the Salt Lake Tribune has stated, “The audience is rewarded by a company with a clear artistic vision and dancers who convey that message with purpose and intention . . . there is no question about the creme of Utah’s dance crop”;

WHEREAS, from its beginnings 50 years ago, the Company’s education outreach program has grown to the extent that now, in an average year, Ririe-Woodbury visits 133 schools in 20 districts, reaching approximately 30,888 students and teachers;

WHEREAS, over the last 50 years, the Ririe-Woodbury Dance Company has reached over one million Utah school children and has performed for approximately two million people around the world;

WHEREAS, the Ririe-Woodbury Dance Company was founded in 1964 with an enduring mission focused on performance and education, an

emphasis reflected in the interests and natural gifts of its founders, Joan Woodbury and Shirley Ririe;

WHEREAS, during the 1950s, Joan and Shirley were involved in the creation of Choreodancers, a company consisting of professional dancers and teachers in Salt Lake City, Utah;

WHEREAS, throughout this period, Joan and Shirley were also involved as professors in the dance department at the University of Utah, where they helped foster the postwar interest in the arts that was occurring all across the country;

WHEREAS, this interest in the arts eventually led to programs established by the National Endowment for the Arts;

WHEREAS, during the next 10 years, and in that fertile atmosphere, the Company grew in stature and recognition in both Utah and on the national scene;

WHEREAS, in 1972, the Company did a showcase performance for the newly organized National Endowment for the Arts (Dance) in New York City;

WHEREAS, while in New York City, the Ririe-Woodbury Dance Company, along with 20 other United States companies, was chosen by a national panel of artists and educators to be subsidized participants in the prestigious national “Dance Touring” program, as well as the “Artists in the Schools” program;

WHEREAS, for the next 12 years, more than a third of all national “Artists in the Schools” tours were performed by the Ririe-Woodbury Dance Company;

WHEREAS, this opportunity gave Joan and Shirley time and context to formalize their extensive and groundbreaking education philosophy;

WHEREAS, the Ririe-Woodbury Dance Company’s Education Program evolved during the United States dance renaissance of the 1970s and 80s to become the national model for dance education in schools, a model that still stands today;

WHEREAS, in an average year, the Ririe-Woodbury Dance Company reaches 50 - 60,000 people nationally and internationally through its performances and classes;

WHEREAS, since 2002, the Ririe-Woodbury Dance Company has held the honor of having the longest continuous tour in France of any American dance company;

WHEREAS, during 2002, the Ririe-Woodbury Dance Company embraced a unique partnership with the Nikolais/Louis Foundation for Dance in New York City to keep the works of national treasure Alwin Nikolais on the stage and in the minds and hearts of a new generation;

WHEREAS, this partnership is recognized and supported by the National Endowment for the Arts and many local foundations;

WHEREAS, during that same time period, with a solid foundation and as a strong part of Utah’s

cultural fabric, Joan and Shirley also wanted to ensure the Company's legacy by embracing a succession plan;

WHEREAS, the Ririe-Woodbury Dance Company is now under the management of Joan's daughter, Jena Woodbury, current artistic director Daniel Charon, and education director Gigi Arrington;

WHEREAS, the Ririe-Woodbury Dance Company now looks toward an exciting and dynamic future; and

WHEREAS, with the strength of its history, the vision and perseverance of its founders, the extraordinary ability of its current management, staff, and dancers, and the support of the extraordinary Utah community, the Ririe-Woodbury Dance Company will continue as a force for innovation in the development of contemporary dance performance and education throughout the world for another 50 years:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, recognizes the 50th Anniversary of the Ririe-Woodbury Dance Company.

BE IT FURTHER RESOLVED that the Legislature and the Governor recognize the Ririe-Woodbury Dance Company and its founders for 50 years of performance excellence and the prestige it has brought to Utah's reputation in the arts.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Ririe-Woodbury Dance Company.

S. C. R. 3

Passed March 11, 2014
 Approved March 25, 2014
 Effective March 25, 2014

CONCURRENT RESOLUTION ON THE SCHOOL OF DENTISTRY SERVING UNDERPRIVILEGED CHILDREN

Chief Sponsor: Patricia W. Jones
 House Sponsor: Marie H. Poulson

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor urges that cooperative efforts be undertaken to improve the oral health of Utah's underserved population.

Highlighted Provisions:

This resolution:

- ▶ urges that oral health for the underserved population of Utah be addressed by the cooperative efforts of government, health care training programs, practicing health care professionals, business and community leaders, and insurance companies; and
- ▶ recognizes the University of Utah's School of Dentistry for its commitment to serve these

underserved populations with critical prevention and intervention dental care and to work closely with the other vested parties to improve the oral health management of these very vulnerable groups.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, untreated dental disease can lead to serious health problems such as major local and systemic infections, loss of oral function, damage to bone or nerves, tooth loss, and even death, as well as adverse cosmetic consequences;

WHEREAS, oral health is essential for overall medical management and must not be neglected, especially in children;

WHEREAS, the fact that a large percentage of the underserved pediatric and adult patients in the state of Utah do not have access to adequate oral care due to a lack of sufficient resources, putting them at risk for serious disease consequences is of particular concern;

WHEREAS, for example, the 22% of Utah children who are not covered by either private or governmental insurance programs are five times more likely to have significant unmet dental needs compared to the 78% of children who are covered by some insurance program;

WHEREAS, consequently, oral health care for this underserved population must become a priority in the state of Utah; and

WHEREAS, the University of Utah's School of Dentistry, formed in 2012, has declared its commitment to use its human and physical plant resources to serve these underserved populations with critical prevention and intervention dental care and to work closely with the other vested parties to improve the oral health management of these very vulnerable groups:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, urges that oral health for the underserved population of Utah be addressed by the cooperative efforts of government, health care training programs, practicing health care professionals, business and community leaders, and insurance companies.

BE IT FURTHER RESOLVED that the Legislature and the Governor recognize the University of Utah's School of Dentistry for its commitment to serve these underserved populations with critical prevention and intervention dental care and to work closely with the other vested parties to improve the oral health management of these very vulnerable groups.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the University of Utah School of Dentistry, the Utah Department of Health, the Utah Medical Association, the Utah Dental Association, the Utah Association of Independent

Insurance Agents, and the members of Utah's congressional delegation.

S.C.R. 4

Passed February 20, 2014
Approved March 3, 2014
Effective March 3, 2014

CONCURRENT RESOLUTION ON WILDLIFE ENHANCEMENT

Sponsor: Chief Sponsor: Allen M. Christensen
House Sponsor: Curtis Oda

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor recommends that the Utah Division of Wildlife Resources and the Utah Wildlife Board make long-term commitments to public and private partnerships that ensure healthy habitats, abundant herds, and jobs in the hunting economy.

Highlighted Provisions:

This resolution:

- ▶ commends the citizens of Utah and state agencies for creating innovative public and private partnerships that create and maintain lands, healthy habitats, and abundant herds, while expanding our hunting and outdoor economies;
- ▶ recommends that the Utah Division of Wildlife Resources and the Utah Wildlife Board continue to make long-term commitments to the Western Hunting and Conservation Expo, private landowners, and those investing substantial resources to ensure healthy habitats, abundant herds, and jobs in the hunting economy; and
- ▶ encourages additional state efforts to promote Utah's world-class outdoor recreational opportunities and to further educate tourists and Utah citizens regarding the role that sportsmen and private landowners play in conserving Utah's lands and healthy wild populations.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, Utah is now recognized as one of the best places to hunt numerous big game species in the western United States;

WHEREAS, hunting and wildlife are important elements of Utah's family tradition of outdoor recreation and the state's outdoor recreation economy;

WHEREAS, other states are experiencing declining herds, declining interests in hunting, and declining economic activity in their hunting economies;

WHEREAS, 20 years ago, Utah's herds and fisheries were declining, habitat conditions were degrading, hunter participation was declining,

budgets and future revenues were in question, and conflicts between wildlife and private landowners were increasing;

WHEREAS, in a true pioneering spirit, Utah sportsmen, private landowners, and state wildlife agencies created new and innovative partnerships and funding methods and focused their efforts on growth of future conservation of herds, jobs, and revenues;

WHEREAS, the Utah Legislature and the state of Utah have partnered with landowners and private sportsmen groups to invest hundreds of millions of dollars to restore habitats, fence highways, expand herds through aggressive transplants, and fund millions in efforts to resolve private land and wildlife conflicts; and

WHEREAS, the Western Hunting and Conservation Expo has attracted worldwide attention to promote Utah's land and wildlife conservation, abundant herds, and hunting economy;

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, commends Utah citizens and state agencies for creating innovative public and private partnerships that create and maintain lands, healthy habitats, and abundant herds, while expanding hunting and outdoor economies.

BE IT FURTHER RESOLVED that the Legislature and the Governor recommend that the Utah Division of Wildlife Resources and the Utah Wildlife Board continue to make long-term commitments to the Western Hunting and Conservation Expo, private nonprofit wildlife conservation groups, private landowners, and those investing substantial resources to ensure healthy habitats, abundant herds, and jobs in the hunting economy.

BE IT FURTHER RESOLVED that the Legislature and the Governor encourage additional state efforts to promote Utah's world-class outdoor recreational opportunities and to further educate tourists and Utah citizens regarding the role that sportsmen and private landowners play in conserving Utah's lands and healthy wild populations of moose, bison, mountain goat, bighorn sheep, antelope, elk, mule deer, cougar, black bear, wild turkey, and other species.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Western Hunting and Conservation Expo, the Division of Wildlife Resources, and the Utah Wildlife Board.

S.C.R. 5

Passed February 27, 2014
Approved March 12, 2014
Effective March 12, 2014

CONCURRENT RESOLUTION SUPPORTING THE MASTER PLAN

Chief Sponsor: Margaret Dayton
House Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor expresses support for the master plan to serve Utahns with disabilities.

Highlighted Provisions:

This resolution:

- ▶ expresses support for the Utah State Development Center’s master plan to provide services for people with mental disabilities.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, in 1929, the Legislature of the state of Utah established the Utah State Training Center to assist with the care, protection, treatment, and education of people with mental disabilities;

WHEREAS, the Utah State Training Center, later known as the Utah State Development Center (USDC), was established during an era when relatively little was known about the causes of mental disabilities;

WHEREAS, like other states, Utah built a public institution in a remote location and within a broad perimeter of land that provided a physical barrier between the institution and the nearest rural homes and communities;

WHEREAS, residents were supervised in large groups, with staff ratios as high as one staff member to 60 residents;

WHEREAS, since its establishment in 1929, the USDC has evolved and improved with each major change in thinking regarding what public services should be provided for persons with mental disabilities and how to provide those services;

WHEREAS, since state governments first acknowledged a public interest in and accepted some fiscal responsibility for citizens with disabilities, states have made sweeping changes in the philosophy and practice of providing public services;

WHEREAS, these paradigm shifts have resulted from a growing knowledge about disabilities, including their causes, prevention, interventions, and accommodations;

WHEREAS, also contributing to the paradigm shifts was an improving regard for persons who experience disabilities, as evidenced by public laws that affirm and promote their rights, an expansion of publicly funded services, and greater inclusion by their communities;

WHEREAS, in April 1999, Utah’s Lieutenant Governor, Olene Walker, issued a set of guiding principles entitled “Principles to Guide the Delivery of Publicly Funded Services for People with Disabilities in Utah”;

WHEREAS, these principles were developed by a group of individuals representing the Governor’s

office, the state Legislature, state agencies, service providers, and parent advocates;

WHEREAS, the principles were distributed in the community and public comment was received at a meeting conducted by the Lieutenant Governor on April 13, 1999;

WHEREAS, the Department of Human Services and the Department of Health subsequently adopted these principles to guide how they provide services;

WHEREAS, like providers of community-based services, USDC is currently working to support and promote more person-centered services, a greater choice of services and supports, and increased opportunities for inclusion of people with mental disabilities in the community;

WHEREAS, today, Utah’s citizens are served from across the entire state of Utah under the direction of the Utah Department of Human Services and the Division of Services for People with Disabilities;

WHEREAS, the USDC provides 24-hour residential care, is Utah’s only state-operated intermediate care facility for people with intellectual disabilities, and takes great pride in serving these most vulnerable of Utah’s citizens;

WHEREAS, as other providers in the state of Utah struggle to provide care for individuals with complex emotional, medical, and behavioral issues, USDC is in the unique position of providing most of the essential services needed in a single location;

WHEREAS, central to its present and future success in providing services for people with mental disabilities is USDC’s development of a master plan to guide its service;

WHEREAS, master plan development was facilitated and led by the competent, respected, and trusted companies of Design Workshop, Stantec civil engineers, and Fehr & Peers transportation planners, which have developed several successful master plans nationwide;

WHEREAS, the master plan was developed in conjunction with an overall strategic vision for the future use of the USDC;

WHEREAS, the strategic planning group included a wide range of stakeholders and was vetted by conducting over 30 public meetings and planning sessions;

WHEREAS, input for the planning process was received from people living at the USDC and their families; from neighborhoods, counties, and cities surrounding the USDC; community advocacy groups representing people with disabilities; and community service providers who regularly work with the USDC;

WHEREAS, the USDC master plan creates a long-term vision for undeveloped property that is in accordance with the original purpose of the Legislature in creating this resource for Utahns with disabilities;

WHEREAS, the master plan provides a long-term revenue source for people with

disabilities living in Utah, while preserving the original purpose of the land and maximizing development potential;

WHEREAS, the master plan was created with a sustainable methodology, including a balance between environmental sensitivity, community connections, artistic beauty, and economic viability;

WHEREAS, USDC's mission is "dedication to providing an array of resources and supports for people with disabilities with complex or acute needs in Utah";

WHEREAS, the USDC vision is to "provide an effective, efficient array of critical services and supports that promote independence and quality of life for Utah's most vulnerable people with disabilities in partnership with families, guardians and the community"; and

WHEREAS, by following the master plan, USDC is in a position to better assist people with disabilities to achieve their highest potential in an atmosphere that preserves personal dignity:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, expresses support for the Utah State Development Center's master plan.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Utah State Development Center, the Utah Department of Human Services, and the Utah Department of Health.

S.C.R. 6

Passed February 26, 2014

Approved March 12, 2014

Effective March 12, 2014

CONCURRENT RESOLUTION CALLING ON CONGRESS TO PROVIDE PERMANENT MULTIYEAR FUNDING FOR THE PAYMENT IN LIEU OF TAXES PROGRAM

Chief Sponsor: Ralph Okerlund

House Sponsor: Michael E. Noel

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor calls on the United States Congress to provide permanent multiyear funding for the federal Payment in Lieu of Taxes (PILT) program in future years.

Highlighted Provisions:

This resolution:

- ▶ recognizes the unprecedented failure of Congress to fund the federal Payment in Lieu of Taxes (PILT) program in its Consolidated Appropriations Act, 2014;
- ▶ recognizes the serious financial hardship Utah counties face if they do not receive timely annual PILT payments;

- ▶ recognizes the vital need of Utah counties to have PILT funding certainty while engaging in their annual county budget processes; and
- ▶ calls on Congress to establish reliable year-to-year funding authorization for PILT so counties may have certainty in their annual budget processes.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the federal Payment in Lieu of Taxes (PILT) program was established in 1976 to offset costs incurred by counties for services provided to the federal government and to the users of public land;

WHEREAS, according to State Tax Commission data and a report prepared by the Utah Automated Geographic Reference Center (AGRC), the percentages of federal land in each county that the county cannot tax consisting of land managed by the Bureau of Land Management (BLM), the United States Forest Service, the National Park Service, and the United States Fish and Wildlife Service are as follows:

Beaver 77.2% - County still provides services on this land

Box Elder 28.79% - County still provides services on this land

Cache 38.13% - County still provides services on this land

Carbon 47.51% - County still provides services on this land

Daggett 80.50% - County still provides services on this land

Davis 9.63% - County still provides services on this land

Duchesne 44.77% - County still provides services on this land

Emery 79.66% - County still provides services on this land

Garfield 94.25% - County still provides services on this land

Grand 74.67% - County still provides services on this land

Iron 57.73% - County still provides services on this land

Juab 72.30% - County still provides services on this land

Kane 86.18% - County still provides services on this land

Millard 77.20% - County still provides services on this land

Morgan 4.42% - County still provides services on this land

Piute 73.95% - County still provides services on this land

Rich 32.21% - County still provides services on this land

Salt Lake 19.32% - County still provides services on this land

San Juan 66.48% - County still provides services on this land

Sanpete 51.40% - County still provides services on this land

Sevier 77.15% - County still provides services on this land

Summit 43.78% - County still provides services on this land

Tooele 44.32% - County still provides services on this land

Uintah 58.94% - County still provides services on this land

Utah 43.07% - County still provides services on this land

Wasatch 56.13% - County still provides services on this land

Washington 83.21% - County still provides services on this land

Wayne 98.26% - County still provides services on this land

Weber 14.23% - County still provides services on this land;

WHEREAS, according to the average of estimates from the National Association of Counties, in 2013, PILT funding was about \$0.66 per acre of federal land to which PILT applies;

WHEREAS, \$0.66 per acre is far below the amount those lands would return through value-based taxation if those lands and their facilities were subject to county taxation;

WHEREAS, annual PILT payments to Utah counties, which exceeded \$35.3 million in 2013, have become an important component of county budgets and help Utah counties provide necessary basic services on federal lands, ranging from search and rescue to law enforcement activities;

WHEREAS, removal of this annual \$35.3 million funding stream for 2014 will prove detrimental to many counties in Utah that have conducted their budgeting under the assumption that they would receive at least that same amount for 2014;

WHEREAS, in April 2013, the United States Department of the Interior made an annual budget request to Congress for approximately \$410 million nationwide for PILT;

WHEREAS, a deficit neutral placeholder for the Department of the Interior's PILT request was set to be included in the Consolidated Appropriations Act, 2014;

WHEREAS, actual PILT funding, however, was not included in the final version of the bill that

Congress passed January 16, 2014, and the President signed on January 17, 2014;

WHEREAS, it is unprecedented that Congress has failed to include PILT funding in its major consolidated appropriations legislation;

WHEREAS, Congress did appropriate \$740.9 million in the Consolidated Appropriations Act, 2014, for wildland fire management activities, more than tripling BLM's initial fire management budget request of \$201.3 million;

WHEREAS, this funding amount represented approximately 77% of the \$956.9 million that Congress appropriated for BLM's fiscal year 2014 basic operating budget;

WHEREAS, it appears that the Department of the Interior's initial 2014 funding request of \$410 million for PILT and other funds was absorbed, without explanation, into the department's final appropriation for wildland fire management, increasing that account by \$539 million, from the \$201.3 million requested, to \$740.9 million;

WHEREAS, the Department of the Interior's wildland fire management budget would not be so large if the department would manage its lands responsibly for multiple use and sustained yield, as the state of Utah and counties in Utah have continually urged, and as the Federal Land Policy and Management Act of 1976 directs;

WHEREAS, counties in Utah are required to provide law enforcement, search and rescue, emergency medical services, road building and maintenance, and other community services on, or associated with, tax-exempt federal public lands;

WHEREAS, failure to provide a revenue source for PILT places a large, unsustainable burden squarely on the backs of county taxpayers and critically impacts the budget process and solvency of some public land counties;

WHEREAS, the United States House of Representatives on January 30, 2014, and the United States Senate on February 4, 2014, passed H.R. 2642, the Federal Agriculture Reform and Risk Management Act of 2013, known as the Farm Bill or the Agricultural Act of 2014;

WHEREAS, the Farm Bill provides for a one-year extension of PILT funding for federal fiscal year 2014;

WHEREAS, had the Farm Bill not included a one-year PILT funding provision, there would not have been significant fiscal year 2014 authorizing bills with bipartisan support remaining in Congress to carry the 2014 PILT to full funding;

WHEREAS, Congress, including members of Utah's delegation, should prudently and practically give serious consideration to preventing future recurrences of the PILT funding crisis that the counties of Utah had to face this year, with all of the uncertainty that accompanied this crisis;

WHEREAS, the counties of Utah need and deserve long-term stability in PILT funding in a timely manner year to year, so that counties may

establish their own annual operating budgets with timeliness and certainty;

WHEREAS, PILT is the program by which the federal government pays a portion of the value of vital municipal services that counties provide to the federal government in its role as a major land owner in the state;

WHEREAS, PILT funding should not be perennially tied to a farm bill but should have priority stand-alone treatment as a major appropriation, a cost properly borne by the federal government as an untaxed major landowner in the West for county municipal services provided; and

WHEREAS, Congress should legislate and authorize full PILT funding in multiyear blocks to give counties in Utah stability and predictability when setting their upcoming calendar year operating budgets:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein:

1. recognizes the unprecedented failure of Congress to fund Payment in Lieu of Taxes payments (PILT) in the Consolidated Appropriations Act, 2014, and the uncertainty that prevailed for counties until 2014 PILT was finally provided in the 2014 Farm Bill;

2. recognizes the serious financial hardship many counties in Utah would have faced if they had not received fiscal year 2014 PILT payments by June of 2014;

3. recognizes the vital need of Utah counties to have timely PILT funding certainty while engaged in their annual county budget processes;

4. calls on Congress and members of Utah’s congressional delegation to give serious consideration to preventing future recurrences of the PILT funding crisis that the counties of Utah had to face this year, with all of the uncertainty that accompanied this crisis;

5. calls on Congress to provide long-term stability in PILT funding in a timely manner year to year so that counties may establish their own annual operating budgets with timeliness and certainty;

6. calls on Congress to not perennially tie PILT funding to a farm bill but give PILT priority stand-alone treatment as a major appropriation, a cost properly borne by the federal government as an untaxed major landowner in the West for county municipal services provided; and

7. calls on Congress to establish reliable multiyear funding authorization for PILT so that counties may have certainty in their annual budget processes.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the President of the United States, the Majority Leader of the United States Senate, the Speaker of the United States House of

Representatives, and the members of Utah’s congressional delegation.

S.C.R. 7

Passed March 11, 2014
Approved March 20, 2014
Effective March 20, 2014

**CONCURRENT RESOLUTION ON
COMPREHENSIVE STATEWIDE WILDLAND
FIRE PREVENTION, PREPAREDNESS, AND
SUPPRESSION POLICY**

Chief Sponsor: Evan J. Vickers
House Sponsor: Joel K. Briscoe

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor expresses support for Catastrophic Wildfire Reduction Strategy and strongly urges its implementation.

Highlighted Provisions:

This resolution:

- ▶ expresses the Legislature’s strong desire to reduce catastrophic wildfires;
- ▶ expresses support for the recommendations in the Catastrophic Wildfire Reduction Strategy;
- ▶ strongly urges the Division of Forestry, Fire, and State Lands to implement the recommendations in the Catastrophic Wildfire Reduction Strategy in partnership with the Catastrophic Wildfire Reduction Steering Committee and guided by the report’s recommendations;
- ▶ strongly urges the state forester to report to the Natural Resources, Agriculture, and Environment Interim Committee regarding progress on implementing the strategy, particularly the progress of the “Regionally Significant Projects”; and
- ▶ strongly urges the Utah Division of Forestry, Fire, and State Lands to coordinate the development of a Comprehensive Statewide Wildland Fire Prevention, Preparedness, and Suppression Policy.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, catastrophic wildland fires continue to be a major problem in Utah;

WHEREAS, catastrophic wildland fires inflict significant damage and financial burdens on the state and its citizens;

WHEREAS, the significant impacts of catastrophic wildland fires to state and local economies, critical infrastructure, the environment, and private landowners have increased and are projected to continue to increase in frequency and severity;

WHEREAS, poor forest health caused by invasive species, lack of setback in plant succession, disease, and changes in climatic conditions have produced

large areas in the state with heavy fuels or “firesheds” which, if ignited, can burn in a catastrophic manner;

WHEREAS, Utah experiences an average of 1,498 wildfires each year that result in millions of dollars in taxpayer expense;

WHEREAS, studies show that every dollar spent in prevention of wildfires results in a savings of \$17 in suppression costs;

WHEREAS, following the fire season of 2012, the Governor directed the commissioner of the Department of Agriculture and Food to develop a strategy to reduce the risk of catastrophic wildfire in Utah;

WHEREAS, the commissioner of the Department of Agriculture and Food convened a Statewide Catastrophic Wildfire Reduction Steering Committee;

WHEREAS, in December 2013, the Statewide Catastrophic Wildfire Reduction Steering Committee released a Catastrophic Wildfire Reduction Strategy, which contains specific recommendations to address fire suppression;

WHEREAS, the Catastrophic Wildfire Reduction Strategy includes seven recommendations:

1. Statewide Coordination of Mitigation Resources.
2. A Catastrophic Fire Reduction Fund.
3. Regional Collaborative Working Groups to Perform Needs Assessment and Prioritization Across the State.
4. Technical Committees to Respond to Specific Concerns of Statewide Importance.
5. Adopt Key Recommendations from the National Cohesive Wildland Fire Management Strategy.
6. Increase Public Understanding and Participation.
7. The central steering committee should report annually to the Governor and the Legislature the actions planned and taken.

WHEREAS, the Catastrophic Wildfire Reduction Strategy identifies “Regionally Significant Projects” recommended by six regional working groups that include a full complement of prevention and preparedness actions; and

WHEREAS, the administration and staff of the Utah Department of Natural Resources’ Division of Forestry, Fire, and State Lands have knowledge, expertise, and processes in place to execute the recommendations in the Catastrophic Wildfire Reduction Strategy:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, expresses a strong desire to reduce catastrophic wildfires.

BE IT FURTHER RESOLVED that the Legislature and the Governor express support for the recommendations and initiatives contained in the Catastrophic Wildfire Reduction Strategy and recognize the positive impacts of the recommendations within the report.

BE IT FURTHER RESOLVED that the Legislature and the Governor strongly urge the Division of Forestry, Fire, and State Lands to implement the recommendations in the Catastrophic Wildfire Reduction Strategy in partnership with the Catastrophic Wildfire Reduction Steering Committee and guided by the report’s recommendations.

BE IT FURTHER RESOLVED that the Legislature and the Governor strongly urge the state forester to report to the Natural Resources, Agriculture, and Environment Interim Committee regarding progress on implementing the strategy, particularly the progress of the “Regionally Significant Projects.”

BE IT FURTHER RESOLVED that the Legislature and the Governor strongly urge the Utah Division of Forestry, Fire, and State Lands to coordinate the development of a Comprehensive Statewide Wildland Fire Prevention, Preparedness, and Suppression Policy.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Utah Division of Forestry, Fire, and State Lands; the Utah Department of Agriculture and Food; the United States Bureau of Land Management; the United States Forest Service; the Utah Association of Counties; Trout Unlimited; the Nature Conservancy; the Beaver County Commission; the Box Elder County Commission; the Daggett County Commission; the Iron County Commission; the Kane County Commission; the Tooele County Commission; the Washington County Commission; the Utah Conservation Commission; the School and Institutional Trust Lands Administration; the Natural Resources Conservation Service in the United States Department of Agriculture; and the members of Utah’s congressional delegation.

S.C.R. 8

Passed March 7, 2014
Approved March 20, 2014
Effective March 20, 2014

**CONCURRENT RESOLUTION
RECOGNIZING CANYONLANDS
NATIONAL PARK’S 50TH ANNIVERSARY**

Chief Sponsor: David P. Hinkins
House Sponsor: Joel K. Briscoe

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor recognizes the 50th anniversary of Canyonlands National Park.

Highlighted Provisions:

This resolution:

- ▶ recognizes the 50th anniversary of Canyonlands National Park, with ceremonies to be held on September 12, 2014, in the Needles District of the Canyonlands National Park.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, on September 12, 1964, President Lyndon B. Johnson signed Public Law 88-590, which created Canyonlands National Park;

WHEREAS, September 12, 2014, marks 50 years since the establishment of Canyonlands National Park;

WHEREAS, the Green River and the Colorado River divide Canyonlands National Park into land districts known as the Needles, the Maze, and Island in the Sky;

WHEREAS, Canyonlands National Park is known for its canyons, buttes, and spires that provide inspiration, solitude, and adventure;

WHEREAS, Canyonlands National Park offers multiuse recreational opportunities, including hiking, biking, river rafting, and jeeping;

WHEREAS, Canyonlands National Park visitation has increased from 19,400 visitors in 1965 to approximately 500,000 visitors per year;

WHEREAS, Canyonlands National Park encompasses 337,598 acres in four counties -- San Juan, Grand, Wayne, and Garfield;

WHEREAS, in 1983, the 45th Legislature of the state of Utah passed H.J.R. 32 to honor Bates E. Wilson, known as the "Father of Canyonlands";

WHEREAS, Bates E. Wilson was instrumental in the establishment of Canyonlands National Park and became its first superintendent;

WHEREAS, the family of Bates E. Wilson founded the "Friend of Arches and Canyonlands Park: The Bates Wilson Legacy Fund," a nonprofit 501(c)(3) organization whose mission is to connect people to places in ways that continue Bates Wilson's values of exploration, collaboration, and stewardship of the state's southeast national parks and monuments; and

WHEREAS, the Friends of Arches and Canyonlands Parks, as an official partner with the National Park Service Southeast Utah Group, agreed to assist the park service with planning and funding for a year-long celebration of Canyonlands National Park, culminating in a commemorative ceremony on September 12, 2014, in the Needles District of Canyonlands:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state Utah, the Governor concurring therein, recognizes the 50th anniversary of Canyonlands National Park, with ceremonies to be held on September 12, 2014, in the Needles District of Canyonlands.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Department of Natural Resources, the United States Department of the Interior, the San Juan County Commission, the Grand County Commission, the Wayne County Commission, the Garfield County Commission, the family of Bates E. Wilson, the Friends of Arches and Canyonlands Parks, and the members of Utah's congressional delegation.

S.C.R. 9

Passed March 13, 2014

Approved April 1, 2014

Effective April 1, 2014

CONCURRENT RESOLUTION CONCERNING PROPOSED GREENHOUSE GAS EMISSION STANDARDS

Chief Sponsor: David P. Hinkins

House Sponsor: Michael E. Noel

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor calls upon the United States Environmental Protection Agency to issue greenhouse gas New Source Performance Standards for fossil-fueled electric generating units and provide separate standards for coal-fueled steam electric and natural gas combined-cycle generating units.

Highlighted Provisions:

This resolution:

- ▶ calls upon the United States Environmental Protection Agency to issue greenhouse gas New Source Performance Standards (NSPS) for fossil-fueled electric generating units; and
- ▶ calls upon the United States Environmental Protection Agency to provide separate standards for coal-fueled steam electric and natural gas combined-cycle generating units that can be achieved with commercially demonstrated technologies and that will permit the economic utilization of all types of domestic coals.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the United States Environmental Protection Agency (EPA) has proposed regulations for New Source Performance Standards (NSPS) for carbon dioxide (CO2) emissions from new coal-fueled and natural gas-fueled electric generating units;

WHEREAS, the proposed NSPS would impose a single emission rate standard of 1,000 pounds of CO2 per megawatt-hour on both coal and natural gas combined-cycle power plants, requiring new coal units to employ carbon capture and storage (CCS) technology;

WHEREAS, President Obama's Interagency Task Force on Carbon Capture and Storage has

determined that CCS technologies are not ready for widespread implementation primarily because they have not been demonstrated at the scale necessary to establish confidence for power plant application;

WHEREAS, the EPA has found that the application of CCS technology to new coal-fueled power plants would increase the cost of electricity produced by such plants by 80%, effectively precluding the construction of new, highly efficient coal generating units;

WHEREAS, previous EPA NSPS for fossil-fueled generating units have established separate emission standards for coal-fueled or steam electric and natural gas combined-cycle units, recognizing the inherent differences in these fuels and electric generation technologies; and

WHEREAS, an “all the above” national energy policy should encourage, not impede, access to all available domestic sources of energy:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, calls upon the United States Environmental Protection Agency to issue greenhouse gas New Source Performance Standards for fossil-fueled electric generating units.

BE IT FURTHER RESOLVED that the Legislature and the Governor call upon the United States Environmental Protection Agency to provide separate standards for coal-fueled steam electric and natural gas combined-cycle generating units that can be achieved with commercially demonstrated technologies and that will permit the economic utilization of all types of domestic coals.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the United States Environmental Protection Agency, the Utah Department of Environmental Quality, and the members of Utah’s congressional delegation.

S.J.R. 1

Passed February 26, 2014
Effective February 26, 2014

**JOINT RESOLUTION ON MUSEUM
RECOGNIZING ATROCITIES
AGAINST AMERICAN INDIANS**

Chief Sponsor: Stuart C. Reid
House Sponsor: Jack R. Draxler

LONG TITLE

General Description:

This joint resolution of the Legislature strongly urges the United States Congress to support, establish, or construct a national museum recognizing atrocities against American Indians.

Highlighted Provisions:

This resolution:

- ▶ strongly urges the United States Congress to take action to support, establish, or construct a commemorative museum to recognize atrocities against American Indians;
- ▶ strongly urges each of the states to pass a similar resolution; and
- ▶ strongly urges American Indian tribes to call upon Congress to support, establish, or construct a national museum and to support similar resolutions in the states in which the American Indian tribes reside.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, the indigenous peoples of this land are the original inhabitants of land that now constitutes the United States;

WHEREAS, conservative estimates numbered the American Indian population in North America at approximately 10 million in 1500;

WHEREAS, by 1900, the American Indian population was reduced to barely 237,000;

WHEREAS, this immense population reduction was caused by disease or intentionally, and was intensified by forced migration, deprivation of nutrition, and neglect after relocation to unfamiliar, barren lands;

WHEREAS, American Indians were the subject of centuries of circumstances that deprived them of land, liberty, livelihood, and life;

WHEREAS, once an expanding nation found attractive the land occupied by American Indians for centuries, the land was often simply taken, and frequently by force;

WHEREAS, American Indians, displaced by the taking of the lands of their fathers and mothers, then had their liberties further violated through forced relocation, including the young being separated from their families to be sent away for schooling and assimilation;

WHEREAS, American Indian tribes that resisted relocation and land takings were subdued by force and were, in some instances, pursued to extinction;

WHEREAS, relocation stripped American Indians of the livelihoods they had made for centuries from their lands’ often plentiful natural resources and forced them to scratch out a new life on lands with little value and few usable natural resources;

WHEREAS, American Indians today, as descendants of those against whom the original atrocities were perpetrated, have great resilience;

WHEREAS, through this resilience, American Indians continue to progress beyond the consequences of past atrocities;

WHEREAS, establishing a national museum recognizing atrocities against American Indians and recognizing American Indians’ valuable contributions to America, its history, and its culture would not only illuminate a vital chapter in

American history, but would also implore that such atrocities should never happen again; and

WHEREAS, establishing a national museum recognizing atrocities against American Indians would be an important step toward reconciliation and intergenerational healing from these atrocities:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah strongly urges the United States Congress to take action to support, establish, or construct a national museum recognizing atrocities against American Indians.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah strongly urges each of the states to pass a similar resolution urging the United States Congress to support, establish, or construct a national museum recognizing atrocities against American Indians.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah strongly urges each American Indian tribe to call upon the United States Congress to support, establish, or construct a national museum recognizing atrocities against American Indians and to support the resolutions for this purpose in the states in which the tribes reside.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the President of the United States; the Secretary of the Interior; the Assistant Secretary of Indian Affairs; the Majority Leader of the United States Senate; the Speaker of the United States House of Representatives; the chair of the United States Senate Committee on Indian Affairs; the House Committee on Natural Resources' Subcommittee on Indian and Alaska Native Affairs; the leader of each legislative house in each of the other states; to each tribe; and to the members of Utah's congressional delegation.

S. J. R. 4

Passed March 11, 2014
Effective March 11, 2014

JOINT RESOLUTION ON WATER RIGHTS ON GRAZING LANDS

Chief Sponsor: Kevin T. Van Tassell
House Sponsor: John G. Mathis

LONG TITLE

General Description:

This joint resolution of the Legislature declares sovereign the rights of the state of Utah and Utah livestock producers to put the state's livestock water rights located on public lands to beneficial use.

Highlighted Provisions:

This resolution:

- ▶ declares that Utah has a sovereign right to put the state's livestock water rights located on public lands to beneficial use through development and maintenance;

- ▶ recognizes the right of a livestock owner to access the state's water to put it to beneficial use, including crossing public land, grazing the livestock as necessary while livestock drink, and ultimately developing and maintaining watering facilities on necessary appurtenant public lands to put the state's water to beneficial use; and
- ▶ expresses support for H.R. 3189, the Water Rights Protection Act, to protect state sovereignty and the water rights of livestock producers.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, Utah is the second most arid state in the nation;

WHEREAS, water is essential to the life, health, safety, and welfare of Utah's citizens;

WHEREAS, Utah has the right to exercise the state's jurisdiction over water resources within the state;

WHEREAS, the state of Utah has long established water rights based on the principle of prior appropriation or "first in time, first in right";

WHEREAS, Utah's water users can and have demonstrated the ability to put the water to beneficial use;

WHEREAS, "beneficial use," as defined by Utah law, includes the watering of livestock on federal lands;

WHEREAS, Congress has spoken clearly and often on state water sovereignty, including:

1. The Act of July 26, 1866, subsequently known as the Mining Act or Ditch Act of 1866, which recognized common-law practices of the time, declaring, "Whenever, by priority or possession, rights to the use of water for mining, agriculture, manufacturing, or other purposes, have vested and accrued, the same are recognized and acknowledged by the local customs, laws and decisions of the courts . . ."

2. The Desert Land Act of 1877, which recognized, "All surplus water over and above such actual appropriation and use . . . shall remain and be held free for appropriation and use of the public for irrigation, mining and manufacturing . . ."

3. The Taylor Grazing Act of 1934, which stated, "nothing in this Act shall be construed or administered in a way to diminish or impair any right to the possession and use of water for mining, agriculture, manufacturing and other purposes . . ."

4. The McCarran Amendment of 1952, which "waives the sovereign immunity of the United States for adjudications for all rights to use water"

5. The 1976 Federal Land Policy and Management Act (FLPMA), which states, "All actions by the Secretary concerned under this act shall be subject to valid existing rights";

WHEREAS, to further underscore congressional intent, the United States Senate and the United States House of Representatives are considering action through H.R. 3189, the Water Rights Protection Act, to prohibit the United States Forest Service (USFS) and the Bureau of Land Management (BLM) from “conditioning any permit, lease or other land use agreement on the transfer, relinquishment or other impairment of any water right”;

WHEREAS, this legislation would protect livestock water rights and the sovereign water rights of the states;

WHEREAS, federal land management agencies have created ownership uncertainty for ranchers with water rights on federal lands through over-filing and diligence claims that challenge ownership on privately held livestock water rights;

WHEREAS, federal land management agencies have sought ranchers’ approval of “change of use” applications and agreement to “joint ownership” of livestock water as a condition of access to their federal grazing allotments;

WHEREAS, these federal land management agencies have implemented practices aimed at reducing or eliminating livestock grazing on federal grazing allotments that have resulted in lost livestock water rights and de facto federal water claims;

WHEREAS, in blatant disregard for the long-established state jurisdiction over the state’s water resources, the federal government, principally by and through the USFS, has engaged in a persistent pattern and course of conduct to exert control and influence over water resources within Utah and across the West;

WHEREAS, the apparent intention of the federal government is to expand its water holdings in the western states, including in Utah, in accordance with 16 U.S.C. Sec. 526, which states, “There are authorized to be appropriated for expenditure by the Forest Service such sums as may be necessary for the investigation and establishment of water rights, including the purchase thereof or of lands or interests in lands or rights-of-way for use and protection of water rights necessary or beneficial in connection with the administration and public use of the national forests”;

WHEREAS, federal land management agencies, including USFS and BLM, are negatively impacting the water resources of Utah and other western states by unilaterally reducing the number of livestock grazing permits;

WHEREAS, this reduction in livestock grazing permits is part of a strategy of resource control, including control of the state’s water resources on federal lands;

WHEREAS, federal land management agencies have precluded some of Utah’s water right holders from putting the state’s waters to beneficial use by denying access, reducing livestock rights, and

denying holders of water rights from developing or maintaining livestock water rights associated with grazing permits appurtenant to federal lands;

WHEREAS, a USFS Intermountain Region Guidance Document states that the federal government will not invest in livestock water improvements, “nor,” according to 36 C.F.R. 222.9(b)92, “will the agency authorize water improvements to be constructed or reconstructed with private funds where the rights are held solely by the livestock owner”;

WHEREAS, in the spring of 2012, agents of the USFS attempted to coerce Tooele County livestock producers to sign “change” applications or “certificates of joint ownership” on privately held livestock water rights or face the possibility of not being allowed to “turn out” cattle to graze their forage rights associated with their USFS grazing allotment;

WHEREAS, a USFS Intermountain Region Guidance Document declares “until the court issues a decree accepting these claims, it is not known whether these claims will be recognized as water rights”;

WHEREAS, this document reflects an intention to undermine state water sovereignty;

WHEREAS, when USFS allows improvements, including developing, redeveloping, and maintaining a livestock rancher’s water rights, all the improvements are claimed as the property of the United States, even when it is the livestock owner’s investment that enables the water to be put to beneficial use, as prescribed by state law, and the livestock owner covers all costs;

WHEREAS, court records for the United States District Court for the District of Nevada indicate that USFS and BLM have actively sought to reduce or eliminate livestock grazing and watering rights from western public lands, often resulting in protracted litigation;

WHEREAS, the litigation includes the 2012 conviction of two public servants employed by the USFS and BLM for contempt of court and witness intimidation, and the determination that the regional forester in charge of Utah lied to the court regarding the agency’s antigrazing bias intended to reduce or eliminate livestock grazing on public lands;

WHEREAS, Intermountain Region forest service agents testified that the United States controls all access on federal lands;

WHEREAS, this control creates a situation where the only way a rancher could use the water on the rancher’s federal grazing allotment, with its associated livestock water rights, without USFS approval would be “to lower the cattle out of the air”;

WHEREAS, in seeking to expand water rights claimed by the United States, the USFS has filed more than 16,000 diligence claims on Utah water associated with forest grazing allotments, claiming that livestock were grazing on land that not only

belonged to the United States but whose water rights were established on behalf of the United States prior to Utah's statehood;

WHEREAS, USFS claimed long-held livestock water rights in Idaho, arguing that the water belonged to the United States based on its ownership and control of the public land;

WHEREAS, the Joyce Livestock Company prevailed against the United States in a unanimous Idaho Supreme Court decision, in which the court held that, under the constitutional method of appropriation, "the United States did not actually apply the water to beneficial use," and therefore had no claim to the livestock water right;

WHEREAS, the United States cannot obtain Utah's sovereign water rights, nor can it obtain long-held livestock water rights established on public lands, through any federal laws;

WHEREAS, the United States Supreme Court determined, in *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers* (531 U.S. 159 (2001)), that the administrative authority of federal government agencies is limited, declaring "Where an administrative interpretation of a statute invokes the outer limits of Congress's power, we expect a clear indication that Congress intended the result . . . Congress does not casually authorize administrative agencies to interpret statute to push the limit of Congressional authority. This concern is heightened where the administrative interpretation alters the federal-state framework by permitting federal encroachment upon traditional state power";

WHEREAS, in *United States v. Bass*, 404 U.S. 336, 349 (1971), the United States Supreme Court stated, "Unless Congress conveys its purpose clearly, it will not be deemed to have significantly changed the federal-state balance";

WHEREAS, the development and maintenance of the states dispersed livestock water rights is important to the health of the ecosystem, to Utah's wildlife populations, and the state's recreation interests;

WHEREAS, water rights are sovereign rights of the state of Utah; and

WHEREAS, the state of Utah has the right and obligation to protect this scarce resource to protect the health, safety, and welfare of its citizens:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah declares its sovereign right to put the state's livestock water rights located on public lands to beneficial use through development and maintenance of the resource.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah recognizes the right of the livestock owner to access the state's water to put it to beneficial use, including crossing public land, grazing the livestock as necessary while livestock drink, and ultimately developing and maintaining watering facilities on the necessary

appurtenant public lands to put the state's water to beneficial use.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah expresses support for H.R. 3189, the Water Rights Protection Act, to protect state sovereignty and the water rights of Utah livestock producers.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the United States Forest Service, the United States Bureau of Land Management, the Utah Department of Natural Resources, the Utah Department of Agriculture and Food, each county commission in the state of Utah, and the members of Utah's congressional delegation.

S.J.R. 6

Passed January 31, 2014

Effective January 31, 2014

(Retrospective operation to January 4, 2014)

JOINT RESOLUTION AUTHORIZING PAY OF IN-SESSION EMPLOYEES

Chief Sponsor: Ralph Okerlund

House Sponsor: Brad L. Dee

LONG TITLE

General Description:

This joint resolution of the Legislature sets the compensation for legislative in-session employees for 2014.

Highlighted Provisions:

This resolution:

- ▶ sets the compensation for legislative in-session employees for 2014;
- ▶ increases salaries for in-session employees;
- ▶ adds a salary pay scale for an IT Technician and a Tour Liaison; and
- ▶ makes title changes to existing job descriptions.

Special Clauses:

This resolution provides retrospective operation to January 4, 2014.

Be it resolved by the Legislature of the state of Utah:

WHEREAS, the Legislature acting under the authority of Section 36-2-2, Utah Code Annotated 1953, is required to set the compensation of its in-session employees by joint resolution:

NOW, THEREFORE, BE IT RESOLVED by the Legislature of the state of Utah that the compensation of legislative in-session employees for actual hours worked be set as follows:

Employees shall be paid the hourly rate as specified in this resolution.

Employees who are working their first annual general session shall be paid under the "Level 1" scale.

Employees who are working their second annual general session shall be paid under the "Level 2" scale.

Employees who are working their third annual general session shall be paid under the "Level 3" scale.

Employees who are working their fourth annual general session shall be paid under the "Level 4" scale.

Employees who are working their fifth to ninth annual general session shall be paid under the "Level 5" scale.

Employees who are working their 10th to 14th annual general session shall be paid under the "Level 6" scale.

Employees who are working their 15th to 19th annual general session shall be paid under the "Level 7" scale.

Employees who are working their 20th or more annual general session shall be paid under the "Level 8" scale.

Senate employees are designated with an "S." House of Representatives employees are designated with an "H."

General Session - 2013

Employee Position	Level 1 Wage	Level 2 Wage	Level 3 Wage	Level 4 Wage	Level 5 Wage	Level 6 Wage	Level 7 Wage	Level 8 Wage
Admin. Asst. to Third House (H)	\$11.29	\$11.57	\$11.87	\$12.16	\$12.46	\$12.78	\$13.10	\$13.43
Amending Clerk/ Committee Secretary (H-S)	\$12.57	\$12.87	\$13.16	\$13.46	\$13.78	\$14.10	\$14.43	\$14.78
Assistant Page Supervisor (H-S)	\$11.02	\$11.29	\$11.57	\$11.87	\$12.16	\$12.46	\$12.78	\$13.10
Asst. Sergeant-at-Arms (H-S)	\$11.02	\$11.29	\$11.57	\$11.87	\$12.16	\$12.46	\$12.78	\$13.10
Calendar and Voting System Operator (H)	\$11.29	\$11.57	\$11.87	\$12.16	\$12.46	\$12.78	\$13.10	\$13.43
Committee Secretary (H-S)	\$12.29	\$12.57	\$12.87	\$13.16	\$13.46	\$13.78	\$14.10	\$14.43
Docket Clerk (H)	\$12.78	\$13.10	\$13.43	\$13.78	\$14.13	\$14.49	\$14.87	\$15.24
Docket Clerk/Legislative Aide (S)	\$13.83	\$14.19	\$14.56	\$14.94	\$15.33	\$15.73	\$16.15	\$16.57
Kitchen Hostess (H-S)	\$10.23	\$10.48	\$10.75	\$11.02	\$11.29	\$11.57	\$11.87	\$12.16
IT Technician (S)	\$12.78	\$13.10	\$13.43	\$13.78	\$14.13	\$14.49	\$14.87	\$15.24
Page (H-S)	\$10.23	\$10.48	\$10.75	\$11.02	\$11.29	\$11.57	\$11.87	\$12.16
Page Supervisor (H-S)	\$12.78	\$13.10	\$13.43	\$13.78	\$14.13	\$14.49	\$14.87	\$15.24
Public Information Specialist (H-S)	\$10.23	\$10.48	\$10.75	\$11.02	\$11.29	\$11.57	\$11.87	\$12.16
Receptionist (H-S)	\$10.23	\$10.48	\$10.75	\$11.02	\$11.29	\$11.57	\$11.87	\$12.16
Receptionist and Legislative Aide (S)	\$11.29	\$11.57	\$11.87	\$12.16	\$12.46	\$12.78	\$13.10	\$13.43
Audio Specialist (H-S)	\$10.75	\$11.02	\$11.29	\$11.57	\$11.87	\$12.16	\$12.46	\$12.78
Secretarial Supervisor (H-S)	\$13.78	\$14.10	\$14.43	\$14.78	\$15.13	\$15.49	\$15.87	\$16.24
Security (H-S)	\$10.23	\$10.48	\$10.75	\$11.02	\$11.29	\$11.57	\$11.87	\$12.16
Sergeant-at-Arms (H-S)	\$12.78	\$13.10	\$13.43	\$13.78	\$14.13	\$14.49	\$14.87	\$15.24
Supply and Copy Room Clerk (H)	\$10.23	\$10.48	\$10.75	\$11.02	\$11.29	\$11.57	\$11.87	\$12.16
Tour Liaison (H-S)	\$10.23	\$10.48	\$10.75	\$11.02	\$11.29	\$11.57	\$11.87	\$12.16
Video Specialist (H-S)	\$10.23	\$10.48	\$10.75	\$11.02	\$11.29	\$11.57	\$11.87	\$12.16

The compensation schedule established by this resolution has retrospective operation to January 4, 2014.

S.J.R. 7

Passed March 13, 2014
Effective January 1, 2015

**JOINT RESOLUTION REGARDING
QUALIFICATIONS OF STATE TAX
COMMISSION MEMBERS**

Chief Sponsor: John L. Valentine
House Sponsor: Dean Sanpei

LONG TITLE

General Description:

This joint resolution of the Legislature proposes to amend the Utah Constitution to modify a provision relating to the State Tax Commission.

Highlighted Provisions:

This resolution proposes to amend the Utah Constitution to:

- ▶ eliminate a provision limiting membership on the State Tax Commission to no more than two members from the same political party; and
- ▶ provide that the qualifications of State Tax Commission members are as provided by statute.

Special Clauses:

This resolution directs the lieutenant governor to submit this proposal to voters.

This resolution provides a contingent effective date of January 1, 2015, for this proposal.

Utah Constitution Sections Affected:

AMENDS:

ARTICLE XIII, SECTION 6

Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:

Section 1. It is proposed to amend Utah Constitution, Article XIII, Section 6, to read:

Article XIII, Section 6. [State Tax Commission.]

(1) There shall be a State Tax Commission consisting of four members, ~~[not more than two of whom may belong to the same political party]~~ with qualifications as provided by statute.

(2) With the consent of the Senate, the Governor shall appoint the members of the State Tax Commission for such terms as may be provided by statute.

(3) The State Tax Commission shall:

- (a) administer and supervise the State's tax laws;
- (b) assess mines and public utilities and have such other powers of original assessment as the Legislature may provide by statute;
- (c) adjust and equalize the valuation and assessment of property among the counties;

(d) as the Legislature provides by statute, review proposed bond issues, revise local tax levies, and equalize the assessment and valuation of property within the counties; and

(e) have other powers as may be provided by statute.

(4) Notwithstanding the powers granted to the State Tax Commission in this Constitution, the Legislature may by statute authorize any court established under Article VIII to adjudicate, review, reconsider, or redetermine any matter decided by the State Tax Commission relating to revenue and taxation.

Section 2. Submittal to voters.

The lieutenant governor is directed to submit this proposed amendment to the voters of the state at the next regular general election in the manner provided by law.

Section 3. Effective date.

If the amendment proposed by this joint resolution is approved by a majority of those voting on it at the next regular general election, the amendment shall take effect on January 1, 2015.

S.J.R. 8

Passed March 13, 2014
Effective January 1, 2015

**JOINT RESOLUTION ON TERM OF
APPOINTED LIEUTENANT GOVERNOR**

Chief Sponsor: Stephen H. Urquhart
House Sponsor: V. Lowry Snow

LONG TITLE

General Description:

This joint resolution of the Legislature proposes to amend the Utah Constitution to modify a provision relating to the term of office of the Lieutenant Governor following an appointment to that office.

Highlighted Provisions:

This resolution proposes to amend the Utah Constitution to:

- ▶ modify the term of an appointed Lieutenant Governor to be consistent with the term of Governor; and
- ▶ make a technical correction.

Special Clauses:

This resolution directs the Lieutenant Governor to submit this proposal to voters.

This resolution provides a contingent effective date of January 1, 2015, for this proposal.

Utah Constitution Sections Affected:

AMENDS:

ARTICLE VII, SECTION 10

Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:

Section 1. It is proposed to amend Utah Constitution, Article VII, Section 10, to read:

Article VII, Section 10. [Governor's appointive power -- Governor to appoint to fill vacancy in other state offices -- Vacancy in the office of the Lieutenant Governor.]

(1) (a) The Governor shall nominate, and by and with consent of the Senate, appoint all State and district officers whose offices are established by this Constitution, or which may be created by law, and whose appointment or election is not otherwise provided for.

(b) If, during the recess of the Senate, a vacancy occurs in any State or district office, the Governor shall appoint some qualified person to discharge the duties thereof until the next meeting of the Senate, when the Governor shall nominate some person to fill such office.

(2) If the office of State Auditor, State Treasurer, or Attorney General be vacated by death, resignation, or otherwise, it shall be the duty of the Governor to fill the same by appointment, from the same political party as the removed person; and the appointee shall hold office until a successor shall be elected and qualified, as provided by law.

(3) (a) A vacancy in the office of Lieutenant Governor occurs when:

(i) the Lieutenant Governor dies, resigns, is removed from office following impeachment, becomes Governor under Article VII, Section 11, ceases to reside within the State, or is determined, as provided in Subsection (3)(b), to have a disability that renders the Lieutenant Governor unable to discharge the duties of office for the remainder of the Lieutenant Governor's term of office; or

(ii) the Lieutenant Governor-elect fails to take office because of the Lieutenant Governor-elect's death, failure to qualify for office, or disability, determined as provided in Subsection (3)(b), that renders the Lieutenant Governor-elect unable to discharge the duties of office for the Lieutenant Governor-elect's full term of office.

(b) (i) Except when the disability of a Lieutenant Governor is determined under Article VII, Section 11, Subsection (6) because the Lieutenant Governor is acting as Governor under Article VII, Section 11, Subsection (5), the disability of a Lieutenant Governor or Lieutenant Governor-elect shall be determined by a written declaration stating that the Lieutenant Governor or Lieutenant Governor-elect is unable to discharge the powers and duties of the office.

(ii) The written declaration under Subsection (3)(b)(i) shall be transmitted to the Supreme Court and shall be signed by:

(A) the Governor; or

(B) (I) the Lieutenant Governor, if the Lieutenant Governor is the subject of the declaration; or

(II) the Lieutenant Governor-elect, if the Lieutenant Governor-elect is the subject of the declaration.

(iii) If the Lieutenant Governor or Lieutenant Governor-elect, as the case may be, disputes a declaration transmitted by the Governor under Subsection (3)(b)(i), the Lieutenant Governor or Lieutenant Governor-elect may, within ten days after the declaration is transmitted to the Supreme Court, file a petition requesting the Supreme Court to determine whether a disability exists as stated in the Governor's declaration.

(iv) In determining whether a disability exists, the Supreme Court shall follow procedures that the Court establishes, unless the Legislature by statute establishes procedures for the Supreme Court to follow in determining whether a disability exists.

(v) A determination of disability under this Subsection (3)(b) is final and conclusive.

(c) (i) If a vacancy in the office of Lieutenant Governor occurs, the Governor shall, with the consent of the Senate, appoint a person as Lieutenant Governor, to serve:

(A) except as provided in Subsection (3)(c)(i)(B), the remainder of the unexpired term; or

(B) until the first Monday in January of the year following the next regular general election after the vacancy occurs, if [~~the vacancy occurs because the Lieutenant Governor becomes Governor~~] an election is held for Governor and Lieutenant Governor under Article VII, Section 11, Subsection (2) (4).

(ii) The person appointed as Lieutenant Governor under Subsection (3)(c)(i) shall be from the same political party as the Governor.

(iii) Neither the President of the Senate nor the Speaker of the House of Representatives may, while acting as Governor under Article VII, Section 11, Subsection (4) (5), appoint a person as Lieutenant Governor to fill a vacancy in that office.

Section 2. Submittal to voters.

The lieutenant governor is directed to submit this proposed amendment to the voters of the state at the next regular general election in the manner provided by law.

Section 3. Effective date.

If the amendment proposed by this joint resolution is approved by a majority of those voting on it at the next regular general election, the amendment shall take effect on January 1, 2015.

S.J.R. 11

Passed February 26, 2014
Effective February 26, 2014

**JOINT RULES RESOLUTION
ON BILL NUMBERING**

Chief Sponsor: John L. Valentine
House Sponsor: Dean Sanpei

LONG TITLE

General Description:

This joint rules resolution of the Legislature modifies provisions relating to numbering legislation.

Highlighted Provisions:

This resolution:

- ▶ provides that legislation, other than appropriations bills and interim committee recommended bills, will be numbered in the order in which the legislation is approved by the sponsor for numbering;
- ▶ provides that by November 1, the Office of the Legislative Fiscal Analyst shall notify the Office of Legislative Research and General Counsel of the number of bill numbers to reserve for fiscal legislation for the next annual general session;
- ▶ requires the Office of Legislative Research and General Counsel to provide an electronic copy of legislation to the chief sponsor after it is numbered; and
- ▶ makes technical changes.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:

JR4-2-102
JR4-2-502
JR4-2-503

Be it resolved by the Legislature of the state of Utah:

Section 1. JR4-2-102 is amended to read:

JR4-2-102. Drafting and prioritizing legislation.

(1) (a) Requests for legislation shall be drafted on a first-in, first-out basis.

(b) Notwithstanding Subsection (1)(a), the following requests for legislation shall be drafted before other requests for legislation when sufficient drafting information is available:

(i) a request for legislation that is prioritized by a legislator under Subsection (2); and

(ii) a request for legislation that is prioritized requested by the majority vote of an interim committee.

(2) (a) Beginning on the first day on which a request for legislation may be filed under JR4-2-101, a legislator may designate up to three requests for legislation as priority requests subject to the following deadlines:

(i) priority request number one must be requested on or before the first Thursday in December, or the following business day if the first Thursday falls on a holiday;

(ii) priority request number two must be requested on or before the first Thursday in January, or the following business day if the first Thursday falls on a holiday; and

(iii) priority request number three must be requested on or before the first Thursday of the annual general session.

(b) A legislator who fails to make a priority request on or before a deadline loses that priority request. However, the legislator is not prohibited from using any remaining priority requests that are associated with a later deadline, if available.

(c) A legislator who begins serving after a deadline has passed is entitled to use only those priority requests that are available under an unexpired deadline.

(d) A legislator may not designate a request for legislation as a priority request unless the request:

(i) provides specific or conceptual information concerning the change or addition to law or policy that the legislator intends the proposed legislation to make; or

(ii) identifies the specific situation or concern that the legislator intends the legislation to address.

(3) A legislator may not:

(a) revoke a priority designation once it has been requested;

(b) transfer a priority designation to a different request for legislation; or

(c) transfer a priority designation to another legislator.

(4) Except as provided under JR4-2-502 or as otherwise provided in these rules, the Office of Legislative Research and General Counsel shall:

(a) ~~reserve as many bill numbers as necessary to [allow each request for legislation that has been prioritized as permitted under Subsection (1)(b) to receive a lower bill number than non-prioritized requests.]~~ number the bills recommended by an interim committee; and

(b) number all other legislation in the order in which the legislation is approved by the sponsor for numbering.

Section 2. JR4-2-502 is amended to read:

JR4-2-502. Reservation of bill numbers.

~~[(1) In annual general legislative sessions occurring in odd-numbered years:]~~

~~[(a) House Bill 1 is reserved for the State Agency and Higher Education Base Budget Bill and Senate Bill 1 is reserved for the Public Education Base Budget Amendments Bill;]~~

~~[(b) House Bill 2 is reserved for the Public Education Budget Amendments Bill and Senate~~

~~Bill 2 is reserved for the New Fiscal Year Supplemental Appropriations Act; and]~~

~~[(e) House Bill 3 is reserved for the Current Fiscal Year Supplemental Appropriations Bill, and Senate Bill 3 is reserved for the Appropriations Adjustments Bill.]~~

~~[(2) In annual general legislative sessions occurring in even-numbered years:]~~

~~[(a) House Bill 1 is reserved for the Public Education Base Budget Amendments Bill and Senate Bill 1 is reserved for the State Agency and Higher Education Base Budget Bill;]~~

~~[(b) House Bill 2 is reserved for the New Fiscal Year Supplemental Appropriations Act and Senate Bill 2 is reserved for the Public Education Budget Amendments Bill; and]~~

~~[(c) House Bill 3 is reserved for the Appropriations Adjustments Bill, and Senate Bill 3 is reserved for the Current Fiscal Year Supplemental Appropriations Bill.]~~

~~[(3)] (1) In each annual general legislative session, House Bills [4 through 9] 1 through the number of bill numbers specified under Subsection (2)(a) and Senate Bills [4 through 9] 1 through the number of bill numbers specified under Subsection (2)(a) are reserved for other appropriations and funding bills.~~

~~(2) (a) By November 1, the Office of the Legislative Fiscal Analyst shall notify the Office of Legislative Research and General Counsel of the number of bill numbers to reserve in each house for fiscal legislation for the next annual general legislative session.~~

~~(b) The notice under Subsection (2)(a) shall include the short title and the chief sponsor of each bill number reserved.~~

~~(3) To the extent practicable, each bill reserved under this section shall alternate the sponsoring chamber between the House and Senate each year.~~

Section 3. JR4-2-503 is amended to read:

JR4-2-503. Distribution of bills and resolutions and preparation for introduction.

(1) After the Office of Legislative Research and General Counsel has numbered a piece of legislation, the office shall:

(a) provide an electronic copy of the legislation to the chief sponsor, the Office of Legislative Printing, and the Office of the Legislative Fiscal Analyst; and

(b) post a copy on the Internet[; and].

~~[(c) deliver a paper copy of the legislation to the chief sponsor.]~~

(2) After receiving a copy of the numbered bill from legislative printing, the docket clerk shall:

(a) create the official backed copy of the legislation; and

(b) notify the secretary of the Senate or the chief clerk of the House that the legislation is ready for introduction.

S.J.R. 13

Passed March 11, 2014

Effective March 11, 2014

JOINT RULES RESOLUTION MODIFYING ELIGIBILITY REQUIREMENTS FOR INDEPENDENT LEGISLATIVE ETHICS COMMISSION MEMBERS

Chief Sponsor: John L. Valentine

House Sponsor: Dean Sanpei

LONG TITLE

General Description:

This bill amends membership requirements for the Independent Legislative Ethics Commission.

Highlighted Provisions:

This resolution:

- ▶ modifies membership requirements for judges serving on the Independent Legislative Ethics Commission.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:

JR6-2-103

Be it resolved by the Legislature of the state of Utah:

Section 1. JR6-2-103 is amended to read:

JR6-2-103. Independent Legislative Ethics Commission -- Membership.

(1) There is established an Independent Legislative Ethics Commission.

(2) The commission is composed of five persons, each of whom is registered to vote in this state, appointed as follows:

(a) two members, who have served[~~, but no longer serve,~~] as judges of a court of record in this state, each of whom shall be nominated by the mutual consent of the president of the Senate and the speaker of the House, and appointed by a majority vote of the president of the Senate, speaker of the House, Senate minority leader, and House minority leader;

(b) one member, who has served[~~, but no longer serves,~~] as a judge of a court of record in this state, nominated by the mutual consent of the Senate minority leader and the House minority leader, and appointed by a majority vote of the president of the Senate, speaker of the House, Senate minority leader, and House minority leader;

(c) one member, who has served as a member of the Legislature in this state no more recently than four years before the date of appointment, appointed by the mutual consent of the president of the Senate and the speaker of the House of Representatives; and

(d) one member, who has served as a member of the Legislature in this state no more recently than four years before the date of appointment, appointed by the mutual consent of the Senate minority leader and House minority leader.

(3) A member of the commission may not, during the member's term of office on the commission, act or serve as:

(a) an officeholder as defined in Section 20A-11-101;

(b) an agency head as defined in Section 67-16-3;

(c) a lobbyist as defined in Section 36-11-102; or

(d) a principal as defined in Section 36-11-102.

(4) (a) (i) Except as provided in Subsection (4)(a)(ii), each member of the commission shall serve a four-year term.

(ii) When appointing the initial members upon formation of the commission, one member nominated by the president of the Senate and the speaker of the House of Representatives and one member nominated by the Senate minority leader and House minority leader shall be appointed to a two-year term so that approximately half of the commission is appointed every two years.

(b) (i) When a vacancy occurs in the commission's membership for any reason, a replacement member shall be appointed for the unexpired term of the vacating member using the procedures and requirements of Subsection (2).

(ii) For the purposes of this rule, an appointment for an unexpired term of a vacating member is not considered a full term.

(c) A member may not be appointed to serve for more than two full terms, whether those terms are two or four years.

(d) A member of the commission may resign from the commission by giving one month's written notice of the resignation to the president of the Senate, speaker of the House, Senate minority leader, and House minority leader.

(e) The chair of the Legislative Management Committee shall remove a member from the commission if the member:

(i) is convicted of, or enters a plea of guilty to, a crime involving moral turpitude;

(ii) enters a plea of no contest or a plea in abeyance to a crime involving moral turpitude; or

(iii) fails to meet the qualifications of office as provided in this rule.

(f) If a commission member is accused of wrongdoing in a complaint, or if a commission member determines that he or she has a conflict of interest in relation to a complaint, a temporary commission member shall be appointed to serve in that member's place for the purposes of reviewing that complaint using the procedures and requirements of Subsection (2).

(5) (a) A member of the commission may not receive compensation or benefits for the member's service, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(b) A member may decline to receive per diem and expenses for the member's service.

(6) (a) The commission members shall convene a meeting annually each January and elect, by a majority vote, a commission chair from among the commission members.

(b) A person may not serve as chair for more than two consecutive years.

S.J.R. 16

Passed March 7, 2014

Effective March 7, 2014

**JOINT RULES RESOLUTION -
LEGISLATIVE COMPENSATION
AND EXPENSE REVISIONS**

Chief Sponsor: Lyle W. Hillyard
House Sponsor: Melvin R. Brown

LONG TITLE

General Description:

This Joint Rules resolution of the Legislature modifies legislative rules for compensation and expense reimbursement.

Highlighted Provisions:

This resolution:

- ▶ changes terms to comply with current compensation and expense requirements;
- ▶ amends the Legislative Management Committee's authority to designate which authorized legislative days qualify for both compensation and expense reimbursement or for expense reimbursement only; and
- ▶ amends per diem and expense related language in Joint Rules and Interim Rules.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:

- IR1-1-202
- IR1-1-203
- IR3-1-102
- JR5-2-101
- JR5-3-101
- JR6-2-103

Be it resolved by the Legislature of the state of Utah:

Section 1. IR1-1-202 is amended to read:

IR1-1-202. Interim committees -- Creation and organization of subcommittees.

(1) An interim committee may establish one or more subcommittees if:

(a) a majority of the interim committee votes to create the subcommittee;

(b) the per diem compensation and expenses of the subcommittee members can be adequately covered within the budget of the interim committee; and

(c) the interim committee solicits and receives approval from the Legislative Management Committee to create the subcommittee.

(2) The interim committee shall establish the powers and duties of the subcommittee.

(3) The cochairs of the interim committee shall:

(a) appoint at least four legislators to serve on the subcommittee from the membership of the interim committee that created the subcommittee; and

(b) appoint at least one additional legislator who is a member of the interim committee that created the subcommittee as chair of the subcommittee.

Section 2. IR1-1-203 is amended to read:

IR1-1-203. Special committees -- Creation and organization of subcommittees.

(1) A special committee may not create a subcommittee unless:

(a) the legislation creating the special committee authorizes the creation of a subcommittee; and

(b) the per diem compensation and expenses of the subcommittee members can be adequately covered from the budget of the special committee.

(2) Notwithstanding Subsection (1), a special committee may create a subcommittee if:

(a) the legislation creating the special committee does not explicitly prohibit the creation of a subcommittee;

(b) the Legislative Management Committee approves creation of the subcommittee; and

(c) the per diem compensation and expenses of the subcommittee members can be adequately covered from the budget of the special committee.

Section 3. IR3-1-102 is amended to read:

IR3-1-102. Rights of members to attend meetings -- Nonmembers of the committee or subcommittee may not vote.

(1) Any member of the Legislature may:

(a) attend any meeting of an interim committee or any of its subcommittees; and

(b) if recognized by the chair, present the member's views on any subject under consideration by the committee or subcommittee.

(2) Notwithstanding Subsection (1), a legislator must be a member of the committee or subcommittee in order to:

(a) vote on any decision of the committee or subcommittee; or

(b) receive per diem compensation for attending the meeting unless approval for receiving per diem compensation is obtained from the

Legislative Expenses Oversight Committee of the chamber in which the legislator is a member.

Section 4. JR5-2-101 is amended to read:

JR5-2-101. Reimbursement of lodging.

(1) Subject to the other provisions of this section, if a legislator's official duties for an authorized legislative day necessitate overnight accommodations, the legislator may receive reimbursement for any actual lodging expenses incurred by the legislator, not to exceed the per diem daily rates published in the administrative rules governing reimbursement of lodging expenses for state employees.

(2) Reimbursement for actual lodging expenses for a legislator for an authorized legislative day shall be as provided in procedures established by the Legislative Expenses Oversight Committee.

Section 5. JR5-3-101 is amended to read:

JR5-3-101. Legislator compensation -- Expense reimbursement.

(1) [A] Except as provided under Subsection (2), a legislator shall receive daily compensation established in accordance with Utah Code Sections 36-2-2 and 36-2-3 for authorized legislative days as defined in Section JR5-1-101.

(2) The Legislative Management Committee may authorize compensation and expense reimbursement, or expense reimbursement only, for a legislator who attends a meeting on an authorized legislative day as defined in JR5-1-101.

Section 6. JR6-2-103 is amended to read:

JR6-2-103. Independent Legislative Ethics Commission -- Membership.

(1) There is established an Independent Legislative Ethics Commission.

(2) The commission is composed of five persons, each of whom is registered to vote in this state, appointed as follows:

(a) two members, who have served, but no longer serve, as judges of a court of record in this state, each of whom shall be nominated by the mutual consent of the president of the Senate and the speaker of the House, and appointed by a majority vote of the president of the Senate, speaker of the House, Senate minority leader, and House minority leader;

(b) one member, who has served, but no longer serves, as a judge of a court of record in this state, nominated by the mutual consent of the Senate minority leader and the House minority leader, and appointed by a majority vote of the president of the Senate, speaker of the House, Senate minority leader, and House minority leader;

(c) one member, who has served as a member of the Legislature in this state no more recently than four years before the date of appointment, appointed by the mutual consent of the president of the Senate and the speaker of the House of Representatives; and

(d) one member, who has served as a member of the Legislature in this state no more recently than four years before the date of appointment, appointed by the mutual consent of the Senate minority leader and House minority leader.

(3) A member of the commission may not, during the member's term of office on the commission, act or serve as:

(a) an officeholder as defined in Section 20A-11-101;

(b) an agency head as defined in Section 67-16-3;

(c) a lobbyist as defined in Section 36-11-102; or

(d) a principal as defined in Section 36-11-102.

(4) (a) (i) Except as provided in Subsection (4)(a)(ii), each member of the commission shall serve a four-year term.

(ii) When appointing the initial members upon formation of the commission, one member nominated by the president of the Senate and the speaker of the House of Representatives and one member nominated by the Senate minority leader and House minority leader shall be appointed to a two-year term so that approximately half of the commission is appointed every two years.

(b) (i) When a vacancy occurs in the commission's membership for any reason, a replacement member shall be appointed for the unexpired term of the vacating member using the procedures and requirements of Subsection (2).

(ii) For the purposes of this rule, an appointment for an unexpired term of a vacating member is not considered a full term.

(c) A member may not be appointed to serve for more than two full terms, whether those terms are two or four years.

(d) A member of the commission may resign from the commission by giving one month's written notice of the resignation to the president of the Senate, speaker of the House, Senate minority leader, and House minority leader.

(e) The chair of the Legislative Management Committee shall remove a member from the commission if the member:

(i) is convicted of, or enters a plea of guilty to, a crime involving moral turpitude;

(ii) enters a plea of no contest or a plea in abeyance to a crime involving moral turpitude; or

(iii) fails to meet the qualifications of office as provided in this rule.

(f) If a commission member is accused of wrongdoing in a complaint, or if a commission member determines that he or she has a conflict of interest in relation to a complaint, a temporary commission member shall be appointed to serve in that member's place for the purposes of reviewing that complaint using the procedures and requirements of Subsection (2).

(5) (a) A member of the commission may not receive compensation or benefits for the member's service, but may receive per diem and expenses incurred in the performance of the member's official duties [~~at the rates established by the Division of Finance under~~] as allowed in:

(i) [~~Sections~~] Section 63A-3-106 [~~and~~];

(ii) Section 63A-3-107[~~;~~]; and

(iii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(b) A member may decline to receive per diem and expenses for the member's service.

(6) (a) The commission members shall convene a meeting annually each January and elect, by a majority vote, a commission chair from among the commission members.

(b) A person may not serve as chair for more than two consecutive years.

S.J.R. 19

Passed March 13, 2014

Effective March 13, 2014

**JOINT RESOLUTION SUPPORTING
UKRAINIAN SOVEREIGNTY**

Chief Sponsor: Jim Dabakis

House Sponsor: Gregory H. Hughes

LONG TITLE

General Description:

This joint resolution of the Legislature calls upon Russia to immediately pull back its military and allow a diplomatic solution to advance in Crimea.

Highlighted Provisions:

This resolution:

- ▶ calls upon Russia to immediately pull back its military and allow a diplomatic solution to advance in Crimea -- a solution that respects Ukrainian sovereignty but also the unique history and makeup of the region; and
- ▶ urges that, with a small but vibrant Ukrainian community in Utah, all of Utah's citizens express their solidarity with the peaceful people of Ukraine.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, the people of the great state of Utah prize freedom as one of life's greatest treasures;

WHEREAS, Utahns stand with those who peacefully pursue freedom and democracy; and

WHEREAS, the people of Ukraine are currently facing a military siege of their sovereign territory, Crimea:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah calls upon Russia to immediately pull back its military and allow a

diplomatic solution to advance in Crimea - a solution that respects Ukrainian sovereignty but also the unique history and makeup of the region.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah urges that, with a small but vibrant Ukrainian community in Utah, all of Utah's citizens express their solidarity with the peaceful people of Ukraine.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Ukrainian Ambassador to the United States, the Honorable Olexander Motsyk, with a request that this resolution be passed on to his government; the Russian Ambassador to the United States, the Honorable Sergey I. Kislyak, with a request that this resolution be passed on to his government; and the members of Utah's congressional delegation.

S.J.R. 20

Passed March 13, 2014
Effective March 13, 2014

MASTER STUDY RESOLUTION

Chief Sponsor: Ralph Okerlund
House Sponsor: Brad L. Dee

LONG TITLE

General Description:

This joint resolution of the Legislature gives the Legislative Management Committee items of study it may assign to the appropriate interim committee.

Highlighted Provisions:

This resolution:

- ▶ gives the Legislative Management Committee items of study it may assign to the appropriate interim committee during the 2014 legislative interim;
- ▶ directs interim committees assigned these studies to study and make recommendations for legislative action to the 60th Legislature before the 2015 Annual General Session; and
- ▶ suggests that the Legislative Management Committee, in approving studies, give consideration to the available time of legislators and the budget and capacity of staff to respond to the assigned studies.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, the Legislative Management Committee is created by law as a permanent committee to receive and assign matters for interim study by committees of the Legislature; and

WHEREAS, the 60th Legislature has determined that certain legislative issues require additional investigation and study:

NOW, THEREFORE, BE IT RESOLVED that the Legislative Management Committee is given the following items of study to assign to the appropriate

interim committee with the duty to study and make recommendations for legislative action to the 60th Legislature before the 2015 Annual General Session.

BE IT FURTHER RESOLVED that the Legislative Management Committee, in making study assignments from this list and in approving study requests for individual committees, give consideration to the available time of legislators and the budget and capacity of staff to respond adequately to the number and complexity of the assignments given.

1. General Assistance Funding - to study changing the current reimbursement of general assistance to the General Fund to its own account.
2. Motor Vehicle Insurance -- Settlement of Claims - to study provisions relating to unfair claim settlement practices on certain motor vehicle insurance policies (S.B. 197, with amendments).
3. Age Eligibility for Mixed Martial Arts - to study whether to allow the Pete Suazo Utah Athletic Commission to make rules to allow mixed martial arts competition for youth between ages 16-17.
4. Alcohol Service - to study the regulation of alcohol service in restaurants (H.B. 285).
5. Application of Antidiscrimination Act - to study applying Title 34A, Chapter 5, Utah Antidiscrimination Act, to nonprofit organizations.
6. Community Associations - to study changes to the Condominium Ownership Act and the Community Association Act relating to fines and reserve accounts (H.B. 172).
7. Deferred Deposit Lending - to study amendments to the Check Cashing and Deferred Deposit Lending Registration Act to address deferred deposit loans (H.B. 47).
8. Dramshop Coverage - to study whether to modify the amount of dramshop coverage a retail licensee is required to carry (H.B. 312 and 1st Sub. H.B. 312).
9. Healthcare Practice Acts - to study the uniformity of practice acts of health care professionals licensed, certified, or registered by the Division of Occupational and Professional Licensing.
10. Healthy Workplace - to study and address abusive workplace environments.
11. Insurance Contracts - to study discretionary language in insurance contracts.
12. Insurance Regulation - to study and review the regulation of insurance (H.B. 76).
13. Living Wage - to study increasing the minimum wage (H.B. 73).
14. Manufacturing Licensees - to study issues related to alcoholic beverage manufacturing licensees (H.B. 352).
15. New Automobile Franchise Act - to study state regulation of new automobile dealership placement (H.B. 54).

16. Nonprofit Organizations - to study standards in receiving tax funds, whether nonprofit organizations are fulfilling their purposes efficiently, and what percentage of the funds they receive are used toward fulfilling their purposes.

17. Prudent Banking - to study a resolution urging Congress to pass H.R. 129, the Return to Prudent Banking Act of 2013.

18. Title and Escrow - to study legislation related to title and escrow issues.

19. Uniform Building Code Commission - to study the repeal of the Uniform Building Code Commission.

20. Workplace Discrimination - to study workplace discrimination, including the higher education grievance procedure (H.B. 359).

21. "Ghost" Student Enrolling - to study "ghost" student enrolling, recruitment, and funding between private companies and local education agencies.

22. Charter School Enrollment Capacity - to study proposals regarding an "at enrollment capacity" charter school using or borrowing the unused enrollment capacity of another charter school.

23. Competency-Based Education - to study issues related to competency-based education.

24. Competency-Based Education Model - to study how to implement an educational approach in which students only advance upon mastery of subject matter.

25. Competency-Based Funding - to study issues related to competency-based funding for higher education.

26. Contribution and Credit for Education Funding - to study setting up a tax deductible fund within the Education Fund that would be credited to the donor's income tax. This would add to the Education Fund but would save 40,000 Utahns \$250 million in Alternative Minimum Taxes (H.B. 153).

27. Education Best Practices - to study and determine the value of establishing an education innovation research and development effort in partnership with the private business sector.

28. Education Funding - to study long-term funding options for public education.

29. Effective Principals and Teachers - to study what makes a principal and a teacher effective.

30. Equalizing Capital Expenditures for School Buildings - to study the disparity for equalization of capital expenditures for school buildings and maintenance and methods for equalizing capital expenditures for school buildings.

31. Guidance Counseling - to study the use of online tools to improve the work of high school guidance counselors.

32. Guidance Counselor Independence - to study requiring guidance counselors to be independent from Local Education Agencies.

33. Licensed Private Childcare and Prekindergarten Providers vs. Unlicensed Government Contracted Providers - to study what is happening in the marketplace when unlicensed providers are contracting with government entities to provide day care or prekindergarten services, such as Local Education Agencies and districts, that unfairly compete with licensed private providers.

34. Limited English Proficiency - to study how to provide assistance to English Learning Students with limited English proficiency.

35. Low-Performing Schools - to study incentives for low-performing schools.

36. Moving from STEM to STEAM - to study adding the arts to Utah's Science, Technology, Engineering, and Math initiative (STEM) and funding, and review what it would take to centralize all Utah arts funding under the leadership of the STEM effort and move to a STEAM effort.

37. New Development Impact on School Enrollment - to study ways municipalities, counties, land developers, and school officials might coordinate planning to anticipate new housing developments' impact on school enrollment.

38. Objectivity in Delivering Scientific Content in Schools - to study ways to ensure objectivity in delivering scientific content and encouraging student inquiry in public schools. The teaching of biological evolution, the chemical origins of life, global warming, and human cloning can cause controversy. These topics need to be addressed as such in schools, instead of as "fact."

39. Parent Trigger Law - to study allowing parents to petition to change the management of a low-performing school.

40. Parental Leave for School Activities - to study issues related to employers granting parental leave to attend certain school activities (H.C.R. 6).

41. Public Education - to study issues related to public education funding.

42. Public Education Funding Needs - to study the funding needs of public education (H.B. 403).

43. Public School Counselors - to study the adequacy of current funding for public school counselors.

44. Quality Teaching Block Grant Funding - to study the reinstatement of professional development quality teaching block grant funding.

45. Strategic Education Plan - to study a research-based strategic education plan.

46. Student Fee Use - to study the use of student fees for political purposes.

47. Student Privacy - to study issues related to the release of public school student information (H.B. 169).

48. Sustainable Education Funding Model - to study how to get to prerecession levels in education funding and a sustainable model for funding public education.

49. Teacher Colleges - to study standards for teacher colleges.

50. Technology in Schools - to study the use of technology in schools and the benefits and drawbacks, including a cost benefit analysis.

51. Film Incentives - to study whether to expand the eligibility of film-related industry work for tax incentives (H.B. 204).

52. Housing Loan Fund - to study funding for the Olene Walker Housing Loan Fund and low-income housing.

53. Local Economic Development - to study the creation of a local economic development tax incentive through the use of an interlocal agreement (H.B. 167).

54. Tourism - to study tourism opportunities and constraints.

55. Absentee Ballot - to study provisions related to voting by absentee ballot (H.B. 252).

56. Ballots on Social Media - to study whether to post ballots on social media.

57. Campaign Financing - to study revisions to campaign finance laws.

58. Capital Lease Programs - to study the effectiveness of current state capital lease programs and oversight.

59. Career Service Review Board Hearing Process - to study rules and procedures for holding Career Service Review Board hearings.

60. Costs of Records Under GRAMA - to study when costs for records under the Government Records Access and Management Act should be waived.

61. Disclosure Filings - to study the timing of disclosure filings. During municipal election years, political issues committees, political action committees, and corporations are required to file a report by August 31. Would it make more sense for these groups to file the disclosures before the municipal primary earlier in August?

62. Election Clean Up - to study and review the annual list of technical clean up items in the Election Code.

63. Election Complaint Review - to study whether to create a Utah Elections Board to review and take certain actions on election complaints (H.B. 144).

64. Election Day Voter Registration - to study implementing an election day voter registration pilot project to test the advisability of implementing election day voter registration in Utah (H.B. 156).

65. Elections and Campaign Reform - to study any additional recommendations for elections and

campaign reform resulting from the House Investigative Committee Report.

66. Electors for Presidential Elections - to study revisions to laws governing electors for presidential elections.

67. Expungement of Administrative Disciplinary Action - to study whether to provide for the expungement of agency records related to an agency licensee under certain circumstances (H.B. 124).

68. Federal Shutdown - to study the procedures for a federal government shutdown.

69. Government Employment - to study changes to current law governing merit-based government employment.

70. Government Meetings Search Engine - to study requiring a one-stop search engine for state, and perhaps local, government meetings.

71. Grants and Contracting Procedures - to study streamlining grants and contracting procedures to create an opportunity for state entities and nonprofit organizations to discuss contracting challenges and develop win-win solutions.

72. Initiative and Referendum Sponsors - to study whether sponsors of an initiative or a referendum should be able to rescind an application or stop a ballot measure once it is in progress or once it has qualified for the ballot.

73. Lobbyist Definition - to study issues related to the definition of a lobbyist. For example, when an expert accompanies a registered lobbyist in communicating with public officials, should that individual be exempt from registering as a lobbyist?

74. Lobbyist Disclosure Laws - to study whether local disclosure laws should be elaborated to match the Utah Code. Many municipal and county disclosure laws lack definitions and guidance that exist at the state level.

75. Lobbyist Registration - to study exemptions to lobbyist registration and mandatory online training.

76. Municipal Initiatives - to study issues related to municipal initiatives. For example, the state may reject an initiative application if the proposed law is nonsensical or unconstitutional. Should cities and counties have the same ability?

77. Nonbinding Opinion Questions - to study the submission of nonbinding opinion questions to the voters.

78. Online Signing of Initiative and Referenda Petitions - to study the process to implement the lieutenant governor's recommendations related to allowing voters to sign initiatives and referenda petitions online.

79. Privatizing State Golf Courses - to study and work with the Division of Parks and Recreation to finalize the Request for Information (RFI) process and continue with the Request for Qualifications (RFQ) and Request for Proposals (RFP) processes in

order to get the best value for operating and maintaining state golf courses (H.B. 145).

80. Public Buildings - to study an alternative method for funding the construction, operation, and maintenance of public buildings through private capital investments. Look at the benefits and possible obstacles of transferring the risk involved in financing and constructing buildings to accommodate growth.

81. Public Money in Campaigns - to study public money used for campaign purposes.

82. Recall Elections - to study whether to add to the Elections Code, subject to passage of an enabling amendment to the Utah Constitution, provisions for the recall of the governor, the state auditor, the state treasurer, or the attorney general (H.B. 63).

83. Signature Gathering - to study issues related to signature gatherers. For example, a person who verifies signatures on a petition cannot also sign the signature packet. If the person does, should only the signature be disqualified or should the entire packet be rejected? Should signature gatherers be Utah residents?

84. State Board of Elections - to study the pros and cons of establishing a State Board of Elections (H.B. 144).

85. State Employee Leave Programs - to study issues related to employee leave programs, including the creation of the State Employees' Annual Leave Program II Trust Fund Act (S.B. 269).

86. State Fair - to study issues related to the state fair, the State Fair Park, and state fair funding.

87. State Fair Buildings - to study structural improvements to the buildings at the State Fair Park.

88. State Motor Pool - to study the number of motor vehicles in the state motor pool, their locations, how extensively they are used, and methods of tracking their location and use.

89. Access to Investigational Medications, Products, and Devices - to study providing terminally ill patients with access to investigational drugs, biological products, and devices that have completed at least phase I clinical trials.

90. Accountable Care Organizations - to study the effectiveness of accountable care organizations in reducing healthcare costs for Medicaid, whether this model works, and whether it is better than fee-for-service.

91. Aging and Adult Services - to study issues related to vulnerable adults (1st Sub. H.B. 267).

92. Assisted Living Facilities - to study whether assisted living facilities are meeting their residents' needs, whether administrative rule or legislation is required to establish a ratio of certified nurse assistants to residents, and whether the Bureau of

Health Facility Licensing is effective in regulating the facilities.

93. Caregiving - to study the impact of demographic changes on the services provided to seniors, the state's response, and support for caregivers (H.J.R. 14).

94. Child Welfare System and Children and Family Issues - to study the current status and budget practices of the state child welfare system, performance audits, fundamental liberty interests of parents and children, and family preservation policies and outcomes.

95. Community Health Worker - to study the certification of individuals who meet certain criteria as a certified community health worker (S.B. 66).

96. Foster Families - to study issues related to foster and foster-adoptive families.

97. Health care for the "Medically Frail" - to study how "medically frail" individuals who are not eligible for Medicaid or any state or federal assistance receive and pay for health care, who these individuals are, what medical conditions they have, and their health outcomes.

98. Medicaid Client Costs - to study the small percentage of Medicaid clients who account for 50% of Medicaid expenditures, to identify these clients' problems, and to determine how to better address their needs and reduce costs.

99. Medicaid Waiver - to study the Katie Beckett Medicaid Waiver, including what Idaho did, what it would look like in Utah, what it would cost, and how many families would be helped.

100. Medical Language Interpreter Act - to study and review improvements or necessary updates to the Medical Language Interpreter Act.

101. Mental Illness Funding - to study how mental illness is currently funded under Medicaid, whether this method works, and whether it needs to be changed.

102. Reducing Medicaid, Mental Health, and Pharmaceutical Costs - to study strategies to reduce Medicaid, mental health, and pharmaceutical costs, including preferred drug lists vs. other strategies, such as direct feedback to providers about costs of prescriptions.

103. Rights of Children Conceived Through Artificial Insemination - to study whether the state should regulate fertility clinics, set up a registry for donors and children conceived through artificial insemination, require clinics to screen donors, establish guidelines, etc.

104. Vending Services by the Blind - to study vending services operated by blind persons and whether to grant the Division of Services for the Blind and Visually Impaired the authority to establish a vending stand or food services for operation by blind persons.

105. Asbestos Settlement - to study issues related to asbestos settlements.

106. Asset Protection Trusts - to study what, if any, is the public policy justification for asset protection trusts (H.B. 162).

107. Bail Bond Agents - to study whether bail bond agents should be under the Department of Insurance or the Bureau of Criminal Identification. Also review licensing surety collateralization when a bond is processed, when and how a penalty is paid, and other issues related to the industry.

108. Civil Rights Restoration - to study all nonviolent felonies to determine when a person may become eligible for various civil rights to be restored.

109. Collateral Consequences of Conviction - to study the enactment of a uniform law providing procedures for identifying collateral consequences of convictions for criminal offenses.

110. Counsel for Defendants - to study indigent counsel for criminal defendants.

111. Court Rulings on Polygamy - to study recent court rulings related to polygamy and impact of those rulings on state statute.

112. Criminal Justice System Review - to study and comprehensively review the criminal justice system, including arrest, prosecution and defense, sentencing, incarceration, and postincarceration rehabilitation and recidivism.

113. Cyber Bullying - to study increased penalties for intentionally or knowingly using the Internet, a cell phone, or other devices to hurt or threaten an individual and endanger the individual's health or safety.

114. Determining Imputed Income - to study whether courts should consider whether a parent was a stay-at-home parent when determining imputed income (H.B. 348).

115. Divorced Fathers - to study the rights of divorced fathers.

116. Domestic Asset Protection Trust - to study changes to current domestic asset protection trust law, including provisions regarding real property transferred to the trust, clarifying a settlor-trustee's role in determining discretionary distributions, and clarifying claims for relief for fraudulent transfers (1st Sub. H.B. 208).

117. E-Warrants - to study the current e-warrant system, including the process, templates, and future plans.

118. Electronic Cigarettes - to study the regulation of electronic cigarettes (H.B. 112).

119. Family Expenses - to study the conditions of contracts or agreements between a husband and a wife related to family expenses (H.B. 179).

120. Federal Regulatory Overreach - to study the regulatory overreach of federal agencies, such as the Environmental Protection Agency, the United States Department of Education, etc.

121. Federalism and the "Police Power" - to study and review United States Supreme Court and Circuit Court cases on federalism and the "police power" jurisdiction of the states.

122. Implementing Putative Father Registry Compact - to study and develop legislation to amend Utah adoption law to implement the Compact for Interstate Sharing of Putative Father Registry Information (S.B. 63).

123. Litigation Transparency - to study whether to require that a person that sues the state or a political subdivision disclose the person's source of funding (H.B. 407).

124. Nurse Practitioner Prescribing Authority - to study whether to allow an advanced practice registered nurse to prescribe a schedule II or a schedule III controlled substance without mandatory physician consultation.

125. Process Serving - to study and review the structure, duties, and authority of constables, private investigators, special function officers, and process servers to delineate requirements for each category, and to determine what process serving can be done and by whom. Also establish demarcations and identification.

126. Protecting Wives and Children in Polygamy - to study ways to protect families, specifically wives and children, in polygamous relationships.

127. Rape Kit Processing - to study establishing additional rights for victims of a sexual offense (1st Sub. H.B. 157).

128. Religious Freedom Issues - to study religious freedom for students, businesses, and churches.

129. Safety Belt Use - to study whether safety belt use should be considered contributory or comparative negligence in civil cases where a person is seeking recovery for injuries, or whether a primary seatbelt law should be enacted (H.B. 305).

130. Tobacco Use by Minors - to study the age limit corresponding with tobacco and related products (S.B. 12).

131. Vehicle Accident Penalties - to study enhanced penalties for injuries or deaths in vehicle accidents with pedestrians and bicyclists.

132. Weapons Restrictions - to study weapons restrictions on veterans who have post-traumatic stress disorder but have not gone through a formal commitment hearing, when they are "listed" as mentally defective according to the opinion of a United States Department of Veterans Affairs doctor without having gone through due process.

133. Allowable Charges - to study whether to make adjustments to the allowable charges assessed by private automobile booting companies.

134. Correctional Procurement - to study the process by which goods and services are procured through Utah Correctional Industries, including whether approval from the director of Utah Correctional Industries should continue to be

required when determining that it is not feasible for a procurement unit to buy a procurement item from Utah Correctional Industries (H.B. 343).

135. Corrections Construction Industry - to study ways to strengthen the corrections construction industry to help inmates succeed.

136. Insurance for Fallen Officers' Families - to study providing an additional insurance benefit, a \$1 million policy, for the surviving spouse and dependent children of a public safety officer killed in the line of duty.

137. Key Access to Address Fire Safety - to study a private business requirement to have Knox Boxes key access for fire safety access and the possibility that keys to Knox Boxes are not properly accounted for, enabling inappropriate access to private businesses.

138. Mental Illness in County Jails - to study the treatment of mental illness in county jails, including how to improve outcome, reduce costs, and address forced medication hearings and guidelines for treatment of substance abuse in jails.

139. Protection for Police - to study and evaluate the use of bulletproof glass on police cars and consider other less expensive alternatives.

140. Stolen Property Database - to study establishing a state database for stolen property to enhance the process for identifying stolen items and facilitating their return to their lawful owners. Also require recyclers to check the database before purchasing. Contractors and farmers need more protection from thieves who steal and sell to recyclers.

141. Transferring Strike Force - to study whether to transfer from the Office of the Attorney General to the Department of Public Safety the management of the multiagency strike force created to combat violent and other major felony crimes associated with illegal immigration and human trafficking and to investigate fraudulent document crimes (H.B. 100).

142. Agriculture Protection Act Appeals - to study whether the Agriculture Protection Act should have any appeals process.

143. Air - to study issues related to the definition of "air."

144. Air Emissions - to study whether to authorize the Air Quality Board to establish rules requiring the Division of Air Quality to evaluate air pollution controls at a facility and authorizing the Division of Air Quality to require the implementation of additional air pollution controls at a facility under certain circumstances (H.B. 180).

145. Canal Safety Act - to study ways to assess the risks associated with canals and efforts to remediate those risks (S.B. 114 and H.B. 370).

146. Clean Air Fund Utilization - to study the utilization and effectiveness of current clean air funds administered by the Division of Air Quality.

147. Clean Coal Power Plants - to study ways to support clean coal power plants.

148. Conversion of Homes to Cleaner Fuels - to study the impact of programs subsidizing conversions of homes with wood as their sole source of heat -- and listed on the "sole source" list in nonattainment areas -- to natural gas and other cleaner fuels.

149. Costs of Federal Actions Regarding State Trust Lands - to study the full costs and impacts to the School and Institutional Trust Lands Administration (SITLA) and to the trust as result of federal actions that amount to de facto takings of SITLA lands (monuments, species designation, wilderness, de facto wilderness, air quality, RS 2477, etc.).

150. Definition of "Air Contaminant" - to study whether to change the definition of "air contaminant" to clarify that natural components of the atmosphere do not constitute a contaminant (H.B. 229).

151. Disposition of Sovereign Lands Management Account Funds - to study whether to require that funds from the Sovereign Lands Management Account only be expended to manage and benefit sovereign lands and state lands (H.B. 421).

152. Environmental Policy Act - to study the creation of a State Environmental Policy Act, which states already have this act, do they work, and whether Utah needs something similar in view of potential acquisition of public federal lands.

153. Euthanasia Standards - to study and identify which animal shelters use compressed carbon monoxide and which use euthanasia by injection, and examine how much it costs to use each method. Also, address whether the state has a euthanasia policy.

154. Jurisdiction Over Federal Areas Within the States - to study jurisdiction over federal areas within the states, based on the report of the Interdepartmental Committee for the Study of Jurisdiction Over Federal Areas Within the States, and the current status of the conclusions of this report.

155. Legislative Discussions on Labeling Genetically Modified Foods - to study whether to appoint legislative members to participate in multistate discussions involving agreements to label genetically modified food (H.B. 205).

156. Liability Related to Private Sales of Raw Milk - to study private sales of raw milk between a dairy owner and a private individual, and holding the state and health care plans harmless via written contracts and insurance riders.

157. Medical Waste Incineration - to study and conduct an analysis of the best available control technology for pathologic, carcinogenic, and chemotherapeutic medical waste streams.

158. Municipal Water Rights - to study whether municipalities should be required to disclose their water rights assets.

159. Payments In Lieu of Taxes - to study the consequences and costs, including opportunity costs, associated with the uncertainty created by Congress's failure or refusal to fully fund Payments in Lieu of Taxes (PILT) on a permanent and mandatory basis.

160. Pesticides - to study changes to current laws governing pesticides.

161. Reducing Air Pollution - to study methods to reduce air pollution in nonattainment areas.

162. Risks of Forest Overgrowth - to study the risk to air quality, watersheds, wildlife, habitat, and persons and property from disease-ridden, pest-infested, overgrown forests in the state.

163. State Parks - to study and assess the conditions of state parks and whether funding and fees are adequate.

164. State Regulations Impacting Small Irrigation and Ditch Companies - to study the difficulty that small irrigation and ditch companies are having complying with recent state regulations that apply primarily to canal companies (H.B. 298).

165. State Resource Stewardship Coordinator for Air Quality - to study the need for a state resource stewardship coordinator to work with all state agencies to implement best practices to improve air quality (2nd Sub. H.B. 38).

166. Stream Relocation Notification - to study requirements to notify affected parties of stream alteration.

167. Surface and Mineral Rights - to study issues related to surface and mineral rights.

168. Tier III Fuel Production - to study the options for encouraging low sulfur fuel production and sales in the state of Utah.

169. Water Reuse - to study issues related to reuse water and waste water (H.B. 371).

170. Wild Animal Damage - to study wild horse and burro damage related to state trust lands and federal lands.

171. Wildfire Mitigation - to study incentives for wildfire mitigation in the wildfire-urban interface.

172. Interior Design - to study interior design licensure.

173. Construction and Fire Codes - to study whether to allow a county legislative body of a county of the fourth, fifth, or sixth class to modify the State Fire Code Act and the State Construction Code within the unincorporated areas of the counties if certain conditions are met (H.B. 328).

174. County Governance - to study the governance and internal controls in Utah's county governments.

175. Good Landlord Program - to study local governments' implementation of the Good Landlord Program.

176. Local Governments Qualifying as a Contract Customer - to study whether to authorize a municipality or county to qualify as a contract customer, develop requirements for a municipality or county to qualify as a contract customer, and whether to require the Public Service Commission to determine appropriate charges and credits for participating customers within a municipality or county who do not pay a separate demand charge (1st Sub. H.B. 110).

177. Municipal Business Licensing - to study whether to exempt certain businesses from municipal licensure (2nd Sub. H.B. 258).

178. Planning Districts - to study changes to current law governing planning districts.

179. School Planning and Zoning - to study municipal and county land use provisions related to a school (H.B. 104).

180. Voter Accountability - to study providing municipal retention elections (H.B. 413).

181. Digital Media Technology or Equipment - to study the creation of a Digital Media Technology or Equipment Fund to be used for student education and commercial leasing and to encourage production of digital media film, television production, video gaming, and national commercial productions within the state (S.B. 266).

182. Drone Technology - to study regulation of the private, commercial, and government use of drone technology.

183. Geographic Information Systems and Digital Mapping Technology - to study and update statutes related to the expectations and provision of geographic information systems and digital mapping technology by the Automated Geographic Reference Center of the Department of Technology Services.

184. Integrated Utility Networks - to study the future of integrated utility networks, including distributed generation and solar networks, net metering, infrastructure upgrades, variability on the system, and cost impacts.

185. Interstate Transmission Line Corridors - to study the impact on Utah and options for addressing impacts.

186. Intrastate Transmission Lines - to study issues related to intrastate transmission lines. With various agencies involved in electrical transmission line regulation and approval, what controls can Utah and its agencies and regulatory entities have over these transmission lines?

187. Open Access and Electrical Deregulation - to study how open access is a form of electrical deregulation.

188. Parity of Communication Assessments - to study the parity of communication assessments for fees, surcharges, and taxes across telecommunication providers.

189. Prohibition of Electronic Data Collection Assistance - to study whether to prohibit

cooperation between a federal agency that collects electronic data and any political subdivisions of the state (H.B. 161).

190. RELAY UTAH Program - to study the modernization of Utah Code Section 54-8b-10, which imposes a telephone surcharge to provide hearing and speech impaired persons with telecommunication devices, including:

1. whether the statute update should reflect modern telecommunications technology and usage;

2. how current technology trends have impacted program demand; and

3. if the program should be moved from the Public Service Commission to an agency with the infrastructure better suited to administer a statewide public assistance program.

191. Renewable Electric Power - to study community choice aggregation for renewable electric power purchasing and generation.

192. Solar Power - to study solar power development and the impact on the provision of electrical power.

193. Transmission Corridor Master Planning - to study issues related to transmission corridor master planning.

194. Utah Science Center Authority - to study updates and revisions to the Utah Science Center Authority.

195. Utah's Competitive Energy Cost Advantage - to study deregulation, price comparisons, Renewable Portfolio Standards impacts in other states, the cost of "Choice," etc.

196. 501(c)(3) Charitable Fundraising - to study whether 501(c)(3) organizations that have occasional concession sales to raise money for the purpose of giving the proceeds away to charitable causes should be subject to sales taxes.

197. Business Personal Property Tax Exemption - to study whether to amend the Utah Constitution to provide a property tax exemption for business-owned tangible personal property (H.J.R. 2).

198. Compressed Natural Gas Vehicle Tax Credits and Rebates - to study tax credits and rebates for compressed natural gas (CNG) vehicles. Utah has tax credits for CNG conversions and electric cars. How would an actual tax rebate work? What are the potential funding sources? What are the advantages and disadvantages?

199. Distribution of Local Sales and Use Tax - to study the distribution of local sales and use taxes if a sales and use tax on remote sales is required or allowed to be collected in the future (H.B. 434).

200. Historical Preservation Tax Credits - to study and review possible improvements to state historical preservation tax credits.

201. Military Installation Development Authority - to study tax issues relating to a Military Installation Development Authority.

202. Renewable Energy Tax Credits - to study whether to harmonize corporate and individual income tax credits for renewable energy.

203. Report on Tax Provisions - to study the State Tax Commission Report on Tax Provisions (2nd Sub. H.B. 51).

204. Residential Assessed Valuation Property Tax Change - to study replacing the residential assessed valuation property tax with a residential tax based on size or cost of government services, which would increase fairness and lower administration costs.

205. Sales Tax Reductions on Sales with Trade-Ins - to study the policy of only licensed dealers being able to take advantage of sales tax reductions on sales with trade-ins.

206. Severance Tax - to study changes to current law governing severance taxes.

207. Tangible Personal Property Tax Exemption - to study and address a property tax exemption for certain tangible personal property (H.B. 391).

208. Tax on Fine Art - to study whether to remove the sales tax on fine art.

209. Tax Rate Calculation - to study issues related to the certified tax rate calculation.

210. Taxing Social Security - to study state taxation of Social Security benefits.

211. Financial Security in Retirement - to study how to help people prepare to be financially self-sufficient in retirement.

212. Independent Entities - to study and review independent entities, including what they are and what they do.

213. Postretirement Reemployment - to study the costs associated with postretirement reemployment.

214. Retirement Account Exemption - to study a retirement account exemption for short-term workers.

215. Retirement Contribution Rates - to study and receive a presentation on preliminary retirement contribution rates.

216. Retirement Impacts of Qualified Domestic Relations Orders After a Divorce if the Employed Party Never Remarries - to study a glitch in the Utah Code that would prevent a surviving spouse from receiving the surviving spouse's portion of the retirement benefits if the employed party never remarries.

217. Retirement Systems Overview - to study a retirement systems overview and actuarial information.

218. Utah Retirement Systems - to study and review the Utah Retirement Systems, what it does, and how it accomplishes its mission.

219. Utah Retirement Systems Benefits Claims - to study statutes of limitations for benefits claims in the Utah Retirement Systems.

220. Utah Retirement Systems Modifications - to study and review annual Utah Retirement Systems modifications, including technical amendments.

221. Utah Retirement Tier II Systems - to study pension reform follow-up implementation issues.

222. Airport Authority - to study issues related to the Salt Lake Airport Authority.

223. Airports - to study issues related to airports, including management, leasing and vendors, and oversight authority.

224. Driving Under the Influence Standards - to study whether to change one of the standards for a driving under the influence violation from "being under the influence of alcohol, any drug, or the combined influence of alcohol and any drug to a degree that renders the person incapable of safely operating a vehicle" to "being impaired to the slightest degree by alcohol, any drug, any substance, or any combination thereof" (1st Sub. H.B. 303).

225. Gas Tax - to study issues related to the gas tax.

226. Impounding Vehicles - to study impounding vehicles of unlicensed drivers when no other driver is present (H.B. 79).

227. Natural Gas - to study issues related to natural gas.

228. Salvage Vehicles - to study the impact of salvage vehicles and when a vehicle should be salvaged.

229. School Bus Traffic Safety - to study whether to allow school districts to contract for technology that will generate a recorded image of a motor vehicle driver passing a school bus when the red signal light is flashing, and to receive and submit the recorded image to law enforcement for possible investigation (1st Sub. H.B. 406).

230. Transit Funding - to study funding for mass transit and issues related to mass transit funding (H.B. 210).

231. Transportation in Salt Lake County - to study transportation in Salt Lake County, particularly at the Salt Lake International Airport, and its effect on the state. Also study the regulation of concessions, including charter buses, shuttles, taxis, limousines, rental cars, etc. How should it be done to maximize its benefit to the entire state? (S.B. 235)

232. UTA Bus Routes - to study current bus routes, especially current east-west routes, express buses, and any proposed new bus routes to help east riders' access to TRAX and Frontrunner.

233. Vehicle Title Transfer Sales - to study whether to require a confirmation or an affidavit

validating fair market value in vehicle title transfer sales.

234. Waiver for Purple Heart - to study granting a waiver relating to motorcycles for Purple Heart recipients.

235. Standards for Allocating Utah's Water Supply - to study the standards for allocating Utah's water supply, including:

1. standards for the allocation of water for domestic use and whether the standards should be revised to accurately reflect actual domestic beneficial use;

2. standards for the allocation of irrigation water based on flood irrigation and whether standards should be revised based on pipeline based sprinkler irrigations systems;

3. whether the reduction or elimination of natural vegetative water consumption should result in a recognition of the reduced water use and:

a. a corresponding reduction in the water requirement associated with developing the land; and

b. recognition of a landowner's right to put to alternative use the water previously consumed by the eliminated natural vegetation;

4. whether current allocation standards comply with existing Utah statutory and case law; and

5. ways that these revisions can identify overallocation, resulting in the availability of additional water resources and reduced costs that can fuel the growth of Utah's economy.

236. Bill Sponsorship - to study a process that would allow more than one legislator to be designated as a primary sponsor of a bill.

237. Legislative Process Ethics - to study and review policies requiring ethical descriptions of proposed legislation by staff and legislators.

238. Standing Committee Agenda Practices - to study legislative rule changes to address pulling bills from a standing committee agenda at the end of a legislative session to avoid the possibility of a bill failing in committee and improving the legislation's chances of receiving floor debate.

239. To study how to effectively and fairly control workers' compensation system medical costs including the cost of hospital care and treatment and prescription drugs.

240. Title and escrow insurance related amendments.

241. Highway safety issues related to non-motorized vehicles.

242. Whether sufficient due process protection is provided a police officer involved in a critical incident.

243. The economic benefits of removing the three year economic life component of the manufacturer's sales tax exemption.

244. H.B. 263 - Use of Business Names.

245. Salt Lake Airport management, leases, governance, and oversight.

246. Asbestos funds double dipping.

247. Utah Health Safety Net and coverage.

248. Medicaid entitlement fraud/super-utilizers.

S.R. 1

Passed January 27, 2014
Effective January 27, 2014

**SENATE RULES RESOLUTION
ON COMMITTEE HEARINGS**

Chief Sponsor: John L. Valentine

LONG TITLE

General Description:

This rules resolution amends rules governing Senate standing committee review procedures.

Highlighted Provisions:

This resolution:

- ▶ requires that legislation receive a favorable recommendation by a Senate standing committee before passage; and
- ▶ changes the list of exemptions to the standing committee review requirement.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:
SR3-2-102

Be it resolved by the Senate of the state of Utah:

Section 1. SR3-2-102 is amended to read:

SR3-2-102. Standing committee review required -- Exceptions.

(1) The Senate may not pass a bill, joint resolution, or concurrent resolution during the annual general session ~~[that has not been reviewed by]~~ unless:

(a) a Senate standing committee~~;~~ has reviewed the legislation; and

~~[(b) the Senate Rules Committee; or]~~

~~[(c) the Legislative Management Committee.]~~

(b) the Senate standing committee has given a favorable recommendation to the legislation.

(2) This rule does not apply to:

(a) a resolution regarding legislative rules or legislative personnel;

(b) legislation that has been approved by an interim committee;

(c) the revisor's statute;

~~(d) [legislation introduced or received from the House during the last three days of the annual general session; or] if the legislation was reviewed and approved by the Executive Appropriations Committee, legislation that:~~

~~[(e) if the legislation was reviewed and approved by the Executive Appropriations Committee, legislation that:]~~

(i) exclusively appropriates money;

(ii) amends Utah Code Title 53A, Chapter 17a, Minimum School Program Act;

(iii) amends Utah Code Title 67, Chapter 22, State Officer Compensation; or

(iv) authorizes the issuance of general obligation or revenue bonds.

S.R. 2

Passed February 25, 2014
Effective February 25, 2014

**SENATE RULES RESOLUTION -
LEGISLATIVE PER DIEM AMENDMENTS**

Chief Sponsor: Lyle W. Hillyard

LONG TITLE

General Description:

This Senate resolution of the Legislature modifies legislative rules for compensation and expense reimbursement.

Highlighted Provisions:

This resolution:

- ▶ amends per diem and expense related language in Senate Rules to comply with current compensation and expense requirements.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:
SR1-3-102

Be it resolved by the Senate of the state of Utah:

Section 1. SR1-3-102 is amended to read:

SR1-3-102. Duties of the president.

(1) The general duties of the president are to:

(a) assign responsibilities to and supervise the officers and employees of the Senate;

(b) assign places and determine access for news media representatives;

(c) call the Senate to order at the time scheduled for convening, and proceed with the daily order of business;

(d) announce the business before the Senate in the order that it is to be acted upon;

(e) receive and submit all motions and proposals presented by senators;

(f) put to a vote all questions that arise in the course of proceedings, and announce the results of the vote;

(g) enforce the Senate Rules governing debates;

(h) enforce observance of order and decorum;

(i) inform the Senate on any point of order or practice;

(j) receive and announce to the Senate any official messages and communications;

(k) sign all acts, orders, and proceedings of the Senate;

(l) appoint the members of committees; and

(m) represent the Senate, declaring its will and obeying its commands.

(2) The president shall:

(a) sign, or authorize a designee to sign, all requisitions on the Division of Finance to pay Senate expenses; and

(b) give final approval of all expenditure requests as authorized by the majority and minority leaders of the Senate, including [~~per diem~~] compensation[, ~~travel expenses,~~] and reimbursement for expenses for in-state and out-of-state travel on legislative business.

UTAH CODE SECTION INDEX

The following Code Section Index lists, in section order, each Utah Code section affected by bills passed during the 2014 General Session. The first column lists the section affected. The second column lists the action taken with the following abbreviations: A = Amends, E = Enacts, F = Former Section Number, N = Renumbered and Amended, R = Repeals, T = Technical Renumbers, X = Repeals and Reenacts. The third column lists the bill number. The fourth column lists either the former number or the new number, if applicable. The fifth column lists the chapter number.

See Technical Action Index (page 2409) for explanations and clarifications of sections that were technically renumbered.

Laws of Utah - 2014

Section Action Bill Number Former/ Renumber Chapter Number

2013 Second Special Session

63I-2-263 A HB 2001 1
 63I-2-263 A HB 2002 2
 63I-2-265 E SB 2001 3
 63J-1-218 A HB 2001 1
 63J-1-218 A HB 2002 2
 65A-5-1 A SB 2001 3

2014 General Session

4-2-8.3 R HB 353 42
 4-2-8.5 A SB 231 411
 4-2-8.6 A SB 231 411
 4-2-8.7 A SB 231 411
 4-2-401 E HB 309 41
 4-2-402 E HB 309 41
 4-10-2 A SB 231 411
 4-10-6 A SB 231 411
 4-10-7 A SB 231 411
 4-10-7.3 E SB 231 411
 4-10-10 A SB 231 411
 4-11-2 A SB 231 411
 4-14-3 A SB 231 411
 4-14-13 A SB 231 411
 4-15-1.5 E SB 231 411
 4-15-2 A SB 231 411
 4-15-7 A SB 231 411
 4-15-11 A SB 231 411
 4-15-13 E SB 231 411
 4-15-14 T SB 231 4-15-13 411
 4-18-6.5 N SB 73 4-18-108 383
 4-18-6.5 N SB 95 4-18-108 189
 4-18-102 A SB 73 383
 4-18-103 A SB 73 383
 4-18-105 A SB 73 383
 4-18-106 A SB 73 383
 4-18-107 A SB 73 383
 4-18-108 F SB 73 4-18-6.5 383
 4-18-108 F SB 95 4-18-6.5 189
 4-20-3 A SB 95 189
 4-31-102 A HB 261 29
 4-32-11 A SB 95 189
 4-37-202 A SB 95 189
 4-37-302 A SB 95 189
 4-39-401 A SB 95 189
 4-41-101 E HB 105 25
 4-41-102 E HB 105 25
 4-41-103 E HB 105 25
 7-1-103 A SB 95 189
 7-1-401 A HB 316 345
 7-1-403 A HB 316 345
 7-1-403 A SB 95 189
 7-1-616 A SB 95 189
 7-1-701 A SB 124 97
 7-1-703 A SB 95 189
 7-1-710 A SB 95 189
 7-1-802 A SB 95 189
 7-2-1 A SB 95 189
 7-2-2 A SB 95 189
 7-2-12 A SB 95 189
 7-3-1 A SB 95 189
 7-3-3.3 R SB 124 97
 7-3-15 A SB 124 97
 7-3-16 R SB 124 97
 7-3-20 A SB 124 97
 7-3-21 A SB 124 97
 7-5-2 A SB 95 189
 7-5-6 A SB 95 189
 7-5-7 A SB 95 189
 7-5-7 A SB 124 97
 7-5-8 A SB 95 189
 7-5-11 A SB 95 189
 7-5-15 A SB 95 189
 7-8-11 A SB 124 97
 7-8-12 R SB 124 97
 7-9-20 A SB 124 97
 7-9-25 A SB 95 189
 7-9-36 A SB 124 97
 7-9-39 A SB 124 97
 7-9-39.5 A SB 95 189
 7-9-42 A SB 95 189

Section Action Bill Number Former/ Renumber Chapter Number

7-9-43 A SB 124 97
 7-9-44 A SB 124 97
 7-9-45 A SB 95 189
 7-9-51 A SB 124 97
 7-9-53 A SB 124 97
 7-9-55 A SB 95 189
 7-9-58 A SB 95 189
 7-14-1 A SB 95 189
 7-19-1 A SB 95 189
 7-23-201 A HB 127 131
 7-23-401 A HB 127 131
 7-23-403 A HB 127 131
 8-3-1 A SB 158 194
 8-3-2 A SB 158 194
 8-3-3 A SB 158 194
 8-6-1 E SB 158 194
 8-6-2 E SB 158 194
 9-1-201 A SB 31 371
 9-1-208 E SB 31 371
 9-1-801 A SB 95 189
 9-6-205 A SB 95 189
 9-7-217 A SB 31 371
 9-7-501 A SB 95 189
 9-8-203 A HB 64 123
 9-8-301 A SB 95 189
 9-8-307 A SB 95 189
 9-8-405 A SB 95 189
 9-8-701 A HB 386 166
 9-8-702 R HB 386 166
 9-8-703 A HB 386 166
 9-8-704 A HB 386 166
 9-8-705 A HB 386 166
 9-8-706 R HB 386 166
 9-8-707 A HB 386 166
 9-8-708 A HB 386 166
 9-9-104.6 A SB 86 387
 9-9-107 A SB 31 371
 9-9-405 A SB 31 371
 10-1-114 A SB 95 189
 10-1-119 A SB 95 189
 10-1-203 A SB 95 189
 10-1-302 A SB 18 176
 10-2-111 A HB 344 158
 10-2-125 A SB 95 189
 10-2-126 A SB 95 189
 10-2-127 A HB 344 158
 10-2-130 E SB 216 405
 10-3-301 A HB 272 38
 10-3-507 A HB 262 338
 10-3-703 A HB 308 149
 10-5-102.5 E HB 381 253
 10-5-102.5 E SB 18 176
 10-5-102.5 E SB 51 377
 10-5-106 A SB 18 176
 10-5-107 A SB 51 377
 10-5-113 A SB 18 176
 10-5-118 A SB 18 176
 10-5-119 A SB 18 176
 10-5-120 A HB 381 253
 10-5-132 E SB 184 197
 10-6-106 A SB 18 176
 10-6-106 A SB 51 377
 10-6-106 A HB 381 253
 10-6-109 A SB 18 176
 10-6-116 A SB 18 176
 10-6-117 A SB 18 176
 10-6-129 A SB 18 176
 10-6-131 A SB 18 176
 10-6-132 A HB 381 253
 10-6-133 A SB 18 176
 10-6-135 A SB 51 377
 10-6-160 E SB 184 197
 10-8-2 A HB 25 59
 10-8-14 A SB 217 55
 10-8-62 A SB 95 189
 10-8-63 A SB 95 189
 10-8-65 A HB 97 424
 10-8-65 A HB 217 28
 10-9a-103 A HB 220 136
 10-9a-103 A HB 419 363
 10-9a-509 A HB 220 136
 10-9a-608 A HB 220 136
 10-9a-609 A HB 220 136
 10-18-104 A SB 95 189
 10-18-302 A SB 18 176
 11-13-204 A HB 17 115
 11-13-216 A HB 27 008

Laws of Utah - 2014

Section	Action	Bill Number	Former/ Renumber	Chapter Number	Section	Action	Bill Number	Former/ Renumber	Chapter Number
11-13-223	A	HB 17		115	16-10a-1106	A	SB 95		189
11-13-303	A	SB 95		189	16-10a-1301	A	SB 95		189
11-13-314	A	HB 25		59	16-10a-1405	A	SB 95		189
11-13-315	A	HB 17		115	16-10b-101	E	SB 133		394
11-13-315	A	SB 95		189	16-10b-102	E	SB 133		394
11-13-315	A	SB 123		264	16-10b-103	E	SB 133		394
11-13-315	A	SB 179		196	16-10b-104	E	SB 133		394
11-14-201	A	HB 379		356	16-10b-105	E	SB 133		394
11-14-202	A	HB 170		325	16-10b-106	E	SB 133		394
11-14-301	A	SB 95		189	16-10b-201	E	SB 133		394
11-17-14	A	SB 95		189	16-10b-301	E	SB 133		394
11-32-4	A	SB 95		189	16-10b-302	E	SB 133		394
11-36a-102	A	HB 419		363	16-10b-303	E	SB 133		394
11-39-103	A	SB 179		196	16-10b-304	E	SB 133		394
11-39-107	A	SB 179		196	16-10b-305	E	SB 133		394
11-42-604	A	SB 95		189	16-10b-401	E	SB 133		394
11-51-102	A	HB 67		296	16-10b-402	E	SB 133		394
11-51-103	A	HB 67		296	16-11-6	A	SB 133		394
11-51-104	E	HB 67		296	16-16-113	A	SB 95		189
13-1a-5	A	SB 95		189	17-15-30	E	SB 216		405
13-2-1	A	HB 405		360	17-16-6	A	HB 99		16
13-22-8	A	SB 95		189	17-16-6.5	A	HB 260		337
13-23-5	A	SB 95		189	17-16-18	A	SB 18		176
13-26-4	A	SB 95		189	17-18a-405	A	SB 95		189
13-32a-104	A	SB 95		189	17-21-1	A	SB 79		89
13-32a-115	A	SB 95		189	17-21-6	A	HB 29		22
13-32a-115	A	HB 280		144	17-21-18.5	A	SB 79		89
13-32a-117	A	SB 95		189	17-21-20	A	SB 79		89
13-34-103	A	HB 405		360	17-21a-101	E	SB 79		89
13-34-105	A	HB 405		360	17-21a-102	E	SB 79		89
13-34-106	A	HB 405		360	17-21a-201	E	SB 79		89
13-34-107.5	R	HB 405		360	17-21a-202	E	SB 79		89
13-34-107.6	R	HB 405		360	17-21a-203	E	SB 79		89
13-34-110	A	HB 405		360	17-21a-301	E	SB 79		89
13-34-113	A	HB 405		360	17-21a-302	E	SB 79		89
13-34a-101	E	HB 405		360	17-21a-401	E	SB 79		89
13-34a-102	E	HB 405		360	17-21a-402	E	SB 79		89
13-34a-103	E	HB 405		360	17-21a-403	E	SB 79		89
13-34a-104	E	HB 405		360	17-22-2	A	HB 433		366
13-34a-201	E	HB 405		360	17-22-5.5	A	HB 48		120
13-34a-202	E	HB 405		360	17-22-8.1	E	SB 198		272
13-34a-203	E	HB 405		360	17-22-31	E	HB 225		333
13-34a-204	E	HB 405		360	17-23-17.5	A	SB 95		189
13-34a-205	E	HB 405		360	17-23-19	A	SB 95		189
13-34a-206	E	HB 405		360	17-27a-103	A	HB 220		136
13-34a-207	E	HB 405		360	17-27a-103	A	HB 419		363
13-34a-301	E	HB 405		360	17-27a-205	A	SB 95		189
13-34a-302	E	HB 405		360	17-27a-301	A	SB 95		189
13-34a-303	E	HB 405		360	17-27a-403	A	SB 18		176
13-34a-304	E	HB 405		360	17-27a-508	A	HB 220		136
13-34a-305	E	HB 405		360	17-27a-512	A	SB 95		189
13-34a-306	E	HB 405		360	17-27a-608	A	HB 220		136
13-43-204	A	HB 25		59	17-27a-609	A	HB 220		136
13-43-205	A	HB 25		59	17-30-2	A	HB 433		366
13-43-206	A	HB 25		59	17-30a-101	E	HB 433		366
13-47-102	A	SB 95		189	17-30a-102	E	HB 433		366
13-47-201	A	SB 95		189	17-30a-103	E	HB 433		366
14-1-20	A	HB 42		293	17-30a-104	E	HB 433		366
14-2-5	A	HB 42		293	17-30a-201	E	HB 433		366
15-1-4	A	SB 271		281	17-30a-202	E	HB 433		366
15-8-4	A	SB 95		189	17-30a-203	E	HB 433		366
15-9-103	A	SB 95		189	17-30a-204	E	HB 433		366
15-10-201	A	SB 95		189	17-30a-205	E	HB 433		366
15A-1-104	E	SB 184		197	17-30a-206	E	HB 433		366
15A-1-204	A	SB 95		189	17-30a-207	E	HB 433		366
15A-1-204	A	SB 21		178	17-30a-301	E	HB 433		366
15A-2-102	A	SB 95		189	17-30a-302	E	HB 433		366
15A-2-104	A	SB 95		189	17-30a-303	E	HB 433		366
15A-3-104	A	HB 245		243	17-30a-304	E	HB 433		366
15A-3-106	A	HB 326		153	17-30a-305	E	HB 433		366
15A-3-106.5	E	HB 326		153	17-30a-306	E	HB 433		366
15A-3-201	A	SB 95		189	17-30a-307	E	HB 433		366
15A-3-306	A	SB 95		189	17-30a-308	E	HB 433		366
15A-3-401	A	SB 143		100	17-30a-309	E	HB 433		366
15A-4-201	A	SB 95		189	17-30a-310	E	HB 433		366
15A-5-103	A	SB 95		189	17-30a-311	E	HB 433		366
15A-5-202.5	A	HB 245		243	17-30a-312	E	HB 433		366
15A-5-204	A	HB 245		243	17-30a-313	E	HB 433		366
15A-5-204	A	SB 58		74	17-30a-314	E	HB 433		366
15A-5-205.5	A	SB 58		74	17-30a-401	E	HB 433		366
16-6a-808	A	HB 350		160	17-30a-402	E	HB 433		366
16-6a-1011	A	SB 95		189	17-30a-403	E	HB 433		366
16-6a-1202	A	SB 95		189	17-30a-404	E	HB 433		366
16-6a-1701	A	SB 95		189	17-30a-501	E	HB 433		366
16-6a-1702	A	SB 95		189	17-30a-502	E	HB 433		366
16-10a-402	A	SB 95		189	17-31-3	A	SB 18		176
16-10a-901	A	SB 95		189	17-31-9	E	HB 356		429

Laws of Utah - 2014

Section	Action	Bill Number	Former/ Renumber	Chapter Number	Section	Action	Bill Number	Former/ Renumber	Chapter Number
17-33-1	A	HB 433		366	18-2-1	E	HB 97		424
17-34-1	A	SB 216		405	18-2-101	T	HB 97	18-2-1	424
17-36-3	A	SB 18		176	19-1-206	A	HB 141		425
17-36-3	A	SB 95		189	19-1-402	A	HB 61		295
17-36-3	A	HB 381		253	19-1-403	A	HB 61		295
17-36-6	A	SB 18		176	19-1-404	A	HB 61		295
17-36-8	A	SB 18		176	19-1-405	A	HB 61		295
17-36-9	A	SB 18		176	19-2-102	A	HB 31		24
17-36-16	A	SB 18		176	19-2-104	A	HB 154		230
17-36-26	A	SB 18		176	19-2-107	A	HB 154		230
17-36-27	A	SB 18		176	19-2-107.5	E	HB 154		230
17-36-27	A	SB 174		269	19-2-123	R	HB 31		24
17-36-29	A	SB 18		176	19-2-124	R	HB 31		24
17-36-30	A	HB 381		253	19-2-125	R	HB 31		24
17-36-31	A	SB 18		176	19-2-126	R	HB 31		24
17-36-36	A	SB 18		176	19-2-127	R	HB 31		24
17-36-37	A	SB 18		176	19-2-201	E	HB 61		295
17-36-39	A	SB 95		189	19-2-202	E	HB 61		295
17-36-51	A	SB 18		176	19-2-203	E	HB 61		295
17-36-52	A	SB 18		176	19-2-204	E	HB 61		295
17-36-53	A	SB 18		176	19-5-105.6	E	SB 73		383
17-36-54	A	SB 18		176	19-6-124	E	SB 196		198
17-36-55	E	SB 184		197	19-6-124	E	HB 13		287
17-41-101	A	HB 273		65	19-6-125	T	SB 196	19-6-124	198
17-43-201	A	HB 21		213	19-6-402	A	HB 138		227
17-43-301	A	HB 21		213	19-6-404	A	HB 138		227
17-50-303	A	HB 339		66	19-6-405.4	E	HB 138		227
17-50-336	E	HB 217		28	19-6-405.7	A	HB 138		227
17-50-336	E	HB 123		222	19-6-408	A	HB 138		227
17-50-337	T	HB 123	17-50-336	222	19-6-409	A	HB 138		227
17-53-301	A	SB 95		189	19-6-410.5	A	HB 138		227
17B-1-103	A	SB 51		377	19-6-411	A	HB 138		227
17B-1-121	A	SB 95		189	19-6-414	A	HB 138		227
17B-1-202	A	SB 51		377	19-6-420	A	HB 138		227
17B-1-213	A	SB 216		405	19-6-502	A	SB 45		183
17B-1-214	A	SB 216		405	19-6-504	R	SB 45		183
17B-1-215	A	SB 216		405	19-8-119	A	HB 138		227
17B-1-301	A	HB 415		362	19-12-101	E	HB 31		24
17B-1-303	A	HB 415		362	19-12-102	E	HB 31		24
17B-1-303	A	SB 51		377	19-12-201	E	HB 31		24
17B-1-304	A	SB 51		377	19-12-202	E	HB 31		24
17B-1-305	A	HB 415		362	19-12-203	E	HB 31		24
17B-1-306	A	HB 415		362	19-12-301	E	HB 31		24
17B-1-306	A	SB 51		377	19-12-302	E	HB 31		24
17B-1-306.5	A	SB 51		377	19-12-303	E	HB 31		24
17B-1-502	A	SB 216		405	19-12-304	E	HB 31		24
17B-1-503	A	HB 340		156	19-12-305	E	HB 31		24
17B-1-511	A	SB 51		377	20A-1-102	A	HB 282		31
17B-1-512	A	SB 95		189	20A-1-102	A	HB 156		231
17B-1-601	A	HB 381		253	20A-1-102	A	HB 415		362
17B-1-609	A	SB 51		377	20A-1-102	A	SB 54		17
17B-1-626	A	HB 381		253	20A-1-102	A	SB 116		391
17B-1-641	A	SB 51		377	20A-1-103	E	SB 54		17
17B-1-901	A	SB 51		377	20A-1-201	A	HB 415		362
17B-2a-102	A	SB 158		194	20A-1-202	A	HB 415		362
17B-2a-404	A	SB 51		377	20A-1-203	A	HB 344		158
17B-2a-404	A	HB 382		357	20A-1-306	A	SB 95		189
17B-2a-404	A	HB 415		362	20A-1-501	A	SB 54		17
17B-2a-406	A	SB 67		381	20A-1-512	A	SB 51		377
17B-2a-703	A	SB 51		377	20A-1-703	R	SB 11		254
17B-2a-804	A	SB 51		377	20A-1-704	N	SB 11	20A-1-804	254
17B-2a-807	A	SB 51		377	20A-1-706	N	SB 11	20A-1-807	254
17B-2a-818.5	A	HB 141		425	20A-1-707	N	SB 11	20A-1-808	254
17B-2a-821	A	SB 51		377	20A-1-801	E	SB 11		254
17B-2a-825	A	SB 51		377	20A-1-802	E	SB 11		254
17B-2a-902	A	SB 95		189	20A-1-803	E	SB 11		254
17B-2a-905	A	SB 95		189	20A-1-804	F	SB 11	20A-1-704	254
17B-2a-1005	A	SB 51		377	20A-1-805	E	SB 11		254
17B-2a-1101	E	SB 216		405	20A-1-806	E	SB 11		254
17B-2a-1102	E	SB 216		405	20A-1-807	F	SB 11	20A-1-706	254
17B-2a-1103	E	SB 216		405	20A-1-808	F	SB 11	20A-1-707	254
17B-2a-1104	E	SB 216		405	20A-2-102	A	HB 156		231
17B-2a-1105	E	SB 216		405	20A-2-102.5	A	HB 156		231
17B-2a-1106	E	SB 216		405	20A-2-102.5	A	SB 135		98
17B-2a-1107	E	SB 216		405	20A-2-104	A	SB 36		373
17B-2a-1108	E	SB 216		405	20A-2-105	A	SB 90		260
17B-2a-1109	E	SB 216		405	20A-2-108	A	SB 36		373
17C-2-701	R	SB 275		421	20A-2-201	A	SB 135		98
17C-4-202	A	SB 95		189	20A-2-201	A	HB 156		231
17D-1-102	A	SB 51		377	20A-2-202	A	HB 156		231
17D-1-103	A	HB 382		357	20A-2-204	A	HB 156		231
17D-1-106	A	HB 415		362	20A-2-205	A	HB 156		231
17D-1-302	A	SB 51		377	20A-2-206	A	HB 156		231
17D-1-303	A	SB 51		377	20A-2-206	A	SB 135		98
17D-1-304	A	SB 51		377	20A-2-206	A	SB 117		95
17D-3-105	A	SB 95		189	20A-2-306	A	SB 36		373
18-1-4	E	HB 287		32	20A-2-307	A	HB 156		231

Laws of Utah - 2014

Section	Action	Bill Number	Former/ Renumber	Chapter Number	Section	Action	Bill Number	Former/ Renumber	Chapter Number
20A-2-308	A	SB 36		373	23-19-14.6	E	SB 165		33
20A-4-107	A	SB 135		98	23-19-21	A	HB 28		21
20A-4-107	A	HB 156		231	23-27-201	A	SB 212		274
20A-4-108	E	HB 156		231	23-27-301	A	SB 212		274
20A-4-301	A	SB 51		377	24-1-102	A	SB 256		112
20A-5-101	A	SB 54		17	24-4-104	A	SB 256		112
20A-5-101	A	HB 415		362	24-4-105	A	SB 256		112
20A-5-601	A	HB 282		31	24-4-110	A	SB 256		112
20A-5-601	A	SB 116		391	24-4-114	A	SB 256		112
20A-5-602	A	SB 116		391	24-4-115	A	SB 256		112
20A-5-602	A	HB 282		31	24-4-117	A	HB 427		171
20A-6-101	A	HB 408		169	26-1-7	A	HB 159		322
20A-6-102	A	HB 408		169	26-1-7	A	SB 75		384
20A-6-103	A	SB 245		206	26-7-7	E	SB 109		93
20A-6-105	A	SB 36		373	26-8b-102	A	HB 155		320
20A-6-301	A	SB 54		17	26-8b-602	A	SB 192		109
20A-6-301	A	HB 408		169	26-9-4	A	SB 176		50
20A-6-302	A	SB 54		17	26-10b-101	A	SB 75		384
20A-6-303	A	SB 54		17	26-10b-102	A	SB 75		384
20A-6-304	A	SB 54		17	26-10b-103	A	SB 75		384
20A-6-305	A	SB 54		17	26-10b-104	A	SB 75		384
20A-6-402	A	HB 408		169	26-10b-105	E	SB 75		384
20A-7-101	A	HB 422		364	26-10b-106	E	SB 75		384
20A-7-101	A	SB 136		396	26-10b-106	T	SB 75	26-10b-105	384
20A-7-203	A	HB 192		329	26-10b-107	T	SB 75	26-10b-106	384
20A-7-303	A	HB 192		329	26-15-5.1	E	HB 176		327
20A-7-502.5	A	HB 422		364	26-15a-105	A	HB 176		327
20A-7-503	A	HB 192		329	26-18-407	A	HB 88		302
20A-7-513	A	HB 422		364	26-18-409	E	SB 14		174
20A-7-601	A	HB 238		242	26-28-112	A	SB 95		189
20A-7-602.5	E	HB 422		364	26-33a-103	A	HB 35		118
20A-7-603	A	HB 192		329	26-33a-106.1	A	HB 35		118
20A-7-606	A	SB 136		396	26-33a-106.1	A	HB 141		425
20A-7-607	A	SB 136		396	26-33a-106.5	A	HB 141		425
20A-7-609	A	SB 136		396	26-33a-109	A	HB 141		425
20A-7-609.5	E	SB 136		396	26-39-102	A	HB 159		322
20A-7-613	E	SB 134		395	26-39-200	E	HB 159		322
20A-9-101	A	SB 54		17	26-39-201	A	HB 159		322
20A-9-201	A	SB 54		17	26-39-202	A	HB 159		322
20A-9-202	A	SB 54		17	26-39-203	E	HB 159		322
20A-9-203	A	HB 272		38	26-39-301	A	HB 159		322
20A-9-403	A	SB 54		17	26-52-102	A	HB 88		302
20A-9-403.1	E	SB 25		003	26-52-201	A	HB 88		302
20A-9-405	E	SB 54		17	26-52-202	A	HB 88		302
20A-9-406	E	SB 54		17	26-52-203	A	HB 88		302
20A-9-407	E	SB 54		17	26-53-401	A	HB 384		165
20A-9-408	E	SB 54		17	26-54-103	A	SB 86		387
20A-9-409	E	SB 54		17	26-55-101	E	HB 105		25
20A-9-410	E	SB 54		17	26-55-101	E	HB 119		130
20A-9-601	A	HB 408		169	26-55-102	E	HB 119		130
20A-9-701	A	SB 54		17	26-55-102	E	HB 105		25
20A-11-101	A	HB 344		158	26-55-103	E	HB 105		25
20A-11-101	A	HB 394		18	26-55-103	E	HB 119		130
20A-11-101	A	HB 260		337	26-55-104	E	HB 119		130
20A-11-101.3	E	HB 394		18	26-56-101	T	HB 105	26-55-101	25
20A-11-101.5	E	HB 394		18	26-56-102	T	HB 105	26-55-102	25
20A-11-103	A	HB 246		335	26-56-103	T	HB 105	26-55-103	25
20A-11-103	A	SB 105		76	30-3-5.2	A	SB 132		267
20A-11-201	A	HB 246		335	30-3-10	A	SB 227		409
20A-11-301	A	HB 246		335	30-3-11.4	A	HB 323		347
20A-11-1203	A	HB 344		158	30-3-32	A	HB 201		239
20A-11-1301	A	HB 246		335	30-3-34.5	E	HB 201		239
20A-11-1301	A	HB 260		337	30-3-37	A	HB 375		162
20A-11-1303	A	HB 260		337	31A-1-301	A	HB 76		300
20A-11-1305	A	HB 260		337	31A-1-301	A	HB 24		290
20A-11-1601	A	HB 394		18	31A-2-104	A	HB 24		290
20A-11-1602	A	HB 394		18	31A-2-104	A	HB 76		300
20A-11-1603	A	HB 394		18	31A-3-102	A	SB 233		435
20A-11-1604	E	HB 246		335	31A-3-304	A	HB 24		290
20A-11-1604	F	HB 394	76-8-109	18	31A-3-304	A	HB 76		300
20A-11-1605	E	HB 394		18	31A-3-304	A	HB 24		290
20A-11-1606	T	HB 246	20A-11-1604	335	31A-3-304	A	HB 76		300
20A-11-1701	E	HB 39		60	31A-4-102	A	HB 76		300
20A-11-1702	E	HB 39		60	31A-4-102	A	HB 24		290
20A-11-1703	E	HB 39		60	31A-4-115	A	HB 24		290
20A-11-1704	E	HB 39		60	31A-4-115	A	HB 76		300
20A-11-1705	E	HB 39		60	31A-4-115	A	HB 141		425
20A-11-1706	E	HB 39		60	31A-8-402.3	A	HB 141		425
20A-12-201	A	SB 248		207	31A-8-402.3	A	HB 24		290
20A-12-301.5	E	HB 394		18	31A-8-402.3	A	HB 76		300
20A-12-303	A	HB 246		335	31A-15-103	A	HB 129		224
20A-17-101	E	HB 200		238	31A-16-103	A	HB 76		300
20A-17-101	E	HB 392		358	31A-16-103	A	HB 24		290
20A-17-102	E	HB 200		238	31A-17-607	A	HB 24		290
20A-18-101	T	HB 392	20A-17-101	358	31A-17-607	A	HB 76		300
23-19-7	A	HB 28		21	31A-21-316	E	SB 129		77
23-19-11	A	SB 165		33	31A-22-305	A	HB 24		290

Laws of Utah - 2014

Section	Action	Bill Number	Former/ Renumber	Chapter Number	Section	Action	Bill Number	Former/ Renumber	Chapter Number
31A-22-305	A	HB 76		300	31A-27a-201	A	HB 24		290
31A-22-305.3	A	HB 24		290	31A-27a-701	A	HB 24		290
31A-22-305.3	A	HB 76		300	31A-27a-701	A	HB 76		300
31A-22-428	A	HB 76		300	31A-29-106	A	HB 76		300
31A-22-428	A	HB 24		290	31A-29-106	A	HB 24		290
31A-22-610.1	A	HB 347		353	31A-29-106	A	HB 141		425
31A-22-617	A	HB 24		290	31A-29-110	A	HB 141		425
31A-22-617	A	HB 76		300	31A-29-111	A	HB 141		425
31A-22-618.5	A	HB 24		290	31A-29-111	A	HB 24		290
31A-22-618.5	A	HB 76		300	31A-29-111	A	HB 76		300
31A-22-625	A	HB 24		290	31A-29-113	A	HB 141		425
31A-22-625	A	HB 76		300	31A-29-114	A	HB 141		425
31A-22-635	A	HB 76		300	31A-29-115	A	HB 141		425
31A-22-635	A	HB 24		290	31A-29-115	A	HB 76		300
31A-22-640	A	HB 113		219	31A-29-115	A	HB 24		290
31A-22-642	E	SB 210		111	31A-30-102	A	HB 24		290
31A-22-642	E	SB 57		379	31A-30-102	A	HB 76		300
31A-22-643	T	SB 210	31A-22-642	111	31A-30-103	A	HB 76		300
31A-22-721	A	HB 141		425	31A-30-103	A	HB 24		290
31A-22-721	A	HB 24		290	31A-30-103	A	HB 141		425
31A-22-721	A	HB 76		300	31A-30-104	A	HB 24		290
31A-23a-102	A	HB 24		290	31A-30-104	A	HB 76		300
31A-23a-102	A	HB 76		300	31A-30-106	A	HB 76		300
31A-23a-104	A	HB 76		300	31A-30-106	A	HB 24		290
31A-23a-104	A	HB 24		290	31A-30-106.7	A	HB 24		290
31A-23a-105	A	HB 24		290	31A-30-106.7	A	HB 76		300
31A-23a-105	A	HB 76		300	31A-30-107	A	HB 76		300
31A-23a-106	A	SB 230		277	31A-30-107	A	HB 24		290
31A-23a-108	A	HB 24		290	31A-30-107	A	HB 141		425
31A-23a-108	A	HB 76		300	31A-30-108	A	HB 141		425
31A-23a-112	A	HB 76		300	31A-30-108	A	HB 24		290
31A-23a-112	A	HB 24		290	31A-30-108	A	HB 76		300
31A-23a-113	A	HB 24		290	31A-30-110	R	HB 76		300
31A-23a-113	A	HB 76		300	31A-30-110	R	HB 24		290
31A-23a-202	A	HB 24		290	31A-30-111	R	HB 24		290
31A-23a-202	A	HB 76		300	31A-30-111	R	HB 76		300
31A-23a-203	A	HB 24		290	31A-30-117	A	HB 141		425
31A-23a-203	A	HB 76		300	31A-30-118	E	HB 141		425
31A-23a-402.5	A	HB 24		290	31A-30-207	A	HB 76		300
31A-23a-402.5	A	HB 76		300	31A-30-207	A	HB 24		290
31A-23a-501	A	HB 76		300	31A-30-209	A	HB 24		290
31A-23a-501	A	HB 24		290	31A-30-209	A	HB 76		300
31A-23a-504	A	SB 230		277	31A-30-211	A	HB 76		300
31A-23a-901	E	SB 230		277	31A-30-211	A	HB 24		290
31A-23a-902	E	SB 230		277	31A-30-301	E	HB 141		425
31A-23a-903	E	SB 230		277	31A-30-302	E	HB 141		425
31A-23a-904	E	SB 230		277	31A-30-303	E	HB 141		425
31A-23a-905	E	SB 230		277	31A-37-501	A	HB 24		290
31A-23a-906	E	SB 230		277	31A-37-501	A	HB 76		300
31A-23a-907	E	SB 230		277	31A-40-203	A	HB 76		300
31A-23b-102	A	HB 24		290	31A-40-203	A	HB 24		290
31A-23b-102	A	HB 76		300	31A-40-209	A	HB 24		290
31A-23b-202	A	HB 76		300	31A-40-209	A	HB 76		300
31A-23b-202	A	HB 24		290	31A-42-202	A	HB 76		300
31A-23b-202.5	E	HB 141		425	31A-42-202	A	HB 24		290
31A-23b-205	A	HB 141		425	31A-43-102	A	HB 24		290
31A-23b-205	A	HB 76		300	31A-43-102	A	HB 76		300
31A-23b-205	A	HB 24		290	31A-43-301	A	HB 76		300
31A-23b-206	A	HB 24		290	31A-43-301	A	HB 24		290
31A-23b-206	A	HB 76		300	31A-43-302	A	HB 24		290
31A-23b-206	A	HB 141		425	31A-43-302	A	HB 76		300
31A-23b-211	A	HB 141		425	31A-43-303	A	HB 76		300
31A-23b-301	A	HB 76		300	31A-43-303	A	HB 24		290
31A-23b-301	A	HB 24		290	31A-43-304	A	HB 24		290
31A-23b-402	A	HB 24		290	31A-43-304	A	HB 76		300
31A-23b-402	A	HB 76		300	32B-2-401	A	HB 40		119
31A-25-208	A	HB 76		300	32B-2-402	A	HB 40		119
31A-25-208	A	HB 24		290	32B-2-403	A	HB 40		119
31A-25-209	A	HB 24		290	32B-2-404	A	HB 40		119
31A-25-209	A	HB 76		300	32B-4-409	A	HB 137		314
31A-26-102	A	HB 76		300	32B-4-410	A	HB 137		314
31A-26-102	A	HB 24		290	32B-5-311	E	HB 190		235
31A-26-206	A	HB 24		290	34-28-3	A	SB 87		188
31A-26-206	A	HB 76		300	34-28-9	A	SB 87		188
31A-26-207	A	HB 76		300	34-28-10	A	SB 87		188
31A-26-207	A	HB 24		290	34-28-19	A	SB 87		188
31A-26-213	A	HB 24		290	34-45-103	A	HB 322		251
31A-26-213	A	HB 76		300	34A-1-303	A	SB 127		192
31A-26-214	A	HB 76		300	34A-2-103	A	HB 94		303
31A-26-214	A	HB 24		290	34A-2-104	A	HB 94		303
31A-26-214.5	A	HB 24		290	34A-2-212	A	SB 127		192
31A-26-214.5	A	HB 76		300	34A-2-302	A	SB 44		182
31A-27a-102	A	HB 76		300	34A-2-413	A	HB 10		286
31A-27a-102	A	HB 24		290	34A-2-413.5	E	HB 10		286
31A-27a-107	A	HB 24		290	34A-2-420	A	SB 160		82
31A-27a-107	A	HB 76		300	34A-2-801	A	SB 127		192
31A-27a-201	A	HB 76		300	34A-3-102	A	HB 10		286

Laws of Utah - 2014

Section	Action	Bill Number	Former/ Renumber	Chapter Number	Section	Action	Bill Number	Former/ Renumber	Chapter Number
34A-8a-101	R	HB 10		286	38-9-303	E	HB 16		114
34A-8a-102	R	HB 10		286	38-9-304	E	HB 16		114
34A-8a-104	R	HB 10		286	38-9-305	E	HB 16		114
34A-8a-105	R	HB 10		286	38-9a-102	A	HB 16		114
34A-8a-201	R	HB 10		286	38-11-102	A	SB 189		108
34A-8a-202	R	HB 10		286	38-12-102	A	HB 115		129
34A-8a-203	R	HB 10		286	39-6-36	A	SB 95		189
34A-8a-204	R	HB 10		286	39-9-101	E	HB 59		122
34A-8a-301	R	HB 10		286	39-9-102	E	HB 59		122
34A-8a-302	R	HB 10		286	39-9-103	E	HB 59		122
34A-8a-303	R	HB 10		286	39-9-104	E	HB 59		122
34A-8a-304	R	HB 10		286	39-9-105	E	HB 59		122
35A-1-102	A	SB 22		179	39-9-106	E	HB 59		122
35A-1-109	E	SB 31		371	39-9-107	E	HB 59		122
35A-1-201	A	SB 31		371	40-6-6.5	A	SB 213		404
35A-1-206	A	SB 31		371	41-1a-102	A	HB 62		61
35A-1-206	A	SB 86		387	41-1a-102	A	HB 199		237
35A-2-203	A	SB 22		179	41-1a-201	A	HB 199		237
35A-3-116	A	SB 31		371	41-1a-204	A	HB 199		237
35A-3-117	E	HB 321		250	41-1a-205	A	HB 148		229
35A-3-203	A	SB 31		371	41-1a-227	R	HB 62		61
35A-3-206	A	SB 31		371	41-1a-229	A	HB 199		237
35A-3-313	A	SB 31		371	41-1a-301	A	HB 199		237
35A-4-307	A	HB 22		289	41-1a-401	A	HB 199		237
35A-4-403	A	SB 31		371	41-1a-401	A	HB 62		61
35A-5-301	E	HB 140		315	41-1a-418	A	HB 214		37
35A-5-302	E	HB 140		315	41-1a-422	A	HB 214		37
35A-5-303	E	HB 140		315	41-1a-506.1	E	HB 199		237
35A-5-304	E	HB 140		315	41-1a-507.1	E	HB 62		61
35A-5-305	E	HB 140		315	41-1a-1101	A	SB 72		382
35A-5-306	E	HB 140		315	41-1a-1103	A	SB 72		382
35A-8-307	A	SB 31		371	41-1a-1206	A	HB 62		61
35A-8-508	A	SB 31		371	41-1a-1206	A	HB 199		237
35A-8-602	A	SB 31		371	41-1a-1212	A	HB 199		237
35A-8-721	A	SB 31		371	41-1a-1212	A	HB 62		61
35A-8-727	R	HB 380		164	41-1a-1306	A	HB 264		30
35A-8-804	A	SB 31		371	41-3-102	A	HB 199		237
35A-8-1203	A	SB 31		371	41-6a-102	A	HB 148		229
35A-8-1607	A	SB 31		371	41-6a-102	A	SB 154		104
35A-8-1608	A	HB 226		241	41-6a-212	A	HB 20		288
35A-8-1708	A	SB 31		371	41-6a-305	A	HB 289		39
35A-8-1802	R	SB 31		371	41-6a-602	A	HB 80		62
35A-9-201	A	SB 31		371	41-6a-1009	A	HB 101		306
35A-9-305	A	SB 31		371	41-6a-1011	A	HB 130		225
35A-11-101	E	HB 90		127	41-6a-1118	E	HB 130		225
35A-11-102	E	HB 90		127	41-6A-1406	A	HB 314		249
35A-11-201	E	HB 90		127	41-6a-1409	A	HB 314		249
35A-11-202	E	HB 90		127	41-6a-1509	A	HB 148		229
35A-11-203	E	HB 90		127	41-6a-1509	A	SB 154		104
36-11-102	A	HB 246		335	41-6a-1629	A	HB 148		229
36-11-103	A	HB 246		335	41-6a-1715	A	SB 253		416
36-11-305.5	E	HB 246		335	41-6a-1716	A	SB 253		416
36-11-401	A	HB 246		335	41-6a-2002	A	SB 222		276
36-12-9.5	E	HB 390		167	41-6a-2003	A	SB 222		276
36-12-13	A	HB 357		430	41-6a-2003	A	SB 51		377
36-12-13	A	HB 311		344	41-6a-2004	A	SB 222		276
36-12-20	A	SB 86		387	41-6a-2005	A	SB 222		276
36-14-2	A	HB 274		339	41-12a-806	A	SB 72		382
36-22-1	A	SB 86		387	41-22-2	A	HB 148		229
36-23-104	A	SB 86		387	46-4-503	A	HB 92		63
36-23-109	A	SB 95		189	48-1d-1305	A	SB 95		189
36-25-102	A	SB 86		387	49-11-102	A	SB 28		15
36-26-102	A	SB 86		387	49-11-201	A	SB 28		15
36-28-101	E	HB 313		150	49-11-403	A	SB 28		15
36-28-102	E	HB 313		150	49-11-505	A	SB 28		15
36-28-103	E	HB 313		150	49-11-505	A	SB 15		175
36-28-104	E	HB 313		150	49-11-505	A	HB 126		311
38-1a-102	A	HB 42		293	49-11-601	A	SB 204		201
38-1a-501	A	HB 42		293	49-11-603	A	SB 28		15
38-1a-503	A	HB 42		293	49-11-610	A	SB 28		15
38-8-3.5	A	SB 95		189	49-11-623	E	HB 426		365
38-9-1	N	HB 16	38-9-102	114	49-11-1101	E	SB 59		185
38-9-2	N	HB 16	38-9-103	114	49-12-201	A	SB 28		15
38-9-3	N	HB 16	38-9-202	114	49-12-202	A	SB 28		15
38-9-4	N	HB 16	38-9-203	114	49-12-202	A	SB 204		201
38-9-6	N	HB 16	38-9-204	114	49-12-202	A	HB 419		363
38-9-7	N	HB 16	38-9-205	114	49-12-203	A	HB 426		365
38-9-101	E	HB 16		114	49-12-203	A	SB 204		201
38-9-102	F	HB 16	38-9-1	114	49-12-203	A	SB 28		15
38-9-103	F	HB 16	38-9-2	114	49-12-204	A	SB 28		15
38-9-201	E	HB 16		114	49-12-401	A	SB 28		15
38-9-202	F	HB 16	38-9-3	114	49-12-402	A	SB 28		15
38-9-203	F	HB 16	38-9-4	114	49-13-102	A	SB 28		15
38-9-204	F	HB 16	38-9-6	114	49-13-201	A	SB 28		15
38-9-205	F	HB 16	38-9-7	114	49-13-202	A	SB 28		15
38-9-301	E	HB 16		114	49-13-202	A	SB 204		201
38-9-302	E	HB 16		114	49-13-202	A	HB 419		363

Laws of Utah - 2014

Section	Action	Bill Number	Former/ Renumber	Chapter Number	Section	Action	Bill Number	Former/ Renumber	Chapter Number
49-13-203	A	HB 426		365	53-3-805	A	HB 331		252
49-13-203	A	SB 28		15	53-3-807	A	HB 331		252
49-13-204	A	SB 28		15	53-3-1007	A	SB 144		101
49-13-401	A	SB 28		15	53-5-707	A	SB 95		189
49-13-402	A	SB 28		15	53-5-707	A	HB 134		226
49-14-201	A	SB 28		15	53-5-711	A	HB 296		146
49-14-401	A	SB 28		15	53-5-712	E	HB 301		147
49-14-501	A	SB 28		15	53-5a-104	E	HB 373		431
49-14-504	A	SB 28		15	53-6-208	A	HB 270		246
49-15-201	A	SB 28		15	53-6-211.5	A	HB 270		246
49-15-202	A	SB 28		15	53-9-103	A	SB 53		378
49-15-204	A	HB 194		133	53-9-108	A	SB 53		378
49-15-401	A	SB 28		15	53-9-111	A	SB 53		378
49-15-501	A	SB 28		15	53-10-108	A	SB 51		377
49-15-504	A	SB 28		15	53-10-108	A	SB 145		79
49-16-201	A	SB 28		15	53-10-202	A	HB 134		226
49-16-401	A	SB 28		15	53-10-202.1	E	HB 134		226
49-16-504	A	SB 28		15	53-10-403	A	HB 212		331
49-17-401	A	SB 28		15	53-10-404	A	HB 212		331
49-17-402	A	SB 28		15	53-10-404.5	A	HB 212		331
49-17-502	A	SB 28		15	53-10-601	N	HB 155	63H-7-302	320
49-18-401	A	SB 28		15	53-10-602	N	HB 155	63H-7-303	320
49-18-402	A	SB 28		15	53-10-603	N	HB 155	63H-7-304	320
49-18-502	A	SB 28		15	53-10-604	N	HB 155	63H-7-305	320
49-19-201	A	SB 28		15	53-10-605	N	HB 155	63H-7-306	320
49-19-401	A	SB 28		15	53-10-606	N	HB 155	63H-7-307	320
49-20-411	A	HB 88		302	53-11-104	A	HB 203		134
49-21-102	A	SB 28		15	53-11-112	A	HB 334		155
49-21-408	E	SB 28		15	53-13-103	A	HB 24		290
49-22-201	A	SB 28		15	53-13-103	A	HB 76		300
49-22-202	A	HB 419		363	53-13-105	A	HB 433		366
49-22-203	A	HB 426		365	53-13-106	A	HB 147		228
49-22-203	A	SB 28		15	53-13-106.1	E	HB 149		317
49-22-204	A	SB 28		15	53-13-106.2	E	HB 149		317
49-22-304	A	SB 28		15	53-13-106.3	E	HB 149		317
49-23-201	A	SB 28		15	53-13-106.4	E	HB 149		317
49-23-303	A	SB 28		15	53-13-106.6	E	HB 149		317
49-23-503	A	SB 28		15	53-13-106.7	E	HB 149		317
51-2a-102	A	HB 283		341	53-13-106.8	E	HB 149		317
51-2a-204	E	HB 283		341	53-13-106.9	E	HB 149		317
51-5-7	A	HB 357		430	53-13-106.10	E	HB 149		317
51-7-9.5	A	HB 103		307	53-13-110	A	SB 95		189
51-7-17	A	HB 103		307	53A-1-402.6	A	HB 342		352
51-7a-101	R	HB 168		426	53A-1-402.8	E	HB 342		352
51-7a-102	R	HB 168		426	53A-1-410	A	SB 34		372
51-7a-201	R	HB 168		426	53A-1-1002	A	SB 86		387
51-7a-202	R	HB 168		426	53A-1-1102	A	SB 209		403
51-7a-301	R	HB 168		426	53A-1-1103	A	SB 209		403
51-7a-302	R	HB 168		426	53A-1-1104	A	SB 209		403
51-9-201	A	SB 121		96	53A-1-1104.5	E	SB 209		403
51-9-305	A	HB 226		241	53A-1-1107	A	SB 209		403
51-9-404	A	SB 259		56	53A-1-1107.5	E	SB 209		403
51-9-408	A	SB 132		267	53A-1-1108	A	SB 209		403
51-9-412	A	SB 265		280	53A-1-1110	A	SB 209		403
51-9-504	A	SB 50		71	53A-1-1114	E	SB 209		403
52-4-103	A	SB 113		434	53A-1a-108	A	HB 320		346
52-4-202	A	SB 113		434	53A-1a-108	A	HB 221		332
52-4-203	A	SB 169		83	53A-1a-108.1	A	HB 221		332
52-4-205	A	SB 179		196	53A-1a-501.3	A	HB 419		363
52-4-209	A	HB 419		363	53A-1a-501.6	A	HB 419		363
53-1-119	A	HB 376		163	53A-1a-502.5	A	SB 218		406
53-2a-1201	E	SB 47		376	53A-1a-503.5	A	HB 419		363
53-2a-1202	E	SB 47		376	53A-1a-504	X	HB 419		363
53-2a-1203	E	SB 47		376	53A-1a-505	A	HB 419		363
53-2a-1204	E	SB 47		376	53A-1a-506	A	HB 419		363
53-2a-1205	E	SB 47		376	53A-1a-506	A	HB 36		291
53-3-102	A	HB 331		252	53A-1a-506	A	SB 218		406
53-3-104	A	HB 219		85	53A-1a-506.5	A	HB 419		363
53-3-105	A	HB 291		343	53A-1a-507	A	HB 419		363
53-3-105	A	HB 331		252	53A-1a-508	X	HB 419		363
53-3-105	A	HB 130		225	53A-1a-509	A	HB 419		363
53-3-106	A	HB 331		252	53A-1a-510	A	HB 419		363
53-3-106	A	HB 291		343	53A-1a-510.5	A	HB 419		363
53-3-204	A	HB 18		58	53A-1a-512	A	HB 419		363
53-3-205	A	HB 219		85	53A-1a-514	A	HB 419		363
53-3-207	A	HB 219		85	53A-1a-515	A	HB 419		363
53-3-219	A	HB 137		314	53A-1a-517	A	HB 419		363
53-3-221	A	HB 130		225	53A-1a-520	A	HB 419		363
53-3-221	A	SB 144		101	53A-1a-521	A	HB 419		363
53-3-223	A	HB 15		007	53A-1a-521	A	SB 95		189
53-3-231	A	HB 15		007	53A-1a-704	A	SB 240		278
53-3-304	A	HB 130		225	53A-1a-1001	A	SB 148		102
53-3-407	A	HB 219		85	53A-1a-1002	A	SB 148		102
53-3-803	A	HB 331		252	53A-1a-1004	A	SB 148		102
53-3-804	A	HB 331		252	53A-1b-101	E	HB 96		304
53-3-804	A	HB 219		85	53A-1b-102	E	HB 96		304
53-3-805	A	HB 219		85	53A-1b-103	E	HB 96		304

Laws of Utah - 2014

Section	Action	Bill Number	Former/ Renumber	Chapter Number	Section	Action	Bill Number	Former/ Renumber	Chapter Number
53A-1b-104	E	HB 96		304	53C-3-102	A	HB 168		426
53A-1b-105	E	HB 96		304	53D-1-101	E	HB 168		426
53A-1b-106	E	HB 96		304	53D-1-102	E	HB 168		426
53A-1b-107	E	HB 96		304	53D-1-103	E	HB 168		426
53A-1b-108	E	HB 96		304	53D-1-104	E	HB 168		426
53A-1b-109	E	HB 96		304	53D-1-105	E	HB 168		426
53A-1b-110	E	HB 96		304	53D-1-201	E	HB 168		426
53A-1b-111	E	HB 96		304	53D-1-202	E	HB 168		426
53A-3-401	A	HB 250		336	53D-1-203	E	HB 168		426
53A-3-402	A	SB 215		202	53D-1-301	E	HB 168		426
53A-3-402.10	A	SB 104		390	53D-1-302	E	HB 168		426
53A-3-413	A	SB 56		73	53D-1-303	E	HB 168		426
53A-3-429	A	HB 92		63	53D-1-304	E	HB 168		426
53A-3-701	X	HB 320		346	53D-1-401	E	HB 168		426
53A-3-701	A	SB 95		189	53D-1-402	E	HB 168		426
53A-6-113	E	SB 258		417	53D-1-403	E	HB 168		426
53A-8a-409	A	SB 101		262	53D-1-501	E	HB 168		426
53A-8a-601	A	SB 101		262	53D-1-502	E	HB 168		426
53A-8a-702	A	SB 101		262	53D-1-503	E	HB 168		426
53A-8a-703	A	SB 101		262	53D-1-601	E	HB 168		426
53A-11-101.7	A	HB 399		359	53D-1-602	E	HB 168		426
53A-11-102	A	SB 39		374	53D-1-603	E	HB 168		426
53A-11-102.7	E	SB 39		374	53D-1-604	E	HB 168		426
53A-11-1501	E	SB 232		412	53D-1-701	E	HB 168		426
53A-11-1502	E	SB 232		412	53D-1-702	E	HB 168		426
53A-11-1503	E	SB 232		412	54-2-1	A	HB 19		20
53A-11-1504	E	SB 232		412	54-2-1	A	SB 67		381
53A-11-1505	E	SB 232		412	54-2-1	A	SB 89		388
53A-13-108	A	SB 40		70	54-3-8	A	SB 67		381
53A-13-109	A	SB 86		387	54-3-30	A	SB 217		55
53A-13-110	A	SB 40		70	54-3-31	A	SB 217		55
53A-13-112	E	HB 286		342	54-3-31	A	SB 95		189
53A-13-302	A	HB 23		214	54-3-32	E	SB 67		381
53A-15-101.5	A	HB 92		63	54-4-2	A	SB 67		381
53A-15-104	A	HB 92		63	54-15-102	A	SB 208		53
53A-15-1301	A	HB 23		214	54-15-104	A	SB 208		53
53A-15-1301	A	HB 329		349	54-15-105	R	SB 208		53
53A-15-1302	A	HB 329		349	54-15-105.1	E	SB 208		53
53A-15-1401	T	SB 122	53A-15-1501	392	54-15-106	A	SB 208		53
53A-15-1402	T	SB 122	53A-15-1502	392	54-15-108	A	SB 67		381
53A-15-1403	T	SB 122	53A-15-1503	392	54-17-801	A	SB 166		34
53A-15-1501	E	SB 122		392	57-1-24.3	A	SB 130		266
53A-15-1502	E	SB 122		392	57-3-106	A	SB 79		89
53A-15-1503	E	SB 122		392	57-3-106	A	HB 315		151
53A-16-101.5	A	HB 221		332	57-8-7.5	A	SB 95		189
53A-16-101.6	A	HB 221		332	57-8-10	A	SB 147		397
53A-16-101.6	A	HB 168		426	57-8-10.1	E	SB 147		397
53A-16-107	A	SB 95		189	57-8-13.8	A	SB 147		397
53A-16-114	A	SB 95		189	57-8-13.10	A	SB 147		397
53A-17a-103	A	SB 103		389	57-8-37	A	HB 26		116
53A-17a-124	A	HB 320		346	57-8-43	A	SB 95		189
53A-17a-133	A	SB 95		189	57-8-44	A	HB 26		116
53A-17a-135	A	HB 1		004	57-8a-208	A	HB 26		116
53A-17a-156	A	HB 337		351	57-8a-209	A	SB 147		397
53A-17a-165	A	SB 140		193	57-8a-211	A	SB 95		189
53A-17a-169	A	SB 131		393	57-8a-301	A	HB 26		116
53A-17a-171	E	SB 43		375	57-17-3	A	SB 147		397
53A-18-102	A	HB 170		325	57-17-5	X	SB 147		397
53A-20-103	A	HB 111		64	58-1-501	A	SB 226		408
53A-20-104.5	A	HB 116		309	58-1-501.8	E	SB 137		99
53A-20-110	E	HB 116		309	58-11a-502	A	SB 143		100
53A-20b-201	A	HB 419		363	58-11a-503	A	SB 143		100
53A-25a-102	A	SB 95		189	58-13-3	A	SB 168		400
53A-30-101	E	SB 93		433	58-16a-302	A	HB 98		305
53A-30-102	E	SB 93		433	58-16a-601	A	HB 98		305
53A-30-103	E	SB 93		433	58-17b-102	A	HB 114		308
53B-1-103	A	SB 68		88	58-17b-102	A	SB 55		72
53B-2a-103	A	HB 95		128	58-17b-301	A	SB 55		72
53B-2a-108	A	HB 95		128	58-17b-301	A	SB 77		385
53B-3-103	A	HB 72		298	58-17b-302	A	SB 55		72
53B-8-102	A	HB 45		216	58-17b-305.1	E	SB 77		385
53B-13b-101	E	SB 16		87	58-17b-309	A	SB 77		385
53B-13b-102	E	SB 16		87	58-17b-309	A	SB 120		191
53B-13b-103	E	SB 16		87	58-17b-309	A	SB 55		72
53B-13b-104	E	SB 16		87	58-17b-309.5	R	SB 55		72
53B-16-107	A	HB 32		215	58-17b-309.6	A	SB 55		72
53B-16-205.5	E	SB 38		69	58-17b-502	A	SB 55		72
53B-17-101	A	HB 92		63	58-17b-507	E	HB 119		130
53B-17-101.5	E	HB 92		63	58-17b-602	A	SB 55		72
53B-17-102	R	HB 92		63	58-17b-608.1	A	SB 78		386
53B-17-104	A	HB 92		63	58-17b-612	A	SB 55		72
53B-17-105	E	HB 92		63	58-17b-613	A	SB 55		72
53B-17-106	E	HB 92		63	58-17b-624	E	SB 77		385
53B-17-107	E	HB 92		63	58-17b-801	E	SB 55		72
53B-18-901	A	HB 92		63	58-17b-802	E	SB 55		72
53C-1-201	A	HB 168		426	58-17b-803	E	SB 55		72
53C-1-203	A	HB 168		426	58-17b-804	E	SB 55		72

Laws of Utah - 2014

Section	Action	Bill Number	Former/ Renumber	Chapter Number	Section	Action	Bill Number	Former/ Renumber	Chapter Number
58-17b-805	E	SB 55		72	59-2-1702	A	SB 237		413
58-17b-806	E	SB 55		72	59-2-1703	A	SB 237		413
58-24b-102	A	HB 367		354	59-2-1705	A	SB 237		413
58-24b-505	E	HB 367		354	59-2-1705	A	SB 244		279
58-28-307	A	SB 120		191	59-5-115	A	HB 226		241
58-31b-302	A	HB 143		316	59-5-116	A	HB 226		241
58-31b-305	A	HB 143		316	59-5-119	A	HB 226		241
58-31b-502	A	SB 55		72	59-5-215	A	HB 226		241
58-31b-703	E	HB 119		130	59-7-102	A	SB 233		435
58-37-4.2	A	HB 30		23	59-7-102	A	SB 47		376
58-37-4.3	E	HB 105		25	59-7-106	A	SB 207		273
58-37-6	A	SB 138		78	59-7-302	A	SB 155		398
58-37-8	A	SB 205		51	59-7-302	A	HB 273		65
58-37-8	A	HB 11		19	59-7-404.5	A	SB 47		376
58-37f-203	A	SB 55		72	59-7-605	A	HB 74		125
58-37f-301	A	SB 29		68	59-7-614	A	SB 224		407
58-37f-301	A	SB 178		401	59-7-615	R	HB 140		315
58-37f-601	A	SB 29		68	59-7-616	E	HB 140		315
58-40-302	A	SB 95		189	59-7-616	E	HB 356		429
58-44a-103	R	SB 254		208	59-7-617	T	HB 140	59-7-616	315
58-47b-304	A	HB 324		348	59-7-901	E	HB 140		315
58-47b-304	A	HB 207		330	59-7-902	E	HB 140		315
58-55-102	A	SB 156		81	59-7-903	E	HB 140		315
58-55-302	A	SB 186		402	59-9-107	E	SB 233		435
58-55-308.1	E	HB 171		326	59-10-116.1	E	SB 47		376
58-55-501	A	SB 87		188	59-10-403	A	SB 47		376
58-55-503	A	SB 87		188	59-10-1009	A	HB 74		125
58-55-605	E	SB 87		188	59-10-1032	E	HB 140		315
58-60-506	A	SB 95		189	59-10-1110	E	HB 356		429
58-67-502	A	SB 55		72	59-12-102	A	SB 65		380
58-67-702	E	HB 119		130	59-12-102	A	SB 242		414
58-68-502	A	SB 55		72	59-12-103	A	SB 65		380
58-68-702	E	HB 119		130	59-12-103	A	HB 356		429
58-70a-502	A	SB 55		72	59-12-104	A	HB 209		27
58-70a-503	A	SB 55		72	59-12-104	A	HB 31		24
58-70a-505	E	HB 119		130	59-12-104	A	HB 59		122
58-71-102	A	SB 193		110	59-12-104	A	SB 65		380
58-71-202	A	SB 193		110	59-12-104	A	SB 47		376
58-77-601	A	SB 95		189	59-12-204	A	SB 83		258
58-81-103	A	SB 125		49	59-12-801	A	SB 176		50
58-83-502	A	SB 55		72	59-12-802	A	SB 176		50
58-84-101	E	HB 277		340	59-12-803	R	SB 176		50
58-84-102	E	HB 277		340	59-12-804	A	SB 176		50
58-84-103	E	HB 277		340	59-12-805	A	SB 176		50
58-84-201	E	HB 277		340	59-12-2218	A	SB 188		271
58-84-202	E	HB 277		340	59-14-302	A	SB 95		189
58-84-203	E	HB 277		340	61-2c-102	A	HB 332		350
58-84-301	E	HB 277		340	61-2c-210	E	HB 332		350
59-1-201	A	SB 19		370	61-2c-402.1	A	HB 332		350
59-1-202	A	SB 19		370	61-2f-103	A	HB 332		350
59-1-401	A	SB 206		52	61-2f-204	A	HB 332		350
59-1-403	A	HB 155		320	61-2f-205	A	HB 332		350
59-1-809	A	SB 214		54	61-2f-208	E	HB 332		350
59-1-905	A	SB 86		387	61-2f-308	A	HB 332		350
59-1-1410	A	HB 31		24	61-2f-402	A	HB 332		350
59-1-1601	E	HB 379		356	61-2f-406	A	HB 332		350
59-1-1602	E	HB 379		356	61-2f-410	E	HB 332		350
59-1-1603	E	HB 379		356	61-2g-102	A	HB 332		350
59-1-1604	E	HB 379		356	61-2g-205	A	HB 332		350
59-1-1605	E	HB 379		356	61-2g-302	A	HB 332		350
59-2-102	A	HB 273		65	61-2g-304.5	E	HB 332		350
59-2-102	A	SB 231		411	61-2g-310	A	HB 332		350
59-2-103	A	HB 273		65	61-2g-311	A	HB 332		350
59-2-103.5	A	HB 273		65	61-2g-312	A	HB 332		350
59-2-301.6	E	HB 93		218	61-2g-313	A	HB 332		350
59-2-327	A	SB 244		279	61-2g-314	A	HB 332		350
59-2-330	R	HB 62		61	61-2g-316	E	HB 332		350
59-2-405.2	A	HB 199		237	61-2g-501	A	HB 332		350
59-2-506	A	SB 244		279	62A-1-104	A	HB 21		213
59-2-804	A	HB 273		65	62A-1-111	A	HB 21		213
59-2-911	A	SB 180		270	62A-1-120	A	SB 86		387
59-2-913	A	SB 244		279	62A-1-201	E	HB 214		37
59-2-918.5	A	SB 61		256	62A-1-202	E	HB 214		37
59-2-919	A	SB 61		256	62A-2-101	A	HB 211		240
59-2-919.1	A	SB 61		256	62A-2-108.2	A	HB 211		240
59-2-924	A	SB 180		270	62A-2-108.8	E	HB 132		312
59-2-924.1	A	SB 244		279	62A-3-303	A	HB 267		245
59-2-924.2	A	SB 180		270	62A-3-312	A	HB 267		245
59-2-1104	A	HB 219		85	62A-4a-103	A	SB 126		265
59-2-1317	A	SB 244		279	62A-4a-105	A	SB 126		265
59-2-1331	A	SB 244		279	62A-4a-105	A	HB 254		140
59-2-1601	A	SB 180		270	62A-4a-202	A	SB 126		265
59-2-1602	A	SB 180		270	62A-4a-207	A	SB 86		387
59-2-1603	A	SB 180		270	62A-4a-210	E	HB 346		67
59-2-1604	R	SB 180		270	62A-4a-211	E	HB 346		67
59-2-1605	A	SB 180		270	62A-4a-212	E	HB 346		67
59-2-1606	A	SB 180		270	62A-4a-501	A	HB 132		312

Laws of Utah - 2014

Section	Action	Bill Number	Former/ Renumber	Chapter Number	Section	Action	Bill Number	Former/ Renumber	Chapter Number
62A-15-103	A	HB 40		119	63C-13-106	R	SB 270		419
62A-15-103	A	HB 211		240	63C-13-107	R	SB 270		419
62A-15-103	A	SB 238		205	63C-13-107	A	SB 86		387
62A-15-1101	A	HB 134		226	63C-13-107	A	SB 95		189
63A-1-103	A	HB 38		292	63C-13-108	R	SB 270		419
63A-1-116	E	HB 38		292	63C-14-202	A	SB 86		387
63A-3-106	A	SB 86		387	63C-15-101	E	SB 268		211
63A-3-107	A	SB 86		387	63C-15-102	E	SB 268		211
63A-3-205	A	HB 138		227	63C-15-201	E	SB 268		211
63A-3-401	A	SB 59		185	63C-15-202	E	SB 268		211
63A-3-402	A	SB 59		185	63C-15-203	E	SB 268		211
63A-3-402	A	HB 111		64	63C-15-204	E	SB 268		211
63A-3-403	A	SB 59		185	63E-1-102	A	HB 168		426
63A-3-403	A	SB 70		75	63E-1-102	A	HB 155		320
63A-3-403	A	SB 86		387	63E-1-201	A	SB 86		387
63A-3-404	A	SB 86		387	63F-1-202	A	SB 86		387
63A-3-404	A	SB 70		75	63F-1-205	A	SB 179		196
63A-3-404	A	SB 59		185	63F-1-801	R	HB 155		320
63A-3-501	A	HB 10		286	63F-1-802	R	HB 155		320
63A-4-205.5	A	HB 155		320	63G-1-401	A	HB 64		123
63A-5-104	A	HB0009		113	63G-1-401	A	HB 275		86
63A-5-104	A	SB 172		195	63G-1-401	A	SB 149		80
63A-5-205	A	HB 141		425	63G-1-401	A	SB 106		92
63A-9-401	A	SB 99		190	63G-1-601	A	SB 41		46
63A-9-403	E	SB 99		190	63G-2-103	A	SB 88		90
63B-1a-101	A	SB0009		173	63G-2-202	A	SB 36		373
63B-1b-102	A	HB 138		227	63G-2-301	A	SB 36		373
63B-1b-202	A	HB 138		227	63G-2-302	A	SB 36		373
63B-1b-202	A	SB 225		203	63G-2-305	A	SB 88		90
63B-2-102	A	SB 179		196	63G-2-305	A	HB 155		320
63B-3-102	A	SB 179		196	63G-3-305	A	HB 14		57
63B-4-102	A	SB 179		196	63G-6a-102	A	SB 179		196
63B-5-102	A	SB 179		196	63G-6a-103	A	SB 179		196
63B-6-102	A	SB 179		196	63G-6a-104	A	SB 179		196
63B-6-402	A	SB 179		196	63G-6a-104	A	HB 92		63
63B-7-102	A	SB 179		196	63G-6a-106	A	SB 179		196
63B-7-402	A	SB 179		196	63G-6a-107	A	SB 179		196
63B-8-102	A	SB 179		196	63G-6a-107	A	SB 24		180
63B-8-402	A	SB 179		196	63G-6a-107	A	HB 133		313
63B-9-102	R	HB0009		113	63G-6a-108	A	SB 179		196
63B-9-103	A	SB 179		196	63G-6a-109	E	SB 179		196
63B-11-202	A	SB 179		196	63G-6a-204	A	SB 179		196
63B-17-102	R	SB0009		173	63G-6a-303	A	SB 179		196
63B-22-201	A	HB0009		113	63G-6a-402	A	SB 179		196
63B-23-101	E	HB0009		113	63G-6a-402	A	SB 22		179
63B-23-201	E	HB0009		113	63G-6a-403	A	SB 179		196
63B-23-301	E	HB0009		113	63G-6a-404	A	SB 179		196
63C-4a-202	A	SB 86		387	63G-6a-406	A	SB 179		196
63C-4a-302	A	SB 86		387	63G-6a-408	A	SB 179		196
63C-4a-303	A	HB 120		221	63G-6a-603	A	SB 179		196
63C-4a-306	E	HB 120		221	63G-6a-606	A	SB 179		196
63C-6-103	A	SB 86		387	63G-6a-607	A	SB 179		196
63C-7-101	N	HB 155	63H-7-101	320	63G-6a-609	A	SB 179		196
63C-7-102	N	HB 155	63H-7-102	320	63G-6a-611	A	SB 179		196
63C-7-103	N	HB 155	63H-7-103	320	63G-6a-612	A	SB 179		196
63C-7-201	N	HB 155	63H-7-201	320	63G-6a-702	A	SB 179		196
63C-7-202	N	HB 155	63H-7-202	320	63G-6a-703	A	SB 179		196
63C-7-203	R	HB 155		320	63G-6a-704	A	SB 179		196
63C-7-204	R	HB 155		320	63G-6a-705	N	SB 179	63G-6a-707.5	196
63C-7-205	N	HB 155	63H-7-203	320	63G-6a-707	A	SB 179		196
63C-7-206	N	HB 155	63H-7-204	320	63G-6a-707.5	F	SB 179	63G-6a-705	196
63C-7-207	N	HB 155	63H-7-205	320	63G-6a-708	A	SB 179		196
63C-7-208	N	HB 155	63H-7-501	320	63G-6a-709	A	SB 179		196
63C-7-209	N	HB 155	63H-7-502	320	63G-6a-709.5	A	SB 179		196
63C-7-210	N	HB 155	63H-7-503	320	63G-6a-802	A	SB 179		196
63C-7-211	N	HB 155	63H-7-504	320	63G-6a-904	A	SB 179		196
63C-7-301	N	HB 155	63H-7-401	320	63G-6a-1103	A	SB 179		196
63C-7-302	N	HB 155	63H-7-402	320	63G-6a-1105	A	SB 179		196
63C-7-303	N	HB 155	63H-7-403	320	63G-6a-1202	X	SB 179		196
63C-7-304	N	HB 155	63H-7-404	320	63G-6a-1204	A	SB 179		196
63C-7-305	N	HB 155	63H-7-405	320	63G-6a-1205	A	SB 179		196
63C-7-306	N	HB 155	63H-7-406	320	63G-6a-1206	A	SB 179		196
63C-9-202	A	SB 86		387	63G-6a-1402	A	SB 179		196
63C-9-403	A	HB 141		425	63G-6a-1502	A	SB 179		196
63C-9-501	A	HB 437		172	63G-6a-1503	A	SB 179		196
63C-9-501.1	E	HB 437		172	63G-6a-1505	A	SB 179		196
63C-9-702	A	SB 86		387	63G-6a-1602	A	SB 179		196
63C-10-102	A	SB 84		259	63G-6a-1603	A	SB 179		196
63C-10-103	A	SB 84		259	63G-6a-1702	A	SB 179		196
63C-10-201	R	SB 84		259	63G-6a-1703	A	SB 179		196
63C-10-202	R	SB 84		259	63G-6a-1706	A	SB 179		196
63C-13-101	R	SB 270		419	63G-6a-1802	A	SB 179		196
63C-13-102	R	SB 270		419	63G-6a-1803	R	SB 179		196
63C-13-103	R	SB 270		419	63G-6a-1902	A	SB 179		196
63C-13-104.3	R	SB 270		419	63G-6a-1903	A	SB 179		196
63C-13-104.7	R	SB 270		419	63G-6a-1904	A	SB 179		196
63C-13-105	R	SB 270		419	63G-6a-1905	R	SB 179		196

Laws of Utah - 2014

Section	Action	Bill Number	Former/ Renumber	Chapter Number	Section	Action	Bill Number	Former/ Renumber	Chapter Number
63G-6a-1906	A	SB 179		196	63I-1-263	A	SB 172		195
63G-6a-1907	A	SB 179		196	63I-1-263	A	SB 233		435
63G-6a-1910	A	SB 179		196	63I-1-263	A	SB 268		211
63G-6a-2103	A	SB 179		196	63I-1-263	A	SB 270		419
63G-6a-2105	A	SB 179		196	63I-1-263	A	SB 95		189
63G-6a-2301	R	SB 179		196	63I-1-269	A	HB 155		320
63G-6a-2302	R	SB 179		196	63I-1-276	E	HB 134		226
63G-6a-2304.5	R	SB 179		196	63I-1-278	A	HB 279		247
63G-6a-2305	R	SB 179		196	63I-1-278	A	SB 132		267
63G-6a-2306	R	SB 179		196	63I-2-210	A	SB 216		405
63G-6a-2307	R	SB 179		196	63I-2-217	A	SB 216		405
63G-6a-2308	R	SB 179		196	63I-2-217	A	SB 95		189
63G-6a-2401	E	SB 179		196	63I-2-219	E	HB 138		227
63G-6a-2402	E	SB 179		196	63I-2-220	A	SB 25		003
63G-6a-2403	E	SB 179		196	63I-2-236	A	SB 95		189
63G-6a-2404	E	SB 179		196	63I-2-236	A	HB 313		150
63G-6a-2405	E	SB 179		196	63I-2-253	A	SB 95		189
63G-6a-2406	E	SB 179		196	63I-2-253	A	SB 34		372
63G-6a-2407	E	SB 179		196	63I-2-253	A	SB 131		393
63G-7-202	A	SB 250		415	63I-2-253	A	SB 148		102
63G-7-301	A	HB 293		145	63I-2-259	A	SB 61		256
63G-7-401	A	SB 267		210	63I-2-263	A	HB 197		427
63G-12-202	A	SB 203		200	63I-2-263	A	HB 437		172
63G-12-306	A	SB 95		189	63I-2-263	A	HB 34		423
63G-13-203	R	SB 95		189	63I-2-265	A	HB 133		313
63G-14-201	A	SB 203		200	63I-2-277	A	SB 95		189
63G-18-101	E	SB 167		399	63I-3-206	A	SB 86		387
63G-18-102	E	SB 167		399	63I-4a-102	A	HB 155		320
63G-18-103	E	SB 167		399	63I-4a-202	A	SB 86		387
63G-18-104	E	SB 167		399	63I-4a-202	A	SB 95		189
63G-18-105	E	SB 167		399	63I-4a-203	A	SB 31		371
63H-1-102	A	SB 180		270	63I-5-102	A	SB 93		433
63H-1-102	A	SB 45		183	63I-5-201	X	SB 93		433
63H-1-202	A	SB 45		183	63I-5-301	A	SB 93		433
63H-1-501	A	SB 45		183	63I-5-302	X	SB 93		433
63H-2-102	A	HB 86		301	63I-5-401	A	SB 93		433
63H-2-401	A	HB 86		301	63J-1-201	A	HB 155		320
63H-6-104	A	HB 253		139	63J-1-201	A	HB 357		430
63H-7-101	F	HB 155	63C-7-101	320	63J-1-201	A	HB 311		344
63H-7-102	F	HB 155	63C-7-102	320	63J-1-201.7	R	HB 357		430
63H-7-103	F	HB 155	63C-7-103	320	63J-1-205	A	HB 357		430
63H-7-201	F	HB 155	63C-7-201	320	63J-1-206	A	SB 95		189
63H-7-202	F	HB 155	63C-7-202	320	63J-1-410	A	HB 193		236
63H-7-203	F	HB 155	63C-7-205	320	63J-1-505	A	SB 95		189
63H-7-204	F	HB 155	63C-7-206	320	63J-1-602.1	A	SB 75		384
63H-7-205	F	HB 155	63C-7-207	320	63J-1-602.3	A	SB 95		189
63H-7-301	E	HB 155		320	63J-1-602.3	A	HB 96		304
63H-7-302	F	HB 155	53-10-601	320	63J-1-602.4	A	HB 214		37
63H-7-303	F	HB 155	53-10-602	320	63J-1-602.4	A	SB 95		189
63H-7-304	F	HB 155	53-10-603	320	63J-1-602.4	A	SB 62		186
63H-7-305	F	HB 155	53-10-604	320	63J-1-701	R	HB 357		430
63H-7-306	F	HB 155	53-10-605	320	63J-1-702	R	HB 357		430
63H-7-307	F	HB 155	53-10-606	320	63J-1-703	R	HB 357		430
63H-7-308	E	HB 155		320	63J-3-103	A	HB 92		63
63H-7-309	E	HB 155		320	63J-4-606	A	HB 151		319
63H-7-310	E	HB 155		320	63J-7-102	A	HB 155		320
63H-7-401	F	HB 155	63C-7-301	320	63J-8-102	A	HB 158		321
63H-7-402	F	HB 155	63C-7-302	320	63J-8-104	A	HB 183		328
63H-7-403	F	HB 155	63C-7-303	320	63J-8-105	A	HB 158		321
63H-7-404	F	HB 155	63C-7-304	320	63J-8-105.1	T	HB 412	63J-8-105.9	361
63H-7-405	F	HB 155	63C-7-305	320	63J-8-105.5	A	HB 158		321
63H-7-406	F	HB 155	63C-7-306	320	63J-8-105.6	R	HB 158		321
63H-7-501	F	HB 155	63C-7-208	320	63J-8-105.7	A	HB 158		321
63H-7-502	F	HB 155	63C-7-209	320	63J-8-105.8	E	HB 158		321
63H-7-503	F	HB 155	63C-7-210	320	63J-8-105.9	E	HB 158		321
63H-7-504	F	HB 155	63C-7-211	320	63J-8-105.9	E	HB 412		361
63I-1-209	A	HB 33		117	63J-9-101	E	HB 283		341
63I-1-219	A	SB 26		43	63J-9-102	E	HB 283		341
63I-1-220	A	HB 156		231	63J-9-201	E	HB 283		341
63I-1-226	A	HB 35		118	63J-9-202	E	HB 283		341
63I-1-226	A	HB 105		25	63L-2-201	A	HB 183		328
63I-1-231	A	HB 141		425	63L-2-201	A	HB 341		157
63I-1-231	A	SB 57		379	63L-6-105	E	HB 164		324
63I-1-234	A	HB 10		286	63L-7-101	E	HB 160		323
63I-1-234	A	HB 10		286	63L-7-102	E	HB 160		323
63I-1-235	A	HB 90		127	63L-7-103	E	HB 160		323
63I-1-253	A	HB 134		226	63L-7-104	E	HB 160		323
63I-1-253	A	SB 95		189	63L-7-105	E	HB 160		323
63I-1-253	A	SB 232		412	63L-7-106	E	HB 160		323
63I-1-257	A	SB 20		177	63L-7-107	E	HB 160		323
63I-1-258	A	SB 27		181	63L-7-108	E	HB 160		323
63I-1-258	A	SB 55		72	63L-7-109	E	HB 160		323
63I-1-258	A	HB 105		25	63M-1-201	A	SB 31		371
63I-1-259	A	SB 214		54	63M-1-206	E	SB 31		371
63I-1-262	A	HB 134		226	63M-1-206	E	HB 197		427
63I-1-263	A	HB0009		113	63M-1-207	T	HB 197	63M-1-206	427
63I-1-263	A	HB 356		429	63M-1-303	A	SB 9		173

Laws of Utah - 2014

Section	Action	Bill Number	Former/ Renumber	Chapter Number	Section	Action	Bill Number	Former/ Renumber	Chapter Number
63M-1-403	A	SB 31		371	63M-1-3512	T	SB 233	63M-1-3412	435
63M-1-413	A	SB 84		259	63M-2-102	A	SB 62		186
63M-1-605	A	SB 31		371	63M-2-201	A	SB 62		186
63M-1-702	A	SB 263		418	63M-2-202	A	SB 62		186
63M-1-703	A	SB 263		418	63M-2-203	A	SB 62		186
63M-1-704	A	SB 263		418	63M-2-204	A	SB 62		186
63M-1-704	A	SB 31		371	63M-2-301	A	SB 62		186
63M-1-903	A	SB 233		435	63M-2-302	A	SB 62		186
63M-1-904	A	SB 31		371	63M-2-302.5	E	SB 62		186
63M-1-1103	A	SB 31		371	63M-2-303	A	SB 62		186
63M-1-1203	A	HB 243		334	63M-2-401	E	SB 62		186
63M-1-1205	A	HB 243		334	63M-2-402	E	SB 62		186
63M-1-1206	A	HB 243		334	63M-4-402	E	HB 44		294
63M-1-1206	A	SB 31		371	63M-4-503	A	SB 242		414
63M-1-1214	A	HB 243		334	63M-7-207	A	SB 86		387
63M-1-1217	A	HB 243		334	63M-7-302	A	SB 86		387
63M-1-1218	A	HB 243		334	63M-7-303	A	HB 48		120
63M-1-1304	A	SB 31		371	63M-7-405	A	SB 86		387
63M-1-1403	A	HB 356		429	63M-11-206	A	SB 86		387
63M-1-1404	A	SB 31		371	64-13e-104	A	SB 241		436
63M-1-1406	A	HB 34		423	64-13e-105	A	SB 241		436
63M-1-1603	A	SB 84		259	65A-5-1	A	HB 133		313
63M-1-1604	A	SB 84		259	65A-5-2	A	HB 133		313
63M-1-1605	A	SB 84		259	67-1a-10	A	SB 86		387
63M-1-1606	A	SB 31		371	67-3-1	A	SB 51		377
63M-1-1805	A	SB 31		371	67-4-18	R	HB 380		164
63M-1-1901	A	SB 31		371	67-5-23	A	HB 196		26
63M-1-2002	A	SB 225		203	67-5-25	R	HB 349		159
63M-1-2003	R	SB 225		203	67-5-32	A	SB 264		209
63M-1-2004	A	SB 225		203	67-16-4	A	SB 179		196
63M-1-2006	A	SB 31		371	67-16-5	A	SB 179		196
63M-1-2406	A	SB 31		371	67-16-5.3	A	SB 179		196
63M-1-2504	A	SB 31		371	67-16-5.6	A	SB 179		196
63M-1-2504	A	HB 141		425	67-16-6	A	SB 179		196
63M-1-2704	A	SB 31		371	67-19-14.6	E	SB 269		437
63M-1-2910	A	SB 31		371	67-19-15	A	HB 327		154
63M-1-3105	A	SB 31		371	67-19-43	A	SB 28		15
63M-1-3201	A	HB 150		318	67-19f-101	E	SB 269		437
63M-1-3202	A	HB 150		318	67-19f-102	E	SB 269		437
63M-1-3203	A	HB 150		318	67-19f-201	E	SB 269		437
63M-1-3203	A	SB 95		189	67-19f-202	E	SB 269		437
63M-1-3204	A	HB 150		318	67-19f-301	E	SB 269		437
63M-1-3204	A	HB 92		63	67-19f-302	E	SB 269		437
63M-1-3205	A	HB 150		318	67-20-4	A	HB 304		148
63M-1-3207	A	HB 150		318	69-2-2	A	HB 155		320
63M-1-3207	A	SB 31		371	69-2-2	A	SB 199		36
63M-1-3208	E	HB 150		318	69-2-3	A	HB 155		320
63M-1-3209	E	HB 150		318	69-2-4	A	HB 155		320
63M-1-3210	E	HB 150		318	69-2-5	A	HB 155		320
63M-1-3211	E	HB 150		318	69-2-5.5	A	HB 155		320
63M-1-3306	X	SB 31		371	69-2-5.6	A	HB 155		320
63M-1-3401	E	SB 233		435	69-2-5.7	A	HB 155		320
63M-1-3401	E	HB 356		429	69-2-7	A	SB 199		36
63M-1-3402	E	HB 356		429	69-2-8	A	SB 199		36
63M-1-3402	E	SB 233		435	70A-2a-533	A	SB 95		189
63M-1-3403	E	SB 233		435	70C-1-202	A	SB 124		97
63M-1-3403	E	HB 356		429	70C-7-103	A	SB 170		84
63M-1-3404	E	HB 356		429	70C-8-203	A	SB 124		97
63M-1-3404	E	SB 233		435	70D-2-201	A	SB 124		97
63M-1-3405	E	SB 233		435	70D-2-203	A	SB 124		97
63M-1-3405	E	HB 356		429	70D-2-305	A	SB 124		97
63M-1-3406	E	HB 356		429	70D-3-102	A	SB 124		97
63M-1-3406	E	SB 233		435	71-8-1	A	HB 219		85
63M-1-3407	E	SB 233		435	71-8-3	A	SB 96		91
63M-1-3407	E	HB 356		429	71-8-4	A	SB 96		91
63M-1-3408	E	HB 356		429	71-10-1	A	HB 222		137
63M-1-3408	E	SB 233		435	71-11-11	R	SB 273		212
63M-1-3409	E	SB 233		435	71-12-101	E	SB 96		91
63M-1-3409	E	HB 356		429	71-12-102	E	SB 96		91
63M-1-3410	E	HB 356		429	71-12-103	E	SB 96		91
63M-1-3410	E	SB 233		435	71-12-104	E	SB 96		91
63M-1-3411	E	SB 233		435	72-2-122	R	HB 349		159
63M-1-3411	E	HB 356		429	72-4-121	A	SB 32		44
63M-1-3412	E	HB 356		429	72-4-130	A	SB 32		44
63M-1-3412	E	SB 233		435	72-4-214	E	SB 234		204
63M-1-3413	E	HB 356		429	72-4-302	A	SB 86		387
63M-1-3501	T	SB 233	63M-1-3401	435	72-5-104	A	SB 187		107
63M-1-3502	T	SB 233	63M-1-3402	435	72-6-107.5	A	HB 141		425
63M-1-3503	T	SB 233	63M-1-3403	435	72-6-116	A	SB 52		184
63M-1-3504	T	SB 233	63M-1-3404	435	72-6-401	E	HB 152		132
63M-1-3505	T	SB 233	63M-1-3405	435	72-6-402	E	HB 152		132
63M-1-3506	T	SB 233	63M-1-3406	435	72-6-403	E	HB 152		132
63M-1-3507	T	SB 233	63M-1-3407	435	72-7-109	A	HB 92		63
63M-1-3508	T	SB 233	63M-1-3408	435	72-9-603	A	HB 314		249
63M-1-3509	T	SB 233	63M-1-3409	435	72-9-604	A	HB 314		249
63M-1-3510	T	SB 233	63M-1-3410	435	73-2-25	A	SB 17		369
63M-1-3511	T	SB 233	63M-1-3411	435	73-3-18	A	SB 17		369

Laws of Utah - 2014

Section	Action	Bill Number	Former/ Renumber	Chapter Number	Section	Action	Bill Number	Former/ Renumber	Chapter Number
73-3-26	A	SB 17		369	78A-2-301	A	SB 95		189
73-3-29	A	SB 17		369	78A-2-408	A	SB 115		48
73-3-31	A	SB 274		420	78A-2-501	A	SB 110		94
73-5-3	A	SB 17		369	78A-2-501	A	SB 108		263
73-5-7	A	HB 370		355	78A-2-502	A	SB 86		387
73-10-33	A	HB 370		355	78A-2-701	E	SB 132		267
73-27-102	A	SB 86		387	78A-2-702	E	SB 132		267
75-2-114	A	HB 265		142	78A-2-703	F	SB 132	78A-2-227.1	267
75-3-107	A	HB 265		142	78A-2-704	F	SB 132	78A-2-227.5	267
75-3-301	A	HB 265		142	78A-2-705	F	SB 132	78A-2-228	267
75-5-310	A	HB 265		142	78A-6-105	A	SB 173		35
75-5-310.5	E	HB 265		142	78A-6-120	A	HB 53		217
75-5-312	A	HB 265		142	78A-6-302	A	SB 173		35
75-5-408	A	HB 265		142	78A-6-306	A	SB 173		35
75-5-415	A	HB 265		142	78A-6-312	A	SB 173		35
75-5-416	A	HB 265		142	78A-6-314	A	SB 173		35
75-5-424	A	HB 265		142	78A-6-317	A	SB 221		275
75-7-508	A	HB 265		142	78A-6-317	A	SB 88		90
76-1-201	A	SB 177		105	78A-6-317	A	SB 88		90
76-1-202	A	SB 177		105	78A-6-508	A	SB 227		409
76-1-501	A	SB 95		189	78A-6-606	A	HB 137		314
76-1-501	A	HB 290		40	78A-6-701	A	HB 185		234
76-3-203.11	E	HB 11		19	78A-6-702	A	HB 185		234
76-5-102.4	A	SB 95		189	78A-6-703	A	HB 185		234
76-5-309	A	HB 257		141	78A-6-901	A	SB 132		267
76-5-309	A	HB 213		135	78A-6-1103	A	SB 126		265
76-5-401.1	A	HB 213		135	78A-6-1111	X	SB 221		275
76-5-401.2	A	HB 213		135	78A-7-105	A	HB 315		151
76-5-404.1	A	HB 213		135	78A-7-122	A	HB 404		168
76-5-404.1	A	HB 257		141	78A-7-301	A	SB 95		189
76-5-406	A	HB 257		141	78A-11-104	A	SB 86		387
76-5-406	A	HB 213		135	78A-12-102	A	HB 325		152
76-5-415	E	HB 213		135	78A-12-207	E	HB 325		152
76-5b-203	E	HB 71		124	78B-1-117	A	HB 177		233
76-6-412	A	SB 13		255	78B-1-119	A	HB 247		138
76-6-503.5	A	HB 16		114	78B-2-216	A	SB 51		377
76-6-1402	A	SB 92		261	78B-3-102	A	SB 132		267
76-6-1403	A	SB 92		261	78B-3-107	A	HB 118		220
76-7-305	A	SB 71		187	78B-3-421	A	SB 95		189
76-8-109	N	HB 394	20A-11-1604	18	78B-5-201	A	HB 16		114
76-8-501	A	HB 390		167	78B-5-201	A	HB 315		151
76-8-503	A	HB 390		167	78B-5-202	A	HB 315		151
76-8-510.5	A	HB 390		167	78B-5-408	A	HB 16		114
76-8-1101	A	SB 206		52	78B-5-824	A	SB 69		257
76-9-102	A	HB 276		143	78B-6-110	A	SB 229		410
76-9-701	A	HB 137		314	78B-6-110.5	E	SB 229		410
76-10-501	A	HB 268		428	78B-6-306	A	SB 159		268
76-10-503	A	HB 268		428	78B-6-311	A	SB 159		268
76-10-503	A	HB 75		299	78B-6-501	A	HB 25		59
76-10-506	A	HB 295		248	78B-6-505	A	HB 25		59
76-10-508	A	HB 295		248	78B-6-522	A	HB 25		59
76-10-508.1	A	HB 295		248	78B-6-1901	E	HB 117		310
76-10-509.7	A	HB 268		428	78B-6-1902	E	HB 117		310
76-10-512	A	HB 268		428	78B-6-1903	E	HB 117		310
76-10-523	A	HB 295		248	78B-6-1904	E	HB 117		310
76-10-526	A	HB 134		226	78B-6-1905	E	HB 117		310
76-10-1302	A	HB 254		140	78B-7-106	A	SB 132		267
76-10-1602	A	HB 390		167	78B-7-202	A	SB 132		267
77-7-8	A	HB 70		297	78B-7-405	A	SB 108		263
77-7-8.5	E	SB 185		106	78B-8-302	A	SB 53		378
77-7-20	A	SB 108		263	78B-15-612	A	SB 132		267
77-7-20	A	HB 85		126	79-2-202	R	HB 365		161
77-16b-102	A	HB 50		121	79-2-304	R	HB 365		161
77-18-1	A	HB 48		120	79-2-305	R	HB 365		161
77-18-1	A	HB 411		170	79-2-306	R	HB 365		161
77-18-6	A	HB 411		170	79-2-404	A	HB 141		425
77-20-4	A	HB 411		170	79-4-1101	E	HB 133		313
77-22-2.5	A	SB 46		47	79-4-1102	E	HB 133		313
77-23-210	A	HB 70		297	79-4-1103	E	HB 133		313
77-23c-101	E	HB 128		223	HR1-3-102	A	HR 3		
77-23c-102	E	HB 128		223	HR2-4-103	A	HR 4		
77-23c-103	E	HB 128		223	IR1-1-202	A	SJR 16		
77-27-5.1	A	SB 201		199	IR1-1-203	A	SJR 16		
77-37-3	A	HB 157		232	IR2-2-103	E	HJR 10		
77-37-4	A	SB 88		90	IR3-1-102	A	SJR 16		
77-38-9	A	HB 248		244	JR3-2-402	A	HJR 11		
77-38-15	E	HB 254		140	JR3-2-502	R	HJR 11		
77-40-102	A	SB 201		199	JR3-3-101	E	HJR 10		
77-40-103	A	SB 108		263	JR3-3-102	E	HJR 10		
77-40-105	A	SB 201		199	JR3-3-103	E	HJR 10		
77-40-107	A	SB 108		263	JR4-2-102	A	SJR 11		
77-40-109	A	SB 201		199	JR4-2-502	A	SJR 11		
77-41-105	A	SB 177		105	JR4-2-503	A	SJR 11		
78A-2-227.1	N	SB 132	78A-2-703	267	JR4-5-101	A	HJR 11		
78A-2-227.5	N	SB 132	78A-2-704	267	JR4-5-201	A	HJR 11		
78A-2-228	N	SB 132	78A-2-705	267	JR4-5-202	A	HJR 11		
78A-2-301	A	SB 108		263	JR4-5-301	A	HJR 11		
					JR5-2-101	A	SJR 16		

Laws of Utah - 2014

Section	Action	Bill Number	Former/ Renumber	Chapter Number	Section	Action	Bill Number	Former/ Renumber	Chapter Number
JR5-3-101	A	SJR 16							
JR6-2-103	A	SJR 13							
JR6-2-103	A	SJR 16							
SR1-3-102	A	SR 2							
SR3-2-102	A	SR 1							

TECHNICAL ACTION INDEX

Subsection 36-12-12(2)(g) of the Utah code grants the legislative general counsel the power to “correct any technical errors . . . in order to enroll the legislation and prepare the laws for publication;” The following Technical Action Index lists Utah Code sections that were modified by the Office of Legislative Research and General Counsel after the 2013 General Session to resolve technical errors identified by the office. The modified sections are listed in order by the section numbers used to identify them in the bills.

Laws of Utah - 2014

Section Number Used In Bill	Codified as Section Number	Action	Bill Number	Chapter Number	Additional Information
4-15-13	4-15-14	T	S.B. 231	411	Technically renumbered for proper placement in title.
10-5-102.5		E	H.B. 381	253	Section from HB381, Chapter 253, supersedes section from SB18, Chapter 176, per coordination clause. Section from SB51, Chapter 377, merged with section from HB381.
17-50-336	17-50-337	T	H.B. 123	222	Technically renumbered to avoid duplication of section number also enacted in HB217, Chapter 28.
18-2-1	18-2-101	T	H.B. 97	424	Technically renumbered for proper placement in title.
19-6-124	19-6-125	T	S.B. 196	198	Technically renumbered to avoid duplication of section number also enacted in HB13, Chapter 287.
20A-4-108		E	H.B. 156	231	Coordination clause direction to modify language.
20A-11-1604	20A-11-1606	T	H.B. 246	335	Technically renumbered to avoid duplication of section number also used as the new number in HB394, Chapter 18.
20A-17-101	20A-18-101	T	H.B. 392	358	Technically renumbered to avoid duplication of section also enacted in HB200, Chapter 238.
26-10b-105	26-10b-106	T	S.B. 75	384	Technically renumbered for proper placement in title.
26-10b-106	26-10b-107	T	S.B. 75	384	Technically renumbered for proper placement in title.
26-55-101	26-56-101	T	H.B. 105	025	Technically renumbered to avoid duplication of section number also used in HB119, Chapter 130.
26-55-102	26-56-102	T	H.B. 105	025	Technically renumbered to avoid duplication of section number also used in HB119, Chapter 130.
26-55-103	26-56-103	T	H.B. 105	025	Technically renumbered to avoid duplication of section number also used in HB119, Chapter 130.

Laws of Utah - 2014

Section Number Used In Bill	Codified as Section Number	Action	Bill Number	Chapter Number	Additional Information
31A-22-642	31A-22-643	T	S.B. 210	111	Technically renumbered to avoid duplication of section number used in SB57, Chapter 379.
53-13-106		A	H.B. 147	228	Coordination clause direction to modify language.
53A-3-701		A	S.B. 95	189	Repeal and reenact in HB320, Chapter 346, takes precedence.
53A-15-1501	53A-15-1401	T	S.B. 122	392	Technically renumbered for proper placement in title.
53A-15-1502	53A-15-1402	T	S.B. 122	392	Technically renumbered for proper placement in title.
53A-15-1503	53A-15-1403	T	S.B. 122	392	Technically renumbered for proper placement in title.
58-17b-309		A	S.B. 120	191	Amendments in SB55, SB77, SB120, and the coordination clause directions in SB77 did not merge. This required a determination of priority of amendments based upon when each bill passed. SB120 passed last: therefore, its language superseded all of the changes contained in SB55 and SB77 except for the language contained in the SB77 coordination clause.
58-17b-624		E	S.B. 77	385	Coordination clause direction to modify language.
59-2-919		A	S.B. 61	256	Revisor instructions to modify language.
59-2-919.1		A	S.B. 61	256	Revisor instructions to modify language.
59-2-924.2		A	S.B. 180	270	Revisor instructions to modify language.
59-7-616	59-7-617	T	H.B. 140	315	Technically renumbered to avoid duplication of section number used in HB356, Chapter 429.
63C-13-107		A	S.B. 86	387	Repeal in SB270, Chapter 419, takes precedence over SB86, Chapter 387, and SB95, Chapter 189.

Section Number Used In Bill	Codified as Section Number	Action	Bill Number	Chapter Number	Additional Information
63J-8-105.9	63J-8-105.1	T	H.B. 412	361	Technically renumbered to avoid duplication of section number used in HB158, Chapter 321.
63M-1-206	63M-1-207	T	H.B. 197	427	Technically renumbered to avoid duplication of section number used in SB31, Chapter 371.
63M-1-3401	63M-1-3501	T	S.B. 233	435	Technically renumbered to avoid duplication of section number used in HB356, Chapter 429.
63M-1-3402	63M-1-3502	T	S.B. 233	435	Technically renumbered to avoid duplication of section number used in HB356, Chapter 429.
63M-1-3403	63M-1-3503	T	S.B. 233	435	Technically renumbered to avoid duplication of section number used in HB356, Chapter 429.
63M-1-3404	63M-1-3504	T	S.B. 233	435	Technically renumbered to avoid duplication of section number used in HB356, Chapter 429.
63M-1-3405	63M-1-3505	T	S.B. 233	435	Technically renumbered to avoid duplication of section number used in HB356, Chapter 429.
63M-1-3406	63M-1-3506	T	S.B. 233	435	Technically renumbered to avoid duplication of section number used in HB356, Chapter 429.
63M-1-3407	63M-1-3507	T	S.B. 233	435	Technically renumbered to avoid duplication of section number used in HB356, Chapter 429.
63M-1-3408	63M-1-3508	T	S.B. 233	435	Technically renumbered to avoid duplication of section number used in HB356, Chapter 429.
63M-1-3409	63M-1-3509	T	S.B. 233	435	Technically renumbered to avoid duplication of section number used in HB356, Chapter 429.
63M-1-3410	63M-1-3510	T	S.B. 233	435	Technically renumbered to avoid duplication of section number used in HB356, Chapter 429.
63M-1-3411	63M-1-3511	T	S.B. 233	435	Technically renumbered to avoid duplication of section number used in HB356, Chapter 429.

Laws of Utah - 2014

Section Number Used In Bill	Codified as Section Number	Action	Bill Number	Chapter Number	Additional Information
63M-1-3412	63M-1-3512	T	S.B. 233	435	Technically renumbered to avoid duplication of section number used in HB356, Chapter 429.
77-23c-102		E	H.B. 128	223	Coordination clause direction to modify language.
			S.B. 47	376	Technical correction to retrospective operation clause. Removed Section 59-10-104 from Section 12.
			S.B. 242	414	Technical correction to retrospective operation clause. Changed 63M-4-502 to 63M-4-503 for accuracy in Section 3.

SUBJECT INDEX

The following topical or subject index is intended to aid in locating a bill according to its subject matter. Titles of bills are listed under the subject heading and are followed by the page numbers on which they begin.

2013 SECOND SPECIAL SESSION

FEDERAL GOVERNMENT

Funding of Federal Programs, H. B. 2002, 4
 National Park Funding, S. B. 2001, 5
 State Employee Benefit Amendments,
 H. B. 2001, 3

GOVERNMENT OPERATIONS (STATE ISSUES)

Funding of Federal Programs, H. B. 2002, 4
 National Park Funding, S. B. 2001, 5

PARKS

National Park Funding, S. B. 2001, 5

PUBLIC FUNDS AND ACCOUNTS

Funding of Federal Programs, H. B. 2002, 4
 National Park Funding, S. B. 2001, 5
 State Employee Benefit Amendments,
 H. B. 2001, 3

SPECIAL SESSION

Funding of Federal Programs, H. B. 2002, 4
 National Park Funding, S. B. 2001, 5
 State Employee Benefit Amendments,
 H. B. 2001, 3

STATE OFFICERS AND EMPLOYEES

State Employee Benefit Amendments,
 H. B. 2001, 3

2014 GENERAL SESSION

ABORTION

Informed Consent Amendments, S. B. 71, 713

ABUSE

Aggravated Sexual Abuse of a Child
 Amendments, H. B. 257, 597
 Child Protection Amendments, S. B. 173, 223

ADMINISTRATIVE LAW

Administrative Rulemaking Amendments,
 H. B. 14, 283
 Administrative Rules Reauthorization,
 S. B. 35, 252

ADMINISTRATIVE SERVICES

Fleet Management Amendments, H. B. 196, 192

AERONAUTICS

Concurrent Resolution on Unmanned Aircraft
 Systems, H. C. R. 3, 2333
 Regulation of Drones, S. B. 167, 2095

AGRICULTURE

Agricultural Amendments, S. B. 231, 2138
 Agricultural Environmental Amendments,
 S. B. 73, 2016
 Arbitration for Dog Bites Amendments,
 H. B. 287, 217
 Domestic Horse Disposal, H. B. 261, 206
 Grazing and Timber Agricultural Commodity
 Zones in Utah, H. B. 158, 1624
 Natural Resources, Agriculture, and
 Environmental Quality Base Budget,
 H. B. 5, 33
 Plant Extract Amendments, H. B. 105, 188

Repeal of Agriculture Conservation Easement
 Account, H. B. 353, 249
 State Construction Code Amendments,
 S. B. 21, 685
 State Veterinarian Amendments, H. B. 309, 248
 Urban Farming Amendments, S. B. 237, 2153

AIR

Air Conservation Act Reauthorization,
 S. B. 26, 250
 Clean Air Programs, H. B. 61, 1413
 Concurrent Resolution Concerning Proposed
 Greenhouse Gas Emission Standards,
 S. C. R. 9, 2368
 House Resolution on Clean-burning Renewable
 Fuels, H. R. 5, 2358
 Medical Waste Incineration Prohibition,
 S. B. 196, 887
 Resource Stewardship Amendments,
 H. B. 38, 1405
 Wood Burning Amendments, H. B. 154, 984

ALCOHOLIC BEVERAGE CONTROL

Alcohol Revisions, H. B. 376, 640
 Beer Excise Tax Revenue Amendments,
 H. B. 40, 515
 Breathalyzer Amendments, H. B. 190, 1009

ALCOHOLIC BEVERAGES

Amendments to Driver License Sanctions for
 Alcohol Related Offenses, H. B. 137, 1566
 Beer Excise Tax Revenue Amendments,
 H. B. 40, 515

ANIMAL HEALTH

Concurrent Resolution Designating Identify Your
 Pet Day, H. C. R. 2, 2332
 Limitation on Local Government Regulation of
 Animals, H. B. 97, 2207
 Service Animals, H. B. 217, 205

APPLIED TECHNOLOGY EDUCATION

Applied Technology College Governance
 Amendments, H. B. 95, 554

APPROPRIATIONS

401K Appropriation Amendments, S. B. 10, 9
 Appropriations Adjustments, H. B. 3, 2191
 Appropriations and Budgeting Amendments,
 H. B. 193, 1010
 Budgeting Amendments, H. B. 311, 1719
 Business, Economic Development, and Labor
 Base Budget, S. B. 4, 54
 Capital Improvement and Capital Development
 Project Amendments, S. B. 172, 821
 Capitol Preservation Board Donation
 Amendments, H. B. 437, 664
 Current Fiscal Year Supplemental
 Appropriations, S. B. 3, 1850
 Current School Year Supplemental Public
 Education Budget Amendments,
 H. B. 4, 1199
 Executive Offices and Criminal Justice Base
 Budget, S. B. 5, 22
 Executive Offices and Criminal Justice Base
 Budget Corrections, S. B. 195, 81
 Higher Education Base Budget, S. B. 1, 48
 Infrastructure and General Government Base
 Budget, S. B. 6, 59
 Joint Rules Resolution on Budget Process
 Amendments, H. J. R. 11, 2349

National Guard, Veterans' Affairs, and
Legislature Base Budget, S. B. 7, 63
Natural Resources, Agriculture, and
Environmental Quality Base Budget,
H. B. 5, 33
New Fiscal Year Supplemental Appropriations
Act, H. B. 2, 1175
Public Education Base Budget Amendments,
H. B. 1, 29
Public Education Budget Amendments,
S. B. 2, 1846
Retirement and Independent Entities Base
Budget, H. B. 6, 39
Social Services Base Budget, S. B. 8, 65
State Agency and Higher Education
Compensation Appropriations, H. B. 7, 1200
State Agency Fees and Internal Service Fund
Rate Authorization and Appropriations,
H. B. 8, 1218
State Land Acquisition and General Obligation
Bond Authorization Amendments,
S. B. 9, 665

ARBITRATION \ MEDIATION

Visitation Amendments, H. B. 201, 1029

ARTS

Concurrent Resolution Recognizing the 50th
Anniversary of the Ririe-Woodbury Dance
Company, S. C. R. 2, 2360

ASSESSMENT AREA

Assessment Area Amendments, H. B. 102, 2307

ATTORNEYS

Continuing Education on Federalism,
H. B. 120, 939
Human Services Amendments, S. B. 132, 1122
Joint Resolution on Appointment of Legal
Counsel for Executive Officers,
H. J. R. 12, 2351
Retention of Outside Counsel, Expert Witnesses,
and Litigation Support Services,
S. B. 264, 911

BONDS

Local School Board Bond Amendments,
H. B. 170, 1653
Revenue Bond and Capital Facilities
Amendments, H. B. 9, 489
State Land Acquisition and General Obligation
Bond Authorization Amendments,
S. B. 9, 665
Transparency of Ballot Propositions,
H. B. 379, 1766

BUDGETING

Appropriations and Budgeting Amendments,
H. B. 193, 1010
Budgetary Amendments, H. B. 357, 2274
Budgeting Amendments, H. B. 311, 1719
Executive Offices and Criminal Justice Base
Budget Corrections, S. B. 195, 81
Local Sales and Use Tax Act Amendments,
S. B. 83, 1093
Natural Resources Related Account Repeals,
H. B. 365, 637
Repeal of Housing Relief Expendable Special
Revenue Fund, H. B. 380, 641

BUILDING CODES

Carbon Monoxide Detection Amendments,
S. B. 58, 361
Local Government Inspection Amendments,
S. B. 184, 886
Nail Technician Practice Amendments,
S. B. 143, 451
State Construction Code Amendments,
S. B. 21, 685
State Construction Code Revisions, H. B. 326, 622
Uniform Building Code Commission Review of
Proposed Building Code Changes Joint
Resolution, H. J. R. 5, 2346

BUSINESS

Alcohol Revisions, H. B. 376, 640
Amendments to Governor's Rural Boards,
S. B. 84, 1095
Amendments to Private Investigator Regulations,
S. B. 53, 1958
Association Lien Amendments, H. B. 26, 508
Benefit Corporation Amendments, S. B. 133, 2071
Breathalyzer Amendments, H. B. 190, 1009
Business, Economic Development, and Labor
Base Budget, S. B. 4, 54
Condominium and Community Association Lien
Amendments, H. B. 115, 557
Construction Liens Amendments, H. B. 42, 1406
Construction Trades Licensing Act Amendments,
S. B. 156, 379
Consumer Lending Amendments, H. B. 127, 562
Contractor Employee Amendments, S. B. 87, 716
Economic Development and the Utah Small
Business Jobs Act, S. B. 233, 2289
Education Loan Amendments, S. B. 170, 387
Emergency Management Act Amendments,
S. B. 47, 1914
Energy Amendments, S. B. 166, 222
Financial Institution and Services Amendments,
S. B. 124, 431
Financial Institutions Fee Amendments,
H. B. 316, 1723
Independent Entities Financial Transparency
Disclosure, S. B. 59, 701
Injured Worker Reemployment Amendments,
H. B. 10, 1299
Insurance Amendments, S. B. 129, 369
Insurance Modifications, S. B. 230, 1160
Insurance Related Amendments, H. B. 24, 1310
Insurance Related Revisions, H. B. 76, 1425
Labor Commission Decision Amendments,
S. B. 127, 814
Nail Technician Practice Amendments,
S. B. 143, 451
Nonprofit Entity Receipt of Government Money,
H. B. 283, 1712
Park Model Recreational Vehicles, H. B. 199, 1012
Patent Infringement Amendments,
H. B. 117, 1554
Radon Awareness Campaign, S. B. 109, 426
Real Estate Amendments, H. B. 332, 1735
Removal of Directors of Nonprofit Corporations,
H. B. 350, 636
Repeal of Business Development for
Disadvantaged Rural Communities
Account, S. B. 225, 899
Repeal of Utah History Endowment Fund,
H. B. 386, 643

Residence Lien Restriction Amendments,
S. B. 189, 476
Residential Rental Amendments, S. B. 147, 2084
State Construction Code Amendments,
S. B. 21, 685
State Construction Code Revisions, H. B. 326, 622
State Fire Code Amendments, H. B. 245, 1043
Surplus Lines Insurance Amendments,
H. B. 129, 944
Trust Deed Foreclosure Amendments,
S. B. 130, 1119
Trustee's Sale for Rental Property - Sunset Act
Amendments, S. B. 20, 684
Women in the Economy Commission,
H. B. 90, 551
Workers' Compensation and Employee
Misconduct, S. B. 44, 692
Wrongful Lien Amendments, H. B. 16, 496

BUSINESS DEVELOPMENT

New Convention Facility Development Incentive
Provisions, H. B. 356, 2259
Small Business Innovation Research,
S. B. 263, 2183

CAMPAIGN FINANCE

Campaign Finance Revisions, H. B. 394, 144
Election Law - Independent Expenditures
Amendments, H. B. 39, 295
Financial Disclosure Reporting Amendments,
S. B. 105, 368
Government Ethics Revisions, H. B. 246, 1687

CAPITOL HILL

Public Meetings Amendments, S. B. 113, 2286

CEMETERIES

Cemetery Amendments, S. B. 158, 819

CHARITIES

Charity Care Amendments, S. B. 168, 2097
Nonprofit Entity Receipt of Government Money,
H. B. 283, 1712

CHARTER SCHOOLS

Charter School Amendments, S. B. 218, 2125
Charter School Enrollment Amendments,
H. B. 36, 1404
Charter School Revisions, H. B. 419, 1801

CHILD CARE

Utah School Readiness Initiative, H. B. 96, 1532

CHILD CUSTODY \ PARENT-TIME

Parent-time after Relocation of a Parent,
H. B. 375, 638

CHILD WELFARE

Child Protection Amendments, S. B. 173, 223
Child Welfare Amendments, S. B. 126, 1115
Exposure of Children to Pornography,
S. B. 227, 2132

CHILDREN

Aggravated Sexual Abuse of a Child
Amendments, H. B. 257, 597
Child Interview Amendments, S. B. 88, 411
Child Sexual Abuse Prevention, H. B. 286, 1715
Child Welfare Amendments, S. B. 126, 1115

Concurrent Resolution on the School of Dentistry
Serving Underprivileged Children,
S.C.R. 3, 2361
Exposure of Children to Pornography,
S. B. 227, 2132
Foster Children Amendments, H. B. 346, 331
Human Services Amendments, S. B. 132, 1122
Regulation of Child Care Programs,
H. B. 159, 1642
System of Care for Minors in State Custody,
H. B. 21, 920
Temporary Homeless Youth Shelter Amendments,
H. B. 132, 1560
Tobacco Settlement Restricted Account
Amendments, S. B. 121, 430

CLEAN FUELS

Clean Air Programs, H. B. 61, 1413
Energy Efficient Vehicle Tax Credits,
H. B. 74, 545

CODE OF CRIMINAL PROCEDURE

Law Enforcement Transparency, S. B. 185, 473

COMMERCE AND TRADE

Benefit Corporation Amendments, S. B. 133, 2071
Technical Revisions to Pawnshop Statute,
H. B. 280, 608

COMMITTEES, LEGISLATIVE

Committee Subpoena Powers Amendment,
H. B. 274, 1709
Joint Rules Resolution Regarding a Long-term
Planning Conference, H. J. R. 10, 2348
Senate Rules Resolution on Committee Hearings,
S. R. 1, 2391

COMMUNITY AND CULTURE

State Agency Reporting Amendments,
S. B. 31, 1872

COMMUNITY COUNCILS

School Community Council Revisions,
H. B. 221, 1673

COMMUNITY DEVELOPMENT

State Agency Reporting Amendments,
S. B. 31, 1872

**COMMUNITY DEVELOPMENT AND
RENEWAL AGENCIES**

Redevelopment Agency Modifications,
S. B. 275, 2190

CONDOMINIUMS

Association Lien Amendments, H. B. 26, 508
Condominium and Community Association Lien
Amendments, H. B. 115, 557
Residential Rental Amendments, S. B. 147, 2084

CONSTITUTION

Joint Resolution on Term of Appointed Lieutenant
Governor, S. J. R. 8, 2375
Joint Resolution Regarding Qualifications of
State Tax Commission Members,
S. J. R. 7, 2375

CONSTRUCTION INDUSTRIES

Carbon Monoxide Detection Amendments,
S. B. 58, 361
Construction Liens Amendments, H. B. 42, 1406
Construction Trades Licensing Act Amendments,
S. B. 156, 379

Contractor Employee Amendments, S. B. 87, 716
 Contractor Licensing and Continuing Education
 Amendments, S. B. 186, 2103
 Residence Lien Restriction Amendments,
 S. B. 189, 476
 State Construction Code Amendments,
 S. B. 21, 685
 State Construction Code Revisions, H. B. 326, 622
 State Fire Code Amendments, H. B. 245, 1043

CONSUMER CREDIT

Financial Institution and Services Amendments,
 S. B. 124, 431

CONSUMER PROTECTION

Consumer Lending Amendments, H. B. 127, 562
 Postsecondary School State Authorization,
 H. B. 405, 1776

CONTRACTS

Procurement Revisions, S. B. 179, 826
 Retention of Outside Counsel, Expert Witnesses,
 and Litigation Support Services,
 S. B. 264, 911

CONTROLLED SUBSTANCES

Controlled Substance Database Amendments,
 S. B. 29, 333
 Controlled Substance Database Modifications,
 S. B. 178, 2099
 Controlled Substance Penalty Amendment,
 S. B. 205, 263
 Controlled Substances Act Amendments,
 S. B. 138, 371
 Controlled Substances Amendments,
 H. B. 30, 167
 Overdose Reporting Amendments, H. B. 11, 154
 Pharmaceutical Dispensing Amendments,
 S. B. 55, 344
 Pharmacy Practice Act Amendments,
 S. B. 77, 2027
 Plant Extract Amendments, H. B. 105, 188
 State Laboratory Drug Testing Account
 Amendments, H. B. 291, 1717

CONVEYANCES

Trust Deed Foreclosure Amendments,
 S. B. 130, 1119
 Trustee's Sale for Rental Property - Sunset Act
 Amendments, S. B. 20, 684

CORPORATE TAX

Alternative Energy Amendments, S. B. 242, 2156
 Apportionment of Income Amendments,
 S. B. 155, 2093
 Corporate Franchise and Income Tax
 Amendments, S. B. 207, 1152
 Energy Efficient Vehicle Tax Credits,
 H. B. 74, 545
 Renewable Energy Tax Credit Amendments,
 S. B. 224, 2127
 Tax Credit Amendments, H. B. 140, 1570

CORPORATIONS

Benefit Corporation Amendments, S. B. 133, 2071
 Removal of Directors of Nonprofit Corporations,
 H. B. 350, 636

COUNTIES

County Budget Amendments, H. B. 339, 329

County Jail Contracting Amendments,
 S. B. 241, 2300
 Emergency Fiscal Procedures Counties,
 S. B. 174, 1132
 Incorporation Election Amendments,
 H. B. 344, 628
 Interstate Electric Transmission Lines,
 H. B. 44, 1411
 Limitation on Local Government Regulation of
 Animals, H. B. 97, 2207
 Peace Officer Merit Amendments, H. B. 433, 1837
 Primary Law Enforcement Duties for Sheriffs,
 H. B. 225, 1680
 Property Tax Lien Amendments, H. B. 123, 941
 Service Animals, H. B. 217, 205
 Vietnam Veterans Recognition Day, H. B. 275, 400

COUNTY GOVERNMENT

County Budget Amendments, H. B. 339, 329
 County Officer Election Revisions, H. B. 99, 120
 County Recorder Index Amendments,
 H. B. 29, 165
 Local Government General Fund Amendments,
 S. B. 18, 671
 Political Subdivisions Revisions, S. B. 216, 2116
 Poll Worker Amendments, S. B. 116, 2060

COURT PROCEDURE

Electronic Device Location Amendments,
 H. B. 128, 942
 Expungement Modifications, S. B. 201, 888
 Guardianship Forms for Parents of Disabled
 Adult Child, S. B. 110, 427
 Prejudgment Interest Revisions, S. B. 69, 1092

COURTS

Bail Amendments, S. B. 159, 1131
 Child Interview Amendments, S. B. 88, 411
 Court Parking Facilities, H. B. 247, 592
 Court Security Fee Amendments, H. B. 404, 651
 Court Transcript Fees, S. B. 115, 256
 Electronic Filing of Traffic Citations and Accident
 Reports Amendments, H. B. 85, 550
 Executive Offices and Criminal Justice Base
 Budget Corrections, S. B. 195, 81
 Expungement Modifications, S. B. 201, 888
 Guardianship Forms for Parents of Disabled
 Adult Child, S. B. 110, 427
 Human Services Amendments, S. B. 132, 1122
 Indigent Counsel in Juvenile Court,
 S. B. 221, 1156
 Judicial Performance Evaluation Commission
 Amendments, H. B. 325, 621
 Judiciary Amendments, S. B. 108, 1107
 Juror and Witness Fees Amendments,
 H. B. 177, 1003
 Parent-time after Relocation of a Parent,
 H. B. 375, 638
 Patent Infringement Amendments,
 H. B. 117, 1554
 Prejudgment Interest Revisions, S. B. 69, 1092
 Victim Restitution Amendments, H. B. 411, 657

CREDIT

Education Loan Amendments, S. B. 170, 387

CRIMINAL CODE

Court Security Fee Amendments, H. B. 404, 651
 Crime Victims Restitution Amendments,
 H. B. 248, 1048

Criminal Code - General Provisions,
 H. B. 290, 247
 Criminal Penalty Amendments, H. B. 308, 614
 Distribution of Intimate Images, H. B. 71, 543
 DNA Collection Amendments, H. B. 212, 1669
 Electronic Device Location Amendments,
 H. B. 128, 942
 Human Trafficking Victim Amendments,
 H. B. 254, 594
 Juvenile Detention Facilities Amendments,
 H. B. 185, 1004
 Reports on Alternative Sentencing, H. B. 48, 520
 Theft Amendments, S. B. 13, 1083
 Unlawful Activities Amendments, H. B. 390, 646

CRIMINAL CONDUCT

Disorderly Conduct Amendments, H. B. 276, 607
 Emergency Vehicle Operator Duty of Care
 Revisions, H. B. 20, 1307
 Informed Consent Amendments, S. B. 71, 713
 Metal Theft Amendments, S. B. 92, 1102
 Procurement Revisions, S. B. 179, 826
 Restoration of Civil Rights for Nonviolent Felons,
 H. B. 75, 1423

CRIMINAL IDENTIFICATION

DNA Collection Amendments, H. B. 212, 1669

DEPARTMENT OF ADMINISTRATIVE SERVICES

School Building Costs Reporting, H. B. 111, 316
 School Construction Modifications,
 H. B. 116, 1552
 State Vehicle Efficiency Requirements,
 S. B. 99, 808

DEPARTMENT OF AGRICULTURE AND FOOD

Agricultural Amendments, S. B. 231, 2138

DEPARTMENT OF COMMERCE

Postsecondary School State Authorization,
 H. B. 405, 1776
 Real Estate Amendments, H. B. 332, 1735

DEPARTMENT OF CORRECTIONS

Concurrent Resolution Regarding Moving the
 State Prison, H. C. R. 8, 2338
 Involuntary Feeding and Hydration of Inmates
 Amendments, H. B. 50, 525
 Joint Resolution on Jail Facilities,
 H. J. R. 17, 2352
 Prison Relocation Commission, S. B. 268, 914
 Repeal of Prison Relocation and Development
 Authority, S. B. 270, 2186

DEPARTMENT OF FINANCIAL INSTITUTIONS

Consumer Lending Amendments, H. B. 127, 562
 Financial Institution and Services Amendments,
 S. B. 124, 431
 Financial Institutions Fee Amendments,
 H. B. 316, 1723

DEPARTMENT OF PUBLIC SAFETY

Alcohol Revisions, H. B. 376, 640

DEPARTMENT OF WORKFORCE SERVICES

Intergenerational Poverty Interventions in Public
 Schools, S. B. 43, 1912

Statewide Data Alliance and Utah Futures,
 S. B. 34, 1895
 Utah School Readiness Initiative, H. B. 96, 1532
 Women in the Economy Commission,
 H. B. 90, 551

DISABILITIES

Disabled Parking Fine Amendments,
 H. B. 264, 207
 Guardianship Forms for Parents of Disabled
 Adult Child, S. B. 110, 427
 Mobility and Pedestrian Vehicles, H. B. 130, 948
 Service Animals, H. B. 217, 205

DOGS

Arbitration for Dog Bites Amendments,
 H. B. 287, 217
 Limitation on Local Government Regulation of
 Animals, H. B. 97, 2207
 Service Animals, H. B. 217, 205

DRIVER LICENSE

Amendments to Driver License Sanctions for
 Alcohol Related Offenses, H. B. 137, 1566
 Driver License Amendments, H. B. 18, 285
 Driver License Modifications, S. B. 144, 454
 Driver License Suspension Amendments,
 H. B. 15, 41
 Identification Card Amendments, H. B. 331, 1064

DRIVING UNDER THE INFLUENCE (DUI)

Breathalyzer Amendments, H. B. 190, 1009

DRUGS AND ALCOHOL, WORKPLACE

Workers' Compensation and Employee
 Misconduct, S. B. 44, 692

EASEMENTS

Repeal of Agriculture Conservation Easement
 Account, H. B. 353, 249

ECONOMIC DEVELOPMENT

Amendments to Governor's Rural Boards,
 S. B. 84, 1095
 Amendments to the Fund of Funds,
 H. B. 243, 1681
 Business, Economic Development, and Labor
 Base Budget, S. B. 4, 54
 Economic Development and the Utah Small
 Business Jobs Act, S. B. 233, 2289
 New Convention Facility Development Incentive
 Provisions, H. B. 356, 2259
 Reauthorization of Utah Commission on Service
 and Volunteerism, H. B. 33, 511
 Resource Stewardship Amendments,
 H. B. 38, 1405
 Small Business Innovation Research,
 S. B. 263, 2183
 State Agency Reporting Amendments,
 S. B. 31, 1872
 Tourism Marketing Performance Account
 Amendments, H. B. 34, 2205
 Utah Science Technology and Research Governing
 Authority Amendments, S. B. 62, 706

EDUCATION

Advanced Placement Test Funding, S. B. 140, 818
 Applied Technology College Governance
 Amendments, H. B. 95, 554
 Carbon Monoxide Detection Amendments,
 S. B. 58, 361

Carson Smith Scholarship Amendments,
S. B. 240, 1165

Charter School Amendments, S. B. 218, 2125

Charter School Enrollment Amendments,
H. B. 36, 1404

Charter School Revisions, H. B. 419, 1801

Child Sexual Abuse Prevention, H. B. 286, 1715

Concurrent Resolution on School and
Institutional Trust Lands Exchange Act,
H. C. R. 10, 2340

Concurrent Resolution on the School of Dentistry
Serving Underprivileged Children,
S.C.R. 3, 2361

Current School Year Supplemental Public
Education Budget Amendments,
H. B. 4, 1199

Education Loan Amendments, S. B. 170, 387

Education Task Force Reauthorization,
S. B. 150, 461

Educator Licensure Amendments, S. B. 258, 2182

Educators' Professional Learning, H. B. 320, 1725

Financial and Economic Literacy Amendments,
S. B. 40, 338

Higher Education Base Budget, S. B. 1, 48

Higher Education Grievance Procedure
Amendments, H. B. 72, 1422

Home School Amendments, S. B. 39, 1910

Improvement of Reading Instruction,
S. B. 104, 2059

In-state Tuition for Military Servicemembers and
Veterans, H. B. 45, 930

Intergenerational Poverty Interventions in Public
Schools, S. B. 43, 1912

Joint Resolution Recognizing Weber State
University's 125th Anniversary,
H. J. R. 24, 2356

Local Control of Classroom Time Requirements,
S. B. 103, 2057

Local School Board Amendments, H. B. 250, 1697

Local School Board Bond Amendments,
H. B. 170, 1653

Parent Review of Instructional Materials and
Curriculum, S. B. 257, 2317

Parental Rights in Public Education,
S. B. 122, 2067

Postsecondary School State Authorization,
H. B. 405, 1776

Powers and Duties of the State Board of
Education, H. B. 342, 1757

Programs for Youth Protection, H. B. 329, 1733

Public Education Base Budget Amendments,
H. B. 1, 29

Public Education Budget Amendments,
S. B. 2, 1846

Public Education Human Resource Management
Amendments, S. B. 101, 1105

Public School Comprehensive Emergency
Response Plan Amendments, S. B. 215, 896

Regulation of Child Care Programs,
H. B. 159, 1642

School and Institutional Trust Lands and Funds
Management Provisions, H. B. 168, 2241

School Building Costs Reporting, H. B. 111, 316

School Community Council Revisions,
H. B. 221, 1673

School Construction Modifications,
H. B. 116, 1552

School Grading Revisions, S. B. 209, 2109

School Safety Tip Line, S. B. 232, 2151

Science, Technology, Engineering, and
Mathematics Amendments, H. B. 150, 1580

Snow College Concurrent Education Program,
S. B. 38, 337

Statewide Data Alliance and Utah Futures,
S. B. 34, 1895

Student Leadership Grant, S. B. 131, 2069

Suicide Prevention Revisions, H. B. 23, 926

Teacher Salary Supplement Program
Amendments, H. B. 337, 1755

Truancy Amendments, H. B. 399, 1774

Upstart Program Amendments, S. B. 148, 458

Utah School Readiness Initiative, H. B. 96, 1532

Veterans Tuition Gap Coverage, S. B. 16, 401

ELDERLY

Aging and Adult Services Amendments,
H. B. 267, 1049

Joint Resolution on Caregiving, H. J. R. 14, 2351

ELECTIONS

Amendments to Election Laws, H. B. 282, 208

Campaign Finance Revisions, H. B. 394, 144

Candidate Certification Amendments, S. B. 25, 28

County Officer Election Revisions, H. B. 99, 120

Election Day Voter Registration Pilot Project,
H. B. 156, 988

Election Law - Independent Expenditures
Amendments, H. B. 39, 295

Election Offense Amendments, S. B. 11, 1079

Election Requirements Amendments,
H. B. 408, 652

Elections Amendments, S. B. 54, 121

Financial Disclosure Reporting Amendments,
S. B. 105, 368

Government Ethics Revisions, H. B. 246, 1687

Incorporation Election Amendments,
H. B. 344, 628

Initiative and Referendum Impact Disclosure,
H. B. 422, 1829

Initiative and Referendum Petition Amendments,
H. B. 192, 1662

Internet Voting Pilot Project Amendments,
S. B. 245, 907

Judicial Retention Election Amendments,
S. B. 248, 908

Local and Special Service District Elections
Amendments, H. B. 415, 1789

Local Elections Amendments, S. B. 136, 2080

Local Referendum Requirements Amendments,
H. B. 238, 1041

Local School Board Candidate Reporting
Amendments, H. B. 260, 1698

Municipal Election Amendments - Office Hours,
H. B. 272, 242

Online Voter Registration Revisions,
S. B. 117, 428

Poll Worker Amendments, S. B. 116, 2060

Residency Amendments, S. B. 90, 1100

Taxation Related Referendum Amendments,
S. B. 134, 2078

Transparency of Ballot Propositions,
H. B. 379, 1766

Unlawful Removal or Vandalism of Campaign
Signs, H. B. 200, 1028

Voter Information Amendments, S. B. 36, 1898

Voter Registration Amendments, S. B. 135, 446

ELECTRICITY

Electric Vehicle Battery Charging Service Amendments, H. B. 19, 159
 Energy Efficient Vehicle Tax Credits, H. B. 74, 545
 Interstate Electric Transmission Lines, H. B. 44, 1411
 Public Utilities Amendments, S. B. 217, 278

ELECTRONIC INFORMATION

Electronic Device Location Amendments, H. B. 128, 942
 Electronic Filing of Traffic Citations and Accident Reports Amendments, H. B. 85, 550
 Financial Disclosure Reporting Amendments, S. B. 105, 368
 Uniform Real Property Electronic Recording Act, S. B. 79, 405

EMERGENCY MANAGEMENT

Emergency Fiscal Procedures Counties, S. B. 174, 1132
 Emergency Management Act Amendments, S. B. 47, 1914
 Utah Communication Agency Network and Utah 911 Committee Amendments, H. B. 155, 1590

EMINENT DOMAIN (GOVERNMENT LAND TAKE OVER)

Eminent Domain Amendments, H. B. 25, 287

EMPLOYEES AND COMPENSATION

Legislative, Legislative per Diem Revision, S. B. 86, 2031

EMPLOYMENT AGENCIES

Veteran's Preference Amendments, H. B. 222, 591
 Veterans' Employment Opportunity Amendments, H. B. 327, 623
 Workforce Services Job Listing Amendments, S. B. 22, 687

ENERGY

Alternative Energy Amendments, S. B. 242, 2156
 Amendments to Definition of Public Utility, S. B. 89, 2052
 Amendments to Public Utilities Title, S. B. 67, 2003
 Energy Amendments, S. B. 166, 222
 Renewable Energy Tax Credit Amendments, S. B. 224, 2127
 Utah Energy Infrastructure Authority Act Amendments, H. B. 86, 1519

ENVIRONMENTAL QUALITY

Agricultural Environmental Amendments, S. B. 73, 2016
 Air Conservation Act Reauthorization, S. B. 26, 250
 Clean Air Programs, H. B. 61, 1413
 Concurrent Resolution Concerning Proposed Greenhouse Gas Emission Standards, S. C. R. 9, 2368
 Concurrent Resolution on Comprehensive Statewide Wildland Fire Prevention, Preparedness, and Suppression Policy, S. C. R. 7, 2366
 House Resolution on Clean-burning Renewable Fuels, H. R. 5, 2358

Medical Waste Incineration Prohibition, S. B. 196, 887
 Natural Resources, Agriculture, and Environmental Quality Base Budget, H. B. 5, 33
 Underground Petroleum Storage Tank Amendments, H. B. 138, 961
 Wood Burning Amendments, H. B. 154, 984

EXECUTIVE BRANCH

Amendments to Governor's Rural Boards, S. B. 84, 1095
 Budgetary Amendments, H. B. 357, 2274
 Executive Offices and Criminal Justice Base Budget, S. B. 5, 22
 Joint Resolution on Term of Appointed Lieutenant Governor, S. J. R. 8, 2375
 Retention of Outside Counsel, Expert Witnesses, and Litigation Support Services, S. B. 264, 911
 School Safety Tip Line, S. B. 232, 2151
 Science, Technology, Engineering, and Mathematics Amendments, H. B. 150, 1580

EXECUTIVE DEPARTMENT - CONST. ART. VII

Joint Resolution on Appointment of Legal Counsel for Executive Officers, H. J. R. 12, 2351
 Joint Resolution on Term of Appointed Lieutenant Governor, S. J. R. 8, 2375

FAMILY

Adoption Act Amendments, S. B. 229, 2135
 Visitation Amendments, H. B. 201, 1029

FEDERAL GOVERNMENT

Amendments to Federal Law Enforcement Limitations, H. B. 149, 1577
 Contingent Management for Federal Facilities, H. B. 133, 1563
 Continuing Education on Federalism, H. B. 120, 939
 Delegate Responsibility Amendments, H. B. 392, 1773
 Federal Land Acquisition Amendments, H. B. 341, 627
 Federal Land Exchange and Sale Amendments, H. B. 183, 1657
 Grazing and Timber Agricultural Commodity Zones in Utah, H. B. 158, 1624
 Interstate Compact on Transfer of Public Lands, H. B. 164, 1650
 Joint Resolution on Water Rights on Grazing Lands, S. J. R. 4, 2370
 Peace Officer Agreements with Federal Agencies, H. B. 147, 973
 Plant Extract Amendments, H. B. 105, 188

FEES

Bail Amendments, S. B. 159, 1131
 Juror and Witness Fees Amendments, H. B. 177, 1003

FINANCIAL INSTITUTIONS

Consumer Lending Amendments, H. B. 127, 562
 Financial Institution and Services Amendments, S. B. 124, 431
 Financial Institutions Fee Amendments, H. B. 316, 1723

Independent Entities Financial Transparency Disclosure, S. B. 59, 701

FIRE PROTECTION

Amendment to Procurement Code Exemptions, S. B. 24, 690
 Carbon Monoxide Detection Amendments, S. B. 58, 361
 Concurrent Resolution on Comprehensive Statewide Wildland Fire Prevention, Preparedness, and Suppression Policy, S. C. R. 7, 2366
 State Fire Code Amendments, H. B. 245, 1043

FOOD QUALITY

Food Handler Permit Amendments, H. B. 176, 1656

FORESTS

State of Utah Transportation Plan for the Dixie National Forest, H. B. 412, 1787
 Utah Wilderness Act, H. B. 160, 1646

FORFEITURE PROCEDURE

Asset Forfeiture Amendments, S. B. 256, 483
 Asset Forfeiture Revisions, H. B. 427, 662

FOSTER CARE

Foster Children Amendments, H. B. 346, 331

GOVERNMENT OPERATIONS (STATE ISSUES)

Amendment to Procurement Code Exemptions, S. B. 24, 690
 Amendments to Election Laws, H. B. 282, 208
 Amendments to the Fund of Funds, H. B. 243, 1681
 Annual Leave Program II for State Employees, S. B. 269, 2302
 Appropriations Adjustments, H. B. 3, 2191
 Appropriations and Budgeting Amendments, H. B. 193, 1010
 Budgetary Amendments, H. B. 357, 2274
 Campaign Finance Revisions, H. B. 394, 144
 Candidate Certification Amendments, S. B. 25, 28
 Capital Improvement and Capital Development Project Amendments, S. B. 172, 821
 Concealed Weapon Permit for Servicemembers, H. B. 301, 612
 Concurrent Resolution Regarding Moving the State Prison, H. C. R. 8, 2338
 Continuing Education on Federalism, H. B. 120, 939
 Daylight Saving Time Study, H. B. 197, 2254
 Delegate Responsibility Amendments, H. B. 392, 1773
 Election Day Voter Registration Pilot Project, H. B. 156, 988
 Election Law - Independent Expenditures Amendments, H. B. 39, 295
 Election Offense Amendments, S. B. 11, 1079
 Election Requirements Amendments, H. B. 408, 652
 Elections Amendments, S. B. 54, 121
 Financial Disclosure Reporting Amendments, S. B. 105, 368
 Fleet Management Amendments, H. B. 196, 192
 Government Ethics Revisions, H. B. 246, 1687

Governmental Immunity Act Amendments, S. B. 267, 912
 Infrastructure and General Government Base Budget, S. B. 6, 59
 Initiative and Referendum Impact Disclosure, H. B. 422, 1829
 Initiative and Referendum Petition Amendments, H. B. 192, 1662
 Internal Audit Amendments, S. B. 93, 2281
 Internet Voting Pilot Project Amendments, S. B. 245, 907
 Interstate Compact on Transfer of Public Lands, H. B. 164, 1650
 Joint Resolution on Appointment of Legal Counsel for Executive Officers, H. J. R. 12, 2351
 Joint Resolution Regarding Qualifications of State Tax Commission Members, S. J. R. 7, 2375
 Judicial Retention Election Amendments, S. B. 248, 908
 Local and Special Service District Elections Amendments, H. B. 415, 1789
 Local Elections Amendments, S. B. 136, 2080
 Local Referendum Requirements Amendments, H. B. 238, 1041
 Local Sales and Use Tax Act Amendments, S. B. 83, 1093
 Local School Board Candidate Reporting Amendments, H. B. 260, 1698
 National Guard Program Amendments, H. B. 59, 526
 New Fiscal Year Supplemental Appropriations Act, H. B. 2, 1175
 Online Voter Registration Revisions, S. B. 117, 428
 Poll Worker Amendments, S. B. 116, 2060
 Prison Relocation Commission, S. B. 268, 914
 Procurement Revisions, S. B. 179, 826
 Public Duty Doctrine Amendments, S. B. 250, 2178
 Public Meetings Amendments, S. B. 113, 2286
 Public Meetings Materials Requirements, S. B. 169, 385
 Regulation of Drones, S. B. 167, 2095
 Repeal of Housing Relief Expendable Special Revenue Fund, H. B. 380, 641
 Repeal of Prison Relocation and Development Authority, S. B. 270, 2186
 Residency Amendments, S. B. 90, 1100
 Retention of Outside Counsel, Expert Witnesses, and Litigation Support Services, S. B. 264, 911
 Revenue Bond and Capital Facilities Amendments, H. B. 9, 489
 Revisor's Statute, S. B. 95, 723
 School and Institutional Trust Lands and Funds Management Provisions, H. B. 168, 2241
 State Data Portal Amendments, S. B. 70, 365
 State Money Management Act Amendments, H. B. 103, 1544
 State Vehicle Efficiency Requirements, S. B. 99, 808
 Taxation Related Referendum Amendments, S. B. 134, 2078
 Unlawful Activities Amendments, H. B. 390, 646
 Utah History Day, H. B. 64, 540
 Veterans Centers, S. B. 68, 403

Voter Information Amendments, S. B. 36, 1898
 Voter Registration Amendments, S. B. 135, 446

GOVERNMENT PURCHASING

Amendment to Procurement Code Exemptions,
 S. B. 24, 690
 Procurement Revisions, S. B. 179, 826

GOVERNMENT RECORDS

Retention of Outside Counsel, Expert Witnesses,
 and Litigation Support Services,
 S. B. 264, 911
 Voter Information Amendments, S. B. 36, 1898

GOVERNMENTAL IMMUNITY

Government Immunity Wildlife Waiver
 Amendments, H. B. 293, 609
 Governmental Immunity Act Amendments,
 S. B. 267, 912
 Public Duty Doctrine Amendments,
 S. B. 250, 2178
 Risk Management Amendments, S. B. 56, 360

HEALTH

Amendments to Automatic External Defibrillator
 Restricted Account, S. B. 192, 478
 Autism Program Amendments, H. B. 88, 1521
 Autism Services Amendments, S. B. 57, 1962
 Charity Care Amendments, S. B. 168, 2097
 Concussion and Head Injury Amendments,
 H. B. 384, 642
 Food Handler Permit Amendments,
 H. B. 176, 1656
 Health Care Professional Truth in Advertising,
 S. B. 137, 449
 Health Reform Amendments, H. B. 141, 2208
 Informed Consent Amendments, S. B. 71, 713
 Insurance Coverage for Infertility Treatment,
 H. B. 347, 1759
 Joint Resolution on Utah Epilepsy Public
 Education, Outreach, and Awareness,
 H. J. R. 9, 2347
 Law Enforcement Exemption for Medical
 Information, S. B. 198, 1151
 Long-term Care Partnership, S. B. 14, 668
 Mail-order Wholesale Drug Amendments,
 H. B. 114, 1546
 Naturopathic Practice Act Amendments,
 S. B. 193, 479
 Opiate Overdose Emergency Treatment,
 H. B. 119, 559
 Pharmaceutical Dispensing Amendments,
 S. B. 55, 344
 Pharmacy Practice Act Amendments,
 S. B. 77, 2027
 Physical Therapy Scope of Practice Amendments,
 H. B. 367, 1760
 Plant Extract Amendments, H. B. 105, 188
 Prescription Eye Drop Guidelines, S. B. 78, 2030
 Prescription Synchronization, S. B. 210, 482
 Primary Care Grants Amendments, S. B. 75, 2022
 Psychiatric Nurse Amendments, H. B. 143, 1574
 Reauthorization of Utah Health Data Authority
 Act, H. B. 35, 512
 Repeal of Certified Nurse Midwife Education and
 Enforcement Account, S. B. 254, 910
 Retirement System Opt-out for Rural Health
 Care Centers, S. B. 204, 892

Shelter Animal Vaccine Amendments,
 S. B. 120, 811
 State Laboratory Drug Testing Account
 Amendments, H. B. 291, 1717
 Tobacco Settlement Restricted Account
 Amendments, S. B. 121, 430
 Utah Education and Telehealth Network
 Amendments, H. B. 92, 304
 Utah Medicaid Program, H. B. 401, 2280
 Utah Optometry Practice Act Amendments,
 H. B. 98, 1540

HEALTH CARE

Amendments to Automatic External Defibrillator
 Restricted Account, S. B. 192, 478
 Autism Services Amendments, S. B. 57, 1962
 Concussion and Head Injury Amendments,
 H. B. 384, 642
 Health Care Professional Truth in Advertising,
 S. B. 137, 449
 Joint Resolution on Caregiving, H. J. R. 14, 2351
 Naturopathic Practice Act Amendments,
 S. B. 193, 479
 Opiate Overdose Emergency Treatment,
 H. B. 119, 559
 Primary Care Grants Amendments, S. B. 75, 2022
 Psychiatric Nurse Amendments, H. B. 143, 1574
 Retired Volunteer Health Care Practitioner
 Amendments, S. B. 125, 257
 Retirement Amendments, H. B. 126, 1557
 Retirement System Opt-out for Rural Health
 Care Centers, S. B. 204, 892
 Shelter Animal Vaccine Amendments,
 S. B. 120, 811
 Tobacco Settlement Restricted Account
 Amendments, S. B. 121, 430
 Utah Medicaid Program, H. B. 401, 2280

HEALTH CARE FACILITIES

Local Funding for Rural Health Care
 Amendments, S. B. 176, 258
 Medical Waste Incineration Prohibition,
 S. B. 196, 887
 Pharmaceutical Dispensing Amendments,
 S. B. 55, 344
 Repeal of Veterans' Nursing Home
 Reimbursement Account, S. B. 273, 919
 Retirement System Opt-out for Rural Health
 Care Centers, S. B. 204, 892

HEALTH CARE PROVIDERS

Charity Care Amendments, S. B. 168, 2097
 Concurrent Resolution Recognizing 100th
 Anniversary of Logan Regional Hospital,
 H. C. R. 11, 2341
 Health Care Professional Truth in Advertising,
 S. B. 137, 449
 Insurance Coverage for Infertility Treatment,
 H. B. 347, 1759
 Long-term Care Partnership, S. B. 14, 668
 Mail-order Wholesale Drug Amendments,
 H. B. 114, 1546
 Opiate Overdose Emergency Treatment,
 H. B. 119, 559
 Pharmaceutical Dispensing Amendments,
 S. B. 55, 344
 Pharmacy Benefit Manager Amendments,
 H. B. 113, 936
 Physical Therapy Scope of Practice Amendments,
 H. B. 367, 1760

Primary Care Grants Amendments, S. B. 75, 2022
 Repeal of Certified Nurse Midwife Education and Enforcement Account, S. B. 254, 910
 Retired Volunteer Health Care Practitioner Amendments, S. B. 125, 257
 Retirement System Opt-out for Rural Health Care Centers, S. B. 204, 892
 Utah Optometry Practice Act Amendments, H. B. 98, 1540

HIGHER EDUCATION

Applied Technology College Governance Amendments, H. B. 95, 554
 Capital Improvement and Capital Development Project Amendments, S. B. 172, 821
 College Credit for Veterans, H. B. 32, 929
 Education Task Force Reauthorization, S. B. 150, 461
 Higher Education Base Budget, S. B. 1, 48
 Higher Education Grievance Procedure Amendments, H. B. 72, 1422
 Improvement of Reading Instruction, S. B. 104, 2059
 In-state Tuition for Military Servicemembers and Veterans, H. B. 45, 930
 Postsecondary School State Authorization, H. B. 405, 1776
 Small Business Innovation Research, S. B. 263, 2183
 Snow College Concurrent Education Program, S. B. 38, 337
 State Agency and Higher Education Compensation Appropriations, H. B. 7, 1200
 Statewide Data Alliance and Utah Futures, S. B. 34, 1895
 Utah Education and Telehealth Network Amendments, H. B. 92, 304
 Utah Science Technology and Research Governing Authority Amendments, S. B. 62, 706
 Veterans Centers, S. B. 68, 403
 Veterans Tuition Gap Coverage, S. B. 16, 401

HIGHWAYS

All-terrain Vehicle Amendments, S. B. 154, 463
 Automatic License Plate Reader System Amendments, S. B. 222, 1158
 Cory B. Wride Memorial Highway, S. B. 234, 903
 Disabled Parking Fine Amendments, H. B. 264, 207
 Distracted Driver Amendments, S. B. 253, 2180
 Drowsy Driving Amendments, S. B. 149, 378
 Emergency Vehicle Operator Duty of Care Revisions, H. B. 20, 1307
 Highway Rights-of-way Amendments, S. B. 187, 475
 Highway Sponsorship Program Act, H. B. 152, 567
 Off-highway Vehicle Amendments, H. B. 148, 975
 Roadway and Sidewalk Safety Amendments, H. B. 101, 1542
 Speed Limit Amendments, H. B. 80, 303
 State Highway System Amendments, S. B. 32, 251
 Traffic-control Signal Amendments, H. B. 289, 245
 Utility Relocation on Highway Projects, S. B. 52, 700
 Vehicle Immobilization and Impound Amendments, H. B. 314, 1056

HISTORY

Repeal of Utah History Endowment Fund, H. B. 386, 643
 Utah History Day, H. B. 64, 540

HOMELESS PERSONS

Tax Credit Amendments, H. B. 140, 1570
 Temporary Homeless Youth Shelter Amendments, H. B. 132, 1560

HOTELS AND HOTEL KEEPERS

New Convention Facility Development Incentive Provisions, H. B. 356, 2259

HUMAN SERVICES

Adoption Act Amendments, S. B. 229, 2135
 Aging and Adult Services Amendments, H. B. 267, 1049
 Child Interview Amendments, S. B. 88, 411
 Child Protection Amendments, S. B. 173, 223
 Child Welfare Amendments, S. B. 126, 1115
 Firearm Safety Amendments, H. B. 134, 955
 Foster Children Amendments, H. B. 346, 331
 Human Trafficking Victim Amendments, H. B. 254, 594
 Repeal of Substance Abuse Donation Fund, S. B. 238, 904
 Social Services Base Budget, S. B. 8, 65
 Substance Abuse Amendments, H. B. 211, 1031
 System of Care for Minors in State Custody, H. B. 21, 920
 Temporary Homeless Youth Shelter Amendments, H. B. 132, 1560

IMMIGRATION

Immigration Amendments, S. B. 203, 891

INCOME TAX

Alternative Energy Amendments, S. B. 242, 2156
 Energy Efficient Vehicle Tax Credits, H. B. 74, 545
 New Convention Facility Development Incentive Provisions, H. B. 356, 2259
 Tax Credit Amendments, H. B. 140, 1570

INDEPENDENT DISTRICTS

Local and Special Service District Elections Amendments, H. B. 415, 1789
 Local Government Entities Amendments, S. B. 51, 1929

INDEPENDENT ENTITIES

Independent Entities Financial Transparency Disclosure, S. B. 59, 701
 Military Installation Development Authority Amendments, S. B. 45, 695
 Retirement and Independent Entities Base Budget, H. B. 6, 39
 State Fair Corporation Board Amendments, H. B. 253, 593
 Utah Communication Agency Network and Utah 911 Committee Amendments, H. B. 155, 1590

INDIAN AFFAIRS

Joint Resolution on Museum Recognizing Atrocities Against American Indians, S. J. R. 1, 2369
 Transition for Repealed Navajo Trust Fund Act, S. B. 50, 342

INITIATIVES \ REFERENDUMS

Initiative and Referendum Impact Disclosure, H. B. 422, 1829

Initiative and Referendum Petition Amendments,
H. B. 192, 1662
Local Elections Amendments, S. B. 136, 2080
Local Referendum Requirements Amendments,
H. B. 238, 1041
Taxation Related Referendum Amendments,
S. B. 134, 2078

INMATES

Bail Amendments, S. B. 159, 1131

INSURANCE

Insurance Amendments, S. B. 129, 369
Insurance Modifications, S. B. 230, 1160
Insurance Related Amendments, H. B. 24, 1310
Insurance Related Revisions, H. B. 76, 1425
Pharmacy Benefit Manager Amendments,
H. B. 113, 936
Prescription Synchronization, S. B. 210, 482
Surplus Lines Insurance Amendments,
H. B. 129, 944

INSURANCE DEPARTMENT

Insurance Related Amendments, H. B. 24, 1310
Insurance Related Revisions, H. B. 76, 1425

INSURANCE, HEALTH

Autism Program Amendments, H. B. 88, 1521
Health Reform Amendments, H. B. 141, 2208
Insurance Coverage for Infertility Treatment,
H. B. 347, 1759
Insurance Related Amendments, H. B. 24, 1310
Insurance Related Revisions, H. B. 76, 1425
Long-term Care Partnership, S. B. 14, 668
Pharmacy Benefit Manager Amendments,
H. B. 113, 936
Prescription Synchronization, S. B. 210, 482

INTERLOCAL COOPERATION ENTITIES

Interlocal Act Amendments, H. B. 17, 503
Interlocal Cooperation Act Amendments,
H. B. 27, 47
Interlocal Cooperation Act Revisions,
S. B. 123, 1113
Peace Officer Merit Amendments, H. B. 433, 1837

INTERNET

State Data Portal Amendments, S. B. 70, 365

INVESTMENT SECURITIES

Amendments to the Fund of Funds,
H. B. 243, 1681

JUDICIAL ADMINISTRATION

Administrative Subpoena Modifications,
S. B. 46, 254
Court Parking Facilities, H. B. 247, 592
Electronic Device Location Amendments,
H. B. 128, 942
Visitation Amendments, H. B. 201, 1029
Workforce Services Job Listing Amendments,
S. B. 22, 687

JUDICIAL CODE

Administrative Subpoena Modifications,
S. B. 46, 254
Bail Amendments, S. B. 159, 1131
College Credit for Veterans, H. B. 32, 929
Concealed Weapon Permit Exemptions
Amendments, H. B. 296, 611

Continuing Education on Federalism,
H. B. 120, 939
Court Security Fee Amendments, H. B. 404, 651
Court Transcript Fees, S. B. 115, 256
Crime Victims Restitution Amendments,
H. B. 248, 1048
Dangerous Weapons Amendments,
H. B. 268, 2255
Disorderly Conduct Amendments, H. B. 276, 607
Divorce Orientation Course Timing,
H. B. 323, 1729
Electronic Filing of Traffic Citations and Accident
Reports Amendments, H. B. 85, 550
Expungement Modifications, S. B. 201, 888
Firearm Transfer Certification Amendments,
H. B. 373, 2279
Guardianship Forms for Parents of Disabled
Adult Child, S. B. 110, 427
Indigent Counsel in Juvenile Court,
S. B. 221, 1156
Judgment Lien Amendments, H. B. 315, 617
Judicial Performance Evaluation Commission
Amendments, H. B. 325, 621
Judiciary Amendments, S. B. 108, 1107
Judiciary Interim Committee Sunset Provisions,
H. B. 279, 1052
Juror and Witness Fees Amendments,
H. B. 177, 1003
Juvenile Detention Facilities Amendments,
H. B. 185, 1004
Parent-time after Relocation of a Parent,
H. B. 375, 638
Personal Injury Damages Amendments,
H. B. 118, 938
Postjudgment Interest Amendments,
S. B. 271, 1174
Prejudgment Interest Revisions, S. B. 69, 1092
Probate Code Amendments, H. B. 265, 600
Restitution Amendments, H. B. 53, 934
Restoration of Civil Rights for Nonviolent Felons,
H. B. 75, 1423
Veteran's Preference Amendments, H. B. 222, 591
Veteran's Separation Amendments, H. B. 219, 388
Veterans' Assistance Registry, S. B. 96, 422
Veterans' Employment Opportunity Amendments,
H. B. 327, 623
Victim Reparations Fund Amendments,
S. B. 259, 282
Victim Restitution Amendments, H. B. 411, 657
Weapons Law Exemptions, H. B. 295, 1053

JUVENILES

Indigent Counsel in Juvenile Court,
S. B. 221, 1156
Involuntary Feeding and Hydration of Inmates
Amendments, H. B. 50, 525
Juvenile Detention Facilities Amendments,
H. B. 185, 1004
Restitution Amendments, H. B. 53, 934

LABOR

Business, Economic Development, and Labor
Base Budget, S. B. 4, 54
Contractor Employee Amendments, S. B. 87, 716
Immigration Amendments, S. B. 203, 891
Injured Worker Reemployment Amendments,
H. B. 10, 1299
Labor Commission Decision Amendments,
S. B. 127, 814

Protection of Activities in Private Vehicles,
H. B. 322, 1063
Women in the Economy Commission,
H. B. 90, 551
Workers' Compensation Amendments,
S. B. 160, 383
Workers' Compensation and Employee
Misconduct, S. B. 44, 692
Workers' Compensation and Home and
Community Based Services, H. B. 94, 1526
Workplace Safety Week Designation,
S. B. 106, 425

LABOR COMMISSION

Labor Commission Decision Amendments,
S. B. 127, 814
Workers' Compensation Amendments,
S. B. 160, 383

LAND USE

Amendments to Federal Law Enforcement
Limitations, H. B. 149, 1577
Interstate Electric Transmission Lines,
H. B. 44, 1411
Land Use Amendments, H. B. 220, 575
Local Government Inspection Amendments,
S. B. 184, 886
Political Subdivisions Revisions, S. B. 216, 2116

LANDLORD - TENANT

Residential Rental Amendments, S. B. 147, 2084

LAW ENFORCEMENT AND CRIMINAL JUSTICE

Administrative Subpoena Modifications,
S. B. 46, 254
Aggravated Sexual Abuse of a Child
Amendments, H. B. 257, 597
Amendments to Federal Law Enforcement
Limitations, H. B. 149, 1577
Asset Forfeiture Amendments, S. B. 256, 483
Asset Forfeiture Revisions, H. B. 427, 662
Background Check Amendments, S. B. 145, 376
Bail Bond Recovery Licensure Board
Amendments, H. B. 203, 570
Bail Bondsmen Amendments, H. B. 334, 625
Controlled Substance Database Amendments,
S. B. 29, 333
Controlled Substance Database Modifications,
S. B. 178, 2099
Controlled Substance Penalty Amendment,
S. B. 205, 263
Controlled Substances Act Amendments,
S. B. 138, 371
Controlled Substances Amendments,
H. B. 30, 167
County Jail Contracting Amendments,
S. B. 241, 2300
Criminal Code - General Provisions,
H. B. 290, 247
Criminal Penalties for Sexual Contact with a
Student, H. B. 213, 571
Criminal Penalty Amendments, H. B. 308, 614
Distribution of Intimate Images, H. B. 71, 543
DNA Collection Amendments, H. B. 212, 1669
Emergency Management Act Amendments,
S. B. 47, 1914
Executive Offices and Criminal Justice Base
Budget, S. B. 5, 22

Forcible Entry Amendments, H. B. 70, 1420
Involuntary Feeding and Hydration of Inmates
Amendments, H. B. 50, 525
Law Enforcement Exemption for Medical
Information, S. B. 198, 1151
Law Enforcement Services Account,
S. B. 265, 1173
Law Enforcement Transparency, S. B. 185, 473
Law Enforcement Volunteer Amendments,
H. B. 304, 613
Metal Theft Amendments, S. B. 92, 1102
Overdose Reporting Amendments, H. B. 11, 154
Peace Officer Agreements with Federal Agencies,
H. B. 147, 973
Peace Officer Certificates, H. B. 270, 1051
Plant Extract Amendments, H. B. 105, 188
Rape Kit Processing Amendments,
H. B. 157, 1001
Reports on Alternative Sentencing, H. B. 48, 520
Service Animals, H. B. 217, 205
Sex Offender Amendments, S. B. 177, 469
Technical Revisions to Pawnshop Statute,
H. B. 280, 608
Theft Amendments, S. B. 13, 1083
Unlawful Removal or Vandalism of Campaign
Signs, H. B. 200, 1028

LEGISLATIVE AFFAIRS

Administrative Rulemaking Amendments,
H. B. 14, 283
Capitol Preservation Board Donation
Amendments, H. B. 437, 664
Commission for the Stewardship of Public Lands,
H. B. 151, 1587
Committee Subpoena Powers Amendment,
H. B. 274, 1709
Concurrent Resolution Calling on Congress to
Provide Permanent Multiyear Funding for
the Payment in Lieu of Taxes Program,
S.C.R. 6, 2364
Concurrent Resolution Concerning Proposed
Greenhouse Gas Emission Standards,
S. C. R. 9, 2368
Concurrent Resolution on Comprehensive
Statewide Wildland Fire Prevention,
Preparedness, and Suppression Policy,
S. C. R. 7, 2366
Concurrent Resolution on School and
Institutional Trust Lands Exchange Act,
H. C. R. 10, 2340
Concurrent Resolution on Transfer of Public
Lands Act, H. C. R. 13, 2342
Concurrent Resolution on Wildlife Enhancement,
S.C.R. 4, 2362
Concurrent Resolution Recognizing 100th
Anniversary of Logan Regional Hospital,
H. C. R. 11, 2341
Concurrent Resolution Recognizing Canyonlands
National Park's 50th Anniversary,
S. C. R. 8, 2367
Concurrent Resolution Recognizing the 20th
Anniversary of the School and Institutional
Trust Lands Administration,
H. C. R. 4, 2335
Concurrent Resolution Recognizing the 20th
Anniversary of the Utah Commission on
Service and Volunteerism, H. C. R. 9, 2339

Concurrent Resolution Regarding Moving the State Prison, H. C. R. 8, 2338
 Concurrent Resolution Supporting the Master Plan, S.C.R. 5, 2362
 Concurrent Resolution to Protect State Funds, H. C. R. 5, 2336
 Executive Offices and Criminal Justice Base Budget Corrections, S. B. 195, 81
 House Resolution on Clean-burning Renewable Fuels, H. R. 5, 2358
 House Rules Resolution - Legislative per Diem Amendments, H. R. 3, 2357
 Joint Resolution Approving Commercial Nonhazardous Solid Waste Disposal Facility At a New Location, H. J. R. 6, 2346
 Joint Resolution Authorizing Pay of In-session Employees, S. J. R. 6, 2372
 Joint Resolution on Museum Recognizing Atrocities Against American Indians, S. J. R. 1, 2369
 Joint Resolution on the Sovereign Character of Pilt--payment in Lieu of Taxes, H. J. R. 21, 2354
 Joint Resolution Recognizing Weber State University's 125th Anniversary, H. J. R. 24, 2356
 Joint Resolution Supporting Ukrainian Sovereignty, S. J. R. 19, 2381
 Joint Rules Resolution - Legislative Compensation and Expense Revisions, S. J. R. 16, 2379
 Joint Rules Resolution Modifying Eligibility Requirements for Independent Legislative Ethics Commission Members, S. J. R. 13, 2378
 Joint Rules Resolution on Bill Numbering, S. J. R. 11, 2377
 Joint Rules Resolution Regarding a Long-term Planning Conference, H. J. R. 10, 2348
 Judiciary Interim Committee Sunset Provisions, H. B. 279, 1052
 Legislative per Diem Revision, S. B. 86, 2031
 Legislative Subpoena Amendments, H. B. 414, 2321
 Master Study Resolution, S. J. R. 20, 2382
 Prison Relocation Commission, S. B. 268, 914
 Public Meetings Amendments, S. B. 113, 2286
 Senate Rules Resolution - Legislative per Diem Amendments, S. R. 2, 2391
 Veterans' and Military Affairs Commission, H. B. 313, 615

LEGISLATURE

Budgeting Amendments, H. B. 311, 1719
 Committee Subpoena Powers Amendment, H. B. 274, 1709
 House Rules Resolution Banning Fundraising on the House Floor, H. R. 4, 2357
 Joint Resolution Authorizing Pay of In-session Employees, S. J. R. 6, 2372
 Joint Rules Resolution Modifying Eligibility Requirements for Independent Legislative Ethics Commission Members, S. J. R. 13, 2378
 Judiciary Interim Committee Sunset Provisions, H. B. 279, 1052
 Legislative per Diem Revision, S. B. 86, 2031
 Master Study Resolution, S. J. R. 20, 2382

National Guard, Veterans' Affairs, and Legislature Base Budget, S. B. 7, 63
 Senate Rules Resolution on Committee Hearings, S. R. 1, 2391
 Unlawful Activities Amendments, H. B. 390, 646

LICENSE PLATES

Automatic License Plate Reader System Amendments, S. B. 222, 1158
 Special Group License Plate Amendments, H. B. 214, 237

LICENSURE

Human Services Programs, Substance Abuse Amendments, H. B. 211, 1031

LIENS

Association Lien Amendments, H. B. 26, 508
 Condominium and Community Association Lien Amendments, H. B. 115, 557
 Construction Liens Amendments, H. B. 42, 1406
 Judgment Lien Amendments, H. B. 315, 617
 Residence Lien Restriction Amendments, S. B. 189, 476
 Wrongful Lien Amendments, H. B. 16, 496

LIMITED PURPOSE LOCAL GOVERNMENT ENTITIES

Limited Purpose Local Government Entities Amendments, H. B. 382, 1769
 Local District Boundary Adjustments, H. B. 340, 626
 Local Government Entities Amendments, S. B. 51, 1929

LOCAL BOARDS OF EDUCATION

Local Control of Classroom Time Requirements, S. B. 103, 2057
 Local School Board Amendments, H. B. 250, 1697
 Local School Board Bond Amendments, H. B. 170, 1653
 Local School Board Candidate Reporting Amendments, H. B. 260, 1698
 Public School Comprehensive Emergency Response Plan Amendments, S. B. 215, 896

LOCAL GOVERNMENT CONTROLLED DISTRICTS

Local Government Entities Amendments, S. B. 51, 1929

MARRIAGE / DIVORCE

Divorce Orientation Course Timing, H. B. 323, 1729
 Parent-time after Relocation of a Parent, H. B. 375, 638
 Visitation Amendments, H. B. 201, 1029

MEDICAID

Autism Program Amendments, H. B. 88, 1521
 Utah Medicaid Program, H. B. 401, 2280

MEDICAL RECORDS

Law Enforcement Exemption for Medical Information, S. B. 198, 1151

MENTAL HEALTH

Programs for Youth Protection, H. B. 329, 1733
 Psychiatric Nurse Amendments, H. B. 143, 1574
 System of Care for Minors in State Custody, H. B. 21, 920

MENTAL HEALTH PROFESSIONAL

Psychiatric Nurse Amendments, H. B. 143, 1574

MILITARY SERVICES

College Credit for Veterans, H. B. 32, 929

Concealed Weapon Permit for Servicemembers,
H. B. 301, 612

Concurrent Resolution Designating Call Your
Military Hero Day, H. C. R. 1, 2331

In-state Tuition for Military Servicemembers and
Veterans, H. B. 45, 930

Military Installation Development Authority
Amendments, S. B. 45, 695

National Guard Program Amendments,
H. B. 59, 526

National Guard, Veterans' Affairs, and
Legislature Base Budget, S. B. 7, 63

Repeal of Veterans' Nursing Home
Reimbursement Account, S. B. 273, 919

Veteran's Preference Amendments, H. B. 222, 591

Veteran's Separation Amendments, H. B. 219, 388

Veterans Centers, S. B. 68, 403

Veterans Tuition Gap Coverage, S. B. 16, 401

Veterans' and Military Affairs Commission,
H. B. 313, 615

Veterans' Assistance Registry, S. B. 96, 422

Veterans' Employment Opportunity Amendments,
H. B. 327, 623

Vietnam Veterans Recognition Day, H. B. 275, 400

MINORS

Criminal Penalties for Sexual Contact with a
Student, H. B. 213, 571

MORTGAGE

Radon Awareness Campaign, S. B. 109, 426

Trust Deed Foreclosure Amendments,
S. B. 130, 1119

Trustee's Sale for Rental Property - Sunset Act
Amendments, S. B. 20, 684

MOTOR VEHICLE INSURANCE

Uninsured Motorist Provisions, S. B. 72, 2013

MOTOR VEHICLES

All-terrain Vehicle Amendments, S. B. 154, 463

Amendments to Driver License Sanctions for
Alcohol Related Offenses, H. B. 137, 1566

Automatic License Plate Reader System
Amendments, S. B. 222, 1158

Court Parking Facilities, H. B. 247, 592

Disabled Parking Fine Amendments,
H. B. 264, 207

Distracted Driver Amendments, S. B. 253, 2180

Driver License Amendments, H. B. 18, 285

Driver License Modifications, S. B. 144, 454

Driver License Suspension Amendments,
H. B. 15, 41

Drowsy Driving Amendments, S. B. 149, 378

Electric Vehicle Battery Charging Service
Amendments, H. B. 19, 159

Electronic Filing of Traffic Citations and Accident
Reports Amendments, H. B. 85, 550

Emergency Vehicle Operator Duty of Care
Revisions, H. B. 20, 1307

Highway Sponsorship Program Act,
H. B. 152, 567

Mobility and Pedestrian Vehicles, H. B. 130, 948

Off-highway Vehicle Amendments, H. B. 148, 975

Park Model Recreational Vehicles, H. B. 199, 1012

Protection of Activities in Private Vehicles,
H. B. 322, 1063

Recreational Vehicle Title Amendments,
H. B. 62, 297

Special Group License Plate Amendments,
H. B. 214, 237

Speed Limit Amendments, H. B. 80, 303

Traffic-control Signal Amendments,
H. B. 289, 245

Uninsured Motorist Provisions, S. B. 72, 2013

Vehicle Immobilization and Impound
Amendments, H. B. 314, 1056

MUNICIPAL GOVERNMENT

Local District Boundary Adjustments,
H. B. 340, 626

Local Governing Body Voting Amendments,
H. B. 262, 1708

Local Government Interfund Loans,
H. B. 381, 1072

Political Subdivisions Revisions, S. B. 216, 2116

Poll Worker Amendments, S. B. 116, 2060

Service Animals, H. B. 217, 205

NATURAL GAS

Natural Gas Facilities Amendments,
H. B. 171, 1655

State Vehicle Efficiency Requirements,
S. B. 99, 808

Wood Burning Amendments, H. B. 154, 984

NATURAL RESOURCES

Agricultural Environmental Amendments,
S. B. 73, 2016

Arbitration for Dog Bites Amendments,
H. B. 287, 217

Canal Safety Amendments, H. B. 370, 1763

Compulsory Pooling Amendments, S. B. 213, 2114

Concurrent Resolution Calling on Congress to
Provide Permanent Multiyear Funding for
the Payment in Lieu of Taxes Program,
S.C.R. 6, 2364

Concurrent Resolution on Transfer of Public
Lands Act, H. C. R. 13, 2342

Concurrent Resolution on Wildlife Enhancement,
S.C.R. 4, 2362

Concurrent Resolution Recognizing Canyonlands
National Park's 50th Anniversary,
S. C. R. 8, 2367

Concurrent Resolution Recognizing the 20th
Anniversary of the School and Institutional
Trust Lands Administration,
H. C. R. 4, 2335

Contingent Management for Federal Facilities,
H. B. 133, 1563

Federal Land Acquisition Amendments,
H. B. 341, 627

Federal Land Exchange and Sale Amendments,
H. B. 183, 1657

Government Immunity Wildlife Waiver
Amendments, H. B. 293, 609

Interstate Compact on Transfer of Public Lands,
H. B. 164, 1650

Invasive Species Amendments, S. B. 212, 1155

Medical Waste Incineration Prohibition,
S. B. 196, 887

Natural Resources Related Account Repeals,
H. B. 365, 637

Natural Resources, Agriculture, and Environmental Quality Base Budget, H. B. 5, 33
 Rural Waste Disposal, H. B. 13, 1306
 State of Utah Transportation Plan for the Dixie National Forest, H. B. 412, 1787
 Trial Hunting Authorization, S. B. 165, 220
 Utah Wilderness Act, H. B. 160, 1646
 Water and Irrigation Amendments, S. B. 17, 1866
 Water Jurisdiction Amendments, S. B. 274, 2188
 Wildlife License Expiration Amendments, H. B. 28, 164
 Wood Burning Amendments, H. B. 154, 984

OCCUPATIONAL LICENSING

Contractor Licensing and Continuing Education Amendments, S. B. 186, 2103
 Controlled Substance Database Modifications, S. B. 178, 2099
 Massage Therapy Practice Act Amendments, H. B. 207, 1667
 Music Therapist Licensure Amendments, H. B. 277, 1710
 Natural Gas Facilities Amendments, H. B. 171, 1655
 Ortho-bionomy Exemption Amendments, H. B. 324, 1731
 Professional Licensing Amendments, S. B. 226, 2130
 Reauthorization of Massage Therapy Licensure Act, S. B. 27, 691
 Retired Volunteer Health Care Practitioner Amendments, S. B. 125, 257
 Utah Optometry Practice Act Amendments, H. B. 98, 1540

OCCUPATIONS AND PROFESSIONS

Amendments to Private Investigator Regulations, S. B. 53, 1958
 Concurrent Resolution on the School of Dentistry Serving Underprivileged Children, S.C.R. 3, 2361
 Construction Trades Licensing Act Amendments, S. B. 156, 379
 Contractor Employee Amendments, S. B. 87, 716
 Contractor Licensing and Continuing Education Amendments, S. B. 186, 2103
 Massage Therapy Practice Act Amendments, H. B. 207, 1667
 Music Therapist Licensure Amendments, H. B. 277, 1710
 Nail Technician Practice Amendments, S. B. 143, 451
 Opiate Overdose Emergency Treatment, H. B. 119, 559
 Ortho-bionomy Exemption Amendments, H. B. 324, 1731
 Professional Licensing Amendments, S. B. 226, 2130
 Reauthorization of Massage Therapy Licensure Act, S. B. 27, 691

OFF-HIGHWAY VEHICLES

All-terrain Vehicle Amendments, S. B. 154, 463
 Off-highway Vehicle Amendments, H. B. 148, 975

OFFENSES

Amendments to Driver License Sanctions for Alcohol Related Offenses, H. B. 137, 1566

Human Trafficking Victim Amendments, H. B. 254, 594
 Legislative Subpoena Amendments, H. B. 414, 2321
 Regulation of Drones, S. B. 167, 2095
 Unlawful Removal or Vandalism of Campaign Signs, H. B. 200, 1028

PARKS

Contingent Management for Federal Facilities, H. B. 133, 1563

PAWNSHOPS

Technical Revisions to Pawnshop Statute, H. B. 280, 608

PEACE OFFICER

Forcible Entry Amendments, H. B. 70, 1420
 Peace Officer Agreements with Federal Agencies, H. B. 147, 973
 Peace Officer Certificates, H. B. 270, 1051

PHARMACIES

Controlled Substances Act Amendments, S. B. 138, 371
 Mail-order Wholesale Drug Amendments, H. B. 114, 1546
 Pharmaceutical Dispensing Amendments, S. B. 55, 344
 Pharmacy Benefit Manager Amendments, H. B. 113, 936
 Pharmacy Practice Act Amendments, S. B. 77, 2027
 Prescription Eye Drop Guidelines, S. B. 78, 2030
 Prescription Synchronization, S. B. 210, 482

POLITICAL SUBDIVISIONS (LOCAL ISSUES)

Assessment Area Amendments, H. B. 102, 2307
 Cemetery Amendments, S. B. 158, 819
 County Budget Amendments, H. B. 339, 329
 County Officer Election Revisions, H. B. 99, 120
 County Recorder Index Amendments, H. B. 29, 165
 Emergency Fiscal Procedures Counties, S. B. 174, 1132
 Eminent Domain Amendments, H. B. 25, 287
 Governmental Immunity Act Amendments, S. B. 267, 912
 Incorporation Election Amendments, H. B. 344, 628
 Interlocal Act Amendments, H. B. 17, 503
 Interlocal Cooperation Act Revisions, S. B. 123, 1113
 Land Use Amendments, H. B. 220, 575
 Limitation on Local Government Regulation of Animals, H. B. 97, 2207
 Limited Purpose Local Government Entities Amendments, H. B. 382, 1769
 Local and Special Service District Elections Amendments, H. B. 415, 1789
 Local District Boundary Adjustments, H. B. 340, 626
 Local Elections Amendments, S. B. 136, 2080
 Local Funding for Rural Health Care Amendments, S. B. 176, 258
 Local Governing Body Voting Amendments, H. B. 262, 1708
 Local Government Entities Amendments, S. B. 51, 1929

Local Government General Fund Amendments, S. B. 18, 671
 Local Government Interfund Loans, H. B. 381, 1072
 Local Option Sales Tax Amendments, S. B. 188, 1146
 Local Referendum Requirements Amendments, H. B. 238, 1041
 Modifications to Property Tax, S. B. 244, 1167
 Peace Officer Merit Amendments, H. B. 433, 1837
 Political Subdivision Jurisdiction Amendments, H. B. 67, 1418
 Political Subdivisions Revisions, S. B. 216, 2116
 Primary Law Enforcement Duties for Sheriffs, H. B. 225, 1680
 Procurement Revisions, S. B. 179, 826
 Public Duty Doctrine Amendments, S. B. 250, 2178
 Public Meetings Amendments, S. B. 113, 2286
 Public Meetings Materials Requirements, S. B. 169, 385
 Redevelopment Agency Modifications, S. B. 275, 2190
 Service Animals, H. B. 217, 205
 State Tree Change, S. B. 41, 253
 Uniform Real Property Electronic Recording Act, S. B. 79, 405
 Vietnam Veterans Recognition Day, H. B. 275, 400
 Wrongful Lien Amendments, H. B. 16, 496

PORNOGRAPHY

Exposure of Children to Pornography, S. B. 227, 2132

PROPERTY TAX

Modifications to Property Tax, S. B. 244, 1167
 New Convention Facility Development Incentive Provisions, H. B. 356, 2259
 Property Tax Assessment Amendments, H. B. 93, 935
 Property Tax Lien Amendments, H. B. 123, 941
 Property Tax Modifications, S. B. 180, 1133
 Property Tax Residential Exemption Amendments, H. B. 273, 318
 Revisions to Property Tax, S. B. 61, 1085

PUBLIC EDUCATION

Advanced Placement Test Funding, S. B. 140, 818
 Carbon Monoxide Detection Amendments, S. B. 58, 361
 Charter School Amendments, S. B. 218, 2125
 Charter School Enrollment Amendments, H. B. 36, 1404
 Charter School Revisions, H. B. 419, 1801
 Child Sexual Abuse Prevention, H. B. 286, 1715
 Concurrent Resolution Recognizing the 20th Anniversary of the School and Institutional Trust Lands Administration, H. C. R. 4, 2335
 Criminal Penalties for Sexual Contact with a Student, H. B. 213, 571
 Current School Year Supplemental Public Education Budget Amendments, H. B. 4, 1199
 Education Task Force Reauthorization, S. B. 150, 461
 Educator Licensure Amendments, S. B. 258, 2182
 Educators' Professional Learning, H. B. 320, 1725

Financial and Economic Literacy Amendments, S. B. 40, 338
 Home School Amendments, S. B. 39, 1910
 Improvement of Reading Instruction, S. B. 104, 2059
 Intergenerational Poverty Interventions in Public Schools, S. B. 43, 1912
 Local Control of Classroom Time Requirements, S. B. 103, 2057
 Local School Board Amendments, H. B. 250, 1697
 Local School Board Bond Amendments, H. B. 170, 1653
 Local School Board Candidate Reporting Amendments, H. B. 260, 1698
 Parent Review of Instructional Materials and Curriculum, S. B. 257, 2317
 Parental Rights in Public Education, S. B. 122, 2067
 Powers and Duties of the State Board of Education, H. B. 342, 1757
 Programs for Youth Protection, H. B. 329, 1733
 Public Education Base Budget Amendments, H. B. 1, 29
 Public Education Budget Amendments, S. B. 2, 1846
 Public Education Human Resource Management Amendments, S. B. 101, 1105
 Public School Comprehensive Emergency Response Plan Amendments, S. B. 215, 896
 Risk Management Amendments, S. B. 56, 360
 School Community Council Revisions, H. B. 221, 1673
 School Construction Modifications, H. B. 116, 1552
 School Grading Revisions, S. B. 209, 2109
 Science, Technology, Engineering, and Mathematics Amendments, H. B. 150, 1580
 Snow College Concurrent Education Program, S. B. 38, 337
 Statewide Data Alliance and Utah Futures, S. B. 34, 1895
 Student Leadership Grant, S. B. 131, 2069
 Suicide Prevention Revisions, H. B. 23, 926
 Teacher Salary Supplement Program Amendments, H. B. 337, 1755
 Truancy Amendments, H. B. 399, 1774
 Upstart Program Amendments, S. B. 148, 458
 Utah Education and Telehealth Network Amendments, H. B. 92, 304
 Utah History Day, H. B. 64, 540
 Utah School Readiness Initiative, H. B. 96, 1532

PUBLIC FUNDS AND ACCOUNTS

Concurrent Resolution to Protect State Funds, H. C. R. 5, 2336
 Internal Audit Amendments, S. B. 93, 2281
 Nonprofit Entity Receipt of Government Money, H. B. 283, 1712
 Repeal of Housing Relief Expendable Special Revenue Fund, H. B. 380, 641
 State Money Management Act Amendments, H. B. 103, 1544
 Victim Reparations Fund Amendments, S. B. 259, 282

PUBLIC LANDS - CONST. ART. XX

Commission for the Stewardship of Public Lands, H. B. 151, 1587

Concurrent Resolution on Transfer of Public Lands Act, H. C. R. 13, 2342

PUBLIC MEETINGS

Public Meetings Amendments, S. B. 113, 2286
Public Meetings Materials Requirements, S. B. 169, 385

PUBLIC OFFICERS

Law Enforcement Volunteer Amendments, H. B. 304, 613

PUBLIC SAFETY

Background Check Amendments, S. B. 145, 376
Bail Bondsmen Amendments, H. B. 334, 625
Court Security Fee Amendments, H. B. 404, 651
Driver License Modifications, S. B. 144, 454
Emergency Vehicle Operator Duty of Care Revisions, H. B. 20, 1307
Firearm Safety Amendments, H. B. 134, 955
Forcible Entry Amendments, H. B. 70, 1420
Law Enforcement Transparency, S. B. 185, 473
Law Enforcement Volunteer Amendments, H. B. 304, 613
Peace Officer Certificates, H. B. 270, 1051
Primary Law Enforcement Duties for Sheriffs, H. B. 225, 1680
Public Safety Retirement Conversion Window, H. B. 194, 569

PUBLIC UTILITIES

Amendments to Definition of Public Utility, S. B. 89, 2052
Amendments to Public Utilities Title, S. B. 67, 2003
Electric Vehicle Battery Charging Service Amendments, H. B. 19, 159
Energy Amendments, S. B. 166, 222
Interlocal Cooperation Act Amendments, H. B. 27, 47
Interstate Electric Transmission Lines, H. B. 44, 1411
Natural Gas Facilities Amendments, H. B. 171, 1655
Public Utilities Amendments, S. B. 217, 278
Public Utility Modifications, S. B. 208, 274
Utah Energy Infrastructure Authority Act Amendments, H. B. 86, 1519

REAL ESTATE

Association Lien Amendments, H. B. 26, 508
Radon Awareness Campaign, S. B. 109, 426
Real Estate Amendments, H. B. 332, 1735
Residence Lien Restriction Amendments, S. B. 189, 476
Residential Rental Amendments, S. B. 147, 2084
Trust Deed Foreclosure Amendments, S. B. 130, 1119
Trustee's Sale for Rental Property - Sunset Act Amendments, S. B. 20, 684
Wrongful Lien Amendments, H. B. 16, 496

RECORDINGS

Condominium and Community Association Lien Amendments, H. B. 115, 557
Wrongful Lien Amendments, H. B. 16, 496

REGISTRATION AND REGISTRATION FEES

Recreational Vehicle Title Amendments, H. B. 62, 297

RESOLUTIONS

Concurrent Resolution Calling on Congress to Provide Permanent Multiyear Funding for the Payment in Lieu of Taxes Program, S.C.R. 6, 2364
Concurrent Resolution Concerning Proposed Greenhouse Gas Emission Standards, S. C. R. 9, 2368
Concurrent Resolution Designating Call Your Military Hero Day, H. C. R. 1, 2331
Concurrent Resolution Designating Identify Your Pet Day, H. C. R. 2, 2332
Concurrent Resolution on Comprehensive Statewide Wildland Fire Prevention, Preparedness, and Suppression Policy, S. C. R. 7, 2366
Concurrent Resolution on School and Institutional Trust Lands Exchange Act, H. C. R. 10, 2340
Concurrent Resolution on the School of Dentistry Serving Underprivileged Children, S.C.R. 3, 2361
Concurrent Resolution on Transfer of Public Lands Act, H. C. R. 13, 2342
Concurrent Resolution on Unmanned Aircraft Systems, H. C. R. 3, 2333
Concurrent Resolution on Wildlife Enhancement, S.C.R. 4, 2362
Concurrent Resolution Recognizing 100th Anniversary of Logan Regional Hospital, H. C. R. 11, 2341
Concurrent Resolution Recognizing Canyonlands National Park's 50th Anniversary, S. C. R. 8, 2367
Concurrent Resolution Recognizing the 20th Anniversary of the School and Institutional Trust Lands Administration, H. C. R. 4, 2335
Concurrent Resolution Recognizing the 20th Anniversary of the Utah Commission on Service and Volunteerism, H. C. R. 9, 2339
Concurrent Resolution Recognizing the 50th Anniversary of the Ririe-Woodbury Dance Company, S. C. R. 2, 2360
Concurrent Resolution Recognizing the 60th Anniversary of the Inclusion of Under God in the Pledge of Allegiance, S. C. R. 1, 2359
Concurrent Resolution Regarding Moving the State Prison, H. C. R. 8, 2338
Concurrent Resolution Supporting the Master Plan, S.C.R. 5, 2362
Concurrent Resolution to Protect State Funds, H. C. R. 5, 2336
House Resolution on Clean-burning Renewable Fuels, H. R. 5, 2358
House Rules Resolution - Legislative per Diem Amendments, H. R. 3, 2357
House Rules Resolution Banning Fundraising on the House Floor, H. R. 4, 2357
Joint Resolution Approving Commercial Nonhazardous Solid Waste Disposal Facility At a New Location, H. J. R. 6, 2346
Joint Resolution Authorizing Pay of In-session Employees, S. J. R. 6, 2372

Joint Resolution on Appointment of Legal Counsel for Executive Officers, H. J. R. 12, 2351

Joint Resolution on Caregiving, H. J. R. 14, 2351

Joint Resolution on Jail Facilities, H. J. R. 17, 2352

Joint Resolution on Museum Recognizing Atrocities Against American Indians, S. J. R. 1, 2369

Joint Resolution on Term of Appointed Lieutenant Governor, S. J. R. 8, 2375

Joint Resolution on the Sovereign Character of Pilt--payment in Lieu of Taxes, H. J. R. 21, 2354

Joint Resolution on Utah Epilepsy Public Education, Outreach, and Awareness, H. J. R. 9, 2347

Joint Resolution on Water Rights on Grazing Lands, S. J. R. 4, 2370

Joint Resolution Recognizing Sister City Relationship Between Magna, Utah, and Yuzawa, Niigata, Japan, H. J. R. 3, 2345

Joint Resolution Recognizing the Significance of the Great Salt Lake, H. J. R. 20, 2353

Joint Resolution Recognizing Weber State University's 125th Anniversary, H. J. R. 24, 2356

Joint Resolution Regarding Qualifications of State Tax Commission Members, S. J. R. 7, 2375

Joint Resolution Supporting Ukrainian Sovereignty, S. J. R. 19, 2381

Joint Rules Resolution - Legislative Compensation and Expense Revisions, S. J. R. 16, 2379

Joint Rules Resolution Modifying Eligibility Requirements for Independent Legislative Ethics Commission Members, S. J. R. 13, 2378

Joint Rules Resolution on Bill Numbering, S. J. R. 11, 2377

Joint Rules Resolution on Budget Process Amendments, H. J. R. 11, 2349

Joint Rules Resolution Regarding a Long-term Planning Conference, H. J. R. 10, 2348

Master Study Resolution, S. J. R. 20, 2382

Senate Rules Resolution - Legislative per Diem Amendments, S. R. 2, 2391

Senate Rules Resolution on Committee Hearings, S. R. 1, 2391

Uniform Building Code Commission Review of Proposed Building Code Changes Joint Resolution, H. J. R. 5, 2346

RESOLUTIONS, CONSTITUTIONAL

Joint Resolution on Appointment of Legal Counsel for Executive Officers, H. J. R. 12, 2351

Joint Resolution on Term of Appointed Lieutenant Governor, S. J. R. 8, 2375

Joint Resolution Regarding Qualifications of State Tax Commission Members, S. J. R. 7, 2375

RESOLUTIONS, RULES

House Rules Resolution Banning Fundraising on the House Floor, H. R. 4, 2357

Joint Rules Resolution on Bill Numbering, S. J. R. 11, 2377

Joint Rules Resolution on Budget Process Amendments, H. J. R. 11, 2349

Joint Rules Resolution Regarding a Long-term Planning Conference, H. J. R. 10, 2348

Senate Rules Resolution on Committee Hearings, S. R. 1, 2391

RESTITUTION

Crime Victims Restitution Amendments, H. B. 248, 1048

Restitution Amendments, H. B. 53, 934

Victim Restitution Amendments, H. B. 411, 657

RETIREMENT

401K Appropriation Amendments, S. B. 10, 9

Public Safety Retirement Conversion Window, H. B. 194, 569

Reemployment Restrictions Amendments, S. B. 15, 669

Retirement Amendments, H. B. 126, 1557

Retirement and Independent Entities Base Budget, H. B. 6, 39

Retirement Participation Modifications, H. B. 426, 1833

Retirement System Opt-out for Rural Health Care Centers, S. B. 204, 892

Utah Retirement Amendments, S. B. 28, 87

REVENUE AND TAXATION

Alternative Energy Amendments, S. B. 242, 2156

Appointment and Qualification of Members of the State Tax Commission, S. B. 19, 1870

Apportionment of Income Amendments, S. B. 155, 2093

Beer Excise Tax Revenue Amendments, H. B. 40, 515

Corporate Franchise and Income Tax Amendments, S. B. 207, 1152

Economic Development and the Utah Small Business Jobs Act, S. B. 233, 2289

Emergency Management Act Amendments, S. B. 47, 1914

Energy Efficient Vehicle Tax Credits, H. B. 74, 545

Extension of Sales and Use Tax Exemption, H. B. 209, 193

Joint Resolution Regarding Qualifications of State Tax Commission Members, S. J. R. 7, 2375

Local Funding for Rural Health Care Amendments, S. B. 176, 258

Local Option Sales Tax Amendments, S. B. 188, 1146

Local Sales and Use Tax Act Amendments, S. B. 83, 1093

Modifications to Property Tax, S. B. 244, 1167

Multistate Tax Compact Amendments, S. B. 214, 277

New Convention Facility Development Incentive Provisions, H. B. 356, 2259

Pollution Control Amendments, H. B. 31, 169

Property Tax Assessment Amendments, H. B. 93, 935

Property Tax Lien Amendments, H. B. 123, 941

Property Tax Modifications, S. B. 180, 1133

Property Tax Residential Exemption Amendments, H. B. 273, 318

Renewable Energy Tax Credit Amendments, S. B. 224, 2127

Revisions to Property Tax, S. B. 61, 1085

Sales and Use Tax Exemption Modifications, S. B. 65, 1964
 Severance Tax Amendments, H. B. 226, 1038
 Tax Credit Amendments, H. B. 140, 1570
 Tax, Fee, or Charge Offense and Penalty Amendments, S. B. 206, 267
 Taxation Related Referendum Amendments, S. B. 134, 2078
 Transparency of Ballot Propositions, H. B. 379, 1766
 Urban Farming Amendments, S. B. 237, 2153

REVENUE AND TAXATION - CONST. ART. XIII

Appointment and Qualification of Members of the State Tax Commission, S. B. 19, 1870

REVISOR LEGISLATION

Revisor's Statute, S. B. 95, 723

RIGHT OF WAY

Highway Rights-of-way Amendments, S. B. 187, 475
 Roadway and Sidewalk Safety Amendments, H. B. 101, 1542

RISK MANAGEMENT FUND

Risk Management Amendments, S. B. 56, 360

RURAL DEVELOPMENT

Amendments to Governor's Rural Boards, S. B. 84, 1095
 Repeal of Business Development for Disadvantaged Rural Communities Account, S. B. 225, 899
 Rural Waste Disposal, H. B. 13, 1306

RURAL HEALTH

Rural Waste Disposal, H. B. 13, 1306

SALES AND USE TAX

Alternative Energy Amendments, S. B. 242, 2156
 Extension of Sales and Use Tax Exemption, H. B. 209, 193
 Local Funding for Rural Health Care Amendments, S. B. 176, 258
 Local Option Sales Tax Amendments, S. B. 188, 1146
 Local Sales and Use Tax Act Amendments, S. B. 83, 1093
 New Convention Facility Development Incentive Provisions, H. B. 356, 2259
 Pollution Control Amendments, H. B. 31, 169
 Sales and Use Tax Exemption Modifications, S. B. 65, 1964

SCHOOL FINANCE

Advanced Placement Test Funding, S. B. 140, 818
 Current School Year Supplemental Public Education Budget Amendments, H. B. 4, 1199
 Intergenerational Poverty Interventions in Public Schools, S. B. 43, 1912
 Public Education Budget Amendments, S. B. 2, 1846
 Public Education Human Resource Management Amendments, S. B. 101, 1105
 School Building Costs Reporting, H. B. 111, 316
 Teacher Salary Supplement Program Amendments, H. B. 337, 1755

SCHOOL PERSONNEL

Educator Licensure Amendments, S. B. 258, 2182
 Educators' Professional Learning, H. B. 320, 1725
 Financial and Economic Literacy Amendments, S. B. 40, 338
 Improvement of Reading Instruction, S. B. 104, 2059
 Public Education Human Resource Management Amendments, S. B. 101, 1105
 Science, Technology, Engineering, and Mathematics Amendments, H. B. 150, 1580
 Suicide Prevention Revisions, H. B. 23, 926
 Teacher Salary Supplement Program Amendments, H. B. 337, 1755

SCHOOL SAFETY

Amendments to Automatic External Defibrillator Restricted Account, S. B. 192, 478
 Carbon Monoxide Detection Amendments, S. B. 58, 361
 Programs for Youth Protection, H. B. 329, 1733
 Public School Comprehensive Emergency Response Plan Amendments, S. B. 215, 896
 School Safety Tip Line, S. B. 232, 2151
 Suicide Prevention Revisions, H. B. 23, 926

SEVERANCE TAX

Severance Tax Amendments, H. B. 226, 1038

SEXUAL OFFENSES

Aggravated Sexual Abuse of a Child Amendments, H. B. 257, 597
 Child Sexual Abuse Prevention, H. B. 286, 1715
 Criminal Penalties for Sexual Contact with a Student, H. B. 213, 571
 Rape Kit Processing Amendments, H. B. 157, 1001
 Sex Offender Amendments, S. B. 177, 469

SPECIAL SERVICE DISTRICT

Limited Purpose Local Government Entities Amendments, H. B. 382, 1769
 Local and Special Service District Elections Amendments, H. B. 415, 1789
 Local Government Entities Amendments, S. B. 51, 1929

SPEED LIMITS

Speed Limit Amendments, H. B. 80, 303

STATE AFFAIRS IN GENERAL

Infrastructure and General Government Base Budget, S. B. 6, 59
 Public Meetings Materials Requirements, S. B. 169, 385
 State Agency Fees and Internal Service Fund Rate Authorization and Appropriations, H. B. 8, 1218
 Utah History Day, H. B. 64, 540

STATE BOARD OF EDUCATION

Charter School Amendments, S. B. 218, 2125
 Parent Review of Instructional Materials and Curriculum, S. B. 257, 2317
 Powers and Duties of the State Board of Education, H. B. 342, 1757
 School and Institutional Trust Lands and Funds Management Provisions, H. B. 168, 2241
 School Grading Revisions, S. B. 209, 2109
 Teacher Salary Supplement Program Amendments, H. B. 337, 1755

STATE BOARDS, COMMISSIONS, AND COUNCILS

Bail Bond Recovery Licensure Board Amendments, H. B. 203, 570
 Judicial Performance Evaluation Commission Amendments, H. B. 325, 621
 Prison Relocation Commission, S. B. 268, 914
 Reauthorization of Utah Commission on Service and Volunteerism, H. B. 33, 511
 Repeal of Prison Relocation and Development Authority, S. B. 270, 2186

STATE BUILDINGS

Capital Improvement and Capital Development Project Amendments, S. B. 172, 821

STATE FAIR PARK,

State Fair Corporation Board Amendments, H. B. 253, 593

STATE LANDS

Concurrent Resolution on Comprehensive Statewide Wildland Fire Prevention, Preparedness, and Suppression Policy, S. C. R. 7, 2366
 Concurrent Resolution Regarding Moving the State Prison, H. C. R. 8, 2338
 Federal Land Acquisition Amendments, H. B. 341, 627
 Interstate Compact on Transfer of Public Lands, H. B. 164, 1650
 Utah Wilderness Act, H. B. 160, 1646

STATE OFFICERS AND EMPLOYEES

Annual Leave Program II for State Employees, S. B. 269, 2302
 Fleet Management Amendments, H. B. 196, 192
 Joint Resolution on Appointment of Legal Counsel for Executive Officers, H. J. R. 12, 2351
 Joint Resolution on Term of Appointed Lieutenant Governor, S. J. R. 8, 2375
 Joint Resolution Regarding Qualifications of State Tax Commission Members, S. J. R. 7, 2375
 Resource Stewardship Amendments, H. B. 38, 1405
 State Agency and Higher Education Compensation Appropriations, H. B. 7, 1200

STATE SYMBOLS AND DESIGNATIONS

State Data Portal Amendments, S. B. 70, 365
 State Tree Change, S. B. 41, 253
 Utah History Day, H. B. 64, 540

STATE TAX COMMISSION

Appointment and Qualification of Members of the State Tax Commission, S. B. 19, 1870
 Joint Resolution Regarding Qualifications of State Tax Commission Members, S. J. R. 7, 2375

SUBPOENA POWERS

Committee Subpoena Powers Amendment, H. B. 274, 1709
 Legislative Subpoena Amendments, H. B. 414, 2321

SUBSTANCE ABUSE

Beer Excise Tax Revenue Amendments, H. B. 40, 515
 Controlled Substance Database Amendments, S. B. 29, 333
 Opiate Overdose Emergency Treatment, H. B. 119, 559
 Repeal of Substance Abuse Donation Fund, S. B. 238, 904
 Substance Abuse Amendments, H. B. 211, 1031
 System of Care for Minors in State Custody, H. B. 21, 920

SUNSET LEGISLATION

Commission for the Stewardship of Public Lands, H. B. 151, 1587
 Health Reform Amendments, H. B. 141, 2208
 Judiciary Interim Committee Sunset Provisions, H. B. 279, 1052
 Reauthorization of Utah Health Data Authority Act, H. B. 35, 512
 Trustee's Sale for Rental Property - Sunset Act Amendments, S. B. 20, 684

TASK FORCE / COMMITTEES

Commission for the Stewardship of Public Lands, H. B. 151, 1587
 Education Task Force Reauthorization, S. B. 150, 461

TECHNOLOGY

Amendments to Emergency Telephone Service Law, S. B. 199, 235
 Insurance Amendments, S. B. 129, 369
 Statewide Data Alliance and Utah Futures, S. B. 34, 1895
 Utah School Readiness Initiative, H. B. 96, 1532

TELECOMMUNICATIONS

Amendments to Emergency Telephone Service Law, S. B. 199, 235

TOBACCO

Tobacco Settlement Restricted Account Amendments, S. B. 121, 430

TOURISM

Tourism Marketing Performance Account Amendments, H. B. 34, 2205

TOWNSHIPS

Joint Resolution Recognizing Sister City Relationship Between Magna, Utah, and Yuzawa, Niigata, Japan, H. J. R. 3, 2345
 Political Subdivisions Revisions, S. B. 216, 2116

TRADEMARKS

Patent Infringement Amendments, H. B. 117, 1554

TRANSPORTATION

All-terrain Vehicle Amendments, S. B. 154, 463
 Amendments to Driver License Sanctions for Alcohol Related Offenses, H. B. 137, 1566
 Automatic License Plate Reader System Amendments, S. B. 222, 1158
 Cory B. Wride Memorial Highway, S. B. 234, 903
 Disabled Parking Fine Amendments, H. B. 264, 207
 Distracted Driver Amendments, S. B. 253, 2180
 Driver License Amendments, H. B. 18, 285

Driver License Modifications, S. B. 144, 454
 Driver License Suspension Amendments,
 H. B. 15, 41
 Drowsy Driving Amendments, S. B. 149, 378
 Emergency Vehicle Operator Duty of Care
 Revisions, H. B. 20, 1307
 Highway Rights-of-way Amendments,
 S. B. 187, 475
 Highway Sponsorship Program Act,
 H. B. 152, 567
 Identification Card Amendments, H. B. 331, 1064
 Mobility and Pedestrian Vehicles, H. B. 130, 948
 Off-highway Vehicle Amendments, H. B. 148, 975
 Park Model Recreational Vehicles, H. B. 199, 1012
 Recreational Vehicle Title Amendments,
 H. B. 62, 297
 Redevelopment Agency Modifications,
 S. B. 275, 2190
 Repeal of Transportation Related Funds,
 H. B. 349, 635
 Roadway and Sidewalk Safety Amendments,
 H. B. 101, 1542
 Special Group License Plate Amendments,
 H. B. 214, 237
 Speed Limit Amendments, H. B. 80, 303
 State Highway System Amendments,
 S. B. 32, 251
 State of Utah Transportation Plan for the Dixie
 National Forest, H. B. 412, 1787
 Traffic-control Signal Amendments,
 H. B. 289, 245
 Uninsured Motorist Provisions, S. B. 72, 2013
 Utility Relocation on Highway Projects,
 S. B. 52, 700
 Vehicle Immobilization and Impound
 Amendments, H. B. 314, 1056

TRANSPORTATION FUND

Repeal of Transportation Related Funds,
 H. B. 349, 635

TRUST LANDS

Concurrent Resolution on School and
 Institutional Trust Lands Exchange Act,
 H. C. R. 10, 2340
 School and Institutional Trust Lands and Funds
 Management Provisions, H. B. 168, 2241
 School Community Council Revisions,
 H. B. 221, 1673

UNDERGROUND STORAGE TANKS

Underground Petroleum Storage Tank
 Amendments, H. B. 138, 961

UNIFORM COMMERCIAL CODE,

Uniform Building Code Commission Review of
 Proposed Building Code Changes Joint
 Resolution, H. J. R. 5, 2346

UNIFORM LAWS

Uniform Building Code Commission Review of
 Proposed Building Code Changes Joint
 Resolution, H. J. R. 5, 2346
 Uniform Real Property Electronic Recording Act,
 S. B. 79, 405

UNIFORM PROBATE CODE

Probate Code Amendments, H. B. 265, 600

UTAH MUNICIPAL CODE

Incorporation Election Amendments,
 H. B. 344, 628
 Local Government General Fund Amendments,
 S. B. 18, 671
 Military Installation Development Authority
 Amendments, S. B. 45, 695
 Municipal Election Amendments - Office Hours,
 H. B. 272, 242
 Political Subdivisions Revisions, S. B. 216, 2116

UTILITIES SITING

Utility Relocation on Highway Projects,
 S. B. 52, 700

VICTIMS' RIGHTS

Victim Reparations Fund Amendments,
 S. B. 259, 282
 Victim Restitution Amendments, H. B. 411, 657

VOLUNTEER WORKERS

Overdose Reporting Amendments, H. B. 11, 154
 Veterans' Assistance Registry, S. B. 96, 422

WATER AND IRRIGATION

Canal Safety Amendments, H. B. 370, 1763
 Water and Irrigation Amendments, S. B. 17, 1866
 Water Jurisdiction Amendments, S. B. 274, 2188

WATER QUALITY

Joint Resolution Recognizing the Significance of
 the Great Salt Lake, H. J. R. 20, 2353

WATER RIGHTS - CONST. ART. XVII

Joint Resolution on Water Rights on Grazing
 Lands, S. J. R. 4, 2370

WEAPONS

Concealed Weapon Permit Exemptions
 Amendments, H. B. 296, 611
 Concealed Weapon Permit for Servicemembers,
 H. B. 301, 612
 Dangerous Weapons Amendments,
 H. B. 268, 2255
 Disorderly Conduct Amendments, H. B. 276, 607
 Firearm Safety Amendments, H. B. 134, 955
 Firearm Transfer Certification Amendments,
 H. B. 373, 2279
 Protection of Activities in Private Vehicles, H. B.
 322, 1063
 Restoration of Civil Rights for Nonviolent Felons,
 H. B. 75, 1423
 Weapons Law Exemptions, H. B. 295, 1053

WILDLIFE

Concurrent Resolution on Wildlife Enhancement,
 S.C.R. 4, 2362
 Government Immunity Wildlife Waiver
 Amendments, H. B. 293, 609
 Trial Hunting Authorization, S. B. 165, 220
 Wildlife License Expiration Amendments,
 H. B. 28, 164

WORKERS' COMPENSATION

Injured Worker Reemployment Amendments,
 H. B. 10, 1299
 Workers' Compensation Amendments,
 S. B. 160, 383
 Workers' Compensation and Employee
 Misconduct, S. B. 44, 692
 Workers' Compensation and Home and
 Community Based Services,
 H. B. 94, 1526

WORKFORCE SERVICES

Reauthorization of Utah Commission on Service
and Volunteerism, H. B. 33, 511

Refugee Services Coordination Amendments,
H. B. 321, 1062

State Agency Reporting Amendments,
S. B. 31, 1872

Utah School Readiness Initiative, H. B. 96, 1532

Women in the Economy Commission,
H. B. 90, 551

Workforce Services Amendments, H. B. 22, 1309

Workforce Services Job Listing Amendments,
S. B. 22, 687

Workplace Safety Week Designation,
S. B. 106, 425

YOUTH CORRECTIONS

Juvenile Detention Facilities Amendments,
H. B. 185, 1004

BILL NUMBER INDEX

The Bill Number Index enables a reader who knows a bill's number to locate the chapter in which that bill is published. Titles and beginning page numbers follow each chapter number.

2013 SECOND SPECIAL SESSION

Bill	Chapter	Title	Page
H. B. 2001	1	State Employee Benefit Amendments	3
H. B. 2002	2	Funding of Federal Programs	4
S. B. 2001	3	National Park Funding	5

2014 GENERAL SESSION

Bill	Chapter	Title	Page
H. B. 1	4	Public Education Base Budget Amendments	29
H. B. 2	282	New Fiscal Year Supplemental Appropriations Act	1175
H. B. 3	422	Appropriations Adjustments	2191
H. B. 4	283	Current School Year Supplemental Public Education Budget Amendments	1199
H. B. 5	5	Natural Resources, Agriculture, and Environmental Quality Base Budget . .	33
H. B. 6	6	Retirement and Independent Entities Base Budget	39
H. B. 7	284	State Agency and Higher Education Compensation Appropriations	1200
H. B. 8	285	State Agency Fees and Internal Service Fund Rate Authorization and Appropriations	1218
H. B. 9	113	Revenue Bond and Capital Facilities Amendments	489
H. B. 10	286	Injured Worker Reemployment Amendments	1299
H. B. 11	19	Overdose Reporting Amendments	154
H. B. 13	287	Rural Waste Disposal	1306
H. B. 14	57	Administrative Rulemaking Amendments	283
H. B. 15	7	Driver License Suspension Amendments	41
H. B. 16	114	Wrongful Lien Amendments	496
H. B. 17	115	Interlocal Act Amendments	503
H. B. 18	58	Driver License Amendments	285
H. B. 19	20	Electric Vehicle Battery Charging Service Amendments	159
H. B. 20	288	Emergency Vehicle Operator Duty of Care Revisions	1307
H. B. 21	213	System of Care for Minors in State Custody	920
H. B. 22	289	Workforce Services Amendments	1309
H. B. 23	214	Suicide Prevention Revisions	926
H. B. 24	290	Insurance Related Amendments	1310
H. B. 25	59	Eminent Domain Amendments	287
H. B. 26	116	Association Lien Amendments	508
H. B. 27	8	Interlocal Cooperation Act Amendments	47
H. B. 28	21	Wildlife License Expiration Amendments	164
H. B. 29	22	County Recorder Index Amendments	165
H. B. 30	23	Controlled Substances Amendments	167
H. B. 31	24	Pollution Control Amendments	169
H. B. 32	215	College Credit for Veterans	929
H. B. 33	117	Reauthorization of Utah Commission on Service and Volunteerism	511
H. B. 34	423	Tourism Marketing Performance Account Amendments	2205
H. B. 35	118	Reauthorization of Utah Health Data Authority Act	512
H. B. 36	291	Charter School Enrollment Amendments	1404
H. B. 38	292	Resource Stewardship Amendments	1405
H. B. 39	60	Election Law - Independent Expenditures Amendments	295
H. B. 40	119	Beer Excise Tax Revenue Amendments	515
H. B. 42	293	Construction Liens Amendments	1406
H. B. 44	294	Interstate Electric Transmission Lines	1411
H. B. 45	216	In-state Tuition for Military Servicemembers and Veterans	930
H. B. 48	120	Reports on Alternative Sentencing	520
H. B. 50	121	Involuntary Feeding and Hydration of Inmates Amendments	525
H. B. 53	217	Restitution Amendments	934

Laws of Utah - 2014

H. B. 59	122	National Guard Program Amendments	526
H. B. 61	295	Clean Air Programs	1413
H. B. 62	61	Recreational Vehicle Title Amendments	297
H. B. 64	123	Utah History Day	540
H. B. 67	296	Political Subdivision Jurisdiction Amendments	1418
H. B. 70	297	Forcible Entry Amendments	1420
H. B. 71	124	Distribution of Intimate Images	543
H. B. 72	298	Higher Education Grievance Procedure Amendments	1422
H. B. 74	125	Energy Efficient Vehicle Tax Credits	545
H. B. 75	299	Restoration of Civil Rights for Nonviolent Felons	1423
H. B. 76	300	Insurance Related Revisions	1425
H. B. 80	62	Speed Limit Amendments	303
H. B. 85	126	Electronic Filing of Traffic Citations and Accident Reports Amendments	550
H. B. 86	301	Utah Energy Infrastructure Authority Act Amendments	1519
H. B. 88	302	Autism Program Amendments	1521
H. B. 90	127	Women in the Economy Commission	551
H. B. 92	63	Utah Education and Telehealth Network Amendments	304
H. B. 93	218	Property Tax Assessment Amendments	935
H. B. 94	303	Workers' Compensation and Home and Community Based Services	1526
H. B. 95	128	Applied Technology College Governance Amendments	554
H. B. 96	304	Utah School Readiness Initiative	1532
H. B. 97	424	Limitation on Local Government Regulation of Animals	2207
H. B. 98	305	Utah Optometry Practice Act Amendments	1540
H. B. 99	16	County Officer Election Revisions	120
H. B. 101	306	Roadway and Sidewalk Safety Amendments	1542
H. B. 102	veto	Assessment Area Amendments	2307
H. B. 103	307	State Money Management Act Amendments	1544
H. B. 105	25	Plant Extract Amendments	188
H. B. 111	64	School Building Costs Reporting	316
H. B. 113	219	Pharmacy Benefit Manager Amendments	936
H. B. 114	308	Mail-order Wholesale Drug Amendments	1546
H. B. 115	129	Condominium and Community Association Lien Amendments	557
H. B. 116	309	School Construction Modifications	1552
H. B. 117	310	Patent Infringement Amendments	1554
H. B. 118	220	Personal Injury Damages Amendments	938
H. B. 119	130	Opiate Overdose Emergency Treatment	559
H. B. 120	221	Continuing Education on Federalism	939
H. B. 123	222	Property Tax Lien Amendments	941
H. B. 126	311	Retirement Amendments	1557
H. B. 127	131	Consumer Lending Amendments	562
H. B. 128	223	Electronic Device Location Amendments	942
H. B. 129	224	Surplus Lines Insurance Amendments	944
H. B. 130	225	Mobility and Pedestrian Vehicles	948
H. B. 132	312	Temporary Homeless Youth Shelter Amendments	1560
H. B. 133	313	Contingent Management for Federal Facilities	1563
H. B. 134	226	Firearm Safety Amendments	955
H. B. 137	314	Amendments to Driver License Sanctions for Alcohol Related Offenses	1566
H. B. 138	227	Underground Petroleum Storage Tank Amendments	961
H. B. 140	315	Tax Credit Amendments	1570
H. B. 141	425	Health Reform Amendments	2208
H. B. 143	316	Psychiatric Nurse Amendments	1574
H. B. 147	228	Peace Officer Agreements with Federal Agencies	973
H. B. 148	229	Off-highway Vehicle Amendments	975
H. B. 149	317	Amendments to Federal Law Enforcement Limitations	1577
H. B. 150	318	Science, Technology, Engineering, and Mathematics Amendments	1580
H. B. 151	319	Commission for the Stewardship of Public Lands	1587
H. B. 152	132	Highway Sponsorship Program Act	567
H. B. 154	230	Wood Burning Amendments	984
H. B. 155	320	Utah Communication Agency Network and Utah 911 Committee Amendments	1590

Laws of Utah - 2014

H. B. 156	231	Election Day Voter Registration Pilot Project	988
H. B. 157	232	Rape Kit Processing Amendments	1001
H. B. 158	321	Grazing and Timber Agricultural Commodity Zones in Utah	1624
H. B. 159	322	Regulation of Child Care Programs	1642
H. B. 160	323	Utah Wilderness Act	1646
H. B. 164	324	Interstate Compact on Transfer of Public Lands	1650
H. B. 168	426	School and Institutional Trust Lands and Funds Management Provisions	2241
H. B. 170	325	Local School Board Bond Amendments	1653
H. B. 171	326	Natural Gas Facilities Amendments	1655
H. B. 176	327	Food Handler Permit Amendments	1656
H. B. 177	233	Juror and Witness Fees Amendments	1003
H. B. 183	328	Federal Land Exchange and Sale Amendments	1657
H. B. 185	234	Juvenile Detention Facilities Amendments	1004
H. B. 190	235	Breathalyzer Amendments	1009
H. B. 192	329	Initiative and Referendum Petition Amendments	1662
H. B. 193	236	Appropriations and Budgeting Amendments	1010
H. B. 194	133	Public Safety Retirement Conversion Window	569
H. B. 196	26	Fleet Management Amendments	192
H. B. 197	427	Daylight Saving Time Study	2254
H. B. 199	237	Park Model Recreational Vehicles	1012
H. B. 200	238	Unlawful Removal or Vandalism of Campaign Signs	1028
H. B. 201	239	Visitation Amendments	1029
H. B. 203	134	Bail Bond Recovery Licensure Board Amendments	570
H. B. 207	330	Massage Therapy Practice Act Amendments	1667
H. B. 209	27	Extension of Sales and Use Tax Exemption	193
H. B. 211	240	Substance Abuse Amendments	1031
H. B. 212	331	DNA Collection Amendments	1669
H. B. 213	135	Criminal Penalties for Sexual Contact with a Student	571
H. B. 214	37	Special Group License Plate Amendments	237
H. B. 217	28	Service Animals	205
H. B. 219	85	Veteran's Separation Amendments	388
H. B. 220	136	Land Use Amendments, 575	
H. B. 221	332	School Community Council Revisions	1673
H. B. 222	137	Veteran's Preference Amendments	591
H. B. 225	333	Primary Law Enforcement Duties for Sheriffs	1680
H. B. 226	241	Severance Tax Amendments	1038
H. B. 238	242	Local Referendum Requirements Amendments	1041
H. B. 243	334	Amendments to the Fund of Funds	1681
H. B. 245	243	State Fire Code Amendments	1043
H. B. 246	335	Government Ethics Revisions	1687
H. B. 247	138	Court Parking Facilities	592
H. B. 248	244	Crime Victims Restitution Amendments	1048
H. B. 250	336	Local School Board Amendments	1697
H. B. 253	139	State Fair Corporation Board Amendments	593
H. B. 254	140	Human Trafficking Victim Amendments	594
H. B. 257	141	Aggravated Sexual Abuse of a Child Amendments	597
H. B. 260	337	Local School Board Candidate Reporting Amendments	1698
H. B. 261	29	Domestic Horse Disposal	206
H. B. 262	338	Local Governing Body Voting Amendments	1708
H. B. 264	30	Disabled Parking Fine Amendments	207
H. B. 265	142	Probate Code Amendments	600
H. B. 267	245	Aging and Adult Services Amendments	1049
H. B. 268	428	Dangerous Weapons Amendments	2255
H. B. 270	246	Peace Officer Certificates	1051
H. B. 272	38	Municipal Election Amendments - Office Hours	242
H. B. 273	65	Property Tax Residential Exemption Amendments	318
H. B. 274	339	Committee Subpoena Powers Amendment	1709
H. B. 275	86	Vietnam Veterans Recognition Day	400
H. B. 276	143	Disorderly Conduct Amendments	607
H. B. 277	340	Music Therapist Licensure Amendments	1710

Laws of Utah - 2014

H. B. 279	247	Judiciary Interim Committee Sunset Provisions	1052
H. B. 280	144	Technical Revisions to Pawnshop Statute	608
H. B. 282	31	Amendments to Election Laws	208
H. B. 283	341	Nonprofit Entity Receipt of Government Money	1712
H. B. 286	342	Child Sexual Abuse Prevention	1715
H. B. 287	32	Arbitration for Dog Bites Amendments	217
H. B. 289	39	Traffic-control Signal Amendments	245
H. B. 290	40	Criminal Code - General Provisions, 247	
H. B. 291	343	State Laboratory Drug Testing Account Amendments	1717
H. B. 293	145	Government Immunity Wildlife Waiver Amendments	609
H. B. 295	248	Weapons Law Exemptions	1053
H. B. 296	146	Concealed Weapon Permit Exemptions Amendments	611
H. B. 301	147	Concealed Weapon Permit for Servicemembers	612
H. B. 304	148	Law Enforcement Volunteer Amendments	613
H. B. 308	149	Criminal Penalty Amendments	614
H. B. 309	41	State Veterinarian Amendments	248
H. B. 311	344	Budgeting Amendments	1719
H. B. 313	150	Veterans' and Military Affairs Commission	615
H. B. 314	249	Vehicle Immobilization and Impound Amendments	1056
H. B. 315	151	Judgment Lien Amendments	617
H. B. 316	345	Financial Institutions Fee Amendments	1723
H. B. 320	346	Educators' Professional Learning	1725
H. B. 321	250	Refugee Services Coordination Amendments	1062
H. B. 322	251	Protection of Activities in Private Vehicles	1063
H. B. 323	347	Divorce Orientation Course Timing	1729
H. B. 324	348	Ortho-bionomy Exemption Amendments	1731
H. B. 325	152	Judicial Performance Evaluation Commission Amendments	621
H. B. 326	153	State Construction Code Revisions	622
H. B. 327	154	Veterans' Employment Opportunity Amendments	623
H. B. 329	349	Programs for Youth Protection	1733
H. B. 331	252	Identification Card Amendments	1064
H. B. 332	350	Real Estate Amendments	1735
H. B. 334	155	Bail Bondsmen Amendments	625
H. B. 337	351	Teacher Salary Supplement Program Amendments	1755
H. B. 339	66	County Budget Amendments	329
H. B. 340	156	Local District Boundary Adjustments	626
H. B. 341	157	Federal Land Acquisition Amendments	627
H. B. 342	352	Powers and Duties of the State Board of Education	1757
H. B. 344	158	Incorporation Election Amendments	628
H. B. 346	67	Foster Children Amendments	331
H. B. 347	353	Insurance Coverage for Infertility Treatment	1759
H. B. 349	159	Repeal of Transportation Related Funds	635
H. B. 350	160	Removal of Directors of Nonprofit Corporations	636
H. B. 353	42	Repeal of Agriculture Conservation Easement Account	249
H. B. 356	429	New Convention Facility Development Incentive Provisions	2259
H. B. 357	430	Budgetary Amendments	2274
H. B. 365	161	Natural Resources Related Account Repeals	637
H. B. 367	354	Physical Therapy Scope of Practice Amendments	1760
H. B. 370	355	Canal Safety Amendments	1763
H. B. 373	431	Firearm Transfer Certification Amendments	2279
H. B. 375	162	Parent-time after Relocation of a Parent	638
H. B. 376	163	Alcohol Revisions	640
H. B. 379	356	Transparency of Ballot Propositions	1766
H. B. 380	164	Repeal of Housing Relief Expendable Special Revenue Fund	641
H. B. 381	253	Local Government Interfund Loans	1072
H. B. 382	357	Limited Purpose Local Government Entities Amendments	1769
H. B. 384	165	Concussion and Head Injury Amendments	642
H. B. 386	166	Repeal of Utah History Endowment Fund	643
H. B. 390	167	Unlawful Activities Amendments	646
H. B. 392	358	Delegate Responsibility Amendments	1773

Laws of Utah - 2014

H. B. 394	18	Campaign Finance Revisions	144
H. B. 399	359	Truancy Amendments	1774
H. B. 401	432	Utah Medicaid Program	2280
H. B. 404	168	Court Security Fee Amendments	651
H. B. 405	360	Postsecondary School State Authorization	1776
H. B. 408	169	Election Requirements Amendments	652
H. B. 411	170	Victim Restitution Amendments	657
H. B. 412	361	State of Utah Transportation Plan for the Dixie National Forest	1787
H. B. 414	veto	Legislative Subpoena Amendments	2321
H. B. 415	362	Local and Special Service District Elections Amendments	1789
H. B. 419	363	Charter School Revisions	1801
H. B. 422	364	Initiative and Referendum Impact Disclosure	1829
H. B. 426	365	Retirement Participation Modifications	1833
H. B. 427	171	Asset Forfeiture Revisions	662
H. B. 433	366	Peace Officer Merit Amendments	1837
H. B. 437	172	Capitol Preservation Board Donation Amendments	664
H. C. R. 1		Concurrent Resolution Designating Call Your Military Hero Day	2331
H. C. R. 2		Concurrent Resolution Designating Identify Your Pet Day	2332
H. C. R. 3		Concurrent Resolution on Unmanned Aircraft Systems	2333
H. C. R. 4		Concurrent Resolution Recognizing the 20th Anniversary of the School and Institutional Trust Lands Administration	2335
H. C. R. 5		Concurrent Resolution to Protect State Funds	2336
H. C. R. 8		Concurrent Resolution Regarding Moving the State Prison	2338
H. C. R. 9		Concurrent Resolution Recognizing the 20th Anniversary of the Utah Commission on Service and Volunteerism	2339
H. C. R. 10		Concurrent Resolution on School and Institutional Trust Lands Exchange Act	2340
H. C. R. 11		Concurrent Resolution Recognizing 100th Anniversary of Logan Regional Hospital	2341
H. C. R. 13		Concurrent Resolution on Transfer of Public Lands Act	2342
H. J. R. 3		Joint Resolution Recognizing Sister City Relationship Between Magna, Utah, and Yuzawa, Niigata, Japan	2345
H. J. R. 5		Uniform Building Code Commission Review of Proposed Building Code Changes Joint Resolution	2346
H. J. R. 6		Joint Resolution Approving Commercial Nonhazardous Solid Waste Disposal Facility At a New Location	2346
H. J. R. 9		Joint Resolution on Utah Epilepsy Public Education, Outreach, and Awareness	2347
H. J. R. 10		Joint Rules Resolution Regarding a Long-term Planning Conference	2348
H. J. R. 11		Joint Rules Resolution on Budget Process Amendments	2349
H. J. R. 12		Joint Resolution on Appointment of Legal Counsel for Executive Officers	2351
H. J. R. 14		Joint Resolution on Caregiving	2351
H. J. R. 17		Joint Resolution on Jail Facilities	2352
H. J. R. 20		Joint Resolution Recognizing the Significance of the Great Salt Lake	2353
H. J. R. 21		Joint Resolution on the Sovereign Character of Pilt--payment in Lieu of Taxes	2354
H. J. R. 24		Joint Resolution Recognizing Weber State University's 125th Anniversary	2356
H. R. 3		House Rules Resolution - Legislative per Diem Amendments	2357
H. R. 4		House Rules Resolution Banning Fundraising on the House Floor	2357
H. R. 5		House Resolution on Clean-burning Renewable Fuels	2358
S. B. 1	9	Higher Education Base Budget	48
S. B. 2	367	Public Education Budget Amendments	1846
S. B. 3	368	Current Fiscal Year Supplemental Appropriations	1850
S. B. 4	10	Business, Economic Development, and Labor Base Budget	54
S. B. 5	2	Executive Offices and Criminal Justice Base Budget	22
S. B. 6	11	Infrastructure and General Government Base Budget	59
S. B. 7	12	National Guard, Veterans' Affairs, and Legislature Base Budget	63
S. B. 8	13	Social Services Base Budget	65
S. B. 9	173	State Land Acquisition and General Obligation Bond Authorization Amendments	665
S. B. 10	1	401K Appropriation Amendments	9

Laws of Utah - 2014

S. B. 11	254	Election Offense Amendments	1079
S. B. 13	255	Theft Amendments	1083
S. B. 14	174	Long-term Care Partnership	668
S. B. 15	175	Reemployment Restrictions Amendments	669
S. B. 16	87	Veterans Tuition Gap Coverage	401
S. B. 17	369	Water and Irrigation Amendments	1866
S. B. 18	176	Local Government General Fund Amendments	671
S. B. 19	370	Appointment and Qualification of Members of the State Tax Commission	1870
S. B. 20	177	Trustee's Sale for Rental Property - Sunset Act Amendments	684
S. B. 21	178	State Construction Code Amendments	685
S. B. 22	179	Workforce Services Job Listing Amendments	687
S. B. 24	180	Amendment to Procurement Code Exemptions	690
S. B. 25	3	Candidate Certification Amendments	28
S. B. 26	43	Air Conservation Act Reauthorization	250
S. B. 27	181	Reauthorization of Massage Therapy Licensure Act	691
S. B. 28	15	Utah Retirement Amendments	87
S. B. 29	68	Controlled Substance Database Amendments	333
S. B. 31	371	State Agency Reporting Amendments	1872
S. B. 32	44	State Highway System Amendments	251
S. B. 34	372	Statewide Data Alliance and Utah Futures	1895
S. B. 35	45	Administrative Rules Reauthorization	252
S. B. 36	373	Voter Information Amendments	1898
S. B. 38	69	Snow College Concurrent Education Program	337
S. B. 39	374	Home School Amendments	1910
S. B. 40	70	Financial and Economic Literacy Amendments	338
S. B. 41	46	State Tree Change	253
S. B. 43	375	Intergenerational Poverty Interventions in Public Schools	1912
S. B. 44	182	Workers' Compensation and Employee Misconduct	692
S. B. 45	183	Military Installation Development Authority Amendments	695
S. B. 46	47	Administrative Subpoena Modifications	254
S. B. 47	376	Emergency Management Act Amendments	1914
S. B. 50	71	Transition for Repealed Navajo Trust Fund Act	342
S. B. 51	377	Local Government Entities Amendments	1929
S. B. 52	184	Utility Relocation on Highway Projects	700
S. B. 53	378	Amendments to Private Investigator Regulations	1958
S. B. 54	17	Elections Amendments	121
S. B. 55	72	Pharmaceutical Dispensing Amendments	344
S. B. 56	73	Risk Management Amendments	360
S. B. 57	379	Autism Services Amendments	1962
S. B. 58	74	Carbon Monoxide Detection Amendments	361
S. B. 59	185	Independent Entities Financial Transparency Disclosure	701
S. B. 61	256	Revisions to Property Tax	1085
S. B. 62	186	Utah Science Technology and Research Governing Authority Amendments	706
S. B. 65	380	Sales and Use Tax Exemption Modifications	1964
S. B. 67	381	Amendments to Public Utilities Title	2003
S. B. 68	88	Veterans Centers	403
S. B. 69	257	Prejudgment Interest Revisions	1092
S. B. 70	75	State Data Portal Amendments	365
S. B. 71	187	Informed Consent Amendments	713
S. B. 72	382	Uninsured Motorist Provisions	2013
S. B. 73	383	Agricultural Environmental Amendments	2016
S. B. 75	384	Primary Care Grants Amendments	2022
S. B. 77	385	Pharmacy Practice Act Amendments	2027
S. B. 78	386	Prescription Eye Drop Guidelines	2030
S. B. 79	89	Uniform Real Property Electronic Recording Act	405
S. B. 83	258	Local Sales and Use Tax Act Amendments	1093
S. B. 84	259	Amendments to Governor's Rural Boards	1095
S. B. 86	387	Legislative per Diem Revision	2031
S. B. 87	188	Contractor Employee Amendments	716

Laws of Utah - 2014

S. B. 88	90	Child Interview Amendments	411
S. B. 89	388	Amendments to Definition of Public Utility	2052
S. B. 90	260	Residency Amendments	1100
S. B. 92	261	Metal Theft Amendments	1102
S. B. 93	433	Internal Audit Amendments	2281
S. B. 95	189	Revisor’s Statute	723
S. B. 96	91	Veterans’ Assistance Registry	422
S. B. 99	190	State Vehicle Efficiency Requirements	808
S. B. 101	262	Public Education Human Resource Management Amendments	1105
S. B. 103	389	Local Control of Classroom Time Requirements	2057
S. B. 104	390	Improvement of Reading Instruction	2059
S. B. 105	76	Financial Disclosure Reporting Amendments	368
S. B. 106	92	Workplace Safety Week Designation	425
S. B. 108	263	Judiciary Amendments	1107
S. B. 109	93	Radon Awareness Campaign	426
S. B. 110	94	Guardianship Forms for Parents of Disabled Adult Child	427
S. B. 113	434	Public Meetings Amendments	2286
S. B. 115	48	Court Transcript Fees	256
S. B. 116	391	Poll Worker Amendments	2060
S. B. 117	95	Online Voter Registration Revisions	428
S. B. 120	191	Shelter Animal Vaccine Amendments	811
S. B. 121	96	Tobacco Settlement Restricted Account Amendments	430
S. B. 122	392	Parental Rights in Public Education	2067
S. B. 123	264	Interlocal Cooperation Act Revisions	1113
S. B. 124	97	Financial Institution and Services Amendments	431
S. B. 125	49	Retired Volunteer Health Care Practitioner Amendments	257
S. B. 126	265	Child Welfare Amendments	1115
S. B. 127	192	Labor Commission Decision Amendments	814
S. B. 129	77	Insurance Amendments	369
S. B. 130	266	Trust Deed Foreclosure Amendments	1119
S. B. 131	393	Student Leadership Grant	2069
S. B. 132	267	Human Services Amendments	1122
S. B. 133	394	Benefit Corporation Amendments	2071
S. B. 134	395	Taxation Related Referendum Amendments	2078
S. B. 135	98	Voter Registration Amendments	446
S. B. 136	396	Local Elections Amendments	2080
S. B. 137	99	Health Care Professional Truth in Advertising	449
S. B. 138	78	Controlled Substances Act Amendments	371
S. B. 140	193	Advanced Placement Test Funding	818
S. B. 143	100	Nail Technician Practice Amendments	451
S. B. 144	101	Driver License Modifications	454
S. B. 145	79	Background Check Amendments	376
S. B. 147	397	Residential Rental Amendments	2084
S. B. 148	102	Upstart Program Amendments	458
S. B. 149	80	Drowsy Driving Amendments	378
S. B. 150	103	Education Task Force Reauthorization	461
S. B. 154	104	All-terrain Vehicle Amendments	463
S. B. 155	398	Apportionment of Income Amendments	2093
S. B. 156	81	Construction Trades Licensing Act Amendments	379
S. B. 158	194	Cemetery Amendments	819
S. B. 159	268	Bail Amendments	1131
S. B. 160	82	Workers’ Compensation Amendments	383
S. B. 165	33	Trial Hunting Authorization	220
S. B. 166	34	Energy Amendments	222
S. B. 167	399	Regulation of Drones	2095
S. B. 168	400	Charity Care Amendments	2097
S. B. 169	83	Public Meetings Materials Requirements	385
S. B. 170	84	Education Loan Amendments	387
S. B. 172	195	Capital Improvement and Capital Development Project Amendments	821
S. B. 173	35	Child Protection Amendments	223

Laws of Utah - 2014

S. B. 174	269	Emergency Fiscal Procedures Counties	1132
S. B. 176	50	Local Funding for Rural Health Care Amendments	258
S. B. 177	105	Sex Offender Amendments	469
S. B. 178	401	Controlled Substance Database Modifications	2099
S. B. 179	196	Procurement Revisions	826
S. B. 180	270	Property Tax Modifications	1133
S. B. 184	197	Local Government Inspection Amendments	886
S. B. 185	106	Law Enforcement Transparency	473
S. B. 186	402	Contractor Licensing and Continuing Education Amendments	2103
S. B. 187	107	Highway Rights-of-way Amendments	475
S. B. 188	271	Local Option Sales Tax Amendments	1146
S. B. 189	108	Residence Lien Restriction Amendments	476
S. B. 192	109	Amendments to Automatic External Defibrillator Restricted Account	478
S. B. 193	110	Naturopathic Practice Act Amendments	479
S. B. 195	14	Executive Offices and Criminal Justice Base Budget Corrections	81
S. B. 196	198	Medical Waste Incineration Prohibition	887
S. B. 198	272	Law Enforcement Exemption for Medical Information	1151
S. B. 199	36	Amendments to Emergency Telephone Service Law	235
S. B. 201	199	Expungement Modifications	888
S. B. 203	200	Immigration Amendments	891
S. B. 204	201	Retirement System Opt-out for Rural Health Care Centers	892
S. B. 205	51	Controlled Substance Penalty Amendment	263
S. B. 206	52	Tax, Fee, or Charge Offense and Penalty Amendments	267
S. B. 207	273	Corporate Franchise and Income Tax Amendments	1152
S. B. 208	53	Public Utility Modifications	274
S. B. 209	403	School Grading Revisions	2109
S. B. 210	111	Prescription Synchronization	482
S. B. 212	274	Invasive Species Amendments	1155
S. B. 213	404	Compulsory Pooling Amendments	2114
S. B. 214	54	Multistate Tax Compact Amendments	277
S. B. 215	202	Public School Comprehensive Emergency Response Plan Amendments	896
S. B. 216	405	Political Subdivisions Revisions	2116
S. B. 217	55	Public Utilities Amendments	278
S. B. 218	406	Charter School Amendments	2125
S. B. 221	275	Indigent Counsel in Juvenile Court	1156
S. B. 222	276	Automatic License Plate Reader System Amendments	1158
S. B. 224	407	Renewable Energy Tax Credit Amendments	2127
S. B. 225	203	Repeal of Business Development for Disadvantaged Rural Communities Account	899
S. B. 226	408	Professional Licensing Amendments	2130
S. B. 227	409	Exposure of Children to Pornography	2132
S. B. 229	410	Adoption Act Amendments	2135
S. B. 230	277	Insurance Modifications	1160
S. B. 231	411	Agricultural Amendments	2138
S. B. 232	412	School Safety Tip Line	2151
S. B. 233	435	Economic Development and the Utah Small Business Jobs Act	2289
S. B. 234	204	Cory B. Wride Memorial Highway	903
S. B. 237	413	Urban Farming Amendments	2153
S. B. 238	205	Repeal of Substance Abuse Donation Fund	904
S. B. 240	278	Carson Smith Scholarship Amendments	1165
S. B. 241	436	County Jail Contracting Amendments	2300
S. B. 242	414	Alternative Energy Amendments	2156
S. B. 244	279	Modifications to Property Tax	1167
S. B. 245	206	Internet Voting Pilot Project Amendments	907
S. B. 248	207	Judicial Retention Election Amendments	908
S. B. 250	415	Public Duty Doctrine Amendments	2178
S. B. 253	416	Distracted Driver Amendments	2180
S. B. 254	208	Repeal of Certified Nurse Midwife Education and Enforcement Account	910
S. B. 256	112	Asset Forfeiture Amendments	483
S. B. 257	veto	Parent Review of Instructional Materials and Curriculum	2317
S. B. 258	417	Educator Licensure Amendments	2182

Laws of Utah - 2014

S. B. 259	56	Victim Reparations Fund Amendments	282
S. B. 263	418	Small Business Innovation Research	2183
S. B. 264	209	Retention of Outside Counsel, Expert Witnesses, and Litigation Support Services	911
S. B. 265	280	Law Enforcement Services Account	1173
S. B. 267	210	Governmental Immunity Act Amendments	912
S. B. 268	211	Prison Relocation Commission	914
S. B. 269	437	Annual Leave Program II for State Employees	2302
S. B. 270	419	Repeal of Prison Relocation and Development Authority	2186
S. B. 271	281	Postjudgment Interest Amendments	1174
S. B. 273	212	Repeal of Veterans' Nursing Home Reimbursement Account	919
S. B. 274	420	Water Jurisdiction Amendments	2188
S. B. 275	421	Redevelopment Agency Modifications	2190
S. C. R. 1		Concurrent Resolution Recognizing the 60th Anniversary of the Inclusion of Under God in the Pledge of Allegiance	2359
S. C. R. 2		Concurrent Resolution Recognizing the 50th Anniversary of the Ririe-Woodbury Dance Company	2360
S.C.R. 3		Concurrent Resolution on the School of Dentistry Serving Underprivileged Children	2361
S.C.R. 4		Concurrent Resolution on Wildlife Enhancement	2362
S.C.R. 5		Concurrent Resolution Supporting the Master Plan	2362
S.C.R. 6		Concurrent Resolution Calling on Congress to Provide Permanent Multiyear Funding for the Payment in Lieu of Taxes Program	2364
S. C. R. 7		Concurrent Resolution on Comprehensive Statewide Wildland Fire Prevention, Preparedness, and Suppression Policy	2366
S. C. R. 8		Concurrent Resolution Recognizing Canyonlands National Park's 50th Anniversary	2367
S. C. R. 9		Concurrent Resolution Concerning Proposed Greenhouse Gas Emission Standards	2368
S. J. R. 1		Joint Resolution on Museum Recognizing Atrocities Against American Indians	2369
S. J. R. 4		Joint Resolution on Water Rights on Grazing Lands	2370
S. J. R. 6		Joint Resolution Authorizing Pay of In-session Employees	2372
S. J. R. 7		Joint Resolution Regarding Qualifications of State Tax Commission Members	2375
S. J. R. 8		Joint Resolution on Term of Appointed Lieutenant Governor	2375
S. J. R. 11		Joint Rules Resolution on Bill Numbering	2377
S. J. R. 13		Joint Rules Resolution Modifying Eligibility Requirements for Independent Legislative Ethics Commission Members	2378
S. J. R. 16		Joint Rules Resolution - Legislative Compensation and Expense Revisions	2379
S. J. R. 19		Joint Resolution Supporting Ukrainian Sovereignty	2381
S. J. R. 20		Master Study Resolution	2382
S. R. 1		Senate Rules Resolution on Committee Hearings	2391
S. R. 2		Senate Rules Resolution - Legislative per Diem Amendments	2391